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PROCEEDINGS AND DEBATES OF THE *100th* CONGRESS, SECOND SESSION

SENATE—*Tuesday, March 22, 1988*

(Legislative day of Monday, March 21, 1988)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In the words of moderator Joe Cunning opening the New Castle Presbytery—"God grant us Your blessing * * * this day. Help us to learn the lessons You teach us. Save us from making the same mistakes over and over again. Save us from falling to the same temptations time and time again. Save us from persisting in courses of action which we ought to have learned long ago can lead to nothing but trouble. Save us from doing things that annoy other people. Help us to grow stronger, purer, kinder. Help us to shed old faults and gain new birth until by Your grace life becomes altogether new. Hear our morning prayer for Your love's sake. Amen."

(Joe Cunning, moderator, New Castle Presbytery, which is the first Presbytery in the United States, upon the 688th meeting with the above prayer.)

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 22, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BYRD. I thank the Chair.

TIME OF TRIAL FOR POLICY TOWARD AFGHANISTAN

Mr. BYRD. Mr. President, yesterday was Afghanistan Day, and the beginning of a week when the shape of United States policy toward that country, occupied and savaged by Soviet forces for nearly a decade, must become sharper and more certain. Recent reports indicate that the policy of the administration, particularly as it regards the steadiness of our commitment as a nation toward the Mujahidin, should be reevaluated on an urgent basis.

There is no doubt about where the Senate stands on this matter. This body passed a resolution on February 29, 1988, which restated categorically longstanding Senate policy, namely, that United States assistance to the Afghan fighters should continue, uninterrupted, and undiminished, until Soviet forces and advisers are out of the country—not when they are half out, or, even worse, when they start to withdraw.

The distinguished Ambassador of Pakistan, Mr. Marker, visited with me in my office yesterday and briefed me thoroughly on the position of the Government of Pakistan on this matter. I congratulated him on the longstanding, courageous position that Pakistan has shown on this issue, in supporting the Mujahidin, on housing some 3 million Afghan refugees and in working closely with the United States.

There have been some very disturbing reports over the weekend. First, the New York Times reported on the day before yesterday, March 20, 1988, that:

> Despite President Reagan's vocal backing of the guerrillas, and unbeknown to Mr. Reagan, the United States made a commitment in 1985 to end military aid to the Afghan guerrillas at the beginning of the Soviet troop withdrawal.

I hope this is not a true account. It amounts to a cutting off of an American commitment at a very critical time. The Soviets now are putting out the line that the United States and Pakistan are posing stumbling blocks to the Soviet withdrawal from the nation. Can anyone be so naive to think that the Soviet decision to abandon their invasion and occupation was somehow dependent on the good behavior of the United States—that we should be so grateful to the Soviet regime for deciding to get out that we should rush to abandon our commitment to the Afghan fighters? The credibility and steadfastness of America should not become a casualty of the Soviet decision to withdraw.

Last week, Soviet officials declared that they plan to leave with or without a Geneva agreement—an agreement which includes some sort of American "guarantee" of noninterference by Pakistan and Afghanistan in each other's affairs. That, stripped of its diplomatic language, seems to mean that the United States ceases to aid the Mujahidin at some point very early in the Soviet withdrawal. I believe that such a "guarantee" is unwise and breaks a commitment which should not be broken. Indeed, one of the key Afghan guerrilla fighters was reported by the New York Times this past Saturday, March 19, 1988, to be accusing the United States of conspiring with the Soviet Union against Afghanistan. The leader, Mr. Hekmatyar, suspects a superpower deal at the guerrillas expense.

Mr. President, any agreements reached regarding the future of Afghanistan must be open convenants, "openly arrived at." They must be known to the world. The United States

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

must not, by our actions, fuel such rumors. We should avoid implications that the United States and Soviet Governments are secretly deciding the fate of Afghanistan. The world should know what is going on in Afghanistan. We should not fall into a trap of cozy intrigue which feeds rumors of fast-dealing with the Soviets under the table and behind the scenes.

The Soviets have declared that they will get out, no matter what. Fine. Let us see how fast they can do it. They do not need our help in getting out of Afghanistan any more than they had it in getting in.

Mr. President, I do not believe that President Reagan wishes a diminution of the good word of the United States to result from his policy toward Afghanistan during the next critical few months. This has been a bipartisan success story to date, extending over nearly a decade, spanning two administrations, from both parties. We should see it through to a successful conclusion, which is an Afghanistan that has had its political sovereignty restored, free of the cancerous lesions of Soviet occupation and domination.

Indeed, the President has written me a letter dated March 11, 1988, in which he has attempted to spell out his policy more carefully. I have read that letter carefully, and am today responding to it. Unfortunately, I cannot say that my concerns over United States policy in the event of Soviet withdrawal have been satisfied.

In my response, I point out that the current emphasis on "symmetry" raises more questions than it answers. I take it that symmetry means that United States aid to the guerrillas is to cease once Soviet aid to the Kabul regime ceases, and at a point in time when some, but possibly only a minor portion of Soviet forces have departed from that country. As I wrote the President on February 25, 1988:

> The question of the "symmetry" of withdrawal or suspension of assistance is a murky one, with obvious dangers. What, in fact, constitutes "assistance?" Certainly a reasonable definition would include the in-country military forces, military and civilian advisers, as well as material and financial aid. I fail to understand why we would terminate our only form of aid, namely military assistance, in return for Soviet agreement to terminate only one form of their efforts to subjugate that nation. The shocking result of that formula is to telegraph the end of our commitment to the Mujahidin while the Soviets maintain the major portion of leverage in Afghanistan.

In addition, the President in his letter cites as his key to any change in United States aid policy the necessity for the Soviet withdrawal to be "complete" and "irreversible." As I have written to him today:

> How is it possible to determine that the Soviet withdrawal is "irreversible" on the first day of withdrawal? How can the United States give up the only leverage we have—military assistance to the resistance—and rely on the Soviets' good intentions to complete their withdrawal?

Mr. President, the Soviet Foreign Minister, Mr. Shevardnadze is in Washington this week, and the question of aid to Afghanistan is reported to be a major subject of discussion. I hope it is crystal clear to the administration as to where the Senate stands on this issue. I hope there is no misunderstanding about the depth of feeling on this matter. The argument that United States aid impedes a Soviet withdrawal should be debunked for what it really is, namely, a ploy by the Soviets to entice the United States to soften its commitment and make it easier for them to score a diplomatic and political victory and to lessen what is clearly a military quagmire and political disaster for them. The Soviets are just trying to make a very bad hand a lot better. But the United States holds the high moral cards of credibility and honor and must not weaken the cause of the resistance or make secret deals with the Soviets that would reward them for failing to devour Afghanistan.

I urge the President to personally make a thorough review of policies which may well have been made without his full understanding or knowledge.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the New York Times of March 20, 1988, a copy of the President's letter addressed to me, a copy of my letter addressed to the President, and an additional article relating to this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, March 11, 1988.
Hon. ROBERT C. BYRD,
Majority Leader of the Senate,
U.S. Senate, Washington, DC,

DEAR SENATOR BYRD: It was good to talk recently with you about my determination to help the Afghan Mujahidin achieve rapid, complete and irreversible withdrawal of Soviet troops and freedom for the Afghan people. This was the same position I expressed forcefully to General Secretary Gorbachev during the Summit here in December and with Secretary Shultz spelled out in greater detail during talks late last month with the General Secretary and Foreign Minister Shevardnadze.

In view of your statement of Afghanistan before the Senate last week, I would like to bring some points to your attention which deal with the concerns you have expressed.

Since 1985, we have indicated our conditional willingness to serve as a guarantor if a satisfactory settlement was reached. Our objectives have been: prompt and complete withdrawal of Soviet forces; restoration of Afghanistan to an independent and nonaligned status; self-determination for the Afghans; and return of refugees in safety and honor. These are the same basic points contained in the resolutions adopted overwhelmingly by eight successive sessions of the United Nations General Asssembly. I have emphasized these points and our support for the brave Afghan Mujahidin in my meetings with Yunis Khalis in November and General Secretary Gorbachev last December.

We have told the Soviets that to be credible for the United States, the Government of Pakistan, the Resistance and the entire free world, their withdrawal must be front-loaded (i.e. fifty-percent (50%) out within first three months), must actually begin to take troops out on the first day an agreement enters into force, and must be irreversible. If this occurs, we are confident of being able to detect and verify by our own national means whether the Soviets are acting in good faith. If not, any commitment by the United States would be off.

We have also told General Secretary Gorbachev and Foreign Minister Shevardnadze in recent months that any commitment to guarantee the Geneva instruments must be symmetrical, i.e., cessation of military or other aid to the Resistance must be matched by a cessation of similar aid to the regime in Kabul. We are confident that the above conditions, combined with the steadily increasing quantity, quality and sophistication of military equipment for the Resistance will enable them to deal effectively with military problems they might face. The Senate Select Intelligence Committee was briefed in detail on March 3 about current and programmed support from various sources for the Resistance. Contrary to erroneous reports, there have been no decisions to reduce or suspend military support and the overall rate of delivery continues to increase, although there has never been a steady, even rate of delivery from week to week and month to month. The enhanced support which the Resistance will receive over these several months, plus that already on hand, will actually strengthen rather than weaken their position vis-a-vis the remaining Soviet forces and the weak armed forces of the Najibullah regime. We, of course, wish to see that regime relinquish political power as soon as possible and be replaced by a regime which represents the vast majority rather than a small minority of the Afghan people.

Looking ahead, the Administration and Congress must be prepared to assist Pakistan, the Afghan refugees and whatever new, non-Communist government emerges in Kabul. The problems of refugee return and relief, plus reconstruction of wartime damage, will be demanding ones and will require broad international assistance. However, we must continue our own outstanding leadership role and set an example for others to follow.

Sincerely,

RON.

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, March 22, 1988.
The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Thank you for your letter of March 11 outlining the Administration's policy on several aspects related to an Afghanistan settlement, particularly on the issue of termination of assistance to the Afghanistan resistance. I have serious reservations about the policy you have outlined.

You indicate that in recent months the Administration has told the Soviets that "any commitment to guarantee the Geneva accords must be symmetrical, i.e., cessation of military or other aid to the Resistance must be matched by a cessation of similar aid to the regime in Kabul." However, the question of the "symmetry" of withdrawal or suspension of assistance is a murky one, with obvious dangers. What, in fact, constitutes "aid?" Certainly a reasonable definition would include the in-country military forces, military and civilian advisors, as well as material and financial aid. I fail to understand why we would terminate our only form of aid, namely military assistance, in return for Soviet agreement to terminate only one form of their efforts to subjugate that nation. The shocking result of that formula is to telegraph the end of our commitment to the mujaheddin while the Soviets maintain the major portion of leverage in Afghanistan.

In terms of the Geneva negotiations, it is unclear what exactly the United States is being asked to guarantee. I understand that no one in the Senate has been shown copies of these proposed accords. I certainly have no idea what is in these agreements, particularly the instrument which the United States is considering signing, the accord on guarantees.

It is also my understanding that the Administration has opened bilateral discussions with the Soviets on a mutual termination of assistance. While this new Administration position may appear to some to be equitable and balanced, I believe it involves a withdrawal of a long-standing American commitment to the Afghanistan resistance to support them until the Soviets have withdrawn totally from Afghanistan.

I call attention to the position taken by the Senate in a unanimous vote on February 29, 1988, that "the government of the United States should not cease, suspend, diminish, or otherwise restrict assistance to the Afghan resistance or take actions which might limit the ability of the resistance to receive assistance until it is absolutely clear that the Soviets have terminated their military occupation, that they are not redeploying their forces to be inserted again, and that the mujaheddin is well enough equipped to maintain its integrity during the delicate period of a transition government leading up to new elections." I enclose a copy of this resolution.

Mr. President, you state in your letter that to be credible, the Soviet withdrawal must be front-loaded, must actually begin on the first day an agreement enters into force, and "must be irreversible." How is it possible to determine that the Soviet withdrawal is "irreversible" on the first day of withdrawal? How can the United States give up the only leverage we have—military assistance to the resistance—and rely on the Soviets' good intentions to complete their withdrawal?

Reliance on, in your words, "our own national means . . . to detect and verify . . . if the Soviets are acting in good faith" obviously is essential. But if we determine that they are not acting in good faith, what recourse do we have if we have terminated our assistance program? It would place the Government of Pakistan in an extremely difficult position for the United States to ask for assistance to restart the aid program. I simply do not believe that course of action is feasible.

Yesterday, I met with the Ambassador from Pakistan, to commend his government for its longstanding efforts and courage in supporting the mujaheddin. I believe it is more important than ever to closely coordinate our program and policy with that nation as well as with the mujaheddin leaders.

Mr. President, as I have said repeatedly on the floor of the Senate, I do not believe the Soviets need enticements from the United States to leave Afghanistan. We should not reward the Soviets for having failed to devour Afghanistan.

I respectfully urge you to make a thorough review of any commitments which may have been made without your full support or knowledge.

Sincerely,

ROBERT C. BYRD.

[From the New York Times, Mar. 19, 1988]

AFGHAN REBEL FACTION LEADER VOWS WAR BEYOND ANY PACT

ISLAMABAD, PAKISTAN, March 18.—The leader of a powerful Afghan guerrilla party and major recipient of covert American military assistance, whose aim is a "pure" Islamic state, consistently accuses the United States of conspiring with the Soviet Union against Afghanistan.

Yet the leader, Gulbuddin Hekmatyar, denies that he is anti-American, as is frequently charged.

"But there are people in America who are against our jihad," Mr. Hekmatyar said in an interview in Peshawar, the Pakistan city never the Afghan border that is the center for the seven parties fighting the Moscow-backed Government of President Najibullah in Kabul.

He used the term for an Islamic holy war that is also the common word for the fight against Afghan Government forces and their Soviet allies.

"They are in the Government, in the parties, in the public," Mr. Hekmatyar continued, speaking in English. "There is a class of people who support our struggle because they are against the Russians, not as an Islamic struggle."

Mr. Hekmatyar strongly opposes the Geneva talks on Afghanistan, with the United Nations acting as mediator between the Afghan Government and Pakistan. The talks, which resumed after an offer in February by Mikhail S. Gorbachev to begin withdrawing Soviet troops within two months after an accord is reached, have been blocked by differences on military aid and the shape of a postwar government.

"Gorbachev would not have made this announcement without an understanding with the United States," Mr. Hekmatyar said. "The Washington reaction proved that there is a secret conspiracy. If the Geneva accords are signed, you will find us on the battlefield. I personally will be inside Afghanistan."

The rebel leader, a 39-year-old former engineering student, who speaks in a soft but insistent voice with the certainty of a man expounding dogma, leads a wing of Hizbi Islami, or Islamic Party. In the frequent discord of the loose guerrilla coalition, Mr. Hekmatyar's wing of the split party stands out for being coherent and consistent.

CURRENTLY LEADING REBELS

On Tuesday, Mr. Hekmatyar was named chairman of the coalition. The post rotates every three months among the seven leaders.

Mr. Hekmatyar, who always wears traditional Afghan dress, preaches an Islamic revolution. Unlike his fellow alliance leaders, who strike above all an orthodox, anti-Soviet and anti-Communist tone, he advocates a radical program that rejects a return to the traditional ways of Islam that dominated Afghanistan during the monarchy that was overthrown in 1973 and survived through the political struggles that preceded the move of Soviet troops into Afghanistan in December 1979.

"We want a pure Islamic state in Afghanistan," said "Brother" Hehmatyar, as his associates refer to him. "Before 1973? That was never an Islamic system. It was completely against Islam."

The leader was less forthcoming when asked to define the differences between the "pure" Islam he advocates and the traditional system of the past. The rule of King Mohammad Zahir Shah, who led the deeply Moslem country for 40 years, was not Islamic, Mr. Hekmatyar said.

"Islam says the ruler should be elected by the people," he said. "Not Zahir Shah."

[From the New York Times, Mar. 19, 1988]

IF A GENEVA TRUCE IS SIGNED, YOU WILL FIND US ON THE BATTLEFIELD

PURITY BUT NO DETAILS

Unlike the other rebel leaders, Mr. Hekmatyar, who is aware of the impression his words make in the Western press, was reluctant to spell out his philosophy of "pure" Islam as a political and social system.

When asked about the application of Islamic law, with stern corporal punishment including amputation of limbs or stoning to death of offending women, he replied, "Islam will be implemented in all aspects."

Asked about education for women, Mr. Hekmatyar said the Koran requires education for all. As for whether women should be educated like men—as doctors, engineers or lawyers, he said: "There are some differences. Each class should be educated according to its nature. It will be decided in the future."

Islamic fundamentalists believe that women should be educated for nothing but strict observance of the faith, with a stress on domestic life.

In 1986, when the seven leaders were invited to meet President Reagan, Mr. Hekmatyar was one of three who boycotted the reception. "I was not in favor of it," he said. "We didn't want the world to think the war in Afghanistan is a struggle between the two superpowers, and I was afraid America would compromise with Gorbachev over Afghanistan."

Nonetheless, Western officials said Mr. Hekmatyar continued to receive a significant share of the American arms aid, which is largely distributed by Pakistani intelligence agencies.

His favored treatment by Pakistani intelligence is believed to stem from the fact that he found refuge there at least three years before Soviet troops moved into Afghanistan, and has since maintained close relations with the military and intelligence agencies.

A well-known Islamic student leader at Kabul University, he fled here after an unsuccessful uprising against the leftward trend of the Government of President Mohammad Duad. Pakistan favored him because of his opposition to the creation of a separatist state of Pushtun tribesmen, who live on both sides of the border. The separatist threat has been a major concern of Pakistani governments since the founding of their state in the late 1940's.

Mr. Hekmatyar is himself a Pushtun but opposes separatism because of his advocacy of a larger Islamic brotherhood transcending national frontiers. Part of his revolutionary doctrine, according to Westerners who know him, is the abolition of all traditional structures, such as Pushtun tribalism, in favor of his notion of an egalitarian Islamic state.

FEARED BY OTHER REBELS

Most diplomats regard Mr. Hekmatyar as the most competent and the most feared of the guerrilla leaders. But they said that he was not feared so much by the Communists as by his allies and not regarded as the most aggressive rebel chief. They believe that his commanders, although heavily armed, preferred to save their men and weapons to establish Nizbi Islami's dominance over all other groups, once the Soviet forces have left the field to the Afghan factions.

Although no one here ventures estimates of his troop strength or the share of the military supplies furnished by the United States that Mr. Hekmatyar has received, it is assumed that his forces are among the most numerous and best supplied.

Although the Hekmatyar wing is not known to have distinguished itself in many actions against Soviet or pro-Soviet Afghan forces, their leader's Islamic zeal has motivated his troops to mount occasional raids into Soviet Central Asia. He is said to believe that the largely Moslem border republics of the Soviet Union are ripe for Islamic revolution.

The raids have consistently been followed by devastating reprisals, in which entire Afghan villages have been leveled, according to diplomats.

These envoys and Afghan moderates, who always speak anonymously and express fear for their lives if they are identified, accuse Mr. Hekmatyar's units also of raiding caravans taking arms and supplies to forces of other parties. This has included a horse caravan carrying medicine on behalf of the French relief organization Doctors Without Borders.

GUNPLAY AT A MEETING

Earlier this month, according to reliable Western diplomats, the animosity that moderate leaders harbor against Mr. Hekmatyar led to a confrontation at an alliance meeting between him and Sibghatullah al-Mojaddedi, head of the Afghan National Liberation Front during which both men drew their pistols. They were separated by their allies.

Unconfirmed reports also link Mr. Hekmatyar's party to assaults on Afghan moderates, particularly supporters of the return of the former King. Mr. Hekmatyar denied such charges in the interview but said he was ready to investigate any evidence presented against his men.

A diplomat reported that after the murder last month in Peshawar of Prof. Syad Bahouddin Majrooh, who had published a poll showing wide support for the former King, representatives of the Hekmatyar wing warned Afghan refugees that those who back King Zahir Shah would share Professor Majrooh's fate.

Late last year, two Americans who accompanied a Hekmatyar unit into Afghanistan were said by the party to have been killed in a Soviet attack, but a suspicion persists among diplomats and relief organization workers that they were murdered by the guerrillas.

Pakistan is holding five suspects, reported to be members of a Hekmatyar unit, on suspicion of killing a British cameraman last December. Diplomats said the Briton had accompanied a unit of another fundamentalist party and was believed to have filmed a clash between the two forces. He was killed, according to a survivor of the clash who has testified to Pakistani authorities, when he refused to turn over his camera and film to the Hekmatyar guerrillas.

[From the New York Times, Mar. 20, 1988]

REPORT SAYS U.S. DEMANDS ON AID MAY IMPEDE AFGHAN PACT

(By Martin Tolchin)

WASHINGTON, March 19.—A demand by the Reagan Administration that the Soviet Union end assistance to the Afghan Government at the same time that the United States cuts off aid to the country's guerrilla forces could prove a major obstacle to a Soviet withdrawal from Afghanistan, according to a staff report to the Senate Foreign Relations Committee.

A DEMORALIZED REGIME

The report faulted the Administration for its failure to raise the issue until recently. "As a result," the report said, "it appears to some foreign observers that the symmetry dispute is an attempt to sabotage the Geneva talks" on negotiating the withdrawal of Soviet forces from Afghanistan.

But the report noted that it was not necessary to resolve the issue in the context of the Geneva negotiations, adding that "some observers believe it will be finessed through a U.S.-Soviet understanding to which differing interpretations may attach."

The symmetry issue was of secondary importance, the report said, because "no amount of Soviet military aid without Soviet troops can save the demoralized and discredited Kabul regime from collapse."

Despite President Reagan's vocal backing of the guerrillas, and unbeknown to Mr. Reagan, the United States made a commitment in 1985 to end military aid to the Afghan guerrillas at the beginning of a Soviet troop withdrawal. When the Soviet withdrawal appeared within reach, the commitment led the Administration to compensate for the aid cutoff by making stringent demands on the Russians, including the "symmetry" demand. Kabul has categorically rejected such a cutoff in Soviet support.

The report said the nine-month Soviet withdrawal period would expose the Afghan rebels to some risk. It was possible that the Russians might use the withdrawal period for attacks on the guerrillas whose leaders say they have supplies for one or two months of fighting at current levels.

The United States could minimize such risks with two "insurance measures," according to the report. First, Washington could take steps to maintain a pipeline for delivering assistance to the rebels in the event that any accord broke down. Second, the United States program that provides food, medical supplies and financial aid to Afghans living in territory controlled by the rebels could be increased.

PAKISTANI CONCERNS

A second major obstacle to a withdrawal of Soviet troops, the report said, was a Pakistani demand that an interim Government be formed in Kabul prior to the signing of any agreement negotiated in Geneva.

"The Pakistani Government is concerned that an agreement which leaves the Najibullah regime in Kabul will insure continued civil strife in the country," the report said. "Under these circumstances, Pakistan fears the refugees will not go home."

There are nearly three million Afghan refugees in Pakistan.

The report said that although the Pakistani analysis appeared at least partially correct, "the Government is under intense external and internal pressure to drop this demand."

"The Reagan Administration does not believe the creation of an interim government should be a precondition for an agreement for a Soviet withdrawal," the report said.

The report noted that Iran, which shelters two million Afghan refugees, could have some leverage in the Geneva negotiations. Iran was able to disrupt the accord by increasing support for rebel groups. "Iran's ability to disrupt the accord is a factor the Soviet Union must consider," the report said.

RESERVATION OF REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask that the time of the Republican leader be reserved.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond 10:30 a.m. with Senators permitted to speak therein.

The Senator from Wisconsin.

IS THE WALL STREET JOURNAL BECOMING A KNEE-JERK LIBERAL?

Mr. PROXMIRE. Mr. President, you could have knocked this Senator over with a feather recently when he read in the Wall Street Journal, of all places, a spirited defense of progressive taxation. Now, do not get me wrong. The Wall Street Journal is a great paper. I doubt if there has ever been a time when any paper anywhere has covered in its news column the business and the economy of this immensely complex society of ours more objectively and expertly than the Wall Street Journal does today. But the Journal's editorial columns are an entirely different animal. When the Journal shifts gears from their superlative news columns to their editorial opinions, the saintly Dr. Jekyll becomes the manic Mr. Hyde and with a vengeance. That is why this Senator could hardly believe it when the article he had been waiting for for years denouncing the regressiveness of the Social Security payroll tax showed up, of all places, right in the middle of the Journal's March 17 editorial page. This estimable article was written by the Journal's chief economic correspondent in Washington, Alan Murray.

Murray's article starts off like straight-from-the-shoulder Wall Street Journal right wing reaction. The just-created National Economic Commission, says the article—

> Will recommend reductions in Social Security benefits—that you can bet on, and for a very simple reason—that's where the big money is.

But then Murray rips off the cover and exposes a widely ignored truth. He writes:

> If the commission cuts benefits, it should also take a close look at the payroll tax that funds Social Security. The tax has grown tremendously in recent years, and is in bad need of an overhaul.

Is Murray right? Yes and no. The Social Security tax is monumentally, shamefully regressive. Think of it. Here is a tax that makes not the slightest bow toward justice or fairness. It contains no exemption, none, for very-low-income workers. There is no deduction for essential expenditures for anyone regardless of how poor or needy they might be. Does the tax increase as ability to pay rises? No, indeed. In fact, here is a tax that is actually capped at $45,000 per year. What does that mean? That means for a Member of Congress who is paid $89,500 per year by the taxpayer, only the first $45,000 is taxed. The remaining $44,500 is exempt. For a big bucks investment banker or Fortune 500 CEO who makes $500,000 per year, a whopping 90 percent of this income is totally exempt. And for the really rich and famous who just clip coupons and harvest dividend checks and enjoy million-dollar annual unearned incomes, all of it—that's right, all of it—is exempt from the Social Security tax.

So here is where Alan Murray is absolutely right. The Social Security tax is regressive, very regressive. He is also right in saying it is a very big revenue producer for the Federal Government. As Murray points out, this tax as recently as 1950 raised only about 5 percent of Federal revenues. Today it raises 25 percent. For most of the American people, it is a bigger tax than the Federal income tax. This is true for families with single-earner income of $40,000 per year or families with two earned incomes of $40,000. It is an effective flat tax of 15 percent on all wage or salary income. So far Murray is right.

So where is he wrong? He is wrong in ignoring the fact that there is a reason, and an acceptable reason, for the regressiveness of this Social Security tax. And because Mr. Murray ignores this justification for the regressiveness of the payroll tax, he is wrong in his contention that the National Economic Commission will necessarily recommend a cut in Social Security benefits. In fact, if they take the time to understand this tax and the benefits it provides, they will not recommend such a reduction. Murray should recognize the basic fact that this payroll tax is dedicated to a single purpose. That purpose is to provide a retirement income for elderly Americans. Not one nickel of the huge proceeds of the Social Security payroll tax can be spent, or should be allowed to be spent, for national defense, environmental protection, housing, or any other purpose not expressly related to the retired beneficiaries who have earned benefits by working and paying the tax for at least 10 years and in most cases 30 or 40 years. Social Security is simply a return on a very rough actuarial basis of forced savings. It is social insurance, with the emphasis on insurance. Tens of millions of workers who paid the heavy premium for this insurance with their tax are entitled to receive the benefits.

Under these circumstances, would the National Economic Commission act rightly in recommending reductions in Social Security benefits? The answer to that question follows from the answers to two other questions. First, are the benefits provided by law excessive? At this moment, about 35 million Americans receive Social Security checks every month. The average check is about $500. Millions of those recipients are elderly, retired Americans who have paid into Social Security for many years. They rely on that monthly $500 or so as their sole, or virtually their sole source of funds. So how much is $500 per month? It is well below the poverty line. A reduction in Social Security benefits would shove these elderly further below the poverty line.

So how about a means test so the Economic Commission could recommend a cut in benefits for those millions who have income that supplements their Social Security benefits? Such a means test would convert Social Security from an insurance program, which it is, to a welfare program. It would cut off from some or all of the benefits many of those who have paid into Social Security and paid in heavily for many years.

Would it be possible to cut the Social Security tax without reducing Social Security benefits? After all, the system will run a surplus of $38 billion this fiscal year. Conservative projections forecast an astounding $10 trillion reserve for Social Security by 2020. So what is wrong with that? Plenty. A cut in the payroll tax without reducing benefits would have two adverse effects. First, it would diminish the enormously constructive role Social Security is playing and will continue to play for the next 30 years in reducing the deficit. Second, it would gut the actuarial soundness of the system which relies on running up a massive balance to take care of the post World War II baby crop that will be retiring after the year 2020.

Certainly Alan Murray may be right in predicting that the National Economic Commission will cut Social Security benefits. But it is very unlikely they would recommend a reduction of any kind in a Social Security tax that will play such a huge role in solving the deficit problem. After all, cutting the deficit is the prime reason the Commission was created. Finally, looking at how a progressive tax would affect the members of that Commission, it is unrealistic to assume they would call for replacing the regressive Social Security tax with a tax that would slash into their own after-tax income that is now virtually untouched by the payroll tax. Come to think of it, it is also unrealistic to expect the Congress to enact a new tax law that will hit Members of the Congress so hard when the current Social Security tax touches them so gently.

Mr. President, I ask unanimous consent that the article by Alan Murray in the March 17 Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 17, 1988]

DEFICIT PANEL SHOULD EXAMINE PAYROLL TAX ROLE

(By Alan Murray)

You can bet your last Treasury bill that the National Economic Commission, created to devise a plan for cutting the budget deficit, will recommend reductions in Social Security benefits. After all, that's where the big money is.

But if the commission cuts benefits, it should also take a close look at the payroll tax that funds Social Security. The tax has grown tremendously in recent years, and is in bad need of an overhaul.

The payroll tax accounted for a bare 5% of the nation's total tax revenues in 1950; today, it has risen to 25%. When President Reagan says that taxes account for the same percentage of our economic output as they have throughout the postwar period, he's right—but only because surging payroll taxes have offset a decline in income and excise taxes.

The drawback is that the payroll tax, unlike the income tax, isn't based on ability to pay. The earned income tax credit reduces the payroll tax burden for those at the very bottom of the income scale, but the $45,000 cap on taxable earnings also reduces the burden for those at the top of the scale. The vast majority of Americans are stuck in the middle, paying what amounts to a flat 15% tax on earnings, regardless of their incomes. (Only half of that is actually paid by the employee, but most economists agree that the impact on an employee's take-home wages is the same as if he had paid the full amount.)

In the past few years, the problem has become even more acute. Revenue from the payroll tax has grown so rapidly that it now exceeds Social Security outlays, creating a surplus in the system's trust fund that is expected to total about $37 billion this year and grow to $100 billion a year by the middle of the next decade.

Technically, the surplus is separate from the rest of the budget. But in fact, it is all invested in Treasury securities. As a result, the extra money being raised by the payroll tax is transferred to general revenues. The payroll tax is no longer just as a means of paying for current Social Security benefits, but has also become a way of financing the rest of government.

Defenders of the current system argue that a trust-fund surplus is needed to help defray the heavy costs that will be incurred when the baby boom generation retires sometime in the next century. They see it as a laudable effort by the current generation of workers to ease the tax burden on the next generation.

Their concern is legitimate. The nation is going to be top-heavy with retirees in the future, and the cost of supporting those retirees will be immense. But the only way to alleviate the tax burden on the next generation is to eliminate the deficit on *all* government operations, and perhaps even run surpluses. Running a surplus in the trust fund while the rest of government is deep in deficit serves little purpose.

At the root of the Social Security problem lies widespread confusion about how the system operates. From its inception, it was viewed as the government equivalent of a private pension fund, somehow separate from the rest of government. Workers put their money into the fund, and when they retired they expected to pull it back out, plus interest.

This view of Social Security helped generate popular support for the program. But the analogy to a private pension fund is weak, at best. For one thing, the vast majority of the money paid into the trust fund isn't invested; instead, it is paid out to current beneficiaries. Moreover, the relation between the amount a worker pays into the fund and the amount he eventually gets out varies.

Thus, there's no reason why the National Economic Commission shouldn't consider Social Security fair game in the commission's efforts to cut the budget deficit. It should be evaluated like any other government spending program.

But the commission should also look at the payroll tax as part of the total federal tax burden. If they do, they'll find that the growth of this regressive tax in recent years has whittled away the progressivity of the nation's tax system—a notion still supported by a majority of Americans.

Clearly, reducing the deficit must be the commission's top goal. That's the real measure of the burden this generation is leaving to its children. But in reducing the deficit, the commission also needs to keep one eye focused on the issues of fairness and ability to pay.

Some tax experts recommend a radical overhaul of the payroll tax system—for instance, replacing the current 15% flat tax with a set of progressive tax rates. That idea, however, is likely to prove too controversial for the commission's taste.

A less drastic remedy would be to match cuts in Social Security benefits with cuts in the payroll tax. The revenue needed to reduce the budget deficit could then be raised through offsetting increases in the income tax. The commission may want to avoid boosting the income tax rates set in the 1986 tax law, but it could still raise ample revenue by attacking some of the loopholes left untouched by the 1986 act.

Another change that would boost the system's overall progressivity would be to increase the tax on Social Security benefits. Under current law, 50% of benefits above a certain income threshold are subject to tax. By raising that figure to 85%, the government could bring in about $4.5 billion in new revenue each year from high-income retirees, according to the Congressional Budget Office. The tax on benefits is admittedly an awkward revenue-raising device that, in its current form, leaves some middle-income retirees facing unusually high marginal tax rates. But measures to mitigate that problem could be adopted without diminishing the revenue gain.

Reducing the deficit is critical. But the National Economic Commission should be careful to reduce the deficit in a manner that reflects our society's desire for progressive taxation.

Mr. PROXMIRE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

FILING OF AMENDMENTS UNDER CLOTURE

Mr. BYRD. Mr. President, I ask unanimous consent that even though the Senate will be in recess from 12:45 until 2 p.m. today, Senators may have until 1 p.m. today to file their amendments in the first degree in accordance with the requirements of Senate rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS PROVISION

Mr. BYRD. Mr. President, I also ask unanimous consent that following the disposition of the vote on the override of the President's veto today, there be morning business until the hour of 12:45 p.m., at which time the Senate will be going into recess.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that Senators may speak during that period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.0

MEXICO AND THE DRUG TRAFFIC: PART III—RESULTING CRIME AND VIOLENCE IN THE UNITED STATES

Mr. WILSON. Mr. President, last Friday I spoke briefly about the flood of drugs entering the United States from Mexico. This morning, I will discuss how the drug empire affects crime and violence throughout America, not just in border communities.

The overflow of narcotics, marijuana, heroin, and cocaine from Mexico has transformed our southwestern border into a war zone. Illegal narcotics go hand-in-hand with crime and criminals, and where drug traffickers reside so, too, does violence.

With drugs pouring into the country from Mexico, street-corner assassinations and gangland-style violence have become commonplace in many United States cities, including our Nation's Capital.

A recent study completed by the Justice Department revealed that in 12 major American cities three-quarters of the men arrested for violent crimes tested positive for the use of some dangerous drug. The situation is so critical in southern California that in my home county of San Diego the sheriff considered arming his deputies with semiautomatic weapons quite understandably because in most U.S. law enforcement circles there is a feeling that often the officers are being literally outgunned in their war against drug dealers.

While traffickers often pack Uzi machineguns and Soviet-made AK-47 assault rifles some of which are equipped with laser scopes our law enforcement agencies often have only service pistols and shotguns for their protection. It has become routine, Mr. President, in major drug busts for the arresting officers to seize large caches of these very dangerous and sophisticated foreign-made weapons.

Drug-related violence is in no way limited to confrontations between NARCO smugglers and Customs agents along the border. As illegal drugs move inland away from the border and begin to infest our cities, violence follows very closely thereafter. Wholesale distributors and street dealers often are at each other's throats literally battling for control over territories in which to sell dangerous drugs.

In Los Angeles a gang member peddling crack in front of a liquor store was gunned down by a rival gang. Mr. President, that young man had come selling crack. He had intruded into a rival gang's territory trying to make a quick several hundred dollars. It was the fourth shooting to occur in front of that liquor store that week. Similar stories fill the pages of newspapers of Washington and New York and hundreds of other American cities large and small.

No community is immune. We have all heard of the problems southern Florida has had to face in terms of drug-related violence and corruption. The good news is that Florida is getting tough on drug dealers and for the first time in years it appears that its crime rate has begun to dip. The bad news is that many of those Florida traffickers now seem to have relocated to other States bringing with them a new wave of crime. Police in Los Angeles, Washington, Denver, Phoenix, Las Vegas, and Portland all have reported an increased presence of drug-related gang violence in their cities.

And with a sickeningly increasing regularity we read in newspapers or see on television news reports of the senseless killing of a young police officer in New York by a man high on drugs or of the coldblooded robbery murder of two Drug Enforcement Administration agents in Pasadena by two pushers. The threat to law officers, Mr. President, has become intolerable.

The international drug lords have planted the seeds of this violence by flooding our communities with their illegal drugs and the traffic and the peril that it creates are escalating. From 1986 to 1987 the Drug Enforcement Administration and the U.S. Customs Service reported a 300 percent increase in cocaine seizures in the Los Angeles area alone, and an overall 700 percent increase at Mexican border crossing points. Dangerous drugs harm more than drug users. In Mexico, the drug empire reaping billions in profits has totally undermined and corrupted Mexican law enforcement. In America the drugs supplied from Mexico breed crime and violence and also death with victims claimed both by drug overdose and by armed robbery of those seeking to support a habit. Illegal drugs have in short created a crime wave in the United States on a scale and of a viciousness that most local law enforcement cannot contend with.

Mr. President, to put it in simplest terms, stopping the flow of dangerous drugs entering the United States from Mexico is essential if we are to reduce crime in America. But a campaign waged against the drug traffic in Mexico cannot be effective unless and until Mexican authorities give full cooperation to U.S. antidrug efforts. And we simply cannot pretend that they are doing so now.

Until the Government of Mexico gives full cooperation to U.S. antidrug efforts all other cooperation in so many ways between our two nations, however desirable and necessary, is threatened because until full cooperation is given by Mexican authorities a wave of drug-related crime and violence will continue to threaten America's cities and towns, on our streets, in our parks, in schools, and on the playgrounds.

Mr. President, in my next statement I will examine the views expressed and efforts made by Mexican Government officials relating to the drug traffic and I will tell why they cannot be accepted as adequate or as a substitute for the full cooperation which the law demands.

Mr. President, I thank the Chair. I believe the Senator from Illinois has a statement. I yield the floor.

RESPONSE TO THE STOCK MARKET CRASH

Mr. DIXON. I thank my friend from California both for his remarks this morning and for his kindness in yielding the floor to this Senator for some brief remarks.

I am delighted to see my friend, the distinguished Senator from Alabama, in the chair because he is a member of the Banking Committee, and the subject matter I am about to address is one he is familiar with. I am delighted to see my friend, the distinguished Senator from Missouri, on the floor because he is a member of the Banking Committee as well and is familiar with this subject matter.

Mr. President, I would like to call to the attention of the U.S. Senate a very interesting, informative, and I think, excellent editorial from the Sunday Chicago Tribune of March 20, 1988, entitled "Mr. Reagan's last Stand on the Crash." I want to read just briefly from it.

> After two months of watching federal regulators bicker over how to reform the financial markets, President Reagan is trying to force them to iron out their differences.
>
> His new interagency committee, headed by Treasury Secretary James Baker, won't go over the same ground plowed by six major studies since the markets came unglued five months ago. Instead, it will try to develop a coordinated response to the crash by early summer.

May I underline those words, Mr. President, ". . . a coordinated response. . ."?

> This may seem like mere dillydallying, a maneuver to stall new regulatory laws by an administration with an aversion to regulations. But with a Democratic-controlled Congress bent on doing something, anything, to slap another set of restrictions on the markets, no matter how destructive or half-baked, a little constructive footdragging is precisely what's needed right now.
>
> In the meantime, federal regulators and the various exchanges in Chicago and New York should quit their infighting and agree on ways to monitor the relationships between the stock, futures and options markets. This is the area singled out by the presidential Brady commission as in need of urgent attention. It wanted to put a superregulator such as the Federal Reserve Board in charge, but Fed Chairman Alan Greenspan wisely rejected that role for the central bank.
>
> David Ruder, chairman of the Securities and Exchange Commission, offered his agency as the omnipotent regulator and called for higher margins, or collateral, on futures to dampen volatility. Wendy Gramm, not about to give up any turf as new head of the Commodity Futures Trading Commission, deplored that idea and the SEC power grab. She has the best approach, trying to focus attention on better information flow and the handling of larger volumes of securitics and futures rather than on regulatory changes.

I stress that, Mr. President: "Trying to focus attention on better information flow and handling of larger volumes of securities and futures rather than on regulatory changes."

There is more, Mr. President, and I ask unanimous consent that the entire tribune editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MR. REAGAN'S LAST STAND ON THE CRASH

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>
> His new interagency committee, headed by Treasury Secretary James Baker, won't go over the same ground plowed by six major studies since the markets came unglued five months ago. Instead, it will try to develop a coordinated response to the crash by early summer.
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> This may seem like mere dillydallying, a maneuver to stall new regulatory laws by an administration with an aversion to regulations. But with a Democratic-controlled Congress bent on doing something, anything, to slap another set of restrictions on the markets, no matter how destructive or half-baked, a little constructive footdragging is precisely what's needed right now.
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> In the meantime, federal regulators and the various exchanges in Chicago and New York should quit their infighting and agree on ways to monitor the relationships between the stock, futures and options markets. Thus is the area singled out by the presidential Brady Commission as in need of urgent attention. It wanted to put a superregulator such as the Federal Reserve Board in charge, but Fed Chairman Alan Greenspan wisely rejected that role for the central bank.
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>
> Last week the SEC's Ruder retreated from his call for higher margins and pushed for coordinated trading halts to prevent the markets from breaking down during heavy trading. Wendy Gramm was receptive. But Nicholas Brady, the Wall Street executive who headed the President's first postcrash study, is talking darkly about another one waiting to happen unless the exchanges and regulators agree soon on reforms.
>
> Brady, a confidant of George Bush, apparently thinks that scaring everyone into accepting his policies will keep him in a national spotlight and snare a seat in a Bush cabinet. But James Baker is still treasury secretary, and he—along with Greenspan, Ruder and Gramm—should be given time to reach a consensus. The goal should be supervising the linkages between markets without increasing government tinkering in them. If Washington binds them too tightly, their aggressive (and freer) competitors overseas will be only too happy to snatch their business.

Mr. DIXON. Mr. President, the futures industry has made every conceivable effort to arrive at an understanding with the New York Stock Exchange and others about what should be done and has worked with the regulators to achieve a balanced response to the problem in the marketplace. They continue to do that work every day.

I conclude by saying this: May we never forget that this is an international marketplace; that when something occurs in the United States of

America, in New York, in Chicago, it occurs in London, it occurs in Tokyo, it occurs in Hong Kong, it occurs in every conceivable marketplace in the world.

We will make a profound error if we act hastily, without having a consensus in the marketplace by the regulators and the people out there serving the public in the marketplace.

The President, in my opinion, has made an excellent suggestion. Secretary of the Treasury James Baker will do a good job in working out an accommodation.

The Presiding Officer knows that when we had the banking bill last year, it was the Secretary of the Treasury, in the end, who came to us and accommodated us so that we could get a consensus last year. He has done that again this year. He is trying to do it now. The President is asking us to wait until May 18 in order to achieve an understanding among those in the marketplace and the regulators about what the response should be, and I say that is a responsible approach.

I recognize what the distinguished chairman of the Banking Committee, the Senator from Wisconsin [Mr. PROXMIRE], has done. He is working on a bill now. I am happy to hear that. The distinguished chairman of the Agriculture Committee, the Senator from Vermont [Mr. LEAHY], has legislation. He has an important role, because his committee has jurisdiction over the CFTC. I say to all those fine Senators and their colleagues and friends that we should wait and see what the consensus is on May 18. There will be plenty of time after that to take the appropriate action.

I thank the Presiding Officer, the Senator from Alabama [Mr. SHELBY], and I thank the Senator from Missouri. I hope they share my view that we should not act in haste on a problem that needs thoughtful and careful attention.

Mr. BOND. Mr. President, I thank my good friend from Illinois for yielding the floor. I commend him for the very thoughtful statement he has made on a subject of great importance to this body and to the people of the United States.

We share his concern that when action is taken, it be coordinated action. I applaud his commendation of the committee to be headed by Secretary of the Treasury, Jim Baker. I think we will get the best possible advice from that body.

I commend my friend from Illinois for his leadership on this matter and others in the Banking Committee.

TRIUMPH OF FREE ELECTIONS IN CENTRAL AMERICA

Mr. BOND. Mr. President, I am here to discuss today, for the benefit of my colleagues, a very interesting experience I had this past weekend.

Yesterday, I returned from Central America, where, for the first time in 50 years, in that region we had the opportunity to witness the peaceful transfer of power from one political party to another by means of the ballot box.

I was honored to be asked by President Reagan to go to El Salvador on the bipartisan observer commission headed by our colleague, Senator LUGAR, along with Representative MURTHA, 5 other Congressmen, and 11 other observers.

Our mission was to observe, along with similar delegations from many other countries, the process of the election for members of the Salvadorean National Assembly and municipal posts to determine whether the elections were fair and honest. As an American, accustomed as most of us are to the routine right of exercise of the right of suffrage, it was heartening to see the commitment of the Salvadorans to the exercise of the voting franchise and the relatively smooth operation of the process. In a country where the people have only had the right since 1982 to participate in free elections, between 60 and 70 percent of the 1.6 million registered to vote actually turned out to vote on Sunday.

As we visited polling places in the capital city of San Salvador and the third largest city of San Miguel, as well as polls in the outlying rural areas, we had the opportunity to witness the process and to talk, through translators, with the voters. Many had traveled considerable distances to reach the polling place that day. It was not uncommon to find people who had walked 2 to 3 kilometers. Still others rode in or on pickup trucks, dump trucks, or crowded buses with passengers packed on the luggage racks for 15 to 20 kilometers to come to the polling place.

The hardships to get to the polls were not insignificant. But that much greater discouragement to voting was the widespread effort at voter intimidation by the Marxist guerrilla organization, Farabundi Marti Liberation Nationale [FNLN]. This guerrilla group, with command and control headquarters in Nicaragua, is committed to a broad range of activities to achieve their ultimate objective of revolutionary triumph of the proletariat over the oppressors, which we understand to be the establishment of a Communist government. This guerrilla organization, which is supported and funded by the Sandinistas and the Cubans, has carried out active sabotage on public facilities to disrupt electricity, water, and telephone service. Indeed, we experienced the lack of electricity and water in the capital city. They have also kidnapped officials of opposing parties and engaged in the indiscriminate killing and maiming of campesinos, or peasant farmers, and their families.

In the week before the election, the FMLN used its access to radio and television in El Salvador as well as word of mouth to disuade Salvadorans from voting, among other things, by threats of violence and the warning of "transportation stoppages" on election day, which would include blowing up or burning of buses. In the week before the voting, to show the people of San Salvador what they meant, their labor union front organization overturned and burned government vehicles and privately owned buses.

The FMLN guerrillas knew they could not stop the election, but they hoped to show a low turn out by keeping candidates of their revolutionary front groups from participating by intimidation.

In one rural department, which roughly corresponds to one of our States, we visited the polling place where Salvadorans had come from the self-proclaimed guerrilla capital in the neighboring department to vote. By midmorning on Sunday, over 90 people from that town had come to vote.

Also, we found that in other areas, the transportation stoppage threat had discouraged voting. Also, farmers in many of the rural regions were reluctant to carry home the indelible mark on the little finger which is designed to discourage double voting, which I still bear on my finger, because I wanted to see how long it lasts. This mark on the finger, for a Salvadoran peasant, can be a target for retribution and even death from the left-wing guerrilla organization. It does not wash off easily. Many Salvadorans still carry it today.

Yet they were not afraid to vote.

The Salvadoran generally turned out in their Sunday best for a festive day in which the high point of the day was the exercise of the vote. When we asked these voters, through translators, why they were not afraid to vote, we received answers that they believed that God would protect them, and that they were accustomed to guerrillas, who no longer frighten them.

The voting procedure at the poll table, which accommodated no more than 300 voters, were simplified to permit easy voting for those who were not fully literate. Each voter had to present his or her carnet—a laminated badget with photo, fingerprint and address—and locate the voting table number on the list of registered voters. At that table, the voter was given one ballot for the election of deputies to the assembly and one for municipal officials. Each ballot had the symbols of the parties participating and the voters instructions were simply to mark an X through the symbol of the party to vote for the officials of that party. On the municipal level, the party with the most votes took all the offices; for the assembly ballot, again each department there was proportional allocation of vote, roughly among the top three.

Although we witnessed some minor foul ups, such as delayed opening of the polls, failures to have sufficient tables and chairs, to carnets that were not delivered to registered voters and names which did not appear on the lists, but these, though troublesome, were isolated incidents. Where there were delays up to 2 hours, the Salvadoran voters waited in line without complaint and with some good humor, a condition no American would accept. I wish we in America had such a commitment to voting.

The election was a powerful lesson on the value of the democratic rights to a free election for those of us who often take our access to the ballot box for granted.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS RESTORATION ACT (GROVE CITY)—VETO

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the President's veto message on S. 557, which the clerk will report.

The assistant legislative clerk read as follows:

> The President's veto message on S. 557, a bill to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, sec. 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.

The Senate resumed consideration of the veto message.

The PRESIDING OFFICER. Under the previous order there will now be 1½ hours of debate on the veto message, to be equally divided and controlled by the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Utah [Mr. HATCH].

Mr. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as I understand, the Senator from Utah has 45 minutes and the other 45 minutes are under the control of the Senator from Connecticut and myself.

The PRESIDING OFFICER. The Senator is correct, minus what time has been used by the quorum call.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

The last President who vetoed a civil rights bill was impeached. I don't expect President Reagan to share Andrew Johnson's fate. But the fact that over a century has elapsed since the last civil rights veto is a good measure of the importance of this vote and the powerful bipartisan consensus that civil rights measures supported by Congress have historically enjoyed.

The President's veto is all the more deplorable, since this legislation confers no new civil rights at all. It is a civil rights restoration act, designed to restore the status quo ante—that is, the status of the law before the Supreme Court's unfortunate decision in 1984 in the Grove City College case.

The Reagan administration has misused that decision as an excuse to roll back the clock on civil rights.

The Supreme Court, at the instigation of the Reagan Justice Department, had accepted an erroneously narrow reading of the fundamental laws prohibiting the use of Federal funds to support discrimination against women, minorities, the elderly, and the disabled. The legislation vetoed by the President would do nothing more than restore these antibias laws to their pre-1984 condition.

Since 1984, hundreds of administrative enforcement actions to stop discrimination have been dropped, and victims of discrimination have been thrown out of court. From the beginning, many of us would have liked to use this legislation to broaden the reach of civil rights. But we accepted the principle of restoration as the basis for action, because we recognized that our first priority was to restore the law as it had been for the past two decades under the great civil rights statutes enacted in the 1960's and the 1970's.

This bill, therefore, does nothing more than reaffirm the basic principle of the 1964 Civil Rights Act, which President Kennedy explained as follows:

> Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial discrimination.

Title IX of the Education Amendments Act, section 504 of the Rehabilitation Act, and the Age Discrimination Act have extended that principle of nondiscrimination to women, the disabled, and the elderly.

I also want to take this opportunity to express my regret at the cavalier reasoning of the Supreme Court in gutting the four civil rights statutes at issue in this legislation. The Court found the intent of Congress unclear, and rationalized its decision in the Grove City College case by saying that if Congress had meant the laws to be interpreted broadly instead of narrowly, Congress could simply pass a new statute saying so.

But as we have seen, it is not all that easy to simply pass another law. The opponents of civil rights could not believe their good fortune in the Court's decision, and they have lost no opportunity in the past 4 years to capitalize on the judicial setback to civil rights by preventing any legislative correction.

So I hope that in the future, when the Supreme Court considers important social issues such as this, the justices will try harder to decipher the intent of Congress instead of taking the judicial path of least resistance by telling the legislative branch to try again.

As Justice Holmes once put it, the life of the law has not been logic, it has been experience. Whatever the logic of the Court's decision in the Grove City College case, the experience of the past 4 years is clear—large numbers of Americans have suffered violations of their fundamental civil rights and millions of Federal dollars have been dispensed to organizations and institutions that practice discrimination. That result is unconscionable and unacceptable and it never had to happen.

To those who make the preposterous claim that this bill violates the principle of separation of church and state, I reply that this legislation has been exhaustively examined and strongly endorsed by mainstream church leaders representing millions of Christians and Jews, and also by the association representing most of the private and religious colleges in America.

Indeed, most of these groups have worked closely with us on this legislation from the start. Some of them had expressed reservations about earlier versions of the bill. Some of them supported amendments that were not adopted. But they are unanimous in their support for the bill that passed the Senate and House. Those opposed to discrimination in America recognize the importance of this measure. They agree that it overturns the Grove City decision, without expanding Federal regulation of State and local governments or private corporations, and without infringing on freedom of religion.

Contrary to the incredible allegations by the Moral Majority in its mischievous and deceptive campaign of misinformation and disinformation, the Civil Rights Restoration Act does not prohibit discrimination against homosexuals and does not give sweeping protection to alcoholics and drug addicts. Fortunately, Congress knows more about this civil rights measure than the Moral Majority seems to know. It is easy for Congress to see through the transparent distortions being used in this unseemly attempt to undermine civil rights. The opponents are proving once again that on this issue, as on many other issues, the Moral Majority is neither moral nor a majority.

This latest wave of scare tactics is now receding. It is reminiscent of the unconscionable campaigns against advances in civil rights throughout our history. We have overcome these anti-civil rights campaigns in the past and I am confident that we will overcome this assault today.

The Civil Rights Restoration Act is no leap into the unknown. It merely returns four important civil rights laws to their former scope. For 20 years, until 1984, these laws had operated to bring us closer to our goal of equal justice for all.

It is time to stop the hysteria and stop the use of Federal funds to discriminate against women, minorities, the disabled, and the elderly. The Civil Rights Restoration Act should have been enacted into law with President Reagan's signature, and now it is up to Congress to enact it into law by overriding President Reagan's veto. Once again, we in Congress can demonstrate the wisdom of the Founding Fathers, who gave us the power to override Presidential vetoes precisely because, in their wisdom, they anticipated circumstances such as this.

Mr. President, I reserve the balance of my time.

Mr. HATCH. Mr. President, I yield such time as he may require to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, surely Congress can advance the cause of civil rights without putting government in the business of regulating religion.

The President has promised that he will work with Congress to pass alternative legislation that does not entangle government with our churches and synagogues. I think we should take him up on his promise. I will vote to sustain the veto.

The issue before us is not whether Congress will overturn the Grove City case. We will and we should do that. The issue is whether we can avoid the excesses of this legislation without doing violence to its underlying purpose. I am convinced that we can.

Under the bill now before us, a church which participates in the Meals on Wheels Program would have to meet Federal access requirements for the handicapped. Clearly, this goes too far in telling religious organizations how to go about their business.

My concerns in this regard are not new. When the bill was on the floor of the Senate, I voted for two amendments to broaden the religious tenets exemption and to limit the bill's applicability to religious organizations. Both amendments were defeated. Now we have a chance to correct in new legislation what we failed to correct in this bill.

Advocates of the present bill have branded those who have raised concerns as religious zealots who are against civil rights. That characterization is grossly unfair. The vast majority of my constituents who have spoken out on this issue are committed to equal opportunity. But they do not believe that the basic values of this country depend on government telling religions what to do, and they are deeply worried that government is reaching into the practice of their religious beliefs.

From personal experience, I can attest that in the hearts of my constituents, basic human decency is alive and well. And so is a strong belief in the separation of church and state.

Mr. President, let us sustain the President's veto, and then let us enact immediately a bill that overturns Grove City in a manner consistent with religious liberty. On this matter of moral principle, let America affirm its belief in civil rights with one voice, and not with the anger which now divides us.

Mr. HATCH. Mr. President, I believe the distinguished Senator from South Carolina wanted to go next. I would be happy to yield to him, if he is available.

I wish to thank the distinguished Senator from Missouri for his cogent and important remarks. He happens to be an Episcopalian minister. His church has endorsed this bill and yet he sees the important reasons why we have decided to stand up on this bill.

It is not really a question of civil rights, but the extent to which the Federal Government can proceed to regulate the lives of churches. I just have to thank him for his eloquent statement on behalf of what the President is trying to do.

This is not really an issue of civil rights. All of us would vote to overturn the Grove City decision and apply the title IX decision and, as far as I am concerned, the other statutes, as well. But, sometimes there is merit in having them apply only to that particular program or activity or, in the case of religious institutions, to only that congregation or that particular institution that has violated some regulation.

I am happy to yield 5 minutes to the distinguished acting Republican leader.

Mr. SIMPSON. Mr. President, it is a difficult situation, obviously, for many of us.

On January 28, 1988, I voted in favor of final passage of this bill, the Civil Rights Restoration Act. In my 9 years here, no one has ever been able to indicate anything but sensitivity on my part with regard to civil rights.

It is unfortunate that that still arises in America, that if you do not like a bill like this that somehow you are not committed to civil rights. That is very unfortunate. It is kind of sad, in a way; kind of racism in reverse. It is always kind of disgusting to me.

Anyway, 27 of my colleagues voted in favor of this legislation on the passage. Republicans and Democrats are committed to the original legislative intent of the Civil Rights Statutes and there is no one among us who in any way feels that somehow the Federal Government should subsidize discrimination. That is absurd.

However, many Senators and the White House are concerned that this does not adequately define the scope of coverage for certain entities—and Senator HATCH has done a beautiful job of explaining that and will again in a short period of time before the vote at noon today—religious organizations, small businesses, and local governments—or the types of Federal assistance that would require compliance under the act; for instance, on this question of the ultimate program beneficiary versus Federal financial assistance.

And, you know, one of the ironies of it all is, as we do this to America, to farmers, to small bsuinesses, to the church groups, we do not do it to ourselves in the U.S. Congress. Is that not interesting? I wonder when the people of America are going to figure that one out.

We do not put this on ourselves because it is a burden on ourselves, we who hire and fire people at will in the Congress. We do a beautiful job of that. You simply walk in in the morning and you go—you are gone. There is no appeal process. There is no nothing. That is the way we do our business in Congress. I hope the people of the United States are aware of that. I think they are. But we could do a good thing if we could put ourselves under this.

I voted in favor of the limiting amendments, which would have addressed those concerns by limiting the scope of Federal involvement. I voted for Senator HATCH's amendment. I voted for Senator DANFORTH's amendment, the abortion neutral language.

I think the President has sent us a very appropriate veto message. He has submitted an alternative piece of legislation which he believes achieves the intentions of S. 557, and I intend to support that proposal. I intend to vote to sustain the President's veto.

I am a little disturbed, too, though, about the massive misinformation campaign being waged against this legislation, which charges that all sorts of new rights will emerge as a result of this bill. And my constituents in Wyoming are truly fearful of what they perceive this legislation will do. So I guess that I have always felt, as elected representatives, that we have a responsibility to inform and help educate our constituents to the full meaning and consequences of this and any other pending legislation. If we had been successful in that responsibility and obligation, I think the misinformation campaign would have had very little effect upon a knowledgeable public.

But I understand carefully what they are saying. I really do. I come from a State with a lot of religious schools and people who have decided the public school system does not quite get the job done. Why should we think of them as being evil or mean spirited? I certainly do not. I admire them. They have fears and legitimate concerns about the scope and application of this bill and that the act in its present form is not as effective as it could be.

So I think the President has presented us with something that could be more efficient. It is a great temptation, in an election year, to make a partisan issue of important legislation. We will do a lot more of that this year, you can bet a buck. But civil rights are much too important for political partisanship and so, Mr. President, in sustaining the President's veto, I intend to work with the administration to strengthen this civil rights legislation, preserve its goal while addressing the legitimate concerns expressed about its scope and coverage by honest and concerned and thoughtful people in the United States.

I would also indicate that even though the Republican leader will not be able to be present because of many previous commitments, that if he were here he would assist in sustaining this veto. I think that is important for our colleagues to know, on both sides of the aisle, as to the position of Senator DOLE: Yes, he has the same concerns that we all do about this. He has some certain reservations. But, on balance, he has asked me to share with my colleagues that, were he present and voting he would vote to sustain the President's veto.

That is the message from our leader. I want to share that with you. He will submit a statement in the RECORD and I ask unanimous consent that that statement be entered in the RECORD as if delivered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Finally, Mr. President, it seems to me that the President's bill, S. 2184, is a remarkable piece of work. It might even be something where we would offer, at an appropriate time, a unanimous-consent request before the vote that if the veto is sustained we would take up the President's bill under a time limit, certain time limit with only specified amendments to be in order. That seems like an act of good faith for those who feel strongly about the issue. If the veto is sustained we would not dither about and go into the usual holding pattern, we would simply take up the President's bill under a time limit, time agreement under, even, expedited procedures if that be the case, with only specified amendments to be in order.

I think that is certainly something to be considered and certainly could be discussed and certainly objected to if that be the wish of the body and will of the Senate.

I thank the President; I thank the Senator from Utah. I greatly admire his efforts and his very important effort at his debate and presentation of a hearing and tough issue that is not just this simple, as previously indicated by some.

Mr. DOLE. Mr. President, I have always supported legislation to overturn Grove City to restore the broad civil rights coverage that existed prior to that case. I feel strongly that taxpayer funds should not be used to subsidize discrimination in any way. Moreover, such legislation is of vital importance to disabled Americans, who are still fighting to establish their rightful place in the civil rights movement. Section 504 is the only comprehensive civil rights law protecting the disabled. And section 504 has been eviscerated by Grove City.

At the same time, I recognize that S. 557 is not a perfect bill. I am not fully satisfied with it. I wish that more of the language contained in the administration's bill had been adopted. But the fact remains that the administration and its congressional allies had the opportunity to offer amendments, and they were voted down. This is a highly complex piece of legislation. The issues are highly technical. It took 4 years of hearings, debate, drafting, and redrafting to develop a consensus proposal. People of good will still differ over the meaning of some of the bill's provisions. But unfortunately, much, if not most of the public controversy has focused not on areas where there is good faith disagreement, but rather on serious misconceptions about what this bill does.

HOMOSEXUAL RIGHTS

First and foremost, it should be emphasized that this bill does not grant any kind of rights to homosexuals. There are no differences between the President's proposal and S. 557 on this issue. Both bills contain identical language on the question of discrimination against persons with contagious diseases. This language is consistent with current law and makes clear that persons with contagious diseases are not protected under section 504 if they pose a threat to the health and safety of others or if they are unable to perform the essential functions of the jobs. There is no other language in either bill that could be construed in any way to have anything to do with homosexuality or discrimination on the basis of a person's sexual preference. In addition, none of the four underlying civil rights statutes have ever been interpreted to prohibit discrimination on the basis of a person's sexual preference.

ABORTION

Nothing in this bill could be construed to require recipients of Federal funds to provide abortions or abortion services. Here again, S. 557 and the administration's bill are identical. Both include the Danforth "abortion neutrality" amendment which states that "Nothing in this title shall be construed to require or prohibit any person or public or private entity to provide or pay for any benefit or service, including the use of facilities related to abortion * * *" and further that "No provision of this Act * * * shall be construed to force or require any individual or hospital or any other institution, program, or activity to perform or pay for an abortion."

FARMERS AND RANCHERS

S. 557 continues the exemption for "ultimate beneficiaries" of Federal assistance which means, under agency regulations and longstanding administrative practice, that farmers and ranchers receiving farm subsidies or price supports, as well as individuals receiving other types of aid such as food stamps, social security, and so forth, are not subject to these civil rights laws. The President's bill also continues the exemption for ultimate beneficiaries, but in addition, specifically names farmers and ranchers as exempt. Proponents of S. 557 have argued that this is unnecessary and potentially dangerous since naming farmers and ranchers without naming other types of ultimate beneficiaries could give rise to the argument that Congress did not intend to automatically exempt them also.

RELIGIOUS ORGANIZATIONS

The administration has argued that as drafted, S. 557 would cover an entire church, even if it only received Federal funds, for example, for a day care center or refugee placement program. S. 557's sponsors have said that this is incorrect, and that only the part of the church or synagogue that received Federal funds would be covered. I am sympathetic to the administration's concerns, however, this appears to be more a matter of interpretation than substantive disagreement. The courts should interpret S. 557 consistent with the explanation of the sponsors and their repeated assurances that they do not intend to go beyond pre-Grove City law. It should also be pointed out that major religious groups, including the Catholic Conference which originally opposed the bill, are satisfied with the explanation of the sponsors and now support the bill.

RELIGIOUS SCHOOLS

The administration's bill would expand the religious tenet exemption in title IX to include institutions "closely identified" with a religious organization. Current law exempts only those schools "controlled by" a religious group.

An amendment to S. 557 containing the administration's language was defeated, 39 to 56. Though I agree with the stated purpose of the administration's language, no problems have arisen under the current exemption. Indeed, over 150 schools have already been granted an exemption and there is no evidence that any school has ever been required to violate its religious tenets in order to comply with title IX. It is also worth noting that while it led the fight for this amendment, the National Association of Independent Colleges and Universities now supports S. 557.

SMALL BUSINESSES

Small businesses that receive Federal funds will not be required to make costly structural changes to their facilities to make them accessible to the handicapped. Both S. 557 and the administration's bill codify the small business exception from section 504 building accessiblity requirements currently contained in the section 504 regulations.

DRUG ADDICTS AND ALCOHOLICS

S. 557 does not grant new rights to drug addicts and alcoholics. As does the administration's bill, S. 557 contains no changes in current law on this issue. Under current law, alcoholics and drug addicts are not protected under section 504 if they pose a threat to health and safety or are unable to perform the essential functions of the job.

GROCERY STORES

The administration bill would exempt grocery stores or other business entities receiving food stamps. S. 557 is silent on this issue. The U.S. Department of Agriculture has testified that under current law, grocery stores receiving food stamps are not covered. I agree with this view; Senator KENNEDY and others do not. The important point is, S. 557 does not deal with the question one way or the other.

CONCLUSION

Mr. President, the Grove City debate has been going on since 1984. Nearly everyone, including the administration, agrees that legislation to overturn Grove City is needed. We have had hearings and debates; we have drafted and redrafted. This is probably one of the most closely scrutinized pieces of legislation in Senate history. The administration has raised valid concerns, many of which have been addressed in S. 557. Indeed, though the veto has drawn attention to the areas of disagreement, we should not discount the many areas where agreement was achieved. In fact, most of the President's bill is drawn directly from S. 557.

While I wish we could have passed a bill the administration supported, I do believe that many of the concerns about this bill are based on misconceptions. The bill's proponents have repeatedly assured us that the intent is merely to restore the law to its status prior to Grove City. Agencies and the courts should strictly adhere to that intent.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 6 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I urge my colleagues to vote to sustain the veto by the President and to support the administration proposal to resolve the Grove City dispute.

Regarding my concern about this legislation, S. 557 represents a significant increase in Federal jurisdiction over churches and synagogues, private and religious schools, and the private sector. The major issue involved in this legislation is the need to carefully balance and protect constitutionally guaranteed freedoms and rights against the significant authority of the Federal Government. Stated simply, this legislation goes too far. Due to the broad expansion of Federal intervention into the private sector, this legislation is unacceptable.

Since S. 557 was introduced, its proponents have chosen to distort the real issue. They promote the premise that one is either in favor of this legislation, or is in favor of federally subsidized discrimination. This simplistic approach is used by some of the proponents to disguise their true motive which is to expand Federal authority. Federal financial assistance should not be allowed to fund discriminatory activities. No one could rationally argue otherwise. However, this bill vastly expands not only program-specific coverage, but institutionwide coverage as well. It does not restore the reach of the four civil rights laws in question to their pre-Grove status, but extends them well beyond what is justifiable.

Before any Senator casts his or her vote to override the President's veto, I urge each Senator to examine the administration proposal which effectively resolves this Grove City issue. The President's proposal balances and protects constitutionally protected rights and guaranteed freedoms against the reach of Federal Government authority. This administration proposal addresses serious concerns raised by S. 557. It resolves the problems raised in regards to religious liberties; the overextention of coverage applying to entire corporations; grocers that receive food stamps, farmers, private schools; and, coverage of State and local governments. More specifically, it:

First, provides that when one part of a church or synagogue receives Federal assistance, then only that part may be regulated by Government, rather than the entire religious institution;

Second, provides that when private secondary or elementary schools receive Federal aid, only the school that receives that aid, and not the entire school system is subject to Federal regulation;

Third, limits corporate coverage to the plant or facility that actually receives Federal assistance unless the assistance is given to the corporation as a whole;

Fourth, explicitly exempts farmers, and;

Fifth, provides that merely accepting food stamps does not lead to the regulation of grocers and supermarkets.

In summary, the President's proposal more appropriately resolves the Grove City problem than does S. 557. The administration proposal restores civil rights coverage to what it was before the Grove City decision. This restoration is a balanced, reasonable approach which should be adopted in this body in lieu of S. 557.

In closing, scrutiny of S. 557 shows that it significantly increases Federal jurisdiction beyond what is justified over religious institutions, private schools, and the private sector. I do not believe that those who voted in favor of S. 557 clearly understood its broad reach. I urge each Senator to vote to sustain the President's veto. This body can then swiftly act on the administration's proposal which appropriately balances the constitutional guarantees with the reach of Federal authority.

Mr. President, I just want to say this. Some people feel, because this bill has the words "civil rights" in it, that it is a true civil rights bill. This is not a civil rights bill. This is an extension of Federal authority and that is what has gone on here for years and years and that is one reason we have such a big deficit today. Over $2.5 trillion. We have not balanced this budget but once in 27 years. Federal authority, extending Federal authority.

There is only so much power. Are we going to exercise power as the Constitution allows or are we going to keep shifting it to Washington? Unfortunately, over the last 40 years, the Congress has shifted more and more power to Washington.

I say the American people are sick and tired of it. People want to see the Federal Government stay within the powers delegated under the Constitution it borders and not deprive the States and citizens of their rights. This bill goes into religion, it goes into private schools, it goes into private competitive business.

I say to you, it is a dangerous bill and that this bill should not become law. The only way now to stop it is to sustain the President's veto and then we can vote on the bill that he has come forward with, which is a reasonable, balanced bill.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 45 seconds to myself.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have heard many reasons why people should oppose this bill, but the idea that this bill somehow has contributed to the Federal deficit really goes beyond any kind of understanding on my part.

Second, Mr. President, I would hope that the suggestion that has been made by the acting Republican leader, that all we have to do is sustain the President's veto and enter a unanimous consent agreement for consideration of the President's bill would be dismissed out of hand. This administration has had 4 years to send up bills. Their spokesmen have testified time and time again against any effective reversal of the Grove City decision. Now, after 4 years, in the 11th hour and 59th minute, to propose some kind of so-called alternative policy I think is a blatant attempt to buy votes and we should reject it if we are faced with it.

Mr. President, I want to yield to the Senator from Oregon who was one of the earliest supporters of the Civil Rights Restoration Act. I yield 3 minutes.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I strongly urge this body to override the veto of the President for this reason: This bill does nothing more, and is intended to do nothing more, than restore the state of the law as we thought it was prior to the so-called Grove City decision.

Mr. President, let me simply illustrate what we thought the law was, what Grove City did, and what we are trying to change.

The Grove City decision was an interpretation of the words "program or activity," and the Supreme Court in the Grove City case said "program or activity" means the specific program or activity that receives Federal funds. For example, if in a college the English department received Federal funds, we assumed prior to Grove City that the entire college was covered, and if the English department received Federal funds, the French department could not discriminate.

The Supreme Court said no, "program or activity" means just the program or activity that gets the money. If the English department gets the money, it cannot discriminate, but if the French department does not get any money, it can discriminate.

So this bill simply started out to reverse the interpretation of the words "program or activity" to say it means what we thought it meant, institutionwide. Only when we looked into this bill we found out that the other Civil Rights Acts, the principal ones that exist in this country—title VI of the Civil Rights Act of 1964, title IX of the education amendments of 1972, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975—all used the words "program or activity."

We had no reason to think when the administration argued this position that the Supreme Court would interpret "program or activity" otherwise in those other titles. So we had to change it for all four. But prior to Grove City, we meant institutionwide applied in all of those acts and all we have done is change the law back to what we thought it was. We have not expanded it beyond what we thought it was. We have not attempted to add any new obligations beyond what we thought existed. There was never a more status quo bill. Frankly, I would have liked to have gone beyond what this bill does, but in fairness we said we would simply go back to what we thought was the status quo prior to Grove City.

I hope by an overwhelming margin we will vote to simply reinstate fairness for all Americans, be they disabled or minorities or women or the elderly and give them the opportunity that everyone else in this country assumes as a matter of right.

I thank the Chair and I thank the Senator from Massachusetts.

Mr. RUDMAN. Mr. President, I will vote today to override the President's veto of S. 557, the Civil Rights Restoration Act. I will do so because the bill restores into law an important principle: an organization—a private business, a school, or a community organization—desiring the benefit of Federal dollars must not discriminate against individual Americans on the basis of gender, race, age, or a handicap. This principle was the legal policy of the United States until the Supreme Court's 1984 decision, and S. 557 simply reinstates it.

Like most of my colleagues, I have received many phone calls from constituents who oppose the bill. These good people from New Hampshire recount horror stories about what S. 557 would force them or their church to do, tales that they believe because they have been spread by opponents of the measure. If these horror stories had any truth to them, I would not be voting for this bill today.

This issue is far too important to the rights of millions of Americans and to the moral fiber of this country to be analyzed on the basis of misstatement and misinformation. It is important, therefore, that we all understand precisely what the bill will and will not do.

First, this bill will not create any new civil right. Only those groups currently protected by our civil rights laws will be entitled to protection under this act. Some opponents of this bill have characterized it as requiring the hiring of homosexuals by Christian schools. Neither this bill nor the underlying statutes mention homosexuals, sexual preference, or any other phrase that could possibly be interpreted as granting rights to homosexuals as a class. The administration clearly agrees with my analysis because, while they asked for a number of changes in the bill, they did not ask for language to ensure or clarify that neither the bill nor existing law protects individuals on the basis of sexual preference. It does protect individuals on the basis of gender, as it should.

Second, the bill does not change the definition of what constitutes Federal financial assistance. Tax-exempt status has not been considered Federal financial assistance for the purpose of these laws, and will not be when this bill is enacted. The mere receipt of a Social Security pension, veterans' benefits, welfare, or similar benefits is not considered Federal financial assistance as I speak, and it will not be considered Federal financial assistance if the bill becomes law.

Third, the bill will not change the definition of who is a recipient of Federal financial assistance. If a business, university, or church receives Federal financial assistance today, it is subject to the civil rights laws. If a member of the church receives veteran's benefits, that fact alone will not subject the church to the civil rights laws under current law. More generally, an organization will not be deemed to be receiving Federal financial assistance merely because one of its members, customers or clients receives some Federal benefit. It is true that some types of assistance, notably aid for college students, Medicare, and Medicaid, will trigger coverage of the organization receiving those funds, but that is only because those Federal funds inure to the direct benefit of the university or hospital. But that is true even if S. 557 does not become law. All S. 557 does is clarify which activities of an organization receiving Federal financial assistance are subject to the civil rights laws.

Fourth, nothing in this bill will affect the practice of religion in a church or synagogue, nor could it. The first amendment continues, intact, as the fundamental guarantor of our religious freedom and I am confident the Supreme Court would strike down legislation which interferes with that. It is true that, should a local church decide to accept Federal funds for some purpose, the nonreligious aspects of the church will be covered by the prohibitions against discriminating on the basis of gender, race, age, or handicap. Although I voted for an amendment by Senator HATCH which would help clarify the applicability of these laws to churches, the defeat of that amendment does not, in my view, provide sufficient grounds to vote against this bill which is endorsed by the U.S. Catholic Conference, the Presbyterian Church, the Episcopal Church, the Evangelical Lutheran Church, the Methodist Church, and many other religious organizations.

Mr. President, I have touched on just a few examples of the misinformation that has been generated about this bill. Although some dispute these points, the clear language of the bill coupled with the language of the existing law compels these conclusions.

S. 557 will simply require that if an organization wants the benefit and use of taxpayer dollars, paid into the treasury by men and women, blacks and whites, handicapped and nonhandicapped Americans, it cannot discriminate against the very people who provide those funds. If this reasonable requirement is too onerous for an organization, then it should not take the money. S. 557 is a good bill which has been discussed for 4 years, and it deserves to become law.

I cannot complete this statement, however, without commenting on what is perhaps the most extreme irony of this debate. Last year, I stood on the Senate floor and expressed my distaste for the serious campaign of distortion that was waged against the nomination of Judge Robert Bork to the U.S. Supreme Court, as did many of my colleagues. We were joined in that condemnation by some of the very people who have generated such a sense of fear and apprehension in many of our constituents about S. 557. There is no excuse for inciting that fear under false pretenses, and I sincerely hope that this does not become the standard for debating matters which directly or peripherally touch upon civil rights.

Mr. KENNEDY. Mr. President, I am delighted to yield to the Senator from Connecticut. This has been a bipartisan effort. The Senator from Connecticut has been the principle cosponsor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I pay a special tribute to the distinguished Senator from Massachusetts for having worked long and hard through the parliamentary maze, through opposition both within his own and within my party to achieve this moment today. It stands as a high tribute to his perseverance, to his compassion, to his vision.

Next, Mr. President, I would like to highlight just two very short sentences in Senator RUDMAN's statement. He said:

> Like most of my colleagues, I have received many phone calls from constituents who oppose the bill. These good people from New Hampshire recount horror stories about what S. 557 would force them or their church to do, tales that they believe because they have been spread by opponents of the measure. If these horror stories had any truth to them, I would not be voting for this bill today.
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> This issue is far too important to the rights of millions of Americans and to the moral fiber of this country to be analyzed on the basis of misstatement and misinformation. It is important, therefore, that we all understand precisely what the bill will and will not do.

Senator RUDMAN states the case well in trying to clear up that fog of misinformation.

Now, Mr. President, this is as important a day as any of us have experienced or will experience in the near future. It has the potential of being a restatement, a restatement of our national commitment to equality of opportunity for all. Equal opportunity for all, to be a matter of national policy rather than individual whim.

Mr. President, how wonderful it is to view the strivings of those young people in a special Olympics setting. We cry and we laugh as we watch their strivings. For the few minutes of a day our hearts are touched. And maybe we will even reach into our pockets to supply a few pennies for those special Olympics.

And yet it was not so long ago that those very special men and women sat in the dark corners of institutions forgotten by our society, relegated by our prejudices to the darkness of dispair, of being nothings in America.

For how long did the blacks of this Nation, until they found a voice in Dr. King, fulfill a role that was no more than being servants within their own country? Then Dr. King spoke from the steps of the Lincoln Memorial in Washington, and a nation's conscience and activism was touched.

No longer were these Americans to be denied the opportunities of jobs, education, and prosperity.

How all of us thrill today as we see the achievements of women throughout our society. Not just in historical roles but as athletes, decisionmakers in Government, and leaders in business.

And now of course, it is easy to laugh as we view the zaniness of the promise of eternal youth in a movie such as Cocoon, forgetting completely that for so many years to be old, was in fact, to be supremely lonely.

After we get through with all the technicalities about this legislation, it comes down to these people, because they are the ones who were and are affected. This legislation is about your neighbor, whether that neighbor happens to be elderly, a woman, a black or handicapped in any way. They are what this legislation is about.

It is about flesh and blood and a history of exclusion. They did not amount to a hill of beans before we made national statements of commitment to opportunity. We didn't rely on the fact of feeling a little warm inside on a particular moment of a particular day. It had to be a 365-day-a-year statement of national purpose. Not left to individual whim, beneficence or kindness. We set high expectations for ourselves as a nation, and we set the tough standards that go with manifesting those expectations.

The instant legislation was not meant to be a cream puff. It says we are not going to subsidize discrimination and, if you do discriminate, the full force of the law comes down on your head. The law, in this instance, is not just a Federal Government.

It is, all of us, 250 million Americans. We do not want to see dark corners anymore. We do not want to see loneliness anymore. We do not want to see doors shut in one's face because of skin color or gender. We have better things to do than to return to times best forgotten.

Greater lies ahead. Mankind's opportunities are too important to be left to the leavings from mankind's table. That is what this bill is about. It is a technical correction of the past and the promise of even more opportunity for the future. We know by virtue of history that when it came to opportunity, neither individual inspiration nor States' rights can achieve the destiny of the United States of America. Only an entire nation can do that. Today our Nation addresses its future and sets its destiny.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, first I want to commend the Senator from Massachusetts and the Senator from Connecticut for standing up on this issue. This is not a partisan issue. This is something that ought to appeal to the basic good instincts of every Member of the Senate and the House.

In 1984, when I was in the House, I was the chief sponsor in the House of the Civil Rights Restoration Act to attempt to reverse that Grove City decision, and it passed the House 375 to 32.

There are, I think, just two basic questions. One is: Should we go back to the pre-Grove City decision? And that is all we are attempting to do. The sentiment clearly in this body is that we should, and we should, for those who dredge up specters of all kinds of things happening, let the record be clear, I heard the Senator from Massachusetts say earlier today, and I have heard the Senator from Connecticut say: We simply want to go back to the pre-Grove City decision. That is it.

Then, I guess the more fundamental question is: Are we going to try to make real the dream of a Constitution for equality? Those who wrote the Constitution talked about forming a more perfect Union. It was not a perfect Union then; it is not a perfect Union today, but it is a better Union today with opportunities there for minorities, for women, for others.

The Grove City decision grew out of the title IX Grove City appeal. It was not very many years ago the average woman working full time was making 59 cents compared to a man working full time. That has lifted a little, but very little. It has gone up to about 63 or 64 cents, but for those women under the age of 30, it has gone up to 85 cents compared to the dollar the man makes. That is not good, but it is much better because of the force of law. We have a long way to go.

The unemployment rate for employables who are handicapped is astronomical. The unemployment rate for those who are handicapped who also happen to be black is today 82 percent. That is almost unbelievable.

We have to do better in our society. I do not think one here suggests this is the whole answer, but it is at least a small step forward to guaranteeing opportunity to everyone.

Senator WEICKER talked just a little bit before about the Olympics. Let us talk about the real Olympics, and that is the race of life. There are people in the race of life who have handicaps. Let us remove those handicaps insofar as possible, and we can help do that by overriding the President's veto.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 7 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, the President's veto of the Civil Rights Restoration Act was an unfortunate mistake.

This bill does not create a broad new mandate for Federal intervention in the daily lives of Americans. Instead, it restores the fundamental premise of all our civil rights laws: That there are no rights without remedies.

The bill passed the Senate and the House with broad, bipartisan support because it achieves a very simple and straightforward result: It will assure that Federal tax dollars raised from all the people cannot be spent to discriminate against some of the people.

The bill says that institutions which receive Federal funds must obey the laws which say that minorities, women, the elderly and the handicapped cannot be treated unfairly simply because they happen to be black, or female, or physically impaired or old.

That is a matter of simple justice. Americans have embraced the idea that all of us are created equal since we became a Nation. And in the past several decades, Americans have also expected their Government to live up to that ideal in practice.

That is what this bill will ensure.

Because this is such a bedrock ideal, so broadly shared by the American people, some of those who are unwilling to see it adopted in practice have resorted to misinformation, distortion and, in some cases, outright untruths in order to obscure that simple fact.

In the past week, my offices in Maine, as well as my Washington office, have received telephone calls from hundreds of Maine people opposed to this bill.

These people have been told it will force them to hire homosexual ministers for their churches or homosexual teachers for their schools and day care centers.

They have been told it will give new privileges to drug addicts. Others have been told that their freedom to practice their own religion will be endangered.

Some elderly Social Security recipients have even been told that it will mean that they can no longer give a donation to their own church. Rarely has the legislative process been so subjected to such a campaign of misinformation and distortion.

None of these concerns reflects anything that has ever happened in the State of Maine. Instead, they reflect a campaign of misinformation and distortion launched from Lynchburg, VA.

The people of Maine are the victims of a national effort undertaken by the Virginia-based Moral Majority and joined by the Washington-based Free Congress Foundation, the Florida Coral Ridge Ministries and other outside groups with their own agendas who are spreading outrageous untruths in order to pursue their own goals.

The truth is that nothing in the bill has any effect on any church's choice or training of ministers.

The truth is that nothing in this bill will require anyone to hire homosexual teachers.

The truth is that nothing in this bill expands the rights of any drug addict.

The truth is that nothing in this bill affects how any American spends his or her Social Security check.

The truth is, of course, that nothing in this bill overrides the first amendment to the Constitution, which guarantees to all Americans the right to the free exercise of their own religious beliefs.

Pastors in Maine have been told that the bill declares active homosexuals, transvestites, alcoholics and drug addicts, among others, to be handicapped and therefore protected under civil rights laws.

The truth is that the bill contains no such declaration.

Pastors in Maine have been told that when the attempt to "railroad" the bill began, the Moral Majority blew the whistle.

The truth is that this bill was not "railroaded." It has been before the Congress for 4 years.

And the truth is that in 4 full years of public hearings, argument and debate, neither the Moral Majority nor any of its supporters has ever offered any evidence that it would affect the status of homosexuals, drug addicts or transvestites.

Pastors in Maine have been told that lawsuits are now prepared and waiting for this act to become law.

But the legal analysis on which the Moral Majority relies, which was sent to my office, says: "We make no prediction that litigation * * * will be widespread or that schools and churches will always lose these cases." The documents they claim to be using do not even support the distortions that are being made.

Maine pastors have received a memorandum about "the gay rights bill." There is no such bill. This bill has nothing to do with gay rights. It protects racial minorities, ethnic minorities, and religious minorities. It protects women. It protects the handicapped. And it protects old people. But it does nothing whatsoever about homosexual people.

The memo says that the bill, combined with present court cases, would qualify drug addicts, alcoholics, active homosexuals, and transvestites, among others, for Federal protection as handicapped.

That is not true. The bill does not change the definition of who is handicapped. And there are no Supreme Court rulings which require anyone to consider alcoholics, drug addicts, active homosexuals or transvestites to be handicapped.

This memo says that under this bill, churches and religious leaders could be forced to hire a practicing homosexual drug addict with AIDS to be a teacher or youth pastor.

This is the most blatant untruth of all. No American Government has ever had or could ever get the power, under our Constitution, to dictate any choice of pastor in a church—whether it be a youth pastor or any other.

If there were even a grain of truth in this claim, why would the American Baptist Churches support the bill—which they do? Why would the Evangelical Lutheran Church of America support the bill? Why would the United Methodist Church, the Church of the Brethren, the Episcopal Church or the Presbytrerian Church, U.S.A., support this bill?

These major religious denominations do not fear that their religious faith will be offended by a requirement to pursue an injunction common to all faiths: To deal justly with all.

The American Baptist Churches, U.S.A., say they "believe that discrimination against any of God's children is sin."

The United Methodist Church "affirms all persons as equally valuable in the sight of God * * *."

The Presbyterian Church (U.S.A.) urges Congress "to protect the rights of all Americans by overriding the President's veto."

The Church of the Brethren says the bill "represents the most basic moral and traditional teachings of our church."

The Churches of Christ "call upon Congress to resist the scare tactics being employed by some opponents of this bill" and override the President's veto.

The Evangelical Lutheran Church in America urges a veto override, based on the Government's "fundamental duty to protect all people from discrimination."

Major Jewish organizations, the Quakers and others all recognize the fundamental issues of justice embodied in the bill. None believes their religious liberties will be affected.

The Catholic Church of the United States, which operates more religiously affiliated institutions of learning, health care and social services than any other, supports this bill.

The American Association of Retired Persons, the Nation's largest and best-known association serving the rights of Social Security recipients, asked the Senate to override this veto.

Virtually every group representing the physically and mentally handicapped, the health care community, the child welfare community, the major faith communities of our Nation—all support this legislation.

The misinformation about this bill would be laughable were we not dealing with the basic rights of Americans.

The frequent claims of intrusiveness made against this bill arise from an assumption that discrimination should be barred only in extreme circumstances. It is said that Grove City College did not discriminate—only that it refused to fill out Federal paperwork.

Grove City College used $1.8 million in Federal grants from students for its basic tuition costs in the decade from 1974 to 1984, as well as additional funds in the form of guaranteed loans. It refused to provide assurances of compliance with title IX law.

In this debate, a great deal of time has been expended on the unfairness of demanding such assurances. It is surprising that there is not more concern about simple accountability.

We do not permit GI education funds to be spent at any school simply on a verbal assurance that the school will provide the education it claims to provide. We demand accountability. Why is accountability for general education funds intrusive when accountability for GI bill funds is not?

The bill does what any responsible government must do. It makes those who use and spend public dollars accountable for the way they spend those dollars. There is nothing intrusive or unfair about that.

All institutions, religious and secular alike, have a simple choice: To accept Federal funds and obey the law, or not to take Federal funds.

Simply put, if an institution accepts tax funds, that institution may not discriminate. We cannot eliminate private prejudice and bigotry by law. But we need not and should not subsidize them.

Thirty-four years ago, the Supreme Court told American schools to desegregate their classrooms with "all deliberate speed." But 10 years later, "all deliberate speed" had become massive resistance.

So when Congress passed the 1964 Civil Rights Act, Federal funds were tied to the mandate to stop racial discrimination, as President Kennedy's message on the bill requested:

> Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial discrimination.

That vision of "simple justice" is as accurate today as it was then.

The only thing that has changed is that we have since recognized that discrimination can also prejudice the rights of women, of disabled people and elderly people.

It is no accident that in the decade after the Civil Rights Act was passed, black college enrollment doubled.

In the days before section 504 of the Rehabilitation Act was passed, men and women with epilepsy were often barred from employment. Diabetics faced subtle, and sometimes not-so-subtle discrimination. Those confined to wheelchairs found their way barred to schoolrooms and law courts.

In the days before title IX of the Education Act amendments was enacted, the Agriculture School at Cornell required female applicants to have SAT scores 30 to 40 percent higher than male applicants.

The 1964 gold medal swimmer at the Tokyo games, Donna DeVerona, was forced to end her athletic career as a teenager. Her teammate, Don Schollander, also a gold medal swimmer, went to college on an athletic scholarship.

In 1964, there was not one single women's athletic scholarship in this country. In 1984, there were over 10,000. It is no coincidence that in this year's winter Olympics, American women won more gold medals than American men.

When the Supreme Court ruled in 1984, in Grove City College versus Bell, that civil rights obligations reached only the specific "program or activity" where public funds are used, all these gains were threatened.

Since 1984, the Education Department has dismissed, rejected or withdrawn almost 700 discrimination cases. Racially based discrimination has been documented in the college systems of 10 States.

The Justice Department's own case against the higher education system of Alabama was dismissed because not even the Federal Government could trace each and every Federal dollar through the system, as the courts required.

The fallout of the Grove City case has been dramatic. But in the face of real injustice, opponents of this bill can cite only speculative difficulties at best.

And some of those opponents have resorted to falsehoods.

The effort to give life to the great ideals of our Constitution has always been a struggle against entrenched habit, accepted convention and established inequities.

We want a just society. To achieve justice, we must pursue justice.

In this veto override, let us reaffirm that historic commitment and reinstate the full force and vigor of the civil rights laws, to vindicate, after 25 years, President John Kennedy's vision of "simple justice."

That is the fair way, that is the right way, that is the American way.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, for almost 75 years this body remained silent on the issue of slavery while the churches and private schools of our Nation spoke out against it, while they provided the leadership that mobilized public support that ultimately brought slavery to an end. For 150 years this institution, for all practical purposes, looked the other way when discrimination was rampant in our land, and during that 150 years the pulpits of the churches of America flamed in righteousness against bigotry and against discrimination. While this body was silent on integrating our public institutions of higher education and schools in general, private schools provided the early leadership in bringing integration to our society.

I think it is important today as we debate this veto override to recognize that the major cutting edge issue here is not civil rights but the extension of Federal power to institutions that historically have been the very voices of civil rights. We seek here today not to extend the power of the Federal Government to attack bigotry and prejudice but to place the heavy heel of Government upon the very institutions that led this Nation against discrimination and against bigotry when even this great deliberative body was silent on those issues.

Now, Mr. President, why after all these years do the churches of America and the private institutions of higher learning suddenly need Federal regulation in the area of discrimination? What we are looking at here is a massive extension of Federal power, and I ask my colleagues, is the freedom of America and Americans in religious matters better left in the hands of the churches of America or placed in the hands of Government?

Is government a neutral body which oversees in great wisdom disputes among its people or is it ultimately a participant in that debate which chooses sides based not on right and wrong but on the basis of politics?

I submit, Mr. President, that this veto should be sustained. The President has made a proposal which makes many changes, among them one which is absolutely critical and indispensable. The change has to do with religious tenets and churches and synagogues. This body unwisely rejected an amendment dealing with these issues, but we have an opportunity to go back and do it right.

Now, Mr. President, let me simply ask some questions that I think are relevant. Let me pick a private institution in my own State, the University of Dallas. The University of Dallas is a religiously affiliated institution, but it is not controlled by the Roman Catholic Church. It does not have a religious exemption under existing law. It does not take Federal funds as an institution, but it does have students who get guaranteed student loans. If the President's veto is overriden, because some chemistry professor may get a small grant to look at some particular property in chemistry or because a student at the University of Dallas may get a guaranteed student loan, the Federal Government's heavy hand of intervention will be able to reach into this private church-related institution.

The University of Dallas has a seminary which trains clergymen for the Roman Catholic Church. The seminary is run in conjunction with the University of Dallas and those who graduate get degrees from the University of Dallas. 8

Under this bill if a student at the University of Dallas gets a guaranteed student loan to study sociology, the Federal Government would have the ability to intervene, with clear jurisdiction under this new law, into the operation of a Roman Catholic seminary. Mr. President, by that intervention, are we promoting freedom? Is not religious freedom part of the constitutional guarantee? Who are we to intervene into the teachings of a seminary in the name of civil rights? Churches have doctrine. We have recognized from the beginning of the Republic that those doctrines were sacred and they were private.

It is clear to me that we are making a mistake by intervening in these areas. This could be easily corrected by simply having a provision that provided a general exemption on religious tenets, and by excepting churches and synagogues this could be corrected. But by not correcting it, when disputes arise within a seminary between the teachings of the church and what are perceived to be the laws and standards of the Nation, the Federal Government will become an arbiter in what can and cannot happen, and what standards will and will not be tolerated in a seminary in Dallas, TX. And I submit that is wrong.

I object to this bill basically for two reasons. One is philosophical. Government intervention into religious institutions is not the source of freedom. It is not the source of civil rights. These institutions were speaking out on civil rights when this great body was silent on those issues. Who are we to intervene into their private religious activities in the name of civil rights?

Second, I object on a practical basis. Who are we to intervene in the practices that are being used in employment, in a private institution, in a Catholic seminary? I submit, Mr. President—Mr. President, I yield myself 3 additional minutes.

The PRESIDING OFFICER (Mr. FOWLER). The Senator may proceed.

Mr. GRAMM. I submit, Mr. President, that makes no sense. Who are we to extend the hand of Government into a church which is carrying out a public activity in the name of child care or feeding the poor when that individual activity happens to get some funds from the Federal Government? Should we then be able to expand the power of Government to accommodate and to ultimately control the functioning of that church? Should we have the capacity, because one student gets a guaranteed student loan, to dictate practices in a seminary that happens to be located in an institution which is not directly controlled by the church? I submit that we do not, and we should not have that power.

Mr. KENNEDY. Would the Senator yield?

Mr. GRAMM. I would be happy to yield.

Mr. KENNEDY. Could he tell us why then the Catholic Church and the Catholic Conference is strongly supporting this legislation?

Mr. GRAMM. The only thing I can say——

Mr. KENNEDY. As well as major Protestant and Jewish groups?

Mr. GRAMM. If I might respond, the only thing I can say is that they obviously are not speaking for the institution that is going to be affected in this case. The point remains and it is irrefutable that if this veto is overridden, because this seminary in Dallas, TX—and it is not unique, I speak of it simply because it is in my State—is affiliated with an institution that is not directly controlled by the church, though that institution is church related, that this seminary will come under Federal jurisdiction under this law. I submit that is wrong, that is an absurd result, and that should not be tolerated.

Maybe the distinguished Senator from Massachusetts and I may disagree with the teachings of the church on some subject related to abortion or related to family values. But who are we to intervene into that seminary and into that private school? I do not feel myself qualified to do that, nor do I believe the distinguished Senator from Massachusetts is qualified, nor do I believe Federal judges are so qualified.

So this is a clear-cut case where we have an institution that has not qualified for religious exemption, which does have programs that are clearly church related and programs that are clearly going to come under this law.

Mr. KENNEDY. Under the existing law and regulations regarding the religious tenet exemption, a school or department of divinity normally entitled to a religious tenet exemption, if needed, and I do not think that at this point in the debate, the record ought to be distorted and misrepresented.

Mr. GRAMM. If I may simply finish my time, clearly the schools of divinity that are separately constituted are excluded, but departments of divinity which are affiliated with schools that are not directly controlled by the church that give degrees from the university and not from the church are going to be affected, and not just those programs but other programs at the University of Dallas and religious related institutions all over the country are going to come under Federal control. I think that is a mistake. It is one that is easily corrected without trampling on civil rights, religious freedom, and the rights of groups to associate on the basis of shared values. That represents a very basic civil right which cannot be trampled on in the name of expanding the rights of the individual.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont [Mr. STAFFORD] is recognized for 2 minutes.

Mr. STAFFORD. Thank you, Mr. President. I would like to reaffirm my support and commitment to the Civil Rights Restoration Act of 1987 and ask my colleagues to join with me in overriding the President's veto. We need to send a clear and decisive message to the American people that discrimination, in any form, will not be tolerated.

I was an original sponsor of title IX of the Education Amendments, as well as section 504 of the 1973 Rehabilitation Act. The narrow ruling handed down in Grove City versus Bell has permitted discrimination to reenter our education system despite these two acts as well as the 1964 Civil Rights Act and the Age Discrimination Act of 1975. Clearly, the intent of these measures has been lost by the court ruled "program-specific" rather than "institutionwide" definition originally intended by legislators. When Congress enacted these four statutes, they were attempting to provide an effective and permanent remedy against discrimination. Overriding the veto will restate our commitment to the permanent eradication of discrimination.

It is unfortunate that in order to guarantee equality for all individuals, we have to mandate it in Federal law and hinge enforcement on the receipt of Federal funds. Women, minorities, elderly, and disabled people should not have their tax dollars fund institutions that discriminate against them as individuals.

A century has passed since a President of the United States has vetoed a civil rights measure forwarded by the Congress. I urge my colleagues to join me today in rejecting the administration's efforts to prevent enactment of the Civil Rights Restoration Act of 1987.

Mr. President, I have a letter from a former very distinguished Secretary of Education, Terrel Bell, and in the first two paragraphs he writes to me:

> I am writing to urge you and your colleagues to vote to override the President's veto of the Civil Rights Restoration Act, which previously passed the House and Senate by strong bipartisan margins. The legislation necessarily restores coverage of civil rights laws to their original intent and purpose.
>
> When I was Secretary of Education, * * *

Incidentally, he was a Republican Secretary—

> * * * we read the law broadly to assure equal educational opportunity. While I had not considered direct aid to a student under the Pell grant program to be aid to an institution, we had for years considered an institution or school district obligated to comply with all the civil rights statutes if it received any federal assistance. We believed that if you take federal funds you must comply.

Mr. President, I ask unanimous consent the balance of that letter be made a part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> MARCH 21, 1988.
>
> Hon. ROBERT STAFFORD,
> *U.S. Senate Office Building, Washington, DC.*
>
> DEAR SENATOR STAFFORD: I am writing to urge you and your colleagues to vote to override the President's veto of the Civil Rights Restoration Act, which previously passed the House and Senate by strong bipartisan margins. The legislation necessarily restores coverage of civil rights laws to their original intent and purpose.
>
> When I was Secretary of Education, we read the law broadly to assure equal educational opportunity. While I had not considered direct aid to a student under the Pell Grant program to be aid to an institution, we had for years considered an institution or school district obligated to comply with all the civil rights statutes if it received any federal assistance. We believed that if you take federal funds you must comply.
>
> With the exception of a few small private institutions, there was broad acceptance and support of the civil rights laws to protect minorities, women, and the handicapped from discrimination. At the time I could see no reason to come forth with a new interpretation of these laws. It would cause strife and bitterness among those currently enjoying the protection of the civil rights laws.
>
> It was clear to me then, as it is now, that the Department of Justice is determined to weaken civil rights enforcement in the nation's colleges and schools. Their position was, in my view, harmful to American education and potentially damaging to the rights of minorites who fought against discrimination.
>
> It was a great disappointment to me when the Supreme Court handed down the decision in Grove City College v. Bell, affirming the Justice Department's position.
>
> The Civil Rights Restoration Act is as much a Republican bill as a Democratic bill. As you know, thirteen high ranking government officials from the Johnson, Nixon, Ford, and Carter administrations have all testified in support of the legislation to overturn the Grove City decision.
>
> I am grateful for your leadership in this effort and I hope the Congress will, at long last, reaffirm its commitment to civil rights by overriding the President's veto.
>
> Sincerely yours,
>
> TERREL H. BELL.

Mr. CONRAD. Mr. President, I will vote to override President Reagan's veto of the Civil Rights Restoration Act. I supported passage of this measure in January because I believed in its basic purpose—to improve enforcement of our civil rights laws by making sure that Federal funds are not used to support discrimination. I continue to believe that legislation is needed to ensure this result.

The controversy surrounding the bill and the veto must not obscure what the legislation is all about. In the wake of the Supreme Court's decision in Grove City versus Bell in 1984, this country's ability to deter discriminatory practices by institutions which receive Federal funding has been significantly weakened. The Court's decision limited the application of antidiscrimination laws to the specific program or activity receiving Federal aid. Thus, female students could be kept out of a school's athletic programs if such programs received no Federal aid even though the school got Federal funding for other purposes. Disabled veterans who had defended their country could be denied jobs or admission to universities even though part of the institution received a government grant. The Court held that Congress would have to certify whether it intended that the entire organization be covered in these situations. That's just what the bill does—and that's all it does.

There is no truth to the charges that the Civil Rights Restoration Act would require schools, churches, or any employer to hire homosexuals, alcoholics, drug abusers, or victims of AIDS. Existing civil rights laws do not forbid discrimination based on sexual preference, and neither does the Civil Rights Restoration Act. Current law does not require an employer to hire people with contagious diseases that threaten the health of others—or people with medical problems or disabilities that prevent them from performing the job. And the Civil Rights Restoration Act clearly states that protections afforded to the handicapped do not apply to individuals with contagious diseases that endanger public health or to individuals unable to function on the job for any reason. The heated campaign to defeat this legislation has distorted its meaning and spread considerable misinformation about what the measure actually entails.

During Senate debate on the bill, I supported an amendment to eliminate any ambiguity on the subject of abortion. The Danforth amendment, included in the legislation vetoed by the President, states clearly that hospitals, schools, and other institutions or organizations receiving Federal funds cannot be forced to provide or pay for abortion services. I regarded this clarification as vital—and believe it should have dispelled any doubts about the legislation's intent.

The vetoed bill also included an exception for religious institutions: in these cases, the prohibition on discrimination extends only to the specific activity receiving Federal funds. Thus a church receiving funding for a social service project would not be precluded from generally hiring from within its membership. I was impressed to see that the United States Catholic Conference, Lutheran, Baptist, and other major religious organizations advocate passage of this bill.

Nothing, of course, requires an organization to accept Federal funds. But those who benefit from Federal assistance should be willing to uphold our civil rights laws—and I believe most are. Federal revenues should not be used to support discrimination against women, minorities, the elderly and the disabled, and I believe government should have the power to assure that these groups can freely participate in programs and activities which receive Federal support. That's why I supported the Civil Rights Restoration Act 2 months ago—and why I still do.

Mr. ARMSTRONG. Mr. President, as recently as this morning the Washington Post assured us again that S. 557, the Grove City bill, will not adversely affect churches. The Post editorialized, "As for churches that receive Federal money to run social service projects—day care, nursing homes, and so forth—discrimination would not be allowed in that specific project." The Post was implying that only the specific project and not the entire church would be covered by Federal law. The Post is wrong.

Here is what S. 557 says:

> "[T]he term 'program or activity' means *all of the operations of* * * *
>
> "(3)(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship * * *
>
> "*any part of which* is extended Federal financial assistance." (Emphasis added.)

Therefore, if a church takes Federal financial assistance for a day care program, for example, "all of the operations of" the entire "geographically separate facility" become a "program or activity." That means the entire church is covered. And probably more.

On page 18 the report says,

> "In specifying limited coverage of an entire plant as the [']geographically separate facility,' the bill refers to facilities located in different localities or regions. Two facilities that are part of a complex or that are proximate to each other in the same city would *not* be considered geographically separate." (Emphasis added.)

Therefore, if one church program takes Federal funds the entire church is covered *as are all of its facilities* that "are part of a complex or that are proximate to each other in the same city." Where a church takes targeted Federal financial aid, the report (at page 18) says, *"only the full operations* of the geographically separate facility will be covered by the civil rights laws." (Emphasis added.) (Is "only" not a wonderfully simple and comforting word? Why, this bill will "only" extend Federal regulation to the "full operations" of a church.)

Church school systems are simply covered in their entirety if any one school program in any one school receives Federal financial assistance. The report says on page 17,

> "If federal financial assistance is extended to *one* of three secondary schools which comprise a system operated by a Catholic Diocese, *all* of the *operations of all three of the schools in the system are covered."* (Emphasis added.)

That statement from the report simply restates what is clear in the bill. Once again, here is what S. 557 says:

> "[T]he term 'program or activity' means *all of the operations of* * * * (2)(B) [any] other school system * * * *any part of which* is extended Federal financial assistance." (Emphasis added.)

The bill's intrusion into religious matters could have been cured, but the committee defeated—by a vote of 5 to 11—a Thurmond amendment that would have retained "program specific" treatment of religious organizations. A Hatch amendment to the same effect was defeated on the Senate floor by a vote of 36 to 56. 134 CONGRESSIONAL RECORD. S. 147-155 (daily ed. Jan. 27, 1988) (amendment no. 1384). In light of those votes it is hard to see how the Post, and many others, can talk about the narrowness of this bill.

The committee's explanation of the Thurmond amendment is especially instructive. Here it is in full from page 27 of the report:

> By a vote of 5-11, the committee defeated an amendment proposed by Senator Thurmond that would limit coverage of programs or activities operated by religious organizations to the particular subunit of the organization which receives federal funds. In other words, this amendment would not overturn the Grove City College decision as it applies to programs or activities which receive federal financial assistance, as long as the programs or activities are run by a religious organization. The dual system of civil rights protections for programs carried out by religious and secular organizations contained in this amendment is unprecedented in the history of our civil rights laws. For example, religious employers are subject to Title VII in the same manner as non-religious employers. With the narrow exception of the religious tenet exemption in Title IX, religious recipients of federal financial assistance have been and are subject to the prohibitions on discrimination of the four civil rights laws in the same manner as non-religious recipients of federal aid. There has been no trampling of religious liberty under these laws in the more than twenty years they have been in effect. S. 557 simply will restore the coverage of these laws to their pre-Grove City College scope.

The committee rejected the Thurmond amendment for two reasons: First, the amendment would have limited coverage of religious institutions to the unit of the organization that actually received Federal assistance. The majority was opposed to limited coverage. They wanted the entire church covered, and they got what they wanted.

Second, the committee was afraid of establishing an "unprecedented" "dual system of civil rights protections." This interesting argument has the unfortunate defect of being wrong. Title VII, which the committee goes out of its way to cite (it is out of the way because S. 557 does not amend title VII but title VI), does indeed contain exceptions for religious employers:

Section 702 has an exemption for a church "with respect to the employment of individuals of a particular religion to perform work connected with the carrying on" of the church's activities. 42 U.S.C. 2000e-1 (1982). Just last summer the Supreme Court upheld this section against a constitutional challenge. In *Corp. of the Presiding Bishop, Church of Jesus Christ of Latter-day Saints* v. *Amos,* 55 U.S.L.W. 5005 (decided June 24, 1987, without dissent), the court held that section 702 is not an unconstitutional establishment of religion. Amos was especially significant because it concerned a church's secular activities. The court said Congress based section 702 on the permissible legislative goal of reducing governmental interference with the ability of a church to define and carry out its religious mission. Section 703 of title VII also has an exemption for religious schools if the school is "owned, supported, controlled, or managed" by a particular religion or if the curriculum is "directed toward the propagation of a particular religion." 42 U.S.C. 2000e-2(e)(2) (1982).

Therefore, the report's statement about the title VII precedent is wrong, and its claim about "dual systems" is misleading. Perhaps if these facts had been known prior to the votes on the Thurmond and Hatch amendments one of the amendments would have been adopted.

S. 557 will cover an entire church even if just one part of the church receives Federal financial assistance. S. 557 will cover an entire religious education system even if only one part of one school receives Federal financial assistance. The committee intended these results. Unfortunately, however, the committee's actions—and the Senate's—may have been based on an inaccurate understanding of the 1964 Civil Rights Act. Tomorrow, when we vote again on S. 557, I ask that you reconsider your earlier vote in light of the bill's impact on religious liberty.

Ms. MIKULSKI. Mr. President, I rise in support of the Civil Rights Restoration Act. This is now the fourth year that Congress has debated how to overcome the implications of the Grove City decision. We must not let another session of Congress end without passing this important legislation.

It's been almost 25 years since the Federal Government committed itself to ending invidious discrimination in this country. We, as a nation, said we wouldn't stand for bigotry in our schools, our public accommodations, our housing, or in our voting booths. And we particularly said we wouldn't stand for using taxpayer's money to subsidize that bigotry.

When Congress passed the Civil Rights Act of 1964, Americans took the first major step to stop publicly supported discrimination. Under title VI of the act, we prohibited any program or activity that received taxpayers' money from discriminating about race, color, or national origin.

Title VI became a major weapon for attacking the separate and unequal society that denied basic civil rights and opportunities to millions of Americans. As time passed, we realized that invidious discrimination takes many forms—so we moved to protect the rights of women, disabled people, and the elderly.

Title IX of the Education Amendments of 1972 prohibits sex discrimination in education programs that receive Federal assistance. Its mandate is clear, simple, and effective: Schools that benefit from tax dollars can't discriminate because of gender.

The Supreme Court's 1984 decision in the Grove City case destroyed that simplicity, and severely limited the effect of title IX and its companion laws. It's time to restore the protections for women and men, blacks and whites, old people and young people, handicapped and nonhandicapped, that the Grove City decision curtailed. That's what S. 557 will do, and that's all it will do.

The educational opportunities lost because of this unfortunate decision are gone forever. The young woman denied an athletic scholarship won't apply to college again. Craig Neff, in Sports Illustrated—a magazine, I should mention, not known for its radical political posture—points out that between 1972, when Congress passed title IX, and 1983, the number of women participating in college sports "mushroomed" from 32,000 to 150,000. Title IX made that possible, and Grove City gutted title IX.

To quote Craig Neff:

> The impact [of Grove City] was immediate. The Department of Education's Office of Civil Rights (OCR) had been conducting title IX compliance reviews and investigations of college athletic departments, but it now found itself without a legal basis for doing so. Within a year of Grove City, the OCR had suspended 64 investigations, more than half involving college athletics.

Mr. President, the students whose cases were closed because of Grove City have finished their colleage careers. But we have an opportunity to re-open the doors for hundreds of thousands of present and future students.

Education is a big issue this election year, and it should be. Education is the door to opportunity—the opportunity to choose one's own destiny. We simply cannot continue to deny even one more student a guarantee of equality, or to subsidize discrimination with our hard-earned taxes.

The impact of Grove City has been real and devastating. Since 1984, hundreds of discrimination investigations have been dropped or curtailed—at least 674 in the Department of Education alone. The cases that will never be heard, much less remedied, cover everything from the loss of a teaching job by an elderly woman to a denial of admission to medical school for a wheelchair-bound student.

Mr. President, discrimination has no place in our society. And that principle cuts both ways. We don't let the government discriminate against people because of their religious views. That's why I've been particularly troubled by the scare tactics used by some opponents of this bill. They have raised the specter of religious liberty when this bill has absolutely no effect on that liberty.

We've had 4 years of exhaustive analysis of this bill, and have consulted with every major religious organization in the country. How can some people assert that S. 557 infringes on religious beliefs when almost every single major religious group in America has studied the bill and endorsed it?

Look at the list: the U.S. Catholic Conference of Bishops, the National Council of Churches, the American Jewish Congress, the American Baptist Churches, the Evangelical Lutheran Church of America, the Union of American Hebrew Congregations, the Church of the Brethren, the United Methodist Church, the Episcopal Church, the Anti-Defamation League of B'nai B'rith, the Presbyterian Church USA, the American Jewish Committee, the Church Women United Network-National Catholic Justice Lobby.

Mr. President, these religious groups are filled with enlightened, intelligent, articulate people with a comprehensive knowledge of Federal law and how it relates to our religious beliefs. It just defies logic to argue that they would support a bill that infringes in any way on those beliefs.

We shouldn't let the scare tactics of a few outweigh reason. We should override the President's veto and restore the strength of this country's commitment to equality for all.

Mr. ADAMS. Mr. President, I rise today to express my deep concern about the President's veto of the Civil Rights Restoration Act and the impact that this action could have on the rights of women, minorities, disabled persons, and the elderly.

In 1964, Congress passed the Civil Rights Act—the most sweeping piece of legislation in this Nation's history. The passage of this act signaled to all that the time had come for this Nation to put a halt to discriminatioin in all forms—acknowledging the basic dignity of the human spirit. It was a signal that the equality of all people, of which our Founders spoke, would move a step closer to becoming a reality for all Americans. Finally, passage of this act was a signal that the Federal Government would assume its rightful role in the fight for equality by ensuring the programs which receive Federal funds did not discriminate against people based upon race, religion, color, or national origin.

The fight for equality did not end in 1964—it had just begun. It soon became apparent to those of us in Congress that discrimination in this Nation was not limited to people of color but extended to other segments of our society—to women, to the handicapped, and to the elderly.

Recognizing the repugnancy of discrimination, Congress took action. Title IX of the 1972 Education Amendments was enacted to protect the rights of women in educational programs and activities receiving Federal assistance. Section 504 of the 1973 Rehabilitation Act was enacted to prohibit recipients of Federal funds from discriminating against disabled persons. And in 1975, Congress passed the Age Discrimination Act prohibiting discrimination on the basis of age in the delivery of services and benefits supported by Federal funds.

The Civil Rights Restoration Act is an attempt to reassert the intent of Congress in enacting these laws by overturning the decision of the U.S. Supreme Court in the case of Grove City versus Bell. That decision was based not upon an interpretation of the Constitution, but rather, upon a clear misunderstanding of the intent of Congress in enacting title IX of the 1972 Education Amendments. The decision stands for the proposition that Federal funds may be used to subsidize an institution which fosters and promotes discrimination. As one who served in the House of Representatives when this measure was enacted, I can say without hesitation that the intent of Congress was to flatly prohibit the granting of Federal funds to institutions which practice discrimination in any form.

The President's decision to veto the Civil Rights Restoration Act is based on the notion that it will interfere with the free exercise of religion. Such is not the case. Churches and synagogues are free to operate without Federal interference as long as they do not accept Federal funds. This is the situation which existed prior to the 1984. During the 20 years between passage of the Civil Rights Act of 1964 and the Supreme Court's decision in Grove City versus Bell, religious freedom in this country flourished. The fact of the matter is that the Civil Rights Restoration Act will not hamper the free exercise of religion in this country, but will hamper the efforts of those who seek to engage in discriminatory practices which are repugnant to our basic beliefs of equality and human dignity. I find it curious that the opponents of this act claim it will inhibit the free exercise of religion yet it has the support of virtually every major Prostestant, Catholic, and Jewish religious organization in this Nation. Someone is wrong in this great religious debate, but I do not think it is the Council of Churches, the American Jewish Congress, the National Council of the Churches of Christ, the Church of the Brethren, the American Baptist Churches, the United Methodist Church, the Presbyterian Church (U.S.A.), the U.S. Catholic Conference of Bishops and the Union of American Hebrew Congregations, all of whom have endorsed the Civil Rights Restoration Act and urged Congress to override the President's veto of this bill.

I believe it is incumbent upon the Congress to override the President's veto of this act. In so doing, Congress will be sending an important message to all that we will not stand by and idly watch while the rights of women, minorities, the disabled and the elderly are eroded. Those of us who fought for civil rights in the 1960's know that retreat is synonymous with defeat. We did not accept defeat in the 1960's and we will not accept retreat in the 1980's.

Mr. BRADLEY. Mr. President, immediate enactment of the Civil Rights Restoration Act is essential to ensure full compliance with our Nation's civil rights laws. Today the President appeals to Congress to sustain his veto. While his appeal is in keeping with his administration's pitiful record of enforcing the civil rights laws of our Nation, to sustain his veto would be unconscionable.

This President and this Justice Department's lax enforcement of our civil rights laws threaten to erode the hard won guarantees of civil rights for all Americans, regardless of race, color, national origin, sex, handicap, or age.

The purpose of the Civil Rights Restoration Act is to clarify the intent of these original civil rights laws, an intent interrupted by the Supreme Court's unfortunate misinterpretation of congressional intent in their Grove City College ruling.

I call for an immediate, bipartisan override of this callous veto. The conscience of our Nation demands nothing less.

Mr. KERRY. Mr. President, I regret very much that the President has chosen to veto the Civil Rights Restoration Act. The act is an important statement of a national reaffirmation to the cause of civil rights. I will vote to override the President's veto and enact this legislation into law, and I hope that my colleagues will do the same.

In the 1960's this Nation made a commitment to civil rights for all of our citizens. Many Americans participated in that struggle. Some sat in at lunch counters. Some demonstrated on college campuses. Some were freedom riders in the South. Some were arrested and went to jail. Some even gave their lives.

As a result of these efforts, we passed a law, the Civil Rights Act of 1964, which made civil rights a reality in this country. We enshrined those struggles in the law of the land, and by that action we began a process of changing the mentality of a nation, of changing attitudes and age-old prejudices. We have come a long way in that struggle in the past 20 years.

While we have made considerable progress in America in achieving civil rights for all of our citizens, a recent update of the Kerner Commission Report of 1968 indicates that there is still much more that needs to be done.

The new report concludes that "America is again becoming two separate societies." While race relations have improved in some areas, the situation of black Americans in our inner cities is even worse than it was 20 years ago.

The report states that "quiet riots" are taking place in our cities, consisting of unemployment, crime, drugs, poverty, poor housing, and school segregation. As the report states, these "quiet riots" are "more destructive of human life than the violent riots of 20 years ago."

I commend former Senator, Fred Harris, and the other panelists for issuing their timely and important reminder. There is still much more that needs to be done to fulfill the dream of Martin Luther King. And the Congress must lead the way in that effort.

I was very pleased when the Senate took an important step forward in the civil rights struggle, by passing the Civil Rights Restoration Act in January. This legislation, of which I was an original cosponsor, would reverse the Supreme Court's ruling in the Grove City case of 1984, and restore the full protections of our civil rights laws to minorities, women, the handicapped, and the elderly.

The Supreme Court's decision in February 1984, in the case of Grove City College versus Bell was a step backward in the continuing struggle for civil rights in this country. In that decision, the Supreme Court ruled that title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in most education programs and activities receiving Federal financial assistance, applies only to the particular program receiving Federal aid, not to the entire institution. The effect of this misguided decision has been to strip away constitutional protections against discrimination for women, minorities, the elderly, and the disabled in our society.

I was particularly pleased that the Senate passed legislation to reverse this bad decision, by an overwhelming bipartisan margin of 75-14. That is why it is with such regret that we now find ourselves forced to revisit this issue and refight this battle once again. But the President's insistence on vetoing this bill makes it necessary to do so.

The time has come to restore the full protection of our civil rights laws to all Americans. The Senate should pass this legislation now, to make a clear statement to the American people that we still believe in the ideals of the civil rights movement.

President John F. Kennedy said:

> Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial discrimination.

That is what this legislation is designed to ensure. The four areas of law covered by this bill are laws which were written to assure that Federal funds would always go to prevent discrimination, not to promote it.

These are laws for which many people have worked and struggled. Some have even given their lives in the movement for civil rights in this country. And over the past three decades, since the Supreme Court's landmark decision in Brown versus Board of Education, this Nation has made great progress toward the goal of equal justice for all.

But that progress has been seriously threatened by the Court's regressive decision in the Grove City case. As a result of the Reagan administration's broad interpretation of the ruling in Grove City, the impact of the ruling has been extended to reach corporations, local governments, hospitals, airports, and many other facilities which receive Federal funds. Ed Meese, William Bradford Reynolds and Company have extended the Grove City ruling far beyond the educational institutions to which the actual holding applied. While the Court's ruling in Grove City was damaging enough, the Reagan administration has made it much worse.

This is not just a matter of abstract legalisms. It means that, if this decision is not reversed, there would be no Federal enforcement mechanism and no adequate legal recourse for many injustices. For example, as a result of the Grove City decision, a high school girl may be put on a waiting list for a science class until all the boys who want to enroll have had a chance to do so. And it means that a public school may decide to hold separate dances for black students and white students.

Incidents like these should be only sad memories of a distant past in America. But unfortunately, they are all too real. They can happen even now, in 1988, in cities and towns across the United States. Too many people have struggled too long, and sacrificed too much, for us to turn our back on civil rights now.

Twenty years ago, in April of 1968, Dr. Martin Luther King gave his life in the struggle for civil rights in this country. Dr. King once wrote, in a letter from the Birmingham jail, that "Injustice anywhere is a threat to justice everywhere." Let us once again make American justice a model for all the world. Let us reaffirm our national commitment to civil rights in 1988 by keeping the teeth in our civil rights enforcements laws.

Mr. BOND. Mr. President, today I am voting to support the President's veto of S. 557, the Civil Rights Restoration Act of 1987.

I supported this bill when it came before the Senate in January. I voted in favor of it despite a number of concerns I had regarding specific provisions contained in the bill because I believed it was important to address the serious problems brought about by the Grove City case.

In Grove City versus Bell, the U.S. Supreme Court ruled that title IX of the 1972 Education Amendments applied only to the specific program or activity that received Federal assistance. I do not believe Congress intended such a narrow interpretation, and I continue to support efforts to make it clear that title IX applies institutionwide.

My concerns regarding S. 557 involved three separate issues. First, I shared the concerns of many of my colleagues that the bill could result in hospitals being forced to perform abortions against their will. For this reason I supported Senator DANFORTH in his successful move to amend the bill to state, "Nothing in this title shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion." This language made it clear that hospitals could not be forced—under the civil rights laws—to provide abortions if they did not otherwise want to do so.

Second, I was concerned about the bill's overbroad coverage of religious institutions under the civil rights laws. As passed by the Senate, S. 557 stated that if any part of a church or synagogue accepted Federal funding, then not only the funded program, but the the entire church or synagogue, would be subject to coverage under the Federal civil rights laws. Thus, if for example a church ran a Meals-on-Wheels Program out of its basement, its other activities could be subject to Federal regulation as well.

Because of these concerns, I supported an amendment offered by Senator HATCH which would have made it clear that only the part of a religious institution which accepted Federal funds would be subject to Federal regulation. Unfortunately that amendment was rejected by the Senate.

Finally, I was concerned that the bill could have a negative impact on the Nation's small businesses and farms by expanding the amount of Government bureaucracy they would be forced to deal with or by discouraging businesses from participating in federally subsidized programs—job training programs, for example.

I supported the bill in the hope that these problems would be addressed in a House-Senate conference committee. I believed it was more important to get the bill out of the Senate and on its way to the President. Unfortunately, House Members were not given the opportunity to amend the Senate-passed bill. Thus, the bill was sent to the President with flaws approved in the Senate.

The President's proposal, the Civil Rights Protection Act, addresses the problems created by the Grove City case while, at the same time, addressing the three issues that I have already mentioned.

The President's bill retains the language added by Senator DANFORTH to ensure that the bill is abortion neutral.

The President's proposal deals with religious institutions in an unobtrusive manner. It would extend Federal regulation to any church-run program that accepts Federal funds. Unlike, S. 557, it would not subject an entire church or synagogue to Federal regulation when only one specific program is subsidized. This is, I believe, a much more responsible approach.

Also, the bill contains provisions to make it clear that small businesses and farms are not subject to unecessary regulation and Government interference. The bill does this by making it clear that certain small businesses—such as grocery stores which accept food stamps—will not be subject to new Federal regulation.

Protecting the civil rights of our people is one of the most central responsibilities of the Federal Government. In the past 20 years, we have made tremendous strides in ensuring that our society provides equal opportunity and equal protection for everyone. This is central to an open society that encourages each and every citizen to reach for his or her own highest dreams.

Throughout my two decades in public service, I have recognized the importance of strong civil rights protections and I have worked to provide equal opportunity for all in this society. The Civil Rights Protection Act which President Reagan has proposed will allow us to do just that. I am confident that, if the President's veto is sustained today, the Senate leadership will schedule an early vote on the measure so we can pass this bill, send it to the President for his signature and enact it into law.

Mr. CHAFEE. Mr. President, today I will vote to override the Presidential veto of the Civil Rights Restoration Act of 1987. I do not casually make this vote. As an original cosponsor of this legislation, I feel strongly that this is a desperately needed and appropriately constructed measure.

The Civil Rights Restoration Act is needed in order to clarify the broad scope of coverage of our Nation's civil rights laws. When we as a nation give money to a program, we ask that it be conducted fairly, intelligently, and honorably. Federal funds should not subsidize discrimination—it is that simple. In the last 20 years we have made significant strides toward eliminating discrimination in a variety of important areas. Now is not the time to turn back.

For 4 years now, since the Supreme Court's decision in Grove City versus Bell, we have been trying to restore credibility to this Nation's civil rights laws. In 1984 the Supreme Court adopted a narrow interpretation of title IX of the Education Amendments of 1972. The Court's decision limited the Government's ability to enforce civil rights laws in federally supported institutions, by applying sanctions only to the specific program affected—college athletics, for instance—rather than to the entire institution. Unfortunately, this narrow interpretation applied not only to title IX of the Educational Amendments of 1972, but also to three other important civil rights laws: Title IV of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. This country's greatest achievement, freedom and dignity for all, was—and still is—in critical danger.

And so, 4 years ago, we set out to clarify the scope of these laws. Our sole purpose was to provide institutionwide protection against discrimination based not only upon sex, but upon race, national origin, disability, and age. But the road to the introduction of this corrective measure has been long and troubled.

There were numerous concerns that previously introduced versions might broaden the coverage of these laws beyond their effect prior to the Grove City decision. These concerns have now been addressed, and the relevant provisions tightened. There were concerns that the measure would have an adverse effect on persons whom we never intended to reach. There is now a specific exemption for small providers in the language of this bill. There was a concern that food stamp recipients, students receiving school loans, and farms operating with Federal subsidies would be subject to the law, as ultimate beneficiaries of Federal funds. They, too, have now been specifically exempted in the statute.

This legislation does exactly what it was intended to do—restore civil rights protection to the level that existed before the Grove City decision.

Because I feel strongly that we have finally achieved the measure that will accomplish our worthy goals, I deeply regret the President's decision to veto. We have come down a long road to the final reparation of the state of civil rights in this country. To let this chance pass would be injurious.

Mr. METZENBAUM. Mr. President, in the last few days, last ditch efforts have been made to distort the content of this bill and scare Members of Congress into voting to sustain the President's veto.

I am confident that this propaganda will not stop us from restoring the civil rights of millions of Americans.

This vote to restore the civil rights of women, minorities, older Americans, handicapped Americans is a vote which will unify this country, not divide it. This vote to restore civil rights is a vote which will strengthen our country, not weaken it.

The most recent charge is that this bill will destroy religion in this country. But many religious organizations disagree and support this bill. They include the U.S. Catholic Conference, the National Council of Churches, the American Jewish Congress, the African Methodist Episcopal Church, the Reorganized Church of the Latter Day Saints, the American Jewish Committee, the Lutheran Church, the Presbyterian Church, the Episcopal Church, the Churches of Christ, the Baptist Joint Committee, The Friends Committee on National Legislation, Church Women United, and many others.

The U.S. Catholic Conference said,

> We believe that [the Civil Rights Restoration Act] does much to strengthen Federal civil rights protections while safeguarding vital concerns about * * * religious liberty.

The American Baptist Churches said that,

> * * * this legislation would do much to restore liberties of people threatened by * * * intolerance * * *

The Evangelical Lutheran Church said,

> Religious liberty is not at risk by this legislation * * * . This legislation is critically needed * * *

The United Methodist Church said,

> [We] have worked for four years to see this critical civil rights legislation passed.

These religious organizations support the basic principles we want to restore to law: That Federal financial assistance should not go to institutions that discriminate and that all Americans should receive the benefits of federally funded programs.

There is no coercion here. When an organization—any organization—cannot abide by these principles, it should refuse Federal financial assistance.

I'm proud to vote to override the President's veto and proud that Senators on both sides of the aisle will join me in doing so.

This override vote will clearly demonstrate to the American people that there is bipartisan support for the restoration of civil rights.

This override vote will help to make the ideal of equality a reality in our Nation.

Thank you, Mr. President.

Mr. DIXON. Mr. President, I rise today to urge my colleagues to vote to override the President's March 16, 1988, veto of the Civil Rights Restoration Act, S. 557, and to reject the alternative legislation that the President proposed.

After thorough debate, this body overwhelmingly approved S. 557 on January 28, 1988, by a vote of 75 to 14. During the debate, the Senate rejected several amendments, including provisions that are essentially identical to those that are contained in the alternative bill that the President has proposed.

Except for the "abortion neutral" provision, which I supported, S. 557 restores only those civil rights that existed prior to the Supreme Court's 1984 Grove City College versus Bell Decision.

Specifically, S. 557 prohibits entities that accept Federal financial assistance from discriminating on the basis of race, color, sex, national origin, handicap, and age. The Court decision limited the discriminating coverage to the specific educational programs or activities which received Federal funds.

I deplore discrimination, and strongly feel that the Federal Government should not be about the business of subsidizing it. I feel certain that a majority of the people of the State of Illinois support me in this position.

During the past few days, I have heard from many of my Illinois constituents who expressed some specific concerns about provisions of S. 557. I want to assure them and any other persons who may have similar fears of the following:

First, title IX of the Education Amendments of 1972 already protects the religious freedom of a college or university when its students receive Federal financial assistance and the school is closely affiliated with the religious tenets of a church; and

Second, S. 557 assures employers that they are not required to hire persons with a contagious disease or infection when the person poses a direct threat to the health and safety of others, or when the person with the disease or infection cannot perform the essential duties of the job.

Mr. President, I urge my colleagues to override the veto of S. 557. This action would send a clear message to everyone that discrimination will not be tolerated in this country in any institution that receives Federal financial assistance.

Mr. FORD. Mr. President, I regret that President Reagan decided to veto the Civil Rights Restoration Act, S. 557. I believe he got some bad advice from staff who simply have not read this legislation or deliberately misrepresented the facts. The bottom line is, public tax dollars should not be used to support discrimination against our elderly, the handicapped, minorities, or women. Without the Civil Rights Restoration Act, this will occur. I will vote to override the President's veto of this legislation.

I have read the President's veto message. I have listened carefully to those of my constituents who have contacted my office about the veto override. And I have concluded that there has been incredible misinformation spread about this legislation. I want to set the record straight as to what this bill will and will not do.

First, farmers in Kentucky who receive crop subsidies and loan guarantees are not currently subject to action under the civil rights laws and that will not change under this legislation. Similarly, individuals who receive food stamps, Social Security benefits, and welfare payments will not be forced to comply with the four major civil rights laws.

Second, this legislation in no way provides any antidiscrimination protection for homosexuals. Discrimination based on sexual preference has never been prohibited by any of the civil rights laws. S. 557 does not change current law in this regard. Any organization, church, business, or individual may continue to discriminate against homosexuals. While there has been legislation introduced which would amend the civil rights law to specifically prohibit discrimination against homosexuals, legislation which I do not support, The Civil Rights Restoration Act absolutely does not expand coverage of the civil rights laws to homosexuals.

Third, this bill does not provide protection for individuals with AIDS. Under current law, employers can fire or refuse to hire individuals with contagious diseases who pose a direct threat to the health and safety of others. This has been the case since enactment of section 504 of the Rehabilitation Act in 1973. This policy was recently affirmed by the Supreme Court and this legislation in no way expands protection for individuals with AIDS. Similarly, this bill does not expand protection for drug addicts.

Fourth, churches and synagogues which receive Federal financial assistance for such programs as Meals-on-Wheels, refugee assistance, low-income housing, and schools will not be required to conform their religious teachings and doctrines to comply with the civil rights laws. Churches and synagogues are today subject to these civil rights laws if they receive Federal money, and the Civil Rights Restoration Act does not change that. This bill only returns the scope of coverage of the four civil rights laws to where it was prior to the 1984 Supreme Court decision in Grove City. But quite frankly, while I have a hard time understanding why a church or synagogue would tolerate discrimination against our elderly, minorities, and handicapped, these institutions are free to discriminate on any basis if they simply do not accept Federal funds.

Finally, there is nothing in this legislation which can be characterized as antifamily. If there were, I and my colleagues would not support it. The fact is that this legislation in no way impacts the individual family. Individuals who receive Federal support payments are not receiving Federal financial assistance for the purposes of the civil rights laws. There is no Government intrusion into the sanctity of the family.

Furthermore, this legislation contains very important antiabortion language, which I voted for. This language not only ensures that S. 557 does not require that religious hospitals perform abortions, but eliminates from the books current proabortion regulations. As a strong supporter of the right-to-life movement, I welcome this language.

If churches, synagogues, businesses, schools, and other organizations want to discriminate against the elderly, the handicapped, minorities, and women, they are free to do so. But the taxpayers of America will not subsidize that discrimination with Federal funds.

Misinformation campaigns are commonplace in Communist countries. They have no place in America. Nothing in this legislation prohibits any organization or individual from discriminating against another. It simply prohibits them from doing so with Federal money.

I am pleased to join with the numerous religious and church organizations supporting this legislation, as well as other mainstream American groups. I ask unanimous consent that a partial listing of the responsible groups supporting this legislation be printed at this point in the RECORD.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

U.S. Catholic Conference of Bishops.
American Baptist Churches.
National Council of Churches.
Presbyterian Church USA.
Evangelical Luthern Church of Am.
The Catholic Health Association.
Paralyzed Veterans of America.
American Council of the Blind.
American Foundation for the Blind.
National Council of Senior Citizens.
League of Women Voters.
Business & Professional Women's Clubs.
American Jewish Committee.
Episcopal Church.
American Jewish Congress.
United Methodist Church.
Church Women United.
Church of the Brethren.
AARP.
Cystic Fibrosis Foundation.
Disabled American Veterans.
Easter Seals Society.
National Urban League.
AFL-CIO.
American Bar Association.
PTA.

Mr. McCONNELL. Mr. President, I don't think there is anyone in this body who would vote against a bill which honestly and fairly enhanced the civil rights of American citizens. It would be a violation of the oath that each of us makes to uphold the Constitution to oppose any measure that truly protects the rights of freedom and equality envisioned by our Founding Fathers and expanded by Congress.

Some people say that the easiest way to get support for anything in Washington is to call it reform. We found that to be true with the campaign finance issue, where a disastrous, antidemocratic, unconstitutional bill garnered 53 cosponsors because someone had slapped the reform label on it—guaranteed to be reform or your vote back. Yet, when we were discussing this bill on the floor, it became painfully obvious that many of the bill's cosponsors had no idea what it actually contained, or what it actually would do. It was an embarrassment, to say the least.

I certainly hope that the stirring banner of civil rights, with all its rich history and idealism, is not being used in such a superficial, cynical manner. Yet, we have before us today a bill called the Civil Rights Restoration Act, and when you look at this bill, and consider its vague, intrusive horizons, you begin to see how ironic and incorrect that title is.

Now, if our purpose is to restore the civil rights curtailed in the Supreme Court decision in Grove City College versus Bell, we can do that today. I have supported such legislation in the past, and would do so again without hesitation. This legislation would give back civil rights that the Supreme Court took away.

S. 577, the so-called Civil Rights Restoration Act, would take away people's civil rights to be left alone by the Government, to worship as they see fit, and to pursue their livelihood without having to file forms in triplicate with a giant, impersonal bureaucracy every step of the way. Overall, this bill promises less freedom and more government in every corner of America. If unchanged, S. 557 would:

Allow the watchful eye of the Federal Government into every store, church, school, farm, and hospital in the country.

Diminish the protected religious freedoms which are and always have been the cornerstone of this great Nation.

Paralyze every activity with endless reporting requirements and request forms, to be fed into a vast, slumbering bureaucracy.

Let Washington bureaucrats take over decisions once made freely by individuals, small businessmen, farmers, and the like.

During the Senate's consideration of S. 557 last month, Senator HATCH offered an amendment which I strongly supported, protecting churches, synagogues, and religious schools from the amorphous, broad reach of this bill. Without such amendment, S. 557 could potentially narrow the "religious tenet exemption" contained in Federal antidiscrimination laws.

This was a freedom of religion issue, a test of how much Congress values the right to worship as one sees fit. This amendment made each Member of this body face up to the decision of how much the Federal Government sitting in Washington, DC, should impose its values and notions on religious, devout people throughout this country. Congress rendered its shameful decision on this issue, defeating the Hatch amendment by 39 to 56. It wasn't even close, Mr. President. It wasn't even close. Thus, I am compelled to fight S. 557 as long as it threatens the right to worship.

But this bill does not stop at the churches and synagogues. It forces the Federal Government into every small business, school, farm, and charity program in America. Well, George Orwell was a little bit off the mark: It took this Congress 4 extra years to erect big brother and put him in every nook and cranny of our citizens' private lives. When you look at the vagueness and breadth of this bill, it is not hard to hear the death knell of States' rights and individual freedom in this country.

We can expect that those on the other side will take to the floor and bash the President over this veto. But the bottom line—and I think the people who live outside this "square mile surrounded by reality" understand this perfectly well—is that it is the President who is trying to protect the rights of Americans—all Americans. It is the President who is resisting an unprecedented expansion of Federal power into the lives of private citizens and the affairs of small businesses, churches, and local governments.

I am proud to stand with the President on this issue, and will stand with him again when his veto is challenged by this body. I voted against S. 557 when it was originally before the Senate in January. It was a threat to freedom and religion then, and the passage of time has not improved it. In fact, the real problems with this bill have only started to become clear, after Congress hastily considered it and passed it, as if Congress was afraid to look over its shoulder.

Well, I urge those of my colleagues who voted for this bill to look over their shoulders, reexamine this bill, and consider that there is a way to fully restore the civil rights lost by an unfortunate Supreme Court decision—a way I totally support—without threatening individual freedom and the right to worship, without moving this country toward a creeping totalitarianism.

I urge those who voted for this bill to check whether they are in fact representing their constituents on this crucial issue. How many people have written them and called them, expressing their legitimate fear about this amorphous bill? What will these Members tell them, after S. 557 has closed down church soup kitchens, choked farmers in red tape, and made small businesses throw in the towel with all the reporting and liability excesses this bill will foster?

I urge my colleagues to listen to their telephones ringing off the hook, to see their mailrooms piling up with telegrams and letters, to listen to the voice of the people back home, who are speaking out of fear of the tremendous, unlimited, power which the Federal Government is claiming for itself today in this bill.

In my home State of Kentucky, where farmers and small businesses are the lifeblood of the economy, this bill would be a disaster. This bill declares that a farmer who receives a crop subsidy, no matter how small, or hires a student part time under a Federal work-study program, will have all of his farm operations subject to a wide range of laws and regulations, including handicapped access and housing standards.

The reporting and inspection requirements alone will crush many small farm operators. Make no mistake—this is not an issue of discrimination; it is an issue of regulation. The farmer who decides to let an unproductive worker go will have to think every time: Could I be sued? Is there any possible way to say that I discriminated? Maybe the worker has an alcohol or drug problem; but if there is any way to claim discrimination—no matter how absurd under the circumstances—that farmer is going to face the possibility of a lawsuit with every personnel decision he makes.

A church operating a day care center that receives any Federal assistance will discover that the entire church suddenly is subject to Federal law and regulation. One result of this is that church day care facilities will have to hire carriers of infectious diseases, and possibly drug addicts and alcoholics—whatever and whomever the Federal courts tell them to hire.

A grocery store, no matter how small, which accepts food stamps—as a service to the poor and homeless—will suddenly be required to file endless forms with the Federal Government and comply with endless regulations created by the bureaucracy. A small business that hires one part-time student on a work-study-program will be drowned in Federal regulations and controls. If it is part of a chain, then all the stores will be affected.

Now, some supporters of this bill say: If the person does not want all these regulations and interference, they should not take the Federal money. On the surface, that sounds perfect. But we ought to ask ourselves why we created those Federal programs in the first place. It is true: If S. 557 is enacted, most people will decide that the assistance just isn't worth the trouble.

But who will suffer? It will be those people whom these Federal programs were designed to help: The economically needy student who won't get hired, the homeless who can't use their food stamps, the parents who can't find affordable, trustworthy day care from their church or synagogue, the poor who see the soup kitchens closed down—these are the people who will pay the price for Congress' failure to read and consider the bills it passes.

With these few examples, it should be clear why this Senator, who represents a small, rural State with a lot of struggling people, is obliged to oppose this bill. S. 557 will build yet another wall keeping my State from economic growth and progress. I don't want that for my State, and I intend to fight it.

Now, if this body sustains the President's veto, then what will become of civil rights legislation in Congress? Is that the end of civil rights restoration? Certainly not. President Reagan accompanied his veto message with a real Civil Rights Restoration Act, one that addresses every civil rights issue identified by those supporting S. 557—without infringing on the personal and religious freedoms of decent, hard-working Americans.

Specifically, the President's bill would provide that:

If only one part of a church or synagogue receives Federal assistance, then only that part can be regulated by the Government, and must comply with all Federal civil rights laws.

The Federal Government shall respect the religious tenets of organizations which are closely identified with, but not controlled directly by, religious groups.

Farmers would be explicitly exempted from the bill's reach.

Coverage of civil rights laws would be extended throughout an entire business facility if any part of the facility receives Federal assistance—but coverage would extend no further, to other facilities owned by the business.

The mere acceptance of food stamps from poor and homeless persons does not increase coverage for grocery stores.

When private secular or religious schools receive Federal assistance in any form, coverage will extend throughout the school, but not to other schools in the system if they do not also receive Federal aid.

Full coverage of the civil rights laws shall extend to all local agencies and departments receiving Federal aid, but not to other agencies and departments which do not receive Federal aid.

I have said before and will say again, I believe that Grove City should be reversed. I believe that the civil rights which were curtailed by that wrongful decision must be fully restored. In fact, I have cosponsored and voted for legislation to accomplish these goals. I would do it again. But S. 557, as passed by this body and vetoed by the President, promises less freedom and more government in every corner of America.

My objection has nothing to do with discrimination; it is an objection to regulation. It is an objection to restrictions on personal freedom and the right to worship. We don't need to put big brother in the churches, in the schools, on the farm, and in struggling people's businesses to protect civil rights. Let's protect civil rights, but let's do it right.

I urge my colleagues to sustain the President's veto on this unwise bill, and urge them to support meaningful legislation to overturn Grove City and restore the civil rights which this body affirmed by law over the last two decades.

Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, a President's exercise of the veto power is a serious matter. Article I of the Constitution affords us the authority to override that veto.

When we consider whether to override, a number of considerations must be balanced. Not the least of these considerations is the need to support our President, particularly in times of crisis.

Notwithstanding these considerations, in the past I have regularly voted to override Presidential vetoes. I have done so, in fact, eight out of nine times. So, I am not afraid to oppose the President when he is wrong. On most of these occasions, I was joined by a majority of my colleagues.

Today presents another occasion to balance the arguments for and against an override of the President's veto.

I take a back seat to no one when it comes to promoting the civil rights of every person in this great land of ours. My faith has instilled in me an abiding belief that all of us are equal in the eyes of our maker. So my commitment to equality isn't solely based in mere laws passed by legislatures, or in my role as a Member of this body, as seriously as I take my responsibilities. It's much deeper than that.

I know many of my colleagues feel the same way, for many of the same reasons.

After the Supreme Court's 1984 decision on a narrow construction of program-specific coverage in the Grove City case, we in the Congress labored long and hard to work on restoring our original intent regarding the application of the Nation's civil rights laws.

Our goal—to return the state of the law to what we thought was the case before the Supreme Court's ruling. We had a consensus on that goal.

I was among those who sponsored legislation to overturn the narrow result in Grove City, and return application of the civil rights laws to bar discrimination. Institutions receiving Federal funds should not discriminate—there is absolutely no quarrel with this principle.

When we were able to debate this issue, I looked forward to seeing the legislative process played out.

The legislative process normally means careful committee consideration and debate, full discussion here on the floor of the Senate, and an opportunity to offer amendments to resolve ambiguities and make improvements. The other body is supposed to proceed likewise. Ultimately, any differences are to be worked out, and other refinements made, in conference.

We debated S. 557 in the Senate for 3 days. I was anxious to try to make improvements in this measure. A number of amendments were offered. I supported some of them, in an effort to make a better product.

I was pleased that one of these amendments, offered by Senator DANFORTH, was included in S. 557. Ultimately, I supported the bill on final passage from the Senate, thinking that it would be further considered and amended by the other body. I was hopeful that the two versions of the bill would then undergo further refinement in a conference committee. That's the way the legislative process is supposed to work.

I assumed that the other body might see fit to consider amendments as we did—such as an exemption for those education institutions closely identified with the tenets of a religious organization, or to narrow the law's application to that portion of a religious institution receiving Federal funds, rather than the entire institution.

However, a quick turn of events deprived the legislative process of its full measure of deliberation when the leadership of the other body declined to permit any amendment to the Senate bill—other than a minority party substitute bill that didn't have any chance of passing. This was especially surprising given this bill's label as "the most important civil rights bill in more than 20 years."

Over the past 3 days, literally thousands of Iowans have voiced their concern to me that this legislation will violate their civil rights. They have urged me to work on a compromise measure that will accomplish the goal of affording civil rights for all Americans. Therefore, I stand ready to work with congressional leadership and the administration to enact true civil rights protection legislation. We can prohibit discrimination by those who receive Federal financial assistance, without jeopardizing other equally important civil rights.

Upon reflection of what has happened since last January, when the Senate last had an opportunity to speak on this issue, I have determined that it would be best to take a step back from our recent labors and have another look at this bill and the alternative offered by the administration. I, therefore, will cast my vote to sustain the decision to veto S. 557 and hope to bring these points to my colleagues' attention for refinement and clarification:

First, as one can't judge a book by its cover; so don't judge a bill by its title—the "Civil Rights Restoration Act" is really the "Massive Expansion of Federal Powers" Act.

Second, the bill goes far beyond the mere reversal of the Supreme Court's 1984 Grove City ruling—it's deceptive to argue otherwise.

Third, the bill's ambiguous and murky language is certain to lead to an avalanche of litigation over the expanded coverage of religious-oriented schools, small businesses, farmers, and local governments—the Grove City case had nothing to do with these entities.

Fourth, why not simply spell it out in the bill that farmers receiving crop subsidies aren't covered by massive Federal recordkeeping requirements? Or that corner grocery stores taking food stamps don't have to install ramps or elevators?

Fifth, the President's alternative bill spells it out, and is a true civil rights bill—committed to the principles of equal employment opportunity and antidiscrimination.

Sixth, I supported this bill earlier in the hope that further clarifying amendments could have been considered in the House; but the House leadership thwarted fair consideration of any other amendments.

Seventh, I urge the Senate leadership to immediately take up the President's bill—a true civil rights bill we all can support.

NATIONAL ASSOCIATION OF HOME BUILDERS' SUPPORT FOR THE CIVIL RIGHTS RESTORATION ACT

Mr. CRANSTON. Mr. President, I would like to clarify the position of the National Association of Home Builders [NAHB] regarding this legislation. In the words of the president of the association, Mr. Dale Stuard, in his March 21 letter to me—and in an identical letter to the chairman of the Labor and Human and Resources Committee's Subcommittee on the Handicapped [Mr. HARKIN]—the Association "support[s] the Civil Rights Restoration Act of 1987."

This is in contrast to the position expressed by the Association last week in support of the veto of this bill. Beginning late last week, however, I and certain members of the majority leadership in the House, as well as Senator HARKIN, discussed the issues involved with representatives of NAHB, and we were able to satisfy them that this bill would not result in the hardships for their members about which they had such serious concerns. As a result, Senator HARKIN and I had an exchange of correspondence with NAHB in which we addressed their concerns and they, in response, announced their support for the legislation.

Mr. President, I am pleased to be able to provide this clarification and ask unanimous consent that copies of our letter to NAHB and the NAHB response to me be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE

Washington, DC, March 21, 1988.

Mr. DALE STUARD,

President, National Association of Home Builders, 15th and M Streets, NW., Washington, DC.

DEAR MR. STUARD: The National Association of Home Builders has raised several concerns regarding the potential impacts of the Civil Rights Restoration Act of 1987 on property owners, tenants and home builders. These concerns relate primarily to the following issues: The impact of the Act upon existing buildings (subsidized and non-subsidized); the impact of the Act upon non-housing activities of a business predominately involved in providing housing; and the definition of the term "federal financial assistance".

First let us clearly state that a business involved in providing housing would have to comply with these requirements only after the date it receives federal financial assistance. If federal financial assistance is involved there will be some expense in altering existing structures to make them accessible to handicapped persons. However, it is not intended that every part of every building must be accessible to handicapped persons. Rather, the common areas of buildings should be accessible. There is no intention that building owners would have to undertake inordinate expenditures in order to comply with handicapped accessibility requirements. In most cases, the cost to make existing buildings accessible to handicapped persons will be no more than 1 cent per square foot on the average.

There was also the question raised regarding the reach of the law to non-housing activities (e.g., commercial and manufacturing activities) and non-subsidized housing activities. If the non-housing activities are conducted in a form that is legally and operationally separate and distinct from the housing activities, and if the non-housing activities receive no federal financial assistance, then such non-housing activities are not affected by this law. Additionally, non-subsidized housing is not affected by this law, unless owned by an entity that is not legally and operationally separate and distinct from the entity that owns the subsidized housing.

Several concerns have been raised regarding the definition of federal financial assistance. You have raised specific concerns regarding the FHA and VA loan programs, FDIC and FSLIC insured loans, as well as GNMA and FNMA secondary market activities.

Pursuant to the Department of Housing and Urban Development's interim regulations under section 504 of the Rehabilitation Act of 1973, the term "federal financial assistance" does not include a procurement contract or payments pursuant thereto or a contract of insurance or guarantee. Thus, under the regulations, FHA and VA insured or guaranteed loans would not constitute federal financial assistance. Nor would the secondary market activities of government sponsored enterprises (*e.g.,* FNMA or GNMA) or loans insured by FDIC or FSLIC constitute federal financial assistance.

We wish to emphasize strongly our commitment to ensuring that the law as interpreted in the future by courts and administrative agencies complies with the understanding set forth in this letter. Should legislation be required to correct any interpretation by any entities which contradicts any of these understandings, we will do out best to enact such legislation. In this context we note that the Senate will soon be considering some related issues in the context of the Fair Housing Act, on which we expect to continue to work together.

In particular, the Fair Housing Bill will deal with the question of requirements for handicapped accessibility, including retrofit and rehabilitation requirements, and we believe the best course of action to meet our mutual concerns will be to ensure that any agreement reached dealing with accessibility requirements during the fair housing deliberations be made explicitly applicable to the accessibility requirements triggered by the Civil Rights Restoration Act.

Sincerely,

TOM HARKIN,

Chairman, Subcommittee on the Handicapped, Committee on Labor and Human Resources.

ALAN CRANSTON,

Chairman, Committee on Veterans' Affairs.

NATIONAL ASSOCIATION OF HOME BUILDERS,

Washington, DC, March 21, 1988.

Hon. ALAN CRANSTON,

Majority Whip, S-148, U.S. Capitol, Washington, DC.

DEAR MAJORITY WHIP CRANSTON: On behalf of the National Association of Home Builders, I would like to take this opportunity to thank you for your March 21 letter regarding NAHB's concern with the scope of the Civil Rights Restoration Act of 1987.

As you know, we have never opposed civil rights legislation. Rather, our concern related to the potential impact of S. 557 on retrofitting existing buildings and the scope of the definition of "federal financial assistance."

Having raised these concerns, we are now satisfied that they have been adequately addressed. Your letter, as well as the legislative history, clearly spells out that there is no intent on the part of Congress for property owners to incur substantial expenditures in order to make existing buildings accessible to the handicapped. Furthermore, we have been assured that FHA and VA loan programs, FDIC and FSLIC insured loans, and GNMA and FNMA secondary market activities do not constitute federal financial assistance. Moreover, it has been clarified that unsubsidized housing would not be covered if legally and operationally separate from subsidized housing.

Accordingly, we support the Civil Rights Restoration Act of 1987.

Sincerely,

DALE STUARD,

President.

Mr. METZENBAUM. In the last few days, last-ditch efforts have been made to distort the content of this bill and scare Members of Congress into voting to sustain the President's veto.

I am confident that this propaganda will not stop us from restoring the civil rights of millions of Americans.

This vote to restore the civil rights of women, minorities, older Americans, handicapped Americans is a vote which will unify this country, not divide it. This vote to restore civil rights is a vote which will strengthen our country, not weaken it.

The most recent charge is that this bill will destroy religion in this country. But many religious organizations disagree and support this bill. They include the United States Catholic Conference, the National Council of Churches, the American Jewish Congress, the African Methodist Episcopal Church, the Reorganized Church of the Latter Day Saints, the American Jewish Committee, the Lutheran Church, the Presbyterian Church, the Episcopal Church, the Churches of Christ, the Baptist Joint Committee, the Friends Committee on National Legislation, Church Women United, and many others.

The United States Catholic Conference said:

> We believe that—the Civil Rights Restoration Act—does much to strengthen Federal civil rights protections while safeguarding vital concerns about * * * religious liberty.

The American Baptist Churches said that:

> This legislation would do much to restore liberties of people threatened by * * * intolerance.

The Evangelical Lutheran Church said:

> Religious liberty is not at risk by this legislation * * *. This legislation is critically needed.

The United Methodist Church said:

> We have worked for 4 years to see this critical civil rights legislation passed.

These religious organizations support the basic principles we want to restore to law: that Federal financial assistance should not go to institutions that discriminate and that all Americans should receive the benefits of federally funded programs.

There is no coercion here. When an organization—any organization—cannot abide by these principles, it should refuse Federal financial assistance.

I'm proud to vote to override the President's veto and proud that Senators on both sides of the aisle will join me in doing so.

This override vote will clearly demonstrate to the American people that there is bipartisan support for the restoration of civil rights.

This override vote will help to make the ideal of equality a reality in our Nation.

Mr. KARNES. Mr. President, I am a strong believer in civil rights, but the Grove City legislation is much more than a civil rights bill. It opens the door for broad Federal intrusion into some of our most personal and cherished rights, like the free exercise of religion. I began to become very concerned last August when I read the civil rights bill to prepare for my vote. You can find bizarre things in legislation when you settle down to read the language.

I was shocked to learn that it would have left the door open for massive Federal intervention into basic activities of churches and synagogues. It could allow for new and totally unnecessary requirements for farmers and ranchers. It could subject small businesses to extra regulations that could cost jobs and hurt their operations. In short it became clear to me from the very beginning that this bill was deceptively named. Instead of being called the "Civil Rights Restoration Act," it should be called the "the Expansion of Government in Our Lives Act."

Subjecting bona fide churches and their congregations to lawsuits under the Grove City bill could affect this vital aspect of family life in America. The mere threat of court action would have a chilling effect on church life. This expansion of Government power may jeopardize one of the cornerstones of freedom in our country—the independence of our churches from governmental influence.

I believe we can have strong civil rights without destroying the constitutionally protected religious freedoms and the family values that they are designed to protect.

I have been criticized by some for voting against the Grove City bill. I voted against the Grove City bill when it wasn't the popular thing to do. You can imagine that if you vote against anything called civil rights bill, that some people are going to get the wrong idea. But I firmly believe people should be allowed to worship their God according to their own moral values, with minimal intrusion by the courts or by Congress. When legislation like this comes to the Senate floor for a vote, I feel it is important to stand up and be counted in favor of family values and religious independence, instead of simply going with the rest of the crowd.

If you care about family values, or religious independence, or farming and ranching, or small business and jobs, this vote affects you.

I am not a newcomer to this issue. I first published an article in Nebraska newspapers last August that detailed my strong misgivings about this bill. I said at that time I am a strong supporter of civil rights, a vital aspect of our freedoms, but that we must be careful not to introduce new Federal intrusion into matters where it is ill-advised or totally unnecessary. Mr. President, I submit a copy of that article for the RECORD to be printed.

I applaud President Reagan's extensive efforts since last year to address the problem areas in this bill. He is not a newcomer to this bill either. He has consistently outlined the reasons why he cannot support the bill. I have a copy of his letter to my distinguished colleague, Senator HATCH, dated January 28, in which the President explained why he opposed the overly broad provisions in the bill, and why he was seeking support on Capitol Hill to oppose the current legislation. The President has consistently sought a better piece of legislation, but he knew that the current bill would need to be rejected first. I congratulate him for his early identification of the problems in the Grove City legislation, and his consistent efforts to get a better bill.

It is time for Congress to uphold the President's veto and begin work on a solid civil rights bill that will protect women, minorities, elderly and disabled people and protects our religious freedoms and unnecessary Federal intervention. The President's alternative clarifies the gray areas that create such great concern with churches, synagogues, small businessmen, women, farmers, ranchers, and schools. If the veto is sustained I will work tirelessly to enact into law the President's alternative which achieves effective civil rights restoration and reform without challenging the values of religious freedoms that I believe are found in S. 557.

Mr. President, I also ask unanimous consent to have the following Omaha-World Herald editorial of March 22, 1988 included in the RECORD as a part of my statements.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Falls City (NE) Journal, Aug. 14, 1987]

FARMERS BEWARE: THE NEW CIVIL RIGHTS BILL

(By Senator David K. Karnes)

The United States Senate is thinking about giving farmers the gift that keeps on giving—headaches. That's right. More regulation of the business of farming. Only this particular bill could change the way of life on the farm as well as the way of doing business, depending on how a court might see it. Surprised?

It's true. The Labor and Human Resources Committee of the United States Senate is preparing legislation to expand already existing civil rights statutes. The language of the legislation is just loose enough to leave the door open for some complex and disturbing legal consequences.

Of particular concern to me is the possibility that farmers would be brought under the civil rights laws as "ultimate beneficiaries" of federal assistance programs.

Under current law "ultimate beneficiaries" are not regulated by the civil rights acts. That is, farmers receiving deficiency payments, loan guarantees, commodity loans, disaster payments, or price supports—all government programs—have not been regulated because they are "ultimate beneficiaries." However, if the past history of other federal law, like the OSHA regulations, can be a guide it is entirely possible that S. 557 could be expanded far beyond the limits of its current language.

Section 7 of the proposed legislation states that none of its amendments shall be construed to extend the application of the civil rights laws to ultimate beneficiaries of Federal financial assistance excluded from coverage before enactment. It does not, however, make clear which ultimate beneficiaries are now excluded. I would prefer that farmers would be specifically excluded in the body of the act. Nor does it address the issue of exclusion of those persons receiving benefits from programs that may be enacted in the future.

Would S. 557 require farmers to come under the Civil Rights laws as the price for participating in new farm programs down the road? I have asked that question; thus far, no one has given me sufficient assurance to the contrary. It is not enough to say that the bill does not alter or affect who is a recipient of federal financial assistance. The language must be modified to erase all doubt. If our worst fears are realized, then it is not inconceivable that farmers, even small operations, could be subject to increased federal paperwork requirements, random on-site compliance reviews, and numerous other regulatory burdens. It is even possible that farmers will have to make physical changes on their farms—at their own expense—to comply with the civil rights requirements.

We have no way of knowing all the impacts the new legislation could have on the operations of a farmer, but the possibilities are varied and quite disturbing.

It would be a mistake to believe that those who are opposed to this bill are opposed to civil rights or want to turn back the clock to the time and the events that necessitated the enactment of these laws. I simply want to make certain we know precisely how far the bill would go toward making life more difficult for farmers. Loose drafting of legislation can yield some amazingly bad and surprising results.

The American farmer is maintaining a precarious balance. Overburdened already by low commodity prices, excess surplus stocks, and the lack of affordable financing, legislation of this type could be the final act that sends many farmers over the edge.

The goal of the 1985 Farm Bill was to reduce government involvement in the life of the American farmer. We need to strive toward that goal, not in the opposite direction.

[From the Omaha (NE) World Herald, Mar. 22, 1988]

CIVIL RIGHTS NOT THE ISSUE IN GROVE CITY COLLEGE BILL

Backers of the Grove City College bill distorted the issue when they packaged their bill as a civil rights litmus test and accused President Reagan of turning back the clock on civil rights by vetoing it. Legitimate arguments against the bill didn't get the attention they deserved as the vote on the override approached.

Contrary to the allegations of the bill's supporters, Reagan's veto and the alternative he offered didn't constitute a retreat from the concept that discrimination is wrong. The White House proposed strengthening the civil rights laws—but without the congressional bill's serious intrusions on the activities of private individuals and organizations.

Congress passed its bill as a response to the 1984 Supreme Court ruling in the Grove City College case. The court said that the government's civil rights authority extends to college programs and activities that receive federal funds—but not to programs and activities that don't receive federal funds. Congress voted to extend federal authority to entire institutions, as well as businesses, private organizations and state and local governments, if any of their branches received federal aid.

The congressional version, in other words, went far beyond overturning the Supreme

Court decision. The White House says it could have these effects:

If a grocery store accepted food stamps, the government could force the store to have a work force that mirrored the racial composition of the community. Small businesses could be forced to file periodic compliance reports and submit their personnel records to federal inspectors.

Farmers and businesses that hired a part-time federally assisted work-study student could have their entire operation open to federal inspectors.

If a state agency used federal funds, the entire state government would be covered.

A national social service organization would be covered if one local affiliate received federal funds.

A business would be covered if it contributed its own funds to a federally assisted school district, private school or private social service program.

To be against such a sweeping expansion of authority isn't to favor illegal discrimination. As Paul A. Gigot wrote recently in the Wall Street Journal, "Genuine acts of discrimination remain covered by the great civil rights laws of the 1960s, of course, as no one disputes they should be."

Likewise, most people of good will don't dispute the principle that federal funds should not be used to subsidize illegal discrimination.

But harassing farmers who hire work-study students and businesses that participate in adopt-a-school programs is not the way to make society more humane. A number of congressmen and senators, including Sen. David Karnes, R-Neb., who voted against passing the bill in January, have displayed the wisdom to see the issue as it is and the courage to reject the distortions of the bill's supporters. They deserve special praise.

Mr. BENTSEN. Mr. President, despite overwhelming bipartisan majorities in both Houses of Congress in support of the Civil Rights Restoration Act, President Reagan has exercised his veto power. Now we have the opportunity—and responsibility—to override that veto.

The long struggle to guarantee Americans their basic civil rights led to a series of laws which we can all be proud of, laws which prohibited discrimination on the basis of race, sex, age, or physical handicap. In 1984, however, the Supreme Court radically restricted the application of these laws in the Grove City case. At last, the Congress has a chance to restore the protections which our people had prior to that Court decision.

Already there are unjustified claims that this law could somehow infringe on our religious liberties. That is not the opinion of the American Baptist Churches, or the United Methodist Church, or the Church of the Brethren, or the Presbyterian Church USA, or the Episcopal Church, or the Evangelical Lutherans of America, or the U.S. Catholic Conference, or the American Jewish Congress—for all of those groups, as well as many others, support this law.

Unfortunately, opponents of this legislation have stirred up a duststorm of criticisms, suggesting that this law will lead to ridiculous and unintended burdens on schools, churches, and shopkeepers. That is just not true.

These hypothetical horror stories are reminiscent of the arguments used years ago when we first approved the landmark legislation preventing discrimination on the basis of race, national origin, sex, age, or disability. Those arguments were farfetched then and are still wrong now.

For example, this law will not require churches to hire homosexuals. None of our civil rights statutes has ever been interpreted to provide protection on the basis of sexual preference; neither does this bill do that. This law will not force small store owners to make expensive structural adjustments when that is clearly not feasible. The Senate specifically included an exemption for small providers.

We also protected farmers, by continuing the exemption already in the law for those farmers who receive payments under various agricultural support and marketing programs.

What this law will do is restore those civil rights Americans used to have. It will reestablish the legal situation and legal protections which were in effect prior to the Supreme Court's decision. It will forbid federal subsidies to those who practice illegal discrimination.

President Reagan's last-minute alternative would permit large numbers of institutions that receive Federal aid to discriminate and still get Federal funds. That is not acceptable to me, and I doubt that it is acceptable to the overwhelming majority of Congress. We should not condone and should never subsidize discrimination.

By insisting on this law, we are not expanding the powers of the Federal Government; we are not encroaching on religious liberties. We are simply restoring the basic civil rights of millions of vulnerable Americans. That is a necessary and proper role of government, to establish those wise restraints that make us all free.

Mr. WARNER. Mr. President, there is no question that the Congress of the United States is dedicated to the goal of enacting meaningful civil rights legislation in this Congress. The fact that 27 Senators on this side of the aisle voted for S. 557 on final passage clearly demonstrates our commitment to the goal and stated purpose of this civil rights legislation. I support civil rights for all Americans and I voted for the bill when it passed the Senate.

However, while it is for the Congress to make the law, it is the responsibility of the executive branch to implement and enforce the law, and of the citizens of this Nation to live with and comply with the law.

The President has now vetoed this bill. In his veto message, the President referred to the problems of administering the bill as passed. He gave very specific, understandable detailed explanations of problems with the bill.

The President's message clearly indicates that there are some major questions as to the scope and intent of the legislation that may only be resolved in the courts. For example, to what extent will a church that serves meals on wheels programs for the elderly be covered? To what degree will existing buildings have to be retrofitted if FHA loans, VA loans, or other federally guaranteed loans to individuals, corporations or partnerships are used to purchase, or build, single or multifamily housing. These questions are not clearly addressed by the legislation.

In other situations, the current law is in a state of change and there is the possibility that future judicial decisions will alter the assumptions upon which the legislation is passed today. For example, will a corner grocery store that accepts food stamps be covered? Will future judicial determinations require farmers who receive Federal crop subsidies to be covered.

We now have the opportunity with the President's veto to clarify these questions and then pass an even better bill. The Congress is not only capable of resolving, but is responsible for resolving these questions now instead of leaving it to the courts for later.

The President is committed to the elimination of invidious discrimination through vigorous enforcement of Federal civil rights laws. I do not doubt the sincerity of that intention. I understand that the proposal forwarded to the Congress with the veto uses S. 557 as a starting point and adds changes to address: problems of implementation; the scope of the legislation as to certain types of institutions and businesses; and the type of federal aid that requires implementation of Federal civil rights statutes.

The Congress has the obligation to send to the executive for implementation legislation which is practical and will not result in years of litigation and uncertainty for the citizens of this country. I hope that the Senate will seriously consider the President's new proposals and work with him to achieve meaningful and practical civil rights legislation that we can vote for, and the President can sign this year.

Mr. DOMENICI. Mr. President, I would like to say a few words about the extremely important bill we are considering again here today, S. 557, the Civil Rights Restoration Act.

This bill is designed to reverse the 1984 Supreme Court decision in Grove City versus Bell and restore the scope of four very important civil rights statutes: Title VI of the Civil Rights Act; title IX of the Education Amendments of 1972; section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975.

I have heard from many of my good friends in New Mexico who have deep concerns about this bill. I have taken these concerns very seriously and I have gone back and taken another look at this bill, reviewing it in light of the concerns that have been expressed. I have re-researched this matter and talked with discrimination law experts and constitutional scholars who are first amendment and freedom of religion authorities.

Mr. President, I must tell you that I believe that the concerns that have been expressed stem from a misunderstanding of what passage of this bill will mean.

In order to explain this, it is important to review what the Grove City decision was all about.

In the Grove City case the Supreme Court ruled that the four civil rights laws that I mentioned earlier applied only to the individual programs of a school or other organization that receives Federal funds, and not to the entire college or organization of which the program is a part.

Therefore, under the Grove City decision, a college that receives Federal funds as a part of its financial aid program would only be prohibited from discriminating against individuals in relation to its financial aid programs. In all other areas, the college would be free to discriminate.

Mr. President, neither the Congress nor the President believe that the scope of these civil laws should be limited in the way the Court ruled in Grove City. Almost everyone agrees that the Grove City decision should be overturned because it is an incorrect interpretation of congressional intent. Congress has always intended that the laws that prohibit discrimination not be limited in the way interpreted by the Supreme Court in the Grove City case.

For too long, discrimination on the base of race, sex, age, and physical handicap has been a blight on this country. So long as people in America are subjected to these types of discrimination, we are not a free people.

Our civil rights statutes need to make certain that taxpayers' dollars are not used to initiate or perpetuate bias and prejudice. The Federal Government should not encourage or subsidize discrimination. The task of eliminating discrimination from institutions that receive Federal aid can only be accomplished if civil rights statutes are given their original broad interpretation.

Mr. President, we need to restore to the civil rights laws the original broad coverage that they had before the Grove City decision. Everybody agrees with that. The President does, the Senate does, the House of Representatives does, the American people do.

I was very pleased to cosponsor legislation in 1984 along with Senator DOLE and others that would have restored the original scope of these laws. That bill did not become law, and for the past 4 years, while legislation has been drafted and redrafted and hearings have been held, discrimination against individuals on the basis of race, sex, age, and physical handicap has occurred because of the Supreme Court's decision. It is time to put a halt to that.

The Civil Rights Restoration Act will correct the Grove City decision. It would amend the four civil rights laws that I have just mentioned to restore their original institutionwide application. It would make clear that discrimination is prohibited throughout entire agencies, institutions, education systems, and corporations if these institutions receive Federal funding. S. 557 restores the original intent of the Congress regarding the application of these civil rights laws.

That is all that this bill does. With the exception of a provision to ensure that hospitals will not be forced to perform abortions, the Civil Rights Restoration Act restores the law back to where it was before the Grove City decision. If there were problems with the underlying statutes before Grove City, they remain.

Discrimination on the basis of race, sex, age, and physical handicap is prohibited by Federal law and has been prohibited by Federal law for the past generation. This bill does not change what constitutes discrimination.

The Civil Rights Restoration Act does not change who is protected. It does not grant any new rights to any person or groups. Federal law does not grant homosexuals any special rights, nor does this bill. Federal law does not prohibit discrimination against alcoholics, drug addicts, and persons with contagious diseases where the persons present a danger to the health and safety of others or cannot perform their jobs. This bill does not change that.

Under this bill, small businesses will not be required to make expensive structural changes to their buildings to make them accessible to the handicapped.

The Civil Rights Restoration Act does not change the status of grocery stores that accept food stamps. I don't believe that such grocery stores are covered under the civil rights laws, and the law has never been interpreted in that way. But if they are covered, they always have been, and this bill does not cause them to be covered.

Under existing law, farmers and ranchers who receive farm subsidies or price supports are not subject to these civil rights laws. This bill does not change that.

As I said, the bill adds nothing new to Federal law as it existed prior to the Grove City decision, with a single exception.

The bill does change existing law to prevent hospitals from being forced to perform abortions.

A concern was expressed during the hearings on this bill that the civil rights laws could be interpreted to force hospitals to perform abortions, even if the hospitals are opposed to abortion.

I am very pleased, Mr. President, that the Congress was able to correct this problem by adopting the Danforth amendment, making these laws abortion-neutral. I voted for that amendment and argued strongly for it.

That amendment makes it clear that Congress will not force private organizations to perform or finance abortions—these are things we in Congress have long said we would not tolerate in our own programs.

Mr. President, it makes great sense to say that institutions should not discriminate, but it is not discrimination for a hospital to say, "We don't choose to perform abortions, and we will not perform them." No one should be forced to perform or pay for an abortion against his or her will. I am very pleased that S. 557 clarifies this point.

Although I support the Civil Rights Restoration Act, let me make it clear that there are some problems with the four civil rights laws that are the subject of this bill. These problems have existed since long before the Grove City decision. These problems result from ambiguities in the laws themselves and from court decisions interpreting the law.

The bill now before us did not create these problems, but they are problems nonetheless.

When the Senate considered this bill in January I voted in favor of two amendments to correct some of these problems with these four civil rights laws.

The first would have limited coverage of these laws when applied to religious organizations that receive Federal funds. Under the amendment, the antidiscrimination provisions would apply only the specific programs and activities operated with Federal funds by a religious organization, rather than the entire religious organization. This would have done much to assure that the Federal Government does not interfere with legitimate religious beliefs.

The second amendment would have expanded the religious tenets exemption, allowing schools closely identified with the tenets of religious organizations—but not officially controlled by a religious denomination—to claim an exemption from certain sex discrimination provisions.

Although no school has ever been denied a religious exemption under the law, I supported the amendment because it would have enabled schools like Georgetown and Notre Dame to have access to religious tenets exemptions they do not now have under the civil rights laws and allowed them to be exempt from compliance with certain rules that could be at odds with some of their fundamental beliefs.

These amendments would have changed the four civil rights laws, not merely restored them to their previous coverage. However, I believe that they were reasonable and important amendments. Yet, both amendments were rejected by the Senate.

Therefore, the religious tenets exemption and other provisions affecting religious organizations are exactly the same as they have been for the past decade. They have not changed.

This is not to say that these provisions in existing law are perfect—I don't think they are. But these provisions in the bill are not new.

I believe that after we pass this bill, Congress ought to go back and reexamine some of the problems with the underlying civil rights statutes.

In the meantime, though, we need to take this first step and overturn the Grove City decision by restoring to our civil rights laws the broad prohibition against discrimination that they should have, that they historically have had until the Supreme Court's decision in Grove City. That is all this bill does. And that is why I will vote to override the President's veto.

Mr. GORE. Mr. President, the Civil Rights Restoration Act is the most important piece of civil rights legislation of this decade. I cosponsored this bill and have strongly supported it because it will ensure that our tax dollars are not supporting discrimination on the basis of race, sex, age, or physical disability.

That was the intent of Congress when these four civil rights statutes were originally enacted. Congress reaffirmed this intention when it passed this bill by large, bipartisan majorities in the House and Senate this year. President Reagan made a mistake last week in vetoing this bill. Today, Congress will correct that mistake by overriding his veto.

I am proud of the progress we have made in the South and across the country in eliminating prejudice and discrimination. It is in this proud tradition that I take a stand against discrimination, and refuse to accept a presidential veto of much-needed civil rights legislation. In this day and age it is simply unacceptable to allow any Federal moneys to go to institutions that practice discrimination on the basis of race, sex, age, or physical disability.

Throughout my years in Congress I have fought to protect the working men and women of this country. I have worked so that America is truly a land of opportunity for everyone and that there are no artificial barriers to how far any individual can advance. This bill will ensure that people are not kept out of organizations for reasons based on prejudice, that women are not sexually harassed, and that the disabled are not kept out merely because they cannot get through the door or up the stairs.

The committee report on this bill tells the stories of blatant discrimination occurring at federally funded institutions—though not in the specific programs that were receiving aid—and the Justice Department's Office of Civil Rights closing the cases because "it found the alleged discrimination did not occur in a program or activity which was a direct recipient of Federal financial assistance."

There has been much misinformation about his bill. It does not affect ultimate beneficiaries; Those that accept food stamps, Medicaid and Medicare benefits, or Social Security checks from private citizens. In addition, farm subsidies do not constitute Federal funding. There has also been much concern about religious schools: Religiously controlled schools are eligible for a religious tenets exemption if to comply with the applicable sex discrimination provisions would violate the religious tenets of the institution.

Others have expressed concern that small providers would be unduly burdened with requirements of structural alterations to ensure that their facilities be handicapped accessible. The bill does not require costly alterations on the part of smaller organizations if there are alternative ways of providing the services.

Finally, there has been concern that the bill requires the employment of individuals who pose a health threat. This is simply not so. The Rehabilitation Act specifically states that if an employee poses a health risk, he or she may be taken out of the workplace.

These concerns are all adequately addressed in the bill. Unfortunately, opponents of the bill have misinformed the public. They have charged that it goes against religious principles. I think that it is a central theme of Judeo-Christian tradition that we treat our neighbors fairly, regardless of the color of their skin, their age, their sex, or any physical disability.

This legislation does not apply to private action; we cannot legislate against private prejudice. But we can ensure that Federal funds are not used to subsidize actions based on unreasonable prejudices that amount to arbitrary discrimination. I strongly believe that Americans do not want their tax dollars used in this manner. For this reason I will vote today to override the President's veto of this important civil rights bill. I urge all my Senate and House colleagues to join me. We need to show the American people that we in Washington do not condone discrimination and we certainly will not fund it.

Mr. CRANSTON. Mr. President, President Reagan's veto of the Civil Rights Restoration Act came as no surprise. The Reagan administration urged the Supreme Court in the Grove City case to narrow the scope of coverage of the Nation's civil rights statutes and has fought for the past 4 years against restoring the effectiveness of these statutes.

The veto demonstrates, once again, that this administration is out-of-step with the Nation on the issue of civil rights.

There is a broad consensus in this country, and in the Congress, that Federal funds should not be used to subsidize discrimination. The Civil Rights Restoration Act is designed to do just that—help ensure that Federal funds are not used to subsidize discrimination against individuals because of race, sex, age, or disability.

Mr. President, this legislation passed both the House and Senate by overwhelming bipartisan margins. It was debated, revised, and scrutinized for 4 years. It is time that we enact it into law.

This Nation has come too far and struggled too hard to put invidious discrimination behind us to turn back now. The Grove City College decision brought civil rights enforcement proceedings to a grinding halt throughout the Nation. The record on S. 557 amply documents the numerous civil rights complaints and cases which have been dismissed or curtailed because of the narrow strictures imposed by the Grove City decision.

The Federal Government has a moral and a constitutional responsibility to assure its resources are not used to discriminate. It is not enough just to give lip service to the principles of equality of opportunity which are the foundation of our democracy. It takes a commitment to making those promises a reality.

That's what this legislation, and the civil rights struggle of the past three decades, is about—making the promise of equality a reality.

The veto should be overridden.

Mr. RIEGLE. Mr. President, I rise today to express my support for overriding the President's veto of S. 557, the Civil Rights Restoration Act of 1987.

It is truly an unfortunate situation we have before us. The President, against the counsel of his own advisers, has vetoed important civil rights legislation which prohibits discrimination against an individual on the basis of his sex, race, age, or handicap. As my colleagues know, the legislation before us was written in response to the 1984 Supreme Court decision in Grove City versus Bell. In that decision the Supreme Court narrowly construed title IX of the Education Amendments of 1972 to mean that antidiscrimination laws would apply only to the programs for which Federal funds had been received. Hence, under Grove City, a college admission office that received Federal funds would be barred from discriminating; however, if the same college's science department did not receive Federal funds, antidiscriminations law would not apply.

The result of the Grove City decision was the opening of a gaping hole in our 20 year commitment to ending discrimination in our great Nation. Clearly, Mr. President, Congress did not intend for such an inequitable result when it passed civil rights legislation, and our vote today will set the record straight. No longer will institutions be able to practice selective discrimination; but rather, our vote today will reaffirm our national commitment to ending discrimination against minorities, women, elderly, and disabled persons.

Mr. President, opponents of this legislation have argued that it provides an unwarranted intrusion into religious freedoms enjoyed by all Americans. Yet, national church leaders from the Catholic bishops to the Evangelical Lutherans and the American Hebrew Congregation support this legislation and its goals. In addition, S. 557 leaves in place the current religious tenet exemption to title IX. Hence, no college or school controlled by a religious group will be required to adopt policies that conflict with its religious beliefs.

Others have argued that this legislation will have a profound and costly effect on small grocery stores that accept food stamps and on farmers who receive Federal crop subsidies. Yet, both the language of the bill and the committee report make it clear that such would not be the case. The committee report states that farmers receiving crop subsidies would not be covered by this legislation. In fact, they've not been covered since 1964. Others excluded from coverage include recipients of Social Security, Medicare, and Medicaid, and individuals who receive food stamps.

It is an unfortunate fact that discrimination still exists today against women, minorities, elderly, and disabled persons. Although we cannot legislate what is in the hearts of the people, we can send a clear message today that scarce Federal resources will not be used to fund institutions which discriminate.

Mr. President, the legislation before us will restore reason and balance to our Nation's civil rights laws. I hope my colleagues will agree and will vote with me to override the President's veto. Thank you.

Mr. DASCHLE. Mr. President, as the Senate prepares to vote on the motion to override the President's veto of the Civil Rights Restoration Act, I think it is important that each Senator, and the American public, make an honest effort to separate fact from hyperbole before reaching a final opinion on the legislation.

The debate surrounding the Civil Rights Restoration Act is unquestionably highly charged. As I listen to the speculation about the potential effects of this legislation, there is little doubt why the debate has generated such widespread attention.

Each Member of this body has heard alarming reports about what could happen if this bill becomes law. For example, some opponents of the bill suggest that it would force employers to hire homosexuals, or retain employees who cannot perform their jobs because they are alcoholics or have infectious diseases. Others claim that the bill would force certain churches to ordain women or require religiously affiliated hospitals to perform abortions. Finally, some assert that ultimate beneficiaries of Federal aid, such as farmers who merely receive price and income supports and loans or Social Security recipients, would be covered by the bill.

These would be alarming prospects, were they true. They are not, however, justified by fact.

If any of these charges were true, a vast majority of the Senate, including myself, would not have supported this bill. Nor would so many religious organizations and other groups have urged Congress to override the President's veto.

The Civil Rights Restoration Act is a straightforward bill which will simply restore the ability of victims of discrimination—including blacks, the elderly, the handicapped, and women—to seek redress in the manner they did prior to the 1984 Supreme Court decision in the Grove City case. It is a bill that clarifies the original intent of Congress that the civil rights laws be interpreted to apply to all the programs and activities of an institution that receives Federal funding, rather than to just the specific program which receives that funding.

During Senate consideration of this legislation, precautions were taken to ensure that the Civil Rights Restoration Act will perform as advertised. Thus, when concern was expressed that the bill might have the unintended effect of requiring religiously affiliated institutions to perform abortions if they received any Federal funding, the Senate added a provision to the bill stipulating that colleges, universities, and other institutions closely affiliated with churches may get an exemption from the law, as in the past. I voted for that provision. This religious tenets exemption has been available for 16 years, has been granted to more than 200 institutions, and has not been denied once.

The Civil Rights Restoration Act has broad-based support, both within and outside the Congress. It was thoroughly debated by the Senate and the House, and it passed both Chambers by overwhelming margins.

The list of religious organizations which support the Civil Rights Restoration Act is instructive. It includes the U.S. Catholic Conference of Bishops, the American Lutheran Church, the Association of Evangelical Lutheran Churches, the Lutheran Church in America, the Union of American Hebrew Congregations, the American Baptist Churches and the Church of the Brethren, to name just a few.

In fact, the U.S. Catholic Conference has circulated a letter which states that, "we believe that it (the Civil Rights Restoration Act) does much to strengthen Federal civil rights protections while safeguarding vital concerns about human life and religious liberty." I commend this letter to my colleagues' attention and ask unanimous consent that it be printed in the Congressional Record.

Mr. President, whenever the President vetoes a bill, the Congress must take this action very seriously. Even the most ardent supporters of the Civil Rights Restoration Act should re-examine their support in light of the President's veto.

I have done just that.

The Civil Rights Restoration Act is not a partisan issue. Senators on both sides of the aisle joined together when this legislation passed in February by a vote of 75 to 14. I expect that on the vote today, once again, Republicans and Democrats will join together to override the President's veto.

Similarly, religious organizations of diverse faiths have announced their support for the Civil Rights Restoration Act. Like the majority of the Senate, they do so in order to return our civil rights laws to their pre-Grove City status.

For these reasons, I will join the vast majority of the Republicans and Democrats in Congress to pass this legislation over the President's veto.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Catholic Conference,
Washington, DC, March 14, 1988.

Dear Senator: I write on behalf of the nation's Roman Catholic bishops to urge you to vote to override the veto of the Civil Rights Restoration Act. We strongly support this legislation which recently passed the House and Senate by overwhelming margins. We believe that it does much to strengthen federal civil rights protections while safeguarding vital concerns about human life and religious liberty.

This important legislation will strengthen the federal commitment to combat discrimination based on race, gender, age, national origin and handicapping condition. We believe government has a fundamental duty to protect the life, dignity and rights of the human person. This is why we supported the goals of the Civil Rights Restoration Act, successfully urged its modification in several important respects, strongly urged final passage in this amended form in both the House and Senate and urged the President to sign it.

As you know, the United States Catholic Conference expressed some serious reservations about the original bill. In the bill vetoed by the President, Congress made several essential improvements, including the "abortion neutral" amendment. This amendment, which we strongly supported, ensures that no institution will be required to provide abortion services or benefits as a condition of receiving federal funds. If this bill does not become law, we fear these important guarantees will be lost and the existing regulations under Title IX could once again threaten to force institutional cooperation with abortion. We also believe this legislation as interpreted by the committee report and floor debate adequately accommodates our legitimate concerns in the area of religious liberty.

No piece of legislation is perfect and people of good-will can disagree over these matters. However, we believe the Civil Rights Restoration Act with the important improvements made by the Congress is a significant victory for civil rights and an important step forward in insuring that our nation's civil rights laws do not require any institution to violate fundamental convictions on human life.

We are pleased by the overwhelming bipartisan support of this vital legislation. We hope you will join in this broad based effort to help our nation live up to its pledge of "liberty and justice for all" and vote to override the veto of the Civil Rights Restoration Act.

Sincerely yours,

Rev. Msgr. DANIEL F. HOYE,
General Secretary.

Mr. DECONCINI. Mr. President, I rise today to cast my vote to override the President's veto of the Civil Rights Restoration Act.

The Civil Rights Restoration Act has been one of the most highly scrutinized pieces of legislation this body has addressed in many years. Throughout the debate waged in the national press and in the Senate, facts have been twisted and misrepresented. So much so as to lead one to believe this legislation is meant to completely overhaul the current state of civil rights law. That is not the case. The Civil Rights Restoration Act is intended to, and does, return the civil rights law to the state which existed prior to the Grove City decision by the Supreme Court. In Grove City the Court held that only the specific program or activity of an institution receiving Federal funds must conform to the existing civil rights laws.

I have received numerous letters and phone calls raising concerns on the application of the Civil Rights Restoration Act to the hiring and firing of homosexuals, alcoholics, drug addicts, and persons with contagious diseases. I have heard additional concerns expressed regarding the coverage of the Civil Rights Restoration Act to churches and religious educational facilities. And finally, many of my Arizona constituents have contacted me regarding concerns associated with aboration and this legislation. Each is a valid concern, yet I believe now, as I did when I became an original cosponsor, that this legislation is the most important recent legislation strengthening the Federal commitment to combat discrimination based on race, gender, age, ethnicity or handicapping conditions without infringing on the rights of religious organizations and others to manage their own house.

I am not alone in my beliefs. My distinguished colleague, Senator SIMPSON, the Senate Republican Whip, has also concluded that we have "ended up with good language that does not interfere with religious liberties."

The Civil Rights Restoration Act amends title IX of the Education Amendments of 1972, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. Title IX prohibits sex discrimination in education programs or activities receiving Federal financial assistance. Title VI addresses discrimination based on race, color, or national origin in a program or activity that receives Federal aid. Section 504 prohibits discrimination against disabled persons in programs or activities receiving Federal funds. The Age Discrimination Act prohibits discrimination on the basis of age in federally funded programs or activities.

Contrary to some of the most expressed fears, this bill does not require protections provided women under title IX to be extended to homosexuals. Nor has any other statute been interpreted by courts to provide such protection.

This bill would not preclude an entity from taking action against an individual solely on the basis of that individual's homosexuality. If, for instance, the religious tenets of an organization require it to take disciplinary action against a homosexual because of that person's sexual preference, section 504 of the Rehabilitation Act would not protect the individual. In addition, title IX would not protect the individual from disciplinary action. The case law has continually supported this position and this bill does not change that interpretation.

For example, in *Rowland* v. *Mad River Local School District,* 730 F. 2d 444 (1984) the U.S. Court of Appeals for the Sixth Circuit held that sexual preference is not a constitutionally protected interest.

In Rowland, a teacher was suspended, transferred and finally terminated after she disclosed that she was a homosexual. The teacher claimed that the school's actions violated her right to freedom of speech and to equal protection under the law.

The court first ruled that since Rowland was speaking upon matters only of personal interest, and not public concern, her statements did not constitute protected speech under the first amendment.

Second, the court found no evidence to support a finding that Rowland was treated differently from heterosexual employees. As a consequence, the court held that the school district had not violated Rowland's constitutional rights. In 1986, the U.S. Supreme Court refused to hear the case.

Many of the inquiries I have received have questioned the application of this bill in the area of alcohol and drug abuse as it relates to hiring and firing by employers who receive Federal funding. During the floor debate on this legislation, Senators HUMPHREY and HARKIN offered an amendment which was unanimously adopted. That amendment allows employers to exclude or fire a prospective or current employee if it is determined that he or she poses a direct threat to the health or safety of other workers. Actions may also be taken if such an individual cannot perform the duties required and no reasonable accommodations can be made to remove the safety threat or enable the person to complete his or her assigned duties.

This provision maintains the current law, section 504 of the Rehabilitation Act. In fact, since the 1978 amendments to that act, employers have acted with the knowledge that they do not have to hire or retain alcoholics or drug addicts. Additionally, courts have continually upheld the rights of employers to act in this manner.

For example, in *New York City Transit Authority* v. *Beazer,* 99 S.Ct. 1355 (1979) the U.S. Supreme Court upheld the transit authority's blanket exclusion of persons who regularly use narcotic drugs from employment. The Court considered the exclusion to be a policy decision and thus refused to interfere with the judgment of the transit authority.

Just as employers are not required to suffer consequences of an employee's alcohol or drug addiction, employers are also not required to hire or retain persons with contagious diseases if the employee poses a direct threat to the health and safety of others or cannot perform the functions of the job. In these types of cases such determinations must be made on an individual basis, just as with an alcohol or drug addiction hiring related decision.

As previously stated, this language was unanimously supported in the Senate, as well as passed in the House, and was found in the Sensenbrenner substitute which was endorsed by the administration via a letter from Secretary Bennett.

The same standards regarding employment of individuals with contagious diseases apply to the admission of pupils to schools. This case-by-case review process is supported by the American Public Health Association which suggests that individualized review acts to promote the overall health of the general public.

Although I have responded to many questions and concerns on the above matters, the major concern of those who contacted my office has centered around this legislation's application to religious organizations and the application of the religious tenet exemption. Because of the nature of this concern, I believe a thorough explanation is in order.

Under the Civil Rights Restoration Act, complete coverage of a corporation, partnership, or other private organization, of which a religious organization is one, would result under two circumstances. In the first instance, where Federal financial assistance is extended to a private organization "as a whole," that is, assistance which is not designated for a particular purpose, the organization as a whole is required to meet the requirements of the Civil Rights Restoration Act. Conversely, a grant to a religious organization for a specific purpose, such as assistance to refugees, would not qualify as assistance to the religious organization "as a whole," and therefore would not require compliance with civil rights statutes.

Second, when "principally engaged in the business of providing education, health care, housing, social services, or parks and recreation" an organization must follow the Grove City legislation. It is self-evident that a church, diocese, or synagogue is a religious organization. As such, a religious organization would not be covered in its entirety even if engaged in education, health care, or social service programs, because the primary objective of a religous organization is religion.

Furthermore, and in lieu of the above classifications, a religious organization is not prevented from giving hiring preference to members of that religion in its federally assisted activities. However, this does not mean that a religious organization may engage in racial discrimination veiled in the cloth of religious preference.

Under title IX of the Education Amendments of 1972, education institutions controlled by a religous organization are exempt from compliance with the requirements of title IX. In order to acquire exempted status, an educational institution must file an application of exemption with the Department of Education. Since this process has been in effect, no institution has been denied exempt status. As a result of the exemption process, institutions qualifying for exempt status include institutions that: require sex discrimination in training students for the ministry; require differential treatment of pregnant students and employees; require differential treatment of men and women in athletic programs; require unmarried pregnant students to live separately from other unmarried women in a dormitory; require marital status to be considered for employment; prohibit men and women from swimming in the same pool; and mandate other religion-based differing treatment. Under the Civil Rights Restoration Act, religiously controlled educational institutions will be able to continue to choose to manage their facilities as they deem necessary in accordance with the teachings of their religious beliefs.

Finally, prior to the passage of the Civil Rights Restoration Act, concerns were expressed to me that this bill would require any institution not controlled by a religious organization to either provide or pay for abortions. To allay these concerns the Senate adopted the Danforth amendment which I cosponsored. The Danforth amendment provides in pertinent part that nothing in the legislation "shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to abortion." By so stating, this amendment acts to make this legislation abortion neutral. I believe this amendment contributed to the overwhelming support for the bill which passed the Senate by a 75 to 14 margin and the House by a 318 to 98 margin.

I have repeatedly received reports that many of the religious organizations are opposed to the legislation. Yet when I take an inventory of the correspondence directed to me, I find what appears to be overwhelming support for the Civil Rights Restoration Act. After voicing serious reservations about the original bill, the U.S. Catholic Conference joined in supporting the legislation and urged the President to sign the act into law. But as we now know, the President chose not to sign the bill.

In addition, the Evangelical Lutheran Church of America writes "those of us who stand before you today are unwaivering in our support of this bill, and of its great need for our country today." The American Baptist Churches, U.S.A. states "we reiterate our continued support for this legislation and urge the Congress to override President Reagan's veto." Similar statements have been sent to me by the General Board of Church and Society, the United Methodist Church, the Presbyterian Church (U.S.A.), the Washington Office of the Episcopal Church, the National Council of the Churches of Christ, the Jesuit Social Ministries, the Quakers, and others.

The American Jewish Congress expressed its support recently by stating that "we strongly urge the House and Senate to override the President's veto." The AJC clearly summarized the issue, saying "(t)his remains a matter of simple justice."

Mr. President, I have been honored by an appointment to the U.S. Constitution Bicentennial Commission. I was fortunate enough to have joined my colleagues in the original room in which the Continental Congress convened, and we reenacted the drafting and signing of our Constitution. These activities have given me cause to reread many of our Nation's most treasured documents in a new light. If I might ask your indulgence for one moment, I would like to read something which I find appropriate here.

> When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the Earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent request to the opinions of mankind requires that they should declare the causes which impel them to the separation.
>
> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

As we all know, that is the beginning of the Declaration of Independence.

Mr. President, I find these cherished words ring particularly true as I cast my vote to override the Presidential veto of the Civil Rights Restoration Act. In so doing I reiterate my support for all those certain unalienable rights on which our country was founded.

Mr. LEVIN. Mr. President, in the last few days, we have witnessed a remarkable campaign in support of President Reagan's veto of S. 557, the so-called Grove City bill. The concerns of the people who have contacted their elected representatives and urged them to sustain the veto are sincere. Unfortunately, their concerns are based on erroneous information.

Leaders of major religious organizations have spoken out against the misinformation being spread by those who wish to defeat the Grove City bill. The Evangelical Lutheran Church in American, one of the many religious groups supporting S. 557, says that those responsible for the anti-Grove City campaign are "spreading hysteria." The American Baptist Churches in the U.S.A., another religious organization supporting the bill, denounces attacks on the bill as "egregiously irresponsible misrepresentations."

Is it true that churches and religious schools will have to hire homosexuals as a result of this bill? No, it is not true. None of the civil rights statutes amended by this bill has ever been interpreted by the courts to provide protection on the basis of sexual preference; none of the agency regulations implementing these statutes have ever so provided; and nothing in the bill creates any such protection.

Is it true that if this bill passes, a church school won't be allowed to fire individuals with contagious diseases? No it is not true. An employer will be free to fire anyone who poses a threat to the health and safety of others or who cannot perform the essential functions of the job.

Some of the major religious groups supporting this bill—the Presbyterian Church, the United Methodist Church, the Episcopal Church, the Church of the Brethren, the U.S. Catholic Conference, and others—understand that the bill restores important protections to racial and ethnic minorities, to women, to the handicapped, and to the elderly, protections that were severely limited as a result of a 1984 Supreme Court decision. These religious institutions had no problem with the application of these civil rights statutes before 1984, and they are convinced that they won't have a problem after this bill becomes law.

To repeat, Mr. President, the concerns of those who have called and written in the past week are sincere. But they have been expressed in response to information that is just plain wrong. Homosexuals and drug addicts get no new rights under this bill. The activities of churches, synagogues, and religious schools will not be subject to new and intrusive scrutiny by the Federal Government. S. 557 simply reaffirms the coverage and enforcement practices that existed before the 1984 Supreme Court decision. Before 1984, the civil rights statutes were effectively preventing federally funded discrimination without infringing on religious liberty. They will continue to function in this way after S. 557 is passed.

Mr. President, I think most Americans oppose discrimination and support religious liberty. These are not mutually contradictory values. The Civil Rights Restoration Act preserves both these values.

Mr. **BINGAMAN**. President Reagan's veto last week of the Civil Rights Restoration Act was a regrettable disservice to millions of women, Hispanics, blacks, native Americans, elderly, and disabled Americans. Today, I hope the Members of the Senate will rectify President Reagan's wrong and vote to override the veto.

Since its initial introduction in 1984, I have been a supporter of the Civil Rights Restoration Act because I refuse to condone discrimination. My continued support for this act will be reflected by my vote today.

After the Supreme Court's 1984 decision in Grove City versus bell, the strength and effectiveness of major civil rights statutes were called seriously into question. The Court had ruled that title IX of the Education Amendments of 1972, which prohibits discrimination based on sex, applies only to the particular program or activity receiving Federal financial assistance, not to the institution as a whole. The implications of this ruling are far reaching because similar language is contained in several other civil rights statutes.

Earlier this year, a vast majority of the House and Senate agreed that we had no choice but to set the record straight. The intent of Congress always has been, and must continue to be, that the broadest interpretation be given to statutory construction of our Federal civil rights laws.

The evolution of civil rights laws in this country has been a slow and arduous process, and we have by no means reached a point where we can be complacent. The Grove City decision, the Presidential veto, and the recent dissemination of misleading and irresponsible information about this issue, illustrate this point.

I believe the act that passed the Senate by a vote of 75 to 14 2 months ago provides a solid basis for a full partnership between the States and Federal Government to abolish discrimination in our country. The Senate's vote today can reaffirm that commitment.

I sincerely hope that my colleagues will not be swayed into switching their votes solely because of pressure from the Moral Majority's recent negative and misinformed campaign to sustain the Presidential veto.

I, along with probably all the Members of this body, have received hundreds of calls and letters from constituents who, prompted by the Moral Majority's efforts, have become concerned about the impact of the act. I would like to take this opportunity to set the record straight on exactly what this bill entails.

In general, the Civil Rights Restoration Act amends title VI of the 1964 Civil Rights Act, section 504 of the 1983 Rehabilitation Act, title IX of the Education Amendments of 1972, and the Age Discrimination Act. These antidiscrimination measures relate to discrimination only on the basis of race, handicap, sex, and age, respectively. As I mentioned earlier, the act clarifies that these antidiscrimination measures apply to all parts of institutions that receive Federal assistance for any of their programs or activities.

Mr. President, at this point I would like to address in greater detail some of the important concerns raised by my consitituents.

SEXUAL PREFERENCE

The act does not provide protection on the basis of sexual preference. It relates to four antidiscrimination statues based only on race, handicap, sex, and age. Homosexual groups have recognized this and have sought new legislation specifically prohibiting discrimination on the basis of sexual orientation.

ALCOHOL AND DRUG ADDICTS

The act does not require an employer who receives Federal funds to hire or retain in employment all alcoholics and drug addicts. A person who is a current alcoholic or drug addict can be excluded or fired from a particular job if he or she poses a direct threat to the health or safety of others or cannot perform the essential functions of the job and if no reasonable accommodation can be made to remove the safety threat or enable the person to perform the functions of the job. Federal agencies such as the Centers for Disease Control, the Department of Labor, and professional organizations such as the American Academy of Pediatrics, and the American Hospital Association have issued guidelines for ensuring safety in the workplace. These guidelines can be relied on for determining reasonable accommodations.

PERSONS WITH CONTAGIOUS DISEASES

Again, employers may refuse to hire or to fire any person who poses a direct threat to the health or safety of others or who cannot perform the essential functions of the job if no reasonable accommodation can remove the safety threat or enable the person to perform the essential functions of the job.

RELIGIOUS ORGANIZATIONS

Complete coverage of a corporation, partnership, or other private organization occurs in only two circumstances:

First, the first is where assistance is extended to the private organization "as a whole." "As a whole" means general assistance that is not designated for a particular purpose. For example, a grant to a religious organization to enable it to extend assistance to refugees would not be assistance to the religious organization as a whole if that is only one among a number of activities of the organization.

Second, the second circumstance is where the organization is "principally engaged in the business of providing education, health care, housing, social services, or parks and recreation." The principal occupation of a church, diocese, or synagogue is by definition "religious."

Other than in these two circumstances, a religious organization is not covered in its entirety. In addition, none of the antidiscrimination statutes amended by the act bars discrimination on the basis of religion. Thus, a religious organization can prefer members of its religion for its activities as long as the religious preference is not a pretext for discrimination on the basis of race, sex, handicap, or age.

Finally, I would like to point out the many religious organizations which have found these provisions acceptable and which fully support the Civil Rights Restoration Act: U.S. Catholic Conference of Bishops, National Council of Churches, American Jewish Congress, American Baptist Churches, Evangelical Lutheran Church of America, Union of American Hebrew Congregations, Anti-Defamation League of B'nai B'rith, American Jewish Committee, Church of the Brethren, Presbyterian Church USA, Church Women United, Network-National Catholic Justice Lobby, United Methodist Church, and Episcopal Church.

ABORTION

The Civil Rights Restoration Act states that nothing in the legislation "shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to abortion * * *."

SMALL BUSINESSES

The Civil Rights Restoration Act adds a new subsection to the Rehabilitation Act of 1973 that clarifies that small businesses, such as grocery stores and pharmacies, with fewer than 15 employees, are not required to make "significant alterations to their existing facilities to ensure accessibility to handicapped persons if alternative means of providing the services are available"—for example, if there is a larger grocery store with access ramps nearby.

SCOPE OF THE ACT

I would like to emphasize here that this act applies only to entities which receive Federal funds. That leaves a large majority of institutions and businesses outside the scope of this act. Any employer or entity is free to refuse Federal funding should the employer or entity so desire.

In addition, the act clearly states that its provisions do not extend to "ultimate beneficiaries," which are defined by statute as farmers receiving crop subsidies, food stamp recipients, and welfare and Social Security beneficiaries. These groups of "ultimate beneficiaries" are not covered under this legislation.

CONCLUSION

Finally, I have heard from some individuals that this bill will cause a major intrusion by the Government into the lives of private citizens and that many of our institutions will be turned upside down. This simply is not true.

When title VI was introduced in 1964—more than 20 years ago—opponents made similar claims. It was stated that "virtually every nook and cranny of the private lives of individual Americans would be touched and tainted by the obnoxious proposal." (110 Cong. Rec. 1619, 1964.) That did not happen, and it will not happen under the Civil Rights Restoration Act. Instead, I believe this country, which has become a better place since the passage of our first antidiscrimination laws, only will be made better still by the passage of legislation that rigorously safeguards these laws.

Thus, I can see no reason to oppose the passage of this legislation. If we as Americans truly believe in "equality and justice for all," we should support this legislation and guide it into law. Thank you.

Mr. **LEAHY**. Mr. President, President Reagan's veto of S. 557, the Civil Rights Restoration Act—the first veto of a civil rights bill to come before Congress in 121 years—should be overridden. The Senate and the House have debated and passed S. 557 by overwhelming majorities. I am proud to be an original cosponsor and strong supporter of this historic legislation.

The Supreme Court's 1984 Grove City decision greatly narrowed the prohibition against sex discrimination in education and foreshadowed similar restrictions on longstanding Federal protections against discrimination based on race, age, and handicapped status.

Since that time, we have worked hard to craft a bill that restores civil rights protection to its status before the Court decision. The bill before us today achieves this goal. It restores four important civil rights statutes to their former meaning and impact. And, in doing so, ensures that our tax dollars are not used to subsidize discrimination.

The Civil Rights Restoration Act goes to the very heart of who we are as a people, and what we can achieve as a nation. I know of no country that has made as much progress as we have made in using the law to end discrimination, and more than that, to redirect the public conscience to ever higher standards of fairness and compassion. Our laws have changed how we behave—they have also changed how we view each other.

Our efforts to restrict discrimination have set the moral tone for our maturity as individuals and our growth as a nation. By overriding the President's veto, we will reaffirm our commitment to civil rights and simple justice.

Mr. **KASTEN**. Mr. President, I rise to speak on S. 557, the Civil Rights Restoration Act.

I voted for S. 557 when it was considered by the Senate earlier this year, and will vote today to override the President's veto of this legislation. I support this legislation because I believe that Congress has a duty to make clear that Federal funds shall not be used to support discrimination.

There may be some who believe that discrimination—especially racial discrimination—is no longer a problem in our society. There may be some who believe that because of this the Federal Government can afford to refrain from a broad application of our civil rights laws. I do not subscribe to this point of view.

The Federal Government cannot legislate morality. But it does have an obligation to set an example. One way to set such an example is to insist that institutions accepting Federal funds agree not to do certain things—not perform abortions, for example, or in this case, not discriminate on the basis of race, sex, age, or handicap.

This legislation is necessary because of the 1984 Supreme Court decision in Grove City College versus Bell. This decision, while it dealt specifically only with title IX of the Education Amendments of 1972—prohibiting sex discrimination—also effected the application of the Civil Rights Act of 1964—race discrimination—section 504 of the Rehabilitation Act of 1973—discrimination against the handicapped—and section 309 of the Age Discrimination Act. The reason for this is that these four statutes all use substantially the same language, so that a decision dealing with one of them impacts on all of them.

In the Grove City decision, the Court effectively ruled that educational institutions accepting financial aid—including indirect aid such as Pell grants and loans provided to students—had only to comply with civil rights laws in the "program or activity" receiving such aid. In the example that has been often cited, if a college enrolled students accepting Federal financial aid, only the college's financial aid office would be required to comply with the civil rights laws.

This "narrow construction" of the civil rights laws is not what Congress intended when the laws were passed. The fundamental reason S. 557 is necessary is to restore the appropriate "broad construction" of these laws, thereby effectively sending the message that the Federal Government will not subsidize discrimination.

It is absolutely true that most educational institutions and most other institutions have no intention of discriminating. We should be thankful for this. Unfortunately, to ensure that discrimination is not practiced by institutions accepting public funds, some verification of compliance with the civil rights laws is necessary. This verification can impose an aggravating paperwork burden on smaller institutions especially. I feel strongly that the executive branch has an obligation to limit this paperwork burden as much as possible.

Having stated my support for S. 557, I must also state that I have reservations about his legislation. In the last few days, I have been contacted by hundreds of my constituents concerned that the bill as written would impinge on the free exercise of religion or would force churches and religiously oriented schools to hire people who do not share their beliefs and values.

Mr. President, my reading of this bill is that it does not do any of these things. Congress does not intend it to do any of these things. If I thought S. 557 would do any of these things, I would oppose it.

True, I would have preferred more precise language than is used in this legislation. I supported two amendments that would have, respectively, specified a narrow construction of the civil rights laws where religious institutions are concerned and that educational institutions "closely identified with" a particular religion or denomination—for example, Marquette Univesity in Milwaukee—would not have to comply with provisions of the civil rights laws that violated the basic tenets of their faith. I voted for, and am pleased that the Senate adopted the Danforth amendment, which makes clear that nothing in this bill would require any hospital or other medical institution to perform abortions against its will.

But I am persuaded that the intent and effect of this legislation is not to extend the scope of the civil rights laws any further with respect to religion than was the case prior to the Grove City decision. I want to note one thing in particular that S. 557 clearly does not do.

None of the civil rights laws makes any mention of sexual orientation or preference as a protected group of people. Homosexuals are not protected by reason of proscriptions against discrimination by reason of race, or sex, or age, or handicap. S. 557 makes no mention of any special protection extended to homosexuals.

The charge made by one national organization that this bill would force churches to hire, as one group charged, "an active homosexual drug addict with AIDS as a youth pastor" is wrong. S. 557 simply does not change current law in this area.

But many of my constituents in Wisconsin, in good faith and sincerity, are concerned about how the executive branch of the Federal Government might interpret this law—or how the Federal judiciary might interpret it. I have heard the message they have been sending loud and clear.

If the language in this legislation is being implemented or interpreted by the courts in such a way as to interfere with the free exercise of religion, or impose on farmers, or cost jobs by forcing businesses to make massive, unjustified changes in their physical plants, I will be in the forefront of those seeking a change in the law.

If the executive branch and the judiciary cannot administer and interpret this law in a responsible manner, Congress will have to go back and spell out in very detailed and precise language how the law should be implemented and interpreted. Congress should not have to do this; its role is not to specify every detail of the implementation of the law. But if the executive branch or the judiciary cannot do their jobs, that is what Congress will have to do.

President Reagan has proposed a number of changes to S. 557 in his veto message. I have looked at these changes; I think that, if included in the bill, they would probably improve the clarity of this legislation.

However, I am not fully persuaded that they are necessary. Moreover, they are simply being made too late. Had the administration made these proposals while S. 557 was in committee or on the floor, the Senate could have considered them, either individually or as a package. But under Senate rules, it is simply not in order to consider them now.

I am, frankly, a little mystified as to why the administration, after standing on the sidelines for almost all of the debate on this legislation, chose this moment to propose changes in the bill. I would encourage the administration to take a more active and a more useful role in the legislative process in the future.

In conclusion, Mr. President, let me restate the need for this bill and the reason I am reluctantly voting to override the President's veto. It is vitally important that Congress make clear that the Federal Government will not tolerate discrimination in any activity with which it is associated. This is important enough that, notwithstanding some of the imprecise language in the bill, I believe S. 557 merits the Senate's support.

Mr. HATCH. Over the last few days an amazing thing has happened. There has been an outpouring of calls and telegrams to Capitol Hill that is unprecedented in my memory. In fact at one point 80,000 calls per hour came in to express concern about the Grove City bill. We all know that these Americans overwhelmingly support the President's veto. Now some media have suggested that this avalanche of calls has been stimulated by Moral Majority and Jerry Falwell. But, the fact is, no one group can create this kind of activity. It is just plain not true to suggest this legislation is opposed by a few evangelicals only.

Mr. President, I would like to read into the RECORD, the incredibly broad list of opponents who are now saying to the Congress—stop and rethink this ill-conceived legislation. They range from the U.S. Chamber of Commerce to Citizens for America, to the National Black Coalition for Traditional Values. They include:

MARCH 18, 1988.

GROUPS IN OPPOSITION TO GROVE CITY

Ad Hoc Committee in Defense of Life.
American Association of Christian Schools.
American Conservative Union
American Pharmaceutical Association.
Apostolic Coalition.
Assemblys of God.
Association of Christian Schools International.
Association of Pro-America.
Bott Broadcasting Company.
Catholic League for Religious and Civil Rights.
Christian Action Council.
Citizens for America.
Citizens for Educational Freedom.
Citizens for Reagan.
Coalitions for America.
College Republicans.
Committee to Protect the Family.
Concerned Women for America.
Conservative Alliance.
Conservative Caucus.
Contact America.
Coral Ridge Ministries.
Council for National Policy.
Eagle Forum.
Family Research Council.
Focus on the Family.
Free Congress.
Heritage Foundation.
Intercessors for America.
International Christian Media.
Lutheran Church—Missouri Synod.
Moral Majority.
National American Wholesale Grocers Association.
National Apartment Association.
National Association of Evangelicals.
National Association of Homebuilders.
National Association of Manufacturers
National Black Coalition for Traditional Values.
National Center for Public Policy Research.
National Family Institute.
National Grocers Association.
National Religious Broadcasters.
Public Advocate.
Rutherford Institute.
Save Our Schools.
United Families.
United Pentecostal Church.
U.S. Business and Industrial Council.
U.S. Chamber of Commerce.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. HUMPHREY] is recognized for 5 minutes.

Mr. HUMPHREY. I thank the Chair.

Mr. President, once again, Senators confront a difficult choice between succumbing to glib slogans or coming to grips with the enormous problems posed by a bill that bears the misleading title of Civil Rights Restoration Act.

This bill does not simply restore established protections against discrimination that existed before the Grove City decision—not at all.

Proponents of S. 557 have seized on the Grove City decision as a convenient pretext for a massive expansion of Federal regulatory power.

As the Wall Street Journal stated in an editorial of March 14, "Seldom has a bill opened the door so widely for courts and Federal bureaucrats to intrude into the decisionmaking processes of employers."

Those of us who have taken the trouble to point out the many pitfalls and excesses of this latest Federal power-grab are falsely portrayed as opponents of civil rights. But invoking the slogan of "civil rights" can be no substitute for examining what this expansionist legislation will actually do.

The proponents have mocked concerns for example, that the bill expands Federal coercion in the area of homosexual rights and other exotic civil rights theories. Let me quote without any editorializing directly from a recent Federal court decision by Judge Gerhard Gesell in the case of Blackwell versus Department of the Treasury.

> Plaintiff has alleged that the position he sought was eliminated because Treasury officials regarded the fact that he is a transvestite as a handicap. This is enough to state a claim under the Rehabilitation Act.

In a subsequent ruling in the same case, the judge said:

> It is clear that transvestites are (handicapped persons), because many experience strong social rejection in the work place as a result of their mental ailment made blatantly apparent by their cross-dressing life-style.

So the claims that this bill goes far beyond the protection of basic and genuine civil rights are not mere myths or distortions. It is Federal judges who have applied these statutes to interfere with valid employer judgments dealing with antisocial behavior and dangerous contagious diseases.

The Wall Street Journal once again hit the nail on the head in its March 14 editorial on this bill, when it said, "Because of vague wording, all sorts of new 'rights' could emerge. Feminists, gays and other activist groups will be filing suits to foster new definitions."

So let the record be clear. The opposition to this bill has nothing to do with legitimate legal protections against race or gender discrimination. Those guarantees come from the Constitution itself, and from the multitude of existing Federal and State civil rights laws which are fully operative and enforceable irrespective of S. 557.

We are concerned, instead, about unwarranted and intrusive Federal regulation that goes far beyond earlier concepts of reasonability in the application of civil rights laws.

This bill will subject clergymen to Federal oversight regarding the details of their church programs and facilities; it will subject private and public school administrators to Federal interference in the area of contagious disease policy; and it will impose burdensome accessibility and retrofitting requirements on small businesses merely because they accept Federal food stamps from their low-income customers.

These are only a few examples of how this bill's primary result will be to expand Federal coercion of society, rather than to simply restore the status quo ante.

So I urge my colleagues to reject the argument that oppositon to unwarranted and unprecedented Government regulation of society is somehow opposition to legitimate civil rights. As Columnist Edwin Yoder wrote in an article entitled "The Hounding of Grove City College" in Monday's Washington Post, "The key issue here is not civil rights against civil wrongs, but a clash of two valid views of freedom."

The regulatory excesses that will arise out of S. 557 are clearly unacceptable. We should sustain the President's veto, and then go about designing a reasonable remedy to the problems created by the Grove City decision.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by Edwin M. Yoder, Jr., published in the Washington Post, as well as the Wall Street Journal editorial to which I referred earlier.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 14, 1988]

CONGRESS ON THE LOOSE

President Reagan is expected this week to veto the "Grove City" bill, a document that makes any organization accepting any federal money subject to federal "civil rights" interpretations. Because of vague wording, all sorts of new "rights" could emerge. Feminists, gays and other activist groups will be filing suits to foster new definitions. The bill should be vetoed, but even some Republicans in Congress may vote to override.

It seems that Congress in this election year is hellbent to win special-interest votes. Republicans don't want to be left out. Beyond Grove City the vote-buying spree could have other consequences, some of them expensive. For example:

Child care. Everyone believes in child care but it is by no means clear that it is the responsibility of the nation's taxpayers. Senator Chris Dodd and a flock of interest groups this week will launch a big media hype to try to make it exactly that, at an ultimate minimum price tag estimated by Douglas J. Besharov on this page last Wednesday at $32 billion a year.

As Mr. Besharov noted, Senator Dodd's bill represents a subsidy for middle-class working mothers, which is why it has such marvelous vote-buying potential. With this new infusion of money and a new set of federal standards to restrict competition, child-care providers will be able to raise their fees. They are lending support to the Senator's media bash.

Mandated benefits. Senator Kennedy's bill requiring all employers to provide specified health-insurance benefits to employees working more than 17.5 hours a week has been reported out of his Labor and Human Resources Committee. He himself puts the price tag for business at $27.1 billion. The respected Institute for Research on the Economics of Taxation (IRET) says it actually will cost $100 billion and $25 billion in GNP. The senator has found a way to cost the nation thousands of jobs.

Minimum wage. The House Education and Labor Committee is considering a bill to raise the minimum wage to $5.05 an hour over the next four years from the current $3.35. After that, youths and marginally productive workers whose work effort is worth less than $5.05 will while away their time on the welfare roles or in some other unproductive endeavor. IRET estimates a loss of 300,000 to 750,000 jobs by 1990, the third year of the increases. If the higher minimums push up wage scales generally, yet more jobs will be lost to foreign competition.

For Grove City the costs are indeterminate but seldom has a bill opened the door so widely for courts and federal bureaucrats to intrude into the decision-making processes of employers. The bill is Congress's response to the Supreme Court's Grove City College decision limiting government influence to the specific areas where its money is put to use. Under the new law if any federal money comes in, even if it is to a grocery store accepting foods stamps, the entire organization is subject to federal interpretations of "rights."

Columnist Patrick J. Buchanan wrote last week that court judgments already have perverted the hallowed term civil rights. Racial discrimination is deplorable and citizenship rights belong to everyone, but courts and lawyers have shown themselves capable of creating "rights" that go well beyond basic constitutional protections.

Yet congressional Republicans are imploring the President not to veto Grove City. Why, they ask, should we antagonize liberal political-action groups in this election year?

There is a very good reason to do so. Taking a clear stand will give voters a real choice. They will be able to choose between politicians who pile new costs on taxpayers and those who don't. They will be able to choose between politicians who do and those who do not regard any kind of conduct, however obnoxious, as a "civil right." If no choice is offered, most voters will go with the incumbents.

Had Republicans offered such a clear choice in 1986, they still might be in control of the Senate. As for receiving the votes of the social-action lobbies, there is simply no way Republicans can outbid Democrats on that front. So why even try?

Child care for middle-class two income parents is not a public responsibility. Mandated employee benefits are not free goods. The ones mandated may not even be the ones some employees most desire. Some forms of discrimination are acts of simple prudence and save lives, as when drug or alcohol abusers are barred from operating trains and buses.

But if nobody makes these points, Congress simply will conduct its election-year spree. After the party is over, we again will be presented with the tab.

[From the Washington Post, Mar. 21, 1988]

THE HOUNDING OF GROVE CITY COLLEGE

(By Edwin M. Yoder, Jr.)

The lopsided vote by which Congress reversed the Supreme Court's 1984 Grove City College decision signals that President Reagan's veto probably won't change the outcome. Nor should it, necessarily.

But Congress whooped this legislation through with an unwarranted air of self-congratulation. And the President in his veto message missed a chance to make a useful point about academic freedom, a sizable bit of which has been lost.

You might assume, if you didn't know otherwise, that the Grove City decision denied someone his civil rights. In fact, what the court said was merely that the Department of Education might sanction the small Pennsylvania college which chooses, for reasons not now fashionable, to separate boys and girls in its intramural sports program; but the sanctions, said the court, must be limited to the offending department.

Were Grove City one of those institutions whose financial structure is heavily marbled with federal subsidies, the college wouldn't have had a leg to stand on, let alone a federal case. But Grove City is among the few institutions which, as a matter of principle, shun the outstretched hand of federal almsgiving. The usual basis for federal sanctions was absent.

Yet there was a small chink in Grove City's armor. The college did not turn away students whose tuition is partly paid by federal grants or loans, administered by the U.S. Department of Education. That was the camel's nose in the tent.

Under a 1972 law, it seemed clear that sanctions (fund cutoffs) might apply to any college program nourished by federal aid—possibly including Grove City's grants office. But was the whole college subject to sanctions—to being second-guessed by federal bureaucrats—because federal grants to individual students happened to be an indirect part of its operating budget?

That was the issue the court addressed. And all the court did was to say no, restricting federal sanctions to the scope of the alleged violation. That is the interpretation of the law that Congress has now shouted down by huge margins. The "Civil Rights Restoration Act" declares, in effect, that a college or university offending federal regulations in any program, however, trivial, may be punished by the withdrawal of federal subsidy from all its programs.

But the president's veto message, with its alarmist imaginings of all sorts of threats to corporations and churches, flagrantly misses the real point: the truncation of academic freedom.

For two centuries the courts have made large allowance for the political independence of higher education. It began with the famous Dartmouth College case of 1819, argued by Daniel Webster. ("It is, sir, a small college, but there are those who love it.") The Marshall Court halted an effort by the New Hampshire legislature to revoke the college's original charter and convert Dartmouth into a public institution. The Supreme Court's solicitude for Grove City, another "small college," is in that tradition.

So energetic has been the federal hounding of Grove City, in pursuit of unisex intramural sports, that Justice Powell, no friend of discrimination, was moved to scold federal authorities. "An unedifying example of overzealousness," he called it—strong words for him, but certainly well warranted.

Zealousness aside, the key issue here is not civil rights against civil wrongs, but a clash of two valid views of freedom. In case upon case, for years and years, the federal judiciary has recognized the special vulnerability of educational institutions to political meddling and pressure—including the kind of pressure that emanates from the righteous causes of the moment.

In the past 20 years, that solicitude has been eroded, often because racial balancing in public or private colleges seemed a greater imperative than the full freedom of university administrators to make their own educational judgments.

Was the integration of the sexes on the playing fields of Grove City so great a cause, then, as to justify this legislation? Perhaps. But the unctuous self-righteousness that attended its passage is inappropriate. You can be sure that something has been lost as well as gained.

Mr. HUMPHREY. Mr. President, I yield whatever time remains back to the manager.

Mr. HATCH. Mr. President, I yield to the Senator from Idaho.

Mr. SYMMS. Mr. President, I will take just a few minutes today to make one last appeal to my colleagues to vote to sustain the President's veto of S. 557, the Grove City bill. As the distinguished Senator from Nebraska, Senator KARNES, said the other day, this legislation would be more properly titled the "Government Intrusion Act of 1988" for its pervasive coverage of private entities, including churches and synagogues, farms, businesses, and State and local governments.

All of us support Federal laws designed to protect individuals from invidious discrimination and ensure equality of opportunity. That is not the question at issue today. The question today is whether we will override the President's veto and support a bill which would quash fundamental freedoms from governmental intrusion and control, all in the name of civil rights. How long will civil rights endure when the almighty arm of Congress has eliminated basic elements of religious liberty and free enterprise?

Two great principles of government—liberty and equality—exist in tension within the language and spirit of our Constitution. It is a tension which has often set the parameters of debate within this body. It helps establish our character as a people, and it is essential to our system of government. It has made, and will continue to make, the United States a great nation to which people around the world, oppressed by their own governments, are drawn with hope for a new life for themselves and their families. S. 557 would destroy that important tension and tip the balance heavily against the principles of freedom. I believe its long-term impacts on the economy and the activities of private associations of American citizens will be debilitating to liberty and opportunity.

S. 557 represents a vast expansion of Federal power over State and local governments and the private sector. This expansion goes well beyond the scope of power exercised by the Federal Government before Grove City. I believe such an expansion of Federal power is unwarranted and ill-founded.

The President has sent us a substitute bill which incorporates many of the provisions included in S. 557, but eliminates the unwarranted Federal intrusion in private activities which was included in the bill we sent to the President's desk. I hope we will vote to sustain the veto, and urge the Judiciary Committee to give the President's substitute proposal expeditious consideration.

Mr. HATCH. I thank the distinguished Senator.

Mr. President, how much time remains to the Senator from Utah?

The PRESIDING OFFICER. The Senator from Utah has 8 minutes and 45 seconds.

Mr. HATCH. Mr. President, I have to clarify a few things. The debate between Senator KENNEDY and Senator GRAMM, I think, contains some matters that need to be clarified.

For one thing, the Senator from Texas is right, and the Senator from Massachusetts was right only insofar as a private religious school that is controlled by the religious institution is exempted by this bill. But not all are private religious schools, and there are only two that qualify in this country out of hundreds, actually thousands. The two are Catholic University and Brigham Young University, which are the only two completely controlled by their respective churches.

So the distinguished Senator from Texas is absolutely right. All these others are going to come under the onus of this bill and under section 3(b), which basically provides coverage throughout the whole institution if a Federal bureaucrat happens to disagree with the religious institution.

I notice that there is an opinion from Steptoe and Johnson with regard to two issues: whether farmers are covered by this bill and whether homosexuals are. I am not going to address the homosexual issue because, to me, that is somewhat irrelevant to this, and there have been some extreme comments made by some people opposed to the bill. Let me address the farm issue.

If we do not want this legislation to cover farms in America—almost every farm in America, large and small, take subsidies—why do we not say so in the bill? That is all the President is asking. Why should we leave it to the whim of a Federal judge as to whether a farm is or is not covered. The American Farm Bureau Federation thinks they are going to be covered. They presented testimony to that effect to the Senate Committee on Labor and Human Resources on March 19, 1987.

Some people claim that section 7 excludes farmers from coverage. It states that this bill does not "extend the application of the acts so amended to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this act."

It suggests as much, but is not persuasive. The reason we need language in the bill specifically addressing farmers is that legislative history is not enough to protect farmers.

If we do not want this legislation to cover every farm in America, why didn't we just say so? We should not leave it to the whim of some Federal judge to determine whether a farm is or is not covered. The American Farm Bureau Federation certainly thinks that they are going to be covered. They presented testimony to that effect to the Senate Committee on Labor and Human Resources on March 19, 1987.

Now, some people claim that section 7 excludes farmers from coverage. Section 7 states that this bill does not "extend the application of the Acts [amended by this bill] to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act." The Senate Committee Report (pp. 24, 25) suggests as much, but is unpersuasive. An ambiguous colloquy in the Senate, in which one of the participants himself acknowledged that the issue was not resolved, is of no real help.

In any case legislative history is not enough to protect farmers. While farmers may have been regarded as "ultimate beneficiaries" under the current statutes, these statutes have been completely rewritten under S. 557. Before, the statutes covered programs or activities receiving Federal aid. Under this bill, private organizations, businesses, partnerships, and sole proprietorships are expressly covered if they receive Federal aid. Farms are obviously businesses.

A provision excluding ultimate beneficiaries at best excludes individuals such as persons on food stamps or Medicaid. Those individual ultimate beneficiaries are not businesses and run no risk of coverage as such. This is not so for a farmer—he or she operates a business.

I am not at all persuaded that legislative history is adequate to retain the pre-Grove City exclusion of farmers. Remember, in 1964, when debating the 1964 Civil Rights Act, its leading sponsor, Senator Hubert Humphrey, said he would eat the pages of the Congressional Record if the bill permitted quotas. We now know the Supreme Court would make Senator Humphrey eat those pages.

Moreover, even if I believed section 7 excluded farmers, it only applies to ultimate beneficiaries so regarded prior to enactment of the Civil Rights Restoration Act. What happens if we enact new farm programs after this bill goes on the books? At best, it is very unclear that farmers will be excluded from coverage under those new programs, and, in fact, I think they will be covered, no matter what we say in legislative history.

Mr. President, there has been a tendency to reduce the President's veto to the short phrase, "If you want to accept Federal money, you should not discriminate." No one in this Chamber supports discrimination. No one in this Chamber believes that Federal funds should be used to underwrite discrimination. No one in Congress wants to support discrimination against minorities, the aged, women, and those who are handicapped.

While it is easy to reduce the debate to this kind of historical simplicity, the problems with the Civil Rights Restoration Act do not arise because people want to discriminate. They arise because people want to exist without total domination by the Federal bureaucracy. All of the operations of the church become subject to Federal regulators, not just the program itself. All operations and activities of the church or synagogue will be covered and regulated.

In my State of Utah, the Farm Assembly of God conducts the Wee Willie Winkle Day Care Program, which is a State-licensed program. Of the 130 children in this program, the tuition for roughly one-third of the children is covered by Federal assistance.

The program is run in the church gymnasium and once this bill passes all of the activities of that church will be subject to regulation not just that particular day care center.

Now, has this day care program been accused of discrimination? No.

Have they discriminated against minorities, the handicapped, women or the aged? No.

Do they want to rush out and discriminate? No.

They simply want to help the community by providing a desperately needed service, day care for parents who are working or in some other Federal training or education program.

Now the pastor of the church called me to tell me that if S. 557 becomes law, he will have to remove all of those federally-assisted children. He does not want to do so, but he feels he would have no choice. He does not want to subject all of the operations of his church to endless Federal regulations.

Frankly, Mr. President, he has no idea of what this bill will do to him and to others in similar circumstances. The simple fact is that the Wee Willie Winkle Day Care Center is no more of a discrimination against Grove City College, the institution involved in the Grove City decision. It is sometimes forgotten but that school was never accused of discrimination. In fact the Court goes out of its way to make it clear it did not discriminate.

The fact is the debate today is not over discrimination. It is whether we can have an effective civil rights policy without regulating the activities of the church or synagogue.

Are we really helpless in our ability to draft legislation that would protect against discrimination while still protecting the rights of religious congregations, prayer rooms and other activities in the church.

Mr. President, if my colleagues want to vote to sustain the President's veto, then I will work with the majority leader and others, Senator Kennedy, and anybody who is interested in completing action on this bill by the end of the day or this week.

The simple fact is we can protect minorities, women, the handicapped and aged without regulating churches. We can enforce equality without jeopardizing the religious freedom of synagogues. We can protect freedoms guaranteed all Americans without trampling the first amendment.

I hope my colleagues will join me in supporting the President's veto. The Grove City case should be overturned. But it can be accomplished without destroying rights guaranteed by the Constitution.

I think this mislabeled bill should not become law in its present form. Again it is not a question of civil rights any more than it is a question of religious rights and freedoms. Frankly, what is involved here, and anybody who reads this bill and reads section 3(b) has to realize, is that any church or congregation that takes any dollar of Federal assistance, becomes wholly liable.

It it is a religious school system and one of the schools makes a mistake, then the whole system becomes covered by this bill.

Frankly, I do not think we should be in the business of regulating churches in this country.

If you look at the first amendment, the first amendment lists as the first precious freedom that we have the right, the right to practice our religion the way we want to, freedom of religion.

Mr. President, let me just say this: This is an important bill. I would like to support it. No one feels more dedicated toward civil rights than I do. But I also want to support our religious institutions in this country and their rights to be free, their civil rights, and I do not want the long arm of the Federal Government coming in and interfering with religious rights.

I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. Boschwitz] is recognized for 2 minutes.

Mr. BOSCHWITZ. Mr. President, if I could ask the Senator from Massachusetts to recognize the Senator from Washington first?

Mr. KENNEDY. The Senator from Washington, under the time constraint, is yielded 90 seconds.

The PRESIDING OFFICER. The Senator from Washington [Mr. EVANS] is recognized for 1½ minutes.

Mr. EVANS. Mr. President, during the past few weeks I have received from my constituents thousands of phone calls and letters expressing concern about the quote, "evils and horrendous effects" of the Civil Rights Restoration Act. I am convinced that most of those who have contacted me have done so after being exposed to a gross misinformation campaign by organizations such as the moral majority. And, after listening to the recent round of debate on the Senate floor, I am compelled to respond to the latest attacks on this most important legislation. It is interesting to note that most of the major religious denominations in this country support the legislation this Congress passed.

I have heard everything from, "this bill will require churches to hire homosexuals affected with the AIDS virus" to "this bill will unduly burden private sector firms with paper work." With regard to the former assertion, nothing in the bill requires directly or indirectly, a firm to hire someone afflicted with the AIDS virus. Whether or not an individual with AIDS will be considered "disabled" within the meaning of section 504 of the Rehabilitation Act is an entirely separate inquiry. That interpretation has been settled by the courts. Addicts and persons with contagious diseases must be treated as handicapped except when they present a danger to the health and safety of others or cannot perform the essential functions of their positions.

S. 557 is concerned only with restoring the scope of coverage under our civil rights statutes. It does not in any way expand the classes of individual protections. The bill does not make sexual preference a protected class. It does not expand the scope of our major civil rights statutes—it merely restores congressional intent. Those statutes clearly prohibit discrimination on the basis of race, sex, age and disability. Thus, the legislation does nothing more than prohibit discrimination by those institutions and entities receiving Federal funds.

As for the latter assertion about the compliance burdens on institutions and the private sector, this issue already has been debated at great length. And, the Senate has expressed its will clearly and unequivocally. Sure, it may be inconvenient for a private entity to fill out the forms necessary and precedent to receiving Federal aid. Yet, does mere inconvenience outweigh the paramount concern of eradicating discrimination? I think not.

I will vote to override the President's veto. The arguments presented in his message to Congress offer nothing new or revealing—certainly nothing which has not been previously discussed and rejected by the Senate. The Civil Rights Restoration Act has one simple purpose—to make federally supported discrimination illegal once again. It achieves this purpose by carefully defining the terms "program or activity" in each of the four statutes in a manner which is consistent with judicial interpretations and administrative enforcement prior to Grove City versus Bell. It does not infringe upon first amendment protections for religious entities. S. 557 preserves the existing law religious tenets exemption. For example, current title IX regulations provide for a religious exemption where an educational institution finds the statute is inconsistent with its religious tenets. To date, no institution has been denied an exemption. Furthermore, it is important to keep in perspective that the goal of our civil rights statutes is universal compliance. Immunity from such compliance should be granted cautiously and judiciously, as is the current practice of adjudication on a case-by-case basis.

The basic question is whether we will allow Federal funds to be used to condone discrimination. I do not believe the majority of Americans want their tax dollars used to subsidize discrimination. Congress must finish the job it started in 1964 by clearly stating that our civil rights laws cannot be effective if too narrowly applied. I urge my colleagues to override the President's veto so that we can reaffirm this Nation's commitment to the vigorous protection of the civil rights of American women, minorities, elderly and disabled citizens.

The PRESIDING OFFICER. The Senator has used his allotted time.

Mr. KENNEDY. Mr. President, I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. BOSCHWITZ] is recognized.

Mr. BOSCHWITZ. Mr. President, I rise today to voice my support for the Civil Rights Restoration Act and to urge my colleagues to vote for an override of the President's veto of this important legislation.

In the past week, I have received well over 2,000 calls, many from friends, urging me to support the President's veto. One Republican County Convention adopted a resolution expressing "unified disgust" with my support of the Civil Rights Restoration Act and advised me I should seek other work in the event I vote for it.

Sometimes, of course, a Senator will have an honest difference of opinion with his constituents. I may disagree with some of my constituents about the best way to protect civil rights. At other times, however, our differences will be more a result of misunderstanding than strong disagreement.

That is why I have been very disturbed the past week by a campaign of disinformation that some opponents of this bill have waged. Their tactics have misrepresented this bill, misrepresented its bounds, and misrepresented what it would accomplish. In doing so, they have done a disservice to the people they serve and to the public debate that is taking place.

I was recently given a copy of something called the Moral Majority Alert, and I'm told it was sent a short time ago to thousands of its members across the country. Now I have no axe to grind with Jerry Falwell or the Moral Majority. We've been on the same side on some issues and opposed on others. But I find very objectionable the kind of tactics now being used in opposing this piece of legislation. Listen to this rhetoric:

"Your church or mine could be forced to hire a practicing active homosexual or drug addict as a teacher or youth pastor." The letter also says, "American churches, Christian schools and ministries will be forced to employ a certain number of homosexuals, alcoholics, transvestites and drug addicts."

Mr. President, if those things were true, I'd be at the head of the line opposing this bill. But we know, Mr. President, that Mr. Falwell is not only playing fast and loose with the facts. He's making a hysterical appeal that actually ignores the facts of this bill.

This bill clearly does not change the definition and standard for what constitutes discrimination. It does not give special protection on the grounds of sexual preference. It grants no special rights to homosexuals. The courts have never interpreted the four laws affected by this bill to extend special rights to homosexuals, and this bill will not allow them to do so.

Mr. Falwell goes on to say that homosexuals are protected by the bill because it "declares" that homosexuality is a "disease or handicap." The bill declares no such thing. It does not make any declaration on homosexuality. As far as diseases, it in fact makes clear that coverage does not include individuals who have contagious diseases that would threaten the health of others or prevent them from performing the duties of the job.

This bill is not changing the standard of discrimination. it is simply restoring what Congress believes to be the proper scope for civil rights laws. If a particular institution receives assistance in one of its programs, the entire institution must not discriminate on the basis of age, sex, race, or handicapped status.

Mr. Falwell makes this bill sound like a sinister plot which he says militant homosexual groups have "railroaded through Congress." That's absurd. This bill has been considered by Congress for 4 years, and it's overwhelming bipartisan support here in Congress reflects broad support for it throughout the country.

Mr. Falwell certainly has a right to differ with me and others on this bill. But when he distorts the bill to this degree in an effort to generate support for his cause, he has stepped over the line.

I will not repeat many of the assertations that I have heard made by others on the floor, but I conclude by saying:

Freedom in this country will not be threatened by this bill, as Mr. Falwell would have us believe. But justice is threatened when public campaigns bend and distort the truth in the name of their cause. I fought such a campaign of distortion when the opponents of Judge Bork sought to misrepresent his record. They were eventually successful. I will continue to fight those campaigns now and in the future from whatever side of the aisle they come.

Mr. Falwell can whip up all the hysteria he wants, and alarm as many people as he wants, and raise as much money as he likes. But this Senator is going to continue to support this bill to protect and expand civil rights of all Americans. I'm proud to support this bill and reaffirm the commitment of the U.S. Senate to civil rights for all Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. Two minutes and 50 seconds.

Mr. KENNEDY. I yield myself the remaining 2 minutes.

Again and again in this debate, we have heard the arguments of the moral majority and the rightwing against this legislation. Those arguments are full of sound and fury—but they signify nothing but disinformation about this bill. Never in the history of civil rights have so many phone calls done so much to distort so many facts.

These are the same reprehensible arguments we have always heard against civil rights. The issue is discrimination, pure and simple. Opponents of this measure have left no stone unturned in their unseemly attempt to carve new loopholes in the law and provide greater leeway for bias and discrimination.

The arguments of the opponents are awash in hypocrisy. They pay lip service to civil rights, but they refuse to practice what they preach. When the chips are down, they never met a civil rights bill they didn't dislike.

We have come too far in civil rights over the past three decades to roll back the clock today. Federal funds should not be used in any way, shape or form to subsidize discrimination because of race, sex, age, or disability.

It has been 121 years since a President of the United States has vetoed a civil rights bill. Congress overrode Andrew Johnson's veto in 1867, and Congress should override Ronald Reagan's veto today.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah has 57 seconds remaining.

Mr. HATCH. Mr. President, I yield 10 seconds to the distinguished Senator from Colorado.

YOU CAN'T RESTORE WHAT NEVER WAS

Mr. ARMSTRONG. Mr. President, S. 557, the Civil Rights Restoration Act, is misnamed.

I know that its proponents say over and over again that the act does nothing more than restore the law to its pre-*Grove City College* v. *Bell*, 465 U.S. 555 (1984), status, but the proponents are wrong. Their own bill demonstrates my point:

Look at section 2, the congressional findings. The second finding reads:

> The Congress finds that legislative action is necessary to restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered.

What section 2 does not say and cannot honestly say is that S. 557 would restore the law to what it was as interpreted and construed by the judicial branch. The vast weight of judicial opinion was against institution-wide coverage. The following list shows the major cases that demonstrate that prior to Grove City the civil rights statutes were usually read to be just what their words say they are, viz., program specific:

North Haven Bd. of Education v. *Bell*, 456 U.S. 512 (1982).

Hillsdale College v. *Dept. of H.E.W*, 696 F.2d 418 (6th Cir. 1982), vacated and remanded in light of *Grove City*, 104 S.Ct. 1673 (1984).

Brown v. *Sibley*, 650 F.2d 760 (5th Cir. 1981).

Doyle v. *Univ. of Alabama at Birmingham*, 680 F.2d 1323 (11th Cir. 1982).

Rice v. *Pres. & Fellows of Harvard Coll.*, 663 F.2d 336 (1st Cir. 1981), cert. denied, 456 U.S. 928 (1982).

Simpson v. *Reynolds Metals Co.*, 629 F.2d 1226 (7th Cir. 1980).

Bd. of Instruction of Taylor Co. v. *Finch*, 414 F.2d 1068 (5th Cir. 1969) [cited by both supporters and opponents of the idea that Title VI is program specific].

Romeo Community Schools v. *Dept. of H.E.W.*, 438 F.Supp. 1021 (E.D.Mich. 1977), aff'd, 600 F.2d 581 (1979).

Othen v. *Ann Arbor School Bd.*, 507 F.Supp. 1376 (E.D. Mich. 1976), aff'd, 699 F.2d 309 (6th Cir. 1983).

Dougherty Co. School Sys. v. *Harris*, 622 F.2d 735 (5th Cir. 1980), vacated, 102 S. Ct. 2264 (1982), on remand, 694 F.2d 78 (1983).

Univ. Richmond v. *Bell*, 543 F.Supp. 321 (E.D.Va. 1982).

Bachman v. *Am. Soc'y of Clinical Pathologists*, 577 F.Supp. 1257 (D.N.J. 1983).

Miller v. *Abilene Christian Univ. of Dallas*, 517 F.Supp. 437 (N.D.Tex. 1981).

Angel v. *Pan American World Airways*, 519 F.Supp. 1173 (D.D.C. 1981) (dicta) ("To hold that commercial airlines fall within Section 504 merely because of assistance provided to airports would expand improperly the accepted proposition that Section 504 is limited to direct recipients of federal funds." Id. at 1178).

On page 10 of the Committee Report there are cited a number of cases that the committee uses to demonstrate pre-Grove City that was institution wide. The Department of Justice replies that many of those cases do NOT support institution wide coverage. The Department of Justice said of the committee's case law:

"Board of Public Instruction of Taylor County v. *Finch*, 414 F.2d 1068 (5th Cir. 1969) does not 'assume [ ] and endorse [ ] institution-wide coverage. . . .' as the Committee Report at 10 says it does. Indeed, the Supreme Court has cited this case as support for the 'program-specific' reading of these statutes. *North Haven Board of Education* v. *Bell*, 456 U.S. 512, 538 (1982). Likewise, a reading of the *Finch* holding itself does not indicate anything but a 'program-specific' conclusion.

"United States v. *Jefferson Co. Board of Education*, 372 F.2d 836 (5th Cir. 1966), aff'd en banc, 380 F.2d 385, cert, denied, sub nom *Caddo Parish Board of Education* v. *United States*, 389 U.S. 840 (1967) does not support institution-wide coverage under title VI. That case dealt with a public school system-wide desegregation remedy where there was a constitutional claim at issue. The scope of title VI was not discussed in the opinion.

"United States v. *El Camino Community College District* 454 F. Supp. 825 (C.D. Cal. 1978), aff'd 600 F.2d 1258 (9th Cir. 1979) cert, denied, 444 U.S. 1013 (1980). The Committee Report states the holding as '(Title VI investigation of entire College appropriate.)' Committee Report at 10. The court's decision that an agency's investigatory authority—as distinguished from its regulatory authority—is broader than programs covered by title VI is not inconsistent with the program-specific scope of that statute. An agency has some authority to investigate more broadly than the federally-assisted programs or activities in order to determine whether discrimination is occurring in those assisted programs or activities. The agency, however, may only regulate—and seek remedial action in—those federally-assisted programs or activities.

"The court's decision in *Flanagan* v. *President and Directors of Georgetown College*, 417 F. Supp. 377 (D.D.C. (1976)), that non-federally assisted financial aid dispensed in a law school built with Federal assistance is covered by title VI, is fully reflective of the program-specific scope of title VI. That activities occurring within buildings constructed with Federal financial assistance are themselves covered, for a period of time, by virtue of such construction aid, is fully consistent with the program-specific reach of title VI. This case provides no support for a scope of coverage beyond program-specificity."

I thank the Chair.

Mr. HATCH. Mr. President, I think it is an injustice to say that the sincere, religiously motivated people across this country really dislike all civil rights bills. I do not agree with that statement. I do not think they agree with that, and I think, again, this is an oversimplification, like saying that this is just a simple overrule of the Grove City case. It just is not restoring the law as it was 1 day before Grove City.

This is a tremendously broad statute that is going to intrude into many, many entities and organizations, practically all in our society, in four statutory ways, and frankly that is the thing I am concerned about more than anything else. I can live with all of that because I, too, want civil rights protected. I cannot live with the way churches are treated in this bill.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Massachusetts has 1 minute.

Mr. KENNEDY. Mr. President, I yield to Senator KASSEBAUM.

Mrs. KASSEBAUM. Mr. President, I am voting today to override the President's veto of S. 557, the Civil Rights Restoration Act. Like other Members of the Senate, I have received thousands of phone calls in opposition to this legislation and in support of the President's veto of it.

This outcry is of concern to me—not because the callers oppose the position I have taken on this bill—but rather because the calls are based on inaccurate information about what this bill does.

It really is a disservice to sound policy development when misinformation so clouds the debate that any opportunity to discuss alternatives is lost. Moreover, it is a disservice to American citizens to scare them out of their wits with distorted representations of legislation before Congress.

Thomas Jefferson spoke eloquently of the critical role which an informed citizenry plays in making our democratic system work. Public debate is enriched by the thoughtful contributions and give-and-take by people who have studied an issue. It is meaningless when misinformation is presented as fact and when intolerance replaces a respect for opposing views.

With this in mind, I think it is important to set the record straight on some of the statements which have been made about this bill.

The most frequently mentioned concern is that this legislation would force churches and schools to hire homosexual teachers. This is ridiculous. The bill absolutely does not do this.

The legislation does not change the definition of sex discrimination—which deals with gender, not sexual preference. Current Federal civil rights statutes do not prohibit discrimination on the basis of sexual orientation and do not force anyone to hire homosexuals. The Civil Rights Restoration Act does not do so either.

Another statement about this legislation is that it declares that AIDS is a handicap. This legislation does not give any additional rights to persons with AIDS.

AIDS appears to have arisen as an issue in this legislation due to an amendment offered by Senators HUMPHREY and HARKIN which addresses issues raised by the Supreme Court decision in the Arline case. In that case, the Court determined that individuals with contagious diseases are "handicapped" for purposes of coverage under section 504 of the Rehabilitation Act. That is the interpretation of current law. It will continue to be the interpretation of current law, whether or not the Civil Rights Restoration Act is enacted.

The Humphrey-Harkin amendment clarifies that individuals with currently contagious diseases are not handicapped individuals for purposes of section 504 as it relates to employment if they constitute direct health or safety hazards to others or if they are unable to perform the duties of the job due to their disease. I might point out that the Humphrey-Harkin language is also included in the alternative civil rights bill submitted by the President with his veto message.

With respect to the religious freedom issues which have been raised, I would first point out that a large number of Catholic, Jewish, and Protestant groups have endorsed this legislation and have expressed their belief that religious freedom is adequately protected under it. The "religious tenets" exemption under title IX is maintained, and no request for such an exemption has ever been denied. Moreover, churches and synagogues will continue to be able to give preference to their own members.

Another issue is the statement that farmers who receive price support payments would come under coverage of civil rights laws if this legislation is enacted. Again, there is nothing in this legislation or its accompanying report which supports this interpretation. To the contrary, farmers receiving crop subsidies are explicitly cited in the committee report as being "ultimate beneficiaries" who were excluded from coverage prior to the development of this legislation and who will continue to be excluded after the bill is enacted.

Others have indicated that grocery stores will be covered because they accept food stamps. As noted in materials prepared by the Department of Justice, the Department of Agriculture never has—and does not now—consider grocery stores which redeem food stamps as being recipients of Federal aid.

Although there is a great deal of misunderstanding about this bill, there is also some honest disagreement about what it will mean. The stated intent of this legislation is not to expand the reach of Federal civil rights laws but rather to restore the broader coverage under these laws which existed prior to the Supreme Court's 1984 decision in the Grove City versus Bell case.

I question, for example, the need to single out for special mention businesses "principally engaged in education, health care, housing, social services, or parks and recreation." On the whole, however, I believe that the bill meets its stated intent.

It does become frustrating to try to pin down the ins-and-outs of legislative provisions and to see how they might be applied under various regulatory or judicial theories. There is great truth in Alexander Solzhenitzyn's observation that "When the tissue of life is woven of legalistic relations, there is an atmosphere of moral mediocrity, paralyzing man's noblest impulses."

Nevertheless, we have tried to strike a sensible balance, and the four civil rights statutes included in this legislation have been in force for many years. Title VI of the Civil Rights Act—which bars discrimination on the basis of race, color, or national origin—has been in effect since 1964. Title IX of the Education Amendments of 1972—which prohibits sex discrimination in education—has been in force for over 15 years. Section 504 of the Rehabilitation Act, which prohibits discrimination against the handicapped, was enacted in 1973. The Age Discrimination Act became law 20 years later, in 1975.

In the years prior to the Grove City decision, enforcement of these civil rights laws was based on the broad interpretation of institution-wide coverage. Undoubtedly, it has not been smooth going every step of the way, but we have managed to work things out. In the process, we have made great progress toward establishing a society where equality of opportunity is not merely a slogan, but a tangible goal.

Moreover, we have signaled through Federal civil rights statutes that we have made a commitment to fair treatment of individuals as individuals. In many ways, it is this commitment which is most important of all, and I don't think we can afford to back away from it.

Mr. KENNEDY. Mr. President, I ask unanimous consent that a brief from the law firm of Steptoe and Johnson be printed in the Record. This opinion letter, signed by managing partner Robert E. Jordan III and Susan G. Esserman, concludes that neither farmers receiving crop subsidies nor homosexuals are covered by these laws.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 22, 1988.

Senator EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: This letter is in response to your request for an opinion on two issues relating to S. 557, the Civil Rights Restoration Act of 1987 ("CRRA"). This letter will address: (1) whether farmers receiving crop subsidies, federal price supports, and other similar commodity benefits are covered by the CRRA and the underlying anti-discrimination statutes—Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (1982) ("Title VI"), Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 (a) (1982) ("Title IX"), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (1982) ("Section 504"), and the Age Discrimination Act of 1975 ("Age Act"), 42 U.S.C. § 6102 (1982) ("the anti-discrimination statutes"); and (2) whether the CRRA and the relevant underlying anti-discrimination statutes afford protection to homosexuals. Our opinion is confined to these two specific issues.

I. Whether farmers receiving crop subsidies, federal price supports, and other similar commodity benefits are covered by the CRRA and the underlying anti-discrimation statutes?

Farmers who receive crop subsidies, price support payments, and similar commodity benefits are not covered by the CRRA or any of the underlying anti-discrimination statutes.

Section 7 of the CRRA provides that "ultimate beneficiaries" that were excluded from coverage underlying anti-discrimination statutes prior to enactment of the CRRA will continue to be excluded from coverage after enactment of the CRRA. Farmers who receive crop subsidies traditionally have been considered to be "ultimate beneficiaries" and therefore excluded from coverage under Title VI, the earliest of the anti-discrimination statutes and the model for the other underlying discrimination statutes.[1] Moreover, the Senate Committee Report accompanying the CRRA, S. Rep. No. 64, 100th Cong., 1st Sess. (1987), specifically affirms that farmers receiving crop subsidies are an example of ultimate beneficiaries previously excluded from coverage of the anti-discrimination laws and thus exempt from coverage after enactment of the CRRA.

Section 7 of the CRRA establishes the following rule of construction: "Nothing in the amendments made by this Act shall be construed to extend the application of the Acts so amended to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act."

Section 7 thus provides that the CRRA should not be interpreted to expand the application of the anti-discrimination statutes to ultimate beneficiaries of federal financial assistance, if such ultimate beneficiaries traditionally had been excluded from coverage under the statutes. Regulations for the lead agency implementing the anti-discrimination statutes exclude from coverage the "ultimate beneficiaries" of federal assistance. *See* 45 C.F.R. § 80.2 (1987) (Health and Human Services regulations implementing Title VI); 45 C.F.R. § 84.3(f) (1987) (Health and Human Service regulations implementing Section 504); 86 C.F.R. § 90.4(2) (1987) (Health and Human Services regulations implementing the Age Act.[2]

Farmers receiving crop subsidies and similar federal benefits were specifically identified as ultimate beneficiaries excluded from coverage of Title VI by the legislative history of the bill. For example, Senator John Sherman Cooper introduced into the Congressional Record a letter from Attorney General Robert Kennedy stating that since farmers who are recipients of commodity programs are "ultimate beneficiaries", Title VI "would not authorize imposition of any requirements on individual farmers participating in various agriculture support and marketing programs." 110 Cong. Rec. 10076 (1964). Senator Hubert Humphrey also unequivocally stated that Tite VI would not subject farmers who receive benefits such as crop subsidies to the requirements of Title VI:

"Title VI will have little . . . effect on farm programs. It will not affect direct Federal programs, such as CCC price support operations, crop insurance, and acreage allotment payments. It will not affect loans to farmers, except to make sure that the lending agencies follow nondiscriminatory policies. *It will not require any farmer to change his employment policies.*" 110 Cong. Rec. 6545 (1964) (Emphasis added).

The Department of Agriculture ("DOA") regulations promulgated pursuant to Title VI reflect the congressional intent to exempt farmers receiving crop subsidies or other price support benefits from coverage under Title VI. Section 15.1 of the DOA regulations specifies that the anti-discrimination regulations do not apply to any recipient "who is an ultimate beneficiary under any such program." 7 C.F.R. § 15.1 (1987). Section 15.3(d)(7) offers as an example of those persons to whom the antidiscrimination regulations apply those producer associations or cooperatives that are required to provide specified price support benefits to producers, *i.e.*, individual farmers. These organizations that administer a federal program are materially different from ultimate beneficiaries, such as farmers who receive and are the actual beneficiaries of crop subsidies or price support payments.

Because farmers receiving crop subsidies and other similar programs are clearly identified as ultimate beneficiaries and excluded from coverage under Title VI, the Senate Report to the CRRA specifically identifies such farmers as ultimate beneficiaries of federal programs excluded from coverage under the CRRA. *See* S. Rep. No. 64, 100th Cong., 1st Sess. 24 (1987). As the Senate Report states: "So, from the beginning in the legislative history of Title VI, the model for the other three statutes, we have the unequivocal statement that farmers who receive crop subsidies are not covered." S. Rep. No. 64 at 25.

Testimony on an earlier and nearly identical version of the CRRA introduced in the 99th Congress (H.R. 700) confirms that the anti-discrimination statutes have never been interpreted to reach the activities of ultimate beneficiaries of federally financed programs, such as farmers receiving crop subsidies. *See* H.R. Rep. No. 700, 99th Cong., 1st Sess. (1985). According to the testimony of Daniel Marcus, former General Counsel of the Department of Agriculture, the rationale for such an exclusion was:

> In enacting the [anti-discrimination statutes] Congress was not concerned with regulating the activities of the tens of millions of Americans who are the ultimate beneficiaries of the federal financial assistance, but who in no sense operate a federally-financed program or activity. Rather, Congress was concerned with the state agencies, the educational institutions and others who operate programs or conduct activities providing services to others and who are in a position to injure ultimate beneficiaries through discrimination. In other words, ultimate beneficiaries are to a large extent the people intended to be protected by Title VI and the other anti-discrimination statutes, not . . . subjected to those statutes. H.R. Rep. No. 700, 99th Cong., 1st Sess. 1182 (1985).

In summary, under the anti-discrimination statutes and their regulations, those categories of persons deemed to be ultimate beneficiaries of federal financial assistance are not covered by the requirements of the acts. The legislative history of the CRRA and Title VI specifically identify farmers receiving crop subsidies as belonging to the category of ultimate beneficiaries. Section 7 of the CRRA in our opinion ensures that those ultimate beneficiaries excluded before the passage of the Act will continue to be exempt from coverage under the anti-discrimination statutes. Thus, it is our opinion that even farmers receiving crop subsidies or farm support under programs enacted after passage of the CRRA would still be exempt from coverage from the CRRA and the underlying anti-discrimination laws since such farmers constitute a category excluded prior to enactment of the CRRA.

II. Whether the CRRA and the relevant underlying anti-discrimination statutes afford protection to homosexuals?

In our opinion the CRRA does not expand the category of persons entitled to protection under the underlying anti-discrimination statutes and thus does not create any rights or protection against discrimination for homosexuals. Moreover, the underlying anti-discrimination statutes[3] have never been interpreted to extend rights or protection against discrimination to homosexuals.

Title IX has never been construed to extend protection against discrimination to homosexuals. Title IX provides that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. . . ." 19 U.S.C. § 1681. Thus, the language of Title IX refers to discrimination based on gender and does not mention discrimination based on sexual preference. Similarly, the legislative history of Title IX and regulations implementing it address and reflect concern for the protection of women and do not even refer to homosexuals. Moreover, there are no reported cases where the argument that Title IX offers homosexuals protection against discrimination is even discussed by a court.

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[1] With respect to the other underlying statutes, Title IX, which applies to federal funds provided to education, has no practical application to this specific issue. Section 504 and the Age Act, which do have application to all federally funded programs, are modeled after and contain the same "ultimate beneficiary" exclusion as Title VI. Thus, while farmers receiving crop subsidies are not specifically enumerated as a type of ultimate beneficiary, there is nothing in these statutes, regulations, or case law that would suggest any interpretation of "ultimate beneficiary" in these statutes, as applied to farmers receiving crop subsidies, that would be materially different from the treatment afforded such farmers under the model statute, Title VI.

[2] The regulations implementing Title IX do not contain an express exclusion, but they have been applied in a similar manner. *See* H.R. Rep. No. 963, 99th Cong., 2d Sess., pt. 1, 20 (1986).

[3] Only two of the underlying anti-discrimination statutes, Title IX and Section 504 need to be examined in reaching this conclusion. Title VI, which protects against discrimination on the basis of race or national origin, and the Age Act, which protects against age discrimination obviously are not relevant to this issue.

Under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 (1982) ("Title VII"), which bars sex discrimination in employment in language identical to Title IX, it is well settled that homosexuals are not covered. The courts have uniformly held that Title VII does not prohibit employment discrimination on the basis of sexual preference. The rationale for this position has been that, absent clear legislative expression to the contrary, the word sex should be given its normal interpretation, which means that it applies to a person's gender rather than sexual orientation. *See, e.g., De Cintio v. Westchester County Medical Center,* 807 F.2d 304 (2d Cir. 1986), *cert. denied,* 108 S. Ct. 89 (1987); *Sommers v. Budget Marketing, Inc.,* 667 F.2d 748, 750 (8th Cir. 1982) (per curiam); *De Santis v. Pacific Telephone & Telegraph Co.,* 608 F.2d 327 (9th Cir. 1979); *Blum v. Gulf Oil Corp.,* 597 F.2d 936 (5th Cir. 1979) (per curiam); *Smith v. Liberty Mutual Insurance Co.,* 569 F.2d 325, 326–27 (5th Cir. 1978); *Holloway v. Arthur Andersen & Co.,* 566 F.2d 659, 662 (9th Cir. 1977); *Voyles v. Ralph K. Davies Medical Center,* 403 F. Supp. 456, 457 (N.D. Cal. 1975), *aff'd mem.,* 570 F.2d 354 (9th Cir. 1978). The identity of language between Title VII and Title IX, in our opinion, suggests that Title IX would also be interpreted to exclude homosexuals from its coverage.

The other potentially relevant underlying statute, Section 504, also has not been interpreted to afford homosexuals protection against discrimination. The language of Section 504 protects against handicap discrimination in federally funded programs and does not mention protection for homosexuals. Nor do the legislative history or regulations even refer to the issue of homosexuals. The only reported case that confronts the issue of homosexual coverage under Section 504, *Blackwell v. United States Department of the Treasury,* 830 F.2d 1183 (D.C. Cir. 1987), affirmed a district court holding that a person's sexual orientation or preference is not protected under Section 504.

In conclusion, our opinion concerning the two issues for which you have sought advice is: 1) Farmers who receive crop subsidies, federal price supports, and similar commodity benefits are not covered by the CRRA or any of the underlying anti-discrimination statutes; and 2) The CRRA does not create any rights or protection against discrimination for homosexuals, and the underlying anti-discrimination statutes have never been interpreted to afford homosexuals protection from discrimination.

Sincerely,

ROBERT E. JORDAN III.
SUSAN G. ESSERMAN.

Mr. KENNEDY. I yield back the remainder of the time.

The PRESIDING OFFICER. All time is yielded back.

Mr. BYRD. Does the Senator have any time left?

Mr. KENNEDY. Thirty seconds.

The PRESIDING OFFICER. The Senator has 45 seconds remaining. Forty-five seconds remain in the debate.

The PRESIDING OFFICER. All time has expired.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, "Shall the bill (S. 557) pass, the objections of the President of the United States to the contrary notwithstanding?" The yeas and nays are mandatory under the Constitution.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], and the Senator from Mississippi [Mr. STENNIS], are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 73, nays 24, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—73

Adams
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Stevens
Weicker
Wilson
Wirth

NAYS—24

Armstrong
Bond
Cochran
Danforth
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Humphrey
Karnes
Lugar
McClure
McConnell
Nickles
Pressler
Quayle
Simpson
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—3

Biden
Dole
Stennis

The PRESIDING OFFICER. The Chair will remind the gallery, when we are announcing the vote, not to show approval or disapproval of the Senate's vote.

On this vote, the yeas are 73; the nays are 24. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, part of being a Member of this august body is to understand that you win some and sometimes you lose some. That is the nature of our process.

I would like to pay particular tribute to the distinguished Senator from Massachusetts, and, I might add, the distinguished Senator from Connecticut, Senators KENNEDY and WEICKER, for the distinguished and effective way they conducted themselves during this debate.

I think the debate was basically, in large part, on substantive issues. I believe we were all able to focus upon our common objectives, and that is, provide civil rights for the people throughout this country and protect those rights.

This bill will go a long way toward doing that. I, of course, have stated my viewpoint as to religious rights and freedoms. We have to see what happens. If the other body follows suit, this bill will become law, and the President's veto will be overridden.

I hope, if some of the problems I have been discussing do arise, that my friends who advocate so strongly for this bill will join me to ensure that our civil rights laws are enforced, but not in ways that will impugn or trample upon the rights of the religious freedoms in this country.

I do not want to see religious schools suffer because of this bill. I do not want to see religious institutions, churches included, suffer as a result of this bill.

Frankly, Mr. President, I would like to just say a word about the President.

No one in politics wants to be branded as anticivil rights, and certainly I do not think anyone in this body deserves to be branded that way, regardless of how hard things have been fought, and certainly the President does not want to be.

I feel the President should be congratulated for having the kind of courage he displayed on this issue. He felt deeply about the seven amendments that he presented, the two foremost of which involve the churches' and synagogues' problem and, of course, the religious tenets problem.

So I would like to just say that I appreciate what he did. He suffered a defeat today. There are going to be other issues and other battles where he is going to win important victories during the remainder of this administration.

I believe the important thing we can take from this is that we all know that President Reagan is not going to be intimidated by the fact that he has overwhelming odds against him, as this bill has presented. You can bet on the fact he is going to win more than he loses, even though he has lost here today.

Again, I would like to give my congratulations to the distinguished Senator from Massachusetts. He has been articulate; he has been effective; he has mobilized outside and inside forces which I think have allowed this great victory that he and his counterpart from Connecticut, Senator WEICKER, have achieved here today.

This used to be the Weicker-Kennedy bill in the prior Congress. I do not think enough good can be said about Senator WEICKER at this time and the leadership he has provided and the effective way he has conducted the debate. I have immeasurable respect for both these gentlemen and both of these dear colleagues.

I want them both to know that, even though we still have disagreements, which we have articulated on the floor. We have lost, and I want to congratulate them on this tremendous victory and let them know I appreciate the way they have treated this particular Senator from the State of Utah.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I appreciate the kind and generous remarks of the Senator from Utah. I serve with him not only on the Human Resources Committee, but on the Judiciary Committee, and he is an able lawyer.

I think the debate on this bill has focused the issues which are before this body concerning federally subsidized discrimination affecting millions of disabled, elderly, women and minorities, in our country. I appreciate the opportunity to work with the Senator from Utah, even though we are adversaries on this particular issue.

The debate of the past 4 years and the debates which we have held in the committee and on the floor this year, have exposed these issues to exhaustive examination, and brought them into sharp focus.

This victory today is enormously important for millions of Americans who have not had equal opportunity in the period since the Grove City case was decided. I have been in the U.S. Senate now for 25 years, and I was a part of those bipartisan coalitions in the early sixties and seventies, that worked for meaningful progress in the areas of civil rights.

Once again today, this victory, although it is expressed in the 73 votes of the U.S. Senators today, arises from important traditions in both political parties of protecting individual rights and liberties and extending those protections to millions of Americans who did not have protections until the last 24 years.

I have welcomed very much the opportunity to work in this area, as in other areas, with my colleague and friend, the Senator from Connecticut. He is an articulate and forceful spokesman for equal opportunity. We look forward now to seeing a successful outcome in the House of Representatives.

Today, the American people are saying today through their representatives in the Senate that this country does not want to retreat on the issue of protection of civil rights for all American people.

America is America because of the progress that has been made, and that progress was reaffirmed today in this very strong vote. I am hopeful that the House will override the veto in a similar manner, and then I think the message will go out to the women in our society, the minorities, the elderly, and the disabled that this country is a country that is not going to let them down and leave them behind. This vote should bring a good deal of satisfaction to people all over this country. I am grateful to the Senator from Utah for his comments and look forward to working with him in the future.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from Utah for his very gracious remarks. I also thank the distinguished Senator from Massachusetts for what truly has been a difficult task from its inception, and not just the vote which everybody can see here on the floor but the work behind the scenes in the committee to bring about this day.

The distinguished Senator from Utah was a very important part of this debate—indeed, the debate on many matters. He brings precision to the argument, integrity to the debate, and any legislation that has gone through the sifting process of the mind of the distinguished Senator from Utah is better legislation, win or lose. As he says, you win some, you lose some.

Briefly, then, again my thanks to all who participated in this matter. It has been a battle over years, not just weeks and months. But most importantly I am really happy for my country today. I am really happy in the sense that the commitments of bygone generations have been renewed, whether commitments to the handicapped, or women, or blacks, or Hispanics, or the elderly. The vote today is not only a renewal of commitments to them but the promise to others who are minorities in this country. That is really what happened here today. We have done so much that grinds out of philosphical debate. It is a very happy moment when once again promise is held out to a part of America which, indeed, makes us one people. So somewhere out there I am sure there is an individual who is going to look at the result of what happened here and figure "My turn at bat is coming up and I am going to make it." I cannot think of any better thought that would attach to any legislation passed by this body.

Mr. HATCH. Mr. President, I thank the Senator for the remarks he made about me. It is typically gracious of him and I appreciate that.

Mr. ADAMS addressed the Chair.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I will not delay the proceedings but I simply echo the remarks of Senator KENNEDY and Senator HATCH and Senator WEICKER. As a member of that committee, I am grateful this has been done. I am particularly grateful it has been done because I know in the case of the younger generation, particularly my daughters, they will see a renewal of America's faith in treating people in a decent, fair, openhanded fashion, and that there is opportunity for everyone. I think it is an historic moment for the Senate and I am grateful to have been a part of it. I thank the ranking minority leader for the time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The acting Republican leader is recognized.

Mr. SIMPSON. Mr. President, I thank the floor managers for their excellent work in a situation which could have been more polarized than it was. I thank Senator KENNEDY and Senator HATCH for the very civil and professional way they have gone about their business. That makes it easier to legislate. And, indeed, I am certain all will understand that anyone who would have voted to sustain the veto does not have any lesser commitment to the lesser in our society. I think that was clear in the debate.

I would like to clarify a statement I made earlier regarding Senator DOLE's position on the Grove City veto override. I think it is very indicative of some of the confusion and polarization and emotionalism on this issue that such a clarification is even necessary or required, but let me do that.

Let there be no doubt that Senator BOB DOLE, our minority leader, supports legislation to overturn the Grove City case. I voted that way. He voted that way. I recall his work on civil rights throughout his entire time in this body. As to those of us who did vote to sustain the President's veto of the bill, all of us are interested in changing and overturning the Grove City decision. That should not be lost on any citizen of the United States. Senator DOLE did, indeed, oppose the administration on many aspects of this issue and has indicated that publicly. And, again, as we saw here in the vote total, there were several persons who, if the vote had been near the figure of 33, which was the amount necessary to sustain, would have been supportive of the cause, and that is the position of Senator DOLE. It was a position of mine originally held, that if the vote were required to sustain the veto, there were many of us out of loyalty to the President and as leaders of our party in the U.S. Senate who would be there to vote to sustain. I think that clarification should be made. If I in any way reflected differently Senator DOLE's position, I certainly would not want that to stay in the RECORD in that form, and thus the intent of mine to enter this correction.

Mr. President, the majority leader is not present and I would never want to act without his approval and knowledge. That is an issue of deep trust which I respect.

Mr. PRESSLER. Mr. President, could I make a short statement?

Mr. SIMPSON. Indeed.

The PRESIDING OFFICER. The Senator from Wyoming yields the floor?

Mr. SIMPSON. I yield the floor for that purpose. Approximately how long will the Senator from South Dakota require?

Mr. PRESSLER. About 3 or 4 minutes.

Mr. SIMPSON. Yes, indeed, I do yield the floor for that purpose.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I wish to explain my vote on the Civil Rights Restoration Act.

I voted with the President today.

There was a great deal of discussion about whether or not farmers were affected by the bill we voted on today. The President's substitute bill clearly states that farmers would not be included. There was a colloquy on this floor in which it was suggested that farmers were not included in the bill vetoed by the President. Of course, I did not want farmers to be included. However, some Supreme Court Justices and other Federal judges do not give much weight to a colloquy in rendering decisions in cases arising from Federal legislation. They want to see black letter law, and that is the usual practice of the Supreme Court. So I felt it was appropriate to support the President's substitute bill which clearly states the bill's application to farmers. There was a disagreement between lawyers here on the Hill and lawyers in the Justice Department as to exactly what the bill passed by Congress said. I think it was overbroad. I think it would give too much authority to judges to determine how it might apply to farmers.

So, although a number of remarks were made here on the Senate floor, it was all colloquy. For that reason, I supported the President. I feel very strongly that as this bill goes down the road it will be interpreted to include farmers. Judges have been given very wide latitude under the bill just passed over the President's veto to apply it quite broadly.

I continue to support strong civil rights legislation. But now that we have what I consider to be a clearer alternative in the President's substitute, I would prefer it to the bill we just voted on.

I thank the Chair.

S. 79—AMENDMENTS BY SENATOR HATCH

Mr. SIMPSON. Mr. President, I note the presence of the majority leader. So I feel more comfortable in asking unanimous consent that I may submit several amendments with regard to S. 79, which I understand must be at the desk before 1 o'clock, on behalf of Senator HATCH. And I ask unanimous consent that I may do so.

The PRESIDING OFFICER. Without objection, the amendments will be considered amendments of the Senator from Utah.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. If there is no further morning business, morning business is closed.

RECESS UNTIL 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 12:43 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAHAM).

HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The PRESIDING OFFICER. The clerk will report the unfinished business.

The bill clerk read as follows:

> A bill (S. 79) to notify workers who are at high risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes:

The Senate resumed consideration of the bill.

Mr. METZENBAUM. Mr. President, today we begin consideration of S. 79, the High Risk Occupational Disease Notification and Prevention Act.

This is the most important occupation health legislation of the past decade. As principal author of the bill, I am pleased and proud that it is before the Senate. Last October, the House passed the companion bill. Now it is our turn to stand up to help save the lives of tens of thousands of American workers.

I commend the Senate leadership for scheduling this bill. I also thank my colleagues on the Labor Committee, particularly our chairman, Senator KENNEDY, who patiently but firmly helped move this bill through a number of markup sessions. I pay special tribute to one of the most revered members of this body, Senator ROBERT STAFFORD, who joined me in introducing this legislation. His commitment to this bill is totally consistent with his career as a beacon for common sense and a steady voice for moderation and compassion within the Senate.

Over the next several days, unfortunately, there may be few words of moderation heard about this bill. We will hear charges and countercharges; representations and misrepresentations. There will be a number of amendments, some constructive and germane, others designed to disrupt the debate and confuse the issue. There is even talk of a filibuster. But before we get caught up in intense debate, I want to discuss the simple principle underlying the bill—that a worker has the right to know when he or she is at high risk of disease from past workplace exposures.

Millions of Americans put their lives on the line every time they punch a timeclock. These hard-working men and women are exposed to occupational health hazards. Often it will take years for the hazards to manifest themselves in disease. But if workers know they have been exposed to occupational hazards, they can get medical monitoring and counseling before the disease has reached a critical, untreatable stage.

Getting accurate information to workers in timely fashion is what this bill is all about. It creates a medical/scientific panel to review existing scientific evidence. Based solely on the scientific evidence, that panel will designate particular worker populations at high risk of occupational disease. Once the scientific designation is made, the National Institute for Occupational Safety and Health will identify and notify as many of the workers in the designated risk population as possible. Workers will be told the nature of the risk, the diseases or conditions asssociated with the risk and their option to seek medical monitoring to detect any symptoms of the disease or condition.

It is that simple and it is critically important. Each year, up to 87,000 deaths in the United States are attributable to hazardous occupational exposures. That is more than the number of people who die on our highways each year; that's more than the number of deaths we had in the entire Vietnam war. The cost in human misery cannot be measured in dollars, but occupational disease does exact a staggering financial toll on the private and public sectors. The Congressional Research Service estimates that occupational disease cost the United States close to $10 billion in 1985.

There are many strategies to prevent the spread of occupational disease. Obviously, primary prevention is vitally important. That is what OSHA is all about—preventing exposures and abating hazards in the first instance. But secondary prevention also is terribly important. S. 79 promotes medical intervention at the secondary stage—after hazardous exposure but prior to the onset of disease. There is broad consensus among medical and scientific experts that secondary prevention does make a difference. The Centers for Disease Control has already identified over 17 million workers exposed to specific hazardous substances for which medical monitoring is effective. According to the American Cancer Society, up to 25,000 occupational cancer deaths per year can be prevented through early detection and medical intervention.

It costs $21,000 to care for a cancer patient in the terminal year. By preventing 25,000 cancer deaths per year, we can save over $500 million annually in health care costs. Given that employers pay the health care costs of 75 percent of American workers, it should be obvious that—in addition to relieving human suffering—this bill can save employers hundreds of millions of dollars in medical care costs alone.

Opponents of S. 79 never even talk about cost savings. Instead, they are touting a number of wild cost estimates as a scare tactic. At the appropriate time, I am prepared to take on those estimates point-by-point. For now, let me quote an insurance industry executive who testified that this bill "not only will not increase workers' compensation and liability insurance costs in the short term, but also will assure a long-term downturn in occupational disease frequency and severity, thereby reducing insurance costs for both employers and manufacturers in the future."

Some may be surprised that I quoted an insurance executive on S. 79. But the fact is a major segment of the business community supports the legislation. In all my years as a legislator, including my days in the Ohio Senate and the Ohio General Assembly, I have never seen such a broad coalition of support for legislation to help workers. On a major bill relating to occupational health, we can expect the support of the AFL-CIO, the American Cancer Society, the American Lung Association, the American Medical Association, and the entire public health community.

You turn around and look at this chart that is behind us, and there you find about 20 separate health and environmental supporters of S. 79, and on the chart to the left you find the business supporters of S. 79, including the Chemical Manufacturers Association, whose members account for over 90 percent of the chemicals generated in the United States, the American Electronics Association, with over 3,000 member companies, the National Paint & Coatings Association, with over 1,000 member companies, Crum & Forster Insurance Cos., the second largest property and casualty insurers in the country, Atlantic Richfield, Occidental Petroleum, Olin Corp., Union Carbide, W.R. Grace, Eastman Kodak, IBM, General Electric, and so many more, including the one company that has experienced more than any other company in America the hazards of occupational illnesses, formerly the Johns-Manville Corp., now known as the Manville Corp.

We have significant support not only from business organizations but from insurance companies, from the health groups, the environmental groups, and as to the business community, we have tremendous support from those companies that will be most directly affected by this bill.

Why are these sophisticated, tough-minded businesses supporting S. 79? Because they recognize that this bill furthers their self-interest by keeping their workers healthy and productive thereby reducing costs. And because they had the courage to look at the substance of the bill and not be swayed by political concerns.

Since introducing S. 79 1 year ago, Senator STAFFORD and I have made many changes. Following negotiations with business representatives, and with Senators QUAYLE and HATCH, we have tightened the science provisions in the bill. We have clarified the procedural protections. And we have strengthened the provisions insuring that the bill is liability neutral.

There is nothing in this bill that provides a basis for any worker to sue his or her employer.

I want to say, Mr. President, that we are still willing to improve S. 79. Senators have expressed their concern about the impact of the bill on farmers. We are prepared to discuss and look favorably upon amendments having to do with the agricultural community. Other Senators have indicated the medical transfer provisions of S. 79 could create practical problems for small business, and we are trying to solve those problems.

While we are open to constructive amendments, we will fight efforts to gut this bill. Opponents of S. 79 have vowed to stop it at all costs. They intend to offer any number of amendments to divert our attention from the main issue. Many of these amendments may sound harmless. I might even be willing to support a number of them in another context but I will not support certain ones of them on this bill, not when they are merely a part of a cynical ploy to subvert S. 79.

I urge my colleagues to pay close attention to the debate. Over the course of the debate, I ask you always to keep in mind that by giving workers the right to know we will improve their health and save lives, the lives of tens of thousands of persons.

Mr. President, I yield the floor to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Ohio has yielded the floor. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I support the High Risk Occupational Disease Notification Act. Our distinguished colleagues from Ohio and Vermont, Senators METZENBAUM and STAFFORD, have worked tirelessly in the effort to make this bill an effective and workable vehicle to alleviate the growing problem of occupational disease in our country. It has not been an easy task but it has been performed effectively. Thousands of man-hours have gone into the preparation of this legislation.

Senators METZENBAUM and STAFFORD have assembled an extremely impressive list of businesses, associations, labor unions, and public health groups that support this legislation. At every stage of the process the concerns of business, labor and insurance have been addressed. All of them did not support the bill in its original form. In fact, many opposed the bill as it was introduced. However, after working closely with the sponsors of the bill and the staff of the Labor Subcommittee, many of these employers have been actively working for passage of the legislation.

The companies that support the bill are doing so because they believe in contributing to a workplace atmosphere that is safe and productive for workers. They are taking a socially responsible position on this legislation. They see the utility of medical monitoring of employees as being in the economic interest of their companies.

The opponents continue to clamor about the issues of competitiveness, repetitiveness and liability as reasons to defeat the bill. The Reagan administration, the chamber of commerce, and the National Association of Manufacturers have gone on record early and often in opposition to this legislation. Their motto is—let the worker beware. Well, I say, workers deserve fair notice. They have a right to know.

I have received four letters from the administration. Collectively, they have been signed by Attorney General Meese and Secretaries Bowen, Lyng, Smart, Verity, and McLaughlin. They also have the signatures of Small Business Administrator Abdnor and Chairman of the Council of Economic Advisers, Beryl Sprinkel. In case I had any doubts, one letter informs me that, "the administration has made it crystal clear to the Congress its strong opposition to the broad risk notification approach embodied in H.R. 162 and its Senate companion, S. 79." Time and time again the letters raise the issue of "serious liability implications." They go on to state that the bill "will generate substantial tort and administrative litigation, much of it unfounded and without merit."

It is clear that the administration has zeroed in on an area where they think they can cause the most confusion. Instead of arguing the merits of worker notification, they choose to say we see the problem, we realize its seriousness, but we have already done everything that can be done.

That is simply not the case. This problem is not being properly or adequately addressed by current Federal efforts. The OSHA standards provide a right to find out, not a right to know.

Who is it that will suffer from these so-called unfounded liability claims that are without merit? It is not the Government. They are specifically exempt from liability claims under the bill. Section 5(f) of the bill provides "that the United States or any agency or employee thereof is not subject to suit or judicial or nonjudicial proceedings seeking monetary damages for their actions performed pursuant to this act, unless the act or omission is a knowing and deliberate violation of this act." Is there any Senator who wishes to say that the United States should not be liable if it is knowingly and deliberately violating the spirit of this occupational disease legislation?

Certainly, businesses that are involved in chemical and electrical manufacturing and processes should be most concerned with occupational disease legislation. These companies have considerable experience with the potential liability consequences of hazardous workplace exposures. Yet many of these companies are exactly the same companies that have explicitly endorsed the bill. The Chemical Manufacturers Association, whose members produce 90 percent of the tonnage of chemicals produced in the United States, support the bill. The American Electronics Association, representing over 3,000 member companies, has endorsed the bill. The National Paint & Coatings Association, with over 1,000 member businesses, has endorsed the bill.

The Olin Corp., W.R. Grace & Co., American Cyanimid Co., the Eastman Kodak Chemicals Division, Uniroyal Chemical Co., and the Manville Corp. have all voiced their support for the bill. The American Medical Association, the American Cancer Society, the American Nurses Association, the Sierra Club, Citizen Action, the American Lung Association, and the Association of University Programs in Occupational Health and Safety support the legislation.

Companies like IBM, Digital Equipment, Ciba-Geigy Corp., Atlantic Richfield & Occidental Petroleum would not endorse this bill without carefully weighing the liability consequences to their companies. Is there any Senator who wishes to step forward and tell me that Union Carbide is not sensitive to the liability issue?

This bill has also been actively endorsed by Crum & Forster Insurance Co. and the General Electric Co. Les Cheek of Crum & Forster and Marty Connor, corporate counsel of GE, have been working closely with the Labor and Human Resources Committee on this issue since the beginning of this Congress. Both of these men have also been extremely active in the field of product liability legislation, working with the Judiciary Committee. They are acutely aware of the product liability crisis our country faces, and they are equally aware that the liability argument against this bill is unrealistic, purposefully confusing, and blown out proportion.

Opponents of this legislation continually refer to a pilot program for notification that was carried out in Augusta, GA, in 1981. That program did indeed generate a considerable amount of litigation. However, it is important to point out that in the Augusta notification program, the liability claims that were filed were hardly "unfounded and without merit."

In that case, 849 people were notified that they had been exposed to potentially hazardous levels of BNA, a chemical known to cause cancer of the bladder. The notification went out in 1981, 9 years after a Federal investigator had written letters urging notification and medical monitoring for the employees. Of the 849 persons notified, 171 claims, totaling $335 million, were brought by distraught employees and members of their families against the company. The company settled 120 of these claims out of court for a total of approximately half a million dollars. They allowed the other claims to go to trial where they were dismissed. The Supreme Court of Georgia held that workers compensation was the exclusive remedy available to the employees, and S. 79 would do nothing to alter that finding.

Fifteen cases of bladder cancer and 22 additional cases which showed significant signs of the disease were confirmed by medical screening in the Augusta project. This case study is a valuable example that argues for the legislation, rather than against it. Who knows how many of these individuals would have been spared the horrors of cancer, if they had been notified and monitored when the danger first became known?

Dr. William Johnson, the investigator in that case said, "A lot of people knew, or should have known, for a long time what the situation was." At that time Dr. Johnson also blamed the Federal Govenrment, saying it let the "Workers fall through the cracks" because of prolonged debate over funding and agency jurisdictional disputes in risk notification.

We must not permit workers to continue to fall through the cracks. This Senator is not about to sit back and let the health and lives of the working men and women be endangered because we do not have an effective means to notify them of danger in the workplace.

The Augusta case is a poor example of the potential for liability claim proliferation. The opponents of the bill completely ignore the fact that the chemical company was using a substance that had been a suspected carcinogen since 1895. BNA had previously been discontinued in production and use by all American firms except for the compnay in Augusta.

The days of laissez faire in the workplace are coming to an end. Working men and women have a right to know whenever their jobs create a risk of serious disease. What you do not know can kill you. And any worker exposed to risk has a right to management's help in avoiding the danger, and to medical help in dealing with the risk. The bottom line is that this legislation is necessary—and it is needed now.

I yield the floor.

Mr. HATCH. Mr. President, I have to rise in opposition to S. 79, the High Risk Occupational Disease Notification and Prevention Act. During the debate over this measure, I am confident my colleagues will learn how impractical this legislation is and how little it has to do with preventing occupational disease.

Some of my colleagues may be surprised, given my voting record in the past, that I am opposed to S. 79. I led the fight to put new warning labels on cigarettes and smokeless tobacco products. I worked to establish the prevention block grants to help states increase their prevention efforts. I have supported programs to reduce sexually transmitted diseases and reduce childhood accidents. And in the last Congress, I authored legislation which would have established a President's

Council on Health Promotion and Disease Prevention to take a comprehensive look at what we can do to prevent diseases in this country.

In this Congress, I introduced the legislation which will help prevent infectious disease in our children and help us combat tuberculosis. Also, Senator KENNEDY and I have introduced legislation aimed at reducing infant mortality and have moved through the Committee on Labor and Human Resources legislation to reduce the spread of AIDS in this country.

Since I have spent a significant part of my career in this body advocating disease prevention programs, there is nothing I would like more than to have before Congress responsible occupational disease prevention legislation. Unfortunately, S. 79 is not such a bill.

While its stated purpose is disease prevention, its principal effect will be litigation.

Its primary consequence will not be measured in terms of saved lives, but in notices mailed. And, in the name of politics, it permanently, explicitly avoids one of the most significant occupational hazards in the workplace today—passive smoking.

My opposition is based on several basic problems with this legislation which I will outline, along with some possible solutions. First, I do not believe we should create a new Federal bureaucracy simply because we are unhappy with the performance of existing agencies.

I did some checking and was able to come up with at least a dozen Federal agencies, administrations, and departments which are currently involved in regulating health and safety. Everyone from the Occupational Safety and Health Administration to the Environmental Protection Agency to the Coast Guard to the Bureau of Alcohol, Tobacco, and Firearms is involved. This list of more than a dozen Federal agencies does not include the numerous health and safety activities of State and local agencies.

If we cannot adequately address the occupational disease problem with more than 12 Federal agencies, I doubt adding one more will provide an effective solution. If we are dissatisfied with existing performance, why not address the problems directly instead of creating yet another Federal bureaucracy, which may be no more successful than those already in existenced? If there are gaps in our existing Federal occupational disease programs, gaps which I believe exist, why not fill those gaps? Why not work within the existing Federal framework?

There is already too much duplication and too little coordination of Federal efforts. Creating another new board will only exacerbate this problem, especially since we will have to cut existing programs in order to finance this idea.

Second, responsible legislation should be cost-effective. Or to put it a different way, it should be effective for its cost. The American public should not be forced to pay for a program which has little, if any, impact on the morbidity and mortality of occupational diseases if more effective options are available.

Notifying workers after they may have been exposed to an occupational health hazard is not the most effective method for preventing the disease. Why not keep as our primary focus disease prevention instead of disease notification?

Efforts to reduce the morbidity and mortality of occupational disease can be divided into three approaches. Primary intervention covers efforts to prevent exposure to the hazard; secondary intervention covers those efforts which take place after exposure has occurred, but before the development of disease; and tertiary intervention includes those efforts which take place after the development of disease in an attempt to reduce its impact.

Of these three approaches, primary intervention is the only one which has the potential to prevent all occupational disease. We must recognize that in many instances, it is very difficult to prevent the development of disease once exposure has occurred.

Too often, effective medical intervention is not available. For example, lung damage which occurs from exposure to silicon is not reversible and, other than primary intervention or stopping the worker from smoking, there is very little that can be done to slow its progress. Nor can we halt mesothelioma, which is a lung cancer associated with exposure to asbestos. Usually, by the time it can be detected using current medical technology, it has spread to the point where it is almost always fatal.

Secondary intervention is not only less effective than primary intervention, it is also very costly. Frequently, only a small percentage of the workers who have been exposed to an occupational health hazard actually develop the disease. But since there is usually no technique available to separate those few workers from the other workers who have been exposed, every worker must be monitored, usually for long periods of time. Secondary intervention must cover every worker to have any impact at all, and must do so at considerable cost.

In protecting workers, effectiveness and cost must be factors in developing new legislation. When choosing between two approaches to reduce occupational disease, common sense tells us that, if one costs significantly more than the other yet produces no better results, why not at least consider the less costly. Unfortunately, S. 79 does not take this approach. Instead, it chooses the most costly and least effective solution.

Moreover, attempts to amend the bill to address one of the most effective methods for reducing workers' risk of developing occupational disease—smoking cessation—were vigorously blocked. We were told that despite all the stated justifications for this bill, smoking was just too politically divisive to be addressed.

We were also told that the Board would not even be allowed to consider whether or not passive smoking is a health hazard for nonsmokers. In other words, we are being asked to adopt legislation purporting to address workplace health hazards yet, at the same time, to bar forever any consideration of a hazard which kills 15 people a day in this country, many due to exposure at work.

Third, to be effective, any legislation must encourage the employer and the employee to work together to increase health and safety in the workplace. While the employer may be primarily responsible, if we want to continue improving and protecting the health of everyone in the workplace, it must be through a joint partnership. An employee also has some responsibility for his or her own health.

The employer must provide the equipment and training necessary to assure that the workplace environment is a healthy one. The employee needs to use the safety equipment provided and also to bring unsafe working conditions to the attention of management. In addition, an employee has the responsibility to take steps to reduce or eliminate those lifestyle practices which may increase his or her risks of disease. Again, smoking is one prime and obvious example. I am encouraged to see a number of companies which are now working with their employees to help them stop smoking. This is a trend we should encourage.

Any new program which focuses solely on the employer or solely on the employee will be only a fraction as effective as it should be. Just as many occupational hazards have a synergestic, or enhancing, effect with smoking, employees and employers working together can have a synergestic effect when it comes to increasing health in the workplace. We must encourage the employer and the employee to work together, to cooperate on providing and maintaining a healthy work environment.

Fourth, this kind of legislation must also be neutral in its impact on liability. In its current form, not even the supporters of S. 79 can claim that it will not increase liability costs. The best they can claim is that the increase will be acceptable.

But after looking at previous Federal notification projects, projects which the supporters of S. 79 point to as the models for this legislation, Robert R. Nathan Associates estimated that 25 percent of those notified will file suit against their employers, costing on the average $95,000 per suit to resolve. The sponsors expect that 300,000 people will be notified each year under this bill, generating on this issue alone annual costs of $7.125 billion.

Those who will be hit the hardest of course will be small businesses. There are some who believe that companies in this country represent an endless supply of wealth which can be continually tapped. They do not realize that if Congress enacts S. 79, mandated health-benefits legislation, mandated parental-leave legislation, and an increase in the minimum wage, many small companies will be driven out of business. Others will have to raise prices and inevitably lay off workers. We already knew, according to CBO, that two of those proposals could eliminate 500,000 jobs. Consequently, before we enact legislation such as S. 79, I think it is prudent to determine whether the proposal can be effective given its total impact.

Finally, to be effective, such legislation must not deny anyone the right to due process. Individuals who are affected by the decisions of Federal agencies and boards deserve to have their full due process rights protected. They deserve the right to be heard before any general rule or regulation is promulgated; they deserve the right to a fair determination as to whether the rule or regulation should apply to them; and, they deserve the right of appeal.

To guarantee these rights, Congress established a set of procedures for most administrative agencies to follow in the Administrative Procedures Act. S. 79, however, creates a Federal agency that is basically immune from this statute. It would be above the traditional controls we place on other branches of Government.

I hope my colleagues will take a close look at this legislation and not just legislate by title. S. 79 should be sent back to the drawing board, and we should instead develop legislation which protects all Americans, not just those suffering from politically acceptable diseases.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, at the outset of this debate, I would like to clear up one very important point. Recently, there has been an attempt to cast doubt on the business support for this legislation. In particular, there has been discussion about the fact that some chemical companies are openly opposing S. 79, and suggestions that the Chemical Manufacturers Association [CMA] does not speak for the industry as a whole.

CMA is a trade association whose members produce over 90 percent of the basic industrial chemicals in the United States. CMA has some 180 member companies, and the overwhelming majority of them remain committed to the CMA position on S. 79. I have received letters of support from CMA itself and from more than 20 member companies, including Union Carbide, W.R. Grace, CIBA-GEIGY, Rohm and Haas, Occidental Chemical, American Cyanimid, Uniroyal Chemical, and many others. In addition, a number of large companies that have not sent letters are lobbying in favor of this bill.

It is not easy for a trade association to support a major piece of worker health legislation. CMA decided it should support the bill if certain important changes were made. It then spent weeks negotiating with oganized labor, public health groups, and my staff to accomplish those changes. The member companies had lawyers and industrial hygienists carefully review the proposed changes. CMA knew its stance would be controversial, and it made sure its members were aware of exactly what was on the table. The American Electronics Association, with over 3,000 members, and the National Paint and Coatings Association, with over 1,000 members, reached the same decision after similar participation and scrutiny of the revised legislative product.

Since business support surfaced for S. 79, there has been a fierce, and well-orchestrated, attack on the companies and associations who decided to support the bill. It is not surprising that a handful of CMA members decided to disassociate themselves from CMA's position in light of these strong attacks. Several of the seven companies who changed their mind are primarily involved in other industries and have stronger ties to other trade associations. This is true of Philips Petroleum and Oil, Eli Lilly and Pharmaceuticals, Georgia Pacific and Paper Products. Perhaps they could not take the heat. Perhaps they simply reconsidered the merits of the bill. I doubt we will ever know.

But one thing we do know. A group of companies and associations who recognized they would be heavily affected by this bill made the judgment that they would work with the sponsors in order to make the bill acceptable. That is how the legislative process is supposed to work. Too often, particularly in the labor area, it does not work that way. We have polarization and the absence of meaningful dialog. This time, we had dialog. The result is a stronger bill.

We had similar constructive dialog with other business supporters of S. 79 who are not members of the Chemical Manufacturers Association. Manville Corp. was concerned about the liability impact of the legislation as originally drafted. But we worked with Manville to ensure that this bill is now liability neutral, which was our intent in the first place.

Let me quote from a letter to me by the president and chief executive officer of Manville regarding S. 79.

> The Manville Corporation supports this legislation for two compelling reasons:
>
> 1. It is our corporate policy that every worker is entitled to maximum knowledge of and appropriate protection against the health risks known to be present in any given workplace; and
>
> 2. Manville believes that a safe, healthy workplace improves productivity and profits, and reduces health care costs and absences from the workplace * * *.
>
> Manville is a company whose past involvement in an occupational health tragedy makes it uniquely qualified to assess the relative merits and burdens of proposed legislation such as S. 79. That experience persuades us—as it should all others—that enactment of this legislation is in everyone's long term interest.

That is the end of the quote from the Manville Corp.

Mr. President, I ask unanimous consent that the complete letter be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MANVILLE CORP.,
Denver, CO, December 14, 1987.

Hon. HOWARD M. METZENBAUM,
Chairman, Senate Subcommittee on Labor, Washington, DC.

DEAR SENATOR METZENBAUM: This letter intends to convey Manville Corporation's support for definitive action on S. 79, the worker high-risk notification bill currently pending in the Senate. As you know, a similar measure has passed the House with the support of a broad range of organizations and groups representing business, consumers, and organized labor.

The Manville Corporation supports this legislation for two compelling reasons:

1. It is our corporate policy that every worker is entitled to maximum knowledge of and appropriate protection against the health risks known to be present in any given workplace; and

2. Manville believes that a safe, healthy workplace improves productivity and profits, and reduces health care costs and absences from the workplace.

S. 79 and its House counterpart (H.R. 162) contain program elements which in many respects are no more stringent than Man-

> ville's current practices. Manville's Environmental Safety Health Information Management System (MESHIMS) is a one-of-a-kind, state-of-the-art computerized system of worker health monitoring that, had the technology been available previously, has the capacity to forewarn of emerging industrial health problems, such as the asbestos tragedy.
>
> Our corporate program of worker health monitoring through annual medical exams and periodic pulmonary function tests, together with a corporate policy that strives to "engineer to zero" exposure to hazards in the workplace, are intended to limit worker exposure to contaminants, to provide a sophisticated means of long-term worker health surveillance, and to allow early medical intervention in the rare instance where injury is detected. But our concern extends beyond our own workplaces to those who use our finished products as well. As one indication of this kind of commitment, for example, Manville has voluntarily revised its Material Safety Data Sheets for relevant fiberglass products, announced a related labeling and consumer education program, and proposed a recommended workplace exposure guideline to its customers, all based on the most limited (and we believe erroneous) suggestions of a possible cancer risk.
>
> Manville is a company whose past involvement in an occupational health tragedy makes it uniquely qualified to assess the relative merits and burdens of proposed legislation such as S. 79. That experience persuades us—as it should all others—that enactment of this legislation is in everyone's long term interest.
>
> We urge you to bring S. 79 to the Senate floor for debate and passage at the earliest opportunity.
>
> Sincerely,
>
> W.T. STEPHENS.

Mr. METZENBAUM. But do not get me wrong. We worked with other groups, besides the business community, in crafting this legislation. In addition to having strong support from scores of labor organizations in this country, we have worked closely with the public health community which strongly endorses this bill.

A listing of the health groups endorsing S. 79 illustrates the breadth of support within the public health community:

Some of these I have mentioned before. They are worth mentioning again: the American Cancer Society; the American Public Health Association; the American Medical Association; the American Psychological Association; the American Lung Association; the American Thoracic Society; the Association of Schools of Public Health; the American Nurses Association; the American College of Preventive Medicine: the National Women's Health Network; the American Association of College Nursing; the American Association of Occupational Health Nurses; the Association of University Environmental Health Science Centers; and the Association of University Programs Occupational Health and Safety.

Finally, occupational health experts have concluded not only that risk notification is needed, but that S. 79 offers a reasonable scientific approach to the problem of occupational disease. Three former top NIOSH officials during the Ford and Reagan administrations, Dr. John Finklea, Dr. Philip Landrigan, and Dr. James Melius, stated in a recent letter to Senator KENNEDY that:

> High risk worker notification would deliver the necessary individualized information to the worker most likely to develop disease. This information would benefit both the worker and his/her personal physician * * *. We strongly urge you and others in the Senate to * * * support the High Risk Occupational Disease Notification Act.

Those are former top NIOSH officials who worked in both the Ford and Reagan administrations.

The broad base of support for this bill is truly impressive and cannot be dismissed, despite efforts to do so by opponents of S. 79. I urge my colleagues to listen to the groups supporting the legislation to understand the importance of this occupational health bill. S. 79 will improve the health and save the lives of thousands of American workers and I urge my colleagues to support it.

Mr. President, I ask unanimous consent that I may yield to the Senator from Vermont for the purpose of making an opening statement.

The PRESIDING OFFICER. Is there any objection?

Mr. QUAYLE. Mr. President, reserving the right to object, what is the intention of the Senator from Ohio? There are others over here who have opening statements they want, to make. Is he eventually, after the Senator from Vermont concludes his opening statement and yield the floor? What is his desire?

Mr. METZENBAUM. Mr. President, the Senator from Indiana is correct. The Senator from Illinois is here with an amendment having to do with agriculture. The Senator from Kentucky is here with another amendment having to do with agriculture, and the Senator from Louisiana is intending to come to the floor with an amendment having to do with small business, all of which are amendments moving in the direction of providing some exemptions in these areas.

It is my thought I would yield the floor, and I hope that they might be recognized for the purpose of offering their amendments, but there is certainly no effort nor intent to preclude opening statements from those on the other side of the aisle.

Mr. QUAYLE. I wonder, Mr. President, further reserving the right to object, if the Senator would also put in his unanimous-consent request that the Senator from Indiana be recognized for the purpose of giving an opening statement?

Mr. METZENBAUM. Mr. President, merely for the purpose of an opening statement?

Mr. QUAYLE. Merely for the purpose of an opening statement.

Mr. METZENBAUM. I so include that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. STAFFORD. Mr. President, there are several good reasons for enacting S. 79, the High Risk Occupational Disease Notification Act of 1987.

The first is simple justice. Those whose lives, livelihoods, and health may be in jeopardy because of earlier exposures to poisonous chemicals should know it because we all deserve to know what our risks are.

Equally important, that knowledge should be shared because it can minimize or even eliminate the risk of actually contracting the disease for which a worker or his or her family may be at risk. Some diseases, especially cancers, which may be almost always fatal if undetected, are significantly less fatal if found and treated early. In yet other cases, a disease may never develop if proper precautions are taken.

In a society such as ours where the dangers of toxic chemicals are almost invariably discovered long after workers and others have been exposed, some sort of notification program is a necessity if the loss of human life is to be minimized. Exposures ought to never happen, but it is a fact of life that they do. Given that fact of life, we should establish a program such as the one proposed in this bill.

It has been alleged that the purpose and procedures addressed by S. 79 are covered by the hazard communication standard of the Occupational Safety and Health Administration. This is not the case. S. 79 addresses several categories of employees not covered by OSHA or other laws. It aims at notification of those exposed to significant risks in the past, along with those individuals who are currently exposed. Among classes of employees not covered by current laws are those associated with failed businesses or plant closures, those who were exposed while in the employ of a previous employer and small business employees now excluded from OSHA and State occupational safety and health enforcement programs. Retired workers are also excluded from current coverages. Therefore, there is a real need for S. 79, the high risk occupational disease notification bill.

Mr. President, there is a lot of misinformation around about S. 79. It is important to clarify what the bill does and what it does not do for workers and businesses alike.

First, what the bill does:

First, S. 79 identifies workers at high risk of occupational disease—through very careful review of epidemiological and clinical studies, a risk assessment board created in the Department of Health and Human Services will identify populations and subpopulations of workers who are at high risk of disease because of previous occupational exposures. The exercise is based upon accepted epidemiological, clinical and biostatistical methods that have long been used. In determining what worker populations are at high risk, the bill directs the board to isolate those exposed workers groups where the incidence of disease is "statistically significant."

Second, S. 79 notifies workers at high risk of occupational disease—once a worker population at high risk has been identified by the Risk Assessment Board, the Secretary of Health and Human Services will undertake to notify each individual within the population of their risk of disease. The techniques for such notification are well established within the Department of Health and Human Services (HHS) and its National Institute for Occupational Safety and Health (NIOSH) which has conducted a number of pilot worker notification programs. The contents of the notification will basically include all the scientific and medical information that a worker and his family physician needs to know to begin monitoring the workers's health. It is important to note that not all workers exposed to a given toxic substance will or should be notified because not all exposed workers are at risk. The bill is aimed at only those specific groups of workers who exhibit a statistically significant incidence of disease compared to the general population. Therefore, without the increased incidence of disease there will be no notification even though there were known exposures.

Third, S. 79 counsels workers at high risk of occupational disease—one of the key elements of the proposed program is medical counseling. A primary component of the notification is a recommendation that the worker place himself on a medical surveillance program and take certain health promotion measures in an effort to prevent the disease from occurring. The purpose of medical surveillance and health promotion, especially when the worker and his family doctor knows he is at high risk, is to either prevent the disease altogether or to detect it early enough for successful treatment. In a number of cases, it is known that certain health promotion measures such as smoking cessation and dietary changes can greatly decrease an at-risk worker's chances of disease. In other cases, such as chemically induced bladder cancer, if detected in its initial manifestations, can be successfully treated. The costs of any medical surveillance are to be borne either by the employer who exposed the worker or, if there is no such employer, by the worker himself through his existing health care program.

Fourth, S. 79 provides worker antidiscrimination protection—the bill provides strong antidiscrimination protections for workers who are notified that they are at high risk of disease. These protections are necessary because workers at increased risk must feel free to place themselves in medical monitoring programs without the fear of losing their job or existing insurance coverage.

Fifth, S. 79 provides for outside input and judicial review—in order to ensure that the Risk Assessment Board has the best information and research available, the bill provides for written notice and comment on any proposed recommendation of the board as well as public hearings if requested by any interested party. Any party adversely affected by decisions of the Secretary of HHS has the right of judicial review.

Second, Mr. President, let me point out what the bill does not do:

S. 79 does not duplicate the OSHA right to know standard—the OSHA hazard communication standard is designed to warn workers of the hazards of existing chemicals in the workplace. Unlike S. 79, the OSHA standard does not seek to isolate those workers at particular high risk because of previous exposures and inform them of the risk.

Moreover, it does not provide for medical counseling and monitoring which is a major component of the bill. Further, the OSHA standard does not cover former employees, many of whom are at the highest risk, or major sectors of the current work force such as public employees and those engaged in the transportation industry. Thus, the S. 79 program is a critical supplement to the OSHA standard and not duplicative at all.

S. 79 does not create a large new bureaucracy—the only new Government unit created by the bill is the seven-member risk assessment board chaired by the Assistant Secretary for Health and composed of four existing HHS career public health officers and three nongovernment members with expertise in occupational health.

S. 79 does not involve large sums of Federal funds—the entire program is capped at an annual $25 million authorization and the preliminary Congressional Budget Office cost estimate ranges from $15 million in the first year to about $27 million in the fifth year. In addressing the cost issue some other cost considerations must be kept in mind. First, the occupational disease costs to the Social Security Program have been estimated at about $3.5 billion annually. Thus, a very modest program designed to prevent occupational disease in the future will have a large payoff in not only reducing the Social Security disability costs but also in the associated costs of Medicare, Medicaid as well as private health care costs.

S. 79 does not create any new tort liability standards—S. 79 neither adds to nor subtracts from the legal rights that currently exist for workers and other citizens who may be damaged by a responsible party. The bill specifically states that a finding or determination by the Board of Disease Risk does not have any standing in tort law or in any subsequent workers compensation claim. The program, by preventing new cases of occupational disease, should have a long term effect of reducing toxic tort cases as well as workers compensation costs. Moreover, the Federal Government and any employer who voluntarily seeks to notify workers under the bill are held harmless for any willful failure to warn under existing tort law.

S. 79 does not impose any new regulatory burdens on business—the bill does not require employers to do anything except to bear the costs of medical surveillance for current employees if the employer was responsible for the exposure. This is not a new cost since employer provided medical surveillance is already required in many health standards issued under the Occupational Safety and Health Act. For those employers who wish to notify, counsel, and provide medical monitoring for the employees, the bill has a provision for them to do so under a simple certification procedure.

This, Mr. President, explains S. 79 in a nutshell. However, before concluding we should look at the problem of exposure of our citizens to toxic substances.

Mr. President, the following are quotes from the book "Disease Prevention/Health Promotion the Facts," prepared by the Office of Disease Prevention and Health Promotion, U.S. Public Health Service of the Department of Health and Human Services.

> The Toxic Substances Control Act of 1976 identified the need to control the risks of exposure to over 65,000 commercial chemicals. Complete information on health hazards exists for only about 2% of chemicals used commercially. Virtually all Americans have detectable tissue levels of DDT, dieldrin, PCBs and six other toxic chemicals.
>
> A 1983 National Research Council study identified 65,725 substances to which humans are exposed, including 3,350 pesticides, 3,410 cosmetics, 1,815 drugs, 8,627 food additives, and 48,523 commercial chemicals.
>
> For 30 chemicals or chemical mixtures and 9 industrial processes, there is evidence of carcinogenicity in humans. For an additional 63 chemicals or mixtures of chemicals and 5 industrial processes, there is evidence of probable carcinogenicity in humans.
>
> Hazardous chemical production in the U.S. in 1982 included 7,823 million pounds of benzene, 2,035 million pounds of acrylonitrite, 543 million pounds of asbestos, 952 million pounds of phthalate and 4,902 million pounds of vinyl chloride.

> The usage of hazardous metals in the U.S. in 1982 included 1,303 million pounds of lead, 542 million pounds of chromium, 207.9 million pounds of nickel, 36.8 million pounds of arsenic, 8.2 million pounds of cadmium and 3.4 million pounds of mercury.
>
> Over 50,000 pesticide formulations are registered with the Environmental Protection Agency. In 1984, 1.08 billion pounds of pesticide-active ingredients were used in the United States.
>
> Of the 290 million tons of hazardous waste produced in the U.S. in 1981, 70% came from the petroleum and chemical industries.

Mr. President, I would note at this point that the Chemical Manufacturers Association whose workers will be impacted by this bill support it. Continuing to quote from the book:

> For 70% of the 67,000 chemicals in commerce there is no available information on possible human health effects. A complete health-hazard assessment can be completed for less than 2% of chemcials used commercially, and a partial health-hazard assessment can be completed for 14% of those chemicals.
>
> The approximately 110 million workers in this country are exposed to a wide variety of occupational hazards that can pose significant risks to their health.

Mr. President, the National Institute for Occupational Safety and Health has developed a list of the 10 leading work-related diseases or injuries based on frequency of occurrence, severity to the individual and amenability to prevention. Mr. President, No. 1 and No. 3 of the list are:

> 1. Occupational lung diseases: asbestosis, byssinosis, silicosis, coal worker's penumoconiosis, lung cancer, occupational asthma; and
>
> 3. Occupational cancers (other than lung): leukemia, mesothelioma, cancers of the bladder, nose and liver;

These are the two central areas of occupational exposure that S. 79 can have a positive affect on the health of the worker.

To continue to point up the problem, Mr. President, I return to the book:

> Cancer was the second leading cause of death in the U.S. in 1984, accounting for 22.1% of all deaths, second only to heart disease.
>
> Estimates of the proportion of all cancers in the U.S. related to occupational exposures range from less than 4% to over 20%. The lower estimate attributes 17,000 cancer deaths per year to exposures at the workplace.
>
> Up to 11% of workers exposed to asbestos may ultimately develop mesothelial tumors. In one groups of workers distilling beta-morphylamine who had more than 5 years of exposure, all reportedly developed tumors of the bladder.
>
> Studies of occupational reproductive hazards have shown increased rates of spontaneous abortions among laboratory and chemical workers and among workers exposed to lead, ethylene oxide, and anesthetic gases.
>
> In a 1985 National Health Interview Survey (NHIS), 36% of workers stated their present job exposed them to substances (e.g., chemicals, dusts, fumes or gases) that could endanger their health.
>
> 37% of workers in NHIS survey responded that their jobs exposed them to work conditions (e.g., loud noise, extreme heat or cold, physical or mental stress or radiation) that could endanger their health.
>
> A 1984 survey of chemical workers revealed that 60.8% of respondents reported little or no co-worker knowledge about cancer hazards at the worksite, and 37.0% reported little or no co-worker overall knowledge of occupational health and safety.

Mr. President, the need for this legislation is overwhelming when you look at the impact occupational exposure has on the health of the American work force.

S. 79 provides a low cost means to notify workers of the potential dangers of their exposure in the workplace. This will lead to a healthier work force that is more productive and is less expensive in health care costs to employers.

From both the cost and justice point of veiw this piece of legislation is a good bargain for all.

Mr. President, I urge my fellow Senators to support S. 79, the High Risk Occupational Disease Notification and Prevention Act.

I am very pleased to be associated in this endeavor with the very able Senator from Ohio, Senator METZENBAUM.

Mr. President, I am prepared to yield the floor. I yield the floor.

Mr. METZENBAUM. Mr. President, parliamentary inquiry: Before the quorum call, we had put in a unanimous-consent request that provided for the Senator from Ohio to be recognized, and thereafter for the Senator from Indiana to be recognized for the purpose only of making an opening statement.

Is the Senator from Ohio's understanding correct that by reason of the fact that a quorum call has been put in on an interim basis that the impact of that unanimous-consent request was vitiated?

The PRESIDING OFFICER (Mr. SANFORD). It is my understanding it was not vitiated. It still stands.

Mr. METZENBAUM. Mr. President, parliamentary inquiry: It is my understanding that the Senator from Indiana is to be recognized for the purpose of making an opening statement.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Parliamentary inquiry. If we had a unanimous-consent agreement and then had a quorum call, is there some precedent where that unanimous-consent agreement would be vitiated?

Mr. METZENBAUM. I was trying to protect the Senator's position.

Mr. QUAYLE. I am not familiar with the practice.

The PRESIDING OFFICER. The agreement required recognition of the Senator from Indiana. So I think we are in proper order.

Mr. QUAYLE. Mr. President, further parliamentary inquiry: When we entered into the unanimous consent agreement it was my understanding that the Senator from Vermont was going to be recognized for the purpose of an opening statement, and then the Senator from Indiana would be recognized for the purpose of making an opening statement. Intervening quorum calls, to my knowledge, will not upset that unanimous consent arrangement. Am I correct?

The PRESIDING OFFICER. Does the Senator have an inquiry?

Mr. QUAYLE. That is my inquiry.

The PRESIDING OFFICER. That is not the situation.

The Senator from Indiana is recognized.

Mr. METZENBAUM. I think the parliamentary inquiry that he and I would like to propound is under what circumstances after a unanimous-consent request has been made and recognition is provided for under that unanimous-consent request, under what circumstances does a quorum interrupt——

The PRESIDING OFFICER. The Chair is not going to rule on a theoretical matter. The Senator from Indiana is recognized.

Mr. QUAYLE. Further parliamentary inquiry. I am just curious about that.

Mr. METZENBAUM. They will not answer a theoretical question.

Mr. QUAYLE. Is it possible when you have a unanimous-consent request agreement that a quorum call would vitiate the unanimous-consent agreement? Is that the case? Is that possible?

The PRESIDING OFFICER. The agreement is not vitiated.

I have so ruled. I recognized the Senator from Indiana.

Mr. QUAYLE. I do not think we are going to get an answer to our question.

The PRESIDING OFFICER. No, the Senator is not.

Mr. QUAYLE. Mr. President, we are here today on a piece of legislation on which I find a somewhat unusual precedent and practice being established.

It is my understanding that this is the first time where a bill has been laid before the Senate and before opening statements are made, there is a motion to move off the bill, by those who support the bill, and now we have a cloture motion already filed—1 day has elapsed—and we are now taking opening statements on S. 79.

I do not believe that before opening statements are made on a bill, cloture is filed, and after cloture is filed, before any opening statements, there is a motion to move to another bill?

Mr. METZENBAUM. Will the Senator permit me to respond?

Mr. QUAYLE. I yield, without losing my right to the floor, if the Senator can answer the question.

Mr. METZENBAUM. It is my understanding—and I cannot give the Senator the details—that during the previous administration, or when the Senator was part of the majority, on three separate occasions the leadership did lay down a cloture motion at a very early point in the proceedings, just as has been done in this case.

With respect to the matter of moving off the bill, I think it should be pointed out that the matter concerning Japan was a priority matter that any Senator had a right to call up. I do not know the specific provisions of that, but I know that Senator BYRD did explain on the floor of the Senate that that was a privileged matter and that any Senator had a right to call it up at any time; and that upon that Senator's doing so, it was a privileged matter for a period of 10 hours.

That was my understanding.

Mr. QUAYLE. I think the Senator from Ohio is correct, however it is not unprecedented where you call up a bill and, before statements are made a cloture motion is laid down.

Maybe the Chair can help us on this question. Is there a precedent? Once cloture is laid down, before opening statements, has there ever been a situation when a motion has been made to move to another bill? I do not think that has ever been done before in the Senate, at least since I have been here.

Mr. METZENBAUM. I am saying to the Senator from Indiana that moving off the bill, as I understand it, came about because the Japanese matter was privileged and that any Senator had a right to call it up at any point.

I am not certain that I am correct in my answer, but am giving the Senator what my understanding is. We can check further as to the facts, but I think it is under those circumstances that the Japanese matter came in, after the cloture motion was laid down.

Mr. QUAYLE. Again, my question is not whether anybody could have moved to that highly privileged matter, because it is my understanding that any Senator could do so.

My concern is the practice that was established here and the precedent that has been established, that before opening statements, a cloture motion is filed, and immediately move to another piece of legislation.

I do not recall that ever happening before, whether it was highly privileged or not. The majority leader could have moved to another bill that was not highly privileged. He is within his rights. But I am trying to see if there was ever a precedent of doing this, and I do not believe there has been.

Mr. METZENBUAM. I am not in a position to answer any further than I have.

Mr. QUAYLE. Mr. President, a parliamentary inquiry: Can the Chair inform the Senator from Indiana whether such a precedent has been set?

The PRESIDING OFFICER. The cloture motion, obviously, was properly filed. But the question of moving off to another bill is the inquiry—the Chair has no way of taking notice of that. In any event, the time for objection has expired. I cannot answer the question whether or not there is a precedent. It would take some research to find that.

Mr. QUAYLE. I do not mean to belabor the Chair. Perhaps I can make an inquiry, formally or informally, and we can, as a matter of record, find out if it has ever happened before. I do not believe it has; and if it has, I would like to know that. If it has not, then this will establish a new precedent.

I thank the Chair for his cooperation.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. QUAYLE. I yield to the Senator from Utah for a question.

Mr. HATCH. I have missed some of this debate because I have been necessarily off the floor. But, as I understand it, the procedure around here seems to be that you lay down a bill that has less controversy and then they lay down a cloture motion almost simultaneously with the bill. That is what the distinguished Senator is upset about. Is that correct?

Mr. QUAYLE. I am not upset about it. I do not particularly like it. I don't think that has been used before. We bring a bill up and file cloture. But what has never been done before, in my memory, is filing a cloture petition before opening statements and then immediately move off that bill to something else.

I want to get an understanding as we try to figure out, particularly for minority rights, whether this is a new precedent, one that I hope is not continued. Therefore, we have an extraordinary example of what is happening on this piece of legislation, which I think Members ought to take notice of.

Mr. HATCH. Mr. President, will the Senator yield further?

Mr. QUAYLE. I am glad to yield for a question.

Mr. HATCH. I think the Senator does this body a great service by pointing out that we are consistently coming up with these bills that are very controversial, very hotly contested, that have—at least in my opinion—very deleterious aspects to them, and basically file the cloture motion, so that only germane amendments are in order. Then, that viewpoint is a very restricted rule, anyway.

So it appears to me that we are not really having this body function as the greatest deliberative body in the world. We are just procedurally going down the line, making sure that no real dissent is effectively allowed.

I suspect that what the distinguished Senator from Ohio and his colleagues are going to to is file three amendments and lock up the tree.

Is that the purpose of the amendment?

Mr. QUAYLE. I have the floor, Mr. President.

Mr. HATCH. Mr. President, will the Senator yield to me so that I can ask the Senator from Ohio?

Mr. METZENBAUM. We yielded to the Senator from Indiana. We have two distinguished Senators waiting on the floor to offer amendments, Senator DIXON and Senator FORD, and Senator BREAUX is anxious to come to the floor as well.

I just want to respond to one comment.

Mr. QUAYLE. I am glad to yield to the Senator from Ohio for the purpose of a question only.

Mr. METZENBAUM. Does the Senator from Indiana know that when you talk about controversial legislation and laying down an early cloture motion that when the Senator's party was in control, as to the issues that were before the Senate when the cloture motion was laid down very promptly, one of them had to do with Contra aid, the other one had to do with South Africa, both of which I am sure we will agree are highly controversial subjects?

Mr. QUAYLE. I believe that the Senator will find both of those cases, and I am glad the Senator from Ohio brought those examples up, dealt with a unanimous-consent arrangement, the Contra aid and South Africa, that there was worked out by the majority leader and the minority leader a unanimous-consent arrangement in which cloture would be filed on both of those bills. I do not believe there is any such unanimous-consent arrangement on this particular bill. So that is not a very good precedent to cite as far as saying "Well, yes, we have done it in the past."

Mr. METZENBAUM. Let me say——

Mr. QUAYLE. I am glad to yield for the purpose of a question.

Mr. METZENBAUM. Does the Senator from Indiana know that the Senator from Ohio was waiting with bated breath to hear his words of eloquence concerning this bill? And so I will let him proceed in order to advise us accordingly.

Mr. QUAYLE. I thank my friend from Ohio.

I think that the Senator from Utah makes a very good point as far as the intent of filing cloture in this particular case. As the Senator from Utah says, it was filed and one of the objectives states in the RECORD—not the only objective—one of the objectives of the majority leader was we were in fact to get germaneness.

The Senator from Utah is exactly right that we are trying to do this part of it for germaneness. As a former Member of the House of Representatives, I know how these restrictive rules and cutting off debate and not allowing amendments to come up works. Unfortunately, I was in the minority over there the whole time. I know how the Rules Committee over there operates.

I do not believe, as the Senator from Utah pointed out, that we want this body to become much more like the House of Representatives.

So I would hope that those who take cloture seriously will not only vote against it on Wednesday—I understand it will be filed again today—but also vote against in on Thursday.

Mr. President, let me get to the bill before us, S. 79, which is the high risk notification bill. It is in fact a very complex technical bill.

Let me say at the outset that the objective of this bill is when the Federal Government has information that a worker in the workplace has the increased possibility of getting a disease because of where he or she works the Government ought to share that information with that worker.

I agree with that objective. I have said throughout the battle of S. 79 that we, meaning the Federal Government, have a moral obligation to share known health risk information with the worker. I do not dispute that principle.

What I dispute is this particular legislation and the approach that we use in trying to achieve that objective. If in fact that is the objective, I will be diligently working with Senators on both sides to see if in fact we can construct an alternative or substitute to this legislation, because this legislation is fundamentally flawed in a number of places.

One, the scientific data used to make the determination on when notification in given is far too loose.

Let me give you an example of the legislation that I think the occupant of the chair would be interested in. If you work in a textile mill for a certain number of years with a certain concentration of dust and if NIDSH determines that long-term workers in dirty factories have a high incidence of byssinosis, a disabling lung disease. Under this legislation if NIOSH finds in the mortality statistical study that there is this incidence of increasing a disease, all the people who have worked in those textile mills and cotton gins will receive the notification even if their factories are in compliance with OSHA. The bill does not require the distinction between a short-term worker in a dirty factory, and a long-term worker in a clean one. They receive all those individual notifications and so do their retirees.

Employers may argue "We don't have that incidence of disease because that was 10 years ago or 15 years ago that you are using those mortality statistics," notwithstanding, Mr. President, those notices go out.

When those notices go out you can guess the amount of lawsuits that are going to be filed and in many cases the notices are going to go to people who say, "Hey, I thought you told me, Mr. Employer, that this place was safe, that this was a healty environment in which to work," and the employer can say, "We have in fact reduced the concentration of the potential hazard. We have in fact taken the course and furthermore we do not agree with this particular finding."

But there it is, the Federal Governments determination that these workers are at high risk of byssinosis. Mr. President, you can imagine the litigation, you can imagine the costs that are going to be placed on businesses, defending themselves against this sort of thing.

Mr. President, we need to figure out a preferable way to get this information that the Government has to the employees.

As a matter of fact I have always said throughout the debate on this legislation that I support the fundamental objective and principle that if the Government has conclusive knowledge that an employee has an increased incidence of getting a disease over the national average that information ought to be shared. But we ought to share it with people who we can help.

I do not believe it makes sense to use these notifications to simply scare people.

I recall a column that was written by Ellen Goodman on this issue, that was talking knowledge of incurable disease. She points out that some individuals simply don't want to know if they have incurable diseases, such as Alzheimer's or Huntington's disease. Some do. Some who have found out were sorry they did.

But under the current legislation, on S. 79, he would have to be told or she would have to be told.

My approach would be that once we find this category of people that are predicted to be at-risk, then let us break the category down into the people that we can actually help through either medical monitoring, medical removal, health promotion, or something along those lines. And then let us get that information to them in their normal course of work activity.

It is not through sending out hundreds of thousands of individual notices with a stamp out of: "Government document, highly important, open at your own risk." But we should do it through the work force.

We can also do it through the hazard communication laws that are presently law where we inform workers of a hazard. We inform workers, as we should, of a hazard. And we should, in fact, inform workers of risk of getting a disease if we have conclusive evidence that that is the case. We can give notice of risks through the workplace, and that should be our objective: How can we come up with a manageable piece of legislation that will serve the objective?

Furthermore, Mr. President, this legislation we know received 190 votes, something like that, in the House of Representatives. As I stand here I am sure it will receive a good number of votes. There is no way, as it is currently written, that it will be enacted into law. That is just an impossibility from a political point of view.

If we are really interested in doing something today; if we are really interested in helping the workers get this information of risk that we think is necessary, we will support something other than this legislation. Because we know that it is not going to go anywhere in the final analysis.

We can have political points, make our political battles, we can run out to our constituencies, but I am telling you we are not going to be helping John Jones or Mary Smith out there that might want this information. I would be willing to craft a vehicle to give them this information and once they have this information we can look at medical monitoring, we can look at medical removal, we can look at health promotion. That will not happen, Mr. President, under this legislation because this legislation is not going anywhere. I think we ought to understand the political consequences of this legislation.

Mr. President, I do not believe that this bill should be enacted into law. S. 79 is designed to establish a process for the notification of workers who are at risk of contracting a disease as a result of their exposure to a hazardous substance or physical agent.

As I have said, no one, and certainly not I, can quarrel with such a purpose. Indeed, I believe that S. 79 establishes a very important principle; that when the Federal Government has knowledge that is relevant to the health of an individual, it is the Government's moral and ethical obligation to provide that information to that individual. That is the principle of S. 79. And I believe that my friend from Ohio has done the Senate and the Congress a service by bringing this issue to the forefront.

Mr. President, I also believe if the Congress decides to pass notification legislation, it is incumbent upon the Congress to be responsible about where, when, and how to notify people they are at risk of contracting a disease. The Government has used alarmist tactics in the past. It creates an atmosphere of fear and panic when it notifies workers, regardless of the scientifically sound connections between exposure and risk.

Unfortunately, as presented I believe that this legislation will do exactly that. And the reason, Mr. President, is that there is no requirement that there be a causal relationship between finding the statistical evidence that a certain number of people in the category of review had a higher incidence of death from a certain disease and workplace exposure to the causative agent—there is no causal relationship to say that they died of that disease because of a certain thing in their workplace.

We need to think beyond the politics of the issue of what we are trying to accomplish here. We should not go off haphazardly. We should not, dealing with legislation particularly giving this kind of power to this independent regulatory board, before we have thought through what we are going to be doing to the employees, the employers, of this country.

This legislation does not require a causal link between risk and exposure and that is one of the criticisms that I have.

During the committee consideration some improvements were made to the bill. However, considerably more work must be done to turn this highly complex and technical bill into responsible and worthwhile public policy. When the committee considered S. 79, I offered a number of amendments that the committee declined to accept. These amendments were based on principles which I believe should be the basis for any worker notification program.

Mr. METZENBAUM. Would the Senator yield for a question?

Mr. QUAYLE. I will be glad to yield for the purpose of a question only.

Mr. METZENBAUM. I was encouraged by the Senator's statement that there ought to be other amendments made to this bill. Would the Senator be good enough to indicate whether there are such amendments that could be offered, not actually totally gutting the bill, but which would then cause the Senator from Indiana to join with the Senator from Ohio in supporting this legislation?

Mr. QUAYLE. I am currently trying to work with a number of Senators on drafting a substitute to this entire bill. The substitute will be along the lines that I just stated on the floor, satisfying my objections and the way that I think it ought to be done. I am working on that, and when in fact we put it together I will be glad to share that with the Senator from Ohio to see whether he concurs or not.

I can tell this to the Senator from Ohio, that it will not gut his bill and it will go along with the basic objective that I think he has and which I share. That is that when the Federal Government has conclusive information of this increased incidence of disease, that that information should be shared with the affected employee. That basic objective, I can assure the Senator, a substitute I will be attempting to put down will achieve.

Mr. METZENBAUM. I am sure the Senator from Indiana knows that when we had plant closing legislation, the distinguished Senator from Indiana said to me one evening that the bill was like a moving target, that it kept changing. I said that we had to keep changing it to pick up votes.

I just want to say to the Senator from Indiana that nothing would please the Senator from Ohio more than to be able to work out such amendments as those that concern the Senator from Indiana in order to get this support for this very, very important piece of legislation. I want to say it as loudly and as clearly as I can. The door is wide open. We are prepared to do that. I thank the Senator for yielding.

Mr. QUAYLE. I thank my friend from Ohio. I do recall that plant closing notification. As a matter of fact, I believe I was explaining one time that it was between Metzenbaum 6 and Metzenbaum 9, that change, that I was eating a salad in the dining room. I could never figure out what the target was, but it was that "Once we get the votes, we can offer it up."

I applaud the Senator from Ohio on the way he knows the rules.

Mr. METZENBAUM. I told him while he was eating the salad and we made change, we picked up two votes. Now I am prepared to pick up one vote, yours, and I am prepared to negotiate with you and see what compromise can be effected. I would like to have you very much with us.

Mr. QUAYLE. I thank the Senator, Mr. President. I think we have worked long and hard on this issue. We have put in a lot of time on it. I know the Senator from Ohio has and I have, too. It is a highly technical issue.

There is no doubt about it, that certainly when we get to what we think will be a good substitute on this particular issue, we will sit down and be glad to talk to the Senator. As I said, it will not violate the objective of what the Senator from Ohio wants to achieve.

Mr. President, let me go on.

The amendments that I offered in the committee were based on principles which I believe should be the basis for any worker notification. We have in the House essentially on the same bill 190 votes in opposition, certainly enough to sustain a veto. I hope that rather than face a veto we could work together on an acceptable compromise.

I believe that the basis for any worker notification program should be this:

Notification is appropriate and should take place when there is a reasonable, scientific, medical, and ethical basis for it. There should be reasonable, scientific, medical and ethical basis for it.

The risk notification program should not impose unreasonable costs on small business. Small businesses are the ones who are going to get zapped by this on a couple of counts. One is the potential liability and it is horrendous. If you send out hundreds of thousands of letters, even though there has been a good faith attempt to try to limit workmen's compensation, to try to limit tort liability, and you get an employee, you get a farmer, get an employee of a farmer, and they get that notice, what do you think they are going to do? Throw it away, if they get a notice that they have increased incidence of getting a disease? What do you think they will do with it? Will they take it to their lawyer; their doctor? What do you think the lawyer is going to do with it? I can tell you what the lawyer is going to do with it.

He will say, "This looks like a little lawsuit."

What we have been trying to do particularly for small business is not to expand liability. I think that the gist of what many small businesses have been complaining to me about is that they are exposed to too much liability.

This is a lawyer's dream and it is very, very costly to small business.

I believe that the choices from the small businessman or woman will simply be that this will sort of push them out of business. I do not believe that we should pass legislation that will do that. This notification program must be administered in a politically responsible manner.

Let me tell you how this risk assessment board is established. This risk assessment board is composed of certain members who are appointed by the Secretary of HHS upon the advice of the National Academy of Science. No Senate confirmation, no Presidential appointment, and once this risk assessment board is appointed, it has the same powers as the FTC, the FCC, the ICC—any independent regulatory agency. This is unprecedented power given to a committee that has zero political accountability.

How far are we willing to go? If we are going to create an independent agency with all the powers, it ought to be appointed by the President and confirmed by the Senate. My preference would be to let the Secretary of HHS have more discretion, but certainly not the power of an unprecedented basis like this legislation.

A disease notification program should not serve as a basis for establishing the liability of an employer. I believe I have basically reviewed that in an analysis on the cost of small business, but we do not want to establish a disease notification program that is really going to cause a whole host of lawsuits.

While proponents of the bill do not disagree with these principles that I have outlined, I can assure you the bill, as reported, does not comport with even one of them. It is my view that S. 79, as reported, has several major deficiencies, which I will describe in more detail in the remainder of my remarks. While such a discussion will be technical, I think it is important that the Members of the Senate understand what a complex bill S. 79 is, and that it is not the small, just simple program that some of the sponsors of the legislation say it is. This is not just a simple piece of legislation that is going to be brought up, easily understood, and put through.

When we take things up in the Labor and Human Resources Committee, though we worked hard and long, it is unfortunately very difficult to get genuine bipartisan compromise on legislation like this that is highly technical and highly complex. Unfortunately, we have to end up doing it on the floor. That is a choice that I do not make, but a choice that has been made.

I just want to read what the definition of an occupational health hazard is, just the legislation itself:

> The term "occupational health hazard" means a chemical, a physical, or a biological agent, generated by or integral to the work process and found in the workplace, or an industrial or commerical process found in the workplace, for which there is statistically significant evidence (base on clinical or epidemiologic study conducted in accordance with established scientific principles) that chronic health effects have occurred in persons exposed to such agent or process. The term includes chemicals that are carcinogens, toxic or highly toxic agents, reproductive toxins, including agents that may cause miscarriages and birth defects, irritants, corrosive, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents that act on the hematopoetic systems, and agents that damage the lungs, skins, eyes, or mucous membranes.

Let us go on to where we look at the population at risk:

> The term "population at risk of disease" means a class or category of employees (A) exposed to an occupational health hazard under working conditions (such as concentrations of exposure, or durations of exposure or both) comparable to the clinical or epidemiologic data referred to in paragraph (8).

I think you can see by just a casual reading of two very important sections, the occupational health hazard and the population at risk of disease, this is, in fact, exceedingly complex and technical.

The identification of populations at risk of the disease, page 41:

> In identifying populations at risk of disease, the Board shall consider the following factors based on the best available scientific evidence—
>
> (A) the extent of clinical and epidemiologic evidence that specific substances, agents or processes may be a causal factor in the etiology of chronic illnesses or long-latency diseases among employees exposed to such substances, agents or processes in specific working conditions (such as concentration of exposure, or durations of exposure, or both);
>
> (B) the extent of supporting evidence from the clinical epidemiologic, or toxicologic studies that receive substances, agents, or processes may be a causal factor in the etiology of chronic illnesses or long-latency diseases among individuals exposed to such substances, agents, or processes;
>
> (C) the employees involved in particular industrial classifications and job categories who are or have been exposed to such substances, agents, or processes under working conditions (such as concentrations, or durations, or both) that may be a causal factor of the etiology of the illness or diseases.

Mr. President, I can go on and on with language that is in this bill which was carefully drafted, but it is an exceedingly complex and highly technical piece of legislation.

In my view, the most serious problems presented by this bill are the following: One, the scientific basis for notification is, inadequate. As I have said, the scientific basis for notification is, from a study of mortality statistics if it is statistically significant, which could be 1 percent above the average, 2 percent, a half percent, whatever statistically significant means, and then the Government is going to notify all those workers without distinction.

There is no requirement of a causal relationship between risk and exposure. Because there is no requirement of causal relationship between the disease itself and the exposure in the workplace, you will literally have hundreds of thousands of people who will be receiving this information erroneously. I tell you what getting that kind of information would do to me. I tell you what it would do for you, your wife, and your kids. If you get that kind of information, you are not going to like it because it says that you are predicted to have a better than average chance of getting a certain disease. And depending on what kind of a person you are, you may take it very seriously; you may tend to want to blame the employer; and you may want to make sure you go down and see your lawyer. But in fact you are getting all worked up, you have all this anxiety, you are going through a lot of stress for naught, because maybe you should not have gotten that notice in the first place because the actual work environment is different than the environment in which the study was done. That is one of the problems with this legislation.

Furthermore, this bill does not achieve its stated goal of tort neutrality. I think the sponsors of the bill have done a very good job in trying to limit the liability. They specifically say that it is not a new tort remedy, they specifically say that it does not affect the workmen's compensation laws.

(Ms. MIKULSKI assumed the chair.)

Mr. QUAYLE. But even though that is in the legislation, Madam President, when those notices go out, they are just simply invitations to lawsuits, invitations to lawyers that are looking to bring lawsuits to help their plaintiffs.

So this bill cannot achieve its stated goal of tort neutrality. In addition, the bill does not deal with the practical realities of notifications and it is not workable in its present form.

What is small business going to do in response to this legislation? Those who want to help small business might think of figuring out a way we can deal with the notification and medical removal problems in the bill. My way would be, since you give this worker this notice, to give him the notification, and if in fact he or she requires medical removal, we leave it up to, say, the Department of Labor to institute certain requirements for medical removal.

The bill also departs widely from relied-upon accepted procedures for administrative and judicial review. It has the extraordinary remedy of writ mandamus. I am not exactly sure why that is in here. But if it is in here because the administrative procedures and the administrative practices do not work, then we ought to be amending the administrative practices and the administrative procedures.

Madam President, I believe that it is critical that a more generally accepted scientific principle be incorporated into the notification decisionmaking process by revising the definition of an occupational health hazard.

And I read the definition of an occupational health hazard for which there is statistically significant evidence—that is the criteria. The definition of an occupational health hazard in S. 79 is one of the most important components of the notification scheme envisioned by the bill. Thus its accuracy is essential to an appropriate notification program.

It is important that the definition of an occupational health hazard be revised to assure that notification will be triggered only when there is a scientifically respectable causal relationship between exposure of the hazard and the consequent health effects.

That is a fundamental problem that you have with this legislation. That is why literally millions of people will be getting misinformation potentially because there is no causal relationship between exposure and risk. You can have a situation where you go back and review the fatality statistics and people that work in X company, in a certain industry, had a higher national average of dying of a certain disease. And since they had a higher national average of dying of that disease, they in fact will be eligible to receive individual notification under this act no matter, Madam President, that if in fact the disease that they had, and they can track it, was not in fact caused in the workplace, and that is a fact. There does not have to be any causal relationship. In my view, the definition of an occupational health hazard in S. 79 simply makes no sense.

Currently, the definition of occupational health hazard reads it is a chemical for which there is statistically significant evidence that chronic health effects have occurred and exposed employees. Indeed, the majority report on S. 79 emphasizes that notification is warranted only where there is statistically significant evidence that chronic health effects have occurred in persons exposed to hazardous substances. Statistics, to quote the Encyclopedia Britannica, "The art and science of gathering, analyzing, and making emphases from data." Statistical significance means no more than that the inference has a certain degree of probability. However, under the definition of S. 79, no inference is required.

The operative principle is that chronic health hazards have occurred and exposed employees. However, that fact alone has no significance, statistically or otherwise. The mere fact that 50 cases of a chronic health hazard have occurred and exposed employees has no significance. Such a fact is meaningful only if the health hazard can be related to the exposure through relevant scientific means. Such a fact is meaningful only if the health hazard can be related to the exposure to relevant scientific means. Without the requirement of such a relationship, the definition is really quite meaningless.

Let me give you an example; a concrete example which demonstrates the inadequacy of the current definition. Kenneth R. Foster's article, "The Great VDT Debate" reports on clusters of birth defects occurring in children of mothers exposed to video display terminals. Under the definition as proposed by S. 79, the test to determine the existence of an occupational health hazard is whether there is statistically significant evidence that the health effect occurred in exposed employees.

Let me add that there is no question that such effects did occur in the considerable number of instances cited in that article.

Accordingly, VDT's would meet the definition of an occupational health hazard under S. 79. But as the article also demonstrates the fact that these clusters exist is no evidence that there is a causal relationship between the birth defects and the exposure. The author states an epidemiologist would consider the reported clusters to be provocative but inadequate to demonstrate any connection between reproductive problems and the VDT's. That is the heart of the problem. That is the problem, Madam President; that you can go ahead and have a statistic that shows that there is in fact this problem with people that are exposed to say computers, VDT's, but that statistic is not meaningful unless you can call the causal relationship between that exposure and that illness or disease in this case specifically birth defects.

While the statistical analysis in the article is complex, it is absolutely clear that under the definition in S. 79, a mere occurrence of a number of cases would meet the definition of a hazard. Thus it is essential that this definition be revised to require a causal relationship between the health effect and the exposure.

Clarification of the use of the term "commercial and industrial process" is another problem with this bill. Under the bill as currently written an occupational health hazard includes not only chemicals and physical and biological agents, but also an industrial or commercial process. While it has never been too clear as to what that covered, it is my understanding that the authors mean it to cover two particular situations: One, when there is scientific evidence that exposure to certain combinations of substances results in adverse health effects, yet it is not possible to isolate the compound which is responsible. In other words, if you have a couple of things out there and you are not exactly sure which one causes it, you in fact do not have to isolate the compound which is responsible. I have absolutely no quarrel with the use of the term in this situation. However, when a method of hard working such as hard physical labor rather than exposure to a substance is the cause of the hazard, that is where the problem comes from.

The majority report on S. 79 states that it is not intended that this term include work processes resulting in mere physical discomfort such as sitting in an office chair for 10 hours. However, the markup record of this legislation clearly states that it is intended to cover situations such as potential back problems arising from the use of a jackhammer or a nonergonomic typing chair.

I do not think that this is a reasonable type of risk to merit notification, though it may well be appropriate for an OSHA workplace safety standard.

Perhaps there are some in this room who would have back stress, who have to sit long hours while we stand and talk, and they might be subject to notification, although I am sure this legislation exempts Members of Congress, as all other legislation that passes here. We exempt ourselves. But that would be an example. Someone sits in a chair for a period of time, and they are possibly going to be exposed to back injury, back stress, and therefore eligible to receive notification.

The tightening of scientific factors upon which determinations of risk are based: The bill consistently requires that the risk assessment board consider the extent to which certain evidence may be a causal factor in the development of illness or disease in making their determinations to notify. Putting such a speculative, open-ended standard in a statute simply, in my opinion, cannot be justified on the basis of sound science.

Item 4: Incorporating more generally accepted scientific principles into the definition of "population at risk." You will hear a lot about population at risk. S. 79 defines a population at risk of disease as employees exposed to an occupational health hazard under working conditions such as "concentrations or durations of exposure comparable to those in studied populations."

Again, this would be establishing a highly speculative standard for notification. This definition needs to be revised, to ensure that scientific data are not used inappropriately. As currently drafted, the bill's definition of "population at risk" could result incorrectly in notifying individuals with low exposures or short durations of exposures of disease.

Let me give an example that I have used to the former occupant of the Chair. Assume that in the many textile mills and garment factories and workplaces in this Nation there is a risk assessment board determination that a 15-year exposure to cotton dust at concentration level *x*, *y*, *z*, produces a serious disabling lung disease. The risk assessment board would not necessarily have data on concentration levels for all workplaces or all workers, so they would notify anyone who worked in a textile mill for 16 years at any concentration level.

The use of "concentration or duration" rather than "concentration and duration," I can assure you, will result in overnotifications. That is simply put. In a certain period of time, if you been exposed to this agent or this substance, whether it be at the level of *x*, *y*, or *z*, then you are to receive a notice. It does not say that you also have to receive that duration at a certain concentrated level.

Many of the garment factories and textile mills and others have gone a long way to making their place of work better and more safe and healthier.

Mr. FORD. Mr. President, will the distinguished Senator yield for a question?

Mr. QUAYLE. I am delighted to yield to the distinguished Senator from Kentucky for a question only.

Mr. FORD. I say to my friend that if he wants to set a record in speaking, that is his privilege. He said earlier that it would be 20 or 30 minutes. It is now roughly an hour and a half.

I have been waiting to offer an amendment. Can he advise this Senator how much longer it is going to be? If it is going to be much longer, I will have to have somebody here to do it for me, and I want to make arrangements.

If the Senator has all those pages, we were deceived somewhat in the beginning as to how long he would take. I would like to make my personal arrangements, if the Senator will be much longer.

Mr. QUAYLE. I would probably guess another 20 or 30 minutes.

Mr. FORD. It is all right with me, as long as I have some idea.

Mr. QUAYLE. I am just guessing. I am on page 14. It looks like 35 pages. Most of the extemporaneous part of it is included. There are some other points I want to make.

Mr. FORD. So, we are talking about another 20 or 30 minutes—5 o'clock?

Mr. QUAYLE. I would guess around 5 o'clock.

Mr. FORD. That suits me fine. I can make my arrangements, then, and I thank the Senator for his courtesy.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. QUAYLE. I yield for the purpose of a question only.

Mr. METZENBAUM. Will the Senator consider permitting the Senator from Illinois, who has been waiting a long time, and the Senator from Kentucky, and the Senator from Louisiana, to offer their amendments, with the understanding that the Senator from Indiana would be recognized immediately thereafter, for the purpose of concluding his remarks, with a unanimous-consent agreement, which I would be willing to enter into, that his remarks would not be disjointed in the RECORD? Would the Senator have any objection to that?

Mr. QUAYLE. I do not want to get into that. I want to finish my opening statement. Maybe I might convince some of those not to offer those amendments or to offer other amendments. Let me conclude my opening statement, and I am just guessing.

What I am doing, as the Senator from Ohio knows, is going through a long history of this. As I go through my speech, a lot of things come to mind, a lot of things that I am trying to get out. That is why it has taken me a lot longer than I thought it would, because there is a lot more here than I anticipated.

Let me go ahead and try to conclude, and then we can get into the amendment process. I would guess that I will not go any longer than 30 minutes more.

Madam President, I was talking about the use of concentration or duration as being "or" rather than "and," and I think that is a very important point to make because you can certainly be exposed to this substance but there has to be certain concentration levels that makes it, in fact, an exposure that will have the cause of this certain disease.

Madam President, let me switch to the incidence of the risk assessment board from the executive branch.

I believe that the provisions of S. 79 relating both to the decisionmaking process and the decisionmaking authority for determining populations at risk of disease are fundamentally at odds with our basic system of government. S. 79 gives final decisionmaking authority to the risk assessment board in determining at risk populations.

The board is located in the Department of Health and Human Services but is effectively independent of them. The Secretary appoints the board to a fixed term, but has no review or influence over its decision.

Think about what we are doing. We are, in fact, creating a board that has the power of the FTC or the ICC or any independent regulatory agency, and yet we are not going to have any political accountability, none whatsoever, because it is a list that is furnished by the National Academy of Science. The Secretary of HHS appoints and once that is done, there is no accountability. The Senate does not vote on confirmation, the President does not appoint. And, as I said, this is unprecedented. We do a lot of things that are unprecedented, but this is an unprecedented vesting of power in an independent regulatory agency without any political accountability.

We live in a democracy and yet we are willing to hand over this kind of power to a board without any accountability to those who are elected to office. I think it is just very fundamental bad public policy.

As I have said the independent board is unprecedented in our post-World War II Govenrment.

The authors of S. 79 argue that the National Transportation Safety Board and the Foreign Service Grievance Board are very similar to the proposed risk assessment board. A look at the facts demonstrates that this statement is just simply in the category of disinformation.

The National Transportation Safety Board is an investigatory board in nature and is accountable to the President. Its main function is to conduct independent investigations of accidents. The Foreign Service Grievance Board was established to adjudicate employee grievances not to set Government policy.

Interestingly enough, there was a similar debate during the enactment of OSHA. At that time Republicans argued for an independent board and the Democrats supported placing power in the Secretary, but the Republicans argued for a board that was appointed by the President and confirmed by the Senate. The board would thus have an appropriate degree of responsibility. Nobody argued for a technocratic body ensconced in the middle of a bureaucracy with no political accountability whatsoever.

I intend to and I believe that the Senate should put this risk assessment board under the Secretary of HHS, and I think this is the way that we will want the risk assessment board to function. It certainly would be more responsible. It is more responsible to our democratic form of government to have this board independent. It is unprecedented in the history of government.

Now, Madam President, I want to turn to the issue of notification to individuals for whom there is no medical benefits, none whatsoever.

As currently drafted S. 79 would result in notifications to numerous individuals that they are at risk of contracting a disease for which nothing can be done. I do not believe that adoption of such a policy by the Congress is appropriate. The fact that there are large numbers of people who will be eligible for notification under this legislation but for whom no successful medical treatment exists is emphasized in the majority report on S. 79.

It discusses a NIOSH analysis of several categories of workers who might be eligible for notification on the basis of a number of mortality studies. The NIOSH concluded that while 110,005 workers could gain direct medical health benefits from notification, 137,967 workers were potentially at high risk and should be notified but there are no effective intervention methods.

This is in the committee report on S. 79 at page 11.

In other words, all these folks are going to get notices about a study that was concluded but there is absolutely nothing that can be done.

Where is the objective here? Where is the concern as to what these people and how these people are going to respond?

Under this study more than 50 percent of the individuals to be notified in this situation would be receiving a notice from the Federal Government that they were at risk of contracting a disease for which nothing could be done.

Let me just give you a realistic example. What do we suppose would happen if a retired 70-year-old steelworker who is enjoying his retirement in the hills of southern Indiana received such a notice? First of all, we will never know. No one will ever know whether this person is going to contract the disease for which she or he has been notified. If the study predicts out of 1,000 steelworkers exposed to substance x 5 will get disease A, B, and C, for which no early detection is available and no cure is known, so you will notify 995 who will not get the disease and 5 that will. That example assumes a perfect world.

Human nature would suggest that this person would become and remain extremely upset about his health. The persons in his or her family would suffer anxiety and fear to no purpose. Is this really the result Congress wishes to achieve by this legislation?

There are probably many things that could be done rather than for the Government to send its equivalent of a terminal IRS audit notice. This is your terminal draft notice and your number is really up to millions of workers who fit into these respective cohort mortality studies but will not develop the disease.

Would it not be more humane to communicate some of this through personal physicians? This would be particularly so in cases where there is no known early detection for disease or a cure for a disease. Would that not be a better way to notify people of this study?

The majority report points out that recent developments in medical ethics support the principle that individuals should be informed whenever there is a reasonable certainty of risk. This position was set forth in a letter to the committee by Dr. Edmund Paligreno.

I admit that I have less problem with this if the information is coming from an individual's personal physician. However, this notice is coming from your Government.

Therefore, I must say that I do not agree with this view and I strongly believe that there is a time-honored principle of medical ethics that the patient should not be harmed without purpose that should apply in this legislation since in situations like this it should not be the Government that breaks the news.

It is my feeling that the Government needs to help in setting priorities so that those who can benefit from medical help would be directed to it on a first priority basis.

There is a very troubling distinction between the right to know that one has a very good chance of dying of a specific disease because there is no known medical intervention and the desire to know that information.

Recently, some very telling examples have been reported in the news media. Two of the more notable examples are, one, availability of a test which can determine if certain individuals will develop Huntington's disease sometime in the distant future and, two, the possibility that a new blood test may be feasible with identification of individuals at early risk of Alzheimer's disease. There are incurable diseases and we should all be aware that 8 percent of those who get Huntington's disease are reported to commit suicide. This is not a brush it off issue.

News of incurable or severely disabling diseases has to be handled delicately and perhaps not through a Government-issued draft notice received through the mail. Before passing this bill, we need to ask ourselves whether the U.S. Congress should be the ones to decide that yes, people must have that information. Should we make that information available to all on an equal basis? Should we make it available to physicians; or should we send draft notices out to people who may be at risk with a serious disease?

But, no, this legislation says that we, in fact, must send this notification; must, in fact, send this notification even when the disease is incurable and even if receiving that kind of notice will cause, I believe, health harm rather than health help, which I think this legislation would desire.

Let me turn, Madam President, briefly to the tort neutrality issue. Given this litigious society in which we live, it is unrealistic to think that a disease notification program will not generate and increase these liability claims. While I do not believe it is possible to prevent this legislation from generating claims under both tort and workers' compensation law, I do believe it is incumbent upon the Congress to ensure that this legislation is tort neutral.

All Members of Congress are certainly well aware that our legal system is in serious difficulty due to the proliferation of liability claims in recent years. We are all very aware of what impact it has had on the ability of businesses to obtain liability insurance and on the cost of insurance. Commercial liability premiums alone rose 72 percent between 1984 and 1985—a 72-percent increase. Last year, this was one of the top issues our constituents wrote and talked to us about. Maybe during this legislation we will be able to discuss liability. It would be bad public policy to pass legislation opening the door to new and unfounded claims on the system.

As I said, I commend the efforts of the sponsors of S. 79 to address this problem. This legislation is clearly not tort neutral.

Let us look at other aspects of the tort problem. Who are the winners in tort actions? I think we know that. The lawyers are the ones that win.

The Rand Corp. estimated in asbestos compensation claims that for every dollar of compensation the plaintiff receives in hand, the defendant pays out between $2.50 and $3. So we know who makes out in these cases.

Actually, I suppose you could rename this legislation and call it the Lawyers' Full Employment Act.

In fact, a foundation has already been set up to help those notified get their day in court called the Occupational Health Rights Foundation. They have even sent out a brochure called "Find Out How to Take Your Occupational Disease Claims to Court." I mean, that is what is going to happen in this legislation. No matter about all the protestations to the contrary, we are going to open up liability. There are going to be far more lawsuits. They have already got a brochure out: "Find Out How to Take Your Occupational Disease Claims to Court."

The supporters of S. 79 tell us that the bill will be tort neutral because notification cannot be used as a basis of a legal claim. I can assure you this is not a sufficient shield to make certain that the goals of the legislation are met and not diluted by other tort and product liability outcomes.

What about stress claims? Well, there will be two kinds. First, there will be stress caused by stressful jobs where, after all, a stressful job—a telephone operator or air traffic controller, for example—would be eligible for notification that extreme pressure on a job puts him or her at risk of heart attack or heart disease.

Another kind of stress would be the kind that results from getting a notification. There will be lawsuits arising from the fear of getting a disease.

A year ago, a U.S. district court said that a former Firestone Tire and Rubber employee who was exposed to toxins and allegedly suffered injury to his immune system but had not exhibited any symptoms of the disease can sue his former employer directly because his claim was not compensated under California workers' compensation law. They argue that he was made extremely anxious and fearful that he would become sick. This is the type of Pandora's box that S. 79 cannot help but open.

As the committee discussed S. 79, its actual mechanics and complexities became very apparent. One subject that has been under much discussion has been the actual content of a determination by the risk assessment board that a population is at risk. The bill provides that a population would be found to be at risk of a disease when a class or category of employees had been exposed to an occupational health hazard under working conditions, such as concentration or duration, or both, compared to evidence indicating chronic health effects may occur.

It is relatively straightforward what a determination would say when very specific information relating to both concentration and duration of exposure is available. However, questions arise as to what constitutes unbearable working conditions when information about either specific concentration or duration is not available. Will all employees who could have been exposed to a particular substance be notified? Will notification take place on an industry specific or plant specific basis?

In an attempt to resolve this question, in April my staff requested the major groups supporting S. 79—Chemical Manufacturers Association, the AFL-CIO, and the American Electronics Association—to prepare an example of the determination that might be triggered by an actual occupational health hazard. In other words, let us see what is in this before we pass this legislation. How is it going to work? I mean, how is this legislation going to work?

The CMA and the AFL-CIO have yet to respond to this request. After several months, we finally received a response from the American Electronics Association. I think that the material that the AEA did supply, simply a sample notification letter, is instructive because even AEA, which is a supporter of this legislation, fails to provide a determination as requested. Moreover, their notification letter assumes a type of determination that I already know can be written. It describes it as a situation where both concentration and duration information is available, yet the bill permits notification based upon either concentration or duration.

Another very practical problem that has developed in discussing implementation of this program has been the question of how the characteristics of a population at risk would be translated into an actual list of names and addresses of individuals who are properly within that population. Until we have a much better idea of what an actual determination will look like, it simply is not feasible to develop a workable process for dealing with this problem. I mean, we do not even have, Madam President, what a determination would be coming from the risk assessment board. We have asked that question and received no answer. Maybe there is not an answer.

I think it goes to the unworkability of this bill that we cannot even get a simple determination of what this board will determine it to be in defining the risks of the population at risk under the definition of duration or concentration of materials.

No answer. The importance of this matter to the actual implementation of this legislation is it was imprudent for this committee to report this bill out until this material had been received and analyzed. I mean, if we do not receive this material because it is impossible to develop, it certainly suggests that the sponsors of this bill need to go back and to come up with something that is. And what we in fact will know will be part of this.

Further, in discussing the practicalities of this legislation, it should be noted that the majority report states only 50 Federal employees will be required to implement this program. Such an assertion is either wrong or based on the most naive assumptions about how this program can be implemented. To date our notification experience has been an industry-specific situation such as chemical plants. However it is important to consider how the bill will work in the cross-industry type of situation.

Let us take a highly plausible scenario that may well unfold if this bill is enacted. Assume for the purpose of discussion that the study NIOSH is currently conducting on video display terminals concludes that workers exposed to VDT's for 5 years or more are at risk. Assume further that the board agrees with that finding.

Presumably in this event the board would define the category or class of employees as persons exposed to VDT's for 5 years or more. Given that 28 million people currently use VDT's, it is foolish to think a mere 50 employees could handle the task of notifying them.

The majority report simply does not reflect complexities of implementing this legislation. Locating former employees is not an easy task. Indeed, the interim report of the pilot project NIOSH conducted dealing with workers exposed to a potent carcinogen concludes that a relatively large number of employees—approximately 245 out of the cohort of 1,094 individuals—could not be located despite fairly rigorous search efforts. This is about 24 percent of the group. It should be noted that this was a notification project that simply dealt with one company and one plant. I would also like to point out that this particular pilot project in notification is considered a success by NIOSH in terms of location and notification of former employers. They would argue that this pilot project proves that you can do it. I say it shows that the problem is much more difficult that this bill imagines. Further what is the Government's moral responsibility to the 24 percent of former workers who were not notified?

MEDICAL REMOVAL/JOB RETENTION PROVISIONS

While some progress has been made in addressing these issues, considerable revision of these provisions is still necessary because they are inadequate.

Job transfers with benefit and salary retention would be required where a nonexposed job was available. However, where one was not available, the employer would be required to provide the employee with salary and benefits for a 12-month period. Thus, employees who are unable to transfer due to the lack of a suitable job receive income protection for a year, while those who are able to obtain a transferee position receive income protection forever.

Adoption of S. 79 in its current form, would create in statue, a two-tier wage structure throughout much of American industry. Under S. 79, many employees would receive substantially higher wages for work traditionally performed by lower wage workers. Such a system is certain to generate enormous discontent. It contradicts common sense and elementary notions of fairness to pay employees dissimilar wages for identical work.

Certainly the impact on small business is important. This bill was amended to exempt employers with 10 employees or less from the medical removal requirements the bill would impose. I do not believe that the impact of this legislation on our Nation's small businesses has been adequately addressed.

I do not think it is realistic to expect that small businesses will be able to absorb the employer costs this bill will impose.

I do not believe it would be appropriate to exempt employees of small businesses from notification.

However, I do not think it is realistic for the Congress to require small businesses to provide the costly medical monitoring benefits section 9 of the bill would entail. As we all know, many small businesses do not offer health insurance benefits. Approximately 55 percent of all firms with less than 100 employees offer coverage while 45 percent of all firms with less than 10 employees offer coverage.

Another issue, Madam President, is the departures from accepted procedures for administrative and judical review.

The bill is replete with provisions that depart from widely accepted and relied upon procedures for administrative and judicial review.

To cite just one example, it permits an individual who is aggrieved because of a delay in the issuance of a final determination by the board to bring a civil action for mandamus.

Mandamus is an extraordinary writ which suggests the most extreme emergency to permit an individual to not first exhaust his administrative remedies. Black's Law Dictionary notes that "the writ of mandamus is a drastic one, to be invoked only in extraordinary situations." The sponsors of S. 79 have yet to state why the legislation would present the requisite extraordinary situation.

Congress enacted the Administrative Procedures Act to address the failure of agencies to carry out their functions properly. If that law is so ineffective that special provisions are required in legislation such as this, it is time for the Congress to take a serious look at the APA and amend it accordingly.

Madam President, before I yield the floor, I want to clarify one point that has been over and over again and that is all of the points that have been brought up about all the businesses that support this legislation. Everybody has got that list and I ask unanimous consent that the lists of associations that support this legislation be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. QUAYLE. Madam President, let me examine some of this so-called business support. First, look at the American Electronics Association that supports the bill but that is because it regards itself as unaffected by S. 79. They are simply not going to be affected by this. In fact, the AEA's exact words were, "Because we are unaware of any exposures in the electronics industry that would trigger a notification, we are unable to provide you with a sample notification."

We have serious questions about the value of support from a group that is not to be affected by the legislation. I mean, it is pretty easy to go ahead and support the legislation if you do not think you are going to be affected by it.

Let me just read a second one from General Electric. They recently wrote me stating, "We already have in place an extensive program of risk notification and a proactive occupational exposure medical monitoring information system. The legislation, therefore, would have little cost effect on our operations."

Another example. They support it but they are not affected by it. That is the kind of support, I guess, that you want. You want those big companies that are not affected by this to say well, we do this anyway so go ahead, pass the legislation. We are not really concerned what happens to the rest of the folks there. It does not affect us so go ahead, you pass it. We will support it.

Again, we have support from a corporation which would not be affected by this bill. Let us consider the support of Johns-Manville Corp., a former Fortune 500 corporation which sought protection under chapter 11 of the bankruptcy code to protect itself from literally thousands of product liability lawsuits. Could it be this company has no fear of increased litigation because there is no one left who has not already sued them?

So I am not so sure about, when you start looking at the sponsors, one of the sponsors has been cited as the Gruman and Foster, the second largest carrier of liability insurance. It should be noted that the American Insurance Association, which carries 85 percent of the workers compensation coverage in this country, does not agree that S. 79 is neutral on the issue of liability and it strenuously is opposed to the bill in its present form.

So that is some of the so-called business support that is for this bill. Most, it appears, are not affected by it and we will put in three pages worth here. I am not going to read them into the RECORD. They would oppose the bill.

I yield the floor.

EXHIBIT 1

National Association of Manufacturers.
Chamber of Commerce of the United States.
National Federation of Independent Businesses.
National Association of Wholesaler-Distributors.
American Mining Congress.
American Farm Bureau.
American Petroleum Institute.
The Business Roundtable.
National Council of Agricultural Employers.
Adhesive and Sealant Council.
Aerospace Industries Association.
Air-conditioning & Refrigeration Wholesalers.
Alliance of American Insurers.
Aluminum Extruders Council.
American Coke and Coal Chemicals Institute.
American Federation of Small Business.
American Feed Industry Association.
American Furniture Manufacturers Association.
American Hardware Manufacturers Association.
American Iron and Steel Institute.
American Jewelry Marketing Association.
American Machine Tool Distributors Association.
American Meat Institute.
American Retail Federation.
American Retreaders Association.
American Road and Transportation Builders Association.
American Subcontractors Association.
American Supply Association.
American Textile Manufacturers Institute.
American Traffic Safety Services Association, Inc.
American Veterinary Distributors Association, Inc.
American Wood Preservers Institute.
Appliance Parts Distributors Association, Inc.
ARMTEK Corporation.
ARMCO Inc.
Asarco Incorporated.
Associated Builders & Contractors.
Associated Equipment Distributor.
Associated General Contractors of America.
Association of American Railroads.
Association of Footwear Distributors.
Assn. of Plumbing-Heating-Cooling Contractors.
Association of Steel Distributors.
Association of the Wall & Ceiling Industries-International.
Automotive Service Industry Association.
Aviation Distributors & Manufacturers Association.
Bearing Specialists Association.
Beauty & Barber Supply Institute, Inc.
Bechtel.
Bethlehem Steel Corporation.
Bicycle Wholesale Distributors Association, Inc.
Biscuit & Cracker Distributors Association.
Blasch Precision Ceramics, Inc.
Borg-Warner.
Bridgestone Tire Company.
Calazeras Cement Company.
Cast Metals Association.
Caterpiller Inc.
Ceramic Tile Distributors Association.
Champion Spark Plug.
Chesebrough-Ponds, Inc.
China Clay Products.
Chrysler Corporation.
Cleveland Cliffs Inc.
CNA Insurance Companies.
Composite Can & Tube Institute.
Concrete Minnesota Inc.
ConRock Materials and Inc.
Cooper Tire and Rubber Company.
Copper & Brass Servicenter Association.
Corhart Refractories Corporation.
Council of Periodical Distributors Association.
Council of Wholesale-Distributors.
Door & Hardware Institute.
Eagle-Picher Industries.
Edison Electric Institute.
Electrical-Electronics Materials Distributors Association.
Eli Lilly Corporation.
Employers Mutual Companies.
Explosive Distributors Association, Inc.
Farm Equipment Wholesalers Association.
Fire Suppression Systems Association.
Flexible Packaging Association.
Fluid Power Distributors Association, Inc.
FMC Corporation.
Food Industries Suppliers Association.
Food Marketing Institute.
Foodservice Equipment Distributors Assn.
Ford Motor Company.
Frey Concrete.
Gates Rubber Company.
GenCorp. Inc.
General Ceramics, Inc.
General Merchandise Distributors Council.
General Motors.
Georgia-Pacific.
Goodyear Tire & Rubber Company.
Greater Wash/MD Service Station & Repair Assn.
Gypsum Company.
Halliburton Co.
Health Industry Distributors Association.
Hecla Mining Company.
H.G. Hudson Manufacturing Company.
Hilltop Basic Resource Inc.
Hobby Industry Association of America.
Houston Lighting and Power Company.
Independent Medical Distributors Assn.
Institutional & Service Textile Distributors Association, Inc.
International Sanitary Supply Association.
Irrigation Association.
International Truck Parts Association.
Jewelry Industry Distributors Association.

Kemper Group.
Kerr-McGee Corporation.
Keystone Coal Mining Corporation.
Liberty Mutual Insurance Group.
MA. Hanna Company.
Machinery Dealers National Association.
Mack Trucks.
Material Handling Equipment Distributors Assn.
Maytag Corporation.
Mead.
McCreary Tire and Rubber Company.
Michelin Tire Corporation.
Mobil Chemical Corporation.
Mobil Oil Corporation.
Monument Builders of North America.
Motor Vehicle Manufacturers Association.
Motorcycle Industry Council.
Motorola.
Music Distributors Association.
National-American Wholesale Grocers' Assn.
National Appliance Parts Suppliers Assn.
Nat'l. Assn. for Hose & Accessories Distributors.
Nat'l. Association of Aluminum Distributors.
National Association of Casualty & Surety Agents.
National Assn. of Chemical Distributors.
National Assn. of Container Distributors.
National Association of Decorative Fabric Distributors.
National Assn. of Electrical Distributors.
National Association of Fire Equipment Distributors.
National Association of Floor Covering Distributors.
National Association of Homebuilders.
National Assn. of Independent Insurers.
National Assn. of Manufacturing Opticians.
National Assn. of Marine Services, Inc.
National Association of Meat Purveyors.
National Assn. of Plastics Distributors.
National Assn. of Service Merchandising.
National Association of Sporting Goods Wholesalers.
National Assn. of Tobacco Distributors.
National Assn. of Truck Stop Operators.
National Association of Writing Instrument Distributors.
National Automobile Dealers Assn.
National Beer Wholesalers Association.
National Building Material Distributors Association.
National Business Forms Association.
National Candy Wholesalers Association.
National Coal Association.
National Commercial Refrigeration Sales Association.
National Electronic Distributors Assn.
National Fastener Distributors Association.
National Food Brokers Association.
National Food Distributors Association.
National Forest Products Association.
National Frozen Food Association.
National Grain and Feed Association.
National Grocers Association.
National Independent Poultry and Food Distributors Association.
National Industrial Belting Association.
National Industrial Glove Distributors Association.
National Industrial Sand Association.
National Intergroup Inc.
National Kitchen & Bath Association.
National Kitchen & Cabinet Association.
National Lawn & Garden Distributors Association.
National Locksmith Suppliers Association.
National Machine Tool Builders Association.
National Marine Distributors Association.
National Moving & Storage Association.
National Paint Distributors, Inc.
National Paper Trade Association, Inc.
National Particle Board Association.
National Pest Control Association.
National Plastercraft Association.
National Printing Equipment & Supply Assn.
National Ready Mixed Concrete Association.
National Restaurant Association.
National Sand & Gravel Association.
National Sash & Door Jobbers Association.
National School Supply & Equipment Assn.
National Screw Machine Products Association.
National Small Business United.
National Solid Wastes Management Assn.
National Stone Association.
National & Southern Industrial Distributors Associations.
National Spa and Pool Institute.
National Textile & Apparel Distributors.
National Tooling and Machining Association.
National Truck Equipment Association.
National Welding Supply Association.
National Wheel & Rim Association.
National Wholesale Druggists' Association.
National Wholesale Furniture Association.
National Wholesale Hardware Association.
Newmont Mining Corporation.
New York State Electric and Gas Corporation.
North American Heating & Airconditioning Wholesalers.
North America Wholesale Lumber Assn., Inc.
Optical Laboratories Association.
Outdoor Power Equipment Distributors Assn.
Pennwalt Corporation.
Pet Industry Distributors Association.
Petroleum Equipment Institute.
Petroleum Equipment Supply Assn.
Petroleum Marketers Association of America.
Phillips Petroleum Co.
Portland Cement Association.
Power Transmission Distributors Association, Inc.
Printing Industries of America PRM Concrete Corporation.
Procter & Gamble.
Reynolds Metals Companies.
R.R. Donnelly & Sons Company.
Rochester & Pittsburgh Coal Company.
Rubber Manufacturers Association.
Russell Corporation.
Safety Equipment Distributors Assn., Inc.
Scaffold Industry Association.
Scott Paper Company.
Security Equipment Industry Association.
Shell Oil Company.
Shipbuilders Council of America.
Shoe Service Institute of America.
Society of American Florists.
Sorptive Minerals Institute.
Specialty Tools & Fasteners Distributors Association.
Spring Service Association.
Southwestern Bell Corporation.
Textile Care Allied Trades Association.
The American Society of Personnel Administrators.
The AntiFriction Bearing Manufacturers.
The B.F. Goodrich Company.
The Can Manufacturers Institute.
The Firestone Tire & Rubber Company.
The Formaldehyde Institute.
The Goodyear Tire & Rubber Company.
The National Cotton Council.
The National Grange.
The Small Business Legislative Council.
The Society of the Plastics Industry.
The Standard Oil Company.
The West Company, Inc.
Toy Wholesalers' Association of America.
UBA, Inc.
U.S. Borax and Chemical Corp.
U.S. Business and Industrial Council.
Umetco Minerals Corporation.
Unigard Insurance Group.
Union Camp.
Uniroyal Goodrich Tire Company.
United Pesticide Formulators & Distributors Association.
USG Corportion.
USX Corporation.
Utah International Inc.
Video Software Dealers Association.
Volkswagen.
Wallcovering Distributors Association.
Warehouse Distributors Association for Leisure & Mobile Products.
Water and Sewer Distributors Association.
Wausau Insurance Companies.
Wholesale Florists & Florist Suppliers of America.
Wholesale Stationers' Association, Inc.
Wine & Spirits Wholesalers of America, Inc.
Winter Brothers Concrete Inc.
Woodworking Machinery Importers Assn.
Woodworking Machinery Distributors Assn.

AMENDMENT NO. 1773

(Purpose: To provide a further limitation with respect to medical removal)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. DIXON) proposes an amendment numbered 1773.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike everything beginning on page 64, line 1 through line 12 on page 68 and insert the following:

"(b) LIMITATIONS FOR AGRICULTURAL WORKERS.—Provisions for medical removal protection under this subsection shall not apply to any seasonal agricultural worker employed by an employer for less than 5 months of continuous employment.".

(c) DISCRIMINATION PROHIBITED.—

(1) IN GENERAL.—No employer or other person shall discharge or in any manner discriminate against any employee, or applicant for employment, on the basis that the employee or applicant is or has been a member of a population that has been determined by the Board to be at risk of disease. The subsection shall not apply if the position which the applicant seeks requires exposure to the occupational health hazard which is the subject of the notice. If it is medically determined pursuant to subsection (d) that an employee should be removed to a less hazardous or nonexposed job, an employer may effect such a removal without violating this subsection so long as the employee maintains the earnings, seniority, and other employment rights and

benefits, as though the employee had not been removed from the former job.

(2) SPECIAL PROVISION.—An employer with 10 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority and other employment rights and benefits as comparable as possible to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.

(d) BENEFIT REDUCTION PROHIBITED.—

(1) GENERAL.—If, following a determination by the Board under this Act, the employee's physician medically determines that an employee who is a member of a population at risk shows evidence of the development of the disease described in the notice or other symptoms or conditions increasing the likelihood of incidence of such disease, the employee shall have the option of being transferred to a less hazardous or nonexposed job. If within 10 working days after the employee has exercised the option and transmitted to the employer a copy of the initial determination, the employer's medical representative has not requested independent reconsideration of such determination, the employee shall be removed to a less hazardous or nonexposed job and shall maintain earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job. In providing such alternative job assignment, the employer shall not be required to violate the terms of any applicable collective bargaining agreement, and shall not be required to displace, lay off, or terminate any other employee.

(2) INDEPENDENT RECONSIDERATION.—If the employer's medical representative requests independent reconsideration of the initial medical determination under paragraph (1), the employee's physician and the employer's medical representative shall, within 14 working days of the transmittal of the initial determination, submit the matter to another mutually acceptable physician for a final medical determination, which shall be made within 21 working days of the transmittal of the initial determination unless otherwise agreed by the parties. If the two medical representatives have been unable to agree upon another physician within 14 working days, the Secretary or the Secretary's local designee for such purpose shall immediately, at the request of the employee or the employee's physician, appoint a qualified independent physician who shall make a final medical determination within the 21 working day period specified in this paragraph, unless otherwise agreed by the parties. The employer shall bear all costs related to the procedure set forth in this paragraph.

(3) EMPLOYEES SUBJECT TO MEDICAL REMOVAL.—An employer shall be required to provide medical removal protection only for employees who—

(A) are notified individually under section 5, or

(B) the employer knows or has reason to know are members of the population at risk as determined by the board.

(4) SPECIAL RULES FOR MEDICAL REMOVAL.—An employer shall be required to provide such protection only if any part of the employee's exposure to the occupational health hazard occurred in the course of the employee's employment by that employer. The medical removal protection described in this subsection shall be provided for as long as a less hazardous or nonexposed job is available. The availability of such a job shall depend upon the employee's skills, qualifications, and aptitudes and the job's reqirements. Where such job is not available, the medical removal protection shall be provided for a period not to exceed 12 months. The employer may condition the provision of medical removal protection upon the employee's participation in follow-up medical surveillance for the occupational health effects in question based on the procedure set forth in this subsection. The employer's obligation to provide medical removal protection shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal, or receives income from employment with another employer made possible by virtue of the employee's removal.

(5) SPECIAL LIMITATION.—An employer is not required to provide medical removal protection for employees if the employer—

(A) has 10 or fewer full-time employees at the time medical removal protection is requested, and

(B) made or is in the process of making a reasonable good faith effort to eliminate the occupational health hazard that is the basis for the medical removal decision.

AGRICULTURAL EXEMPTION FROM THE MEDICAL REMOVAL PROVISION

Mr. DIXON. Madam President, today the Senate is debating the merits of S. 79, the High Risk Occupational Disease Notification Act. At issue will be, whether this bill to notify workers that their job may put them at health risk, can accomplish its intended purpose. Some of the questions about whether S. 79 can be effective center around the medical monitoring provisions.

The medical removal and medical monitoring provisions of S. 79 are troublesome, and indeed, unworkable for many kinds of businesses. These provisions are particularly unsuitable to the unique work practices in farming.

Therefore, I offer an amendment, along with my distinguished and good friend from Kentucky, Senator FORD, to exempt from medical removal protection, all seasonal agricultural workers employed by an employer for less than 6 months. Our amendment would also exempt a farmer from paying for the cost of medical monitoring for this same category of employee.

According to the Department of Agriculture, over 70 percent of all farm employees work for less than 6 months. The nature of this seasonal work is such that these workers would not seek medical removal to an alternative job. Seasonal employees may work for several employers simultaneously. This makes medical removal and paying for medical monitoring inappropriate for agriculture employers.

The authors of S. 79 agree that because of the temporary nature of seasonal farm work, an agriculture employer should not be required to find alternative employment for seasonal workers. They have also agreed that it is reasonable to amend S. 79 to set aside $1 million to pay for the cost of medical monitoring of farm employees who work 6 months or less out of the Department of Health and Human Service's migrant health program.

I commend Senators METZENBAUM and STAFFORD for their willingness to accept these constructive amendments of the Senator from Kentucky and myself.

Madam President, I urge my colleagues to ultimately adopt these amendments.

Mr. METZENBAUM. Mr. President, the amendment exempts seasonal agricultural workers employed by an employer for less than 6 months from the medical removal provisions of the bill. The short-term nature of seasonal farmwork makes it impractical for an agricultural employer to find an alternate job for a seasonal farmworker. Let's be clear. This amendment has no impact on regular, year-round farmworkers, who make up about 30 percent of the farm work force. These regular workers are no different than their counterparts employed in other sectors of the economy.

This amendment also does not affect medical monitoring. All notified workers, short term or regular, should be allowed to seek medical testing to determine if they have developed an occupational disease associated with exposure to an occupational health hazard.

This is a constructive amendment that makes the bill more workable. I urge my colleagues to adopt it.

AMENDMENT NO. 1774 TO AMENDMENT NO. 1773

(Purpose: To clarify the medical monitoring provisions relating to seasonal agricultural workers)

Mr. FORD. Madam President, I send to the desk an amendment in the second degree to the amendment of the Senator from Illinois and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] proposes an amendment numbered 1774 to amendment No. 1773.

Mr. FORD. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1 of the amendment strike "5" through the first period and insert the following in lieu thereof: "6 months of continuous employment. Provisions of section 12 of this Act shall not take effect unless the Secretary of Health and Human Services, using existing authorization, provides that in the case of seasonal agricultural workers employed by an employer for less than 6 months of continuous employment, the medical monitoring recommended by the Board is provided through the Migrant

Health Program of the Bureau of Health Care Delivery and Assistance of the Department of Health and Human Services using funds appropriated under section 14. An amount not to exceed $1,000,000 for each fiscal year, from funds authorized to be appropriated by this Act, shall be set aside, if necessary, to carry out the preceding sentence.".

Mr. FORD. Mr. President, the amendments that Senator DIXON and I are offering today are designed to recognize the unique aspects of seasonal farm labor under S. 79, the High Risk Occupational Disease Notification and Prevention Act. As a cosponsor of this legislation, I support establishing a risk notification program that will save lives through early intervention and protect both workers and businesses from the long-term costs of occupational disease. However, I am concerned that the bill that was reported from the Labor and Human Resources Committee does not recognize the heavy use of seasonal employees by farmers, particularly family farmers in my home State of Kentucky. The amendments we are offering make this bill workable for farmers. I believe these amendments are supported by the sponsors of this bill, and I appreciate their willingness to hopefully revise this legislation to address our concerns.

The first amendment we are offering would exempt seasonal agricultural workers, those employed for less than 6 months, from the medical removal provisions of this bill. The second amendment provides that any medical monitoring required by the Risk Assessment Board for seasonal agricultural workers would be provided by the Department of Health and Human Services through the Migrant Health Program and paid for with funds authorized by the bill.

The purpose of S. 79 is, quite simply, to save lives and decrease the long-term costs to both employers and employees that are associated with occupational illness. In Kentucky, we are just finishing a long and controversial process of revising our workers' compensation system. Over the years, black lung disease and other occupational diseases associated with the coal mining industry, have put a strain on the workers' compensation system. Had this legislation been in place several years ago, we could have had a system of identifying and monitoring workers who would develop the most serious and financially devastating of these conditions, and saved considerable expense to Kentucky industry, workers, and the entire worker's compensation system.

While farming may not be as hazardous an occupation as coal mining, there may be certain risks to farmworkers that the Risk Assessment Board will determine are significant enough to trigger a notification. Under the provisions of the bill before us, family farmers would be put in a position of having to potentially remove a temporary, seasonal worker to a less hazardous job, or provide medical monitoring for the employee. This simply is not workable for farmers who use seasonal labor. They may have a different work force every day. Farming does not operate like other industries which maintain a fairly stable work force.

The Department of Agriculture estimates that 70 percent of farm employees are seasonal workers, working less than 6 months per year. It is not realistic to require these farmers to remove notified workers to positions that do not exist. Seasonal workers are hired for a specific job and period of time, for work that is temporary only. The medical removal and monitoring provisions of this bill would effectively require farmers to create jobs or provide medical monitoring for workers who may be employed only a few days or weeks during the year. In the case of a worker who could not be removed to another position, the farmer would have to provide 12 months of salary and benefits, reduced by other compensation, to that worker. Clearly, farmers should not be put in a position of having to provide a year of compensation to a worker who was employed only a few weeks or months.

The amendments which Senator DIXON and I are offering resolve this problem in two ways. First, Senator DIXON'S amendment, which I am pleased to cosponsor, would exempt seasonal agricultural workers, those employed for less than 6 months, from the medical removal provisions of this bill. Second, the amendment which I am offering and is cosponsored by Senator DIXON, provides that any medical monitoring required by the Risk Assessment Board would be provided to farmworkers by the Department of Health and Human Services through the Migrant Health Program. Farmers would not be required to provide the medical monitoring. My amendment earmarks $1 million of the funds authorized for this bill to pay for this medical monitoring.

These amendments recognize the temporary nature of seasonal agriculture employees and make the bill workable for farmers. As a practical matter, it is unlikely that many farmers will be affected by the medical removal provisions. Only current workers individually notified, or those the farmer knows are at risk, must be provided medical monitoring or removal to a less hazardous job. The medical removal provisions only become effective when an employee takes action, through his physician, to request transfer. The employer can also request an independent consideration of employee's physician's findings. Because seasonal farm work is of such short duration, it is unlikely that farm workers will even seek removal. It simply does not make sense to apply the removal requirements to temporary farm workers, and this amendment is needed to recognize the unique circumstances of seasonal farm labor.

The medical monitoring requirements of this bill are also unworkable for seasonal agriculture labor. For some crops, farm workers may work for several different farmers during the growing season, and may even work for different farmers during one phase of the growing season. Approximately 75 to 80 percent of tobacco workers are seasonal workers, estimated at between 150,000 and 200,000 workers. Although the planting schedules of burley and Flue-cured tobacco are slightly different, the labor requirements are similar. Typically, tobacco workers work for 2 to 4 months a year. For burley, labor requirements begin with transplanting plants from seedbeds to the fields in May. Then in August and September, there is usually about a month's time of cutting and housing. Then in November and December, workers are required for about 6 weeks for stripping and baling. Although loyalties develop between workers and farmers, it is not unusual for workers to move from farm to farm during these three phases of the growing season, sometimes only working for a few days at the end of the cycle at one farm.

It would, obviously, be unnecessary and burdensome to require each farmer that hires an at-risk worker to provide repetitive medical monitoring. It would also place an undue burden on the worker at risk to show that he or she worked at one particular farm location long enough to be exposed to the hazard. However, for those farm workers who are known to be at risk, medical monitoring should be available. It just simply makes more sense to provide one source of medical monitoring for migrant seasonal farm workers. My amendment provides that by placing responsibility for medical monitoring in the hands of the Migrant Health Program in the Bureau of Health Care Delivery and Assistance within the Department of Health and Human Services. The Migrant Health Program currently provides a health care delivery service for migrant and seasonal farmworkers and their families. This amendment earmarks up to $1 million per fiscal year of the annual authorization for the cost of medical monitoring for seasonal agricultural workers.

It is important to stress that this amendment does not mean that agricultural workers' health hazards should be a priority for the Risk Assessment Board. Under the bill, the Board is instructed to prioritize notifications based on those populations at risk who would most likely benefit from medical monitoring. The fact that medical monitoring for seasonal farm workers will be paid for with Federal funds does not, by itself, make this population more likely to benefit from medical monitoring. It is also important to note that this provision does not add to the cost of the bill. The sponsors of S. 79 have assured me that the annual authorization of $25 million is sufficient to absorb the estimated cost of medical monitoring for seasonal agricultural workers.

I urge my colleagues to adopt the amendments.

Mr. METZENBAUM. Mr. President, the Ford amendment eliminates another practical problem with S. 79. It has been pointed out that agricultural employers may have a difficult time providing medical monitoring to seasonal agricultural workers who have been notified under S. 79.

Seasonal farmworkers may work for a number of employers during the year and it would be a problem to determine which employer is responsible for the medical monitoring. But seasonal farmworkers at risk of occupational disease should not lose the benefits of medical monitoring just because they change jobs every few months.

This amendment solves the problem by having the Federal Government, through the Migrant Health Services Division of the Department of HHS, provide the monitoring to seasonal farmworkers. No new money is needed for this service. There are enough funds in S. 79 to absorb what will be a minimal cost.

With this amendment, seasonal farmworkers who work less than 6 months for an employer, will receive medical monitoring at no cost to agricultural employers.

I applaud this innovative solution. The amendment improves the bill and should be adopted.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER (Mr. REID). The Senator from Louisiana.

AMENDMENT NO. 1775

(Purpose: To revise the medical removal provisions relating to small business and others)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. BREAUX) proposed an amendment numbered 1775.

Mr. BREAUX. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2 between lines 13 and 14 insert the following:

"(d) SPECIAL PROVISION.—An employer with 50 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority and other employment rights and benefits as comparable as possible to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.

In addition, an employer is not required to provide medical removal protection for employees if the employer—

"(A) has 50 of fewer full-time employees at the time medical removal protection is requested, and

"(B) made or is in the process of meeting a reasonable good faith effort to eliminate the occupational health hazard that is the basis for the medical removal decision."

Mr. QUAYLE. Mr. President, a parliamentary inquiry. Do we only have two amendments pending, an amendment by the Senator from Illinois and one by the Senator from Kentucky?

Mr. BREAUX. Will the Senator yield?

Mr. QUAYLE. I yield.

Mr. BREAUX. I respond by pointing out that my amendment is to the underlying bill and the previous amendments were to the committee substitute.

Mr. QUAYLE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 1776 TO AMENDMENT NO. 1775

(Purpose: To clarify the medical monitoring provisions)

Mr. DIXON. Mr. President, I send an amendment to the desk in the second degree to the Breaux amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 1776 to amendment No. 1775.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following: "The medical monitoring required under this Act shall be limited to the monitoring recommended by the Risk Assessment Board. The means of providing such medical monitoring shall be left to the employer's judgment consistent with sound medical practices. If the benefits are made available through an existing employer health plan, the employee may be required to meet deductibles or copayments generally required under the existing employer health plan. Any such current employee shall be required to provide monitoring only for employees who—

"(1) are notified individually under section 5; or

"(2) the employer knows or has reason to know are members of the population at risk as determined by the Board.

An employer with 50 or fewer employees may not be required to pay more than $250 for medical monitoring for any employee in any year. This amount shall be adjusted annually after 1988 based on the Consumer Price Index for medical care services maintained by the Bureau of Labor Statistics.".

Mr. DIXON. Mr. President, by way of explanation, may I state that the amendment offered by my distinguished colleague, the Senator from Louisiana, increases the work threshold from 10 to 50 people in the definition of a small business as contemplated by S. 79. I am candid in saying that I think the number should be larger. We are going to be engaged in continuing negotiations about this matter. But certainly, increasing it from 10 to 50 is a substantial step, in my view, toward protecting the interests of small businesses.

The second-degree amendment, offered by this Senator, caps an employer of 50 or fewer employees expense for medical examinations at $250. I would point out that the report by the committee indicates a "guesstimated" sum of $224 for medical examinations.

There are some of us who would contest that, believing that doctors will protect themselves against malpractice suits by thorough examinations, and would run up costs higher than $224 in some instances. So, we have put a cap on it, or are suggesting a cap in the second-degree amendment offered by this Senator.

Mr. METZENBAUM. Mr. President, under the act, the notification letter to an employee who is a member of a designated population at risk of disease must include counseling information relevant to the nature of the particular risk. That information must include the most appropriate types of medical monitoring for the disease, as determined by the risk assessment board.

The second Dixon amendment makes clear that an employer who is providing medical monitoring to a current employee need only provide the monitoring recommended by the board in the notification letter. If the employer wants to provide more extensive monitoring, the employer is free to do so. But the types of monitoring listed by the board are the only things an employer must provide.

This provision makes monitoring predictable and limits costs for employers. It should be adopted.

The amendment also clarifies the original intent of the sponsors of S. 79 regarding actual delivery of medical monitoring. The amendment provides that the means of providing medical monitoring shall be left to the employer's judgment consistent with sound medical practices.

Thus employers may choose to enter into contractual arrangements with health maintenance organizations, clinics, hospitals or testing laboratories. Employers might also choose to secure appropriate coverage from health insurance carriers. Some employers may choose to create or expand in-house medical programs.

I assume the point of the provision is to allow employer flexibility in providing medical monitoring. However, neither the amendment nor the act should be construed to require that an insurance carrier, an HMO or any other health institution provide medical monitoring.

This provision also makes sense. It protects employee health and lets employers use their best judgment in providing services. I urge my colleagues to adopt it.

Finally, there has been great confusion over the cost of the medical monitoring provisions of S. 79. Opponents have argued that employers, particularly small businesses who may not be able to take advantage of the economies of scale available to large companies, will be forced to pay thousands of dollars per employee for a whole range of expensive, sophisticated medical procedures.

That simply is not true and this amendment by Senator DIXON should put that argument to rest once and for all.

In the vast majority of cases, medical monitoring will involve a simple chest x-ray, or a blood test or a urinalysis. One industry group opposed to the bill estimated that medical monitoring costs would average between $20 and $250 per monitored employee. At the extensive hearings on the legislation, occupational health experts estimated that the cost of medical monitoring would be less than $250 per monitored employee.

This amendment caps the cost of medical monitoring for employers with 50 or fewer employees at $250 per monitored employee per year. In other words, small employers will not be responsible for any medical monitoring costs that exceed $250 per employee. If more expensive tests are required, the employee will be responsible for the cost.

The amendment demonstrates what we have been saying all along—this bill does not and will not impose undue costs on the Nation's small employers. I do not believe this amendment is necessary because medical monitoring costs never were extensive. But this amendment guarantees those costs will be modest for small employers.

It is a fair amendment, which helps small business. As such, I am willing to accept it.

AMENDMENT NO. 1775

Mr. BREAUX. Mr. President, I take this time to comment on the amendment I presented to the underlying bill, to present some comments on the amendment itself and comment on the work presented by Senators METZENBAUM and STAFFORD, all the work that they have done in presenting a bill to the Senate which can be presented to all segments of American society. You can look at the chart of the back of the Senate. I commend those names that are on that chart, organizations, employees and the workers that they represent for their support of this legislation.

I tell all the Members of the Senate that when you can have the Chemical Manufacturers Association and the National Resources Defense Council in agreement on this legislation, you have a good bill. When you have the Manville Corp., and the American Cancer Society in agreement on this bill, you have good legislation.

When you have the National Paint & Coating Association and the American Public Health Association in agreement on legislation, you know that a good job has been done.

I think that the very show of support by these varied and different organizations is a credit to the authors of the bill because it tells everybody in this country that a great deal of work has been done in putting together a compromise package that is good for our country and our Nation and should be supported by everyone.

These organizations represent both ends of the spectrum in these types of debates when we argue about the environment and argue about productivity in this country. I think that that, in itself, speaks as a striking example of why we in this body should give our strong support to S. 79, the legislation before the Senate this afternoon.

It is easy for those of us in the Congress not to have to worry professionally and personally about disease and risk in the workplace because we do not have a lot of problems in the Senate with regard to potentials for incurring disease because of where we work. But I would tell our colleagues in this body that is not the case for hundreds of thousands of workers in this country.

I represent the State of Louisiana which probably has a greater concentration of chemical companies, of oil and gas companies, of plastic manufacturing companies, of paint manufacturing companies that employ literally thousands of men and women in the State of Louisiana. These men and women in a State that has the highest unemployment in the Nation go to work every morning because they need to do so to feed their families. They live on the real edge of whether they are going to be able to earn enough to survive another week or whether they may be out of work because of another plant closing.

These men and women who go to these plants in my State go to these plants with a concern of whether their workplace is, in fact, safe. I want to commend those plants and those manufacturers who have done an outstanding job in trying to notify workers of potential health hazards in the workplace.

Many of them have already done a tremendous job. For many of them who have done that good work already, this bill will cause almost no additional work whatsoever. There are some who will have to take steps that they are not, in fact, taking.

I would say to all of our Members who oppose this legislation to place themselves for a moment in the shoes of an individual who is trying to feed his family and his children, who drives down a highway every morning going to a plant that he is not sure whether they are manufacturing a product that could potentially put him at risk to lung cancer or to bowel cancer, or if she is a female, to put her at an exceptionally high risk of a potential birth defect in a child who is born or to have other problems that she knows little about.

That is what we are really trying to protect. We are really trying to protect those individuals who must work, who must produce the products that are good for society because we need them, but would like to know whether they are working in a place that is safe. That is all this bill does.

We will talk more about it, but I would simply say to those who have some concern to point out that those organizations who are going to be the most directly affected are in support of this legislation. I think that in and of itself is a credit to those who put the legislation together and assures us that it is a fair package that will address the legitimate concerns for all of these corporations who are going to have to be governed by it.

I want to be able to go back to the people of my State and other employees in similar fashions in industries producing hazardous products and say because of this legislation, they can go to work knowing that they are going to be safer in the workplace, and if they are exposed to dangerous substances that could, in fact, cause them problems, that someone is going to tell them about it.

That is all this legislation does: To allow that worker to know that someone is concerned about him, that someone is taking it upon themselves to say that they will be notified and they will be examined. I think that is a fair approach, and I commend the authors of the bill for the great work that I think they have done already.

Mr. METZENBAUM. Mr. President, the small business community has expressed a great deal of concern about the medical removal provisions of S. 79. This amendment, offered by Senator BREAUX, should eliminate those concerns.

The amendment does two things. It exempts businesses with 50 or fewer employees from the medical removal provisions of the bill. That means over 95 percent of the firms in this country will be exempt from medical removal.

The amendment also requires that an employee in the remaining 5 percent of the firms, who is eligible for medical removal but who cannot be transferred to an alternate job with the employer, must make a good faith effort to find other work. This will prevent employees from taking undue advantage of employers.

The Breaux amendment improves the bill and I urge its adoption.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I yield to the distinguished majority leader 5 minutes.

ORDERS FOR WEDNESDAY

RECESS UNTIL 10:30 A.M.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Kentucky, my good friend and neighbor.

Mr. President, there will be no more rollcall votes today. I ask unanimous consent that when the Senate completes its business today that it stand in recess until the hour of 10:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning that following the two leaders under the standing order there be a period for morning business to extend until 11 o'clock a.m. and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEEDING PRIOR TO VOTE ON CLOTURE

Mr. BYRD. Mr. President, I ask unanimous consent that during the second half-hour under the cloture rule, the time be equally divided between Mr. METZENBAUM and Mr. HATCH. That no amendments be in order during that half-hour. This request has been cleared by both Mr. METZENBAUM and Mr. HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that motions to recommit, with or without instructions, be in order that half-hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. It is also my understanding, Mr. President, if I am correct, that we will soon go out.

Mr. BYRD. Yes. I have already announced there will be no more rollcall votes today and no further action by way of motions, et cetera. Does the Senator waive the mandatory quorum?

Mr. HATCH. I will be happy to waive the mandatory quorum and just have the cloture vote. When is it? Eleven o'clock?

Mr. BYRD. Eleven-thirty.

Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I believe this is all all right with the acting Republican leader as well.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Kentucky for yielding, and I wish the distinguished Senator from Utah [Mr. HATCH] a very, very happy 43d birthday.

Mr. HATCH. Thank you.

The PRESIDING OFFICER. Who yields time?

WAIVER OF MANDATORY QUORUM CALL VITIATED

Mr. BYRD. Mr. President, I ask unanimous consent that the order waiving the mandatory quorum on tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I do this, Mr. President, because otherwise Senators might be locked out from offering second-degree amendments, and I do not know that anyone on this side wants to offer a second-degree amendment. But in the event Mr. HATCH would or a Senator would want to offer a second-degree amendment with a mandatory quorum wiped out, such amendments have to be offered by 1 hour prior to the beginning of the vote.

So if there is no mandatory quorum, the vote begins 1 hour after the Senate comes in and does not give Senators an opportunity to offer second-degree amendments.

Mr. HATCH. If the Senator will yield.

Mr. BYRD. Yes.

Mr. HATCH. As I understood it, we would have no amendments regardless. Does the Senator's side intend to bring up any additional amendments?

Mr. METZENBAUM. If I may intercede, it is our understanding that there would be no amendments offered or in order before the cloture vote tomorrow.

Mr. HATCH. Right.

Mr. METZENBAUM. What the majority leader is addressing himself to——

Mr. HATCH. Postcloture.

Mr. METZENBAUM [continuing]. Is the right to file second-degree amendments postcloture.

Mr. HATCH. Then I think that is an appropriate request.

Mr. BYRD. I make the request.

Has it been granted?

The PRESIDING OFFICER. It has been granted.

Mr. BYRD. I thank the Chair. I thank Senators.

Mr. METZENBAUM. I compliment the majority leader, who recognized the need to protect the minority or anyone else having an opportunity to offer an amendment postcloture, and I think it was entirely appropriate. I commend the Senator for doing so when nobody is looking to take unfair advantage of anybody.

Mr. BYRD. I thank the Senator.

Mr. METZENBAUM. Let me at this point say that the Senator from Ohio is prepared to accept the Dixon, Breaux, and Ford amendments at an appropriate time but no action being called for at this point, with some question of whether or not the minority wants me to accept them prior to the cloture vote or after, we will hold that until the morning. But the Senator from Ohio looks favorably on both of the Dixon amendments, the Breaux amendment, as well as the Ford amendment, and that is in a spirit of compromise about which I have spoken earlier. We want to try to work this bill out, if it is at all possible, in a conciliatory and compromising manner.

I thank the Chair. I yield the floor.

CLOTURE MOTION

Mr. BYRD. Mr. President, I hope that cloture will be invoked on tomorrow. In the event it is not, there will be another cloture vote on Thursday. I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 79, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

Senators Bob Graham, Claiborne Pell, Edward M. Kennedy, Barbara A. Mikulski, Alan Cranston, Paul Sarbanes, Harry Reid, Tom Harkin, Spark Matsunaga, John Glenn, Tom Daschle, Wendell Ford, Patrick Leahy, Paul Simon, Howard Metzenbaum, and Timothy E. Wirth.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FLOOR PRIVILEGES

Mr. BYRD. Mr. President, I ask unanimous consent that Elaine Neenan of my staff be granted privileges of the floor during consideration of and votes on S. 79, the High Risk Occupational Disease Notification and Prevention Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE INSULTING TOSHIBA MACHINE VERDICT

Mr. HELMS. Mr. President, today the Tokyo District Court announced the verdict in the Toshiba Machine case. Two low-ranking Toshiba Machine executives received suspended sentences and the company received a 2 million yen fine. At 127 yen to the dollar, 2 million yen works out to $15,748.03.

It is not my habit to comment on foreign court verdicts, Mr. President, but the decision by the Tokyo Court today is insulting. It is, in fact, outrageous. Given the millions of dollars in corrupt profits Toshiba made on the machine tool deals alone, the violations of the sanctions clearly paid off. If there is no other punishment, then clearly crime does pay.

Mr. President, the Congress in the Trade Bill Conference is about to make a far-reaching decision. If there are no meaningful sanctions on Toshiba and Kongsberg in the trade bill, H.R. 3, it will send a signal to all the corrupt Western businessmen that it is business-as-usual. Any damage these businessmen cause by their illegal sales of high-technological gear to the Soviets and their allies will be willingly paid by the U.S. taxpayer.

Last week the distinguished Senator from Pennsylvania, Senator Heinz, noted on the floor the heavy lobbying by the administration against the Garn amendments to the trade bill. With this kind of experience, it is fair to predict that no administration would be very likely voluntarily to impose sanctions on a foreign firm for export control violations, no matter how heinous the offense.

Mr. President, the verdict announced today makes it abundantly clear that the Congress must impose its own sanctions on the guilty.

SPEECH BY CONGRESSMAN BILL NICHOLS AT THE VETERANS OF FOREIGN WARS CONGRESSIONAL AWARD DINNER

Mr. THURMOND. Mr. President, on Tuesday, March 8, 1988, I had the privilege of attending the annual Veterans of Foreign Wars Congressional Award dinner. At that dinner, the Veterans of Foreign Wars honored Congressman Bill Nichols of Alabama with its annual 1988 VFW Congressional Award.

Mr. President, Congressman Nichols gave a very inspirational speech which I would like to have included in the Record for the benefit of my colleagues. However, before submitting his speech, I want to spend a few minutes commenting upon his distinguished service to this country and the people of Alabama.

After graduating from Auburn University in 1939, Congressman Nichols made plans to enter a career in agriculture. However, his plans temporarily changed as a result of World War II. Having participated in the ROTC Program at Auburn University, Congressman Nichols was well-equipped, in 1942, when he entered the Army as a second lieutenant. Assigned to the Eighth Infantry Division as an artillery officer, he distinguished himself in combat in France and Germany. In November 1944, at the Battle of Hurtgen Forest, Germany, Lieutenant Nichols was critically wounded, suffering the loss of a leg. Subsequently, he was awarded the Bronze Star and Purple Heart.

A few years after returning from Europe, Congressman Nichols was elected to public office, serving in both the Alabama House and Senate. As a State legislator, he sponsored and helped enact legislation to improve education, to help the handicapped, and to improve roads between the farm communities and the markets they serve. In 1965, he was voted the "Most Outstanding Member of the Alabama Senate."

Since coming to the U.S. House of Representatives in 1966, Congressman Nichols has served on the House Agriculture Committee and Armed Services Committee. Presently, he serves as Chairman of the House Armed Services Subcommittee on Investigations.

As a member of the Senate Armed Services Committee, I have had the opportunity to work with Bill on many occasions. His interest in the active duty military is well-known. He is a tireless worker and one of the most able and dedicated Members of Congress. The citizens of East Central Alabama are fortunate to have him as their representative.

Mr. President, as I mentioned earlier, Congressman Nichols received the Veterans of Foreign Wars Congressional Award at the annual VFW dinner earlier this month. It was a pleasure for me to be there and hear his remarks. I ask unanimous consent that a copy of his remarks appear in the Record immediately following my statement.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Congressman Bill Nichols Remarks for VFW Congressional Award

Commander Stock, Director Holt, fellow Members of Congress and distinguished guests, tonight I am honored both humble and highly to receive this year's "Congressional Award" from the Veterans of Foreign Wars. I am flattered to have been put in the same ranks with such notables as the late Senator Carl Hayden of Arizona, who was presented with the first VFW Congressional Award in 1964, and Senator Daniel Inouye of Hawaii, last year's receipient.

I can appreciate what this award means because I am a member of VFW Post 4432 in Sylacauga, Al, and I know of the many services the VFW provides for its members—the soldiers, sailors, airmen and marines who defended our Nation of foreign soil during times of war.

Tonight I feel that I am accepting this award for the 241 young Americans who were killed over 5 years ago in the terrorist attack on the marines at the Beirut airport. The investigations subcommittee, which I chair, conducted the inquiry. No one who took part in that investigation will ever forget it; the magnitude of the tragedy indelibly seared over consciousness. And so I believe the members of the investigations subcommittee who fought so hard for the Goldwater-Nichols Act would want me to report to this organization, whose very reason for being is to honor veterans who have served on foreign shores, that they memorialized those marines' deaths with the most far-reaching reform of the U.S. military establishment since the World War II era.

My subcommittee laid the blame for the tragedy in Beirut on the shoulders of the commander on the ground and his superiors in the chain of command right up to the U.S. European Commander. We held them responsible. But responsibility is only one side of the coin. The other side is authority to carry out a responsibility. Subsequently enquiries revealed that America's combatant commanders in the field, who would be responsible for our very survival as a nation if war should come, had limited authority to exercise genunie command—that is, to organize their commands; train and employ forces as they saw fit and establish the chain of command to their subordinates. We held the European Commander responsible in 1983. In 1986, the Congress gave him and the other combat commanders the fullest measure of authority so that they and their subordinates right down to the commander on the ground have the means to carry out their responsibilities.

I am pleased to report this evening that the new chain of command arrangements are working in the Persian Gulf. The old rigid chain that was seldom if ever altered has given way to a streamlined command structure tailored to get the job done. Whereas there were five intermediate echelons—and two more mandatory stops—in the chain of command running from the President and Secretary of Defense to the commander on the ground in Lebanon, there is only one today to the commander in the Persian Gulf all of which has served to strengthen and bring efficiency and expedience to the chain of command.

In my home State of Alabama there live more than 400,000 veterans. For that reason, I devote much of my time in Congress addressing the needs of the men and women who proudly wore the uniform during times of war. In fact, a large percentage of the casework done in our Washington office as well as in our three district offices in Alabama is devoted to handling the problems brought to our attention by veterans living in East Alabama.

In addition, the needs of the active duty soldier are also of great concern to us since the military has many installations in my State.

Anniston Army Depot and Ft. McClellan are two large Army installations located in my district. Ft. Benning and the infantry school is just across the Chattahoochee River in Columbus, GA, Maxwell and Gunter Air Force Bases and located in Montgomery, Ft. Rucker is in South Alabama and Redstone arsenal in Huntsville.

And so tonight I accept this award not only for whatever service we may have accomplished during the 21 years since coming to Congress, but I accept it in deep appreciation for admiration and respect I hold for this great organization. The Veterans of Foreign Wars is indeed committed to serve the more than 2 million American veterans that it represents along with their widows and orphans.

This evening I would like to share with you a couple of examples of how the VFW has represented the needs of veterans living in my State of Alabama.

Not too long ago a veteran called our Washington office to request assistance with the hearing loss he was suffering. He too was an old artillery man and so I could appreciate his concern for not being able to hear well due to the muzzle blasts from the 105 guns.

This veteran came to Washington to plead his case before a board at the Veterans Administration and I joined him as did a representative of the VFW.

Now I am sure the VFW receives many cases like this every year from veterans of all walks of life from all of our 50 states, but they still had the time to work with us and try to help this veteran who came all the way from Alabama, over 1,000 miles away from home who was trying to get some assistance for his service-connected hearing loss.

Another example of the VFW's effort is one in which I am especially proud. Many of you may know of the growing need for nursing homes in this country. Unfortunately, as more of the Nation's population grows older the need for such facilities is becoming especially acute.

Thanks to my friend Congressman SONNY MONTGOMERY, who chairs the House Committee on Veterans' Affairs, and to the interest throughout America from the Veterans of Foreign Wars, we now have some 55 State operated Veterans' homes in 37 States. And we have some 7 additional homes underway including Alabama's first veterans' nursing home located in my congressional district.

This facility will care for some 200 aging veterans. However, this project would never have seen the light of day had it not been for the able assistance from our State Department of Veterans' Affairs and our State veterans organizations including the Veterans of Foreign Wars.

Besides tending to the needs of its membership, the VFW also represents our members' belief for this Nation to have a strong defense. Your VFW Commander-in-Chief Earl Stock has said, "two-hundred years ago, we Americans gained our freedoms in the War for Independence but our independence gave us the responsibility for defending our newly won freedoms and today, thanks to those who carried out their responsibility, we remain a free nation."

I view my prime responsibility in Congress is to keep this Nation strong. Wars are not prevented nor are ideals preserved because one country is more logical, better educated or more considerate than the other. American today is great because it continues to be strong. Its individual citizens have believed in the values of this great country of ours so strongly that they have been willing to maintain a strong and ready defense force and if need be, to wear the uniform and defend his flag.

As President Franklin D. Roosevelt once said, "Our security is not a matter of weapons alone. The arm that wields them must be strong, the eye that guides them clear, the will that directs them indomitable."

And, the father of our country, George Washington, when speaking to a joint session of Congress almost 200 years ago said, "To be prepared for war is one of the most effectual means of preserving peace."

As a Member of the United States Congress, I am a firm believer that peace comes through strength and that it is the better course of wisdom to spend dollars for readiness than to risk American lives.

Although it has been almost a half-century since the world's nations have been involved in direct conflict, much of today's world still remains in turmoil.

From the waters of the Persian Gulf where the Iran-Iraq war is still being waged and where we still have thousands of American military personnel protecting shipping lanes that are important to the entire world—to the conflicts in Central America where both sides of the civil war in Nicaragua have yet to sit town to negotiate peace and where a political uprising in Panama is very possible due to the recent turmoil we have seen there over the past several weeks.

War still wages on in Afghanistan where the Soviets remain despite promises to pull their troops out. The war still lingers in Africa where nations have fought for years and years only to spawn new nations that continue to fight with each other. And in the Middle East the war seems to have been going on for centuries now.

However, the beatitudes admonish: "Blessed are the peacemakers for they are the sons of God." And although we remain strong we must never forget the ultimate wish that all the world may one day be at peace no matter how hard mankind must work together to achieve it.

Finally this evening let me share with you one observation. And that is that there are fewer and fewer combat veterans coming to Washington to serve in Congress. As I said earlier, the major powers of the world have not been in direct conflict with one another for almost 50 years now so we haven't had an entire generation at war as was the case when many of us in this room were young men.

However, I believe that of all the duties to which the VFW is responsive certainly one of those duties must be to impress upon the present generation, who have never worn the uniform nor smelled the smoke of battle, the basic ideals on which this Nation was founded.

And so tonight I salute our great organization—2 millions strong and growing—and would remind us all in the words of President Reagan, "We must never forget that freedom is never really free; it is the most costly thing in the world. And freedom is never paid for in a lump sum; installments come due every generation. All any of us can do is offer the generations that follow a chance for freedom."

NEW REFUGEE REPORT

Mr. KENNEDY. Mr. President, for almost 30 years now, the U.S. Committee for Refugees—a private agency—has published each year its World Refugee Survey. I believe this publication to be one of the most thoughtful and authoritative reviews of global refugee conditions available, and I commend it to my colleagues.

This year, I was pleased to be invited to join a host of distinguished contributors to the Survey, as I submitted an article on the wanton destruction that is producing massive flight and starvation in Southern Africa. And the Survey includes comprehensive analyses of the conditions of refugees from Afghanistan, Indochina, the Soviet Union and other parts of the world.

Mr. President, the challenges to the refugee program are many, particularly as we in the Senate seek to reconcile worldwide need with our national budget. But, just as it has in years past, the World Refugee Survey puts the trials and turmoils of the worlds refugees in stark perspective.

Mr. President, this is an important publication, and I ask to have included in the RECORD the U.S. Committee for Refugees' announcement of its publication.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

A YEAR OF INCREASED DANGER FOR THE WORLD'S REFUGEES

"In the past year, most of the world's 13 million refugees faced increased danger, little hope for going home, and a low priority on the agenda of the international community," Roger Winter, director of the U.S. Committee for Refugees, said today. "That is the human tragedy the World Refugee Survey—1987 in Review documents," Winter said as he announced publication of the thirtieth anniversary issue.

Senator Edward Kennedy speaks forcefully in the World Refugee Survey of that danger for millions of uprooted Mozambicans, Angolans, and South Africans. "The international community," according to Kennedy, "is witnessing another escalating humanitarian crisis in southern Africa, with no end in sight. We are confronting a regional crisis of people that, proportionally, is as large as the Ethiopia-Sudan famine crisis of 1984-85. But this time the people are on the move not primarily because of drought or natural calamity, but in flight from conflict, insurgency, and the growing confrontation with apartheid in South Africa."

Kennedy said, "It is important for us not only to ponder America's role in helping to address the humanitarian problems of Southern Africa, but also our role in helping create them."

"Elsewhere in Africa," said Winter, "Sudan, Somalia, and Djibouti continue as reluctant hosts for large refugee populations, and a major famine emergency again looms in Ethiopia."

In Southeast Asia, tragic incidents occurred in Thailand, which, faced with refugees on every border, continued to offer asylum to many thousands. In March and November, egregious forced repatriations of Hmong refugees to Laos occurred, with refugee lives unnecessarily lost. The situation has deteriorated further in 1988 with interdiction of Vietnamese boat people and pushbacks involving more than 120 refugee deaths at sea.

The World Refugee Survey also reports on other major refugee groups, including Afghans in Pakistan and Iran, Palestinians, and displaced Central Americans.

"In the developed world," said Winter, "Western Europe and North America continually reinforce each other's worst instincts in dealing with asylum seekers." He said, "One wishes for humanitarian consistency from the U.S. government in approching refugee protection matters, but it is not to be found."

Winter described the "truly joyous development" that Soviet Jews, Armenians, and ethnic Germans are being allowed to emigrate in larger numbers than in the past several years. This, he said, is largely because the U.S. government has properly continued to include this issue in negotiations with the USSR. "But, in contrast," he said, "how does one explain the mindset in that same U.S. government toward Haitian asylum seekers?"

"Since 1981, more than 12,000 interdicted Haitians have been forced back to the caldron that is Haiti," Winter said. "Only two in all that time have been found worthy of asylum in the United States, and they literally had the bullet holes to show their fear of persecution in Haiti was well-founded."

"The average American—while knowing little of the details of Haitian life and history—knows enough to be aware that fundamental American fairness has been violently breached in the case of Haitian asylum seekers."

The U.S. Committee for Refugees is a private agency established in 1958 to inform the public about the need for protecting the world's refugees.

TRIBUTE TO JULIUS ERVING

Mr. SPECTER. Mr. President, on April 19, 1988, the Philadelphia 76ers professional basketball team will honor its former great forward, Julius Erving, by retiring his number during a ceremony at the Spectrum in Philadelphia.

For 11 years and to the delight of millions, Julius Erving, fondly referred as "Dr. J." by his myriad fans, brought his special grace and talent to the fans of Philadelphia, the Nation and the world.

Old No. 6 added a new dimension to the game. His acrobatic moves to the hoop, where he seemed to be suspended in midair for an eternity of time, never failed to thrill the crowds, who responded with thunderous cheers. He was a star of the first magnitude.

Although fiercely competitive, Julius always played with a quiet intensity marked by personal dignity and a gracious attitude towards his opponents.

His retirement at the end of the 1986-87 season has left a void in the game for many. These fans will always remember with a sense of loss the very great talent Julius Erving had for the game, the artistry of his movement and his commitment to excellence.

But he has been much more than a great basketball player. He has been and is a fine human being. Unstintingly, he has devoted much time and energy to community, charitable and humanitarian causes. For these efforts, he also deserves our cheers.

It is altogether fitting, then, that the U.S. Senate take note of the exceptional basketball career of Julius Erving and salute him, along with the fans of Philadelphia, as his number is retired from all future competition by the 76ers.

MESSAGES FROM THE HOUSE

At 4:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1397. An act to recognize the organization known as the Non-Commissioned Officers Association of the United States of America.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1259. An act to recognize the organization known as the National Association of State Directors of Veterans Affairs, Incorporated;

H.R. 2707. An act to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes; and

H.J. Res. 480. Joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1259. An act to recognize the organization known as the National Association of State Directors of Veterans Affairs, Incorporated; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following joint resolution, previously received from the House of Representatives for concurrence was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 377. Joint resolution designating March 27, 1988, as "National Black American Inventors Day";

The following joint resolution, received today from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 480. Joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2865. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on a violation of statute involving the overobligation or expenditure of funds in excess of approved appropriation or fund or in advance of an appropriation; to the Committee on Appropriations.

EC-2866. A communication from the President of the United States, transmitting, pursuant to law, a report relative to current methods of estimation of Soviet underground nuclear tests; to the Committee on Armed Services.

EC-2867. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the most recent Five Year Defense Program as of September 1986; to the Committee on Armed Services.

EC-2868. A communication from the Secretary to the Interstate Commerce Commission, transmitting, pursuant to law, notification of an extension of time for a decision by the Commission in Docket No. 40073, South-West Railroad Car Parts v. Missouri Pacific Railroad Company; to the Committee on Commerce, Science, and Transportation.

EC-2869. A communication from the Deputy Administrator of the Federal Highway Administration, transmitting, pursuant to law, a report regarding restriction on certain highways on the vicinity of Cincinnati, Ohio; to the Committee on Commerce, Science, and Transportation.

EC-2870. A communication from the Acting General Counsel of the Department of Energy, transmitting a draft of proposed legislation to extend the expiration date of Title II of the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

EC-2871. A communication from the Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, a report on the Services observance of Federal Lands Cleanup Day; to the Committee on Energy and Natural Resources.

EC-2872. A communication from the Assistant Secretary of Energy (Management and Administration), transmitting, pursuant to law, the annual report on certain acquisition actions and regulations for calendar year 1987; to the Committee on Energy and Natural Resources.

EC-2873. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the annual report of the Energy Information Administration for calendar year 1987; to the Committee on Energy and Natural Resources.

EC-2874. A communication from the Secretary of Energy, transmitting, pursuant to law, the fourth quarter, 1987 Quarterly Report and the 1987 Annual Report on the development of the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-2875. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the Methane Transportation Research, Development, and Demonstration Program for fiscal year 1987;

to the Committee on Energy and Natural Resources.

EC-2876. A communication from the President of the United States, transmitting, pursuant to law, a report on Soviet noncompliance with arms control agreements; to the Committee on Foreign Relations.

EC-2877. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of Presidential determination with respect to a loan of the Export-Import Bank to the People's Republic of China; to the Committee on Foreign Relations.

EC-2878. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report of the Department of competition advocacy for fiscal year 1987; to the Committee on Governmental Affairs.

EC-2879. A communication from the Deputy Assistant Secretary of Defense (Administration, transmitting, pursuant to law, notice of a computer matching system; to the Committee on Governmental Affairs.

EC-2880. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the annual report of the Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1987; to ther Committeee on Governmental Affairs.

EC-2881. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2882. A communication from the Associate Director, Office of Management, ACTION Agency, transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2883. A communication from the Senior Associate Director, General Government Division, General Accounting Office, transmitting, pursuant to law, a report entitled "National Drug Policy Board: Leadership Evolving, Greater Role in Developing Budgets Possible"; to the Committee on the Judiciary.

EC-2884. A communication from the Director of the Office of Legislative Affairs, Agency for International Development, transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-2885. A communication from the Director of the National Science Foundation, transmitting a draft of proposed legislation to authorize appropriations for the National Science Foundation for fiscal years 1989 through 1993 and make amendments to the National Science Foundation Act of 1950 and related laws; to the Committee on Labor and Human Resources.

EC-2886. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final annual funding priorities for the new Direct Grant Awards; to the Committee on Labor and Human Resources.

EC-2887. A communication from the Secretary to the Railroad Retirement Board, transmitting, pursuant to law, the annual report on the determination of the Railroad Retirement Account's ability to pay benefits in each of the next five years; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-434. A resolution adopted by National Association of Regulatory Utility Commissioners relating to rulemaking proceedings on electricity issues which have been proposed by the Federal Energy Regulatory Commission; to the Committee on Energy and Natural Resources.

POM-435. A resolution adopted by the Senate of the State of West Virginia; to the Committee on Labor and Human Resources.

"SENATE RESOLUTION No. 23

"Whereas, The safety of the pertussis vaccine against whooping cough is the topic of current national debate and, while reasonable minds differ on more effective treatment, opponents and proponents both agree that a safer and more effective vaccine is needed; and

"Whereas, the pertussis vaccine is known to have caused seizures, brain damage, mental retardation, deafness, blindness, muscle paralysis and even death in young children; and

"Whereas, it is important that parents be informed about diseases and vaccines against these diseases, it is equally important that parents be informed about adverse reactions to vaccines so that "high risk children" can be identified and screened out of the vaccination process; therefore, be it

"*Resolved by the Senate of West Virginia*, That funding of the National Childhood Vaccine Injury Compensation Law passed by the United States Congress in 1986 which includes compensation for children injured by childhood vaccines prior to October 1988, is hereby supported; and be it

"*Further resolved*, That the Clerk is hereby directed to forward copies of this resolution to each of the six members of the Congressional Delegation from West Virginia, to the President of the United States, to the Vice President of the United States and to the Speaker of the U.S. House of Representatives."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

H.R. 3235. A bill to amend the Public Health Service Act to revise the program of assistance for health maintenance organizations (Rept. No. 100-304).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1886. A bill to modernize and reform the regulation of financial services, and for other purposes (Rept. No. 100-305).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 721. A bill to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian owned business enterprises and to stimulate the development of the private sector of Indian tribal economies (Rept. No. 100-306).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER, from the Committee on Armed Services:

William Lockhart Ball III, of South Carolina, to be Secretary of the Navy.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

Jack Katzen, of Connecticut, to be an Assistant Secretary of Defense; and

Everett Alvarez, Jr., of Maryland, to be a member of the Board of Regents of the Uniformed Services University of the Health Science for a term expiring May 1, 1993.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 26, February 2, February 16, and February 18, 1988, at the end of the Senate proceedings.)

*In the Air Force there are 33 appointments to the grade of major general (list begins with Joseph A. Ahearn) (REF. 748)

*Lieutenant General Harley A. Hughes, U.S. Air Force, to be placed on the retired list in the grade of lieutenant general (REF. 798)

*Lieutenant General Michael J. Dugan, U.S. Air Force, reassigned in the grade of lieutenant general (REF. 799)

*Lieutenant General James P. McCarthy, U.S. Air Force, to be reassigned in the grade of lieutenant general (REF. 800)

*Major General Ellie G. Shuler, Jr., U.S. Air Force, to be lieutenant general (REF. 801)

*Major General Thomas N. Griffin, Jr., U.S. Army, to be lieutenant general (REF. 802)

*Major General Thomas W. Kelly, U.S. Army, to be lieutenant general (REF. 803)

*Carl E. Mundy, Jr., U.S. Marine Corps, to be lieutenant general (REF. 805)

*In the Marine Corps there are 9 promotions to the grade of major general (list begins with Michael K. Sheridan) (REF. 806)

*In the Navy there are 8 promotions to the grade of rear admiral (lower half) (list begins with Harold Martin Koenig) (REF. 807)

**In the Air National Guard there are 17 promotions to the grade of lieutenant colonel (list begins with Randall M. Anderson) (REF. 808)

**In the Air National Guard there are 24 promotions to the grade of lieutenant colonel (list begins with Melvin L. Adamson) (REF. 809)

**In the Army Reserve there are 24 promotions to the grade of colonel and below (list begins with Florentino V. Alabanza) (REF. 810)

**In the Army Reserve there are 26 promotions to the grade of colonel and below (list begins with Henry H. Gordon) (REF. 811)

**In the Army there are 5 promotions to the grade of lieutenant colonel and below (list begins with Mary J. Heger) (REF. 812)

**In the Marine Corps there are 15 appointments to the grade of second lieutenant (List begins with Robert M. Brassaw) (REF. 813)

**In the Air Force Reserve there are 93 promotions to the grade of colonel (list begins with John O. Ahnert, Jr.) (REF. 814)

**In the Air Force Reserve there are 246 promotions to the grade of colonel (list begins with James R. Annis) (REF. 815)

**In the Army National Guard there are 77 promotions to the grade of colonel and below (list begins with Ben B. Bain) (REF. 816)

*In the Army Reserve there are 37 appointments to the grade of major general and below (list begins with Gerald E. Amundson) (REF. 819)

*In the Army National Guard there are 34 appointments to the grade of major general and below (list begins with Frank M. Denton) (REF. 820)

*In the Air Force Reserve there are 21 appointments to the grade of major general and below (list begins with Ronald C. Allen, Jr.) (REF. 828)

*Jerome G. Cooper, U.S. Marine Corps Reserve, to be major general (REF. 829)

*Joe W. Wilson, U.S. Marine Corps Reserve, to be brigadier general (REF. 830)

*In the Marine Corps there are 11 promotions to the grade of brigadier general (list begins with John C. Arick) (REF. 831)

**In the Air Force there are 4 promotions to the grade of colonel and below (list begins with Robert C. Hughes) (REF. 833)

**In the Air Force Reserve there are 3 appointments to the grade of colonel and below (list begins with John D. Kenney) (REF. 834)

**In the Air Force there are 14 promotions to the grade of lietuenant colonel and below (list begins with Michael E. Brooks) REF. 835)

**In the Air Force Reserve there are 5 appointments to the grade colonel and below (list begins with Donald J. Copenhaver) (REF 836)

**In the Air Force there are 2 appointments to a grade no higher tham major (list begins with Gary S. Melvin) (REF. 837)

**In the Air Force there are 4 appointments to the grade no higher than Captain (list begins with Samuel B. Martin) (REF. 838)

**Earnest H. Dinkel, Jr., U.S. Army to be colonel (REF 839)

**In the Army there are 9 promotions to the grade of colonel and below (list begins with Steven M. Bulter) (REF. 840)

**In the Army there are 5 promotions to the grade of lieutenant colonel (list begins with Gary L. Aus) (REF. 841)

**In the Army there are 2 promotions to the grade of Lieutenant colonel (list begins with Micheal J. Connolly) (REF. 842)

**In the Navy there are 4 promotions to the grade of lieutenant commander (list begins with Frederick Eliot, Jr.) (REF. 843)

**In the Navy there are 194 appointments to the grade of ensign (list begins with John M. Adrian) (REF. 844)

**In the Air Force there are 1,953 promotions to the grade of lieutenant colonel (list begins with Gregory J. Aaron) (REF. 859)

**In the Air Force there are 1,081 appointments to the grade of second lieutenant (list begins with Aldru T. Aaron) (REF. 862)

*General Robert H. Reed, U.S. Air Force, to be placed on the retired list in the grade of general (REF. 871)

*Lieutenant General John A. Shaud, U.S. Air Force, to be general (REF. 872)

*Lieutenant General Harry A. Goodall, U.S. Air Force, to be reassigned in the grade of lieutenant general (REF. 873)

*Lieutenant General Robert C. Oaks, U.S. Air Force, to be reassigned in the grade of lieutenant general (REF. 874

Total: 3,974.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON (by request):

S. 2203. A bill to extend the expiration date of title II of the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

By Mr. PELL (by request):

S. 2204. A bill to implement the Inter-American Convention on International Commercial Arbitration; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself, and Mr. Simpson):

S. Res. 398. A resolution authorizing the printing of the compilation entitled "Majority and Minority Leaders of the Senate" as Senate document; considered and agreed to.

By Mr. BYRD (for himself and Mr. Simpson):

S. Res. 399. A resolution authorizing release of documents by the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs; considered and agreed to.

By Mr. BYRD (for Mr. Johnston):

S. Con. Res. 106. A concurrent resolution requesting the President to return the enrolled bill (S. 854) entitled "Nevada-Florida Land Exchange Authorization Act of 1988"; considered and agreed to.

By Mr. LAUTENBERG (for himself, Mr. D'Amato, Mr. Kennedy and Mr. Weicker):

S. Con. Res. 107. A concurrent resolution calling for a consolidated investigation into the operation of Texas Air Corp. and Eastern Air Lines; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON (by request):

S. 2203. A bill to extend the expiration date of title II of the Energy Policy and Conservation Act; referred to the Committee on Energy and Natural Resources.

EXPIRATION DATE EXTENSION OF THE ENERGY POLICY AND CONSERVATION ACT

● Mr. JOHNSTON. Mr. President, I am introducing today at the request of the Department of Energy legislation "to extend the expiration date of title II of the Energy Policy and Conservation Act."

Mr. President, I ask unanimous consent that the text of the bill and the Department of Energy's March 17, 1988, transmittal letter be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 281 (42 U.S.C. § 6285) of the Energy Policy and Conservation Act is amended by striking "1988" both places it appears and inserting "1993" in its place.

Department of Energy,
Washington, DC, March 17, 1988. 20585

Hon. George Bush,
President of the Senate,
Washington, DC.

Dear Mr. President: Enclosed is proposed legislation "[t]o extend the expiration date of Title II of the Energy Policy and Conservation Act." This proposed legislation is part of the Department of Energy's Legislative Program for the 100th Congress.

PURPOSE OF THE LEGISLATON

This bill would amend section 281 of the Energy Policy and Conservation Act (EPCA) to extend the expiration date for Title II of EPCA from June 30, 1988 to June 30, 1993. The extension would continue the authorities in title II for the U.S. Government and U.S. oil companies to participate in and to meet the U.S. obligations under the Agreement on an International Energy Program (IEP, T.I.A.S. No. 8278). These authorities include the section 251 authority for international oil allocation, the antitrust defense afforded by section 252(f) of EPCA to U.S. oil companies participating in the IEP, and the section 254 authority for the Executive Branch to provide certain information to the International Energy Agency (IEA).

BACKGROUND

Following the oil embargo of 1973, the United States and certain other members of the Organization for Economic Cooperation and Development (OECD) entered into the IEP in an effort to promote cooperation among major industrial countries in reducing dependence on imported oil and improving preparedness to respond to international oil supply disruptions. There presently are 21 signatories to the IEP, consisting of most of the principal industrialized oil consuming nations. The IEP Agreement provides for creation of the IEA as an autonomous entity within the OECD, and establishes an international oil sharing system for use during oil supply interruptions and an information system on the international oil market.

The IEA provides a forum within which, and mechanisms by which, the U.S. and our allies can cooperate to prepare for and alleviate the potential effects of severe oil crises. In view of the continuing unstable conditions in the Middle East and the energy security issues at stake, such cooperation is essential. Principally as a result of our efforts, in 1984 the IEA adopted a significant policy decision which identifies early, coordinated drawdown of emergency oil stocks by member nations as a vital element in coping with a major oil supply disruption. The Administration believes that the early use of oil stocks, coordinated with our IEA partners, should be the first line of defense in a crisis. However, this Administration, like its predecessors during the past decade, is committed to the IEA's established systems for sharing information on international oil markets and for international oil allocation, should a severe oil supply disruption require the activation of these systems.

The IEA's emergency information and oil sharing systems are designed to rely heavily upon the voluntary assistance of private companies that conduct the bulk of the international oil trade. To facilitate U.S. company participation in the IEA, section 252 authorizes the development of voluntary agreements and plans of action to implement the allocation and information provisions of the IEP, and makes available a limited antitrust defense and a breach of contract defense with respect to actions taken to develop or carry out voluntary agreements and plans of action. Under this authority, a Voluntary Agreement and Plan of Action to Implement the International Energy Program was agreed to in 1976 by a number of U.S. oil companies (41 F.R. 13998, April 1, 1976); and on January 26, 1988, the Secretary of Energy approved the Second Plan of Action to Implement the International Energy Program (53 F.R. 2866, February 2, 1988). At present, 17 U.S. oil companies, including both major international oil companies and independent oil companies, are participants in the Voluntary Agreement.

The antitrust defense made available by section 252(f) of EPCA is essential to the participation of U.S. oil companies in the Voluntary Agreement and, through it, in the IEP. The IEP, in turn, can function effectively only with participation by U.S. and foreign oil companies in the international oil market. Those companies would be the primary actors in the redistribution of oil if the IEP's emergency sharing provisions were activated.

Other significant provisions of EPCA's Title II also are scheduled to expire on June 30, 1988, including the section 251 authority for international oil allocation, and the section 254 authority for the Executive Branch to provide certain oil company information to the IEA. These authorities are important to support fulfillment of U.S. obligations under the IEP.

The Strategic Petroleum Reserve, market efficiency and our continued commitment to the IEA are especially significant components of the Nation's energy emergency policy. Extending the IEP authorities in EPCA Title II for five years would provide the necessary affirmation of this commitment.

The Department urges timely action on this bill in order to safeguard the Nation's energy security and because plans are underway for the sixth test of the IEA's emergency sharing system, presently scheduled for late 1988. For the planning and conduct of this test to proceed on schedule, the IEP authorities should not be allowed to lapse. A five year extension of these authorities also would aid U.S. companies in their long-term planning for participation in IEP activities and underscore the Government's seriousness of purpose in encouraging that participation.

The Office of Management and Budget advises that enactment of this legislation is in accord with the President's legislative program.

Sincerely,

ERIC J. FYGI,
Acting General Counsel.●

By Mr. PELL (by request):

S. 2204. A bill to implement the Inter-American Convention on International Commercial Arbitration; to the Committee on Foreign Relations.

IMPLEMENTING THE INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

● Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to implement the Inter-American Convention on International Commercial Arbitration.

This proposed legislation has been requested by the Department of State, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

This legislation was previously considered and acted upon favorably by the Senate in the last Congress, but time did not permit similar action in the House.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis and letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs to the President of the Senate dated November 4, 1987.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title 9, United States Code, is amended by adding:

"CHAPTER 3. INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

"Sec.
"301. Enforcement of Convention.
"302. Incorporation by reference.
"303. Order to compel arbitration; appointment of arbitrators; locale.
"304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity.
"305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958.
"306. Applicable rules of Inter-American Commercial Arbitration Commission.
"307. Chapter 1; residual application.

"§ 301. Enforcement of Convention

"The Inter-American Convention on International Commercial Arbitration of January 30, 1975, shall be enforced in United States courts in accordance with this chapter.

"§ 302. Incorporation by reference

"The provisions of chapter 2, sections 202, 203, 204, 205 and 207 shall apply to this chapter as if specifically set forth herein, except that for the purposes of this chapter "the Convention" shall mean the Inter-American Convention.

"§ 303. Order to compel arbitration; appointment of arbitrators; locale

"A court having jurisdiction under this chapter may direct that arbitration be held in accordance with the agreement at any place therein provided for, whether that place is within or without the United States. The court may also appoint arbitrators in accordance with the provisions of the agreement.

"In the event the agreement does not make provision for the place of arbitration or the appointment of arbitrators, the court shall direct that the arbitration shall be held and the arbitrators be appointed in accordance with Article 3 of the Inter-American Convention.

"§ 304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity

"Arbitral decisions or awards made in the territory of a foreign State shall, on the basis of reciprocity, be recognized and enforced under this chapter only if that State has ratified or acceded to the Inter-American Convention.

"§ 305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958

"When the requirements for application of both the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, are met, determination as to which Convention applies shall, unless otherwise expressly agreed, be made as follows:

"(1) If a majority of the parties to the arbitration agreement are citizens of a State or States that have ratified or acceded to the Inter-American Convention and are member States of the Organization of American States, the Inter-American Convention shall apply.

"(2) In all other cases the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, shall apply.

"§ 306. Applicable rules of Inter-American Commercial Arbitration Commission

"(a) For the purposes of this chapter the rules of procedure of the Inter-American Commercial Arbitration Commission referred to in Article 3 of the Inter-American Convention shall, subject to subsection (b) of this section, be those rules as promulgated by the Commission on January 1, 1978.

"(b) In the event the rules of procedure of the Inter-American Commercial Arbitration Commission are modified or amended in accordance with the procedures for amendment of the rules of the said Commission, the Secretary of State, by regulation in accordance with Section 553 of Title 5, United States Code, consistent with the aims and purposes of this Convention, may prescribe that such modifications or amendments shall be effective for purposes of this chapter.

"§ 307. Chapter 1; residual application

"Chapter 1 applies to actions and proceedings brought under this chapter to the extent chapter 1 is not in conflict with this chapter or the Inter-American Convention as ratified by the United States."

SEC. 2. Title 9, United States Code, is further amended by adding to the table of chapters at the beginning a new sub-heading as follows:

"3. Inter-American Convention on International Commercial Arbitration .... 301".

SEC. 3. This Act shall be effective upon the entry into force of the Inter-American Convention on International Commercial Arbitration of January 30, 1975, with respect to the United States.

SECTION-BY-SECTION ANALYSIS OF A BILL TO IMPLEMENT THE INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

Section 1. Section 1 of the bill amends Title 9 of the United States Code by addition of a new Chapter 3, consisting of sections 301 through 307. As amended, Title 9 would thus contain three chapters: Chapter 1 (sections 1-14), the original Federal Arbitration Act; Chapter 2 (sections 201-208), the implementing legislation for the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958 ("New York Convention"); and Chapter 3 (sections 301-307), implementing legislation for the Inter-American Convention on International Commerical Arbitration of January 30, 1975 ("Inter-American Convention").

Section 301. Section 301 of Title 9 parallels section 201 of the implementing legislation for the New York Convention.

Section 302. Section 302 incorporates sections 202, 203, 204, 205, and 207 of the implementing legislation for the New York Convention: the two Conventions do not differ so as to call for different measures of implementation in these respects.

The incorporation of section 202, which provides that an arbitration agreement or arbitral award arising out of a legal relationship "which is considered as commercial' falls under the Convention (as incorporated, the reference is to the Inter-American Convention), provides the basis for a broad definition of the term "commercial" for purposes of the Convention. The Convention itself provides no definition of the term, but it is the understanding of the United States that trade, investment, and other business and financial activities which bear on "foreign commerce" are considered "commercial and are thus within the purview of the Convention.

The incorporation of section 202 also clarifies that the Inter-American Convention, like the New York Convention, shall be deemed not to apply to an arbitral agreement or award arising out of a legal relationship which is entirely between citizens of the United States, unless there is a reasonable foreign element in the relationship as defined in section 202.

The incorporation of sections 203 and 204 extends the same provisions concerning jurisdiction of the United States district courts and venue to actions or proceedings falling under the Inter-American Convention as apply to those falling under the New York Convention. Similarly, the incorporation of section 205 gives defendants the right to remove actions or proceedings relating to arbitration agreements or awards falling under the Inter-American Convention from State courts to United States district courts, as is now the case for those falling under the New York Convention.

With the incorporation of section 207, the three-year limitation period for application to a court for an order confirming an arbitral award that applies to awards falling under the New York Convention will also apply to awards falling under the Inter-American Convention. Section 207 also requires the court to confirm the award "unless it finds one of the grounds for refusal or deferral of recognition or enforcement of the award specified in the said Convention." Those grounds are specified in Article 5 of the Inter-American Convention, which was taken almost verbatim from Article V of the New York Convention in order to assure that the sole grounds for refusal of the recognition and enforcement of an award would be the same under both Conventions.

Section 303. The first paragraph of this section repeats 9 U.S.C. section 206, providing that a court may direct that arbitration be held in accordance with the agreement at any place therein provided for, whether that place is within or without the United States, and that the court may also appoint arbitrators in accordance with the provisions of the agreement. Neither the Convention nor section 303 attempts to resolve other issues which the court may be asked to address in connection with a matter which is to be submitted to arbitration.

The second paragraph of section 303 is new, reflecting Article 3 of the Inter-American Convention. Article 3 provides that when or to the extent that the parties fail to agree upon other applicable rules of procedure, arbitration shall be governed by the rules of procedure of the Inter-American Commercial Arbitration Commission, a private organization originally established in 1934 at the recommendation of the predecessor of the Organization of American States (OAS).

Neither the Federal Arbitration Act nor the New York Convention contains a comparable provision, but rather leaves the choice of rules of procedure to the court in the absence of agreement by the parties. The specification of "back-up" rules provides a desirable certainty and uniformity in the application of the Inter-American Convention.

Section 304. Section 304 provides a rule of reciprocity analogous to that applicable to the New York Convention. The latter permits a reservation, which the United States has made, that a State may on the basis of reciprocity apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State (Article I, paragraph 3). The United States will make a comparable reservation to the Inter-American Convention, and Section 304 has been drafted to make that reservation readily available for the reference of courts and practitioners. Also, the section has been worded in such a way as to make clear that it is intended only to be a rule of reciprocity and not a determination that arbitral decisions and awards made in the United States are excluded from the applicability of the Inter-American Convention if they otherwise fall under the Convention and the provisions of chapter 3, including in particular section 202 as incorporated in chapter 3. Litigation has been required to resolve that issue, in so far as the applicability of the New York Convention is concerned, given the less than precise wording of the two sentences of paragraph 1 and the first sentence of paragraph 3 of Article I of the New York Convention. The Inter-American Convention contains no comparable provisions; while it deals only with "international commercial arbitration," there is nothing in the language of the Convention or in the negotiating history to indicate an intent to limit the applicability of its recognition and enforcement provisions to awards made in countries other than those where recognition and enforcement are sought.

Section 305. The Inter-American Convention does not contain an express provision concerning its applicability when there is another convention on recognition and enforcement of arbitral agreements and awards which might also apply to a specific case. In particular, the United States and at least some other countries will be a party to both the inter-American and the New York Conventions. Given the substantial identity of the two conventions, this issue is not expected to be of great consequence. However, it is nonetheless useful to resolve it explicitly in order to remove a potential ground for controversy.

The New York Convention is better established in law and in practice than the Inter-American Convention and has greater worldwide participation. The United States will therefore enter a reservation in ratifying the Inter-American Convention, to establish clearly the applicability of the New York Convention in appropriate cases.

Section 305 reflects this reservation, providing that, where both Conventions are applicable to a particular case, the United States would be bound by and apply the provisions of the Inter-American Convention only if a majority of the parties to the arbitration agreement are citizens of a State or States that have ratified or acceded to this Convention and are citizens of OAS Member States. In other cases, the United States will be bound by and apply the provisions of the New York Convention. Section 305 makes clear that, where both Conventions are potentially applicable, both parties must be citizens of OAS Member States before the Inter-American Convention would supersede the New York Convention.

Section 306. Section 306, like section 303, is necessary in order to implement the Article 3 provision of the Inter-American Convention which specifies applicable rules of procedure for cases in which the parties fail to agree on such rules. While the rules of procedure of the Inter-American Commercial Arbitration Commission are deemed useful and acceptable, the Commission is a private, nongovernmental body. It is therefore desirable that there be official review and approval of any amendments to the rules before they are made applicable to parties by law.

The United States will enter a reservation regarding article 3 that the United States will apply the rules of procedure of the Inter-American Commercial Arbitration Commission which are in effect as of ratification, unless a later official determination is made to adopt and apply any amendments to the rules which the Inter-American Commercial Arbitration Commission may make subsequently. Section 306 provides a rulemaking procedure for making such an official determination; this procedure provides a simple and efficient mechanism for soliciting the comments of interested and expert groups and individuals in order to provide an informed basis for official judgment and determination.

Section 307. Section 307 incorporates a provision parallel to 9 U.S.C. section 208.

Section 2. Section 2 of the bill adds a new subheading to the table of chapters at the beginning of Title 9 to correspond to the new Chapter 3.

Section 3. Section 3 of the bill establishes the effective date.

UNITED STATES DEPARTMENT OF STATE,
Washington, DC, November 4, 1987.

Hon. GEORGE BUSH,
President, U.S. Senate.

DEAR MR. PRESIDENT: I have the honor to transmit for the consideration of the Congress the draft of a bill to implement the obligations of the United States under the Inter-American Convention on International Commercial Arbitration. The Convention was transmitted to the Senate for its advice and consent to ratification on June 15, 1981, and the Senate gave its advice and consent on October 9, 1986. The instrument of ratification will be deposited with the General Secretariat of the Organization of American States once appropriate implementing legislation has been enacted. The Convention will enter into force for the United States on the thirtieth day after deposit of the instrument of ratification.

The Inter-American Convention on International Commercial Arbitration entered into force on June 16, 1976. At present, Chile, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Uruguay and Venezuela are parties. Consistent with the longstanding United States policy to facilitate the use of arbitration as a means of resolving international commercial disputes, this Convention will provide an opportunity to secure wider benefits of recognition and enforcement of international commercial arbitration agreements and awards among a greater number of countries in this hemisphere.

The Inter-American Convention on International Commercial Arbitration is modeled after the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, to which the United States became a party in 1970. The draft bill to implement the Inter-American Convention is similarly modeled after, and incorporates in large part, the legislation which implements the New York Convention, 9 U.S.C. 201-208. Several new provisions are incorporated in the draft bill, however, in order to clarify the sphere of application of the Inter-American Convention and to safeguard its provisions respecting arbitral procedures; these are described more fully in the section-by-section analysis which accompanies this letter.

The draft bill is identical to the bill which was introduced, by request, in the House of Representatives on September 22, 1986 by Chairman Rodino (H.R. 5574) and in the Senate on November 5, 1985 by then Chairman Lugar (S. 1828). The Senate passed the legislation during the 99th Congress but the House did not act on it.

The Inter-American Convention on International Commercial Arbitration has received the support of a large number of interested and representative organizations, including the American Bar Association, the American Arbitration Association, the United States Chamber of Commerce, the Association of American Chambers of Commerce in Latin America, the American Foreign Law Association, and a number of state and local bar associations. Experts from the American Arbitration Association and American Bar Association have reviewed the proposed legislation and have advised that they consider it satisfactory.

Prompt approval of this implementing legislation will permit United States citizens and concerns seeking enforcement of commercial arbitration agreements and awards to enjoy the benefit of this Convention among the countries which are parties, and may encourage more rapid and widespread ratification by other countries as well.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal to the Congress, and that its enactment would be in accord with the program of the President.

With best wishes,

Sincerely,

J. EDWARD FOX,
Assistant Secretary, Legislative and Intergovernmental Affairs.●

ADDITIONAL COSPONSORS

S. 476

At the request of Mr. DODD, the names of the Senator from Texas [Mr. BENTSEN], the Senator from North Dakota [Mr. CONRAD], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of S. 476, a bill to provide assistance in the development of new or improved programs to help younger persons through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; and to provide for a White House Conference on Young Americans.

S. 675

At the request of Mr. MITCHELL, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from Washington [Mr. EVANS] were added as cosponsors of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

S. 1469

At the request of Mr. BOSCHWITZ, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Arizona [Mr. MCCAIN], the Senator from Indiana [Mr. QUAYLE], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1469, a bill to amend title VII of the Social Security Act to restrict the use of "Social Security" or "Social Security Administration" on goods not connected with such Administration.

S. 1522

At the request of Mr. RIEGLE, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Oklahoma [Mr. BOREN], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1729

At the request of Mr. LEAHY, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 1729, a bill to promote rural development, and for other purposes.

S. 1929

At the request of Mr. BUMPERS, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

S. 2032

At the request of Mr. WALLOP, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2032, a bill to authorize expenditures for boating safety programs, and for other purposes.

S. 2084

At the request of Mr. REID, his name was added as a cosponsor of S. 2084, a bill to establish a block grant program for child care services, and for other purposes.

S. 2098

At the request of Mr. HOLLINGS, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 2130

At the request of Mr. WILSON, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2130, a bill to provide that the Consumer Product Safety Commission amend its regulations regarding lawn darts.

S. 2136

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of S. 2136, a bill to deny discretionary project funds to States that voluntarily reduce the period of availability of interstate highway construction funds for any fiscal year.

S. 2184

At the request of Mr. HATCH, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of S. 2184, a bill to protect the civil rights of Americans and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.

SENATE JOINT RESOLUTION 21

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was withdrawn as a cosponsor of Senate Joint Resolution 21, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential elections.

SENATE JOINT RESOLUTION 197

At the request of Mr. Dole, the name of the Senator from Georgia [Mr. Fowler] was added as a cosponsor of Senate Joint Resolution 197, a bill to designate the month of April 1988, as "Prevent-A-Litter Month."

SENATE JOINT RESOLUTION 253

At the request of Mr. Cranston, the name of the Senator from Montana [Mr. Melcher] was added as a cosponsor of Senate Joint Resolution 253, a joint resolution designating April 9, 1988 and April 9, 1989, as "National Former Prisoner of War Recognition Day."

SENATE CONCURRENT RESOLUTION 106—RELATING TO THE PRESIDENT'S RETURN TO THE SENATE THE ENROLLED BILL (S. 854)

Mr. BYRD (for Mr. Johnston) submitted the following concurrent resolution, which was considered and agreed to:

S. Con. Res. 106

Resolved, by the Senate (the House of Representatives concurring), That the President of the United States is requested to return to the Senate the enrolled bill (S. 854) entitled "An Act entitled the 'Nevada-Florida Land Exchange Authorization Act of 1988'. The Secretary of the Senate is authorized to receive such bill if it is returned when the Senate is not in session. Upon the return of such bill, the action of the Speaker of the House of Representatives and the Deputy President pro tempore of the Senate in signing it shall be deemed rescinded and the Secretary of the Senate shall reenroll the bill with the following corrections:

In subsection (a) of section 3, strike "conveyance of" and insert in lieu thereof the words "conveyance to".

SENATE CONCURRENT RESOLUTION 107—RELATING TO AN INVESTIGATION INTO THE OPERATION OF TEXAS AIR AND EASTERN AIR LINES

Mr. LAUTENBERG (for himself, Mr. D'Amato, Mr. Weicker, and Mr. Kennedy) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. Con. Res. 107

Whereas Eastern Air Lines carried approximately 10% of domestic airline passengers in 1987, and its operation is therefore of substantial national concern;

Whereas, for more than 50 years Eastern Air Lines has been a major United States-flag air carrier, providing air transportation to millions of passengers annually over an extensive domestic and international route system;

Whereas in February 1986, the Texas Air Corporation acquired Eastern Air Lines and since that time there has been a continuing deterioration of financial condition at Eastern;

Whereas, since that acquisition, valuable assets, including the computer reservations system, international routes between the United States and Mexico and the United Kingdom, jet aircraft and spare parts, have been sold by or transferred from Eastern Air Lines;

Whereas Eastern Air Lines' profitable Eastern Air Shuttle and South American routes have been proposed or considered by the Texas Air Corporation for sale or transfer;

Whereas Orion Air is seeking expedited Federal Aviation Administration and Department of Transportation approval for an amended operating certificate which would allow Orion Air to carry passengers in scheduled operations on Eastern routes despite significant congressional concern and urging that the Federal Aviation Administration and Department of Transportation conduct a thorough review and apply the most stringent safeguards with respect to such amendment so as to ensure public safety;

Whereas the morale of employees has been lowered by certain proposals of Eastern Air Lines and the Texas Air Corporation, including contracting out of aircraft maintenance, the establishment of separate maintenance subsidiaries, and the transfer of maintenance work to foreign repair stations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the Sense of the Congress that—

(1) the Secretary of Transportation (hereinafter in this resolution referred to as the "Secretary") should conduct a full, consolidated investigation into the operation of the Texas Air Corporation (hereinafter in this resolution referred to as "Texas Air") and Eastern Air Lines, Incorporated (hereinafter in this resolution referred to as "Eastern") since the acquisition of Eastern by Texas Air to determine the past and probable future effect of such management on the public interest (as such interest is described in Section 102 of the Federal Aviation Act of 1958), with emphasis on the public interest in—

(a) the assignment and maintenance of safety as the highest priority in air commerce (49 U.S.C. Sec. 1302(a)(1)),

(b) the prevention of any deterioration in established safety procedures (49 U.S.C. Sec. 1302(a)(2)),

(c) the availability of a variety of adequate, economic, efficient, and low-price services by air carriers (49 U.S.C. Sec. 1302 (a)(3)), and,

(d) the need to encourage fair wages and equitable working conditions for air carrier employees (49 U.S.C. Sec. 1302(a)(3));

(2) the Secretary should use the findings of the comprehensive investigation described in paragraph (1) as a basis for decisions in pending and future cases involving proposed changes in the domestic and international operations of Eastern, including—

(a) in deciding whether to impose labor protective provisions as a condition of the Secretary approving the acquisition of Eastern by Texas Air (remanded to the Secretary by the United States Court of Appeals for the District of Columbia Circuit in Air Line Pilots Association v. United States Department of Transportation), and

(b) in considering requests by Texas Air for authorization to form a new subsidiary corporation, separate from Eastern, to conduct the operations known as the Eastern Air Shuttle;

(3) the Secretary should not authorize the Air Shuttle, or any other entity to operate as a subsidiary of Texas Air in performing any air transportation operations until after the Secretary completes a comprehensive review (including notice and evidentiary hearing) to determine whether such performance is consistent with the public interest under section 408 of the Federal Aviation Act of 1958;

(4) the Secretary should not issue any certificate of public convenience and necessity authorizing any subsidiary of Texas Air to engage in air transportation until after the Secretary conducts a review under section 401 of the Federal Aviation Act of 1958 (including notice and evidentiary hearing) of the application for such certificate;

(5) the Secretary should not authorize Orion Air (hereinafter in this resolution referred to as "Orion") to provide services under contract with Eastern unless Orion establishes conclusively that it is capable of conducting scheduled passenger operations with the highest degree of safety;

(6) the Secretary should not attempt to expedite consideration of Orion's request to operate under contract with Eastern by diverting employees of the Department of Transportation or the Federal Aviation Administration from their responsibilities of ensuring the safety of previously authorized operations; and

(7) the Secretary should require, as a condition of any approval of Orion's request to provide air transportation service under contract with Eastern, that persons purchasing tickets for such service must be informed, at the time of making reservations, of the identity of the carrier having operational responsibility for providing such service.

● Mr. LAUTENBERG. Mr. President, today I am introducing a resolution expressing concern over the state of affairs at Eastern Air Lines. I am pleased to be joined in introducing this resolution by Senators D'Amato, Kennedy, and Weicker.

For over 50 years, Eastern has been an integral part of the commercial aviation industry. It was a pioneer in the field, and an acknowledged leader. That position, however, has been jeopardized in recent years.

Over the last few years, particularly since Eastern was acquired by the Texas Air Corp., employee morale has sunk. There have been allegations of inadequate dedication of resources and attention to safety. This should be of the utmost concern to all of us. The airline passenger assumes that safety is the highest priority for an air carrier. That mandate is clearly laid out in Federal law.

Eastern is in the midst of a labor-management dispute. One aspect of that dispute is Eastern's contract with Orion Air, a cargo operator, under which Orion would provide services, including the piloting of passenger jets, in the event of a strike at Eastern. This matter is before the courts, and under review by the Department of Transportation. Commercial pilots are highly trained, specialized professionals. Any attempt to replace them with other pilots must be closely scrutinized.

Mr. President, this resolution is not intended to take sides in a private labor-management dispute. It is intended to express our view on a matter of public interest—an air carrier's safe operations, and adherence to the Federal Aviation Act by the Department of Transportation, in spite of the hardships brought on by that dispute.

Airlines are unique in the services they provide, and the privileges they are granted. Airlines are granted the privilege to use a precious, limited national resource—controlled airspace and airport landing rights. And with that privilege, they assume a great obligation—an obligation to serve not just their stockholders, but more importantly, to serve the public interest.

That is at the heart of this resolution. It calls upon the Secretary of Transportation to ensure, through a consolidated review of the operations at Eastern and Texas Air, that the public interest, as defined in Federal statutes, is being protected.

It further calls for the Secretary not to expedite the review Orion Air's petition to amend its operating certificate in order to provide scheduled passenger service. If, as Eastern management proposes, Orion pilots, who now do not fly passenger operations, are allowed to step in and fly Eastern passengers, we have the right to expect that they have been subjected to the most rigorous review, and that their capabilities are established beyond a doubt.

Mr. President, since Texas Air took over Eastern, we've seen a pattern of activity that has further weakened Eastern's financial standing. Its lucrative computer reservations system was sold. International routes between the United States and Mexico and the United Kingdom have been transferred. Gates at busy airports, such as Newark International, have been sold or swapped.

The financial woes at Eastern have led management to call for extraordinary wage concessions from Eastern laborers. These labor problems are well known, and are the subject of several judicial proceedings, as well as action by the National Mediation Board. This is of concern to me. A number of my constituents are being adversely affected by these problems. Many of my colleagues, including those who have joined me today in introducing this resolution, have heard the concerns of their constituents.

These concerns are serious, for they go right to the heart of the operation of Eastern. If the pilots flying the jets, or those maintaining and repairing the planes, are forced to work under unduly stressful conditions; if their jobs are threatened because they don't feel a plane is safe to fly, in spite of management's view; then the problems go beyond internal company strife. They impact the public at large, which depends on a safe, efficient aviation system.

That is why I'm introducing this resolution today. The decision to sponsor this legislation was not made lightly. Eastern is a major carrier, and its operations are therefore of significant national interest. Its safe and efficient operation is of great importance. Adherence to Federal statutes is of great importance. Significant questions have been raised and warrant a full review of the state of operations at Eastern.

Mr. President, it is my sincere hope that the problems at Eastern can be worked out. There have been impasses, and progress is slow. By introducing this resolution, my colleagues and I are calling on the Secretary of Transportation to ensure that the letter of the law is fully observed as these proceedings continue. A large number of our colleagues in the House have agreed with this position by cosponsoring a similar resolution in that body. I urge my colleagues to support this measure.●

SENATE RESOLUTION 398—AUTHORIZING THE PRINTING OF "MAJORITY AND MINORITY LEADERS OF THE SENATE"

Mr. BYRD (for himself and Mr. Simpson) submitted the following resolution; which was considered and agreed to:

S. Res. 398

Resolved, That the compilation entitled "Majority and Minority Leaders of the Senate", prepared by the Senate Parliamentarian Emeritus, Floyd M. Riddick, shall be printed, with any revisions and certain tables, as a Senate document, and an additional 2,000 copies shall be printed for distribution by the Secretary of the Senate.

SENATE RESOLUTION 399—AUTHORIZING THE RELEASE OF DOCUMENTS BY THE SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BYRD (for himself and Mr. Simpson) submitted the following resolution; which was considered and agreed to:

S. Res. 399

Whereas, the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs held hearings in September 1987 on the "Oversight of Federal Procurement Decisions on Wedtech";

Whereas, the Department of Justice has requested documents in the possession of the Subcommittee that are relevant to the resolution of questions arising from testimony given during those proceedings;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such actions as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman of the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs is authorized to provide to the Department of Justice investigative documents relating to hearings on "Oversight of Federal Procurement Decisions on Wedtech," subject to any assurances the Subcommittee deems necessary to protect the interests of the Senate.

AMENDMENTS SUBMITTED

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

FORD (AND DIXON) AMENDMENT NOS. 1686 AND 1687

(Ordered to lie on the table.)

Mr. FORD (for himself and Mr. Dixon) submitted two amendments intended to be proposed by them to the bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes; as follows:

Amendment No. 1686

On page 63, after line 25, insert the following flush sentence: "Provisions of section 12 of this Act shall not take effect unless the Secretary of Health and Human Services, using existing authorization, provides that in the case of seasonal agricultural workers employed by an employer for less than 6 months of continuous employment, the medical monitoring recommended by the Board is provided through the Migrant Health Program of the Bureau of Health Care Delivery and Assistance of the Department of Health and Human Services using funds appropriated under section 14. An amount not to exceed $1,000,000 for each fiscal year, from funds authorized to be appropriated by this Act, shall be set aside, if necessary, to carry out the preceding sentence.".

Amendment No. 1687

At the end add the following: "Provisions of section 12 of this Act shall not take effect unless the Secretary of Health and Human Services, using existing authorization, provides that in the case of seasonal agricultural workers employed by an employer for less than 6 months of continuous employment, the medical monitoring recommended by the Board is provided through the Migrant Health Program of the Bureau of Health Care Delivery and Assistance of the Department of Health and Human Services using funds appropriated under section 14. An amount not to exceed $1,000,000 for each fiscal year, from funds authorized to be appropriated by this Act, shall be set aside, if necessary, to carry out the preceding sentence.".

BREAUX AMENDMENT NOS. 1688 AND 1689

(Ordered to lie on the table.)

Mr. BREAUX submitted two amendments intended to be proposed by him to the bill S. 79, supra; as follows:

AMENDMENT No. 1688

On page 63, line 16, beginning with "If", strike out through line 25 and insert in lieu thereof the following: "The medical monitoring required under the previous sentence shall be limited to the monitoring recommended by the Risk Assessment Board. The means of providing such medical monitoring shall be left to the employer's judgment consistent with sound medical practices. If the benefits are made available through an existing employer health plan, the employee may be required to meet deductibles or copayments generally required under the existing employer health plan. Any such current employee shall be required to provide monitoring only for employees who—

"(1) are notified individually under section 5; or

"(2) the employer knows or has reason to know are members of the population at risk as determined by the Board.

An employer with 50 or fewer employees may not be required to pay more than $250 for medical monitoring for any employee in any year. This amount shall be adjusted annually after 1988 based on the Consumer Price Index for medical care services maintained by the Bureau of Labor Statistics.".

AMENDMENT No. 1689

On page 64, line 18, beginning with "10" strike out through "10" on line 6, page 68, and insert in lieu thereof the following: "50 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority and other employment rights and benefits as comparable as possible to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.

"(c) BENEFIT REDUCTION PROHIBITED.—

"(1) GENERAL.—If, following a determination by the Board under this Act, the employee's physician medically determines that an employee who is a member of a population at risk shows evidence of the development of the disease described in the notice or other symptoms or conditions increasing the likelihood of incidence of such disease, the employee shall have the option of being transferred to a less hazardous or nonexposed job. If within 10 working days after the employee has exercised the option and transmitted to the employer a copy of the initial determination, the employer's medical representative has not requested independent reconsideration of such determination, the employee shall be removed to a less hazardous or nonexposed job and shall maintain earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job. In providing such alternative job assignment, the employer shall not be required to violate the terms of any applicable collective bargaining agreement, and shall not be required to displace, lay off, or terminate any other employee.

"(2) INDEPENDENT RECONSIDERATION.—If the employer's medical representative requests independent reconsideration of the initial medical determination under paragraph (1), the employee's physician and the employer's medical representative shall, within 14 working days of the transmittal of the initial determination, submit the matter to another mutually acceptable physician for a final medical determination, which shall be made within 21 working days of the transmittal of the initial determination unless otherwise agreed by the parties. If the two medical representatives have been unable to agree upon another physician within 14 working days, the Secretary or the Secretary's local designee for such purpose shall immediately, at the request of the employee or the employee's physician, appoint a qualified independent physician who shall make a final medical determination within the 21 working day period specified in this paragraph, unless otherwise agreed by the parties. The employer shall bear all costs related to the procedure set forth in this paragraph.

"(3) EMPLOYEES SUBJECT TO MEDICAL REMOVAL.—An employer shall be required to provide medical removal protection only for employees who—

"(A) are notified individually under section 5, or

"(B) the employer knows or has reason to know are members of the population at risk as determined by the Board.

"(4) SPECIAL RULES FOR MEDICAL REMOVAL.—An employer shall be required to provide such protection only if any part of the employee's exposure to the occupational health hazard occurred in the course of the employee's employment by that employer. The medical removal protection described in this subsection shall be provided for as long as a less hazardous or nonexposed job is available. The availability of such a job shall depend upon the employee's skills, qualifications, and aptitudes and the job's requirements. Where such job is not available, the medical removal protection shall be provided for a period not to exceed 12 months. The employer may condition the provision of medical removal protection upon the employee's participation in follow-up medical surveillance for the occupational health effects in question based on the procedure set forth in this subsection. The employer's obligation to provide medical removal protection shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal, or receives income from employment with another employer made possible by virtue of the employee's removal. An employee who is receiving medical removal protection and for whom no less hazardous or nonexposed job is available must undertake reasonable good faith efforts to obtain alternative employment.

"(5) SPECIAL LIMITATION.—An employer is not required to provide medical removal protection for employees if the employer—

"(A) has 50".

KASTEN AMENDMENT NO. 1690

(Ordered to lie on the table.)

Mr. KASTEN submitted an amendment intended to be proposed by him to the bill S. 79, supra; as follows

On page 52, after line 19, insert the following new subsection:

( ) ATTORNEY CONTINGENCY FEES.—

(1) An attorney who represents, on a contingency fee basis, a person bringing an action in state or federal court for personal injury or death caused by or resulting from exposure to an occupational health hazard may not charge, demand, receive or collect for services rendered in connection with such action in excess of 25 per centum of the first $100,000 (or portion thereof) recovered, plus 20 per centum of the next $100,000 (or portion thereof) recovered, plus 15 per centum of the next $100,000 (or portion thereof) recovered, plus 10 per centum of any amount in excess of $300,000 recovered by judgment or settlement of such action.

(2) As used in this section, "contingency fee" means any fee for professional legal services which is in whole or in part contingent upon the recovery of any amount of damages, whether through judgment or settlement.

(3) In the event that such judgment or settlement includes periodic or future payment of damages, the amount recovered for purposes of computing the limitation upon the permissible attorney contingency fee shall be based upon the cost of the annuity or trust fund established to make payments. In any case in which an annuity or trust fund is not established to make such payments, the limitation shall be based on the present value of the payments.

METZENBAUM AMENDMENTS NOS. 1691-1695

(Ordered to lie on the table.)

Mr. METZENBAUM submitted five amendments intended to be proposed by him to the bill S. 79, supra; as follows:

AMENDMENT No. 1691

On page 45, line 19, after the period, insert the following: "A nonunanimous final determination shall not be binding unless any Board member who concurs or dissents in the determination is permitted to make such concurring or dissenting opinion available to the public.".

AMENDMENT No. 1692

On page 77, line 14, beginning with "for", strike through the word "professionals" on line 15.

AMENDMENT No. 1693

On page 58 line 15, before the semicolon, insert the following: ", except that such education, training, and technical assistance shall not be available to personal physicians and other professionals who serve such employees, unless such services are also available to physicians and other professionals who serve employers of employees notified under section 5".

AMENDMENT No. 1694

On page 58, line 7, after "the", insert the following: "prevention, monitoring,".

AMENDMENT No. 1695

On page 49, line 11, before the period, insert the following:", except that no such telephone 'hot line' may be available to such employees or their personal physicians if such telephone 'hot line' is not also available to the employees' respective employers. The identity of or any identifying information relating to any person using the telephone 'hot line' shall be confidential and may not be disclosed unless authorized by another provision of this Act and necessary to carry out such provision or upon the written consent of such person".

NICKLES AMENDMENT NO. 1696

(Ordered to lie on the table)

Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 79, supra; as follows:

At the appropriate place in the bill, insert the following new section.

FINANCIAL IMPACT STATEMENT

SEC. . None of the provisions of this Act shall become effective unless:

(a) The Committee on Labor and Human Resources requests that the Director of the Government Accounting Office prepare a financial impact statement, as described in subsection (b) below, to accompany the Conference report of this bill.

(b) The financial impact statement required by subsection (a) of this section shall state the extent to which enactment of this bill would result in increased costs to the private sector and State and local governments and shall include, at a minimum, a detailed assessment of the annual impact of the bill (projected annually over a five-year period from its effective date and expressed in monetary terms where appropriate) on—

(1) costs to consumers and business;

(2) national employment;

(3) the ability of United States industries to compete internationally;

(4) State and local governments, fiscally and otherwise, and;

(5) outlays by the Federal Government, including indirect costs it will incur as an employer, as compared to outlays for the same activity in the current fiscal year (as reported by the Congressional Budget Office); *provided*, that the financial impact statement may consist of a brief summary assessment in lieu of the detailed assessment set forth above if preliminary analysis indicates that the aggregate effect on each of categories (1)-(4) above is less than one hundred million dollars.

HATCH AMENDMENTS NOS. 1697-1772

(Ordered to lie on the table.)

Mr. HATCH submitted 75 amendments intended to be proposed by him to the bill S. 79, supra; as follows:

AMENDMENT NO. 1697

On page 44, between lines 19 and 20, insert the following new paragraph:

(5) DESIGNATION OF NONEMPLOYEES FOR EXPOSURE TO CHRONIC HEALTH HAZARDS.—

(A) IN GENERAL.—Nothing in this Act shall preclude the Board from designating for notification nonemployees who have been exposed to a chronic health hazard.

AMENDMENT NO. 1698

On page 31, strike lines 1 through 9.

AMENDMENT NO. 1699

On page 31, strike lines 10 through 12.

AMENDMENT NO. 1700

On page 31, strike lines 13 through 16.

AMENDMENT NO. 1701

On page 31, strike lines 3 through 4.

AMENDMENT NO. 1702

On page 31, strike lines 5 through 7.

AMENDMENT NO. 1703

On page 31, strike lines 8 through 9.

AMENDMENT NO. 1704

On page 31, strike lines 17 through 19.

AMENDMENT NO. 1705

On page 31, strike lines 20 through 22.

AMENDMENT NO. 1706

On page 31, strike line 23 through 2 on page 32.

AMENDMENT NO. 1707

On page 32, strike lines 3 through 6.

AMENDMENT NO. 1708

On page 32, strike lines 7 through 11.

AMENDMENT NO. 1709

On page 32, strike lines 12 through 14.

AMENDMENT NO. 1710

On page 32, strike lines 15 through 18.

AMENDMENT NO. 1711

On page 32, strike lines 19 through 22.

AMENDMENT NO. 1712

On page 32, strike lines 23 through line 2 on page 33.

AMENDMENT NO. 1713

On page 33, strike lines 3 through 5.

AMENDMENT NO. 1714

On page 33, strike lines 6 through 9.

AMENDMENT NO. 1715

On page 33, strike lines 11 through 15.

AMENDMENT NO. 1716

On page 33, strike lines 16 through 21.

AMENDMENT NO. 1717

On page 33, strike lines 22 through 24.

AMENDMENT NO. 1718

On page 34, strike lines 1 through 3.

AMENDMENT NO. 1719

On page 37, line 13, strike out "Secretary" and all that follows through "science" on line 14.

AMENDMENT NO. 1720

On page 40, strike lines 18 through 23.

AMENDMENT NO. 1721

On page 41, line 22, strike "(" and all that follows through ")" on line 24.

AMENDMENT NO. 1722

On page 42, line 10, strike "(" and all that follows through ")" on line 11.

AMENDMENT NO. 1723

On page 39, strike lines 7 through 9.

AMENDMENT NO. 1724

On page 39, strike lines 10 through 14.

AMENDMENT NO. 1725

On page 39, strike lines 15 through 18.

AMENDMENT NO. 1726

On page 40, strike lines 18 through 23.

AMENDMENT NO. 1727

On page 40, strike line 24 through line 12 on page 41.

AMENDMENT NO. 1728

On page 69, strike lines 14 through 23.

AMENDMENT NO. 1729

On page 69, strike line 3 through line 13 on page 74.

AMENDMENT NO. 1730

On page 68, after line 22, insert the following—

"(e) Employer access—Nothing in this section shall be interpreted to restrict the employer's access to medical monitoring information."

AMENDMENT NO. 1731

On page 68, strike lines 13 through 22.

AMENDMENT NO. 1732

On page 67, line 17, strike "12" and replace with "6".

AMENDMENT NO. 1733

On page 70, line 20, strike all after the comma through "evidence" on line 22.

AMENDMENT NO. 1734

On page 57, strike line 13 through line 19 on page 58.

AMENDMENT NO. 1735

On page 58, strike lines 5 through lines 11.

AMENDMENT NO. 1736

On page 20, strike line 20 through line 6 on page 63.

AMENDMENT NO. 1737

On page 58, strike lines 12 through 19.

AMENDMENT NO. 1738

On page 60, strike line 6 through line 6 on page 63.

AMENDMENT NO. 1739

On page 63, strike lines 7 through 22 on page 68.

AMENDMENT NO. 1740

On page 63, line 14, strike all after "employer" through "employee" on line. 15.

AMENDMENT NO. 1741

On page 63, line 14, strike all after "if" through "such" and replace with "the".

AMENDMENT NO. 1742

On page 63, line 22, strike all after "5" through line 25 except the period.

AMENDMENT NO. 1743

On page 64, strike line 1 through line 2 on page 65.

AMENDMENT NO. 1744

On page 65, line 18, strike all after "job" through "job" on line 20.

AMENDMENT NO. 1745

On page 64, strike all after "subsection" on line 14 through "job" on line 17.

AMENDMENT NO. 1746

On page 65, line 8, strike all after "notice" through "disease" on line 10.

AMENDMENT No. 1747

On page 64, strike all after "subsection" on line 21 through "agreement" on line 2 of page 65.

AMENDMENT No. 1748

On page 65, line 12, strike "10" and replace with "30".

AMENDMENT No. 1749

On page 65, strike line 3 through line 25.

AMENDMENT No. 1750

On page 66, line 19, strike everything after the period through line 21.

AMENDMENT No. 1751

On page 66, line 9, strike "21" and replace with "60".

AMENDMENT No. 1752

On page 66, line 17, strike "21" and replace with "60".

AMENDMENT No. 1753

On page 67, line 1, strike all after "5" through "Board" on line 5.

AMENDMENT No. 1754

On page 67, line 17, strike "12" and replace with "6".

AMENDMENT No. 1755

On page 67, line 8, strike "any part of".

AMENDMENT No. 1756

On page 57, strike lines 8 through 12.

AMENDMENT No. 1757

On page 56, line 22, strike all after the period through the period on line 23.

AMENDMENT No. 1758

On page 56, line 15, strike "30" and replace with "120".

AMENDMENT No. 1759

On page 56, strike lines 5 through 7.

AMENDMENT No. 1760

On page 55, line 11, strike "30" and replace with "180".

AMENDMENT No. 1761

On page 52, strike lines 14 through 19.

AMENDMENT No. 1762

On page 52, strike lines 1 through 13.

AMENDMENT No. 1763

On page 51, strike line 23 through line 24 and renumber subsequent sections.

AMENDMENT No. 1764

On page 51, line 8, strike everything after the period through the period on line 22.

AMENDMENT No. 1765

On page 49, strike line 6 through line 9 on page 50.

AMENDMENT No. 1766

On page 49, strike line 18 through line 9 on page 50.

AMENDMENT No. 1767

On page 49, strike lines 6 through 17.

AMENDMENT No. 1768

On page 49, strike lines 6 through 11.

AMENDMENT No. 1769

On page 49, strike lines 12 through 17.

AMENDMENT No. 1770

On page 45, strike line 15 through line 7 on page 46.

AMENDMENT No. 1771

On page 45, strike lines 15 through 19.

AMENDMENT No. 1772

On page 35, line 23 through 24, strike "generated by or integral to the work process".

DIXON AMENDMENT NO. 1773

Mr. DIXON proposed an amendment to the bill S. 79, supra; as follows:

Strike everything beginning on page 64, line 1, through line 12 on page 68 and insert the following:

"(b) LIMITATIONS FOR AGRICULTURAL WORKERS.—Provisions for medical removal protection under this subsection shall not apply to any seasonal agricultural worker employed by an employer for less than 5 months of continuous employment."

(c) DISCRIMINATION PROHIBITED.—

(1) IN GENERAL.—No employer or other person shall discharge or in any manner discriminate against any employee, or applicant for employment, on the basis that the employee or applicant is or has been a member of a population that has been determined by the Board to be at risk of disease. The subsection shall not apply if the position which the applicant seeks requires exposure to the occupational health hazard which is the subject of the notice. If it is medically determined pursuant to subsection (d) that an employee should be removed to a less hazardous or nonexposed job, an employer may effect such a removal without violating this subsection so long as the employee maintains the earnings, seniority, and other employment rights and benefits, as though the employee had not been removed from the former job.

(I2) SPECIAL PROVISION.—An employer with 10 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority and other employment rights and benefits as comparable as possible to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.

(d) BENEFIT REDUCTION PROHIBITED—

(1) GENERAL.—If, following a determination by the Board under this Act, the employee's physician medically determines that an employee who is a member of a population at risk shows evidence of the development of the disease described in the notice or other symptoms or conditions increasing the likelihood of incidence of such disease, the employee shall have the option of being transferred to a less hazardous or nonexposed job. If within 10 working days after the employee has exercised the option and transmitted to the employer a copy of the initial determination, the employer's medical representative has not requested independent reconsideration of such determination, the employee shall be removed to a less hazardous or nonexposed job and shall maintain earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job. In providing such alternative job assignment, the employer shall not be required to violate the terms of any applicable collective bargaining agreement, and shall not be required to displace, lay off, or terminate any other employee.

(2) INDEPENDENT RECONSIDERATION.—If the employer's medical representative requests independent reconsideration of the initial medical determination under paragraph (1), the employee's physician and the employer's medical representative shall, within 14 working days of the transmittal of the initial determination, submit the matter to another mutually acceptable physician for a final medical determination, which shall be made within 21 working days of the transmittal of the initial determination unless otherwise agreed by the parties. If the two medical representatives have been unable to agree upon another physician within 14 working days, the Secretary or the Secretary's local designee for such purpose shall immediately, at the request of the employee or the employee's physician, appoint a qualified independent physician who shall make a final medical determination within the 21 working day period specified in this paragraph, unless otherwise agreed by the parties. The employer shall bear all costs related to the procedure set forth in this paragraph.

(3) EMPLOYEES SUBJECT TO MEDICAL REMOVAL.—An employer shall be required to provide medical removal protection only for employees who—

(A) are notified individually under section 5, or

(B) the employer knows or has reason to know are members of the population at risk as determined by the Board.

(4) SPECIAL RULES FOR MEDICAL REMOVAL.—An employer shall be required to provide such protection only if any part of the employee's exposure to the occupational health hazard occurred in the course of the employee's employment by that employer. The medical removal protection described in this subsection shall be provided for as long as a less hazardous or nonexposed job is available. The availability of such a job shall depend upon the employee's skills, qualifications, and aptitudes and the job's requirements. Where such job is not available, the medical removal protection shall be provided for a period not to exceed 12 months. The employer may condition the provision of medical removal protection upon the employee's participation in follow-up medical surveillance for the occupational health effects in question based on the procedure set forth in this subsection. The employer's obligation to provide medical removal protection shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal, or receives income from employment with another employer made possible by virtue of the employee's removal.

(5) SPECIAL LIMITATION.—An employer is not required to provide medical removal protection for employees if the employer—

(A) has 10 or fewer full-time employees at the time medical removal protecion is requested, and

(B) made or is in the process of making a reasonable good faith effort to eliminate the occupational health hazard that is the basis for the medical removal decision.

FORD (AND DIXON) AMENDMENT NO. 1774

Mr. FORD (for himself and Mr. DIXON) proposed an amendment to amendment No. 1773 proposed by Mr. DIXON to the bill S. 79, supra; as follows:

On page 1 of the amendment strike "5" through the first period and insert the following in lieu thereof: "6 months of continous employment. Provisions of section 12 of this Act shall not take effect unless the Secretary of Health and Human Services, using existing authorization, provides that in the case of seasonal agricultural workers employed by an employer for less than 6 months of continuous employment, the medical monitoring recommended by the Board is provided through the Migrant Health Program of the Bureau of Health Care Delivery and Assistance of the Department of Health and Human Services using funds appropriated under section 14. An amount not to exceed $1,000,000 for each fiscal year, from funds authorized to be appropriated by this Act, shall be set aside, if necessary, to carry out the preceding sentence.".

BREAUX AMENDMENT NO. 1775

Mr. BREAUX proposed an amendment to the bill S. 79, supra; as follows:

On page 24 between lines 13 and 14 insert the following:

"(d) SPECIAL PROVISION.—An employer with 50 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority and other employment rights and benefits as comparable as possible to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.

"In addition, an employer is not required to provide medical removal protection for employees if the employer—

"(A) has 50 or fewer full-time employees at the time medical removal protection is requested, and

"(B) made or is in the process of making a reasonable good faith effort to eliminate the occupational health hazard that is the basis for the medical removal decision.".

DIXON AMENDMENT NO. 1776

Mr. DIXON proposed an amendment to amendment No. 1775 proposed by Mr. BREAUX to the bill S. 79, supra; as follows:

At the end of the amendment add the following: "The medical monitoring required under this Act shall be limited to the monitoring recommended by the Risk Assessment Board. The means of providing such medical monitoring shall be left to the employer's judgment consistent with sound medical practices. If the benefits are made available through an existing employer health plan, the employee may be required to meet deductibles or copayments generally required under the existing employer health plan. Any such current employee shall be required to provide monitoring only for employees who—

"(1) are notified individually under section 5; or

"(2) the employer knows or has reason to know are members of the population at risk as determined by the Board.

An employer with 50 or fewer employees may not be required to pay more than $250 for medical monitoring for any employee in any year. This amount shall be adjusted annually after 1988 based on the Consumer Price Index for medical care services maintained by the Bureau of Labor Statistics.".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON HEALTH

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Health of the Committee on Finance be authorized to meet during the session of the Senate on March 22, 1988, to hold a hearing on S. 1673, the Medicaid Home and Community Quality Services Act of 1987.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, March 22, to hold hearings on S. 1081, the National Nutrition Monitoring and Related Research Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Tuesday, March 22, 1988, to hold a hearing on the President's fiscal year 1989 budget proposal for the Small Business Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, March 22, 1988 to conduct oversight hearings on the Community Reinvestment Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, March 22, 1988 to consider the Department of Agriculture's budget request for fiscal year 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Energy and Natural Resources Subcommittee on Public Lands, National Parks and Forests be authorized to meet during the session of the Senate on Tuesday, March 22, 1988 to receive testimony concerning H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release of the Forest Planning process protection of recreation value, and inclusion in the National Wilderness Preservation System, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 22, 1988, to hold an oversight hearing on the National Aeronautics and Space Administration budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 22, 1988, in closed session to receive testimony on ICBM modernization programs and strategic indicators in review of the amended fiscal year 1989 Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 22, 1988, in open session to receive testimony on proposals for ABM systems complaint with the ABM treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A NEW AGENDA FOR THE GLOBAL ENVIRONMENT

● Mr. GORE. Mr. President, today I am rising to sound the alarm on an issue we have recently heard a great deal about, but about which frankly, much more needs to be done. I am calling on the President to take six emergency steps to respond to the unprecedented global threat of depletion of the atmospheric ozone layer.

First, there should be an immediate ban on nonessential uses of CFC's.

Second, a rapid phaseout, over 5 years, of all other uses of the most harmful CFC's.

Third, an immediate assessment of $1 per pound on the most harmful chloroflurocarbons or CFC's, the chemicals responsible for ozone depletion. The fee should increase to $2 in 1989, and reach $5 by 1992. This will send a long overdue message to the producers of CFC's that we must embark on a crash program to develop environmentally sound alternatives. It will raise $260 million in the first year, a portion of which should go to fund research into alternatives for CFC's and to help those industries who depend on CFC's to manufacture their product.

Fourth, to ban the importation of CFC-containing products into this country that do not meet U.S. standards.

Fifth, the President should personally call on the leaders of Japan and the European nations to urge the ratification in their countries of the Montreal protocol in time for the June economic summit. So far, only the United States and Mexico have done so.

Sixth, the President should put this issue on the agenda of the June summit, and to push at that time for an amendment to the Montreal protocol to further accelerate a total ban of harmful CFC's. After all, this problem has its origin in commerce, and it is precisely the sort of issue that would most benefit from this high level discussion.

Mr. President, last week, 1 day after we voted to ratify the Montreal ozone treaty, government scientists, publicly confirmed what the experts have been warning us about for many years—that we face a potentially cataclysmic threat to our planet, entirely beyond the ability of science to predict.

In a world where the threat of nuclear annihilation, economic collapse, famine, regional conflict, and the AIDS pandemic compete for the attention of world leaders, it's not surprising that some—particularly those in the Reagan-Bush administration—would dismiss such problems as depletion of the ozone layer and the greenhouse effect as the concerns best left to the lower levels of the bureaucracy. But the findings in the NASA report clearly demonstrate that we face a peril as great as any we have faced. Virtually everyone now accepts that this is a deadly serious threat to the health, and well being, of men, women, and children all over the world.

For years the Reagan-Bush administration has crossed its fingers and hoped this problem would simply go away. It responded as it has to virtually every environmental problem it has confronted, allowing the industry at fault to call the shots. As a result once again rather than answers we are left only with questions.

This year, in the United States alone, there will be an additional 50,000 cases of skin cancer, an increase of almost 10 percent, yet Americans are left to wonder why rather than a strategy to assure the rapid development of alternatives to the worst CFC's, instead the administration has agreed to a scheme that seems designed only to guarantee CFC producers windfall profits.

Under the administration-industry plan, producers are guaranteed the same share of the market they currently hold. As the supply of CFC's drops, as it is required to do under the Montreal protocol, and demand remains high, the only thing that will change is that companies will be able to charge more for CFC's. The result will be big profits for the producers of CFC's, the same companies that have misled industry and the American people for years into believing that somehow this would all just go away.

For 6 years, I have chaired hearings in the House and Senate to call attention to these problems. The ozone problem may have begun 60 years ago when chemists developed compounds called chlorofluorocarbons, or CFC's, that came to be used as coolants and as propellants in aerosol sprays. Millions of tons of CFC's were used before traces of them were found in the atmosphere in the early 1970's. By 1974, scientists had concluded that CFC's in the upper atmosphere were destroying the ozone layer that protects the Earth by blocking the Sun's ultraviolet radiation.

By 1978, the United States banned the use of CFC's in spray cans. But that was not enough, as long as other countries continued to use them. In 1985, British scientists discovered a mysterious hole that was opening up in the ozone layer over Antarctica. It became increasingly clear that CFC's were a major factor in this alarming development. We now know that it is the key factor. Scientists say such a breakdown could lead to millions more cases of skin cancer.

In May of last year, some Reagan officials began to fear that governmental action against this threat might offend the President's laissez-faire philosophy. Secretary of the Interior Donald Hodel was quoted as saying the answer to ozone depletion might be for people to wear sunglasses and floppy hats! Fortunately, wiser minds prevailed, and Lee Thomas helped negotiate the 24-nation international treaty we ratified last week to limit the production of CFC's.

The treaty is a tiny but important first step. We must now immediately do much more. Even under the terms of the agreement, ozone depletion may cause an estimated 7 million additional cases of cancer in the United States over the next 80 years—and 131 million cases worldwide. That is simply not acceptable.

Even worse, the greenhouse effect, caused by increased carbon dioxide, CFC's, and other trace gases in the atmosphere, is trapping in heat and causing a long-term warming of the Earth, could have equally dire results.

In 1981, I chaired the first of a series of congressional hearings that focused on the greenhouse effect and the upper atmosphere. In 1985, I introduced the first legislation specifically directed at the greenhouse effect.

Six years ago, at our first hearing, Prof. Roger Revelle of the University of California, testified that the greenhouse effect was no longer a hypothesis, but had become a reality.

In 1982 hearings, Dr. James Hansen of NASA and Prof. George Kukla of Columbia testified that the rise in carbon dioxide levels could be closely correlated with a rise in the Earth's mean temperature, a shrinking of glacial ice, and the rise of the sea level.

The more we learned, the more we realized that the greenhouse effect is too vast and its causes too elusive for any scientific quick fix. It will require major international scientific study and action.

What can America do?

In addition to the steps I have called for today on the ozone problem, I have sponsored legislation to create an International Year of the Greenhouse Effect, to focus international attention on the problem, as was done with the successful International Geophysical Year of 1957. I and other Senators have also urged Secretary of State George Shultz to include the greenhouse effect on the agenda of the next United States-Soviet summit meeting.

We can't stop there.

The United States should call for an international summit devoted to the related problems of the ozone depletion and the greenhouse effect. We should urge an immediate reconvening of the signatories of the Montreal protocol to take additional steps.

Are not these classic examples of problems upon which we, the Soviet Union, and other world powers should work together, pooling our scientific skills to benefit humankind, rather than devoting them to a costly and destructive arms race?

We should challenge General Secretary Gorbachev to join with us and other nations in an all-out, coordinated, and cooperative attack on these urgent threats to the environment of this planet we all share and love.

We must be prepared also to work with the United Nations, the World Bank, and other international organizations, on these issues. We know, for example, that the greenhouse effect appears to be a direct byproduct of resource consumption—the destruction of forests, the use of fossil fuels, and of CFC's. We know that certain less developed nations are rapidly destroying their tropical rain forests, forests that serve as the major oxygen and carbon dioxide conversion mechanisms in the world. Twelve of the seventeen most heavily indebted nations, including Bolivia, Brazil, Colombia, Mexico, and the Philippines, are destroying their forests at an alarming rate.

The entire world has a huge stake in these tropical forests, so great that an arrangement is needed whereby certain international debts will be eased in exchange for forest conservation.

What will this planet be like 50 or 100 years from now? Will we avert nuclear war, only to be undone by ozone depletion, the greenhouse effect, ocean pollution, global overcrowding, contaminated ground water, or polluted air and acid rain? These threats are not science fiction—the world's best scientists are telling us these things can happen unless we act.

The enduring symbol of the Reagan administration's environmental failures will be a barge filled with garbage, slowly drifting out to sea.

But responsible men and women cannot let these problems drift. Starting in January 1989, we must have leadership that understands our past and cares about our future.●

TRIBUTE TO CHESTER KOCH

● Mr. McCAIN. Mr. President, this weekend I have the honor and privilege of meeting one of America's great veterans—Chester Koch, of Cleveland. Chester is 95 years old and still works daily at Cleveland's City Hall coordinating veterans and patriotic activities. It is estimated that Chester, a World War I veteran, has seen roughly a half a million young Americans off to military duty. He's devoted his life to caring about and serving those young men and women in this country who have cared enough to serve in our Armed Forces.

It is Chester's many years of service and perspective that we all should heed when he says that all of us legislators—whom he calls young whippersnappers—need to remember that the work and sacrifice of America's veterans are what enables all of us to enjoy life the way we do.

Mr. President, I look forward to meeting this great American and dean of American veterans. I ask that the Catholic War Veterans Resolution honoring Chester, and a recent story from the Lake County News Herald be printed in the CONGRESSIONAL RECORD. All of us would benefit from reading about Chester's great service and taking to heart this man's dedicated service to his countrymen.

The material follows:

RESOLUTION NO. 25, TESTIMONIAL RESOLUTION HONORING CHESTER KOCH

Whereas, Mr. Chester Koch, Cleveland, Ohio, has come to symbolize the tradition of service exemplified by the Catholic War Veterans in working with the veterans, and

Whereas, Mr. Chester Koch, one of the boys of 1917-18, has been a member of the Cuyahoga County Chapter since its inception, and

Whereas, Mr. Chester Koch has added luster to the reputation of the Catholic War Veterans of the United States of America, Inc., in his hometown City of Cleveland by being the City's Coordinator of Patriotic Activities, overseeing the observance of National Holiday's and other veteran related programs of a city-wide, public nature, and

Whereas, Mr. Chester Koch during his years in official capacity has seen at least 485,000 men and women off to military service, inquired after them and their families after they entered their countrys service, and again welcomed many of them back home, and

Whereas, Mr. Chester Koch has served the Catholic War Veterans over the years in many roles and offices: Now, therefore be it

Resolved, That the Catholic War Veterans of the United States of America, Inc., In Convention assembled in Albany, New York, this 15th day of August 1985, single out Mr. Chester Koch for HONOR by adopting this Testimonial Resolution and that all the delegates and members of the Catholic War Veterans join in congratulating him on his service to the organization and on his 93rd birthday; and be it further

Resolved, that the National Department act upon this Testimonial Resolution and offer Mr. Chester Koch the greetings of that echelon in this 50th Annual National Convention.

[From the News Herald, July 5, 1987]

WORKING FOR LIBERTY—CLEVELAND VETERAN'S JOB IS KEEPING PATRIOTIC SPIRIT ALIVE

At age 95, Chester Koch reports daily to his job at Cleveland City Hall as coordinator of patriotic activities and participates in half a dozen veterans' groups.

Clevelanders like to think of him as the nation's oldest active patriot.

"As long as he can walk I'm sure he'll be involved in something," said Ron Seman, a local Defense Department spokesman who assists Koch in his efforts.

"I know if they forced him to stay home, away from his activities, he'd probably be dead in a week. He just loves to be involved with anything having to do with veterans' activities and patriotic events."

A city employee for 53 years, Koch arranges Cleveland's parades from his basement office. The World War I veteran has no secretary, but he gets help from city employees through charm and persistence. He takes city buses to work when he can't get a ride and shuffles from place to place with the help of a cane. He has served under 14 mayors.

"There's more patriotism now than ever before in this nation, in my estimation," Koch said. "The appreciation of the public for the use of the flag is much tighter now.

"I have an old saying—a flag in the home will keep the devil away. When you see the flag, your thoughts go back to what it means and what it meant to so many people who died for the flag."

Koch estimates that he has passed out 10,000 flags during his lifetime. But working for veterans is his primary ambition, and arranging parades for Memorial Day, Veterans' Day, Flag Day and other occasions was a natural extension of that.

"My goal is to preserve respect for the veterans, all types of veterans," Koch said. "Those young legislators—whippersnappers I call them—need to understand that our work has enabled them to enjoy life."

Koch went to work for the city in 1934 as an employee of the Utilities Department. He became Cleveland's first and only coordinator of patriotic activities in the 1940s after he saw young men marching off to war with no one there to wish them well.

"It made me recall when I was in the Army," he said, "I just felt that something should be done to show these lads the appreciation of the city of Cleveland. Through that I picked up a heavy feeling of patriotism, and everything I've done from then on has been of a patriotic nature."

Koch began urging high school bands, businessmen and volunteer groups and the Cleveland city government to send off soldiers leaving Cleveland to fight in Germany, Africa or the Pacific. The support Koch received prompted Mayor Edward C. Blythin to move Koch out of the Utilities Department and create a new position for him.

Koch, a Louisville, Ky., native, said his work with veterans began before World War I when he started helping veterans of the Spanish-American War organize Flag Day parades.

Veterans' organizations started becoming truly viable after World War I, he said. Koch, who can remember when Cleveland didn't have a Veterans Administration office or a veterans' hospital said former soldiers are treated much better today than 50 years ago.

But he said veterans still need increased medical assistance and hospitalization benefits. The need is going to increase as the percentage of older veterans grows, he said.

Seman, a Korean War veteran, said he became Koch's lieutenant a decade ago when he was working at City Hall as press secretary for then-Mayor Ralph Perk. Koch has helped scores of veterans who were not aware of what benefits they were entitled, he said.

"Chester works on education. Or if people die, he helps get them a military funeral. He usually knows what buttons to push to get an honor guard or to get the person properly buried," Seman said, "If a veteran has a question and Chester doesn't know the answer, I don't know anyone else in the community who would."

Koch, who lives with his wife in suburban Garfield Heights, said he is involved in the Veterans of Foreign Wars, the American Legion the Catholic War Veterans, the Polish Legion of American Veterans and the Marine Corps League. His greatest participation has been in the VFW.

"I haven't missed a state meeting in 53 years, and I haven't missed a national meeting in that long," Koch said of the VFW. "If I find one or two older men I'm lucky."

Curtis Jewell, assistant adjutant general at the VFW's national headquarters in Kansas City; said Koch has been a member of the organization's National Security and Foreign Affairs Committee for years. The committee meets annually in Washington with Koch in attendance.

"I don't think there's any doubt that Chester has contributed a lot to veterans in general," Jewell said. "But I think it extends beyond veterans to the general citizenry in a patriotic sense—not only in Cleveland but throughout the state of Ohio."

Koch said he has no plans to quit contributing.

"I'm operating on borrowed time, there's no question about that," he said. "There's one thing I have practiced for many years. In the morning I ask the Lord for help to get me through the day. And in the evening I thank the good Lord."●

THE 50TH ANNIVERSARY OF THE POLISH ROMAN CATHOLIC UNION OF AMERICA'S MICHIGAN WOMEN'S DIVISION

● Mr. RIEGLE. Mr. President, on Thursday, March 24, 1988, the Michigan Women's Division of the Polish Roman Catholic Union of America [PRCUA] will celebrate its 50th anniversary with a special dinner program, to be held at the Polish Century Club in Detroit.

For the past 50 years, the Michigan Women's Division of the PRCUA has been serving the needs of the Polish American community at both the local and national levels. Through its work, the Michigan women's division has sought to instill within members of the Polish-American community an appreciation for their rich heritage, an understanding of what it means to be a good citizen and an interest in being active participants in their communities, churches, and schools.

Through various activities for children and young adults such as folk dancing, singing, hobby classes, youth festivals and language classes, the Michigan women's division continues to encourage the preservation of Polish customs and traditions. I want to particularly commend the Michigan women of the PRCUA for the many important programs they sponsor, such as their 12 Polish folk dance schools, various fraternal programs, youth day celebrations, as well as the traditional Polish Easter "Swieconka" and Christmas "Oplatek" dinners.

Mr. President, I extend my warmest congratulations to the Michigan Women's Division of the PRCUA on their 50th anniversary. They deserve great credit and thanks for the tremendous services they have provided to the Polish-American community, and for their tireless efforts to preserve their rich Polish heritage.●

GREEK INDEPENDENCE DAY

● Mr. RIEGLE. Mr. President, March 25 marks Greek Independence Day, the 167th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. I believe that it is appropriate today to pay tribute to a nation and culture which so greatly influenced our own democratic foundations.

As in the previous years, I am pleased to cosponsor a resolution declaring March 25 "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." Last year, the 166th anniversary of Greek independence coincided with our own celebration of the 200th anniversary of the United States Constitution.

The Greek people's devotion to their freedom and their commitment to democracy have inspired other peoples to establish for themselves a system of government which is dedicated to preserving individual rights and freedoms. Many of the principles of our own Constitution are based on the political and philosophical experience of ancient Greece. The special relationship our two countries have enjoyed since the beginning of the Greek struggle for independence is based on that shared appreciation for democracy.

Modern ties were formed in the early days of the American Republic as the war for Greek independence was being waged. During their own revolution the Greeks borrowed from the ideals and lessons of the American revolution and even translated the Declaration of Independence into a document for their struggle against the Ottoman Empire. Today, this bond remains strong and is perpetuated by the vital Greek American community. It is also evident in our relationship with Greece in the North Atlantic Treaty Organization [NATO].

The Greek people deserve strong United States support on a number of key issues. We are deeply concerned about the ecuminical patriarchate in Constantinople. Renewed hope for the preservation of the patriarchate came recently with the historic meeting in December 1987 between the Primate of the Creek Orthodox Church of North and South America and the mayor of Istanbul, Bedrettin Dalan. The Primate, Archbishop Iakavos, stated his belief that the Greek-American community "can serve as a golden bridge between Greece and Turkey in achieving a just resolution of this critical human rights issue."

The continuing Turkish occupation of Cyprus stands in stark contrast to the independence Greece has enjoyed for the past 161 years. Fourteen years after the invasion, Turkish forces continue to occupy the formerly independent island of Cyprus. Over the years I have worked with others to bring about a just and peaceful resolution to that illegal Turkish occupation of Cyprus. It is imperative that Turkey's 30,000 troops on the northern part of the island are removed so that U.N. sponsored negotiations can begin.

George Vassiliou, the newly elected President of Cyprus, has pledged to work toward a settlement of the Cyprus problem with the Turkish Cypriots. His election is, I believe, a positive step which may bring closer the day when a resolution of the Cyprus tragedy is ultimately achieved.

Finally, the historic agreement in January between Greek Prime Minister Andreas Papandreou and Turkish Prime Minister Turgut Ozal to work together to resolve differences over the Aegean Sea and other matters marked an important turning point. In what was the first direct communication between leaders of the two countries in 10 years an agreement was reached to meet at least once a year, to set up a joint economic council to promote trade and tourism, and to create a direct "hot line" for crisis communications. Although no real discussion of the Aegean dispute or the future of Cyprus were discussed, the meeting represented an important first step.

I hope that the positive developments we have witnessed over the past year will continue and that our own relationship with Greece will help bring closer the day when the longstanding Greek-Turkish conflicts are resolved and the Greek people can once again enjoy the democratic principles of their ancestors.●

BICENTENNIAL MINUTE

MARCH 20, 1920: SENATOR NEWBERRY FOUND GUILTY

● Mr. DOLE. Mr. President, 68 years ago yesterday, on March 20, 1920, Senator Truman H. Newberry and 16 of his 84 codefendants were found guilty of criminal conspiracy growing out of his 1918 campaign for the Senate. This was yet another startling event in one of the most dramatic Senate elections in our history, one which involved America's most famous automobile manufacturer.

The 1918 Michigan Senate race pitted against each other two industrialists of great personal wealth: Truman Newberry and Henry Ford. After a hard-fought campaign, Newberry won the election. But Ford and many newspapers assailed Newberry for excessive campaign spending and for intimidating voters. The Senate referred Ford's complaint to the Committee on Privileges and Elections. In the meantime, Newberry and 134 others were indicted for violating the Federal Corruption Practices Act, which had set a $3,750 limit on campaign spending in Senate races. By contrast, it was estimated that Newberry had spent the then shocking amount of $195,000 on his election. In 1920 the Senator was convicted.

Newberry appealed to the Supreme Court, arguing that the Federal Government had no authority to control State primaries. In 1921, the Supreme Court unanimously overturned Senator Newberry's conviction, on the grounds that the lower court judge had given erroneous instructions to the jury—but the Justices were divided in opinion over the constitutionality of a Federal statute to control State elections.

In 1922 the Senate's Privileges and Elections Committee agreed that Newberry was the duty elected Senator from Michigan, but declared that his excessive campaign spending had harmed the honor and dignity of the Senate. Since Henry Ford gave no indication of abandoning his own crusade against the Senator, Newberry decided to resign voluntarily from the United States Senate.●

BICENTENNIAL MINUTE

MARCH 3, 1843: SENATOR REJECTS A CABINET NOMINEE THREE TIMES

● Mr. DOLE. Mr. President, it is a very rare occasion when the Senate rejects a Cabinet nomination, but 145 years ago, on March 3, 1843, the Senate turned down a Cabinet nominee—not just once—but three times.

What precipitated such a senatorial rebuke? Essentially, the Whig dominated Senate was at loggerheads with the independent-minded President, John Tyler. Tyler, a Democrat turned Whig, was the first Vice President to succeed to the Presidency upon the death of a President. In the White House he vetoed much of the Whigs' legislative program, and won the party's emnity.

On the night of March 3, 1843, Tyler came to the Capitol to sign legislation and submit last-minute nominations at the end of the Twenty-Seventh Congress. For his Secretary of the Treasury, the President nominated Representative Caleb Cushing of Massachusetts. Although a Whig, Cushing had been sharply critical of Senate Whigs and a strong supporter of President Tyler. Liking neither the President nor his nominee, the Senate rejected Cushing by a vote of 19 to 27.

President Tyler was so outraged by the Senate's action, that he sent his secretary back into the Chamber with a notice that he had renominated Cushing for the same post. What the President hoped to accomplish is hard to fathom, for the second vote went even more heavily against him. This time Cushing lost a 9 to 27 vote. This defeat further enflamed the President's anger, and he sent back Cushing's nomination for a third time, only to lose by an embarrassing 2 to 29. At last even Tyler had to bow to the inevitable and nominate another candidate.

Caleb Cushing was the second Cabinet nominee ever rejected for confirmation; and since 1843 the Senate has turned down only six others.●

PRINTING OF SENATE DOCUMENT

Mr. BYRD. Mr. President, on behalf of myself and Mr. SIMPSON, I send a Senate resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 398) authorizing the printing of the compilation entitled "Majority and Minority Leaders of the Senate" as a Senate document.

Mr. BYRD. Mr. President, I ask that the clerk read the resolution. It is very short.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

S. RES. 398

Resolved, That the compilation entitled "Majority and Minority Leaders of the Senate", prepared by the Senate Parliamentarian Emeritus, Floyd M. Riddick, shall be printed, with any revisions and certain tables, as a Senate document, and an additional 2,000 copies shall be printed for distribution by the Secretary of the Senate.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the resolution.

The resolution (S. Res. 398) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL BLACK INVENTORS DAY

Mr. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 377, a joint resolution designating March 27, 1988, as "National Black Inventors Day" be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 480, a joint resolution amending the Washington Metropolitan Area Transit Regulation Compact just received from the House be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST BY DEPARTMENT OF JUSTICE FOR SUBCOMMITTEE DOCUMENTS

Mr. BYRD. Mr. President, I send to the desk a resolution, on behalf of myself and Senator SIMPSON, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A Senate resolution (S. Res. 399) to authorize release of documents by the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

The Senate proceeded to the immediate consideration of the resolution.

Mr. BYRD. Mr. President, in September 1987, the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs conducted hearings on the "Oversight of Federal Procurement Decisions on Wedtech." The Department of Justice has requested that the subcommittee provide it with documents relating to testimony at those hearings.

This resolution will authorize the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs to provide such documents to the Department of Justice solely for use in its investigation. Mr. President, I urge adoption of the resolution.

Mr. SIMPSON. Mr. President, I would join with the majority leader as a cosponsor of that resolution.

The PRESIDING OFFICER. That will be the order.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution with its preamble are as follows:

S. RES. 399

Whereas, the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs held hearings in September 1987 on the "Oversight of Federal Procurement Decisions on Wedtech";

Whereas, the Department of Justice has requested documents in the possession of the Subcommittee that are relevant to the resolution of questions arising from testimony given during those proceedings;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman of the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs is authorized to provide to the Department of Justice investigative documents relating to hearings on "Oversight of Federal Procurement Decisions on Wedtech," subject to any assurances the Subcommittee deems necessary to protect the interests of the Senate.

NEVADA-FLORIDA LAND EXCHANGE AUTHORIZATION ACT OF 1988

Mr. BYRD. Mr. President, on behalf of Mr. Johnston, I send to the desk a concurrent resolution, and on his behalf, I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A Senate concurrent resolution (S. Con Res. 106).

Resolved, by the Senate (the House of Representatives concurring), That the President of the United States is requested to return to the Senate the enrolled bill (S. 854) entitled "An Act entitled the 'Nevada-Florida Land Exchange Authorization Act of 1988'. The Secretary of the Senate is authorized to receive such bill if it is returned when the Senate is not in session. Upon the return of such bill, the action of the Speaker of the House of Representatives and the Deputy President pro tempore of the Senate in signing it shall be deemed rescinded and the Secretary of the Senate shall reenroll the bill with the following corrections:

In subsection (a) of section 3, strike "conveyance of" and insert in lieu thereof the words "conveyance to".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

The Senate proceeded to the immediate consideration of the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to:

Mr. BYRD. Mr. President, does the distinguished assistant Republican leader have any further statement or business that he would like to bring up before the Senate?

Mr. SIMPSON. Mr. President, I believe not. I thank him for his courtesies and willingness to recognize any extra function here, and I have none to perform. I thank him.

Mr. BYRD. I thank the Senator.

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene at 10:30 tomorrow morning. Following the two leaders under the standing order there will be morning business until 11 o'clock a.m. Senators may speak during that period of morning business.

The second half-hour under the cloture rule will be divided and controlled by Messrs. Metzenbaum and Hatch.

No amendments will be in order. The mandatory quorum call will begin at 11:30; and upon the establishment of a quorum, the rollcall vote will occur on the motion to invoke cloture on the bill S. 79. That will be a 15-minute rollcall vote, Mr. President.

I ask unanimous consent that the call for the regular order be automatic at the close of 15 minutes.

The PRESIDING OFFICER. Is there objection, The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, if cloture is invoked, S. 79 will be the business before the Senate, to the exclusion of all other business, until action is completed thereon. If cloture is not invoked on S. 79, the Senate will resume consideration of the measure, debate, and amendments thereto. I would anticipate that there would be rollcall votes during the afternoon tomorrow.

I believe that there is a function tomorrow evening to which Senators have been invited. Therefore, I do not anticipate that the Senate will be in late tomorrow.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10:30 tomorrow morning.

The motion was agreed to; and, at 5:36 p.m., the Senate recessed until tomorrow, Wednesday, March 23, 1988, at 10:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, March 22, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God of grace, from whom comes every good gift, send Your spirit to lead and guide us in all that is helpful to us. Comfort us when we need comforting, correct us when we need correcting, forgive us when we miss the mark and, in all things, cause Your love and grace to be with us. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **MINETA**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **MINETA**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 130, answered "present" 1, not voting 32, as follows:

[Roll No. 37]

YEAS—269

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boland
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Coyne
Crockett
Darden
Davis (MI)
DeFazio
Dellums
Derrick
Dicks
Dingell
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
MacKay
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—130

Armey
Badham
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Coble
Coleman (MO)
Coughlin
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Gregg
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lungren
Mack
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Murphy
Oxley
Packard
Parris
Pashayan
Penny
Porter
Pursell
Regula
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wheat
Whittaker
Wolf
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Bonior

NOT VOTING—32

Baker
Biaggi
Boggs
Conyers
Courter
de la Garza
DeLay
Dixon
Donnelly
Dorgan (ND)
Feighan
Flake
Garcia
Gephardt
Grant
Gray (IL)
Hayes (LA)
Howard
Jones (TN)
Kaptur
Kemp
Leland
Levine (CA)
Lightfoot
Martin (IL)
Martinez
Mica
Price (IL)
Rodino
Russo
Solarz
Sweeney

☐ 1222

Mr. **BONKER** changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 952. An act to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes; and

S. Con. Res. 105. Concurrent resolution to provide for a Joint Congressional Committee on Inaugural Ceremonies.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. The Chair is going to entertain unanimous-consent requests and then take 1-minute speeches.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND INTERNATIONAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TOMORROW, WEDNESDAY, MARCH 23, 1988, DURING 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask that the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary, be permitted to sit while the House is reading for amendment under the 5-minute rule on Wednesday, March 23, 1988.

The purpose of the permission to sit is so the Subcommittee on Immigration, Refugees, and International Law can mark up H.R. 807, the Genocide Convention bill.

This request has been cleared with the minority.

The **SPEAKER**. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3905

Mr. DORNAN of California. Mr. Speaker, I ask unanimous consent that my name be removed from H.R. 3905, the Atomic Energy Law Enforcement Act of 1988. I believe that this legislation would be counterproductive and would undercut the President's ability to implement this agreement.

In December I joined several of my colleagues from the Foreign Affairs Committee in writing the President on the subject of the new bilateral peaceful nuclear cooperation agreement with Japan.

I was concerned about some portions of the agreement and sought clarification from the administration. The President responded recently in some detail to that letter, and enclosed an updated analysis of issues associated with the proposed agreement.

Following review of that material and discussions with the administration, I am now satisfied that the agreement meets all the legal and policy requirements.

I want to join my good friend and colleague HENRY HYDE in noting that this agreement has been subjected to a stream of distortions and misunderstandings from critics.

As Mr. HYDE has noted, the fact of the matter is that the President—as well as officials of the Departments of State, Energy, and Defense—has made clear that the agreement is critical to our national interests and substantially improves our nonproliferation controls.

I urge all Members to help us prevent the spread of nuclear weapons by supporting this agreement.

The **SPEAKER**. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 1212, EMPLOYEE POLYGRAPH PROTECTION ACT

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill, (H.R. 1212) to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce, with the Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The **SPEAKER**. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. HAWKINS, MARTINEZ, WILLIAMS, JEFFORDS, and GUNDERSON.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 90, WHITE HOUSE CONFERENCE ON LIBRARIES AND INFORMATION SERVICES

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 90) to authorize and request the President to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The **SPEAKER**. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. HAWKINS, WILLIAMS, FORD of Michigan, OWENS of New York, JEFFORDS, and COLEMAN of Missouri.

OPM AIDS GUIDELINES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, the Office of Personnel Management will later this week issue guidelines on acquired immune deficiency syndrome [AIDS] in the Federal workplace. I rise to congratulate OPM Director Constance Horner on drafting responsible and compassionate guidelines, which can serve as a model for private sector employers.

The guidelines are based on four principles. First, workers should receive education so that they know that casual contact with an HIV-positive worker poses no risk of AIDS to them. Second, HIV-positive workers must not be subject to discrimination. Third, HIV-positive workers should be treated like anyone else with a noncontagious, potentially fatal disease. They should not be fired and, if they become incapable of performing their jobs, they should be provided reasonable accommodation to another job or disability retirement. Fourth, HIV-positive workers should be guaranteed confidentiality.

OPM has done an excellent job in drafting these guidelines. And, to date, the Federal Government has dealt fairly with victims of AIDS in the civil service. These guidelines should ensure that these policies continue.

Mr. Speaker, I include the guidelines in the RECORD at this point:

AIDS IN THE WORKPLACE

INTRODUCTION

This information and guidance is designed to assist Federal agencies in establishing effective AIDS education programs and in fairly and effectively handling AIDS-related personnel situations in the workplace. In this guidance, the term AIDS is used to refer, either to the general AIDS phenomenon or to clinically diagnosed AIDS as a medical condition. HIV (human immunodeficiency virus) is used when the discussion is referring to the range of medical conditions which, HIV-infected persons might have (i.e., immunological and/or neurological impairment in early HIV infection to clinically diagnosed AIDS).

GENERAL POLICY

Guidelines issued by the Public Health Service's Centers for Disease Control (CDC) dealing with AIDS in the workplace state that "the kind of nonsexual person-to-person contact that generally occurs among workers and clients or consumers in the workplace does not pose a risk for transmission of [AIDS]." Therefore, HIV-infected employees should be allowed to continue working as long as they are able to maintain acceptable performance and do not pose a safety or health threat to themselves or others in the workplace. If performance or safety problems arise, agencies are encouraged to address them by applying existing Federal and agency personnel policies and practices. (See also paragraph I on page 5 which discusses the Public Health Service's guidelines for health-care workers.)

HIV infection can result in medical conditions which impair the employee's health and ability to perform safely and effectively. In these cases, agencies should treat HIV-infected employees in the same manner as employees who suffer from other serious illnesses. This means, for example, that employees may be granted sick leave or leave without pay when they are incapable of performing their duties or when they have medical appointments. In this regard, agencies are encouraged to consider accommodation of employees' AIDS-related conditions in the same manner as they would other medical conditions which warrant such consideration.

Also, there is no medical basis for employees refusing to work with such fellow employees or agency clients who are HIV-infected. Nevertheless, the concerns of these employees should be taken seriously and should be addressed with appropriate information and counseling. In addition, employees, such as health care personnel, who may come into direct contact with the body fluids of persons having the AIDS virus, should be provided appropriate information and equipment to minimize the risks of such contact. (See also paragraph I on page 5.)

OPM encourages agencies to consider the following guidelines when establishing AIDS education programs and in carrying out their personnel management responsibilities.

I. AIDS Information and Education Programs

There are several important considerations in establishing effective AIDS information and education programs. The following guidance is intended to help agencies develop methods for establishing successful programs.

A. Timing and Scope of AIDS Information and Education Efforts

AIDS information and education programs are most effective if they begin before a problem situation arises relative to AIDS and employee concerns. Experience in the private sector has demonstrated that employees' level of receptivity to accurate information will be higher when management has a policy of open communications and when educational efforts are initiated before a problem situation occurs. Education and information should be of an ongoing nature. This approach will reassure employees of management's commitment to open communications and employees will receive updated information about AIDS. By providing AIDS information to all employees, agencies will enhance employees' understanding about the nature and transmission of the disease.

B. Educational Vehicles

Education and information efforts may be carried out in a variety of ways. Agency news bulletins, personnel management directives, meetings with employees, expert speakers and counselors, question and answer sessions, films and video-tapes, employee newsletters, union publications, fact-sheets, pamphlets, and brochures are likely to be effective means of providing information to employees about AIDS.

C. Employee Assistance Programs

For employees who have personal concerns about AIDS, agency employee assistance programs (EAPs) can be an excellent source of information and counseling, and can provide referrals, as requested, to community testing, treatment, and other resources. EAPs can also provide counseling to employees who have apprehensions regarding the communicability of the disease or other related concerns. Because EAPs are in a unique position to offer information and assistance, agencies are encouraged to establish AIDS information, counseling, and referral capabilities in their EAPs and to make employees and supervisors aware of available services. In addition, EAPs can be a good source of managerial/supervisory training on AIDS in the workplace. As with other services provided by the EAP, strict adherence to applicable privacy and confidentiality requirements must be observed when advising employees with AIDS-related concerns. In addition to services provided by the EAP, the agency's occupational health program, health unit, or medical staff should be prepared to assist employees seeking information and counseling on AIDS.

D. Training and Guidance for Managers and Supervisors

Supervisors and managers should be prepared to deal with employee concerns and other issues related to AIDS in the workplace. Agencies should consider, therefore, conducting ongoing training and education programs on AIDS for their managers and supervisors on the medical and personnel management dimensions of AIDS. These programs can be used to educate managers and supervisors on the latest research on AIDS in the workplace, to provide advice on how to recognize and handle situations which arise in their organizations, and to convey the importance of maintaining the confidentiality of any medical and other information about employees' health status. In addition, managers and supervisors should be given a point of contact within the agency where they can call to obtain further information or to discuss situations which arise in their work units. Agencies should attempt to initiate training and guidance activities before problems occur.

E. Sources of Information and Educational Materials

A great deal of information about AIDS is available to Federal agencies. OPM encourages agencies to explore various sources of information and to keep abreast of the latest research on AIDS in the workplace. The U.S. Public Health Service (PHS) has developed a great deal of material on the medical and other aspects of AIDS. Information about AIDS can be obtained requesting it from PHS offices or from the AIDS Clearinghouse (America Responds to AIDS, P.O. Box 6003, Rockville, Maryland 20850; telephone (800) 342-7514). PHS offices are located throughout the country and can be contacted for information relating to AIDS. (See section III for a listing of PHS regional office locations.) In addition, the American Red Cross has developed an extensive assortment of educational materials on AIDS. Information about the materials available through PHS and other sources is contained in section III.

II. Personnel Management Issues and Considerations

When AIDS becomes a matter of concern in the workplace, a variety of personnel issues may arise. Basically, these issues should be addressed within the framework of existing procedures, guidance, statutes, case law, and regulation. Following is a brief discussion of AIDS-related issues which could arise in various personnel management areas, along with some basic guidance on how to approach and resolve such issues. Agencies are cautioned that, as with any complex personnel management matter, the resolution of a specific problem must be based on a thorough assessment of that problem and how it is affected by contemporary information and guidance about AIDS, current law and regulation bearing on the involved issue, and the agency's own policies and needs.

A. Employees' Ability to Work

An HIV-infected employee may develop a variety of medical conditions. These conditions can range all the way from immunological and/or neurological impairment in early stages of HIV infection to clinically diagnosed AIDS. At some point, a concern may arise whether such an employee, given his or her medical condition, can perform the duties of the position in a safe and reliable manner. This concern will typically arise at a point when the HIV-infected employee suffers health problems which affect his or her ability to report for duty or perform. Also, in some situations the concern may stem from the results of a medical examination required by the employee's position. Under OPM's regulations in 5 C.F.R. Part 339, Medical Determination Related to Employability, it is primarily the employee's responsibility to produce medical documentation regarding the extent to which a medical condition is affecting availability for duty or job performance. However, when the employee does not produce sufficient documentation to allow agency management to make an informed decision about the extent of the employee's capabilities, the agency may offer, and in some cases order, the employee to undergo a medical examination. Accurate and timely medical information will allow the agency to consider alternatives to keeping the employee in his or her position if there are serious questions about safe and reliable performance. It will also help determine whether the HIV-infected employee's medical condition is sufficiently disabling to entitle the employee to be considered for reasonable accommodation under the Rehabilitation Act of 1973 (29 U.S.C. § 794).

B. Privacy and Confidentiality

Because of the nature of the disease, HIV-infected employees will have understandable concerns over confidentiality and privacy in connection with medical documentation and other information relating to their condition. Agencies should be aware that any medical documentation submitted to an agency for the purposes of an employment decision and made part of the file pertaining to that decision becomes a "record" covered by the Privacy Act. The Privacy Act generally forbids agencies to disclose a record which the Act covers without the consent of the subject of the record. However, these records are available to agency officials who have a need to know the information for an appropriate management purpose. Officials who have access to such information are required to maintain the confidentiality of that information. In addition, supervisors, managers, and others included in making and implementing personnel management decisions involving employees with AIDS should strictly observe applicable privacy and confidentiality requirements.

C. Leave Administration

HIV-infected employees may request sick or annual leave or leave without pay to pursue medical care or to recuperate from the ill effects of his or her medical condition. In these situations the agency should make its determination on whether to grant leave in the same manner as it would for other employees with medical conditions.

D. Changes in Work Assignment

Agencies considering changes such as job restructuring, detail, reassignment, or flexible scheduling for HIV-infected employees should do so in the same manner as they would for other employees whose medical conditions affect the employee's ability to perform in a safe and reliable manner. In considering changes in work assignments, agencies should observe established policies governing qualification requirements, internal placement, and other staffing requirements.

E. Employee Conduct

There may be situations where fellow employees express reluctance or threaten refusal to work with HIV-infected employees. Such reluctance is often based on misinformation or lack of information about the transmission of HIV. There is, however, no know risk of transmission of HIV through normal workplace contacts, according to leading medical research. Nevertheless, OPM recognizes that the presence of such fears, if unaddressed in an appropriate and timely manner, can be disruptive to an organization. Usually an agency will be able to deal effectively with such situations through information, counseling, and other means. However, in situations where such measures do not solve the problem and where management determines that an employee's unwarranted threat or refusal to work with an HIV-infected employee is impeding or disrupting the organization's work, it should consider appropriate corrective or disciplinary action against the threatening or disruptive employee(s). In other situations, management may be faced with an HIV-infected employee who is having performance or conduct problems. Management should deal with these problems through appropriate counseling, remedial, and, if necessary, disciplinary measures. In pursuing appropriate action in these situations, management should be sensitive to the possible contribution of anxiety over the illness to work behavior and to the requirements of existing Federal and agency personnel policies, including any obligations the agency may have to consider reasonable accommodation of the HIV-infected employee.

F. Insurance

HIV-infected employees can continue their coverages under the Federal Employees Health Benefits (FEHB) Program and/or the Federal Employees' Group Life Insurance (FEGLI) Program in the same manner as other employees. Their continued participation in either or both of these programs would not be jeopardized solely because of their medical condition. The health benefits plans cannot exclude coverage for medically necessary health care services based on an individual's health status or a pre-existing condition. Similarly, the death benefits payable under the FEGLI Program are not cancelable solely because of the individual's current health status. However, *any* employee who is in a leave-without-pay (LWOP) status for 12 continuous months faces the statutory loss of FEHB and FEGLI coverage but has the privilege of conversion to a private policy without having to undergo a physical examination. Employees who are seeking to cancel previous declinations and/or obtain additional levels of FEGLI coverage must prove to the satisfaction of the Office of Federal Employees Group Life Insurance that they are in reasonably good health. Any employee exhibiting symptoms of any serious and life-threatening illness would necessarily be denied the request for additional coverage.

G. Disability Retirement

HIV-infected employees may be eligible for disability retirement if their medical condition warrants and if they have the requisite years of Federal service to qualify. OPM considers applications for disability retirement from employees with AIDS in the same manner as for other employees, focusing on the extent of the employee's incapacitation and ability to perform his or her assigned duties. OPM makes every effort to expedite any applications where the employee's illness is in an advanced stage and is life threatening.

H. Labor-Management Relations

AIDS in the workplace may be an appropriate area for cooperative labor-management activities, particularly with respect to providing employees education and information and alleviating AIDS-related problems that may emerge in the workplace. In addition, to the extent that an agency proposes AIDS-related policies or programs which would affect the working conditions of bargaining unit employees, unions must be accorded any rights they may have to bargain or be consulted as provided for under 5 U.S.C. Chapter 71.

I. Health and Safety Standards

In 1985, the CDC published guidelines relating to the prevention of HIV transmission in most workplace settings, *CDC Recommendations for Preventing Transmission of Infection with [HIV] in the Workplace*, 34 MMWR 681 (November 15, 1985). The CDC published specialized guidelines in 1987 relating to health-care workers (which in part updated the health-care worker provisions contained in the workplace guidelines), *CDC Recommendations for Prevention of HIV Transmission in Health-Care Settings*, 36 MMWR Supp. no. 2S (August 21, 1987). The Department of Health and Human Services (HHS) and the Occupational Safety and Health Administration (OSHA) of the Department of Labor have initiated a program to ensure compliance with safety and health guidelines and standards designed to protect health-care workers from blood-borne diseases, including AIDS. See Department of Labor/Department of Health and Human Services—Joint Advisory Notice: *Protection Against Occupational Exposure to Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV)*, 52 Fed. Reg. 41818 (October 30, 1987). The CDC and OSHA/HHS guidance is intended to increase the availability and use of educational information and personal protective equipment and to improve workplace practices bearing on the transmission of AIDS and other blood-borne diseases. OPM strongly encourages agencies, especially those with employees occupying healthcare and related positions, to establish health and safety practices consistent with this guidance. Sources are available in OSHA to discuss the published guidelines.

J. Blood Donations

One area of personnel management which agencies may overlook when considering AIDS policies and practices is employee blood donations. OPM joins the American Red Cross in urging agencies to encourage employees to consider donating blood. Under guidelines established by the American Red Cross, there is no risk of contracting AIDS from giving blood. However, fears associated with AIDS have contributed to a situation where many of the nation's blood banks are in short supply. This situation threatens the health status of the American public.

As part of its effort to educate the public so as to overcome these fears, the American Red Cross has produced three publications which address blood donations where AIDS is an issue. These publications are: "You Can't Get AIDS From Giving Blood, But Fear Can Run Us Dry," "What You Must Know Before Giving Blood," and "AIDS and the Safety of the Nation's Blood Supply." These publications are available through your local Red Cross chapter or by contacting the Red Cross National Headquarters AIDS Public Education Program (by writing to 1730 "D" Street, N.W., Washington, D.C. 20006 or by calling (202) 639-3223).

PRESERVING A STRONG U.S. INDUSTRIAL BASE

(Mr. SCHULZE asked and was given permission to address the House for 1 minute.)

Mr. SCHULZE. Mr. Speaker, I am appalled that the United States Navy would go out of its way to help Canadian firms take Navy business away from the last United States manufacturer of anchor chain. When the Navy asked competitors to expedite their proposal time by 2 weeks for national security reasons, the U.S. manufacturer said "yes." The Canadian company said "no." The Navy dropped its request. In fact, the Canadians asked for—and received—an additional extension of time. Our naval facilities command, with the guidance of Deputy Commander Paul Buonaccorsi, did not even consult with the United States firm and extended the deadline to suit the Canadians. Assistant Secretary Pyatt should not permit this underhanded treatment of American firms. It undermines our policy of preserving a strong U.S. industrial base and it threatens the existence of our last U.S. source of anchor chain.

□ 1230

THE PRESIDENT'S VETO OF CIVIL RIGHTS LEGISLATION—A FIRST

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, President Reagan's doctrine is finally very clear today. He is the first President in 120 years to veto a civil rights bill. Maybe he has overlooked the facts.

The Civil Rights Restoration Act will not force an employer to hire someone with AIDS. The act will not protect homosexuality, it will not require religious institutions to comply with laws that violate their religious tenets, it will not affect farmers who receive subsidies, it will not affect people who receive Social Security, and in fact it will not even change the existing law. The truth of the matter is the President has chosen to heed the advice of TV preachers. Unfortunately, today history will not judge this event as if it was a revival meeting.

A TRIBUTE TO DR. MERLIN K. DuVAL

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, the Washington healthcare community said goodbye to an outstanding leader last week when Dr. Merlin K. DuVal resigned his position as president of American Healthcare Institute and returned to his adopted home State of Arizona. Dr. DuVal will join Samaritan Health Service in Phoenix as senior vice president for quality assurance.

While we in Arizona are delighted to welcome Dr. DuVal back as an active member of our community, policymakers in Washington will miss his thoughtful and valued insight into the future of the healthcare delivery system in the United States.

Dr. DuVal has been a strong and refreshing voice for the hospital industry since he came to Washington in 1984 as the founding president of American Healthcare Institute representing American Healthcare Systems, the largest not-for-profit healthcare network in the world. He came to Washington as Congress was making dramatic changes in the way hospitals are reimbursed for providing care to Medicare patients. Hospitals have faced some of their most difficult times since then as Congress has confronted the industry with changes year after year. Dr. DuVal has provided a steady and reasoned response to the often difficult debate.

He represented his AHI members well and in the process gained the respect and trust of those of us in Washington. To those who have followed Monte's career, his success has come as no surprise. He was educated at Dartmouth College and received his M.D. degree from Cornell University in 1946. He served as a member of the surgical faculty at the State University of New York, College of Medicine at Kings County Hospital, Brooklyn, NY, and next at the University of Oklahoma School of Medicine in Oklahoma City.

In 1963, Dr. DuVal was selected to be the founding dean for the College of Medicine at the University of Arizona and served as either dean or vice president for health services at the university from 1963 to 1979. Between 1971 and 1973 he served as Assistant Secretary for what was then Health, Education and Welfare here in Washington.

Dr. DuVal later served as the president of the National Center for Health Education in San Francisco before joining Associated Health Systems, the predecessor of AHI. Dr. DuVal is a board certified surgeon and holds eight honorary degrees. Last year he was honored with the deans award from the University of Arizona College of Medicine and the designation of the Merlin K. DuVal, M.D. Auditorium at the University of Arizona Health Sciences Center.

Monte's valued experience will be missed here in Washington but we are certain his contributions to the health care industry will continue to influence us. We wish he and his wife Ruth the best of luck and know that their family and friends in Arizona look forward to their return.

CIVIL RIGHTS RESTORATION ACT

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, the Civil Rights Restoration Act, which this House will be considering for a second time today, merely maintains the status quo. It is a conservative act to clarify the original intent of Congress. However, in addition to defining and improving existing law, a vote to override the President's veto of the Civil Rights Restoration Act today would be a blow against some major excesses in propaganda. The opponents of the bill have committed gross atrocities against reason, logic, and the simple reading of the printed word. Not for a long time have we seen such abuse, intense use of the big lie technique, as we have seen in the past few days. Unfortunately for all of us, the democratic debate process has been maimed and brutalized in this attempt to create an emotional stampede.

Mr. Speaker, when we vote to override the veto today, we are also voting for a restoration of respect for the democratic public decisionmaking process.

THE NEXT STEP IN ARMS CONTROL

(Mr. MORRISON of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORRISON of Washington. Mr. Speaker, the historic INF Treaty calls for the most stringent verification measures ever negotiated in an arms agreement. But the plutonium and uranium in those missiles are not destroyed—they go back into stockpiles. This has given rise to a growing school of thought that truly verifiable arms control is not possible unless the gunpowder is destroyed along with the musket.

I believe future, more expansive agreements will mandate the disposal of these materials as well as their delivery systems. Politically, psychologically, and militarily, I think sentiment on both sides of the Iron Curtain calls for these materials to be done away with.

Today I have introduced a bill that will bring us closer to the next plateau in securing a lasting peace in the nuclear age. It calls for the Department of Energy to conduct a pilot project, in partnership with the Soviet Union, to test the feasibility of destroying weapons-grade nuclear materials.

DOE has the expertise to dismantle nuclear weapons and the capability to safely burn the nuclear materials from those missiles in its liquid metal reactors at Hanford, WA, and Idaho Falls, ID.

The administration's determination that the Nation's plutonium stockpile has reached required levels, combined with the pending START accord that would free-up untold amounts of weapons materials, makes it clear we must be prepared for a new era in preserving peace. This project would be a giant step toward meeting the demands of the new era. Let us have the technology ready to go when we need it.

JAPAN PUNISHES TOSHIBA—BIG DEAL

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, word has just been received this morning that the Japanese courts have moved against Toshiba Machine for sale of secret technology to the Soviets. The decision? Two employees who were involved directly with the sale have received suspended sentences, and the company has been fined $15,748.03. Big deal. The two who sold the technology to the Soviets received $17 million to perform this treacherous deed.

All along the line, the administration line that is, I and other critics of Toshiba have been told that Japan is taking care of its own problems concerning subversive actions on the part of some of its companies, that we should not worry or try to be punitive with sanctions against Toshiba, because the Japanese are really stiffening their laws.

The action in the Japanese courts today confirms our deepest fear. Japan will not punish in any meaningful way for the illegal sale of technology. As a staffer said to me this morning, $15,000 is about the cost of 1 hour's lobbying for Toshiba in Washington. Mr. Speaker, they have lobbied well.

CIVIL RIGHTS RESTORATION ACT OF 1987

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, the President has again decided to cast his vote against civil rights. Last week, he vetoed the most important piece of civil rights legislation of the last several years, a measure which enjoyed broad bipartisan support in both Houses. The veto typifies this administration's disdain for the civil rights protections that form the basis of our system of democracy.

This morning the Senate votes to override the veto of the Civil Rights

Restoration Act of 1987 which provides incentives for public and private institutions who receive Federal funds to refrain from discriminatory activity. In a nation which prides itself on its commitment to the principle of equal opportunity for all citizens, Government moneys should not be used to support institutions which openly discriminate against women, minorities, the elderly or the handicapped.

The President claims that this bill would substantially diminish the independence of religious institutions in our society. Such a distortion of the facts is irresponsible. The act, as submitted to the President, includes a specific exemption for religious organizations. It is supported by nearly every major religious organization in the country, including the National Council of Churches and the American Jewish Committee.

In vetoing this legislation, the President stated that it mandates "vastly expanded bureaucratic intrusions" into the actions of business groups. This is another deliberate mischaracterization of the facts.

In his attempt to diminish, the potency of civil rights law, the President has endeavored to cast a disparaging light on this important piece of legislation by conducting a campaign of misinformation. I find these actions disappointing and urge may colleagues in the Congress to override his veto and to send a clear meassage to our constituents that the rights of all Americans will be protected.

URGING CONGRESS TO CONSIDER SUSTAINING THE PRESIDENT'S VETO OF THE GROVE CITY LEGISLATION

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, I would like to urge my colleagues to give very serious consideration to sustaining the President's veto of the Grove City legislation. It's very difficult for me to ask for such a vote given the symbolic character of the vote, the emotions that have risen on both sides of the issue.

Let me say simply this: What the President has called for in his veto is pointing to the fact that many voted for this legislation on the basis of some five or so colloquies seeking to clarify the limitations and the parameters attached to this legislation.

What the President is saying simply is this: That in a matter of such gravity and importance that which was addressed to in this House by way of colloquy ought to be fixed clearly and explicitly in statutory law.

Mr. Speaker, I urge my colleagues to uphold the administration's veto.

PEACE TALKS CONTINUE IN NICARAGUA

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, the Contras and Sandinistas are down in Nicaragua talking peace, and President Reagan is up here on the Hill talking war.

Humberto Ortega and Adolfo Calero are talking directly, inside Nicaragua, for the first time.

The Contras have been given a position at the bargaining table that they have never won on the battlefield.

Both Sandinistas and Contras have agreed to a cease-fire—the most dramatic prospect for peace in the long, tragic, 6-year history of the Contra war.

But the Reagan administration is still tearing around Honduras with the 82d Airborne and sending American troops into the 20-mile border zone.

Yesterday, 10 American soldiers were injured when a helicopter crashed on the way to Jamastran, 17 miles from the Nicaraguan border. American soldiers should not be in Jamastran, less than 20 miles from Nicaragua. They should not have to carry live ammunition and they should not be within howitzer range of the border.

Even as the Contras are talking about a peaceful settlement in Nicaragua, President Reagan is up on the Hill personally lobbying for more lethal aid.

Mr. Speaker, the Contras are working for a peaceful settlement.

The Sandinistas are working for a peaceful settlement.

Why is President Reagan talking about lethal aid?

MILITARY AID TO THE CONTRAS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I don't know if the prior speaker has even noticed it, but, when we send military assistance around the world to NATO, to Israel, to South American countries, we never call it lethal aid. It's called military aid.

I would hope the gentleman from Massachusetts would have noticed that the last time we put Americans anywhere without live ammunition in their guns was on the beaches of Lebanon where 241 young Marine sailors and some soldiers died in that terrible terrorist attack on Marine headquarters.

My office has received a call from a Major Murphy with Joint Task Force Bravo at Palmerola. The families of these outstanding young soldiers with the 82d Airborne and 7th Light Infantry Division, are listening to some of the weird speeches on the House floor here. Many of these speeches are insulting to our military and their commanders, up to and including the Commander in Chief. Major Murphy asked people to write down this address and send words of support to our young United States soldiers in Honduras. Joint Task Force Bravo will get the letters out to the 82d and 7th Infantry. The address is: Palmerola Air Force Base APO, Miami, FL 34042. They will make sure your cards and letters get to those defending our national security.

TRACEY McFARLANE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 2819) for the relief of Tracey McFarlane.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding her age, Tracey McFarlane may be naturalized under section 322 of the Immigration and Nationality Act if a petition is filed on her behalf pursuant to that section not later than 2 years after the date of enactment of this Act.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. MAZZOLI] is recognized for 1 hour.

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill, and I submit the following extraneous material:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, February 12, 1988.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 2819) for the relief of Tracey McFarlane, there is attached a memorandum of information concerning the beneficiary.

Notwithstanding her age, the bill would allow the beneficiary to be naturalized under section 322 of the Immigration and Nationality Act as a child born outside of the United States, if the petition is filed on her behalf within two years after the date of enactment of this act.

For the Commissioner.

Sincerely,

BONNIE DERWINSKI,
(For Greg Leo, Director, Congressional and Public Affairs).

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE: H.R. 2819

The following information was obtained from the beneficiary's mother and adoptive father, Judith Deanne Mount and Richard Frederick Mount.

The beneficiary, Tracey McFarlane, a native and citizen of Canada, was born July 20, 1966. She is single and attends the University of Texas at Austin, Texas, under the auspices of a full athletic scholarship from the University. She also receives a $450 monthly stipend. She resides in an apartment in Austin, Texas. The beneficiary's mother and adoptive father contribute about $3,000 a year toward her incidental expenses.

The beneficiary first entered the United States on November 28, 1978, as a minor child of an intra-company transferee. She accompanied her mother and stepfather, Jack McFarlane. The beneficiary obtained status as a lawful permanent resident of the United States on August 7, 1984.

The interested party, Judith Deanne Mount, the beneficiary's mother, was born in Canada on February 5, 1941. She obtained a divorce from the beneficiary's natural father, John Douglas Guild, on October 5, 1973, in Canada. She entered the United States for the first time on November 28, 1978, as the wife of an intra-company transferee. Mrs. Mount's second marriage to Jack McFarlane was dissolved on April 14, 1981, and she married her current husband, Richard Frederick Mount, on February 6, 1982. Mrs. Mount has two other children, John Michael Guild age 19, and Dean C. McFarlane age 13, who are natives and citizens of Canada. They are both currently residing with their mother in California. John Michael Guild is currently attending college in the United States under a student visa. Dean C. McFarlane and Mrs. Mount are currently filing applications for adjustment of status under the Immigration Reform and Control Act of 1986.

The interested party, Richard Frederick Mount, was born July 20, 1925, in Canada to American citizen parents. He is self-employed and earns about $40,000 annually in industrial design. He works out of an office in his home. He recently sold an industrial patent worth about $40,000 with a future royalty interest. He served honorably in the United States Navy from December 8, 1942 to March 9, 1945. He has four adult children from a previous marriage. His petition for the adoption of the beneficiary was granted on February 23, 1984, in the Superior Court of California, County of Riverside.

The beneficiary, Tracey McFarlane, stated that she has been a member of the swimming team at the University of Texas since September 1984, and during this time the team has won three national championships. She won national titles in the 100 breaststroke in 1985 and 1987, as well as titles in both the 200 and 400 medley relays. She would like to compete for the United States team in the summer olympic games, but she must be a United States citizen to represent the United States.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, the minority has reviewed this question. We have no comments to make. We suggest that it go forward to a vote.

Mr. MAZZOLI. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT AS MEMBER OF THE SELECT COMMITTEE ON HUNGER

The SPEAKER. Pursuant to the provisions of section 103 of House Resolution 26, 100th Congress, and the order of the House of January 22, 1987, the Chair appoints the gentleman from West Virginia [Mr. STAGGERS], to the Select Committee on Hunger to fill the existing vacancy thereon.

□ 1245

APPOINTMENT AS MEMBERS OF MONITORED RETRIEVABLE STORAGE REVIEW COMMISSION

The SPEAKER. Pursuant to section 143 of the Nuclear Waste Policy Act, as amended by section 5021 of Public Law 100-203, the Chair appoints, with the concurrence of the President pro tempore of the Senate, the following individuals to the Monitored Retrievable Storage Review Commission:

Mr. Victor Gilinsky, of Glen Echo, MD;

Mr. Alex Radin, of Washington, DC; and

Mr. Dale E. Klein, of Austin, TX.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

FEDERAL EMPLOYEES' LEAVE-TRANSFER ACT OF 1988

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3757) to amend title 5, United States Code, to permit voluntary transfers of leave by Federal employees where needed because of medical or other emergency situation, as amended.

The Clerk read as follows:

H.R. 3757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees' Leave-Transfer Act of 1988".

SECTION 2. VOLUNTARY TRANSFERS OF LEAVE.

(a) AUTHORITY.—Chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—VOLUNTARY TRANSFERS OF LEAVE

"§ 6331. Definitions

"For the purpose of this subchapter—

"(1) the term 'employee' means an employee as defined by section 6301(2), excluding an individual employed by the government of the District of Columbia;

"(2) the term 'personal emergency' means a medical or family emergency or other hardship situation that requires, or is likely to require, an employee's prolonged absence from duty and to result in a substantial loss of income to the employee because of the unavailability of paid leave;

"(3) the term 'leave recipient' means an employee whose application to receive donations of leave under this subchapter is approved; and

"(4) the term 'leave donor' means an employee whose application to make 1 or more donations of leave under this subchapter is approved.

"§ 6332. General authority

"Notwithstanding any provision of subchapter I, and subject to the provisions of this subchapter, the Office of Personnel Management shall establish a program under which annual leave accrued or accumulated by an employee may be transferred to the annual-leave account of any other employee if such other employee requires additional leave because of a personal emergency.

"§ 6333. Receipt and use of transferred leave

"(a)(1) An application to receive donations of leave under this subchapter, whether submitted by or on behalf of an employee—

"(A) shall be submitted to the employing agency of the proposed leave recipient; and

"(B) shall include—

"(i) the name, position title, and grade or pay level of the proposed leave recipient;

"(ii) the reasons why transferred leave is needed, including a brief description of the nature, severity, anticipated duration, and, if it is a recurring one, the approximate frequency of the personal emergency involved;

"(iii) if the employing agency so requires, certification from 1 or more physicians, or other appropriate experts, with respect to any matter under clause (ii); and

"(iv) any other information which the employing agency may reasonably require.

"(2) If an agency requires that an employee obtain certification under paragraph (1)(B)(iii) from 2 or more sources, the agency shall ensure, either by direct payment to the expert involved or by reimbursement, that the employee is not required to pay for the expenses associated with obtaining certification from more than 1 of those sources.

"(3) An employing agency shall approve or disapprove a proposed leave recipient's application for leave under this subchapter, and shall notify the proposed leave recipient (or other person acting on behalf of the proposed recipient, if appropriate) of the agen-

cy's decision, in writing, within 10 days (excluding Saturdays, Sundays, and legal public holidays) after receiving such application.

"(b) A leave recipient may use annual leave received under this subchapter in the same manner and for the same purposes as if such leave recipient had accrued that leave under section 6303, except that any annual leave, and any sick leave, accrued or accumulated by the leave recipient and available for the purpose involved must be exhausted before any transferred annual leave may be used.

"(c) Transferred annual leave—

"(1) may accumulate without regard to any limitation under section 6304; and

"(2) may be substituted retroactively for any period of leave without pay, or used to liquidate an indebtedness for any period of advanced annual leave, which began on or after a date fixed by the employee's employing agency as the beginning of the personal emergency involved.

"§ 6334. Donations of leave

"(a) An employee may, by written application to such employee's employing agency, request that a specified number of hours be transferred from such employee's annual-leave account to the annual-leave account of a leave recipient in accordance with section 6332.

"(b)(1) Upon approving an application under subsection (a), the employing agency of the leave donor may transfer all or any part of the number of hours requested for transfer, except that the number of hours of annual leave so transferred may not exceed one-half of the total number of hours of annual leave standing to the credit of the leave donor at the time of the transfer.

"(2) The employing agency of a leave donor may waive the limitation under paragraph (1). Any such waiver shall be made in writing.

"(c) Regulations prescribed under section 6342 shall include procedures to carry out this subchapter when the leave donor and the leave recipient are employed by different agencies.

"§ 6335. Termination of personal emergency

"(a) The personal emergency affecting a leave recipient shall, for purposes of this subchapter, be considered to have terminated on the date as of which—

"(1) the leave recipient notifies that individual's employing agency, in writing, that the emergency no longer exists;

"(2) the leave recipient's employing agency determines, after written notice and opportunity for the leave recipient (or, if appropriate, another person acting on behalf of the leave recipient) to answer orally or in writing, that the personal emergency no longer exists; or

"(3) the leave recipient is separated from service.

"(b)(1) A leave recipient's employing agency shall, consistent with guidelines prescribed by the Office of Personnel Management, establish procedures to ensure that a leave recipient is not permitted to use or receive any transferred leave under this subchapter after the personal emergency terminates.

"(2) Nothing in section 5551, 5552, or 6306 shall apply with respect to any annual leave transferred to a leave recipient under this subchapter.

"§ 6336. Restoration of transferred leave

"(a)(1) The Office of Personnel Management shall establish procedures under which, except as provided in paragraph (2), any transferred leave remaining to the credit of a leave recipient when the personal emergency affecting the leave recipient terminates shall be restored on a prorated basis by transfer to the appropriate accounts of the respective leave donors.

"(2) Nothing in paragraph (1) shall require the restoration of leave to a leave donor—

"(A) if the amount of leave which would be restored to such donor would be less than 1 hour or any other shorter period of time which the Office may by regulation prescribe;

"(B) if such donor retires, dies, or is otherwise separated from service, before the date on which such restoration would otherwise be made; or

"(C) if such restoration is not administratively feasible, as determined under regulations prescribed by the Office.

"(b)(1) Transferred annual leave restored to a leave donor under subsection (a) before the beginning of the third biweekly pay period preceding the end of a leave year shall be taken into account, for purposes of subsection (a) or (b) of section 6304, as applicable, as if such leave had accrued to such donor during the leave year in which it is so restored.

"(2) Transferred annual leave restored to a leave donor under subsection (a) after the end of the fourth biweekly pay period preceding the end of a leave year shall be taken into account, for purposes of subsection (a) or (b) of section 6304, as applicable, as if such leave had accrued to such donor during the leave year following the leave year in which it is so restored.

"(c) The Office shall prescribe regulations under which this section shall be applied in the case of an employee who is paid other than on the basis of biweekly pay periods.

"(d) Restorations of leave under this section shall be carried out in a manner consistent with regulations prescribed to carry out section 6334(c), if applicable.

"§ 6337. Accrual of leave

"(a) For the purpose of this section—

"(1) the term 'paid-leave status under subchapter I', as used with respect to an employee, means the administrative status of such employee while such employee is using sick leave, or annual leave, accrued or accumulated under subchapter I; and

"(2) the term 'transferred-leave status', as used with respect to an employee, means the administrative status of such employee while such employee is using transferred leave under this subchapter.

"(b)(1) Except as otherwise provided in this section, while an employee is in a transferred-leave status, annual leave and sick leave shall accrue to the credit of such employee in the same manner as if such employee were then in a paid-leave status under subchapter I, except that—

"(A) the maximum amount of annual leave accruable by an employee while in transferred-leave status in connection with any particular personal emergency may not exceed 5 days; and

"(B) the maximum amount of sick leave accruable by an employee while in transferred-leave status in connection with any particular personal emergency may not exceed 5 days.

"(2) Any annual or sick leave accrued by an employee under this section—

"(A) shall be credited to an annual-leave or sick-leave account, as appropriate, separate from any leave account of such employee under subchapter I; and

"(B) shall not become available for use by such employee, and may not otherwise be taken into account under subchapter I, until, in accordance with subsection (c), it is transferred to the appropriate leave account of such employee under subchapter I.

"(c)(1) Any annual or sick leave accrued by an employee under this section shall be transferred to the appropriate leave account of such employee under subchapter I, effective as of the beginning of the first applicable pay period beginning after the date on which the employee's personal emergency terminates as described in paragraph (1) or (2) of section 6335(a).

"(2) If the employee's personal emergency terminates as described in section 6335(a)(3), no leave shall be credited to such employee under this section.

"§ 6338. Exclusion authority

"(a) Upon written request by the head of an agency, the Office of Personnel Management may exclude that agency, or a unit of that agency, from the leave-transfer program under the preceding sections of this subchapter if the Office determines that inclusion in such program is causing substantial disruption to the agency or unit involved.

"(b) An agency, or unit of an agency, which is excluded under subsection (a) shall, to the extent practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

"(c) The Office shall periodically review any exclusion under subsection (a) and may, at any time, revoke any such exclusion. A revocation under this subsection shall be made in writing.

"(d) The Office shall provide prompt written notification to the Congress with respect to any exclusion, and any revocation of an exclusion, under this section.

"(e) Any transferred leave remaining to the credit of an employee whose personal emergency has not terminated before that employee's employing agency, or unit, is excluded pursuant to this section shall remain available for use in the same way as provided for under section 6343(b).

"§ 6339. Alternative leave-transfer programs

"(a)(1) In order to determine the feasibility and desirability of each alternative leave-transfer program under subsection (b), the Office of Personnel Management shall, with the concurrence of the head of the Executive agency involved, carry out a demonstration project under which each such alternative program shall be tested on an agency-wide basis in accordance with the provisions of this section.

"(2) Under the project, each of 3 Executive agencies shall, instead of participating in the leave-transfer program under sections 6331 through 6338, implement the alternative program incorporating the requirements described in subparagraph (A), (B), or (C) of subsection (b)(2), respectively.

"(b)(1) The terms and conditions governing the alternative leave-transfer programs under this section shall be the same as those governing the program under sections 6331 through 6338, except—

"(A) to the extent necessary to implement the requirements of paragraph (2); and

"(B) as provided in paragraph (3) or subsection (c).

"(2) The alternative leave-transfer programs under this section shall be as follows:

"(A) One program under which any transfers of annual leave shall be effected by donations to and withdrawals from a common, agency-wide 'leave fund', rather than by direct transfers from leave donors to leave recipients.

"(B) One program under which, in addition to allowing transfers of annual leave in accordance with sections 6331 through 6338, sick leave accrued or accumulated by one employee shall be transferable to the sick-leave account of any other employee if such other employee requires additional sick leave because of a personal emergency.

"(C) One program under which, in addition to allowing transfers of annual leave in accordance with sections 6331 through 6338, sick leave accrued or accumulated by one employee shall be transferable to the sick-leave account of any other employee in the circumstances described in subparagraph (B), but only if transfers of annual leave are inadequate, or would be inadequate, to meet the personal emergency involved.

"(3)(A) The terms and conditions relating to the transfer, use, and restoration of sick leave under the respective programs described in subparagraphs (B) and (C) of paragraph (2) shall be consistent with the terms and conditions governing comparable matters under sections 6331 through 6338.

"(B) In administering subparagraphs (A) and (B) of section 6337(b)(1) (relating to the maximum amounts of annual and sick leave accruable while in a transferred-leave status) with respect to any leave recipient who, under either of the programs referred to in subparagraph (A) of this paragraph, is permitted to use both transferred annual leave and transferred sick leave in connection with the same personal emergency, the total amount of annual leave accrued, and the total amount of sick leave accrued, while in transferred-leave status (whether transferred annual leave or transferred sick leave) in connection with such emergency may not, in the aggregate, exceed the maximum amount allowable under subparagraph (A) or (B) of section 6337(b)(1), as the case may be.

"(C) Nothing in section 8339(m) shall apply with respect to any sick leave transferred to a leave recipient under either of the programs referred to in subparagraph (A).

"(c)(1)(A) Upon written request by the head of an agency testing an alternative program, the Office of Personnel Management may, if the Office determines that the program is causing substantial disruption to the agency involved—

"(i) terminate the alternative program; and

"(ii) concurrent with the action under clause (i)—

"(I) discontinue the exclusion of the agency from the program under sections 6331 through 6338;

"(II) continue the exclusion of the agency from the program under sections 6331 through 6338; or

"(III) discontinue the exclusion of the agency from the program under sections 6331 through 6338, with the exception of 1 or more units of the agency involved.

"(B) An agency, or unit of an agency, shall, to the extent practicable, make a sustained effort to eliminate the conditions on which is based the continued exclusion of such agency or unit under subclause (II) or (III) of subparagraph (A)(ii), as the case may be.

"(C) The Office of Personnel Management shall periodically review any exclusion referred to in subparagraph (B) and may, at any time, provide that the exclusion be revoked.

"(2) The Office shall submit a written report to the President and the Congress with respect to any alternative program terminated under this subsection. A report under this paragraph shall be in lieu of any report which would otherwise be required with respect to such program under section 6341.

"(3) Any program termination, continuance of an exclusion, discontinuance of an exclusion, or revocation under this subsection shall be made in writing.

"§ 6340. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving, or using annual or sick leave under this subchapter.

"(b) For the purpose of subsection (a), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as an appointment or promotion or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6341. Reporting requirements

"(a) Not later than 6 months before the scheduled termination date of any program under this subchapter (excluding any program under section 6344), the Office of Personnel Management shall submit a written report to the President and the Congress with respect to the operation of such program.

"(b) The Office of Personnel Management may require agencies to maintain such records and to provide such information as the Office may need in order to carry out subsection (a) or section 6339(c)(2).

"§ 6342. Regulations

"The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter.

"§ 6343. Commencement and termination of programs; treatment of residual leave

"(a) The voluntary leave-transfer program under sections 6331 through 6338, and each alternative leave-transfer program under section 6339, shall commence not later than 4 months after the date of the enactment of this subchapter and, except as provided in section 6339(c), shall terminate 3 years after its commencement date.

"(b) If a leave-transfer program referred to in subsection (a) terminates before the termination of the personal emergency affecting a leave recipient under such program, any leave which was transferred to the leave recipient before the termination of the program shall remain available for use (including by restoration to leave donors, if applicable) as if the program had remained in effect.

"(c) Any annual leave remaining in an agency-wide leave fund under the alternative program incorporating the requirements of section 6339(b)(2)(A) shall, upon termination of such program, be dispensed in accordance with the following:

"(1) If there are any employees who, based on applications submitted before the program's termination date, are found (before, on, or after that date) to be eligible to make withdrawals of leave in connection with any personal emergency, annual leave donated to the leave fund before the program's termination date shall—

"(A) remain available for withdrawal by any such employee until the last such emergency has terminated, and

"(B) if so withdrawn, remain available for use (including by restoration to leave donors, if applicable), as if the program had remained in effect.

"(2) If there are no employees eligible to make withdrawals as of the date on which the program terminates, or if the application of paragraph (1) does not result in the exhaustion of all annual leave which was donated to the leave fund before the program's termination date, any remaining leave shall be restored to leave donors in a manner consistent with the procedures under section 6336.

"§ 6344. Additional leave-transfer programs

"(a) For the purpose of this section—

"(1) the term 'excepted agency' means—

"(A) the Central Intelligence Agency;

"(B) the Defense Intelligence Agency;

"(C) the National Security Agency;

"(D) the Federal Bureau of Investigation; and

"(E) as determined by the President, any Executive agency or unit thereof, the principal function of which is the conduct of foreign intelligence or counterintelligence activities; and

"(2) the term 'head of an excepted agency' means—

"(A) with respect to the Central Intelligence Agency, the Director of Central Intelligence;

"(B) with respect to the Defense Intelligence Agency, the Director of the Defense Intelligence Agency;

"(C) with respect to the National Security Agency, the Director of the National Security Agency;

"(D) with respect to the Federal Bureau of Investigation, the Director of the Federal Bureau of Investigation; and

"(E) with respect to an Executive agency designated under paragraph (1)(E), the head of such Executive agency, and with respect to a unit of an Executive agency designated under paragraph (1)(E), such individual as the President may determine.

"(b) Notwithstanding any other provision of this subchapter, neither an excepted agency nor any individual employed in or under an excepted agency may be included in a leave-transfer program established under any of the preceding provisions of this subchapter.

"(c)(1) The head of an excepted agency shall, by regulation, establish a program under which annual leave accrued or accumulated by an employee of such agency may be transferred to the annual-leave account of any other employee of such agency if such other employee requires additional leave because of a personal emergency.

"(2) To the extent practicable, and consistent with the protection of intelligence sources and methods (if applicable), each program under this section shall be established—

"(A) in a manner consistent with the provisions of this subchapter applicable to the program under sections 6331 through 6338 (including sections 6340 and 6343), but

"(B) without regard to any provisions relating to transfers or restorations of leave between employees in different agencies and the provisions of section 6338.

"(d) Not later than 6 months before the scheduled termination date of any program under this section, the head of the excepted agency involved shall submit a written report to the President and the Congress with respect to the operation of such program.

"(e) The Office of Personnel Management shall provide the head of an excepted agency with such advice and assistance as the head

of such agency may request in order to carry out the purposes of this section.

"§ 6345. Inapplicability of certain provisions

"Nothing in section 7351 shall apply with respect to a solicitation, donation, or acceptance of leave under this subchapter.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—VOLUNTARY TRANSFERS OF LEAVE

"6331. Definitions.
"6332. General authority.
"6333. Receipt and use of transferred leave.
"6334. Donations of leave.
"6335. Termination of personal emergency.
"6336. Restoration of transferred leave.
"6337. Accrual of leave.
"6338. Exclusion authority.
"6339. Alternative leave-transfer programs.
"6340. Prohibition of coercion.
"6341. Reporting requirements.
"6342. Regulations.
"6343. Commencement and termination of programs; treatment of residual leave.
"6344. Additional leave-transfer programs.
"6345. Inapplicability of certain provisions.".

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3757, the Federal Employees' Leave-Transfer Act of 1988, as amended by the Post Office and Civil Service Committee, would allow Federal employees to donate annual leave to coworkers who face a prolonged absence from work due to a personal emergency.

Mr. Speaker, H.R. 3757 is not the Federal Government's first experience with leave-sharing. The continuing resolution for fiscal year 1987 established a limited leave-sharing program for Federal employees. The Office of Personnel Management was permitted to select three cases to test this concept. In response to that law, OPM received more than 240 applications for the 3 experiments.

The large number of worthy applicants for that program clearly demonstrated the need for a broader leave-transfer program.

Mr. Speaker, the continuing resolution for fiscal year 1988 granted the Office of Personnel Management the authority to establish a Government-wide program allowing Federal employees to transfer annual leave to their coworkers. But that authority will expire at the end of this fiscal year. That is why it is important that the House act promptly on a longer-term measure.

Last year, our colleague from Virginia, Congressman FRANK WOLF, introduced H.R. 2487, which was the subject of hearings last August by the Subcommittee on Compensation and Employee Benefits. H.R. 3757 reflects many of the suggestions recommended at those hearings, and I am pleased that Congressman WOLF is an original cosponsor of the new bill.

The Federal Employees' Leave-Transfer Act directs the Office of Personnel Management to establish procedures by which employees can donate annual leave to fellow employees who are experiencing personal or family emergencies. The act also directs OPM to select three agencies for the purpose of testing alternative methods of transferring leave—one based on an agencywide leave fund, and two establishing agencywide programs which will permit the sharing of sick leave as well as annual leave.

Mr. Speaker, many of my colleagues have told me of the plight of constituents who face overwhelming hardships which require extended absences from their jobs. And we know of many cases where their coworkers are ready and eager to help alleviate that plight by sharing their annual leave; all that they need is the legal permission to do so. The Federal Employees' Leave-Transfer Act provides that permission and establishes the mechanism for an orderly program of leave-sharing.

Mr. Speaker, I urge my colleagues to support H.R. 3757.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

It is my privilege, Mr. Speaker, to speak in favor of H.R. 3757. I take this opportunity to commend the gentleman from New York [Mr. ACKERMAN] for his leadership and interest in the subject of leave-transfer for Federal employees, and for bringing this important piece of legislation quickly to the floor.

When Mr. ACKERMAN introduced H.R. 3757 on December 14, 1987, he stated that he did not "pretend to have fathered the concept of leave-sharing"; he gave due recognition to our colleague, the gentleman from Virginia [Mr. WOLF] who introduced the first bill on leave-sharing and is the chief cosponsor of H.R. 3757. I would also like to give credit to the gentleman from Virginia who has consistently held the well-being of the Federal employees in the forefront.

Mr. Speaker, the minority has no objection to H.R. 3757 which was passed unanimously by the Post Office and Civil Service Committee. I am proud to be a cosponsor of this important legislation.

This bill establishes a government-wide program to transfer annual leave for a 3-year period under which leave can be voluntarily donated by an employee to another who, because of illness or family emergency, must be absent from the job but has depleted all leave. This bill also provides for demonstration projects in three agencies. One would study leave being donated in a common, agencywide leave fund; one would permit the donation of sick leave in addition to annual leave; and the third demonstration would include donations of sick leave only if donated annual leave were insufficient.

The Office of Personnel Management has the authority to exclude agencies from the program at the agency's request, if they can show that substantial disruption will result if the program were to be instituted at that agency. Furthermore, the bill provides that Federal employees may donate up to half of their annual leave. This leave can be restored to the donating employee if the recipient employee no longer needs the donated time.

Mr. Speaker, I am pleased with the inclusion of demonstration projects in the bill. I believe it is always useful to try various methods when establishing a program. As the gentleman from New York has indicated, the concept of leave sharing is not new. It has been tried and has been successful in the private and public sectors in other parts of our country. In Montgomery County, which I represent, sharing of sick leave has worked very well for county government employees. The Board of Education of Montgomery County has a leave bank for sick leave and annual leave is transferred on an employee-to-employee basis. We will never know whether sick leave and the leave fund provisions can work or whether they are cost efficient unless they are tried. The aim of these demonstration projects is to evaluate various alternatives. In the final analysis, we can eliminate the provisions that are not workable and include provisions which have proven to be cost effective.

Last week this House passed technical amendments which would permit leave transfer among all levels of Federal employees. The first provision of leave sharing was passed in the 99th Congress on an experimental basis and proved to be very successful. The President signed Public Law 100-202 on December 22, 1987, to expand the three-person experimental program to include the Federal civilian employees for 1 year. H.R. 3757 expands the program for 3 years.

Mr. Speaker, this program is one of the most humanitarian provisions in the Federal employee sector. I believe it will help in boosting the morale of employees who are facing long-term absence from the job. At the same time, it will help those employees who, prior to this, could only look on while their colleagues bore the burden of family emergencies; they will be able to help their colleagues during this time, by donating excess leave time.

Many of my constituents have called for information about the provisions passed during last session. Many of them are requests for transfer of leave between parents in Federal service to children in Federal service; some of the requests are for transfer between siblings in Federal service fortunately in the same department and other requests are for employees within an agency. There is much employee interest in the bill.

Mr. Speaker, I urge my colleagues to vote favorably for H.R. 3757 and again take this opportunity to commend the sponsor and the original cosponsor of the bill.

Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from Virginia [Mr. Wolf] a major cosponsor of the bill.

Mr. WOLF. Mr. Speaker, I rise today in support of H.R. 3757 and urge my colleagues to support this worthwhile concept of Federal employees sharing their leave with other Federal employees who do not have sufficient leave to face hardship situations such as long-term illnesses or family medical emergencies.

I was pleased to join with Congressman Gary Ackerman on this legislation and want to thank him for becoming involved with the Federal leave-sharing concept and for moving this legislation through the Post Office and Civil Service Committee to permanently establish a governmentwide leave-sharing program.

As many of our colleagues may recall, the Office of Personnel Management was directed in 1986 to conduct a leave-sharing study which proved to be tremendously successful and we included a temporary governmentwide leave-sharing program which will be in effect through fiscal year 1988 in last year's continuing resolution.

We now have the opportunity to establish leave sharing as a permanent fixture in the personnel management of Federal employees. A recent Federal Times editorial, "The Gift of Time," notes that without this program "employees who use up their sick leave and annual leave are faced with an impossible choice. They can choose to remain with their loved ones, or they can return to work to accrue additional leave, maintain their benefits, and, of course, earn a paycheck. They cannot have both."

Federal employees who have exhausted their annual and sick leave can have both with this gift of time donated by other Federal employees. This is a program that will help those in desperate need of assistance and will boost camaraderie among fellow Federal workers.

To illustrate that point, the idea for leave sharing was first brought to my attention in 1986 by a constituent of mine, Robert Hague, of McLean, VA. Mr. Hague wrote me about his desire to share some of his leave with a blind colleague, Barbara DiPietrantonio, who, as a relatively new employee, had not accrued enough leave of her own to cover time needed to train a new guide dog. Barbara's ability to carry out her job effectively is dependent on the mobility she has achieved, despite her handicap, through reliance on a guide dog. Mr. Hague recognized her need and wanted to give her some of his annual leave time.

With the recognition of the potential benefit for a leave-sharing program, a provision in the fiscal year 1987 continuing resolution directed OPM to conduct a feasibility study on developing a Governmentwide shared leave program. From the over 240 requests for inclusion in that study for 3 test cases, it was readily apparent that there are many hardship cases in the Federal work force which could benefit from a shared leave plan.

Additionally, in this time of tight Federal budgets we all recognize how important it is to find innovative ways to improve civil service and its benefits without creating additional costs to the public. The Federal employee leave-sharing program will assist Federal employees who experience long-term illnesses and extended family emergencies without any cost to the U.S. taxpayer and at the same time will help to minimize for the individual the financial and emotional impact that severe hardship situations usually create.

I urge my colleagues to join me in supporting a permanent leave-sharing program. This is an important concept whose time has come. We have an opportunity to do something positive in the Federal workplace which can encourage good employees to stick with Federal service. And that's good for all American taxpayers.

I urge a unanimous vote to give Federal employees the chance to share the gift of time with their fellow Federal employees who may need it so desperately.

Mr. Speaker, there are so many good reasons for this program that I would urge when we have an opportunity to vote that all of us support this.

Mr. Speaker, I wonder if I could ask the gentleman from New York one question that crossed my mind.

May I ask the gentleman from New York, does this legislation cover, and if it does not, I wonder if we could look at the possibility, does this provide leave sharing for legislative employees, members of the House or office staff and particularly those of the Doorkeeper and other Federal employees who are working for the legislative branch, are those covered?

The SPEAKER pro tempore. (Mr. Panetta). The time of the gentleman from Virginia has expired.

Mrs. MORELLA. Mr. Speaker, I yield an additional 30 seconds to the gentleman from Virginia.

Mr. WOLF. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Speaker, I am afraid those employees are not covered by this legislation, but the gentleman's point is well-taken and perhaps we should revisit the topic and take a look at the inclusion of those, as well as other employees.

Mr. WOLF. I would appreciate that, because I was standing here thinking there are many permanent employees of the House, the majority and minority, who have been here for a long period of time. I think it may be appropriate either in separate legislation or if this goes to conference perhaps seeing if there may be a way we could cover the legislative branch.

Mr. Speaker, I want to again acknowledge publicly and thank the gentleman from New York [Mr. Ackerman], because he has moved this legislation very quickly, as he has the other leave-sharing legislation, and all Federal employees are especially indebted to him. I want to thank the gentleman and thank the gentlewoman from Maryland.

Mr. ACKERMAN. Mr. Speaker, allow me to express my gratitude and the gratitude of the entire committee for the gentleman's initiatives and leadership in this area, not just his comments, but his very creative imagination and continued dedication to Federal employees. His humanitarian cooperation is greatly admired and appreciated.

Mr. WOLF. Mr. Speaker, I thank the gentleman.

Mrs. MORELLA. Mr. Speaker, I yield 3 minutes to again another distinguished colleague, the gentleman from Virginia [Mr. Parris].

Mr. PARRIS. Mr. Speaker, I rise in strong support of H.R. 3757, the Federal Leave-Transfer Act of 1988.

As I have stated before, leave sharing, which allows Federal workers to donate leave to a colleague experiencing a family or medical emergency situation, is a concept whose time certainly has come. The leave-transfer program proposed under H.R. 3757 is good for Federal workers, good for the Federal Government, and fosters the sense of community and nurturing spirit that strengthens the Federal work force.

H.R. 3757 would extend for 3 years temporary leave-sharing experiments now in existence and under review. The legislation anticipates the need for continuing review of the leave-sharing program by sunsetting the program for a period of 3 years and requiring the Office of Personnel Management [OPM] to report to Congress on the operation of the program not later than 6 months prior to this 3-year sunset date. Additionally, H.R. 3757 is responsive to criticisms advanced against earlier versions of the legislation by directing OPM to select three agencies to test variations of the leave-sharing concept, as follows: First, establishment of a general "leave bank" in lieu of specific recipient-directed leave donations; second, inclusion of both sick leave and annual leave transfers; and third, inclusion of both sick leave and annual leave transfers when the latter proves inadequate to cover anticipated family and medical emergencies.

I urge my colleagues to vote in favor of H.R. 3757, a rational, and humane response to problem situations that otherwise can devastate Federal workers and their families.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman from Virginia, who has always been an advocate for Federal employees.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in very strong support of this very humane, compassionate piece of legislation.

While I want to commend the gentleman from New York [Mr. ACKERMAN], chairman of the subcommittee, I wish to pay particular tribute to the gentleman from Virginia [Mr. WOLF], who has carried the banner for this much needed legislation for a number of years. I have had the privilege of working with the gentleman from Virginia [Mr. WOLF] because I sought his guidance when I faced in my district a crisis situation with a constituent of mine, Nancy Brady, who is an employee of Griffiss Air Force Base in Rome, NY. She had a serious illness requiring extensive medical care. She had used up all of her sick time and her annual leave time. Her fellow employees were understanding, they were compassionate. They wanted to help her in this time of cirsis, and they offered to donate their sick leave and annual leave time.

The fact of the matter was, however, they could not do so. There was no provision in the law to permit that.

Working with the gentleman from Virginia [Mr. WOLF] and seeking the guidance from a number of my other colleagues, and particularly I wish to commend the gentleman from Massachusetts [Mr. FRANK] we crafted a private relief bill. Testifying in support of that bill we were able to secure support from the Department of the Air Force and the Office of Personnel Management. So in essence, this was a test case, finally signed into law by President Reagan last November 23.

The law is working, and it is working to the benefit of the very people who make this Government function so effectively, so efficiently, 24 hours a day.

Mrs. Brady has enjoyed the benefit of her coworkers' generosity. She has been able to use their donated leave time. It has helped her in a time of crisis. It has boosted morale significantly at Griffiss Air Force Base.

It is a test case that proved beyond a shadow of a doubt that when you have a heart in Government, good things come from it.

So I want to commend once again the gentleman from New York [Mr. ACKERMAN], the gentleman from Virginia [Mr. WOLF], and the gentlewoman from Maryland [Mrs. MORELLA], and all of those who are associated with with this very significant piece of legislation.

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding me this time. This is a very important bill that in a very, very specific way affects the lives of people.

I remember Congressman LEHMAN coming before our committee and asking for some relief for an individual who was terminally ill, and the fact was they were not really related to in the manner in which the continuing resolution passed. So we put in a sort of pilot situation for him in the continuing resolution and allowed three or four other individuals to transfer their annual leave to their coworkers who were forced to be absent from work for extended periods of time due to personal or medical emergencies.

Mr. Speaker, the thing I feel is very important about this Federal Employees' Leave-Transfer Act of 1988 is the fact that so often our Federal employees are berated and demeaned and treated as if they are second-class citizens. They are the ones who are the easy targets in the budget.

As one who has had the pleasure of chairing the subcommittee that my distinguished colleague from New York, Mr. ACKERMAN, now chairs, and one who still sits on the committee, we have seen the kinds of ways they have been treated where we have had budgets that offered what they called a minus 5-percent pay raise, when it was really a decrease, tried to gut their health benefits, tried to indeed cut their important pensions in half, which is a contract between the Government and the employees, and yet the fact is that here we have a situation where Federal employees care about one another and are willing to give up their time so one of their colleagues with whom they work can get the necessary leave when they have a critical illness.

I think this mirrors really the magnanimity of Federal employees and the fact that we would have some control over their benefits and the manner in which they are treated. I always say that we have the greatest country in the world partially because we have such dedicated public servants, who are our Government workers, our postal workers, and our letter carriers. I think those of us who really understand the great gift of public service that our Federal employees do give really want to say thank you, because this bill really evolved out of the generosity of coworkers who saw the potential.

Mr. Speaker, I think this bill is the bill where Federal employees say thank you to each other in saying in fact that they care about each other so much so that they would give up their own time, their own periods of time off to their coworkers so that that person who happened to be ill could in fact take care of the situation.

So I am delighted with the hearings we have had. I want to especially pay tribute to the chairman, who moved this out, because we needed to make this happen on a more permanent basis and he has done that. I think this bill is simply an acknowledgment of the good work of our Government workers and the kind of caring that does go on among them.

Mr. Speaker, I want to congratulate the chairman and congratulate everyone on the other side of the aisle who cooperated so well with the chairman.

Mr. ACKERMAN. Mr. Speaker, I thank the gentlewoman from Ohio for her encouraging remarks and for her pioneering effort in this field.

Mr. LEHMAN of Florida. Mr. Speaker, as we consider H.R. 3757 today, the Federal Employees' Leave-Transfer Act of 1988, I would like to take a few moments to share with my colleagues my personal experience with this important issue.

In August 1986, I paid a courtesy visit to the Internal Revenue Service office in North Dade County, FL, in our 17th Congressional District, to learn how it operated and how our office might help it provide even better service to our constituents. It was during this visit that I first learned about Shannon and Joe Chiles and their two young children.

Both the Chiles worked at the North Dade IRS office, but their family was undergoing severe strain. Shannon had inoperable cancer, and both she and Joe has used all of their sick leave and annual leave because of this sickness and the necessary treatments. That meant that the additional time off that they needed had to be unpaid leave, which added a serious financial hardship to an already painful situation.

Two supervisors in this office, Gary Krevat and Bill Pfeil, had a novel idea for helping the Chiles: leave sharing. Scores of employees in their office had expressed the willingness to donate their own sick leave or vacation time to help out the Chiles family, but there was a Federal law that specifically prohibited that kind of transfer. They asked me to introduce a bill to exempt their office from this law. In response, we introduced H.R. 5545 in September 1986.

Thanks to the help and assistance of Congresswoman MARY ROSE OAKAR, then-chairwoman of the Subcommittee on Compensation and Employee Benefits of the House Post Office and Civil Service Committee; Congressman FRANK WOLF, a member of our own Transportation Appropriations Subcommittee; Congressman ED ROYBAL, chairman of the Treasury-Postal Appropriations Subcommittee; and Congressman STENY HOYER, a distinguished member of the subcommittee who has been a tireless worker for the rights of Federal employees, this legislation was enacted into law.

The Chiles family became the very first beneficiaries of leave sharing in the Federal Government. The program proved to be an enormous success, bringing together managers and employees in a common effort to help two colleagues who faced uncommon hardships. Leave sharing improved office morale and performance, it was cost-effective, and it was not complicated to administer. The Chiles case became the test case that showed leave sharing was possible and that paved the way for the bill we consider here today.

Mr. Speaker, Shannon Chiles died last year from the disease against which she struggled so valiantly. She was a remarkable person, a strong woman. Her legacy is H.R. 3757, the Federal Employees' Leave-Transfer Act of 1988, which was expertly crafted by Representative GARY ACKERMAN, chairman of the Subcommittee on Compensation and Employee Benefits of the House Committee on Post Office and Civil Service.

I strongly support H.R. 3757, because I have seen firsthand how well leave sharing can work and what a difference it can make in the lives of both donors and receivers. I urge my colleagues who have not had this experience to nevertheless support the bill and allow this great experiment in human kindness and decency and creative management to move forward.

Mr. DEWINE. Mr. Speaker, I rise in strong support of H.R. 3757, the Federal Employees' Leave-Transfer Act of 1988. I am a cosponsor of an earlier version of this legislation and testified last summer before the Subcommittee on Compensation and Employee Benefits in support of establishing a Government-wide leave-sharing program.

This legislation authorizes a 3-year Governmentwide program under which Federal employees may voluntarily transfer up to one-half of their available annual leave to coworkers who face a serious medical or family emergency and whose annual and sick leave have been exhausted. The bill essentially would allow Federal employees to donate their own previously earned leave to colleagues in need. H.R. 3757 also would establish three agency-wide pilot programs to test the feasibility of implementing other types of Federal leave-sharing plans.

I believe that a properly implemented leave-sharing program can be of tremendous value in helping workers cope with serious family and medical crises. I personally have heard of a number of cases in which such a program could provide a vital sense of economic and emotional security and peace of mind to employees faced with personal emergencies. In addition, I understand that in conducting its original leave-sharing pilot program, OPM received applications from some 242 individuals for 3 available openings. These figures indicate that there is a significant opportunity out there for a leave sharing program to do a great deal of good where it is needed most.

In addition, many of my constituents have contacted me to express their support for a leave-sharing plan and to indicate that they would be willing to donate leave to needy coworkers under such a plan. Last August, during hearings on Federal leave-sharing legislation, I submitted to the subcommittee on Compensation and Employee Benefits a petition I received signed by several hundred Wright-Patterson Air Force Base employees in support of an earlier version of the legislation before us today. That petition reflects the spirit of generosity and compassion among the men and women throughout the Federal work force and, I believe, is a good indication of the type of broad support a leave-sharing program will attract.

In short, Mr. Speaker, we're not talking about a Government handout; we're talking about allowing employees who have earned annual leave to donate their own annual leave benefits to others who need help and have no available leave time of their own. Such a program will not only provide tangible benefits to employees receiving donated leave time, but also will boost employee morale by allowing Federal employees the opportunity to give of themselves to help coworkers in need.

I want to commend all of the Members who worked so hard to develop and bring to the floor this very important and compassionate legislation, and I urge all of my colleagues to support H.R. 3757.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 3757, the Federal Employees' Leave-Transfer Act of 1988. H.R. 3757 authorizes the Office of Personnel Management [OPM] to establish within 4 months of enactment a program allowing Federal employees to transfer annual leave to colleagues facing a family or medical emergency. Employees who have exhausted all personal leave time may seek to receive donated leave by submitting a written application to their employing agency.

This is a humanitarian piece of legislation. It also makes sound fiscal sense. Accordingly, I urge my colleagues to support H.R. 3757.

Mr. LUJAN. Mr. Speaker, I rise in support of the Federal Employees' Leave-Transfer Act of 1988. While this legislation is the end result of months of study, hours of hearings, and the support of thousands of Federal workers, at the same time it is also the beginning of a new initiative to help keep dedicated Federal employees in our Federal work force.

This legislation will not only allow Federal workers to donate their annual leave to other Federal employees who face serious illness or personal emergencies, but also authorizes the study of some innovative approaches to meeting the needs of Federal workers in these situations.

I support the study approach being used for the leave bank and for the types of leave allowed to be donated under this legislation in certain specific circumstances, to ensure that the intent of this leave sharing program is sustained, and the good will of the donor employees is not abused.

This leave-sharing program not only shows sensitivity, it also shows good sense. Dedicated workers who want nothing more than to continue to serve all of us as Federal employees, are given the opportunity to do just that. The additional cost of this program to the taxpayers is relatively minimal, and the retention, over the long run, of Federal workers with experience and expertise, is invaluable.

Mr. Speaker, while I believe that this program should only be used in instances of serious illness of the Federal worker, I am glad that I was able to contribute to the development of this important legislation introduced by my colleagues, Mr. WOLF and Mr. ACKERMAN. This measure also demonstrates that the creation of a responsive new Federal program does not require the creation of an expansive new funding authority.

In closing I would like to urge my colleagues to support this leave sharing legislation, which demonstrates that a sometimes faceless bureaucracy can still have a warm heart.

Mr. GRADISON. Mr. Speaker, I rise today in strong support of H.R. 3757, the Federal Employees' Leave-Transfer Act of 1988, and urge my colleagues to lend their support to this innovative and important legislation.

Individuals facing a life-threatening disease or other personal emergency are engaged in an intense struggle that strains personal and financial resources. In an effort to assist those who must come to grips with a major medical problem or family emergency, the concept of "leave sharing" has made great strides.

In general, leave sharing permits employees to donate all or part of their annual or sick leave to another employee faced with a severe personal emergency. Although leave sharing is not yet a widely used practice, numerous school districts, local government, States such as Connecticut, and some businesses have experimented with the leave-sharing concept. The programs vary widely, but there is growing agreement that leave sharing, in cases of personal emergency, is a needed addition to employee benefit packages.

At the Federal level, leave sharing began as a response by the Congress to a case brought to the attention of the House by Representative LEHMAN of Florida. Shortly thereafter a small pilot program was authorized by Public Laws 99-500 and 99-591, the continuing resolution for fiscal year 1987 to study further the leave-sharing concept. Under that limited program, three individuals were to be selected for participation.

I was pleased that one of those selected for participation in the program was a constituent of mine, Mr. William J. Ault, an international examiner for the Internal Revenue Service in Cincinnati. Unfortunately, Mr. Ault recently lost his courageous struggle against cancer. I can, however, attest to the House that the benefits of leave sharing, supported enthusiastically by his fellow workers, to Mr. Ault and his family were substantial and greatly helped them in dealing with his situation.

The temporary program generated over 240 applicants from 32 agencies. Public Law 100-202, the continuing resolution for fiscal year 1988 took the program the next logical step by removing numerical limits and giving the

Office of Personnel Management [OPM] broader authority to conduct the program.

H.R. 3757 is an effort to perfect further Federal policy. The bill would authorize, for a 3 year period, OPM to administer a program allowing Federal employees to transfer annual leave to their fellow workers who may be facing a family or medical emergency. H.R. 3757 also sets forth criteria to testing alternative leave transfer methods.

Although the Congressional Budget Office [CBO] does not have sufficient information to estimate the extent to which Federal employees would make use of this benefit, CBO estimates that the program would cost approximately $7 million. In my view, this sum is small compared to the resulting benefits.

Mr. Speaker, I have closely observed how leave sharing may benefit Federal employees. I am convinced this an area in which the Federal Government can, and should, play a role. Not only will this legislation benefit Federal employees who need it, but it will serve as a model for greater expansion and experimentation of leave-sharing programs elsewhere in the public and private sector.

In conclusion, I would like to commend Mr. LEHMAN of Florida, Mr. WOLF, and Mr. ACKERMAN as chairman of the Subcommittee on Compensation and Employee Benefits for the leadership they have demonstrated on this issue. This legislation deserves the support of my colleagues and I urge its adoption by the House.

Mr. BRENNAN. Mr. Speaker, I rise today in support of H.R. 3757, the Federal Employees' Leave-Transfer Act of 1988. This bill establishes a program that would authorize any Federal employee to transfer his or her annual leave to a coworker who has exhausted his or her leave and is facing a personal or medical emergency. This program would enable Federal employees to reach out to one another during a time of personal crisis which I believe would contribute to an improvement in the morale of the Federal work force. I can't think of a better way to encourage cooperation among Federal employees.

H.R. 3757 also establishes three experimental leave transfer programs. One of the programs would establish a general fund where employees could contribute their annual leave for use by a needy coworker. A second program would permit a worker to transfer their sick leave as well as their annual leave. A third experimental program would allow the transfer of sick leave only in cases when annual leave is insufficient in covering the amount of time needed for the leave of absence. Last, the bill establishes general criteria as to who may receive the donated leave and who may donate the leave.

I am a cosponsor and strong supporter of H.R. 2487, the Experimental Leave-Sharing Program which was adopted in the continuing resolution. However, this measure will expire in September 1988. Last week, H.R. 3981, technical amendments to this program, passed the House enabling subordinates to donate leave to their superiors. The passage of H.R. 3757 is the final step toward permanently implementing the Federal Employees' Leave-Transfer Act of 1988. I urge my colleagues to join me in voting in favor of H.R. 3457.

Mr. HOYER. Mr. Speaker, I am pleased to again have an opportunity to register my strong support for one of the most humane pieces of legislation affecting Federal employees that the 100th Congress will consider.

When I supported last year the effort to expand the Office of Personnel Management's authority to engage in a limited experiment on leave sharing, I was prompted to act on behalf of Federal employees who were suffering a personal tragedy.

When Congressman BILL LEHMAN explained the plight of two of his constituents, I was moved to act. Joe and Shannon Chiles, both IRS employees, participated in the limited leave-sharing experiment that Congressman LEHMAN and I helped push through in 1987. Unfortunately, Shannon Byne Chiles, a wife and the mother of two young children, did not survive her tragic battle against cancer. The leave-sharing experiment, however, may be counted as a small victory along this family's anguished path.

Passage of this legislation means that we accept one of those principles the American public expects the Congress to respect: H.R. 3757 makes sense. It makes budget sense. It makes human sense, and it makes common sense. We have a chance to exercise sound fiscal judgment in weighing the real costs to the taxpayers when even a family or medical crisis envelopes an experienced, committed, effective member of the Federal work force.

H.R. 3757 permits voluntary transfers of accrued leave by Federal employees to colleagues experiencing medical or other emergencies, and it does make good sense. But above all else, H.R. 3757 is a compassionate response to a human problem. All too often, unless there is an outcry from millions, we do not hear the plea for help.

I represent thousands of Federal employees, and I know firsthand of their commitment, compassion, and diligence. I also recognize the rules and regulations that guide Federal employees occasionally deter flexible and commonsense responses to unusual problems or difficult circumstances.

Each year, a certain number of Federal employees face life threatening illness, the emotional trauma of a seriously ill child, or some other family emergency. H.R. 3757 alleviates a small measure of the financial hardship and emotional stress that invariably accompanies unexpectedly prolonged and often uncompensated absences from work.

Every one talks about "the government," and usually not very appreciatively. I want to thank Representative ACKERMAN for bringing this bill before the House. Because, through his efforts on H.R. 3757, we are again thinking about government. More importantly, we are considering the genuine needs of the men and women who make our Federal work force one of the most effective and efficient in the world.

Mr. McMILLEN of Maryland. Mr. Speaker, it is a distinct pleasure for me to rise in strong support of H.R. 3757, the Federal Employees' Leave-Transfer Act of 1988. As a cosponsor of the original bill proposed last year, I am indeed gratified by the favorable support that this bill received in committee action, and I look forward to swift passage by this House.

The logic behind the leave-sharing concept is well-founded; better yet, it costs the Federal Government no additional money. This bill allows Federal employees to transfer annual leave time to coworkers who face a family or medical emergency and who have used their allotment of sick and annual leave. Importantly, this bill goes a long way toward bolstering morale in the Federal civil service by loosening bureaucratic restrictions for those in a time of need. This, along with other thoughtful human resource policies, will help to ensure that the Federal Government continues to retain and attract the very best people for public service. We need more of this type of innovation and flexibility in our Federal personnel management. I applaud the efforts of Representative ACKERMAN and the Post Office and Civil Service Committee, and I look forward to further legislation from this committee that reinforces the human dimension of our vast Federal bureaucracy.

Mr. ACKERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PANETTA). The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the bill, H.R. 3757, as amended.

The question was taken.

Mr. ACKERMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the Chair's prior annoucement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DENIAL OF NONIMMIGRANT CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 285) to deny crewmember status in the case of certain strikes and lockouts, as amended.

The Clerk read as follows:

H.R. 285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DENIAL OF CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES.

(a) IN GENERAL.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(e)(1) No alien shall be entitled to nonimmigrant status under section 101(a)(15)(D) if the alien intends to land for the purpose of performing service on board a vessel of the United States (as defined in section 2101(46) of title 46, United States Code) or on an aircraft of an air carrier (as defined in section 101(3) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(3)) during a labor dispute where there is a strike or lockout in the bargaining unit of the employer in which the alien intends to perform such service.

"(2) An alien described in the paragraph (1)—

"(A) may not be paroled into the United States pursuant to section 212(d)(5) unless the Attorney General determines that the parole of such alien is necessary to protect the national interest of the United States; and

"(B) shall be considered not to be a bona fide crewman for purposes of section 252(b).".

(b) CONFORMING AMENDMENT.—Section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)) is amended by inserting "or in section 214(e)" after "except as provided in subparagraph (B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to admissions occurring on or after the date of the enactment of this Act.

SEC. 2 REPEALED.

Section 315(d) of the Immigration Reform and Control Act of 1986 (100 Stat. 3440) is hereby repealed.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. BARTLETT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BARTLETT. Mr. Speaker, is a second required on this bill? Is the gentlewoman from New Jersey [Mrs. ROUKEMA] opposed to the bill?

The SPEAKER pro tempore. A second is not required on this bill.

Mr. BARTLETT. I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BARTLETT. Mr. Speaker, is the gentlewoman from New Jersey [Mrs. ROUKEMA] opposed to the bill?

Mrs. ROUKEMA. No, I am not opposed; I support the bill.

The SPEAKER pro tempore. Is the gentleman from Texas [Mr. BARTLETT] opposed to the bill?

Mr. BARTLETT. I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Texas qualifies.

The gentleman from Texas [Mr. BARTLETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when this body considered the Immigration Reform and Control Act of 1986, we included a provision to deny admission to alien crewmembers during a strike in the bargaining unit of the employer in which the alien intended to work. The Senate bill contained no comparable provision. In conference, an important inequity in the law that needed redress was recognized and the conference adopted a revised provision. Because the committees of jurisdiction did not have an opportunity to consider the amendment, the conference committee provided for a 1-year sunset of the provision it adopted during time which Congress was to study and investigate the issue.

At the beginning of this Congress, the gentlewoman from New Jersey [Mrs. ROUKEMA] introduced the bill we are considering now. On July 23, the Subcommittee on Labor-Management Relations held a hearing on the bill and on July 28 the bill was favorably reported by the Committee on Education and Labor.

The provision adopted as part of the Immigration Reform and Control Act expired on November 5, 1987. Since enactment of that law we have studied and investigated this issue pursuant to the normal legislative process. This legislation is necessary to confirm section 214 of the Immigration and Nationality Act to the general philosophy embodied in that law that the rights of American workers should not be undermined as a result of unfair competition by nonimmigrant aliens. I urge the adoption of H.R. 285.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of H.R. 285 and urge my colleagues to suspend the rules and pass this measure which will prohibit the use of aliens in strikes involving American workers on American ships or aircraft entering the United States. This bill will protect our workers from unfair foreign competition when they are involved in a labor dispute.

This bill merely conforms one section of our immigration laws with the other. It maintains Government neutrality in labor disputes. Currently, most nonimmigrant aliens are denied admission to work for a company when its American employees are on strike or locked out. One would have thought this was true of all situations, but, in 1986, we learned that TWA was able to employ aliens to perform the work of striking American crewmembers. After looking into this, I discovered that one category of nonimmigrant aliens—so-called class D crewmembers—could still be admitted even during a strike or lockout.

In the 99th Congress, I offered an amendment to the Immigration and Nationality Act to close a glaring loophole in our immigration laws with potential for great abuse. The 1986 immigration reform bill, Immigration Reform and Control Act of 1986, included my amendment with a 1-year sunset, which expired last November. The purpose for the time limit was to allow time for Congress to study and investigate the issue before enacting something permanent. The issue has now been studied by the Education and Labor Committee, which held a hearing where all interested parties were invited to testify. In addition, the Judiciary Committee has considered the bill and it is now time to make this provision a permanent part of the Immigration and Nationality Act.

This bill simply fills a gap in the law—which is probably just an oversight—which currently permits unfair competition against American workers. Aliens should not be allowed to hurt American employees by working in their jobs as strikebreakers. Moreover, by allowing the use of our immigration laws to fill strikers' jobs, the Federal Government is, in effect, taking sides in a labor dispute. This violates longstanding principles of American labor law. For example, we don't allow employers to use JTPA funds to train strikebreakers because it would jeopardize our Government's neutrality.

I would just like to address one objection which has been raised to the lack of any exemption for current employees working their normal flights. According to administration testimony, such an exemption would be "difficult, if not impossible, to administer." Moreover, it would undermine the very purpose of the bill.

No such exemption exists in the H-2 domestic worker program. Indeed, if an H-2 worker is already working here, they have to leave when there is a work stoppage. Meanwhile, the exemption would be an enormous loophole. Because of the strict procedures of the Railway Labor Act, the parties know well in advance of the potential for a work stoppage. An employer could bring on foreign employees just to prepare for the eventuality of a work stoppage. Indeed, the very existence of this loophole may encourage such a practice.

As the ranking Republican on the Labor-Management Relations Subcommittee, I can verify that our labor laws have long protected certain rights of American workers. One of these protected rights is the right to strike. This right is meaningless if employers can hire foreigners to work in American workers' jobs. Permitting such use of foreign workers to break the strikes of American workers is contrary to all notions of justice and fairness. If we continue to allow this practice, we jeopardize the essential role of Government as a neutral umpire in a labor dispute and in effect encourage American employers to replace their American workers with foreign labor.

I urge your support for this important protection for American workers.

□ 1315

Mr. BARTLETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 285 in its current form and believe that this bill, if it is to be passed by Congress, should be brought back to the House under an open rule or reformulated to extend the law that was passed, that is the 1986 immigration law which in fact does what the sponsors say that they would wish to do. That is to deny foreign crewmembers any opportunity to take the place of American workers in jobs and yet allow those legitimate workers who already have jobs to continue on their already preassigned routes.

Mr. Speaker, I respect the gentlewoman from New Jersey a great deal but this may be one of the most misunderstood minor pieces of legislation this Congress has considered this year.

Let me walk through a few of the facts.

First of all, without this law we do not take away American jobs. These are not American jobs; we are discussing international flights that have an international arrival or destination. Nor would the practice permit the strikebreakers to take those American jobs. In fact, all that is at dispute is whether a worker who has a class D permit already flying a route will be allowed to continue to fly that same international route.

Let me walk through some of the facts on the bill.

What H.R. 285 does is, it is a bill to require the revocation of class D work visas for non-U.S. citizens currently working on U.S. carriers on an international route when the route originates or ends in the United States in the case of a domestic strike.

So it affects and revokes those class D permits for workers who are working international routes if there is a domestic U.S. strike.

Now that argument has some surface popularity. It is easy to be against foreign nationals. But in this case to vote for this bill places also one in the position of being against U.S. passengers who may well be stranded on an international destination and not be able to get back. It is further to be in favor of a unilateral and federally mandated lockout of workers who choose to and who wish to work.

Now this legislation, this issue was considered in the last session of Congress by the Subcommittee on Immigration of the Committee on the Judiciary. They reached an entirely different conclusion.

In the 1986 immigration law they reached the conclusion that for a short period of time—and I wish they had put it in permanently—for a short period of time they would place a prohibition against new class D permits in the event of a domestic strike for international workers, but they would not revoke those worker permits for existing workers on existing routes. The grandfather in that bill was very clear and very explicit: for existing workers.

This legislation, H.R. 285, does not have that grandfather provision and does not continue to permit existing workers to work their existing routes.

Presently foreign employees, when foreign employees are issued class D visas, those visas allow them to enter the United States on any trip which departs from a foreign port for a U.S. destination and vice versa.

Such visas do not permit foreign employees to work on trips which both originate and end in the United States. H.R. 285 is legislation then that has a surface appeal but its application would be damaging.

This bill, if enacted, would in effect require employers to lock out current employees. It would not discriminate between a 10-year employee or a 10-day employee.

Proponents of the legislation claim they are simply prohibiting U.S. employers from hiring and utilizing foreign labor during a strike, but that is not correct. The bill requires every foreign worker to be locked out regardless of their route and regardless of their prior employment status.

The legislation would establish several very negative precedents in the field of both immigration and labor law. First, this is an immigration matter, not a labor matter.

This issue was considered by the Committee on the Judiciary in 1986 and that committee reached a different conclusion.

The 1986 Immigration and Control Act states that class D visas in these situations shall not be revoked for employees who were employees before the date of the strike and who will continue to perform the same services on the same routes as the employees performed before the strike.

The only issue here is whether those employees who are currently employed with currently valid class D visas will be locked out of their current routes which they are already working.

The committee then, the Committee on the Judiciary, chose to sunset the provision on November 6, 1987, and has not chosen even to extend that provision with a grandfather clause. A simple extention of that provision would at least be fair to the nonstriking, non-U.S. employees and consistent with international obligations.

Second, H.R. 285 would unilaterally, unilaterally change current accepted multilateral conditions for working. Every country in this world handles its own labor disputes involving its own domestic routes. H.R. 285 would extend U.S. law to non-U.S. citizens in non-U.S. territory.

Other countries then could reciprocate mandating that U.S. citizens be locked out on comparable international flights. The result is chaos and the result is damaging to American workers. Third, this legislation would require, require an employer by law to lock out nonstriking employees during the strike on routes where they are not affected. The employer further would be required to pay the employee during the U.S. Government-mandated lockout. This may well be, in the history of U.S. labor law, the first mandatory lockout that the Congress has ever considered.

The bill originated from a March 7, 1986, TWA flight-attendants' strike when they went on strike and that is the sole genesis of this bill so far as anyone can determine.

On March 7, 1986 in order to return aircraft to the United States and to prevent inconvenience and possible stranding of booked passengers, 3 flights, Mr. Speaker, 3 flights left Europe for JFK attended by 24 TWA personnel employed overseas. These long-time employees of TWA worked as contingent flight attendants on these flights. On March 8, one additional flight from Milan, Italy, to JFK was made for the same reasons. Five TWA employees employed overseas worked that flight. That is the reason for this bill. All work in that situation was performed on transatlantic segments only. No overseas personnel were used on domestic flights, nor could they have been. A class D visa only permits an alien crew member to work on flights between the United States and a foreign destination.

H.R. 285 would, in effect, increase economic pressure on an employer by interrupting his operations which are otherwise not directly involved in the strike. It requires him to lock out current employees.

Proponents of the bill contend that it closes a loophole in the current law. This argument is simply untrue.

The jobs covered by H.R. 285 are not U.S. jobs in the same sense as those covered by other provisions of the Immigration and Nationality Act. That act does permit for example, class H visas to be issued for temporary farm workers entering the country to perform work. However, regulations do prohibit these and other types of nonimmigrant aliens already from working when their employers of American workers are on strike. But these are U.S. jobs. The jobs of an airplane crew of an international flight are performed in international air space and a substantial portion of the remaining work time, takeoffs and landings, is spent in foreign countries.

Further evidence of the jobs in question are only marginally U.S. jobs at all is that the jobs are already over before the foreign crew members seek to enter the United States. Indeed, if the crew members were willing simply to remain on board the aircraft, they would not need to be admitted to the United States at all in the technical sense of the immigration law.

This bill should not be on the suspension calendar. One simple amendment, one amendment, the grandfather clause which has already been passed by this House and recommended by the Committee on the Judiciary in 1986, a grandfather clause which says that any alien employee who was employed before the date of this strike and who is seeking admission to the United States to continue to perform service on the same routes could be offered and that is all that is necessary to make the bill acceptable. The bill ought to be brought up, brought back up under an open rule to allow the House to vote on that grandfather clause which the Immigration Subcommittee and the Committee on the Judiciary had previously concluded.

Now, Mr. Speaker, I have received a letter from the Department of Justice in which they analyzed this legislation. I do want to read into the RECORD one portion of that letter. They do recommend a "No" vote on this and do recommend the extension of the grandfather clause. One of the things that the letter says specifically is that the grandfather clause exemption for a current employee can work.

The letter says:

> We see no reason why an exemption for foreign crew members already employed in a certain job along with specified routes could not be reasonably administered. All that would be required is a showing by the employer through documentary evidence that the foreign worker has been so employed for some minimum period of time before the beginning of the strike. For the foregoing reasons, the Department of Justice views H.R. 285 in its current form to be an ill-conceived measure. We would not object to H.R. 285, however, if amended to extend permanently section 315(d) of IRCA in order to allow continued international air or shipping service by alien crew members on routes they had previously served.

Mr. Speaker, in summary, one can make a case to deny class D visas to new workers, particularly over American air space. But we should reinstate that prohibition of those new workers that we passed in 1986; but with it we ought to bring this bill up on suspension so that we can adopt a grandfather clause so that current workers flying current routes can continue those routes in international air space without a mandated Federal lockout that this bill provides.

□ 1330

Mr. SWINDALL. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I am happy to yield to the gentleman from Georgia.

Mr. SWINDALL. Mr. Speaker, I would like to make just one comment that really focuses not on the merits or the demerits of this particular legislation but, rather, on the procedure.

As the ranking member of the Immigration Subcommittee which has, of course, jurisdiction and oversight over this issue, I think it is significant that we have held no hearings on this issue during this Congress. It is true there were hearings held in the last Congress, but the point is that we are seeing a very disturbing pattern occurring in this House of Representative. We will see another chapter of that same book being written later this afternoon when we explore the so-called Civil Rights Restoration Act, a piece of legislation that bypassed the committee process, did not go through the Judiciary and in fact went straight to the floor and was passed. That is part of the reason the President found it necessary to veto that legislation, because as a result of that procedure, I think there was no opportunity to make corrective amendments.

My focus here in terms of H.R. 285 is really twofold. First, it is always a mistake, whether you are for or against a piece of legislation, to bypass the safeguards granted under our rules and under our procedure that allow the types of hearings and exploration within the committees that have assigned jurisdiction and hopefully expanded on the ramifications intended, and otherwise.

But the second aspect of it that concerns me is by bringing it out on suspension, in addition to having bypassed the procedural safeguards designed to inform Members within the committee system, as well as outside the committees of expertise, what the ramifications are, you also find yourself in the posture of not being able to make any amendments that would address some of the concerns which I think are very legitimate about this bill.

So for both of those reasons, I say to my colleagues whether you are for or against this bill, certainly we ought to have enough respect for the integrity of a system that we put in place, not with an eye on any particular piece of legislation but, rather, with an eye on the integrity of the process, to vote against it. But the point I would like to make is that irrespective of how you feel about the bill, let us protect the integrity of the process, vote it down on a suspension vote, so that it can go through the system and come forth as I think we would all like to see legislation come forth.

Mr. BARTLETT. Mr. Speaker, the gentleman, of course, is the ranking member of the Immigration Subcommittee. I have one additional comment, and that is that one time the subcommittee and the Judiciary Committee did consider this legislation, and they reached the opposite conclusion.

Mr. SWINDALL. That is a very good point.

Mr. BARTLETT. They passed a bill that in fact would allow existing employees to continue to work their existing routes on international routes. That is all that needs to be done with this legislation. That makes it fair legislation, one that everybody can agree to.

Mr. Speaker, I thank the gentleman at this point.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I, as a member of the Immigration Subcommittee of the Judiciary Committee think it is important to correct a misimpression that may have been given. The Judiciary Committee has a sequential referral on this bill. I know that I was aware of this legislation. I know that we agreed with what the gentlewoman was seeking to do with this bill and with what the Committee on Education and Labor intended to do. I know that our committee has a number of pressing issues which we are dealing with, and I know that the vast majority of the membership of that subcommittee and of the full committee believed there was no point in exercising our right to take this bill and to work on it because we agreed with what the committee was doing.

It was not a case of avoiding the Judiciary Committee. It was a conscious decision by the Immigration Subcommittee and the Judiciary Committee not to go and review that which we already agreed with.

Mr. Speaker, I do want to make one additional point. I was involved in 1986 and 1985 in extensive negotiations on another program, the H-2 Program, where growers were seeking to expand this use of temporary guest workers in agriculture and many other areas. We had a lot controversy, a lot of discussions, a lot of disagreements. We worked out some negotiations. At no time in any part of that were the growers of this country or any other employer group that I am aware of suggesting that foreign guest workers, nonresident aliens, should be brought in for purposes of working during a labor dispute.

The one point that was always conceded from the beginning by every employer group is this is an improper use of our immigration processes, our work permits, our work visas. I have never heard that suggested except by the opponents of this particular legislation, and I find it quite an astonishing contention.

Mr. Speaker, I support the bill that is before us. I congratulate the committee and the gentlewoman for introducing it.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 285 which would prohibit the use of aliens to take the jobs of striking American workers on American ships or aircraft entering the United States. This bill will protect our workers from unfair foreign competition when they are involved in a labor dispute.

Mr. Speaker, this legislation raises a fundamental issue in American labor law: when labor and management engage in economic warfare, should the Federal Government take sides?

Over the past few years, Federal laws relating to labor disputes have been put to the test. We have seen a number of instances where companies have replaced strikers in virtually every industry. There are those who question whether our laws should even allow this. That, of course, raises a much larger issue than does this bill and I am sure we would all have our reasonable differences over whether that law is good policy.

But I have always thought that there is one aspect of labor disputes on which everyone agrees: the Federal Government does not take sides. Of course, we try to help. We establish certain ground rules. We provide mediation assistance. But even in those situations where mediation is required, we have never imposed binding arbitration on the parties. That would violate our traditional neutrality.

Nor do we allow the use of Federal funds to assist either party in a labor dispute. For example, an employer can't use Federal job training funds to train strike replacements.

Since I had thought that this traditional neutrality was complete, I was shocked to learn that an employer could actually use the Federal immigration statutes to facilitate the replacement of strikers. Although it is prohibited in the H-2 farmworker program, under current law, an American airline or ship can actually bring in under a class D visa a foreign national who is performing the work of a striking American worker. This is an outrage.

Why does the law permit this? As is the case with most laws, until someone took advantage of the situation, no one thought to make it illegal. Well, after the TWA situation, we now know that companies can and will do it. So let's clean up the law and enact this prohibition.

Mr. BARTLETT. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I rise in opposition to H.R. 285. This bill would amend the Immigration and Nationality Act to revoke class D work visas for non-U.S. citizens currently working on U.S. carriers on international routes when the route originates or ends at a U.S. port in case of a U.S. domestic strike. Why? Proponents argue that domestic carriers have used alien crewmembers as strike breakers. During the hearings on the matter, the evidence presented to support this claim was at best inconclusive.

The class D visas permit the alien to work on international trips—it does not permit the alien to work on trips which originate and end within the United States. Passage of this bill would prohibit foreign crewmembers who were employed on routes previous to any strike to serve those same routes once a strike began. It would delete the grandfather clause in current law allowing foreign crewmembers employed prior to a strike to continue to work the same routes before any strike began.

This situation would establish a lockout on foreign nationals and terminate the international air operations of any U.S. carrier experiencing a domestic strike. This would present the possibility of reciprocal legislation by other countries and cause confusion.

According to the Justice Department, passage of this bill would also escalate economic pressure on any employer by interrupting operations of that employer which may not be directly involved in the strike. This amounts to unfair interference.

The claim by proponents that a vote for this legislation is a vote for the American worker is preposterous, and I resent the assertion. The jobs that are the subject of this bill are not U.S. jobs because the work performed is primarily in international airspace. The use of the rhetoric of economic nationalism to garner support for passage of this bill is misleading and unfortunate. Any examination of the facts will clearly show this legislation is unnecessary.

As the old adage says, "If it ain't broke, don't fix it." Well, it ain't broke. I urge my colleagues to vote against H.R. 285.

Mr. BARTLETT. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I want to say one thing very clear, and that is that this does not involve U.S. jobs. The gentleman from California was correct as far as immigration law goes on farmworkers. Those are U.S. jobs. Forget that class H farmworker permits are not permitted to come in during a domestic strike. This is a domestic strike, but these are international jobs.

Let me explain briefly how it works. Crewmembers fly routes. A route originates in Europe and lands in New York. A United States or foreign national crewmember can fly that route, and usually both do. Those existing crewmembers have jobs, have routes, and have rights. If we take those rights away, then another foreign country will and can reciprocate to take rights away from U.S. workers. All that the crewmembers are involved with in the United States is class D permits to land, to turn back around and fly the route back. It is not a U.S. job; it is an international job that the foreign crewmember already has. Mr. Speaker, this bill would mandate, would take sides by madating a lock out of those international jobs.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont [Mr. JEFFORDS], the ranking member of the Committee on Education and Labor.

Mr. JEFFORDS. Mr. Speaker, I rise in strong support of H.R. 285, which would deny airlines the use of foreign strikebreakers in flights to and from the United States. As the ranking Republican on the Education and Labor Committee and an original cosponsor, I urge the House to suspend the rules and pass this bill.

Mr. Speaker, the sound policy underlying this bill is so obvious that it does not need a lengthy explanation. It is beyond comprehension that an American employer should be allowed to use our immigration laws in order to find replacements from beyond our borders for striking employees.

The need for such a prohibition is so clear that its existence in the H-2 Domestic Worker Program has never been challenged. Indeed, the absence of such a prohibition in the crewmember program has gone virtually unnoticed. It was only when an airline used this loophole during a strike in 1986 that it came to our attention.

In reaction to this apparent oversight in the law, we included in last year's immigration reform measure a 1-year prohibition on the entry of nonimmigrant crewmembers during a strike or lock-out. The purpose of the 1-one year timeframe was to allow us to study the issue to see if there really was some sound reason for treating alien crewmembers differently from other temporary foreign workers.

We could find no such reason and, therefore, the committee has reported a permanent prohibition. It is worth noting that no representative of industry appeared before our committee, despite the fact that they were invited. There was testimony submitted for the record, with a suggestion that existing employees be exempted. Yet, no explanation was provided as to why this exemption was needed here, when it does not exist in the H-2 program. Moreover, not a single amendment was offered to the bill, and it was reported on a voice vote. Thus, I think it is entirely appropriate to put this legislation on the suspension calendar.

Meanwhile, both the State Department and the Immigration and Naturalization Service indicated that it would be difficult, if not impossible, to administer a "current employee" exception. No exception was offered in committee and the bill was ordered reported by voice vote.

Mr. Speaker, it has been stated that the use of alien crewmembers has worked smoothly for 70 years without the need for a prohibition such as that contained in this bill. The point is that, for 69 of those years, no company found it necessary to use foreigners to break strikes. Somehow, they managed to cope with the effects of strikes without using the loophole. Now that we know a company can and will use it, it is necessary to close it before it becomes widely abused. Nothing in this bill would prohibit a carrier from hiring replacement workers—they simply would have to be American workers.

This bill simply corrects an inconsistency that heretofore went unnoticed. Let's pass this measure quickly today under suspension and make this technical correction without further delay. I urge my colleagues to vote "aye."

□ 1345

Mr. BARTLETT. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. Swindall], the ranking member of the Immigration, Refugees, and International Law Subcommittee.

Mr. SWINDALL. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me first state that we are talking here about an immigration reform, not a labor reform, an immigration reform.

Obviously, it would have been beneficial had we had hearings on this at the Immigration Subcommittee level. I think it is significant that there are no reports here today. You will not find an Immigration Subcommittee report on this subject. In fact, you will not find the chairman of the subcommittee here today.

The point is, this is a major substantive change in the immigration law and yet we have had no hearings.

My friend, the gentleman from California, suggests that it was a deliberate decision made not to have hearings. Let me say, as the ranking member of that committee, that I was never consulted. I certainly would have liked to have had an opportunity to at least have issued a minority report.

The last point I would make is that we hold these hearings during each Congress that we are going to consider because we have a turnover in the Congress. We have had some 15-percent turnover since these hearings were held where a contradictory opinion was reached.

The SPEAKER pro tempore. The time of the gentleman from Georgia has expired.

Mr. BARTLETT. Mr. Speaker, I yield the gentleman an additional 30 seconds.

Mr. SWINDALL. The reason I feel, Mr. Speaker, that it would be very beneficial had we had hearings, we could have cleared up the misconception and misrepresentation in terms of what really is occurring in our immigration law. Under current law, these individuals would not be locked out because they were grandfathered. That is to say if they were already in place, already working, they would not be kicked out.

This is a substantive change in the intent of Congress and the substantive change is that these individuals would be deprived of an existing job for which they have already been hired.

We are not taking away American jobs here. We are taking away an individual job granted to a foreigner, but still their jobs are effectively removed as a result of this substantive immigration change.

Mr. CLAY. Mr. Speaker, I yield myself whatever time I might consume.

Let me attempt to clarify the statements that are being made that are inaccurate.

This is both an immigration bill and a labor bill, but they, the Labor Committee, had the primary jurisdiction on this bill, the Judiciary Committee had an opportunity, if they so chose, to act on this bill. They choose to concur with the position being taken by the Labor Committee and are supportive of this position. So if there was no action coming from the Judiciary Committee, it is because there was no will and nobody requested any action.

Mr. SWINDALL. Mr. Speaker, will the gentleman yield?

Mr. CLAY. Yes, I yield to the gentleman from Georgia.

Mr. SWINDALL. Mr. Speaker, my concern with the gentleman's statement is this. It is a change in the immigration law by definition. My point is, how can you say that the Immigration Committee made decisions when the minority, that is, the ranking member, was never consulted on it?

Mr. CLAY. Mr. Speaker, I reclaim my time.

I still contend that if the Judiciary Committee had wanted to act, they would have acted. The ranking minority member should have requested such action.

In addition to that, Mr. Speaker, I do not know why we should permit in our land to have an exemption to use current alien employees to replace American workers under any circumstances, and that is precisely what TWA admitted to this committee that they did, that they hired people as contingent workers in anticipation of a strike and they used those people in that behalf.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Murphy].

Mr. MURPHY. Mr. Speaker, I thank Chairman Clay for yielding me this time and commend him for bringing this very needed legislation out on the floor.

It is both an immigration matter and a labor matter. It is a matter concerning the American economy and the economy of American workers as well.

I say, in answer to the gentleman from Georgia, this bill was introduced in January 1987. Any member of that committee who would have been interested in the measure could have called it to the attention of his chairman, called it to the attention of the minority members, requested a hearing, could have done anything they wanted in order to have that committee review it.

It has been under study by this Congress for well over a year. That is why today it should be considered under suspension.

The very fact is that we, the U.S. Government, have been granting an exception under our regular immigration laws, and that exception has been to the detriment of American seamen and to the detriment of American airline personnel.

Now, how can we in good conscience say that we are protecting labor, we are protecting people, when we have an exception on the books that particularly adversely affects American citizen employees of our airlines and our maritime service?

Mr. Speaker, I urge the Members to join us in voting for suspension today.

Mr. BARTLETT. Mr. Speaker, I yield myself my remaining 1½ minutes.

Mr. Speaker, I seek to try to put this debate into context, and let me add some additional facts.

First of all, there is more opposition to this bill from the Education and Labor Committee than was developed at the markup, because the markup happened rather suddenfly and members, frankly, were not advised of the consequences of this bill.

The bill, to read the summary of it and the description, sounds pretty good. The difficulty is the bill also mandates a lockout of current employees, and that was on the basis of a 15-minute briefing in our caucus followed by a very quick markup. There was not really ample opportunity to discover that.

I am advised that there was one hearing somewhere in a subcommittee. I was not a member of that subcommittee, and I did not know of that hearing at the time.

Further, the Judiciary Committee has acted on this matter at one time. They acted in 1986. It is the only time they ever acted in exactly the opposite direction.

Today there is no letter from the Judiciary Committee. There is no markup. There is no hearing report. There is no hearing record. There is no report. There is just simply a substantive unilateral change of multilateral immigration law.

I do call to the attention of the other Members that there is a dissenting view that was published after the markup in the dissenting views, signed by Congressmen BARTLETT, PETRI, GOODLING, BALLENGER, and ARMEY.

There are other members of the Education and Labor Committee who plan to vote against this bill, but it is difficult to go up against the ranking member of our own party and seem to advocate foreign nationals; but the fact is if we pass this bill, it is going to be contrary to the best interests of U.S. workers. It is also correct that neither the State Department nor INS supports this legislation. They along with the Department of Justice and the administration oppose the legislation.

Mr. Speaker, I urge a "no" vote to pass this legislation.

Mr. CLAY. Mr. Speaker, I yield the balance of my time to the gentlewoman from New Jersey [Mrs. ROUKEMA], the ranking minority member of the subcommittee.

The SPEAKER pro tempore. The gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 2 minutes.

Mrs. ROUKEMA. Mr. Speaker, I want my colleagues to know that this part of our immigration laws is broken. It has got to be fixed and it has got to be fixed here.

The TWA strike proved that the law was deficient, that there was a gaping loophole.

What our opponents now say is that we should retain that loophole in the form of their proposed exemption. If we were to keep that exemption, the loophole would be big enough to drive a 747 through.

As far as this red herring about the Judiciary Committee is concerned the committee had 1 year in which to act including a 60-day sequential referral of this bill. They chose not to act and in this body, that is considered consent.

One final point. There has been an intimation here today that these are not American jobs that we are talking about. Indeed these are American jobs. They are American-owned companies with American employees protected by American labor law. It is only because of our immigration laws that alien foreign workers are permitted to fill these jobs. If we are to reject this legislation today, not only will these foreign aliens be permitted on their current jobs, which is perfectly correct and feasible, but they may also be used to break strikes of American workers and deny other American workers further job opportunities.

In conclusion I see absolutely no reason why this should be controversial. It is simply making our laws consistent, whether they be immigration or labor laws and is completely consistent with all previous legislation. It is the closing of an unintended loophole, a loophole, that we do not want exploited at the expense of American workers.

Mr. Speaker, I yield back the balance of my time.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in strong support of H.R. 285, prohibiting the use of aliens to replace striking American workers on U.S. ships or aircraft entering this country. We should not allow foreign competition of interfere in domestic labor disputes.

While the Federal Government has been in the position of trying to help resolve labor disputes through mediation, I believe it is agreed that we, the Federal Government, should not take sides, that we remain neutral. For instance, we do not provide Federal funds to either party in a labor dispute.

What is happening, however, is that Federal immigration laws are being used to allow replacement of American workers with alien workers during such disputes, belittling our workers' ability to maintain a reasonable influence on labor-management negotiations.

This is unfair and should be stopped. H.R. 285 will do that, and I urge my colleagues to support it.

Mr. FORD of Michigan. I rise in support of H.R. 285, which would prevent the importation of foreign strikebreakers during labor disputes involving airlines or vessels. And I would like to salute the bill's authors, the gentlelady from New Jersey and the gentleman from Missouri, for their leadership on this issue.

H.R. 285 is a simple bill which has a single purpose—to close an unintended gap in our immigration laws that allows the admission of alien workers to the United States to take the jobs of Americans employed as airline or vessel crewmembers. As others have pointed out, this gap is not merely theoretical. In 1986, TWA exploited this loophole in order to staff its flights to and from the United States with foreign scabs, many of them hired and trained solely for that purpose. With that unfair advantage, TWA broke the flight attendants' strike, at tremendous cost to those American workers in terms of lost jobs, lost wages, and lost benefits.

Our immigration laws are supposed to protect the American labor market against the exploitation of alien workers, and generally speaking, they do. There should be no exception for airlines. I must admit, I am not moved by those who argue that this bill will require the airlines to lock out their foreign flight crews. It may be that some foreign employees will be temporarily disadvantaged during a strike, but my sympathies lie with the American workers, not the aliens.

The gentleman from Texas [Mr. BARTLETT] and others who worry about locking out foreign employees should look at the other side of the equation. Their solution, to allow foreign employees hired before a labor dispute begins to continue working, is tailor-made for union-busting. TWA could hire additional aliens in anticipation of a labor dispute (as it did in 1986), lock out its American workers, and replace the Americans with aliens—without the U.S. workers ever calling a strike.

Once again, I am far more worried about the possibility that American workers would be locked out and replaced by aliens than I am about the reverse.

Join me in protecting American workers. Support H.R. 285.

Mr. HAWKINS. Mr. Speaker, I rise in support of H.R. 285, a bill to deny to a nonimmigrant crewmember entry status to the United States during certain labor disputes. This is a very limited proposal designed to insure American workers the freedom to exercise their right to strike without fear that foreign workers will be used as strike breakers. It involves only American companies and their employees when they are involved in overseas travel with either a departure or arrival point in the United States.

A review of the record of the strike between TWA and the Independent Federation of Flight Attendants in 1986 illustrates the need for this legislation. The company admitted in written testimony submitted for the subcommittee hearing that it "trained a number of its European-based employees as contingent flight attendants in the event that those represented by IFFA elected to strike." The company explicitly made advance preparations for the use of aliens as strike replacements.

This use of foreign labor as a means of breaking a strike between an American union and an American company is inconsistent with the very foundation of our labor laws, and should not be allowed simply because of a gap in our immigration laws. This bill closes this gap.

Mr. Speaker, we have long appreciated the value of the right to strike and have limited admissions in other instances such as H-2's when there is a labor dispute in progress. This is not new law, it is consistent law, especially if we care about American jobs. I urge my colleagues to support H.R. 285.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 285, as amended.

The question was taken.

Mr. BARTLETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore (Mr. Grant). Is there objection to the request of the gentleman from Missouri?

There was no objection.

ORPHAN DRUG AMENDMENTS OF 1988

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3459) to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs and for other purposes, as amended.

The Clerk read as follows:

H.R. 3459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Orphan Drug Amendments of 1988".

SEC. 2. DESIGNATION AS AN ORPHAN DRUG.

(a) Request.—Section 526(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)(1)) is amended by adding after the first sentence the following: "A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act.".

(b) Discontinuance.—Section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb) is amended by redesignating subsections (b) and (c) subsections (c) and (d), respectively, and by adding after subsection (a) the following:

"(b) A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.".

SEC. 3. FINANCIAL ASSISTANCE

(a) Medical Devices.—Section 5 of the Orphan Drug Act (21 U.S.C. 360ee) is amended—

(1) In subsection (a), by inserting "(1)" after "assist in" and by inserting before the period a comma and "(2) defraying the costs of developing medical devices for rare diseases or conditions", and

(2) in subsection (b)(2)—

(A) by inserting "(1) in the case of a drug," after "means" in the first sentence and by adding before the period in that sentence a comma and "(2) in the case of a medical device, any disease or condition that occurs so infrequently in the United States that there is no reasonable expectation that a medical device for such disease or condition will be developed without assistance under subsection (a)", and

(B) by striking out "under this subsection" in the last sentence and inserting in lieu thereof "under section 526 of the Federal Food, Drug, and Cosmetic Act".

(b) Medical Foods.—Section 5 of the Orphan Drug Act (21 U.S.C. 360ee) is amended—

(1) in subsection (a) (as amended by subsection (a)), by inserting before the period a comma and "and

(3) defraying the costs of developing medical foods for rare diseases or conditions",

(2) in subsection (b)(2) (as amended by subsection (a)), by inserting before the period at the end of the first sentence a comma and "and (3) in the case of a medical food, any disease or condition that occurs so infrequently in the United States that there is no reasonable expectation that a medical food for such disease or condition will be developed without assistance under subsection (a)", and

(3) by adding at the end of subsection (b) the following:

"(3) The term 'medical food' means a food which is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.".

(c) Authorization.—Section 5(c) of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended to read as follows:

"(c) For grants and contracts under subsection (a) there are authorized to be appropriated $10,000 for fiscal year 1988, $12,000,000 for fiscal year 1989, $14,000,000 for fiscal year 1990.".

(d) Study.—The Secretary of Health and Human Services shall conduct a study to determine whether the application of subchapter B of chapter V of the Federal Food, Drug, and Cosmetic Act (relating to drugs for rare diseases and conditions) and section 28 of the Internal Revenue Code of 1986 (relating to tax credit) to medical devices or medical foods for rare diseases or conditions or to both is needed to encourage the development of such devices and foods. The Secretary shall report the results of the study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than one year after the date of the enactment of this Act. For purposes of this section, the term "rare diseases or conditions" has the meaning prescribed by section 5 of the Orphan Drug Act (21 U.S.C. 360ee).

SEC. 4. NATIONAL COMMISSION ON ORPHAN DISEASES.

Section 4(n) of the Orphan Drug Amendments of 1985 (42 U.S.C. 236 note) is amended by striking out "September 30, 1987" and inserting in lieu thereof "February 1, 1989".

The SPEAKER pro tempore. Is a second demanded?

Mr. WHITTAKER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Waxman] will be recognized for 20 minutes and the gentleman from Kansas [Mr. Whittaker] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Waxman].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3459, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 5 years ago the Congress passed the Orphan Drug Act, incorporating into legislation the public's strong resolve to discover and develop drugs for rare diseases. At the time, we had high expectations and we talked of the enormous good the act could do.

Today, all Members can point with pride to the incredible success of the Orphan Drug Program. In 5 years, development and testing of 188 orphan drugs has taken place and 24 orphan drugs have been approved. This represents over five times as many drugs under development since the act as during the 10 years prior to enactment.

The Orphan Drug Act was adopted in January 1983 and amended in 1984 and 1985. Our years of experience now indicate that the reauthorization of the Orphan Drug Grant Program and some further fine tuning of the act is warranted. H.R. 3459 will accomplish the needed changes.

The bill extends the authorization for the Orphan Drug Grant Program for 3 years, fiscal years 1988–90, and expands the program to allow grants for the development of orphan medical devices and orphan medical foods. These grants have proven to be very instrumental in the development of many orphan drugs. They are awarded by the Food and Drug Administration to independent researchers when no private pharmaceutical company will sponsor the testing and development of an orphan drug. The results are then used to encourage pharmaceutical companies to sponsor the drugs. The expansion of the grant program to include orphan medical devices and orphan medical foods is necessary because the lack of financial incentives deterring orphan drug work also affects these other products.

The bill also directs the Secretary of Health and Human Services to study whether the other provisions of the Orphan Drug Act that encourage private company development, should be available to companies working on orphan medical devices and orphan medical foods.

The bill also amends the orphan drug provisions in the Federal Food, Drug and Cosmetic Act to assure that companies which choose to stop the production of an approved orphan drug provide notice to the FDA 1 year prior to discontinuing the drug. The 1-year notice will give the agency the opportunity to try to secure another manufacturer so that patient care is not disrupted.

Mr. Speaker, one provision in H.R. 3459, as reported by the Committee on Energy and Commerce, has been deleted from the bill before us. That provision dealt with the 7-year period of market exclusivity that is currently awarded to an approved orphan drug.

The purpose of market exclusivity is to protect the company that develops an orphan drug whose patent has expired or would expire by the time the drug can be tested and approved. Exclusivity assures such a company that it can offset some or all of its costs of development by recouping all possible revenues from the sale of the drug during the 7-year period of exclusivity.

Market exclusivity is intended to be an incentive to develop orphan drugs with little or no commercial value and inadequate patent protection. However, it can also be used to block competitors of drugs with significant commercial value due to the very high prices that are charged for them. In such cases, a company would seek to designate a drug as an orphan drug solely to get market exclusivity that would cut off competitors who might also seek approval of the drug.

In at least one case so far, with human growth hormone, market exclusivity has been used to block several companies that would like to sell the drug. These additional companies are interested because the price of human growth homone is estimated to be $10,000 per person per year. So even with this small market of 10,000 patients, human growth hormone is a very successful drug.

In addition to human growth hormone, there are several other drugs now under development where more than one sponsor is seeking approval because of the drug's perceived commercial value.

These commercially viable—even highly profitable—drugs fit within a strict construction of the Orphan Drug Act. But the Congress never intended to extend the benefits of the act to such drugs.

While I believe this unintended use of the act must be stopped, there is considerable disagreement over how the act should be changed. Because we do not want to jeopardize the reauthorization of the grant program, I believe Congress should pass these amendments and return to the problems of market exclusivity at a later time.

Mr. Speaker, I am deeply concerned with what I believe is the increasing use of the Orphan Drug Act by companies to cover highly profitable drugs. The act has already done enormous good in 5 short years. We should not allow profit motivated companies to endanger this successful law. I intend to follow this matter closely and expect to introduce legislation in the near future.

The Orphan Drug Act has always enjoyed broad bipartisan support. The bill before us warrants the continued support of all Members.

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Mr. Speaker, I reserve the balance of my time.

Mr. WHITTAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering amendments to the orphan drug law that we passed in 1983. I firmly believe that over the past 5 years the orphan drug law has played a really important role in encouraging the development of drugs for those limited patient populations which have rare diseases. The pharmaceutical industry has responded quite favorably to the incentives in the law. Evidence clearly indicates that manufacturers have devoted substantial resources toward the development of orphan drugs. As of last week, the Food and Drug Administration reports that 190 drugs have been designated as orphans under the law—and some 24 of these have been approved for market distribution.

It is important to note that the amendments considered today do not alter any of the key provisions in the law that have accounted for the industry research and development on orphan drugs. Instead, the amendments are narrowly focused on reauthorizing the FDA's authority to make grants for the development of orphan drugs. The amendments will also help the FDA improve its administration of the law and develop information on whether the incentives in the law should be extended to cover medical devices and medical foods.

The Orphan Drug Program's greatest strength over the years is the widespread support that it enjoys—from the Congress, the administration, the patients, and the pharmaceutical manufacturers. However, this consensus has been seriously tested over the past few months, while possible changes to the current law's exclusive marketing incentives have been contemplated. Many suspect that the central goal of the law—that of encouraging the development of orphan drugs—might be compromised by the approaches suggested thus far to address perceived problems associated with a few orphan designations.

Accordingly, I am pleased that the decision was made to hold off trying to address these preliminary concerns regarding the scope of the exclusive marketing provision, until more information is developed on whether changes to the current law are in fact needed. Moreover, if changes are found to be necessary, additional efforts must be made by all concerned to reach a consensus on how the changes should be fashioned. I believe that it is imperative that we maintain a consensus behind this program to ensure its continued viability and success.

In conclusion Mr. Speaker, I support the bill before us. I want to commend my colleague, subcommittee Chairman WAXMAN, for his efforts in developing this bill, and for deleting sections of the bill reported out of committee which might have threatened the broad support enjoyed by the orphan drug law.

Mr. Speaker, I have further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 3459, as amended.

The question was taken.

Mr. WAXMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

H.R. 3757, by the yeas and nays; H.R. 285, by the yeas and nays; and H.R. 3459, by the yeas and nays.

The Chair will reduce to a minimum of 5 minutes the time for each additional vote after the first such vote in this series.

FEDERAL EMPLOYEES' LEAVE-TRANSFER ACT OF 1988

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3757, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the bill, H.R. 3757, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 9, not voting 15, as follows:

[Roll No. 38]

YEAS—408

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Mack
MacKay
Manton
Markey
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—9

Badham
Cheney
Kyl
Lukens, Donald
Marlenee
McCandless
Nielson
Stump
Walker

NOT VOTING—15

Aspin
Biaggi
Chappell
Espy
Gephardt
Gray (IL)
Gray (PA)
Hayes (LA)
Kemp
Levine (CA)
Lightfoot
Madigan
Martinez
Mica
Price (IL)

□ 1428

Messrs. COYNE, MOLINARI, BILIRAKIS, and DENNY SMITH changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GRANT). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

DENIAL OF NONIMMIGRANT CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 285, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 285, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 302, nays 114, not voting 16, as follows:

[Roll No. 39]

YEAS—302

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Atkins
AuCoin
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
DeFazio
Dellums
Derrick
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Garcia
Gaydos

Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Lukens, Donald
MacKay
Manton
Markey
Martin (NY)
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—114

Andrews
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boulter
Brown (CO)
Bunning
Burton
Chapman
Cheney
Coats
Craig
Crane
Dannemeyer
Daub
de la Garza
DeLay
DeWine
Dickinson
Dreier
Edwards (OK)
English
Fawell
Fields
Frenzel
Gallegly
Gekas
Gingrich
Gradison
Hall (TX)
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leath (TX)
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lujan
Lungren
Mack
Marlenee
Martin (IL)
McCandless
McCollum
McCurdy
McEwen
Montgomery
Moorhead
Morrison (WA)
Nielson
Oxley
Packard
Petri
Porter
Ray
Rhodes
Roberts
Rogers
Roth
Schulze
Sensenbrenner
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Thomas (CA)
Upton
Valentine
Vucanovich
Walker
Weber
Whittaker
Young (FL)

NOT VOTING—16

Aspin
Biaggi
Chappell
Dicks
Gephardt
Gray (IL)
Gray (PA)
Hayes (LA)
Kemp
Levine (CA)
Lightfoot
Madigan
Martinez
Mica
Michel
Price (IL)

□ 1435

Mr. RAY changed his vote from "yea" to "nay."

Messrs. McMILLAN of North Carolina, PURSELL, YOUNG of Alaska, and TAYLOR changed their votes from "nay" to "yea."

So, (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read "A bill to amend the Immigration and Nationality Act to deny crewmember status in the case of certain labor disputes."

A motion to reconsider was laid on the table.

ORPHAN DRUG AMENDMENTS OF 1988

The SPEAKER pro tempore (Mr. GRANT). The pending business is the question of suspending the rules and passing the bill, H.R. 3459, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 3459, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 409, nays 1, not voting 22, as follows:

[Roll No. 40]

YEAS—409

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)

Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—1

Crane

NOT VOTING—22

Akaka
Aspin
Biaggi
Chappell
Gephardt
Gray (IL)
Gray (PA)
Hayes (LA)
Hunter
Jenkins
Kemp
Levine (CA)
Lewis (CA)
Lightfoot
Lowery (CA)
Madigan
Martinez
Mica
Oberstar
Price (IL)
Schulze
Stratton

□ 1446

Mr. PURSELL changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. AKAKA. Mr. Speaker, I did not vote on H.R. 3459. Had I voted, I would have voted "yea."

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 255) to authorize and request the President to issue a proclamation designating April 24 through April 30, 1988, as "National Organ and Tissue Donor Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. MORRISON of Washington. Mr. Speaker, I would like to thank both the chairman of the subcommittee, the gentleman from California, and the gentlewoman from Maryland for their cosponsorship of this important resolution. I would also like to express my appreciation to the over 225 of my colleagues who have joined me in sponsorship of National Organ and Tissue Donor Awareness Week.

The need for organ and tissue donation is a great one. We have all been reminded of this need far too many times through letters describing the pain and frustration endured by our own constituents seeking suitable organs and tissues for transplantation. In my district, 4-month-old Holly Nelson of Yakima suffers from biliary atresia, a congenital disease of the liver, and is in need of a liver transplant if she hopes to celebrate her first birthday. Like Holly, Kimberly Anthis of Entiat, and Ben Contine of Richland needed and received successful liver transplants.

But the pool of available organs nationwide is simply too small to accommodate all those needing lifesaving transplants. Right now, more than 12,500 people in the United States are awaiting kidney transplants. More than 800 are waiting for heart transplants. Almost 500 are on waiting lists for liver transplants, more than 150 for heart-lung transplants, and close to 100 for pancreas transplants. I strongly believe if more people were aware of the tremendous need for organ and tissue donors, thousands of additional lives could be saved each year.

Mr. Speaker, my goal is to encourage families to take time to talk about organ donation during this special week of April 24 through April 30, and to join me and thousands of other Americans in signing and carrying an organ donor card. Donor cards will be available throughout the week at local hospitals and chapters of the National Kidney Foundation, and are always available through the American Council on Transplantation by calling 1-800-ACT-GIVE. You too could give someone like Kimberly Anthis, Ben Contine or little Holly Nelson the gift of life.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 255

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 24 through April 30, 1988, as "National Organ and Tissue Donor Awareness Week.".

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid upon the table.

NATIONAL DRINKING WATER WEEK

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 185) to designate the period commencing on May 2, 1988, and ending on May 8, 1988, as "National Drinking Water Week." and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, as a cosponsor of House Joint Resolution 381, I urge my colleagues to support the bill which designates April 24 through April 30, 1988, as "National Drinking Water Week."

As a nation, Mr. Speaker, we now have clean, safe water flowing through our taps. However, it was not so long ago that some of cannot remember that everyone did not have this luxury. It is due to the commitment of dedicated people that clean water has become the norm in our lives; we barely give it a second thought as we turn on the faucet and drink potable water. We owe an expression of appreciation to these people who operate the storage, collection, treatment, and distribution of this precious commodity.

The Washington Suburban Sanitary Commission [WSSC], which serves the bicounty areas of Montgomery and Prince George's Counties, MD, is performing laudable service; the public is being well served and at the same time the WSSC is making strides in improving the quality of water which is received in our homes, and the treatment of waste water as it flows back to the source. I want to take this opportunity to express a special note of thanks to WSSC and to encourage it to continue its good work.

Mr. Speaker, I urge my colleagues to support Senate Joint Resolution 185 and commend the gentleman from New Jersey for introducing the measure in the House.

Mr. ROE. Mr. Speaker, I want first of all to thank Chairman FORD, Mr. DYMALLY, the distinguished chairman of the Subcommittee on the Census and Population and the gentlelady from Maryland, whom I have the pleasure of sitting with on my Science and Technology Committee, Mrs. MORELLA, for their support on the expedient passage of Senate Joint Resolution 185, the "National Drinking Water Week." I would also commend my fellow sponsors of the identical House bill, House Joint Resoution 391, for their assistance and attention to a matter which is of growing concern to our Nation.

You have heard my statements over the years with regard to the great importance of water. My colleagues and I worked for years to pass the Clean Water Act and Superfund legislation in order to protect our precious supply of this most valuable resource. With this legislation, we have the opportunity to make the public more aware of the need to act now to insure that in the future we will have safe, adequate supplies of drinking water.

Every day we are reminded that this resource like any other is finite and can be contaminated through carelessness or accident. The recent incident on the Monongahela River which left over 1 million people with either contaminated supplies or no drinking water whatsoever is only one example of how man's encroachment on the environment can have serious consequences. Simply finding adequate reservoirs to treat and distribute has become a nationwide problem. It is no longer true that only arid regions in the west are faced with this difficult task. Population pressures have peaked demand and made this an issue of concern for areas throughout the entire country.

Drinking water obviously does not appear from the tap by magic and yet for the most part none of us gives it a second thought when we fill our glasses. Many persons playing many different roles are involved in the distribution of what we have all come to take for granted—fresh, safe drinking water. Without water there would be no life. And I believe it is very appropriate to not only honor those who work to provide this necessity to us, but also to make us more aware of and to educate all of us to the vital need to protect and preserve our water resources.

Finally, Mr. Speaker, I would like to commend the American Water Works Association with the National Water Alliance and all the organizations which lent their support for their work to bring this legislation to life and insure May 2 through May 8 will more than enhance public awareness in name only. Often simply making persons aware of a problem will put you more than half way down the road toward a solution, and I am confident this will be an important step on this journey.

Mrs. MORELLA. Mr. Speaker I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 185

Whereas water itself is God-given, and the drinking water that flows dependably through our household taps results from the dedication of the men and women who operate the public water systems of collection, storage, treatment, testing, and distribution that insures that drinking water is available, affordable, and of unquestionable quality;

Whereas the advances in health effects research and water analysis and treatment technologies, in conjunction with the Safe Drinking Water Act Amendments of 1986 (Public Law 99-339), could create major changes in the production and distribution of drinking water;

Whereas this substance, which the public uses with confidence in so many productive ways, is without doubt the single most important product in the world and a significant issue of the future;

Whereas the public expects high quality drinking water to always be there when needed; and

Whereas the public continues to increase its demand for drinking water of unquestionable quality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 2, 1988, and ending on May 8, 1988, is designated as "National Drinking Water Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate ceremonies, activities, and programs designed to enhance public awareness of drinking water issues and public recognition of the difference that drinking water makes to the health, safety, and quality of the life we enjoy.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two Senate joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will begin to recognize Members for special order speeches subject to receipt of a message from the Senate on the veto of S. 557.

ORDER OF BUSINESS

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that the 30-minute special order I had for today be coverted to a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request from the gentleman from Oklahoma?

There was no objection.

THE NEXT STEP IN ARMS CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. MORRISON] is recognized for 5 minutes.

Mr. MORRISON of Washington. Mr. Speaker, debate over the historic INF Treaty has been underway for several months, yet only recently has much attention been given to the nuclear materials contained in those missiles. More specifically, the question has been asked: What is to come of those materials once the missiles are dismantled?

The INF Treaty calls for the most stringent verification measures ever negotiated in an arms agreement. But the plutonium and enriched uranium in the missiles are not destroyed—they go back into stockpiles. This has given rise to a growing school of thought that truly verifiable arms control is not possible unless the "gunpowder" is destroyed along with the "musket."

While the amount of plutonium and uranium in the missiles covered by the INF Treaty is just a fraction of total United States and Soviet arsenals, I believe future, more expansive agreements will mandate the disposal of these materials as well as their delivery systems.

Why? I'll answer that with another question: Can arms control, in the truest sense of the term, really become a reality if the weapons materials are not destroyed? Failure to dispose of the weapons materials means they're available for use in other missiles that could be deployed in a clandestine manner.

Politically, psychologically, and militarily, I think sentiment on both sides of the Iron Curtain calls for these materials to be done away with. Moreover, no matter how secure the stockpiled materials, may be, the assurance that they will never in any way threaten our environment cannot be guaranteed unless they are destroyed.

Today I have introduced a bill that I think will bring us closer to the next plateau in securing a lasting peace in the nuclear age. It calls for the Department of Energy to conduct, in partnership with the Soviet Union, a pilot project to test the feasibility of destroying weapons-grade nuclear materials.

DOE has the expertise to dismantle nuclear weapons and the capability to safely burn the nuclear materials from those reactors in its liquid metal reactors at Hanford, WA, and Idaho Falls, ID. My bill calls for the Secretary of Energy to devise a plan for conducting a pilot project and to report to Congress within 3 months the timetable and funding requirements for carrying out the plan. After it is completed, the President will have the option of inviting the Soviet Union to participate in the project.

Combined with, first, the administration's determination that the Nation's plutonium stockpile has reached required levels and, second, the pending START accord that would free up untold amounts of weapons materials, it's clear we must be prepared for a new era in preserving peace. This project would be a giant step to meeting the demands of the new era. Let's have the technology ready to go when we need it.

THE VOTE TO OVERRIDE PRESIDENT REAGAN'S VETO OF THE CIVIL RIGHTS RESTORATION ACT, S. 557

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. WEISS] is recognized for 5 minutes.

Mr. WEISS. Mr. Speaker, last week, President Reagan vetoed the most important civil rights bill passed by Congress in many years. He did so while claiming that "there is no matter of greater concern to me than ensuring that our Nation is free of discrimination." According to the Leadership Council on Civil Rights, it was the first veto of a civil rights bill in 120 years.

The veto must be overridden.

The overwhelming margins by which the House and Senate passed the Restoration Act sent a clear message to the White House that the Congress would not tolerate federally financed discrimination. Unfortunately, it seems that the President's general disregard for justice and equality, encouraged by the shrill rhetoric of his extremist cohorts, impeded his ability to fairly judge the issue.

It has been 4 years since the Supreme Court ruled in Grove City College versus Bell that Federal antidiscrimination laws apply only narrowly to particular federally supported programs, and not to recipient institutions as a whole. While the Grove City case specifically applied to title IX of the Education Amendments of 1972, the ruling has been interpreted to include section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964. As the result, women, minorities, the disabled, and the elderly have been denied the protection which Congress specifically intended them to receive.

Clearly, the Court misinterpreted the intent of Congress, and we have been working ever since to clarify the coverage of those laws.

Our recent vote in support of the Civil Rights Restoration Act reflected our strong bipartisan commitment to equal rights and equal treatment under the law. We cannot now be intimidated by false information and vitriolic threats. Federally financed discrimination must come to an end.

I urge my colleagues to vote in favor of the resolution to override the President's veto.

MIDWEST FARM PRODUCERS IMPACTED BY USDA DECISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, I would like to bring to the attention of this body a recent decision made by the Secretary of Agriculture which will have profound negative financial impact on farmers in my State, and, I believe, the taxpayers of this country. Mr. Speaker, I refer to the Secretary Richard Lyng's recent decision not to extend 9-month Commodity Credit Corporation [CCC] 1987 crop loans for wheat and feed grains that mature after March 1, as well as the Department's apparent refusal to extend 1-year loans on the 1985 and 1986 crops of wheat and feed grains approaching maturity. It also appears that the Department is prepared not to renew loans on crop years prior to 1985. I have been urging the USDA to modify the recent decision to allow for a more orderly delivery of grain stored on the farm.

As I review the USDA's most recent plan to move grain held in the farmer-owned reserve to the market pipeline, I am deeply concerned with the economic and logistical problems the proposal will cause. While large quantities of grain are beginning to move in order to satisfy domestic and export needs, and while the market prices for the major commodities are not fortunately comparable to loan rates, I believe that the USDA must reverse or modify its decision in order to minimize the negative financial impact on producers and to avoid the logistical problem that would inevitably occur when an extraordinary amount of grain is moved out of the farmer-owned reserve into commercial channels.

Mr. Speaker, it has been estimated by USDA officials and agricultural economists that nearly 1 billion bushels of feed grains will be needed to meet the increased export demands for the remainder of this year. However, the effect of the decision not to extend the crop loans for the 1985 through 1987 crop years, and the effect of calling the farmer-owned reserve grain into commercial channels, will result in the estimated movement of over 2.7 billion bushels from June through September for the market pipeline to absorb. The USDA would have us believe that there will be room for this additional grain in commercial facilities. However, it is no secret that most country elevators in Nebraska are currently filled to capacity and are having difficulty obtaining rail cars needed to move large volumes of grain. In fact, shippers throughout my district have been experiencing delays in receiving rail hopper cars for up to 90 days from the time the cars were ordered. Furthermore, delays of 5 to 6 weeks are commonplace.

I am also concerned that the USDA is neglecting the congressional intent of the Budget Reconciliation Act of 1987 which, under the farm program adjustments, called for a $230 million reduction in the CCC storage and handling payments made to commercial storage facilities over the next 2 years. It would appear that by in effect forcing farmers to forefeit and deliver their crops to local elevators and commercial facilities, the $230 million savings will be achieved out of the pockets of our producers. Instead of allowing farmers to extend their loans and to continue receiving the much lower storage rate, the CCC will pay for additional handling charges and increased storage payments for commercial warehousing.

Mr. Speaker, in the State of Nebraska alone, the USDA action will result in the movement of over 1.4 billion bushels. Almost 1 billion bushels of corn from crop years 1986 and 1987 alone will be displaced from farm storage to commercial elevators. In purely economic terms, this shift of grain from on-farm storage where Government payments to farmers is at 26.5 cents per bushel, would result in the loss of over $242 million in income to our producers. On the other hand, the Government would have to pay the commercial facility where the farmer must deliver his grain an average of 35 cents per bushel storage for a total of $323 million. This last amount does not include additional handling charges that the Government is required to pay to commercial facilities.

Given the shortage of space at commercial facilities, more temporary storage will have to be made available at warehouse rates. In fact, the USDA has already approved temporary storage at commercial warehouses amounting to over 500 million bushels for 1987-crop grain. Mr. Speaker, in order to emphasize the total unfortunate economic and budgetary impact of the USDA decision, I would like to call to the attention of this body the results of a recent GAO study on what the Government paid to a dozen grain companies for the temporary storage of 65 million bushels of feed grain. The grain was stored in the fall of 1986 on over 1,200 river barges, for a period of 4 months, for a grand total to the taxpayer of $62 million. This temporary storage program cost the taxpayer 69 cents per bushel over and above the normal costs for shipping, storing and disposing of the grain, or an additional $44.8 million. Given this record, I strenuously ask the USDA to reconsider a decision which moves an additional 500 million bushels of 1987-crop grain into temporary storage. Why do that when there is adequate storage capacity in on-farm facilities at bargain rates?

I have been informed by reliable sources within Nebraska that should commercial space be available at all, it would be in the western Panhandle of the State where large stocks of wheat are being shipped to north-western terminal markets. However, because the majority of on-farm storage is corn and other feed grains destined for gulf terminal markets, this would seem to be an excessive demand on already strained transportation systems. Farmers, elevator operators and railroads could not begin to imagine the nightmare that would result in loading unit trains with feed grains, shipping and storing them in western elevators, reloading trains with the same commodities a few months later and shipping it back east for eventual delivery of gulf ports.

As an alternative to the USDA's absurd plan, I have been advancing a proposal for a 9-month extension on all crop loans for 1986 through 1987. Storage payments to producers should continue until the CCC has moved most of its own stocks into the market pipeline and storage space at commercial facilities is available. As additional grain is needed for the replenishment of the commercial channels, the USDA should make every effort to move stored grain from those crop years prior to 1985. This will allow for the orderly movement of the oldest on-farm grain into commercial channels.

Common sense dictates that older farm-stored grain should be delivered before the later crop years to minimize any possible conditioning damage that may have occurred to older grain while in storage. Unfortunately, the CCC seems to have altered the current Uniform Grain Storage Agreement [UGSA] to allow for more latitude in the blending of a unit train in order to expedite a shipment. I would like to quote from a recent edition of a Grain and Feed publication, outlining CCC modifications to this year's UGSA contract being offered to commercial elevators and warehouses.

"Rejection of individual cars of a county elevator unit shipments: Section VII. F. 6 has been added to the contract to provide greater tolerance governing the rejection of individual cars in a unit shipment to CCC from county elevators. The provision states that except for cars grading sample grade, CCC . . . will not reject individual cars of a unit shipment for individual quality factors, including protein, provided that the shipment as a whole is fairly representative of the quality ordered shipped." In addition, the newsletter states that if the loading order or master trust release for CCC-owned grain at a terminal warehouse calls for delivery to CCC of U.S. No. 2 grain, the numerical grade listed on the official certificates of at least one-third of the bushels represented by the warehouse receipts tendered by CCC must be at least No. 2 or better.

What will be used to measure the other two-thirds of the shipment? It would seem the work this body has done in tightening the grain standards will be thrown by the wayside in order to ship quantity instead of quality.

In closing I would again demand that the USDA reexamine the position they have taken in the calling of on-farm grain and to accept the compromise that I have offered to extend 9-month crop loans on the 1986–87 crop years. The USDA must approach the storage situation in an economically feasible manner, and producers and elevator managers throughout Nebraska agree that this is an equitable compromise to the current situation. They also realize that while there is a need to move grain into the market, the USDA's proposal to shift such a massive amount in a short period of time will be nothing short of disastrous. The agricultural sector has had to adjust to the program reductions contained in the recent budget package. To force an additional policy shift on our producers at this critical spring planting period will result in a devastating loss of income to a number of farmers who have agreed to store this grain in good faith.

□ 1500

SIX-MONTH EXTENSION OF THE DEADLINES UNDER ASBESTOS HAZARD EMERGENCY RESPONSE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ANTHONY] is recognized for 5 minutes.

Mr. ANTHONY. Mr. Speaker, I am introducing a bill, today, to extend the deadlines in the Asbestos Hazard Emergency Response Act of 1986, for 6 months. Let me first state that I recognize the health hazards that asbestos causes, and do not, in any way, wish to minimize the health threat. Rather, my intent is to ensure that we confront this problem in a thorough and responsible manner. For this reason, I am completely supportive of the provisions established in AHERA. It is important that we proceed with efforts to identify and implement plans for removal or management of asbestos material.

However, it has been brought to my attention that numerous school districts will be unable to meet the deadline. Many areas are suffering from a shortage of certified asbestos inspectors, or lack certified State programs for the training of their own personnel. As you are aware, the funds we appropriated last December, in the EPA budget for States to establish their own programs won't even be distributed until April. Therefore, while funding was specifically made available for inspection certification programs to be established under the auspices of the State Departments of Education, the deadline of October 12 does not enable school districts to take advantage of these funds. An extension would enable more school districts to participate in these programs.

I've spoken with officials from several of my school districts, as well as an asbestos company, and they are all working diligently to meet the deadline. Most of the school districts in Arkansas have formed cooperative units to enable them to secure certified inspectors at a reasonable cost, yet the asbestos companies express concern that the imminent deadline will result in a large number of incomplete inspections, or in shortcuts being taken to meet the deadline.

I have introduced this bill to extend these deadlines for 6 months in order to ease the panic and to provide schools with more time to allow them to complete the process correctly. This modest extension cannot be construed as ignoring the existing problems for another year. I believe a 6-month deadline extension is more than adequate in alleviating the pressure from the impending deadline. The intent of my bill is to ensure the proper execution of the AHERA regulations, and that this is accomplished in an expeditious and thorough manner.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

IN TRIBUTE TO THE HONORABLE VICTOR WICKERSHAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. ENGLISH] is recognized for 5 minutes.

Mr. ENGLISH. Mr. Speaker, I rise today to pay tribute to a man who graced these Halls for many years, a man whose name is synonymous with public service in his and my home State of Oklahoma.

Mr. Speaker, Victor Wickersham, the elder statesman of Oklahoma politics, passed away last Tuesday evening in Oklahoma City. Intent to the end on serving the people who had come to love him, Victor was an 82-year-old member of the Oklahoma State Legislature when he died.

Those in Congress who are long on seniority will remember Victor Wickersham, and remember him fondly. He was first elected to the House of Representatives by the people of western Oklahoma in 1940, and served here with great distinction for three separate periods before returning home in 1964.

As the Sixth District's Representative in the 100th Congress, I have the honor of trying to live up to the tremendous legacy Victor Wickersham has left behind. He was a man who could always be counted on, someone whose sense of commitment was clear and unyielding. He was the perfect embodiment of the people of western Oklahoma: honest, selfless, and dedicated.

Victor Wickersham moved to Greer County, OK, with his parents in 1915 at the age of 9. Starting as a court clerk in 1926, he spent more than 60 years working on behalf of his neighbors in Greer County and the State. He was to remain there all his life, becoming a fixture to the people of the area, a man whose willingness to help would never waver.

I grew up with his sister in Cordell, OK, and was thus fortunate to be acquainted with Victor's family. All of Oklahoma shares in their loss.

Victor Wickersham was well-known for this saying: "write, wire or call—you always have a friend in Victor Wickersham." Mr. Speaker, that motto was the driving force behind this gentleman's half-century in public life. No request was too small, no person was undeserving of help. It is an attitude that holds a lesson for all of us.

In fact, it was this undeniable calling that led Victor Wickersham out of retirement last winter and back into public life once again. Asked why at the age of 81 he would put aside the quite life he so deserved to serve in the Oklahoma House of Representatives, Vic replied "I tried to retire from politics, but everybody kept saying 'go see

Victor' when hard problems needed fixing."

And so it was that Victor Wickersham was sworn into the Oklahoma Legislature last February 9, exactly 82 years to the minute after his birth. True to form, he dismissed the notoriety of his age, simply saying "I don't know about being the oldest, but I'll be the hardest working one."

Mr. Speaker, I want to extend my heartfelt condolences to Vic Wickersham's family. They have lost a man whose virtues will shine far beyond his death as symbols of the excellence good men are capable of.

AN OPEN LETTER TO THE PRESIDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, as we take this very unusual break in the middle of a legislative day to await our good colleague and Presidential candidate, the gentleman from Missouri [Mr. GEPHARDT], let me avail myself of this opportunity which sometimes works to speak to the President of the United States directly through my colleagues here in the House and through the Chair. If this were a newspaper, I guess I would make it "Open Letter to the President of the United States."

At the meeting with your Republicans in the House this morning, Mr. President, you addressed an interesting scenario that our very eloquent Member, the gentleman from Illinois [Mr. HYDE] outlined. To paraphrase him only, he saw a scene on a brisk winter day this coming January where the President of the United States in the waning days of his 8-year Presidency would lead an entourage of press with cameras clicking down to the beloved Vietnam Memorial with the names of 58,134 Americans on it, men and women who gave their lives in a fight for freedom, and that there in front of that hallowed wall, you would sign a pardon for Purple Heart, Silver Star and Bronze Star winner, Lt. Col. Oliver North and that you would sign a pardon for a distinguished three-star admiral, first in his class of 1958 at Annapolis, John Poindexter.

I was stuck in traffic on the 14th Street Bridge, Mr. President, so I can only relate what my colleagues told me that you turned your head in that winsome way as you do and said, "Well, the issue is in the courts. I can't comment upon it; but Henry, I like your scenario."

Now, Mr. President, everybody in this Nation knows that you are not going to let this hero who fought for freedom for a nation that now suffers so badly, all of Vietnam, not to mention the killing fields of Cambodia and Laos, but Vietnam still suffers so badly that the average of people trying to escape from that country to freedom last month was over 2,000; the month before over 2,000; the month before, 1,700; the month before way over 2,000. The average, 13 years after the collapse of Saigon under the heel of a Communist aggressor from Hanoi, these many years later, still 2,000 people flee every month and we still do not know how many die every day, day in and day out, in the South China Seas in those tiny, little river boats.

Ollie offered his life and saw his friends give their lives in that battle and he was unwilling, no matter how he conducted himself, to see us portray these young boys and girls that he visited within the Contra freedom fighter camps of Central America, and it was an irony that the indictments came out against Poindexter, North, retired major general of the Air Force, Dick Secord, and his partner, Albert Hakim, ironic that they should come out on the 4-year anniversary of the capture of an American diplomat CIA station chief who was tortured to death, William Buckley, on the 3-year anniversary of a man who is still held, the AP bureau chief, Terry Anderson, who is now 2 weeks into his fourth year, and on the very day that the Communist forces of Nicaragua pushed deep into Honduras in hot pursuit of what my colleague, FORTNEY STARK, described as Contra forces with an average age of less than 14. An average age of less than 14, it is hardly that, but it is not too many years away.

This is what Ollie was unwilling to see, and on the day he was indicted this, as you quote it, Mr. President, invasion and near blood bath of the forces of freedom in Central America was taking place, and only in the last few hours have the Communist forces gone back into Nicaragua.

Now, Mr. President, if you wait until January, the trial may still be going on and you may be an ex-President with no power to pardon at all. If you leave the White House in the capable hands of your courageous and excellent Vice President, then it is a supposition that maybe he will get to give that honorable pardon, provided that Ollie and all do not beat all charges before most juries in this country. I think that is possible.

The one area of the country with this moral vacuum inside the beltway is a one area where all or any of them might get hit with some guilty charges on those indictments.

Mr. President, I propose to you that whoever on your staff is telling you not to pardon them today, tomorrow, the day after tomorrow, is going to rue the day that they ever gave you that advice.

Mr. President, we have already seen the independent counsel waste millions of dollars in this prolonged investigation and not one charge is brought that has anything to do with Iran. It all focuses on communism in Central America.

If you do not pardon Ollie now and save the taxpayers millions of dollars, save a beating for your own party, for your country and the possible turning of the White House over to the likes of some of these people who are campaigning, with the loss of several seats in this chamber and in the United States Senate, with more Carter malaise to follow if we get another gutless Democrat in White House, Mr. President, you can see all of that unfold before you in less than 10 months. If you allow this trial to start in July and deliberately drag on under the most liberal judge in the United States, certainly one of the four or five most liberal, Gerhard Gesell, I cannot understand why you do not bite the bullet. This is in no way analogous to Gerald Ford's pardoning of Richard Nixon, a cheap burglary and a stealing of the playbook of the opposition party and lying and covering up and a lot of self-gain, we are talking about people who were trying to stop a Soviet colony getting a foothold on the isthmus between us in Panama.

Mr. President, in closing, I implore you, stop the procrastination, do the inevitable, right now pardon Ollie North and John Poindexter, Secord and Hakim will take care of themselves with excellent lawyers.

REPORT FROM EL SALVADOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, I want to spend a few minutes talking about my recent trip to El Salvador. A group of us were sent by the President to El Salvador this past weekend to monitor the national elections. In that group was Senator LUGER, Senator BOND, Congresswoman BYRON, Congressman MOLLOHAN, Congressman MURTHA, Congressman EDWARDS, Congressman ROWLAND, and myself.

One of the things I had an opportunity to do was to visit the Knights of Malta clinic in El Salvador. The Knights of Malta is a charitable organization and their job is to assist those who have been injured as a result of the war in El Salvador. They will tell you the injuries that have befallen people within El Salvador have been a result of the Marxist guerrilla activity.

I took 14 boxes of medical supplies from my district in Columbus to San Salvador. I want to thank the donors in my district. Jack Sandman, who is the administrator of St. Ann's Hospital, headed up the effort to gather these medical supplies. St. Ann's was a contributor, along with St. Anthony Medical Center, Mount Carmel Medical Center and Children's Hospital. In an era when we hear a lot of criticism about airlines, U.S. Air transported these medical supplies to Washington free of charge, where we could get them on a plane to San Salvador. So the people of central Ohio really helped in terms of providing badly needed assistance to these fantastic people who have been injured as a result of that war.

When I visited the hospital, I had the opportunity to witness some of the injuries that have occurred to 15- and 16-year-old boys who have had their legs blown off doing nothing more than trying to take care of the family farm, trying to tend to the cotton out in the fields, who step on a land mine and lose their legs.

There was one man there who was asked to join the guerrillas. He refused to do it. The guerrillas took a machete and cut off both his arms and his leg. He was in that hospital trying to receive treatment from the Knights of Malta.

Congressman Frank Wolf and Congressman Bill McCollum are way ahead of the curve when it comes to this humanitarian assistance. These two great Congressmen have made a yeoman's effort trying to deliver needed medical supplies to this operation in El Salvador.

Congressman Bill McCollum, I am told, is responsible for about $5 million of the assistance that has been delivered to these people.

I wish that everybody in this country would have an opportunity to go and to witness the fantastic things that these people are doing and to compliment Congressman Wolf and Congressman McCollum for the persistence that they have shown in trying to help people out who have been caught in a horrible conflict that really they do not have any responsibility for whatsoever.

□ 1515

Mr. Speaker, I want to shift for a second and talk about the elections in El Salvador because it is something that a lot of people in America are talking about and it is something we really need to understand. As most people in the Congress know, the Arena Party, the more conservative party in El Salvador, won a majority of the seats in the national assembly. People say why did that happen?

There are many people who are concerned about what happened, but essentially the situation in El Salvador was one of frustration come election day. There have been incredible acts of terrorism by the Marxist guerrillas, all of whom are interested in trying to shut down the process of government in El Salvador. If human beings happen to get in the way of the process of government, the Marxists are prepared to blow them up, take their lives, kidnap them, and do virtually anything.

When our party landed in San Salvador on Saturday, we went to the hotel only to find that we had no water and that we had no electricity because the Marxist guerrilla rebels had decided they were going to try to shut down the election process. The rebels in fact had said that any form of transportation on the highways on election day was going to be considered a military target. There was a giant bus strike all over the country. People who owned buses, private bus owners and operators, would not drive their buses on the streets because they were afraid they were going to be attacked.

There were political candidates who were assassinated as close as a week before the election. I have already told my colleagues about the horrible scene in that hospital with amputees being 15 or 16 years old, and I saw people who had been affected who were much younger than that.

There was a sense of frustration in El Salvador whenever there were bombings of cars or buses set on fire, and the military policy would exercise very great restraint because of the criticism they have had in the military and in the government in terms of human rights violations.

There has been a great sensitivity to not overreacting to the problems that occur in the street, not overreacting to the guerrilla problems that occur within the country.

Mr. Speaker, my time has expired, but I would ask time of the gentleman from Virginia [Mr. Olin] when he is recognized for his special order.

LEGISLATION CONCERNING SATELLITE DISHES

The SPEAKER pro tempore (Mr. Price of North Carolina). Under a previous order of the House, the gentleman from Virginia [Mr. Olin] is recognized for 60 minutes.

Mr. OLIN. Mr. Speaker, I first yield to the gentleman from Ohio [Mr. Kasich].

EVENTS SURROUNDING ELECTION IN EL SALVADOR

Mr. KASICH. Mr. Speaker, I appreciate the gentleman from Virginia [Mr. Olin] yielding me this time.

The people of El Salvador obviously see the tremendous cost of this civil war and the activities of the guerrillas and at the same time an inability to respond as swiftly and as surely to the violence as they would like. This situation built a sense of frustration within the country. At the same time, there is great frustration with the economy. The greatest enemy of democracy is poverty. We have not been able to solve the economic problems in El Salvador primarily because the guerrillas are intent on destroying the infrastructure of El Salvador, and if a country does not have a good infrastructure that country cannot have economic growth.

Mr. Speaker, taking the frustration present as a result of the guerrilla activity, and combine it with the frustration over the lack of economic growth, there was a great sense of frustration in the Salvadoran people. That is why they voted for a different party. They did not vote for extremists in the other party but they, rather, voted for the leadership, the present leadership in the other party that argues that we ought to have a move to free-market economics in El Salvador and that we ought to continue the road to total democracy in El Salvador.

What is interesting is that over 65 percent of the people in El Salvador voted and many of them had to walk as far as 3, 4, and 5 miles to polling places and in fact were threatened if they would go to vote. They would get a mark on their finger when they voted so that they could not vote a second time.

Many of the voters were told that if they got that mark on their finger, that the rebels were going to cut if off.

In one village that we went to, the guerrillas had staged a firefight 3 or 4 hours before our arrival, the guerrillas attempted to surround the town. However, the army drove them off.

At great personal risk, over 65 percent of the people of El Salvador went to the polls and exercised a free and open democracy and open choice with great personal risk at stake. But they still voted.

It was truly a testimony to democracy in El Salvador. The vote in El Salvador does not reflect the return to death squads or extremism by the military or extremism by the government but, rather, it reflects a growing frustration in dealing with the problems of Marxist guerrillas in El Salvador and their terrorist activities, and the inability to get that economy to grow.

For those who have been concerned about El Salvador and the progress, and I know the gentlewoman from Ohio [Ms. Oakar] is very concerned, this was not a vote to go back to the 1970s, but rather a vote to go forward. The beautiful thing that happended in El Salvador was when the Arena Party won the election, President Duarte's Christian Democrats stood up and shook hands and assured a transfer of power of the assembly.

Our position in this Government is we are going to work with those people who have been freely chosen to represent the democratic wishes of the Salvadoran people and not to return to extremism. The Area Party is aware of our position. They need our support. We need to work constructively with them to assure them we can solve many of the problems for the folks in El Salvador, the common people in El Salvador who really want to raise their families and have a hope for a better tomorrow.

Mr. Speaker, I again wish to express my appreciation to the gentleman from Virginia [Mr. OLIN] for yielding me this time, and I look forward to additional special orders and additional explanations about the tremendous democratic movement that we have seen in El Salvador today and which we hope will continue well into the future.

Mr. OLIN. Mr. Speaker, just about a month ago today, I held a special order for the purpose of trying to emphasize to Members of the House the importance of trying to bring to rural and mountainous regions of our districts, to those residents who have satellite dishes and whose signals have been scrambled by the broadcasters of satellite programs, to support the availability of signals and programming to those people at fair cost on an equitable basis.

At that time two of our colleagues joined me on the floor, the gentleman from New York [Mr. MARTIN], and the gentlewoman from Nevada [Mrs. VUCANOVICH]; the gentleman from Wisconsin [Mr. KASTENMEIER] and the gentleman from Vermont [Mr. JEFFORDS], made 1-minute statements regarding support of signal access in their areas. Mr. Speaker, in addition, 21 other Members of the House submitted statements for the RECORD.

This broad showing of support continues to emphasize the need for congressional action on this issue. The purpose of this special order today is to provide time for those who could not be heard 1 month ago to now come to the floor and make their statements.

Mr. Speaker, satellite dishes are the only means that many residents of rural areas have to get television signals. It may sound strange to those who live in urban areas that many of our citizens in mountainous areas far away from cities and towns, that many of these people have never been able to receive good television programming.

This began to change with the use of satellites to transmit television signals. Rural families began to purchase home satellite dishes which cost them between $2,000 and $5,000. For the first time these families were able to get the same television programs as everybody else and they began to participate in the information age.

Then many of these programmers who were concerned that they were not being paid properly for their programming, at least to the dish owners, began to scramble their signals. This left additional owners confused and frustrated. They had invested all this money and they do not know how much programming will be scrambled or whether they will be able to buy the programming or not. No one is saying. The dish owners do not say that they should be able to obtain privately owned programming for nothing, but they should be able to purchase the programming at a fair price and in an equitable manner on the same terms as people on cable systems.

There are two bills before Congress which would support the policy of equitable access and fair pricing for home dish owners. They are the Satellite Home Viewer Copyright Act, H.R. 2848; and the Satellite Television Fair Marketing Act, H.R. 1885.

H.R. 2848 is sponsored by our colleague the gentleman from Wisconsin [Mr. KASTENMEIER], who also chairs the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, of the Committee on the Judiciary, which is the subcommittee considering this bill. This bill would modify the copyright law so that dish owners can legally be sold programming of independent stations which are transmitting these signals over satellite. This bill also establishes a method for the owners of copyrights to be paid for this programming.

As I understand it, hearings on this bill have been completed in subcommittee and the gentleman from Wisconsin [Mr. KASTENMEIER], the chairman of the subcommittee, has announced that the bill will be marked up in the Committee on the Judiciary in the near future.

Mr. Speaker, H.R. 1885, sponsored by our friend the gentleman from Louisiana [Mr. TAUZIN], and at least up to the present time this bill does not seem to be moving.

The basic principle of this bill is the right to buy. The intent is to establish a system where dish owners can buy programming and buy it at a fair price.

The bill is in the Committee on Energy and Commerce, Subcommittee on Telecommunications and Finance. That subcommittee held a hearing on the bill last summer, a hearing that was very well attended but there has not been any subsequent action.

Mr. Speaker, it is time that more hearings be held and the bill be reported on.

Mr. Speaker, at this time I will yield to my colleagues who have come into the Chamber and would like to participate in this special order. I yield first to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I rise to join my colleagues in calling for the House's quick consideration and passage of this legislation. This is a field in which the development of technology has outpaced our legal system, and we do not have a fair and efficient way for protecting the rights of both programmers and viewers.

My district, like that of many other members, has large rural areas and a number of small towns. These areas are not served by any cable system. They are far removed from VHF broadcast stations and the few UHF stations have even more limited broadcast ranges. As a result, my constituents who live in these areas have a real interest in the Satellite Viewing Rights Act. For them, satellite dish reception represents the only reliable way to receive even regular network programming. In past generations rural life along with its many advantages, has also meant a certain degree of isolation. With present-day broadcast technology, literally the entire world can be brought into the home. Not only is the range of entertainment greatly exapanded, but the educational opportunities offered by this technology are unsurpassed.

Unfortunately, at present the lack of uniform rules and the justifiable concern of program originators has resulted in conflicting standards and incompatible coding or scrambling technology. My constituents are willing to pay a reasonable fee for the right to receive programming. What they object to is the multiplicity of decoding devices and the ever-multiplying fees which are being assessed by broadcasters and cable companies seeking to expand their base.

Mr. Speaker, my people recognize that those who originate and broadcast these programs deserve compensation for their efforts, and as I said before, they are willing to pay a reasonable fee for the privilege of receiving these broadcasts. What we in the Congress must do, and do without further delay, is provide a system which fairly addresses the needs of all groups involved in this issue. We must bring stability and predictability to this new technological frontier.

Mr. OLIN. Mr. Speaker, I thank the gentleman from Alabama [Mr. HARRIS] for his comments. I know he is going to help those of us who are interested in this subject to do all we can to push these bills in the committee they are in.

Mr. Speaker, I now yield to the gentleman from Louisiana [Mr. TAUZIN], who is the principal sponsor of H.R. 1885. I have complimented him on his work in this regard and I look forward to what he has to say.

Mr. TAUZIN. Mr. Speaker, I want to thank the gentleman from Virginia [Mr. OLIN] for yielding me this time. I wish to compliment the gentleman from Virginia for taking this special order to talk about an issue that is to so important to so many people of America, not just rural Americans but Americans who live in urbanized areas and have not yet been touched by cable, and even to those cable subscribers who would like to know that there is competition going on out there to make sure that cable rates are fair and equitable.

Mr. Speaker, we deregulated cable recently.

□ 1530

When we deregulated cable, we did it with the understanding that there would be competition for signals that would be brought to Americans via the satellite, and as a matter of fact, the courts recently upheld that deregulation and said that cable companies under that bill have exclusive right to set their own rates in cities that are served by more than three stations over the air broadcasting. As a consequence, it is important that there be some competition out there to hold down the charges that Americans pay for satellite television services, whether they are delivered via cable or via the special process of a home satellite dish.

Let me compliment, first of all, the cable industry. They have done a good job for America. It has brought programming to American homes that the networks and theatrical producers in Hollywood might never have thought to bring to us. It is some delightful and interesting programming, varied, and in ways enlightening, entertaining, and informational.

I was at the Ace Awards in Los Angeles when cable celebrated its very most recent successes in that type programming. They are to be congratulated and encouraged in their work.

At the same time it is important for those consumers who live outside cable areas, particularly in the rural parts of America or the urbanized parts that do not have a cable in front of their homes that they have access to that same programming. That is what our bill is all about, to guarantee equal, fair access to the programming.

We have some good and bad news for you. Since we have had our hearings, we have been encouraging the cable industry, which controls much of the programming, by the way, to open its doors and to allow some competition to flourish. We have been encouraging it, the good news is that the rates that HBO and ShoTime and others charge home satellite dish-owners to descramble their product have come down to much more reasonable rates, but the bad news is they have not come down enough.

The truth is when you buy those programs over the cable that part of your subscription fee goes to pay for the plant, the plant of the cable and the wire and the equipment and machinery and the buildings that provide that service to you over the cable. But when you buy your own home satellite dish, you are buying your own plant. You ought to get some benefit in the subscription rate, but we do not in rural America.

As a matter of fact, there is not yet a distributor of products outside of the cable-owned or controlled companies that is now offering a full range of programs in a package to rural America. There is one trying hard, the NRTC, which has been organized, and for a year now has been trying to negotiate the rights to sell programming to rural America outside of the cable-controlled operations of the programmers themselves.

Let me tell the bad news. The bad news is that they have yet to sign up one of those premier theatrical producers from Hollywood. Why? Because they are controlled by the cable companies, the big cable companies, and the big cable companies are becoming more and more controlled by a few people. TCI, for example, just recently bought rights and policy control to Turner Broadcasting, and you can see a consolidation of control occurring in cable programming that is not going to help competition.

What we are promoting is a bill that says to NRTC and to other people who want reputable people who want to distribute those programs in a package at fair pricing to Americans, there ought to be a vehicle to do that. The law ought to say that Americans have a right to packaging of programming on their satellite dish just as we have a right to packaging on cable, with competition working in the marketplace giving all consumers in America, whether you live in a remote mountainous area, a distant Plains State, or the Bayou country of Louisiana, the right to receive those signals just as if you lived in a heavily cabled area. That is what the bill is all about. It is a good bill, out of the Senate committee, and we on the House side are going to have an oppportunity later this year hopefully to see some action on our bill on the House side.

We need your help. We need other Members, and other Members who are not part of your committee, especially, to join with us in cosponsorship, to join with the millions of rural Americans who want a chance to see and enjoy the informational, educational, entertainment programming that so many in America have a right to see and enjoy via cable. We need to have competition is all we are asking for, and rural America deserves it.

Mr. OLIN. I thank the gentleman for his comments. He is right on target. There is no question that what we really need is a vehicle that allows the competition and packaging not only to start but to flourish. That is the only way.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr. OLIN. I would certainly yield to the gentleman from Louisiana.

Mr. TAUZIN. The gentleman put his finger on the right word, that is, fair packaging and the pricing.

Right now if you own a satellite dish and buy a descrambler or you get one of the black market descramblers, and there are many out there, by the way, unfortunately, if you have a descrambler and you want to buy the programming, you can buy it on an a la carte basis, on a very expensive one-time shot program from the programmer. But if you want a fair list of packages, if you want to buy them in a package the same way you buy programs in a package from a cable company, you have a tough time doing it unless you buy it from a cable-controlled company.

Again, what we are saying is there ought to be fair packages at fair, competitive rates. The gentleman from Virginia put his finger on it, fair packaging offered to American consumers, and Americans will be treated fairly in the television world.

Mr. OLIN. I wonder if I could give the gentleman from Louisiana some information I picked up from one of my cities.

In addition to availability has been the pricing. Some of my constituents who have dishes have given me this information.

Right in the center of my district, if you are a cable subscriber in that particular area, you pay $12.75 a month for the basic program. This is a basic mix of programs, a package. If you are a dish owner in that same area, you pay not $12.75 but $19 a month, and furthermore, you have to pay a year in advance, $228, that is for the basic.

If you want an add-on package, that is, 15 more channels and you are a cable subscriber, you pay $5.95 a month, but if you are a dish owner, you can get a package that happens to be only 14, not 15. You will have to pay $20 a month, not $5.95, and you are going to have to pay a year in advance, $240 up front.

Does the gentleman from Louisiana hear the same kinds of things in his area?

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr. OLIN. Absolutely, I will yield to the gentleman from Louisiana.

Mr. TAUZIN. Yes, we hear it all over America. While prices have come down on the a la carte charges, nevertheless, when you total them up as a cable subscriber would pay for total programming in a package, the prices are exorbitantly high to the home satellite dish consumer, and that is not fair.

The rural consumer ought to have the same, indeed, fair rates of pricing for packages that are available over the cable.

Let me add an insult to injury for a minute. It is not just the HBO's and the ShoTimes and the Disneys that are scrambling the signals. The networks are talking about scrambling, too, and when the national networks begin their scrambling, and they want to do it for good reason, they want to protect their up link signal, because that is an unprotected kind of conversation, to make sure that people are not receiving it and perhaps they would be subject to some sort of suit or damage or lose the confidentiality of a conversation on the up link side.

When they begin scrambling their down link signals, they will begin denying to rural Americans the same commercial television programming that is now available to others over the air broadcasting.

Let me be more specific. In many areas of America, television signals cannot arrive. The only way they can see NBC, CBS, or ABC is to see it over satellite with a home dish.

When those signals are scrambled, unless there is provision made for the rural consumer to unscramble those network signals, he will be denied the variety of network programming that we pay for, by the way, when we go to the supermarket. My point of view is when you buy the soap you ought to be able to see the soap opera, too. That is what it is all about in commercial television. We ought to have a way that the networks make sure that the rural signal is available to the consumers. Several networks are trying to do that, but one is holding back, and we should get the networks to come across by yielding to the consumer, I believe, legitimate requests to see their down link signals in the rural parts of America. Then we will have a better world of satellite viewing as well.

So it is a twofold problem, the problem of the specialized HBO's and Sho-Time programming that is typically seen on cable, or the programming that we normally see over the air of broadcasts from the networks. Both types of scrambling pose new problems for consumers in America, and as the gentleman from Virginia pointed out, they create a situation where prices are not fairly apportioned across the breadth and width of our land.

Mr. OLIN. The gentleman really makes a good point here.

It is true that this subject of scrambling started sort of gradually. It started out with HBO and Cinemax a couple of years ago. Everybody was shocked when that started to happen. We have gotten past that. That is gradually being worked out to some degree, but now it looks as though almost all the signals are going to end up being scrambled in some form, and the poor rural American that has a dish and paid $4,000 for the dish, and he paid $400 for a descrambler, and now he wants a reasonably fair deal on the availability of signals that he can get into his descrambler, it is not yet clear how that is going to happen. Unless we find some way of providing facilities of packaging so intermediate brokers, if you want to call them that or distributors, can make the arrangements to provide different package options for different homeowners according to their needs and desires, rural America is not going to have the privilege that people who live in cities have when they have access to a cable system.

Mr. TAUZIN. If the gentleman will yield, I would love to be able to tell him that legislation is not going to be necessary. I would love to be able to tell him that our hearings and experience in the real world of telecommunications is resulting in a free and fair competitive marketplace for rural consumers.

Unfortunately, I think legislation just might be necessary. Let me give you an example. Two years ago, the Disney channel representatives came before our committee and assured us that they would negotiate a contract with the Rural Telecommunications Corp., the same group trying to put together a package for rural America, 2 years ago. They have yet to negotiate a contract. That is how slowly the cable industry and the producers have moved to this independent form of packaging and sale of the product in America.

If you did not have consolidation of the cable industry, if there was great competition there, then you might not need third-party packaging, but as the cable industry consolidates and as Americans in rural parts of our country find they have to pay these kinds of charges to see what many of us have a right to see because we live near a cabled-up area, then you get the feeling that maybe we need to push this legislation. Maybe we need to pass it this year to guarantee those rights to rural Americans.

Mr. OLIN. I thank the gentleman for his observations.

I would like to call to his attention, as he knows, that there is a companion bill, H.R. 2848, which is in the subcommittee of the gentleman from Wisconsin [Mr. KASTENMEIER]. He thinks he is going to be able to get some movement on that bill. I hope he is right. I am all for him, and I hope that the gentleman from Louisiana is successful in getting some movement on his bill sometime this year, because it is very clear that the market really has not formed in an effective way at this time.

There is unavailability of signals. Some people still like the idea of being able to charge exorbitant amounts for their signals, and they do not make them available except on a preferential basis, and that really has to stop.

Then there is the question of putting together reasonable packages so that the home dish individual gets the same kind of a deal that somebody that lives in a city and has access to cable gets.

Mr. TAUZIN. Let us talk about another issue, that of fairness. When General Instruments, the original maker of this decoder, and that was the centerpiece of the scrambling-descrambling movement here in telecommunications from satellite, when they first appeared before our committee, they guaranteed us their equipment was foolproof, that no pirate could come in and produce a pirated type of equipment from which others could steal the signal. Let me tell the gentleman what he is finding out in the market. Piracy is rampant. We understand the latest pirated black box or phony decoder being sold to consumers out there is undetectable by General Instruments, so here we have some people who buy their satellite dish, who go through the process of correctly buying a decoder and paying these prices the gentleman pointed out, trying to do it the right way, the legal way, when maybe next door, across the street or across the next mountain, somebody else has a pirated box and is getting the signal free.

The system is not working well, and the system will not work well until there is fair pricing and adequate programming available.

As long as the pressure to cheat is there, some young genius is going to be out there in his back garage figuring out how to pirate that macom decorder. It is happening now. Piracy is rampant.

If we are going to have a good system by which pay programs are properly paid for, we ought to have a system where the pricing and the packaging is there, where pirating is not encouraged but, rather, discouraged.

Mr. OLIN. That is a very good factor to bring up.

I would like to comment also that it really is not the function of Congress to dictate the detailed pricing and the arrangements in a market like this. It is too complex. We ought to leave that to the private market system, but we have got to establish the structure that permits a free market to function properly, because the free market finally will bring equity to people if it is open and available to everybody.

Mr. TAUZIN. The gentleman makes a good point which maybe I can stress again.

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The bill we have offered to Congress and are asking Members to consider cosponsoring and joining with us on is not a bill to regulate pricing; it is a bill simply to insure fair competitive marketplace, where the marketplace will set the price but in a way that guarantees that there will be competition working.

You see, a fair competitive marketplace does not work when there is only one group of people controlling the pricing out there. That is our problem today. If we can somehow overcome that, the Government does not have to come in and set prices; the marketplace will do an adequate job of it. That is all our bill does, it sets up a good, fair competitive marketplace.

Mr. OLIN. That is why both of these bills ought to get the full support of all Members of Congress and move through these committees faster than they are moving.

Mr. TAUZIN. I thank the gentleman for his special order and encourage him in his efforts to encourage support for the bill.

Mr. OLIN. And I thank the gentleman for having initiated one of these bills and for all the work he is doing to get the bill passed.

I yield to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. I thank the gentleman from Virginia for again holding this special order on an issue of real importance to rural areas, including mine as well.

I am pleased to be a cosponsor again in this Congress of H.R. 1885, the satellite television fair marketing act.

I thank the gentleman for his hard work in behalf of this and other legislation to help solve this critical problem.

H.R. 1885 would do many things. It would require that any programmer who offered his programs to cable also offer them to satellite dish owners. It would require that all PBS and Armed Forces TV be available to dish owners without any scrambling; it would require there be one universal unscrambling system for all channels, it would make sure that prices are fair by having the Federal Trade Commission investigate the competitiveness of satellite TV; it would make sure that network programming is available to all those who cannot get such programs over-the-air.

We have had hearings on this bill in both the 99th and 100th Congresses and dozens of people have testified. What we need now is action, action on this bill by this House, by the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce and we need this bill to be marked up in that subcommittee so that we can have a vote on it here in the House.

I have spoken to the Chairman Dennis Patrick of the Federal Communications Commission about the issue. He and I do not agree on the issue. I think the only way to resolve the conflict is through passage of H.R. 1885. We are not going to get an administrative solution to the problem.

People in my district have written by the hundreds. They are fair and reasonable people. They want the chance to watch the same programs that their neighbors with cable can watch. I really think we have got a question of free speech here as flagrant as any that you would find.

Many people simply cannot get the cable because they live outside of the town or city or outside the reach of that cable system, outside the reach of an on-the-air signal.

They have invested thousands of dollars in buying what is their own cable system, their own satellite dish and they deserve to be able to have access to these same programs at a reasonable price. And that is what H.R. 1885 would do. I urge all of my colleagues in calling for immediate action on H.R. 1885 and, together, we can get this bill moving forward both in the subcommittee, the full committee and the House at large.

Again, I want to thank the gentleman from Virginia for his leadership on this issue and congratulate him on this special order where we can have a chance to air our support for the measure.

I thank the gentleman for yielding.

Mr. OLIN. I thank the gentleman from Kentucky for his support and for his comments. I am hoping that one of the results of this special order will be that not only our colleagues here in Washington are going to hear this but it is possible that this might be picked up by satellite and there might be quite a few others around the country hearing.

I hope that the people who hear this message will be getting in touch with their Members of Congress, see if they cannot stimulate them a little bit.

Mr. ROGERS. If the people who have communicated with me would communicate with those who are not yet on board, it would help a lot.

Mr. OLIN. It would help a great deal.

Mr. Speaker, I think it is obvious that the issue of program access for home satellite dish owners is very important to a broad segment of the American public. This situation is much like the situation in the 1930's when rural families did not have electricity.

The Federal Government helped bring electricity to the rural areas and helped these rural families get electricity into their homes so they could have the same standard of living that was appreciated by other people in our country.

Today we live in an information age, an age in which all of our citizens need access to information, the type of information provided by television, in order to fully participate in our society. Our rural citizens also have the right to get the same entertainment programming that is available to those who live in cities and towns. It is not just entertainment, it is information, it is news, it is analysis, it is history, it is our culture.

I think that this is a problem of the right to buy. Dish owners, program packagers and others should have a right to buy programming which is sent out over the public airways and over satellites which were put up there in the first place with the aid of taxpayer money. They should have the right to buy this programming at a fair price and on an equitable basis.

This right-to-buy is a policy issue that Congress should address. The two bills before the House are complimentary methods of establishing this right to buy. H.R. 2848, the Satellite Home Viewer Copyright Act reforms copyright law to get it in line with the new demands of satellite technology. H.R. 2848 would establish the right to buy the programming of independent stations. This bill is moving. I want to commend Chairman KASTENMEIER for his work on this measure.

H.R. 1885 would establish the right to buy all programming which is scrambled for resale. This is an important measure which would support equitable access and fair pricing for dish owners.

My colleague, BILLY TAUZIN of Louisiana has worked hard to draft this bill. Unfortunately, the Subcommittee on Telecommunications and Finance has not seen fit to move the bill. We should help all our citizens obtain full access to information and entertainment services provided by television. The current situation is unfair and it is time that it was fixed.

I urge all of my colleagues, particularly those from rural districts and also those in urban districts to do whatever they can to speed action on this issue.

Mr. JEFFORDS. Mr. Speaker, I commend the gentleman from Virginia [Mr. OLIN] for reserving this special order today. I have previously stated the importance to Vermonters of access to satellite programming at a reasonable price.

Vermont is characteristically rural and hilly, the combination of which has made it very difficult to receive a good television signal. If you don't live in a town that broadcasts a signal, then you probably have a hill between you and that signal blocking it.

Satellite dish technology has changed a lot of that. Many people living in rural Vermont have had, for the first time, access to a variety of quality programming. News, sports, education, and entertainment programs are now available because these people have had the initiative to purchase a satellite dish.

It should be noted that the vast majority of people who have purchased dishes in Vermont have done so not as an alternative to cable or local network, but because it is the only way they could ever hope to receive more than one or two channels. Rural Vermonters have made a considerable investment in a dish in order to have access to programming that can enrich the cultural, political, and contemporary aspects of their daily lives.

Dishowners in Vermont are not looking for any special treatment. But neither do they want to be shut off from signals being reflected from satellites that have been put into space at Federal expense. I think there is an argument here.

In the 99th Congress I cosponsored legislation to protect satellite dishowners, and in the 100th, my colleague, Mr. TAUZIN, has reintroduced this legislation as H.R. 1885. I am proud to be a cosponsor of this bill, the Satellite Television Fair Marketing Act.

The bill says that if a programmer scrambles a signal and then sells it to someone, then he must offer it for sale to home satellite dishowners, and at a price comparable to those charged to cable subscribers.

It directs the Federal Communications Commission to establish uniform standards for encription.

H.R. 1885 also prohibits scrambling of taxpayer supported Public Broadcasting Service or Armed Service Radio programming intended for broadcast by television stations.

Mr. Speaker, since 1985 we have considered legislation to protect the rights of home dishowners and to allow them access to the same programming as their urban neighbors. Today I join my colleagues in urging Chairman MARKEY to bring H.R. 1885 to the floor for a vote.

Satellite dishowners in rural America deserve our attention. They should not unfairly be shut off from the variety of news, educational and entertainment programming that is available to others.

No one is asking for a free lunch, but merely a place at the table with the same menu.

I ask my colleagues to join me in supporting this bill.

Mr. LUJAN. Mr. Speaker, I appreciate this opportunity to express my strong interest in seeing some attention paid to the rights of home satellite dishowners during this 100th Congress.

Usually, Mr. Speaker, the longer a technology is around, the more accessible and less expensive it becomes. Computers are a prime example of this process. Who, 20 years ago, would have envisioned that computers would become household appliances for many?

Well, this principle, for a variety of reasons, just does not apply where satellite dishes for television reception are concerned. In the last few years, dishowners have discovered that the television programming they once received for the cost of the dish now carries an additional price tag. The same television shows that other Americans receive for free, or for a low subscriber cost, dishowners only receive if they ante up more money.

Now, Mr. Speaker, like many congressional districts across our Nation, the First Congressional District of New Mexico has areas that do not receive any local television signals. Folks in my district, like Dale Hanson, have expressed to me the frustration they encounter in their efforts to simply receive television programming at a reasonable price. I'm sure their views on this don't differ much from the millions of other dishowners in this country. In other words, they are willing to pay their fair share for the programming and related services they receive.

I am encouraged by the interest now being shown in satellite dish television by many rural cooperatives and the rural telephone companies. Involvement by operations like this, I am sure, could certainly enhance viewing opportunities for many residents of rural areas, and additionally provide programmers access to this population.

At the same time, because of the important matters at stake here, I believe serious congressional attention to the subject of satellite television is overdue. More than the concept of a free and spirited marketplace is involved here. There are constitutional questions to be addressed, and the rights of the broadcasters to be considered also. These are clearly not minor considerations.

For this reason, it is my hope that during the remaining months of this 100th Congress, the rights of home satellite viewers, along with the interests of those who provide this programming, will receive the active consideration they deserve.

GENERAL LEAVE

Mr. OLIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. PRICE of North Carolina). Is there objection to the request of the gentleman from Virginia?

There was no objection.

GREEK INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] will be recognized for 60 minutes.

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I stand before you today, as has been my custom, to recognize and celebrate the 167th anniversary of the independence of the Greek people from their Turkish occupiers. Mr. Speaker, while I fully realize that current political issues may oftentimes cause tensions between our country and Greece, the fact remains that we have been loyal allies who share many bonds that must be brought to light so that they may serve as an incentive for the continuation of good relations between these two historic friends.

Mr. Speaker, March 25 is a day of celebration for those of the Greek heritage and Greek Orthodox faith. Almost greater than any other day of the year in their religious faith and national history, March 25 commemorates the beginning of the Greek struggle for independence from over 400 years of Ottoman domination.

Mr. Speaker, it was on March 25, 1821, that the so-called Greek resistance, small battle-weary groups of guerrillas known as Klephtes, embarked on their long and just struggle against the mighty Ottoman empire.

The Greek resistance appeared to the world as no match for the power of the Turkish military might, but the Greeks fought with the determination and valor that was the personification of the words of their manifesto of independence—reminiscent of the American Declaration of Independence, I might add—which clearly declared that:

> Our tongues, which before dared not utter a sound, except vain supplications for clemency, now cry with a loud voice, and make the air re-echo with the sweet name of liberty. In one word, we are unanimously resolved on liberty or death.

The Klephtes, Mr. Speaker, were ill-clad, ill-fed, and ill-equipped, but fought valiantly and ferociously for their right to a national identity and won battles from the empire almost from the beginning.

The justice of the Greek cause soon spread and encouraged a movement throughout Europe, as well as the United States, to assist the Greeks in their struggle for freedom.

The last battle of Missolonghi, often referred to as the "Greek Alamo," almost more than any other point in the long, difficult, 6-year struggle illustrated the Greek will and the justice of the cause at its best.

Missolonghi, a small fishing village, provided the gateway to free access between the Greek mainland and the Peloponnese and, as such, was the heart of the Turkish concentration. In 1826, the Turks brought the full impact of the Ottomon might to bear on this little village effectively blockading the town by sea and ringing it with cannon and troops by land.

On January 27, 1826, the Turks presented an ultimatum of surrender. However, this ultimatum was answered not with surrender, but, unhesitatingly, on the same day, with the following response, which I quote:

> The Capitan Pasha is well aware that the Greeks have suffered unheard of misfortunes, shed streams of blood, and seen their towns made deserts; and for all this nothing can compensate, nothing can indemnify them, but liberty and independence.

The battle for Missolonghi continued through January, February, March and most of April, with the 15,000 Turkish troops gaining a foothold on the walls three times, only to be hurled back by savage hand-to-hand counterattacks from the 4,000 Greeks.

On the 21st of April, the Turks again offered the garrison surrender terms, but with a caveat that a refusal would seal the doom of all defenders. The intrepid spirit which had animated the movement of independence had not diminished, even under bombardment, disease, and starvation. The Greeks, again, refused to surrender.

The following day, April 22, saw many acts of heroism by the Greeks. They fought to the bitter end, until there were only 300 men left from the original 4,000 in the garrison. These remaining 300 still would not surrender, however, and sealed themselves in a windmill and fought the Turks until only a few were left alive. Then, as the Turks stormed the mill, the Greeks set fire to their gunpowder and blew into oblivion the defenders as well as the attackers.

The following words, taken from a letter written by a Swiss citizen who perished in the last defense of Missolonghi, was written a few days before his death and shows the spirit which animated the townspeople. I quote:

> Seventeen hundred and forty of our brothers are dead. More than a hundred thousand bombs and balls thrown by the enemy have destroyed our bastions and our houses. We have been terribly distressed by hunger and the cold * * * Notwithstanding so many privations, however, it is a great and noble spectacle to witness the ardor and devotedness of the garrison. A few days more, and these brave men will be angelic spirits. * * * I announce you the resolution sworn before heaven, to defend foot by foot the land of Messolongi and to bury ourselves, without listening to any capitulation, under the ruins of the city. We are drawing near our final hour. History will render us justice—posterity will weep over our misfortunes. I am proud to think that the blood of a Swiss, of a child of William Tell, is about to mingle with that of the heroes of Greece. May the relation of the siege of Messolongi, which I have written, survive me.

Yes, Mr. Speaker, it was this kind of will and determination that prevailed among the Greeks and Philhellenes and eventually led to the sultan's conceding of national political independence to the Greek revolutionaries after the battle of Navarino on October 20, 1827.

The Greek war of independence, however, was not the only time that the Greek people have exemplified themselves.

In 1940, the Greeks were handed another ultimatum—this time from Mussolini demanding that Italian troops be allowed to occupy the Greek Islands of Crete and Corfu, parts of Epirus, and the Port of Pireus. The Greeks, as was the case with the Turks, again adamantly rejected the ultimatum with a defiant "oxi"—"no" which is commemorated on October 28 of each year.

As a result of the Greek defiance, Italian troops moved over the Albanian border into Greece on the morning of October 28, and were met with unexpectedly stiff resistance.

The Greek troops again valiantly rose to the occasion and blocked the Italian attacks time after time until, by November 7, the Greek Army of 5,000 officers and 65,000 men had stopped the Italians!

On the 14th, the Greeks counterattacked. By the 22d, not only had all Italians been ejected from Greek soil, but the Greek Army had taken Koritsa, the principal Italian base, and Pogradia—two towns well over the Albanian border.

Some think that this unexpectedly fierce Greek opposition to the Axis invasion of Greece may have saved the British forces which were then assembling in the Middle East. If Greece had given way suddenly and Hitler's drive into the southern part of the Soviet Union been made earlier and had been more successful—as well it might have—the two Axis Powers, Italy and Germany, might have crushed them, one from the southern part of the Soviet Union and the other from North Africa, in a pincer before they were strong enough to resist.

And so, Mr. Speaker, such is the legacy of the Greek people to the free world. By the example of the sacrifices of these patriots, they have, hopefully, given others the strength to defend the principles founded by our ancestors. It was precisely this Greek legacy and spirit that prompted President Harry S. Truman, among others, to note in the post-World War II era that: "The valor of Greece * * * convinces me that the Greek people are equal to the task."

This weekend, Mr. Speaker, the events of March 25 will be marked in countless schools and Greek Orthodox parishes throughout the United States and Greece. The kindred will and spirit that would not then—and will not, now—tolerate domination should, and must, be celebrated, for it has battled for countless other just causes throughout the centuries that appeared unreachable and lost.

The Hellenic spirit and ideal must not be forgotten, Mr. Speaker. It must continuously be kept alive for future generations to learn from, just as it has taught those of the past.

There is no doubt but that the Hellenic tradition has shaped and molded every one of us, whether we are Greek-American or not. It has influenced almost every facet of the composition of the great Nation we live in and has, thereby, touched every one of us as its citizens.

Hellenism is ever-present, and our lives are the richer for it. Whether it be in the political values we are so proud of, the language we speak, the buildings we work in, or the literature, art, and music which soothes us, the Greek influence is real and present and it must be acknowledged and celebrated.

As a Greek-American, Mr. Speaker, I send my best wishes to those of my heritage, both in the United States as well as in Greece, on this historic occasion. As a Member of this body, I pledge my efforts in behalf of improved relations and long-term assistance and understanding between the United States and Greece.

Mr. TALLON. Mr. Speaker, it is a pleasure and an honor that I join with my colleagues in recognizing this Friday, March 25, 1988, as Greek Independence Day.

In 1821, the Greeks won their independence after centuries of bloody battles and foreign domination. Their struggle for freedom was watched with great admiration and passion here in the United States where independence was new and precious.

It is only fitting that the United States mark this special day in Greek history as part of our own heritage. So much of the greatness of the United States has its roots in Greece.

Democracy was the invention of the Greeks. Our Founding Fathers made the Greek model of democracy the core of our representative government. Our judicial system is based on laws and rules of justice created by the ancient Greeks. Moreover, we in America. All Americans need to know that our cherished Government institutions are Greek in origin.

The example of the ancient Greeks in science, culture, and learning have played a vital role in American history. As a democratic nation we see individual expression as the key to a civilized culture. The American commitment to this tenet is equaled only by its Greek archetype.

America also owes a great deal of honor and respect to the sizable Greek population which has immigrated here over the past two centuries. I know that in the Sixth District of South Carolina the Greek-American population has made invaluable contributions to industry, business, agriculture,. and government. Greek immigrants and their progeny are the kinds of citizens who make the United States a strong and unique nation.

Greek Independence Day is important to all Americans because of what it symbolizes to us about our heritage and our culture. As Americans, it is a privilege for us to join with the citizens of Greece in celebrating centuries of progress and 167 years of independence.

Mr. Speaker, I yield to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to compliment the gentleman as the representative of probably one of the largest Greek-American communities in the continental United States for calling to the attention of our colleagues and to the attention of the people of America this great relationship that we have and continue to have with the people of Greece.

Mr. ANNUNZIO. Mr. Speaker, 167 years ago, on March 25, 1821, the people of Greece declared their independence, and began a series of uprisings against the oppressive rule of the Turks. It is fitting that

Americans join with the Greeks to celebrate this historic day in the freedom of mankind, not only because this heroic struggle inspired Americans during this period, but also because Greek philosophy, art, literature, and political thought have contributed in countless ways to our own civilization.

In 1814, several Greek merchants performed a secret organization known as the Society of Friends to plan a methodical conspiracy for a general uprising of all of the sections of the Turkish Sultan's Empire. Seven years later, in 1821, this revolution openly broke out achieving successes from the beginning, especially in the Peloponnese, central Greece, and the Aegean Islands. This was followed by 7 more years of fierce fighting during which a handful of rebels were able to contain the combined forces of the sultan's Ottoman Empire. Although they suffered losses and endured much tragedy, the courageous Greek patriots fought valiantly against the might of the Turks and obtained many victories.

On October 20, 1827, at the battle of Navarino, the Turkish fleet was finally defeated and destroyed by the combined elements of the British, French, and Russian navies. This victory gave the Greeks additional strength and resolve in their fight against Turkish oppression, and after many centuries of foreign rule, freedom for the Greeks was regained by the Treaty of Adrianople of 1829 and later by the London protocol of 1830.

In recognition of the contributions the people of Greece have made upon our own political and philosophical experience, and in commemoration of the democratic links which have joined our two governments, I was proud to add my name as a cosponsor to House Joint Resolution 383, a bill to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." Similar legislation was approved by the full House of Representatives and the Senate, and sent to the President for his signature into Public Law. A copy of this resolution follows:

H.J. Res. 383

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;

Whereas March 25, 1988 marks the one hundred sixty-seventh anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;

Whereas these and other ideals have forged a close bond between our two nations and their peoples; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1988, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

Mr. Speaker, the contributions made and still being made to the growth and greatness of the United States by Greeks who have chosen to make their home in our country continues. It is, therefore, a pleasure to join with Greek-Americans in the 11th Congressional District of Illinois which I am honored to represent, as well as Americans of Greek descent across our Nation, on the occasion of Greek Independence Day, as we celebrate the precious heritage of freedom which our two countries have shared over the last 167 years, along with the genuine friendship between the people of America and the people of Greece.

Ms. SNOWE. Mr. Speaker, as a Greek-American and an original cosponsor of House Joint Resolution 383, I am pleased to rise today and to speak in commemoration of Greek Independence Day: A National Day of Celebration of Greek and American Democracy.

This Friday, March 25, 1988, marks the 167th anniversary of the beginning of the Greek revolution, when such brave Greek patriots as Alexander Ypsilanti and Petros Mavomichalis began the struggle for freedom in Greece, after some 400 years of Turkish occupation following the fall of Constantinople to the Ottomans in 1453.

Their struggle found an immediate and sympathetic response in the United States, which only 40 years earlier had fought for many of the same democratic principles in its war of independence. Contemporary American leaders, among them James Monroe, John Adams, and Daniel Webster, recognized that the ideals of individual liberty, representative democracy and the dignity of man for which America's revolutionary soldiers fought and died were also the foundation for Greece's declaration of independence. Just as classical Greece's philosophy and democratic guidelines had inspired America's Founding Fathers, so too had the American Revolution encourged the struggle for freedom in modern Greece.

Since that time 167 years ago, Greece has successfully secured its independence as a sovereign state in modern Europe, and it has proceeded in recent years to reestablish a strong and flourishing democracy. Greece today is a founding member of the United Nations, a Western ally in NATO and a full partner in the European Community, offering the benefits of its ancient civilization and culture to its friends throughout the democratic Western World.

The friendship between Greece and America has also flourished since 1821, as our nations' common interests in Europe and the many ties between our peoples have repeatedly drawn our two countries together. In World I and II, the United States and Greece fought together to preserve freedom in Europe against authoritarian aggression, and American assistance again proved vital to Greece's freedom and security in the years following World War II. It is also appropriate to note, on this anniversary, modern Greece's many contributions to American culture and society, represented by such figures as Maria Callas and Dr. George Papanicolau.

Mr. Speaker, it is clear that Greece and America have a special bond of friendship in the values and the history that our nations have shared, and I join with my colleagues once again in saluting the special relationship between our countries.

Mr. COELHO. Mr. Speaker, I wish to join with my colleagues and Greek-Americans across the Nation, who this week are celebrating Greek Independence Day.

March 25 is a special day for Greeks and the friends of Greece. It is recognized that on this day, in 1821, the people of Greece began their successful battle to oust the oppressive Turkish regime which had occupied the nation for over 400 years. Although full reunification of Greece would involve a long struggle, her people persevered out of their love for the freedom, religion, and culture which the Ottoman Turks had stifled.

As Americans, we also have cause to join our Greek friends in commemmorating this anniversary. It was the ancient Greek ideal of democracy which inspired our revolt from the British Empire in 1776 and was the basis for the Government established under the U.S. Constitution. Our fight for independence and democracy influenced others in the 19th century, such as the French, Germans, and Greeks, and this spirit lives on today, as evidenced by the struggles in the Philippines, South Africa, and Haiti. Ultimately, it was the Greek dogma of democracy that was the catalyst, and it is appropriate that the modern-day nation of Greece eventually benefited.

Congratulations to our Greek friends on this 167th anniversary of their freedom.

Mr. LIPINKSI. Mr. Speaker, as cochairman of the Democratic Council on Ethnic Americans, I rise in strong support of Greek Independence Day. Today marks the 167th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire.

After some 400 years of Turkish domination, the Greek people rose up against oppression, the denial of their civil and religious rights, and the utter disregard for their historical love of freedom and democracy. Daniel Webster, U.S. Representative of Massachusetts at the time of the uprising, stated that the Greek people have been "for centuries under the atrocities unparalleled Tartarian barbarism that ever oppressed the human race."

As every American knows, our own democracy with its emphasis on representative government and freedom of expression is patterned after the ancient Greece James Madison and Alexander Hamilton wrote:

> Among the confederacies of antiquity the most considerable was that of the Grecian republics. From the best accounts transmitted of the celebrated institution it bore a very instructive analogy to the present confederation of the American states.

Our Republic also shares much with the formation of modern Greece. Our American Revolution became a rallying cry for the Greeks in their fight for independence in the 1820's. Greek intellectuals actually translated the American Declaration of Independence and used the language as their own declaration. In our century, President Harry S. Truman recognized the importance of Greek democratic tradition and the bonds between the United States and Greece when he pressed Congress for assistance to the country in its struggle against Communist rebels. Today, Greece is a valued friend and integral ally of the United States.

In America, the many accomplishments of Greek-Americans have enriched our Nation's cultural and ethnic heritage. Americans of Greek heritage have been well-represented in all the fields of human achievement in our country, from the sciences to the performing arts. It's my understanding that the children of Greek immigrants now rank No. 1 among American ethnic nationalities regarding educational attainment. In my hometown of Chicago, Greek-Americans have contributed much to civil pride and have served admirably in many public capacities.

I would like to take this opportunity to commend the gentleman from Florida [Mr. BILIRAKIS] for sponsoring this commemoration and to extend my best wishes on this special day to the Greek citizens of my district on the southwest side of Chicago.

I would further like to urge my colleagues to support legislation designating March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

Mr. MANTON. Mr. Speaker, as a cosponsor of House Joint Resolution 383, which designates March 25 as Greek Independence Day, I am delighted to join my colleagues today in observing the 167th anniversary of Greek independence. I would like to commend my friend and colleague, Mr. BILIRAKIS, for organizing today's special order so we can all mark this special occasion.

Today we commemorate the beginning of the Greek people's brave struggle for independence. After over 400 years of foreign domination, oppression, and abuse, the brave people of Greece claimed their rightful heritage of democracy and freedom. Using the United States Declaration of Independence as their guide, Greek independence was declared. Greece, the birthplace of democracy, was again on the road to democracy and self-determination. The Greek people's commitment serves as an example and a hope to people throughout the world today who are fighting for freedom.

As the proud Representative of the Ninth Congressional District of New York, which has one of the largest Greek-American populations in the Nation, I am pleased to join my constituents in marking Greek Independence Day. I know first hand that Greek-Americans have greatly contributed to the strength and prosperity of the United States. Furthermore, the longstanding friendship between Greece and the United States is a symbol of both nations' commitment to democracy and independence. Our nations have fought together against tyranny. I firmly believe the great friendship between America and Greece will continue to grow.

Mr. Speaker, our Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece when they formed our great nation. It is therefore appropriate we join our friends in commemorating Greek Independence Day and reaffirm our similar heritage, values, and ideals.

Miss SCHNEIDER. Mr. Speaker, it is my great pleasure to be a part of this special occasion: Greek Independence Day. Today marks the 167th anniversity of Greece regaining its independence from the Ottoman Empire after 400 years of subjugation. In the year 1821 Alexander Ypsilanti proclaimed the freedom of the Greek people from the foreign domination of the Ottomans.

Over 2,000 years ago, Athens was the scene of the rise of the first democratic republic in the history of man. Figures such as Aristotle and Socrates talked of the dignity and power of mankind. They believed, as we here do today, in the ability of man to rule with compassion and justice.

The same ideals that inspired the birth of a democratic republic in Athens inspired the birth of our Nation. Men such as Thomas Jefferson, Alexander Hamilton, James Madison, and other colonial intellectuals who shaped the American revolution read and believed in the basic ideas of government given birth in ancient Greece.

America has made its own contribution to democracy in Greece. After gaining independence in 1821, Greece translated the Constitution of the United States to be their own. This document, which was so influenced by their ancestors, was taken to heart to be the supreme law of their land. After 2,000 years, democracy returned to Greece.

America and Greece are tied together in more ways than simply intellectual ideals and the love of liberty. After the Second World War, Greece fought against Communist forces to preserve their freedom. The United States aided the Greeks in this battle in what became the first steps in the rebuilding of Europe through the Marshall plan.

The fierce independence that burned in the Greek people at the Battles of Marathon, Salamis, and Thermopylae, and burned in them 167 years ago on the day of their independence, still burns in them today.

Today Greece is our ally in the North Atlantic Treaty Organization. Greece, as it has throughout history, guards the Dardanelles, the important access way to the Black Sea and the southern front of Europe. The United States and Greece do not always agree on issues yet we remain friends and allies. That is the true nature of our relationship, friendship even in the face of disagreement.

Mr. Speaker, I join with my Greek-American friends in Rhode Island and throughout the country on this joyous occasion as we look forward to a future of cooperation and friendship between our great nations.

Mr. PICKETT. Mr. Speaker, Thomas Jefferson once said, "to the ancient Greeks, we are all indebted for the light which led ourselves out of Gothic darkness."

This week, as we remember Greek Independence Day, Jefferson's words should take on a special meaning for all Americans. To a greater extent than perhaps any other people in history, the ancient Greeks and their theories of government provided a framework for constitutional government in America. The ancient Greeks taught us that government is strongest when power is vested in the hands of the people. They taught and practiced equality under the laws, and they recognized that leaders of men should be chosen on the basis of merit. Even the principle of separation of powers, which we often think of as a unique American doctrine, can be traced to ancient Greece.

These contributions are why it is appropriate for Americans to share in the celebration of the 167th anniversary of Greek independence from the Ottoman Empire. For almost 400 years, extending from 1453 until their independence in 1821, Greeks had been deprived of liberty. But as history has shown so many times, those who cherish democracy will always prevail over tyranny.

So this week, we join with Greeks and Greek-Americans in celebrating not only victory 167 years ago, but our Nation's shared democratic heritage.

I thank the distinguished gentleman from Florida [Mr. BILIRAKIS] for taking out this special order, and I join him and other Greek-Americans in this celebration.

Mr. ROE. Mr. Speaker, March 25 marks Greek Independence Day, the 167th anniversary of the beginning of the revolution which freed the Greek people from the 400-year rule of the Ottoman Empire. I believe it is indeed fitting that we take time out in the United States House of Representatives to commemorate Greek Independence Day, because I believe the American people have a special appreciation for this historic event.

Not only has our Nation, like Greece, waged a battle for independence within the last two centuries, but the vision of independence as seen by our Founding Fathers embraced a democratic form of government first conceived by the ancient Greeks. As Aristotle said:

"If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will best be attained when all persons alike share in the government to the utmost."

Mr. Speaker, Greece fought its war for independence between 1821 and 1829, when it became a kingdom; it was established as a republic in 1924. This battle for independence and democracy continued when 600,000 Greek citizens lost their lives fighting on the side of the United States during World War II.

While we as Americans take this particular occasion to celebrate Greek Independence Day, in a real sense we celebrate it on a continuing basis. Because the concept of democracy was born in the age of the ancient Greeks, all Americans, whether or not they are of Greek ancestry, have a bond with the Greek people. The common heritage which we share has forged a close bond between Greece and the United States and between our peoples. It is reflected in the numerous contributions made by present day Greek-Americans across the country to our American culture.

Today, let us celebrate with the Greek people, a common heritage of freedom and democracy that both our nations share.

Mr. YOUNG of Florida. Mr. Speaker, I want to commend my colleague from Florida [Mr. BILIRAKIS] for requesting this time to commemorate Greek Independence Day.

It is the spirit and determination of the Greek people that we celebrate today for it was on March 25, 1821, that they rose up and rebelled against the Ottoman Turks who had ruled their country for more than four centuries. Led by Archbishop Germanos, this uprising marked the beginning of the Greek war for independence and within 9 years this brave struggle resulted in the rebirth of the Greek nation.

Our Nation is indebted to Greece, because many of the most important principles which underly our democratic government were derived from Greek history. Clearly it is this strong belief in democracy and quest for freedom which inspired Greece to reestablish its independence.

In Pinellas County, FL, I'm proud to represent one of our Nation's most active Greek-American populations. They symbolize the same spirit and determination with which their ancestors overthrew those who denied the Greek people freedom for four centuries. Sunday, the United Hellenic Society of Tampa Bay will gather in Clearwater to commemorate Greek Independence Day. Their ceremony stands as a reminder that even the most brutal conquerors cannot squelch the desire for freedom among the Greek people. It is the love of freedom and democracy which provides the special bond that exists between the Greek and American people and is in great part what we celebrate in ceremonies today and throughout this week.

Mr. YATRON. Mr. Speaker, on March 25, 1821, after four centuries of Ottoman rule, Greeks rose up in arms, fought valiantly, and finally achieved a dream centuries old—freedom from Turkish domination.

The ancient Greeks created the very notion of democracy, in which the ultimate power to govern was vested in the people. As Aristotle said: "If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be attained when all persons alike share in the government to the utmost." It was this concept that the Founding Fathers of the United States of America drew heavily upon in forming our representative government.

Constitutional democracy has made the American way of life possible. For that contribution alone, we owe a heavy debt to the Greek people. But the contribution of democracy was not the only contribution made by Greek patriots to American society. The ancient Greeks contributed a great deal, both to our cultural heritage, as well as to European culture, in the areas of art, philosophy, science, and law. In the preface to his poem "Hellas" Shelley wrote: "Our laws, our literature, our religion, our arts have their roots in Greece."

Every time I go to vote in our Nation's Capitol, I am inspired by a painting of the signers of the Monroe Doctrine. On the right hand side of this Fresco is a Greek soldier combatting his ottoman oppressors, signifying the linkage between Greek independence and the American Revolution. This picture depicts the common heritage which we share, a heritage which has forged a lasting bond between Greece and the United States.

Greek-Americans have followed the rich tradition of their ancestors. They have made their mark in many professions, including medicine, science, law, and business, among others. The welfare and progress of the Greek community, both here and abroad, is of great importance to all of us. I, together with my esteemed colleagues, realize the enormous contribution Greek-Americans have made to the United States. In order to commemorate the ancient Greeks and pay tribute to the Greek-American community, Congress passed a joint resolution, which is now Public Law 99-532, designating March 25 as "Greek Independence Day." I am proud to have been an original cosponsor of this legislation.

Greek Independence Day was a model for a new Nation, and continues to be an inspiration for all those living in the darkness of oppression.

I want to commend the gentleman from Florida, Mr. BILIRAKIS, for sponsoring this special order. I also want to commend him on his leadership on this, and many other issues in the Congress.

Mr. BROOMFIELD. Mr. Speaker, I commend Congressman BILIRAKIS for his initiative in bringing this special order to the floor. This order marks a truly historic occasion, both for Greeks and for all Americans.

On March 25, 1821, the Greeks gained independence from their Turkish overlords. Though their struggle for freedom was long and hard, the Greeks had the will to persevere. The ancient Greeks and we modern-day Americans share a deep commitment to our freedom.

The Greek pursuit of freedom and democracy and our strong belief in those same values have linked our two countries throughout history.

Jefferson and other great Americans studied the ancient Greeks and their government. Our Founding Fathers transplanted many of the concepts of the ancient Greeks to this new land. America's constitution has a strong classical ancestry. In this Chamber today, we are following a concept of representative government that has its origin in Greece, the cradle of democracy. The richness of the Greek experience must be preserved. It must be shared with those around the world who yearn for liberty.

I salute the Greek people and all Greek-Americans as we mark this celebration of freedom. As we recollect the ties of friendship and shared democratic traditions, let us work to maintain smooth waters in our relationship with Greece, the land that gave democracy its name.

Mr. HOWARD. Mr. Speaker, I am proud to join with my colleagues today in commemorating the 167th anniversary of the Greek war for independence from the Ottoman Empire.

The struggle of the Greek people for political freedom has a special meaning for Americans, because it was in Greece over 2,000 years ago that the idea of democracy was born. The belief that there should be a government of the people, by the people and for the people inspired our own Revolutionary War and laid the foundation upon which the United States stands.

This common belief in the right of a people to self-determination has been the basis of strong alliance between Americans and Greeks. Then Secretary of State John Quincy Adams remarked of the Greek uprising, which was to gain them independence 6 years later, that:

> The people of the United States, sympathizing with the cause of freedom and independence wherever its standard is unfurled, behold with peculiar interest the display of Grecian energy in defence of Grecian liberties, and the association of heroic exertions, at the present time. If in the progress of events, the Greeks should be enabled to establish and organize themselves into an independent nation, the United States would be among the first to establish diplomatic and commercial relations with them.

In 1917, Greece entered World War I on the side of the allies and took part in the allied occupation of Turkey. The republic became an active member of the North Atlantic Treaty Organization [NATO] in 1952, and today United States-Greek relations are stronger than ever.

Greeks are a proud people who have always placed high values on family, church and education. Thus, they valiantly defended their homeland when those beliefs and the freedom they had fought so long to achieve were threatened by a communist takeover shortly after the end of World War II. Despite heavy losses and thousands of forced evacuations, the Greek people were able to turn back the tide of communism in their country and preserve their independence.

This spirit of a tenacious defense of liberty and a traditional way of life thrives today in the Greek-American community which totals over 3,000,000 people. These people are as proud and determined as their ancestors who gave their lives to secure Greek independence some 167 years ago. I take great pleasure in honoring the celebration of Greek Independence Day with the hope that Greece will once again serve as an inspiration to other people struggling for the cause of freedom.

Mr. MATSUI. Mr. Speaker, this Friday, March 25, 1988, marks an important date in the history of freedom and democracy. This Friday is the 167th anniversary of the beginning of the Greek people's struggle for independence from the Ottoman empire. This struggle for freedom, like our own Revolutionary War, succeeded in throwing off the yoke of foreign domination and set the Greek people on the road toward restoring democratic rule to the land where democracy was born.

Friday is a fitting day to acknowledge and celebrate the many influences of Greek culture that we find today in the United States. The British poet Percy Bysshe Shelley wrote:

> We are all Greeks. Our laws, our literature, our religion, our arts have their roots in Greece.

Those words ring as true for 20th-century America as they did for 19th-Century England.

Friday is also an appropriate time to thank and congratulate Greek Americans for their achievements and many contributions to American society. This vibrant ethnic community has only added to the diversity which makes the United States the great nation that it is today. Additionally, the presence of our Greek American colleagues here in Congress and the present success of the first Greek American candidate for president are only two signs of the important role Greek Americans are playing in modern America.

Mr. Speaker, for these reasons and many more, I take great pleasure in joining my colleagues to honor and celebrate Greek Independence Day.

Mr. PORTER. Mr. Speaker, I would like to join my colleague, Mr. BILIRAKIS, in this special order on behalf of Greece and Greek independence day.

Greece holds a very special place in the hearts of free men. As the birthplace of democracy, all democratic nations turn to Greece to find freedom's ancient heritage.

As the birthplace of the Olympics, Greece has provided a shining example for the world to fashion into the modern Olympic games. Today, all countries gather as the city states of ancient Greece once did to celebrate athletic excellence and peace among men.

The liberation of the Greek people in 1821 gave a message to the people of Europe that the old dynasties had run their course. Men like Lord Byron responded to the ancient call for freedom. One hundred and sixty-seven years ago, the Greek people rose up in revolt and pushed their Ottoman oppressors out of Greece. In only a few years, they were able to establish their own country, free from foreign rule.

There were tough times ahead: the Balkan Wars, the Nazi occupation and the Civil War. One out of every four young Greek men came to America during that time to provide for their families and support their loved ones at home.

Today, Greece stands as a free and democratic nation and an ally of the United States. With the strong Greek American community here, there is a special bond between our two countries. Although there may be differences at times between the present government of one side or the other, they are like quarrels within a family that must be seen within the context of close cooperation and longstanding ties.

Mr. Speaker, I join with my colleagues in celebrating this day and the continued friendship and cooperation between the United States and Greece.

Mr. LAGOMARSINO. Mr. Speaker, 2 days from today, March 25, marks the 167th anniversary of Greece's independence from the Ottoman empire. I join my colleagues in celebrating this historic event and the heroic legacy of the Greek people.

While many Americans many not realize it, Greece is the birthplace of American democracy. "Our Constitution is called a democracy because power is in the hands not of a minority but of the whole people. When it is a question of settling private disputes, everyone is equal before the law; when it is a question of putting one person before another in positions of public responsibility, what counts is not membership of a particular class, but the actual ability which the man possesses." One might think this statement was made by Thomas Jefferson, James Madison or even by an American living today. But it wasn't. Pericles made these remarks in an address in Greece some 2,000 years ago!

On a more contemporary note, Thomas Jefferson said "to the ancient Greeks * * * we are all indebted for the light which led ourselves—American colonists—out of gothic darkness." His colleagues, James Madison and Alexander Hamilton wrote in the Federalist Papers, "among the confederacies of antiquity the most considerable was that of the Grecian Republics * * * from the best accounts transmitted of this celebrated institution it bore a very instructive analogy to the present confederation of the American States."

The United States, in turn, provided a role model for Greek independence. Our revolution became one of the ideals of the Greeks as they fought for their independence in the 1820's. Greek intellectuals translated our declaration of independence and used it as part of their own declaration. Many volunteers from America sailed to Greece to participate in Greece's war for independence.

Today, the close friendship between Greece and the United States remains strong. Greece is a member of NATO and hosts important American military facilities. The economic, social, and cultural ties grow stronger every day. Greek-Americans have provided great services to both countries. It is only befitting that Americans join their Greek friends in celebrating this joyous occasion. I look forward to celebrating many more March 25ths!

Mr. TORRICELLI. Mr. Speaker, on March 25, 1821, Greek patriot, Alexander Ypsilanti, began a struggle that initially led to Greece's independence from the Ottoman empire in 1829 and eventually led to the creation of a Greek republic in 1924. It was not only a struggle to bring Greece the freedoms of democracy, but it was also a fight to return democracy to its birthplace after a hiatus of many hundreds of years.

Mr. Speaker, it is with great pleasure and respect that I congratulate Greece on the 167th anniversary of its independence and that I thank it for laying the initial foundations of democracy, which so greatly influence America's Founding Fathers. In view of this fact, it is indeed fitting that Congress has passed Senate Joint Resolution 218 making March 25, 1988 a national day of Greek and American democracy.

Greece and America have a special relationship of sharing. Initially, we shared ideas. In the early days of the United States, our Founding Fathers looked to the Greek example of two millennia past when forming our government. The founders of modern Greece, in turn, looked to our modern example of democracy when forming their new society.

Later, we shared customs and families. As Greek immigrants flocked to the United States in the early 20th century, they influenced the nature of the American "melting pot." They brought with them their customs, language, cuisine, religion, knowledge, skills and a heritage of dedicated citizenship. America has, in return, affected life in Greece through Greek-American family ties. In view of the fact that many Greek immigrants left some family behind in Greece, American ideas made their way back to those who remained in Greece. Presently, most Greek families have at least one relative who is an American citizen.

Today, America and Greece continue to strengthen a relationship of sharing. We share in the defense of Europe as members of the North Atlantic Treaty Organization. We also share in the idea of easing tensions between Greece and Turkey, especially with regard to Cyprus. We are all encouraged by Prime Minister Papandreou's recent meeting with Turkish Prime Minister Ozal, and we all hope future talks can lead to the peaceful resolution of any Greek-Turkish disputes. Lastly, the United States and Greece share in the benefits of a full diplomatic, political and economic friendship that will undoubtedly continue on into the distant future.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Stewart, Secretary of the Senate, announced that the Senate having proceeded to reconsider the bill (S. 557) entitled "An act to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964", returned by the President of the United States with his objections, to the Senate, in which it originated.

The message also announced that the said bill pass, two-thirds of the Senators present having voted in the affirmative.

□ 1600

CIVIL RIGHTS RESTORATION ACT OF 1987—MESSAGE FROM THE SENATE

The SPEAKER laid before the House the following message from the Senate:

The Senate having proceeded to reconsider the bill (S. 557) entitled "An act to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964," returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

CIVIL RIGHTS RESTORATION ACT OF 1987—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following veto message from the President of the United States:

To the Senate of the United States:

I am returning unsigned with my objections S. 557 and transmitting for your prompt consideration the Civil Rights Protection Act of 1988. The Congress should enact legislation designed to eliminate invidious discrimination and to ensure equality of opportunity for all Americans while preserving their basic freedoms from governmental interference and control. Regrettably, the bill presented to me fails to achieve that objective.

There is no matter of greater concern to me than ensuring that our Nation is free of discrimination. Our country has paid a heavy price in the past for prejudices, whether based upon race, gender, ethnic background, religion or handicap. Such attitudes have no place in our society.

It was with this commitment in mind that in the wake of the Supreme Court's 1984 *Grove City College* decision, I voiced my support for legislation that would strengthen the civil rights coverage of educational institutions that existed prior to that decision. I have repeatedly endorsed legislation to do just that. Today I am sending to Congress a bill that goes further than the legislation previously endorsed. This proposed bill is intended to accommodate other concerns raised during Congressional consideration of the *Grove City* issue.

Our bill advances the protection of civil rights. It would:

—Prohibit discrimination against women, minorities, persons with disabilities, and the elderly *across the board* in public school districts, public systems of higher education, systems of vocational education, and private educational institutions which receive *any* Federal aid.

—Extend the application of the civil rights statutes to *entire* businesses which receive Federal aid as a whole and to the *entire* plant or facility receiving Federal aid in *every* other instance.

—Prohibit discrimination in *all* of the federally funded programs of departments and agencies of State and local governments.

Our bill complements well our body of existing Federal civil rights laws. But even more remains to be done. For example, I have urged the Congress to enact responsible legislation to deal with some obvious failures of the Fair Housing Act of 1968, including the need to protect persons with disabilities.

Congress, on the other hand, has sent me a bill that would vastly and unjustifiably expand the power of the Federal government over the decisions and affairs of private organizations, such as churches and synagogues, farms, businesses, and State and local governments. In the process, it would place at risk such cherished values as religious liberty.

The bill presented to me would diminish substantially the freedom and independence of religious institutions in our society. The bill would seriously impinge upon religious liberty because of its unprecedented and pervasive coverage of churches and synagogues based on receipt of even a small amount of Federal aid for just one activity; its unprecedented coverage of entire religious elementary and secondary school systems when only a single school in such a system receives Federal aid; and its failure to protect, under Title IX of the Education Amendments of 1972, the religious freedom of private schools that are closely identified with the religious tenets of, but not controlled by, a religious organization.

Businesses participating in Federal programs, such as job training programs, would be subject to comprehensive Federal regulation. While some proponents of S. 557 have claimed that it would not apply to farmers who receive Federal crop subsidies or food suppliers who accept food stamps, the ambiguity in the statute and its legislative history indicates that these exemptions should be made explicit.

A significant portion of the private sector—entities principally engaged in the business of providing education, health care, housing, social services, or parks and recreation—would for the first time be covered nationwide in all of their activities, including those wholly unrelated activities of their subsidiaries or other divisions, even if those subsidiaries or divisions receive no Federal aid. Again, there was no demonstrated need for such sweeping coverage.

Further, this bill would be beyond pre-Grove City law and expand the scope of coverage of State and local government agencies. Under S. 557, any agency of such a government that receives or distributes such assistance would be subject in all of its operations to a wide-ranging regime of Federal regulation, contrary to the sound principles of federalism.

The cost and burdens of compliance with S. 557 would be substantial. The bill would bring to those it covers—which is most of America—an intrusive Federal regulatory regime; random on-site compliance checks by Federal officials; and increased exposure to lawsuits, which are costly to defend even when you win.

Moreover, such legislation would likely have the unintended consequences of harming many of the same people it is supposed to protect. For example, persons with disabilities seeking to enhance their job skills are not helped if businesses withdraw from Federal job-training programs because of their unwillingness to accept vastly expanded bureaucratic intrusions under S. 557. Business groups have indicated many of their members may do just that.

The Civil Rights Protection Act that I am proposing today addresses the many shortcomings of S. 557. The Civil Rights Protection Act would protect civil rights and at the same time preserve the independence of State and local governments, the freedom of religion, and the right of America's citizens to order their lives and businesses without extensive Federal intrusion.

The Civil Rights Protection Act contains important changes from S. 557 designed to avoid unnecessary Federal intrusion into the lives and businesses of Americans, while ensuring that Federal aid is properly monitored under the civil rights statutes it amends. The bill would:

—Protect religious liberty by limiting coverage to that part of a church or synagogue which participates in a Federal program; by protecting under Title IX, the religious tenets of private institutions closely identified with religious organizations on the same basis as institutions directly controlled by religious organizations; and by providing that when a religious secondary or elementary school receives Federal assistance, only that school, and not the entire religious school system, becomes subject to the Federal regulation.

—Ensure that the reach of Federal regulation into private businesses extends only to the facility that participates in Federally funded programs, unless the business, as a whole, receives Federal aid, in which case it is covered in its entirety. The bill also states explicitly that farmers will not become subject to Federal regulation by virtue of their acceptance of Federal price support payments, and that grocers and supermarkets will not become subject to such regulations by virtue of accepting food stamps from customers.

—Preserve the independence of State and local government from Federal control by limiting Federal regulation to the part of a State or local entity that receives or distributes Federal assistance.

In all other respects, my proposal is identical to S. 557, including the provisions to ensure that this legislation does not impair protection for the lives of unborn children.

I urge that upon reconsidering S. 557 in light of my objections, you reject the bill and enact promptly in its place the Civil Rights Protection Act of 1988.

RONALD REAGAN.

THE WHITE HOUSE, *March 16, 1988.*

☐ 1615

The SPEAKER. The objections of the President will be spread at large upon the Journal.

The question is, Will the House, on reconsideration, pass the Senate bill, the objections of the President to the contrary notwithstanding?

The gentleman from California [Mr. HAWKINS] is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I wish to allocate, for debate only, 15 minutes to the minority of the Committee on

Education and Labor to be controlled by the gentleman from Vermont [Mr. JEFFORDS]; 15 minutes to the minority of the Committee on the Judiciary to be controlled by the gentleman from Wisconsin [Mr. SENSENBRENNER]; 15 minutes to the gentleman from California [Mr. EDWARDS] of the Committee on the Judiciary; and I reserve the remaining 15 minutes.

I further suggest, Mr. Speaker, that the Members mentioned alternate and each be recognized in turn, so that we would not use up exclusively each of the 15 minutes until the end. To commence the debate, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, 4 years ago a Supreme Court decision significantly narrowed the scope of four civil rights statutes, and under the so-called Grove City ruling the basic civil rights of women, minorities, the elderly and the disabled, have been threatened, denied, and ignored with no redress.

Mr. Speaker, I am frankly amazed at the holy war that has been going on by the moral majority. Is it not interesting that every religious Christian group that I know of, with the exception of the moral majority, supports the bill. We have the American Jewish Congress, the U.S. Catholic Conference of Bishops, the American Baptist Churches, the United Methodist Church, the Episcopal Church, the Evangelical Lutheran Church, the Presbyterian Church U.S.A., the National Association of Independent Colleges and Universities, which contains small religious colleges, and the list goes on and on.

There has been a sea of misinformation, Mr. Speaker, about this bill. To me, it is unbelievable that this could take place by a so-called Christian organization, but so be it. We will not set back the clock. We were not afraid of civil rights in 1964, when Congress passed the Civil Rights Act and barred discrimination based on race, color, or national origin. We were not afraid of civil rights in 1972 when Congress passed the education amendments and prohibited sex discrimination in educational programs or activities receiving Federal funds. We were not afraid of civil rights in 1973 and 1975 when Congress passed the Rehabilitation Act and the Age Discrimination Act to forbid discrimination against the handicapped and the elderly.

Mr. Speaker, I urge my colleagues to support the Civil Rights Restoration Act and override the President's veto.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I intend to vote to sustain the President's veto.

Mr. Speaker, from an intended course to try to correct Grove City, this body is headed toward Grave City. The unforeseen grave consequences of this piece of legislation no one can predict, and that is the main reason that we ought to have a second look at this legislation. No. 1, what consequences does that have, intended or unintended, for the mom-and-pop grocery store that deals in food stamps? What consequence does this bill hold for a religious institution whose tenets govern their educational program to a degree that this bill might change forever? What intended consequences are there in the realm of housing and other corporate ventures and business ventures and farm institutions around the country?

This is a program, if adopted in this piece of legislation, that will have so many—I repeat—unforeseen consequences that our generations yet to come will suffer the consequences of a system that will be so federally intruded that it would be indescribable.

Mr. EDWARDS of California. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, there are many millions of Americans out there who ask you to vote "aye," to override the sadly mistaken veto of President Reagan.

He has made a terrible mistake and I can only suggest that he received some very bad advice.

S. 557 is a good bill, a decent bill, a much needed bill.

The Supreme Court's unfortunate decision in 1984, allows organizations and people to accept taxpayers' money and to use that money to discriminate against minorities, women and girls, the handicapped and the aged.

The record made before the 98th, 99th, and 100th Congresses clearly demonstrates that discrimination in federally funded institutions is occurring at an accelerated pace. Since 1984, the Department of Education has closed or suspended 674 complaints.

The Grove City decision is affecting court decisions as well. In October 1987 the 11th Circuit Court of Appeals dismissed the Federal Government's complaint against Alabama's higher education system because the Government had failed to establish which programs and activities in the system received Federal funds.

Heaven knows how many thousands of complaints have not even been filed because the world is out that the right to be free from race, sex, handicap, and age discrimination in federally funded programs is no longer enforceable under these four laws.

Mr. Speaker, we are facing an epidemic of discrimination and the veto must be overridden.

The people who have phoned our offices asking us to sustain the veto have been cruelly frightened and shockingly misinformed. The moral majority is responsible for this smear campaign and they have not done their homework.

Mr. Speaker, except for the Danforth abortion amendment, which I find most repugnant, the bill is a simple restoration of the law as it was before February 1984. None of the fears and hysteria whipped up in support of this veto has any foundation whatsoever.

My colleagues, listen to scholarship and reason and not to the unfounded hysteria of the past week. Listen to the U.S. Catholic Conference of Bishops, the major Protestant churches and Jewish leaders; they all support the Civil Rights Restoration Act.

Vote "yes" to override. Vote yes for a decent, fair and equitable law.

Mr. HAWKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I hope the House is about to put into law a very basic principle, that people who voluntarily take Federal funds have an obligation to treat everybody else fairly, on their merits, and without regard to any particular prejudice.

There are two issues in particular I want to address. There has been some question about the position of the home builders indicative of the impact of this on the home building industry. One "Dear Colleague" letter listed the home builders in opposition. As a result of some conversations we have had, the home builders have sent a letter which I have sent to other people making it clear that they are now in favor of the bill. They had some questions. They have now been answered.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I will yield briefly to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I think the gentleman——

Mr. FRANK. Mr. Speaker, I said I would yield briefly.

Mr. SENSENBRENNER. I think the gentleman with this organization is showing that the membership is on one side and the executives are on the other side.

Mr. Speaker, I would like to ask unanimous consent to incorporate into the record the resolution by the membership.

Mr. FRANK. Mr. Speaker, I take back my time.

The SPEAKER. The gentleman from Massachusetts declines to yield further.

Mr. FRANK. Mr. Speaker, I do not yield further. The gentleman put out a "Dear Colleague" letter listing this organization in opposition. We have from the president of the organization a letter saying they are in favor of it. They had some questions and they have been answered.

Does that mean that every member is in favor of it? No, but the organization's official position is in favor of it.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield again?

Mr. FRANK. Mr. Speaker, the gentleman has plenty of time on his own. The time is very limited here and the gentleman controls the time period.

The point is that the Home Builders having raised those questions have been satisfied. They have written a letter and have urged us to tell people to support the bill.

The other issue that I was somewhat surprised to hear had to do with AIDS. I heard Jerry Falwell talking about how this bill would force people to hire those with AIDS and there was a lot of discussion about AIDS.

Then we got the President's substitute bill today, and lo and behold, in the President's substitute bill there was the identical language dealing with infectious diseases that we have in our bill.

Now, I look forward to reading the paper tomorrow to hear Jerry Falwell denouncing Ronald Reagan. That will be a very interesting contest.

But the Members ought to be very clear that the bill that Ronald Reagan has sent to us with regard to infectious diseases is word for word the bill that is before us, and it is word for word what was in the Senate bill; so those who have been hearing from the Moral Majority's objections about how this bill deals with infectious diseases, I suggest these members give them the White House answer. I think the answer ought to be, "Let Jerry Falwell and the President debate this, and you can take on the winner." There is no need to debate it simultaneously, because the objections they have to our bill, they must also have to the President's bill.

Now, I do not know how Ronald Reagan is going to explain this to Jerry Falwell, and I would like to be there when he does, but I probably will not be invited.

The relevant point is this. All our bill says with regard to infectious diseases that if you are through any health problem a direct threat to other people, you can be fired or be put in another place where you will not be a threat. We say that. The Senate says that. President Reagan says that. So all this discussion about being forced to hire people with AIDS, it may be a problem, but if it is, it is a problem with a bill that the President of the United States sent to us. Some people do not like that, but they will have to take that up with the President. I do not speak for him.

Mr. JEFFORDS. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, it is unfortunate, I believe, that we find ourselves here today. I wish that the President had not vetoed this bill. I believe it is incredibly important that we move forward and that we end the discrimination that has resulted because of the Grove City case.

For three consecutive Congresses now we have struggled to secure legislation overturning the 1984 Supreme Court's Grove City decision, and to make institutionwide the scope of coverage under four civil rights laws that ban discrimination in programs or activities receiving Federal money.

Before Grove City narrowed the reach of those civil rights protections, the courts generally had viewed coverage as institutionwide—which is clearly what Congress had in mind when the laws were written to begin with. Moreover, officials at the agencies with enforcement responsibilities testified that they had applied the laws institutionwide. So all we are really trying to do here is to return to an interpretation of the laws that existed before Grove City.

This vote today is the long-awaited culmination of what we began back in the 98th Congress, in 1984, when the House passed a civil rights restoration bill. Unfortunately, that bill eventually was tabled in the final days of the Senate's session. But in the very next Congress, we again took up the issue, and attempted to answer concerns that had been raised during Senate consideration the year before. We developed a bipartisan bill, which I introduced at the Education and Labor Committee markup in 1985. This time, however, the House never considered the bill, largely because it had become tangled in the highly emotional issue of abortion.

Today, we have before us a bill that essentially is identical to that bipartisan proposal I offered 3 years ago.

And the heart of the bill remains the same—to restore the simple concept in law that the public's money—taxpayers' money—should not and will not be used to support discriminatory practices.

The Federal Government gives money to a lot of people and organizations. When it hands out its checks, the Government has the right to attach conditions to the use of its money, of our money. One of the conditions we have attached is that you cannot discriminate if you take public money. You cannot discriminate against minorities, against women, against the handicapped or against the elderly. If someone wants to avoid being covered by the civil rights law, if they want to discriminate, then they have a clear choice. They do not have to take the public money, but as long as they do, they are bound by the civil rights laws of this Nation that protect against discrimination.

One of the major issues during the debate on this bill over the course of time that I have been involved since 1984 was abortion. Both bills are the same on abortion. They are abortion-neutral.

Another important issue is the religious tenets exemption for church-related colleges and universities subject to title IX. I won't deny that there may not be some problems with the religious tenets issue. With the Senate amendment, however, we have taken care of the title IX abortion regulations, which was the major area of concern for religiously affiliated colleges and universities. Moreover, our past experience with this bill indicates that the current religious tenets language just hasn't been a big problem. In fact, no college has ever been turned down. It's important to note that many religious organizations support this bill. And the National Association of Independent Colleges and Universities—which has been the main advocate of an expanded religious tenets amendment—urged the President not to veto this bill.

Another area that we have heard many complaints and phone calls about has to do with what happens if somebody comes in with AIDS. The bills are both identical on that question.

There have been a great deal of outrageous hypotheticals floating around concerning what this bill would and would not require. We've all gotten the calls, I'm sure, from callers claiming this bill would require you to hire drug-addicted, alcoholic transvestites with AIDS—that the bill is really a gay rights bill, not a civil rights bill. Those kind of claims are absolutely ridiculous. "Sex discrimination" in this bill, for the purposes of title IX, refers to gender, not sexual orientation. Neither this bill nor the four statutes it amends even mention the terms "homosexual" or "sexual orientation." And no Federal statute prohibits discrimination on the basis of homosexuality. If such a prohibition existed, there would be no need for the gay rights bills that have been introduced over the past several years.

The kind of ridiculous claims such as these that have been made about this Civil Rights Restoration bill are basically scare tactics—the kind of tactics we should pay no heed to. Those who have been alarmed by them, however, and who may be leaning toward sustaining the veto so that the President's alternative can be considered should take note: the President's bill does not address any of these allegations at all. If they truly represented real problems, I cannot believe that the President would have ignored them in his own 11th-hour proposal, or that the Senate would have ignored them today.

The reason why neither the President nor the Senate addressed these allegations is because that's all they are—allegations. They are not real problems.

So what are the differences between S. 557 and the President's alternative? What are the basic differences? The only difference in reality when you get down to it is one of religious tenets. I would admit I wish there were some different wording there and I fought for amendments on that in the past; but if you look at the practice, there is no problem. Everyone who asked for and who should logically have been given one, has been granted an exemption. That is why the Catholic Conference supports this bill. That is why we do not have a problem here.

Second, the only area where we really have a difference in these bills is the scope of coverage.

□ 1630

How much of the local government, how much of the State governments are put under the law? The President's alternative narrows the coverage.

Which are covered? Those agencies that receive the money, are they covered? Are they forced not to discriminate? Yes.

Then what is the difference in private enterprise? The only difference and distinction outside of the corporate field is with respect to grocery stores. Our bill says that they are not relieved from discrimination against the handicapped, and if there is a problem with architectural barriers, as long as they do something reasonable, that is all right. That is all that has to be done. The administration only exempts grocery stores. Otherwise the pharmacies and private sector is covered.

They narrow the scope with respect to corporate bodies.

We would cover all, at least those receiving Federal funds.

Mr. Speaker, the differences are very slim. There is no reason not to override.

The only real problem we are dealing with today is the problem of discrimination. Until 4 years ago, before Grove City intervened, our laws ensured that taxpayers' money could not be used to support discriminatory practices. By overriding the veto today, by overturning Grove City, we will restore that basic protection against discrimination in law.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Speaker, I strongly urge this body to vote to override this mistaken veto.

Mr. Speaker, I rise today in strong support of the Civil Rights Restoration Act. It is a vital piece of legislation that I have backed for 4 years. It was passed by the House and Senate by overwhelming bipartisan majorities. It has the support of some of the President's strongest allies in Congress. High ranking officials from the Nixon, Ford, Johnson, and Carter administrations support the bill. Nearly every religious denomination, countless civil rights groups, and civic organizations support this bill.

With all this bipartisan support, why did the President veto last Thursday? Good question. There isn't a good answer. His veto is the first veto of a civil rights bill in 120 years. I can only conclude that despite what he says, the President is not really concerned about stopping federally sponsored discrimination.

In the years since the Supreme Court's Grove City decision, I've watched its destructive impact with great sorrow. What took us so long to build—equal opportunity for all citizens and an end to Government condoned discrimination—was mangled by the Grove City wrecking ball. Now, instead of signing a 4-year-long bipartisan effort to undo the damage, the President has chosen to swing the demolition ball one more time into the wreckage of Grove City.

It is distressing to see the President fall so completely under the spell of the Jerry Falwells, whose public distortions of this bill are a travesty. In a last-ditch attempt to derail restoration of civil rights, Falwell's organization has put out a disinformation campaign unmatched by any other in recent memory.

Falwell has written a memo to pastors all across America saying that "churches and religious leaders could be forced to hire a practicing, active, homosexual drug addict with AIDS to be a teacher or youth pastor," if this bill becomes law.

This is unadulterated balderdash.

All this bill does is restore four major civil rights laws, some of which have been on the books for over 20 years. These laws were passed to make sure the Government stayed out of the business of racism. They were passed to give all citizens—women, minorities, the elderly, the disabled—an equal opportunity in all endeavors backed by the Federal Government. With the Grove City decision, Congress had to act to restore the original intent of these laws. That is what exactly, precisely, specifically what Congress has done. No more, no less.

I stated before, during House consideration of S. 557, that I am distressed by the Danforth language which was included in this act. Despite my serious opposition to this provision, I remain strongly committed to passage of this vital act.

And I'm confident that the American people, and the Congress, will not be deterred by the vocal distortions of a scared and intolerant minority. A minority which prefers to fan the flames of religious intolerance and bigotry rather than to promote the basic human democratic principles this country was founded on.

But I am greatly troubled by the number of phone calls I received last week urging me to support the President's veto of this bill. Many of my constituents called me with their concerns that this bill was "anti-family," "anti-church," and dangerous.

Most of them were responding to inaccurate inflammatory information given to them by the Moral Majority or by a television evangelist. They were honestly and seriously concerned. But they have been misled. They have been told outright lies. Some of them have taken the time to study this bill and sincerely oppose it. I regret that I find myself in disagreement with them. But others have merely responded to Jerry Falwell's false alarm. And to these people who have called me I want to say that I can't believe they really want me to cast a vote in favor of using Federal dollars to promote racism and discrimination against women and the disabled. I can believe that Jerry Falwell has managed to convince good people of something that is horribly untrue.

If this bill did any of the outrageous things its detractors say it does, how could it possibly have such broad bipartisan support? How could the leaders of the House and Senate—Democrat and Republican—back the bill? How could nearly every religious entity in the country support it?

How could the National Parent Teacher Association, the League of Women Voters, AFL-CIO, NAACP, the Evangelical Lutheran Church of America, the Presbyterian Church, the Episcopal Church, the United Methodist Church, Common Cause, Paralyzed Veterans of America, the American Bar Association, People for the American Way, the National Urban League, the National Association of Independent Colleges and Universities, the American Jewish Congress, the United States Catholic Conference, the American Civil Liberties Union, American Baptist Churches, the Children's Defense Fund, the National Easter Seal Society—and the list goes on and on—how could these fine organizations representing millions and millions of Americans from all walks of life support a bill that would force churches to hire drug addicts?

How? I'll tell you how. Because Jerry Falwell's claims are without foundation. They are not true. They are designed to enrage and fund-raise—not to assure an informed citizenry.

The Moral Majority can call ensuring that tax dollars are not used to discriminate, "the greatest threat to religious freedom and traditional moral values ever passed," if it wants to. I don't. I call it democracy.

My colleagues, I urge you to vote to override the President's veto of this act.

Mr. EDWARDS of California. Mr. Speaker, I yield 7 minutes to the gentleman from North Carolina [Mr. Hefner].

Mr. HEFNER. Mr. Speaker, I approach this legislation a little bit different from other Members. I have been a Baptist for some 42 years and for some 15 years I traveled these United States as a gospel singer in a gospel quartet. I guess I have been in more different churches, in more denominations than probably any Member that has ever sat in this House of Representatives, or most Members.

Mr. Speaker, it disturbs me, the information that has been going out to friends of mine that I have known for 25 years, I have been in their churches, I have been in their homes, I have eaten meals in their homes, broke bread with them, because people have called me and said, "Congressman, I cannot believe that you would vote for legislation that would mandate that our religious leaders would hire a practicing homosexual drug addict with AIDS to be a young pastor."

It is my belief that I have never done that.

Some of my friends have called me and said, "Congressman, I don't believe that you would vote for legislation that if a Social Security recipient got his Social Security check and went to his church and made a contribution to that church where he had belonged for all these years, that that church comes under the long arm of the Federal Government."

I do not believe I have done that.

I believe there has been so much misinformation about this bill that it saddens me that good people that work hard 5 days a week, go to their churches, and have been told that if they receive a disability check, a Social Security check, a veterans payment, or if they are on food stamps and they go to a little country grocery store and they take these food stamps that in this country store they would have to hire whoever came in to be an employee at that country store.

I do not believe that I have voted for that kind of legislation.

I do not believe the opponents of this believe all these things that I have been told that have been told to these people in my district and in districts in Oregon, in California, and Alabama.

Mr. Speaker, no job is worth it to me. Mr. Speaker, I have served in this body it will soon be for 14 years.

As I have said, I have traveled these United States singing gospel music for many, many years. I have suffered one heart attack. I will be 58 years old on the 11th of April. No job is important enough to me, no job is important to me to lie to the American people, and no bit of legislation is important enough for the American people or against the American people to put out falsehood under the name of religion to the American people.

I find it reprehensible not to those thousands of people that have made the phone calls, but reprehensible to the people that have instigated this misinformation.

I have got friends that I have known for 30 years and have gone to church with them, gone to conventions with them, done favors for them, helped them get Social Security checks to which they were entitled, helped them get veterans benefits, helped them with all sorts of problems that one could have and these same people say to me, "Congressman, I don't believe that you could vote to put us under the long arm of the Federal Government and cause us all these problems."

I do not believe that I have done that. I would not do that. But if it means that I lose my position in the U.S. House of Representatives, and that I have to cave in to false information and base my vote on what people believe to be true but which I know to be not true, I say to my colleagues this job is not worth that to me.

Mr. Speaker, there are other things that I can do. I do not believe that the American people knowing the truth would expect any of us here to cave in and give up our convictions for what we know to be right. I would not knowingly force any individual in my district or anybody else's district to do something that was against their religious convictions, and neither does this legislation.

Mr. Speaker, there may come a time when somebody would wind up with a practicing homosexual drug addict with AIDS in their employ, that might be a member of a church, but it will not be because of this legislation that we are voting on here today. I would just like to urge all the Members to look very closely based on what our convictions are. But I think it is reprehensible for people to put out so much misinformation to good, well-intentioned people that have put their trust in what these people are saying to them.

I do not blame the thousands of people that have called, because they are frightened. It is enough to frighten a pastor when he gets a letter that says that this is a gay rights bill that was slipped in on us during the Presidential primaries. It is enough to frighten anybody. I do not blame them for not listening to us when we say this does not do that, especially when people go on television and go into tirades that if they are a mom and pop operator of a grocery store and if they take food stamps, that they are going to have to hire a homosexual or a transvestite, or will have to hire a practicing homosexual drug addict with AIDS to be a youth pastor.

How ridiculous.

No job is important enough to me for me to compromise my principles in what I believe and I have read the bill over and over and over and over and I would urge the Members to vote to override this veto.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I say to my colleague from North Carolina [Mr. HEFNER] that I only hope that along with having read this bill that he will have read the Arline decision because combining the Arline decision of the U.S. Supreme Court of last year with this bill one gets the precise results that the gentleman says are not a part of this legislation.

Let us make no mistake about it. This bill is going to result in the claim being made that a church in America must hire a professing homosexual who has the virus for AIDS because the claim will be made under the Arline decision that such a person fits within the definition of a handicapped person as Congress developed that term in 1973, and the tragedy of the passage of this legislation through the House at this time is that we are not taking the opportunity of debating the issue, and offering of amendments to make sure that does not happen.

I say to my colleagues, I went to the Committee on Rules and I asked for an amendment to be made in order so that we could debate on the floor of the House that the adoption of this legislation and the Arline decision would not result in the definition of a handicapped person, including someone with a communicable disease.

In 1978 Congress by specific act said that we did not intend to include within that definition a person such as a drug addict or alcoholic. I submit it was never the intention of Congress to include within that definition somebody with a communicable disease and communicable disease includes many, for example in my State of California there are 58 on the list. If one has one of those communicable diseases under the Arline decision that person has a leg up on the system because they can come into court and say that they come within the protections of the handicapped act.

That is a part of this whole issue. It was never the intention of Congress to do that, but under the rules fashioned by our Democrat leadership we had 4 hours to debate this when it came up on the floor of the House. That is totally inadequate. The American people deserve a clear understanding of what this is. We need a specific amendment to say that we do not intend to have the definition of a handicapped person be a person with a communicable disease.

Mr. JEFFORDS. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank the gentleman from Vermont [Mr. JEFFORDS] for yielding me this time.

Mr. Speaker, on numerous occasions over the last several years lopsided votes have called for overturning the case of Grove City versus Bell, the latest of course being today's vote in the Senate of 73 to 24 to override the President's veto.

I would like to read a letter that is addressed to the gentleman from Vermont [Mr. JEFFORDS] from Terrel H. Bell, who was part of the proceedings that brought us to this matter in the Grove City case.

The letter says:

MARCH 21, 1988.

HON. JAMES JEFFORDS,
House Office Building, Washington, DC.

DEAR REPRESENTATIVE JEFFORDS: I am writing to urge you and your colleagues to vote to override the President's veto of the Civil Rights Restoration Act, which previously passed the House and Senate by strong bipartisan margins. The legislation necessarily restores coverage of civil rights laws to their original intent and purpose.

When I was Secretary of Education, we read the law broadly to assure equal educational opportunity. While I had not considered direct aid to a student under the Pell Grant program to be aid to an institution, we had for years considered an institution or school district obligated to comply with all the civil rights statutes if it received any federal assistance. We believed that if you take federal funds you must comply.

With the exception of a few small private institutions, there was broad acceptance and support of the civil rights laws to protect minorities, women, and the handicapped from discrimination. At the time I could see no reason to come forth with a new interpretation of these laws. It would cause strife and bitterness among those currently enjoying the protection of the civil rights laws.

It was clear to me then, as it is now, that the Department of Justice is determined to weaken civil rights enforcement in the nation's colleges and schools. Their position was, in my view, harmful to American education and potentially damaging to the rights of minorities who fought against discrimination.

It was a great disappointment to me when the Supreme Court handed down the decision in *Grove City College* v. *Bell*, affirming the Justice Department's position.

The Civil Rights Restoration Act is as much a Republican bill as a Democratic bill. As you know, thirteen high ranking government officials from the Johnson, Nixon, Ford, and Carter administrations have all testified in support of the legislation to overturn the Grove City decision.

I am grateful for your leadership in this effort and I hope the Congress will, at long last, reaffirm its commitment to civil rights by overriding the President's veto.

Sincerely yours,

TERREL H. BELL.

Mr. HAWKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, let me first salute my colleague the gentleman from North Carolina [Mr. HEFNER]. I have received literally hundreds of phone calls in my office on this issue and I am sure that he has received many more. It took a great deal of courage for him to make the statement that he made earlier.

Mr. Speaker, this issue had been crafted by opponents so that it is a magnet for the phobias of the right-wing in America. They have resorted to scare tactics in an effort to convince Congress to sustain the President's veto. Otherwise good, God-fearing people have been swept into a campaign to believe that this bill will somehow expand the rights of homosexuals, alcoholics, drug addicts, and persons with contagious diseases when in fact the record is clear that this bill does not expand any substantive rights in those areas.

The basic question which we face today in the House of Representatives is whether we are willing to sacrifice basic American protections against discrimination to allay the unfounded fears of both President Reagan and the moral majority.

This bill is sensible and reasonable and in the mainstream of American political thought. It says that as religious belief should not fall victim to our efforts to reverse Grove City, neither should it be a shield for bigotry in the name of God.

□ 1645

It is impossible for us to craft legislation which looks into the motives of a church or an individual practicing its religious beliefs. But we have crafted in this legislation a procedure and language which guarantees that religions will have an opportunity to make a good faith proof that they are in fact acting consistently with their religious beliefs.

I think that is not only harmonious with the American system, but it is a good thing for this country to move forward and out of the shadow of the Grove City decision. It is sad that religious leaders on the right would labor so hard to strike the very body of law which protects their congregations from religious discrimination, for without the protection of law, religious belief is a slender reed. In fact, there are those who would say it is a reed which can be destroyed or uprooted by shifts in the winds of public opinion.

If my colleagues will look to the congregations and religions which have endorsed our legislation today they would find a litany of those faiths which believe that there can be diversity in America and that this legislation poses no threat to those who practice religion. The groups include the U.S. Catholic Conference of Bishops, the American Jewish Congress, the American Baptist Churches, the Evangelical Lutheran Church of America, the Presbyterian Church of the U.S.A., the United Methodist Church, and the Episcopal Church.

Mr. Speaker, the choice before us is clear, and I would hope all of my colleagues would join me in overriding the veto of the President.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, every time this body considers civil rights legislation, and I know this only from history because unfortunately we have not considered too much in the last 7 years since I have been here, the same thing happens. A parade of horribles is trotted out: What if, the opponents say, what if this, what if that, what if the other.

Let me say to my colleagues who are wondering about these parades of horribles, these scare tactics that have emanated from all sorts of places, let us look at the real issue. We have tried long and hard in this country to eliminate discrimination. It is a difficult fight. It is a real fight. It is not a hypothetical thing out there. People face it every day.

Mr. Speaker, are we going to let bugaboos and hobgoblins scare us into making the progress that we know we must make in this country in order to fulfill our ideals under the Constitution? I say to my colleagues, this vote determines which side they are on.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, since we have only 15 minutes in which to debate this very important measure, I will rise in support of the President's bill.

Mr. Speaker, I rise in support of efforts to sustain the President's veto of S. 557, the Civil Rights Restoration Act, which is also known as the Grove City bill.

Because there are too many unanswered questions as to the effects of this legislation if enacted, I opposed its passage when it was before the full House of Representatives. Disagreement over what the bill will and will not do does not seem to me, or to my constituents, to be the makings of good legislation.

On face value, it would seem that a so-called Civil Rights Restoration Act should have the unanimous support of the Congress and the people. As we are all well aware, this is not the case. However, a reality of this legislation is that the jurisdiction of several Federal statutes could be vastly expanded to State and local governments, churches and synagogues, religious school systems, businesses, and other elements of the private sector.

Unfortunately, too many questions as to the effect of this legislation remain unanswered. Questions of which institutions will be mandated to comply and what exactly will be required are important questions that tug at the very essense of this proposal. Perhaps if hearings had been held in the House of Representatives during the current session of Congress, some of the important and troubling ambiguities could have been resolved.

I do not believe it is responsible policymaking to rush through legislation without adequate hearings and limited public knowledge. Therefore, I believe we should sustain the President's veto of this questionable bill. We should examine it more closely, along with the President's alternative bill, the Civil Rights Protection Act of 1988. Let's work to ensure that our Federal civil rights laws are adhered to in a manner that protects the rights of all Americans against discrimination while, at the same time, the tendency of the Federal Government to have overreaching powers is curtailed.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. SWINDALL].

Mr. SWINDALL. Mr. Speaker, those who argue in favor of this bill argue that it involves the issue of discrimination. In fact it does not. If it did, we would not be here debating today.

In fact, it involves exactly the same issue from which the bill derives its name: The Grove City issue. If my colleagues read the case, which is instructive, it says: "The undisputed fact is that Grove City does not discriminate and so far as the record in this case shows—never has discriminated against anyone on account of sex, race, or national origin. This case has nothing whatever to do with discrimination past or present."

What then does it have to do with? The case goes on to state exactly what it does have to do with. "Petitioner Grove City College is a private, coeducational, liberal arts college that has sought to preserve its institutional autonomy by consistently refusing State and Federal financial assistance. Grove City's desire to avoid Federal oversight has led to decline to participate, not only in direct institutional aid programs, but also in Federal student assistance programs. * * *

This case, this bill, is not about discrimination. It is about the rights of millions of Americans in churches and synagogues to be free from Federal intrusion.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. Bunning].

Mr. BUNNING. Mr. Speaker, I rise in opposition to this bill and in support of the President's veto.

I am for civil rights. I have no problem with the goals of this bill—to restore the pre-Grove City application of civil rights laws.

However, this bill is surrounded with so much ambiguity, so much controversy, and so much confusion that I cannot support it in its present form. And I believe the President has done the right thing in fixing his veto firmly on it.

We have a lot of private schools in the State of Kentucky and they are concerned about this legislation. They are concerned that they are going to be dragged under the full heavy net of Federal intervention, interference, and regulation.

Proponents of the bill say, "Don't worry, this bill won't hurt you. It is simply restoring the pre-Grove City status quo."

Quite a few religious organizations in my State are worried about this bill. They are concerned that if one of their programs or operations takes in a single Federal dollar that they too will fall under the sweeping regulation and paperwork puzzle of the Federal Government.

Proponents of this bill say, "Don't worry, this bill won't hurt you."

Small business in my district is concerned about this bill and concerned that if they take one food stamp or Federal contract that they will be deluged with red tape and lawsuits.

Proponents of the bill say, "Don't worry, this bill won't hurt you."

There are good many farmers in my district who are concerned about this bill. They are concerned that if they take a dollar in price supports or crop subsidies that they will be drawn under the broad network of compliance reviews, accessability requirements and other nightmares of Federal regulation.

The proponents of the bill say "Don't worry, this bill won't hurt you."

I don't know about the rest of you, but in my district when the Federal Government says, "Don't worry, we'll take care of you." That's when the people start sweating.

Wouldn't it be a little easier and a little safer, if we just stop where we are and take this bill back to the drawing board and clarify it?

The proponents of the bill says they simply want to restore things to the way they were before Grove City. Few, if any of us, oppose that goal. But so many people are concerned that this bill goes beyond that goal; so many people and organizations are concerned that this bill is a tremendous expansion of Federal intrusion into their lives and businesses, and churches and schools.

So many people share these concerns, that "don't worry" is not enough even if it is repeated 1,000 times.

We should sustain this veto, send the bill back to the drawing board and come back to the floor with a clean bill that clarifies what it does and does not do. This bill has become controversial because it is surrounded with so much ambiguity and so many contradictions. If we clear that ambiguity and confusion away, this bill will sail through with the blessing of virtually every American.

But passing this bill over the President's veto—in the face of the very real concerns of the thousands of people who are calling our offices every day—is not the way to further civil rights in this country.

I urge my colleagues to join me in supporting the President's veto of this bill. The people who have legitimate concerns with this bill have some rights, too.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. Henry.]

Mr. HENRY. Mr. Speaker, I rise in opposition to the bill and in support of the veto. I will try to speak very rationally and deliberately to the religious tenets issue alone, not to the issue as to how far ultimate beneficiary ought to be extended or even to how far the question of ultimate beneficiary in the Grove City fix is extended, but simply to the problem of the religious tenet language.

The issue for me, at any rate, Mr. Speaker, is not the issue of discrimination on race or handicap or sex or age, all of which obviously I am opposed to, and my record in any number of other issues clearly indicates that, but the issue of the bill, because of the way in which it is crafted, threatens the religious liberties and independence of religious organizations not only in the religious educational sphere but potentially because of the expansions in the bill, in the social services sector as well.

If we look at the current religious exemption language, we note that statutorily, and if you read carefully the President's language, educational institutions, for example, which are controlled by a religious body, are given legislative protection for when their religious commitments run into or clash with some of the goals of the other civil service civil rights issues. Rightly or wrongly, from our point of view, we have honored the freedom of religion.

The problem arises that due to the expansion encountered in this act and because of the changing way in which religious organizations are organized, organizations that are equally, if not more, religious in many instances than those directly controlled by denominations are not guaranteed the same protections under the law as those which are directly denominationally controlled.

The test has thus become the form of religious governance as a criterion of exemption rather than the religious character of the institution per se and the religious legitimacy of its claim for exemption under the act.

Because of this fact, Mr. Speaker, in 1986 we deliberately broadened the religious tenets exemption under the Higher Education Reauthorization Act. This is not new language.

When this bill was last before the House Education and Labor Committee, the committee voted 18 to 11 to broaden the religious tenets exemption to address this problem. The problem arose for many of us, Mr. Speaker, because the rule under which the bill was brought to the House unfortunately refused to allow us to address this issue without also entangling it in other attempts to narrow the scope and range of the Grove City restoration, and that is the problem.

The religious community, I should point out, is not opposed to religious tenets language. It is true the major religious and ecumenical organizations opposed any amendment which would derail or entangle the passage of the Civil Rights Restoration Act. However, none are opposed to independent and exclusive consideration of the religious tenet language.

The Catholic Conference, the American Jewish Conference, the National Council of Churches, as well as your fundamentalist and evangelical groups run from acceptance to active support for this language. Unfortunately, Mr. Speaker, we were not allowed to present the issue in such a way as to assure the protection of nondenominationally controlled organizations, be they educational or social service, and that is the concern for many of us.

The SPEAKER pro tempore (Mr. Panetta). The Chair will announce that the gentleman from Vermont [Mr. Jeffords] has 6 minutes remaining, the gentleman from Wisconsin [Mr. Sensenbrenner] has 10 minutes remaining, the gentleman from California [Mr. Hawkins] has 7 minutes remaining, and the gentleman from

California [Mr. EDWARDS] has 7 minutes remaining.

Mr. HAWKINS. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I would like to engage a member of the committee in a colloquy concerning a certain question that I have, and the question is: Does tax exempt status constitute "Federal financial assistance" or any other "benefit" so as to bring a recipient institution under the coverage of this act? For example, would a private religious school with tax exempt status be covered by this act?

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, the answer is "No." Tax exemption in and of itself will not trigger that, and as the gentleman would note, under our first amendment, we have restrictions on helping directly religious organizations.

If a simple tax exemption were considered a form of Federal financial assistance, Madeline Mary O'Hara would have been in and out of court all the time. A simple tax exemption does not trigger any obligation under this act whatsoever. So a school which gets no Federal financial assistance in any way and simply has a tax exemption is not covered at all.

Mr. HARRIS. I thank the gentleman for his response.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Speaker, today each of us faces a difficult choice: Should we vote for a bill because it has an attractive title and worthy goals? Or should we support the President's veto of that bill because it is ambiguous; its scope is ill-defined; and it may therefore vastly and unnecessarily expand Government powers.

This choice is not one of whether we are for civil rights or against civil rights—almost every Member of this body is committed to the rights set out in the four statutes amended by this bill. The question is much more complex and the issues more intricate.

While I embrace the goals of the Civil Rights Restoration Act, I cannot overlook the troublesome questions raised by the statutory language contained in this measure. We can do a better job of legislating. The definition we tried to give the bill through committee reports and floor debate should be part of the statutory language of this bill—we should not leave the job half finished.

The uncertainty about the impact of this legislation on churches, small businesses, and farmers should be eliminated before the measure is enacted into law.

First, the treatment of churches in this legislation should be revised. There is general agreement that entire churches, synagogues, and other religious institutions will be covered by the civil rights laws if this bill is enacted. This is true, even if only a single program operated by the church receives Federal funds. For instance, if a church operates a homeless shelter which receives Federal assistance, not only will the shelter operations be subject to the civil rights laws and regulations, but every aspect of the church will have to comply with these regulations. There is also some uncertainty on the extent of coverage of a diocese if an individual parish participates in a Federal program. We have assurances that only the parish will be covered, but the statutory language itself is unclear.

Thus, this is potentially a great expansion of Government into the free exercise of religion. Congress has traditionally been reluctant to entangle the Government with religion, but this bill compromises this longstanding principle, because the issue has not been fully explored by this body.

An effort was made to partly address this problem as it relates to title IX. A clarification of the religious tenet exemption to reflect the current environment would at a minimum ensure that institutions closely identified with religious institutions would not be forced to comply with a regulation which was in direct conflict with their religious principles. But proponents of this bill did not support this amendment, clearing indicating their desire to place Government civil rights laws above religious freedom in this country.

Second, the impact on small businesses causes concern. Corporation-wide coverage is triggered by this bill. This is an expansion of the scope of the civil rights laws beyond their pre-Grove City status. Moreover, this coverage brings with it several burdens, which will be particularly troublesome for small businesses. These include increased Federal paperwork; compliance with Federal regulations; exposure to Federal bureaucratic on-site compliance reviews; and adherence to accessibility requirements under section 504.

Third and finally, the impact of the bill on farmers is uncertain. While assurances have been made that this bill will not trigger coverage of farmers, the language itself is vague enough to generate doubts, and conflicting interpretations of the statutory language have been advanced. These conflicting readings of the bill should be put to rest by clear statutory language before the bill is enacted.

Before extensively expanding the authority and reach of Government, we, acting on behalf of the people, should clarify precisely the limits of that new Government power. We have assurances from the proponents of the bill that many of these problems are not real, but it would be more meaningful if those assurances were in the statutory language contained in the bill itself.

That is why I am voting to sustain the President's veto—to give this Congress an opportunity to do a better job. And I sincerely hope that, if the veto is sustained, the proponents of this legislation will continue to work for a civil rights bill that can be supported by this body and by the President.

Mr. JEFFORDS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, I rise in support of the Civil Rights Restoration Act.

This legislation demands and deserves a reasoned, measured, and thoughtful deliberation in Congress and across the United States.

Civil rights legislation must not be reduced to a discussion or deliberation based on inaccuracies and misunderstandings.

Therefore, we should assess this legislation and discuss what it does and what it does not do with respect to basic fundamental rights and freedoms for all Americans.

What does the Civil Rights Restoration Act do?

First, it prohibits discrimination on the basis of age, prohibits discrimination against the elderly.

Second, this legislation bars discrimination against the disabled, the handicapped.

Third, this measure forbids gender-based discrimination in the work force.

Fourth, this legislation just says no to discrimination against black Americans, just says no to discrimination based on race, color, creed, or national origin.

Also, let me emphasize an important aspect of this bill: The inclusion of the Danforth amendment, a provision which makes this act abortion neutral.

Now, let us examine what the Civil Rights Restoration Act does not do.

First, this legislation does not require, force, mandate, or dictate the hiring practices of employers.

Second, this measure is not a gay rights bill. This legislation is not directed toward sexual preference. Additionally, the Humphrey-Harkin amendment provides that anyone with a contagious disease or an infectious disease is not covered by this act. Why? Well, because of potential public health risks involved and the potential danger to others.

Third, this legislation does not cover or include farmers receiving government payments or food stamp recipients or Social Security beneficiaries. Why? Well, because section 7 of the

Civil Rights Restoration Act excludes ultimate beneficiaries from coverage.

Fourth, certain exemptions are included in this legislation to ease economic burdens on small businesses throughout America.

Fifth, the legislation does not intrude upon religious freedoms, which are the very foundation of this land. Religious freedom, religious independence, a hallmark of the United States—which reflect our basic values and character as a people—are protected by this legislation.

In conclusion, we, as a people, must be for equal opportunity and freedom in America. We, as a people, must be for equal protection under the laws in America. We, as a people, must be for equal treatment in America.

With this civil rights bill we are saying:

In America, we will not permit gender based discrimination.

In America, we will forbid discrimination based on your age, forbid discrimination because you may be a senior citizen.

In America, we will prohibit discrimination on the basis of a handicap or disability.

And, in America, we will not tolerate discrimination on the basis of your creed, race, national origin or the color of your skin.

□ 1700

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, I rise as an original cosponsor of this legislation to urge my colleagues to vote to pass this bill, notwithstanding the action of the President of the United States.

The debate we have heard today is the debate, as previous speakers have indicated, that has occurred on this floor before.

There is always a time to insure the extension of civil rights tomorrow.

The previous speaker, I think, was absolutely correct, and I will not repeat his judgments because I agree with them, as to what this bill does and does not do. But I want to say to all my colleagues, all 434 of you, like the rollcalls of 1964 or 1965 or on other times when this House was called to express its opinion on guaranteeing the rights that our Constitution so eloquently stated were the people's of the Untied States, this vote will be looked at in years to come.

I urge all of my colleagues to remember that this is an historical vote for the rights of all Americans.

Mr. Speaker, on March 2, 1988, the House overwhelmingly passed S. 557, the Civil Rights Restoration Act of 1987. Following the example of the Senate, the House demonstrated the commitment of the 100th Congress to ensuring full civil rights for all Americans.

I am proud to have been an original cosponsor of the House version, H.R. 1214, also designed to overturn the narrow and restrictive application of some of the Nation's most important civil rights laws. In 1984, the Supreme court in Grove City College versus Bell reversed the existing interpretation—an interpretation that had evolved over 20 years of struggle for civil rights for all Americans—that Federal anti-discrimination laws applied to an entire institution if any program within that institution received Federal assistance.

The Congress, in originally enacting these civil rights measures, intended a broad interpretation, prohibiting discrimination on the basis of race, sex, religion, age, or handicap, in any organization that received Federal aid. With the Supreme Court's Grove City decision, only the particular program or activity that received Federal aid had to comply with these laws.

Our Nation has made tremendous strides toward eliminating discrimination. Unfortunately, our work is far from finished. The House of Representatives, composed of the elected spokesmen and spokeswomen of the American people, has an opportunity to show unequivocally and clearly that we will not tolerate discrimination.

It is unfortunate that we must take this action. A New York Times editorial stated yesterday, "Ronald Reagan appears determined to go down in history as a President who sought actively to set back the cause of civil rights." The President's veto of the fundamental bill is an embarrassment.

Today, a vote to override the President's veto of S. 557 is a signal that we support the idea of equal protection under the law for every American. Let us remember the words of the Reverend Martin Luther King, Jr., who on August 28, 1963, speaking before the Lincoln Memorial, said, "[e]ven though we must face the difficulties of today and tomorrow, I still have a dream. It is a dream deeply rooted in the American dream that one day this Nation will rise up and live out the true meaning of its creed—we hold these truths to be self-evident, that all men are created equal."

Mr. JEFFORDS. Mr. Speaker, I yield 1 minute to the gentlewoman from Rhode Island [Miss SCHNEIDER].

Miss SCHNEIDER. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of overriding the veto.

Let me share with my colleagues that the comments that have already been made in the previous last two speakers I will not bother to reiterate, but I would like to share with my colleagues a letter that was written by Secretary Bell urging us and our colleagues to vote to override the President's veto of the Civil Rights Restoration Act.

To quote from the letter he says:

> When I was Secretary of Education, we read the law broadly to assure equal educational opportunity. While I had not considered direct aid to a student under the Pell Grant Program to be aid to an institution, we had for years considered an institution or school district obligated to comply with all the civil rights statutes. It was clear to me then as it is now that the Department of Justice is determined to weaken Civil Rights enforcement in the nation's colleges and schools.

Let me add that our only route of opportunity is to provide equal access to educational opportunities not only for all women but for all minorities, the handicapped and regardless of age.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I rise today in strong opposition to S. 557, the Civil Rights Restoration Act. The title of this bill is extremely misleading—instead of restoring civil rights, it actually trespasses on the civil rights of countless schools, churches, farms, businesses, and others. By incorporating broad and vague language, this bill subjects nearly every facet of American life to needless and detrimental Federal intrusion.

The list of those who will be adversely affected is vast; just to name a few, our churches, corner grocery stores, religious institutions, farmers, possibly even Girl Scouts and Boy Scouts will be subjected to unwarranted Federal paperwork.

The need for this sweeping intrusion has not been documented. Businesses, individuals, and religious entities will be—for the first time—subject in their entirety to extensive Federal regulation for no proven, documented reason.

And what about one of our founding principles, the principle of federalism—this legislation, S. 557, clearly violates the separation of Federal, State, and local jurisdictions by vastly expanding the scope of State and local coverage.

In conclusion, I strongly urge my colleagues to sustain President Reagan's veto and reject S. 557. It is in the best interest of the United States to protect the civil rights of the many, not promote the liberal agenda of a few special interest groups. I enclose two relevant and worthy articles that I invite my colleagues to read:

STATEMENT BY REV. CLEVELAND SPARROW, PRESS CONFERENCE AT THE NATIONAL PRESS CLUB, WASHINGTON, DC, FEBRUARY 22, 1988

I am Rev. Cleveland Sparrow, the President of the National Black Coalition for Traditional Values.

My organization publicly declares war on the so-called Civil Rights Restoration Act. We also believe these actions are a direct assault on black traditional values for church and family. The legislation is a racist attempt by special interest groups to further erode and infringe upon the gains and accomplishments won by the civil rights movement.

It was not so long ago that the racist Jim Crow laws determined where black people could eat, whom they could marry and whether they could exercise their rights as citizens to vote.

It took many people of strong convictions to repeal those laws and to begin the work of fulfilling the American dream for black Americans.

The freedom writers of the 1960s boarded buses so that no person would be told to sit in the back of one. Seemingly, black America's struggle for civil rights is a victim of its own successes. More and more groups want to get on our civil rights bus and carpetbag upon the work of our movement.

The drive to make civil rights mean everything except rights for black people has reached its peak in the 9th U.S. Circuit Court of Appeals where a three judge panel on that court equated the homosexual rights movement with the black struggle.

The day that decision was announced, I began hearing from black people all over America. Their verdict was unanimous. They were disgusted and revolted that federal judges consider homosexuals just like black people.

We all agree that this decision endangers the entire basis of our civil rights law and our nation's moral health as well.

We feel that homosexual perversion is a matter of choice and therefore should not be subject to the same constitutional protection as racial minorities.

That decision tied with the passage of the so-called Civil Rights Restoration Act will destroy the meaning of civil rights that my black brothers and sisters went to jail for and some even died for.

Affirmative action requires that some folks be given preference over others. What happens when a white male claims to be a homosexual after he is passed over for a black candidate?

The civil rights struggle was a moral struggle which remedied a moral wrong. No civil rights measure is worthy of the name if it forces good people to accept what they believe to be immoral behavior by others.

The Civil Rights Restoration Act is nothing of the kind. It is simply a racist attempt by militant radicals to don black face so they can exploit the gains that my people fought and died for.

Thank you.

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Resting on the President's desk is legislation mandating the most sweeping expansion of federal power in the Reagan era. It is a measure of the loss of faith in President Reagan's revolution that half the GOP is begging him to sign.

"I implore you to sign this bill," Sen. Rudy Boschwitz, R-Minn., has written the President.

Under the Civil Rights Restoration Act, as this monster has been christened to frighten timid Republicans, #1 in federal aid, directly or indirectly, to any institution bring the entire institution under federal control. Virtually everyone, from the Girl Scouts to the community college would henceforth be fair game.

If, for example, one welfare recipient in Paducah, Ky., used her food stamps once, at a suburban Safeway, Washington would have the same authority to mandate racial quotas at that Safeway as it now has at General Motors. If a tiny Christian college in South Carolina fired a teacher for being drunk, setting a bad example for students, that teacher would have the right to sue for discrimination.

The underlying premise of this bill is that America is a bigoted sexist society whose institutions need monitoring by big Government to prevent their mistreatment of women, blacks, gays, Indians, handicapped, elderly, disabled, etc. Without constant supervision, we apparently are incapable of behaving as good men and women.

The bill is truly a Trojan Horse through which the social agenda rejected in 1980 and 1984 is to be smuggled into the books and imposed upon the nation. If the President's veto is overridden, feminists, gay rights activists and the Black Caucus will have successfully reversed the election returns. America's institutions will be hit with a hurricane of lawsuits, and the number of bureaucrats making inspections of our private schools, foundations, firms and factories would take a quantum leap.

Over two decades, Americans have seen the once-hallowed term "civil rights" perverted. Historic laws, enacted to end discrimination, have been twisted by activist judges to require quotas. Laws to protect the handicapped have been twisted to require employers to indulge the most outrageous behavior.

Millions of Americans still regard drunkenness, drug abuse and homosexuality as immoral conduct, manifestations of grave character flaws. Yet, courts are ruling that people have no control over their proclivities, that to deny alcoholics, addicts and gays jobs and housing is irrational discrimination.

This bill represents a wholesale reversal of what Reagan came to Washington to accomplish, i.e., to roll back government and restore power to the people.

Once again, Congress is transferring vast power to our unelected rulers in the federal bureaucracy. Once again, Congress is writing a law with such verve, disputed terms as "handicapped," "diseased" and "civil rights," leaving it to the courts to determine what those terms mean. Is it a handicap to be a transvestite, is it a functional disorder; or is it simply a chosen lifestyle? We will not know the answer until some federal judge has told us, and tells us how henceforth we must behave.

Historically, the Republican Party has seen its role as sheltering the free society from the dictation of that ancient anatagonist of human freedom, government controlled by ideologues anxious to re-shape society to conform to their image of the world.

Yet, half the Republican Party voted for this bill, and party leaders are imploring the President to sign. Why? Because nothing so terrifies a moderate Republican as the charge he is insufficiently progressive on civil rights.

A veto would have a "dangerous downside," Frank Fahrenkopf, party chairman, warns the President our critics will charge us with being "not interested in equal opportunity."

Well, Frank, if the GOP lacks the courage and capacity to sustain the President, and defend itself in public against the noisemakers and special interests clamoring for this bill that tramples under Republican principle, explain to us why the party is even worth worrying about this November.

Mr. JEFFORDS. Mr. Speaker, I yield 1 minute to the gentlewoman from Maine [Ms. SNOWE.]

Mrs. SNOWE. Mr. Speaker, I rise in support of the motion to override the Presidential veto of S. 557.

Regretfully, the President has sent this legislation back to Congress with the message that the Civil Restoration Act broadens the coverage of the Federal discrimination laws as it relates to private enterprise. That simply is not the case.

The Civil Rights Restoration Act does not change who is covered by the discrimination laws, not does it change what kind of discrimination is prohibited. In fact, the legislation actually narrows the scope of the laws prior to 1984, in the instance of private organizations not engaged in public services. Coverage of this type of business will only relate to the program that receives Federal funds, unlike the corporatewide coverage assumed before 1984.

I also must say that I am appalled at the misinformation being circulated by the Moral Majority and other groups. For example, there have been outrageous statements made about contagious disease.

In fact, this provision, which has been law since 1973, prohibits discrimination in instances of contagious disease, unless the disease poses a direct threat to the health and safety of others. I want to point out to my colleagues that the President has included this exact language in his proposal.

Today we have the opportunity to restore the full force of our discrimination laws. Without this legislation, many women, minorities, elderly, and handicapped are denied access to employment and education opportunities. The fact is, any institution which denies such access should in turn be denied Federal assistance.

Therefore, this legislation must be passed, ensuring that tax dollars do not in any way support discriminatory actions.

I urge you to vote to override the President's veto.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WORTLEY].

Mr. WORTLEY. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, on March 2, I voted in favor of S. 557, the Civil Rights Restoration Act, because I have a deep commitment to civil rights in our country. I was—and remain—in favor of overturning the Grove City decision and the continued execution of our four civil rights statutes.

However, since that March 2 vote, I have had additional time to further review the significance and ramifications of the provisions of this legislation. In consideration of what I have learned from Justice Department officials, the President's staunch rejection, and—most importantly—measuring the wishes of church leaders, school officials, small business owners, and farmers in my district, I will vote in favor of the President's alternative and to sustain his veto of S. 557. I sincerely believe that S. 557 would not just overturn the Grove City decision, but that it would expand on existing statutes to appoint of excessive, costly, and liberty-threatening Government involvement in our daily lives.

I repeat my support for the President's alternative to this Federal intrusion act, because it would work to uphold civil rights in our country while keeping bureaucrats out of the lives of farmers, small businessmen, and religious leaders.

I am particularly interested in just how individual rights will be affected if this supposed restoration legislation is voted into law. I sincerely believe that the citizens of our Nation will be better protected from Government intrusion by the President's alternative, while at the same time not jeopardizing the civil rights of women, the aged, minorities, and the disabled.

To call this legislation a simple restoration of previous civil rights laws is just short of insulting. In reality, this bill is a significant expansion. I am afraid that we are now using the good intentions of congressional Members to give the Federal Government the green light in intrusive regulation and oversight of churches, schools, small businesses, farms, and other organizations. Restoration in this case is simply shorthand for expansion.

Mr. Speaker, the Civil Rights Restoration Act would propel the Federal Government into situations where it should not be. For example, those groups in the United States with unique religious lineages would be subject to discrimination clauses that conflict with deeply held benefits. As far as I know, the freedom of religion is still a right protected by the U.S. Constitution. Why, then, should schools which are distinctly associated with religious tenets be subject to litigation because they refuse to take action contrary to those tenants? They could then be forced to hire someone who is not inclined to support the very tenets that the school is based upon. You see, this is just one area where the Governments should not be.

This is why I support the President's alternative to the religious tenet question. The President's proposal bolsters our constitutional rights in the area of religious freedom. This is another example of why the President's alternative is indeed superior.

Let's look at just one area that would be covered by expanded discrimination clauses under this legislation: grocery stores. Were grocery stores covered prior to the Grove City decision? No. The Justice Department informs me that grocery stores and supermarkets that participated in the food-stamp program were not simply by virtue of their participation in that program subject to the four civil rights laws. Will they be covered under S. 557? The answer seems to be yes. I, along with many of my colleagues, would appreciate it if the sponsors of this legislation would stop misleading the public by saying it is merely a restoration when it is actually a power grab for the Federal Government.

Speaking from personal experience, my father owned a corner pharmacy in Tully, NY, a typical mom-and-pop operation. I ask myself how he would have reacted to the possibility of being accused of discrimination simply because he could not afford to install wheelchair ramps, lower shelves, and adjust counters. It would surely be excessive to force a small-business owner to renovate his entire store just to curtail the chance of discrimination lawsuit. But this is exactly what this legislation seems to require. Ultimately, and ironically, the reaction of small mom-and-pop stores will be to withdraw from participation in Federal food-stamp and Medicaid programs because of the costs, administrative burdens, and legal liabilities that participation would impose. And who would be the ultimate losers in this type of situation? It will be those who rely on mom-and-pop stores for their food-stamp and Medicaid purchases. This certainly isn't my idea of civil rights.

Mr. Speaker, let us also look at the effect this would have on our already overburdened judicial system. This bill would not merely encourage, but would exacerbate excessive litigation. As we all know, the business community already faces an explosive growth in litigation. S. 557 would undoubtedly create multitudes of new plaintiffs to add to our current liability crisis. Litigation shopping would be a very real possibility. In short, the legal profession would have a heyday while our judicial system would be even further overwhelmed with lawsuits.

Mr. Speaker, I implore my colleagues to contemplate the adverse effects this legislation—as currently drafted—would have on our legal system, our business community, our farmers, our schools, our churches, and our individual daily lives. I am hopeful that we indeed have the foresight to support the President's alternative and to sustain the President's veto.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman for yielding time to me.

Mr. Speaker, proponents and opponents of this bill share the belief that religious liberty is the cornerstone of our democracy, and that separation of church and state is the foundation of our freedom.

The Civil Rights Restoration Act in no way compromises our shared beliefs.

This bill does not require the hiring of homosexuals. Nowhere does it address the issue of sexual preference.

It does not require an employer to hire or retain an alcoholic, a drug addict, or someone with AIDS if that person poses a threat to the health or safety of others, or cannot perform their job.

It does not infringe upon the rights of farmers, or recipients of Social Security benefits, food stamps, or Medicaid. These groups are clearly exempt.

This bill does honor our shared committment to the separation of church and state by exempting religious-controlled institutions from the civil rights laws if those laws conflict with the tenets of that religion.

Mr. Speaker, in 1964 President Reagan called the Civil Rights Act bad legislation; in 1967 President Reagan opposed the Fair Housing Act.

Regrettably, he was wrong in 1964, he was wrong in 1967, and he was wrong in vetoing the Civil Rights Restoration Act. This bill strengthens our civil rights while protecting our religious liberties.

I urge my colleagues to vote to override the President's veto.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in support of the override.

Mr. Speaker, I rise today to voice my support for the Civil Rights Restoration Act and to urge my colleagues to vote to override the President's veto. As you know, this legislation was introduced in response to the Supreme Court's 1984 decision in the case of Grove City College versus Bell. In that decision the Court reversed a long standing position of the law as it relates to discrimination.

In this Nation, there is no right unless there is a remedy. Civil rights have been established by laws enacted by the Congress and signed by the President over the last three decades. Title IV relates to discrimination in education, title XI prohibits discrimination on the basis of sex, section 504 of the Rehabilitation Act relates to discrimination of the handicapped and the Age Discrimination Act prohibits discrimination based on age. These laws make clear that discrimination is not only wrong, but that the Federal Government will not subsidize discrimination through Federal funds.

For over 20 years, agencies enforced these laws through the ability to terminate Federal aid to institutions when deliberate discrimination is proven. This is based on the legally supported premise that any institution that accepts or tolerates discrimination in any of its programs should be subject to the loss of all Federal funds. This Court, however, has severely limited that enforcement power with the Grove City decision. The Court ruled that an institution can essentially discriminate in one activity and still not be subject to loss of funds to the rest of the institution. For example, a school could discriminate against blacks in sports and still retain its Federal research funds. By allowing the school to continue to receive large amounts of Federal funds, the Government would in effect be subsidizing discrimination in direct contravention of the civil rights laws.

The purpose of this bill is to correct that situation and restore the law to its previous method of enforcement. The Senate approved the bill 75 to 14. The House followed with a vote of 315 to 98. The final bill was a careful compromise to ensure that the bill did no more and no less than restore the law as it stood prior to the Supreme Court decision. The groups endorsing its passage include: U.S. Catholic Conference of Bishops; American Jewish Committee; National Council of Churches; Church of the Brethren; American Jewish Congress; Presbyterian Church USA; American Baptist Churches; Church Women United; Evangelical Lutheran Church of America; Network-National Catholic Justice Lobby; Union of American Hebrew Congregations; United Methodist Church; Episcopal Church; and Anti-Defamation League of B'nai B'rith.

Unfortunately, a large lobbying effort of phone calls and letters is being waged in support of the President's veto on the Civil Rights Restoration Act. The concerns and arguments presented by these opponents of the civil rights legislation are frankly totally unfounded. I think it is important that we examine these arguments before casting our votes today.

First, one of the underlying concerns raised by opponents is the fear of increased Government intervention in religious and educational activities. As you know, many churches have already voiced their support for this legislation because they understand that the bill does maintain current protections enjoyed by religious groups. Specifically, title IX presently exempts "an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization." Passage of the legislation will not expand this coverage. It will merely make clear the congressional intent of the original law.

Second and more specifically, concern has been raised about the hiring of homosexuals. At no time have title IX or any of the other statutes affected by this legislation been interpreted by the courts as providing civil rights protection on the basis of sexual preference. As S. 557/H.R. 1214 is a restorative measure, no expansion of coverage will occur.

A related concern is the protection of individuals with contagious diseases, including AIDS. Clearly, this is a question that will continue to be a source of great controversy in our country. However, passage of the Civil Rights Restoration Act will not expand the protection of individuals with contagious diseases beyond the scope of exisitng law. Section 504 of the Rehabilitation Act of 1973 provides that, "* * * an employer is free to refuse to hire or fire any employee who poses a direct threat to the health or safety of others or who cannot perform the essential functions of the job is no reasonable accommodation can remove the threat to the safety of others or enable the person to perform the essential functions of the job." These decisons must be made on a case-by-case basis. The same provision applies to educational institutions.

Section 504 also addresses the question of protection for alcoholics and drug addicts. The courts have consistently interpreted section 504 to enable employers to refuse to hire or fire alcoholics and drug addicts if they cannot perform the essential functions of the job. Again, the Civil Rights Restoration Act will not expand the scope of coverage for alcoholics, drug addicts or individuals with contagious diseases protected under section 504 of the Rehabilitation Act.

Passage of this legislation today will ensure that those institutions found to discriminate on the basis or race, color, national origin, sex, handicap, or age do not receive Federal financial assistance. As former head of the Office of Civil Rights at the Department of Health, Education and Welfare, I have firsthand knowledge of the leverage the Federal Government can bring to bear against discrimination by using the tool of funding termination. Strong and effective civil rights enforcement is essential if our shared commitment to equal rights and equal opportunity for all our citizens is to have any meaning.

My main concern is that the original intent of the law be restored and in the process that full civil rights enforcement become possible. We cannot allow institutions which receive Federal funding to use the Grove City decision as a means to discriminate. Our country is built on the premise that all individuals are created equal. By allowing the 1984 Supreme Court decision to stand we are condoning discrimination at a national level. This is totally inconsistent with the efforts our country has made to ensure that civil rights are enjoyed by all. We have just finished celebrating Black History Month and the Bicentennial of our Constitution. This is the ideal time to pass the Civil Rights Restoration as a signal to all Americans that the Federal Government will not permit discrimination on the basis of race, sex, age, or handicap.

We cannot ignore the responsibility that we have to insure all the people of the United States have equal access to an education, health care, social services, and employment and are not denied these things because of their sex, age, race, or handicap. it is imperative that we restore the power of funding termination to the Federal funding agencies to insure that civil rights laws are enforced. I urge my colleagues to vote to override the President's veto on the Civil Rights Restoration Act today. With its enactment, those responsible for enforcing the Nation's civil rights laws will once again have the full force of the law behind them.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in favor of the veto override.

Mr. Speaker, as a sponsor of the House's Civil Rights Restoration Act, H.R. 1214, I was pleased to vote for passage of S. 557 on March 2 and am pleased to vote to override the Presidential veto today. The House of Representatives seized the opportunity from the start, acting in the 99th Congress, responding to the terrible gap in Federal civil rights enforcement that has plagued our Nation since the 1984 Supreme Court decision in Grove City College against Bell. But the then-G.O.P. Senate failed to act. An overwhelming vote today, which will reverse this court decision, is necessary to restore the national policy of preventing Federal funding of discrimination experienced by minorities, disabled persons, women, and older Americans within institutions which receive Federal funds.

In the past, Congress has made commitments to such fundamental civil rights by enacting laws prohibiting discrimination on the basis of race, sex, age or handicap. President Reagan and Vice President BUSH are wrong to turn away and shun 40 years of national commitment and progress in civil rights. This administration in turning the clock back on antidiscrimination efforts and policy with this ill timed veto. Congress must act to save civil rights by overriding this veto and reaffirming yet again, our never-ending commitment to "form a more perfect union."

Despite the misinformation campaign waged against this legislation, the United States is back on the road to effective and meaningful implementation of our Federal antidiscrimination policies. The bill we have passed here today, does not redefine what constitutes Federal funding, nor does it redefine the recipients of such funds. The Civil Rights Restoration Act will not change the interpretation of sex discrimination based on gender to that of sexual preference. It does not require churches or other places of potential employment to hire substance abusers or an individual with AIDS who may pose a threat to the safety of others or who may not otherwise be qualified for the job. I regret that those who disagree with civil rights progress have sought to use such questionable tactics of fear to sustain this veto. This legislation, importantly, does continue to provide that institutions "controlled by a religious organization" are exempt from these laws if compliance would conflict with the tenets of their religion.

Mr. Speaker, our current civil rights laws since 1984 have been more bark than bite. Today, we will restore meaningful enforcement of the good intentions of our civil rights laws. Congress can once again make good on our Nation's commitment to enforce antidiscrimination laws on an institutionwide basis rather than the narrow, almost meaningless, program-only interpretation prescribed by the Grove City decision. The House of Representative's override of this Reagan veto of the Civil Rights Restoration Act should restore our legislative objectives and stop the mockery and hollow promises that the court's interpretation has made of the basic laws and values of our great Nation. President Reagan and Vice President BUSH are wrong. The party of Abraham Lincoln is not well served by such venial criticism and the comfort provided to those who make civil rights the adversary of religious freedom. Let us act today to dash such political ghosts and protect both these important freedoms that our Nation cherishes.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, I rise in support of the override of the President's veto.

Mr. Speaker, I rise to add my support to override President Reagan's veto of the Civil Rights Restoration Act.

The Civil Rights Restoration Act, S. 557 passed the House by a vote of 315 to 98 on March 2, 1988. The other body adopted the legislation on January 28, 1988, 75 to 14. Today the other body voted to override President Reagan's veto 73 to 24. We must act now to override his veto.

On March 16, President Reagan vetoed this bill, claiming the legislation would "vastly and unjustifiably expand the power of the Federal Government over the affairs of private organizations such as churches and synagogues, farms, businesses, State, and local governments."

The Civil Rights Restoration Act would overturn the 1984 Supreme Court decision that dramatically reduced the scope of the four Federal antidiscrimination laws and held that the protections of these laws only affects the specific "program or activity" that receives Federal funding. The bill simply restates Congress' original intent and reaffirms that federally assisted organizations must prohibit discrimination against women, minorities, the elderly, and disabled individuals throughout the institution. The Federal Government should not subsidize discrimination.

There is widespread misunderstanding about precisely what this legislation would accomplish. The Civil Rights Restoration Act, applies only to institutions that have received Federal funding.

The administration has offered a counter proposal similar to alternatives already overwhelmingly rejected by both the House and Senate. The administration proposal would exempt federally assisted educational institutions that are "closely-identified with religious organizations and would restrict application of the antidiscrimination laws to the program or activity receiving Federal assistance for churches and synagogues. In addition, this counterproposal would limit the coverage of the antidiscrimination laws for corporations, businesses, and local governments.

The Civil Rights Restoration Act respects the "wall of separation" between government and religion. The act does not change the religious exemption now in effect in title IX of the 1972 Education Amendments and title VII of the 1964 Civil Rights Act. It is important to recognize that federally funded institutions controlled by a religious organization are not required to comply with the regulations if the application of these statutes would not be consistent with the organization's religious tenets.

In effect, the Civil Rights Restoration Act will restore antidiscrimination laws to their pre-Grove City status. The act makes clear that any institution which has applied for and receives Federal funding, if found to discriminate in violation of title IX of the 1972 Education Amendments, section 504 of the 1973 Rehabilitation Act—which protects the rights of the disabled—the 1964 Civil Rights Act, or the 1975 Age Discrimination Act—loses all funding that supports the discriminatory programs. This act upholds the basic freedoms guaranteed to all people by the Constitution.

The 11th hour attack by Rev. Jerry Falwell of the Moral Majority is replete with misinformation. One of the statements is:

> (o)ur churches and religious leaders could be forced to hire a practicing active homosexual drug addict with AIDS to be preacher or youth pastor * * *

Nothing in these bills nor any of the other statutes have ever been interpreted by the courts to provide protections on the basis of sexual preference, and so on, Reverend Falwell's statement is wrong.

As you may know, I am strongly opposed to discrimination on the basis of race, color, national origin, age, sex, or physical disability. I am an original cosponsor of the Civil Rights Restoration Act in the House, H.R. 1214. I voted in favor of this legislation when it was considered by the Committee on Education and Labor. I voted in favor of this legislation when it was considered on the floor of the House. I will vote to override President Reagan's veto and urge that my colleagues also vote to override this veto.

Mr. LEVINE of California. Mr. Speaker, I rise in strong support of the Civil Rights Restoration Act. I am proud to have been an original cosponsor of this and to have been closely involved in this bill since its inception. I urge my colleagues to join me in voting to overturn the President's veto.

We are here to reaffirm the civil rights of millions of Americans. The importance of this legislation in guaranteeing the civil rights cannot be over estimated. The Civil Rights restoration Act ensures that tax revenues generated from the entire population will not be used to benefit some and to discriminate against other members of our society.

A number of claims have been made about what this legislation is or does. This bill restores the original intent of Congress in the coverage of the four key laws which protect the rights of minority groups, ethnic groups, women, the elderly, and disabled. This legislation does not broaden these original four laws in any way. Additionally, this legislation does not place unfair burdens on religious groups. Religious groups may apply to be exempted from coverage, and in the history of these laws, no application has been refused.

What this bill will do is ensure the principle of "simple justice" John Kennedy advocated—that Federal tax dollars are not used by institutions which discriminate.

We are here today reaffirming some of the most important civil rights legislation passed in the last quarter century. I am proud to be part of this historical vote today, and I urge my colleagues to override this veto.

The SPEAKER. The Chair will state that the gentleman from Vermont [Mr. JEFFORDS] has 3 minutes remaining; the gentleman from Wisconsin [Mr. SENSENBRENNER] has 8 minutes remaining; the gentleman from California [Mr. HAWKINS] has 4 minutes remaining; and the gentleman from California [Mr. EDWARDS] has 6 minutes remaining.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to overriding the President's veto.

Mr. Speaker, like many of my colleagues, both my district and Washington offices have received hundreds of calls to sustain the President's veto of the Grove City bill. My offices have tallied at least 666 calls. I welcome the opportunity to do my part to ensure that civil rights are not threatened under the guise of restoration by voting to sustain the President's veto.

Unquestionably, we all abhor acts that discriminate against another individual for reasons of race, sex, color, religion, national origin, age, or handicap. However, I believe that this bill, H.R. 1214, would extend its enforcement authority far beyond the proper scope of the Federal Government. If passed, the language of the bill makes it clear that the Government would have the authority to supervise, intervene into and regulate virtually every entity in this country.

I support the President's veto of Grove City because it trespasses upon the civil rights of our churches, schools, farms, and businesses, and restricts much of the good many of the institutions are able to do in helping our Government attend to those in need. The President's veto signals his concern over the religious and economic implications of this bill. Imagine the ironies involved here: A church which accepts federally subsidized cheese for its soup kitchen is susceptible to a Federal investigation. Not only is this an intrusion, but it also wastes time that could be better spent feeding people. The grocer who accepts food stamps for those customers who need them would also be susceptible to a Federal investigation.

Civil rights and the freedom to exercise them represent the great freedom that identifies and motivates our country. My vote to sustain the President's veto is cast in the spirit of this freedom.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER. The gentleman from Wisconsin is recognized for 8 minutes.

Mr. SENSENBRENNER. Mr. Speaker, the question before the House is whether to pass a well-drafted civil rights bill offered by the President or one that is not well-drafted. If you support a better drafted civil rights bill, sustain the veto and support the effort to make the President's bill law.

The President's bill is better drafted because it better effectuates the intent of the proponents while avoiding unintended consequences. For example, the proponents state that their purpose is simply "restoration"—that is, to restore the scope of four major civil rights laws as they existed before the infamous Grove City decision by the Supreme Court. However, the bill calls for corporationwide coverage of five areas of business while the rest of the private sector gets single plant or entity coverage. This disparate coverage of the private coverage is new. This was not the law prior to Grove City. Two weeks ago on the House floor, I asked my good friend and a man I deeply respect, the gentleman from California [Mr. EDWARDS] a proponent of this bill, whether the bill's private sector coverage was pre-Grove City law. I asked him three times and he never answered my question.

In addition, the President's alternative better effectuates the intent of the proponents because it codifies many of the colloquys. The two gentlemen from California [Messrs. HAWKINS and EDWARDS] have both said that the bill is not meant to cover farmers, grocers, and those parts of churches that are not extended Federal assistance. The President's bill merely states these exemptions as opposed to leaving those questions to the courts. Neither Mr. HAWKINS nor Mr. EDWARDS have explained why it is so disagreeable to put those exemptions in the language of the bill.

I know some Members have been offended by statements made by the

Moral Majority. I hope these Members are equally offended by unfortunate comments made by Ralph Neas, executive director of the Leadership Conference on Civil Rights. Ralph Neas in this morning's New York Times says without any explanation that the President's bill would subsidize discrimination. That statement is inaccurate and unfair.

The President's bill represents a moderate, compromise proposal. It is very different from the administration proposal, H.R. 1881. The President's bill is the same as S. 557 except it includes a religious tenets amendment, a corporate coverage amendment, and codifies exemptions mentioned in colloquys. It is similar to the Sensenbrenner substitute. When I offered by substitute on the floor, I challenged the proponents to cite any form of discrimination that would be sanctioned by inclusion of a religious tenets and corporate coverage amendment. To this moment, I have not heard a response.

The religious tenets exemption addresses the same issue in the Jeffords amendment that was passed in the House Education and Labor Committee in 1985. Was the gentleman from Vermont [Mr. JEFFORDS] a racist or sexist for offering that amendment to a bill he cosponsored? Of course not. The religious tenets amendment uses virtually verbatim the same language that the 99th Congress approved nearly unanimously in the Higher Education Act of 1986. Was the 99th Congress racist or sexist? Of course not.

The corporate coverage amendment while not using the same language addresses the same issue of an amendment offered by the gentleman from New York [Mr. FISH] in the Judiciary Committee in 1985. Would anybody in their right mind suggest that Mr. FISH, the lead sponsor of the Grove City bill, would undercut it with this amendment? Would anyone dare suggest that the distinguished and highly respected vice chairman of the Judiciary was not acting responsibly in offering this amendment?

My friends, I ask you, can a civil rights bill that is the same as S. 557 except that it includes two amendments that address the same issues offered by two cosponsors of the bill as well as codifying exemptions intended by the drafters be seriously called anticivil rights? What discrimination is being subsidized? I challenge the proponents to tell us how the President's bill is "anticivil rights." I suggest there is no response because the President's bill is a responsible package. Sustain the veto and I will demand that the President's bill be both brought up immediately and passed. The President will sign it and we can overrule Grove City.

The proponents' actions speak louder than words. In this Congress, they railroaded this bill without hearings, markups, or committee reports. The bill was passed under a closed restrictive rule that did not allow any freestanding amendments to be voted on. The opposition only got 7½ out of the 60 minutes of general debate on the bill. There were so many questions about the bill, numerous colloquys were made on the floor in an attempt to clarify the intent of the bill. There were so many of them some could not be done during the general debate time and so were done during the rules debate. Moreover, this bill was held up for 3 years by the proponents over the issue of abortion neutrality. They claimed all through that time that the abortion neutral amendment would kill the bill. Subsequent events should show what kind of credibility some proponents have on assessing amendments. The proponents talk about Moral Majority but won't talk about the questions in this bill.

There is nothing shameful about subjecting civil rights legislation to a little bit of the legislative process. It's time to change the terms of debate on civil rights in America. It is not Martin Luther King versus Bull Connor anymore. It is not homosexuals versus racists. It is destructive to insist on passing vague civil rights bill which will be misconstrued by courts. We can do better than this. Let's be constructive. I want to work with the gentlemen from California [Messrs. HAWKINS and EDWARDS] to pass a good civil rights bill. Let's change the terms so we can have reasoned debate. Sustain the veto and support the President's civil rights bill.

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Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Speaker, I rise in strong support of the President's veto and against more Federal regulation as it relates to our churches, our universities, and the lives of our people.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to our distinguished Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, today I am introducing President Reagan's civil rights bill, as outlined in his message to the Senate on March 16.

I believe his bill advances the protection of civil rights and does so in a way consistent not only with previous civil rights laws, but with the processes of effective and orderly government and the procedures of the House.

Let me say a few words preliminarily, in order to put in perspective the current debate over what has been called the Grove City Civil Rights Restoration Act, which passed the House and Senate and has been returned unsigned by the President, and to place before our colleagues my own views—and my own record—on civil rights legislation.

In voting to sustain the President's veto, I do so convinced that my vote is consistent with a pro-civil-rights voting record going all the way back to the historic legislation of 1964.

I voted for passage of the Civil Rights Act of 1964, a bill to enforce the right to vote and to prevent discrimination in access to public accommodations and other areas. This was unquestionably one of the most important pieces of civil rights legislation ever passed in the United States.

In 1965 I voted for the Voting Rights Act, an equally important bill guaranteeing the unencumbered right to vote for all Americans.

In 1967 I voted for passage of the Open Housing Act providing additional protection against interference with persons exercising their civil rights, and then voted to accept the Senate amendments to the bill.

In the same year I voted for the Aged Discrimination Act of 1967 to prohibit employers, employment agencies and labor organizations from discriminating against workers or potential workers between age 40 and 65 because of their age.

I voted for the Vocational Rehabilitation Act of 1973 which included section 504 protecting the rights of the handicapped.

In 1981, I voted for the voting rights extension to extend key enforcement provisions of the 1965 act.

And in 1984 I voted for H.R. 5490, to clarify that prior civil rights legislation covers an entire institution if any program receives Federal assistance. In short, I voted for the 1984 version of the Grove City civil rights legislation.

I believe the voting record I have achieved on civil rights speaks for itself. I supported the landmark legislation, the very foundation of all subsequent civil rights legislation back in the 1960's. These are among the votes in my 32 years of congressional service of which I am most proud.

I was there for civil rights in the beginning, voting for the laws that would help transform this Nation. I was there for civil rights, voting for other important civil rights legislaltion, in the years afterward.

I stress this record not only because of my pride in helping to pass such laws, but because I believe that record is at the heart of my views of the importance of civil rights to all Americans.

With all of this as background, let me now address the reasons I am introducing the President's Civil Rights Protection Act of 1988.

I agree that the Supreme Court's interpretation of the scope of Federal civil rights laws in the 1984 Grove City case was too narrow. That is why I support restoration of Federal civil rights laws to original congressional intent, and sponsored legislation to this effect back in 1984.

The 1984 Grove City bill came after we had gone through the processes and procedures, the hearings and the testimony, absolutely necessary for the formation and passage of legislation, of any kind.

But, as I said during the debate on the rule of the Civil Rights Restoration Act of 1988, those same procedures and processes were simply ignored in bringing a Senate-passed bill to the floor. We in the House simply took the Senate bill and were given 2 hours to debate it.

Four years is too long a time to let pass without debating, once again, the long-range implications of what we are doing, particularly in civil rights legislation. The additional thought and study that has been injected into the process since 1984 was ignored.

Issues this important, and the people benefiting from this type of legislation, deserve serious consideration by the Congress. But S. 557 got no hearings, only one hour of debate and no legislative history.

There is no way for Members of Congress or the American people to know what S. 557 does. Obviously there are a lot of interpretations and opinions. Because the bill is so poorly drafted, we won't know the real impact of this bill until Federal courts decide what it means. This will lead to the courts, in effect, legislating a state of affairs that always leads to trouble.

Leave any ambiguities to the courts we are told. But that approach is abandoning our duties.

Because of unclear language, S. 557 may require any farmer who accepts Federal funds, via any Federal loan guarantee or any other Federal program, to comply with all Federal age, sex, race, and handicap discrimination laws. We simply don't know what will happen.

The same thing would apply to small grocery stores or supermarkets which accept food stamps, companies which accept job training funds, businesses which construct or operate subsidized housing or religious schools which in any way receive Federal funds.

If these entities decide to reject any association with Federal funds rather than be subject to a heavy-handed Federal bureaucracy, the real losers would be the very people this bill purports to help. Minorities might not be able to use food stamps in stores of their choice or receive job training assistance from reputable companies, or find decent housing.

I feel we have a duty to clarify exactly who is covered, and under what circumstances. That is why I have introduced the President's alternative proposal which better provides such clarification.

The motivations of those who support S. 557 are noble. But even the highest of motivation cannot make up for a lack of legislative clarity.

That is why I am glad to be able to offer a positive, forward-looking piece of legislation that meets all the essential requirements of a civil rights bill and offers us the chance to do this thing in the spirit and within the same processes as the historic civil rights legislation of the past.

I can do no better than to quote the President as to why his bill is the more acceptable of the alternatives offered to us:

He said: "Our bill advances the protection of civil rights. It would:

"Prohibit discrimination against women, minorities, persons with disabilities, and the elderly across the board in public school districts, public systems of higher education, systems of vocational education, and private educational institutions which receive any Federal aid.

"Extend the application of the civil rights statutes to entire businesses which receive Federal aid as a whole and to the entire plant or facility receiving Federal aid in every other instance.

"Prohibit discrimination in all of the federally funded programs of departments and agencies of State and local governments."

I believe the President's bill does what must be done, but does so in a way that solves more problems than it creates.

I am proud to be able to introduce legislation which is in the spirit of those great, historic civil rights bills I have voted on throughout the years.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. McEWEN].

Mr. McEWEN. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of the President's veto.

Mr. Speaker, since the House vote 2 weeks ago on the Civil Rights Restoration Act, our offices in Washington and Ohio have been flooded with calls.

Our constituents are concerned that the bill passed by the House does more than simply restore individual rights threatened by the Supreme Court's Grove City decision in 1984.

Citizens have expressed their fears that this new legislation will impact on our churches, schools with a religious affiliation, farmers, and small business owners to name but a few.

Mr. Speaker, last week I asked the Justice Department to respond to some of these concerns and today I would like to share these answers.

I received a letter Monday from Mr. Mark R. Disler, Deputy Assistant Attorney General at the U.S. Department of Justice's Civil Rights Division.

Pursuant to your request, I am enclosing some information that expresses our concerns about S. 557, the Civil Rights Restoration Act of 1987. In our view, the bill is far more than a simple restoration of the scope of the statutes it amends.

Specifically, I am enclosing for your review a list of just some of the flaws in S. 557, together with more detailed explanations of some of those concerns.

Included with the letter from the Justice Department was a 2-page listing of "flaws" in the legislation we passed 2 weeks ago. Some of these are alarming. Let me share them with you.

The Civil Rights Restoration Act represents a vast expansion of Federal power over State and local governments and the private sector, including churches and synagogues, farmers, businesses, voluntary associations, and private and religious schools. The expansion goes well beyond the scope of power exercised by the Federal Government before Grove City. Without being exhaustive, some examples are:

An entire church or synagogue will be covered under at least three of these statutes if it operates one federally assisted program or activity.

Every school in a religious school system will be covered in its entirety if one school within the school system receives even $1 of Federal financial assistance.

Grocery stores and supermarkets participating in the Food Stamp Program will be subject to coverage solely by virtue of their participation in that program.

Farmers receiving crop subsidies, price supports, or similar Federal support will be subject to coverage.

Every division, plant, facility, store, and subsidiary of a corporation or other private organization principally engaged in the business of providing education, health care, housing, social services, or parks or recreation will be covered in their entirety whenever one portion of one division, plant, facility, store, or subsidiary, receives any Federal aid.

Thus, if one program at one nursing home or hospital in a chain receives Federal aid, not only is the entire nursing home or hospital covered, but all other nursing homes or hospitals in the chain are automatically covered in their entirety even if they don't receive Federal aid.

Further, if the tenant of one unit in one apartment building owned by an entity principally engaged in providing housing receives Federal housing aid, not only is the entire apartment building covered, but all other apartment buildings, all other housing operations, all other nonhousing businesses of the owner are covered even though they receive no direct or even indirect Federal aid.

The entire plant or separate facility of all other corporations and private organizations not principally engaged in one of the five specified activities would be covered if one portion of, or one program at, the plant or facility receives any Federal aid. This includes all other plants or facilities in the same locality as the facility which receives Federal aid for one of its programs.

A private, national social service organization will be covered in its entirety, together with all of its local chapters, councils, or lodges, if one local chapter, council, or lodge receives any Federal financial assistance.

A State, county, or local government department or agency will be covered in its entirety, whenever one of its programs receives Federal aid. Thus, if a State health clinic is built with Federal funds in San Diego, CA, not only is the clinic covered, but all activities of the State's health department in all parts of the State are also covered.

All of the commercial, non-educational activities or a school, college, or university, including rental of commercial office space and housing to those other than students or faculty, as well as investment and endowment policies, will be covered if the institution receives even $1 of Federal education assistance.

A vague, catch-all provision creates additional coverage.

As a consequence, more sectors of American society will be burdened with:

Increased Federal paperwork requirements;

The need to consult with certain advocacy groups, and to maintain a record of such consultations for a period of years;

Random on-site compliance reviews by Federal agencies even in the absence of an allegation of discrimination;

Thousands of words of Federal regulations;

Costly section 504 accessibility regulations that can require structural and equipment modifications, job restructuring, modifications of work schedules, and provision of auxiliary aids;

The need to adhere to an equality-of-result rather than equality-of-opportunity standards that can lead to quotas, proportionality, and other Federal intrusions;

The need to attempt to accommodate contagious persons—employees, students, members, participants, customers—including those with AIDS;

The requirement of providing auxiliary aids for hearing-impaired and vision-impaired persons if necessary for them to participate in the programs or activities of the covered entity;

The requirement of adopting "Grievance procedures that incorporate appropriate due process standards;"

There will be increased exposure to costly private lawsuits that will inevitably seek the most expansive interpretation of the already overbroad language of the bill;

And, of course, there will be increased exposure to the judgments of Federal courts.

But what does all this mean to the average farmer or grocery store owner or university president or rabbi, priest, minister?

Well, grocery stores, for example, will be covered under this bill for the first time—despite the fact that in most instances their only contact with Federal assistance is the acceptance of food stamps—and even though not one word of testimony in 4 years of debate on Grove City has suggested that there is any problem with grocery stores.

In fact, the National Grocers Association, just one of many national organizations opposed to this burdensome bill—and I will get to some of the others in just a minute—the National Grocers Association testified on March 27, 1985, before a joint committee hearing in the House that their members' profit margin is about 1 penny on the dollar.

It's not difficult to understand what will happen to that profit margin should grocers be subject to the Federal paperwork, reporting requirements, inspections, auxiliary aids, and the rest called for in this bill. Should a grocer be subject to a lawsuit because of this legislation—that slim margin of profit would go right down the drain.

And the grocers are not alone.

Yesterday, during its annual Washington meeting, the National Association of Home Builders joined the growing outcry against the Civil Rights Restoration Act.

The NAHB resolution reads as follows:

Whereas the National Association of Home Builders will continue to support and work for responsible civil rights and fair housing legislation; and

Whereas, the House and Senate have recently passed legislation which is intended to expand civil rights coverage under the Supreme Court's decision in the Grove City case; and

Whereas, the scope of legislation is very broad and ambiguous and the Congress has invited the courts to decide the exact scope on a case-by-case basis; and

Whereas, there was no opportunity to amend the legislation and more clearly define the scope and intent of the legislation; and

Whereas, the debate over the bill in the House of Representatives left unanswered the degree to which existing buildings will be retrofitted if involved with FHA loans, VA loans, or other federally guaranteed loans to individuals, corporations, or partnerships that are used to purchase, or build, single or multifamily housing; and

Whereas, this legislation could result in substantial expense and tenant disruption by requiring existing buildings to be retrofitted for handicapped accessibility; and

Whereas, the President has announced his intent to veto this legislation: Now, therefore, be it

Resolved, That the National Association of Home Builders work in sustaining the veto of the legislation and work with the President and the Congress to devise and implement responsible legislation that addresses the special needs of the handicapped that is not ambiguous nor has the unintended consequences of the current legislation.

The Home Builders joined the National Association of Realtors which had previously expressed its reservations to this bill. I will not read their letter to the Judiciary Committee, but I would like to insert it at this point for the RECORD:

NATIONAL ASSOCIATION OF REALTORS,
Washington, DC, February 24, 1988.

Hon. JAMES SENSENBRENNER,
Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, House of Representatives, Washington, DC.

DEAR CONGRESSMAN SENSENBRENNER: We are writing to express the concerns of the National Association of Realtors with the substance of the Civil Rights Restoration Act of 1987 which will soon be before the House of Representatives.

We oppose those provisions that would apply Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975 to the entire operations of a corporation, partnership or sole proprietorship that is principally engaged in the housing industry if the entity receives any federal assistance. It appears from this proposed legislation that if a single tenant received a federal rent subsidy in one apartment building owned by a corporation primarily engaged in property management, then not only would all housing operations of the corporation be covered by the Rehabilitation Act and the Age Discrimination Act, but all nonhousing activities of the corporation would also be covered. Thus, this Bill does not merely "restore" the coverage of these Acts to their *pre-Grove City* scope. This Bill is an extension of federal authority far beyond what was ever intended by Congress when the Rehabilitation Act or the Age Discrimination Act were originally adopted.

We also believe that the definition of a "handicapped individual" contained in Section 504 of the Rehabilitation Act of 1973 is totally unworkable in the housing industry. A "handicapped individual" under Section 504 means any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment. This definition apparently includes persons with contagious diseases, mental illness, or an addiction to alcohol or drugs. Owners and managers of private residential property are not equipped to provide the special services persons with such conditions undoubtedly require. Nor are owners and managers capable of making the medical or psychiatric judgments that are necessary to determine whether such persons may pose a threat to the health and safety of existing occupants of a dwelling. In our view, the protection against housing discrimination that should properly be afforded to handicapped persons should be limited to persons with obvious forms of physical handicap such as blindness, deafness, or an inability to walk or live without assistance.

We appreciate the opportunity to present our concerns relevant to the Civil Rights Restoration Act of 1987.

Sincerely,

WILLIAM D. NORTH,
Executive Vice President.

Proponents of this legislation, including our good friends at the Washington Post, insist that the bill exempts farmers.

Unfortunately, they've yet to convince the American Farm Bureau Federation of that. Today the Farm Bureau sent a letter urging Members of Congress to sustain the President's veto because no agricultural exemption exists in the bill in its present form.

Last March, Mr. C.W. Fields, assistant director of the American Farm Bureau Federation's National Affairs Division, testified before the Senate Labor Committee to voice objections to the bill.

I will insert his entire testimony at this point, but I just wanted to highlight a few of his comments:

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE SENATE LABOR COMMITTEE REGARDING S. 557—CIVIL RIGHTS RESTORATION ACT OF 1987

(By C.H. Fields)

The American Farm Bureau Federation is the nation's largest farm organization with a current voluntary membership in excess of 3.5 million member families who have paid annual dues to nearly 2,800 county Farm Bureaus in 49 states and Puerto Rico.

Last January, the voting delegates of the member State Farm Bureaus reaffirmed a policy opposed to any legislation that would expand the scope of the existing civil rights statutes to cover those who have not been previously subject to them. The nations' family farms are already struggling for their continued existence as economic entities, and are overburdened with a myriad of federal regulations affecting employment on farms and many other phases of their operations. They should not be threatened with coverage by additional statutory and regulatory requirements in the area of discrimination and civil rights, particularly when such coverage was never intended by the original sponsors of the original statutes and when there is no need for such coverage.

No group of people in this country has a stronger belief in the fundamental principles of freedom, liberty and justice embodied in our nation's basic charter than this nations' farmers and ranchers. We have long believed that unnecessary and unwarranted expansion of the power and responsibility of the federal government constitutes a serious threat to the fundamental principles upon which this nation was founded and prospered among the nations of the world.

We are mindful of the fact that some 750,000 farmers and ranchers are employers. Any statute or regulation affecting employment practices could have an impact on agricultural employers with regard to sex, age or handicap requirements. Several thousand farmers throughout the country operate roadside markets and other direct markets to consumers. The Department of Agriculture administers a number of programs involving federal payments or other assistance to farmers and ranchers. The broad and sometimes vague language in this bill raises serious questions as to what impact anti-discrimination regulations would have on such benefits as loan guarantees, commodity loans, deficiency payments, disaster payments, price supports, conservation cost-sharing, etc.

Supporters of the bill state that Section 7 provides a "rule of construction" which, in effect, exempts farmers as ultimate beneficiaries of federal aid.

We find that statement unpersuasive because:

1. There is no indication in the bill as to which persons or entities are defined as ultimate beneficiaries and under which aid programs. We are not sure it includes businesses, such as farms and ranches.

2. Farms appear to be clearly covered by subparagraph (3) of each operative section because farms are business entities or private organizations, or both under this bill.

3. Even if Section 7 is constructed to exclude coverage of farmers as ultimate beneficiaries before enactment of S. 557, any farm-aid programs adopted after enactment of S. 557 would not be excluded from coverage.

It might also be erroneously argued that Section 4(c) exempts farmers from coverage under the Act. We point out, however, that this language applies only to discrimination against handicapped persons under Section 504 and does not reduce compliance burdens under Title VI or age discrimination. Even under Section 504, only some farmers will benefit from this exemption. USDA Section 504 regulations define "small providers" as entities "with fewer than 15 employees." Somewhere between 50,000 and 100,000 farms employ more than 14 persons. Further, even the "small providers" are exempted only from the most onerous of Section 504 regulatory burdens, such as making structural alterations to existing facilities—and only "if alternative means . . . are available."

The small operations would still be subject to many onerous requirements, including paperwork requirements, requirements to consult with disabled groups and make a record of such consultations; extensive employment regulations; and a requirement to "take appropriate steps" to guarantee that communications with hearing and vision-impaired applicants, employees, and customers can be understood.

To the extent that S. 557 extends the basic principle that the term "program or activity" means all of the operations of the "entire corporation, partnership, private organization, or sole proprietorship," farms may well fall within the scope of that definition in several ways. For example, a subsidy to one commodity on a farm would subject the entire entity to regulation. A farm of contiguous fields could be deemed a "geographically separate facility," and thus covered in its entirety. Additionally, farming could be construed as providing a "social service" to consumers.

Farm Bureau is not opposed to a bill that simply provides coverage under the Civil Rights statutes the same as it was before the Grove City College decision; but our analysis of this bill leads us to the conclusion that it seeks to go much further than that. We believe it would result in a broad expansion of coverage under the Civil Rights statutes, including farmers who were never covered before.

For that reason we are opposed to S. 557 as introduced. We favor, instead, a bill such as the one introduced by Senators Dole and Hatch in the last Congress and which we understood will be introduced in both Houses of this Congress. We hope this Committee will give careful consideration to the concerns we have expressed.

We appreciate the opportunity to present our views.

First, Mr. Fields says, "supporters of the bill state that section 7 provides a rule of construction" which, in effect, exempts farmers as ultimate beneficiaries of Federal aid.

We find that statement to be unpersuasive because:

First, there is no indication in the bill as to which persons or entities are defined as ultimate beneficiaries and under which aid programs. We are not sure it includes businesses, such as farms and ranches.

Second, farms appear to be clearly covered by subparagraph (3) of each operative section because farms are business entities or private organizatons, or both under this bill.

Third even if section 7 is constructed to exclude coverage of farmers as ultimate beneficiaries before enactment of S. 557, any farm-aid programs adopted after enactment would not be excluded from coverage.

Mr. Fields makes a powerful argument on behalf of the more than 3.5 million member families who have voluntarily joined the Farm Bureau. So while the Washington Post and certain Members of the House and the other body may maintain farmer exemption—farmers remain opposed to the bill and are unsure of its consequences.

Of course, the home builders, realtors, grocers and Farm Bureau are not alone. They are joined by:

The National Black Coalition for Traditional Values.

The National Family Institute.

The National Association of Manufacturers.

The American Pharmaceutical Association.

The U.S. Chamber of Commerce.

The Committee to Protect the Family.

Concerned Women of America.

Intercessors for America.

The Catholic Center.

The Ad Hoc Committee of Life.

The American Association of Christian Schools.

The American Conservative Union.

Citizens for Educational Freedom.

Coalitions for America.

The Family Research Council.

Focus on the Family.

The National Committee of Catholic Layman.

Association of Christian Schools International.

The Christian Action Council.

Moral Majority Inc.

The Catholic League for Religious and Civil Rights.

At this point, I would like to insert some of their comments as well:

NATIONAL FAMILY INSTITUTE,
February 29, 1988.

DEAR CONGRESSMAN/WOMAN: In years to come black Americans will know in no uncertain terms that the civil rights gains of the 60's were usurped by the so-called Civil Rights Restoration Act of 1988. By then it will be too late. It is not too late now to stop this travesty from occurring.

Today National Family Institute announced its opposition to the Civil Rights Restoration Act in its current form. The opposition is based on the following points:

1. The bill is, in part, an attempt to merge legitimate civil rights with illegitimate civil rights by radical white feminists and homosexuals donning blackface.

2. The bill is currently written to give favor and status to persons who have not been recognized as deserving the status of "minority" under current federal anti-discrimination laws. The effect of this will be a weakening of the current law's ability to protect legitimate minorities (race, gender, national origin, creed, etc.).

3. The bill represents a step backwards for legitimate minorities because the reach of federal regulations under this proposal will impose such burdens that private efforts toward self-help will either operate in noncompliance with the Act or shut down. They will shut down; thereby eliminating a source of training, self-worth, and vital assistance to the very people who should benefit from the Act.

National Family Institute encourages Congress not to let the take-over of the civil rights movement extend into the law. The legal status of minority people has come too far and at too great a price to suffer defeat in this way.

NATIONAL ASSOCIATION OF MANUFACTURERS,
February 29, 1988.

Hon. F. JAMES SENSENBRENNER, Jr.,
House of Representatives,
Washington, DC.

DEAR MR. SENSENBRENNER: The National Association of Manufacturers wishes to express its support for the two amendments to S. 557, the Civil Rights Restoration Act, which you are planning to offer during the March 2 debate on the House floor.

While we cannot support S. 557 as it was voted out of the Senate, your efforts to improve this measure with the "religious tenet exceptions" and "corporate coverage" amendments move S. 557 in a more positive direction. The NAM supports a legislative reversal of the Grove City decision, but strongly opposes any attempts to expand the scope of federal statutory coverage of all businesses.

These amendments to limit the application of "Grove City" are well-considered and will hopefully gain the support of your colleagues in the House of Representatives.

Sincerely,

JERRY J. JASINOWSKI.

AMERICAN PHARMACEUTICAL ASSOCIATION,
Washington, DC, July 16, 1987.

Hon. STROM THURMOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR THURMOND: I am writing to express the American Pharmaceutical Association's (APhA) concern that S. 557, the Civil Rights Restoration Act, may require many small businesses, including pharmacies, to comply with burdensome paperwork. APhA is the national professional society of pharmacists representing the third largest health profession comprised of over 150,000 pharmacy practitioners, pharmaceutical scientists and pharmacy students.

Many of the pharmacies APhA represents operate small businesses. There are approximately 50,000 pharmacies in the United States reasonably accessible to virtually every citizen. These pharmacies actively compete for patients by providing a variety of price and service options. As a result of this intense competition, pharmacies today average less than a 3.5 percent net profit before taxes. Thus, pharmacists are particularly vulnerable to the additional costs, in terms of both money and time, associated with compliance with burdensome federal laws and regulations. In 1985 the Association's House of Delegates adopted policy on the "Reduction of Federal Laws and Regulation (Paperwork Burden)". This policy states:

"APhA supports the reduction and simplification of laws, regulations and recordkeeping requirements which affect pharmacy practice and are not beneficial in protecting the public welfare."

Consistent with this policy, we express concern whenever it appears that new federal laws or regulations may place an unreasonable burden on pharmacy practice. While we are not taking a position on the merits of S. 557, we are concerned that it may create onerous regulatory and paperwork burdens on many community pharmacies throughout the country. Moreover, by federally mandating how certain concerns must be addressed, the Congress may frustrate other more innovative ways of addressing these same concerns. For example, many pharmacies will deliver medications to those patients who for various reasons cannot visit the pharmacy to obtain their medications.

Thus, we urge you to consider carefully the paperwork burden that may be created if S. 557 is enacted.

Thank you for considering our views.

Sincerely,

JOHN F. SCHLEGEL.

PRESS CONFERENCE AT THE NATIONAL PRESS CLUB, WASHINGTON, DC

I am Rev. Cleveland Sparrow, the President of the National Black Coalition for Traditional Values.

My organization publicly declares war on the so-called Civil Rights Restoration Act. We also believe these actions are a direct assault on black traditional values for church and family. The legislation is a racist attempt by special interest groups to further erode and infringe upon the gains and accomplishments won by the civil rights movement.

It was not so long ago that the racist Jim Crow laws determined where black people could eat, whom they could marry and whether they could exercise their right as citizens to vote.

It took many people of strong convictions to repeal those laws and to begin the work of fulfilling the American dream for black Americans.

The freedom writers of the 1960s boarded buses so that no person would be told to sit in the back of one. Seemingly, black America's struggle for civil rights is a victim of its own successes. More and more groups want to get on our civil rights bus and carpetbag upon the work of our movement.

The drive to make civil rights mean everything except rights for black people has reached its peak in the 9th U.S. Circuit Court of Appeals where a three judge panel on that court equated the homosexual rights movement with the black struggle.

The day that decision was announced, I began hearing from black people all over America. Their verdict was unanimous. They were disgusted and revolted that federal judges consider homosexuals just like black people.

We all agree that this decision endangers the entire basis of our civil rights law and our nation's moral health as well.

We feel that homosexual perversion is a matter of choice and therefore should not be subject to the same constitutional protection as racial minorities.

That decision tied with the passage of the so-called Civil Rights Restoration Act will destroy the meaning of civil rights that my black brothers and sisters went to jail for and some even died for.

Affirmative action requires that some folks be given preference over others. What happens when a white male claims to be a homosexual after he is passed over for a black candidate?

The civil rights struggle was a moral struggle which remedied a moral wrong. No civil rights measure is worthy of the name if it forces good people to accept what they believe to be immoral behavior by others.

The Civil Rights Restoration Act is nothing of the kind. It is simply a racist attempt by militant radicals to don black face so they can exploit the gains that my people fought and died for.

Thank you.

U.S. CHAMBER OF COMMERCE,
Washington, DC, February 26, 1988.

Hon. CLAUDE PEPPER,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The U.S. Chamber of Commerce, on behalf of its more than 180,000 business members, respectfully urges you to support an open rule on the Senate-passed S. 557, the Civil Rights Restoration Act. The Chamber understands that S. 557 is scheduled to be considered by the Committee on Rules on March 1.

S. 557 is a highly controversial bill, which would go far beyond reversing the 1984 Supreme Court decision in *Grove City College* v. *Bell.* The most appropriate legislative response to the *Grove City* decision remains unclear. In the 99th Congress, the House Committee on the Judiciary and Committee on Education and Labor both had close votes on, and in some instances, passed, amendments dealing with corporate coverage, religious tenets, Congressional coverage, and "abortion-neutral language"—among others.

Accordingly, the Chamber supports a full and fair debate on S. 557 and urges you to adopt an open rule in the interest of procedural and substantive fairness.

Sincerely,

ALBERT D. BOURLAND.

THE CATHOLIC LEAGUE FOR RELIGIOUS AND CIVIL RIGHTS,
Milwaukee, WI, February 25, 1988.

Re: Religious Freedom Questions Raised by the "Grove City" Bill.

DEAR CONGRESSMAN: I am General Counsel of the Catholic League for Religious and Civil Rights. The Catholic League is a lay organization with a strong concern for both religious freedom and the right to life.

Soon the House of Representatives will be voting on important legislation involving the construction to be given civil rights laws in federally-aided institutions. While the Catholic League is directly concerned with civil rights, our emphasis is often on the preservation of rights of religious freedom and the right to life, which are sometimes overlooked by other civil rights interests. The Grove City bill has implications in both these areas.

As you know, the Senate has passed the Danforth Amendment which will ensure that the Grove City bill is not utilized to require federally-funded institutions to aid abortion. We are confident that House members will join their Senate counterparts in making certain that civil rights legislation is not used as a pretext for mandating aid to abortion.

Our major current concern is with a matter that evidently was overlooked by the Senate: religious freedom. The Senate voted to reject a "religious tenet" exception to the law. This amendment would have allowed for the accommodation of important religious concerns of religiously-oriented institutions without measurably harming the advancement of other civil rights interests. As I understand, the laws affected by the Grove City bill currently contain very narrow religious exemptions. In the important area of higher education, these provisions can be construed in a manner that would provide little protection for the vast majority of religiously-oriented colleges not directly owned and controlled by a church. In order that these important institutions preserve the religious heritage that makes them unique, they must be allowed to adhere to their religious tenets in vital policy areas. Without this right, these schools will lose the freedom to pursue their religious mission. This loss will affect not only the involved institution, but also our society, which values the religious diversity these centers of higher learning provide.

The spirit of religious accommodation provided by the religious tenet exception is in keeping with our Constitution's guarantees of the free exercise of religion. Legislative recognition of these interests through a religious tenet exception will clearly inform both the executive and judicial branches, which will construe the enacted legislation as demonstrating the concern of Congress for guaranteeing this constitutional freedom.

While the religious tenet exception is the most tangible religious freedom concern raised by this legislation, other religious freedom questions exist. Specifically, the fact that the legislation equates students' use of federal student financial aid with federal funding of institutions raises questions concerning possible future judicial attempts to label use of such financial aid as government sponsorship of religion under the Establishment Clause. Such a construction could affect current student financial aid programs and might come to be used to challenge Pell grants to needy students in church-related colleges. It would be my hope that Congress specifically indicate that it does not intend to equate student aid with funding, for constitutional purposes.

In short, the Grove City bill has certain serious implications for our right to religious freedom, which Americans have long cherished. Please consider this important civil right as you pass upon this serious legislation.

Sincerely,

STEVEN F. MCDOWELL,
General Counsel.

A RESOLUTION

Expressing the consensus that religious freedom be recognized nationally, as well as internationally, and that the Congress of the United States should do the utmost within its power to allow people to exercise their religious freedom within their churches, synagogues, schools and organizations.

Concerned women for America, in concert with the Ad Hoc Committee in Defense of Life, American Association of Christian Schools, The American Conservative Union, Association of Christian Schools International, Christian Action Council, Citizens for Educational Freedom, Citizens for Reagan, Coalitions for America, College Republicans, Eagle Forum, Family Research Council, Focus on the Family, Moral Majority, National Association of ProAmerica, National Black Coalition for Traditional Values, The National Committee of Catholic Layman, and Pro-Family Coalition submits for consideration of Congress the following resolution.

Whereas, Congressman Chris Smith (R NJ), who has taken the active lead on behalf of religious freedom for people in the Soviet Union, introduced H. Con. Res. 223, on December 8, 1987, which to date has 153 cosponsors;

Whereas, Congressman John Porter (R IL), co-chairman of the Congressional Human Rights Caucus and a member of the Helsinki Commission, is an original cosponsor of H. Con. Res. 223 and has expressed concern over state control of religious expression and practice;

Whereas, Congressman Steny Hoyer (D MD), chairman of the Commission on Security and Cooperation in Europe stated, "It is important for each of us, as General Secretary Gorbachev visits the United States, to impress upon him that religious freedom and the right to practice one's belief in God is a fundamental and inalienable right arising from one's humanity, and not out of the good will of the state";

Whereas, Congressman Paul Henry (R MI), for himself and 258 members of the House of Representatives, introduced into the Congressional Record a letter to General Secretary Gorbachev outlining categories of religious oppression and repression in the U.S.S.R.;

Whereas, this letter stated that violations brought to the attention of Congress by citizens living in the U.S.S.R. included "interference in the religious governance of religious organizations and institutions" and "restrictions on institutions for theological education of Orthodox Roman Catholic, Protestant, Jewish, and other religious bodies";

Whereas, if further stated, ". . . Our tradition recognizes human rights as divinely endowed, and thus transcending the powers of the state. Thus, we regard the question of honoring religious rights of citizens as the heart of the human rights question. Your tradition recognizes human rights as 'granted by the government', and thus not having autonomy from the government which grants them";

Whereas, we believe that the "Civil Rights Restoration Act of 1987" impinges upon religious freedom in forcing religious institutions to relinquish their autonomy in order to adhere to governmental requirements;

Whereas, it is true that no schools have been denied religious exemptions by the Department of Education, it is also true that no schools were granted exemptions by the Department for over six years between the dates of October 15, 1976, and May 18, 1983. (See Congressional Record, January 28, 1988, pages S232-234);

Whereas, in 1980 a Federal District judge determined that employees of independent religious schools controlled by lay boards rather than a church were not exempt from Federal unemployment taxes. William Bell, a constitutional attorney, found that "to deny the exclusion for religious institutions which were every bit as religious as institutions operated by churches, would be violative of the Free Exercise and Establishment Clause of the First Amendment to the U.S. Constitution, as well as the Equal Protections Clauses of the Fourteenth Amendment. The exclusion would favor those religious institutions which are operated by churches and would give rise to excessive entanglements between government and religion";

Whereas, in the Civil Rights Restoration Act, indirect as well as direct federal financial assistance would cause an entire institution to come under the regulatory jurisdiction of the Federal government;

Whereas, a U.S. Commission on Civil Rights stated, "Since tax exemptions are probably Federal financial assistance, it is likely that private schools already are under the jurisdiction of Title IX of the educational amendments, which require non-discrimination in all education programs and activities receiving federal financial assistance." (From a report by the Federal Civil Rights Enforcement Effort—1974, Vol. 3, to ensure the educational opportunity, a report of the U.S. Commission on Civil Rights, January 1975, page 154);

Whereas, Pell grants, student loans, and G.I. Bill benefits have been declared as "federal assistance" (*Grove City College* v. *Bell*, 1984);

Whereas, in *Regan* v. *Taxation with Representation*, 1983, the Supreme Court found that "Both tax-exemptions and tax deductibility are a form of subsidy that is administered through the tax system";

Whereas, if follows that religious institutions, organizations, and corporations which are classified as 501(c)(3) would be considered the recipients of federal financial assistance;

Whereas, President Reagan declared December 10, 1987, Human Rights Day and pledged to support fundamental freedoms, human rights and self determination. On March 2, 1988, he stated in a letter to Congress that "Civil Rights Restoration Act of 1987" as passed by Congress ". . . diminishes the freedom of the private citizen," ". . . dramatically expands the scope of federal jurisdiction" over state and local governments, and "poses a particular threat to religious liberty";

Whereas, religious institutions should have the right to hire and terminate according to their religious doctrines as a demonstration of "the right to . . . manifest his religion or belief in teaching, practice, worship and observance" (see letter to General Secretary Gorbachev);

Whereas, a religious tenets amendment was offered by Senator Hatch (R UT) during debate on S. 557 and received 39 supporting votes;

Whereas, Congressman Sensenbrenner (R WI) offered an amendment including religious tenets to S. 557 in the House debate which received 146 votes of support;

Be it resolved, by concerned citizens for religious freedom internationally as well as in these United States that Congress should quickly pass H. Con. Res. 223, on behalf of political prisoners in the Soviet Union;

Be it further resolved, that Congress should recognize the grave concerns in this nation for the protection of liberties threatened in erosive yet virtually imperceptible ways; and

Now be it therefore resolved; that Congress should uphold the Presidential veto of the "Civil Rights Restoration Act of 1987" because it lacks a religious tenets amendment to protect these religious institutions and expands coverage of churches, synagogues, and religious schools systems.

Mr. Speaker, I'm certain you noticed the prevalence of religious institutions and affiliated groups in this listing. There is good reason for that and I would like to conclude my remarks this evening with a discussion of religious institutions and the affect of the Civil Rights Restoration Act upon them.

The Justice Department provided answers to some of the questions raised about this important issue by constituents. Let me share some of those today.

First. Question: Are entire churches, synagogues, and other religious institutions covered by S. 557, if just one program at such an entity receives Federal aid?

Answer: Yes. Subparagraph (3)(B) of the operative sections of the bill covers "all of the operations of" every "private organization" which is a "geographically separate facility * * * any part of which is extended Federal financial assistance * * *."

Obviously, a church or synagogue fits easily within that definition. The bill's sponsors acknowledged at a committee markup in the other body that such coverage of entire churches and synagogues will exist.

Therefore, if a church or a synagogue operates any federally aided program, such as "hot meals" for the elderly, a surplus food distribution program for the needy, a shelter for the homeless, or assistance to help legalize immigrants, not only will those assisted programs be covered, but, for the first time, all other activities of the church or synagogue, including prayer rooms and other purely religious components, educational classes, church or synagogue schools—even though conducted in separate facilities—or a summer camp for youngsters, will be covered as well.

Further, if the church or synagogue conducts a school which receives any Federal aid, even in a separate building, the entire church or synagogue, as well as the entire school, will be covered.

Second. Question: How broad is the coverage of a "geographically separate facility?"

Answer: The Senate committee report at page 18 says that coverage "in the bill refers to facilities located in different localities or regions. Two facilities that are part of a complex or that are proximate to each other in the same city would not be considered geographically separate."

For example, if a Baptist church in Birmingham, AL, operates an apartment building for the elderly located three blocks from the church, and the apartment building, or just one tenant in the building receives any Federal housing assistance, not only will the apartment building be covered, but all of the activities of the church itself will be covered as well. Similarly, in this example, if the church receives Federal aid for a surplus food program for the needy operated from the church building, the apartment building for the elderly will be covered even if it received no direct or indirect Federal aid.

Third. Question: Have sponsors of the bill provided evidence that such broad coverage existed prior to the Grove City decision?

Answer: No. The fact is that the scope of these civil rights laws, as originally enacted, did not cover entire churches, synagogues, or other religious entities, when just one of their programs received Federal Financial assistance. No one in Congress as that time suggested otherwise. That is not surprising due to the long-standing reluctance on the part of Congress and Federal agencies to entangle the Government with religion, potentially running afoul of the first amendment.

Moreover, case law concerning private sector coverage under the civil rights statutes prior to the Grove City decision held these statutes to be "program specific."

Fourth. Question: What are the consequences of such coverage?

Answer: Expanded Federal jurisdiction under these four statutes brings with it:

Increased Federal paperwork.

Exposure to Federal bureaucratic compliance reviews and onsite reviews even in the absence of an allegation of discrimination;

Thousands of words of Federal regulations;

The need to adhere to accessibility requirements under section 504, which for a church or synagogue could mean requirements to widen aisles and space between pews, additional modifications to prayer rooms and other parts of the church or synagogue, equipment modifictions, job restructuring, modifications of work schedules, provision of auxiliary aids including readers and sign language interpreters, and other extensive requirements;

The requirement to attempt to accommodate persons, including employees, with infectious diseases such as tuberculosis and AIDS;

Increased exposure to private lawsuits.

Such coverage represents a fundamental mistrust of religious institutions and expresses a desire to extend Federal control over all of the operations of every aspect of the private sector that touches Federal dollars. When a particular program at a church or synagogue receives Federal aid, that program itself should be covered, but the rest of the church or synagogue should not be covered by all of these Federal regulations.

Many churches or synagogues heretofore willing to take Federal social welfare aid may stop providing these important social services, or may reduce their efforts by the amount of Federal aid, rather than subject themselves to coverage of their entire institutions. In light of the value of pluralism and diversity in our society, the value of independent religious institutions, and in view of the complete absence of any case for the expansion of coverage over religious institutions, S. 557 is seriously flawed.

Finally, Mr. Speaker, presently 151 colleges, universities, seminaries, theological schools and the like, have religious exemptions under title IX of the Education Amendments of 1972. These include such prestigious institutions as Brigham Young University, Catholic University, Pepperdine University, Seton Hall University, and Baylor University. I would like to insert the complete list of exempted institutions, and a fact sheet on religious tenants controversy at this point in the RECORD.

RELIGIOUS EXEMPTIONS: TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

[*Five institutions were not included in the count of 216 case files officially pending as of February 19, 1985]

EXEMPTIONS GRANTED

1. Brigham Young University (UT),* August 12, 1976.
2. St. Charles Borromeo Seminary (PA), September 14, 1976.
3. Harding College (AR), Harding University (AR) (additional exemption granted 9-23-85), October 14, 1976.
4. Covenant Theological Seminary (MO),* May 19, 1983.
5. Saint John's University (MN), March 9, 1984.
6. Christian Heritage College (CA),* October 19, 1984.
7. Atlantic Christian College (NC),* January 9, 1985.
8. Lees Junior College (KY), May 17, 1985.
9. Asbury College (KY), May 17, 1985.
10. Asbury Theological Seminary (KY), May 17, 1985.
11. Central Wesleyan College (SC), May 17, 1985.
12. Freed-Hardeman College (TN), May 17, 1985.
13. Cumberland College (KY), May 17, 1985.
14. Chowan College (NC), May 17, 1985.
15. Columbia Union College (MD), June 18, 1985.
16. United Wesleyan College (PA), June 18, 1985.
17. Appalachian Bible College (WV), June 18, 1985.
18. Ohio Valley College (WV), June 18, 1985.
19. Immaculata College (PA), June 18, 1985.
20. Baptist Bible College and School of Theology (PA), June 18, 1985.
21. Catholic University of America (DC) (additional exemption granted 8-8-85), June 18, 1985.
22. Ricks College (ID), June 24, 1985.
23. LDS Business College (UT), July 22, 1985.
24. Presentation College (SD), July 22, 1985.
25. Southeastern Bible College (AL), July, 24, 1985.
26. David Lipscomb College (TN), July 24, 1985.
27. Johnson Bible College (TN), July 24, 1985.
28. Brescia College (KY), July 24, 1985.
29. Kenrick Seminary (MO), August 1, 1985.
30. York College (NE), August 1, 1985.
31. George Fox College (OR), August 5, 1985.
32. Mt. Angel Seminary (OR), August 5, 1985.
33. Walla Walla College (WA), August 5, 1985.
34. Western Baptist College (OR), August 5, 1985.
35. West Coast Christian College (CA), August 6, 1985.
36. Los Angeles Baptist College (CA), August 6, 1985.
37. Pope John XXIII National Seminary (MA), August 16, 1985.
38. Roberts Wesleyan College (NY), August 16, 1985.
39. Antillian College (PR), August 16, 1985.
40. De Sales School of Technology (DC), August 26, 1985.
41. St. John's Seminary (CA), August 27, 1985.
42. Pepperdine University (CA), August 27, 1985.
43. Dominican School of Philosophy and Theology (CA), August 27, 1985.
44. Denver Conservative Baptist Seminary (CO), August 27, 1985.
45. Northwest Baptist Seminary (WA), September 3, 1985.
46. St. Patrick's Seminary (CA), September 3, 1985.
47. Campbell University (NC), September 3, 1985.
48. Bethune-Cookman College (FL), September 3, 1985.
49. Tennessee Temple College (TN), September 3, 1985.
50. Campbellsville College (KY), September 3, 1985.
51. Oakwood College (AL), September 3, 1985.
52. Union University (TN), September 3, 1985.
53. Berea College (KY), September 3, 1985.
54. Biola University (CA), September 3, 1985.
55. Pacific Union College (CA), September 3, 1985.
56. Circleville Bible College (OH), September 13, 1985.
57. Bethel College (IN), September 13, 1985.
58. Trinity Evangelical Divinity School (IL), September 13, 1985.
59. Wheaton College (IL), September 13, 1985.
60. Dr. Martin Luther College (MN), September 13, 1985.
61. Grace College and Grace Theological Seminary (IN), September 13, 1985.
62. Bethany Lutheran College (MN), September 13, 1985.
63. Marion College (IN), September 13, 1985.
64. Andrews University (MI), September 13, 1985.
65. Kettering College of Medical Arts (OH), September 13, 1985.
66. The Cincinnati Bible Seminary (OH), September 13, 1985.
67. The Athenaeum of Ohio (OH), September 13, 1985.
68. College of Saint Benedict (MN), September 13, 1985.

69. Saint Mary of the Lake Seminary (IL), September 13, 1985.
70. Grand Rapids Baptist College (MI), September 13, 1985.
71. Cedarville College (OH), September 13, 1985.
72. St. Louis-Chaminade Education Center (HA), September 18, 1985.
73. Westminster Theological Seminary (PA), September 18, 1985.
74. Seton Hall University (NJ), September 20, 1985.
75. Wadhams Hall Seminary-College (NY), September 20, 1985.
76. Christ the King Seminary (NY), September 20, 1985.
77. Mid-America Bible College (OK), September 20, 1985.
78. Oklahoma Christian College (OK), September 20, 1985.
79. Oral Roberts University (OK), September 20, 1985.
80. Louisiana College (LA), September 20, 1985.
81. Concordia Seminary (MO), September 20, 1985.
82. Mesivta Yeshiva Rabbi Chaim Berlin (NY), September 23, 1985.
83. Mirrer Yeshiva Central Institute (NY), September 23, 1985.
84. Rabbinical College of Long Island (NY), September 23, 1985.
85. Rabbinical Seminary of America (NY), September 23, 1985.
86. Sh'or Yoshuv Rabbinical College (NY), September 23, 1985.
87. Yershiva Gedolah-Zichron Moshe (NY), September 23, 1985.
88. Yeshivath Kehilath Yakov (NY), September 23, 1985.
89. Yeshiva and Mesivta Ohr Yisroel (NY), September 23, 1985.
90. Yeshiva of Nitra Rabbinical College (NY), September 23, 1985.
91. Talmudical Academy (NJ), September 23, 1985.
92. Ohr Hameir Theological Seminary (NY), September 23, 1985.
93. Yeshiva Torah Vodaath and Mesivta (NY), September 23, 1985.
94. Mesivtha Tifereth Jerusalem of America (NY), September 23, 1985.
95. Derech Ayson Rabbinical Seminary/Yeshiva of Far Rockaway (NY), September 23, 1985.
96. Central Yeshiva Beth Joseph Rabbinical Seminary (NY), September 23, 1985.
97. Grace Bible College (MI), September 23, 1985.
98. Saint Mary's College (MN), September 23, 1985.
99. Saint Mary's College (IN), September 23, 1985.
100. The Saint Paul Seminary (MN), September 23, 1985.
101. Concordia Theological Seminary (IN), September 23, 1985.
102. Calvin College and Seminary (MI), September 23, 1985.
103. Harding Academy (TN), September 23, 1985.
104. Rabbinical Seminary M'kor Chaim (NY), September 24, 1985.
105. Beth Hamedrash Shaarei Yosher (NY), September 24, 1985.
106. Rabbinical Seminary of Belz (NY), September 24, 1985.
107. Rabbinical College of Adas Yereim (NY), September 24, 1985.
108. Rabbinical College Ch'san Sofer of New York (NY), September 24, 1985.
109. Rabbinical Seminary of Munkacs (NY), September 24, 1985.
110. Ner Israel Rabbinical College (MD), September 24, 1985.
111. Reformed Presbyterian Theological Seminary (PA), September 24, 1985.
112. St. Louis Rabbinical College (MO), September 24, 1985.
113. Faith Baptist Bible College (IA), September 24, 1985.
114. Grace College of the Bible (NE), September 24, 1985.
115. Beth Hatalmud Institute for Advanced Talmudic Studies (NY), September 24, 1985.
116. Beth Medrash Emek Halacha (NY), September 24, 1985.
117. The Jewish Theological Seminary of America (NY), September 24, 1985.
118. Rabbinical College Beth Shraga (NY), September 24, 1985.
119. Rabbinical College Kamenitz Yeshivah of America (NY, September 26, 1985.
120. Talmudical Yeshiva of Philadelphia (PA), September 26, 1985.
121. Baylor University (TX), September 26, 1985.
122. Southern Baptist College (AR), September 26, 1985.
123. Notre Dame Seminary (LA), September 26, 1985.
124. Bartlesville Wesleyan College (OK), September 26, 1985.
125. Southwestern Adventist College (TX), September 26, 1985.
126. Crowley's Ridge Academy (AR), September 26, 1985.
127. Crowley's Ridge College (AR), September 26, 1985.
128. Rabbinical College of the Bobover Yeshiva Bnei Zion Inc. (NY), September 27, 1985.
129. Mesivta of Eastern Parkway Rabbinical Seminary (NY), September 30, 1985.
130. Brisk Rabbinical College (IL), September 30, 1985.
131. Telshe Yeshiva (OH), September 30, 1985.
132. The Hebrew Theological College (IL), September 30, 1985.
133. Michigan Christian College (MI), September 30, 1985.
134. William Tyndale College (MI), September 30, 1985.
135. Union College (NE), October 25, 1985.
136. Ohr Somayach (NY),* October 25, 1985.
137. Central Yeshiva Tomchei Tmimim Lubavitz (NY), October 25, 1985.
138. Mesivta Sanz of Hudson County (NJ), October 25, 1985.
139. Ayelet Hashachar (NY), October 25, 1985.
140. Yeshiva Kesser Torah (NY), October 25, 1985.
141. Yeshiva Toras Chaim Talmudical Seminary/Denver (CO), October 25, 1985.
142. Colorado Christian College (CO), October 25, 1985.

RELIGIOUS EXEMPTION UPDATE, MARCH 10, 1987

[*UWC submitted one of the 216 requests resolved under the religious exemption project, and requested additional exemption after completion of the project]

Since the completion of the religious exemption project on October 30, 1985 (final report issued November 22, 1985), the following institutions have been granted religious exemptions.

1. Loma Linda University, CA, November 19, 1985.
2. United Wesleyan College, PA,* November 21, 1985.
3. Telshe Yeshiva—Chicago, IL, February 24, 1986.
4. Southern College of Seventh-day Adventists, TN, February 28, 1986.
5. Belmont College, TN, February 28, 1986.
6. Loyola University, LA, May 7, 1986.
7. Stonehill College, MA, May 15, 1986.
8. Elms College, MA, October 1, 1986, October 24, 1986.
9. Columbia Bible College and Columbia Graduate School of Bible and Missions, SC, November 14, 1986.

RELIGIOUS TENETS AND GROVE CITY LEGISLATION

1. Q: Why is religious tenets language needed in Title IX?

A: Such language in Title IX is a necessary part of *Grove City* legislation in order to protect an institution's policy which is based upon tenets of a religious organization where the institution is controlled by, or closely identifies with the tenets of, the religious organizations.

In 1972, when Congress enacted Title IX, Congress included several exceptions to its coverage, including: "This section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization. . . ." 20 U.S.C. § 1681(a)(3).

At that time, many educational institutions were controlled outright by religious entities. Some of these institutions today, while retaining their identification with religious tenets, are controlled by lay boards and receive less financial support from religious organizations. Thus, many institutions which may have previously qualified are now outside the scope of the religious tenets exception of current law.

Thus, language must be included in any *Grove City* bill to protect a policy of an educational institution based on religious tenets when the institution is not controlled by a religious organization but *closely identifies with the tenets of* such an organization. This same protection should also be afforded to other institutions, such as hospitals, covered under Title IX by *Grove City* legislation when they have such a close identification with the tenets of a religious organization.

2. Q: Can an institution claim protection under this language for racial, handicap, or age discrimination?

A: No. the exception exists *only* under Title IX, which addresses gender discrimination. The exception recognizes that the tenets of some religious organizations differentiate in some ways between the sexes. In the spirit of diversity and pluralism in education and other parts of the private sector covered by Title IX under *Grove City* legislation, the exception respects the independence of an institution's conduct in carefully delineated circumstances when the institution is controlled by, or is closely identified with the religious tenets of, a religious organization.

3. Q: Is a covered institution exempt in its entirety from Title IX if just one of its policies is based on religious tenets and conflicts with Title IX?

A: No. The exception applies *only* to the specific policy or policies, based on religious tenets of those institutions able to avail themselves of the exception, when Title IX would conflict with stuch policy or policies.

4. Q: Will this exception have any application in public schools or other public institutions?

A: No. The First Amendment, as applied to states and localities, effectively prohibits public schools or other public institutions from basing any policies or conduct squarely on the religious tenets of a religious organization.

This exception applies only to private institutions—for example, to schools where students are in attendance because they have freely chosen to attend the institution.

5. Q: What is the origin of this language?

A: In May, 1985, in response to concerns described in the answer to question one, the House Education and Labor Committee first strengthened the current religious tenets exception when considering *Grove City* legislation.

The particular language described in this document is virtually identical to language in the Higher Education Amendments of 1986, adopted by Congress and signed into law in October, 1986. There a prohibition against religious discrimination in the construction loan program was enacted with an exception using virtually the same language recommended for Title IX. This provision, in short, is modeled on language used by the 99th Congress.

These exemptions are threatened by a lack of religious tenets language in the Civil Rights Restoration Act.

In conclusion, Mr. Speaker, I want to express my strong opposition to the Grove City bill in its present form. We should vote to sustain the President's veto.

We do have options.

If we sustain the President's veto, we will have the opportunity to support an alternative measure which addresses the concerns of farmers, and home builders, and grocers, and small business owners, and ministers, rabbis and priests, and hospitals and millions of other Americans who feel threatened by this legislation.

Let's not act in haste, Mr. Speaker. Let's vote to sustain the President's veto and pass a better bill as quickly as possible.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I rise in strong support of the legislation and in strong support of the override.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS] a member of the committee and of the subcommittee.

Mr. CONYERS. Mr. Speaker, once again President Reagan and Vice President BUSH have shown that they are not friends of civil rights, and how far from the mainstream they have taken their administration and party. The party of Lincoln fought for the advancement of civil rights in this country. The party of Reagan has undercut every attempt to foster equality and fairness in America.

In 1863, with one stroke of the pen, Abraham Lincoln emancipated the slaves. With one stroke of the pen, in 1963, John Kennedy banned housing discrimination. With one stroke of the pen, Lyndon Johnson enacted the historic Civil Rights Act of 1964. In 1988 President Reagan has chosen to break with this noble tradition, and to use his pen for the ignoble purpose of striking down the most important civil rights legislation to come before the 100th Congress—the Civil Rights Restoration Act of 1988.

Of course this is nothing new. The Reagan administration fought against the extension of the Voting Rights Act. Under the Reagan administration, the Department of Justice has consistently opposed affirmative action and school desegregation consent decrees. The Reagan administration supported tax credits for the segregated Bob Jones University. But I must admit that I was surprised when the President vetoed the bill before us today.

The principle behind the legislation is simple and axiomatic. A democratic government should never support or subsidize discriminatory practices in any way whatsoever. The Internal Revenue Service is an equal opportunity tax collector; you don't get special tax breaks because of your race, religion or gender. So because everyone is required to pay taxes, those tax dollars cannot be used for discrimination. Everyone who dips into the Federal till should be required to abide by the Constitution.

Presidents Kennedy, Johnson, Nixon, Ford, and Carter all believed that. That is why their administrations followed broad based interpretation of the civil rights statutes that we today seek to codify. Both the House and Senate, after 4 years of hearings and debate have voted overwhelmingly in favor of broad coverage.

A recent Supreme Court decision, Grove City versus Bell, interpreted the civil rights laws as they were written to apply only to recipient operations and not the entire institution. This legislation overturns that decision, and the opportunities for discrimination and unequal access that the decision created.

Consider the every day importance of the law:

A black man could be denied hypertension medication in a large clinic receiving Federal funds if those funds were not earmarked for hypertension treatment.

A victim of sexual harassment in a classroom would not be protected if Federal construction funds received by the school were not used to construct the building in which that classroom is located.

A qualified disabled employee could be denied a promotion in a nursing home corporation if the specific department involved received no Federal money though the corporation was a recipient of such funds.

An older couple could be denied flu shots in a privately built city clinic which decides to reserve vaccine for the so-called working-age population, even if the city health department got Federal health funds.

Literally hundreds of discrimination suits before the courts and administrative agencies have been dropped already—even when discrimination was found—due to the Grove City decision. According to the Department of Education's Office of Civil Rights, 834 cases in the administrative enforcement process have been affected between 1984 and 1986. Consider the kinds of cases and instances of discrimination we are debating:

A black high school student ranked fifth in her class who sued her school's chapter of the National Honor Society for allegedly denying her admission into the program due to race. The Office of Civil Rights dropped the suit because the alleged discrimination did not occur in a program directly receiving Federal assistance

A first year medical student's charges that she had been sexually harassed by a professor who offered her good grades in exchange for sexual favors and who threatened to have other professors manipulate her grades were dismissed because no Federal money was earmarked for first year students or the department in which the professor taught

The Office of Civil Rights also dismissed a suit against a community college which offered insurance policies that discriminated on the basis of age and sex, and which did not treat pregnancy and related disabilities the same as any other temporary disability. The case was closed because the college office which generated the mailing labels for the insurance company and the dean who wrote the letter to the students to introduce the plan were not part of the program that benefited from Federal funding. Clearly the primary vehicles for attacking the specter of discrimination for the last 25 years have been eroded.

The effects of discrimination, race based, gender based, are clear and undeniable. Just look at statistics on employment, income, representation in professional communities. This measure stops short of affirmative measure to correct those wrongs, it simply helps prevent the potential for more discrimination, and their lasting effects.

The so-called abortion neutral provision, commonly known as the Danforth amendment, is unusual law, and probably redundant. Current law requires medical recipients of Federal aid to provide all the available medical services for all citizens. And America's courts have said that abortion is a legitimate and legal medical service. Once the courts have decided on issues of law, it is dangerous for Congress to decide what legal medical services are legitimate. The amendment is also unnecessary for its stated purpose of protecting religious organizations' ethics and principles. Religious institutions for that reason have traditionally been exempt from abortion related requirements.

The bill is not as expansive as its opponents claim:

It does not cover churches, synagogues or religious institutions in their entirety simply because one facility or program receives Federal funds; current exemption rules have worked well for more than two decades so there is no reason to change them now

It does not cover farmers who receive crop-subsidies, persons receiving Social Security or Medicaid/Medicare benefits, or individuals receiving food stamps; as shown during the Senate debates, these are nonissues that have already been settled in both House and Senate report language

For those of you who do not want to fight the old battles and reopen the healed wounds from the civil rights movements; for those of you who truly want Dr. King's vision of justice and equality to become a reality in American life, the Civil Rights Restoration Act is an essential piece of legislation. I therefore urge you to vote to override the President's veto.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise today with some sort of a sense of frustration regarding the motion to override President Reagan's veto of the Civil Rights Restoration Act, and I rise in opposition to the bill.

Mr. Speaker, I rise today with a sense of frustration regarding the motion to override President Reagan's veto of S. 557, the Civil Rights Restoration Act.

I will vote to sustain the President's veto of this legislation. I do so out of a sense of respect for the hundreds of constituents and friends who have called, written, and telegraphed their opposition to S. 557 and their support for the President's veto.

I voted for S. 557, and I believe it is a good bill. It is my impression that many people misunderstand the intent of this legislation. However, enough questions have been raised to require a serious review of the bill.

It appears that there may be legal ambiguities which open the door to unusual and unintended cases. Taking that into consideration, along with my respect for the clergy, medical groups, legal professionals, and other constituents, I will support the President's veto.

If this veto is sustained, I will support the President's alternative legislation. This alternative addresses many of the problems with S. 557 including the effects this bill would have on private sector businesses. Rather than restore coverage to its state prior to the Grove City decision, S. 557 has the potential to expand that coverage. The alternative legislation will clarify or correct the questions that have been raised while at the same time protecting minorities, handicapped, and elderly people from discrimination in institutions which receive Federal funds.

Mr. JEFFORDS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in strong support of the override of the President's veto.

Mr. Speaker, I urge my colleagues to join me in voting to override the President's veto of S. 557, the Civil Rights Restoration Act of 1987. It is vital that we overturn the 1984 Supreme Court decision, Grove City Versus Bell, And restore the coverage of Federal antidiscrimination laws to ensure that institutions receiving Federal aid are not allowed to discriminate in any aspect of their operations.

After 4 years of effort to develop an acceptable compromise, S. 557 may be our only chance to overturn the Grove City case in the near future. The legislation has been endorsed by a coalition of 185 national organizations, including religious groups such as the U.S. Catholic Conference of Bishops, the American Hebrew Congregations, the National Council of Churches, and the Evangelical Lutheran Church.

Mr. Speaker, it is imperative that we reaffirm our stong support for our civil rights laws and make it clear that institutions which accept Federal funding cannot discriminate on the basis of race, religion, age, gender, or disability. Let us restore the scope of protection against discrimination intended under title IX and all of our civil rights laws.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman form Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of the motion to override the President's veto of the Civil Rights Restoration Act.

Mr. Speaker, a lot of people are afraid of this bill. They should not be. I have taken a close look at this bill. I have looked closely at what this bill will do, and at what it will not do.

This bill will not force catholic hospitals to perform abortions. It will not require Christian or Jewish day care centers to hire homosexuals. It will not cause the extinction of the family farm or business. It will not extend the power of the Federal Government. These are some of the things this bill will not do.

I will vote to override the President's veto because of what this bill will do.

Enacting the Civil Rights Restoration Act will help make our existing antidiscrimination laws work. Institutions that discriminate on the basis of race, creed or gender, cannot demand Federal taxpayer's dollars. It is really that simple—this bill is about making the civil rights laws work.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of the motion to override the veto of the President on the Civil Rights Restoration Act.

Mr. Speaker, I rise in strong support of and proudly identify with the effort to override the President's veto of the Civil Rights Restoration Act.

Discrimination, in the context of this legislation, is alien to all that we cherish so dearly as Americans. We have an obligation to do all that we can do to prevent it in any way that we can.

Not only should we not sanction discrimination, we must not subsidize it, either. It is shameful to think in terms of providing Federal funds—the taxpayers' money—in any way, shape, or manner to institutions or organizations that discriminate in the conduct of their affairs.

There is another aspect to this issue that should not go overlooked; the fraudulent campaign of misinformation waged by those who would have us go along with the ill-advised veto.

We all have been the recipients of a barrage of literature and calls from those who have been led to believe that what we are about is a sinister plot to advance a number of dastardly deeds. I won't dignify all of those wild and obscene claims by repeating them, but I will say to those who are parroting them, knowing better, shame on you.

My pride in being an American increases a thousandfold when I am given the privilege of backing up words I believe in deeply with deeds in the form of voting for strong civil rights measures that help make a great nation even greater.

Mr. JEFFORDS. Mr. Speaker, I yield 30 seconds to the gentleman from Wisconsion [Mr. ROTH].

Mr. ROTH. Mr. Speaker, sustaining President Reagan's veto is one of the most important duties each of us has if we are to preserve the rights we all have under our Constitution.

Discrimination has no part in our democratic society and I support—as we all do—initiatives to that end.

But this present bill would trample on those rights. That's why the President vetoed this bill. It was not done lightly. While individual rights must be protected we have a duty also to insure all freedoms independent churches and schools included.

There has been a great amount of confusion revolving around the question of "what does this bill really do?" If we don't know what the legislation will do, how can the American people who will have to live under this law. How are they supposed to know what it means?

The agencies, the courts, the people, all have a right and we have an obligation to pass a clear unambiguous law. This is a monumental bill. It will have long-lasting effects. It is vital that we make it clear before we pass such a law exactly what we are voting on before we do so.

Farmers, schools, churches, child care, all Americans will be touched by this law. We have all sworn—all of us—to uphold the Constitution. It's the first thing we did when we become Members.

The President was and is right. To sustain the President's veto may be the difficult thing to do—but it's also the right thing to do. I hope all stand behind our President.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine [Mr. BRENNAN].

Mr. BRENNAN. Mr. Speaker, I rise in support of the bill and in strong support of overriding the President's veto.

Mr. Speaker, because of the President's action last week, we are again being asked to cast a vote for or against prohibiting our Government from discriminating against our people on the basis of sex, race, age, and disability. To me, the choice is clear.

This Government is funded by the people of this country, by the taxes they pay—be they young or old; man or woman; black, white, brown, red, or yellow. The Civil Rights Restoration Act simply provides that this funding not be spent in any fashion which permits or results in discrimination. The vast majority of both the House and Senate have already agreed that this is not too much to ask.

This bill is a bipartisan effort, the result of compromise by Representatives of every philosophy. It contains a provision which allows entities controlled by a religious organization to be exempt from this law if it runs contrary to their beliefs. It contains a provision which assures that this law will require no entity to perform or pay for an abortion. And it contains four very specific provisions regarding the application of this law to educational institutions, State and local governments, private corporations and other entities that accept Federal funding. It leaves no room for uncertainty.

Let us prove that we are not a nation of hypocrites. If we are to continue holding our country up to our neighbors as offering the greatest freedom, the most opportunities, and the brightest future of any other country in the world, let us begin by ending this debate and overriding this veto. How tragic if we cannot even guarantee that our own Government will not discriminate against us because we differ from another.

But let me raise one more point about this debate. I am deeply offended by the efforts of the opposition to demagogue this already emotional issue. Many, many distortions and false statements have been spoken in an effort to promote hysteria over this legislation. Administration officials have touted this measure as too much government intervention, offering the example that grocery stores would be subject to the law simply because they accept food stamps from a recipient purchasing goods. In fact, food stamp recipients are specifically exempted from this law, and its arm cannot reach beyond them to the establishments they patronize.

Opponents also have claimed that this law will reach from the family farmer to the private school to every business on Main Street. In fact, it reaches only to entities that accept Federal funding. It does not affect individuals who benefit from Government programs such as social security or farm subsidies. It does not reach private schools and churches who do not accept Federal financial assistance.

Finally, the argument has been espoused that this law requires businesses to hire someone from the protected classes. In fact, this law does not require that an employer hire anyone. It only requires that employers who receive Federal funds not discriminate against a class of individuals in their hiring practices.

This campaign of misinformation is unfortunate because the simple truth is that this bill is both fair and reasonable. By voting for its passage, we reflect the goodness of the American people, and we ensure that this Government and no arm of this Government will practice discrimination. It represents a victory for us all.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise in support of this legislation and in support of the override. One cannot have a right without a remedy. This bill provides a remedy for those aggrieved by civil rights violations, and I urge my colleagues to support the bill and oppose the President.

Mr. Speaker, I also insert into the RECORD the following exchange of letters between the distinguished majority leader and majority whip and the president of the National Association of Home Builders.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 21, 1988.

MR. DALE STUARD, *President,*
National Association of Home Builders,
Washington, DC.

DEAR MR. STUARD: The National Association of Home Builders has raised several concerns regarding the potential impacts of the Civil Rights Restoration Act of 1987 on property owners, tenants and home builders. These concerns relate primarily to the following issues: The impact of the Act upon existing buildings (subsidized and nonsubsidized); the impact of the Act upon nonhousing activities of a business predominately involved in providing housing; and the definition of the term "federal financial assistance".

First let us clearly state, a business involved in providing housing would have to comply with these requirements only after the date it receives federal financial assistance. If federal financial assistance is involved there will be some expense in altering existing structures to make them accessible to handicapped persons. However, it is not intended that every part of every building must be accessible to handicapped persons. Rather, the common areas of buildings should be accessible. There is no intention that building owners would have to undertake inordinate expenditures in order to comply with handicapped accessibility requirements. The cost to make existing buildings accessible to handicapped persons will be no more than 1 cent per square foot on the average.

There was also the question raised regarding the reach of the law to non-housing activities (e.g. commercial and manufacturing activities) and non-subsidized housing activities. If the non-housing activities are conducted in a form that is legally and operationally separate and distinct from the housing activities, and if the non-housing activities receive no federal financial assistance, then such non-housing activities are not affected by this law. Additionally, nonsubsidized housing is not affected by this law, unless owned by an entity that is not legally and operationally separate and distinct from the entity that owns the subsidized housing.

Several concerns have been raised regarding the definition of federal financial assistance. You have raised specific concerns regarding the FHA and VA loan programs, FDIC and FSLIC insured loans, as well as GNMA and FNMA secondary market activities. Pursuant to the Department of Housing and Urban Development's interim regulations under Section 504 of the Rehabilitation Act of 1973, the term "federal financial assistance" does not include a procurement contract or payments pursuant thereto or a contract of insurance or guarantee. Thus, FHA and VA loans would not constitute federal financial assistance. Nor would the secondary market activities of government sponsored enterprises (e.g. FNMA or GNMA) or loans insured by FDIC or FSLIC constitute federal financial assistance.

We wish to emphasize strongly our commitment to ensuring that the law as interpreted in the future by courts and administrative agencies complies with the understandings set forth in this letter. Should legislation be required to correct any interpretation by any entities which contradicts any of these understandings, we will do our best to enact such legislation. In this context we note that the House will soon be considering some related issues in the context of the Fair Housing Act, on which we expect to continue to work together.

In particular, the Fair Housing bill will deal with the question of retrofit requirements for handicapped accessibility, and we believe the best course of action to meet our mutual concerns will be to ensure that any agreement we reach dealing with retrofit accessibility requirements during the fair housing deliberations be made explicitly applicable to the handicapped retrofit requirements triggered by the Civil Rights Restoration Act.

Sincerely,

THOMAS S. FOLEY,
Majority Leader.
TONY COELHO,
Majority Whip.

NATIONAL ASSOCIATION
OF HOME BUILDERS,
Washington, DC, March 21, 1988.

Hon. THOMAS S. FOLEY,
Majority Leader,
Washington, DC.

DEAR MAJORITY LEADER FOLEY: On behalf of the National Association of Home Builders, I would like to take this opportunity to thank you for your March 21 letter regarding NAHB's concern with the scope of the Civil Rights Restoration Act of 1987.

As you know, we have never opposed civil rights legislation. Rather, our concern related to the potential impact of S. 557 on retrofitting existing buildings and the scope of the definition of "federal financial assistance".

Having raised these concerns, we are now satisfied that they have been adequately addressed. Your letter, as well as the legislative history, clearly spells out that there is no intent on the part of Congress for property owners to incur substantial expenditures in order to make existing buildings accessible to the handicapped. Furthermore, we have been assured that FHA and VA loan programs, FDIC and FSLIC insured loans, and GNMA and FNMA secondary market activities do not constitute federal financial assistance. Moreover, it has been clarified that unsubsidized housing would not be covered if legally and operationally separate from subsidized housing.

Accordingly, we support the Civil Rights Restoration Act of 1987.

Sincerely,

DALE STUARD,
President.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MINETA], who has worked very hard and well on this bill.

Mr. MINETA. Mr. Speaker, I rise to urge my colleagues to support this important legislation and to override the President's ill-advised veto of this bill.

This is a very straightforward piece of legislation which sets the desirable policy that Federal tax dollars should not be used to discriminate.

Yet I have heard some amazing distortions of what this bill is and what it will do. It saddens me to hear the statements that can be the result only of studied ignorance or outright fabrications. One such distorted claim is that this bill will require an employer to hire or retain all alcoholics and drug addicts.

I know that President Reagan opposes this bill, and is urging my colleagues on the other side of the aisle to sustain his veto.

But I was surprised to read some remarks which he gave just this morning to a group of Repubican local officials.

According to the Associated Press, the President called the Civil Rights Restoration Act, and I quote, "A dangerous bill."

He also said, and again I quote, "One dollar in Federal aid—direct or indirect—would bring entire organizations under Federal control, from charitable social organizations to churches and synagogues."

The President must have vetoed the wrong bill! Because his comments certainly don't apply to the Civil Rights Restoration Act.

My dear colleagues, we know this bill is not a dangerous bill.

We know that this legislation will not bring churches and synagogues under Federal control.

The acceptance of Federal dollars includes the responsibility to uphold this Nation's most basic civil rights.

I enjoy the vibrant exchange of ideas, and the clash of different ideologies. That is at the core of the business of this body. But I am tired of fighting the half-truths and untruths which some opponents of this legislation are using.

My dear colleagues, we know that this bill will fight discrimination. We know that this bill contains protections of our precious religious freedom and to limit the intrusiveness of the Federal Government. We know that this bill has been long-considered and is well crafted. In short, we know that this bill deserves our support.

I urge you to override the veto.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Speaker, I rise in strong support of the motion to override.

Mr. Speaker, on March 2, when the House debated passage of S. 557, the Civil Rights Restoration Act, I listened in amazement to a number of my colleagues explain their opposition to the legislation on the basis that the provisions are somehow intrusive. It was even suggested that the bill should be called the Civil Rights Intrusion Act. Indeed, when President Regean vetoed the bill, he called the legislation Federal intrusion into the private lives of American citizens.

I am at a loss to understand how the protection of basic human liberties could possibly be intrusive.

It was not intrusive to defend Rosa Parks' right to sit in the front of a bus. It was not intrusive to ensure James Meredith's legal right to attend the University of Mississippi, or Louise Brown's right to attend a public school in Topeka.

But it was very intrusive when my college classmate Andrew Goodman was viciously murdered, along with his friends James Chaney and Michael Schwerner, for trying to register black voters in Mississippi. And it remains intrusive for the President to attempt to snatch away the civil rights these and so many other courageous Americans struggled so hard for so long to achieve.

Let's be honest about why we are here once again discussing the Civil Rights Restoration Act, and what impact the measure will actually have. S. 557 was introduced to overturn the 1984 Supreme Court decision in Grove City College versus Bell. In that ruling, the Court accepted arguments of the Reagan administration that title IX of the Education Amendments of 1972, which prohibits discrimination in any school program or activity receiving Federal funding, does not refer to the operations of an entire educational institution. The Court ruled that only specific programs receiving direct Federal funding need comply with the sex-discrimination prohibitions under title IX. Only Federal funds received by a particular program in which discrimination is found, not all funds for the institution, would be terminated for violating the civil rights of women.

This interpretation dramatically narrowed the coverage of that particular statute, and is a sharp departure from previous enforcement practices by both Republican and Democratic administrations for the last 20 years. Because three other civil rights statutes (title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and section 504 of the Rehabilitation Act of 1973) have similar enforcement language, the Reagan administration indicated that it would enforce all four of these laws consistent with the Court's decision.

Since the Grove City decision, longstanding protections against discrimination have been eroded by the courts and Federal agencies in succeeding judicial and administrative decisions regarding education, employment, transportation and health care.

Hundreds of valid discrimination cases—affecting the basic rights and human dignity of many thousands of Americans—have been unjustly dismissed or limited. That is why both the House of Representatives and the Senate voted by overwhelming margins to pass S. 557 and restore Congress' intent in passing the civil rights statutes: to ensure that Federal funds are not used to discriminate on the basis of race, color, national origin, gender, handicap, or age. S. 557 requires that agencies and institutions which receive Federal funds must have comprehensive nondiscrimination policies in all areas of operation.

We are here today, of course, to override President Reagan's veto of this important civil rights measure. But why does the President oppose the bill? What horrendous consequences does he fear will occur if the legislation becomes law?

Many false assertions and misleading statements are being made against the bill. Many of the arguments being used are the same tactics used 20 years ago against advances in civil rights. The truth is the only thing the bill will do is restore enforcement of the law to its pre-Grove City decision status, ensuring that institutions that choose to accept Federal funds do not discriminate. It does not threaten any constitutional rights; rather, it will uphold the basic freedoms guaranteed to all people by the Constitution.

I urge my colleagues to reaffirm our Nation's historic commitment to civil rights by overriding the Presidential veto and preventing the use of tax dollars to subsidize discrimination.

Mr. Speaker, the alternative to the Civil Rights Restoration Act is clear: the continued taxpayer subsidization of discriminatory, biased and bigoted operations. It is nothing less than shocking that today—34 years after Brown versus Board of Education, 24 years after the murders of Goodman, Chaney, and Schwerner, and the same two dozen years after the passage of the Civil Rights Act—we are still arguing whether the Federal Government should underwrite racism, sexism, and discrimination against the elderly and the disabled.

Mr. Speaker, it is time to close this argument once and for all. It's time to pass the Civil Rights Restoration Act.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, the gentleman from Wisconsin said we should pass the President's bill. Now I do not think we should, but one thing would happen if we pass the President's bill. We would codify the Arline decision.

You have heard earlier about the Arline decision which uses the two-step process to say, if someone has a contagious disease, you should not fire that person unless that person is a danger to others, a direct threat and cannot otherwise be reasonably accommodated. That language, which is the only thing that deals with AIDS and other contagious diseases, the language that would codify the Arline decision, is in President Reagan's bill. So, however we vote today, the question about the Arline and other contagious diseases is not before us unless we plan to get the legislation which says a little, but not a lot.

The fact is that the gentleman from Wisconsin in his substitute, the committee bill, and the President have identical language on the Arline decision, so the issue about how to codify this two-step process with reasonable accommodation and direct threat of people is not an issue because what it says is this: If someone has an illness that is a direct threat to others and cannot otherwise be accommodated, he or she can be fired. All bills say that, the President's included.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Speaker, I rise in support of the Civil Rights Restoration Act of 1987 and the override of the President's veto.

Mr. Speaker, there has been a lot of misinformation circulating concerning what this bill will accomplish, and who it will effect. Therefore, let me state for the record that this bill does not redefine those who are protected under nondiscriminatory policy. The laws which have defined these have been on the books for over 10 years, and public and private entities have been complying by these statutes for quite some time.

While some groups have been organizing strong opposition against this bill, they represent the vocal few. This bill enjoys the support of a large number of teachers and educators in my district. I believe that we must not be swayed by the misinformed public on this matter, and must unite in expressing a strong sense of Congress that taxpayer's money cannot be used to fund discriminatory policies.

The passage of the Civil Rights Restoration Act of 1987, is crucial to overturn the Supreme Court's decision in Grove City versus Bell, which limited coverage of nondiscrimination statutes to the specific program or activity receiving Federal funds. This narrow application of these statutes was clearly not the intent of Congress. After 3 years of attempting to pass clarifying legislation on this matter, we have finally succeeded. We must not allow these efforts to be for naught. Unless we succeed in overturning the more narrow view adopted by the Supreme Court in Grove City, the Federal Government would be put in the untenable position of providing Federal assistance to discriminating entities.

One of the provisions on which we were able to reach a compromise was that pertaining to religious organization. I believe the specific language will continue to protect the autonomy of religiously controlled groups. Such groups will continue to be eligible for an exemption from requirements where compliance with the Civil Rights Restoration Act would violate their religious tenets. This language will ensure that Federal funds are not used to support discriminatory activities, while limiting Government intrusion on religious institutions.

The other controversial provision on which we were able to reach a compromise was that which pertained to abortion. Language in this bill specifically states that "nothing in this title shall be construed to require or prohibit any person or public or private entity to provide or pay for any benefit or service, including use of facilities, related to abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person because such person has received any benefit or service related to legal abortion." This language has been endorsed by the bishops, the National Right to Life Committee and the 5,600-member American Hospital Association.

Because of the great amount of confusion over the implications of this action existing institutions, let me again stress that the Civil Rights Restoration Act of 1987 merely changes the scope of applicability of the following four statutes: Title IX of the Education Act, the Civil Rights Act of 1964, the Rehabilitation Act of 1974, and the Age Discrimination Act of 1975. These statutes state that a recipient (however defined) of Federal assistance (however defined) must not discriminate on the basis of sex, age, race, or handicap. There is no mention of discrimination on the basis of religious or sexual preferences. Nor does this bill redefine recipient or change the definition of Federal assistance. Therefore, those who have not been covered by any of these statutes in the past, will still remain outside of its purview. Furthermore, only institutions which receive Federal funding are covered under this bill.

Of particular concern to many is the provision pertaining to employment discrimination against individuals with a contagious disease. This language merely ensures that individuals with a contagious disease have a right to an individual review of their case, based on sound medical judgment, as to whether they pose a health threat to their coworkers, or whether the disease debilitates them in such a way that they cannot perform their job. By requiring employers to respond rationally to those handicapped by a contagious disease, the act will help remove an important obstacle to preventing the spread of infectious diseases: the individual's reluctance to report his or her condition.

Finally, I wish to conclude by stressing that the overwhelming majority in Congress feel strongly that programs funded by taxes collected from all the people should not be used in ways which discriminate against some. Thank you for the opportunity to express my strong support for this legislation.

Mr. HAWKINS. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in support of the motion to override President Reagan's veto of the Civil Rights Restoration Act. We earlier voted overwhelmingly to pass this legislation with a vote of 315 to 98. We passed it because we saw it to be sincere, straightforward means of restoring original congressional intent to the Civil Rights Act. The bill simply corrects an error in the language of the Civil Rights Act which has allowed the Reagan administration to minimize Federal enforcement of antidiscrimination laws.

In the 3 weeks since that vote, the "Religious Right" has launched a contemptible campaign of misinformation about the bill which has led many of our constituents to oppose it.

If I were to base my vote on this issue on the information provided by the Moral Majority, I, too, would probably oppose the bill. They would have us believe that every business, every community group, every church, and every school would come under a vast new array of intrusive Federal laws infringing on personal freedoms.

As interpreted by Jerry Falwell, the bill would:

Vastly expand the Government's reach into activities run by churches, businesses and other private groups;

Force religious institutions to go against the tenets of their faiths;

And force farmers who receive Federal crop subsidies out of business.

As the mailing puts it, the legislation would "qualify drug addicts, alcoholics, active homosexuals, transvestites, among others for Federal protection as handicapped."

Such claims are patently untrue. I believe it is a deliberate attempt to defeat the bill through the use of scare tactics. If such claims were true, why do such diverse religious groups as the U.S. Catholic Conference, the American Baptist Churches, the Presbyterian Church USA, the American Jewish Congress, and the National Conference of Churches support the bill?

Why is the bill supported by such diverse organizations as the National Association of Home Builders, the AARP, the Easter Seal Society, the AFL-CIO, and the Children's Defense Fund?

I believe the Moral Majority is deliberately attempting to defeat the bill through the use of scare tactics. The same people who now oppose the Civil Rights Restoration Act have historically opposed every one of the civil rights laws which are affected by this bill. And they are using the same scare tactics to defeat this bill that they have used in the past.

I am particularly aware of the importance of the civil rights restoration to Hispanics and other minorities who have only recently begun to benefit from the Civil Rights Act. Hispanics still suffer from large scale discrimination in such areas as schools and housing, employment, voting rights, access to health and social services, and business development and opportunity. Thus, the importance of continued support for, and enforcement of, civil rights protections is particularly important to Hispanics as we seek to attain equality in America.

The Reagan administration has once again demonstrated a dramatic lack of understanding and concern for issues affecting disadvantaged and disabled persons. He prefers to rely on "intent" rather than "effect" in identifying discrimination so that in the absence of "discriminary purpose", effective discrimination is allowed.

I urge my colleagues to override this veto.

President Reagan claims that the CRRA will bring "an intrusive Federal regulatory regime; random onsite compliance checks by federal officials; and increased exposure to lawsuits."

In truth, the CRRA neither expands nor creates any new rights. It merely restores to the Civil Rights Act the scope and enforcement authority originally intended by Congress. It restores Federal enforcement authority to pre-Grove City status. It is important to note that pre-Grove City, judicial and administrative interpretation of the Civil Rights Act consistently supported a broad application of the antidiscrimination provisions. Both Republican and Democratic administrations pursued that course.

The Moral Majority has claimed that the CRRA would force religious organizations to violate the teachings of their faiths in hiring practices and delivery of services.

The CRRA does nothing to change the exiting religious tenet exemption of the Civil Rights Act which has adequately protected religious organizations in the past. That section of the act allows exemptions when nondiscrimination requirements are inconsistent with religious tenets of a religious institution. I quote from a letter from the Civil Rights Office to Senator KENNEDY, "The Office of Civil Rights has never denied a request for religious exemption." More than 150 have been approved.

The CRRA would not prohibit an organization from giving preference to members in the delivery of services but would not allow discrimination in the delivery of services directly funded by the Federal Government.

If the Moral Majority's claims are true, why is this bill supported by such diverse religious organizations as the U.S. Catholic Conference, the American Jewish Congress, and groups representing the Baptist, Lutheran, Episcopal, and Methodist faiths?

The Moral Majority claims that the CRRA would apply to small mom-and-pop businesses, to farmers receiving Federal crop subsidies, and to individuals who receive Federal assistance such as food stamps.

The CRRA specifically excludes the ultimate beneficiary such as farmers and individuals who receive Federal assistance. It also excludes small providers such as grocery stores that accept food stamps. The National Association of Home Builders has demonstrated its support.

The Moral Majority claims that the CRRA would give handicapped status to alcoholics, drug addicts, homosexuals, and persons with AIDS and other infectious diseases.

The CRRA does not protect infected persons, alcoholics, or drug addicts who cannot perform job duties or who pose a threat to others.

The Moral Majority claims that the CRRA would expand the civil rights of homosexuals.

Title 9 has never been interpreted to extend protections to persons on the basis of sexual preference.

The CRRA is supported by a diverse group of mainstream organizations including:

The U.S. Catholic Conference.

The National Association of Home Builders.

The AARP.

The American Jewish Congress.

Paralyzed Veterans of America.

Steelworkers, AFL-CIO, CWA.

La Raza Unida.

The Easter Seal Society.

American Association of State Colleges and Universities.

Childrens Defense Fund.

PTA.

American Federation for the Blind.

A large number of religious organizations support this bill from all mainstream faiths including Jewish, Baptist, Lutheran, Methodist, Episcopal, and Catholic.

Mr. Speaker, I wish to bring to the attention of my colleagues a very disturbing trend which I have begun to notice. There is a new stereotype of late, one that I have read in the newspapers and that has been relayed to me by my constituents.

The new stereotype developing is that anyone who appears to be Hispanic and who has any wealth must have made it in the drug trade. Last week, I had a young, aggressive banker in my office, someone I am sure any of us would be proud to have as a constituent. He is trying to build his bank on community service and wants to spur economic development in his area.

He had a most disturbing story to tell. It appears he started his career in an old family business which had trading operations throughout the world. He spent a number of years in Mexico and was later transferred to the Far East. A few years later, when the family business was sold, and my constituent was looking for a new investment, an opportunity opened up for him to take over a failing bank. He told me there was excessive redtape, simply because the examiners wanted proof that his funds came from legitimate sources, rather than from the drug trade. I wonder whether an individual with an Anglo-Saxon name and fair skin would have had the same problems?

If this were an isolated incident, it would be one thing, but the stereotype that Hispanics with money are drug smugglers is much more pervasive—it exists here in the House of Representatives. I note a recent story from the Atlanta Journal in which one of our colleagues stated "I point blank asked him, 'where are these people from and where is their money from?' I mean when you meet a guy from Miami and his last name is Hispanic, your first thought is they're not legitimate."

I am personnally offended and outraged that our Government and its leaders should speak in this manner. I believe such statements by Members reflect poorly on this institution and is not the type of message we should be sending. I would instead urge my colleagues to lend the support of this body in repudiating this type of racial and ethnic stereotyping and ensuring the equal and fair treatment of all our citizens.

Mr. JEFFORDS. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I rise in strong support of the override. I believe, like many others do, that civil rights is an issue whose day has come, as it has in years past. Yet it seems that some people are content today on addressing this issue of civil rights legislation as we have before, based on technicalities, on interpretations, and on distortions.

Everyone talks about the fact that this legislation is going to be an expansion of civil rights legislation entering the lives of everyone in this country. Let us understand that what we are doing is restoring the 1984 interpretation of this legislation by this Congress and by this administration. If you were not bothered before 1984, you will not be bothered by the restoration of this act. Therefore, whether it be the religious tenets or the extent of private business or other sections of our economy, never in this history of civil rights has so much time been spent in colloquies on the floor, in committee history, and other efforts to allay any possible misunderstandings or fears.

Today is our chance to send a signal. As the students of Gallaudet said to this Nation 2 weeks ago, civil rights based on age, sex, race, or handicap is a right for all Americans.

□ 1730

Mr. JEFFORDS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER. The gentleman from Vermont is recognized for 1½ minutes.

Mr. JEFFORDS. Mr. Speaker, I want to spend just a moment talking to those on my side who may be considering switching from having voted for the bill upon passage and now supporting sustaining the veto. I do so because we have had a lot of facts, a lot of very inconsistent facts. We have had a lot of emotional phone calls. I want to try to save you from the embarrassment and the agony of having gotten yourselves in a position of having to explain.

First of all, let us go through some of the facts. AIDS and homosexuality, thousands of phone calls on that issue. The differences in the bill? None, both the same.

Abortion, that perpetually troubling problem, the bills are the same.

Farmers wondering whether they are covered if they take money with respect to any of the programs; in both bills, they are not covered.

Small providers, the bill that you voted for would allow relief to all small providers who may have problems with architectural barriers. The substitute, only grocery stores.

Religious tenets, there is a difference, but there is no problem. All those who have requested exemptions have received them.

The override is backed by the Catholic Conference and backed by the National Association of Independent Colleges and Universities.

I urge you to continue to demonstrate your opposition to discrimination. Do not allow your opposition to demonstrate your inexplicable inconsistency.

Mrs. MEYERS of Kansas. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I am happy to yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of the override.

The SPEAKER. The Chair will state that the gentleman from Wisconsin [Mr. SENSENBRENNER] has 1 minute remaining, the gentleman from California [Mr. HAWKINS] has 3 minutes remaining, and the gentleman from California [Mr. EDWARDS] has 3 minutes remaining.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the remaining minute.

Mr. Speaker, I am proud of my record on civil rights. I was one of those who helped put together the extension of the Voting Rights Act of 1982, which is landmark civil rights legislation.

I think we have got to remember why we are here today and that is because in 1972 Congress was sloppy in its draftsmanship of title IX of the Higher Education Act. There was enough ambiguity in that law to allow the case to go to the U.S. Supreme Court involving the Grove City College, which resulted in a decision based on statutory interpretation, narrowly construing the antidiscrimination provisions of title IX.

Everybody who has taken part in this debate agrees that where Federal money goes, there should be no discrimination, but those of us who support the President in his veto are quite plain in saying that this bill makes the same mistake that Congress made in 1972, and that is it is not clear and precise. We want to avoid future Grove City type decisions which will bring this issue up before the Congress again and again.

The way we do that is by doing the job right this time. We do not do the job right with this bill. It is a blank check to the bureaucrats and the litigators, and that is why we ought to go back and tighten the bill up so that the courts have precise legislative direction in the statutory language of the bill, not in colloquies, to know precisely what the Congress of the United States has meant.

So please vote to sustain the veto. Let us vote to do our jobs as legislators right, so that the courts will make the right decisions.

Mr. HAWKINS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise today in strong support of S. 557, the Civil Rights Restoration Act of 1987, and urge my colleagues to vote to override the President's veto.

Three weeks ago, by a vote of 315 to 98, we voted to send S. 557 to the President, and, we did so knowing exactly what this bill did. There were no hidden agendas, no new protections, and no new rights established by this measure and we knew that when we so overwhelmingly passed S. 557.

Amidst the most incredulous campaign of distortions and fabrications by the Moral Majority to which we all have been subject, we must remember why we voted for this bill in the first place. The premise is simple—Federal funds should not be used to subsidize discrimination based on race, age, sex, or handicap. If an institution wishes to discriminate their choice is simple—don't take Federal dollars.

This premise of nondiscrimination goes on to insure that all taxpayers are treated fairly and equally when their dollars are used by federally supported institutions. If an educational institution wishes to assign girls to only home economics and boys to engineering and to provide only athletic programs for little boys and not to girls they are free to do so but they may not use Federal funds. If a housing unit or nuring home wishes to admit only whites that's their moral decision, but as a corporate unit they should not be allowed to use Federal dollars either directly or indirectly through the notion of freeing up other dollars for such discriminatory activities.

My colleagues these are not new and startling revelations—rather these were the elements of the debate when we passed the Civil Rights Act of 1964, 25 years ago; of title IX of the Education Amendments of 1972—16 years ago; section 504 of the Rehabilitation Act of 1973—15 years ago; the Age Discrimination Act of 1974—14 years ago. There is nothing in S. 557 that changes in any way the substantive definition of what constitutes discrimination under these statutes, or what an institution must do to fulfill this duty; it does not alter what triggers coverage of these laws, in other words, what is Federal financial assistance; nor does it change or expand the protections that these basic laws have guaranteed for the last 25 years.

What S. 557 does do, and rather clearly, is define the scope of the covered entity that has a duty not to discriminate as it had been understood prior to the Supreme Court's misinterpretation of title IX in the Grove City College decision. S. 557 defines the phrase "program or activity", or "program" simply to make clear that discrimination is prohibited throughout entire agencies or institutions if any part receives Federal financial assistance.

The Senate added two amendments. First, was the Danforth abortion amendment. Second, was the Harkin-Humphrey amendment that made it explicit that "Congress wishes to assure employers that they are not required to retain or hire individuals with a contagious disease or infection when such individuals pose a direct threat to the health and safety of other individuals, or cannot perform the essential duties of a job." For greater detail, I am enclosing at this point in my remarks letters of correspondence from the sponsors detailing their intent. It should be noted as well this provision is also contained in the Presidents' substitute.

Mr. Speaker, S. 557 has been the subject of an incredible campaign of lies and distortion by the Moral Majority and done in the name of religious liberty. We all care deeply about our religious beliefs, and the freedom which allows each of us to practice our faiths, and not one of us here would in any way jeopardize any one's religious rights and freedoms. That is why, Mr. Speaker, I am so troubled by the accusations that this measure in some way infringes on the first amendment right of freedom of religion. Those accusations are simply not true. Listen to the list of churches that unequivocally support this measure:

U.S. Catholic Conference of Bishops.

National Council of Churches.

American Jewish Congress.

American Baptist Churches.

Evangelical Lutheran Church of America.

Union of American Hebrew Congregations.

Anti-Defamation League of B'nai B'rith.
American Jewish Committee.
Church of the Brethren.
Presbyterian Church USA.
Church Women United.
Newwork-National Catholic Justice Lobby.
United Methodist Church.
Episcopal Church.

The hysteria that has been created by the Moral Majority is simply that—hysteria—it is unfounded fear based on distortions and fabrications over what this bill does. I wish to restate as others have done that S. 557 does not create rights for homosexuals, nor does it require employers to hire people who have contagious diseases, who are alcoholics or drug addicts, and who pose a direct threat to the health or safety of others or who cannot perform the essential functions of the jobs.

S. 557 simply restores the coverage of our civil rights laws to the pre-Grove City institution wide framework. I urge your support of the override.

Mr. Speaker, I include the following material:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 22, 1988.
Hon. Senator TOM HARKIN,
Chairman, Senate Subcommittee on the Handicapped, Washington, DC.

DEAR SENATOR HARKIN: As you know, the House of Representatives will be considering S. 557, the Civil Rights Restoration Act in the near future. As part of that bill, we will be reviewing Amendment No. 1396. Our reading of the Amendment is that it is designed simply to allay any fear that employers may have had in hiring and retaining individuals with contagious diseases or infections. It does not change current, substantive protections afforded to people with contagious diseases or infections under Sec. 504 of the Rehabilitation Act of 1973.

We need your views to aid us in our assessment of this Amendment. As Chair of the Subcommittee on the Handicapped and sponsor of the Amendment, we ask that you forward a description of the terms of the Amendment and its impact at your earliest convenience.

Thank you for your assistance.

Sincerely,
DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights.
AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor.

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED,
Washington, DC, February 26, 1988.
AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, Washington, DC.
DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights, Washington, DC.

DEAR CONGRESSMEN HAWKINS AND EDWARDS: I am writing in response to your request for a discussion of Amendment No. 1396 to S. 557, the Civil Rights Restoration Act of 1987, which I cosponsored with Senator Humphrey and which was accepted by the Senate on Thursday, January 28, 1988.

Your reading of the amendment is correct. The amendment clarifies how section 504 of the Rehabiliation Act of 1973 applies to individuals with contagious diseases and infections. The amendment is consistent with the Supreme Court decision in *School Board of Nassau County* v. *Arline.* The amendment does not change or modify the substantive standards of section 504.

The fact that the amendment clarifies and does not modify or change the substantive standards of section 504 is evident from the statement of purpose preceding the amendment; the amendment itself; and the colloquy accompanying the amendment.

The statement of purpose provides: "Purpose: To provide a clarification for otherwise qualified individuals with handicaps in the employment context." I would note that we intentionally did not state that the purpose of the amendment was to change the scope or circumstances under which persons with contagious diseases or infections are covered by section 504.

The language of the amendment also reflects this intent. The language specifies that for purposes of sections 503 and 504, as they relate to employment, the term "individual with handicaps" does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who would be unable to perform the duties of the job.

This language was purposely patterned after a similar amendment adopted by Congress in 1978 with regard to alcoholics and drug users. At that time, many employers had unjustified concerns that they could be forced to hire or retain alcoholics or drug addicts who could not perform the essential functions of a job or who posed a threat to others. The legislative history of the 1978 amendment makes clear that Congress understood that the "otherwise qualified" standard of section 504 already ensured that no such requirement could be placed on employers. Nevertheless, Congress enacted the amendment in order to reassure employers regarding the existing section 504 protections.

As we stated in the colloquy, Amendment No. 1396 is designed to serve the same purpose. The objective of the amendment is to expressly state in the statute the current standards of section 504 so as to reassure employers that they are *not* required to hire or retain individuals with contagious diseases or infections who pose a direct threat to the health or safety of others or who cannot perform the duties of a job.

The basic manner in which an individual with a contagious disease or infection can present a direct threat to the health or safety of others is when the individual poses a significant risk of transmitting the contagious disease or infection to other individuals. The Supreme Court in *Arline* explicitly recognized this necessary limitation in the protections of section 504. The amendment is consistent with this standard.

Again as we stated in the colloquy, the amendment does nothing to change the requirements in the regulations and case law regarding the provison of reasonable accommodations to a person with handicaps, as such provision applies to a person with a contagious disease or infection. Thus, for example, if a reasonable accommodation would eliminate the existence of a direct threat to the health or safety of others or eliminate an individual's inability to perform the essential duties of a job, the individual is qualified to remain in his or her position.

Finally, as was stated in the colloquy, the two-step process of section 504 applies in cases involving an individual with a contagious disease or infection. That is, a court must first determine whether an individual is protected under the traditional three-part definition of "individual with handicaps" under the statute. The court must then make an individualized determination as to whether the individual is "otherwise qualified" to hold the particular position at issue in the case before it.

I hope that this discussion is useful for you in your upcoming consideration of the Civil Rights Restoration Act of 1987.

Sincerely,
TOM HARKIN,
Chairman.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, I rise in opposition to the effort to override the veto.

I am very disappointed with the vote to override the President's veto of S. 557, the Civil Rights Restoration Act.

I have been very disturbed by the way in which this bill has been handled. First, the House leadership sought to bring it up for a vote under rules that allow no amendments. It found it could not get the votes to pass the bill under this procedure, so it turned to something called a modified closed rule. This rule allowed only one amendment to be considered, despite the concerns of several Members and their desire to offer amendments intended to clarify the intent of the legislation. I find these tactics of people who hold themselves out to be champions of civil rights to be peculiarly undemocratic.

The fact is that the Civil Rights Restoration Act is too vague and leaves the door open for the Federal judiciary and the bureaucracy to interpret it as it sees fit. It is a poorly crafted bill and could, as a result, have serious consequences for religious institutions, small businesses, grocers, and farmers, to name a few. It would result in increased Federal intrusion into these areas, which means increased costs and hassles for the people involved.

The Federal Government should have no hand in subsidizing institutions with discriminatory practices, but this legislation is a poor solution to the problem. The President has offered, and I have cosponsored, alternative legislation that would achieve the stated goals of the supporters of the Civil Rights Restoration Act without exposing hardworking people and our churches and religious schools to unwarranted intrusion of the Federal Government.

We should deal with civil rights legislation the same way we deal with other legislation: with careful consideration and full discussion.

Mr. EDWARDS of California. Mr. Speaker, to close the debate, with great pleasure and honor, I yield the balance of my time to the chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. Rodino].

Mr. HAWKINS. Mr. Speaker, I yield my 1 minute remaining to the gentleman from New Jersey [Mr. Rodino].

The SPEAKER. The gentleman from New Jersey [Mr. Rodino] is recognized for a total of 4 minutes.

Mr. RODINO. Mr. Speaker, I come before the House today to strongly urge my colleagues to override the President's veto of S. 557, the Civil Rights Restoration Act. This action is necessary to ensure that the promise upon which our country was founded—equal opportunity and equality under the law for every American—will be attained.

It was over 200 years ago when Thomas Jefferson wrote those immortal words "all men are created equal." Those words and the ideals they represented began a revolution that culminated in the forging of a new nation based upon the principle of "liberty and justice for all." Yet, we know that not every American was free nor was every individual treated equally. For years, people of color faced discrimination, often at the hands of their local government, that relegated them to second-class citizenship. The barriers of segregation created two societies—one black, one white; two societies, separate and unequal.

The struggle to break down those barriers was not an easy one, nor did it come quickly. America was not a fledgling nation, but a world power before she began in earnest to overcoming racial discrimination. And the effort was not without pain and sacrifice. In the 1950's and 1960's the South erupted as individuals demonstrated, marched, and even died in the effort to secure the equal rights and opportunities guaranteed to all Americans by the Constitution.

In 1964, Congress provided the tools to eliminate discrimination against people of color by enacting the Civil Rights Act. Title VI of that act made clear that Federal funds would no longer be used to subsidize racial discrimination. Although a decade before the Supreme Court had ordered school desegregation in Brown versus Board of Education, it was not until title VI became law that widespread integration was achieved. Faced with the loss of Federal funds, recalcitrant school districts decided that Federal assistance was more important than adherence to a bankrupt racist philosophy. Other recipients of Federal funds too began to dismantle their discriminatory practices.

In the 1970's, Congress heard the cries of other groups that were excluded from the American dream because of prejudice and discrimination and enacted legislation to correct this injustice. Title IX of the Education Amendments of 1972 prohibited sex discrimination in educational programs or activities receiving Federal aid; section 504 of the 1973 Rehabilitation Act banned discrimination against the disabled by recipients of Federal funds; and in 1975, the same protection was granted to the elderly by the Age Discrimination Act.

At the beginning of this decade, it looked as though we were well on the way to achieving the promise of America begun 200 years before—a land where all citizens, are guaranteed an opportunity to achieve their fullest potential, without regard to their color, gender, physical disability or age. Then, in 1984, the progress achieved was put at risk by the Supreme Court's decision in Grove City College versus Bell. The Court took a very narrow view of title IX, finding that only that part of the institution receiving Federal funds was prohibited from discriminating on the basis of sex; all other programs and activities were free to deny equal opportunity to women. Since all four civil rights acts contain identical language, the Grove City decision also jeopardized the rights of the elderly, the handicapped, and minorities.

The repercussions were swift and unfortunate. Hundreds of cases of discrimination have been dropped in the past 4 years. Women, minorities, the disabled and the elderly are being denied simple, basic protections. We must not let this travesty of justice continue. That is why we must override the President's veto of the Civil Rights Restoration Act. Contrary to the claims of its few opponents, this measure does not create new law or expand civil rights. It merely restores the status quo that existed before the Grove City decision and thus provides society with the tools to see that discrimination is never subsidized by the Federal Government.

Before I close, I want to address the claim of the bill's opponents that this measure places an undue burden upon religious institutions, especially colleges and universities with religious affiliation. I find that claim difficult to reconcile with the list of supporters of this legislation that includes the U.S. Catholic Conference of Bishops; National Council of Churches; American Jewish Congress; American Baptist Churches; Evangelical Lutheran Church of America; Union of American Hebrew Congregations; Anti-Defamation League of B'nai B'rith; American Jewish Committee; Church of the Brethren; Presbyterian Church, USA; Church Women United; Network-National Catholic Justice Lobby; United Methodist Church; and Episcopal Church. Moreover, in a letter to the President urging him to sign S. 557, the National Association of Independent Colleges and Universities—the country's largest association of independent colleges and universities, many of which are church-related—said, in part, "We want to reiterate our unqualified support for this legislation. We strongly urge you to sign the Civil Rights Restoration Act of 1988."

In closing, I want to add that I am deeply saddened by the fact that we must vote today to override a Presidential veto of this important civil rights legislation. Instead of supporting equality under the law for all Americans, regardless of their race, color, gender, age, or physical condition, the President has again attempted to turn the clock back on the progress that has already been made toward that goal. Thus, it is doubly important that we, through our vote today, ensure that the promise of liberty and justice for all made over 200 years ago becomes a reality for every American.

Mrs. COLLINS. Mr. Speaker, in 1964 a great victory was won in the struggle for civil rights. The 1964 Civil Rights Act finally allowed the obvious to be stated clearly, once and for all—that all people are created equal regardless of race, religion, creed, or gender. And because of this equality, every person is entitled to fair and equal treatment. Finally, discrimination was made illegal in this country which prides itself on its doctrine of freedom, liberty, and equality.

But in 1984 the Supreme Court began to chip away at the progress made in the struggle against discrimination. Its decision in Grove City versus Bell effectively condoned discrimination by claiming that only the particular program receiving Federal aid should be subject to scrutiny, not the institution as a whole. This decision to turn a blind eye to an overall policy of blatant discrimination was an act of regression—it turned back the clock to the days when it was permissible and acceptable to discriminate. What we are talking about is a decision which gave in to discrimination instead of fighting it at the source of its evil.

The question is this: Should the U.S. Government be funding any institution which would practice discriminatory policies in its nonfederally funded programs? The answer is obvious to those who realize that no foothold can be given to discrimination. The U.S. Government would be placed in the position of being an accomplice to the crime of discrimination.

Many legislators seem to have missed the point of the whole discussion surrounding this bill. It's not a question of how much Federal assistance an institution receives, or in which programs it chooses to discriminate. Discrimination was outlawed in 1964, and whether you receive a lot of Federal aid, a little, or none at all—discrimination is an unacceptable practice.

It must be noted that the last victims of discrimination are people with infectious diseases, particularly AIDS patients. Because of the rising controversy caused by the mistreatment of these people as a group, language—which I wholeheartedly support—has been added to include them in S. 557. It is now explicitly against the law for recipients of Federal assistance to discriminate against disabled persons, which includes persons with infectious diseases such as AIDS. Legislators who oppose S. 557 must remember that a law only works if the people believe that those who govern them believe in that law. I believe in equality. And I believe in the fact that discrimination in any form or amount is wrong. And finally, I believe that we must pass S. 557 in order to right the wrong Grove City versus Bell has perpetrated. We must put the civil rights movement back on the right track, and move forward in our effort to bring every American to an understanding and agreement about the importance of equality.

Mrs. KENNELLY. Mr. Speaker, I rise to urge my colleagues to vote to override the President's veto of the Civil Rights Restoration Act. This legislation has been the subject of more misunderstanding and half-truths than any in recent memory. In fact, the tactics and intolerance exhibited by some opponent groups points up exactly why we need civil rights legislation in the first place.

This legislation ends the taxpayer's subsidization of discrimination and simply restores the broad coverage of existing civil rights laws prohibiting discrimination on the basis of race, color, national origin, sex handicap, or age, in institutions which receive Federal funds.

It does not require employers to hire people with contagious diseases or require hospitals to perform abortions. It does not require religious organizations to violate their religious beliefs. It simply upholds the basic freedoms guaranteed all Americans under the Constitution.

This legislation is supported by nearly every major civil rights and religious organization, including the U.S. Catholic Conference, in the country. I urge my colleagues to do the same.

Mr. TALLON. Mr. Speaker, the Civil Rights Restoration Act of 1988 does exactly what it says it does. Simply, it ensures that Federal funds will not support discrimination or segregation.

The United States has been operating on this standard since 1964. The 1984 Grove City decision pointed out that these laws needed clarification. With the passage of S. 557 in both Houses, we have done just that.

I have watched this issue closely and I am convinced that the law passed is a good one. The massive propaganda campaign against it has played on groundless fears and does not properly address the actual language of S. 557. I would like to take this opportunity to point out some facts about this law.

Farmers are considered "ultimate beneficiaries" and thereby qualify for an exemption under these laws. Farmers who receive price and income supports and loans have been and will continue to be exempt from the requirements of this legislation.

In regard to church schools, this bill will not change the way the Federal Government presently respects religious activities. The exemption for church schools remains as it has since 1972. No matter what false information has been spread, this law does not require religious-controlled institutions to comply with the civil rights laws if compliance would conflict with the tenets of that religion.

Sexual preference has never been protected by law, nor is it protected in S. 557.

S. 557 does not require an employer to hire or retain in employment persons with contagious diseases because they are considered handicapped by law. An employer is free to refuse to hire or fire any employee who poses a direct threat to the health or safety of others or who cannot perform the functions of the job. Nothing in S. 557 changes this fundamental right of the employer.

The taxpayers of America need to have insurance that their hard-earned money will not go to programs or institutions which practice discrimination on the basis of race, sex, handicap, or age.

Mr. ROWLAND of Georgia. Mr. Speaker, I have always supported the intent of the Civil Rights Restoration Act. However, I have been concerned over possible loopholes in this bill which may actually be detrimental to the cause of civil rights.

The 1984 Grove City decision needs to be corrected. If institutions receive Federal funds, it is the intent of civil rights laws that those institutions be fully covered.

Provisions have been added to the original bill, however, which may—if broadly interpreted by the courts—impose unintended burdens on churches, businesses, and private citizens. In my view, it would be better for everyone who supports civil rights to bring the bill back for renewed consideration and tighten up those provisions.

There are many questions which have still not been adequately answered, and it would be better to resolve them in Congress than to leave them up to the courts.

Mr. STOKES. Mr. Speaker, the fight for equal rights must be restored as a priority issue for our Nation. Just a few days ago, on March 2, 1988, I cast an unequivocal vote supporting the passage of S. 557, the Civil Rights Restoration Act. Since that time, my position on this issue has not changed. What I had to say on March 2 is still applicable today: The time to reaffirm our Nation's commitment to eliminate discrimination against minorities, women, the elderly, and disabled is now.

Within the last few weeks, my office has received many calls in opposition to the passage of this bill. Based on these calls, it appears to me that many Americans have been grossly misinformed regarding the substantive provisions of S. 557. If I may, I would like to offer clarification.

Quite simply, S. 557 has been drafted to eliminate the use of Federal taxpayers' money to fund discrimination. Such an occurrence is a blatant aberration of the democratic principles which have helped to make our Nation great. Moreover, such an occurrence contradicts the spirit and purpose of specific laws Congress has enacted to ensure the provision of equal rights and opportunity to disadvantaged groups.

Just 4 years ago, in Grove City College versus Bell, the U.S. Supreme Court issued a ruling which watered down the substantive provisions of our Nation's civil rights laws. In Grove City, the Supreme Court held that Federal laws prohibiting discrimination do not apply to entire institutions, but only apply to the program or activity receiving Federal assistance. Based on this ruling, Federal funds have been used to further discriminatory practices. To say the least, for minorities, women, the disabled, and elderly, this ruling sets civil rights back a couple of decades.

For this reason, S. 557 is probably the most significant piece of civil rights legislation considered by the Congress since the Civil Rights Act of 1964. I am hopeful that we will enact S. 557 into law today. And, when we do, our Nation will take one step closer to fulfilling the promise of equal rights and opportunity to all of its citizens.

Mr. FAZIO. Mr. Speaker, I rise today in support of S. 557, the Civil Rights Restoration Act and urge my colleagues to override the President's veto of this important bill.

Passage of the Civil Rights Restoration Act is essential to restore the broad coverage of our civil rights laws which were by the Supreme Court's ruling in Grove City College versus Bell. The Senate originally approved the bill by 75 to 14 and the House approved it overwhelmingly 315 to 98. Clearly, the measure has a broad support from Members on both sides of the aisle and in both bodies.

The bill also has support from a wide spectrum of groups including: The Roman Catholic Church, the American Jewish Congress, the National Council of Churches, the National Women's Law Center, the U.S. Catholic Conference, the National Association of Independent Colleges and Universities, the Union of American Hebrew Congregations, and the Leadership Conference of Civil Rights.

S. 557 merely restores broad coverage of laws to protect citizens against discrimination due to race, sex, age, or handicap by institutions receiving Federal funds. This bill does not require an employer to hire all persons with contagious diseases. It does not state that any employer must hire drug addicts or alcoholics. This bill does not change existing law to create any new duties, new standards, or new requirements. Nor does it require a religious organization or institution to violate its own principles and beliefs.

We must vote to override the veto and end Federal support for institutions which unfairly discriminate. As Members of Congress, we have an obligation to protect the rights of all our constituents. This measure does not threaten the rights of anyone; it does just the opposite. The Civil Rights Restoration Act upholds the fundamental rights and freedoms guaranteed to all Americans by the Constitution and which are reaffirmed in our previously enacted civil rights statutes.

Mr. FRENZEL. Mr. Speaker, I rise in support of the effort to override the President's veto of S. 557, the Civil Rights Restoration Act. Opposing any President on a veto-override attempt, much less a President of one's own party, is not an easy matter. However, I believe the veto was unwarranted in this case.

The opposition to this bill has been quite aggressive. That is the way the system is supposed to work. However, S. 557 has been interpreted as a bill which will totally destroy the moral fiber of this country. In any judgment that interpretation is a little heavy-handed.

The opponents' grassroots campaign to defeat the bill has been impressive. Hundreds of calls have poured into my office, and, I assume to many others as well. Interest groups which support the bill have been active as national organizations, but they have not developed a grass-roots campaign of their own.

The number of calls into my own offices, and the concern of my constituents, have forced me to scrutinize the bill even more closely. I have tried to determine whether the legislation would result in the changes feared by its opponents, but I have found no such language in this bill.

Many citizens fear that Federal courts will misinterpret the law. One should always be nervous about people in black robes, but if we let nervousness turn into paranoia, we could never pass another bill.

This legislation does not change our current civil rights laws, other than to restore the application of those laws to cover an entire institution, rather than a program of an institution, if Federal funds are received. This was the way civil rights laws were administered prior to the Supreme Court's Grove City decision over 4 years ago.

None of the fears being expressed now were realized before Grove City. Church-related schools were not forced to hire homosexuals and farmers, and small grocers were not covered, and abortions were not forced upon church-run teaching hospitals. The bill has been designed to narrow the coverage of the civil rights laws to ensure that the laws would work as they did before the Court decision.

The Congress has been debating this issue for 4 years. It has not proceeded this far without plenty of discussion and debate. We all knew this legislation was coming, and there have been some opportunities for imputs.

Of course, I prefer the regular order in the House. I would be happier if the House had moved the bill under its regular procedures. I cannot defend the procedures under which it passed the House, but in a matter of this importance I cannot let procedure stand as a more compelling argument than substance. The need to overrule the Grove City decision is too great.

First of all, many of the interests expressing opposition to the legislation would not even be covered by it. It is well to remember that an organization is covered only if it receives Federal funds. There is language in the bill which excludes such ultimate beneficiaries as farmers, welfare, Social Security, Medicare and food stamp recipients from coverage under the bill.

There is a religious tenet provision which would enable church-controlled organizations to refuse to perform abortions or to refuse to hire homosexual teachers. The intent here is to interpret this language as broadly as possible. As a result, many of the major religious organizations have supported S. 557. To date, no religious group applying for a religious tenet exemption has been denied an exemption.

To be sure I would prefer the language "affiliated with" to the language of the bill, "controlled by" in the religious tenets section. But the history of the current law is that the religious tenet language has been interpreted well.

There is a restatement of current law that companies or organizations receiving Federal funds would not have to hire a person with a contagious disease, such as AIDS, alcoholism, or drug addition, if there would be a direct threat to the health or safety to others.

There is, in addition, a small provider provision which exempts small businesses from expensive alternations of their businesses for excess by the handicapped, if they can provide services to the handicapped in some other way.

Homosexuals are not covered under any of these laws now, and there is nothing in this bill that extends any rights to them. There have been attempts for many years to amend civil rights laws to include sexual preference, but Congress has shown no interest at all.

But, for more important than any defense against attacks on this bill is the need to make our rights laws work. To accent the positive, the urgent need to guarantee the rights of American citizens far outweighs the objections to S. 557.

And where are civil rights more important than in our institutions of higher education? Young Americans, preparing themselves for leadership roles in our society, should, above all, be working in a discrimination-free environment. For me that's what this bill is all about. And that's why I support S. 557.

Civil rights laws should be administered to end discrimination due to race, gender, age, or disability, in the manner intended by the Congress before the Grove City decision. I do not believe that this bill goes beyond that, and therefore I shall vote to override the President's veto.

Mr. BOULTER. Mr. Speaker, I rise today to express my strong opposition to and grave concern about the Civil Rights Restoration Act.

What is the bill? What will its impact be? And, most importantly, whose civil rights are we restoring?

The purpose of Senator KENNEDY's bill is to extend Federal civil rights statutes like those in the 1972 title IX provisions of the Education Act, made "program specific" in the Grove City case, to cover not only the programs receiving Federal aid within an institution but all of the institution's services. This purported extension of Federal civil rights protections sounds laudable until one realizes that this bill will greatly expand Federal control in all types of institutions which receive direct or indirect Federal aid.

Let's take a look at the potential repercussions of this legislation.

For the first time, churches and synagogues will be subject to Federal regulatory control. Only title IX of the 1972 Education Amendments Act allows a waiver for religiously controlled schools. The other civil rights statutes included in the bill's purview—such as section 504 of the Rehabilitation Act and title VI of the Civil Rights Act—do not provide for exclusions for religious institutions and would therefore force entire churches to comply with antidiscriminatory regulations should they operate one federally assisted program or activity.

How helpful is the waiver provision in title IX? Proponents of this bill argue that any religious institution receiving Federal educational dollars can apply for a waiver from compliance with the title IX antidiscriminatory regulations. The problem with this argument is that only institutions legally "controlled by a religious organization" will be exempt from those title IX provisions which contradict the institution's religious tenets. The following Texas colleges that are religiously affiliated—but not religiously controlled—asked for waivers and did not receive them: Dallas Theological Seminary, Lubbock Christian College, University of Dallas, Southwestern Assemblies of God College, and Concordia Lutheran College.

Implementation of this legislation will also mean that religiously affiliated schools that receive no Federal aid, but whose students do, could be forced to achieve a racial balance through a quota system as the Federal Government applies an effects test. This test could determine whether or not the institution in question has any practices which cause discriminatory effects—even if the institution's intent is not to discriminate. The extension of the effects test to the private sector could result in affirmative action plans affecting grocery stores that accept food stamps, farms that get Federal price supports, insurance companies that administer Medicare or Medicaid * * * the list is endless.

According to William Bradford Reynolds, Assistant Attorney General, the purpose of this bill is "to use the overturning of Grove City as a vehicle for expanding to the fullest extent possible the reach and role of the Federal bureaucracy into every facet of the public and private affairs of all our citizens."

I am certainly against discrimination of the disabled, of women, of minorities, and of the elderly. However, it is my strong opinion that long-established and dear liberties exercised by many of our churches, private colleges, and hospitals will be sacrificed so that bureaucratic intrusion can be furthered in every sector of our American society under the guise of protecting individual liberties that are already insured by law.

Mr. Speaker, it is my firm belief that the President's veto should be upheld. I urge my colleagues to vote to sustain the veto and kill this bill.

Mr. GRADISON. I rise in opposition to the veto of the President of S. 557, the Civil Rights Restoration Act, and urge my colleagues to join me in supporting this critical civil rights legislation.

S. 557 would restore the broad scope of coverage, intended by Congress, to four existing civil rights laws that form the foundation upon which this country stands against discrimination based on race, color, national origin, age, or sex. These legal protections of basic civil rights—title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964—ensure that recipients of Federal funding cannot discriminate on those grounds.

The Supreme Court, in its ruling on February 28, 1984, in the case of Grove City College versus Bell, effectively narrowed the application of the coverage of these important civil rights statutes. The Courts' ruling reversed administrative practices and enforcement interpretation that had been carried out for years by both Democratic and Republican administrations. Before the Supreme Court's 1984 ruling there was little dispute about what the intentions of Congress were in enacting these laws.

The issue before the House today is whether to reaffirm the Nation's commitment to the broad coverage of the antidiscrimination provisions of these important civil rights statutes as it existed before the Court ruled in the Grove City case. As the President indicated in his letter of March 16, 1988, "protection of the civil rights of Americans is an important duty of the government." In my view, S. 557 accomplishes this worthy goal.

Although this legislation enjoys wide bipartisan support, it has been severely criticized. Some fear that S. 557 would present an unnecessary and unprecedented regulatory intrusion of the Federal Government into the operation of State and local governments and private organizations. It is feared that churches and synagogues, private schools, farms and small businesses would all come under the heavy hand of Government.

As my colleagues have, I have received hundreds of calls, letters, and telegrams from constituents who are understandably concerned about the ramifications of this legislation. It is most unfortunate that much of what they have been told about this legislation is misleading and false.

After careful consideration, I am convinced that the fears which have been expressed to me are unfounded. This bill merely restores the status quo ante where the Grove City case is concerned. State and local governments would not be under any additional Federal mandates. This bill would not affect the operation of farmers who receive Federal subsidies. Nor would it affect those who receive Medicaid benefits, food stamps, or Social Security benefits.

Small businesses, such as grocery stores, that receive some form of Federal assistance, would not be required to make significant and costly structural changes to their existing facilities to ensure access for the handicapped. S. 557 does not require an employer to hire someone with AIDS or any other contagious disease if that person would pose a threat to the health or safety of others. Similarly, no employer would be under any mandate to hire or retain alcoholics and/or drug abusers. The courts have upheld the rights of employers in this area. This bill in no way changes that.

Much of the concern has come from those who are worried about the adverse impact this legislation purportedly would have on their church or synagogue. S. 557 does not require religious controlled institutions to comply with the civil rights laws if compliance would conflict with the tenets of that religion. Furthermore, nothing in the bill requires any person or organization to provide or pay for benefits and services related to abortion.

In addition, the legislation does not create rights for homosexuals, based on their sexual preference. This bill would not prevent a religious organization from taking an individual's sexual preference into account in any of its activities if it would violate the religious tenets of that organization.

It is unfortunate that much of the substantive debate on this issue has been shrouded by arguments that purport to stand on religious grounds. The fact is that major Catholic, Protestant, and Jewish organizations all support the enactment of S. 557. These organizations include, among a number of others, the U.S. Conference of Catholic Bishops, the National Council of Churches, the American Baptist Churches, the Evangelical Lutheran Church of America, the Episcopal Church, and the Union of American Hebrew Congregations.

Mr. Speaker, after 4 years of discussion and debate the Congress has arrived at a carefully crafted solution to restore coverage to some of the critical provisions of the Nation's civil rights statutes. In order to keep our commitment to effective Federal civil rights statutes, S. 557 is a necessary and desirable addition to current law and I urge my colleagues to join me in support of the legislation.

Mr. HOUGHTON. Mr. Speaker, there has been much debate over whether the Civil Rights Restoration Act should become law—part of this debate has been based on fact—much has been based on out and out emotion. Emotion is key to our lives, but must be tempered when being translated into hard, tough law. The truth is that before the Grove City case, Federal antidiscrimination laws applied to whole institutions when Federal money was involved. S. 557 is an effort to restore the same protection which existed prior to the Supreme Court's decision. It's that simple.

The compromise is not perfect. And frankly there was little opportunity to improve it. I supported the one amendment permitted, and that, unfortunately, was voted down. Now we are faced with the final "up or down" vote on the bill.

I plan to vote "up." There have been 3 years of hearings on the bill and compromises along the way. S. 557 is now abortion neutral, which relieves the concerns of right-to-life advocates. Corporate-wide coverage has been limited to five areas, although I would have personally preferred that all coverage be at the plant or facility level. The religious tenet language seems satisfactory to most of the educational institutions with whom I've talked. Very simply they would request an exemption under the act.

On other issues—current Federal law does not prohibit discrimination on grounds of sexual preference, nor does this bill. Similarly, the bill restates existing law which says that persons with contagious diseases, such as AIDS, must be treated as handicapped "except when they present a danger to the health and safety of others or cannot perform essential functions of their jobs."

There may be need for some refinement of the bill as we move to implement it. But I support the major thrust of the legislation—meaning that the Federal Government ask organizations that get tax dollars to comply with our civil rights laws.

Mr. KOSTMAYER. Mr. Speaker, I am voting to override the President's veto of S. 557, the Civil Rights Restoration Act.

On March 2, the House of Representatives passed S. 557 by an overwhelming 315 to 98 vote. The Senate passed the same bill on January 28 by a similarly wide margin, 75 to 14.

The purpose of this legislation is to re-affirm the broad coverage of civil rights laws prohibiting discrimination on the basis of race, color, national origin, sex, handicap, or age, in institutions with federally funded programs.

In the last several days I have received many telephone calls concerning the President's veto. While well intentioned, many constituents contacting me, Mr. Speaker, are misinformed about S. 557 and its coverage.

The Civil Rights Restoration Act does not grant rights to homosexuals. This bill does not require an employer to hire or retain a person with a contagious disease. This legislation also does not require an employer who receives Federal funds to hire or retain an alcoholic or drug addict.

Most callers for example, Mr. Speaker, are also not aware that the bill only applies to institutions which receive Federal funding.

And most callers, Mr. Speaker, are not aware that S. 557 does not change the religious exemptions now in effect in Federal civil rights statutes.

This legislation was introduced by a bipartisan group of Members of Congress in response to a Supreme Court ruling (Grove City College versus Bell) interpreting title IX of the 1972 Education Amendments to mean that an institution receiving Federal funds must comply with Federal civil rights laws only in those programs that directly receive Federal funds. As a result of the Court's decision, federally funded schools and colleges could discriminate in other nonfunded programs without risking the loss of Federal funds. Schools that do not receive Federal funds, of course, are not covered by this legislation. But Congress passed title IX with the intention that if a school or college freely applied for Federal funds and received Federal aid in any form, the entire school must compy with the Federal civil rights statutes. In the face of the Supreme Court ruling in the Grove City case, an overwhelming bipartisan majority of the House and Senate felt legislation was necessary to restore the original intent of Congress to protect all Americans from discrimination.

Nevertheless, there has been widespread misunderstanding about precisely what this legislation would accomplish. But it's important to note that it applies only to institutions that have received Federal funding.

I am voting in favor of the bill because I think that most Americans would agree that taxpayers' funds should not go to an institution or organization which discriminates based on race, age, sex, national origin, or handicap. Discrimination is abhorrent to our Constitution and our country. We don't tolerate discrimination because of someone's race or religion in the United States. Organizations which apply for and receive Federal funding ought to honor that simple mandate.

Finally, Mr. Speaker, I should reiterate that S. 557 also respects the separation of church and state which the Constitution guarantees. S. 557 specifically recognizes that federally funded institutions controlled by a religious organization are not required to comply with the regulations under title IX and title VII if the application of these statutes would not be consistent with the organization's religious tenets. For example, a Catholic University which receives Federal funds would not be obligated to accept women into its seminary programs since the Catholic priesthood is male only. That is the law today. That will still be the law tomorrow even if the President's veto is overridden.

I might add that many religious groups have contacted me indicating their support for the legislation, including: U.S. Catholic Conference of Bishops, National Council of Churches, American Baptist Churches, Evangelical Lutheran Church of America, Church of the Brethren, Presbyterian Church USA, United Methodist Church and the Episcopal Church.

Mr. Speaker, I urge my colleagues to support S. 557.

Mr. KONNYU. Mr. Speaker, I would like to go on record as supporting the concept but opposing not only the form of S. 557, the Civil Rights Restoration Act of 1988, but also the methods used to get it passed. I would have supported President Reagan's substitute bill which would have overturned the Grove City decision without creating onerous new burdens on private citizens and small businesses. However, since no discussion or amendments were allowed on the President's alternative, I strongly object to the process which did not allow the minority to have a voice.

The bill in its present form is faulty from a number of perspectives:

It is big government at its biggest by being overbroad and going far beyond overturning the Supreme Court decision in the Grove City case.

It rewrites four statutes and would subject nearly every facet of American life to Federal Government intrusion—from the corner grocery store to churches and synagogues.

As an example, it would cover an entire college or university if only one student received Federal aid, even if the college itself received not a penny of Federal assistance.

It does not protect institutions which closely identify with the tenets of a religious organization.

Grocery stores, as an example, which accept food stamps (even very small ones with as few as one employee) could be subject to Washington's long regulatory arm and the requirements of this bill.

I certainly believe in civil rights and in the objective of overturning the Supreme Court decision. However, imposing a law which significantly expands the jurisdiction of the Federal Government into the private lives of citizens without allowing perfecting amendments in the House is unwise at best.

Mr. DURBIN. Mr. Speaker, I would like to take this opportunity to speak about the Civil Rights Restoration Act. This important legislation passed both the House and Senate by wide bipartisan margins. Unfortunately, President Reagan vetoed the bill. I support the motion to override the veto because I believe it is essential that we restore antidiscrimination laws for women, minorities, the elderly, and the handicapped.

The Civil Rights Restoration Act does not change the religious exemption now in effect in title IX of the 1972 Education Amendment and title VII of the 1964 Civil Rights Act. It is important to recognize that federally funded institutions controlled by a religious organization are not required to comply with the regulations if the application of these statutes would not be consistent with the organization's religious tenets.

The bill will not require individuals, institutions, programs or activities that receive Federal financial assistance to provide or pay for abortions. In response to concerns expressed by the U.S. Catholic Conference and other religious organizations, an amendment was added to the bill in the Senate to make it "abortion-neutral" so that it would have no effect on these institutions.

The bill does not require an employer to hire or retain someone with any contagious disease, an alcoholic, a drug addict or an exconvict if that person would pose a threat to the health or safety of others.

The bill does not require a recipient of Federal funds to provide a homosexual the protections provided individuals by title IX. Neither title IX nor any of the other statutes have ever been interpreted by the courts to provide protection on the basis of sexual preference.

The bill also explicitly affirms that "ultimate beneficiaries" of Federal aid, for example food stamp recipients, farmers who receive price and income supports, Social Security recipients, and AFDC recipients are not covered under the act.

There is widespread misunderstanding about precisely what this legislation would accomplish. It is important to emphasize that it applies only to institutions that receive Federal funding. The Civil Rights Restoration Act does not in any way alter the substantive definition of what constitutes discrimination under these statutes. It does not change in any way who is a recipient of Federal financial assistance. And it does not in any way alter the definition of Federal financial assistance.

The Civil Rights Restoration Act is supported by many major religious groups including: the U.S. Catholic Conference of Bishops, the American Baptist Churches, the Evangelical Lutheran Church of America, the American Jewish Congress, the Presbyterian Church USA, and the Episcopal Church. These groups worked closely with Congress to assure that the legislation protects religious rights and freedoms.

In effect, the Civil Rights Restoration Act will restore civil rights enforcement measures to their pre-Grove City status. The legislation does not threaten any constitutional rights or religious freedoms; indeed, it is intended to uphold the basic freedoms guaranteed to all people by the U.S. Constitution.

Mr. McGRATH. Mr. Speaker, I am sorry that I do not share the views of the President in his decision to veto S. 557, the Civil Rights Restoration Act. In turn, I am voting to override the President's veto for several reasons.

First, I believe the bill is essential in combating discrimination at any institution receiving Federal funds. Since the Grove City decision, major civil rights laws have been crippled. Penalizing only certain portions of an institution for blatant civil rights offenses is merely a slap on the hand. Mr. Speaker, we are about to enter the 1990's. It is certainly time to let these institutions know that we find civil rights abuse morally repugnant and that violators will not be tolerated.

Second, I support the bill's provisions concerning abortion. The Senate's reconciliatory language strengthened the bill and was a factor in my decision to vote to override the veto. The provision, which was widely supported, ensures that no institution will be required to provide abortion services or benefits as a condition of receiving Federal funds.

Finally, I believe this bipartisan supported bill, in effect, reactivates the four major civil rights laws passed in the 1960's and 1970's. The 1984 Grove City decision seriously diluted these landmark antidiscrimination measures. By forbidding institutions that receive Federal funds to discriminate, the Congress is only implementing previously enacted civil rights legislation.

I urge my colleagues to vote to override the veto. It is not too often that legislation with such a clear message comes before the Congress. I suggest we take advantage of this opportunity and send that message throughout the Nation.

Mr. LAGOMARSINO. Mr. Speaker, while I firmly oppose discrimination and support the overturn of the 1984 court ruling in the Grove City case, I fear that this measure we are considering today represents too drastic a change. I voted against it the first time it was before us and I strongly urge my colleagues to join me in doing so now.

Of particular concern to me is the religious tenets provision of the bill which allows exemptions from the law only for institutions controlled by a religious organization. This means that if a church or synagogue operates just one program with Federal aid, such as Meals for the Poor, or a shelter or other help for the homeless, not only will those assisted programs be covered, but, for the first time, all other activities of the church or synagogue, including prayer rooms and other purely religious components, educational classes, church or synagogue schools—even though conducted in separate facilities—or a summer camp for youngsters, will be covered as well. This has serious ramifications for religious freedom. I believe it would be more appropriate for exemptions to be allowed for entities closely identified with the tenets of a religious organization.

I am also deeply distressed by the fact that the democratic majority chose to railroad this single most important piece of civil rights legislation since the landmark bills of the 1960's right through Congress without sufficient debate. Had the bill been open to amendment and has such amendments as the religious tenets amendment been accepted, I would have been pleased to support the measure. However, as it was, the bill was considered by not one single committee in the House and the rule under which it was considered allowed only one amendment. The measure represents a monumental change in the civil rights enforcement landscape and rewrites four statutes to the point that the Federal Government will be involved in nearly every facet of State and local activity. I continue to believe that such a major piece of legislation must be open to amendment.

I urge my colleagues to support the President in his effort to reject this flawed so-called Civil Rights Restoration Act. Let us admit we were hasty and instead let's get down to the business of doing what we set out to do in the first place—passing a carefully crafted bill to ensure that our Nation will be free from discrimination.

Mr. DREIER of California. Mr. Speaker, I rise in support of the President's veto of S. 557, the Civil Rights Restoration Act, and in support of H.R. 4203, the President's alternative bill, of which I am an original sponsor.

In our efforts to protect the civil rights, we must be careful that we do not deny freedoms and opportunities for all citizens. S. 557 vastly expands Federal jurisdiction over State and local governments and the private sector, including churches and synagogues, farmers, businesses, voluntary associations, and private and religious schools. When we expand Federal authority, we expand the burdens that go with it and we had better be sure a need exists. The American people do not want the Federal Government to interfere and order their lives as S. 557 would require.

S. 557 does not adequately protect the free exercise of religious beliefs. While educational institutions controlled by a religious organization would be exempt, educational institutions which are governed by lay boards would not. To deny these institutions an exemption would be to deny them the freedom to teach the values and tenets that they believe in.

I am also concerned about the impact of this legislation on small businesses. S. 557 would require expansive new Federal control of private employment practices, increased Federal paperwork requirements, random onsite compliance reviews by Federal agencies, thousands of pages of Federal regulations, costly structural and equipment modifications, and more.

Rather than protecting civil rights, S. 557 represents a threat. The response of many small business employers to the imprecise and subjective language in this bill would be to withdraw from participation in Federal job programs, training programs and social service programs because of the potential costs, administrative burdens, and legal liabilities.

Mr. Speaker, S. 557 is simply too far-reaching. I urge my colleagues to sustain the veto and support the President's alternative as it is the ideal bill which limits the jurisdiction of Federal statutes to that originally intended before Grove City, and protects our freedom of religion.

Mr. WELDON. Mr. Speaker, I rise today in support of civil rights but against the manner in which the Civil Rights Restoration Act was brought to the House floor. I voted in favor of this legislation on March 2 and again today to override the President's veto.

Recently, I along with many of my colleagues received a flood of constituent telephone calls and correspondence in opposition to this legislation. Hearing the arguments coming from my district, I am convinced this is a result of misinformation. If the appropriate House committees had held hearings on the language of S. 557, this situation could have been avoided, and our constituents would have had an opportunity to hear from us on the substance of this issue. Instead, we are forced to respond to the irresponsible claims of certain groups opposed to any civil rights legislation.

In response to the question: Do I have to hire gay drug addicts with AIDS because of this legislation? The answer is "No." Further, allow me to dispell this along with some other common myths I have come across.

Homosexuals are not given any new or "special" protections under title IX of this legislation nor under any other statutes. For this reason, gay rights organizations are seeking separate legislation targeted specifically at discrimination on the basis of sexual preference. In addition, religious tenets holding homosexuality as impermissable, are able to discriminate against those individuals acting against their beliefs.

Drug addicts and alcoholics may be fired or denied employment if they pose a threat to the health or safety of others or even if they are unable as a result of their condition to adequately perform their job function. Language to this effect was intentionally placed in the Civil Rights Restoration Act to address the fears of some employers about their responsibility to employ these individuals.

Persons with infectious diseases may be refused employment or fired if they pose a threat to the health or safety of others or if they cannot perform their job functions adequately and if no "reasonable accommodations" can be made to restore health, safety, and job performance. A reasonable accommodation is considered to be an effort to utilize Federal guidelines for safety in the workplace set forth by the Center for Disease Control, the Department of Labor, the American Hospital Association, and various other research organizations.

Religious organizations by definition are primarily "religious". Therefore, even if a religious institution receives Federal assistance for providing health care, housing, social services or recreation they are not required to comply with the nondiscrimination provisions for each of their programs. Title IX has an exemption provision upon application to the Department of Labor for religious institutions whose beliefs forbid or restrict the actions or beliefs of certain groups covered under the language of this legislation. To date, there have been no exemption applications denied by the Department of Labor.

If this legislation is the "greatest threat to religious freedom and traditional moral values ever passed", why then does it have the expressed support of the following religious institutions: the U.S. Catholic Conference, the American Baptist Churches, the Evangelical Lutheran Church of America, the National Council of Churches, the United Methodist Church, the American Jewish Appeal, the Presbyterian Church of America, the Episcopal Church, the Union of Hebrew Congregations, and many others.

There is "abortion neutral" language in the Civil Rights Restoration Act. The language ensures that no provision of this legislation will require or prohibit any entity from providing or paying for abortions. This language has satisfied the national pro-life movement to the point of receiving their endorsement for the legislation. This provision may be invoked by any institution receiving Federal assistance.

Mr. Speaker, as a freshman Member of Congress I am fast learning how pressure can be applied by special interest groups on Members. It is most unfortunate that there are organizations which resort to scare tactics when the substance of the issue does not carry the message they wish to convey. In this instance, we see such an example. In the future, your cooperation in scheduling hearings on controversial legislation will enable Members of the House to debate, and if necessary alter major legislation such as this.

Mr. KONNYU. Mr. Speaker, I would like to go on record as supporting the concept but opposing not only the form of S. 557, the Civil Rights Restoration Act of 1987, but also the methods used to get it passed. I would have supported President Reagan's substitute bill which would have overturned the Grove City decision without creating onerous new burdens on private citizens and small businesses. However, since no discussion or amendments were allowed on the President's alternative, I strongly object to the process.

The bill in its present form is faulty from a number of perspectives:

It is big government at its biggest by being overboard and going far beyond overturning the Supreme Court decision in the Grove City case.

It rewrites four statutes and would subject nearly every facet of American life to Federal Government intrusion—from the corner grocery store to churches and synagogues.

As an example, it would cover an entire college or university if only one student received Federal aid, even if the college itself received not a penny of Federal assistance.

It does not protect institutions which closely identify with the tenets of a religious organization.

Grocery stores, as an example, which accept food stamps—even very small ones with as few as one employee—could be subject to Washington's long regulatory arm and the requirements of this bill.

I certainly believe in civil rights and in the objective of overturning the Supreme Court decision. However, imposing a law which significantly expands the jurisdiction of the Federal Government into the private lives of citizens without allowing perfecting amendments in the House is unwise at best.

Mr. MFUME. Mr. Speaker, the American people are issuing a cry and Congress can answer it by following the Senate's lead in voting to override President Reagan's veto of the Civil Rights Restoration Act. It was the first time that a President had vetoed a civil rights bill in 120 years. I repeat for emphasis, 120 years.

The Civil Rights Restoration Act would overturn the 1984 U.S. Supreme Court decision in Grove City College against Bell. In that case, the Court ruled that laws barring discrimination do not apply to entire institutions, only to the specific program or activity receiving Federal funds.

The Supreme Court's decision dealt specifically with title IX of the Education Amendments of 1972, which bars discrimination on the basis of sex. For example, if a college's archeology department received Federal research grants, but the economics department did not, the Federal law prohibiting schools from discrimination on the basis of sex would apply only to the archeology department and not the economics department.

In the 20 years prior to the Grove City decision, antidiscrimination laws were generally applied to entire institutions if any program within those institutions received Federal funds. As a result, the 1984 ruling was a major blow to the promotion of civil rights as a fundamental test of justice in this society. The Supreme Court's narrow interpretation of title IX in the Grove City case has resulted in the Justice Department dropping antidiscrimination suits—even in case where the evidence has been overwhelming—because the discriminating program did not receive Federal funds.

The Civil Rights Restoration Act would clarify congressional intent with regards to title IX of the Education Amendments of 1972 and other important civil rights laws—the Civil Rights Act of 1964, which prohibits discrimination on the basis of race; the Rehabilitation Act of 1974, which prohibits discrimination against the disabled; and the Age Discrimination Act of 1975, which prohibits discrimination against the elderly. By passing the measure before us today, it would finally be clear that if one part of the entity receives Federal funds, the entire institution would be covered under antidiscrimination laws.

Rarely has a piece of legislation been the victim of a disinformation campaign as intense as that surrounding the Civil Rights Restoration Act. Our offices have been flooded with calls from citizens who were tricked into believing that the bill would force hospitals to perform abortions and require colleges controlled by religious groups to accept policies that conflict with their religious beliefs. As proof that these contentions are unfounded, the U.S. Catholic Conference, the United Methodist Church, and the Presbyterian Church have endorsed the Civil Rights Restoration Act.

A strong society demands equal opportunity and this body cannot waiver in the fight to secure civil rights for all citizens. Accordingly, with the eyes of the Nation upon us, I strongly urge my colleagues to join me in voting to override the President's veto of the Civil Rights Restoration Act.

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to strongly oppose President Reagan's veto of the Civil Rights Restoration Act and of the tactics used by organizations opposed to this bill to increase public opposition to it.

We have before us the opportunity to enact the most important piece of civil rights legislation in this decade, and we must demonstrate to the President that even if he is willing to go back in time with regard to civil rights, the Congress is not. I have heard from a multitude of my constituents on this issue, and those who are truly informed about the thrust and scope of this legislation were strongly in support of it. Many individuals, however, received misleading information from people they trust and opposed this legislation because they did not have complete information on the bill's purpose and scope.

This tactic is alarming, Mr. Speaker, because these people were given inflammatory information about the legislation's effect that was erroneous, misleading, and, in many cases, complete lies. I abhor this misinformation campaign organized by the religious right, and I call on President Reagan, whose name is being used in connection with this cause, to publicly repudiate this smear campaign and those who cower behind it.

This bill will overturn a 1984 Supreme Court decision, Grove City College versus Bell, that resulted in sharp curtailment of the enforcement of four major civil rights laws. In this ruling, the Court held that title IX of the 1972 Education Amendments banned gender discrimination only in a particular education "program or activity" receiving Federal aid, not in the entire institution. This decision has affected three other laws—title VI of the 1964 Civil Rights Act, section 504 of the 1973 Rehabilitation Act, and the 1975 Discrimination Act—that prohibit discrimination on the basis of race, color, national origin, sex, handicap, and age in institutions with federally funded programs.

As a result of the Court's decision, federally funded institutions are allowed to discriminate in other nonfunded programs without risking the loss of Federal funds. I believe that Congress passed these statutes with the intention that if an institution freely applied for Federal funds and receives Federal aid in any form, the entire school must comply with the civil rights statutes.

This Supreme Court decision is a misinterpretation of congressional intent, and legislation is necessary to restore the original intent of Congress to protect all people from discrimination. When the House of Representatives passed this measure, it did so by an overwhelming margin of 315 to 98. Similarly, the Senate passed it by a margin of 75 to 14. These votes reflect the bipartisan support this bill enjoyed in Congress as well as the great desire to strengthen these statutes to their pre-Grove City status.

Over the last few weeks I have become very concerned over the amount of misinformation and propaganda that has been circulating in my congressional district, and I am sure, in many areas of the country, about this bill. What has been most upsetting has been the number of individuals who formed an opinion about this bill from information provided to them by others without even having seen a copy of the bill or knowing the full thrust of this legislation. I do not know who was responsible for the dissemination of this wrong information, but I found many people to have the wrong impression of what this bill would do. Because of this misinformation campaign, many people who would support this bill if they were fully aware of the protections it offered, indeed, some of the very people this bill is intended to protect, expressed opinions opposing this legislation.

It has become obvious to me that individuals and organizations who opposed this bill for one reason or another chose to spread inflammatory rumors about the effect this bill would have that are totally erroneous. I hope people realize that if the bill would accomplish everything that is being alleged it will accomplish, certainly it could not garner the support of the large number of Senators and Members of Congress that supported this bill. Although President Reagan claims that this bill would diminish the freedom of religious institutions, he is overlooking the fact that aside from being supported by more than 225 organizations, this bill was strongly supported by the National Council of Churches, the American Jewish Congress, the U.S. Catholic Conference, and other religious organizations.

There appears to be widespread misunderstanding about precisely what this legislation would accomplish. Please note that it applies only to institutions that receive Federal funding. It does not change the religious exemptions now in effect. Further, this bill was not intended to protect homosexuals, transvestites, sexual deviants, or any of the other groups mentioned to me by constituents who were obviously not familiar with the legislation. The only provision of this bill which even remotely approximates this is a minor provision which protects under the Rehabilitation Act individuals with contagious diseases.

This provision would protect against discrimination victims of AIDS, whether these are children who contracted the disease from a blood transfusion, individuals who contracted it through sexual contacts, or otherwise, as well as people with other contagious diseases, such as hepatitis and tuberculosis. Please keep in mind that the much larger population of homosexuals who are not infected with the disease are not covered by this law. This legislation does not threaten any constitutional rights; indeed, it is intended to uphold the basic freedoms guaranteed to all people by the Constitution.

I am opposed to discrimination on the basis of race, color, national origin, age, gender, or physical disability. That is why I support the Civil Rights Restoration Act, was a cosponsor of this measure, and voted to override the President's shortsighted veto.

Mr. OBERSTAR. Mr. Speaker, we have before us today a motion to override the President's ill-considered veto of the Civil Rights Restoration Act. For the first time in this century, a President has vetoed a major piece of civil rights legislation, in spite of a broad and vigorous bipartisan effort to ensure its passage. This administration has done little to advance the cause of civil rights. It has repeatedly attempted to grant a tax exemption to the racially discriminatory Bob Jones University and to undermine the role and authority of the Civil Rights Commission, and now seeks through this veto to overturn years of Federal agency decisions and litigation on civil rights dating back to the early 1960's.

In recent weeks certain groups have distributed considerable misinformation about the bill; those misstatements should be corrected. I would like to take this opportunity to place the bill in historical context and briefly describe its anticipated effects.

The three branches of our Federal Government, along with the governments of our 50 States and their hundreds of local subdivisions, have for decades been wrestling to find an answer to a simple question: How can we best preserve and protect the rights of all U.S. citizens? Even after a vigorous lobbying effort by many House and Senate Members of his own party, the President has vetoed this civil rights legislation. He has ignored the broad bipartisan consensus enjoyed by the bill demonstrated when it passed the House earlier this month by a vote of 315 to 98, after passing the Senate in late February by a vote of 75 to 14.

In the last two decades, four major pieces of civil rights legislation have been enacted into law. The Civil Rights Act of 1964 banned discrimination on grounds of race. Equal access to educational and athletic facilities at our colleges and universities was guaranteed under title IX of the Education Amendments of 1972. Discrimination against the disabled was prohibited with the Rehabilitation Act of 1974, and against older Americans with the Age Discrimination Act of 1975. These landmark civil rights measures confirm our vision of a free society in which all participate and all contribute.

In 1984, the Supreme Court accepted an argument advanced by the Reagan administration to narrow the scope of civil rights legislation intended by the Congress to apply broadly to virtually all recipients of Federal financial assistance. The court ruled in the case of Grove City College versus Bell that the rights of free citizens are protected on some parts of a college campus, but not on others. The Court held that only those specific programs at Grove City which received Federal financial assistance were subject to the antidiscrimination provision of title IX. In other words, a student is fully entitled to constitutional protections in the science lab, where Federal research dollars are being spent, but not in the history building, gymnasium, or bookstore. In effect, this narrow interpretation of the statute has allowed the administration to extend Federal civil rights protections "a la carte."

After 4 years of negotiating and 23 days of hearings in both bodies, a consensus was reached to restore—not broaden—the coverage of civil rights legislation to its pre-Grove City status. This document embodies that broad bipartisan consensus. It restates congressional intent that our civil rights laws apply according to the broad pre-Grove City standards. It will ensure that constitutional and legal protections are provided to all recipients of Federal funding, except those explicitly exempted from such coverage. It specifically addresses the Supreme Court's finding in the 1984 Grove City case and extends the antidiscrimination guarantees of our civil rights laws to all parts of all institutions receiving Federal moneys. It also extends these guarantees to State and local governmental agencies, private corporations, and other entities that receive Federal grants or loans or whose principal activities involve providing health care, housing, social services or parks, and recreation.

At the same time, this legislation will not abridge the freedom of teaching hospitals and other institutions which choose not to perform abortions. This bill guarantees that hospitals will not be forced to perform abortions, nor will institutions receiving Federal dollars be required to provide abortion benefits as part of their employee insurance plans. The bill also prohibits educational institutions from discriminating against individuals who are seeking or have had an abortion.

Further, the bill allows for those institutions controlled by religious organizations to apply for an exemption under the law. To date, no institution that has applied under this law has been denied such an exemption. The Justice Department's Office of Civil Rights reports that 150 institutions have been granted religious exemptions from the obligations of title IX.

Further, the measure exempts persons considered to be ultimate beneficiaries of Federal financial assistance, including farmers who receive crop subsidies, social security recipients, Medicare and Medicaid recipients, individual recipients of food stamps, and others considered by the courts and Federal agencies to be ultimate beneficiaries of Federal assistance. I recently received a thorough summary of the effects of the bill prepared by the Leadership Conference on Civil Rights which I would like to offer for the RECORD at this point.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS—CIVIL RIGHTS RESTORATION ACT—QUESTIONS AND ANSWERS

HOMOSEXUALS

Question: Does this bill require a recipient of federal funds to provide a homosexual the protections provided women by Title IX or provided under any of the other statutes amended by the bill?

Answer: Neither Title IX nor any of the other statutes has ever been interpreted by the courts to provide protection on the basis of sexual preference; none of the regulations have ever so provided; and nothing in the bill creates any such protection. Homosexual groups recognize this lack of protection in seeking new legislation specifically prohibiting discrimination on the basis of a person's sexual preference.

This bill does not preclude an entity from discriminating against an individual solely on the basis of the fact that the individual is homosexual. Thus, if an entity's religious tenets require it to take disciplinary action against any individual who is homosexual (regardless of whether such an individual is infected with the AIDS virus) and it takes such action solely because of that person's homosexuality, the fact that section 504 coverage happens to include AIDS would offer no source of protection to such an individual.

ALCOHOLICS AND DRUG ADDICTS

Question. Does this bill require an employer who receives federal funds to hire or retain in employment all alcoholics and drug addicts?

Answer. No. A person who is a current alcoholic or drug addict can be excluded or fired from a particular job if it is determined that he or she poses a direct threat to the health or safety of others or cannot perform the essential functions of the job and no reasonable accommodation can remove the safety threat or enable the person to perform the essential functions of the job.

Question. Does the bill change current law in any way?

Answer. No. Since it became law in 1973, section 504 of the Rehabilitation Act (the civil rights statute for handicapped persons) has been interpreted to enable employers to refuse to hire or fire alcoholics and drug addicts under these circumstances. To allay the fears of some employers about the nature of their responsibilities to such persons, this policy was expressly inserted into the statute in 1978 (See section 7(8)(B) of the Rehabilitation Act).

Question. Has current law created an untenable position for recipients regarding the hiring or retention of alcoholics and drug addicts?

Answer. No. The 1978 amendments allayed the fears of employers. They now understand that they don't have to hire or retain all alcoholics and drug addicts. Courts have upheld the right of employers to fire employees who cannot perform or who pose health and safety risks.

Question. Do the standards governing the exclusion of alcoholics and drug addicts in the employment context apply in other situations, such as exclusion from participation in a program receiving federal assistance?

Answer. Yes. As in the employment context, a person must, with reasonable accommodation, meet the essential qualifications for participation.

PERSONS WITH CONTAGIOUS DISEASES

Question. Does this bill require an employer to hire or retain in employment all persons with contagious diseases?

Answer. No. An employer is free to refuse to hire or to fire any employee who poses a direct threat to the health or safety of others or who cannot perform the essential functions of the job if no reasonable accommodation can remove the threat to the safety of others or enable the person to perform the essential functions of the job. This determination must be made on an individualized basis and be based on facts and sound medical judgment.

Question. What guidelines exist for determining what is meant by a "reasonable accommodation?"

Answer. Federal agencies such as the Centers for Disease Control, the Department of Labor, and professional organizations such as the American Academy of Pediatrics, and the American Hospital Association have issued guidelines for ensuring safety in the workplace. These guidelines can be relied on for determining reasonable accommodations.

Question. Does this bill change current law in any way?

Answer. No. This has been the law of the land since 1973, when Congress passed section 504 of the Rehabilitation Act. The circumstance under which a person with a contagious disease can be excluded was recently reaffirmed by the Supreme Court in the Arline decision.

The bill includes language which is consistent with this decision. The language in the bill is modeled after the language added in 1978 with respect to alcoholics and drug addicts.

Question. Who supported the inclusion of this language in the bill?

Answer. On the Senate side, it passed without dissent as a Harkin/Humphrey Amendment. On the House side not only was it included in the bill that passed the House, but the exact same language was also included in the Sensenbrenner Substitute, which was endorsed by the Administration through a letter from Secretary Bennett.

Question. What standards apply in non-employment contexts such as admission of pupils to schools?

Answer. The same standards.

Question. Will the fact that section 504 covers contagious diseases mean that recipients will not be able to take normal good faith public health precautions to prevent the spread of contagious diseases?

Answer. No. Public Health measures designed to prevent the spread of infectious diseases or infections such as AIDS would not be undermined by covering persons with contagious diseases or infections under section 504. In fact, the American Public Health Association has argued that "promotion of public health is aided, not impeded, by an individualized determination of whether a person with a communicable condition is qualified to work." In addition to the APHA, the American Medical Association and the American Nurses Association support the inclusion of contagious diseases under section 504.

Question. Has the Administrative Board of the Catholic Conference taken a position on discrimination against persons with AIDS?

Answers. Yes. In a publication entitled, "The Many Faces of AIDS—A Gospel Response" the Administrative Board of the U.S. Catholic Conference (November 1987) stated: "Discrimination directed against persons with AIDS is unjust and immoral." The Administrative Board also stated: "Because there is presently no positive or sound medical justification for the indiscriminate quarantining of persons infected with AIDS, we oppose the enactment of quarantine legislation or other laws that are not supported by medical data or informed by the expertise of those in the health-care or public health professions."

COVERAGE OF RELIGIOUS ORGANIZATIONS

Question. A religious organization (a church or a diocese or a synagogue) receives federal financial assistance to aid refugees. Under the Civil Rights Restoration Act, will that assistance result in coverage of the religious organization in its entirety so that it would be under an obligation not to discriminate in any of its operations?

Answer. No. Complete coverage of a corporation, partnership or "other private organization" occurs in only two circumstances. The first is where assistance is extended to the private organization "as a whole." "As a whole" refers to situations where the corporation receives general assistance that is not designated for a particular purpose. A grant to a religious organization to enable it to extend assistance to refugees would not be assistance to the religious organization as a whole if that is only one among a number of activities of the organization.

The second circumstance is where the organization is "principally engaged in the business of providing education, health care, housing, social services or parks and recreation." The principal occupation of a church or a diocese or a synagogue is by definition "religious." So such an organization would not be covered in its entirety even if it conducts one or more programs in education or health care or social services.

Question. Is there anything in this legislation that would limit the right of a religious organization to prefer members of the religion in services or benefits it provides with federal funds?

Answer. No. None of the statutes amended by the bill bars discrimination on the basis of religion. Thus, a religious organization can prefer members of the religion in its federally-assisted activities. Religious preference cannot be a pretext, however, for racial discrimination.

RELIGIOUS TENET EXEMPTION

Question. What is the religious tenet exemption and how is it used?

Answer. Title IX provides for an exemption to that statute where nondiscrimination requirements are inconsistent with the religious tenets of an educational institution controlled by a religious organization. An educational institution need only make application to the Department of Education for such an exemption. To date, *no institution* that has completed an application *has been denied an exemption.* The Department's Office of Civil Rights reports that 150 institutions have been granted religious exemptions from the obligations of Title IX.

The two most frequently cited reasons for requests for religious exemption involved religious tenets calling for sex discrimination in institutions training students for the ministry, and for differential treatment of pregnant students and employees, particularly if they are unmarried. A significant number of requests also sought to treat men and women differently in athletic programs.

Some examples of exemptions are:

(A) An institution's religious standards so strongly condemn sexual activities outside marriage that it wants to control what it holds as "Sacred Scripture violations" on the part of students and staff. The college would be permitted to restrict an unmarried student who is pregnant from living with other unmarried women in the dormitory.

(B) A college believes that the scriptures teach that the husband is the head of the wife. A women whose employment came in conflict with her marriage obligations would be expected to be in submission to her husband, and for that reason the institution is exempted from Title IX regulations and allowed to take marital status into consideration in its hiring.

(C) A college would be permitted to forbid men and women from swimming together because of its religious stand on "modest attire."

Question. Many educational institutions that were once controlled by religious orders, ministers, or other officers or leaders of a religion have changed their governance structure and now have lay boards of directors. Shouldn't these schools be allowed an exemption from Title IX since they still keep their close identity with the religion?

Answer. While it is true that many private educational institutions have moved to lay boards, that is not a compelling reason to extend the religious tenet exemption language. In fact, none of the prominent institutions cited by those who sought to broaden the religious exemption (e.g. Notre Dame, Georgetown) has felt any need to seek a religious exemption at any point in its history.

Question. Isn't this a matter of religious freedom?

Answer. No other federal law allows sex discrimination under the guise of religious freedom, including Title VII. The religious tenet exemption was included in the 1972 Act that prohibits sex discrimination in educational institutions and was originally meant to cover seminaries and other strictly religious institutions. Since 1972, exemptions have been granted to a large number of educational institutions. Loosening the language of the statute would not only increase the number of institutions that are exempt from sex discrimination regulations but also invite other institutions to create a "religious identity" in order to discriminate against women.

ABORTION

Question. What about institutions that are not religiously controlled that have an objection to performing abortions?

Answer. The Civil Rights Restoration Act includes a provision that may be invoked by any institution that receives federal assistance which states that nothing in the legislation "shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to abortion. . . ."

BACKGROUND INFORMATION

Question. What statutes are amended by the Civil Rights Restoration Act?

Answer. The Act covers Title IX of the Education Amendments of 1972, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

Title IX prohibits sex discrimination in educational programs or activities receiving Federal financial assistance. Title VI bars discrimination based on race, color or national origin in a program or activity that receives Federal aid. Section 504 prohibits discrimination against disabled persons in programs or activities receiving federal funds. The Age Discrimination Act prohibits discrimination on the basis of age in federally funded programs and activities.

Question. Does the Civil Rights Restoration Act broaden coverage of federal civil rights laws?

Answer. No. The bill merely restores coverage to what it was before the *Grove City College v. Bell* decision by providing a definition for the existing "program or activity" language.

This means that:

For educational institutions, the bill provides that if federal aid goes anywhere within a college, university, or system of higher education, the entire institution or system is covered. If federal aid is received anywhere in an elementary or secondary school system, the entire system is covered.

For state and local governments, only the department or agency that receives the aid is covered. Where an entity of state or local government receives federal aid and distributes it to another department or agency, both are covered.

For private corporations, if the federal aid is extended to the corporation as a whole, or if the corporation provides a public service, such as social services, education, or housing, the entire corporation is covered. If the federal aid is extended to only one plant or geographically separate facility, only that plant or facility is covered.

The bill also explicitly affirms that "ultimate beneficiaries" of federal aid, e.g. food stamp recipients, are not covered. Other individuals who are the ultimate beneficiaries of federal funding include farmers who receive price and income supports and loans, AFDC recipients, and Social Security recipients.

The bill does not in any way change the definition of "federal financial assistance."

To sum up * * *

Pell Grants are federal financial assistance and trigger coverage of education institutions.

Farmers receiving crop subsidies—ultimate beneficiaries—are not covered.

Persons receiving Social Security, food stamps, welfare payments—ultimate beneficiaries—are not covered.

Question. What about small businesses for whom compliance with some provisions of 504 may be a hardship?

Answer. The Civil Rights Restoration Act adds a new subsection (c) to Section 504 of the Rehabilitation Act of 1973 which clarifies that small providers such as pharmacies and grocery stores with fewer than fifteen employees are not required to make significant alterations to their existing facilities to ensure accessibility to handicapped persons if alternative means of providing the services are available.

Question. When an institution is found to have discriminated, does that mean that all its federal funding will be cut off?

Answer. No. While, historically, the coverage of these four civil rights statutes has been construed to provide a broad prohibition on discrimination by programs or activities receiving federal aid, and almost always cases are resolved without federal funds being cut off, in the rare cases that reach that stage fund termination has been pinpointed so that only those funds that are actually supporting discrimination can be terminated. The bill does not change this.

Mr. Speaker, we have been fighting for the cause of civil rights here in the United States for more than a generation. In that time protections have been extended to all Americans, regardless of race, creed, age, or disabling handicap. This carefully negotiated compromise measure addresses the concerns of many of us in this body deeply committed to the sanctity of human life, and guarantees continued respect for religious liberty while ensuring that Federal financial assistance will not be used to subsidize discrimination. While I am troubled that simple restoration of these guarantees has required such a struggle, I am confident that in overriding this veto we are again on the right path. Passage of this legislation will recapture for us what we temporarily lost in the Grove City decision 4 years ago, and will move us one small step closer to the day when the few in our country share equally with the many the civil rights and protections our society offers.

I urge my colleagues to vote "aye" on this motion to override the President's veto.

Mr. FIELDS. Mr. Speaker, today I rise in support of the President's veto of S. 557, the Civil Rights Restoration Act of 1987. Of the hundreds of letters that I have received regarding this bill, 99.9 percent have been in opposition to S. 557.

I think that we all agree that discrimination has no place in our society. If S. 557 did what its title says it does, restore civil rights enforcement to pre-Grove City law, I believe it would have passed the House and Senate unanimously. But, in fact, what the broad, loosely structured language does is to deny rights to some while restoring rights to others.

I have already spoken out against the shortcomings of this legislation. The bill would go far beyond pre-Grove City law and unjustifiably expand the power of the Federal Government over the decisions and affairs of private organizations such as churches and synagogues, farms, businesses, and State and local governments. The President has forwarded to us a responsible legislative package which contains important changes from S. 557 designed to avoid unnecessary Federal intrusion into the lives and businesses of Americans, while ensuring that Federal aid is properly monitored under the civil rights statutes it amends.

Mr. Speaker, I urge my colleagues to vote to sustain the President's veto of S. 557 and give the President's proposal the careful consideration that it deserves.

Mr. HAWKINS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were: yeas 292, nays 133, not voting 7, as follows:

[Roll No. 41]

YEAS—292

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hopkins
Horton
Houghton
Howard
Hoyer
Huckaby
Hughes
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Lungren
MacKay
Manton
Markey
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Rahall
Rangel
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (CT)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—133

Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boulter
Broomfield
Buechner
Bunning
Burton
Callahan
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Edwards (OK)
Emerson
English
Fawell
Fields
Gallegly
Gekas
Gingrich
Grandy
Gregg
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Kasich
Kemp
Konnyu
Kyl
Lagomarsino
Latta
Leath (TX)
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Mack
Marlenee
McCandless
McCollum
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Moorhead
Myers
Nielson
Oxley
Packard
Parris
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ritter
Roberts
Rogers
Roth
Rowland (GA)
Russo
Schaefer
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Whittaker
Wolf
Wortley
Wylie
Young (FL)

NOT VOTING—7

Biaggi
Gephardt
Gray (IL)
Lightfoot
Madigan
Martinez
Price (IL)

☐ 1801

So, two-thirds having voted in favor thereof, the Senate bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask to proceed for the purpose of inquiring of the distinguished majority leader the program for the balance of the day and tomorrow, maybe the week.

Mr. FOLEY. Mr. Speaker, will the distinguished Republican leader yield?

Mr. MICHEL. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, this concludes the business for today. It will be my intention to offer a unanimous-consent request that when the House adjourns tonight it adjourn to meet at 11 a.m. tomorrow rather than at 2 p.m. for the purpose of taking up the budget resolution for fiscal 1989, and if that request is granted it is our hope that we could conclude the debate on the budget and reach a vote on that by perhaps 6 o'clock tomorrow night.

At that time it would be my intention to ask unanimous consent that the House adjourn to meet in pro forma session on Thursday, and we would then go over until Monday.

We will have a further program for next week to announce tomorrow, but that will be the program for this week.

It is our hope that we can go in tomorrow early and conclude the debate at a reasonable hour.

Mr. MICHEL. I thank the gentleman from Washington.

HOUR OF MEETING ON TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns tonight it adjourn to meet at 11 a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE RESOLUTION WITH RESPECT TO CONCURRENT RESOLUTION ON THE BUDGET, FISCAL 1989

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a resolution with respect to the Budget Act for fiscal 1989.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON THE BUDGET TO FILE REPORT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on the Budget may have until midnight tonight to file a report.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONGRATULATIONS TO THE CONGRESS ON OVERRIDE OF VETO OF CIVIL RIGHTS RESTORATION ACT OF 1987

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. OAKAR] is recognized for 60 minutes.

Ms. OAKAR. Mr. Speaker, I would like to just briefly use our special orders which we had intended to do actually before the vote on the Civil Rights Restoration Act to simply congratulate the courageous Members who decided to vote to override the veto. It was a very courageous vote, because most Members of Congress were inundated with phone calls, and many of the people calling were not aware that the information they had was totally erroneous. So I think it is very, very key that we put a number of things at this time in the record to clear the record to refute the so-called Moral Majority's papers related to the Civil Rights Act which were totally fictitious.

I simply want to say how delighted I am with the Members who decided to hold the line and vote for the civil rights of our elderly, our handicapped, our women and certainly those of varieties of people. So this is a very historic occasion.

This is the most important civil rights legislation passed in the last decade, so we are very, very delighted. It is a victory for those who do not want to step backward. It is a victory for those who want to move forward and open up the doors of our institutions, our educational facilities, that we have Federal funds so that all Americans can be treated equitably and fairly and that is the spirit of the Restoration Act, and as a Member of the legislative body which is separate but equal to the judicial branch, this is one time that I am very, very proud that we were able to close a loophole created by the Reagan Supreme Court.

We are delighted with the turnout and with the vote, and I will now at this time, once again, thank my colleagues for the override and yield back the balance of my time.

ERISA AND RICO: THE NEED TO PROTECT WELFARE AND WELFARE FUNDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, in 1974, Congress enacted the Employment Retirement and Security Act [ERISA], (29 U.S.C. § 101 et seq.) to protect the savings that millions of working Americans were placing in pension and related welfare funds. Currently, 64.5 million Americans have invested—either themselves or through their employers—$1.4 trillion in pension and welfare benefit plans. Unfortunately, ERISA alone is not able effectively to protect the plans from fraud and misuse and much of this hard earned money is at substantial risk. In fact, the reporting system ERISA set up is not achieving its objectives; the investigative agencies that have primary jurisdiction to enforce the act are overworked; and the independent auditors required by the act are too often not fulfilling their duties. As such, a national tragedy is in the making.

I

Mr. Speaker, ERISA imposes rigid restrictions on amounts that can be contributed to and benefits that can be paid from qualified plans. The law also sets minimum standards for employee's participation and minimum vesting standards. In addition, ERISA imposes a minimum funding requirement—requiring employer contributions to include the normal costs of the plan as well as amounts sufficient to amortize past service costs and experience losses. To advance the funding requirement, the employer must set up a "funding standard account," which shows whether or not the employer has satisfied the minimum funding requirement for the year or if the employer has a deficiency and, thus, problems. If the account shows a deficiency, the employer will be hit with a 5-percent excise tax on the amount of the deficit. This tax is imposed for each plan year in which the deficiency has not been corrected. The employer will also be hit with a 100-percent excise tax on the deficiency if he fails to correct it within 90 days after the Internal Revenue Service mails a notice of deficiency with respect to the 5-percent tax.

Every plan Administrator must submit an annual registration statement with the Secretary of the Treasury called a Summary Plan and Description. This report includes the name and address of the Administrator and clearly sets at certain participants and their rights to deferred vested benefits. The Secretary of the Treasury is then required to submit this to the Secretary of Health, Education and Welfare.

Each benefit plan also must submit to the Secretary of the Treasury an actuarial report for the first plan year and every third plan year thereafter. This report assesses the plan's ability to pay pensions as they become due in the future.

The plan administrator must publish an annual report within 210 days after the end of the plan's calendar year. This report is called a form 5500 report, and it includes information on the financial status of the plan and the investment of plan assets.

The administrator must also have the fund audited by an independent public accountant [IPA], who renders an opinion on the financial statements of the plan.

These four requirements—the plan description, the form 5500 report, the IPA audit, and the actuarial report—are supposed to aid various Federal agencies and beneficiaries to monitor the various plans. In fact, pension and welfare funds are the least regulated assets in the country today, and more than $10 billion in funds may be at risk! (See, "The Least Regulated Money in the Country Today" Forbes Magazine (June, 1986).)

II

The Pension and Welfare Benefits Administration [PWBA] administers and enforces ERISA. Unfortunately, PWBA does not have the resources necessary to enforce ERISA fully. (See generally "Corporate Crime Reporter" vol. 1, No. 28, Monday (Nov. 2, 1987).) In fact, the PWBA has only 490 employees to cover the 5.4 million benefit plans covered by ERISA. Of these 490, only 200 are investigators. These 200 people can only investigate 1,700 of the 5.4 million plans each year. With an investigatory staff of only 200, the PWBA does not even come close to having an enforcement presence comparable to other similar Federal agencies, including, for example, the Federal Deposit Insurance Corporation, which watches over banks. To increase PWBA's efficiency to the degree required to equal that of other agencies, investigatory staffs would have to be increased to 2,600. Yet plans account for an excess of $1 trillion in assets; they hold 21 percent of outstanding United States issued foreign bonds; and they hold 15 percent of the U.S. Government securities. The data available before the crash of last month on Wall Street indicates that as direct holdings of stock fell $400 billion between 1978-85, institutional investor's holdings rose by $221 billion. Pension funds accounted for $150 billion of that rise. (See generally, "Pension Funds in Capital Markets," H.R. H361-62, Subcommittee of Telecommunications, Consumer Protection and Finance; Committee of Energy and Commerce, 99th Cong., 1st sess., (1986).)

Not only must 200 people attempt the enormous task of enforcing ERISA, but they must do so largely without the aid of the reports that plans are required by law to complete. Each plan must submit form 5500, the IPA report, and the actuarial report to the IRS. In turn, the IRS gives the reports to the PWBA. But by the time the PWBA gets this information the information is usually at least 2 years old. Indeed, sometimes the reports are filed late, and sometimes the reports are not filed at all. Yet delinquent filers are not fined, and no provisions exist that provides for obtaining missing files.

Even if the PWBA has the IPA report, many times the report does not reflect ERISA violations that have occurred inspite of the American Institute of Certified Public Accountants [AICPA] guide entitled "Audits of Employee Benefit Plans" and the reporting requirements set out in ERISA. In fact, the IPA's all too often, do not perform the necessary testing. Many reports fail to contain one or more of the disclosures required the AICPA guidelines and the statute. Often times, IPA's interpret important events as insignificant, or a disclosure requirement as repetitive. Many times, too, important events are obscured within a report.

The IPA's role is crucial. It is often the only source the PWBA has of accurately interpreting financial statements. Few members of PWBA have the background necessary to complete an audit themselves—not to mention their lack of personnel and time. The IPA assumes a public responsibility to the plan's participants. Nevertheless, today's auditing standards allows an auditor to assume management integrity unless his examination reveals evidence to the contrary. Thus, his duty to look for fraud is limited. The results can be disastrous, especially when you recognize that the majority of financial fraud practices involve top management. Further, a company is free to—and often does—change auditors if the company disagrees with the IPA's accounting policies. (See generally "Report of the National Commission on Fraudulent Financial Reporting" (April 1987). This effectively shifts the duty to report illegal acts to the plan administrator. Ironically, the plan administrator is usually the one who violates the law and the last person who will notify the authorities in order to protect plan participants.

The PWBA, moreover, has no recourse against an IPA who has performed a substandard audit. ERISA section 104(A)(3) gives the remedies available in such a case:

The PWBA must give the plan administrator 45 days to correct the report.

After 45 days, the PWBA can engage another IPA to perform the audit at the plan's expense, or bring a court action to enforce the provisions.

The IPA's, however, cannot be fined or suspended by the PWBA. The PWBA may report the auditor to appropriate authorities in the profession, but may take no action on its own.

Pension and welfare plans are paying millions of dollars to IPA accountants to complete audit reports that fail to serve as a check on financial malfeasance and that are hopelessly out of date by the time the PWBA receives them. The PWBA, too, is woefully understaffed, and the IPA reports on which it relies too often to be of use in detecting fraud.

We must take steps now to ensure, not only that those who perpetrate fraud will be caught, but that getting caught will hurt. The amount of fraud that exists in pension and welfare plans is astounding. The PWBA itself resolved $51.2 million of monetary violations in 1985. By 1986, the amount had risen to $88.9 million. And this is only the amount that PWBA has discovered. Judging from the mere 1,700 plans the PWBA investigates in any 1 year, this is only the tip of an enormous iceberg. Meanwhile, the amount of money invested in plan assets by an unknowing and trusting working public keeps growing.

III

This data on the inadequacy of existing law and practice to protect the pension and welfare plans of the Nation must be placed in the context of so-called RICO reform efforts. In 1970, Congress enacted the Organized Crime Control Act, title IX of which is known as RICO—18 U.S.C. § 1961 et cetera. Congress was concerned about fraud when it enacted RICO, and it provided for a treble damage claim for relief for those injuries by a systematic patterns of criminal fraud committed by, through, or against an enterprise—a statutory term that includes pension and welfare funds. Nevertheless, movements are afoot in Congress to disembowel RICO. Bills have been introduced by my good friends—Senator HOWARD METZENBAUM and Congressman RICK BOUCHER in the Senate S. 1523, and House, H.R. 2983. The Metzenbaum and Boucher bills would, unthinkingly, weaken RICO and pull out its teeth, particularly as the statute protects welfare and pension funds. Broadly, their bills propose to exclude securities fraud from RICO coverage, reduce damages from treble to actual, cut down the period within which a victim must sue or lose the right to sue, raise the standard of the burden of proof that the victim has to meet to recover, make the victim meet extraordinary pleading rules, and make the damage reduction changes apply retroactively to pending litigation.

The Subcommittee on Criminal Laws, which I am privileged to chair, is planning to hold detailed hearings to examine the wisdom of these proposals. It will also consider the provisions of H.R. 3240, introduced by myself and my colleague, the gentleman from California, Mr. DON EDWARDS. H.R. 3240 is a bill that would also reform RICO, but it would both strengthen it and guard against its abuse. (See 133 Cong. Rec. E3351 (daily ed. Aug. 7, 1987).) I intend to give special treatment to the impact that these proposals might have on the security of all pension and welfare funds of American citizens. Nothing that I have heard yet leads me to believe that it would be other than folly to weaken the legal protections so necessary to safeguard the funds from fraud and misuse. We must not let the Metzenbaum or Boucher approaches of weakening the law serve as the bases for RICO reform. I, for one, pledge my strength to prevent this tragedy from happening. The hard-earned savings of our people are too important not to be safeguarded.

□ 1815

UPDATE ON SITUATION IN HONDURAS

The SPEAKER pro tempore (Mr. Price of North Carolina). Under a previous order of the House, the gentleman from Ohio [Mr. McEwen] is recognized for 10 minutes.

Mr. McEWEN. Mr. Speaker, this past weekend I had the opportunity to join with seven of my colleagues in a quick visit to Honduras where we ate and slept with the 82d Airborne Division that had been deployed there as a result of the President's actions on Wednesday night.

I take this opportunity to take just a few moments to discuss the actions of the President and the importance that I attach to them.

As you recall, Mr. Speaker, on February 3 the House of Representatives voted to deny any further assistance to the democratic resistance operating against the Marxist regime in Nicaragua.

Shortly after that decision by the Congress to no longer assist the democratic forces in the region, the Sandinistas began to forward deploy their very limited petroleum stocks and other necessary material to the border along Honduras in anticipation of an incursion or invasion into their democratic neighbor to the north.

Under the act as it expired on March 1, the United States could no longer participate in assisting the democratic resistance and the Marxist regime in Nicaragua took advantage of that to then deploy their troops to the border.

Last Wednesday, the Sandinista forces crossed over the border, forded the river and crossed into Honduras where they attempted to engage the democratic resistance, the Contras, that were located in the Honduras region.

At that point, in recognition of the fact that the Sandinistas are financed very heavily by the Soviet Union and in recognition of the fact that they had been given rapid deployment of some $150 million in material from the Soviet Union in the previous 60 days, in recognition of the fact that this was a coordinated attack bringing in all aspects of the military inside Nicaragua, it was sending a message throughout Central America that an ally of the Soviet Union would be heavily financed, heavily supported and given the opportunity to attack its neighbors.

The only question that remained for the world and for Central America in particular was where would the United States stand and what would the United States do when an ally and friend and fellow democracy were under attack?

As you know, much request was made of the Congress by the President and his personal staff, the White House staff on Wednesday. We also know that Mr. D'Escoto, the Foreign Minister for the Managua regime, used his efforts to engage in a disinformation campaign to claim that there was no incursion and that any crossings were inadvertent. He failed, of course, to clear that with Daniel Ortega, the President of Nicaragua because Mr. Ortega boasted he had 6,000 Sandinista troops involved in this operation.

On Wednesday evening the President decided to deploy 3,200 American troops on a training exercise. This action sent tremors throughout the invading armies. They immediately foundered in place. The next day the Honduran Government gave a 24-hour ultimatum to Nicaragua to withdraw their troops. And when they failed to do so, they engaged in two air strikes against them with the result that the Sandinista troops immediately began to withdraw. They fell into disarray and began to return across the border back into Nicaragua.

Very simply the point of my conclusion is, Mr. Speaker, that the President's swift action sent a clear and unmistakable message not only to our ally in Honduras but to Democrats in the region, around the world and particularly those next to us in the Americas, that we are a faithful, reliable ally that when we choose to stand with a democrat, we are there in times of stress and in times of success.

In Costa Rica where the democracy is under attack, in El Salvador where the democracy is under attack, in Panama where the situation is very, very untenable at the present time, it was a vitally important message that the President sent. I am delighted to report tonight that the peace process can now proceed, that the destruction of the democratic resistance was not successful and that now we can begin to get about the serious business of achieving peace in the region because America stood with the democracies.

Mr. Speaker, I yield to the chairman of the delegation, the chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman and support what he said here this afternoon.

I want to thank him for going on this trip with seven other Members, one of whom, Mr. Hunter of California, is here now. I thought it was successful.

The gentleman pointed out that it brought the presence of American forces and it boosted the Honduran Army as well as their Government, as well as our allies in that part of the world.

I want to touch on this: The American forces that went down to Honduras are some of the finest that I have ever seen.

As the gentleman mentioned, these young men and women from the 82d Airborne, two battalions and two battalions from the 7th Infantry of the 27th Regiment, 2d and 3d battalions; some of the finest young men, soldiers that I have ever seen.

They did their jobs. And I would hope now that the gentleman in the well and the President as Commander in Chief would bring those Americans home. I think they have done their job. They worked hard. It is tough-tough down there, not in any danger of getting involved with the Sandinistas, but it is a hot, tough climate. They worked 20 to 24 hours a day. I would hope that the President would bring them back home.

Mr. McEWEN. I thank the gentleman for his statement. I have made no secret of my very deep admiration which I hold for the chairman of the Committee on Veterans' Affairs and his leadership in this Congress and I thank him for leading this delegation at a most propitious moment in the course of Central American democracy.

I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from Ohio for putting this special order on, and also thank Mr. Montgomery, our chairman, who went down at the spur of the moment, without a lot of time to prepare and to arrange scheduled. We went down because he, like the gentleman from Ohio and the other members of the delegation were concerned about American forces and their well-being.

You know, I think an important message should come out of this: When Ronald Reagan sent the 82d Airborne and elements from the 7th Division down to Honduras, Sandinistas were killing Contras, attacking them in their base camp in Honduras. Honduras was reluctant to take on and to stand up to a very superior, in numbers, Sandinista force. They looked to the United States to stand behind them. They wanted to see that we as their friends stood with them.

So these people came down because the Sandinistas were killing Contras, and because we were there the Hondurans made an air strike against the Sandinista bases and did not kill personnel to our knowledge. And because of that the Sandinistas disengaged from the Contras, moved back across the border to their own country, to Nicaragua.

The point is that by taking decisive action the President of the United States saved lives, he did not expend lives. No lives have been lost in this exercise in Honduras.

To our knowledge, no lives were lost in the air strike on the Sandinista bases. Yet we know that many lives were being lost in the Contra forces and in the Sandinista forces because of the very treacherous attack by the Sandinistas at a time when they said they were ready to follow the Arias Peace Plan before the United States arrived.

So by arriving in Honduras and giving that political will to the Hondurans to stand up to their very tough neighbors, the Communist Sandinistas, the President of the United States brought about a cessation of hostilities and saved lives, Nicaraguan lives, Honduran lives. I think that is a point that we should look at when we inspect our future policy with regard to Central America.

Very clearly, if we do not help the freedom fighters, if we do not help people who are struggling for freedom there and who are opposing the Communist Sandinistas who are hosting the Soviet Union in several bases in Nicaragua, we may one day see our young men and women fighting in Central America.

The way to prevent that is to take some curative action, some preventative action right now, and that is to help the people who are fighting for their own freedom and at the same time fighting for the security of the Americas, of this hemisphere.

I was impressed that although that is Central America, they are Hondurans, and we are North Americans, we are all Americans living in the same hemisphere and share the same interest in security.

I want to thank the gentleman for his articulate presentation as well as his articulate interchange/exchange with the President of the United States this morning. I thought he laid out the exercise in a very clear and convincing way and the facts and the result have been proven that he is right, that what we did was correct.

Mr. McEWEN. I thank the gentleman very much. I would conclude with just two quick observations, as the gentleman just articulated.

When an ally is under attack, whether it be in Israel, whether it be in Western Europe or wherever, in Central America, the United States as the leader of the free world has three responses: No. 1, we can close our eyes, hold our ears and say, "We don't care, we really don't care about freedom and democracy. If a nation falls behind or under the hammer and sickle then so be it." That is response No. 1.

Response No. 2 is that we can send aid to those fighting for their own independence, freedom and democracy. That is what America has done throughout its proud 200-year history.

Response No. 3 is we can send troops to do it ourselves. And that is one that we have chosen only five or six times throughout our history to engage in.

When the Congress of the United States denied the President option number two to continue to assist the democratic resistance, last week with an invasion into an ally and friend in Honduras he was left with only option one, do absolutely nothing or option No. 3, to use American troops.

To those of us that prefer the nonuse of troops, it is absolutely essential that we immediately reestablish assistance to the democratic resistance in Central America so that they can carry their cause forward themselves, which is their desire to do.

I would point out that when we funded the democratic resistance it brought the Sandinistas to the table, it opened up La Prensa, it caused a freeing of many of the political prisoners, it established the religious leader, Obando y. Bravo, their cardinal, as a mediator in the negotations.

But once the House of Representatives, the Congress of the United States voted to deny aid to the democratic resistance, immediately we saw the collapse of any opening toward democracy we saw war, we saw the incursion into its neighbors and we saw the beginning of hostilities.

So for those of us who want peace, for those of us who want a cessation of hostilities, for those of us who believe in the peace process, we understand that it is essential for us to support our allies and friends and send the message to the world, specifically that region which is this: If you become an ally of the Soviet Union, you can rest assured that they will give all that you request in military and personal and humanitarian aid to fund their allies. The question is what do you get when you side with democracy, freedom and the United States? The Congress of the United States has sent a very ambiguous response in recent years. Fortunately, the President of the United States has shored up our reputation by saying, "If you are attacked we will stand with you."

Now the question before the Congress for the next 10 to 14 days is can the President's actions stand alone? Will we stand with him for democracy, for peace and for freedom or will this House once again say to our adversaries in the world, "If you wish to insert your doctrine and your oppression against our allies, we will not lift a finger against you."

That is the dilemma that is facing America today and I wanted to take this opportunity to show that when the President acts for what is right that democracy wins.

□ 1730

THE SATELLITE DISH OWNERS' RIGHT TO TELEVISION PROGRAM ACCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota [Mr. JOHNSON] is recognized for 5 minutes.

Mr. JOHNSON of South Dakota. Mr. Speaker, Members of the House are coming together once again to express bipartisan, unified support on an issue where consideration by Congress is long overdue. In recent years, the rural satellite dish owner has been unfairly denied the right to receive satellite signals that should be available to everyone at a reasonable and fair cost. In my own State of South Dakota, people in rural areas have invested thousands of dollars in satellite dishes so that they can enjoy the same programming that those in urban areas do. The problem is that on top of this investment, dish owners are forced to purchase not one, but many times three or four, separate descramblers to be able to view the programming of their choice.

My constituents are not looking for a free ride. What they are asking for is to get these services at a reasonable, competitive price—they certainly have the right to have access to programming which a vast majority of this country already has or will have at fair and reasonable rates. We need a distribution system that does not discriminate in prices or conditions.

That is why I am a cosponsor of H.R. 1885, the Satellite Television Fair Marketing Act. This legislation is designed to ensure competition in the marketplace by requiring that those scrambling satellite services intended for private viewing must make those services available to home satellite dish owners. The bill further provides the Federal Communications Commission with the authority to establish uniform standards for encryption.

It is critical that this bill be moved as soon as possible in an effort to bring fairness and equity to millions of rural Americans who have chosen to invest in satellite dishes. I would urge my colleagues to support this legislation, and I would urge Members on the Energy and Commerce Committee to move this bill to the floor as soon as possible.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MADIGAN (at the request of Mr. MICHEL) from 12:30 p.m. today on account of illness.

Mr. GRAY of Illinois (at the request of Mr. FOLEY) for today and the balance of the week on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCMILLAN of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. MORRISON of Washington, for 5 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

Mr. GINGRICH, for 5 minutes, today.

Mr. DORNAN of California, for 5 minutes, today.

Mr. GEKAS, for 5 minutes, today.

Mr. CRANE, for 60 minutes, on March 29.

Mr. MCEWEN, for 10 minutes, today.

(The following Members (at the request of Mr. OLIN) to revise and extend their remarks and include extraneous material:)

Mr. WEISS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ANTHONY, for 5 minutes, today.

Ms. OAKAR, for 60 minutes, today.

Mr. HUBBARD, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. JOHNSON, of South Dakota, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. GONZALEZ, for 60 minutes, on March 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DYMALLY of California and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,783.

(The following Members (at the request of Mr. MCMILLIAN of North Carolina) and to include extraneous material:)

Mr. RINALDO.

Mr. GOODLING.

Mr. MCDADE.

Mr. DUNCAN.

Mr. CRANE.

Mr. PORTER in two instances.

Mr. DORNAN of California in two instances.

Mr. VUCANOVICH.

Mr. LUJAN in two instances.

Mr. HANSEN.

Mr. SHAW.

Mr. KONNYU.

Mr. HYDE.

Mr. HANSEN.

Mr. WELDON.

(The following Members (at the request of Mr. OLIN) and to include extraneous matter:)

Mr. WYDEN.

Mr. CLAY in two instances.

Mr. TALLON.

Mr. LANTOS in two instances.

Mr. TRAXLER.

Mr. SHARP.

Mr. YATRON.

Mr. DIXON.

Mr. SYNAR.

Mr. TORRICELLI.

Mr. FLORIO.

Mr. FORD of Michigan.

Mr. FAZIO.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. OBEY.

Mr. MATSUI.

Mr. HOWARD.

Mr. DYMALLY.

Mr. KOSTMAYER.

Mr. LEHMAN of Florida.

Mr. CROCKETT.

Mr. LANTOS.

Mr. LEHMAN of California.

Mr. UDALL.

Mr. APPLEGATE.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 952. An act to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes; to the Committee on the Judiciary.

ADJOURNMENT

Mr. DURBIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, March 23, 1988, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3191. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to increase the rates of basic pay, basic allowance for quarters, and basic allowance for subsistence for members of the Uniformed Services; to the Committee on Armed Services.

3192. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-148, "New Streets or Alleys Amendment Act of 1988," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3193. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-149, "District of Columbia Taxicab Commission Fund Amendment Act of 1988," and report, purusant to D.C. section 1-233(c)(1); to the Committee on the District of Columbia.

3194. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-150, "District of Columbia Vehicle Cover Requirement Act of 1988," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3195. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-151, "District of Columbia Taxicab Commission Establishment Act of 1985 Amendment Act of 1988," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3196. A letter from the Chairman, Securities and Exchange Commission, transmitting the 16th annual report of the Securities Investor Protection Corporation for the year 1986, pursuant to 15 U.S.C. 78ggg(c)(2); to the Committee on Energy and Commerce.

3197. A letter from the Secretary of State, transmitting notification of the Determination by the Secretary that the furnishing of assistance to Ecuador, which is more than 6 months in default on loans made under the FAA of 1961, as amended, is in the national interest; copies of the Determination and the Justification enclosed, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

3198. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3199. A letter from the National Treasurer, Pearl Harbor Survivors Association, transmitting copies of the Association's financial statements for the year ended September 30, 1987, pursuant to 36 U.S.C. 1103; to the Committee on the Judiciary.

3200. A letter from the Secretary, The Foundation of the Federal Bar Association, transmitting a copy of the Association's audit report for the fiscal year ending September 30, 1987, pursuant to 36 U.S.C. 1101(22), 1103; to the Committee on the Judiciary.

3201. A letter from the Comptroller General, General Accounting Office, transmitting a report on the review of the Federal Milk Marketing Order Program and its impact on dairy surpluses, as well as regional issues (GAO/RCED-88-9; March 1988); jointly, to the Committees on Government Operations and Agriculture.

3202. A letter from the Secretary of Transportation, transmitting the Department's 1986 annual report on the administration of the Pipeline Safety Act of 1979 for the period January 1, 1986, through December 31, 1986, pursuant to 49 U.S.C. App. 1683(a); jointly, to the Committees on Energy and Commerce, and Public Works and Transportation.

3203. A letter from the Comptroller General of the United States, transmitting a special report entitled: "Controlling Drug Abuse: A Status Report; jointly, to the Committees on Government Operations, Education and Labor, Foreign Affairs, Energy and Commerce, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. Howard: Committee on Public Works and Transportation. H.R. 2266. A bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes; with an amendment (Rept. 100-445, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. GRAY of Pennsylvania: Committee on the Budget. House Concurrent Resolution 268. A resolution setting forth the congressional budget for the United States Government for the fiscal years 1989, 1990, and 1991 (Rept. 100-523. Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 410. A resolution providing for the consideration of House Concurrent Resolution 268, a concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1989, 1990, and 1991 (Rept. 100-524. Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DOWDY of Mississippi (for himself, Mr. Smith of New Jersey, Mrs. Patterson, Mr. Wylie, Mr. Jontz, Mr. Ridge, Mr. Evans, Mr. Dornan of California, Ms. Kaptur, Mr. Kennedy, Mr. Montgomery, Mr. Solomon, Mr. Hammerschmidt, Mr. Johnson of South Dakota, Mr. Slattery, and Mr. Kildee):

H.R. 4213. A bill to amend title 38, United States Code, with respect to the Montgomery GI bill; jointly, to the Committees on Veterans' Affairs and Armed Services.

By Mr. RANGEL (for himself, Mr. Gilman, Mr. Ackerman, Mr. Biaggi, Mr. Boehlert, Mr. DioGuardi, Mr. Downey of New York, Mr. Fish, Mr. Flake, Mr. Garcia, Mr. Hochbrueckner, Mr. Horton, Mr. LaFalce, Mr. Lent, Mr. Manton, Mr. McGrath, Mr. McHugh, Mr. Molinari, Mr. Nowak, Mr. Owens of New York, Mr. Scheuer, Mr. Schumer, Ms. Slaughter of New York, Mr. Solarz, Mr. Stratton, Mr. Towns, and Mr. Weiss):

H.R. 4214. A bill to rename the State and local narcotics control assistance provisions of the Anti-Drug Abuse Act of 1986 in memory of New York City police officer Edward Byrne, who was slain on February 26, 1988, while guarding the home of a witness in a criminal case involving narcotics; to the Committee on the Judiciary.

By Mr. ANTHONY:

H.R. 4215. A bill to amend the provisions of the Toxic Substances Control Act relating to asbestos in the Nation's schools by extending the deadlines for local educational agencies to submit asbestos management plans to State Governors and to begin implementation of those plans; to the Committee on Energy and Commerce.

By Mr. APPLEGATE (for himself, Mr. McEwen, Mr. Montgomery, and Mr. Solomon):

H.R. 4216. A bill to amend title 38, United States Code, to increase the rates of compensation and dependency and indemnity compensation [DIC] payable to veterans with service-connected disabilities and their survivors, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BOULTER (for himself and Mr. Combest):

H.R. 4217. A bill to authorize the Secretary of the Interior to construct, operate, test, and maintain the Lake Meredith Salinity control Project, New Mexico and Texas; to the Committee on Interior and Insular Affairs.

By Mr. BROWN of California (for himself, Mr. Walker, Mr. Volkmer, Mr. Torricelli, Mr. Perkins, and Mr. Bateman):

H.R. 4218. A bill to require the National Aeronautics and Space Administration to investigate and promote the development of human settlements in space, and for other purposes; to the Committee on Science, Space and Technology.

By Mr. CRANE:

H.R. 4219. A bill to amend the Internal Revenue Code of 1986 to encourage the extended family unit by increasing the amount of the personal exemption for children and for older dependents who reside with the taxpayer, and for other purposes; to the Committee on Ways and Means.

By Mr. LATTA:

H.R. 4220. A bill to require analyses and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, to provide for deficit neutrality of new spending legislation, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. MATSUI (for himself and Mr. Vander Jagt):

H.R. 4221. A bill to amend the Internal Revenue Code of 1986 to clarify that section 457 does not apply to nonelective deferred compensation or basic employee benefits; to the Committee on Ways and Means.

By Mr. MAZZOLI:

H.R. 4222. A bill to amend the Immigration and Nationality Act to extend for 6 months the application period under the legalization program; to the Committee on the Judiciary.

By Mr. MICHEL (for himself and Mr. Hyde):

H.R. 4223. A bill to protect the civil rights of Americans and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil rights Act of 1964; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. MORRISON of Washington (for himself, Mr. Swift, and Mr. Chandler):

H.R. 4224. A bill to require the Secretary of Energy to develop a plan for demonstrating the technical feasibility of burning weapons grade nuclear materials that have been removed from dismantled nuclear weapons in nuclear reactors of the Department of Energy and to report to Congress on that plan, and to require the President to consider inviting the Soviet Union to participate in the demonstration; jointly, to the Committee on Armed Services and Science, Space and Technology.

By Mr. QUILLEN:

H.R. 4225. A bill relating to the treatment of certain furskins under the Endangered Species Act of 1973; to the Committee on Merchant and Fisheries.

By Mr. SHARP (for himself and Mrs. Llyod):

H.R. 4226. A bill to promote the development and commercialization of renewable energy and energy conservation; jointly, to the Committees on Energy and Commerce and Science, Space and Technology.

By Mr. STANGELAND:

H.R. 4227. A bill to provide a grant to study how to minimize electric voltage differences in livestock holding and feeding areas; to the Committee on Agriculture.

By Mr. WYDEN (for himself and Mr. Waxman):

H.R. 4228. A bill to amend the Public Health Service Act to establish a grant program to provide for the education of the public with respect to acquired immune deficiency syndrome; to the Committee on Energy and Commerce.

By Mr. RODINO:

H. Res. 408. Resolution providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on the Judiciary in the second session of the One Hundreth Congress; to the Committee on House Administration.

By Mr. RANGEL (for himself, Mr. Gilman, Mr. Ackerman, Mr. Biaggi, Mr. Boehlert, Mr. DioGuardi, Mr. Downey of New York, Mr. Fish, Mr. Flake, Mr. Garcia, Mr. Hochbrueckner, Mr. Horton, Mr. LaFalce, Mr. Lent, Mr. Manton, Mr. McGrath, Mr. McHugh, Mr. Molinari, Mr. Nowak, Mr. Owens of New York, Mr. Scheuer, Mr. Schumer, Ms. Slaughter of New York, Mr. Solarz, Mr. Stratton, Mr. Towns, and Mr. Weiss):

H. Res. 409. Resolution expressing condolences to the family, friends, and colleagues of Officer Edward Byrne of the New York City Police Department for his tragic and untimely death; expressing support of, and appreciation to, law enforcement personnel in the United States; calling on the Congress to appropriate the maximum amount authorized to fund the law enforcement grant program established by the State and Local Law Enforcement Assistance Act of 1986; and calling on the Congress, the President, and the people of the United States to support the bill to rename such Act as the Edward Byrne Memorial State and Local Law Enforcement Assistance Act; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

286. By the SPEAKER: Memorial of the Nineteenth Legislature of Guam, relative to the designation of the point at Orote Penin-

sula as Udall Point, to the Committee on Interior and Insular Affairs.

287. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to attorney's fees; to the Committee on the Judiciary.

288. Also, memorial for the General Assembly of the Commonwealth of Virginia, relative to commercial zone motor carrier operations; to the Committee on Public Works and Transporation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BILIRAKIS:

H. Con. Res. 269. Concurrent resolution commending the men and women of the Loyal Order of Moose who together have given 100 years of civic, charitable, and benevolent service to their fellow citizens in the finest spirit of American voluntarism; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 190: Mr. Hall of Ohio and Mr. Blaz.

H.R. 245: Mr. Bryant and Mr. Hansen.

H.R. 592: Mr. Mazzoli, Mr. Lewis of California, Mr. Spratt, Mr. Grandy, Mr. Holloway, and Mr. Pursell.

H.R. 719. Mr. Mollohan.

H.R. 722: Mr. Bates.

H.R. 807: Mr. Beilenson.

H.R. 1201: Mrs. Boxer and Ms. Oakar.

H.R. 1244: Mr. Panetta.

H.R. 1417: Mr. Clinger, Mr. Penny, Mr. Bonker, Mr. Torricelli, and Mr. Conyers.

H.R. 1433: Mr. Moody.

H.R. 1583: Mr. Roth, Mr. Donald E. Lukens, Mr. DeFazio, Mr. Berman, Mr. Mineta, and Mr. Schulze.

H.R. 1620: Mr. Robert F. Smith.

H.R. 1638: Mr. Torricelli, Mr. Rodino, and Mr. Boehlert.

H.R. 1663: Mr. Burton of Indiana, Mr. Morrison of Washington, Mr. Grandy, Mr. Bereuter, and Mr. Emerson.

H.R. 1957: Mr. English, Mr. Goodling, Mr. Nelson of Florida, Mr. Sharp, and Mr. McCloskey.

H.R. 2229: Mr. Volkmer, Mr. Harris, Mr. Fish, and Mr. Solomon.

H.R. 2260: Mr. Clement.

H.R. 2567: Mr. Hawkins, Mr. Fauntroy, Mr. Stark, Mr. Oberstar, and Mr. Bustamante.

H.R. 2750: Mr. Mineta, Mr. DeFazio, Mr. Hochbrueckner, Mr. Fuster, Mr. Clement, Mr. Torres, and Mr. Howard.

H.R. 2854: Mr. Solarz, Mr. Fauntroy, Mr. Mrazek, Mr. Hawkins, and Mr. Hertel.

H.R. 3009: Mr. Crockett.

H.R. 3144: Mr. Shaw, Mr. Bartlett, Mr. DeLay, and Mr. Smith of Texas.

H.R. 3324: Mr. Craig, Mr. Armey, Mr. Edwards of Oklahoma, Mr. DeFazio, Mr. Coleman of Missouri, and Mr. Stump.

H.R. 3455: Mr. Markey.

H.R. 3485: Mr. Staggers and Mrs. Patterson.

H.R. 3552: Mr. Edwards of Oklahoma and Mr. Smith of New Hampshire.

H.R. 3602: Mr. Wilson.

H.R. 3619: Mr. Buechner and Mr. Smith of New Jersey.

H.R. 3628: Mr. DeWine, Mr. Stokes, Mr. Sabo, Mr. Atkins, Mr. Lungren, Mr. Slattery, Mr. Vento, Mr. Courter, Mrs. Martin of Illinois, Mr. Hiler, Mr. Levin of Michigan, Mr. Saxton, Mr. McGrath, Mr. Kildee, Mr. Ridge, Mrs. Roukema, Mr. Montgomery, Mr. Akaka, Mr. Hochbrueckner, and Mr. LaFalce.

H.R. 3726: Mr. Fish and Mr. Crockett.

H.R. 3806: Mr. Fish, Mr. Mavroules, Mr. Shumway, Mr. Bustamante, Mr. Torres, Mr. Martinez, Mr. Roybal, Mr. Blaz, Mr. Ortiz, Mr. Roe, Mr. Mfume, and Mr. Rangel.

H.R. 3807: Mr. Grant.

H.R. 3822: Mr. Mineta.

H.R. 3892: Mr. Eckart.

H.R. 3893: Mr. McMillan of North Carolina, Mrs. Bentley, and Mr. Price of North Carolina.

H.R. 3907: Mr. Wolpe, Mr. Alexander, Mr. Staggers, Mr. Panetta, Mr. McMillan of North Carolina, Mr. Neal, Mr. Bunning, Mr. Lewis of Georgia, Mr. Kostmayer, Mr. Kolbe, Mr. Morrison of Washington, and Mr. Edwards of Oklahoma.

H.R. 3914: Mr. Foglietta, Mr. Bustamante, Mr. Manton, and Mr. Leland.

H.R. 3955: Mr. Evans, Mr. Wolf, and Mrs. Vucanovich.

H.R. 3969: Mr. Ford of Michigan.

H.R. 4002: Mr. Bereuter, Mr. Lewis of Georgia, Mr. Pursell, and Mr. Wolf.

H.R. 4011: Mr. Ravenel, Mr. Stallings, Mr. Nielson of Utah, Mr. McGrath, Mr. DeFazio, Mr. Richardson, Mr. Evans, and Mr. Olin.

H.R. 4012: Mr. St Germain, Ms. Oakar, Mr. Horton, Mr. Morrison of Connecticut, Mr. Owens of New York, Mr. Hubbard, Mr. Schumer, Mr. Ackerman, and Mr. Fauntroy.

H.R. 4015: Mr. Dorgan of North Dakota, Mr. Daub, Mr. Dornan of California, Mr. Marlenee, Mr. Roe, Mr. Lagomarsino, Mr. Hiler, Mr. Schaefer, Mr. Donald E. Lukens, Mr. Denny Smith, Mr. Boehlert, Mr. Rowland of Connecticut, Mr. Horton, Mr. English, Mr. Traxler, and Mr. Roth.

H.R. 4066: Mr. Bryant, Mr. Atkins, Mr. McGrath, Mr. Mrazek, Mr. Lewis of Georgia, Mr. Kemp, Mr. Shumway, Mr. DeFazio, Mr. Downey of New York, Mr. Fazio, Mr. Evans, and Mr. Davis of Illinois.

H.R. 4067: Mr. Whittaker, Mrs. Bentley, and Mr. Fawell.

H.R. 4074: Mrs. Vucanovich.

H.R. 4093: Mr. DeFazio.

H.R. 4111: Mr. Vento, Mr. Roe, Mr. Gonzalez, Mr. Edwards of California, Mr. Boehlert, and Mr. Horton.

H.R. 4155: Mr. Bustamante, Mr. Lancaster, Mr. Davis of Illinois, and Mr. Hertel.

H.R. 4203: Mr. Oxley, Mr. Lagomarsino, Mr. Ritter, Mr. Emerson, Mr. Dreier of California, Mr. Hunter, Mr. Stangeland, Mr. Donald E. Lukens, Mr. Smith of Texas, Mr. Daub, Mr. Ballenger, Mr. Skeen, Mr. Swindall, Mr. Young of Florida, Mr. Hiler, and Mr. Shumway.

H.J. Res. 145: Mr. Wolf, Mr. Wyden, Mr. Tauke, Mr. Lagomarsino, and Mr. Coleman of Missouri.

H.J. Res. 330: Mr. Towns, Mr. Cardin, Mr. Lehman of California, Mr. Morrison of Connecticut, and Mr. Garcia.

H.J. Res. 388: Mr. Borski, Mr. Callahan, Mr. Dickinson, Mr. Dymally, Mr. Dyson, Mr. Howard, Mr. Kastenmeier, Mr. Levin of Michigan, Mr. Lowry of Washington, Mr. Mollohan, Mrs. Morella, and Ms. Slaughter of New York.

H.J. Res. 391: Mr. Wheat, Mrs. Morella, and Mr. Panetta.

H.J. Res. 420: Mr. Rangel, Mr. Inhofe, Mr. Synar, Mr. Lancaster, Mr. Morrison of Connecticut, and Mr. Howard.

H.J. Res. 429: Mr. Roe, Mr. Henry, Mr. Cheney, Mr. Florio, Mr. Gallo, Mr. McHugh, Mr. Schuette, Mr. Kostmayer, Mr. Kasich, Mr. Rowland of Connecticut, Mr. Gunderson, Mr. DioGuardi, Mr. Parris, Mr. Rostenkowski, and Mr. Quillen.

H.J. Res. 432: Ms. Oakar, Mr. Ortiz, Mr. Pepper, Mr. Sabo, Mr. Denny Smith, Mr. Lehman of California, Mr. Roberts, Mr. Hunter, Mr. Whitten, Mr. Ritter, Mr. Moody, Mr. Campbell, Mr. Taylor, Mr. Valentine, Mr. Bustamante, Mr. Garcia, Mr. McEwen, Mr. Mavroules, Mr. Chapman, Mr. Clarke, Mr. Inhofe, Mr. Vento, Mr. Fish, Mr. Sawyer, Mr. Solomon, Mr. Parris, Mr. Fauntroy, Mr. Bryant, Mr. Conte, Mr. Leach of Iowa, Mr. Frank, Mr. Spratt, Mr. Eckart, Mr. Cheney, Mr. Lungren, Mr. Skaggs, Mr. Burton of Indiana, Mr. Swindall, Mr. Chandler, Mr. Russo, Mr. Hansen, Mr. Hoyer, Mr. Florio, Mr. Houghton, Mr. Hastert, Mr. Markey, Mr. Mollohan, Mr. Atkins, Mr. Ireland, Mr. Hyde, and Mr. Staggers.

H.J. Res. 459: Mr. Derrick, Mr. Wolpe, Mr. Russo, Mr. MacKay, Mr. Oberstar, Mr. Denny Smith, Mr. Leath of Texas, Mr. Sundquist, Mr. Bates, Mr. Rose, Mrs. Byron, Mr. Carper, Mr. Manton, and Mr. Nelson of Florida.

H.J. Res. 460: Mr. Bateman, Mrs. Bentley, Mr. Coble, Mr. Evans, Mr. Fascell, Mr. Kasich, and Mr. Thomas A. Luken.

H.J. Res. 467: Mrs. Boxer, Mr. Matsui, Mrs. Lloyd, Mr. Owens of New York, Mr. Howard, Mr. Grant, Mr. Emerson, Mr. Wolf, Mr. Kolter, Mr. Kanjorski, Mr. Wilson, Mr. Kostmayer, Mr. Rangel, and Mr. Fauntroy.

H.J. Res. 488: Mr. Hoyer, Mr. Dyson, Mr. Smith of New Jersey, Mr. Gray of Illinois, Mr. Manton, Mr. Harris, Mr. Henry, Mr. Owens of New York, Mr. Bryant, Mr. Kolter, Mrs. Patterson, Mr. Rowland of Connecticut; Mr. Wolf, Mrs. Byron, Mr. Fuster, Mrs. Johnson of Connecticut, Mr. Gejdenson, Mr. Horton, Mr. Mazzoli, Mr. Lipinski, Mr. Fascell, Mr. Young, of Florida, Mr. Bennett, Mr. Robinson, Mr. Roe, Mr. Matsui, Mr. Volkmer, Mr. Lagomarsino,

H.J. Res. 489: Mr. Levine of California, Mr. Dornan of California, Mr. Grandy, Mr. Fawell, Mr. Skelton, Mr. Owens of New York, Mr. Courter, Mr. DeFazio, Mr. Solomon, Mr. Frost, Mr. Anderson, Mr. Rowland of Connecticut, Mr. Lancaster, Mr. Upton, and Mr. Sunia.

H.J. Res. 507: Mr. Berman and Mr. Stark.

H. Con. Res. 241: Mr. Atkins and Mr. Eckart.

H. Con. Res. 252: Mrs. Vucanovich.

H. Con. Res. 257: Mr. Owens of New York, Mr. Torres, Mr. Hochbrueckner, Mr. Tauzin, Mr. McGrath, Mr. Brown of California, Mr. Fauntroy, Mr. Berman, Mr. Courter, Mr. Smith of Florida, Mr. Lewis of Georgia, Mr. Scheuer, and Mr. Richardson.

H. Con. Res. 260: Mr. Lowry of Washington, Mr. Bevill, Mr. Ford of Tennessee, Mr. Armey, Mr. Schuette, Mr. Solarz, Mr. Chandler, and Mr. Berman.

H. Con. Res. 262: Mr. Manton, Mr. Sabo, Mr. Gaydos, Miss Schneider, Mr. Johnson of South Dakota, Mr. Grant, Mr. Bosco, Mr. Hastert, Mr. Akaka, Mr. Perkins, Mr. Gray of Pennsylvania, Mr. Gray of Illinois, Mr. Ackerman, Mr. Cardin, Mr. Bilbray, Mr. Ridge, Mr. Weldon, Mr. Murphy, Mr.

Clement, Mr. Jontz, Mr. Oberstar, Mr. Traficant, Mr. Kanjorski, Mr. Owens of New York, Mr. Bruce, Ms. Kaptur, Mr. Fish, Mr. Torricelli, Mr. Frank, Mr. Kostmayer, Mr. Weiss, Mr. Gejdenson, Mr. Young of Alaska, Mr. Bonker, Mr. Visclosky, Ms. Slaughter of New York, and Mr. McMillen of Maryland.

H. Res. 271: Mr. Gekas, and Mr. Dymally.

H. Res. 400: Mr. Applegate, Mr. Bosco, Mr. Clinger, Mr. Coelho, Mr. de Lugo, Mr. Gray of Illinois, Mr. Hall of Ohio, Mr. Hefner, Mr. Lantos, Mr. Lightfoot, Mr. Mineta, Mr. Roe, Mr. Shaw, Mr. Stangeland, Mr. Traficant, Mr. Wolpe, and Mr. Yatron.

H. Res. 404: Mr. Hubbard and Mr. Hiler.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3905: Mr. Dornan of California.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H. CON. RES. 268 (amendment in the nature of a substitute)

By Mr. DANNEMEYER:

—Strike everything after the resolving clause and insert in lieu thereof the following:

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1989 is hereby established and the appropriate budgetary levels for fiscal years 1990 and 1991 are hereby set forth:

(a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989 : $721,000,000,000.
Fiscal year 1990 : $788,600,000,000.
Fiscal year 1991 : $850,800,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1989 : $0.
Fiscal year 1990 : $0.
Fiscal year 1991 : $0.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989 : $964,409,000,000.
Fiscal year 1990 : $992,894,000,000.
Fiscal year 1991 : $1,050,815,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $882,239,000,000.
Fiscal year 1990: $909,308,000,000.
Fiscal year 1991: $941,455,000,000.

(4)(A) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1989: $161,239,000,000.
Fiscal year 1990: $120,708,000,000.
Fiscal year 1991: $90,655,000,000.

(B) For purposes of the maximum deficit amount mandated by the Balanced Budget and Emergency Deficit Control Act of 1985 and section 301(i) of the Congressional Budget Act of 1974 only, the appropriate levels of total new budget authority, budget outlays, Federal revenues, and deficits, including receipts and disbursements of the Federal Old-Age and Survivors Trust Fund and the Federal Disability Trust Fund, are as follows:

New budget authority:
Fiscal year 1989: $1,238,877,000,000.
Fiscal year 1990: $1,297,070,000,000.
Fiscal year 1991: $1,384,633,000,000.
Outlays:
Fiscal year 1989: $1,110,707,000,000.
Fiscal year 1990: $1,155,218,000,000.
Fiscal year 1991: $1,205,465,000,000.
Revenues:
Fiscal year 1989: $908,000,000,000.
Fiscal year 1990: $1,071,800,000,000.
Fiscal year 1991: $1,157,600,000,000.
Deficit:
Fiscal year 1989: $130,707,000,000.
Fiscal year 1990: $83,418,000,000.
Fiscal year 1991: $47,865,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1989: $2,823,400,000,000.
Fiscal year 1990: $3,063,150,000,000.
Fiscal year 1991: $3,288,350,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990, are as follows:

Fiscal year 1989:
(A) New direct loan obligations, $28,300,000,000.
(B) New primary loan guarantee commitments, $113,450,000,000.
(C) New secondary loan guarantee commitments, $83,600,000,000.
Fiscal year 1990:
(A) New direct loan obligations, $27,000,000,000.
(B) New primary loan guarantee commitments, $123,050,000,000.
(C) New secondary loan guarantee commitments, $84,500,000,000.
Fiscal year 1991:
(A) New direct loan obligations, $25,900,000,000.
(B) New primary loan guarantee commitments, $129,150,000,000.
(C) New secondary loan guarantee commitments, $85,400,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new loan guarantee commitments for fiscal years 1989 through 1991 for each major functional category are:

(1) National Defense (050):
Fiscal year 1989:
(A) New budget authority, $307,508,000,000.
(B) Outlays, $295,376,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $320,408,000,000.
(B) Outlays, $306,253,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, $333,399,000,000.
(B) Outlays, $319,565,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):
Fiscal year 1989:
(A) New budget authority, $17,029,000,000.
(B) Outlays, $16,579,000,000.
(C) New direct loan obligations, $5,900,000,000.
(D) New primary loan guarantee commitments, $9,000,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $17,858,000,000.
(B) Outlays, $16,421,000,000.
(C) New direct loan obligations, $6,000,000,000.
(D) New primary loan guarantee commitments, $10,000,000,000.
(E) New secondary plan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, $18,506,000,000.
(B) Outlays, $16,490,000,000.
(C) New direct loan obligations, $6,100,000,000.
(D) New primary loan guarantee commitments, $10,000,000,000.
(E) New secondary loan guarantee commitments, $0.

(3) General Science, Space, and Technology (250):
Fiscal year 1989:
(A) New budget authority, $11,189,000,000.
(B) Outlays, $11,518,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $11,657,000,000.
(B) Outlays, $11,806,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, $12,124,000,000.
(B) Outlays, $12,074,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(4) Energy (270):
Fiscal year 1989:
(A) New budget authority, $5,607,000,000.
(B) Outlays, $4,797,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $1,300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $6,093,000,000.
(B) Outlays, $4,802,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $1,400,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, $5,911,000,000.
(B) Outlays, $4,393,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $1,400,000,000.
(E) New secondary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1989:

(A) New budget authority, $16,218,000,000.

(B) Outlays, $16,274,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $16,945,000,000.

(B) Outlays, $17,113,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $17,632,000,000.

(B) Outlays, $17,528,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1989:

(A) New budget authority, $26,557,000,000.

(B) Outlays, $22,551,000,000.

(C) New direct loan obligations, $16,000,000,000.

(D) New primary loan guarantee commitments, $7,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $25,416,000,000.

(B) Outlays, $22,068,000,000.

(C) New direct loan obligations, $15,000,000,000.

(D) New primary loan guarantee commitments, $7,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $22,466,000,000.

(B) Outlays, $20,183,000,000.

(C) New direct loan obligations, $14,000,000,000.

(D) New primary loan guarantee commitments, $7,300,000,000.

(E) New secondary loan guarantee commitments, $0.

(7) Commerce and Housing Credit (370):

Fiscal year 1989:

(A) New budget authority, $13,767,000,000.

(B) Outlays, $9,387,000,000.

(C) New direct loan obligations, $2,500,000,000.

(D) New primary loan guarantee commitments, $65,700,000,000.

(E) New secondary loan guarantee commitments, $83,600,000,000.

Fiscal year 1990:

(A) New budget authority, $14,795,000,000.

(B) Outlays, $7,697,000,000.

(C) New direct loan obligations, $2,500,000,000.

(D) New primary loan guarantee commitments, $67,600,000,000.

(E) New secondary loan guarantee commitments, $84,500,000,000.

Fiscal year 1991:

(A) New budget authority, $9,875,000,000.

(B) Outlays, $4,299,000,000.

(C) New direct loan obligations, $2,500,000,000.

(D) New primary loan guarantee commitments, $70,000,000,000.

(E) New secondary loan guarantee commitments, $85,400,000,000.

(8) Transportation (400):

Fiscal year 1989:

(A) New budget authority, $28,574,000,000.

(B) Outlays, $27,988,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $29,073,000,000.

(B) Outlays, $28,785,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $29,785,000,000.

(B) Outlays, $29,820,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1989:

(A) New budget authority, $7,796,000,000.

(B) Outlays, $6,656,000,000.

(C) New direct loan obligations, $80,000,000.

(D) New primary loan guarantee commitments, $150,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990

(A) New budget authority, $7,571,000,000.

(B) Outlays, $7,137,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New primary loan guarantee commitments, $250,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $7,787,000,000.

(B) Outlays, $6,919,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New primary loan guarantee commitments, $350,000,000.

(E) New secondary loan guarantee commitments, $0.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1989:

(A) New budget authority, $36,819,000,000.

(B) Outlays, $35,858,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $10,000,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $38,144,000,000.

(B) Outlays, $37,250,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $10,500,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $39,046,000,000.

(B) Outlays, $38,155,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $11,000,000,000.

(E) New secondary loan guarantee commitments, $0.

(11) Health (550):

Fiscal year 1989:

(A) New budget authority, $50,331,000,000.

(B) Outlays, $49,389,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $55,120,000,000.

(B) Outlays, $54,899,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $60,728,000,000.

(B) Outlays, $59,965,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

(12) Medical Insurance (570):

Fiscal year 1989:

(A) New budget authority, $104,362,000,000.

(B) Outlays, $87,001,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $114,529,000,000.

(B) Outlays, $98,180,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $126,240,000,000.

(B) Outlays, $109,660,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1989:

(A) New budget authority, $178,056,000,000.

(B) Outlays, $139,022,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $184,523,000,000.

(B) Outlays, $147,122,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $218,827,000,000.

(B) Outlays, $155,172,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1989:

(A) New budget authority, $5,316,000,000.

(B) Outlays, $5,316,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $5,374,000,000.

(B) Outlays, $5,374,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991

(A) New budget authority, $4,287,000,000.

(B) Outlays, $4,287,000,000.

(C) New direct loan obligations, $0.

(D) New Primary loan Guarantee Commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1989:

(A) New budget authority, $29,130,000,000.

(B) Outlays, $28,603,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New Primary loan Guarantee Commitments, $20,000,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $31,355,000,000.

(B) Outlays, $30,289,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New Primary loan Guarantee Commitments, $26,000,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $31,975,000,000.

(B) Outlays, $31,035,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New Primary loan Guarantee Commitments, $29,000,000,000.

(E) New secondary loan guarantee commitments, $0.

(16) Administration of Justice (750):

Fiscal year 1989:

(A) New budget authority, $8,690,000,000.

(B) Outlays, $8,506,000,000.

(C) New direct loan obligations, $0.

(D) New Primary loan Guarantee Commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $8,938,000,000.

(B) Outlays, $8,877,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,096,000,000.

(B) Outlays, $10,028,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1989:

(A) New budget authority, $10,073,000,000.

(B) Outlays, $9,809,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $10,541,000,000.

(B) Outlays, $10,680,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,989,000,000.

(B) Outlays, $10,739,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(18) General Purpose Fiscal Assistance (850):

Fiscal year 1989:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(19) Net Interest (900):

Fiscal year 1989:

(A) New budget authority, $145,278,000,000.

(B) Outlays, $145,278,000,000.

(C) New direct loan obligations, $0.

(D) New secondary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $133,998,000,000.

(B) Outlays, $133,998,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $132,463,000,000.

(B) Outlays, $132,463,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(2) Allowances (920):

Fiscal year 1989:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1989:

(A) New budget authority, −$37,891,000,000.

(B) Outlays, −$37,891,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, −$39,443,000,000.

(B) Outlays, −$39,443,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, −$41,319,000,000.

(B) Outlays, −$41,319,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

GOLD BONDS

Sec. 2. (a) The Congress shall consider legislation authorizing the issuance of Treasury obligations redeemable in gold, that—

(1) are known as Eagle bonds;

(2) have an annual investment yield not exceeding 1.75%;

(3) have an initial maturity of forty years, and may not be issued for less than twenty-five years;

(4) have principal and interest redeemable at maturity in gold;

(5) are intended to replace high-interest, short-term debt.

(b) The issuance of gold bonds is intended to achieve—

(1) a permanent reduction in the rate of interest on the public debt;

(2) a permanent reduction of the rate of interest on the private debt;

(3) a significant reduction of the Federal budget deficit;

(4) the elimination of the U.S. trade deficit.

TAX AMNESTY

Sec. 3. (a) The Congress shall consider legislation establishing a Federal tax amnesty program, that—

(1) authorizes a one-time amnesty from criminal and civil tax penalties for taxpayers who notify the Internal Revenue Service of previous underpayments of Federal tax and pay such underpayments in full;

(2) shall be in effect for a three month period beginning July 1, 1988;

(3) applies to all payments relating to tax years ending on or before December 31, 1986.

(b) Revenues collected pursuant to this program shall be used solely for the purpose of reducing the Federal deficit.

EXTENSIONS OF REMARKS

THE SO-CALLED JEWISH PROBLEM IN THE U.S.S.R.

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. PORTER. Mr. Speaker, 60 years ago millions of Jews were murdered. And, for too long, the world was left unaware because no one came forward to reveal the atrocities being committed. Today, hundreds of thousands of Jews and other innocent citizens suffer in the Soviet Union. Many people are imprisoned, held in exile, or institutionalized, solely because of their religious beliefs or desire to leave their country. Many Soviet citizens suffer from serious illnesses and are being denied passage to the West for treatment.

Pam Cohen, President of the Union of Councils for Soviet Jews, recently sent me the translation of an open letter about the so-called Jewish problem in the Soviet Union. This letter was written by seven non-Jewish intellectuals, some of them associated with dissident human rights movements in the U.S.S.R., and sent to Mr. Yakovlev, Secretary of the Central Committee of the C.P.S.U., and four Soviet newspapers. This document emphasizes not the human and civil aspects of the Jewish problem in the U.S.S.R., but rather the danger threatening the mere existence of the Jewish community by the growing anti-semitism in that country.

Mr. Speaker, I am inserting this letter in the CONGRESSIONAL RECORD, as a statement of concern and a demonstration of a painful lesson history has taught us, and urge my colleagues to read it carefully. We must not remain silent during times of trouble.

UNION OF COUNCILS FOR SOVIET JEWS,
Washington, DC.

(The following letter was written in the fall of 1987 and transmitted to Dr. Lev Utevsky in Israel by former Prisoner-of-Conscience, Dr. Roald Zelichonok. It was translated by the Soviet Jewry Education and Information Center, Jerusalem, and edited by Dr. Lev Utevsky.

To: Secretary of the Central Committee of the CPSU, Yakovlev.

Newspapers: Verchernaya Moskva, Moskovsky Komosomoletz, Dokumenty i Fakty, Moskovskiye Novosti.

AN OPEN LETTER ABOUT THE SO-CALLED "JEWISH PROBLEM"

For a long time we have been deeply concerned with the growth of the aggressive nationalistic and anti-semitic mood in modern Russian society. The persons who are promoting this mood appear to be the best prepared social force, ideologically and organizationally, in the present epoch of change. Attempts to resist them strictly according to official internationalism seems to be hopeless.

Therefore, the discussion in our press about the activity of the "Pamyat Society," which has been in existence since May 1987, is remarkable for the strange paralysis and avoidance of the Jewish question. There is an impression that "someone" or "something" is not permitting the discussion on a level which could help people work out their own clear attitude on the problem which can be based on complete understanding. It is evident that to achieve such a clear attitude, it is necessary to arrive at a true presentation of the situation.

The problem cannot be formulated clearly before there is an end to the assertion that the Jewish question does not exist in the USSR and until there is an end to the defense of manifestations of social anti-Semitism as being atypical.

But "Pamyat" is not the only issue: It must be understood that the political situation in our country is unstable.

This is not the place to discuss the prospects of the development of the present situation; these prospects may be as unclear to higher authorities as they are to us.

For our letter, the following is important: In the existing instability, aggressive Russian nationalism—the manifestations of which are not limited to "Pamyat"—aspires to become a real political force and suggests its own national-socialist version of "perestroika." In such a situation, Soviet Jews have reason to be apprehensive.

It is important to note also, that even the part of our society which strives for democratic change has no clear moral position on the national question.

From *Vechernaya Moskva*, September 7, 1987 and September 8, 1987, we learned that Ispolkom Mossoveta (Moscow municipality) forbade the meeting against anti-Semitism. [Ed. note: Planned to be held in Moscow on September 13, 1987.] Reading the text we felt shame. The appeal of the "Initiative Group" which was published in *Vechernaya Moskva* was a bitter reproach to us because we, non-Jews, were not the initiators of this struggle against anti-Semitism. But we were silent and our silence creates a shameful situation for us when we're forced to take the lead in the struggle against social anti-Semitism. And what is written about this in the newspapers?

As far as we know, there were six publications in Moscow and the central newspapers about the forbidden meeting.

Let us take for example the lengthy, anonymous article in *Izvestia* from September 18, 1987, "For Whom Does Our 'Perestroida' Give No Rest?" Every person who has no preconception, can see the contrast between the extremely delicate process of separating the positive from the negative in "Pamyat" (on one hand, "the pure aspiration of people to preserve the memory of their past" and on the other hand, "the Great Power of Chauvinism") and the direct insults against the members of the "Initiative Group" who are simply labeled "provocators" and are denied the possibility of having any "pure aspirations."

Moreover, the anonymous author of the article in *Izvestia* ominously hinted that the members of the "Initiative Group" are paid agents of Western intelligence. When it comes to this problem, our newspapers cannot take a step without using threats.

Thus, Orarefiev and Strokov in *Vechernaya Moskva* threaten the Jew with charges under Article 74 of the Criminal Code of the RSFSR: "Breach of national and racial equality."

The anonymous author, who perhaps forgot that the letter of the "Initiative Group" was published in *Vechernaya Moskva*, wrote that in this letter, the activity of some leaders of "Pamyat" are identified as the official opinion of the authorities. There is nothing of the kind in this letter, in fact just the opposite is true—the "Initiative Group" was looking for a dialogue with the authorities. This inane statement is an invention of the author of the *Izvestia*, the same as his statement about state anti-Semitism, though in the last case he perhaps knows better. He declared the official position in the following way: "We are internationalists—our attitude toward both anti-Semitism and Zionism is equally negative." But the same attitude toward anti-Semitism and Zionism is achieved by juggling the text and as a result, the good word "internationalism" is compromised.

Anti-Semitism is a hatred towards Jews who are considered to be the source and tool of all kinds of evil. This hatred is molded in various forms and takes various mythical and ideological covers. It applies in many pseudo-rational arguments. We know the Hellenistic myth about the "stinky Jews—man haters." For centuries the myth about the Jews as murderers of God and ministers of the devil was also illuminated in Christianity. Inside Christianity, nearly all the ideas and slogans of religious and secular anti-Semitism were formed piece by piece. "Jewish usury," condemned by the Catholic Church, became "World Jewish plutocracy" and later "domination by Zionist capital."

The German national-Socialists, whose anti-Semitism was based on biological concepts of the nation, considered the Jews as creators of both capitalism and bolshevism.

Zionism is the movement of the Jewish people to their own state. Sometimes this movement may be intertwined with Messianic hope. After the State of Israel was created, this movement became a movement for the emigration of as many Jews as possible to this State, for the revival and development of national culture with Israel as a center of this process.

In most competent Western encyclopedias, Zionism is defined just about this way, but Resolution 3373, adopted by the United Nations on December 10, 1976, by voices of the countries of our block and of Arab countries define Zionism as a "form of racism and racial discrimination." Incidentally, according to Article 10 of the Charter of the United Nations, such resolutions may be considered only as recommendation, and are not obligatory.

It has to be emphasized that in the real situation of our country, such a definition of Zionism and the formula "against" anti-Semitism is only an ideological cover for anti-Semitism. This formula cannot have any other meaning. This formula was cre-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ated just to make anti-Semitism legal in the frame of Communist ideology, i.e. without breaching internationalistic taboos.

Anti-Zionism became a pseudonym for officially approved anti-Semitism for the first time at the end of the 40's, the time of the great fight against "homeless cosmopolites" who were declared "agents of American imperialism."

Then the Jewish people, as a whole, took on the official image of the enemy, a target for hatred by all people, and under the threat of deportation. We see in this case, one of the classic variations of the anti-Semitic myth: The Jews as the tools and bearers of alien influence—in this case a Western one.

This version has been used up to the present by both official ideology and by Russian nationalism. Andrei Cherkizov, in the paper *Sovietskaya Kultura* on March 31, 1987, asked, "Why and what are the reasons for emphasizing the national structure of the Bolshevik Party?" Of course, he knows the answer.[1]

Up to the present day, the Jews feel the consequences of the fight against cosmopolitanism. One of them, well known and impossible to prove, is the discrimination of Jews when they apply for a job or to be admitted to Universities.

Jewish culture was not given a possibility of recovering after the pogroms at the end of the 1940's and beginning of the 50's. Now the strategy of official anti-Semitism has changed: only those Jews who are self-willingly mindful of their Jewishness, who strive for revival of national culture and especially those who struggle for their right to emigrate to Israel are delcared Zionists, traitors and agents of secret services; all other Jews appear to be hostages.

The most piercing evidence of the wretched and horrible state to which we have driven the Jewish people in our country are the letters of "Honest Soviet Citizens of Jewish Extraction."

Our press never misses an opportunity to publish such letters. *Vechernaya Moskva* openly reminded "the persons of Jewish extraction" about their hostage status when describing the "provocators from the 'Initiative Group.'"

"It is impossible not to mention, let us put it straight, that this fuss puts many thousands of Soviet Jews, true citizens of the Soviet Union, in a bad light."

The reading of such letters makes an oppressive and horrible impression.

"The traitors, you will not succeed in dishonoring us . . .; renegades, compromising with their treason all the Jews of the U.S.S.R. . . ."

All this is the voice of a hounded people who know with their skin and perhaps even with their genetic code, what the collective guilt is: it is the voice of a people who only wish that we would forget about their Jewishness.

[1] Some Soviet anti-Semites emphasize the number of Jews who were involved in counter revolutionary parties.

Ninety years ago Theodor Herzl, the founder of Zionism, wrote: "If they would only leave us alone! But I think they will not leave us alone."

This prophecy of Herzl, as much as all the problems mentioned in our letter, make special sense in the light of the Holocaust of European Jewry.

We have to remember that it was Russia who gave the world "The Protocols of the Elders of Zion" which were used to stir up hatred toward the Jews in Germany in the twenties and have been used since the 50's for the same purpose in Arab countries.

The memory of the Holocaust makes us write: The definition of Zionism as a kind of racism and an indentification of Zionism with Fascism, used by Soviet literature is derisive abuse of the memory of the victims of genocide. It is no mere chance that almost nothing was published in our country from the vast literature on the theory and practice of Hitler's "Final Solution of the Jewish Problem."

Heinrich Bohl wrote that it was better to be a dead Jew than a living German.

For us, Soviet citizens of non-Jewish extraction, the alternative is fortunately not so sharp, but our silence may lead even now to our becoming assistants to a potential pogrom.

Signed: Sergey Liozov, philologist; Sergey Tishenko, physicist; Elena Vardigulova, philologist; Vladimir Pribylovsky, historian; Kyrill Popov, chemist; Margarita Petrosian, lawyer; Sergey Pestov, librarian; Andrey Shilkov, historian; Nina Lsovsky, biochemist.

PROGRESSIVES IN PUBLICATION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. FLORIO. Mr. Speaker, for many years, the Greek community throughout the Nation has demonstrated its support for cultural and academic excellence. Through programs and scholarships, the American-Hellenic Educational Progressive Association has galvanized the Greek-American community, bringing an appreciation of the Greek heritage and the United States an appreciation of the contributions of that Greek community.

Every year, the Ahepans come together to recognize the best among them. In 1987, the AHEPA Voice of the Fifth District was proudly selected as the premier publication from among the many other publications that foster the spirit and the excellence of the AHEPA family.

Not afraid of pursuing controversial issues in a frank and open manner, the newspaper of the fifth district, which is published in Trenton, NJ, has shown that it has the determination to put together a newspaper that stimulates and educates the Greek community.

Additionally, in recognition of the honors that the AHEPA Voice has brought to the fifth district, Editor Frank Gramas is being honored doubly by receiving the Homeric Award of the fifth district.

For 5 years, he has supervised and edited each edition of the newspaper with diligence and an attentive eye to the detail that has kept the community up to date and informed of everything that affects and interests them.

Recently, the AHEPA Voice recognized its own achievements and those of its editor, Frank Gramas, in the articles that follow:

[From the AHEPA Voice of the Fifth District, December 1987]

THE AHEPA VOICE IS NO. 1.

The Publication Awards Committee of the Order of AHEPA, at its annual meeting in New Orleans in August, selected District 5's, the AHEPA Voice, as the best 1987 district publication in the domain. Evaluation for the award was based on the quality of the publication, journalistic proficiency, quality of layout, and design and quality of information.

The selection of the AHEPA Voice should come as no surprise. The Voice is read widely by the District 5 membership, and has been rendered a serious publication by other districts and chapters.

In regard to "quality of the publication", the Voice is an inviting news medium from its overall appearance. Adequate in size, but not bulky, it can be placed anywhere.

"Journalistic proficiency" has been maintained throughout the issues, in that the editorial staff strives to ensure that only relevant issues are incorporated. Also, in order to assure relevancy, articles relating to the domain as a whole have been particularly emphasized.

In evaluating "quality of layout", the Voice has been carefully supervised by its chief editor who has thorough knowledge, and who relies on professional expertise.

Finally, "design and quality of information" take priority in the planning of each issue. Great care and deep pride by the editor make certain that the contents are current and relevant to the District and to the AHEPA Family at large.

It would be remiss, if not mentioned, that the AHEPA Voice has not neglected the duty of journalism to include issues of controversy. The Voice editorials have often provided constructive criticism on several of the major issues which confront District 5 and the Order. These editorials have intended to induce thinking and dialogue necessary for a "progressive" (the "P" in AHEPA) organization.

Regardless of its high quality, in order for the Voice to continue its path of excellence, it needs the cooperative offerings of its public. It is to the best interests of the membership for chapters, and for individual members, to submit articles relevant and timely to the mission of AHEPA. It is only through such committed efforts that the Order can flourish in appreciation to our founding forefathers and in dedication to our next generation.

PBG FRANK GRAMAS RECEIVES HOMERIC AWARD

(By Dr. Dean Lomis)

Brother Frank D. Gramas, Editor of the District 5 publication, the AHEPA Voice, has won the Homeric Award for his editorial leadership to the award-winning publication. The AHEPA Voice won First Place in the publication awards at the August AHEPA Annual Convention in New Orleans.

Brother Gramas is an experienced Ahepan, both in matters about the Order and in its journalistic activities. A veteran Ahepan, he began his membership with the Sons of Pericles for six years, including service in the Sons District Lodge.

Brother Frank joined the AHEPA in 1949. An active member throughout the years, he was elected District Governor in 1963. He became Editor of the AHEPA Voice in 1982. During his five years at the editorial helm, the AHEPA Voice has been an instrument of journalistic excellence. In the course of these years, the AHEPA Voice has won several awards as an outstanding fraternal publication. However, it has been through Brother Frank's personal dedication and diligence that the journalistic excellence of the publication has been maintained for an extended period of time.

The Homeric Award is the highest District Award that can be bestowed upon a Brother Ahepan. Furthermore, it is the third highest award presented by the Order after the Socratic and Periclean.

District 5 is fortunate to have Brother Frank in its ranks and, with membership support, his leadership and dedication will continue to provide excellence in the media of communication to the benefit of the District and the Order.

"TRIPLE WHAMMY"

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. CLAY. Mr. Speaker, I would like to take this opportunity to share some highlights of an outstanding address which was recently given by our distinguished colleague, the Honorable WALTER FAUNTROY, at Howard University's charter day convocation. In the following article from the Washington Post, March 9, 1988, "Triple Whammy," William Raspberry shares Representative FAUNTROY's insightful comments about the real nature of the economic turmoil plaguing our society.

"TRIPLE WHAMMY"

(By William Raspberry)

If you think that you, Jesse Jackson and Richard Gephardt are the only ones worried about America's declining place in the world economy, you should have been at Howard University's charter day convocation the other day. There, in a speech as effective as any I have heard in years, Del. Walter E. Fauntroy (D-D.C.) spoke to the blind greed, misguided policies and misplaced priorities that have put the U.S. economy in jeopardy.

It begins, he said, with three faulty theses: "That the poor have too much, the rich have too little and our problems abroad lend themselves to military solutions."

"Because we believe the poor have too much," he said, "we cut, in the first years of this decade, $280 billion from programs that met the needs of the old, the young, the sick and the poor. Since the rich have too little, we conducted a raid on the federal Treasury in the form of a tax-relief policy that gave away $750 billion ($55 billion of it invested in foreign productivity). And then we increased defense spending by $123 billion, on the ground that our problems abroad lend themselves to military solutions."

And what has been the result? A generation of undertrained Americans, ill-equipped to fill the high-tech jobs that are increasingly important to the U.S. economy; an accelerating flight of American jobs to cheaper labor markets abroad, a disastrous balance of trade, and a budget deficit the interest on which drains the Treasury of some $116 billion a year.

At one point, Fauntroy, mimicking besotted capitalists at a three-martini lunch, evoked the spectacle of Japanese and West Germans, forbidden by U.S. policy to "engage in the most inflationary kind of spending a nation can undertake—military spending," seeking permission to make alternate investments. "If we can't spend on defense, can we just make some little motorcycles and give them funny names? Can we make some radios and televisions? Can we make some cars?"

Fauntroy said America has placed itself under a triple whammy.

"First, the very jobs in labor-intensive smokestack industries that were the means of upward mobility for America's poor have fled the country for cheaper labor markets abroad.

"Second, the programs that were designed to retool our young people in the capital-intensive, information-based, service-oriented skills of the future have been cut. Sixty percent of those studying for PhDs in America are from Asia and Europe, and we're cutting Basic Education Opportunity Grants and Guaranteed Student Loans. Unless we change this policy, we'll have the baddest defense in the world—and nothing to defend.

"Third, the money that fled the country for cheaper labor markets abroad, plus the money that others are now making on our enormous debt, is now coming back to our country. And it is buying America."

He ticked off some foreign purchases of American assets: the Exxon Building on Times Square, the Mobil Oil Tower in Dallas, the NBC Plaza and the ABC headquarters in Los Angeles, and the Dunes Hotel in Las Vegas, all bought by Japanese interest; General Tire, A&P and Celanese, now owned by West Germans; General Electric's TV and electronics production, now in the hands of the French.

Fauntroy's target is not foreign devils but American shortsightedness. He blames neither the Third World countries that will be doing America's smokestack work in the future nor the industrialized nations that would be insane not to exploit the breaks this country is handing them (while providing military security for their trade routes.)

"If we don't get something for U.S. businesses to invest in, they will continue to invest in the $130 billion [illegal narcotics] industry that is destroying our young. If we don't abandon our faulty theses, we'll all be living on a vast plantation called America, owned by foreign investors, and high as a kite on cocaine."

IN HONOR OF AMBASSADOR EDWARD CLARK

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. PICKLE. Mr. Speaker, on March 2, Texas Independence Day, a group of central Texas residents honored Ambassador Edward Clark for his more than 60 years of public service to our great State and our Nation. For years his was a voice not only of independence but of leadership and commitment to the very highest principles of good government.

Many of my colleagues will recall that Ambassador Clark was appointed by President Lyndon B. Johnson as Ambassador to Australia, where he served with great distinction from 1964 to 1967. His was a immeasurably outstanding record of achivement, and even today the nation of Australia remembers Ambassador Clark—"the Yellow Rose of Texas Ambassador"—with great affection and appreciation. He has given this same high level of service to his State as Secretary of State and to his alma mater, Southwestern University.

A group of trustees from Southwestern joined with other citizens of Austin and central Texas in honoring him with a special banquet to recognize his outstanding work. As a matter of personal associaton, I want to say that Ambassador Clark has meant as much to hundreds of citizens in Austin and Georgetown as any person who has lived in our our midst during the last 75 years.

There is no way to measure his worth or the esteem in which the people of Texas hold him. I am personally proud to call him my friend and to constantly remind my associates of his great worth to our lives and times.

Mr. Speaker, I am attaching a few excerps from the remarks of some of the speakers who made this evening so memorable:

"(Edward Clark) is a dear and cherished old friend, and I've had the pleasure of watching—sometimes with astonishment—all that he is able to accomplish in a myriad of areas. He gives of himself with utmost generosity, and brings truth to the cliche, "if you want a job done well, give it to a busy person.

"Through the years it was Lyndon's privilege and mine to know Ed Clark, and we appreciated him not only as a dedicated public servant, but also as one of our family's 'heroes.' None of us will ever forget the caring part he has played in our lives."—Mrs. Lady Bird Johnson.

"A few years ago, an old friend named Henry who was in Ed Clark's University of Texas Law School class phoned Ed on a Sunday morning. He was aware that Ed had achieved considerably more material success than had he . . . and Ed's friend sought the secret.

" 'Ed,' he began, 'how have you accomplished so much more than I have? After all, we are the same age. We both hailed from good families and solid homes. Ed, based upon our law school grades, I am just as smart as you; in fact, I recall graduating with grades slightly better than yours. And, Ed, I know I am just as good looking. What is the difference? What happened?'

"Ed slowly and gently responded. 'Henry, how did you reach me on a Sunday morning?' His friend somewhat impatiently responded that he had Ed's home number, called it, and Ed's wife had told him Ed was at the office and gave him Ed's office phone number.

" 'Well, Henry, you have taken a lot of trouble to phone me . . . indicating you must be serious. So, I'll answer your question. First, the comparisons you made are accurate . . . you may be smarter and better looking. But there is one difference.'

" 'What's that, Ed? Tell me!'

" 'Where are you calling me from, Henry?'

" 'Ed, I'm calling you from my home. It's Sunday morning!'

" 'Yes, Henry, and you reached me working on business in my office. That, Henry, is the difference.' "

BEN F. LOVE,
Chairman and CEO,
Texas Commerce Bancshares.

Mr. Speaker, our State loves Edward Ann Clark. I especially treasure their friendship. They are the rarest couple in central Texas.

FORBES' INSURANCE EXECUTIVE OF THE YEAR

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DUNCAN. Mr. Speaker, my friend, John B. Amos, has been named the Insurance Executive of the Year by Forbes magazine. This recognition was based on the innovative initiative John has displayed by leading American Family Life Insurance Company in a peak-to-peak progression of successful, effective enterprise throughout the United States and overseas corporations. Currently his company insures over 15 percent of the entire Japanese population, making it the most successful American company doing business in Japan. I want to express my congratulations to John for this accomplishment and submit the following January 11, 1988 Forbes article for your review.

PATIENT INSURER

In the lexicon of remarkable innovations, consider the achievement of John Amos. The 63-year-old founder and chief executive of Columbus, Ga.-based American Family Corp. took a product that was controversial in the U.S.—cancer insurance—redesigned it and in 1974 shipped it off to Japan, a country with one of the biggest, most well-entrenched insurance industries anywhere. American Family has now emerged as one of the 20 largest insurers in Japan, covering one of every six families. Last year 66% of the company's revenues and 70% of aftertax earnings came from Japan.

Amos' strategy is simple: "Stick to niche marketing and you're not big enough to scare anyone. Then you've got to be patient as Job and figure out how to do things the Japanese way." Back in the seventies he came up with an idea guaranteed to win favor with the Japanese Ministry of Finance: Use retired Japanese workers to sell his product to their former colleagues. "Their retirement benefits weren't good enough to last them forever, so American Family became a little like their social security," he recalls. American Family now employs about 10,500 mostly retired Japanese workers.

Tragically, Amos himself is currently grappling with lung cancer. But he remains involved in company affairs and has devoted himself in recent weeks to preparing American Family's listing on the Tokyo Stock Exchange. The firm's 25.5% return on equity last year led the major U.S. life insurers, thanks to favorable currency translations and Amos' decision in late 1986 to sell most of his Japanese stockholdings.

IN HONOR OF TED D. KIMBROUGH, CALIFORNIA SUPERINTENDENT OF THE YEAR

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DYMALLY. Mr. Speaker, today, it is with great pride that I call your attention to an extraordinary constitutent of mine in the 31st district. Recently, Superintendent Ted Kimbrough of the Compton Unified School District was named "California Superintendent of the Year" by the American Association of School Administrators, who will hold a reception in his honor tomorrow evening in the city of Compton.

Mr. Speaker, I would like to share with you and my colleagues who Superintendent Kimbrough is and what he represents for the people in our community. First, I would like to say that seldom have I seen such an extraordinary and distinguished record of academic and community service by one individual. Superintendent Kimbrough's career spans over 32 years of active involvement as an educator, administrator, director, lecturer, and publisher. At the same time, he has devoted much time and effort as an active participant in numerous community organizations.

Throughout his 26 years at the Los Angeles Unified School District, Ted Kimbrough has taught a wide range of subjects such as U.S. history, government, drafting, general metal, woodworking, and crafts. Later, he served as dean of Jacob Riis High School and acting vice president before becoming principal at the Watts Skill Center.

In addition, Superintendent Kimbrough has provided leadership skills in his capacity as an administrative coordinator for legislative and governmental relations. He has also served as an education liaison for the city and county of Los Angeles.

Superintendent Kimbrough's personal commitment to public service encompasses a wide variety of leadership positions held, such as president of the Association of Black School Superintendents, a consultant on minorities and vocational education, chairman to the Coalition for Adequate School Housing, Governor's appointee to the State Board of Vocational Nurse and Psychiatric Technician Examiners, panelist on State Superintendent Riles' task force on governance of vocational education, and finally, a participant in the development of California's 5-year plan for vocational education.

Aside from his professional contributions, he serves as a member to numerous councils and organizations related to education and minority issues. I would like to bring your attention to Superintendent Kimbrough's list of memberships which include the Minority Engineering Advisory and Development Council and the Graduate School of Education Advisory Council at California State University at Long Beach, cochairperson to the Compton Minority Health Association, the Board of Directors for the Compton Education Fund, and member of task force on crime in the city of Compton.

We are greatly impressed with Superintendent Kimbrough, who has demonstrated to us his enormous capacity for hard work and education in his professional as well as public service career. As the Representative of the 31st district I am proud to join with the Compton Union Council PTA, the American Association of School Administrators and the city of Compton in saluting Superintendent Ted Kimbrough for his display of great fortitude and dedication in carrying out the goals of our community.

In closing, I would just like to say that we are very proud of you today, Superintendent Kimbrough, in having been selected as "California's Superintendent of the Year." Indeed, you deserve this honor and in accepting it we are grateful for your solid commitment to our children and their future.

SOUTH AFRICAN CHURCHES SPEAK OUT FOR HUMAN RIGHTS

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. SYNAR. Mr. Speaker, on February 24 the South African Government announced sweeping new emergency regulations that effectively banned political activity by 17 leading antiapartheid groups, including the United Democratic Front [UDF], and severely restricted the country's largest labor movement, the Congress of South African Trade Unions [COSATU].

The following week, the Government introduced legislation that would prohibit the use of donations from abroad by any individual or group "for political aim or objective." The measure would severely curtail the activities of the multidenominational South African Council of Churches.

On February 29 several prominent religious leaders—including Nobel Peace Prize laureate Anglican Archbishop Desmond Tutu, Roman Catholic Archbishop Stephen Naidoo, and the Reverend Allan Boesak, president of the Worldwide Alliance of Reformed Churches—were briefly detained after attempting to march to Parliament with a petition protesting the new Government restrictions.

The churches continue to speak out loud and clear against the violation of human rights. With the effective banning of COSATU and the UDF, the churches have become even more prominent in the people's struggle for freedom and democracy in South Africa.

Last week the South African Catholic Bishops' Conference issued a pastoral letter calling on the government "to lift all those restrictions—on anti-apartheid groups—to return to the rule of law, and to abolish apartheid and its evils."

Mr. Speaker, I would bring the text of this excellent document to the attention of my colleagues and request that it be submitted, in full, in the RECORD.

The text of the pastoral letter follows:

JOINT LETTER ON STATE ACTIONS

Dear People of God, as Bishops of the Catholic Church in South Africa, we want to convey to you our profound dismay at several state actions in this country in recent days.

These actions have heightened levels of fear and tension, and the degree of oppression, experienced by many of our fellow citizens. As pastors of a Church which represents approximately ten percent of the population, it is our duty to state unequivocally the Church's position when basic human rights are violated.

GENERAL POSITION OF THE CHURCH

The Church must point this out and plead for redress. The Church must do this no matter which government or political system is in power. For example, the Catholic Church in Zimbabwe spoke clearly both to the Smith regime and to the present Mugabe government on the violation of human rights.

This duty of the Church must in no way be construed as meddling in politics, because the Church is not supporting any political party, but safeguarding basic human rights and ideals. By its very calling as an institution founded by Christ, the Church has a divine duty to involve itself in human affairs.

May we remind you that just four months ago, in his address to the Catholic Bishops of Southern Africa in Rome in November 1987, Pope John Paul II was both explicit and supportive when he declared the Church's position in political matters. He said:

"During these past years you have borne witness to hope in many ways, thus showing your people the relevance of Christ's paschal mystery for their lives. Year in, year out, you have stood with your people in their needs. At the same time you have withstood much unjust criticism in transmitting to them the uplifting message of the gospel. In statements that have spanned decades, you have insisted on justice and the need for the true commandment of love, and have invited your people to prayer and to universal fraternal solidarity. In particular you have raised your voices on human rights, the fundamental equality of all persons, the defence of the oppressed, and the concrete demands of justice throughout your region."

PRESENT RESTRICTIONS

In the light of declaration of support from the Pope, the Church views the restrictions on 17 organizations and on several individuals with indignation.

Organizations have the right to work for the common good, to develop democracy, to help those in need, to support the families of detainees and to dissent from political decisions which crush legitimate alternatives allowed in civilised countries.

We thus protest, in the strongest possible terms, the restrictions that have now been added to the very repressive measures which already shackle our society.

We call on the state to lift all these restrictions, to return to the rule of law, and to abolish apartheid and its evils. It should now be clear to all who value human dignity that apartheid destroys human dignity, cruelly divides communities, and that for these reasons it has been judged immoral and inhuman by the international community. We also call on the state to give to every citizen of this country their God-given rights so that they may develop as true children of God.

We make this call in the spirit of the universal teaching of the Church to oppose injustice wherever it exists.

THE PROMOTION OF ORDERLY INTERNAL POLITICS BILL

Several organizations in this country depend on overseas assistance for their development. Many of these organizatons help the victims of apartheid. They also work to repair the damage apartheid has done to South Africa, and to reconstruct our shattered society on a more equitable basis. They reach the needy and underprivileged through education and through the formation of vital infrastructures appropriate to proper human development.

If the proposed legislation now before Parliament become law, it would mean in effect that the government could decide arbitrarily which good works should be done in this country and which should not.

We therefore condemn the proposed legislation, since it could give the government totalitarian powers, and urge all those who value democracy and liberty to oppose it.

NEW NATION

Freedom of the press is basic to any civilised society. This freedom already has been severely restricted in South Africa. New Nation is now threatened with a restriction that would silence it for three months.

New Nation is a secular weekly newspaper owned by the South African Catholic Bishops' Conference. It enjoys editorial freedom and independence. It is an organ known for its vigorous debate on crucial issues. It is a voice which champions the rights of those without rights. It carries news and views which other newspapers tend not to publish in the present climate of punitive restrictions.

Even this freedom has been curbed by the state. This is a crushing blow to the very limited right to dissent that barely survives in this country.

We deplore this action, and while we may not necessarily agree with opinions published in New Nation, we uphold fully the right to editorial freedom and the right to dissent which that newspaper embodies.

CONCLUSION

We have expressed ourselves forcefully in this letter because we believe that the Church's position in the present repressive situation should be clear and unequivocal. While on the one hand we condemn the violation of human rights in South Africa, we want to stress with equal emphasis that the granting of those precious human rights would enable our society to be transformed in such a way that there could be justice, peace, and enough for everyone.

Human dignity is at the centre of the transformation we all desire. Pope Paul VI proclaimed himself very firmly on this issue when he was in Africa 18 years ago. he stated:

"We deplore the fact that there persist social situations based upon racial discrimination and often willed and sustained by systems of thought: such situations constitute a manifest and inadmissible affront to the fundamental rights of the human person."

We appeal to the government today to turn away from the disastrous road which it has chosen for our people. We echo the distress of Pope Paul VI when we say: "The cause is urgent and the hour is late."

Our Holy Father Pope John Paul tells us very clearly that the events of history have confirmed Pope Paul's judgement. At the same time he pleads that violence should not be accepted as the solution to violence. Rather violence must give way to reason, mutual trust, sincere negotiations, and fraternal love.

In the present context of apartheid, a call to conversion becomes ever more relevant and necessary for our people. The only adequate solution to the problem is the conversion of hearts.

May our Lady assumed into heaven, the patroness of our country, intercede for us and obtain for us the gift of a just peace.

Yours sincerely in Christ our Lord,

Reginald J. Orsmond, Bishop of Johannesburg, Acting President, South African Catholic Bishops' Council; Denis E. Hurley, O.M.I., Archbishop of Durban; Peter Butelezi, O.M.I., Archbishop of Bloemfontein; George Daniel, Archbishop of Pretoria; Stephen Naidoo, C.S.S.R., Archbishop of Cape Town; Hans Brenninkmeijer, O.P., Bishop of Kroonstad; Michael O'Shea, O.S.M., Prefect Apostolic of Ingwavuma; and Zithulele Muemue, Auxiliary Bishop of Johannesburg.

This pastoral letter was issued by the information press office on behalf of the archbishops and bishops of the South African Bishops' Council who signed the statement, and was kindly supplied by Robert T. Hennemeyer, Ambassador (ret.), foreign affairs adviser, U.S. Catholic Conference, Washington, DC.

ANTIDISCRIMINATION PROVISIONS OF IMMIGRATION LAW ARE BEING ENFORCED

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. FRANK. Mr. Speaker, when we passed the immigration law in 1986, one important provision which many of us worked hard to include in the bill dealt with the potential of discrimination that could arise because of the employment sanctions section of the bill. In that provision, we explicitly provided protection for those residents of the United States who are not yet citizens but intend to become citizens, against employment discrimination based on the fact that they had not yet become citizens.

One concern that had been raised by people who were intended to be protected with this act dealt with the timing of their filing a declaration of an intent to become a citizen, and whether or not a failure to have filed that at a certain period would bar a victim from bringing a charge of discrimination. I was pleased to be informed by the Office of Special Counsel who enforces this law that the matter has been clarified in a way that is fully favorable to the rights of those who may have suffered discrimination. I ask that the press release explaining this be printed here, because I think it is essential that the widest possible circulation be given to this ruling so that the intended beneficiaries of this antidiscrimination provision can take full advantage of it.

I was also pleased to learn that the Department has begun enforcing this law in a very specific way, specifically by reaching a settlement with Pan American World Airways on behalf of a resident alien who was refused consideration for employment as a flight attendant. Under a settlement reached by the Office of Special Counsel with Pan American, the victim of this discrimination will receive back pay and other expenses, Pan American will discontinue some of its application policies and it will be distributing a statement about the antidiscrimination provisions of the new law. I do not know a great deal about the specifics of this case and I do not intend by this statement to comment as to whether or not I think exactly the right settlement was reached. What I do think important, however, is to publicize the fact that we have begun to get enforcement of this law which protects the right of people in this country to be judged solely on their merits in terms of employment and not on other factors. I ask that the press release from the Department of Justice describing this early successful invocation of the antidiscrimination provision by an intended victim also be printed here.

DEPARTMENT OF JUSTICE SETTLES DISCRIMINATION CASE WITH PAN AMERICAN WORLD AIRWAYS

The Department of Justice today announced that it has reached settlement with Pan American World Airways, Inc., over a charge of employment discrimination filed by a permanent resident alien after she was refused consideration for employment as a flight attendant.

The settement requires the airline to provide back pay and other expenses to the victim, discontinue certain application policies and distribute to employees a statement about the anti-discrimination provisions of the new immigration law.

The settement resolves a charge filed November 3, 1987, with the Office of Special Counsel for Immigration Related Unfair Employment Practices.

Lawrence J. Siskind, Special Counsel for Immigration Related Unfair Employment Practices, said he hoped the settlement would serve as "a model for the airline industry." He commended Pan American for demonstrating "an admirable sense of corporate responsibility and public-spiritedness" in entering into the settlement.

As part of the agreement, neither the victim's name nor the back pay amount was released.

According to the Justice Department's investigation, Pan American's hiring policy discriminated against certain classes of aliens who are authorized to work in the United States and who intend to become citizens. The airline's policy required applicants to be U.S. citizens or aliens with "green cards."

Under the Immigration Reform and Control Act of 1986, employers are prohibited from discriminating against citizens, nationals, and "intending citizens" in hiring, discharging, or referring or recruiting for a fee on the basis of their citizenship status. The Act defines "intending citizens" as permanent residents, temporary residents admitted under the new legalization program, refugees, and asylees who evidence an intention to become U.S. citizens.

The Immigration and Naturalization Service issues Alien Registration Receipt Cards, I-551, commonly known as "green cards," to certain categories of permanent residents. Temporary residents, refugees, and asylees, as well as certain other categories of permanent residents, do not receive green cards, although they are eligible to work in the United States.

The charging party qualified as an intending citizen but Pan American refused to consider her for employment because she could not produce a green card.

The settlement requires Pan American to pay the charging party back pay and to reimburse her for her application fee. It also requires Pan American to distribute a statement describing the antidiscrimination provisions of the Immigration Reform and Control Act of 1986 to all its U.S. personnel offices. In addition, it requires Pan American to discontinue its policy of using green cards as the sole criterion for judging an alien applicant's right to work in the United States.

The settlement allows Pan American to continue to consider an applicant's alien status for any position that requires travel on its international routes. This provision was included because immigration law imposes certain restrictions on the rights of aliens to travel freely abroad.

"This settlement is a good example of how government and the private sector can and should work together when confronting a new law," Siskind said. "Rather than adopting an adversarial posture, Pan American chose to cooperate with this office, to bring its hiring policies into compliance with federal law, and to enlist in the campaign to educate the public about the new law. We hope that the Pan American settlement becomes a model for the airline industry, as well as for other industries that may be following similar practices."

The Office of Special Counsel for Immigration Related Unfair Employment Practices was established by Congress under the Immigration Reform and Control Act of 1986 to enforce the law's prohibition against employment discrimination based on national origin and citizenship status.

DEPARTMENT OF JUSTICE HELPS QUALIFIED ALIENS

The Justice Department announced today that qualified aliens intending to become U.S. citizens will be allowed to bring charges of employment discrimination under the Immigration Reform and Control Act of 1986 if they have completed a Declaration of Intending Citizen from any time before filing the charge.

Lawrence J. Siskind, Special Counsel for Immigration Related Unfair Employment Practices, said that to qualify for protection it is not necessary to have filed the form with is office before the alleged instance of discrimination occurs.

Under the Immigration Reform and Control Act, discrimination on the basis of citizenship status in hiring, firing, and recruitment or referral for a fee is prohibited. The prohibition protects citizens, nationals, and a new category of aliens called "intending citizens." The act defines "intending citizens" as permanent residents, temporary residents under the legalization program, refugees, and asylees, who show their "intention to become a citizen of the United States through completing a declaration of intention."

There has been confusion over the timing of the filing requirement. The preamble to Justice Department regulations published last October stated that the declaration had to be completed prior to the occurrence of the discriminatory act in order for the alien to qualify for protection. But the instructions on the back of the INS Form I-772, a form specially prepared for this requirement, state only that its filing is a prerequisite "to assert a claim," not to qualify for protection.

Siskind's announcement was also disseminated by letter to about a thousand private organizations and public agencies concerned with immigration and civil rights law.

He noted in his letter that measures had been taken to alleviate early problems with availability of the declaration of intention form.

"The form is now available at all INS district offices and legalization offices," he said. "The INS distributes I-772s to aliens who are issued employment authorization, who are adjusted to permanent residence status, who file petitions for naturalization, who are admitted as refugees, or who are granted asylum."

In addition, Siskind said, the Office of Special Counsel has distributed the form to organizations authorized by INS to distribute INS materials (known as Qualified Designated Entities) and to hundreds of interested private organizations and public agencies. The form is also available by direct request to the Office of Special Counsel.

The Special Counsel's Office was created under the Immigration Reform and Control Act of 1986 to investigate and prosecute charges of employment discrimination based on national origin and citizenships status. While anyone authorized to work in the United States may bring national origin claims, Congress restricted those who may bring citizenship status claims to citizens, nationals, and intending citizens.

INS FORM I-772—DECLARATION OF INTENDING CITIZEN

DEAR ———: The filing of the INS Form I-772 Declaration of Intending Citizen has caused some concern among those who deal with the Office of Special Counsel for Immigration Related Unfair Employment Practices. Questions have been raised about the timing of the filing of the I-772 and its availability. The purpose of this letter is to address those concerns and to dispel any confusion that may have arisen.

Under § 102 of the Immigration Reform and Control Act of 1986 (IRCA), protection from citizenship status discrimination is afforded to citizens, nationals, and intending citizens. Among other definitional requirements, an intending citizen is an alien who "evidences an intention to become a citizen of the United States through completing a declaration of intention to become a citizen." 8 U.S.C. 1324b(1)(A)(B). When IRCA was passed, the only form in existence suited to that requirement was INS Form N-315. That Form, however, had fallen into disuse and could be executed only by permanent residents. IRCA permits temporary residents under the new legalization program, refugees, and asylees, as well as permanent residents, to qualify for intending citizen status. A new form was needed. The Immigration and Naturalization Service created the I-772 to meet that need.

Confusion has arisen over the timing of the filing of the I-772. Neither the statute nor the regulations specifically address the question of when the Declaration of Intention must be filed. The preamble to the regulations states that the declaration must be completed prior to the occurrence of the alleged discrimination. 52 Fed. Reg. p. 37407. The instructions to the I-772 itself, however, state that filing the I-772 is a prerequisite only "to assert a claim," not to qualify for protection.

To dispel any confusion on this question, I am taking this opportunity to announce that the Justice Department views the declaration of intention filing requirement as satisfied as long as the declaration is completed and filed before the charge of discrimination is filed with the Office of Special Councel. It is not necessary to complete and file the declaration before the occurrence of the alleged discrimination.

The Justice Department considers this treatment of the filing requirement a reasonble interpretation of the statute.

This letter will also serve as a reminder that the original I-772 must be filed with the Immigration and Naturalization Service. A copy of the fully completed I-772, showing that the form has been received and filed by an INS officer, should accompany

any citizenship status discrimination charges filed with this Office by or on behalf of intending citizens. For permanent residents, filing a Form N-315 with any court exercising naturalization jurisdiction remains an alternative. The same timing requirements for filing apply.

Concern has also arisen about the availability of the Form I-772. Fortunately, the Immigration and Naturalization Service and the Office of Special Counsel have already taken measures to remedy the problem. The Form is now available at all INS district offices and legalization offices. The INS distributes I-772s to aliens who are issued employment authorization, who are adjusted to permanent residence status, who file petitions for naturalization, who are admitted as refugees, or who are granted asylum. In addition, the Office of Special Counsel has distributed the Form to all Qualified Designated Entities, and to hundreds of interested private organizations and public agencies. The Form is also available by direct request to the Office of Special Counsel. The Form may be photocopied in case any office, organization, or agency finds its supply running low.

Wide distribution of the Form I-772, coupled with today's clarification of the timing of the filing requirement, should eliminate problems that intending citizens may have faced in the past in asserting claims. The Justice Department remains committed to ensuring that intending citizens receive the full protection against employment discrimination afforded by law.

Sincerely,

LAWRENCE J. SISKIND,
Special Counsel.

CONCERNS ABOUT THE PALAU COMPACT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. UDALL. Mr. Speaker, in recent months, more and more attention is being focused on the western Pacific Islands of Palau. The United States is responsible for the governing of these islands under a 1947 agreement with the United Nations Security Council.

The 99th Congress approved a Compact of Free Association with Palau in concept, but withheld its implementation because Palau had not constitutionally approved the compact. Late last year, the President of the United States again asked that the compact be implemented, contending that Palau had now constitutionally approved it. There are, however, serious questions about whether or not this contention is correct.

In addition, serious allegations of potential criminal wrongdoing, including those relating to drug trafficking and corruption in high places in Palau and a lack of fiscal accountability, have come to our attention.

In light of all this, as chairman of the committee which has had jurisdiction over Palau since 1947, I believe that I need to share with my colleagues at this juncture some of my concerns with immediate approval of the compact implementing legislation.

These concerns are expressed generally in two letters my colleague RON DE LUGO, chairman of the Insular and International Affairs Subcommittee, and I recently sent to President Lazarus Salaii of Palau, and to Chairman DANTE FASCELL of the Foreign Affairs Committee, whose committee has received a joint referral of the legislation along with this committee to implement the Compact of Free Association.

The Committee on Interior and Insular Affairs will propose measures to deal with the problems outlined in the enclosed letters. Once these problems are addressed, we will do everything we can to bring the compact to the House to authorize full implementation.

These problems—and our views on how to address them are outlined in letters that I ask be printed in the RECORD at this point.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 17, 1988.

Hon. LAZARUS E. SALII,
President of Palau, Koror, Palau.

DEAR PRESIDENT SALII: In response to your requests that Congress immediately pass legislation to authorize implementation of the Compact of Free Association, we want to outline for you and the other leaders and people of Palau what we believe must be done before the Committee on Interior and Insular Affairs can approve such a bill.

At the outset, we want to stress that what we are most concerned about in this regard are the needs and aspirations of the people of Palau, not only from a short-term but also from a long-term perspective. In our view, the interests of the people of Palau in this matter are equal in importance to the interests of the United States related to Palau.

We also want to preface what we say about Compact legislation by reiterating our pledge to do everything that we can to provide the government of Palau with enough financial assistance to pay its employees, operate its power and water system, and meet its other essential obligations until the trusteeship is terminated. We have requested the full cooperation of the Department of the Interior and other appropriate committees of Congress to see that the United States lives up to this responsibility.

As you know, the Department of the Interior disagrees with your govenment's calculation that it will need more assistance to be able to continue to function without drastic cutbacks in spending this fiscal year. We have not accepted the Department's calculation and we have requested that they work with officials of your government to accurately determine the need.

Departmental officials have told us that the extent of the need should be more clear to them in a week or so. At that time, we will move as quickly as possible to have provided whatever assistance may be necessary.

There can be no justification this fiscal year for letting the people of Palau suffer through a budget shortfall as serious as that experienced last year. What happened last year must not happen again.

This effort on our part should not be misunderstood as indicating that we do not want the Compact to be implemented as soon as possible. We do want it implemented, and we will support implementation just as soon as the problems outlined below are satisfactorily addressed.

THE CONSTITUTIONALITY PROBLEM

One of these problems is the continuing uncertainty about whether Palau has constitutionally approved the Compact.

Last year, a number of Palauans who were challenging the constitutionality of Palau's efforts to approve the Compact withdrew their lawsuit in an atmosphere of intimidation and violence. Many of these people told us afterwards that they wanted to reinstate the suit when it was safe to do so. Several Palauans have now told us of their plans to file such a test of the constitutionality of Palau's approval of the Compact within the next few weeks.

We were pleased to learn of your recent statements indicating a willingness to have this issue go to court and a belief that it can be safely litigated. If a question as fundamental to Palau's future as this could not be freely resolved through the Palauan judicial system now, we would all have to seriously doubt whether the rights of the people of Palau would be secure after the trusteeship is terminated. We are sure that you will agree that it is essential in a democracy that the judicial system be strong and independent enough to rule on even unpopular, sensitive, and controversial cases.

We also know that you recognize that the question of whether Palau has constitutionally approved the Compact is one that must be answered before the Compact can be implemented. As the legislative history of this matter makes clear, it was precisely because of a similar question that the Congress did not authorize the Compact to be implemented in Public Law 99-658 but only approved it in concept in that law.

Both you and the President of the United States contend now—as you did in 1986—that Palau has constitutionally approved the Compact. We accord the position that you and the President of the United States have taken on this matter great weight. However, with all due respect to both of you, there is a legitimate question of whether this position is correct.

Some of the reasons for our reservations on this matter follow.

Officials of both your administration and that of the President of the United States persuasively argued in 1986 that Palau's constitution could not be amended before November 1988. The contention that the Compact has now been approved by Palau requires acceptance of the idea that Palau's constitution was amended last August and a repudiation of the position taken by officials of your administration and that of the President of the United States in 1986.

The Supreme Court of Palau ruled in 1986 that the Compact had not been constitutionally approved by Palau even though both you and the President of the United States had asserted then—as you both are asserting again—that it had been constitutionally approved.

The Supreme Court of Palau, which is the only body that can rule definitively on this issue, has not been able to rule on the current question of the constitutionality of Palau's approval as it was able to do when a similar question arose in 1986, even though there are Palauans who wish to test the constitutionality in court.

The American Law Division in the Library of Congress has concluded that the constitutionality of amending Palau's constitution prior to November 1988 is in doubt.

Because violence against those challenging the constitutionality of Palau's approval prevented the matter from being resolved last fall, conditions must be made safe for them to test the approval in court if they still wish to do so, as they have told us they do. Your "pledge to provide round-the-clock protection . . . to any litigant or . . . counsel" in such a court action on this matter is most helpful in this connection.

This issue would surely have been settled by now if there had not been interference with the earlier lawsuit. If it had been settled through the earlier suit, the United States and Palau would, in all likelihood, be well along the way toward addressing the other problems that we will discuss in this letter and either implementing the Compact or resolving the constitutionality problem.

At this point, the best way to answer the question of the constitutionality of Palau's approval still appears to be through a test in the courts of Palau. If conditions permit a lawsuit to be safely pursued now and those who have indicated that they want to challenge the approval decide, of their own free will, that they no longer want to do so, or if their legal challenge fails, the only remaining impediments to the Compact's implementation will be those which relate to the serious problems of fiscal accountability and law enforcement which were outlined in our letter of March 2 to Chairman Dante B. Fascell of the House Committee on Foreign Affairs, a copy of which is enclosed.

These are problems which cannot be ignored. They are also, however, problems which do not need to delay implementation of the Compact if it is found to have been constitutionally approved and assuming we can work out ways to address them.

LAW ENFORCEMENT AND FISCAL ACCOUNTABILITY PROBLEMS

Our current investigation of problems related to fiscal accountability and law enforcement in Palau should be completed soon. After it is, we will propose measures to address these problems to you and the other leaders of Palau as well as appropriate officials of the Executive Branch of the United States.

Some of these measures would provide Palau with financial or other assistance that it needs to address these problems that the United States has not yet provided or committed to provide. Others would make possible necessary means of ensuring fiscal accountability in the use of Compact funds and proper enforcement of laws.

Law Enforcement measures should include an appropriate process for the investigation and prosecution, where warranted, of substantial allegations of wrongdoing during the trusteeship period. Such a process would help ensure that these problems are properly addressed during either the trusteeship or free association.

We appreciate the cooperation provided earlier for our oversight efforts and we request the government of Palau's continued assistance in this regard. Such cooperation will help the Committee to complete its oversight investigation as soon as possible. It will also enable the Committee to work out the problems the investigation identifies with officials of the government of Palau and the Executive Branch of the United States at the earliest possible time.

In this connection, we want to inform you that the Committee's Special Consultant on these matters, Thomas S. Dunmire, is scheduled to return to Palau in a few days to continue oversight work regarding Palau's approval of the Compact and the right of individuals to test it in court, as well as the other problems related to law enforcement and fiscal accountability cited in our letter to Chairman Fascell. Mr. Dunmire may be joined by other investigatory or support personnel from this Committee, the General Accounting Office, or agencies of the Executive Branch of the United States.

We would also appreciate the opportunity to meet with you and other leaders and people of Palau in the near future in connection with our current oversight effort. Our plan at this point is to take a congressional delegation to Palau in mid-April.

We will formalize our plans and discuss them with you further once we are able to obtain a firm commitment of aircraft and other support from the Department of Defense. As you know, we had planned to make this trip earlier but have twice had to delay it because the Department of Defense informed us that it could not provide the support necessary for the trip at the time that it was needed.

President Salii, Members of the Committee on Interior and Insular Affairs have developed a deep respect for the people of Palau and genuine concern for their well-being during the past four decades that the Committee has had jurisdiction over matters affecting Palau. We believe that the United States has moral as well as legal obligations regarding them. It is because we do care about the people of Palau that we are taking the approach we have outlined in this letter to Compact implementation legislation.

There is no question that the first of our obligations is to help the people of Palau to become fully self-governing as soon as possible. This obligation carries with it a responsibility, though, to see to it that full self-government is attained in a way that meets the needs and aspirations of the people of Palau now and in the future to the greatest extent possible.

In closing, we want to assure you that we do support free association between the United States and Palau replacing trusteeship administration as soon as possible. We take the position because the Compact is supported by the majority of the people of Palau and is fair to the interests of both Palau and the United States.

We look forward to continue working with you and others who represent the people of Palau to bring about this new relationship in a manner that will enable the people of Palau to reach the full extent of their potential for prosperity and dignity as a community.

Sincerely,

MORRIS K. UDALL,
Chairman.
RON DE LUGO,
Chairman, Subcommittee on Insular and International Affairs.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 2, 1988.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In follow-up to our recent meeting with Chairman Solarz of the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, we believe it necessary to briefly reiterate some of our concerns about passing legislation at this time to authorize implementation of the Compact of Free Association with Palau, although we conceptually support the idea of such a bill passing as soon as it is appropriate to do so.

This is a matter of great importance considering that the Compact legislation would, among other things, replace current U.S. responsibility for the governing of Palau; commit the U.S. to provide Palau with at least $428 million; deal with sensitive military rights; provide program aid as well as tax and trade benefits; grant Palauans free entry to the United States directly; and dramatically affect the lives of all Palauans for many decades to come.

There are two principal sources of our concerns. One has to do with legitimate questions of whether the Compact has been constitutionally approved by Palau and the other has to do with serious allegations of potential criminal wrongdoing.

With respect to the constitutionality issue, we continue to believe—as the Congress decided in conceptually approving the terms of the Compact in 1986—that implementation cannot occur until it is clear that the Compact has been constitutionally approved by Palau. This may well not be the case at the present time.

The effort by Palau to secure approval of the Compact which was relied upon in asking Congress to authorize implementation in 1986 was later found to be unconstitutional. There are once again very legitimate questions about the constitutionality of the effort by Palau to secure approval which is being relied upon in the current request for implementation authorization.

If the plaintiffs who wished to challenge the approval in court earlier had been permitted to do so without the violence which occurred and without having been subjected to threats of further violence, this issue would surely have been settled by now. If it were settled, the United States and the Palauan governments could be well on their way to implementing the Compact or addressing the constitutionality problem if it still needed to be addressed and otherwise responding to the financial needs of Palau which are creating pressures regarding Compact implementation. We could also be further along in addressing other problems in Palau which we will outline in this letter.

A number of Palauans have informed us that they now have definitive plans to reinstate the legal challenge to the Compact's approval this month, if it can be made safe for them to do so. Let us hope that whatever is necessary to protect the right of these plaintiffs to pursue a legal challenge to the Compact's approval in safety will be done, as the President of Palau has pledged it will be.

We cannot support implementation of the Compact if this is not the case, given United States responsibilities for the governing of Palau under its trusteeship agreement with the United Nations Security Council. Consequently, we are monitoring this situation closely.

We want you to understand that it is not our intent to delay the implementation of the Compact any longer than is necessary. Prior to the time when the Compact can be implemented, however, we should all do whatever we can to provide Palau with enough funds to operate its government and avoid another period of turmoil because of a shortage of funding for government worker salaries, electric power service, and other needs.

We have asked the Department of the Interior to increase the level of funding for Palau in Fiscal Year 1988 to assure that Palau has the funds needed to properly operate its government until the Compact can be implemented. The United States should not be in the position of intentionally or unintentionally reducing funding so as to pressure either Palau or the Congress to implement the Compact prematurely.

In addition to the fundamental question of whether the Compact has been constitutionally approved, there are equally serious matters involving allegations of possible criminal wrongdoing which we simply cannot fail to address, although these matters may not require a delay in implementing the Compact if satisfactory remedial measures can be worked out. Most of these allegations fall into one of the four categories which follow.

Heroin trafficking: The Drug Enforcement Administration has reported that some 400 of Palua's 15,000 people are heroin users (a rate 12 times the U.S. national average) and that the islands are being used to transship heroin from Southeast Asia to the U.S. Several senior Palauan government officials have been identified to us as being connected to this drug trade.

High-level Corruption: Senior Palauan officials have reportedly acknowledged taking six figure payments from the contractor which installed the islands' new power plant. It is alleged that the $32 million price for the plant may have been substantially inflated. An informed source has told us that payments were also allegedly made to Palauan officials in connection with another multi-million dollar capital improvement project.

Violence, intimidation and violation of rights: Palauans—including members of the legislature—questioning the islands' latest effort to approve the Compact were subjected to violence and intimidation which left one man dead and which a Palauan judge has stated may have been responsible for the withdrawal of a suit challenging the constitutionality of the Compact's approval. Some Palauan officials favoring Compact approval have been implicated in the violence and intimidation.

Other allegations: Other serious allegations being investigated include: misappropriation of federal and local funds; the distribution of counterfeit U.S. currency; and use of unauthorized Palauan "passports" by Palauan officials.

A preliminary investigation of these allegations is being conducted by staff of this Committee with the assistance of the General Accounting Office. This preliminary investigation of these matters should be completed prior to a Committee oversight trip to Palau which we are planning to take during the Easter District Work Period.

During our planned trip, we intend to discuss the measures which will need to be taken in light of the matters being investigated with Palauan and Administration officials. It is also our intent to take whatever actions are necessary regarding the Palau situation reasonably soon after our return.

Based upon the information that we have already obtained regarding the payments to officials from the contractor for the power plant, we have already requested that the Secretary of the Interior exercise his full authority for the governing of Palau to see to it that the transaction is independently investigated and any violations of law related to it are prosecuted, if warranted. We would hope that procedures can be worked out with the Department of the Interior and other appropriate federal and insular agencies to ensure that any investigations and prosecutions which are initiated regarding this or any other matter can continue beyond the trusteeship period.

Both supporters and critics of the proposed Compact within Palau share some of our concerns related to the matters identified in the points above. An example of this is a recent letter (a copy of which is enclosed) to the Assistant Inspector General of the Department of the Interior from the President of Palau's Senate, a Compact supporter. In it, he recommended audits on a number of matters, including allegations of bribery with respect to the power plant transaction, potential illegal use of unauthorized Palauan "passports", and the disposition of vessels supposedly owned by the government of Palau.

In conclusion, we want to assure you that we look forward to working with you, Chairman Solarz, and other Members of the Committee on Foreign Affairs on Compact implementation legislation. This will occur when the constitutionality of Palau's approval has been made clear by the Palauan judicial system (or if those who wish to challenge the approval decide of their own free will that it is safe to do so but that they no longer wish to) *and* when we have worked out means of addressing the other concerns which we have outlined in this letter. Again, we hope that all of these matters will become clear enough to justify legislative action reasonably soon after our planned trip to Palau in April.

Sincerely,

MORRIS K. UDALL,
Chairman.
RON DE LUGO,
Chairman, Subcommittee on Insular and International Affairs.

SECOND OLBIIL ERA KELULAU,
REPUBLIC OF PALAU,
Koror, February 17, 1988.

HAROLD BLOOM,
Ass't Inspector General for Audits, Office of the Inspector General, U.S. Department of the Interior, Washington, DC.

DEAR MR. BLOOM: I am writing in response to your request for audit suggestions for Fiscal Year 1989. The following are matters which I feel merit your attention:

1. *IPSECO matter.* In 1983, the Palau government entered into an agreement for the construction of an electrical power plant with the British firm International Power System, Ltd. (IPSECO). As part of the financial arrangements for this deal, an escrow account was established into which was directly paid by IPSECO the sum of $900,000, representing the prepayment of taxes. This was in violation of constitutional and statutory provisions requiring that all government revenues be paid into the National Treasury.

At the time of Palau's alleged default on the loan for this project, the guarantors of the financing, a British syndicate headed by the firm of Morgan Grenfell, were somehow able to obtain the funds in the escrow account. A study of the facts surrounding the establishment of this account and the process by which the money was paid out would assist in our understanding of the IPSECO affairs, currently the subject of a United States lawsuit and which, if an unfavorable decision is rendered, could be a financial disaster for Palau.

2. *IPSECO power plant.* A comprehensive audit of all financial arrangements for this project would be desirable, particularly because recent revelations from British bankruptcy auditors reviewing the records of IPSECO indicate that certain Palau government officials accepted payments from IPSECO at the time that the agreement to construct the power plant was being considered. These local officials admit the receipt of the payments, but deny any illegality. It is critical to clear up the details of this matter, as the related rumors and recriminations threaten to further delay the implementation of the Compact of Free Association and cloud the integrity of key individuals in our government.

In light of the recent revelations of bribery, we have requested certain members of the United States Congress to consider sending an assessor to Palau to inspect the power plant and to determine its actual cost, for which the Republic of Palau may be liable, if that be the case. We do not deny that the power plant has been constructed and the people of Palau are benefitting therefrom. We believe, though, that the cost of the project was artificially inflated above its actual true cost, and Palau should be liable, if the case may be, for only the actual cost, not for the inflated cost which we feel was used to corrupt our officials. In this matter, we ask that the Inspector General assist in making a reality our request for an assessor to come to Palau and determine the actual cost of the project.

3. *Passport finding.* A private Palauan citizen and an American attorney retained by the President of Palau were recently found by custom officials in Guam to be carrying what have variously been described as blank Republic of Palau passports or diplomatic identification documents. In the course of subsequent events, it has been revealed that our government has had 10,000 Republic of Palau passports printed, and that part or all of this number are stored in a bank vault here.

Although I have profound questions as to why Palau is even having passports printed at this time and why private citizens and foreigners are transporting these, my more immediate concern is the source of funds for the printing. No appropriation for this purpose has yet been made, and thus any expenditure for this purpose would appear to be illegal. I suspect that our government frequently expends funds outside of the scope of specific appropriations, but this may be a particularly egregious case that should be looked into.

4. *Sale of confiscated vessel.* In 1983, the government of Palau seized the *M/V Aesarea*, a chartered Taiwanese cruise ship, for various violations of customs and other laws. Following a favorable court judgment in this matter (Civil Action No. 2-085), the Palau government proceeded with the sale of the vessel. In Civil Appeal No. 16-85, the judgment of the trial court was overturned, which may expose the Republic to legal liability for the fair market value of the vessel at the time of the seizure, claimed by the owners to be $4 million.

The handling of this matter in general appears to have been poor, and the proceeds received from the sale of the vessel have never, to my knowledge, been accounted for. It is in this aspect that I request your audit.

5. *M/V Micronesian Princess.* When the Trust Territory government began its decentralization, the Republic of Palau received the *M/V Micronesian Princess* as its share of the vessels owned by the TTPI government. Subsequent to that, the vessel underwent repairs in Kaoshiung, Taiwan, after which it was chartered by some Chinese nationals. Since then, we have not had reports of the whereabouts of this vessel and whether or not it has been sold.

The above-cited matters represent substantial amounts of money which, if recovered, could help alleviate the financial problems we face and perhaps avoid another furloughing of government employees as our President has forecasted. Therefore, I wish to thank you for giving us the opportunity to suggest matters to include in the audits, and further respectfully ask that you seriously consider including them in your audit.

Sincerely yours,

JOSHUA KOSHIBA,
Senate President.

THE SPACE SETTLEMENT ACT OF 1988

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. BROWN of California. Mr. Speaker, 30 years ago, Congress passed the National Aeronautics and Space Act [Space Act] which created America's space agency. America has come far in the past three decades as a space-faring Nation and can be proud of its many space accomplishments over the years. Today, I challenge my colleagues and the Nation to prepare for a new phase in the space adventure. I am proposing legislation that will help foster the understanding that space is not only an arena for exploration and science, but also as an extension of our home, planet Earth.

My bill, the Space Settlement Act of 1988, expands on the Space Act of 1958 by amending it to include the following declaration:

> The Congress declares that the extension of human life beyond Earth's atmosphere for the purposes of advancing science, exploration, and development will enhance the general welfare on Earth and that such extension will eventually lead to the establishment of space settlements for the greater fulfillment of those purposes.

The measure would require NASA to obtain, produce, and provide information relating to all issues important for the development and establishment of space settlements. These activities would be performed in close cooperation with other agencies, the private sector, academia, and the international community.

The legislation also calls for NASA to prepare a report every 2 years for Congress and the White House on various issues relating to the establishment of space settlements, including technology needs, techniques for remote resource utilization, site options, architecture options, economic models for financing, mechanisms for international cooperation, and sociological issues.

Mr. Speaker, we now have the capability to traverse the heavens in the pursuit of science and commerce. A half century ago, space travel was the dream of only a few visionaries. During the last three decades, the space program has come to symbolize the best that America can achieve. The accomplishments of the Apollo Moon Program remain unchallenged by other nations. The United States is unmatched in astronomy, astrophysics, and planetary science. We have also paved the way for the international communications satellite industry.

There is no arguing, however, that the *Challenger* accident, and the public scrutiny which followed, have taken a heavy toll on the civilian space program. Despite impassioned pleas to restore the space program to its original stature, budgetary realities have overwhelmed NASA's attempts to carry on as a viable R&D agency, and budget fights in Congress threaten America's leadership in space. Even now, the Budget Committee and the Appropriations Committee are discussing draconian cuts in NASA's funding request for fiscal year 1989. In one budget cycle, we are about to give up on the future of America, letting it fall into the hands of other nations that understand the ultimate value of the space frontier. If we do not take action within the next few years to significantly improve funding for NASA, all that will be left of NASA will be a directionless program, a bureaucratic shell.

During this bleak hour in the history of NASA, I am proposing legislation which I hope will help revitalize the spirit of the space adventure. I am introducing legislation to set as a long-range objective for the Nation the establishment of self-sufficient human settlements on the space frontier. This legislation is not only appropriate, but I think my colleagues will agree, it is also a responsible action which will help direct the space program for the next century.

In fighting the near-term battle for the very survival of NASA, the topic of space settlements may seem almost inconsequential. I would strongly argue, however, that it is the lack of long-range planning that has significantly contributed to the current crisis in the NASA budget. We cannot adequately rationalize a healthy space budget without a clear understanding of the ultimate implications of current space projects.

Congress recognized this shortcoming several years ago, creating the National Commission on Space in 1984. The President then assembled an impressive 15-member commission headed by former NASA Administrator, Dr. Thomas O. Paine. In early 1986, the Commission released a visionary report on the next 50 years in space, titled "Pioneering the Space Frontier." The report boldly declared that America should take the lead in building "institutions and systems that make accessible vast new resources and support human settlements beyond Earth orbit, from the highland of the Moon to the plains of Mars." Throughout the report, emphasis on space settlements as an element of the future space program is evident. The report states, "There will be a need for long-term human settlements in orbit and, at some point, on the surface of the Moon and Mars." The Commission correctly observes, however, that space settlements in themselves are not the goal; however, they are a means toward achieving the broader goal of opening the solar system for science, exploration, and development.

Rather than responding directly to the Paine Commission's recommendations, NASA formed its own in-house study group headed by Dr. Sally K. Ride. The Ride report also contained bold recommendations for the future of the space program. The report describes four specific directions for the space program to take over the next 20 years: "Mission to Planet Earth," Unmanned Exploration of the Solar System," "Outpost on the Moon," and "Humans to Mars." While the Ride report presents these specific options for space goals, it also makes reference to the eventuality of establishing space settlements: "Exploring, prospecting, and settling have always been part of our heritage, and will assuredly be part of our future." In another part of the report, settling Mars is described as "the ultimate goal" of human activity on Mars. However, I strongly agree with the Ride report that settling any part of the solar system should not be the next goal for NASA, but should only come after a broad program of planetary sciences, conducted with manned and unmanned vehicles.

In addition, the long-awaited national space policy issued by the White House in January articulates for the first time that a goal of the U.S. space program is to expand human presence and activity beyond Earth orbit. With this policy, the administration has opened the door for lunar bases and manned exploration of Mars. I do not think we can discuss Moon and Mars missions as national goals in and of themselves, however, without discussing the ultimate implications of those activities.

In the process of planning and executing missions to other planets, we will improve our ability to conduct scientific research, exploration, and commercial development in space. Logically, we will continue to improve our capability to work in space, whether in low Earth orbit or on Mars. These increased capabilities will certainly include an ever-growing human presence in space. As the number of people working in space increases, efforts will be made to provide them with comfortable habitats. In addition, simple economics will force space outposts to higher degrees of autonomy and self-sufficiency. At first, the space population could mine the lunar soil for oxygen for fuel and life support and use the raw materials for radiation shielding. Later, space researchers and workers could grow their own food in space. These activities would be consistent with current research at NASA and at other research organizations, which I will discuss later.

To follow this logic out over the long term, the ideal manned facility will provide all the needs of the space population independently of supply lines from Earth, and be sufficiently large to provide comfort for all inhabitants. This facility would than be called a space settlement.

If we can achieve this level of self-sufficiency in space operations, scientific research, exploration, and commercial activities will increase exponentially, while Government and private investment in space could actually decrease. Space settlements will be a safe and comfortable setting for scientists and engineers to conduct research or commercial activities. They would also provide a way station for crews exploring and prospecting more remote parts of the solar system. And in the broad sense, space settlements represent humanity's social evolution beyond the Earth.

What I have briefly described here, Mr. Speaker, is not a manuscript for a science fiction novel, but a rational sequence of events that most members in the space community understand as reasonable—and which many feel is inevitable. If we can agree that space settlements are a part of our future, I see no reason not to fully articulate that vision so that all Americans can understand for themselves where our space program is leading us. In fact, I would have difficulty supporting manned activities beyond Earth orbit were I not certain that settlements would follow.

The Honorable Don Fuqua, former chairman of the Science, Space, and Technology Committee, and now president, Aerospace Industries Association, included the following recommendation in his chairman's report of December 1986:

> Congress must face the reality then that our national well-being requires that we move into space with a methodical program of exploration and colonization, and that this must be a major priority for the best use of Federal funds.

Mr. Speaker, we are all aware that other nations are not waiting for the United States to lead the world into space. For example, the Soviet space program is far in advance of ours in many respects. The Soviets have had the permanently manned "Mir" space station in order since 1986—the United States space station will be lucky to be deployed by the mid-1990's. The Soviets have unveiled their Energia heavy-lift vehicle which dwarfs the capacity of the most ambitious of the launch vehicles that exist only on paper in the United States. One of the main reasons the Soviet Union has such an impressive space program is that it has a national vision of what the development of space means to the future of the country and the world. The Soviets, for example, have often expressed their determination to send men to Mars—in the Soviet Union, there is no discussion of whether to go, only when. One of the most revered figures in the history of the Soviet space program, Konstantin Tsiolkovski, wrote in 1903:

> Mankind will not remain on Earth forever, but in its quest for light and space will at first timidly penetrate beyond the atmosphere, and later will conquer for itself all the space near the Sun.

The words of this early thinker permeate the Soviet philosophy toward space. The long-term vision keeps the Soviet space program on a steady, nationally supported course. Our Nation would certainly benefit from this kind of broad understanding and vision.

If the Soviets have "old" vision to keep them motivated, the Japanese are generating some "new" vision of space. Having bested Western nations to become the strongest economy in the world, the Japanese have now set their goals in space. Already Japan has distinguished itself in space science; has a viable launch capability; and is a partner nation in the international space station project. Also on Japan's drawing board, however, are heavy lift launch capability, development of a space plane, and lunar bases. One Japanese company is aggressively conducting feasibility studies for lunar bases. Literature for the Shimizu Corp. contains the following passage: "Involvement in the development and construction of space stations and lunar bases is one of Shimizu Corp.'s highest priorities." Shimizu literature also indicates Japan's long-term objectives of space factories, Mars base, and even space colonies. Human expansion into space is clearly part of the Japanese national plan. And we know from experience that when the Japanese put their efforts toward an objective, they are very likely to succeed.

Other nations, especially the countries of Europe, are also moving along aggressively in space. The development of space will happen. This Nation must decide whether or not it wants to be a player in that development.

Mr. Speaker, without question we have a long way to go before we can even consider initiating the construction of space settlements. Indeed, it may take several generations of Americans before our technology and society are mature enough to undertake such a challenging project. My legislation makes no assumptions regarding where a settlement should be established, what it should look like, or when one should be built. The Space Settlement Act simply begins the process of examining the issues and technologies associated with space settlement. In this way, once we arrive at the point that space settlements become desirable, we will have a comprehensive body of work to draw on. Legitimate research is currently under way inside and outside of NASA to provide preliminary data which can be applied to space settlement development.

I want to stress that most of NASA's programs form the necessary prerequisites to any consideration of a space settlement project. Life science, for example, is clearly a critical area of research for any long duration manned activity in space. Unfortunately, this field has been a low priority of the space agency in the past. In the forward of a 1987 National Academy of Science [NAS] report, "A Strategy for Space Biology and Medical Science," Chairman of the NAS Space Science Board Dr. Thomas M. Donohue clearly points out:

> * * * if this country is committed to a future of humans in space, particularly for long periods of time, it is essential that the vast number of uncertainties about the effects of microgravity of humans and other living organisms be recognized and vigorously addressed. Not to do so would be imprudent at best—quite possibly, irresponsible.

The NAS report describes key areas of space life science which are ripe for research.

In its fiscal year 1989 budget request, NASA is asking for a new start, called Pathfinder, which would authorize a broad set of space missions and strengthen the technology base of the United States' civil space program. Pathfinder will develop the emerging, innovative technologies that will enable both new and enhanced missions, including an intensive study of the Earth, a return to the Moon, and piloted missions to Mars. The program is organized around four major goals: First, exploration; second, operations; third, humans in space; and fourth, transfers vehicles. These categories include research in areas such as optical communications, automated rendezvous and docking, cryogenic fluid depot, closed-loop life support systems, and high-energy aerobraking.

The Pathfinder project must be allowed to start at the full funding level requested by the administration. Other NASA programs explicitly tied to the development of space settlement include space transportation, the space station, and planetary exploration. Therefore, meeting the requirements of the Space Settlement Act is consistent with the activities within the Agency. I would hope that NASA will view this legislation as a way to articulate broad vision on the future of the space program.

In the process of pursuing the objective of space settlements, however, we must not compromise space science and applications programs. Manner activity in space should never be justified on the basis of mere human acrobatics, but should be a means toward fulfilling the broad goal of science, exploration, and development. I would object to any effort to construct space settlements if such an effort preempted comprehensive programs in astronomy, planetary sciene, and Earth and environmental observations. I want to make it clear that this legislation is not meant to justify the manner space program to the detriment of space and Earth sciences. Indeed, it is for the greater enhancement of these research areas that I propose this challenge.

Significant research in technologies necessary for space settlements is also being conducted outside of NASA, and therefore is not often brought to the attention of Congress. For example, the Space Studies Institute [SSI] of Princeton, NJ, has been conducting privately funded research on a variety of space manufacturing technologies. Dr. Gerard K. O'Neill, president of SSI, is the most recognized expert on space settlement concepts. His book, "The High Frontier: Human Colonization of Space," published in 1977, triggered broad public interest in space colonization. In recent years, Dr. O'Neill has focused his energies in developing the technologies to make accessible the resources of the solar system for commercial and social development. Some of the research conducted at SSI includes linear accelerators to propel raw materials off the lunar surface into orbit for processing; techniques for chemical and physical processing of lunar material; and design work on space habitats and colonies. SSI is founded on the expectation that the resources of the solar system can be used to create a third industrial revolution based in space, fostering vigorous new economic activity.

Another spectacular research effort underway, which will provide vital data on self-sustaining habitats in space, is the privately funded Biosphere II project in Arizona. In January 1990, eight research scientists are scheduled to enter the airlock of Biosphere II and spend the next 2 years inside, completely cut off from the external environment. This amazing facility will be a testing ground for future space settlements, and will also provide greater understanding about the Earth's environment. Biosphere II will be populated with plants and animals, in what is hoped to be a balanced ecosystem that will sustain life over long periods. The large greenhouse-like building will contain a rain forest, agricultural land, a desert, and even an ocean. The results from this experiment could change forever our image of space habitats as cramped inhospitable modules.

The Federal Government's lack of vision has not dampened the motivation of researchers who are convinced that humanity can live for extended periods in space in a self-sufficient and comfortable environment. My legislation attempts to bring this understanding to a broader cross-section of Congress and the general public.

Before concluding my remarks, I want to discuss another element of the Space Settlement Act of 1988, which is not based in the hard sciences. Although I believe the pursuit of science, exploration, and development is justification enough for eventually establishing space settlements, we cannot deny the place that space settlements will take in the context of human evolution. Viewed from a sociological perspective, the extension of human life into the solar system is part of the logical progression of human development. Science and history show us that humanity is fundamentally a migratory species. It is clear that we are at a point in our history where we both are at the limits of terrestrial geography and have the capability to gain access to the solar system. Expressed in these terms, there seems to be no question that the next step in the human adventure will take us into the solar system—not only as a few explorers, but as whole communities of people.

Mr. Speaker, I would hope that some of my colleagues will understand what I have said today, and appreciate the legislative action I am offering. The space age is only in its infancy. Without some idea of what it will grow into, we risk continued frustration and fragmentation in our space efforts. Space settlements can be a symbol to inspire generations of Americans to reach for the seemingly unattainable, and by reaching, achieve the impossible. I hope that my colleagues can begin to see space as the extended home of humanity—a place for the continued development of our species. I welcome all Members who share my vision of America's future in space to join me as cosponsors of the Space Settlement Act of 1988.

AMERICANS FAVOR NATIONAL HEALTH INSURANCE BUT MAY NOT BE WILLING TO PAY FOR IT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. PORTER. Mr. Speaker, a survey was recently published by Health Management Quarterly that I believe is worth calling to the attention of all Members of Congress.

I want to thank Health Management Quarterly, a publication of the Baxter Foundation, for providing this insightful information and commend them for this excellent contribution to advancing the health policy debate in this country.

The results of the survey show that the American people want to provide quality health care to all, but are unwilling to finance it. Congress should take notice of this survey as we consider catastrophic and long-term-care proposals that rely on increased Medicare premiums and tax hikes for their financing.

I urge all Members to read the following summary of this important survey.

[From the Health Management Quarterly, March 7, 1988]

AMERICANS FAVOR NATIONAL HEALTH INSURANCE, BUT MAY NOT BE WILLING TO PAY FOR IT

DEERFIELD, IL.—Two out of three Americans say they would favor national health insurance, but they seem unwilling to pay much for it.

Americans also think health care has gotten better over the past five years because of new technology and growing knowledge among doctors and hospital staffs. People are less happy, however, with today's medical fees.

Those are among the findings of a new nationwide survey commissioned by Health Management Quarterly and reported in the First Quarter 1988 issue of the magazine, to be released March 11. The poll examined public opinions about the health-care system and its performance in recent years.

The survey asked people to base their answers not on values or hearsay but on their own experiences or those of their families. Major findings included:

NATIONAL HEALTH INSURANCE

Sixty-eight percent favor "a national health insurance program funded by tax dollars, where everyone is guaranteed as much health care as he or she needs."

WILLINGNESS TO PAY

Only 19 percent say they would be willing to pay more than $50 a year in higher taxes or increased insurance premiums to cover the cost of health care for those who cannot afford it. Twenty-nine percent say they would pay nothing, and 18 percent say they would be willing to pay only $25 a year or less.

QUALITY OF CARE

Fifty-six percent think the quality of care is better now than it was five years ago. Twenty-three percent think it's the same and 11 percent say it's worse. The highest perceptions of quality came from those who had recently undergone hospital care.

QUALITY UNDER NATIONAL HEALTH INSURANCE

Twenty-four percent think quality would improve under a national health insurance program, and 33 percent think it would stay the same. Thirty-four percent believe it would get worse.

TECHNOLOGY

Eighty percent agree that "health care is better because better technology and equipment is used to diagnose and treat patients than was used five years ago." (Sixty percent agree strongly.)

PROVIDER COMPETENCE

While 67 percent say they're more likely to question a doctor's orders or seek a second opinion, 62 percent say that doctors and hospital staff members "know more about what they're doing than they did five years ago."

MEDICAL FEES

Fifty-nine percent say the fees charged for medical care are less "reasonable" than they were five years ago.

LONG-TERM CARE

Sixty-six percent say they're aware that current government programs do not cover costs for long-term health care. A smaller number, 54 percent, are at least somewhat confident that they could pay for such care—implying that they may not realize that care in a nursing home can cost $20,000 to $30,000 a year.

Americans have "mixed emotions" toward health care, according to Gene Pokorny, president of Cambridge Reports Inc., the Massachusetts opinion-research firm that conducted the survey. Previous studies have found large majorities in favor of high-quality health care for all Americans. This survey differed in asking what they'd actually be willing to pay for such coverage.

"Saying you favor equality in health care and footing the bill are two different things," according to Philip Justin Smith, editor of HMO. "That disparity is of specific note in an election year when none of the presidential candidates has staked out a complete policy on health care."

"Most want assurance that care will be available to everyone, but few seem willing to pay additional taxes for it," said James H. Sammons, M.D., executive vice president of the American Medical Association, in response to the survey. "Care must be available to all who need it, and the best way to assure its financing is through a combination of public and private programs."

"As government payments for care to the elderly and poor lag far behind the cost of delivering the services, everyone's access to quality health care hangs in the balance," said Carol M. McCarthy, Ph.D., president of the American Hospital Association, also responding to the survey findings. "It is time for the American public to speak out in support of a national health policy for adequately financing government health programs."

Health Management Quarterly is a publication of The Baxter Foundation, the charitable arm of Baxter Healthcare Corporation. Baxter develops, manufactures and markets worldwide a diversified line of health-care products, systems and services.

The survey consisted of telephone interviews in November 1987 with 1,508 people selected to represent the U.S. population 18 years of age and older. The statistical margin of error is plus/minus 2.5 percentage points in 19 out of 20 cases.

SACRIFICES AND SURVIVAL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. FLORIO. Mr. Speaker, on May 17, 1987, the U.S.S. *Stark* was the victim of a misguided missile in the Persian Gulf where it was on maneuvers patrolling the gulf and ensuring the freedom of access to the Persian Gulf sea lanes. Thirty-seven sailors died in that attack on the *Stark*. Many more were injured and the consequences of destruction echoed beyond the confines of the gulf.

For the families of the sailors in the gulf, the tragedy and the potential that exists every day for tragedy in the gulf is not so distant as the miles between the shores of the United States and the gulf would indicate.

Indeed, for every sailor who suffered in that attack on the *Stark*, there is a family and group of friends who suffered as well.

In the First District of New Jersey, the family of Navy 1st Lt. Vincent G. DiAntonio, Jr., is one of those families whose lives were affected by the attack on the *Stark*.

Injured in the attack on the U.S.S. *Stark*, Lieutenant DiAntonio was one of those lucky enough to survive. Thirty-seven of his crewmates were not that fortunate.

But in the hours after the Exocet missile had penetrated and devastated the *Stark*, Lieutenant DiAntonio did not let his injuries impede his service or his dedication to his fellow soldiers.

Despite his injuries, he ably assisted his crewmates. For 16 uninterrupted hours, Lieutenant DiAntonio led the survivors of the *Stark* in efforts to protect his crewmates. At the helm, in the course of saving the ship, he saved lives.

Although sailors and soldiers are routinely expected to face the extraordinary in their daily service, Lieutenant DiAntonio and the others aboard the *Stark* testify to the fact that their service is anything but the ordinary. Within 16 hours, the sailors of the *Stark* had sacrificed more of themselves and were willing to sacrifice more.

Lieutenant DiAntonio did not let his injuries stop him from fulfilling his commitment to his crewmates and to his country. In the tradition of all servicemen and women, Lieutenant DiAntonio was a witness to tragedy and a testament to courage.

Less than 1 week before the first anniversary of the attack on the *Stark*, Lieutenant DiAntonio will be discharged from the Navy, having fulfilled his time commitment to the Navy.

But in the time since he joined the Navy, he has given more than his fair share as a citizen to the service and to the service of his Nation. As a sailor, he has done his duty and he has done it well.

The community has already recognized the efforts that Lieutenant DiAntonio has rendered for his Nation. Just as his family, his friends, and as importantly, his crewmates aboard the *Stark* have witnessed, Lieutenant DiAntonio follows a tradition of commitment.

I commend Lieutenant DiAntonio for his service. Along with the community, his friends, and family, as the following article demonstrates, Lieutenant DiAntonio has earned these commendations:

[From the Camden Courier-Post, Feb. 29, 1988]

NAVY HONORS BARRINGTON SAILOR

(By Rose Venditti McIver)

Navy 1st Lt. Vincent G. DiAntonio Jr. of Barrington has been awarded the Navy Achievement Medal for "Heroic achievement" aboard the USS Stark after it was bombed last May in the Persian Gulf.

DiAntonio, who has won other Naval citations during his three-year stint, was serving as supply corps officer aboard the Stark when it was bombed by two Iraqi air-to-surface missiles. Thirty-seven sailors were killed. Others were wounded—including DiAntonio, who suffered a leg injury.

Despite his wound, DiAntonio was lauded for working 16 "grueling" hours after the attack. He assembled crews to fight the fire and assess the ship's damage "without regard to (his own) personal injury."

The citation, which was signed by then Navy Secretary James Webb, also praised the sailor for working with medical personnel to care for and evacuate wounded sailors.

"Lieutenant DiAntonio's superior performance, perseverance and steadfast dedication to duty reflected credit upon himself and were in keeping with the highest tradition of the United States Naval Service," according to the citation.

"We're very proud of him," his father, Vincent G. DiAntonio Sr. said. "We couldn't be more proud."

Vince Sr. said his son is at Ingalls Shipyard in Pascagoula, Miss., where he and other crew members are repairing the Stark. The repair may be completed by late summer, he said.

The junior DiAntonio is scheduled to be discharged on May 12—five days short of the one-year anniversary of the Stark bombing.

"He won't be going back out there again," Vince Sr. said. "I have to say I'm happy about that."

Vince Jr. hopes to get an accounting job for a local firm when he's discharged this spring, his father said. Vince Jr. has a bachelor's degree in accounting from Villanova University.

SWEAT MEETS GLITZ AT THE LOS ANGELES MARATHON

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. CLAY. Mr. Speaker, recently, I had the pleasure of viewing a spectacular sports event, the Los Angeles marathon. It is a race worth seeing and I believe it is well serving the Los Angeles community.

I am happy to take this opportunity to share the following article from Business Week, "Sweat Meets Glitz at the Los Angeles Marathon" about the founder of this event, Mr. William A. Burke.

SWEAT MEETS GLITZ AT THE LOS ANGELES MARATHON

(By Patrick E. Cole)

William A. Burke is the perpetual telephone dealmaker. Cruising the Los Angeles freeways a few days ago in his Mercedes—equipped with two phone lines—Burke sewed up a deal for African television rights for the city's marathon on March 6. A few weeks earlier, while fishing off Australia in his 40-foot boat, Burke used his ship-to-shore phone to wrap up a promotional deal for the footrace, which he founded three years ago. "People think I have a phone growing out of my ear," Burke confesses.

No matter, for those phone calls have paid off grandly. An upstart compared with the much older New York and Boston marathons, the L.A. event has proved itself amazingly quick off the mark, thanks to Burke's savvy marketing. By lining up such corporate backers as Seven-Up, John Hancock, Mercedes-Benz, and Pan Am, he has made it the nation's most heavily sponsored long-distance race.

The 17,000 runners expected this year will make it second only to New York in number of participants. Its $4.5 million budget is already the biggest. Burke even wooed an army of 15,000 volunteers to help organize the race. And while only New York gets national TV coverage now, Burke aims for that in a year or two—when he thinks the West Coast race will lead the marathon pack.

Burke's success has stunned other marathon promoters—and opened some eyes to the possibilities of corporate sponsorship. Bicycle races and even music festivals have started hustling for sponsors, Burke-style, says Lesa Ukman, editor of Special Events Report, an industry newsletter that tracks corporate sponsorship. "I'm jealous," admits Fred Lebow, president of the New York Road Runners Club Inc, owner of the New York marathon. Lebow concedes that he lacks Burke's flair as a salesman. "I'm going to the race to steal whatever ideas I can from Burke," he says.

To his evident success, Burke insists there are no great secrets—except a penchant for thinking up sponsorship tie-ins and then selling hard. Thus the L. A. race has an official vitamin supplier and an official messenger service.

Burke, 48, learned his promotional skills as commissioner of tennis for the 1984 Los Angeles Olympics, a heavily commercialized event that produced a $214 million profit. The goal of keeping alive the city's Olympics euphoria gave Burke the idea for a marathon. Burke, who is wealthy, claims he runs the event just for the fun of it—for now. He owns 52 percent of Los Angeles Marathon Inc., which this year should break even. Once it starts generating a profit, Burke could start cashing in. That profit potential makes the L. A. race unusual: Both the New York Road Runners and the Boston Athletic Club, which runs the grandfather of all U.S. 26-mile races, are not-for-profit entities.

Burke's career is that tired-but-true story: Small-town boy makes good. Born in Zanesville, Ohio, he attended college on a tennis scholarship. He got a doctorate in education from the University of Massachusetts—where he became friends with classmate Bill Cosby. Later, Burke started a wine company and formed a gold mining outfit with friends in West Africa. He sold that to a small, independent oil company. Then, Burke says, he made millions buying and selling California commercial real estate.

Aside from corporate sponsors, Burke has used Hollywood's glitz to build his marathon. Along the route, 10 "entertainment centers," sponsored by Eastman Kodak Co., will offer music and dancing to amuse the crowd. Burke has persuaded 10 celebrities to run in the race, including Corbin Bernsen from "L. A. Law" and Jack Scalia of "Dallas." And he's throwing a "Pre-Race Carbo-Load Dinner" for 4,000 guests at a huge 20th Century-Fox studio sound stage. Burke's personal show-biz ties have helped. His neighbors include actor Karl Malden and composer Burt Bacharach. He also numbers among his friends Muhammed Ali and actress Cicely Tyson.

NOTHING SHABBY

To those who would criticize his methods as overly commercial, Burke has a simple answer. "If an event is not economically viable," he says, "it will not endure." Some also complain that Burke's marathon lacks the world-class runners of other races. Burke refuses to lure top marathoners with cash bonuses—also known as "appearance money"—as rival races do. Moreover, many top runners are sitting out this year's L. A. race to save their strength for Olympic marathon trials in May. But there's nothing shabby about the prizes awaiting the winners of Burke's race: $25,000 and a Mercedes to male and female winners. A world-record time would reap a $100,000 bonus.

Ever the promoter, Burke is cooking up more events for Los Angeles, including gala Fourth of July and New Year's Eve celebrations. And he's planning a star-studded centennial celebration for nearby Orange County. With such extravaganzas in the

works, Burke may have to add more phone lines in his car.

THE RETIREMENT OF DR. JOHN Q. TAYLOR KING

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. PICKLE. Mr. Speaker, the career of Dr. John Q. Taylor King is truly one of outstanding perseverance, dedication, and accomplishment. The city of Austin, the State of Texas, and educators throughout our country will lose a strong voice for advancement of higher education when he steps down as chancellor and president of Huston-Tillotson College later this year.

Although born in Memphis, TN, John King was raised in Austin, TX, where he graduated from Anderson High School. He continued his education at Fish University in Nashville, TN, where he earned a bachelor of arts degree. He returned to Central Texas and earned a bachelor of science degree from Huston-Tillotson College. He continued his postgraduate studies, earning a master of science degree from DePaul University in Chicago and a Ph.D. from the University of Texas at Austin. He holds a Phi Betta Kappa key.

Dr. King entered World War II as a private, rising through the ranks to serve as a captain in the Pacific, and retired from the U.S. Army as a major general in 1983. Since the conclusion of the Second World War, he served in Alaska, Japan, Korea, Okinawa, Germany, Hawaii, and many other Army and Air Force installations.

His passion for education continued in the service, and he completed courses at several senior service schools, including the Command and General Staff College, the Air War College, the Industrial College of the Armed Forces, the logistics executive development course, and the SROC at the Army War College. He has received numerous military awards and decorations, and former Texas Gov. Mark White promoted him to the rank of lieutenant general in the Texas State Guard.

Dr. King joined the staff of Huston-Tillotson College in 1947, and held the post of professor of mathematics for several years. He served as dean of the college for 5 years, and was appointed president in 1965 and chancellor in 1987.

In recognition of his outstanding contributions to the field of higher education, he has received an honorary doctor of laws degree from both Southwestern University and St. Edwards University, as well as honorary doctor of human letters degrees from both Austin College, in Sherman, TX, and Fisk University.

I could fill much of this RECORD with Dr. King's civic activities, contributions to his community, and the awards he has received in recognition of these efforts. He is a life member of Alpha Phi Alpha Fraternity, a member of Sigma Pi Phi, Phi Delta Kappa, several professional and honor societies, and is a 33d degree Mason and a Shriner.

Dr. King has been honored with alumni awards from Huston-Tillotson College and Fisk University, the Carl Bredt Award from the University of Texas College of Education, the Brotherhood Award from the National Conference of Christians and Jews, the Roy Wilkins Meritorious Award from the NAACP, and the Martin Luther King, Jr., Humanitarian Award. He is reknown as a writer, a civic leader, and one of the most highly respected citizens of our community and our State.

But these accomplishments and awards do not fully illuminate this man's worth. Dr. King's life serves as unrefutable proof that a person's possibilities are limited only by his desire to reach for the stars and his dedication to achieve his dreams. By his own example, he has extolled young people, black and white alike, well-to-do and poor alike, to have the courage to dream and the heart and the will to make their dreams come true. For many, he has made their dreams possible by giving them the most powerful tool they possess—the power of a good education. If a mind is truly a terrible thing to waste, Dr. John King has shown us all that a mind is also a miraculaous resource to develop.

It has been my good fortune and great pleasure to have known and worked with Dr. John Q. Taylor King, and I want to offer him my personal thanks and congratulations. I wish him a long and happy retirement with his wife, Marcet, his three sons and his daughter, and his nine grandchildren. We are richer for his dedication and his service.

ILIFF R. McMAHAN'S RETIREMENT

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DUNCAN. Mr. Speaker, I would like to call to your attention the March 25, 1988, retirement of Iliff R. McMahan, a public servant I have known since we were students at the University of Tennessee. I am happy to say he has been one of the most helpful, dedicated civil servants it has been my privilege to know. As a public servant, Mr. McMahan served the Federal Government more than 33 years. He also served as an enlisted man in the U.S. Navy in the Pacific during World War II; Regional Information Officer in Nashville, TN, with the U.S. Department of Labor; Associate Director of the WIN Program on the White House staff of President Gerald Ford; and, Associate Director of the Division of Information and Executive Assistant to the Chairman of the National Labor Relations Board.

Iliff's working life has been devoted to serving the public and this he has done well. In addition to his Federal service, he has been a one-room schoolteacher, and served his home county as the duly elected circuit court clerk for almost 10 years. He now leaves the Federal Government with an outstanding record.

Also, in between his public service, he has been an editor and publisher of three weekly newspapers and worked as an apprentice machinist with ALCOA.

An always cheerful, upbeat person, I will miss my good friend's optimistic outlook and disposition. And I am sure there are others in the Washington area that will miss him and his attitude toward life. He is that type of man.

It is my understanding he will return to his native Tennessee and resume his newspaper career as a columnist on his hometown paper, The Newport Plain Talk, 1 of 10 excellent newspapers owned by the Sun Publishing Co. He is one of the best when it comes to finding unusual human interest stories. Further, Iliff is one of the most interesting and entertaining writers it has been my privilege to know.

I am of the opinion that I express the sentiments of all who know Iliff, when I wish him a long and happy retirement.

He has earned it.

THE PANHANDLE/SOUTH PLAINS WATER QUALITY IMPROVEMENT ACT OF 1988

HON. BEAU BOULTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. BOULTER. Mr. Speaker, today I am introducing the Panhandle/South Plains Water Quality Improvement Act of 1988.

This bill will put into place the recommendations contained in the report of the Department of the Interior, Bureau of Reclamation, issued in June 1985 for dealing with increasing levels of salinity in surface water at Lake Meredith, which is located in the Panhandle of Texas.

My bill will allow the Bureau of Reclamation to enter into engineering, construction, and operational agreements with the Canadian River Municipal Water Authority for the control of saltwater inflow into the Canadian River. This inflow is mainly caused by a shallow brine aquifer, located near Logan, NM, which "pumps" water almost as salty as seawater, into the Canadian River many miles upstream of the Lake Meredith Dam at Sanford, TX.

Mr. Speaker, since the midsixties Lake Meredith has been a vital source of water for nearly one-half million west Texans. The Canadian River Municipal Water Authority is funded by and serves the water needs of the citizens of Amarillo, Borger, Brownfield, Lamesa, Levelland, Lubbock, O'Donnell, Pampa, Plainview, Slaton, and Tahoka, TX. Since the first filling of Lake Meredith, however, high salinity levels have affected water quality.

The cost of control of this problem has been estimated at about $6.4 million. I consider it a significant indication of the seriousness with which the citizens of west Texas view this problem that they are willing to pay nearly 70 percent of the costs of the project.

I urge my colleagues to support this bill which is of vital importance to the great people of west Texas.

Below is the text of the Panhandle/South Plains Water Quality Improvement Act of 1988:

A bill to authorize the Secretary of the Interior to construct, operate, test, and maintain the Lake Meredith Salinity Control Project, New Mexico and Texas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION TO CONSTRUCT, OPERATE, TEST, AND MAINTAIN.

The Secretary of the Interior to construct, operate, test, and maintain the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this Act and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water to the Canadian River downstream of Ute Reservior, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipeline, pumping plant, brine disposal facilities, and other appurtenant facilities.

SEC. 2. CONSTRUCTION CONTRACT WITH THE CANADIAN RIVER MUNICIPAL WATER AUTHORITY.

(a) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Canadian River Municipal Water Authority. Operations and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Canadian River Municipal Water Authority.

(b) CONSTRUCTION CONTINGENT ON CONTRACT.—Construction of the project shall not be commenced until a suitable contract has been executed by the Secretary with the Canadian River Municipal Water Authority of Texas and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 3. PROJECT COSTS.

(a) CANADIAN RIVER MUNICIPAL WATER AUTHORITY SHARE.—All costs of construction of project facilities (estimated at an amount not to exceed $6,400,000) shall be advanced by the Canadian River Municipal Water Authority as the non-Federal contribution toward implementation of this Act. Pursuant to the terms of the contract authorized by section 2, these funds shall be advanced on a schedule mutually acceptable to the Canadian River Municipal Water Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) FEDERAL SHARE.—All project costs for verification, design preparation, and construction management (estimated at an amount not to exceed $2,000,000) shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement to assist in improving a Federally-constructed water supply project, subject to appropriation of funds.

SEC. 4. CONSTRUCTION AND CONTROL.

(a) PRECONSTRUCTION.—The Secretary shall upon entering into a mutually acceptable agreement with the Canadian River Municipal Water Authority proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) TERMINATION OF CONSTRUCTION.—At any time following the first advance of funds by the Canadian River Municipal Water Authority the Canadian River Municipal Water Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary.

(c) TRANSFER OF CONTROL.—Upon completion of construction and testing of the project, or upon termination of activities at the request of the Canadian River Municipal Water Authority, the Secretary shall transfer the care, operation, and maintenance of the project works to the Canadian River Municipal Water Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Canadian Municipal Water Authority or the bona fide entity the rights to any contract in force, convey to the Canadian River Municipal Water Authority or the bona fide entity any real estate, easements, or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds.

SEC. 5. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

CHILD SURVIVAL PROGRAM

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. YATRON. Mr. Speaker, last week the U.S. Agency for International Development released its third report to Congress on the Child Survival Program.

As chairman of the House Subcommittee on Human Rights and International Organizations, which authorizes appropriations for the child survival fund, I believe the activities detailed in USAID's report demonstrate an unparalleled commitment on the part of the United States to save the lives of children. At a time when critics are suggesting that the period of achieving a bipartisan foreign policy has long since past, it is heartening to see a genuinely bipartisan effort to promote child survival.

Under the leadership of the USAID's Administrator, Alan Woods, and his capable and committed staff, the Child Survival Program continues to engender wide support from both sides of the aisle. The report details the outstanding cooperation between USAID, private voluntary organizations, and international organizations such as UNICEF, in combating the diseases which claim the lives of 14 to 15 million children every year.

USAID is a partner in a worldwide strategy to reduce infant mortality rates to 75 per 1,000 births by the end of the century. The task is enormous but achievable. The major enemies to children are measles, whooping cough, diphtheria, tetanus, and polio. Further, diarrhea, which causes dehydration, claims approximately 3 to 4 million children's lives yearly.

USAID health care interventions designed to attack these lethal diseases include oral rehydration therapy, immunization, nutrition, and child spacing. While methods are part of an overall international strategy and should therefore be readily available, the community of nations must do much more. Establishing health care systems and the technical assistance to deliver medical supplies in targeted areas of the world require strong support and cooperation on the part of host governments. Countries such as Morocco, Egypt, and El Salvador, just to mention a few examples, have been recipients of USAID child survival programs and have demonstrated a strong governmental commitment toward achieving our common goals.

Mr. Speaker, USAID's report is too extensive to insert for the record but I would call on all our colleagues to obtain a copy and read it carefully. The report demonstrates that while our efforts are succeeding, approximately 40,000 children a day continue to die from preventable diseases. This sobering reality indicates that an even greater resource commitment by the United States may be necessary if the child survival revolution is to be won.

AIDS PUBLIC EDUCATION ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. WYDEN. Mr. Speaker, every day 38 people die of acquired immune deficiency syndrome [AIDS], while countless others unknowingly acquire the virus. To date, close to 50,000 AIDS cases have been reported to the Centers for Disease Control, and the Public Health Service estimates that more than 250,000 other people could be infected with the virus.

AIDS has overwhelmed the health care community, disrupted our cities' social service networks, and instilled fear throughout the Nation. Despite the attention AIDS has gotten in the last 2 years, our ability to fight the disease remains limited. There is no vaccine and no cure.

What we do know, however, is that educated individuals are responsible individuals. In areas where large-scale public education campaigns have been mounted, the spread of AIDS is slowing. Currently, education and precautions against high-risk behavior are our only weapons against this deadly disease.

Mr. Speaker, today I'm introducing the AIDS Public Education Act to require the Department of Health and Human Services to institute a large-scale public education effort through our Nation's workplaces and schools. The bill authorizes grants to agencies with experience in health education for seminars on AIDS and how it is transmitted. It requires grant recipients to collect and disseminate information on AIDS prevention and transmission, the medical resources necessary to treat AIDS, financial assistance for the treatment available, and the legal rights that exist with respect to AIDS infection.

Mr. Speaker, this bill will get the word out about AIDS through the environments individuals are most familiar with. As the Surgeon General, C. Everett Koop, pointed out on October 13, 1987, the workplace is one of the most effective settings in which to begin AIDS education programs. Most large businesses have personnel offices or benefit managers skilled at educating workers about medical and health policies and workplace hazards.

Unfortunately, few employers have instituted AIDS education programs or developed internal policies to help deal with employees with AIDS. A recent survey by TeleSearch Inc., found that only 29 out of 100 large firms had policies for dealing with employees with AIDS.

Those firms that have instituted company policies, however, have had tremendous success reducing workers' fear of AIDS. In a small New York accounting firm, an employee began showing symptoms of AIDS. After the boss brought in an expert to talk to other workers about the disease and their fears, the coworkers of the person with AIDS dropped their demands that the sick man be fired and helped share his workload during his illness. In this case, and in many others like it, everyone benefited from basic information about AIDS—employees, employers, and the infected individual.

Mr. Speaker, it's time the Congress took action to provide accurate information to all Americans about AIDS and the risk it poses to each individual. My legislation authorizes $75 million for workplace education. Of course, much more will be necessary to adequately inform all Americans of the threat of AIDS. Only with accurate information about their risks can individuals take necessary and appropriate preventive measures to insure against the spread of this deadly disease.

I urge my colleagues to join me and the distinguished chairman of the Health and Environment Subcommittee, Mr. WAXMAN, in sponsoring the AIDS Public Education Act.

CONCERN OVER DIVIDED SPOUSE CASE

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. SHAW. Mr. Speaker, on several occasions I have expressed my concern over a divided spouse case which has been under consideration by the Soviet Union for 8 years. The couple in question is Dr. Galina Vileshina, who resides in my district in Fort Lauderdale, FL, and her husband, Pyatras Pakenas, who resides in Vilnius, Lithuania.

Dr. Vileshina emigrated from Lithuania in 1980 with assurances that her husband would follow in 6 months. That was 8 long years ago. Since then, Mr. Pakenas has been denied an exit visa 18 times.

Mr. Pakenas' situation has become quite desperate. He is in need of heart surgery, and his health is deteriorating at an alarming rate. Dr. Vileshina fears for her husband's life. In addition, Dr. Vileshina's own health has begun to fail due to the constant stress over this matter. Her desire to be reunited with Mr. Pakenas dominates her very existence.

Pyatras faithfully writes to Galina at least once every day, and recently Galina translated some of those letters for the Fort Lauderdale News/Sun Sentinel. Today I would like to begin to share some of those letters with my colleagues and demonstrate their importance, and in coming days I will share others from important days in their lives. This husband and wife's only goal is to spend the rest of their lives peacefully together. Here are the first two excerpts:

[Galina's birthday]

May 11, 1987.

My love, my dear, I have today a bottle of Pepsi Cola, and I drink for you, for your health, for your happiness . . .

Don't cry if you don't have something in your life. It has to be like this. Everybody in his life has something not enough. It's very bad if somebody has everything and this person doesn't want anything more. This shows that this person has finished his life. But in your life, everything will be in the future . . .

Nobody will tell me not to kiss you in another day.

—

[The first letter after Galina's only visit.]

November 8, 1987.

Again, I sit down for my letters. What can we do? The time of our conversation gone, and we have to begin our conversation by letters.

My sunshine, you became sunshine in direct and indirect means. The whole time you were here, the sun was shining. Yesterday, when you left, it began to snow . . . Your visit changed everything in my life. Now it's very difficult to understand what it's worth.

All day yesterday, it was very difficult. I couldn't find a place to sit down, what to do, where to go.

I came back to the hotel. I ate. I couldn't eat. Then, I watched TV, and I couldn't do this, too. And I left the hotel and I went to the station because I couldn't stay in this room where I was with you together.

It was so lonely, that I couldn't find a place to survive. I went to the station, and then I went to the streets. It was very cold.

THE ABC'S OF CHILD CARE

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. TORRICELLI. Mr. Speaker, our society today faces a fundamental need to grow up into the 20th century and into the responsibilities of the 20th century's labor force. For every mother who chooses to join the labor force, the need for a place to take care of the children grows by at least one family.

Indeed, fully half of the mothers who now have jobs also have children under the age of 6. Two years ago, that meant that over 10 million children were left without the supervision and care of their parents. In fewer than 10 years, the number of children at home whose parents will be at work will have increased to an estimated 15 million.

Fifteen million children under the age of 6 will live in homes where their parents—sometimes single mothers—will be out of the house bringing home the daily wage.

The question remains, "who will take care of those children? And who will ensure that the best care is provided?"

All across the Nation, the need is there, particularly in the cities, where more mothers have joined the labor force.

For those parents, the choice between employment and taking care of their children should not be a choice that they are forced to make. There really is no choice since parents must bring home the bacon and someone should be there to feed the bacon to the children.

In the most recent hearings that have been held on the question of day care for the young, the scope of the situation and the nature of the dilemma have been examined. And to deal with the need for adequate day care, Congressman DALE KILDEE has introduced legislation addressing this need. The ABC bill that he has introduced sets out to do two things, that is to provide child care through Federal funding of day-care centers and to ensure that the day care that is offered at those day-care centers is up to par.

While there are over 10 million children today with a need for day care, the room for those children just is not there. The current capacity of the Nation's day-care centers has enough space for only one-tenth of the chidren who need that day care.

The Act for Better Child Care Services would help create additional centers to meet the demand for child care facilities. Through funding, the Federal Government can ensure that the children who need day care can have access to programs that will not just babysit them but will help them and foster their development.

The need for child care is not going to go away. In bottom-line terms, the funds from the Act for Better Child Care Services is an investment ensuring that working mothers and parents have the opportunity to go to work knowing full well that their children are being taken care of in the best possible hands.

Recently, Congressman JAMES J. FLORIO has been examining the need for day care, particularly in New Jersey. His editorial on the need for day care in the Nation and on what the Federal Government's role in meeting that need should be follows:

[From the Record, Mar. 2, 1988]

NATION MUST HELP WORKING PARENTS

(By James J. Florio)

Back in the simple, sanguine days of the Fifties, America developed a view of the family in which Dad went out to work and Mom stayed home to raise the kids. For the most part, the picture was true: In 1950, 18 percent of married women with children under 18 were in the labor force. Today, that version of the American family is largely confined to black-and-white reruns of "Leave It to Beaver."

Today, some 64 percent of married women with children under 18 are working. Some women are working because they want to. Others have to. Either way, the women in the workplace has become a reality in our society. Yet it has taken us too long to catch onto that reality.

The United States is far behind other Western nations when it comes to providing quality child care for working parents. While some 9 million mothers of children under 6 are working, fewer than 800,000 day-care slots are available.

To many people, day care conjures up an image of a roomful of infants. And while that often is the case, children of all ages are in need. Throughout the nation, "latchkey" kids come home from school to spend several hours in an empty house while their parents are at work.

Some youngsters can handle it, but others waste their time watching soap operas or take to the streets and shopping malls. Meanwhile their parents performance on the job is affected by their concern about their kids. What a waste of potential for children and adults.

There is evidence that the situation is changing. People who are concerned about children have made their voices heard, and they have forged the issue into the political agenda.

Dr. T. Berry Brazelton, the noted pediatrician, is touring the country to raise consciousness on child care. In New Jersey, the state Child Care Advisory Council, headed by Ciro Scalera, recently has completed a comprehensive plan that assesses future needs.

In Congress, legislation is gathering momentum amid signs that the administration finally is backing down from its stand against federal action to promote child care. A bill known as the Act for Better Child Care, of which I am a cosponsor, has a good chance of passage in this election year.

The legislation would set the federal government, to the task of improving, promoting, and expanding day-care and after-school programs. Through the development of model programs, it would give states the foundation for helping parents who work. And it would set basic health and safety standards for childcare centers.

What can you say about an issue that unites organized labor and the chamber of commerce? I say it's about time.

But federal participation is only part of the answer. This is going to take a far-reaching partnership that must include businesses, labor, schools, religious groups, communities, and parents. It will require creative thinking such as that displayed recently in Maryland, where local officials agreed to plans for a major office complex when the developer promised to provide day care for workers there.

Making quality child care available and affordable also means training and encouraging people to become part of what should be a burgeoning new profession.

Testifying almost two years ago before a hearing of the New Jersey Child Care Advisory Council, Bettie Witherspoon, a day-care center director, said, "It is difficult, but not impossible, to instill a series of professionalism in your staff when you know in your heart that parking-lot attendants earn more money then they do."

We must give providers of child care the standards, respect, and compensation that they deserve.

It isn't hard to come up with reasons why affordable child care is a necessity, whether for low-income families whose day-care costs keep them from rising above the poverty line or seemingly well-to-do parents for whom the basics of previous generations are now luxuries.

Our nation will be better able to compete in the global economy, if our workers can concentrate on their jobs, knowing that their kids are all right. Skilled female workers will be able to fill key jobs, because they won't be caught in the Catch-22 of work or family. Youngsters will be better prepared for their future, if their days are filled with solid, developmental educational activities.

But this is more than an issue. It's a challenge. As we head toward the 21st century, the way we care for our children will determine what kind of a society we're going to have.

PERSONAL EXPLANATION

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. MOODY. Mr. Speaker, during the week of March 7, 1988, I was unavoidably absent for three votes.

Had I been able to record my vote, I would have voted "aye" on rollcall No. 26, to approve the Journal; "aye" on rollcall No. 27, to approve the Journal; and "aye" on rollcall No. 28, passage of House Resolution 399 calling for the resignation of General Noriega of Panama.

OUR LATIN NEIGHBORS CONTINUE TO CALL FOR PEACE

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. CROCKETT. Mr. Speaker, while the Reagan administration invents new scenarios to convince the Congress of the need for more assistance for war in Nicaragua, our friends and allies in Latin America continue to call for peace.

Following the February 26 meeting of the Contadora Group and the Group of Support, the Foreign Ministers issued a communique supporting the "contributions made by the Presidents of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua to the peace process," by signing the Guatemala accords. The communique also stressed "the need to put a stop to the assistance given to irregular forces operating in the region." Moreover, the Foreign Ministers reiterated their pledge to continue their role as mediator "in the continuation of negotiations pertaining to issues pending in the agreement on security matters."

Mr. Speaker, we would stop trying to develop new formulas to pass more assistance for the Contras, and instead focus our energies on supporting the peace process in Central America. The Presidents of the Contadora and Support Group nations, in their communique following the Group of Eight Meeting in Acapulco, stated that "peace and stability in Central America are priorities for our governments." The Reagan administration and this Congress must also make peace in Central America—not renewed aid to the Contras—the priority.

The full text of the communique follows:

COMMUNIQUE ISSUED BY THE MINISTERS OF THE CONTADORA GROUP AND THE GROUP OF SUPPORT, IN CARTAGENA DE INDIAS, COLOMBIA, ON FEBRUARY 26, 1988

At their meeting in the city of Cartagena de Indias, Colombia, on February 26, 1988, the Ministers of Foreign Relations of the Contadora Group and the Group of Support evaluated the situation in Central America as well as the outlook for the region's peace process. At the closing of their meeting, the Ministers issued the following communiqué:

1. We emphasize, once again, the great value of the contributions made by the Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua to the peace process, by signing the document establishing the procedure for achieving a solid and lasting peace in Central America. Depending on the maintenance and the strengthening of this political will is Central America's potential for achieving democracy, peace, development, and self-determination, as well as removing the obstacles that are still hindering the true solution to the region's controversies.

2. This solution takes on special relevance with regard to the urgent need for progress in terms of the security of the Central American isthmus, since the region is still suffering from armed confrontations, an arms race, destabilizing actions and violations of international law.

3. Recent developments indicate that there is a growing conviction of the absolute need to put a stop to the assistance given to irregular forces operating in the region. We hope that this trend will gain in support, and that all commitments contained in the Guatemala Procedure be fulfilled in a unilateral, unconditional and immediate manner, both with regard to the consolidation of pluralistic democracies in the region, and concerning security. Such is the desire expressed by the Central American presidents themselves.

4. In order to achieve such objectives, and in answer to the call made in San Salvador by the Central American Governments for a meeting of the Security Commission this coming March, the Contadora Group reaffirms its willingness to participate (in its role of mediator and with the endorsement of the Group of Support) in the continuation of negotiations pertaining to the issues pending in the Agreement on security matters, according to point seven of the Guatemala Procedure:

(a) Commitments with regard to armament and troops.

(b) Commitments concerning military maneuvers.

(c) Issues regarding procedure and operation of the by-laws or statutes of the Commission for Control and Verification in Matters of Security.

(d) Steps for the disarmament of the irregular forces that wish to benefit from the amnesty laws.

5. The success of said negotiations, as well as the entire peace process, requires not only the political will of the Central American governments, but also strict compliance, where applicable, with the Guatemala Procedure by the countries with ties and interests in the region.

6. The progress of the peace process demands the maintenance of an impartial and objective procedure for verification of compliance with the commitments made; and for this purpose it is essential to have an adequate framework of national and international mechanisms.

This verification is particularly important in regard to security issues and issues concerning political commitments leading to the creation of conditions for the consolidation of democracy in the region.

The report of the International Follow-up and Verification Commission has presented a clear and impartial description of regional conditions. The commitments remaining un-observed require an immediate need to agree on new specific ways to carry out the verification process.

7. Economic and social deficiencies are a threat to the stability of political institutions in Central America, and a hindrance to achieving independent and sovereign development. There is an urgent need to expand economic cooperation with the region, and to contribute in solidarity with the reconstruction of the Central American countries' economies. Consequently, the Contadora Group and Group of Support call for the participation of the international community in an international emergency program of cooperation with the Central American countries, according to the terms of the Acapulco Commitment.

8. We reaffirm the legitimate demand that the juridical order be fully respected as the essential basis for peaceful coexistence in the region. Also, we are convinced that the peaceful solution of the Central American conflicts is a legitimate aspiration of the Latin American countries, as stated by our presidents in the Acapulco Commitment.

"Peace and stability in Central America are priorities for our governments. At risk are not only the consolidation of democracy and development following the Central American countries' own self-determination, but also the national interests of our countries."

Consequently, we, the Contadora Group and Group of Support, are expressing today our firm determination to continue seeking regional peace, in an active manner and following a jointly accepted criterium.

TRIBUTE TO UNIVERSITY OF SCRANTON BASKETBALL TEAM

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. McDADE. Mr. Speaker, I rise to pay tribute to the University of Scranton men's basketball team, which made it to the finals of the NCAA Division III Final Four Tournament before losing to Ohio Wesleyan.

Rarely is a coach bold enough to predict outstanding accomplishments for his team before the season begins. But that is just what University of Scranton coach Bob Bessoir did last November, when he stated that the royals would make the Final Four. The team compiled an impressive 23-2 won/loss record during the regular season and won 6 games in the NCAA tournament before encountering Ohio Wesleyan.

The men's basketball team from the University of Scranton did much more than provide enthusiastic athletic entertainment for the community this year. During the 1988 season this group of athletes displayed tremendous pride, class, and sportsmanship throughout. I speak for the entire community when I say thank you for representing the University of Scranton and the entire region this season.

This group of young men dedicated the season to the late Rev. John Fitzpatrick. The qualities of togetherness and friendly competition exhibited by this team would have made Reverand Fitzpatrick very proud.

A special note of praise goes to University of Scranton coach Bob Bessoir and his assistants, Bob Walsh, Canio Cianci, and Bob McGoff, as well as athletic trainer John Robertson. They have been inspirational in their methodic and caring work with the team this year.

Congratulations to the athletes, coaches and staff of the University of Scranton's 1988 men's basketball team.

SUPPORT OF DEMOCRACY IN PANAMA

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. BRENNAN. Mr. Speaker, I rise today in support of democracy in Panama. Confusion reigns in that country today, and it is imperative that the United States do all it can to work for a free and democratic Panama.

Panama's crisis centers on one person—General Manuel Noriega. The evidence against Noriega shows that he has been involved in selling narcotics, running guns, laundering money, selling visas, committing election fraud, and in the murder of Doctor Hugo Spadafora.

His leadership of the Panamanian defense forces, and position as Panama's ruthless, nonelected head of state, has resulted in the violence we see today. And, I must add, this violence is responsible for a major threat to the security of the Panama Canal—a waterway important to the world's security.

The Panamanian people, longtime friends of the United States, believers in free enterprise and democracy, want only what freedom-loving people around the world want:

Elections without fraud resulting in a democratically elected government;

Respect by the government for the rule of law;

Respect by the government for human rights; and

Freedom of speech and expression.

With America's assistance, Panama's tomorrow can be brighter.

By forming a vital link between the America's Atlantic and Pacific fleets, the Panama Canal gives our Navy the chance to respond quickly to any threat to the world's freedom.

Indeed, the canal carried many of the supplies needed by U.S. Forces in Korea and Vietnam. During the Cuban missile crisis, a contingent of marines traveled through the canal to be on the ready. More recently, in 1983, the U.S.S. *New Jersey* went through the canal to join a multinational flotilla off the coast of Lebanon.

In 1985, more than 17 million tons of United States grain went from Atlantic and gulf ports through the canal to markets in the Far East. For many manufacturers in the eastern half of the United States, the Panama Canal is the most economical route to ship products to Asia. And for western producers, the same holds true for shipping their products to Europe.

The security of the Panama Canal is essential to the economic and military security of the free world. General Noriega's continued position as Panama's leader endangers the Panama Canal.

Congress and the administration are united in speaking out for the ouster of General Noriega.

America has placed funds for Panama in an escrow account.

I, along with my colleagues on the Panama Canal Subcommittee, pressed the United States administration to continue the pressure for reform.

We must move in the direction of helping Panamanians to develop the ideals of freedom and democracy shared by America and all free peoples of the world. Working with the OAS and the countries of Central and South America, we can do just this.

A prosperous people living in a society which guarantees its freedom and human rights is the world's greatest guarantor of security and peace.

Let us work together for democracy in Panama.

PENNSYLVANIA'S OUTSTANDING VOTERS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. GOODLING. Mr. Speaker, I am pleased to bring to your attention, and to that of my colleagues, four citizens from the 19th District of Pennsylvania who were inducted into the Voter Hall of Fame. There are now a total of 31 inductees in the Pennsylvania Hall of Fame from my district.

Membership is open to all registered Pennsylvania voters who have voted consecutively in every November election for which they were eligible for at least 50 years. The candidates must also encourage the registration of new voters.

Lyndon B. Johnson once said:

> This right to vote is the basic right without which all others are meaningless. It gives people—people as individuals—control over their own destinies.

I am especially proud of the four citizens from my district who have shown through the years that the right to vote is a most powerful instrument in participating in our Government's legislative process.

Congratulations to Frank H. Menaker and Romaine S. Menaker, of Spring Grove, George A. Anderson, Jr., of York, and Mary Perry Null, of York, for their outstanding record of citizenship.

TRIBUTE TO LODWRICK M. COOK, CHAIRMAN OF ARCO

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. LANTOS. Mr. Speaker, those of us who serve here in the Congress of the United States frequently deal with business leaders—men and women of varying abilities and varying commitment.

Today, Mr. Speaker, I would like to pay tribute to one of the truly outstanding leaders of the American and international business community—Lodwrick M. Cook, chairman of the board of directors and chief executive officer of ARCO.

Although he has been chief executive officer of ARCO only since January 1, 1986, he has been a leader of the ARCO corporate team since he became vice president in 1970. The task he assumed as CEO was a particuarly difficult one—he had to complete a major restructing of the corporation at a time when the oil industry was under severe economic pressures. An indication of just how well Lod Cook has succeeded as CEO of ARCO is in this week's edition of Forbes magazine. ARCO, says Forbes, "may well be the best-managed U.S. company in the game."

Lod Cook's leadership, interests, and accomplishments go well beyond the corporate boardroom, however. He has an interest in education, youth, and minority programs. He serves as chairman or board member of the National Junior Achievement, the Aspen Institute, and the Los Angeles Music Center, to name only a few.

Under his leadership, the ARCO Foundation has pursued a number of important and beneficial cultural projects of interest to all Americans. I would like to call the attention of my colleagues to one of the most recent of his valuable contributions to our Nation's culture.

In the Rotunda of the Cannon House Office Building is a display of paintings by contemporary American artist Alice Lok Cahana, "From Ashes to the Rainbow: A Tribute to Raoul Wallenberg." The exhibit, which my wife Annette and I are sponsoring together with Lod Cook, has been made possible through the generosity of the ARCO Foundation.

At the age of 15, Alice Cahana was brutally uprooted from her birthplace in Sarvar, Hungary, and began a year and a half of terror in Nazi concentration and labor camps. Alice and her father, who was saved through the efforts of Swedish diplomat and humanitarian Raoul Wallenberg, are the only members of her family to survive. This exhibit is her personal testimony of that experience.

The ARCO Foundation, under the leadership of Lod Cook, provided a grant to Skirball Museum of Hebrew Union College in Los Angeles to organize this exhibit and arrange for it to tavel to Washington, as well five other cities in the United States.

Furthermore, Mr. Speaker, I am delighted to report that I have been able to arrange for Lod Cook and the ARCO Foundation to donate the panels on which the art is being displayed to the House of Representatives. These striking panels were custom-built for the Rotunda and will be a wonderful addition to that space. As my colleagues know, having appropriate means to display art in the Cannon Rotunda has been a continuing problem. Now—thanks to Lod Cook and the ARCO Foundation—it will be possible to display other oustanding art here on Capitol Hill.

Mr. Speaker, it is a great pleasure for me to call to the attention of my colleagues the accomplishments and the outstanding civic commitment of Lod Cook. I invite my colleagues to join me in paying tribute to him.

MAINE WEST HIGH GIRLS WIN CHAMPIONSHIP

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. HYDE. Mr. Speaker, recently, the students and supporters of Maine West High School in Des Plaines, IL, had cause for celebration when their girls' basketball team, one of the Nation's highest ranked teams, won the Illinois State championship.

Throughout this season the Warriors met and defeated their opposition by large margins and entered the championship tournament with an undefeated record. In a semifinal game against Chicago's Marshall High School, a team also undefeated in regular season play, the Warriors won the game at the final buzzer with a difficult baseline shot—an unforgettable moment for all who were present. The Warriors continued on in the championship tournament to defeat York High School for the State Class AA title.

Coached by Derril Kipp, the team competed often in games in which all members participated in play, a somewhat unusual practice that permitted victory to be shared by the entire group. They are a talented group of people who finished where they deserved—first.

The team included among its members Moira H. Kennelly, Kerin W. Joerg, Mary E. Spielman, Susanne M. Hardiman, Stephanie E. Pinske, Nancy M. Kennelly, Kristin M. Lund, Anastasia Georganas, Diana M. Raupp, Margarette Georgoulis, Heather D. Ertel, Cristy L. Nelson, and Kristine L. Bonney.

I want to also extend my heartfelt congratulations to Coach Kipp, Athletic Director Dave Winter, Principal James Coburn, and Dr. James Elliott, superintendent of district 207.

Des Plaines has reason for celebration.

INTRODUCTION OF COMPENSATION COST-OF-LIVING ADJUSTMENT BILL FOR VETERANS' COMPENSATION AND DIC

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. APPLEGATE. Mr. Speaker, I am today introducing legislation to effect a statutory 4.5 percent cost-of-living adjustment in veterans' service-connected disability compensation and survivors' dependency and indemnity compensation benefits. This percentage is consistent with the Congressional Budget Office baseline for fiscal year 1989 and with the recommendation of the Committee on Veterans' Affairs submitted to the Budget Committee on March 10 of this year. The effective date for this increase would be December 1, 1988. Last December, we increased these benefits by 4.2 percent in line with the increase provided for Social Security benefits and nonservice-connected VA pension.

The bill also contains an amendment to title 38, United States Code, that would conform marriage requirements for all potential DIC recipients. This provision was passed by the House last year as part of H.R. 2945, but it does not appear that it will be accepted by the other body.

The bill would also extend and expand the eligibility for participation in the temporary program of vocational rehabilitation for certain veterans in receipt of nonservice-connected disability pension. The temporary program is set to expire on January 31, 1989. This bill would extend the duration of the program period until January 31, 1992. This is a good program and one which ultimately will pay for itself by helping veterans get off the VA's pension rolls and resume productive lives.

Finally, the bill contains a provision to extend the authority of the Administrator of Veterans' Affairs to operate the VA regional office in the Republic of the Philippines. Under current law this authority is set to expire on September 30, 1988. This bill would provide authority for the operation of the regional office unitl September 30, 1991.

NATIONAL AGRICULTURE WEEK

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. SHUMWAY. Mr. Speaker, March 20 through 26 has been designated as "National Agriculture Week" and, as one Member with the privilege of representing a highly agricultural district, I am pleased to take this opportunity to pay tribute to the Nation's farming community.

Agriculture's contributions to America's economy are significant, through both production and the creation of jobs. Additionally, we are blessed with both quantity and quality of harvests, enabling us to feed and clothe the people of the world.

California's 14th District produces a rich and diverse variety of speciality crops, including asparagus, almonds, cherries, peaches, apricots and walnuts, just to name a few. It is the most rural district in the State, and it recognizes the value of its farming community.

I am honored to have this opportunity to recognize American agriculture, and I strongly urge my colleagues to join with me in encouraging appropriate tribute during this special week.

UNIVERSAL AID FOR CHILDREN HONORS LEE KLEIN WITH 1988 KATHRYN LEHMAN WEINER ADVOCATE OF CHILDREN AWARD

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. LEHMAN of Florida. Mr. Speaker, I would like to congratulate Lee Klein of North Miami Beach, FL, on being selected as the recipient of the Kathryn Lehman Weiner Advocate of Children Award for 1988.

Founded in memory of my late daughter Kathryn Lehman Weiner, who devoted her life to educating and improving the well-being of children, this will be the 10th annual award to be given in Kathy's memory. Universal Aid for Children, Inc., a licensed non-profit adoption agency in my congressional district, founded and directed by Lorri Kellogg, will present the award at its annual luncheon on March 26, 1988.

Selected from many other fine nominees, Lee Klein is a very special person, and I am most pleased that she will be honored this year. Lee is a founding member of the Deed Club which has created our Nation's only totally free, comprehensive medical care clinic for children with cancer. The Deed Club Children's Cancer Clinic opened in 1965 at the University of Miami's Jackson Medical Center. Lee Klein's love and concern for these children kept her at the clinic long hours but brought here beyond the clinic into the homes of the young patients' families. Her support for a full family-oriented program involved here in finding solutions for the awesome psychological and financial devastation caused by this number one killer disease of children. She set out and succeeded to do the impossible—to develop a total care program for cancer-stricken children at no cost whatsoever to the families regardless of race, religion, socioeconomic status or nationality.

Over 350, youngsters, newborns to 19 years of age, from Dade, Broward, Monroe, Collier counties as well as the Caribbean and South and Central America are receiving long-term, multidisciplinary medical treatement at the Deed Club Children's Cancer Clinic. Lee Klein insists that no child coming to the Deed Clinic will ever be denied the life-giving treatment he or she deserves.

Lee's leadership, creative genius, financial wizardry, and administrative expertise has over the years catalyzed the formation of a totally free ancillary network of programs to compliment the total care medical program at the clinic. These programs include the Deed Club Love and Wishes Program, Family Calendar of Events, Family Friend, The Deed Club Lodging (at Ronald McDonald House), the Deed's Camp F.I.R.E., the first summer oncology camp in South Florida, as well as a research and education program in pediatric oncology at the University of Miami School of Medicine.

Universal Aid for Children, Inc., whose program not only places adoptable children in loving homes but has an active medical care and relief program for children in need, has made an excellent choice in Lee Klein. She has been the guiding light in making it possible for the community to have the Nation's only totally free, family-oriented total care program for children with cancer supported entirely by volunteers and private funds. For this profound contribution and the limitless love she has given to so many in need, and for all her accomplishments, I am honored to applaud Lee Klein as the recipient of the 1988 Kathryn Lehman Weiner Advocate of Children Award.

On previous occasions, Lee has been the recipient of numerous other awards, including the University of Miami School of Medicine Helping Hands Award, Humanitarian of the Year, 1987; Dade County Outstanding Citizen of the Year, 1987; University of Miami School of Medicine Helping Hands Award Woman of the Year, 1986; Miami Herald Spirit of Excellence Finalist, 1985; Greater Miami Chapter Woman's American ORT, Outstanding Woman of the Year, 1981; National Jefferson Award for Outstanding Service to the Community, 1980; Zonta Club of Greater Miami 1, International Year of the Child, Outstanding Service Benefiting Children, 1979, and Women in Communication, Community Headlines Award, 1974.

To Universal Aid for Children, Inc., its executive director, Lorri Kellogg, to its dedicated employees and board of directors, I also wish to congratulate you on the very fine job you are doing. Your dedication to our children, and to our future, is commendable.

TRIBUTE TO DONALD L. WATSON

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Donald L. Watson, current deputy and former interim director of the California Department of Transportation who was recently named "Black Engineer of the Year" by the deans of America's black colleges.

Mr. Watson received the President's Award for his outstanding contributions in science, engineering, and technology. Over 150 individuals were nominated from all over the country, yet, Mr. Watson's impressive civil engineering background and his superb work as director of the 16,000-person California Department of Transportation was recognized by the selection committee as worthy of this prestigious award. As I am familiar with Mr. Watson's dedication and commitment to his job, I know that a finer man or individual could not have been chosen.

I would also like to take this opportunity to commend Mr. Watson for his work as head of Caltrans, and thank him for his assistance on road and highway projects in the Fourth Congressional District of California.

I know that my colleagues join with me in offering sincere congratulations to Donald L. Watson for being named "Black Engineer of the Year," and wish him the best of luck in the future.

THE RENEWABLE ENERGY AND ENERGY CONSERVATION COMMERCIALIZATION AND DEVELOPMENT ACT

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. SHARP. Mr. Speaker, today I rise on behalf of myself and my good friend and colleague the Honorable MARILYN LLOYD to introduce the Renewable Energy and Energy Conservation Commercialization and Development Act.

The purposes of this legislation are to reaffirm the importance of renewable energy and energy conservation in our national energy policy; to orient DOE's renewable energy research more toward achieving commercial applications; to provide stable authorization levels for the renewable energy and energy conservation research and development programs over the next 3 years; and to expand commercial markets for renewable energy products both here and abroad.

THE IMPORTANCE OF RENEWABLE ENERGY

Renewable energy has multiple benefits for our economy. The most obvious benefits are environmental. While renewable energy technologies do have some environmental impacts, by and large they are not as severe as those of more conventional technologies. This becomes increasingly important as we learn more each year about the dangers of the "greenhouse effect" caused by carbon dioxide buildup and the severe institutional difficulties with storing radioactive waste.

Renewable energy technologies also offer us diversity and therefore security. The more different types of energy we rely on, the less chance that any one of them will be interrupted or curtailed. Diversification is a sort of insurance policy against interruption. Renewables also contributes to energy security more directly to the extent that they displace imported energy supplies.

Finally, renewables help with the trade deficit. Not only do they displace imported energy, but perhaps more importantly, they provide a growing international opportunity for exports. This last point is worth expanding upon.

The international market for wind turbines today is roughly $200 million per year and is expected to rise to $1 billion per year by 1994 and $3 to $6 billion by the year 2000. But, in the last 7 years the share of the U.S. wind machine market captured by foreign imports has gone from zero to 70 percent.

The international market for photovoltaics is currently $500 million and is expected to increase to $5.4 billion by the year 2010.

Not all this benefit is in the future either. These technologies are contributing right now. Wind generated 1.7 billion kilowatt-hours in California in 1987, roughly enough electricity for the residential customers in a city the size of San Francisco. Geothermal contributes roughly 1,600 megawatts of capacity in California. Photovoltaics are currently cost effective in remote applications such as buoys, communication towers and oil and gas wells and pipelines. Between 5 and 10 percent of all homes in the United States rely primarily on wood for home heating.

FEDERAL FUNDING FOR RENEWABLE ENERGY

Funding for renewable energy has been steadily declining since the beginning of the 1980's. For example, DOE renewable energy R&D funding dropped from $647 million in 1980 to $103 million in 1987 and $97 in 1988. This comes at a time when international markets are expanding and other countries are increasing their spending in these areas.

In 1988, for the first time, the United States Government will spend less on research for photovoltaics, $35 million, than either Japan, $43 million, or West Germany $61 million. The same is true in wind research where the

United States will spend $8.5 million while West Germany and the tiny Netherlands will spend $10.2 and $9.7 million, respectively.

While the deficit compels us to limit spending in all areas, cuts of the size we have seen in renewable energy are not the way to maintain our technological leadership and international competitiveness.

THE IMPORTANCE OF ENERGY CONSERVATION

Efficiency has already saved the United States tremendous amounts of energy. Between 1973 and 1985 the GNP grew 33 percent while energy use has stayed steady at 73 quads. If the economy had continued to grow at that same level of energy use per GNP, we would have used an additional 25 quads. That 25 quads is more energy than the total new supplies from all other forms of energy since 1973. It also represents an estimated $150 billion savings per year.

Compared to historical trends, our savings in oil and gas alone equal roughly half of OPEC's current capacity. This reduction in demand was a major factor in reducing OPEC's grip on the market.

There is much additional efficiency left to exploit in the economy. Various studies estimate there are between 5 and 18 million barrels of oil equivalent per day of efficiency improvements available in our economy. Many of these savings are available at fractions of the cost of new supply.

Many exciting efficiency technologies are available to us such as heat mirror glass, electronic ballasts for fluorescent lights, cars in the 30 to 50 miles per gallon range, and refrigerators, air conditioners and furnaces that use far less energy while offering the same comfort and convenience.

Just as renewable energy can help with the trade deficit, so can energy efficiency. Obviously, greater efficiency can reduce imports. In addition, lower energy costs mean lower production costs and hence more competitive U.S. products.

There is also a burgeoning world market for efficient products including appliances, efficient motors and motor controls, automobiles and computerized energy management systems. Federal research and development can help us enhance our competitive edge in these growing markets.

Conservation R&D spending has undergone the same kind of cutbacks that have occurred in renewable energy. Funding dropped from $344 million in 1980 to $162 in 1987 and $156 million in 1988.

WHAT THIS BILL DOES

This bill requires DOE to set technical performance goals, with consultation from industry, for the year 1995 for its photovoltaics, solar thermal, wind, biofuels, solar building, ocean energy systems and geothermal research programs.

It also requires DOE to propose three renewable energy joint venture demonstration projects for the year 1990. The Federal Government shall contribute 50 percent of the cost and industry will have to contribute 50 percent.

These provisions are in response to industry criticism that the Renewable Energy R&D Program is too oriented toward long-term research and not oriented enough toward nearer term research that firms can use to develop commercial products. A delicate balance needs to be struck between doing basic research which private firms would not undertake but may never have commercial application and development work that can lead to direct commercial applications.

The bill authorizes higher, 3-year funding levels for the Renewable Energy and Energy Conservation Research and Development Programs.

The 3-year authorization levels have two purposes. One is to redress the imbalance which has occurred in absolute funding levels through cuts in recent years. Hence, the small increases in budget authority. Second, by providing authorizations for 3 years we hope to provide some stability for the researchers and firms depending on them. Such stability should lead toward better planning and efficiency for these programs.

The bill authorizes higher, 3-year funding levels for the Committee on Renewable Energy, Commerce and Trade [CORECT]. CORECT is an interagency task force that coordinates the Government's effort to encourage markets for renewable energy products.

The bill requires DOE to provide a strategic plan that shows how its research and development plans help achieve the policy goals in the national energy policy plan [NEPP]. The intent is to more closely tie the allocation of DOE resources in research to the goals specified in the NEPP. We should have some idea of the relative ranking of how much energy is potentially going to be produced or saved per dollar spent.

CONCLUSION

Renewable energy and energy conservation are too important to give up on now. We need to build on the progress we have already made through more emphasis on commercial application and by stabilizing funding for these programs. We welcome our colleagues' support and cosponsorship.

OUR PROMISE TO BIKINI

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DE LUGO. Mr. Speaker, the Compact of Free Association Act of 1985 established a new political relationship between the United States and the Marshall Islands, which have been a part of the Trust Territory of the Pacific Islands.

In reporting the legislation, the Committee on Interior and Insular Affairs felt that it was imperative that it provide for United States trusteeship obligations to be fulfilled as the islands entered a new political status.

One of the most important aspects of completing trusteeship business in the Marshall Islands that remained was to restore beautiful Bikini Atoll for its original inhabitants. As Members will recall, Bikini had been despoiled by testing of atomic weapons and the people of Bikini have spent some 40 years waiting to be returned to their homeland.

The executive branch settled a lawsuit in 1985 with the people of Bikini Atoll with a promise to clean up Bikini. The Compact Act put this promise into law with a pledge that the full faith and credit of the United States was committed to restoring Bikini to "habitability."

With this background, I would like to share with my colleagues an editorial regarding some recent actions of the executive branch that run contrary to the history of this subject. I therefore insert into the CONGRESSIONAL RECORD at this point an editorial from the March 11, 1988, issue of the Marshall Islands Journal. I agree wholeheartedly with the facts and sentiments expressed in the editorial.

The editorial follows:

[From the Marshall Islands Journal, Mar. 11, 1988]

AN UNLIKELY STORY

MBC Television aired National Geographic's special feature on the Bikinians, "Nuclear Exiles," last week. The program expressed with striking clarity the roadblock the Reagan administration is throwing up against the proposed nuclear cleanup. Though the U.S. signed an agreement in 1985 to underwrite a nuclear cleanup and rehabilitation at Bikini, U.S. officials appear to be suffering from a serious case of amnesia. The film interviews the leading U.S. official on Micronesia, Jim Berg of the State Department, telling the world that the cleanup is entirely the Bikinians' affair, and if they want to the people can certainly use their Compact compensation money to pay for it. What rubbish. Besides its moral obligation, the U.S. has a legal commitment documented in black and white to restore Bikini to its former inhabitants. Compact compensation money is entirely separate from the U.S. commitment to clean up Bikini. Why the Director of the Office of Freely Associated State Affairs spends his time issuing this type of disinformation is beyond us. The State Department's time could be more constructively spent debating and analyzing cleanup options now under consideration by other U.S. agencies and the U.S. Congress.

OAKLAND PRIVATE INDUSTRY COUNCIL

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DELLUMS. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the fine work of the Oakland Private Industry Council. Particularly, I would like to describe activity that Oakland PIC has undertaken to focus attention in the community on the outstanding contributions of older workers.

The second week in March has been proclaimed "Employ the Older Worker Week" by Gov. George Deukmejian. The purpose is to acknowledge the worth of the mature worker and is a means of publicly recognizing the expanding role the older worker plays in the labor force. Several national and statewide demographic trends indicate that there is a potential labor and skills shortage on the horizon—a shortage that can be filled by the older worker:

America is growing older: In 1980, one of every five Americans—over 46 million—was 55 or older.

The older population will continue to grow as the birth rate declines and as the "baby boomers" age. By the year 2000, people 65 and older will represent 13.1 percent of the Nation's population; in 2030 it could reach 21 percent.

According to a recent AARP survey, 36 percent of all retirees would rather be working. Additionally, 75 percent of those 65 or older who still work would prefer to continue working, even if they could afford to retire.

More companies are bringing new jobs to California than to any other State: therefore, new jobs are being created at an ever increasing rate.

Older workers are increasingly staying in or reentering the labor market, but many experience difficulty due to poor education, outdated skills, limited work experience, health restrictions, and age-bias.

The Oakland Private Industry Council has responded to the challenges faced by the older job-seeker by implementing PIC Experience, a JTPA employment and training program for low-income Oakland residents aged 55 or older. Over a period of 15 months, PIC Experience has assisted approximately 200 seniors strengthen their employability skills, learn to market themselves, and most importantly, learn to believe in themselves.

PIC Experience is playing a role in changing employers' attitudes toward hiring older people. Employers are now realizing that older workers are dedicated, loyal, and committed employees with productivity rates equal to younger employees in most jobs.

In celebration of Employ the Older Worker Week, the Oakland PIC is sponsoring a contest designed to find Oakland's oldest worker and a worker over 65 who is making an especially unique or noteworthy contribution. A total of 16 winners will be honored at a luncheon paid for by contributions of three PIC board members. The luncheon event, scheduled for March 31, will be attended by 100 community leaders and other older worker advocates. Extensive media coverage will serve to raise the community's awareness of the continuing contribution the mature offers, as well as publicize the service of the Private Industry Council.

Once again, Mr. Speaker, I congratulate Oakland PIC for this fine effort and am pleased to share with my colleagues the news of their continued fine work.

PRIEST HELPS FOCUS:HOPE LIVE ITS NAME

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. CONYERS. Mr. Speaker, this past week, a Detroit News columnist paid tribute to Father William Cunningham, a Catholic priest whose achievements on behalf of the city's poor, uneducated, and unemployed have been legion there since 1968.

Father Cunningham was recently named an Outstanding Michiganian by the newspaper's weekend magazine staff, and columnist Pete Waldmeir tells us a bit about why that honor has been so appropriately designated. I am pleased to share it with my colleagues, particularly those from urban areas, who will most assuredly benefit from Father Cunningham's message of "Hope":

[From the Detroit News, Mar. 9, 1988]

PRIEST HELP FOCUS:HOPE LIVE ITS NAME

(By Pete Waldmeir)

The Rev. Bill Cunningham canned several workers at the 25-acre Focus:HOPE industrial complex on Oakman Boulevard a few weeks ago.

It sounds out of character for the Catholic priest, who each week busts his beads to see to it that thousands of Detroit's less fortunate are fed, clothed, employed and educated. But he says it might be the best thing that ever happened to them.

And if it's not, it may be the best thing that's happened to the more then 400 others who still have their jobs because they know that he's serious about them knuckling down to help him help them help themselves.

"We have something really strong going here," says Fr. Cunningham, who founded Focus:HOPE in the wake of the 1968 Detroit riots and who had almost single-handedly built it into a multimillion-dollar industrial-educational complex and a clearinghouse for various charitable groups.

"Our works has to survive and to survive, it has to have cooperation from everybody. What we're trying to do is make getting and holding a job a goal in itself; something that people want to strive to achieve, to be proud of.

"So we set some standards and we establish some rewards. In order to make our companies profitable—and keep operating and benefitting everyone involved—we ask the workers who can't read, for instance, to attend free classes and make an attempt to learn. It makes sense. The better they can read, the farther they can advance.

"We conduct the classes, make them convenient and dozens attend. But if they don't attend—and don't learn to read on their own somewhere else—then we have no choice but to let them go. Believe me, it's not easy. But it's the fair way, because the others see what's going on and realize we don't play favorites."

There are many advantages to working at the companies in the Focus: HOPE industry mall, which occupies most of the north side of Oakman between Rosa Parks Boulevard and Linwood, buildings that once belonged to General Motors and Vickers. Among them is the opportunity for workers' kids to attend Focus: HOPE's Center for Children, a bright, inviting educational center, which opened in September and will be the beneficiary of a $150-a-ticket "Hocus: Focus" magic party from 7 to 10 p.m. Friday.

The party, to be catered by 21 Detroit-area restaurants ranging from Opus One and Van Dyke Place to Little Caesars and Mrs. Morgan's Boarding House, hopefully will raise enough to get the center rolling at full tilt before summer.

The center provides care for infants as young as 6 months old, preschool training through 6 years, after-school "latch key" for kids from 6 to 12. It is designed for the offspring of Mall employees. But Fr. Cunningham has some interesting theories about how enrollment should be handled.

"We're going to try to recruit about 20 percent of the children from outside the Focus: HOPE workforce," he explained.

"One of the values we try to instill in workers in the mall industries is that they are not only helping themselves but that because they are being productive, their children can have a chance at a better life, too. So if, say, a young mother who has an infant and is working at her first job with us knows that her child is in the same class with the kids of people who have achieved something in life, she'll work hard to stay employed with us—if for no other reason than to give her child that added chance.

"Does that make sense? I guess we'll find out, won't we?"

Fr. Cunningham's goal: 240 toddlers and preschoolers, including 90 infants. "They tell me that's a lot of kids," he said smiling. "But what would I know about kids, right?"

THE 50TH ANNIVERSARY OF JONATHAN DAYTON HIGH SCHOOL

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. RINALDO. Mr. Speaker, I wish to offer my congratulations to the student body, faculty, and administration of Union County Regional High School District No. 1 Board Members of Jonathan Dayton Regional High School in Springfield, NJ, which celebrates its 50th anniversary on March 30. Thousands of its graduates have gone on to successful careers in college, the business world, the professions, and in community service.

It remains a school of enormous opportunity and up-to-date curriculum for new generations of Americans in Union County, NJ.

Union County Regional High School District, one of the first regional high school districts in New Jersey, prides itself on being a quality comprehensive high school district. It provides college preparatory programs, business education, vocational education, and a large adult school program. In addition, it has been approved as a local area vocational district by the NJ State Department of Education. It also serves as a receiving district for special education students from numerous counties. Both handicapped and adult students find it a ready place for learning. It is truly a comprehensive and compassionate school district.

Jonathan Dayton first opened its doors in September 1937, to 849 students from the communities of Berkeley Heights—then known as New Providence Township, Clark, Garwood, Kenilworth, Mountainside and Springfield.

The school building on Mountain Avenue, with its distinctive clock tower, was named for Jonathan Dayton, a distinguished New Jersey patriot and statesman who, at the age of 27, had the distinction of being the youngest delegate to the Constitutional Convention of 1787.

The construction of the new school, and the new regional high school district, was expedited by a shortage of secondary education facilities in Union County. Prior to 1937, the six communities which now form the regional district had to send their high school students to neighboring towns to continue their education. By the mid-1930's, finding a school in which to place their students became an annual problem. Eventually, only three school districts could accommodate a limited number of students from the regional communities.

After a careful 2-year study, and on the advice of the State Department of Education, the six communities and their respective boards of education considered the formation of a precedent-setting regional high school district. The Union County Superintendent of Schools at the time, Dr. Arthur L. Johnson, appointed a temporary board of education, consisting of two representatives from each of the constituent school districts. Meetings were then held in each of the communities, with members of this temporary board promoting the idea of a regional district and studying the problems and concerns of each of the local school districts.

On October 1, 1935, President Franklin D. Roosevelt approved the loan and grant which would partially fund the school project. The construction of the school, which cost $533,635, was one of 71 school projects carried out in New Jersey by the Public Works Administration during the difficult period of the 1930's. It is even more remarkable that this project got off the ground when one considers that a temporary board of education, with virtually no corporate standing, was the overseer of the initial proposal and plans for the Jonathan Dayton Regional High School.

When completed, the Jonathan Dayton Regional High School had a student capacity of 1,032. Warren W. Halsey, the school's first principal, was in charge of a 37-member faculty and a curriculum which featured strong vocational and business training as well as a comprehensive academic program. In the 50 years since then, Jonathan Dayton has been expanded twice—in 1953 and 1972—and three more high schools have been constructed to serve the students of the Union County Regional High School District 1—Arthur L. Johnson, 1956, Governor Livingston, 1960, and David Brearley, 1966.

The families in Union County Regional School District 1 have been well served these last several years by Superintendent Dr. Donald Merachnik, who has worked closely with the regional board of education. I salute the school board members, headed by Mrs. Natalie Waldt of Springfield, president of the board, and its vice president, David M. Hart of Mountainside, as well as the assistant superintendent of schools, Charles Bauman, and the school's business administrator, Harold R. Burdge, Jr. They are an outstanding team committed to quality education and to preparing today's students for the challenges of the next century.

IN MEMORY OF A VIETNAM VETERAN

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. HOWARD. Mr. Speaker, as we debate the assignment of 3,200 of our troops to Central America, I think it is appropriate that we make note of another conflict 20 years ago, the Vietnam War, to which American men and women were also sent, ostensibly to maintain the peace.

On March 22, 1968, Pfc. Thomas Ptak of Highlands, NJ, was killed at Hue, Vietnam. Like many of our soldiers in Honduras today, he was the member of an airborne division, stationed at Fort Bragg, NC.

Last Saturday on the grounds of the Highlands, NJ, Grammar School where there is a stone monument to Pfc. Ptak, the family and friends of this hero conducted a memorial service. Veterans of Foreign Wars Post 6902 sponsored the service in honor of Pfc. Ptak and in that way are paying tribute to all men and women who died in the Vietnam War.

Pfc. Ptak was the second oldest of 11 children. Four others in the family have served in the military and of these, three are still in the service. Surely the Ptak family has contributed a great deal toward the defense of this country.

We must remember that in any conflict to which we send our troops, we risk exacting a great price such as that paid by the Ptak family. Let us hope that our troops in Honduras do not see any action and that their stay there will be cut short by the success of the Central American peace process.

CHILD CARE VERSUS A TRUE FAMILY CARE PACKAGE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. CRANE. Mr. Speaker, child care legislation and what the Federal Government's responsibility in this area should be, is becoming one of the hottest topics before Congress. The issue centers around the Federal Government's role in assisting the recorded number of mothers entering the work force that results in the obvious need for someone to care for their children.

To date, both legislation and hearings to date have focused on this issue. The majority of these proposals have not addressed the real issue; how do we provide the best child care? Throwing billions of dollars at the problem, toward grants that expands or create child care centers, and drafting minimum Federal health and safety standards for day-care centers, is not the answer.

Telling parents that they can use their child care tax money for day care centers, as long as those centers meet with Federal standards or are not church affiliated, is not the solution either. What we must not do is drag legislation through Congress or the courts. That, without a doubt, will heighten the controversy on the separation of church and state. Organizations that oppose spending tax dollars on church child care will insist that doing so violates the first amendment's ban on State "establishment" of religion. They will challenge in courts any law allowing funds to go to church-based centers.

Our children are too important to allow the Federal Government to enact legislation that instead of addressing the child care issue, centers on the first amendment and constitutional separation of church and state. Roughly one-third of the current day care children go to centers run or sponsored by churches, or to facilities leased by churches. Enactment of irresponsibly worded legislation would no doubt swamp the courts with first amendment cases. I certainly hope that Congress' intention is to address what is best for our children, not how the first amendment should be applied.

Many skeptics of one piece of legislation, H.R. 3660, the Act for Better Childcare Services [ABC], or the Dodd-Kildee bill state that it promotes a trickle-down day-care policy. Most of the $2.5 billion would go to Federal and State bureaucracies and to State-subsidized institutions. There is no guarantee that any of the money would go to parents with small children. They are the very ones it is supposed to be helping. Unfortunately, history shows that this type of approach leads to great escalations of costs without any improvements in service.

Further, if it is not bad enough that the funds would be wasted by Government bureaucracies, H.R. 3660 would assist only a tiny fraction of young children. Most children under the age of 5 do not receive paid day care. In addition, 80 percent of day care providers are unlicensed and unregulated and therefore ineligible for funding under the legislation. According to the "Choice For Families With Children," a coalition of pro-family groups, less than one young child in 10 would receive assistance under the ABC bill.

The coalition further states that among children under age 5; 54 percent have mothers who are not employed, 22 percent are cared for by a relative while the mother works, 13 percent are cared for by a nonrelative in an informal setting while the mother works, and only 11 percent attend professional group care centers of the sort directly subsidized in the ABC plan.

One reason for the shortages of day care in the United States is the result of excessive Government regulations. Another is the threat of astronomically costly law suits that may be brought against day care centers. If we enact legislation that demands stricter Federal regulations, it is likely to actually reduce, rather than expand the supply of day-care available to American parents. Congress must be aware of this before it enacts additional regulatory measures. Furthermore, Government regulation of day care promotes large scale professional organizations and discourages competition from smaller neighborhood facilities. In addition, there is no evidence that large, regulated day care centers are safer than nonlicensed neighborhood providers of day care. One must not forget that most of the incidents of sexual abuse that have been reported by the press occurred in large, professional day care centers. Home care by the mother, care by relatives, and care in small neighborhood day care facilities is best for the physical and mental health of children.

If legislation is not carefully drafted, Congress will make a mockery out of our current child care system. Do people really want Congress telling parents what they think is in the best interest for their children? Whatever happened to the parents' right to decide what they believe to be in the best interest of their own children?

It is essential that the central issue not be lost in the debate on the merits of the various proposals extant. What is missing in those measures is provision of aid directly to the family. But most importantly, preserving the family's right to choose what they believe is best.

I am introducing legislation today to address the pressing need for child care. But it also addresses another important need that is being overlooked. The need to take care of handicapped family members and also our aging family members. My bill, the Family Care Package of 1988, will give a tax deduction to the family and allow them to have more take home pay, after taxes. A parent will be able to use this extra money to choose what is the best child care for that family. In addition, it encourages care of our parents, and other dependent family members often forgotten in today's nuclear family environment.

My legislation would address pre-school age dependents by allowing a parent to receive a tax deduction of $5,000 from birth to age 6, and a $4,000 deduction for children between the ages of 6 and 18. Furthermore it would allow a taxpayer to receive a $5,000-tax deduction in the case of any qualified dependent who is physically or mentally incapable of caring for himself. Finally, it would allow a $5,000 deduction for any dependent who has reached the age of 55. All of these deductions would also be indexed yearly for inflation.

The taxpayers who provides more than 50 percent of financial support to a dependent over 55 qualifies for this deduction. The dependent's earned income will be only those distributions stemming from direct compensation such as wages, salaries, and other forms of direct compensation. Not included as earned income are pension income, retirement benefits, interest income from retirement accounts and other such proceeds.

Current law provides for a deduction for any dependent child of $1,900. The current dependent care credit ranges from 20 percent for upper income individuals to 30 percent for lower income individuals, of care cost. This credit is provided for a percentage of up to $2,400 for one child or $4,800 for two or more children. A 30-percent credit would only return $720 for the lowest adjusted gross income level and $1,440 for more than one child. My legislation would increase the deduction for children and at the same time abolish the highly ineffective existing child care credit.

The need for this increase in tax deductions is twofold. First, the value of the dollar when the dependent deduction was added to the Tax Code has failed to be adjusted for the rate of inflation over the years. The proposed deduction would allow the family to regain some equity from this indexing. Second, the family has suffered financially because of the lack of indexation.

The reason the United States is facing this current child care problem is not because of the lack of day care programs, but because of the erosion of family income. That is caused by a tax code that is increasingly biased against dependent children. Rearing children is something which is socially necessary and desirable, and so our Tax Code should be trying to encourage that. But it is not. The heavy tax burden shouldered by young families is exacerbated by inflation. Consequently that inflation has steadily undermined the value of the income exemption for children. My legislation would take one giant step in the direction of restoring the relative value of the exemption for young children to the level which existed in the 1950's. With the higher exemption, families would be free to use the added income for any purpose they chose, including choosing the day care system of preference.

Over the years, the American three-tier family has disintegrated into today's nuclear family. America has benefited materially and culturally from the three-tier family concept. My legislation will encourage reformation of that time honored and valued concept. The deduction that I propose guarantees parental choice. They could choose a professional day care center, a church affiliated center, or care provided by grandma, or even a mom or dad. A tax deduction for other individuals who are dependents would encourage families to take care of their older parents, as well as other handicapped family members instead of institutionalizing them. All too often today, families are finding it economically unfeasible to take care of their older parents and relatives. We, the Members of Congress, must stop penalizing the great American family and its proud heritage. We must take the time to allow the family to be reunited.

CLARIFYING THE TAX TREATMENT OF NONELECTIVE DEFERRED COMPENSATION AND CERTAIN OTHER BASIC EMPLOYEE BENEFITS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. MATSUI. Mr. Speaker, I am today introducing along with Congressman GUY VANDER JAGT H.R. 4221, the section 457 clarification of 1988. This legislation is intended to update and perfect H.R. 3312, the section 457 clarification of 1987, that Congressman VANDER JAGT and I introduced along with 22 other members of the Ways and Means Committee. Both H.R. 4221, and H.R. 3312 are intended to clarify that section 457 does not apply to nonelective deferred compensation or certain basic employee benefits.

H.R. 3312 was included in its exact form in tax legislation passed by the House of Representatives last fall. It subsequently was deleted from the Revenue Act of 1987 as a consequence of the decision made by the budget summit conferees to delay consideration of all tax legislation, except revenue raising legislation, until this year.

The legislation that I am introducing today with Congressman VANDER JAGT is intended to perfect the statutory language which was originally included in H.R. 3312. The legislation we are introducing would indicate that section 457 does not apply to nonelective deferred compensation. In addition, it would specifically indicate that certain basic employee benefits also are not subject to section 457. Included within the scope of the basic employee benefits would be bona fide vacation pay, sick pay, compensatory time, severance time, employer inducements for employment termination, force reduction, payments in lieu of tenure, disability, death benefit, paid sabbatical leave plans, and other similar plans, programs or arrangements. This legislation is needed to insure that these employee benefits will not be treated as taxable to employees until actually paid to them. Following my statement is a detailed explanation of the legislation that both I and Congressman VANDER JAGT hope the Congress will be able to enact as expeditiously as possible.

EXPLANATION OF PROVISION

The bill exempts nonelective deferred compensation and basic employee benefits from the scope of section 457. Thus, nonelective deferred compensation and basic employee benefits are disregarded in determining whether a plan is an eligible deferred compensation plan. Such benefits also are not subject to the rule which includes such benefits in income when they are not subject to a substantial risk of forfeiture if such benefits are not provided under an eligible deferred compensation plan. Instead, nonelective deferred compensation is taxed when received (or, if applicable, earlier under the general principles of constructive receipt) and basic employee benefits are taxed under the rules of the appropriate Code section governing the taxation of a particular type of benefit.

For purposes of section 457, "basic employee benefits" are defined as compensation provided under bona fide vacation pay, sick pay, compensatory time, severance pay, employer inducements for employment termination, force reduction, payments in lieu of tenure (also known as faculty buy-out programs), disability, death benefit (including spousal benefit), paid sabbatical leave plans, and other similar plans, programs or arrangements. Cost of living or "gender neutral" adjustment payments are also to be treated as basic employee benefits. A plan, program or arrangement shall be treated as "bona fide" if, for example, the basic employee benefits are provided pursuant to state or local law, rule, regulation or procedure, or are provided under a collective bargaining agreement entered into between a governmental unit or other tax-exempt employer and employee representatives.

The Secretary is to provide a definition of nonelective deferred compensation. For purposes of this definition, the conferees intend that the Secretary create a "safe harbor" definition that makes it clear that any nonqualified deferred compensation plan or arrangement that meets the following criteria be treated as nonelective:

1. Benefits are provided pursuant to the terms of a written plan or agreement either (a) approved by the employer's board of directors or other governing body (or by a committee of such board or body), (b) authorized by state or local statute, ordinance or regulation, or (c) provided under the terms of a collective bargaining agreement (or other similar agreement generally governing the terms of employees' employment with employer);

2. The individual (or individuals) receiving benefits under the plan or arrangement does not (or do not) vote (except in the case of benefits provided pursuant to collective

bargained agreements) in connection with the decision of the board of directors or other governing body (or by a committee of such board or body) approving such plan or agreement;

3. The written plan or agreement does not grant the individual (individuals) accruing benefits under the plan or arrangement an option to receive increased current compensation in lieu of plan participation or benefits; and

4. Either—

(a) The compensation of individuals accruing benefits under the plan or arrangement is not reduced as the result of the establishment or maintenance of the plan arrangement, or

(b) The plan applies to 100 percent of the employees above a compensation level or officer status specified by the employer that do not change frequently over time.

If deferred compensation is provided pursuant to the terms of an individual employment contract entered into by an executive or a managerial employee with his or her employer (as opposed to a written plan or arrangement under which more than one employee participates), the criteria described in paragraph 3 and 4 above will be deemed to be satisfied if deferred compensation provided under the contract is subject to substantial performance conditions (e.g., the performance of a minimum of three years of service before benefits will be vested). The three year service requirement also will be deemed to be satisfied if the employee in question is being provided with deferred compensation income under a contract entered into within the three year period preceding his or her termination of service which is in recognition of a period of substantial service to his or her employer.

The conferees also recognize that some tax-exempt organizations face salary limitations (either formal or informal) in compensating able administrative and management personnel on a competitive basis. If such salary limitations exist, and the employee cannot be paid a current base salary in excess of a given amount, but can be paid additional amounts of deferred compensation, then the criteria described in paragraphs 3 and 4 above will be deemed to be satisfied with respect to such deferred compensation.

IN RECOGNITION OF THREE TUOLUMNE COUNTY ELEMENTARY SCHOOLS

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. LEHMAN of California. Mr. Speaker, I rise today to honor and commend three outstanding elementary schools located in Tuolumne County, CA, part of the 18th Congressional District.

Tenaya Elementary, Sonora Elementary, and Summerville Elementary were recently recognized as superior primary education institutions by California State School Superintendent Bill Honig. The schools were selected as winners of the California Elementary School Recognition Program.

These three elementary schools serve small rural communities which are located in the Sierra Nevada Mountains. They, as do all similar rural educational institutions, face many challenges and obstacles in their efforts to provide quality education. Through combined efforts, however, on the part of the teachers, administrators, students, parents, and legislators, these schools have met the challenges of providing quality education and deserve this special recognition. This special statewide recognition has gone to only a small handful of the thousands of elementary schools in California.

For the Nation to prepare for the future and meet the challenges which lie ahead, all children and young adults must receive quality education. Teachers must be trained and adequately compensated for their efforts. Parents must be involved and supportive of these efforts, and administrators and policymakers must work to provide the necessary resources. It is only through a combination of these ingredients that programs will be developed to meet the many and diverse needs of the Nation's students.

Tenaya, Sonora, and Summerville Elementary Schools have taken these key ingredients and have provided to the children of the Tuolumne County region the type of education which is vital for all of America's children. Let these schools stand as examples and inspirations as we seek to give all children in this country the chance to be the best they can be, for themselves and for the future of this great Nation.

I wish to congratulate and extend to these three elementary schools, the praise they deserve.

DESERTED BY THE PRESS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. OBEY. Mr. Speaker, as most Members of this body are aware, one of our colleagues, Mr. GEPHARDT of Missouri, has been the subject of a great deal of national press attention in recent months. In addition to many good things that have been said about him, his surprise victory in the Iowa Democratic caucuses and his advocacy of a tougher trade policy have stimulated a good deal of criticism by his opponents and members of the press who disagree with his position on trade. I think most of us in this Chamber, whether we support the GEPHARDT candidacy or not, share a sense of dismay and concern over how far off base much of that recent criticism has been. It is hard to find a Member whose intellect and integrity is more broadly respected by the people who work with him day in and day out.

Last week, one brave member of the national press corps also directed attention at how badly his colleagues had treated the GEPHARDT campaign. Columnist Mark Shields argued in the Washington Post that:

> The pervasive intellectual elitism of what was once called the "Working Press" has created insensitivity to the values and experience of everyday Americans.

And, therefore, to the importance of what GEPHARDT has been saying on trade, according to Shields:

> After GEPHARDT won the Iowa caucuses, he was savaged in the papers and on the networks. Economic nationalism was mostly forgotten and the target became the Missourian's alleged cornfield conversion to populism.

There is one point which Shields did not make concerning this affair which I think is very important. The real victim of this mistreatment has not been DICK GEPHARDT. The real victim has been the national dialog that we should have been having on trade. Many serious scholars with no particular involvement in Presidential nominating politics believe that the current world wide imbalance in trade has placed the United States and the world on the brink of economic disaster. How public policy can be used to prevent that disaster should be a central topic of national debate. Instead of that dialog, we have had an argument over how Mr. GEPHARDT should be labeled and what were his true motives in putting forward such proposals. That kind of coverage shortchanges not only those who think GEPHARDT is right and deserves to be heard but also those who think his followers are wrong and should be persuaded to view the problem differently. Neither side has had their day in court.

I would like to insert the Shields' column in the RECORD at this point and express my hope that others in his profession will begin to see the need for an open and full discussion of this topic free of labels or challenges to the character or motives of those who may choose to participate:

DESERTED BY THE PRESS: GEPHARDT DESERVES BETTER

> In his sudden emergence as a presidential challenger, Albert Gore Jr. of Tennessee hit the jackpot using somebody else's nickel—a message of economic populism that had been fashioned by Rep. Richard Gephardt of Missouri. As long as Gore concentrated on his defense and foreign policy differences with the other Democratic candidates, he remained stuck at the back of the pack. The Tennessean's move upward began only when his TV spots presented him as the champion of the struggling "us" against the powerful "them."
>
> That the beneficiary was Gore rather than Gephardt is mostly attributable to the pervasive intellectual elitism of what was once called the Working Press.
>
> That is right, elitism. Too many in the press are no longer ink-stained wretches, but instead theologians of an internationalist economic dogma in which the assertion of national interests (always branded "protectionism") is a mortal sin. In his campaign, Gephardt has articulated two powerful themes, populism and economic nationalism, which are distinctly different from each other.
>
> After eight years of an administration ethic, borrowed from George Bernard Shaw, that "lack of money is the root of all evil," a populist reaction was probably inevitable. But Gephardt's economic nationalism is rooted in the values and experience of everyday Americans.
>
> First, the exclusionary acts of our trading partners offend our fundamental American commitment to fair play. Next, when the first TV news of almost any day reports the latest battering of the dollar in Hong Kong, Tokyo or London, our national pride is wounded: we wonder why our leadership, without resistance, has yielded control over our economic destiny to an assortment of

lesser nations that seem to have a clearer sense of their national interest. And, although Gephardt has mostly failed to address this element of our character, our native American optimism tells us that, yes, we can do something to reassert control of our national economic destiny.

Gephardt boldly grabbed the opening that Ronald Reagan left him. Reagan's uncanny instinct for expressing the popular will failed him on the political issue of trade because of his blind devotion to the doctrine of free trade. Diplomatically, Reagan's policy has been mostly one of aggressive nationalism. On trade, Reagan turned uncharacteristically internationalist and passive. While American factory workers and farmers do not view more and more foreign ownership of the United States as the route to national recovery and autonomy, the economic and governmental elites, according to a recent survey for Smick-Medley Associates, are unconcerned. The press, on this one, sips sherry with the elite.

After Gephardt won the Iowa caucuses, he was savaged in the papers and on the networks. Economic nationalism was mostly forgotten and the target became the Missourian's alleged cornfield conversion to populism. How could the consummate congressional operator, the question was raised several thousand times, really be a populist outsider? In order to be a genuine populist, apparently you can only be ineffectual. It is true that his switches on both abortion and tuition tax credits encouraged his critics to raise doubts about his philosophical fickleness. So the press criticism of the Iowa winner focused not on the content of his message but on the character of the messenger himself.

For effectively raising the trade issue, Gephardt was accused of "pandering."

According to the published tabulations of media watchdog John Merriam, Gephardt has received far and away the most negative TV coverage of any Democratic candidate. Only Pat Robertson has gotten worse coverage. Deprived of free media to deliver his distinctive message to voters in some 20 states, Gephardt lacked the funds to buy enough commercial time to compete with Gore and Gov. Michael Dukakis of Massachusetts. Then the Missourian had to watch the lavishly financed Dukakis attack him in TV spots that charged Gephardt with taking unclean political action committee contributions. The irony went unnoticed in the press: Gephardt had apparently not taken enough PAC money to be able to make a rebuttal. He could not point out that it was the Bradley-Gephardt fair tax bill that led to the elimination of $90 billion worth of loopholes for the rich and the powerful.

But the press has mostly not seen the Gephardt story this way. On the issue of economic nationalism, the press has chosen overwhelmingly to join the ranks of the privileged and to desert the people. Dick Gephardt and working Americans deserve better.

GRAZING ON AMERICAN RANGELANDS

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. HANSEN. Mr. Speaker, we all well know the problems that occur when public policies are guided by misinformation. It is difficult to turn around the tide of emotionalism that can accompany such accounts. I believe this has occurred to a certain extent in the case of America's rangelands and the perceived effects of grazing on these ranges.

In a paper written by Thadis W. Box and John C. Malechek, professors of range management at Utah State University, they demonstrate that on the whole, America's rangelands are in the best condition they've been in since the 1930's and on the average they are improving. This is a different picture than is painted by many extreme environmentalists.

It is vital that we, as elected officials and the public at large, take the time to learn the facts. Public policy that governs rangeland must be guided by clear objectives based on accurate information. I am submitting an abstract from this paper which, I believe, is a good starting point for all of us:

GRAZING ON AMERICAN RANGELANDS

(By Thadis W. Box and John C. Malechek)

Grazing is a natural process on all plant communities. The American rangelands evolved under heavy pressure by bison, elk, and other large grazing animals. Livestock replaced the native animals soon after settlement, and the settlers from more humid areas overestimated the capacity of the semi-arid western range. Overstocking, combined with drought in the last half of the 19th century, caused most western ranges to deteriorate badly within three decades after settlement.

Most ranges continued in poor condition until the late 1930's when modern range management techniques developed. Western ranges have improved substantially since World War II and are now in the best condition they have been in this century.

The effect of grazing on plants is related to the forage preference of the animal, the animal's behavior, the resistance of the plant, the timing of grazing, and climatic events. The process is complex and not well understood, but research information and experience is expanding at a rapid rate. Two research areas show particular promise for increasing production: stress physiology of plants and animal behavior in grazing. Recent physiological research has helped redefine the response of bunchgrasses and shrubs to grazing. Studies in the early learning of grazing animals indicates that animals can be conditioned to graze the ranges more uniformly and enter feedlots more receptive to concentrate feeding.

More is known about managing rangelands than is currently applied. With proper extension of research results, most range goals can be met with today's knowledge. More information is needed in the basic biology of plants and behavior of the grazing animal if ranchers are to become competitive with other industries.

Public policies guiding rangeland use are poorly developed and are not likely to improve unless the public is better informed about the needs of society and the effects of grazing.

[NOTE.—The complete text of this paper may be found in the Proceedings of the Western Section of the Animal Science Society of America, pages 107-115.]

ALPHA EPSILON SIGMA OF MINNEAPOLIS COMMUNITY COLLEGE AWARDED FIRST ANNUAL DISABLED AWARENESS PROJECT AWARD

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DEFAZIO. Mr. Speaker, I rise today to pay tribute to the first annual Disabled Awareness Project Award winners, the Alpha Epsilon Sigma chapter of the Phi Theta Kappa. This award is given to the chapter of the Phi Theta Kappa that promotes the National Disabled Awareness Project in an exemplary fashion.

Throughout the year Alpha Epsilon Sigma has involved its members in projects that have enhanced the quality of life for the disabled members of their community. The members volunteered their time for reading and note taking, read text books onto tapes, and sponsored outdoor activities for the Minneapolis Community College physically disabled students.

Mr. Speaker, we should be proud of these young men and women. They have volunteered their time and talents to promote handicap awareness in both their community and on their college campus.

MOTHER TERESA AND THE MIRACLE OF LIFE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DORNAN of California. Mr. Speaker, former California Gov. Jerry Brown and I have often found ourselves at odds over fundamental family values. While we continue to disagree on certain issues, thanks to the grace of God, and the compassion of Mother Teresa of Calcutta and her Sisters of Charity, abortion is no longer an issue that separates us.

It is a sign of hope that Governor Brown, an Irish Catholic politician from my home State of California, has seen the light—the right to life light—after a 3-week visit with Mother Teresa. I am heartened that he has broken his links to the chains of death forged within the liberal elements of his Democratic Party. I urge my colleagues to read about Governor Brown's profound conversion on the key life issue and ponder its meaning for their own fragile careers. "What doth it profit a man to gain the whole world and * * *."

[From the Arlington Catholic Herald, Feb. 18, 1988]

EX-GOVERNOR JERRY BROWN CHANGES VIEW ON ABORTION

(By Sr. Mary Ann Walsh)

WASHINGTON (NC)—Former California Gov. Edmund G. "Jerry" Brown Jr. sees "the killing of the unborn as crazy" after a three-week stay with Mother Teresa in Calcutta, India.

Brown spoke in a telephone interview Feb. 10, the day after he returned from Mother

Teresa's Home for Dying Destitutes, where he worked with the Missionaries of Charity Jan. 13-Feb. 9.

Now a lawyer in Los Angeles, Brown said he did not support efforts to ban abortion while governor, but he said working with the nuns "gave me a different perspective on the whole question of abortion."

It does not make sense to support abortion, he said, after spending time "comforting and protecting the lives of the suffering with not as high a quality of life as a three-month fetus that is healthy and has potential."

That "this country and Europe see the need to kill so many unborn does not seem to be justified," said Brown, who sought the Democratic presidential nomination in 1976 and 1980.

"It's just that we've organized society to be anti-life," added Brown, who said he plans to re-enter politics, but not immediately.

In Calcutta, Brown, a former Jesuit seminarian, began his day with morning Mass with the nuns and then, with other volunteers from several nations, worked with the sick.

He said he "helped bathe patients, serve food, take care of whatever needs there were—cut hair, shave, hand out medicine."

He saw many get well at the home, where many are treated for tuberculosis, but also saw about a dozen people die. The nuns' "respect" for the dead impressed him, he said.

A man was brought in from the streets with "a gaping wound in his shoulder," he said. "The socket was exposed. Two to three nuns "changed the wound every day," but the man still did not get well.

When he died, they wrapped his body in a white cloth, placed a rosary on him, covered him with flowers and left him there for a few hours. "It was like he was in state," Brown said.

The nuns showed "more respect for someone just off the streets than some people with substantial means get in developed countries," Brown added. "It would be great to take the attitude that created that environment and spread it around the world."

Brown said Mother Teresa's belief that one sees Christ in the poorest of the poor showed clearly at the hospital.

The day he left, he said, he was "holding a man—some are very feeble, they can't stand up." A passerby commented, "You're holding the body of Christ, and just walked on," Brown said.

"Anywhere else that would seem artificial," he added, but not with Mother Teresa.

Brown attended Mother Teresa's evening lectures to her sisters, following adoration of the Blessed Sacrament. He described the setting as "400 Missionaries of Charity kneeling on a cement floor with the (automobile) horns of Calcutta as background" while the Nobel laureate nun spoke.

She taught that "Christ is in your hand" in "what you do for me (the poor), what you do with me, and what you do to me," he said.

The words were simple, but in Calcutta from Mother Teresa they had "more immediacy," Brown said.

Her nuns give a pure message of Christianity, Brown said.

It is "very clear when people are devoting their lives to taking care of the poor, sharing similar conditions, doing it with good humor, joy, laughter and compassion," he said. "That's as pure a message of Christianity as I can imagine."

Seeing people die made Brown "realize there's a lot of suffering in the world." He cited a need for developed countries to help underdeveloped nations, especially with medical supplies.

"Tuberculosis, malnutrition, dysentery," the diseases he saw, he said, are "all preventable."

Countries such as the United States, Soviet Union and Japan "should talk more about reducing human suffering," Brown said.

FATHER FRENCH MARKS 50 YEARS IN THE PRIESTHOOD

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DWYER of New Jersey. Mr. Speaker, I rise today to share with my colleagues in the House a wonderful event which will be celebrated in the very near future in my district. On April 10, the clergy and parishioners of St. Thomas the Apostle Church in Old Bridge, NJ, will honor Father Walter French on the occasion of his 50th anniversary in the priesthood.

Father French's story—a story of a lifetime of service and faith—should serve as an inspiration to us all. The eighth of nine children, he went to live with an older brother following the death of his mother when he was 10 years old. He answered the call to the priesthood, graduating from the Seminary of Our Lady of Angels at Niagara University.

On April 2, 1938, he was ordained in Trenton and served at various parishes in New Jersey for 10 years. In 1948, he was appointed pastor of St. Thomas the Apostle Church in Old Bridge, which was a small, rural parish in those days.

The growth which occurred in the Old Bridge area, and in St. Thomas, during the 1950's was unprecedented. Father French met the challenge and in October 1960, a new church, school, and hall were opened. The population growth continued and additional classroom space was added in 1966. The small rural parish finally reached maturity, relieving the constant press for additional space.

On January 2, 1973, Father French retired as pastor and was appointed pastor emeritus. He continues to reside at St. Thomas, ministering to those who seek his guidance, available to serve the parish he, more than any other person, built.

Mr. Speaker, I know that you and my colleagues in the House of Representatives will join me in offering to Father Walter French the most sincere best wishes of the U.S. Congress on this joyful occasion. His commitment to his church—to the service of its people—and his lifetime of dedication to God have made a major contribution to the quality of life of thousands of his parishioners. For this, we offer our congratulations and best wishes for the future.

HONDA NORTH AMERICA CEO ADDRESS CONGRESSIONAL AUTOMOTIVE CAUCUS

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. TRAXLER. Mr. Speaker, recently Members of the congressional automotive caucus had the pleasure of hearing from Mr. Tetsuo Chino, chairman of the board for Honda North America.

Mr. Chino wanted to let us know of recent developments at Honda's facilities in Ohio, as well as the recently started program of exporting vehicles from the United States to Japan—a most pleasant action.

I am sure that our colleagues would be most interested in Mr. Chino's comments, and I ask that they be inserted in the RECORD at this point.

The statement follows:

MR. CHINO'S REMARKS: THE CONGRESSIONAL AUTO CAUCUS MARCH 10, 1988

Good afternoon, ladies and gentlemen. It is a privilege for me to be invited to the luncheon today. I am delighted to have an opportunity to update you on Honda's growing commitment to the United States.

As you may know, earlier this week, the first lot of Honda accord coupes, a model that is only built at our plant in Ohio, was loaded onto a ship in Portland, Oregon—bound for sale in Japan. This time we ship 540 units. Though this year it will be 4,000.

Building cars in the United States and selling them in the world's market places is a significant part of the overall strategy for Honda.

Let me explain briefly our strategy we recently announced.

It consists of five elements, namely:

The expansion of Honda's research and development activities to design and engineer Honda products here in the United States.

The expansion of Honda's production engineering activities to develop and manufacture unique production equipment in the United States.

The expansion of parts and raw materials sourcing in the United States to increase domestic content from its current level of 60 percent to 75 percent in 1991.

The continued expansion of manufacturing facilities in the United States to meet worldwide customer demand; and,

Of course, the export of our American-made cars and motorcycles to Japan and other countries.

Through these steps, not only we create thousands of additional jobs both directly and in spin-off in related industries but our capabilities of research and development and production engineering in the United States are vital to worldwide competition and eventually to the growth of industry.

Now, I would like to talk about our production and export operations in the United States.

In 1979, we began producing Honda motorcycles at our Marysville, Ohio plant. The Honda Gold Wing Motorcycles were added soon afterwards.

The Gold Wings are our top-of-the-line motorcycles originally designed to be marketed in the United States, and are now exclusively made in the United States. Actually, the Gold Wings have been exported to 15 countries.

In 1982, we began producing Honda Accords in a new adjacent auto plant in Marysville. In 1985, we began engine production—first for motorcycles, and then for cars.

Last year, we produced 324,000 Honda automobiles in the United States, and this year it will be 360,000 units, which is the current maximum capacity of the plant.

As part of our strategy I talked about earlier, we are building a second auto plant in Ohio. Ground breaking will be later this month. The total production of both plants will be 510,000 units in 1991. The engine will be increased to the same number.

Our exports of automobiles from the United States then will be 70,000 units. Honda will be major American exporter.

Thus, all through our operations in the United States, beginning with research and development, production engineering, increasing domestic content, and going on to export, Honda will be an integrated and self-reliant American automobile company, which will have invested $1.7 billion in the United States by 1991.

I would like to stress one point—that is, Honda would not have been able to make those investments and operations in the United States without the opportunity to compete freely here. By being able to compete, we were able to win strong customer acceptance of our products. And once we achieved a certain level of sales, we were able to construct manufacturing plants here.

I sincerely hope free trade will be maintained on both sides of the Pacific to our mutual benefit.

Now, I am more than happy to add that the first shipment to Japan this time is being carried by an American-flag ship, named "Green Bay," of the Central Gulf Lines. We chartered this ship to transport Honda automobiles between the two countries, the United States and Japan.

I hope you will agree with me, when I say that the Honda Accord coupe being exported to Japan is more than a symbol of cooperation. It is the effort by many American people of various sectors, as well as that of opening Honda's new ERA across the Pacific.

In closing, let me reassure you, ladies and gentleman, that Honda's commitment to the United States has become and will continue to be stronger through team-work by people of the United States and Japan.

Thank you for your kind attention.

CONGRESSIONAL TRIBUTE TO LOS ANGELES ATTORNEY, JOHNNIE L. COCHRAN

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DIXON. Mr. Speaker, it is with great pride and admiration that I rise to recognize the accomplishments of a distinguished member of the Los Angeles legal community and close friend, Johnnie L. Cochran, Jr., Esq. On March 31, 1988, the University of California at Los Angeles Black Alumni Association [UBAA] will honor Johnnie by presenting him with their second annual UBAA Distinguished Achievement Award. Mr. Speaker, that award is richly deserved.

Johnnie was born in Shreveport, LA, and he has resided in California since 1943. He received his undergraduate degree in business administration from UCLA, the eminent university honoring him with the award. He completed his juris doctor degree and graduate legal studies at Loyola Marymount University and the University of Southern California, two distinguished institutions of higher education that are located in my congressional district.

As a deputy city attorney for the city of Los Angeles, Johnnie served in the criminal division from January 1963 until April 1965. In 1966, he founded the law firm of Cochran, Atkins, & Evans, and developed a thriving practice handling a substantial volume of both civil and criminal cases. He earned a reputation as an outstanding trial lawyer, a reputation which resulted in the Los Angeles Criminal Courts Bar Association naming him Criminal Trial Lawyer of the Year in 1977.

From 1978 through 1980, Johnnie served as the assistant district attorney for Los Angeles County, with general administrative responsibility for the 60 attorneys in the office. In 1981, he returned to private practice, specializing in personal injury litigation, entertainment law, public financing, and criminal defense under the firm name, Johnnie L. Cochran, Jr., Inc.

Johnnie has taken time from his active legal career to display a solid commitment to community service. He has spoken throughout the country on various aspects of the criminal justice system and has served as an adjunct law professor at UCLA School of Law, where he taught a course in trial tactics and technique. He also taught a similar course at Loyola University's School of Law. He is an active member of the Second Baptist Church, where he serves as legal counsel. He has served on the board of directors of such diverse organizations as the Criminal Courts Bar Association, the Langston Bar Association, LA Urban League, the Oscar Joel Bryant Foundation, the UCLA Foundation and the 28th Street Y.M.C.A. He also serves on the Mayor's Task Force for Africa, and the Los Angeles Black/Jewish Coalition.

Johnnie's expertise in his field and his contributions to LA's legal community have not gone unrecognized. In 1981, Mayor Tom Bradley appointed him to the Los Angeles' Board of Airport Commissioners. In 1982, he was nominated for LA County District Attorney, and he became one of the four finalists for the position. In 1983, the John M. Langston Bar Association awarded him the Honorable Loren Miller Award as trial lawyer of the year. In 1984, he received the Equal Justice in Law Award from the Legal Defense Fund of the NAACP, and was elected to the board of the American Civil Liberties Union [ACLU] Foundation of Southern California. During the Democratic National Convention in June of that year, he was also appointed special counsel to the chairman of the rules committee. In 1986, Johnnie was appointed special counsel to the committee on standards of official conduct.

Mr. Speaker, Johnnie Cochran is an exemplary citizen who has made outstanding legal contributions to the Los Angeles community. I am pleased to have this opportunity to call attention to his many accomplishments, and proud to inform my colleagues in the House of Representatives of the well-deserved honor being bestowed upon him by the UCLA Black Alumni Association. Please join me in congratulating Johnnie on his achievements and wish him, his wife Dr. Sylvia Dale Cochran, and children Melodie, Tiffany, and Jonathan much happiness and continued success in their future.

INTERVIEW WITH PRESIDENT MOBUTU

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DYMALLY. Mr. Speaker, I hereby submit for review an interview with President Mobutu of Zaire, conducted by Dr. Jeffrey M. Elliot and myself, in January of this year, in Kinshasa, Zaire. The article appeared in the March 7, 1988 issue of Africa News.

[From Africa News, Mar. 7, 1988]

I HAVE A CLEAR CONSCIENCE

(By Jeffrey M. Elliot and Mervyn M. Dymally)

(Sitting astride Africa's mid-section and bordering nine other countries, Zaire has an importance that is both strategic and symbolic. Its size—roughly equal to the United States east of the Mississippi River—its rich natural resources and its firmly pro-Western policies have ensured continuous financial and political backing from western Europe and North America.

(But enthusiasm for that support has recently been tempered by questions about the nature of Zaire's government. The conservative Washington, D.C.-based Heritage Foundation says Zaire "is one of America's most consistent allies in Africa" but calls President Mobutu Sese Seko a "corrupt Third World strongman."

(Mounting criticism of continuing U.S. aid to Zaire recently prompted Representative Mervyn Dymally (D-CA.), who currently chairs the Congressional Black Caucus, and Dr. Jeffrey M. Elliot, a writer and political scientist from North Carolina Central University who advises Dymally on foreign affairs, to visit Zaire, where they spent ten days traveling with Mobutu. For the third installment in our series on Zaire, we present the following excerpts from their conversations.)

Jeffrey M. Elliot: According to Amnesty International, your government has, over the past two decades, either ordered, approved, or condoned myriad human rights violations, including detention without charge or trial, imprisonment of political opponents, torture and ill treatment of prisoners, extrajudicial executions, and illegal surveillance and extortion. How can you justify such flagrant abuses?

Mobutu Sese Seko: First, let me say, I appreciate your candor. I can say, however, without equivocation, that I have a clear conscience. Most political outsiders view human rights in the context of a multiparty system. They demand that I institute such a system, which I refuse to do. Africa's history and traditions will not permit a two-party system. Nowhere in this continent have there been two chiefs in one village: a majority chief and an opposition chief. Dating back to ancestral times, there has been only one chief. In the United States and Europe, it is commonly accepted that enlightenment emanates from the clash of ideas. In Africa, we follow an ancestral policy in which, when a problem arises, we rally around the leader and work out a solution. Zaire is a shining example of this policy in action. For this reason, we have become the most stable country in Africa.

In Zaire, freedom of expression, which is guaranteed by the Constitution, is respected. during my tenure as president, I have struggled hard to restore peace, unity and security. My efforts are based on a firm belief in human rights. To demonstrate my commitment, and to quash the baseless charges against my country, I established a high-level department on human rights, which reports directly to me. You will not find a similar department anywhere in Africa. Moreover, I urged Amnesty International to return to Zaire. Their delegation spent eight days here this past November. They conducted a thorough investigation, during which time they spoke to everyone they requested to see. In the end, they left satisfied. Later, the Association of African Lawyers which, like Amnesty International, is deeply concerned with human rights issues, and whose current chairman is a Senegalese, requested my permission to establish a branch in Zaire. I immediately approved the request.

Let me ask you a question: How many of Africa's 50 independent states have a multiparty system? Of these 50, how many can boast a better record than ours? Zimbabwe, for example, experimented with a multiparty system, but was forced to abandon it and return to a one-party system. Ask Zimbabwe's socialist president, Robert Mugabe, why it failed. His answer should prove instructive.

When I took power in 1965, I inherited the Belgian system—a system that was totally corrupt. At the time, the Belgians had established Catholicism as the official state religion, relegating Protestantism, Kibanguism, and Islam to second-class status. That act was a direct assault on religious freedom. Although I am a devout Catholic, I abolished religious inequality and placed all religious denominations on an equal footing. I did so in order to serve freedom and justice.

Mervyn M. Dymally: But Amnesty International maintains that hundreds of political prisoners have been arrested, detained or imprisoned, often without ever being charged or tried. Do you dispute these accusations? If so, why do you think they persist?

Mobutu: I wonder if a head of state should swear, but if anyone can cite the name of a single political prisoner, supported by hard fact, who is presently in any Zairian prison, I will immediately resign. As far as Amnesty International is concerned, I indicated that they were in Zaire last November at the invitation of the special department that oversees human rights and civil liberties. They left satisfied, and so am I. Without overstating the case, I am convinced that Amnesty International's attitude towards Zaire has changed markedly as a result of their investigation.

Elliot: You opponents contend that the government does not respect the fundamental rights of workers. There is no freedom of association with respect to independent trade unions; collective bargaining agreements are not guaranteed; working conditions are abysmal; purchasing power has plummeted; and unemployment is at a record high. How can your government be described as anything but antiworker? Don't these facts speak for themselves?

Mobutu: They would if they were true, but they're not. In fact, they bear no resemblance to the truth. The truth is, my government recognizes fundamental worker rights, a fact acknowledged by our membership and participation in the International Labor Organization. The National Union of Zairian Workers (UNTZA), a federation of several earlier independent and Christian trade unions, is active on the international scene, affiliated with international labor organizations, and enjoys close relations with your AFL-CIO. Collective bargaining agreements—approximately 600—are guaranteed. While working conditions may fall short of Western standards, they are much better in the organized sector represented by UNTZA than in the informal sector. No labor leaders are presently in detention, and several former leaders who have disagreed with union policies are now free and pursuing their personal interests.

Dymally: Despite several presidential amnesties to Zairian political exiles, reports persist that many of your critics have been subjected to detention and/or arrest. Are you prepared to welcome home all of your political opponents, both those in the United States and abroad, with the promise that they will not be harassed or imprisoned?

Mobutu: Absolutely. In fact, tens of thousands of Zairians who fled the country during or after the rebellions of the 1960s and the Shaba events of 1977 and 1978 have already returned to their homeland. They know they are welcome—that Zaire belongs to them, not to President Mobutu. If you meet any of them in the United States or Europe, assure them that they have my word; that they may return home without fear. Those who are most qualified will certainly find jobs. That is a national priority, not simply mine.

CORRUPTION

Elliot: According to top officials of the International Monetary Funds (IMF), Zaire is plagued by "uncontrollable corruption" and the "illegal outflow of wealth from the country." The IMF charges that money for improving farms, roads and agricultural projects has been diverted into personal use by government officials. In one speech, you yourself called bribery "the Zairian illness." If this is true, why hasn't your government punished the guilty parties and adopted strong measures to prevent future corruption?

Mobutu: Your last quotation is inaccurate. I never stated that bribery is "the Zairian illness." I once condemned corrpution, but I never described it as my country's illness. To be accurate, I stated—while expressing New Year's wishes to my officers—"We keep hearing about corrpution, without knowing who is corrupt and who is corrupting."

At the time, I was specifically referring to you—the American and Europeans—who taught us the art of corrupting. When you come to Zaire to sell your products, you tell our officials, "It costs $800. But for you, I'll set aside $200 per piece. That would amount to one million dollars—all yours." That is corruption, and you introduced it. You are therefore unfit to educate us on public morals, since you have yet to address the same ethical concerns in you respective societies.

Corruption is not a Zairian problem; it is a world problem. Take the Lockheed case, for example, which involved high-ranking government officials in the United States, Germany, and Japan—and ultimately the President. No, the sole purpose of these rumors is to spoil the good name of Zaire. If our critics were honest, they would point the finger at those nations which are most guilty of corruption. We all know which are the most corrupt nations in Africa. Unfortunately, for diplomatic reason, I can't cite them.

Dymally: Your critics argue, with strong conviction, that Zaire's security forces have, over the past two decades, engaged in wanton corruption. Doesn't this reflect a failure of leadership?

Mobutu: Although some abuses and lack of discipline among low level security personnel may occur from time to time, major efforts have been made since 1985 to improve security force conduct. For example, regular police roadblocks have virtually disappeared. While incidents of extortion are reported on occasion, the practice is not condoned by the government and the perpetrators are increasingly brought to justice. Practices introduced during the colonial period, when security forces under Belgian control employed harsh measures, are presenty being corrected.

Dymally: Your critics contend that you are fabulously wealthy, with an estimated personal fortune of $5 billion, which includes 11 palaces in Zaire and numberous villas in various European countries. How did you accumulate such enormous wealth? Isn't your lifestyle incongruous with the abject poverty that plagues Zaire?

Mobutu: Although this question has been raised—and answered—many times, I will respond to your inquiry with total frankness. My conscience is clear. I challenge the existence of these alleged international financial experts—who frequently choose to hide under the cloak of anonymity in order to spread false propaganda against me. Who are these financial experts? These reports emanate from the press. Why do they persist? Frankly speaking, some reporters have been manipulated by questionable interests. Who are these interests? In truth, I have been singled out for attack because I am a nationalist. Moreover, I am intransigent on the subject of nationalism. In 1967, for example, I nationalized the Union Miniere, today known as Gecamines, making it the exclusive property of the Zairian people. Ironically, from that date on I became the object of scorn and derision, as I was widely considered to have pilfered Gecamines' profits in order to enrich myself, even though its finances are closely monitored by company auditors. Yet, its balance sheet bears no budget titles suggesting my involvement in its financial operations. Let me repeat: Gecamines is the exclusive property of the Zairian people.

When I assumed power, my budget was called a "dotation"—a special presidential fund. However, unlike other presidential funds, mine is known and is subject to parliamentary approval. Every year I submit a budget proposal which must be approved by Parliament. At times, it has voted to disapprove various presidential requests. This year, without my requesting a raise, Zaire's elected representatives voted to increase the presidential fund, after assessing the uses to which it was put. Thus, my budget is officially known by the Parliament and the people.

In the past, when I went to Europe, I stayed in sundry hotels. However, my European friends repeatedly advised me, "Mr. President, your security is not assured when you reside in such hotels. We strongly urge you to purchase several homes, as your security is of the utmost importance. You should own your own homes, where you can guarantee your security. Look at such and such head of state. He has proper security. By the way, if Zaire can afford to spend so much on your security when you travel abroad, then buying homes should not prove exhorbitant." The very friends who gave me this advice are the same ones who disseminated the false rumors about the myriad castles and villas I am supposed to have. These are typical of the kinds of intrigues and conspiracies to which I have been subjected.

Clearly, I would be lying if I said I do not have a bank account in Europe. I do. I would also be lying if I said I do not have considerable money in my account; I do. Yes, I have a fair amount of money. However, I would estimate it to total less than $50 million. What is that after 22 years as head of state of such a big country?

As for my alleged fortune, do you recall the remark which a Belgian once made to one of his country's top-ranking officials? The man who made the remark has been my subordinate for over 20 years, first in the army, and now at the Presidency. He was asked a similar question about my finances, to which he replied: "From the way things are going, I am afraid for this man. He has a large family, with many children. If he dies, he will do so in misery. He has spent his money building chapels, temples, cathedrals, schools and clinics. Patients who could not be treated at home were flown to Europe or the United States. That is how he has spent his money."

Besides, of Africa's 50 independent countries, can you name one leader—just one—who can boast of having spent as much of his own money to benefit so many people? No, I have a clear conscience. I am an honest man. I have not pocketed one dollar of the people's money.

Finally, my so-called fortune has proven extremely beneficial to many African causes. An American journalist should be sent to Mozambique, so that that country's president, Joaquim Chissano, could tell him how helpful I have been to that nation's freedom fighters. The former president, Samora Machel, was likewise aware of my assistance. Thanks to my alleged fortune, I sent trucks, jeeps and officers to train Mozambique's army in Tanzania, while arms and ammunition were sent day and night via our pilots. On Mozambique's independence day, 3,000 Mozambique soldiers marched into that country through Tanzania, all of whom were clad in helmets, boots and uniforms supplied by Zaire.

The same alleged fortune has proved extremely helpful to the security of my neighbors and other African states. It enabled me to train five battalions of paratroopers—two for Burundi, one for Rwanda, one for Togo and one for Benin. It also enabled me to train 250 Mauritanian commando-paratroopers, as well as to help Chad score a crushing victory over Qaddafi. We trained five battalions in Zaire, and a sixth is presently being trained. All of this has been done without publicity, very much unlike France, the United States, Great Britain, Japan or Canada, who would typically follow up such good deeds with self-serving press releases.

Moreover, when Mauritania, Senegal, Mali, Cape Verde and Guinea were hit by a drought, for two years running I sent them checks drawn on the Bank of Zaire to help them to ease the crisis. This was done quietly and without fanfare. Similarly, when Sekou Toure's Guinea was hit by an earthquake, I sent a check for one million dollars to help them as a sister nation. They were the ones who made it public. Last year, when yet another African country, Cameroon, suffered a gas explosion, I sent them $200,000, as well as doctors and 20 soldiers who delivered tents and medicines worth over $200,000.

That is how I have used my alleged fortune—to strengthen the security of African countries and to lessen the plight of disaster victims. We have not done this because Zaire is rich; we are no richer than any other African nation. No, we want to teach our fellow African citizens the noble art of sharing.

During 22 years as head of state, I have never disclosed such inside information to anyone, for my mother taught me never to brag about my deeds of kindness to others. Because your question was so searching, I decided to be forthright and to open my mind to you, not for the pride of it, but in order to lay out the facts.

Elliot: Still, after over 20 years of your rule, the evidence reveals little improvement in the quality of life for the average Zairian. Indeed, the ordinary Zairian earns one-tenth of what he or she earned in 1965 before your government took power. It has been reported that half of the children die before the age of three, and one-third of those who survive past the age of three will die of malnutrition. Are you fighting a losing battle? Can the present situation be reversed? Is there reason for optimism?

Mobutu: The statistics and criticisms you cite, which have been published by *The Washington Post*, come from the Belgian press. They stem from the kind of dishonesty and unfairness that you would expect to find, given our checkered historical relationship.

There is, however, a major difference between the People's Republic of Zaire, my fatherland, and many other African countries. Let's go back to 1960 to 1965, a period I know quite well. At the time, Zaire was in complete ruins, following the most destructive civil war ever fought in Africa. Schools, churches, ports, roads and ferries stood in ruin. When I took power in 1965, my priority was to launch a massive reconstruction effort, whereas other African nations, such as the Ivory Coast, Gabon and Morocco began by building on what the colonial powers had left behind. This is an important difference, both from a social and economic standpoint. I rebuilt schools, bridges and hospitals throughout the country. I also repaired damaged tracks and replaced both broken engines and railroad cars. The projects culminated in the construction of the Inga Dam and the conveyance of hydroelectric power, which spans a distance of over 2,000 kilometers, from Inga to Shaba. In addition, I opened a much-needed maritime company, the Zairian Maritime Company, as well as Air Zaire. Reconstruction took a long time.

Meanwhile, I still had to deal with the problem of terrorism. For nearly a year, I left the capital and assumed residence in Shaba province in order to conduct the war. These obstacles should be considered when assessing my record. The rehabilitation program, coupled with the war against terrorism, cost Zaire billions of dollars and plunged my nation into debt—one that now totals $5.1 billion.

My friend, when you criticize me, please do not cite the foreign press, for these articles originate from Belgium. I can produce copies of all of them from my home library. There is not a grain of truth in any of them, for their sole purpose is to spoil the good name of Zaire. I hold nothing against the Belgians, or Belgium, for that matter. I simply cannot harness my nationalistic pride. It is only natural for me, as an unabashed nationalist, to resist any attempt by another country smaller than mine to interfere in our internal affairs, even if by a historical misfortune they once colonized us. I will never live to see that happen again. I place the interests of my country first; everything else comes after. I might sound like an unprogressive leader, but before criticizing Zaire, compare it with other African countries. In my view, we have made enormous progress.

Elliot: Granted that you have made considerable economic progress, most experts insist that the economy of Zaire remains fundamentally weak and vulnerable. Indeed, many observers contend that the Zairian people are deeply resentful of their economic plight—the "pauperization of the masses," as one analyst put it—but that they have been frightened into silence. Specifically, what measures have you initiated to improve the economic plight of the average Zairian?

Mobutu: As you know, Zaire, like many other sub-Saharan African countries, has experienced slower economic growth and deteriorating terms of trade since it won its independence in 1960. However, we are among those few nations fortunate enough to have benefited from a prolonged period of civil stability and peace, which has provided our people with relative physical security for the past 20 years.

Since 1982, I have initiated several major economic reforms which have increased business confidence in Zaire's future and have had a positive impact on the overall standard of living. Owing to the elimination of exchange and price controls, parallel markets have virtually disappeared and profits now accrue to legitimate marketers and small farmers, thus encouraging more regular supplies to markets. As a result, the supply of both foreign and domestic goods in Zaire's markets has noticeably increased, eliminating the periodic shortages that used to occur.

Moreover, improved fiscal controls since 1983 insure that key industries like mining now receive the foreign exchange and local currency they need to operate and to maintain their productive capacity, thus providing continued employment to Zaire's industrial workforce. In addition, improved fiscal and monetary policies have reduced rates of inflation and currency depreciation, and have encouraged a modest resumption of business investment. Although there have been setbacks in the external environment, the reform program has survived and conserved its momentum, leading to realistic hopes of progress and real growth in the medium term.

HEALTH CARE

Dymally: Many experts argue that your government has done little to improve health care in the country. For example, isn't it true that your government has not built one new hospital since 1965? They point out that in 1965, Zaire had at least two hospitals in every city. Today, less than 50% of these hospitals are functioning at 80%. Of the five hospitals in Kinshasa, only two are accessible to the general public. Why does your government tolerate such a situation? Isn't this reason enough for action?

Mobutu: First, I must take strong exception to the statistics you've cited. They're simply not accurate. I suspect you obtained them from The Washington Post, which, as I stated earlier, simply parrots whatever the Belgian press reports. These sources are completely unreliable.

Let's talk facts. At independence, Zaire had one of the most extensive infrastructures in Africa, with more than 400 hospitals. The current need is not to build new hospitals but to make the existing ones more functional. A few hospitals have been constructed, such as the one at Goma. With the help of foreign assistance, construction is nearing completion on a new hospital in Kinshasa.

During the pre-independence era, there were always two "hospitals" in each administrative zone—one for the Europeans and one for the Africans. This "double standard" was abolished and the expatriate clinics have been closed and/or converted into other service establishments, such as health centers. Today, there are several public hospitals in Kinshasa, including Mama Yemo, Kinoise, Kintambo, University Clinic, Ngaliema and Kimbanseke. My goal is to create 22 urban health zones and hospital centers, which will make health care more universally available.

As for the doctor-to-patient ratio, according to international sources, the ratio of patient-to-nurse-to-doctor has improved greatly since 1960. The population-to-physician ratio improved from 79,620 to one in 1960 to 14,780 to one in 1980. The population-to-nurse ratio improved during the same period from 3,510 to one to 1,920 to one. These figures compare favorably to those of other sub-Saharan countries. This past year, Zaire graduated about 1,700 nurses; in 1988, the number is expected to increase to 2,400. Those are the facts.

Dymally: Like many other African nations, Zaire faces a serious AIDS epidemic. It has been reported that one out of seven women is infected with the disease. What steps, if any, have you taken to meet this crisis?

Mobutu: Once again, your statistics are inaccurate. In fact, the AIDS virus is estimated to be present in approximately 6% to 8% of the urban population. Still, there is ample reason for concern. Although we have a lower incidence of AIDS than many of our neighbors, we have nevertheless vigorously addressed the AIDS problem. In this regard, we have initiated an aggressive information campaign aimed at educating the general population about the dangers of the disease. In a country of marginal literacy, this program has been innovative and creative in its approach, and has included: 500,000 leaflets warning of the dangers of the disease and the best ways to avoid it have been distributed; two episodes of the nation's most popular television show have addressed the AIDS problem, and several documentaries have been broadcast; a song about the dangers of AIDS by a widely popular singer has been recorded; newspaper and radio accounts of AIDS and question-and-answer columns and programs have been produced; churches and other organizations have been used to spread the word at services and special meetings; and 100,000 copies of a comic book has been published, which tells the story of a businessman who ignored warnings about promiscuity and caught the disease, passing it on to his family and friends.

In addition to these preventive measures, Zaire is presently collaborating with the international medical community, including the Pasteur Institute of Paris and the United States Centers for Disease Control, in an effort to find a cure for the disease.

Only recently, a team of Zairian and Egyptian doctors announced promising findings with a new drug known as MM1. During a six-month study of 39 AIDS patients, 12 of the 19 members of the test group survived and showed definite signs of improvement in their immunological responses, while all 20 of the control group died. A new study is presently underway, involving a larger group of patients, in order to verify the initial results to determine if MM1 is indeed a cure for this deadly disease.

Elliot: Many analysts charge that Zaire's socioeconomic infrastructure has broken down due to neglect by the nation's leaders. Your once extensive road network is now covered with bush. Eighty-three percent of the people live without electricity and telephones, many in mud huts. Do you dispute these statistics? If not, why haven't you attempted to correct the situation?

Mobutu: Despite the assumptions implicit in your question, the road system in Zaire has shown some improvement in recent years. Before 1960, the rural road network was maintained by forced labor under the Belgian colonial administration. During the civil disturbances from 1960 to 1965, bridges were blown up and roads mined, closing thousands of kilometers to vehicular traffic. At the same time, trucks became bigger and heavier and contributed to the rapid deterioration of fragile dirt roads, particularly during the rainy seasons. Starting in 1972, however, I created a National Roads Office that has been increasingly effective in improving road maintenance. Despite funding problems, this department has reopened some of the roads that were closed during the 12 years following new independence and is presently maintaining 30,000 to 40,000 kilometers a year.

DEBT AND FOREIGN POLICY

Elliot: In order to resolve the debt crisis stemming from the $5.1 billion you said Zaire now owes, you signed an unprecedented agreement with the International Monetary Fund, which your critics contend will produce deepening poverty and misery among the Zairian people. Why did you agree to such stringent IMF demands? How long can Zaire hold out without the danger of civil disorders—or worse?

Mobutu: First, I deserve credit for having limited Zaire's foreign debt to $5.1 billion, irrespective of our nation's wealth. Not long ago, I asked an eminent professor of international economics to evaluate the percentage and likely impact of this debt as compared to Zaire's known wealth. He concluded that it represented less than 2.5% of our national wealth. Clearly, $5.1 billion is modest when measured against the staggering debts of other African countries—for example, $8 billion, $12 billion, $19 billion, $26 billion, $40 billion. In addition, these nations owe their foreign debts to private international banks, while only 5% of Zaire's foreign debt is due private international banks. The remaining 95% results from financial assistance and government loans granted by the friendly countries, including the United States, France, Great Britain, Belgium, Canada and Japan. Thus, no one could claim that Zaire would be endangering the international banking system if it failed to repay its debts. For instance, we owed $40 million to Canada, but they chose to cancel it.

Let me discuss our agreements with the International Monetary Fund. These agreements were signed at the end of 1982. Up until 1986, Zaire had fully complied with the terms of the agreement with her international partners, including the World Bank and the IMF. In October, 1986, the Central Committee of our national party (the Popular Movement of the Revolution), met to evaluate the austerity measures imposed by our partners. It found that those measures had been extremely costly to Zaire.

The assessment showed that Zaire had, for four years (1983 to 1986), disbursed $1.9 billion toward the payment of our credits. Meanwhile, over the same period, we had received only one billion dollars in foreign assistance. In other words, Zaire had become a net exporter of $900 million of hard currency, as compared to what we had received. This upset many Central Committee members, who subsequently ordered my government to discontinue the austerity program.

We are prepared to fulfill our commitments as best we can, but this must not involve austerity measures intended to make the Zairian people suffer. The Central Committee also placed a 2% limit on any payments from export earnings. That is, if we receive one billion dollars in export earnings, we should pay back no more than $200 million.

Dymally: Many African leaders, yourself included, have been extremely critical of American foreign policy, particularly as it concerns Africa. In your view, is the Reagan policy doomed to failure? If so, why?

Mobutu: First, it is not my place to dictate United States foreign policy in Africa. However, present policy does not enhance the image of a great power like the United States. For example, recent statistics on American aid to Africa reveal that Egypt receives over one billion dollars, followed by Morocco and Tunisia, which receive hundreds of millions of dollars. Yet, famine and misery have exacted a heavy toll on several African countries south of the Sahara. How do you explain this disparity? How can you justify the billions of dollars given to North Africa, while many of the neediest countries receive next to nothing?

I don't mean to criticize your government's policy; I am merely pointing out certain facts. Unfortunately, the situation is not likely to improve, what with President Reagan's recent announcement that American aid to the Third World would be cut by 20%. The International Monetary Fund has, as you know, created a special fund estimated to total $11.5 billion over the next three years. This fund was intended to help ease the crisis in the developing world, especially Africa. The major participants in this partnership include the World Bank, the International Monetary Fund, France, Great Britain and Japan. The United States refused to participate. What explanation can you give for its refusal?

Elliot: As you know, Rep. Ronald V. Dellums (D-CA), has introduced legislation to withdraw military aid and put controls on economic aid to Zaire by the United States. How do you respond?

Mobutu: Does Zaire, in fact, receive military aid from the United States? In my view, such legislation only complicates our present relationship. You know all too well that American military aid is, for the most part, negligible. Two years ago, it amounted to the equivalent of 21 jeeps and assorted spare parts for our aircraft. If that is the extent of your aid, how would we suffer if it were curtailed?

Since independence, Zaire has been a dependable ally of the United States. However, we are paying dearly for our friendship. Indeed, time after time, the United States has invented myriad excuses for denying us aid—human rights violations, South Africa, corruption, etc. These charges are completely unfounded.

In all sincerity, I believe that those African countries which are inclined toward a Marxist-Leninist ideology, with close ties to the Soviet Union and its Eastern Bloc allies, are treated far better than is Zaire, which has opted for close ties with the West. For us, it has been a virtual sea of troubles. I expressed this same view to Vice President Bush, when he visited Zaire. In reality, Zaire receives little if any aid from the United States. How are we repaid? With ingratitude and criticism. Bush himself acknowledged that America's strongest critics are always rewarded, while their faithful friends are always poorly treated.

Let me cite a case in point—namely, the August, 1975 OAU summit, which was held in Kampala under the auspices of Ugandan President Idi Amin. President Jaafar Numeiry of Sudan introduced a virulent motion aimed at the Western powers. Although I am not paid by these nations to defend their interests at the OAU, I strongly opposed Numeiry's motion, not wanting the OAU to be regarded as ideologically anti-West or at the disposition of the East. President Numeiry again took the floor and lambasted me, stating, "He [Mobutu] can't speak up. He is a servant of the United States, a puppet of the West." This caused an uproar. The motion was then put to the floor for a vote. Almost everyone else followed my lead, and the motion was defeated. Two years later, President Numeiry chased out the Russians and his Eastern allies from Sudan and opened his doors to the United States. Since then, Sudan has been a yearly candidate for $100 million in American economic assistance.

In answering your question, I am making a great effort to choose my words carefully, for when I recall that trying accident, I am tempted to break all ties with your country. Numeiry insulted me, condemned you, and then reversed his stand, only to be rewarded with $100 million each year for additional aircraft, cannons, etc., while Zaire hasn't received a cartridge. At the same time, the United States has been fulminating a variety of problems in Zaire under the pretext of human rights violations, political corruption, South Africa and the like. If I have, against all odds, decided to remain a faithful friend to the United States, it is because in politics one must be courageous. Political courage cannot be defined as doting after a great power in the anticipation of future aid; what matters most to be are friendship and faith. That is the true meaning of courage.

Elliot: Isn't it true that Zaire has, at the urging of the CIA, allowed the Kamina Base to be used to provide covert American aid to Jonas Savimbi's rebels in Angola and that you have provided direct assistance to Savimbi?

Mobutu: No. You know very well the geography of Africa. If you examine a map of Africa, you will discover that Angola stretches 2,600 kilometers along our southern frontier. This boundary line is controlled by the legitimate ruling government of Angola. Everyone knows that for aid to reach this land-locked country, it must pass through South Africa or some other country, but not Zaire. Any aid that we might provide would inevitably fail to reach Savimbi, who is well off to the south—indeed, less than 20 kilometers from Angola's southern border with South Africa.

Not long ago, I officially requested that the chairman of the Organization of African Unity (OAU) appoint several military experts to improve the surveillance system at Kamina Base. They would be paid by OAU member states—although Zaire would be prepared to shoulder all of the expenses—and would be charged with the responsibility to examine the contents of every aircraft that lands or takes off. Although this approach would run contrary to current military practice, it would go a long way toward monitoring any possible violations.

Dymally: The Organization of African Unity has, for many years, supported a boycott against Israel. Yet, Zaire was the first African country to renew diplomatic relations with Israel that were severed during the 1973 Middle East War. At the same time, you have openly criticized Israel before members of Congress and castigated Israel for its Palestinian policy. How do you explain this seeming contradiction?

Mobutu: No contradiction exists. I view Israel as a friend, but this does not imply that I am slavishly obliged to endorse her policies. Even within Israel, where the government has hitherto enjoyed the complete backing of the people, voices of disapprobation regarding her West Bank policy can be heard. Thus, we are friends with Israel, but we have voiced strong opposition to those actions that we deem unjustifiable. Therefore, no contradiction exists. The United States supports Israel 100%. Yet, you recently criticized her West Bank policy, but are still friends. We view our relationship much the same way.

Elliot: In recent years, you have expressed strong opposition to Libyan President Muammar Qaddafi and his efforts to expand his sphere of influence. How serious is the Libyan threat in the region?

Mobutu: First, my goal is not to oust Qaddafi as head of state. Rather, I oppose many of his policies aimed at his sister countries in Africa, including Zaire. His occupation of Chad, for example, is in direct violation of one of the major clauses of the OAU Charter, which prohibits the occupation of one African country by another. The Charter recommends that all disputes be settled through peaceful negotiations.

Obviously, Qaddafi has resorted to military occupation for the simple reason that Libya is far more powerful than Chad. While Zaire is also less powerful, it still condemns Libya, both verbally in international forums and through its unconditional support for an independent Chad. Our position is consistent with the OAU Charter, which calls for non-interference in the internal affairs of other countries.

In this regard, I decided to brave Qaddafi's threats by intervening in Chad. This may be called the "right of interference," since Zaire does not share a common boundary with Chad. We are merely close friends. I do not expect praise for my position; it is a question of justice. Unfortunately, I have become a target, and wherever I travel in Europe I am heavily guarded. We are aware of, and are closely monitoring, Zairian Libyan-trained terrorists seeking to destabilize our country. Regardless of the personal consequences, I will not haul down my flag or retreat from Chad. Recently, we dispatched 3,000 paratroopers to Chad. Since that time, we have lost 22 of our best young men.

Dymally: Many critics have argued that consistency is not your most prominent trait. You speak of the need for African "authenticity" and for Africans to cast aside the bonds of "neocolonialism," yet Zaire is one of white-ruled South Africa's top African trading partners. How do you square this apparent inconsistency?

Mobutu: Your question makes me laugh. But, please don't think that I am laughing at you. You are an American, a citizen of the United States. You are fully aware that your country enjoys diplomatic ties with South Africa, as evidenced by the existence in Washington and in Pretoria of your respective embassies. My situation is quite different. We are drawn together by one simple fact: the transportation of our minerals through the Southern Road to our land-locked country. That is the extent of our relations. By the way, are Western journalists unaware that all European countries have embassies in South Africa—that they engage in economic trade and military cooperation?

Don't forget, Zaire is hemmed in, and is required to use the Southern Road, which transports 25% to 30% of our minerals. The national port simply cannot accommodate more than 40% of our imports or exports. The remaining 60% is transported by the Southern Road or the Tanzanian Road. Therefore, our relationship with South Africa is, strictly speaking, a matter of survival. Moreover, it is not a gift from the South African government; we are billed for using their railway.

Obviously, my policy has drawn sharp criticism. However, consider those other African nations that cannot survive without South Africa; nothing is said about them. Zaire is the only scapegoat. That is my response.

Elliot: As far as South Africa is concerned, do you support President Reagan's policy of "constructive engagement"? Do you favor stronger sanctions or direct military intervention in South Africa?

Mobutu: Let's not go too far afield. If only the actions recommended by the United Nations were implemented to the letter, and with the full backing of the Western powers, we would not be where we are today. Clearly, the great powers are playing games in South Africa.

Dymally: According to your critics, you bear direct responsibility for the death of former Prime Minister Patrice Lumumba, who was arrested by your troops and flown to Katanga, where, it is believed, he was killed by Congolese or Katangese troops. Indeed, some observers maintain that you were part of a CIA plot to assassinate Lumumba. What role, if any, did you play in the collapse of the Lumumba government and the subsequent assassination of Lumumba himself?

Mobutu: As a black leader in your country, you are obviously sensitive to the plight of Africa and its peoples. However, your interest in Zaire's internal affairs is consistent with your nation's treatment of African countries as a whole. It seems to me that you are here in search of a scapegoat, as reflected by your probing questions concerning human rights, Savimbi, South Africa and now Lumumba. In some ways, I feel that I am on trial. In any event, let me respond.

First, I was not a high-ranking government official in 1961; I was in charge of the armed forces, not the Head of State. I don't wish to criticize my predecessor, President Kasavubu, but it was he who ordered Lumumba's arrest and his subsequent transfer to Lubumbashi in Shaba province, where he died.

When Lumumba was assassinated, I was in Kinshasa, carrying out my duties as chief of staff of the army. I was as surprised as anyone when the news of his death was reported. Since I wasn't there at the time, I don't know exactly what occurred. Neither do I know President Kasavubu's motives for transferring him to Shaba province. I don't know who assassinated Lumumba, and thus can't be of much help. To repeat: I wasn't the head of state; I was a soldier. I did not initiate policy; I merely executed orders from above. Besides, Lumumba's transfer was not within my jurisdiction. Nonetheless, I was, and remain, implicated in Lumumba's assassination because I was a member of the ruling government.

Let me try to shed some light on the actual sequence of events. In January, 1961, the period in which Lumumba was transferred and later murdered, the troops that were stationed in Shaba province, then known as Katanga province, were not under my command. This absolves me of the charge that "It was you, the army officers, who gave the orders." I had no control over the troops in Shabva, but was under orders from the government to suppress the secession. Thus, I held no position of power, either politically in Kinshasa or militarily in Katanga, to be held accountable for anything.

Why did I begin my answer with such a prologue? It appears that some people in your country would like to tie economic and military assistance to African countries to events such as this. Liberia is a case in point. As head of state, I shouldn't criticize another nation. However, you force me to give you an example. If you calculate American aid to Liberia, dating back to when Samuel Doe took power up until 1987, you would find that it is double that of Zaire's. Why don't you question Doe on his precessor's assassination? Liberia receives far more aid, but is not asked such questions; we receive virtually no aid, and can't live in peace. How can you compare Zaire's president, who did not murder his predecessor but merely removed him from power, to someone who brutally murdered his predecessor? [Note: Mobutu refers here to his overthrow of President Joseph Kasavubu in 1965.]

Until his death, for example, President Kasavubu enjoyed all of the privileges due an ex-president: a full salary, car, etc. When he died, he was given full military honors at his funeral. Thus, how can you compare these two cases?

Today, you can still see the small home President Kasavubu left in Kinshasa, and in which his widow and family resided. In my view, it wasn't dignified for the wife of an ex-president, so I decided to erect a more spacious home for her and her family. All of Kasavubu's children, who survived him, studied in Europe at my expense. His eldest son, a veterinary surgeon, is presently working closely with me; his daughter is a member of the Central Committee; and his wife is earning a salary equivalent to a full cabinet minister. Where else can you find a similar situation in Africa? It would be instructive if you could meet and talk to Mrs. Kasavubu, so that you could learn the facts first-hand.

As for Lumumba, his son, a virulent critic of my government, and one who fomented rebellion in Europe, is slated to return to Zaire within a fortnight. Go to Cairo, where Mrs. Lumumba has taken up temporary residence, and ask her whether she has received help from President Mobutu, what favors I've done her. I would like you to act as an intermediary in securing her return home, either through the intervention of a journalist or a friend. I am prepared to finance the mission.

The widow of Liberia's former president, William Tolbert, is presently residing in New York. Ask her if I have been helpful to her and her son, a law student in New York, whenever I visit there. Ask her son whether I have provided him with financial assistance? Ask him how many times he has visited Zaire? Ask him how President Mobutu received him? These are facts that shouldn't be overlooked, although, of course, I don't mean to blow my own trumpet.

Elliot: Your opponents insist that you are extremely egotistical. Indeed, a Zairian presidential hymn includes the words: "Today, we are going to admire the Guide Mobutu. If you see him, admire him. If everyone sees him, let them admire him. The country is called Zaire." Why have you so attempted to personalize Zairian politics? Aren't there dangers in establishing a government based on the cult of personality?

Mobutu: Believe it or not, there is no "cult of personality" in Zaire. It exists only in the minds of our critics. Zaire is not France, Great Britain, Denmark of the United States. Zaire is Africa in miniature. The customs and traditions you have witnessed over the past week do not even represent a quarter of what is tribal, authentic Africa. Since becoming head of state, I have supported a policy of cultural revival, in the hope that Zairians will rediscover themselves and their heritage.

Ambassador [Nguz a] Karl-i-Bond, for example, comes from a tribe in Shaba province, which has dedicated a song to its paramount chief. The song is called "Ndjalelo", which means "Hail to the Chief." In that tribe, the chief appeared only once a year, and when he did the event was celebrated for days on end, sometimes up to a week.

I am unable, however, to disappear for a year; I must be visible every day. The paramount chiefs of that province decided to dedicate the song to me, stating, "He is more popular and more successful than was any emperor in our history." That is how I came to be honored with the song "Ndjalelo," which is now sung not only when I visit Shaba province, but whenever I salute the army.

This reverence has never been imposed on the people. It emanates from deep within them, and it is a demonstration of their personal loyalty. Yet, this treatment is far short of what our African traditions require of the people. Therefore, when the Zairian people pay tribute to me as their chief, they are simply following their authentic, indigenous traditions.

Dymally: Finally, at age 57, you have survived it all: coup attempts, invasions by Katanganese rebels, defections by your highest officials. To what do you attribute your longevity—your survival? What explains your remarkable durability?

Mobutu: The answer is quite simple. My support over the past 22 years has come from the Zairian people—their loyalty and their love. Beyond that I can't say more. That relationship, viewed on a somewhat formal level, is one of complete loyalty. Although I am the boss, when I meet the troops, they regard me more or less as a comrade, particularly the paratroopers. As you know, I was a paratrooper myself. Among the military pilots, I am considered to be one of theirs. Since the army issues from the people, it is a reflection of their faith and confidence. My political survival is that simple.

I cannot judge myself, only the people can. For a country as large as Zaire, the leader must know his job, and must be accepted by the people. I know I am doing my job—that I am responding to the people's needs. Thus, I shouldn't brag about it. The people are the ultimate judge.

I've never had any illusions about the people's loyalty and faith, for there are clear signs and these signs do not mislead.

You might have heard rumors, for example, about my so-called illness and alleged death, which surfaced recently when I was out of the country. When I returned to Zaire and the people discovered that these rumors were baseless, I was accorded an unprecedented welcome by the Kinshasa population.

According to the media, of that city's 3 million inhabitants, 2.5 million men, women and children flooded the streets to give me a triumphant welcome. Neither me, nor a visiting statesman, had ever before received such a welcome. That is a clear sign—an unmistakable sign—of the people's affection. I will not belabor the point.

I have an idea. Let's drive to the university in my car, without a bodyguard, and without notice. I'll just bring my hat. Don't leave me for a second, so you won't think it was pre-planned. Let's try this experiment. It will reveal, most clearly, how I am viewed by the people.

SENATE—*Wednesday, March 23, 1988*

(Legislative day of Monday, March 21, 1988)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable Richard C. Shelby, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Is anything too hard for the Lord?—Genesis 18:14.

God of Abraham, Isaac, and Israel, You addressed that question which answers itself to Your servant, Abraham, father of the faith. You are an omnipotent God for whom nothing is too hard. Jesus reminded a rich young man who sought the kingdom of God by his own efforts that "with men it is impossible, but not with God: for with God all things are possible." (Mark 10:27) Your word is clear, Lord, and history confirms that man is not invincible—that however powerful, there are limitations to human power. As Your servants the Senators fight the battles that are moral and spiritual, help them to comprehend the limits of their power. Help them to understand where their power is futile. Make them aware of their need of You. Give them grace to accept the inadequacy of law—even the perfect law of God cannot produce a perfect individual or society. In the war of greed and lust that is debilitating America, turn their hearts to You, Lord, for the wisdom, power, which alone assures victory. We pray in His name in whom abides all power in heaven and on Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, March 23, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Richard C. Shelby, a Senator from the State of Alabama, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. Shelby thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, first let me thank the Chaplain for his great prayer this morning, for his great references to the grand old lessons that were taught at our mother's knee, lessons that come from the Holy Bible, the words of Jesus. These are words from which we can always gain strength, succor, comfort, understanding, and humility, all of which are needed if we are to best serve our people.

To paraphrase God's servant, Job: "Oh, that my words were written and engraved with an iron pen upon a ledge of rock forever, for I know that my redeemer liveth and someday He shall stand upon the Earth."

Mr. President, I am so grateful for the prayers that the Chaplain renders from day to day. They have a way of pulling us back from the precipice, helping us to get our feet on the ground and to realize how small each of us really is and making us wonder, as did the psalmist of old, "What is man, that Thou art mindful of him?"

INF TREATY

Mr. BYRD. Mr. President, I have come to the conclusion that it will be necessary for the Senate to attach a reservation or understanding of some nature to the resolution of approval of the INF Treaty.

I think that such an instrument is going to be necessary for the Senate to firmly and explicitly state its understanding as to the principles that will govern the correct interpretation of the INF Treaty.

I say this at a time when Mr. Shevardnadze is in town. I think he should understand and be reminded, not that he will hear what I say, but at least I will have done my best, to help him understand that the treaty will never go into effect until and unless the Senate votes by a two-thirds supermajority to approve the ratification of that treaty.

It will not make any difference what has happened theretofore. No treaty will ever go into effect without that approval by the Senate.

The issue of the authoritativeness of "treaty interpretation" is probably one that should never have arisen. For 200 years the Senate has advised and consented with respect to the ratification of treaties without requiring guarantees and assurances regarding interpretation. The Senate and the executive branch, during the course of Senate consideration of a treaty, reach common understandings on the meaning of such treaties, and the Senate has acted on the basis of those understandings. Not until the debate was joined over the meaning of various provisions of the ABM Treaty, was a proposition made that the Senate should explicitly state its detailed understanding of provisions of a treaty. In the absence of such an explanation, a treaty apparently may be open to subsequent interpretation based on material such as the negotiating record, which had not been presented to the Senate at the time it rendered its advice and consent.

The dispute over the ABM Treaty has not been definitely resolved. I have no desire to fight that battle on the Senate floor in the context of the INF Treaty. My goal is to avoid such a fight during the consideration of the INF Treaty.

But at the same time, I think it has to be recognized that the dispute that arose has now compelled the Senate to analyze the records of the INF Treaty and the negotiations. It logically implies that the Senate must codify its understanding of the meaning of the provisions of the treaty in an explicit fashion or else leave itself open to the possibility that a future administration will interpret the treaty in a new way to suit its own political imperatives.

I think we have to remember that the Constitution's framers wrote into the Constitution this role for the U.S. Senate. The constitutional forebears provided that a treaty is the "supreme law of the land" just as is the Constitution and the laws that are enacted by the legislative branch under that Constitution. Most of the "supreme law of the land," most of the statutes are passed by both Houses and require only a simple majority vote in each body. But in this instance, this particular supreme law of the land has to be approved by a two-thirds supermajority of one House—the Senate. The other House does not have any voice in the approval of this particular category of "supreme law" of the land. But here in the Senate, which is the only body that participates with the executive in the making of treaties, a supermajority is required. In the case of a statute, if we find later that that statute is a bad statute, it can be amended, it can be repealed by subsequent legislation passed by both Houses with a simple majority. It is not however, so easy to rectify a bad treaty. It cannot be so easily repealed.

And so I think that Senators have a responsibility to be very careful when they approve a given treaty and make it the supreme law of the land, that they have an adequate understanding, a very clear understanding as to what they are voting to approve. This Senate approves a treaty today based on its understanding of that treaty, first of all, by reading the four corners of the treaty—that is the main evidence the Senate should consider: the four corners of the treaty. What is in the treaty? What does the treaty say? What does it say that it is? But, as is the case so often with legislation, the Senate has to have help in understanding what the legislation does, how it is to be interpreted, we have hearings on the legislation. We have markups and we go through all of the process in order to have a better understanding of what the legislation really means that we are about to vote on.

But, as I say, we can always realize that if legislation is not what we think it is, we can change it. We can just run it through the same process, and have the House and Senate amend or repeal it.

But, in the case of a treaty, if that treaty is going to be interpreted tomorrow in a different fashion from the way it is interpreted today, then the Senate is at a tremendous disadvantage and the people of the United States suffer the consequences.

So if we are to have a clear understanding of what we are voting on, then we should make clear what our understanding is before we vote. There have been exchanges of letters back and forth as to how the INF Treaty should be interpreted and all of that. But, in the final analysis, this matter is not going to be resolved, in my judgment, by any exchange of letters. Because a future administration can say, "Well, in that instance involving the letters that the administration wrote, we don't agree with that interpretation at all." So I think the Senate has to, in some fashion, place upon the resolution of ratification its clear understanding by which it is being guided in its judgment of the treaty, so that future administrations cannot, indeed, say, "Well, that was a different interpretation." The Senate will have said: "This is our interpretation, based on our reading of the text of the treaty, based on the negotiating record, and based on the testimony of the witnesses on the part of the administration who helped negotiate the treaty. They are the experts and this is our understanding of what all of this means."

Therefore, I feel that I, as a Senator from the State of West Virginia, have the responsibility under the Constitution to understand, as best I can, what this treaty does and what it commits the United States to do. And it is important, not only from my standpoint, not only from the standpoint of the American people, but also from the standpoint of the other signer or signers of the treaty, lest they, the Soviet Union—the Soviet Union or any other party to a treaty has a right to understand what has been approved by the Senate, because if a future administration is going to say, "No, it is not that way at all," then the other partner to the treaty is also at a disadvantage. And moreover, it is important that we know what this treaty means, have a clear understanding of the interpretation of it today, otherwise we cannot hold the Soviet Union to its commitments under the treaty. If we do not understand what the treaty means, how will we know when the Soviet Union has violated it?

So I am saying this to put the administration on notice with respect to this treaty or any other treaty. There seems to be a great rush today to sign treaties, to enter into treaties, and they can appear to be dictated by the calendar all too much, by deadlines that have to be met, by summits that have to be held. Our own security interests are too important for that.

I would urge that, in this summit binge and treaty binge, we go a little slow, a little more slowly and do the job right. Because this Senate is not going to be jerked around and overly hastened in order to meet summits, in order to put the Senate's imprimatur on something that just because it has been signed, the Senate perforce has got to go along with it; the Senate is to be only a rubber stamp. Anyone who may believe that that is the case, needs to debunk his or her mind in that regard, because this Senate is not going to be in that big a hurry. We are dealing with the future security interests of this country and our allies, and we are just not going to be rushed about it.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. PROXMIRE. Mr. President, I enthusiastically congratulate the position the majority leader has taken. This is very, very important.

Frankly, I strongly favor the INF Treaty and I am going to vote for it with enthusiasm. I would hesitate to vote for any understanding, but this one I will vote for without any question at all.

What has happened is that the ABM Treaty, which was adopted overwhelmingly by the Senate with two dissenting votes in 1972, is now being reinterpreted by the administration. They have said that the Nixon administration that testified before the Foreign Relations Committee was in error. Maybe they were. But they should not do this unilaterally.

The Senate gave its ratification and approval to that treaty, which means that if there is going to be a modification the Senate should have a voice in determining whether or not there was an error made.

As I understand it, that is the thrust, the purpose of what the majority leader is doing. And he is 100 percent correct. Otherwise, it takes us right out of the act.

What can happen is we ratify a treaty and a future administration or a present administration can modify that treaty in any way they wish and the ratification can be modified, in effect, in such a way that the Senate has given approval constitutionally to a treaty and then the treaty has been changed.

Mr. BYRD. I thank the distinguished Senator.

As I have already said, I am not interested in fighting the battle of the ABM Treaty. I am interested in confining our observations and comments to the INF Treaty that will be coming along. Presently, I am constrained to support it and have expressed my wholehearted support of it up to now, but I can change that position of my own if I am not satisfied with the interpretation of the treaty, and that it means what it appears to say.

So I am not going to sign in blood today that I will vote for that treaty. It is my present intention to vote for it.

But, as I have said, I think it is not the time to refight the battle of the ABM but it is the time to look carefully at this treaty, remembering always that the document itself is the first best evidence as to what it means, but remembering also, that sometimes we cannot be absolutely clear as to the meaning of a document by what it says on its face, and we have to go outside the document to enlarge our meaning and understanding and then the next best evidence is the negotiating record itself and the testimony of the experts who negotiated and wrote that treaty.

I thank the distinguished Senator from Wisconsin. I appreciate so much what he has said and will continue to lean upon him as we proceed with the treaty.

REPEAL OF THE GLASS-STEAGALL ACT

Mr. BYRD. Mr. President, the Senator from Wisconsin, I believe, had indicated that there was a piece of legislation that he hopes to have up next week. I hope we can have that legislation before the Senate and deal with it before we go out for Easter. I believe that that is the legislation which would repeal the Glass-Steagall Act.

Mr. PROXMIRE. The majority leader is correct. I appreciate that very much.

Mr. BYRD. How much time does the Senator believe that the Senate would have to spend on that legislation?

Mr. PROXMIRE. Well, I hope we can work out a time agreement. We are working on that now. We are discussing that with the ranking Republican member of the Banking Committee. I think there is good reason to assume that we can get a time limitation. So I think we can do it in a day.

Mr. BYRD. Mr. President, I thank the Senator.

RESERVATION OF THE MINORITY LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the Republican leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein.

WHY SDI IS A RIP-OFF FOR THE OVERWHELMING MAJORITY OF STATES

Mr. PROXMIRE. There are many excellent reasons to oppose SDI, Mr. President. But just consider the recently released report on the dispersion of the first $15 billion of SDI contracts. Fifteen billion dollars is the total value of contracts from the start of the program in 1983 through the current fiscal year 1988. It is only a small beginning in what—if we go through with it—we know will come on with a rush.

So where has the SDI money come from and where has it gone? To date five States have received more than 75 percent of the SDI contracts, with California all by itself getting the pig's share, a massive $6.6 billion, or about 45 percent. My own State of Wisconsin is more typical of what happens to the rest of the country. Wisconsin has received about $4.8 million in SDI contracts. That's million—not billion. And how much has Wisconsin paid in taxes as its share of the $15 billion SDI cost to date? Wisconsin has paid about $300 million in taxes for this huge turkey. So it has received back barely 1½ cents in contracts for each dollar it paid in taxes research work on SDI. This is a 75-to-1 defeat for our State of Wisconsin. Think of it, our State includes the University of Wisconsin. The excellence of the University of Wisconsin in scientific research has been repeatedly recognized by the allocation of research contracts that are awarded on a merit, peer review basis by scientific experts. On this basis the University of Wisconsin has received more Federal research awards year in and year out than any other State university in the country. But, not on SDI research awards. On SDI awards we receive literally one two-thousandth of what California receives. Compare what has happened to Wisconsin in SDI funding and Federal spending on SDI with what has happened to New Mexico. New Mexico has paid about $75 million in taxes as its share of the cost of SDI. It has received back about $1.6 billion in contracts. That means New Mexico has received back from the Federal Government in SDI contracts more than 20 times what it paid in taxes.

Mr. President, if the Congress proceeds with SDI as President Reagan intends this will become much, much worse. A trillion-dollar SDI would hand Wisconsin a $20 billion bill. And on the basis of the record to date my State could expect to get back a tiny fraction, perhaps 1 or 2 percent in contracts. We are talking a massive economic tragedy for Wisconsin and many other States. Think of it. This prospective $150 billion a year program will drain $3 billion a year out of my State and bring back about 1 percent of that in contracts. This would severely punish, may be wreck Wisconsin economically.

One more point. Only in recent months has the Defense Department begun to place contracts abroad. But on the basis of published understandings between the Defense Department and foreign leaders we can expect that scientists abroad will secure substantial SDI contracts but, of course, their countries will pay none of the taxes required for SDI. This foreign program has barely begun but already one foreign country has received about $124 million in SDI contracts. That's more than 25 times what Wisconsin has received. And how much has that country paid in taxes to finance SDI? Answer: Nothing. Five other foreign countries have also already each received far more than Wisconsin has gotten in contracts. The taxes to pay for these foreign research contracts will all come from Wisconsin and the other 49 States.

Mr. President, I suggest that my fellow Senators will be interested in comparing the total value of the contracts received for SDI in their State with the pro rata share of taxes their State has paid on the $15 billion Federal expenditure for SDI. The rough calculation is simple. Take your State's population as a percentage of the country's total population, multiply that percentage by $15 billion. That's your State's rough share of the cost of SDI from 1983 to date. Then check the table to see how much your State has actually gotten in SDI contracts.

Mr. President, to assist my colleagues to make this calculation I ask unanimous consent that a table from the March 21 issue of Defense Week labeled "Five Year Old SDI's Contract Status," be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

[From the Defense Week, Mar. 21, 1988]

FIVE-YEAR OLD SDI'S CONTRACT STATUS

SDI CONTRACTS AWARDED BY STATE

State	Total value	Obligations to date
California	$6,645,481,276.00	$3,046,032,732.30
New Mexico	1,590,478,524.00	773,373,605.00
Massachusetts	1,283,013,434.00	623,537,220.00
Alabama	1,026,880,326.80	684,701,513.60
Washington	789,717,419.00	374,056,505.00
Colorado	751,164,558.00	191,016,687.90
Texas	519,055,429.00	235,467,441.00
Virginia	329,224,710.46	110,091,501.54
New York	323,367,596.00	127,341,353.00
Pennsylvania	271,889,096.00	68,756,471.00
Maryland	227,155,070.30	191,888,510.77
Florida	198,023,806.00	84,822,735.24
Missouri	145,735,041.00	86,295,193.00
New Jersey	139,605,584.00	38,357,231.00
Connecticut	134,617,533.00	47,884,902.00
(Unknown)	122,961,394.50	116,359,032.50
Minnesota	83,918,938.00	41,234,848.00
Utah	79,578,794.00	45,053,529.00
District of Columbia	72,949,306.99	66,225,854.10
Arizona	56,164,367.00	41,630,336.00
Illinois	47,876,975.00	40,942,986.00
Ohio	47,611,019.00	36,275,342.35
North Carolina	33,674,696.47	11,842,672.47
Georgia	33,277,106.00	13,108,340.00
Oklahoma	19,390,527.00	10,028,426.00
Tennessee	19,026,284.00	17,568,459.00
Vermont	18,205,155.00	11,164,000.00
Trust Territories	17,381,202.00	17,381,202.00
Michigan	6,338,948.00	1,954,671.00
Indiana	4,894,727.00	2,887,017.00
Maine	4,634,614.00	4,195,346.00
New Hampshire	4,110,155.00	2,365,030.00
Wisconsin	3,764,675.00	3,439,045.00
Alaska	1,988,983.00	1,988,983.00
Rhode Island	1,934,100.00	425,479.00
Nevada	1,897,700.00	1,497,700.00
Louisiana	1,882,301.00	362,313.00
Wyoming	1,084,500.00	34,500.00
Nebraska	872,000.00	872,000.00
Oregon	792,000.00	487,000.00
South Carolina	749,842.00	450,000.00
Delaware	614,000.00	614,000.00
Kentucky	549,583.00	119,000.00
Iowa	514,085.00	228,139.00
West Virginia	506,000.00	126,000.00
Kansas	258,950.00	258,950.00
Hawaii	228,000.00	228,000.00
Montana	79,982.00	79,982.00
Arkansas	0	0
Idaho		0
Mississippi		0
North Dakota	0	0
South Dakota		0
Total	15,065,120,313.52	7,175,051,784.77

LEADING CONTRACTORS

Company	Total value of contracts, 1983–88	Actual obligations, 1983–88
Lockheed	$1,646,643,391.00	$547,694,908.00
General Motors	881,079,871.00	426,257,095.00
TRW	778,929,937.00	424,566,471.00
Boeing	757,577,903.00	364,618,606.00
Rockwell Int'l	701,126,083.00	237,225,704.00
McDonnell Douglas	647,520,729.00	375,817,885.00
General Electric	578,076,138.00	110,166,252.00
Martin Marietta	514,051,556.00	133,788,278.00

LEADING CONTRACTORS—Continued

Company	Total value of contracts, 1983–88	Actual obligations, 1983–88
Teledyne, Inc.	411,728,100.00	213,095,071.00
EG&G	387,563,000.00	156,063,000.00
Gencorp, Inc	281,886,370.00	150,038,113.00
Raytheon Co	264,032,757.00	105,167,123.00
LTV Corp.	260,699,648.00	161,992,496.00
Grumman	200,333,801.00	69,590,514.00
Fluor	197,636,000.00	2,725,000.00
Honeywell	175,189,563.00	80,541,359.34
Textron	168,469,968.00	99,267,365.00
BDM International	157,517,097.80	44,763,317.80
Science Applications	132,228,710.00	81,018,670.00
Litton Systems	119,519,477.00	69,361,984.00
Bechtel Corp	105,710,054.00	1,912,107.00
Kaiser Engineers	100,000,000.00	7,000,000.00
Kaman Corp	97,838,522.00	35,065,869.90
Flow General	93,313,671.00	63,753,468.80
United Technologies	84,807,046.00	23,750,200.00
Nichols Research	84,284,023.00	62,578,303.00
IBM	80,709,451.00	26,249,589.00
Sparta, Inc.	78,704,436.00	57,151,160.00
Westinghouse Electric	78,140,166.00	46,215,480.00
Computer Sciences Corp	70,868,634.00	33,110,585.00
Ford Motor	69,661,519.00	38,875,425.00
Ball Corp.	63,862,789.00	54,249,413.00
Allied Signal	63,708,263.00	15,218,970.00
Texas Instruments	58,488,159.00	14,671,014.00
Logicon	58,280,823.00	18,432,515.00
Arthur D. Little	49,273,071.00	13,207,913.00
System Planning Corp.	47,276,827.00	9,790,133.00
GTE Corp	46,384,233.96	18,024,516.96
General Atomic Tech. Corp	46,028,756.00	7,303,811.00
Western Research	44,064,703.00	29,188,096.00
Colsa, Inc.	41,611,728.00	36,467,000.00
ERC International	41,396,815.00	26,810,103.00
Ashland Oil	41,030,000.00	25,100,000.00
General Dynamics	40,929,375.00	29,277,051.00
Burroughs	40,388,291.00	39,080,481.00
Acurex Corp	38,550,242.00	16,357,946.00
Perkin Elmer	37,621,288.00	17,102,150.00
Harris Corp	31,089,563.00	5,539,316.00
Control Data Corp	29,771,322.00	12,317,130.00
Morton Thiokol	28,951,397.00	9,355,386.00

GENERAL BUDGET INFORMATION

	Years	Amount/number
Budget approved	1983–88	$15,000,000,000
Contracts signed of which obligated	1983–88	$15,000,000,000
	1983–88	$7,200,000,000
Contracts signed in competition	1983–88	4,800
	1988–	300

CONTRACTS BY SECTOR

	Contract value	Percent
Corporations	$12,000,000,000	78
Federal labs	1,800,000,000	12
Universities	410,000,000	3
Government	533,000,000	4
Nonprofits	150,000,000	1
Foreign	290,000,000	2

FOREIGN RECIPIENTS

State	Total value	Obligations to date
Israel	$123,868,090	$3,500,000
Great Britain	91,771,171	32,567,010
West Germany	45,836,743	7,565,696
Italy	13,638,468	4,186,476
France	7,415,771	3,372,500
Netherlands	5,200,000	200,000
Canada	1,275,559	1,025,559
Belgium	200,000	200,000
Ireland	119,000	119,000
Japan	0	0
South Korea	0	0
Total	289,324,802	52,736,241

Source: Date complied by John Pike of the Federation of American Scientists.

Mr. PROXMIRE. Once again I want to congratulate my good friend, the majority leader, on his understanding of the SDI Treaty and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the second half hour under rule XXII will be equally divided and controlled by the Senator from Ohio [Mr. METZENBAUM] and the Senator from Utah [Mr. HATCH].

Mr. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be charged equally against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I understand the Senator from Ohio has about 13 or 14 minutes.

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. METZENBAUM. Mr. President, the principle behind S. 79 is really quite simple, and I thought that before we have this cloture vote we ought to make clear what we are really talking about. The question is: Do we want American men and women to know when they face significant risks from past workplace exposures? I believe workers at high risk should have notice so that they can take preventive medical steps. We owe them the right to save their health and their lives. This is not a revolutionary idea. It is not even a new idea.

In the past 10 years, the Federal Government, through NIOSH has conducted numerous pilot notification programs. In each instance, notice was sent to hundreds or thousands of current and former employees. In these notices, specifically targeted workers were told about the increased risk of a particular disease associated with a specific hazardous exposure. They also were given a telephone number to contact for medical testing.

American industry did not suffer as a consequence, but thousands of American workers were put on a medical alert. That is all we are talking about in this bill.

American companies also have recognized the need to notify their workers regarding the results of epidemiological and medical studies that indicate possible increased health risks. Over the last few years, Johnson & Johnson, Union Carbide, Hilton Davis Chemical Co. in Cincinnati, and other companies have undertaken worker notification efforts similar to what is called for under S. 79.

Indeed, the Reagan administration is about to embark on a major risk notification effort embracing the principles of S. 79.

Let me emphasize that. The Reagan administration is itself embarking on a notification program similar to that which is provided for in this legislation.

I refer here to the announcement by the Department of Energy that it plans to notify some 10,000 workers who were exposed to beryllium during the 1950's, and are, therefore, at risk of chronic respiratory disease.

If the Department of Energy recognizes that that is the thing to do, I have difficulty in understanding how others in the Reagen administraion can oppose our effort here today.

Beryllium is used in the production of atomic bombs, guided missile systems and other defense and energy-related systems. Thousands of workers who inhaled beryllium dust while working in certain jobs over the past 30 years are at risk of contracting berylliosis. This serious respiratory disease may result in shortness of breath, chest pain, and severe disabling conditions. It is treatable with steroids if diagnosed early enough. In addition, because berylliosis may be hard to distinguish from tuberculosis and other respiratory diseases, knowledge of prior beryllium exposure enables physicians to avoid incorrect diagnoses and unnecessary or harmful treatment.

These are the reasons why the Energy Department is about to embark on a widespread notice program. It is aimed at reaching current and former workers from more than 15 sites that were operated or contracted by the U.S. Government. In addition to notification, the Energy Department will refer notified workers to medical experts and private organizations for medical evaluation.

Do these ingredients sound familiar? Of course they sound familiar. They are part and parcel of our bill. Notification of former employees going back 30 years. Notification of persons exposed at certain facilities even though the vast majority were not themselves the subject of a Federal study. Notification accompanied by the opportunity for appropriate medical monitoring. Obviously, the Department of Energy knows that risk notification makes good sense. Why else would they be launching risk notification themselves? Listen to what Under Secretary Mary Walker said in 1986 to a television station in Los Angeles that prepared an award-winning documentary on the beryllium health risk: "We have no legal duty to notify—we have gone beyond that to what we think is right."

Why, then, is there so much controversy about S. 79? I believe that when all the rhetoric is removed, there are two basic issues: Is the bill fair to small business? Will the bill create substantial liability problems for employers of notified employees?

With respect to small business, I want to stress that a number of small businesses support S. 79. The National Paint and Coatings Association, with nearly 1,500 member companies, has endorsed this bill. Of those companies, over 1,100 employ fewer than 50 workers. The American Electronics Association supports this bill. That association has over 3,000 member companies, including hundreds of small businesses.

I also know that a number of small businesses oppose S. 79. That is their right. But I am troubled by the opposition's refusal to consider improvements, coupled with the scare tactics they are using against the bill.

A few examples demonstrate my point. There has been concern expressed about the impact of the medical removal provisions of S. 79 on small business. I recognize that it is easier for a large company to accommodate such a transfer than it is for a small company. I am willing to work out an amendment on this issue. Senator BREAUX offered such an amendment yesterday, which I am willing to accept, either before or after the cloture vote, whichever is the desire of my colleague on the opposite side of the aisle. But some small business representatives want no part of an amendment. It does not matter that the amendment would help small employers. Instead, they want to keep their heads in the sand and charge that the sponsors of S. 79 are insensitive to small business.

All of us have received letters from small employers about this bill. One of the points raised in these letters is that S. 79 will overwhelm small business with new recordkeeping requirements because the bill requires notification of former employees back 30 years. No such thing will happen. S. 79 has no new recordkeeping requirements. Employers are asked to cooperate with the Federal Government by providing available employee records. If the records do not exist or if the information has not been compiled, the Federal Government will have to notify employees through public service announcements or not notify them at all.

Another argument I see all the time in small business letters is that S. 79 requires employers to pay for medical monitoring for former employees. That simply is not true. Employers are required to provide medical monitoring only to current employees and only if the employer exposed the employee to the occupational hazard. Someone is feeding these small business constituents misinformation about this bill.

The legislative process requires constructive dialog and compromise. Throughout the process on S. 79, Senator STAFFORD and I have worked with major segments of the business community to improve this bill. Regrettably, many representatives of small business have refused to participate in this effort. Instead of raising the decibel level of debate to such a point that it is difficult even to discuss the actual provisions of the legislation, I would invite them to participate in the dialog to modify or improve S. 79.

What about liability? I have heard a lot of talk about how notification is going to lead to a blizzard of lawsuits and liability. But I want you to hear what the Manville Corp. had to say about that. Last month, the person who headed Manville's national effort on asbestos disease compensation spoke on S. 79 at a Senate staff briefing. As a corporation that has gone through a reorganization following bankruptcy, and that has had to deal with billions of dollars in litigation and liability costs, Manville is in a uniquely qualified position to comment on legislation such as S. 79. What the Manville representative said was very interesting and I want my colleagues to hear it. He could not understand all the concern about how notification would result in increased liability for employers. What produces liability, he said, is not notification but the failure to notify, the failure to warn about risks that are known.

All this talk about how notice is dangerous because people will sue is nothing more than blue smoke and mirrors. The economic reality, as Manville knows and other corporations should know, is that you're liable when you do not tell people what their risks are. S. 79, which wants workers to know what their risks are, is properly responsive to this economic reality.

What about the human reality? What about the pregnant woman who works with toxic substances that place her at five times the normal risk of miscarriage or birth defect? What about the rubberworker who has a high risk of bladder cancer due to regular inhalation of fumes from certain solvents? Should we refuse to tell these and thousands of other hardworking Americans that they should seek medical assistance to prevent a disabling disease? Should we keep American workers in the dark, and let them get sick and die, for fear that if they knew of their risks they might bring a lawsuit?

That approach would be simply unconscionable. But that approach is what underlies the so-called litigation opposition to S. 79. I believe that when we know certain workers are at significant risk of disease, we ought to tell them and encourage them to get medical screening. It is the decent thing to do. It is the right thing to do. And, from an employer's legal perspective, it is the sensible thing to do.

I say to my colleagues in the Senate that this measure is a positive measure with reference to the subject of notice. We have indicated yesterday, and I repeat here again today, that the agricultural amendments that are proposed by Senators DIXON and FORD and the small business exemptions proposed by Senators BREAUX and DIXON are acceptable. I am prepared to accept them before the vote or after, depending upon the reaction of my colleague from Utah. I reserve the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, can you tell me how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Utah has 13 minutes, and the Senator from Ohio has 2½ minutes.

Mr. HATCH. Mr. President, I am delighted to yield a minute and a half to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, we will shortly be voting on invoking cloture on this very important and complicated piece of legislation, S. 79. It is a bill that addresses one of the most profound issues in the American workplace—how the health of employees is affected by substances within the work environment.

This bill has evolved over many years. It was the subject of lengthy Senate and House hearings and long markup sessions. Yet, on this very important bill, like others and similarly important bills that have reached the Senate floor in recent weeks, the Senate leadership has chosen to file a cloture petition practically the moment the bill is brought to the floor, and then as the cloture petition matures, the leadership has chosen to immediately go on to other matters.

Mr. President, that is a procedure that forecloses not only general debate—we have a half hour equally divided this morning—but it also prevents Members from offering legitimate, substantive, amendments to S. 79 that do not meet the strict test of germaneness postcloture. This is a procedure that, I submit, is contrary to the spirit of the rules and customs of the Senate, and I intend to resist it.

I say this not because I oppose S. 79 or have any such amendments to the bill. Indeed, I am a cosponsor of this legislation. I do not favor delay for delay's sake in its consideration, in its being voted up or down, but neither do I favor precipitous termination of the duties and responsibilities of the Senate to consider carefully important legislation.

The procedure being used here does a great disservice to the Senate. I shall oppose it the only way I can, which is by voting today against the cloture on S. 79 when the petition is taken up in a few minutes.

I thank my friend from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this is a very important vote today, and I hope my colleagues vote not to invoke cloture on S. 79, the High-Risk Occupational Disease Notification and Prevention Act. The debate on this issue has only begun, and we in the minority have not even had a single opportunity to file a single amendment and have it considered by this body.

S. 79 represents legislation at its worst, a collection of good intentions bogged down in minutiae, exceptions, exemptions, and, I might say, the exceptions that the final product is unworkable and impractical.

Having been involved in most of the key health issues in this body during the last decade, I can say with great confidence this bill does not represent effective, equitable health policy.

Mr. President, I hope my colleagues vote not to invoke cloture on S. 79, the High Risk Occupational Disease Notification and Prevention Act. The debate on this issue has only begun, and we in the minority have not yet even had an opportunity to file a single amendment.

S. 79 really represents legislation at its worst, a collection of good intentions so bogged down in minutiae, exemptions and exceptions that the final product is unworkable and impractical. Having been involved in most of the key health issues before this body during the last decade, I can say with great confidence that this bill does not represent effective, equitable health policy.

Mr. President, to date, effective health policy has been based on the assumption that all Americans should have access to quality health care. We spend many hours working to ensure this access. We should not be legislating programs that are selective in their application and protection. One cannot adopt as a modus operandi the practice of wandering from office to office exempting this activity, excluding that business in exchange for a vote here and a vote there, and expect an intelligent result. Of course, one may be able to buy off enough votes to get something passed, but it is not an approach which results in legislation which should be signed into law.

Mr. President, if the employee transfer portions of this bill are so impractical that we have to exclude businesses with 50 or fewer employees, then perhaps we should realize that there are serious problems with these provisions. There is nothing magical that happens just because a company employs 51 men and women. The provisions do not suddently become practical.

Similarly, there are real cost problems involved with the medical monitoring portions of this bill—for all employers not just farmers and small businesses. The sponsors of the legislation want us to tell the farmer that the Federal Government will pick up the medical monitoring costs for his seasonal workers, but also tell the corner grocer or the small fertilizer company that they are on their own. For some unexplained reason, the sponsors believe these businesses, it seems to me, are less equal than farmers.

I have heard quite a bit of discussion over the last few days about the importance of treating all people equally. Why does that principle not apply in this instance? Why should we summarily accept these arbitrary, unjustified exclusions. Either the legislation works or it does not.

Mr. President, in listening to the debate so far, quite a bit has been said about what my side may do on this bill. To date, I have done nothing but make a relatively short statement. Because of parliamentary gimmickry, which the majority is completely within its rights to use, this body has been effectively precluded from having any meaningful or legitimate debate on any amendment so far.

I hope that on highly controversial legislation we do not establish as a precedent that the Senate will engage in only 4 hours of debate, one side filling up the amendment tree and then invoking cloture. I might note that on the Polygraph Protection Act, which was far less controversial than this bill, and much easier to understand, such tactics were not used. And they should not have been used here.

Mr. President, there are serious problems with S. 79. Despite the assertions of the other side, the overwhelming majority of the business community vehemently opposes this bill. It is overwhelming. Many of the members of the handful of trade associations which have endorsed this bill have made clear their objections to S. 79. They now know they made a serious mistake endorsing the bill. It is simply inaccurate to pretend that this legislation has widespread business support. It does not. Anybody who says that does not know what he is talking about.

Second, the bill is not based on sound science. This Senator and the Senator from Indiana, Mr. QUAYLE, have never been comfortable with the bill's definitions, its assumptions, or its methodology. For example, there is no requirement that the Board find causation—none whatsoever. There is no requirement that the Board focus on substances or exposures posing high risk. In fact, the only mention of the term "high" risk is in the bill's title and, of course, in the supporters' statements.

Third, I have rarely seen a bill that is so hostile to business, especially small business. Almost every provision will directly impact the ability of small businesses in this country to operate, to function, and to grow. Despite the few bones that may now be tossed their way, it is not surprising that so many small businessmen and women object to this legislation.

Fourth, I doubt that anyone in this Chamber really believes that this bill is liability neutral. The loopholes are so numerous, the defenses so weak, that any lawyer worth his degree recognizes the bill is nothing more than an invitation to sue. If my colleagues have any doubt about this fact, look at some of the organizations that are springing up—organizations such as the National Tire Workers Litigation Project. Think about that. Their stationery includes the motto here at the bottom "Health Through Litigation." And this is supposed to be litigation neutral. "National Tire Workers Litigation Project—Health Through Litigation."

Mr. METZENBAUM. May I see it?

Mr. HATCH. Sure. The Senator can have it. Read it. Maybe it is good that the Senator does read it.

The fact is that this is going to be a litigation pool like never before. And it is going to hurt small business—frankly, all business throughout this country, and the economy as well, and drive up the cost to consumers like never before.

Fifth, there are several provisions in this bill which are double-edged swords. We are asked to provide employees with the opportunity to transfer out of positions dangerous to their health. But if they ask and the employer decides it cannot facilitate such a transfer, the employee can be fired and given no more than a year's severance pay. How many employees will really want to exercise this right and run the risk of losing their jobs?

Similarly, it has been awhile since I practiced law, but I still believe there is a legal concept known as assumption of the risk. Does not the notice called for in this bill serve as adequate warning? And what is the legal status of an employee who has been notified and then fails to wear all of the required safety equipment?

Sixth, the bill's proponents tell us that the existing health and safety framework in our Federal Government does not work, that the 12 or so Federal agencies cannot do the job. What is their solution? Create a new bureaucracy, ensure duplication and guarantee confusion. Would not a better policy be to clean up the regulatory mess we already have rather than imposing on the American people another new bureaucracy on top of those we do have.

Seventh, the variance provisions in this bill defy logic. Unless their purpose is to make the Federal Register required reading for every employer in America, I am not sure just what the sponsors are trying to protect.

Mr. President, we should not invoke cloture on S. 79. We should be allowed to take the necessary time to correct the countless flaws in the bill before being required to make a final judgment on S. 79. I hope my colleagues will vote against cloture. It is perhaps the best way to say that this bill is not yet ready for consideration by the full Senate.

Mr. President, I reserve the remainder of my time.

Mr. METZENBAUM. Will the Senator from Utah be good enough to advise whether or not he will permit the Senator from Ohio to accept the small business exemption amendment and the agriculture amendments at this point?

Mr. HATCH. We would prefer not to do that at this point. We will certainly consider them after the cloture vote.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I want to make it clear that there are pending small business exemption amendments and amendments also protecting the agricultural community. The Senator from Ohio has indicated that we are prepared to accept those amendments. As has just been indicated, the Senator from Utah has indicated they would prefer they not be accepted at this point.

The Senator from Utah talked about whether much of the business community supports this legislation. The list displayed in the back of the Chamber gives a clear indication of the fact that we do have tremendous support from the business community: The Chemical Manufacturers Association, the American Electronics Association, the National Paint & Coatings Association, the Crum & Foster Insurance Co., the second largest insurance group in the country; Atlantic Richfield & Occidental Petroleum, Union Carbide, W.R. Grace, General Electric, IBM, Manville Corp., and a host of public health organizations. Indeed, we do have tremendous support for this legislation, and I want to make it clear we are prepared to continue to negotiate and compromise in order to get more of the business community on our side. Companies with the most experience with hazardous exposures, the ones that know the issue, are the ones that are supporting this issue.

I reserve the remainder of my time.

Mr. HATCH. Mr. President, with regard to that, that is a handful of the 6 million employers in America. I ask unanimous consent to put in the Record a list of hundreds of mostly national associations that represent thousands of employers in America that oppose this bill, as well they should.

There being no objection, the list was ordered to be printed in the Record, as follows:

National Association of Manufacturers.
Chamber of Commerce of the United States.
National Federation of Independent Businesses.
National Association of Wholesaler-Distributors.
American Mining Congress.
American Farm Bureau.
American Petroleum Institute.
The Business Roundtable.
National Council of Agricultural Employers.
Adhesive and Sealant Council.
Aerospace Industries Association.
Air-conditioning & Refrigeration Wholesalers.
Alliance of American Insurers.
Aluminum Extruders Council.
American Coke and Coal Chemicals Institute.
American Federation of Small Business.
American Feed Industry Association.
American Furniture Manufacturers Association.
American Hardware Manufacturers Association.
American Iron and Steel Institute.
American Jewelry Marketing Association.
American Machine Tool Distributors Association.
American Meat Institute.
American Retail Federation.
American Retreaders Association.
American Road and Transportation Builders Association.
American Subcontractors Association.
American Supply Association.
American Textile Manufacturers Institute.
American Traffic Safety Services Association, Inc.
American Veterinary Distributors Association, Inc.
American Wood Preservers Institute.
Appliance Parts Distributors Association, Inc.
ARMTEK Corporation.
ARMCO Inc.
Asarco Incorporated.
Associated Builders & Contractors.
Associated Equipment Distributor.
Associated General Contractors of America.
Association of American Railroads.
Association of Footwear Distributors.
Assn. of Plumbing-Heating-Cooling Contractors.
Association of Steel Distributors.
Association of the Wall & Ceiling Industries-International.
Automotive Service Industry Association.
Aviation Distributors & Manufacturers Association.
Bearing Specialists Association.
Beauty & Barber Supply Institute, Inc.
Bechtel.
Bethlehem Steel Corporation.
Bicycle Wholesale Distributors Association, Inc.
Biscuit & Cracker Distributors Association.
Blasch Precision Ceramics, Inc.
Borg-Warner.
Bridgestone Tire Company.
Calazeras Cement Company.
Cast Metals Association.
Caterpiller Inc.
Ceramic Tile Distributors Association.
Champion Spark Plug.
Chesebrough-Ponds, Inc.
China Clay Products.
Chrysler Corporation.
Cleveland Cliffs Inc.
CNA Insurance Companies.
Composite Can & Tube Institute.
Concrete Minnesota Inc.
ConRock Materials and Inc.
Cooper Tire and Rubber Company.
Copper & Brass Servicenter Association.
Cohart Refractories Corporation.
Council for Periodical Distributors Association.
Council of Wholesale-Distributors.
Door & Hardware Institute.
Eagle-Picher Industries.
Edison Electric Institute.
Electrical-Electronics Materials Distributors Association.
Eli Lilly Corporation.
Employers Mutual Companies.
Explosive Distributors Association, Inc.
Farm Equipment Wholesalers Association.
Fire Suppression Systems Association.
Flexible Packaging Association.
Fluid Power Distributors Association, Inc.
FMC Corporation.
Food Industries Suppliers Association.
Food Marketing Institute.
Foodservice Equipment Distributors Assn.
Ford Motor Company.
Frey Concrete.
Gates Rubber Company.
GenCorp, Inc.
General Ceramics, Inc.
General Merchandise Distributors Council.
General Motors.
Georgia-Pacific.
Goodyear Tire & Rubber Company.
Greater Wash/MD Service Station & Repair Assn.
Gypsum Company.
Haliburton Co.
Health Industry Distributors Association.
Hecla Mining Company.
H.G. Hudson Manufacturing Company.
Hilltop Basic Resource Inc.
Hobby Industry Association of America.
Houston Lighting and Power Company.
Independent Medical Distributors Assn.
Institutional & Service Textile Distributors Association. Inc.
International Sanitary Supply Association.
Irregation Association.
International Truck Parts Association.
Jewelry Industry Distributors Association.
Kemper Group.
Kerr-McGee Corporation.

Keystone Coal Mining Corporation.
Liberty Mutual Insuarnce Group.
M.A. Hanna Company.
Machinery Dealers National Association.
Mack Trucks.
Material Handling Equipment Distributors Assn.
Maytag Corporation.
Mead.
McCreary Tire and Rubber Company.
Michelin Tire Corporation.
Mobil Chemical Corporation.
Mobil Oil Corporation.
Monument Builders of North America.
Motor Vehicle Manufacturers Association.
Motorcycle Industry Council.
Motorola.
Music Distributors Association.
National-American Wholesale Grocers' Assn.
National Appliance Parts Suppliers Assn.
Nat'l Assn. for Hose & Accessories Distributors.
Nat'l Association of Aluminum Distributors.
National Association of Casualty & Surety Agents.
National Assn. of Chemical Distributors.
National Assn. of Container Distributors.
National Association of Decorative Fabric Distributors.
National Assn. of Electrical Distributors.
National Association of Fire Equipment Distributors.
National Association of Floor Covering Distributors.
National Association of Homebuilders.
National Assn. of Independent Insurers.
National Assn. of Manufacturing Opticians.
National Assn. of Marine Services, Inc.
National Association of Meat Purveyors.
National Assn. of Plastics Distributors.
National Ass. of Service Merchandising.
National Association of Sporting Goods Wholesalers.
National Assn. of Tobacco Distributors.
National Assn. of Truck Stop Operators.
National Association of Writing Instrument Distributors.
National Automobile Dealers Assn..
National Beer Wholesalers Association.
National Building Material Distributors Association.
National Business Forms Association.
National Candy Wholesalers Association.
National Coal Association.
National Commercial Refrigeration Sales Association.
National Electronic Distributors Assn.
National Fastener Distributors Association.
National Food Brokers Association.
National Food Distributors Association.
National Forest Products Association.
National Frozen Food Association.
National Grain and Feed Association.
National Grocers Association.
National Independent Poultry and Food Distributors Association.
National Industrial Belting Association.
National Industrial Glove Distributors Association.
National Industrial Sand Association.
National Intergroup Inc.
National Kitchen & Bath Association.
National Kitchen Cabinet Association.
National Lawn & Garden Distributors Association.
National Locksmith Suppliers Association.
National Machine Tool Builders Association.
National Marine Distributors Association.
National Moving & Storage Association.
National Paint Distributors, Inc.
National Paper Trade Association, Inc.
National Particle Board Association.
National Pest Control Association.
National Plastercraft Association.
National Printing Equipment & Supply Assn.
National Ready Mixed Concrete Association.
National Restaurant Association.
National Sand & Gravel Association.
National Sash & Door Jobbers Association.
National School Supply & Equipment Assn.
National Screw Machine Products Association.
National Small Business United.
National Solid Wastes Management Assn.
National Stone Association.
National & Southern Industrial Distributors Association.
National Spa and Pool Institute.
National Textile & Apparel Distributors.
National Tooling and Machine Association.
National Truck Equipment Association.
National Welding Supply Association.
National Wheel & Rim Association.
National Wholesale Druggist Association.
National Wholesale Furniture Association.
National Wholesale Hardware Association.
Newmont Mining Corporation.
New York State Electric and Gas Corporation.
North American Heating & Air Conditioning Wholesalers.
North America Wholesale Lumber Assn., Inc.
Optical Laboratories Association.
Outdoor Power Equipment Distributors Assn.
Pennwalt Corporation.
Pet Industry Distributors Association.
Petroleum Equipment Institute.
Petroleum Equipment Supply Assn.
Petroleum Marketers Association of America.
Phillips Petroleum Co.
Portland Cement Association.
Power Transmission Distributors Association, Inc.
Printing Industries of America PRM Concrete Corporation.
Procter & Gamble.
Reynolds Metals Companies.
R.R. Donnelly & Sons Company.
Rochester & Pittsburgh Coal Company.
Rubber Manufacturers Association.
Russell Corporation.
Safety Equipment Distributors Assn., Inc.
Scaffold Industry Association.
Scott Paper Company.
Security Equipment Industry Association.
Shell Oil Company.
Shipbuilders Council of America.
Shoe Service Institute of America.
Society of American Florists.
Sorptive Minerals Institute.
Specialty Tools & Fasteners Distributors Association.
Spring Service Association.
Southwestern Bell Corporation.
Textile Care Allied Trades Association.
The American Society of Personnel Administrators.
The AntiFriction Bearing Manufacturers.
The B.F. Goodrich Company.
The Can Manufacturers Institute.
The Firestone Tire & Rubber Company.
The Formaldehyde Institute.
The Goodyear Tire & Rubber Company.
The National Cotton Council.
The National Grange.
The Small Business Legislative Council.
The Society of the Plastics Industry.
The Standard Oil Company.
The West Company Inc.
Toy Wholesalers Association of America.
UBA Inc.
U.S. Borax and Chemical Corp.
U.S. Business and Industrial Council.
Umetco Minerals Corporation.
Unigard Insurance Group.
Union Camp.
Uniroyal Goodrich Tire Company.
United Pesticide Formulators & Distributors Association.
USG Corporation.
USX Corporation.
Utah International Inc.
Video Software Dealers Association.
Volkswagen.
Wallcovering Distributors Association.
Warehouse Distributors Association for Leisure & Mobile Products.
Water and Sewer Distributors Association.
Wausau Insurance Companies.
Wholesale Florists & Florist Suppliers of America.
Wholesale Stationers Association, Inc.
Wine & Spirits Wholesalers of America, Inc.
Winter Brothers Concrete Inc.
Woodworking Machinery Importers Assn.
Woodworking Machinery Distributors Assn.

Mr. HATCH. It starts off with the National Association of Manufacturers, the Chamber of Commerce of the United States, National Federation of Independent Businesses, National Association of Wholesaler-Distributors, American Mining Congress, American Farm Bureau, and American Petroleum Institute. You can go on and on. And let me tell you something, those who have put their name on this bill are getting it from the business community like they have never gotten it before.

Mr. METZENBAUM. That is true.

Mr. HATCH. Because they have tried to work out exemptions for themselves at the expense of every small businessman and woman in America. Frankly, it is pathetic. I guarantee they are going to pay a heavy price for it, because they know that they have tried to work out their own benefits to the exclusion of everybody else. Of course, the distinguished Senator from Ohio has indicated that he wants to do that. He is happy to whittle this bill down until he gets enough votes to maybe pass it. Well, that is not the way to pass legislation. If it is good for one, it is good for all. If he is really interested in helping those who have illness and occupational disease, then do it for everybody, not just a few.

Now, there are several dozen Federal agencies with responsibilities in the area of health and safety in the workplace: OSHA, the Occupational Safety and Health Administration; the Mine Safety and Health Administration; National Institutes of Occupational Safety and Health; Environmental Protection, FAA; DOD; Alcohol, Tobacco and Firearms; Department of

Agriculture. You can go on and on. All of these are doing already what the sponsors of this bill want to overlap and do again, at a tremendous cost to society. It could amount to hundreds of billions of dollars.

It is ridiculous, and I do not think anybody should support this kind of legislation. I hope everybody will vote against cloture on this bill.

I yield the floor.

The **PRESIDING OFFICER.** The Senator's time has expired.

Mr. **METZENBAUM.** Mr. President, I want to make it clear that this chart which was held up by my colleague has nothing at all to do with this subject, has nothing to do with occupational notice. This chart is not put out by any particular organization. It is put out by an attorney, who has a right to do that.

Mr. **HATCH.** Will the Senator yield? They are litigating occupational disease. This is what they are putting it out for, because of this bill.

Mr. **METZENBAUM.** It has to do with the asbestos issue.

Mr. **HATCH.** It has to do with this bill.

Mr. **METZENBAUM.** It talks about screening results, and indicates you do have an asbestos-related disease.

Mr. **HATCH.** The asbestos issue is being taken care of by present law.

Mr. **METZENBAUM.** Present law; and I just say to my colleague that this is my time. I think that even has expired.

Mr. President, we are prepared to accept the amendment. May we do that at this point?

The **PRESIDING OFFICER.** The Senator's time has expired.

Mr. **HATCH.** We are not going to accept the amendments because we want to debate them.

Mr. **CHAFEE.** Mr. President, today I rise in opposition to the majority leader's motion for cloture in the debate over S. 79, the High-Risk Occupational Disease Notification Act. I am an original cosponsor of S. 79, and I heartily support its goal of reducing the incidence of occupational disease through preventative health care. But to move a piece of legislation through this distinguished body, by cutting off debate before it has hardly begun, is objectionable to me.

We are Members of what has been called the greatest deliberative body in the world. The tradition of the Senate, like that of our Nation, is democracy. Quite simply put, in this country we are not only allowed to disagree, we are allowed to spell out that disagreement. Now, what kind of example, what kind of precedent would we set in the Senate if we stifled debate on every measure we felt was controversial?

I firmly believe in the principles of S. 79. I recognize that it is controversial. Many Senators have deep concerns about it. I am not afraid of some healthy debate on the measure among my distinguished colleagues. I am afraid, however, about the far-reaching consequences of a strategically imposed gag order that disallows debate before debate has started. Whether or not the bill is a good bill is not at issue here. The ends do not justify the means.

It is the right of all Senators, and the right of the constituents whom they represent, to speak out and voice their opinions. I ask all of my colleagues who support S. 79 to think about this cloture vote. It is not a vote on the bill.

We took a big step for civil rights in our country yesterday. Let's not back up today and deny free speech to those who chose to dissent.

Mr. **DURENBERGER.** Mr. President, I rise to indicate that I will vote against the cloture motion this morning and to state my reason for doing so.

I became a cosponsor of this bill on February 26, 1987, so there is no question where I stand on the merits of the issue before us. But what we are voting on this morning is a matter of procedure, and a very important one at that.

The Senate was created to be a deliberative body, where legislation would be tested and refined by debate and amendment. That testing process often is inconvenient for majority view-points and majority parties. Genuine debate and substantive amendments can be "inefficient" and time consuming, but the wisdom of those who created the U.S. Senate has been borne out time and time again throughout our history. Good ideas survive the trial; bad or half-baked ideas do not.

In my judgment, the majority leader has acted prematurely to bring debate on this bill to a close. It is highly unusual, if not unprecedented to: First, file a cloture petition after only a few minutes of debate; second, then go off the bill to a highly privileged matter which consumed several hours, and third, then go to another matter, the Grove City veto message, under a previous unanimous-consent request. The Senate has considered no amendments, had very little debate, and none of the obvious signs of a filibuster have appeared. However, the majority leader has acted to bring on this vote today. I am concerned with the precedent of acting in this manner, especially at this early point in the session.

As a supporter of this bill, who believes it deserves, and can withstand the scrutiny of a full debate, I believe the Senate should not invoke cloture at this time.

CLOTURE MOTION

The **PRESIDING OFFICER.** The hour of 11:30 a.m. having arrived, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 79, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes:

Senators Bob Graham, Claiborne Pell, Edward M. Kennedy, Barbara A. Mikulski, Alan Cranston, Paul Sarbanes, Harry Reid, Tom Harkin, Spark Matsunaga, John Glenn, Tom Daschle, Wendell Ford, Patrick Leahy, Paul Simon, Howard Metzenbaum, and Timothy E. Wirth.

QUORUM CALL

The **PRESIDING OFFICER.** Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The bill clerk called the roll, and the following Senators answered to their names.

[Quorum No. 14]

Baucus
Byrd
Hatch
Metzenbaum
Sanford
Stafford

The **PRESIDING OFFICER.** A quorum is not present.

The clerk will call the names of absent Senators.

The bill clerk resumed the call of the roll, and the following Senators answered to their names:

[Quorum No. 14]

Durenberger
Harkin
Johnston
McCain

The **PRESIDING OFFICER.** A quorum is not present.

The clerk will call the names of absent Senators.

The bill clerk resumed the call of the roll, and the following Senators answered to their names:

[Quorum No. 14]

Adams
Armstrong
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McClure
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

The **PRESIDING OFFICER.** A quorum is present.

VOTE

The **PRESIDING OFFICER.** The question is, Is it the sense of the Senate that debate on the committee substitute for S. 79, the High-Risk Occupational Disease Notification and Prevention Act, shall be brought to a close?

The yeas and nays are automatic under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **CRANSTON.** I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Mississippi [Mr. STENNIS] are absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. **SIMPSON.** I announce that the Senator from Kansas [Mr. DOLE] is necessarily absent.

The **PRESIDING OFFICER** (Mr. CONRAD). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 33, nays 59, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—33

Adams
Baucus
Burdick
Byrd
Cranston
Daschle
DeConcini
Dodd
Ford
Glenn
Graham
Harkin
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Proxmire
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Stafford
Weicker

NAYS—59

Armstrong
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Dixon
Domenici
Durenberger
Evans
Exon
Fowler
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Quayle
Roth
Rudman
Sasser
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—8

Biden
Bradley
Dole
Gore
Shelby
Simon
Stennis
Wirth

The **PRESIDING OFFICER.** On this vote, the yeas are 33, the nays are 59. Three-fifths of those duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The Senate continued with the consideration of the bill.

Pending:

(1) Dixon Amendment No. 1773, to provide a further limitation with respect to medical removal.

(2) Ford Amendment No. 1774 (to Amendment No. 1773), of a perfecting nature, to clarify the medical monitoring provisions relating to seasonal agricultural workers.

(3) Breaux Amendment No. 1775, to revise the medical removal provisions relating to small business and others.

(4) Dixon Amendment No. 1776 (to Amendment No. 1775), of a perfecting nature, to clarify the medical monitoring provisions.

AMENDMENT NO. 1773

The **PRESIDING OFFICER.** The question now recurs on the Dixon amendment to the Breaux amendment to the underlying bill.

The Senator from Ohio.

Mr. **METZENBAUM.** Mr. President, there is pending the Dixon amendment to the Breaux amendment. The substance of that is it would limit to $250 the cost of monitoring with respect to any small business operation. We are prepared to accept that amendment.

The **PRESIDING OFFICER.** Is there further debate?

Mr. **QUAYLE.** Yes. Mr. President?

The **PRESIDING OFFICER.** The Senator from Indiana. The Senator will suspend for one moment. Please, let us have order in the Chamber so the Senator can be heard.

The Senator from Indiana.

Mr. **QUAYLE.** Mr. President, may I first make an inquiry to the manager of the bill as to how he sees us proceeding in the short term or the rest of this day, so we can get a feel on what he wants to do? I yield to him for a response, to give us some indication of what he would like to do.

Mr. **METZENBAUM.** We have four amendments pending. They have to do with modifying the bill, making it more acceptable to the small business community and making it more acceptable to the Agriculture Committee. We are prepared to accept those four amendments because I would gather, although some might think the amendments ought to go further, the fact is they do move in the direction that I think some of the opponents advocate.

Upon acceptance of those four amendments the floor would be open to amendments. I know that the Senator from Indiana and others have indicated that they have amendments that they want to bring up. I think others do have amendments. We are prepared to address ourselves to those issues and certainly would not make any effort to preclude the Senator from Indiana or anyone else from offering amendments.

Mr. **QUAYLE.** I wonder, Mr. President, if it might not be a prudent course of action to go ahead and to dispose of those. There will be some debate on these amendments. I do not think there will be a whole lot of debate, but there will be some debate.

I do not know, as far as the votes, if there will be a vote required or wanted on the amendments. There may be. But after we dispose of these four amendments one way or another, I wonder if it would be possible, then, to have an understanding that we might get back to the opening statements.

There are still some Senators who have not made opening statements on the legislation who would like to do it. I think it would probably be better to do it just when the bill is opened. Senator THURMOND has indicated he would like to make one. I want to know if, in fact, it would be done after we dispose of these amendments?

Mr. **METZENBAUM.** I would like to say to my colleague that some Members on the other side who are actually sponsors of the bill indicated that they felt there had not been adequate time to offer amendments or discuss the bill; particularly to offer amendments. I have no objection. I do not intend to preclude anyone from making opening statements. I would hope that some who have amendments would have an opportunity to call them up. My attitude is that we will move forward on this legislation. If we have the votes, we will prevail. If we do not have the votes, we will not prevail.

But I do say to the Senator from Indiana I am not going to try to control the floor in such a manner that—if anyone wants to make an opening statement, fine. But I would hope that he would try to handle his side of the floor in such a manner that those who want to offer amendments get a chance to do so.

I would like to make one further explanation to the Senator from Indiana. The Breaux amendment, which is amended by the Dixon amendment, is actually an amendment to the underlying bill and, although we can adopt it, it actually is not in the right spot.

What I would like to do is see if we can work out a procedure, perhaps not necessarily on the floor but just between us, where we take up the Dixon-Ford amendment and then take up the Breaux-Dixon amendment to the substitute that is before us.

The point I am making is we can go through that procedure of adopting Breaux and Dixon but that is really to the underlying bill. What we are trying to do is get it to the matter actually before us, which is the substitute.

As the Senator well knows, we did that in an effort to fill up the tree prior to the first cloture vote. We do not have any intention trying to do anything similar thereafter.

Mr. QUAYLE. In other words, the reason the Dixon-Breaux amendment was offered to the underlying bill was, in essence, to fill up the tree just for this cloture vote?

Mr. METZENBAUM. That is correct.

Mr. QUAYLE. Therefore, were the Dixon-Breaux amendment, the Senator from Ohio is exactly right, attached to the underlying bill the substitute is the real bill. The substitute is the one that, if the legislation will be adopted, is what will be adopted.

Mr. METZENBAUM. Yes.

Mr. QUAYLE. Basically, it will wipe out the Dixon-Breaux amendment. I suggest that they ought to just withdraw that amendment and offer it at a later time. Then we can go back and either take opening statements or debate the Dixon-Ford amendment, which is an amendment to the underlying amendment which is the substitute and the real bill.

Mr. METZENBAUM. I just want to make it clear to my colleague that I represented on the floor that the Dixon-Breaux amendment is accepted to the sponsors and that the Dixon-Ford amendment—really the Breaux-Dixon amendment, and the Dixon-Ford amendment, is acceptable as well. I just want to be certain that the position of those men is protected and that I may live up to the commitment which I made to them that I would accept their amendments. I am not looking for a parliamentary wrangle.

Mr. QUAYLE. Mr. President, as far as when the Dixon-Breaux amendment would be offered, it would certainly be up to the sponsors. At that time, the position of the Senator from Ohio is that he will accept them. It would seem obvious to me that since their intent was just to fill up the tree for the first cloture vote and you have accomplished that, you do not want to keep the tree filled up, you might as well withdraw the Dixon-Breaux amendment and then the pending business will be the Dixon-Ford amendment, which I have some debate on.

Therefore, Senators Dixon and Breaux could reoffer their amendments, or anybody else could.

Mr. METZENBAUM. I just want to say this: Perhaps we can work out, while others are making their statements, a unanimous consent agreement that will accommodate everybody.

Mr. QUAYLE. Mr. President, I think I am going to yield the floor because I understand my good friend from South Carolina, a member of the committee, is prepared to make an opening statement on the bill. Maybe while he is making that opening statement, I will be able to converse with the Senator from Ohio to work out a way by which we can, in fact, proceed.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. Daschle). The Senator from South Carolina.

Mr. THURMOND. Mr. President, this legislation attempts to address a critical social policy issue—the right of workers to know if the substances they were or are being exposed to can increase their risk of getting a serious disease. The point of providing this information is to permit affected individuals the opportunity to seek medical assistance which can reduce the odds of contracting illness resulting from such exposure.

Mr. President, this legislation, while well-intentioned, is seriously flawed.

First, existing Federal right-to-know programs are adequate, and adjustments can be made within these laws and regulations to address any deficiencies short of enacting an entirely new bureaucratic structure, as would be required by S. 79. For example, a few months ago, OSHA expanded its comprehensive hazard communication standard to cover practically every workplace. That standard requires employers to keep material safety data sheets [MSDS] on any hazardous substances that are present in the workplace. Each MSDS, as they are called, contains extensive information concerning the substance, including specific health hazards associated with exposure. Moreover, workers have the right to examine any MSDS upon request. It would appear that the MSDS might provide an in-place mechanism for achieving the objectives of S. 79.

Second, S. 79 puts its emphasis on notifying present and former workers who have already been exposed to hazardous substances. In essence, the bill mandates action only after hazardous exposures that may increase a worker's chances of serious disease have already occurred. Implicit in this approach is the assumption that effective preventive medical treatment exists for those individuals who are identified at risk, at least to the extent to justify enactment of a new government health bureaucracy. In weighing this evidence, we should also address the issue of whether it may be more prudent to increase requirements designed to eliminate or at least minimize the hazards that created the risk in the first place. For example, are OSHA and EPA doing an adequate enough job? It seems fundamental that preventing exposure to hazardous substances is a far more effective solution to occupational disease than informing a person of the risks that exist because the exposures could not be prevented.

A third issue, and one which concerns me particularly, is the liability litigation potential inherent in S. 79. S. 79 will cause chaos in our liability system—it will bring about a flood of new claims. These suits are unlikely to be well founded legitimate claims. We will see lawsuits triggered by the plaintiffs' attorneys through advertising and utilizing information generated by the act itself.

According to nationally recognized plantiffs' attorney, Victor E. Schwartz, there are at least three principal ways in which these unfounded claims will arise:

> 1. Stress Claims. Tort and workers' compensation claims where an employee asserts that he or she "worries" or suffers "severe emotional stress" because he or she might have an illness or disease. A number of States now permit claims of this type even though there is no showing of physical illness or manifestation of any such illness. Workers could claim that they were worried that the "risk" arising out of exposure could manifest itself in a serious illness. The irony is that it will be the Federal Government notice itself that will be the real cause of the claim.
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> 2. Tort Claims in the Workers' Compensation System. Tort claims will be brought by employees against employers under a newly created exception to the normal workers' compensation "immunity shield," which prohibits tort claims against employers. These claims are predicated on the theory that an employer failed to disclose important health information to his or her employee. Some courts have interpreted worker compensation immunity shield statutes as creating an exception for "intentional" or "willful and wanton" wrongdoing to employees. Under S. 79, all the information collected by the HHS Board may be admissible in court; Plaintiffs' attorneys will claim that employers must have known about this information before the HHS notification took place.
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> 3. Tort Claims Brought on the Basis that a Named Hazard or Product Caused a Specific Illness. These claims will arise even when there is no solid scientific connection between a substance or process and a harm. Unfortunately, a growing number of courts are using very attenuated causation requirements in product liability cases. Current experience shows that many such cases have been settled for substantial amounts of money even though there is no objective proof that a particular substance or process actually caused a harm to a claimant.

Mr. President, S. 79's solution to these issues is to exclude from evidence: First, the sending and receiving of the notice; and second, the finding of the HHS Board evaluation that medical evaluation or monitoring is or is about to be initiated under the act. However, plaintiffs' attorneys do not need that evidence to prove each of the claims that have been outlined. Emotional harm claims can be proven by an assertion that the employee became upset when he visited a doctor; tort suits against employers can be launched by using the material the HHS Board used to trigger the notice.

Proponents of S. 79 have steadfastly refused to provide tort immunity to small businesses for unfounded liability exposure that will be triggered by this legislation. Ironically, they have offered this protection to doctors for actual malpractice that they may commit in ordering or not ordering workers transferred under this legislation.

My concern that a substantial increase in litigation will result from passage of S. 79 has been further raised by a study just conducted by Robert R. Nathan Associates, Inc., a well-respected economic consulting firm located in Washington, DC. The Nathan study, entitled "The Private and Public Sector Costs of Proposed Occupational Risk Legislation," estimates that the program that would be implemented under the House-passed risk bill would result in indirect costs of $5.7 billion per year in litigation defense expenses and compensation. Although the Nathan study focuses on the House-passed legislation, the similarities between that bill and S. 79 are sufficient to give me considerable pause before endorsing any kind of risk notification bill.

Mr. President, one has only to look at the limited experience with notification programs similar to S. 79 to understand the potential litigation this bill will create.

In 1979, a pilot notification project NIOSH undertook for bladder cancer because of exposure to certain chemicals resulted in the notification of 849 individuals and $300 million worth of lawsuits against the companies involved. It is noteworthy that many of these lawsuits were filed by individuals with no evidence of bladder cancer, but who did manifest symptoms of other diseases which they now claimed were linked to their exposure to the chemical in question.

All Members of Congress are well aware that our legal system faces serious problems due to the proliferation of liability claims in recent years. We are all very aware of what impact this has had on the ability of businesses to obtain liability insurance and on the cost of that insurance.

Commercial liability premiums alone rose 72 percent in 1984-85. This has been an issue of major concern to many of our constituents. Most of my colleagues would agree that it would be unsound public policy to pass legislation opening the door to new and unfounded claims on the system. While I certainly commend Senator METZENBAUM's efforts to address this problem, I believe that more has to be done in making this legislation tort-neutral.

This can be accomplished in a number of ways.

First, S. 79 should utilize a sound scientific predicate as a basis for notifications. No notification should be made unless it is based on sound evidence that human beings are likely to contract a disease if exposed to a substance or process. A good review process should be provided. It should be remembered that a key predicate for unfounded tort claims is unnecessary notification and over notification.

Second, proposals should preclude claims for emotional harm when they, in fact, stem from a notification or risk discussed in a notification. For example, if a notification is made that chemical "X" may cause cancer, S. 79 should preclude State and Federal courts from allowing a tort or workers' compensation claim that a person has suffered emotional harm or stress because he was told by the government—or his or her employer—that chemical "X" may cause cancer.

Third, absolute confidentiality should be given to any lists of names and addresses of persons notified. These lists should remain inaccessible to lawyers who may be seeking to use them to generate personal injury claims.

Fourth, the legal profession should be precluded from improper soliciting—they should not be allowed to utilize risk notification as a basis for seeking "clients."

Mr. President, our legal system is already under great stress. It is absolutely unsound public policy to pile new and unfounded claims on the system—that will be the precise side effect of S. 79 in its current form. This is an area that was given lipservice by proponents. It should be carefully studied and constructive solutions should be developed before S. 79 becomes law and creates a litigation disaster.

Mr. President, this is flawed legislation. I urge my colleagues to vote against it.

Mr. President, I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I have the right to withdraw an amendment I have at the desk. It is becoming a vehicle for the delay of the bill, and I am going to ask that my amendment be withdrawn so I might try to work with my colleague from Indiana to see if we cannot find an approach to help the farmers.

He says he does not want the bill. The bill may pass. I would just like to have my farmers and his farmers protected.

So on that basis, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. The amendment is withdrawn.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1795

(Purpose: To revise the medical removal provisions relating to small business and others)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 1795.

Mr. BREAUX. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. QUAYLE. Reserving the right to object, I do not have a copy of the amendment. I think I ought to at least have it read.

Mr. BREAUX. Mr. President, if the Senator will yield, the essential features of the amendment will be the same as the amendment I offered yesterday with regard to increasing the number of employees in a company before they recover.

The second part is to limit the amount of expenditure per employee to $250 for any monitoring plan.

Mr. QUAYLE. Mr. President, I still would like to see the amendment. With that understanding, I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out everything beginning with "10" in subsection (c)(2), and insert in lieu thereof the following: "50 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority and other employment rights and benefits as comparable as possible to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.

"(d) BENEFIT REDUCTION PROHIBITED.—

"(1) GENERAL.—If, following a determination by the Board under this Act, the employee's physician medically determines that an employee who is a member of a population at risk shows evidence of the development of the disease described in the notice or other symptoms or conditions increasing the likelihood of incidence of such disease, the employee shall have the option of being transferred to a less hazardous or nonexposed job. If within 10 working days after the employee has exercised the option and transmitted to the employer a copy of the initial determination, the employer's medical representative has not requested independent reconsideration of such determination, the employee shall be removed to a less hazardous or nonexposed job and shall maintain earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job. In providing such alternative job assignment, the employer shall not be required to violate the terms of any applicable collective bargaining agreement, and shall not be required to displace, lay off, or terminate any other employee.

"(2) INDEPENDENT RECONSIDERATION.—If the employer's medical representative requests independent reconsideration of the initial medical determination under paragraph (1), the employee's physician and the employer's medical representative shall, within 14 working days of the transmittal of the initial determination submit the matter to another mutually acceptable physician for a final medical determination, which shall be made within 21 working days of the transmittal of the intial determination unless otherwise agreed by the parties. If the two medical representatives have been unable to agree upon another physician within 14 working days, the Secretary or the Secretary's local designee for such purpose shall immediately, at the request of the employee or the employee's physician, appoint a qualified independent physician who shall make a final medical determination within the 21 working day period specific in this paragraph, unless otherwise agreed by the parties. The employer shall bear all costs related to the procedure set forth in this paragraph.

"(3) EMPLOYEES SUBJECT TO MEDICAL REMOVAL.—An employer shall be required to provide medical removal protection only for employee who—

"(A) are notified individually under section 5, or

"(B) the employer knows or has reason to know are members of the population at risk as determined by the Board.

"(4) SPECIAL RULES FOR MEDICAL REMOVAL.—An employer shall be required to provide such protection only if any part of the employee's exposure to the occupational health hazard occurred in the course of the employee's employment by that employer. The medical removal protection described in this subsection shall be provided for as long as a less hazardous or nonexposed job is available. The availability of such a job shall depend upon the employee's skills, qualifications, and aptitudes and the job's requirements. Where such job is not available, the medical removal protection shall be provided for a period not to exceed 12 months. The employer may condition the provision of medical removal protection upon the employee's participation in follow-up medical surveillance for the occupational health effects in question based on the procedure set forth in this subsection. The employer's obligation to provide medical removal protection shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal, or receives income from employment with another employer made possible by virtue of the employee's removal. An employee who is receiving medical removal protection and for whom no less hazardous or nonexposed job is available must undertake reasonable good faith efforts to obtain alternative employment.

"(5) SPECIAL LIMITATION.—An employer is not required to provide medical removal protection for employees if the employer—

"(A) has 50 or fewer full-time employees at the time medical removal protection is requested, and

(B) Made or is in the process of making a reasonable good faith effort to eliminate the occupational health hazard that is the basis for the medical removal decision.

(e) SPECIAL SMALL BUSINESS RULE.—The medical monitoring required under this Act shall be limited to the monitoring recommended by the Risk Assessment Board. The means of providing such medical monitoring shall be left to the employer's judgment consistent with sound medical practices. If the benefits are made available through an existing employer health plan, the employee may be required to meet deductible or copayments generally required under the existing employer health plan. Any such current employee shall be required to provide monitoring only for employees who—

"(1) are notified individually under section 5; or

"(2) the employer knows or has reason to know are members of the population at risk as determined by the Board.

An employer with 50 or fewer employees may not be required to pay more than $250 for medical monitoring for any employee in any year. This amount shall be adjusted annually after 1988 based on the Consumer Price Index for medical care services maintained by the Bureau of Labor Statistics.".

Mr. BREAUX. Mr. President, if the Senator will yield further, I also point out this would be an amendment to the committee substitute that is pending.

Mr. DECONCINI. Mr. President, will the Senator from Louisiana yield?

Mr. BREAUX. I will be happy to yield.

Mr. DECONCINI. I want to ask a special favor of the Senator from Louisiana and the Senator from Ohio if they would not object to the unanimous-consent request of the Senator from New York and this Senator to take 7 minutes to introduce a piece of legislation due to time constraints?

Mr. BREAUX. I will be happy to yield.

Mr. METZENBAUM. Mr. President, 7 minutes total?

Mr. BREAUX. Mr. President, I ask unanimous consent that pending business be laid aside for 7 minutes, and we proceed to morning business.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object, the only objection I have is that immediately upon the conclusion of the Senator from Arizona, and the activities of the Senator from New York, that we be back on the calendar at the very same point we were.

Mr. DECONCINI. If the Senator from Ohio will yield, the Senator from Florida [Mr. GRAMM] wants to put in a statement, too.

Mr. METZENBAUM. I have no objection to the Senator from Florida putting a statement in, too. I want it understood upon conclusion of this 7-minute interlude, that we will be back on the floor.

The PRESIDING OFFICER. Is that part of the unanimous-consent request?

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending business be set aside for a period of 7 minutes and that I may proceed as if in morning business; upon the conclusion of that, that we return to the pending legislation at the position and under the terms the Senator from Ohio just pointed out.

The PRESIDING OFFICER. Without objection, it is so ordered.

[The remarks of Mr. DECONCINI, Mr. D'AMATO, and Mr. GRAHAM pertaining to the introduction of legislation appear later in today's RECORD under "Statements on Introduced Bills and Joint Resolutions."]

The PRESIDING OFFICER. The Chair has an announcement to make if the Senator will suspend for one moment.

A moment ago the Senator sent up an amendment No. 1795. No amendment was in order at that time. That amendment therefore falls at this time.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized and retains the floor.

Mr. QUAYLE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Indiana has a parliamentary inquiry.

Mr. QUAYLE. What is pending before the Senate?

The PRESIDING OFFICER. The pending question is amendment No. 1776, a second-degree amendment to amendment No. 1775 pending to the underlying text of the bill.

In addition, amendment No. 1773 is pending as a first-degree amendment to the committee substitute.

Mr. QUAYLE. Further parliamentary inquiry. Is there any possibility to offer an amendment at this time?

The PRESIDING OFFICER. No amendment is in order at this time.

Mr. QUAYLE. I thank the Chair

AMENDMENT NO. 1797

Mr. BREAUX. Mr. President, I ask that my amendment numbered 1775 to the underlying bill be withdrawn, and I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. That amendment is withdrawn.

Mr. QUAYLE. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Indiana has a parliamentary inquiry.

Mr. QUAYLE. Now at this juncture the bill is open for amendment. Is that correct? Since the Senator from Louisiana has withdrawn his amendment to the underlying bill, he can in fact offer an amendment to the substitute or to the bill? The amendment is to the substitute. Could he offer either one to the substitute or the original text?

The PRESIDING OFFICER. The Senator having withdrawn his amendment to the bill, an amendment would be in order to the bill, or to the substitute.

Mr. QUAYLE. I thank the Chair.

Mr. METZENBAUM. Is it not the fact that the pending amendment, the Dixon amendment, which is the agriculture amendment, that the Breaux amendment—is that an amendment to the Dixon amendment or is that an amendment to the bill, to the substitute?

The PRESIDING OFFICER. The clerk has yet to report that amendment.

The clerk will report the amendment for the information of the Senator.

The assistant legislative clerk read as follows:

> The Senator from Louisiana [Mr. BREAUX] offered an amendment numbered 1797 to the Dixon amendment numbered 1773.

Mr. BREAUX. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. QUAYLE. Reserving the right to object, is this amendment the same amendment that is offered and now withdrawn, and is this also the same amendment that fell because when it was offered it just simply could not have been offered? Are we talking about the same amendment, the same Breaux amendment that we have been kicking around here for the last few hours?

Mr. BREAUX. The Senator from Indiana is correct. But the amendment essentially deals with the $250 medical cap on expenditures by employers and also increases the number of employees needed to be covered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

> Strike out everything beginning with "10" in subsection (c)(2), and insert in lieu thereof the following: "50 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority and other employment rights and benefits as comparable as possible to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.
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> "(d) BENEFIT REDUCTION PROHIBITED.—
>
> "(1) GENERAL.—If, following a determination by the Board under this Act, the employee's physician medically determines that an employee who is a member of a population at risk shows evidence of the development of the disease described in the notice or other symptoms or conditions increasing the likelihood of incidence of such disease, the employee shall have the option of being transferred to a less hazardous or nonexposed job. If within 10 working days after the employee has exercised the option and transmitted to the employer a copy of the initial determination, the employer's medical representative has not requested independent reconsideration of such determination, the employee shall be removed to a less hazardous or nonexposed job and shall maintain earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job. In providing such alternative job assignment, the employer shall not be required to violate the terms of any applicable collective bargaining agreement, and shall not be required to displace, lay off, or terminate any other employee.
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> "(2) INDEPENDENT RECONSIDERATION.—If the employer's medical representative requests independent reconsideration of the initial medical determination under paragraph (1), the employee's physician and the employer's medical representative shall, within 14 working days of the transmittal of the initial determination submit the matter to another mutually acceptable physician for a final medical determination, which shall be made within 21 working days of the transmittal of the initial determination unless otherwise agreed by the parties. If the two medical representatives have been unable to agree upon another physician within 14 working days, the Secretary or the Secretary's local designee for such purpose shall immediately, at the request of the employee or the employee's physician, appoint a qualified independent physician who shall make a final medical determination within the 21 working day period specific in this paragraph, unless otherwise agreed by the parties. The employer shall bear all costs related to the procedure set forth in this paragraph.
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> "(3) EMPLOYEES SUBJECT TO MEDICAL REMOVAL.—An employer shall be required to provide medical removal protection only for employee who—
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> "(A) are notified individually under section 5, or
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> "(B) the employer knows or has reason to know are members of the population at risk as determined by the Board.
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> "(4) SPECIAL RULES FOR MEDICAL REMOVAL.—An employer shall be required to provide such protection only if any part of the employee's exposure to the occupational health hazard occurred in the course of the employee's employment by that employer. The medical removal protection described in this subsection shall be provided for as long as a less hazardous or nonexposed job is available. The availability of such a job shall depend upon the employee's skills, qualifications, and aptitudes and the job's requirements. Where such job is not available, the medical removal protection shall be provided for a period not to exceed 12 months. The employer may condition the provision of medical removal protection upon the employee's participation in follow-up medical surveillance for the occupational health effects in question based on the procedure set forth in this subsection. The employer's obligation to provide medical removal protection shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal, or receives income from employment with another employer made possible by virtue of the employee's removal. An employee who is receiving medical removal protection and for whom no less hazardous or nonexposed job is available must undertake reasonable good faith efforts to obtain alternative employment.
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> "(5) SPECIAL LIMITATION.—An employer is not required to provide medical removal protection for employees if the employer—
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> "(A) has 50 or fewer full-time employees at the time medical removal protection is requested, and
>
> (B) Made or is in the process of making a reasonable good faith effort to eliminate the occupational health hazard that is the basis for the medical removal decision.
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> (e) SPECIAL SMALL BUSINESS RULE.—The medical monitoring required under this Act shall be limited to the monitoring recommended by the Risk Assessment Board. The means of providing such medical monitoring shall be left to the employer's judgment consistent with sound medical practices. If the benefits are made available through an existing employer health plan, the employee may be required to meet deductible or copayments generally required under the existing employer health plan. Any such current employee shall be required to provide monitoring only for employees who—
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> "(1) are notified individually under section 5; or
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> "(2) the employer knows or has reason to know are members of the population at risk as determined by the Board.
>
> An employer with 50 or fewer employees may not be required to pay more than $250 for medical monitoring for any employee in any year. This amount shall be adjusted annually after 1988 based on the Consumer Price Index for medical care services maintained by the Bureau of Labor Statistics.".

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana retains the floor.

Mr. BREAUX. I am prepared to go ahead and address the merits of the amendment at this time but I will only do so if that is in keeping with what the manager of the bill would like to have occur at this time.

Mr. METZENBAUM. Yes.

Mr. BREAUX. Mr. President, the amendment that is now before the body is, as I just have described to the Senator from Indiana, an effort to try to have the legislation really address those companies where the more serious problem seems to be. In that sense, by requesting that an area the size of the company be increased from 10 to 50 employees in order to have them covered is I think a step in the right direction.

The amendment amends the bill to permit an employer with 50 instead of the 10 or fewer employees to transfer any employee who may be a member of a population at risk to another job without violating the discrimination provisions of the bill so long as that employer provides benefits and earnings that are as comparable as possible to the employee's previous job.

I would say that this is a more relaxed version of what is required of employers with more than 50 employees. We have an absolute requirement that any transferred employee receive benefits and earnings identical to the previous job. The amendment also amends the bill to exempt small businesses with 50 instead of 10 or fewer employees from the requirement that employees exhibiting evidence of the development of the disease be provided a less hazardous or nonexposed job or if such a job is not available to receive earnings and benefits from the current job for at least 12 months.

This exemption applies to these employers as long as the employer has made or is in the process of making reasonable, good faith efforts to eliminate irrelevant occupational health hazards. The amendment also clarifies that an employee who is receiving earnings and benefits for up to 12 months because no less hazardous or nonexposed job is available must take reasonably good faith efforts to obtain alternate employment.

This 12-month period is intended for that purpose, not for the 12-month paid vacation.

I think this section is very clear in the sense that an employee who finds himself in this category must make a good faith effort to go out and find and seek employment. He or she cannot merely sit back and collect the check, and say that they are entitled to it without any effort on their part. They have their requirement. That requirement I say is to make a reasonably good faith effort to obtain alternative employment. I think the amendment makes this very clear.

The amendment does not affect notification of an employee who may be at risk nor does it affect availability of monitoring. Instead, it reduces the burden on small businesses which may not readily have alternative jobs available, and to which a requirement to keep a nonworking employee on the payroll for a year could be a significant financial burden.

Clearly what we are talking about is that the employee is still going to be notified if he is in a situation under the terms of the bill. He also will have the availability of monitoring both essential features that we think can be handled by everybody but instead I think we are trying to reduce the burden on small businesses by the direction that we are moving.

The goal of the bill, I think everyone would agree, is to destroy ignorance in the workplace, not to destroy the workplace itself; but to eliminate an uncertainty, the ignorance of the conditions that exist in an employment area in order that the employees may feel better, if you will, feel more secure, feel more confident that the workplace that they work in on a day-to-day basis is a safe place indeed to do their work.

I am told that by my amendment, as many as 95 percent of the businesses in America would be exempted from the medical removal requirements. I think everybody ought to realize that. We are talking about 95 percent of the businesses of America being exempted from this requirement as a result of my amendment. Yet, 70 percent or more of the employees of this country would still be eligible for the medical transfer protections.

How is that possible? It is obvious, when we think about it for a moment. The larger companies, with 50 or more employees, obviously employ the greatest number of workers. So this relatively limited number of businesses, 5 percent or so, employ 70 percent of the people who work in our country. Therefore, while we are eliminating 95 percent, approximately, of the businesses that would be covered, we are in fact covering employees.

Many of our people have had complaints from small business, the people in their communities, that "We cannot handle this legislation. We are a small mom-and-pop operation. We cannot get involved with transferring people to different jobs. We have only a few positions within our small mom-and-pop operation." I agree with that concern.

Therefore, my amendment, by changing the ceiling from 10 employees and raising it to 50, eliminates 95 percent of the businesses in this country.

By this amendment, I think we have told the small businessmen and women of America that we have heard their complaints, that we have agreed with what they have told us, and that we are addressing their concerns by eliminating them from some of the more onerous aspects of this legislation, from their perspective. They are going to be protected by the adoption of my amendment.

Yet, the employees of America, who work for some of the major companies listed on the chart at the rear of the Chamber—chemical manufacturers, IBM, General Electric, Owen, American Electronics Association, National Paint and Coatings Association—all of which employ far more than 50 employees, would be covered in every aspect of the bill. Interestingly enough, they support the bill.

So I think what my amendment has done is to say to those who support the bill, the large companies, the large employers, "We agree, and you will be covered; and you agree that you should be covered by the legislation."

Yet, by my amendment, we have expressed real concern that those small mom-and-pop companies; and partnerships, perhaps; and the small businesses will not be covered by some of the more onerous aspects of the bill, from their perspective.

My amendment also clarifies something that I think needed to be cleared up, and that is that only the medical monitoring procedures recommended by the risk review board must be provided by the employer to his current employees.

For example, if the board recommends a chest x ray only, the employee may not insist on a chest x ray and a blood test at the employer's expense. If the risk review board makes a recommendation for one type of procedure, the employee cannot come in and say, "I want a CAT scan and blood work and additional tests" that no one is recommending be done.

So we are trying to clarify the fact that what the risk review board is recommending cannot be exceeded by an employee who insists on many other procedures that he may like to have, that he wished he would have, but is not part of the recommendation coming from the risk review board.

The amendment also clarifies that the employer is free to choose the means of providing the monitoring, consistent with medical practices. For example, an employer may choose to contract with a particular clinic to conduct a medical monitoring for the affected employee. Assuming that the clinic is otherwise qualified to conduct these procedures, the employee may not insist on having the monitoring performed by his or her private physician or some other health provider.

That is important, because many companies have competent medical staff, have efficient and qualified and approved medical delivery systems within their company operations, or they have contracted out with an HMO or a particular physician's group to provide medical services to that plant. That is a system that is in place already for a large number of major companies affected by this bill.

What we are saying by this bill is to clarify that the employer can direct the employee to have his monitoring done under the system they have picked, as long as it is competent and not some type of sham operation. I am not insinuating that those types of operations exist. The point is that the employee cannot insist on taking his case elsewhere, as long as the delivery system that the employer is suggesting is a competent and qualified operation.

The amendment places a cap of $250, as I mentioned to the Senator from Indiana earlier. The key feature is that it places a cap of $250 per employee per year on the costs associated with medical monitoring which must be paid by any employer with 50 or fewer employees.

This figure would be subject to annual inflation adjustments, and this would be consistent with the expected monitoring costs envisioned by the authors of the bill, but would relieve the uncertainty of small businesses that might be socked with huge monitoring costs that were not affordable and threatened the existence of the company.

We are not trying to eliminate business. We are trying to eliminate ignorance. We are not trying to close companies. We are trying to make them safer and build better employees. I suggest that a monitoring program for the health of the employees who are in an area that may prove to be at high risk is a good health practice, but it is also good economic practice for that company. A company that has sick employees is not a solid, secure company. A company that monitors the health conditions of its employees who work in special circumstances is a well-managed company.

A company that has a monitoring plan for these type of employees, I suggest, is a company that is actually going to be better with the bottom line than if it had no monitoring plan or monitoring program for employees.

What does a company do that has no monitoring system and has one employee after the other fall sick with some potentially extremely serious disease? That company is going to suffer productivity loss, that company is going to suffer time loss, and that company is going to suffer with a bottom line of profit being far less than if it had healthy employees.

I suggest that a monitoring plan that this amendment would clarify would be, in effect, an incentive for a company to be more productive and a company to do better financially, for a company to make more money—which, of course, is one of the prime goals of any company in the free enterprise system.

Mr. President, I think my amendment raising the limit or the minimum, before some features of the bill apply, from 10 to 50 employees is a good step to improve the workability of this legislation.

Also, by placing a cap on the costs, we have addressed the concerns of small employers who fear that they would be put out of business by extremely high costs. By establishing that the employer determines where the medical monitoring is to come from, I think we have eliminated other concerns of small businesses.

I think that, by every bit of evidence I have been able to assimilate, by putting on this cap of 50 employees before the legislation features kick in; that by eliminating 95 percent of the small businesses of this country, we have served the business community very well. We have really protected at the same time the American worker very well because the larger companies, the larger plants are generally the ones that have more at-risk-from-disease questions than the smaller companies have, and yet the vast majority, almost three-fourths of every single worker in this country, would still be covered by this 50-employee ceiling that we have established by this amendment.

I would ask favorable consideration by managers of this legislation, knowing that it is offered in an effort not to wrinkle the bill—far from it—but to improve the bill to allow for Members to keep their faith, trust, respect, and concern that they have for small business in mind being able at the same time to vote for this legislation which protects the interests of American workers.

(Ms. MIKULSKI assumed the chair.)

Mr. METZENBAUM. Madam President, I commend the Senator from Louisiana not only for the quality of his amendment which I think relieves and solves the problem for 95 percent of the small business people in this country, but beyond that for the very able statement that he has made explaining the amendment. I think the amendment will undoubtedly when adopted cause the telephones to ring a lot less and I think the small business community will know that the U.S. Senate does indeed have a concern about their problems.

That amendment is an amendment actually to the Dixon amendment which exempts seasonal agricultural workers for medical removal.

I want to say that both these amendments are acceptable. They were acceptable to me as the sponsor of the bill prior to the cloture vote. They are acceptable now.

I would ask my colleague from Indiana whether or not he would have objection to the Senator from Ohio accepting these amendments to this bill at this point.

Mr. QUAYLE. At this point, yes.

Mr. METZENBAUM. Would the Senator from Indiana indicate whether or not he would be agreeable to our having some time limit with respect to debate on the amendments so that I might accept them at a later point or if he sees fit to ask for a rollcall. That certainly is his privilege. But I would like to bring this matter to a conclusion so that those Members on the other side of the aisle and some on this side as well who have other amendments they would like to offer would have an opportunity to offer them before the next cloture vote which we know is tomorrow. Would he be willing to agree to a time limit with respect to these amendments?

Mr. QUAYLE. I am not in a position at this time to do that, but I will certainly take the suggestion and have it communicated to some of my other colleagues and particularly the manager of the bill, who is not here right now. I could not at this time.

Mr. METZENBAUM. Madam President, I want to say so all may hear that these amendments weaken the bill in the sense that it is not as broadly applicable as it would be without the amendments. But because I believe that the agricultural employers and the small business community have a concern, I would like to see these amendments adopted.

If for any reason my colleagues on the other side of the aisle would not permit these amendments to come to a vote prior to the conclusion of today and prior to the cloture vote tomorrow, then I would have to say as one who is well aware of the procedures of the Senate that I know a filibuster when I see one because the only way you can keep these amendments from coming to a vote is to filibuster and to keep the debate going this afternoon.

I want to get the amendments accepted and let the floor be open for any amendments that Senator HEINZ, or Senator DURENBERGER, or Senator CHAFEE, or Senator THURMOND, or Senator EVANS, or any other Senator on that side may have or any Senator on this side.

So I want to say that I am very anxious to accept these amendments so that other amendments which may be more controversial may be brought to the floor.

Mr. BREAUX. Madam President, will the Senator yield for a unanimous-consent request?

Mr. METZENBAUM. Surely.

Mr. BREAUX. Madam President, I ask unanimous consent that Senator RIEGLE from Michigan be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Madam President, I rise as a cosponsor of the amendments of the Senator from Louisiana. The purpose of the amendments is to amend the definition of a small business for purposes of administering the High Risk Occupational Disease Notification and Prevention Act from 10 employees to 50 employees and to place a limit on an employer's financial responsibilities for medical monitoring of affected employees at $250 per worker.

I have heard from a number of constituents who are small business owners, who support the intention of this legislation, but feel that the medical removal provision would be extremely unworkable, given the size of their companies. It is certainly not the intention of this Senator to place an undue burden on any employer who is making a good faith effort to comply with the law. These amendments will uphold the intention of this bill—to reduce the costs of occupational illness with early detection, and to insure that workers who are at risk of developing occupationally related disease are notified of the chance they are taking.

I commend the distinguished manager of the bill for accepting these amendments, recognizing the importance of this matter to small businesses across this country. I thank the Senator from Louisiana [Mr. BREAUX] for his leadership in this matter, and urge my colleagues to support these amendments.

Mr. METZENBAUM. Madam President, I will speak very briefly I say to my colleagues on this.

The small business community has expressed a great deal of concern about the medical removal provisions of S. 79. This amendment, offered by Senator BREAUX, should and would eliminate those concerns.

The amendment does several things. It exempts businesses with 50 or fewer employees from the medical removal provisions of the bill. That means over 95 percent of the firms in this country will be exempt from medical removal.

The amendment also requires that an employee in the remaining 5 percent of the firms, who is eligible for medical removal but who cannot be transferred to an alternative job with the employer, must make a good-faith effort to find other work. This will prevent employees from taking undue advantage of employers.

The Breaux amendment improves the bill and I urge its adoption.

Finally, there has been great confusion over the cost of the medical monitoring provisions of S. 79. Opponents have argued that employers, particularly small businesses who may not be able to take advantage of the economies of scale available to large companies, will be forced to pay thousands of dollars per employee for a whole range of expensive, sophisticated medical procedures.

That simply is not true and this amendment should put that argument to rest once and for all.

In the vast majority of cases, medical monitoring will involve a simple chest x ray, or a blood test or a urinalysis. One industry group opposed to the bill estimated that medical monitoring costs would average between $20 and $250 per monitored employee. At the extensive hearings on the legislation, occupational health experts estimated that the cost of medical monitoring would be less than $250 per monitored employee.

This amendment caps the cost of medical monitoring for employers with 50 or fewer employees at $250 per monitored employee per year. In other words, small employers will not be responsible for any medical monitoring costs that exceed $250 per employee. If more expensive tests are required, the employee will be responsible for the cost.

The amendment demonstrates what we have been saying all along—this bill does not and will not impose undue costs on the Nation's small employers. I do not believe this amendment is necessary because medical monitoring costs never were extensive. But this amendment guarantees those costs will be modest for small employers.

It is a fair amendment, which helps small business. As such, I repeat again I am willing to accept it.

Let me just take another moment to address myself to the Dixon amendment to which the Breaux amendment is attached.

The Dixon amendment exempts seasonal agricultural workers employed by an employer for less than 5 months from the medical removal provisons of the bill. We are prepared to extend that to 6 months if the opportunity presents itself. The short-term nature of seasonal farm work makes it impractical for an agricultural employer to find an alternate job for a seasonal farmworker.

Let us be clear. This amendment has no impact on regular, year-round farmworkers who make up about 30 percent of the farm work force. These regular workers are no different than their counterparts employed in other sectors of the economy.

This amendment also does not affect medical monitoring. All notified workers, short-term or regular, should be allowed to seek medical testing to determine if they have developed an occupational disease associated with exposure to an occupational health hazard.

This, too, is a constructive amendment that makes the bill more workable. I urge my colleagues to adopt it. We are prepared to accept it.

I yield the floor.

Mr. QUAYLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. QUAYLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. QUAYLE. Madam President, I would like to make sure I understand this amendment and also understand what it does and does not do for small business. I think it has been somewhat implied that this, in fact, will do a great deal to help small business and, therefore, small business people's fears ought to be put to rest.

But as I understand the amendment, this really does one thing, and that is, for 50 employees or less, it caps what the costs of the medical monitoring would be, which would be $250; is that correct?

Mr. BREAUX. Will the Senator yield?

Mr. QUAYLE. I am glad to yield.

Mr. BREAUX. That is one of the things it does, the Senator is correct.

Mr. QUAYLE. What else specifically does it do that is going to help small business?

Mr. BREAUX. Will the Senator yield?

Mr. QUAYLE. Yes.

Mr. BREAUX. One of the main concerns that we had expressed by the small business community was that they were not large enough, that if a person was in an at-risk category of high risk, that they would not be able to transfer that particular employee to another agency or another division that is less hazardous. This amendment eliminates that requirement of transferring under the same pay scale, the same working conditions, the same standards and the same levels. He only has to, under my amendment, transfer him to an area that is as comparable as possible.

It may be that there is no comparable as possible identical job in that small company. If that is the case, the employer would not have to continue to pay that employee for a year. That is another big concern that small businesses had, that they would have to perhaps keep a person on the payroll for 12 months if there was no comparable job within the firm. This eliminates that requirement for small companies of 50 employees or less, as well as putting the cap in place.

I say to the Senator that that employee has to make a reasonable, good faith effort in seeking employment, and that is for larger companies, as well as the small companies.

Mr. QUAYLE. So, in other words, this amendment deals with the cost of the actual medical monitoring placed at $250 per employee per year and also deals with the medical removal or removing them from the place where they are at risk so that they could, in fact, be put in another job in that small business and, therefore, they would not necessarily have to receive the same pay that they did before. They would have to receive, I believe it is, "benefits as comparable as possible."

Mr. BREAUX. The Senator is correct.

Mr. QUAYLE. And so in the amendment, with the words "benefits as comparable as possible," I suppose that that would be 75, 80 percent of what they are getting. Do we have any definition of that?

Mr. BREAUX. If the Senator will yield, this Senator's amendment does not try to define the term "as comparable as possible." I think it would be fruitless for us to try and find and give examples of all the variations that could go into making that decision in legislation.

The intent of the Senator's amendment, when we talk about "comparable as possible," is, of course, to include the consideration of the pay scale, to include the consideration of the working conditions, the type of work that he would be doing, the level of professionalism in that particular job. Those are all things that would be considered to go into making a determination of what would be "as comparable as possible."

Mr. QUAYLE. So, in other words, the Senator did not have in mind any generic definition of what "comparable as possible to the job" meant? It is just language that is a good faith achievement, say, to try to do the best you can. There is no real understanding or meaning behind those words other than good faith attempt?

Mr. BREAUX. The Senator is absolutely correct. I think it would just be impossible for us, in legislative language, to write everything that would come up with an equalization of being as comparable as possible. These items that I mentioned are the things that they would look to to see if it is as comparable as possible. You do not have to have them all, I would say, but these are the things that should be considered in making that determination.

(Mr. ADAMS assumed the chair.)

Mr. QUAYLE. Now, we have established what it does with the medical monitoring of $250, what it does with medical removal, and those are obviously concerns that the small business would have.

But, in my discussion with small businesses, the biggest concern that they have with this legislation is the potential liability that they are going to have with all of the lawsuits and the litigation and things of that sort. Now, this amendment in no way addresses nor limits any of the potential liability. I would say, in trying to prioritize small business' concerns, that that is their No. 1 concern about this bill. This amendment does not deal with that No. 1 concern, does it?

Mr. BREAUX. If the Senator will yield, I would say that the amendment in no way addresses the language of the bill which, incidentially, this Senator feels is very adequate. I think the history of the development of this legislation should clearly show that the language in the bill, at least in this Senator's opinion, adequately protects anybody from using any evidence that comes as a result of a risk notification action as part of any potential litigation whatsoever. I think it is very clear. I think we should not try and interpret it any other way. I think it is very clear that the evidence cannot be used for litigation if it was derived as a result of a risk notification process. This amendment does not change that at all.

Mr. QUAYLE. This does not get into the liability issue. And I think the Senator also knows that if, in fact, an employee is going to get a notice that says the risk of incurring a disease, though maybe that notice is not to be used as far as evidence, that that certainly is going to be a document that may trigger one's interest in potentially seeking out a lawyer and seeking out a whole host of litigation. As a matter of fact, there is already a foundation established on how to pursue litigation in this area.

I just wanted to make sure that the liability issue—and that is a major issue. Notwithstanding the attempt to limit the liability in the bill, it is still a major concern with small businesses. And even if this amendment would be adopted, small businesses, particularly NFIB, specifically, are still very much opposed to this bill. Is that correct?

Mr. BREAUX. I would hope they would see the wisdom of this and hope to change their position. I do not know what their position is at the current time.

Mr. QUAYLE. Well, I would just inform the Senator from Louisiana that I have a letter, dated March 22, from the NFIB that says, even with this amendment, that passage of such amendment will not cause us to drop our opposition to the legislation.

Mr. BREAUX. Will the Senator yield for a question?

Mr. QUAYLE. I am happy to yield.

Mr. BREAUX. Surely, though, that letter in no way implies that they will oppose the amendment.

Mr. QUAYLE. I do not think they are talking about opposing the amendment. I think they are talking about the bill.

Mr. BREAUX. I think on behalf of independent businesses or small businesses, that they would, in fact, be supportive of something that would raise the limit before their businesses would be covered if they opposed the legislation.

Mr. QUAYLE. The point I wanted to make is I do not want Senators to have the impression that by adopting this amendment that it is going to maybe fix up the bill and that small businesses would drop their opposition. That is simply not the case, because their main concern and their No. 1 concern is this potential liability. And though this amendment would be supported by them, this amendment in no way goes to dealing with that fundamental flaw from the small business' viewpoint.

So, I do not want to be implying or creating the preception that somehow this amendment will in fact fix the small business concern. That is not the case.

Mr. BREAUX. Will the Senator yield for a question?

Mr. QUAYLE. Yes.

Mr. BREAUX. The only point I would make is the Senator is absolutely correct when he reads a letter from the Federation of Independent Businesses here in Washington that their opposition to the bill still would be maintained even with the introduction of my amendment. There are many other small businesses that would support it were my amendment adopted. That is not to say NFIB as an association does but I know I have personally met with owners of small businesses who say if you can raise the level from 10 to 50 employees we have no problems with the bill.

The association agrees with what the letter says, but that is not to say they speak for all the small businesses in America.

Mr. QUAYLE. In discussing your amendment with small businesses, were you certain that they understood that, even though you had raised the exemption from 10 to 50, that their employees would still be getting notices from this board, this independent regulatory agency, that would be making decisions based on what I think is very loose scientific data; that in no way does your amendment touch this whole notification process which I find is the alarming aspect of this legislation? Did your small businesses fully understand the notification process, which is the thing that is going to trigger the litigation which I feel is drawn upon very loose science in the first place? Did they understand that?

Mr. BREAUX. If the Senator will yield, I will respond that the small businesses I spoke with certainly have no problem notifying the employees if the conditions they happen to work in are potentially dangerous and that decision is made by a respected independent board of professionals. They do not mind telling their employees, I would say to the Senator, that the conditions are potentially dangerous.

Mr. QUAYLE. I do not think they mind telling their employees and we ought to do it through the normal work force. But I imagine if you ask them if they want their employees to get a notice from an independent regulatory agency saying you in fact have this one-in-a-million chance or one-in-a-thousand chance to get that disease, bypassing the employer, bypassing the small business man without giving him the opportunity to furnish this information, they as a small businessman or woman might have a different attitude.

So I just want to make sure we are not going to construe this is going to be the salvation to small business.

Mr. METZENBAUM. Would the Senator yield for a question?

Mr. QUAYLE. I have a couple of other questions but I would yield for the question.

Mr. METZENBAUM. Does the Senator from Indiana know, apropos of the matter he was just discussing with the Senator from Louisiana, that the employer has the option of making the notification if the employer wants to do so? And if the language is not tight enough on that score to satisfy the Senator from Indiana we are perfectly willing to work that out.

Let me further say to you, are you aware we are prepared to accept any language you want with respect to the matter of liability. We do not want this bill to add $1 of liability to anybody.

There has been a lot of misrepresentation of the facts. I have said to you publicly and privately: We do not want to help the lawyers out at all. We have said it. The insurance company, Crum & Forster Insurance Companies, the second largest group of insurance companies in the country, have found the bill acceptable.

You may be certain that people like Manville Corp. who have gone through a bath of blood with respect to liability—we are prepared to accept any amendment you want with respect to limiting liability that arises from the notices given in connection with this bill.

Mr. QUAYLE. Let me just briefly respond. Then I have just a couple of other questions I want to address to the Senator from Louisiana.

First, the notification has got to be done in accordance with the way the board makes the determination. The litigation, no matter what kind of language we put in there and I think the Senator from Ohio and the committee tried to put in, it is not going to create a new tort remedy and not going to accept workers compensation. The problem is when you get these individual notifications and all these letters go out en masse that you are in fact going to have a lot of additional lawsuits and that is the liability problem. We have talked about fundamentally changing that aspect of the bill. If the Senator is open to that then I think we have made strong headway.

Also, the Crum & Forster, the American Insurance Association, which represents about 85 percent of the insurance carriers, they oppose this thing. The Manville Corp., you keep talking about them, they are bankrupt, so I am not so sure what kind of a situation——

Mr. METZENBAUM. Are your using that as a pejorative?

Mr. QUAYLE. I am saying they have been sued by so many people this litigious type of legislation probably would not affect them. They have so many lawsuits they are in bankruptcy; a few more lawsuits probably would not affect them.

Mr. METZENBAUM. Does the Senator from Indiana not want them to be able to pull themselves out of that and continue as an operating company in this country?

Mr. QUAYLE. That is great, but I am curious about the support they have for this legislation. They may just feel we have been sued to death; a few more, so what?

Let me just ask the Senator from Louisiana. You picked the $250 per year, which I thought was a curious one for small business because I think it was the desire that perhaps a small business would want to pay less than what big business would for medical monitoring?

Mr. BREAUX. Will the Senator yield?

Mr. QUAYLE. I will be glad to.

Mr. BREAUX. I think that question, perhaps, assumes that a smaller company is going to provide less adequate monitoring than a larger company, and that is not the case at all. What we are talking about is quality of monitoring and the quality monitoring for health concerns should be the same for an employee if he works for a giant company or a small company. The purpose of setting it at $250 is that is a fee, a number that we have heard as an approximate cost of monitoring for health concerns of an employee over a year's period of time.

There were those who said that this could escalate. The purpose of my amendment is to clearly point out that this is the amount that we are talking about. It is not whether it is a big company, a large company—we are looking at the concern of the individual employee no matter who he works for. By setting a cap, we are saying that we feel this is a level for small employers that should not be exceeded. It is not whether it is a big or small company, as far as the quality of the monitoring and quality of the health care provided.

Mr. QUAYLE. Is the anticipation of the Senator from Louisiana these medical monitoring costs would in fact exceed the $250 a year?

Mr. BREAUX. The answer, if the Senator would yield, is no.

Why we have pegged it to this in the legislation is to give comfort to those who have made the argument that we are going to be expending thousands and thousands of dollars bankrupting small businesses. so we have made a very clear statement in the legislation that it will not exceed $250 except for the escalation clause which we have included in it as the cost over a year's period of time.

So we have said it is not going to be in the thousands of dollars. It will be $250.

Mr. QUAYLE. By establishing the $250, basically the $250 should be met by big businesses, middle-size businesses and small businesses? That this $250 is very adequate and, therefore, this is not really giving a break of some sort to small businesses; is that correct?

Mr. BREAUX. If the Senator would yield? My amendment clearly addresses the concern that many have expressed—it does no more than that—that these costs could run into the thousands and thousands of dollars for small businesses. My amendment takes care of that concern. It says it cannot exceed $250 period. I think that should take care of that concern we have heard expressed.

Mr. QUAYLE. The only reason I raise that is because on the committee report the average cost to the employer was estimated at $224. Now we are saying that small businesses, the cap would be $250, which is well above the average that the committee report suggested. I was just curious of the motivation, why the $250 was picked out.

Furthermore, it must be understood that by saying: Small businesses, you are only limited to $250; the committee report says that we are expecting you to pay only $224 anyway, so $250 is just to basically deal with some side issues that have been brought up, but will probably have no real practical effect on small businesses.

Mr. BREAUX. Will the Senator yield?

Mr. QUAYLE. I will be glad to.

Mr. BREAUX. Obviously the $250 is a cap, a ceiling. They cannot exceed that. If they can do it for $100, no problem. If they can do it for $224, which is what the committee said in their report is the expected average, fine. No problem.

What we are trying to do is to assure small businesses that they will not be spending thousands of dollars in these procedures and in no case will they ever go above $250.

Mr. QUAYLE. I just reiterate that the committee suggested that the average cost would be only $224. Therefore, from a practical effect, assuming that the committee report is accurate, from a practical effect it would be very insignificant because there is not any expectation that the cost would go above the $250.

One other thing is that my calculations for a person at a minimum wage that would be covered by this, where they would spend $250 for medical monitoring, would be about a 4-percent increase in the cost of labor. That would be for every person at minimum wage. We will be putting on the employer the additional cost of hiring that person at minimum wage or somebody in that environment an additional 4 percent.

Mr. BREAUX. Will the Senator yield?

Mr. QUAYLE. Yes.

Mr. BREAUX. I would answer that question by asking a rhetorical question. How much does cancer run? If you have a person on minimum wage who runs into cancer, are we to tell him he is not entitled to be looked at? Of course not.

Mr. QUAYLE. This Senator has said, and I will repeat it, I have no objection to the objectives of this legislation, that when the Federal Government has information, conclusive scientific information that a person is at risk, and if in fact there is something we can do to help promote medical monitoring or something of that sort, the Federal Government has an ethical and moral obligation to inform that employee. I just want everyone to know there is an additional cost that we are, in fact, placing on the employer.

I understand at this point the Senator from Iowa is here to make an opening statement. If that is the case, I will yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. Mr. President, the Senator from Indiana is right that I do not want to make a statement. I know we are on a whole series of amendments. I did not have an opportunity early on this week to make a statement on the bill. I am well aware that some of the concerns that I have outlined in my statement are supposedly addressed by the amendments which are now under consideration, although I take the view at this point that they do not satisfactorily address our concerns. I think I will probably have an opportunity later on to speak on those amendments.

Right now, Mr. President, I would like to take this opportunity to explain my general orientation toward the underlying bill. I thank the Senator from Indiana not only for giving me this time to speak, but also for his leadership in bringing forth some of our concerns about this bill. I had an opportunity to watch him in my office yesterday as he spoke considerably on this bill. He is doing a very good job and his constituents ought to be proud of his efforts of leadership here.

Mr. President, basically, I am in opposition to S. 79, not in opposition to what it tries to do, but I guess I do raise the question of whether adequate procedures, regulatorywise, legislationwise, are not already available to us to solve these problems.

I received from my State a great deal of mail on this bill and particularly from the small businesses within my State. Quite frankly, Mr. President, these letters seem to present the general atmosphere of people aghast at the prospects of trying to meet the requirements, and which, if this legislation passed, they would have to meet. They are concerned about increased liability claims.

I just heard an exchange on the floor about whether or not this bill is intended to do that. I am sure we have honest points of view on both sides, whether or not it is costly from that standpoint.

But also, without a doubt, there will be increased administrative litigation in which particularly small businesses might be involved. All businesses will be involved but the capability of small businesses responding to that is more difficult than larger corporations.

Of course, the cost of medical monitoring is a concern to my constituents, the cost of job transfers, or paid job removals. Also, what about all the hassles that these small businesses are going to face, generated by former employees or their lawyers just seeking basic information about possible contact with hazardous substances? This would generally come maybe after it being very difficult to remember, even the former employer as well as that employee very dimly remembering his employment.

I do not believe the small business people who are writing to me, Mr. President, to be hard-hearted or unconcerned about protecting their employees from possible dangerous substances. On the contrary, they, like the rest of us, think that workers should be protected from hazardous substances in the workplace.

This well-founded consensus has already crystallized in statutes and regulatory mechanisms which require workers to be informed about occupational hazards, legislation that I am going to list that has been passed by this body, by the entire Congress, now on the books, over a period of probably 2½ decades, in one case for over seven or eight decades.

Look at the long list: The Occupational Safety and Health Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Resources Conservation and Recovery Act; the Consumer Product Safety Act; the Federal Food, Drug, and Cosmetic Act; and, most recently, the Emergency Planning and Community Right to Know Act of 1986. That latter one, the Right to Know Act, was part of the Superfund amendments and Reauthorization Act of 1986.

We already have in place the hazard communication standard, which has recently been expanded by court order to cover every employer in the country, requiring employers to inform employees of the potential hazards at the work site, and of ways for these workers to protect themselves.

The Secretary of Labor states that the hazard communication standard will save as many as 143,300 work-related cancer deaths over the next 40 years.

So, a great deal is already being done to protect American workers from hazardous substances in their workplace. But, Mr. President, maybe we should do more than we are doing. I certainly would not want to reject the notion that more could be done to protect the American worker. There may be good reason to go beyond current policy and standards for hazard communication to a risk notification program, which is what is contemplated in S. 79. For sure, if the Federal Government has knowledge of certain workers having contact with hazardous substances, there is no reason why that information that the Federal Government has should not be made available to anybody who wants to know what it is.

But the real question, Mr. President, is whether the program laid out in S. 79 represents a reasonable way to establish such a risk notification program. In my view, it does not.

Under terms of this legislation, the Federal Government would notify a worker about his or her potential risk from exposure to a hazardous substance, but do it without establishing that a causal relationship existed between that worker's exposure and the health risk that the Government is notifying the worker about.

If, out of the clear blue sky, I received notification in the mail and it did not go into greater detail, I imagine I would spend a few sleepless nights until I got some answers to my questions. And whether or not that is the Federal Government's role without providing some answers, I think is a legitimate basis for criticism of this legislation.

The bill goes on to state that "notification is warranted only where there is statistically significant evidence that chronic health effects have occurred in persons exposed to hazardous substances." The "persons" in that statement are not necessarily the workers who will be notified. Rather, they are categories of workers that may have come into contact with a substance that some research may have shown to cause in some circumstances a health problem.

Really, what does that tell you? Because there are not any further specifics as to how long the individual might have been exposed and with what intensity they may have been exposed. In fact, Mr. President, an individual worker's specific circumstances with respect to a hazardous substance are really not considered at all in the process S. 79 would establish. Thus, many workers will be informed that they are at risk when in fact they face no risk at all.

One of the most acute fears that my small business constituents have about this legislation is that if it becomes law it will unleash a whole new wave of tort liability claims which will embroil them in costly litigation.

Now, again with reference to the dialog between a couple of my colleagues on the floor just a few minutes ago, there is honest disagreement about that. Maybe it is not so. Hopefully, it is not so. But you can imagine people out there writing to us telling us their views on legislation, where there is honest differences of opinion. They have every right to expect that legislation which might be very sweeping can evolve into that, unbeknownst and unanticipated by those of us here passing this legislation as we do not know the processes that go on before.

Oh, we have an opportunity to correct those things in followup legislation, but we always find ourselves in this body, in Congress as a whole, maybe all legislative bodies, always locking the barn door after the horse has been stolen. And so I think we ought to nail down very clearly what we intend and ought to go to excess to do that.

If there is not going to be any additional tort costs as a result of this legislation, then those who take that view should go beyond a reasonable doubt to show all of us that that is the intent and spell it out in the legislation so there is not much left for the regulation writers and for the courts to decide that would increase those costs.

We all know very well that tort liability claims are already one of the most serious problems facing not only small business but also other sectors of the community. The bill's sponsors assure us that they have made this legislation tort neutral, but who can take this assurance at face value given—and this fact is uncontrolled by us to some extent—the litigious attitude within our society and of course the demonstrated inventiveness of the plaintiffs' bar. This is meant to be a labor protection act. I am sure that that is well intentioned by its authors, but from the standpoint of unanswered questions about whether it is tort neutral or not, somebody may some day label it as the attorneys' full employment amendments of 1988.

In addition to increased tort litigation, it is also likely that there will be substantial administrative litigation set in motion by passage of this bill. The bill provides for citizen enforcement actions against the risk assessment board whenever final agency action concerning notification has not been completed within 105 days.

Furthermore, employers may seek variances exempting their employees from inclusion in the particular population at risk. The National Institute for Occupational Safety and Health must provide opportunity for a hearing in the event that any application, any application for a variance raises an issue of fact subject to dispute. It is not hard to imagine that many employers will seek variances for their employees.

Finally, persons who feel that they are adversely affected by a board determination may seek review of the board's determination.

Now, quite apart from the problems that might follow from tort or administrative litigation, other new costs for small business will be created by this legislation—probably unaffordable costs to small business, always on the brink of success, on the edge of failure, depending upon which way the economic winds blow. And the unpredictable things that Congress does only adds to the problems of a segment of our economy that creates most of the new jobs.

I believe 85 percent of the new jobs created in the 66 months of recovery that we have had since the recession of 1982 have been created by small business. It is the entrepreneurial spirit of small business that is the economic salvation of this Nation, providing the jobs that need to be provided, and so costs are a very important factor for those who are in business, whether or not they will stay in business, whether or not they will be able to expand.

More importantly, costs are right there as a key element in whether or not a new business is going to get started. They will probably have to borrow a lot of money and have to be able to show a cash flow to the banker to get their start. Consequently, we have to be concerned about the costs to small business. We have something to do with legislative costs. There are a lot of other things in our economy, our free-market approach that we do not have the control over, and it is a good thing that we do not. But these things we can control. And in the event that workers are exposed to a hazardous substance while on a particular job, under this legislation the employer must provide medical monitoring of the employee at no cost to that employee. In the event that the employee's physician declares that the individual "shows evidence of the development of the disease or other symptoms or conditions increasing the likelihood of such disease, the employee shall have the option of being transferred to a less hazardous or nonexposed job" without loss of earnings, seniority, or benefits. If such an alternative job is not available, the employer will provide "medical removal protection" for a period of 12 months without loss of earning or other benefits, and so I think this essentially becomes a paid medical leave for up to 1 year.

We have to be able to answer the question: Will small business be able to afford this? More importantly, how many small businesses even have the flexibility to shift employees around as suggested in this legislation?

I know that these amendments that are before us try to address these issues. I have heard that 95 percent of small business is exempt now with these amendments. I suppose we ought to say amen to these efforts but surely the people who authored this legislation——

Mr. QUAYLE. Will the Senator yield?

Mr. GRASSLEY. Yes.

Mr. QUAYLE. Let me state for the record.

Mr. GRASSLEY. Was I wrong?

Mr. QUAYLE. Ninety-five percent of the small businesses would be exempt from only two provisions, one being the medical monitoring and the other medical removal. But the Senator has made a very eloquent and cogent statement about the potential increased litigation. These small businesses will still be subject to the whole liability litigation. These amendments in no way touch the litigation problem that really confronts the small business.

Mr. GRASSLEY. On that point of tort neutrality do both sides agree with the Senator's statement?

Mr. QUAYLE. Both sides would agree with the statement that this amendment has absolutely nothing to do with limiting liability.

Mr. GRASSLEY. I surely thank the Senator from Indiana for adding to that because as I was saying there have been attempts here to deal with this. I think it just points out probably not adequately, as we are led to believe, and does not deal with one of the points that I made.

But to get back to my original point that I was trying to make when the Senator from Indiana asked me to yield, is this attempt now to agree to these amendments and limit the impact really an effort to deal with this and to deal with it wholly, and is there a commitment to it through the entire legislative process including conference? Or is this somehow just a procedure to get this bill out of this body and to get it over to the House, have it amended, have these limiting amendments stricken? Then when the bill comes back here after conference our opportunities to deal with this, to slow down the process, to bring some reason to the legislation, then they are limited. We could be, by accepting these amendments, doing nothing more than just moving the bill beyond one stage of the legislative process. And then on the second go around after the conference which was just faced with these same issues, we would not have the ability to force a change at that time.

Mr. METZENBAUM. Would the Senator from Iowa yield?

Mr. GRASSLEY. Yes, I will yield. I just raise the question. I do not have an answer to the question. I would appreciate having the answer to it if the Senator has it.

Mr. METZENBAUM. First, I will answer it, and then I will ask the Senator a question. I feel certain that, if the Senate accepts the amendments, I as a sponsor of the bill will go to the conference committee making every possible effort to reflect the will of the Congress and hold onto the Senate amendments. In accepting these amendments, I will say there is no thought in mind that we will go to conference committee and attempt to "take them out" at that point.

I hope with that assurance that we could gain support of the Senator from Iowa, and I wish to address myself to the question that the Senator from Indiana spoke to, Senator QUAYLE; that is, about the question of liability. Does this amendment affect the question of liability?

I say to my friend that I do not know how we can say it any more explicitly.

This bill says no liability may arise. You can say it any way you want, that no liability shall arise by reason of the notification. Do you want to put any special proscription? We will accept it. We have said it, we are willing to say it upside down, backwards, forwards, any way you want. We do not want a single employer in this country to have $1 additional liability by reason of the passage of this bill. We want, and our only concern is that, the employees who have been exposed to toxic fumes and gases be notified that they have had that exposure. We are not asking them for a dollar of money. We want to say you cannot get a dollar in money. There has been more misinformation put out about this bill than almost any other bill since I have been a Member of this body.

We will rewrite the language, if you want, about liability. You put it in curtains and dressing and you put any kind of folderal around it, we will accept it. We do not want any liability to arise by reason of this bill. I do not know how we can say it any more clearly than that.

We are prepared to accept the amendment of the Senator from Louisiana and the Senator from Illinois having to do with the agricultural exemption as well as the small business exemption. We have made it clear that we want to work with those who have concerns about this bill. Any negotiations we have, we will attempt to satisfy those concerns. We believe that the Senator shares with us the concern that is expressed in this bill, and that is when there is an independent assessment for it, totally independent, that concludes that certain exposures have caused people who possibly have a medical problem, that in good conscience they are owed the obligation to be told, "You have been exposed," and then to see to it that their health conditions are monitored.

That is all this bill is about, nothing more, nothing less.

Mr. QUAYLE. Will the Senator yield?

Mr. GRASSLEY. Yes. I yield to the Senator from Indiana.

Mr. QUAYLE. I do not disagree with the objective, where the Government has inclusive scientific information, and they can help an employee, that information should be shared with the employee. What I disagree with is the procedure that they have set up where the independent board with very loose scientific data in fact will be notifying literally millions of people, some of them erroneously, and that is where all the liability comes into.

I think the Senator from Ohio perhaps changed his mind since the committee as far as limiting tort liability because the Senator will recall that I offered an amendment in the committee that would prohibit claims for compensation from stress or emotional harm if claims are based entirely or indirectly on notifications, reports, or findings issued pursuant to this act. I take from the statement just made that he in fact changed his mind and would now accept this amendment.

The PRESIDING OFFICER (Mr. FORD). Let us address another Senator through the Chair. The Senator from Iowa has the floor.

The Senator from Indiana would have to get that permission from the Senator from Iowa.

Mr. QUAYLE. I am pointing out to the Senator from Iowa that perhaps the Senator from Ohio has in fact changed his mind since the committee. I am not asking the Senator from Iowa a question. I am responding to the Senator from Iowa.

The PRESIDING OFFICER. We have a nice colloquy here. I want to indicate the problem so we do not get it out of hand.

Mr. QUAYLE. We are aware of that, Mr. President.

That is the point. I think perhaps the Senator from Ohio may speak for himself. Maybe this has changed his position, that they are willing to accept anything that would limit liability. In the committee they did not. They voted down what I thought was a very good amendment that would have prohibited claims for compensation for stress and emotional harm if the claims are based directly or indirectly on notification, reports, or findings issued pursuant to this act.

The liability, I tell my friend from Iowa, is in fact a major, major issue as far as that is concerned. I will note——

Mr. METZENBAUM. Will the Senator permit the Senator from Indiana——

Mr. GRASSLEY. Let me wait until the Senator from Indiana is done. Then I will be glad to yield.

Mr. QUAYLE. I might also tell the Senator from Iowa who has put this finger on the problem, it is not the moral objective because I think he and I would share the moral objective of the Government, that if they have this information they ought to share that with the employees. I certainly have that. Certainly he does too. I might also point out that the pending amendment though has perhaps the presence of solving small business problems. It does not address that liability issue. That is their No. 1 concern.

NFIB, a very well-respected group which represents small businesses, says in a letter that even with the adoption of this amendment, they would be very much opposed to this bill.

Mr. GRASSLEY. I have only about 2 minutes, and then I will yield the floor.

Mr. President, I know it is true that the bill attempts to include a small business exemption for medical transfer and medical removal provisions, and I know there are amendments pending that go beyond that.

Furthermore, unfortunately, the bill as originally drafted offered no assurances that small businesses will actually be exempted from these provisions. For the exemption to apply—the exemption on medical transfer and medical removal provisions—the employer must have made or be in the process of making a reasonable, good-faith effort to eliminate the occupational health hazard that is a basis for the medical removal decision. The bill does not define what a reasonable, good-faith effort is.

Furthermore, it might not even be possible to eliminate a health hazard if that hazard is an integral part of the production process. Thus, a small employer could be subject to the medical transfer provisions, even though a worker may be protected from the hazard in question or in no real danger of it.

It should be noted that there is no exemption from the medical monitoring provisions I have already described.

Mr. President, I have received large numbers of letters on this legislation from every sort of small business in my State. They are universally opposed to the bill.

Given the importance of small business in the economic life of my State; given that Iowa is just emerging from a long period of hard times; given the protections provided workers by current law and regulations; and given the manifest problems with S. 79, I am not going to be able to support this bill in its present form.

Let me add that I do not even think that the amendments that are before us address adequately what they say they attempt to address.

In the event that S. 79 is not amended as it should be, or if left alone and defeated, I am going to remain open minded with respect to further efforts to develop risk notification procedures for workers exposed to hazardous substances; but I would do that in light of only clear shortcomings in the many pieces of legislation that I have already listed here which attempt to do the work of past congresses to deal with safety in the workplace.

I yield the floor.

Mr. METZENBAUM. Mr. President, I wonder whether the Senator from Indiana would permit me to go forward at this time and accept the Dixon amendment as amended by the Breaux amendment.

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. METZENBAUM. For the purpose of responding.

Mr. QUAYLE. At this time, I would not. The manager of the bill, Senator HATCH, is on his way over.

I have one other question about the amendment that is pending. I do not know if this will be the appropriate time to address that.

Mr. METZENBAUM. I think Senator BREAUX will be back on the floor shortly.

Let me ask another question: Would the Senator from Indiana be in a position to agree to a time limit on the amendments? We are anxious to give those who have amendments an opportunity to call them up. There is a Danforth amendment having to do with emotional stress; and if he wants to call that up, so be it. If others have amendments, we will be happy to have them considered.

We think we should move forward on this bill. Since this does not seem to be a controversial matter, we would hope it could be accepted or that we could at least enter into a time agreement.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I should like to address the Senator from Louisiana. I beg his indulgence.

On page 2 of this amendment, is this current law—pages 2, 3, 4, and 5, down to the written material—is this all the same as in the current bill, or is there something in there that I should read and know about?

Mr. BREAUX. Mr. President, will the Senator yield?

Mr. QUAYLE. I am glad to yield.

Mr. BREAUX. The material that the Senator from Indiana referred to is existing language in the bill, and the new material begins on line 8 of page 5. It is marked on the bottom of the page, page 5, line 8, "an employee who is receiving medical removal protection," and so forth—that is a new addition, continuing on down the rest of that page.

Mr. QUAYLE. In other words, page 1 is new?

Mr. BREAUX. Page 1, the only new is the change of the number 10 to 50.

Mr. QUAYLE. The only other new would be beginning on page 5, line 8, through the rest of the text?

Mr. BREAUX. The Senator is correct.

Mr. QUAYLE. Including page 6? Or is that picking up current legislation?

Mr. BREAUX. The Senator is correct.

Mr. QUAYLE. Page 6 is new?

Mr. BREAUX. I say to the Senator from Indiana that on page 6, the only new part would be the first two sentences.

Mr. QUAYLE. "The medical monitoring required under this act shall be limited to monitoring recommended by the Risk Assessment Board." Just that?

Mr. BREAUX. The next sentence also.

Mr. QUAYLE. "The means of providing such medical monitoring shall be left to the employer's judgment, consistent with sound medical practice." That is new?

Mr. BREAUX. The Senator is correct.

And on page 7, beginning on line 8, through the end of that page, is new.

Mr. QUAYLE. I thank the Senator from Louisiana. It would be helpful for us, as we read this, to see if there is anything else in there that we should be aware of.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, as anybody can plainly see, I am strongly opposed to S. 79, the High Risk Occupational Disease Notification Act, in its current form, a position I regret having to take but must. As my colleagues know, I have spent a significant part of my Senate career working to advance public health, but this legislation does not represent good health policy. It is flawed conceptually and substantively, and it should not become law.

Since I was first elected to this body, I have worked to protect the rights of the handicapped and have supported programs to help them become full participants in our society. I have championed a long list of programs aimed at reducing infant mortality, heart disease, cancer and stroke throughout this country. I have sponsored legislation to educate the public about the health risk of cigarettes and smokeless tobacco, and legislation which would protect the public from the health risks of passive smoking, both on public conveyances and in government buildings.

I have consistently supported efforts to prevent and treat alcohol and other drug abuse in this country, as well as our rapidly expanding biomedical research efforts. I have worked with members on both sides of the aisle on legislation to reduce the spread of AIDS, expedite drug approval, and provide other appropriate services for AIDS patients. And, I have supported health promotion and disease prevention efforts through both government and private sector initiatives.

Some of these programs cost billions of dollars annually. I am not afraid of spending money on responsible Federal programs that will improve public health and save lives. The problem with S. 79 is that it is unnecessarily expensive, and it will not prevent occupational disease, even though employers will face tremendous compliance costs as a result of its passage. It is a tremendously expensive bill for what it is trying to do. It is unnecessarily expensive, and it does not work.

This legislation will not have a significant impact on occupational disease. Instead, this legislation focuses on the process of legal notification and the creation of new legal rights. To view it as a significant health legislation would be a serious mistake.

Second, the $25 million price tag the bill's sponsors will admit to is just the tip of the iceberg. This legislation will undoubtedly result in substantial increases in cost to the private sector and may well result in the shifting of limited resources from more effective occupational disease prevention programs.

That is not to mention the cost to consumers by the driving up of additional costs to individual consumers.

Many of the public policy issues raised in this legislation are technical in nature and, unfortunately, many of the provisions do not accomplish what they appear to on first reading. Even the title is misleading. The legislation is called the High Risk Occupational Disease Notification and Prevention Act, yet any differentiation in the degree of risk, including the word "high," never appears in the legislation.

Because of the technical aspects of this legislation and the importance of the public issues raised, I would like to spend some time discussing the key provisions of this bill.

Let me turn to section 3, the "definitions" of this particular bill.

First, this legislation seems to cover every worker in the United States. So it is a very broad bill according to its writing. An "employer" is defined to include—in fact let me read it. It will be section 3, subparagraph 4, Employer:

> The term "employer" means a person engaged in a business affecting commerce who has employees, including the United States or any State or political subdivision of a State.

So the term "employer" is defined to include "the United States or any State or political subdivision of a State." That means that all Federal employees, States employees, and local government workers as well as private sector employees are covered by S. 79. Everyone from the researchers at NIH to the Air Traffic Controllers at the FAA are included.

Presumably, if these individuals are exposed to something which the Risk Assessment Board established by S. 79 concludes is an occupational health hazard, they will be notified just like every one else. The appropriate government will then have to pay for medical monitoring for these individuals for their entire lives, and provide for transfers to less hazardous jobs with no loss in pay or seniority if the requirement of the bill is satisfied.

My colleagues should note that, on the Federal level, there is no authorization for this Federal medical monitoring and no authorization for the Federal job transfer costs. No CBO estimate has been included on this point, and, thus, it is really impossible to estimate what the ultimate cost of S. 79 might be. In addition, no effort has been made to estimate what effect these provisions might have on the civil service system, let alone on State and local governments. Thus, to claim that the cost of this measures is only $25 million grossly underestimates the real price tag.

There are also a number of problems with the definition of an occupational health hazard. S. 79 states in section 3(8):

> The term "occupation health hazard" means a chemical, a physical, or a biological agent, generated by or integral to the work process and found in the workplace, or an industrial or commercial process found in the workplace, for which there is statistically significant evidence (based on clinical or epidemiologic study conducted in accordance with established scientific principles) that chronic health effects have occurred in persons exposed to such agent or process. The term includes chemicals that are carcinogens, toxic or highly toxic agents, reproductive toxins, including agents that may cause miscarriages and birth defects, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents that act on the hematopoietic systems, and agents that damage the lungs, skin, eyes, or mucous membranes.

Mr. President, I ask unanimous consent that I may be permitted to yield to the distinguished acting Republican floor leader for the purpose of his making a statement at this time as a courtesy to him, without losing my rights to the floor or having this to be considered a second speech under the rule.

The **PRESIDING OFFICER.** Is there objection? Without objection, the acting minority leader is recognized.

(Mr. HEFLIN assumed the Chair.)

Mr. **SIMPSON.** Thank you, Mr. President.

I thank Senator HATCH. I appreciate his good work in this measure. It is a very difficult, contentious issue, obviously, to all of us.

I wish to indicate my opposition to the High Risk Occupational Disease Notification and Prevention Act. I have not expressed myself on the measure before, but the bill and the House companion measure would require that the Government notify all workers who have been exposed to hazardous materials that they might be at risk of developing diseases as a result of their exposure. And those to be notified would include any former workers.

I think that is a largely unworkable thing. It is easy to say you can do that on a computer list, but that is not the way it is in small business in America.

On its face, this may be a very laudable goal, but there is no demonstrated need for the measure, which only unnecessarily duplicates existing Federal programs, creates a new Federal bureaucracy, and creates potential liability problems for the Federal Government and employers and is potentially costly for workers, employers, consumers, and workers alike.

The existing administrative and regulatory efforts are quite adequate, I think, to deal with chemical exposure in the workplace. Currently, OSHA requires any manufacturer of a hazardous substance to evaluate the danger and create a material safety data sheet, MSDS, which the manufacturer must transmit downstream with the materials.

Employees have to be trained to identify and minimize their own exposure before they use substances that are identified to them as being hazardous. Substances must be clearly labeled, and workers must be notified of the identity, the precautions, and the acute and chronic health effects associated with exposure to the hazardous substances. Employers must maintain exposure and medical records in a manner assuring that the workers and former workers have access to them. That is all happening today.

Now, this bill would require that the employees who were formerly paced at risk in their work environments be identified and notified and have their health monitored. That is an impracticality in the modern day, because of something that maybe happened 10 or 20 years ago.

The requirement that the Federal Government somehow notify workers of risks—other than those who are involved in federally supported studies—is, in my opinion, terribly burdensome and wholly unnecessary. It is preferable to educate workers before dangerous exposure has occurred. That could be accomplished under established rulemaking procedures by expanding the "hazard communication standard" already in existence. We could do that. We have not even probed that.

Former workers, I think, should have access to information that may bear on their health—obviously, that is so—such as medical records and material safety data sheets, but this legislation, instead, provides workers with risk information that may not even be relevant to their situation. You have heard some of those described—getting a notice that they have been exposed to such-and-such a hazard, and just that; no indication of what they should do about it or anything about it, just a totally irrelevant thing.

I think this bill has the potential for generating substantial tort litigation and administrative litigation. Any type of threat of legal action in any kind of arena, I think, jeopardizes the existence of small businesses, expands the liability of the Federal Government in an unknown way, and it certainly expands the liability of individual Government employees and what they may do or should do in their response.

The measure would be costly, with notification costs estimated—I have heard various figures in this debate—$33 per employee, $250 per employee. There is one amendment to make it not more than $250 per employee. Medical monitoring that must be provided for each employee must be done at no cost to the worker, and such monitoring, as I say, could go from $20 to $250 per employee per year.

It creates a new risk assessment board, which is independent of the Department of Health and Human Services. The board would have the task of identifying and designating which populations among us of present and former workers are to be designated as being at increased risk of disease as a result of exposure to occupational health hazards.

I think there are some serious scientific difficulties involved in identifying risks to workers who are not involved in federally supported studies, and there are problems related to identifying and locating such workers.

I think, Mr. President, that this bill is far, far more costly than the $75 million that it would authorize, supposedly, to carry out its purpose. Its cost will be borne by businesses, farmers, the Federal Government, Federal employees, and consumers. There is no question about that.

But the tragedy is—or at least one of the drawbacks not that intensely addressed—is the hidden cost in this bill of the litigation expense, as persons who fear that they may develop diseases or who have been exposed present their claims based upon their fear of developing disease or the increased likelihood that they might develop a disease, regardless of whether they exhibit any signs or symptoms of physical illness. Although many claims will be denied, there are certainly costs associated with defending against the claims.

We find a great deal of that in our society today. They want to settle the case because it is not worth going to trial, it is not worth going any further, and yet they know that they do not want to be exposed to continuing litigation.

The medical monitoring, as I previously mentioned, will be a costly proposition for all employers, but small businesses will feel its effects most severely. As the cost of doing business increases, consumers then will be the eventual losers because of the increased price of goods. That is the way it is in the real workplace.

Other employer costs involve the required transfer or removal of workers who have been notified that they might be at risk because of their exposure. That is a tremendous cost. The employer must either permanently transfer the employee to a less hazardous or nonexposed job at no loss in pay, benefits, or seniority, or he must give the employee 12 months of paid medical leave.

Now, that is an unfortunate choice.

Mr. President, I am going to conclude my remarks. It is not my intent to filibuster. That is not what we should be doing. But we should surely be talking about this bill, and we are.

But I think the mind boggles at the potential disastrous effect this bill may have on many small businesses and in short, Mr. President, this legislation, I think, is an unnecessary, costly, litigation-inducing scare tactic, actually, which does not further its stated goal of preventing occupational disease. We have a lot of laws on the books that are designed to do that. I think it is only going to serve to frighten the American worker and enrich the legal and medical professions. I think that would be a side effect of it.

I guess the final disturbing thing to me, with an agenda of similar legislation like this, is that we are being told that these types of legislation and bills are not going to put an extra burden on the taxpayers of the United States; only an additional burden on the employers.

Well, what an ingenious argument, and it's totally disarming but totally ineffective. I mean, employers are taxpayers. That is who the taxpayers of America are. The bulk of them are employers and the bulk of them are in small business.

So we cannot take a national agenda of wish legislation and say: it is not going to cost the taxpayers anything; it is going to cost the employers something, a little something. We have employers all over America in small business hanging by a thread and this would be about the final effort, along with some of the other agenda items that are similar to this legislation. But I think that the vote this morning gives some indication of a very bipartisan heavy ground swell of very real feeling that this is not the kind of legislation we need to place on the employers of America.

I hope we continue the debate. I hope it will be spirited. I am sure it will, and tomorrow we will vote on the issue of whether to close off debate on this bill. I think it will be discovered that we will not want to close off debate on this bill because it is such a tremendous burden upon business in this country. Even though there certainly have been supporters, and as the Senator from Ohio has presented a list of groups that have indicated their support—I can show you a list on the other side that is even more lengthy.

Mr. METZENBAUM. Would the Senator be good enough to yield for a couple questions?

Mr. SIMPSON. Sure.

Mr. METZENBAUM. The Senator, I understand, is the acting minority leader of the Senate?

Mr. SIMPSON. That is correct; yes. A temporary task to be relinquished at any time.

Mr. METZENBAUM. In that position the Senator, I assume, feels as all of us do in the Senate, that we ought to move forward the legislative program, whatever it be, to get on with the business of the Senate as promptly as possible?

Mr. SIMPSON. Mr. President, since I have been in the post of acting minority leader I felt that on this side of the aisle we have moved with dispatch to handling the business of the Senate except on one instance, with the handling of S. 2, which was on the campaign reform. The rest of the time we worked with majority leader in a conscientious effort to move legislation.

Mr. METZENBAUM. The Senator has already said that he would not want to be a part of a filibuster.

Under those circumstances there is pending on the floor an amendment and a second-degree amendment. These amendments soften the impact of the bill. One of them, offered by Senator BREAUX, with respect to about 95 percent of the employers in this country would limit the impact with respect to monitoring and would eliminate totally the question of requiring a change in the workplace. And the second amendment would eliminate from the bill's coverage agricultural workers who are working less than 6 months with respect to the issue of removal only.

Having said that, there is no question about it, these amendments mitigate the impact of the bill. They soften the bill. They are weakening amendments. But, having said that, the Senator from Ohio as manager of the bill has indicated that he is prepared to accept those amendments. Can you give me any logical reason why at this point the Senator from Ohio is not permitted either to accept the amendments or bring the matter to a vote up and down other than the fact that there is some effort—and I am not suggesting this of the acting minority leader—to delay consideration of this bill? And, also, it flies in the face of the arguments that were made before the first cloture vote that those on that side of the aisle had amendments they wanted to offer and could not get them up because the cloture petition had been filed and the tree had been filled.

Now, we are saying: Bring on your amendments. Whatever your amendments are, let us deal with them and we are prepared to accept this amendment. It moves in the direction of the speech which the acting minority leader has just made. Why can we not accept it?

Mr. SIMPSON. Mr. President, the senior Senator from Ohio has been here long before the junior Senator from Wyoming.

Mr. METZENBAUM. I am only the junior Senator.

Mr. SIMPSON. Then we share that role. And I know of no one that knows more skillfully how to use parliamentary procedures that are presented when one is in the minority of an issue. Not in a partisan statement, but in a minority position of an issue. The interesting thing, whether you legislate here in the big leagues or in another arena—I have legislated for 24 years—there is a very real theorem that comes down through it all, and that is eventually when you use a procedure, it will come back to bite you anew and freshly. It is a more earthy thing, but my mother warned me about these things.

I can honestly tell you, though, that this is a procedure that I have seen the Senator from Ohio use with rare rich skills that I had to do nothing but gasp and admire.

Mr. METZENBAUM. But never when the amendment moves in my direction. Only when I thought the amendments were hurtful or harmful to the American people. This one moves in the direction of those that oppose the bill and you will not let us accept it.

Mr. SIMPSON. Now, Mr. President, I have just wandered on the floor to give a little talk for 10 minutes, which I did. I have four pages of talking points and I came here to render those and I have rendered those. I am not the floor manager of the bill. But I do understand what the Senator from Ohio is doing because no one can do that more skillfully and I will select a piece of legislation to emphasize that. That was the plant-closing legislation.

That really did not have a prayer in its original form but the Senator from Ohio, being the most skilled negotiator and legislator, went through the body and said: How about this? That is too much. Could you go for this level? That is what legislating is.

Mr. METZENBAUM. It just shows how easy I am to get along with. I am willing to compromise.

Mr. SIMPSON. Stop.

Mr. METZENBAUM. This is an amendment of Senator BREAUX and Senator DIXON which, I am not going to say that I favor but I am willing to accept. Perhaps there will be other amendments. I understand Senator DANFORTH has an amendment. We might be willing to consider that. I am willing to consider any amendment if we can just get on with the business of the body and not just be delaying the procedures at the moment.

If we do not have the votes we will not have the votes but when an amendment is agreed upon and it is obviously not hurtful to those who oppose the bill, why can we not accept it?

Mr. SIMPSON. Mr. President, I am going to refer that question through the surrogate who is the manager of this bill and I am going to repair to my chambers again. But I can say, Mr. President, that I think with the vote this morning we should deal with reality. We were seeking 40 votes to close off cloture this morning and there were 59 voting, one person indicated that had he been here he would have voted not to invoke cloture, so there are 60 persons who are not ready to close off debate.

When you look at numbers like that, I think the honest expression from this side, or at least from me without referring to the floor managers, is that you would want to see that vote total again tomorrow.

Then we can go forward, if cloture is not invoked tomorrow, with all of the nongermane amendments that are lurking here. Everyone knows what is at the desk.

Mr. METZENBAUM. Bring them on now. Bring them on now.

Mr. SIMPSON. In my role as acting Republican leader, I allow my floor managers great, great disciplinary flexibility. They may do anything they wish. Therefore, I have to count on them to do the proper thing.

Mr. METZENBAUM. Let me ask you just a private question because I am sure no one is listening. Was there not some sort of agreement with Republicans not to vote for cloture?

Mr. SIMPSON. Mr. President, there has been discussion in the past, and it was certainly the majority leader's duty to move legislation, when it was felt several times that there would be a filibuster unless the majority leader felt it necessary to file a motion for cloture on the first day that the bill came up. This is not a criticism. That happened several times. We did our business. When that came up, we had a double track. We handled the immigration bill and we handled the oversight legislation on intelligence. We did our business. There was nothing inappropriate about that. But finally there were those who said we are unable to put in nongermane amendments.

Mr. METZENBAUM. Bring them forth now. Let us take these amendments. Bring forth your nongermane amendments and let us deal with them honestly.

Mr. SIMPSON. With your arms outstretched you implore us to come forward.

Mr. METZENBAUM. That is right.

I see the floor manager here. Is the floor manager prepared to accept these amendments at this point?

Mr. SIMPSON. Mr. President, I am going to relinquish the floor to the floor manager, the Senator from Utah, but I will say that, indeed, on the things that were done on this side with some solidarity—there were 2 Republicans who did not support this side of the aisle and 16 Democrats who did not support the other side of the aisle, so it is not a partisan issue—the idea was not to do that in a way where nongermane amendments would be available.

There are certainly some creative amendments at the desk that are rather shocking.

Mr. METZENBAUM. We look forward to dealing with them. It would be a privilege.

Has the Senator yielded the floor? Would the Senator from Utah yield for a question?

Mr. HATCH. I would be happy to, without losing my right to the floor or having my continuation considered to be a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Will the Senator from Utah advise whether or not he is prepared to accept these amendments at this time?

Mr. HATCH. I do not like these amendments and I do not know many people who do. The amendment of the Senator from Louisiana is before us now.

Mr. METZENBAUM. Would the Senator be willing to put them to a vote at this point?

Mr. HATCH. Let me make this point. I have not finished my remarks yet. They are extensive because of the importance of this bill and what I consider to be the defects of the bill.

Mr. METZENBAUM. Would the Senator consider a time limit so we can put them to a vote?

Mr. HATCH. Let us remember two points: First, we have not yet heard from everyone who wants to speak on the bill before us, and second, the amendments do not really help employers or employees. I want my colleagues to study the amendments because, if they do study them, I think they will vote against them, as I will. But be that as it may, I would like to finish my opening remarks and go from there. I will say to the distinguished Senator as we get into them that, I do intend to discuss the amendments.

Mr. President, this is a complex bill. It is a difficult bill. Moreover, it is difficult for me to see how anybody who cares for America would want to have this bill enacted into law, not only because it is extremely and excessively costly, but also because it really does not do as it allegedly purports to do. It will drive up the cost for almost everybody while overlapping and duplicating work that is already being done by some 12 agencies in this Government.

There never seems to be an end of Washingtonian approaches for saddling our American people with more and more bureaucracy.

At first glance, the following definition sounds reasonable:

> The term "occupational health hazard" means a chemical, a physical, or a biological agent, generated by or integral to the work process and found in the workplace, or an industrial or commercial process found in the workplace, for which there is statistically significant evidence (based on clinical or epidemiologic study conducted in accordance with established scientific principles) that chronic health effects have occurred in persons exposed to such agent or process.

Again, on first reading, this may sound like a reasonable definition. Let us review its parts.

The first is that the occupational health hazard be generated by or integral to the work process.

The sponsors of this legislation have indicated that this phrase was adopted for political rather than medical reasons. They concluded that it was politically impossible for this legislation to address, for example, the health hazard of tobacco. In fact, they would prefer that tobacco never be mentioned during this debate.

In other words, the policy they want us to adopt is one that says the hazards created through tobacco, whether through active or passive smoking, are not generated by or integral to the work process.

So that can never be addressed by this legislation. This is supposed to be health legislation, and the No. 1 health hazard that we have in our society today happens to be smoking, whether active or passive.

The scientific evidence that both active and passive smoking is a serious health hazard is there. The bill, however, contains a permanent, federally imposed ban concerning thousands of Americans who die because of passive smoking. This is not a ban based on sound public policy. What kind of policy is this for a health bill or a high-risk notification bill?

On the one hand, we say we are concerned about occupational hazards but, on the other hand, those who face death from exposure to smoke at work, we are prevented from helping.

You can go into this in many ways. Setting aside whether or not tobacco should be considered an occupational health hazard, this creates problems because it poses a number of hazards that should be covered. let us take a number of instances.

For years I have been trying to get adequate compensation for those who have been exposed to low-level ionizing radiation as a result of the atmospheric tests that took place in this country shortly after World War II. Those atomic tests exposed a large number of people to unnecessary risks.

Of course, I have to say that the distinguished Senator from Ohio has been a cosponsor or at least a supporter for the most part of what I have been trying to do. I personally appreciate that.

We found during that battle that, especially for the uranium miners who were exposed to low-level radiation hazards and smoked, had a higher incidence of cancer than those who did not smoke.

We have also found in the case of silicosis that those who smoke are basically those who get silicosis.

If that is true, then why in the world are we banning any consideration of smoking as a health hazard? It makes one wonder, if this bill is so important from the public health standpoint or general health standpoint, why we would be ignoring the No. 1 health hazard in America.

Mr. President, I have nothing against people who want to smoke. They have that right. With the exception of those individuals who literally are enhancing the prospects of ill health in their bodies by smoking and then come to the Federal Government and ask for the Federal Government to bail them out and to pay for those enhanced health problems that they have.

Why should the taxpayers have to pay for somebody who voluntarily smokes in a hazardous job when they know that smoking will lead to illness and disease?

They were not told, in fairness to these uranium miners, about that at the time because people did not really know. But today we have become so knowledgeable and scientifically oriented toward the hazards of smoking that literally nobody in America today, in any one of these worksites where smoking will enhance the susceptibility of illness and disease, is without some knowledge of the deleterious aspects of smoking.

You can go on and on with this subject because it is a very important subject, but why ask the taxpayers to subsidize the payment for even the investigation into those types of problems? Unfortunately, we are in a whole raft of things anyway because we have some 12 agencies that are given the responsibility of taking care of these problems. We do not need another Federal agency. With $200 billion national deficits on an annual basis and the $2.5 trillion national debt, the interest against the debt being the third highest item in our Federal budget, we certainly do not need another Federal agency with all of those concomitant costs that come from that agency. And the real costs are not just to the Federal Government. They are costs to the employers and employees both and, above all, to consumers who have to pay for these additional costs.

It never ceases to amaze me that the major consumer organizations in this country continue to support the very people who run up consumer costs with Federal legislation like this. For example, talking about a long list of hazards, in addition to smoking, Congress has repeatedly passed legislation that deals with asbestos in our schools because we are concerned about health risks. One would think that a schoolteacher who works in a school where there is asbestos would be covered by this legislation. They are exposed to a known health hazard and they are exposed to it in the workplace. But they would not be covered by this legislation because asbestos is not "generated by or integral to the work process" of teaching.

Now, the same argument would apply to a person who works in an office or factory where there are hazardous levels of formaldehyde in the air and insulation. If the worker is not producing insulation, even if the Government and the employer both know about the health risks of formaldehyde and even though the employee is exposed to the substance at work, the board would be unable to notify the employees.

One has to wonder as you look at this bill why some of these business leaders are bill supporters—and there are very few, I have to admit. Among the millions of businesses in America, 6 million of them, I guess they have 20 of them listed there, an infinitesimal percentage, and most of those are businesses that I will bet most of their leaders do not even realize are in support of this legislation. I happen to know that a large number of Chemical Manufacturers Association members are very upset that some of the, to use their terms, knuckleheads at the head of that organization have indicated any kind of support to this. And of course the American Electronics Association, there are also a lot of upset people there who do not agree with what the national association has done. You go down to the National Paint & Coatings Association. My goodness, there is a lot of dissent in these organizations, and rightly so. It makes you wonder why some of these exceptions are in this bill. I am not sure that those people are a part of these exceptions. I am not sure that we can blame these exceptions from the bill on any of these people, but I know that there have been deals cut in the back rooms by some of them thinking they got an advantage over other competitive businesses.

Well, we will see how long that advantage lasts because this is a tough place around here. And I think some of these people are going to be very sorry that they tried to make a special deal for themselves at the expense of everybody else in the business community and at the expense of all those employees of these other businesses and at the expense of consumers all over this country. It is no secret that some of us are a little irritated that this type of legislation comes forth on this type of a basis as well. We have 6 million businesses in this country and millions and millions of employees that have to be taken care of, not just 20.

It does not take long to come up with a long list of examples of substances that may cause difficulties to employees. Flight attendants exposed to the ozone would not be covered by this act. If a plant were built on Love Canal or had high levels of radon gas or had lead and cadmium in its drinking water, the board could not notify the employees. Let me repeat that. The board could not notify the employees even though they were exposed to a known health hazard in the workplace.

Now, I believe that it is absolutely incomprehensible for a bill to address everything from viruses and other pathogens to lower back pain caused by sitting at a desk and would nevertheless specifically and intentionally avoid addressing a known prevalent workplace health hazard which kills working men and women every day like smoking. But, of course, we have listed a few others as well. We could list a number of others. It has been stated by those who believe in disease prevention and health promotion—and I happened to be one of them—that if we could get everybody in America to quit smoking, we would save between $40 and $100 billion a year in taxpayer dollars in Federal health care costs alone. That does not say how much we would save in private health care costs, but it would be $40 to $100 billion. That is a lot of money.

(Mr. REID assumed the chair.)

Mr. HATCH. Let me take a few minutes at this point to talk about something that Members of this body hear defended often during the discussion of this legislation, and that is again tobacco. The majority was unusually candid in why it has chosen to protect cigarette smoking. They fear that without a carefully crafted exemption the tobacco industry would exercise its considerable political muscle to defeat this legislation. Everybody knows there are approximately 39 States that either produce tobacco, or have something to do with the tobacco industry. That is a lot of votes, certainly a majority of the Senate. All of them were more concerned about the industry than they are about public health in America.

I find it quite distressing that in the committee's rigorous pursuit of a healthy workplace no thought is given to unnecessary expenses, lost jobs and soaring litigation while deference is given to the presumed political power of the tobacco industry. The facts are these, Mr. President. Tobacco smoking can be divided into two categories, active and passive. Passive smoking occurs when a nonsmoker is exposed to smoke from the burning tobacco products of others, an exposure quite common in the American workplace. Unfortunately, most Americans do not yet realize that passive smoking exposes them to the same health hazards as does smoking cigarettes. Every day healthy working men and women are involuntarily exposed to cigarette smoke at work, thereby jeopardizing their own health and safety. Every day they are forced to take another gamble with death and under this bill every day the Risk Assessment Board will remain gagged by law, this law, if this bill passes.

Now, the Office of Technology Assessment, OTA, in its report "Passive Smoking in the Workplace—Selected Issues," found that "there is ample evidence that nonsmokers are exposed to the elements of tobacco smoke when they are around people who are smoking." That is in the May 1986 issue on page 1.

In a 1986 report, "The Health Consequences of Involuntary Smoking," the Surgeon General of the United States of America concluded that "the comparision of the chemical composition of the smoke inhaled by active smokers with that inhaled by involuntary smokers suggests that the toxic and carcinogenic effects are qualitatively similar—a similarity that is not too surprising because both mainstream smoke and environmental tobacco smoke result from the combustion of tobacco." That is found at page 7.

A large number of independent scientific panels have reached similar conclusions regarding the hazards of passive smoking. the OTA also stated:

> More than a dozen studies have been published during the 1980's that address the possible association of passive smoking and lung cancer. Taken one by one, the studies cannot be considered "definitive"; however, most investigators have found that passive smoking elevates a nonsmoker's risk of lung cancer and results in about half the studies were statistically significant.

That is found on page 3.

Section 3(a) of this bill states that any other chemical, physical, or biological agent with a single "statistically significant" study showing "chronic health effects have occurred in persons exposed to such agents" would be sufficient to trigger notification.

That is right; just one study would be sufficient. In the case of tobacco where studies abound, the board is banned from ever even considering the hazards caused by passive smoking. Other organizations have been even more definitive about the dangers caused by passive smoking.

The National Research Council stated that "public policy should clearly articulate that involuntary exposure to tobacco smoke has adverse health effects and ought to be minimized or avoided where possible." That is found at Indoor Pollutants, 1981 publication, at page 8.

The National Academy of Science in its 1986 report, "The Airline Cabin Environment," concluded that passive smoking "is a hazardous substance and is the most frequent source of complaint about aircraft air quality." And that is found at page 5.

Perhaps the strongest conclusions, however, have been reached by the Surgeon General. In his 1986 report cited above, he concludes:

> Involuntarily smoking is the cause of disease including lung cancer in healthy nonsmokers, and the simple separaton of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke.

That is at page 7.

I believe there is more than ample evidence demonstrating that passive smoking is a health hazard. There is, in my mind, no legitimate justification for asking working men and women to continue to wait for our help in protecting them from the life-threatening hazards of passive smoking.

Unfortunately, the majority disagree and voted against several amendments, several amendments that I offered that dealt directly with this problem.

I recognize some members of the Labor and Human Resources Committee, who have excellent records in protecting the health of workers, do not feel that the scientific evidence at this point warrants barring smoking in the workplace. While I can appreciate that caution, I cannot at the same time support legislation which bars the risk assessment board from ever considering the health hazards of smoking. Caution is one thing. Statutory prohibitions are another. If we are sincere in our statements that we want to prevent occupational deaths, why should we legislate immunity for a known killer like tobacco and the result of tobacco smoke? This part of the definition clearly does not make sense, either from a policy or scientific standpoint, but there are also other problems with this definition.

A second problem with the definition of an occupational hazard is the fact that any increase in risk, regardless of how small, meets the requirements that can trigger notification.

S. 79 merely requires "statistically significant evidence that chronic health effects have occurred." In fact, if you read this definition closely, S. 79 does not require any increase at all. It fairly flies in the face of the misleading title which states that there is a "High-Risk Occupational Disease Notification and Prevention Act."

As pointed out, once we get past the title, the term "high-risk" is never to be seen again in the bill. Some threshold levels of increased risks should clearly be required in this legislation. Without this requirement, the board would be free to choose almost any level of risk and, in fact, some of the supporters of this legislation have stated that that is exactly their intent.

Under S. 79, the board is free to find any risk as actionable, regardless of how small. There is no requirement that the risk has to be a high risk or that the risk be a high risk.

The October 1985 issue of Science contains some examples of what qualifies as a "statistically significant" cause of death. In an article entitled "The Complete Warrior," they issued a number of activities which would increase an individual's change of dying by 1 in 1 million in any given year.

For example, smoking 1.4 cigarettes increases your risk of dying from cancer and heart disease by 1 in 1 million. Drinking 0.5 liters of wine increases your chances of dying from cirrhosis of the liver by 1 in 1 million. Spending 1 hour in a coal mine increases your chance of dying from black lung disease by 1 in 1 million. Spending 3 hours in a coal mine increases your risk of dying the same amount as living 2 days in New York or Boston as they increase your risk from dying from air pollution.

I do not mean to malign New York or Boston. I am sure there are other cities in the world who also have this problem, but that is how ridiculous this particular standard happens to be. It is absolutely ridiculous: 1.4 cigarettes, 0.5 liters of wine, 1 hour in a coal mine, 3 hours in a coal mine is equivalent to living 2 days in New York or Boston, and they increase your risk of dying from air pollution? Come on. This shows how ridiculous this bill is.

It shows how in their zeal, those who sponsor this legislation do not care what it costs America. They do not care what it costs the employers, and most of the employers do not pay those costs; they just pass them right on to you and me as employees and to the consumers of America because they pass them right on in added cost or go out of business, one way or the other, and this will put a lot of people out of business.

There are a lot of people, if they are to comply with this bill, who are going to go out of business. It is that simple.

It is typical. It is typical of what has been wrecking this country for so many years. It is the most unbelievable thing I can possibly think of, except for a whole raft of other things that are on the agenda this year by these new leaders of the Senate. We do not seem to give a darn what the taxpayers of America, the consumers of America, have to pay for it. They do it under the best of guises, and that is that they are really trying to help us.

Boy, we do not want that kind of help. Just let us live and do what is right, and let us make sure that the 12 agencies who have the responsibility of correcting occupational disease and occupational health, establishing the appropriate standards, and follow up do it. That is all we have to do.

My gosh, this legislation, if you stop and think about it, is so ridiculous it makes you wonder how in the world it can be brought to this floor in good faith. I do not know how it can be brought to the floor without a major smile on the faces of those who are sponsoring it.

The risk of dying, just to make this point a little bit better, from an accident is increased by 1 in 1 million from traveling 6 mintues in a canoe. All they have to do is show that it is statistically significant, and it becomes a high risk under this bill. The risk of dying from an accident is increased by 1 in 1 million by traveling 10 miles by bicycle, traveling 150 miles by car, and flying 1,000 miles by jet airplane.

The risk of dying from cancer caused by radiation is increased by 1 in 1 million each year by flying 6,000 miles by jet; by living 2 months in Denver while on vacation from New York; by living 2 months in an average stone or brick building; or having one chest x ray in a good hospital. That is how the friends of those who come up with this type of legislation define statistically significant. That is a scientific argument. It is right out of a scientific article. It is ridiculous.

Of course I think these figures are accurate on the potentials of death of 1 in 1 million. Are we going to saddle the taxpayers of America with having to go through all of the procedures of this bill because of these type of illustrations? Probably not, but it shows how ridiculous it really is. I hope not, but they could under this bill.

Eating 40 tablespoons of peanut butter increases your risk of dying from liver cancer caused by aflatoxin by 1 in 1 million. Eating 100 charcoal-broiled steaks increases the risk of cancer from benzopyrene by 1 in 1 million each year and the list goes on.

Now, clearly, most of these risk increases could not be the subject of notifications under this legislation because most of them are not found in the work place, but some of them could be. The point is, the mere requirement of statistical significance is meaningless. That is the point I am trying to make. We need to do more than merely require statistically significant increase.

If you use a standard like that, you are just asking for money thrown down the drain by this new bureaucracy at a cost to the taxpayers which is a ridiculous approach that this bill actually happens to be. It is hard for me to understand how the unions of our country can sponsor something like this when they realize it just drives up the cost of everything for everybody in society. It is unbelievable.

What about causation?

The third problem with the definition of an occupational health hazard is that the Board is not required to find a causal relationship between exposure to the hazard and development of the disease. This lack of causation leaves the Board open to make what are frequently called spurious correlations. The textbook "Foundations of Multiple Regression Analysis" states that "when two variables are correlated solely because they are both affected by the same cause, the correlation is referred to as being spurious."

An example of a spurious correlation is the very high correlation between the size of the right hand palm and mental abilities, shoe size and intelligence, or mental age and standing heights of groups of heterogeneous boys and girls, respectively. For those of my colleagues who are currently looking at their right palm, these correlations are not the result of larger palms causing higher IQ's, but rather the result of the fact that as one ages, both mental abilities and palm size increase. Age is also the cause of the other correlations.

While these examples may seem obvious to all of us, they should suffice to make the point that a mere statistical correlation, without some showing of causation, can result in some erroneous conclusions. There are also examples in the occupational disease area. Occupational disease researchers talk about the healthy worker effect. When researchers compare rates of disease in a worker population to the general population, they must make adjustments to account for the fact that workers are generally healthier than the general population. This is not the result of some protection from disease which is found in the office or factory, but results from higher incomes and healthier lifestyles among most workers. Therefore, it is important that any legislation which purports to be based on sound science should require more than a mere showing of statistical correlations. A minimal finding of causation by the Board is an absolute necessity.

Since the definition of an occupational health hazard is the key definition around which the rest of this legislation hinges, I hope my colleagues are starting to appreciate some of my concerns about this legislation.

In both of these examples, there would be no scientific basis for concluding that those employees are at risk. Yet, by definition, S. 79 assumes that they are. This is yet another example of the inadequate scientific basis upon which S. 79 rests.

Let us talk about the definition of "Population at Risk." This is the next issue which concerns me, and it is that of "Population at Risk" of disease. This bill, S. 79, states that:

> the term "population at risk of disease" means a class or category of employees exposed to an occupational health hazard under working conditions (such as concentrations of exposure, or durations of exposure, or both) comparable to the clinical or epidemiologic data referred to in paragraph (8).

The key phrase in this definition is "such as concentrations of exposure, or durations of exposure, or both." My colleagues should look at this definition closely. The extrapolation of epidemiologic studies of exposure to occupational hazards should be based on both concentration and duration of exposure, not one or the other, as is the case in S. 79.

Under S. 79 as currently drafted, a study, which found that exposure to 500 parts per million of substance X for 30 years increased the risk of cancer could be used by the Board to notify workers who had been exposed to 500 parts per million for 1 week, or 1 day, or 1 hour, or, for that matter, 1 second. That study could also be used by the Board to notify workers who had been exposed to 1 part per million for 30 years.

In both of these examples there would be no scientific basis for concluding that those employees are at risk. Yet, by definition, S. 79 assumes that they are.

My gosh. When is it going to end?

The problems with S. 79 are not limited, however, to poor definitions. S. 79 establishes a new independent agency within the Department of Health and Human Services called the Risk Assessment Board. This Board, consisting of seven members, will be appointed by the Secretary of HHS, but he or she may only select from a pool of individuals provided by the National Academy of Sciences. Unlike other independent agencies, the Board members are not confirmed by the Senate. Moreover, the Board's decisions are not reviewable by the Secretary, nor are its members answerable to the Secretary.

So you have a totally independent agency which answers to basically nobody really. I hate to see that type of an agency created. And it is ridiculous to create it that way. It could become captive of one faction or another in our society. That is not the way to go in this particular area.

This legislation also ensures that the Board is largely isolated from judicial review. In sum, the legislation has created an agency in the executive branch that, in a practical sense, is accountable only to Congress, and only if Congress enacts legislation to amend the Board's powers.

Moreover, while the Board is given broad authority and the decisions of the Board have broad implications, there is no requirement that decisions of the Board be unanimous or even be made by a super majority. Presumably, four Board members could declare a substance an occupational health hazard and designate large group of individuals for notification, over the objections of the other three Board members.

That is ridiculous. But it shows how bad this legislation really is.

If this were to occur, there are not provisions for making the dissent of the minority available. Not only could you not have judicial review by the company that is getting hammered by the Board, but it could be by a simple majority vote with no minority view expression. So we do not even have the benefit of those who disagree in their ideals. In fact, there are no requirements that a meeting of the Board be made public or the deliberations of the Board be made available to the public.

Talk about ill-conceived legislation.

One of my major objections to this legislation is that by emphasizing notification over prevention, large numbers of individuals would be notified who will not benefit from the notification, that is, the medical monitoring or the health counseling. The real issue should be that they should not have been exposed in the first place, if it is in fact a health hazard or a high-risk hazard.

This legislation will divert limited resources to the notification process, resources which could be better used elsewhere in requiring prevention of the hazard that may contribute to the disease.

Let me now turn to section 5 of the bill, which concerns employee notification and counseling. To understand S. 79, one must first understand the difference between the three types of intervention available for occupational diseases. These can be referred to as primary, secondary, and tertiary intervention.

Primary intervention consists of reducing or eliminating the exposure to the occupational hazard. For example, the employer reduces the exposure by installing engineering controls or individuals could wear equipment to protect their respiratory system from silicosis.

Secondary intervention consists of efforts to reduce morbidity and mortality after exposure to the hazard has occurred, but before symptoms of the occupational disease have developed. The objective of secondary intervention is to prevent or cure the disease. Thus early detection of the disease would be considered successful secondary intervention if the early detection and treatment stopped the progression of the disease.

Efforts to eliminate other risk factors, such as smoking or alcohol use, can be considered either primary or secondary intervention depending on when the action is undertaken. Traditionally, however, most efforts to eliminate other risk factors have occurred after exposure to an occupational hazard.

Tertiary intervention consists of those efforts made after the development of the occupational disease to reduce or eliminate the morbidity and mortality. Most traditional medical treatment falls into this category, like chemotherapy to treat a patient's cancer.

S. 79 focuses primarily on secondary intervention. The supporters of S. 79 in the committee report state that notification, "* * * is likely to trigger beneficial health effects for at least two reasons, through early detection, [and] greater precautions taken by both employers and employees * * *". This goal—that is taking greater precaution—is primary prevention which is not addressed in this legislation. Nothing in S. 79 requires or even suggests to employers methods to eliminate or reduce those exposures that may increase the risk of occupational disease.

While active smoking is not itself an occupational health hazard, it should also be addressed in this legislation because of its critical relationship to many occupational diseases. Dr. William N. Rom in his textbook on "Environmental and Occupational Exposures" (1983) stated:

> The opportunities for adverse interactions between cigarette smoking and occupational exposures are legion. Cigarettes may not only facilitate entry of these agents into the body, but also may cause them to be chemically transformed in the intense heat of the burning cone. Combined exposure to workplace agents and cigarette smoke many result in an additive or multiplicative biological effect. p. 792-3

Senator METZENBAUM recognized the important role tobacco plays with regard to occupational diseases when he introduced S. 79, stating:

> Workers exposed to asbestos run a high risk of contracting lung cancer, a risk that becomes even more grave if they smoke cigarettes. By assisting such workers to give up smoking, we can reduce significantly the incidence of this deadly disease.

Because of the relationship between smoking and occupational diseases, I asked the Centers for Disease Control [CDC] to provide me with extensive information, including a listing of occupational health hazards, the number of workers who have been exposed, and what medical or risk factor they would recommend for those workers.

I ask unanimous consent that a summary be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEDICAL SCREENING ESTIMATES FOR WORKER NOTIFICATION

Substances	Estimated number of workers potentially exposed 1957–87 [1]	Examples of types of industries or occupations	Diseases of concern	Risk relative to general population [2]	Range of medical screening cost (minimum-maximum) for procedures that might be recommended [3] [4]	Rating for effectiveness of medical screening (0–5) [5]	Other interventions
OSHA STANDARDS							
Abestos	4,000,000 [6]	Auto service stations, construction, insulators, asbestos product manufacturing	Asbestosis Lung cancer	294 136	$105–$150 Annual physical examination, with emphasis on the pulmonary, cardiovascular, and gastrointestinal systems; chest x-ray; lung function tests to include FVC and FEV (1 sec.); sputum cytology.	3 3	Risk factor modification (cigarettes); counseling for early symptoms.
Coal tar pitch volatiles	78,764 [7]	Roofers, metal mfgr., road construction, steel mills	Lung cancer Skin cancer	159 400	$55–$95 Annual physical examinations with emphasis on the skin mucous membranes of the oral cavity, respiratory tract, liver, and kidneys; 14"x17" chest x-ray (PA and lateral); FVC and FEV (1.0 sec.); sputum cytology.	3 3	Risk factor modification (sunlight, cigarettes); counseling for early symptoms.
4-nitrobiphenyl	(8)	Chemical production, research workers	Bladder cancer Cancer	(9)	$155–$200 Annual physical examination with emphasis on the urinary tract; personal history of the employee with family and occupational background, including genetic and environmental factors; urinalysis; cystoscopy.	5	Risk factor modification (cigarettes); counseling for early symptoms.
Alpha-naphthylamine	2,132 [7]	Clinical labs, dye makers	Bladder cancer	(9)	$155–$200 Annual physical examination with emphasis on urinary tract; a personal history of the employee with family and occupational background, including genetic and environmental factors; urinalysis; cystoscopy.	5	Risk factor modification (cigarettes); counseling for early symptoms.

MEDICAL SCREENING ESTIMATES FOR WORKER NOTIFICATION—Continued

Substances	Estimated number of workers potentially exposed 1957–87[1]	Examples of types of industries or occupations	Diseases of concern	Risk relative to general population[2]	Range of medical screening cost (minimum-maximum) for procedures that might be recommended[3][4]	Rating for effectiveness of medical screening (0–5)[5]	Other interventions
Methyl chloromethyl ether	(8)		Lung cancer	(9)	$35–$50 Annual physical examination with a personal history of the employee, family and occupational background, including genetic and environmental factors; 14"x17" chest x-ray.	3	Risk factor modification (cigarettes); counseling for early symptoms.
3,3'-dichlorobenzidine	879[7]	Pigment makers	Bladder cancer	(9)	$155–$200 Annual physical examination with emphasis on urinary tract; personal history of the employee, family and occupational background, including genetic and environmental factors; urinalysis; cystoscopy.	5	Risk factor modification (cigarettes); counseling for early symptoms.
Bischloromethyl ether	11,400[10]	Chemical mfgr., lab techs., hospitals, ion exchange resin workers	Lung cancer	(9)	$35–$50 Annual physical examination with a personal history of the employee, family and occupational background, including genetic and environmental factors; chest x-ray.	3	Risk factor modification (cigarettes); counseling for early symptoms.
Beta-napthylamine	5,816[10]	Textile and paper dye mfgr., leather dyeing, research workers	Bladder cancer	286	$155–$200 Annual physical examination with emphasis on urinary tract; a personal history of the employee, family and occupational background, including genetic and environmental factors; urinalysis; cystoscopy.	5	Risk factor modification (cigarettes); counseling for early symptoms.
Benzidine	1,650[10]	Medical labs, ordinance mfgr., chemical dyes, rubber workers	Bladder cancer	(9)	$55–$200 Annual physical examination with emphasis on urinary tract; a personal history of the employee, family and occupational background, including genetic and environmental factors; urinalysis; cystoscopy.	5	Risk factor modification (cigarettes); counseling for early symptoms.
4-aminodiphenyl	(8)		Bladder cancer	(9)	$155–$200 Annual physical examination with emphasis on urinary tract; a personal history of the employee, family and occupational background, including genetic and environmental factors; urinalysis; cystoscopy.	5	Risk factor modification (cigarettes); counseling for early symptoms.
Ethyleneimine	1,712[7]	Fabricated metals, transport equip., paper workers	Lung cancer	(9)	$35–$50 Annual physical examination with emphasis on the eyes, respiratory tract, kidneys, and blood; 14"x17" chest x-ray; FVC and FEV (1 sec.).	3	Risk factor modification (cigarettes); counseling for early symptoms.
Beta-propiolactone	38[7]	Agricultural, technicians	Skin cancer	(9)	$30 Annual physical examination with emphasis on the skin with a personal history of the employee, family and occupational background, including genetic and environmental factors.	5	Risk factor modification (sun light); counseling for early symptoms.
2-acetylamino-fluorene	896[7]	Research workers	Bladder cancer	(9)	$155–$200 Annual physical examination with emphasis on urinary tract; a personal history of the employee, family and occupational background, including genetic and environmental factors; urinalysis; cystoscopy.	5	Risk factor modification (cigarettes); counseling for early symptoms.
4-dimethyaminoazo-benzene	1,453[7]	Clinical labs	Bladder cancer	(9)	$155–$200 Annual physical examination with emphasis on urinary tract; a personal history of the employee, family and occupational background, including genetic and environmental factors; urinalysis; cystoscopy.	5	Risk factor modification (cigarettes); counseling for early symptoms.
N-nitrosodimethylamine	7,815[10]	R&D labs, Solvent workers	Liver cancer	(10)	$50 Annual physical examination with a personal history of the employee, family and occupational background, including genetic and environmental factors.	1	Risk factor modification (alcohol); counseling for early symptoms.
Inorganic arsenic	660,000[6]	Primary metal industries, elect. equip. mfgr.	Skin cancer Lung cancer	(9)	$125–$175 Annual physical examination, with emphasis on the skin, respiratory system, and blood; complete blood count; 14" x 17" chest x-ray, with special attention to parenchymal and hilar changes; FVC and FEV (1 sec.).	5 3	Risk factor modification (sun light, cigarettes); counseling for early symptoms.
Lead	800,000 (includes all lead compounds)[6].	Battery plants, paint makers, solderers, pesticide workers	Neurologic, Renal disease	329	$55–$95 Annual physical examination with emphasis on the nervous system, gastrointestinal tract, blood, and kidneys; complete blood cell count; urinalysis; and blood lead.	3 3	Counseling about early symptoms.
Coke oven emissions	59,000[10]	Steel mills	Lung cancer Kidney cancer	410	$85–$185 Preplacement work history, smoking history and record of the presence and degree of respiratory symptoms, such as breathlessness, cough, sputum production, and wheezing. A 14" x 17" PA chest x-ray and International Labour Office UICC/Cincinnati (ILO/UC) rating. FVC and FEV (1 sec.), weight, skin examination, urinalysis, sputum cytology, and urinary cytology. This examination is performed semiannually on all workers 45 years of age or older with five or more years of exposure. Otherwise, it is performed annually (but without sputum cytology and urinary cytology).	3 3	Risk factor modification (cigarettes); counseling for early symptoms.
Cotton dust	559,700[6]	Cotton workers	Byssinosis	(9)	$75–$150 Annual physical examination with emphasis on the respiratory system; standard questionnaire (see Appendix IV of NIOSH Criteria Document for Cotton Dust); FVC and FEV (1 sec.).	3	Risk factor modification (cigarettes); counseling for early symptoms.
1,2-dibromo-3-chloro-propane	3,231[10]	Pesticide manufacturers, formulators applicators	Sterility (males)	(9 11)	$25–$80 Annual physical examination with emphasis on the genitourinary tract, including palpation of the testes; semen analysis complete urinalysis; and complete blood count.	4	Counseling about extent of effect.
Acrylonitrile	55,698[7]	Auto service stations, chemical mfgr., rubber & plastic products, paint workers	Lung cancer Colon cancer	121	$55–$95 Annual physical examination with emphasis on the cardiovascular system.	3 4	Risk factor modification (diet, cigarettes); counseling for early symptoms.
Ethylene oxide	107,450[6]	Hospitals, food processing, chemical industry	Leukemia	114	$35–$150 Annual physical examination with emphasis on the eyes, blood, respiratory tract, liver, kidneys, and skin; complete blood count; 14" x 17" chest x-ray FVC and FEV (1 sec.).	0	Counseling about extent of risk.

MEDICAL SCREENING ESTIMATES FOR WORKER NOTIFICATION—Continued

Substances	Estimated number of workers potentially exposed 1957–87 [1]	Examples of types of industries or occupations	Diseases of concern	Risk relative to general population [2]	Range of medical screening cost (minimum-maximum) for procedures that might be recommended [3] [4]	Rating for effectiveness of medical screening (0–5) [5]	Other interventions
Vinyl chloride	29,836 [7]	Chemical workers, Rubber workers	Liver cancer Lung cancer Brain cancer	1,555	$75–$150 A complete history and physical examination including examination of the liver, spleen, kidneys, skin, connective tissues, and the pulmonary system. The medical history shall include the following topics; alcohol intake, history of hepatitis, history of blood transfusions, history of hospitalizations, work history, and past exposure to potential-hepatotoxic agents, including drugs and chemicals. Liver function tests: total bilirubin; alkaline phosphatase; serum glutamic oxalacetic transminase (SGOT); serum glutamic pyruvic transaminase (SGPT); and gamma alutamyl transpeptidase. The above medical examinations are to be repeated every six months for each employee who has been employed in vinyl chloride or polyvinyl chloride manufacturing for ten years or longer and annually for all other employees. When tests in this section show abnormalities, the tests should be repeated as soon as practicable, preferably within three to four weeks. If tests remain abnormal, consideration should be given to withdrawal of the employee from contact with vinyl chloride, while a more comprehensive examination is made. The following additional tests may be useful: urinalysis: a determination of urine albumin and a test for the presence of blood or exfoliated abnormal cells in the urine; FVC and FEV (1 sec.); 14" x 17" chest x-ray; additional serum tests. Lactic acid dehydrogenase isoenzyme, protein determination, and protein electrophoresis; hepatitis B antigen, and liver scanning for a more comprehensive examination on repeated abnormal serum tests.	1 3 0	Risk factor modification (alcohol, cigarettes); counseling for early symptoms.
ADDITIONAL SUBSTANCES FROM 1977 NIOSH POLICY DOCUMENT							
Carbon Monoxide, Product of Combustion.	1,997,559 [7]	Tunnels, blast furnaces, chemical, industry	Ischemic Cardiovascular Disease	134	$35–$100 Annual physical examination with emphasis on the central nervous system and cardiovascular system. A baseline determination of carboxyhemoglobin also has been suggested.	4	Risk factor modification (cigarettes, diet, exercise).
Benzene	2,000,000 [5]	Chemical manuf., chemists, fuel distribution, rubber makers	Leukemia Aplastic anemia	560	$35–$50 Preplacement and quarterly examinations, including a history which includes past work exposures to benzene or any other hematologic toxins, a family history of hematological neoplasms, a history of blood dyscrasias including genetically related hemoglobin alterations, bleeding abnormalities, abnormal function of formed blood elements, a history of renal or liver dysfunction, a history of drugs routinely taken, alcoholic intake and systemic infections; complete blood count including a differential white blood cells count.	0 0	
Beryllium	30,000 [6]	Metal production, machinery production	Lung cancer Beryliosis	187	$35–$50 Annual periodic physical examinations with emphasis on the respiratory tract, liver, kidneys, and skin; pulmonary function tests, such as FVC and FEV (1 sec.) 14" x 17" chest x-ray.	3 3	Risk factor modification (cigarettes); counseling for early symptoms.
Cadmium and Compound	1,500,000 [6]	Alloy makers, battery makers, pesticide workers, smelter workers	Lung cancer Renal disease	238	$35–$159 Annual physical examination with emphasis on examination of the respiratory system and kidneys; urinalysis with quantitative analysis of protein. Pulmonary function testing, such as FVC FEV (1 sec.) and 14" x 17" chest x-ray.	3	Risk factor modification (cigarettes), counseling for early symptoms.
Chloroprene	43,712 [7]	Artificial rubber makers	Lung cancer	145	$35–$159 Annual physical examination with emphasis on the respiratory system and the skin; 14" x 17" chest x-ray.	3	Risk factor modification (cigarettes), counseling for early symptoms.
Talc	527,523 [7]	Miners, rubber making	Respiratory disease	125	$35–$151 Annual physical examination with emphasis on the respiratory system and cardiovascular system; 14" x 17" chest x-ray; FVC and FEV (1 sec.).	3	Risk factor modification (cigarettes), counseling for early symptoms.
Fibrous Glass	200,000 [6]	Construction, insulation workers, product manufacturing	Respiratory disease	125	$35 There are no specific clinical, x-ray, or pulmonary function test changes that are reported to be characteristic of fibrous glass exposure. Surveillance should be conducted because of the potential chronic health effects.	3	Risk factor modification (cigarettes), counseling for early symptoms.
Methyl Butyl Ketone	220,000 [6]	Painting operations, chemical manufacturing	Peripheral neuropathy	(9 11)	$35–$50 Annual physical examination with emphasis on the nervous system, respiratory system, and skin.	2	Counseling for early symptoms.
Polychlorinated Biphenyls	12,000 [6]	Maintenance of electronic equipment (transformer, capacitors)	Chloracne Liver injury	(11)	$35–$50 Annual physical examination with emphasis on the liver and skin; liver function tests.	3	Counseling for early symptoms.
Radon Daughters	23,000 [10]	Miners	Lung cancer	449	$150–$300 Pre-employment medical examination must be mandatory in all occupations involving work with radioactive substances, and persons with diseases and injuries constituting contraindications for such work must be excluded. Particular attention must be paid to the condition of the respiratory tract and the functional capacity of organs and systems at risk (kidneys) including detailed laboratory analysis of blood and urine. Similar periodical checkups must be made at least once every 6 months. For monitoring exposure, recourse to special methods of analysis is necessary. The determination of radon and thoron in the exhaled air of exposed persons provides a good indication of exposure; in assessing radon exposure, the determination of ^{210}PO and ^{210}Pb levels in the urine can also be of great value.	3	Risk factor modification (cigarettes), counseling for early symptoms.
Silca, Silca Flour	93,655 for Silica Flour; 1,200,000 for free silica (omits 2.5 million in agriculture, 0.6 million in chemicals and allied industries, and 0.6 million in heavy construction) [6].	Stone cutting foundries, sand blasters, miners	Silicosis Respiratory disease	(9 11)	$35–$50 Annual physical examination with emphasis on the respiratory and cardiovascular systems; 14" x 17" chest x-ray; FVC and FEV (1 sec.).	3	Risk factor modification (cigarettes), counseling for early symptoms.
CURRENTLY ON OSHA DOCKET (with index epidemiologic studies)							
Formaldehyde and Formalin	1.6 million [6]	Morticians, textile workers, laboratory workers, chemical production	Cancer (buccal cavity)	343	$35–$50 Annual physical examination with emphasis on the respiratory tract and skin; 14" x 17" chest x-ray; FVC and FEV (1 sec.).	3	Risk factor modification (cigarettes), counseling for early symptoms.

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[1] These numbers include both current and former workers.

[2] A value of 100 would indicate that the disease occurs as frequently in the worker group as in the general population. Therefore, for example 294 means the disease occurs 2.94 times more frequently in this work group than in the general population.

[3] All workers would not need screening or the same frequency of screening. Therefore, the cost of screening will not apply to all workers. A graded response will need to be applied. This will be based on such factors as age, length of employment, job category, etc. The cost estimates do not include a fee of $50 for physician time to take a medical history and counsel patients, etc.

[4] Recommendations for medical screening are for currently exposed workers as presented in Proctor N. Hughes J: Chemical Hazards in the Workplace, Philadelphia, J.B., Lippincott Co. 1978. These recommendations sometimes include diagnostic procedures and are not specifically screening.

[5] Rating: 0–5, with 5 the best. This is a subjective rating. The effectiveness of medical screening techniques is dependent on technological developments and should be evaluated periodically by a panel of experts.

[6] The estimated number is derived from documentation included in the OSHA Standard, NIOSH Criteria Documents, or NIOSH Current Intelligence Bulletins.

[7] The estimated number is derived from the National Occupational Hazard Survey (NOHS) of 1972–1974, or provisional estimates from the National Occupational Exposure Survey (NOES) of 1982–83.

[8] In some cases, no information was available on the number of workers since the substance was not an industrial product but rather, a contaminant, or because the substance was not widely used in industry.

[9] Blank indicates that no study of an exposed cohort was found in time for preparation of this report.

[10] The estimate is based on the number of workers identified in the NIOSH cohort mortality studies of the agent.

[11] Note, this information is not on mortality, but rather deals with morbidity effects.

Note: In general, it should be noted that the estimated number of workers potentially exposed are based on the best available information and should not be considered actual values. These estimates could, of course, vary using different assumptions.

Mr. HATCH. Mr. President, CDC has so far been able to identify slightly more than 18 million workers who have been exposed to 36 occupational health hazards.

CDC stated that smoking plays a role in developing the occupational disease for 83 percent of the workers exposed. And, for 67 percent of those workers, smoking cessation is the only risk-factor intervention available. CDC believes that for the remaining 17 percent, smoking does not play a significant role in developing the occupational disease.

But interestingly enough, for 99.75 percent of these workers where smoking does not play a role, CDC felt that there is no available risk factor intervention other than counseling about possible future symptoms. This evidence speaks for itself. Medical intervention to prevent occupational diseases must include smoking cessation.

Any legislation whose goal is to reduce employee morbidity and mortality from occupational diseases must either focus on primary prevention which reduces exposure to occupational health hazards or stress smoking cessation. S. 79 does neither.

Let me go to section 5, with regard to notification of the population at risk.

Section 5 covers the specific requirements of the worker notification. The notification contains just enough information to scare any employee. Hopefully, it will scare him or her into stopping smoking, but more likely it will scare the employee into seeing a lawyer.

Mr. President, the first thing my colleagues should realize is that we will not, despite the legislation's stated intent, be notifying individual employees about their actual risk. Under this bill, the Board must set levels of risk of potential disease in various job classifications. In real life, however, providing an accurate estimate for a specific individual's actual risk, the Board must know much more. For example, the Board would have to know something about the length and duration of the individual's exposure. The statistics will vary among employers because of factors like the length of employment, the type of employment, the individual's work habits, and the use of safety equipment.

The Board would also need to know about the individual's lifestyle, including his or her smoking history, sun exposure, diet, exercise habits, and use of medications, the individual's environmental exposures such as exposure to acid rain and acid aerosols, and other epidemiological data such as ethnic background, sex, and age. Obviously little, if any, of this information on each and every worker in America can be made available to the Board.

In order to carry this problem one step further, the Board must take into account the fact that the risk of employees exposed for short durations will be different than for those exposed for long durations. Further, the risk for smokers will likely be different than for nonsmokers. An older worker may have a different risk than a younger one. The rate for men will likely be different than that for women. For example, the risk of cancer may vary from 2 or 3 up to 100 fold between men and women.

Yet, under S. 79, all workers will get the same notice, stating that they have a scientifically determined risk of developing certain diseases. The sponsors of this legislation will not agree, but the reality is that the notification requirements under S. 79 are really "hazard notifications."

If a hazard notification program sounds familiar to some of my colleagues, it should. The Federal Government already has a hazard notification program.

Now if we could start from scratch in developing legislation aimed at reducing morbidity and mortality from occupational diseases, what would we do? First, producers would be required to evaluate the hazards of every chemical they produce. Second, hazardous chemicals would be accurately labeled with its identity and appropriate warnings. Third, each employer would be required to keep a list of every hazardous compound found in the workplace, with safety information, training procedures, and health information which is available to past and present employees. And, fourth, workers would receive training on the proper use of hazardous chemical.

As I hope my colleagues know, this very program is already law. We do not need this bill to duplicate it. That is what it does. The existing law provides for the hazard communication standard. That is the Hazcom standard and it becomes fully effective on May 23, 1988 and contains all of the requirements I have just mentioned. The Hazcom standard, administered by OSHA, already recognizes the workers right to know, requiring every employer to provide information to workers.

The hazardous communications standard covers 32 million workers in nearly 4 million worksites nationwide and covers as many as 575,000 hazardous chemical products. It is applicable if one or more positive toxicological studies indicates adverse health effects, and it applies to both health hazards and physical injuries. The estimated cost to employers of the implementation during the first year of this law is over $680 million. That is the law as it already exists or at least as it will exist in just a month or so.

As I have already discussed, one of the requirements of OSHA's comprehensive hazard communication standard is the responsibility of the employer to have a copy of a material safety data sheet on every hazardous substance used in the workplace. This MSDS, as it is commonly referred to, must identify a substance by its chemical and common names. If the hazards chemical is a mixture which has been tested as a whole, the MSDS must include the chemical and common names of the mixture itself. If a mixture has not been tested as a whole, the characteristics of each component in excess of 1 percent carcinogens if they comprise more than 0.1 percent must be identified.

Copies of MSDS must be maintained in the workplace and must be readily accessible to employees at all times. If employees travel between workplaces during a shift, the MSDS may be kept at a central location at the primary facility, as long as information is available in an emergency. Significantly, former employees are also entitled to access to MSDS dealing with chemicals used in the workplace at the time they worked there.

The MSDS must give information in twelve specific categories:

First, identity used on the label;

Second, physical and chemical characteristics, for instance is it an explosive;

Third, health hazards from exposure, including symptoms of exposure and medical conditions which are generally recognized as being aggravated by exposure;

Fourth, primary route of entry;

Fifth, OSHA permissible exposure limit, ACGIH threshold limit value, and other recommended exposure limit;

Sixth, whether the chemical is listed in the National Toxicology Program Annual Report on Carcinogens or has been found to be a potential carcinogen in the IARC monographs or by OSHA:

Seventh, handling precautions, including spill and leak clean-up procedures;

Eighth, generally applicable control measures;

Ninth, emergency and first aid procedures;

Tenth, date of preparation or update; and

Eleventh, name and address of the manufacturer or other responsible party who is preparing or distributing the MSDS and can provide further information if necessary.

To help you understand the comprehensive information which is required in the MSDS—including health hazard information and risk information—I have had a representative MSDS blown up so I can actually show you what it looks like and what it contains. This particular MSDS happens to be for the substance vinyl chloride, which is a known carcinogen.

So let me wait for a minute until my staff aide brings this exhibit in and then I will explain it.

This is a blown-up Material Safety Data Sheet. This has General Electric's name on the bottom. By the way, this is one of the companies that has supported this bill, not surprisingly.

As I said, it is called the Material Safety Data Sheet, Corporate Research & Development, Schenectady, NY; the phone number, the Vinyl Chloride Monomer, and the date, August 1978. It was reviewed in September 1979.

Section I is Material Identification. The material name is Vinyl Chloride Monomer.

Other designations: VCM, Chloroethylene, Chloroethene, $CH_2=CHC_1$, CAS #000 075 014.

And it has description: "Material shipped as a liquified gas in steel cylinders under its own vapor pressure."

It lists the manufacturer: "Available from several suppliers."

Section II, Ingredients and Hazards. In this case it is Vinyl Chloride Monomer with inhibitor; percentage ca100, and under here it has Hazard Data, 8-hr TLV 1 ppm, liquid contact prohibited. Then it has an asterisk over here. It says, "An inhibitor, such as phenol at 25-100 ppm is added to prevent polymerization in the cylinder," And it has two asterisks and says, "Current OSHA permissible exposure limit; a ceiling level of 5 ppm (15 minute sample) also applies. This material is a recognized human carcinogen," and they underline "recognized human carcinogen." "Action level: 0.5 ppm. Recently an ACGIH proposed a 5 ppm TLV for this carcinogen."

It also has under "Hazard Data" not only 8-hr TLV 1 ppm Liquid contact prohibited but has "Human, inhalation, TCLo 20 ppm (cardiovascular effects)" and "Man, inhalation, TCLo 500 ppm (intermittent) for 4 yrs (cancer)."

It is a pretty interesting chart because section III lists the physical data. Boiling point at 1 atm deg F—7.0, Specific gravity, 68/68—0.912; volatile percentage, ca100; vapor pressure at 68 F. atm 3.39; mmHg 2580. Vapor density air = 1, 2.2; water solubility 77 F Negligible.

Appearance & Odor: A colorless gas at room conditions with a mild sweet odor in high concentrations. It liquifies readily under increased pressure or at reduced temperature.

See how detailed this is?

Section IV, Fire and Explosion Data. Flashpoint and Method, 108 F, autoignition temperature, 882 F, flammability limits in air, lower 3.6 and upper 33, volume % at 77 F.

Extinguishing media: Carbon dioxide and dry chemical can be used to smother small fires. Water can be used to cool fire-exposed containers but is ineffective in putting out fire. Protect men shutting off gas with a heavy water spray.

This heavier-than-air gas can flow along surfaces, reach a distant ignition source and flash back.

Toxic and corrosive gases are formed when VCM burns. Firefighters must use self-contained breathing equipment. Fight advanced fire from protected area; heated VCM cylinders can rupture. VCM can be an explosion hazard when mixed with air.

It shows the hazard involved and it shows how you tell that this is a high risk if the employee is not using safety equipment that it mentions right in here.

Section V, Reactive Data.

VCM (inhibited) is stable in storage at room temperature in cylinders. It can undergo hazardous exothermic polymerization if heated or if reaction is catalyzed.

It is highly flammable and readily forms explosive mixtures in air. Oxidation can produce carbon monoxide and hydrogen chloride, with possible traces of phosgene.

It is incompatible with copper, aluminum and certain catalytic impurities. It can form peroxide by catalyzed oxidation with atmospheric oxygen.

This is the Material Safety Data Sheet.

Let us go to section VI. I think it is important that we go through this so we can see how much we do already in our society for employees. And I do not think we will know unless we go through this and explain it.

Section VI. This is number 382.

SECTION VI. HEALTH HAZARD INFORMATION

Acute exposure to excessive levels of VCM can cause headache, dizziness, lung irritation and narcosis. High concentrations can cause helplessness and unconsciousness on short exposure. Eye irritation and damage results from excessive exposure. Contact of liquid with the skin can cause frostbite, and skin irritation and burns can result from traces of phenol stabilizer.

Chronic exposure to high levels has produced cancer in humans and carcinogenic effects also occur in animal testing (for example, rat, inhalation LCLo 250 ppm 4-hr/day, for 260 days produced cancer). First aid:

That is how detailed this is. "Eye contact." If you have eye contact with this chemical, here is what you should do:

Flush eyes immediately and thoroughly with water for at least 15 minutes then get medical attention promptly.

Skin contact: Wash affected area immediately with soap and water. Remove contaminated clothing promptly.

Inhalation: Remove victim to fresh air. Restore breathing if required. Get prompt medical attention, especially if narcosis or collapse has occurred.

Now, that lists the health hazard information to show how detailed we already have this information written for these people and yet this bill wants to duplicate all of this, only not as well.

SECTION VII. SPILL, LEAK, AND DISPOSAL PROCEDURES

A written plan to handle emergency situations must be prepared in advance. Personnel involved in handling emergency situations must use protective clothing and equipment to prevent breathing of, or contract with, VCM. Remove ignition sources; evacuate workers; provide maximum ventilation (explosion-proof). Stop leaking. Remove leaking cylinders. Hose down area with water after leaking is stopped and liquid if any has evaporated.

Disposal: VCM can be burned in a high temperature incinerator with a scrubber to remove HCI formed. Follow Federal, State, and local regulations. (Excessive release of VCM to the atmosphere can violate EPA regulations.)

"Section VIII, Special Protection Information."

I do not know how you can be much more deliberate or detailed than this form, which is already required, where you have a toxic substance that may be hazardous.

SECTION VIII. SPECIAL PROTECTION INFORMATION

Provide sufficient general ventilation and local exhaust ventilation (fans and electrical equipment must be explosion-proof) to meet TLV requirements. Approved respirators must be available for non-routine and emergency situations. An organic cartridge-type respirator is suitable up to 10 ppm VCM: up to 25 ppm a canister-type gas mask (full facepiece) can be use; above 25 ppm air supplied or self-contained type respirators are required.

Monitor VCM exposure levels for processing and handling. If exposures are above the action level (0.5 ppm), medical surveillance procedures must be followed.

Provide training program for workers specifically including the carcinogenic hazard.

Prevent contact with liquid with protective clothing, neoprene gloves, chemical goggles, face shield, etc. as required. Provide eye wash station and safety shower.

Finally, "Section IX, Special Precautions and Comments."

> Store in a cool, well-ventilated place; an outside or detached, noncombustible location is preferred. Keep away from oxidizing agents and sources of heat or ignition. Protect cylinders against physical damage and follow standard safety practice for flammable, compressed gas.
>
> A place where VCM is stored, handled, used, etc. must be established as a regulated area with controlled access, limited to authorized persons. Containers of VCM and regulated areas must be labeled to show a "Cancer-Suspect Agent" is present,

Here we go again. We have an existing agency doing everything that this bill is supposed to do and more.

> See OSHA Standard for medical surveillance, keeping, and reporting requirements (29 CFR 1910.1017).
>
> Data Source (S) Code 2-9, 11, 12, 17.

It concludes:

> Judgments as to the suitability of information herein for purchaser's purposes are necessarily purchaser's responsibility. Therefore although reasonable care has been taken in the preparation of such information, General Electric Company extends no warranties, makes no representations, and assumes no responsibility as to the accuracy or suitability of such information for application to purchaser's intended purposes or for consequences of its use.

Approvals, MIS, CRD; Industrial Hygiene and Safety, approved by that person; and Corporate Medical Staff, approved by a medical doctor in this case.

So here we have it already under HAZCOM, which goes into full effect in a couple of months. And it is going to cost certainly more than a half million dollars to implement without the need for this legislation. We had a Material Safety Data Sheet on every one of these 575,000 hazardous chemicals. That is just one illustration. It took a little bit of time to do it, but I think it was important because it shows what we are doing and how much we have literally caused our Nation to succumb to already detailed hazardous information.

I think we made a pretty good case that this bill is just plain going to duplicate a lot of things that are already done and not do it as well.

Just remember that particular MSDS identifies vinyl chloride as a carcinogen.

It should now be quite evident to everyone that the material safety data sheets required by OSHA's hazard communication standard already provides detailed health hazard information. This information must be made available to any employee working with a hazardous substance, and must be made available to former employees who worked with the substance.

I, for one, have enough confidence in the American worker that he or she is going to be smart enough to read and understand the MSDS. It is not difficult to understand. That is why we require the MSDS in the first place. The approach taken by S. 79, on the other hand, assumes that the worker is not going to look at the MSDS or is not going to be able to figure out what it says. Come on. Let us recognize that our workers today are not only good, they are smart. They don't have to be spoon fed to figure out what is going on in their workplace, certainly if they read that MSDS. They may not understand all the chemical equations, but they can sure as heck understand what the language on the MSDS is that makes it very clear how dangerous the toxic substance really can be.

In addition to OSHA's hazcom standard, OSHA has the access to medical record standards which give present and former workers the right to inspect their levels of exposure and individual medical records that are maintained by the employer. Under present law, these records must be maintained for 30 years and must be made available to former employees. There are other specific, presently existing OSHA standards which will be duplicated by this bill at a tremendous cost to the taxpayers and at increased consumer costs.

Let us go through it again. There are other specific OSHA standards which require employers to provide regular medical monitoring for certain widespread workplace hazardous substances.

OSHA is not the only agency which monitors workplace safety. There are also programs administered by the Mine Safety and Health Administration, the Environmental Protection Agency, the Department of Transportation, and others. I listed a number of them this morning before the cloture vote. There may be room for improvements and modifications in these programs. However, many of the provisions of S. 79 duplicate existing law. Given the large number of agencies with regulations already in place, we should improve existing programs, not support the creation of yet another Federal bureaucracy to confuse and duplicate existing efforts.

Section 6 of this bill is a very detailed bill that just intrudes into everywhere they want it to intrude.

Section 6 of S. 79 covers employee notification. My major concern is with section 6(c). Let me just read that to you:

> (c) EMPLOYEES NOT CURRENTLY EXPOSED.—
>
> (1) IN GENERAL.—In the case of former employees and employees for whom no exposure to the occupational health hazard occurred in the course of employment with their current employer as of the time the notice was issued, the notification shall be transmitted to each employee in the designated population at risk of disease who was exposed to the occupational health hazard within 30 years prior to the date of notification.
>
> (2) INDIVIDUAL NOTIFICATION.—Notification shall be on an individual basis, except that if individual notification is not reasonably possible, the notifying entity shall make use of public service announcements and other means of notification appropriate to reach the population at risk.

This provision requires that the notification must go to any current or former employee who was exposed to the occupational health hazard within 30 years prior to the date of notification. This 30-year period was chosen because of concern over the latency period of some occupational-related diseases. But this arbitrary period will undoubtedly lead to the notification of individuals who are no longer at risk and leads to a propensity to notify large numbers of individuals who will never develop the occupational disease.

Instead of arbitrarily choosing a period of years, the supporters could have either chosen the latency period of the occupational disease or notified prospectively.

VARIANCE

S. 79 does provide employers with the opportunity to apply for a variance from the requirements of the bill, as long as that application is filed within 30 days after the final determination of the Board. After applying, it is then left to the discretion of the National Institute for Occupational Safety and Health (NIOSH) whether or not the employer receives a hearing. This section is wholly unworkable and blatantly unfair to employers.

First, the time period of 30 days is far too short. It is unlikely that most employers, particularly small employers, will be able to learn or review or prepare an application for a variance in response to the final determination of the Board within the 30-day time period. S. 79 assumes that every employer in this country is going to regularly read the Federal Register every day. A 30-day limit would not provide enough time for even a trade association to digest the information and get it to its members. And, if employers do not apply within 30 days, they are barred from making an application.

Second, this section does not provide for any group applications for variances or trade associations applying on behalf of their members. For example, there will be many circumstances where large numbers of employers may have adopted the same engineering controls or developed similar work practices or health and safety programs which may be sufficient mitigating factors in reducing the risk to employees. Under these circumstances, it appears unnecessary to force employers to pay the cost of individually applying for a variance and force NIOSH to pay the expense of individually reviewing each application. You can imagine the cost of that.

Third, there is no provision made for subsequent applications. If NIOSH determines that certain employees are not at risk because of engineering controls or work practices adopted by their employer, that employer is exempt from the requirements of S. 79. But other employers would not be exempt even though they may have adopted identical controls but did not apply for a variance within the 30 days.

These other employers, who did not act within 30 days, will be in the curious position of having their employees notified and being required to comply with all the provisions of S. 79, even though NIOSH has determined that their employees are not at risk.

This approach forces almost every employer who learns about a final determination by the Board to apply for a variance. Not only because employers will have a very short time to review their own practices, but because they will have no idea what facts NIOSH will use in determining whether or not to grant a variance. Unlike some other areas of administrative law, S. 79 establishes an adjudicatory process which denies employers the benefit of previous decisions.

Fourth, the approach to variances taken in S. 79 does not contemplate employers taking subsequent steps to improve the safety of their workplace. What if NIOSH determines that if certain steps are taken employees would no longer be at risk? Some of us believe that many employers would conclude that the responsible action is to take those precautionary steps.

Let me repeat that.

Fourth, the approach to variances taken in S. 79 does not contemplate employers taking subsequent steps to improve the safety of their workplace. What if NIOSH determines that if certain steps are taken employees would no longer be at risk? Some of us believe that many employers would conclude that the responsible action is to take those precautionary steps. Also, by adopting those steps that eliminate the risk for employees, the employer should no longer be covered by some of the provisions of S. 79. There probably would not be the need to notify future employees, or continue to pay for medical monitoring, or the employee transfer provisions might no longer be necessary. But while that approach might be logical, that's not the approach taken in S. 79.

I do not think that is very logical either, but let us look at what S. 79 does.

S. 79 does not distinguish between employers with good safety and health programs and those with bad ones. Neither does it encourage an employer to improve the workplace. Once covered by S. 79, an employer is covered forever, regardless of what steps he or she takes to improve the workplace. The end result of this flaw in the variance system is that countless employees will be notified who probably work in a safe workplace, and countless employers who provide a safe workplace will be forced to suffer the cost of complying with the other provisions of S. 79. Let us go to section 7, "Occupational and Environmental Health Centers."

Section 7 provides for the establishment and certification of 10 environmental and occupational health centers within 90 days of enactment. These centers are to be selected based on the ability and experience in recognition, diagnosis, and treatment of occupational-related diseases. The functions of the centers are to provide educational training and technical assistance to private physicians and other professionals who serve employees that are notified of a risk factor and to be available for diagnosis, treatment, and monitoring of such employees.

My colleagues should note that S. 79 does not provide for, nor does it contemplate, any assistance being offered by these centers to the employer. One would expect that at least one function of these centers should be to help the employer improve the safety of his workplace, but that is not the case. Part of the underlying theme of S. 79 is that the government should only take the side of the employee in an adversarial relationship with employers.

As I have said before, to be effective, any legislation must encourage the employer and the employee to work together to promote a healthy and safe workplace. While the employer may be primarily responsible, we should continue improving and protecting the health of everyone in the workplace through a joint partnership. An employee does have responsibility, it seems to me, for his or her own welfare and certainly should participate with the employer to make the workplace a safer place to work.

(Mr. KERRY assumed the Chair.)

The employer must provide the equipment and training necessary to ensure that the workplace environment is a healthy one. The employee needs to use the safety equipment provided. The employee should also inform the management about any unsafe working conditions, and the Government must work with both to provide them with the information they need to continue to improve the health and safey of the workplace.

In addition, an employee has the responsibility to take steps to reduce or eliminate those lifestyle practices which may increase his or her risks of disease. Again, smoking is one obvious example. There are a number of companies which are now working with their employees to help them stop smoking. This is a trend we should encourage.

Any new program which focuses solely on the employer or solely on the employee will be only partially effective. Just as many occupational hazards have a synergistic effect with smoking, employees and employers working together can have a synergistic effect when it comes to promoting health in the workplace.

Let me turn to section 8 of this bill. This is an important section.

SECTION 8 IS TITLED RESEARCH, TRAINING, AND EDUCATION

Section 8 establishes research training and education programs on occupational diseases, but it has many of the same flaws contained in section 7. The supporters of S. 79 have told you what the purpose of the Federal funding is to improve methods of identifying employees at risk and their monitoring.

Mr. President, this provision never mentions any research training or education efforts into improving health or safety in the workplace, nor is any research contemplated into improving the health and safety of the workplace. And, despite a long list of requirements, no mention is made of providing assistance to employers.

Under S. 79, an employer might have a safe workplace with very low levels of exposure to an occupational health hazard. Nonetheless, if he has a notified employee who was exposed to high levels elsewhere, he is still required to pay for the medical monitoring of that employee, simply because there is some exposure in his workplace.

Further, there is no cost sharing of this medical monitoring. The first employer may have exposed the employee to high levels of an occupational health hazard for 20 years, while the second employer may have exposed that employee to very low levels for 1 month, yet the second employer is required to pay the entire cost of the medical monitoring. The first employer does not pay a dime.

The employer is also required to provide this medical monitoring to employees who he "has reason to know are members of the population at risk." This means that even if the Board failed to identify the employees who require notification, and even if the employer did not know that the employees should have been notified, the employer is still legally responsible for medical monitoring and the accompanying costs.

This provision alone will increase the cost of legal fees and support a number of lawyers in years to come. For example, take those employees who never received the notice but could qualify as part of the population at risk. What is an employer's obligation to these employees. Common sense would say that once the employer knows, it should be responsible for providing medical monitoring from then on. But, never forget, S. 79 is really about litigation. Under this bill, the employer would be liable for failing to monitor. Not only is this a new cause of action; but think of the small business person. They do not have a permanent lobbyist in Washington. They do not call the Federal Register. Regardless of their intent, these businesses could face billions of dollars in law suits, simply because a lawyer could claim that they should have known about the risk.

Now, come on. Anybody who looks at this has got to say that is unfair; it is poorly drafted; it is an unfair risk for the small business employers, and it certainly is something that should not be.

It would be reasonable to expect that when a healthy employee leaves the employer, showing no signs of disease, the duty to provide medical monitoring might, at some point, end. S. 79 does not include any such termination. The duty of the employer to provide medical monitoring apparently continues throughout the life of the employee, since there is no provision for its termination.

These medical monitoring costs will be substantial. Dr. Landrigan, representing the Association of University Programs in Occupational Health and Safety, testified before the Labor and Human Resources Committee that, the estimated average initial cost for such a medical monitoring procedure would be $224 per employee. If one assumes, as the supporters of S. 79 do, that only 100,000 to 300,000 workers per year will be notified, the annual cost will still be $22 million to $67 million for the initial medical monitoring. Nothing in S. 79 contemplates, anticipates or requires annual monitoring. Medical monitoring could just as easily be required every 6 or 3 months.

In addition, depending on how frequently medical monitoring is required, the cost will also vary with the occupational health hazards the Board selects. As the number of people exposed to a hazard increases, the medical monitoring costs could increase proportionally. Any one of a number of known hazards would result in significantly greater medical monitoring costs. For example, if the Board determined that benzene is an occupational health hazard, the initial medical monitoring cost for the approximately 2 million people who have been exposed could run well over $400 million.

I would like to demonstrate this point with one example. The Board could determine that exposure to AIDS is an occupational health hazard. There are approximately 8 million health care workers in this country. Medical monitoring costs for them could run into the billions of dollars per year. There is no question about that. And it is very likely they will find that AIDS is a high risk. This is not an unforseen event under S. 79 because the committee report for S. 79 specifically states that viruses and other pathogens in the workplace are covered under this legislation. Also, the House companion bill, H.R. 162, declares AIDS as an occupational health hazard, so it is very likely you are talking about billions of dollars.

It is easy to identify a number of substances found in the workplace or in every day life where the medical monitoring cost would run into the hundreds of millions of dollars per year. To name a few, almost 2 million workers are exposed to carbon monoxide, almost 1½ million workers are exposed to cadmium, and probably tens of millions of workers are exposed to noise. The Board would not need to identify many substances as occupational health hazards to have the medical monitoring costs run into billions of dollars.

Who pays for all this? Well, they think they can just saddle the businesses with it but the businesses do not pay for it, corporations do not pay for these costs. They just pass them right on to the consumer, so guess who is going to pay for it? Every consumer in America. And if it was justified, maybe it would be something that consumers would feel is worthwhile paying for, although I doubt it. The fact that it is not justified, and it is just another added consumer expense that really should not be there.

Of course, one small consolation for employers is that the bill does allow for medical monitoring benefits to be made available through an existing employer health plan. As a result, the employee may be required to meet deductibles or copayments.

So we find that the very people this bill has been designed to help, or at least bring some solace to, actually hurts them as well.

The only problem with that argument is that very few health insurance plans provide coverage of medical monitoring costs. Very few. But if they do, guess who is going to pay a large share of those costs? It is going to be the individual employees.

One can only conclude that this provision will provide very little assistance to employers. Actually, employers are going to get stuck with it all, but employees will wind up paying through the nose because of the increased costs of goods and services that come to all consumers in this country because of this ill-conceived legislation.

What about discrimination?

It is not surprising that the supporters of S. 79 decided to address the issue of discrimination directly, since one of the major effects of S. 79 will likely be the closing of plants, businesses, and industries subject to notifications and the unemployment of a significant number of workers.

The supporters of S. 79 have responded by prohibiting discrimination against an individual that has been a member of a population that has been determined by the board to be at risk of disease. This is just one more example of a new substantive legal right created by S. 79.

The supporters did recognize that this section would not make sense if it forced employers to hire employees for positions which would continue to expose them to the same hazards. If, however, we are going to take this approach, this section does not go far enough.

The legislation currently does not require an employer to hire a worker who received notice of exposure to hazardous substance A if that worker would also be exposed to substance A in a new job. Many of the known occupational health hazards, however, can produce similar effects. For example, asbestos, talc, fibrous glass, silica, and cadmium can all lead to the increased risk of respiratory disease. Benzidine, 4-nitrobiphenyl, and a number of other substances increase the risk of bladder cancer. It is unreasonable to require an employer to hire someone who may already have a significant exposure to silica, to work with cadmium. S. 79 prohibits employer discrimination against a worker who has a history of exposure to substance A even if the worker's new job would expose him to a different substance which would interact with this previous exposure and accelerate potential health problems.

How do you like that? It is just another, I think, ridiculous approach.

Section 9 also provides that an employee may be transferred to a safer job with no loss in pay or seniority if the employee's physician determines that it is appropriate. While the employer does have the right to appeal, S. 79 does not provide the employer with any information on which to base that decision.

S. 79 does not require the employee's physician to provide the employer with any medical justification for the determination that the employee should be transferred. Nor does the employer have the right of access to the medical records of the employee to determine whether or not to appeal. Furthermore, the employer is also not allowed to have a company-appointed health professional examine the employee.

What kind of rights are those? It does not take any brains to get upset about that. If you are going to stick the employer with these types of onerous obligations, then you ought to at least give him the right to test those allegations, and he certainly ought to have a right of access to the employee's medical records. He should not have to take the word of the doctor that he has to transfer the employee.

Come on. There have got to be some rights to the employers as well, and I think those rights are in the best interest of the employee because the employer may very well be able to find some way of resolving the employee's difficulties because the doctor helping the employee may not be competent or may not be as good as the doctor that the employer may be able to help lead the employee to.

If the employer does exercise its right to appeal and, on appeal it is determined that the employee does not need to be transferred, the employer has to pick up the tab for the regulatory appeal.

In other words, the employer gets stuck again. As former chairman of the Labor and Human Resources Committee and as the ranking Republican member on that committee, I have lived with the black lung program for many years. I have helped to save the black lung program. I have made sure that it works. I have made sure that it is funded. But it is no secret that the black lung program has doctors who will automatically certify that a man has black lung if a man has worked in a mine at all.

There are some doctors who are frauds and who are dishonest and who always find black lung to exist even when it does not exist.

It is well known in the industry that this is so, and that has always been one of the big concerns of employers. This is even worse than that because at least the mining company has a right to the employee's medical records in black lung cases.

So let us go through that again. Why then does the employer, if he wins on the regulatory appeal, have to pick up the cost of the win?

Even if the employee lied in an attempt to be transferred, even if the employee's physician was incompetent, the employer has to pay for the cost of the appeal under this bill.

I think we should have employee rights, but they ought to be fair, they ought to give the employer breaks too, and they ought to work. They should not be just one-sided. They should not only be rights on the part of the employees.

It is no wonder that the major trade unions in this country support this bill. S. 79 would have the employers under such an iron thumb that there would not be anything they could do about it except pay through the nose. That is the answer of our colleagues who are sponsoring this bill. Pay through the nose, and do it whether it is right, wrong, fair, or not fair.

If the employer does not appeal, or if it loses on appeal, it has two options. It can provide the employee with another job with no loss in pay and seniority; or, if no such job exists, it can pay the employee 1 year severance pay. This might work if the employer is General Electric or IBM, but what about small businesses? How are they going to come up with 1 year severance pay, and yet there are millions of small businesses covered by this bill. How many open jobs do the sponsors think there are in small firms?

The supporters of this legislation claim they have dealt with this problem by including a "small business exemption" for employers with "10 or fewer full-time employees." Again, it does not take any thought to come to the conclusion that that is woefully inadequate as a solution to the concerns of small business. Technically, the exemption would not apply to part-time workers even if there are fewer than 10 total employees. In agriculture, for example, many of the employees are part time.

But more importantly, it applies only if the employer "is making a good faith effort to eliminate the occupational health hazard," and there is not much way of checking on the board or keeping it in check. Note the word used here is not mitigate but eliminate.

More important, it applies only if the employer "is making a good faith effort to eliminate the occupational health hazard."

So the word is not "mitigate"; it is "eliminate." That means if you are a drycleaner with eight employees, your choice is to transfer the employee or stop drycleaning. If you run a gas station and one of the employees asks to be transferred so that he is no longer exposed to gas fumes, you can either transfer the employee or stop pumping gas.

The sponsors of S. 79 may argue that our service station owner may be exempted because reasonable people still recognize that it is hard to get away from gas fumes anywhere in a service station. But who is going to render this determination? Why must the small business person submit to additional regulatory and legal provisions, which are both costly and time consuming, to prove his or her own good faith?

There is not a single Member of this body who can look a small business person from their State straight in the eye and tell him or her that we have solved the problem of the employee transfer provisions of this bill. The alleged exemption is so poorly worded that only a litigation lover would ever risk using it.

This provision applies to every employee, whether they have worked for one decade, 1 year, 1 month, 1 day, 1 hour. All workers have the same right to be transferred to other positions. Under S. 79 an employee can work for 1 day, go to his doctor that night and get a note that he should be in another job, and the next day force his employer to transfer him to another job. The supporters will say that while that could happen, it will not. I am not so sure. If you remember, I pointed out earlier that discrimination provisions prohibit the discrimination against someone who has been notified.

If, for example, the Board concluded that talc was an occupational health hazard, and workers were notified accordingly, one or more companies might close or lay off workers. If a former talc worker with preexisting lung damage applied for a job that would expose him to cotton dust, another substance which may cause lung damage, that employer would be required by law under S. 79 to hire him if he were otherwise qualified. It would then be very easy for that employee to get a physician to say that he should be transferred to another job.

S. 79 could first be used to force employers to hire the employee that is at risk, then transfer the employee after a few days on the job.

And to make it worse, the employer must also provide medical transfers if he "has reason to know" his employees are "members of the population at risk." And, I might note, I wonder what an employer can do to avoid a law suit when it is forced to choose between protected group members under our civil rights laws and protected group members under S. 79.

This bill comes very naturally after the Civil Rights Restoration Act, which had a veto and which the veto was overruled yesterday. That bill allows the Federal Government to intrude into everybody's lives. This one does also. The Civil Rights Restoration Act, while well-intentioned and I think could do much good in the area of civil rights, and I support it from that standpoint, is going to be very, very intrusive. And there will be many, many lawsuits arising under that bill, just to determine whether or not the factors involved really ignore civil rights. Here you have a bonanza of litigations, you have a bonanza of disagreements and you have an explosion of costs.

What about confidentiality? Let me now move on to the confidentiality provisions in section 9. I will just turn to section 9.

The sponsors of this legislation have made broad claims about the large number of employees who will be helped by this legislation, yet they have managed to eliminate one of the few possible benefits of the bill for workers.

While employers are required to pay for the medical monitoring, they are denied any access to the information generated by it. This information could be invaluable in identifying problem areas in the workplace, their magnitude, and whether attempts to improve the safety of the workplace have been successful.

Section 9 denies the employer any access to that information. This is just one more of many examples of how the supporters of S. 79 are not really interested in improving the safety of the workplace and in preventing occupational disease, but instead seem interested in creating legal hurdles and helping attorneys.

And speaking of attorneys, a principal problem with S. 79 is that it will create new and unfounded workers' compensation and tort liability claims against employers as well as product liability lawsuits against businesses and manufacturers of products used in the workplace. Sponsors of S. 79 have told the small business community not to worry about this problem; it can be fixed they said.

I expect we will hear much about these so-called fixes during this debate. I am skeptical of these promises, Mr. President. The plain fact is that S. 79 will generate an enormous amount of costly litigation based on these liability provisions.

The first victim of all of this legislation will be small business. Small business will find itself unable to purchase liability insurance; or, even if it can find insurance, it will be unaffordable. Let me state how I reached these conclusions.

It can be argued that S. 79 does not spell out any new legal theories for suing employers and manufacturers. I believe, however, that I have already pointed out several new causes of action and legally enforceable rights which have been created by S. 79, and I am sure that lawyers experienced in this area can come up with a number of others.

But, if you accept the argument that S. 79 does not establish any new legal theories, and is litigation neutral, there are still plenty of problems here. In the context of our present tort and worker's compensation systems, S. 79 will create new and unprecedented grounds for thousands of suits.

(The following proceedings occurred earlier:)

Mr. METZENBAUM. Mr. President, will the distinguished Senator yield?

Mr. HATCH. I am happy to yield to the Senator for a question without losing my right to the floor.

Mr. METZENBAUM. The Senator is well within his rights in making an erudite speech in connection with the pending legislation and to do so in as long a period as he wants. As the Senator knows, I have indicated earlier that I would like to accept the Breaux and Dixon amendments. The Senator certainly has it within his capacity to keep that from coming to a vote this afternoon or preventing us from accepting it. However, we might be helping our colleagues if we were able to tell them if the Senator does not intend to let them come to a vote this afternoon.

Mr. HATCH. I do not expect we will get to a vote on those amendments until tomorrow. But let me say that this is not for the purpose of delay or not getting to those amendments. I have a lot to say about this bill because this is the first time we have had a talk on the details of this bill. The details are important. We should discuss them before we start taking amendments. I would be happy to vote on the amendments tomorrow, probably after the cloture vote.

Mr. METZENBAUM. The Senator indicated he did not want to take up these amendments before today's cloture vote.

Mr. HATCH. That is true.

Mr. METZENBAUM. But the fact is that a number of your colleagues on that side of the aisle rose this morning to indicate their unhappiness that they were not able to call up any of the amendments they are trying to offer. The Senator from Ohio really wants them to offer their amendments even though I may oppose them, and may strongly oppose them. But in the interest of fairness to them, since many of them were protesting that they had not had a chance before the first cloture vote to call up their amendments, I was wondering whether or not there is not some procedure or some way that we could get these amendments either up or down and then let others call up their amendments if they are prepared to do so.

Mr. HATCH. To answer my distinguished colleague, I think the best way is to proceed orderly. For instance, yesterday, the first thing that a number of Senators on your side of the floor did was to offer those amendments——

Mr. METZENBAUM. It was because of that that I am trying to say to open the floodgates and bring on your amendments.

Mr. HATCH. The first thing was that we lost a day because we were tied up and today has been an explanation of the bill. That is how I visualize it.

Mr. METZENBAUM. Is it more of a filibuster to keep amendments from coming to a vote?

Mr. HATCH. I expect tomorrow we will have to address those amendments in detail. I believe we will have to do so if the Senate wants to continue on them. I have no problem with anybody coming over and offering amendments, but I want to get through a discussion of the bill first. The bill is extensive. This is not an inconsequential bill. This is a bill that could cost the American taxpayers billions of dollars.

Mr. METZENBAUM. That is a little debatable, I think you will agree.

Mr. HATCH. I do not think that at all, if you will listen to my remarks. I think in the remarks of my distinguished friend, Senator QUAYLE, yesterday he did a remarkable job in explaining the job from his viewpoint.

Mr. METZENBAUM. The Senators from Indiana and Utah always do a remarkable job even when they are wrong, which they may very well be in this instance.

Mr. HATCH. We find in this case we happen to be right. Nevertheless, I have to say also that the distinguished Senator from Ohio does a tremendous job of making sure that we have to explain his complex bill. It is complex. It is an important bill. If it passes, it needs to have this type of explanation. I hope it does not pass for the reasons I have recited all day long today.

I hope that we can proceed on that basis. I personally do not think there is a need for any amendment because I am hopeful that the bill will go down without any amendments. But I will be prepared tomorrow, I think, to start talking about amendments.

I have had some expression from people on our side that they do want to talk about the amendments that have been brought up today and talk about the tree which has been created.

Mr. METZENBAUM. There is no tree now. There is no tree now.

Mr. HATCH. How many amendments are there?

Mr. METZENBAUM. Two amendments.

Mr. HATCH. I will not call it a prohibitive tree, but it is a tree. All I am saying is that I think I can get to that tomorrow. I hope we can get through my remarks today.

Mr. METZENBAUM. How long does the Senator expect to give us the privilege of listening to his oration?

Mr. HATCH. I do not know. I do not want to go a heck of a lot longer today because I do not see any reason, but I will be happy to go as long as you want me to. We have a number of other Senators who also want to speak to the bill. I would suggest that we not go too long today and then see what happens tomorrow, whether to go on from there.

Mr. METZENBAUM. Would the Senator sort of suggest this may be a little filibuster?

Mr. HATCH. No.

Mr. METZENBAUM. That is, just to keep us from bringing two amendments that we are prepared to accept and move in the direction of the Senator's concerns, and to keep us from getting them to a vote?

Mr. HATCH. No. I consider filibusters to be when Senators are reading from the telephone books and history books and from the Bible, which has been done here from time to time.

Mr. BYRD. I quoted from the Bible this morning. Was I filibustering?

Mr. HATCH. Whenever the distinguished majority leader quotes the Bible or talks about the history of the Senate I think all of us should be listening.

Mr. BYRD. I thank the Senator.

Mr. HATCH. I think it is worthwhile listening to. When will the book be published on the history of the Senate?

Mr. BYRD. Hopefully by August of this year.

Mr. HATCH. I look forward with great anticipation to the first volume of the distinguished Senator's book.

Mr. METZENBAUM. I do hope it does not come out before the Senator from Utah gives up the floor.

Mr. HATCH. I think the Senator from Ohio is being unduly harsh on the Senator from Utah.

Mr. METZENBAUM. Never.

Mr. HATCH. At least he said my remarks were erudite. I think they are, too. They go right to the heart of the bill and explain the defects as I see them in this particular bill. My feeling is that I would like to try to finish these remarks. I may not be able to finish them today. If I cannot, then I will try to finish them tomorrow. But this will not be the only set of remarks that I have on this particular bill.

I can see the distinguished Senator loves to hear these messages.

I thank my distinguished colleague from Ohio for his kind remarks about the quality of my remarks here today. I will say this, that I have had the great privilege of listening to him hour upon hour on many occasions in the past and, likewise, he is always erudite when he starts talking about bills, regardless of what they are.

(Conclusion of earlier proceeding.)

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. HATCH. I would be delighted to yield under the conditions as agreed to before. I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator for yielding.

ORDERS FOR THURSDAY

RECESS UNTIL 10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS—ALLOCATION OF TIME

Mr. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized under the standing order tomorrow, there be a period for morning business as there was today to run until 10:30 a.m., that Senators may speak during that period; provided, further, that for the remaining half-hour under rule XXII the time be equally divided between Mr. METZENBAUM and Mr. HATCH.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

CLOTURE VOTE TOMORROW

Mr. BYRD. Mr. President, I shall not ask that the mandatory quorum be waived. I do ask unanimous consent that the vote on the motion to invoke cloture be a 15-minute vote, and that the call for the regular order be automatic at the close thereof.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. I thank the Senator for yielding.

Mr. HATCH. I thank the distinguished Senator. Mr. President, with that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The Senate continued with the consideration of the bill (S. 79).

Mr. METZENBAUM. Mr. President, I inquire of the majority leader if he will yield for a question.

Mr. BYRD. I yield.

Mr. METZENBAUM. Is it the intention of the majority leader to lay down a third cloture motion this evening?

Mr. BYRD. That is not my intention.

Mr. METZENBAUM. Do I correctly understand that that does not preclude the possibility of a third, or whatever is necessary, depending upon circumstances?

Mr. BYRD. That does not preclude my laying down another cloture motion or even another one. But I do not intend to lay down one today, which would necessitate a vote on Friday. I am not above having votes on Friday. I hope we will have some, because I went pretty far in saying we will be 3 weeks in and 1 week out, but I expect Senators to be here on Mondays and Fridays.

I am keeping my commitment, and I hope all other Senators believed what I said, and I would want to believe that they are going to be here.

I had not counted on putting one down today. I know there is an election somewhere in the country on Saturday. I believe it is Michigan.

Mr. METZENBAUM. Michigan, and one in Wisconsin on Tuesday.

Mr. BYRD. I would like to wait. I do not want to offer one today.

Mr. METZENBAUM. I understand that.

Mr. BYRD. I would like to make a judgment tomorrow. I want to see how the vote goes, and I will decide tomorrow whether I will lay down a motion tomorrow, which would require a vote on Monday, or whether I will wait until Friday and lay down one which would require a vote on Tuesday. I would like to see how the vote comes out tomorrow. I will make a judgment then. It is my intention to take a good look tomorrow. I would prefer not to offer a cloture motion today.

Mr. METZENBAUM. The Senator from Ohio expresses appreciation for the cooperation, help, and support the majority leader has given. I full well understand that, and I appreciate his response, and he will make another determination, I gather, tomorrow.

Mr. BYRD. Yes.

I would not want Senators to jump at any conclusion, by virtue of what I have said here, that I am about to jerk the bill down, nor that I am going to go through as many cloture motions as I went through on S. 2.

So I think it kind of balances out. Everybody can read a little something into this in what I said.

Mr. METZENBAUM. I thank the Senator.

Mr. BYRD. They may not read the right interpretation into it. It is kind of like the treaties. We want to be sure what we are voting on. Does that answer the Senator's question?

Mr. METZENBAUM. It certainly does.

Mr. BYRD. I thank the Senator.

Mr. METZENBAUM. Does the majority leader desire the floor?

Mr. BYRD. Yes. I would like to transact a little morning business if I might at this time. I would be happy to forgo that.

Mr. METZENBAUM. Let me say the Senator from Ohio has no intention of precluding the majority leader from attending to such morning business as there is.

The chairman of the committee was here. He had to leave for about 20 minutes to a half-hour. He is intending to come back to determine further action in connection with this legislation.

So if I may suggest to the majority leader that we temporarily go off the bill and when the chairman of the committee returns, we can determine what action, if any, should be taken at that time.

Mr. HATCH. Mr. President, if the Senator will yield, so that all Senators might have some idea as to what their agenda will be this evening. Is it fair to conclude that there will not be any request for rollcall votes as we wait for the distinguished Senator from Massachusetts to come back?

Mr. METZENBAUM. It is only 5 o'clock, and I do not know exactly how things may develop yet this evening. So I would not be one to say that I could see no circumstance under which there could be a vote. I think we better bide our time a little bit.

Mr. HATCH. So all Senators should just stick around here for another half-hour to an hour before we can determine whether or not there will be any more rollcall votes?

Mr. METZENBAUM. I think that is right.

Mr. HATCH. The distinguished Senator from Massachusetts, I suppose, may call for one by moving to table one of these amendments. But I would hope he would not do that because we will want to debate those amendments before any votes are taken.

But if he does not move to table I do not know how he is going to have a rollcall vote.

Mr. METZENBAUM. I do not want to prejudge or anticipate any action that may be taken by the chairman of our committee. I think we ought to just go into morning business and then come on back on the bill.

Mr. HATCH. If the Senator will yield, I want to be accommodating to our colleagues because, if there is not going to be a rollcall vote or if there are not going to be rollcall votes, which it would seem to me would have to be precipitated by a motion to table, then we ought to tell our colleagues so they can go about their business without worrying about missing rollcall votes.

I know a number of them have—I am not just talking about our side of the floor—receptions to attend, a number have other meetings with constituents. We might as well give them as much notice as we can.

Mr. METZENBAUM. Be sure of the fact I want to cooperate with all of our colleagues. But at this point I cannot give the Senator any specific answer.

Mr. HATCH. That is fine.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a brief period for morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, while the distinguished Senator from Utah, Mr. HATCH, is on the floor, acting as leader on the other side, I have a few requests.

First of all, I would like to inquire of him as to whether or not Calendar Order 593, of the Calendar of Business, has been cleared on his side of the aisle.

Mr. HATCH. It has, and we are prepared to move forward with that.

Mr. BYRD. Mr. President, I thank the Senator.

CONSENT OF CONGRESS TO AMENDMENTS TO THE WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 593.

The PRESIDING OFFICER (Mr. BREAUX). The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 480) granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. WARNER. Mr. President, I rise in support of House Joint Resolution 480, consenting to amendments to the Washington Metropolitan Area Transit Authority Interstate Compact. The WMATA compact was originally agreed to in 1966 and has been amended three times since then. This fourth set of amendments represents a regional consensus among the Commonwealth of Virginia, the State of Maryland and the District of Columbia on desired modifications to the WMATA compact to enable the transit authority to conduct its daily activities in a more efficient and safer way.

The amendments have been adopted by the three signatories to the compact and are now awaiting congressional consent. These amendments were also adopted by the Senate in a similar form in the 99th Congress, but not taken up by the House in that session. I urge the Senate to once again approve these noncontroversial, but important amendments to the WMATA compact.

The amendments reflect changes in procurement policy, banking deregulation and other areas that long ago changed the ways that the Federal Government, State, and local governments, and other transit authorities do business. These amendments simply bring WMATA into conformance with these other public entities.

The resolution consents to five amendments to the compact concerning public hearing requirements for minor service changes, Metro's financial investment flexibility, its procurement requirements, improvements in public safety, and consistency in law enforcement.

Regarding the public hearing requirements, the amendments permit WMATA to make minor or experimental bus service changes, provide for emergency situations, and experiment with particular bus lines without holding a public hearing. For example, if Virginia planners detect a market for a particular line, they can provide the service for a couple months without having to go through an extended public hearing process. This change allows a more efficient method of sampling transit markets. A public hearing would still be required to make bus service changes permanent.

With the advent of banking deregulation, WMATA needs the flexibility to invest in a broader range of financial instruments and to deposit funds in a branch or subsidiary of any bank which operates within the transit zone. The present compact now states that WMATA can only deposit funds in the headquarters bank. These amendments will enable WMATA to engage in more efficient cash management practices in order to obtain a higher rate of return on investment funds.

Another amendment would raise the threshold for advertising contracts for supplies and equipment from $2,500 to $10,000 and for construction from $10,000 to $25,000. Raising the procurement thresholds will increase efficiency and reduce staff time and associated costs. This change will also make WMATA's procurement policies more consistent with those of the Federal Government, other transit agencies and many local governments. The current dollar limits in the WMATA compact have become obsolete.

Finally, the public safety amendments permit the transit authority police to have jurisdiction within 150 feet of Metrobus stops and to serve process in Maryland. Currently, Metro has no official authority to interfere with criminal acts at its bus stops and therefore cannot adequately protect its patrons or employees. All local police departments favor giving Metro jurisdiction at its bus stops.

The amendments allow Metro transit police to serve process in Maryland on the same basis they now serve process in Virginia and the District of Columbia. The amendment would permit more cost-effective law enforcement in Maryland and more consistency between Maryland, Virginia, and the District of Columbia.

I want to thank my distinguished colleagues, the chairman and ranking member of the Judiciary Committee, Mr. BIDEN and Mr. THURMOND for allowing the Senate to consider this legislation in an expeditious manner. I urge the Senate to consent to these amendments to give the managers of public transportation in our Nation's Capital more flexibility to operate the transit system in the most cost-effective and safe manner.

Mr. SARBANES. Mr. President, I want to indicate my strong support of House Joint Resolution 480, legislation amending the original Washington Metropolitan Area Transit Regulation Compact. This joint resolution, introduced in the House by Congressman BOUCHER, would provide for congressional approval of changes in the Washington Metropolitan Area Transit Authority's interstate compact.

The changes proposed in this bill have been reviewed by the District of Columbia, the State of Maryland, and the Commonwealth of Virginia, and all of these jurisdictions, the principal components of WMATA, recommend that Congress consent to the compact modifications. The bill would make changes in four specific areas of the compact: public hearing requirements for minor, experimental and emergency service changes; improvements in public safety; WMATA's financial investment policy; and Metro's procurement requirements.

Mr. President, none of these changes to the compact involves controversial issues or other than administrative and management activities of WMATA. WMATA can function more efficiently and cost effectively with the modifications in this bill, and I urge that House Joint Resolution 480 be passed and enacted.

The joint resolution (H.J. Res. 480) was ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I now inquire of the acting Republican leader as to whether or not the following nominations have been cleared on the Executive Calendar: calendar orders numbered 548, page 3, all nominations on page 4, all nominations on page 5, all nominations on page 6, all nominations on page 7, all nominations on page 8, all nominations on page 9, all nominations on page 10, all nominations on page 11, all nominations on pages 12, 13, 14, 15, and 16.

Mr. HATCH. Yes. My understanding is that all of these have been approved by our side.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

I ask unanimous consent that the Senate go into executive session to consider the aforementioned nominations, that they be considered en bloc, confirmed en bloc, the motion to reconsider en bloc be laid on the table, and the President be immediately notified of the confirmation of the nominations, that Senators who have statements may be permitted to include those statements as though read at the appropriate place in the RECORD, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Everett Alvarez, Jr., of Maryland, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1993.

Jack Katzen, of Connecticut, to be an Assistant Secretary of Defense, vice Robert B. Costello.

William Lockhart Ball III, of South Carolina, to be Secretary of the Navy, vice James H. Webb, Jr., resigned.

IN THE AIR FORCE

The following officers for appointment in the U.S. Air Force under provisions of section 624, title 10 of the United States Code:

To be major general

Brig. Gen. Joseph A. Ahearn, [redacted]FR, Regular Air Force.

Brig. Gen. Robert M. Alexander, [redacted]FR, Regular Air Force.

Brig. Gen. Edward P. Barry, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Billy J. Boles, [redacted]FR, Regular Air Force.

Brig. Gen. Lester P. Brown, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Richard E. Carr, [redacted]FR, Regular Air Force.

Brig. Gen. James E. Chambers, [redacted]FR, Regular Air Force.

Brig. Gen. James R. Clapper, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. John A. Corder, [redacted]FR, Regular Air Force.

Brig. Gen. John M. Davey, [redacted]FR, Regular Air Force.

Brig. Gen. Robert S. Delligatti, [redacted]FR, Regular Air Force.

Brig. Gen. Thomas R. Ferguson, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. George B. Harrison, [redacted]FR, Regular Air Force.

Brig. Gen. Harald G. Hermes, [redacted]FR, Regular Air Force.

Brig. Gen. James W. Hopp, [redacted]FR, Regular Air Force.

Brig. Gen. Frank J. Kelly, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. George W. Larson, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Nathan J. Lindsey, [redacted]FR, Regular Air Force.

Brig. Gen. Robert H. Ludwig, [redacted]FR, Regular Air Force.

Brig. Gen. Charles A. May, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Gary H. Mears, [redacted]FR, Regular Air Force.

Brig. Gen. William J. Porter, [redacted]FR, Regular Air Force.

Brig. Gen. James F. Record, [redacted]FR, Regular Air Force.

Brig. Gen. Donald A. Rigg, [redacted]FR, Regular Air Force.

Brig. Gen. Alan V. Rogers [redacted]FR, Regular Air Force.

Brig. Gen. James G. Sanders, [redacted]FR, Regular Air Force.

Brig. Gen. John P. Schoeppner, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Charles J. Searock, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. William H. Sistrunk, [redacted]FR, Regular Air Force.

Brig. Gen. Joseph K. Spiers, [redacted]FR, Regular Air Force.

Brig. Gen. Dale C. Tabor, [redacted]FR, Regular Air Force.

Brig. Gen. Dale W. Thompson, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Walter E. Webb III, [redacted]FR, Regular Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section [redacted]

Lt. Gen. Harley A. Hughes, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Michael J. Dugan, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. James P. McCarthy, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Ellie G. Shuler, Jr.[redacted]FR, U.S. Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, and 8373, title 10, United States Code:

To be major general

Brig. Gen. Ronald C. Allen, Jr., [redacted]FV, Air Force Reserve.

Brig. Gen. Norman J. DeBack, Jr., [redacted]FV, Air Force Reserve.

Brig. Gen. George D. Eggert, [redacted]FV, Air Force Reserve.

Brig. Gen. Ralph D. Erwin, [redacted]FV, Air Force Reserve.

Brig. Gen. Jack L. Lively, [redacted]FV, Air Force Reserve.

Brig. Gen. Harvey J. McCarter, [redacted]FV, Air Force Reserve.

Brig. Gen. David S. Trump, [redacted]FV, Air Force Reserve.

To be brigadier General

Col. Nora A. Astafan, [redacted]FV, Air Force Reserve.

Col. James B. Cobb, [redacted]FV, Air Force Reserve.

Col. Eaker K. Davis, [redacted]FV, Air Force Reserve.

Col. Gary L. Eichhorn, [redacted]FV, Air Force Reserve.

Col. Duane L. Foster, [redacted]FV, Air Force Reserve.

Col. John A. Hurley, [redacted]FV, Air Force Reserve.

Col. Robert H. Jones, [redacted]FV, Air Force Reserve.

Col. Rodney L. Linkous, [redacted]FV, Air Force Reserve.

Col. Robert A McIntosh, [redacted]FV, Air Force Reserve.

Col. James E. Sherrard III, [redacted]FV, Air Force Reserve.

Col. Richard K. Vogel, [redacted]FV, Air Force Reserve.

Col. Charles R. White, [redacted]FV, Air Force Reserve.

Col. Jerry E. White [redacted]FV, Air Force Reserve.

Col. Forrest S. Winebarger, [redacted]FV, Air Force Reserve.

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Gen. Robert H. Reed, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. John A. Shaud [redacted]FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Harry A. Goodall, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Robert C. Oaks, [redacted]FR, U.S. Air Force.

IN THE ARMY

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Thomas N. Griffin, Jr., [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Thomas W. Kelly, [redacted], U.S. Army.

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Gerald E. Amundson, [redacted].

Brig. Gen. Dionel E. Aviles, [redacted].

Brig. Gen. Richard D. Chegar, [redacted].

Brig. Gen. James T. Craig, [redacted].

Brig. Gen. William A. Gantt, Jr., [redacted].

Brig. Gen. Daniel F. Hitchcock, [redacted].

Brig. Gen. John W. Knapp, [redacted].

Brig. Gen. Bernard F. Losekamp, [redacted].

Brig. Gen. Robert F. Pennycuick, [redacted].

Brig. Gen. Anthony S. Sarbanes, [redacted].

Brig. Gen. George M. Woywod, [redacted].

To be brigadier general

Col. Robert J. Strader, Sr., [redacted].

Col. Joseph E. Turner, [redacted].

Col. Ronald E. Sneed, [redacted].

Col. Rollyn C. Gibbs, [redacted].

Col. Ross G. Pickus, [redacted].

Col. Jan H. Paynton, [redacted].

Col. Richard B. Burleson, [redacted].

Col. Thomas S. Cushing, [redacted].

Col. Alvin Bryant, [redacted].

Col. John R. Galvin, [redacted].

Col. Roger C. Poole, Jr., [redacted].

Col. Robert D. Brooke, [redacted].

Col. Robert L. Menist, [redacted].

Col. John E. Scully, Jr., [redacted].

Col. William C. Cockerham, [redacted].

Col. Terrence D. Mulcahy, [redacted].

Col. John S. Guthrie, [redacted].

Col. Kenneth A. Bouldin, [redacted].

Col. John E. Simek, [redacted].

Col. Herbert B. Quinn, Jr., [redacted].

Col. John C. C. Roth, [redacted].

Col. Jon A. Standridge, [redacted].

Col. Michael D. Strong III, [redacted].

Col. Fred E. Marquis, [redacted].

Col. Robert L. Ruth, [redacted].

Col. Joseph F. Conlon III, [redacted].

The U.S. Army National Guard Officers named herein for appointment in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384;

To be major general

Brig. Gen. Frank M. Denton, [redacted].

Brig. Gen. Mark B. Mullin, [redacted].

Brig. Gen. James B. Stoddart, Jr., [redacted].

Brig. Gen. Boyd M. Cook, [redacted].

To be brigadier general

Col. John W. Cudmore, [redacted].

Col. David L. Jennette, [redacted].

Col. Warren J. Lawrence, [redacted].

Col. James E. Moore, [redacted].

Col. James F. Rueger, [redacted].

Col. Elmer O. Simonson, [redacted].

Col. Donald G. Smith, [redacted].

Col. John R. Ward, [redacted].

Col. Gary J. Whipple, [redacted].

Col. Edward S. Baldwin, [redacted].

Col. Jerome J. Berard, [redacted].

Col. John L. Blandford, [redacted].

Brig. Gen. William R. Brown, [redacted].

Col. Donald R. Brunelle, [redacted].

Brig. Gen. Lomer R. Chambers, [redacted].

Col. Clayton A. Hovda, [redacted].

Col. James J. Hughes, [redacted].

Col. Joab M. Lesesne, [redacted].

Col. Joseph N. Pouliot, [redacted].

Col. Glenn N. Sloan, [redacted].

Brig. Gen. Ned L. Turnipseed, [redacted].

Col. Robert D. Carter, [redacted].

Col. Allen E. Chandler, [redacted].

Col. James L. Murphy, [redacted].

Col. Robert L. Moorehead, [redacted].

Col. Raymond F. Rees, [redacted].

Col. Benjamin W. Day, [redacted].

Col. Alan D. Jones, [redacted].

Col. Donald W. Lynn, [redacted].

Col. Gerald W. Porter, [redacted].

IN THE MARINE CORPS

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

Carl E. Mundy, Jr. [redacted] U.S. Marine Corps.

The following-named brigadier generals of the Marine Corps for promotion to the permanent grade of major general, under title 10, United States Code, section 624:

Michael K. Sheridan.

Robert J. Winglass.

Michael P. Sullivan.

Jarvis D. Lynch, Jr..

Ronald L. Beckwith.

Ross S. Plasterer.

Matthew T. Cooper.

Henry C. Stackpole III.

John S. Grinalds.

The following-named brigadier general of the Marine Corps Reserve for promotion to the permanent grade of major general, under title 10, United States Code, section 5912:

Jerome G. Cooper.

The following-named colonel of the Marine Corps Reserve for promotion to the permanent grade of brigadier general, under title 10, United States Code. section 5912:

Joe W. Wilson.

The following-named colonels of the Marine Corps for promotion to the permanent grade of brigadier general, under title 10, United States Code, section 624:

John C. Arick.

Harold W. Blot.

Martin L. Brandtner.

George R. Christmas.

Norman E. Ehlert.

Richard D. Hearney.

James E. Livingston.

Gerald L. McKay.

James M. Myatt.

John J. Sheehan.

Robert A. Tiebout.

IN THE NAVY

The following-named captains in the staff corps of the U.S. Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS (2100)

Harold Martin Koenig.

SUPPLY CORPS (3104)

James Alan Mogart.

Edward McCown Straw.

Harvey Donald Weatherson.

CHAPLAIN CORPS (4100)

David Edward White.

CIVIL ENGINEER CORPS (5104)

Alan Kent Riffey.

DENTAL CORPS (2200)

Ronald Prescott Morse.

MEDICAL SERVICE CORPS (2300)

Charles Ray Loar.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Maj. Randall M. Anderson, [redacted] and ending Maj. Edith P. Mitchell, [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 26, 1988.

Air Force nominations beginning Maj. Melvin L. Adamson, [redacted] and ending Maj. Stephen A. Schorr, [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 26, 1988.

Air Force nominations beginning John O. Ahnert, Jr., and ending William M. Wells, which nominations were received by the

Senate and appeared in the Congressional Record of January 26, 1988.

Air Force nominations beginning James R. Annis, and ending Charles M. Shoff, which nominations were received by the Senate and appeared in the Congressional Record of January 26, 1988.

Air Force nominations beginning Robert C. Hughes, and ending Glenn A. Hardesty, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1988.

Air Force nominations beginning John D. Kenney, and ending Howard W. Jungman, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1988.

Air Force nominations beginning Michael E. Brooks, and ending Charles R. Turner, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1988.

Air Force nominations beginning Donald J. Copenhaver, and ending John R. Dockendorff, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1988.

Air Force nominations beginning Gary S. Melvin, and ending Glenn A. Hardesty, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1988.

Air Force nominations beginning Samuel B. Martin, and ending Gary G. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1988.

Air Force nominations beginning Gregory J. Aaron, and ending Dale A. Young, which nominations were received by the Senate and appeared in the Congressional Record of February 16, 1988.

Air Force nominations beginning Aldru T. Aaron, and ending Thomas Zupancich, which nominations were received by the Senate and appeared in the Congressional Record of February 18, 1988.

Army nominations beginning Florentino V. Alabanza, and ending George E. Volk, which nominations were received by the Senate and appeared in the Congressional Record of January 26, 1988.

Army nominations beginning Henry H. Gordon, and ending Maxwell L. Warren, which nominations were received by the Senate and appeared in the Congressional Record of January 26, 1988.

Army nominations beginning Mary J. Heger, and ending Stephen C. Fletcher, which nominations were received by the Senate and appeared in the Congressional Record of January 26, 1988.

Army nominations beginning Ben B. Babin, and ending Michael D. Stoner, which nominations were received by the Senate and appeared in the Congressional Record of January 26, 1988.

Army nomination of Ernest H. Dinkel, Jr., which was received by the Senate and appeared in the Congressional Record of February 2, 1988.

Army nominations beginning Steven M. Butler, and ending Carl T. Rose, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1988.

Army nominations beginning Gary L. Aus, and ending Leonard M. Tobin, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1988.

Army nominations beginning Michael J. Connolly, and ending George M. Duque, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1988.

Marine Corps nominations beginning Robert M. Brassaw, and ending Joseph Spair, which nominations were received by the Senate and appeared in the Congressional Record of January 26, 1988.

Navy nominations beginning Frederick Eliot, Jr., and ending James B. Parker, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1988.

Navy nominations beginning John M. Adrian, and ending Miguel A. Zayas, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1988.

NOMINATION OF BRIG. GEN. ANTHONY S. SARBANES TO BE MAJOR GENERAL

Mr. NUNN. Mr. President, I want to call Senators' attention to the fact that one of the military nominations before the Senate for confirmation includes the brother of our colleague, Senator Paul Sarbanes. Brig. Gen. Anthony S. Sarbanes has been nominated by the President for promotion to the rank of major general in the U.S. Army Reserve.

Brigadier General Sarbanes received an ROTC commission in June 1958 and has over 29 years of distinguished commissioned service in the Army. During his Army Reserve career, Brigadier General Sarbanes has commanded the 370th Military Police Detachment and the 275th Supply and Service Battalion, and has served as the Chief of Staff of the 97th Army Reserve Command. Brigadier General Sarbanes is currently assigned as the Assistant Deputy Chief of Staff—Mobilization and Training—[IMA] within the Office of the Army's Deputy Chief of Staff for Logistics here in Washington.

In civilian life, Brigadier General Sarbanes is the director of finance for the Wicomico County Board of Education in Salisbury, MD.

Promotion to the rank of major general is a significant accomplishment in the career of a military officer and comes only after years of dedicated and committed service. I want to congratulate Brigadier General Sarbanes on achieving this milestone and offer my best wishes for continued success in his Army Reserve career.

NOMINATION OF WILLIAM LOCKHART BALL III TO BE SECRETARY OF THE NAVY

Mr. HATCH. Mr. President, might I just state for the Record we are pleased today to have all these nominations received and approved, but in particular, the nomination of William Lockhart Ball III, of South Carolina, to be Secretary of the Navy.

I think all of us here in this body have had extensive contacts with Will Ball as he worked down at the White House and has worked in reasonable and good ways with both sides of the floor. He is a very fine man who should make a wonderful Secretary of the Navy. I think he is a good replacement for former Secretary James H. Webb, and I just could not speak more highly of an individual than I do of Will Ball. I hope and I believe I am speaking for and on behalf of almost all of my colleagues, if not all of them, in stating how proud we are that he has advanced to this position in our Government.

Mr. BYRD. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Utah. I, too, am delighted to support the nomination of Mr. Ball. He has shown himself to be a very knowledgeable, capable, and able person. He has worked with Members of the Senate in his capacity as liaison officer for the White House. I have always had the very finest relationship with Mr. Ball. He has always been courteous, cooperative, helpful, and considerate. I support his nomination wholeheartedly.

It is always important to have responsible officials in the executive branch who understand how to relate to the Congress. It enhances the process of cooperation which is so essential for our Government to get its work done. At a time when this administration is actively involved in negotiations on arms control matters with the Soviet Union, and when vital issues concerning the future of our naval forces are on the table, I am encouraged that Mr. Ball will be looking after the interests of the Navy.

I know Mr. Ball personally and have always had a good relationship with him. I hope he is approved by the Senate and look forward to working with him.

Mr. Ball brings substantial experience in both the executive branch and the Congress to his post, and substantial understanding of the security needs of the United States.

He has been in high positions in both the White House and the State Department in legislative liaison posts, and prior to that on the staff of the Senate Armed Services Committee as chief clerk. He also served in the Senate as the administrative assistant to Senators Herman Talmadge and John Tower.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the following requests, I believe, have been cleared on the other side.

MODIFYING SECTION 5 OF SENATE RESOLUTION 382, 90th CONGRESS

Mr. BYRD. Mr. President, I send a resolution to the desk on behalf of myself and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 400) to modify section V of Senate Resolution 382, 90th Congress.

The PRESIDING OFFICER. Is there debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 400) was agreed to, as follows:

S. RES. 400

Resolved, That, effective with respect to the fiscal year 1989, and each fiscal year thereafter, the amount authorized to be expended out of the contingent fund of the Senate under section 5 of S. Res. 382, Ninetieth Congress, agreed to October 1 (legislative day, September 24), 1968, as amended and modified, is such amount as may be necessary.

SEC. 2. In carrying out its function, the Commission on Art and Antiquities of the United States Senate may, with the prior approval of the Senate Committee on Rules and Administration, procure the temporary (not to exceed one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL EMPLOYEE LEAVE TRANSFERS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3981.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3981) to make section 7351 of title 5, United States Code, inapplicable to leave transfers under certain experimental programs covering Federal employees, except as the Office of Personnel Management may otherwise prescribe.

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. Mr. President, I am pleased the Senate is considering H.R. 3981, a bill to provide a technical correction to the Federal leave-sharing pilot program.

Last year I successfully offered an amendment to the fiscal year 1988 continuing resolution, to provide temporary authorization for a Federal leave-share program.

My amendment directed the Office of Personnel Management to establish a voluntary leave-share program, whereby Federal employees could donate annual leave to colleagues who are faced with major medical or family emergencies. This amendment extended and expanded a similar program authorized a year before, which was due to expire.

Earlier this year, Congress learned that Federal employees are prohibited from giving gifts to superiors. OPM ruled that this would include voluntary contributions of annual leave from a subordinate to a superior.

Clearly, this would be a problem for the Federal leave-share program. For example, a GS-9 Federal employee would be prohibited from donating time to a colleague who is a GS-13. If a high-ranking Federal employee needed emergency leave, it is very unlikely that he or she would be able to obtain this additional leave, since the number of potential donors in the higher GS levels is so few.

I am pleased that Congressman ACKERMAN has taken the necessary steps to correct this problem, and I understand the administration will support this technical correction.

In a related matter, yesterday the House of Representatives passed legislation, H.R. 3757, to permanently authorize a Federal leave share program.

Last year I introduced similar legislation, S. 1595. Under the provisions of my bill, employees would donate annual leave to an individual colleague. This would provide the recipient with necessary leave, and it is an opportunity for colleagues to assist a coworker in need.

S. 1595 and H.R. 3757 have the same purpose, but they would approach this need in different ways.

In the administration's view, H.R. 3757 is too drastic an approach. I am pleased that the administration has indicated its support for my bill.

Like my bill, H.R. 3757 would establish a leave share program. However, the House-passed bill would also direct the Office of Personnel Management to carry out three demonstration projects at three agencies. These three agencies would use the alternative program.

The administration is opposed to the establishment of separate demonstration projects. These projects would include an agency-wide leave bank and the use of sick leave, and would place additional administrative burdens on OPM.

I am pleased that the House has passed permanent legislation, but I urge my colleagues not to pass a bill that the President cannot support.

It is crucial that we pass an authorization bill this year. The success and interest in the ongoing pilot programs demonstrate the good things that can be accomplished with leave-share legislation. Let's not let a golden opportunity slip through our hands.

I look forward to working with my colleagues to report a bill this year.

I ask that a copy of my remarks before the Senate Governmental Affairs Committee on March 18, 1988, be inserted at this time.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR PETE V. DOMENICI, SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS, HEARING ON FEDERAL LEAVE-SHARING

Mr. Chairman, I am pleased to have the opportunity to testify before the committee today, and I want to thank you personally so very much for your interest in this legislation.

It is not often that Congress has the opportunity to potentially help, so many in need, with so little burden to the taxpayer. But that is exactly the opportunity that my bill, S. 1595, and Chairman Pryor's bill, S. 2140, would offer.

S. 1595 and S. 2140 would establish a voluntary leave share program and a voluntary leave bank program, respectively, for federal employees who need leave for major medical or family emergencies.

Under the leave share provisions of S. 1595, an employee would donate annual leave to an indivdual colleague. Chairman Pryor's S. 2140 would establish leave banks at every agency, and employees would contribute their annual leave to the bank.

By donating unused annual leave to their fellow employees, leave sharing would provide employees the opportunity to personnally assist a coworker in need.

The need for legislation was first brought to my attention by one of my constituents, Geraldine Grenko. Ms. Grenko was a career federal employee with the bureau of Indian Affairs in New Mexico. Five years ago, she developed cancer. While she beat that cancer, she learned in 1986 that she had developed a second form of cancer.

When Geraldine received medical treatment during her first bout with cancer, she was able on remain in her job. Unfortunately, she had to retire when she learned of the second cancer.

Why? Because she did not have sufficient medical leave.

Several months ago, Geraldine passed away. But before she died, she contacted me again. She told me she has retired, but that if a federal leave sharing act has been in place, she may have been able to work for a longer time. Geraldine explained that my legislation was too late to help her, but she urged me to continue to push for its enactment in order to assist other needy individuals.

I am pleased that the Administration has taken an active interest in my leave share legislation. It is important to get this bill enacted during this session of Congress. The Administration has indicated it would support S. 1595, with several amendments.

From the donor's viewpoint, the leave share concept is preferable to the leave bank concept, I believe. Under the leave share provisions in my bill, S. 1595, an employee is far more likely to particiapte in the voluntary program than under the provisions of a leave bank. A person is more likely to donate leave to his or her colleague if he or she personally knows or knows of the colleague in need.

This concept will boost employee morale, since the donor will see the positive results of leave sharing.

Additionally, under a leave share program, agency officials would not have to choose how to allocate the leave in a leave bank. The recipient would not have to be concerned with favoritism on the part of the person who allocates the leave.

A leave bank program may also create the situation where an employee who needs leave towards the end of a year may not be able to obtain all of the leave required, because the donated leave in the bank has been exhausted throughout the year.

Under the leave share approach of my bill—and this is very important—employees could donate whatever amount of leave is necessary for the recipient.

It has also been suggested that a leave bank would protect the recipient's privacy, because fellow employees would not know of a colleague's emergency.

I do not believe this would necessarily be a problem. Whether a recipient takes an extended leave from either a leave bank or a leave share program, his or her colleagues will know it is for a medical or family emergency. Under either format, the recipient would not be required to divulge the nature of the emergency to the fellow employees.

The demonstration leave share projects authorized in the Continuing Resolution for fiscal year 1987 were a success.

In one of the three pilot projects, Ms. Freda South at the Department of Energy has returned to work on a part-time basis. More than 2,000 employees contributed leave to Ms. South. Mrs. Karen Sefton has returned to her job at the Department of the Army, after nearly 3,000 hours of annual was donated by 195 employees, in order that Mrs. Sefton could care for her terminally ill daughter. In the third demonstration project, almost 300 Internal Revenue Service employees donated leave to Mr. William Ault, who has since died.

In spite of the different approaches of S. 1595 and S. 2140, the goal is identical—to help a fellow worker in need. I am confident that the Committee and the Administration can work together to report a bill. Chairman Pryor's flexibility is evident in the fact that, at the request of the Administration, he did not include sick leave in his legislation. I commend Senator Pryor for his cooperation in this regard.

In closing, let me remind my colleagues of the importance of getting a bill this year. The federal work force is excited about this proposal. This is evident from the calls and letters I receive, and from the level of participation in the ongoing demonstration projects.

Together, I am confident we can reach an agreement that would satisfy all interested parties. Thank you.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3981) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Mr. BYRD. Mr. President, on behalf of Mr. KENNEDY, I ask that the Chair lay before the Senate a message from the House on House Joint Resolution 90.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the resolution (H.J. Res. 90) entitled "Joint resolution to authorize and request the President to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BYRD. Mr. President, on behalf of Mr. KENNEDY, I move that the Senate insist on its amendments and agree to the conference requested by the House on the disagreeing votes between the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. BREAUX] appointed Mr. PELL, Mr. KENNEDY, Mr. MATSUNAGA, Mr. DODD, Ms. MIKULSKI, Mr. STAFFORD, Mr. HATCH, Mr. QUAYLE, and Mr. THURMOND conferees on the part of the Senate.

AGRICULTURAL ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2151.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2151) entitled "An Act to amend section 416 of the Agricultural Act of 1949, and for other purposes", do pass with the following amendments:

Page 5, strike out lines 9-24, inclusive.

Page 6, line 1, strike out "SEC. 7.", and insert: "SEC. 6."

Page 6, line 6, strike out "SEC. 8.", and insert: "SEC. 7".

Mr. LEAHY. Mr. President, I rise today to express my strong support for S. 2151, to amend section 416 of the Agricultural Act of 1949 and for other purposes. This bill passed the Senate unanimously on March 4 of this year. It was subsequently passed overwhelmingly by the other body, with one amendment. This amendment deleted the provision increasing the minimum tonnage of commodities to be distributed overseas. This minimum tonnage provision had originally been inserted at the request of the other body at a time when there were substantially greater amounts of surplus commodities available than there are now. We support the deletion of that one provision. Otherwise the bill is identical to the bill passed by the Senate. I urge adoption of the bill.

When the bill came before the Senate on March 4, I described some of its provisions. For example, the bill expedites the establishment and implementation of the aid and trade missions, authorized in legislation which was enacted last year. It also conforms section 416 of the Agricultural Act of 1949 to amendments to title II of Public Law 480 which were also enacted last year.

Another key provision in this bill is the extension of the Farmer-to-Farmer Program, a program first enacted in the 1985 farm bill. The Farmer-to-Farmer Program legislation was conceived as a direct people-to-people approach to raise the income and standard of living of the rural poor in the developing world. By mobilizing the spirit of voluntarism and the practical know-how of the American farmer, this program provides an outstanding example of how foreign aid programs should work.

The Agency for International Development [AID] has effectively carried out the spirit and intent of the farmer-to-farmer legislation by engaging the Volunteers in Overseas Cooperative Assistance [VOCA], a private voluntary organization, to recruit American farmers who wish to volunteer their time and talents working at the people-to-people level to help their less fortunate colleagues in the developing world. In addition to providing effective technical assistance, the VOCA volunteers have been great ambassadors of goodwill for the United States.

The Farmer-to-Farmer Program is a model of how Government agencies can utilize the skills and experience of private voluntary agencies to enhance their own programs in a cost-effective manner. This year, the Peace Corps began utilizing VOCA volunteers as a means of combining Peace Corps volunteers and American farmers to join forces against the misery of world hunger and malnutrition without an added burden to the Federal budget. It is my hope and expectation that this approach will be a guide to other U.S. Government agencies interested in the Farmer-to-Farmer Program.

Mr. President, in closing I would like to insert for the RECORD an article on the Farmer-to-Farmer Program which appeared in the Washington Post on March 9, 1988.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PLANTING AN IDEA AND SEEING IT GROW

(By Ward Sinclair)

In the mind of Rep. Doug Bereuter (R-Neb.), it was something akin to planting a seed—put it in the ground, treat it right, then watch it flourish and multiply.

Bereuter's idea, in the form of language added to the 1985 farm bill, has grown like that seed into a federal program that will send more than 200 U.S. farmers and agricultural experts to developing countries this year to help farming projects take root.

The farm bill amendment requires that one-tenth of one percent of the money appropriated for the Food for Peace program, administered by the State Department's Agency for International Development (AID), be used to send volunteer farmers overseas on short-term advisory tours.

An AID pilot project in 1986 and 1987 that sent several hundred volunteers to Latin America is being expanded to more countries through the Peace Corps' new Farmer-to-Farmer program.

The first of the Peace Corps' volunteer farmers, retired Pennsylvania beekeepers Bess and William Clarke, left recently for two months' duty in Tunisia, where they will instruct Tunisian farmers, extension agents and regular Peace Corps workers on the techniques of beekeeping.

The Clarkes will be expanding on the work of Peace Corps volunteer Brian Leudy of Sea Girt, NJ., who in 1986 set up a program to involve villagers in honey production by lending them beehives. With profits from the sale of honey from the borrowed hives, the farmers are able to buy their own equipment, Peace Corps officials said.

The Tunisians and American volunteers who go through the Clarke workshops will be expected to pass their newly found expertise to other local farmers who want to go into honey production. A national beekeeping project keeps about 20 Peace Corps volunteers busy in Tunisia each year.

"Within a few months," said Peace Corps Director Loret Miller Ruppe, "we hope to place agricultural teachers, dairy plant managers, rice production specialists, horticulturalists and cooperative experts in carefully selected projects in Africa, Asia and Latin America."

That's exactly what Bereuter had in mind when, after a trip several years ago to Guatemala and El Salvador, he decided that hog farmers there could make major gains in productivity if they could get some hands-on help from Nebraska swine experts.

"I was amazed at the primitive and unsanitary way of raising swine that I saw there," Bereuter recalled. "I said to myself that if I could send 30 or 40 farmers from home down there in the wintertime, we could really turn around their agriculture."

But the problem was how to make it happen. The 1985 farm legislation, with the congressman's amendment, provided the chance. The program will have about $1.3 million available this year to pay the travel expenses of approximately 250 volunteers who will go abroad on six to eight-week tours.

The program is being administered for the government by the Volunteers in Overseas Cooperative Assistance (VOCA), an arm of U.S. cooperatives and credit unions, that has been channeling American rural development technical aid to developing countries for more than 15 years.

After the government receives a country's formal request for technical help, VOCA locates the appropriate volunteers through its nationwide network and makes arrangements for them to head overseas.

"We began with an AID pilot program in 1985-1986 and sent more than 200 volunteers to Latin America," said Bill Brands, project director for VOCA. "We sent farmers, extension agents and university professors and we felt it was extremely successful. . . . Projects ranged from crop production help to post-harvest handling techniques, livestock and disease control. The whole purpose is to increase the economic return to farmers."

As the Farmer-to-Farmer program takes root, the Peace Corps also is widening its search for volunteers with agricultural expertise who are willing to sign up for longer overseas tours that could range up to two years.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Utah [Mr. HATCH] and I thank all Senators. I yield the floor.

Mr. HEINZ. Mr. President, I understand we are now in morning business; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, what is the time limit on the morning business period?

The PRESIDING OFFICER. The Chair would respond there is no limitation on time that has been agreed to.

Mr. BYRD. Mr. President, how much time does the Senator desire?

Mr. HEINZ. Not more than 2 minutes.

ORDER EXTENDING MORNING BUSINESS FOR 5 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Pennsylvania.

THE TOSHIBA SAGA

Mr. HEINZ. Mr. President, some of us have been following with great interest the course of the Toshiba saga.

A little over a year ago, we discovered the sale of propeller milling machines by Toshiba to the Soviet Union. The sale clearly contravened the law and was undertaken with clear knowledge of its illegality. The sale was a severe blow to the security of our country and of our allies, including Japan.

The sales of eight milling machines to build quieter propellers have allowed the Soviets to mass produce submarines capable of eluding United States tracking devices.

The Japanese Government said they realized the severity of the case. And, it initiated a prosecution to set an example so as to deter future behavior of the kind we saw at Toshiba.

The Japanese prosecutors said they would get tough.

Well. the Toshiba Corp. and two top executives received judgment yesterday. The sentence was a $15,750 fine on the corporation. The two executives responsible for selling restricted technology to the other side received suspended sentences.

Now, there is deterrence. Make a $17 million sale of top-secret machinery to the Soviet Union and they will throw the book at you. Yes sir, you will be required to pay maybe one-tenth of 1 percent of the value of that sale in fines. There is a financial disincentive to stop the sellout to the other side, if I ever saw one.

I can see the executives gathered in the boardroom now contemplating an illegal $1 million sale. And someone will chirp up and say, "Wait a second. Where are we going to find the $920 to pay the expected fine on this illegal sale?"

Someone else, not to be outdone, will say, "Well, we better be careful, too. We are not going to have to go to jail, but, you know, a lawyer of ours will have to spend a little bit of time in court before we are let off scot-free."

Mr. President, it is going to be a cold day in Siberia before any Japanese company sells out to the Soviets again.

Every day is a cold day in Siberia, Mr. President. That is why this Congress ought to take some action. All the jawboning and public furor over this issue has not made any difference at all in Japan. It is business as usual. It is big business as usual. It is sales as usual to the Soviet Union and elsewhere in Japan. There is not one bit of difference in Japan's appreciation of the serious jeopardy into which they have put our national security.

I hope our colleagues in the House and the apologists in the administration who I singled out last week will stop stalling and accept the Toshiba sanctions that the Senate has included as part of the trade bill.

Mr. President, I yield the floor.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. Pursuant to section 143 of the Nuclear Waste Policy Act, as amended by section 5021 of Public Law 100-203, the Chair, on behalf of the President pro tempore, and with the concurrence of the Speaker of the House of Representatives, appoints the following individuals to the Monitored Retrievable Storage Review Commission: Mr. Victor Gilinsky, of Maryland; Mr. Alex Radin, of the District of Columbia; and Mr. Dale E. Klein, of Texas.

FAMILY ASSISTANCE PROGRAMS

Mr. HELMS. Mr. President, it has been 3 years since Congress approved the 1985 farm bill and I am sure my colleagues remember the difficult times endured by our family farmers earlier in the decade. Inflation and interest rates soared out of sight—the grain embargo and high price supports forced many farmers out of the market—and our own Government encouraged competition abroad that led to worldwide gluts and depressed prices. Failed farm policies led to enormous commodity surpluses.

Today, I am proud to note that the 1985 farm bill is creating a long-absent optimism in American agriculture. By providing money to protect our farmers and making U.S. commodities competitive, Congress is beginning to see more and more economic signs pointing to a renewed profitability for our farmers.

Interest rates, inflation, and oil prices are all down—giving the farmer a more stable economic environment in which to work—and millions of dollars in storage costs are being saved by reducing commodity stockpiles to levels which still meet our domestic and foreign commitments.

However, just as America's farmers are beginning to see the light at the end of the tunnel, there are growing outcries of discontent. There are groups who are interpreting the success of our farm programs as a reduction of Federal commitment to our needy citizens. This is simply not true. The Federal Government is spending a record $20 billion a year to operate food assistance programs for the needy—and this includes all foods, not just surplus commodities.

Americans have a genuine concern for the poor and are constantly making efforts to help those less fortunate than themselves. But now we see hunger reports using hit-and-run approaches—making outlandish claims that are shown to be without foundation—in an effort to play on the emotions of the American people. Nevertheless, these so-called hunger findings receive considerable media attention.

One of the Federal programs that has come under close scrutiny in the recent weeks is the Temporary Emergency Food Assistance Program [TEFAP]. In 1981, President Reagan initiated a program to distribute surplus food to the needy, and Congress continued this policy through the TEFAP Program. This program was doubly attractive in that it both furthered farm policy and provided nutritional assistance. However, it was not in response to inadequacies in the existing nutrition assistance programs, nor was it intended to be a permanent food assistance program.

There are currently 13 different programs designed to assist our needy citizens, including food stamps, meals for children in school, meals for the elderly, and supplemental goods for pregnant women and their infants and young children. The Government is, at present, providing more food assistance than ever before to more people than ever before, and we are doing it more efficiently.

Mr. President, there are groups who are not satisfied with the number of Americans participating in feeding programs. These groups suggest taxpayer-financed recruiting schemes should be used to encourage even greater participation. I would remind them that the Department of Agriculture estimates that roughly 1 out of 7 Americans participate in the Food Stamp Program at least 1 month during the year. That is just the Food Stamp Program. The previous administration was obsessed with outreach programs aimed at bringing added participation to nutrition programs. This policy quickly led to bipartisan attempts to end federally imposed outreach activities.

I strongly believe that Americans know about government nutrition assistance programs. They know what is available to them and they know how to access the programs. In the case of the Food Stamp Program, not only are poor Americans aware of its existence, but are also keenly aware of the details of eligibility loopholes and special rules. This has been repeatedly mentioned by witnesses testifying before the Senate Committee on Agriculture, Nutrition, and Forestry. We do not need to spend precious tax dollars advertising programs aimed at the poor. We should turn our attention to streamlining these programs, getting the assistance to the truly needy, and getting the most out of the money we are spending.

DR. REGINALD S. LOURIE—A PIONEER FOR CHILDREN

Mr. KENNEDY. Mr. President, I want to take this opportunity to pay tribute to a remarkable American and an internationally respected leader on children's issues, Dr. Reginald S. Lourie, who died on March 20, 1988. Dr. Lourie was a long-time friend of the Kennedy family. He served on President Kennedy's Task Force on the Mental Health of Children in the 1960's, and he was a renowned leader for the past three decades in the field of child psychiatry.

Dr. Lourie conducted pioneering research on hyperactivity among children and the adverse effects of lead poisoning, and he was deeply involved in planning the very successful Head Start Program. As a faculty member at Howard University, George Washington University, and Georgetown University Medical Schools, Dr. Lourie trained large numbers of child psychiatrists. He also served on the clinical faculty of the Uniformed Services School of Health Sciences, and he was well known to many of us in Congress as the founder and guiding force of the National Center for Clinical Infant Programs, which has done so much in recent years to educate Congress and the country on the needs of children, especially those who suffer from disabilities.

All of us in Congress who knew Dr. Lourie are saddened by his death, and I express my condolences to his wife and the other members of his family. In the course of his brilliant career, he made many outstanding contributions to academic medicine, child psychiatry, and child welfare. America is a better and more caring land today because of his good works and distinguished service.

I ask unanimous consent that an article on Dr. Lourie from yesterday's Washington Post may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, March 22, 1988]

PROMINENT CHILD PSYCHIATRIST, REGINALD S. LOURIE, 79, DIES

(By Bart Barnes)

Dr. Reginald S. Lourie, 79, a pediatrician, child psychiatrist and psychoanalyst who founded the department of psychiatry at Children's Hospital in Washington in 1948 and served as its director until 1974, died March 20 at George Washington University Hospital after a heart attack.

Dr. Lourie began his career in child psychiatry when the field was relatively new in this area, and he had a major impact on its development during the past four decades.

As a faculty member at the medical schools of George Washington, Howard and Georgetown universities, he helped train hundreds of child psychiatrists. He also was influential in teaching young pediatricians to consider mental and emotional factors in their treatment of children.

As director of psychiatry at Children's Hospital, Dr. Lourie played a key role in liberalizing visiting hours for parents of hospitalized children. When he joined the staff, parents were allowed to visit their children only one or two hours a week, on the theory that their presence would be disruptive to doctors and nurses. Dr. Lourie had that changed to the present standard, which allows parents almost unlimited visiting privileges under the belief that sick children need to be with their parents as much as possible.

A resident of Chevy Chase, Dr. Lourie was born in Brooklyn, N.Y. He graduated from Cornell University and the Long Island College of Medicine. He received his psychiatric training at the New York Psychiatric Institute. He served in the Navy during World War II.

He came to Washington in 1948 to join the staff at Children's Hospital. He also became medical director of Hillcrest Children's Center in 1963. He retired from the hospital staff in 1974 and in the same year he also became professor emeritus of child health and human development in the department of psychiatry and behavioral sciences at George Washington University Medical School.

But he had continued in other areas of child psychiatry. Until his death he was a clinical professor of psychiatry at the Uniformed Services School of Health Sciences at the Bethesda Naval Medical Center.

In recent years Dr. Lourie also had been working in infant psychiatry, which he helped establish as a field in itself. He was a founder of the National Center for Clinical Infant Programs and the Regional Center for Infants and Children, where he was medical director.

He had served as chairman of President John F. Kennedy's Task Force on the Mental Health of Children.

Dr. Lourie did pioneering studies on hyperactivity in young children and on the effects of the ingestion of lead-based paint. He was on the national founding and planning committee for Headstart.

He was a former president of the American Orthopsychiatric Association, the American Academy of Child Psychiatry and the Inter-American Council of Psychiatric Associations, and he was on the governing committee of the World Psychiatric Association.

Among his honors were the McGavin Award for contributions to the prevention of children's disorders from the American Psychiatric Association and the Dolley Madison Award for contributions to infant psychiatry from the National Center for Clinical Infant Programs.

Survivors include his wife of 57 years, Lucille Lourie of Chevy Chase; three sons, Seth H. Lourie of Chevy Chase, Ira S. Lourie of Rockville and Benjamin D. Lourie of Silver Spring, and eight grandchildren.

PREPARING FOR THE FUTURE WITH THE NATIONAL HISPANIC UNIVERSITY

Mr. CRANSTON. Mr. President, it is with a great deal of pride that I congratulate the National Hispanic University, in Oakland, CA, upon the celebration this year of its seventh anniversary.

The NHU opened its doors in 1981 with a distinguished and worthwhile mission—to provide postsecondary education for minorities, particularly Hispanics, who require multicultural or bilingual expertise in business administration, education, or health science. With a strong leadership that emphasizes high expectations for all students, provides minority role models and a crucial support system, the NHU helps to bridge the social and economic gap between ethnic groups and mainstream America.

The NHU has now prepared about 420 Hispanic and other minority students for careers in Education, Business, and Health Science. The NHU has awarded degrees to three classes of graduating seniors; more than 130 of these graduates are currently helping to alleviate health problems in the Hispanic community by working in hospitals, community medical clinics, and doctors' offices. Another 300 students are enrolled annually at the NHU.

This growth and success has earned the NHU full institutional approval from the California State Department of education and preaccreditation status from the Western Association of Schools and Colleges. Further, the U.S. Department of Education has determined that NHU is eligible to participate in postsecondary education Federal assistance programs administered by the U.S. Department of Education. The NHU is now the only recognized Hispanic, preaccredited postsecondary education institution on the west coast. As such, the NHU has taken the lead role in addressing the unique educational needs of the Hispanic community in the area.

By successfully implementing such a critical educational program for Hispanics and other minorities, the NHU is helping to provide an equal opportunity for all Americans. I want to commend the staff and students at the National Hispanic University for the great progress they have made and the persistence to continue.

MESSAGES FROM THE HOUSE

At 10:33 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (S. 557) to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964, returned by the President of the United States with his objections, to the Senate, in which it originated, and passed by the Senate on reconsideration of the same, it was *Resolved,* That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The message also announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 185. Joint resolution to designate the period commencing on May 2, 1988, and ending on May 8, 1988, as "National Drinking Water Week"; and

S.J. Res. 255. Joint resolution to authorize and request the President to issue a proclamation designating April 24 through April 30, 1988, as "National Organ and Tissue Donor Awareness Week".

The message further announced that the House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 90) to authorize and request the President to call and conduct a White House Conference on Library and Information Services to be held not earlier that September 1, 1989, and not later than September 1, 1991, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. HAWKINS, Mr. WILLIAMS, Mr. FORD of Michigan, Mr. OWENS of New York, Mr. JEFFORDS, Mr. COLEMAN of Missouri as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1212) to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. HAWKINS, Mr. MARTINEZ, Mr. WILLIAMS, Mr. JEFFORDS, and Mr. GUNDERSON as managers of the conference on the part of the House.

The message further announced that pursuant to section 143 of the Nuclear Water Policy Act, as amended by section 5021 of Public Law 100-203, the Speaker appoints, with the concurrence of the President pro tempore of the Senate, the following to the Monitored Retrievable Storage Review Commission: Mr. Victor Gilinsky of Glen Echo, MD, Mr. Alex Radin of Washington, DC, and Mr. Dale E. Klein of Austin, TX.

ENROLLED JOINT RESOLUTIONS SIGNED

At 3:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 185. Joint resolution to designate the period commencing on May 2, 1988, and ending on May 8, 1988, as "National Drinking Water Week"; and

S.J. Res. 255. Joint resolution to authorize and request the President to issue a proclamation designating April 24 through April 30, 1988, as "National Organ and Tissue Donor Awareness Week".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and with a preamble:

S.J. Res. 231: A joint resolution to authorize the entry into force of the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes (Rept. No. 100-307).

By Mr. JOHNSTON, From the Committee on Energy and Natural Resources, without amendment:

S. 1508: A bill to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, Nevada, and for other purposes.

● Mr. JOHNSTON. Mr. President, this morning, the Committee on Energy and Natural Resources reported out S. 1508 by a rollcall vote of 18 to 0. S. 1508 would withdraw approximately 89,000 acres of land near Groom Mountain, NV, as an addition to Nellis Air Force Base.

Withdrawal of the Groom Mountain addition was originally sought by the Departments of the Air Force and Interior because certain highly classified military activities are being carried out in the open at a nearby location on the Nellis Range. Appropriate Members and staff of the Congress are aware of those activities. There is no issue as to the need to continue them and to maintain their security. Those activities are in plain view from the heights of the Groom Mountain addition. Important national security secrets could well be compromised if persons without appropriate security clearances and a need-to-know were able to view them. The sole purpose of withdrawing this area is to create a buffer zone from which such persons can be excluded, for the visual protection of these military activities.

Since the current withdrawal expires March 31 of this year, the committee did not prepare a report so that the measure can be considered by the Senate expeditiously. The committee hopes that the House of Representatives car then approve the bill and send it to the President before the March 31 deadline.●

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

T S Ary, of Oklahoma, to be Director of the Bureau of Mines;

C. Anson Franklin, of Virginia, to be an Assistant Secretary of Energy (Congressional, Intergovernmental and Public Affairs); and

Ernest C. Baynard III, of Virginia, to be an Assistant Secretary of Energy (Environment, Safety and Health).

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

April Catherine Glaspie, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Iraq;

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee April Glaspie.
Post Ambassador to Iraq.
1. Self, none.
2. Spouse, not married.
3. Children and Spouses, no children.
4. Parents, mother: Margaret Rose Glaspie—none. Father deceased 1964—James Glaspie.
5. Grandparents, all deceased.
6. Brothers and Spouses, none.
7. Sisters and Spouses, none.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DECONCINI (for himself, Mr. D'Amato, Mr. Dixon, Mr. Moynihan, Mr. Graham, Mr. Domenici, Mr. Dole, Mr. Wilson, Ms. Mikulski, Mr. Kerry, Mr. Specter, Mr. Murkowski, Mr. Rockefeller, Mr. Bentsen, Mr. Hatfield, Mr. Pressler, Mr. Heinz, Mr. Cochran, Mr. Reid, Mr. Heflin, Mr. Weicker, Mr. Grassley, Mr. Rudman, Mr. Stevens, Mr. Inouye, Mr. Trible, Mr. Bingaman, Mr. Breaux, Mr. Sarbanes, Mr. Danforth, Mr. Stennis, Mr. McConnell, Mr. Helms, Mr. Pell, Mr. Thurmond, Mr. Karnes, Mr. Nickles, Mr. Durenberger, Mr. Hecht, and Mr. Cranston):

S. 2205. A bill to enact the Omnibus Anti-Drug Abuse Act of 1988, and for other purposes; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. DeConcini, Mr. Stevens, Mr. Dole, Mr. Grassley, Mr. Trible, Mr. Thurmond, Mr. McConnell, Mr. Nickles, Mr. Symms, Mr. Karnes, Mr. Helms, Mr. Hatch, Mr. Graham, Mr. Hecht, and Mr. Pressler):

S. 2206. A bill to amend the Controlled Substances Act to provide for the imposition of the death penalty for the intentional killing of a law enforcement officer and for certain continuing criminal enterprise drug offenses; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 2207. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide assistive simians and dogs to veterans who, by reason of quadriplegia, are entitled to disability compensation under laws administered by the Veterans' Administration; to the Committee on Veterans Affairs.

By Mr. STEVENS (for himself, Mr. Murkowski, Mr. Nickles, and Mr. Boren):

S. 2208. A bill to allow Alaska Natives and Oklahoma's Indians to qualify for waste water treatment assistance; to the Select Committee on Indian Affairs.

By Mr. RIEGLE (for himself, Mr. Hollings, Mr. Danforth, and Mr. Pressler) (by request):

S. 2209. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAMM (for himself, Mr. Melcher, Mr. Nickles, Mr. Karnes, Mr. Pressler, Mr. Durenberger, Mr. Helms, Mr. Thurmond, Mr. Quayle, Mr. Bond, Mr. Grassley, Mr. Cochran, Mr. Warner, Mr. Hatch, Mr. Boschwitz, Mr. McClure, Mr. Kasten, Mr. Dixon, Mr. Hollings, Mr. Trible, Mr. McConnell, Mr. Symms, and Mr. Breaux):

S. 2210. A bill to amend the Revenue Act of 1987 to delay until October 1, 1988, the imposition of the tax on diesel and aviation fuels at the wholesale level; to the Committee on Finance.

By Mr. GLENN (for himself, Mr. Bradley, Mr. Chiles, Mr. DeConcini, Mr. Durenberger, Mr. Heinz, Mr. Packwood, Mr. Warner, and Mr. Wilson):

S.J. Res. 278. A joint resolution designating November 20-26, 1988, as "National Family Caregivers Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD:

S. Res. 400. A resolution to modify section 5 of S. Res. 382, Ninetieth Congress; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI (for himself, Mr. D'Amato, Mr. Dixon, Mr. Moynihan, Mr. Graham, Mr. Domenici, Mr. Dole, Mr. Wilson, Ms. Mikulski, Mr. Kerry, Mr. Specter, Mr. Murkowski, Mr. Rockefeller, Mr. Bentsen, Mr. Hatfield, Mr. Pressler, Mr. Heinz, Mr. Cochran, Mr. Reid, Mr. Heflin, Mr. Weicker, Mr. Grassley, Mr. Rudman, Mr. Stevens, Mr. Inouye, Mr. Trible, Mr. Bingaman, Mr. Breaux, Mr. Sarbanes, Mr. Danforth, Mr. Sanford, Mr. Stennis, Mr. Pell, Mr. Thurmond, Mr. Nickles, Mr. McConnell, Mr. Karnes, Mr. Durenberger, Mr. Helms, Mr. Hecht, and Mr. Cranston):

S. 2205. A bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes; to the Committee on the Judiciary.

OMNIBUS ANTIDRUG ABUSE ACT

Mr. DECONCINI. Mr. President, I rise today to introduce the Omnibus Antidrug Abuse Act of 1988 and do so on behalf of myself, the distinguished Senator from New York, Senator D'Amato and over 30 of my other colleagues.

Mr. President, the 1986 drug bill was an example of what this Chamber and what this Nation can do when it puts partisan politics aside, rolls up its collective sleeves, and gets serious about the drug problem in this country. Today, the bill that Senator D'Amato and I are introducing builds on the accomplishments of the 1986 drug bill and goes the next step in mobilizing all elements of our antidrug effort.

Mr. President, there may be a part of the drug plague that we did not attack in this legislation—but there aren't many. This bill represents a balanced, comprehensive assault on the drug threat to this Nation. The bill calls for an additional $2,448,000,000, over the President's budget request for fiscal year 1989 to beef up: First, law enforcement personnel at our civilian drug enforcement agencies; second, drug interdiction assets for Coast Guard and Customs and other agencies with an interdiction mission; third, Federal prison construction; fourth, State and local narcotics control assistance; fifth, international incentives to promote drug eradication and interdiction at the drug source country level; sixth, treatment and rehabilitation assistance for those who have already fallen victim to the drug menace; and seventh, drug education for our school systems around the Nation.

The bill also opens up the Justice and Treasury Department forfeiture funds so that all of the resources resulting from seizure and confiscation from drug traffickers can be put to use for State and local law enforcement agencies and others who are eligible for such assistance.

The bill includes a tough, new law that attacks the problem of illicit chemical diversion with rigid new penalties for those who use chemicals to manufacture the drugs that are poisoning our youth and ruining lives in this country.

The bill also authorizes funds for additional training of our law enforcement personnel and establishes a new program of research and development at existing Department of Defense and other Federal laboratories, to study new technologies that will help our drug enforcement agencies keep ahead of the sophisticated, well-financed drug smuggler.

And, finally, the bill authorizes the establishment of a nonlegislative Senate Select Committee on Narcotics Abuse and Control that will give us a full-time oversight committee that will review the drug abuse issue and provide advice and counsel to the Senate.

Mr. President, in crafting this legislation, we knew that it would cost money to really launch a full scale assault on the drug problem on multiple fronts. We were aware of the economic budget summit agreement; the Gramm-Rudman-Hollings deficit targets; and the need to try to find offsets for the programs and initiatives contained in this legislation.

So, Mr. President, this bill not only sets out new, aggressive initiatives for tackling the drug enforcement and drug abuse problems, it contains a formula for how we intend to pay for them. Here is how we would pay for the bill:

First, in testimony before my Treasury Appropriations Subcommittee just last Monday, the Commissioner of IRS testified that if we were to add $286.6 million and approximately 6,800 new positions over the President's budget, the Treasury would receive an additional $1,120,000,000 over and above the revenue assumptions in the economic budget summit agreement. We would add the additional positions to IRS for increased tax enforcement and deposit the additional revenues generated into a special antidrug abuse trust fund in Treasury. These funds would then only be available to pay for the drug bill.

Second, in response to our inquiry, the Bureau of Alcohol, Tobacco, and Firearms indicated that an additional $3 million and 40 positions put into aggressive enforcement of the special occupational alcohol tax would generate an additional $130 million over and above the President's budget for fiscal year 1989. We provide the additional funding and positions in this bill, with the additional revenues going into the new special fund I just mentioned.

Finally, for many years I have been introducing legislation that would force our Federal agencies to be more aggressive in the collection of delinquent debt owed to the Government. I was one of the original cosponsors of Senator CHARLES PERCY's debt collection bill back in 1980 and last year I introduced my own bill, S. 1270 that would provide new incentives and goals for debt collection. The bill that is being introduced today, mandates the collection of $2 billion over and above the debt collection estimates of the President for fiscal 1989.

We include a new approach to pushing agencies to use all of the tools available to collect the nearly $29 billion in nontax delinquent debt currently on the books. Under the bill, we would allow an agency to keep a portion of the funds it collects over and above its debt collection target set by the Secretary of the Treasury. On the other hand, if an agency falls short of its target, the President would then propose a rescission of a portion of their funding, based on how short of their goal they fell.

All of the $2 billion to be collected over and above the President's budget estimates would be deposited into the special antidrug abuse Treasury fund to help pay for the drug bill.

In total, there would be more than enough additional revenues put into the special fund to cover the entire cost of the drug bill for fiscal year 1989, with some left over. So even if our estimates of the aggregate cost of the Omnibus Antidrug Abuse Act of 1988 are off slightly, the special fund would have sufficient resources to cover the bill's price tag. And we would not be violating either the Gramm-Rudman-Hollings targets, or the economic budget summit, or the President's budget.

CONCLUSION

Mr. President, this is a good bill. It hits the drug problem on many fronts. It is fiscally responsible and pays for itself. And, most importantly, it is needed now. The drug problem has not gone away since 1986. We need to provide this additional muscle to fight the narcotics trafficker—and this bill does that.

Mr. President, I understand that Congressman GLENN ENGLISH will be introducing virtually the same bill later today in the House. I also understand that the Speaker of the House has made a commitment to Mr. ENGLISH that he will attempt to bring up the drug bill before June. That is encouraging, and I hope that the leadership in the Senate will move this legislation to the floor quickly before the summer.

Mr. President, I ask unanimous consent that a copy of the Omnibus Antidrug Abuse Act of 1988 be printed in the RECORD.

Mr. President, I also ask unanimous consent that a detailed summary of the bill and a cost breakdown of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Antidrug Abuse Act of 1988".

SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized as follows:

TITLE I—DRUG ENFORCEMENT AND PERSONNEL ENHANCEMENT

SUBTITLE A. Asset Forfeiture Fund Amendments Act of 1988.
SUBTITLE B. State and local narcotics control assistance.
SUBTITLE C. Chemical Diversion and Trafficking Act of 1988.
SUBTITLE D. Comprehensive Federal Law Enforcement Officer Improvements Act of 1988.
SUBTITLE E. Deportation of convicted foreign drug inmates.
SUBTITLE F. Customs Enforcement Amendments Act of 1988.
SUBTITLE G. Authorization of additional appropriations for drug enforcement personnel, fiscal year 1989.
SUBTITLE H. Miscellaneous law enforcement provisions.

TITLE II—INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

SUBTITLE A. International drug eradication improvement program.
SUBTITLE B. International narcotics matters improvement and special assistance programs.
SUBTITLE C. Amendments to Foreign Assistance Act of 1961, as amended.
SUBTITLE D. International narcotics matters authorization of appropriations.
SUBTITLE E. Latin American Antidrug Strike Force.

TITLE III—DRUG INTERDICTION ASSET IMPROVEMENT AND ENHANCEMENT

SUBTITLE A. Coast Guard.
SUBTITLE B. United States Customs Service.
SUBTITLE C. Department of Defense drug interdiction assistance.
SUBTITLE D. Drug Enforcement Administration.
SUBTITLE E. Immigration and Naturalization Service/Border Patrol.

SUBTITLE F. Establishment of Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force.

SUBTITLE G. United States-Bahamas Drug Interdiction Task Force.

SUBTITLE H. Special drug interdiction support.

TITLE IV—DEMAND REDUCTION

SUBTITLE A. Treatment and rehabilitation.

SUBTITLE B. Alcohol and drug abuse treatment and rehabilitation.

SUBTITLE C. Amendments to the Drug-Free Schools and Communities Act.

TITLE V—NATIONAL DRUG ENFORCEMENT AGENCY REORGANIZATION AND COORDINATION

SUBTITLE A. Establishment of Office of Enforcement and Border Affairs in Department of Treasury.

SUBTITLE B. Department of Defense drug interdiction reorganization.

SUBTITLE C. Establishment of a Senate Select Committee on Narcotics Abuse and Control.

TITLE VI—RESEARCH AND DEVELOPMENT FOR LAW ENFORCEMENT AGENCIES

SUBTITLE A. Establishment of new research and development programs to assist Federal law enforcement agencies.

SUBTITLE B. Cargo container drug detection research and development.

TITLE VII—DRUG ENFORCEMENT TRAINING IMPROVEMENT

SUBTITLE A. Federal Law Enforcement Training Center Improvement Act of 1988.

SUBTITLE B. Department of Justice Training Facilities Improvement Act of 1988.

SUBTITLE C. Federal Law Enforcement Language Training Improvement Act of 1988.

SUBTITLE D. Authorization of appropriations for special training centers.

TITLE VIII—DRUG TESTING IN THE PRIVATE SECTOR

TITLE IX—CONGRESSIONAL POLICY REGARDING ADDITIONAL FUNDING FOR FISCAL YEAR 1989 FOR ANTI-DRUG ABUSE PROGRAMS

TITLE X—FUNDING; ACCOUNTS

SUBTITLE A. Offsetting Revenues and Savings to Cover the Cost of the Act.

TITLE I—DRUG ENFORCEMENT AND PERSONNEL ENHANCEMENT

Subtitle A—Asset Forfeiture Fund Amendments Act of 1988

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Department of Justice and Department of Treasury Assets Forfeiture Fund Amendments Act of 1988".

SEC. 102. ASSET FORFEITURE FUNDS.

(a)(1) Notwithstanding any other provision of law, the receipts and disbursements out of the Department of Justice Assets Forfeiture Fund, established by section 524(c)(1) of title 28, United States Code, and the Customs Forfeiture Fund, established by section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b)—

(A) shall not be included in the totals of—

(i) the budget of the United States Government as submitted by the President; or

(ii) the congressional budget, including allocations of budget authority and outlays provided therein;

(B) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government; and

(C) shall not be included for purposes of calculating—

(i) the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.); or

(ii) the excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 and 902) for any fiscal year.

(2)(A) Notwithstanding any other provision of law, for purposes of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) the Department of Justice, with respect to receipts and disbursements from the Assets Forfeiture Fund, and the United States Customs Service, with respect to receipts and disbursements from the Customs Forfeiture Fund, shall be considered an off-budget Federal entity as such entity is defined under section 3(8) of such Act (2 U.S.C. 622(8)).

(B) Nothing in this subsection may be construed to diminish the oversight authority of the Congress under law with respect to the operations and budget of the Department of Justice or the United States Customs Service.

(C) Amounts to be disbursed out of the Department of Justice Assets Forfeiture Fund and the Customs Forfeiture Fund shall not be subject to limitation by appropriations Acts.

(D) This subsection shall apply to budgets for fiscal years beginning after September 30, 1988.

(3) Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended by—

(A) striking out "subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1991. The fund shall be available" in subsection (a); and

(B) striking out "during the period beginning on the date of the enactment of this section, and ending on September 30, 1987," in subsection (c); and

(C) repealing subsection (f).

(b) Section 524(c)(1) of title 28 of the United States Code is amended by striking out "and" at the end of subparagraph (F), by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and" and, by inserting the following new subparagraph:

"(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General shall transfer deposits from the Assets Forfeiture Fund to the Building and Facilities account of the Federal prison system for the construction of correctional institutions, and to the Support of United States Prisoners in non-Federal Institutions account of the Department of Justice for payments authorized by the Attorney General or his designee under contracts and cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bedspace for Federal detainees within that correctional system. The Attorney General shall report to the appropriate committees of the Congress any amount proposed to be transferred under this subparagraph.".

(c) Amounts proposed for transfer pursuant to subsection (a) shall be transferred only upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds.

(d)(1) Section 524(c)(1)(A) of title 28, United States Code, is amended by inserting immediately before the semicolon at the end thereof a comma and the following: "and the Attorney General may exempt the procurement of supplies and services under the fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal or civil investigations".

(2) In the administration of the Customs Forfeiture Fund, the Commissioner of Customs may exempt the procurement of supplies and services under such Customs Fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal or civil investigations.

SEC. 103. RESTORATION OF EQUITABLE SHARING PROVISIONS.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by—

(1) redesignating paragraph (2) as paragraph (3); and

(2) inserting after paragraph (1) the following new paragraph:

"(2) The Attorney General shall ensure the equitable transfer pursuant to paragraph (1)(A) of any forfeited property to the appropriate State and local law enforcement agency or prosecutor's office so as to reflect generally the contribution of any such agency or prosecutor's office participating directly in any of the acts which led to the seizure or forfeiture of such property or prosecution of any underlying criminal case or forfeiture action.".

Subtitle B—State and Local Narcotics Control Assistance Act of 1988

SEC. 110. DECLARATION AND PURPOSE.

(a) Congress finds that this Nation is engulfed in an epidemic of drug abuse that is threatening our country's productivity and, in particular, the minds and future of our youngest citizens. Throughout the past decade, trends in trafficking and abuse patterns have necessitated a new response—one that is the product of a nationwide strategy that is not limited by jurisdictional boundaries and single constituency interests. The absence of legislatively mandated or policy driven targeting of resources and energy will sustain a scattered approach to a drug abuse problem which, by its nature, demands a concerted, coordinated attack.

(b) Congress further finds that State and local governments are critical participants in a national effort to reduce the demand for and stem the distribution of drugs in this Nation.

(c) It is therefore the declared policy of the Congress to initiate a new national strategy to curb drug abuse in the United States that makes full use of the energy and expertise of State and local units of government.

(d) It is the purpose of this subtitle to empower States to address their own jurisdictional drug control problems while, simultaneously, supporting national drug control priorities and objectives. Congress finds that enhanced national attention, and thus resources provided under this subtitle, are required in the areas of (1) generation and linkage of intelligence information and systems; (2) coordination of effort at the Federal, State, and local levels of government; (3) model legislation enacted on a nationwide basis; (4) strategic drug control planning and policy that integrates education, prevention, treatment, enforcement, prosecution, and corrections in a systemwide approach; (5) standardization of data collection systems; and (6) technological and operational advancements.

PART A—ESTABLISHMENT OF THE BUREAU OF JUSTICE ASSISTANCE

SEC. 111. BUREAU OF JUSTICE ASSISTANCE.

Section 401 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) is amended to read as follows:

"There is established within the Department of Justice, under the general authority of the Attorney General, a Bureau of Justice Assistance (hereinafter referred to in this part and part D as the "Bureau"). The Bureau shall be headed by a Director (hereinafter referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this or such parts.".

SEC. 112. DUTIES AND FUNCTIONS OF THE DIRECTOR.

The Director of the Bureau of Justice Assistance (hereinafter in this subtitle referred to in this title as the "Director"), in addition to his duties under part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968, shall—

(1) provide funds to eligible States, units of local government, and private nonprofit and public organizations pursuant to this subtitle;

(2) after consultation with Federal, State, and local drug control agencies, develop an annual State and Local Strategic Drug Control Plan that integrates priorities and critical needs of Federal, State, and local drug control; and

(3) publish and disseminate information on the condition and progress of drug control activities at the Federal, State, and local levels, with particular attention to programs and intervention efforts demonstrated by assessments to be of value in an overall national strategy.

SEC. 113. STATE AND LOCAL COORDINATION.

To assure that all Federal assistance to State and local drug control programs is carried out in an efficient manner, the Bureau of Justice Assistance (hereinafter referred to in this title as the "Bureau") is authorized to coordinate activities and request any Federal department or agency to supply such statistics, program reports, and other material as the Bureau deems necessary to carry out its functions under this subtitle. Each such department or agency is authorized and directed to cooperate with the Bureau and, to the extent permitted by law, to furnish such materials to the Bureau. The Bureau shall—

(1) ensure a fully coordinated effort toward a national drug control strategy involving drug control departments, agencies, and boards at the Federal, State, and local levels of government;

(2) serve as the coordinating Federal agency for the submission of a single application for all State and local grant-in-aid programs under the Antidrug Abuse Act of 1986; coordinate the application requirements with each of the Federal agencies involved to allow for one State document that represents a statewide drug control strategy incorporating all drug control elements (e.g., prevention, education, enforcement, treatment). Such single State submission is intended to meet the requirements of the Departments of Education, Health and Human Services, Justice, and any other Federal agencies providing financial or technical assistance and intergovernmental fiscal transfers; and

(3) consider the priorities of and maintain liaison with Federal agencies having drug control authority to assure a coordinated placement and implementation of major programs to the initiated.

PART B—DRUG CONTROL FORMULA GRANT PROGRAM

SEC. 114. GRANTS.

It is the purpose of this part to encourage the implementation of a nationwide and multilevel drug control strategy through the development of programs and projects which will assist multijurisdictional and multi-State in the drug control problem and support national drug control priorities. It is not the intent of Congress to restrict the use of programs at the State and local level, but to encourage a systematic approach to a national strategy which will involve all participants working toward a similar goal. Grants may be made for additional personnel, equipment, facilities, personnel training, and supplies. The Bureau is authorized to make grants to States having statewide drug control strategies approved by the Bureau for:

(1) Zero Tolerance Enforcement Programs that effect heightened public awareness of and support for local drug control enforcement projects such as drug specific (e.g., gang targeted, organized crime) task forces, street sweeps, and special projects for high visibility crime areas.

(2) Multi-Jurisdictional Task Force Programs that integrate the resources and knowledge of Federal, State, and local drug law enforcement agencies for the purpose of enhancing interagency coordination and facilitating multijurisdictional investigations.

(3) Precursor Control Programs designed to prevent major precursor chemicals from reaching clandestine laboratories, including recordkeeping systems, monitoring procedures, and model legislation such as that enacted by the States of Arizona, California, Nevada, and Texas.

(4) Pharmaceutical Diversion Programs directed at the licensing, regulation, and investigation of practitioners registrants, including Schedule 2 triplicate prescription programs and enactment of model legislation.

(5) Law Enforcement Demand Reduction Programs that increase the participation of drug law enforcement officers in drug abuse prevention programs, such as the Law Enforcement Explorers Program, Sport Drug Awareness Program, and Drug Abuse Resistance Education (DARE).

(6) Countermeasures Threat Analysis Programs that address the technological capabilities of drug traffickers, the threat that such technology poses to the safety and effectiveness of drug law enforcement officers, and responses to the threat, including nationwide threat assessments, and technology development projects.

(7) Clandestine Laboratory Programs that enhance the investigative capabilities of State and local officers, and provide certified training and equipment necessary to ensure the safety of State and local personnel who seize and enter clandestine laboratories.

(8) Drug Control Law Enforcement Training Programs that enhance the technical capabilities of State and local drug control personnel.

(9) Multi-Jurisdictional Intelligence and Data Sharing Programs designed to effect the linkage of regional intelligence systems, standardize data reporting systems, and increase multijurisdictional access to nationwide data bases.

(10) Domestic Cannabis Programs that target major financiers, cultivators, and distributors, and that provide the resources and training that are essential for effective State and local eradication efforts.

(11) Financial Investigative Programs that target the identification of money laundering operations and assets obtained through illegal drug trafficking, including the enactment of model legislation, financial investigative training, and financial information sharing systems.

(12) Drug Control Innovative Enforcement Programs which will demonstrate new and different approaches to drug control activities. Each project shall contain an evaluation component and the results of such will be provided to the Bureau. Up to 10 per centum of the total enforcement projects may be used for this program.

(13) Model Drug Control Legislation Programs that encourage State adoption of model legislation in areas such as money laundering, activities under chapter 96 of title 18, United States Code, electronic surveillance, asset seizure and forfeiture, grand jury powers, schoolyard violators, criminal organization use of juveniles, mandatory and enhanced sentencing.

(14) Drug Control Prosecution Training Programs to develop and conduct training projects designed to enhance prosecutorial expertise in the prosecution of complex drug conspiracy cases, including search warrant preparation, asset seizure and forfeiture (for both prosecutors and investigators), grand jury presentations, case preparation and presentation, and electronic surveillance utilization.

(15) For use in States that have the authority to undertake prosecutions but lack the necessary resources to initiate activities under those statutes, Combined Prosecution and Law Enforcement Investigative Programs to develop enforcement and prosecution projects to assist State and local law enforcement agencies to use existing State laws specifically targeted toward narcotics trafficking conspiracies and offenders.

(16) Corrupt Public Officials Programs that give priority attention to any case involving drug-related official corruption.

This program is consistent with the zero-tolerance approach to drug control and can enhance public confidence thereby increasing support for drug control law enforcement efforts.

(17) State and Local Laboratory Programs that enhance existing forensic laboratories through the use of additional personnel, equipment, facilities, training, and supplies. Projects will standardize reporting drug control data and intelligence information on a nationwide basis as well as reports to prosecutors, thus reducing the court time for laboratory personnel.

(18) Prosecutor Resource Enhancement Programs that enhance existing prosecutor services resulting from an expanded caseload of drug control cases. Projects will improve case management through the use of additional personnel (e.g., prosecutors, investigators), management information systems, and programs such as career criminal targeting, and accelerated prosecutions.

(19) Drug Control Innovative Prosecution Programs which will demonstrate new and different approaches to drug control activities. Each project shall contain an evaluation component and the results of such will be provided to the Bureau. Up to 10 per centum of the total prosecution projects awarded may be used for this program.

(20) Judicial Resource Enhancement Programs that enhance existing court resources resulting from an expanded caseload of drug control cases. Projects may include additional judges and supporting staff, equipment, and facilities.

(21) Judicial Drug Control Training Programs that are designed to enhance the technical expertise of judicial personnel in drug control cases.

(22) Pre-Trial Drug Control Testing Programs that provide urinalysis testing as a pretrial device for providing drug-use data to courts. Projects can provide jail space by continued monitoring of nondetained individuals.

(23) Drug Control Innovative Adjudication Programs which will demonstrate new and different approaches to drug control activities. Each project shall contain an evaluation component and the results of such will be provided to the Bureau. Up to 10 per centum of the total judicial projects awarded may be used for this program.

(24) Intensive Supervision Programs which reduce drug use and criminal activities through intensive probation. Project elements may include surveillance, urinalysis, and treatment standards. Treatment Alternatives to Street Crime projects may be funded under this program.

(25) Jail Treatment Programs which identify drug abusing offenders and initiate appropriate treatment while incarcerated (pre- and post-trial), and coordinate with community treatment providers for inmates upon release.

(26) Prison Treatment Programs which provide a continuum of treatment services to the drug dependent offender. Projects may include a range of treatment modalities such as therapeutic communities, drug resource centers, drug education projects, and self-help groups.

(27) Drug Treatment for Youthful Offenders Programs which address the needs of the youthful offenders. Projects may include special intensive efforts or projects conducted in coordination with educational institutions.

(28) State Corrections Policy Groups and Sentencing Commissions dealing with long-range State corrections strategies and national sentencing structures for both drug related and other crimes.

(29) Enhancement of Indicator Systems Programs which collect and disseminate data regarding drug use, availability, and other drug trend information vital to the effective planning and intelligence. This may include criminal history and transactional information systems.

(30) Statewide and National Intelligence Systems Programs which collect, disseminate, and use investigative or intelligence information for drug control enforcement activities. Emphasis of these projects shall be the sharing of information at Federal, State, and local levels of government.

(31) Drug Control Evaluation Programs which the State and local units of government may utilize to evaluate programs and projects directed at State drug control activities.

SEC. 115. STATE DRUG CONTROL OFFICES.

The chief executive officer of each participating State and territory shall designate a State drug control office for the purpose of—

(1) preparing an application to obtain funds under this part; and

(2) administering funds received from the Bureau, including receipt, review, processing, monitoring, progress, and impact reporting, financial report review, technical assistance, grant adjustments, accounting, auditing, and funds disbursements.

SEC. 116. STATE DRUG CONTROL BOARDS.

The chief executive officer of each participating State and territory shall establish or designate and maintain a State Drug Control Board for the purpose of—

(1) analyzing the drug control problems within the State based on data, information, and intelligence from all eligible jurisdictions and State agencies and establishing Statewide drug control priorities based on such;

(2) preparing a statewide drug control strategy reflecting the State's drug control problems, an assessment of current activities, coordination requirements, resource needs, and the statewide goals, objectives, priorities, and projected programs and projects;

(3) receiving, reviewing, and approving (or disapproving) applications from State agencies and units of local government;

(4) preparing an annual report for the chief executive of the State and the State legislature containing an assessment of the State drug control program developed under this part, for submission to the Bureau; and

(5) assuring fund accountability, auditing, and evaluation of programs and projects funded under this part to assure compliance with Federal requirements.

SEC. 117. MEMBERSHIP OF THE STATE DRUG CONTROL BOARDS.

The State Drug Control Board shall be subject to the jurisdiction of the chief executive of the State who shall appoint the board members, designate a chairman and provide staff to serve the board. The board should be broadly representative of the State's drug control community, with representatives from disciplines such as drug enforcement, prosecution, courts, corrections, treatment, education, and prevention, including private treatment providers.

SEC. 118. LOCAL DRUG CONTROL OFFICES.

The State drug control office shall assure that local units of government for metropolitan areas (primary metropolitan statistical areas as defined by the Bureau of the Census) or any contiguous combination of such (both interstate and intrastate), having a population of 500,000 or more, are permitted to establish a local office for the purpose of preparing and coordinating drug control strategies and implementing the provisions of this part at the local level of government. The chief executive of an eligible jurisdiction as defined above shall create or designate an office for the purpose of preparing and developing an areawide drug control strategy and assuring that such strategy complies with the Federal and State requirements, to include fund accounting, auditing, and evaluation of programs and projects to be funded under this part. Where an eligible jurisdiction chooses not to form a local drug control office, it shall be treated as all other jurisdictions within the State.

SEC. 119. LOCAL DRUG CONTROL BOARDS.

Each eligible jurisdiction shall establish or designate a local drug control board for the purpose of—

(1) analyzing the drug control problems within the jurisdiction based on data, information, and intelligence from all eligible units of local government and establishing jurisdictionwide drug control priorities based on such;

(2) preparing a jurisdictionwide drug control strategy reflecting the jurisdiction's drug control problems, an assessment of current activities, coordination requirements, resource needs, and the jurisdiction's goals, objectives, priorities, and projected programs and projects;

(3) receiving, reviewing, and approving (or disapproving) applications from units of local government; and

(4) preparing an annual report for the chief executive of the jurisdiction and the State office (or offices in the case of metropolitan areas or State boundaries) containing an assessment of the drug control program developed under this part.

SEC. 120. MEMBERSHIP OF LOCAL DRUG CONTROL BOARDS.

(a) The Local Drug Control Board shall be subject to the jurisdiction of the chief executive who shall appoint the members and designate the chairman. The Board shall be representative of the drug control community, with representatives from disciplines such as drug enforcement, prosecution, courts, corrections, treatment, education and prevention, including private treatment providers.

(b) In the case of an eligible jurisdiction being formed by a combination of jurisdictions, the membership of the Board shall be jointly appointed in such a manner as the chief executive of each unit of local government shall determine by mutual agreement. Decisions made by the Board pursuant to this part may be reviewed and either accepted or rejected by the chief executive of the jurisdiction, or a combination of jurisdictions in such a manner as the chief executive of each unit of local government shall determine by mutual agreement.

SEC. 121. NATIONAL DRUG CONTROL ASSISTANCE COORDINATION BOARD.

The Bureau shall establish a National Drug Control Assistance Coordination Board, which will provide for the representation of drug control agencies at the Federal, State, and local levels for the purpose of articulating national drug control priorities, programs, and resource needs. The Bureau is directed to prepare a National Strategic Drug Control Plan which will target critical drug control problems and lead to a National Drug Control Strategy that will integrate

Federal, State, and local drug control priorities.

SEC. 122. BOARD MEMBERSHIP.

(a) The Board shall consist of twenty members representing State and Federal agencies having responsibilities for drug control activities. Each of the five national regions would appoint two representatives to the Board and the appropriate Federal agencies would appoint the remaining ten members. The ten Federal appointees shall be approved by the Attorney General. The Director will serve as the Board Chair.

(b) The Bureau shall develop all rules and procedures, provide staff services and the financial resources required by the Board.

SEC. 123. STATE APPLICATION.

(a) To request funds under this part, the chief executive officer of the State shall submit to the Bureau an application, at such time and in such form as the Director may require. No State application shall be approved unless it includes—

(1) a statewide strategy for drug control. The strategy must contain (A) a definition and analysis of the drug problem in the State, and an analysis of that problem in each of the major cities and counties with major drug control problems; (B) an assessment of the efforts existing as of the time of the application to address the drug control problem at the State and local level; (C) coordination requirements; (D) resource needs; (E) the establishment of Statewide priorities for drug control activities and programs; and (F) an analysis of the relationship of the proposed State efforts to the national drug control strategy;

(2) the following certifications and assurances signed by the chief executive or his authorized representative:

(A) a certification that Federal funds made available under this part will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for drug law enforcement activities;

(B) a certification that funds required to pay the non-Federal portion of the costs of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipients of grant funds;

(C) an assurance that the State application described in this part, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this part, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted);

(D) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood community groups; and

(E) an assurance that following the first fiscal year covered by an application and for each fiscal year thereafter, a performance evaluation and assessment report concerning the activities carried out pursuant to this part will be submitted to the Bureau; and

(3) a provision for fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records that the Bureau shall prescribe to assure fiscal control, proper management, and efficient disbursement of funds received under this part.

(b) The data requirements on which the statewide strategy is based shall be developed by the Bureau and provided to each State for the purpose of assuring a unified national data reporting system.

SEC. 124. GRANT LIMITATIONS.

(a) Not more than 20 per centum of a grant made under this part may be used for costs incurred to administer such grant by the State and local offices. The State is authorized to use up to 10 per centum as administrative funds and the local offices are authorized to use up to 10 per centum as administrative funds. If not used for administrative purposes at the local level, such funds must be used for the purpose contained in part B.

(b) States are authorized to use part B funds for the expenses associated with participation in the State and Local Task Force Program established by the Drug Enforcement Administration.

(c) The State shall provide to metropolitan area(s), of the pass-through formula, a per centum not less than the per centum which the population (500,000 or more) is to the total population of the State.

(d) The State shall make available such funds to eligible metropolitan area(s) within 30 days after the Bureau's approval of the State application.

SEC. 125. MATCHING FUNDS.

(a) The non-Federal portion of the cost of the programs or projects authorized by part B of this subtitle shall be in cash.

(b) Any Federal grant made under this part shall cover up to 100 percent of the cost of the programs and projects authorized by this part for the first year in which a grant is approved; up to 90 percent of the cost of the programs and projects authorized by this part for the second year of such grant; and up to 75 percent of the cost of the programs and projects authorized by this part for the third year of such grant.

SEC. 126. REVIEW OF STATE APPLICATIONS.

(a) The Bureau shall provide financial assistance to each State applicant under this part to carry out the programs or projects submitted by such applicant upon determining that—

(1) the application and amendment thereto is consistent with the requirements of this part;

(2) the statewide strategy is in accordance with the Bureau's guidelines, representative of statewide priorities and the priorities of all eligible jurisdictions, represents a sincere attempt on the part of the applicant to control drug trafficking and abuse and clearly represents an interest by the applicant to cooperate with other States and jurisdictions relative to drug control; and

(3) the application and any amendment have been reviewed in accordance with this part and that an affirmative finding has been made, in writing, that the application, strategy, and programs and projects are representative of the broad priorities and resource needs of the State and eligible jurisdictions encompassed by the strategy.

(b) Each application or amendment made and submitted for approval to the Bureau pursuant to this part shall be deemed approved, in whole or in part, by the Bureau not later than 60 days after first received, unless the Bureau informs the applicant of specific reasons for disapproval prior to the expiration of such 60-day period.

(c) Grant funds awarded under this part shall not be used for land acquisition or construction projects.

(d) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Bureau under this part without first affording the applicant reasonable notice and opportunity for reconsideration.

SEC. 127. ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS.

(a) Of the total amount appropriated for this part in any fiscal year, 80 per centum shall be set aside for the formula grant program and allocated to States as follows:

(1) $500,000 shall be allocated to each of the participating States and territories; and

(2) of the total funds remaining after the allocation under the above paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such States bears to the population of all the States.

(b)(1) Each State which receives funds under subsection (a) of this section in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such States, for the purposes specified in the formula grant program, that portion of funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

(2) Any funds not distributed to units of local government under paragraph (b)(1) shall be available for expenditure by the State involved.

(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year is not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Bureau or by the State involved for any program other than a program contained in an application.

(d) If the Bureau determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under the formula grant program, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Bureau to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

(e) Any funds allocated under subsection (a) that are not distributed under this section shall be available for obligation under part C of this subtitle.

PART C—DRUG CONTROL DISCRETIONARY GRANT PROGRAM

SEC. 128. PURPOSE.

It is the purpose of this part to provide for the direct funding of projects to improve and strengthen the drug control and related criminal justice support activities at the State and local levels.

SEC. 129. PURPOSE OF GRANTS.

The Bureau is authorized to develop programs and make grants to public agencies and private nonprofit organizations for technical assistance, training, national scope and demonstration projects in support of any of the purposes (or groups of purposes) specified in part B of this subtitle, and any purpose contained in the strategic drug control plan developed by the Bureau. The Director shall have final authority over all grants awarded under this part. In developing Discretionary Grant programs, the Bureau shall insure a balance between the various components of the criminal justice system and drug treatment and rehabilitation agencies. Discretionary funds may be used as incentives to develop programs in the weaker elements of the statewide drug control strategies. Because of the crisis facing State and local corrections, the Director shall insure adequate attention to this component, as well as support for corrections-based drug treatment and rehabilitation programs.

SEC. 129A. GRANTS.

(a) A grant authorized under this part may be up to 100 per centum of the total cost of each project for which the grant is made.

(b) Grant funds awarded under this part shall not be used for land acquisition or construction projects.

SEC. 129B. APPLICATION REQUIREMENTS.

(a) No grant may be made under this part unless an application has been submitted to the Bureau in which the applicant—

(1) sets forth a program or project which is eligible for funding pursuant to this subtitle;

(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out; and

(3) describes the method to be used to evaluate the program or project in order to determine its impact and effectiveness in achieving the stated goals; and

(4) agrees to conduct such evaluation according to the procedures and terms established by the Bureau.

(b) Each applicant for funds under this part shall certify, in a form acceptable to the Director, that—

(1) the program or project meets all the requirements of this part;

(2) all of the information contained in the application is correct; and

(3) the applicant will comply with all of the provisions of this part and all other applicable Federal laws.

SEC. 130. ALLOCATION OF FUNDS FOR DISCRETIONARY GRANTS.

(a) Of the total amount appropriated for this subtitle in any fiscal year, 20 per centum shall be reserved and set aside for this part.

(b) Of the total amount appropriated for this subtitle in any fiscal year, 20 per centum shall be made available to metropolitan areas and consolidated jurisdictions of populations in excess of 500,000 for the purpose of assisting the State in providing a comprehensive drug control program in an area determined to have an extensive drug control problem.

(c) Each State shall indicate the need for such funds through the submission of the State strategy and application. The Bureau will evaluate the strategy to determine those major cities with the most critical drug control problems, including the resources to be committed by the State and local units of government, and the planned activities for drug control. After site selections are made, the Bureau shall request formal applications.

(d) Of the total amount appropriated for this part in any fiscal year, 5 per centum shall be made available for the purpose of evaluation of programs and projects contained in this subtitle.

SEC. 131. PERIOD OF AWARD.

The Bureau may provide financial aid and assistance to programs and projects under this part for a period not to exceed 3 years. Grants made pursuant to this part may be extended or renewed by the Bureau for an additional period of up to 2 years if—

(1) an evaluation of the program or project indicates that it has been effective in achieving the stated goals and offers the potential for improving the drug control problem; and

(2) the State, unit of local government, or combination thereof and private nonprofit organizations within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from formula grant funds or from any other source of funds.

PART D—TARGETED STATE AND LOCAL STRATEGIC DRUG CONTROL PLAN

SEC. 132. LOCAL PRIORITIES AND PROGRAMS.

It is the intent of this part to establish an ongoing process for integrating Federal, State, and local priorities and programs.

SEC. 133. PLAN.

(a) The Bureau is directed to complete an annual National Strategic Drug Control Plan which targets the most critical drug control problems that are most effectively resolved at the State and local levels.

(b) Such plan shall be developed by the Bureau in consultation with the State Drug Control Boards and those Federal agencies and boards authorized to engage in drug control programs including, but not limited to, the Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Customs, Department of the Treasury, Department of Defense, Department of Education, Department of Health and Human Resources, and the Department of Justice and agencies thereof.

(c) Each annual plan shall include an assessment of the current drug control problem, emerging trends, critical response areas, resource assessment, coordination requirements, and objectives for the next fiscal year.

(d) Such plan shall effect the coordination of resources and strategies at the Federal, State, and local levels culminating in a "blueprint" for action involving the Congress, the Executive Branch, and Federal drug control agencies in total cooperation with units of State and local government.

PART E—MISCELLANEOUS AMENDMENTS TO JUSTICE ASSISTANCE ACT OF 1984

SEC. 133A. AMENDMENTS TO 42 U.S.C. 3769 CRIMINAL JUSTICE FACILITY CONSTRUCTION PILOT PROGRAM.

(a) The heading for part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3799) is amended by deleting "Pilot".

(b) Section 602(a)(1) of part F of such Act (42 U.S.C. 3769a) is amended by deleting ", with the concurrence of the Director of the National Institute of Corrections established in chapter 315 of title 18, United States Code,".

(c) Section 603(b)(1)(B) of part F of such Act (42 U.S.C. 3769b) is amended by deleting "20" and inserting in lieu thereof "80".

(d) Section 603(c) of part F of such Act (42 U.S.C. 3769b) is amended by deleting "20" and inserting in lieu thereof "80".

PART F—ADMINISTRATIVE PROVISIONS

SEC. 134. RULES; REGULATIONS.

The Bureau is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this subtitle.

SEC. 135. DOCUMENTS.

The Bureau shall, within 120 days following the date of the enactment of this Act, prepare both a "Program Brief" and "Implementation Guide" documents for each of the programs and projects contained in the formula grant program.

SEC. 136. FUNCTIONS NOT TO BE TRANSFERRED.

The functions, powers, and duties specified in this subtitle to be carried out by the Bureau shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress by law.

SEC. 137. REIMBURSEMENTS.

The Bureau may arrange with and reimburse other Federal departments and agencies for the performance of functions under this subtitle only if the funds are to benefit the units of State or local government. Funds under this subtitle shall not be used to supplement the budgets of other Federal departments and agencies.

SEC. 138. OFFICERS; EMPLOYEES.

Subject to the civil service and classification laws, the Bureau is authorized to select, appoint, employ, and fix the compensation of such officers and employees as shall be necessary to carry out its powers and duties under this subtitle.

SEC. 139. PROGRAM AND PROJECT EVALUATION.

(a) The Bureau shall provide for the development and, to the maximum extent feasible, implementation of procedures for the evaluation of programs and projects in terms of their success in achieving the ends for which they were intended, their conformity with the purposes and goals of the State strategy, and their effectiveness in reducing drug control problems. State and local units of government shall evaluate a reasonable number of programs and projects to be determined, and to provide such results to the Bureau.

(b) The Bureau shall set aside 5 per centum of part C funds for the purpose of evaluation of programs and projects in part B and part C and the effectiveness of State strategy development and implementation in selected States. Such results shall be included in the State and Bureau reports.

SEC. 140. STATE PROGRAM AND PROJECT REPORTS.

(a) Each State which receives a grant under part B of this subtitle shall submit to the Bureau, for each year in which any part of such grant is expended by a State or local unit of government, a report which contains—

(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under this subtitle;

(2) a summary of activities carried out in such year with any grant received under part C of this subtitle by such State;

(3) the evaluation result of programs and projects; and

(4) such other information that the Bureau may require.

(b) The report required by subsection (a) shall be submitted in such a form and by such time as the Bureau may require.

SEC. 141. BUREAU PROGRAM AND PROJECT REPORTS.

(a) Not later than 180 days after the end of each fiscal year for which grants are made under part B and part C of this subtitle, the Director shall submit to the Speaker of the House and the President pro tempore of the Senate a report that includes with respect to each State—

(1) the aggregate amount of grants made under parts B and C of this subtitle to such State for such fiscal year;

(2) the amount of such grants expended for each of the programs specified in part B;

(3) a summary of the information provided by the States required by this part; and

(4) evaluation results of programs and projects and State strategy implementation.

(b) Such report shall, in addition, be submitted by the Director to the Committees on Appropriations of the House and Senate; and the Committees on the Judiciary of the Senate and the House for review.

SEC. 142. EXPENDITURE OF GRANTS; REPORTS.

(a) A grant made under part B of this subtitle may not be expended for more than 60 per centum of the costs of the identified uses, in the aggregate, for which such grant is received to carry out any purpose specified in part B, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 per centum of such costs. The non-Federal portion of the expenditures for such uses shall be paid in cash.

(b)(1) Each State which receives a grant under part B of this subtitle shall keep, and shall require units of local government which receive any part of such grant, to keep, such records as the Director may require to facilitate an effective audit.

(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of States, which receive grants, and of units of local government which receive any part of a grant made under part B, if in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

PART G—FUNDING

SEC. 143. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, to carry out the grant programs authorized under this subtitle, $250,000,000 for the fiscal year ending September 30, 1989; $500,000,000 for the fiscal year ending September 30, 1990, of which up to 50 percent shall be used to continue the programs and projects for which grant funds were awarded in fiscal year 1989; and $750,000,000 for the fiscal year ending September 30, 1991, of which up to 50 percent shall be used to continue the programs and projects for which grant funds were awarded in fiscal years 1989 and 1990.

SEC. 144. AUTHORIZATION OF ADDITIONAL PERSONNEL TO IMPLEMENT THE STATE AND LOCAL NARCOTICS CONTROL ASSISTANCE ACT OF 1988.

There is authorized to be appropriated, $5,000,000 in fiscal year 1989 for salaries and expenses of the Bureau of Justice Assistance: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or as provided in any regular appropriation Act or continuing resolution for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to hire an additional 96 fulltime equivalent positions and shall be used by the Bureau of Justice Assistance only for the purposes of carrying out the State and Local Narcotics Control Assistance Act of 1988, as authorized under this subtitle.

PART H—RELATIONSHIP WITH THE JUSTICE ASSISTANCE ACT OF 1984

SEC. 145. ADMINISTRATION OF FUNDS.

(a) The Bureau of Justice Assistance shall administer any funds available to it under the Omnibus Crime Control and Safe Streets Act of 1968 in such a manner as to compensate for the quantum increase in cases resulting from apprehensions and accelerated prosecution of persons accused of drug trafficking, possession, and related offenses. Such concentration of resources is intended to support the use of proven successful programs of such Act for courts and corrections agencies in processing drug cases and offenders.

(b) State, metropolitan, and other jurisdictions are encouraged to participate in funding under such Act and to integrate use of these monies with funds allocated under their drug statewide strategy in such a manner as to assure the smooth functioning of criminal justice administration in these jurisdictions.

(c) The applicable program and project matching requirements of the Omnibus Crime Control and Safe Streets Act of 1968, currently set at 50 percent State/local, shall, on and after the effective date of this section, be the same as the 3-year sliding scale of increasing State and local contribution established under section 127 of part B of this subtitle.

Subtitle C—Chemical Diversion and Trafficking Act of 1988

SEC. 154. SHORT TITLE.

This subtitle may be cited as the "Chemical Diversion and Trafficking Act of 1988".

SEC. 155. PRECURSOR CHEMICALS AND ESSENTIAL CHEMICALS.

Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended to read as follows:

"PRECURSOR CHEMICALS AND ESSENTIAL CHEMICALS

"SEC. 310. (a)(1)(A) Except as provided under paragraph (3), any person who manufactures, distributes, imports or exports a substance listed under subsection (d) shall maintain records and make reports as the Attorney General may by regulation require concerning the distribution, receipt, sale, importation or exportation of the listed substances.

"(B) Records required by this paragraph—

"(i) shall be in a form that is readily retrievable from ordinary business records; and

"(ii) shall be kept and made available for inspection and copying by officers or employees of the United States authorized by the Attorney General, with regard to substances listed in subsection (d)(2), for 2 years and, with regard to substances listed in subsection (d)(1), for no less than 2 years and no more than 5 years as determined by regulation of the Attorney General.

"(C) In establishing regulations concerning required records and reports under this paragraph, the Attorney General may establish a threshold quantity for recordkeeping and reporting requirements for each listed chemical. Reports required by the Attorney General shall be limited to those necessary for the effective implementation of this title, such as reports of suspicious purchases.

"(D) The Attorney General may include in the information required to be maintained or reported under this paragraph the following:

"(i) The quantity, form, and manner in which, and date on which, the substance was distributed, imported or exported.

"(ii)(I) In the case of the distribution or exportation to an individual, the name, address, and age of the individual and the type of identification presented to establish the identity of the individual.

"(II) In the case of the distribution or exportation to an entity other than an individual, the name and address of the entity and the name, address, and title of the individual ordering or receiving the substance and the type of identification presented to establish the identity of the individual and of the entity.

"(2)(A) Except as provided under paragraph (3), no person may distribute a substance listed under subsection (d) unless the recipient or purchaser presents to the distributor a certification of lawful use and identification in order to establish the identity of the recipient or purchaser (and any entity which the recipient or purchaser represents).

"(B) The certification of lawful use and identification shall be of such a type as the Attorney General establishes by regulation.

"(3) Under such conditions and to such extent as the Attorney General establishes, paragraphs (1) and (2) shall not apply to—

"(A) the distribution of listed substances between agents or employees within a single facility (as defined by the Attorney General), if such agents or employees are acting in the lawful and usual course of their business or employment;

"(B) the delivery of listed substances to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution, importation, or exportation of substances to a third person, this subparagraph shall not relieve the distributor, importer, or exporter from compliance with paragraph (1) or (2);

"(C) any distribution, importation, or exportation with respect to which the Attorney General determines that the reports or records required by paragraph (1) or the presentation of identification or certification required by paragraph (2) is not necessary for the enforcement of this subchapter; or

"(D) any distribution, importation, or exportation of any drug product which contains a listed substance and which can be lawfully marketed or distributed in the United States under the provisions of the Food, Drug, and Cosmetic Act.

"(b) It shall be unlawful for any person knowingly or intentionally—

"(1) to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any substance listed under subsection (d) unless the substance is imported for commercial, scientific, or other legitimate uses, and is imported pursuant to such notification or declaration requirements as the Attorney General may by regulation prescribe; and

"(2) to export from the United States to any other country a substance listed under subsection (d) unless there is furnished (before export) to the Attorney General documentary proof that exportation is not contrary to the laws or regulations of the country of destination for consumption for medical, commercial, scientific, or other legitimate purposes, and is exported pursuant to such notification or declaration requirements as the Attorney General may by regulation prescribe.

"(c) The Attorney General may by rule—

"(1) add substances to the list in subsection (d) if the Attorney General finds that—

"(A) such substance is a precursor or essential chemical which can be used to manufacture a controlled substance; and

"(B) such substance is being used in the manufacture of controlled substances in violation of this title; or

"(2) delete a substance listed in subsection (d) or added to the list by rule if the Attorney General finds that its listing no longer meets the criteria set forth in paragraph (1).

"(d) The provisions of this title shall apply to the following:

"(1) Precursor chemicals:

"(A) N-Acetylanthranilic acid.

"(B) Anthranilic acid.

"(C) Ergotamine tartrate.

"(D) Ergonovine maleate.

"(E) Phenylacetic acid.

"(F) Ephedrine.

"(G) Pseudoephedrine.

"(H) Benzyl cyanide.

"(I) Benzyl chloride.

"(J) Piperidine.

"(2) Essential chemicals:

"(A) Potassium permaganate.

"(B) Acetic anhydride.

"(C) Acetone.

"(D) Ethyl ether.

"(e) Any information which is reported to or otherwise obtained by the Attorney General under this section and which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) thereof shall be considered confidential and shall not be disclosed, except that such information may be disclosed to officers or employees of the United States concerned with carrying out this title or title III or when relevant in any proceeding for the enforcement of this title or title III or when necessary to meet United States treaty obligations.

"(f) For purposes of this title:

"(1) The term 'import' has the meaning given such term in section 1001 of title III (21 U.S.C. 951(a)(1)).

"(2) The term 'customs territory of the United States' has the meaning assigned to such term by section 1001 of title III (21 U.S.C. 951(a)(2)).

"(g)(1) No person may distribute, sell, import, export, or otherwise transfer to another person any commercial tableting machine or encapsulating machine unless the purchaser, recipient, transferee, or his agent presents to the distributor or supplier a certification of lawful use and identification to establish the identity of the recipient or purchaser (and any entity which the recipient or purchaser represents) of such a type as the Attorney General by regulation may establish.

"(2) Any person who distributes, sells, imports, exports, or otherwise transfers to another person any commercial tableting machine or encapsulating machine shall report the transfer to the Attorney General in such a form as the Attorney General may by regulation require. The Attorney General may require such information as the date of sale or transfer, name and address of transferee, purpose for which the machine is intended, and the serial numbers and make and model of the machine.

"(h) An interested person (by petition) or the Attorney General may initiate action to add or delete chemicals pursuant to subsection (c).".

SEC. 156. CRIMINAL PENALTIES.

(a) Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)(1)) is amended to read as follows:

"(d) Any person who knowingly or intentionally—

"(1) possesses any precursor chemical or essential chemical listed under section 310(d) with the intent to manufacture any controlled substance, except as authorized by this title;

"(2) possesses or distributes any precursor chemical or essential chemical listed under section 310(d), knowing or having reasonable cause to believe, that such chemical so possessed or distributed will be used to manufacture a controlled substance, except as authorized by this title;

"(3) manufactures, distributes, imports, or exports a precursor chemical or essential chemical listed under section 310(d) except as provided for by this title,

"(4) possesses any precursor chemical or essential chemical listed under section 310(d), with knowledge that the recordkeeping or reporting requirements of section 310(a) or regulations issued pursuant to section 310(a) have not been complied with, or

"(5) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310(a) of the regulations issued thereunder, receives or distributes a reportable amount of any chemical listed under section 310(d) in units small enough so that the making of records or filing of reports under section 310(a) is not required,

shall be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual, or both.".

(b) Section 402(a)(9) of the Controlled Substances Act (21 U.S.C. 842(a)(9)) is amended by—

(1) striking out "or sell piperidine" and replacing it with "a precursor chemical or essential chemical listed under section 310(d)"; and

(2) adding "or certification" after "identification".

(c) Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by striking out subparagraph (C).

(d) Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) in clause (4)(B) by striking out "piperidine" and inserting in lieu thereof "a precursor chemical or essential chemical listed under section 310(d)";

(2) in clause (4)(B) by adding "or certificate" after "identification" where it appears;

(3) in paragraph (4) by striking out "or" after the semicolon;

(4) in paragraph (5) by striking out the period and inserting in lieu thereof "; or"; and

(5) by adding the following paragraphs at the end thereof:

"(6) to possess any drug manufacturing equipment, tableting or encapsulating machines, or gelatin capsules with intent to manufacture a controlled substance except as authorized by this title; or

"(7) to manufacture, distribute, or import any drug manufacturing equipment, tableting or encapsulating machines, or gelatin capsules knowing, or having reasonable cause to believe, that they will be used to manufacture a controlled substance except as authorized by this title.".

(e) Section 403(c) of the Controlled Substances Act (21 U.S.C. 843(c)) is amended by adding at the end thereof the following: "In addition, any person convicted of a violation of this section or section 401 relating to the receipt, distribution, importation, or exportation of substances listed in section 310(d) shall be enjoined from conducting business activities involving such substances for a minimum of 10 years.".

(f) Section 1961(1) of title 18, United States Code, is amended by inserting "including precursor and essential chemicals (as defined in section 310 of the Controlled Substances Act)," after "dangerous drugs," each time it appears.

(g) Section 2516(1)(e) of title 18, United States Code, is amended by inserting "including precursor and essential chemicals (as defined in section 310 of the Controlled Substances Act)," after "dangerous drugs,".

SEC. 157. FORFEITURES.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881) is amended by adding a new paragraph (9) as follows:

"(9) All chemicals listed under section 310(d), all drug manufacturing equipment, all tableting or encapsulating machines, and all gelatin capsules, which have been imported, exported, manufactured, possessed, distributed, or intended to be distributed, in violation of this title, as well as all conveyances and equipment, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any way facilitate the transportation, distribution, receipt, possession, or concealment of precursor chemicals and essential chemicals, drug manufacturing equipment, tableting or encapsulating machines, or gelatin capsules, in violation of this title, except as provided for under subparagraphs (A) and (B) of paragraph (4).".

SEC. 158. DEFINITIONS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (11), by inserting after "a controlled substance" both places it appears the following: "or a precursor chemical or essential chemical listed under section 310(d)";

(2) in paragraph (8), by inserting "or a precursor chemical or essential chemical" after "a controlled substance"; and

(3) by adding at the end thereof the following new paragraphs:

"(33) The term 'precursor chemical' means a substance that may be used in the chemical process of manufacturing controlled substances and which is incorporated into the final product and is therefore critical to its manufacture.

"(34) The term 'essential chemical' means a substance that may be used in the chemical process of manufacturing controlled substances as a solvent, reagent, or catalyst.".

SEC. 159. TECHNICAL AMENDMENTS.

(a) Section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by adding "or precursor chemicals or essential chemicals" after "with respect to controlled substances".

(b) The table of sections for part C of the Controlled Substances Act is amended by striking out the item relating to section 310 and inserting the following in lieu thereof:

"310. Precursor chemicals and essential chemicals.".

SEC. 160. ACTIVE DEPARTMENT OF JUSTICE CONTROL PROGRAM.

The Attorney General shall maintain an active program, both domestic and international, to curtail the diversion of precursor chemicals and essential chemicals used in the illicit manufacture of controlled substances. This program shall include appropriate controls on the purchase, sale, import, and export of these chemicals and development of cooperative efforts with foreign drug control authorities.

SEC. 161. EFFECTIVE DATE.

This subtitle shall take effect 120 days after the date of enactment of this Act.

Subtitle D—Comprehensive Federal Law Enforcement Officer Improvements Act of 1988

SEC. 171. SHORT TITLE.

This subtitle may be cited as the "Comprehensive Federal Law Enforcement Officer Improvements Act of 1988".

SEC. 172. RESTORATION OF HAZARDOUS DUTY EARLY RETIREMENT OPTION UNDER FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

Section 8401(17)(B) of title 5, United States Code, is amended by striking out "for at least 10 years" and inserting in lieu thereof "for at least 3 years".

SEC. 173. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) Section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

(b) Section 1201(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42. U.S.C. 3796(a)(4)) is amended by striking out "dependent".

SEC. 174. DEFINITIONS.

As used in this section and sections 176, 177, and 178—

(1) the term "Commission" means the National Advisory Commission on Law Enforcement;

(2) the term "Commissioner" means a member of the National Advisory Commission on Law Enforcement; and

(3) the term "law enforcement officer" has the same meaning as provided in section 8401(17) of title 5, United States Code.

SEC. 175. ESTABLISHMENT AND PURPOSES OF THE NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT.

(a) There is established as an independent commission in the legislative branch of the United States a National Advisory Commission on Law Enforcement, which shall consist of the following members:

(1) four members of the United States Senate, two of whom shall be selected by the Majority Leader and two of whom shall be selected by the Minority Leader;

(2) four members of the United States House of Representatives, two of whom shall be selected by the Speaker and two of whom shall be selected by the Minority Leader;

(3) the Comptroller General of the United States, who shall also serve as Chairman of the Commission;

(4) the Director of the Office of Personnel Management;

(5) the Attorney General of the United States and three other officials of the Department of Justice who shall be designated by the Attorney General;

(6) the Secretary of the Treasury and two other officials of the Department of the Treasury who shall be designated by the Secretary of the Treasury;

(7) the Inspector Generals of three departments or agencies of the executive branch of the United States who shall be designated by the President of the United States; and

(8) three representatives from Federal employee groups to be selected by the Office of Personnel Management after consultation with the Speaker of the House and the Majority Leader of the Senate.

(b) The Commission shall study the methods and rates of compensation, including salary, overtime pay, and other benefits of law enforcement officers in all Federal agencies, as well as the methods and rates of compensation of State and local law enforcement officers in a representative number of areas where Federal law enforcement officers are assigned, in order to determine—

(1) the differences which exist among Federal agencies with regard to the methods and rates of compensation for law enforcement officers;

(2) the rational basis, if any, for such differences, considering the nature of the responsibilities of the law enforcement officers in each agency; the qualifications and training required to perform such responsibilities; the degree of personal risk to which the law enforcement officers in each agency are normally exposed in the performance of their duties; and such other factors as the Commission deems relevant in evaluating the differences in compensation among the various agencies;

(3) the extent to which inequities appear to exist among Federal agencies with regard to the methods and rates of compensation of law enforcement officers, based on consideration of the factors mentioned in paragraph (2) of this subsection;

(4) the feasibility of devising a uniform system of overtime compensation for law enforcement officers in all or most Federal agencies, with due regard for both the special needs of law enforcement officers and the relative cost effectiveness to the Government of such a system compared to those currently in use;

(5) how the salaries paid to Federal law enforcement officers compare to those of State and local officers in the same geographical area, especially those in "high cost-of-living" areas;

(6) the impact of the rates of compensation paid by various Federal agencies on the lifestyle, morale, and general well-being of law enforcement officers, including their ability to subsist;

(7) the recruiting and retention problems experienced by Federal agencies due to: inequities in compensation among such agencies; the differences between rates of compensation paid to Federal law enforcement officers and State and local officers in the same geographical areas; and other factors related to compensation; and

(8) the extent to which Federal legislation and administrative regulations may be necessary or appropriate to rectify inequities among Federal agencies in the methods and rates of compensation for law enforcement officers; to address the lack of uniformity among agencies with regard to overtime pay; to provide premiums or special rates of pay for Federal law enforcement officers in high cost-of-living areas; to ensure that the levels of compensation paid to Federal law enforcement officers will be competitive with those paid to State and local officers in the same geographical areas; and to address such other matters related to the determinations made under this subsection as the Commission deems appropriate in the interests of enhancing the ability of Federal agencies to recruit and retain the most qualified and capable law enforcement officers.

SEC. 176. POWERS OF THE COMMISSION.

(a) The Commission shall have the power to—

(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(2) enter into and perform, without regard to section 3324 of title 31, United States Code, such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(3) request such information, data, and reports from any Federal agency or instrumentality as the Commission may from time to time require and as may be produced consistent with other law; and

(4) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties.

(b) The Commission shall have such other powers as may be necessary to carry out its functions under this Act and may delegate to any member or designated person such powers as may be appropriate in the conduct of its functions.

(c) Upon the request of the Commission, each Federal agency is authorized and directed to make its resources, services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

(d) Each Commissioner may utilize the resources, services, equipment, personnel, information, and facilities of his or her Federal agency or, in the case of the Commissioners who are members of Congress, his or her congressional office, as may be necessary in the conduct of the Commissioner's respective functions as a member of the Commission.

(e) A simple majority of the Commissioners then serving shall constitute a quorum for the conduct of business by the Commission, and the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the Commissioners present.

(f) The Chairman of the Commission shall call and preside at meetings of the Commission, but the Chairman may delegate to any other Commissioner the authority to preside at meetings of the Commission.

SEC. 177. REPORT AND DISSOLUTION OF COMMISSION.

(a) Within 6 months following the date of enactment of this Act, the Commission shall prepare and deliver to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives, a written report setting forth—

(1) the findings and determinations made by the Commission pursuant to section 176(b); and

(2) specific proposals for such legislation and administrative regulations as the Commission has determined to be necessary or appropriate pursuant to section 176(b)(8).

(b) The Commission shall be terminated 60 days following submission of the report mandated by this section.

Subtitle E—Deportation of Convicted Foreign Drug Inmates

SEC. 182. SHORT TITLE.

This subtitle may be cited as the "Violent Criminal Alien Deportation Act".

SEC. 183. DEFINITIONS.

(a) The term "violent criminal alien" for purposes of this subtitle means any alien, including an alien crewman, who has been convicted and sentenced for an aggravated violent felony in a United States district court or in a court of record of any State, territory, possession, or in the District of Columbia.

(b) The term "aggravated violent felony" for purposes of this subtitle means (1) any offense, attempt, or conspiracy involving murder, assault and battery against a police officer, peace officer, or other law enforcement officer, kidnapping, arson, robbery, extortion, burglary, rape, forcible sodomy, or dealing in narcotic or other dangerous drugs which is chargeable under State law and punishable by imprisonment for more than one year; or (2) any offense or conspiracy to commit any offense which is indictable under any of the following provisions of the United States Code; 18 U.S.C. 111 (relating to assault on a Federal officer); 18 U.S.C. 351 (relating to assault of a Member of Congress, Cabinet officer, or Supreme Court Justice); 18 U.S.C. 891-894 (relating to extortionate credit transactions); 18 U.S.C. 1114 (relating to the homicide of a Federal law enforcement officer); 18 U.S.C. 1201 (relating to kidnapping); 18 U.S.C. 1751 (relating to the homicide of the President); 18 U.S.C. 1951, 1952, 1952A, and 1952B (relating to interference with commerce by threats or violence); 18 U.S.C. 2113 and 2118 (relating to robbery); 18 U.S.C. 2421-24 (relating to white slave traffic); subsections (i), (j), (k), and (l) of section 902 of the Federal Aviation Act of 1958 (relating to aircraft piracy); or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic or other dangerous drugs, including precursor and essential chemicals (as defined in section 310 of the Controlled Substances Act), punishable under any law of the United States.

SEC. 184. ADDITIONAL GROUNDS FOR DEPORTATION; GROUNDS FOR APPEAL.

(a) Notwithstanding any other provision of law, except section 243(h) of the Immigration and Nationality Act, any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported as a violent criminal alien if such alien has been convicted and sentenced in a United States district court or in a court of record of any State, territory, possession, or in the District of Columbia for an aggravated violent felony and such conviction and sentence shall revoke by operation of law the permanent resident status of any alien and such conviction and sentence shall serve as conclusive evidence of the deportability of any alien.

(b) Notwithstanding any other provision of law, the District Director of the Immigration and Naturalization Service for the district in which it appears that an alien was convicted and sentenced for an aggravated violent felony shall, on behalf of the Attorney General, issue and order of deportation for the alleged violent criminal alien which shall be effective as of the date of sentence.

(c) Notwithstanding any other provision of law, an order of deportation for an alleged violent criminal alien, in his native language, shall be personally served on the alleged violent criminal alien named therein. Said order of deportation shall be simply worded to inform the alleged violent criminal alien of at least the following information:

(1) the data and the court in which the subject of the order of deportation was convicted and sentenced for an alleged aggravated violent felony;

(2) a description, including the citation, of the crime alleged to be the aggravated violent felony;

(3) a notice that the order of deportation will become a final order of deportation unless the subject of the order petitions a United States district court to vacate the order of deportation within 30 days of its personal service on the alleged violent criminal alien; and

(4) an explanation of the procedure to vacate the order of deportation.

(d)(1) Notwithstanding any other provision of law, a person alleged to be a violent criminal alien may petition a United States district court to vacate an order of deportation on the grounds that he is a United States citizen and therefore not subject to an order of deportation, that he is not the person named in the order of deportation as having been convicted and sentenced for the aggravated violent felony which is the basis for the order of deportation, or that the conviction which is the basis for the order of deportation is not an aggravated violent felony as that term is defined in this Act.

(2) A petition to vacate an order of deportation by the person named therein as a violent criminal alien must set forth under oath the ground or grounds, set forth in subsection (a), upon which the alleged violent criminal alien seeks to vacate his order of deportation. If petitioner claims United States citizenship, he must allege the names of his natural mother and father and the date and place of his birth.

(3) A petition by an alleged violent criminal alien to vacate an order of deportation must be served on the United States Attorney for the judicial district in which the petition is filed. Within 30 days of service upon the appropriate United States Attorney, a reply shall be filed with the district court and served upon the alleged violent criminal alien or his attorney acknowledging or disputing, with appropriate documentary evidence, the ground or grounds alleged in the petition as the basis to vacate the order of deportation.

(4) Within 30 days of the service on the alleged violent criminal alien or his attorney of the reply of the United States Attorney, a United States district judge may conduct a hearing, without a jury, to resolve any disputed questions of fact as to whether the person alleged to be a violent criminal alien is a United States citizen, or as to whether the person who is the subject of the order of deportation was convicted and sentenced for an aggravated violent felony as that term is defined in this Act, or as to whether the crime alleged in the order of deportation is an aggravated violent felony as that term is defined in this Act. The burden of proof by a preponderance of the evidence is upon the petitioner to establish United States citizenship and the burden of proof by a preponderance of evidence is upon the United States to establish that the person named in the order of deportation is petitioner or that petitioner was convicted and sentenced for an aggravated violent felony, as that term is defined in this Act. The Federal Rules of Evidence shall apply to this hearing. At the conclusion of the hearing the United States district court must make a finding as to whether petitioner is a violent criminal alien and thus subject to deportation pursuant to this Act. If petitioner is adjudicated a violent criminal alien, the court shall issue a final order of deportation.

(5) Petitioner may appeal a final order of deportation, issued pursuant to this subtitle, to the appropriate United States court of appeals, and said order of deportation shall be stayed pending the decision and order of the court of appeals. The United States may appeal the vacatur of an order of deportation, issued pursuant to this subtitle, to the appropriate United States court of appeals.

(e) Notwithstanding any other provision of law, when the conviction and sentence of an aggravated violent felony, which served as the basis for the deportation of a person who had previously been lawfully admitted for permanent residence, is reversed by a United States district court or by a court of record of any State, territory, possession, or in the District of Columbia, the alien may petition the Attorney General from his native country for discretionary reinstatement of the status of an alien lawfully admitted for permanent residence.

(f) Nothing in this subtitle shall be construed as altering the authority of a special inquiry officer with respect to proceedings to determine the deportability of aliens other than violent criminal aliens.

SEC. 185. AMENDMENTS.

Section 276 of the Immigration and Nationality Act is amended—

(1) by striking out "Any alien" and inserting in lieu thereof "(a) Subject to subsection (b), any alien", and

(2) by adding at the end thereof the following:

"(b)(1) Notwithstanding subsection (a), in the case of any alien described in subsection (a)—

"(A) whose deportation was subsequent to a conviction for commission of a felony (other than an aggravated violent felony), such alien shall be punishable by imprisonment for not more than 5 years, or a fine of not more than $10,000, or both, or

"(B) whose deportation was subsequent to a conviction of commission of an aggravated violent felony, such alien shall be punishable by imprisonment for not more than 15 years and by a fine of not more than $20,000.

"(2) For purposes of this subsection, the term 'aggravated violent felony' is as defined in section 183(b) of the Violent Criminal Alien Deportation Act.".

Subtitle F—Customs Enforcement Amendments Act of 1988

SEC. 187. SHORT TITLE; AMENDMENTS.

(a) This subtitle may be cited as the "Customs Enforcement Amendments Act of 1988".

(b)(1) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 543" and inserting "section 545".

(2) Section 1822(c) of the Mail Order Drug Paraphernalia Control Act is amended by

striking out "upon conviction of a person for such violation".

SEC. 188. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) Section 431(c)(1)(G) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)(G)) is amended by striking out "or" and inserting in lieu thereof "of".

(b) Section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) is amended by—

(1) striking out the section heading and inserting in lieu thereof:

"SEC. 433. VESSELS, VEHICLES, AND AIRCRAFT REPORTING REQUIREMENTS.";

(2) striking out "ARRIVAL" and inserting in lieu thereof "REPORTING REQUIREMENTS" in the caption of subsection (c);

(3) redesignating the content of subsection (c) as subsection (c)(1); and

(4) inserting the following at the end of subsection (c)(1):

"(2) The pilot of any aircraft shall, prior to departing the United States, comply with such advance notification and reporting requirements as the Secretary may by regulation prescribe.".

(c) Section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) is amended by—

(1) inserting ", except for violations of section 433(c)(2)," after "listed in subsection (a)" in subsection (b); and

(2) inserting the following new subsection after subsection (d):

"(e) Any aircraft pilot who commits any violation of section 433(c)(2) of this Act, or any regulations promulgated thereunder, is liable for a civil penalty of $25,000 for the first violation, and $100,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.".

(d) Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497), is amended by striking out "200 percent " and inserting in lieu thereof "1,000 percent".

(e) Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end thereof the following new subsection:

"(i) For purposes of this section, the term 'authorized place' includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches;

"(2) with respect to a vessel—

"(A) the high seas if the vessel is—

"(i) a vessel of the United States as defined in section 3 of Public Law 96-350 (46 U.S.C. 1903) or section 3 of the Anti-Smuggling Act (19 U.S.C. 1703);

"(ii) a vessel registered in a foreign nation or a vessel with a foreign nationality where the flag state has consented or waived objection to boardings or examinations by United States officials; or

"(iii) a vessel without nationality or a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) or article 6 of the 1958 Convention on the High Seas; and

"(B) the territorial seas, internal waters, or contiguous zone of a foreign country, if that country consents to boardings or examinations by United States officials; and

"(3) with respect to aircraft to which this section applies by virtue of section 644 or section 1109 of the Federal Aviation Act (49 U.S.C. 1509) or regulations issued thereunder, any location in a foreign country at which United States customs officers are permitted to conduct inspections, examination, or searches.".

(f) Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended by—

(1) adding the following sentence at the end of subsection (a): "A declaration of forfeiture under this section shall have the same force and effect as a final decree and order of forfeiture in a judicial forfeiture proceeding in a United States District Court. Title shall be deemed to vest in the United States free and clear of any liens or encumbrances (except for first preferred ship mortgages pursuant to 46 U.S.C. 961) from the date of the act for which the forfeiture was incurred. Officials of the various States, insular, possessions, territories and commonwealths shall, upon application of the appropriate customs officer accompanied by a certified copy of the declaration of forfeiture, remove any recorded liens or encumbrances which apply to such property and issue or reissue the necessary certificates of title, registration certificates, or similar documents to the United States or to any transferee of the United States."; and

(2) by striking out "During the period beginning on October 30, 1984, and ending on September 30, 1987, the" in subsection (b) and inserting in lieu thereof "The".

(g) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) is amended by—

(1) inserting "is authorized to retain forfeited property for official use, or the Secretary" after "the Secretary of the Treasury"; and

(2) striking out "which participated directly in the seizure or forfeiture of the property" and inserting in lieu thereof "that cooperates with the United States Customs Service in joint law enforcement operations. The Secretary is also authorized to transfer forfeited property to foreign governments that cooperate with the United States Customs Service in joint law enforcement operations".

(h) Part V of title IV of the Tariff Act of 1930 is amended by inserting the following new section after section 619:

"SEC. 630. FINES IN CERTAIN CASES.

"Any person who is convicted of a criminal offense under any law administered or enforced by the Customs Service involving the Bank Secrecy Act (31 U.S.C. 5311-5322), Money Laundering (18 U.S.C. 1956 and 1957), or the Controlled Substances Act (21 U.S.C. 801 et seq.), shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, United States Code, except that this sentence shall not apply, and a fine under this section need not be imposed, if the court determines under the provision of title 18 of such Code that the defendant lacks the ability to pay.".

SEC. 189. THE STAMPING OF CONTROLLED SUBSTANCE VIOLATORS' PASSPORTS ACT OF 1988.

(a) The Secretary of State is authorized to make regulations prescribing procedures for indicating on passports and other travel documents issued by the United States, the fact that the holder has been convicted of an offense under a Federal or State law involving controlled substances, or has been assessed a fine or civil penalty or has incurred a forfeiture under any Federal or State law involving controlled substances as defined by section 102 of the Controlled Substances Act (21 U.S.C. 802(6)).

(b) Upon conviction of any violation of a Federal or State law involving controlled substances as defined by the Controlled Substances Act, or any criminal violation of the Bank Secrecy Act (31 U.S.C. 5311-5322), or Money Laundering Act (18 U.S.C. 1956 and 1957), the Secretary of State shall revoke violators passports and other travel documents.

(c) A person whose passport or other travel documents shall have been revoked under subsection (b) of this section for an offense constituting a felony, shall not be eligible to receive a passport or other travel documents for 10 years from the date of the conviction of the crime resulting in revocation. A person whose passport or other travel documents shall have been revoked under subsection (b) of this section for an offense constituting a misdemeanor, shall not be eligible to receive a passport or other travel documents for 5 years from the date of the conviction of the crime resulting in revocation.

(d) No passport or other travel document shall be issued to a person who has been convicted of a Federal or State felony involving controlled substances as defined by the Controlled Substances Act or any criminal violation of the Bank Secrecy Act (31 U.S.C. 5311-5322), or Money Laundering Act (18 U.S.C. 1956 and 1957), during the 20-year period prior to the application. No passport or other travel document shall be issued to a person who has been convicted of a Federal or State offense constituting a misdemeanor involving controlled substances as defined by the Controlled Substances Act or any criminal violation of the Bank Secrecy Act (31 U.S.C. 5311-5322), or Money Laundering Act (18 U.S.C. 1956 and 1957), during the 5-year period prior to the application.

SEC. 190. AMENDMENT TO THE TARIFF ACT OF 1930.

Part V of title IV of the Tariff Act of 1930 is amended by inserting the following new section after section 630:

"SEC. 631. OATHS AND SUBPENAS.

"(a) IN GENERAL.—For the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of any law relating to the importation or exportation of any prohibited merchandise, the Secretary of the Treasury may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents, and tangible things which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing distant more than 100 miles from the place where he was served with subpena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Oaths and affirmations may be made at any place subject to the jurisdiction of the United States.

"(b) SERVICE OF SUBPENAS.—A subpena of the Secretary of the Treasury may be served by any person designated in the subpena to serve it. Service upon a natural person may be made by personal delivery of the subpena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) Orders To Compel Compliance.—In the case of contumacy by, or refusal to obey a subpena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or of which the subpenaed person is an inhabitant, carries on business, or may be found, to compel compliance with the subpena of the Secretary of the Treasury. The court may issue an order requiring the subpenaed person to appear before the Secretary of the Treasury there to produce records, if so ordered, or to give testimony touching the matter under investigation, and pay the costs of the proceeding. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the subpenaed person is an inhabitant or wherever he may be found.".

SEC. 191. AMENDMENT TO TITLE 18, UNITED STATES CODE.

(a) Section 1961(1)(B) of title 18, United States Code, is amended by inserting "section 545 (relating to smuggling)" immediately after "relating to counterfeiting),".

(b) Section 1961(1)(D) of title 18, United States Code, is amended by striking out "or" immediately after the last comma.

(c) Section 1961(1) of title 18, United States Code, is amended by inserting immediately before the semicolon at the end thereof a comma and the following new clauses: "(F) any act which is indictable under section 38 of the Foreign Military Sales Act (relating to the illegal exportation of munitions) (22 U.S.C. 2778), (G) any act which is indictable under section 11 of the Export Administration Act of 1979 (relating to the illegal exportation of merchandise) (50 U.S.C. Appendix 2410), or section 3 of the Trading With the Enemy Act (relating to criminal violations), or (H) any act which is indictable under section 203 of the International Emergency Economic Powers Act (relating to criminal sanctions) (50 U.S.C. 1702)".

(d) Subsection (f) of section 1109 of the Federal Aviation Act of 1958 is amended by adding the following sentence to the end thereof:

"Any person who violates this subsection or any regulation promulgated thereunder shall be subject to a civil penalty of $10,000, and any aircraft for which a report required under this subsection or any regulation promulgated thereunder is not filed, or is filed with material false statements or omissions, shall be subject to seizure and forfeiture as provided for in the Customs laws.".

Subtitle G—Authorization of Additional Appropriations for Drug Enforcement Personnel, Fiscal Year 1989

SEC. 192. UNITED STATES COAST GUARD DRUG INTERDICTION PERSONNEL ENHANCEMENT.

(a) There is authorized to be appropriated for Operating Expenses of the Coast Guard for fiscal year 1989, $45,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriations shall be used to increase Coast Guard drug enforcement personnel by no less than 800 full-time equivalent positions over personnel levels onboard in the Coast Guard as of September 30, 1988.

(b) Nothing in this section shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

SEC. 193. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Customs Service for fiscal year 1989, $30,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his budget presented to the Congress on February 18, 1988, or appropriated in any regular appropriations Act or continuing resolution for the fiscal year ending on September 30, 1989: *Provided further*, That such additional appropriation shall be used to increase drug enforcement personnel at the Customs Service by no fewer than 600 full-time equivalent positions over the level of such personnel onboard at the Customs Service as of September 30, 1988, and for related equipment.

SEC. 194. IMMIGRATION AND NATURALIZATION SERVICE/BORDER PATROL DRUG INTERDICTION PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $20,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his budget presented to the Congress on February 18, 1988, or appropriated in any regular appropriations Act or continuing resolution for the fiscal year ending on September 30, 1989: *Provided further*, That such additional appropriation shall be used to increase drug interdiction officers of the Border Patrol by no fewer than 500 full-time equivalent positions over the level of such personnel onboard at the Border Patrol as of September 30, 1988, and for related equipment: *Provided further*, That of these additional personnel, 90 shall be for drug interdiction support personnel and 10 for Border Patrol drug education officers.

SEC. 195. IMMIGRATION AND NATURALIZATION SERVICE/CRIMINAL INVESTIGATOR PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses for the Immigration and Naturalization Service for fiscal year 1989, $3,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriations shall be used to increase the number of criminal investigator full-time equivalent positions by 50 over such personnel levels onboard at the Service as of September 30, 1988, and for related equipment.

SEC. 195A. ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE, NEW YORK CITY PILOT PROJECT AND REPORT.

(a) There is authorized to be appropriated to the Immigration and Naturalization Service in the Department of Justice for fiscal year 1989, $16,100,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided*, That such additional appropriation shall be used to increase the commitment of Immigration and Naturalization Service personnel to the Organized Crime Drug Enforcement Task Force (OCDETF) in New York City, by 175 Senior Special Agent and support positions; and for associated training and equipment; and for costs incurred during INS agent participation in OCDETF operations with other Federal, State, and local law enforcement agencies.

(b) The aforementioned positions shall, under the supervision of a director for the pilot project, be used exclusively to assist Federal and local law enforcement agencies in combatting illegal alien involvement in drug trafficking and crimes of violence.

(c) The director of the pilot project shall report to the Assistant Commissioner—Investigations and will have the authority to—

(1) hire a limited number of non-Federal law enforcement officers with substantive experience in narcotics investigations should insufficient senior Federal agents be available. Non-Federal law enforcement officers hired under this provision may be over the age of 35, but in that event would only be eligible for nonlaw enforcement retirement benefits.

(2) grant extensions of stay and other discretionary immigration benefits and waivers to witnesses, informants, and others whose presence in the United States is essential to the investigation and prosecution of criminal aliens involved in drug trafficking and crimes of violence.

(d) After the first year of the establishment of this pilot project the Attorney General will provide for an evaluation of its effectiveness, including an assessment by Federal local prosecutors and enforcement agencies.

SEC. 196. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS ARMED CAREER CRIMINAL APPREHENSION PROGRAM PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Bureau of Alcohol, Tobacco, and Firearms for fiscal year 1989, $8,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used to increase the number of Armed Career Criminal Apprehension enforcement personnel at the Bureau by no less than 130 fulltime equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988, and for related equipment: *Provided further*, That an additional 10 fulltime equivalent positions shall be used to establish a Bureau of Alcohol, Tobacco, and Firearms Drug Education officers program: *Provided further*, That of the amount authorized to be appropriated by this section, $750,000 shall be available for (1) the equipping for law enforcement functions of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in joint law enforcement operations with the Bureau of Alcohol, Tobacco, and Firearms, and (2) the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 197. DRUG ENFORCEMENT ADMINISTRATION PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Drug Enforcement Administration for fiscal year 1989, $60,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase Drug Enforcement Administration enforcement personnel by no less than 224 fulltime equivalent positions over personnel levels onboard at the Drug Enforcement Administration as of September 30, 1988, and for related equipment and drug enforcement operations: *Provided further,* That of these additional positions, 5 fulltime positions shall be used to establish a Drug Enforcement Administration Drug Education officers program.

SEC. 198. FEDERAL BUREAU OF INVESTIGATION DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Federal Bureau of Investigation for fiscal year 1989, $38,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase the number of drug enforcement agents at the Bureau by no less than 400 fulltime equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988, and for related equipment and drug enforcement operations: *Provided further,* That of these additional positions, 5 fulltime positions shall be available to establish a Federal Bureau of Investigation Drug Education officers program at the Bureau.

SEC. 198A. U.S. MARSHALS SERVICE DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the U.S. Marshals Service for the fiscal year 1989, $73,800,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used as follows:

(1) $11,500,000 for 230 fulltime equivalent positions for asset seizure and forfeiture activities;

(2) $30,700,000 for 20 fulltime equivalent positions, including $20,000,000 for Cooperative Agreement Program renovation projects, and $10,000,000 for maintenance of Federal cell block areas with upgraded security equipment;

(3) $10,000,000 for 188 fulltime equivalent positions for criminal justice support activities, including prisoner production and transportation;

(4) $6,200,000 for 104 fulltime equivalent positions for protection of the Federal judiciary and court facilities resulting from increased drug-related trials;

(5) $4,600,000 for 60 fulltime equivalent positions for increased workloads of the Marshals Service Witness Security Program; and

(6) $10,800,000 for 139 fulltime equivalent positions for increased narcotics-related investigation and arrest of fugitives in the United States and foreign countries.

SEC. 198B. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated in fiscal year 1989 to the buildings and facilities account, Federal Prison System, Department of Justice, $200,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used for planning; acquisition of sites, construction of new facilities; purchase; leasing and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, to alleviate overcrowding in existing prisons and to meet the increased demand for prison space resulting from drug-related offenses.

SEC. 198C. UNITED STATES ATTORNEYS DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the United States Attorneys, Department of Justice for fiscal year 1989, $10,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase the number of United States Attorneys, including related support staff by no fewer than 200 fulltime equivalent positions over such personnel levels onboard at the Department of Justice as of September 30, 1988.

Subtitle H—Miscellaneous Law Enforcement Provisions

SEC. 199. REWARDS FOR FUGITIVE CAPTURE.

Section 3059 of title 18, United States Code, is amended by inserting the following new subsection after subsection (b):

"(c) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 for the capture, or for assisting in or furnishing information leading to the capture, of an escaped Federal prisoner under section 751 of this title, or any person who has violated either section 3146 (bond default), 4213 (parole violation), or 3606 (probation violation), of this title, to be appropriated and expended in the discretion of, and upon such conditions as may be imposed by, either the Director of the United States Marshals Service or the Director of the Bureau of Prisons, as the case may be, pursuant to regulations promulgated by the Attorney General. Not more than $10,000 shall be expended in connection with the capture of any one person.".

SEC. 199A. PROHIBITION OF DANGEROUS WEAPONS IN FEDERAL COURTHOUSES.

(a) It shall be unlawful for any person to carry or project into, possess within, or cause to be present within any Federal courthouse any firearm, dangerous weapon, explosive, or incendiary device.

(b) Any violation of subsection (a) of this section, or any attempt to commit any such violation, shall be a felony punishable by a fine not exceeding $5,000, or imprisonment not exceeding 5 years, or both.

(c) Any firearm, ammunition, dangerous weapon, explosive, or incendiary device involved in or used or intended to be used in any violation of the provisions of this section shall be subject to seizure and forfeiture in accordance with all applicable provisions of Federal law.

(d) Notice to the effect of subsections (a), (b), and (c) of this section shall be posted conspicuously by the United States Marshal at one or more public entrances to each Federal courthouse.

(e) Nothing in this section shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt; nor shall anything in this section interfere with or limit in any way the power of a court of the United States to promulgate rules or orders regulating, restricting or prohibiting the possession or carrying of weapons within any building, or upon the grounds appurtenant thereto, housing such court or any of its proceedings.

(f) Nothing contained in this section shall be deemed to prohibit or render unlawful any act performed in the lawful discharge of the official duties of a law enforcement officer of the Federal Government or any State or political subdivision thereof.

(g) DEFINITIONS.—As used in this section—

(1) The term "dangerous weapon" includes all articles enumerated and included within the definition of "dangerous weapon" set forth in section 16(a) of the Act of July 31, 1946 (40 U.S.C. 193m).

(2) The term "explosive" shall have the same meaning as when used in section 841 of title 18, United States Code.

(3) The term "Federal courthouse" means a building which houses a court of the United States or is the site of a proceeding before a judge or court of the United States, a United States Magistrate, a bankruptcy judge, or a Federal grand jury.

(4) The term "firearm" shall have the same meaning as when used in section 921(a)(3) of title 18, United States Code.

SEC. 199B. SUPPORT OF UNITED STATES PRISONERS IN NON-FEDERAL INSTITUTIONS.

Chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 4013. SUPPORT OF UNITED STATES PRISONERS IN NON-FEDERAL INSTITUTIONS.

"(a) The Attorney General or his designee, in support of United States prisoners in non-Federal institutions, is authorized to make payments from appropriations available to the United States Marshals Service, without limitation as to fiscal year, for—

"(1) necessary clothing;

"(2) medical care and necessary guard hire;

"(3) payment of rewards for assistance in the capture or information leading to the capture of a Federal fugitive;

"(4) the housing, care and security of persons held in custody of the U.S. Marshal pursuant to Federal law under agreements with State or local units of government or contracts with private entities; and

"(5) entering into contracts or cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for Federal detainees within that correctional system, in accordance with regulations issued by the Attorney General and which are comparable to the regulations issued under section 4006 of this title, except that amounts made available for this purpose shall not exceed the average per-inmate cost of constructing similar confinement facilities for the Federal prison population: *And provided further,* That the availability of such federally assisted facility shall be assured for housing Federal prisoners and the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs or other conditions specified in the contract or cooperative agreement."

SEC. 199C. AUTHORIZATION OF APPROPRIATIONS FOR PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION.

There are hereby authorized to be appropriated for the President's Media Commission on Alcohol and Drug Abuse Prevention the following amounts:

(1) $1,000,000 for the fiscal year ending September 30, 1989;

(2) $1,000,000 for the fiscal year ending September 30, 1990; and

(3) $1,000,000 for the fiscal year ending September 30, 1991.

TITLE II—INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

Subtitle A—International Drug Eradication Improvement Program

SEC. 201. DRUG SOURCE COUNTRY ERADICATION IMPROVEMENT ACT OF 1988.

(a) There is established within the Department of State under the Office of International Narcotics Matters an International Special Operations Drug Eradication Squadron (hereafter in this subtitle known as the "Squadron") to be deployed to increase the eradication of drugs in drug source countries.

(b) The purpose of the Squadron established in subsection (a) under this subtitle is—

(1) to provide special assistance to drug source countries who request drug eradication assistance from the United States; and

(2) to participate in joint international drug eradication operations in drug source countries where one or more of the participating nations have specifically requested the assistance of the United States in such operation.

(c) There is authorized to be appropriated for fiscal year 1989, $12,000,000 for the International Narcotics Matters program at the Department of State for the procurement of helicopters, fixed wing aircraft, other related equipment; operation and maintenance for such helicopters and aircraft; and salaries and expenses for fulltime personnel of the Squadron established in subsection (a) of this section: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his budget presented to the Congress on February 18, 1988, or appropriated in any regular appropriations Acts or continuing resolutions for the fiscal year ending on September 30, 1989, or as authorized in section 230 of subtitle D of this title.

(d) The Secretary of State shall establish strict criteria guidelines and procedures which shall govern a decision by the United States to deploy the Squadron established under subsection (a) of this section in support of any drug source nation requesting the assistance of the United States Government in drug eradication operations. Such criteria shall include, but not limited to, the following:

(1) the level of cooperation offered by the drug source country to the United States in eradicating drugs, and conducting other drug enforcement operations;

(2) the record of unilateral action taken by the drug source country to eradicate drugs from their soil; and

(3) the evidence exhibited by such drug source country that it intends to maintain a continuing unilateral drug eradication program upon completion of the drug eradication operation deploying the Squadron established in subsection (a) of this section.

Subtitle B—International Narcotics Matters Improvement and Special Assistance Programs

SEC. 211. ECONOMIC ASSISTANCE INCENTIVE PROGRAM.

(a) There is established under the Agency for International Development (A.I.D.) a special economic assistance incentive grant program to provide direct, nonmilitary, economic assistance to drug source countries that meet specific, proscribed coca leaf, marijuana, and opium eradication goals during fiscal years 1989, 1990, and 1991.

(b) In order for a drug source country to be eligible for the special economic assistance grants authorized in subsection (a), such country must achieve a verifiable 15 percent reduction in the national coca leaf crop acreage, a verifiable 15 percent reduction in the national marijuana crop acreage, and a verifiable 15 percent reduction in the national opium crop acreage in the year preceding the first fiscal year for which such grant assistance is authorized, and a verifiable 40 percent reduction in the national coca leaf, marijuana, or opium crop acreage over the period of fiscal year 1989 to fiscal year 1991. Identification of total aggregate national coca leaf, marijuana, or opium acreage production during a given year, shall be determined by the Drug Enforcement Administration of the Department of Justice and shall serve as the baseline from which a country's drug eradication efforts shall be measured. The Drug Enforcement Administration shall also be tasked by the Attorney General of the United States to verify the eradication effort put forth by such drug source countries as the basis for determining whether or not such country has met the eligibility requirements for the economic assistance authorized in subsection (a). The Administrator of the Drug Enforcement Administration shall make his assessment of baseline drug production and his determinations of drug source country eligibility for economic assistance grants under subsection (a) in a timely fashion and consistent with the best available technology to determine both the baseline production levels from which the eradication effort of drug source countries shall be measured, and the verified eradication initiative taken by such drug source countries. Both the baseline production levels and the verification of drug eradication in drug source countries shall be reported to the appropriate committees of the Congress in a timely fashion.

(c) There is authorized to be appropriated to the Agency for International Development for each of the fiscal years 1989, 1990, and 1991, $200,000,000, such amounts to remain available until expended: *Provided,* That of this annual amount up to 5 percent per fiscal year may be used for administration of the grant program, including transfers to the Drug Enforcement Administration to cover their costs in implementing the program goals and objectives.

(d) The Comptroller General of the United States shall monitor the economic assistance incentive grant program established under subsection (a) and funded under subsection (c) of this section and report periodically to the Congress regarding the management of and allocation of grant funds under the program.

(e) At the start of fiscal year 1991, a panel consisting of the Attorney General of the United States or his designee; the Secretary of State; the Director of the Agency for International Development; and appropriate representatives of the House and Senate, designated by the Speaker of the House of Representatives and the Majority Leader of the Senate, respectively, shall be convened by the Director of the Agency for International Development to consider whether or not the economic assistance incentive grant program established in this section should be continued beyond fiscal year 1991 and if it is determined that the program should be continued, make legislative and administrative recommendations for improvements in the program, including proposed funding levels for the program in subsequent fiscal years.

Subtitle C—Amendments to Foreign Assistance Act of 1961, as amended

SEC. 220. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

Subsection 481(h)(3) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(3) In making the certification required by paragraph (2) of this subsection, the President shall consider whether such government—

"(A) has taken actions that have resulted in maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4);

"(B) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances significantly affecting the United States;

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related monies, as evidenced by—

"(i) the enactment and enforcement of laws prohibiting such conduct,

"(ii) the willingness of such government to enter into mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts;

"(D) as a matter of government policy, encourages or facilitates the production or distribution of illegal drugs;

"(E) consists of any senior official who engages in, encourages, or facilitates the production or distribution of illegal drugs;

"(F) has investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has suffered or been threatened with violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and has energetically sought to bring the perpetrators of such offense or offenses to justice; and

"(G) having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country.

The International Narcotics Control Strategy Report shall describe for each country listed under subparagraphs (D) through (G) the activities and identities of officials whose activities caused such country to be so listed.".

Subtitle D—International Narcotics Matters Authorization of Appropriations

SEC. 230. AUTHORIZATIONS OF APPROPRIATIONS.

Section 482(a) of the Foreign Assistance Act of 1961 is amended by striking out paragraphs (1) and (3) and by inserting the following new paragraph (1) after "(a)":

"(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $138,000,000 for fiscal year 1989 and $150,000,000 for fiscal year 1990.".

SEC. 231. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $500,000 of the funds made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 232. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

(a) Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), $900,000 for each of the fiscal years 1989 and 1990 shall be made available to arm, for defensive purposes, aircraft used in narcotic control eradication or interdiction efforts. These funds may only be used to arm aircraft already in the inventory of the recipient country, and may not be used for the purchase of new aircraft.

(b) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

SEC. 233. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) Not less than $2,000,000 of the funds made available for each of the fiscal years 1989 and 1990 to carry out chapter 5 of part II of the Foreign Assistance Act (relating to international military education and training) shall be available only for—

(1) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts for countries in Latin America and the Caribbean; and

(2) the expenses of deploying, upon the request of the government of a foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individuals and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(b) Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (relating to international narcotics control).

(c) Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (relating to police training).

SEC. 234. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

(a) Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 486. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"(a) ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—If any funds authorized to be appropriated for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 481(h) or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(1) INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

"(2) SECURITY ASSISTANCE.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional security assistance for those countries.

"(b) DEFINITION OF SECURITY ASSISTANCE.—As used in this section, the term 'security assistance' means assistance under chapter 2 of part II of this Act (relating to the military assistance program), chapter 4 of part II of this Act (relating to the Economic Support Fund), chapter 5 of part II of this Act (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales credits).".

(b) The amendment made by subsection (a) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 235. ASSISTANCE FOR BOLIVIA.

For fiscal year 1989, assistance may be provided for Bolivia under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961 and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing) only if the President certifies to the Congress that the Government of Bolivia has enacted legislation that will—

(1) establish its legal coca requirements,

(2) provide for the licensing of the number of hectares necessary to produce the legal requirement,

(3) make unlicensed coca production illegal, and

(4) make possession and distribution of coca leaf illegal (other than for licit purposes).

SEC. 236. ASSISTANCE FOR MEXICO.

(a) Of the amounts made available for each of the fiscal years 1989 and 1990 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not more than $20,000,000 may be made available for Mexico.

(b) Of the funds allocated for assistance for Mexico for each of those fiscal years under that chapter, $1,000,000 shall be withheld from expenditure until the President reports to the Congress that the Government of Mexico—

(1) has fully investigated the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar;

(2) has fully investigated the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior; and

(3) has brought to trial and is effectively prosecuting those responsible for those murders and those responsible for that detention and torture.

SEC. 237. COOPERATIVE NONMAJOR DRUG-TRANSIT COUNTRIES.

(a) The Congress directs the Assistant Secretary of State for International Narcotics Matters to give greater attention, and provide more narcotics control assistance, to those countries which are drug-transit countries but are not major drug-transit countries (as defined in section 481(i)(5) of the Foreign Assistance Act of 1961) and which are cooperating with the United States in its international narcotics control efforts.

(b) Of the amounts made available for each of the fiscal years 1989 and 1990 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not less than $5,000,000 shall be available only for assistance to countries described in subsection (a).

SEC. 238. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President $1,000,000 for each of the fiscal years 1989 and 1990 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which amount shall be used pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

SEC. 239. DEVELOPMENT OF MODEL TREATIES AND COMPREHENSIVE ANTIDRUG LAWS.

The Secretary of State and the Attorney General shall jointly develop a model extradition treaty with respect to narcotics-related violations (including extradition of host country nationals), a model mutual legal assistance treaty, and model comprehensive anti-narcotics legislation. The Secretary of State shall distribute such treaties and legislation to each United States mission abroad. The Secretary of State shall report to the Congress, not later than six months after the date of enactment of this Act, on actions taken to carry out this section.

SEC. 240. REPORTING ON TRANSFER OF UNITED STATES ASSETS.

Any transfer by the United States Government to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics related criminal activity shall be subject to the regular reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961. At the end of each fiscal year, the President shall submit a report to the Congress of all such transfers during that fiscal year, including an estimate of the fair market value and physical condition of each item of property transferred.

SEC. 241. IMPORTANCE OF SUPPRESSING INTERNATIONAL NARCOTICS TRAFFICKING.

Section 481(a)(1) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) suppression of international narcotics trafficking is among the most important foreign policy objectives of the United States;".

SEC. 242. INFORMATION FROM OTHER AGENCIES IN ANNUAL NARCOTICS CONTROL REPORTS.

Section 481(e)(3) of the Foreign Assistance Act of 1961 is amended by adding after subparagraph (D) the following:

"(E) A section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year.".

SEC. 243. EXPRESSION IN NUMERICAL TERMS OF MAXIMUM ACHIEVABLE REDUCTIONS IN ILLICIT DRUG PRODUCTION.

Section 481(e)(4) of the Foreign Assistance Act of 1961 is amended by inserting after the second sentence the following: "Each determination of the President under the preceding sentence shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.".

SEC. 244. REPORTS ON ASSISTANCE DENIED.

Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(7) Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.".

Subtitle E—Latin American Antidrug Strike Force

SEC. 250. SENSE OF THE CONGRESS.

It is the sense of Congress that—

(1) the operations of international illegal drug smuggling organizations pose a direct threat to the national security of the member states of the Organization of American States;

(2) illegal international drug smuggling organizations have grown so large and powerful that they threaten to overwhelm small nations standing alone against them;

(3) to preserve the national sovereignty, protect the public health, and maintain domestic law and order within their borders, member states of the Organization of American States should coordinate their efforts to fight the illegal drug trade;

(4) recent events in drug source and transit countries in the Western Hemisphere make clear the requirement for international agreement on the formation of a multinational strike force intended to conduct operations against these illegal drug smuggling organizations;

(5) the United States should make every effort to initiate diplomatic discussions through the Organization of American States or through other bilateral or multilateral fora aimed at achieving agreement to establish and operate the Latin American Antidrug Strike Force; and

(6) sensitive to the legitimate concerns of other member states of the Organization of American States, the United States stands ready to provide equipment, training, and financial resources to support the establishment and operation of this Strike Force, but believes that Strike Force personnel should be provided by those states facing the most serious threat from drug trafficking organizations.

SEC. 251. DEPARTMENT OF STATE.

(a) In the Office of Secretary of State, the position of Ambassador at Large and Coordinator for Western Hemisphere Antidrug Efforts is created. The Ambassador shall be appointed by the President, with the advice and consent of the Senate, and shall be the principal advisor to the Secretary regarding United States antidrug efforts in the Western Hemisphere.

(b)(1) The Ambassador at Large, under the direction of the Secretary of State, shall coordinate the efforts of all United States bureaus and agencies involved in antidrug efforts and subject to the authority of the Chief of Diplomatic Mission in all foreign states in the Western Hemisphere, with special emphasis on those activities which cross one or more national borders.

(2) The Ambassador shall from time to time report on the effectiveness of the operations of and the level of cooperation among these United States bureaus and agencies involved in antidrug efforts to the Secretary of State and to the Chairman of the National Drug Policy Board.

(3) The Ambassador at Large shall be a member of all interagency groups below the cabinet level with authority or oversight over United States international drug policy or operations.

(c)(1) The Ambassador at Large shall undertake, under the direction of the Secretary of State, diplomatic discussions with member states of the Organization of American States aimed at securing agreement to the formation of a multinational strike force intended to conduct operations against international illegal drug trafficking organizations wherever they may be found in the Western Hemisphere.

(2) The multinational strike force shall be established by treaty or executive agreement among the participating states.

(3) The Ambassador at Large shall seek to secure participation in the strike force by those Western Hemisphere states most threatened by international illegal drug trafficking organizations.

(4) Recognizing the urgency of the situation, efforts to obtain agreement to the establishment of the strike force should be the immediate focus of a priority effort by the Ambassador at Large.

(5) Not later than six months after the Ambassador at Large assumes office, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the progress United States diplomatic efforts have made toward achieving agreement on the establishment of the multinational strike force.

SEC. 252. DEPARTMENT OF DEFENSE.

(a)(1) The Secretary of Defense shall develop a plan for the establishment, training, equipping, and operation of a multinational strike force for operations against international drug trafficking organizations wherever they are found outside the United States and its territories in the Western Hemisphere.

(2) The Joint Chiefs of Staff, in consultation with the Commander, United States Southern Command, shall develop a table of organization and equipment for a multinational strike force sized and equipped to deal with any combination of armed resistance any Western Hemisphere international illegal drug trafficking organization could offer to any combination of drug eradication, drug interdiction, or criminal apprehension operations the strike force could be called upon to undertake anywhere in the Western Hemisphere.

(3) For planning purposes, the multinational strike force shall be equipped entirely with United States-produced military or commercially available equipment.

(4) The Joint Chiefs of Staff shall develop a plan for employment of this strike force to eradicate the major coca and marijuana crop concentrations in the Western Hemisphere, to interdict the major international transportation corridors through which the illegal drug traffic moves, and to arrest the members of the major international drug trafficking organizations involved in producing, transporting, and distributing illegal drugs in the Western Hemisphere, as part of coordinated operations designed to drastically and immediately reduce the supply of cocaine, opium, and marijuana on the international market.

(b)(1) The Secretary of Defense shall develop budget-quality estimates of the cost of establishing, equipping, training, and operating the strike force planned for under subsection (a) above for the balance of fiscal year 1989; for fiscal year 1990; and for fiscal year 1991.

(2) The Secretary of Defense shall identify equipment and supplies in the United States inventory which can be provided to this strike force pursuant to the table of organization and equipment developed by the Joint Chiefs of Staff under subsection (a) above.

(3) The Secretary of Defense shall identify training resources in the United States which will be necessary to properly train the strike force, shall develop schedules for training the national strike force developed by the Joint Chiefs of Staff under subsection (a) above, and shall develop cost estimates for transporting, training, and housing strike force personnel and their dependents in conjunction with their training.

(4) The cost estimates and plans developed under section 252 of this subtitle shall be provided to the Committees on the Budget, the Committees on Armed Services and the Committees on Appropriations, of the Senate and the House of Representatives, and the Select Committee on Narcotics Abuse and Control of the House of Representatives, and the Senate International Narcotics Control Caucus not later than ninety days after the enactment of this subtitle into law.

(c) The Assistant Secretary of Defense for International Security Affairs shall develop a plan for funding and supporting the multinational strike force developed under subsection (a) through the Defense Security Assistance Agency.

(d) Within 120 days of enactment of this Act, the President of the United States shall submit to Congress a supplemental budget request for the fiscal year ending September 30, 1989, covering the cost of operation and maintenance of the Latin American Strike Force established in this subtitle for the balance of the fiscal year: *Provided further,* That such supplemental budget request shall be consistent with the cost estimates mandated under subsection (b)(1) of this section.

TITLE III—DRUG INTERDICTION ASSET IMPROVEMENT AND ENHANCEMENT

SEC. 301. SHORT TITLE.

This title may be cited as the "National Drug Interdiction Asset Improvement and Enhancement Act of 1988".

Subtitle A—Coast Guard

SEC. 310. COAST GUARD DRUG INTERDICTION ENHANCEMENT.

There is authorized to be appropriated for Acquisition, Construction, and Improvement expenses of the Coast Guard for fiscal year 1989, $186,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such appropriation authorized under this subtitle shall be allocated only for procurement of marine and air drug interdiction assets, including long-range AEW surveillance aircraft, and operation and maintenance expenses of the Coast Guard.

Subtitle B—United States Customs Service

SEC. 320. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION ENHANCEMENT.

(a) There is authorized to be appropriated for Operation and Maintenance, Air Interdiction Program for fiscal year 1989, $110,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be available for the procurement of helicopters; air detection, tracking, and interceptor aircraft; command, control, communications, and intelligence (C3I) upgrades for joint Customs-Coast Guard and other C3I centers under construction; and operation and maintenance expenses for these and other assets of the United States Customs Service's air interdiction program.

(b) There is authorized to be appropriated for salaries and expenses for fiscal year 1989, $15,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used for the procurement, operation, and maintenance of marine interdiction vessels, and joint command centers, evaluations of new marine detection technologies, and other marine interdiction assets of the United States Customs Service.

Subtitle C—Department of Defense Drug Interdiction Assistance

SEC. 330. SHORT TITLE.

This subtitle may be cited as the "Department of Defense Drug Interdiction Assistance Act of 1988".

SEC. 331. AUTHORIZATION.

(a) Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 1989 for enhancement of drug interdiction assistance activities of the Department as follows:

(1) for procurement of four radar aerostats, $75,000,000;

(2) for operation and maintenance of E-2C, E-3, and other aircraft surveillance; detection; and flight hour support for drug interdiction purposes only, $15,000,000; and

(3) for operation, maintenance, refurbishment, and support of existing surplus Department of Defense aircraft, helicopters, and other assets to be used to support requests for assistance by cooperating, drug source countries, as outlined in title II, subtitle E of this Act, $10,000,000.

(b) The funds authorized to be appropriated in subsection (a) of this section shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

(c)(1) The Secretary of Defense shall make the radar aerostats acquired under subsection (a)(1) available to the appropriate Federal law enforcement agency or agencies of the United States, as designated by the National Drug Policy Board established by the National Narcotics Act of 1984.

(2) The radar aerostats shall be made available to agencies under this subsection subject to the provisions of chapter 18 of title 10, United States Code.

Subtitle D—Drug Enforcement Administration

SEC. 341. DRUG ENFORCEMENT ADMINISTRATION INTERDICTION ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Drug Enforcement Administration for fiscal year 1989, $48,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used for the establishment of an International Drug Interdiction helicopter force within the Drug Enforcement Administration to be utilized in joint drug interdiction operations, similar in scope and design to OPBAT, in the Bahamas and other drug source and transhipment countries that have authorized the use of joint operations featuring United States and host country law enforcement personnel in such countries for drug interdiction purposes: *Provided,* That the Administrator of the Drug Enforcement Administration shall coordinate the establishment and deployment of this International Drug Interdiction helicopter force with the Secretary of State; the Attorney General of the United States; the Secretary of the Treasury, the Secretary of Transportation, and any other law enforcement agencies of the United States with ongoing drug interdiction programs: *Provided further,* That of the appropriation authorized under this subsection, $4,000,000 shall be allocated for the enhancement of the El Paso Intelligence Center (EPIC) to provide more tactical intelligence to the Drug Enforcement Administration and all other United States drug enforcement and interdiction agencies.

Subtitle E—Immigration and Naturalization Service/Border Patrol

SEC. 351. BORDER PATROL DRUG INTERDICTION ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $20,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used only for procurement of drug interdiction-related equipment for Border Patrol drug enforcement personnel, including spare parts for helicopters; 4-wheel drive law enforcement vehicles; and initial procurement of mobile sensor response system and electronic intrusion detection, and for related operation and maintenance expenses.

Subtitle F—Establishment of Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force

SEC. 361. AUTHORIZATION OF APPROPRIATIONS.

(a) There is established an Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force, consisting of drug enforcement officers of the United States Border Patrol, United States Customs Service, and the United States Drug Enforcement Administration. Such interagency task force shall consist of 100 full-time positions of the United States Border Patrol; 25 full-time positions of the United States Customs Service; and 25 full-time positions of the United States Drug Enforcement Administration.

(b) The full-time positions identified in subsection (a) shall be used to establish 2 mobile corridor operations units to be deployed along the southwest border between the ports of entry.

(c) The purpose of the task force established in subsection (a) of this section is—

(1) to conduct joint drug interdiction operations between the ports of entry along the southwest border of the United States, from Texas to California;

(2) to assist and augment other law enforcement agencies personnel along the southwest border in the interdiction of illegal drugs and arrest of narcotics traffickers; and

(3) to assist State and local law enforcement officials along the southwest border of the United States in the interdiction of ille-

gal drugs and the arrest of narcotics traffickers.

(d) There is authorized to be appropriated for fiscal year 1989, $15,000,000 to the Department of Justice for the salaries and expenses of the task force established in subsection (a) of this section, including reimbursement for expenses incurred by State and local law enforcement agencies in joint operations conducted with the task force. Such amount authorized to be appropriated shall be in addition to any appropriations provided for the United States Customs Service and the United States Border Patrol, and the Drug Enforcement Administration in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989, or as authorized in this Act.

(e) The Secretary of the Treasury, the Attorney General of the United States, or their designees, shall establish a joint command structure necessary to assure complete cooperation and coordination in carrying out the duties and mission of the task force established by this section.

(f) The joint commanders of the task force established under this section shall make regular written reports to the appropriate committees of the Congress regarding the specific operations and expenditures of the task force.

Subtitle G—United States-Bahamas Drug Interdiction Task Force

SEC. 362. REAUTHORIZATION OF UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE PROGRAMS.

(a) There is authorized to be appropriated for the United States-Bahamas Drug Interdiction Task Force established by section 3301 of subtitle E of title III of the Antidrug Abuse Act of 1986 (21 U.S.C. 801 note) for fiscal year 1989, in addition to any other amounts authorized to be appropriated in this title, $13,000,000 for the following:

(1) $11,000,000 for procurement, operation, and maintenance of additional marine interdiction vessels;

(2) $1,000,000 for improvement of communications, command and control, and intelligence capabilities for the Task Force; and

(3) $1,000,000 to increase drug enforcement training for Bahamian law enforcement personnel.

(b) The Attorney General of the United States shall continue to report to the appropriate committees of Congress on a quarterly basis regarding the progress of the United States-Bahamas Drug Interdiction Task Force.

(c) Programs authorized by this section may be carried out only with the concurrence of the Secretary of State.

Subtitle H—Special Drug Interdiction Support

SEC. 372. SPECIAL ASSISTANCE TO PUERTO RICO.

There is authorized to be appropriated to the Government of Puerto Rico, through the Department of the Treasury, "Payment to the Government of Puerto Rico" grant program for fiscal year 1989, $7,000,000: *Provided*, That such amount shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used for the procurement of air and marine drug interdiction aircraft; vessels; and for related drug interdiction operation and maintenance purposes.

SEC. 373. SPECIAL ASSISTANCE TO JAMAICA.

There is authorized to be appropriated to the Government of Jamaica, through existing or new grant mechanisms under the authority of the Secretary of State for fiscal year 1989, $7,000,000: *Provided*, That such amount shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used for the procurement of air and marine drug interdiction equipment, including radar, and for related drug interdiction operation and maintenance purposes.

SEC. 374. SPECIAL ASSISTANCE TO THE DOMINICAN REPUBLIC.

There is authorized to be appropriated to the Government of the Dominican Republic for fiscal year 1989, through existing or new grant mechanisms under the authority of the Secretary of State, $5,000,000: *Provided*, That such amount shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used only for the procurement of air and marine drug interdiction equipment, including radar, and for related drug interdiction operation and maintenance purposes.

SEC. 375. SPECIAL ASSISTANCE TO HAWAII.

There is authorized to be appropriated through the Drug Enforcement Administration to the State of Hawaii for fiscal year 1989, $7,000,000: *Provided*, That such amount shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used only for the procurement of air and marine drug interdiction and eradication equipment, including aircraft and radar, and for related drug interdiction and eradication operation and maintenance purposes.

SEC. 376. REPORTING REQUIREMENTS FOR RECIPIENTS OF SPECIAL ASSISTANCE SUPPORT.

The Federal departments or agencies providing grants for special drug interdiction assistance authorized under this subtitle shall make periodic written reports to the appropriate committees of Congress regarding the status of the procurement of resources and related operation and maintenance expenditures authorized under this subtitle.

TITLE IV—DEMAND REDUCTION

Subtitle A—Treatment and Rehabilitation

SEC. 401. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

(a) Section 516(a)(1) of the Public Health Service Act (42 U.S.C. 290cc-1) is amended (1) by striking out "and" at the end of clause (A); (2) by striking out the semicolon and the word "and" at the end of clause (B) and inserting in lieu thereof a comma and the word "and"; and (3) by inserting immediately after clause (B) the following:

"(C) the treatment and rehabilitation of drug dependent offenders who could otherwise be subject to incarceration; and".

(b) Section 516(b) of such Act is amended by inserting immediately before the period at the end thereof the following: "or mental illness".

(c) Section 516(c) of such Act is amended by striking out "No" and inserting in lieu thereof "Except in the case of grants pursuant to subsection (a)(1)(C), no".

(d) Section 516 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) For purposes of subsection (a)(1)(C), grants or contracts awarded pursuant thereto shall emphasize the development, improvement or expansion of community based residential treatment services such as therapeutic communities and halfway houses and other programs which can provide treatment alternatives to incarceration.

"(2) Such grants or contracts may include funds to purchase or improve land, and to purchase, construct or permanently improve any building or other facility.

"(3) For purposes of this subsection, the term 'therapeutic community' means a stratified community composed of peer groups offering a systematic approach to achieve its main rehabilitative objective, which is guided by an explicit perspective on the drug abuse disorder, the client, and recovery.".

(e) Section 517 of such Act is amended by designating the existing text thereof as subsection (a) and adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated to carry out subsection (a)(1)(C) of this section, $20,000,000 for each of the fiscal years 1989, 1990, and 1991.".

Subtitle B—Alcohol and Drug Abuse Treatment and Rehabilitation

SEC. 410. SHORT TITLE REFERENCE.

This subtitle may be cited as the "Alcohol and Drug Abuse Treatment and Rehabilitation Improvement Act of 1988".

SEC. 411. AUTHORIZATION OF APPROPRIATIONS FOR ALCOHOL AND DRUG ABUSE TREATMENT, FISCAL YEAR 1989, FISCAL YEAR 1990, FISCAL YEAR 1991.

(a) There is authorized to be appropriated $558,860,000 for the basic Alcohol, Drug Abuse and Mental Health Bloc Grant Program as contained in part B of title 19 of the Public Health Services Act (42 U.S.C. 300x, et seq.), for the fiscal year ending September 30, 1989: *Provided*, That of this amount no less than 49 per centum shall be available for alcohol and drug abuse programs.

(b) There is authorized to be appropriated $600,000,000 for substance abuse emergency drug treatment programs for the fiscal year ending September 30, 1989: *Provided*, That these emergency substance abuse drug treatment funds shall be targeted to those States and communities where the substance abuse problem is most acute, based on the best available data of the Alcohol, Drug Abuse, Mental Health Administration (ADAMHA).

(c) For the fiscal year ending September 30, 1990, there is authorized to be appropriated $583,000,000 for the basic Alcohol, Drug Abuse, and Mental Health Bloc Grant Program as contained in part B of title 19 of the Public Health Services Act (42 U.S.C. 300x, et seq.): *Provided*, That of this amount no less than 49 per centum shall be made available for alcohol and drug abuse treatment and rehabilitation programs.

(d) For the fiscal year ending September 30, 1990, there is authorized to be appropriated $625,000,000 for Substance Abuse Emergency Drug Treatment Programs as contained in part C of title 19 of the Public Health Services Act (42 U.S.C. 300y): *Provided*, That these emergency substance abuse drug treatment funds shall be targeted to those States and communities within those States where the substance abuse problem is most acute, based on the best available data of the Alcohol, Drug Abuse, Mental Health Administration (ADAMHA) for the most recent calendar year.

(e) For the fiscal year ending September 30, 1991, there is authorized to be appropriated, $608,000,000 for such basic Alcohol, Drug Abuse and Mental Health Bloc Grant Program: *Provided*, That of this amount no less than 49 per centum shall be made available for alcohol and drug abuse treatment and rehabilitation programs.

(f) For the fiscal year ending September 30, 1991, there is authorized to be appropriated, $650,000,000 for such Substance Abuse Emergency Drug Treatment Programs: *Provided*, That these emergency substance abuse drug treatment funds shall be targeted to those States, and communities within those States, where the substance abuse problem is most acute, based on the best available data of the Alcohol, Drug Abuse, Mental Health Administration (ADAMHA) for the most recent calendar year.

SEC. 412. REQUIREMENT FOR STATES TO DEVELOP STATEWIDE SUBSTANCE ABUSE TREATMENT FACILITIES PLANS.

All States eligible to receive basic and emergency Alcohol, Drug Abuse, Mental Health Administration bloc grants shall develop Statewide substance abuse treatment facilities plans and are hereby authorized to expend up to 1.5 percent of their basic and emergency bloc grant allocations for the development and preparation of such Statewide plans.

SEC. 413. AUTHORIZATION FOR USE OF BLOC GRANT FUNDS FOR ACQUISITION, CONSTRUCTION, AND/OR RENOVATION OF DRUG TREATMENT AND REHABILITATION FACILITIES.

Any State eligible to receive such basic and emergency bloc grants referred to in section 412 is authorized to use up to 40 per centum of its basic and emergency bloc grant allocations for the acquisition, construction, or renovation of substance abuse treatment facilities determined to be needed in such State as identified in the Statewide substance abuse treatment facilities plans required under section 412 of this subtitle.

Subtitle C—Amendments to the Drug-Free Schools and Communities Act

SEC. 421. DRUG-FREE SCHOOLS REAUTHORIZATION.

Section 4111(a) of the Drug-Free Schools and Communities Act of 1986 (hereafter in this title referred to as the "Act") is amended to read as follows:

"(a) There are authorized to be appropriated $250,000,000 for fiscal year 1988, $300,000,000 for fiscal year 1989, $350,000,000 for fiscal year 1990, and $350,000,000 for fiscal year 1991 to carry out the provisions of this Act.".

SEC. 422. STATE PROGRAM—LOCAL ALLOTMENTS.

The second sentence of section 4124(a) of the Act is amended by striking out "the relative numbers of children in the school-age population within such areas" and inserting in lieu thereof "the relative enrollments in public and private, nonprofit schools within the areas served by such agencies".

SEC. 423. STATE PROGRAM—PARTICIPATION OF TEACHERS IN PRIVATE NONPROFIT SCHOOLS.

Section 4143(b) of the Act is amended by striking out "State, State educational agency, or State agency for higher education" and inserting in lieu thereof "State, agency, or consortium".

SEC. 424. STATE PROGRAM—LOCAL APPLICATIONS.

Section 4126(a)(2) of the Act is amended—

(1) by redesignating subparagraphs (D) through (J) as subparagraphs (G) through (M), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraphs:

"(D) describe the extent and nature of the current illegal drug and alcohol problem in each school of the applicant, including detailed information that shows—

"(i) the number or percentage of students who use drugs or alcohol;

"(ii) the grade level of those students;

"(iii) the types of drugs they use; and

"(iv) how the applicant obtained this information;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the disciplinary practices and procedures it will strictly enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;".

(b) Section 4126 of the Act is further amended by adding at the end thereof the following new subsection:

"(b)(1) In order to receive funds under this Act for the third year of its plan, an applicant shall submit to the State educational agency a progress report on the first 2 fiscal years of its plan. The progress report shall describe in detail—

"(A) the applicant's significant accomplishments under the plan during the preceding 2 years; and

"(B) the extent to which the original objectives of the plan are being achieved, including the extent to which there has been a reduction in the number of students who use drugs and alcohol.

"(2) The State educational agency shall not award funds under this Act to an applicant for the third year of its plan unless the State educational agency determines that the applicant's progress report shows that it is making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act. If the State educational agency determines that reasonable progress is not being made, the State educational agency shall instruct the applicant in writing to modify its plan so as to provide reasonable assurance of such progress. If after 90 days the applicant has not submitted to the State educational agency a modified plan which provides such assurance, the State educational agency may reallocate the applicant's funds to other applicants on the basis of need.".

SEC. 425. STATE PROGRAM—REPORTS.

Part 2 of the Act is amended by adding at the end thereof the following new section:

"SEC. 4127. STATE REPORTS.

"Each State shall submit to the Secretary an annual report, at such time and in such form as the Secretary may prescribe, that contains information on the State or local programs the State conducts under this subtitle, including—

"(1) data on the number and characteristics of program recipients and the persons who participated in their programs; and

"(2) an assessment of the degree to which those programs accomplished their goals, including their impact upon drug and alcohol use by students.".

SEC. 426. NATIONAL PROGRAMS—GRANTS AND CONTRACTS.

(a) The third sentence of section 4132(b) of the Act is amended by inserting "directly, or through grants, cooperative agreements, or contracts" immediately after "shall".

(b) Section 4134(a) of the Act is amended by striking out "enter into" and inserting in lieu thereof "make grants to or enter into cooperative agreements or".

(c) Section 4135 of the Act is amended by inserting a comma and "through grants, cooperative agreements, or contracts," immediately after "Secretary".

SEC. 427. EVALUATION.

Section 4132(d) of the Act is amended by adding at the end thereof the following new sentence: "In addition, the Secretary may conduct periodic evaluations of programs authorized by this Act.".

SEC. 428. GOVERNOR'S PROGRAM—ADMINISTRATIVE COSTS.

Section 4122 of the Act is amended by adding at the end thereof the following new subsection:

"(c) Not more than 2.5 percent of the amount reserved under section 4121(a) shall be available to pay for the administrative costs of the chief executive officer in meeting his or her responsibilities under this part.".

SEC. 429. GOVERNOR'S PROGRAM—HIGH RISK YOUTH.

Section 4122(b)(1) of the Act is amended—

(1) in the first sentence therein by inserting "that are designed" immediately before "for high risk youth."; and

(2) by adding immediately after the first sentence therein the following new sentence: "A small number of individuals who are not high risk youth may participate in such programs if their participation does not significantly diminish the amount or quality of services provided to high risk youth.".

SEC. 430. LOCAL PROGRAMS—DRUG TREATMENT.

Section 4125(a)(5) of the Act is amended to read as follows:

"(5) referral programs for drug abuse treatment and rehabilitation;".

SEC. 431. EFFECTIVE DATE.

(a) The provisions of this subtitle shall take effect 30 days from the date of enactment of this Act.

(b) Notwithstanding subsection (a), a State educational agency may allot fiscal year 1989 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative numbers of children in the school-aged population.

TITLE V—NATIONAL DRUG ENFORCEMENT AGENCY REORGANIZATION AND COORDINATION

Subtitle A—Establishment of Office of Enforcement and Border Affairs in Department of Treasury

SEC. 501. SHORT TITLE.

This title may be cited as the "National Border Coordination and Reorganization Act of 1988".

SEC. 502. DEFINITIONS.

As used in this title—

(1) the term "Office" means the Office of Enforcement and Border Affairs of the Department of the Treasury established by part A of this title;

(2) the term "Commandant" means the Commandant of the Coast Guard;

(3) the term "Secretary" means the Secretary of the Treasury;

(4) the term "Under Secretary" means the Under Secretary of the Treasury for Enforcement and Border Affairs appointed under section 5102(a); and

(5) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

PART A—ESTABLISHMENT AND OFFICERS

SEC. 503. ESTABLISHMENT OF OFFICE.

There is established within the Department of the Treasury an office to be known as the Office of Enforcement and Border Affairs, which shall consist of—

(1) the office in the Department of the Treasury known on the day before the date of the enactment of this Act as the Office of the Assistant Secretary of the Treasury for Enforcement; and

(2) the Coast Guard, as transferred by section 508.

SEC. 504. UNDER SECRETARY FOR ENFORCEMENT AND BORDER AFFAIRS.

(a) The head of the Office of Enforcement and Border Affairs established by section 503 shall be the Under Secretary of the Treasury for Enforcement and Border Affairs, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate; and

(2) report directly to the Secretary of the Treasury.

(b) The Under Secretary shall be paid at the rate of basic pay payable for level III of the Executive Schedule.

SEC. 505. OFFICE OF BORDER MANAGEMENT AFFAIRS.

(a) There shall be within the Office of Enforcement and Border Affairs an office to be known as the Office of Border Management Affairs.

(b)(1) The head of the Office of Border Management Affairs shall be the Assistant Secretary of the Treasury for Border Management Affairs, who shall—

(A) be appointed by the President, by and with the advice and consent of the Senate; and

(B) report directly and be responsible to the Under Secretary.

(2) The Assistant Secretary of the Treasury for Border Management Affairs shall be responsible for overseeing all activities of agencies and personnel under the jurisdiction of the Office of Enforcement and Border Affairs, other than activities relating directly to narcotics interdiction.

(3) The Assistant Secretary of the Treasury for Border Management Affairs shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 506. OFFICE OF NARCOTICS INTERDICTION.

(a) There shall be within the Office of Enforcement and Border Affairs an office to be known as the Office of Narcotics Interdiction.

(b)(1) The head of the Office of Narcotics Interdiction shall be the Assistant Secretary of the Treasury for Narcotics Interdiction, who shall—

(A) be appointed by the President, by and with the advice and consent of the Senate; and

(B) report directly and be responsible to the Under Secretary.

(2) The Assistant Secretary of the Treasury for Narcotics Interdiction shall be responsible for overseeing all narcotics interdiction activities of agencies and personnel under the jurisdiction of the Office of Enforcement and Border Affairs.

(3) The Assistant Secretary of the Treasury for Narcotics Interdiction shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 507. CONFORMING AMENDMENTS.

(a) Section 301(e) of title 31, United States Code, is amended by striking "7" the first place that number appears and inserting in lieu thereof "9".

(b) Section 5314 of title 5, United States Code, is amended by inserting after "Under Secretary of the Treasury (or Counselor)." the following:

"Under Secretary of the Treasury for Enforcement and Border Affairs.".

(c) Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of the Treasury (7)" and inserting in lieu thereof the following:

"Assistant Secretaries of the Treasury (9).".

PART B—TRANSFER OF COAST GUARD TO OFFICE OF ENFORCEMENT AND BORDER AFFAIRS

SEC. 508. TRANSFER OF COAST GUARD.

(a) With respect to operation of the Coast Guard other than as a service in the Navy, the Coast Guard is transferred from the Department of Transportation to the Office of Enforcement and Border Affairs of the Department of the Treasury.

(b) Nothing in this title shall be considered to affect—

(1) the operation of the Coast Guard as a service in the Navy; or

(2) the respective duties, with respect to the Coast Guard, of the Secretary of Defense and the Secretary of the Navy.

SEC. 509. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.

(a) The civilian personnel of the Department of Transportation employed in connection with the Coast Guard, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Transportation in connection with the Coast Guard and the functions and offices transferred by this part, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Office for appropriate allocation by the Secretary. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b)(1) The transfer under this part of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Office.

(2) Any person who, on the day preceding the effective date of this part, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Office to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(c)(1) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, shall make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this part, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out this part.

(2) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget may, at such time as the Director of the Office of Management and Budget provides, make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this part.

SEC. 510. SAVINGS PROVISIONS.

(a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, the Commandant, any Federal entity or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this part, and

(2) which are in effect at the time this part takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Commandant, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) This part shall not affect any proceeding, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this part before any Federal entity and applications, to the extent that they relate to functions transferred under this part, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this part had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Commandant, the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this part had not been enacted.

(2) The Secretary may promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Office.

(c) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this part, shall abate by reason of the enactment of this part. No cause of action by or against any department or agency, functions of which are transferred by this part, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this part.

(d)(1) Except as provided in paragraph (2)—

(A) this part shall not affect suits commenced before the effective date of this part, and

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this part had not been enacted.

(2) If, before the date on which this part takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this part any function of such department, agency, or officer is transferred, then such suit shall be continued with the Secretary or other appropriate official of the Office substituted or added as a party.

(e) Orders and actions of the Commandant and the Secretary in the exercise of functions transferred under this part shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer.

(f) Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this part shall apply to the exercise of such function by the Commandant or the Secretary.

SEC. 511. REFERENCE.

With respect to any function transferred by this part and exercised on or after the effective date of this part, reference in any other Federal law to the Secretary of Transportation shall be deemed to refer to the Secretary of the Treasury.

SEC. 512. TRANSITION.

With the consent of the Secretary of Transportation, the Commandant and the Secretary may use the services of such officers, employees, and other personnel of the agencies or offices from which functions or offices have been transferred and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this part.

SEC. 513. BUDGET FUNCTIONAL CATEGORY FOR COAST GUARD.

(a) PRESIDENT'S BUDGET.—For fiscal years beginning with the fiscal year 1990, the President shall, in accordance with section 1104(c) of title 31, United States Code, include the Coast Guard (including all accounts funding the operations and activities of the Coast Guard) within functional category 750 for purposes of the budget of the United States Government submitted by the President pursuant to section 1105 of title 31, United States Code.

(b) BUDGET RESOLUTION.—Any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for fiscal years beginning with fiscal year 1989 shall use functional category 750 established by the President under subsection (a) in specifying the appropriate level of new budget authority and budget outlays for the Coast Guard.

SEC. 514. EFFECTIVE DATE.

This part shall take effect 30 days from the date of enactment of this Act.

Subtitle B—Department of Defense Drug Interdiction Reorganization

SEC. 520. DRUG INTERDICTION SUPPORT.

(a) Section 136 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(e) Within the Office of the Assistant Secretary of Defense for International Security Affairs there shall be a Deputy Assistant Secretary of Defense for International Drug Interdiction and Enforcement who shall be appointed from civilian life by the President, with the advice and consent of the Senate. Subject to the supervision and control of the Assistant Secretary of Defense for International Security Affairs, the Deputy Assistant Secretary shall have as his principal duty the overall supervision (including oversight of policy and resources) of Department of Defense drug interdiction and enforcement activities (as defined in section 381 of this title).".

(b) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 381. Drug interdiction and enforcement activities: definition

"Department of Defense drug interdiction and enforcement activities are those activities conducted in cooperation with civilian law enforcement officials under the provisions of sections 371-379, inclusive, of title 10, United States Code."

(c) The table of sections at the beginning of chapter 18, of title 10, United States Code, is amended by adding at the end the following:

"381. Drug interdiction and enforcement activities; definition."

Subtitle C—Establishment of a Senate Select Committee on Narcotics Abuse and Control

SEC. 530. SELECT COMMITTEE.

(a)(1) There is established in the Senate of the United States a select committee to be known as the "Senate Select Committee on Narcotics Abuse and Control" (hereinafter in this subtitle referred to as the "Senate select committee"). The Senate select committee shall be composed of 15 Members of the Senate.

(2) Members of the Senate select committee shall be appointed by the majority and minority leaders of the Senate. One member of the Senate select committee shall be designated by the majority leader to serve as chairman of the Senate select committee.

(3) At least one member of the Senate select committee shall be chosen from each of the following committees of the Senate: The Committee on Armed Services, the Committee on Government Affairs, the Committee on Foreign Relations, the Committee on Commerce, Science, and Transportation, the Committee on the Judiciary, the Committee on Appropriations, the Committee on Finance, and the Committee on Labor and Human Resources.

(4) Any vacancy occurring in the membership of the Senate select committee shall be filled in the same manner as the original appointment.

(b) The chairman of the Senate select committee may establish such subcommittees of the select committee as he considers appropriate. Any such subcommittee shall be composed of not less than four members of the select committee.

SEC. 531. LEGISLATIVE JURISDICTION.

The Senate select committee shall not have legislative jurisdiction. The select committee shall have authority—

(1) to conduct a continuing comprehensive study and review of the problems of narcotics abuse and control, including, but not limited to, international trafficking, enforcement, prevention, narcotics-related violations of the Internal Revenue Code of 1986, international treaties, organized crime, use of the military in drug interdiction, drug abuse in the Armed Forces of the United States, treatment and rehabilitation, civilian drug interdiction programs, and the approach of the criminal justice system with respect to narcotics law violations and crimes related to drug abuse; and

(2) to review any recommendations made by the President or by any department or agency of the executive branch of the Federal Government, relating to programs or policies affecting narcotics abuse or control.

SEC. 532. AUTHORITY OF SELECT COMMITTEE.

(a) For purposes of this subtitle, the Senate select committee, or any subcommittee thereof authorized by the select committee, may sit and act at such times and places as it considers appropriate whether the Senate is sitting, has recessed, or has adjourned.

(b) For purposes of this subtitle, the Senate select committee, or any subcommittee thereof authorized by the select committee to hold hearings, may hold such hearings, and may require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, documents, and other exhibits and materials, as it considers necessary. Subpenas may be issued under the signature of the chairman of the Senate select committee or any member of the select committee designated by him, and may be served by any person designated by such chairman or member.

(c) A majority of the members of the Senate select committee shall constitute a quorum for the transaction of business, except that the select committee may designate a lesser number as a quorum for the purpose of taking testimony. The chairman of the Senate select committee, or any member of the select committee designated by him, may administer oaths or affirmations to any witness.

(d) The Senate select committee and any subcommittee thereof and its staff may conduct field investigations or inspections. Members and staff of the select committee may engage in such travel as may be necessary to conduct investigations relating to the purpose of this subtitle.

SEC. 533. STAFF.

The Senate select committee may employ and fix the compensation of such clerks, experts, consultants, technicians, attorneys, investigators, and clerical and stenographic assistants as it considers necessary to carry out the purposes of this subtitle. The select committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the select committee, other than expenses in connection with meetings of the select committee or any subcommittee thereof held in the District of Columbia.

SEC. 534. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $400,000 in fiscal year 1989, $500,000 in fiscal year 1990, and $600,000 in fiscal year 1991 for salaries and expenses of the Senate select committee established by this subtitle.

SEC. 535. REPORT.

(a) The Senate select committee shall report to the Senate with respect to the results of any investigation conducted by the select committee, or any subcommittee thereof, under section 532(d).

(b) The Senate select committee shall submit an annual report to the Senate which shall include a summary of the activities of the select committee during the calendar year to which such report applies.

(c) Any report of the Senate select committee under this section which is submitted during a period in which the Senate is not in session shall be filed with the Secretary of the Senate.

TITLE VI—RESEARCH AND DEVELOPMENT FOR LAW ENFORCEMENT AGENCIES

Subtitle A—Establishment of New Research and Development Programs to Assist Federal Law Enforcement Agencies

SEC. 601. ESTABLISHMENT OF A RESEARCH AND TECHNOLOGY GROUP UNDER THE NATIONAL DRUG POLICY BOARD.

(a) The Attorney General of the United States shall establish a Research and Technology Group under the National Drug Policy Board. Such group shall be responsible for reviewing the research, development, technology, and evaluation (R, D, T, & E) programs of the Department of Defense and the research and development programs of other nondefense Federal agencies to assess their applicability to the operations, programs, and missions of the Federal law enforcement agencies. Such group shall consist of members of the Department of the Treasury, Department of Transportation, Department of Justice, Department of Defense, and other appropriate Departments and agencies, at the Assistant Secretary level.

(b) The Attorney General shall appoint an Executive Director of the group established by subsection (a), with responsibility for the daily operations of the group and for such other purposes as may be determined by the Attorney General to assure the effective operation of the group.

(c) The Attorney General shall establish a Research, Technology and Acquisition Advisory Board, reporting to the Research and Technology Group established in subsection (a) of this section, and shall be composed of representatives from academia, private industry, and agencies of the United States. The Advisory Board shall make recommendations to the National Drug Policy Board through the Research and Technology Group, including, but not limited to, recommendations of how existing and new research and development findings can be applied to the missions of Federal law enforcement agencies; potential program options for such Federal law enforcement agencies; and funding alternatives developed from reviews of technology bases, ongoing programs, operational needs and special studies assigned by the National Drug Policy Board. The Advisory Board shall also be directed by the Attorney General to serve as an advocacy group for the efforts of the new National Technology Development Centers established in section 602 of this subtitle, including, but not limited to, support for enhanced funding for the Centers.

(d) The Attorney General shall designate a Chairman of the Research and Technology Group established in subsection (a) and conduct an election of a Chairman of the Research, Technology and Acquisition Advisory Board from among the members of such Advisory Board, within 30 days of formation of the Advisory Board.

SEC. 602. ESTABLISHMENT OF NATIONAL TECHNOLOGY DEVELOPMENT CENTERS.

(a) The President of the United States shall designate and establish within existing facilities of the Department of Defense, the Department of Justice, the Department of Energy, National Security Agency, and the Central Intelligence Agency, no fewer than eight, new "National Technology Development Centers" to develop technologies for application to Federal law enforcement agency missions. Such National Centers shall provide research, development, technology and evaluation (R, D, T, & E) support to the parent agency or department and the law enforcement agencies of the Federal Government.

(b) The following existing United States Government facilities shall be redesignated as "National Technology Development Centers":

(1) For night vision research and development—Department of Defense, Army Materiel Command, Night Vision Laboratory at Fort Belvoir, Virginia;

(2) For ground sensor research and development—Department of Defense, Army Materiel Command, Communications Electronic Command, Fort Monmouth, New Jersey;

(3) For physical/electronic security research and development—Department of Defense, Air Force Systems Command, Electronic Systems Division, Hanscom Field, Massachusetts;

(4) For imaging/electronic surveillance research and development—Central Intelligence Agency and National Security Agency, Washington, D.C.;

(5) For chemical/biosensor research and development—Department of Defense, Army Materiel Command, Chemical Research Development and Engineering Center, Aberdeen, Maryland;

(6) For chemical/molecular detector research and development—Department of Energy, Sandia National Laboratories, Albuquerque, New Mexico;

(7) For physical/electronic surveillance and tracking, research and development—Department of Justice, Federal Bureau of Investigation and Drug Enforcement Administration, Washington, D.C.; and

(8) For explosives ordnance detection research and development—Department of Defense, Naval Ordnance Station, Indian Head, Maryland.

(c) The President shall direct the appropriate department or agency head to revise the statutory charter of each of such redesignated National Centers and submit appropriate recommendations for legislation, if necessary, to the Congress to implement the designation of such National Technology Development Centers by no later than the end of the fiscal year ending September 30, 1989. The President shall direct the Director of the Office of Management and Budget to prepare a supplemental budget request to be submitted to Congress no later than 90 days from the date of the enactment of this Act, to fund the appropriate initial salaries and expenses required for each of the eight new Centers established in subsection (b) of this section for the fiscal year ending September 30, 1989.

(d)(1) The president shall direct each of the Federal law enforcement agencies of the Government to assign at least two technology advisors within such agencies, to serve as liaison officers to the new National Technology Development Centers.

(2) Each Federal law enforcement agency shall assign sufficient fulltime positions to the National Technology Development Centers that meet that particular agency's mission requirements, including support staff to enhance that agency's contribution to the Centers.

(e) Beginning in the fiscal year ending September 30, 1990, no less than .002 of the aggregate research, development, technology, and evaluation (R, D, T, & E) budget of the Department of Defense and the service branches of the Armed Forces of the United States shall be made available to support the research and development activities conducted at the new National Technology Development Centers for the Federal law enforcement agencies.

(f) Beginning in the fiscal year ending September 30, 1991, a separate line item budget account shall be established and maintained for each of the eight designated National Technology Development Centers designated by this subtitle.

(g) The Comptroller General of the United States shall monitor the establishment of the National Technology Development Centers as authorized and mandated in this section, and shall report periodically to the appropriate committees of Congress on the progress of the implementation of these newly designated Centers.

Subtitle B—Cargo Container Drug Detection Research and Development

SEC. 603. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

(a) There is authorized to be appropriated to the United States Customs Service for fiscal year 1989, $5,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used only for accelerating the development and availability of X-ray detection, nitrate detection, or other technologies to be utilized for the detection of illegal narcotics in cargo containers entering the United States at seaports, airports, and land borders.

(b) The Commissioner of Customs shall coordinate and share the findings of the research and development authorized in subsection (a) with other Federal departments and agencies with possible mission requirements for such technology, including, but not limited to the Federal Aviation Administration and U.S. Coast Guard in the Department of Transportation; the Drug Enforcement Administration in the Department of Justice; and the appropriate State, and local law enforcement agencies, including airport authorities, port authorities, and other interested parties.

(c) The Commissioner of Customs shall report his findings in either classified, or unclassified form, to the appropriate Committees of Congress in conjunction with the President's submission of his fiscal year 1990 Budget of the United States.

TITLE VII—DRUG ENFORCEMENT TRAINING IMPROVEMENT

Subtitle A—The Federal Law Enforcement Training Center Improvement Act of 1988

SEC. 701. SHORT TITLE; AUTHORIZATION OF APPROPRIATIONS.

(a) This subtitle may be cited as the "Federal Law Enforcement Training Center Improvement Act of 1988".

(b) There is authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center for fiscal year 1989, $10,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used by the Center to increase the level of drug enforcement training, including basic and advanced training, for Federal, State, and local law enforcement officers: *Provided further*, That, on a space available, cost reimbursable basis, the Center shall, to the extent practical, increase the level of training for drug enforcement officers from foreign countries that are cooperating with the law enforcement agencies of the United States Government.

(c) There are authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center, $45,000,000 for the fiscal year ending September 30, 1990, and $50,000,000 for the fiscal year ending September 30, 1991: *Provided*, That in each fiscal year addressed in this subsection, support for the State and local law enforcement training program and the training programs for drug enforcement officers from foreign countries shall be maintained at no less than the level of support in the fiscal year ending September 30, 1989.

(d) The Secretary of the Treasury is directed to expand the advanced training programs for Federal law enforcement agencies at the Marana, Arizona, satellite facility of the Federal Law Enforcement Training Center, within the total amount of appropriations authorized for fiscal years 1989, 1990, and 1991.

(e) The Secretary of the Treasury is directed to report in writing to the appropriate committees of the Congress by no later than 90 days from the date of enactment of this Act with his preliminary plans for the increased training activities at the Federal Law Enforcement Training Center facilities to be funded with the additional appropriations authorized in subsection (b) of this section, and the authorized level of appropriations contained in subsection (c).

Subtitle B—Department of Justice Training Facilities Improvement Act of 1988

SEC. 702. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR IMPROVEMENT AND EXPANSION OF DEPARTMENT OF JUSTICE LAW ENFORCEMENT TRAINING FACILITIES.

(a) This subtitle may be cited as the "Department of Justice Training Facilities Improvement Act of 1988".

(b) There is authorized to be appropriated for the existing law enforcement training facilities of the Department of Justice for fiscal year 1989, $10,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used only for improvement of those facilities that are normally utilized for drug enforcement training activities.

(c) There is authorized to be appropriated for the expansion of law enforcement training facilities of the Department of Justice and for new training facilities of the Department of Justice for fiscal year 1989, $10,000,000: *Provided*, That such expanded or new training facilities shall be primarily for basic and advanced training of drug enforcement personnel of the Department of Justice.

(d) The Attorney General of the United States is directed to report in writing to the appropriate committees of Congress by no later than 90 days from the date of enactment of this Act with his preliminary plans for the training facility improvements authorized in subsections (b) and (c).

Subtitle C—Federal Law Enforcement Language Training Improvement Act of 1988

SEC. 703. FOREIGN LANGUAGE TRAINING.

(a) The Department of Defense is authorized to provide, on a cost reimburseable basis, foreign language training at the Defense Language Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(b) The Department of State is authorized to provide, on a cost reimburseable basis, foreign language training at the Foreign Service Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(c) The Drug Enforcement Agency is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(d) The Customs Service is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute, or both; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(e) The Immigration and Naturalization Service is authorized to—

(1) detail investigative personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(f) The following amounts are authorized to be appropriated to implement the provisions of this section:

(1) to the Commissioner of Customs, only for obligation for special agent foreign language training, $5,000,000;

(2) to the Administrator of the Drug Enforcement Administration, only for obligation for special agent foreign language training, $5,000,000; and

(3) to the Commissioner of the Immigration and Naturalization Service, only for obligation for special agent foreign language training, $1,000,000.

(g) Moneys appropriated pursuant to this section shall remain available until expended.

(h) Moneys appropriated pursuant to this section shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

Subtitle D—Authorization of Appropriations for Special Training Centers

SEC. 704. ESTABLISHMENT OF NATIONAL TRAINING CENTER IN EL RENO, OKLAHOMA.

(a) There is authorized to be appropriated to the Bureau of Justice Assistance for the fiscal year 1989, $10,000,000, for the establishment of a national training center in El Reno, Oklahoma, to be utilized for the training of Federal, State, and local prison officials in drug rehabilitation programs targeted to criminals convicted of drug-related crimes or who have developed drug dependencies: *Provided*, That such appropriation shall be in addition to any other appropriations made available to the Bureau of Justice Assistance in fiscal year 1989 for its other programs.

(b) There shall be established a National Advisory Panel on Prison Rehabilitation Programs to consist of five members, three of whom shall be designated by the Director of the Bureau of Justice Assistance, one of whom shall be designated by the Majority Leader of the United States Senate, and one of whom shall be designated by the Speaker of the United States House of Representatives.

(c) The Director of the Bureau of Justice Assistance, in cooperation with the Advisory Panel established in subsection (b), shall coordinate the establishment of the national training center as authorized in subsection (a).

(d) The Advisory Panel shall have oversight responsibility for the daily operations of the national training center in consultation with the Director of the Bureau of Justice Assistance.

(e) The training programs authorized to be conducted at the national training center shall be for the benefit of: correctional officers; administrative staff; and correctional mental health professionals including subcontracting agency personnel. The national training center is authorized to conduct counseling programs as recommended by the Advisory Panel.

(f) Of the appropriations authorized under subsection (a), $6,000,000 shall be made available for the development of the national training center at El Reno, Oklahoma; $2,000,000 shall be made available for the development of a community-based residential "drug-free" program (therapeutic community) at the El Reno Federal Correctional Institute to be affiliated with the national training center; and $2,000,000 shall be made available for the development of curriculum at the national training center: *Provided*, That the salaries and expenses or personnel at the national training center, including those of the Advisory Board, and other administrative expenses of the national training center, shall be made available with the $5,000,000 authorized for the development of the national training center.

TITLE VIII—DRUG TESTING IN THE PRIVATE SECTOR

SEC. 801. DRUG TESTING PROGRAM REQUIREMENTS.

(a) No employer engaged in commerce or in an enterprise engaged in commerce or in the production of goods for commerce may—

(1) refuse to hire an applicant for employment,

(2) take any adverse action against an employee, or

(3) discharge an employee, on the basis of the results of a drug test administered to the applicant or employee unless the drug test was conducted by a laboratory which meets the requirements of subsection (b).

(b) Under the requirements referred to in subsection (a), a laboratory which conducts drug testing shall, as determined under guidelines prescribed by the Secretary of Health and Human Services—

(1) meet the mandatory guidelines established by the Secretary of Health and Human Services under section 503(a)(1)(A)(ii)(I) and section 503(a)(1)(A)(ii)(III) of the supplemental Appropriations Act, 1987,

(2) require a confirmatory test when an initial screening test is positive and shall

not report a test as positive unless it has been confirmed, and

(3) provide guidance to the employers on procedures for the collection of specimens to be tested and on procedures for the chain of custody of such specimens.

(c) An employer who takes an action described in subsection (a) on the basis of the results of a drug test conducted by a laboratory which does not meet the requirements of subsection (b) shall be subject to a civil penalty of $10,000.

SEC. 802. EFFECTIVE DATE.

Section 801 shall take effect—

(1) on the effective date of guidelines established by the Secretary of Health and Human Services under section 801(b), or

(2) 6 months after the date of the enactment of this Act,

whichever occurs first.

TITLE IX—CONGRESSIONAL POLICY REGARDING ADDITIONAL FUNDING FOR FISCAL YEAR 1989 FOR ANTIDRUG ABUSE PROGRAMS

SEC. 901. STATEMENT OF POLICY.

(a) The Congress finds that—

(1) the programs, projects, activities, and initiatives contained in this Act are of critical importance in developing a comprehensive approach to addressing the multiple facets of the drug abuse problem that faces the United States of America;

(2) the President's budget for fiscal year 1989 as presented to the Congress on February 18, 1988, contains funding for some but not all of the programs, projects, activities, and initiatives contained in this Act, and does not provide sufficient funding to launch a full scale assault on the drug abuse problem that plagues the United States;

(3) there is an urgent and critical need for appropriations, in addition to those requested in the President's budget for fiscal year 1989 as presented to Congress on February 18, 1988, to carry out the programs, projects, activities, and initiatives contained and authorized in this Act, and to ensure continuation of the momentum generated by the bipartisan Antidrug Abuse Act of 1986 (Public Law 99-570);

(4) the additional appropriations required in fiscal year 1989 to accommodate the programs, projects, activities, and initiatives contained in this Act should be included in the Concurrent Resolution on the Budget for fiscal years 1989, 1990, and 1991 with sufficient levels of appropriations allocated to the Committees on Appropriations of the House and Senate through the section 302(a) allocation process under the Budget Act of 1974, as amended to accommodate the programs, activities, and initiatives contained in this Act; and

(5) the terms and conditions of the Bipartisan Congressional Leadership Budget summit should, if necessary, be amended to accommodate the level of new budget authority and outlays to fully fund the programs, activities, and initiatives contained in this Act.

(b) Therefore, it is the intent of Congress that—

(1) new budget authority and outlays required to carry out the programs, activities, initiatives contained in this Act shall be accommodated in the concurrent resolution on the budget for fiscal year 1989 and crosswalked to the Committees on Appropriations of the House and Senate and other appropriate committees of the Congress through the section 302(a) allocation process under the Budget Act of 1974, as amended;

(2) to the maximum extent possible, amounts authorized to be appropriated to carry out the programs, activities, and initiatives contained in this Act, shall be provided in regular appropriations bills or continuing appropriations bills for the fiscal year ending September 30, 1989;

(3) any new budget authority and outlays required to carry out the programs, projects, activities, and initiatives contained in this Act, which are not provided for in regular appropriations Act for fiscal year 1989 or any continuing resolution for fiscal year 1989, shall be provided in the first available supplemental appropriation Act or resolution for fiscal year 1989 within 90 days of the submission of the President's fiscal year 1990 budget of the United States in January or February of 1989;

(4) any such amounts appropriated for fiscal year 1989, either in regular appropriations Acts, continuing resolutions, or supplemental appropriations Acts, shall not be provided through transfers from, or reductions in, any amount appropriated for other purposes in regular appropriations Acts, continuing resolutions, or supplemental appropriations Acts for any other program, project, activity or initiative for such fiscal year, unless and only unless such amounts can be identified as nonessential administrative, nonprogramatic funds that are determined by the Congress to no longer be required to carry out ongoing programs; or only if such amounts are identified to come from unobligated, uncommitted balances of appropriated funds that Congress has determined are no longer required to carry out ongoing, approved programs, projects, activities, or initiatives;

(5) any amounts authorized to be appropriated for fiscal years 1990 and 1991 shall be provided in regular appropriations Acts, continuing resolutions, or supplemental appropriations Acts for those fiscal years and under the same terms and conditions as contained in this subsection; and

(6) the President of the United States shall direct the Office of Management and Budget to include sufficient levels of appropriations in the fiscal years 1990 and 1991 budget of the United States to fully annualize the entire cost of the programs, projects, activities, initiatives, and personnel levels authorized in this Act and provided for in regular, continuing, and supplemental appropriations Acts for fiscal year 1989.

TITLE X—FUNDING; ACCOUNTS

Subtitle A—Offsetting Revenues and Savings to Cover the Cost of the Act

SEC. 1001. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR INTERNAL REVENUE SERVICE, PROCESSING TAX RETURNS.

There is authorized to be appropriated for processing tax returns, Internal Revenue Service, for fiscal year 1989, $4,675,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1888 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used to increase the number of tax enforcement personnel in the processing tax return activity by 186 fulltime equivalent positions over and above the personnel levels onboard as of September 30, 1988: *Provided further*, That an amount equal to additional revenues resulting from the enforcement activities of the additional tax enforcement personnel provided under this section, beyond those assumed in the Omnibus Budget Reconciliation Act of 1987 and the Joint Resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1988, and for other purposes, approved December 22, 1987, shall be appropriated to the Antidrug Abuse Fund established by section 9511 of subchapter A of chapter 98 of the Internal Revenue Code of 1986 to be disbursed by the Secretary of the Treasury to the agencies responsible for carrying out the other programs, projects, activities, and initiatives authorized in this Act, and amendments made by this Act.

SEC. 1002. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR INTERNAL REVENUE SERVICE, EXAMINATIONS AND APPEALS.

There is authorized to be appropriated for examinations and appeals, Internal Revenue Service, for fiscal year 1989, $158,882,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used to increase the number of tax enforcement personnel in the examinations and appeals, Internal Revenue Service activity by 3,829 fulltime equivalent positions to increase the amount of tax revenue assessments and collections beyond that assumed in the Omnibus Budget Reconciliation Act of 1987 and the Joint Resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1988, and for other purposes", approved December 22, 1987: *Provided further*, That an amount equal to additional revenues, beyond those assumed in such Act and resolution, resulting from the enforcement activities of the additional tax enforcement personnel provided under this section, shall be appropriated to the Antidrug Abuse Fund established by section 9511 of subchapter A of chapter 98 of the Internal Revenue Code of 1986 to be disbursed by the Secretary of the Treasury to the agencies responsible for carrying out the other programs, projects, activities, and initiatives authorized in this Act, and amendments made thereby.

SEC. 1003. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR INTERNAL REVENUE SERVICE, INVESTIGATIONS, COLLECTIONS, AND TAXPAYER SERVICE.

There is authorized to be appropriated for investigations, collections, and taxpayer service, Internal Revenue Service, for fiscal year 1989, $123,056,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used to increase the number of tax enforcement personnel at the Internal Revenue Service by 2,827 fulltime equivalent positions, over and above the personnel levels onboard as of September 30, 1988; to increase the amount of tax revenue collections beyond those assumed in the Omnibus Budget Reconciliation Act of 1987 and the Joint Resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1988, and for other purposes, approved December 22, 1987, for fiscal years 1989 and 1990: *Provided further*, That an amount equal to the additional revenues resulting from the enforcement activities of the additional tax enforcement personnel provided under this section shall be appropriated to the Antidrug Abuse Programs established by section 9511 of subchapter A of chapter 98 of the Internal Revenue Code of 1986 to be disbursed by the Secretary of the Treasury to the agencies responsible for carrying out the other programs, projects, activities, and initiatives authorized in this Act, and amendments made thereby.

SEC. 1004. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS SALARIES AND EXPENSES.

There is authorized to be appropriated for salaries and expenses of the Bureau of Alcohol, Tobacco, and Firearms for fiscal year 1989, $4,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used to increase the number of special occupational tax enforcement and collection personnel by no fewer than 40 fulltime equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988: *Provided further*, That such personnel shall be made available to accelerate the special occupational tax enforcement and collection effort at the Bureau in fiscal year 1989: *Provided further*, That an amount equal to additional revenues over projected fiscal year 1988 levels resulting from the enforcement activities of these additional special occupational tax enforcement activities of the Bureau provided under this section in fiscal year 1989 shall be appropriated to the Antidrug Abuse Fund established by section 9511 of subchapter A of chapter 98 of the Internal Revenue Code of 1986 to be disbursed by the Secretary of the Treasury to the agencies responsible for carrying out the other programs, projects, activities, and initiatives authorized in this Act, and amendments made thereby.

SEC. 1005. FEDERAL DEBT COLLECTION.

(a) As used in this section:

(1) The term "executive agency" has the meaning given to the term "agency" in section 552(e) of title 5.

(2) The term "obligation" means any note, bond, debenture, or other evidence of indebtedness, but does not include Federal Reserve notes or stock evidencing an ownership interest on the issuing executive agency.

(3) The term "direct loan" means a disbursement of funds by an executive agency (not in exchange for goods or services) under a contract that requires the repayment of such funds with or without interest. Such term shall also include an obligation guaranteed by an executive agency and purchased by the Federal Financing Bank. Such term shall not include any commodity price-support loan made by the Commodity Credit Corporation or any loan made or insured under the Consolidated Farm and Rural Development Act.

(4) The term "subsidy" means, with respect to a direct loan, the difference between—

(A) the costs (including interest) which would have been incurred by a borrower to obtain the loan from private sources, minus

(B) the costs (including interest) which were incurred by the borrower to obtain the loan from the Government.

(5) The term "debt" means an amount of money or property that has been determined by an appropriate official of an executive agency to be owed to the United States by any person, organization, or entity except another agency.

(6) The term "loan guarantee" means contingent liability of an executive agency. A guaranteed loan is—

(A) any agreement in which an executive agency pledges to pay part or all of the amount due to a lender or holder in the event of default by the borrower; or

(B) a direct Federal loan that an executive agency sold under a guarantee or agreement to repurchase.

Such term does not include a loan guaranteed under the Consolidated Farm and Rural Development Act.

(7) The term "credit extension" means that portion of the credit management cycle involving review and approval of requests for short-term or long-term credit.

(8) The term "financial contract" means any agreement or contract made by an executive agency, the primary purpose or results of which is to make private credit available, or available on more favorable terms than in the absence of the contract, to a non-Federal entity by indirectly or directly assuming the risk involved. Such term includes financial contracts such as an agreement to pay all or part of the principal or interest on the debt obligation of a non-Federal entity (debt service payments), financial lease agreements for assets and project financing, and repayment arrangements.

(9) The term "creditworthy" means a favorable determination entitling an applicant to receive credit, which is based on—

(A) the perceived ability and willingness of the borrower to repay the debt and the lending organization's level of acceptable risk; and

(B) the consideration of other Federal obligations that could jeopardize, or be jeopardized by, the new debt under consideration.

(10) The term "receivables" means amounts owed the Government upon completion of the acts giving rise to claims, and includes amounts such as amounts due for taxes, loans, sales of goods and services, fines, penalties, forfeitures, interest, overpayments, fees, duties, rents, royalties, claims, damages, audit disallowances, and travel advances.

(11) The term "account servicing" means that portion of the credit management cycle dealing with monitoring the status of accounts of indebtedness, maintaining records of current debts, billing for amounts due, collecting amounts due, collecting past due amounts, handling debtor correspondence, performing followup functions, and providing accurate reporting of debt portfolios.

(12) The term "debt collection" means that portion of the credit management cycle dealing with recovery of amounts due after routine followup fails, and includes the assessment of the debtor's ability to pay, the exploration of possible alternative arrangements to increase the debtor's ability to pay, and other efforts to secure payment.

(13) The term "delinquency" means the status of any account which is 30 days past due.

(14) The term "default" means the failure to meet any obligation or term of a credit, grant, or contract agreement that causes the lender to accelerate demand on the borrower because of the severity of the borrower's breach of the agreement, and for purposes of this chapter, default occurs—

(A) in the case of a direct loan, when the account is past due over 180 days; and

(B) in the case of guaranteed loan, when the Government repurchases the loan.

(15) The term "reschedule" means to establish new terms and conditions to facilitate repayment of a debt.

(16) The term "referral for litigation" means—

(A) referral to the Attorney General for appropriate legal proceedings; or

(B) in any case in which an executive agency has statutory authority to bring legal actions without referral to the Attorney General, referral to the organization within the executive agency that is responsible for litigation.

(17) The term "credit report" means any written or documented oral communication of information provided by a commercial or consumer credit reporting agency dealing with the creditworthiness or financial reliability of an applicant or debtor.

(18) The term "Under Secretary" means the Under Secretary of the Treasury for Debt Collection and Credit Management appointed under section 3603 of this section.

(19) The term "agency head" means, with respect to an executive agency, the chief executive of the agency.

(20) The term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(b) There shall be in the Department of the Treasury an Under Secretary of the Treasury for Debt Collection and Credit Management, who shall be appointed by the President, by and with the consent of the Senate.

(c) The Under Secretary shall—

(1) be the principal advisor to the President with respect to Federal credit management and debt collection policy;

(2) provide leadership, central direction, guidance, and monitoring of the executive agencies in credit management and debt collection and related financial reporting;

(3) prepare and transmit to the Congress and the Comptroller General, within one year after the date of enactment of this section and in consultation with agency heads, comprehensive debt collection and credit management plans which comply with subsection (d) of this section;

(4) review executive agency credit management and debt collection plans and policies in order to assure that—

(A) such plans and policies are—

(i) consistent with the overall objectives, structure, and information requirements of comprehensive debt collection and credit management plans prepared under paragraph (3) of this subsection; and

(ii) applied uniformly across agencies to assure parity and consistency; and

(B) in the case of any project for the development of new or improved financial management systems, such project does not duplicate efforts by other agencies;

(5) ensure that the President and the Congress are kept fully and currently informed of the Federal Government's—

(A) financial position and results of its operations;

(B) financial management condition; and

(C) requirements for financial resources to correct deficiencies and improve the effectiveness of accounting systems, financial systems, and systems of internal controls;

(6) identify and establish financial management objectives and information requirements in order to define the data requirements of standards established by the Comptroller General for the use by all exec-

utive agencies in the development and operation of their financial management systems;

(7) require each executive agency to submit comprehensive records describing in detail debt status and collection efforts, by program, project, or activity;

(8) provide an annual summary of the activities conducted under this section to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives, describing the progress made in improving debt collection and credit management, and recommending such changes in Federal law for the purpose of improving debt collection and credit management as the Under Secretary considers appropriate; and

(9) promulgate such regulations as may be necessary to carry out this section.

(d) The comprehensive debt collection and credit management plans required under paragraph (3) of subsection (c), shall, at a minimum—

(1) establish credit management and debt collection practices, procedures, and regulations that implement and comply with this section and regulations of the Under Secretary, and all other relevant laws, regulations, rulings, and guidance;

(2) define and assign debt collection and credit management responsibilities for each executive agency;

(3) establish employee performance appraisal standards and bonus award programs that take into account employee contributions to improving the operation of credit management and debt collection programs;

(4) establish accounting practices and procedures and automated management information systems to enable each executive agency to produce accurate financial reports on those programs that generate receivables, including reports such as operating statements, statements of financial position, and cash flow statements; and

(5) require annual evaluations of credit management and debt collection operations and systems in order to identify areas in which such operations and systems could be improved and to initiate actions to correct any problems identified through such evaluations.

(e) Within 60 days after receiving a plan under paragraph (3) of subsection (a), the Comptroller General shall prepare and transmit to the Congress a report which contains the analysis and comments of the Comptroller General with respect to the plan and the progress being made by executive agencies to strengthen credit management and debt collection.

(f)(1)(A) The Secretary of the Treasury shall establish Federal credit management policies and promulgate regulations implementing this section. Such policies and regulations shall apply to—

(i) direct loans, loan guarantees, loan insurance, financial contracts designed to support borrowing, and debts arising from contracts, grants, and other administrative arrangements; and

(ii) all executive agencies and Government corporations unless specifically exempted from Federal control by other statutory authority.

(B) The Secretary of the Treasury shall include in regulations promulgated under this paragraph regulations with respect to—

(i) all credit practices necessary to make Federal credit practices substantially conform to the best established credit practices of the private sector;

(ii) credit analysis of borrowers (including determinations with respect to creditworthiness, financial responsibility, financial statements, identification of collateral, and ability to repay);

(iii) prescreening procedures (including the use of credit reports and records from the same or other executive agencies to identify applicants who are delinquent or in default on debt contracted under other Federal programs, projects, or activities);

(iv) program eligibility;

(v) alternative sources of credit;

(vi) use of taxpayer identification numbers;

(vii) establishment of regular repayment schedules;

(viii) account servicing practices (including adequate recordkeeping and documentation, account review and loss estimates, followup procedures on delinquent accounts, and automation of loan servicing activities);

(ix) debt accounting and reporting systems;

(x) interest, penalties, and administrative costs;

(xi) administrative offset;

(xii) use of collection agencies;

(xiii) referral for litigation;

(xiv) calling guarantees;

(xv) controlling and foreclosing on collateral;

(xvi) Federal employee salary offset;

(xvii) income tax refund offset;

(xviii) rescheduling;

(xix) writeoff and closeout procedures;

(xx) portfolio sales;

(xxi) management review; and

(xxii) improvement plans.

(2) Regulations promulgated under paragraph (1) of this subsection shall not apply to debt arising under the Internal Revenue Code of 1986, the Social Security Act, the tariff laws of the United States, or to debts owed by State or local governments.

(g) The Secretary of the Treasury shall prescribe minimum requirements for contracts for all loans or loan guarantees governed by this section.

(h) The total amount of delinquent debts owed to executive agencies (other than debts arising under the Internal Revenue Code of 1986) shall be reduced by an amount equal to the amount of delinquent debt owed to the United States recommended and targeted for debt collection in the President's Budget for fiscal year 1989 plus $2,000,000,000 (hereinafter referred to in this section as "additional collections").

(i) The Secretary of the Treasury, after consulting with each agency head and receiving the proposals of each agency head for debt collection targets, shall develop and specifically establish debt collection targets for each fiscal year for each executive agency debt collection program. Such targets shall be established in conjunction with the provisions of the comprehensive debt collection credit management plans established pursuant to section subsection (c)(3) of this section and shall be designed to implement subsection (h).

(j) To the extent that any debt collection targets established by the Secretary of the Treasury under subsection (i) of this section for an executive agency for a fiscal year are exceeded by such agency (not including additional collections), 15 percent of the amount by which such agency exceeds the targets for such fiscal year shall be made available to the executive agency as additional program funding for the particular program or activities involved in the debt collection activity. The balance of the delinquent debts, other than additional collections, collected under this section shall be returned to the Treasury of the United States and shall be used to reduce the public debt. An amount equal to the amount of such delinquent debts collected as additional collection is appropriated to the Antidrug Abuse Fund established by section 9511 of subchapter A of chapter 98 of the Internal Revenue Code of 1986.

(k) To the extent that any debt collection targets established by the Secretary of the Treasury under subsection (b) of this section for an executive agency for a fiscal year are not met by such executive agency, the amounts that were appropriated for the programs or activities at the executive agency failing to meet such targets shall be reduced by an amount equal to 15 percent of the difference between the amount collected by the executive agency toward its debt collection target and the actual debt collection target established by the Secretary of the Treasury under subsection (i) of this section.

(l) The Secretary of the Treasury shall promulgate regulations which prescribe standards for use by executive agencies in developing proposals for debt collection targets. Such standards shall require executive agencies to consider, for each program or activity, such factors as—

(1) the characteristics of the debts and debtors involved;

(2) the historical experience of the agency, other government agencies, and the private sector in the collection of similar types of debt;

(3) the rates of delinquency and default;

(4) planned improvements in the agency's debt collection programs; and

(5) such other factors as the Secretary of the Treasury considers appropriate.

(m) Officers and employees of executive agencies responsible for the management of debt collection programs shall be held accountable (as part of the performance standards to be established under subsection (c)) for establishing and periodically reviewing and revising procedures and targets that comply with the requirements of this section and the regulations of the Secretary of the Treasury.

(n) Any reductions to executive agency appropriations under this section shall be reported in detail to the Congress by the Secretary of the Treasury and shall be included in detail in all budget justifications presented by the executive agency to the Congress.

(o) Section 3711(f) of title 31, United States Code, is amended by—

(1) striking out "may" after "legislative agency" in paragraph (1) and inserting in lieu thereof "shall"; and

(2) striking out "may" after "system" in subparagraph (A) of such paragraph and inserting in lieu thereof "shall".

(p) Section 3718(a) of title 31, United States Code, is amended by—

(1) inserting "to augment agency collection efforts" after "appropriate";

(2) striking out "may" after "head of the agency" and inserting in lieu thereof "shall";

(3) striking out "; and" at the end of paragraph (1);

(4) striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and"; and

(5) inserting after paragraph (2) the following new paragraph:

"(3) the person will submit to the agency status reports on the success of such person in collecting such debts at least once every six months.".

(q) Section 5514(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(5) This subsection does not apply to intragency deductions for routine administrative overpayments which are the result of clerical or administrative error or delays in the processing of pay documents, and which are rarely controversial or disputed. With respect to these routine adjustments of pay, the agency should afford the individual reasonable opportunity to dispute the deduction. Such opportunity need not be provided prior to making the deduction.

"(6) No claim may be collected under the authority of paragraph (1) of this subsection at any time after 10 years after the claim first accrues.".

(r) Section 6103(m)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by inserting before the period a comma and "or other statutory authorities granting agencies independent claims collection authority"; and

(2) by striking out "the Secretary may" and inserting in lieu thereof "the Secretary shall".

(s) Section 3719 of title 31, United States Code, is amended—

(1) by striking out "the Director of the Office of Management and Budget" in subsection (a) and inserting in lieu thereof "the Under Secretary of the Treasury for Debt Collection and Loan Management";

(2) by striking out "Director" each place it appears in subsections (a) and (b) and inserting in lieu thereof "Under Secretary";

(3) by striking out "and the Secretary at least once each year" in subsection (a) and inserting in lieu thereof "in accordance with regulations issued by the Under Secretary under section 3603 of this title";

(4) by striking out "and" at the end of subsection (a)(1)(E);

(5) by inserting "and" after the semicolon in subsection (a)(1)(F);

(6) by inserting after subparagraph (a)(1)(F) the following new subparagraph:

"(G) the agency's progress in implementing chapters 36 and 37 of this title, and the agency's monetary and programmatic goals for improving collections and reducing delinquencies and writeoffs;"; and

(7) by striking out "and shall report annually to Congress on the management of debt collection activities by the head of each agency" in subsection (b) and inserting in lieu thereof "and shall prepare (for inclusion in the budget submissions required by section 1105 of this title) a detailed statement of the Under Secretary's evaluation of each agency's implementation of its debt collection and loan management responsibilities for each debt collection and credit program administered by the agency".

(t) Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(26) a separate statement for each agency and program contains the information specified in section 3719(b) of this title.".

(u) Section 3701(b) of title 31, United States Code, is amended to read as follows:

"(b) In subchapter II of this chapter, the terms 'debt' and 'claim' mean any amount owed to the Government, except that such term does not include any amounts owed by one agency to another agency, and except as otherwise provided by law.".

SEC. 1006. TRUST FUND.

Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new section:

"SEC. 9511. ANTIDRUG ABUSE TRUST FUND.

"(a) CREATION OF TRUST FUND.—

"(1) IN GENERAL.—There is hereby established in the Treasury of the United States a trust fund to be known as the "Antidrug Abuse Trust Fund".

"(2) ACCOUNTS IN TRUST FUND.—The Antidrug Abuse Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section.

"(b) APPROPRIATIONS.—

"(1) TRANSFER OF CERTAIN TAXES TO ACCOUNT.—There is hereby appropriated to the Antidrug Abuse Trust Fund amounts equivalent to the following amounts received in the Treasury on or after October 1, 1988—

"(A) the additional amounts of collections resulting from the enforcement activities of the additional personnel provided under sections 1001, 1002, 1003, and 1004 of the Omnibus Antidrug Abuse Act of 1988 which is over and above that assumed with respect to such collections in the Omnibus Budget Reconciliation Act of 1987 and the Joint Resolution making further continuing appropriations for the fiscal year 1988, and for other purposes, approved December 22, 1987, and

"(B) the additional collections referred to in section 1005 of the Antidrug Abuse Act of 1988.

"(2) EXPENDITURES FROM FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to carry out the purposes of the Omnibus Antidrug Abuse Act of 1988.".

SUMMARY ANALYSIS OF THE OMNIBUS ANTIDRUG ACT OF 1988

TITLE I—DRUG ENFORCEMENT AND PERSONNEL ENHANCEMENT

Subtitle A. Asset Forfeiture Fund Amendments Act of 1988:

Makes certain changes to the Treasury and Justice Department Asset Seizure funds to allow those funds to be more easily provided to state and local agencies which contributed to the seizure.

Allows some of those funds from the Justice account to be used for prison construction.

Removes caps from those funds and takes the use of those funds off-budget.

Subtitle B. State and Local Narcotics Control Assistance:

Authorizes the Bureau of Justice Assistance (which expires this year) and requires that the BJA Administrator be appointed by the President with the advice and consent of the Senate.

Requires each state to submit a "master" plan or strategy which encompasses demand reduction, education, and law enforcement programs and delineates 30 different purposes for which these funds can be used.

Establishes an expedited grant system for metropolitan areas with a population over 500,000.

Provides accountability by implementing reporting and feedback requirements (providing funds to carry out the same), while identifying those programs whch are successful, with the intent of encouraging similar programs.

Sets up a three-year approach by which a program funded in the first year would receive the same funding for the following two years, and authorizes $250 million the first year, $500 million the second year, and $750 million in the third year.

$5 million and 96 FTE to allow BJA to implement this grant program.

Subtitle C. Chemical Diversion and Trafficking Act of 1988:

Identical to H.R. 2585, a bill to suppress the diversion and trafficking of precursor chemical and other chemicals used in the illicit manufacture of controlled substances.

Subtitle D. Comprehensive Federal Law Enforcement officer Improvements Act of 1988:

Makes certain provisions for law enforcement officers, including increased death benefits for all federal, state, and local officers.

Establishes a National Advisory Commission on Law Enforcement to examine pay and benefits and report to the President within six months.

Subtitle E. Deportation of Convicted Foreign Drug Inmates:

Provides for the deportation of "violent criminal aliens" who have been convicted of an aggravated violent felony, while providing safeguards.

Subtitle F. Customs Enforcement Amendments Act of 1988:

Provides for the inspection of vessels by Customs officers under certain conditions on the high seas.

Clarifies current law regarding transfer of seized assets to contributing state and local law enforcement agencies and foreign governments.

Authorizes the Secretary of State to revoke the passport of any individual convicted of a felony narcotics violation.

Subtitle G. Authorization of Additional Appropriations for Drug Enforcement Personnel, Fiscal Year 1989:

Coast Guard. $45 million and 800 FTE's above the President's request.

Customs. $30 million and 600 FTE above President's budget

Border Patrol. $20 million and 500 FTE's above President's request.

INS. $19 million and 225 criminal and organized crime investigator FTE's above President's request.

ATF. $8 million and 140 FTE's over President's request, including 10 FTE's to establish a Bureau of Alcohol, Tobacco, and Firearms Drug Educations officers program, and certain reimbursements for state and local personnel.

DEA. $60 million and 224 FTE's above the President's request, including five FTE's for program similar to above.

FBI. $38 million and 400 FTE's above the President's request, including five FTE's for program similar to above.

Marshals Service. $73.8 million above the President's request to be used as follows:

1. $11.5 and 230 FTE's for asset seizure and forfeiture activities;
2. $30.7 and 20 FTE's for jail cell renovations including Cooperative Agreement Program projects;
3. $10 million and 188 FTE's for criminal justice support activities;
4. $6.2 million and 104 FTE's for protection of the federal judiciary and federal courts due to increased drug-related trials;
5. $4.6 million and 60 FTE's for Witness Security Program; and
6. $10.8 and 139 FTE's for fugitive programs.

$10 million and 200 FTE for additional U.S. Attorneys.

Authorizes $150 million for new federal prison construction.

Subtitle H:

Authorizes rewards for information on narcotics fugitives.

Prohibits dangerous weapons in federal courthouses.

Authorizes payments to state and local jurisdictions for the housing and care of persons in Marshals Service custody.

TITLE II. INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

Subtitle A. International Drug Eradication Improvement Program:

Establishes an International Special Operations Drug Eradication Squadron within State for use in source countries.

Authorized an additional $12 million for the procurement of aircraft, equipment, O&M, and salaries and expenses for the Squadron.

Requires the Secretary of State to establish strict criteria and guidelines for employing the squadron.

Subtitle B. International Narcotics Matters Improvement and Special Assistance Programs:

Establishes a three-year economic assistance grant program under AID for source countries which meet specific eradication goals (15 percent verifiable in the first year, 40 percent by the third year to be determined by DEA).

Authorizes $200 million for the program for each of the three years.

Directs the Comptroller General to monitor the program, and provides for a panel of Administration and Congressional representatives to assess the program after three years.

Subtitle C. Amendments to Foreign Assistance Act of 1961, as Amended:

Implements certain changes to the reporting requirements of the Act concerning the cooperation of source and transshipment countries in narcotics control.

Subtitle D. International Narcotics Matters Authorization of Appropriations:

Authorizes $138 million in the first year and $150 million for the second year for INM, including:

$500,000 to be used for coca eradication research;

$900,000 to provide protective equipment for aircraft used in narcotic eradication and interdiction efforts in source or transshipment countries upon notification of Congress; and

$2 million to be used for training in foreign countries relating to narcotics control.

Allows funds withheld from non-cooperating countries to be used for narcotics control in cooperating countries.

Provides certain assistance for Bolivia; limits and conditions amount of funds which can be made available to Mexico; provides other foreign assistance programs involving education and reporting.

Subtitle E. Latin American Anti-Drug Strike Force:

Creates within State an Ambassador at Large and Coordinator for Western Hemisphere Anti-Drug Efforts.

Directs the Joint Chiefs of Staff to develop a plan for a Latin American strike force to eradicate and interdict narcotics in the Western Hemisphere (outside the U.S. and its territories).

Would involve Latin American personnel using U.S.-provided resources.

TITLE III. DRUG INTERDICTION ASSET IMPROVEMENT AND ENHANCEMENT

Subtitle A. Coast Guard:

Provides $186 million for marine and air interdiction assets and for O&M.

Subtitle B. Customs:

Provides $110 million for Air Interdiction assets and $15 million for salaries and expenses.

Subtitle C. Department of Defense:

Provides $75 million for four aerostats, $15 million for surveillance flights and related purposes, and $10 million for assets in establishing the Latin American Strike Force.

Subtitle D. DEA:

Provides $48 million for the establishment of an International Drug Interdiction helicopter force similar to OPBAT; $4 million will go to EPIC for enhancing tactical intelligence.

Subtitle E. INS/Border Patrol:

$20 million for Border Patrol equipment.

Subtitle F. Establishment of Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force:

Provides $15 million for 100 Border Patrol, 25 Customs, and 25 DEA agents assigned to two mobile corridor operations forces, with line authority given to joint commanders.

Subtitle G. U.S.-Bahamas Drug Interdiction Task Force:

Authorizes $13 million for joint efforts.

Subtitle H. Special Drug Interdiction Support:

Authorizes grant programs for procurement of assets to Puerto Rico—$7 million, Jamaica—$7 million, Dominican Republic—$5 million, Hawaii—$7 million.

TITLE IV. DEMAND REDUCTION

Subtitle A. Treatment and Rehabilitation:

Authorizes $20 million for grants to emphasize community based residential treatment services such as halfway houses and therapeutic communities, including the purchase of land and construction of facilities.

Subtitle B. Alcohol and Drug Abuse Treatment and Rehabilitation Act of 1988:

Authorizes $558 million in first year, and $583 million in the second year, and $608 million in the third year for Alcohol, Drug Abuse and Mental Health Bloc Grant program.

Authorizes $600 million in the first year, $625 million in the second year, $650 million in the third year for Substance Abuse Emergency Drug Treatment Programs.

Subtitle C. Drug-Free Schools and Communities Act Amendments of 1988:

Authorizes $300 million in the first year, $350 million in the second year, and $350 million in the third year with specific reporting and accountability requirements.

TITLE V. NATIONAL DRUG ENFORCEMENT AGENCY REORGANIZATION AND COORDINATION

Subtitle A. National Border Coordination and Reorganization Act of 1988:

Establishes Office of Enforcement and Border Affairs within the Department of the Treasury, and places Coast Guard and Customs within that office.

Subtitle B. Department of Defense Drug Interdiction Reorganization:

Establishes within ISA a Deputy Assistant Secretary for International Drug Interdiction and Enforcement with the overall duty of DoD drug interdiction and enforcement activities.

TITLE VI. RESEARCH AND DEVELOPMENT FOR LAW ENFORCEMENT AGENCIES

Subtitle A. Establishment of New Research and Development Programs to Assist Federal Law Enforcement Agencies:

Directs the establishment of a Research and Technology Group under the National Drug Policy Board and creates an advisory board to report to the Group.

Designates 8 existing facilities under the Departments of Defense, Justice, and Energy and other agencies as "National Technology Development Centers" to develop technologies for federal law enforcement applications.

Subtitle B. Cargo Container Drug Detection Research and Development:

Authorizes $5 million for developing technology.

TITLE VII. DRUG ENFORCEMENT TRAINING IMPROVEMENT

Subtitle A. The Federal Law Enforcement Training Center Improvement Act of 1988:

Expands and improves the Federal Law Enforcement Training Center, and provides an additional $10 million for fiscal 89, a total of $45 million in fiscal 90, and a total of $50 million in fiscal 91.

Subtitle B. Department of Justice Training Facilities Improvement Act of 1988:

Provides an additional $10 million for existing Justice facilities and $10 million for new facilities.

Subtitle C.

Provides a total of $11 million to establish a foreign language training program for special agents of federal civilian drug enforcement agencies within the Departments of Defense and State.

Subtitle D. Special Training Centers:

Provides $10 million for the establishment of a National Training Center in El Reno, Oklahoma, to train Federal, State, and local prison officials in drug rehabilitation programs targeted to criminals convicted of drug-related crimes.

TITLE VIII. DRUG TESTING IN THE PRIVATE WORKPLACE

Requires that laboratories performing drug testing for the private workplace meet certain minimum standards, and that no action be taken against an employee or applicant based on a test from a laboratory not meeting those minimum standards.

TITLE IX. CONGRESSIONAL POLICY REGARDING ADDITIONAL FUNDING FOR FISCAL YEAR 1989 FOR ANTI-DRUG ABUSE PROGRAMS

Provides for the continuity of funding for the programs authorized in the Act and establishes framework for partial offset of cost.

COST BREAKDOWN OF OMNIBUS ANTIDRUG ABUSE ACT OF 1988

(Note: These Figures Represent the Increase Over the President's Fiscal Year 1989 Budget Request, Unless Otherwise Noted.) These Are Estimates of Budget Authority

TITLE I: DRUG ENFORCEMENT AND PERSONNEL ENHANCEMENT

Subtitle A: Asset Forfeiture Fund Amendments Act of 1988.

No new budget authority required to implement.

Subtitle B: State and Local Narcotics Control Assistance.

Estimated Cost: $250,000,000 FY 1989 (Total funding); 500,000,000 FY 1990 (Total funding); 750,000,000 FY 1991 (Total funding); and 5,000,000 FY 1989 (96 FTE/BJA).

Subtitle C: Chemical Diversion and Trafficking Act of 1988.

No new budget authority required to implement.

Subtitle D: Comprehensive Federal Law Enforcement Officer Improvements Act of 1988.

Estimated Cost: $10,000,000 (covers increased death benefits and Commission).

Subtitle E: Deportation of Convicted Foreign Drug Inmates.

No new budget authority required to implement.

Subtitle F: Customs Enforcement Amendments Act of 1988

No new budget authority required to implement.

Subtitle G: Authorization of Additional Appropriations for Drug Enforcement Personnel, FY 1989.

Estimated Cost: Coast Guard: $45,000,000/800 FTE; Customs Service: $30,000,000/600 FTE; Border Patrol: $20,000,000/500 FTE; and INS: Criminal Investigators: $3,000,000/50 FTE.

INS: OCDETF agents: $16,100,000/175 FTE; BATF: $8,000,000/140 FTE; DEA: $60,000,000/224 FTE; FBI: $38,000,000/400 FTE; Marshals Service: $73,800,000/741 FTE; and U.S. Attorneys: $10,000,000/200 FTE.

Subtotal: $303,900,000/3,830 FTE.

(Note: FTE=full-time equivalent positions.)

Estimated Cost: Federal Prison System construction: $200,000,000 FY 1989.

Subtitle H: Miscellaneous Law Enforcement Provisions.

Estimated Cost: $1,000,000 for President's Media Commission on Alcohol and Drug Abuse Prevention.

Title II: International Narcotics Control and Assistance to Foreign Countries

Subtitle A: International Drug Eradication Improvement Program.

Estimated Cost: $12,000,000 FY 1989.

Subtitle B: International Narcotics Matters Improvement and Special Assistance Programs.

Estimated Cost: $200,000,000 FY 1989, 1990, & 1991 each.

Subtitle C: Amendments to Foreign Assistance Act of 1961, As Amended.

No new budget authority required to implement.

Subtitle D: International Narcotics Matters Authorization of Appropriations.

Estimated Cost: $30,000,000 FY 1989, $150,000,000 total funding, FY 1990. 1,000,000 A.I.D. drug education program.

Subtitle E: Latin American Antidrug Strike Force.

Estimated Cost: $10,000,000 start up costs, funded in Department of Defense portion of Title III, Drug Interdiction Asset Improvement and Enhancement.

Title III: Drug Interdiction Asset Improvement and Enhancement

Subtitle A: Coast Guard: $186,000,000 FY 1989.

Subtitle B: Customs Service: $125,000,000 FY 1989.

Subtitle C: Department of Defense: $90,000,000** (**Also, $10,000,000 for Latin American Strike Force established in Title II.).

Subtitle D: Drug Enforcement Administration: $48,000,000.

Subtitle E: Border Patrol: $20,000,000.

Subtitle F: Interagency S.W. Border Drug Interdiction Mobile Corridor Task Force: $15,000,000/150 FTE, incl. 100 Border Patrol; 25 DEA; and 25 Customs.

Subtitle G: U.S.-Bahamas Drug Interdiction Task Force: $13,000,000.

Subtitle H: Special Drug Interdiction Support: $26,000,000, including: $7,000,000-Puerto Rico; $7,000,000-Jamaica; $5,000,000-Dominican Republic; and $7,000,000-Hawaii.

Title IV: Demand Reduction

Subtitle A: Treatment and Rehabilitation. Estimated Cost: $20,000,000 FY 1989.

Subtitle B: Alcohol and Drug Abuse Treatment and Rehabilitation.

Estimated Cost: Basic Block Grant Program: ADAMHA: $50,000,000 over President, FY 1989 (Total of $558,860,000).

Basic Block Grant Program: ADAMHA $583,000,000 total, FY 1990.

Basic Block Grant Program: ADAMHA $608,000,000 total, FY 1991.

Emergency drug treatment grants: $435,000,000 over President, FY 1989.

Emergency drug treatment grants: $625,000,000 over President, FY 1990.

Emergency drug treatment grants: $650,000,000 over President, FY 1991.

Subtitle C: Amendments to Drug-Free Schools and Communities Act.

Estimated Cost: $50,000,000 over President, FY 1989; $350,000,000 total, FY 1990; and $350,000,000 total, FY 1991.

Title V: National Drug Enforcement Agency Reorganization and Coordination

Subtitle A: Office of Enforcement and Border Affairs.

No new budget authority required to implement.

Subtitle B: Department of Defense Drug Interdiction Reorganization.

Estimated Cost: $100,000 FY 1989.

Subtitle C: Establishment of Senate Select Committee on Narcotics Abuse and Control. Estimated Cost: $400,000 FY 1989; $500,000 FY 1990; $600,000 FY 1991.

Title VI: Research and Development for Law Enforcement Agencies

Subtitle A: Establishment of New Research and Development Programs to Assist Federal Law Enforcement Agencies.

Estimated Cost: $-0- FY 1989; $70,000,000 FY 1990.

Subtitle B: Cargo Container Drug Detection Research and Development.

Estimated Cost: $5,000,000 FY 1989.

Title VII: Drug Enforcement Training Improvement

Subtitle A: Federal Law Enforcement Training Center.

Estimated Cost: $10,000,000 over President, FY 1989; $45,000,000 total, FY 1990; and $50,000,000 total, FY 1991.

Subtitle B: Department of Justice Training Facilities Improvement Act of 1988.

Estimated Cost: $10,000,000 over President, FY 1989 for expansion of existing facilities; and $10,000,000 over President, FY 1989 for new training facilities.

Subtitle C: Federal Law Enforcement Language Training Improvement Act of 1988.

Estimated Cost: $11,000,000 over President, FY 1989.

Subtitle D: Establishment of National Training Center in El Reno, Oklahoma.

Estimated Cost: $10,000,000 over President, FY 1989.

Title VIII: Drug Testing in the Private Sector

No new budget authority required to implement.

Title IX: Congressional Policy Regarding Additional Funding for Fiscal Year 1989 for Antidrug Abuse Programs

No new budget authority required to implement.

Title X: Funding; Accounts

Subtitle A: Offsetting Revenues and Savings to Cover the Cost of This Act.

Authorization of Additional Appropriations: Internal Revenue Service.

Processing Tax Returns: $4,675,000/186 FTE over President, FY 1989; Examinations and Appeals: $158,882,000/3,829 FTE over President, FY 1989.

Investigation, Collection, and Taxpayer Service: $123,056,000/2,827 FTE over President, FY 1989.

Estimated revenues from increased collections available to offset cost of this act: $1,120,000,000 FY 1989; $2,222,000,000 Fiscal Year 1990 over President's budget.

Authorization of Additional Appropriations: Bureau of Alcohol, Tobacco, & Firearms.

Salaries and Expenses, BATF: $4,000,000 over President, FY 1989.

Estimated revenues from increased enforcement of special occupational tax enforcement by agency: $130,000,000 FY 1989; $140,000,000 FY 1990.

Accelerated Collection of Delinquent Government Debt: Department of the Treasury.

Language in the bill that would mandate the collection of $2,000,000,000 over and above President's budget estimates for debt collection for fiscal year 1989; $2,000,000,000 additional debt collections over current estimates for fiscal year 1990.

Incentive program for agencies that exceed established debt collection targets; penalties for those agencies that fail to meet established debt collection targets.

Notes: All proceeds from the enhanced tax collections and debt collection payments would be deposited into a newly-established Anti-Drug Abuse Fund in Treasury; to be disbursed by the Secretary of the Treasury to the agencies responsible for funding the progrrams, projects, activities, and initiatives authorized in this bill.

Total cost of Omnibus Anti-Drug Abuse Act of 1988: $2,157,400,000 FY 1989 (Does Not Include Additional Funding Required to Collect Additional Revenues/Debt Collection).

Amount of additional tax collections/debt collections deposited into special fund to cover cost of this act: $3,250,000,000 fiscal year 1989; $4,362,000,000 fiscal 1990.

Total cost of Omnibus drug bill, including additional staff/$$ for increased tax and debt collections: $2,448,013,000.

Total additional revenues available in FY 1989 to cover cost of omnibus drug bill: $3,250,000,000.

Difference: $801,987,000.

Summary of Costs: Drug Bill

Title I: $769,900,000.
Title II: 253,000,000.
Title III: 523,000,000.
Title IV: 555,000,000.
Title V: 500,000.
Title VI: 5,000,000.
Title VII: 51,000,000.
Title VIII: 000.
Title IX: 000.
Title X: 290,613,000.

Total new budget authority: Omnibus Anti-Drug Abuse Act, 1988 $2,448,013,000.

−$3,250,000,000 additional revenues available to cover cost of Omnibus Anti-Drug Abuse Act of 1988.

Net cost: −801,987,000.

Other notes: Bill authorizes hiring of 4,076 full time positions for law enforcement; U.S. Attorneys; and support personnel. These are positions over and above President's fiscal year 1989 budget request of February 18, 1988.

Additional staffing of 6,842 at I.R.S. and 40 at BATF to collect additional revenue.

● **Mr. MOYNIHAN.** Mr. President, President Reagan was quoted in Time magazine of March 14, 1988, as having said on February 29, 1988, that "The tide of battle has turned, and we are beginning to win the crusade for a drug-free America." Indeed. Smuggling of cocaine and heroin into the United States nearly doubled between 1981 and 1986, according to the Office of Technology Assessment.

The Omnibus Anti-Drug Abuse Act of 1988 is based on the proposition that the Federal Government should assume as a normal function the arrest, prosecution, and punishment of narcotics dealers. It is elemental. To help the Federal Government meet this responsibility, our bill authorizes much-needed funding increases for the Coast Guard, Customs Service, Border Patrol, Drug Enforcement Agency, and the Federal Bureau of Investigation.

In addition, the Omnibus Anti-Drug Abuse Act of 1988 resurrects an important program which I have fought to maintain since the onset of the Reagan administration. That is the State and Local Narcotics Control Assistance Program—the heir to the Law Enforcement Assistance Administration. In 1984 and 1985, when President Reagan tried to eliminate it, I introduced legislation to save it. We were successful in doing so by including it in the Anti-Drug Abuse Act of 1986. However, the administration has cut its budget substantially since then and proposed to eliminate it entirely for fiscal year 1989.

Another important provision affects the numbers of drug law violators pending trial that have come to this country illegally. On the first day of the Congress, I introduced S. 48, the Criminal Alien Departure Act, to establish a pilot program whereby drug-law offenders would be given the option of a trial, at taxpayers expense, or be deported immediately. There is a similar provision in the bill we introduce today; a bill that will do much to help the Federal Government meet its responsibilities in the war against drugs.●

Mr. GRAHAM. Mr. President, last week I was in Florida visiting in a small community in the northern part of our State, Madison, FL. There I met with Sheriff Peevy, a long-time highly regarded law-enforcement official in our State. He told me that in that small community 85 percent of the persons who were incarcerated in the county jail were there because of a drug-related offense. They either had committed a drug-related crime or were supporting a drug habit.

Mr. President, this is not an issue that is exclusive to a handful of large communities in this Nation. This is not an issue which is exclusive to a few areas of geography that are especially exposed to drug trafficking from international sources. This is an issue which has come into the mainstream and the Main Streets of America. The strong steps which this legislation takes would be a statement of our national commitment to winning the war against drugs. I am concerned, Mr. President, that this is a war in which we have sent out mixed signals. The actions which were taken in 1987 in terms of sharp recommended reductions in the 1986 drug legislation would have been analogous to the United States, in 1942, having decided to surrender and retreat from the commitment that we made on December 8, 1941, in declaring war against the Axis. We need to see that our national security and victory in the war against drugs are common objectives. They are not separate issues. They are issues which must be seen as necessary victories for America if America is to realize its future.

Mr. President, we cannot win the war against illegal drug abuse by talking it to death. Those of us whose States have been overwhelmed by drug smugglers, drug dealers, drug-related violent crime, and drug deaths—know that preemptive strikes count for more than discussion.

I'm proud to join my colleagues today in moving to close our borders and to reclaim our schools and inner cities and law enforcement agencies from the destructive preoccupation with drug abuse and apprehension.

The Omnibus Anti-Drug Abuse Act hits hard at every phase of the drug business. We have to attack the supply by providing incentives for source countries to develop other exports for foreign exchange, title II does that through: eradication, sophisticated protective equipment and training for source country drug enforcement, Agency for International Development grants for cooperative source countries and creation of a Latin American anti-drug strike force.

Title III beefs up the beleagured agencies which have heroically tried to seal our borders and intercept illegal drug shipments and apprehend smugglers. The Coast Guard, Customs, INS, the DEA and our special drug task forces have been out-monied in every effort by drug cartels with billions of dollars at their disposal.

Title IV addresses education and treatment. Victims of addiction and potential addicts are the market for the dealers and suppliers. Every incursion we can make into the market cuts the illegal profits and makes the business less attractive. Every time we reclaim an addict or prevent a young person from beginning a drug habit we literally give that child back a life and a future.

But it is in title I of this act that we articulate the sense of rage Americans feel at the increasing drug dominance in our society. In title I we acknowledge the scope of the threat and the tragedy and we arm local law enforcement with the weapons they need to win a war. This is a war. We are fighting it in the streets of our cities. In Jacksonville, FL, a grandmother says:

"We hear shooting at night. We don't know where it's coming from." This from a quiet neighborhood in a mid-sized, conservative American City. Not Central America. Not the Middle East. Jacksonville.

Of the cocaine seizures coming into this country 80 percent are made in Miami. Nationwide "crack" cocaine is probably involved in 60 to 80 percent of all drug arrests. The Metro Section of the Washington Post has new horror stories every day about drug murders and drug cartel executions and promising young local athletes dead of overdose or from a deal turned sour.

We fight this war in our neighborhoods, in the corridors of our schools. Local law enforcement bears the brunt of that confrontation and this act gives immediate and substantial assistance to the local agencies which are on the frontlines.

It builds more prisons. It works within a 3-year timeframe so that long range strategies can be planned and fully implemented. It pays for more personnel and better protection for our courts and judicial systems.

In 1983—the last year the economic loss to society from drugs was calculated—that loss came to nearly $60 billion. We have seen drug violence and drug traffic escalate exponentially in the 5 years since them. Faced with that incredible deficit in productivity and in the quality of our lives—the cost of this drug bill doesn't seem very high. Every penny of it is desperately needed.

One thousand to fifteen hundred kilos of cocaine now come through Miami illegally every week.

Subtitle D of title I of this omnibus drug bill increases the death benefits for Federal, State, and local law enforcement officers.

The time for talking is long past.

No grandmother in any American city should have to say:

"I'm afraid to go out of the house. We hear shooting at night. We don't know where it's coming from."

Mr. President, I ask unanimous consent to submit for the RECORD an article from the Florida Times Union of March 13 of this year and an article from Newsweek of March 28 of this year outlining the drug situation in the city of Jacksonville, FL, as well as on a national front.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CRACK FUELS FIRE OF ILLICIT ACTIVITY

(By Peggie I. Evans)

"You want to buy some?" asked G.G., one of hundreds who sell crack cocaine on the streets of Jacksonville.

Displaying a big wad of money pulled from his pocket,, G.G., 19, said he makes

$800 a week selling crack in Brentwood Park, a public housing project on the city's Northside.

Six months ago before entering the illicit drug trade, he said, he worked in a fast-food restaurant. G.G., unlike many who deal in crack, said he does not use drugs, and uses his money to buy clothes and for savings.

As the use of crack soars in Jacksonville, more and more people like G.G. are taking to the streets to make big money in a hurry, police say.

"These are people who found a way to make money fast," said Jerry Rinehart, head of federal Drug Enforcement Administration office of Northeast Florida. "Jacksonville was wide-open for it."

* * * * *

In a little more than a year's time, crack, an inexpensive, highly addictive form of cocaine that is smoked, has been designated as the Jacksonville Sheriff's Office No. 1 crime problem because of the violence and other crime it breeds.

"What was a minimum problem is now an epidemic," said Wayne Ellis, a special assistant state attorney in Jacksonville in charge of a division set up to prosecute major drug cases in Northeast Florida. Cocaine seizures here that used to measure in the ounces now measure in pounds, Ellis said.

Police blame crack, which accounts for 46 percent of all felony drug arrests in Jacksonville, in part for the city's burgeoning murder rate—the highest in Florida—and growing crime rate, the second highest in the state.

"The people who buy drugs here have to get money to buy drugs. They steal, they rob," said Captain W.K. David, head of the Sheriff's Office's narcotics division. "People don't rob a 7-Eleven for $50 for the profit" but for money to buy drugs, he said.

Crime is terrorizing Jacksonville's poor neighborhoods, where most of the city's crack is sold—usually openly on street corners—and where gunfights often break out. In one neighborhood, near Myrtle and 21st streets, seven people were shot to death within a few weeks time in late 1987.

Escalating crime and drug fights have turned some neighborhoods into virtual war zones, with residents fearful to leave their homes.

"We hear shooting at night. We don't know where it's coming from," said a gray-haired grandmother who has lived in her small, neat home in Springfield for 14 years.

"I used to feel safe living here," the woman said. Now, she said, "I'm scared to go out at night."

Springfield, once a neighborhood of mostly big, fine homes, is largely a rundown Northside neighborhood where many homes have been boarded up and abandoned. It is an area infested with drug dealers, with street pushers openly flagging down passers-by in an effort to make a sale.

"You walk two blocks and you get killed," screamed a man repeatedly to a visitor to the neighborhood.

"People are afraid of getting robbed or mugged if they leave their homes. And if they leave their homes, they're afraid their homes will get robbed," said Jacksonville Councilwoman Sandra Darling, who represents Springfield. Ms. Darling uses a gun, an alarm system and three Doberman pinschers to guard her home in the neighborhood, she said.

Across town in Colony Manor Apartments, a public housing project on the city's Southside, a mother recalls getting caught in the crossfire of a shoot-out as she and her child pulled their car into the drive of the project, where she said drugs are openly sold around the clock.

"I didn't know whether to pull up or go backward. I had my little boy. We could have been killed."

"I don't fault the police," the mother, who like other neighborhood residents interviewed did not want her names used for fear of reprisals from drug dealers. "The sight of police cars and they run," but minutes later they are back selling drugs," she said.

At University Hospital, nurses and doctors struggle to care for infants born with cocaine addiction passed on to them from their mothers who are addicts.

In crack houses—where addicts gather to buy and smoke the drug—and on street corners around the city, young women sell their bodies for as little as $10, police say, just enough to buy another crack high.

"It's going to get worse before it gets better," Ellis said. "We're in for a tough time for the next year or two."

The reason crack use has spread so quickly in Jacksonville and many other parts of the nation is because it is cheap, quickly addictive, and profitable for drug dealers to sell because of the nation's abundant and increasing supply of cocaine, which made up the biggest share of the nation's 1987 estimated $130 billion illegal drug trade, say federal drug enforcement officials.

Jacksonville's proximity to South Florida, the nation's hub for cocaine trade, has made it easy for dealers to get cocaine. The drug is usually transported from South Florida to Jacksonville up I-95, where heavy traffic makes it virtually impossible for police to halt the flow of drugs there, law enforcement officials say.

A "hit," or dose, of crack costs $10 on Jacksonville's streets, vs. the $70 to $90 a gram for powered cocaine, making crack affordable to many. Crack users become addicted to the drug in as little as two weeks, according to drug therapists.

The tragedy of crack addiction is comparable only to heroin addiction, and is perhaps worse, drug therapists say.

"We've had patients go downhill in three months, lost their job, everything," said Michelle Fitzhugh, a head nurse at River Region Human Services Inc., a nonprofit Jacksonville drug treatment center. "Some have engaged in criminal activity to buy the drug. You don't see that happen so fast in drugs except crack cocaine."

A $10 hit of crack produces a high that lasts 15 to 20 minutes, and addicts can spend in the hundreds of dollars a day to feed their habits. After their euphoric high, addicts experience extreme depression, restlessness and become paranoid, with an overpowering craving for yet another high.

Crack is made by cooking impurities out of cocaine, producing a more potent drug. Tiny yellow chunks of crack are sold on Jacksonville's streets in small, clear plastic bags that are used for storing contact lenses.

The people selling crack on Jacksonville's streets number in the hundreds, police say, and many are making hundreds of dollars a day in drug sales. Many of them are crack addicts themselves, and many are armed with guns and knives.

Most street dealers are from Jacksonville, but growing numbers are from South Florida.

Because South Florida is saturated with cocaine and because of heavy drug enforcement there, some small dealers are leaving the part of the state for greener pastures elsewhere to sell their drugs for a higher price with less risk to themselves.

"When we put all the pressure on a place like Miami and those people start going to jail, people there start looking for another place to go" and some are coming to Jacksonville, Rinehart said.

An alleged crack dealer known as Bo Didley, who controlled crack sales in a 30-block area of Miami, left the city six months ago after his organization was battered by heavy arrests and drug seizures, police said. And according to Miami police Sgt. David Riggs, Didley has relocated his operation to Jacksonville.

South Florida's estimated 200 drug kings who preside over much of the nation's drug trafficking, however, are not leaving their longtime base, DEA officials say.

Jacksonville police and federal drug agents estimate there are less than a half dozen loosely knit organizations that are controlling a large portion of crack sales in Jacksonville. The organizations vary in size from 10 or 15 people to as many as 50 people who are responsible for transporting cocaine to Jacksonville, making it into crack, and distributing it to their numerous street dealers.

On the streets, teenagers get paid $150 a day to patrol territories on bicycles and give street dealers warning of approaching police units or suspicious cars that may contain undercover police. The dealers often run and toss away their drugs, making arrests difficult.

In addition to the organized crack operations, police say numerous small entrepreneurs are cooking up their own crack to sell on the streets.

Many of the city's shootings and murders—42 murders so far this year and 151 in 1987—have been triggered by crack dealers fighting over street territory or disputes over drug deals, such as when a crack user finds he has been sold chips of soap instead of crack, police say.

The Miami Boys, violent crack dealers thought to be part of a cartel from South Florida, make up less than 10 percent of the city's crack dealers, DEA and Jacksonville sheriff's officials said.

Those running the city's crack cocaine organizations, which like the street pushers are made up mostly of Jacksonville people intertwined with growing numbers from South Florida, are making as much as thousands of dollars a day, according to Jacksonville narcotics Lt. W.B. Hodges.

"They live in the fast lane. They drive big cars—usually several—like BMWs and Mercedeses," Hodges said. "They like gold. Big gold chains and big gold diamond rings. Gold seems to be their status symbol."

The city's major crack dealers live in middle-class neighborhoods but may decorate their homes elaborately on the inside with expensive goods, Hodges said. "They spend most of their money on themselves and their women," saving little, he said.

Under the Jacksonville Sheriffs Office's Operation Crackdown, a special task force set up last November to attack the crack problem, more than 1,000 people have been arrested in the last three months. But almost all have been street pushers and crack users, with the city's major crack dealers left unscathed.

Federal and Jacksonville law enforcement agencies are focusing increasing resources on busting up the city's crack cocaine organizations. When and if the busts are successful, there will be increased violence on Jacksonville's streets as new dealers move in and fight it out over territory, said DEA special agent Brian Rafferty.

"There will be gang fights and killing on the streets," said Rafferty, who is stationed in Jacksonville.

But breaking up the organizations will also disrupt the flow of crack to the streets, says DEA's Rinehart. "It'll take organizations one and a half years to get where these people are today," Rinehart said.

Crack dealers, who are mostly young and black, are a separate and distinct group from cocaine dealers, who are mostly white, individual entrepreneurs who sell their drugs through a network of contacts rather than on the streets, Rinehart said.

Powdered cocaine is as abundant in Jacksonville as crack, which is used by blacks and whites, but the violence and crime associated with crack has made that drug law enforcement's biggest worry, police say.

As part of Operation Crackdown, sheriff's officers posing as pushers have taken to the streets selling crack. Crack users have offered as payment for the drug such items as a moped, chain saw, a leather jacket and jewelry, items which most likely were stolen, said David of the city's narcotics division.

The sting operations with police acting as street pushers, which some defense lawyers have decried as entrapment, began in February and are expected to continue at the rate of several a month. Police say jailing crack users, even if only for a short time, may deter them from seeking the drug when they are freed for fear of another arrest.

Possession of crack is a felony, but sentences are often short because of jail and prison overcrowding. Street dealers are usually charged with possession rather than stiffer trafficking charges because they carry only small amounts of crack, stashing the rest under a nearby bush or letting someone a block away hold most of their drug.

Prosecutor Ellis said he is planning to take crack offenders into the public schools in a few weeks to talk to students about the addiction that has placed the addicts behind bars and wreaked havoc in their lives.

Marijuana remains the drug of choice for most students because it is so cheap, but law enforcement officials worry that once teenagers get out of school they may graduate to using crack.

"Education is the key to this whole thing," Ellis said. "We can't seal the borders, and we can't put a police officer on every corner."

Darrel Gonzales started smoking marijuana when he was 13 and by 22 was addicted to crack. Now 26, he is in a drug treatment for the third time trying to kick his crack habit.

"It ruined my job that I had. It lowered my morale, my values. It destroyed every sense of responsibility. Nothing was as important as me getting high," said Gonzales, who once worked at a stock brokerage firm. Before entering River Region for treatment, he said, he stole from his family and friends to help support his up to $100 a day crack habit.

"It had to be God helping me," Gonzales, who was never arrested, said about his decision to enter treatment again. "Crack will reduce you to nothing."

THE DRUG GANGS

Bleak by day and terrifying by night, south-central Los Angeles could be the set for some B-picture about the world after a nuclear apocalypse—a nightmare landscape inhabited by marauding thugs and hard-nosed cops, a world in which innocence is hostage to violence and bystanders too often wind up as victims. When darkness comes to Watts, law-abiding citizens cower behind locked doors. Shadowy groups of young men pad quietly down the alleyways while police cruisers roam the streets and helicopters clatter overhead. The police presence is overwhelming; anyone on the street is liable to be stopped and questioned. *"Hands on the car, homeboy! Where's your ID? What's that in your pocket? Got any dope? Seen any gang bangers? Where you been, where you going? Answer me, homes—I'm talkin' to YOU."*

Week by week and year by year, the ominous statistics mount up: in 1987, when gang homicides rose to 387 in Los Angeles County, the cops made more than 12,000 gang-related arrests and countless thousands of curb-side rousts in south-central L.A. The name of this tough and dangerous gang is suppression—a massive attempt by the outnumbered Los Angeles police and sheriff's departments to keep the estimated 70,000 gang members in Los Angeles County off balance and on the defensive. It isn't working. Despite years of experience combating street crime, few L.A. cops will deny that their war against the groups has taken a decisive turn for the worse. The gangs are better armed and more violent than ever before; they are also more adept at evading the law. It's like Vietnam, says one prosecutor: "The cops are winning all the battles, but we're still losing the war."

The reason is drugs—particularly crack, or "rock," cocaine. The trade, built on the enormous influx of cocaine from Latin America, is now transforming some of the country's toughest street gangs into ghetto-based drug-trafficking organizations. Equally ominous, according to law-enforcement sources, is the fact that at least some L.A. gangs have now established direct connections to major Colombian smugglers, thus ensuring a continuous supply of top-quality cocaine.

Dangerous as it is, the situation on the West Coast is just part of a much larger problem. Big-city gangs in New York, Chicago, Miami and Washington, DC, are breaking into the crack business as well, and some are actively spreading drugs and violence to other cities all across the country. In Chicago, where gang membership has now reached an estimated 13,000 after a lull in the 1970s, the infamous El Rukns are under active investigation for drug trafficking. In New York, where a rookie cop was assassinated by a cocaine kingpin's hit men three weeks ago, police are struggling to contain an explosion of drug-related violence that has left more than 500 persons dead in upper Manhattan alone during the past five years. A Miami-based gang called the Untouchables is pushing crack northward to Atlanta, Savannah and other cities of the Southeast, where the group is known and feared as the "Miami Boys."

There are black gangs, Hispanic gangs, Asian gangs and gangs drawn from specific nationality groups. Police from Boston to Houston are alarmed by the emergence of Jamaican gangs known as "posses." According to federal sources, there are 30 to 40 posses with a total of about 5,000 members now operating in the United States. Clannish, cunning and extraordinarily violent, the Jamaicans are dominating the drug trade in carefully chosen cities from Texas to Alaska. "The bigger crack becomes, the bigger the posses get," says special agent James Watterson of the U.S. Bureau of Alcohol, Tobacco and Firearms. "And what's scary is that the crack problem just keeps getting worse."

The ghetto gangs' entry into drug trafficking on a major scale may be creating the nation's biggest crime problem in decades. Drug profits are soaring—and so is the drug-related homicide rate in cities where the gangs are most entrenched. It is arguable, in fact, that the emergence of drug gangs from coast to coast is very similar to what occurred during the early years of Prohibition, when La Cosa Nostra—the Mafia—consolidated its status as an underworld cartel by building on the profits of illicit alcohol. "Look at the development of organized crime in the United States," says Thomas Reppetto, president of the Citizen's Crime Commission of New York, a privately funded group. "If we've learned anything, it's that once we let these guys get too big, we've got a situation that will take decades to [control]. The [ghetto] gangs now have an opportunity provided by the crack explosion and the breakup of [traditional] organized-crime groups. These gangs are where the [Italian] gangs were when they moved into bootlegging. We can't let that happen again."

'Kill him': The analogy to Prohibition, as Reppetto notes, has one significant flaw: today's ghetto gangs, especially the Jamaican posses, are far more violent than the Mafia. In part, the extraordinary level of violence is the result of the ready availability of military and paramilitary weapons. Guns like Uzis, AK-47 assault rifles and AR-15 semiautomatics are widely bought (some even legally in gun shops) by gang members, who finance their high-tech arsenals with profits from the drug trade. Another factor, experts agree, is the sociopathic recklessness of these youth: big-city ghettos and barrios are full of teenagers whose poverty and deprivation have immunized them to both hope and fear. The result is a casual acceptance of—and sometimes enthusiasm for—torture and murder, "drive by" shootings and public mayhem. "If they don't kill you, they'll kill your mother," BATF's Watterson says of the Jamaican gangs. "The Cubans and Colombians don't want to deal with them because they're so dangerous." But the point applies to New York's black and Dominican drug gangs as well. Investigators say these gangs make a point of staging their assassinations in broad daylight whenever possible. "You don't kill no mother------ from across the street," one young hit man explained to undercover agents. "You walk up to him, you kill him in his head."

Gang culture—the mock-feudal tradition of inner-city kids banding together for comfort, support and mutual protection—has a long and, some would say, romantic history in America. Think of "West Side Story." It is still true that many gangs are little more than collections of neighborhood youths with a penchant for macho posturing, petty crime and street brawls over girls or turf. Recruitment begins early, in the grade-school years: gang veterans call their young acolytes "peewees" or "wannabees" (want-to-be's). Though old hands say the custom is dying out, initiation by a Los Angeles gang is supposed to be a brutal ritual known as being "courted in" or "jumped in." To be jumped in is to receive a beating administered by three or four gang members: the candidate is expected to show his fighting spirit. If he passes the test, the peewee then becomes a "banger" or "gang banger" and is entitled to share in the gang's fortunes or, more commonly, misfortunes (George Will's column, page 76).

Colors and signs: The two most notorious L.A. gangs—the Bloods and the Crips—are not really gangs at all. Instead, the names denote legendary confederations among hundreds of subgroups, or "sets." Sets are formed along neighborhood lines, and only a few have more than 100 bangers; 20 to 30 members is commonplace. Leadership is usually collective, and internal organization is rudimentary. One gang expert with the Los Angeles Police Department, Deputy Chief Glenn Levant, says most sets are as casually organized as a pickup basketball game. Bloods wear red and Crips wear blue; traditionally, each gang member wears or carries a bandanna (his "rag") to show his colors. (Many gangs also use "signs," which are hand gestures like a letter of the deaf alphabet, for identification when the members are not wearing their colors.) But local variations on the theme are endless, and Crip gangs are almost as likely to fight each other as they are to fight the Bloods.

The days when rival gangs fought each other only over turf and colors are fading fast. In Los Angeles, Chicago, New York and dozens of other cities, gang conflicts have become a form of urban-guerrilla warfare over drug trafficking. Informers, welshers and competitors are ruthlessly punished; many have been assassinated. Gang turf, which is still demarcated with graffiti in Los Angeles, now involves more than bragging rights; it is sales territory. Some gang graffiti care coded threats. One in south-central L.A. reads as follows: "Big Hawk 1987 BSVG c 187." To translate, Big Hawk is a gang member's street name. BSVG stands for Blood Stone Villains Gang, a Bloods set. The lower-case c, which is deliberately x'd out, indicates that the writer kills Crips, and the number 187 refers to the section of the California criminal code for murder.

"Rollers and O.G.'s": The variety of drugs sold by big-city gangs includes heroin, marijuana, PCP, hallucinogens and designer drugs like fentanyl, a synthetic heroin that is even more potent than the real thing and just as addictive. But crack cocaine is the rage—and the scourge—of the ghetto. Crack is a drug peddler's dream: it is cheap, easily concealed and provides a short-duration high that invariably leaves the user craving more. It was probably inevitable that street gangs, observing crack's arrival in their neighborhoods over the past several years, would be drawn into trafficking themselves. South-central Los Angeles today, like Miami and New York, is flooded with crack. It is sold on street corners by peewees and in rock houses operated by bangers. Somewhere behind the scenes, much of the ghetto cocaine trade is controlled by what Los Angeles calls "rollers" and "O.G.'s"—old gangsters, a term that usually refers to gang veterans, many of them still in their 20s, who have been to prison.

Rollers, short for "high rollers," are gang members who have made it big in the drug trade, whether or not they are actually at the top of the distribution pyramid. Typically, rollers are in their teens or 20s. They tend to wear gold jewelry and drive flashy cars: Datsun sports coupes, five-liter Mustangs, BMW's and Mercedes-Benzes are among the most popular models. Roger Hamrick, a community-relations worker in Miami, remembers a gang member who moved to Daytona Beach, Fla., to peddle crack. "When he left [Miami], he was on a bicycle," Hamrick says. "When he came back, he wore more gold than Mr. T. and he was sitting in a white Mercedes. He's not even 24 years old and he has two Mercedeses and a Rolex watch." Says Bill Blanco, another gang specialist in Miami: "Who you are is dictated by the gold chains, the Rolex, the car. And everybody's got a car phone." Cellular telephones are more than decoration: of course, they are extremely useful in the drug trade. Beepers, which are equally useful to dealers, are now so common among ghetto teenagers that Los Angeles public schools have banned them.

Some gang veterans say the cocaine trade in south-central L.A. is controlled by 15 to 20 O.G.'s—an assessment that is shared by knowledgeable law-enforcement officials. Deputy Chief Levant, who commands a new formed LAPD unit that specializes in major drug traffickers among the street gangs, says 75 to 100 gangs are now actively involved in cocaine distribution. Some of these groups, he says, now have sales totalling up to $1 million a week. "There is a link between the South Americans and the street gangs," Levant says.

That link—the strategic nexus between the Colombian cocaine cartel and street-level distribution in the United States—is becoming increasingly visible to investigators in southern California and elsewhere. There is little question that some black drug traffickers have now established direct relationships with top-level Colombian smugglers. According to Los Angeles County officials, the Colombians are even willing to sell drugs to O.G.'s and rollers on the consignment basis, a strong indicator of the cartel's trust. One example of the increasingly close connection between the Colombians and the ghetto dealers, was uncovered during Operation Pisces II, a two-year investigation run jointly by the U.S. Drug Enforcement Administration and State and local authorities in California and Florida. Pisces II was a money-laundering sting aimed at identifying both smugglers and dealers. In a videotaped conversation between two Colombian smugglers and detectives who operate the fake money "laundry," the Colombians admiringly described a black trafficker in south Florida. "That s.o.b., he just ordered and ordered; it was hard to keep him stocked," one smuggler exclaimed. "Those blacks are really the best ones," the second smuggler agreed.

East and West: There is equally little question that some of the more aggressive big-city gangs have begun to spread the drug trade into the heartland. Police from Denver to Vancouver report that Los Angeles gangs are moving in to establish branch operations selling rock cocaine. In Atlanta, Savannah and Montgomery, Ala., authorities say the Miami Boys are following the same expansionary pattern. Chicago gangs have appeared in Milwaukee, Minneapolis and Racine, Wis., and the Jamaican posses seem to be organizing crack outlets almost everywhere. Kansas City authorities recently managed to break a Jamaican posse that began importing crack from its East Coast base sometime in 1985; the posse was operating 75 crack houses that grossed $400,000 a day. After that success, however, Kansas City was invaded from the West Coast as well. In February four members of an L.A.-based Bloods gang were indicted for selling cocaine, and investigators say they have identified 15 L.A. gang members in their city. "This is the first time we've seen an American gang move into town," says U.S. Attorney Robert Larsen. "They're great entrepreneurs."

The big-city boys have two things going for them. First, they are usually able to buy top-quality cocaine directly from major smugglers at wholesale prices—as little as $10,000 per kilo. The second is that they are better armed and far more violent than the gangs or drug rings they encounter in smaller cities. As a result, they can compete successfully on price and quality—and if those classic business advantages are insufficient to establish a beachhead, they intimidate the competition with mayhem and murder. In Atlanta, says police Lt. John Woodward, the invading Miami Boys demonstrated the attitude that "we're bad and we'll prove it to you . . . [they'll] walk up to [their competitors] and just kill 'em. It's not, 'I'm going to out-macho you.' It's 'I'm going to kill you'." The result, Woodward says, was 13 homicides in 1987.

Enriched by their drug profits, big-city gangs can now easily afford the overhead of far-flung operations. The gang may send a scout—often a younger member—to test the market in the target city. If the first expedition pans out, a larger group will follow to rent a ghetto apartment as a stash house for volume sales. Woodward says the lookouts and runners are often local. Bodyguards may be either locals or out-of-towners. But the higher-ups, who control the stash and count the money, are always members of the invading gang. The amount of cocaine involved, Woodward also says, need not be large—a kilo or so every few days. Bring in "one kilo and you've got 10,000 bags of crack, and that will supply quite a few little housing areas for a few days," he says. "You're talking about $25 a bag, or $250,000 per kilo. The kilo costs [the Miami Boys] $10,000 to $12,000 in Miami, so there is a great, great profit margin here."

The posses: Although there is still some controversy over just how well organized the American drug gangs are, no one doubts that the Jamaican posses are as disciplined as they are violent. Many members are believed to be illegal aliens, and the groups themselves are usually based in Jamaican-immigrant communities on the East Coast—New York, Miami, Washington, D.C., among others. But their nationwide spread over the past several years has been staggering. The posses are major factors in the crack trade in most East Coast cities. They are also active in Dallas and Houston, in cities across the Midwest and, remarkably enough, they have recently been spotted in Anchorage, Alaska. Like most American drug gangs, the Jamaicans are known to hire local helpers when they open a crack house in a new city. But the core group is always from the island, and no outsiders are allowed to penetrate the upper echelons of the ring.

U.S. lawmen say many of the posses have their roots in the slums around Kingston, Jamaica. Their names reflect that genealogy. The Riverton City posse is named after a Kingston neighborhood, and so are the Maverly and Waterhouse posses. (The Jamaicans call themselves posses after the armed bands in American Westerns.) Some, like the Shower and Spangler gangs, claim vague affiliations with Jamaican political parties: the Spangler posse aligns itself with the People's National Party of former prime minister Michael Manley, while the Showers identify with the Jamaican Labor Party of current Prime Minister Edward Seaga. Jamaican politicians, however, disavow any connection to the groups.

In reality, most posses were probably marijuana-smuggling rings in Jamaica. But the crack explosion of the 1980s offers unlimited profits to the posses just as it does to American gangs, and Jamaicans have been even quicker than the American gangs to exploit the opportunity. South Florida, with its Colombian drug connections, is the adopted home for an estimated 1,000 posse members. The Shower and Spangler posses are the two main groups, and some lawmen say all other gangs are offshoots of these two. The lesser posses have exotic names like Dog, Jungle and Okra Slime. One group, the Jungle Lites, is reputed to be expert in guerrilla-warfare tactics, and police suspect they may have received military training in Cuba.

Reggae and death: But every posse has a fearful reputation for violence. Nationwide, according to U.S. experts, the Jamaican gangs have been linked to 800 murders, including more than 350 last year alone. Posse gunmen are known to prefer shooting their victims in public, and reggae clubs in major cities have a well-deserved reputation for frequent homicides. A dispute between posse members at a raggae club in Houston last October led to a fatal shooting in front of nearly 100 witnesses, and New York police report that homicides occur almost weekly at a popular Brooklyn nightspot known as the Love People disco. Torture and maimings are posse trademarks as well. "They don't mind shooting people. We've had numerous cases of Jamaicans who were shot in the knee or leg," says Dallas police investigator Charles Storey. "A lot of groups have a potential for violence, but [the Jamaicans] demonstrate it daily." Dallas police say Jamaicans were linked to 35 homicides in 1987 and 10 to 12 so far this year.

The explosive growth of the drug gangs nationwide is putting enormous pressure on police all across the country. Cocaine and heroin traffickers are now deeply entrenched in the ghettos of many larger cities, and drug profits are a powerful incentive to hundreds of thousands of unemployed black and Hispanic teenagers. In addition, many gang members are increasingly expert in exploiting loopholes in the law. As a result, California and New York authorities are considering new anti-gang legislation patterned after the federal RICO (Racketeer-Influenced Corrupt Organization) law; such state RICO statutes will enable prosecutors to seek longer prison terms for gang leaders convicted on other charges. Officials in cities like New York, San Francisco and Washington, D.C.—to say nothing of Los Angeles—are also being forced to reorganize their police departments to meet the threat of drugs, which means cutting back on manpower for other crimes. "We need more resources—people and equipment," says Frank Storey, the FBI's chief drug official. "Resources are the most critical problem at the federal, state and local level."

Outmanned, outgunned and outspent, the cops are fighting back as best they can. There is nothing they can do to control the spread of weapons like Uzis and AK-47s. As long as such guns have been adapted to fire only on semiautomatic—a procedure that is readily reversed by outlaw gunsmiths—the sales are wholly legal under federal law. Officers who must deal with the gangs routinely wear armored vests (which often will not stop an assault-rifle round), and many departments now equip all their officers with automatic pistols to increase their firepower. But ghetto busts are extremely dangerous anyway: in Boston, for example, Police Lt. Det. Mel Ahearn has trained a special "Jamaican entry squad" to take on the posses in their strongholds.

There is every indication, meanwhile, that the gang/drug problem will get worse. If the analogy to Prohibition is accurate, the gangs have only begun to consolidate their hold on drug trafficking—and given their growth so far, it seems reasonable to expect that they, like the Mafia before them, will become even more skillful in evading law enforcement. The supply of smuggled drugs—Asian heroin, Mexican heroin and cocaine most of all—seems almost limitless. At the same time, the federal government, which has scattered the responsibility for combating drugs among dozens of different agencies, seems to lack a coordinated national strategy. Who's running the war, America's hard-pressed cops are asking—and when are the good guys finally going to win?

A JAMAICAN INVASION IN WEST VIRGINIA

With its tidy clapboard houses and neat apple and peach orchards on land George Washington surveyed centuries ago, Martinsburg, W.Va. (population: 13,000), seems far from the mean streets normally patrolled by drug gangs. But over the last three years, an invasion of Jamaican drug dealers has turned the home of the Mountain State Apple Harvest Festival into a mecca for cocaine.

The Jamaicans first arrived in Martinsburg as migrant workers to pick apples and peaches at harvest time, but many stayed on to peddle coke and crack. Hundreds squeezed into small apartments in a poor neighborhood called "the Hill" and transformed several blocks near the center of town into an open-air drug supermarket. Supplied by couriers shuttling between Jamaican gangs in Washington, Miami and New York, as many as 50 dealers could be found brazenly hawking dope in broad daylight, just three blocks from the police station. At times business was so brisk that intersections were clogged with traffic; many cars bore out-of-state license plates. The customers "were all ethnic groups, age groups and every profession," says police chief Jack Strobridge. "They came riding up on skateboards, on bikes, in Mercedes-Benz cars, in pickup trucks." Stores in the region mysteriously sold out of vitamin B; police soon figured out that dealers were using it to "cut" the cocaine. Then the Jamaicans introduced crack—and started a run on plastic food-storage bags used to package the drug.

Martinsburg's 28-man police force carried out small raids but were overwhelmed by the dealers. In a region where one or two murders per year was the norm, 20 homicides, all drug related, occurred in 18 months as rival dealers fought for control. Cases of venereal disease shot up as prostitutes imported by the dealers worked the streets. At local schools, students hired as drug couriers strutted around in expensive Nike jogging suits and gold chains, intimidating classmates and teachers. A police raid of a Jamaican dealer's house turned up crude photographs of a former homecoming queen posing half nude, pieces of crack lying about her. According to law-enforcement authorities, she later gave birth to a baby fathered by the dealer.

Needles and knives: Residents were virtually besieged in their homes. Theresa Shamburg was unable to leave her driveway without being offered "crack, cocaine or reefer" by pushers. Discarded needles and knives littered her front yard. She called police but they were unable to drive away the dealers. One night, when the Jamaicans outside became particularly raucous, Shamburg woke to see her husband crouched with a shotgun in one hand and a pistol in the other, grimly waiting for a break-in.

Under pressure from the community, local police asked the federal authorities for help. In fall 1986 some 200 agents from a special federal drug task force and local police raided 26 drug dens, arresting 35 dealers and seizing a cache of high-powered weapons. Police also found a "hit list" with the names of local judges and law-enforcement officials. The suspects arrested insisted the names were targeted only for a mystical curse by Jamaican witch doctors. Even so, three county magistrates began carrying guns for self-protection.

Street action: The raid pushed the most blatant dealers off the streets—at least for a while. Much of the street action moved down the road to Charles Town, 16 miles away. But many Jamaican dealers have kept up a flourishing underground trade in Martinsburg. On warm days, Theresa Shamburg once again sees dealers congregating across the street. The Shamburgs will not wait to see what happens next. After three years of trying, they have finally found an out-of-town buyer for their home. They are moving to a house in the country, but Shamburg suspects there is no escape. She says: "I really don't think it's safe anywhere anymore."

Mr. GRAHAM. Mr. President, finally I ask unanimous consent to join Senators D'AMATO, DECONCINI, and others of legislation providing for the death penalty for those who kill law enforcement officials during the commission of a drug-related crime.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that I be listed as a cosponsor on the drug bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. DOMENICI. Mr. President, I am pleased to join Senator DECONCINI as an original cosponsor of the Omnibus Anti-Drug Abuse Act of 1988.

We must acknowledge that the drug peddlers of this Nation and the world have declared war on the youth of America. The human cost of the plague of drugs is enormous in lost human potential. Drug abuse is a scourge and disgrace to our Nation.

We must fight back. We have to fight the war against drugs on all fronts: On the border, on the high seas, in the air, in our schools, in our neighborhoods.

The drug problem in American continues. I cannot stress the gravity of this matter enough. Drugs are destroying the minds and killing the people that use them. The number of murders and crimes related to drug trafficking continues to escalate.

I heard an alarming statistic from the Commissioner of the Customs Service at a hearing in my State this past summer. He did a simple calculation just based on the number of individuals who died consuming drugs versus the amount of cocaine consumed in this country. It shows that for every 150 pounds of cocaine consumed, one American dies. This does not even include the deaths involved in the trade—just the deaths based on the consumption of this one drug, cocaine. We are paying a high price in this country: The lives of our people.

As we fight this war against drugs, the nefarious suppliers in other countries are becoming increasingly cagey in subverting our efforts. We must beat them at their own game. In order to win this war, we must bring all the resources we have to bear on this problem.

Two years ago, many of us in the Senate banded together to provide an effective arsenal of weapons to fight this war against the drug merchants. Our efforts have yielded results. We are doing a better job—seizures are up, but production is up, too. We are only keeping pace with the drug producers and traffickers.

We have launched a war and a crusade, but we are just holding our own.

More needs to do done. We need to attack drug abuse and drug trafficking on every front. The Anti-Drug Abuse Act of 1986 started the momentum and now we need to continue it.

This is a war we cannot afford to lose, for this is a war over the minds and bodies of an entire generation of our young people.

The Omnibus Anti-Drug Abuse Act contains new approaches to address both the supply and demand sides of the narcotics problem.

On the supply side of the problem, this bill provides grants for State and local narcotics control programs, construction of new jails, and funds for an international eradication program for drug-producing countries.

On the demand side, the bill addresses the problem by providing funds for treatment programs and facilities.

I am really distressed to hear that people literally have to get on a waiting list to get into drug treatment programs. One of the strengths of this bill is the help it will provide to State and local governments to address the treatment side of the problem.

The price of our effort will be high, but the stakes are high. But we must ask ourselves, can we afford to do less?

I think not. Therefore, I am supporting this bill and hope we can enact into law soon, for every day we waste, more young people are lost to drugs.●

Mr. HATFIELD. Mr. President, I am pleased to join many of my colleagues as an original cosponsor of the Omnibus Anti-Drug Abuse Act of 1988. The substantial number of Senators who have cosponsored this bill, Republicans and Democrats alike, demonstrates that the Senate recognizes that illicit drugs and drug abuse have become this decade's most severe domestic and international social problem. During the past 8 years, the sheer magnitude of this crisis has become so great that no one can escape its consequences. Every aspect of our world is affected by illegal drugs, from the conduct of foreign relations to the safety of the streets in Portland, OR.

As the General Accounting Office recently reported, illegal drugs are costing the Nation tens of billions of dollars a year in lost wages, law enforcement expenses and treatment. Incapable of calculation are the enormous costs to our citizens and communities created by family strife, pain, suicide, violence, and suffering caused by narcotics and drug abuse.

Mr. President, we are all too familiar with these alarming national statistics. Not as readily known, however, is the fact that drug trade and drug abuse are no longer "big city" problems. Cities such as Bend, Salem, Medford, and Portland, OR, have joined the ranks of New York, Washington, DC, Miami, Chicago, and Los Angeles as communities with serious drug problems.

In my home State of Oregon, the Interstate-5 corridor, the major West Coast interstate connecting Canada, Washington, Oregon, California, and Mexico, has become a major pipeline for the transportation of illicit drugs. Oregon is now thought to be the Nation's leading manufacturer of methamphetamine and the second largest producer of marijuana. My State's greatest asset—its attractiveness as a place to live and raise a family—is in danger of being tarnished unless we get the drug problem under control. Oregon has developed a dynamic partnership between the Federal and State government in an effort to revitalize the local economy. That will be time and money down the drain if we fail to eradicate this cancer of drug abuse and drug trafficking from our midst.

This bill will assist States like Oregon that supply drugs to other parts of the country in shattering the myth that Latin America is the exclusive origin of our drug problems. Drug interdiction at the source means drug interdiction in Latin America, but it also means drug interdiction in Oregon and other prime drug manufacturing targets in the United States.

The effort being launched today by the introduction of this bill takes a comprehensive approach on an international, national, and local level by addressing both the supply and demand sides of the drug problem. The bill also provides incentives for increased cooperation between local, State, and Federal agencies in the war against drugs. Addressed in the bill are such things as drug enforcement and personnel enhancement, international narcotics control and assistance to foreign countries, drug interdiction improvement, demand reduction through treatment and rehabilitation, research and development, and enforcement training.

A bill of this scope and size inevitably has provisions that are controversial. The total expense of this package in an age of budget deficits and provisions dealing with new prison construction, for example, are troubling to me. No one expects the Congress to adopt this bill in its entirety. As we proceed, however, we can make adjustments and amendments to the bill which will make it even better. Introduction of this legislation marks the beginning of a congressional effort to develop an effective national policy to combat this epidemic. I will be working with the other sponsors of the bill and with members of the Appropriations Committee to accomplish this goal.

● Mr. SARBANES. Mr. President, I am pleased to join as an original cosponsor of legislation being introduced today, the Omnibus Anti-Drug Abuse Act of 1988. The legislation is a broad comprehensive measure that seeks to address the very serious problem of drug abuse and drug trafficking that threatens so many of our communities and our citizens. In fact, it is a problem that is so pervasive that it threatens the very fabric of our society.

This legislation is a much needed continuation of the Anti-Drug Abuse Act of 1986, which I supported and which passed the Senate by an overwhelming margin in the 99th Congress. It continues the fight against drug abuse and the harmful effect that drug trafficking has on our country. The bill attempts, in a comprehensive way, to address both the demand and supply side of the problem, and to significantly reduce both. It includes provisions to enable us to fight the drug menace at the local, State, and Federal level, and at our borders.

I am pleased to see that a major emphasis is on providing resources to our local and State law enforcement agencies to combat the problem where it is really felt—in our neighborhoods and communities. In fact, just after the administration's budget for fiscal year 1989 was presented to Congress, the the Governor of Maryland and the Mayor of Baltimore alerted me to their deep concerns that no funds were included in the President's budget for antidrug law enforcement or for general law enforcement activities at the local and State level. The State of Maryland estimates that one out of five inmates enters the Maryland Division of Corrections on a drug-related conviction. In addition, an estimated 50 percent of the inmates in our State have some kind of drug or alcohol related problem. The bill being introduced today provides a block grant to State and local governments for which they must outline how they will combat the drug problem using law enforcement, education, and demand reduction.

There are also several major provisions in the legislation aimed at combating the flow of drugs into this country. First, the bill includes important initiatives to encourage drug source countries, especially in Latin America, to eradicate their illicit drug crops over a 3-year period. Second, there is a significant enhancement of Federal drug enforcement personnel and operations money for the Drug Enforcement Administration, Customs Service, Border Patrol, and the Coast Guard. These agencies are absolutely vital in terms of drug interdiction. I think it is particularly significant that funds and personnel are being recommended for the Coast Guard when just a short time ago it was announced that drug interdiction efforts would be reduced by 55 percent and a number of important Coast Guard operations would be closed, including the Curtis Bay Coast Guard Yard in Baltimore.

The Omnibus Anti-Drug Abuse Act of 1988 also includes much needed funds for drug and alcohol abuse treatment and rehabilitation, education for our schools and communities, and training for antidrug enforcement personnel. Mr. President, this is a comprehensive bill that merits thorough and expeditious consideration by the Senate. It is a serious and significant effort to address the drug problems in our country.●

By Mr. D'Amato (for himself, Mr. DeConcini, Mr. Stevens, Mr. Dole, Mr. Grassley, Mr. Trible, Mr. Thurmond, Mr. McConnell, Mr. Nickles, Mr. Symms, Mr. Karnes, Mr. Helms, Mr. Hatch, Mr. Graham, Mr. Hecht, and Mr. Pressler):

S. 2206. A bill to amend the Controlled Substances Act to provide for the imposition of the death penalty for the intentional killing of a law enforcement officer and for certain continuing criminal enterprise drug offenses; to the Committee on the Judiciary.

IMPOSITION OF DEATH PENALTY FOR KILLING OF LAW ENFORCEMENT OFFICERS AND CERTAIN CONTINUING CRIMINAL ENTERPRISE DRUG OFFENSES

Mr. D'AMATO. Mr. President, I commend my colleague from Arizona, Senator DeConcini, for his untiring efforts to bring to this point what I consider to be this Nation's most important undertaking. That is, to see to it that we pass legislation comprehensive in nature and to fund that legislation to undertake a real war against drugs. To date, we have heard many proclaim that they want to take on this crusade. There simply has not been enough action. There has been great rhetoric, particularly before political campaigns, but little in the way of action. We have heard a great deal of concern about turf, about jurisdiction, about who will get to do what. However, we have heard little as it relates to what is taking place on our streets, in our neighborhoods and even less as to the resulting loss of domestic tranquility.

Mr. President, one need simply look at Panama today to see this as an example of what the narcotics trade can and has done. Narco-militarism, which is spreading in Latin America, is a far greater threat, in my view, to our Nation's stability and the stability of this hemisphere than all of the Sandinistas. But I am concerned as it relates to that issue as well.

This bill, Mr. President, provides for capital punishment in two cases. First, for the drug kingpin who intentionally murders or orders a murder as part of a continuing criminal drug enterprise. Second, for the intentional killing of a policeman or other Federal, State, or local law enforcement officer as part of a continuing criminal drug enterprise.

We have just seen the most incredible circumstance take place; one that no one ever would have believed. We have seen the intentional killing of a 22-year-old law enforcement officer, New York Police Officer Edward Byrne, simply because the drug organization wanted to demonstrate that they could and would kill a police officer. This organization was outraged at being harassed because some of their members are being imprisoned for drug dealing. This murder is something that no one could have ever conjured or believed would have taken place.

Mr. President, I again pay tribute to my colleague, Senator DeConcini, for his leadership in this effort, for his tireless work and the work of his staff. There is a lot more that can and should be said. I intend to do that at a later date, but I think it is now time for action and for people of all parties and all political persuasion to come together to meet the expectations of the American public by a first step in terms of enacting and funding this legislation.

THE ANTI-DRUG ABUSE ACT OF 1988

The Anti-Drug Abuse Act of 1988 provides more than $2 billion over the President's fiscal year 1988 budget request to attack both the supply of, and demand for, drugs.

This bill contains 200 pages of initiatives to attack the many parts of this grave threat.

These include:

DEMAND REDUCTION: TREATMENT

Bill provides $485 million over the President's budget next year for alcohol and drug abuse treatment block grants.

A $50 million increase for the alcohol, drug abuse and mental health block grant, raising it from $508 million to $558 million; and

A $435 million increase for the emergency drug treatment block grant, raising it from $165 million to $600 million.

For the first time, our bill commits the Federal Government to help fund drug treatment center construction and renovation on a large scale. It is estimated that $60 million is needed to build enough treatment centers to add 4,000 beds. Our bill permits up to $240 million for this purpose in fiscal year 1989. This would add 16,000 treatment beds nationwide.

DEMAND REDUCTION: DRUG PREVENTION

Our bill increases the President's drug education budget from $250 million to $300 million, a $50 million increase in fiscal year 1989. It also tightens controls so that school districts will have to set goals for their programs, evaluate their success and failure, and report on their efforts to correct program weaknesses.

SUPPLY REDUCTION: DOMESTIC LAW ENFORCEMENT: STATE AND LOCAL DRUG ENFORCEMENT ASSISTANCE

Our bill rescues the State and local drug enforcement assistance program from extinction. It provides $250 million in fiscal year 1989; $500 million in fiscal year 1990; and $750 million in 1991.

To ensure the quickest possible delivery of drug enforcement assistance funds to cities with populations over 500,000, our bill requires the States to make funds available to those cities within 30 days of Justice Department approval of a State's application.

FEDERAL LAW ENFORCEMENT BUDGETS ARE INCREASED BY $800 MILLION

Coast Guard is transferred back to the Department of of the Treasury; $200 million for 4 new Federal prisons; expedited deportation of criminal aliens.

SUPPLY REDUCTION: INTERNATIONAL EFFORTS—INTERNATIONAL ASSISTANCE

This bill provides $600 million over 3 years for a new economic incentive program to encourage drug source countries—like Bolivia, Peru, and Colombia—to eradicate 15 percent of their drug crops in the first year, and 40 percent over a 3-year period.

There is now no such incentive program. Our bill does not offer a "give-away." To qualify for this assistance, a country has to earn it. It has to eradicate drug crops on a large scale.

EXAMPLE OF BOLIVIA

In 1987, Bolivia had 40,000 metric acres of coca under cultivation. To qualify for aid under our plan, Bolivia would have to eradicate 6,000 metric acres next year. State Department figures indicate that our current strategy is clearly not working: coca cultivation in Bolivia is expected to increase by 4,000 metric acres next year.

It is time for a change.

I call on the House and Senate leadership to take up this drug bill at the earliest opportunity. This bill hits every important aspect of the anti-drug effort and carefully allocates resources between the supply and demand sides of the drug problems. It must be passed and enacted into law!

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEATH PENALTY

SECTION 101. ELEMENTS OF OFFENSE.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by inserting after subsection (b) the following:

"(c)(1) If, in the course of engaging in a continuing criminal enterprise, a person intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any individual, that person may be sentenced to death.

"(2) If, in the course of engaging in organized ongoing drug crime, a person intentionally kills a Federal, State, or local law enforcement officer engaged in, or on account of, such law enforcement officer's official duties, that person may be sentenced to death.

"(3) As used in this subsection—

"(A) the term 'Federal, State, or local law enforcement officer' means an officer or employee of the United States, a State, a municipal corporation, a county, or other political subdivision of a State, who has authority under applicable law to enforce the criminal laws of the United States or a State; and

"(B) the term 'organized ongoing drug crime' means a felony violation of this title or title III which is a part of a continuing series of violations of this title or title III which are undertaken with 5 or more persons.".

SEC. 102. PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.

Section 408 of the Controlled Substances Act (22 U.S.C. 848) is amended by adding at the end the following:

"HEARING REQUIRED WITH RESPECT TO THE DEATH PENALTY

"(f) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"NOTICE BY THE GOVERNMENT IN DEATH PENALTY CASES

"(g)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"HEARING BEFORE COURT OR JURY

"(h)(1) When the attorney for the Government has filed a notice as required under subsection (f) and the defendant is found guilty of or pleads guilty to an offense under subsection (c), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"PROOF OF AGGRAVATING AND MITIGATING FACTORS

"(i) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (c), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (l) and (m), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (m), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors, and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the information.

"RETURN OF FINDINGS

"(j) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any mitigating factors, and any aggravating factors set forth in subsection (l) or (m), found to exist. If one of the aggravating factors set forth in subsection (m)(1) and another of the aggravating factors set forth in paragraphs (2) through (7) of subsection (m) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding of such a factor by a jury shall be made by unanimous vote. If an aggravating factor set forth in subsection (m)(1) is not found to exist or an aggravating factor set forth in subsection (m)(1) is found to exist but no other aggravating factor set forth in subsection (m) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (m)(1) and one or more of the other aggravating factors set forth in subsection (m) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"IMPOSITION OF SENTENCE

"(k) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"MITIGATING FACTORS

"(l) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant was less than 18 years of age at the time of the crime.

"(2) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(3) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(4) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(5) The defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"AGGRAVATING FACTORS FOR HOMICIDE

"(m) If the defendant is found guilty of or pleads guilty to an offense under subsection (c), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim;

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(D) intentionally engaged in conduct which—

"(i) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

"(ii) resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (c), the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

"(6) The violation of this chapter in relation to which the conduct described in subsection (c) occurred was a violation of section 405.

"(7) The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"INSTRUCTION TO JURY ON RIGHT OF THE DEFENDANT TO JUSTICE WITHOUT DISCRIMINATION

"(n) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant was not involved in reaching his or her individual decision.

"SENTENCING IN CAPITAL CASES IN WHICH DEATH PENALTY IS NOT SOUGHT OR IMPOSED

"(o) If a person is convicted for an offense under subsection (c) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.

"APPEAL IN CAPITAL CASES

"(p)(1) In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with or the failure to finding any mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

Mr. DECONCINI. Mr. President, I thank the Senator from New York for his leadership in this area.

Mr. President, moments ago, I introduced along with my good friend and colleague Senator D'AMATO, the Anti-Drug Abuse Act of 1988. In order to further strengthen our law-enforcement efforts against those who deal in illegal drugs, I rise in support of the amendment Senator D'AMATO has introduced that will provide the kind of deterrent that I believe would truly send a message to drug traffickers and drug dealers—the United States takes this problem seriously, and we are ready to deal with it in a serious manner.

The D'Amato amendment would amend the Controlled Substances Act to provide for the imposition of the death penalty for drug-related murders and for the intentional killing of a law-enforcement officer as part of a criminal drug enterprise.

Those who deal in illicit drugs have demonstrated a total disregard for human life. The Jamaican gangs, who call themselves "posses", taken from the old wild west movies, have taken control of the "crack" trade in cities across the country. They are better armed than the police—and it is not unusual for them to be armed with AK-47's or UZIS. Law enforcement experts believe they have been responsible for at least 600 murders in the last 3 years.

Let me provide an example from Arizona of the brutality and ruthlessness of those who deal in drugs. Witnesses recently testified in Tucson that a 17-year-old Tucson High School student was murdered because he owed his alleged killer $2 million and 4 kilos of cocaine. The 18-year-old suspect in the case told detectives that he put a wire around the victim's neck and strangled him while two other subjects beat him.

Two years ago when the Senate was working on the Anti-Drug Abuse Act of 1986, the Senate refused to vote directly on the death penalty amendment for drug traffickers and instead used a procedural vote to sidestep the issue. I voted against tabling the death penalty amendment 2 years ago and I believe the argument in favor of this kind of deterrent is stronger than ever.

The American people have consistently demonstrated in opinion polls that they strongly support the death penalty. More than 80 percent of my constituents in Arizona favor the death penalty. Some argue that the death penalty should not be implemented because of the possibility of mistake. I find this argument to be unconvincing in light of the extensive procedural safeguards for capital defendants.

A chronology of the legal procedures required and available to these defendants would convince any reasonable person that the system has done everything possible to minimize the possibility of mistake. It is my opinion that this country is in dire need of the protection afforded to society by the death penalty amendment introduced by Senator D'AMATO.

By Mr. MURKOWSKI:

S. 2207. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide assistance simians and dogs to veterans, who by reason of quadriplegia, are entitled to disability compensation under laws administered by the Veterans' Administration.

ASSISTANCE ANIMALS TO CERTAIN SEVERELY DISABLED VETERANS

● Mr. MURKOWSKI. Mr. President, I am most pleased to rise today to introduce a bill which will significantly improve the quality of life and increase the independence of certain severely disabled veterans. This bill would authorize the Veterans' Administration [VA] to provide assistive animals to certain quadriplegic veterans. These assistive animals include specially trained simians or canines.

Mr. President, some 2,300 quadriplegic veterans currently receive service-connected disability compensation from the VA. These veterans, disabled during military service, suffer from paralysis affecting both arms and both legs. These veterans are referred to as "service-connected quadriplegics."

I believe that these veterans—who are permanently disabled as a result of military service—deserve our highest priority. The Congress and the VA must continue to explore all options which will assist these veterans in maximizing their independence and employment opportunities. I am pleased that the VA—with the assistance and support of the "Paralyzed Veterans of America"—has historically been in the forefront of innovative research, treatment, and rehabilitation activities relating to spinal cord injuries.

Mr. President, last year the VA's general counsel was asked for its views as to whether the VA had the legal authority to provide certain veterans with specially trained simians, and in a November 6, 1987 opinion, the VA stated that "we do not find a satisfactory basis in law to provide these aides outside the research setting as a benefit to veterans." The opinion concluded that specific statutory authority would be necessary to furnish simians to disabled veterans. Thus, to further the goal of achieving independence for disabled veterans, I am introducing today a bill which would authorize the VA to provide assistive animals to service-connected quadriplegics.

Due to recent advances in medical technology, a quadriplegic who survives the first year after injury has a nearly normal life expectancy. New technologies, among other things, have assisted quadriplegics in improving their quality of life and provided for greater employment opportunities: A multitude of automobile adaptive equipment provides independence and opportunity; the Robotic Arm, another VA technological invention, can perform functional tasks by voice activated control; computers operated by voice and "sip and puff" respiratory control have provided improved communication and job opportunities for many quadriplegics. Wheelchair improvements have also dramatically increased the mobility of a quadriplegic. Today, there are wheelchairs for every lifestyle—including a variety of sports wheelchairs.

According to Spinal Cord Injury: the Facts and Figures, 92 percent of all Americans with spinal cord injuries reside in private residences, generally at home with family members or friends who provide support and assistance. It is estimated that a quadriplegic requires about 4 to 6 hours of human help daily. This assistance is provided by family members, friends, or a paid caregiver and includes activities such as bathing, dressing, getting into and out of a wheelchair and other tasks.

However, there are an endless number of small tasks with which the quadriplegic may need assistance. For the so-called "high level" quadriplegic—that is, those with little or no use of arms and no use of legs—tasks like turning off and on lights, food preparation, opening and closing doors, retrieving a small object, and grooming are impossible to perform alone. The question we must address is the way in which helpful and cost-effective assistance can be provided to veterans to accomplish these tasks.

One answer—which has been shown to work—is to have certain types of animals perform these routine manual tasks. Research has indicated that certain breeds of monkeys and dogs are well-suited for such a program.

Since 1977, through combined funding from the VA and the Paralyzed Veterans of America, a private sector organization known as "Helping Hands" has been conducting research relating to the training and use of monkeys to perform small tasks for quadriplegics. Dr. Mary Jane Willard, a behavioral psychologist and founder of "Helping Hands," noted that quadriplegics who reside at home generally have either too little or too much help. On one hand, a significant number of quadriplegics are left alone for large amounts of time. The quadriplegic is lonely and often goes without basic necessities such as food and drink. For example, without a mouthstick, a quadriplegic cannot turn the pages of a book or use the computer to work; if the mouthstick drops, there is no option but to wait until a time when someone can retrieve it for him. On the other hand, a family member may totally devote him or herself to the care of the quadriplegic, refusing to leave the house because of concerns that his or her loved one may need something. Either situation is terribly difficult and undesirable.

It was with these considerations in mind that Dr. Willard began to study the use of animals in performing routine manual tasks for disabled persons. Research conducted by Dr. Willard and others has indicated that monkeys can be successfully trained to perform a multitude of tasks on verbal command and with the use of a laser pointer. The first specially trained monkey was placed with a quadriplegic in 1979. The monkey's overall reliability in performing tasks has been 94 percent. Currently, seven quadriplegics utilize monkeys to perform daily living tasks.

In addition to performing important tasks, the monkey also provides companionship to the sometimes lonely and isolated life of a quadriplegic. Research has indicated that the neighbors and community members were fascinated with the monkey and this fascination increased the opportunity for social interaction of the quadriplegic. The monkey becomes the topic of communication much like discussions about pets or children often are among parents and pet owners. Research completed in 1982 by Judith Zazula found that monkeys performed their tasks in a reliable and economic fashion and that the animal encouraged interaction between the quadriplegic and the nondisabled public. Equally as important, the owner derived personal satisfaction from the monkey.

There are, of course, costs associated with training, equipping, and transporting each monkey. While the cost will decrease as the case load increases, "Helping Hands" estimates that if it can train and place 50 monkeys annually, the one-time cost would be $11,000 each. The monkey has a working lifetime of 20 years. Disney World, Inc., has spent nearly $100,000 in constructing a facility in Orlando, FL, to breed and raise monkeys for this project. Once established and running at full speed, this will reduce the cost associated with this program.

In addition, Mr. President, a California-based nonprofit organization is involved with training dogs for use by disabled persons, including quadriplegics. This organization, known as "Canine Companions for Independence," was recognized in 1987 by the President's Committee on Employment of the Handicapped with the Distinguished Service Award. This very important organization trains dogs to pull wheelchairs up inclines, retrive dropped items, and turn lights on and off.

I am pleased that the Paralyzed Veterans of America have written to me to express their support for this important legislation. I commend the fine work of the PVA in their efforts to provide greater independence for individuals with spinal cord injuries.

Mr. President, I urge my colleagues to join with me in support of this legislation.

Mr. President, I ask unanimous consent that the research articles that I have discussed, the PVA letter, the VA's general counsel opinion on this matter, and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSISTIVE ANIMALS FOR CERTAIN DISABLED VETERANS.

(a) IN GENERAL.—Section 614 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c) The Administrator may provide simians and dogs specially trained as assistive animals to any veteran who, by reason of quadriplegia, is entitled to disability compensation, and may pay travel and incidental expenses (under the terms and conditions set forth in section 111 of this title) to and from such veteran's home that are incurred in connection with the veteran becoming adjusted to such simians or dogs, as the case may be.".

(b) CLERICAL AMENDMENTS.—(1) The heading of section 614 of title 38, United States Code, is amended by striking out "seeing-eye dogs" and inserting in lieu thereof "assistive animals".

(2) the table of sections at the beginning of chapter 17 of such title is amended by striking out the item relating to section 614 and inserting in lieu thereof the following:

"614. Fitting and training in use of prosthetic appliances; assistive animals.".

TRAINING A CAPUCHIN (CEBUS APELLA) TO PERFORM AS AN AIDE FOR A QUADRIPLEGIC[1]

(By Mary Joan Willard, Karen Dana, Lori Stark, Jayne Owen, Judi Zazula, and Paul Corcoran)

Abstract—Initial results of a small pilot project indicate that Cebus monkeys have the potential to serve as animal aides for quadriplegics. During the course of the pilot project the investigators developed a set of procedures for teaching a Cebus monkey a variety of helping skills. Given a description of those procedures, a college student with no prior animal training experience was able to teach a naive Cebus apella nine different complex behaviors in 25.5 hrs of training over a period of two months.

INTRODUCTION

Recent medical progress has permitted the survival of very severely disabled people who, although totally paralyzed, retain unimpaired cognitive and communication skills and in many cases also have a normal life expectancy. The most dramatic examples is the high level quadriplegic after a cervical spinal cord injury. In order to live independently outside of a chronic care institution, such persons require a minimum of 4 to 5 hrs per day of human help, generally obtained by paying a "personal care attendant" (PCA). The PCA assists with tasks such as bathing, dressing, bowel and bladder routines, household tasks and errands and transfers into and out of a wheelchair.

Many PCA's provide indispensible services and are highly motivated and reliable. In other cases, however, dependence upon a PCA may be quite unsatisfactory. They are always hard to find, turnover is high, they may not arrive when scheduled, and in a few cases PCAs have exploited handicapped individuals in various unfortunate ways. Furthermore, regardless of the quality of PCA-provided services, reliance upon a PCA is quite expensive. The PCA represents a major expense for the handicapped individual and/or the health care system. Since few quadriplegics can afford a full-time PCA, many spend major portions of their waking hours unattended.

In 1977 P. Corcoran and I began investigating the feasibility of training capuchin monkeys as helpers for the severely disabled. The target population we were interested in includes disabled individuals who are either totally paralyzed from the shoulders down or have only very limited use of their arms and legs. Most spinal-cord-injured persons as well as a small proportion of those with multiple sclerosis, muscular dystrophy or cerebral palsy fall into this category.

BACKGROUND AND SUBJECTS

First Placement

In 1979, after taming and working with several monkeys, we placed Hellion, a 2-year-old Cebus albifrons with Robert F., a 23-year-old man who is paralyzed from the shoulders down. Over the next 18 months experimental equipment was added to his electric wheelchair which enables him to now direct, reward and punish his trained capuchin. Robert uses a chin-controlled wheelchair to move about his apartment. A mini-laser pointer is mounted alongside the chin control. Robert communicates his needs by aiming the laser at the object he wishes Hellion to manipulate. He combines the laser beam with a verbal command to the monkey. When Hellion successfully completes a task, Robert rewards her by triggering the release of a food pellet from his wheelchair-mounted pellet dispenser.

Because Hellion's natural curiosity could result in numerous messes in his apartment, a system was developed to prevent Hellion from destroying Robert's possessions. Hellion was trained to avoid all contact with pieces of furniture and miscellaneous personal effects upon which white stickers had been placed. If she does touch a stickered item, Robert is able to punish her by delivering either a warning tone or a tone plus an elecric shock to her tail.

TABLE 1.—TASKS AND PERFORMANCE RELIABILITY

[In percent]

Task	Performance reliability[1]
1. Monkey opens the refrigerator door, removes a covered plastic bowl and carries it to its owner's tray. Monkey then inserts bowl in a slot in the tray and removes the lid	94
2. Monkey removes a spoon from the feeding tray and feeds its owner. Owner requests each spoonful by making a clicking sound with his mouth	98
3. Monkey opens the refrigerator door, removes a bottle filled with juice and carries it to the table. Monkey then inserts the bottle into a slot in the tray, removes the plastic lid and inserts a straw into the opening	95
4. Monkey removes the empty bowl, and/or bottle from the tray and deposits it in a trash can	88
5. Monkey places tape cassette into a tape recorder so that the cassette is correctly positioned for use	100
6. Monkey retrieves a mouthstick and places the correct end in its owner's mouth	100
7. Monkey opens the bedroom door, which is then made accessible to the owner in his wheechair	100
8. Monkey turns a light switch on or off	87
9. Monkey activates a mini-vacuum cleaner (modified battery-operated "dustbuster") and pushes it wherever the laser indicates. Monkey then returns it to its housing and turns it off	50
10. Monkey retrieves a dust rag and dusts wherever the laser indicates	100
11. Monkey brushes the hair of its owner using a soft-bristled hairbrush	88
12. Monkey moves objects from place to place following the laser beam	100
13. Monkey pushes the mouth and chin control arm on the wheelchair within reach of its owner	100
14. Monkey sits on the lap of its owner on command	97
15. Monkey returns to its cage on command and shuts the door after entering, thereby locking the cage door	100

[1] A correct trial was one in which the monkey began the desired behavior within 15 sec. of the initial command. Two hundred and seventy-two behaviors were requested from the monkey over a period of 4 days. Two hundred and fifty-seven behaviors were correctly completed giving the monkey an overall reliability of 94 percent.

Hellion can perform a variety of tasks for her paralyzed owner. Table 1 lists these tasks and the reliability with which they are performed.

The General Problem

The training strategies used in teaching Hellion were based upon the principles of behavior modification (Skinner, 1938, 1951; Honig & Staddon, 1977). Although these basic principles of learning provided a guide, working out the step-by-step procedures for teaching specific tasks involved a considerable amount of trial and error. What we felt we needed was a standard set of procedures which could be used by almost anyone to teach a tame Cebus monkey some basic helping skills. Such a set of procedures would allow inexpensive replications of the results we had achieved with Hellion. What follows is a description of those procedures as they were used by an inexperienced trainer to teach a "naive" monkey a basic set of skills.

The Monkey

Su Su is an 8-year-old female Cebus apella. Work with two Cebus apellas and four Cebus albifrons led the investigators to conclude that apellas have an activity level roughly one-fourth that of the more acrobatic and somewhat hyperactive albifrons. The attention span of the apella also appears to be much longer. The phlegmatic temperament of the apella suggests that they will make significantly better animal aides.

Su Su was purchased from a zoo where she had lived for two years. Although she had been a pet prior to her placement in the zoo, the details of her pre-zoo life are unknown. After she was purchased, all of her teeth were extracted, thereby eliminating any possibility that she might bite her trainer or future owner. She then lived for several months in the home of a volunteer who spent approximately 1 hr with her each day, accustoming her to close contact with humans. When she began her training in January of 1981, she had become a tame and friendly animal.

The Trainer

Kathy is a 21-year-old college student who volunteered to train a monkey. She had worked for one year as a veterinary's assistant but had no animal training experience. Kathy was given a 50-page manual of training instructions. She was supervised on an "as needed" basis. Kathy received a total of 2 hrs of assistance from an experienced trainer, primarily in the initial stages of training.

TRAINING PROCEDURES

Training Room

The sight or sound of people walking or talking easily disrupted the early training. Therefore, initially a 25-ft square windowless closet was used as the training site. Once a behavior had been mastered, however, extraneous auditory and visual stimuli were far less disruptive, and the later stages of training were conducted in a large but sparsely furnished office.

Food Deprivation and Rewards

Su Su was deprived of food for approximately 16 hr before each training session. Small amounts of peanut butter or bananas were then used to reward Su Su for successful performance during the session.

The Sessions

Sessions varied in length from 20 to 60 min. The average session was 35 min. Typically trainer and monkey spent at least 90 percent of their time on task behavior. If the monkey appeared distracted, confused, or not hungry the session was discontinued and rescheduled. Approximately 15 percent of the sessions had to be rescheduled.

Conditioned Reinforcer

Skinner (1951) noted that optimal learning occurs when a reinforcer follows the target behavior within two-fifths of a second. Following Skinner's suggestion the trainer repeatedly paired the sound of a clicker noisemaker with the delivery of a small amount of food. Approximately 100 such pairings took place over the course of two 20-min sessions. By the end of the second session the monkey would look toward the trainer and approach her whenever she sounded the clicker. The trainer then used this same noise in subsequent training to give immediate feedback to the monkey. It was followed by a bit of food a few seconds later.

Imitation

The first training objective was to teach the monkey to imitate the trainer in performing a simple task. The trainer gave the command "do this" and simultaneously

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[1] This research was funded by the Paralyzed Veterans of America and bay the National Science Foundation Grant No. PFR-800, 1936.

dropped a rubber stopper into a 20×8 inch shallow box. Initially the monkey was rewarded if she merely touched the stopper. The trainer then repeated the desired behavior and rewarded successive approximations until the monkey consistently picked up and dropped the stopper into the box when given the command. The large box was replaced with a smaller box and then, after several more correct trials, with a bowl 8 inches in diameter. The monkey was considered to have mastered the task when nine out of ten trials were correct. It took 18 min for Su Su to master this first task.

The trainer next substituted a plastic lid for the stopper and rewarded the monkey for placing this new object in the bowl. After several successful trials she set both the lid and the stopper before the monkey some 18 inches apart. The trainer now selected one or the other of these two objects, dropping it into the bowl as she said "do this." The trainer then replaced the object and waited for the monkey to imitate her. The monkey was ignored for 30 sec (a "time out") if either the incorrect object or both objects were selected. The trainer then repeated the demonstration. If the monkey selected the correct object, the trainer immediately sounded the clicker but withheld the food reward until the monkey also dropped the object into the bowl.

Once the monkey demonstrated the consistent ability to discriminate between the two objects and imitate the trainer's actions, a third object was added and the process begun once again. Through further imitation of the trainer, the monkey was eventually taught to select one of five different objects and place it in one of two different bowls. The monkey took a total of 135 min in mastering this imitation task, and an additional 45 min was spent in practice and review.

Fetching

Su Su next learned to retrieve a small object and place it in the trainer's hand. In teaching this task, the trainer took advantage of a skill Su Su had already acquired. The trainer began by giving the command "do this" and then dropped a rubber stopper into a small bowl. After the monkey had correctly imitated this behavior several times, the trainer cupped her hand inside the bowl. The monkey was then rewarded each time she placed the stopper into this hand/bowl combination.

Once the monkey was performing the task without hesitation, the bowl was removed. The monkey was now rewarded for imitating the trainer in placing the stopper into the trainer's cupped hand. After the monkey had done this several times successfully, the trainer changed command from "do this" to "fetch." After several more successful trials, the imitative stimulus was discontinued, and the trainer simply prompted the fetching behavior by touching or pointing to the stopper while saying "fetch" as she extended her other hand.

Because the fetching response was often carelessly performed, the trainer began to withhold reinforcement if the stopper fell out of her outstretched hand. In these instances, the monkey was required to pick up the stopper again and place it in the open hand before receiving a reward. Next, the trainer varied the location of the stopper, although at no time was it placed more than a few feet from the trainer.

Once the monkey had been trained to perform this task reliably, the trainer substituted a series of small objects for the stopper, one at a time, until the monkey would retrieve any small object placed within the immediate vicinity of the trainer. Su Su mastered this task within 17 min.

Fetching in Response to the Laser Beam

For this task, the trainer began by reducing the light in the training room by substituting a 15-watt bulb for the normal 100-watt light. She then placed the rubber stopper on the floor and directed a flashlight beam at it. Extending her hand palm-up, she gave the command to "fetch." After several successful trials, the trainer substituted a lid for the stopper and again directed the flashlight beam at this new target. Once the monkey had retrieved this second object several times, the trainer placed both objects on the floor 18 inches apart and directed the flashlight at one of them. She gave the command to "fetch", with her outstretched hand held equidistant between the two objects. If the monkey chose the lighted object, she was immediately rewarded. If she selected the incorrect object, the trainer withdrew her hand and the flashlight and ignored the monkey for 30 sec.

Once Su Su was consistently retrieving the lighted object, a 0.5 milliwatt helium neon laser was substituted for the flashlight. The laser projected a ¼ inch diameter bright red dot onto the target. The monkey first spent several minutes trying to eat the dot, but then began to retrieve the object upon which the dot rested. Additional objects were added and trials given until the monkey could retrieve the correct object from among a dozen placed about the room. It took Su Su 145 min to master this task. Another 120 min were spent practicing this task in a variety of settings.

Changing the Location of Small Objects

Su Su was next taught to pick up a small object and move it to locations indicated by the laser beam. Once again, parts of an old task were used to teach this new task. The trainer first had the monkey retrieve a rubber stopper highlighted by the laser beam. This was repeated several times. The trainer then substituted the command "change" for "fetch" and simultaneously moved the laser beam from the stopper to her outstretched hand the moment the monkey picked up the stopper.

After several successful trials in which Su Su transferred the stopper to the trainer's hand, the trainer substituted a shoe box for her hand. She again aimed the laser at the location to which the monkey was to transport the object. After several trials in which the monkey correctly picked up the stopper, carried it over, and placed it in the shoe box, the lid of the shoe box was substituted for the box itself. Later a piece of cardboard was substituted for the lid. Still later the size of the target was reduced even further as the cardboard was torn in half, and then into quarters. Finally the cardboard was removed entirely, leaving the beam of light on the floor (directly in front of the trainer) as the only clue to where the stopper was to be placed.

After several successful trials in which the monkey transferred the stopper to the lighted spot, the trainer increased the difficulty of the task by requiring the monkey to move the stopper approximately a foot to her left or to her right. The monkey was not rewarded until she had placed the stopper directly in the path of the beam. Other small objects were later substituted for the stopper, one at a time, so that the monkey was given the opportunity to move any one of the variety of objects from one spot on the floor to another.

Su Su mastered this skill in 120 min. Another 95 min were spent practicing this newly-mastered task in a variety of settings, which included instances of placing objects on top of pieces of furniture.

Removing a Plastic Bottle from a Refrigerator, Placing It in a Slot on a Feeding Tray, Opening the Lid and Inserting a Straw

For this chain of tasks, the last step was taught first, then the next to the last step, and so on until the monkey had mastered the entire sequence.

The last step is inserting a straw into an open container. The trainer slid the bottle into its slot in the feeding tray and began by demonstrating a modified version of the target behavior. She inserted a 3 inch length of straw into the opening and rewarded the monkey for successful imitations. The trainer gradually increased the length of the straw until the monkey could insert a 12 inch length of plastic without difficulty.

The next to the last step in the chain was removing the lid from the bottle. Because the monkey was to do this only when the bottle was properly inserted into its holder, the bottle was always inserted into the feeding tray before the monkey was given the opportunity to unscrew the lid. The trainer first tightened the lid slightly and then demonstrated the twisting motion necessary to unscrew it.

At first the monkey was rewarded for any twisting action, even if it did not result in removing the lid. During any trials in which she removed the lid, the monkey was given the plexiglass straw and required to insert it in the bottle before receiving her reward. The rightness with which the lid was attached was gradually increased until she demonstrated the ability to unfasten a securely closed top. Because the 12 oz square container was to be inserted into a square slot in the tray, the monkey was able to grip the lid with both hands and to exert the force necessary to unscrew the top without also turning the bottle.

The third from the last step in the chain was inserting the square bottle into its proper slot. A square opening 1.5 times as large as the bottle was cut into the bottom of a shoe box. When inverted, the box presented an opening into which the bottle could easily be guided. The trainer demonstrated the desired behavior and rewarded the monkey for successful imitations. Once she had mastered this, the size of the opening was gradually reduced until the monkey could guide the bottle into a snug enclosure without difficulty.

The actual opening in the feeding tray was then substituted for the shoe box. Every time the monkey successfully dropped the bottle into the slot in the feeding tray, the trainer required that the monkey then unscrew the lid and insert the straw before she gave the monkey her reward. When necessary, the trainer prompted the monkey to complete the entire chain of these behaviors by simply tapping the lid or straw to draw the monkey's attention to the next step in the sequence.

The last step in the training process was removing the bottle from a refrigerator and carrying it to the table in preparation for inserting it into the feeding tray. The trainer first placed the bottle 2 ft from the feeding tray on the table and rewarded the monkey when she completed the chain from that point. Next the trainer placed the bottle on a chair next to the table and required the monkey to pick it up, place it on top of the table, and follow through in carrying it to the tray. Finally the bottle was placed on the floor several feet from the chair. If the monkey hesitated, the trainer prompted her behavior by directing the laser beam in front of the monkey to indicate where she was to go.

Opening the refrigerator door was made easy by placing several strips of tape across the magnetic lock. Seated on the floor, the trainer gave the command "do this" while placing her fingers in the door crack. She then gently pried the door open. The monkey was rewarded for successful imitations. The strips of tape were gradually removed one at a time until the monkey could brace herself and tug open a securely closed door. Once she was proficient at this task, every instance of opening the door was followed by the trainer directing a laser beam at the bottle located on the bottom shelf. She was required to complete the entire chain before receiving a reward. Small amounts of liquid were added to the bottle until *Su Su* could easily carry and manipulate the container when it held 12 oz of liquid. *Su Su* mastered the entire chain in 240 min. An additional 55 min were spent in practice and review.

Su Su was also taught to retrieve a bowl with a detachable lid and a sandwich holder and place them in their proper slots in the feeding tray. Because the training procedures so closely resemble those followed in teaching her to retrieve and position a bottle in the feeding tray, they will not be described here.

Su Su mastered retrieving, positioning and opening the bowl in 40 min. She learned to transport and position the sandwich holder in 40 min.

RETRIEVING A MOUTHSTICK

Many quadriplegics use a mouthstick to type, operate a speaker phone, and turn the pages of a book. If this tool is dropped, they are unable to retrieve it without assistance. *Su Su* was taught to retrieve a mouthstick from the trainer's lap or from the floor.

The trainer began by sitting in a chair at a desk and placing the monkey on the desk top. The trainer then held a pencil with one end wrapped in tape several inches from her open mouth. She said "do this" and inserted the taped end into her mouth. Next, continuing to hold the pencil lightly, the trainer waited for the monkey to touch the pencil and then guided it into her own mouth. The trainer gradually decreased the amount of guidance she provided until the monkey would insert the mouthstick into the trainer's mouth on her own.

The trainer slowly increased the distance between her own mouth and where she placed the pencil until the monkey was able to pick it up from the desk and properly insert it. If at any time the monkey attempted to insert the untaped end in first, the trainer closed her mouth and refused to accept it, and instead gently turned the pencil around in the monkey's hands, prompting her to try again. The task was considered to have been mastered when the trainer was able to drop the mouthstick on the desk, her lap, or the floor, give the command "mouth," and have the monkey properly retrieve it. Su Su mastered this task in 25 min. Another 25 min was spent in review.

Dusting Furniture or Cleaning Up Small Spills

For this task, the monkey was taught to push a dust cloth along a flat surface following a laser beam. The trainer began by inserting her hand into a cotton potholder mitten and placing the mitten on the floor. Giving the command "do this," she then pushed the mitten with her other hand, sliding it several inches across the floor.

At first the monkey was rewarded for touching the mitten. If the monkey attempted to pick it up, the trainer pressed it tightly against the floor. The monkey could now only employ a sliding motion to move it. As more of the monkey's attempts took the form of pushing movements, the trainer withdrew her hand from the mitten.

Once the monkey was consistently able to push the cloth several inches, the trainer introduced the laser beam as a target. The beam was directed a few inches in front of the mitten. The monkey had only to push the mitten a very short distance before it intercepted the light. As soon as the mitten did cross the beam, the trainer immediately sounded the clicker. The distance between the beam and the mitten was gradually increased until the monkey had learned first to look for the beam and then to push the cloth toward it. The trainer then began to move the beam, requiring that the monkey follow it back and forth across the floor several times before receiving a reward. It took 45 min for the monkey to master this task. Another 30 min were spent in practicing it on various surfaces.

Vacuuming

A small non-electric carpet sweeper was modified for use by the monkey. Seated on the floor, the trainer began by placing her leg across the base of the sweeper leaving only the T-bar handle accessible. Saying "do this," the trainer placed both of her hands on the handle. The monkey was rewarded if she placed one or both hands in the same position. Once the monkey had learned to position her hands correctly, the trainer removed her leg from the base of the sweeper. Saying "do this," the trainer now pushed against the handle until the sweeper had moved several inches. The monkey was initially rewarded for any forward pushing, but the distance she was required to travel before receiving a reward was gradually increased. If the monkey stopped short of the desired distance the trainer prompted a second or third push by tapping the handle and giving the command "vac."

Once the monkey had learned to push the sweeper several feet consistently, the laser beam was introduced as a target. As in teaching dusting, the trainer directed the beam 1 to 2 ft in front of the monkey and sounded the clicker the moment the cleaning instrument intersected the beam. Once the monkey had learned to readily follow the beam in a straight line, the trainer began to direct the beam in a wide arc. She gradually increased the sharpness of the turns until the monkey could follow the beam back and forth across the floor without difficulty. Su Su mastered this task in 230 min. An additional 80 min were spent in review and practice under a variety of conditions.

CONCLUSION

Thus far Su Su has spent 25.5 hr in training. Her education is still incomplete. Over the next few months she will be (1) taught to avoid any pieces of furniture on which white stickers have been pasted; (2) trained in several obedience behaviors via avoidance conditioning; (3) trained to use a specially designed toilet which is part of her cage; and (4) given 20 to 40 hr of supervised practice in the home of her new quadriplegic owner.

It is yet too early to evaluate the costs and benefits associated with owning a simian aide. Cebus monkeys do, however, have a life expectancy of 30 years, which means they should be able to serve their owners over a very long period of time. The costs associated at least with the laboratory stage of training are surprisingly low. Kathy's training of Su Su demonstrates that even an inexperienced volunteer is capable of achieving sophisticated results with the proper set of instructions.

Should simian aides prove practical, our long term goal is to establish a non-profit program similar to a guide-dog school. However, a number of questions need to be answered before such a project can be undertaken. They include: (1) Does the gender of the monkey affect its performance as an aide? (2) Should the males undergo castration or the females ovariotomies? If so at what age? (3) At what age should a monkey be removed from a breeding colony to be raised by humans? (4) Is there a small monkey suitable than the Cebus apelia to act as a helper for quadriplegics?

Areas we are now working on include: (1) refining and standardizing the equipment used by a man/monkey team; (2) developing a comprehensive list of behaviors useful to quadriplegics which monkeys are capable of performing; (3) refining the procedures used in the later stages of training, including the transfer of control from a trainer to a disabled owner; and (4) training and placing a sufficient number of monkeys with disabled owners that we can evaluate the costs and benefits associated with using a simian aide.

The capuchins's potential to help the paralyzed is exciting. As man and monkey work together daily, constantly practicing old tasks and occasionally adding new ones, the resulting symbiotic relationship promises to be a unique and increasingly complex one.

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A CAPUCHIN MONKEY AS AN AIDE TO A QUADRIPLEGIC INDIVIDUAL: AN INITIAL EVALUATION

(Judith Lee Zazula, Tufts University Master Thesis, 1982)

ABSTRACT

In a previous pilot study, a capuchin monkey was trained to retrieve objects, activate household appliances, and feed a human being. The purpose of this study was to evaluate the effectiveness of the use of that monkey as a supplementary aide to a quadriplegic young man. The intent was to determine if monkey assistance would be an effective method of increasing a handicapped individual's ability to interact with his environment.

The evaluation was divided into the areas of (a) task performance, (b) attitudes toward the disabled, (c) undersirable monkey behaviors, (d) cost effectiveness,

and (e) the disabled owner's subjective appraisal. Data collection methods included personal interviews, observation during baseline and experimental periods (one involving the monkey and one not), and a record review.

The results indicate that task behaviors of the quadriplegic individual increased when he received assistance from his animal aide. More people were found to initiate verbal interaction with the human subject in public when he was accompanied by the monkey. Specific annoying behaviors that the animal engaged in were identified by the disabled owner and his human attendant. Additionally, the estimated cost of monkey assistance in feeding was less than the cost of human assistance in the same activity. The disabled owner's subjective appraisal revealed that the use of a monkey aide had an overall positive effect on his daily experiences.

In general, tasks were reliably and economically performed, the animal encouraged interaction between its disabled owner and the nondisabled public, negative monkey behaviors were tolerable, and the human subject derived personal satisfaction from his simian aide.

The findings of this initial evaluation imply that the use of a capuchin monkey as an aide to a quadriplegic individual is a feasible method of supplementing the assistance provided by a part time human attendant.

Capuchin Monkeys as Aides for Quadriplegics

(Mary Joan Willard, Ed.D., and Paul Corcoran, M.D.)

Pilot project research has shown that capuchin monkeys have the potential to be as valuable to high-level quadriplegics as guide dogs are now to the blind. Current goals and the progress made on each is as follows:

1. The standardization of training procedures for teaching monkeys a basic repertoire of skills. Approximately two-thirds of the training procedures used in teaching a basic repertoire of skills have been standardized, and are described in a 100-page illustrated training manual. By following the instructions in this manual, inexperienced college students have successfully trained naive monkeys with only occasional help from a training supervisor.

2. The redesign of equipment which allows the disabled user to direct, reward, and punish his animal helper. The shock/buzz remote-control harnesses used to discipline the monkeys have been reduced in size and weight. A variable-level shock control has been added to the unit. Powder reward dispensers which frequently clogged have been replaced with inexpensive manually operated liquid-reward dispensers.

3. A directory of new skills which can be taught to monkeys. Only four new behaviors have been added to the basic list. It seems as if most high-level quadriplegics share many of the same basic needs.

4. Placement of 3-4 monkeys per year with new owners. Three additional placements have been made since June of 1982. Feedback has resulted in a better understanding of the type of situation in which these animal aides can be of most value.

5. The evaluation of all placements. A proposal is being prepared for submission to the VA Prosthetic and Sensory Aids Service requesting an independent evaluation of simian aides.

6. A cost/benefit analysis for the disabled recipient and the health care system. Preliminary results indicate the financial and psychosocial benefits derived from owning a simian aide outweigh the costs. A more formal analysis awaits data that will be collected during the independent evaluation.

7. An analysis of the type of organization which can train and place simian aides on a larger scale. A detached outline of an organization has not only been drawn up, but established. Helping Hands: Simian Aides for the Disabled, Inc. was incorporated in New York State in October of 1982 as a nonprofit organization.

The Psychosocial Impact of Simian Aides on Quadriplegics

(M.J. Willard, Alice Levee, and Lauren Westbrook)

ABSTRACT

In 1977 Willard and Cocoran began investigating the feasibility of training capuchin monkeys as aides for quadriplegics. Their goal was to enable these severely disabled individuals to perform a variety of tasks throughout the day without having to rely on human assistance. By 1984, seven quadriplegics were living and working with simian aides. These individuals had not only achieved greater independence, but they reported a variety of psychological and social changes. Tame, affectionate capuchins provided companionship and recreation. The quadriplegics' social world expanded as their monkeys attracted strangers and entertained friends. The simian aides seemed to hold a position in their owners' affections somewhere between that of a treasured pet and a human child.

BACKGROUND ON THE PROBLEM

To live outside of a chronic care institution, a high level quadriplegic requires a minimum of 4 to 6 hours per day of human help. The disabled individual usually receives this help from one or more family members, who must make drastic changes in their own lives to provide it, or from a paid personal care attendant (PCA). The relative or PCA assists with tasks such as bathing, dressing, bowel and bladder routines, household tasks, and transfers into and out of a wheelchair.

In addition to these essential tasks, which are usually performed in the morning and again at night, a quadriplegic needs help to achieve countless small tasks during the course of the day. Putting a book or magazine on a reading stand, placing a cassette into a tap recorder, getting a drink, eating a meal, retrieving a fallen mouthstick, and opening a door are all tasks that require assistance.

Few quadriplegics have families willing or able to provide constant access to help, and fewer still can afford full-time paid attendants. Many simply do without. These individuals are surviving, but the quality of their lives leaves room for a great deal of improvement.

SIMIAN AIDES

In 1979, after training and working with several monkeys, Willard and Cocoran placed Hellion, a 2-year-old *Cebus albitrons** with Robert F., a 23-year-old man who is paralyzed from the shoulders down. Robert lives in his own apartment with the aid of a PCA. His live-in attendant works full time at a nearby hospital and Robert is alone approximately 9 hours per day. 5 days per week.

To communicate his needs to his 6-pound animal aide, Robert aims a small harmless laser pointer at the object he wants her to manipulate. The laser is mounted on the chin control mechanism of his wheelchair. He uses the laser beam plus a verbal command to indicate what the animal is to do with the object. When Hellion has completed a task, Robert rewards her with the release of a food pellet from the dispenser mounted on his wheelchair.

In addition to the tasks illustrated, Hellion can retrieve a fallen mouthstick and place the correct end in Robert's mouth. She can remove a sandwich held in a sandwich holder from the refrigerator and place it on a tray allowing Robert to eat. Should he want a drink, she can place a drink container on the feeding tray, open it, and insert a straw. She can turn lights on or off or use a rag to clean up spills and dust furniture. Because she can move small objects from place to place following a laser beam. Robert can direct Hellion to place selected books on a reading stand or throw wastepapers in the trash. She will come when called and return to her cage, locking the door behind her when given a command to do so.

TRAINING TECHNIQUES

The training strategies used in teaching Hellion were based upon the principles of behavior modification. Although these basic principles of learning provided a guide, working out the step-by-step procedures for teaching specific tasks involved a considerable amount of trial and error. All but two behaviors are maintained using reward alone. The exceptional behaviors, returning to the cage and avoiding marked objects and areas, must be performed with 100% reliability and, therefore, are maintained through threat of punishment. Robert can deliver a warning tone or a warning tone and a mild electric shock to the base of Hellion's tail if she disobeys these two commands.

PSYCHOSOCIAL IMPACT

Initially, we were more concerned with the practical aspects of simian aide usage. The 7 placements made over the past 5 years have allowed us to experiment with new behaviors, and with the species, age, and sex of the monkeys. They have also led to equipment refinement and the development of improved training techniques. This work had led us to conclude that simian aides can be cost effective, reliable, and very appropriate helpers for some portion of the quadriplegic population.

Despite our task-oriented focus, it has become increasingly apparent that these animals are providing much more than a means to increase independence. In examining the literature on pet therapy, we found that the psychosocial impact of animals on the aged, imprisoned, and the handicapped has been explored. Observations made on the quadriplegic/simian interactions have convinced us that this partnership represents one of the most unique and dramatic illustrations of the human/animal bonding phenomena.

Numerous studies on the theraputic uses of pets have documented the psychological changes that can occur with the acquisition of a pet. Lima State Hospital for the Criminally Insane uses pets as catalysts for therapy. This treatment has been effective with depressed, suicidal, and introverted patients Lee (1982) reports that the pets alleviate loneliness, hopelessness, and boredom, while simultaneously increasing self-esteem and stimulating a less self-focused and a more responsible attitude in the patients. Feldmann (1977) reports that responsibility for the welfare of a pet can help the owner feel significant, nurturing, and needed. Upon receiving her simian aide, a 35-year-old quadriplegic told her sister. "I feel as if I'm getting the child I never thought I'd be able to have."

Fox (1981) and Levison (1970, 1972) have studied the effects of pets on the elderly and found that the major benefits of the pet/owner relationship include companionship, affection, stimulation, and emotional security. Even more so than the elderly, high-level quadriplegics are restricted in the activities they can engage in. Much of their time is spent at home, where rooms are wheelchair accessible, adaptive equipment is set up, and a daily routine of human assistance is provided. Such confinement often leads to isolation and loneliness. The mother of a 27-year-old quadriplegic participant observed.

He was hurt 5 years ago. His friends gradually stopped coming around. There's just his family now, and that monkey. They do everything together. I can't tell you how much she means to him.

The animal aides are working creatures who demand active owners. A quadriplegic must direct, reward, and discipline his monkey many times during the day. Maintaining task performance, dealing with behavior problems, and teaching new tasks are complex skills which require attentiveness, creativity, and problem-solving. This mental and emotional stimulation can help alleviate the boredom and depression associated with isolation and restricted activities.

In a study examining attending care for the disabled, DeJong and Wenker (1979) found that self-management of even a small part of one's personal care was critical to a sense of self-worth and independence. Shontz (1975) found that individuals who control their own life experiences maintain a higher morale than those who feel totally controlled by outside events. A quadriplegic is dependent upon his family and attendants for everything from bowel and bladder care to each bite of food he consumes. It is an unusual person who is comfortable with asking for help 20, 30, or 40 times per day.

Feelings of imposition and helplessness are not part of the monkey/quadriplegic relationship. Controlling a wheelchair-mounted food dispenser gives the quadriplegic power. The monkey is eager to perform, knowing she will be immediately reinforced. Thus the quadriplegic enjoys the role of director and benefactor. All owners have reported playing fetch and reward games with their animal aides. Much as a dog owner might throw a stick for his pet whenever chores are not needed, quadriplegics direct and reward for the fun of it. A part-time attendant for a quadriplegic observed that her employer had less trouble keeping attendants now that she has a simian aide.

Instead of giving us orders for every little thing she'd ask the monkey to do something. It seems to meet some of her needs for control, and it made life a lot easier for us.

SOCIAL BENEFITS

The difficulty experienced by the disabled in meeting people is well documented (Maribelil and Dell-Orto, 1977; Roessler and Bolton, 1978; and Smith-Hanen, 1976). Strangers feel guilty and uncomfortable in the presence of the handicapped (Goffman, 1963) and as a result generally avoid interaction with them. Such avoidance exacerbates the isolation and loneliness suffered by many handicapped people, and may encourage further social withdrawal (Hunt, 1966). Animals give others an acceptable reason to make contact and ease the awkward initial interaction. Each of the 7 participants in this program have spontaneously commented on the effect their monkeys have in attracting others. One quadriplegic said.

Whenever I'm lonely, I go outside with my monkey. Everybody thinks she's beautiful and wants to know all about her.

In a study by J.L. Zazula in 1982, approach behavior toward a quadriplegic with and without his monkey was assessed by measuring the number of people who initiated conversation with the quadriplegic in a public shopping center in the absence of the monkey, only 2 strangers spoke to the quadriplegic within a period of one hour. However, with a monkey seated in his lap, 71 strangers initiated a conversation with the owner within a one-hour period. In fact, Zazula reports that her quadriplegic subject chose whether to bring his monkey on a public excursion or into his front yard, depending on how much attention he felt like receiving that day.

Monkeys not only attract attention, but their presence can minimize the salience of their owner's handicap. With little attention being paid to his paralysis, a qaudriplegic is free to express his own individuality. This is no small achievement for someone who must deal each day with other people's prejudices concerning the handicapped.

Most, though not all, relationships are improved by the acquisition of a simian aide. One participant spoke of the mixed and evolving reactions of her 7 part-time attendants,

Two immediately loved H. (the monkey) and thought she was a great help. Three were neutral but over a period of months have become very attached to her. The sixth attendant did not like her H but now tolerates her, and the seventh person disliked her from day one. She quit.

Simian aides can also contribute to the richness of these on-going relationships. One full time attendant said of his employer,

He is not always the most stimulating person. We just can't have that much in common. But that monkey has kept us together. We talk about her all the time: about the cute things she does and how other people react to her. Whenever anyone calls or stops by, they ask about H. (the monkey). He (my employer) has a million funny stories to tell and people love to hear them.

More than one observer has commented on the obvious pride a quadriplegic takes in his simian aide. Ownership itself is part of the source. They possess something unusual that others want to touch, admire, and play with. Their own expertise is another source of pride. They have become knowledgeable about primate training, care, and personality. Others seek them out, valuing their information and showing genuine interest in their stories.

It is fairly recent medical progress which has permitted the survival of these severely disabled people. As of 1979 there were 75,000 spinal cord injured quadriplegics in the United States, and every year the number grows. Over 80% of those injured are under 40 years of age. In many cases these individuals have a normal life expectancy. Society is just beginning to provide for more than custodial care. Simian Aides are one option which not only helps with daily care, but has profound effects on the quality of their lives as well.

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THE USE OF CAPUCHIN MONKEYS AS AIDES TO QUADRIPLEGICS

BACKGROUND ON QUADRIPLEGICS

Recent medical progress has permitted the survival of very severely disabled people who, although totally paralyzed, have normal cognitive and communication skills. In many cases, severely disabled individuals also have a normal life expectancy. The most dramatic example is the high level spinal cord injured quadriplegic who is paralyzed, in varying degrees, from the shoulders down. As of 1979, there were 75,000 spinal cord injured quadriplegics in the United States. Eighty-two percent of them were men and most were young. Fifty percent were between the ages of 15 and 25 at the time of their injury (Nat. Spinal Cord Injury Data Research Center, 1979).

To live outside of a chronic care institution, a high level quadriplegic typically requires a minimum of four to six hours a day of human help. The disabled individual usually receives this help from one or more family members who must make drastic changes in their own lives to provide it, and/or from paid personal care attendants (PCA). The relative or PCA assists with tasks such as bathing, dressing, bowel and bladder routines, household tasks, and transfer into and out of a wheelchair.

In addition to these essential tasks, which are usually performed in the morning and again at night, a high level quadriplegic may require help to perform countless small tasks during the course of a day. Putting a book or magazine on a reading stand, placing a cassette into a tape recorder, getting a drink, eating a meal, retrieving a fallen mouthstick, and opening a door are all tasks that may require assistance.

Few quadriplegics have families that can provide assistance throughout the day, and fewer still can afford full time paid attendants. Many quadriplegics simply do without. These individuals are surviving, but the quality of their lives leaves room for a great deal of improvement.

FEASIBILITY OF MONKEY HELPERS

At the age of 18, Robert was paralyzed from the shoulders down as the result of an automobile accident. One year after the accident, Robert began to live independently with the aid of a personal care attendant. His live-in attendant worked full time in a nearby hospital, so Robert remained alone in his apartment approximately nine hours a day, five days a week.

In November of 1979, Robert began to participate in a pilot project to test the feasibility of simian aides. Since then, his helper has been a five pound female capuchin named Hellion. Robert communicates his needs to Hellion by aiming a small harmless laser pointer at the object he wants her to manipulate. The laser is mounted on the chin control mechanism of his wheelchair. Robert points it by gripping a small stock in his teeth. He uses the laser beam plus a verbal command to indicate what Hellion is to do with the object. When Hellion has completed a task, Robert rewards her with both verbal praise and the release of a food pellet from the dispenser mounted on his wheelchair. The pictures which follow depict some of the chores Hellion and other monkeys have been taught to perform.

In addition to those tasks pictured, monkeys can retrieve a fallen mouthstick (an instrument used to turn pages or dial a phone) and place the correct end in their owner's mouth. They can select a book indicated by the laser beam pointer and position it on a reading stand. They can turn lights on or off, or use a rag to clean up spills. Because they can move small objects from place to place following the laser bean, the owner can direct his monkey to place a TV remote control panel where convenient, or throw wastepapers in the trash. The monkeys will come when called, and return to their cage, locking the door behind them when given a cage command. Robert, for example, has employed five different home attendants but only one monkey. Although his monkey occasionally makes mistakes, her overall task reliability is 94%.

Since 1981, seven additional high level quadriplegics have received simian aides. Each placement has functioned as a mini-experiment as new types of living situations, training techniques, and methods of placement are attempted. Although most quadriplegics use the standard repertoire of tasks described above, behaviors that have been custom trained include repositioning a quadriplegics arm that has fallen off the wheelchair laptray, wiping a quadriplegic's forehead or chin, opening a locked door with a key, changing computer diskettes, and repositioning computer printout paper so that a quadriplegic can flip through the pages with a mouthstick.

SPECIES OF MONKEYS

The common name for Cebus monkeys include capuchins or organ grinder monkeys. The genus name is Cebus, and there are four species and 39 subspecies within that genus. Hellion, the first monkey placed, is a Cebus albifrons. Although there was no information in the literature concerning the activity levels of the various species, it now appears that the Cebus albifrons is the most acrobatic and hyperactive of the four.

Observation and/or experience with members of all four species indicates that the Cebus apella is the least active. This phlegmatic temperament is a valuable asset in training, as the lower activity levels lead to a longer attention span. Even more important is the quality of companionship they can provide. Cebus apella will sit quietly in their owner's lap or look out the window for hours at a time.

CONTROL OF DESTRUCTIVE BEHAVIOR

Curiosity will lead these monkeys to climb on bookcases and tables, open cabinets, and empty trash cans. They may also get into cleaning supplies or medicine which can be toxic. To keep them from destroying someone's home and protect them from harm, a system was devised to teach them to avoid certain pieces of furniture or areas of the house. White 1-inch circular stickers are pasted on all off-limit objects. Several stickers on the side of a desk, for example, mean the desk and everything on top of the desk cannot be touched.

If a monkey breaks the rule and touches a stickered object, she is given a warning buzz. If she continues to disobey, she is given a buzz plus a .5 second shock to her tail. This buzz/shock unit is a smaller modified version of the buzz/shock collars used in dog training, and is worn on a belt around the monkey's waist. The quadriplegic owner can control it from his/her wheelchair.

Because the shock is intermittently paired with the buzz, the buzz becomes a conditioned aversive stimulus, and by itself acts as a strong deterrent. It is not unusual for some monkeys, once they become familiar with the disabled person's home, to go without shock for 9 months or more. Other monkeys who tend to test the "sticker rule" may need to be reminded with shock once or twice every 1½ to 2 months to maintain the avoidance system.

MONKEY AGGRESSION

Even very tame capuchins have been known to attack unfamiliar humans. Within a few months of moving into a home, a monkey will behave toward the household members as if they are part of her troop. The quadriplegic owner generally is at the top of the hierarchy with relatives and attendants each assigned a rank. Visitors and those at the bottom of the hierarchy can never be totally certain as to when the ordinarily playful, affectionate monkey might view them as a threat, and bite.

To eliminate the possibility that any capuchin aide might harm someone, these monkeys undergo a full mouth teeth extraction when they reach maturity (3½ to 4 years of age). This operation has for many years been commonly performed on monkeys used by organ grinders without affecting the animal's diet (monkey chow is softened). All of the monkeys placed through this project have undergone full mouth teeth extractions without any deleterious effects on their health or subsequent behavior, or any perceptible long-term discomfort. Capuchins almost never use their nails as weapons, and in six years, no one has ever been injured by a simian aide.

SEX OF MONKEYS

To date only females have been placed with quadriplegics. Males are generally more aggressive during their adolescent years, and until their canines are removed at four years of age, they are potentially dangerous to raise and train. Tame adult males without teeth, however, can be very safe and calm animals. Several will be placed within the next two years.

Females who are easier to deal with during their adolescent years go into heat every 21 days once they reach sexual maturity (about 3½ years of age). During their 2-day heat periods, they are less reliable in performing their tasks and spend much of their time courting their quadriplegic owners or other members of the family. Ovariotomies were performed on two simian aides whose heat periods lasted for more than three weeks at a time. It is expected that this will not become a standard procedure with females whose heat periods are of shorter duration.

PSYCHOLOGICAL FACTORS

Although the primary goal of this project is to increase the ability of a quadriplegic to perform the tasks of everyday life, this unusual intervention has had a strong psychological impact on disabled participants.

Most high level quadriplegics lead very restricted lives, often spending weeks at a time within the confines of their homes. An affectionate, responsive and entertaining capuchin can be a very welcome addition to an unstimulating environment. One owner described the monkey's place in her life as somewhere between that of a pet and a child.

In addition, ownership of a monkey conveys a certain status on the recipient. Monkeys outside of zoos are rare. Monkeys who perform chores like small humans and readily play with visitors are even more unusual. Quadriplegics acquiring a monkey aide have reported that overnight they feel as if they became a minicelebrity in their neighborhood. Ownership of a monkey provides an obvious and interesting topic of conversation. It can minimize the discomfort the able bodied feel when relating to the disabled, and allow for the more natural development of friendships. Considering the circumstances in which many quadriplegics find themselves, the importance of these social factors cannot be overestimated. For psychological reasons as well as financial, it's fortunate that these monkeys have a life expectancy of 30 years.

HELPING HANDS: SIMIAN AIDES FOR THE DISABLED—A SERVICE ORGANIZATION

By 1982 it was clear that functionally and psychologically, simian aides were effective for at least some quadriplegics. Further research was needed to refine the procedures by which they were socialized, trained, and placed, but the basic concept proved to be feasible. A television program showing Robert and his monkey brought in hundreds of phone calls and letters from disabled people interested in obtaining a trained monkey. A nonprofit organization called Helping Hands: Simian Aides for the Disabled was established to meet the goal of providing simian aides to quadriplegics—much like guide dogs are now offered to the blind.

For the first two years, Helping Hands consisted of a small group of volunteers with an annual budget of about $3,000. In 1984 and 1985, however, fund raising efforts were more successful. What follows is a description of progress made over the past several years.

SOURCES OF CEBUS APELLA

A breeding colony of 85 Cebus apella was established in 1984 at a primatological foundation in Florida. Although only 12 monkeys were obtained from the colony in 1985, it is eventually expected to produce 15-30 babies per year. Additional infants have been purchased or donated by laboratories within the U.S. and Argentina.

FOSTER HOMES

Trial and error testing has demonstrated that early socialization is essential for the production of affectionate and humanized primates. At four to eight weeks of age monkeys are placed with foster families; people who have volunteered to raise a monkey in their home for a period of 2½ years. Volunteers agree to spend 10 hours a day with their primate babies during the first six months. Foster parents literally carry their babies on their arms as they go about their daily business. Older animals require less intensive contact, but a minimum of four hours each day must still be spent interacting with the monkey outside of its cage. There are currently 38 young monkeys being socialized by volunteers. An additional 55 families have passed the screening process and are awaiting the opportunity to foster animals as they become available. A part time foster care director screens, coordinates and monitors the placements.

TRAINERS

During the first semester, students receive course credit for their training experience. Those who have shown the most aptitude are offered part time jobs for two to three years. Students train two hours a day, six days a week. Not only is student labor relatively inexpensive, but students are developmentally well suited to the job demands. They have energy, dedication, and patience, and are often thrilled with the opportunity to train primates. By the time the novelty of the job wears off, many are about to graduate and move on to other types of work.

TRAINING

Socialized monkeys, who are at least 2½ years of age, are sent to the Boston University School of Medicine for their training. A standard repertoire of obedience and helping tasks takes about six months to teach. Each behavior is broken down into a series of steps. These steps are described in detail in a training manual and are demonstrated in a series of instructional videotapes. College students with no prior animal training experience have been successful in following these instructions and have produced sophisticated results. There are currently five monkeys being trained by four students at the Boston University School of Medicine.

EVALUATION OF QUADRIPLEGIC CANDIDATES

Evaluation of interested candidates consists of an initial telephone screening interview, followed by a home visit to those who seem most suitable. A videocamera is used to record the details of a quadriplegic's environment, equipment, and physical abilities. Interviews with the disabled person, his attendants, and other household members are also taped. Reviewing the footage back at the laboratory allows an occupational therapist, rehabilitation engineer, psychologist, and monkey trainers to all have input into the decision for placement. Details of the quadriplegic's abilities, physical environment, and his/her equipment allow the engineer to customize equipment used to communicate with the monkey. This information is also important to the trainer, who will use it to teach additional behaviors to the monkey to meet the specific needs of that quadriplegic.

Quadriplegics selected for placement are provided with both a training manual and a simian aide owner's manual. The quadriplegic is expected to master the material, and is required to verbally demonstrate understanding of that material before his/her monkey arrives.

PLACEMENT

During the actual placement, a trainer travels to the home of the quadriplegic and works with that individual and his family for three to five days. A support person is hired to come in one hour a day for the next four to six weeks, to help the disabled person drill with his/her monkey. By the end of that period, the monkey's tasks are usually transferred and under the control of the new owner. A complete social adjustment on the part of the monkey and the household members may take up to six months.

OTHER PROGRAMS

Although Helping Hands is currently the only service organization in the United States to train and place simian aides, within the past year rehabilitation centers in Israel, Argentina, and Canada have begun their own programs with our assistance. This project has the potential not only to help American quadriplegics, but to serve as a model for similar efforts in other parts of the world.

Service Dogs Provide Freedom and Friendship

CANINE COMPANIONS FOR INDEPENDENCE

(By Karen Ter Sarkissoff)

Vaughn Held was a strong, active 19-year-old, rising early to milk the cows and run the equipment on his grandfather's Colorado dairy farm. He was on the track team and planned to go into the service after his May graduation. In July, his promising future took an unexpected turn, when a car suddenly pulled in front of the motorcycle Held was driving. His neck was broken, and he became a C5-6 quadriplegic.

"I was a mess for two years after," recalls Held, "throwing temper tantrums as I came to reality, thinking, 'Ah, geez, I'm never going to be able to do this again.' I was living at my folks' house, doing watercolor painting one day. . . . I remember losing it then. I just broke down and cried. After that, everything turned around. I started getting motivated and thought, "I'm not just gonna sit here.' "

Held struggled to adjust to his new lifestyle, determined to grasp what little independence remained within his reach. "I had to learn to start all over," he remembers. "I had a really supportive family, I did a lot of rehab, and I worked at getting my head on straight. Being athletically inclined throughout my schools years—from peewee football all the way up to track in high school—there's always the competitive edge I had. I guess that's what kept me going: believing that there's always something more to achieve." It was time to get out on his own, and he headed for California to look for a job.

Held learned about the Canine Companions for Independence (CCI), a unique program designed to bring independence to the disabled through the use of specially trained canine partners. These exceptional dogs carry belongings in a backpack, pull wheelchairs up curbs and hills, retrieve dropped items, turn light switches on and off, and even push elevator buttons. Proven working dogs (golden and Labrador retrievers and German shepherds) from the best stock in the United States and Europe are now bred at CCI as service dogs and respond to 89 instructions—not tricks, but commands useful in everyday life. Now 25, Held was determined to get involved and sent in his application to CCI. He would now embark on one of the greatest adventures of his life.

Executive Director Bonita Bergin founded CCI in 1975, after class discussions in her early childhood education/special education master's degree program sparked her interest in the needs of the disabled. Unlike the others, Bergin firmly believed institutionalization was not the answer. While in Asia, she had witnessed the potential for training animals to help disabled people live more independently and was convinced she had to try it in America. Dogs had never been used to assist people with disabilities other than blindness, and Bonnie encountered numerous critics and obstacles.

But, through fierce determination, hard work, and a desire to learn, Bergin tested her idea with the first service dog, a Labrador puppy named Abdul, and Kerry Knaus, a quadriplegic. Knaus learned to control her dog, and Abdul learned how to help Knaus live a more independent life. Today Knaus is an instructor and director of CCI's Southwest Regional Training Center, and thanks to the incredible vision and unfailing dedication of Bergin, Canine Companions for Independence has evolved from its humble beginnings in her Santa Rosa, California, trailer to a program of international scope and worldwide acclaim.

Canine Companions are now available to help people with disabilities caused by traumatic injury, birth defects, illness, or aging. The greatest number of CCI participants have become disabled as a result of neurological injury caused by automobile accidents and sports and industrial injuries. Birth defects like cerebral palsy, muscular dystrophy, and spina bifida are the second greatest cause. Still other participants are disabled from polio, multiple sclerosis, diabetes, stroke, progressive spinal atrophy, or arthritis.

In addition to service dogs, CCI trains signal dogs to work as ears for the deaf and hearing-impaired, literally signalling the presence and position of a noise, whether it be a doorbell, a baby crying, or a smoke alarm. Social dogs are used in hospitals and schools, where they facilitate interaction with the emotionally or intellectually impaired and help break the ice with autistic children and the all-too-often forgotten elderly in convalescent homes. Specialty dogs—a refined combination of the service, signal, and social dog—are presently helping individuals with multiple disabilities and senior citizens experiencing debilitating physical problems.

After 11 years, Bergin feels that CCI is "a pioneering but solidified program. We've done it enough to standardize it. It's not new and different," she smiles. "It's now a conventional way to enhance independent living skills for everyone—the average person."

Open to all ages and disabilities, CCI's only criterion is that individuals who want a Canine Companion must apply themselves, rather than having a friend or relative apply for them. (Parents may apply for young children.)

"To have a dog is a responsibility," Bergin states. "People who receive them have to be capable of handling that."

Responsibility starts with the application process, which usually takes from three to six months. Individuals must send a letter to CCI indicating their interest in a Canine Companion. CCI then sends an application that asks for information from the applicant and his or her doctor and for letters of reference.

"Responsibility factor is real important," Held adds. "You've got to commit yourself. The dog is your responsibility once you leave the training. You have to really want one. . . . You have to be motivated."

"CCI calls you in for an interview," Held explains. "There are no right or wrong answers. What they're trying to find out is what your personality is; are you going to get mad at little things? Your dog may do something that you don't like, and what are you doing to do, throw him or her against the wall? They'll want to know."

Although the dogs are specially trained from the time they are seven weeks old with extensive six-month advanced training as adults (at a cost of over $5000), the application processing fee for the participant is only $125. Grants and donations allow CCI—a nonprofit, tax-exempt entity—to pay for the training of the dogs. The dogs work 24 hours a day during their eight-to-ten-year service life, many times reducing (if not eliminating) attendant aid. In a decade, a service dog can save a disabled person $90,000 in attendant care.

Once applicants are accepted, they have to travel to the CCI center, where they will get their dog. There they undergo two weeks of grueling training, fondly nicknamed "boot camp" by participants.

"It's gotta be the most incredible experience I've ever been through," Held reminisces. "I didn't think it would be as hard as it was."

"The participants learn to work with their dogs in a variety of situations," explains Bergin. "They learn canine management and the 89 different commands the dogs already know and how to apply them."

Held recalls his boot-camp experience: "You're being introduced to this whole concept of what a dog can do for you. You're in there with these expectations of this trained dog—that you say something and they're going to it right." Held shakes his head. "The dogs don't want to do anything for you the first three days because they've been around their trainers for six months and, before that, in the puppy home for a year. They don't want to look at you; they don't care who you are!" He laughs. "We're in this circle of 12 people, and we're supposed to get the dogs to obey these commands, and it's frustrating. But the trainers want you to get that frustration out—snap at the trainers, not the dog. You are there to learn what the dogs know, and they are going to learn about you. It's a whole transition. It was incredible!"

This working team relationship also allows the person's disability to become a secondary characteristic, while the dog's presence assumes responsibility for bridging the physical or emotional gap.

"When you're disabled," Bergin explains, "you have to be cared for. Now, all of a sudden, you have to tell someone or something else what to do. You need to learn to become a leader, to show the dog who is boss. The dog gives the person the freedom, the confidence . . . and this carries over into other parts of the person's life."

No other program in the world focuses so intently on actually changing the disabled individual's outlook.

Boot camp is where Vaughn Held met his new partner in life, a 2-year-old black Labrador retriever named Coca-Cola. "By about the third or fourth day, they've picked out a dog for you, matching the personalities. They introduced Cola to me, and I liked him 'cause he was always wagging his tail—he was always happy."

"Vaughn did well in class," Bergin remembers. "He's excited about the program. He was in the age range (16 to 22) of most men who have accidents—auto, motorcycle, and diving. Vaughn maximizes Cola's skills while at the same time furthering his own capabilities."

Held smiles at the dog faithfully stationed by his side. "He has opened up my world to where I haven't been able to do stuff before; now I can just go! If I need help, that's my helper that will do it for me." He strokes Cola's sleek, black head.

The crux of the CCI program is that participants must tap their innermost depths before a successful bonding can occur with their dogs.

"After the fourth day, it starts to take place, to click," Held says. "You get to take the dog home, put him on your bed, and tell him you love him and he's gonna be yours forever. That's when the bonding process takes place, because when you go back the next day, the dogs don't care about their trainers anymore. This time, when you give them a command, they think, 'He told me something. I've seen him before; I think he's gonna be around for awhile!' The frustrating part starts to turn into a real work of art!"

Time and time again, graduate participants leave the two-week intensive training session more assertive and self-confident. This is reflected in their relationships and their ability to secure jobs or attend school—all because the Canine Companions at their sides forced them to see new things within themselves.

"I wish I could have had him for a couple of interviews in the past," Held reflects. "With this job, I think it helped as a sign of stability within myself; having him showed a responsibility to my employers. It's also a neat concept: A guy can come to work and so can his dog, but his dog can help him at work, too."

The love between dog and master is evident. "He's so in tune with what I do and need," Held says proudly. "One-word commands, and he does it. I live by myself, and if I drop something, he's there to pick it up. Cola goes everywhere with me. I don't consider Cola a pet; he's an extension of me. He's like a part of my body; he's my third hand—a partner in everything."

In the year Held has had Cola he has attended community college and now works as a full-time switchboard operator at a Breuner's furniture store. He participates in wheelchair races and has been able to follow his dreams, with the help of his Canine Companion.

"CCI has helped me grow. I've had the opportunities to do a lot more things," Held says with a grin. "I've always wanted to go over the Golden Gate Bridge. Cola pulled me across. It was a blast! Nowadays, I can just park somewhere, and I don't have to worry because I can go down the street, up a sidewalk . . . he can pull me, and I'm gonna get there. He has added to my life. Nothing is impossible with Cola."

In addition to being more independent, there are other advantages to having a Canine Companion. According to Bergin, "it's exciting how much a dog will integrate a person into society again. The invisibility factor that comes with being in a wheelchair fades. With a Canine Companion, it's just the opposite: You're the center of attention," she laughs. "Suddenly, disabled men who may have been ignored before are surrounded by attractive women. A dog is a wonderful icebreaker!"

CCI continues to experience exciting growth as it strives to help people all over the world. To date, 230 Canine Companions have been placed throughout the United States, Canada, and overseas. "In June 1985, we placed one signal and one service dog in Israel at the invitation of their Department of Rehabilitation," Bergin reports proudly. "In February 1986, we placed one signal and two service dogs in Holland. We've been asked to bring over six more in May 1987. Other countries have expressed an interest too."

The Northwest Regional Training Center in Santa Rosa, California, has expanded their kennel and office space and—most importantly—added a 12-bed dormitory that will eliminate the hotel costs for participants during their two-week stay. A Southwest Regional Training Center in San Diego is now in operation, and the recently opened office in New York will eliminate the travel costs to California for the first time in CCI's history. North Central and South Central Regional Centers should be open with a puppy program within one year.

"CCI is working very hard to expand to provide more service for more people," Bergin says with conviction.

After spending time with Bergin and Held, it is easy to catch their enthusiasm for CCI's program. President of the Board Jeannie Schulz exults, "I feel really fortunate to have become involved with this organization that I've known about for several years. The opportunity for growth is so dramatic!"

Jeannie and her husband, Charles Schulz, the famous creator of the "Peanuts" comic strip, recently produced a television documentary about Canine Companions for independence. "My husband and I were so excited about getting this concept across that we wanted to fund this film," Jeannie explains with a smile. "As Sparky [Charles Schulz] says in the film, CCI is such a wonderful concept. The magic that the dogs perform for these people is so basic and simple, yet once you see the dynamic interaction of the love of a dog for his master, you're changed."

"We are working very hard to improve and perfect our program," Bergin emphasizes. Her exemplary work has not gone unnoticed. In 1984, CCI received the international Delta Society's Model Program Award and in 1985 was selected as one of 23 recipients (and the only one on the West Coast) of surplus funds from the 50th Presidential Inaugural Committee. Private individuals businesses, and foundations have all donated to the good works of CCI, and people who have participated in the program continue to give back to it as well.

Held enjoys giving demonstrations to show the variety of services a Canine Companion can provide. "They've given me this $5000 dog, and he's helped me so much that I'll do anything for them. If it means doing demos after work or on weekends, I'll do it. CCI is a neat program, and I really want to help. They've opened my eyes to what a dog can do for me.

When discussing CCI's future, Bergin's face lights up. "There's so much more to be done in this field!" she insists.

It is evident that with her endless energy, insight, and conviction, Bonnie Bergin will continue to make Canine Companions for independence the best it can be in providing the means for physically challenged people like Vaughn Held to live more fulfilling, independent lives.

For more information about these exceptional dogs for exceptional people, contact Canine Companions for independence, P.O. Box 446, Santa Rosa, CA 95402.

NATIONAL SPINAL CORD INJURY FOUNDATION, NEWTON, MA.

(SCI Statistical Information)

The information about people who have spinal cord injury is incomplete, but I will summarize what is available. Everyone is responsible answering I&R questions on the phone about the information on this sheet. All other questions should be referred to Speed by transferring the call if he is available or by completing I&R and sheet for later call-back.

We have very little statistical information about disease-induced spinal cord injury. Speed has brief descriptions of the diseases.

The following information relates to traumatic spinal cord injury and is taken primarily from "Spinal Cord Injury: The Facts and Figures."

Number of new injuries per year: 32 injuries per million population, or 7,800 in the U.S. each year.

(Double these numbers for totals including disease-induced injuries.)

Researchers estimate that an additional 20 cases per million (4,860 per year) die before reaching the hospital. Most researchers feel that these numbers represent significant under-reporting. Injuries left out include cases where the patient dies instantaneously or soon after the injury, cases with little or no remaining neurological deficit, and people who have neurologic problems secondary to trauma, but are not classified as SCI.

Total number of people with SCI: 906 people per million of population, or 220,000 currently in the U.S.

(Double these numbers for totals including disease-induced injuries.)

WHO ARE THEY?

80 percent male, 20 percent female

Highest per capita rate of injury occurs between ages 15–20

Age at injury: See Figure 2 attached.

Average age = 29.7.

Median age = 25.

Mode age = 19.

Black's rate of injury slightly higher than white's.

Cause of injury: See Figure 5 attached.

2/3 of sports injuries are from diving.

Falls overtake motor vehicle accidents as leading cause after age 45.

Acts of violence and sports drop off as age increases.

Women have a higher proportion of motor vehicle accidents.

Men have a higher proportion of sports injuries.

Marital status: At injury:	*Percent*
Single	59
Married	29
Divorced	7
Unknown	5

5 years post-injury: 88 percent of people with SCI still single vs. 64 percent of the non-SCI population. 73 percent of people with SCI still married vs. 90 percent of the non-SCI population.

Employment status at injury:	*Percent*
Employed	60
Student	20
Unemployed	12
Retired	3
Homemaker	3
Unknown	2
Employed 5 years post-injury:	
Paraplegic, incomplete	25
Paraplegic, complete	24
Quadriplegic, incomplete	18
Quadriplegic, complete	10

People who return to work in the first post-injury year usually return to the same job for the same employer. People who return to work after the first post-injury year either worked for different employers or were students who found work.

THE INJURY

51 percent of all injuries are complete, 49 percent incomplete. Complete injuries result in total loss of sensation or function. Incomplete injuries result in partial loss. Complete does not mean the cord has necessarily been severed. Each of the above categories can occur in paraplegia or quadriplegia.

Except for the Incomplete-Preserved motor (functional), no more than 1.6 percent fully recover, although all can improve from initial diagnosis.

Overall, slightly more than 1/2 of all injuries result in quadriplegia. However the proportion of quadriplegics increase markedly after age 45, comprising 2/3 of all injuries after age 60 and 87 percent of all injuries after age 75.

90 percent of all sports injuries result in quadriplegia.

Most people with C-3 and above injuries die before receiving medical treatment. Those who survive are usually dependent on mechanical respirators to breathe.

50 percent of all cases have other injuries associated with the spinal cord injury.

HOSPITALIZATION

(Information in this section applies only to individuals who are admitted to one of the hospitals designated as "model" SCI centers by NIDRR.)

One-third of all cases admitted to the Spinal Cord Injury System sponsored by the National Institute of Disability Research and Rehabilitation arrive within 24 hours of injury. The mean time between injury and admission is 15 days and dropping.

Only 10–15 percent of all people with injuries are admitted to the NIDRR SCI system. The remainder go to CARF facilities or to general hospitals in their local community. In general, people who go to general hospitals achieve less of their rehabilitation potential, incur higher hospitalization costs, and have more medical complications in the years after their injury than people who go to CARF or "model" NIDRR centers.

Length of stay and hospital charges are higher for cases where admission to the SCI System is delayed beyond 24 hours.

Average length of stay (1984):	
Quadriplegics	116
Paraplegics	84
All	100
Average charges (1985 dollars):	
Quadriplegics	80,500
Paraplegics	55,000
All	67,300

Source of payment: Acute Care:	*Percent*
Private insurance	54
Medicaid	24
Self pay	21
Vocational rehabilitation	18
Worker's compensation	12
Ongoing medical care:	
Private insurance	42
Medicare	41
Self pay	39
Medicaid	20
Worker's compensation	12

After the hospital

Residence at discharge:	*Percent*
Private residence	92
Nursing home	4
Other hospital	2
Group home	2

There is no apparent relationship between severity of injury and nursing home admission, indicating that admission is caused by other factors (i.e. family can't take care of person, medical complications, etc.).

Each year one-third to one-half of all people with SCI are re-admitted to the hospital. There is no difference in the rate of re-admissions between paraplegics and quadriplegics, but there is a difference between complete and incomplete injuries.

SURVIVAL

20 percent of all cases die in the first few months after injury, but cases surviving the first year have a nearly normal life expectancy.

Causes of death: The most common cause of death during the acute phase is respiratory ailments. After the first year the most common cause is renal failure, but this is changing with recent improvements in renal care techniques. An increasing number of people with SCI are dying of unrelated causes such as cancer or cardiovascular disease.

MEMORANDUM

VETERANS ADMINISTRATION

Date: November 6, 1987.
From: General Counsel (023).
Subj: Furnishing Simian Aides to Veterans as a Medical Service.
To: Chief Medical Director (121).

1. You requested our opinion on whether VA has legal authority to provide certain veterans with specially trained simians, such as Cebus monkeys, as part of outpatient medical care. VA has funded extensive research in the training of these animals to function as aides to severely spinal cord injured (SCI) patients. We assume that SCI patients would be the principal recipients of this form of assistance. You point out that the research has resulted in development of a comprehensive program and that routine placement of specially trained monkeys with quadriplegic patients may be possible in the near future. In considering the basis in law for such placement, we necessarily have reviewed the line of opinions which have addressed whether a specific device, an item of equipment, or an animal may be provided to a patient as a "medical service," or a "therapeutic or rehabilitative device," as those terms are used in title 38, United States Code.

2. Section 612 of title 38, United States Code, authorizes VA to furnish outpatient "medical services" to veterans who meet the eligibility requirements set forth in that section. The term "medical services" is defined in section 601(6), which provides, in pertinent part:

"(6) The term "medical services" includes, in addition to medical examination, treatment, and rehabilitative services.—

"wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Administrator determines to be reasonable and necessary."

Simian aides are not, of course, expressly included in the statutory list of items considered medical services, i.e., wheelchairs and trusses, but we note the suggestion in your memorandum requesting this opinion that the animals might be considered a type of "prosthetic appliance," i.e., a "similar appliance," as that term is used in section 601(6).

3. Your submission to us states that the monkeys perform many task for the quadriplegic patient for which the patient must now use various items of "so called" prosthetic equipment to perform. In our view, however, a simian aide is not a prosthetic (i.e., "similar") appliance within the meaning of the law. In numerous opinions dating back to 1946, we have cited the dictionary definition of the term prosthesis. Thus, in 87 Op. Sol. 110 (July 11, 1946), it was stated:

"The word 'prosthesis' is defined in Webster's New International Dictionary (2nd Edition):

"'The addition to the human body of some artificial part to replace one wanting, as a leg, eye, or tooth * * *.'"

See also Op. G.C. 5-70 (10-2-70), Digested Opinion, 6-25-84 (4-6 Prosthetic Appliances). The term prosthetic appliance is also defined in VA Manual M-2, Part IX, paragraph 1.01(n).

n. Prosthetic Appliances. All aids, appliances, parts or accessories which are required to replace, support, or substitute for a deformed, weakened, or missing anatomical portion of the body. Artificial limbs, terminal devices, stump socks, braces, hearing aids and batteries, cosmetic facial or body restorations, eyeglasses, mechanical or motorized wheelchairs, orthopedic shoes, and similar items are included under this broad term. * * *

These definitions define prosthetic appliances as artificial items to replace or substitute for missing body parts which would allow the individual to perform tasks he would otherwise be able to do if he were not missing a body part or the use of a body part. A simian aide performs tasks for the individual; it is not a device to allow the individual to perform tasks. We believe it would be unreasonable to interpret the term "prosthetic appliance" to include a simian aide in the same way that it would be unreasonable to consider a human aide hired to perform the same types of tasks to be a prosthetic appliance.

4. We next consider whether simian aides may be furnished under the language in section 601(6) which authorizes furnishing of "such other supplies or services as the Administrator determines to be reasonable and necessary." The word "services" was added to the phrase by Public Law 94-581, and was apparently intended to clarify the authority in 38 U.S.C. § 612(f) to provide home health services. Digested Opinion, 9-1-81, (8-8 Housing For Veterans), Digested Opinion, 7-9-80, (Hospital Based Home Care), Digested Opinion, 10-1-79, (4-6 Prosthetic Appliances). The words "other * * * services" need not apply solely to the provision of home health services, but, as we have stated in several opinions, the words grant authority only to provide professional and related medical services. Digested Opinion, 9-1-81, (8-8 Housing For Veterans), Digested Opinion, 7-9-30, (Hospital Based Home Care), Digested Opinion, 10-1-79, (4-6 Prosthetic Appliances). Services customarily provided by an aide or attendant, such as homemaker-type services, are not considered professional medical services. Rather, they are the sort of servcies that the law contemplates the veteran would provide for through aid and attendance and/or housebound benefits. We have advised, accordingly, that VA has no authority to provide such service. Digested Opinion, 7-14-86, (7-7 Hospital Based Home Care), Digested Opinion, 7-9-80, (Hospital Based Home Care), Digested Opinion, 10-1-79, (4-6 Prosthetic Appliances). The services provided by a simian aide in contrast to professional and related medical services, appear to be substantially similar in function to the services ordinarily provided by such a human aide. Thus, your submission states that the animals are able to assist with feeding the patient, repositioning the patient to avoid edema or pressure areas, turning pages of a book, opening doors, brushing teeth, and retrieving small objects. While these services are undoubtedly important to a profoundly disabled individual, they are not medical services, as that term would ordinarily be understood. In our view, VA could not provide an attendant to perform those services, or justify the use of a health care professional to provide these services alone. By extension, we see no basis to provide those services through a simian surrogate as "medical services."

5. In our view, the words "other . . . supplies" as used in the section 601(6) phrase "other supplies and servcies as the Administrator determines to be reasonable and necessary," also do not provide authority for furnishing simian aides. Our office has repeatedly stated that there is some overlap between the words "other * * * supplies" in section 601(6) and the language of 38 U.S.C. § 617, which authorizes the furnishing of thereapeutic and rehabilitative devices to certain categories of veterans. Op. G.C. 22-75 (11-20-75), Op. G.C. 5-70 (10-2-70), Digested Opinion, 6-25-84, (4-6 Prosthetic Appliances). Those opinions citing both section 601(6) and 617 have generally expressed the position that the standard for furnishing medical supplies and equipment is medical necessity and the decision on whether to furnish equipment is a medical determination. Thus, int he July 9, 1980, opinion cited above, we wrote that "covered equipment and supplies must both demonstrably facilitate the ongoing treatment or rehabilitation of the veterans and be found medically necessary. Opinions construing the "other . . . supplies" language have also clearly held that supplies and equipment cannot be furnished if their value to the veteran is primarily for comfort and convenience, rather than as a medial necessity. Op. G.C. 22-75 (11-20-75), Digested Opinion, 9-17-86, (4-6 Prosthetic Appliances), Digested Opinion, 6-25-84, (4-6 Prosthetic Appliances).

6. Certainly the services provided by simian aides may be viewed as beneficial in the sense that it can be said that they fill a need. In our opinion, however, simian aides are not medically necessary in the sense in which home dialysis equipment is for the patient with kidney failure, for example. While the exercise of drawing lines between what is or is not covered by those statutory terms is often difficult and one regarding which reasonable minds may differ, our view is that simian aides are not the kind of "supplies" Congress envisioned VA providing.

7. Our review of the law in this case included not just section 601(6), but all of 38 U.S.C. chapter 17. We noted that specific statutory authority exists in section 614 to furnish guide dogs to eligible blinded veterans. In our view, given this framework, similar statutory authority would be necessary to furnish simian aides to disabled veterans. In conclusion, we do not find a satisfactory basis in law to provide these aides outside the research setting as a benefit to veterans.

DONALD L. IVERS.

PARALYZED VETERANS OF AMERICA,
Washington, DC, March 22, 1988.

Hon. FRANK H. MURKOWSKI,
Ranking Minority Member, Senate Committee on Veterans' Affairs, SH-202 A, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: On behalf of the members of Paralyzed Veterans of America, we respectfully urge your consideration of legislation which would provide specific statutory authority by amending Chapter 17 of title 38, US Code to include the provision of assistive animals to eligible veterans. Specially trained assistive animals (specifically, Canines and Simians) are a proven means of helping, disabled individuals pursue greater independence, rehabilitation, recreation and social interaction.

One program, Canine Companions for Independence (CCI) pioneered the concept of training dogs to help people with disabilities other than blindness. CCI was founded by Bonita M. Bergin in 1975. Now, 13 years later CCI has placed hundreds of Canine Companions with disabled individuals. From retrieving objects and turning on and off a light switch for someone using a wheelchair to altering a deaf person to the sounds of a child crying or the phone ringing, these dogs are providing an essential link towards greater independence. To date, CCI has placed over 300 dogs, the total cost of the disabled individuals is $125.00.

The VA has funded extensive research on the training of Simians to function in an assistive capacity to severely disabled individuals in the home setting. The research, which PVA has also funded, has resulted in the development of a comprehensive program founded and directed by Dr. Mary Jane Willard of Boston University whose goal is the routine placement of specially trained monkeys with quadriplegic individuals—much like guide dogs are now provided to blinded veterans.

These monkeys perform for the quadriplegic individual a multitude of tasks which, because of the level of spinal cord injury, the person is unable to perform himself. It is estimated that in order to live outside the institutional setting, a high level quadriplegic typically requires a minimum of four to six hours per day of human assistance. Usually, the individual receives this help from a family member or personal care attendant (PCA).

The relative or PCA assists with tasks such as dressing, bathing, medical treatments, etc. In addition to these tasks, the individual may also require help to perform countless small tasks throughout the day such as putting a book on a reading stand, getting a drink or eating a meal, turning on a light, retrieving a fallen object, or opening a door.

PVA, as an advocate for greater independence for our catastrophically disabled members recognizes the importance of continual improvement in the quality of life of these individuals through the use of assistive animals who can, when successfully trained, decrease the level of dependence on human assistance. Much in the same way that guide dogs have resulted in greater independence for the blind, specially trained monkeys and canines can open up avenues to independence for the catastrophically disabled veteran, providing for enhanced, social interaction, educational and employment opportunities.

Specific statutory authority, however, to provide this necessary service is not included in title 38. PVA requests the assistance of the Veterans' Affairs Committees to amend Chapter 17 of title 38 to include the provision of assistive animals to eligible veterans. All the successful research efforts and expended resources will prove fruitless if necessary authorizing legislation is not promptly enacted.

Senator Murkowski, knowing of your ongoing interest and efforts on behalf of this nation's veterans, we are hopeful that you will lend your essential support towards this worthwhile and cost-effective program.

Sincerely yours,

R. JACK POWELL,
Executive Director.●

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs and a long-time advocate of providing state-of-the-art care to catastrophically disabled veterans to improve the quality of the care they receive and of their lives, I support the concept put forward by the Paralyzed Veterans of America of providing the Administrator of Veterans' Affairs with specific authority to provide assistive animals to certain veterans. Thus, I congratulate our committee's distinguished ranking minority member [Mr. MURKOWSKI] for introducing today a bill that would give the VA discretionary authority to provide monkeys and dogs to assist veterans who, by reason of their quadriplegia, are entitled to disability compensation.

VALUE OF ASSISTIVE MONKEYS

For veterans with high-level quadriplegia, who have lost the use of their legs and much or all of the use of their hands and arms, the assistive monkey can be a godsend. Those who live at home typically require 4 to 6 hours of human assistance per day. The disabled individual usually receives this care from a family member or a paid personal care attendant. As for the rest of their day, unless they are among the few who are able to afford the great expense of attendant care for the whole day or have a family member who is able to spend their day with them, these veterans simply do without—without anyone to pick up their mouthstick—which they use for turning pages, dialing phones, and many other tasks—if they drop it, to provide them with food or drink throughout the day, or to turn on the light for them when it gets dark—in short, without anyone to help them with the countless minor tasks which most of us may take for granted, but which are major issues for them.

Now, there is an alternative for quadriplegic individuals: a small, friendly monkey who is extremely reliable and efficient at the business of providing helping hands. These Capuchin monkeys, often identified as organ grinder monkeys, have been trained through behavior modification techniques to improve the quality of the quadriplegic person's life by performing a variety of tasks, including retrieving a fallen mouthstick and putting the correct end in the owner's mouth, retrieving food or drink from the refrigerator and bringing it to their owner, putting a selected book on the reading stand, putting a selected cassette, audio or video, in the cassette player, and turning lights on and off. In addition to giving the disabled person added independence, the monkey also serves as a companion and as a bridge between its owner and other persons, who are often fascinated by the monkey and, as a consequence, interact more readily with its owner. The current projection of costs, from birth through training and placement, for each assistive monkey ranges from approximately $11,700 to $21,000, depending upon the number of animals being placed each year.

Without any doubt, these assistive monkeys add to the quality of a quadriplegic's life, and, since I believe that the VA should be on the frontline of innovation with respect to the rehabilitation of and assistance for severely disabled persons, I consider legislation granting authority to the VA to provide these monkeys to certain quadriplegic veterans, and other assistive animals including "hearing" dogs for assistance to deaf veterans, to be an appropriate step.

As we move forward in this area, Mr. President, I believe we should attempt to develop legislation which addresses this issue and related issues in a consistent manner.

PLAN FOR LEGISLATION TO AUTHORIZE ASSISTIVE ANIMALS GENERALLY

Mr. President, I also plan to introduce legislation to authorize the VA to provide assistive animals where that would be appropriate in terms of both the assistance they can provide to the veteran and our national priorities.

I am, however, not prepared to proposed or endorse specific legislation at this time. In my effort to develop a measure to provide this authority, an examination of the related provisions of current law revealed a puzzling array of variations among the circumstances in which the Veterans' Administration may provide veterans with various types of medical and assistive devices and related services. From my review of those provisions—including sections 601(6), 612, 614, 617, and 619, of title 38, United States Code, it has become apparent to me that they have grown "like Topsy"—each provision adding an important piece to the legislative scheme, but, as a whole, lacking both clarity and a consistent conceptual basis.

For example, under section 614(b) of title 38, the VA may provide to veterans who are "entitled to" service-connected disability compensation seeing-eye or guide dogs and "mechanical or electronic equipment" to help veterans overcome the handicap of blindness. To be eligible for the dog and such equipment under this provision, the veteran's blindness need not be service-connected; the requirement is only that the veteran have any service-connected disability as long as it is compensable.

Does the phrase "entitled to" cover situations where the veteran is not actually receiving compensation but must qualify to do so? Apparently so.

Section 612(a)(2) authorizes the VA, as part of the veteran's care, to furnish to any veteran who is receiving outpatient treatment needed for a service-connected disability, or a veteran having a service-connected disability rated at 50 percent or more who is receiving outpatient treatment needed for a non-service-connected disability, home improvements costing up to $2,500 that are "necessary to assure the continuation of treatment or provide access to the home or to essential lavatory or sanitary facilities." Section 612(f)(2) authorizes the VA to furnish to certain other veterans, as part of outpatient treatment they are receiving from the VA for non-service-connected disabilities in followup to hospital care or to obviate the need for hospital care, the same type of home improvements, subject to a $600 limit.

Under section 617(a), the VA may provide "an invalid lift * * *, if medically indicated," in the homes of certain veterans, apparently without regard to whether they are receiving VA care, but subject to certain conditions not required under section 612 (a)(2) or (f)(2), that is, the veteran must be "receiving" either VA service-connected disability at the special rates provided for totally disabled veterans with certain specific severe disabilities—which are not required to be related to the need for the lift—or needs-based VA non-service-connected-disability pension "by reason of being in need of regular aid and attendance." Pension, unlike compensation, is payable only to veterans who served during a period of war.

Section 617(a) also authorizes the VA to furnish—again apparently without regard to whether or not they are receiving VA care—to veterans receiving compensation at those special rates or receiving pension by reason of need for aid and attendance "any type of therapeutic or rehabilitative device, as well as other medical equipment and supplies (excluding medicines), if medically indicated." This broad description of the assistance which may be furnished would seem to overlap with much of sections 612 (a)(2) and (f)(2)'s authority for home improvements authority and with section 614(b)'s mechanical or electronic equipment authority and possibly with the specific invalid lift authority itself.

After the VA ruled—rather incomprehensibly to me in view of the broad section 617(a) authority—that these and other authorities generally did not include the authority to provide telecaptioning television decoders to hearing-impaired veterans, Congress enacted section 617(b) to authorize the VA to provide a decoder to a "veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment." As to this authority, the service-connected impairment need not be the cause of the veteran's profound deafness as long as the hearing impairment is compensable.

I would also note that section 601(6) defines "medical services" to include not only medical examination, treatment and rehabilitative services, but also to include such items as "wheelchairs, artificial limbs, trusses, and similar appliances . . . and such other supplies or services as the Administrator determines to be reasonable and necessary." This is the term used in section 612 (a)(1) and (f)(1) to denote the services which the VA is authorized to provide on an outpatient basis, if they are "needed," under section 612(a)(1), or "reasonably necessary," under section 612(f)(1). The term "medical services" is also included in the definition of the term "hospital care" in section 601(5). Thus, all veterans who are entitled to or eligible for and receiving VA hospital care or outpatient treatment are entitled to or eligible for "reasonable and necessary supplies and services" and there is no clear line in the law to distinguish, for example, the supplies available under sections 601(6) and 612 (a) and (f) and those—as well as equipment and devices—available under section 617(a), except that "supplies" under section 617(a) does not include "medicines."

The above discussion raises a welter of questions regarding the eligibility criteria for these medical or disability-related items, including the reasoning that supports the variations in the conditions of eligibility, such as the need for the item for a service-connected disability; the existence of any service-connected disability; the existence of a service-connected hearing disability for purposes of eligibility for a telecaptioning decoder; the existence of a service-connected disability, not necessarily related to vision, for purposes of eligibility for a seeing-eye dog; the relevance of wartime service only in the case of veterans with non-service-connected disabilities; the receipt of, as opposed to entitlement to, compensation; and whether the assistance in question is medically indicated, needed, or reasonably necessary.

In the same view are troublesome questions about the meaning and relationship of a variety of different terms in these sections such as "artificial limbs, trusses, and similar appliances," "supplies," "prosthetic appliances," "mechanical or electronic equipment," "therapeutic or rehabilitative device," "other medical equipment and supplies," and "devices for assisting in overcoming . . . deafness."

I would emphasize that the foregoing are just a few of the issues raised by the sections that I have discussed. The universe of questions is far greater. Moreover, there are many related questions as to how the VA has utilized these discretionary authorities, whatever they may mean.

Under these circumstances, Mr. President, I am reluctant to select, without further study, any particular set of conditions as the criteria for eligibility for assistive animals—either as to whether any non-service-connected veterans should be eligible or what circumstances should be present for a veteran with service-connected disability to be eligible. Thus, I am currently exploring these issues and have asked the VA to provide me with its analysis of, and the guidelines it has followed in utilizing the authority provisions. When this review is completed, I will introduce legislation that seeks to address and harmonize, as much as seems feasible and appropriate, the use of assistive animals and other rehabilitative services and devices in an appropriate manner.

By Mr. STEVENS (for himself, Mr. MURKOWSKI, Mr. NICKLES, and Mr. BOREN):

S. 2208. A bill to allow Alaska Natives and Oklahoma's Indians to qualify for waste water treatment assistance; to the Select Committee on Indian Affairs.

WASTE WATER TREATMENT ASSISTANCE FOR INDIANS AND ALASKA NATIVES

● Mr. STEVENS. Mr. President, I am joining with my colleagues, Senators MURKOWSKI, NICKLES, and BOREN, to introduce a bill which will correct a mistake. This mistake deprives a significant group of native Americans of the assistance they were intended to receive under the amendments to the Clean Water Act which were enacted on February 4, 1987.

That act requires that one-half of 1 percent of the funds appropriated for distribution to the States will be set aside prior to their allocation among the States. These funds are to be made available for a special program of grants to Indian tribes.

The program was established in recognition of the pressing need for sewer and water facilities in many native American communities. The Indian Health Service has made an initial estimate that $521 million of new sewer and water facilities are needed for native Americans.

However, due to a last minute change in the act, Alaska Natives and Oklahoma Indians cannot qualify for assistance under this program. This is a tragic error, particularly for Alaska Natives, who live in some of the most isolated communities in the United States.

This problem was created by a minor change in the definition of Indian tribes made during the conference on the amendments at the end of the 99th Congress. The most recent amendments to the Clean Water Act were developed over the course of several years. During the 99th Congress, differing versions were passed by each House. After months of deliberation, a conference report was produced shortly before the end of Congress, in late 1986.

The provisions dealing with Indian tribes were discussed right up to the end of that conference. On the last day of the conference the definition of Indian tribers was changed to apply only to Federal Indian reservations. This—unintentionally—excluded Alaska, except for the community of Metlakatla, and Oklahoma.

The conference report passed the 99th Congress, but was vetoed. At the beginning of the 100th Congress, the bill worked out by the conference was introduced in both Houses, without changes. This bill moved through the committees very rapidly, passed, and eventually bacamed Public Law 100-4. During this process there was no opportunity to correct the unintentional error just described.

The limitation in the Indian tribe definition was intended to prevent overbroad interpretation of the provisions granting regulatory authority to Indian tribes. Unfortunately, it had the unintentional effect of restricting the provison's authorizing grants.

The limitation on the regulatory provisions ended up restricting the grant provisions as well. That is the oversight which this legislation is intended to correct. It does that by amending the provision which established the grant program. In this way, we will avoid any implication that we intend to extend the availability of regulatory powers granted elsewhere in the act. That is not the purpose of this bill. It is intended only to allow two native American groups which are currently excluded to qualify for the grants made available by the Clean Water Act.●

● Mr. MURKOWSKI. Mr. President, I join with my colleagues Senators STEVENS, NICKLES, and BOREN to introduce a bill which corrects an oversight contained in the amendments to the Clean Water Act which were enacted on February 4, 1987. If this oversight remains uncorrected, it could deprive many Native Americans of the benefit of actions taken by Congress to help them meet their pressing need for sewer and water facilities.

In the Clean Water Act amendments, Congress set aside one-half of 1 percent of funds appropriated for distribution to the States to be made available for special water and sewer grants to Native Americans.

However, last minute changes in the bill language during the conference intended to restrict the grant of regulatory authority contained in the law to Native Americans with established governmental powers on reservations, had the additional and unintended effect of excluding Alaska Natives and Oklahoma Indians from the special grant program.

This oversight, if uncorrected, will have a tremendous impact upon Alaska Natives living in some of the most isolated communities in the United States with substantial water and sewer needs. In fact, among all Native Americans, Alaska Natives account for approximately one-third of the unmet water and sewer need.

Mr. President, this legislative oversight has received a great deal of attention in my State. Not only has the Governor of Alaska asked that this matter to be promptly addressed, but the Alaska Federation of Natives passed a resolution urging the Alaska congressional delegation to seek this legislative correction. To date, I have received letters from the communities of Unalaklett, Tanana, Kake, Craig, Kenai, Bethel, Toksook Bay, Platinum, Illiamna, Mentasta Lake, Perryville, and Nome asking that this important matter be resolved.

Mr. President, to exclude Alaska Natives from this program would be inconsistent with the treatment of Alaska Natives under other programs assisting Native Americans. Congress has consistently put Alaska Natives and other Native Americans on equal footing when determining eligibility for Federal assistance programs.

The legislation which I join my colleagues in introducing today will correct the oversight in this important legislation by amending the provision which establishes the grant program. It does not extend regulatory powers granted elsewhere in the act. It is intended only to extend the grant program to the Alaska Natives and Oklahoma Indians currently excluded.●

By Mr. RIEGLE (for himself, Mr. Hollings, Mr. Danforth, and Mr. Pressler) (by request):

S. 2209. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NASA AUTHORIZATION ACT

● Mr. RIEGLE. Mr. President, today I am introducing, by request, the fiscal year 1989 NASA authorization bill. I am joined by the distinguished chairman of the Commerce, Science, and Transportation Committee, Senator Hollings, and the ranking member of the Commerce, Science, and Transportation Committee, Senator Danforth, and by the ranking member on the Subcommittee on Science, Technology, and Space, Senator Pressler.

The fiscal year 1989 NASA authorization request would provide almost $11.5 billion for NASA programs. Although the fiscal year 1989 request includes 200 million for three new initiatives—the Pathfinder Program, the advanced x-ray telescope, and the advanced solid rocket motor—the fiscal year 1989 budget request is basically a recovery budget that strives to put NASA's ongoing programs back on their feet.

The proposed budget requests $6.1 billion for the Space Station Program over 3 years and the necessary funds to continue the Space Shuttle Recovery Program and to return the space shuttle to flight status. It also contains adequate funding to support a diversified and visionary Space Science and Applications Program and the potential to make 1989 the most memorable year in the history of space with the launch of Magellan, Hubble Space Telescope, Galileo, and Astro.

Mr. President, it must be stated that the budgetary constraints facing NASA, as well as the entire Nation, are severe, and it will be very difficult to achieve the 29-percent spending increase envisioned in the proposed fiscal year 1989 NASA budget request. Working in concert with the Administration, however, I am hopeful that we can craft a 1989 NASA authorization measure that meets the needs of the Civil Space Program and permits the United States to regain its technological leadership in space.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Sec. 1. That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1988:

(a) For "Research and Development," for the following programs:

(1) Space station, $967,400,000; Further, for the space station only, $2,130,200,000 to be available for obligation on October 1, 1989 and to remain available until September 30, 1991; and further for the space station only, $2,912,500,000 to be available for obligation on October 1, 1990 and to remain available until September 30, 1992;

(2) Space transportation capability development $631,100,000;

(3) Physics and astronomy, $791,600,000;

(4) Life sciences, $101,700,000;

(5) Planetary exploration, $404,000,000;

(6) Space application, $562,300,000;

(7) Technology utilization, $19,100,000;

(8) Commercial use of space, $38,800,000;

(9) Aeronautical research and technology, $414,200,000;

(10) Transatmospheric research and technology, $84,400,000;

(11) Space research and technology, $390,900,000;

(12) Safety, reliability and quality assurance, $22,400,000;

(13) Tracking and data advanced systems, $18,800,000.

(b) For "Space flight, control and data communications," for the following programs:

(1) Space shuttle production and operational capability, $1,400,500,000;

(2) Space transportation operation, $2,405,400,000;

(3) Space and ground network, communications and data systems, $1,035,300,000.

(c) For "Construction of facilities," including land acquisition, as follows:

(1) Construction of Space Station Processing Facility, Kennedy Space Center, $15,000,000;

(2) Modifications to Processing Technology Facility for Space Station, Marshall Space Flight Center, $3,700,000;

(3) Construction of Addition for Space Systems Automated Integration and Assembly Facility, Johnson Space Center, $9,200,000;

(4) Replacement of High Pressure Gas Storage Vessels, National Space Technology Laboratory, $3,500,000;

(5) Increase Chiller Capacity, LC-39 Utility Annex, Kennedy Space Center, $2,300,000;

(6) Rehabilitation of PAD A, LC-39, Kennedy Space Center, $4,600,000;

(7) Refurbish Atmospheric Reentry Materials and Structures Evaluation Facility, Johnson Space Center, $4,900,000;

(8) Modification for Advanced Engine Development, Test Stand 116, Marshall Space Flight Center, $13,500,000;

(9) Modifications to Orbiter Modification and Refurbishment Facility (OMRF) for Safing and Deservicing, Kennedy Space Center $2,800,000;

(10) Modification to the X-Ray Calibration Facility (XRCF), Marshall Space Flight Center, $11,400,000;

(11) Construction of Auxiliary Chiller Facility, Johnson Space Center, $7,800,000;

(12) Modernization of Space Environment Simulator, Goddard Space Flight Center, $2,800,000;

(13) Modifications for Utility Reliability, Goddard Space Flight Center, $3,100,000;

(14) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $12,000,000;

(15) Repair and Modifications to 12-Foot Pressure Wind Tunnel, Ames Research Center, $36,500,000;

(16) Rehabilitation and Modifications to 10 × 10 Supersonic Wind Tunnel, Lewis Research Center, $14,500,000;

(17) Refurbishment of Hypersonic Facilities Complex, Langley Research Center, $12,800,000;

(18) Refurbishment of Electirc Power Laboratory, Lewis Research Center, $6,100,000;

(19) Construction of National Resource Protection at various locations, $2,600,000;

(20) Repair of facilities at various locations, not in excess of $750,000 per project, $27,000,000;

(21) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $34,000,000;

(22) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $9,000,000;

(23) Environmental compliance and restoration, $26,000,000.

(24) Facility planning and design not otherwise provided for $20,000,000;

(d) For "Research and program management," $1,915,000,000;

(e) Notwithstanding the provisions of subsection 1(h), appropriations hereby authorized for "Research and development" and "Space flight, control and data communications" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science, Space and Technology of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate, of the nature, location, and estimated cost of such facility.

(f) When so specified and to the extent provided in an appropriation act, (1) any amount appropriated for "Research and development," for "Space flight, control and data communications" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(g) Appropriations made pursuant to subsection 1(d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and his determination shall be final and conclusive upon the accounting officers of the Government.

(h) Of the funds appropriated pursuant to subsection 1(a), 1(b) and 1(d), not in excess of $100,000 far each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities; *Provided*, That, of the funds appropriated pursuant to subsection 1(a) or 1(b), not in excess of $500,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (23), inclusive, of subsection 1(c)—

(a) in the discretion of the Administrator or his designee, may be varied upward 10 percent or

(b) following a report by the Administrator or his designee to the Committee on Science, Space and Technology of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate, on the circumstances of such action, may be varied upward 25 percent, to meet unusual cost variations.

The total cost of all work authorized under paragraphs (a) and (b) shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) or 1(b) hereof may be transferred to and merged with the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of funds appropriated pursuant to subsection 1(c) hereof (other than funds appropriated pursuant to paragraph (24) of such subsection) shall be available for expenditure to construct, expand, and modify laboratories and other installations at any location (including locations specified in subsection 1(c)), if (a) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (b) he determines that deferral of such action until the enactment of the next authorization act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate, a written report containing a full and complete statement concerning (i) the nature of such construction, expansion, or modification, (ii) the cost thereof including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion or modification is necessary in the national interest.

SEC. 4. Notwithstanding any other provisions of this Act—

(a) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science, Space, and Technology or the Senate Committee on Commerce, Science and Transportation,

(b) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a), 1(b) and 1(d),

(c) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee, of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SEC. 5. For a period of two years beginning October 1, 1988, the Administrator of NASA may hire up to fifteen individuals who will be compensated at the rate established for the position by the agency, notwithstanding any Federal retirement pay being received nor any limitation or reduction in pay required by 5 U.S.C. 5532 or 8344.

SEC. 6. Section 303 of the National Aeronautics and Space Act of 1958, as amended, is amended by adding "(a)" after "303," by removing "and" before "(B)," and by adding after "National security" the following: ", and (C) information withheld under subsection (b) below." At the end of section 303(a), add the following new section:

"(b) Notwithstanding any other provision of law, the Administrator may prescribe regulations, in consultation with concerned agencies under which the Administration is authorized to withhold, or to require the withholding, from public disclosure any technical data in possession of, or under the control of, the Administration, if such data may not be exported lawfully outside the United States without an authorization or license under the Export Administration Act of 1979 (50 U.S.C. App. 2401-2420) or the Arms Export Control Act (22 U.S.C. 2751 et seq.). However, technical data may not be withheld under this section if regulations promulgated under either such Act authorize the export of such data pursuant to a general, unrestricted license in such regulations.

SEC. 7. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 8. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1989."

SECTION-BY-SECTION ANALYSIS

(To authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes)

SECTION 1

Subsections (a), (b), (c), and (d) would authorize to be appropriated to the National Aeronautics and Space Administration, funds, in the total amount of $11,488,000,000, as follows: (a) for "Research and development," a total of 13 program line items aggregating the sum of $4,466,700,000; (b) for "Space flight, control and data communications," a total of 3 line items aggregating the sum of $4,841,200,000; (c) for "Construction of facilities," a total 24 line items aggregating the sum of $285,100,000; and (d) for "Research and program management," $1,915,000,000. In subsection (a)(1) additional authorizations for Space Station have been added—

$2,130,200,000 for FY 1990 and $2,912,500,000 for FY 1991.

Subsection 1(e) would authorize the use of appropriations for "Research and development" and "Space flight, control and data communications" without regard to the provisions of subsection 1(h) for: (1) items of a capital nature (other than the acquisition of land) required performance of research and development contracts; and (2) grants to nonprofit institutions of higher education, or to nonprofit organizations, whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities. Title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will be served by vesting title in any such grantee institution or organization. Moreover, each such grant shall be made under such conditions as the Administrator shall find necessary to ensure that the United States will receive benefit therefrom adequate to justify the making of that grant.

In either case, no funds may be used for construction of a facility in accordance with this subsection, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator notifies the Speaker of the House, the President of the Senate and the specified committees of the Congress, of the nature, location, and estimated cost of such facility.

Subsection 1(f) would provide that, when so specified and to the extent provided in an appropriation act, (1) any amount appropriated for "Research and development," "Space flight, control and data communications," or for "Construction of facilities" may remain available without fiscal year limitation, and (2) contracts for maintenance and operation of facilities, and support services may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

Subsection 1(g) would authorize the use of not to exceed $35,000 of the "Research and program management" appropriation for scientific consultation or extraordinary expenses, including representation and official entertainment expenses, upon the authority of the Administrator, whose determination shall be final and conclusive.

Subsection 1(h) would provide that of the funds appropriated for "Research and development," "Space flight, control and data communications," and "Research and program management," not in excess of $100,000 per project (including collateral equipment) may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities. This section also provides that not in excess of $500,000 per project of "Research and development" and "Space flight, control and data communications" funds may be used for any of the above for unforeseen programmatic needs.

SECTION 2

Section 2 would authorize upward variations of the sums authorized for the "Construction of facilities" line items of 10 percent at the discretion of the Administrator or his designee, or 25 percent following a report by the Administrator or his designee to the Committee on Science, Space and Technology of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate on the circumstances of such action, for the purpose of meeting unusual cost variations. However, the total cost of all work authorized under these line items may not exceed the total sum authorized for "Construction of facilities" under subsection 1(c), paragraphs (1) through (23).

SECTION 3

Section 3 would provide that not more than one-half of 1 percent of the funds appropriated for "Research and development" and "Space flight, control and data communications" may be transferred to and merged with the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated for "Construction of facilities," (other than the funds for facilities planning and design) shall be available for the construction of facilities and land acquisition at any location if the Administrator determines (a) that such action is necessary because of changes in the aeronautical and space program or new scientific or engineering developments, and (b) that deferral of such action until the next authorization act is enacted would be inconsistent with the interest of the Nation in aeronautical and space activities. However, no such funds may be obligated until 30 days have passed after the Administrator or his designee has transmitted to the Speaker of the House, the President of the Senate and the specified committees of Congress a written report containing a description of the project, its cost, and the reason why such project is in the national interest.

SECTION 4

Section 4 would provide that, notwithstanding any other provision of this Act—

(a) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science, Space, and Technology or the Senate Committee on Commerce, Science, and Transportation,

(b) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for this particular program by subsections 1(a), 1(b) and 1(d), and

(c) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee.

unless a period of 30 days has passed after the receipt by the Speaker of the House, the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SECTION 5

This new section would give the Administrator special hiring authority for a period of two years, to hire up to 15 individuals who would receive their salary and suffer no reductions in their military or civil service retirement benefits.

This provision will allow NASA to attract highly qualified and competent individuals who otherwise would not work for the Federal Government because of the lower salary. It must be recognized that for NASA to attract and retain the caliber of individual that is needed in this period of building up an organization to manage the Space Station, NASA must be able to meet the competitive salaries of private industry and universities. This provision, by not reducing retirement income, would attract some outstanding former military and civil service workers back to the Government. The limitations of this provision, not more than 15 individuals, to be hired over a period of no more than two years, assures that the salary level for the great majority of NASA executives and managers will not be disproportionate with that of other Government agencies.

SECTION 6

This section would amend the Space Act to provide NASA with authority to withhold, or require the withholding, from public disclosure certain technical data that is subject to export control under the Export Administration Act of 1979 (50 U.S.C., App. 2401-2420) or the Arms Export Control Act (22 U.S.C. 2751 et seq.). The technical data subject to this amendment is only that data subject to those Acts and their implementing regulations and procedures. The amendment will provide NASA greater flexibility to manage high technology in its possession or under its control in a manner consistent with national policy regarding the export thereof. The amendment is similar to a provision amending the Freedom of Information Act (FOIA) originally contained in S. 774, the Freedom of Information Reform Act, as introduced in 1983 in the 98th Congress as well as to authority provided to the Department of Defense in section 1217 of the FY 1984 Defense Authorization Act (Pub. L. 98-84, 10 U.S.C. 140c).

As recognized by the Senate Judiciary Committee in its report (S. Rpt. 98-221) accompanying S. 774, an anomaly exists between efforts to restrict the export of certain data important to the United States on the one hand, while allowing its public release under FOIA on the other. This anomaly comes about because nonproprietary technical data of the type that is subject to export control in the possession of any agency may also be subject to release under FOIA. Such release could be unrestricted and thereby obviate the requirement for an export license, or the release could even be to a foreign requester under FOIA. The purpose of this provision is to redress that anomaly.

In removing a similar provision from S. 774 by amendment on the Senate floor in 1984, Senator Orrin Hatch (sponsor of the bill and Chairman of the Judiciary Committee's Subcommittee on the Constitution, which had jurisdiction over the bill) noted that the DoD Authorization bill had been enacted (referring to Pub. L. 98-84) to address this problem area for the DoD, and then continued:

"There remain other areas with the potential of creating a problem, for instance, technical data with military or space application in the possession of NASA. In light of time constraints on this bill, it would be wisest to pursue other potential problem areas at another time. Accordingly, with a major part of the problem addressed by the proposed 10th exemption already enacted, it is the intent of this amendment to defer other concerns in this technical data area until another time." C.R., Feb. 27, 1984, S. 1797.

This amendment will resolve the matter for NASA as suggested by Senator Hatch.

In developing its implementing regulations under the proposed amendment, NASA will coordinate its efforts with other agencies (such as the Department of Defense) who have similar authority, as well as with the agencies that administer the export control laws, in an effort to achieve standardized procedures and uniform treatment for technical data subject to the withholding authority to the maximum extent practicable. Such coordination would include identifying categories of technical data that would require continuing interagency coordination prior to release. Also, NASA will assure that its implementing regulations exclude any technical data of another agency, a copy of which may be in the possession of NASA, consistent with present NASA policy set forth in 14 C.F.R. Part 1206. Rather, such data will be treated in accordance with whatever authority such other agency may have.

SECTION 7

Section 7 would express the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible.

SECTION 8

Section 8 would provide that the Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1989."●

● Mr. HOLLINGS. Mr. President, I would like to join the distinguished chairman of the Subcommittee on Science, Technology, and Space and cosponsor the fiscal year 1989 NASA authorization bill that he is introducing at the request of the administration.

Fiscal year 1989 is a critical year for the civil space program, and the Members of Congress will have to make some very difficult choices this year concerning the scope, direction, and level of funding to be provided NASA.

Compared to the fiscal year 1988 NASA operating plan, the fiscal year 1989 budget request represents a 24-percent increase—a staggering amount in light of the severe budget constraints that face the Congress and the Nation. However, the Members must realize that a double digit increase is required if NASA is to recover from the aftermath of the *Challenger* accident and if NASA is to implement the space program that we just agreed upon in the continuing resolution. Based on the subcommittee staff's analysis of the proposed fiscal year 1989 NASA budget increase of $2.5 billion, 77 percent of the increase is for ongoing programs—that's right, 77 percent. Of the remaining 23 percent that is for augmentations, most of that money is to implement programs that have been strongly endorsed by the Congress including the rehabilitation of several critically required wind tunnels and the initiation of an advanced solid rocket motor program that will increase the reliability, safety, and capability of the space shuttle.

Mr. President, fiscal year 1989 is not going to be easy, and getting the fiscal year 1989 NASA budget request is not going to be easy. But the time has come for the Congress and the Nation to make some critical decisions and to establish the national priorities.

I have long been a proponent of the Nation's space program, and I intend to work closely with the subcommittee chairman and the members of the committee to implement a fiscal year 1989 NASA authorization bill that meets the needs of the Nation's civil space program and restores U.S. leadership in space.●

By Mr. GRAMM (for himself, Mr. MELCHER, Mr. NICKLES, Mr. KARNES, Mr. PRESSLER, Mr. DURENBERGER, Mr. HELMS, Mr. THURMOND, Mr. QUAYLE, Mr. BOND, Mr. GRASSLEY, Mr. COCHRAN, Mr. WARNER, Mr. HATCH, Mr. BOSCHWITZ, Mr. MCCLURE, Mr. KASTEN, Mr. DIXON, Mr. HOLLINGS, Mr. TRIBBLE, Mr. MCCONNELL, Mr. SYMMS, and Mr. BREAUX):

S. 2210. A bill to amend the Revenue Act of 1987 to delay until October 1, 1988, the imposition of the tax on diesel and aviation fuels at the wholesale level; to the Committee on Finance.

DELAY OF TAX ON DIESEL AND AVIATION FUELS

● Mr. GRAMM. Mr. President, today I am introducing legislation, along with 22 of my colleagues, which delays implementation of a provision in the Omnibus Budget Reconciliation Act of 1987 enacted last December.

One of the many provisions contained in the Reconciliation Act changes the collection point of the diesel excise tax from the retail level to the wholesale level. This is designed to increase compliance by consumers of diesel fuel who owe the tax. But in addition, this provision requires that off-highway consumers of diesel fuel who are exempt from the 15-cents-per-gallon excise begin paying the excise tax on April 1. These consumers do not use the highways, and therefore have been exempt from paying the excise tax which goes into the highway trust funds. Because it is wrong for these consumers to have to pay a tax they do not even owe, I have previously introduced two bills to repeal this provision.

On Monday, the Senate Finance Committee reported out a bill which allows off-highway users—such as farmers, ranchers, oilmen, waterway operators, fishermen, shrimpers, general contractors—to be exempt from paying the diesel fuel tax beginning October 1, 1988. Frankly, Mr. President, I think it is a bad policy to have these consumers begin to pay a tax—which they do not owe—on April 1, only to regain their fully exempt status on October 1. I believe that there is no reason to have the IRS begin creating collection and refund systems for a tax requirement in place for only 6 months. Therefore, Mr. President, the bill I am introducing today will delay implementation of the diesel fuel tax collection changes until October 1, 1988.

April 1, the day the changes are due to take effect, is only 9 days away. Let's not make the mistake of requiring a tax to be paid that is not owed to the Government. I urge that this bill be acted upon immediately.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPOSITION OF TAX ON DIESEL AND AVIATION FUELS AT WHOLESALE LEVEL DELAYED UNTIL SEPTEMBER 1, 1988.

(a) IN GENERAL.—Section 10502(e) of the Revenue Act of 1987 (relating to effective date) is amended by striking out "March 31, 1988" and inserting in lieu thereof "September 30, 1988".

(b) FLOOR STOCKS TAX.—Section 10502(f) of such Act (relating to floor stocks tax) is amended—

(1) by striking out "April 1, 1988" in paragraph (1) and inserting in lieu thereof "October 1, 1988", and

(2) by striking out "June 16, 1988" in paragraph (3) and inserting in lieu thereof "December 16, 1988".●

By Mr. GLENN (for himself, Mr. BRADLEY, Mr. CHILES, Mr. DECONCINI, Mr. DURENBERGER, Mr. HEINZ, Mr. PACKWOOD, Mr. WARNER, and Mr. WILSON):

S.J. Res. 278. Joint resolution designating November 20-26, 1988, as "National Family Caregivers Week"; to the Committee on the Judiciary.

NATIONAL FAMILY CAREGIVERS WEEK

● Mr. GLENN. Mr. President, today I am introducing Senate Joint Resolution 278, designating the week of Thanksgiving as "National Family Caregivers Week." Congresswoman OLYMPIA SNOWE has introduced an identical resolution, House Joint Resolution 463, in the House of Representatives.

Caring for older Americans is an issue of growing importance because people are living longer. And although most older Americans are healthy and independent, the fastest growing segment of the elderly population is the age 85 and older group—the group most likely to suffer multiple chronic ailments and therefore need some assistance.

Between 80 and 90 percent of the care given to the frail elderly comes from family members—most often wives, daughters, and daughters-in-law. Often these women are older themselves; or are juggling care for their own children, and a career, along with care of an elderly family member. In order to continue providing assistance to family members, the caregivers themselves need assistance. We must expand respite, home health, adult day care, transportation and other services for the elderly and their families; and we must work to ensure that these home- and community-based services are coordinated, and that people know where to turn for the help that is available.

I am pleased to be joined by Senators BRADLEY, CHILES, DECONCINI, DURENBERGER, HEINZ, PACKWOOD, WARNER, and WILSON in introducing Senate Joint Resolution 278, to designate the week of November 20-26, 1988, as "National Family Caregivers Week." By doing so we underscore the importance of family caregivers in providing both humane and cost-effective care, and we honor them for the vital role they are playing in our society. I urge my colleagues in the Senate to support this joint resolution.●

ADDITIONAL COSPONSORS

S. 1220

At the request of Mr. KENNEDY, the names of the Senator from Pennsylvania [Mr. HEINZ], the Senator from Colorado [Mr. WIRTH], and the Senator from Washington [Mr. EVANS] were added as cosponsors of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1586

At the request of Mr. KERRY, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1586, a bill to provide financial assistance under the Education of the Handicapped Act to assist severely handicapped infants, children, and youth to improve their educational opportunities through the use of assistive device resource centers, and for other purposes.

S. 1703

At the request of Mr. INOUYE, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1703, a bill to amend the Indian Self-Determination and Education Assistance Act, and for other purposes.

S. 1763

At the request of Mr. CRANSTON, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 1763, a bill to direct the Secretary of Health and Human Services to promulgate fire safety standards for cigarettes, and for other purposes.

S. 1949

At the request of Mr. DOLE, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 1949, a bill to amend titles II and XVI of the Social Security Act to ensure proper payments for reimbursement for reasonable and necessary costs of vocational rehabilitation services under State vocational rehabilitation plans.

S. 2031

At the request of Ms. MIKULSKI, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2031, a bill to amend title 5, United States Code, to include inspectors of the Immigration and Naturalization Service, inspectors of the U.S. Customs Service, and revenue officers of the Internal Revenue Service with the immediate retirement provisions applicable to certain employees engaged in hazardous occupations.

S. 2051

At the request of Mr. MCCLURE, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 2051, a bill entitled the Prohibition of Undetectable Firearms Act.

S. 2098

At the request of Mr. HOLLINGS, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 2129

At the request of Mr. BAUCUS, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

S. 2149

At the request of Mr. MITCHELL, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2149, a bill to amend the Internal Revenue Code of 1986 to allow State secondary markets of student loan notes to continue serving the educational needs of postsecondary students and the Nation.

S. 2176

At the request of Mr. DIXON, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. SIMON], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2176, a bill to amend the Internal Revenue Code of 1986 to permit the tax-free purchase of motor fuels by individuals who are exempt from paying the motor fuels excise tax, and for other purposes.

SENATE JOINT RESOLUTION 230

At the request of Mr. HELMS, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Maine [Mr. COHEN], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 230, a joint resolution to designate the third week of June of 1988 as "National Dairy Goat Awareness Week".

SENATE JOINT RESOLUTION 272

At the request of Mr. DURENBERGER, the names of the Senator from Kansas [Mr. DOLE], and the Senator from Florida [Mr. CHILES] were added as cosponsors of Senate Joint Resolution 272, a bill to designate November, 1988, as "National Diabetes Month".

SENATE CONCURRENT RESOLUTION 107

At the request of Mr. LAUTENBERG, the names of the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Concurrent Resolution 107, a concurrent resolution calling for a consolidated investigation into the operation of Texas Air Corp. and Eastern Air Lines.

AMENDMENT NO. 1680

At the request of Mr. DECONCINI, the names of the Senator from Colorado [Mr. WIRTH], the Senator from Utah [Mr. HATCH], and the Senator from Colorado [Mr. ARMSTRONG] were added as cosponsors of Amendment No. 1680 intended to be proposed to 100-11, a resolution expressing the sense of the House of Representatives that Federal excise tax rates should not be increased.

AMENDMENT NO. 1773

At the request of Mr. DIXON, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Amendment No. 1773 proposed to S. 79, a bill to notifiy workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

SENATE RESOLUTION 400—TO MODIFY SENATE RESOLUTION 382 OF THE 90TH CONGRESS

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 400

Resolved, That, effective with respect to the fiscal year 1989, and each fiscal year thereafter, the amount authorized to be expended out of the contingent fund of the Senate under section 5 of S. Res. 382, Ninetieth Congress, agreed to October 1 (legislative day, September 24), 1968, as amended and modified, is such amount as may be necessary.

SEC. 2. In carrying out its function, the Commission on Art and Antiquities of the United States Senate may, with the prior approval of the Senate Committee on Rules and Administration, procure the temporary (not to exceed one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services.

AMENDMENTS SUBMITTED

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

RUDMAN AMENDMENT NOS. 1777 THROUGH 1782

(Ordered to lie on the table)

Mr. RUDMAN submitted six amendments intended to be proposed by him to the bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes; as follows:

AMENDMENT No. 1777

At the end of the committee substitute amendment, add the following new section:

"SEC. . Nothing in this Act shall take effect until legislation is enacted to achieve a reduction in annual emissions of sulfur dioxide, not later than January 1, 1993, of five million tons, not later than January 1, 1998, of ten million tons, and not later than January 1, 2000, of 12 million tons, and not later than January 1, 1996, there shall be achieved a reduction in annual emissions of oxides of nitrogen of four million tons, from the total actual annual level of such emissions between January 1, 1980, and December 31, 1980."

AMENDMENT No. 1778

At the end of the committee substitute amendment, add the following new section:

"SEC. . Nothing in this Act shall take effect until both Houses of Congress have adopted legislation to achieve a reduction in annual emissions of sulfur dioxide, not later than January 1, 1993, of five million tons, not later than January 1, 1998, of ten million tons, and not later than January 1, 2000, of 12 million tons, and not later than January 1, 1996, there shall be achieved a reduction in annual emissions of oxides of nitrogen of four million tons, from the total actual annual level of such emissions between January 1, 1980, and December 31, 1980."

AMENDMENT No. 1779

At the end of the committee substitute amendment, add the following new section:

"SEC. . Nothing in this Act shall take effect until the Senate has adopted legislation to achieve a reduction in annual emissions of sulfur dioxide, not later than January 1, 1993, of five million tons, not later than January 1, 1998, of ten million tons, and not later than January 1, 2000, of 12 million tons, and not later than January 1, 1996, there shall be achieved a reduction in annual emissions of oxides of nitrogen of four million tons, from the total actual annual level of such emissions between January 1, 1980, and December 31, 1980."

AMENDMENT No. 1780

At the end of the committee substitute amendment, add the following new section:

"SEC. . Nothing in this Act shall take effect until the Senate has adopted legislation to achieve a meaningful reduction in annual emissions of sulfur dioxide and oxides of nitrogen to control acid rain."

AMENDMENT No. 1781

At the end of the committee substitute amendment, add the following new section:

"SEC. . Nothing in this Act shall take effect until both Houses of Congress have adopted legislation to achieve a meaningful reduction in annual emissions of sulfur dioxide and oxides of nitrogen to control acid rain."

AMENDMENT No. 1782

At the end of the committee substitute amendment, add the following new section:

"SEC. . Nothing in this Act shall take effect until legislation has been enacted to achieve a meaningful reduction in annual emissions of sulfur dioxide and oxides of nitrogen to control acid rain."

RUDMAN AMENDMENTS NOS. 1783 THROUGH 1788

(Ordered to lie on the table.)

Mr. RUDMAN submitted six amendments intended to be proposed by him to amendment No. 1685 proposed by Mr. McCONNELL to the bill (S. 79) supra; as follows:

AMENDMENT No. 1783

At the end of the amendment offered by Mr. McConnell (Amendment number 1685), add the following new section:

"SEC. . Nothing in this Act shall take effect until the Senate has adopted legislation to achieve a reduction in annual emissions of sulfur dioxide, not later than January 1, 1993, of five million tons, not later than January 1, 1998, of ten million tons, and not later than January 1, 2000, of 12 million tons, and not later than January 1, 1996, there shall be achieved a reduction in annual emissions of oxides of nitrogen of four million tons, from the total actual annual level of such emissions between January 1, 1980, and December 31, 1980."

AMENDMENT No. 1784

At the end of the amendment offered by Mr. McConnell (Amendment number 1685), add the following new section:

"SEC. . Nothing in this Act shall take effect until both Houses of Congress have adopted legislation to achieve a reduction in annual emissions of sulfur dioxide, not later than January 1, 1993, of five million tons, not later than January 1, 1998, of ten million tons, and not later than January 1, 2000, of 12 million tons, and not later than January 1, 1996, there shall be achieved a reduction in annual emissions of oxides of nitrogen of four million tons, from the total actual annual level of such emissions between January 1, 1980, and December 31, 1980."

AMENDMENT No. 1785

At the end of the amendment offered by Mr. McConnell (Amendment number 1685), add the following new section:

"SEC. . Nothing in this Act shall take effect until legislation is enacted to achieve a reduction in annual emissions of sulfur dioxide, not later than January 1, 1993, of five million tons, not later than January 1, 1998, of ten million tons, and not later than January 1, 2000, of 12 million tons, and not later than January 1, 1996, there shall be achieved a reduction in annual emissions of oxides of nitrogen of four million tons, from the total actual annual level of such emissions between January 1, 1980, and December 31, 1980."

AMENDMENT No. 1786

At the end of the amendment offered by Mr. McConnell (Amendment number 1685), add the following new section:

"SEC. . Nothing in this Act shall take effect until the Senate has enacted legislation to achieve a meaningful reduction in annual emissions of sulfur dioxide and oxides of nitrogen to control acid rain."

AMENDMENT No. 1787

At the end of the amendment offered by Mr. McConnell (Amendment number 1685), add the following new section:

"SEC. . Nothing in this Act shall take effect until both Houses of Congress have enacted legislation to achieve a meaningful reduction in annual emissions of sulfur dioxide and oxides of nitrogen to control acid rain."

AMENDMENT No. 1788

At the end of the amendment offered by Mr. McConnell (Amendment number 1685), add the following new section:

"SEC. . Nothing in this Act shall take effect until legislation has been enacted to achieve a meaningful reduction in annual emissions of sulfur dioxide and oxides of nitrogen to control acid rain."

McCONNELL AMENDMENTS NOS. 1789 AND 1790

(Ordered to lie on the table.)

Mr. McCONNELL submitted two amendments intended to be proposed by him to the bill S. 79, supra; as follows:

AMENDMENT No. 1789

TITLE II—TORT LIABILITY REFORM ACT

Subtitle A—General Provisions

SEC. 201. SHORT TITLE.

This title may be cited as the "Tort Liability Reform Act".

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "claimant" means any person who brings a civil action pursuant to this title, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "collateral benefits" means all benefits and advantages received or entitled to be received (regardless of any right any other person has or is entitled to assert for recoupment through subrogation, trust agreement, lien, or otherwise) by any claimant harmed by a product or by any other person as reimbursement of loss because of harm to person or property payable or required to be paid to the claimant, under—

(A) any Federal law or the laws of any State (other than through a claim for breach of an obligation or duty); or

(B) any life, health, or accident insurance or plan, wage or salary continuation plan, disability income or replacement service insurance, or any benefit received or to be received as a result of participation in any pre-paid medical plan or Health Maintenance Organization;

(4) "commerce" means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of that State; or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

(5) "commercial loss" means economic injury, whether direct, incidental, or consequential, including property damage and damage to the product itself, incurred by persons regularly engaged in business activities consisting of providing goods or services for compensation;

(6) "economic loss" means any pecuniary loss resulting from harm which is allowed under State law;

(7) "exercise of reasonable case" means conduct of a person or ordinary prudence and intelligence using the attention, precaution, and judgment that society expects of its members for the protection of their own interests and the interests of others;

(8) "harm" means any harm recognized under the law of the State in which the civil action is maintained, other than loss or damage caused to a product itself, or commercial loss, with respect to which recovery is available under the commercial or contract law of the State;

(9) "manufacturer" means (A) any person who is engaged in a business to produce, create, make, or construct any product (or components part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of a product;

(10) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(11) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(12) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state (A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state or as a component part or ingredient; (B) which is produced for introduction into trade or commerce; (C) which has intrinsic economic value; and (D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(13) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor or real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(14) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 203. APPLICABILITY.

(a) Except as provided in subsection (b), (c), or (d), the provisions of this title shall apply to any civil action against any person, in any State or Federal court, based on any cause of action, including negligence, strict or product liability, breach of implied warranty, or professional malpractice, in which damages are sought for physical injury or for physical or mental pain or suffering or for property damage other than damage to the product itself.

(b) This title shall not apply to—

(1) a civil action for loss or damage to a product itself or for commercial loss which shall be governed by State commercial law; or

(2) a civil action for intentionally committed battery, assault, false imprisonment, trespass, or conversion.

(c) The provisions of this title shall preempt and supersede Federal or State law only to the extent such law is inconsistent with this title. Any issue arising under the provisions of this title that is not governed by the provisions of this title shall be governed by applicable State or Federal law.

(d) Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law, except the Federal Employees' Compensation Act;

(3) waive or affect any defense or sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1601 et seq.);

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede any statutory or common law, including an action to abate nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment, or the threat of such contamination or pollution.

(e) As used in this section, "environment" has the meaning given to such term in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

(f) This title shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

SEC. 204. JURISDICTION OF FEDERAL COURTS.

The district courts of the United States shall not have jurisdiction over any civil action pursuant to this title, based on section 1331 or 1337 of title 28, United States Code.

SEC. 205. EFFECTIVE DATE.

(a) This title shall take effect ninety days after the date of its enactment and shall apply to all civil actions pursuant to this title commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effective date of this title.

(b) If any provision of this title would shorten the period during which a manufacturer or product seller would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, bring any civil action pursuant to this title within one year after the effective date of this title.

Subtitle B—Liability Standards

SEC. 211. JOINT AND SEVERAL LIABILITY.

(a) Except as provided in subsections (b) and (c), a person found liable for damages in any such action subject to the provisions of this title, shall be liable for damages only to the extent of such person's proportionate responsibility for the injury and shall not be jointly and severally liable.

(b) Notwithstanding the provisions of subsection (a), any person found liable for damages in an action subject to the provisions of this title may be jointly and severally liable therefor if such person's proportionate responsibility for the injury is found by the trier of fact to exceed 50 percent.

(c)(1) This section shall not apply to persons acting in concert where the concerted action caused the injury for which such persons are found liable.

(2) As used in this section, the terms "acting in concert" or "concerted action" shall mean the participation in joint conduct by two or more persons who consciously and deliberately agreed to jointly participate in such conduct.

SEC. 212. LIABILITY STANDARDS.

Except as otherwise provided in this subtitle, no person shall be found liable for any damages in any civil action subject to the provisions of this title unless the claimant proves by a preponderance of the evidence that such person was negligent, and such negligence was the proximate cause of the damages sought.

SEC. 213. UNIFORM STANDARDS OF MANUFACTURER LIABILITY.

(a) In a product liability action, a manufacturer is liable to a claimant for harm only if the claimant establishes by a preponderance of the evidence that—

(1) the product causing the harm was in a defective condition unreasonably dangerous to the claimant or to the claimant's property (A) because it deviated in a material way from the design specifications, formulations, or performance standards of the manufacturer or form otherwise identical units

of the same product; (B) because it did not conform to an express warranty made by its manufacturer; (C) because it failed to contain adequate warnings or instructions; or (D) because of its design, and

(2) the defective and unreasonably dangerous aspect of the product was a proximate cause of the harm complained of by the claimant.

(b)(1) In a product liability action, a manufacturer shall not be liable on the grounds that a product was in a defective condition unreasonably dangerous to a claimant because of its design if—

(A) the manufacturer did not know and could not know that a product was in a defective condition unreasonably dangerous to a claimant because of its design in light of knowledge reasonably available to the manufacturer, or

(B) there was not a practical and technically feasible alternative design that would have prevented the harm without substantially impairing the reasonably anticipated or intended function of the product.

This paragraph shall not apply if, on the basis of clear and convincing evidence, the claimant establishes that the product for which the action was brought is egregiously unsafe, the ordinary consumer or user of the product cannot reasonably be expected to have knowledge of the product's risks, and the product has little or no usefulness.

(2) In a product liability action, a manufacturer shall not be liable on the grounds that a product was in a defective condition unreasonably dangerous to a claimant because of its design if the characteristics of the product are known to the ordinary user or consumer and the harm was caused by an aspect of the product that is an inherent characteristic of the product and that would be recognized by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who use or would be reasonably anticipated to use the product. This paragraph shall not be construed to limit a manufacturer's liability solely because the risk of harm is patent, open, or obvious.

(3) For purposes of paragraphs (1) and (2)—

(A) the term "knowledge reasonably available to the manufacturer" means knowledge reasonably available to qualified experts, and

(B) a characteristic is an "inherent characteristic" if it is an essential aspect of the character of the product which cannot be eliminated without significantly compromising the product's function or desirability.

(c) In a product liability action against a manufacturer for harm allegedly caused by an improperly designed drug or medical device, the manufacturer shall not be liable if the drug or medical device was unavoidably unsafe. As used in this subsection, a drug or medical device is "unavoidably unsafe" if it is apparently useful and desirable, if it is incapable of being made safe without significantly impairing the effectiveness of the product's ordinary use, and if the product does not deviate from the design specifications, formulations, or performance standards of the manufacturer or from otherwise identical units of the same product and was accomplished by adequate warnings as defined in subsection (d)(2).

(d)(1) For purposes of subsection (a)(1)(C), a product is in a defective condition unreasonably dangerous to a claimant or the claimant's property because it failed to contain adequate warnings or instructions if—

(A) at the time the product left the manufacturer's control, the product did not contain an adequate warning of or instruction with respect to an aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property, that was known or could have been known by the manufacturer in light of knowledge reasonably available to the manufacturer, or

(B) the manufacturer did not provide an adequate and timely warning of an aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property that was discovered or reasonably could have been discovered between the time the product left the manufacturer's control and the time of the claimant's injury.

For purposes of subparagraph (B), a timely warning is a warning which is given within a reasonable period of time after the manufacturer discovered or reasonably could have discovered the aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property.

(2) For purposes of subsection (c) and paragraph (1)(A) of this subsection, a warning or instruction with respect to a product is adequate if it is one that a reasonably prudent person in the same or similar circumstances would have provided with respect to the product's dangers and communicates adequate information on the dangers and safe use of the product. The term "knowledge reasonably available to the manufacturer" means knowledge reasonably available to the qualified experts.

SEC. 214. UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY.

(a) Notwithstanding the provisions of section 213, in any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant; (B) the product seller failed to exercise reasonable care with respect to the product; and (C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product; (B) the product failed to conform to the warranty; and (C) the failure of the product to conform to the warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the product seller with respect to the construction, inspection, or condition of the product, and any failure of the product seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this subtitle based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with those warnings and instructions which it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this subtitle except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) A product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable ot enforce a judgment against the manufacturer.

SEC. 215. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) Punitive damages may, if otherwise permitted by applicable law, be awarded in any civil action subject to this subtitle to any claimant who establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a manufacturer's or product seller's conscious, flagrant indifference to the safety of those persons who might be harmed by a product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Except as provided in subsection (b), punitive damages may not be awarded in the absence of a compensatory award.

(b) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

(c)(1) Punitive damages shall not be awarded pursuant to this section against a manufacturer or product seller which caused the claimant's harm where—

(A) the drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or medical device (as defined under section 201(h) of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 312(h)) was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug was approved by the Food and Drug Administration; or

(B) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

The provisions of this paragraph shall not apply in any case in which the defendant withheld from or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government information that is material and relevant to the performance of such drug or device.

(2) Punitive damages shall not be awarded pursuant to this section against a manufacturer of an aircraft which caused the claimant's harm where—

(A) such aircraft was subject to premarket certification by the Federal Aviation Administration with respect to the safety of the design or performance of the aspect of such aircraft which caused the claimant's harm or the adequacy of the warnings regarding the operation or maintenance of such aircraft; and

(B) the aircraft was certified by the Federal Aviation Administration under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.).

The provisions of this paragraph shall not apply in any case in which the defendant withheld from or misrepresented to the Federal Aviation Administration information that is material and relevant to the performance or the maintenance or operation of such aircraft.

SEC. 216. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Any civil action subject to this title shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be filed within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b)(1) Any civil action subject to this subtitle shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years after the time of delivery of the product.

(2)(A) With respect to any good other than a capital good, a manufacturer or product seller shall not be subject to liability to a claimant for harm caused by a product in any civil action subject to this subtitle if the manufacturer proves, by a preponderance of the evidence, that the harm was caused after the product's useful safe life.

(B) A manufacturer or product seller may be subject to liability for harm caused by a product after its useful safe life if—

(i) the manufacturer has warranted that the product can be utilized safely for a time longer than the useful safe life;

(ii) the manufacturer intentionally misrepresents facts about the product or intentionally conceals information about the product and that concealment was the proximate cause of the claimant's harm; or

(iii) the harm was caused by exposure to a product, which exposure first occurred within the useful safe life of the product, even though the harm did not manifest itself until after such useful safe life.

(C) In any civil action brought pursuant to this paragraph, there is a presumption that the harm was caused after the useful safe life of the product if the harm was caused more than ten years after the time of delivery of the product. Such presumption may be rebutted by a preponderance of the evidence.

(3) A motor vehicle, vessel, aircraft, or railroad used primarily to transport passengers for hire shall not be subject to the provisions of this subsection.

(4) As used in this subsection—

(A) the term "time of delivery" means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold; and

(B) a product's "useful safe life" begins at the time of the first use of the product following delivery and extends for the time during which the product would normally be likely to perform or be stored, or both, in a safe manner.

(c) As used in this section, the term—

(1) "capital good" means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1954, and which was—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes; and

(2) "toxic harm" means harm which is functional impairment, illness, or death of a human being resulting from exposure to an object, substance, mixture, raw material, or physical agent or particular chemical composition.

(d) Nothing in this section shall affect the right of any person who is subject to liability for harm under this title to seek and obtain contribution or indemnity from any other person who is responsible for such harm.

SEC. 218. WORKER'S COMPENSATION OFFSET.

(a) In any product liability action subject to this subtitle which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law—

(1) any damages awarded shall be reduced by the sum of the amount paid as workers' compensation benefits to which the employee is or would be entitled for such harm, and

(2) the action shall, on application of the claimant made at the claimant's sole discretion, be stayed until such time as the full amount as workers' compensation benefits has been finally determined under such workers' compensation law.

The determination of workers' compensation benefits by the trier of fact in a product liability action subject to this subtitle shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b)(1) Except as provided in paragraph (2), unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee, neither the employer nor the workers' compensation insurance carrier of the employer shall have the right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a product liability action may be brought pursuant to this subtitle.

(2)(A) Except in jurisdictions which allocate payment of workers' compensation benefits among all responsible employers, if the claimant's injury arose as a result of exposure to workplace conditions with multiple employers, paragraph (1) shall not apply if the employer or the workers' compensation insurer of the employer establishes, and the trier of fact determines, that the claimant's harm was not in any way caused by the fault of any of such employers or coemployees.

(B) In all other circumstances, paragraph (1) shall not apply if the employer or the workers' compensation insurer of the employer establishes, and the trier of fact determines, that the claimant's harm was not in any way caused by the fault of the claimant's employer or coemployee.

(c)(1) Except as provided in subsection (d), in any product liability action subject to this subtitle in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party claim tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this subtitle shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured. Any action other than such a workers' compensation claim shall be prohibited, except that nothing in this subtitle shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

(d) Subsection (c) shall not apply and applicable State law shall control if the employer or the workers' compensation insurer of the employer, in a product liability action subject to this subtitle, asserts or attempts to assert, because of subsection (b), a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller.

SEC. 219. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) In any civil action subject to this subtitle in which all defendants are manufacturers or product sellers, a manfacturer or product seller may assert in complete defense of such action that the claimant was under the influence of intoxicating alcohol or any drug and that such condition was more than 50 percent responsible for such claimant's harm.

(b) In any civil action subject to this subtitle in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was under the influence of intoxicating alcohol or any drug and that such condition was more than 50 percent responsible for such claimant's harm.

(c)(1) For purposes of this section, the determination of whether a person was under the influence of intoxicating alcohol shall be made pursuant to applicable State law.

(2) As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

Subtitle C—Expedited Settlements

SECTION 231. GENERAL RULE.

(a) Any claimant may, in addition to any claim for relief made in accordance with this subtitle, include in such claimant's complaint an offer of settlement for the purposes of this subtitle, an offer of settlement shall be limited to a claim for payment of the claimant's net economic loss, pursuant to section 234.

(b) Any defendant in such an action may make an offer of settlement for the claimant's net economic loss. Such offer shall be made by certified mail, return receipt request, within ninety days after service of the claimant's complaint, or within the time permitted pursuant to applicable State or Federal law for the responsive pleading, whichever is longer, except that if such pleading includes a motion to dismiss in accordance with applicable law, the defendant may take such an offer to the claimant within ten days after the court's determination regarding such motion. A copy of such offer shall be filed with the court within such time period.

(c)(1) The recipient of an offer of settlement made in accordance with subsections (a) and (b) shall determine whether to accept or reject such offer.

(2) A recipient of such an offer shall provide to the offeror written notice of acceptance or rejection of such offer by certified mail, return receipt requested, within ninety days after the date on which such offer is made. A copy of such notice shall be filed with the court within such time period.

(d) In any case in which an offer of settlement is made under subsection (a) or (b), the court may, upon motion made prior to the expiration of the applicable period for response, enter an order extending such period for discovery. Any such order shall contain a schedule for discovery of evidence material to the issues of the circumstances of the harm and the appropriate amount of relief, and shall not extend such period for more than ninety days. Any such action shall be accompanied by a supporting affidavit of the moving party setting forth the reasons why such extension is necessary to promote the interests of justice and stating that the information likely to be discovered is material, and is not, after reasonable inquiry, otherwise available to the moving party.

(e) Subject to subsection (d), and unless otherwise agreed by the parties, failure to respond to a settlement offer within the applicable time period set forth in subsection (c), shall be deemed to be a rejection of the offer of settlement, and the provisions of section 233 shall apply.

(f) Any party to an offer of settlement pursuant to this subtitle shall be bound by the court's determinations as to any disputes involving net economic loss. Such disputes shall be resolved by the court on an expedited basis, unles the parties agree to be bound by determinations made pursuant to any voluntary alternative dispute resolution procedures established or recognized under the law of the State in which the civil action for damages for harm caused by a product has been brought, or under the rules of the court in which such action is maintained.

(g) When an offer of settlement is made in accordance with this section, a civil action brought by a claimant shall be stayed until—

(1) notification by the recipient of such offer pursuant to subsection (c); or

(2) failure to respond to such offer within the time periods specified in subsection (c) or (d).

This subsection shall not apply to discovery pursuant to subsection (d).

SEC. 232. RIGHTS UPON SETTLEMENT.

(a) Subject to the provisions of subsection (b), a claimant may not bring or maintain a civil action against any person for damages arising from the same harm if—

(1) any defendant has accepted the claimant's offer of settlement made pursuant to section 231 and has paid or agreed in writing to make payment to the claimant;

(2) any defendant's offer of settlement made in accordance with section 231 has been accepted in writing by the claimant.

In such circumstances, the court shall dismiss the civil action of the claimant upon motion by any party to the settlement, except that the court shall retain jurisdiction for the purpose of resolving disputes concerning the extent of the claimant's net economic loss and for other purposes consistent with this subtitle.

(b) If a claimant is precluded from bringing or maintaining a civil action under subsection (a), a defendant who has entered into a settlement with the claimant may not be made a defendant in any action brought by any other part for contribution, reimbursement, subrogation, or indemnity for damages arising from the same harm, in the absence of a prior written agreement to the contrary, except as provided in section 235.

(c) Neither the claimant's employer nor any insurer shall have any right of subrogation, contribution, or indemnity against the defendant or any lien on the claimant's settlement from the defendant, nor shall the defendant have any right of contribution or indemnity against the claimant's employer or fellow employee.

SEC. 233. RIGHTS UPON REJECTION OF OFFER OF SETTLEMENT.

If a party has rejected an offer of settlement pursuant to section 231 and the action proceeds to trial, the party shall, upon request, pay the opposing party's costs unless the verdict is more favorable to the rejecting party than the offer of settlement. For purposes of this section—

(1) the term "costs" means—

(A) in the case of a plaintiff, court costs, reasonable attorney's fees, and interest, from the date of the filing of the plaintiff's action, on an award as determined by the court, and

(B) in the case of a defendant, court costs, and

(2) a verdict shall be considered more favorable to a party if—

(i) in the case of a plaintiff, the amount of the verdict is at least 10 percent more than the offer of settlement (as determined by the court), and

(ii) in the case of a defendant, the amount of the verdict is at least 10 percent less than the offer of settlement (as determined by the court).

SEC. 234. PAYMENT OF NET ECONOMIC LOSS.

(a) Subject to subsection (b) and section 231, net economic loss shall be paid periodically as costs are incurred, but not later than thirty days after the date on which reasonable proof of the fact and amount of net economic loss incurred is submitted to any defendant who is a party to a settlement under this subtitle.

(b)(1) An obligation to make payment of net economic loss may be discharged initially or at any time thereafter by a settlement agreement, including an agreement to make a lump-sum payment, except that no such discharge shall be made with respect to harm giving rise to an estimated value of net economic loss equal to or greater than $10,000 unless the court determines that the settlement is fair to the claimant.

(2) A settlement agreement may be modified upon a finding that a material and substantial change of circumstances has occurred after the date on which the agreement was made or that there is newly discovered evidence concerning the claimant's physical condition, loss, or rehabilitation, which could not have been known or discovered in the exercise of reasonable diligence prior to the date of such agreement.

(3) The court, upon application of any party to the settlement, may make appropriate orders concerning the protection and disbursement of the proceeds of a settlement agreement entered into under this section.

(c) If a period of five years is made with respect to the harm at issue, the claimant shall not be entitled to receive payment for any additional net economic loss with respect to that harm.

SEC. 235. REIMBURSEMENT.

(a) A defendant who has entered into a settlement with a claimant under this subtitle shall be subrogated to any rights of the claimant against another person arising from or contributing to the harm at issue to the extent that the amount of loss paid or to be paid in the settlement exceeds such defendant's comparative proportion of responsibility for such loss.

(b) Any other person provided with notice by a defendant that an offer of settlement has been made shall, within ninety days after receipt of such notice, determine whether to contribute its proportionate share of such claim. Any potentially liable person who would benefit may join in the defendant's response to the claimant's offer of settlement or in an offer of settlement made by the defendant. Such person shall give written notice to the claimant and the defendant. A person who joins in such a settlement is deemed to have agreed to pay a share of the claimant's net economic loss pursuant to section 234, based on the comparative responsibility of all those joined in the settlement other than the claimant.

(c) Persons who join in a settlement pursuant to subsection (b) shall be bound by the court's determination, made upon motion by any such person, of their proportionate shares of responsibility for the claimant's loss, unless such persons agree to be bound by determinations made pursuant to any voluntary alternative dispute resolution procedures established or recognized under the law of the State in which the civil action for damages for harm caused by a product has been brought, or under the rules of the court in which such action is maintained.

(d)(1) If any person who is responsible for causing the claimant's harm and who has received notice under subsection (b) refuses to this subtitle a defendant who has entered into a settlement agreement pursuant to section 231 to pay such loss may recover from such person a total amount equal to the amount of subrogation recovery pursuant to this section plus one-half of the amount of such subrogation recovery, in addition to reasonable attorney's fees and costs incurred in seeking such subrogation recovery.

(2) If an action is brought under this section against another person (other than the claimant's employer or fellow employee) for contribution, reimbursement, or indemnity and the action is not a civil action subject to this subtitle, such action shall be governed by applicable standards of liability under State or Federal law.

SEC. 236. DEFINITIONS.

(a) As used in this subtitle, the term—

(1) "claimant" means any person who brings a civil action pursuant to this subtitle, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "net economic less", in accordance with subsection (b), includes—

(A) reasonable expenses incurred for reasonably needed and used medical and rehabilitation care and services;

(B) lost income from work which the claimant would have performed if the claimant had not suffered harm, reduced by any income earned from substitute work actually performed by the claimant or by income the claimant would have earned in available appropriate work which the claimant was capable of performing but unreasonably failed to undertake;

(C) reasonable expenses incurred in obtaining ordinary and necessary services in lieu of those the claimant would have performed, not for income, but for the benefit of the claimant or the claimant's immediate family, if the claimant had not suffered the harm;

(D) lost earnings of a deceased person who suffered fatal harm caused by a product which, if the person had not died, would have been contributed to claimants who are entitled to receive benefits by reason of such person's death under the law of the place where the deceased person was domiciled; and

(E) reasonable expenses incurred by the claimant in preparation and submission of an offer of settlement or a response pursuant to section 231, including a reasonable attorney's fee,

less the total amount of collateral benefits paid or payable to the claimant by reason of the same harm.

(b)(1) The lost income taken into account under subsection (a)(2)(B) shall be reduced by the amount of all Federal, State, and local income taxes and any Social Security or other payroll taxes which would be applicable to such income, but which would not be applicable to compensation paid under this subtitle.

(2) Where harm occurs in circumstances that might entitle a claimant to benefits (including workers' compensation benefits) which would reduce the amount of the claimant's net economic loss in accordance with subsection (a)(2) and it cannot reasonably, within the time provided for payment under section 234 or any reasonable extension of such time, be determined whether or in what amount such benefits will be payable, the defendant shall place in an interest-bearing escrow account that portion of the economic loss which the defendant reasonably anticipates the claimant will receive from such other sources, until the claimant's right to such benefits and the amount of such benefits finally has been determined under applicable law.

(3)(A) The total amount of compensation for economic loss paid or payable to a claimant from any other source shall, for purposes of subsection (a)(2), be reduced by the amount of legal fees and other costs incurred by the claimant in collecting such compensation.

(B) Attorney's fees may be on a contingent basis but, for the purposes of subsection (a)(2), shall be calculated solely on the basis of an hourly rate which should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications and experience and the complexity of the case.

(4) Except as otherwise provided by any provision of Federal law, no program of compensation whether public or private, the benefits of which would be deducted from a claimant's economic loss in order to calculate net economic loss under subsection (a)(2), may make payment of benefits secondary to payment of net economic loss by a defendant under this subtitle.

AMENDMENT NO. 1790

At the end add the following section:

SEC. 329. TORT LIABILITY REFORM ENACTMENT.

Notwithstanding any other provision of this Act, this Act shall not take effect until enactment of a law containing the following provisions:

"TITLE II—TORT LIABILITY REFORM ACT

"Subtitle A—General Provisions

"SEC. 201. SHORT TITLE.

This title may be cited as the 'Tort Liability Reform Act'.

"SEC. 202. DEFINITIONS.

"As used in this title, the term—

"(1) 'claimant' means any person who brings a civil action pursuant to this title, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

"(2) 'clear and convincing evidence' is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

"(3) 'collateral benefits' means all benefits and advantages received or entitled to be received (regardless of any right any other person has or is entitled to assert for recoupment through subrogation, trust agreement, lien, or otherwise) by any claimant harmed by a product or by any other person as reimbursement of loss because of harm to person or property payable or required to be paid to the claimant, under—

"(A) any Federal law or the laws of any State (other than through a claim for breach of an obligation or duty); or

"(B) any life, health, or accident insurance or plan, wage or salary continuation plan, disability income or replacement service insurance, or any benefit received or to be received as a result of participation in any pre-paid medical plan or Health Maintenance Organization;

"(4) 'commerce' means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of that State; or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

"(5) 'commerical loss' means economic injury, whether direct, incidental, or consequential, including property damage and damage to the product itself, incurred by persons regularly engaged in business activities consisting of providing goods or services for compensation;

"(6) 'economic loss' means any pecuniary loss resulting from harm which is allowed under State law;

"(7) 'exercise of reasonable care' means conduct of a person or ordinary prudence and intelligence using the attention, precaution, and judgment that society expects of its members for the protection of their own interests and the interests of others;

"(8) 'harm' means any harm recognized under the law of the State in which the civil action is maintained, other than loss or damage caused to a product itself, or commerical loss, with respect to which recovery is available under the commercial or contract law of the State;

"(9) 'manufacturer' means (A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of a product;

"(10) 'person' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

"(11) 'preponderance of the evidence' is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

"(12) 'product' means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state (A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state or as a component part or ingredient; (B) which is produced for introduction into trade or commerce; (C) which has intrinsic economic value; and (D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

"(13) 'product seller' means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

"(A) a seller or lessor of real property;

"(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

"(C) any person who—

"(i) acts in only a financial capacity with respect to the sale of a product; and

"(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lesor; and

"(14) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

"SEC. 203. APPLICABILITY.

"(a) Except as provided in subsection (b), (c), or (d), the provisions of this title shall apply to any civil action against any person, in any State or Federal court, based on any cause of action, including negligence, strict or product liability, breach of implied warranty, or professional malpractice, in which damages are sought for physical injury or for physical or mental pain or suffering or for property damage other than damage to the product itself.

"(b) This title shall not apply to—

"(1) a civil action for loss or damage to a product itself or for commercial loss which shall be governed by State commercial law; or

"(2) a civil action for intentionally committed battery, assault, false imprisonment, trespass, or conversion.

"(c) The provisions of this title shall preempt and supersede Federal or State law only to the extent such law is inconsistent with this title. Any issue arising under the provisions of this title that is not governed by the provisions of this title shall be governed by applicable State or Federal law.

"(d) Nothing in this title shall be construed to—

"(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

"(2) supersede any Federal law, except the Federal Employees' Compensation Act;

"(3) waive or affect any defense of sovereign immunity asserted by the United States;

"(4) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1602 et seq.);

"(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

"(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

"(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment, or the threat of such contamination or pollution.

"(e) As used in this section, 'environment' has the meaning given to such term in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

"(f) This title shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

"SEC. 204. JURISDICTION OF FEDERAL COURTS.

"The district courts of the United States shall not have jurisdiction over any civil action pursuant to this title, based on section 1331 or 1337 of title 28, United States Code.

"SEC. 205. EFFECTIVE DATE.

"(a) This title shall take effect ninety days after the date of its enactment and shall apply to all civil actions pursuant to this title commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effective date of this title.

"(b) If any provision of this title would shorten the period during which a manufacturer or product seller would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, bring any civil action pursuant to this title within one year after the effective date of this title.

"Subtitle B—Liability Standards

"SEC. 211. JOINT AND SEVERAL LIABILITY.

"(a) Except as provided in subsections (b) and (c), a person found liable for damages in any such action subject to the provisions of this title, shall be liable for damages only to the extent of such person's proportionate responsibility for the injury and shall not be jointly and severally liable.

"(b) Notwithstanding the provisions of subsection (a), any person found liable for damages in an action subject to the provisions of this title may be jointly and severally liable therefor if such person's proportionate responsibility for the injury is found by the trier of fact to exceed 50 percent.

"(c)(1) This section shall not apply to persons acting in concert where the concerted action caused the injury for which such persons are found liable.

"(2) As used in this section, the terms 'acting in concert' or 'concerted action' shall mean the participation in joint conduct by two or more persons who consciously and deliberately agreed to jointly participate in such conduct.

"SEC. 212. LIABILITY STANDARDS.

"Except as otherwise provided in this subtitle, no person shall be found liable for any damages in any civil action subject to the provisions of this title unless the claimant proves by a preponderance of the evidence that such person was negligent, and such negligence was the proximate cause of the damages sought.

"SEC. 213. UNIFORM STANDARDS OF MANUFACTURER LIABILITY.

"(a) In a product liability action, a manufacturer is liable to a claimant for harm only if the claimant establishes by a preponderance of the evidence that—

"(1) the product causing the harm was in a defective condition unreasonably dangerous to the claimant or to the claimant's property (A) because it deviated in a material way from the design specifications, formulations, or performance standards of the manufacturer or from otherwise identical units of the same product; (B) because it did not conform to an express warranty made by its manufacturer; (C) because it failed to contain adequate warnings or instructions; or (D) because of its design, and

"(2) the defective and unreasonably dangerous aspect of the product was a proximate cause of the harm complained of by the claimant.

"(b)(1) In a product liability action, a manufacturer shall not be liable on the grounds that a product was in a defective condition unreasonably dangerous to a claimant because of its design if—

"(A) the manufacturer did not know and could not know that a product was in a defective condition unreasonably dangerous to a claimant because of its design in light of knowledge reasonably available to the manufacturer, or

"(B) there was not a practical and technically feasible alternative design that would have prevented the harm without substantially impairing the reasonably anticipated or intended function of the product.

This paragraph shall not apply if, on the basis of clear and convincing evidence, the claimant establishes that the product for which the action was brought is egregiously unsafe, the ordinary consumer or user of the product cannot reasonably be expected to have knowledge of the product's risks, and the product has little or no usefulness.

"(2) In a product liability action, a manufacturer shall not be liable on the grounds that a product was in a defective condition unreasonably dangerous to a claimant because of its design if the characteristics of the product are known to the ordinary user or consumer and the harm was caused by an aspect of the product that is an inherent characteristic of the product and that would be recognized by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who use or would be reasonably anticipated to use the product. This paragraph shall not be construed to limit a manufacturer's liability solely because the risk of harm is patent, open, or obvious.

"(3) For purposes of paragraphs (1) and (2)—

"(A) the term 'knowledge reasonably available to the manufacturer' means knowledge reasonably available to qualified experts, and

"(B) a characteristic is an 'inherent characteristic' if it is an essential aspect of the character of the product which cannot be eliminated without significantly compromising the product's function or desirability.

"(c) In a product liability action against a manufacturer for harm allegedly caused by an improperly designed drug or medical device, the manufacturer shall not be liable if the drug or medical device was unavoidably unsafe. As used in this subsection, a drug or medical device is 'unavoidably unsafe' if it is apparently useful and desirable, if it is incapable of being made safe without significantly impairing the effectiveness of the product's ordinary use, and if the product does not deviate from the design specifications, formulations, or performance standards of the manufacturer or from otherwise identical units of the same product and was accompanied by adequate warnings aa defined in subsection (d)(2).

"(d)(1) For purposes of subsection (a)(1)(C), a product is in a defective condition unreasonably dangerous to a claimant or the claimant's property because it failed to contain adequate warnings or instructions if—

"(A) at the time the product left the manufacturer's control, the product did not contain an adequate warning of or instruction with respect to an aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property, that was known or could have been known by the manufacturer in light of knowledge reasonably available to the manufacturer, or

"(B) the manufacturer did not provide an adequate and timely warning of an aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property that was discovered or reasonably could have been discovered between the time the product left the manufacturer's control and the time of the claimant's injury.

For purposes of subparagraph (B), a timely warning is a warning which is given within a reasonable period of time after the manufacturer discovered or reasonably could have discovered the aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property.

"(2) For purposes of subsection (c) and paragraph (1)(A) of this subsection, a warning or instruction with respect to a product is adequate if it is one that a reasonably prudent person in the same or similar circumstances would have provided with respect to the product's dangers and communicates adequate information on the dangers and safe use of the product. The term 'knowledge reasonably available to the manufacturer' means knowledge reasonably available to the qualified experts.

"SEC. 214. UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY.

"(a) Notwithstanding the provisions of section 213, in any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

"(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant; (B) the product seller failed to exercise reasonable care with respect to the product; and (C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

"(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product; (B) the product failed to conform to the warranty; and (C) the failure of the product to conform to the warranty caused the claimant's harm.

"(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the product seller with respect to the construction, inspection, or condition of the product, and any failure of the product seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

"(2) A product seller shall not be liable in a civil action subject to this subtitle based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

"(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

"(B) to make reasonable efforts to provide users with those warnings and instructions which it received after the product left its possession and control.

"(3) A product seller shall not be liable in a civil action subject to this subtitle except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

"(c) A product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

"(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

"(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

"SEC. 215. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

"(a) Punitive damages may, if otherwise permitted by applicable law, be awarded in any civil action subject to this subtitle to any claimant who establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a manufacturer's or product seller's conscious, flagrant indifference to the safety of those persons who might be harmed by a product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Except as provided in subsection (b), punitive damages may not be awarded in the absence of a compensatory award.

"(b) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

"(c)(1) Punitive damages shall not be awarded pursuant to this section against a manufacturer or product seller which caused the claimant's harm where—

"(A) the drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or medical device (as defined under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug was approved by the Food and Drug Administration; or

"(B) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

The provisions of this paragraph shall not apply in any case in which the defendant withheld from or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government information that is material and relevant to the performance of such drug or device.

"(2) Punitive damages shall not be awarded pursuant to this section against a manufacturer of an aircraft which caused the claimant's harm where—

"(A) such aircraft was subject to premarket certification by the Federal Aviation Administration with respect to the safety of the design or performance of the aspect of such aircraft which caused the claimant's harm or the adequacy of the warnings regarding the operation or maintenance of such aircraft; and

"(B) the aircraft was certified by the Federal Aviation Administration under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.).

The provisions of this paragraph shall not apply in any case in which the defendant withheld from or misrepresented to the Federal Aviation Administration information that is material and relevant to the performance or the maintenance or operation of such aircraft.

"SEC. 216. UNIFORM TIME LIMITATIONS ON LIABILITY.

"(a) Any civil action subject to this title shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be filed within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

"(b)(1) Any civil action subject to this subtitle shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years after the time of delivery of the product.

"(2)(A) With respect to any good other than a capital good, a manufacturer or product seller shall not be subject to liability to a claimant for harm caused by a product in any civil action subject to this subtitle if the manufacturer proves, by a preponderance of the evidence, that the harm was caused after the product's useful safe life.

"(B) A manufacturer or product seller may be subject to liability for harm caused by a product after its useful safe life if—

"(i) the manufacturer has warranted that the product can be utilized safely for a time longer than the useful safe life;

"(ii) the manufacturer intentionally misrepresents facts about the product or intentionally conceals information about the product and that concealment was the proximate cause of the claimant's harm; or

"(iii) the harm was caused by exposure to a product, which exposure first occurred within the useful safe life of the product, even though the harm did not manifest itself until after useful safe life.

"(C) In any civil action brought pursuant to this paragraph, there is a presumption that the harm was caused after the useful safe life of the product if the harm was caused more than ten years after the time of delivery of the product. Such presumption may be rebutted by a preponderance of the evidence.

"(3) A motor vehicle, vessel, aircraft, or railroad used primarily to transport passengers for hire shall not be subject to the provisions of this subsection.

"(4) As used in this subsection—

"(A) the term 'time of delivery' means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold; and

"(B) a product's 'useful safe life' begins at the time of the first use of the product following delivery and extends for the time during which the product would normally be likely to perform or be stored, or both, in a safe manner.

"(c) As used in this section, the term—

"(1) 'capital good' means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1954, and which was—

"(A) used in a trade or business;

"(B) held for the production of income; or

"(C) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes; and

"(2) 'toxic harm' means harm which is functional impairment, illness, or death of a human being resulting from exposure to an object, substance, mixture, raw material, or physical agent of particular chemical composition.

"(d) Nothing in this section shall affect the right of any person who is subject to liability for harm under this title to seek and obtain contribution or indemnity from any other person who is responsible for such harm.

"SEC. 218. WORKER'S COMPENSATION OFFSET.

"(a) In any product liability action subject to this subtitle which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law—

"(1) any damages awarded shall be reduced by the sum of the amount paid as workers' compensation benefits to which the employee is or would be entitled for such harm, and

"(2) the action shall, on application of the claimant made at the claimant's sole discretion, be stayed until such time as the full amount payable as workers' compensation benefits has been finally determined under such workers' compensation law.

The determination of workers' compensation benefits by the trier of fact in a product liability action subject to this subtitle shall have no binding effect on and shall not be used as evidence in any other proceeding.

"(b)(1) Except as provided in paragraph (2), unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee, neither the employer nor the worker's compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a product liability action may be brought pursuant to this subtitle.

"(2)(A) Except in jurisdictions which allocate payment of workers' compensation benefits among all responsible employers, if the claimant's injury arose as a result of exposure to workplace conditions with multiple employers, paragraph (1) shall not apply if the employer or the workers' compensation insurer of the employer establishes, and the trier of fact determines, that the claimant's harm was not in any way caused by the fault of any of such employers or coemployees.

"(B) In all other circumstances, paragraph (1) shall not apply if the employer or the workers' compensation insurer of the employer establishes, and the trier of fact determines, that the claimant's harm was not in any way caused by the fault of the claimant's employer or coemployee.

"(c)(1) Except as provided in subsection (d), in any product liability action subject to this subtitle in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party claim tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

"(2) Nothing in this subtitle shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured. Any action other than such a workers' compensation claim shall be prohibited, except that nothing in this subtitle shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

"(d) Subsection (c) shall not apply and applicable State law shall control if the employer or the workers' compensation insurer of the employer, in a product liability action subject to this subtitle, asserts or attempts to assert, because of subsection (b), a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller.

"SEC. 219. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

"(a) In any civil action subject to this subtitle in which all defendants are manufacturers or product sellers, a manufacturer or product seller may assert in complete defense of such action that the claimant was under the influence of intoxicating alcohol or any drug that such condition was more than 50 percent responsible for such claimant's harm.

"(b) In any civil action subject to this subtitle in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was under the influence of intoxicating alcohol or any drug and that such condition was more than 50 percent responsible for such claimant's harm.

"(c)(1) For purposes of this section, the determination of whether a person was under the influence of intoxicating alcohol shall be made pursuant to applicable State law.

"(2) As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

"Subtitle C—Expedited Settlements

"SECTION 231. GENERAL RULE.

"(a) Any claimant may, in addition to any claim for relief made in accordance with this subtitle, include in such claimant's complaint an offer of settlement. For the purposes of this subtitle, an offer of settlement shall be limited to a claim for payment of the claimant's net economic loss, pursuant to section 234.

"(b) Any defendant in such an action may make an offer of settlement for the claimant's net economic loss. Such offer shall be made by certified mail, return receipt requested, within ninety days after services of the claimant's complaint, or within the time permitted pursuant to applicable State or Federal law for the responsive pleading, whichever is longer, except that if such pleading includes a motion to dismiss in accordance with applicable law, the defendant may take such an offer to the claimant within ten days after the court's determination regarding such motion. A copy of such offer shall be filed with the court within such time period.

"(c)(1) The recipient of an offer of settlement made in accordance with subsections (a) and (b) shall determine whether to accept or reject such offer.

"(2) A recipient of such an offer shall provide to the offeror written notice of acceptance or rejection of such offer by certified mail, return receipt requested, within ninety days after the date on which such offer is made. A copy of such notice shall be filed with the court within such time period.

"(d) In any case in which an offer of settlement is made under subsection (a) or (b), the court may, upon motion made prior to the expiration of the applicable period for response, enter an order extending such period for discovery. Any such order shall contain a schedule for discovery of evidence material to the issues of the circumstances of the harm and the appropriate amount of relief, and shall not extend such period for more than ninety days. Any such action shall be accompanied by a supporting affidavit of the moving party setting forth the reasons why such extension is necessary to promote the interests of justice and stating that the information likely to be discovered is material, and is not, after reasonable inquiry, otherwise available to the moving party.

"(e) Subject to subsection (d), and unless otherwise agreed by the parties, failure to respond to a settlement offer within the applicable time period set forth in subsection (c), shall be deemed to be a rejection of the offer of settlement, and the provisions of section 233 shall apply.

"(f) Any party to an offer of settlement pursuant to this subtitle shall be bound by the court's determinations as to any disputes involving net economic loss. Such disputes shall be resolved by the court on an expedited basis, unless the parties agree to be bound by determinations made pursuant to any voluntary alternative dispute resolution procedures established or recognized under the law of the State in which the civil action for damages for harm caused by a product has been brought, or under the rules of the court in which such action is maintained.

"(g) When an offer of settlement is made in accordance with this section, a civil action brought by a claimant shall be stayed until—

"(1) notification by the recipient of such offer pursuant to subsection (c); or

"(2) failure to respond to such offer within the time periods specified in subsection (c) or (d).

This subsection shall not apply to discovery pursuant to subsection (d).

"SEC. 232. RIGHTS UPON SETTLEMENT.

"(a) Subject to the provisions of subsection (b), a claimant may not bring or maintain a civil action against any person for damages arising from the same harm if—

"(1) any defendant has accepted the claimant's offer of settlement made pursuant to section 231 and has paid or agreed in writing to make payment to the claimant;

"(2) any defendant's offer of settlement made in accordance with section 231 has been accepted in writing by the claimant.

In such circumstances the court shall dismiss the civil action of the claimant upon motion by any party to the settlement, except that the court shall retain jurisdiction for the purpose of resolving disputes concerning the extent of the claimant's net economic loss and for other purposes consistent with this subtitle.

"(b) If a claimant is precluded from bringing or maintaining a civil action under subsection (a), a defendant who has entered into a settlement with the claimant may not be made a defendant in any action brought by any other part for contribution, reimbursement, subrogation, or indemnity for damages arising from the same harm, in the absence of a prior written agreement to the contrary, except as provided in section 235.

"(c) Neither the claimant's employer nor any insurer shall have any right of subrogation, contribution, or indemnity against the defendant or any lien on the claimant's settlement from the defendant, nor shall the defendant have any right of contribution or indemnity against the claimant's employer or fellow employee.

"SEC. 233. RIGHTS UPON REJECTION OF OFFER OF SETTLEMENT.

"If a party has rejected an offer of settlement pursuant to section 231 and the action proceeds to trial, the party shall, upon request, pay the opposing party's costs unless the verdict is more favorable to the rejecting party than the offer of settlement. For purposes of this section—

"(1) the term 'costs' means—

"(A) in the case of a plaintiff, court costs, reasonable attorney's fees, and interest, from the date of the filing of the plaintiff's action, on an award as determined by the court, and

"(B) in the case of a defendant, court costs, and

"(2) a verdict shall be considered more favorable to a party if—

"(i) in the case of a plaintiff, the amount of the verdict is at least 10 percent more than the offer of settlement (as determined by the court), and

"(ii) in the case of a defendant, the amount of the verdict is at least 10 percent less than the offer of settlement (as determined by the court).

"SEC. 234. PAYMENT OF NET ECONOMIC LOSS.

"(a) Subject to subsection (b) and section 231, net economic loss shall be paid periodically as costs are incurred, but not later than thirty days after the date on which reasonable proof of the fact and amount of net economic loss incurred is submitted to any defendant who is a party to a settlement under this subtitle.

"(b)(1) An obligation to make payment of net economic loss may be discharged initially or at any time thereafter by a settlement agreement, including an agreement to make a lump-sum payment, except that no such discharge shall be made with respect to harm giving rise to an estimated value of net economic loss equal to or greater than $10,000 unless the court determines that the settlement is fair to the claimant.

"(2) A settlement agreement may be modified upon a finding that a material and substantial change of circumstances has occurred after the date on which the agreement was made or that there is newly discovered evidence concerning the claimant's physical condition, loss, or rehabilitation, which could not have been known or discovered in the exercise of reasonable diligence prior to the date of such agreement.

"(3) The court, upon application of any party to the settlement, may make appropriate orders concerning the protection and disbursement of the proceeds of a settlement agreement entered into under this section.

"(c) If a period of five years has elapsed after the most recent claim for payment is made with respect to the harm at issue, the claimant shall not be entitled to receive payment for any additional net economic loss with respect to that harm.

"SEC. 235. REIMBURSEMENT.

"(a) A defendant who has entered into a settlement with a claimant under this subtitle shall be subrogated to any rights of the claimant against another person arising from or contributing to the harm at issue to the extent that the amount of loss paid or to be paid in the settlement exceeds such defendant's comparative proportion of responsibility for such loss.

"(b) Any other person provided with notice by a defendant that an offer of settlement has been made shall, within ninety days after receipt of such notice, determine whether to contribute its proportionate share of such claim. Any potentially liable person who would benefit may join in the defendant's response to the claimant's offer of settlement or in an offer of settlement made by the defendant. Such person shall give written notice to the claimant and the defendant. A person who joins in such a settlement is deemed to have agreed to pay a share of the claimant's net economic loss pursuant to section 234, based on the comparative responsibility of all those joined in the settlement other than the claimant.

"(c) Persons who join in a settlement pursuant to subsection (b) shall be bound by the court's determination, made upon motion by any such person, of their proportionate shares of responsibility for the claimant's loss, unless such persons agree to be bound by determinations made pursuant to any voluntary alternative dispute resolution procedures established or recognized under the law of the State in which the civil action for damages for harm caused by a product has been brought, or under the rules of the court in which such action is maintained.

"(d)(1) If any person who is responsible for causing the claimant's harm and who has received notice under subsection (b) refuses to contribute such person's proportionate share of loss pursuant to this subtitle a defendant who has entered into a settlement agreement pursuant to section 231 to pay such loss may recover from such person a total amount equal to the amount of subrogation recovery pursuant to this section plus one-half of the amount of such subrogation recovery, in addition to reasonable attorney's fees and costs incurred in seeking such subrogation recovery.

"(2) If an action is brought under this section against another person (other than the claimant's employer or fellow employee) for contribution, reimbursement, or indemnity and the action is not a civil action subject to this subtitle, such action shall be governed by applicable standards of liability under State or Federal law.

"SEC. 236. DEFINITIONS.

"(a) As used in this subtitle, the term—

"(1) 'claimant' means any person who brings a civil action pursuant to this subtitle, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

"(2) 'net economic loss', in accordance with subsection (b), includes—

"(A) reasonable expenses incurred for reasonably needed and used medical and rehabilitation care and services;

"(B) lost income from work which the claimant would have performed if the claimant had not suffered harm, reduced by any income earned from substitute work actually performed by the claimant or by income the claimant would have earned in available appropriate work which the claimant was capable of performing but unreasonably failed to undertake;

"(C) reasonable expenses incurred in obtaining ordinary and necessary services in lieu of those the claimant would have performed, not for income, but for the benefit of the claimant or the claimant's immediate family, if the claimant had not suffered the harm;

"(D) lost earnings of a deceased person who suffered fatal harm caused by a product which, if the person had not died, would have been contributed to claimants who are entitled to receive benefits by reason of such person's death under the law of the place where the deceased person was domiciled; and

"(E) reasonable expenses incurred by the claimant in preparation and submission of an offer of settlement or a response pursuant to section 231, including a reasonable attorney's fee,

less the total amount of collateral benefits paid or payable to the claimant by reason of the same harm.

"(b)(1) The lost income taken into account under subsection (a)(2)(B) shall be reduced by the amount of all Federal, State, and local income taxes and any Social Security or other payroll taxes which would be applicable to such income, but which would not be applicable to compensation paid under this subtitle.

"(2) Where harm occurs in circumstances that might entitle a claimant to benefits (including workers' compensation benefits) which would reduce the amount of the claimant's net economic loss in accordance with subsection (a)(2) and it cannot reasonably, within the time provided for payment under section 234 or any reasonable extension of such time, be determined whether or in what amount such benefits will be payable, the defendant shall place in an interest-bearing escrow account that portion of the economic loss which the defendant reasonably anticipates the claimant will receive from such other sources, until the claimant's right to such benefits and the amount of such benefits finally has been determined under applicable law.

"(3)(A) The total amount of compensation for economic loss paid or payable to a claimant from any other source shall, for purposes of subsection (a)(2), be reduced by the amount of legal fees and other costs incurred by the claimant in collecting such compensation.

"(B) Attorney's fees may be on a contingent basis but, for the purposes of subsection (a)(2), shall be calculated solely on the basis of an hourly rate which should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications and experience and the complexity of the case.

"(4) Except as otherwise provided by any provision of Federal law, no program of compensation whether public or private, the benefits of which would be deducted from a claimant's economic loss in order to calculate net economic loss under subsection (a)(2), may make payment of benefits secondary to payment of net economic loss by a defendant under this subtitle.".

METZENBAUM AMENDMENT NO. 1791

(Ordered to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to Amendment No. 1687 proposed by Mr. Ford to the bill S. 79, supra; as follows:

At the end of Amendment 1687, add the following:

"Provisions for medical removal protection under section 9(c) shall not apply to any seasonal agricultural worker employed by an employer for less than 6 months of continuous employment.".

METZENBAUM AMENDMENT NO. 1792

(Ordered to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to Amendment No. 1686 proposed by Mr. Ford to the bill S. 79, supra; as follows:

At the end of Amendment 1687, add the following:

"Provisions for medical removal protection under subsection (c) shall not apply to any seasonal agricultural worker employed by an employer for less than 6 months of continuous employment.".

KENNEDY AMENDMENT NO. 1793

(Ordered to lie on the table.)

Mr. KENNEDY submitted a motion intended to be proposed by him to recommit the bill S. 79, supra; with instructions that the committee report the bill back to the Senate forthwith with an amendment; as follows:

Strike out all after the enacting clause, and insert in lieu thereof the text of the Committee amendment in the nature of a substitute, as amended, if amended, by the Senate to date, and at the end of Section 11 the following new subsection:

"(c) Limitation.—This section shall not be effective unless or until within 120 days after enactment of this Act, the Secretary of Health and Human Services has developed and implemented a program to disseminate information to all health workers, public safety workers, and emergency service workers in the United States concerning methods to reduce in the workplace the risk of becoming infected with human immunodeficiency virus. The information disseminated under this subsection shall be based on guidelines issued by the Directors of the Centers for Disease Control. Funds appropriated to the Department of Health and Human Services for AIDS prevention programs and activities shall be used to carry out this subsection. No funds authorized to be appropriated under this Act shall be used to carry out this subsection.".

KENNEDY AMENDMENT NO. 1794

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to Amendment No. 1793 proposed by him as a motion to recommit the bill S. 79, supra, with instructions; as follows:

In section 11 of the matter proposed to be inserted by the motion to recommit with instructions, strike "(c) Limitation." and all that follows through the end of the paragraph and insert in lieu thereof the following:

"(c) Limitation.—This section shall not be effective unless or until within 105 days after enactment of this Act, the Secretary of Health and Human Services has developed and implemented a program to disseminate information to all health workers, public safety workers, and emergency service workers in the United States concerning methods to reduce in the workplace the risk of becoming infected with human immunodeficiency virus. The information disseminated under this subsection shall be based on guidelines issued by the Directors of the Centers for Disease Control. Funds appropriated to the Department of Health and Human Services for AIDS prevention programs and activities shall be used to carry out this subsection. No funds authorized to be appropriated under this Act shall be used to carry out this subsection.".

BREAUX AMENDMENT NO. 1795

Mr. BREAUX proposed an amendment to the Amendment No. 1773 to the bill S. 79, supra; as follows:

Strike out everything beginning with "10" in subsection (c)(2), and insert in lieu thereof the following: "50 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority and other employment rights and benefits as comparable as possible to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.

"(d) Benefit Reduction Prohibited.—

"(1) General.—If, following a determination by the Board under this Act, the employee's physician medically determines that an employee who is a member of a population at risk shows evidence of the development of the disease described in the notice or other symptoms or conditions increasing the likelihood of incidence of such disease, the employee shall have the option of being transferred to a less hazardous or nonexposed job. If within 10 working days after the employee has exercised the option and transmitted to the employer a copy of the initial determination, the employer's medical representative has not requested independent reconsideration of such determination, the employee shall be removed to a less hazardous or nonexposed job and shall maintain earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job. In providing such alternative job assignment, the employer shall not be required to violate the terms of any applicable collective bargaining agreement, and shall not be required to displace, lay off, or terminate any other employee.

"(2) Independent reconsideration.—If the employer's medical representative requests independent reconsideration of the initial medical determination under paragraph (1), the employee's physician and the employer's medical representative shall, within 14 working days of the transmittal of the initial determination submit the matter to another mutually acceptable physician for a final medical determination, which shall be made within 21 working days of the transmittal of the intial determination unless otherwise agreed by the parties. If the two medical representatives have been unable to agree upon another physician within 14 working days, the Secretary or the Secretary's local designee for such purpose shall immediately, at the request of the employee or the employee's physician, appoint a qualified independent physician who shall make a final medical determination within the 21 working day period specific in this paragraph, unless otherwise agreed by the parties. The employer shall bear all costs related to the procedure set forth in this paragraph.

"(3) Employees subject to medical removal.—An employer shall be required to provide medical removal protection only for employee who—

"(A) are notified individually under section 5, or

"(B) the employer knows or has reason to know are members of the population at risk as determined by the Board.

"(4) Special rules for medical removal.—An employer shall be required to provide such protection only if any part of the employee's exposure to the occupational health hazard occurred in the course of the employee's employment by that employer. The medical removal protection described in this subsection shall be provided for as long as a less hazardous or nonexposed job is available. The availability of such a job shall depend upon the employee's skills, qualifications, and aptitudes and the job's requirements. Where such job is not available, the medical removal protection shall be provided for a period not to exceed 12 months. The employer may condition the provision of medical removal protection upon the employee's participation in follow-up medical surveillance for the occupational health effects in question based on the procedure set forth in this subsection. The employer's obligation to provide medical removal protection shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal, or receives income from employment with another employer made possible by virtue of the employee's removal. An employee who is receiving medical removal protection and for whom no less hazardous or nonexposed job is available must undertake reasonable good faith efforts to obtain alternative employment.

"(5) SPECIAL LIMITATION.—An employer is not required to provide medical removal protection for employees if the employer—

"(A) has 50 or fewer full-time employees at the time medical removal protection is requested, and

(B) Made or is in the process of making a reasonable good faith effort to eliminate the occupational health hazard that is the basis for the medical removal decision.

(e) SPECIAL SMALL BUSINESS RULE.—The medical monitoring required under this Act shall be limited to the monitoring recommended by the Risk Assessment Board. The means of providing such medical monitoring shall be left to the employer's judgment consistent with sound medical practices. If the benefits are made available through an existing employer health plan, the employee may be required to meet deductible or copayments generally required under the existing employer health plan. Any such current employee shall be required to provide monitoring only for employees who—

"(1) are notified individually under section 5; or

"(2) the employer knows or has reason to know are members of the population at risk as determined by the Board.

An employer with 50 or fewer employees may not be required to pay more than $250 for medical monitoring for any employee in any year. This amount shall be adjusted annually after 1988 based on the Consumer Price Index for medical care services maintained by the Bureau of Labor Statistics.".

OMNIBUS ANTIDRUG ABUSE ACT

D'AMATO AND OTHERS AMENDMENT NO. 1796

(Ordered to lie on the table.)

Mr. D'AMATO (for himself, Mr. DeConcini, Mr. Stevens, Mr. Dole, Mr. Grassley, Mr. Trible, Mr. Thurmond, Mr. McConnell, Mr. Nickles, Mr. Symms, Mr. Karnes, Mr. Helms, and Mr. Hecht) submitted an amendment intended to be proposed by him to the bill (S. 2205) to enact the Omnibus Antidrug Act of 1988, and for other purposes; as follows:

At the end of the bill, add the following new title:

TITLE ____—DEATH PENALTY

SECTION __01. ELEMENTS OF OFFENSE.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by inserting after subsection (b) the following:

"(c)(1) If, in the course of engaging in a continuing criminal enterprise, a person intentionally, or with reckless indifference to human life, kills or participates substantially in the killing of any individual, that person may be sentenced to death.

"(2) If, in the course of engaging in organized ongoing drug crime, a person intentionally kills a Federal, State, or local law enforcement officer engaged in, or on account of, such law enforcement officer's official duties, that person may be sentenced to death.

"(3) As used in this subsection—

"(A) the term 'Federal, State, or local law enforcement officer' means an officer or employee of the United States, a State, a municipal corporation, a county, or other political subdivision of a State, who has authority under applicable law to enforce the criminal laws of the United States or a State; and

"(B) the term 'organized ongoing drug crime' means a felony violation of this title or title III which is a part of a continuing series of violations of this title or title III which are undertaken with 5 or more persons.".

SEC. __02. PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.

Section 408 of the Controlled Substances Act (22 U.S.C. 848) is amended by adding at the end the following:

"HEARING REQUIRED WITH RESPECT TO THE DEATH PENALTY

"(f) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"NOTICE BY THE GOVERNMENT IN DEATH PENALTY CASES

"(g)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"HEARING BEFORE COURT OR JURY

"(h)(1) When the attorney for the Government has filed a notice as required under subsection (f) and the defendant is found guilty of or pleads guilty to an offense under subsection (c), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"PROOF OF AGGRAVATING AND MITIGATING FACTORS

"(i) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (c), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (l) and (m), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (m), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors, and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the information.

"RETURN OF FINDINGS

"(j) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any mitigating factors, and any aggravating factors set forth in subsection (l) or (m), found to exist. If one of the aggravating factors set forth in subsection (m)(1) and another of the aggravating factors set forth in paragraphs (2) through (7) of subsection (m) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding of such a factor by a jury shall be made by unanimous vote. If an aggravating factor set forth in subsection (m)(1) is not found to exist or an aggravating factor set forth in subsection (m)(1) is found to exist but no other aggravating factor set forth in subsection (m) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (m)(1) and one or more of the other aggravating factors set forth in subsection (m) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"IMPOSITION OF SENTENCE

"(k) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"MITIGATING FACTORS

"(l) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant was less than 18 years of age at the time of the crime.

"(2) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(3) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(4) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(5) The defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"AGGRAVATING FACTORS FOR HOMICIDE

"(m) If the defendant is found guilty of or pleads guilty to an offense under subsection (c), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim;

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(D) intentionally engaged in conduct which—

"(i) the defendant knew would create a grave risk or death to a person, other than one of the participants in the offense; and

"(ii) resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (c), the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

"(6) The violation of this chapter in relation to which the conduct described in subsection (c) occurred was a violation of section 405.

"(7) The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"INSTRUCTION TO JURY ON RIGHT OF THE DEFENDANT TO JUSTICE WITHOUT DISCRIMINATION

"(n) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant was not involved in reaching his or her individual decision.

"SENTENCING IN CAPITAL CASES IN WHICH DEATH PENALTY IS NOT SOUGHT OR IMPOSED

"(o) If a person is convicted for an offense under subsection (c) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.

"APPEAL IN CAPITAL CASES

"(p)(1) In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with or the failure to finding any mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

BREAUX (AND RIEGLE) AMENDMENT NO. 1797

Mr. BREAUX (for himself and Mr. Riegle) proposed an amendment to the amendment No. 1773 to the bill S. 79, supra; as follows:

Strike out everything beginning with "10" in subsection (c)(2), and insert in lieu thereof the following: "50 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority and other employment rights and benefits as comparable as possible to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.

"(d) Benefit Reduction Prohibited.—

"(1) General.—If, following a determination by the Board under this Act, the employee's physician medically determines that an employee who is a member of a population at risk shows evidence of the development of the disease described in the notice or other symptoms or conditions increasing the likelihood of incidence of such disease, the employee shall have the option of being transferred to a less hazardous or nonexposed job. If within 10 working days after the employee has exercised the option and transmitted to the employer a copy of the initial determination, the employer's medical representative has not requested independent reconsideration of such determination, the employee shall be removed to a less hazardous or nonexposed job and shall maintain earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job. In providing such alternative job assignment, the employer shall not be required to violate the terms of any applicable collective bargaining agreement, and shall not be required to displace, lay off, or terminate any other employee.

"(2) Independent reconsideration.—If the employer's medical representative requests independent reconsideration of the initial medical determination under paragraph (1), the employee's physician and the employer's medical representative shall, within 14 working days of the transmittal of the initial determination submit the matter to another mutually acceptable physician for a final medical determination, which shall be made within 21 working days of the transmittal of the initial determination unless otherwise agreed by the parties. If the two medical representatives have been unable to agree upon another physician within 14 working days, the Secretary or the Secretary's local designee for such purpose shall immediately, at the request of the employee or the employee's physician, appoint a qualified independent physician who shall make a final medical determination within the 21 working day period specific in this paragraph, unless otherwise agreed by the parties. The employer shall bear all costs related to the procedure set forth in this paragraph.

"(3) Employees subject to medical removal.—An employer shall be required to provide medical removal protection only for employees who—

"(A) are notified individually under section 5, or

"(B) the employer knows or has reason to know are members of the population at risk as determined by the Board.

"(4) Special rules for medical removal.—An employer shall be required to provide such protection only if any part of the employee's exposure to the occupational health hazard occurred in the course of the employee's employment by that employer. The medical removal protection described in this subsection shall be provided for as long as a less hazardous or nonexposed job is available. The availability of such a job shall depend upon the employee's skills, qualifications, and aptitudes and the job's requirements. Where such job is not available, the medical removal protection shall be provided for a period not to exceed 12 months. The employer may condition the provision of medical removal protection upon the employee's participation in follow-up medical surveillance for the occupational health effects in question based on the procedure set forth in this subsection. The employer's obligation to provide medical removal protection shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal, or receives income from employment with another employer made possible by virtue of the employee's removal. An employee who is receiving medical removal protection and for whom no less hazardous or nonexposed job is available must undertake reasonable good faith efforts to obtain alternative employment.

"(5) SPECIAL LIMITATION.—An employer is not required to provide medical removal protection for employees if the employer—

"(A) has 50 or fewer full-time employees at the time medical removal protection is requested, and

"(B) made or is in the process of making a reasonable good faith effort to eliminate the occupational health hazard that is the basis for the medical removal decision.

"(e) SPECIAL SMALL BUSINESS RULE.—The medical monitoring required under this Act shall be limited to the monitoring recommended by the Risk Assessment Board. The means of providing such medical monitoring shall be left to the employer's judgment consistent with sound medical practices. If the benefits are made available through an existing employer health plan, the employee may be required to meet deductible or copayments generally required under the existing employer health plan. Any such current employee shall be required to provide monitoring only for employees who—

"(1) are notified individually under section 5; or

"(2) the employer knows or has reason to know are members of the population at risk as determined by the Board.

An employer with 50 or fewer employees may not be required to pay more than $250 for medical monitoring for any employee in any year. This amount shall be adjusted annually after 1988 based on the Consumer Price Index for medical care services maintained by the Bureau of Labor Statistics.".

HATCH AMENDMENT NO. 1798

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill (S. 79) supra; as follows:

Page 79, line 11, insert the following new section:

SEC. 16. WORKER PROTECTION STANDARDS.

None of the provisions of this Act shall take effect unless the Secretary of Labor, using existing authorization pursuant to section 6 of the Occupational Safety and Health Act of 1970, promulgates standards for the health and safety protraction of employees exposed to the tobacco smoke of other individuals, commonly referred to as passive smoking.

KENNEDY AMENDMENT NO. 1799

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to an amendment to the bill S. 79, supra; as follows:

In the pending amendment, strike "105" and in lieu thereof insert: "90".

IMPLEMENTING THE RECOMMENDATIONS OF THE COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

HELMS AMENDMENTS NOS. 1800 THROUGH 1810

(Ordered to lie on the table.)

Mr. HELMS submitted 11 amendments intended to be proposed by him to the bill (S. 1009) to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians; as follows:

AMENDMENT No. 1800

On page 37, between lines 21 and 22, insert the following new paragraph:

"(C) such term shall not include any person who is serving as a Member of the Congress on the date of enactment of this Act, or any spouse, parent, son, or daughter of such person.".

AMENDMENT No. 1801

On page 40, line 15, strike "$20,000" and insert "$10,000".

On page 53, line 22, strike "$12,000" and insert "$10,000".

AMENDMENT No. 1802

On page 40, line 15, strike "$20,000" and insert "$1,000".

On page 53, line 22, strike "$12,000" and insert "$1,000".

AMENDMENT No. 1803

On page 34, strike out all on lines 16 through 21.

AMENDMENT No. 1804

On page 38, line 19, strike the word "period." and insert in lieu thereof, "period, and were based on a violation of any law of the United States respecting the exclusion, relocation, or detention of individuals on the basis of race.".

AMENDMENT No. 1805

On page 45, line 18, strike "subsection (b).", and insert in lieu thereof "subsections (b) (1), (2), (3), and (4).".

AMENDMENT No. 1806

On page 32, line 22, strike out "accurately and completely".

AMENDMENT No. 1807

On page 41, strike out all on lines 7 through 11, and reletter the succeeding paragraphs accordingly.

AMENDMENT No. 1808

On page 36, lines 6 through 8, strike out "accepts the findings of the Commission on Wartime Relocation and Internment of Civilians and".

AMENDMENT No. 1809

On page 33, strike out all on lines 8 and 9, and redesignate the succeeding paragraphs accordingly.

AMENDMENT No. 1810

On page 33, line 11, strike out "was caused by" and insert in lieu thereof, "was motivated in part by".

NOTICE OF HEARING

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Tuesday, March 29, 1988, beginning at 3 p.m., in Senate Russell room 485 on S. 1236, reauthorization of the Navajo-Hopi Relocation Housing Program; and, S. 802, Renville-Blackfeet claim settlement.

Those wishing additional information should contact the Indian Affairs Committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Wednesday, March 23, 1988, to continue oversight hearings on the Community Reinvestment Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BREAUX. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 23, 1988, to hold a hearing to review current programs and policies relating to children's health care.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BREAUX. Mr. President, I ask unanimous consent that the committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 23, 1988, to hold a hearing on the nomination of Barbara Barrett, of Arizona, to be Deputy Administrator of the Federal Aviation Administration [FAA].

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BREAUX. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 23, 1988, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. BREAUX. Mr. President, I ask unanimous consent that the subcommittee on the Constitution of the Committee on the Judiciary be authorized to meet during the session of the Senate on March 23, 1988, to hold a hearing on S.J. Res. 11, S.J. Res. 112, S.J. Res. 161, the balanced budget amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, March 23, 1988, to hold hearings on the Health Care Financing Administration's management of medical laboratories.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Subcommittee on Readiness, Sustainability and Support of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 23, 1988, in open/closed session to receive testimony on the readiness and sustainability posture of selected unified combatant commands and on the amended fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it so ordered.

SUBCOMMITTEE ON PROJECTION FORCES AND REGIONAL DEFENSE

Mr. BREAUX. Mr. President, I ask unanimous consent that the Subcommittee on Projection Forces and Regional Defense of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 23, 1988, in open session to receive testimony on the Kennedy/Nunn amendment to the fiscal year 1988/89 Authorization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. BREAUX. Mr. President, I ask unanimous consent that the Subcommittee on Aviation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 23, 1988, to hold a hearing on S. 1600, legislation to establish the Federal Aviation Administration [FAA] as a new independent agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Ms. Mary Evans Davis, a member of our staff of Senator BUMPERS, to participate in a program in the People's Republic of China sponsored by the Chinese People's Institute of Foreign Affairs in conjunction with the United States-Asia Institute, from April 1-12, 1988.

The committee has determined that participation by Ms. Davis in the program in the People's Republic of China, at the expense of the Chinese People's Institute of Foreign Affairs in conjunction with the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Laura Hudson, a member of the staff of Senator JOHNSTON, to participate in a program in the People's Republic of China sponsored by the Chinese People's Institute of Foreign Affairs in conjunction with the United States-Asia Institute, from April 1-12, 1988.

The committee has determined that participation by Ms. Hudson in the program in the People's Republic of China, at the expense of the Chinese People's Institute of Foreign Affairs in conjunction with the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Peter Galbraith, a member of the staff of the Senate Committee on Foreign Relations, to participate in a program in Nairobi sponsored by the U.N. Environment Program, from March 18-27, 1988.

The committee has determined that participation by Mr. Galbraith in the program in Nairobi, at the expense of the U.N. Environment Program, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Daniel Craig, a member of the staff of Senator INOUYE, who participated in a program in the People's Republic of China sponsored by the Chinese People's Institute of Foreign Affairs, in conjunction with the United States-Asia Institute in January 1988.

The committee has determined that participation by Mr. Craig in the program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs, in conjunction with the United States-Asia Institute, is in the interest of the Senate and the United States.●

● Mr. DURENBERGER. Mr. President, I think almost everyone agrees that when we talk about excellence in education, we mean excellence for all. We should be working to assure that every child has the same opportunity to learn.

Sadly, however, the recent education reforms have left millions of young people—especially in the metropolitan and urban areas—bypassed and literally abandoned.

This is the message of a new report, "The Imperiled Generation: Saving Urban Schools," issued last week by the trustees of the Carnegie Foundation for the Advancement of Teaching.

I commend this report to my colleagues and urge your careful study of the recommendations of this distinguished group of educators and public-spirited citizens.

Mr. President, I ask that the report, titled "An Imperiled Generation: Saving Urban Schools" be printed in its entirety in the CONGRESSIONAL RECORD.

The report follows:

AN IMPERILED GENERATION—SAVING URBAN SCHOOLS

THE CARNEGIE FOUNDATION FOR THE ADVANCEMENT OF TEACHING MEMBERS OF THE BOARD OF TRUSTEES

Stanley O. Ikenberry (Chairman), President, University of Illinois.

David W. Hornbeck (Vice-Chairman), Superintendent of Schools, Maryland State Department of Education.

Terrel H. Bell, Professor of Educational Administration, University of Utah.

Ernest L. Boyer, President, The Carnegie Foundation for the Advancement of Teaching.

Martha E. Church, President, Hood College.

Constance E. Clayton, Superintendent of Schools, School District of Philadelphia.

Eugene H. Cota-Robles, Assistant Vice President of Academic Affairs, University of California.

Alonzo Crim, Superintendent of Schools, Atlanta City Schools.

Norman C. Francis, President, Xavier University.

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Patricia Albjerg Graham, Dean, Graduate School of Education, Harvard University.

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Robert M. O'Neil, President, University of Virginia.

Dale Parnell, President, American Association of Community and Junior Colleges.

Jack W. Peltason, Chancellor, University of California, Irvine.

Donald C. Platten, Chairman of the Executive Committee, Chemical Bank of New York.

The Honorable Charles S. Robb, Hunton & Williams, Washington, D.C.

David E. Rogers, M.D., The Walsh McDermott Distinguished Professor of Medicine, Cornell University Medical School.

Rev. William J. Sullivan, President, Seattle University.

Alexander Tomlinson, Director, Center for Privatization.

Daniel Yankelovich, Chairman, The Yankelovich Group, Inc.

PROLOGUE—A GENERATION IMPERILED

Without good schools none of America's hopes can be fulfilled. The quality of our education will determine the strength of our democracy, the vitality of our economy, and the promise of our ideals. It is through the schools that this nation has chosen to pursue enlightened ends for all its people. And it is here that the battle for the future of America will be won or lost.

Since 1983, school reform has been at the top of the national agenda. Educators, governors, and even corporate leaders have played starring roles in this impressive drama. The curriculum has been enriched, graduation standards raised, teacher salaries improved, certification procedures tightened, and preschool education has received vigorous support.

We, as trustees of The Carnegie Foundation for the Advancement of Teaching, welcome this sustained push for school renewal. We applaud the progress. Still, we are deeply troubled that a reform movement launched to upgrade the education of *all* students is irrelevant to many children—largely black and Hispanic—in our urban schools. In almost every big city, dropout rates are high, morale is low, facilities often are old and unattractive, and school leadership is crippled by a web of regulations. There is, in short, a disturbing gap between reform rhetoric and results.

The failure to educate adequately urban children is a shortcoming of such magnitude that many people have simply written off city schools as little more than human storehouses to keep young people off the streets. We find it disgraceful that in the most affluent country in the world so many of our children are so poorly served.

There are exceptions, to be sure. In preparing this report Foundation representatives traveled to some of the nation's largest cities. We found outstanding principals who have turned failing schools around. One junior high school principal in New York City's South Bronx, for example, has built a reputation of excellence that even attracts recruiters from elite private high schools. In Los Angeles, a principal with vision has inspired both teachers and students to high levels of achievement.

We met gifted teachers who believe in students and conduct their classes with the expectation that learning will occur. In one sixth grade class, we found a group of thirty students eagerly discussing Charles Dickens' *Oliver Twist*. They knew the good guys from the bad guys and were cheering for little Oliver who, like them, was trying to survive in a hostile climate. This teacher brought nineteenth century London to the classroom and related great literature to the realities of students' lives. Educators such as these are the unsung heroes of the nation.

But excellence in education ultimately must be judged by what happens to the least advantaged students. And, thus far, the harsh truth is that the reform movement has largely bypassed our most deeply troubled schools. Urban renewal has breathed fresh life into vast stretches of the nation's cities. Ramshackled structures have been razed, glass towers have risen, and city blocks have been beautified with plants, parks, and walking spaces. Cities have spacious convention centers, new hotels, and banks that look like great cathedrals. But what about the schools?

If urban America, regardless of its gleaming high rises and impressive skylines, is a place where education is neglected, then the glittering signs of "progress" remain a shameful facade.

One high school in Cleveland is near a once bustling intersection of commerce, but so many surrounding buildings have been razed that now the vacant land makes the school look like a forgotten outpost in an underdeveloped country. A sprawling playground is rendered useless by a carpet of glass. Inside, lavatories for students have no light bulbs, the stalls have no doors and there is no toilet paper in the dispensers. There is an atmosphere of hopelessness among students, mirroring the outside world.

In Cleveland recently, only one public high school student was a semifinalist in the National Merit Scholarship competition, out of the 15,000 so recognized nationwide. At a Chicago high school, only 10 percent of the entering tenth graders were able to read effectively. In New Orleans, the average high school senior was reading at a level exceeded by 80 percent of the students in the country. In a Houston elementary school, half the students had to repeat a grade because of unsatisfactory academic progress.

During school visits, we found that 75 percent of the high school freshmen in Chicago had reading test scores below the national average, and only five of that city's sixty-four public high schools had averages approaching national reading norms. Only 229 of the 1,918 students at one Los Angeles high school scored at grade level in reading.

A particularly sobering appraisal was offered by the City-wide Educational Coalition in Boston, which concluded: "Not only do 44 percent of (Boston's) high school students drop out before they reach 12th grade, but over 40 percent of those who do reach 12th grade score below the 30th percentile on a standardized reading test. They may graduate, but they are functionally illiterate."

In New York City, at academic high schools geared to prepare students for college, we found that one out of every five students was absent on any given day. And in four of those schools, the absence rate approached one in three. "I made guest appearances when I was enrolled," said a student who transferred to an alternative high school. "The environment there was not one in which the kids wanted to learn. They just wanted to hang out on the streets."

There is, in fact, a widespread "culture of cutting" in many inner city schools. Evidence of this could be seen one Monday last spring in a high school where 11 of 28 students had shown up for a course called "High School Mathematics" and 7 of 18 for a biology course. Students selectively skipped classes, most often those early in the morning, or at the end of the day. In Boston, a study of middle schools showed that the portion of students absent at least 15 percent of the time increased in 14 of the 22 schools in just one year.

Such truancy is often a prelude to leaving school altogether. Each year almost 700,000 students call it quits, forming a group that exceeds the populations of all but the nation's largest cities. In New York, at least one of every three students drops out. At one high school in Los Angeles, because of their mobility and academic failure, seven out of ten students leave between the ninth and twelfth grades.

In large urban schools, we found an anonymity among students, an atmosphere in which young people are unknown and unsupported by adults. Teenagers in these schools are often socially unattached and feel unconnected to the large world. For these students dropping out is easy. Alienated youth, for whom schools have barely made a difference, are flooding into communities where they confront unemployment lines, welfare checks, homelessness, and even jails.

Urban communities often are unsafe for children. They are places where the family is frequently a more troubled institution than the school. Poverty makes it difficult for parents, despite their caring and concern, to be helpful in their children's education. A startling 70 percent of teachers in urban schools say lack of parental support is a serious problem.

Thus, a devastating instability and divisiveness in cities undermines the effectiveness of schools. And America continues to face the very real possibility of the two separate societies envisioned by the Kerner Commission two decades ago. In its prophetic statement, the Commission warned of a social and economic division in the nation "so deep that it would be almost impossible to unite."

Here then is our conclusion: America must confront, with urgency, the crisis in urban schools. Bold, aggressive action is needed now to avoid leaving a huge and growing segment of the nation's youth civically unprepared and economically unempowered. This nation must see the urban school crisis for what it is: a major failure of social policy, a piecemeal approach to a problem that requires a unified response.

Improving schools cannot solve all our problems. Still, public education is the key to bringing hope to children, renewal to our cities, and vitality to the nation. Therefore, in this report we propose a comprehensive program, one that puts together, as a single strategy, the best practices we observed. Specifically, our plan includes the following: commitment to educate all children, new governance procedures, and educational renewal program for the local school, and partnerships that link the school to a network of local, state, and federal support. Urban schools cannot do the job alone.

The first priority is to affirm that every student can succeed.

While Americans talk of providing a quality education for all children, we found that many people, both in and out of schools, simply do not believe this objective can be reached. It is unacceptable to perpetuate a system in which failure is commonplace, or tolerate schools where so many students are passed along in a familiar pattern that divides the winners and the losers. This nation must reaffirm equality of opportunity unequivocally and give it meaning in every classroom. Students, even from the most difficult backgrounds, can academically and socially succeed. The goal must be quality for all.

Urban schools should have high expectations for all students, not just the most advantaged.

The second priority for urban schools is to build an effective governance arrangement. In most cities, the school is viewed simply as one more administrative "unit' to be controlled rather than inspired. Principals are crippled by mindless regulations. Purchases, from pencils to window shades, to textbooks, are centralized, and in New York City, school custodians, by contract, are answerable to no one but themselves. In such a climate, teachers, and principals soon learn that conformity, not creativity, is rewarded. Educational leadership must be school-based.

But there is another side to the equation. Local schools also must be held accountable; they must demonstrate that effective learning has occurred. Current school assessment often makes a mockery of such evaluation. Principals and teachers are kept busy tracking routine procedures, not the educational outcomes of their efforts. Clearly defined standards for school performance are required.

Further, outside intervention should occur if educational objectives are not met. A failing school cannot be neglected any more than a health crisis or a national disaster can be ignored. We propose, therefore, a three-part plan to improve the governance of urban education:

The excessively centralized, bureaucratic control of urban schools must end. Effective local leadership is crucial. Every school should be given the freedom and flexibility required to respond creatively to its educational objectives and, above all, to meet the needs of students.

School-based authority, while essential, is not sufficient. Each school must be held accountable for its work. State and district officials should set forth the criteria by which excellence will be determined, focusing especially on the educational performance of students.

Intervention procedures also are required. If, after a reasonable period, the urban school fails to meet clearly defined objectives, officials should have the power to intervene. The range of such intervention should include professional consultation, new leadership, new educational arrangements and the closing of the school.

The third priority is to introduce at every school a comprehensive program of renewal. Educational success can, and does, occur in city schools and even in the most troubled urban pockets we found good practices that serve students well. But these effective, commonsense procedures—from early intervention, to smaller schools, to flexible scheduling arrangements— should not be introduced in piecemeal fashion. What urban schools now need is a comprehensive renewal program that embraces the following commitments:

Special emphasis should be given to preschool and early education. This means that, with government assistance, the nutritional and educational deficiencies of disadvantaged children must be overcome. It also means reorganizing the primary grades as a "basic school" and giving priority to the language development of each child.

School size is crucial, too. All urban schools should be organized into small units—schools-within-schools—to make it possible for teachers to work together and overcome the sense of isolation felt by young people in the inner city. Every student should be well known and counseled by a caring mentor.

Every urban school should have clearly defined goals and a curriculum that prepares students to meet their social and civic obligations, that introduces them to the world of work, and helps them relate activities of the classroom to the realities of their lives.

The urban school should be flexible in its scheduling arrangements, offering, for example, work-study and weekend programs, an extended school year, five- and six-year diploma options, independent study, and early college entry. A program of coordinated services also is required to meet the educational, financial, and social needs of students.

Good facilities are essential. City schools must be places with good equipment and libraries for effective learning. Federal support is needed to permit the refurbishing of old buildings and the construction of new facilities so students can learn in safe, attractive settings.

The fourth priority is to create a network of support beyond the school. In most cities, schools struggle to survive in a climate of neglect. They are cited in headlines for their failure but often are not given positive community support. State financing of urban schools frequently is insufficient, and federal leadership is lacking. It is not possible to have an island of excellence in a sea of indifference. Parents, college teachers and business leaders, as well as government officials at the state and national level, must be partners in renewal. The following cooperative arrangements are essential:

Parents should be involved in schools, consulting with teachers, and monitoring the progress of their children.

In addition, libraries, churches and youth clubs, along with higher education, industry, and business, should provide a network of resources that enriches learning opportunities for urban students.

Local and state government officials have primary responsibility for the fiscal health of public education. Their leadership, which has sustained so much of the current reform effort, should now focus on urban schools and greater equity in school financing is crucial.

The federal government should provide both enlightened leadership and increased financial support for urban schools. Such leadership calls for a new National Urban Schools Program, one that focuses on child nutrition, early education, enrichment programs and better facilities for urban schools.

The Carnegie Foundation, for more than 80 years, has committed itself to the improvement of American education. As its trustees, we conclude that saving urban schools is perhaps the most urgent educational challenge this nation confronts. Surely, it is the most critical issue the Foundation has addressed.

Sweeping improvements in urban schools can and must occur, but change will come only when the nation wills it. Therefore, we, the Trustees of the Carnegie Foundation, call upon America to commit itself to a crusade on behalf of urban education. The greater the delay the greater the cost. If our democracy is to endure, the nation cannot afford to wait.

I. THE MANDATE: EXCELLENCE FOR ALL

We begin with one essential declaration: an urban school will be successful only as teachers, administrators, and community leaders have confidence that all students can succeed. Different approaches to learning are required, but all students, regardless of background, should be given the tools and encouragement they need to be socially and economically empowered.

It is unacceptable that, year after year, about one out of every three urban students leaves school before completing the program or receiving a diploma. While the dropout rate among nonwhites has slowed, academic failure rates continue to be considerably higher for minority students than for whites. This gap persists precisely at a time when black and Hispanic students represent a growing proportion of the population.

During school visits we were struck by the frequency with which many students were described as "failures." While still in school they were, it seems, only marking time. It is significant, we believe, that 21 percent of today's teachers believe schools cannot expect to graduate more than 75 percent of those enrolled (Table I). Still more sobering, about 30 percent of urban high school teachers feel this way.

Teacher expectations vary dramatically from class to class. A social studies teacher in a Los Angeles high school confided somewhat sheepishly that her students were using a book written on a third-grade level because that was "all they could handle." "It's a game we play," said a teacher in Houston. "If we held them all back the system would get clogged up. So we water down the curriculum and move them along."

At another high school, this one in Chicago, an English teacher told us, "the majority of students will try at the beginning of the year, but they get a few pages into the work and find that it's too hard. So they give up. The best of them, even though they can read the words, can't understand much beyond the basic plot and are unable to read for any kind of deeper meaning."

In an earth science class at a middle school in Houston, eighth graders spent a period examining samples of granite, looking at large crystals which the teacher said meant that the rock had cooled quickly. The workbooks open on their desks posed questions written on a fourth-grade level "so that the material would be understandable," according to the teacher. Some teachers we met predicted that half of their students would drop out of school within two years. What does this say about expectations?

A science teacher at a high school in New Orleans said that because students were weak in the basics, the chemistry course was "for the most part 'general science' under the rubric of chemistry." He said the content was "watered down and spoon fed." A Houston teacher of "Informal Geometry," assigned a problem in which students were asked to find a proof. Only two of 110 students in three classes solved the problem, making him wonder, he said, "whether youngsters are being taught in such a rote manner in the early grades that they are ill-equipped to work with concepts later on."

TABLE I.—TEACHERS' ASSESSMENT OF STUDENTS' PROSPECTS FOR GRADUATION

	Urban schools	All schools
Percentage of teachers who agree schools cannot expect to graduate more than 75 percent of all students	28	21

Source: The Carnegie Foundation for the Advancement of Teaching, National Survey of School Teachers, 1987.

Urban students are often academically restricted by the curriculum itself which is divided between the academic, vocational, and general programs. But putting students into boxes can no longer be defended. To call some students "academic" and others "non-academic" has a devastating impact on how teachers think about students and how students think about themselves. The message to some is, you are the intellectual leaders; you will go on to further education. To others it is: you are not academic. You are not smart enough to do this work. Students are divided between those who think and those who work, when, in fact, life for all of us is a blend of both.

Clearly there are schools that make a difference, places where expectations for all students are high. At Bret Harte in Los Angeles, all seventh graders are taught the same lesson in mathematics. They then break into small groups and work at different levels, moving up as they demonstrate mastery of the material.

Locke High School, a large urban school, is pushing to raise the expectation levels of all students. It offers Advanced Placement courses in biology, chemistry, French, Latin, calculus, English and U.S. history. "We make a statement to students by offering all of the Advanced Placement courses," said the principal. "We want to keep the program going even if there is only one student to sign up."

Donald Perkins, a teacher at Clark High School in New Orleans, approaches his physical science course with the conviction that everyone is in the room to learn. Prior lack of success is not the issue even though it is a course for students who have failed before. He doesn't expect all students to become scientists, but he does believe that all of them must, and can, learn about the physical world around them.

Perkins is taking students through the vocabulary on the board: volcano, magma, cone, crater, lava, volcanic ash, volcanic eruptions. "Remember what we said about writing things down, it helps if the vocabulary becomes a part of you," Perkins advises. "What about ashes, cinders and bombs? Imagine a volcano erupting and giving off material. Even if you had never heard of volcanoes, do you think the bomb would be the biggest or the smallest particle?" He keeps rephrasing questions, walking among students, proceeding up one aisle and down another, seeking a response. "How large is a cinder?" Perkins asks, trying another approach. The questions from the teacher are gentle but relentless. "We talk of an extinct volcano; where else have you heard the word 'extinct'?" Students will come out of the class succeeding. The teacher has dedicated himself to that end.

Equality of opportunity, along with the support to make it real and not merely rhetorical, must be seen as the unfinished agenda for the nation's schools. To expand access without upgrading urban schools is simply to perpetuate discrimination in a more subtle form. But to push for excellence in ways that ignore the needs of less privileged students is to undermine the future of the nation. Clearly, equity and excellence cannot be divided. Unless we find ways to overcome the problem of failure in urban schools, generations of students will continue to be doomed to frustrating, unproductive lives. This nation cannot afford the price of wasted youth.

II. GOVERNANCE: A NEW STRUCTURE

The governance structure of urban schools must be radically overhauled. Basic education policy should be shaped at state and district levels, but day-to-day decision-making should shift to the local school. Principals and teachers must be given more authority. They must be freed from a system of red tape that causes them to scrounge for chalk and paper clips while bombarding them with a steady flow of procedural directives.

But, granting more autonomy to the local school, while essential, is insufficient. Such authority must be accompanied by accountability and also by procedures for intervention in the event a school fails to educate its students.

SCHOOL-BASED LEADERSHIP

During school visits, we heard the word *bureaucracy* used derisively, time and time again. We often found a nightmare of regulation and frustration. Government agencies impose on schools a tangled web of mandates that cover attendance quotas, requirements for graduation, teacher certification, the nature of state aid, the selection of textbooks, the structure of curriculum and dozens of recordkeeping forms.

Principals and teachers, in many cities, are caught in a governmental system more preoccupied with paperwork, it seems, than with learning. While tight control by public agencies is rooted in the call for accountability, the reality is that principals are often held responsible for the bureaucratic rather than the educational aspects of their work.

By mandating, in detail, how schools must be run, the professionalism of the staff is undermined and individual teachers are robbed of authority to act. Here is how one New York City principal described her situation:

> As I stare at the piles of memos and forms that confront me as a school principal, the job appears somewhere between a joke and an impossibility. The staff and I are directed instantly to implement new programs to resolve current social crises, to use the latest research on teaching, to tighten supervision, increase consultation, and to report back in detail on all the above. There are pages of new rules and regulations to study: It would take a few months to make sense of the Regents plan alone. Responding to it would take a lifetime. Meanwhile, finding the funds to buy paper, repair our single rented typewriter, fix a computer, or tune the piano requires most of my time and imagination.

Teachers in urban schools also have too little control over their work. They are three times as likely as their counterparts in non-urban districts to feel uninvolved in setting goals or selecting books and materials. They are twice as apt to feel they have no control over how classroom time is used or course content selected.

Paper work is a problem, too. As one teacher explained it:

> Paper work is one of the things that competes for my time. You have to check roll in homeroom and then you have to see if anyone is tardy. In second period, you have to fill out an attendance report that is audited for average daily attendance. You have to keep those records in your grade book. Then, if a student is absent three times you have to list him on a special form that goes to the principal with your lesson plans. And you have to call the student. On the fourth day, you have to send a letter to the student's parents, and send another form into the office when the student is absent the sixth time. I think that is a lot of time that surely could come from some other source, like from the attendance office. It is an every period activity.

Urban high school teachers frequently have no permanent classroom, or even a desk of their own. They have no pleasant place to take a break or to lunch with colleagues. Even access to a telephone is limited. In some schools, floors are dirty, windows grimy, rest room facilities a disaster, and even teaching materials are in short supply. Here is how one teacher described it:

> I sometimes wonder how we're able to teach at all. A lot of times there aren't enough textbooks to go around; the library here is totally inadequate; and the science teachers complain that the labs aren't equipped and are out of date. We're always running short on supplies. Last year we were out of mimeograph paper for a month, and once we even ran out of chalk. After a while you learn to be resourceful. But it's still frustrating to try to teach under these conditions. I mean, talk about teaching the basics! We don't even have the basics to teach with.

TABLE II.—TEACHERS' ROLES IN DECISIONMAKING

Decisions made	Percent of teachers reporting "no control"	
	Urban schools	Other schools
Setting goals	17	6
Selecting course contents	29	14
Selecting textbooks and materials	36	12

Source: The Carnegie Foundation for the Advancement of Teaching, National Survey of School Teachers, 1987.

TABLE III.—TEACHERS' RATING OF THE PERFORMANCE OF PRINCIPALS

	Percent of teachers responding principal's performance is "below average"	
	Urban schools	Other schools
Support for teachers	40	32
Treatment of teachers as partners	51	46
Communication with teachers	52	45
Openness to suggestions	54	43
Eliminating red tape	54	43

Source: The Carnegie Foundation for the Advancement of Teaching, National Survey of School Teachers, 1987.

In the most troubled schools, teachers, with good reason, do not feel safe in the halls, in the parking lots, or even in the classrooms. Violence levels are high and assaults against teachers are not uncommon. A Carnegie Foundation poll of teachers nationwide revealed that over half the teachers in urban schools consider vandalism and disruptive class behavior a problem in their school (See Table VI).

Every school should have not only high expectations for academic achievement but high expectations for conduct, too. Standards of discipline must be consistently and sensitively enforced throughout the school. Education and civility are linked.

Further, the working conditions for teachers must improve. This nation cannot expect teachers to exhibit a high degree of professional competence when they are accorded a low degree of professional support. Nor can we attract the most thoughtful and intellectually capable students into teaching when, for twelve years, they have observed first-hand the frustrations and petty humiliations that many teachers must endure.

Here again, school-based management is the key. Principals and teachers—those closest to the students—should be given more authority to run the schools and the confidence between teachers, principals, and district and state education leaders must be strengthened. Our national survey revealed that the majority of teachers give good marks to their principals. However, this support is less strong in urban schools where teachers are more likely to rate the principal "below average" in supporting their work and communicating with them (Table III).

Even as we focus on the importance of the local schools, however, we acknowledge the key role of the central office and those who must coordinate the work of a complicated system.

Thus, we found it especially disturbing that only 18 percent of urban school teachers rank state and local education officials "above average." We recognize that issues of financing and equity, as well as court mandates, have placed heavy burdens on the central administration of urban schools. But boards and superintendents must think of themselves primarily as providing services and resources to enable teachers and principals and parents to be successful. Among the fundamental responsibilities of the school board, we emphasize three:

Finances: The district board should obtain—from local, state and federal sources—adequate financial support for schools and make resources available in ways that are minimally restrictive.

Personnel: The school board should ensure that the ablest and best qualified people are employed to lead and teach in the system's schools. This must begin with the selection of a thoughtful and knowledgeable superintendent.

Coordination: The school board should build a bridge between the school and those groups and agencies, including state and local governments, that seek to enrich school programs, doing so with due regard for both the integrity of the individual school and the legitimate expectations of those beyond its walls.

How can school leadership be strengthened? We recommend that the principal and teachers at each school have authority to allocate funds within guidelines set by the district office. Further, the district should provide each principal with a discretionary school improvement grant for program materials, special seminars, and staff retreats. One principal reported that he had $40.00 in discretionary money to pay for refreshments at faculty meetings. And that, he said, was "profit from the Coke machine."

We also recommend that the principal, acting in consultation with colleagues, be given responsibility for the final selection of teachers for the school. School boards and unions must be willing to set aside some of their controls over school assignments to make this work. In too many schools, principals are not consulted when the district decides which teachers should be assigned to which school. "I have no control anymore," said an urban principal. "We have had five weeks of school, and already fifteen new teachers have come in—and fifteen have left because of 'bumpings'—teachers with seniority remove other teachers. In addition, each year, mostly through inheritance from somewhere else, I get three to five inept teachers."

We agree with John Goodlad who said, "There is no educating of young people in the school 'system'; it takes place in tens of thousands of individual schools. Reconstruction must take place then in each of these schools . . . Any overhaul of the system must be directed to increasing its ability to provide services to each local school."

ACCOUNTABILITY: A SCHOOL REPORT CARD

The debate about governance, in many cities, is whether to "centalize" or "decentralize" the public schools. On the one hand, tight district control promises accountability, but risks rigidity in a faceless system. On the other hand, granting autonomy offers the possibility of community participation, but with the risk that, without oversight, such fredom might be abused. Since governing boards often cannot agree on educational outcomes, they attempt to achieve accountability and control through bureaucratic regulations, not educational results.

What is often missing in the "control-no control" debate is a careful consideration of the middle ground. Teachers and principals must be given greater freedom to make decisions. But school empowerment is only a means to a larger end. The public deserves to see results. In calling for greater school authority, we acknowledge a parallel and absolutely essential need for evaluation.

We conclude that holding local schools accountable is perhaps the most important and least effective part of urban education. What is needed is a school report card, one that includes a wide range of measures to evaluate school goals and procedures as well as student progress. We recommend, therefore, that each school be asked to demonstrate, at regular intervals—perhaps on an annual or bi-annual basis—the eductional effectivess of its program. Such a strategy might include reports that respond to the following questions:

Does the school have clearly defined goals?

Does the school evaluate the language proficiency of each student? What evidence is there that students are developing their ability to communicate in both the written and spoken word?

What are the number and types of books being read by students?

Does the school have a core curriculum for all students? What is the general knowledge of students in such fields as history, geography, science, mathematics, literature, and the arts? Is such knowledge appropriately assessed?

What is the enrollment pattern among the various educational programs at the school? Specifically, what is the distribution between remedial and academic courses?

Is the school organized into small units to overcome anonymity among students and provide a close relationship between each student and a mentor?

Are there flexible scheduling arrangements at the school?

Is there a program that encourages students to take responsibility for helping each other learn and helps make the school a friendly and orderly place? How well is it succeeding?

What teaching innovations have been introduced during the preceding academic year? Are there programs to reward teachers who exercise leadership?

Does the school have a well developed plan of renewal for teachers and administrators?

Is the school clean, attractive, and well equipped? Does it have adequate learning resources such as computers and a basic library? Can the school document that these resources are used by students and teachers to support effective learning?

Are parents active in the school and kept informed about the progress of their children? Are there parent consultation sessions? How many parents participate in such programs?

Does the school have connections with community institutions and outside agencies to enrich the learning possibilities of students?

What are daily attendance and graduation rates at the school?

What changes have occurred in the dropout rate and in students seeking postsecondary education and in getting jobs after graduation? What is being done to improve performance in these areas?

What we envision is an evaluation program in which the school systemically collects information and reports on students and school progress, not simply on institutional procedures. There is both input and output in the assessment, with a focus not just on means, but ends. For the school, the emphasis should be on a well-planned program, with flexibility, and a climate that supports a community of learning. For the student, the focus should be on language skills, acquisition of general knowledge, and on the capacity to think clearly and integrate ideas. Attention also should be given to the books the students read, the service activities they perform, and the uses they make of resources in the school and beyond.

The school report card we propose would be submitted to the district office and the state. Such reports should be accompanied by an overall evaluation prepared by the principal, teachers, and parents who identify improvements as well as problems. A judgment of progress, or lack of progress, should be made—not against some arbitrary standard—but against the school's own performance in preceding years. Further, when the report card is submitted, the school should also set priorities for the subsequent year.

A STRATEGY FOR INTERVENTION

We support the integrity of the local school. We urge that principals be allowed to lead. We call for the empowerment of teachers, and we propose a report card on the school for the purposes of accountability. But even these are insufficient. If the school, after a reasonable period, is not able to provide evidence of quality education for its students, if the accountability reports do not reveal satisfactory progress, there must be outside intervention.

During our visits we found schools where students have, for years, been deprived of a proper education, where young people are passed along from grade to grade without evidence of academic progress. The schools are underfunded, morale is low and facilities are decaying. The high dropout rate persists year after year. It is our deep conviction that when schools fail, swift changes must be made. No other crisis—a flood, a health epidemic, a garbage strike or even snow removal—would be as calmly accepted without full-scale emergency intervention.

Therefore, we propose that the state and local district be authorized to appoint a School Evaluation Team, made up of education officials, along with parents, teachers, and college faculty members, to review a school where unsatisfactory progress is reported. The evaluation team, in its assessment, would have access to school records in addition to the official report. On-site visits would be scheduled. Team members would observe classes and conduct interviews with the principal, teachers, students, and parents.

Upon completion of its site visit, the evaluation team would identify strengths and weaknesses and prepare a specific plan for school improvement. It would outline steps that the state, the district board, and the local school should take. A range of options would be available.

First, the evaluation team might outline a list of emergency steps to be taken by the school itself with the understanding that another mid-year assessment would be scheduled.

Second, the team could recommend a continuing review arrangement, citing problems that bear watching. Under this procedure, on-site consultation would be provided by a senior advisor who would spend time working with teachers, counselors, and administrators. An analog for this person might be the "School Inspector" in the English system who plays the role of prodder, coach, and advocate.

Third, the evaluation team might also conclude that the school was failing because of a fiscal crisis. It could then recommend that a special state fund be established to provide emergency aid to the school, prosposing also how the additional resources should be spent.

Fourth, the team might conclude that poor leadership is the problem. In this case, it may well recommend removing the principal. This means that the practice of tenure for principals should be ended. Principals should continue in office only so long as they are able effectively to lead the school.

Finally, the problems may be so great and so intractable that the school, as organized, cannot be improved. In such a case, the evaluation committee could recommend closing the school, providing new educational arrangements for the students. This would be a strategy of last resort.

The Department of Education in California has introduced a statewide plan of assessment in secondary schools that parallels in some respects our suggested review process. The California plan—a joint review conducted by the Western Association of Schools and Colleges and the State Department of Education—has three goals: to assure that the curriculum meets established criteria for quality; to assist students in high schools in meeting requirements for graduation and postsecondary admissions; and to provide an opportunity for professional growth. A main feature of the California assessment is the assigning of specialists, one for each academic subject area, to consult with the teachers on professional development and to help in the preparation of the self study.

Other states are now considering ways to measure school performance and, if necessary, to intervene. Eight states have proposed or enacted legislation dealing with "academic bankruptcy" or "failed" districts. They are Arkansas, Georgia, Illinois, Kentucky, New Jersey, New Mexico, Ohio, South Carolina, and Texas. While the results of this legislation are largely untested, each state has called upon local districts to undergo periodic evaluation relating to such "input" measures as fiscal resources, numbers of library books and programs; organizational, pedagogical, and curricular practices; and "output" measures ranging from academic achievement to attendance and dropout rates.

The intervention methods in these plans involve restructuring the districts, withholding funds, or firing the superintendent. The National Governors Association is now developing new models of school structuring to assure that there will be quality schools for all students.

Again, local school control is crucial, but it is insufficient. In the end, students must be served and there may be times when the school, for whatever reason, is unable to provide the conditions for effective education. In such circumstances, public officials have both a legal and moral obligation to intervene.

III. EXCELLENCE: PRIORITIES FOR RENEWAL

High expectations and good governance are the first steps in renewal; but the final test is what happens within the school itself. During our visits, we saw, in all too many cases, a fragmented approach to school improvement. We found isolated examples of good practices, but there was no overall design. We conclude that the time has come for a comprehensive program of renewal to be introduced in every school in every city. The exceptional example of excellence must become the rule.

In this chapter, we set forth a five-part plan for school renewal. We suggest that every school give priority to the early years; have a clearly defined curriculum; be flexible in its scheduling arrangements; provide a program of coordinated services; and be a safe, attractive place with good equipment and adequate resources for learning. The program we propose also calls for partnerships and additional state and federal support.

THE EARLY YEARS: A GOOD BEGINNING

Poverty and schooling are connected, and a student's poor educational performance may relate to events that precede schooling—and even birth itself. The growing fetus requires a diet rich in protein, vitamins, and minerals. And yet, most mothers in poverty do not have adequate nutrition. Further, the human brain grows most rapidly during the first year of life. But for more than 20 percent of America's children, undernourishment is common. Malnutrition affects almost a half-million children in this nation.

A report by the Physicians Task Force on Hunger in America at Harvard University's School of Public Health revealed that the child, deprived of adequate nutrition during critical years of brain growth, risks "cognitive deficits" that restrict learning later on. In a Louisiana study, poor children who received supplements were compared to those who had been nutritionally denied. The children receiving good nutrition had a higher IQ, higher attention span, and higher grades in school.

We realize that to talk about babies and poor health may appear to be far off the school reform agenda. Yet, the evidence is overwhelming. Educational problems cannot be divorced from poverty in the inner city. Poor health in the early years inhibits the physical and intellectual growth of children. It affects their ability to succeed in school. Mothers and young children must have good nutrition if good education is our goal.

Most urban teachers understand how learning is crippled if children are nutritionally or emotionally deprived. Half the urban secondary school teachers we surveyed said neglected children are a problem. Thirty-seven percent of these teachers described poor nourishment as a serious matter, and over 30 percent say "poor health" among children is a problem (Table IV).

We conclude that federal child nutrition programs should be more adequately funded. Further, community health projects should be established with public and private funding to provide support and early intervention for poor mothers and their children. In Chicago, every pregnant woman who resides in one of the four buildings of the Robert Taylor Homes, a public housing project, is invited to join a program funded by government and private sources. From pregnancy to their child's first year of school, mothers are given advice, as well as assistance with nutrition, health, and early education.

Another point of great concern: many poor children are not educationally stimulated in the early years or introduced to the richness of language. "Kids grow up with little interest in school," said Everett J. Williams, the school superintendent in New Orleans. "They come to school not able to count to ten, not knowing their colors, not knowing where they live, and some not even knowing their names. At the beginning of their careers in school they are already students at risk."

We conclude that every eligible child should receive the benefit of Head Start or an alternative preschool program. Head Start, which today serves fewer than 20 percent of those eligible, has proven to be especially successful in helping children overcome many social, health, nutritional, and learning difficulties in the early years. Specifically, we propose an annual incremental expansion of Head Start so the program can serve all eligible children before the year 2000. We also strongly recommend that funding for Chapter One of the Education Consolidation and Improvement Act be increased at least 5 percent each year until all of the nation's eligible children are served. These federal programs have demonstrated their value in offsetting the educational disadvantages of poor children. The investment we propose is small when compared with the cost of wasted lives.

This brings us to the school itself, where priority in the early years should be on helping each child become proficient in the written and the spoken word. Specifically, we recommend that the early years—kindergarten through grade 4—be reorganized into an ungraded Basic School. Such a school, with relatively small classes, would give priority to language. The goal would be to assure that every child completing the basic school could read with understanding, write with clarity, and effectively speak and listen. Children of different ages and achievement levels would be in classes together. Each student could work at his or her own performance level.

Children in the Basic School would, from the first, be speaking, writing, reading, and talking about words, listening to stories, become linguistically empowered in an environment that the foreign language people like to call the "saturation method." No child should leave fourth grade without good command of English.

An increasing number of urban children come from non-English speaking homes. It is estimated that the parents of about 10 percent of the nation's students do not speak English. One such child we saw in a Houston fifth grade class had left Mexico just five months earlier. The student spoke almost no English and gave little indication of understanding the language in the regular class to which he was assigned. "A shocking proportion of this generation of Hispanic young people is being wasted," warned a report by the Hispanic Policy Development Project. "Wasted because their educational needs are neither understood nor met, their high aspirations unrecognized, their promising potential stunted."

The issue of how best to teach non-English speaking students is mired in the debate over bilingual education—a conflict that often has as much to do with politics as education. Advocates defend bilingual programs as the only way to be certain that students can keep up in their studies and maintain a positive view of their heritage while learning English; critics argue that the programs undermine the child's need for proficiency in English.

Research suggests that bilingual education succeeds in schools that are themselves effective. Typically, programs that fail are in schools that are ineffective in curriculum, classroom conditions, and social environment. In other words, good bilingual education, like every other kind of education, depends on clear goals and quality instruction.

TABLE IV.—TEACHER'S REPORTS ON STUDENTS' HEALTH

Conditions reported	Percent of teachers agreeing child health and neglect are a problem	
	Urban teachers	Other teachers
Abused/neglected children	49	36
Undermourished children	37	13
Poor health among children	34	16

Source: The Carnegie Foundation for the Advancement of Teaching, National Survey of School Teachers, 1987.

In summary, a good foundation should be provided for every child. Such a program begins with attention to health needs by the family and agencies beyond the school. It includes Head Start or a similar preschool program and then enrolls the student in a Basic School with priority on language. Where possible, parents should be involved every step along the way.

SMALL SCHOOLS: A SENSE OF BELONGING

Most city schools are too big, and anonymity among students is a pervasive problem. There is a feeling of isolation among teenagers at the very time their need for belonging is most intense. Harold Howe II, former United States Commissioner of Education, spoke powerfully about the problem when he called today's youth "an island in our society." Adults tell young people to "sit quietly, behave yourselves, and study hard in the schools we provide as a holding pen until we are ready to accept you into the adult world."

Today, thousands of students, especially those in the upper grades, crowd into dilapidated buildings and drift unrecognized from class to class. There is a disturbing climate of impersonality in the urban school, a feeling among students of being unknown, unwanted, and unconnected to the world. Young people are cut off from the community and have few significant relationships with adults. They are not linked to a teacher who knows them on a personal level.

Many teachers who may be responsible for as many as 150 students every day are unable to monitor student progress at anything more than a superficial level. A student in a high school in Chicago spoke for many when he said, "School is a big place where nobody really cares about you and you do what you do to get by. Just like on the streets."

This rootlessness is exacerbated by families that move from place to place. There is, for the children, little continuity to education. A high school in Los Angeles that began the school year with an enrollment of 2,028, had 1,790 students enter and withdraw during the academic year—a chaotic whirlwind that kept students faceless and unknown. A counselor at an intermediate school in Houston said it was not unusual, after a student had transferred into the school, for the child already to have transferred out by the time the records from the last school arrived. One Houston high school student said, "Why bother going to school? They don't care, why should I?" In Los Angeles another student said, "Nobody here really knows me. It doesn't matter how I do." In such a climate it is easy to "drop out" because no one even noticed that they had, in fact, "dropped in." Students know they can leave and not be missed.

The successful schools we visited were true communities of learning, places where students are known and have ongoing contact with their teachers. They belong. Therefore, we conclude that large schools should be divided into clusters with no more than 450 students each so that all students can be well known to each other, and to teachers. For example, a large school could have separate "schools-within-schools," with one on each floor or wing of the building. Every small school unit should have its own director and counselors who work with students and its own team of teachers assigned exclusively to that one cluster. Each unit would build its own traditions and sense of community.

Some old, unsafe schools should be closed, and smaller facilities should be leased or built. These new facilities could easily be located in residential or commercial buildings close to where students live or parents work. A new network of dispersed, "cluster schools" would have the added advantage of bringing young people more frequently into contact with adults. The goal must be to have within each urban school—regardless of its location and physical arrangement—a spirit of community, with a sense of bonding so that anonymity is overcome. "To improve people, one needs to know them," Theodore Sizer wrote in his critique on high schools in America.

Satellite Academy, a public school, operates at four sites in New York City, with an enrollment of fewer than 200 students at each. Almost all of the students at this school had dropped out, were kicked out, or transferred in. At Chambers Academy, one of the Satellite campuses, the faculty consists of only 11 teachers, all of whom know the students well. Students usually have the same teacher for several different courses, and each teacher spends three hours each week with 20 students in advisory sessions.

Courses at Chambers Academy are run on a contract system. Students are involved in deciding how much tardiness and how many absences are acceptable, as well as the amount of homework to be completed and how test scores and class participation will figure in final grades. Students also subscribe to a school policy that prohibits violence, graffiti, theft, and drugs. Students described their school as "a family." "There is a community here," said a young woman who had attended several high schools, where she frequently cut classes before coming to Chambers. "The teachers are like mentors and you want to succeed here and not just pass and get out."

At McDonough 35 High School in New Orleans, a caring environment was created by an inspired principal and dedicated teachers. Academic achievement is honored and the school is united behind a wide range of extracurricular activities, rivaling the best sububan schools. "This is a school where older students voluntarily adopt freshmen and take them under their wing," said a senior who was a cheerleader, a member of the speech team, and an honor student. She added, "Not only are academics hard here, but social life flourishes. We've been taught to make a lot of our opportunities and we're going to make it wherever we go."

Bret Harte Intermediate School in Los Angeles has worked to overcome anonymity with an approach that retains the intimate climate of an elementary school. Students in the sixth and seventh grades are not sent to separate teachers for each subject. Instead, teams of two teachers, sharing two classrooms, teach all the subjects and build close rapport with students. There are two separate homeroom periods a day, in the morning and afternoon, so that group contacts can be enhanced.

Fremont High School in Los Angeles—which had a 60 percent dropout rate—introduced an "adopt-a-student" program for 125 of its pupils considered most at risk. Counselors, teachers and other adults became surrogate parents to the students, helping them with homework, and rewarding them with field trips. And, as a result, only 4 of the 125 dropped out.

Orr High School in Chicago combatted alienation by creating "houses," and at Theodore Roosevelt High School in the Bronx, clusters of about 275 students were formed in connection with its Dropout Prevention Program. Members of a "cluster" were unified by a common curricular interest or a common background. Each unit has its own coordinator, guidance counselor, and one or two family workers. Clusters have their own newsletters, assemblies, and student-run disciplinary procedures. A 16-year-old ninth grader who volunteered for a cluster after cutting school 20 times during the first semester, said his attendance improved markedly in the smaller group. "I like it better because the teachers are more into my life and more concerned about me," he said.

Overcoming anonymity—creating a setting in which every student is known personally by an adult—is one of the most compelling obligations urban schools confront. Young people who have few constructive relationships with adults need a sense of belonging. They need positive encounters with older people who serve as mentors and role models for both educational and social growth. Building community must be a top priority if students in urban schools are to academically and socially succeed.

THE CORE CURRICULUM: COHERENCE AND CONNECTIONS

Students in the inner city, just as students elsewhere, should become proficient in English, have a broad, general education, and develop the ability to observe, weigh evidence, organize their thoughts, reach conclusions, and use knowledge wisely. To expect less is to underestimate the capacity of disadvantaged students and diminish their prospects for success. Further, students who do not have these important abilities and skills cannot reach their full potential, personally, socially, or economically. They will be unable to find satisfying work or participate in building their communities and the nation.

Too many urban students are just marking time, unable to see schooling as related to their lives. While living in the nation's largest and most dynamic cities, they are, paradoxically, cut off from the mainstream of American life and see little connection between the classroom and the reality of their world. They do not understand how the work they are asked to do in school will help them cope today or be successful tomorrow. Urban students rarely come in contact with anyone other than low-achieving peers and frequently do not have a realistic view of their own academic performance or potential.

"I don't think I'm having too much trouble with reading," said a girl at a high school in New Orleans who was in the 10th grade and actually reads at about the third grade level. At a Los Angeles high school, an 11th grader in an arithmetic course called *High School Mathematics*, said: "I'll need this more than I'll need geometry and algebra and it'll help me more in life." He then went on to say, "I want to be an architect." He had no understanding of the field he wanted to pursue.

We are suggesting, quite simply, that inner city students must be no less informed and no less richly educated than their counterparts in the suburbs. And yet we found that, in many urban schools, peer pressure against academic achievement is strong, especially among young males. "The fact that I like to read makes me exceptional at this school," said a sophomore in New Orleans. "Other kids don't want to read and their parents don't make them study. Some of them seem jealous of me because I go into the school library a lot."

If urban high schools are to educate their students adequately, curriculum priorities must be set. If a school district is incapable of describing clearly the things it wants its graduates to know, if teachers cannot help students become proficient in language, learn about the world around them, and see relationships beyond those which are only personal, then each new generation will remain dangerously ignorant, and the capacity of its members to live confidently and responsibly will be diminished.

What, then, do we see as the basic curriculum for all students? Broadly defined, we propose a core of study based on those consequential ideas, experiences, and traditions common to all by virtue of our membership in the human family at a particular moment in history. These shared experiences include: written, verbal, and computational language; a heritage that reveals who we are and how we evolved; memberships in groups and institutions; an interdependent relationship to nature; the need for health and well-being; the urge to be creative; and the expression of our deepest feelings through participation in the arts. These common experiences would be explored through studies in English, history, mathematics; science, and the arts.

Further, there is the related need to prepare students for productive work. With a high school diploma, job prospects are enhanced. But the vocational programs offered in urban schools—those most directly related to entry level employment and the promotion of constructive attitudes toward work—are often disappointing. During our visits, we heard repeatedly that "voc-ed" is the place to send less capable students, those who are "able to work with their hands rather than their heads." One vocational teacher told us: "They [the counselors] are sending us kids who are not really interested and are failing in school, so they put them in the vocational classes to strengthen their needed credits."

Some vocational teachers have high aspirations for their students. One spoke movingly of his desire to have students "vocationally and academically" prepared. More frequently, however, we found low academic standards and a stigma attached to teaching "nonacademic students," many of whom were in vocational education programs.

We conclude that career-related courses have an important part to play in the curriculum of urban schools. They can be enriching and highly motivating for the students. What we would eliminate, however, is the tracking pattern that puts some students in what is thought of as a "nonacademic" program, one that reduces options and assumes "voc-ed" students need no further education. We would also eliminate the narrow "marketable" skills courses that have little intellectual substance and give students "hands-on" experience while denying them a decent education.

What then is appropriate vocational preparation? All students, in preparing for work, should have a command of English and a core of common learning, should develop good work habits, be introduced to job options, and be counseled regarding career choices. Extensive job training should occur in postsecondary education or in the work place under apprenticeship arrangements. Thus, the challenge for urban schools is not to lower educational expectations. The vocational and academic programs should have meaning and make a connection between the curriculum, the student's interest, and life beyond the classroom.

One of the more successful efforts to achieve this aim is the so-called magnet school. Whether it is health careers, performing arts, business education or the humanities, students—through a magnet school—get an opportunity to link classroom experiences to their interests. Magnet schools have resulted in improved academic achievement, higher attendance, and lower dropout rates.

Since many inner city students are not impressed by the long term payoff of education—going to college, getting a better job—there is a current move to give prizes for good performance. We applaud this practice, providing it does not trivialize learning or demean the enduring benefits of education. Recently, businessman Eugene Lang promised a free college education for all sixth graders in one Harlem school who continued to attend school and graduated. The key to Mr. Lang's success was not just the scholarship idea, but the quality of the relationship he, as a special counselor, established with those students. The payoff was both immediate *and* long term.

The Boston Compact, an organization of businesses, has promised jobs to all students who stay in school and graduate. In Los Angeles, there is a plan to guarantee jobs after graduation to students who maintain at least a C+ average and a 95 percent attendance record. The Cleveland public schools have a program to pay the college costs of students with high grades. Programs such as these give tangible evidence that success in school means success in life.

In the end, however, the rewards of learning are best found in the classroom, stirred by an inspiring teacher. At George Washington High in New York City, Robert Reilly's ability to enrich students was illustrated one morning as he prepared his English class for William Saroyan's "The Filipino and the Drunkard." "What would you do," Reilly asks, "if you were on the street and saw two people start fighting," a familiar enough scenario to students in this drug-riddled, Washington Heights neighborhood. Reilly handed out papers with short descriptions of three street situations and asked the students to jot down how they would respond.

After giving them a few minutes to write, Reilly asked about their reaction to an encounter with a person lying on the street. "I see a lot of people like that who drink too much wine, so I'd walk over to see if he was breathing," Sondra says. "How close would you get? Would you touch him? How would you know whether he was breathing if you didn't touch him?" Reilly responds with questions, forcing Sondra to think about her response. And so it goes, Reilly moved about the room to ask each student for reactions, going to the blackboard to group the comments. He moved on to the second hypothetical situation, a woman ranting on the street, and a third, a fight on a moving subway car. Students were truly engaged, ready for Saroyan's story about bystanders who watched an altercation without getting involved.

Evangeline Perona, another gifted teacher, is like a conductor who views the members of her sixth grade class as the symphony. The score the teacher uses is the curriculum, and her goal is to get students to play their parts with skill and confidence. A stick of chalk is the baton as Perona leads them, 35 students in all, through the lesson. In the hands of a less able teacher this ensemble could easily disintegrate and produce a more discordant sound.

The lesson this particular day at Henry W. Longfellow Elementary School on Cleveland's far east side was mathematics; Perona was having them check their homework. They took turns going to the blackboard to work the problems. "Tell the answer and how you solved it," she said. The emphasis is on comprehension and reasoning, just as it will be later in the day in reading. "I think there is a better answer," she said, rather than saying it is wrong.

Evangeline Perona's approach was traditional, and it worked. She ran the class with loving authority, and students responded, eagerly raising their hands to contribute. Children were treated with respect and responded with good behavior. The climate favored learning as the teacher walked the difficult line that kept order without oppression, stressed basics without ignoring thinking, and maintained high expectations without being insensitive to the children.

We believe that all students, not just those who are college bound, should complete a core of common learning. The curriculum should help students meet their social and civil obligations and also give them the tools they need for productive work and further education. While students tackle core courses in different ways, the basis content and purposes should be the same for all. No student should suddenly wake up to discover that, as an adult, he or she is ill-equipped to participate responsibly in life.

FLEXIBLE ARRANGEMENTS: MORE TIME, MORE OPTIONS

Flexible calendar arrangements are essential. The school calendar and daily schedule, as now constituted, often do not mesh with student needs. During our study we found young people who planned to drop out of school, not because they were failing, but because they had other obligations to fulfill. Students who may need to work part-time or care for a young body are caught in a rigid lock step. An inflexible course sequence is squeezed into a predetermined block of time. But why cling to the anachronistic notion that high school must be completed in four years, particularly by those whose circumstances differ so greatly from the norm?

To achieve more flexibility we propose that the last two years of high school become a Transition School. The purpose is not to provide less academic content, but to arrange learning in a more manageable format. In the transition school, the daily class schedule would be more flexibly arranged. Class work could be stretched over five or six years. Students could scale down the number of courses they take, mixing work and study, possibly pursuing no courses for a semester without being considered a drop out.

The Transition School—with its attendant counseling and guidance—is, we believe, an idea whose time has come. It would give students the flexibility many of them need, particularly those whose lives are unsettled by the special demands of urban life. With a Transition School, networks of learning could be established outside the school, blending school with college study. And through seminars, students could focus on what they have learned outside the classroom.

During our study, we saw many programs in which students broke out of the rigid lock step and, as young adults, extended the campus, enriched their learning and combined schooling with other obligations. City-As-School is a New York City alternative program with hundreds of learning experiences throughout the community. Instead of attending classes in one building, students take "courses" that range from group meetings at a museum once a week to writing news reports for a local newspaper. At present, students spend 27 to 32 hours a week at one or more of the community learning centers. The figures say the school is working. Starting off with just 61 students, the school now has about 1,000 students. About 85 percent of them will graduate. Almost half of the graduates go to college.

Middle College High School operates in Queens, a joint effort of La Guardia Community College and the New York Public Schools. Here, the transition is from school to higher education. Using college personnel and facilities, the school draws its enrollment from students who had college potential but who achieved below grade level in the junior high school years. Surrounded by college students whose background is similar to theirs, Middle College rotates classes with internships to give students a taste of the adult working world. Middle College High School has reduced dropout rates and an increasing number of its students are going on to college. The Ford Foundation is helping to create similar institutions in six other cities.

A recent report by the federal Office of Educational Research and Improvement's Urban Superintendents Network cites Philadelphia's High School Academies Program which has, since 1969, helped thousands of inner-city high school students to complete their education while learning career skills:

The district works with business and industry to help provide youngsters in 10 high schools with a comprehensive educational program. Participants attend academic classes and are trained for careers in automotive mechanics, electronics, business, or health. The program also provides students with paid jobs after school and during the summer in the school's in-house factory or in industry and places students in full-time positions after graduation. From 1985 to 1987, the Academies Program nearly doubled its annual enrollment from 750 to 1,400. Almost all enrollees complete the program, and from 85 to 90 percent of those who do are placed in full-time jobs, enter the military, or continue their education.

Cincinnati's Occupational Work Adjustment Program is a one-year program for 14- and 15-year-olds also described in the Urban Superintendents Network report, Dealing with Dropouts:

These adolescents have failed to achieve with the regular curriculum, but they are thought to be capable of learning if presented with meaningful materials. Participants work with an "occupational work adjustment" teacher for at least 80 minutes each day to receive work-related and individualized remedial instruction in math, reading, language, arts, social studies, or science. They explore career possibilities, enroll in at least two academic classes each day, and also work either in school or in the private sector for at least 80 minutes each day.

Bakersfield College in California is one of a growing number of community colleges offering what it calls "2 plus 2." It is an arrangement with nine high schools that allows students to begin vocational agriculture classes in the eleventh grade and to continue through two years of college. They earn an associate's degree and get the equivalent of four years of technical training. Northeastern Junior College in Sterling, Colorado, in another 2 plus 2 arrangement, works with three high schools to offer certificates in secretarial studies and construction technology. Collaboration such as this should be expanded.

Flexibility depends heavily on good counseling. The school is, for many urban youth, the one institution that provides stability in a disintegrating community and, by operating in close alliance with other social service and health agencies, the urban school can help at-risk students confront problems that go beyond the academic. We do not suggest that the school itself do everything. What we do say is that services for many urban youth are a confusing maze of competing jurisdictions. Clearly, coordination is required.

One of the best known models of coordinated services is a national project called Cities in Schools. This program has, for years, helped at risk students stay in school by good counseling and by helping them with jobs, health, and family problems. One successful Cities in Schools program is in Rich's Department Store in Atlanta, where a school is located in a busy commercial district that brings students in contact with adults and places to work.

Teen-age pregnancy and the general need for better health care for children who live in poverty are two of the most dramatic illustrations of how the social and educational needs of students interact. Pregnancy is, in fact, the primary reason young women leave school. More than a million teen-agers a year get pregnant and half of them, usually the poorest, have babies. And it is estimated that from 25 to 40 percent of the females who drop out are pregnant or already are mothers.

One young pregnant student we met was a 14-year-old in the sixth grade. "My education is important to me and I didn't want to become a dropout," she said. This young woman was enrolled at a special Houston public school attended exclusively by pregnant students. In one year, about 600 students rotate through the school; some 300 attend at any one time. Last year, almost two of every five girls enrolled at the special school were 15 or younger. Across the country, about 10,000 babies a year are born to children under the age of 15.

The report Dealing with Dropouts describes Baltimore's Laurence G. Paquin School for pregnant teenagers. Paquin's 1,000 students, aged 11 to 20, receive personalized attention from teachers, guidance counselors, and social workers. In addition to strengthening academic skills, developing job skills, and building self-esteem, students also learn about prenatal care, human reproduction, and child care. An infant-toddler facility is an on-site resource. After about a 6 month stay at Paquin, students usually return to their regular school.

In New York City, there are child-care facilities for young mothers at 24 of the 110 high schools. At one of the high schools we visited in Cleveland, a day care center was located across the corridor from the main office. It is the first room a visitor sees upon entering the school. This spacious, carpeted room with 12 cribs usually receives 10 to 15 children a day, ranging in age from three months to three years. Mothers are expected to spend the day in classes.

We conclude that greater flexibility in school scheduling is essential if at-risk students are to be well served. Urban schools also should coordinate services for their students. The system should serve the student, not the other way around.

GOOD FACILITIES: PLACES THAT WORK

We visited urban schools where peeling paint, cracked plaster, torn window shades, and broken furniture are so common no one even seems to notice. In New York, for example, we saw schools that were filthy because the budget allowed for sweeping the floors only every other day. And at one school, two drinking fountains were in working order for its 2,000 students. In another, translucent plastic has replaced window glass. Through these shatterproof windows that let in the light, students are given a view of the outside world that cannot be brought into focus no matter how much they squint at the lopsided urban landscape.

We observed that George Washington High School—alma mater of Henry Kissinger, Jacob Javits, Kenneth Clark and William Schuman—had a biology laboratory that consisted of two tables for the teacher to demonstrate experiments. There were no laboratory benches for the students. Each time a microscope slide was prepared, it had to be passed through the flame of an alcohol lamp, posing a constant hazard. The school building was last painted 25 years ago.

At other schools, test tubes were broken and burners did not work. Dusty periodic table charts hung at odd angles on the walls. Text books were outdated. We found schools where the roofs leaked so badly that wastebaskets were used to catch the drips during rain storms. Students at Intermediate School 88 in Harlem walked around the charred remains of a fire that had occurred months before.

Half of New York city's 1,050 school buildings are at least 50 years old. The facilities are so dilapidated that the board of education said it would take $4.2 billion over the next 10 years to refurbish the physical plant. Nationally, it has been estimated that about $30 billion will be needed to refurbish public schools.

We were also disturbed by the neglect of libraries in many schools. And yet, in many inner city schools, funds are not available to purchase books and the library staff has been cut back or abolished all together. In many schools we visited, the library is used more as a detention center than for learning. Learning is enormously enhanced when students have books to read, library equipment that is up-to-date, and a setting where reading is encouraged.

Nationally, about half the teachers we surveyed rated the physical plant, security, and cleanliness at their school below average. In every category, these negative ratings were higher in urban schools than those in suburban and rural districts.

Another problem: many urban schools are often targets of vandalism, and an added burden is on those who would like to make the facilities a source of pride. Splattered by graffiti, windows shattered, and entrances padlocked in ways resembling prisons, inner-city schools frequently do not reflect a hopeful image. The general appearance speaks of an uncaring place.

TABLE V.—TEACHERS' REPORTS ON SCHOOL CONDITIONS

	Percent of teachers reporting school condition "A problem"	
	Urban schools	Other schools
Condition of physical plant	46	35
Cleanliness	51	36
Heating	54	46
Cooling	71	65
Security	55	42

Source: The Carnegie Foundation for the Advancement of Teaching, National Survey of School Teachers, 1987.

The atmosphere of neglect reflects itself in the carelessness of students. In many urban classrooms, students routinely arrive after the bell has rung, slamming the door behind them, walking in front of the teacher, disrupting the lesson. "Five percent of the students here are very disruptive in class and take up so much of our time that the kids with legitimate academic problems suffer," said a department chairman at a large urban high school.

Maintaining discipline is, in fact, a major issue in large inner-city schools. Statistics tell the story. In New York City there were 1,629 assaults and 410 robberies in the 1,000 public schools in the 1985-1986 year. This marked a 19 percent improvement in safety over the previous year. "You can't even start thinking about achievement until you have a safe and secure environment for your students," said the principal of an elementary school in the tough South Side neighborhood of Chicago, where he saw as his first order of business the need to keep intruders out of the building.

In our national survey we found that urban teachers were twice as likely as other teachers to rate vandalism as a problem and four times as likely to rate racial discord as a problem. Urban teachers also were more concerned about violence, absenteeism and student apathy. Interestingly, urban teachers were somewhat less concerned about alcohol abuse than were teachers in suburban and rural districts (Table VI).

A good building does not necessarily make a good school. But the tacit message of the physical indignities in many urban schools is not lost on students. It bespeaks neglect, and students' conduct seems simply an extension of the physical environment that surrounds them. City leaders who take pride in the office towers that house banks, hotels, and shops are content to send children to decaying buildings.

Students cannot learn if there is chaos in the corridors and disruption in the classrooms. Teachers cannot be effective if they are physically threatened. But orderliness is only a means to a larger end, and the school will be tested, ultimately, by the degree to which the principal and teachers are empowered to make the school a safer place where learning can occur.

In the midst of overwhelming odds, we found heroes with both vision and determination. The principal of Locke High School on the edge of the Watts neighborhood in Los Angeles refuses to yield to those who would debase his school. Fifteen times during the year, plantings were ripped from the huge flower plats he had installed around the school and 15 times he had the plantings replaced. A squat cinder block wall near Locke's main entrance is a regular target for graffiti, and every time ugly scribbles appear the principal has a new coat of paint applied. The wire fence around the school is attacked by fence cutters almost every night and the following day the principal has new meshing woven into the fence. "We're going to be successful," he said of both his effort to keep up the building and grounds, and more importantly, his attempt to overcome the academic difficulties of the students. "We're going to break this cycle of despair. I believe that the future of this country starts right here, in Watts."

We conclude that urban schools must be refurbished and that the learning resources—libraries and laboratories—must be provided for effective learning. But for this to be accomplished, federal leadership is required. It will be impossible for school districts to find the billion dollar budgets required to overhaul the buildings. We propose, therefore, a federally-financed School Facilities Program for the nation's urban schools. The Higher Education Facilities Act of the 1960s was responsible for providing facilities to house this country's major growth in college and university attendance after World War II. Further, our invaluable network of community colleges would not have been available without such legislation. Why isn't this a precedent for urban schools?

TABLE VI.—TEACHER RATINGS OF DISCIPLINE PROBLEMS AT THEIR SCHOOLS

	Percent of teachers reporting behavior "A Problem"	
	Urban schools	Other schools
Student apathy toward school	81	67
Absenteeism	78	51
Student turnover	58	25
Disruptive behavior in class	53	30
Drugs	53	48
Vandalism	52	26
Alcohol	51	56
Theft	48	23
Violence against students	32	9
Racial discord	19	5
Violence against teachers	13	3

Source: The Carnegie Foundation for the Advancement of Teaching, National Survey of School Teachers, 1987.

The School Facilities Program we propose would provide low interest loans for the renovation and construction of school buildings. Such funds would be linked to educational renewal. Thus, the federal funds would not only provide attractive, safe places for students, they also would encourage use of the decentralized school model, breaking large schools into smaller units and encouraging some schools to relocate. Specifically, we suggest that loans be available only to districts that agree to reorganize the school into small learning units. Further, such loans would be available only if states can assure existence of an efficient construction process that is unencumbered by bureaucratic stalls and political intervention.

Quality education does not require a luxurious setting, but neither can it be accomplished in a setting of neglect. A school should not place students in harm's way. It should be a place that is decent and safe where teachers and students can pursue excellence in the classroom.

IV. PARTNERSHIPS: SUPPORT BEYOND THE SCHOOL

Whether a school succeeds or fails in its mission depends on the degree of support received from the community it serves, both locally and nationally. How we, as citizens, regard our urban schools determines the morale of the people who work in them and helps students gauge their expectations. In this section, we examine commitment to urban education as seen first from the home, then from college and the corporate community, and, finally, from the state government. Only by building a network of support beyond the school can urban schools improve.

PARENTS AS TEACHERS

"I don't believe the public really cares about what goes on in this school. Only 20 percent of our parents even come to open house. We send home progress reports, but few parents are concerned about their children's learning even when they are failing. The sad fact is that apathy is our biggest enemy." With these words one school principal highlighted one of the most formidable barriers to excellence—the distance between the parents and the school.

When the monthly meeting for parents was held at a junior high school in Los Angeles one day last spring, a dozen parents showed up. The school's enrollment is 1,100. At a high school in New Orleans, which, like others in the city, required parents to pick up their children's report cards, 70 percent of the cards remained unclaimed two months after the marking period ended. A first grade teacher at an elementary school in Cleveland said of the problem: "You send notices home, there's no response. You ask parents to come to conferences, they don't come. You send homework home, you can see that parents aren't paying any attention to it. They aren't helping their kids."

We observed, time and time again, how important it is for parents to be involved in the education of their children. Schools, we conclude, have an obligation to view parents as co-teachers—not just as adults who sign report cards or show up for open house. And to the extent that schools can enlist parents in the search for improvement, the greater the potential for success. There is something very encouraging about the mother at an elementary school in Cleveland who frequently observes her daughter's class. "Why do you do this?" the teacher asked. "Because I was not very well educated, and it's the only way I can know enough about what my daughter is being taught to be able to help her at home," the mother said.

Farren Elementary School in Chicago has a special program of parent participation. The goal is to prepare parents for the General Equivalency Diploma, making the school as much a place for parents to grow as it is for children. "I want my six-year-old to go to college and I want to be a model for her," said Gwendolyn Thompson, a mother in the program. She continued, "the teachers are interested in these kinds, but I don't think the parents are helping them. The school only has the children from 9 to 2:30 and that isn't long enough if their parents aren't interested in education."

We recognize that the ideal of the parent as teacher is enormously difficult to achieve when work and school schedules overlap and when parents have neither the time nor energy to focus on the school. Still, schools have the obligation to create a climate and a schedule that conveniently involves parents. Some urban schools we visited do have evening and weekend appointment time for parent consultations. Others have parent advisory committees that give parents an important voice in school practices. There should be more neighborhood meetings in which school people meet with parents in homes, churches, or other convenient locations. Regardless of the structure, parents must feel empowered, confidently viewing the school as responsive to their interests and hopes for their children.

To strengthen the link between home and school we propose that parents spend at least one day each term with their child at school. To achieve this goal, employers need to get involved. Specifically, we recommend that parents be given released time from work to participate in teacher conferences. If society sees value in release from work to serve on juries and to vote, then surely allowing parents time periodically to visit their children's schools is in the public interest.

SCHOOL COLLEGE CONNECTIONS

Urban schools also should maintain close contact with higher education. Links between the two sectors must be strengthened. Students, after all, arrive at college after having attended elementary and secondary schools. School teachers are trained on college campuses. And yet, in one city we visited, the campuses of two universities could be seen from the local high school. Even though the institutions were within easy walking distance from each other, the principal reported that the school lived in isolation. He said they had no programs of any sort involving either institution.

One strategy is for colleges to work with a network of junior high schools, focusing on high risk students. College students, faculty, and staff can form one-to-one relationships with urban youngsters. The personal bonds that result from a mentoring relationship can dispel the hopelessness that robs many urban youths of motivation, and help disadvantaged students complete successfully their academic programs.

We are intrigued by the plan of the Abel Foundation in Baltimore to work with seven agencies, including two higher education institutions, to assist students in the city's junior high schools. Each of the seven participating agencies will be assigned 60 students for whom they are responsible for providing mentors.

Goucher College, one of the participating institutions, plans that each mentor will meet weekly with a junior high school student. Once a month, there will be a large gathering of the at risk students and their mentors. The college expects to provide a summer program for the junior high school students. Such an approach brings higher education and the schools to an essential face-to-face relationship.

Queens College of the City University of New York is coupled with the Louis Armstrong Middle School, in a nearby Queens neighborhood. The school, which has an ethnically balanced enrollment, has been so successful that it has more applicants than it can accommodate. An extensive web of programs involving teachers and students at both institutions has been woven together. Paul Longo, who oversees the efforts, has an office at each place, carrying the title of associate dean at the college and director of the Center for Education at the school.

Undergraduates from Queens College do their student teaching at Louis Armstrong, and college faculty develop curriculum projects for the school. Teachers at the school have library privileges at Queens college, and some teach on the college campus.

Since this link was forged almost a decade ago, students and professors from Queens College have helped the school stay open with programs for the community until ten o'clock every evening, Monday through Thursday. More recently, college representatives have spent Saturday mornings at the school as well, conducting enrichment classes for students from a variety of area schools along with counseling sessions for their parents.

Milwaukee Area Technical College has joined forces with the city's public schools on Project Second Chance, which is designed to bring 16- to 18-year old dropouts back into school. Returning students can take advantage of a range of alternative offerings at the college, including adult vocational courses, general education, rehabilitative and guidance services, and career counseling. Also available are a variety of coordinated services made possible by partnerships between educational institutions, community and social agencies, and the criminal justice system. A job placement service at Milwaukee Area Technical College connects students to a network of potential employers.

The College of Wooster is working with four Cleveland high schools to offer more opportunities for minority students. The Wooster-Cleveland Academic Enrichment Program in Science, Math, and Computer Science includes a Scholar-in-Residence Program, where college faculty teach for a week at participating high schools; scholarship support for students to attend math and science summer camps; and workshops involving scientific demonstrations and problem-solving held at Wooster for high school classes.

Rochester Institute of Technology (RIT) has an outreach program that links its students to the city's minority high school students and to professionals in the community. The program, initiated with Gannett Foundation funds, introduces tenth and eleventh graders to college life and, in the process, identifies potential candidates for admission to RIT.

Meetings with working professional provide advice and support for both the high school and college students, and participating adults and RIT students benefit from the community service experience. As reported in the "National Directory of School-College Partnerships" published recently by the American Association for Higher Education:

The pairing of the students and the community professionals gets both groups involved in experiential activities. Students "shadow" professionals for a day, allowing them to become role models for the students. Visits to campus by the community professionals involve them in small group discussions with the students. This gives the professionals an opportunity to share their backgrounds, successes, and challenges. Community professionals may also sponsor off-campus activities, such as attending cultural events with the students.

Teacher recruitment is a special obligation of higher education. And priority should be given to attracting more blacks and Hispanics into the profession through scholarships. At a time when the needs for minority teachers are growing rapidly, minority teacher populations are declining. A crisis is unfolding. In addition, colleges should have summer and year-long institutes for teachers, following the Yale-New Haven Teachers Institute model which asks the teachers themselves to shape the content of the program.

The jurisdictional boundaries separating schools and colleges are crossed successfully only when institutions on both sides of the line are amenable. It is not easy to build incentives for cooperation if one institution considers itself the winnner and the other sees itself as the loser. In all of this, a special burden falls on higher education. The nation's colleges and universities must, in tangible ways, affirm the essentialness of the nation's urban schools.

Collaboration is not automatic virtue. Not every cooperative venture is destined for success. But to those who make the effort and occasionally succeed, the rewards are high and students are well served. There can be no better reason for working together.

CORPORATE COLLABORATIONS

Industry and business must be partners, too. Traditionally, corporate America has stood aloof from public schools. While complaining about the quality of education, it has failed to get involved. Today, however, collaboration is increasing. But what, specifically, can business do to enrich public education?

First, businesses can work with students who are educationally disadvantaged. In Chicago, a natural gas firm, People's Energy, sends tutors to the schools. Twenty employees tutor students in reading and math at Tilden High School for one and one-half hours twice weekly. In Houston the program that Tenneco first launched now sends twenty-five employees to primarily Hispanic inner-city schools, again providing tutorial help to students with language difficulties.

Hughes Tool in Houston sends Hispanic and Vietnamese workers to tutor high school students in the same ethnic groups. These tutors serve as role models, and place special emphasis on communication skills. In Los Angeles, Atlantic Richfield employees are given released time to tutor Hispanic students in English usage. Atlantic Richfield volunteers also counsel students with academic and personal problems.

Businesses also can help gifted students, especially in science and mathematics, and the new technologies. Shell Development, for example, sends high-level technical and computing staff to Houston's Jones High School Vanguard Program for the Gifted. When questioned about the program, a student remarked that the volunteers "stretch us beyond what the teacher can do." Similar reactions have been reported at Houston's Engineering High School, which is visited weekly by a team of engineers. A graduate, when asked who had had the greatest influence on his career choice, cited the IBM volunteer with whom he had worked in class for one year. The Oak Forest Bank, also of Houston, gives awards to students who demonstrate outstanding leadership qualities. A few programs provide summer scholarships for promising students. Bell Laboratories and other businesses provide sponsoring scholarships for college-bound students in fields of study related to their industries.

Advanced math students from Southwest High School in St. Louis travel to Monsanto, where engineers provide instruction in Fortran computer programming. Under the same program, biology students visit environmental labs and chemistry classes tour research and development laboratories at Monsanto.

Perhaps the most promising role for corporations is the renewal of the teacher. McDonnell-Douglas Corporation has opened its Employee Voluntary Improvement Program to the staff at nearby Central High School—at no charge. Under this program, high school administrators take management seminars and teachers take courses in computer science, algebra, and trigonometry. Moreover, the head of the business department at Central went through the McDonnell-Douglas Secretarial School and, as a result, made major changes in the curriculum to better prepare students for vocations.

Pittsburgh's Allegheny Conference on Community Development awards minigrants to one hundred innovative teachers for proposed projects. A committee composed of representatives from the mayor's office, the superintendent of schools, the Urban League, and various corporations distributes grants to teachers totaling about $10,000. These grants can range from $50 to $1,000 each. Although they are small, they have encouraged teachers to pursue fresh instructional interests. They have been awarded for such creative projects as a course combining the teaching of art and geometry (now part of the school's elective curriculum) and an illustrated booklet describing how art objects can be created from industrial throw-aways.

Business also can help urban students take the step from school to work. Before the name Adopt-a-School came along, General Electric donated a $5 million plant for use by the Cleveland Board of Education. That facility, located in the heart of a high unemployment district, became the Woodland Job Center. Students at Woodland work on various assembly lines, and are paid for their work. Shop work is supplemented by a thorough sixteen-session orientation program presented by General Electric foremen. Many graduates of the program move on to jobs in the company's main plant.

Business and industry also can serve administrators, particularly by aiding principals in their capacities as both managers and leaders. As early as 1966, the Olin Winchester Group loaned management trouble shooters to New Haven schools for six months of consultation. That same year, Warren King and Associates evaluated the management of schools in Ohio and Oregon. Eighty firms participated. Teams of executives visited 200 schools and made recommendations resulting in savings of over $100,000 each year. And several years ago, the city of Baltimore saved $700,000 in its schoolbus operations by implementing changes proposed by business consultants.

Cooperation between industry and the schools yields a special profit. The pay-off cannot always be clearly measured in dollars and cents, but the chance to work with young people who may soon be employees; to help to instill in them a sense of responsibility and the excitement of discovery; to enrich the teachers; to give the principals support while at the same time enlarging the corporate vision by working for the betterment of society are among the returns some executives are already including on their companies' balance sheets. Rance Crain, editor-in-chief of Crain's *Chicago Business*, a financial weekly whose employees teach journalism at Carl Schurz High School, said that "in this case, self-interest is, in fact, for the good of all."

THE STATE: MEETING THE MANDATES

Constitutionally, responsibility for education in America resides in the states. In fulfilling this obligation, each state should establish the general standards by which the educational mission is to be accomplished. State education laws should answer a few basic questions: What is a school? Who must attend it, and until what age? What are the statewide requirements and standards for entering high school? What is the state prepared to pay for, and on what terms? What are the requirements for becoming a public school teacher in the state?

None of these questions needs a long answer. Indeed, we caution state education agencies (and their boards) against tedious regulations in the interpretation of the statutes. Academic requirements should be defined in terms of general skills and bodies of knowledge, not course labels, periods of time spent on a subject, or Carnegie units accumulated. The Education Commission of the States has developed model legislation that may be especially helpful in drafting and revising the education laws. The fundamental goal must be the achievement of both quality and equality in the process.

If these twin objectives are to be met, greater equity in financing is critical. Today many inner city schools are starved for lack of funds while districts with less critical needs are well-financed. In the 1970s, a flurry of court cases gave promise of wiping out inequities in the funding of school districts. It appeared that, finally, the enormous differences in property wealth would no longer allow one school system to be well funded while others are impoverished. But that promise is sadly unfulfilled, and though adjustments have been made in some states, a child's place of residence can still determine the adequacy of his or her education.

A state with a relatively high per capita income that leaves support for the education of its children to the chance distribution of property values in local districts is selling its children short and failing to meet its obligations to the less fortunate.

In New Orleans, a city where most homeowners pay little to no property tax for education because of a system of low valuations and numerous exemptions, a high school we visited was shockingly deprived. Housed in a decrepit stucco structure erected in the 1920s, this school was so dated that the steps in the narrow wooden stairwells were worn concave by generations of feet. In some classes, dogeared books were distributed, then collected after each session so they could be used by separate classes throughout the day. The scarcity of books made them unavailable to be taken home. Classes of more than 30 students were typical at this school. Physical education classes were conducted only with the dim sunlight that flowed through the windows of the gymnasium because there was no money to buy high-intensity bulbs.

Money alone will not make a better school. Still, it is foolish to suggest that money does not matter. Urban schools can not be run only on good will and inspiration; they must have the tools to do the job.

We strongly urge that states fulfill their legal and moral obligations by achieving greater equity in the financing of urban schools. The goal should be *at least* to equalize funds necessary to achieve a particular standard expenditure. Unless big city schools are given more support, much of what we propose in this report will remain a hollow promise.●

COMMENDATION TO MEDICAL ALLEY ASSOCIATION AWARD RECIPIENTS

● **Mr. DURENBERGER.** Mr. President, the Minnesota Medical Alley Association is the common voice for Minnesota's health care industry. In combination, they are the largest employer in our State. This industry has gained national and international visibility for its sophisticated and innovative companies, and their medical products and services.

These companies represent some of the Nation's most important exporters, who help with the United States' serious trade deficit problems. Medical devices such as the implantable pacemaker represent early successful attempts to stimulate, with engineering and medical skills, a complex natural function. Pacemaker therapy, for example, treats diseases which affect the heart's built-in electrical system, supplying relatively low levels of electrical stimulation to the heart.

Pacemakers have envolved from devices that beat a fixed, steady rate of about 70 beats per minute—which limit a patient's range of activities—today's rate responsive devices which automatically adjust their rate to meet the cardiac needs of the patient while sleeping, working, or vigorously exercising. Approximately 250,000 pacemakers were implanted worldwide in 1987, and today, over 1 million pacemaker patients are currently active.

The world market for medical equipment is forecast to reach $36.2 billion in 1988, having grown at an average annual rate of 8.9 percent since 1982. The United States accounts for the bulk of production, with a world market share of 62 percent, followed by Japan (16 percent).

Stronger demand from abroad has promoted growth in U.S. production and exports of medical equipment. Exports in 1987 topped $3 billion, up almost 11 percent from 1986. Exports are forecast to increase 12.9 percent in 1988. More data documenting this growth and the importance of this industry are provided in the tables below.

Today, because of their medical technology innovations and their contributions to the Nation's well-being, I would like to recognize and honor those of the Medical Alley Association for their dedication to the principles and goals of the Association and to congratulate them for winning designated awards.

Mr. President, I ask my colleagues to join me in commending the following members of Minnesota's Medical Alley Association as award recipients: the founder and chairman of the board, Mr. Earl E. Bakken, winner of the Governors Award for Medical Leadership; president, Mr. Will E. Sullivan, winner of the Innovative Product in an Emerging Company Award; vice president for health services, Dr. Neal A. Vanselow, winner of the Meritorious Service at the University of Minnesota Award; Commissioner Sister Mary M. Ashton, winner of the Meritorious Service in Government Award; Director Dr. Donnell D. Etzwiler, winner of the Meritorious Service in Health Care Delivery Award; Mr. Norman Dann, winner of the Meritorious Service in Health Care Finance Award; Mr. Timothy M. Scanlan and Mr. Manuel A. Villafana, winners of the Meritorious Service in Health Care Manufacturing Award; president and CEO, Mr. Frank D. Brown, winner of the Meritorious Service in International Health Care Award; and president and CEO, Mr. James F. Lyons, winner of the Successful Health Care Product Award.

Mr. President, it is important that we encourage inventors and manufacturers to develop new technologies for quality health care. Innovation in health care is of vital importance not only for our technological prowess, but for the Nation's and the world's standard of living and quality of life.

GROWTH IN MEDICAL TECHNOLOGY PRODUCT SHIPMENTS

[Dollars in millions]

Year	Constant dollars	Percent change	Current dollars	Percent change
1982	$14,082	15.8	$14,082	20.8
1983	14,458	2.7	14,966	6.3
1984	15,284	5.7	16,420	9.7
1985E	15,801	3.4	17,183	4.6
1986E	16,757	6.1	18,421	7.2
1987E	18,115	8.1	20,293	10.2

U.S. TRADE BALANCE IN MEDICAL TECHNOLOGY

[Dollar amounts in millions]

	1983	1984	1985	1986	1987E
Total	$1,087	$874	$676	$551	$796
Percent	13.7	19.5	22.7	18.5	44.5
Japan	$9	−$69	−$147	−$200	−$136
Percent	82.4	866	113	36.1	32.0
West Germany	−$191	−$191	−$288	−$386	−$342
Percent	76.9	0	50.8	34	11.4

Source: U.S. Department of Commerce.

ENDORSEMENT OF McCLURE/HATCH FIREARMS BILL

● **Mr. BOSCHWITZ.** Mr. President, I rise today to announce my support for S. 2051, the Prohibition of Undetectable Firearms Act which was introduced by Senator Jim McClure and Senator Orrin Hatch. The bill currently has 14 cosponsors, and I am pleased to add my name to the list.

Mr. President, during the 10 years I served in this body, I have consistently opposed attempts to restrict unnecessarily the right of citizens in this country to own firearms. I will continue to oppose those attempts.

Undetectable firearms—the so-called plastic handgun—however, place the issue of firearms legislation in a slightly different context. Although plastic firearms are not currently being manufactured, there is not much doubt that the technology is being developed. This new technology has raised legitimate concerns about the increased possibility of smuggling an undetectable firearm into a building or onto an airplane that is intended to be secure. The importance of security in places like the White House, courtrooms, and our Nation's airports makes it absolutely imperative that we address the ramifications of this new technology.

As my colleagues are well aware, a Senator does a lot of traveling. I make 40 roundtrips a year to Minnesota and at least another dozen trips elsewhere. Many a time I've looked nervously at a fellow passenger and wondered whether he or she might have some mischief in mind. Frankly, the advent of undetectable firearms has to be anticipated and debated here in the Senate.

It was in this setting that the Senate was asked to vote last December on a motion to table Senator Metzenbaum's bill to ban firearms that contain less than 8 ounces of steel or are not readily detectable by x-ray detection equipment. It was my opinion that the Senate needed to consider this issue in more depth, so I voted against the motion to cut off debate on the Metzenbaum amendment. Some viewed my vote, incorrectly, as unqualified support for the Metzenbaum amendment. Quite frankly, I am pleased the vote on the Metzenbaum amendment spurred an effort to develop a compromise.

Since December, I have been contacted by a number of my constituents on both sides of this issue, law enforcement professionals, sportsmen, and gun collectors. With the benefit of this information, I continue to believe that legislation is justified to prohibit the manufacture of plastic firearms. The bill drafted by Senator McClure and Senator Hatch acknowledges the need to balance legitimate law enforcement concerns with freedoms guaranteed by the Constitution. It also will help law enforcement professionals do their job.

Mr. President, S. 2051 does the following:

Establishes a precise definition of the so-called plastic firearm that addresses the concerns of the law enforcement community;

Acknowledges for the first time that valid security considerations justify legislation banning for 10 years the manufacture or import of plastic firearms under certain circumstances;

To avoid the outright ban the firearm must be manufactured with a barrel constructed, in whole or in part, of a metallic substance or the serial number must be engraved, cast, or stamped in a metallic substance making the firearm detectable by a magnetometer, and the plastic portions of the firearms must be infused with a compound sufficient to render it detectable with a cabinet x-ray machine.

I want to commend the National Rifle Association for recognizing the urgency of this issue and for working with the Senate to draft legislation to respond to the threat of undetectable firearms.

Mr. President, S. 2051 is a sincere attempt to address the concerns about undetectable firearms. I am pleased to join Senators McClure and Hatch as cosponsors of their bill, and I will continue to be involved and support any improvements as this bill moves through the legislative process. We should not pass up this opportunity to address this important issue.●

BICENTENNIAL MINUTE

MARCH 12, 1804: SENATE CONVICTS A FEDERAL JUDGE

● **Mr. DOLE.** Mr. President, 184 years ago this month, on March 12, 1804, the Senate, for the first time in its history, exercised its constitutional power to remove a Federal judge from office.

By 1803 the bizarre and deeply partisan behavior of New Hampshire District Court Judge John Pickering brought him to the attention of President Thomas Jefferson. Failing to engineer the resignation of Pickering, who had a history of mental illness and alcoholism, the President asked the House to impeach him. Leaders of the newly ascendant Republican Party in the House drew up articles of impeachment that carefully avoided mention of Pickering's madness. They believed the introduction of his insanity would make it impossible to find him guilty of "high crimes and misdemeanors." Accordingly, he was charged with violating a statute and with "being a man of loose morals and intemperate habits /who appeared on the bench/ in a state of total intoxication /and who/ in a most profane and indecent manner, invoke/d/ the name of the Supreme Being, to the evil example of all good citizens . . ."

There were ample substantive grounds for the House decision, on a 45 to 8 vote, to impeach Pickering. However, the action also had clear political overtones. Federalists saw this as the first in a series of steps by Republicans, who dominated Congress and the Presidency, toward a general housecleaning of the judiciary, which they dominated.

The Senate trial began in January 1804. Pickering complicated matters by refusing to attend and challenging the President to a duel. In a bitter proceeding, Federalists argued that the Senate should wait until Pickering was sane enough to participate in his own defense. On March 12, however, with the entire House of Representatives crowed into the Senate Chamber, the Senate voted 20 to 6 to remove Pickering. Federalists correctly feared that a sane Supreme Court Justice might be the Republicans' next target.●

PEARL SOMAINI-DAYER

● Mr. LEAHY. Mr. President, recently, Pearl Somaini-Dayer, my legislative assistant for health and social services, and a Vermonter who loves our State and region, returned to New England to hold an important management position for Blue Cross-Blue Shield. When she left, my office lost a tremendously valuable asset in dealing with the problems of our elderly, handicapped, and poor in Vermont.

I want to take a few moments of the Senate's time to pay tribute to the many major contributions of Pearl Somaini-Dayer in her more than 4 years on my staff. The men and women who work long hours following bills, researching information and advising us on issues of vital constituent interest perform a great service that deserves more recognition than they usually get.

All Senators know good staff work is the key to sound legislation and good constituent service. Pearl's hard work, sensitivity to the needs of others, and knowledge of the legislative process made me a more effective Senator—better able to respond to the problems of Vermonters in need.

Pearl joined my staff in 1983 after gaining a national reputation for her work in Vermont. She became director of the Vermont Office on Aging in 1974, and completely rebuilt the troubled agency into a national model for all States to follow.

That network on aging is still in place today—a tribute to her foresight as well as her planning and management skills.

On my staff Pearl was a kind of unofficial ambassador for Vermont's elderly population, and she didn't let them down. It was her persistence that resulted in the food stamp provisions in the 1985 farm bill. She worked extensively with the medical community in Vermont to unravel Medicare regulations and insure that services continued to be provided while expediting payment for health care.

She pushed for adoption of a resolution establishing "Helen Keller Deaf-Blind Awareness Week," not just to get another commemorative resolution through, but so that the Congress would make a statement of principle about handicapped people.

And she helped me write and introduce the Better Health Care Act of 1986 which, while not yet enacted, created new awareness of needs that this administration is failing to meet. Pearl's hard and imaginative work will someday bear fruit in new health care legislation to meet the medical needs of the elderly.

One of Pearl's greatest accomplishments was helping me establish the Leahy Budget Policy Forum. The forum is held every spring in Vermont and enables over 250 Vermonters that work in human services to gather together in one place and get their questions answered by experts from Washington. The forum has been so successful that it has become one of the main planning and informational events on human services issues in the State.

I lost a good friend and trusted adviser when Pearl Somaini-Dayer left to become director of Tri-State Medicare Part B Operations in Portland, ME. And I suspect many of your offices have staff who miss Pearl's invaluable advice and thinking on issues affecting the elderly, the poor, and the handicapped in your respective States.

Pearl has left Washington, but the caring and dedicated professional that she is, she is still representing the constituency she served so well as a member of my legislative staff, and doing it superbly.

So, Mr. President, I want to conclude these few remarks with sincere gratitude and appreciation to Pearl Somaini-Dayer for her years of service to the Nation and to Vermont as a member of my staff.●

A FIFTH BIRTHDAY FOR STAR WARS

● Mr. JOHNSTON. Mr. President, 5 years ago today President Reagan announced the birth of the strategic defense initiative [SDI], a research program with the goal of finding the technology to render nuclear weapons "impotent and obsolete." Congress has now provided SDI over $13 billion. That in real terms is about equal to what the Manhattan project spent during World War II to produce the first nuclear weapons. I believe it's time to stand back and take a hard look at this program.

For 5 years SDI has been long in Presidential support and short on realism. That situation is about to change. In planning the next 5 years for SDI, the next administration, of whatever party, must rethink the whole SDI program from the ground up. They can't afford to do otherwise. The essential ingredient of that review will be realism.

Today, nobody except the President talks about the original goal of SDI. It has been relegated to the status of a "vision." SDI was supposed to answer by the early 1990's whether we could build an astrodome-like defensive shield over the United States using exotic technologies—lasers and energy beams—as well as conventional rocket technology. Despite unrivaled funding, the strategic defense initiative organization concedes that research on these exotic technologies will require many years—leading physicists say at least another decade—before definitive answers are forthcoming.

Of course, building a leakproof shield may be thinkable if the Soviets cooperate by reducing to near extinction their number of offensive missiles, so as to make the defenses' job tractable. And neither side's defense must be capable of successfully attacking the other. President Reagan's original goal for SDI clearly articulated a cooperative situation in which both sides had extensive defenses. We might even share SDI technology with the Soviets, he said. Nobody at SDI is seriously talking about that today.

Impatient with the progress of research on exotic technologies, the administration is pursuing acquisition of what they call a "phase I" or "thin" ballistic missile defense system using conventional rocket technologies to be deployed in the mid to late 1990's. Exotic technologies would be phased in later, when and if, they prove militarily feasible, to offset inevitable Soviet countermeasures.

This system would not shield all America from harm, but would merely disrupt the timing of a Soviet attack. A Senate staff study last year said it would stop about 1 in 5 Soviet warheads. Those warheads would be primarily aimed at military targets. Understand that this is not a substitute for nuclear deterrence, but a part of it. Our security would still rest on the threat of our swift and sure nuclear retaliation on the Soviet Union. The President may think nuclear deterrence is "morally untenable," as he said again just last week. I think he does our military a disservice with such comments. Until SDI can offer us a perfect defense, an invulnerable defense, no President or Congress will agree to lay down all our nuclear weapons and rely on strategic defenses alone.

So if SDI's goal now is really only maintaining nuclear deterrence, then why is it more deserving of funding than the other missile programs having the same goal? Well, SDI is certainly more demanding of funds than any other research program.

Consider the cost of this "thin" phase I system. A year ago SDIO estimated the cost at $40-$60 billion, by fall the estimate reached $70-$100 billion, and now the SDIO estimate has zoomed to $70-$150 billion. These estimates come at a time when Defense Secretary Carlucci says if we build a rail mobile MX system the Nation can't afford also to build the Midgetman system. He is faced with altering current defense programs to slash over $300 billion from the defense budget projections for fiscal year 1990-93.

Phase I deployment has created a "red dilemma" for the administration. If phase I stays on schedule, its extraordinary cost will drown the defense budget outyears in red ink. If its schedule slips very much, the conventional rockets in the phase I system will be susceptible to the inevitable Red countermeasures, such as fast-burn boosters, defense suppression weapons and, simply, more Soviet missiles. Most experts believe these Soviet countermeasures will be waiting for phase I even if it is on time. Faced with this dilemma, the administration has apparently opted for slipping the schedule because they have cut their own SDI budget request for 1989 by $1.7 billion, and announced schedule slippage of 1 to 2 years. I believe more slippage is certain to follow.

Even with this cut, the SDI budget request for fiscal year 1989 including DOE programs, is about $5 billion or more than a 25 percent nominal increase from last year. Meanwhile, the DOE budget overall will decline in real terms.

The President now says SDI's schedule is slipping because of Congress' "irresponsible" budget cuts. Let me respond to that charge.

In 1983, the President requested a panel of over 50 leading scientists to lay out a detailed plan for completing SDI research, including multiyear funding requirements. The panel—"Fletcher panel"—presented two options in their classified "Report of the Study on Eliminating the Threat Posed by Nuclear Ballistic Missiles." One was the "technology limited" or crash program that the administration essentially sought. The second was a fiscally constrained approach that would complete the SDI research but with some small delay. My staff recently compared what Congress actually appropriated for SDI to what was contained in that fiscally constrained option presented to the President. As it turns out, the Congress unknowingly followed the second option. Congress provided all but a few percent of the funding suggested for the first 5 years of SDI. The exact budget numbers are classified "confidential." So if the President is to fault the Congress on SDI, it is only for failing to support a crash program. Congress thought that a crash program was unrealistic given the budget situation. So must the next administration.

This is a year for planning the transition of SDI, transition toward realism in its objectives and in its budget requests. I would note that in section 8116 of the fiscal year 1988 continuing resolution the Congress included a joint resolution outlining the future direction that the Congress sees for SDI. That resolution calls for SDI's budget to be "established using realistic projections of available resources in the overall defense budget."

Realism is also required in considering SDI's relationship to arms control and the arms race. President Reagan said last week, "We'll continue to research SDI, to develop and test it. And as it becomes ready—we will deploy it." Fortunately, wishing won't make the ABM Treaty go away. In the next year SDI has got to reconcile itself with that treaty.

Finally, 5 years after its inception, SDI has yet to make the case that strategic defenses are inherently good for our security. Yes, there has been some rhetoric, but little if any analysis. In fact the Strategic Defense Milestone Panel that reviewed SDI for the Milestone I decision made this same point last year. They said what if the Soviets were to follow our lead and match our phase I system with one of their own in space? In that event would our security be enhanced by the existence of these strategic defenses? They noted that no satisfactory analysis existed on this question. Mr. President, in a realistic program that question would have been posed and answered in the first 5 hours, much less the first 5 years, of the program.

Mr. President, 5 years and over $13 billion have transpired. It is late, very late, but probably not too late, to begin SDI's transition toward realistic goals and realistic budget requests.●

YOUNG WRITERS THROUGHOUT U.S. DISPLAY TALENTS

● Mr. **JOHNSTON.** Mr. President, Francis Bacon once said, "Reading maketh a full man * * *, and writing an exact man." It is in this spirit that the Young Writer's Contest Foundation seeks to inspire elementary and junior high school students to participate in a writing competition as part of language arts curricula in classrooms all across the United States.

I am pleased to share with my colleagues in this great body the results of the 1987-88 Young Writer's Contest. Some of you may have seen the list of winners that appeared in USA Today last week, and some of you may have had an opportunity to read the poems, stories, and essays written by first through eighth graders that were sent to your offices by the YWCF. If you haven't yet sampled this treasure, you will be able to do so in April, when the fourth edition of "Rainbow Collection: Stories and Poetry by Young People," the anthology of winning entries from this year's contest is published.

The achievement of the 108 winners, indeed that of all the nearly 10,000 young people who participated, is important because it demonstrates the positive efforts of students, educators, and families to balance the effect of reports on the state of education in this country. Positive and constructive efforts like these can only inspire more and wider attempts at innovative methods to enhance the education of our citizens.

Recognition is the key. Who among us is not influenced by recognition, rededicated and remotivated by even the briefest moment in the spotlight? Recognition is the means by which the Young Writer's Contest seeks to challenge students. By publishing the winning entries and by distributing certificates to all who participate, a cycle of encouragement and performance is created.

I salute Ronald McDonald Children's Charities for their funding partnership with the Young Writer's Contest Foundation, and I congratulate the 1,100 youngsters from Louisiana who participated in this year's competition, and I am proud to highlight the 15 young Louisianians who, by winning, have earned the distinction of being published authors at a very tender age.

Mr. President, I ask that the following article highlighting the winners of the Young Writer's Contest Foundation, which was published in USA Today on March 14, 1988, be printed in the RECORD.

The article follows:

[From the USA Today, Mar. 14, 1988]

108 YOUNG WRITERS DISPLAY WINNING WAY WITH WORDS

The Young Writer's Contest Foundation has named 108 elementary and junior high school students in 34 states, Guam and Puerto Rico as winners in its 1987-88 nationwide writing competition. The nonprofit program, sponsored by Ronald McDonald Children's Charities, is intended to encourage creative writing. About 10,000 students from all 50 states entered poems and stories. Judges were journalists, authors, teachers and reading specialists.

Winning entries will be published in April in the fourth annual edition of Rainbow Collection: Stories and Poetry by Young People. One winner, Elizabeth Osborne, of Greensboro, N.C., has won three years in a row. The contest was created in 1984.

The winners, their ages and schools:

Alaska: Nikiski—Matthew Janonis, 10, Nikiski Elem.

Alabama: Leeds—Creighton Bailey, 7, Leeds Elem.

California: Los Angeles—Joanna Goslicka, 13, Marymount Jr. High; Monrovia—Pamela Guenat, 11, Santa Fe Middle; Monterey Park—Ty Fukumoto, 11, Hillcrest; Rosemead—Bich Nien Nguyen, 12, Muscatel; Garden Grove—Bethany Martin, 8, Montessori Greenhouse.

Colorado: Broomfield—Laura Barthule, 12, Broomfield Heights Middle; Denver—Angela Sargent, 11, McGlone Elem.

Connecticut: Bloomfield—Erin Carstensen, 12, Bloomfield Jr. High; Willington—Anna Janovicz, 6, Center.

Delaware: Newark—Amanda Pong, 12, Shue Middle.

Florida: Howey-in-the-Hills—Laura Cook, 7, Andrew Birr, 9, Howey Gifted Center; Key West—Regina Perez, 9, Mary Immaculate; Miami—Michelle Weeks, 12, Rachael Deaktor, 13, Southwood Jr. High; Bradenton—Bryan Johnston, 9, Bashaw Elem.; Venice—Jennifer Packing, 11, Venice Area Middle.

Hawaii: Mililani—Kathryn Bailey, 7, Mililani Uka Elem.; Honolulu—Tiffany Mathias, 10, Maemae Elem. School.

Iowa: Johnston—Robin Sanders, 9, Johnston Elem.; Creston—Jennifer Craig, 11, Irving.

Illinois: Chicago—Jessica Czerwionka, 6, St. Constance; Effingham—Zachary Youngblood, 8, East Side.

Kansas: Overland Park—Rachel Salvay, 7, Joseph Dubin, 8, Erika Feingold, 11, Hyman Brand Hebrew Academy.

Kentucky: Richmond—Marty Allen, 13, Eastern Kentucky University Model Lab School.

Louisiana: Metairie—Eric Miller, 9, Bissonet Plaza; Gia Chevis, 11, Harold Keller; Paradis—Jennifer Clark, 13, Martin Middle; New Orleans—Manuel Cachan, 13, McMain Magnet; Laura Crochet, 8, A. Harte Elem.; Mandeville—Molly Lancaster, 13, Michael Provins, 14, Mandeville Jr. High; Brian Wager, 12, Mandeville Middle; Avery Island—Rusty Segura, 7, Avery Island Elem.; Jeanerette—Angi Little, 6, Grand Marais Elem.; Shreveport—Dawn-Maia Osby, 9, South Highlands Magnet; Calhoun—Leslie Sanford, 13, Calhoun Middle; Harrisonburg—Jolie Tolar, 11, Harrisonburg Elem.; Natchitoches—Rachal Wheat, 10, N. Natchitoches Elem.; Winnfield—Jamie Derr, 12, Winnfield Middle.

Massachusetts: Winchester—Paige Black, 9, Vinson-Owen; Ipswich—Eric Jalbert, 10, Doyon.

Maine: Bar Harbor—Diane Harrison, 13, Emerson; Rockport—Lauren Smith, 8, Rockport Elem.

Michigan: Keego Harbor—Chris Messina, 9, Roosevelt Elem.

Minnesota: St. Paul—Rebecca Bolton-Barber, 12, Longfellow Magnet; Bryan Manchi, 10, H. Mann Elem.

Mississippi: Tupelo—Brad Lyle, 7, Thomas Street; Gulfport—Emily Mitchell, 9, St. James.

Montana: Stevensville—Mischa Jakupcak, 12, Stevensville; Troy—Kristic Chupp, 8, Yaak Elem.

North Carolina: Eden—Charity Harris, 11, Lksvle-Spray Intermediate; Greensboro—Elizabeth Osborne, 8, Emily Stewart, 9, Erwin Open; Megan Randall, 9, Alamance Elem.; Skyland—Jeremy Waldrup, 6, W.W. Estes Elem.

New Jersey: Flanders—Ben Rowe, 11, David Darnesto, 11, Mt. View; Bordentown—Darin Thorn, 9, Peter Muschal.

New Mexico: Albuquerque—Lawren Ristvet, 9, Bandelier Elem.; Hobbs—Benjamin Bettis, 7, New Life Academy.

New York: Manhattan—Sewra Kidane, 13, P.S.-I.S. 223; Scarsdale—John Spudich, 12, Greenvale; White Plains—Megan E. Buckley, 10, Dianielle Donnelly, 11, White Plains Intermediate; New Rochelle—Brad Powers, 12. A. Leonard Jr. High; Port Washington—Tracey Martin, 13, Weber Jr. High; Forest Hills—Matthew Silver, 12, Russell Sage Jr. High; Bay Shore—Gina Calia 10, Gardiner Manor; Dix Hills—Jill Berger, 11, Chestnut Hill Elem.

Ohio: Columbus—Naomikay Pope, 13, Mifflin Middle; Sokkhar Muon, 14, Starling Middle; David Nesser, 11, Linden Park IGE; St. Clairsville—Amy Kigerl, 11, St. Clairsville Middle; Findlay—Bryan Miller, 11, Lincoln.

Pennsylvania: Mechanicsburg—Lynn Farner, 13, Mechanicsburg Intermediate; Waynesboro—Wayne Fishell, 11, St. Andrew's Elem.; Dallastown—Leeanne Rogers, 13, Dallastown Middle; Gettysburg—Allison Adair, 10, St. Francis Xavier; Royersford—Joey Bean, 11, Dee Ruley, 11, Limerick Elem.; Reading—Craig McMackin, 13, Exeter Jr. High.

Rhode Island: W. Warwick—Lauren Gillis, 11, Deereing Jr. High.

South Carolina: Clinton—Mandy Nelson, 12, M. Dendy Middle.

Tennessee: Sevierville—Aimee Hosemann, 11, Sevierville Middle.

Texas: Palestine—Shelly Sanford, 13, Palestine Middle; San Antonio—Pauline Newton, 13, Alamo Heights Jr. High.

Virginia: Front Royal—Shanna Umstot, 6, Keyser; Mechanicsville—Matthew Noel, 9, Rural Point Elem.; Richmond—Katherine Bingham, 13, Beth Patterson, 12, Salem Church Middle; Roanoke—Erik Rosolowsky, 11, North Cross; Radford—Rachel Brewer, 12, Dalton Intermediate.

Washington: Seattle—Jonas deVarona, 14, Hamilton Middle; Clarkston—Heather Stubbs, 13, Lincoln Middle.

Wisconsin: Oconomowoc—Jessica Hoff, 11, Oconomowoc Area; Brooklyn—Patricia Ann Dinkel, 8, Brooklyn Elem.

West Virginia: Bluefield—Any Norton, 10, Bluewell Elem.; Buckhannon—Amanda Miller, 10, B.U. Intermediate; Fairmont—Kelly Casto, 12, East Park; Monongah—Cynthia Pickstone, 9, St. Peter and Paul.

Wyoming:- Pine Bluffs—Amy Baker, 13, Pine Bluffs Jr. High.

Guam: Tamuning—Lily Luk, 10, Tamuning Elementary.

Puerto Rico: Alexander Baan, 12, Ramey.●

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The Senate continued with the consideration of the bill (S. 79).

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow no amendments, no motions to recommit, with or without instructions, or other motions be in order prior to the vote on the cloture motion.

Mr. HATCH. Mr. President, reserving the right to object, may I just inquire of the distinguished Senator from Ohio, is there going to be anything else tonight? Are we going to keep our colleagues here so there may be a vote or a motion to table or whatever? I think it is unfair to keep our colleagues sticking around when basically we have been through for 30 or 45 minutes.

Let me say that I want to grant this unanimous-consent request by the distinguished majority leader, but I also want to know what will happen tonight.

Mr. METZENBAUM. I tried to explain to my friend from Utah that Senator KENNEDY is the overall chairman of the Labor and Human Resources Committee.

Mr. HATCH. Senator KENNEDY is here. Maybe I can ask the distinguished Senator from Massachusetts.

We have a unanimous-consent request before the Chair. Is there going to be any further activity on this tonight? Are we going to have a motion to table or some sort of a vote or can we let people go? I will not object to the unanimous-consent request as long as I know what the game plan is. I would like my colleagues to know. I know there are a lot of activities going on tonight. I want to give them as much notice as we can as to what is going to happen here.

Mr. KENNEDY. Mr. President, I was not informed of the unanimous-consent request.

Mr. HATCH. It is just a request that there will not be any amendments tomorrow morning. I reserved the right to object. I am asking is there going to be an amendment tonight, is there going to be a motion to table or some other vote tonight that the Senator would call for before I agree to the unanimous-consent request.

Mr. KENNEDY. I am not familiar with what the unanimous consent is that has been made. I would like to gain the floor in my own right.

Mr. BYRD. Mr. President, I withdraw the request.

Mr. KENNEDY addressed the Chair.

Mr. BYRD. I think we should assure Senators there will not be any rollcall votes after 6 o'clock tonight because there is a dinner meeting of the radio and television correspondents. Senators on both sides have been invited to that event. We should not have votes after 6 p.m.

Mr. HATCH. I thank the distinguished majority leader.

Mr. KENNEDY. Mr. President, I sought recognition.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I send a modification to the committee amendment in the nature of a substitute to the desk on behalf of the Labor and Human Resources Committee.

The PRESIDING OFFICER. The Senator has a right to modify the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute, as modified, is as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "High Risk Occupational Disease Notification and Prevention Act of 1987".

(b) Table of Contents.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Definitions.
Sec. 4. Risk Assessment Board.
Sec. 5. Employee notification and counseling.
Sec. 6. Means of employee notification.
Sec. 7. Occupational and environmental health centers.
Sec. 8. Research, training, and education.
Sec. 9. Employee medical monitoring, discrimination against employees; confidentiality.
Sec. 10. Enforcement authority.
Sec. 11. Reports to Congress.
Sec. 12. Subjects of Federal agency studies.
Sec. 13. Regulations.
Sec. 14. Authorization of appropriations.
Sec. 15. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) during the past two decades, considerable scientific progress has been made in—

(A) the identification of hazardous substances, agents, and processes;

(B) the identification of medical problems asssociated with exposure to such substances, agents, and processes; and

(C) the diagnosis and treatment of diseases related to such exposure;

(2) progress also has been made in controlling the exposure of individuals to such substances, agents, and processes;

(3) despite the progress described in paragraphs (1) and (2), there are significant gaps in efforts to promote the health and safety of individuals exposed to such substances, agents, and processes;

(4) potentially harmful substances, physical agents, and processes are in wide industrial and commercial use in the United States;

(5) a significant number of workers suffer disability or death or both wholly or partially as a result of being exposed to occupational health hazards;

(6) diseases caused by exposure to occupational health hazards constitute a substantial burden on interstate commerce and have an adverse effect on the public welfare;

(7) workers have a basic and fundamental right to know that they have been exposed to an occupational health hazard and are at risk of contracting an occupational disease;

(8) there is a period of time between exposure and the onset of disease when it often is possible to intervene medically in the biological process of disease either to prevent or, by early detection, successfully treat many disease conditions;

(9) social and family services that reinforce health-promoting behavior can reduce the risk of contracting an occupational disease;

(10) by means of established epidemiological, clinical, and toxicological studies, it is possible to define and identify specific worker populations at risk of contracting occupational diseases;

(11) there is no established national program for identifying, notifying, counseling, and medically monitoring worker populations at risk of occupational diseases;

(12) there is a lack of adequately trained professionals, as well as appropriately staffed and equipped health facilities to recognize and diagnose occupational diseases;

(13) there is a need for increased research to identify and monitor worker populations at risk of occupational diseases; and

(14) through prevention and early detection of occupational disease the staggering costs of medical treatment and care in the United States can be substantially reduced.

(b) Purpose.—It is the purpose of this Act—

(1) to establish a Federal program to notify individual employees within populations at risk of occupationally induced disease that they are at risk because of exposure to an occupational health hazard, and to counsel them appropriately;

(2) to authorize and direct the certification of health facilities that have a primary purpose of educating, training, and advising physicians, nurses, and other professionals in local communities throughout the United States to recognize, diagnose, and treat occupational disease;

(3) to expand Federal research and education efforts to improve means of identifying and monitoring worker populations at risk of occupational disease; and

(4) to establish a set of protections prohibiting discrimination against employees on the basis of identification and notification of occupational disease risk.

SEC. 3. DEFINITIONS.

For the purpose of this Act;

(1) Board.—The term "Board" means the Risk Assessment Board established under this Act.

(2) Commerce.—The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States (other than the Trust Territory of the Pacific Islands), or between points in the same State but through a point outside thereof.

(3) Employee.—The term "employee" means—

(A) an employee of an employer who is employed in a business of the employer that affects commerce; or

(B) a former employee who—

(i) was formerly employed by an employer in a business of the employer that at the time of employment affected commerce; and

(ii) as to whom any Federal agency maintains records pertaining to work history, or the employer maintains personnel records, medical records, or exposure records.

(4) Employer.—The term "employer" means a person engaged in a business affecting commerce who has employees, including the United States or any State or political subdivision of a State.

(5) Hazard communication standard.—The term "hazard communication standard" means the standard contained in section 1910.1200 of title 29 of the Code of Federal Regulations in effect on January 1, 1987.

(6) Institute.—The term "Institute" means the National Institute for Occupational Safety and Health.

(7) Medical monitoring.—The term "medical monitoring" means periodic examinations or laboratory tests to diagnose or aid in the diagnosis of a disease that has been the subject of a notice.

(8) Occupational health hazard.—The term "occupational health hazard" means a chemical, a physical, or a biological agent, generated by or integral to the work process and found in the workplace, or an industrial or commercial process found in the workplace, for which there is statistically significant evidence (based on clinical or epidemiologic study conducted in accordance with established scientific principles) that chronic health effects have occurred in persons exposed to such agent or process. The term includes chemicals that are carcinogens, toxic or highly toxic agents, reproductive toxins, including agents that may cause miscarriages and birth defects, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents that act on the hematopoietic system, and agents that damage the lungs, skin, eyes, or mucous membranes.

(9) Person.—The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(10) Population at risk of disease.—The term "population at risk of disease" means a class or category of employees—

(A) exposed to an occupational health hazard under working conditions (such as concentrations of exposure, or durations or exposure, or both) comparable to the clinical or epidemiologic data referred to in paragraph (8); and

(B) identified and designated as a population at risk of disease by the Board pursuant to section 4(c).

(11) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. RISK ASSESSMENT BOARD.

(a) Establishment.—

(1) In general.—There is established within the Department of Health and Human Services, the Risk Assessment Board.

(2) Membership.—The Board shall consist of 7 members. Each member shall be appointed by the Secretary from a list of 3

nominees provided by the National Academy of Sciences. In making appointments under this paragraph, the Secretary may request additional lists. Four members of the Board shall be career or commissioned Public Health Service employees. Three members of the Board shall be appointed from among individuals who are not career or commissioned Public Health Service employees. The Board shall include two physicians specializing in occupational medicine, an epidemiologist, a toxicologist, an industrial hygienist, an occupational health nurse, and an occupational biostatitician.

(3) TERM OF OFFICE.—

(A) PUBLIC HEALTH SERVICE MEMBERS.—The terms of members appointed under the fourth sentence of paragraph (2) of this subsection shall be 5 years, except that of the members first appointed—

(i) 1 member shall be appointed for 2 years,

(ii) 1 member shall be appointed for 3 years,

(iii) 1 member shall be appointed for 4 years, and

(iv) 1 member shall be appointed for 5 years,

(B) OTHER MEMBERS.—The terms of members appointed under the fifth sentence of paragraph (2) of this subsection shall be 5 years, except that of the members first appointed—

(i) 1 member shall be appointed for 1 year,

(ii) 1 member shall be appointed for 3 years, and

(iii) 1 member shall be appointed for 5 years.

(4) CHAIRMAN.—The Secretary shall designate 1 member to serve as Chairman of the Board.

(5) VACANCIES.—Any member appointed to fill a vacancy in the Board that occurs prior to the expiration of a term shall be appointed to serve for the remainder of that term.

(6) REPORTING.—The Board shall report to the Secretary through the Director of the Institute.

(7) STAFF.—The Secretary shall provide full-time staff personnel necessary to carry out the functions of the Board.

(8) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"Members, Risk Assessment Board, Department of Health and Human Services (7).".

(b) INDEPENDENCE OF BOARD.—In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department unless otherwise specifically provided in this Act.

(c) FUNCTIONS OF BOARD.—

(1) IN GENERAL.—

(A) DUTIES.—The Board shall—

(i) review pertinent medical and other scientific studies and reports concerning the incidence of disease associated with exposure to occupational health hazards;

(ii) identify and designate from the review, and from field assessments where appropriate those populations at risk of disease that should receive notification pursuant to this Act, including the size, nature, and composition of the populations to be notified;

(iii) develop an appropriate form and method of notification that will be used by the Secretary, or agents of the Secretary described under section 6, to notify the designated populations at risk of disease; and

(iv) determine the appropriate type (if any) of medical monitoring or beneficial health counseling, or both, for the disease associated with the risk, which shall be described in the notification under section 5(b)(6).

(B) PANEL OF EXPERTS.—The Board may appoint an expert or a panel of experts on the particular disease that is the subject of the notice and the report of such expert or panel on the Board's recommendation shall be included in the hearing record.

(C) INFORMATION REQUESTS.—The Board, consistent with section 552a of title 5, United States Code (relating to privacy), may request information from any Federal agency or other government or private organization for the purpose of obtaining studies and reports conducted or initated with respect to actual or potential occupational health hazards. The information shall be furnished consistent with provisions for Federal access set forth under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), and regulations promulgated pursuant to such Acts.

(2) IDENTIFICATION OF POPULATIONS AT RISK OF DISEASE.—In identifying populations at risk of disease, the Board shall consider the following factors based on the best available scientific evidence—

(A) the extent of clinical and epidemiologic evidence that specific substances, agents, or processes may be a causal factor in the etiology of chronic illnesses or long-latency disease among employees exposed to such substances, agents, or processes in specific working conditions (such as concentration of exposure, or durations of exposure, or both);

(B) the extent of supporting evidence from clincial, epidemiologic, or toxicologic studies that specific substances, agents, or processes may be a causal factor in the etiology of chronic illnesses or long-latency diseases among individuals exposed to such substances, agents, or processes;

(C) the employees involved in particular industrial classifications and job categories who are or have been exposed to such substances, agents, or processes under working conditions (such as concentrations, or durations, or both) that may be a causal factor in the etiology of the illnesses or diseases;

(D) the extent of the increased risk of illness or disease created by occupational health hazards alone or in combination with such factors as smoking and diet; and

(E) other medical, health, and epidemiological factors, including consistency of association, specificity of association, strength of association, dose-response relationships, biological plausibility, temporal relationships, statistical significance, and the health consequences of notifying or failing to notify a population at risk.

(3) DESIGNATION OF IDENTIFIED POPULATIONS FOR NOTIFICATION.—

(A) DESIGNATION.—In designating populations at risk of disease for notification, the Board shall consider the extent to which particular populations may derive health benefits from receipt of notification. The Board shall undertake as its first priority to designate populations likely to benefit from medical monitoring or health counseling.

(B) POSSIBLE FACTORS.—In making the designation required by this paragraph, the Board may consider—

(i) exposures for which there exists a permanent standard promulgated under section 6(b)(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)(5));

(ii) the extent of medical monitoring already available to employee populations covered by the permanent standards;

(iii) the need to notify former employees as well as current employees; and

(iv) the extent to which notification may prevent miscarriages and birth defects.

(C) NOTICATION.—The Board, in making determinations, and the Institute, in giving or coordinating notification, shall notify as many employees at risk of disease as the appropriations and the best available scientific evidence permit. The Secretary shall include a detailed explanation of the reasons for the notification determinations in the report submitted pursuant to section 11(b) of this Act.

(4) DETERMINATION.—If the Board determines that a class or category of employees is a population at risk of disease to be notified pursuant to this Act, the Board shall—

(A) make such a determination pursuant to subsection (d); and

(B) within 10 days of making such a determination, transmit to the Secretary the classes or categories of employees to be notified under section 5.

(d) PROCEDURES.—

(1) NOTICE OF PROPOSED DETERMINATION.—For each population designated for notification, the Board shall issue a notice of proposed determination.

(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall—

(A) be published in the Federal Register,

(B) set forth which classes or categories of employees are being considered for inclusion as an employee population to be notified, and a concise statement of the basis for their inclusion and the contents of the proposed notice as specified in section 5(b) (other than paragraphs (6) (C) and (F) of such subsection);

(C) provide for the public to submit written views on the proposed determination within 60 days of the notice; and

(D) provide for a hearing within 45 days of the notice at which the public may express views on the proposed determination of the Board.

(3) FINAL DETERMINATION.—The Board shall issue a final determination within 60 days after the hearing based on the record developed pursuant to paragraph (2). The final determination shall be deemed to be a final agency action.

(4) EXTENSION.—The Board may, in exceptional circumstances and for good cause shown, extend the time between the issuance of the notice described in paragraph (2), and the issuance of a final determination under paragraph (3), except that the extension may not exceed 150 days for the total period of time beginning with the issuance of the notice.

(5) ACTION.—Any aggrieved person may bring a civil action for mandamus in the appropriate United States district court if the final agency action is not completed within 105 days or 150 days, as the case may be.

(e) BOARD AGENDA.—Within 6 months after the Board is appointed and every 6 months thereafter, the Board shall publish in the Federal Register an agenda listing the chemical, physical, or biological agents and industrial or commercial processes which are under review by the Board or which the Board anticipates may, within the ensuing 6 months, be reviewed by the Board to decide whether to issue a notice of proposed determination. For each item on the agenda, the Board shall, if available, identify (A) the population to be evaluated with respect to the agent or process and (B) the name and telephone number of a knowledgeable agency official. The Board may at any time publish a supplement to an agenda adding agents or processes which the Board anticipates will be subject to review prior to the next regularly scheduled publication of an agenda.

(f) BOARD REVIEW.—With respect to a final determination by the Board, not later than 5 years after the initial issuance of notification and not later than each 5 years thereafter, the Board shall review—

(1) new scientific data relevant to the determination in order to assess the appropriateness and accuracy of the notice; and

(2) the appropriateness of medical monitoring practices under section 9.

SEC. 5. EMPLOYEE NOTIFICATION AND COUNSELING.

(a) NOTIFICATION OF POPULATION AT RISK.—On a determination by the Board that a given class or category of employee is a population at risk of disease to be notified pursuant to this Act, the Secretary shall make every reasonable effort to ensure that each individual within such population is notified of the risk. The Secretary, through the Institute, shall direct the notification required by this section.

(b) CONTENTS OF NOTIFICATION.—The notification shall include:

(1) HAZARD.—An identification of the occupational health hazard, including the name, composition, and properties of known chemical agents.

(2) DISEASES.—The disease or diseases associated with exposure to the occupational health hazard, and the fact that such association pertains to classes or categories of employees.

(3) EXTENT OF THE RISK.—The extent of the risk of such disease or diseases for the population at risk compared to the population at large.

(4) LATENCY PERIODS.—Any known latency periods from the time of exposure to time of the clinical manifestation of a disease.

(5) POSSIBLE CONTRIBUTING FACTORS.—Any known information concerning the extent of increased risk of illness or disease associated with exposure to the occupational health hazard in combination with exposure to nonoccupational factors.

(6) COUNSELING.—Counseling information appropriate to the nature of the risk, including but not limited to—

(A) the advisability of initiating a personal medical monitoring program;

(B) the most appropriate type or types of medical monitoring or beneficial health counseling or both for the disease associated with the risk;

(C) the name and address of the nearest occupational and environmental health center certified under this Act;

(D) the protections for notified employees, as established under section 9;

(E) employer responsibilities with respect to medical monitoring for notified employees, as established under section 9; and

(F) the telephone number of the hot line established under subsection (c).

(c) TELEPHONE INFORMATION.—The Institute shall establish a toll-free long distance telephone "hot line" for employees notified under this section or their personal physicians, for the purpose of providing additional medical and scientific information concerning the nature of the risk and its associated disease.

(d) DISSEMINATION OF INFORMATION.—The Institute, after consultation with the Board, shall prepare and distribute other medical and health promotion material and information on any risk subject to notification under this section and its associated disease as the Institute and the Board consider appropriate.

(e) ACCESS TO INFORMATION.—In carrying out the notification responsibilities under this section, the Secretary, consistent with section 552a of title 5, United States Code, (relating to privacy) may request information from—

(1) any Federal agency, or State or political subdivision of a State, solely for the purpose of obtaining names, addresses and work histories of employees subject to notification under this section;

(2) any employer insofar as Federal access already is provided for under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), and regulations promulgated pursuant to such Acts; and

(3) any employer insofar as such information is maintained by such employer under a State or Federal law concerning occupational safety and health matters.

(f) LIABILITY.—The United States or any agency or employee thereof (including any employer or government acting pursuant to section 6) shall not be subjected to suit or judicial or nonjudicial proceedings of any kind that seek monetary damages with respect to or arising out of any act or omission performed pursuant to this Act, including the failure to perform any act or omission pursuant to this Act. This subsection shall not apply to—

(1) an employee of the United States for any act or omission that is a knowing and deliberate violation of a provision of the Act to the extent that Federal law otherwise authorizes suit against that individual for monetary damages; and

(2) an employer or government acting pursuant to section 6, for any act or omission that is a knowing or reckless violation of a provision of the Act.

(g) JUDICIAL REVIEW.—

(1) PETITION.—Any person adversely affected or aggrieved by a determination of the Board under this Act is entitled to judicial review of the determination in the United States Court of Appeals wherein such person resides or has the principal place of business or in the United States Court of Appeals for the District of Columbia circuit on a petition filed in such court. A person may be adversely affected or aggrieved by one or more of the following Board determinations:

(A) The determination that an agent or process is or is not an occupational health hazard.

(B) The determination of the class or category of employees that is a population at risk of disease.

(C) The determination as to what constitutes appropriate medical monitoring or beneficial counseling for the designated population at risk.

Any petition filed pursuant to this section shall be filed within 30 days after such determination by the Board. On the filing of a petition, the Secretary shall certify the hearing record.

(2) REVIEW.—The court shall review the determination of the Board based on the hearing record.

(3) JUDICIAL ACTION.—The court shall set aside the determination of the Board if the determination is found to be—

(A) arbitrary, capricious, or abuse of discretion;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations;

(D) without observance of procedure required by law; or

(E) unsupported by substantial evidence on the record.

(4) STAY.—The commencement of proceedings under this subsection shall not operate as a stay of the requirement on the Secretary to notify employees unless the court specifically orders a stay based on a determination by the court that the complaining party is highly likely to suceed on the merits.

SEC. 6. MEANS OF EMPLOYEE NOTIFICATION.

(a) RESPONSIBILITY OF SECRETARY.—Except as otherwise provided in this section, the Secretary shall be responsible for notifying employees at risk of disease as determined by the Board.

(b) COOPERATION WITH PRIVATE EMPLOYERS AND STATE AND LOCAL GOVERNMENTS.—

(1) IN GENERAL.—In carrying out notification responsibilities under subsection (a), the Secretary is encouraged to cooperate to the extent practiable with private employers and State and local governments.

(2) CERTIFICATION OF PRIVATE EMPLOYERS OR STATE OR LOCAL GOVERNMENTS.—

(A) IN GENERAL.—Upon request by a private employer in a State or local government, the Secretary may certify a private employer or a State or local government to conduct notification of its current or former employees, or both, who are members of populations determined to be at risk. Such certification shall require inclusion in the notification of the information decribed in section 5(b) and shall be in accordance with regulations issued by the Secretary.

(B) ADMINISTRATION.—No private employer or State or local governments certified under this paragraph may receive payment for the cost of such notification from the United States, or have a right of access to Federal records for the purposes of carrying out the notification.

(C) FORM OF NOTIFICATION.—The form of notification adopted by a private employer or State or local government shall conform, to the maximum extent practicable, to a model notification form issued by the Board under section 4(c).

(c) EMPLOYEES NOT CURRENTLY EXPOSED.—

(1) IN GENERAL.—In the case of former employees and employees for whom no exposure to the occupational health hazard occurred in the course of employment with their current employer as of the time the notice was issued, the notification shall be transmitted to each employee in the designated population at risk of disease who was exposed to the occupational health hazard within 30 years prior to the date of notification.

(2) INDIVIDUAL NOTIFICATION.—Notification shall be on an individual basis, except that if individual notification is not reasonably possible, the notifying entity shall make use of public service announcements and other means of notification appropriate to reach the population at risk.

(d) EMPLOYEES CURRENTLY EXPOSED.—

(1) IN GENERAL.—In the case of employees for whom any exposure to the occupational health hazard occurred in the course of current employment, notification shall be transmitted to individual employees wherever reasonably possible.

(2) LIMITING RULE.—If individual notification is not reasonably possible, the notifying

entity shall make use of public service announcements and other means of notification appropriate to reach the population at risk. Such means may include working with employers to post prominently notices as specified in section 5(b).

(e) VARIANCES.—

(1) APPLICATION FOR VARIANCE.—Within 30 days after the Board issues a final determination identifying a population at risk of disease for notification, an employer who employs or has employed employees within that population may apply to the Institute for a determination exempting the employer's employees from the population at risk, if the employer believes that, as a result of significant mitigating factors, the employer's employees are not members of a population at risk of disease. The application of the employer shall describe in detail the basis for the application.

(2) HEARING.—If the Institute concludes that any application raises an issue of material fact which is subject to reasonable dispute, the Institute, within 30 days after the receipt of an application shall—

(A) publish a notice so stating in the Federal Register, and

(B) schedule a hearing on the disputed issues.

All applications for a variance with respect to any one population at risk shall be consolidated in a single hearing.

(3) EXEMPTION.—During the pendency of any application before the Institute, the Secretary shall be exempted from the notification requirements of the final determination adopted by the Board with respect to any parties seeking a variance. Each such hearing before the Institute shall be completed within 60 days of the notice of hearing.

(4) DECISION ON VARIANCE.—Within 30 days after the close of the hearing, or, where no hearing is held, within 30 days of the receipt of an application, the Institute shall issue a decision granting a variance to any employer who has demonstrated by a preponderance of the evidence that the employees of the employer should not be included within the population at risk of disease. The Institute shall deny a variance to all other employers. In determining whether a variance should be granted as to any specific employee or group of employees to be notified, the Institute shall evaluate whether there are significant mitigating factors for such employee or employees, including work practices, health and safety programs, engineering controls, or other factors that are fundamentally different from the factors evidenced by the data relied upon by the Board, that substantially eliminate the risk of developing the occupational disease under examination.

(5) LIMITATION.—No employer who has not applied for a variance may avail itself of any decision by the Institute granting a variance to some other employer. Determinations by the Board may not be challenged in any action brought pursuant to this subsection.

SEC. 7. OCCUPATIONAL AND ENVIRONMENTAL HEALTH CENTERS.

(a) SELECTION FROM AMONG EXISTING FACILITIES.—

(1) ESTABLISHMENT AND CERTIFICATION.—Within 90 days after the effective date of this Act, the Secretary shall establish and certify 10 health centers. The Secretary shall select the 10 health centers from among the educational resource centers of the National Institute for Occupational Safety and Health and similar facilities of the National Institute for Environmental Health Sciences, the National Cancer Institute, and other private or governmental organizations designated by the Secretary. At a later date, the Secretary may establish and certify additional health centers from among the health care facilities described in this paragraph.

(2) BASIS FOR SELECTION.—In carrying out paragraph (1), the Secretary shall base selection on ability and experience in the recognition, diagnosis, and treatment of occupationally related diseases, capacity to offer training to physicians, nurses, and other professionals, and geographical proximity for designated populations.

(b) FUNCTIONS OF CENTERS.—The centers shall—

(1) provide education, training, and technical assistance to personal physicians and other professionals who serve employees notified under section 5; and

(2) be capable, in the event that adequate facilities are not otherwise reasonably available, of providing diagnosis, treatment, and medical monitoring for employees notified under section 5.

SEC. 8. RESEARCH, TRAINING, AND EDUCATION.

(a) IN GENERAL.—

(1) IMPROVED METHODS OF MONITORING AND IDENTIFICATION.—The Institute shall conduct or provide for research, training, and education designed to improve the means of identifying employees exposed to occupational health hazards and improve medical assistance to such employees. The research, training and education shall include but not be limited to—

(A) studying the etiology, and the development of occupationally related diseases, and the development of disabilities resulting from such diseases;

(B) developing means of medical monitoring of employees exposed to occupational health hazards;

(C) examining the types of medical treatment of workers exposed to occupational health hazards, and means of medical intervention to prevent the deterioration of the health and functional capacity of employees disabled by occupational diseases;

(D) studying and developing medical treatment and allied health services to be made available to employees exposed to occupational health hazards; and

(E) sponsoring epidemiological, clinical, and laboratory research to identify and define additional employee populations at risk of disease.

(2) AUTHORITY TO EMPLOY EXPERTS AND CONSULTANTS.—In carrying out activities under this section, the Institute is authorized to engage the services of experts and consultants, as the Institute considers necessary.

(b) EDUCATION.—Part F of title VII of the Public Health Service Act is amended by inserting after section 788 the following new section:

"GRANTS AND CONTRACTS FOR TRAINING AND CURRICULUM DEVELOPMENT IN OCCUPATIONAL MEDICINE

"SEC. 788A. (a)(1) The Secretary may make grants to, and enter into contracts with, schools of medicine and schools of nursing in which occupational medicine or occupational health programs exist on the date of enactment of this section to assist such programs in meeting the costs of carrying out projects to—

"(A) provide continuing education for faculty in departments of internal medicine and family medicine or in schools of nursing in order to enable such faculty to provide instruction in the diagnosis and treatment of occupational diseases;

"(B) develop, publish, and disseminate curricula and training materials concerning occupational medicine or health for use in undergraduate medical or nursing training; or

"(C) establish, for residents in graduate medical education programs in internal medicine, family medicine, and other specialties with a primary care focus, training programs in occupational medicine or health consisting of clinical training, for periods of between 1 and 4 months, in settings such as medical facilities, union offices, and industrial worksites.

"(2) In making grants and entering into contracts under this subsection, the Secretary shall give preference to applicants which demonstrate—

"(A) the ability to recruit a significant number of participants to participate in the project to be carried out under the grant or contract (in the case of a project described in subparagraph (A) or (C) of paragraph (1); and

"(B) expertise and experience in the provision of continuing education in occupational medicine or health (in the case of a project described in subparagraph (A) of such paragraph) or the provision of residency training in occupational medicine or health (in the case of a project described in subparagraph (C) of such paragraph).

"(b)(1) The Secretary may make grants to, and enter into contracts with, schools of medicine and schools of nursing in which, on the date of enactment of this section, there do not exist training programs in occupational medicine or health. The purpose of grants and contracts under this subsection is to provide support for projects to provide training in occupational medicine or health for faculty who are certified in internal medicine or family medicine by the appropriate national medical specialty board or faculty who have similar qualifications in professional nursing.

"(2) Each project for which a grant or contract is made under this subsection shall—

"(A) be based in a graduate medical education program in internal medicine or family medicine or in graduate programs in a school of nursing;

"(B) have an arrangement with an accredited training program in occupational medicine or health for the provision of training in occupational medicine or health to the faculty selected by the recipient of the grant or contract under this subsection; and

"(C) have a plan for the use of the faculty receiving training with a grant or contract under this section to provide education and training in occupational medicine or health to other individuals.

"(c) The Secretary shall, during the period October 1, 1987, through September 30, 1990, make grants and contracts to not less than 10 schools of medicine or schools of nursing under subsections (a) and (b).

"(d) Amounts described in section 14(b)(2) of the High Risk Occupational Disease Notification and Prevention Act of 1987 shall be available to carry out this section.

"(e) For the purpose of this section—

"(1) the term 'graduate medical education program' has the same meaning as in section 788(e)(4)(A); and

"(2) the term 'school of nursing' has the same meaning as in section 853(2).".

SEC. 9. EMPLOYEE MEDICAL MONITORING; DISCRIMINATION AGAINST EMPLOYEES; CONFIDENTIALITY.

(a) EMPLOYEE MEDICAL MONITORING.—For any employee who is a member of a population that is determined by the Board to be at risk of disease, the medical monitoring recommended by the Board as a result of exposure to the occupational health hazard shall be provided or made available by the current employer at no additional cost to the employee if any part of such exposure occurred in the course of the employee's employment by that employer. If the benefits are made available through an existing employer health plan, the employee may be required to meet deductibles or copayments generally required under the existing employer health plan. Any such current employer shall be required to provide monitoring only for employees who—

(1) are notified individually under section 5; or

(2) the employer knows or has reason to know are members of the population at risk as determined by the Board.

"(b) LIMITATIONS FOR AGRICULTURAL WORKERS.—Provisions for medical removal protection under this Act shall not apply to any seasonal agricultural worker employed by an employer for less than 6 months of continuous employment. Provisions of section 12 of this Act shall not take effect unless the Secretary of Health and Human Services, using existing authorization, provides that in the case of seasonal agricultural workers employed by an employer for less than 6 months of continuous employment, the medical monitoring recommended by the Board is provided through the Migrant Health Program of the Bureau of Health Care Delivery and Assistance of the Department of Health and Human Services using funds appropriated under section 14. An amount not to exceed $1,000,000 for each fiscal year, from funds authorized to be appropriated by this Act, shall be set aside, if necessary, to carry out the preceding sentence.".

(c) DISCRIMINATION PROHIBITED.—

(1) IN GENERAL.—No employer or other person shall discharge or in any manner discriminate against any employee, or applicant for employment, on the basis that the employee or applicant is or has been a member of a population that has been determined by the Board to be at risk of disease. The subsection shall not apply if the position which the applicant seeks requires exposure to the occupational health hazard which is the subject of the notice. If it is medically determined pursuant to subsection (d) that an employee should be removed to a less hazardous or nonexposed job, an employer may effect such a removal without violating this subsection so long as the employee maintains the earnings, seniority, and other employment rights and benefits, as though the employee had not been removed from the former job.

(2) SPECIAL PROVISION.—An employer with 100 or fewer employees for years 1988 through 1990, and thereafter an employer with 50 or fewer employees may transfer an employee who is or has been a member of a population at risk to another job without violating this subsection so long as the new job has earnings, seniority and other employment rights and benefits as comparable as possible to the job from which the employee has been removed. In providing such alternative job assignment, the employer shall not violate the terms of any applicable collective bargaining agreement.

"(d) BENEFIT REDUCTION PROHIBITED.—

"(1) GENERAL.—If, following a determination by the Board under this Act, the employee's physician medically determines that an employee who is a member of a population at risk shows evidence of the development of the disease described in the notice or other symptoms or conditions increasing the likelihood of incidence of such disease, the employee shall have the option of being transferred to a less hazardous or nonexposed job. If within 10 working days after the employee has exercised the option and transmitted to the employer a copy of the initial determination, the employer's medical representative has not requested independent reconsideration of such determination, the employee shall be removed to a less hazardous or nonexposed job and shall maintain earnings, seniority, and other employment rights and benefits as though the employee had not been removed from the former job. In providing such alternative job assignment, the employer shall not be required to violate the terms of any applicable collective bargaining agreement, and shall not be required to displace, lay off, or terminate any other employee.

"(2) INDEPENDENT RECONSIDERATION.—If the employer's medical representative requests independent reconsideration of the initial medical determination under paragraph (1), the employee's physician and the employer's medical representative shall, within 14 working days of the transmittal of the initial determination, submit the matter to another mutually acceptable physician for a final medical determination, which shall be made within 21 working days of the transmittal of the initial determination unless otherwise agreed by the parties. If the two medical representatives have been unable to agree upon another physician within 14 working days, the Secretary or the Secretary's local designee for such purpose shall immediately, at the request of the employee or the employee's physician, appoint a qualified independent physician who shall make a final medical determination within the 21 working day period specified in this paragraph, unless otherwise agreed by the parties. The employer shall bear all costs related to the procedure set forth in this paragraph.

"(3) EMPLOYEES SUBJECT TO MEDICAL REMOVAL.—An employer shall be required to provide medical removal protection only for employees who—

"(A) are notified individually under section 5, or

"(B) the employer knows or has reason to know are members of the population at risk as determined by the Board.

"(4) SPECIAL RULES FOR MEDICAL REMOVAL.—An employer shall be required to provide such protection only if any part of the employee's exposure to the occupational health hazard occurred in the course of the employee's employment by that employer. The medical removal protection described in this subsection shall be provided for as long as a less hazardous or nonexposed job is available. The availability of such a job shall depend upon the employee's skills, qualifications, and aptitudes and the job's requirements. Where such job is not available, the medical removal protection shall be provided for a period not to exceed 12 months. The employer may condition the provision of medical removal protection upon the employee's participation in follow-up medical surveillance for the occupational health effects in question based on the procedure set forth in this subsection. The employer's obligation to provide removal protection shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal, or receives income from employment with another employer made possible by virtue of the employee's removal. An employee who is receiving medical removal protection and for whom no less hazardous or nonexposed job is available must undertake reasonable good faith efforts to obtain alternative employment.

"(5) SPECIAL LIMITATION.—An employer is not required to provide medical removal protection for employees if the employer—

"(A) has 100 or fewer employees for years 1988 through 1990 and thereafter has 50 or fewer full-time employees at the time medical removal protection is requested, and

(b) made or is in the process of making a reasonable good faith effort to eliminate the occupational health hazard that is the basis for the medical removal decision.

(e) SPECIAL SMALL BUSINESS RULE.—The medical monitoring required under this Act shall be limited to the monitoring recommended by the Risk Assessment Board. This means of providing such medical monitoring shall be left to the employer's judgment consistent with sound medical practices. If the benefits are made available through an existing employer health plan, the employee may be required to meet deductibles or copayments generally required under the existing employer health plan. Any such current employee shall be required to provide monitoring only for employees who—

"(1) are notified individually under section 5; or

"(2) the employer knows or has reason to know are members of the population at risk as determined by the Board.

An employer with 50 or fewer employees may not be required to pay more than $250 for medical monitoring for any employee in any year. This amount shall be adjusted annually after 1988 based on the Consumer Price Index for medical care services maintained by the Bureau of Labor Statistics.

(f) CONFIDENTIALITY.—The records of the identity, diagnosis, prognosis, or treatment of any individual employee which are maintained in connection with the performance of any function authorized by this Act shall be confidential and may not be disclosed unless—

(1) authorized by another provision of this Act and necessary to carry out such provision; or

(2) upon the written consent of such employee or the personally designated representative of the employee.

SEC. 10. ENFORCEMENT AUTHORITY.

(a) RECORDKEEPING.—The Secretary shall require recordkeeping by the Institute or by employers acting pursuant to section 6 necessary to monitor the numbers, types and results of notification under this Act.

(b) ACTIONS BY THE SECRETARY.—

(1) INJUNCTIVE RELIEF.—Whenever the Secretary determines that an employer has engaged, is engaged, or is about to engage in an act or practice constituting a violation of this Act or any rule or regulation promulgated under this Act, other than a violation of section 9, the Secretary may bring an action in the appropriate United States district court to enjoin such acts or practices. On a proper showing, an injunction or permanent or temporary restraining order shall be granted without bond.

(2) CIVIL PENALTY.—The Secretary may bring an action in the appropriate United States District Court against an employer

acting pursuant to section 6 for any act or omission that is a knowing or reckless violation of a provision of this Act or any rule or regulation promulgated under this Act. Any employer who violates this Act (or a rule or regulation promulgated under this Act) as set forth in the preceding sentence shall be assessed a civil penalty of not more than $10,000 for each violation.

(c) Review of Employee Complaints.—

(1) In general.—

(A) Application for review.—Any employee who is aggrieved by a violation of section 9 may, within 6 months after such violation occurs, apply to the Secretary of Labor for a review of such alleged violation.

(B) Investigation.—On receipt of such application, the Secretary of Labor shall cause such investigation to be made as the Secretary of Labor considers appropriate.

(C) Action.—If, after such investigation, the Secretary of Labor determines that a reasonable cause exists to believe that a violation has occurred, the Secretary of Labor shall bring an action in any appropriate United States district court. In any such action, the United States district courts shall have jurisdiction for cause shown to restrain violations of section 9, and to order all appropriate relief under subsection (d) or (e). In any action brought by the Secretary of Labor pursuant to this subsection, an employer shall be given a reasonable opportunity to prove by a preponderance of the evidence that an individual who received notification pursuant to section 5 is not a member of a population at risk, provided that determinations by the Board which have not been set aside under section 5(g) may not be challenged in any such action.

(D) Defense.—It shall be a defense to any action brought to enforce rights under section 9(a) that—

(i) an employee who received individual notification failed to assert the rights of the employee under section 9(a) within 1 year after receiving such notification, except for good cause shown; or

(ii) an employee who did not receive individual notification but had reason to know that the employee was a member of a population at risk who is entitled to rights under section 9(a) neglected or omitted to assert the rights based on the lapse of at least 1 year, and circumstances are sufficient to cause prejudice to the adverse party.

(2) Determination by secretary.—Within 90 days of the receipt of the application filed under this subsection, the Secretary of Labor shall notify the complainant of the determination of the Secretary of Labor under paragraph (1). If the Secretary of Labor finds that there was not reasonable cause to believe that a violation occurred, the Secretary shall issue an order denying the application and informing the applicant of the rights of the applicant under paragraph (3).

(3) Appeal.—

(A) Denial of application.—Any person adversely affected or aggrieved by a determination of the Secretary of Labor under paragraph (2) is entitled to judicial review of the determination in the appropriate United States District Court on a petition filed in such court within 30 days after such determination by the Secretary of Labor. The court may set aside the determination by the Secretary of Labor under paragraph (2) only if the determination is found to be—

(i) arbitrary, capricious, or an abuse of discretion;

(ii) contrary to constitutional right, power, privilege, or immunity;

(iii) in excess of statutory jurisdiction, authority, or limitations;

(iv) without observance of procedure required by law; or

(v) unsupported by substantial evidence on the record.

If the court sets aside the determination of the Secretary of Labor under paragraph (2), the employee may bring an action of the type authorized by paragraph (1)(C).

(B) Member of the population at risk rule.—In any action brought by an aggrieved person under subparagraph (A), the aggrieved person shall be given a reasonable opportunity to prove, by a preponderance of the evidence, that an individual who did not receive notification is a member of a population at risk, except that determinations by the Board which have not been set aside under section 5(g) may not be challenged in any such action.

(C) Failure to act within 90 days.—If the Secretary of Labor has not acted within 90 days pursuant to paragraph (2), an applicant may bring a civil action for mandamus in the appropriate United States District Court.

(d) Reinstatement and Other Relief.—Any employee who is injured in violation of section 9 shall be restored to his or her employment and shall be compensated for—

(1) any lost wages (including fringe benefits and seniority);

(2) costs associated with medical monitoring that are incurred up to the time when the discrimination is fully remedied; and

(3) costs associated with bringing the allegation of violation.

(e) Civil Penalties.—Any person that violates section 9 shall be liable for a civil penalty of not more than $10,000 for each violation.

(f) Exclusivity of Remedy.—Except as otherwise expressly provided in this Act, remedies provided in this Act shall be exclusive remedies with respect to any acts or omissions taken pursuant to or alleged to be in violation of this Act.

(g) Effect on Other Laws.—

(1) No testimony, whether oral or written, and no documents or physical evidence of any type which would prove, tend to prove, or which is offered in an attempt to prove

(A) that the Board has made a finding or determination that an employee or an employee population is or is not a member of or is or is not a population at risk of disease as determined under the Act;

(B) that an employee or employee population is or is not to receive (or has or has not received) notification under this Act; or

(C) that medical evaluation or monitoring or removal is or is not to be initiated (or has or has not been initiated) under this Act,

shall be admissible in or considered in connection with or form the basis of a ruling in any civil, criminal, administrative or other judicial or quasi-judicial proceeding of any type, whether brought under federal or state law other than a claim brought pursuant to section 5(f), 5(g), 10(b), or 10(c) of this Act. The admission or reliance upon any such testimony, documents or physical evidence shall automatically constitute reversible error.

(2) Construction rule.—Nothing in this Act shall preclude the admission into evidence of—

(A) the results of any medical evaluation or monitoring;

(B) any medical and other scientific studies and reports concerning the incidence of disease associated with exposure to occupational health hazards; or

(C) any data related to exposure to occupational health hazards for individual employees,

in connection with any claim for compensation, loss or damage brought under State or Federal law. Notification pursuant to this Act shall not be relevant in determining whether such a claim is timely under any applicable statute of limitations.

(h) Prohibition on Actions Against Physicians for Good Faith Determinations Under Section 9(c).—No actions may be brought for any claim based on a good faith determination made by a physician under section 9(c).

SEC. 11. REPORTS TO CONGRESS.

(a) Hazard Communication Standard Report.—The Secretary of Labor shall report to Congress annually, not later than January 15 of each year, regarding implementation and enforcement of the hazard communication standard. The report shall include detailed information on—

(1) Monitoring and enforcement.—Monitoring and enforcement; significant areas of noncompliance; and penalties assessed and steps taken to correct the noncompliance.

(2) Enforcement.—Efforts to evaluate the hazard communication standard.

(3) Employer assistance.—Efforts to assist employers to comply with the hazard communication standard.

(4) Employee education.—Efforts to educate employees to their rights under the hazard communication standard.

(5) Federal court decisions.—Efforts to comply with Federal court decisions requiring or encouraging an expanded scope for the hazard communication standard.

(b) Occupational Disease Notification Report.—The Secretary shall report to Congress annually, not later than January 15 of each year, regarding implementation and enforcement of notification under this Act. The report shall include detailed information on—

(1) Notifications.—Numbers, types and results of notifications carried out pursuant to sections 5 and 6 of this Act.

(2) Research.—Research efforts carried out pursuant to section 8 of this Act.

(3) Training and education.—Training and education efforts for employees, personal physicians, nurses, and other professionals carried out pursuant to sections 7 and 8 of this Act.

(4) Enforcement.—Enforcement efforts carried out pursuant to section 10 of this Act.

(5) Assistance.—Efforts to assist employers under this Act.

SEC. 12. SUBJECTS OF FEDERAL AGENCY STUDIES.

(a) Notification Required.—Each Federal agency that conducts epidemiologic studies on occupational disease initiated after the effective date of this act shall establish procedures for notifying the subjects of such studies of the findings of such study. If the findings are that the subjects are at risk of disease, the notification shall include the information specified in section 5(b), except that required by subparagraphs (D), (E), and (F) of paragraph (6) of such subsection. No notice under this section shall impose any liabilities or create any rights under section 9.

(b) Method of Notice.—All occupational epidemiologic studies conducted by a Federal agency initiated after the effective date of this Act shall include in the study design specific methods for notifying living subjects or their immediate family members that they are part of a population at risk of disease.

SEC. 13. REGULATIONS.

The Secretary shall prescribe such regulations as may be necessary to carry out this Act.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $25,000,000 for each of the fiscal years 1988, 1989, and 1990 to carry out this Act and section 788A of the Public Health Service Act.

(b) SET-ASIDE.—(1) Of the total amount appropriated under subsection (a) for a fiscal year, at least $4,000,000 shall be available to carry out section 8 of this Act and section 788A of the Public Health Service Act.

(2) Of the total amount available under paragraph (1) for a fiscal year, at least $1,000,000 shall be available to carry out section 788A of the Public Health Service Act.

SEC. 15. EFFECTIVE DATE.

Except as may be otherwise provided in this Act, this Act shall become effective January 1, 1988, or 6 months after the date of enactment of this Act, whichever occurs first. The Board shall be appointed within 60 days after the effective date. The Secretary shall issue regulations necessary to administer the Act within 120 days after the effective date.

SEC. 16. MENTAL OR EMOTIONAL DISTRESS CLAIMS.

(a) PROHIBITION.—No person shall bring any tort or workers' compensation claim based on mental or emotional harm, fear or disease, or stress resulting directly or indirectly from any report, finding, notice, medical evaluation decision, or monitoring decision made under this Act, from any other action taken under this Act, or from any failure to take an action required by this Act.

(b) APPLICABILITY.—The prohibition set forth in subsection (a) applies whether the person seeking to bring such a claim—

(1) has been directly subject to such a report, finding, notice, medical evaluation decision, monitoring decision, other action, or failure to take required action; or

(2) has learned about such a report, finding, notice, medical evaluation decision, monitoring decision, other action, or failure to take any required action that directly affected another person.

Mr. BYRD. I wonder if I might renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, reserving the right to object, may I ask what that amendment is?

The PRESIDING OFFICER. The Chair will state that it is an amendment modifying the committee amendment in the nature of a substitute.

Mr. METZENBAUM. So that my colleague understands, the committee amendment now includes the Breaux, Dixon, and Ford amendments to help agricultural employees and small business and also adds the Levin amendment. These are amendments we have been discussing for the last 2 days. I think now it is part of the matter before us.

Mr. HATCH. I have no problem with that.

Mr. METZENBAUM. My staff advises me that it does more than that, in order that I not be charged with having failed to give full disclosure.

Mr. BYRD. Mr. President, I withdraw my request.

Mr. METZENBAUM. I do not want my colleague——

Mr. HATCH. The Senator certainly has a right to modify the amendment.

Mr. METZENBAUM. Senator KENNEDY made the modification on behalf of the committee.

Mr. President, since I have the floor, let me say that seasonal agricultural workers who work less than 6 months per year will no longer be eligible for medical removal. Monitoring for the seasonal workers will be paid for by the Federal Government. It will not cost the agricultural employers one penny. The amendment affects over 70 percent of the farm work force.

As for small business, we have added the Levin amendment, no medical removal requirements for employers with 100 or fewer employees for the first 3 years and then no medical removal for employers of 50 or fewer employees thereafter. That is a phase-in period.

It also provides in the modification to add the $250 cap on monitoring cost for small employers of 50 or less.

These amendments, I believe, help agriculture and small business. It is only fair to point out that it was Senator BREAUX, Senator DIXON, Senator FORD, and Senator LEVIN who were the moving parties in connection with this. In order to get it as part of the bill before the vote on cloture, Senator KENNEDY has polled his committee and seen fit to offer this modification. I yield the floor.

Mr. HATCH. Mr. President, I do feel very badly that the Senator has chosen to use this particular ploy to knock out all the amendments that are at the desk. I think this is much more reason for Senators in this Chamber tomorrow to vote against cloture.

This is typical of the pattern that seems to be developing among certain people on the other side of the aisle, to basically prevent the right to amend either pre- or post-cloture. I do not believe that is an appropriate thing to do. It may be acceptable under the rules, but it certainly violates, I think, the spirit of the Senate and the spirit of the rules. If we are going to play these kinds of games now they will not be played again. I can tell you, I think everybody on our side of the aisle and many on the other side of the aisle, that have respect for the rules ought to vote against cloture for no other reason than this type of tactic which I think is reprehensible under the circumstances.

Be that as it may, the Senator had the right to modify the bill after the cloture motion was laid down. The whole purpose of this ploy is to knock out all kinds of amendments that are germane to this bill and that will never be allowed to be considered if cloture is invoked tomorrow. Again, it seems to me a very, very unworthy approach to try to forbid consideration of amendments to this particular bill.

If this bill is so important that you have to violate everybody's rights by invoking rules in ways that I think are certainly suspect, then I think Senators ought to understand that and they ought to really realize what they are voting on tomorrow when they are voting on cloture.

They are not just voting against cloture—the bill is a reprehensible bill. It is a bad bill. I think we have made that case all day today. They will be voting against cloture because of the violation of Senators' rights to call up legitimate germane amendments even postcloture.

Now, if that is what this is going to devolve into, then this is going to be one very difficult year. We have always operated on a principle of comity around here. I do not consider this comity. Comedy, maybe, c-o-m-e-d-y, but not comity, c-o-m-i-t-y.

Now, if that is the way the game is going to be played, let us understand it works both ways, and I hope my colleagues on the other side are as outraged as I am about it.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. Yes; I will be delighted to yield.

Mr. BYRD. Mr. President, the Senator from Massachusetts, as chairman of the committee, has acted under the rules and within his rights. However, I believe that in fairness to both sides—were I the minority leader at this time, I would make the same request—Senators should be allowed to offer their amendments in the first degree. Under the rule, Senators had only until 1 p.m. today to offer amendments in the first degree. Now the battleground has been shifted; there is a different measure before the Senate now, and amendments that were offered today in the first degree before 1 p.m. were offered to the previous proposal. Senators who have offered amendments in the first degree will not now be able to have those amendments qualify to the changed measure.

Mr. HATCH. That is right.

Mr. BYRD. I would hope we could get consent that Senators still be able to offer their amendments in the first degree even if cloture is invoked. And I would be happy to try to work something out along that line.

Mr. HATCH. I think that ought to be worked out. I do not mind the modification. I think that is within the Senator's rights. But to cut off all rights to have our amendments considered even post-cloture when they are germane I think is reprehensible.

Mr. METZENBAUM. May I address myself to that.

Mr. HATCH. Yes.

Mr. METZENBAUM. I have no objection to that. The only reason that this procedure is used is so that when cloture is voted on, the Members may understand that the modifying amendments that Senators DIXON, BREAUX, and FORD tried to get voted on—I have been asking all day, my friend, if you would be willing to let those amendments in. You had indicated that you would not let them come in. The amendments modify the bill.

Mr. HATCH. You can do that. I have no problem with that.

Mr. METZENBAUM. Then Senator QUAYLE and Senator DANFORTH and others have wanted us to preclude stress claims arising from notification. We said OK, we will put that in. We felt that actually this was in S. 79 already, but it was not. What we are doing is we are accepting the Danforth amendment, one of your amendments. And then there was some concern about the liability amendment, and we have attempted to strengthen the language with respect to that amendment.

But let me make it very clear. There is no thought in our mind to play any games or to work any parliamentary procedures to preclude the offering of amendments that you could have laid down prior to, but you could not lay down once the modification is made. And so I have no objection whatsoever to the suggestion made by the majority leader. That is not our intent. We just want the Members of the Senate when they vote on the cloture question to know that all of those pieces that modify the bill, that weaken the bill, that soften it to make it more acceptable, are in. And we certainly want to give you every opportunity to offer such amendments.

Mr. HATCH. I have no problem with that. If we could get a unanimous consent agreement, I would feel very good about it. But I might also add that the Senator has every right to modify the underlying amendment. We have no problem with that. What I am raising is the issue of trying to cut off real debate, real effective debate on this matter and certainly cut off germane amendments, or any amendments for that matter.

I might also add that we do not know what is in the bill. It seems to me, after days and days of hearings and a full year of looking at this bill, we have no idea right now what is before the Senate. We have not even been accorded the courtesy of knowing what in the world these modifications are.

Now, if they were simply what the Senator says, that is another matter. Is that the way we handle legislation—we have a "for sale" sign on the legislation and in order to attract enough people, you keep modifying it and modifying it and watering it down until maybe you get enough votes to win?

Mr. METZENBAUM. Not a bad procedure. Not a bad procedure.

Mr. HATCH. That is a procedure that you know quite a bit about and used quite effectively on the plant closing legislation. But my point is that I think people out there have to understand that, my gosh, you must not believe in this bill if you are so willing to modify it in such an easy manner.

Mr. METZENBAUM. We believe in it so strongly that we want to make it acceptable to all persons including you, my friend.

Mr. BYRD. Mr. President, I hope we will have the regular order and address other Senators in the third person.

Mr. HATCH. Let me just say that Senators really ought to vote against cloture at least so we can understand what in the world is in this bill. I think they will vote against cloture even with these so-called modifications because although some of the modifications may be acceptable, a number of them are not. And a number of them create a furor among other interest groups in this society, some of whom are generally groups that the distinguished Senator from Ohio does support.

My complaint is going to be resolved with regard to the amendment process, I hope, with the unanimous consent request. But I have to point out that this is not the way legislation should be accomplished. We go through years of considering this type of thing. We have gone through the past year and a number of months, a whole raft of hearings on this matter, through committee markups, and then all of a sudden we have a whole new bill before us. And who knows what in the world is in it, how it is going to work, or how it is going to fit together. And there is not the type of reasonable contemplation that a bill of this magnitude deserves. If that is what we have to go through, another 10 or 12 or 14 modifications because the distinguished Senator from Ohio does not have the votes—and I doubt if he ever will because of the vote—my gosh, to me that is the worst form of legislating we can possibly use. I do not like to see bills with for sale signs on them, and this one I think does have a for sale sign on it, and I think it is being used. Frankly, if it was any good to bring to this floor—I am not saying it should not be modified but, my gosh, it should not be changed every time we turn around because they might pick up one vote here and one vote there, especially since we do not have a committee process to look at these matters and we do not have a hearing process to look at these matters, we do not have the advice of people who are experts so we can look at these matters. That is why we have committees. This is not the place to hold committee functions.

This is the place to bring final bills and then look at orderly amendments and do these things in an orderly, efficient, legislatively sound way. What we are doing here today is not legislatively sound.

But I admit the distinguished Senator has every right, as did the distinguished Senator from Massachusetts have every right, to modify the amendment. But I hope we do not do this any more. If we are going to do this, my goodness, it just means we are going to have continual changes on the floor that nobody is going to understand. I think it is detrimental to the institution. I think it is detrimental to what the Senator is really trying to do. I think it is a system that just plain flies in the face of the committee process. I would be ashamed to use this type of a system.

Now, having said that, and having great admiration for my colleague from Ohio, who undoubtedly can understand why I am upset, having been chairman of this committee and realizing the complex nature of these matters, now seeing this type of activity on the floor that to me on a complex bill really is not the way to go, I just have to raise a complaint because I would think the distinguished chairman of this committee, Senator KENNEDY, would also be concerned about doing this type of thing. But in any event, he has a right to do it. I uphold that right.

What I would like to do now, with the help of the distinguished majority leader, is set things straight with regard to the amendment process. And if we do that, I will feel at least halfway good about this, even though I cannot feel good about the other side of that equation.

Mr. BYRD. Mr. President, before I make the request, the assistant Republican leader is here. He wishes to speak, and after that, I will try to offer a request that I think will be fair to all sides, in view of the fact that this parliamentary landscape has shifted because of the modification.

Mr. HATCH. If I could just say this; we do not even have the property of this. We do not even know what to amend. We do not even have the amendment available to draft amendments. It is a very unfair process. How do we do it?

Mr. BYRD. One way to do it is to get unanimous consent to shift the cloture vote to Friday.

Mr. HATCH. You mean the one tomorrow?

Mr. BYRD. Yes.

Mr. HATCH. Let us have the one tomorrow, but let us make it so we can have some time to get our amendments in order pursuant to this. I think that is a better way. Let us go ahead with cloture tomorrow.

Mr. BYRD. Let us hear what the distinguished assistant Republican leader has to say. He may have a suggestion.

Mr. SIMPSON. Mr. President, I thank the majority leader.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. I do not know if I have a suggestion or a solution, but it certainly seems to me it is a very unique and very unused procedure that we are going through right now and, I must say, a little disturbing to me.

This is apparently what I guess we would refer to as a "sweeten-the-pot" theory of legislating during cloture when you are faced with a vote of 59 to 33. I do not think it is really the best way to legislate.

I would like to see a little finer degree of purity than that because what we are seeing here is the filing of cloture on an issue that was very clear to all of us, and now will not be clear to all of us, with the purpose, of course, to pick up more votes.

Let us be sure of what we are doing. At least we should assess it correctly and honestly: Filing cloture on an issue known to us, something that has been before us, something that our leaders on both sides of the aisle have told us about and now taking the amalgam approach for the sole purpose of getting some more votes. I hope that we would not do that. There will be various procedural ways. I am sure we can all become very creative to prevent that. We will go through the dueling parliamentarians scenario again. It is not becoming to all of us, and I hope we will not have to do that.

We are changing this now to another thing. Let us see what happens tomorrow. It is called doing it up front. Let us see what happens with the cloture vote tomorrow. A lot of things can happen. The proponents of the legislation might pick up enough to close off debate, and then we will have postcloture debate. They may not, and then people will put in their nongermane amendments and their other amendments or the amalgam amendments.

But to me, and I just share this with the leadership, it is a disturbing prospect. It may be done in good humor, and it may be done with some levity, but it is a hard, tough way to legislate.

Mr. METZENBAUM. Will the assistant Republican leader yield for a question?

Mr. SIMPSON. I certainly will.

Mr. METZENBAUM. As the assistant Republican leader knows—he was on the floor before—I indicated that there was a willingness to accept certain amendments. I think the assistant Republican leader has to state his position and understand that the only reason this procedure was used is that there was a filibuster going on to keep us from accepting amendments that we were prepared to accept.

I believe the only reason that this procedure was used is that there are those on that side of the aisle who were not willing to open the bill up to amendments, whether germane or not germane. I said publicly on the floor, let us get this behind us and come forth with your amendments, whether they are germane or not.

Mr. HATCH. Will the Senator yield to me on that point? The point was that on the first day, the tree was built by the side of the distinguished Senator from Ohio and that foreclosed any other amendments. Then the Senator realized that, and he wanted to have the amendments accepted.

Today is the only day we have even had a chance to discuss this bill. Much of the discussion today may have been in vain because of the wholesale now modification of the bill. So we may have to go through the whole thing again tomorrow.

It seems to me the orderly way to proceed is to get the basic discussions over with and then go toward amendments, which I intended to do tomorrow.

What the Senator is saying is he wanted to have the amendments accepted. We were not willing to accept them until we debated them. We started that debate today. So there has not been any attempt to hold this up other than—let us face it: This is a hotly contested bill. There is no easy way it is going to pass. Frankly, even if it does pass, it is going to be vetoed.

We are not against amending, and there are many on our side who have amendments. I know a number of amendments that are very difficult for everybody in this body to handle and that are going to be brought up on this bill, if it ever gets to the amendment stage.

Frankly, I think what we ought to do is resolve this amendment problem first, getting unanimous consent to have time to redo the amendments so they meet the modified bill, and then go ahead with cloture tomorrow if we can get it done by then.

Mr. SIMPSON. Mr. President, there is one other dimension that I will share with the Senator from Ohio, and that is that the cloture motion was filed in this situation before we even had opening statements on the bill.

Mr. METZENBAUM. That was the first cloture motion.

Mr. SIMPSON. We are talking about the cloture motion that we voted on this morning. So all we have ever asked on this side of the aisle is debate, and the debate cannot take place when on the day we move to proceed to the bill a petition for cloture is filed. That cannot take place.

I know the need to do the business of the Senate, but that has happened. In those situations in past days, we have then proceeded with other legislative activity, and we have done our business.

I am very pleased the majority leader has been very accommodating. We have really done a two-track procedure. We put on the motion for cloture, and then we dealt with several items of legislation—the Intelligence Committee oversight, the legal immigration bill.

There are some on our side of the aisle who do not think we should have accommodated on the basis that when you are on a bill and there is a motion for cloture filed, you should stay on that bill until the cloture vote at least.

We were willing to process other legislation, and did so. It was a pleasure to assist in that.

I can tell the Senator from Ohio that if he wants to go ahead on a critically important bill like this and, in effect, shut down the debate, on each and every occasion, there will be 40 or more among us who would like to see a debate take place where they can deal with nongermane amendments and those types of things.

Yes, indeed, they can do that today, but no one would do that today with the vote that occurred this morning. So we should not really jolly ourselves around too much.

Mr. METZENBAUM. The floor was open today for any kind of amendments you wanted.

Mr. HATCH. I might add, we had a reasonable debate today.

Mr. METZENBAUM. I do not think we have had any debate. We had several lengthy speeches, but no real debate.

Mr. HATCH. We are making a lot of real points against what we——

Mr. SIMPSON. If I may ask the Senator to yield, no amendments were possible today.

Mr. METZENBAUM. They certainly were possible if you would have accepted those amendments or given us an up or down vote.

Mr. SIMPSON. Mr. President, they were not acceptable to the substitute, and so let us have that clearly understood.

Mr. HATCH. We did not cause that situation. That was caused by your side. All I am saying is, let us be fair about it.

Look, this is an important bill. Nobody knows what they are voting for [tomorrow]. Nobody. I am one of them, and I am the manager on our side.

To bring this up at 6 o'clock at night before the next morning's cloture vote and modify it in this way, it seems to me, is not the way to do things.

Mr. METZENBAUM. You gave us no alternative.

Mr. HATCH. Yes, we did.

Mr. BYRD. Mr. President, I ask for the regular order.

Mr. President, would whoever has the floor yield it or yield to me?

Mr. SIMPSON. Mr. President, I will, indeed, yield the floor to the majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I think both sides have acted within their rights today. If I took the view that the minority is taking, I think I would have tried to have brought action on amendments as they have tried. So I see no fault with what they have done.

The distinguished Senator from Massachusetts, as chairman of the committee, has polled his committee, as I understand and has offered a modification and that is certainly within the rules.

But in this particular situation, where there is a cloture vote pending on tomorrow, to modify the amendment, as was done and which was within the rules—we will begin with that—at the same time it creates a shift in the parliamentary landscape.

Mr. President, I will wait until the conversations have been completed.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senate will be in order. The majority leader has the floor.

Mr. BYRD. He modified the amendment, which was perfectly within the chairman's right. We cannot quarrel with that. But to do that in this situation certainly changed the parliamentary landscape to the point that under the cloture rule, which requires that Senators offer their amendments in the first degree by 1 o'clock on the interim day, Senators who offered their amendments in the first degree today by 1 o'clock qualified under the old parliamentary landscape, but with the new parliamentary landscape their amendments do not qualify. So they have been shut out. I called attention to the possibility of this happening, or something similar thereto, a year or so ago, I think. I sought to change the rule with respect to the offering of second-degree amendments, saying that something like this would happen at some particular point in time. I am glad that it has, because now everybody can understand what the problem is. There is a flaw in that cloture rule that ought to be corrected so that Senators who want to offer amendments in the first or second degrees can do so. The landscape will not shift, and Senators will not be automatically cut out.

I do not think that was the intent of the Senator from Massachusetts or the Senator from Ohio. I do not think that was their intent. But, nevertheless, that is the effect. Senators who may want to offer amendments in the second degree likewise, cannot offer amendments in the second degree now to those amendments in the first degree.

The best way to cure this in this instance would be to get unanimous consent that we start ab initio, as it were, and let this cloture motion that was offered on yesterday mature on Friday rather than Thursday. Then Senators would have until 1 o'clock tomorrow to offer their amendments in the first degree. They would have until 1 hour before the vote begins on Friday to offer their amendments in the second degree. That would be one way, and it would be fair to everybody.

Barring that, there are two other ways we can do this. One way would be just to go on and accept the situation as it is, have a lot of bad feelings, vote on cloture tomorrow, and nobody would have any amendments to qualify. The third way would be if we could set a reasonable time within which Senators could offer their amendments in the first degree to this modification, and at the same time, set a reasonable hour for Senators who want to file second-degree amendments to the amendments in the first degree. I would be pleased to make that request. I think it should be done. If Senators have a suggestion, I would be happy to work with them.

Mr. HATCH. I think we should move the cloture vote back a little bit. It is apparent we will work all night. What time did we schedule it? One hour after convening. When were you going to come in?

Mr. BYRD. I would be happy to. We were set to convene at 10 o'clock tomorrow. The cloture vote will occur then at about 11:20 or 11:25.

Mr. HATCH. I have been told our staff can do it. That is enough time. What time would the amendments have to be in by? The first-degree amendments should be in, when, 9 o'clock?

Mr. BYRD. That does not give much time for Senators to offer amendments in the second degree.

Mr. HATCH. What does the Senator suggest?

Mr. BYRD. I have no suggestion. I wish to conform to the wishes of the two managers.

Mr. METZENBAUM. I am perfectly amenable to putting the cloture off a day, doing it later, to give the Senator an hour certain to offer his amendments. I do not want to preclude him from having a chance to offer his amendments. We offered this procedure with Senator KENNEDY in committee solely for the purpose of putting in place the ameliorating modifying amendments. Beyond that there is no intent to deprive the Senator of any opportunity. Whatever is his call is agreeable to us.

Mr. SIMPSON addressed the Chair.

Mr. BYRD. Mr. President, I am happy to yield to the distinguished Senator or yield the floor, whichever he prefers. I will make a request in due time.

Mr. SIMPSON. Mr. President, I thank the majority leader for his courtesy.

Obviously, you see a frustrated minority. You do not see them all, but I have.

The issue is very simple. So let us get back to it; that is, when we get to a bill of contention, are we then going to swiftly be denied the opportunity to do nongermane amendments? I am fully aware of what is going on today, but so is everybody because the vote this morning was very indicative of what happened today. It was called shooting all the grapeshot, and no one could quite believe that it carried in that form. It would be untoward and really not very sensible for those who are opposed to this legislation not to go to a second cloture vote tomorrow, which is just what the leader intended to do when he filed the second motion for cloture, which will mature tomorrow within 1 hour after taking up our business.

It would be my feeling that we do nothing more today. I will be glad to stay here until the sun sets and rises again, if that is the case, and there is some additional activity to be done. Then we do nothing because I do not think that our colleagues are going to be pleased to know that the cloture vote that they came in with today has had a complete change of complexion done by a very deft parliamentary maneuver.

I think that will create ever more intensity of those who oppose this legislation. It is not really called procedure. It is called fairness. We have not yet debated this bill. It is a very important bill, as the sponsors know. There is an interesting list of sponsors. There are Republicans on this bill. Let us not miss that point. There are Republican sponsors of this bill, people who feel very strongly.

But if we are going to do this kind of activity where we, as the majority leader has phrased it beautifully, change the "landscape," then we can do those things in the future. We will change landscapes as we go through this exercise.

Tomorrow there is a vote set on cloture. My hunch is that with these various antics of this afternoon's origin it will still be pretty solid, that people really do not like that kind of playing with a bill. And they will reflect that tomorrow on their cloture vote.

Then we will go ahead. We have some people who are very creative. That is not at my urging. The leader knows. I have learned from him. You cannot control these fascinating people that you represent as leader. They have some very creative things perking along in their pot. Some are at the desk. Some are still locked in their bosom. And some will be created by staff late tonight.

So there you are. All we want is to have the vote on cloture, which was promised us when the petition came. We can get to that. We can simply assure that we can get to that.

Then I think you will see choices made—amending processes, nongermane amendments, germane amendments, the regular thing called legislating. We have not had that opportunity here, because there was no way to have that opportunity with the vote that was cast this morning.

Let us not be obtuse or too charitable about the bill. The issue is what happened this morning. That is why we are doing this. It is called the "sweeten-the-pot theory of floor legislating." We all do that. I do not have any problem with it. But we do not do it quite this way. We usually have single amendments. The floor manager says, "We will take that and won't take that," and we vote. You do not package up all the stuff the proponents had on the other side, knowing the bill would never get anywhere in the form it was in, and they found that out in spades, that this bill was going nowhere, absolutely to the elephant graveyard of legislation.

Now we are picking up little shards and bits and ramming it all together in an amendment we have never seen. We should have the right and opportunity to review it.

The leader last night indicated that we would conclude the activities at a reasonable hour. There is a function tonight which demands the attention of many of us. So far as this Senator is concerned, we should just do the business of the Senate, which is perhaps to end the activity; or, if you wish to go on, I will be here to do that, and tomorrow we will vote and find a whole new lay of the land after that vote.

Then the leader will have other options, and I will be pleased to visit with him on options and see how we do it.

That is my feeling at this time.

Mr. METZENBAUM. Mr. President, will the minority leader yield for a question?

Mr. SIMPSON. I yield.

Mr. METZENBAUM. As I understand it, the majority leader has given you the opportunity to choose either to delay the vote or to delay the hour at which amendments could be offered and as I understand the minority leader, the minority leader is saying let us proceed. That is your right. But I want it clearly understood that those of us who are concerned about passing this bill indeed do believe in the art of compromise. We think that is part of the legislative process, and I would gather from the comments of my friend that he feels that confrontation is better than compromise.

As I said regarding the early amendments—the Breaux-Dixon-Ford amendment—that was compromise. Now we have gone further, to accept Levin and Danforth, and tried also to cover some points spoken about by Senator QUAYLE and Senator HATCH.

I say to you that we are ready to compromise; we are ready to work it out. We do not claim that anybody told us from up on high exactly how to draft this legislation. We do believe that workers are entitled to the notice provided for under this bill, and that is what the issue is about. It is not a question of 30, 40, or 60 votes. It is a question of the basic issue.

I want to make it clear that we want to give you every opportunity possible to offer your amendments. I offered that this afternoon, and the majority leader has now offered it this evening, and I am prepared to see that you get that opportunity tomorrow, regardless of the outcome of the vote.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. SIMPSON. I yield.

Mr. HATCH. That sounds very reasonable, but this puts us in a very bad position, and that is, because of the modification, we now have a bill that none of us knows, a bill that has not even been viewed by the committee, has not had 1 day of hearings, has not had 1 ounce of committee structure, has not had a markup.

After 2 days of parliamentary procedures and trying to get in our comments about the bill that was brought to the floor, with a tree locking up for most of that time our right to amend, if we wanted to, we were accused of stopping you from getting your way because we would not agree to just accept the amendments, which is certainly our procedural right and a time-hallowed right. I think it goes a little bit far.

Then you say that all you want is the simple right for people to be notified and then we can solve the problem by, hopefully, redrawing our amendment. Yet we have this multipage bill, as complex as it is, which now does not exist because we have a new bill. I would just as soon go to cloture tomorrow and let the chips fall where they may, because that is about all we can do. If we lose on cloture, that is the way it is. But I do not see how we are going to lose with this kind of approach.

I am not accusing anybody of improper conduct. The majority leader spoke accurately when he said you are within your rights, but there are certain exercises of rights that ought to be observed.

We were ready to finish at a quarter to 5, and yet you hold us here until almost 6 o'clock, and throw down a brand new bill, which has the effect of cutting out the first-degree amendments and therefore cutting out all the second-degree amendments. I think you can see why we are upset, and this is not the way to go.

I am very pleased that the distinguished Senator from Ohio recognizes that inequity. I do not hold him responsible for it, nor do I blame him for it. I do not think he anticipated that this was going to happen here if that kind of action was taken by the distinguished Senator from Massachusetts. But it still does not negate the fact——

Mr. METZENBAUM. I want to identify with the distinguished Senator from Massachusetts and do not wish to make it appear that he was acting on his own.

Mr. HATCH. I wish he were here to speak for himself. He was here to offer the modification and then walked off.

Mr. METZENBAUM. I accept responsibility for his actions, because his actions were made pursuant to my request. I accept the responsibility. I think it was entirely appropriate conduct for us to take, in view of your refusal to permit us to——

Mr. HATCH. If you assume the responsbility, then I am suggesting that action leaves a lot to be desired so far as having comity in this body is concerned.

I think that to resolve this problem, maybe I can make a suggestion that will get us out of here. To keep people here all this time, thinking there might be a vote is another thing that bothers me. The only way to solve the problem is to go to cloture vote tomorrow, and hopefully cloture will not be voted, and hopefully we can get a printed bill, and we can reform the amendments. I do not know how we are going to get them all done overnight.

I think it is a pretty sad situation, and I hope it does not happen again. If it does happen again, there is going to be one heck of a lot of havoc here.

I am getting sick and tired of being on a committee that works its tail off, trying to put these things together, only to get to the floor and the whole bill is changed, wholesale, because there are not enough votes to pass it. By an 11-to-5 vote, it was rammed through the committee. They can do anything they want to in the Labor Committee. Why is it not amended there? Why do we not take the time to do it right there? If you wanted to get more votes, why did you not do it there? There was an 11-to-5 vote, and there was no way we could stop passage in committee.

Mr. BYRD. Mr. President, I ask for the regular order, that Senators address other Senators in the third person, and that goes for both sides.

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. SIMPSON. I yield to the Senator from Utah.

Mr. HATCH. I do not want to keep us here any longer, but let me say this:

When we controlled the committee it was very closely divided, and every issue was thoroughly thought out on that committee. We could not do anything without working with the minority. Today, that committee is totally controlled by the majority and they can have an 11-to-5 vote on any issue they want, it appears to me, certainly a 9-to-7 vote because the majority has never broken ranks with the chairman yet.

That being the case, it seems to me that the committee was the appropriate place to make these changes. It was the appropriate place to try to acquire votes. It was the appropriate place to write this bill because there we have the right for hearings, we have the right for committee markup, the right to debate and then to write it here with an 11-to-5 vote and all of a sudden, wholesale, change it at the last minute of the last day before cloture, it seems to me leaves a little bit to be desired.

Now, I hope this is not going to be the rule around here. I have to admit I am agitated by it because I think it is wrong. I think, yes, there are lots of things we can do within the rules, but there are some things that should not be done and this is one of them, and it ought to be clearly stated. That is the only reason I am taking the time of all of these distinguished Senators this evening. I hope that when we go to cloture tomorrow, that cloture will not be invoked so we will have a chance of having a printed bill to make amendments to. If cloture is invoked, I can tell you this is one Senator it is not going to go down well with. I hope that a lot of other Senators, including our colleagues on the other side of the floor, feel the same way. They ought to vote against cloture just because it is wrong. But that is, of course, up to them.

I suggest we just go to the cloture vote tomorrow and let the chips fall where they may, and hopefully cloture will not be invoked and we can offer the appropriate amendments we will really have the right to offer as everybody here, the distinguished Senator from Ohio has admitted here tonight and my good friend, the majority leader, who has such a rough time every day handling this floor and who does a graceful and good job of doing that.

I want to thank the minority leader on the floor for the aplomb and the dignity with which he conducts this matter.

But you can see why we are upset. This is not the place to bring in a whole raft of new ideas without full debate and without voting on them, and to do it in this way. I just hope it does not happen again.

I thank my colleagues.

The PRESIDING OFFICER. The minority leader has the floor.

Mr. SIMPSON. Mr. President, I think I can conclude or will conclude and just state that I think I speak for my colleagues on this side of the aisle, and remember there are 16 on the other side of the aisle who obviously feel pretty strongly about this—16 of the members of the majority voted this morning with 43 members of the minority. And I would hope and I will express this to the majority leader for whatever he now wishes to say by way of proposing an agreement, if he does, that it will be our intent, and I state this as honestly as possible, to do nothing more tonight and for as long as the majority leader would like to do nothing, and I will remain here, if I might resume my functions for a moment off the floor and then return to the fray. I am ready to do that and then go to a vote tomorrow, and we will know a lot more tomorrow. The motion for cloture was filed by the majority leader. It matures tomorrow. Let us vote on that.

After that, I think you are going to see a lot of activities one way or the other. You will see nongermane amendments. You will see germane amendments. You will see the ability to look at the modification amendment that the Senator from Massachusetts has put in and just do that business that way. I will certainly work toward that end. But any other proposal or recommendation at this time I just do not think will sit well with my colleagues in this situation. I have shared with the majority leader as honestly as I can how we deal with the frustrations of this leadership.

There are 46 of us on this side of the aisle. It takes only 40 to put the bombs and boulders in the track and we do not want to do that and have not done that except on S. 2, and now here we do it to simply get the debate. The opening statements were given yesterday on this bill, this critical bill that is talked about by everybody in the Chamber and now we have had some debate, and we will have some more. Tomorrow the cloture motion will mature and we are ready to vote on that and then move forward in accordance with the will of the Senate.

I yield the floor to the majority leader.

Mr. BYRD. Mr. President, there has been a good airing now of the actions that have been taken and the feelings that have been hurt and the reasons for the actions, and so on.

I can understand very well the feelings that have been expressed by the minority, and were I in the minority, I would express the same feeling.

But having expressed those feelings now once or twice or three times, I am more interested in trying to find a way out and deal with this situation fairly. I hope that I have a solid reputation of fairness. I cannot lay claim to many attributes but I do want to be fair, and I want to be treated fairly. I cannot say that I have been treated unfairly on this because I have not been involved in it.

But I will say to the distinguished assistant Republican leader that he has used this phrase "dueling Parliamentarians" upon several occasions.

Mr. President, this Senate only has one Parliamentarian and some assistant Parliamentarians and they are all on the Senate payroll as Parliamentarians and assistant Parliamentarians. The Senate Parliamentarian is the Parliamentarian for the Republicans as he is the Parliamentarian for the Democrats, and I would be the first to say that he should be fair to the Republicans. I do not ask for any special privileges from him. I do not attempt to influence him and I seldom ask him questions. But I have the right to ask him questions as any Senator does.

I would hope that all Senators would avail themselves of the Senate Parliamentarian from time to time, and I think they will find that he exercises independence, he thinks for himself, and he makes his own judgments. He will tell Senators how he would expect to rule if there is a point of order raised. He will tell Senators what his ruling in all likelihood would be.

I have never attempted to dominate him, and I do not ever intend to do so. If I do not agree with his position I will simply take it to the floor and try to get the ruling of the Chair overturned.

But I hope, may I say to my distinguished friend, and he is my distinguished friend, that there is no such thing as "dueling Parliamentarians" in this body. I know that the minority has employed a Parliamentarian and the minority certainly has the right to employ one but as for the dueling Parliamentarians they will be dealing with this Parliamentarian, the Senator from West Virginia. And that is perfectly all right with me. If one is not enough, there can be two or three more employed by the minority, and I will do the dueling with the hired Parliamentarians. So much for that.

Some reference has been made heretofore with respect to the filing of a cloture motion. There has been some feeling apparently that my filing of the cloture motion on Monday was some kind of precedent. I have asked the staff to research the precedents. That is in the process of being done.

I indicated in responding to some similarly expressed thought on the part of Mr. QUAYLE the other day, that it was no precedent, even if cloture had been filed on the first day. I suggested to the Senator from Indiana that we both should research our precedents. I felt that it had been done when Mr. DOLE was the majority leader, and I will put into the RECORD tomorrow the material that has been developed through the research to show that, indeed, under the leadership of both parties in this Chamber, cloture has been filed on the first day with respect to measures, motions, or other matters.

So much for that.

The fairest way that I know how to work this matter out now would be to ask that the modified amendment be printed and that the cloture vote not occur until Friday on the cloture motion that was entered on yesterday, or that the vote not occur even until Monday of next week. I want to do the fair thing, may I say to the assistant Republican leader. It does not make any difference to me when we vote on cloture. It can be Friday, it can be Monday, or it can be Tuesday of next week. I want to do what is right. I hope that all feelings will be assuaged by my offer to do that.

That is the only way I know to be fair to everyone, because it is going to be difficult now for Senators to get amendments in the first degree ready and for Senators to prepare amendments in the second degree, not knowing what the amendments in the first degree will be until they can see such amendments.

I would be happy to do it that way. I intend to vote against cloture tomorrow because Senators will not have had the opportunity to file amendments in the first degree, and Senators who wish to file amendments in the second degree will not have an opportunity to prepare and file them. I do not think we should have cloture in that kind of a situation.

I hope that our two little ad hoc groups that have been appointed on both sides to take a look at the rules and to propose changes, I hope they will look at this cloture rule, because here is very definitely a hole in the rule which can create a serious problem in a post cloture situation.

I should think that we have seen now something materialize which I have tried to warn against some time ago. We have seen now how Senators can be shut off from offering amendments, through no malicious intent, in a situation after cloture has been invoked.

Mr. METZENBAUM. Will the leader yield?

Mr. BYRD. Yes.

As a matter of fact, any majority leader, if he really wanted to be unfair, could bring the Senate in at times which would prevent Senators under rule XXII, as it is presently written, from offering first-degree amendments or second-degree amendments. That could be done by any majority leader who wanted to be unfair and who willfully wanted to go in that direction. I do not think it would be very wise on his part to do that if he ever hoped to get cloture again. But there is a hole in this rule, and it ought to be dealt with in the interest of fairness to both sides.

I am going to ask Senator PRYOR from this side, and I will write a letter to the distinguished assistant Republican leader and the leader on the other side, urging our little ad hoc groups to take a look at this.

Mr. METZENBAUM. Will the majority leader yield to me for 1 minute?

Mr. BYRD. Yes.

Mr. METZENBAUM. I think the point you make about it being unfair for us to go forward tomorrow has great validity. I know that you offered to make it any other day. You have offered to permit the other side to offer amendments postcloture. They have indicated they are not willing to accept that.

In order that the Members not be called upon to vote for a cloture petition that would be unfair, I will urge all of the Members of the Senate to vote no on cloture tomorrow, because I think it could work out into an inequity, and I do not want to be a party to that. But if we have it on the day after or 2 days after, then nobody could claim that they were unfairly treated.

I do not know if the acting minority leader heard what I said.

Mr. SIMPSON. I am sorry, Mr. President. I was distracted. I do want to hear.

Mr. METZENBAUM. I just briefly said that if there was a vote tomorrow, I think it could work out to be unfair and that you might very well lose some of your rights. The majority leader has offered a unanimous-consent opportunity of offer amendments postcloture or to change the hour. You have indicated that you did not want that, and I understand that. You are perfectly within your rights.

But if there is a cloture vote tomorrow, I have just said to the majority leader, and I say to the acting minority leader, I would think that it would be unfair to try to invoke cloture tomorrow, and I would urge all of the Members of this body to vote no.

I think it might be better just to agree to another time for a cloture vote, but that is, of course, one of the prerogatives of the acting minority leader.

Mr. SIMPSON. Mr. President, if that were to occur, it would have a salutary effect in my mind. If the Members of the entire body came in here and voted against cloture, that would be just great. I think that is what it should be.

What we are talking about is fairness. The majority leader has been extraordinarily fair with me. I have not one complaint whatsoever on that.

But we are talking about a major bill of the United States where we had the first opening statements and comments yesterday. There is not a bill in here of that stature that passes in 1½ days that gets locked up or knocked off the tree or the amendment tree fills and we close off debate. That is not the way it works. That is called fairness.

Now, we will have a display of that tomorrow. We will vote at the appointed hour on cloture, and the vote might be 97 to zip. But at least it will not be 44, because that is what is going to be produced tomorrow, or 43, at least, on our side of the aisle; and probably at least 10 to 15 on the other side of the aisle. That is called fairness.

This is a rough, tough bill. It really does something to the employers of the United States. They have got to do something they never thought they would ever have to do. That is what this bill is about. It is not about the parliamentary procedures or filling the trees and modifications and all that business that we go through. It is about loading up the employers of America one more time. And they are not ready for that.

I will not get into the substance. Others have dealt with that very clearly.

But I will say this, and the majority leader is correct, I have used that phrase of dueling Parliamentarians. I remember that. I have used that several times.

Let me says that there is not a finer and more extraordinary professional person than Alan Frumin, our Parliamentarian; Kevin Kayes; and Gail Cowper, who now, I believe, is retiring from her post and her last day is this week. She has been a splendid help to me, as has Kevin Kayes, as has Alan Frumin, our Parliamentarian.

What we have, so people understand, is that the former Parliamentarian, who served us all in the same degree of professionalism as Alan Frumin, is now on the staff of the minority. His name is Bob Dove. He is a remarkable professional man, also.

These two people, Alan Frumin and Bod Dove, are friends. They have a very cordial relationship with each other. They can do more mental exercises than all of us combined—and it is extraordinary to watch—with the exception of the majority leader. He can join in those exercises and do all of those things with skill with them.

All of that is perfectly appropriate. Nothing sinister about it. Nothing untoward; nothing undue.

But, as the majority leader prepares the precedent for tomorrow—and I am anxious to read that—I would also hope that it might address the precedent as to doing a cloture petition for the first time on the first day and then, that very day, the motion to proceed to another matter on the same day. That is not done. I imagine that there is hardly any precedent for that, other than the fact that indeed I certainly agree to do that from time to time.

To file a cloture, then to go to another matter on the same day, that is not done.

Mr. BYRD. Was that done in this instance?

Mr. SIMPSON. Not in this instance, but, indeed, in other instances, certainly, with the concurrence on this side of the aisle.

Mr. BYRD. It has been done on both sides.

Mr. SIMPSON. It has been done, yes, but it does not have a lot of precedent.

Mr. BYRD. It has sufficient precedent, may I say.

Mr. SIMPSON. I would very much like to have that precedent.

Mr. BYRD. That will be researched, also, may I say to the distinguished Senator.

Mr. SIMPSON. Mr. President, I hope that we would see that list of precedents at some time at any time the majority leader would wish to furnish it. It will be of interest to me.

That does not have anything to do with this issue. But this issue is critical and we are here to vote and we will vote tomorrow on cloture petition No. 2.

I conclude my remarks for the moment.

Mr. BYRD. Mr. President, I think we have gone around and around and around, and we can go around and around longer. I am going to put the Senate out very shortly.

Under the circumstances, I have offered to put this cloture vote over to Friday. I have offered to put it over to Monday. I have recognized the unfairness, not willfully brought about, but the unfairness that has circumstantially been brought about by the modification of the amendment.

I have recognized all of that and I have offered to move the cloture vote to Monday. The only way I could change it now, of course, is by unanimous consent. If I cannot get unanimous consent, we will have to through the cloture vote tomorrow. I frankly cannot see why we should go through the vain thing of voting on cloture tomorrow, with everybody voting against cloture. I intend to vote against it for the reasons I have stated.

I not only want to be fair, but I also want to be reasonable. It seems to me that we ought to be willing, if this is what we want, to give all Senators an opportunity to study this modification and to prepare their amendments to it. If we really want to be reasonable about it, why do we not shift the cloture vote over to another day so that some Senators will not miss that vote tomorrow—some of them will, two of them are out ill—just to go through a meaningless and futile vote.

I think there is such a thing as fairness. I think there is also such a thing as being reasonable. I hope we will be both fair and reasonable.

I ask unanimous consent that the vote on cloture occur on Friday, under the operations of the rule, rather than on tomorrow.

The PRESIDING OFFICER. Is there objection?

The Senator from Wyoming.

Mr. SIMPSON. Reserving the right to object, I hear the majority leader as to what he says with regard to the issue. It may well be a bland vote to some but it will not be a bland vote to others. It will be a very important vote to many, as they cast it tomorrow. We are perfectly ready and willing to cast it.

Anyone that regrets missing a vote, I admire the majority leader, he has finally made us all realize that we are here 3 weeks and we vote. We vote Mondays and we vote Fridays. That has been proven time and time again, and we will vote Thursday and if we did not vote on this we would vote on something else and probably at the same appointed hour.

So I think it is important to realize, that that is our duty, to vote. I am ready for that vote tomorrow and I do not know what the outcome of that vote will be, but that is called legislating.

There was a petition filed and we will vote on that petition and, therefore, I object.

Mr. BYRD. Mr. President, I can see where this debate is deteriorating by the minute. I have not sought to have any conflict within the distinguished assistant Republican leader. I have not sought any confrontation. I have tried to avoid confrontation on this matter and I am not interested in carrying this argument, which is going downhill, rather than uphill, by the minute—I am not interested in engaging in that.

Mr. SIMPSON. May I ask, Mr. President, where did it go downhill?

Mr. BYRD. There we go. I am simply saying it is not getting anywhere. Of course I expect to be here and vote and I expect Senators to be here and vote. I said we would be 3 weeks in and 1 week out and that there would be votes on Mondays through Fridays. I said that. And there should be votes. But I did not say that we ought to go through this vote tomorrow which absolutely is a futile thing, and for reasons that have been stated over and over again.

I think that if we want to be both fair and reasonable we should just put that vote over until another day and give Senators their chance to study the amendment as modified and to prepare their amendments to it and their amendments to the second degree. That has been my interest. I have not been interested in engaging in the arguments here because I bear no ill will toward anybody. Nobody has offended me. Nobody has done anything to me and I do not think I have done anything to anyone else.

I hope the distinguished Republican leader and I will just let this thing settle right where it is. He has objected to the request and I am willing to let it go at that and we will come in tomorrow and vote and then we will go from there.

Mr. SIMPSON. I thank the majority leader. I appreciate his comments.

Mr. BYRD. I thank the Senator.

Mr. SIMPSON. I have no, Mr. President, road to go up or down. I did not feel we accelerated, either going up or down.

Mr. BYRD. Mr. President, does any Senator wish recognition? If he does I will yield the floor.

There will be no further business, Mr. President.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and, at 6:45 p.m., the Senate recessed until tomorrow, Thursday, March 24, 1988 at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 23, 1988:

DEPARTMENT OF STATE

FREDERICK M. BERNTHAL, OF TENNESSEE, TO BE ASSISTANT SECRETARY OF STATE FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, VICE JOHN DIMITRI NEGROPONTE.

ROBERT S. GELBARD, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOLIVIA.

E. ALLAN WENDT, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SENIOR REPRESENTATIVE FOR STRATEGIC TECHNOLOGY POLICY IN THE OFFICE OF THE UNDER SECRETARY OF STATE FOR COORDINATING SECURITY ASSISTANCE PROGRAMS.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

GEORGE F. MURPHY, JR., OF MARYLAND, TO BE DEPUTY DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY, VICE DAVID F. EMERY, RESIGNED.

THE JUDICIARY

WILLIAM H. ERICKSON, OF COLORADO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLORADO, VICE JOHN P. MOORE, ELEVATED.

DEPARTMENT OF COMMERCE

G. PHILIP HUGHES, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, NEW POSITION.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR THE TERMS INDICATED, PUBLIC LAW 99-335.

FOR A TERM OF 2 YEARS:

RICHARD H. HEADLEE, OF MICHIGAN, REAPPOINTMENT.

FOR THE TERM OF 4 YEARS:

ROGER W. MEHLE, OF NEW YORK, REAPPOINTMENT.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JACK I. GREGORY, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. MERRILL A. MCPEAK, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. PETER T. KEMPF, [redacted]FR, U.S. AIR FORCE.

IN THE COAST GUARD

REAR ADM. CLYDE T. LUSK, JR., AS VICE COMMANDANT, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING. VICE ADM. JAMES C. IRWIN AS COMMANDER, ATLANTIC AREA, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING. REAR ADM. CLYDE E. ROBBINS AS COMMANDER, PACIFIC AREA, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

IN THE NAVY

THE FOLLOWING-NAMED COMMANDERS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be captain

RAYMOND MAURICE ALLEE
JOHN HALE ALMY, II
SAMUEL KAALOA ANDERSON
CHARLES EDMUND ARMITAGE
JAMES LAURENCE ARNOLD
ROGER EARLE ATWOOD
MARK BERNARD BALDY
JOHN JOSEPH BEPKO, III
THOMAS HERBERT BERNS
CARL THOMAS BERRY, JR
STANLEY FRANK BLOYER
WILLIAM KNEER BODENWEBER, JR
RICHARD MASSEY BOSTIAN
WILLIAM LINWOOD BOYD
WILLIAM SWIFT BOYKIN, JR
WILLIAM GEORGE BOZIN
RICHARD FRANCIS BRADEN
RICHARD JOSEPH BRADLEY, JR
JAMES DOUGLASS BROTHERTON
JAMES MICHAEL BROWN
JOHN EDWARD BROWN
MICHAEL GLENN BRUNER
STANLEY WALTER BRYANT
PETER WOOD BULKELEY
KENNETH CHARLES BURGESS
RICHARD JOHN BURNS
ROBERT BRUCE CAMERON, JR
RICHARD MICHAEL CAMP
JAY ALAN CAMPBELL
PAUL CHARLES CAMPBELL
MARTIN LEWIS CHAMBERLAIN
RICHARD BRIAN CHARUHAS
CHRISTOPHER IAN CHISHOLM
GARNETT YELVERTON CLARK, III
ROBERT E. CLAYTOR
STEPHEN ROGER CLEAL
MELVIN ALAN COBLE
BARBARA KAYE COKER
RICHARD GEORGE COLEMAN
ROBERT GARY COLVERT
HUGH DOUGLAS CONNELL, II
ROGER STUART COOPER
BILLY CORNETT, II
JOHN WILBUR CRAINE, JR
GEORGE NORMAN CRIM, JR
DAVID THOMAS CROMPTON
ROBERT ALLEN CROTTEAU
MAX CHRISTIAN CURRENT
ROBERT BENELL DANBERG
DAVID WILLIAM DAVIS, III
JOHN PHILIP DAVIS
JOHN WARNER DAVISON
DENIS WALTER DELEAR
PAUL JOSEPH DEROCHER, JR
EMIL RICHARD DIAMOND, JR
ROBERT WARREN DILKS
VICTOR EUGENE DODDS
GEORGE LEE DRUMMOND
RAYMOND ALBERT DUDDERAR, JR
HARLAN MICHAEL DURGIN
ARTHUR LEE EDWARDS
DAVID ANTHONY EDWARDS
ROBERT HARRY EKSTROM
MARSHA JOHNSON EVANS
RICHARD DOWNEY EVERT
HARVEY GEORGE FIELDING
THOMAS FRANCIS FINLEY, JR
RICHARD JAMES FLANAGAN
JOE LEE FRANK, III
CHARLES ANDREW GABRIEL
WILLIAM ALAN GAFFNEY
PETER JOSEPH GASKIN, II
DONALD DAVID GEISMAR, JR
ALAN MARK GEMMILL
EDMUND P. GIAMBASTIANI, JR
DENNIS KEITH GIBBS
TERRY LEE GLOVER
GLENN FREDRIC GOTTSCHALK
MICHAEL DAVID GRULLI
GERALD ANTHONY GURICK
EDDIE WALTER HAMPSHIRE
WILLIAM JOHN HANRATTY
ROBERT MCDONALD HANSON
WYNN ALLEN HARDING
LOUIS F. HARLOW
JERRY WAYNE HARP
MARYANNE HAYES
DEAN MOFFET HENDRICKSON, JR
HARRY MITCHELL HIGHFILL
CRAIG WILLIAM HOFFMAN
HOLLIS WARD HOLDEN
CRAIG GIBSON HONOUR
ROGER KERMIT HULL
MARY MARGARET HUMPHREYS
TIMOTHY ALAN HUNSBERGER
ERROL RAY HURST
THOMAS M. HUTCHESON, JR
GARY KENNETH IVERSEN
GEORGE WILLIAM JACKSON
RICHARD JOSEPH JAEGER, III
OLEG JANKOVIC
GARY DEAN JENSEN
STEPHEN ALGER JOHNSON
ALBERT DONALD JONES
ERNEST HARRIMAN JOY, II
JAMES EMORY JOYCE
LAWRENCE SUMNER JULIHN
JOHN CLARK JURCHECK
RICHARD MARK KADLICK
LARRY LEE KAISER
WILLIAM JOHN KANE
MARIA KAZANOWSKA
WILLIAM JOSEPH KEATING, JR
MARK BYRON KEEF
LAWRENCE MICHAEL KELLY
MARK RICHARD KEVAN
JOSEPH PATRICK KILKENNY
W. O. KING, JR
RICHARD GEORGE KIRKLAND
ROBERT THOMAS KNOWLES
KARL OTTO KRUMBHOLZ
PHILIP CRAIG LANDON
CRAIG ALLAN LANGBEHN
KEITH HOWARD LARSON
WILLIAM RANDALL LEDDY
GARY ANTHONY LEE
BRIAN LEROY LEHMAN
PHILIPPE MAURICE LENFANT
MICHAEL E. LEPPERT
JOHN CARLTON LESLIE, JR
RUSSELL JAMES LINDSTEDT, II
STEPHEN ROBERT LOEFFLER
AARON DORIAN LONQUIST
JIMMY RAY LOVE
DAVID CARLTON LUNDAHL
CARL IVER LUNDQUIST
JOHN MICHAEL LYLE
RAYMOND JOSEPH MACH, JR
KENT VAN LEWIS MACNEILL
WILLIAM EDWARD MAHEW, JR
PAUL DOUGLAS MALLETT
JOHN KENDRICK MARSHALL, II
JACK E. MARTIN
STEPHEN PATRICK MARVIL
DANTE RUDOLPH MARZETTA, II
DAVID GEORGE MAXWELL
CHARLES WALTER MAYER, JR
RICHARD WALTER MAYO
WILLIAM CHARLES MCCAMY, JR
DONALD GARY MCDERMOTT
EDWARD CHARLES MCDONOUGH
GARY B. MCEWEN
MICHAEL LYN MCHUGH
LYLE DEAN MEIER
FRANCIS DOUGLAS MEYER
WILLIAM THURMAN MEYERS
JOHN EMERY MILLWARD
THEODORE ARNOLD MITCHELL
CHARLES WILLIAM MOORE, JR
MICHAEL GLENN MULLEN
JAMES IRA MUNSTERMAN
MICHAEL ANTHONY MURRAY
GUY EDWARD MYSLIVY
DENNIS ARTHUR NAPIOR
RICHARD JEROME NIBE
ROBERT GORDON NOLAN
JOSEPH CHARLES NOLTER
DAVID LESS NORDEAN
DENNIS ALLEN OLTRAVER
MICHAEL WILLIAM ONEIL
ROBERT RUSSELL OSTERHOUDT
MARC ALAN OSTERTAG, II
JOHN C. OVERTON
JIMMY WAYNE PARKER
JOSEPH WEBSTER PARKER, JR
JOHN MICHAEL PARRISH
DENNIS I. PARSONS
ALBERT SMITH PATON
JOHN COLLIER PATTON
RICHARD EDWARD PAYNE
WILLARD FRANCIS PEAR
ROBERT ROCKHILL PENFOLD
JOHN WALTER PETERSON
ROBERT LEE PETERSON
WALTER HARRY PETERSON
CONRAD A. PLYLER, JR
DON PEARSON POLLARD
ALFRED EDWARD PONESSA
JOHN EVERETT POTTER, II
MICHAEL BLAIR PUTNAM
KENNETH LAWRENCE PYLE
JOSEPH QUINCANNON
KEVIN JOHN REARDON
MAYNARD MARTIN REED
WILLIAM JAMES RIFFER
DONALD LEE RIFFLE
BENJAMIN PRICE RILEY, III
JOHNNY LEE ROBERTS
THOMAS STEVEN ROBISON
MARK ALLEN ROGERS
MICHAEL WILLIAM ROGERS
DANIEL CLARK ROPER
DONALD BRUCE ROULSTONE
BAYARD W. RUSSELL
CURTISS WILLIAM SCHANTZ, JR
JOSEPH PETER SCIABARRA
ROBERT MITCHELL SCOTT
JOHN ALEXANDER SEDDON, JR
ROBERT JAMES SHADE
KEITH ELLIS SHEAN
EDWARD JOHN SIMMONS
MICHAEL GERALD SLATTERY
GORDON COLEMAN SMITH, II
HARRY LINDLEY SMITH, JR
WILLIAM HAROLD SMITH
OTTO WILLIAM SPAHR, III
GERALD HOWARD SPAULDING
OLIVER KELLY SPEARS, III
DANNY LEE SPEED
MILES MARVIN STALEY
DAVID IAN STANLEY
PAUL ROBERT STATSKEY
ERNEST LAVERNE STREET
WILLIAM GLENN SUTTON
JAMES EARL TAYLOR
TERRENCE NORBERT TEHAN
MACK ALLEN THOMAS, JR
JERRY ARNOLD THOMPSON
MICHAEL ROLF TOLLEFSON
JAMES JOSEPH TOONE
KURT MACGREGOR TRAUTMAN
ROBERT ENLOW TREIS
HORATIO WHITRIDGE TURNER, IV
MARGIE LOUISE TURNER
DONALD STEPHAN WALLACE
RAY ANDERSON WALLACE
NEIL PATRICK WALSH
CHARLES LAWRENCE WEBER, JR
RONALD BAILEY WEBER
KENNETH PAUL WEINBERG
DONALD ALAN WEISS
CRAIG ROBERT WELTERLEN
JAMES WADE WHATLEY
THOMAS WILLARD WHITE
RAYMOND MELVIN WIKSTROM
HERBERT MICHAEL WILSON
CLETUS FLOREECE WISE
WILLIAM DALE WOODFILL
CLINTON ERNEST WRIGHT
RUSSELL CLAYTON YORK
GAY MARION ZILLER, JR

ENGINEERING DUTY OFFICERS

To be captain

BRUCE A. J. BAUMANN
JON CLARK BERGNER
ANGELUS DEMETRI CHRISTOPHER
WILLIAM AARON DAVIS, JR
WILLIAM MICHAEL DONNELLY
FREDERICK RICHARD GOLDMEYER
ROBERT GEORGE HOLIHAN, JR
RICHARD THOR HOLMES
LANCE CAMERON HORNE
BERNARD JANOV
WILLIAM RAYMOND KLEMM
JOHN ALLEN PICKERING
DAVID CAMPBELL STEERE
BRADFORD BATES WATERMAN, III

AERONAUTICAL ENGINEERING DUTY OFFICERS (AERONAUTICAL ENGINEERING)

To be captain

WILLIAM RAMON ALBERTOLLI
JAMES HUNTER ALDRICH, JR.
JEFFREY ALAN COOK
ROBERT STEPHEN ERB
RICHARD MIAL FESSENDEN
JAMES MAURICE HENSLEY
DELIO LOPEZ, JR.
SPENCER EVERETT ROBBINS, II
FRANK DONALD SCHWIKERT
CRAIG EUGENE STEIDLE

AERONAUTICAL ENGINEERING DUTY OFFICERS (AVIATION MAINTENANCE)

To be captain

WARD BEACHER MASDEN, JR.
CHARLES ROBERT MUNSEY, JR.
RONNIE EUGENE WALKER

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be captain

JAMES EDWIN GOURLEY, II
ARTHUR DAVID NEIMAN
THOMAS PATRICK TRAUGHBER
RICHARD JAY WILHELM

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be captain

ROBERT EDWARD BROWN
F. THOMAS COSTARINO
JARRETT HUNTER CROWLEY, II
DAVID GATES HOUGHTON
LOWELL EDWIN JACOBY
MICHAEL JAMES KIMENER
NELSON HOWARD LITSINGER
JOHN BEN SEIDEN
EDWARD ALLEN SMITH, JR.
RONALD JAMES WILCOX

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be captain

JAMES JOSEPH HARNES, JR.
KENDELL MILFORD PEASE, JR.

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be captain

RICHARD EDWARD BLUMBERG
KENT WILLIAM FOSTER
DONALD ERNEST HINSMAN
JOHN FRANCIS PFEIFFER
GEOFFREY ALAN WHITING
FRANCIS RUST WOOLDRIDGE

LIMITED DUTY OFFICERS (LINE)

To be captain

SAMUEL GRAYSON CURRY, II
NEIL C. DAVIS
PATRICK FINFROCK
DONALD JAMES ROCKWOOD, JR.
JAMES ARTHUR SEARS
HERBERT ADAM STEPHAN
ROBERT WERLING

CONFIRMATIONS

Executive nominations confirmed by the Senate March 23, 1988:

DEPARTMENT OF DEFENSE

EVERETT ALVAREZ, JR., OF MARYLAND, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 1993.

JACK KATZEN, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

WILLIAM LOCKHART BALL III, OF SOUTH CAROLINA, TO BE SECRETARY OF THE NAVY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE U.S. AIR FORCE UNDER PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

To be major general

BRIG. GEN. JOSEPH A. AHEARN, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. ROBERT M. ALEXANDER, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. EDWARD P. BARRY, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. BILLY J. BOLES, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. LESTER P. BROWN, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. RICHARD E. CARR, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JAMES E. CHAMBERS, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JAMES R. CLAPPER, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JOHN A. CORDER, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JOHN M. DAVEY, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. ROBERT S. DELLIGATTI, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. THOMAS R. FERGUSON, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. GEORGE B. HARRISON, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. HARALD G. HERMES, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JAMES W. HOPP, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. FRANK J. KELLY, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. GEORGE W. LARSON, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. NATHAN J. LINDSAY, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. ROBERT H. LUDWIG, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. CHARLES A. MAY, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. GARY H. MEARS, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. WILLIAM J. PORTER, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JAMES F. RECORD, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. DONALD A. RIGG, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. ALAN V. ROGERS, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JAMES G. SANDERS, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JOHN P. SCHOEPPNER, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. CHARLES J. SEAROCK, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. WILLIAM H. SISTRUNK, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JOSEPH K. SPIERS, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. DALE C. TABOR, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. DALE W. THOMPSON, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. WALTER E. WEBB, III [redacted]FR, REGULAR AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HARLEY A. HUGHES, [redacted]FR, UNITED STATES AIR FORCE.

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. MICHAEL J. DUGAN, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JAMES P. MCCARTHY, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ELLIE G. SHULER, JR., [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, AND 8373, TITLE 10, UNITED STATES CODE;

To be major general

BRIG. GEN. RONALD C. ALLEN, JR. [redacted]FV, AIR FORCE RESERVE.

BRIG. GEN. NORMAN J. DEBACK, JR., [redacted]FV, AIR FORCE RESERVE.

BRIG. GEN. GEORGE D. EGGERT, [redacted]FV, AIR FORCE RESERVE.

BRIG. GEN. RALPH D. ERWIN, [redacted]FV, AIR FORCE RESERVE.

BRIG. GEN. JACK L. LIVELY [redacted]FV, AIR FORCE RESERVE.

BRIG. GEN. HARVEY J. MCCARTER, [redacted]FV, AIR FORCE RESERVE.

BRIG. GEN. DAVID S. TRUMP, [redacted]FV, AIR FORCE RESERVE.

To be brigadier general

COL. NORA A. ASTAFAN, [redacted]FV, AIR FORCE RESERVE.

COL. JAMES B. COBB, [redacted]FV, AIR FORCE RESERVE.

COL. ESKER K. DAVIS, [redacted]FV, AIR FORCE RESERVE.

COL. GARY L. EICHHORN, [redacted]FV, AIR FORCE RESERVE.

COL. DUANE L. FOSTER, [redacted]FV, AIR FORCE RESERVE.

COL. JOHN A. HURLEY, [redacted]FV, AIR FORCE RESERVE.

COL. ROBERT H. JONES, [redacted]FV, AIR FORCE RESERVE.

COL. RODNEY L. LINKOUS, [redacted]FV, AIR FORCE RESERVE.

COL. ROBERT A. MCINTOSH, [redacted]FV, AIR FORCE RESERVE.

COL. JAMES E. SHERRARD, III, [redacted]FV, AIR FORCE RESERVE.

COL. RICHARD K. VOGEL, [redacted]FV, AIR FORCE RESERVE.

COL. CHARLES R. WHITE, [redacted]FV, AIR FORCE RESERVE.

COL. JERRY E. WHITE, [redacted]FV, AIR FORCE RESERVE.

COL. FORREST S. WINEBARGER, [redacted]FV, AIR FORCE RESERVE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. ROBERT H. REED, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. JOHN A. SHAUD, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE REASSIGNED IN HIS CURRENT GRADE TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. HARRY A. GOODALL, [redacted]FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. ROBERT C. OAKS, [redacted]FR, U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. THOMAS N. GRIFFIN, JR., [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. THOMAS W. KELLY, [redacted] U.S. ARMY.

THE U.S. ARMY RESERVE OFFICERS NAMED HEREIN FOR APPOINTMENT AS RESERVE COMMISSIONED OFFICERS OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. GERALD E. AMUNDSON, [redacted].

BRIG. GEN. DIONEL E. AVILES, [redacted].

BRIG. GEN. RICHARD D. CHEGAR, [redacted].

BRIG. GEN. JAMES T. CRAIG, [redacted].

BRIG. GEN. WILLIAM A. GANTT, JR., [redacted].

BRIG. GEN. DANIEL F. HITCHCOCK, [redacted].

BRIG. GEN. JOHN W. KNAPP, [redacted].

BRIG. GEN. BERNARD F. LOSEKAMP, [redacted].

BRIG. GEN. ROBERT F. PENNYCUICK, [redacted].

BRIG. GEN. ANTHONY S. SARBANES, [redacted].

BRIG. GEN. GEORGE M. WOYWOD, [redacted].

To be brigadier general

COL. ROBERT J. STRADER, SR., [redacted].

COL. JOSEPH E. TURNER, [redacted].

COL. RONALD E. SNEED, [redacted].

COL. ROLLYN C. GIBBS, [redacted].

COL. ROSS G. PICKUS, [redacted].

COL. JAN H. PAYNTON, [redacted].

COL. RICHARD B. BURLESON, [redacted].

COL. THOMAS S. CUSHING, [redacted].

COL. ALVIN BRYANT, [redacted].

COL. JOHN R. GALVIN, [redacted].

COL. ROGER C. POOLE, JR., [redacted].

COL. ROBERT D. BROOKE, [redacted].

COL. ROBERT L. MENIST, [redacted].

COL. JOHN E. SCULLY, JR., [redacted].

COL. WILLIAM C. COCKERHAM, [redacted].

COL. TERRENCE D. MULCAHY, [redacted].

COL. JOHN S. GUTHRIE, [redacted].

COL. KENNETH A. BOULDIN, [redacted].

COL. JOHN E. SIMEK, [redacted].

COL. HERBERT B. QUINN, JR., [redacted].

COL. JOHN C.C. ROTH, [redacted].

COL. JON A. STANDRIDGE, [redacted].

COL. MICHAEL D. STRONG III, [redacted].

COL. FRED E. MARQUIS, [redacted].

COL. ROBERT L. RUTH, [redacted].

COL. JOSEPH F. CONLON III, [redacted].

THE U.S. ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. FRANK M. DENTON, [redacted].

BRIG. GEN. MARK B. MULLIN, [redacted].

BRIG. GEN. JAMES B. STODART, JR., [redacted].

BRIG. GEN. BOYD M. COOK, [redacted].

To be brigadier general

COL. JOHN W. CUDMORE, [redacted].

COL. DAVID L. JENNETTE, [redacted].

COL. WARREN J. LAWRENCE, [redacted].

COL. JAMES E. MOORE, [redacted].

COL. JAMES F. RUEGER, [redacted].

COL. ELMER O. SIMONSON, [redacted].

COL. DONALD G. SMITH, [redacted].

COL. JOHN R. WARD, [redacted].

COL. GARY J. WHIPPLE, [redacted].

COL. EDWARD S. BALDWIN, [redacted].

COL. JEROME J. BERARD, [redacted].

COL. JOHN L. BLANDFORD, [redacted].

BRIG. GEN. WILLIAM R. BROWN, [redacted].

COL. DONALD R. BRUNELLE, [redacted].

BRIG. GEN. LOMER R. CHAMBERS, [redacted].

COL. CLAYTON A. HOVDA, [redacted].

COL. JAMES J. HUGHES, [redacted].

COL. JOAB M. LESESNE, [redacted].

COL. JOSEPH N. POULIOT, [redacted].

COL. GLENN N. SLOAN, [redacted].

BRIG. GEN. NED L. TURNIPSEED, [redacted].

COL. ROBERT D. CARTER, [redacted].

COL. ALLEN E. CHANDLER, [redacted].

COL. JAMES L. MURPHY, [redacted].

COL. ROBERT L. MOOREHEAD, [redacted].

COL. RAYMOND W. REES, [redacted].

COL. BENJAMIN W. DAY, [redacted].

COL. ALAN D. JONES, [redacted].

COL. DONALD W. LYNN, [redacted].

COL. GERALD W. PORTER, [redacted].

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

CARL E. MUNDY, JR., [redacted] U.S. MARINE CORPS.

THE FOLLOWING-NAMED BRIGADIER GENERALS OF THE MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF MAJOR GENERAL, UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

MICHAEL K. SHERIDAN
ROBERT J. WINGLASS
MICHAEL P. SULLIVAN
JARVIS D. LYNCH, JR.
RONALD L. BECKWITH
ROSS S. PLASTERER
MATTHEW T. COOPER
HENRY C. STACKPOLE III
JOHN S. GRINALDS

THE FOLLOWING-NAMED BRIGADIER GENERAL OF THE MARINE CORPS RESERVE FOR PROMOTION TO THE PERMANENT GRADE OF MAJOR GENERAL, UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

JEROME G. COOPER

THE FOLLOWING-NAMED COLONEL OF THE MARINE CORPS RESERVE FOR PROMOTION TO THE PERMANENT GRADE OF BRIGADIER GENERAL, UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

JOE W. WILSON

THE FOLLOWING-NAMED COLONELS OF THE MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF BRIGADIER GENERAL, UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

JOHN C. ARICK
HAROLD W. BLOT
MARTIN L. BRANDTNER
GEORGE R. CHRISTMAS
NORMAN E. EHLERT
RICHARD D. HEARNEY
JAMES E. LIVINGSTON
GERALD L. MCKAY
JAMES M. MYATT
JOHN J. SHEEHAN
ROBERT A. TIEBOUT

IN THE NAVY

THE FOLLOWING-NAMED CAPTAINS IN THE STAFF CORPS OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS (2100)

HAROLD MARTIN KOENIG

SUPPLY CORPS (3104)

JAMES ALAN MOGART
EDWARD MCCOWN STRAW
HARVEY DONALD WEATHERSON

CHAPLAIN CORPS (4100)

DAVID EDWARD WHITE

CIVIL ENGINEER CORPS (5104)

ALAN KENT RIFFEY

DENTAL CORPS (2200)

RONALD PRESCOTT MORSE

MEDICAL SERVICE CORPS (2300)

CHARLES RAY LOAR

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING MAJ. RANDALL M. ANDERSON, [redacted], AND ENDING MAJ. EDITH P. MITCHELL, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 26, 1988.

AIR FORCE NOMINATIONS BEGINNING MAJ. MELVIN L. ADAMSON, [redacted], AND ENDING MAJ. STEPHEN A. SCHORR, [redacted], WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 26, 1988.

AIR FORCE NOMINATIONS BEGINNING JOHN O. AHNERT, JR. AND ENDING WILLIAM M. WELLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 26, 1988.

AIR FORCE NOMINATIONS BEGINNING JAMES R. ANNIS, AND ENDING CHARLES M. SHOFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 26, 1988.

AIR FORCE NOMINATIONS BEGINNING ROBERT C. HUGHES, AND ENDING GLENN A. HARDESTY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

AIR FORCE NOMINATIONS BEGINNING JOHN D. KENNEY, AND ENDING HOWARD W. JUNGMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

AIR FORCE NOMINATIONS BEGINNING MICHAEL E. BROOKS, AND ENDING CHARLES R. TURNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

AIR FORCE NOMINATIONS BEGINNING DONALD J. COPENHAVER, AND ENDING JOHN R. DOCKENDORFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

AIR FORCE NOMINATIONS BEGINNING GARY S. MELVIN, AND ENDING GLENN A. HARDESTY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

AIR FORCE NOMINATIONS BEGINNING SAMUEL B. MARTIN, AND ENDING GARY G. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

AIR FORCE NOMINATIONS BEGINNING GREGORY J. AARON, AND ENDING DALE A. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 16, 1988.

AIR FORCE NOMINATIONS BEGINNING ALDRU T. AARON, AND ENDING THOMAS ZUPANCICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 18, 1988.

IN THE ARMY

ARMY NOMINATIONS BEGINNING FLORENTINO V. ALABANZA, AND ENDING GEORGE E. VOLK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 26, 1988.

ARMY NOMINATIONS BEGINNING HENRY H. GORDON, AND ENDING MAXWELL L. WARREN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 26, 1988.

ARMY NOMINATIONS BEGINNING MARY J. HEGER, AND ENDING STEPHEN C. FLETCHER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 26, 1988.

ARMY NOMINATIONS BEGINNING BEN B. BABIN, AND ENDING MICHAEL D. STONER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 26, 1988.

ARMY NOMINATION OF ERNEST H. DINKEL, JR., WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

ARMY NOMINATIONS BEGINNING STEVEN M. BUTLER, AND ENDING CARL T. ROSE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

ARMY NOMINATIONS BEGINNING GARY L. AUS, AND ENDING LEONARD M. TOBIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

ARMY NOMINATIONS BEGINNING MICHAEL J. CONNOLLY, AND ENDING GEORGE M. DUQUE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING ROBERT M. BRASSAW, AND ENDING JOSEPH SPAIR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 26, 1988.

IN THE NAVY

NAVY NOMINATIONS BEGINNING FREDERICK ELIOT, JR., AND ENDING JAMES B. PARKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

NAVY NOMINATIONS BEGINNING JOHN M. ADRIAN, AND ENDING MIGUEL A. ZAYAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 2, 1988.

HOUSE OF REPRESENTATIVES—*Wednesday, March 23, 1988*

The House met at 11 a.m.

Rear Adm. John R. McNamara, Chief of Chaplains, U.S. Navy, Washington, DC, offered the following prayer:

Lord, God of all, for us Americans, our very first memory as a people is that of a thanksgiving to You for a harvest barely sufficient for survival.

The framers of the Constitution set as a goal "to secure the blessings of liberty."

Our own coins of commerce proclaim to the world "in God we trust."

Conscious of this, our tradition, we pause to remind ourselves that You are present and to invoke Your blessing on this House, this ancient, living witness to our history, and upon its elected Representatives.

This day, grant to them:
Wise council in deliberations;
Courage in advocacy;
Fairness in judgment; and
Above all, a passionate devotion to the ideals of the American experiment. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 106. Concurrent resolution requesting the President to return the enrolled bill (S. 854) entitled "Nevada-Florida Land Exchange Authorization Act of 1988."

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. Under the general agreement there will be no 1-minute speeches today, except for one by the gentleman from California [Mr. LUNGREN] who desires to speak to us with respect to our guest chaplain of today.

REAR ADM. JOHN R. McNAMARA

(Mr. **LUNGREN** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **LUNGREN**. Mr. Speaker, it is my pleasure to welcome on behalf of my colleagues Rear Adm. John McNamara, who gave the prayer today.

Rear Admiral McNamara is also known as Monsignor McNamara, as he is a monsignor in the Roman Catholic faith. He is a member of the Diocese of Boston who has given the last 20 years of his life to the service of our Nation as a chaplain, and has for the last 2 years been the Chief of the Navy Chaplains.

Mr. Speaker, he is someone whom I have come to know and admire. He is someone who is dedicated to this country, to God, and I just want to say on behalf of my colleagues, "Welcome. Thank you for your message, and we hope we have the opportunity to heed your message today."

CONCURRENT RESOLUTION ON THE BUDGET, 1989, 1990, AND 1991

Mr. **DERRICK**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 410 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 410

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the United States Government for the fiscal years 1989, 1990, and 1991, and the first reading of the resolution shall be dispensed with. All points of order against consideration of the concurrent resolution for failure to comply with the provisions of clause 2(l)(6) of rule XI and with section 305(a)(1) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177) are hereby waived. After general debate, which shall be confined to the concurrent resolution and shall continue not to exceed three hours, with not to exceed two hours to be equally divided and controlled as provided in section 305(a)(2) of the Congressional Budget Act of 1974, as amended, and not to exceed one hour to be equally divided and controlled as provided in section 305(a)(3) of the Congressional Budget Act of 1974, as amended, the concurrent resolution shall be considered as having been read for amendment under the five-minute rule. No amendment to the concurrent resolution shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution, said amendments shall be considered in the order designated and shall be considered as having been read. Each of said amendments shall be debatable for not to exceed thirty minutes, to be equally divided and controlled by the Member offering said amendment and a Member opposed thereto, said amendments shall not be subject to amendment and shall be in order even if a previous amendment in the nature of a substitute has been adopted, and all points of order against said amendments are hereby waived. If more than one of the amendments in the nature of a substitute made in order by this resolution has been adopted, only the last such amendment which has been adopted shall be considered as having been finally adopted in the Committee of the Whole and reported back to the House. It shall be in order to consider the amendment or amendments provided in section 305(a)(5) of the Congressional Budget Act of 1974, as amended, necessary to achieve mathematical consistency. At the conclusion of the consideration of the concurrent resolution for amendment, the Committee shall rise and report the concurrent resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion.

The **SPEAKER** pro tempore (Mr. DURBIN). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. **DERRICK**. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA] and, pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 410 is a modified closed rule providing for the consideration of House Concurrent Resolution 268, the budget resolution for fiscal year 1989.

The rule waives clause 2(l)(6) of rule XI, which requires a 3-day layover of reported legislation, and section 305(a)(1) of the Budget Act, which requires a 5-day layover of a budget resolution, against consideration of House Concurrent Resolution 268. The rule provides 2 hours of general debate on the concurrent resolution and 1 hour of debate on economic goals and policies, with the time to be equally divided and controlled as provided in sections 305(a)(2) and 305(a)(3) of the Budget Act.

No amendment is in order to the concurrent resolution except three amendments in the nature of a substitute printed in the Rules Committee report accompanying this rule (H. Rept. 100-524). These amendments, which must be offered in the order designated, are:

First, an amendment in the nature of a substitute to be offered by the gentleman from California [Mr. DANNEMEYER] or his designee;

Second, an amendment in the nature of a substitute to be offered by the

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

gentleman from Illinois [Mr. PORTER] or his designee; and

Third, an amendment in the nature of a substitute to be offered by the gentleman from Minnesota [Mr. PENNY] or his designee.

These amendments are considered as having been read, and are each debatable for 30 minutes, with the time to be equally divided between and controlled by the Member offering the amendment and a Member opposed to the amendment. The designated amendments in the nature of a substitute are themselves not subject to amendment. All points of order against them are waived. The rule sets up what has come to be known as a king of the mountain procedure for the consideration of these substitutes. Each substitute is in order even if a previous substitute has been adopted, where House rules ordinarily provide that the adoption of an amendment in the nature of a substitute precludes the consideration of any further amendments. If more than one of the substitutes made in order is adopted by the Committee of the Whole, only the last such substitute adopted is considered to have been finally adopted and reported back to the House.

Finally, the rule makes it in order to consider the amendment or amendments provided in section 305(a)(5) of the Budget Act, if such amendment or amendments are necessary to ensure mathematical consistency of the budget resolution.

Mr. Speaker, the budget resolution made in order by this rule is remarkable in a number of respects. First, it comes in with a deficit which meets the requirements of the revised Gramm-Rudman-Hollings bill. This resolution assumes a deficit of $134 billion, some $2 billion below the required Gramm-Rudman target. Second, the resolution abides by the requirements of the summit agreement reached between the President and congressional leaders in November. This resolution funds Defense and domestic discretionary accounts at agreed upon levels, assumes $4.6 billion in asset sales, and, best of all, assumes no new tax increases.

Perhaps more remarkable, however, is the speed with which this budget resolution was reported out of committee and the bipartisan spirit in which it all happened. In an effort to avoid enacting a long-term continuing resolution, the Budget Committee has come to a speedy resolution which gives funding increases to widely supported programs while calling for modest cuts among remaining programs. The FAA, Coast Guard, Education, Space, AIDS, and Drug Abuse Programs are among those which stand to benefit if this budget resolution is adopted.

Mr. Speaker, we spent most of last year arguing over the best way to reduce the deficit and comply with the requirements of Gramm-Rudman-Hollings. Because of that drawn out debate we did not enact final appropriations legislation until 3 days before Christmas, nearly 3 months after the start of the fiscal year. Finally, after the stock market crash in October made it clear how precarious our economic situation was, the President and the congressional leadership agreed on a 2-year deficit reduction plan. I do not think anybody believes that that plan is the solution to our deficit problem, but many of us are convinced that it at least puts us on the right path and that it would be impossible to achieve any more deficit reduction at this time. No one should pretend that the adoption of the budget before us today will keep us from being confronted with very difficult budget decisions next year, but by passing this budget resolution today we will be keeping the faith with the bipartisan economic summit agreement reached last year. We also will make it possible to enact our appropriation bills in a timely manner and demonstrate that we are capable of dealing responsibly with the budget. While I am convinced that Congress is not solely to blame for last year's debacle, if we are subject once again to the ridicule heaped on us last year, it will be almost impossible to convince the American people to follow our leadership on the budget next year. It will be up to us to put the economy of this country back on top, and if we are to succeed in that task we need to demonstrate that we are capable of acting responsibly on the budget this year. We can take the first step toward demonstrating that by overwhelmingly adopting the bipartisan budget resolution that is before us today.

□ 1115

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in recent years the rules providing for the consideration of budget resolutions have generally not had much bipartisan support. I am pleased to announce that this year will be different. While this rule does not include everything I would have liked, it is a fair procedure I can support. I would have preferred, as I indicated yesterday in the Committee on Rules, that the rule has gone just one step further and made a substitute in order by my budget committee colleague, the able gentleman from Oregon [Mr. DENNY SMITH]. However, the rule does make in order three other substitutes which will allow the House to choose from a very broad range of alternatives. The first of these substitutes will be offered by the gentleman from California [Mr. DANNEMEYER]. The Dannemeyer substitute proposes interest savings resulting from the issuance of gold bonds, increased revenues resulting from a tax amnesty and increased revenues resulting from a higher gross national product.

The second substitute is authored by the gentleman from Illinois [Mr. PORTER] and the gentleman from Minnesota [Mr. FRENZEL]. The Porter-Frenzel substitute provides for a freeze on outlays. This would also include a freeze on cost-of-living adjustments.

The third substitute will be advocated by the gentleman from Minnesota [Mr. PENNY] and the gentleman from Iowa [Mr. TAUKE] and others. This substitute is designed to reduce the budget deficit by approximately $25 billion through a combination of spending reductions and revenue increases. Mr. Speaker, each of these substitutes will be debated for 30 minutes. Under a procedure which has come to be known as king-of-the-hill, each of the substitutes will be voted on and if more than one is adopted, only the last one adopted is considered as finally adopted and reported back to the House.

Mr. Speaker, in the absence of this rule the Budget Act would require 10 hours, I emphasize 10 hours of general debate on the budget resolution and an additional 4 hours, and I stress that, an additional 4 hours of debate on economic goals and policies. This rule reduces the general debate on the budget resolution to 2 hours and the debate on economic goals and policies to 1 hour. Under this procedure it will be possible for the House to finish actions on the budget resolution by a reasonable hour today.

Therefore, Mr. Speaker, I support this rule so that this House may proceed to the consideration of the budget resolution for fiscal year 1989.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS.]

Mr. GEKAS. I thank the gentleman for yielding.

Mr. Speaker, the two leaders of the debate have indicated how bipartisan and how simple it was, really, to frame a rule that would serve all the purposes and bring before the body a budget resolution that contains all that is required for the next fiscal year. I must say I am a little disappointed because yesterday I appeared before the Rules Committee and although I knew that what I was proposing at that time was a sense-of-the-Congress type of addition to the budget resolution and that it would have to overcome some hurdles of germaneness, I was hoping that the Rules Committee at least would sense that we have to do something drastic in the form of reform of this budget process that has so poisoned the atmosphere over the last few years.

I pointed out then and I point out now that I have introduced a bill that would say that if the budget of the United States is not adopted by September 30, or any part of the 13 sections have not been adopted by September 30, that on the next day automatically ought to go into play the last year's appropriation for those 13 segments of the appropriations or for the entire budget.

I simply wanted before the Rules Committee yesterday to stress that point and to ask the people of the Rules Committee to insert into this budget resolution a possibility that I could offer this as an amendment along with those that have been authorized by the Committee on Rules.

But I was shut down.

That leaves me no alternative but to feel that it was a rule not well-fashioned.

When you couple that with the fact that, in the past, budget resolutions have contained sense-of-the-Congress types of resolutions on a variety of subjects, I feel even more chagrined at the fact that I was given short shrift before the Rules Committee.

But if I can put aside for a moment my personal feelings about the unfair rule, as I see it, just because you could not adopt a little bit of the sense of the Congress thing that has to do with budget reform and a remedy for the poisonous kind of crisis atmosphere that we have every single year taking us up to Christmas Eve many times in this Chamber, I also want to point out that I would have done this in general debate and I may take time even in general debate to do that; that this budget resolution may be founded on false or hoped-for economic projections that may not be the case.

And for that reason unless the general debate can convince me otherwise, I will vote against this budget resolution.

I thank the gentleman for yielding.

Mr. LATTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 410 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution, H. Con. Res. 268.

□ 1124

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the U.S. Government for fiscal years 1989, 1990, and 1991, with Mr. YATES in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN. Pursuant to House Resolution 410, the first reading of the concurrent resolution is dispensed with.

The gentleman from Pennsylvania [Mr. GRAY] will be recognized for 1 hour and the gentleman from Ohio [Mr. LATTA] will be recognized for 1 hour.

After opening statements by the chairman and ranking minority member of the Committee on the Budget, the Chair will recognize the gentleman from California [Mr. HAWKINS] and the gentleman from Ohio [Mr. LATTA] for 30 minutes each to control debate on economic goals and policies. After this 1 hour of debate has been consumed or yielded back, the Chair will recognize the chairman and ranking minority member of the Committee on the Budget to control the remainder of their 2 hours of debate.

The Chair recognizes the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am happy to appear before this body today to introduce the concurrent resolution on the budget for fiscal year 1989.

In many respects, this is a historic occasion. The budget resolution before you is the first produced under the requirements established by the Gramm-Rudman-Hollings law that has the overwhelming bipartisan support of the members of the Budget Committee. In fact, this is the first resolution to be approved without objection since the committee was established by the Budget Act of 1974.

Let me point out several important features of this resolution. First, the resolution hits all its targets. It meets the Gramm-Rudman-Hollings deficit target of $136 billion for fiscal 1989 and, when estimated according to the special GRH accounting rules, contains a deficit low enough to avoid sequestration later in the year.

The Budget Committee resolution sets forth a deficit of $134 billion. Because OMB is required for constitutional reasons to make the deficit projection in August that determines whether sequestration will be required, in developing the resolution we have used the most current estimating assumptions available from the administration.

In addition, the resolution falls within the caps established by last fall's bipartisan budget summit for defense, international affairs, and discretionary domestic programs. That summit specified a program of policies to reduce the deficit by $76 billion over 2 years—$30 billion in fiscal year 1988 and $46 billion in 1989.

The appropriations and reconciliation legislation enacted last December implemented a large portion of the summit policies. The 1987 legislation provided about $36 billion of deficit reduction for 1989, leaving the remainder to be implemented this year.

This budget resolution provides an additional $6.8 billion of deficit reduction. Through the enforcement of the discretionary spending caps, which reduce spending by $2.8 billion, and through an additional $4.6 billion of asset sales, this deficit reduction, when implemented, would bring the 1989 total to over $42 billion, and the 2-year total to $76 billion in line with the summit targets.

Second, as in the past, this budget protects programs that are targeted to the neediest in our society and provides for other important priorities.

Low-income programs will receive at least enough funding to make up for inflation, and in many cases will be funded above that level. We have provided significant additional funding for the fight against AIDS, for the war on drugs, to relieve the problem of homelessness, to support education, and—although the figure is not as high as requested by the President—for scientific research and the exploration of space.

Third, this budget contains no new taxes. The reconciliation legislation we enacted in December contained the additional revenues agreed to in the budget summit, and we have determined that no additional revenues are required to meet our deficit reduction targets for fiscal 1989.

And fourth, this budget shows that the process can work. With bipartisan cooperation and a spirit of compromise, we have produced a budget resolution less than 5 weeks after receiving the administration's budget plan.

That puts the budget process back on schedule. Like many of you, in the past I have been frustrated with delays that resulted in last-minute consideration of omnibus legislation. However, it is my hope that timely consideration of the budget resolution in this body will set the tone for the other body to keep to its schedule as well, and that this year we will be able to produce separate appropriations bills within the timetable established by law.

Let me emphasize that this resolution did not come easy. But we were able to move so expeditiously because of the strong commitment to bipartisan cooperation that existed on both sides of the aisle. In every instance where we encountered difficulty, the members of the committee were able to work out a bipartisan compromise to keep the process going.

For example, let me cite language suggested by the minority that was adopted in one section of our report, and I quote:

> The Committee experienced difficulty in simultaneously achieving both the summit cap of $148.1 billion in budget authority and the cap of $169.2 billion in outlays for nondefense discretionary spending. When the summit agreed upon those caps last November, it was then noted that a 'mismatch' existed in the ration of BA to outlays. Because of this mismatch, when the Committee made decisions that reduced outlays to the summit cap, BA was still too high. If the Committee had decided, alternatively, to reduce BA to the summit cap, outlays would have been lower than the cap.
>
> The Committee finally agreed on a "technical" solution to this puzzle that enabled it to report a resolution with exactly the amounts allowed under the summit for both BA and outlays. This was done in part because the Committee Members felt strongly that a resolution should not be reported with BA in excess of the summit cap.
>
> However, it is our intention that this BA adjustment not result in higher outlays in FY 1989 than the $169.2 billion assumed in this Budget Resolution and allowed under the summit cap. Neither is it our intention to change the scoring rules agreed to in the budget summit regarding which programs are considered discretionary and which mandatory. We expect the Appropriations Committees, the Congressional Budget Office and the Office of Management and Budget all to continue to adhere to those scoring agreements. Finally, we intend to work with the Administration, our Senate colleagues and our fellow Members on the Appropriations Committees to make sure that the summit agreement is observed both in letter and in spirit.

Mr. Chairman, this is the last time I will appear before this body as Budget Committee chairman to present a resolution developed by this committee. I want to thank the members of this body for the opportunity I have had to serve as chairman. It has been a privilege to serve with so many fine Members from both sides of the aisle on the committee, and it has been a learning and growing experience for me.

I urge the adoption of this concurrent resolution on the budget for fiscal year 1989.

□ 1130

Mr. LATTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to congratulate my colleagues on the Budget Committee for working together in a truly bipartisan manner to develop this proposal in record time. This budget resolution was ordered reported exactly 1 month to the day after the President's budget was transmitted.

This degree of bipartisanship in developing a budget resolution is truly unprecedented in the history of the House Budget Committee. A large part of the credit for this should go to the Budget Committee chairman, BILL GRAY, who managed the development of the budget in a fair an evenhanded manner and kept the process moving along.

The 2-year budget summary agreement also contributed a great deal toward making this bipartisan agreement possible. The summit agreement spelled out specific dollar amounts for the very items that generally divide Republicans and Democrats—discretionary nondefense spending, defense spending, and taxes. This year the parties may have differed over whether the summit levels were too high or too low, but we agreed that the summit levels were going to bind the budget process.

This budget resolution adheres to the summit agreement. It provides precisely the dollar amount of budget authority and outlays required in the summit for defense and discretionary nondefense spending. It does not raise taxes. It assumes the asset sales prescribed in the summit. The budget resolution observes both the letter and the spirit of the summit agreement.

However, just because the budget resolution conforms to the summit agreement does not necessarily mean that it is the best resolution that could have been developed. For one thing, the summit did not require a large enough reduction in the deficit, and neither does this budget. The summit did not assume any program terminations, and neither does this budget. And the summit relied too heavily on asset sales to make the amount of deficit reduction appear greater, and so does this budget.

The summit agreement, by boxing in the major tax and spending elements of the budget, made it virtually impossible to reach the required Gramm-Rudman-Hollings deficit target of $136 billion for fiscal year 1989. The only way to satisfy both the summit requirements and the Gramm-Rudman requirements was to assume OMB's estimates instead of CBO's less optimistic estimates. The effect on the deficit of this difference in economic estimates amounted to $25 billion. Unfortunately, most of this reduction exists on paper alone.

Simply put, there are not enough substantial cuts in domestic spending. Instead, we have $100 million unspecified entitlement increases which could balloon in later years. New entitlements need to be carefully considered, and old entitlements need to be reevaluated.

Additionally, no current spending programs were eliminated. Terminating a Government program is never an easy task, but sooner or later Congress must take the difficult action to eliminate programs that have outlived their utility and reduce programs that are no longer of high priority.

The President's budget proposed elimination of several such programs. Let me cite three examples. The first is the Temporary Emergency Food Assistance Program [TEFAP]. According to the President, surplus food commodities have decreased significantly. Yet the budget continues the level of funding for distribution. If inventory is in a decline, why are these funds necessary to distribute nonexistent commodities? A second example is the Appalachian Regional Commission. The program's original goals of reducing the Appalachian poverty rate, unemployment rate, and infant mortality rate have been met. The number of jobs in the region has increased, as have highway, housing, and sewer construction. While the region still has economic problems, ARC is not necessarily the solution to them. Finally, the urban development action grants [UDAG] should be terminated. This program has increasingly included such pork barrel projects as financing of hotels and shopping centers. Although these projects are not the objective of the original UDAG Program, both the program and its funding continue.

Mr. Chairman, let me just say that this morning I received a letter from the Office of Management and Budget dated March 22, 1988, signed by Jim Miller, the Director, addressed to me.

The text of the letter is as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, March 22, 1988.

Hon. DELBERT L. LATTA,
Ranking Republican Member, House Budget Committee, Washington, DC.

DEAR DEL: We want to congratulate you on your Committee's timely action in reporting the Budget Resolution for FY 1989. We know that it is not easy, especially in an election year, to meet the various constraints of the Bipartisan Budget Agreement and the Gramm-Rudman-Hollings law.

We are disturbed, however, by several reports, including those that have appeared in the press, that the Agreement level of budget authority for discretionary domestic appropriations was achieved only after changing the classification of several programs from discretionary to mandatory. On this point, at least, the Summit Agreement was quite clear: the list of discretionary accounts was agreed to and there is to be ". . . no change in the methodology from the current CBO-OMB understanding . . ." over the two years of the agreement.

Based on this explicit understanding, appropriations measures must be scored consistent with the understanding in effect last November. Nor will we overlook, as some accounts have suggested, deliberate underfunding of certain programs that would require a supplemental appropriation next year.

We hope that these issues can be resolved quickly. We look forward to working with you to achieve the deficit reductions that were agreed to last November.

Sincerely yours,

JAMES C. MILLER III,
Director.

Mr. Chairman, in conclusion, I urge my colleagues to take a long, hard look at the deficit and then decide whether this budget goes far enough in reducing it. I don't think it does. We must control domestic spending by taking a critical look at programs with seemingly infinite lifespans and, when the situation is warranted, terminate those programs. At the very least, spending for such programs must be reduced. Although this budget resolution is an encouraging step in the right direction, unfortunately the step is not great enough, but it is a big step.

At this point I include a summary of the fiscal year 1989 Key Discretionary Program Assumptions:

SUMMARY OF FISCAL YEAR 1989 KEY DISCRETIONARY PROGRAM ASSUMPTIONS

Education.—An eight percent increase over 1988 funding levels for all education and related programs. All education programs in function 500 receive at least full inflation; additional funding is provided for Pell grants ($175 million), Chapter 1 compensatory education ($210 million), handicapped education ($170 million), and Supplemental Educational Opportunity Grants ($162 million), and to initiate Even Start ($53 million).

1% discretionary program cut.—The resolution assumes a general 1% reduction below the funding levels otherwise assumed for all domestic discretionary programs excluding the low-income/high priority programs mentioned below.

Low-income and related programs.—An increase of $3.5 billion in budget authority from the freeze level to accommodate inflation costs for low-income/high priority programs in the education, health, job training and social services areas, plus additional increases for education, the homeless, and dislocated workers.

Pay raise.—Reduced cost of federal pay raise by $750 million by assuming a 3% pay raise, with 50% absorption, for all civilian and military personnel, beginning in January 1989.

Anti-drug abuse and other law enforcement programs.—A $500 million increase for drug control and law enforcement, with levels for individual programs to be determined through the annual appropriations process in a manner which would produce the greatest results in the areas of eradication, intelligence, and control of production, supply and demand.

Coast Guard.—A $347 million increase for the Coast Guard—the full amount of the President's request which allows full funding for drug interdiction activities.

Census Bureau.—The resolution provides $671 million for the Census Bureau—the full amount of the President's request.

FAA.—A $500 million or 11% increase for the Federal Aviation Administration (FAA) to increase the number of air traffic controllers and inspectors and to continue the modernization plan for the air traffic control system.

NASA.—$1.25 billion increase for NASA programs to help restore our national position in space.

Super Collider.—$100 million increase for DOE General Science Programs including the Superconducting Super Collider (SSC).

NSF.—$300 million increase for National Science Foundation (NSF) programs to help bolster the research base of our country.

Health programs.—$1.4 billion in Budget Authority for AIDS research, prevention, and education activities. This is a 50 percent increase over FY 1988 funding of $931 million.

Medicare contractors.—A $239 million increase for enhanced claims reviews—full amount of the President's request.

NRC User Fees.—The resolution assumes user fees to recover the full cost of Nuclear Regulatory Commission (NRC) services.

Natural resources and environment programs.—The resolution assumes an overall 3.5 percent reduction in budget authority for function 300. This includes the 1 percent across-the-board reduction recommended for all domestic discretionary programs except those impacting the low-income.

Women, Infant and Child Nutrition Program.—A funding level of almost $2.1 billion for WIC, which represents a program expansion of $150 million above the CBO baseline.

Veterans.—$28.7 billion in budget authority for VA programs. This includes a $100 million increase for medical care for homeless veterans and AIDS patients.

Asset sales.—The resolution assumes $4.6 billion in unspecified asset sales, the full amount called for by the Summit Agreement. In addition, the resolution recommends against sale of the Naval Petroleum Reserves (NRP).

Mr. Chairman, I reserve the balance of my time.

Mr. GRAY of Pennsylvania. Mr. Chairman, pursuant to the rule, I yield one-half hour to the gentleman from California [Mr. HAWKINS], and I ask unanimous consent that he be allowed to yield time.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. HAWKINS] is recognized for 30 minutes.

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this debate is our opportunity to remove spending and revenue decisions from the twilight zone of Gramm-Rudman, and to firmly plant economic decisions in the good solid earth of setting priorities and using our budget decisions as the tools to nurture and achieve our national goals.

I support the committee resolution because it does the best job of setting priorities within the confines of our current circumstances. The resolution protects low-income programs; it increases the investment in essential and proven education and training programs and is a good-faith effort at beginning to redirect 7 years of misguided economic policy.

But, the economic premises of this budget resolution sets the tone for our debate. The resolution has adopted the administration's assumptions of 2.4 percent real growth for 1988, up to 3.4 percent for 1991, with unemployment averaging 5.9 percent this year, and decreasing to 5.4 percent in 1991. Such growth rate assumptions will not produce an expanding economy sufficient to reduce unemployment, not even by the meager amounts envisioned in this resolution.

Officially unemployment today is at 5.7 percent. In reality it is much higher. This blueprint assumes the official rate will only fall three-tenths of 1 percent over the next 4 years. This is disgraceful. It slams the door in the faces of over 20 million unemployed and underemployed individuals struggling to enter and stay in the mainstream of the American economy. It is far short of the statutory mandate in the Full Employment and Balanced Growth Act of 4 percent unemployment. It is not a well-planned, balanced growth program which will bring about an increased standard of living for all Americans.

Let's be candid here. The economic and budget decisions of this decade have boxed us into a corner. We are reaping what we have sown. We have given ourselves no emergency exists, no alternative routes. We are at a dead end. If this weren't such an abrogation of our duly elected powers it would be laughable. As the eloquent American poet Langston Hughes once wrote:

> Humor is laughing at what you haven't got when you ought to have it.

Mr. Chairman, we ought to have a budget process that is based on evaluating unmet needs and then legislating and funding programs that will address those priorities. Using statistical slight of hand to hide behind overly optimistic economic assumptions really only side-steps the real obligations we have before us.

We ought to make decisions based on strengthening and expanding effective investment programs and curtailing those which do not promote full resource use and balanced economic growth.

We ought to stop negating the authorizing process where we spend months analyzing and evaluating the entire array of Federal programs based on merit, proven success and cost effectiveness, only to have our efforts cast away to the winds through alliances struck during 11th hour negotiations.

Such governance breeds contempt and disillusionment among those victimized by such irrational decisions. I believe it is time for those of us who are genuinely concerned about the disintegration of this process to join together to fashion a procedure which returns us to the original intent of the 1974 Budget Act and the Full Employment and Balanced Growth Act of 1978.

Instead of focusing all of our budgetary and legislative efforts on reaching some arbitrary deficit reduction target, we should coordinate the creativity and powerful resources of the Federal Government to invest in education, training, employment, and support programs. That's the only way to help people who are trapped in poverty gain economic self-sufficiency and thereby reach their individual human potential while increasing the productivity and ability to compete in this great country.

Instead of having number crunchers sift through computer print outs to see how to reduce the deficit to $134 billion, we should provide nutrition and health care assistance to all low-income women, so we can reduce our country's shameful infant mortality rate. Instead of using deficit reduction as an excuse for pursuing the administration's anti-Government ideological agenda, we should work to eradicate the human deficits caused by illiteracy and poverty, homelessness, and discrimination.

This is what priority setting is all about. What we should be talking about in budget priorities. It is what we should be talking about here today, as we set the spending and revenue levels for the Federal budget. It is what we have been elected to do, and in the final analysis, what separates our democratic form of government from others in the international community.

As Franklin Roosevelt stated:

> Democracy * * * enlists the full force of men's enlightened will * * *. It is the most humane, the most advanced and in the end the most unconquerable of all forms of human society.

Mr. Chairman, on the 10th anniversary of this economic policy debate on the budget, let us recommit ourselves to using the Federal budget as a tool for strengthening our democratic way of life, for meeting the human needs of the American people, for strengthening our ability to compete in the international marketplace, and for insuring a growing and balanced economy.

□ 1145

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Mr. Chairman, before discussing the budget resolution itself I want to pay tribute to the gentleman from Pennsylvania, the chairman of the Budget Committee, Mr. GRAY, and the ranking member, the gentleman from Ohio, Mr. LATTA. This will be the last budget under the gentleman from Pennsylvania's leadership as chairman and also the last budget to benefit from the contributions of our Republican budget leader, Mr. LATTA. Both deserve the highest praise from all Members of the House.

Mr. Chairman, in a rare bipartisan atmosphere, the House Budget Committee has crafted a budget resolution for 1989 that meets the objectives of the budget summit agreement reached last year between the President and Congress. Like many of you, I opposed the summit because I did not believe it went far enough in achieving meaningful deficit reductions. I still feel that way, but I also believe it is important to forge ahead in reducing the deficit, even if it is not as quickly as many of us might like.

The summit agreement clearly set the guidelines for the committee's work, establishing levels for defense and discretionary nondefense spending, revenues, and asset sales. With the defense portion of the budget "off the table," there were no easy solutions to accommodate increases in domestic spending. Instead, we were faced with a number of very difficult choices and none of us is entirely satisfied with all of the compromises reached by the committee. Some, if not all of us, remain concerned about the validity of the economic assumptions that underpin this resolution. I for one would like to have achieved substantially greater cuts in spending, including program terminations to halt past practices of simply layering new programs on top of existing ones.

On balance, however, I believe the resolution establishes acceptable priorities for 1989 and substantial improvements in outyear spending projections, given the constraints of the budget summit agreement. I commend my chairman and my colleagues on the committee for their willingness not only to resolve our differences for 1989, but to consider the outyear implications of the actions we have taken. This is an important step in convincing the American people and our trading partners abroad that we are serious about deficit reduction, now and in the future.

I believe that the excellent spirit of bipartisanship evident throughout the committee's deliberations resulted in budget guidelines that we all can endorse. Indeed, the committee's work had very strong input from Republicans. This year, Republicans made a difference. Regardless of your stance on the merits of the budget summit, I urge my colleagues to support this budget resolution. There is far too much at stake to waste an opportunity to make measured progress in reducing the deficit on rhetoric about what might have been.

Mr. HAWKINS. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I thank the gentleman from California, the chairman of the Education and Labor Committee and coauthor of the full employment bill.

There is a very grave danger, Mr. Chairman, that we are going to lose an important part of our social policy agenda to a metaphor. If we could amend the first amendment to Constitution to the United States, I would propose that we make it illegal for people to use metaphors when they talk about public policy, because they far more often mislead than eliminate. The metaphor that is more relevant here is the one that the President is fond of, "The rising tide will lift all boats," by which they mean that if the gross national product overall expands at a steady rate, there will be no real need for other governmental activity aimed at people who are in economic need.

The rising tide is a good thing overall, but it does not lift all the boats in the economy, or if you want to stick with the metaphor, it does not do a lot of good for the people who do not have any boats because they cannot afford them and are standing on tiptoe.

Because as a matter of fact, in our economy today in the cities, I see my good friend, the chairman of the Housing Community Development Subcommittee, they have learned that economic progress in some cases, without Government concern, can be damaging to the most vulnerable members of our society, who can in a time of general prosperity find themselves priced out of their housing, forced out of the jobs they used to work at, the jobs they used to work at in the inner-city areas may now be forced out. Some of our cities have started to zone to protect light manufacturing because they are going to be losing the light manufacturing that provides jobs to working people and people of lower income to jobs in the service industry, in the financial industry, that will not hire them.

The point is that we should all welcome a thriving private sector. We should be working to promote a thriving private sector, but the notion that the President has promulgated and that guides too many of our colleagues here, that that alone is enough to bring about the kind of society we want, is wrong.

I want to pay tribute to the gentleman from California who has been a leader in this Congress throughout his service in reminding people that there is nothing automatic about the process by which economic growth in general brings about some social equity.

Yes, we should be working to create the conditions in which the private sector flourishes, but we also have, I believe, as a society some obligations to people who will be in need, and the current trends are to ignore their plight as it worsens.

I was particularly distressed to see the new chairman of the Federal Reserve Board, Mr. Greenspan, suggesting that we had better stop worrying about unemployment and focus exclusively on inflation. He said, "Well, unemployment is down at 5.6 percent." He said that if it got more than a half a percentage point below that, he would be too worried about inflation. The suggestion was that he would not want to see that happen. That is wrong. That is dead wrong.

Inflation should be fought with a series of policies that promote competition, that try to hold down material prices, that promote efficiency in the economy, but inflation held down at the cost of human misery is a mistake. Inflation held down by resistance to unemployment going down is a terrible error. It would be a grave error for us to say that the most vulnerable sector of our population, poor children who did not ask to be born, elderly women who find themselves with no adequate pension, people who want to work and find their skills not in demand for a variety of reasons, it would be a terrible moral mistake to say that they would bear the burden for all of us.

There is one example that will come up when we deal with the minimum wage. We are going to be told that the minimum wage might be marginally inflationary.

Well, Mr. Chairman, if paying adults who put in a full week's work more than $125 or $140 a week adds very marginally to the price of some of what the rest of us have to pay, then we ought to pay it gladly.

□ 1200

A society which assumes that economic growth alone will deal with all the problems of equity is making a mistake. Economic growth is a necessary condition for the kind of life we want to live, but it is not a sufficient condition. There needs to be Government policies that deal with the very poor, with the handicapped, with others who are the victims of prejudice, with people who will not themselves automatically benefit from the general prosperity.

The gentleman from California has been a leader in reminding this country of that obligation, and I am delighted to join with him in taking this opportunity to do it now, because the threat is very real that people will focus on the deficit, focus on inflation and ignore the negative impact that some of these policies will have on the very poor.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I rise to support the congressional budget resolution for fiscal year 1989 (H. Con. Res. 268). I join Chairman HAWKINS to discuss the implementation of the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1978.

Do the political realities make a full employment remedy unlikely?

I view having a good job at decent wages as a human right. Unemployment can be significantly reduced if we have a President with the courage and compassionate understanding, to comprehensively address the problem of unemployment with a full employment policy.

On February 19, 1988, the Washington Post article, "How the Underclass Came To Be," by William Raspberry, stated among other things that one of the causes of mass unemployment and underemployment of minorities is "that blacks—particularly blue-collar blacks—have been disproportionately concentrated in the inner cities, partly due to racial discrimination." The article, also stated that, Professors William Julius Wilson and Loic J.D. Wacquant, reasoned that, "racism may help to explain why there was a large black group that was peculiarly vulnerable to these [economic] changes * * *". Wilson and Wacquant have suggested that full employment policy is a Federal mechanism that would help solve our public problems.

I often wonder, in light of these past 7 years of the Reagan administration, which have dramatically increased economic misery for many Americans, why more people have not been outraged and cryed foul at his ill-conceived policies. I remain surprised and alarmed that many more men and women of good will have not raised their vocies in concert to demand a full employment economy. The return available from the investment of our Federal dollars in our people—human capital—will generate a return of stabilizing the American family while reducing the deficit.

Now, is the best and most appropriate time to raise the very important issue of full employment. Full employment will only work in this country when first and foremost, we have the commitment of the President of the United States firmly behind this policy. The reason the 1946 Employment Act and the Hawkins-Humphrey Full Employment and Balanced Growth Act of 1978 have been ignored and are not being enforced, is because our President does not fully understand the importance of how putting people back to work, and lowering unemployment by 1 percent, will lower the Federal deficit by $40 billion. A 3-percent reduction will reduce the Federal deficit by $120 billion.

America needs a President that understands, indeed, believes, that on the list of national priorities, the health and welfare of the American people come first. Let us support and elect a President that believes in his or her heart that, people come first and a full employment economy that puts people back to work is a top priority.

I include a copy of my article, "What Ever Happened to Full Employment?", at this point in the RECORD for consideration and review by all of my colleagues.

WHAT EVER HAPPENED TO FULL EMPLOYMENT?

(By Congressman CHARLES A. HAYES)

Forty-one[1] years ago today President Harry Truman signed the Employment Act of 1946. This was a measure he had helped originate as Senator and had pressed for as President.

The new law was a compromise. The word "full"—under pressure from those who thought too much employment would push wages up and profits down—was dropped. So was the idea of the "right" to a job at decent wages, as earlier advocated in Franklin D. Roosevelt's 1944 Economic Bill of Rights.

But it *did* express a national commitment to tame the capitalist business cycle and avoid another collapse like the 1929–39 depression. It formally enlarged the President's responsibility for over-all economic management. It gave him the Council of Economic Advisers to help in the task of coordination. It set up the Joint Economic Committee to review the president's program and help integrate the separate legislative committees of Congress. With support from business and labor, these agencies replaced the earlier goal of economic stability with the bipartisan goal of over-all growth.

And it *did* encourage many labor leaders, economists and other activists to bring back the full employment goal. They invented the idea of a "full employment budget" to show how government revenue increases and government spending decreases when more people are on payrolls and less people receiving transfer payments. They made the most of the Act's words mandating the President to develop a program for reaching "the levels of employment, production and purchasing power" needed to create and maintain "useful employment opportunities, including self-employment, for those able, willing and seeking to work." They developed a three tier approach to attaining such levels: aggregate fiscal and monetary policies, direct incentives and other interventions in specific sectors (education, health, agriculture, defense, etc., etc.), and smaller supplementary policies of direct federal job creation. In 1973, Congressman Augustus F. Hawkins and his many Congressional colleagues led a nation-wide movement to strengthen the 1946 law. While everything they sought was not achieved in the Hawkins-Humphrey Act of 1978, they did succeed in mandating Presidential action to bring officially-measured unemployment down to 4 percent in five years. They also restored "full" employment to the earlier law.

No sooner had President Carter signed the new law than the full employment ideal began to fade. Openly violating the law he had just signed, Carter deliberately promoted more unemployment. Why? He thought it would reduce inflation (which it didn't). President Reagan has gone still further. His policies have helped bring on the 1981–82 recession (the longest and deepest since World War II), decimated employment in basic industries, shaken agriculture to the roots, and produced the largest trade deficits and peace-time federal deficits in history. We now have about 18 million jobless: 5.8 million people officially unemployed, another five million working part-time although they want full-time work and still about five million wanting jobs, but not actively looking and whose unemployment benefits have expired and therefore have been counted out of the work force. When we count their dependents, the figure triples and reaches more than 50 million. This is the basic factor behind recent increases in poverty and homelessness—and the devastation suffered in the country's inner cities, farms and industrial areas.

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[1] Congressman Charles A. Hayes (D, Illinois), is the author and chief sponsor, along with 55 other Representatives, of "Quality of Life Action Act", H.R. 1398, which, aims to bring back the full employment goal in terms designed to improve the quality of life for all Americans.

The full employment goal has also been torn apart conceptually. Some economists seem to define full employment, Congressman Hawkins points out, as "whatever level of unemployment is politically tolerable." Some call the present level "natural," they shouldn't be counted. Others argue that any lower rate would mean an inflationary rate of economic growth, ignoring the other roots of inflation. The proponents of the Graham-Rudman budget act have been burying the idea of a full employment budget. Neither the Joint Economic Committee, the Congressional Budget Office, the Office of Management and Budget nor the Comptroller General has recently told the country that reducing official unemployment to the Hawkins-Humphrey level of 4 percent would itself cut the federal deficit by half.

What in the world has happened? Where are those business leaders who know that jobless people are bad customers and that raising the income of the poor would mean better markets for their products? How come that so many well-meaning people see job training and federal job creation (vital though they are) as a substitute for over-all full employment planning? Why have the full employment coalitions that worked around the country for the Hawkins-Humphrey Act been disbanded?

As we consider what kind of individual we want to be the next President of the United States, we should find a person who can wrestle with unemployment (putting people back to work), the federal deficit and the foreign trade deficit. Let us not tolerate any deficit and have the courage needed to deal with fundamentals. Let us look at these questions objectively and bring all points of view into the open.

Mr. HAWKINS. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, the Humphrey-Hawkins Act is a forceful reminder that the budget resolution and the remainder of the budget process cannot be isolated or separated from economic performance and monetary policy, nor can the human consequences of the process be ignored. We are not talking about mere numbers or academic policy arguments here; we are talking about the hopes and aspirations and very real needs of the people of this country. That is what the Humphrey-Hawkins Act brings into focus.

We know that budget resolutions and deficit targets and reconciliation bills have no effect themselves, but are dependent on economic performance. Last year's performance is instructive: as a British magazine observed, America is the only place where you can take a deficit projected at $107 billion, subtract $34 billion, and end up at $156 billion. It is in fact already clear that the current year deficit will substantially exceed the amount permissible under the so-called budget summit agreement enacted just 4 months ago, which in itself was an admission that the 1985 Gramm law was also not achievable, which in turn was an admission that the whole Reagan economic and fiscal program was not only unworkable, not only out of control, but also doing huge harm to the economy and to the people of this country.

What we have this year is a budget armistice: preservation of current positions. Current policy won't change, and all that will be done is to tack together enough real or imaginary changes in spending and revenues to hold the deficit about where it is, unless there is some kind of unexpected change in economic performance. Cleaning up the economic mess will be left to a new administration, one that hopefully would be more realistic, more pragmatic, and more concerned about the basic needs of Americans who want decent jobs, decent incomes, decent homes, decent schools, and decent medical care.

Armistice or not, we have a tragic imbalance in the whole process. The Gramm law continues the basic pretense and premise that the deficit can be eliminated by spending cuts alone, which experience and all budget forecasts including the President's show is not true. It compounds that error by pretending that whatever cuts are made must come equally out of defense and so-called domestic discretionary spending. What this does is to put defense spending on path that is utterly irrational: budget cuts that cut off expensive new acquisitions midway through and worse, cut off the money necessary to maintain, operate, and sustain in the field hundreds of billions of dollars worth of new weaponry. At the same time these cuts produce absolutely devastating effects on education, research, housing, medical care, and even law enforcement, because under the Gramm law, these much smaller areas of the budget must produce cuts equal to those in the much larger defense budget. The law pretends that we don't need defense or domestic outlays; in fact, we need both.

The budget we adopt this year won't reduce the deficit in real terms, under any reasonable set of economic assumptions. What it will do will be to make irrational and sometimes irresponsible cuts in defense programs and to produce even more irrational and irresponsible cuts in domestic programs. It will produce more new military airplanes that will not be flown because there is no money to maintain them, more new ships that cannot sail because there are not sufficient funds for their fuel or crews, and more trips abroad by the Secretary of Defense, seeking to get others to pay for such operations as the Persian Gulf patrol operation. Meanwhile it will force us to consider such irresponsible options as cutting food to the hungry to pay for AIDS research, or throwing young people out of college in order to produce funds to cover law enforcement costs. And after all of that, we will be left with a deficit the same as we have today, with the certainty that it will grow worse in the coming years.

It is time for basic changes. We need to get rid of the phony assumptions underlying every Reagan budget, and we need to get rid of the budget mechanism that forces impossible, irrational, and irresponsible cuts like those I have just mentioned. We need to return to budgets that are realistic and pragmatic, practical, and humane. We need in our budget resolutions not only to recognize economic concerns, but to recognize their human dimension. The budget summit failed to do this, and the current resolution is unfortunately bound by that mistake. I hope that a year hence, when we again discuss budgets and economic policy, we will make our priorities right, as the Humphrey-Hawkins Act intended. We should ask first, and not as an afterthought, what these policies do with respect to people: what are we doing to ensure full and productive employment, what are we doing to provide care and nurture and education for children, what are we doing to education and research, housing and medical care? Those ought to be our first and greatest concerns. This debate will not change the course of events, which were dictated by last December's 2-year budget agreement or stalemate or armistice; but I hope this debate will at least return our focus and priority to what it should be: the development of policy that is a return to what is practical, workable, and in the best interest of our country and our people.

Mr. HAWKINS. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentleman from California for yielding me this time.

The focus of this debate is what we should be doing as a nation. The focus of this debate is what are our priorities as a people. The focus of this debate in the 10th year that we have been involved in it is what is America doing to ensure that it is going to be fully competitive and maximize the greatest resource that any nation has in being competitive, and that, of course, is its people.

I had the opportunity of reading the chairman's statement that he has made previously. In that statement, he said this: "We should work to eradicate the human deficits caused by illiteracy, poverty, homelessness and discrimination." That is what this debate is about.

When we get to the debate on the budget resolution, we will be talking about specific numbers and, or course, those specific numbers relate to our priorities.

I see the distinguished ranking minority member of the Appropriations Committee on the floor of the House. I have the great honor and privilege of serving with him on the Labor, Health, Human Services and Education Subcommittee of the Appropriations Committee. As well as being the ranking member of the Appropriations Committee, he is the ranking member of that subcommittee, and with the gentleman from Kentucky [Mr. NATCHER], we have the opportunity of looking at the resources that this Nation is prepared to spend on education, on worker labor retraining, on health, all issues which specifically speak to the resources of our Nation.

The gentleman from Wisconsin, DAVID OBEY, the ranking member and former chairman of the Joint Economic Committee, observed in questioning Secretary Bennett that this was a unique educational budget submitted by this administration, unique in that it did not recommend for the first time in 7 years a significant cut in education. Having said that, the American people need to focus on the fact that we are spending no more today, and indeed in inflationary terms less on the education of young people in this country than we did in 1980.

What does that mean? That means we are not preparing them as well as we ought to compete with those young people in Japan, in Europe, and indeed throughout the world in the 21st century.

It is the education of those young people, the retraining of displaced workers now in their twenties and thirties and early forties, and the maintenance of the health of our Nation which will determine ultimately whether or not we will be competitive in the 21st century and whether we will have the quality of life for all Americans that we believe they ought to have.

Therefore, I congratulate the gentleman from California [Mr. HAWKINS] for the statement he has made, as well as my good friend, the gentleman from Illinois [Mr. HAYES], and the others who have spoken on both sides of the aisle as to the fact that America needs to focus on priorities and realize that resources applied today will pay off mightily tomorrow in the welfare of the individuals in this country and our competitiveness around the world.

I thank the gentleman from California for allowing me this brief period of time.

□ 1215

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Chairman, you know this is always a very pleasant time of year for some of us and it is a very pleasant time of year for me personally.

I thank the distinguished chairman from California for all the work that he has done over the years in his effort to try to help the people of this country. I really mean all of the people of this country, because I think that is something the distinguished chairman has worked for over the years.

Specifically, today, though, I would like to talk about what this budget resolution does in terms of rural America. You know, in the last number of years some of us were not going in the right direction in this country, we have not been focusing on some of the needs of some of those who are not so fortunate in this country; we have not been looking to see that the women and infant children across this country who have real needs in terms of nutrition have been properly taken care of.

With this budget resolution we are seeing an additional $150 million going toward this program which I think is vitally important, that I think is going to be a very, very important post to judge by how we treat our fellow men and women in the coming years.

I think the women, infant and children program by increasing this to one-half of those eligible to receive support, we are doing a very great thing in this budget resolution. But I said only one-half.

Indeed, in this country today we have a problem whereby those who are not so fortunate have not been in the situation to enjoy, really, the fruits that we have in this country.

I think that is unfortunate.

I think in the future we need to continue to strive to move forward, to try to change, to try to come more in line with the needs that we have across this great land. And it is the greatest land in the world.

I think we should be cognizant of the problems that are enveloping areas of this country that we simply cannot afford to overlook. So I know we are indeed getting low on time, we do not have a great deal of time to focus on this today, but I would like to say I think we need to look forward, we need to try to change what needs to be changed, to make this country a better place.

I thank the distinguished chairman from California for the time.

Mr. HAWKINS. Mr. Chairman, may I inquire of the Chair how much time is remaining?

The CHAIRMAN pro tempore (Mr. GONZALEZ). The gentleman from California has 1 minute remaining.

Mr. HAWKINS. Mr. Chairman, may we ascertain whether or not the other side cares to use any of its time?

Mr. LATTA. Mr. Chairman, we have no requests for time.

Mr. HAWKINS. Mr. Chairman, I yield myself the 1 minute remaining.

Mr. Chairman, I hope that we understand that this budget is predicated on spending less on domestic programs and more on defense and foreign activities, that it is predicated on taxing of low-income taxpayers while forgiving the taxes of foreign investors, that that is a premise on which we hope to balance the budget and I think it is wrong. By creating subminimum wage jobs while increasing executive salaries, the thought is that the economy will thus be improved. Instead it would seem to me that we should pay attention to the fact that the economic growth of the country needs to be stimulated, we need to be creating more jobs, we need to be investing in education, in decent housing, in attending to the health of the people, reducing the infant mortality rate of our country, providing decent housing for the homeless through legislation, these are the ways to balance the budget and I hope that we will remember that as we proceed through these discussions.

The CHAIRMAN pro tempore. All time on the majority side has expired.

Mr. LATTA. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, at the end of the summit last year I wrote to those who participated in the summit and I indicated that I had hoped they would do more. I thought the public was ready for more but I was willing to support their summit agreement if that was the best they could do and if they would not face us with continuing resolutions and supplementals.

Second, after the horrible, embarrassing experience we had here the week before Christmas last year, I wrote to the leadership because I heard the majority leader say on TV the next day that as a matter of fact it was not going to happen next year.

I wrote to him and said that he and the Speaker and the leader on the Senate side would be in a great position to make sure it did not happen the next year. Then I also said to the chairman of our committee on several occasions, "Give us a chance on our side to participate and I think you will like it."

Finally, we got an opportunity to participate and the chairman has been very, very fair and has been insisting, as a matter of fact, that we put together a budget in a bipartisan fashion.

So I am happy to see that things are moving, I think in the right direction in all areas that I just mentioned.

I do want to congratulate the chairman for the manner in which we conducted this year's budget session. He was very, very fair and, as I said, demanded that it be a bipartisan effort. And it turned out to be that.

I also want to congratulate our retiring ranking member. He has had 8 long years, and I am glad to see that he could end his session on a bipartisan effort. That means that he had a good time the first year on the budget committee and a good time the last year on the budget committee and that makes up for all those frustrations in between, I hope. I do appreciate his efforts.

Mr. Chairman, this is not a perfect budget, of course not. We were not working under perfect conditions. The summit was not perfect, but certainly we have a bipartisan effort here it seems to me to do the things and to set the priorities in the right fashion.

We are increasing the budget rather considerably and most of those increases, as a matter of fact, are on the sides, the domestic side, are on the sides of education and human needs. So I am happy to be a part of a bipartisan budget that, as I said, is not perfect but it is, I think, the very best we could do working under the summit restraints that we were working under.

Now my message is to the Committee on Appropriations.

I have sat here year after year after year and even though they did not mean it, I heard them say over and over again, "This is the best we could do with these continuing resolutions because you people on the Budget Committee don't get the things done timely, you people on authorizing don't do things properly," and so forth. That is not what they meant. They loved the process, they still love the process, but at least the excuse this year will not be the Budget Committee. So I do not expect to hear any of them get up here and say, "The Budget Committee was late doing their job and therefore we are coming in with this lovely continuing resolution."

Now the onus is on the Committee on Appropriations. Let them get their work done in a timely fashion because we have given them something to work with and I think we have given them somthing in a bipartisan manner that is a good program, a good budget and it is now up to them to do the job. They will have our support if they will do it timely. They will have no support from me if we get down to those last days and I am embarrassed again as we sit with a pork barrel continuing resolution which makes no sense whatsoever and does nothing to serve human needs and does nothing to get us to where we should be in relationship to the budget deficit.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I would be happy to yield to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. I thank the gentleman for yielding.

Mr. Chairman, I support the gentleman's observations this morning except for the fact that the Committee on Appropriations have passed these bills in the House very early. It is the Senate institution that we are having problems bringing these bills back for conference.

Mr. GOODLING. I agree that is part of the problem. However, most of the time the committee members did not stand up here and bash the Senate, they bashed the Committee on the Budget and the authorizing committees on the House side. Maybe someday we will divide them half and half and we will get away from this continuing argument of continuing resolutions.

This continuing argument that somehow the Constitution says everything has to start on the House side, and then there will not be any excuse there either. I am merely saying do not bash us. We have done our job on time. Now you get out and do yours and we will help you get the Senate to move theirs.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 4 minutes to the gentleman from Montana [Mr. WILLIAMS], a member of the committee.

Mr. WILLIAMS. I want to thank my chairman, Mr. GRAY of Pennsylvania for his years of service as Budget Committee chairman. I think this House and America knows that he has done an outstanding job as our chairman.

Mr. Chairman, I congratulate the Congressman from Pennsylvania for his work and thank him for his kindness toward me. This is my last term on the Committee on the Budget and I appreciate very much serving with him and with my other colleagues as well.

Let me delineate a couple of things that we did in this budget, matters which are of high importance and urgency to me. The budget includes my amendment to protect high-priority, low-income Federal efforts in the United States by providing them with the full inflation increase. That translates into $1.3 billion in new budget authority above the freeze for America's low-income efforts.

This budget also assumes $1.4 billion in discretionary budget authority above a freeze for education. This raises the potential for discretionary education from $17.2 to $18.6 billion, and amounts to an 8.4-percent increase in available budget authority. By the way, that is about 4½ percent higher than the request for education by President Reagan.

Let me highlight those for you.

We assume an additional $383 million for the chapter 1 program, $245 million in additional money for education of the handicapped, $447 million for additional student financial assistance for students attending or intending on attending college. Our budget adds more than $250 million additional for the homeless problem in the United States and provides more than a 10-percent increase for the Headstart programs above the freeze level and finally this budget funds the worker retraining sections of the coming trade bill by assuming an additional $645 million.

Mr. Chairman, as I mentioned I will be leaving the Committee on the Budget this year so I just want to say a word if I may dare to give advice to the next Budget Committee members and to the House: I have served on the Budget Committee during the high-water mark of defense spending in the United States. And what one learns I think pretty quickly on the Committee on the Budget is that the Pentagon budget that is sent to our Budget Committee does not necessarily reflect the defense needs of the United States but rather reflects the political winners among the three branches of our armed services down at the Pentagon.

□ 1230

These three branches, the Army, the Navy, and the Air Force, have become in my opinion three tightly run bureaucratic fiefdoms, each wanting what the other has and one better. I submit to my colleagues in the Congress that the $650,000 a minute that is being spent by the Pentagon is being spent to create three armies, three navies, and three air forces. If Americans doubt that the Air Force has an army, they ought to think about the paratroopers, Air Force ground forces. If Americans doubt that the Navy has an air force, they ought to think of the carriers and that set of airplanes. Americans ought to be alarmed that the U.S. Army now has more boats under its command than does the U.S. Navy.

I have never met a Montanan or an American who said, "Let's spend less than we need to pay for the full defense needs of this country." Everyone I know wants to pay every nickel we need to keep America free and to provide every appropriate service to our allies to make sure they remain free.

The question is not whether we are going to underfund the defense establishment in the United States. No one that I know or have ever met in this House or in the Senate or any citizen in this land wants to do that. The real question is, how do we achieve a lean, efficient defense establishment in the United States.

Mr. Chairman, I submit to the Members that the reason that we have come to the egregious position of paying between $400 and $600 for hammers purchased by the Pentagon is because the mind of man has not developed an acconting and management system that can spend $650,000 a minute efficiently.

So, Mr. Chairman, I urge the next Budget Committee and my colleagues in the Congress and the next President of the United States to make meaningful, necessary reforms at the Pentagon not only to save us money but to once again provide America with the kind of defense that we not only want but are also able to afford.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon [Mr. Denny Smith].

Mr. DENNY SMITH. Mr. Chairman, this is my 4th year on the Budget Committee, and I would have to commend the chairman, Mr. Gray, and the ranking member, the gentleman from Ohio [Mr. Del Latta], for their service.

Mr. Chairman, I think this year's budget was done in a bipartisan manner. It helped that we did have a summit agreement with some basic agreements on spending caps, and I would just say to them that they were perhaps here at a time when it was before the tough decisions are really going to have to be made and the fiscal battles of 1990 and 1991 and beyond. I do think that the committee worked very well together. We had full bipartisan support in the subgroups, and we were allowed, as Republicans, to have some sway over what was done.

Mr. Chairman, the resolution is good from the standpoint that it did allow us some slight control over some good priorities, some crime prevention money, some drug enforcement money, some for health research and some additional funds for education.

The other thing that I think is important for all of us to think about as we talk about the budget process and how we might make it better is that this gives us a basic shot at a 2-year budget because of the fact that we had the caps and we had some movement within the priorities of the other areas of the spending, but we did not have to argue over the big picture, and that allowed us to go on down the road. I think that is something we should look at in trying to redo what the budget process is about, and that is giving us a 2-year budget.

Mr. Chairman, I think that there are other areas where we might have achieved some savings. I think the defense budget should have been frozen at this year's level, and I think that it would force some better management on many of our areas. In my subgroup area we tried to operate on the basis of freezing the spending so that there were no new programs and so that dollars were kept right where they were.

But, as for this Member in this my 8th year in the Congress, I am not going to be able to support this budget. I still think it is too much increased spending over the current fiscal year, and I see no reason to allow that spending increase.

We used very optimistic economic assumptions, and one of the things I am fearful of is that we are in our 63d month, I believe it is, of an economic expansion, and I think that both the White House and the Congressional Budget Office numbers allow for very optimistic growth scenarios. And if, in fact, interest rates, inflation, or unemployment rise beyond where we are, we could have some very serious deficit budget problems in 1989 and beyond in the out years. We could potentially have to produce $60 billion in deficit reductions in fiscal year 1990.

We can expect some suggestions from the National Economic Commission, but I would guess that they are going to recommend tax increases, and I would have to say again that we are not short of tax dollars. We are short of courage to go in and make any changes in the way we spend our dollars.

Mr. Chairman, there are a couple of things that we did that I am not necessarily in agreement with that I have to point out. First off, we gave a pay increase of some 50 percent, and we said we were going to require that the agencies take a 50-percent absorption. What that means to me is we are probably going to have to give that pay increase. I think the so-called savings that we got from this area are imaginary and that we are really not going to be able to funnel that money into other areas.

We had only $1.8 billion of so-called new money to play with in the entire budget. The $750 million that was talked about by the previous speaker was programmed into the high-priority low-income programs and ended up being almost $1.8 billion in function 250 alone. So we took imaginary money and moved it sideways. I think that is going to be an increase in spending.

Mr. Chairman, the end result is we are going to have $10 to $50 billion in spending above this year.

I will talk further about the freeze budget, which I propose, which the Rules Committee deigned not to accept today, but very clearly, had we frozen the budget under the CBO numbers, we would have $156.5 billion. Under my OMB figures we would have $120 billion deficits. I think that would have been more responsible.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Chairman, I want to start out by saying that we have had a great Budget Committee chairman for the last several years who has distinguished himself. I rise today to make some comments that are very critical, but I am going to vote for this budget resolution.

Ronald Reagan 8 years ago, as a candidate, said, "I am going to cut your taxes and cut your bosses' taxes, but for all you critics who say we are going to drown in red ink, that is baloney, because we are going to come out of this thing. Our gross national product is going to rise when all those Americans take their savings and invest them and spend them." He called it the supply-side, trickle-down economic theory.

George Bush, a candidate at the time, said, "My God, if you elect Ronald Reagan, he will double the national debt, and he will make America a debtor nation." He furthermore called it, "voodoo economics."

I stand here today and say that history is going to show Ronald Reagan right next to Herbert Hoover in a nice big picture. But what can we do about it? I do not like the $300 billion defense budget. We have an MX missile that is a sitting duck. It has now been proven that it cannot fly straight, and this President wants money to disassemble it and put it on rail cars and ship it through little communities like Lowellville, OH, to disguise it from Soviet detection.

My God, what are we coming to? Now we have a missile that cannot even shoot, and if we do shoot it, it might hit New York. We are no safer than we ever were.

We have $16 billion in this budget for foreign aid. We are going bankrupt, and we are giving money to Baby Doc, Marcos, and the Shah of Iran—although he is not around any more, thank God—and they are not using it to help their people. We are paying our neighbors' rent bill while they are foreclosing on our own home.

Someone got up later and said we should throw out UDAG's, that they are financing hotels and shopping centers. My God, at least it is in America, and I think this budget had better start looking at America.

I think this is the best possible compromise, but I think America has compromised itself to the point where we are going to go bankrupt taking care of everybody all over the planet while our own people are being treated like second-rate citizens. So, Mr. Bush, you are the closest man to Ronald Reagan now. In fact, if he had not stopped, you would be the most embarrassed man in the Western Hemisphere, but I hope everyone would listen to your comments.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, last October this country was on the brink of an economic disaster. The stakes were high. Wall Street sent us a message. The people were demanding a fair and equitable solution to the deficit problem. The meat-axe was being sharpened. But nobody wanted to put our budget on the butcher block of Gramm-Rudman-Hollings.

For 25 long days, the sparks were flying while a group of us from the House, the Senate, and the administration met to face the tough choices—to hammer out a summit agreement, a framework with ceilings and floors for 1988 and 1989, one that the President could approve and the Congress could enact.

I especially at this point would like to commend our chairman of that joint summit agreement, the gentleman from Washington [Mr. FOLEY], for his patience. They were very, very difficult days that we spent together during those 25 days in trying to hammer out this compromise, and special plaudits should go to Jim Baker, the Secretary of the Treasury, for his patience and hard work in helping us craft this particular budget.

Mr. Chairman, none of us liked the measures we had to take to implement the first phase of that agreement. And, this year, it is not going to be any easier. But the fact that we have this resolution before us today, Mr. Chairman, shows us that the commitment is still strong. We are able and willing to make these tough choices, and keep our word to the people.

For most of us, this resolution is going to be about as popular as a skunk at a lawn party. You can dress it up or douse it with perfume but it is not going to be welcome.

But I want to commend my colleagues and the leadership on both sides of the aisle for their hard work. For the first time in many years, we have seen a budget resolution out before cherry blossom time or the autumn leaves.

Mr. Chairman, I want to commend the chairman of the Budget Committee, the gentleman from Pennsylvania [Mr. GRAY], who is in his last year in that position, not only for what he did here in hammering out this budget resolution but for his hard work, his diligent work and his leadership in the Joint Budget Committee economic summit.

I commend my good friend, the gentleman from Ohio [Mr. LATTA]. We will all have a lot more to say as the months progress in this fiscal year. The gentleman from Ohio and I were classmates together. We both came to the Congress, elected in the election of 1958, and we are completing our 30th year here together. We have been great friends. We come from different parts of the country, from places where they have different philosophies, but we have never become disagreeable in our disagreement. We have been fast friends. I have nothing but the deepest love and affection and admiration for my good friend, the gentleman from Ohio [Mr. LATTA], and we are going to miss him here in the House.

This budget appears to meet all the summit targets we established last November for domestic, international and defense spending.

It protects the low-income support program that we have long established as our priorities, and it allows for increases in programs such as education, WIC, AIDS research, homeless assistance, and veterans medical care.

But we've still got a long way to go, Mr. Chairman.

The toughest part has always come in implementing the budget resolution, bill by bill, program by program.

Our Appropriations Committee is about half-way through our hearing schedule. I've been through all these subcommittees and I don't need a crystal ball to see that some programs are going to have to be cut—some of them severely—to meet the targets and still accommodate the increases this House will demand for the programs of highest priority.

And I've still got my doubts. I'm not sure that the numbers assumed in this resolution will stand up in July. If we have to revisit these targets, the cuts are going to be even worse.

But we must continue to make the tough choices. And in a timely manner. We've got a fast-track timetable for reporting out our 13 bills, and with the cooperation of the other body, we will send these bills to the President. Not in 1 day, in one package, at the end of the year. But one by one, after these 13 bills have all been on this floor with full and open debate.

I hope that this budget framework will keep us on track and on target. It's not perfect, and it's certainly not pretty. We may need to revise some of these priorities. But with the assurance that the summit goals and targets are met, I am going to vote for this resolution to keep us all on the path of equitable deficit reduction.

□ 1245

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise to call for support for this budget. For the first time in the 6 years I have been here, Mr. Chairman, we have a bipartisan budget. We have such a budget for two very important reasons. First of all, there is a different attitude on the part of the Republican Members, and I commend them for that attitude. It was a pleasure to work with them on these issues.

Second, the very hard and patient work of our chairman, the gentleman from Pennsylvania, Mr. BILL GRAY, who has shown us once again that he has the fortitude to get through all these very difficult issues.

How do I feel about this budget? I said I would support it, but I guess I feel the way my colleague, the gentleman from California, Mr. GEORGE MILLER, feels. He said that this budget definitely meets the summit agreement, but it does not meet the needs of our people.

Now, what will it take to get a budget that meets the needs of our people? In my humble view, it will take one very significant change, a new President of the United States of America, and from my personal point of view, a Democratic President.

You know, we have built more housing in Honduras near those landing strips, Mr. Chairman, than we have built in the United States of America.

We have seen a worsening of the infant mortality rate.

We are not immunizing enough of our children.

One out of four of our high school students drops out of school.

We have to do more than just have our children say no to drugs. We have to have programs that help them say no. We have to declare war on intravenous drug abuse, which is spreading AIDS. Only 17 percent of the IV drug users, Mr. Chairman, are in drug abuse programs. This is not good enough.

So the summit agreement really did not address these issues, these needs or these priorities. This budget is really an interim budget, interim until we have a new President to set this country on the correct course. This budget is the best we can do with what we have got to work with, Mr. Chairman.

There are two things about this budget I strongly support. I would like to quickly state what they are. One is the AIDS budget. We wanted to see more funding for AIDS, but we did get a very good budget number, higher even than the President's, and at $1.4 billion. This is very good news for the 270,000 people who have been diagnosed with AIDS and for those 1½ million who carry the virus.

Also, I would like to commend the chairman for his help and the members of the committee on funding the Coast Guard at a 17-percent increase. This is very important for drug interdiction. It is also very important that the search and rescue operations can continue throughout this country.

So, Mr. Chairman, once again I want to commend the gentleman from

Pennsylvania [Mr. GRAY] on his patience, his hard work, and I want to commend the entire committee. I think we have a budget document that we can vote for.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I would first of all like to congratulate the chairman of the committee, the gentleman from Pennsylvania [Mr. GRAY].

It has been a difficult process in the time that he has been chairman. I would hope that the old adage, "Do it until you get it right" is one of the reasons he is leaving this time, because I think if we do not spend too much time on the numbers, but focus on the process, I think everyone involved in the process would agree that this time we did it right.

Also, I would like to commend the gentleman from Ohio who not only is spending his last year on the Budget Committee, but his last year in the House of Representatives. We are going to miss his wisdom and institutional knowledge.

First of all, let me tell you, this is rather awkward for me because the last time I supported a budget that passed the House of Representatives was Ronald Reagan's first year. I thought I would give him a chance. He did not do what I thought was necessary in trying to stem the deficit back then and I have never voted for a budget that passed the House of Representatives since then.

As a matter of fact, last year I was in this well urging my colleagues not to offer one Republican vote to what I thought was a travesty of a budget offered for purely partisan reasons by the Democrats. Perhaps partly because of my cajoling, my colleagues responded and for the first time I believe in history there was zero Republican votes for a budget that deserved no votes at all.

This year, here I am in the well asking my colleagues to vote as they might on those offerings that are going to be presented prior to the committee's offering which indicate where they would prefer the numbers to be, whether it is a hard freeze or a slight increase or moving to gold-backed bonds, or we would have had a half a dozen offerings to match up the numbers with the people in terms of their interests; but when all that is said and done, today I am asking my colleagues to support the Budget Committee resolution.

Why? It is not because I agreed with the summit agreement. I opposed the summit agreement. There were only 44 colleagues on the Republican side who supported the summit agreement. Had I been in that room, I would have fought for different numbers. I was not in the room.

I am a member of the Budget Committee. I was given an assignment and that was to take the numbers that had been generated by the leadership, not just in this House, not just in the Congresss on both sides of the aisle, but also the administration. We had a domestic summit meeting and the leadership agreed on numbers. The numbers that they agreed on were political numbers. Why do we know they were political numbers? Because as is the case usually with political numbers, they did not fit. That is, the agreements on outlays, the agreement on budget authorization and other numbers simply did not fit into a neat package. Why? Because it was not an orderly process starting with the beginning and going to the conclusion.

There were political agreements that were made. What we did in the Budget Committee was to the best of our ability shape an orderly process and fit it into the political numbers, and frankly, I think that its the genius of what the bipartisan agreement is today, the ability to fit into numbers that do not fit, programs that perhaps I might oppose or some programs that I was succcessful getting into the budget that colleagues on the Democratic side would oppose, but they came together and met the numbers. They met every number that the summit agreement required. The outlay numbers are met. The budget authority numbers are met. The sequestration numbers are met. The Gramm-Rudman's are met. The $299.5 billion for defense are met, and the process itself that we went through is something that I think should be examined very, very carefully.

I would like the committee to examine the continuation of a 2-year budget process. I would love to have a bipartisan committee examine the dynamic of what happens when you have to make agreements up against a hard number.

It was a process that was very frustrating for my colleagues on the Democratic side, I know, but very refreshing for us, because that is what we have been arguing under a general concept like a balanced budget or some other kind of set procedure in which you have to prioritize your interests. You cannot have everything. Needs are many, moneys are few. You have got to prioritize. That is what we did in this budget.

That is why I guess I am especially disturbed by a letter that is dated March 22 from Jim Miller, Director of the Office of Management and Budget.

He says in the first paragraph:

> You know that it is not easy, especially in an election year, to meet the various constraints of the Bipartisan Budget Agreement.

As a matter of fact, it is impossible. The numbers that were provided to us by this summit agreement did not fit. We were able to make them fit. We did not violate any of the agreements of the summit, and I am not going to bore you with the mechanics of how to deal with the budgetary process and make it fit, but we made it fit. It was a bipartisan fit. It is not only an acceptable fit, it is a fit that matches every criteria under the summit.

The CHAIRMAN pro tempore (Mr. GONZALEZ). The time of the gentleman from California has expired.

Mr. GOODLING. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. THOMAS of California. The letter goes on to discuss concerns that the Director has, apparently drawn from press reports. I would have hoped that he would have talked to those Members who were in the room when the doors were closed. Not only was the press not in the room, but the staff was not in the room. Had he talked to those Members who were in the room making the agreements, perhaps he would not have had to continue his letter as he does, but apparently he relies on the press for an accurate report on what went on behind closed doors.

The characterizations he has in this letter are, in fact, inaccurate. In the final paragraph he says:

> We hope that these issues can be resolved quickly.

I can set the Director's mind at ease. Not only have they been resolved quickly, but they do not exist.

What we have before us are numbers in a budget which if I had my druthers would not be before you; but what I would ask you to do is to determine whether or not the process by which these numbers were generated is minimally worthy of your vote. I believe it is.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. ROE], the chairman of the Science, Space, and Technology Committee.

Mr. ROE. Mr. Chairman, I thank the distinguished gentleman from Pennsylvania for yielding me this time.

Mr. Chairman, I rise to support this fiscal year 1989 budget resolution with enthusiasm and appreciation. The Budget Committee's action to add $1.65 billion to function 250 reflects that committee's strong recognition of the importance of the Nation's science, space, and technology programs.

My colleagues BUDDY MACKAY, of Florida, and JACK BUECHNER, of Missouri, were especially dedicated in their efforts to gain increased support in function 250. I want to commend the Budget Committee's distinguished chairman from Pennsylvania, BILL GRAY, for his personal leadership on behalf of our national goals for science, space, and technology, and Del Latta, the distinguished Representative from Ohio.

Function 250 encompasses Federal support for basic research and science education—through the National Science Foundation—our space exploration and development programs—through NASA—and basic research in high energy and nuclear physics—through the Department of Energy's general science programs.

Collectively, these programs provide a well-spring of knowledge and information that will translate into a more vigorous competitive position for America in the world marketplace. This work will help us develop future products and processes to sell at home and abroad. It will enhance our potential for technological innovation. It will honor our 100th Congress commitment to improve competitiveness.

We had put together a coalition of the constituents of function 250. It consists of educational, professional, scientific, and technical societies, colleges, and universities, and business and labor in support of this national investment in science, space, and technology. This is a coalition in support of America's future. But the decisions will have to be made here and now.

Mr. Chairman, I have a letter in hand that I wish to submit for the record along with my statement. This letter is signed by some of coalition 250's most distinguished members. Among the signers are seven American Nobel Laureates in science and three past Directors of the National Science Foundation. They state "We applaud the House Budget Committee's bipartisan action to support strong levels of funding in this—function 250—area, and believe that approval of the committee's action is an important first step in restoring America's science leadership."

Mr. Chairman, the fact is that the United States dedicates a much smaller portion of its economy to non-military research and development expenditures than either West Germany or Japan. The other fact is that we expect America to create better innovations, produce finer products, and capture the lion's share of world markets. These two facts are in opposition to each other. We need to change the first to be able to accomplish the second.

The budget resolution represents a good start that we can be proud of. It is not a place to stop; it's a sign that we're on our way.

We wish to express our appreciation for Chairman Gray's distinguished leadership and his committee's commitment and dedication.

The letter referred to follows:

Function 250 Coalition,
March 22, 1988.

Hon. Robert A. Roe,
Chairman, Committee on Science, Space, and Technology, Washington, DC.

Dear Representative Roe: We are writing in support of your efforts to achieve the highest level of funding for budget function 250 that is consistent with sound science policy and responsible fiscal policy.

We applaud the House Budget Committee's bipartisan action to support strong levels of funding in this area, and believe that approval of the Committee's action is an important first step in restoring America's science leadership.

America's leadership in critical areas of science, space, and technology has been challenged, and in a growing number of fields has been eclipsed. While our economic competitors are increasing their technical expertise, the proportion of U.S. science and engineering degrees earned by U.S. citizens continues to decline. As the pace of American innovation has slowed, the foreign share of U.S. patents and high technology markets has increased.

The Function 250 Budget proposal before Congress supports programs essential to meeting these challenges and restoring America's leadership in science, space, and technology. They provide the foundation for educating and training America's next generation of scientists and engineers, expanding our basic understanding of the physical world, developing and transferring new technologies, and extending our reach into the frontiers of space.

We greatly appreciate your efforts in support of these programs, and ask you to urge your colleagues to approve the House Budget Committee's recommendations.

Sincerely,

Glenn T. Seaborg, Nobel Prize in Chemistry; Hans A. Bethe, Nobel Prize in Physics; Kenneth G. Wilson, Nobel Prize in Physics; Robert Schrieffer, Nobel Prize in Physics; William A. Fowler, Nobel Prize in Physics; Philip W. Anderson, Nobel Prize in Physics; Val L. Fitch, Nobel Prize in Physics; Richard C. Atkinson, Director, National Science Foundation, 1977–1980; John B. Slaughter, Director, National Science Foundation, 1980–1982; H. Guyford Stever, Director, National Science Foundation, 1972–1976.

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Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. Pursell].

Mr. PURSELL. Mr. Chairman, I want to congratulate the gentleman from Pennsylvania [Mr. Gray], our Budget chairman, who also has been an outstanding member of the Committee on Appropriations, I wish to express my appreciation for his leadership on the matter of the budget. We have had some differences but he is a great leader and I congratulate him for his final budget presentation this year.

I also wish to express my appreciation to the gentleman from Ohio [Mr. Latta], the ranking Republican. I have also had some differences with him but I congratulate him for his outstanding leadership and years as a budget leader on the House Republican side. I am pleased that the budget process is being expedited so that we will not end up with an omnibus continuing resolution this year. All signals on both sides of the aisle indicate to me that we will have a great opportunity for the first time in my 11-year career in the House to get our appropriation bills completed on time and to the President by October 1. This will be an outstanding budget reform and great achievement by the House and Senate.

We do not control the Senate calendar but we have an opportunity to improve our record by moving all 13 appropriation bills. I just want to read into the Record that in 1978 of the 13 appropriation bills, 1 went into a CR; in 1979, 1 went into a CR; in 1980 we jumped to 3 going into the CR; in 1981, 5 went into a continuing resolution; in 1982, 4 went into a CR; then in 1983 we moved to 7 of the 13 appropriation bills going into the continuing resolution at the end of the year; and in 1984 we dropped to 3 going into the CR; then in 1985, 8 of the 13 went into a final CR; in 1986 there were 7 that went into a continuing resolution; and in 1987 all 13 of the appropriation bills ended in a continuing resolution. We have steadily slipped backwards in trying to eliminate the continuing resolution. Running the Government by continuing resolution is bad public policy.

Mr. Chairman, people back home, people in agencies, and those who are recipients of Federal funds cannot plan ahead when they do not know where our budget process is going. As two budget leaders leave this year, they leave a great legacy in achieving an early budget resolution. I hope that we can get our conference report back to the House floor within the timeframe set out in the Budget Act. This will enable us to have 13 appropriation bills passed by the House, sent to the Senate, and then to conference, so that they will be on the President's desk by October 1.

I think that is a major budget achievement. If we are lucky and our decisionmaking efforts are completed during the next 4 months before the national conventions, we will not have a lame duck session. This would demonstrate that a 2-year budget process can work. This has a lot of merit.

The Committee on the Budget today has made the greatest progress that I have seen in my 11 years in Congress. Again I want to congratulate both budget leaders. I know that the Committee on Appropriations on both sides want to move expeditiously. The authorizing committees have time to act and will participate in the public policy development. The American people will have an outstanding example of the budget process for the first time in the 12 years that I have been in Congress.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. Wolpe], a member of the Committee on the Budget.

Mr. WOLPE. Mr. Chairman, I rise in very strong support of the budget resolution that has been reported by the House Committee on the Budget.

The point has been made but cannot be restated too strongly that this resolution enjoys bipartisan support. I want to pay tribute to the members of the committee and to the Members of this body for acting in a bipartisan way in addressing this budget document.

We have a crisis before us. The economy in my view is far more fragile than many of us would like to believe. And it is important that we begin to try to find a means of putting partisan differences behind us so we can really focus upon the need for a genuine national solution to a national crisis.

Mr. Chairman, my hope is that what is happening in this body today will happen also in the Senate, that we will emerge this year with a bipartisan budget resolution that will reflect the priorities that are embodied within the House Committee on the Budget's effort. Furthermore, I hope that we can sustain that same spirit of bipartisanship in the next year with a new President and a new administration. Our problems will not go away just because we wish them away. The fact of the matter is that because of the excessively optimistic economic assumptions that have been adopted by the administration and by the Congress this year, we may well be finding ourselves facing a continuing and very serious deficit crisis in the years ahead.

Mr. Chairman, we are delaying many decisions that we should have made earlier. But the fact of the matter is that this budget resolution fully implements the bipartisan summit agreement and is deserving of our support. I want to express my appreciation to the Members on both sides of the aisle that helped develop this bipartisan concensus, and particularly to our chairman, the gentleman from Pennsylvania [Mr. Gray], and to the ranking minority member, the gentleman from Ohio [Mr. Latta], for the extraordinary assistance they provided in helping make the budget process work this year.

Mr. Chairman, to my chairman, the gentleman from Pennsylvania [Mr. Gray], a special thank you. This debate concludes 4 years of an extraordinarily difficult task with which he has been charged. I think he has provided exemplary leadership throughout that time.

This year, not only have we produced a consensus agreement under his leadership, but we have done so within the constraints of the budget summit and within the time frame established in the Budget Act. I think this is testimony to the extraordinary skill he has brought to this task. Mr. Gray will be missed in his role as chairman of the Committee on the Budget. I thank him for what he has done for this body and for our country.

Mr. Chairman, there are some similarities between the budget before us and that which was originally recommended by the President. We do achieve the same bottom line of deficit reduction. We are using similar economic assumptions.

Both resolutions comply with the bipartisan summit agreement in restraining the rate of growth in Pentagon expenditures. Neither calls for new taxes. And both budgets curb the rate of growth in domestic programs.

But here the comparisons end. It needs to be noted that there are some very significant differences between the two budgets that lead me to the conclusion that the budget developed by our committee is far preferable to that of the President and warrants the support of the full House.

It should be noted that the Budget Committee does reorder the President's priorities.

For example, the President called for a very dramatic increase of nearly 30 percent within the space and science function. In order to finance this particualr increase, the President called for elimination or sharp reduction of a number of programs vital to people throughout this country. Of particular concern to me were the President's call for elimination of such economic development initiatives as the Urban Development Action Grant Program, the Economic Development Administration, Capital Grants for Mass Transit—all program eliminations that would have devastating impacts on urban communities throughout my State and our region.

What we have done in this resolution is to provide a very substantial increase in the space and science function—an increase sufficient to permit, for example, the start-up of the very important Super/Collider initiative, the expansion of some critical National Science Foundation programs, and new initiatives by NASA. But the increase provided in this function are more modest than that the President called for, in recognition that it was important to achieve some savings that could then be used to preserve both the programs and other vital domestic initiatives. We give particular emphasis to programs that are directed toward productive investment in the future strength of America: education and job training programs, research and development, child nutrition, drug enforcement, AIDS research and the Federal Aviation Administration. In our view, it would be very shortsighted to deeply cut programs that, in the long-run, contribute to the maintenance of a strong America. Additionally, we have protected the low-income programs most vital for those who are our most vulnerable citizens.

What we have emerged with in this budget is a resolution that fully implements the bipartisan budget summit, and that meets the bottom line of the deficit reduction target established in that summit and by the Gramm-Rudman budget law. But the bipartisan committee resolution spreads the burden of deficit reduction much more fairly and equitably across the entire Federal budget.

This is a budget resolution that in my judgment is fully deserving of the bipartisan support it enjoys and I urge its adoption.

Mr. DENNY SMITH. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. Armey].

Mr. ARMEY. Mr. Chairman, I intend to support House Concurrent Resolution 268, the budget for fiscal year 1989. This is the first budget resolution I will have voted for since coming to Congress. I can't say that I'm totally satisfied with everything it contains. But given the parameters set for us by the summit agreement, I think our committee did a reasonable job producing the document before the House today.

We had to make hard choices, and I'll be the first to tell you that there were a lot of changes that should have been made that were not. For example, this budget resolution does not recommend the elimination of even one of a host of Federal programs that should be ended.

My Democratic colleagues may scoff at Republican insistence that sooner rather than later Federal programs that have outlived their usefulness must be ended or reformed significantly. I know it is not popular to say programs must be terminated, but it must happen. If it doesn't, we'll find ourselves unable to respond to new programs by our unwillingness to end programs and services that have failed or outlived their usefulness.

I am also disappointed that the summit agreement effectively placed entitlements off limits. I can't express in forceful enough terms how compelling it is that we make major entitlement reforms.

I believe that rather than Budget, Ways and Means, and Appropriations Committees, the authorizing committees hold our country's long term fiscal fate in their hands. Members of these committees must have the fortitude and statesmanship to end programs when they've fulfilled their purpose, to reform programs when they no longer address the needs for which they were intended, and to try new approaches to delivering federal services when they have failed.

Without a commitment to fiscal restraint and program innovation, we're doomed to live from fiscal crisis to fiscal crisis, from Gramm-Rudman fix up to summit agreements that don't look beyond the next election. It will be a heart wrenching and difficult process, but we can't postpone a thorough reexamination of every Federal program and service with an eye toward possible savings.

As I said, the committee had to make a number of tough choices and difficult tradeoffs. One area I was particularly concerned about is function 250, general science, space, and technology. There are a number of important, forward-looking capital investment projects funded in this function, two of the most important being the superconducting super collider [SSC] and NASA. I'm pleased that we were able to increase funding for these projects significantly; frankly, I wish we had the resources to spend more, but our limits were defined within a larger context. It's my hope that the Appropriations Committee can find a spending mix that will allow these programs to be funded at the level the President requested.

I also want to briefly mention sense-of-Congress language which I had included in the budget resolution. For some time now, I've worked to free up the Coast Guard's limited manpower and materials from nonemergency, nonessential activities so they could concentrate on drug interdiction and other pressing national needs.

The language incorporated into House Concurrent Resolution 268 urges the committees of jurisdiction to allow the private sector to perform nonemergency towing and other nonessential Coast Guard functions. This will free additional resources to fund law enforcement, military readiness, and emergency search and rescue functions.

I might point out that this is but one example where the private sector can be used to free Government resources to meet new and everchanging national priorities. I look forward to working with my colleagues to create new reforms that will utilize private sector operations to make the public sector more responsive and efficient.

Before I close, let me state a serious reservation I have about procedures which tie congressional pay increases to cost-of-living adjustments for Federal employees. This budget resolution assumes that Federal employees will get a 3-percent COLA for 1989. Now the committees of jurisdiction will have to authorize these pay increases, which is the least I think they should do. But let me make it clear that I don't think Members of Congress should be included in this category with Federal employees.

Votes on congressional pay should be above board and on the record so that our constituents know exactly where we stand. In fact, if the language in this resolution was binding, and Members were going to get a 3-percent pay increase as a result of this vote, that in and of itself would be enough to force me to vote no.

In closing, let me restate my intention to vote for this resolution. No, it's not perfect and it creates an even greater task for us next year—especially since the summit agreement placed so many things off limits. I would say to my colleagues on the Budget Committee, and to the Members of the House at large, that we will require an even greater amount of discipline then what we demonstrated this year to meet Gramm-Rudman's, and more importantly, the American people's mandate that we put our Nation's fiscal house in order.

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Mr. ESPY. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Chairman, I, too, want to join the chorus complimenting the entire committee on both sides of the aisle for the job performed and, of course, the gentleman from Pennsylvania [Mr. BILL GRAY], chairman of the committee, who I think has exerted leadership in the 4 years that he has chaired the Budget Commmittee that confirms his ability to meet the challenges of the highest office in the land.

Of course, because the summit agreement was so restrictive in a couple of areas we need to make major changes. We really have not set the course of the Federal budget on the track that I think many of us realize it must be set, and the reason the committee could not do that was, of course, the summit agreement precluded us from addressing our need for more revenue to reduce much further the crippling deficit and it also precluded us from cutting the overexpenditure in the military to meet the fiscal needs and the economic needs of this country. When I say restricted us, in not raising any more revenues, I mean specifically that, to meet the needs of reducing to where it is at all manageable this terrible, destructive deficit, we simply cannot have a 28-percent top rate in this country.

People who receive the top 10-percent income in this country have had, over these 8 years, a tax cut cumulatively of approximately $130 billion. When we take a look at the size of the deficit and the debt, that tax cut for the highest income groups does not make sense. So we do need to regain some of the lost revenue from those that benefited so much under previous tax cuts, the highest income 20 percent of this country, and apply that money to this absolutely debilitating deficit.

The $299 billion military expenditure, is just more than we can afford and funds some very expensive weapon systems that do not improve our national security.

When we look at this year in NATO, the United States will be spending $134 billion, and our NATO allies in Europe, whose cumulative worth is more financially than ours, are spending $87 billion, and they are having economic growth higher than ours.

Having said that, the committee did a tremendous job in parioritizing those dollars that we were limited to work with by the summit agreement. I am especially thankful for the funding of the Stewart D. McKinney Homeless Act, at the fully authorized $700 million level.

The committee did a good job on health, and especially AIDS funding to meet that terrible, terrible, tragic need in this country, and did an adequate job on maintaining the infrastructure, but most importantly, the committee did a tremendous job, given our limitations, on the most important of all investments we need to be making in this country, and that is in education and our children, the future of this country.

Specifically, the committee increased over the baseline for the following programs, and, first, let me say fully funding at the authorized level the Head Start Program with a $77 million increase, the most important investment we can make in this country, which is early childhood education, and specifically $210 million for chapter 1 compensatory education of disadvantaged students, $175 million for Pell grants, $50 million for supplemental education opportunity grants, $170 million for handicapped education, $50 for Even Start, $35 million for magnet schools, $35 million for dropout prevention, $42 million for the TRIO-Historically Black Colleges Program, a $300 million increase for the National Science Foundation. Those were all an increase over the CBO level.

As a motion we must make a greater investment in education; that is our No. 1 battle line against drugs, our No. 1 battle line for productivity, our No 1 battle line for getting our trade deficit under control. Within the summit limitations the priorities on education in this committee budget are to be complimented.

Mr. DENNY SMITH. Mr. Chairman, I yield 4 minutes to the gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. Mr. Chairman, it is an unexpected pleasure for me to rise in support of this budget resolution. My first year on the Budget Committee was marked by partisan bickering, political accusations, and closed-door caucuses preventing full participation. This year, our bipartisan discussions—though spirited—included an excellent give-and-take among Members on both sides of the aisle.

This budget resolution is not all we hoped it would be. But perhaps its all we can reasonably expect. It includes the OMB economic assumptions which many of us assume to be over optimistic. While it stays within the outlay caps as provided by the summit agreement, the method in which the budget authority figure was achieved could be categorized as "suspect". It reminds me of the person who needs to sit on the suitcase to make sure everything fits. While something should come out, we'll just pressure it until it closes—ever mindful that the contents may well come springing forth at the worst possible time.

As a historical footnote of a personal nature I did not support the budget summit agreement last year. I believed then, as I do now, that phony accounting gimmicks and the lack of real cuts in nondefense discretionary accounts avoided many of the problems Congress has created by failing to take action to reduce the budget deficit. Still, a deal is a deal, even if my name was not on the contract. Congress passed the budget summit pack and we are forced to abide by the package.

However, several positive elements came out of the summit and this budget resolution:

First, we found that a biennial budget works! While it may be exasperating in the first year, it holds our feet to the fire and forces Congress to find answers to the deficit problem. In the second year—as we have discovered—it makes the prospect for a bipartisan budget a very real one.

Second, there are no additional tax increases here. And this is good news for the American taxpayers who are getting ready to comply with the annual ritual of April 15. Parenthetically, I would point out that many of our taxpayers are finding that they are paying more than they did in 1986, so this budget resolution comes as extra good news to those who resent more taxation, especially those increases that were snuggled away in the cradle of tax reforms.

Third, it capped our outlays. We finally said. "this is as much as we will spend". For 1988, it meant holding firm to the outlay gap agreed to by the budget summit agreement. No wiggling or squirming. This is it.

There are several things in this budget which I believe are especially noteworthy and for which I land. The committee's decision on function 250 was a difficult one. In fact, I was predisposed toward supporting the President's request, especially when it came to the NASA budget. However, we had a discretionary spending gap to worry about and therefore, there was only so much we could do.

The $1.3 billion increase for NASA represents an accommodation by the committee with the President's request. As we continue our efforts in making sure that the United States has a space station to compete with the Soviet's MIR, this is a step in the right direction. As we look to the shuttle's safe return-to-flight, this is a wise choice of resource allocation. Still, should the President and the Congress agree to additional funding, I would certainly be supportive of that effort.

Mr. Chairman, I remain concerned about the lack of progress on budget reform. We have heard time and again about the prospects for hearings on reform measures. But still nothing. Last year, our colleague AMO Houghton and I introduced House Resolution 271 which would provide reform on continuing resolutions. Although I am wedded to no particular budget reform measure, I am hopeful that the majority—in this year's bipartisan spirit—will work with us to change the method by which we do the Nation's economic business. Let us make some changes before the next administration takes office. We owe that much to the next leader of our country; an economic starting block that will give that President a chance to begin his race to a balance-budget. Hopefully that race can be a sprint and not a marathon.

Mr. ESPY. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I rise in strong support of the budget resolution.

Mr. Chairman, I am pleased to see that the budget resolution before us today has targeted three areas: First, education; second, housing; and third, AIDS. These priorities are the priorities of the people I represent in Baltimore.

Last year Kurt Schmoke was elected mayor of Baltimore on the pledge to make Baltimore "The city that reads." This budget—with an 8.4 percent increase in education programs—will start to provide the resources needed to fulfill this promise.

Last year we addressed many crises facing our Nation—the trade imbalance, the rising social and fiscal costs of welfare, and the plight of the homeless. In each of these instances our response recognized the importance of education in bettering the lives of Americans. This budget resolution stands as another affirmation of our commitment to be a compassionate, competitive, and literate nation.

In Baltimore, on any given night there are up to 1,500 homeless individuals in a city with only 900 shelter beds. These are just some of the 36,000 families on the waiting list for assisted housing. Our Nation has the resources and the know-how to provide housing for these people. All we lack is the resolve.

This budget resolution restores the administration's cuts in the Community Development Block Grant [CDBG] Program, rejects the elimination of the Urban Development Action Grant [UDAG] and provides a full inflation increase for low-income housing programs. More important, the McKinney Homeless Act receives full funding in this budget. I am hopeful that the Congress will act on the Rouse/Maxwell housing report in the coming months so that we can make serious inroads into the housing crisis we now face.

By the end of 1987 there were 348 reported AIDS cases. That doesn't sound like too many. In the first 2 months of this year, however, close to 50 more cases were reported. The Centers for Disease Control also estimates that for every reported case, there are probably 30 undetected carriers of the HIV virus. Though these people may or may not eventually die of AIDS, they are infected and infectious. Certainly this is a health problem of huge proportions that needs immediate attention. I am pleased that the budget resolution provides a 50 percent increase in funding for AIDS research, prevention, and education.

Mr. Chairman, this budget's priorities are our priorities. I urge my colleagues to support this legislation.

Mr. ESPY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to express my support of the House budget resolution. This resolution represents a truly bipartisan effort to implement the budget summit agreement and to achieve the deficit reduction target mandated by Gramm-Rudman. This bipartisan resolution is an accomplishment of considerable merit and is the outcome of many hours of negotiation.

Mr. Chairman, there are a number of specific items in this budget resolution that I would like to mention. I will hold my comments to three specific ones: agriculture, rural housing, and education.

First, as to spending for the Commodity Credit Corporation price support programs, projected spending in this program is $17.5 billion in fiscal year 1989. This is down 32 percent since fiscal year 1986. This decrease is due to the enacted changes in price support from the 1985 farm bill, which is proof that the bill is working; reductions made by the Agriculture Committee in the 1987 reconciliation bill; and the decline in the value of the U.S. dollar. These all have contributed to improving agriculture markets abroad.

Second, Mr. Chairman, the House Budget Committee rejected the administration's proposal to terminate the Rural Housing Direct Loan Program and substitute it with vouchers. Vouchers do not work where housing is already in short supply. In Mississippi, a dependence on the voucher program would mean that Mississippians would virtually be handed certificates for vacant lots. The fiscal year 1989 budget resolution assumes the fiscal year 1988 level of funding for rural housing, and this does include new loans.

Third, Mr. Chairman, the House budget resolution assumes an 8.4-percent increase from 1988 funding levels for all discretionary education and related programs.

Education is certainly an important priority. One area of emphasis, however, in this funding should be support for Howard University. Howard University, founded in 1867 by an act of Congress, is an historically black college with an enrollment of 12,000 students per year. Howard University is the only comprehensive black university in the country with 18 fully accredited schools and colleges, and it is dependent on Federal funds, and so, therefore, Congress should remain committed to Howard University, as it should remain committed to funding all HBCU's.

Finally, Mr. Chairman, just as many others have done before me, I would also wish to congratulate the gentleman from Pennsylvania [Mr. GRAY], the chairman of the Budget Committee, on his skillful leadership this year and for his friendship and guidance to me as a new member of the committee. I appreciate his counsel, and I appreciate his direction. I am honored to have served under his stewardship of the Budget Committee.

The CHAIRMAN pro tempore (Mr. MURTHA). The gentleman from Mississippi [Mr. ESPY] consumed 3 minutes.

Mr. DENNY SMITH. Mr. Chairman, I yield 4 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I thank the gentleman from Oregon for yielding me this time.

Mr. Chairman, I think we owe our chairman of the Budget Committee, the gentleman from Pennsylvania [Mr. GRAY], and the gentleman from Ohio [Mr. LATTA], the ranking member, our sincere thanks for a job well done.

This is the outgoing year for the chairman who, by law, must vacate the committee because of a limit of terms, and it is the time when the ranking member is choosing to retire from this body. The only ranking member of the Budget ever has been the gentleman from Ohio [Mr. LATTA], and we owe these two gentlemen, patriots both, our thanks for a job well done.

I support this product, not so much for the content of the budget resolution, but for the opportunity this resolution gives us to demonstrate to the country and to ourselves that we can operate under a 2-year budget system, and we need to operate under a system that puts caps on the amount of money that we can spend, and that is precisely what happened, albeit by chance, this time. And the way it came about, the 2-year budget opportunity, was because of the budget summit last December when the President and the leadership of Congress got together and had to come to an agreement that limited the amount of spending that we could make in all categories. It operates for 2 years, the summit does, and we are talking about today the second year, fiscal year 1989, of the 2-year budget summit limitations.

In the past, the reason we have gotten into trouble in this Congress over spending and creating this horrendous deficit is because we had no caps.

You simply spent whatever someone asked you for and you could not say "No." So we would vote increases in spending because no one told us we could not spend more than x dollars.

A balanced budget amendment does, of course, precisely that which I strongly support. But in the absence of the balanced budget amendment this time we have the budget summit which we both signed off on, the Congress and the President.

It acted like a balanced budget amendment. You cannot spend more than x dollars for defense, for nondefense, and so forth; caps.

Literally and figuratively the way this body ought to operate, as we have all said privately and we should be saying publicly with our votes, is that at the beginning of each 2-year cycle count up the amount of dollars you anticipate getting into the Treasury from taxes and other revenues, then you decide how you are going to spend that money. This time we have that system operating.

The budget summit said, "You cannot spend more than this. Now you decide how you are going to divide up the spending." That is what the Budget Committee has been doing, that is why we are successful this time and why there is bipartisan support on this process. Even though I personally disagree with many of the priorities within the spending that we set forth, I support the overall process because we had a say, and it is a 2-year operation and we have capped the amount of spending that can take place.

I support budget reform. That is why I am standing here at this moment; not necessarily so much supporting this budget resolution as supporting the process change that it represents this time, as 2-year operation and caps on spending.

It gives us a chance to demonstrate to ourselves and to the country that these reforms can work and will work if we solidify them and make them law.

I will support a 2-year budget all the time. Each Congress would adopt its budget for 2 years. The new Congress would then adopt another one for 2 years when it comes in.

I would support a balance budget amendment or, failing that, any sort of budget summit or limitations or caps on spending because we have to have that in order to get at the budget deficit reduction.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. I thank the chair for yielding.

Mr. Chairman, I too would like to commend the chairman of the committee for this his last budget, for the fantastic job he has done in the last 4 years, and especially on this unique occasion where we really have a love fest going on here. Our colleagues from the right and from the left, Democrats and Republicans, all agree. I did not think I would ever see it. It is good. This is an election year. We do not want to go through the knock-down, drag out that we did last year.

But I am troubled, I am very troubled by what we may have next year.

Our own CBO said this deficit is more than $30 billion higher than what OMB is saying. If that is true and if that is the reality that comes to be, that means this time next year we are going to be faced with in excess of $50 billion cut from the present baseline if we are to meet that year's Gramm-Rudman targets.

So even though everything is good this year and I commend the chairman, I want to point out to my colleagues that we are probably going to be in for a very rough sailing next year.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I would like to engage the chairman of the Committee on the Budget in a colloquy, if I may.

Mr. Chairman, what assumptions did the committee make about Medicaid improvements and the Medicaid items in the catastrophic conference?

Mr. GRAY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Pennsylvania.

Mr. GRAY of Pennsylvania. I thank the gentleman for yielding.

Mr. Chairman, the committee report includes in function 950 new entitlement authority in the amount of $100 million in fiscal year 1989, $500 million in fiscal year 1990, and $650 million in fiscal year 1991 which is adequate to finance Medicaid improvements to assure coverage of pregnant women and infants, to protect spouses of nursing home residents from impoverishment and to provide transitional coverage to working poor families leaving welfare. The resolution contains moneys for the purpose of funding Medicaid improvements and the funds are found in function 950 rather than function 550. We recognized the committee's concern that if Medicaid improvements are not enacted either because of failure to conclude the catastrophic conference or to report other Medicaid legislation, that these funds should be available for other high-priority initiatives.

Mr. WAXMAN. Mr. Chairman, I rise in support of the committee budget.

I'd like to acknowledge Chairman GRAY for his leadership in putting together this bipartisan package.

I'd also like to thank Mr. MILLER, Mr. SCHUMER, and Mr. FROST for their advocacy in the budget deliberations on behalf of poor families and low-income elderly and disabled people.

From the standpoint of health programs, this budget has a number of important advantages:

It gives high-priority, low-income health programs such as community health centers, immunizations, and Indian health a full inflation increase of about $100 million;

It provides $50 million to fund the health care for the homeless grant program next year.

It provides an additional $450 million for AIDS funding next year, and

Finally, it allows $100 million in fiscal year 1989, $500 million in fiscal year 1990, and $650 million in fiscal year 1991 funding designed to be sufficient to pay for Medicaid initiatives to reduce infant mortality, protect spouses of Medicaid nursing home residents from impoverishment, and provide transitional coverage to working poor families leaving welfare.

In making new entitlement authority available for Medicaid improvements, the committee continues the work it began last year when it provided funding for these same initiatives.

I should note that the Medicaid catastrophic bill, which is now in conference, contains enough Medicaid offsets to pay for the buy-in protection against Medicare cost-sharing for the elderly and disabled poor. That provision is integral to the design of the catastrophic bill. Other Medicaid improvements, such as spousal impoverishment and infant mortality, require the additional new entitlement authority which the committee budget provides.

While I had hoped to see more funding set aside for AIDS, I believe that what the committee has done reflects its sensitivity and commitment to addressing this national crisis. We may need to reconsider this issue in light of the President's AIDS Commission makes its final funding recommendations later this year.

Mr. DENNY SMITH. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, this is a much easier job than I thought would be possible because there is so much bipartisan support for this budget; for two reasons. First of all, we had a 2-year budget summit guideline which really put a great deal of this thing in proportion for us. Second, because of the leadership of Mr. GRAY and also Mr. LATTA.

The budget guideline was there, we adhered to it, there were certain functional areas that we talked about. We had to assume certain assumptions as far as economic growth. We did.

I would expect this budget to be accepted by the great majority here. I think what I would like to do for just a second if I may is to take a look over the next hill, next year, because next year is going to be the real problem.

We have a situation with Gramm-Rudman-Hollings where we must come down to a particular limit; that is the $100 billion as far as our deficit is concerned. That is not going to be easy. I think there are going to be a lot of things we are going to have to concentrate on, to look at, to turn over the boulders and really explore where we are going to go as a country because it is not just tax increases or growth of the economy that is going to fix this problem, it really is in terms of our understanding of this spending, because if you take a look at spending over these last 2 years, we have spent far more than we originally expected, almost $100 billion more.

So I think next year is going to be the critical thing. I think this body ought to recognize this.

The other thing I think is important to do is to recognize in the whole process budget reform is essential whether it is avoiding the pitfalls of another continuing resolution or getting ourselves trapped in the cul-de-sacs which we cannot extricate ourselves from, budget reform is critical as we look ahead.

So this year I am all for this budget proposal. I hope it passes. I hope we will get behind it. But let us not forget there is another day and we have to face that and it is going to be far tougher than today.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the distinguished chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, I rise in support of House Concurrent Resolution 268, the concurrent resolution on the budget for fiscal year 1989. I want to commend the distinguished chairman of the Budget Committee, Mr. GRAY, as well as the ranking Republican member of the committee, Mr. LATTA, for bringing forth the first bipartisan budget resolution in recent memory.

We have learned after so many years of wrestling with the intractable problem of the deficit that producing a fair, sensible, and balanced budget resolution is not an easy task. Making tough choices is always difficult, and the Budget Committee for the last several years has had to make those choices.

The task this year has been simplified somewhat by last fall's budget summit agreement. After 7 years in office, the President last month sent up a budget that for the first time began to address the fiscal and political realities of the 1980's. Nevertheless, the administration's overall adherence to the summit agreement should not be permitted to obscure its questionable domestic spending priorities or its continued attack on programs for the poor and elderly.

I am pleased to support this budget resolution because those programs have been protected, and appropriate priorities have been set. No budget resolution can satisfy everyone and few are perfect, but this one moves us one step closer to fiscal and economic sanity. Given the size of the problem, this is no small achievement.

Permit me to offer my thanks to the distinguished gentleman from Pennsylvania, who as always has shown me and the Committee on Energy and Commerce particular kindness and consideration in constructing this budget. I urge my colleagues to defeat the amendments that will be offered today, and to pass this bipartisan budget resolution.

Mr. DENNY SMITH. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, this is the first time I have taken the opportunity as a new Member to speak in this Chamber. I am convinced if Congress does nothing else but resolve the budget deficit we will have served our Nation well.

Seven years ago this country had a debt of just over $900 billion, or less than $1 trillion. That debt has increased to $2,600 billion or $2.6 trillion. We are a debtor nation for the first time since World War I. We consume almost as much as we save and invest.

Congress made a grave mistake when we extended the Gramm-Rudman-Hollings deficit reduction targets 2 additional years. I voted against the extension. Instead of requiring deficit reduction of $45 billion for fiscal year 1988, the revision allowed Congress to come up with only $23 billion. The stock market responded by dropping 500 points in 1 day.

What did the President and congressional leaders do in response to this crisis? They came up with a summit agreement that only reduced the deficit by $30 billion. And $7 billion of that was budget gimmicks, including the sale of assets—that would have otherwise brought in a stream of future revenues—and the postponement of salary payments to the 1989 fiscal year. And instead of reducing spending by $23 billion, that would have occurred under Gramm-Rudman, the President and Congress agreed to reduce spending by only $11.5 billion and to increase taxes by $11.5 billion. I opposed this summit agreement.

I join with those of my colleagues who feel this fiscal 1989 budget resolution simply does not do enough. It provides for a deficit of $134 billion using the administration's optimistic economic assumptions and a deficit of over $175 billion using the more conservative estimates of the Congressional Budget Office. Accordingly I will vote against it.

There are great men and women in this Chamber. I am impressed with the people I serve with here. We just need to make tougher decisions.

I encourage the President and congressional leaders of both parties to give us a budget resolution that will reduce the deficit further.

I stand ready as a rank and file legislator to vote for a budget resolution that will reduce the deficit an additional $50 billion.

I am willing to vote for a package of this magnitude that includes reductions in both social and defense spending, a freeze in entitlements with the exception of Social Security and even some tax increases. To sum up, the deficit is the No. 1 problem facing this Nation, the deficit is the No. 2 problem facing this Nation. If we in Congress do nothing else but resolve the problem we will have served our country well.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER], a member of the committee.

Mr. SCHUMER. Mr. Chairman, this budget in one real sense is a delay budget; it does not change the course of things set out in the 1988 budget, it implements the summit agreement and leaves us large challenges for 1989.

It would have been nice to reduce the deficit further. But without Presidential leadership that was virtually impossible.

But it does not make things worse either. In a world where greater and greater demands for spending appear and where no additional taxes are possible to pay for those just demands, that is no insignificant accomplishment.

Within the budget there are some real bright spots: Housing avoided the deep cuts of past years; we rejected the President's proposals to eliminate mass transit operating subsidies; we allocated money for spousal impoverishment, infant mortality and Medicaid transition; and urban programs, the whipping boy of past budgets, were not cut.

Most important of all, with the leadership of Chairman GRAY we accomplished something we have been unable to do in years past, a bipartisan budget.

One person was notably absent from the table and that was the President who has, as in past years, abdicated his responsibility to the budget and reducing the deficit.

This budget is OK. Imagine what we could have done with Presidential leadership. That unfortunately will be the first and most important task of the next President.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY], a member of the committee.

Mr. SLATTERY. I thank the chairman.

First, I would like to commend the chairman of the committee, Chairman GRAY, for his brilliant leadership in running the budget committee over the last 4 years. It has really been an honor to serve with him. I think Chairman BILL GRAY has demonstrated to our colleagues that he possesses a really unique quality to bring people together, help them focus on priorities and find the votes necessary to pass these complicated budget resolutions.

So Chairman GRAY, my hat is off to you and we will miss you around the Budget Committee as you move on to greener pastures.

Mr. Chairman, today as the House considers this budget resolution for fiscal year 1989, that specifies $134 billion deficit, I think it is important for us to focus on how much progress has been made. In 1985 when I joined the Budget Committee, the deficit was projected to reach $300 billion by 1989. The deficit projected several years ago will be reduced in half if we are able to implement this budget. Obviously even though we have made significant progress, much remains to be done.

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Congress can continue to force the deficit down by holding down spending in the individual appropriation bills and meeting budget deadlines. We should not be lulled into complacency by rosy economic assumptions nor be taken in by overly optimistic and unrealistic deficit projections. If we do, we will find ourselves facing a larger deficit in the years to come than the one we are facing today.

We are on the right track. The budget is being considered by the House much earlier this year than last, and unlike last year, Democrats and Republicans are working together to put this bipartisan budget plan before us today.

This budget resolution provides for an 8-percent increase in education, 4 percent more than the President proposed. This increase is clearly needed. Last year we spent less on education in real dollar terms than we did in 1980, and this budget resolution goes a long way toward reversing that dangerous trend.

Under this bipartisan budget plan, agriculture gets a fair shake. In these times of fiscal restraint, funding for agricultural programs will remain the same as last year.

As chairman of the Budget Task Force that recommended the spending levels for our space and science programs, I am pleased to report that the committee struck a balance between the President's proposals and what can realistically be achieved. The increase for NASA programs, programs necessary to maintain the U.S. leadership in space technology, the increase for National Science Foundation programs will allow our universities to continue basic science research.

Mr. Chairman, this budget resolution provides a timely blueprint for the Appropriations Committee to complete its work. I urge them to do so. Never again should we be faced with a massive, catchall spending bill as we were last year, and never again should we vote for one.

This plan is not perfect, but it does honor the economic summit agreement. Let us pass the budget resolution, and roll up our sleeves on the individual appropriations bills, and get on with our work.

Mr. DENNY SMITH. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. THOMAS] for a colloquy with the chairman of the committee.

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would ask the chairman of the committee, in his colloquy with the gentleman from California [Mr. WAXMAN] he indicated that there was $100 million in function 950 for new entitlement authority, and in that colloquy he indicated it was adequate to finance certain Medicaid improvements. It is my understanding in function 950 that $100 million in new entitlements is to include items in functions 500 and 600 as well as function 550, and it is to be funded on a first-come, first-serve basis in terms of a prioritization of passing legislation.

Does the chairman understand that to be correct?

Mr. GRAY of Pennsylvania. Mr. Chairman, if the gentleman will yield, that is correct. The gentleman's understanding is correct.

Mr. DENNY SMITH. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, as the senior ranking Republican on the Veterans' Affairs Committee, I have to rise in opposition to the budget resolution.

Mr. Chairman, I rise to comment on that portion of the budget resolution that is concerned with the Veterans Medical Program.

Mr. Chairman, it has been my strongly held view and the view of the entire House Veterans' Affairs Committee that at the very least the medical program of the Veterans' Administration should be funded at a current services level. This budget resolution falls considerably short of current services and, therefore, is of great concern to me.

Mr. Chairman, the resolution may look all right at first glance. On further examination, however, it is clear that the Budget Committee has recommended funds for function 700 that places veterans medical care at less than a priority level as compared to a number of other programs.

The Budget Committee recommendation figures might indicate to some that they are $250 million over the President's reestimated request for budget authority and budget outlays. On closer look, however, we can see that such is not the case.

A recommended 1-percent across-the-board decrease for VA medicine relates to $150 million. Absorption of one-half of the cost of a Federal pay raise relates to another $150 million. This $300 million in turn relates to a loss of about 3,000 employees in VA's Department of Medicine and Surgery.

Mr. Chairman, this Budget Committee report is a far cry from current services for VA medicine.

It means that VA will treat fewer outpatients next year. It means that fewer inpatients will be treated. It means that quality medical care for veterans is in jeopardy. It means a diminishing of the historic pledge of this body that it will always assure adequate funds for VA medicine.

Mr. Chairman, the House Veterans' Affairs Committee carefully studied the President's budget and then made recommendations to the Budget Committee.

We were unanimous in those recommendations. We said that the President's budget ought to be very modestly amended upward for VA medical care and for the administration of veterans benefits. We recommended a very modest increase in construction funds to build three more nursing homes to try to take care of aging veterans. We wanted to start work on a badly needed clinical addition and spinal cord injury unit at Dallas, TX. We rejected a 1-percent projected increase in productivity in VA hospitals and clinics because medical care is just not measured that way. In essence, we asked for a budget to adequately provide current services with only bare bones enhancements already fully justified.

These were modest but vitally needed recommendations. We tried to be responsible. We tried to be frugal.

However, Mr. Chairman, it seems obvious that this budget resolution was preordained by the economic summit agreements of last December. I say this because of the very quick action of the Budget Committee in reporting it to us.

I was not party to that agreement and do not feel compelled to support any part of it that does harm to VA medicine. I believe the veterans of this Nation deserve a quality medical program. I intend always to lend my best efforts in that direction. In that regard, Mr. Chairman, I must state publicly that the resolution before us is most seriously flawed in a very critical area.

Mr. PORTER. Mr. Chairman, I thank the gentleman from Oregon for yielding time to me.

Mr. Chairman, let me first commend the gentleman from Pennsylvania [Mr. GRAY], and the gentleman from Ohio [Mr. LATTA], and the members of the Budget Committee. This budget is on time, and I have been critical of the chairman of the committee in the past. It is a wonderful thing to see it out on the floor actually early, and all I can say is that I hope the gentlemen across the rotunda are prepared to do their part and bring their budget resolution back on time as well and get the conference done as this thing should be done.

Mr. Chairman, the question of course is: Is this a good budget or not? First we ask: Does it follow the budget summit? Well, yes, it does. It follows the agreement of last fall. Is it going to pass the House of Representatives? Yes, it is, without question. Is it going to be a budget that produces true deficit reduction? No, it is not.

The budget summit that was worked out last year indicated we would bring down the budget deficit of $148 billion that prevailed the year before. That is now estimated to be $170 billion. I suspect, when all the dust clears on this budget, the deficit would not go down from there, and perhaps it will go up even higher.

Does it meet the Gramm-Rudman target? Well, it says it does, but it uses OMB projections that are very, very optimistic about economic growth and inflation to do so. It uses phony numbers and accounting gimmicks once again, as it has in the past. Just look at the definition of "revolving accounts" under housing loans, and you will see that by changing a definition we have now moved $3½ billion to the other side of the ledger and made room for more spending once again.

Everybody sat down at that budget summit last fall, and they made their first priority how they were going to protect their favorite spending. They did not make the first priority how are we going to get the budget deficit actually down, actually reduced. Now it was how to protect your own spending, how to balance the budget, not on your own priorities, but on someone else's, and of course the product is much the same as it has been in the past, a budget that really does not come to grips with the Nation's problems.

It is going to result in a huge sequester that will come after, of course, the elections next November. It will come after that time, and it would not be so easy then to fudge the numbers, but the Members will close their eyes, vote for this budget that has added revenue that we added last year under the budget summit agreement. It is carried over to this year and does not come to grips with entitlements. And there is nobody in Washington that truly and honestly believes that we can ever come to grips with deficit reduction without addressing the entitlements. It uses a rosy scenario, and accounting tricks, all the things we have done in the past.

Mr. Chairman, there is nothing new here. It is simply more of the same. Someone said earlier on the floor that that is all we can expect. I think it is less than what we can expect. I think the American people and our economy and our markets expect true deficit reduction, and they are not going to get it again this year, unfortunately. It will take that commission that has been appointed now and will meet and report to us approximately a year from now to tell us what we already know, but it does not have the courage to follow and do for the American people. That is to come to grips with entitlements to put a freeze on spending, perhaps to add some revenues. I do not want to do it, but I suspect that will be part of the package, and then we will all say, "Oh, yes, they are right. They are right; they told us what we needed to hear so we can have some political cover, and we do not really have to have the courage to come to grips with the problem ourselves."

Mr. Chairman, this budget does not deserve support, but I do commend the gentleman for bringing it to us on time.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, this budget is on time, under target and above expectations. Actually it is ahead of schedule. It not only meets the economic summit target in deficit reduction, but it beats the target by $2 billion with a $134-billion deficit package, and, more importantly for the future, it charts the deficit on a steady, sustainable, declining path, and that is a point of great significance for what we bring to the House floor today.

Mr. Chairman, credit for getting us to this point goes to Chairman GRAY, who has done a masterful job of reconciling partisan differences on the shape of the budget, through his rare gift in working creatively with people and through his exceptional command of the substance of the budget issues themselves. He has really met the ultimate test of leadership in this body in his final budget presentation to the Congress.

Mr. Chairman, I support this budget because of what it does in urban programs, in education and in rural programs, in housing, in transportation and in economic development, issues that are of such great significance to me and to the people I represent. Community development block grants are restored, $2.8 billion, at current services level, whereas the President would have cut the program $400 million. UDAG will remain at $216 million; the President would have zero in this budget. The Economic Development Administration will be funded at $182 million, just a little below the current services level; the President would have zeroed it out.

The Appalachian Regional Commission Program, which have done so much good for that 13 State region, will have $107 million, whereas the President would have zeroed it out. Housing programs will be at $9.8 billion. They are high priority and low income programs that deserve to remain at current services level, plus adjustment for inflation.

In transportation, we restored the Urban Mass Transit Program, whereas the President would have cut it nearly in half. And we have increased funding for air traffic control functions, providing $500 million additional to assure a path toward safety, a major step toward restoring the levels and margins of safety in aviation that are so necessary to prevent a rise in midair collisions, a rise in on-the-ground runway incursions, and other marks of declining margins of safety that we have witnessed in the past 7 years.

In the Environmental Protection Agency programs, the committee has recommended continuation of the construction grant program, with sewage treatment construction grants funded at the current services, $2.3 billion level.

In education, a function that best illustrates the misplaced priorities of this administration, where the President's budgets in the last 7 years have proposed $14 billion cumulatively in cuts, this committee has restored education to the level of funding that it ought to have, some 4.3 percent above the President's 1989 request, at a level of $18.6 billion.

What touches my heart most is that we will be able to restore funding for library services, which the President historically has cut from the budget. I would mention especially the programs for compensatory education for disadvantaged students, the chapter 1 program, one of the most successful of education programs, and Head Start, the Pell Grant Program for higher education, which also serves low-income people, the Special Supplemental Educational Opportunity Grant Program, education for the handicapped, and the funding for TRIO and historically black college programs. All of these actions reflect the priorities that we on this side of the aisle have continuously held as the cornerstone and trademark of the Democratic Party and its concerns for the needs of people, especially those who are on the low-income side of our economic spectrum.

This budget respects the needs of those who are the least fortunate among us; the budget we have crafted is true to the principles of our party and to our service in this Congress to the people of our districts.

Again, Mr. Chairman, I pay my compliments to the chairman of the Budget Committee on the occasion of his last budget presentation. It will be a hallmark for the future.

Mr. DENNY SMITH. Mr. Chairman, I yield 4 minutes to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. Mr. Chairman, I rise in strong support of the concurrent resolution on the budget for fiscal year 1989. Like many of my colleagues who stand before the House in support of this budget, I will preface all of my remarks by saying that this resolution is far from perfect. This budget does not reflect a bold new political agenda. It does not cut the deficit as much as it should be cut. I don't expect the financial markets to soar when the House votes for this budget.

I support this budget but not because it perfectly reflects my priorities. I support it because I believe it is the best document that could be produced with bipartisan support within this House. And frankly, there's more good in it than bad.

This budget satisfies the broad requirements of the summit agreement. It conforms to the administration's aggregate spending targets for defense, international affairs, and domestic discretionary programs.

It conforms to Gramm-Rudman, with a deficit projected at $134 billion. It meets, for the first time in years, the timetable for budget action. This is the first major step we can take to avoid another bloated, omnibus continuing resolution. Most importantly, enactment of this budget will not require a nickel in new taxes.

For my friends on the Republican side of the aisle, I say: These are significant victories. There are a hundred reasons why any of us could vote "no" on this resolution, but we should be guided first and foremost by a spirit of bipartisan dedication to reducing the deficit. That's the spirit that has presided over the Budget Committee this year.

I wasn't a member of the budget summit, and I wasn't satisfied with the agreement reached at the summit. But a deal is a deal. The President met the summit targets, and I believe strongly that we have an obligation to match those numbers.

The difference between this year's budget debate and those of previous years could not be more stark. The summit agreement resolved for us the traditional defense-versus-domestic spending debate. The $148-billion discretionary budget authority limit forced the Budget Committee to do what it is unaccustomed to doing: Set priorities, instead of hosting a free-for-all with the adding machine.

Mr. Chairman, the cooperation that went into the drafting of this budget was a refreshing break from the past. Let's don't lose sight of the facts. This bill cuts the deficit, meets the summit agreement, and conforms to law. I strongly urge a "yes" vote for the first bipartisan budget in the House of Representatives in 8 years.

□ 1400

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, the purpose of a budget is twofold. It is supposed to be designed to meet the needs of American families, and it is also supposed to contribute to stable economic growth.

The problem we face is that budgeting has been transformed by the budget process and by Gramm-Rudman into a procedure that ignores policy, substitutes green eyeshades for insights and which in essence becomes a public lie.

This budget follows the President's economic assumptions, and that means because of that fact that it will be off the mark, off the Gramm-Rudman promise by about $30 billion. That is not the fault of this committee.

The fact is that the administration's appetite for revenues has always fallen about 20 percent short of its appetite for spending, and because of that fact both institutions—the Congress and the White House—are in a dance of immobility which will last through this coming election.

As has been indicated, this budget resolution meets the commitment laid out by the summit agreement that was reached between the congressional leadership and the White House last year.

I think that the summit should have done better. I, however, do not think it could have done better, because the summit was essentially dealing with a White House that simply would not face the truth. So if you want to blame somebody, do not blame the congressional leadership of both parties who worked on that summit. Blame the fact that you had people down at OMB and in the White House who are simply wearing economic blinders.

Every time I look at the economists in the White House, I believe the comment that I saw recently that economics was created to give astrology credibility, and at least so far as White House economists are concerned, that is certainly the fact.

So I simply want to say that I will vote for this resolution for only one reason: because if we do not want to impose a procedural logjam that will destroy the ability of the Congress to get its budgetary work done, we have to have a budget resolution. And because all of them have to be put together with fools gold in order to get enough votes to pass around here, unfortunately, that means that this budget resolution is as good as any.

Mr. Chairman, I would simply make three points. First, if you do not like the numbers in this budget resolution, do not shoot at the Appropriations Committee when we bring out our individual appropriation bills, because the committee will be faithful to the limited possibilities that lie within this budget resolution. That committee will have to make the real choices, rather than being able to finesse choices as the budget process allows the Congress to do at the budget process allows the Congress to do at this stage.

Second, we have to face that fact that we simply will not get the deficit down if the next President follows the example of this one and continues to sing lullabies to the American public, rather than helping the American public face the fiscal facts that all of us are going to have to face after the election.

Third, we just have to change the process by which the Congress deals with budgets so that we can focus more energy on the vehicles that do the real spending and the real revenue raising; that is, the appropriation bills, the entitlement bills and the Ways and Means tax bills.

We have no choice but to pass this resolution today. We are limited in our choice simply because for the past 7 years we have had an administration that has only wanted to do two things: double military spending at the same time that it denied to the American public the consequences that flow from that decision. That is why we are in this jackpot today and it means, sadly, that we are going to have to have a new President before we are going to have enough leadership in this country to get out of it.

Mr. DENNY SMITH. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise this afternoon in strong support of this bipartisan budget resolution. When we agreed to the summit agreement, we were roundly criticized, many of us, for not taking giant steps toward reducing our deficit. We were criticized for adopting a summit agreement that was seen as weak; but I say to all Members today on the floor as we consider this budget resolution, tough decisions lie behind this budget resolution. It represents difficult compromises among competing interests and genuine dedication to compliance with the summit guidelines.

Chairman GRAY, in his last hurrah as Budget Committee chairman, has done an excellent job. He is to be commended for his patience and perservance in steering us through a bipartisan process in an orderly and timely way. It was not easy. None of us are skilled at bipartisan work anymore, to our detriment. It took many a moment of a strong hand and solid determination to weather the tough waters; but our chairman rose to the occasion, and I look forward to working with his successor, but I know the gentleman's talents will be missed.

Equally important to the success of our process was the leadership of Congressman LATTA and Congressman GRADISON on our side. They, too, are to be commended for their determination and patience in working out some of the tough conflicts that have to be resolved as budgets are written. Cooperation and good faith became the order of the day as we worked within the broad framework provided by the summit.

I hope we have built a foundation for a process that will better serve the public interest with healthier cooperation on future budgets.

Regardless who becomes President, our resources will be severely constrained in the near future, and better communication, more honest effort, more serious cooperation is all that will be required to enable us to spend our scare dollars most effectively to address those needs of our people and of our Nation that are critical to our future.

Mr. Chairman, the business of the Budget Committee is the business of the American citizen. Our spending blueprint affects every citizen and should reflect our most dearly held values and greatest visions for the United States of America. It must assure care for the downtrodden, security for senior citizens and others on fixed incomes, vision for the future, and a national defense second to none. Each of us may disagree with specific items in this package and many of us wanted to see a more substantial assault on our deficit problems, but within the confines of the summit agreement I believe that we have set a responsible course toward genuine deficit reduction and greater accountability in government spending, and I think we have set our priorities wisely and well.

Mr. Chairman, I urge adoption of the committee resolution. I commend all the members of the Budget Committee for working together to produce it.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I rise in reluctant opposition to the budget resolution on the floor today. From a purely practical standpoint, I know many of my colleagues are relieved to avoid a pitched battle over the budget this year. However, we are only postponing the inevitable. Eventually, we are going to have to face the Federal deficit music. With this budget, we are declining to do so this year.

I know that in general Congress and the administration are in agreement about the fiscal year 1989 budget resolution, and that is certainly a welcome change from years past. But it concerns me that both sides have opted to embrace what we have strong reason to believe are overly optimistic economic assumptions.

This budget is based on economic assumptions of the Office of Management and Budget, whose record of accuracy is not nearly as good as that of the Congressional Budget Office. But although CBO has been more accurate than OMB over the years, the fact is that both organizations have a pretty consistent record of underestimating the eventual deficit.

Based on data provided to me by the Congressional Research Service, Members ought to bear in mind that OMB underestimated the deficit in 5 out of the 6 years leading up to fiscal year 1987. CBO was low 4 years out of 6. If there were ever a time for Congress to be conservative, this is it.

If, as I suspect we shall, we endorse these rosy economic projections today, we will only be kidding ourselves and the American public that this budget represents any substantial progress in the struggle to reduce the deficit. But it is a shame that Congress is taking the year off from the meaningful deficit reduction efforts that are so clearly necessary.

Mr. SCHEUER. Mr. Chairman, I rise in support of the resolution reported by the House Budget Committee.

The members of the committee are to be congratulated for reporting out a resolution which reaffirms our commitment to basic scientific research and to our space program. Any other course would be shortsighted in the extreme.

However, I agree with those Members who believe that we can and we must do more to reduce the budget deficit.

I am troubled that there seems to be a lack of urgency in both Congress and the administration on the need to cope squarely with our burgeoning economic problems. Certainly, implementing last December's budget agreement is an important step toward reducing the budget deficit. But it is not enough. The budget agreement should be viewed as the floor, not the ceiling, on this year's effort to bring the budget into balance.

Although I cannot support their proposals, I appreciate the efforts of those Members who have offered substitute amendments which they believe would go farther toward reducing the budget deficit. I particularly want to express my respect for the gentleman from Minnesota [Mr. PENNY] and the gentleman from Iowa [Mr. TAUKE], who I believe are as knowledgeable about the budget and as dedicated to cutting the deficit as any Member of this body.

I cannot support the substitute amendments offered today because each of them relied substantially on reducing or eliminating cost-of-living adjustments for Social Security beneficiaries to achieve additional savings. By so doing, these amendments would impose a substantial burden on the Nation's retired and disabled workers. Instead of asking sacrifices of the elderly poor, we should ask working age, middle- and upper-income Americans to make their fair contribution to reducing the budget deficit. To paraphrase the legendary Willie Lomax when he was asked why he robbed banks, "That's where the money is."

Mr. Chairman, I will support this resolution, but I hope we can do better before the year is out.

Mr. BILBRAY. Mr. Chairman, I rise today in support of the congressional budget resolution for fiscal year 1989. I commend my colleagues who serve upon the House Committee on the Budget for their hard work, obtaining for the first time unanimous support on a budget resolution.

I recognize the practical constraints placed upon the committee. Many of our colleagues here in Washington have been reluctant to join me in supporting tough budget cuts, especially while the administration has traditionally played a game of smoke and mirrors with the American people on the hard fiscal realities that face our country. While many of us were hoping for a more sweeping spending control agreement between the White House and Congress in the budget summit of last November, the bipartisan measure before us today is an encouraging sign that, at last, some measure of cooperation exists between the Congress and administration in reducing the clear and present danger presented by the deficit.

With this in mind, I find the work by our colleagues encouraging. They have put together a package which implements the second year of the budget summit agreement reached on November 20 between White House and congressional negotiators. No new taxes are called for, and the resolution falls within the guidelines for the fiscal year 1989 appropriations targets for defense, foreign assistance and international affairs, and domestic discretionary spending.

During this, my first term as as a U.S. Congressman, I have voted for cuts of upward of $20 billion. Should we have opted to adopt this more prudent and responsible approach, we would be able to save billions of dollars annually without having to resort to mindless cuts mandated under Gramm-Rudman-Hollings.

As a promising first step, I urge my colleagues to support the resolution. But as a means of ending the fiscal mess we find ourselves in, I urge my colleagues to make the same tough choices some of us already have made and cut until it hurts.

Mr. JEFFORDS. Mr. Chairman, I am pleased that this debate on the budget resolution has been markedly different from the bitter and divisive budget debates of the past few years. I commend all Members who participated in the formulation of this resolution for their bipartisan dedication to reporting out a broadly acceptable budget blueprint.

I support the general philosophy of this resolution. The basic premise of House Concurrent Resolution 268 is that, in order to reduce the size of the Federal Deficit, all domestic discretionary programs will be cut by 1 percent. Within this category, certain high priority programs and those affecting low-income individuals will either be maintained at the current services level or increased where necessary. I am pleased that programs such as WIC, anti-drug abuse programs, AIDS research and education, and funding for the homeless will all receive increases. Both the President and the Budget Committee have realized the importance of investing in our future and therefore have approved higher spending for top-priority education programs. I trust we have learned from our experience with Gramm-Rudman-Hollings that targeting specific programs for cuts or increases is a much more responsibile way to reduce the deficit than mindless across-the-board cuts.

I would prefer a level of funding for the Department of Defense that does not include a 2.7-percent increase above this year's level. However, it is important to review this number in the context of 4 years of restrictions on defense spending and an $8 billion decrease from the amount the Department of Defense would need to keep pace with inflation for the coming year.

While the budget summit agreement has made formulation of the budget resolution relatively easy, I would remind my colleagues that this does not mean we will be spared future tough choices as we continue the struggle to reduce the unacceptable federal deficit. The Gramm-Rudman-Hollings deficit target for fiscal year 1989 required only $8 billion in deficit reduction from this year's levels. The controversial continuing resolution and reconciliation bill adopted last December reduced outlays and increased revenues for the coming year, thereby making today's task easier.

However, the Gramm-Rudman-Hollings deficit target of $100 billion for fiscal year 1990 will require Congress to make many tough decisions again next year in order to achieve $36 billion more in deficit reduction. We must not be lulled by the general euphoria over this budget resolution into thinking that the hard choices and tough decisions are behind us, for they are not. While this resolution is a small step in the right direction, there is still much work to be done.

As a final note of caution, I must draw the attention of my colleagues to the economic assumptions contained in this resolution and in the President's budget. The economic forecast provided by the Office of Management and Budget [OMB] assumes that the GNP will grow by 3.5 percent over the next year, the consumer price index will rise by only 3.9 percent, unemployment will average only 5.6 percent and interest rates will decline slightly from this year's level. The Congressional Budget Office [CBO] disagrees, suggesting instead a lower level of GNP growth, a higher unemployment rate and higher interest rates. Clearly, political considerations have driven the Budget Committee to use the OMB predictions instead of the more sobering CBO projections. It is quite likely that Congress will be forced to make further spending cuts later in the year in order to compensate from the overly optimistic assumptions of this resolution.

Mr. DREIER of California. Mr. Chairman, I rise today in opposition to House Concurrent Resolution 268, the concurrent resolution on the budget for fiscal year 1989. Already, we have been told by the Budget Committee that the fiscal year 1989 budget totals will result in a deficit of $134.1 billion.

Every piece of budgetary legislation we pass should take into consideration our growing deficit. There is no attempt whatsoever in this budget resolution to address the deficit problem. The American people are aware there is a real structural problem with our current budget process and ignoring it won't make the deficit go away.

It is important that we reform the budget process and make it more difficult to circumvent the budget laws under which we now operate. For instance, we should require a two-thirds vote on any legislation which would raise the statutory limit on the public debt. I am a sponsor of House Resolution 166, which would do just that.

We should also move away from the increasing use of massive continuing resolutions [CR's] to fund the entire Government. The sheer size of these CR's make it easier for Congress to hide a multitude of programs which would not have been approved under the normal budgetary process. I am the sponsor of House Resolution 210, which would change House rules by outlawing continuing appropriations resolutions effective for more than 90 days.

I would also like to see the leadership allow immediate floor consideration for the desperately needed balanced budget constitutional amendment and the Presidential line-item veto.

Once again, creative accounting is responsible for the fact that the numbers in House Concurrent Resolution 268 manage to avoid the Gramm-Rudman-Hollings sequestrations. Like last year's budget, outlays will be shifted, budget authority will be freed up from other areas of the budget, and what were previously considered discretionary accounts will now be computed as mandatory accounts. Also, $4.6 billion in asset sales will conveniently be added against the actual budget deficit.

Sleight-of-hand accounting practices have prevailed in this budget resolution. Granted, this measure may comply with the letter of the budget summit agreement, but clearly, it has been done at the expense of the spirit of what we had set out to accomplish when the budget summit was initially convened.

The first so-called bipartisan budget agreement is faulty legislation. This resolution is not based on realistic economic assumptions. It's a shame that political expediency has been the driving force behind this package, not the realization that our Federal budget deficit needs to be brought under control.

Again, Mr. Chairman, I oppose House Concurrent Resolution 268, which will merely delay efforts to deal with the budget deficit.

We should not be postponing the difficult budget decisions until after the elections. The budget cuts we must eventually make will only be more severe and the ensuing implications will be magnified.

Mr. DENNY SMITH. Mr. Chairman, as a member of the Budget Committee, I must rise in opposition to House Concurrent Resolution 268, the first concurrent budget resolution.

This resolution was crafted in a bipartisan fashion within the committee. This represented a welcome change from the battles of previous years. Much of the credit for this cooperation must go to Chairman GRAY and Representative LATTA, the chairman and ranking member of the committee. This is the last budget cycle that each will guide us through, and they are to be commended for their efforts.

While I did not agree with the budget summit agreement, it provided us with a good example of the usefulness of a 2-year budget cycle. By setting targets and adhering to deadlines, we will be able to show financial markets at home and abroad that we are becoming capable of dealing with fiscal policy. It is my hope that a 2-year cycle will be instituted as an important and permanent reform of the budget process.

Unfortunately, I must still oppose the final product of this work. While we were successful in controlling many areas of spending increases, and in some cases actually cut from fiscal 1988 levels, the Federal Government will still spend at least $40 to $50 billion more in 1989 than it did in 1988. That's $40 to $50 billion that the taxpayers of this country simply don't have.

I agreed with some of the decisions that were made during our deliberations. I was pleased with some of the priorities that were given to programs dealing with law enforcement, drug interdiction, health and education. But we did not insert any language that would end any Federal programs.

Although many of the targets were set for us, we were only able to reach those figures through smoke, mirrors, and fudged numbers. The committee struggled with language regarding the issues of pay raises for Federal employees, ultimately settling upon a 3-percent raise, half of which is supposed to be absorbed by Federal agencies. During the course of our conversations, it seemed that every time we changed our minds regarding the raise, we discovered more savings. I must question whether those savings exist. However, even if they do, these savings were then reprogrammed into other Federal programs rather than credited towards deficit reduction.

During initial discussions, it was determined that we could increase spending by only $1.8 billion over the entire budget. As our discussions progressed, more and more money became available for other areas, more than we were saving in other areas. In the end, when we found that we had exceeded the agreement targets in budget authority, we simply transferred the authority to undistributed offsetting receipts.

The leadership agreement also prevented us from finding budgetary savings by locking out discussions on areas such as entitlement programs and defense. These two areas represent some of the most extensive spending growth during the 1980's. I would like to address the long- and short-term costs of the 138,000 civilian personnel that have been added to the Pentagon bureaucracy since 1981. We could not debate the closing of unneeded military bases or continued funding of weapons systems that have not been adequately tested or simply do not work.

We cannot afford to play these types of games with the taxpayers' dollars. This budget resolution is based upon optimistic economic assumptions. As a result, we don't have much room for error. If the economy does not grow as much as expected, or if inflation, interest rates and unemployment increase at a higher rate than we hope, then we could face severe deficit problems in 1990 and beyond. It is possible that we could be forced to look at deficit reductions of almost $60 billion in fiscal year 1990, and there is no summit agreement to hide behind.

Many of my colleagues have come before the House today to hail this bipartisan budget because it met the conditions set forth in the leadership agreement. OMB Director Miller, in testifying before the Budget Committee, asserted the commitment of the President to abide strictly by this agreement. Congress and the White House have become so enamored by this agreement that they have forgotten their responsibility to the taxpayers of this country.

I did not participate in the summit, and I did not sign off on it because it would not lead to long-term, permanent deficit reduction. It was a political document, using political numbers, that was devised in an effort to save face in the wake of the stock market crash. We have become so dependent upon this document, I am concerned about what will happen next year when the decisions will be harder and the economy may be in worse shape.

The fairest, fastest and most effective way to achieve real deficit reduction is through an across-the-board freeze. Both CBO and OMB have determined that the type of freeze I proposed in House Concurrent Resolution 238 would produce $20 to $25 billion in deficit reduction in 1989. The savings would be even more dramatic in the out years.

The House Budget Committee budget resolution contained budget authority of $1,117.9 billion; outlays $1,098.2 billion; receipts of $964.8 billion, and a deficit of $133.4 billion. The President's revised budget consisted of outlays of $1,107.4 billion; receipts of $964.6 billion; and a deficit of $142.7 billion.

OMB AND CBO ANALYSIS OF HOUSE CONCURRENT RESOLUTION 238

[Figures in billions of dollars]

	1989	1990	1991
Smith Freeze—OMB:			
Budget authority	1,211.5	1,254.3	1,323.1
Outlays	1,082.5	1,101.0	1,121.8
Receipts	962.4	1,037.2	1,111.0
Deficit	120.1	63.8	10.8
Smith Freeze—CBO:			
Baseline deficit	177.1	169.7	159.5
Total changes	−20.6	−57.6	−98.1
Resulting deficit	156.5	112.1	61.4
Gramm-Rudman targets	136.0	100.0	64.0

Unfortunately, OMB did not provide the complete set of numbers in time to have this alternative adequately considered by the Rules Committee as a substitute. It is clear that the attitude at the White House was to put the summit agreement ahead of real deficit reduction.

To replace the agreement next year is the National Economic Commission, an entity designed to shift attention from the fact that the President and current congressional leadership is incapable of making sound budget decisions. The chairman of the Ways and Means Committee has already warned us to expect a tax bill during the first session of the 101st Congress.

The United States is currently in the midst of its 63d consecutive month of economic recovery. Now is the time to make the hard decisions to get our economic house in order, not during a recession. Should a recession hit, we may be looking at a worsening situation at home and abroad. In the future, we may look at $160 billion deficits as a goal to reach, not the economic calamity that it is. We owe future generations better results.

This is only the first step in a long process. There is hope that we will meet our budget deadlines this year and avoid consideration of omnibus spending bills similar to the one passed in December. It remains to be seen whether or not the Appropriations Committee will cooperate, and whether or not the majority party on the Budget Committee and in the House will allow waivers of the Budget Act as they have routinely done in the past. That will ultimately be the true measure of what we are doing here today.

This budget resolution contains good provisions, and the process we used should serve as a blueprint for future deliberations. But the negative impact of continued Federal growth and fudged economic assumptions outweigh any benefit in this document. I must, therefore, oppose its enactment.

Mr. RAHALL. Mr. Chairman, today I rise in support of House Concurrent Resolution 268, the fiscal year 1998 budget resolution. In a bipartisan effort, the members of the Budget Committee under the very talented leadership of Chairman BILL GRAY have continued to work toward reducing our national debt by developing a equitable, solvent plan for fiscal year 1989. This resolution has set the deficit level below the limits outlined by Gramm-Rudman, and has set appropriations below the levels agreed to in the budget summit agreement.

Perhaps the most notable quality of this resolution is that it avoids the "slash and burn" attitude so often adopted by the administration toward vital domestic programs. Although a 1-percent cut below the freeze level will be assumed for most domestic appropriations, many low-income programs in education, health, job training and social services will be exempt and receive at least a full inflation adjustment, if not additional increases above inflation.

Mr. Chairman, these domestic programs and others are crucial to my home State of West Virginia. In the most economically depressed rural areas of West Virginia, these programs can mean a new start for so many.

Whether it be a job training program for unemployed coal miners or a new shelter for the homeless, these smaller programs reach out to rural Americans to let them know that we have not forgotten them.

One of the most significant assumptions in this resolution is the 8.4-percent increase in education funding. This is 4 percent over the President's request. This demonstrates tremendous bipartisan progress on Capitol Hill. Our educational needs must be placed on the front burner. Now is the time to turn up the heat. When we invest in education, we have nothing to lose because we are investing in our future.

Essentially, education reduces the deficit because it has a domino effect: Knowledge inspires confidence; from confidence comes pride; pride encourages action; and action begets progress. The more a child learns about the world around him, the easier it becomes for him to find his niche. An educated citizenry depends less on social programs and more on individual ingenuity.

In the meantime, social programs like WIC and Medicaid serve an important function in my home State. I have always supported the implementation and maintenance of adequate health care. To that end, I support the resolution's expansion of WIC by $150 million and the Medicaid liberalizations for spousal impoverishment, infant mortality, and transitional coverage for the working poor. I also advocate the $2.10 million assumed by the budget for the Medicare Program, rejecting the President's proposals to cut outlays by $1.25 billion in fiscal year 1989 and require that part B premiums cover 25 percent of the program costs. House Concurrent Resolution 268 also provides $200 million more than the President's request for the veterans who have served our country so bravely, with $100 million added for homeless veterans and AIDS patients being treated in VA hospitals.

The funding for community and regional development contained in this resolution seems to be the best that can be hoped for in view of the current budget situation. The resolution would freeze most of these programs at fiscal year 1988 levels and specifies that they are to be reduced an additional 1 percent below that freeze by the Appropriations Committee. With this provision, the House has yet again resoundingly rejected the Reagan administration's ludicrous attempts to eliminate programs such as the Appalachian Regional Commission, the Economic Development Administration and Urban Development Action Grants. The proposal also counters the administration's intent to severely cut back programs like the Community Development Block Grants and Farmers Home Administration rural development loans.

The continuation and adequate funding of these programs is essential to the economic recovery and future well-being of my home State of West Virginia. West Virginia has been hard hit by factors beyond its control which have attributed to a period of economic adversity and a continuing high rate of unemployment. Federal moneys which come to the State through programs such as the ARC and EDA provide the impetus for new growth and development so desperately needed to lift the State out of its financial woes.

Another provision I strongly support contained in this resolution would authorize $980 million for an expanded dislocated workers program, an increase of $645 million over the fiscal year 1988 level for such programs. These funds enable those who have lost their jobs due to foreign imports to enroll in retraining programs to learn new, marketable skills. These programs are utilized by many unemployed coal miners in my district who desperately want to work so that they may adequately provide for their families. To be frank, I would like to see this program expanded and funded at higher levels and I will continue to work toward that goal through other avenues.

Mr. Chairman, I urge my colleagues to support this well thought-out, bipartisan budget resolution.

Mr. KOLBE. Mr. Chairman, I rise in strong support of this bipartisan budget compromise. This year, as in years past, Mr. Tauke and Mr. Penny are to be commended for taking a straightforward approach to deficit reduction.

There are no gimmicks in this package. It will reduce the deficit by a clean $30 billion—cutting the fat but leaving our muscle intact. Tauke-Penny holds both defense and nondefense spending midway between an outlay freeze and the levels established by the budget summit. It replaces most COLA's for non-means-tested entitlements with a $5 per month increase, while capping next year's pay increase for military and civilians at 2 percent. Finally, it calls for $3.7 in additional revenues by suspending tax indexing for 1 year. Using the Budget Committee's estimates, the Tauke-Penny substitute will lower the deficit to $112 billion next year.

My colleagues, this bipartisan package does not throw out last's budget summit. Rather, it builds on its best features and sets the stage for even greater deficit reduction in the outyears. Best of all, it uses an average of CBO and OMB economic forecasts as the basis for its projections, a far more accurate estimate of the economy's performance and the deficit's impact on it.

The Congressional Budget Office estimates that the deficit will soar to $170 billion under the Budget Committee's package. This is far in excess of the $136 billion required by Gramm-Rudman-Hollings. Tauke-Penny meets this target and exceeds it. I urge my colleagues to support this carefully crafted, bipartisan package.

Mr. MONTGOMERY. Mr. Chairman, on March 10, our committee submitted its recommendations to the Committee on the Budget for veterans' benefits and services—function 700—for fiscal year 1989. We unanimously recommended an increase of $260 million in budget authority and $234 million in outlays over the Congressional Budget Office [CBO] baseline. I will not take the time to go into the specifics of our proposal. Our recommendations are spelled out in detail and published as House Committee Print No. 12.

I fully appreciate the task confronting my good friend, Chairman Bill Gray, and other members of Committee on the Budget, especially in view of commitments that were made last year during the so-called budget summit. But the Committee on Veterans' Affairs has some responsibility to our Nation's veterans and our members try to make certain that when budgets are established, veterans receive the support we think they deserve. I do not believe the funding levels contained in this budget resolution will permit the Department of Medicine and Surgery to provide health care to all veterans who are eligible by law. In addition, the Department of Veterans Benefits will be unable to provide the level of services to veterans to which they are entitled. But what will suffer most, Mr. Chairman, is the length of time it is going to take to process a claim in most regional offices throughout the country. Regional offices cannot meet the timeliness standard imposed on them by Central Office under the budget proposed by the President or the budget reported to the House by the Budget Committee.

Mr. Chairman, Members of the House should understand that if this budget proposal is finally enacted as it is presented here today, some veterans receiving health care this year will be unable to receive the same level of care during the next fiscal year. Why is that? It is because the 3,000 medical staff that the Veterans' Affairs Committee proposed to restore to maintain current services would be lost. In addition, 2,000 more medical staff that the administration proposed to be cut under its so-called productivity increase would be lost. They would also be lost under the Budget Committee's proposed 1-percent across-the-board cut.

The very modest 300 new nursing home beds for the rapidly aging veteran population that the Veterans' Affairs Committee recommended would not be built, and the proposed clinical addition and Spinal Cord Injury Center in Dallas would again be put on hold.

Let there be no mistake. When we talk about discretionary programs in the VA, we are talking about medical care and DVB personnel who work in adjudication, loan guaranty, vocational rehabilitation, education and training and other such programs.

Our problem seems to be that veterans were not listed among the "high priority" programs within the Budget Committee. For example, the resolution includes a number of specific assumptions including:

First, an increase of $3.5 billion in budget authority from the freeze level to accommodate inflation costs for low-income/high priority programs in the education, health, job training and social services areas. I always thought health care for veterans was a high priority program. Over 94 percent of veterans receiving care in the VA have illnesses or disabilities related to their military service or they are poor. Which of these shall not get care because they are low priority?

Second, an 8-percent increase from 1988 funding levels for all education and related programs, which is 4 percent above the President's fiscal year 1989 request.

Third, a $500 million or 11-percent increase for the Federal Aviation Administration to increase the number of air traffic controllers and inspectors and to continue the modernization plan for the air traffic control system.

Fourth, a funding level of almost $2.1 billion for the Women, Infant, Child Nutrition Program [WIC], which represents a program expansion of $150 million above the amount needed to continue the 1988 program level with inflation.

Fifth, an increase of $1.5 billion for NASA programs to help restore our national position in space.

Sixth, an increase of $300 million for the National Science Foundation [NSF] programs to help bolster the research base of our country.

Seventh, an increase of $100 million for Department of Energy General Science programs, including the superconducting super collider.

Mr. Chairman, I am not suggesting that increases in these programs are not warranted. What I am suggesting is that none of these programs deserve higher priority than health care for our Nation's veterans. That is the problem I have with the resolution reported by the Committee on the Budget.

Our Nation's 27 million veterans will have to decide whether they are getting their fair share of the Federal budget. Some of our largest newspaper editorial boards would suggest that they are getting more than their fair share.

Mr. Chairman, all is not lost. The Appropriations Committee can do something about this budget, and if past experience means anything, the chairman of the HUD-Independent Agencies Subcommittee, the Honorable EDDIE BOLAND, and the ranking minority member, the Honorable BILL GREEN, will see to it that veterans are treated fairly. They have been two of the better friends veterans have had. I am confident that when they analyze the budget, they will recognize the deficiencies and will increase the level of funds for health care and general operating expenses for the Department of Veterans Benefits.

Mr. Chairman, I also want to thank my colleagues BUTLER DERRICK and MARVIN LEATH for their leadership in the Budget Committee. Thanks to Mr. DERRICK and Mr. LEATH $50 million is included in the resolution for the care and treatment of veterans with AIDS. VA takes care of 6 percent of all AIDS patients but, until this year, the Agency has never received extra funds for the care and treatment of these patients. For the past several years VA hospitals have had to absorb the costs.

I am not suggesting how Members should vote on the resolution, Mr. Chairman, because it includes all functions. However, as chairman of the Committee on Veterans' Affairs, I feel I must express my views on that part of the budget that affects veterans.

Mr. HUTTO. Mr. Chairman, I want to thank the distinguished chairman and members of the Budget Committee for the concern they have demonstrated about the Coast Guard budget crisis. The fiscal year 1989 budget resolution provides adequate funding within function 400 to permit full appropriation of the administration's request for the Coast Guard without adversely impacting other transportation programs. I appreciate the leadership of Chairman GRAY and other members of the committee for their help in this matter.

The many missions of the Coast Guard are vital to the health and safety, as well as the national security, of our Nation. It is important that the Congress fulfill its responsibility to ensure that the Coast Guard can continue to function in the manner expected of it by the Congress and the American public. The Budget Committee has done its part. When the House approves this resolution, I trust the Appropriations Committee will respect the wishes of the Congress by providing the full funding requested for the Coast Guard.

Mrs. LLOYD. Mr. Chairman, I rise in support of the committee's version of House Concurrent Resolution 268. I do this because the overall totals are at the levels agreed to in the budget summit and my specific concerns about the allowable growth for space, energy, and science have been addressed.

The Space, Science, and Technology Committee has been involved in an all-out effort to obtain significant growth for the space and science programs in budget function 250. Although the $3.2 billion growth that was requested for these programs by the administration has not been accommodated, I believe that the $1.625 billion allowed in the resolution is an excellent step in the right direction. As I understand it, the sense of the resolution is that NASA be provided $1.25 billion growth from 1988 levels, NSF with the entire $300 million growth included in their request and the remaining $100 million allotted for DOE's general science programs. I expect that our Space, Science, and Technology Committee will now set priorities within the budget request under all three agencies.

I believe it is critical that NASA be allowed to go forward at a vigorous level with the space station. I also recognize that the $100 million total growth in DOE programs falls far short of the administration's request. I am particularly interested in these DOE programs since I chair the Energy, Research and Development Subcommittee which authorizes all of the DOE's research and development programs. I think it is generally recognized that the superconducting super collider [SSC] project will receive considerably less in appropriations than the entire $363 million requested for fiscal year 1989. Nevertheless, I think it is most important to protect the SSC option and I intend to work hard for a vigorous R&D program in fiscal year 1989.

I would also remind my colleagues that the vital U.S. effort in nuclear physics is part of the DOE's general science programs. There is an entirely new and exciting world of physics that will be done in the United States on the next two major nuclear physics facilities. The continuous electron beam accelerating facility [CEBAF] at Newport News, VA, is underway but unfortunately underfunded in the DOE budget request. I hope we shall be able to convince the Appropriations Committee of the merits of recovering the schedule for CEBAF in fiscal year 1989. I am also convinced that it is time to go forward with the next major nuclear physics facility, the relativistic heavy ion collider [RHIC], at Brookhaven. There is an existing tunnel and concrete structure with cryogenic refrigeration equipment at Brookhaven which will reduce the cost of that project by over $200 million. Physicists worldwide are looking forward to the entirely new states of matter that will be explored in the particle collisions studied at the RHIC.

I do have some concerns about the level of the energy function 270 in the resolution which is roughly $500 million below freeze. However, I am hopeful that there will be enough flexibility to accommodate enhancements of the nuclear fission and magnetic fusion programs and large growth in DOE basic energy sciences programs. This latter program includes the major applied research U.S. competitiveness thrusts in the DOE, including high temperature superconductivity research, x-ray lithography R&D for tomorrow's microchip, and research on exotic new materials and chemical processes. We must also support at least freeze levels in the fossil, conservation, and renewable energy programs under the DOE as well.

Mr. Chairman, I support the committee's resolution as reported because it gives space and science some reasonable growth while hopefully affording some flexibility for selective enhancements in our energy R&D. In this way we can provide a strong research base for U.S. development in space, energy, and across the spectrum of high technology endeavor.

Mr. FRENZEL. Mr. Chairman, this week Mr. PORTER and I introduced our alternative to the Budget Committee's budget resolution that the House will vote on this week. It is a simple and straightforward approach to what we believe is public enemy No. 1: the growing Federal budget deficit.

It is a tough budget which is based on an outlay freeze—with the exception of entitlements—combined with a COLA freeze. We hit the Gramm-Rudman target of $136 billion with $40.3 billion in deficit reduction.

There are no new taxes in this budget because we do not believe that America is undertaxed. In fact, revenues are higher than ever. Unfortunately, so are Federal expenditures. This budget would freeze these expenditures in order to bring some fiscal sense into the Congress.

Federal spending would increase to allow for demographic increases in entitlement programs. The rest of the budget is frozen at fiscal year 1988 levels, by function, to allow the appropriations subcommittees to set priorities within the function.

This budget is based on the economic assumptions of the Congressional Budget Office. We believe that CBO's numbers are a more realistic reflection of how the economy will function in the near future. The Budget Committee and the administration have adopted the rosy scenario OMB economic assumptions which conveniently produces deficit figures that reach the Gramm-Rudman target without any real deficit reduction. Those figures might be achieved, but rosy assumptions are not a prudent budgeting tool.

Last fall at the so-called budget summit, the negotiators produced $40 billion in deficit reduction for fiscal 1988. Well, today economists agree that the deficit actually increased in fiscal 1988 by $7–$10 billion.

That summit plan actually increased Federal spending by about $60 billion. That's 6 percent, in a 4-percent inflation economy. And that is real and strong growth in spending under the guise of deficit reduction.

The budget summit has yet to produce any real deficit reduction. The Budget Committee's budget is faithful to the failed summit agreement. Should the CBO and other blue-chip forecasts come to pass this summer, a large Gramm-Rudman sequestration will be necessary in order to meet the target.

It is time for honest budgeting which spreads the burden of deficit reduction. The Frenzel-Porter budget is a comprehensive outlay freeze at CBO fiscal year 1988 levels, including defense. It simply asks that all basic functions operate with the same amount of money that they did last year.

We are not talking about cuts, although I would like to make some cuts. Our budget freeze yields a $135.7 billion deficit in fiscal year 1989, $102.3 billion in fiscal year 1990, and $74.6 billion in fiscal year 1991.

Mr. FAZIO. Mr. Chairman, as a member of the House Budget Committee who is serving out his last year on the committee, I rise today in strong support of House Concurrent Resolution 268, the fiscal year 1989 budget resolution.

The fiscal year 1989 budget resolution reflects several important accomplishments. Not only does it exceed the Gramm-Rudman deficit reduction target of $136 billion by an additional $2 billion and fall within the budget summit agreement spending caps, but for the first time since President Reagan took office, it received bipartisan and unanimous support from the Budget Committee.

Although many of us believed that this year's committee consideration of the budget would be largely routine because of the spending caps imposed by the bipartisan budget summit agreement, in reality, the summit placed us under difficult and very different constraints than those we had faced in the past. We had to carefully balance our infrastructural needs with the needs of our disadvantaged and youth, with the future needs of this Nation. These decisions were especially difficult because of the limited amount of available funding from which to draw and the fact that so many of these programs have already been significantly cut since 1980. Nonetheless, I believe the committee budget achieves a careful balance.

The budget resolution does not terminate or significantly reduce any of the important domestic programs decimated since 1980. In fact, the committee rejected the President's proposals to terminate many important domestic programs including antidrug abuse law enforcement grants; energy conservation grants; rural housing loans; and, emergency shelter grants for the homeless. The committee also rejected the President's proposal to drastically cut such important programs as EPA construction grants; mass transit; and community development block grants.

This resolution also maintains increased funding for priority programs while adhering to the deficit reduction targets established by Gramm-Rudman and the summit agreement. For example, the budget resolution provides low-income programs with increases for inflation, and calls for greater increases for health, including a 50-percent increase over current levels for AIDS research, prevention and education; the nutrition program for women, infants, and children [WIC]; worker training programs; education; programs for the homeless; space and science; the Federal Aviation Administration; and, the war on drugs.

House Concurrent Resolution 268 is a sound budget resolution which achieves mandated deficit reduction targets while maintaining adequate funds for vital programs. I urge my colleagues to support this budget resolution and offer my hope that it is the first of many budgets to receive bipartisan and unanimous support.

Mr. WELDON. Mr. Chairman, I wish to commend the Budget Committee for putting together a bipartisan budget resolution that adheres to the budget summit agreement that Congress reached with the President back in November. I intend to vote for this resolution but I will do so with reservations. My reservations arise because the summit agreement, which we are voting on today, is predicated on economic assumptions which may have been valid at the time but are no longer valid today. In short, the budget summit agreement as implemented in this budget resolution anticipates a deficit of $140.8 billion using Gramm-Rudman-Hollings calculations. However, using Congressional Budget Office estimates, the deficit will be in the neighborhood of $165 billion.

We all know that in an election year it is easy to postpone the difficult decisions. However, if the deficit exceeds $146 billion on October 15, 1988, we will be subject to sequestration. If we do not have the will to make difficult decisions in the next several months, we are no more likely to make those decisions in October, just weeks before the election. Even though sequestration is capped at $36 billion this year, none of us wish to see the kinds of across-the-board cuts, whether in defense or social programs that sequestration entails.

Furthermore, what we do not cut this year will come back to haunt us next year. The Gramm-Rudman target for fiscal year 1990 is $100 billion. My concern is that without further deficit reductions than this resolution requires we may face mandatory cuts of $50 billion or more next year when sequestration is not capped.

As I said earlier, I will vote for this resolution. But I am urging my colleagues to begin work immediately on further deficit reductions in order to avoid sequestration this year and again next year. This resolution represents the start of the budget process. The authorization and appropriations processes offer us additional opportunities to make significant deficit reductions.

Mr. MFUME. Mr. Chairman, I rise before the House today to give my full support for the fiscal year 1989 bipartisan budget resolution, and to highlight two specific areas of the resolution that the budget conferees should be commended on.

First, Mr. Chairman, I wish to thank the conferees for salvaging and reestablishing our commitment to Community and Regional Development. By recommending a freeze at the fiscal year 1988 budgetary levels, our House colleagues sent a clear message to the President stating that his plans to undermine the funding of programs such as Community Development Block Grants, Farmers Home Administration/Rural Development loans, and the eradication of such programs as Urban Development Action Grants, the Economic Development Administration, and the Appalachian Regional Commission, will not fall victim to the administration's tenacious attempts to reduce the deficit at the expense of much needed domestic development assistance.

At this juncture, Mr. Chairman, I wish to note that if the administration would have received the green light to go ahead with its plan to slash these programs, then not only would urban centers have suffered greatly, but regions such as the Midwest, the South, and Rust Belt States would have continued, without assistance, along the road of protracted recovery from the devastating effects of the 1981–82 recession. So we see the great national importance of these programs as they pertain to economic stability and the maintenance of our Nation's diverse communities.

Second, Mr. Chairman, I wish to commend the budget negotiators for their solid commitment to the quality of education in our great Nation, and their earnest attempt to open educational opportunities to people of all walks of life. This year's resolution gave an 8.4-percent increase in funding from the fiscal year 1988 levels, an increase of 4 percent above the President's original fiscal year 1989 request. The resolution speculates that all education programs would receive inflationary increases just over the fiscal year 1988 levels, but other specified programs such as Pell Grants, TRIO-historically black colleges, dropout prevention programs, magnet schools, supplemental opportunity grants, and compensatory education, will receive real budget increases beyond inflation.

Additionally, Mr. Chairman, the resolution attempts to expand the dislocated worker program. Fiscal year 1989's budget exceeds current fiscal year 1988 levels for these programs by $645 million. Dislocated workers, or the structurally unemployed, desperately need our attention in order to retrain those workers who have lost their jobs due to technological or industrial changes in the workplace.

In closing, Mr. Chairman, I just want to add that the reason I have highlighted the areas of community and regional development and education and training, primarily extends from my interest to see America address its economic problems realistically. Although we now live in the era of Gramm-Rudman and fiscal restraint, we must not forget that America needs Government assistance to ensure that our communities and our citizenry remain viable and economically competitive.

Mr. RANGEL. Mr. Chairman, as chairman of the Select Committee on Narcotics Abuse and Control, I am pleased to rise in support of House Concurrent Resolution 268, the fiscal year 1989 budget resolution.

It is very infrequent that I have had anything good to say about President Reagan's requests to Congress for resources to fight the war on drugs. I was pleased, then, that his 1989 request represented a significant improvement over 1988 when he proposed to cut about $1 billion from Federal antidrug programs, wiping out many of the gains enacted by Congress in the historic Anti-Drug Abuse Act of 1986.

For 1989, the President has requested $3.9 billion in budget authority for all Federal drug programs. This represents a 13-percent increase over 1988 funding levels.

Despite these improvements, the President's budget still ignores some important needs in addressing our drug crisis. Most important, his budget again proposes to eliminate funding for State and local drug law enforcement grants.

Congress authorized this program for 3 years in the 1986 omnibus drug bill at an annual funding level of $230 million. We established this program in recognition of the severe demands placed on State and local criminal justice systems—police, prosecutors, courts and prisons—by the Federal Government's failure to halt the escalating importation and interstate distribution of illicit narcotics and dangerous drugs.

The situation today is even worse. Worldwide production of heroin, cocaine, and marijuana continues to increase. The amounts of illegal drugs entering our country and flooding the streets of our communities are greater than ever before. Our State and local enforcement agencies are outmanned and outgunned in their losing battle to stem the rising tide of drug trafficking and drug-related crime and violence in our cities and neighborhoods.

Here in the Nation's Capital, just blocks away from the White House and the Capitol, evidence of the need for local law, enforcement support unfolds before our eyes every day. More than 70 people have been murdered in our capital this year, many of them because of drugs. We are seeing children shot and killed from drug deals gone sour. And the police here and elsewhere are switching to automatic weapons to protect themselves against the sophisticated firepower drug traffickers unleash without hesitation.

The budget resolution before us today remedies this important omission from the President's budget. This resolution provides $4.02 billion in new budget authority for 1989 for anti-drug programs other than AIDS-related efforts. This amount includes all the increases proposed in the President's budget and adds $225 million for State and local drug enforcement grants, the amount Congress initially provided for this program in 1987. The overall amount provided for administration of justice (function 750), includes an additoinal $500 million, so clearly there is more than an adequate allowance to fully fund the State and local drug enforcement grant program.

In the area of AIDS, the budget resolution provides a total of $1.4 billion. This is $100 million over the President's request for AIDS programs, including the increases he requested for programs directed toward preventing the spread of AIDS related to intravenous drug abuse.

I commend the Budget Committee for putting together a package that gives our anti-drug efforts the priority they deserve. We still have a long way to go, but we are once again moving in the right direction. I urge my colleagues to support this package, and I urge the Appropriations Committee to follow the recommendations of the Budget panel in funding drug programs for 1989.

Mr. DENNY SMITH. Mr. Chairman, I yield 4 minutes to the distinguished Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I support this budget resolution. It's not perfect. If I were writing my own I would have done it differently. But I'm going to sacrifice the good to the best. This is an imperfect world and the good contained in this resolution outweighs its flaws.

What we have is the product of bipartisan work within the Budget Committee. It is the result of an effort to fulfill the summit agreement which the Congress reached with the President late last year.

Our consideration of this resolution is therefore an historic—and, I might add, rare—moment, when the bipartisan leadership is in agreement.

The journey to this point has been anything but an easy one. But we can and should use this framework of cooperation to lead to greater cooperation in the future.

The Congress has spent too much time arguing over specific aspects of the budget resolution and ignoring the broader "macro" targets, the big issues, the tough ones.

We must work together to correct this potentially fatal flaw in the budget process or scrap the whole process. If the process erodes our ability to have the authorizing and appropriating committees work in an orderly and deliberative way, then obviously it isn't working.

We have talked at length over the flawed procedure of considering all 13 appropriation bills in one mammoth omnibus appropriation bill. Everyone now has agreed that this practice must stop. We must allow the appropriation bills to proceed individually.

The adoption of this resolution would allow us to move on to the appropriation bills on an individual basis.

Let me now speak of another, perhaps even greater, evil in our legislative process.

I refer to the failure of the authorizing committees to perform effective oversight and act on authorizations on time.

We may act on individual appropriation bills but because of the failure of the authorizing committees to act, we will have largely unauthorized appropriations.

Authorizing bills were intended to be the best mechanism to ensure adequate oversight. In abandoning authorization we abandon oversight.

An authorization bill should enable the committees and the full House to examine whether the Organic Act is being administered as was intended and to review the law as to what useful changes could be made.

There are a number of reasons for this lack of authorization bills, and, admittedly, some are legitimate.

But it appears there is a conscious strategy on the part of some to avoid the authorizing process and rely on the Appropriations Committee to keep the programs funded.

This approach avoids the tough votes. It also eliminates any real opportunity for the membership to propose changes or question the direction of many of those programs. But that is not what we have been sent here to do.

If the avoidance of authorizations were across the board it might at least have the virtue of consistency. But such is not the case.

Every year we have a defense authorization bill brought to the floor.

That allows opponents of defense spending to engage in a veritable orgy of amendments to put the House on record as being opposed to administration policies and to change fundamental aspects of programs according to the views of anti-defense-spending Members.

In short, the defense authorization bill has become the animal sitting duck contest, virtually the only bill debated at length over several days. We have day after day when opponents of defense get the chance to knock off this or that program, would another, and, in general, create havoc with the orderly process of defending our national security.

But when it comes time to authorize other kinds of legislation, in the non-defense area, we can find very few authorizations to consider. The majority can't seem to find them either.

It is as if these authorization bills have all been swallowed in one of those cosmic black holes in which matter is absorbed, never to be seen again.

Thus, those who want to change fundamental aspects, to actually do the oversight we are supposed to do in all our programs, are denied the chance.

One way of illustrating the predicament we create when we avoid the authorization process is to see how many laws have been funded in fiscal year 1988 without ever having been authorized.

The total is a staggering 45.

That's right—45 laws, involving 12 committees, 17 of those laws involving the Energy and Commerce Committee.

We're talking about almost $45 billion in spending and not a single one of those laws was ever authorized.

TABLE 1.—FISCAL YEAR 1988 APPROPRIATIONS THAT LACK SPECIFIC AUTHORIZATIONS OF APPROPRIATIONS, BY HOUSE AUTHORIZING COMMITTEE

[In millions of dollars]

Committee	Number of laws	Fiscal year 1988 appropriation amounts [1]
Agriculture	2	$1,464.9
Armed Services	1	159.7
Banking, Finance and Urban Affairs	4	12,784.2
Education and Labor	2	124.8
Foreign Affairs	3	10,047.0
House Administration	1	14.2
Interior and Insular Affairs	4	1,100.3
Energy and Commerce	17	7,477.5
Judiciary	1	4,789.4
Merchant Marine and Fisheries	7	2,794.7
Public Works and Transportation	7	2,512.3
Science, Space, and Technology	9	5,179.5
Total	45	[2] 44,732.4

[1] Amounts specified in statute or report language only.

[2] Authorizations under the jurisdiction of more than one committee are counted only once in total.

Source: Congressional Budget Office.

Surely it is as evident to you as it is to me that we cannot go on like this.

Appropriations without authorization is legislative irresponsibility.

We need to look at the fundamental, organic laws themselves if we are to be true legislators. If all we do is appropriate we can get a couple of automatic teller machines on the floor and just insert out cards to get the necessary amounts.

We are here to make rational choices involving not only how much to spend but what we are to spend it on and how we can improve how it is to be spent.

We haven't been given that choice recently and I hope we get back to doing things the way they were intended to be done.

Surely this isn't too much to ask.

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Mr. Chairman, as I said at the very beginning of my remarks, I applaud the Committee on the Budget for what they have done for us today in adhering to the summit parameters and voting out a budget resolution which admittedly we will be given several opportunities to amend this afternoon, but for all practical purposes I think we are going to be in a position of wrapping it up this afternoon. That gives us the avenue by which we can proceed quickly, hopefully, expeditiously to the appropriating process and, as I said, in the meantime we ought to be setting some deadlines around here for those authorizing committees to kick their legislation out here on time so that we do not find ourselves simply appropriating without adequate authorization.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA] to close the debate on our side.

Mr. PANETTA. Mr. Chairman, today we are considering a budget resolution for fiscal year 1989 which basically implements the second year of the economic summit agreement reached last November by negotiators from the White House, Senate, and House of Representatives. That agreement was to reduce the Federal budget deficit by $30.20 billion in fiscal year 1988 and $45.8 billion in fiscal year 1989.

According to the Congressional Budget Office, last year's reconciliation bill and continuing resolution reduced the deficit by $33.6 billion in fiscal year 1988, surpassing the summit deficit reduction target for that year. Those bills also fulfilled the summit requirements for reductions in entitlement spending and increases in revenue for the fiscal year 1989 budget. The continuing resolution last year met the summit targets for defense spending and nondefense discretionary spending. To fulfill the second year of the summit agreement Congress must enforce limits on defense spending and nondefense discretionary spending and sell at least 3.5 billion dollars' worth of Federal assets.

The House Budget Committee-reported resolution which we are considering today complies with the summit agreement on defense and nondefense discretionary spending, and it calls for the additional asset sales assumed in the agreement. It also follows the summit agreement by proposing no new revenue increases or entitlement reductions.

While the summit agreement set overall spending limits, it did not make assumptions about spending levels for individual programs within those totals. In the area of domestic spending the House Budget Committee budget resolution does a much better job of setting priorities than the President's budget.

The committee rejected cuts in the President's budget in basic nutrition funding, low-income energy assistance, the Legal Services Corporation, housing programs, urban and community development grants, unemployment assistance, and transportation programs. Instead the committee approved $3.5 billion in budget authority over last year's levels for low-income/high priority programs in the areas of education, job training, health and social services. AIDS research and prevention funding is increased by $230 million over the President's request in the resolution before us today. The resolution also includes $700 million for homeless assistance and increases funding for the WIC Program by $150 million. NASA, the air traffic control system, and Federal drug programs were also given substantial increases over current policy in the committee-reported resolution.

In the entitlement area, the committee resolution rejects additional cuts in the Medicare Program proposed by the administration, which argued that the reconciliation bill passed last year did not reach the deficit reduction target for that program. However, the Congressional Budget Office has determined that reconciliation did achieve the required savings, making additional cuts in entitlements this year unnecessary.

The committee also recommends complying with the summit agreement total of $3.5 billion in new asset sales, and proposes additional asset sales to offset the deficit increase resulting from similar sales approved last year in the reconciliation bill and the continuing resolution.

TWO-YEAR BUDGET

On a related issue, Mr. Chairman, I hope we will not overlook the implications of the summit agreement and this budget resolution in terms of the 2-year budget concept. What we have this year, because of the summit agreement, is essentially an experiment in biennial budgeting. My bill proposing a 2-year budget process, H.R. 22, would place most of the decisionmaking regarding spending and revenues into a 2-year cycle. What we see with the summit agreement is essentially that approach—formulating a 2-year budget in the first year of the Congress. I believe the summit agreement is a useful dry run in 2-year budgeting, showing us on some of its advantages.

In my opinion, the 2-year agreement is responsible for the low level of acrimony surrounding the budget process this year, certainly the lowest level in the past 8 years. The budget resolution adopted by the House Budget Committee was passed without dissent on a bipartisan basis and I expect a strong bipartisan vote of approval today in the House. We fought the battles over policy last year and came to agreement on a 2-year budget, and this year is turning out to be a relatively quiet year in terms of budget action. This situation has left the House more time to work on other issues, and I think it is having a beneficial impact on this institution. I hope we will all examine the remaining steps in the congressional budget process this year in the context of the advantages to a 2-year budget process.

SUMMARY

While many thought more should have been done in terms of deficit reduction in the summit agreement reached last year, the fact remains that a substantial amount of deficit reduction was agreed to as part of that package. Today we can take an important step in implementing those remaining budget policies agreed to by the summit participants and endorsed by the President and the leadership of the House and Senate.

Fulfilling the goals of the summit agreement is essential for the same reason that existed last year: To show that Congress and the President can work out their differences in the Nation's interest to achieve the important national goal of deficit reduction. This budget resolution continues in the spirit of the summit agreement, and represents an important step in the enforcement of the second year of that agreement.

Without this budget resolution, we will have no vehicle to implement the summit agreement, undermining the commitment to deficit reduction, threatening the economy, and setting the stage for further confrontations with the President later this year. Failure to pass this budget resolution will force us to revisit sensitive issues like defense, entitlements, and revenues. It will also bring us dangerously close to a deficit snapshot in August which will trigger across-the-board sequestration under Gramm-Rudman. For these reasons, and for the priorities reflected in the budget resolution, I hope it will be supported by all Members.

The CHAIRMAN pro tempore (Mr. MURTHA). All time has expired.

Pursuant to House Resolution 410, the concurrent resolution is considered as having been read for amendment under the 5-minute rule.

The text of House Concurrent Resolution 268 is as follows:

H. CON. RES. 268

Resolved by the House of Representatives (the Senate concurring), That the budget for fiscal year 1989 is established, and the appropriate budgetary levels for fiscal years 1990 and 1991 are hereby set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $964,250,000,000.
Fiscal year 1990: $1,042,700,000,000.
Fiscal year 1991: $1,122,700,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $1,232,100,000,000.
Fiscal year 1990: $1,305,850,000,000.
Fiscal year 1991: $1,389,200,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $1,098,200,000,000.
Fiscal year 1990: $1,157,150,000,000.
Fiscal year 1991: $1,215,700,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $133,950,000,000.
Fiscal year 1990: $114,450,000,000.
Fiscal year 1991: $93,000,000,000.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $705,750,000,000.
Fiscal year 1990: $760,250,000,000.
Fiscal year 1991: $816,700,000,000.

and the amounts by which the aggregate levels of Federal revenues should be reduced are as follows:

Fiscal year 1989: $400,000,000.
Fiscal year 1990: $500,000,000.
Fiscal year 1991: $500,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1989: $63,400,000,000.
Fiscal year 1990: $68,150,000,000.
Fiscal year 1991: $73,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $973,600,000,000.
Fiscal year 1990: $1,023,300,000,000.
Fiscal year 1991: $1,083,100,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $884,400,000,000.
Fiscal year 1990: $931,950,000,000.
Fiscal year 1991: $979,050,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $178,650,000,000.
Fiscal year 1990: $171,700,000,000.
Fiscal year 1991: $162,350,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1989: $2,823,400,000,000.
Fiscal year 1990: $3,062,900,000,000.
Fiscal year 1991: $3,287,500,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990, are as follows:

Fiscal year 1989:
(A) New direct loan obligations, $28,000,000,000.
(B) New primary loan guarantee commitments, $111,300,000,000.
Fiscal year 1990:
(A) New direct loan obligations, $26,850,000,000.
(B) New primary loan guarantee commitments, $122,950,000,000.
Fiscal year 1991:
(A) New direct loan obligations, $26,650,000,000.
(B) New primary loan guarantee commitments, $132,500,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1989 through 1991 for each major functional category are:

(1) National Defense (050):

Fiscal year 1989:
(A) New budget authority, $299,500,000,000.
(B) Outlays, $294,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $313,100,000,000.
(B) Outlays, $302,750,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, $325,800,000,000.
(B) Outlays, $314,650,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1989:
(A) New budget authority, $16,600,000,000.
(B) Outlays, $16,200,000,000.
(C) New direct loan obligations, $5,550,000,000.
(D) New primary loan guarantee commitments, $9,500,000,000.
Fiscal year 1990:
(A) New budget authority, $17,500,000,000.
(B) Outlays, $16,100,000,000.
(C) New direct loan obligations, $5,800,000,000.
(D) New primary loan guarantee commitments, $9,850,000,000.
Fiscal year 1991:
(A) New budget authority, $17,800,000,000.
(B) Outlays, $16,050,000,000.
(C) New direct loan obligations, $6,000,000,000.
(D) New primary loan guarantee commitments, $10,250,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1989:
(A) New budget authority, $12,450,000,000.
(B) Outlays, $12,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $13,000,000,000.
(B) Outlays, $13,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, $13,500,000,000.
(B) Outlays, $13,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1989:
(A) New budget authority, $4,800,000,000.
(B) Outlays, $4,350,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
Fiscal year 1990:
(A) New budget authority, $5,200,000,000.
(B) Outlays, $4,050,000,000.
(C) New direct loan obligations, $2,100,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
Fiscal year 1991:
(A) New budget authority, $5,000,000,000.
(B) Outlays, $3,550,000,000.
(C) New direct loan obligations, $2,250,000,000.
(D) New primary loan guarantee commitments, $50,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1989:
(A) New budget authority, $15,050,000,000.
(B) Outlays, $15,600,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $15,800,000,000.
(B) Outlays, $16,200,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, $16,450,000,000.
(B) Outlays, $16,450,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1989:
(A) New budget authority, $26,400,000,000.
(B) Outlays, $22,400,000,000.
(C) New direct loan obligations, $15,550,000,000.
(D) New primary loan guarantee commitments, $7,050,000,000.
Fiscal year 1990:
(A) New budget authority, $25,250,000,000.
(B) Outlays, $21,900,000,000.
(C) New direct loan obligations, $14,100,000,000.
(D) New primary loan guarantee commitments, $7,150,000,000.
Fiscal year 1991:
(A) New budget authority, $22,350,000,000.

(B) Outlays, $20,050,000,000.

(C) New direct loan obligations, $13,500,000,000.

(D) New primary loan guarantee commitments, $7,200,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1989:

(A) New budget authority, $13,750,000,000.

(B) Outlays, $9,400,000,000.

(C) New direct loan obligations, $2,750,000,000.

(D) New primary loan guarantee commitments, $64,050,000,000.

Fiscal year 1990:

(A) New budget authority, $15,600,000,000.

(B) Outlays, $8,550,000,000.

(C) New direct loan obligations, $2,800,000,000.

(D) New primary loan guarantee commitments, $67,000,000,000.

Fiscal year 1991:

(A) New budget authority, $9,550,000,000.

(B) Outlays, $4,050,000,000.

(C) New direct loan obligations, $2,950,000,000.

(D) New primary loan guarantee commitments, $73,800,000,000.

(8) Transportation (400):

Fiscal year 1989:

(A) New budget authority, $28,950,000,000.

(B) Outlays, $27,950,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $29,550,000,000.

(B) Outlays, $28,550,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $30,250,000,000.

(B) Outlays, $29,550,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1989:

(A) New budget authority, $7,550,000,000.

(B) Outlays, $6,600,000,000.

(C) New direct loan obligations, $1,050,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1990:

(A) New budget authority, $7,300,000,000.

(B) Outlays, $7,000,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1991:

(A) New budget authority, $7,500,000,000.

(B) Outlays, $6,700,000,000.

(C) New direct loan obligations, $1,150,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1989:

(A) New budget authority, $37,550,000,000.

(B) Outlays, $35,450,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $10,400,000,000.

Fiscal year 1990:

(A) New budget authority, $38,850,000,000.

(B) Outlays, $37,700,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $10,800,000,000.

Fiscal year 1991:

(A) New budget authority, $39,750,000,000.

(B) Outlays, $38,800,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $10,800,000,000.

(11) Health (550):

Fiscal year 1989:

(A) New budget authority, $49,650,000,000.

(B) Outlays, $48,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $350,000,000.

Fiscal year 1990:

(A) New budget authority, $54,150,000,000.

(B) Outlays, $53,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $350,000,000.

Fiscal year 1991:

(A) New budget authority, $59,200,000,000.

(B) Outlays, $58,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(12) Medicare (570):

Fiscal year 1989:

(A) New budget authority, $103,750,000,000.

(B) Outlays, $86,850,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $113,200,000,000.

(B) Outlays, $97,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $124,150,000,000.

(B) Outlays, $108,450,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1989:

(A) New budget authority, $176,600,000,000.

(B) Outlays, $137,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $181,200,000,000.

(B) Outlays, $144,650,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $213,200,000,000.

(B) Outlays, $151,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1989:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $5,350,000,000.

(B) Outlays, $5,350,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $4,300,000,000.

(B) Outlays, $4,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1989:

(A) New budget authority, $28,700,000,000.

(B) Outlays, $28,250,000,000.

(C) New direct loan obligations, $950,000,000.

(D) New primary loan guarantee commitments, $19,600,000,000.

Fiscal year 1990:

(A) New budget authority, $30,900,000,000.

(B) Outlays, $29,850,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New primary loan guarantee commitments, $27,450,000,000.

Fiscal year 1991:

(A) New budget authority, $31,350,000,000.

(B) Outlays, $30,450,000,000.

(C) New direct loan obligations, $650,000,000.

(D) New primary loan guarantee commitments, $29,700,000,000.

(16) Administration of Justice (750):

Fiscal year 1989:

(A) New budget authority, $8,850,000,000.

(B) Outlays, $8,550,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $9,150,000,000.

(B) Outlays, $9,050,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,300,000,000.

(B) Outlays, $10,250,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1989:

(A) New budget authority, $9,650,000,000.

(B) Outlays, $9,350,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $10,150,000,000.

(B) Outlays, $10,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,600,000,000.

(B) Outlays, $10,250,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) Net Interest (900):

Fiscal year 1989:

(A) New budget authority, $161,700,000,000.

(B) Outlays, $161,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $171,500,000,000.

(B) Outlays, $171,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:
(A) New budget authority, $176,650,000,000.
(B) Outlays, $176,650,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(20) Allowances (920):
Fiscal year 1989:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):
Fiscal year 1989:
(A) New budget authority, −$33,200,000,000.
(B) Outlays, −$46,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, −$33,450,000,000.
(B) Outlays, −$45,850,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, −$34,600,000,000.
(B) Outlays, −$34,750,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

SENSE OF CONGRESS REGARDING COAST GUARD DRUG INTERDICTION

SEC. 3. (a) The Congress finds that—

(1) the war against drugs is an ongoing effort that must be continually waged and that every effort to interdict the flow of illegal substances into the United States should be pursued;

(2) one of the most important lines of defense against the importation of illegal drugs into the United States is the Coast Guard, but because of its limited resources, the Coast Guard is unable to devote sufficient manpower and materials to carry out the war against drugs; and

(3) the private sector should be more fully utilized to perform nonemergency, nonessential Coast Guard functions, thereby allowing the Coast Guard to devote more resources to law enforcement, military readiness, and emergency search and rescue functions.

(b) It is the sense of the Congress that the committees of jurisdiction should enact legislation to allow the private sector to perform nonemergency towing and other nonessential Coast Guard functions and that the resulting savings should be used to increase funding for the Coast Guard for law enforcement, military readiness, and emergency search and rescue functions.

The CHAIRMAN pro tempore. No amendments are in order except the amendments printed in House Report 100-524, which shall be considered only in the order designated in House Report 100-524, shall be considered as having been read, shall not be subject to amendment, shall be in order even if a previous amendment in the nature of a substitute has been adopted, and each amendment shall be debatable for 30 minutes, equally divided and controlled by the Member offering the amendment and a Member opposed thereto.

If more than one of the amendments made in order by House Resolution 410 are adopted, only the last amendment adopted shall be considered as having been finally adopted in the Committee of the Whole and reported back to the House.

It shall also be in order to consider the amendment or amendments provided for in section 305(a)(5) of the Congressional Budget Act of 1974, as amended, necessary to achieve mathematical consistency.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. DANNEMEYER: Strike everything after the resolving clause and insert in lieu thereof the following:

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1989 is hereby established and the appropriate budgetary levels for fiscal years 1990 and 1991 are hereby set forth:

(a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990:

(1) The recommended levels of Federal revenues are as follows:
Fiscal year 1989: $721,000,000,000.
Fiscal year 1990: $788,600,000,000.
Fiscal year 1991: $850,800,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:
Fiscal year 1989: $0.
Fiscal year 1990: $0.
Fiscal year 1991: $0

(2) The appropriate levels of total new budget authority are as follows:
Fiscal year 1989: $964,409,000,000.
Fiscal year 1990: $992,894,000,000.
Fiscal year 1991: $1,050,815,000,000.

(3) The appropriate levels of total budget outlays are as follows:
Fiscal year 1989: $882,239,000,000.
Fiscal year 1990: $909,308,000,000.
Fiscal year 1991: $941,455,000,000.

(4)(A) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:
Fiscal year 1989: $161,239,000,000.
Fiscal year 1990: $120,708,000,000.
Fiscal year 1991: $90,655,000,000.

(B) For purposes of the maximum deficit amount mandated by the Balanced Budget and Emergency Deficit Control Act of 1985 and section 301(i) of the Congressional Budget Act of 1974 only, the appropriate levels of total new budget authority, budget outlays, Federal revenues, and deficits, including receipts and disbursements of the Federal Old-Age and Survivors Trust Fund and the Federal Disability Trust Fund, are as follows:
New budget authority:
Fiscal year 1989: $1,238,877,000,000.
Fiscal year 1990: $1,297,070,000,000.
Fiscal year 1991: $1,384,633,000,000.
Outlays:
Fiscal year 1989: $1,110,707,000,000.
Fiscal year 1990: $1,155,218,000,000.
Fiscal year 1991: $1,205,465,000,000.
Revenues:
Fiscal year 1989: $908,000,000,000.
Fiscal year 1990: $1,071,800,000,000.
Fiscal year 1991: $1,157,600,000,000.
Deficit:
Fiscal year 1989: $130,707,000,000.
Fiscal year 1990: $83,418,000,000.
Fiscal year 1991: $47,865,000,000.

(5) The appropriate levels of the public debt are as follows:
Fiscal year 1989: $2,823,400,000,000.
Fiscal year 1990: $3,063,150,000,000.
Fiscal year 1991: $3,288,350,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990, are as follows:
Fiscal year 1989:
(A) New direct loan obligations, $28,300,000,000.
(B) New primary loan guarantee commitments, $113,450,000,000.
(C) New secondary loan guarantee commitments, $83,600,000,000.
Fiscal year 1990:
(A) New direct loan obligations, $27,000,000,000.
(B) New primary loan guarantee commitments, $123,050,000,000.
(C) New secondary loan guarantee commitments, $84,500,000,000.
Fiscal year 1991:
(A) New direct loan obligations, $25,900,000,000.
(B) New primary loan guarantee commitments, $129,150,000,000.
(C) New secondary loan guarantee commitments, $85,400,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new loan guarantee commitments for fiscal years 1989 through 1991 for each major functional category are:

(1) National Defense (050):
Fiscal year 1989:
(A) New budget authority, $307,508,000,000.
(B) Outlays, $295,376,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $320,408,000,000.
(B) Outlays, $306,253,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, $333,399,000,000.

(B) Outlays, $319,565,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1989:

(A) New budget authority, $17,029,000,000.

(B) Outlays, $16,579,000,000.

(C) New direct loan obligations, $5,900,000,000.

(D) New primary loan guarantee commitments, $9,000,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $17,858,000,000.

(B) Outlays, $16,421,000,000.

(C) New direct loan obligations, $6,000,000,000.

(D) New primary loan guarantee commitments, $10,000,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $18,506,000,000.

(B) Outlays, $16,490,000,000.

(C) New direct loan obligations, $6,100,000,000.

(D) New primary loan guarantee commitments, $10,000,000,000.

(E) New secondary loan guarantee commitments, $0.

(3) General Science, Space, and Technology (250):

Fiscal year 1989:

(A) New budget authority, $11,189,000,000.

(B) Outlays, $11,518,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantees commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $11,657,000,000.

(B) Outlays, $11,806,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantees commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $12,124,000,000.

(B) Outlays, $12,074,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantees commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1989:

(A) New budget authority, $5,607,000,000.

(B) Outlays, $4,797,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantees commitments, $1,300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $6,093,000,000.

(B) Outlays, $4,802,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantees commitments, $1,400,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $5,911,000,000.

(B) Outlays, $4,393,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantees commitments, $1,400,000,000.

(E) New secondary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1989:

(A) New budget authority, $16,218,000,000.

(B) Outlays, $16,274,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantees commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $16,945,000,000.

(B) Outlays, $17,113,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantees commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $17,632,000,000.

(B) Outlays, $17,528,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1989:

(A) New budget authority, $26,557,000,000.

(B) Outlays, $22,551,000,000.

(C) New direct loan obligations, $16,000,000,000.

(D) New primary loan guarantee commitments, $7,100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $25,416,000,000.

(B) Outlays, $22,068,000,000.

(C) New direct loan obligations, $15,000,000,000.

(D) New primary loan guarantee commitments, $7,200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $22,466,000,000.

(B) Outlays, $20,183,000,000.

(C) New direct loan obligations, $14,000,000,000.

(D) New primary loan guarantee commitments, $7,300,000,000.

(E) New secondary loan guarantee commitments, $0.

(7) Commerce and Housing Credit (370):

Fiscal year 1989:

(A) New budget authority, $13,767,000,000.

(B) Outlays, $9,387,000,000.

(C) New direct loan obligations, $2,500,000,000.

(D) New primary loan guarantee commitments, $65,700,000,000.

(E) New secondary loan guarantee commitments, $83,600,000,000.

Fiscal year 1990:

(A) New budget authority, $14,795,000,000.

(B) Outlays, $7,697,000,000.

(C) New direct loan obligations, $2,500,000,000.

(D) New primary loan guarantee commitments, $67,600,000,000.

(E) New secondary loan guarantee commitments, $84,500,000,000.

Fiscal year 1991:

(A) New budget authority, $9,875,000,000.

(B) Outlays, $4,299,000,000.

(C) New direct loan obligations, $2,500,000,000.

(D) New primary loan guarantee commitments, $70,000,000,000.

(E) New secondary loan guarantee commitments, $85,400,000,000.

(8) Transportation (400):

Fiscal year 1989:

(A) New budget authority, $28,574,000,000.

(B) Outlays, $27,988,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $29,073,000,000.

(B) Outlays, $28,785,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $29,785,000,000.

(B) Outlays, $29,820,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1989:

(A) New budget authority, $7,796,000,000.

(B) Outlays, $6,656,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New primary loan guarantee commitments, $150,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $7,571,000,000.

(B) Outlays, $7,137,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New primary loan guarantee commitments, $250,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $7,787,000,000.

(B) Outlays, $6,919,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New primary loan guarantee commitments, $350,000,000.

(E) New secondary loan guarantee commitments, $0.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1989:

(A) New budget authority, $36,819,000,000.

(B) Outlays, $35,858,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $10,000,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $38,144,000,000.

(B) Outlays, $37,250,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $10,500,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $39,046,000,000.

(B) Outlays, $38,155,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $11,000,000,000.

(E) New secondary loan guarantee commitments, $0.

(11) Health (550):

Fiscal year 1989:

(A) New budget authority, $50,331,000,000.

(B) Outlays, $49,389,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $200,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $55,120,000,000.

(B) Outlays, $54,899,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $60,728,000,000.

(B) Outlays, $59,965,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(E) New secondary loan guarantee commitments, $0.

(12) Medical Insurance (570):

Fiscal year 1989:

(A) New budget authority, $104,362,000,000.

(B) Outlays, $87,001,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $114,529,000,000.

(B) Outlays, $98,180,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $126,240,000,000.

(B) Outlays, $109,660,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1989:

(A) New budget authority, $178,056,000,000.

(B) Outlays, $139,022,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $184,523,000,000.

(B) Outlays, $147,122,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $218,827,000,000.

(B) Outlays, $155,172,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1989:

(A) New budget authority, $5,316,000,000.

(B) Outlays, $5,316,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $5,374,000,000.

(B) Outlays, $5,374,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $4,287,000,000.

(B) Outlays, $4,287,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1989:

(A) New budget authority, $29,130,000,000.

(B) Outlays, $28,603,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $20,000,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $31,355,000,000.

(B) Outlays, $30,289,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New primary loan guarantee commitments, $26,000,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $31,975,000,000.

(B) Outlays, $31,035,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New primary loan guarantee commitments, $29,000,000,000.

(E) New secondary loan guarantee commitments, $0.

(16) Administration of Justice (750):

Fiscal year 1989:

(A) New budget authority, $8,690,000,000.

(B) Outlays, $8,506,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $8,938,000,000.

(B) Outlays, $8,877,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,096,000,000.

(B) Outlays, $10,028,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1989:

(A) New budget authority, $10,073,000,000.

(B) Outlays, $9,809,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $10,541,000,000.

(B) Outlays, $10,680,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,989,000,000.

(B) Outlays, $10,739,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(18) General Purpose Fiscal Assistance (850):

Fiscal year 1989:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(19) Net Interest (900):

Fiscal year 1989:

(A) New budget authority, $145,278,000,000.

(B) Outlays, $145,278,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $133,998,000,000.

(B) Outlays, $133,998,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $132,463,000,000.

(B) Outlays, $132,463,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(20) Allowances (920):

Fiscal year 1989:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1989:

(A) New budget authority, −$37,891,000,000.

(B) Outlays, −$37,891,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, −$39,443,000,000.

(B) Outlays, −$39,443,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, −$41,319,00,000.

(B) Outlays, −$41,319,00,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

GOLD BONDS

SEC. 2. (a) The Congress shall consider legislation authorizing the issuance of Treasury obligations redeemable in gold, that—

(1) are known as Eagle bonds;

(2) have an annual investment yield not exceeding 1.75 percent;

(3) have an initial maturity of forty years, and may not be issued for less than twenty-five years;

(4) have principal and interest redeemable at maturity in gold;

(5) are intended to replace high-interest, short-term debt.

(b) The issuance of gold bonds is intended to achieve—

(1) a permanent reduction in the rate of interest on the public debt;

(2) a permanent reduction of the rate of interest on the private debt;

(3) a significant reduction of the Federal budget deficit;

(4) the elimination of the U.S. trade deficit.

TAX AMNESTY

SEC. 3. (a) The Congress shall consider legislation establishing a Federal tax amnesty program, that—

(1) authorizes a one-time amnesty from criminal and civil tax penalties for taxpayers who notify the Internal Revenue Service of previous underpayments of Federal tax and pay such underpayments in full;

(2) shall be in effect for a three month period beginning July 1, 1988;

(3) applies to all payments relating to tax years ending on or before December 31, 1986.

(b) Revenues collected pursuant to this program shall be used solely for the purpose of reducing the Federal deficit.

The CHAIRMAN pro tempore. Under the rule the gentleman from California [Mr. DANNEMEYER] will be recognized for 15 minutes, and a Member opposed, the gentleman from Pennsylvania [Mr. GRAY], will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Chairman, the comments that I am about to make should not be construed to be a criticism of the resolution presented by the Committee on the Budget. To the contrary, I compliment the members of the Committee on the Budget for bringing us for the first time that I can remember a budget resolution that is generally supported by people on both sides of the aisle. I especially compliment them for the job they did in the area of Medicare by denying the $1.2 billion reduction in Medicare. We have very serious problems with our whole budget process and with our national debt.

I want to speak to the national debt for just a moment. I have presented in the past several years information on this floor as to why the national debt has grown by such leaps and bounds, why we have gone deeper into debt so dramatically. I want to pay special tribute to my colleague the gentleman from California [Mr. DANNEMEYER] because I believe that he makes the first innovative approach to attacking the real problem of the national debt and that is the interest payment that we make on our national debt. I hope that every Member in this Chamber will seriously consider the gentleman from California's [Mr. DANNEMEYER] approach to the interest payment on the national debt, for the proposal he makes would lower the rate of interest to be paid on the national debt.

Mr. Chairman, by lowering that rate of interest we can do some very dramatic things and let me tell my colleagues what some of the dramatic things might be.

In the last 8 years our national debt has increased by $1.8 trillion. Listen to this. Of that $1.8 trillion increase, $1.4 trillion of it went just to pay the interest on the national debt. We did not get any schools for that money, we did not get any hospitals, we did not get any roads built, we did not get anything in our national defense budget. Mr. Chairman, $1.4 trillion of the $1.8 trillion increase went to pay the interest on the national debt.

Another way to put it, 75 percent of that tremendous increase in the national debt went to pay the interest on the debt. If we could reduce that interest payment by whatever figure, that would be a further reduction in the deficit for each year. I want to give my colleagues an example of how important this really is to the American taxpayer who has to pay the bill.

The Federal budget for 1982 had a deficit of $127.9 billion, but of that $127 billion, $117 billion of that was interest on the national debt. So we actually only spent $10.7 billion more than we had coming in if interest is eliminated.

In 1983, of the fiscal year deficit of $207.8 billion, the interest payment was $128.6 billion of that figure.

In 1984 the deficit was $185.3 billion but $153.8 billion was the interest payment on the national debt.

In 1985, $212 billion was the deficit, $178.8 billion was interest on the national debt.

In 1986, the deficit was $221.2 billion, the interest payment that year was $190.2 billion.

As my colleagues can see, the lines are coming closer together. As the interest payment gets higher and higher, it gets to the point where it either is the whole deficit or even more than the deficit.

For example, in the next year, 1987, our deficit for the year was only $150.4 billion but the interest payment that year was $195.3 billion, a large surplus except for the interest payment on the national debt.

In 1988, the deficit figure shows $146.7 billion, but the interest payment for 1988 is $210.1 billion. At this point we are getting way ahead of the game. The interest payment is not only driving us deeper into debt, without it we actually would have not only balanced the budget but we would have a surplus in our budget. The figures we are using to estimate 1989 show a budget surplus of $90.8 billion based on this figure, a deficit of $129.5 billion, but interest payment on the national debt of $220.3 billion.

So if it were not for that large interest payment, the budget would not only be balanced, it would be showing a surplus.

The gentleman from California [Mr. DANNEMEYER] makes a very innovative suggestion in his resolution how to address this unreasonable interest payment on the national debt.

Mr. Chairman, I want to commend my colleague from California, Mr. DANNEMEYER, for his innovative approach to reducing our Nation's annual interest payment on the national debt.

The heavy burden placed on our Nation by this interest payment has been a concern that I have addressed repeatedly during debate in this body. The interest we pay on the national debt is one of the fastest growing Federal outlays and now accounts for one-fifth of our annual expenditures. Over the past 8 years, the annual interest payment has almost doubled, rising from $117.2 billion in fiscal year 1982, the first year in which President Reagan presented a budget request to the Congress, to $220.3 billion in his 1989 budget request. The truth is, the primary cause of the great increase in our national debt these past 8 years has been the interest payment the Federal Government pays on the more than $1 trillion national debt President Reagan inherited in January 1981.

During these 8 years, the national debt will have increased $1.8 trillion. But of the $1.8 trillion, President Reagan had no choice but to request $1.4 trillion just to pay the interest on the national debt. In other words, 75 percent of the increase in the national debt over this period went to pay the interest on the national debt. These funds have not provided the American people with any medical or hospital care. They will not enhance our children's education. They are not used to build highways or bridges or improve our national defense. We get nothing for these funds except to pay the interest on our national debt.

If it were not for the annual interest payment, the Federal Government would actually show a budget surplus for fiscal years 1987, 1988, and 1989. Those who would blame President Reagan for the increase in our national debt are laying the blame on the wrong doorstep. The facts show that three-quarters of the increase in the national debt since President Reagan took office is due to the interest payments on the national debt he inherited and came about because of Federal spending on programs that were enacted before he assumed office and the expenditures on which have consistently exceeded available Federal revenues.

This administration should instead be complimented for the change in attitude among my colleagues in Congress about deficit spending and their new found commitment to bring Federal spending under control. President Reagan should also be given credit for establishing sound economic policies which have been responsible for 64 straight months of steady economic growth that has included stable interest rates and low inflation. Had our economy continued on the unstable course we saw when President Reagan took office, with double-digit inflation and interest rates nearing 20 percent, the annual interest payments and our annual Federal deficits would have been twice what they are today.

Even with this stable economy and interest rates, the annual interest payment will continue to rise and force the Congress and the President to reduce spending on other important programs just to finance our national debt. My colleague from California is to be commended for his plan that would refinance our national debt in a creative manner that will bring us closer to our goal of a balanced Federal budget. I look forward to the opportunity to work with Mr. DANNEMEYER and others who share our great concern about the threat the increasing interest payments place on our Nation's economy. Together, it's my hope that we can find an acceptable solution to this problem and begin to relieve the financial burden that will otherwise be placed upon future generations of Americans who will assume responsibility for financing a national debt that accumulated even before they were born.

Mr. DANNEMEYER. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman from California [Mr. DANNEMEYER] for yielding me this time.

Mr. Chairman, I rise in support of this budget. I have come to the conclusion there are three general ways in which we will really end up reducing the deficit. First, to have economic growth. We have got to have a growing vibrant economy in order to have any chance at all of balancing the budget in the future. A stagnant economy, an economy which is in decline obviously is not an economy that will produce balanced budgets.

The second thing we need to have in order to balance budgets is monetary reform. My colleague the gentleman from Florida [Mr. YOUNG] has eloquently addressed the need for monetary reform so that we might have the kind of interest rates that lower the amount of money that we have to spend on paying off the national debt.

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Third, it seems to me what you have to have is institutional reforms such as a balanced budget amendment, a line-item detail and the like, that force us to live within our means.

The Dannemeyer budget that is before us right now addresses 2 out of 3 of those concerns, or 2 out of 3 of those processes that we can deal with in this process.

First of all is a proper economic growth budget. It does not anticipate more taxes. The taxes drive down economic growth. The Dannemeyer budget is a budget that allows us to meet our obligations without raising taxes.

Second, Mr. DANNEMEYER, in his budget, takes us that step toward monetary reform that we need to take for the idea of gold-backed bonds. That is something no other budget around here offers. It is, as the gentleman from California [Mr. DANNEMEYER] addresses it, an innovative approach to one of the most serious concerns within our budget process. Then he also helps us move toward some of those institutional reforms that I talked about, although not included in his budget, because he actually gets us to a balanced budget by fiscal year 1993. This is the only budget proposal before us that actually offers in its anticipated form a balanced budget by fiscal year 1993.

If we are willing to cut spending, do real reforms and ultimately balance the budget, then those are goals that I endorse. I think that most people should endorse them, and I am willing to see us make sacrifices even in areas that I regard as vitally important to the Nation to attain those goals, a balanced budget by cutting spending.

However, the other budgets before us here are not those kinds of budgets. What they do is, they spend more money, and they do not end up with a balanced budget. Then it seems to me that what we have to do is we have to look at the spending priorities embodied in those budgets. The other budgets before us are basically tax-and-spend budgets, and if you have a simple adherence to the budget plan drafted last December, you are going to have a tax-and-spend budget given the fact that they are tax-and-spend budgets. I think we ought to look at the priorities.

I am going to look at one I happen to know a little about, the science budget, because this budget that has been brought to us by this committee emasculates science programs. They will claim in the budget paper handed out, and I do not know who handed it to me, because it does not have an identification on it, but they say in the paper that we are going to increase NASA programs by $1.25 billion to help restore our national position in space. It does not. We need the $2.5 billion the President put in his budget just to do the things we are already committed to. If we buy the committee's budget, we are talking about a budget that will reduce, not enhance, our space program. We are talking about a budget that will reduce, not enhance, our science position in the world.

This is a budget that came out of the committee that lacks both veracity and vision. I say it lacks a veracity because while they say that they are raising NASA's budget by $1.25 billion, what they do not tell us is up in another section they are making NASA eat 50 percent of the pay raise they have included in the budget. That is $45 million off NASA's spending. So the $1.25 billion that they claim is reduced by $45 million just in that one category

I think we ought to vote for the Dannemeyer budget and reject the committee budget.

Mr. DANNEMEYER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I thank the distinguished gentleman from California [Mr. DANNEMEYER] for yielding time on this important debate.

I would only call the attention of my colleagues to a point that perhaps has come up in discourse thus far in this debate; namely, private sector examples that have taken place in the course of this year of lending money in gold to private institutions, and at 2½-percent interest rates. Based on historic experience, when we were on a gold-backed system, interest rates remained remarkably constant and remarkably low in the 2- to 2½-percent range.

Looking at the economies that could be made through refinancing our debt through this means, I think it warrants the support of all of our colleagues. It is something that is doable. It is doable in the private sector. It is doable in the public sector. It is all predicated on one fundamental thing, and that is the integrity of gold as a medium of exchange with 5,000 years of tradition. Gold has historically been the only real money, and it was a monumental mistake when this country went off the gold standard for Americans back in 1934, and then it went off the gold standard permanently under the Nixon administration.

It is not a partisan question we are talking about here.

Democrats historically were as committed to the gold standard as any, and Glover Cleveland perhaps understood the importance of a gold standard more than any other single occupant of the White House. He knew that when you do not have honest money and when you have inflationary money policies, it wreaks its greatest injury on those who earn their daily bread with the sweat of their brow.

I would simply urge my colleagues not to take this proposal lightly. I think it is an idea whose time has come, and most especially when we are searching, grasping and groping in the dark to arrive at some means of trying to hit our Gramm-Rudman budget target. Here is a way to do it, and make a big stride forward that will have even more important effects in terms of guaranteeing the integrity of this country's monetary system, while getting our budgets back in balance.

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. DANNEMEYER. Mr. Chairman, each year we receive from the Office of Management and Budget this little booklet, and it has all the details, everything you want to know about the budget of the U.S. Government.

On page 101 it has a table. This table tells us the truth in borrowing, the truth about the national debt.

We have heard statements today, such as the one from my friend, the gentleman from California [Mr. PANETTA] and I do not see him on the floor of the House right now, and other Members who talked about this bipartisan committee budget. I wish to commend them for the work they have done. The truth of the matter is that we are scheduled to increase the national debt in the current fiscal year, $243.7 billion. We are scheduled to increase the national debt in 1989 by another $227.7 billion, and we are scheduled to increase the national debt in 1990 by $216.2 billion.

The biggest year in the increase of the national debt was in fiscal year 1986. We increased our national debt that year by $302.5 billion. This year, and in 1986 and 1987, we have added over three quarters of a trillion dollars to the national debt.

Anyone who thinks we can continue as a nation with this course that I have described is just kidding themselves, because we all know common sense tells us that this debt bubble has a finite limit. Nobody knows what the limit is. It could last 15 years, it could last 15 months, or 15 days from now the whole thing could blow up in our face. The one thing we know for sure, to the extent we do not take action to decrease the size and growth of the debt bubble, to that extent we are increasing the chance that the whole thing is going to blow up in our face, and we are going to see a monetary collapse in the Western World. That is what we need to avoid.

To give you an example of just how horrendous this national debt has become, in 1982 it took 28 cents of all general fund revenues to pay the interest on the national debt. In this current fiscal year, that is scheduled to go up to 38 cents, an increase of 15 cents. That is an extraordinarily high level.

Another thing that Members should look at in terms of the deficit this year, when we say that the deficit target for 1988 under Gramm-Rudman-Hollings target is $146.7 billion, we get there by reducing the general fund deficit by $97.5 billion with trust fund money. In other words, the general fund deficit for this year is projected to be $244.2 billion.

The CHAIRMAN pro tempore (Mr. MURTHA). The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Mr. FROST. Mr. Chairman, I yield 5 minutes to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, the general fund deficit for fiscal year 1988 is $244.2 billion. We propose to reduce that by trust fund income of $94.5 billion, so the so-called deficit is $146.7 billion. If a private business person pulled the stunt of taking trust fund money to reduce general fund expenditures, we all know what happens to them. We put them in jail. That is illegal, and the U.S. Government, through the Congress of the United States, should not be condoning such an action.

That is why I think it is time for the Congress, the House, today to say that we want to explore what I would hope would be a bipartisan effort; namely, to reduce the interest cost of maintaining the national debt.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I think it is important to point out I had spoken earlier on the committee budget as it has been given to us of which I felt the Veterans' Affairs budget was grossly inadequate.

I just want to point out that the gentleman's proposal under budget authority would increase the function 700 under Veterans' Affairs by $400 million in authority and by $300 million in outlays and, therefore, I am going to support the gentleman's budget, because I think it is a fairer budget all the way down the line.

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman from New York for mentioning that.

I want to point out right here that this budget I am talking about takes the CBO baseline on spending and income. It does not cut anything beyond what is provided in the CBO base line. Members do not have to go home and defend themselves with their constituents about cutting programs, because that is not this proposal. The only thing it seeks to cut is the interest cost.

Mr. SOLOMON. Mr. Chairman, would the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I just discovered also that those of us that are concerned about the national defense of the free world, that under the budget authority of the committee, they recommend $294 billion, and the gentleman from California would give them $1.4 billion more.

Mr. DANNEMEYER. The gentleman is correct. This is the CBO base line, the example we can look to in the private sector as the gentleman from Illinois [Mr. CRANE], alluded to earlier was by the Newmont Mining Co. a couple of months ago. Maybe the gentleman read about it in the press.

They are in the business of mining gold. They went to the Bank of Nova Scotia, and borrowed a half billion dollars in bullion, gold specie. They took that gold specie, sold it in the market, and got a half billion dollars in cash, and they retired about 25 percent of their outstanding debt which was carrying an interest cost of roughly 8½ percent.

They gave a note to the Bank of Nova Scotia to secure the indebtedness at an interest cost of 2½ percent. In other words, they exchanged the debt with an interest cost of 8½ percent to one containing an interest cost of 2½ percent, a savings of 6 points.

That is what Newmont Mining Co. did. They could do that, because they are in the gold mining business. In 5 years they have a contract to return the gold to the Bank of Nova Scotia that they are digging out of the ground.

The U.S. Government can do the very same thing. We can issue a bond backed by gold.

Alan Greenspan, Chairman of the Federal Reserve Board, in 1981 wrote an article published in the Wall Street Journal saying this is what the U.S. Government should do to bring down the interest costs.

Mr. CRAIG. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Idaho.

Mr. CRAIG. Mr. Chairman, I would like to thank the gentleman from California [Mr. DANNEMEYER] and stand in support of the Dannemeyer substitute.

Let me congratulate the gentleman from California [Mr. DANNEMEYER] for what I have to say is a very creative idea toward dealing with our debt structure and our debt problem in this country.

This Congress has, over the last 8 years, been responsible for building an ever-increasing Federal debt, and yet we will not deal with it. We simply have refused to recognize it and build a course and direction that will bring us to a debt solution and a deficit-free budget.

We all know the tragic situation that is resulting as a byproduct of our failure to recognize this.

□ 1445

I think the figure that is used this year by the National Taxpayers' Union is that for every working person in America, new employee coming into the work force in fiscal 1988, that their responsibility in taxes for interest on the debt—now I am not talking the debt itself, I am only talking about the interest—will be $10,000 additional in their working lifetime.

The CHAIRMAN pro tempore (Mr. MURTHA). The time of the gentleman from California has again expired.

Mr. DANNEMEYER. Mr. Chairman, will the majority yield another 5 minutes?

Mr. FROST. Mr. Chairman, I believe the Chair had indicated at the beginning that he would yield 5 minutes additional to the gentleman which he has done.

Mr. DANNEMEYER. I observe to the gentleman that there was no limitation as to the time. Mr. GRAY said that to the extent there was no request for the 15 minutes on his side that he would let us use it. There was no limitation as to time.

Mr. FROST. Mr. Chairman, I yield an additional 5 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. CRAIG. Mr. Chairman, will the gentleman continue to yield?

Mr. DANNEMEYER. I yield to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. I thank the gentleman for yielding further.

Mr. Chairman, let me wrap up, Mr. Chairman, so that my colleague can return to his closing statement.

That is the problem that we face, but this Congress will not face it. The budget committee and the resolution that is before us does not bring about a course and direction that the American people can be confident in, will reduce a debt structure and a deficit.

I congratulate my colleague and certainly am pleased to support his effort because for the first time we have someone who has stepped forward and said, "Here is a solution. Look at it. Other nations and private businesses are using it. It works. It has been done before and believe it or not this Government in the past has in fact used this method," but somehow today we cannot approach it.

I thank my colleague for yielding.

Mr. DANNEMEYER. I thank my colleague from Idaho for his comments.

I might point out to the Members that in fiscal year 1988, the current year, our gross interest expense is scheduled to be $198.4 billion. And the quantity of the deficit is, as I previously stated, the amount that we are going to borrow to increase the national debt, $243 billion-plus.

Now this plan that I am talking about would result in an interest cost reduction on the $2.3 trillion national debt now outstanding, which has an average interest cost of about 9 percent. We would refinance the national debt as it matures and over the course of 10 years we would refinance probably three-quarters of the national debt. At the 10th year, the interest cost reduction in maintaining the national debt would be $103.7 billion.

In fiscal year 1989, the interest cost reduction would be $20.6 billion; in 1990 it would be $50.8 billion, and in 1991 it would be $65.4 billion, 1992, $74.3 billion, and so on.

In other words, the reduction in spending that I am talking about being achieved is an interest cost reduction in maintaining the national debt. And a practical political problem needs to be asked: "How many tears are going to be shed in this Chamber by sending less interest money to the bankers in New York City for the money that this Government has borrowed?" I do not think very many.

And to put this down to the level where the average citizen in America can understand what is happening to us, we have been experimenting with a paper dollar since 1968. That is when Congress, in a narrow vote, at the request of President Johnson separated our currency from being backed by gold.

We Americans need to understand what the cost to each of us is from this action, 20 years later.

The average mortgage on a home in America, a person participating in the American dream, is roughly $100,000. Today the interest cost expense on that home is roughly 9½ percent, fixed rate. The mortgage rate should be no more than 5½ or 6 percent. Why is that 4 percentage point premium on our home loan?

The answer is that the lenders of capital want that inflation premium in the lending rate before they will lend the capital because they do not trust the Government in terms of what we are doing with the currency. What that 4 percentage point premium means to every homeowner in America, if you multiply that by $100,000, is that it is costing every homeowner roughly $333 per month to maintain the existing paper dollar standard.

I happen to believe that most Americans can find a better way to spend $333 per month as their personal cost of maintaining the paper dollar standard.

This is the true cost to all of us. As it has significance to reduce the interest cost expense for the average homeowner and college student and businessman, it also has significance to the U.S. Government. This is how we would reduce the interest cost of maintaining the national debt; over about a 10-year period we would reduce that annual interest expense by over $100 billion. That is not the whole deficit, but it is a significant part of it and it is a way we can achieve it without having to explain to the people who are currently receiving needed money from the Federal Government that they are going to get less.

I hope my colleagues will support it and I ask for an "aye" vote.

Mr. FROST. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Mr. Chairman, I rise in support of the committee resolution.

Mr. Chairman, I rise in support of the first budget resolution (H. Con. Res. 268). I find it encouraging that we have begun debate on the fiscal year 1989 budget early and that we are likely to meet the first of our budget process deadlines.

Fiscal year 1989 will be the 13th budget implemented under the procedures of the 1974 Budget Act. When that act was passed, the Members of both Houses expected the new budget process would make congressional decisionmaking more rational, more efficient, and less political. How well will we do in fulfilling the expectations of the 93d Congress as we go through the budget process in 1988?

One of the expectations of the framers of the Budget Act was that the act would return the power of the purse to Congress. Have we regained our control over the power of the purse? I think not. Last year we could not and did not pass a budget until the stock market crash forced the administration to participate in a budget summit.

Recently, we have allowed the administration to frame the terms of our debate over the budget. Our budget "cuts" are estimated with reference to the President's budget. Our revenue raising policies are developed in an atmosphere of concern over what will be approved at the other end of the avenue. And this year, there is a very real danger that we will allow the economic projections of the Office of Management and the Budget, a part of the executive branch, to dominate those of the Congressional Budget Office, even if we believe that those projections are based on unrealistic expectations and flawed assumptions.

We don't even have to wait for the administration to seize our power of the purse. We have passed legislation—the Gramm-Rudman-Hollings Act and its 1987 amendment—to prevent ourselves from using that power. We created a 2-year budget agreement with the administration limiting our options on spending on defense, nondefense programs and taxation.

We have the power to control the purse. But we have continually delegated that power and we have tied our own hands to prevent ourselves from using that power.

The Budget Act was expected to enable Congress to curb Federal spending. Have we done that? I think not. Outlays for fiscal year 1977 equaled $409.2 billion. Outlays in the President's fiscal year 1989 budget will equal $1.09 trillion. After adjusting for doubling of prices over that period, outlays in the Federal budget have increased 40 percent since the Budget Act was passed.

Receipts in fiscal year 1977 were $355.6 billion, receipts in fiscal year 1989—as projected by OMB—will be $964.7 billion. In constant dollars, there has been a 42-percent increase in revenue burdens.

Outlays for defense in fiscal year 1977 were $97.2 billion, defense outlays in fiscal year 1989 will be $294.0 billion—a real change in defense spending of 57 percent.

Outlays for nondefense in fiscal year 1977 were $312 billion, outlays for nondefense in fiscal year 1989: $800 billion—a real change of 34 percent.

Subtracting out net interest payments, nondefense outlays were $282 billion in fiscal year 1977. They will equal $648 billion in fiscal year 1989—a real increase in spending of 20 percent.

The deficit in fiscal year 1989 will be 243 percent of the fiscal year 1977 deficit.

And net interest payments in fiscal year 1989—payments for maintaining our national debt—are five times as high as net interest payments in fiscal year 1977.

It is quite clear that we have not curbed the growth in Federal spending.

It was expected that the new budget process would allow Congress to anticipate and avoid large and frequent Federal deficits. As I said, the fiscal year 1989 deficit will be 2½ times as large as the fiscal year 1977 deficit. Interest payments on the debt are increasing at a staggering pace. And the national debt—the accumulation of the past Federal deficits—is 3 times as high now as it was in 1977. We have not controlled deficits.

It was expected that the new budget process would allow Congress to pass legislation necessary to budget creation in a timely and efficient fashion. The last time we passed all 13 appropriations bills by October 1 was 1977. This past year, we were required to pass four continuing resolutions in order to keep the Government operating while we continue to deliberate. And as we all know, the budget legislation that finally became law was very large, very late and the product of a few key negotiators. Last year's budget exercise was not timely, it was not efficient, and it occurred without providing opportunities for discussion, debate, or amendment.

Finally, it was expected that the new budget process would take the politics out of the Federal budget decision. Many hoped that providing independent economic information analyses to Congress would allow us to address budget issues in a rational, sensible manner. Instead, we have been involved in deliberations that are less than that.

We have resorted to political games. We have resorted to creative accounting. We have resorted to wishful thinking. We have resorted to threats, coercion, and stubbornness. We have not seen even one of the improvements of the new budget process come to be. And now we face another round in the same process—a round that has been further complicated by the amendments to the improved process, further complicated by a sluggish economy and the twin deficits of trade and the budget, further complicated by a binding agreement made between the legislative and executive branches to cap spending regardless of the state of the economy and regardless of the needs of the American people.

I understand the events that lead to the passage of Gramm-Rudman-Hollings. I understand the events that lead to the budget summit last winter. While I might have done things differently, I am willing to abide by those agreements and to work to reduce the deficit and create a budget that is realistic, responsible, and humane. I believe that many of my colleagues in both Houses of Congress are genuinely concerned over the budget, the deficit, and our future actions. I believe that many of them would also be willing to work toward a rational budget for fiscal year 1989.

But I am afraid that even this expectation will not be fulfilled. I am afraid that this year will be the biggest political game yet and the game this time will be more deadly than ever.

Last week, the Ways and Means Committee held hearings on the President's fiscal year 1989 budget, with a special focus on the economic assumptions underlying the outlays, budget authority and revenue requests. I believe those assumptions are a product of wishful thinking. If we believe OMB, then we believe that real GNP will grow at a rate of 3.5 percent in 1989.

The Congressional Budget Office disagrees.

Every other projection of growth for 1989 that I have seen falls in the range of 2 to 2.5 percent. According to a recent article in the New York Times, the recent improvement in unemployment, which has led to higher growth, is more fragile than many of us realize. It is true that the current economic recovery created new jobs. But, many of those new jobs are being filled with temporary workers who are paid no benefits, are paid less, and can be laid off quickly if the economy turns down again. The dependence on temporary workers allows businesses to adjust quickly to a weakening economy but also can cause the national unemployment rate to rise far more quickly than it did during the 1982 recession.

According to CBO, a 1-percentage-point increase in the unemployment rate would lead to a $35 billion decrease in revenues and a $7 billion increase in Federal outlays. The change in the deficit would be an overall increase of $42 billion dollars.

Yet, I am afraid that we will succumb to the temptation to believe OMB's estimates of unemployment and GNP growth, even though they have been called unduly optimistic.

We will succumb because an optimistic forecast serves our political purposes. If we are realistic, if we are responsible, we will have to find at least $7 billion in spending cuts or new revenues beyond what are already required to fulfill the budget summit agreement.

If we believe OMB, then we believe that interest rates on 90-day T-bills will fall to 5.2 percent in 1989.

The Congressional Budget Office disagrees. Other interest rate projections fall in the range of 6.5 to 7 percent. Yet, we will be tempted to accept the optimistic OMB forecast because the 1.5-percentage-point difference in the interest rate will force us to find $15 to $17 billion more in spending cuts or new revenues to pay for the higher outlays on interest on the debt.

If we believe OMB, we believe that inflation will be approximately 3.9 percent in 1989.

The Congressional Budget Office disagrees. They project inflation at 4.9 percent. Higher inflation will increase our revenues, but will also increase our outlays and negatively affect private domestic investment. The net effect of the difference in inflation rate projections leads CBO to project a $2 billion higher deficit than does OMB. Again, those $2 billion will have to come from somewhere.

In all, CBO's economic assumptions have lead them to project that the deficit in 1989 will be $25 to $30 billion higher than the deficit projected in the President's budget.

I am not faulting OMB for their projections. I realize that economics is not an exact science and that modeling the macroeconomy is a difficult, inexact process. I also realize that CBO may be wrong, their estimates may be unduly pessimistic. We won't know who was right until 1989 is over. Even then, we may never know just how accurate those forecasts were, since the economy responds to our budgetary policies and exogenous shocks. If we do not implement the policies recommended in the President's budget, then OMB can rightfully claim that any errors can be attributed to changes in Federal budget policy which were not incorporated in those forecasts.

I do not expect OMB to be perfect in their forecasts. But I hope that we can resist the temptation to join them in their optimism and, instead, take the more difficult but more rational road of working with the highest deficit estimate now.

A choice lies before us. OMB has provided us with a justification to play down the deficit, to work with a lower deficit estimate. I know, all of us know, that finding the cuts necessary to implement the budget summit will be painful. It would be nice to underestimate the deficit at this stage. It would be nice to agree with OMB and hope that the August snapshot won't find us $5 or $10 or $20 billion short in reaching the deficit reduction that will avoid sequestration. Agreeing on the budget under OMB's projections will be hard enough. Why should we make it harder for ourselves by accepting more pessimistic projections?

Mr. Chairman, we need to make it harder on ourselves now because we will have to address the issue in a realistic manner someday. If CBO is wrong, if the private forecasters are wrong, the result will be that, come August, we will find that we cut too much, we saved too much, we raised more revenue than we really had to. I have to tell you that I personally would enjoy being in that position. It would be nice to be able to say to the American people, "Guess what! We made a mistake. We are going to have to give you back some taxes. We are going to have to spend a little more without raising the deficit. We are going to have to retire some of that multitrillion-dollar debt." It's tough to admit our mistakes, but I know that everyone in this House would be happy to take the consequences of that error.

The alternative is to cut less now and cut more later, raise less revenues now and raise more revenues later. The biggest difference—and I believe this is critical—is that postponing those decisions until August will give us less time to find the cuts and find the revenues. It will give us less time to debate, explore, and amend. It will give us less time. And, Mr. Chairman, our experience with the budget during last winter should be enough to convince everyone here that time is something we badly need if we are to produce a responsible, rational budget.

Mr. FROST. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge the committee to reject the Dannemeyer substitute. The Dannemeyer substitute reduces the deficit by making assumptions about the economy not by making policy changes.

These assumptions are that gold-backed bonds will be used to reduce interest cost, a tax amnesty to raise revenues, and faster economic growth to raise revenues.

Gold-backed bonds are based on the assumption that they will be saleable with the 1 percent interest rate which is not realistic. Second, they would likely just move interest costs from the present to the future.

Tax amnesty is only a one-time savings but Mr. DANNEMEYER assumes that it is permanent.

Revenue gains are unrealistic because State amnesty experience is not applicable to the Federal level.

I would respond to the point made by the gentleman from Pennsylvania [Mr. WALKER] a little while ago about the space program, in that he was complaining about the amount of money in the committee budget for space and science.

I would remind my colleague from Pennsylvania that under the Dannemeyer budget, the one before us right now, that BA in this function 250 for space and science would be $11.189 billion whereas under the committee resolution pending before us it would be $12.45 billion; and outlays also would be lower under the Dannemeyer budget than under the committee budget pending before us.

Mr. WALKER. Mr. Chairman, will the gentleman yield to me?

Mr. FROST. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I did make the point though that for me moving us to a balanced budget actually, actually defined as a balanced budget, is something where I am willing to make some sacrifices. I tried to make the point that if we are going to spend the money then it seems to me we ought to prioritize it. It seems to me in spending the money the committee did not adequately prioritize space and science.

I thank the gentleman for yielding.

Mr. FROST. Mr. Chairman, I have no further requests for time, I yield back the balance of my time and I urge the substitute be defeated.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and on a division (demanded by Mr. DANNEMEYER) there were—ayes 4, noes 5.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 75, noes 347, not voting 10, as follows:

[Roll No. 42]

AYES—75

Armey
Badham
Ballenger
Bartlett
Bilirakis
Bliley
Brown (CO)
Burton
Callahan
Coble
Craig
Crane
Dannemeyer
Davis (IL)
DeLay
DeWine
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fields
Gekas
Gingrich
Hammerschmidt
Hansen
Hefley
Herger
Hiler
Holloway
Hunter
Inhofe
Kasich
Kemp
Kyl
Lent
Lewis (CA)
Livingston
Lowery (CA)
Lukens, Donald
Lungren
Marlenee
McCandless
McEwen
McGrath
Michel
Miller (OH)
Molinari
Moorhead
Nielson
Packard
Petri
Porter
Quillen
Ritter
Roth
Schaefer
Sensenbrenner
Shumway
Shuster
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stenholm
Stump
Sundquist
Swindall
Tauzin
Taylor
Thomas (CA)
Vucanovich
Walker
Weber
Young (AK)
Young (FL)

NOES—347

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Barnard
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Daub
Davis (MI)
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Mack
MacKay
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stokes
Stratton
Studds
Sweeney
Swift
Synar

Tallon
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NOT VOTING—10

Bentley
Biaggi
Boulter
Cheney
de la Garza
Gephardt
Gray (IL)
Lightfoot
Madigan
Price (IL)

□ 1513

Messrs. BOLAND, MOODY, UDALL, and RODINO changed their votes from "aye" to "no."

Mr. SUNDQUIST changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

□ 1515

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PORTER

Mr. PORTER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore (Mr. MURTHA). The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. PORTER: Strike all after the resolving clause and insert in lieu thereof the following:

That the budget for fiscal year 1989 is established, and the appropriate budgetary levels for fiscal years 1990 and 1991 are hereby set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $953,000,000,000.
Fiscal year 1990: $1,036,000,000,000.
Fiscal year 1991: $1,112,000,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $1,232,500,000,000.
Fiscal year 1990: $1,293,000,000,000.
Fiscal year 1991: $1,377,100,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $1,093,200,000,000.
Fiscal year 1990: $1,138,300,000,000.
Fiscal year 1991: $1,186,600,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $140,200,000,000.
Fiscal year 1990: $102,300,000,000.
Fiscal year 1991: $74,600,000,000.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $953,000,000,000.
Fiscal year 1990: $1,036,000,000,000.
Fiscal year 1991: $1,112,000,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1989: $56,000,000,000.
Fiscal year 1990: $83,000,000,000.
Fiscal year 1991: $76,000,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1989: $65,000,000,000.
Fiscal year 1990: $70,000,000,000.
Fiscal year 1991: $75,000,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $1,128,000,000,000.
Fiscal year 1990: $1,293,000,000,000.
Fiscal year 1991: $1,377,100,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $1,088,700,000,000.
Fiscal year 1990: $1,138,300,000,000.
Fiscal year 1991: $1,186,600,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $135,700,000,000.
Fiscal year 1990: $102,300,000,000.
Fiscal year 1991: $74,600,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1989: $2,176,500,000,000.
Fiscal year 1990: $2,278,800,000,000.
Fiscal year 1991: $2,353,400,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990, are as follows:

Fiscal year 1989:
(A) New direct loan obligations, $35,000,000,000.
(B) New primary loan guarantee commitments, $111,000,000,000.
Fiscal year 1990:
(A) New direct loan obligations, $34,000,000,000.
(B) New primary loan guarantee commitments, $122,000,000,000.
Fiscal year 1991:
(A) New direct loan obligations, $34,000,000,000.
(B) New primary loan guarantee commitments, $132,000,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1989 through 1991 for each major functional category are:

(1) National Defense (050):
Fiscal year 1989:
(A) New budget authority, $291,000,000,000.
(B) Outlays, $287,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $291,000,000,000.
(B) Outlays, $287,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, $291,000,000,000.
(B) Outlays, $287,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):
Fiscal year 1989:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $13,900,000,000.
(C) New direct loan obligations, $7,000,000,000.
(D) New primary loan guarantee commitments, $9,000,000,000.
Fiscal year 1990:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $13,900,000,000.
(C) New direct loan obligations, $7,000,000,000.
(D) New primary loan guarantee commitments, $10,000,000,000.
Fiscal year 1991:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $13,900,000,000.
(C) New direct loan obligations, $8,000,000,000.
(D) New primary loan guarantee commitments, $10,000,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1989:
(A) New budget authority, $11,000,000,000.
(B) Outlays, $11,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $11,000,000,000.
(B) Outlays, $11,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1991:
(A) New budget authority, $11,000,000,000.
(B) Outlays, $11,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(4) Energy (270):
Fiscal year 1989:
(A) New budget authority, $5,100,000,000.
(B) Outlays, $3,000,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $48,520,000.
Fiscal year 1990:
(A) New budget authority, $5,100,000,000.
(B) Outlays, $3,000,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $50,576,000.
Fiscal year 1991:
(A) New budget authority, $5,100,000,000.
(B) Outlays, $3,000,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $52,532,000.

(5) Natural Resources and Environment (300):
Fiscal year 1989:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $15,000,000,000.
(C) New direct loan obligations, $50,894,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1990:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $15,000,000,000.

(C) New direct loan obligations, $53,200,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $15,000,000,000.

(B) Outlays, $15,000,000,000.

(C) New direct loan obligations, $55,111,000.

(D) New primary loan guarantee commitments, $0.

(6) Agricultural (350):

Fiscal year 1989:

(A) New budget authority, $24,000,000,000.

(B) Outlays, $21,700,000,000.

(C) New direct loan obligations, $16,000,000,000.

(D) New primary loan guarantee commitments, $6,000,000,000.

Fiscal year 1990:

(A) New budget authority, $24,000,000,000.

(B) Outlays, $21,700,000,000.

(C) New direct loan obligations, $15,000,000,000.

(D) New primary loan guarantee commitments, $6,000,000,000.

Fiscal year 1991:

(A) New budget authority, $23,000,000,000.

(B) Outlays, $20,700,000,000.

(C) New direct loan obligations, $14,000,000,000.

(D) New primary loan guarantee commitments, $6,000,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1989:

(A) New budget authority, $14,000,000,000.

(B) Outlays, $6,000,000,000.

(C) New direct loan obligations, $4,000,000,000.

(D) New primary loan guarantee commitments, $64,000,000,000.

Fiscal year 1990:

(A) New budget authority, $14,000,000,000.

(B) Outlays, $6,000,000,000.

(C) New direct loan obligations, $4,000,000,000.

(D) New primary loan guarantee commitments, $67,000,000,000.

Fiscal year 1991:

(A) New budget authority, $9,000,000,000.

(B) Outlays, $4,000,000,000.

(C) New direct loan obligations, $4,000,000,000.

(D) New primary loan guarantee commitments, $74,000,000,000.

(8) Transportation (400):

Fiscal year 1989:

(A) New budget authority, $28,000,000,000.

(B) Outlays, $26,400,000,000.

(C) New direct loan obligations, $52,200,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $28,000,000,000.

(B) Outlays, $26,400,000,000.

(C) New direct loan obligations, $54,200,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $28,000,000,000.

(B) Outlays, $26,400,000,000.

(C) New direct loan obligations, $56,185,000.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1989:

(A) New budget authority, $8,000,000,000.

(B) Outlays, $6,000,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $294,100,000.

Fiscal year 1990:

(A) New budget authority, $8,000,000,000.

(B) Outlays, $6,000,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $305,876,000.

Fiscal year 1991:

(A) New budget authority, $7,000,000,000.

(B) Outlays, $6,000,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $317,623,000.

(10) Education, Training, Employment, and Social Services (500);

Fiscal year 1989:

(A) New budget authority, $38,100,000,000.

(B) Outlays, $33,600,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $10,000,000,000.

Fiscal year 1990:

(A) New budget authority, $38,000,000,000.

(B) Outlays, $34,500,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $10,000,000,000.

Fiscal year 1991:

(A) New budget authority, $38,000,000,000.

(B) Outlays, $35,500,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $10,000,000,000.

(11) Health (550):

Fiscal year 1989:

(A) New budget authority, $50,000,000,000.

(B) Outlays, $47,200,000,000.

(C) New direct loan obligations, $957,000.

(D) New primary loan guarantee commitments, $380,000,000.

Fiscal year 1990:

(A) New budget authority, $54,000,000,000.

(B) Outlays, $52,000,000,000.

(C) New direct loan obligations, $957,000.

(D) New primary loan guarantee commitments, $380,000,000.

Fiscal year 1991:

(A) New budget authority, $60,000,000,000.

(B) Outlays, $7,000,000,000.

(C) New direct loan obligations, $957,000.

(D) New primary loan guarantee commitments, $395,000,000.

(12) Medicare (570):

Fiscal year 1989:

(A) New budget authority, $104,000,000,000.

(B) Outlays, $85,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $113,000,000,000.

(B) Outlays, $96,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $123,000,000,000.

(B) Outlays, $108,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1989:

(A) New budget authority, $174,000,000,000.

(B) Outlays, $137,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $179,000,000,000.

(B) Outlays, $143,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $215,000,000,000.

(B) Outlays, $151,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1989:

(A) New budget authority, $280,000,000,000.

(B) Outlays, $226,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $309,000,000,000.

(B) Outlays, $235,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $339,000,000,000.

(B) Outlays, $252,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1989:

(A) New budget authority, $29,000,000,000.

(B) Outlays, $28,600,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $20,000,000,000.

Fiscal year 1990:

(A) New budget authority, $29,000,000,000.

(B) Outlays, $28,600,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $26,000,000,000.

Fiscal year 1991:

(A) New budget authority, $30,000,000,000.

(B) Outlays, $29,000,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $29,000,000,000.

(16) Administration of Justice (750):

Fiscal year 1989:

(A) New budget authority, $8,500,000,000.

(B) Outlays, $8,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $8,500,000,000.

(B) Outlays, $8,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $8,500,000,000.

(B) Outlays, $8,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1989:

(A) New budget authority, $9,500,000,000.

(B) Outlays, $9,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:
(A) New budget authority, $9,500,000,000.
(B) Outlays, $9,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:
(A) New budget authority, $9,500,000,000.
(B) Outlays, $9,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1989:
(A) New budget authority, $164,300,000,000.
(B) Outlays, $164,300,000,000.
(C) New direct loan obligations, $0.
(D) New Primary loan guarantee commitments, $0.

Fiscal year 1990:
(A) New budget authority, $180,000,000,000.
(B) Outlays, $180,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:
(A) New budget authority, $190,000,000,000.
(B) Outlays, $190,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(19) Undistributed Offsetting Receipts (950):

Fiscal year 1989:
(A) New budget authority, $41,500,000,000.
(B) Outlays, $41,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:
(A) New budget authority, $39,100,000,000.
(B) Outlays, $39,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:
(A) New budget authority, $41,000,000,000.
(B) Outlays, $41,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

The CHAIRMAN pro tempore (Mr. MURTHA). Under the rule, the gentleman from Illinois [Mr. PORTER] will be recognized for 15 minutes, and a Member opposed, the gentleman from Texas [Mr. FROST], will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Minnesota [Mr. FRENZEL], a member of the Deficit Reduction Committee.

Mr. FRENZEL. Mr. Chairman, the budget put together by the distinguished gentleman from Illinois [Mr. PORTER] and myself is not meant to denigrate the work that the Budget Committee has done. Both of us believe that the procedures in the Budget Committee in which there was good bipartisan effort represented excellent process, and served as good practice for the future. We certainly don't want to discourage bipartisanship.

The reason the Budget Committee's budget is inadequate is because its product was based on an inadequate summit agreement. You will recall that was the agreement where the President and the Congress told each other they were going to save $75 billion in deficits. What is actually going to happen is that there will be an increased deficit this year, and perhaps next year as well.

Unfortunately, that bad product was worsened when the OMB budget assumptions were applied to it. OMB took very optimistic budget assumptions well beyond the blue chip economists and applied them to a base line that was far too high to begin with. That, of course, produced its budget which increases spending and surely will not reduce the deficit in the long haul.

The committee budget that is pending before the House now is only going to compound our miseries and make it more difficult for us to deal with the budget problems of the future. That future will arrive too soon, and we will then have to make some honest reductions.

Now, the Porter-Frenzel budget, the so-called base line budget, was calculated to relieve some of the deficit problems. We looked at the rosy assumptions of OMB and we said, "This is no way for honest people to budget."

We believe Congress really has to use relatively conservative budget assumptions. So we chose the CBO assumptions. That, of course, made it more difficult for us because we had to cut more severely to reach the Gramm-Rudman-Hollings target. We did so by means of a hard freeze.

Our budget contemplates demographic growth, but it freezes everything that is freezable, including entitlements. There are no COLA's under our budget.

Now, our budget then can be described in three phrases. It uses conservative assumptions; it freezes expenditures where they can be frozen; and it contains no new taxes.

Only through a budget like ours do we believe that Congress can totally set aside the specter of sequester under Gramm-Rudman. In August when the OMB is obliged to take its snapshot, if it applies honest assumptions, under the budget that is pending before you from the committee, there is no doubt in my mind that a sequester will be needed to match the real numbers required under Gramm-Rudman.

Our budget is tough medicine to take. Nobody likes to deny a COLA, but our budget freezes everybody the same. It freezes national defense. It freezes Social Security annuitants. It freezes welfare. It freezes road building. Nobody is cut. Everybody is involved to the same degree of sacrifice.

We believe that this kind of a tough budget is the only way the House can tackle the deficit realistically and we earnestly solicit your support.

Mr. FROST. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, the key word brought to mind on the subject of our Federal budget is priorities. In a country as vast, populous, and diverse as ours, the demands for Federal funds sometimes seem never-ending. Moreover, the preponderance of those requests are well-founded. It is for this reason that the budget resolution which we are considering today is such a momentous achievement. With all the competing concerns that are so well grounded, we have reached a bipartisan, acceptable agreement on which are the top priorities for the present time. This ultimate priority is the restabilization of our national economic health.

During the 1980's, our Government has been on an unbridled, runaway spending spree. To great dismay, the emphasis of this profligacy has been toward programs which provide little if any net benefit to the vast majority of Americans; the top of this list has been the expenditures for defense. While a strong national defense is certainly in everyone's interests, a net 40-percent increase since 1980 does not speak well when juxtaposed with the serious net decreases in social, educational, and health-related programs which are the soundest investments in our Nation's future. This state of affairs exigently screams for remedial attention.

It is in this context that today's budget resolution can be viewed as such a success. In order to reverse a trend, the first step had to be taken. This first step has been to freeze the catastrophic spending trend dead in its tracks. Last year's budget summit took direct action toward this goal. It is with a sense of triumph that we observe our bipartisan recognition of the need to halt the mortgaging of the United States. The ground is now paved for redirecting our country toward investment in tomorrow.

Some of the provisions of today's resolution indicate that rectification has begun. The resolution calls for substantial increases in Federal housing programs, educational programs, and certain health benefits, including AIDS research. This surely reflects a revitalized consciousness toward Federal responsibility in these areas. I look forward to our continued progress toward these vital goals.

Again, Mr. Chairman, I wish to commend the Budget Committee and all of us involved in the budgetary process for directly and convincingly addressing our common priorities.

Mr. FROST. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Chairman, I rise in support of the bipartisan committee budget resolution and rejection of the Porter-Frenzel amendment.

More than anything else, I want to commend all parties—the President, the majority, the minority—for working together.

The budget summit represented a major crossroads for fiscal policy. It involves a genuine compromise. It involves a 2-year budget plan—hopefully a precedent for the future.

The committee resolution builds on the budget summit. I urge all Members to support it.

It preserves programs to promote community development. UDAG's and CDBG's are continued. Education receives an 8-percent increase over 1988. There is a strong commitment to helping the homeless and fighting AIDS. Defense receives funding consistent with the budget summit agreement.

Mr. Chairman, we are sending a strong, clear, and powerful message to the drug lords. Democrats, Republicans, Congress, the President, liberals, conservatives, and the American people are united in the war against drugs. We are finally fighting back.

We are accepting all of the President's proposed increases. Beyond this, we include $225 million for State and local law enforcement.

From treatment to interdiction, from education to prosecution, we stand together in our commitment to expand this battle.

In the long run, we need to reexamine the budget process. We need stronger action to get the deficit down. We need to reject continuing resolutions as a vehicle to make spending decisions. And, we need to re-order our spending priorities.

Mr. Chairman, the committee resolution is far from perfect. But it is fair, it is balanced, it is reasonable, and it demonstrates that Democrats and Republicans can work together in the national interest.

Mr. PORTER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, if one were to describe the history of the budgets during this decade before Congress, it would be difficult to do it with a straight face. There is not anyone in this Chamber who can stand up truthfully and say this body has tried to control spending, has tried to reduce the deficit, has done the job that they should.

The reality is that we have had phony estimates. The reality is we have not followed the budgets when we have adopted them, and the reality is that we have tried to hoodwink the American people into thinking that we care about controlling the deficits and spending.

This budget is more of the same. This is another game in fantasy land, but it is not an honest attempt to deal with the budget problem.

What is wrong with it? The assumptions are unrealistic. It does nothing to face up to the major problems that we face in terms of runaway spending.

The Porter-Frenzel budget does nothing more than say, "Look, we are at least not going to increase spending for one year." It uses realistic assumptions and it goes one year without increasing spending. That is it. It makes real progress in bringing the deficit into line and it gives flexibility to adjust spending from low priorities to high priority areas.

The real question Members need to ask themselves when they vote on this amendment is do they want to do something about the deficits or not? If they want to ignore the problem, if they want to pretend things are going to get better when they are not, then by all means vote no; but if you do care about bringing the deficits into line, if you want to do something, then vote yes.

We have voted 46 times so far in this Congress to waive the Budget Act. It is no secret. The fact is that when we adopt a budget, we ignore it. This is an opportunity to adopt a budget that is real, workable and functioning.

The bottom line is whether or not you want to make progress or not. You can go along the same old way or you can strike out in a new direction. You can cast your vote to bring things into line to help the working men and women of this country.

The real question is whether or not you want to play "let's pretend" for another year. If you do, vote no. If you want to face up to the problems, if you want to help the working men and woman, if you want to get our economy back on strong footing, then vote aye for an honest budget, a budget that will work and the enforceable to help bring the type of true prosperity that all working Americans want.

Mr. FROST. Mr. Chairman, I yield 3 minutes to the gentleman for Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I rise in opposition to the Porter-Frenzel substitute.

There are many areas of cuts in this substitute which are going to dramatically impact life across the United States, and particularly in my home State of Illinois. Let me point out a few of them.

The net result of the Porter-Frenzel substitute would be to cut transportation programs $1.6 billion. This would require cuts in funding provided for the Coast Guard of $350 million, for the Federal Aviation Administration of $500 million and Federal assistance to mass transit in urban areas across the United States, including Chicago.

I think most of us are acutely aware of the fact that the Coast Guard function has been in the headlines over the last several weeks. I we are to have an honest and sincere effort to interdict drug shipments into the United States and also to make certain we have safety on the navigable waters in this country, we have to have a Coast Guard adequately funded.

In the area of the Federal Aviation Administration, I had a hearing with the Subcommittee on Transportation at O'Hare last Friday. We had testimony from the National Transportation Safety Board that the present air traffic control system at the Nation's busiest airport in inadequate, that more air traffic controllers are needed. The President has acknowledged this. The President has included funds for more controllers in his budget and yet this substitute would cut money from the FAA at a time when we know that we need more safety in the skies around our major airports.

Let me add, too, that the cuts that are being made in programs relative to health and education in this substitute are devastating. At the present time the Head Start Program is a proven success. We know that if we could take young kids from disadvantaged families and bring them into an early childhood training program, we could literally turn their lives around. Today's Head Start Program serves one out of every six eligible poor kids in America, one out of six. The net result of the Porter-Frenzel substitute would be to cut the increases which we have in our budget resolution for this important program.

I might also add that when you look at areas of science, space, and technology, that we have put major investments in America's future in our budget resolution, investments that would be cut away by the Porter-Frenzel substitute. I will tell you this, I cannot support it. I might add, I do not come to this with clean hands, my State is one of the finalists in the super collider competition. We believe that there are funds in the budget resolution to start this important project for tomorrow's basic scientific research advancement. The Porter-Frenzel substitute would eliminate that.

Now, I would say in closing that I commend to my colleagues the budget resolution offered by the committee. It is a bipartisan effort. It meets the summit agreement, in fact exceeds it by cutting the deficit an additional $2 billion.

□ 1530

This substitute goes entirely too far and forces choices on us which I think America is unprepared to accept.

Mr. PORTER. Mr. Chairman, may I inquire how much time we have remaining?

The CHAIRMAN pro tempore (Mr. KANJORSKI). The gentleman from Illinois [Mr. PORTER] has 8 minutes remaining and the gentleman from Texas [Mr. FROST] has 10 minutes remaining.

Mr. PORTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I was in this well earlier today telling my colleagues that for the first time since I was a freshman I am going to support the Committee on the Budget in its resolution. That is because it met the standards proposed in the summit agreement.

Mr. Chairman, I do have to tell my colleagues, the gentleman from Illinois [Mr. PORTER] and the gentleman from Minnesota [Mr. FRENZEL] that I admire them. I think what they have produced is a work product which is realistic. Let us remember that instead of taking the Congressional Budget Office's numbers and accepting the Office of Management and Budget's numbers on economic assumptions, $25 billion was saved. On the technical assumptions, $11 billion saved.

Clearly, Mr. Chairman, when we are talking about what we need to do, if we assume we will not raise any taxes, we have to produce a budget that looks an awful lot like the proposal of the gentleman from Illinois [Mr. PORTER] and the gentleman from Minnesota [Mr. FRENZEL] and what they have produced. It is a stern budget but do not forget the growth factor in it is people oriented. It is a demographically driven growth factor. If my colleagues believe we have to stop raising taxes, 46 cents out of every dollar comes from payments to individuals, 30 cents out of every Federal dollar goes for defense. We cannot close the gap on the deficit without looking at those two programs.

The Porter-Frenzel substitute is a realistic budget. We may not like it, but it is realistic.

Mr. PORTER. Mr. Chairman, I wonder if the gentleman from Texas [Mr. FROST], who does not apparently have any other speakers, might yield to us some of his time?

Mr. FROST. Mr. Chairman, we will yield 5 additional minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I thank the gentleman from Texas very much for doing that.

Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Chairman, I thank my colleague, the gentleman from Illinois [Mr. PORTER] for yielding me this time, and I stand certainly in support of the Porter-Frenzel budget freeze.

Mr. Chairman, a couple of months ago I had the privilege of testifying before our Committee on the Judiciary in support of a balanced budget amendment. During that time my seat mate at the table to testify was the former chairman of the Federal Reserve Board, Paul Volcker. I thought he made a statement before the committee that was a most interesting statement and probably one of the most factual statements as relates to the politics of the U.S. House of Representatives and our ability to budget or not to budget.

He said to the chairman of the Committee on the Judiciary,

> "Mr. Chairman, the Congress of the United States has lost its political will to be fiscally responsible, and, therefore, a superfix is needed to reinstate that political will."

Mr. Chairman, by "super-fix" the former Chairman of the Federal Reserve Board was referring to a line-item veto. What he was also saying was that it is now time for this Congress to stand more firmly than it ever has on the growth of deficits because we have now got to finance so much of our deficit abroad in foreign markets that if inflation ever starts again in this country, the Chairman of the Federal Reserve Board has no options. He has to raise interest to get the yield off the Federal paper so that we can continue to finance the spiral of Federal spending.

Mr. Chairman, the Porter-Frenzel budget freeze is a step in the direction that we must go, not only to say to the American economy but to the world economy at large that we are going to start being responsible, we are on an understandable and determined course of deficit reduction, and that the American public has said that they are willing to share equally and alike in the reductions of growth that would occur in this proposal.

Mr. PORTER. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman, I had requested of the Committee on Rules an opportunity to have a freeze bill very similar to the Porter-Frenzel bill that is before us. I am pleased to be here and support their freeze. I think that as long as we are willing to continue to add spending to this fire that is consuming our capital, consuming our opportunities, we are going to have difficulties in this country. I could not agree more with the gentleman from Idaho [Mr. CRAIG] who just spoke. I think as we look at the figures of where we are now, the fact that if we took the numbers of the Congressional Budget Office, we would have under a freeze resolution a $156 billion deficit in 1989, $112 billion in 1990, and $61 billion in 1991, those are clearly the best we get with figures from the Congressional Budget Office.

With numbers from the Office of Management and Budget, according to the figures they gave me, we would have $120 billion in 1989, $63.8 billion in 1990, and $10.8 billion in 1991.

Granted that the outyears are hard to predict, the very fact that the curve is headed in the right direction is a much better situation. As long as we are comparing what the Committee on the Budget has done, sure we did it in a bipartisan manner, but did we cut spending? No.

Did we do anything that would be more than a wink and mirrors in the long term? No.

We have added fuel to the fire. We are going to continue to consume the capital which built this country in an effort to try and give money to areas of the economy that are not necessarily going to produce results over the long run.

I want to try and help people as much as anybody else, but I think the best way we can help them is to try to get the Government off their back. What we continue to do is tax away dollars, put them into programs which are not productive and take money away from working Americans and give it to those who are down and out and not able to help themselves under the premise that the best way we can help them is with the Government dollars.

The fact is if we could get those dollars invested in private enterprise, we would be able to produce jobs as some indications have been that we have able to produce jobs over the last few years in comparison to some of the societies in Europe that have not been able to.

I would like to make one more parenthetical note about my unhappiness with the Office of Management and Budget.

Mr. Chairman, I was after OMB through the director and some of his associates for literally weeks to get some numbers from them. Yesterday, after I got tough with them in the morning, we got some number on the outyears and we got them about 6 o'clock last night. I think that is an outrage that OMB put us off because they were so interested in the so-called summit agreement.

I am unhappy with that.

Mr. Chairman, the Congressional Budget Office did come through with the numbers so we could tell where we were going to be with this kind of a freeze. This is clearly the easiest political solution. Nobody's program gets cut, nobody's program gets increased except for demographics which I think we all agree to, but we are not putting more money into programs that could wait, that we could prioritize.

When we were working in the subgroups in the Committee on the Budget, we tried to work with no new programs in the subgroup that I was in. Some of the other programs were given new money. I think we would have been far better off if we could freeze all these programs and start over again and wait until we get the budget balanced, which I think we are going to have to have the balanced budget amendment to the Constitution to do that in order to be in a position where we could change priorities after we have the budget balanced.

When I came here we had a budget of $660 billion. We are looking at numbers in the $1 trillion, $100 billion range, and it is just an outrage to the taxpayer.

I urge a vote for this amendment and against the committee bill.

Mr. FROST. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman. I rise to oppose the alternative resolution offered by Mr. Porter and Mr. Frenzel.

In the first place, this substitute does not comply with the bipartisan summit agreement between Congress and the administration.

In addition, there are several major program differences between this alternative and the committee recommendation:

First, the savings in the budget function for Social Security in this alternative result from a proposal to eliminate all COLA's. In other words to freeze Social Security.

In defense, the substitute would violate the summit agreement by setting outlays at $287 billion, a cut of $7 billion below the agreement and the committee recommendation. Achieving a reduction of that magnitude in 1 year would require major reductions in manpower and readiness programs.

In the administration of justice function, the substitute is $400 million in outlays below a 1989 program freeze. This would mean that none of the committee's increases for antidrug abuse and other law enforcement programs would be provided for.

In transportation, the substitute is $950 million in budget authority and $1.55 billion in outlays below the committee recommendation. Under this plan, we would not be able to increase the number of air traffic controllers and airplane inspectors or continue the modernization of the air traffic control system. Nor would it allow the increase of $90 million needed for the Coast Guard to continue its mandated drug interdiction efforts.

Mr. Chairman, under this budget proposal there would be cuts in the AIDS budget, cuts that are 40 percent below the President's figures and $500 million below the committee budget.

Mr. Chairman, Mr. Porter and Mr. Frenzel deserve credit for their efforts to meet the same challenges faced by the Budget Committee, but I believe the committee recommendation takes a more realistic approach to our current situation. Therefore, I urge the defeat of the Porter-Frenzel substitute.

Mr. PORTER. Mr. Chairman, I yield myself the 5 minutes remaining of my time.

Mr. Chairman, I want to start by thanking my colleagues the gentleman from Minnesota [Mr. Frenzel], the gentleman from Colorado [Mr. Brown], the gentleman from Oregon [Mr. Denny Smith], the gentleman from California [Mr. Thomas], and the gentleman from Idaho [Mr. Craig], all of whom have shown great leadership in the fight to reduce the budget deficit.

My colleagues might think that this is our first attempt to address the budget this way. This is actually our fourth freeze budget that we have offered beginning back in 1985 for the fiscal year 1986. Had we adopted each of these freeze budgets, we would not have a deficit problem today.

This is the first time, however, that the Committee on Rules has made our budget in order. We thank them for that.

The gentleman from Minnesota [Mr. Frenzel] is a member of the Deficit Reduction Commission. I think this budget is a portent of what is likely to come out of that Commission next year and what we will be voting on at that time because I think everyone realizes that there is no way to bring down our budget deficit without addressing entitlements, without coming to grips with spending across the board in every function of government. Congress has used phony numbers and we do again this year; accounting gimmicks and we do again this year. It has not addressed entitlements and we do not again this year. We have added revenues, as we do again this year. We have used rosy economic predictions that nobody believes will actually come about and we do again this year. What has been the result of all that effort by the Committee on the Budget? Little progress on the deficit.

What was supposed to be $144 billion of deficit this fiscal year is already projected to be $170 billion, and if we follow the Committee on the Budget's recommendation, it will be the same or more next year as well. No, Members of Congress, it is time for honesty, it is time for courage, it is time to look away from the fear of special interests. It is time to stop protecting our own spending priorities and look to our first priority which has to be the protection of our economy from these huge budget deficits that we have laid upon it for years and years. We have to stop having a willingness to promote the fiction out there across America that we can have low taxes and all the Government services we want because the fact of the matter is that we are passing along those huge deficits to generations to come. They will be paying them throughout their working lifetime and the bill is already off the graph in the hundreds of thousands of dollars for the average American.

This budget we propose has no cuts but it has no increases either. It is fair. It is fair to everyone. It is politically feasible. If we ask the AARP for example, if they are willing to hold the line on spending for the things that they care about as long as everybody else in this country does, the answer is "Yes." The answer is "yes" because they realize how dangerous it is to all of us to continue along this line.

□ 1545

What does the budget do? It uses CBO on projections, conservative projections. Discretionary functions are frozen at the CBO fiscal year 1988 level.

Entitlements are allowed to expand to provide for new entrants into the programs, but COLA's are frozen. There are no new revenues. And no specific savings proposals are made in discretionary funds, because that is left to the appropriations process.

The gentleman from Illinois who was talking about this program and that program that would not survive is wrong, because he does not understand that the freeze we are proposing is by function. Adjustments for high-priority matters can be made within that function. The freeze is on outlays where real deficit reduction occurs. This is honest, Mr. Chairman.

Mr. Chairman, it uses conservative economic projections, and if adopted, it would prevent what is going to happen, and everybody here knows it is going to happen right after the election, not before the election, but right after the election. If we adopt the budget offered by our Budget Committee, there will be a sequester that will make tremendous cuts in just those programs that are subject to it, allowing the other ones to go on and grow, and the cuts in discretionary spending will be really, really painful, and they will fall on transportation and education and veterans and other programs that everyone thinks are important.

The cuts, if they have to be cuts, ought to be spread across all the accounts. Every American ought to participate in them. This is not just a fight for some of us. This is endorsed by the National Taxpayers Union as being one fair to the American taxpayer.

I urge the Members to support my amendment in the nature of a substitute.

The CHAIRMAN pro tempore (Mr. Murtha). The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. Porter].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 64, noes 354, not voting 14, as follows:

[Roll No. 43]

AYES—64

Archer
AuCoin
Badham
Baker
Bartlett
Bates
Brown (CO)
Buechner
Burton
Chandler
Combest
Craig
Crane
Dannemeyer
Daub
DeLay
Dickinson
Dreier
Edwards (OK)
Fawell
Frenzel
Gekas
Gunderson
Hall (TX)
Hansen
Hefley
Holloway
Hunter
Inhofe
Ireland
Latta
Leath (TX)
Lewis (FL)
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Marlenee
McCandless
McMillan (NC)
Michel
Moorhead
Nielson
Packard
Petri
Porter
Roberts
Schaefer
Schneider
Schulze
Sensenbrenner
Shumway
Smith (TX)
Smith, Denny (OR)
Stangeland
Stenholm
Stump
Sweeney
Tauke
Taylor
Thomas (CA)
Whittaker
Wylie
Young (AK)

NOES—354

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
Ballenger
Barnard
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Luken, Thomas
Mack
MacKay
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schuette
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Yates
Yatron
Young (FL)

NOT VOTING—14

Bentley
Biaggi
Boulter
Cheney
de la Garza
Dymally
Gephardt
Gray (IL)
Kemp
Lewis (CA)
Lightfoot
Madigan
Price (IL)
Waxman

□ 1606

Messrs. DUNCAN, PASHAYAN, and FISH changed their votes from "aye" to "no."

Mr. SCHAEFER changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. AuCOIN. Mr. Speaker, on rollcall 43, on the Porter-Frenzel substitute to the House budget resolution I voted "aye" in error.

Mr. Speaker, I meant to vote "nay."

Mr. Speaker, I ask unanimous consent that my statement be entered into the permanent RECORD immediately following the vote.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Oregon?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. PENNY: Strike all after the resolving clause and insert in lieu thereof the following:

That the budget for fiscal year 1989 is established, and the appropriate budgetary levels for fiscal years 1990 and 1991 are hereby set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $968,350,000,000.
Fiscal year 1990: $1,049,300,000,000.
Fiscal year 1991: $1,129,800,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $1,218,748,000,000.
Fiscal year 1990: $1,298,900,000,000.
Fiscal year 1991: $1,369,873,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $1,093,075,000,000.
Fiscal year 1990: $1,151,300,000,000.
Fiscal year 1991: $1,207,723,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $128,365,000,000.
Fiscal year 1990: $102,000,000,000.
Fiscal year 1991: $77,923,000,000.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $709,350,000,000.
Fiscal year 1990: $766,300,000,000.
Fiscal year 1991: $822,800,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1989: $3,700,000,000.
Fiscal year 1990: $6,100,000,000.
Fiscal year 1991: $6,600,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1989: $63,400,000,000.
Fiscal year 1990: $68,150,000,000.
Fiscal year 1991: $73,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $952,950,000,000.
Fiscal year 1990: $998,024,000,000.
Fiscal year 1991: $1,041,310,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $871,884,000,000.

Fiscal year 1990: $907,724,000,000.

Fiscal year 1991: $948,560,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $162,534,000,000.

Fiscal year 1990: $141,424,000,000.

Fiscal year 1991: $125,760,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1989: $2,823,400,000,000.

Fiscal year 1990: $3,062,900,000,000.

Fiscal year 1991: $3,287,500,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990, are as follows:

Fiscal year 1989:

(A) New direct loan obligations, $28,000,000,000.

(B) New primary loan guarantee commitments, $111,300,000,000.

Fiscal year 1990:

(A) New direct loan obligations, $26,850,000,000.

(B) New primary loan guarantee commitments, $122,950,000,000.

Fiscal year 1991:

(A) New direct loan obligations, $26,650,000,000.

(B) New primary loan guarantee commitments, $131,500,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1989 through 1991 for each major functional category are:

(1) National Defense (050):

Fiscal year 1989:

(A) New budget authority, $299,496,000,000.

(B) Outlays, $291,429,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $313,100,000,000.

(B) Outlays, $302,750,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $325,800,000,000.

(B) Outlays, $314,650,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1989:

(A) New budget authority, $16,658,000,000.

(B) Outlays, $14,263,000,000.

(C) New direct loan obligations, $5,550,000,000.

(D) New primary loan guarantee commitments, $9,500,000,000.

Fiscal year 1990:

(A) New budget authority, $17,500,000,000.

(B) Outlays, $16,100,000,000.

(C) New direct loan obligations, $5,550,000,000.

(D) New primary loan guarantee commitments, $9,850,000,000.

Fiscal year 1991:

(A) New budget authority, $17,800,000,000.

(B) Outlays, $16,050,000,000.

(C) New direct loan obligations, $5,550,000,000.

(D) New primary loan guarantee commitments, $10,300,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1989:

(A) New budget authority, $10,984,000,000.

(B) Outlays, $11,211,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $11,250,000,000.

(B) Outlays, $11,450,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $11,700,000,000.

(B) Outlays, $11,650,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1989:

(A) New budget authority, $5,241,000,000.

(B) Outlays, $4,625,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $50,000,000.

Fiscal year 1990:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $4,600,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $50,000,000.

Fiscal year 1991:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $4,150,000,000.

(C) New direct loan obligations, $2,150,000,000.

(D) New primary loan guarantee commitments, $50,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1989:

(A) New budget authority, $15,774,000,000.

(B) Outlays, $15,640,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $16,500,000,000.

(B) Outlays, $16,750,000,000.

(C) New direct loan obligations, $50,00,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $17,150,000,000.

(B) Outlays, $17,100,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1989:

(A) New budget authority, $26,494,000,000.

(B) Outlays, $22,494,000,000.

(C) New direct loan obligations, $15,550,000,000.

(D) New primary loan guarantee commitments, $7,100,000,000.

Fiscal year 1990:

(A) New budget authority, $25,300,000,000.

(B) Outlays, $21,950,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $22,400,000,000.

(B) Outlays, $20,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(7) Commerce and Housing Credit (370):

Fiscal year 1989:

(A) New budget authority, $13,312,000,000.

(B) Outlays, $9,297,000,000.

(C) New direct loan obligations, $2,750,000,000.

(D) New primary loan guarantee commitments, $64,100,000,000.

Fiscal year 1990:

(A) New budget authority, $14,650,000,000.

(B) Outlays, $7,550,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $9,700,000,000.

(B) Outlays, $4,150,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(8) Transportation (400):

Fiscal year 1989:

(A) New budget authority, $28,467,000,000.

(B) Outlays, $27,721,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $28,800,000,000.

(B) Outlays, $28,200,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $29,500,000,000.

(B) Outlays, $29,100,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1989:

(A) New budget authority, $7,294,000,000.

(B) Outlays, $6,604,000,000.

(C) New direct loan obligations, $1,050,000,000.

(D) New primary loan guarantee commitments, $30,000,000.

Fiscal year 1990:

(A) New budget authority, $7,350,000,000.

(B) Outlays, $7,050,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $7,550,000,000.

(B) Outlays, $6,750,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1989:

(A) New budget authority, $35,671,000,000.

(B) Outlays, $34,487,000.

(C) New direct loan obligations, $50,000,000,000.

(D) New primary loan guarantee commitments, $10,400,000.

Fiscal year 1990:

(A) New budget authority, $36,350,000,000.

(B) Outlays, $35,650,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $10,800,000.

Fiscal year 1991:

(A) New budget authority, $37,200,000,000.

(B) Outlays, $36,350,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $10,800,000.

(11) Health (550):

Fiscal year 1989:

(A) New budget authority, $49,572,000,000.

(B) Outlays, $48,277,000,000.

(C) New direct loan obligations, $25,000,000.

(D) New primary loan guarantee commitments, $350,000,000.

Fiscal year 1990:

(A) New budget authority, $53,850,000,000.

(B) Outlays, $53,800,000,000.

(C) New direct loan obligations, $25,000,000.

(D) New primary loan guarantee commitments, $350,000,000.

Fiscal year 1991:

(A) New budget authority, $58,900,000,000.

(B) Outlays, $58,150,000,000.

(C) New direct loan obligations, $25,000,000.

(D) New primary loan guarantee commitments, $350,000,000.

(12) Medicare (570):

Fiscal year 1989:

(A) New budget authority, $103,727,000,000.

(B) Outlays, $86,624,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $113,200,000,000.

(B) Outlays, $97,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $124,150,000,000.

(B) Outlays, $108,150,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1989:

(A) New budget authority, $174,580,000,000.

(B) Outlays, $135,349,000,000.

(C) New direct loan obligations, $250,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $180,350,000,000.

(B) Outlays, $144,150,000,000.

(C) New direct loan obligations, $25,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $212,300,000,000.

(B) Outlays, $151,250,000,000.

(C) New direct loan obligations, $25,000,000.

(D) New primary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1989:

(A) New budget authority, $271,114,000,000.

(B) Outlays, $226,507,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $306,250,000,000.

(B) Outlays, $248,950,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $332,850,000,000.

(B) Outlays, $263,450,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1989:

(A) New budget authority, $28,775,000,000.

(B) Outlays, $28,228,000,000.

(C) New direct loan obligations, $950,000,000.

(D) New primary loan guarantee commitments, $19,600,000,000.

Fiscal year 1990:

(A) New budget authority, $31,050,000,000.

(B) Outlays, $29,950,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New primary loan guarantee commitments, $27,500,000.

Fiscal year 1991:

(A) New budget authority, $31,500,000,000.

(B) Outlays, $30,600,000,000.

(C) New direct loan obligations, $650,000,000.

(D) New primary loan guarantee commitments, $29,700,000,000.

(16) Administration of Justice (750):

Fiscal year 1989:

(A) New budget authority, $8,440,000,000.

(B) Outlays, $8,412,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $8,800,000,000.

(B) Outlays, $8,750,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $9,900,000,000.

(B) Outlays, $9,850,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1989:

(A) New budget authority, $9,833,000,000.

(B) Outlays, $9,545,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $10,400,000,000.

(B) Outlays, $10,450,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,850,000,000.

(B) Outlays, $10,500,000,000

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1989:

(A) New budget authority, $151,187,000,000.

(B) Outlays, $151,187,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $157,540,000,000.

(B) Outlays, $157,540,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $156,713,000,000.

(B) Outlays, $156,713,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1989:

(A) New budget authority, −$490,000,000.

(B) Outlays, −$490,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, −$490,000,000.

(B) Outlays, −$490,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, −$490,000,000.

(B) Outlays, −$490,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1989:

(A) New budget authority, −$37,750,000,000.

(B) Outlays, −$50,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, −$38,650,000,000.

(B) Outlays, −$51,050,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, −$40,350,000,000.

(B) Outlays, −$40,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

The CHAIRMAN. Under the rule, the gentleman from Minnesota [Mr. PENNY] will be recognized for 15 minutes and a Member opposed thereto will be recognized for 15 minutes.

Is the gentleman from Pennsylvania [Mr. GRAY] opposed to the amendment?

Mr. GRAY of Pennsylvania. I am opposed, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GRAY] will be recognized for 15 minutes.

Mr. PENNY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the budget summit had set the stage for the first bipartisan budget in several years. GEORGE BUSH might say the budget resolution has the "big mo"; but like GEORGE BUSH, this budget resolution is nothing to get excited about.

The budget resolution is a classic example of the adage "More is less."

When compared to the fiscal year 1988 budget, this resolution spends $7 billion more on defense, $9 billion more on domestic programs and $8.5 billion more on entitlement programs.

All that adds up to less deficit reduction. In the final analysis the budget resolution leaves us with a deficit in 1989 barely with the Gramm-Rudman-Hollings target while using optimistic economic assumptions.

An honest assessment discloses a deficit larger in 1989 than in 1988.

So much for the talk about deficit reduction.

So if that is the case, why has this budget garnered so much support? The short and simple answer is this is an election year.

President Reagan and the Democratic and Republicans leaders of Congress have agreed on spending levels that require no fights over budget priorities this year. The President has not called for deeper cuts in domestic programs as he has so often in the past because that would lead to cries for deeper cuts in his military budget.

Likewise, Democrats have accepted a $7 billion increase in Pentagon spending in order to protect higher spending on domestic programs.

Simply put, everybody gets more for their favorite part of the budget.

The summit budget agreement adds up to this: An election year truce. The President will not blow the whistle on us if we do not blow the whistle on him. And the deficit problem is passed along to the next administration and the next Congress.

So if the committee budget is going to pass, why bother offering any alternatives? Because albeit a minority, there are Democrats and Republicans in this Congress who feel that more should be and could be done to reduce the Federal deficit.

Recognizing that the votes are not there to pass our alternative, we obviously do not expect to win. But we are here to make a point. The point is that the deficit does not go away unless you have real reductions in your budget resolution.

A budget resolution that allows for a 2-percent increase in domestic spending, a 2- or 3-percent increase in military spending, a 3-percent increase in civilian and military pay will not cut the deficit.

A budget resolution that does not touch entitlement spending, the biggest single component of the Federal budget, will not cut the deficit.

A budget resolution that avoids any reference to taxes, the needed revenues to cover that extra spending will not cut the deficit.

What our resolution would do, the resolution presented today by Congressman TAUKE of Iowa and myself and others who have worked with us over the past several weeks, would be to cut the defense spending level in this budget resolution by 50 percent, just cut that increase in half. We would cut the domestic spending increase in half.

Then we would do something a bit more controversial: We would touch two of the untouchables. First of all, we recommend a flat rate COLA, $5 per beneficiary instead of an inflation driven cost-of-living adjustment for Social Security recipients and other retirees.

Then we would delay income tax indexing for 1 year.

Add it all up and combine that with 2-percent military and civilian pay raise instead of a 3-percent pay raise and you can save an additional $22 billion off the deficit.

That kind of deficit reduction does not need rosey economic assumptions to hold up under the Gramm-Rudman-Hollings microscope.

We can get off the hook this year by adopting a more far-reaching plan. I know the votes may not be there to move forward with this kind of a plan, but later in this year if we pass this budget resolution we will be faced with a question about what do we do about those Gramm-Rudman-Hollings targets? Will we repeal them? Or will we just go about with a wink and nod and ignore them? But we are going to face that question unless we do more in our budget resolution to hold spending levels down and bring in some needed revenue to reduce this deficit.

This budget resolution gives everybody something to vote against. That is why it is a reelection answer to your prayers.

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If you want to give more to the military because you do not think we have increased that budget enough in the last 7 years, vote against this budget resolution. If you want to give more to domestic programs because you feel they have suffered enough, this would cut the increase in half, so vote against this budget resolution. If you do not think entitlements ought to be part of the mix, that they should share in the sacrifice of reducing this deficit, if you think they ought to be left off the table, then vote against this budget resolution. And if you have taken the no-tax-increase pledge, then for goodness sake, you had better vote against this budget resolution. By doing so, you can be popular, you can say the things folks want to hear and get yourself reelected, but, on the other hand, if you are concerned about next year's deficit being bigger than this year's deficit, you might want to reconsider and vote "yes."

Mr. Chairman, this budget resolution will cut the deficit, it will avoid a Gramm-Rudman-Hollings sequester, and it will put us on the track toward a balanced budget.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I rise in strong opposition to the Penny-Tauke substitute and urge Members to reject it resoundingly and support the committee-reported resolution.

Mr. Chairman, the Penny-Tauke budget proposal is a recipe for budget chaos both in the Congress and in the administration. Members may not like the summit agreement in all its respects. I certainly do not, but it did provide a framework for making decisions to take into account the budget priorities shared on both sides of the aisle.

The Budget Committee provided significant increases in education, transportation, criminal justice, science and space, low-income programs and economic development—all within the budget framework, a framework that the administration is committed to accept even though the President may not like the mix the way we brought it to the floor. But the substitute before us violates the summit agreement, and it would wipe out most, if not all, the initiatives the Budget Committee has restored on a bipartisan basis in the Budget Committee document.

The Tauke-Penny substitute rests on spending assumptions Members will not support, on appropriation bills the President will veto, and will result in a deadlock with another continuing resolution of the kind we tried to avoid by bringing this sensible budget, reflecting a balance of priorities, to the House floor.

No function better illustrates misplaced priorities of the substitute than education. The substitute falls $300 million below the President's request and $1,650 million below the Budget Committee in budget authority. It would not provide full inflation adjustments for education programs or increases above inflation for programs such as compensatory education, Pell grants, handicapped education, job training for dislocated workers. It just falls short all across the line in education.

And in transportation the Penny-Tauke substitute would not allow for initiatives the country needs to improve air traffic control, airline safety, Coast Guard drug interdiction or the urban and rural transit programs. It falls $500 million below the Budget Committee resolution in the transportation function.

The Penny-Tauke substitute deserves to be rejected. I hope it will be resoundingly defeated.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Chairman, I thank the gentleman from Minnesota for yielding this time to me.

Basically this is a renewal of the question that this same bipartisan group was asking this House last year during the appropriation process when we attempted on each appropriation bill simply to cut the increases proposed on each of those bills in half. That question is: When will the Congress, when will the House of Representatives, begin the process that we all know we are going to have to face, which is to reduce the levels of spending in order to reduce the deficit and bring the budget into balance? It is clear that the answer is the same as it was last year, which is not yet, but we are here to make the point that this budget presented to us by the Budget Committee is not going to reduce the deficit in a meaningful and serious way.

We need to begin to address these issues if this budget is ever going to be balanced, and the gentleman from Minnesota is exactly right. If we pass the Budget Committee resolution here today, in August we will be facing Gramm-Rudman sequestration.

Mr. PENNY. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. Chandler].

Mr. CHANDLER. Mr. Chairman, if ignorance is bliss, then I guess we're all pretty happy today. I wish that I could rise to endorse this budget resolution. I wish that I could honestly say that the summit agreement reached between the President and the leadership of Congress last year gave a realistic view of the deficit. I am sorry to conclude that it does not.

I believe that the Penny-Tauke budget is an honest and sincere effort to begin addressing the real problems with the budget. However, one of my most serious concerns about all the budgets being considered is that they continue the practice of requiring the Social Security trust fund and other trust funds to invest the balance of their accounts in U.S. Treasury notes. On paper, this accounting gimmick will reduce the deficit to the tune of $113 billion in 1989 and $374 billion over the next 3 years. In effect, the American people are being told that the Social Security payroll tax and payments to trust funds they're paying now will be used to pay for Social Security benefits and other vital functions in the next century. In reality, this money is being spent today. When it comes time to pay for these benefits 30 or 40 years from now, the leadership of this country will have to tell the American people: "You won't get your Social Security because we spent that money 40 years ago."

To make matters even worse, I must report that the budget resolution incorporates economic assumptions which are very optimistic; this budget assumes that the gross national product of the United States will grow at a 3.2-percent rate for the next several years. It also assumes that there will be no recession, although we are now in one of the longest recession-free periods of this century. If, however, the gross national product grows only 1 percent less than expected, the deficit would be increased by $7.7 billion in 1989 and by $202.3 billion over the next 5 years. If there were even a small recession, the deficit could be expected to grow by even more.

The budget resolution also assumes that interest rates will drop dramatically: if interest rates were to be only 1 percent higher than the budget predicts, the deficit would increase by $5.2 billion in 1989 and by $67.5 billion over the next 5 years.

Last, I am sorry to report that the budget resolution counts one-time asset sales of $7.5 billion as a reduction in the deficit.

In sum, when we disavow the dishonest accounting gimmick of counting the trust fund balance to reduce the deficit, when we recognize the volatility of economic forecasts, and disregard one-time asset sales, we are confronted with a true budget deficit for 1989 which could be as high as $260 billion. If there were a recession, the deficit could be closer to $300 billion.

That's why I am joining the gentleman from Minnesota [Mr. Penny] and the gentleman from Iowa [Mr. Tauke] in voting for their substitute budget. The Penny-Tauke substitute cuts the deficit by an additional $20 billion by cutting in half the proposed increases requested for the various programs. It also would delay tax indexing for 1 year, replace the cost of living adjustments for non-means-tested entitlements with a $5-per-month increase, and cap the 1989 Federal pay raise at 2 percent.

This budget is not perfect; none of the proposals we are considering are, because they all ignore the issue of using the trust fund balance to reduce the deficit. Still, the Penny-Tauke substitute does face up to the reality of a number of the problems with the budget. I am quite certain that we all favor increased spending for education, AIDS research, space programs, law enforcement, housing, and many other worthy causes. But the fact remains that this Nation is living well beyond its means. We do not move closer to a solution by ignoring the problem. The Penny-Tauke budget is more honest than the budget resolution.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Frost].

Mr. FROST. Mr. Chairman, I rise in support of the House Budget Committee budget resolution.

Mr. Chairman, this is a bipartisan plan which adheres to the budget summit agreement reached last year between Congress and the President. It also meets the deficit target set by Gramm-Rudman for fiscal year 1989.

Although some difficult decisions had to be made in order to achieve the required deficit reduction, we were nevertheless able to protect those programs vital to our Nation's poor and elderly. In the health functions, for example, services such as those provided by community health centers and Indian health facilities are fully protected. Health services which benefit children, such as the maternal and child health block grant, immunizations, family planning, and migrant health, also receive full inflation protection.

During its deliberations on funding for health programs, the committee reviewed the President's Medicaid regulatory initiatives. While accepting one of these proposals, we firmly reject the others due to the adverse impact they would have had on Medicaid beneficiaries. Additionally, the committee recommends the adoption of several Medicaid improvements which will help bring needed medical services to many individuals who are now underserved.

The committee also recognizes the urgent need to continue providing adequate resources for the fight against AIDS. This resolution recommends a funding level of $1.4 billion for fiscal year 1989, an increase of over 50 percent above last year's level.

The resolution further rejects the additional reductions of $1.25 billion in Medicare proposed by the President. In his budget submission, the President indicated that Congress had failed to achieve the Medicare savings agreed to at last year's budget summit. However, the Congressional Budget Office found that we not only met the savings target set by the summit, but we actually exceed the savings requirement. Clearly, any further reductions would be in violation of the budget summit agreement.

The resolution also rejects the President's proposal to require all State and local workers to be covered under Medicare, as well as his recommendation to make permanent the requirement that Medicare premiums must be set to cover 25 percent of program costs in all years after 1989.

Mr. Chairman, this is a fair budget which meets the requirements of the budget summit agreement, which meets the requirements of Gramm-Rudman, and which allows us to maintain our commitment to the less privileged in our society. I urge its adoption by the House today.

Mr. PENNY. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. Tauke].

Mr. TAUKE. Mr. Chairman, it is never pleasant to come to the floor of this House and say to the body that the emperor has no clothes, but that is essentially the way that we face today. Despite the fact that we have had a summit and we have had that summit embraced by leadership on both sides of the aisle and by the President, the fact is that the emperor has no clothes. The summit does not meet the Gramm-Rudman targets.

Mr. Chairman, what the summit does is call for a $74 billion increase in Federal spending in fiscal year 1989 over fiscal year 1988. That $74 billion increase in spending represents a 7-percent increase in Federal Government outlays during this coming fiscal year.

Now this, by Washington standards, is austerity. By Iowa standards it is not austerity. It is profligate spending because that 7-percent increase is going to be built into the budget base for future years, and we just keep piling on and piling on.

We did establish several years ago a procedure to bring down the deficit by meeting Gramm-Rudman targets. We could not meet those targets once, so we changed them. Now it appears that we are going to fudge the figures in order to try to make believe we are meeting the targets, but goodness only knows what will happen come August when it is apparent that we haven't. We should face the realities of life now and offer a budget, submit a budget, vote for a budget that meets the targets.

Our budget does so. It does so by taking the priorities of the summiteers and saying, "Where you gave an increase we will give an increase of half as much so we do not throw out the work of the summit, we attempt to improve on it." It does so by attempting to bring the entitlements within the scope of this budget and say we are going to limit increases in entitlements. It does so by holding down the increases in Federal pay and by delaying tax indexing for 1 year. None of those things are something that we like to do, but each one is important to do if we are to put together a package which holds the increase in spending down to 4.8 percent.

Again, this is not really austerity, but at least a step in the right direction to make sure we meet those deficit-reduction targets. So, if you are convinced that holding down the deficit is the No. 1 economic priority of this Nation and the most important thing that this Congress can do to assure our future prosperity, then please join with me in supporting this budget proposal.

Mr. PENNY. Mr. Chairman, I yield the remaining time to the gentleman from Delaware [Mr. CARPER].

The CHAIRMAN. The gentleman from Delaware [Mr. CARPER] will be recognized for 2 minutes.

Mr. CARPER. Mr. Chairman, I want to commend the Budget Committee under the chairmanship of Mr. GRAY for their work in bringing this budget before us in a timely manner. I certainly want to commend the committee for working together in a bipartisan way. Regrettably what they brought us today is not going to enable us to reach our Gramm-Rudman targets. In fact, the budget summit, as we have heard from other speakers today, is going to be that proposal, that compromise, that enables us to miss the budget deficit target of Gramm-Rudman by something like $40 billion. We are required to have a deficit next year of $135 billion under the compromise last year which really is represented by the resolution before us today. We are $40 billion above that target.

What does Penny-Tauke do? It builds on the budget summit. It restrains growth in descretionary spending, defense discretionary spending and nondefense discretionary spending. It says that entitlements which comprise something like 45 percent of our budget are not to be ignored, that they have to be part of our solution. It says that additional revenues are part of our solution.

Mr. Chairman, the day is coming when the chickens are going to come home to roost. The day is coming when we have in this body and in the Senate and in the White House will have to face the music. The day is coming when we either muster the courage to raise the revenue to pay for these programs or we simply decide to spend a bit less. What I am afraid we are doing is playing an old game I call "Let's Pretend." Let us pretend that revenues are going to be greater than any of us really believe they are going to be. Let us pretend that interest rates are going to be lower than most of us believe they are going to be. Let us pretend that the rate of inflation is going to be lower than most of us think it will be. Finally, let us pretend that there are people out there that will pay the kind of money we want for assets—Amtrak, you name it, whatever we have to sell—and will pay more money for those assets than we know they are likely to pay.

I would like to say that this is the day we are going to come to grips with the real dilemma and the problem, because this is the biggest issue that is before us. My guess is that we probably will not. If not now, when? If not us, then who?

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to applaud my colleagues for their hard work in coming up with this plan, as well as the other alternatives that have been offered here. However, I think that as we look at the two plans, the committee plan has better balance and is a better solution.

All of us are concerned about economic assumptions. However, I remind the Members that last year this chairman criticized OMB for a rosy scenario. We found out 6 months later that they were actually a little pessimistic, that actually things were better than we estimated. We are all taking a guesstimate this year, though we have a big difference. It is called the Gramm-Rudman-Hollings backup, which means that in August there will be a more accurate shot. So I do not think we ought to get hung up on economic assumptions, particularly when Alan Greenspan and other great economists have said to the committee that we do fall within the realm of realism with the assumptions the committee has used.

Mr. Chairman, I would also agree that we need to do more, and this is the second downpayment on a two-step guaranteed deficit-reduction plan.

□ 1640

I want to applaud my colleagues, especially the gentleman from Minnesota [Mr. PENNY] and the gentleman from Iowa [Mr. TAUKE] for their bipartisan effort.

Mr. Chairman, to close debate, I yield 3 minutes to the distinguished chairman of the Ways and Means Committee, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of this budget resolution. I am heartened that this resolution, which was dictated by the economic summit agreement, has bipartisan support. I wish to congratulate Chairman GRAY and the Budget Committee for this important development.

Equally heartening is the fact that this resolution contains no reconciliation instructions to increase revenues or reduce Medicare spending. I was glad to learn that the additional Medicare reductions sought by the Administration were rejected on a bipartisan basis. Congressman GRADISON and others demonstrated real leadership on this issue.

The Committee on Ways and Means has many important bills to pass this Congress—the trade bill, the catastrophic health insurance bill, and the welfare reform bill. I will make every effort to keep these bills in line with this budget resolution and the economic summit agreement.

I hope that the Appropriations Committee will act swiftly to implement their part of the summit agreement. And I hope that their actions receive support from both sides of the aisle, and the White House, so that we can avoid omnibus bills and last minute legislation.

Again, I wish to congratulate the committee and urge your support for this resolution.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY], before turning to our last speaker, who will be the Speaker of the House.

Mr. PENNY. Mr. Chairman, I appreciate the gentleman yielding the time.

Since our other speakers are not here at the moment, I might just use a part of the time to compliment the gentleman from Pennsylvania on his leadership on these budget issues. In the final analysis, I would guess most Members around here are going to support the committee budget. While certain Members feel that more could have been done to cut the deficit, we also understand that this is the first time in several years that we have been able to put together bipartisanship on budgeting. Our only hope is that in future years that bipartisanship will lead to some tougher choices being made and a bigger deficit reduction package being adopted, and I pledge to the chairman, whom I greatly respect, to work with him toward their goal.

Mr. GRAY of Pennsylvania. Mr. Chairman, I yield to the distinguished Speaker of the House, the gentleman from Texas [Mr. Wright] who will close out the debate and use the remaining time on this side.

The CHAIRMAN. The gentleman from Texas [Mr. Wright], the distinguished Speaker of the House, is recognized for 7 minutes.

Mr. WRIGHT. Mr. Chairman, this is a very rare occasion. I think it is worth noting. The chairman of this Budget Committee, the gentleman from Pennsylvania, the ranking majority member, the gentleman from Ohio [Mr. Latta], all the members of the committee on the Republican and Democratic sides have achieved an historic agreement. In the entire history of the House budget process, we never before have been able to achieve a bipartisan compromise to which all Members on both sides of the aisle agreed within the committee. Those who have been able to ameliorate their differences and work together in the broad framework of the goals that we commonly held certainly deserve the thanks and congratulations of the House. For their skill, for their understanding, for their willingness to compromise, for their earnestness in seeking mutual solutions, I commend Chairman Gray. I commend Ranking Minority Member Latta, and I commend every member of the House Budget Committee. Not only have they achieved the results in a bipartisan way and signed a unanimously agreed committee report, they have done it in record time. This is the earliest we have had a House Budget Committee report.

If we pass this budget resolution today, as I expect we shall, and send it to the other body, we will have cleared our decks in a very businesslike way in order that we may keep on a schedule that is truly ambitious, but one which I know Members on both sides of the aisle embrace.

Part of our program this year is to bring appropriation bills earlier than they have ever been brought to the House Chamber. The Appropriations Committee is ready and willing and they assert to me they are able after applying the 302(b) allocations based upon this resolution that we pass today to begin bringing appropriation bills to the House on May 15. Probably the first will be actually scheduled on the floor May 17.

Then it is our expectation, with the help and cooperation of both sides, to pass individual appropriation bills. We would like to pass all of them in the House before the August recess. If that can be done and they go to the other body with an expectation that the other body will cooperate, we can send individual appropriation bills to the White House and not have to rely upon the time honored and dishonored continuing resolution process.

So what we do today begins a process which we earnestly hope will result in our being able to send 13 individual appropriation bills to the White House for the President's signature.

All of this has been made possible by the good work of those on the Budget Committee. For that reason, I wanted to commend them. They have stayed within the limits established in the White House congressional leadership bipartisan agreement. The summit goals are abided by.

In addition to that within that framework they have been able to provide amply for those particular urgencies that each of us recognizes as a priority this year.

There will be more money than last year for drug interdiction, drug education and drug traffic eradication. There will be substantially more money for that.

There will be approximately an 8-percent increase for education. It is my earnest hope that the education conferees from the House and the Senate will find agreement on the educational authorization bill now in conference and permit us to vote on that conference report before the Easter recess. I know that is an ambitious schedule, but I am asking them today, all of them, House and Senate, to make an earnest effort to let us take that giant step next week so that all of us, Democrats and Republicans alike, in the light of our joint commitment to quality education for all America's children may be able to vote on that conference report next week.

We are increasing the amounts of money for such things as research for that terrible disease of AIDS that has been taking such a dreadful toll.

There is more money for the homeless, and so providing more for those things that are really critical in need we also are able to accommodate our schedule for a space station and for technical research of the type that the President requested in his budget message. So it is a monumental effort that you have done here.

The chairman, the gentleman from Pennsylvania [Mr. Gray], the gentleman from Ohio [Mr. Latta] and other members of the committee on both sides, I commend you and I think all the Members salute you for a workmenlike product today.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Minnesota [Mr. Penny].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TAUKE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 27, noes 394, not voting 11, as follows:

[Roll No. 44]

AYES—27

Barnard
Bates
Buechner
Carper
Chandler
Cooper
Grandy
Gunderson
Kolbe
Leath (TX)
Lujan
Lukens, Donald
McCandless
Nielson
Patterson
Penny
Petri
Pickett
Rhodes
Roberts
Sensenbrenner
Smith (IA)
Stangeland
Stenholm
Tauke
Visclosky
Whittaker

NOES—394

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carr
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (PA)
Green
Gregg
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords

Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lungren
Mack
MacKay
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Pelosi
Pepper
Perkins
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—11

Bentley
Biaggi
Boulter
Cheney
Gephardt
Gray (IL)
Kemp
Lightfoot
Madigan
Price (IL)
Shaw

□ 1659

Messrs. SKAGGS, CLEMENT, SMITH of Texas, ROE, and ROTH, changed their votes from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PICKETT. Mr. Speaker, on rollcall No. 44 I was recorded as voting "aye." I had intended to vote "no," to reflect my opposition to the Penny amendment to House Concurrent Resolution 268, the first concurrent resolution on the budget for fiscal year 1989.

I ask unanimous consent to have this personal explanation printed in the permanent Record immediately following the vote on rollcall No. 44.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia.

There was no objection.

□ 1700

Mr. GRAY of Pennsylvania. Mr. Chairman, I move to strike the last word, and I yield to the gentlewoman from Illinois [Mrs. Martin].

Mrs. MARTIN of Illinois. Mr. Chairman, I thank the gentleman for yielding.

We will be moving to final passage in but a very few moments. But I think the House would like to share something in a bipartisan way with a bipartisan budget, and that is the thanks to someone who has growled at us through the past few years, who has taught us through the past few years, who still always remained a friend, who always put principle first, who is a heck of a good companion on a travel trip, with his wife, and one of the best ranking Members of the House.

I have had to keep the gentleman from Ohio, Del Latta, here for the past 4 minutes when he wanted to leave, and it has been very hard, indeed.

We do not perhaps often enough say thanks to people who have served as long and as well as the gentleman from Ohio, Del Latta, and so from the Republican side of the aisle, Mr. Ranking Member, we think you do a heck of a job.

Mr. GRAY of Pennsylvania. Mr. Chairman, reclaiming my time, let me join with the gentlewoman from Illinois, who for several years also served as one of the ranking members of the House Budget Committee, and extend my greatest appreciation to the distinguished gentleman from Ohio [Mr. Latta].

I have had the privilege of serving with Del Latta now for 8 years. He has been a member of the committee ever since its beginning for 14 years. He has been the ranking member for the Republican side, and I want to say to him he has been an outstanding person to work with. Even though we have sometimes had major disagreements, I want it to be known that all of us on the Democratic side, Del, appreciate the leadership that you have given, and we are going to miss you when you leave the House of Representatives, and thank you for this bipartisan effort. It took you 14 years, but we did it.

Mr. LATTA. Mr. Chairman, will the gentleman yield for a half a second?

Mr. GRAY of Pennsylvania. I yield to the distinguished ranking member of the Budget Committee of the House of Representatives, Congressman Del Latta.

Mr. LATTA. Mr. Chairman, I thank the gentleman for yielding, and thank you, Lynn, for keeping me here.

Let me say it has been a real pleasure to work with Bill Gray over these many years and members of the committee. You know, we have had our differences on how to get there, but this time we got there, thanks to the summit and a lot of help from the leadership and from every Member of this House.

Let me say, even though this is the last budget we will be working with, and we will be working with the resolution that comes over from the Senate after they have worked over our product. I think this is a good product, and I hope that the Members support it.

Let me just say that in 30 years we have gained a lot of friends in this body, and when we leave, that is what we are going to miss the most, our friends. It has been great, and especially to see my good friend, Sid Yates, in the Chair at this time. Thank you, Sid.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Coelho] having assumed the chair, Mr. Yates, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the U.S. Government for fiscal years 1989, 1990, and 1991, pursuant to House Resolution 410, he reported the concurrent resolution back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GRAY of Pennsylvania. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 319, nays 102, not voting 11, as follows:

[Roll No. 45]

YEAS—319

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio

Anthony
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Goodling
Gordon
Gradison
Grant
Gray (PA)
Green
Gregg
Guarini
Hall (OH)
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hiler
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hutto
Hyde
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lagomarsino
Lancaster
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Mack
MacKay
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Sundquist
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Volkmer
Walgren
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—102

Applegate
Archer
Ballenger
Beilenson
Bereuter
Broomfield
Brown (CO)
Burton
Carper
Carr
Chandler
Combest
Craig
Crane
Dannemeyer
Daub
DeLay
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Emerson
English
Fawell
Fields
Florio
Frenzel
Gallegly
Gekas
Gilman
Gingrich
Gonzalez
Grandy
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hayes (LA)
Hefley
Henry
Herger
Holloway
Hopkins
Hughes
Hunter
Inhofe
Ireland
Jacobs
Kemp
Kolbe
Konnyu
Kyl
LaFalce
Leach (IA)
Livingston
Lowery (CA)
Lukens, Donald
Lungren
Marlenee
McCandless
McEwen
McHugh
Miller (OH)
Miller (WA)
Molinari
Moorhead
Myers
Nielson
Olin
Pease
Petri
Porter
Roberts
Robinson
Roth
Schaefer
Schuette
Sensenbrenner
Shays
Shumway
Smith (IA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Studds
Stump
Sweeney
Swindall
Tauke
Traxler
Upton
Vander Jagt
Visclosky
Vucanovich
Walker
Watkins
Whittaker
Yates

NOT VOTING—11

Bentley
Biaggi
Boulter
Cheney
Davis (IL)
Gephardt
Gray (IL)
Lightfoot
Madigan
Price (IL)
Shaw

□ 1723

The Clerk announced the following pair:

On this vote:

Mr. Shaw for, with Mr. Davis of Illinois against.

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. GRAY of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on House Concurrent Resolution 268.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have taken this time for the purpose of inquiring of the distinguished majority leader, the gentleman from Washington [Mr. FOLEY] as to the program for the balance of this week and next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority leader.

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, this concludes the business for this week. We will have a schedule for next week beginning on Monday that will include four suspensions under the suspension rule, H.R. 3971 the International Child Abduction Remedies Act; S. 858, the Abandoned Historic Shipwreck Act; H.R. 1975, the Cave Protection Act; H.R. 2266, the Pipeline Safety Authorization Act.

On Tuesday, March 29th, the House will meet at noon and consider recorded votes that might be ordered on suspensions debated on Monday and also consider H.R. 3396 to rehire certain former air traffic controllers, open rule, 1 hour of debate.

On Wednesday, March 30, the House will meet at 2 p.m. and consider H.R. 3932, the Presidential Transitions Effectiveness Act and H.R. 3933, the National Historical Publications and Records Commission Act and the conference report on H.R. 5, the School Improvement Act of 1987, subject to a rule.

That will conclude the business for next week. We will then begin a recess period for Holy Week and the week following.

So it is anticipated that rather than adjourn on Thursday night as originally announced for the Easter recess we will be adjourning on Wednesday night for the beginning of that recess and Members should be advised that Holy Thursday there will not be a session of the House.

Mr. MICHEL. Might I inquire of the distinguished gentleman if there is any place in that program for the possible consideration of aid to the Contras? The Speaker and I have talked several times during the course of this day. I know that he has been in consultation with Howard Baker at the White House and there have been a number of other discussions by individual Members on both sides of the aisle as to what kind of a package conceivably could be put together. My own feeling is that if there was something that it ought not to be brought up unless there is enough of an agreement so that we would not go through the agony of something that ultimately failed.

My feeling is if we are going to bring it up it ought to have sufficient support to pass and that would have to be guaranteed, not only on that side, but also on our side.

We have been trying to fashion something in a very informal sort of way.

I guess my bottom line is if between now and the weekend we come to the conclusion that it is imperative that something be done, is there room then in the gentleman's program next week to work that in? What would be his best judgment as to when that might be?

Mr. FOLEY. Well, I think first of all I would say that I know the gentleman speaks the view on this side that no legislation should be brought to the floor with regard to this issue unless there is strong bipartisan support to guarantee its passage. No such agreement has yet been reached.

We are encouraged on this side by the apparent progress that is being made in Sapoa at the cease-fire talks in Nicaragua and would not want to do anything to disrupt those talks.

But certainly if it should occur that some approach to the question, as the gentleman described it, with bipartisan, strong bipartisan support should be developed in the coming week, I am sure there would be no problem in scheduling it.

Mr. MICHEL. I thank the gentleman.

And by the way, Mr. Speaker, might I ask the gentleman one further question? I recognize that we were initially going to be meeting probably on Thursday and the gentleman has said that we would conclude our business on Wednesday, no doubt, unless there was some unforeseen hitch. Is there any idea on what that timeframe might be on Wednesday? Once we back it up a day and then another day, you know somebody stills wants to know "Can you get out at 2 p.m. on Wednesday?" My normal response is, "You have already got a day, what more do you want?"

Mr. FOLEY. I sympathize with the gentleman's concern.

Mr. MICHEL. I pose the question.

Mr. FOLEY. I think it might be possible, and I think we probably would wait until Tuesday to request this, but it might be possible with consent from the House to go in at something like 11:00 a.m. on Wednesday and thus make it possible for an earlier adjournment than would occur with a 2:00 p.m. convening of the House. And we would be glad to discuss that and cooperate with the gentleman in that regard if that is the view of the minority.

Mr. MICHEL. I think that would be eminently fair.

□ 1730

ADJOURNMENT TO MONDAY, MARCH 28, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Thursday, March 24, 1988, it adjourn to meet at noon on Monday, March 28, 1988.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REQUESTING RETURN OF ENROLLED BILL, S. 854, NEVADA-FLORIDA LAND EXCHANGE AUTHORIZATION ACT OF 1988

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 106) requesting the President to return the enrolled bill (S. 854) entitled "Nevada-Florida Land Exchange Authorization Act of 1988," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mrs. VUCANOVICH. Mr. Speaker, reserving the right to object, and I do not plan to object, will the gentleman tell us briefly what is involved in the Senate concurrent resolution?

Mr. VENTO. Yes; if the gentlewoman will yield to me.

Mrs. VUCANOVICH. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, this concurrent resolution provides for the correction of an enrolled Senate bill which previously passed the House and the Senate. Of course, as the gentlewoman knows, it deals with the Aerojet land exchange.

The error is clerical in nature, but its effect is substantive and requires correction before the bill becomes law. Accordingly, the majority and the minority of the House and Senate have agreed to take this necessary action. It is only one word, but it is a substantive change, and we want to correct that.

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman from Minnesota [Mr. VENTO]. This resolution is necessary, as the gentleman explained, to correct an error, and I support its approval.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 106

Resolved by the Senate (the House of Representatives concurring), That the President of the United States is requested to return to the Senate the enrolled bill (S. 854) entitled "An Act entitled the 'Nevada-Florida Land Exchange Authorization Act of 1988'.". The Secretary of the Senate is authorized to receive such bill if it is returned when the Senate is not in session. Upon the return of such bill, the action of the Speaker of the House of Representatives and the Deputy President pro tempore of the Senate in signing it shall be deemed rescinded and the Secretary of the Senate shall reenroll the bill with the following correction:

In subsection (a) of section 3, strike "conveyance of" and insert in lieu thereof the words "conveyance to".

The SPEAKER pro tempore. The question is on the Senate concurrent resolution.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 390

Mr. McEWEN. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of the joint resolution, House Joint Resolution 390

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

NORTHWEST AIRLINES DECISION TO BAN SMOKING

(Mr. DURBIN asked and was given permission to address the House for 1 minute.)

Mr. DURBIN. Mr. Speaker, the skies are starting to clear over America. Northwest Airlines announced today that as of April 23 it will ban smoking on all flights. This decision expands the Federal requirement we enacted last year which will ban smoking on flights of 2 hours or less after April 23.

Northwest Airlines announced its decision based on marketing surveys which showed that the overwhelming majority of the passengers are in favor of an end to smoking.

It is apparent from the Northwest data that ending smoking on airlines is a good business decision. We know it is a sound health decision. The Surgeon General and the National Academy of Science, tells us that secondhand smoke poses a threat to health particularly for employees like flight attendants. And it is a sound safety decision because a fire on board an aircraft can create an air disaster, as we saw several years ago with the Air Canada crash.

Mr. Speaker, I urge other airlines to follow the leadership of Northwest Airlines and end smoking on airlines. It is the right decision from a business, health, and safety perspective.

REAFFIRMING UNITED STATES SUPPORT FOR NICARAGUAN DEMOCRATIC RESISTANCE

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, today I am introducing a resolution reaffirming United States support for the Nicaraguan democratic resistance, and condemning the recent invasion of Honduras by Nicaragua.

With almost 2,000 Sandinistas attacking Nicaraguan resistance facilities in Honduras just 1 week prior to ceasefire talks, the new reality in Central America became stark and clear. The only force left that can prevent the Communist consolidation of Nicaragua, and the rolling up of Central America, is the unequivocal support from the United States.

It shouldn't take an invasion into Honduras to make us realize that the Sandinistas have never taken the peace plan seriously. Congress has been playing "Dr. Jekyll and Mr. Hyde" with Central America, and we finally got our way—no more supplies, clothing and munitions to the resistance army—so we could give "peace a chance." But real peace, peace with freedom, did not have much of a chance.

Less than 2 weeks after Congress ended aid to the Nicaraguan resistance, the Sandinistas crossed the borders into Honduras to eliminate the resistance forces once and for all.

If we continue to trade our democratic beliefs for this Communist deceit, we can kiss the resistance goodbye. If we say "no" to further aid, we will be saying to the Nicaraguan refugees in Honduras, "you can never go home to a country of peace and freedom." If we let the Sun set on democracy in Central America, we will be sending an open invitation for the spread of communism right up to the United States borders.

The time to act is now. I urge my colleagues who believe in true peace and freedom to join me in support of the Nicaraguan resistance.

PRETENDING THERE IS AN INVASION

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, I have to disagree with my colleague who preceded me. We are in the Reagan administration's biennial "let's pretend there is an invasion of Honduras to help out our Nicaraguan policy period." And it has happened before, as the Iran-Contra report points out on pages 382 and 383 which I will supply for the Record.

Now the last time the House voted to end the policy of funding people in Nicaragua to kill each other, lo and behold the administration discovered an invasion of Honduras. That invasion took the form of the Nicaraguan Army crossing the border to deal with people who were based across their border attacking them. The Hondurans were in a little bit of a different position because they deny that the Contras are there. Having denied they are there, they have a hard time complaining when people come across. We pressured in 1986 the Honduran Government to ask for that aid. We pressured them to do it again.

The President has a policy which does not have support in the country. He has not been able to sustain the Congress, and so now, as in 1986, as was documented in the Iran-Contra report by the bipartisan group that signed that majority report, the President is pretending that there is an invasion by Nicaragua of Honduras. People know that that is not the case. We had to pressure the Hondurans into it, and this is an attempt, an illegitimate attempt, to use the Army to manipulate the process of Congress.

REPORT OF THE CONGRESSIONAL COMMITTEES INVESTIGATING THE IRAN-CONTRA AFFAIR, NOVEMBER 1987

Intelligence misrepresentations for policy purposes occurred in the spring of 1986, when the Sandinistas pursued Contra fighters into Honduras. Such raids had periodically occurred since mid-1985. Neither Honduras nor the United States made an issue of these incursions because they were limited in scope and aimed at the Contras. At that time, the Sandinista raid was considered routine by the CIA Intelligence Directorate which noted, "[t]he Sandinistas probably believed that there would, as usual, be no Honduran reaction to the incursions and that their forces could quickly move out and return to Nicaragua.

The White House response ignored this assessment, blamed Congress for encouraging the raid, and used the incident to authorize emergency military aid to Honduras. Press spokesman Larry Speakes stated at the daily White House briefing on March 25, 1986: "Within 48 hours of the House rejection of aid to the Nicaraguan resistance, Sandinista military units crossed into Honduras in a large scale effort to attack UNO and FDN camps."

Actually, the first Sandinistas crossed the border on March 20, the same day as the House action, and began to retreat across the border by March 24, before Speakes gave his briefing. They were back in Nicaragua before President Reagan signed the authorization for emergency military assistance to Honduras.

Casey, however, wanted CIA analysis to highlight, rather than minimize, the raid's significance in Agency reports. In an April 3 memorandum, Casey instructed the Deputy Director of Intelligence to use the available material on the Sandinistas incursion: "to alert the world that the Sandinistas were preparing and trying to knock the Contras out while we debated in the U.S. and can have another bigger try if we debate another two weeks."

The Acting Deputy Director of Intelligence replied on the same date: "Pursuant to your note this a.m., DI and DO redrafted the blind memo on the Sandinista Military Actions and Intentions. . . . DIA [Defense Intelligence Agency] wanted to prepare a dissent. DIA has not yet formally submitted its position, but we have been led to understand that its approach will be that the incident represented more a target of opportunity for the Sandinistas rather than being representative of any clear strategy. Also, you should know that in the past we have had some difficulty in coordinating pieces on the fighting with INR (of State Department) which has estimated lower numbers of troops involved in recent operations."

Casey subsequently expressed his dissatisfaction with the revised CIA assessment in a memorandum to the C/CATF on April 3: "[the DDI material] still does not make the point that this is what is trying to be represented as a target of opportunity and the incursion appears to us to be a long-planned effort designed to knock out the Contras forces quickly. . . ."

Casey then suggested that alternatively his point be incorporated into a memorandum which should be used for the following purposes:

a. In Latin American countries "[i]t should be taken to the highest level of government available in the hope that it would either influence those governments to be supportive of the Contra program and upcoming debate or at least refrain from undercutting its cause up here."

b. "A fully sanitized version should be made available to Ollie North, Pat Buchanan and Elliott Abrams for their purposes, here. I'll leave it up to you to get the materials on to Elliott, Pat and Ollie.

Subsequent developments in Honduras confirmed that the Honduras "emergency" was mainly in Washington. On Tuesday, March 25, when President Reagan ordered the emergency military aid, the U.S. Commander in Chief, South, General John Galvin, arrived in Tegucigalpa to assess the situation and provide intelligence and advice to the Honduran government, President Azcona of Honduras left the capital for a seaside vacation.

THE UNION LEADER OF MANCHESTER, NH, CELEBRATES 125 YEARS OF SERVICE

(Mr. SMITH of New Hampshire asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Hampshire. Mr. Speaker, on March 31, a distinguished newspaper in my district—the Union Leader of Manchester, NH, will celebrate 125 years of continuous service to our State and the Nation.

Founded by James Campbell in 1863, the paper was originally called the Manchester Daily Union. It has had eight publishers, including a former Assistant Navy Secretary, Gordon

Woodbury; a Vice-Presidential candidate, Frank Knox; and, most prominently, Teddy Roosevelt's godson, William Loeb.

William Loeb, who took control of the paper in November of 1946, created the Union Leader Corp. and thus began its nationally acclaimed, conservative, yet independent editorial philosophy.

An aspiring New Hampshire Congressman, seeking political advice, once went to William Loeb. Bill Loeb said to me that day, "If you don't stand for something, you stand for nothing."

William Loeb's name has remained synonomous with the hard-hitting reporting and straight-forward editorial style of The Union Leader. After his death in 1981, his widow—my good friend Nackey Loeb—took the reigns as president and publisher and continued the statewide, comprehensive coverage, and conservative tradition.

The Union Leader editors may not always be on the winning side, but they are usually on the right side. Under the banner of the Union Leader is a quote from New Hampshire's native son, Daniel Webster, that reads:

> There is nothing so powerful as truth.

It is by this creed that the paper has succeeded.

It is with great pride that I pay tribute to 125 years of the Union Leader. Their commitment to patriotism, freedom, our Constitution, and traditional American values is unparalleled in American journalism. I66F

AN APPEAL FOR A LUNG TRANSPLANT DONOR

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, today, I am taking this means to appeal to my colleagues and to our national audience for a lung transplant donor.

For a number of years, a young lady, now 17, has been in need of a lung transplant. The young lady, Anita Freeman, is from Panama City, FL. During the last several months, the situation has deteriorated to the point that the lack of a lung donor has become life threatening. Anita's need has been urgent.

The donor must have blood type "A" positive or negative, and weigh 40 to 50 lbs.

Please contact me at (202) 225-4136 or her mother, Mrs. Brenda Freeman, Panama City, FL, at (904) 234-3935.

You can also contact the Mississippi Transplant Program, Connie Thompson, R.N., B.S.N., Transplant Nurse Coordinator, the University of Mississippi Medical Center, 2500 North State Street, Jackson, MS 39216-4505—Phones: (601) 984-5065 or (601) 984-5683—24-hour number: (601) 984-1000.

This is an urgent humanitarian need and not a financial need.

Thank you for your thoughtful and prayerful consideration.

PERSONAL EXPLANATION

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I was meeting this afternoon with representatives at the senior level of the U.S. Army to continue the revitalization and the upgrading of the Joliet Army Ammunition Plant and left that meeting only just recently to find that I came to the floor and the vote had been closed on rollcall 45, the budget resolution. I want to make this 1-minute speech to make my intentions clear. I was on all three of the preceding rollcalls and voted "yes", "no", "no", "yes" on Dannemeyer, and the gold standard is something to which I believe that bonding should do and would reduce the national interest. I voted "no" on the next two amendments, and I would have voted "no" on the final budget resolution because, despite the hard work of that budget committee and the bipartisan spirit that was apparent in trying to meet the tenets of the economic summit adopted in December 1987, I disagreed with the numbers that the Budget Committee came out with, and, frankly, I disagreed with some of the revenue assumptions of the Reagan administration.

Therefore, Mr. Speaker, I would have voted no on rollcall No. 45. Unfortunately it would have not changed the outcome, but I think the house could have devised with the Budget Committee a better budget document that would have lowered what would have been in any estimate a deficit at the end of fiscal year 1989 that would be larger than the Gramm-Rudman targets.

INTRODUCTION OF LEGISLATION TO PROVIDE FURTHER SUPPORT TO THE CONTRAS

(Mr. MacKAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MacKAY. Mr. Speaker, recent Sandinista actions have demonstrated that continued aid to the Contras is necessary to the success of the Central American peace negotiations. For this reason, my colleague, Rod Chandler and I are introducing legislation to put the United States squarely in support of the Central American peace process, and also to make it clear to the Sandinistas that we do not intend to abandon the Contras, nor to allow lack of aid to weaken their position at the bargaining table.

The Contra aid package we are proposing has bipartisan support, and is modeled after the bipartisan proposal which originated in the Senate. It would provide $4 million a month in humanitarian aid to the Contras. It would allow the delivery of the small remaining amount of military equipment already in the pipeline, but would not authorize any addition military aid.

Specifically, the bill calls for $48 million of unobligated DOD funds for food, clothing, shelter, medical services, and medical supplies—with an earmark of $3 million for communications money. It also includes emergency authorization to deliver military material already approved, as well as expedited voting procedures between June 1 and July 6 on the certification by the President that such expedited vote is necessary.

Finally, this legislation calls for a commitment to renew our efforts to address the long-term economic and political stability of Central America.

I have met with the House leadership. I share their hope that the current peace talks will result in a ceasefire. In that event, our legislation requires that any assistance shall be distributed in accordance with the terms of the cease-fire agreement.

The House leadership has not discouraged us from proceeding with this bipartisan effort. Although this legislation does not express the views of the leadership, I am optimistic that it may help move forward an effort to achieve a bipartisan agreement on Contra aid.

I hope my colleagues on both sides of the aisle will join me in support of this critical aid package. With your help, maybe we can finally demonstrate our bipartisan commitment to peace in Nicaragua.

□ 1745

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. Morrison] is recognized for 5 minutes.

Mr. MORRISON of Washington. Mr. Speaker, I would like to express my appreciation to the over 225 of my colleagues who have joined me in sponsorship of National Organ and Tissue Donor Awareness Week. Today, this important resolution was presented to the President for his signature, marking the 5th consecutive year that Congress has recognized the importance of organ and tissue donation.

The need for organ and tissue donation is a great one. We have all been reminded of this need far too many times through letters describing the pain and frustration endured by our own constituents seeking suitable organs and tissues for transplantation. In my district, 4-month-old Holly Nelson, of Yakima, suffers from biliary atresia, a congenital disease of the liver, and is in need of a liver transplant if she hopes to celebrate her first birthday. Like Holly, Kimberly Anthis, of Entitat, and Ben Contine, of Richland, needed and received successful liver transplants.

But the pool of available organs nationwide is simply too small to accommodate all those needing life-saving transplants. Right now, more than 12,500 people in the United States are awaiting kidney transplants. More than 800 are waiting for heart transplants. Almost 500 are on waiting lists for liver transplants, more than 150 for heart-lung transplants, and close to 100 for pancreas transplants. I strongly believe if more people were aware of the tremendous need for organ and tissue donors, thousands of additional lives could be saved each year.

Mr. Speaker, my goal is to encourage families to take time to talk about organ donation during this special week of April 24 through April 30, and to join me and thousands of other Americans in signing and carrying an organ donor card. Donor cards will be available throughout the week at local hospitals and chapters of the National Kidney Foundation, and are always available through the American Council on Transplantation by calling 1-800-ACT-GIVE. You too could give someone like Kimberly Anthis, Ben Contine, or little Holly Nelson the gift of life.

VLADIMIR KARLIN, SOVIET JEW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of Washington. Mr. Speaker, today I want to talk about Vladimir Karlin, a Soviet citizen and a practicing Jew who I met on a recent visit to Moscow. I was part of a congressional delegation at that time and one Friday evening my wife, Congressman BEN GILMAN, and myself, journeyed to a Moscow apartment to share a Sabbath meal. Earlier in the day we had been at meetings with officials in which they spoke of glasnost and Perestroika and we were encouraged by what the high officials said at those meetings, but at that Sabbath dinner we shared bread with a young man named Vladimir Karlin, a young man from Odessa. And why was he in Moscow?

He told us the following story, that in the fall of 1987 he had been arrested in Odessa after trying to organize a Jewish study group. He had been taken to prison and while there he had been beaten. His home in Odessa had been stripped of all furniture. All clothes had been removed, so he only had the clothes on his back.

As he was leaving the prison, the authorities said, "No, we are not going to give you back your passport."

Believe me, a passport is important in the Soviet Union.

"Instead," they said, "we are going to give you this document for identification," and they gave him his prison document. If you looked at that prison document, down at the bottom there was a picture of Vladimir Karlin and if you looked closer, you could see that the face had an anguished expression. If you looked even closer, as we did, you could see that the head was pulled backward and there was a hand grabbing onto the hair of the man pictured. It was a photograph taken of Vladimir Karlin as he was being beaten in that prison in Odessa.

Mr. Karlin when we met him had left Odessa. There was no furniture or clothes in his home. He had no passport. He was going from home to home in Moscow staying with friends and he understandably feared for his safety and his life.

I talk about him today in the hope that the authorities in the Soviet Union who speak of glasnost and Perestroika and human rights will hear what I say, that they will start to recognize the rights to religious freedom of those in the Soviet Union, Jews such as Vladimir Karlin, Christians and others. If they do, glasnost will have some meaning, and if they do, Vladimir Karlin will be able to practice his religion without fearing for his life.

THE MARINE RESEARCH ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Maine [Mr. BRENNAN] is recognized for 5 minutes.

Mr. BRENNAN. Mr. Speaker, today I am introducing legislation that focuses on an area of growing concern—the quality of our marine environment.

The Marine Research Act of 1988 identifies eleven national marine regions and establishes corresponding regional research centers. These research centers will be composed of marine research institutions working in each region including State agencies, universities, and private research laboratories. The centers' purpose will be to plan, to coordinate, and to support marine research at the regional level.

I am pleased to be joined by six of my colleagues in sponsoring this important legislation, including Representatives SCHNEIDER, PICKETT, HUGHES, HOWARD, ROE, and SCHEUER.

This legislation is similar to S. 2068, which was developed and introduced in the other body by Senator GEORGE MITCHELL, nationally known for his leadership in environmental issues. Senator MITCHELL was joined by several members of both parties in introducing the Marine Research Act.

Our estuaries, great lakes, and coastal waters hold tremendous environmental and commercial value. The Nation's commercial fisheries, for example, produced an estimated 6 billion pounds of fish and shellfish in 1986, with a dockside value of over $2.8 billion.

The past year has provided a number of public warnings that our marine environment deserves closer attention. Last summer we saw media coverage of washups of dead dolphins, raw sewage, and garbage on Mid-Atlantic shores. there were also reports of "dead zones"—massive fish kills caused by oxygen depletion in Long Island Sound and at the mouth of the Mississippi.

Warnings have also come in recent research findings. There has been some concern in my home State of Maine over findings by the National Oceanic and Atmospheric Administration's National Status and Trends Program. Researchers expected a site in Casco Bay, in southern Maine, to be a pristine example of the Maine coast. Although the site was generally clean, researchers found surprisingly high levels of pollutants. Unexpectedly high levels of pollutants were also found at other coastal sites around the Nation in these studies.

The Office of Technology Assessment issued a report last year that concluded that health of estuaries and coastal waters is declining and predicted more degradation if action is not taken.

We must protect this valuable area of our environment. The Marine Researcn Act lays important groundwork for further action by offering a detailed and comprehensive regional assessment of marine environmental quality. It enhances regional marine research efforts by establishing a planning and coordination process for participating institutions and by providing these institutions with substained funding.

The centers are to develop 3-year plans that outline research priorities. They will also submit general reports to the Governors and to the public. Groups such as the fishing industry and environmental organizations will play a role in the development of these plans, through a research advisory group. The Federal Government will provide limited oversight through a board composed of representatives of appropriate Federal agencies.

The bill authorizes $32.5 million per year for 5 years—$3 million for each region, except the tropical region, which will receive $1.5 million, and $1 million for the Federal board. Most of the funds authorized, at least $26 million, will be directed to research institutions participating in the centers.

I hope my colleagues will join me in supporting this timely and essential measure to ensure the health of our marine resources.

OMNIBUS ANTI-DRUG ABUSE ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. ENGLISH] is recognized for 5 minutes.

Mr. ENGLISH. Mr. Speaker, today I am introducing the Omnibus Anti-Drug Abuse Act of 1988. The purpose of the act is to extend, expand, and fine tune the Anti-Drug Abuse Act of 1986 passed by Congress 2 years ago. That law marked an important first step in developing a long-term strategy to fight the war on drugs.

However, it is clear that more is needed. This new bill addresses areas including demand reduction, international programs, and law enforcement. It provides more grant moneys for States and localities, more personnel and assets for the agencies, and more incentives for foreign source and transshipment countries.

One of the bill's primary purposes is to build accountability into our efforts in the war on drugs. In the past, we have not had mechanisms in place to determine which programs work and which don't. This bill allows us to identify successful programs in both law enforcement and demand reduction, and to apply those programs nationwide.

In the proposed grant programs, which include law enforcement, education, treatment, and rehabilitation programs, the bill encourages both State and local governments to develop their own master plans to address their most urgent drug abuse problems.

The bill also builds accountability into the international programs including those officials of source and transshipment countries who say they want our help, but do not live up to that commitment. No longer will those foreign officials be able to complain that the United States is not giving them the help they need to fight narcotics trafficking. The bill makes those resources available, but only to those countries that make a serious and verifiable effort.

Finally, we are demanding accountability from our own Federal law enforcement officials. Too often we have heard complaints about turf wars, disputes, and an unwillingness to cooperate among interdiction agencies. Yet no one in an official capacity, except for the President, has the direct authority over these agencies to ensure they work together, and not against each other, in the war on drugs. In a report by the Government Operations Committee last year, we found that the National Drug Policy Board was not giving the direction and leadership needed to resolve these agency disputes.

This bill would address the problem in two important ways. First, it places both the Coast Guard and the Customs Service under the same Office of Enforcement and Border Affairs within the Department of Treasury. The single official who runs that office will have direct authority, and, more important, accountability, for making sure that the Coast Guard and Customs Service work together in their interdiction efforts.

Second, the bill creates an interagency task force of agents from the U.S. Customs Service, the Drug Enforcement Administration, and the U.S. Border Patrol for the Southwest border. And it gives direct line authority to the commander of the task force over all of the assigned agents. In my examination of law enforcement efforts on the Southwest border, I have repeatedly found that problems stem from the fact that no one has that type of authority. This provision would establish that kind of authority, and hold that individual accountable for the success or failure of interdiction efforts on the Southwest border.

A couple of other elements in the bill need to be mentioned. First, we have included programs to better train law enforcement officials in all aspects of antidrug abuse programs, including prison rehabilitation, foreign language for our agents, and training for foreign drug enforcement agents in other countries as well.

And second, we have included some unique programs for research and technology by designating a number of existing laboratories of the Departments of Defense, Justice, and Energy as National Technology Development Centers. That will give those scientists and researchers the mandate they need to develop new technologies for Federal law enforcement applications.

This proposal builds on the foundation which Congress laid 2 years ago for a sound and long-term antidrug abuse strategy. It addresses issues of vital concern in all areas of drug abuse—from treatment, rehabilitation, and education, to law enforcement, prosecution, and incarceration. It addresses the problem of foreign source and trafficking countries. And finally, it addresses the future, by encouraging new technologies for law enforcement, and innovative programs for those needing treatment.

I look forward to working with other Members of the House on this vital legislation. I urge my colleagues to support the Omnibus Antidrug Abuse Act of 1988 so that this Nation can finally claim victory in the war on drugs.

BIELARUSIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on March 25, 1918, 70 years ago, the Bielarusian people proudly proclaimed their independence and established their own government. We in the Congress, having been elected by a free people, have an obligation to take this opportunity to focus the world's attention on this historic day in the struggle of man to be free, and to remind the world about the oppressive conditions under which the Bielarusian people are now forced to live.

The Bielarusian Coordinating Committee of Chicago, IL, an organization deeply committed to the restoration of liberty and freedom in Bielarus, is again sponsoring a banquet and program to commemorate this anniversary. This year's program will take place on Sunday, March 27, from 12 noon to 5 p.m. at the Regency Inn Banquet Halls, 5319 West Diversey Avenue in Chicago. This program also will commemorate the millennium of Christianity in Bielarus, and it is an important time to reflect that the Bielarusian people in their Communist-dominated homeland are not free to practice their own religion, or to celebrate these two significant events in their history. I would like to take this opportunity to extend my greetings to all those participating in this important commemoration, and to join with them in renewing our commitment to a free Bielarus, and in condemning the many human rights violations against their fellow countrymen at the hands of the Communists.

In conjunction with this anniversary banquet, the Bielarusian Coordinating Committee is also sponsoring a cultural and folk arts and crafts exhibit in the Richard J. Daley Civic Center which will run from March 21 through April 1. This exhibit shares with the entire Chicagoland community the rich and proud cultural heritage of the Bielarusian people.

Sadly, the Communists have been brutal in their treatment of the Bielarus people. Bielarus has been almost completely cutoff from the rest of the world by the heavy presence of the Soviets, who have been systematic in their attempts to assimilate the Bielarusian people, and to wipe out their religion, their culture, their language, and their heritage. Although the Communists have been unrelenting, so, too, has the resolve of the courageous men and women of Bielarus to continue to stand up to the Soviets and oppose their efforts.

Mr. Speaker, I am honored to join with Bielarusian-Americans in the 11th Congressional District of Illinois which I am honored to represent, and Americans of Bielarusian descent throughout this Nation, in commemorating this 70th anniversary of Bielarusian Independence Day. I share with them in their hopes and prayers that one day the courageous people of Bielarus can once again enjoy the blessings of freedom and national self-determination in a free homeland.

NATIONAL HOME CARE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I rise today to introduce a resolution to designate the week of November 27 to December 3, 1988, as National Home Care Week. I am very pleased to be joined by my colleagues, Mr. PEPPER, chairman of the House Aging Committee's Subcommittee on Health and Long-Term Care, Mr. RINALDO, ranking member of the Aging Committee, in sponsoring this resolution. Congress has approved similar resolutions for the past 6 years to recognize the valuable services of home care programs and personnel, and I look forward to congressional passage once again.

As you all know, thousands of home care agencies around the Nation have responded to the need to offer effective alternatives to our health care delivery system. By providing skilled medical assistance to those who can be properly treated outside the hospital or nursing home setting, these agencies recognize the demand for new health care options, and conserve tax dollars currently expended on needless placement in these institutions. This valuable concept of care provides a serviceable answer to the needs of our health care system, and offers a comforting, dignified environment for patients. Alternatives to our health care programs must be offered, and home care agencies have proven very effective in answering that need.

Mr. Speaker, as you know, one of the most critical issues to face our Nation today centers around our health care system. While the growing elderly population, expected to total well over 30 million by the year 2000, places greater demand on our current system, home care agencies have helped many of the elderly remain at home and in their communities. This creates an atmosphere of greater independence and dignity and promotes an easeful recovery. For this service, home care agencies and persons employed in the home care industry should be properly recognized and commended.

As we reevaluate and reform our Nation's health care programs, it is essential for us to take full notice of the benefits of home care and to act to encourage its use. I thank my colleagues for their past support in cosponsoring this important resolution, and look forward to the opportunity to again recognize this effective and humane health care alternative the week of November 27, 1988. For the convenience of my colleagues, the text of the resolution follows:

H.J. Res. —

Joint resolution designating the week beginning November 27, 1988, as "National Home Care Week"

Whereas organized home care services to the elderly and disabled have existed in the United States since the last quarter of the 18th century;

Whereas home care is an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare home care program, which provides coverage for skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home care agencies in the United States providing these services has increased from fewer than 500 to more than 3,000; and

Whereas many private and charitable organizations provide these and similar services to millions of individuals each year preventing, postponing, and limiting the need for them to become institutionalized to receive these services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 27, 1988, is designated as "National Home Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

THE CITIZENS' TRAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. AuCoin] is recognized for 60 minutes.

Mr. AuCOIN. Mr. Speaker, I take this time tonight to call to the attention of my colleagues and to the country an extraordinary citizen event and to spread across the pages of the Congressional Record a description of what that event means and what it stands for, and I am talking about something called the Citizens Train. This is an impressive effort involving over 300 people from the west coast, most of whom are Oregonians, many of whom are from my congressional district and that of the district of my colleague, the gentleman from Oregon [Mr. Wyden], who have traveled by train to come to Washington, DC, men, women, and children from all backgrounds, all ages, to participate in this very public debate on democratic principles, democratic values, and priorities in a society that we like to think of as being just.

Today in Washington, DC, on Capitol Hill we have about 300 of those people who have made this trip and their purpose in taking this trip in such a conspicuous way is to give Congress and the decisionmakers in Washington, DC, frankly people at both ends of Pennsylvania Avenue, a message about their dream, their dream, though they may be diversified in their makeup, a unified dream of a better world based on a citizen's budget.

□ 1800

The Citizens Train, as I indicated, was made up of passengers who are men, and women, and children, they come made up of all ages, races, religions, and they believe very deeply that their message is one that their leaders should now more than ever before be listened to.

It is a message of turning swords into plowshares, turning away from militarism and to investments that will build and produce growth in the people of this country and in society itself. It is an eloquent message, a message that has been delivered with a great deal of eloquence itself.

The Citizens Train was born, the idea for it was born 2 years ago in my congressional district. Through hard work and determination, and I have watched as my colleagues in the Oregon delegation have watched, this idea has grown from a great idea into what I think already is a great success. I am proud to have been involved with this since its inception. I am proud to be able to call the attention of this activity to my colleagues this afternoon.

I want to commend at the outset of my special order every single one of the passengers and organizers of this Citizens Train for their active participation in this exciting project. I would like to especially praise the efforts of a long-time friend of mine, Elizabeth Firs who has been the engineer, if I may use that word, of this project and who has worked tirelessly throughout this effort to bring it to this successful stage. These are people with vision and commitment, and they include Elizabeth, Kay Reed, Linda Stevens, Neil Kelly, Rev. Rodney Page, Ruth Hood, and countless others who have put this great idea on track. I believe the message has been received.

Mr. Speaker, I could go on and name many others of the hard-working people who have made this activity the success that it has become. Obviously the list goes on and on but those are among the leaders that I want to particularly thank.

Mr. Speaker, I would like to thank the many sponsors of this project, the Ecumenical Ministry of Oregon, the Gray Panthers, the Portland Physicians for Social Responsibility, and the D.C. United Methodist Church. Again the list of sponsors goes on and on because they, too, believe in the values that are expressed and symbolized in the Citizens Train.

Mr. Speaker, for the past 7½ years it has not been easy for people who believe that there is a better way, that there is a possibility of a more just society, and a society in which there is an opportunity to invest in the minds of our children and in the health of our seniors, in nutrition programs, and to rearrange our priorities in ways that we think reflect the true values of Americans.

These have not been easy years because what we have seen instead of those priorities is our investment in other things, missile silos, submarines, weapons of destruction, things that destroy people and perhaps even run the risk of destroying all humanity.

For that reason I think that it is appropriate to take this time today to call attention to the people who have taken the time and the expense to travel across this country and bring home this message that those priorities which we have been following for the last 7 years are wrong. They are not consistent with mainstream American thinking. They are not consistent with responsible thought on either side of the aisle. They are, instead, a statement of priorities that are totally out of orbit in terms of the thinking of the American people. The people of the Citizens Train think we can do better and they are here to point the way for us. They bring back a citizens budget to give us a sense of direction. I am proud of that effort.

Mr. Speaker, my colleague the gentleman from Oregon [Mr. WYDEN] is here, but if he will indulge me, our colleague the gentleman from California [Mr. MILLER] has come into the Chamber, and if I may, I would like to say that the gentleman from California has done so much to promote the well-being of American children and I would like to thank him for having elected to join us in this special order.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. Mr. Speaker, I am delighted to yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I want to thank my colleagues, and I appreciate the gentleman from Oregon for yielding me this time. I want to commend him for taking this time to call our attention to the arrival of the Citizens Train and to commend your constituents for their participation in the Citizens Train and for thinking up this idea to try to draw attention to the fact that once again, and it is interesting that your special order comes on the same day that we have just passed our congressional budget plan, that while we met the targets of the summit and we have met the targets of Gramm-Rudman-Hollings, I am afraid that we forgot the other role that this budget is supposed to play, that is it is supposed to reflect the human needs of this Nation and to address those needs, and we failed on that effort.

Mr. Speaker, I think that is what the Citizens Train is all about. It is about a recognition that once again even with the small increases we have made with respect to human services and the needs of those who are far less fortunate than those of us who are Members of Congress, we have missed the mark. As a reslut of that, we will fail once again to make the kind of investment in our children and in future generations that is absolutely necessary if we are to succeed as a nation.

Mr. Speaker, there has been much talk about the Presidential campaigns and over the last several months in the Congress of the United States about making America competitive. I would remind my colleagues that the participants of the Citizens Train are right because I am sure they are aware and are concerned by the fact that the Committee on Economic Development, which is made up of many of the chief executive officers of the largest corporations in America, who produced a report earlier this year that concluded that by the year 2000 we will have produced 20 million young people that have no stake in society, and are without the resources or the motivation to participate in this society. I suspect not only is that wasteful of those human talents that we need to be competitive, but it is also very dangerous for American society.

Mr. Speaker, let me state that in the loss of investment and the kind of investment that the participants of the Citizens Train are trying to bring to our attention, that when we get all done with the budget process today we will still only be able to serve 20 percent of the children who are eligible to participate in the Head Start Program, which is one of the most effective programs that this Government runs, one that returns to the Federal Treasury $6 for every $1 that we invest. Only 10 percent of the children who have working parents will be able to find slots for child care facilities in this country. We will aid only 50 percent of the children who today are eligible for compensatory education because they come from disadvantaged homes or because they need special skills because of learning difficulties.

Mr. Speaker, we will only serve 50 percent of those children.

I think we have to understand what that means and that is that huge numbers of children in America almost are predestined to fail. What that means is that in fact they will not participate in American society. They will not participate in the American economic system to the extent that they should.

Finally, perhaps the most cruel fact that is recognized by those who participate in the Citizens Train is that even though we have added money in this budget to the Women, Infants, and Children Program, we will still have in excess of 100,000 pregnant women who are already pregnant who have already been certified by doctors to be at nutritional risk that have a great possibility of giving birth to a low birth weight baby, and should they do that, that baby will have 40 times the chance of a normal baby of dying in the first year.

Mr. Speaker, should that baby survive we will spend in excess of $1,000 a day in intensive care to bring that baby back to normal health standards.

To take care of all those pregnant women, to get her high supplemental foods, would have only cost us $600 for the entire pregnancy. I think these are the kinds of issues that your constituents of Oregon are bringing to our attention and hopefully bringing to the attention of this Nation, that no longer can we con the public into believing that the savings are in the cutting of the budget. The savings are in the extension of services to children and to families that are in trouble, to help them across those troubled waters, to let them again be productive in our society.

It is tragic that on this day when we just overwhelmingly adopted the budget, once again for all of the improvements that have been made in this budget over that recommended by the President of the United States, we still fall short of the goals and aspirations of those citizens who have come here from Oregon, from your congressional district and from others in the Northwest to educate us. Unfortunately, we will have to continue to work to realize those goals, but I am delighted to have joined these citizens of the Northwest to bring this all to our attention.

Mr. Speaker, I appreciate the gentleman from Oregon [Mr. AUCOIN] taking this special order.

Mr. AuCOIN. Mr. Speaker, I want to say to the gentleman from California [Mr. MILLER], who is my friend and has been my friend since we both came to Congress in the same year, how very much I appreciate his taking time to contribute to this debate tonight.

The gentleman from California is the chairman of the Select Committee on Children, Youth, and Families and though it may very well be that we have fallen short on this budget day of the kinds of values he has spoken to and has fought for day in and day out, I believe that his hard work is going to be rewarded by the kind of activism that we have seen on the part of people who care, people who have taken this message and have ridden the Citizens Train and come back to Washington, DC, with this message. A journey of a 1,000 miles truly does begin with a single step. I think we are on the way.

Mr. Speaker, I appreciate the remarks of the gentleman from California [Mr. MILLER] so very much.

Mr. LOWRY of Washington. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. Mr. Speaker, I am delighted to yield to the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Speaker, I thank and appreciate the gentleman from Oregon for his courtesy in yielding me this time. I want to compliment the gentleman from Oregon [Mr. AUCOIN] for his leadership in putting together this special order, and to thank our fine citizens from the Northwest and from California and I think a couple from Utah, including 150 from the State of Oregon and I believe about 75 from the State of Washington who have taken their time and their money and with their sacrifice come to Washington to talk to their elected officials about what the priorities of this country should be.

Mr. Speaker, I believe that Citizens Train, in addressing those budget priorities, is doing a tremendous job. I appreciate the opportunity to say thank you. Our friend the gentleman from California [Mr. MILLER] just said it all so very well. Let me if I could, take just a couple of moments to say what I think we ought to be doing about the priorities and what I think many of the people of the Citizens Train here are addressing.

We are spending more than we can afford on the military in this country. We are all for a strong national security but we are making expenditures on the military in this country some of which do not contribute to our national security. Some weapons systems actually detract from our national security. Some weapons systems that cost so much it actually is now causing reductions in other parts of the military for things that truly are national security, such as well-paid, well-trained personnel, our force level, our readiness.

The gentleman from Oregon [Mr. AuCoin] is an expert on the Committee on Appropriations working with the Subcommittee on Defense, and he can address that better than I can. But the $299.5 billion of the budget that we approved today for the military is more than can be afforded in the situation that we have today. We could reduce that expenditure by eliminating those weapons systems that do nothing for our national security, and take those dollars and put them into the investments that truly do build a better and more secure America. Those investments are the investments that the gentleman from California [Mr. Miller] and the gentleman from Oregon [Mr. AuCoin] have mentioned, including our children, education programs, Head Start which is the best dollar I think that we have spent in all that we have done. I know it has been mentioned that only 16 percent of the eligible children are covered as of this time.

University research is another area, programs to fight dropouts in high schools, the real way to fight the drug problem which is to get to providing hope and a future for those children so that that market is not there. Looking at the terrible health problems we have in this country, 37 million uncovered people without health insurance in this country, a tremendous difficulty, and the inability to pay for that health cost especially for our elderly. We can go right down the line. We have a decaying infrastructure. We need to take those dollars that are being spent on weapons systems that do not add to our national security, such as the MX, the D5, star wars, the two new aircraft carrier battle groups, the B1 bomber that is having a lot of trouble in determining what its mission is, take those dollars and invest those in what is integral to our national security and to our future, and those are Citizens Train objectives, objectives that those people have come to talk to us about today.

Mr. AuCOIN. Mr. Speaker, reclaiming my time on that point, the gentleman from Washington [Mr. Lowry] has served with great distinction on the House Committee on the Budget and has fought hard for these values he has spoken very eloquently to here tonight.

□ 1815

I admire him for that, and he is my friend, and I compliment him for his leadership in the past and the leadership he continues to give.

I would just like to associate myself with his remarks, particularly on weapons systems that absolutely provide not an ounce of defense, and when I think of one of those that he has listed, and that is star wars which, if my memory serves me as a Member of the Defense Appropriations Committee, we are being asked to spend something like $4.6 billion, and that was a B, not an M, $4.6 billion this year on research and development into one weapon system that may, if deployed, cost $1 trillion.

As a Member of the Budget Committee, I just would ask the gentleman what he could begin to find as an adjective that would characterize what $4.6 billion might do to alleviate hunger, perhaps provide shelter for the homeless, maybe even attack the problem of long-term nursing care for our senior citizen population. Can the gentleman give us his opinion?

Mr. LOWRY of Washington. I thank the gentleman for yielding back to me.

Again, as I have so often agreed with his analysis of what would give us a stronger national security for us on defense appropriations, that is 3 times what we are spending on Head Start.

Mr. AuCOIN. Three times?

Mr. LOWRY of Washington. This budget just passed $1.22 billion on Head Start, 3½ times, almost 4 times what we are spending on Head Start, 2½ times what we are spending on the National Science Foundation, $1.8 billion on the National Science Foundation, working on things we really do need for productivity in this country as compared to the 4.65.

The Kildee child care bill is $2½ billion, $2½ billion, and the gentleman from Oregon just addressed $4.65 billion. That is that one program, that one program within this 1 year.

The gentleman from Oregon has stated before and well knows that we will by the end of this year have spent $15 billion on just star wars research. It does make the point so well.

Mr. AuCOIN. I thank the gentleman for that comment.

Mr. LOWRY of Washington. I would just like to take time to move to one other point, what I think part of the problem and part of the solution is.

We have had a massive tax cut for the high income in this country.

As we know, 80 percent of the American people are paying more in taxes today after inflation than they were 10 years ago. For the top 10 percent, that is certainly not true. As a matter of fact, only the top 20 percent of the income of the people in this country, the most benefited from the Kemp-Roth tax cut, the numbers are staggering. The numbers are staggering.

I read a report a few days ago that said that over the 8 years, 1981 through 1988, that the people earning the top 10 percent of the income in this country have had a cumulative tax cut of $130 billion over that 8-year period of time. What we have had is the Kemp-Roth tax cut that did nothing for anybody except the very high income, and now we have ourselves a 28 percent maximum tax rate with a devastating deficit. We have this devastating deficit, 28 percent maximum tax rate, and we have people who have benefited greatly over the last 8 years from the Kemp-Roth tax cut.

We cannot go ahead and make these investment programs, because with this deficit, we cannot do it. So there is a second part to the problem, and a second part to the solution, and that is that the top 20 percent has received all of the benefit of the Kemp-Roth tax cut. We must gain back revenue that has been lost there and use that revenue to reduce this terrible deficit that makes it impossible for us to make investments we should in this country. So there is really a logical track by which to follow this Amtrak train that came across the country from the Northwest, that is, sensibility of what is really a true national security, and that is fairness within our tax structure, straighten out these budget priorities, and these people are helping their Government very much do that.

I want to thank the gentleman from Oregon for his leadership.

Mr. AuCOIN. I would like to thank the gentleman from Washington for his lucid remarks, great character and great heart as we fight together for this.

Mr. LOWRY of Washington. I continue to be impressed by the representation the State of Oregon sends back here.

Mr. AuCOIN. Mr. Speaker, I yield to my colleague, the gentleman from Washington [Mr. Wyden].

Mr. WYDEN. Mr. Speaker, I thank my colleague, the gentleman from Oregon, very much for yielding.

I want to commend my colleague, the gentleman from Oregon, for his efforts associated with the Citizens Train, particularly in taking out the special order.

Timeliness is everything in Government, and it is hard to think of something that is as timely as this, and I thank my colleague, the gentleman from Oregon, for it.

We have been talking about defense for some time now. As the gentleman from Washington [Mr. Lowry] and my colleague, the gentleman from Oregon, who serves on the Defense Appropriations Committee, have said it very well, and I thought what I would talk about was defense also, but particularly the need for social defense in our country.

When I think about a social defense, I think about trained and educated citizens, citizens who have access to health care, older people who can pay for long-term care, changing the scandalous situation with our young people who cannot afford medical care, and it seems to me that in looking at social defense in that kind of way we learn a little something about budgets.

We deal in budgets here, and in billions and billions of dollars, but budgets are not just cold sheets of paper. They are not just dry, stark statistics, but they really reflect our collective hopes and our collective aspirations and, most importantly, they reflect our priorities.

When it comes to talking about priorities, and it comes to talking about the hard choices for America, I do not think anybody has made those priorities and those hard choices better than the folks that have been on the Citizens Train, and I just want them to know that I think it has been a tremendous inspiration to the country and to those from the Oregon congressional delegation and those they visited for them to come to Washington and display their strong and committed vision of a more rational and just America.

When you look at the Citizens Train's statement of principles, from its advocacy of a fair and responsive justice system to its understanding of an economy based on justice and equal opportunity, that is what our country is all about. When you reflect on those principles, you see that that really is the politics of the future.

We heard a little bit of talk about the Presidential campaign. I would like to see the priorities of the Citizens Train become the priorities of both political parties as we move toward the Presidential election this fall, and I think because of the input we have gotten this week from those who have been on that train, we are a little bit closer to making that important agenda the agenda of both political parties for the upcoming Presidential debate.

The other thing that I admire about those who have been on the Citizens Train is that they understand the way you bring about political change in this country. It does not start first in august chambers like this or State capitals, in Salem or others. It starts first in the living room and the kitchens and the meeting halls and the places where persons congregate and understand that the choices are theirs and that they want the political system to reflect those choices.

This has been a tremendous grassroots effort, and it comes at a time in my view when we desperately need it.

We heard mention, for example, of the health care crisis that we have in this country. My own background is I was codirector of the Gray Panthers for almost 7 years before I came to the Congress. Coming to Congress, I serve on the Aging Committee. One of the things that I think is a stark, stark injustice in our country is the problem we have with long-term care.

Again and again we see older couples in our Nation, older couples who scrimped and saved and toiled all of their lives. When one goes into a nursing home, in a few months everything they gained is gone, and yet in the last 8 years, we have not moved one step closer, not even a baby step toward developing a long-term care policy for our country.

I think because of the work of the Citizens Train, we are a little bit closer to developing a priority, a commitment to do something about long-term care, and I think we got an understanding now that it ought to be one of those priorities on that Presidential agenda that is going to be debated in the next few months. I think that the Citizens Train and other efforts like it are going to be the backbone of the new politics in America.

We have got tough decisions to make about our priorities and about how to achieve economic growth with fairness. I want to commend all of those who have put so much time and also undergone in many instances personal sacrifices to make this trip. Many of them have been in my office. Many I saw at the send-off last Saturday. Many were at the station when the congressional delegations were there when that all arrived, but I think what our friends on the Citizens Train have done and done very clearly is to show us the way to the new priorities and show us how to attain those priorities at the earliest possible date.

I again thank my colleagues from the neighboring district in Oregon and commend him for his important efforts and look forward to working with him and other Members of the congressional delegation to make sure that we translate the agenda of the Citizens Train into legislative priorities in the days ahead.

Mr. AuCOIN. I thank the gentleman for his remarks.

I particularly appreciate the fact that he stresses so hard the alternative issue of health care. He focused in particular on our senior citizens, and he has done important work in that area.

I think we ought to also mention something that I know the gentleman in the well and I both care very deeply about, and that is care at the other end of life, and, that is, at the beginning of life. I find it absolutely immoral and, frankly, a disgrace that we can pump, or be told to pump, $4.6 billion into a cockamamy scheme called star wars when in fact infant mortality in this country is at such an unspeakably high level.

The gentleman from Oregon knows, as I do, that infant mortality is a very sensitive indicator of a nation's health status, and I just would have to use the moment he created by focusing on health care to bring out this health care on infant mortality.

While this President asks this Congress to spend so much in armaments including the amount I have mentioned on the star wars, it is true that at the same time, in 1985, the United States infant mortality rate placed 19th in the world, 19th, behind countries like Finland, Spain, and Singapore, and what is even more pernicious to me is that when considered separately, United States black infant mortality was 28th worldwide when considered independently, and that means it is worse in the United States than infant mortality overall in such nations as Cuba, Bulgaria, equal to those of Poland and Costa Rica.

I submit that is ample testimony that this Nation can do better. Our values are not being met as Americans in the budget, an improvement though it was, that was passed today, and these statistics not only point the way to the better road, but the Citizens Train which carries the message of the deemphasis of militarization.

Mr. WYDEN. I appreciate the gentleman from Oregon yielding.

I very much agree with the point. It seems to me what the gentleman has done is state very clearly the case that we can either pay now or we can pay later.

What we find again and again in these areas of youth services in particular is if we can reach the young people early, as my colleagues suggests, we just save money all up and down the line on everything from the corrections budget to remedial education to have to pick up the pieces of broken families.

The same is true in the area of care for older people. We know that on any given day that there are older people who are in desperate need of home health care. If we could get care to them in their homes, we know again, as sure as the night follows the day, because those in the gerontology field, the experts, tell us that it is this way, that if we can get the care to those in the home, we can prevent our citizens from being institutionalized.

This administration has ratcheted down in every way possible on home care benefits. They have tried through every possible administrative route to ratchet down on the very care for older people, home health care that older people need most, and is most likely to produce long-term savings.

□ 1830

So my colleague has said it very well when he talks about really the priorities and the cost effectiveness of trying to address people's needs, be they kids or seniors with responsible programs that help our citizens and save money down the road. I just want to thank my colleague for all the time and effort he has put into this matter.

Mr. AuCOIN. I thank the gentleman and appreciate his contribution.

I yield to my friend from the fourth district of Oregon [Mr. DeFazio].

Mr. DeFAZIO. I thank the gentleman for yielding.

I appreciate the leadership of the dean of the Oregon delegation in this matter and know that he has been fighting for many years to bring about these priorities and I think it is particularly auspicious to have this discussion on the day of the voting of the last budget that this House will invoke under the so-called leadership of our President.

I look forward to a budget with reordered priorities in fiscal year 1990 and 1991 and thereafter.

I would just like to remember a few things here.

When we went to greet the Citizens Train yesterday, my colleague might remember that it was 5 hours late and we have to wonder why was the train 5 hours late?

Well, America has not been investing much in its civilian railroads in the last few years. We have had vicious fights on the floor here to preserve Amtrak funding as my colleague knows.

What are we talking about in total sums? Well, the so-called Federal subsidy for Amtrak to maintain a passenger railroad so that we do not become the only industrialized Nation in the world without a passenger railroad system is less than the amount of money that this administration wants to spend on studying it, not building anything, not doing anything, not having any useful end product but studying rail-basing the MX missile.

Mr. AuCOIN. Well, that is a great idea.

The gentleman in pointing out that the administration's idea of commitment to rails seems to have to do more with missiles as a transportation mode than a transportation mode for people. I would have to agree with him.

Mr. DeFAZIO. And in a perverse way perhaps if we supported the administration we could decide that the rail systems in this country were essential to the so-called strategic deterrence for the use of the MX missile, we might be able to get more money into the civilian rail system and we might be able to get the trains running a little bit more on time.

Mr. AuCOIN. Although the citizens trains might arrive even later if they have to duck between boxcars carrying MX missiles.

Mr. DeFAZIO. Well, certainly we would have to reorder the priorities. We would have to divert civilian loads whenever an MX came down the track.

I also think back to another debate we had on the floor this last year on the Trident II missile system. The gentleman might recall a number of us stood up on the floor and questioned whether we should go and retrofit existing Trident submarines with the new missile. The question was, "Well, what would we gain?" Well, the fact is we would go from a D-4 to a D-5 missile.

Well, what does that mean? That means that we would have missiles that could land 800 feet closer to the target and perhaps carry one more hydrogen bomb; instead of delivering 10 hydrogen bombs they might be able to deliver 11 or 12.

As the debate raged on, I remember at one point one of our colleagues stood up and said, "I didn't understand what the gentleman was so upset about. He said we are only talking about $6 billion." Well, I think I can think of a lot of other things that we might do with $6 billion that would benefit the people of this country more and bring a truly strong America into the next century by investing in a number of the areas we have been discussing here: In our children, in health care, in job training, in education.

Those are the areas where America should be taking the lead.

Mr. AuCOIN. As the gentleman recounted that episode, I was reminded of an episode that I heard, testimony that I heard from a witness before my interior appropriations committee a couple of years ago, and it was I think on the Nation's arts budget which has been trashed virtually every year by this administration too while building up the arsenal. We are making a Sparta here rather than an Athens, and I think it is a serious mistake for the long-term survivability of any country.

But the testimony I heard from this person who was from New York, I think, a poet or a playwright, he called to our attention the cost on a per-foot basis of some of the submarines that were being constructed. He pointed out that some of the submarines, they are something like 300 yards or 300 feet long and cost about $1 million per foot. And he said, "You know, for the life of me I can't help but think as I reflect on all the unmet needs for people in this country why the Navy couldn't settle for a submarine instead of 300 feet long, a fleet of submarines 299 feet long or 250 feet long." Then he paused for a second and he said, "Actually, you know, I think we could do that and the Navy wouldn't even notice the difference. It has been my experience that things submerged under water actually look larger."

I think the gentleman makes a very good point.

What is unbelievable to me is at a time when children are going unfed, when people are unclothed, when people are not getting an adequate nutrition, when we are looking for jobs that pay good wages for a good future for our children and we are not investing in the technology or the infrastructure to provide it, when all of this is going neglected and the new Secretary of the Navy for the first time is exposed to the hard reality that he had to lose 16 frigates from his fleet worldwide and was so upset that he packed it in and resigned because he could not stand the hardship. I just could not help but reflect on what a commentary that is on the priorities we have seen over the last 7 years. The priority of the Citizens Train is here to call our attention and the attention of the administration to that. Can you imagine a working mother packing it in when she is unable through the cuts this administration has inflicted on her and her life, packing it in? She cannot pack it in like that Navy Secretary did. All he lost was 16 frigates. He is not going to get a 600-ship Navy. It is going to be 16 ships short of a 600-ship Navy and he thinks that is the end of the world.

I would like him to spend a little time understanding the grief of a working mother for a while or maybe some of our senior citizens with their long-term care having to spend themselves into poverty in order to get the kind of coverage they deserve.

Mr. DeFAZIO. Another analogy is the bands, in the arts, I thought the gentleman was going to bring up the example of the military bands where in fact we are spending in the total budget 10 times as much to maintain the military bands as we are spending on the total budget for the arts and humanities in the United States of America. That is a sad commentary on our priorities, again.

The other point the gentleman raises which I think is perhaps more telling and more cruel and brings more despair to America is the fact that for the first time in history recent studies have shown that we can expect, as a generation—and I am at the top of the baby boom generation—and the people who follow me would have a lower standard of living than our parents. This is the first generation of Americans who cannot expect—middle income people—to have a better standard of living.

Yet last year the 500 richest people in America showed a 40-percent net increase in their wealth.

Those are the priorities of this administration; they benefit the rich, they benefit the unproductive expenditures and we certainly do have to turn those around. I think we have begun to turn.

The ship of state turns slow, it turns perhaps in a large circle and I believe we have got a hand on the helm and we are beginning to begin that circle and next year we will complete the turn and begin to reorient the priorities.

I thank the gentleman for organizing this and thank him for the colloquy on the floor.

Mr. AUCOIN. I thank the gentleman for his excellent comments.

Mr. Speaker, I am pleased to yield to my friend from Washington State [Mr. BONKER], with whom I have also served since arriving, myself, as a freshman in the House. I appreciate the contributions of the gentleman.

Mr. BONKER. I thank the gentleman too and commend him for sponsoring this special order which gives us an opportunity to address the true national priorities of our country. I would also state that he is a Member of Congress who not only reflects these priorities in his votes and in his work as a legislator, but has shown the initiative by helping to accommodate all the arrangements that made possible this trip to the Nation's Capital. I would like to join him in saluting all those citizens who have made a commitment to bring this message to the Nation's Capital.

I have seen already in the news clips what is being said: "Passengers carry hopes for peace." This in another article: "Citizens ride toward change." I think those headlines really highlight what this journey is all about. It is a message of concern, a concern about this Nation's national priorities. It is a concern about the quality of life in America and it is a concern about the future as to just what kind of world are we going to leave our children.

When one looks at the budget priorities and how they have changed so radically over the last 6 or 7 years, one can fully understand why things seem to be going downhill in the Nation. At one time we were spending upward to 17 percent of our Federal budget for domestic programs. That has been reduced now to 11 percent in this year's Presidential budget request.

We have experienced over the last 7 years an increase in defense spending of 40 percent-plus.

At the same time we have had a reduction of 54 percent in low-income programs, an 80-percent reduction in subsidized housing, a 68-percent reduction in training and employment services, services that are really vital if we are going to increase this Nation's productivity, and once again become competitive in this world; a 19-percent reduction in energy assistance program and this, which is scandalous, a 12-percent reduction in the emergency food and shelter, at a time when shelter and food and nutrition are of the highest priority in our country.

So one must wonder about our government's priorities and about how we are going to address issues of vital concern to the people of this Nation, the quality of life in this country, not to say anything about what it is going to take by way of a new investment if we are going to reclaim our economic preeminence in the world.

I had the opportunity, as Mr. AUCOIN and others today, to receive various citizen delegations who came forth on this train ride to the Capital. The people who spoke shared eloquently about concerns that they have, the concerns obviously that represent tens of thousands of citizens in the Northwest and perhaps millions of citizens across this country, concerns about day care, health care for children, child care.

You know, our Government is very slow in recognizing the needs of a changing economy, of the changing workplace. And at a time when we have a bill pending in the Congress to set up a National Day Care Program to appropriate $2.7 billion, Canada just a few months ago enacted a National Day Care Program of $4 billion. A nation of one-tenth the population is willing to commit twice as much to a national program to help its children and to help the working families of this Nation if we are going to increase productivity in the economy.

One has to appreciate the fact that it is a conservative government in Canada that sponsored a program like this. Yet similar legislation is stalled in the U.S. Congress.

One man spoke about the economy and on that train ride across the Nation viewing the landscape which now is pastoral scenes of closed plants and idle farms, and one can get a sense of another dimension of economic problems in this country.

I have represented areas that have been the victim of recession in the early 1980's where plants have shut down and people have lost jobs and as a result the Government has even more responsibilities for the citizens involved.

If there is any legacy with the Reagan administration it is that this Nation has lost its industrial base. Millions of jobs have gone off shore.

Now we find ourselves in a position where we have a staggering trade deficit which threatens the Nation's economic well-being. We are borrowing heavily from abroad to prop up that budget and those trade deficits here at home.

If we could invest our resources in the domestic side of the budget instead of the military side, perhaps we could restore economic growth in this country, put people back to work, get them off the welfare rolls and other government assistance programs and make this economy vital once again.

We talked about health care. People shared with me the problems associated with health care which is no longer limited to just the low income and the poor, but 37 million Americans in this country have no health insurance, because many of them are working in low-paying service sector jobs without the kind of protection that generally would go with union representation.

Who is going to pick up the tab for all those millions of workers who are uninsured and the millions of workers, of the nonworkers who also have no insurance, again a considerable drain upon our Federal budget because we do not have a healthy economy in the country?

□ 1845

They talked about education. There simply is no way we are going to capture our competitive position if we do not increase our investment in education. This Government ought to recognize its priorities and take money out of the SDI and put it in an SEI, a strategic education initiative. That is how we are going to build a strong America.

We talked about the environment and what we are doing to exploit the natural resources of this country. Again it is a shortsighted view of how we are going to build a better tomorrow.

So I really appreciate what the gentleman from Oregon, Mr. LESTER AUCOIN, has done by way of sponsoring the trip and making possible this time on the House floor so we can reflect the concerns of our constituents and address the Nation on issues of vital national interest, not only economic interest but, I would submit, our security interests, because there is no way that our massive political will and our military might can protect a nation if it is weak within, and the only way it is going to be strengthened is if this Government will invest once again in the human resources of this country and will in that way address the concerns that have been raised and once again build a strong economy and ensure peace and prosperity in the future.

Mr. AUCOIN. Mr. Speaker, I appreciate the gentleman's statements very much, and I want to compliment him so much, not just for taking the well on special occasions and making eloquent speeches but for providing essential leadership to act on the values he has spoken of tonight, and that is a day-in, day-out effort. The gentleman has made that effort consistently year in and year out for the 14 years he has served in the House. It is an honor to serve with him as a colleague and an associate and to be his friend.

I appreciate what the gentleman has said, and I appreciate one point in particular that I think is worth repetition. The gentleman spoke of Canada's gross national product and the amount it is investing in the care of its people, the health of its people. I cannot help but point out that here in the United States we have been falling short on those critical investments.

As the gentleman makes the point, I would make this observation: and I find it in this year's report from the Children's Defense Fund, a Children's Defense Budget, if you will. That is the title of it. They make the point that babies born to mothers who do not receive comprehensive maternity care are three times more likely to die than those born to mothers who receive such care. Infants born to mothers who receive comprehensive care are 25 to 50 percent less likely to be born at a low birth weight, as a major cause of infant death and long-term disability. That is an American fact.

The gentleman has just stated a Canadian budget fact, and I think we would be wise to look to the north for a little guidance and also look to the rails of Amtrak that followed the people of the Northwest with exactly that message.

Mr. BONKER. Mr. Chairman, if the gentleman will yield further, the gentleman made reference to child care. This was pointed out today, and, frankly, I learned a great deal in the hour I had with the constituents who were on this train ride. I learned that the United States ranks 13th in terms of infant mortality and 9th in terms of education. If just seems to me that we are not preparing for the future if we ignore the problems of child care, if we ignore the needs of prenatal care.

If we were to make a substantial investment on the front end, we could spare ourselves a lot of very costly problems down the road. So I think it serves our best interests to put the resources up front to help people who are struggling, especially the very young ages, to create an environment where they have nutrition, where they have education, and where they aspire to opportunity. If we can put those things in place, then I think we will see a fading of all the other problems that are associated with drugs and crime and unemployment and other afflictions of society. It just seems so shortsighted that we always have to deal with the problem on the other end when it is so costly and hopeless.

So again I want to commend the distinguished gentleman from Oregon and those citizens who took the time to make this great train ride back to the Nation's Capital. I want to assure them that their time has been well invested in the political institutions of this country. We have not forgotten the message, and we will recommit ourselves to seeking solutions.

Mr. LOWRY of Washington. Mr. Speaker, I am very proud of the 300 committed people who have traveled here from the Northwest on the Citizens Train. For the last 8 years we have witnessed a massive distortion of our Nation's priorities and a surge in economic and social inequality. I am convinced that the only way we can reorder our priorities is through the commitment and hard work of individuals in every community throughout this Nation. The Citizens Train was made possible by 2 years of hard work by people from many walks of life and it represents the kind of leadership this Nation needs.

For too many years we have let others set the national agenda. I hope this year marks a time when the majority of Americans, who are caring and compassionate people, regain control of their Government. We cannot afford to divert our money and best talent towards weapons systems that are unaffordable, that never made sense, and that will not lead to a more secure America.

We will not get this deficit under control or make investments in our children, health care, the environment, jobs, and education unless we also restore the Federal revenue base in a fair way. That means more revenues from the wealthy that benefited most from the massive 1981 tax cuts. It just does not seem right to me that a millionaire should pay the same tax rate as a working family earning only $30,000 a year, but that is the way the 1986 tax reform law works. That is why I voted against the 1986 law.

It was President Eisenhower who cautioned us that "the problem in defense is how far you can go without destroying from within what you are trying to defend from without." Military might alone is not the test of our national security. Economic strength more than military might will determine a nation's power in coming years.

Past budgets which overemphasized military solutions fail to address the world's problems and fail to strengthen our national security. The result of these military budgets has been the diversion of money and resources from pressing domestic issues in a way that ultimately undermines the security of our Nation. By committing these resources as well as our best engineering and scientific talent to military activities, we have only weakened our ability to compete economically in the civilian sector. Failure to make adequate investments in educating people and in addressing fundamental issues of poverty and justice here in America can only lead to social, economic, and political instability. This is why I favor restoring the balance between military and nonmilitary priorities.

The 300 committed people traveling on the Citizens Train represent the best tradition of our democratic heritage. These citizens are advocating a budget which promotes health, justice, and prosperity for the people of this Nation and world peace for the people of this planet. The timing of the arrival of the Citizens Train could not be more appropriate: Today Congress has passed a 1989 budget that reflects the continuing effort to reorder national priorities. While the House budget plan falls far short of the common sense goals put forth by the Citizens Train, it is a step forward in what will be a long struggle to move in a new direction. Let us hope that there will be many more Citizens Trains from across the Nation to work toward peace, prosperity, and fairness.

Mr. HAYES of Illinois. Mr. Speaker, I rise to thank the gentleman, Mr. Les AuCoin of Oregon for inviting me to participate in this special order today to herald the arrival of the Citizens' Train.

I find that views expressed in the citizens resolution that the budget should be based on the ideals of the U.S. Constitution and the Bill of Rights, coupled with your statement of budget principles, contains many ideas we explored in drafting my bill, the "Economic Bill of Rights", H.R. 2870.

I introduced this legislation on July 1, 1988. It carries forward the fundamental rights and responsibilities of the Federal Government to the American people.

Our Federal system of Government requires the American people to pay taxes and register to be drafted into the armed services of the United States. In addition, there are other important obligations and duties that grow out of the basic responsibilities that the American people owe their Federal Government.

Like Franklin D. Roosevelt, cosponsors of the "Economic Bill of Rights" and I recognize that the Federal Government has certain responsibilities and obligations that it owes the American people. Specifically, we believe that the obligations of the Federal Government to the American people are clearly articulated and carried out. In the 1940's, President Roosevelt signed laws which reflected the fundamental federal commitment, such as the "Employment Act of 1946". In 1978, Congressman Augustus F. Hawkins, expanded this concept in the "Full Employment and Balanced Growth Act of 1978". Today, for the first time, the U.S. Congress has an opportunity to go on record in support of this Federal commitment to the well-being of the American people, by supporting, cosponsoring and passing our bill, "The Economic Bill of Rights."

The "Economic Bill of Rights" is a reformulation and strengthened version of economic rights enumerated in the 1944 State of the Union address. We worked very hard on drafting comprehensive economic rights which are comprehensive in scope and demonstrate a compassionate understanding of the needs of our people and their Government.

Some of the rights include: Useful and productive paid employment, a decent home, sufficient income to support a family, adequate medical care, a good education, and a decent income for family farmers.

In addition, this bill sets up a commission on rights and goals to explore other basic economic rights, which have become important to people, in the 44 years since Roosevelt spoke of an economic bill of rights.

When we wrote this bill, we tried to combine the wisdom from the past, a realistic knowledge for the present and a bold new vision for the future and the generations to come.

We believe, that our "Economic Bill of Rights," reflects an enlightened, balanced understanding that will help our form of government and the American people assume their rightful place as the global leader. The great strengths, the tremendous economic resources, tempered with a compassionate understanding of our peoples needs, are at the heart of our bill. These are the kind of values which make our country the greatest country in the world and are the basis of our "Economic Bill of Rights."

Mr. DELLUMS. Mr. Speaker, 17 years ago I came to the Congress, committed to a program of economic opportunity and social justice at home; the termination of the arms race, both nuclear and conventional; and the expansion of peace, human rights, and personal freedom in the global community.

Through the years millions of concerned Americans have joined in the collective effort to educate our fellow citizens to the moral imperative that these goals represent. Today the people from the Citizens' Train project are adding their voices in concern and commitment through their proposal for a quality of life budget proposal.

This proposal has my support because it is consonant with the quality of life alternative budget that I and other members of the congressional Black Caucus first introduced in 1981, and which we tried to make an integral part of the congressional budget process in the years since.

Statement No. 6 of their budget principles also contain many of the ideas encompassed in my alternative military budget, which I will again be bringing to the floor of Congress for fiscal year 1989, in the effort to create a more sane and less aggressive international community.

I welcome to Washington, and I wish you every success in your efforts to expand the boundaries of awareness and concern about the critical social, economic and environmental needs confronting our Nation. I join you in the common struggle to make a better world for our children and our children's children.

Ms. PELOSI. Mr. Speaker, the arrival of the Citizens' Train in Washington today should act as a signal to the Congress that it is time to humanize, rather than militarize our spending policies. The premise is a simple one, and is echoed in the citizen's budget which will be presented to Congress: A nation's true security depends on the well being of all its people. The citizen's budget was designed for the purpose of preserving our national security, while at the same time promoting health care, a well preserved environment, renewable energy, safe cities, and peace and justice for all Americans.

These citizens have come to Washington to let us all know that the budget deficits this administration has produced over the last 7 years are not acceptable. Not only are they letting us know that the amount of the deficit is far too high, but that the programs which have been given priority in the President's budget do not reflect the priorities of the people. We cannot continue to spend money to further militarize our planet while there are people in our country without food, health care, a place to live, or an education.

In my district of San Francisco, only 18 percent of the population can afford a median-priced home. Dangerous drug-related crime has increased over 400 percent in the last 5 years. Yet the President insists on committing us to expensive defense programs.

As members of church, peace, justice, and environmental groups, the Citizens' Train represents a cross section of Americans. They are here on behalf of the thousands of people across our country who believe that we can no longer afford to neglect the problems which plague us at home. Homelessness, illiteracy, drugs, and the pollution of our environment have been accorded a low priority by this administration, while the militarization of space has been at the top of the list.

The Citizens' Train has arrived with a strong message, the deficit problem must be addressed with a keen regard for the well-being of all Americans.

I thank my colleague from Oregon, Mr. AuCoin, for calling this special order and allowing me this opportunity to welcome the Citizens' Train to Washington. It is my hope that their journey will be both successful and enjoyable for all involved.

Mrs. BOXER. Mr. Speaker, welcome, passengers on the Citizens' Train. I salute you for insisting that Congress look at the budget from the citizens' perspective. Our Federal Government must concern itself with domestic issues. It is not enough to simply increase defense spending to be strong. We must invest in people here at home.

To my friends from the bay area, I offer my greetings.

The Citizens' Train calls for a recommitment to the ideals of our Constitution. We have an absolutely magnificent constitution which has kept our country a true democracy for more than 200 years. The Iran-Contra hearings of the last year chronicled a disregard of the Constitution and the operation of a secret government. In a strange way, these events served to reaffirm the importance of the constitutional separation of powers and heightened our commitment to the constitutional tenets. Because of this commitment by most Americans to abide by it, the Constitution has survived this and all past assaults.

But the reexamination that the Citizens' Train passengers ask goes further. You are telling us that a healthy nation isn't the one with the most bombs or and a huge commitment of the labor force to the defense industry. You are telling us that you want:

An adequate standard of living.

A healthy economy with justice and equal opportunity.

Educated citizens capable of making a contribution.

A fair and responsive justice system.

Protection of our environment for us and for future generations.

A new role for the United States that respects international law, supports the United Nations, and has a foreign policy that sees developing countries as more than a battleground between us and the Russians.

In past administrations, these were our priorities. But for this administration, here are some sorry statistics. In this administration, interest payments on the national debt have increased 90 percent—and the President still bills himself as a fiscal conservative—defense spending went up 52 percent, and domestic spending has gone down 35 percent. I am sick about the ground we have lost, especially because our ability to regain it has been eroded by this huge interest burden. Listen to these facts from the U.S. Council of Mayors, each one representing a heap of personal tragedy:

Demand for homeless services has increased by 21 percent in the last year.

A third of the homeless are children and the parents.

Almost a quarter of the homeless have jobs—they just can't afford rent.

Demand for emergency food in most cities reporting increased 18 percent over last year and two-thirds of those seeking food are children and their parents.

The average waiting list for housing assistance is 22 months and many waiting lists are closed.

These are just a few of the statistics for the homeless and poor. Then there are the problems of fighting AIDS, Medicaid cuts, cleanup of hazardous wastes, and economic competitiveness.

We passed a budget today. As I said on the floor in my budget statement, it's the best we can do with what we have to work with—a President with a one-track mind, and refusal to work with Congress to some positive ends. He got his wife's message but in the wrong context: Just say no.

The Citizens' Train is on the correct track. Be assured of my commitment to a change in our domestic priorities and let me give you my unqualified support for organizing the country for this budget reprioritization.

Mr. AuCOIN. Mr. Speaker, I thank the gentleman from Washington [Mr. BONKER] very much for his contribution, and I say to those who may inspect the record of these proceedings that those of us who argue that it makes sense for America to turn away from militarism and an overinvestment in useless military equipment and weapons systems are not simply wringing our hands and talking about social programs. I think it is a real tragedy, by the way, that when one talks about investing in people, one is accused of being a handwringer. It seems to me that when one really talks about making legitimate, needed investments in the American people from the age of birth throughout their lives, one ought to be really congratulated for advocating the strategy of investment in the security of this country and the strength of its people.

Notwithstanding that, I have to point out that it is not just those who feel that special programs have been unfunded or underfunded who are concerned about the overinvestment in silos, the overinvestment in star wars, and the fact that we are investing in two bombers at one time, two strategic bombers carrying nuclear weapons designed to penetrate Soviet airspace, and at unbelievable expense. Of course, one of the unfortunate facts is that one of them cannot get off the ground because its avionics are fouled up. That is the B-1 bomber. But here we are, and the Government of the United States is investing in not just one but two penetrating nuclear bombers while these social programs are going unfunded.

But it is not just the social programs. Let me call this to the attention of the Members, those who I know will read the record of these proceedings: This is a statistic from the report of the National Council on Public Works Improvement, dated February of this year, 1988, and I quote from the summary of findings on page 1. It says the following:

> After 2 years of study, the National Council on Public Works has found convincing evidence that the quality of America's infrastructure is barely adequate to fulfill the current requirements and insufficient to meet the demands of future economic growth and development.

And it goes on:

> Unless we dramatically enhance the capacity and performance of the Nation's public works, our own generation will forfeit its place in the American tradition of commitment to the future.

Mr. Speaker, this report goes on to say:

> Without such an effort, our legacy will be modest at best. At worst, we will default on our obligation to the future, and succeeding generations will have to compensate for our failures.

So it goes from asphalt, from bridges, and from highways to the social programs that affect the young, the old, and people in between. It is a question of America's priorities, and those priorities today, as they have been over the last several years, are out of whack. They need to be rearranged.

People are aroused. If there are doubters who read the record of these proceedings, let them know that though there are 300 people who rode the Citizens Train, there are thousands of them—and I am impressed by 300, by the way—there are tens of thousands of people who believe as they do, that these priorities are wrong, and they are prepared to act on these beliefs when they go about the process of electing and choosing their leadership in the coming years.

I want to say a few words in the few minutes that remain to me about the amazing people who rode the Citizens Train and, along with them, bring this message that there is a better way to build America's strength, and that is by having faith in the people, our own people, enough faith to make investments in them.

I would like to share a few stories about these people with some of my colleagues.

It did start, as the gentleman from Oregon [Mr. WYDEN] said, with a terrific sendoff in Portland, OR. I was at the train station here in the District of Columbia along with other members of the Oregon delegation, at an absolutely joyous reception and arrival. But listen to some of the people who make this trip.

There is Hazel Wolf, a well-known Northwest environmentalist, age 90, who made trip, Mr. Speaker, and who sat up all through the trip and walked briskly after this trip up to the Capitol steps for the rally that was held immediately after the train's arrival. So you cannot tell me there is no commitment in a citizen like that.

When this train arrived at the small town of Nampa, ID, two citizens saw the train, knew what it was about, and believed as these 300 did in their values and the message they were carrying, and they came to make their contribution. They brought with them a bushel of apples for the people who rode the train, and they wished the group well.

Citizens in Salt Lake City, Mr. Speaker, met the train at 6 a.m. with a band, with placards, and with coffee and doughnuts, because the people in Salt Lake City also cared and believed in the values and in the message of the people on the Citizens Train.

In Denver, a brass band met the train, and many people in that city came out to wish the participants well.

I think it is interesting also that workshops were conducted during the trip, with in-house experts on various issues such as the growing problems in Central America, as well as experts on the basic tenets of the Constitution and what that incredible document does to give us the kinds of rights and liberties to petition our Government and to redress our grievances in the manner in which these citizens have done in this project. I think these are incredible stories.

Mr. Speaker, I know that my friend from the Fourth District of Oregon, the gentleman from Oregon [Mr. DEFAZIO], was sincere in poking a little fun at the absence of policy in terms of investment in the Nation's rail system. I agree with him, and I do not blame Amtrak for that or the Amtrak employees, and I know he does not either. I blame our policy leaders and the budget submitted in Congress and the absence of majorities to turn those investments in better improvements around. But I would not want his comments, and I know he would not either, to be taken in any way to reflect on the people of Amtrak, because I want to tell you that those people responded to these passengers in an amazing, supportive way. My staff and I heard repeatedly how great the people of Amtrak were, and I wish to take this time to congratulate the leadership of Amtrak and also the people who helped along the way. There was a long delay that was confronted for the smaller of the two trains to Chicago, and when that happened, Mr. Speaker, Amtrak flew passengers to the airport in Chicago and then shuttled them to meet the main train at the train station. I think that says something about the people who make up the work force and the management of Amtrak.

And then that train was late again, probably because of budget failures here in Washington—and today, at least given that kind of generosity, I am willing to make that assertion—and when that train was late, Amtrak went all out to round up lunch for every single rider on this train.

Mr. Speaker, I would like to close by saying what I told the fantastic people who made this journey when I met them at Union Station here in Washington, DC, and I urge my colleagues to pay heed as well. These are the words of Dwight Eisenhower, who said:

> The point will come when it comes to policies of defense spending when the politicians are simply going to have to step aside and let the people through and let the people speak.

I believe that time has arrived, as I told them, because the train has arrived. The train has arrived at Washington, DC, that brought forth a very, very fresh, wholesome, and exciting message.

So, Mr. Speaker, with congratulations to all who participated, with thanks to my colleagues who participated here tonight, and with thanks for the indulgence of the Chair, I am just delighted to be able to close out these remarks and pay tribute to an extraordinary group of people who tell us and show us by example the way to a better America.

GENERAL LEAVE

Mr. AUCOIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the subject of my special order today.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from Oregon?

There was no objection.

THE AIDS EPIDEMIC IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 30 minutes.

Mr. DANNEMEYER. Mr. Speaker, I take this opportunity to speak on a matter of urgent importance for the Nation, the Government of the United States and also the private sector because an action was taken on Monday of this week that this Member had only knowledge of relating to what appeared in the newspaper, and on that it is always a little dangerous to form too much of a conclusion as to what really is going on. But I felt that it was necessary to speak on this issue so that the Members would have a little appreciation of what this matter is all about.

There is a new head of OMB, Office of Personnel Management, a lady by the name of Constance Horner, and I want to make clear that my comments this evening are not necessarily critical of what Constance Horner proposes to do because she is only able to form a judgment relating to how our society will deal with persons with the AIDS virus or with fully developed AIDS directly commensurate with what information is brought to her attention. And I commend her for the humanity she has exhibited because apparently a Latin teacher of Miss Constance Horner was diagnosed as having AIDS, and Mrs. Horner and her son watched this high school teacher experience a situation in the capacity of having AIDS that caused Miss Horner to make the tentative judgment she proposes to make. She said in part in this newspaper article, which appeared in the Washington Post on March 22, 1988, as follows:

> The consensus was that we should treat an AIDS victim the way we deal with other noncommunicable, terminal disease such as Lou Gehrig's disease.

Mr. Speaker, that is an interesting statement. It is grossly in error because the virus for AIDS is a communicable, venereal, noncurable disease, and for anyone to suggest that it is noncommunicable is just not conversant with the facts.

Miss Horner was bothered as to what the policy of the Federal Government should be relating to those who have the virus, and those who have ARC and those who have AIDS in terms of whether or not they are going to be able to continue on the job, and what the attitude of the coworkers should be and the supervisor should be, and so she proposed this order that is mentioned in this article on Monday to suggest that persons with the virus for AIDS or AIDS—I am not clear as to what the status of that proposed order is, but she proposed that such a person may not be discriminated against in terms of their ability to continue on the job. She proposed sending around a draft among different officials of our Government, and the newspaper account said that the draft came back from its trip around the Government without attracting vehement opposition even from the most conservative Cabinet Secretaries.

The tragedy of this epidemic in America is that we citizens, and this administration and this President are being badly served by the actions of the highest public health officials of this country, and I will name them: Dr. Windom, Assistant Secretary of Health in the Health and Human Service Agency in charge of the Public Health Service of America, Dr. Edward Koop, Surgeon General of the United States, Dr. James Mason, head of the CDC in Atlanta, GA. Those three people essentially comprise the persons with the responsibility of fixing a sound public health policy to deal with this epidemic in America. Dr. Bowen, of course, as head of HHS, has overall responsibility for their actions, and he, Dr. Bowen, must come in for his share of the criticism of the failure of his subordinates in terms of setting the policy to deal with this epidemic.

Make no mistake about it. We are dealing with a very serious problem; 55,000 plus Americans have been diagnosed as having AIDS. Over half of them have died. No one knows in America how many have the virus. The number is between 1 million and 5 million; take your pick.

Masters and Johnson made news a couple of weeks ago when they reported that 55,000 Americans today are being infected with this virus for which we have no cure, and the statistics are mind-boggling because, since we have no cure, those who get the virus are going to die. Hopefully, we can find a cure, but until we do, the prognosis is just very sad for this number of people; or any number of people dying from disease is bad enough, but this number is absolutely devastating to the culture of our society because candidly how long can our society exist as a viable civilization when we lose a half a million people among us each year to death from this tragic disease?

Mr. Speaker, because this is an exponential epidemic; that is to say, each of these 500,000, most of them do not know they have it, and, as a result of the main means of transmissibility being sex, drugs, and blood, these half a million people are infecting others, and so on and so on.

We are dealing with an absolutely horrendous problem. The failure on the part of public health officials to bring to the attention of Constance Horner the data that they should have brought is the main reason I am taking this special order this evening. These public health officials are the ones that should have spoken up to Mrs. Horner and told her what the evidence is respecting those who have AIDS, fully develoed AIDS, or ARC or the virus for AIDS in this country.

The fact that they have not told the medical evidence that exists today is indicative to me that too many of the public health officials of this country are treating this as a civil rights, issue, not a public health issue. The truth of the matter is that the civil rights of the uninfected are just as profound and just as deserving of protection as the civil rights of the infected.

So I would like to pose some questions to the public health officials of this country, Dr. Windom, and Dr. Koop, and Dr. Mason, and Dr. Bowen. Did you say to Mrs. Horner when she asked for information the following data that this country has relating to the problems, the medical problems of persons with the virus for AIDS are exhibiting when she asked for the information? For example, did you tell her that tuberculosis poses particularly difficult problems in AIDS-infected individuals, infection with the AIDS virus has led to a significant upswing in tuberculosis?

The rate of tuberculosis in AIDS patients was more than a hundred times the incidence in the general population according to a March 13, 1987, report of Morbidity and Mortality Weekly Report on a study of AIDS cases in Connecticut. Did these same public health officials say to Mrs. Horner:

> Dr. Gary Slutkin, an epidemiologist, told the First International Conference on the Global Impact of AIDS that TB rates rose in the U.S. between 1985 and 1986 for this first time since records have been kept on the disease. The rate went from 22,201 in 1985 to 22,768 in 1986. The largest increases in TB in the U.S. occured in New York City, where the rate jumped by approximately 50 percent between 1981 and 1986. According to Dr. Slutkin, there have also been increases in TB rates in 25 states and in Washington, D.C. Glass, "Researcher Says AIDS Epidemic Causing Increases in TB", Associated Press, March 9, 1988.

□ 1900

Was Mrs. Horner told that:

> As of September 1, 1986, 18 cases of tuberculosis had been diagnosed among the 229 reported cases of AIDS in Connecticut. In addition, from January, 1980—October 1985, the Florida Dept. of Health documented 90 cases of TB associated with AIDS. It is likely that the number of cases of TB related to HIV exceeds that associated with AIDS since tuberculosis tends to precede the syndrome by months or years. Pitchenik AE, et. el., "Tuberculosis, atypical mycobacteriousis and AIDS among Haitian and non-Haitian patients in South Florida. Ann Intern Med, 1984; 101: 641-5.

Was Mrs. Horner told:

> It is possible that some cases of TB related to HIV are never followed by severe opportunistic infections diagnositc of AIDS. These factors may explain the recent abrupt incidence of TB (43%) among persons born in the U.S. and residing in southeast Florida. Furthermore the incidence of TB may increase in other areas of the U.S. where TB infection is prevalent and rates of HIV infection and AIDS are rising. "Tuberculin Testing for Persons with Positive Serologic Studies for HTLV-III", Correspondence, Volume 314, No. 7, pg. 447.

Was Mrs. Horner told:

> In its early stage, AIDS virus infection of the brain causes a subtle and insidious mental and intellectual decline in many patients. This mental impairment sometimes occurs many months before any evidence of immunodeficiency. Researchers from the

Department of Psyciatry, Cornell University Medical College, point out that "the history of many patients with AIDS or AIDS—related complex [ARC] revealed that for weeks, months, or even years before developing preliminary sysmptoms of imunodeficiency, e.g., fever, night sweats, and lymphadenopathy, these patients suffered lethargy, apathy, withdrawal, and other unexplained, often subtle psychiatric symptoms.

Was Mrs. Horner told:

The incidence of severe psychiatric disturbances in these patients seemed unusually high even considering the stress of having AIDs or ARC. Moreover, the disturbances themselves—depression, mania, personality change, and psychotic disorganization—often had atypical features and occurred in individuals who before acquiring AIDS or ARC were reasonably well adjusted.

Was Mrs. Horner told:

Though not in themselves diagnostic, the following symptoms may be early indications of an AIDS-related dementia: apathy, fatigue, sleep changes (particularly hypersomnia [excessive sleeping], anorexia, weight loss, imbalance, enuresis [incontinence], withdrawal, impaired judgement, erratic and impulsive behavior, suspiciousness, avoidance of complex tasks, shortened attention span and concentration, forgetfullness, proneness to accidents, rigidity of defenses (such as compulsive saving), obsessive ruminations, or global denial, distractibility, change of speech patterns, and increased sensitivity to alcohol and prescribed medications.

Was Mrs. Horner told:

A NOVA documentary on AIDS aired on PBS portrays some of the effects of AID brain impairment:

Narrator: The AIDS virus doesn't just attack the immune system. Scientists now know it can also infect the brain.

Dr. Robert Gallo [a leading AIDS researcher]: Infecting the brain, it can cause dementia and it can cause death, directly. These are cases that often go unreported, because they're not showing up as ["classic"] AIDS, but as brain disease. People don't often know the virus is there.

Narrator: Some people infected with the virus can experience mental problems long before they show serious symptoms of disease. This volunteer, for example, has only a mildly damaged immune system.

Man: I used to have a real good memory. You could give me a list of a hundred items in a store and I could read em back to you frontward, backward, what sequence they were in, all that stuff, you know, and uh, I mean now it's like, I go to the store for five items and I forget three of them, you know.

Narrator: Brain scans reveal the damage that can be done by the virus. The brain literally shrinks and fluid fills the space. Over 50% of AIDS patients may ultimately suffer from dementia.

Dr. Alexandra Beckett, Massachusetts General Hospital: The complaints we've most often heard are that people are having difficulty concentrating. We have commonly had people describe episodes during which they have sudden strong emotion, unprecipitated by anything they can point to. And that they feel they are performing less well than they used to at tasks that they are quite familiar with.

Narrator: And the indications are that brain damage is something many people infected with the AIDS virus will increasingly have to face. (Transcript from NOVA, no. 1314, 1986 p. 5)

Was Mrs. Horner told:

Dr. Grant of the University of California at San Diego now reports that mental impairment occurs in the majority of persons infected with HIV, beginning early in the course of infection, and frequently without any symptons referable to AIDS or ARC. "AIDS: The Virus and the Disease, The Nation's First Politically Protected Disease." Annals of Internal Medicine, 1987-107:828-836.

Was Mrs. Horner told:

Researchers have found that among homosexual men infected with HIV but who have not yet developed ARC or AIDS, 44% had neuropsychological abnormalities [Igor Grant et al., UCSD School of Medicine La Jolla, CA., "Progressive Neurological Deficit in HIV Infection." Paper presented at the third international conference on AIDS June, 1987. Among ARC and/or AIDS patients, over 80% exhibited abnormal neurological findings; almost half demonstrated memory loss and poor concentration. Wilfried Luer et al., "The CSF fluid diagnosis of HIV-enceophalitis," Rudolph-Virchow Krankenhaus Berlin, Federal Republic of Germany. Paper presented at the Third International Conference on AIDS.

Was Mrs. Horner told:

Cerebrospinal fluid (CSF) abnormalities are common in HIV-infected homosexual men, with or without nueropsychiatric symptoms" [Justin C. McArthur et al., The Johns Hopkins University School of Medecine and School of Hygiene and Public Health. Paper presented at the III International Conference on AIDS "Cerebrospinal fluid (CSF) Abnormalities in HIV-Infected Homosexual, With or Without Neuropsychiatric Symptons.

Was Mrs. Horner told:

Dr. Paul Volberding, Director of AIDS Services at San Francisco General Hospital, contends that it is entirely reasonable to consider that everyone infected with the AIDS virus will develop central nervous system complications. They are seeing increasing signs of this problem in their AIDS ward. The complications take the form of varying degrees of dementia (G. Gollancz and E. Carim, AIDS The Deadly Epidemic (London 1986, p. 28).

Was Mrs. Horner told:

The AIDS virus also causes serious damage to nerves which can result in a variety of disorders. These include muscle spasms and involuntary tremors in the legs, sharp pains in the legs and feet, difficulty walking and paralysis. "Peripheral neuromuscular manifestations may occur early in the course of HIV infection, long before the development of AIDS. These disorders are diverse in nature and often disabling (Joseph Berger et al., University of Miami School of Medicine, Dept. of Neurology, Miami, Florida, "The Spectrum of Peripheral Neuromuscular Manifestations with HIV," Paper presented at the third international conference on AIDS.)

Was Mrs. Horner told:

Three nurses were infected when they came into contact with infected blood. One nurse held a catheter in place for a comatose AIDS patient with the tip of her ungloved finger and she became infected with AIDS. The CDC reported a woman who contracted AIDS by caring for a man in his home. She had small cuts and eczema on her hands. The same CDC report told of a mother who got AIDS while providing nursing care for her child who had contracted AIDS from a blood transfusion. The mother was exposed to the child's blood and body secretions and excretions. *USA Today*, Tuesday, September 22, 1987. "It's Not Irrational to Fear AIDS' Spread".

Was Mrs. Horner told:

A young boy of five died of AIDS from a blood transfusion. Testing of other family members revealed a brother, three years older, who was positive for the AIDS virus. The mother related that about six months before the boy died, she had seen teeth marks on the shin of the older boy, but no bleeding. Horizontal transmission is implicit in the transmission. *The Lancet*, September 20, 1986.

Was Mrs. Horner told:

A National Cancer Institute (NCI) researcher apparently contracted the AIDS virus from having no known direct contact with it. The researcher was processing highly concentrated amounts of the AIDS virus in the laboratory. NCI officials are investigating a centrifuge that the researcher was using. They are trying to determine whether a broken seal may have allowed the virus to escape. The researcher claims to have no high risk factors. Health officials isolated the virus from the researcher's blood and confirmed that it was the same type as that being grown in the laboratory. The official said it was unlikely that the worker was infected in some other way because there are many variants of the virus in nature. *Washington Times*, September 5, 1987, J2.

Was Mrs. Horner told:

The potential for transmission outside traditional means has been raised by numerous studies. In one, a Swedish Scientist, Dr. L.R. Braathen found that langerhan cells occur in skin and mucous membranes, including oral, vaginal, and cervical epithelium and that these cells are easily infected with the AIDS virus. He therefore concluded that the accessory cells (target cells) for HIV are within these barriers themselves. The assumption that HIV infection occurs exclusively by the entry of virus through wounds in skin and mucous membranes into the blood can no longer be considered valid. His results suggest that the Langerhan cells in the skin and mucous membranes are the primary target cells for sexually transmitted HIV infection. L.R. Braathen, "Langerhans Cells As Primary Target Cells for HIV Infection", *The Lancet*, November 7, 1987. These results suggest that contact with these infected cells could produce transmission.

Was Mrs. Horner told:

In addition, relatively new research done by the Los Alamos National Lab suggests that the AIDS virus is a complex family of rapidly mutating viruses that can constantly change its weaponry, its camouflage, its defenses and even its targets in the body. The findings indicate that the AIDS virus is mutating its genetic code as much as five times faster than the influenza virus, thought until now to be the fastest in mutating.

The Los Alamos findings "casts bewildering shadows" across the prospects for reliable diagnosis, broadly effective treatment and vaccine," said Gerald Myers, a molecular geneticist who measured the rate of change at the New Mexico lab. "AIDS Virus

A Clever Enemy, Study Shows," *The Washington Post*, September 6, 1987. During his testimony before the Health and Environment Subcommittee on September 29, 1987, Dr. Myers stated that these findings could have implications for new patterns of transmission but that such a possibility was minute.

Of the 55,000 cases in the country, fully developed AIDS, CDC says that in 3 percent of the cases they cannot tell us how the people got the virus. In other words, they cannot identify the individuals as being part of the known high-risk groups, namely, male homosexuals and intravenous drug users who together contribute around 90 percent of the known AIDS cases.

If you looked at the regulations of the San Francisco General Hospital, they say to a nurse who is pregnant, do not take care of an AIDS patient because we know that an AIDS patient excretes cyclomegelovirus [CMV] which is known to cause birth defects.

Now, all of this information that I have related, plus others that I could bring to the Members' attention raise one very simple question. Does it make sense for our society to say as a matter of policy on the part of the Federal Government that a person with a virus for AIDS or with ARC or with AIDS who manifests the symptoms that are described in terms of opportunistic diseases that we know afflict a person with AIDS or ARC or the virus for AIDS, the dementia that takes place, the nerve damage, the nerve impairment, do we want to have people who are manifesting those kinds of medical psychological physical problems have the status of affirmative action or antidiscrimination, rather, so that an employee of the U.S. Government would be required to work side by side with such a person and in so doing perhaps run the risk that they would acquire one of these diseases of these persons with a virus for AIDS or ARC or AIDS has themselves. Is that fair to the uninfected?

I would suggest to my colleagues that it is not. I will say it again. The civil rights in this country of the uninfected are just as much entitled to protection as the civil rights of the infected, and considering that we are dealing with a fatal disease, for the public health officials of this country to fail to advise Mrs. Horner of all the data that this Member from California has just read into the RECORD is a tragic failure of responsibility on the part of the highest public health officials of this country. The best thing they can do for this President and the people of this Nation is tender their resignations and put people in those jobs who will have the courage to take the public health steps that are needed to control this epidemic. If our public health officials do not straighten up and recognize where their duty is, we are going to increasingly reach the reality in America that we may be facing a species threatening epidemic. There are certain public health steps that historically have been pursued to control a communicable disease and the routine step that has historically been used, the cornerstone of public health policy, is reportability, in confidence as it should be, to public health authorities.

The devastating impact of this proposed regulation by Mrs. Horner is bad enough for its possible impact on employees of the U.S. Government all over this country.

□ 1925

But not only will it have an impact there, but predictably it is going to be cited by those who want to threat this as a civil rights issue as a model to be emulated by corporate America in terms of what policies executives of companies around America should be pursuing with respect to those who have the virus for AIDS.

Comes to mind the 12 nurses in the State of Illinois who were taking care of an AIDS patient and now have tuberculosis for their trouble.

Are we to suggest to the coworkers of America that if they work side by side with an AIDS patient, it is your turn to get TB?

We had a witness who is a clerk in one of the airlines offices in San Francisco come and testify before our committee that she worked in the same office, and she was required by her employer to work there, in the same office with a male who was ill from some cause. They are not sure. They believed AIDS or AIDS related complex. This lady now says she has cytomegalo virus, CV, and Epstein-Barre syndrome, which is the virus that causes mononucleosis.

She is now sick because she worked side by side with somebody who is believed to have ARC or AIDS or the virus for AIDS.

Is that fair to that person? I do not think the American people are going to put up with this. The American people are humanitarian in their instincts. They exhibit the same characteristics of concern and compassion for our fellow man that Mrs. Horner exhibited towards the Latin teacher of her son, but the humanitarian instinct of any of us should also be equated with what medically we know about a problem.

Mrs. Horner, I think, has been badly served by the advice she has received from the highest public health officials of the U.S. Government and those gentlemen, I believe the soundest thing they can do is submit their resignation to the President and they should be replaced by people who will embark this Nation upon a course of action that will emphasize public health rather than civil rights as we deal with this epidemic, reportability of those with the virus, testing requisite populations of our society in confidence so that we know in what regions of the country the disease is located and in what age groups, and knowing what occupations are afflicted. We have not said as a society that if one has the virus for AIDS that with knowledge they commit a crime when they donate to the blood supply. We have not said that.

We have not said as a society that if one has the virus for AIDS and with knowledge of that fact intentionally engage in conduct of transmitting it to another human that they have committed a crime. To me such an individual has forfeited the right of moving about in a free society.

Our highest public officials in America have not said what States should be adopting as a policy in their own jurisdiction.

This Member will have more to say with respect to this issue because I do not believe that any of us serving in the Congress of the United States today, in the face of this epidemic, should stand here mute and permit this proposed policy of Mrs. Horner to be implemented.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MADIGAN (at the request of Mr. MICHEL) for today and the balance of the week on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MORRISON of Washington) to revise and extend their remarks and include extraneous material:)

Mr. MORRISON of Washington, for 5 minutes, today.

Mr. MILLER of Washington, for 5 minutes, today.

(The following Members (at the request of Mr. AUCOIN) to revise and extend their remarks and include extraneous material:)

Mr. FRANK, for 5 minutes, today.

Mr. BRENNAN, for 5 minutes, today.

Mr. ENGLISH, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. EDWARDS of California, for 60 minutes, on March 30.

Mr. DANNEMEYER (at the request of Mr. AUCOIN) for 30 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Mrazek, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,936.

Mr. Hayes of Illinois, and to include extraneous matter, on House Concurrent Resolution 268 in the Committee of the Whole today.

(The following Members (at the request of Mr. Morrison of Washington) and to include extraneous matter:)

Mr. Ritter.

Mr. Gilman in two instances.

Mr. Thomas of California.

Mr. Conte.

Mr. Henry.

Mr. Clinger.

Mr. Broomfield in two instances.

Mr. Shaw.

Mr. Wolf.

Mr. McCandless in three instances.

Mr. Donald E. Lukens in two instances.

Mr. Kolbe in two instances.

Mr. Lott.

Mr. Shuster.

Mr. Hyde.

Mr. Bereuter.

Mr. Lent.

Mr. Chandler.

Mr. Hefley.

Mr. Denny Smith.

(The following Members (at the request of Mr. AuCoin) and to include extraneous matter:)

Mr. Crockett.

Mr. Stark.

Mr. Studds.

Mr. Mazzoli.

Mr. Wolpe.

Mr. English.

Mr. Wyden.

Mr. McHugh.

Mr. Mavroules.

Mr. Lehman of California.

Mr. Hamilton.

Mr. Panetta.

Mr. Lehman of Florida.

Mr. Frank.

Mr. Slattery.

Mr. Solarz.

Mr. Stallings.

Mr. Conyers.

Mr. Guarini.

Mr. Lowry of Washington.

Mr. Hawkins.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The Speaker announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 185. Joint resolution to designate the period commencing on May 2, 1988, and ending on May 8, 1988, as "National Drinking Water Week"; and

S.J. Res. 255. Joint resolution to authorize and request the President to issue a proclamation designating April 24 through April 30, 1988, as "National Organ and Tissue Donor Awareness Week".

ADJOURNMENT

Mr. DANNEMEYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 29 minutes p.m.), the House adjourned until Thursday, March 24, 1988, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3204. A letter from the Secretary of Defense, transmitting the "Report on Allied Contributions to the Common Defense," pursuant to 22 U.S.C. 1928 nt.; to the Committee on Armed Services.

3205. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend chapter 38 of title 10, United States Code, and Public Law 99-433 with respect to joint duty management policies for officers of the Army, Navy, Air Force, and Marine Corps; to the Committee on Armed Services.

3206. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend title V of the Housing Act of 1949 to eliminate an overly restrictive and unneeded limitation on certain equitable rent increase procedures of the Farmers Home Administration; to the Committee on Banking, Finance and Urban Affairs.

3207. A letter from the Chairman of the Board, Student Loan Marketing Association, transmitting a report of the corporation's operations and activities for the year ended December 31, 1987, together with the 1987 annual report to stockholders, pursuant to 20 U.S.C. 1071 et seq.; to the Committee on Education and Labor.

3208. A letter from the Secretary of Transportation, transmitting the 12th annual report on the Automobile Fuel Economy Program, pursuant to 15 U.S.C. 2002(a)(2); to the Committee on Energy and Commerce.

3209. A letter from the Administrator, General Services Administration, transmitting the annual report of the agency's activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3210. A letter from the President, African Development Foundation, transmitting notification of proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3211. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the 13th annual report of the Corporation's Office of Consumer Affairs, pursuant to 15 U.S.C. 57a(f)(6); jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

3212. A letter from the Under Secretary of State for Management, transmitting the seventh annual report on implementation of the Foreign Service Act of 1980, pursuant to 22 U.S.C. 4173; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

3213. A letter from the Under Secretary of State for Management, transmitting the classified annex containing information on personnel serving above and below grade in the six agencies which are the primary users of the Foreign Service personnel systems, for use in conjunction with the unclassified report previously transmitted (Ex. Com. No. 3212), pursuant to 22 U.S.C. 4173; jointly, to the Committee on Foreign Affairs and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FRANK: Committee on the Judiciary. H.R. 3971. A bill to establish procedures to implement the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and for other purposes; with an amendment (Rept. 100-525). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIXON: Committee on Standards of Official Conduct. In the matter of Representative Charles G. Rose III (Rept. 100-526). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN (for himself and Mr. Dickinson):

H.R. 4229. A bill to amend title 10, United States Code, to codify in that title certain defense related permanent freestanding provisions of law; to the Committee on Armed Services.

By Mr. ENGLISH (for himself, Mr. Robinson, Mr. Wyden, Mr. DioGuardi, Mr. Gibbons, Mr. Fascell, Mr. Gilman, Mr. Nelson of Florida, and Mr. Pepper):

H.R. 4230. A bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes; jointly, to the Committees on Government Operations; the Judiciary; Ways and Means; Foreign Affairs; Energy and Commerce; Education and Labor; Armed Services; Merchant Marine and Fisheries; Science, Space, and Technology; the Permanent Select Committee on Intelligence; and Post Office and Civil Service.

By Mr. BRENNAN (for himself, Miss Schneider, Mr. Pickett, Mr. Hughes, Mr. Howard, Mr. Roe, and Mr. Scheuer):

H.R. 4231. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to protect the marine environment through the establishment of regional marine research centers; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

By Mr. BURTON of Indiana:

H.R. 4232. A bill to establish domestic content requirements for motor vehicles sold or distributed in interstate commerce in the United States; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. CHAPPELL:

H.R. 4233. A bill to designate the Federal Building at 400 West Bay Street in Jacksonville, FL, as the "Charles E. Bennett Federal Building"; to the Committee on Public Works and Transportation.

By Mr. DAUB:

H.R. 4234. A bill relating to decennial censuses of population; to the Committee on Post Office and Civil Service.

By Mr. DeFAZIO:

H.R. 4235. A bill to limit the introduction of United States Armed Forces into Honduras and Nicaragua; jointly, to the Committees on Foreign Affairs and Armed Services.

By Mr. FAUNTROY:

H.R. 4236. A bill to amend the act of June 6, 1900, to increase the number of trustees of the Frederick Douglass Memorial and Historical Association; to the Committee on the District of Columbia.

By Mr. GREEN:

H.R. 4237. A bill to amend part A of title IV of the Social Security Act to preserve and improve existing provisions and practices relating to special needs allowances and emergency assistance for the homeless under the AFDC Program, to limit the use of welfare hotels to provide shelter for homeless families, and to establish a demonstration program to encourage the provision of permanent housing for needy families that might otherwise require emergency shelter in welfare hotels; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. Smith of Iowa, Mr. Moorhead, Mr. Fish, and Mr. Cardin):

H.R. 4238. A bill to authorize appropriations for the purposes of carrying out the activities of the State Justice Institute for fiscal years 1989, 1990, and 1991, and for other purposes; to the Committee on the Judiciary.

By Mr. LOTT:

H.R. 4239. A bill to authorize and direct the Secretary of the Interior to engage in a special study of the potential for nationwide ground water recharge, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. MARTIN of Illinois:

H.R. 4240. A bill to suspend temporarily the duty on certain glass bulbs until January 1, 1993; to the Committee on Ways and Means.

By Mr. NICHOLS:

H.R. 4241. A bill entitled, "Navy Dead Eye Reductions Act"; to the Committee on Armed Services.

By Mr. ORTIZ:

H.R. 4242. A bill to amend the Internal Revenue Code of 1986 to permit tax-free purchases of certain fuels for use in vessels employed in the fisheries and for other off-highway use; to the Committee on Ways and Means.

By Mr. RODINO (for himself, Mr. Mazzoli, and Mr. Berman):

H.R. 4243. A bill to implement the International Convention on the Prevention and Punishment of Genocide; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 4244. A bill to suspend for 3 years the duty on Bentazon; to the Committee on Ways and Means.

By Mr. WATKINS:

H.R. 4245. A bill to establish a National Commission on Rural Development; to the Committee on Agriculture.

By Mr. WHITTAKER (for himself, Mr. Montgomery, and Mr. Solomon):

H.R. 4246. A bill to amend title 38, United States Code, to revise the net worth limitation applicable to the receipt of pension by certain veterans and surviving spouse of certain veterans; to the Committee on Veterans' Affairs.

By Mr. WYDEN (for himself and Mr. Waxman):

H.R. 4247. A bill to take into account, in treating posteligibility income of certain Medicaid beneficiaries, incurred expenses for medical or remedial care recognized under State law but not covered under the State Medicaid plan; to the Committee on Energy and Commerce.

By Mr. RICHARDSON (for himself, Mr. Udall, Mr. Campbell, and Mr. Johnson of South Dakota):

H.R. 4248. A bill to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian-owned business enterprises and to stimulate the development of the private sector of Indian tribal economies; to the Committee on Interior and Insular Affairs.

By Mr. BURTON of Indiana:

H.J. Res. 512. Joint resolution designating "God Bless America" as the national hymn of the United States; to the Committee on Post Office and Civil Service.

By Mr. KENNEDY:

H.J. Res. 513. Joint resolution to designate April 6, 1988, as "National Student-Athlete Day"; to the Committee on Post Office and Civil Service.

By Mr. MacKAY (for himself, Mr. Pepper, Mr. Chandler, Mr. Fascell, Mr. Gunderson, Mr. Cooper, Mr. Rowland of Georgia, Mr. Lancaster, Mr. Hatcher, Mr. Hutto, Mr. McCurdy, Mr. Grant, Mr. Andrews, Mr. Murtha, Mr. Leath of Texas, Mrs. Johnson of Connecticut, Mr. Gibbons, and Mr. Chappell):

H.J. Res. 514. Joint resolution providing emergency assistance for the Nicaraguan democratic resistance; jointly, to the Committees on Appropriations, Armed Services, Foreign Affairs, the Permanent Select Committee on Intelligence, and Rules.

By Mr. PANETTA (for himself, Mr. Pepper, and Mr. Rinaldo):

H.J. Res. 515. Joint resolution designating the week beginning November 27, 1988, as "National Home Care Week"; to the Committee on Post Office and Civil Service.

By Mr. WATKINS (for himself, Mr. Owens of New York, Mr. Wortley, Mr. Kasich, Mr. Lagomarsino, Mr. Horton, Mrs. Boxer, Ms. Pelosi, Mr. Frost, Ms. Kaptur, and Mr. Hayes of Illinois):

H.J. Res. 516. Joint resolution designating the week of July 24 to July 30, 1988, as "National Invent America Week"; to the Committee on Post Office and Civil Service.

By Mr. UDALL (for himself and Mr. de Lugo):

H.J. Res. 517. Joint resolution disapproving proposed agreements with Palau relating to the enforcement of laws and use of U.S. assistance, and a proposed plan for the development of Palau, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Foreign Affairs.

By Mr. ANNUNZIO (for himself, Mr. Bonior of Michigan, Mr. Borski, Mr. Dingell, Mr. Kanjorski, Ms. Kaptur, Mr. Kleczka, Mr. Lipinski, Mr. Nowak, Mr. Rostenkowski, and Mr. Sikorski):

H. Con. Res. 270. Concurrent resolution authorizing printing of a House report, previously printed in the 82d Congress, concerning an investigation and study of the facts, evidence, and circumstances of the Katyn Forest massacre; to the Committee on House Administration.

By Mr. RIDGE (for himself and Mr. Mrazek):

H. Con. Res. 271. Concurrent resolution expressing the sense of the Congress that the President should negotiate with the Government of Vietnam to establish interest sections in the capitals of both countries for the purpose of resolving specific issues between the countries; to the Committee on Foreign Affairs.

By Mr. DioGUARDI (for himself, Mr. Lantos, Mr. Broomfield, and Mr. Gilman):

H. Res. 411. Resolution concerning Adem Demaci; to the Committee on Foreign Affairs.

By Mr. BUECHNER (for himself, Mr. Kemp, Mr. Dornan of California, Mr. Smith of New Hampshire, Mr. Edwards of Oklahoma, and Mr. Hyde):

H. Res. 412. Resolution reaffirming United States support for the Nicaraguan democratic resistance, and condemning the recent invasion of Honduras by Nicaragua; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SAXTON introduced a bill (H.R. 4249) for the relief of John D. Angstadt; which was referred to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mr. Udall.

H.R. 245: Mr. Neal, Mr. Hawkins, Mr. Matsui, Mr. Garcia, and Mr. Bates.

H.R. 458: Mr. Barnard, Mr. Fazio, Mr. Garcia, Mr. McCloskey, Mr. Manton, Mr. Owens of New York, and Mr. Price of North Carolina.

H.R. 622: Mr. Crane.

H.R. 1158: Mr. Matsui.

H.R. 1604: Mr. Weiss and Mr. Lewis of Georgia.

H.R. 1692: Mrs. Roukema, Mr. Gilman, Mr. Coelho, Mr. Rowland of Connecticut, Mr. Bryant, Mr. Skaggs, Mr. Frank, Mr. Russo, Mr. Bosco, Mr. Weldon, Mr. Shays, Mr. Cheney, Mr. Campbell, Mr. Morrison of Connecticut, Mr. Bruce, Mr. Goodling, Mr. Gregg, Mr. Hutto, Mr. AuCoin, Mrs. Schroeder, Mr. DeLay, Ms. Pelosi, Mr. Lott, and Mr. Sharp.

H.R. 1722: Mr. Ravenel.

H.R. 1723: Mr. Ravenel.

H.R. 1810: Mr. Moody and Mr. Gejdenson.

H.R. 1957: Mr. Ford of Tennessee, Mr. Traxler, Mr. Courter, and Mr. Ortiz.

H.R. 2134: Mr. Horton, Ms. Pelosi, Mrs. Morella, Mr. DeWine, Mr. Udall, Mr. Skelton, Mrs. Kennelly, Mr. Evans, Mr. Skaggs, Mr. Valentine, and Mrs. Bentley.

H.R. 2248: Mr. Clarke.

H.R. 2463: Mr. Lowry of Washington and Mr. Schuette.

H.R. 2640: Mr. Shuster, Mr. McCurdy, Mr. Clarke, Mr. Donald E. Lukens, Mr. Mack, Mr. Ballenger, Mr. Tauke, Mr. Hansen, Mr. Molinari, Mr. Herger, Mr. Richardson, Mr. Boland, Mr. Jeffords, Mr. Murtha, Mr. MacKay, Mr. Ackerman, Mr. Swindall, Mr. Early, Mr. Mazzoli, Mr. Goodling, Mr. Lehman of Florida, Mr. Hubbard, Mr. Anderson, Mr. Berman, Mr. Bosco, Mr. Brown of California, Mr. Dymally, Ms. Pelosi, Mr. Hawkins, Mr. Ireland, Mr. Levine of California, Mr. Miller of California, and Mr. Waxman.

H.R. 2867: Mr. Gallegly.

H.R. 2928: Mr. Goodling.

H.R. 3081: Mr. Bereuter, Mr. Craig, Mr. Foley, Mr. Evans, Mr. Glickman, Mr. Jontz, Mr. Lowry of Washington, and Mr. Penny.

H.R. 3119: Mr. Pickle, Mr. Oberstar, Mr. Garcia, Mr. Atkins, Mr. Lantos, Mr. Horton, Mr. Ortiz, and Mr. Crockett.

H.R. 3129: Mr. Craig, Mr. Donald E. Lukens, Mr. Buechner, and Mr. Henry.

H.R. 3146: Mr. Stratton, Mr. Houghton, and Mr. Johnson of South Dakota.

H.R. 3286: Ms. Snowe and Mr. Gilman.

H.R. 3314: Mr. Ackerman, Mr. Badham, Mrs. Bentley, Mrs. Collins, Mr. Akaka, Mr. Hiler, and Mr. Garcia.

H.R. 3334: Mr. Hayes of Louisiana and Mrs. Vucanovich.

H.R. 3455: Mr. Solarz.

H.R. 3478: Mr. Borski, Mr. Manton, Mr. Fields, and Mr. Houghton.

H.R. 3481: Mr. Thomas of Georgia, Mr. Skelton, Mr. Jontz, Mr. Espy, Mr. Penny, Mr. Bevill, Mr. Richardson, Mr. Wilson, Mr. Hefner, Mr. Glickman, Mr. Evans, Mr. Oberstar, and Mr. Gephardt.

H.R. 3565: Mr. Burton of Indiana.

H.R. 3603: Mr. Howard and Mr. Borski.

H.R. 3613: Mr. Anderson, Mr. Bates, Mr. Beilenson, Mr. Berman, Mr. Bilbray, Mr. Bosco, Mrs. Boxer, Mr. Brown of California, Mr. Coelho, Mr. Dellums, Mr. Dixon, Mr. Dymally, Mr. Edwards of California, Mr. Fazio, Mr. Lantos, Mr. Lehman of California, Mr. Levine of California, Mr. Martinez, Mr. Matsui, Mr. Miller of California, Mr. Mineta, Mr. Panetta, Ms. Pelosi, Mr. Roybal, Mr. Stark, Mr. Torres, and Mr. Waxman.

H.R. 3719: Mr. Jones of Tennessee, Mr. Manton, Mr. Wheat, Mr. Crockett, Mr. Ford of Michigan, Mr. Derrick, Mr. Fascell, and Mr. Eckart.

H.R. 3726: Mr. Hughes.

H.R. 3735: Mr. Morrison of Washington.

H.R. 3742: Mr. Levin of Michigan.

H.R. 3777: Mr. Gallegly.

H.R. 3807: Mr. Hayes of Louisiana, Mr. Penny, Mr. Hastert, Mr. Horton, Mr. Volkmer, and Mr. Chapman.

H.R. 3844: Mr. Kasich, Mr. Marlenee, and Mr. Goodling.

H.R. 3850: Mr. Dyson, Mr. Yatron, Mr. Hoyer, Mr. Kostmayer, Mr. Edwards of California, and Mr. Parris.

H.R. 3859: Mr. Wolpe and Mr. Neal.

H.R. 3865: Mr. Bennett, Mr. Edwards of Oklahoma, Mr. Stump, Mr. Hammerschmidt, Mrs. Patterson, Mr. Nelson of Florida, Mrs. Morella, Mr. Ritter, Mr. Pickett, and Mr. Lewis of Georgia.

H.R. 3866: Mr. Tallon, Mr. Murphy, Mr. Hammerschmidt, Mr. Cooper, Mr. Carr, and Mr. Staggers.

H.R. 3883: Mr. Crockett, Mr. Skeen, and Mr. Mavroules.

H.R. 3889: Ms. Kaptur, Mr. Ortiz, Mr. Buechner, Mr. Morrison of Washington, Mr. Jacobs, Mr. Cheney, Mr. Combest, Mr. Armey, Mr. Bliley, Mr. DeFazio, Mr. Yatron, Mr. Burton of Indiana, and Mr. Spratt.

H.R. 3892: Mr. Jeffords, Mr. Rose, Mr. Cheney, and Mr. Lewis of Georgia.

H.R. 3893: Mr. Wilson, Mr. Lott, Mr. Gingrich, Mr. Burton of Indiana, and Mr. Fish.

H.R. 3900: Mr. Lagomarsino.

H.R. 3905: Mrs. Collins, Mr. Eckart, Mr. Moody, Mr. Bryant, Mr. Kolter, Miss Schneider, Mr. Ford of Michigan, and Mr. Rangel.

H.R. 3913: Mr. Rodino, Mr. Lehman of Florida, Mr. Owens of New York, Mr. Matsui, Mrs. Boxer, Mr. Mrazek, Ms. Pelosi, Mr. Florio, Mr. Frank, Ms. Kaptur, Mr. Bilbray, Mr. Boehlert, Mr. Berman, Mr. Towns, Mr. Sabo, Mr. Neal, Mr. de Lugo, Mr. Morrison of Connecticut, Mr. Green, Mr. Fazio, Mr. Garcia, Mr. Biaggi, Mr. Hughes, Mr. Edwards of California, Mrs. Collins, Mrs. Johnson of Connecticut, Mr. Evans, Mr. Buechner, Ms. Slaughter of New York, Ms. Oakar, and Mrs. Bentley.

H.R. 3915: Ms. Kaptur, Ms. Pelosi, Mr. Feighan, Mr. Owens of New York, and Mr. Traficant.

H.R. 3938: Mrs. Martin of Illinois, Mr. Wolf, Mrs. Morella, Mr. Grant, Mr. Akaka, Mr. Hatcher, Mr. Neal, Mr. Lehman of Florida, Mr. Eckart, Mrs. Bentley, Mr. Shays, Mrs. Boxer, and Mr. Tauke.

H.R. 3944: Mrs. Roukema, Mr. Herger, and Mr. Donald E. Lukens.

H.R. 3956: Mr. Carr, Mr. Nowak, Mr. Wilson, Mr. Gonzalez, Mr. Jontz, Mr. Fish, Mr. Wolpe, Ms. Pelosi, Mr. Biaggi, Mr. Bosco, Mr. Eckart, Mr. Matsui, Mr. Kolter, and Mr. Foglietta.

H.R. 3969: Mrs. Morella, Mr. Frost, and Mrs. Byron.

H.R. 3975: Mr. Howard and Mr. Mineta.

H.R. 4013: Mr. Jones of North Carolina, Mr. Borski, and Mr. Bates.

H.R. 4075: Mr. Weldon, Mr. Ford of Michigan, Mr. Neal, and Mrs. Roukema.

H.R. 4115: Mr. Hunter, Mr. Wolf, Mr. Lagomarsino, Mr. Solomon, Mr. Shumway, Mrs. Bentley, Mr. Inhofe, Mr. Shaw, and Mr. Kasich.

H.R. 4131: Mr. Gray of Illinois, Mr. Crane, Mr. Robinson, Mr. Biaggi, Mr. Fuster, Mr. Hayes of Illinois, Mr. Hyde, Mr. Chapman, Mr. Owens of New York, Mr. Richardson, Mr. Wilson, and Mr. LaFalce.

H.R. 4148: Mr. Ray.

H.R. 4150: Mr. Burton of Indiana, Mr. Roe, Mr. Manton, Mr. Fuster, Mr. Dowdy of Mississippi, Mr. Mrazek, Mr. Shays, Mr. Rowland of Connecticut, Mr. Mazzoli, Mr. Thomas A. Luken, Mr. Hall of Ohio, Mr. DeFazio, Mr. Quillen, Mr. Frank, Mr. Swift, Mr. Sabo, and Mr. Coelho.

H.R. 4155: Mr. Badham.

H.R. 4213: Mr. Thomas A. Luken.

H.J. Res. 364: Mr. LaFalce, Mr. Martinez, Mr. Fazio, and Mr. Atkins.

H.J. Res. 417: Mr. Kleczka, Mr. Roberts, Mr. Mack, Mr. Hubbard, Mr. Torricelli, and Mr. Gejdenson.

H.J. Res. 448: Ms. Kaptur, Mr. Dorgan of North Dakota, Mr. Kasich, Mr. Kolter, Mr. Lancaster, Mr. Young of Florida, Mr. Broomfield, Mr. Rodino, Mr. Berman, Mr. Crane, Mr. Durbin, Mr. Hyde, Mrs. Johnson of Connecticut, Mrs. Kennelly, Mr. Panetta, Mr. Sawyer, Mr. McCloskey, Mr. Molinari, Mr. Mfume, Mr. Levin of Michigan, Mr. Stokes, Mr. Evans, Mr. Jontz, Mr. Bruce, Mr. Rinaldo, Mr. Hiler, Mr. Montgomery, Mr. Skelton, Mr. Foley, Mr. LaFalce, Mr. Price of North Carolina, Mr. Clay, Mr. Boland, Mr. Coelho, Mr. Dixon, Mr. Florio, Mr. Frost, and Mr. Downey of New York.

H.J. Res. 453: Ms. Snowe, Mr. Leland, Mr. Lancaster, Mrs. Vucanovich, and Ms. Oakar.

H.J. Res. 461: Mr. Huckaby, Mr. Volkmer, Mr. Lancaster, Mr. Tauzin, Mr. Watkins, Mr. Harris, Mr. Gunderson, Mr. Perkins, Mr. Lightfoot, Mr. Skelton, Mr. Thomas of Georgia, Mr. Gray of Illinois, Mr. Roth, Mr. McCloskey, Mr. Mack, Mr. Grandy, Mr. Cooper, Mr. Dyson, Mr. Campbell, Mr. Kastenmeier, Mr. Carper, Mr. Staggers, Mr. Morrison of Washington, Mr. Solomon, Mr. Lagomarsino, Mr. English, Mr. Rangel, Mr. Synar, Mr. Roe, Mr. Young of Alaska, Mr. Porter, Mr. Stangeland, Mr. Jenkins, Mr. Nielson of Utah, Mr. Neal, Mr. Jeffords, Mr. Quillen, Mr. Wilson, Mr. Hughes, Mr. Fazio, Mr. Morrison of Connecticut, Mr. Lehman of California, Mr. Levin of Michigan, Mr. Leach of Iowa, Mrs. Martin of Illinois, Mr. Johnson of South Dakota, Mr. Upton, Mr. Horton, Mr. Bevill, Mr. Stallings, Mr. DeFazio, Mr. Valentine, Mr. Henry, Mr. Rowland of Georgia, Mr. Hayes of Louisiana, Mr. Owens of New York, Mr. Spratt, Mr. Matsui, Mr. Rahall, Mr. McGrath, Mr. Oberstar, Mr. Espy, Mr. Smith of Texas, Mr. Evans, Mrs. Byron, Mrs. Lloyd, Mr. Robert F. Smith, Mr. Lott, Mr. Madigan, Mrs. Vucanovich, Ms. Snowe, Ms. Kaptur, Mr. Dorgan of North Dakota, Mrs. Boxer, Mr. Kasich, Mr. Slattery, and Mr. McDade.

H.J. Res. 464: Mr. Hoyer, Mr. Anthony, Mr. Howard, Ms. Pelosi, Mr. Denny Smith, Mr. Leland, Mr. Cardin, Mr. Dorgan of North Dakota, and Mr. Fascell.

H.J. Res. 474: Mr. Solomon, Mr. Annunzio, Mr. Clarke, Mr. Smith of New Jersey, Mr. Kleczka, Mr. Borski, Mr. Lagomarsino, Mr. Biaggi, Mr. St Germain, Mr. Manton, Mrs. Johnson of Connecticut, Mr. Bonker, Mr. Henry, Mr. Young of Florida, Mr. Torricelli, Mr. Coyne, Mr. Gallo, Mr. Horton, Mr. Dymally, Mr. Bateman, Mr. Broomfield, and Mr. Burton of Indiana.

H.J. Res. 477: Mr. Traficant, Mr. Thomas of Georgia, Mr. Emerson, Mr. Lagomarsino, Mr. Wortley, Mr. Valentine, Mr. McEwen, Mr. Fazio, Mr. Quillen, Mr. Wolf, Mr. Horton, Mr. Young of Alaska, Mr. Schumer, Mr. Roe, Mr. Porter, Mr. Hatcher, Mrs. Lloyd, Mr. Inhofe, Mr. Mfume, Mr. Dyson, Mr. Lewis of Florida, Mr. Wilson, Mr. Frost, Mr. Lancaster, Ms. Pelosi, Mrs. Vucanovich, Mr. Grant, Mr. Volkmer, and Mr. Daub.

H.J. Res. 478: Mr. Brown of Colorado, Mr. Fuster, Mr. Gallo, Mr. Fawell, Mr. Roe, Mr. Espy, Mr. Smith of Florida, Mr. Moakley, Mr. Wilson, Mr. Lagomarsino, Mr. Wolf, Mr. Bevill, Mr. Dymally, Mr. Torres, Mr. Fazio, Mr. Bruce, Mr. Lehman of California, Mrs. Boxer, Mr. DeWine, Mr. Kostmayer, Mr. de la Garza, and Mr. Tallon.

H. Con. Res. 19: Mr. Wilson.

H. Con. Res. 28: Ms. Snowe.

H. Con. Res. 115: Mrs. Boggs.

H. Con. Res. 232: Mr. Fascell, Mr. Swift, and Mr. Gregg.

H. Con. Res. 247: Mr. Swindall.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 390: Mr. McEwen.

EXTENSIONS OF REMARKS

LEGISLATION TO CREATE A NATIONAL COMMISSION ON RURAL DEVELOPMENT

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. WATKINS. Mr. Speaker, I am today introducing legislation to create a National Commission on Rural Development to address restructuring and streamlining the U.S. Department of Agriculture to improve the delivery system of rural and farm programs to those it serves and place a greater emphasis on rural development programs.

It was 4 years ago that hearings were first held to discuss the concept of reorganization and the Office of Rural Development Policy's rural strategy report, "Rural Communities and the American Farm: A Partnership for Progress." For the first time, it was noted by the Federal Government that a further bonding or economic partnership must be forged between the farm and the rural community for the ultimate progress of both rural institutions.

What has happened since that time? Farmers and ranchers who were highly dependent upon off-farm jobs for their own farm or ranch survival have left the land because rural business and industry has closed their doors. The linkage between farm and rural communities has never been demonstrated so greatly than in the past 4 years. Rural communities have become desolate because of the lack of farm income flowing into the communities.

The people of the third district tell me that they need jobs, that they need an agency which has a sole mission of dealing with agriculture, that they need assistance in helping their community to grow. I have introduced H.R. 3481, the Rural Development Reorganization Act of 1987, a step that should have been taken 4 years ago to streamline the rural development programs and put a greater emphasis on rural development programs which the Department of Agriculture is mandated to conduct. I have been working for rural economic development for the 12 years that I have served in the Congress and I can tell you that rural development changes do not come about overnight. Some of the seeds we planted in our district 12 years ago are only now coming to fruition.

Why do we need restructuring, reorganization and streamlining? When a farmer goes into the farmer's home office, he really doesn't care to find out that all the personnel are tied up with a particular rural development project; he's got crop problems and as you know, when it's time to sow or reap, it can't wait. On the other hand, when a rural development project is timely the people who are trying to get the progress made sometimes can't be helped because the personnel are tied up with farmer's problems.

H.R. 3481 is the solution to these problems.

Having said all of that, because of the lack of time remaining in this Congress to fully address the issue and in the interest of moving this concept along, I am proposing a way to accomplish these badly needed changes through the establishment of a National Commission on Rural Development.

Personally I would like to see the adoption of H.R. 3481 or a bill like it in this Congress.

However, if this is not possible I would propose to either create a bipartisan committee made up of Members of Congress from the authorizing as well as appropriating committees in conjuction with the administration to work out details based on a general framework adoption of reorganization, or should the committee feel that time is not adequate to address the issue, then create a commission that would bring to the Congress a plan for streamlining the Department after 1 year.

Specifically, my plan for a National Commission on Rural Development includes the following:

First, a Commission that would over the space of 1 year hold hearings and evaluate streamlining, and consolidating programs within the USDA to enable a single agency to carry out the mission of rural development. This would allow ample time to devise a plan and for all those interested in the delivery of rural development programs to be heard. Commission members would evaluate the merits or lack thereof of ongoing or proposed legislative or administrative studies which address both the administrative structure and the field delivery of such programs. They would evaluate changing the name of the Department of Agriculture as well as the creation of a cabinet-level position with responsibility for rural development in the United States. Other factors are also outlined for consideration.

Second, an interim report would be issued not later than August 31, 1989, with the final report not later than December 31, 1989. The only item my proposal mandates in the outcome of a report by the Commission is one single plan under which a single agency would deliver the services to be provided through rural development programs and under which the Department of Agriculture would assume greater responsibility for rural development. This plan would be presented to the Congress for consideration in adopting a bill.

Third, a 24-member commission will be created with not less than 16 members that would be appointed by the Secretary of Agriculture from nominations from the chairmen and ranking minority members from the Rural Development and Agriculture Authorizing and Appropriating Committees from both bodies of Congress. Each member would nominate not less than 10 individuals for original appointment to the Commission, but no more than two individuals to fill any vacancy on the Commission. The Secretary would have three nonvoting members and five voting members of his own choice from the congressional pool or other sources. In making such appointments, the Secretary would take into account, to the extent practicable, the geographical representation of members and the geographical extent of participation in particular programs.

Fourth, members of the Commission should have general knowledge of operation of rural development programs of the Department of Agriculture and specific knowledge of the operation of one or more such programs, or shall have general knowledge with respect to the administration of such programs.

Fifth, the chairman of the Commission would be elected from among the membership.

Sixth, financing and operating the Commission would be through private contributions of money and services as long as the Secretary would not accept an aggregate amount of contributions from any one person, group, or entity exceeding 10 percent of the budget of the Commission. If contributions are insufficient to carry out the duties of the Commission, authorization of $1 million from appropriated funds would be in order.

Seventh, administrative support services would be provided to the Commission by the heads of executive agencies, the General Accounting Office, and the Office of Technology Assessment at the request of the chairman and upon the concurrence of head of the agency or office. The commission would not be required to pay or reimburse any agency or office for personnel and support services provided.

Eighth, exemptions from requirements relating to performance appraisal system, the Federal Advisory Committee Act, and hiring and pay guidelines are included in the bill.

Ninth, the Commission would appoint and fix the compensation of a director and such additional personnel as the Commission determines necessary to carry out its duties and functions. The director would be allowed the flexibility to hire intermittent contract services et cetera, at his own discretion. Those employed at the Commission would be for a maximum of 1 year except for those employees needed during the termination time of the Commission.

Tenth, Commission members would not receive pay for their service on the Commission but would be allowed travel expenses including per diem in lieu of subsistence.

Eleventh, the Commission would cease to exist 30 days after submitting its final report on or before December 31, 1989.

Twelfth, unexpended remaining Federal funds would be returned to the Secretary of the Treasury.

Mr. Speaker, although I am one that does not embrace the idea of work by commissions that could be done by the Congress, in the interest of moving the streamlining concept

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

along for the benefit of rural America I am willing to go this route.

In conclusion, rural America cannot wait any longer for these changes. For many rural towns and communities it is already too late. Let's save the ones that are still holding on through the adoption of a reorganization bill that would highlight the need for rural development programs or at the very least the adoption of a bill creating a commission that would look at the changes that need to be made.

The material follows:

H.R. 4245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND DECLARATION OF POLICY.

(a) Findings.—The Congress finds that—

(1) the Department of Agriculture is responsible for carrying out the mission of rural development, but has not accepted the responsibility for rural development programming to the degree necessary to have an impact on rural areas;

(2) rural development programs are piecemeal, spread over numerous agencies, and lack an overall administrative focus and priority;

(3) rural development programs and people living in rural areas do not have the same level of representation as their urban counterparts;

(4) the proportion of people living in rural areas who do not derive their livelihood solely from producing agricultural commodities, but who also have part-time off-farm jobs, is growing;

(5) the undercommitment of resources to rural areas has resulted in people who live in such areas to leave for more populated urban areas already plagued with high unemployment, thus exacerbating such unemployment problems;

(6) more resources are dedicated to urban development than to rural development; and

(7) various rural development programs in the Department of Agriculture should be streamlined, consolidated, or expanded in order to more effectively carry out the mission of rural development in the United States.

(b) Declaration of Policy.—It is hereby declared to be the policy of the Congress to respond to the needs of the more than 80,000,000 people living in rural areas by reviewing—

(1) the effectiveness and strength of the delivery system for rural development programs;

(2) proposals for improving such delivery system;

(3) the nature and effectiveness of programs designed to carry out the mission of rural development; and

(4) the degree to which the Department of Agriculture has accepted the responsibility to carry out such mission.

SEC. 2. ESTABLISHMENT OF COMMISSION.

There is hereby established a commission to be known as the National Commission on Rural Development (hereinafter in this Act referred to as the "Commission").

SEC. 3. DUTIES OF COMMISSION.

(a) Study.—The Commission shall study the rural development programs of the Department of Agriculture, including—

(1) the merits or lack thereof of ongoing or proposed legislative or administrative proposals and studies which address both the administrative structure of such programs and the field delivery of services under such programs;

(2) the extent to which such programs may be streamlined, consolidated, or expanded to enable a single agency to carry out the mission of rural development in the United States;

(3) the creation of a single administrative agency in such Department whose sole mission would be to provide more effective delivery of services under such programs in order to achieve greater economic growth in rural areas;

(4) the creation of a cabinet-level position with responsibility for rural development in the United States;

(5) changing the name of such Department to include rural development so that such name would more accurately reflect the complete mission of such Department and the growing number of people living in rural areas who cannot or do not depend on agricultural production for part or all of their income;

(6) the manner and extent to which individually authorized rural development programs, without regard to the level of funding of such programs, could be made more effective;

(7) any relationship between the undercommitment of resources to rural development due to the reduction in funding for rural development programs, the ability of producers of agricultural commodities to continue to farm and ranch, economic development of rural areas, and the movement of people living in rural areas to urban areas;

(8) any disparity between the funding of programs which serve urban areas and the funding of programs which serve rural areas;

(9) the manner and extent to which the role, number, and annexations to resource conservation and development programs and councils may be expanded to ensure that the resources of such programs and councils are most effectively used to preserve, improve, and enhance water and related resources in rural areas; and

(10) the impact of changes in the structure of such programs on other agencies of the Federal government.

In conducting such study, the Commission shall take into account the effectiveness and visibility of such programs, the resources dedicated to such programs by the Department of Agriculture, and the commitment of such Department to rural development.

(b) Interim Report.—Not later than August 31, 1989, the Commission shall, on the basis of the study described in subsection (a), make an information interim report of its findings and tentative recommendations based on such findings to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to the future operation of rural development programs of the Department of Agriculture. In addition to such tentative recommendations, such interim report shall include tentative recommendations for a plan under which a single agency would deliver the services to be provided through rural development programs and under which the Department of Agriculture would assume greater responsibility for rural development.

(c) Final Report.—Not later than December 31, 1989, the Commission shall submit to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a final report containing the results of its study and recommendations based on such results. In addition to such results and recommendations, such report shall include a plan described in subsection (b) and shall address questions, if any, raised by either of such Committees at the time of the interim report.

SEC. 4. MEMBERSHIP OF COMMISSION.

(a) Appointment; Number.—

(1) In general.—The Commission shall be composed of 24 members, 21 of whom shall be voting members, 3 of whom shall be nonvoting members, and all of whom shall be appointed by the Secretary of Agriculture.

(2) Voting members.—Not less than 16 of the voting members of the Commission shall be appointed from among nominations submitted to the Secretary of Agriculture by the following Members of Congress, after consultation with the other Members of Congress who sit on the specified committee or subcommittee of the respective House of the Congress:

(A) The Chairman of the Committee on Agriculture of the House of Representatives.

(B) The ranking minority member of the Committee on Agriculture of the House of Representatives.

(C) The Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(D) The ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(E) The Chairman of the Subcommittee on Rural Development, Agriculture, and Related Agencies of the Committee on Appropriations of the House of Representatives.

(F) The ranking minority member of the Subcommittee on Rural Development, Agriculture, and Related Agencies of the Committee on Appropriations of the House of Representatives.

(G) The Chairman of the Subcommittee on Agriculture, Rural Development, and Related Agencies of the Committee on Appropriations of the Senate.

(H) The ranking minority member of the Subcommittee on Agriculture, Rural Development, and Related Agencies of the Committee on Appropriations of the Senate.

(3) Nonvoting members.—The nonvoting members of the Commission shall be appointed from among officers and employees of the Department of Agriculture.

(b) Rules Relating to Nomination and Appointment of Commission Members.—

(1) Nominations.—Each Member of Congress described in subsection (a) shall nominate not less than 10 individuals for original appointment to the Commission, but not more than 2 individuals to fill any vacancy on the Commission.

(2) Appointments.—The Secretary shall appoint not less than 2 individuals from among the nominations submitted by each Member of Congress described in subsection (a). In making such appointments, the Secretary shall take into account, to the extent practicable, the geographical representation of members and the geographical extent of participation in particular programs.

(c) Qualifications of Commission Members.—Each member of the Commission shall have general knowledge of the operation of rural development programs of the Department of Agriculture and specific knowledge of the operation of 1 or more such programs, or shall have general knowledge with respect to the administration of such programs.

(d) Vacancies.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(e) Chair.—

(1) Temporary.—The Secretary of Agriculture or the designee of such Secretary shall serve as Chair of the Commission until the Commission has elected a Chair.

(2) Permanent.—Before the third meeting of the Commission, the Commission shall elect an individual to serve as Chair of the Commission from among the members of the Commission.

(f) Meetings.—

(1) In general.—The Commission shall meet at the call of the Chair of the Commission or of a majority of the members of the Commission.

(2) Exemption from certain provisions of federal advisory committee act.—Subsections (e) and (f) of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) Director and Staff of Commission.—

(1) In general.—To the extent there are sufficient funds available to the Commission in advance under section 7(b), and subject to such rules as may be adopted by the Commission, the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to the classification and General Schedule pay rates, appoint and fix the compensation of—

(A) a director; and

(B) such additional personnel as the Commission determines necessary to assit it to carry out its duties and functions.

(2) Staff.—The additional personnel of the Commission shall be appointed for a term of not more than 1 year. The Director may recommend the appointment of such additional personnel to the Commission as the Director deems appropriate.

(3) Exemption from certain pay guidelines.—Section 7(d) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(h) Contracting Authority.—To the extent there are sufficient funds available to the Commission under section 7(b) and subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) Office Space.—The General Services Administration shall act as agent for the Commission for the purpose of obtaining office space for the Commission in the District of Columbia or the Commonwealth of Virginia, satisfactory to the Chair of the Commission, which shall be leased by the Commission.

SEC. 5. TERM OF OFFICE.

The members of the Commission shall be appointed to serve for the life of the Commission.

SEC. 6. COMPENSATION OF COMMISSION MEMBERS.

Members of the Commission shall not receive pay by reason of their service on the Commission. While away from their homes or regular places of business in the performance of duties of the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under section 5703 of title 5, United States Code.

SEC. 7. POWERS OF COMMISSION.

(a) Obtaining Official Information.—The heads of executive agencies, the General Accounting Office, the Office of Technology Assessment, and the Congressional Budget Office, to the extent permitted by law, shall provide to the Commission such information as the Commission may require to carry out its duties and functions.

(b) Financial Support.—

(1) Gifts.—Notwithstanding section 1342 of title 31, United States Code, after the appointment of the members of the Commission, the Secretary of Agriculture may, on behalf of the Commission, receive contributions of money and services from persons, groups, and entities in the United States, to assist the Commission to carry out its duties and functions. Any money received under this section shall be made available to the Commission to carry out this Act. The Secretary shall not accept an aggregate amount of contributions from any 1 person, group, or entity exceeding 10 percent of the budget of the Commission.

(2) Other financing.—There is authorized to be appropriated to the Secretary of Agriculture not to exceed $1,000,000 to be made available to the Commission to carry out this Act, to the extent contributions received under paragraph (1) are insufficient to enable the Commission to carry out this Act.

(c) Administrative Support Services.—On request of the Commission, the heads of executive agencies, the General Accounting Office, and the Office of Technology Assessment shall detail to the Commission such personnel and support services for such period as the head of the agency or office, as the case may be, and the Chair of the Commission agree are necessary to assist the Commission to carry out its duties and functions. The Commission shall not be required to pay or reimburse any agency or office for personnel and support services provided under this subsection.

(d) Exemption From Requirements Relating to Performance Appraisal Systems.—Sections 4302 through 4304 of title 5, United States Code, shall not apply to the Commission.

SEC. 8. TERMINATION OF COMMISSION.

(a) In General.—The Commission shall cease to exist 30 days after submitting its final report pursuant to section 3(c).

(b) Return of Unexpended Funds to Treasury.—On the termination of the Commission, the Commission shall transfer to the Secretary of the Treasury all unexpended funds then held by or on behalf of the Commission.

CELEBRATING DAN SMILEY

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. McHUGH. Mr. Speaker, one of the great natural treasures of the Hudson Valley region of the Northeast is the Mohonk Mountain House located near New Paltz, NY. Anyone who has visited this magnificent resort and its beautiful natural surroundings understands why it is a national historic landmark.

Similarly, anyone who has ever met any of the members of the Smiley family understands that Mohonk has been nurtured for generations by a family of uncommonly dedicated and loving people. One member of this extraordinary family—Dan Smiley—is legendary for the various ways in which he has loved the Mohonk lands and learned from them.

One particular way in which Dan Smiley has loved the land and learned from it is through weather-watching. Recently, the National Weather Service honored his 50 years of service as a volunteer cooperative weather watcher with the Edward W. Stoll Award. In this respect, Dan Smiley has continued a long tradition of weather observations performed by numerous family members over several generations.

As Mohonk is a natural treasure, so is the Smiley family a human treasure. Dan Smiley is a worthy representative of the lessons that family has for us—lessons of respect for the land and each other. I am honored to share with my colleagues on this occasion an article about Dan Smiley and Mohonk by Jim Erdman in the January 28, 1988, issue of the Huguenot Herald:

Dan Smiley Receives Award

(By Jim Erdman)

Eighty-year-old Dan Smiley has taken his family's tradition of amateur naturalism to the point where some of his studies, including observations of the effects of acid rain done over fifty years ago, have garnered praise from the scientific community. Two weeks ago the National Weather Service honored the Mohonk Mountain House pioneer for his fifty years of service as a volunteer cooperative weather observer.

About twenty friends, colleagues and notables gathered at Mohonk Mountain House for the presentation of the Edward W. Stoll award. The government provides program volunteers with equipment and supplies to gather climatological data. The information compiled is used to establish records of weather patterns throughout the country. Engineers, planners, farmers, insurance company representatives and others use the data.

Smiley, who retired from the management of the mountain house until 1971, expressed his appreciation for the award. "It's quite overwhelming to have all this recognition," He said. "I wonder what they'll do fifty years from now."

He thanked assistants Anna Forster and Paul Huth for their help and offered a pair of definitions, reportedly made by a sixth-grade schoolboy, to explain his activities. "Climatology is what you expect," he said. "Weather is what you get."

Susan Zevin, the acting director of eastern division of the Weather Service, presented the award. Cooperative program manager Vincent Nunziata and Weather Service spokesmen Ray West and Roland Guy Loffredo participated in the ceremony. Smiley also received a Commerce Department commendation for fifty years of government service and a certificate of special congressional recognition. Eleanor Brown presented Smiley with the congressional certificate in behalf of congressman Matt McHugh.

Loffredo praised the cooperative observers. "This is a tradition with people who want to take weather observations," he said. "It's amazing that the tradition is so strong that there are some people who will make these observations without a break for 50 or 75 years. The cooperative weather observer often becomes the local weatherman. He becomes an authority on the weather in the area. A lot of the time they're the only source of record in the area."

The award is named for Edward Stoll of Elwood, Nebraska, its first recipient. Stoll participated in the program continuously for over seventy years. Other Weather Service commendations are named for Thomas Jefferson and John Campanius Holm, a Lutheran minister and the first known systematic weather observer from colonial America. Beginning in 1644, Holm kept climatic records without the help of instruments near present-day Wilmington, Delaware. Jefferson made almost continuous weather observations between 1776 and 1816.

The Mohonk cooperative weather station began operating on January 1, 1986. Over 33,000 observations have been made from the station, which is supplied with thermometers, a rain gauge, a barometer, and other instruments. Observers take their readings daily at 5 p.m. and record the results in monthly reports. Past observers at Lake Mohonk have been Albert K. Smiley, Daniel Smiley, Sr., Albert K. Smiley and Francis G. Smiley.

Dan Smiley's activities extend beyond the field of weather observation. A seasoned naturalist of some note in professional scientific circles, he is regularly consulted for his observations of natural phenomena. For sixty years Smiley has kept records of the migratory patterns of some thirty species of birds, the habits of local mammals, growth patterns of plants, and so forth. He has been called one of the top natural scientists in the world. Hundreds of research projects sponsored by colleges and universities have taken place in the vicinity of the lake, and Huth said about thirty projects are currently under way.

Perhaps Smiley's most remarkable contribution has been his work on the effects of acid rain, which began in 1931, before most were aware there was a problem. Smiley noted then that readings taken on Mohonk Lake, Lake Awosting and other bodies of water on the resort grounds indicated high acidity. He sent several samples to a chemist friend to confirm his results. The information sat in Smiley's extensive files until about fifteen years ago, when the acid rain controversy prompted him to resurrect his findings.

Acting on reports that Lake Awosting had once contained fish, Smiley dug through old records to determine whether 19th-century industry in the Hudson Valley might have created a local acid rain problem. He found that fish had lived in the lake until the early years of this century. Their disappearance had followed closely upon the growth of railroads, tanneries and smelting plants in the area. His research has been said to have demonstrated that acid rain is not a recent phenomenon.

The elaborate filing system kept by Smiley includes weather observation records nearly a century old. One of his most treasured resources, it has been preserved almost by accident. In 1973 he found he needed some of the daily reports from the earlier years of the Mohonk weather station. "I wrote the Environmental Data Service asking if it would be possible to secure copies," he recalled. "Within two weeks I received the originals for that series, with the note, 'Need not be returned.' Doubtless the Mohonk weather had been put on computer, and I was lucky enough to ask before the originals would have been destroyed."

Nunziata pointed out that Smiley, like all cooperative weather observers, receives no compensation for his studies. "These people get nothing but their own satisfaction from what they're doing," he said. "They don't get paid a thing."

The 300-room Lake Mohonk Mountain House was established in the second half of the last century by three brothers. Albert K. Smiley bought the property on which the Mountain House is located in 1869 and moved onto the lake in 1879. His twin brother, Alfred H. Smiley, was the on-site manager at the resort for the first ten years. A younger brother, Daniel Smiley, the current cooperative observer's grandfather, arrived at the site in 1880 and soon took over operations. The resort grounds cover about 2,000 acres contiguous to the 7,000-acre Mohonk Preserve, which the Smiley's established in 1963. The site is a designated national historical landmark.

MISSILE PROLIFERATION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. BROOMFIELD. Mr. Speaker, the proliferation of ballistic missiles throughout the world is one of our greatest concerns. That is why President Reagan on April 16, 1987, announced a new policy to limit the proliferation of missiles capable of delivering nuclear weapons. Acting on this concern, Canada, France, the Federal Republic of Germany, Italy, Japan, and the United Kingdom formulated guidelines to control the transfer of equipment and technology that could contribute to the development of nuclear-capable missiles. It has been the hope of the United States and its partners that all States would adhere to these guidelines in the interest of international security.

Recent incidents in the Middle East, however, reveal dangerous trends in missile proliferation. In the past several weeks Iran and Iraq have been firing missiles at one anothers' cities, killing hundreds of civilians. Moreover, it now appears that the Soviet supplied missiles to Iraq have been altered to extend their range. At the same time Saudi Arabia has decided to buy Chinese intermediate-range missiles capable of reaching any part of the Middle East.

In this regard, I commend to my colleagues a March 21 editorial in the Washington Post on this subject.

MISSILE PROLIFERATION

Saudi Arabia's decision to buy Chinese missiles is another long step in a dangerous arms race. These missiles are formidable weapons. Their range is understood here to be at least 1,000 miles—which would cover all of the Middle East—and it might be as much as twice that. They are described as capable of carrying nuclear warheads. As long as they are in the present Saudi regime's hands, that isn't the chief grounds for concern. Saudi Arabia does not seem interested in acquiring nuclear weapons. But this incident is another demonstration of the growing arms trade in the Third World, and of the increasingly powerful and sophisticated weapons being manufactured and sold by countries not generally described as industrialized.

It's getting harder to work out an effective worldwide arms control regime. Among the advanced industrial countries, there is good cooperation in cutting off arms sales to Iran. But a growing number of countries in Latin America, Asia and the Middle East now have flourishing industries producing arms for export. The Saudis have for some time been buying tanks, for example, from Brazil. As for the Chinese, they are providing more to Iran than the much-advertised Silkworm millies. They have become Iran's chief supplier of arms and ammunition, selling it roughly half of the military hardware that it imports to keep its war with Iraq going.

When Saudi Arabia buys weapons from the United States, there are strict agreements regarding their use and, especially, their resale. Weapons from China appear to carry no conditions. The Saudis, watching Iraq and Iran pound each others' cities, presumably want the Chinese missiles to stand as a warning that they can hit back. They themselves may be unlikely to use these missiles. But it is at least conceivable that they could eventually transfer them to another government with fewer inhibitions.

China's intentions as an arms dealer are even more obscure. What if China were to sell these missiles to its friend Pakistan? Pakistan, unlike Saudi Arabia, is determined to have nuclear weapons and is now far along in the process of building them. With a 2,000-mile missile, Pakistan could deliver a weapon anywhere from Thailand to the Mediterranean, not to speak of India, its nuclear-capable rival next door. The proliferation of nuclear weapons is one of the world's greatest concerns. The proliferation of powerful missiles is beginning to require similar attention. The need for restraint is not limited to the superpowers.

INF AND THE POLITICAL DECOUPLING OF EUROPE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. GILMAN. Mr. Speaker, Congress has now begun in earnest its consideration of the relative merits of the INF agreement. While the Senate has primary responsibility in the ratification process, all Members of Congress are taking an active part in the debate over this treaty. This debate is also taking place in London, Paris, Bonn, Rome, and all the NATO capitals. The tone and conclusions of this European discussion will have a significant influence on our own debate in the United States. Because of this, European opinion will be a key factor affecting American perceptions of the INF Treaty's merits and its long-term effect on the NATO alliance.

In this regard, the suggestion has been made by some observers, both in the United States and in Europe, that the removal of all U.S. INF systems from Europe will decouple the United States from its European allies. It is argued that these systems represent a vital link between the nuclear umbrella provided by the U.S. strategic systems and our political commitment to defend Europe. These critics believe the INF agreement severs this link, decoupling the United States from Europe, and constituting a very serious threat to NATO cohesion.

I disagree. In fact, I believe the opposite may be true. The INF Treaty may well save the alliance from the very political calamity which some of the treaty's present detractors are attempting to lay at its doorstep.

It's no secret to even a casual observer of United States-European relations that during the 1980's the political, economic and military facets of the NATO alliance were under a great deal of strain. In the political/military area this fact of life was rooted in a number of different factors. First of all, President Reagan, while popular in the United States, was burdened with a broadly negative European public image, largely engendered by remarks he made during his run for the Presidency in 1980 and in the early years of his first term. The image of Reagan "the cowboy" proved unsettling to many Europeans and in numerous ways helped strengthen the more radical elements of Europe's peace movement.

Second, while the deployment of the INF systems has now been vindicated by the agreement to remove comparable Soviet systems, it did nonetheless have a high political cost in Europe. For some Europeans it confirmed their distrust of America's intentions, in some cases making many Europeans more sympathetic to the radical and often illogical demands of some extremist elements of the European peace movement.

While these difficulties were to a certain degree successfully finessed by Conservative and Christian Democratic governments in Europe, the INF deployment issue did nonetheless create a real debate over the future of NATO security policy, with a strong move by leftist groups to adopt a unilateralist disarmament policy.

This contributed to a third element threatening NATO in the 1980's, the growth within the traditional socialist parties in Europe, such as the Social Democratic Party in West Germany and the Labor Party in Great Britain, of an evolving "alternative security policy" for Europe. These parties hoped such an alternative would allow them to capitalize on what they perceived to be a growing European peace movement largely sustained by increased public anxiety over nuclear weapons. The result of this tactical move was an evolution in these parties toward an increasingly unilateralist disarmament policy as evidenced in 1986 by the West German Social Democratic Party's security policy document approved at the Nurenburg Party Conference and the Labour Party's security statement adopted at its Blackpool meeting in the same year.

Both parties set forth security principles calling for the unilateral withdrawal of U.S. Pershing II and GLCM systems deployed in both countries, support for nuclear free zones in Europe, the renunciation of any sort of participation in SDI, and the proposed establishment of British and German military forces with only purely defensive capabilities. In essence, both parties adopted positions which no American President, Democrat or Republican, could accept. If either of these parties had come to power and implemented these policies, I believe that Congress, in a bipartisan action, would have had our boys home from Europe so quickly that the Europeans' heads would spin.

This is the real crisis which has been hanging over NATO's head for several years now. It is my firm belief that NATO would have suffered irreparable damage if these alternative security policies had been implemented. Luckily, European voters, while apprehensive about certain aspects of United States leadership in the security area, rejected these policies outright in recent national elections held in Germany and Great Britain in 1987. But these "alternative security" ideas have not disappeared.

This is why I believe the INF agreement Congress is reviewing is such a potent political factor strengthening the NATO alliance, not weakening it as some argue.

The treaty offers visible, irrefutable proof that, while perhaps well-intentioned, the European peace movement and the Socialist parties propounding similar notions were wrong. The Americans were in fact committed to arms control. Most importantly, we were committed to arms control which would remove INF systems from both sides. Recently, while in Europe briefing European leaders on the INF agreement, Secretary of State Shultz addressed this issue directly when he stated his hope that the INF Treaty would result in "a diminution of public sympathy for the more radical goals and proposals of the European peace movement."

Furthermore, European Socialist parties shaken by key electoral defeats in both the United Kingdom and Germany—which many observers partially attributed to their proposed security policies—are now under considerable pressure as a result of the INF Treaty to moderate their security views. Indeed a leading Labour Party foreign policy spokesman, Gerald Kaufman, said last December that Labour's "unilateralism" was no longer necessary now that the superpowers had embraced nuclear disarmament. This was echoed more recently in a similar statement by Martin O'Neil, a senior Labour Party defense spokesman in the British Parliament.

For the time being, or at least until the major Socialist parties in Europe moderate their security policies dramatically, the most important political dividend of the INF agreement may be that it will further isolate the dangerous security policies of the European left, forcing its member parties to revise these policies in a way which brings them back into the NATO security fold.

And, there is one last point. The true coupling of the United States and Europe is accomplished by our national commitment to help protect Europe, visibly and materially exemplified by more than 300,000 young American soldiers stationed in Europe. It would seem to me that they are the final, most compelling manifestation of the coupling of the United States and Europe. If this is not the case, and cold, mechanical nuclear devices are more important than the lives of these young Americans in insuring the strength and cohesion of the alliance, then indeed we do have a serious alliance problem, but it is not the one to which critics of the INF Treaty are currently alluding.

On balance, the recently signed INF agreement contributes significantly to both NATO political and military cohesion. It convincingly proves that NATO's jointly arrived at dual track decision in 1979 which called for both the deployment and negotiation of the INF systems was correct. One can even argue that the INF Treaty offers a textbook example of how NATO countries with diverse interests can work together to accomplish a difficult goal.

For all these reasons, if one is looking to find political fault with the INF Treaty, he will be disappointed. Its political impact on NATO will be positive both in the short term and long term. It will help diminish the nuclear fatigue of the European public, thus weakening those more radical political elements in Europe which attempted in the past to capitalize on this phenomenon in pushing for a unilateral disarmament agenda—a policy which if ever implemented would have had a devastating effect on the alliance and shaken NATO to its very core.

CONGRATULATIONS TO THE COACHELLA VALLEY RSVP

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. McCANDLESS. Mr. Speaker, National Volunteer Week is coming up on April 18, and I want to take this time to commend the Retired Senior Volunteer Program of Coachella Valley for their outstanding record of service to people in the desert community where I live.

The Coachella Valley RSVP group had its beginnings over 15 years ago in December 1972 with 10 volunteers. It has grown tremendously since that time, and now has 625 volunteer workers who gave over 140,000 hours of public service last year.

Some of the specialized and valuable tasks which our RSVP volunteers have handled are assisting senior citizens with help in filling out tax forms, legal counseling and health testing. They have helped get out bulk mailings for one city and for our community college. They have given their time and unselfish effort as drivers for the Meals-on-Wheels Program and as tutors for the blind and handicapped. Altogether there are 60 public agencies and nonprofit organizations in the Coachella Valley who have received RSVP assistance.

I'm sure that all the people of the Coachella Valley join me in commending the excellent record of the Retired Senior Volunteer Program and in saluting the individual volunteers for giving so freely of their own time and energies to contribute to the strength and well-being of our community. They certainly deserve a vote of thanks.

THE 70TH ANNIVERSARY OF BYELORUSSIAN DECLARATION OF INDEPENDENCE

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. DONALD E. LUKENS. Mr. Speaker, I am pleased to join my colleagues today in paying tribute to the 70th anniversary of the declaration of independence of the Byelorussian Democratic Republic. Although Byelorussian independence lasted for only a short period of time, one must applaud its citizens for refusing to give up the struggle for national independence and freedom from Communist tyranny.

The Byelorussian Democratic Republic was declared on March 25, 1918. Less than a year later, the Bolshevik government created the Byelorussian Soviet Socialist Republic which they used as a puppet state to fight a war against independent Byelorussia. In 1921, the democratic republic was finally conquered and divided among Poland and the Soviet Union.

Immediately following the take over, the Soviets began an intense program aimed at, "Russianizing" Byelorussia. Thousands of Russian colonizers were sent to the republic to fill ruling positions, all literary publications in the Byelorussian tongue were destroyed, churches and monuments were torn down, and Russian replaced the Byelorussian dialect as the official language. Those seeking to impede the destruction of their native culture were sent to Siberian prisons and labor camps.

Throughout this time of hardship and tyrannical oppression, the people of Byelorussia never gave up their struggle to repel the Communists. Although they risked being put into prison and concentration camps, many took a firm stand against their invaders and their attempt to deny Byelorussia of its rich culture and past.

This same quest for national identity still exists today, and there have been a few victories. Byelorussia has become a charter member to the United Nations, having the same legal status as the Soviet Union.

It is accomplishments such as this which make us realize how imperative it is that we continue to support the people of Byelorussia in their struggle for national identity and independence.

THE ITC REPORT: MAQUILADORAS HELP U.S. WORKERS

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. KOLBE. Mr. Speaker, there's been a spirited national debate in recent years over whether United States-owned companies in Mexico have a positive or negative impact on American jobs. Opponents of such Mexican assembly plants, or maquiladoras, claim the United States companies export American jobs to Mexico. They want to eliminate longstanding trade preferences, tariff items 806.30 and 807.00, that allow for the duty-free movement of 100 percent United States-made components used in the Mexican assembly process. Proponents of increased United States-Mexico trade believe that these tariff items save American jobs by encouraging the use of United States-made components, and that the maquiladora program as a whole helps United States companies compete in world markets.

Now, the U.S. International Trade Commission—the independent agency that makes trade law recommendations to Congress—has an answer. In a report released last month, the ITC concluded that repealing tariff items 806 and 807 would destroy American jobs, not protect them. Why? Because hundreds of factories throughout the United States supply components to the Mexican assembly plants. Mexico's maquiladoras support more than 1.2 million direct jobs in the United States, in component manufacturing and related industries. Dismantal the maquiladora program and the livelihood of those workers and their families will be lost.

Equally important, the ITC concluded that "the use of items 806.30 and 807.00 appears to have enhanced the competitive position of United States firms," especially when combined with the lower costs and access to major markets that Mexico offers. Imports to the United States under the 806/807 program are growing more rapidly from Mexico than from all other countries, rising from 35 percent to 54 percent between 1980 and 1986. This is important to American workers because the majority of components used in Mexico's maquilas are made in the United States. In another encouraging development the ITC noted that "some U.S. companies were able to shift some product assembly lines from East Asia to Mexico" because of the advantages of maquiladoras. This is especially promising considering that U.S.-owned maquilas rely on U.S. companies for most of their components. In contrast, United States "offshore" subsidiaries in East Asia rely almost exclusively on foreign-made components.

I urge my colleagues who have objected to tariff items 806 and 807 to reevaluate their views in light of the ITC's findings. The facts speak for themselves. Trade with Mexico doesn't hurt American workers—it helps them.

GIVE PEACE A CHANCE

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. HEFLEY. Mr. Speaker, last month, Congress was faced with the controversial issue of supplying aid to the Nicaraguan freedom fighters. After days of debate and deliberation, the House of Representatives voted to withhold all aid to the Contras in an effort to "give peace a chance."

Last Wednesday, we witnessed the exact opposite as the Sandinistas cracked down on the internal opposition, increased their Soviet military deliveries, and invaded Honduras. These actions are an overt attempt to destroy the Contras and a dishonest effort toward negotiating peace. Moreover, this invasion is particularly disturbing in light of the ongoing peace negotiations in the region and the plans for a high-level meeting between the Sandinistas and the resistance due next week.

An estimated 1,500–2,000 soldiers entered Honduras and another 4,500 are positioned in the Bocay Valley in Nicaragua. The Sandinistas have brought to bear their strongest military power, including aerial bombardment from Soviet-supplied An–26 Aircraft, Mi–25 flying tank attack helicopters, as well as close support from artillery and rockets.

To understand the severity and significance of this invasion, it is necessary to understand that the Contras have almost entirely relied on supplies prepositioned along the Nicaraguan-Honduran border ever since United States air transport and delivery were cut off February 29, 1988. Therefore, the Sandinista decision to mount an invasion now was carefully timed and clearly represents an effort to destroy remaining resistance supplies and the resistance itself.

Does this sound like an attempt at peace?

Time and time again the Sandinistas have flexed their Soviet military muscle to the peril of the Contras, and time and time again, we have done nothing but watch and criticize. Clearly, the Sandinistas have absolutely no interest in democracy or working toward a peace process as they continue to violate human rights and brutally persecute the opposition. On March 3, they even went so far as to close down the Nicaraguan Ministry of Justice which is responsible for monitoring the administration of justice within Nicaragua.

Does this sound like an attempt at peace?

In response to the invasion, Honduran President Jose Azcona asked the United States for "effective and immediate assistance to maintain the sovereignty and territorial integrity of his country." President Reagan then ordered 3,200 United States combat troops to be sent to Honduras as "a measured response designed to show our staunch support for the democratic Government of Honduras at a time when its territional integrity is being violated by the Cuban and Soviet-supported Sandinista army."

During debate of February's Contra aid vote, many of us said that failure to aid to the Contras would result in our young men and women having to go down and fight in the jungles of Central America.

We pulled the rug out from underneath the Contras and now—our young men and women are in jungles of Central America.

How long will it take for the House leadership to understand the severity of the situation in Nicaragua and the threat it presents to surrounding countries as well as the United States. When will they learn that we have the capability and responsibility to promote a democratic peace in Nicaragua. They need our help—they want our help, but we refuse it.

Giving peace a chance is a good idea but shouldn't we also give freedom a chance?

A TRIBUTE TO GREEK INDEPENDENCE DAY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to Greek Independence Day. March 25 commemorates the anniversary of the beginning of Greece's struggle for independence from over 400 years of domination by the Ottoman Empire. Throughout these years, the people of Greece kept their religion, language, and culture intact, never bowing to the pressures of the foreign power. The strength and commitment necessary to preserve that heritage have been passed down from generation to generation and are evidenced by one particular family in my community. I can think of no finer way to pay tribute to Greek Independence Day than by honoring the Papadakis family, an outstanding example of successful Greek immigrants.

Angie Papadakis is the daughter of immigrants who instilled in her a traditional love for words. She is proficient in both Greek and English, and is an award-winning humorist and one of the few women gag-writers in the country. She writes for comedians, cartoonists, and magazines and her work has appeared in 39 national publications from Readers Digest to Successful Farming. In addition, she keynotes conferences and conventions all over the country.

Besides being president of Papadakis Advertising, Angie has been a member of the California State Board of Education, the Los Angeles County Public Social Services Commission, the Lung Association Board, and the Propeller Club Board of Governors. She is also a director of United Way, Inc., the Los Angeles Educational Partnership, and chairman of the Harbor Area Round Table Against Youth Violence.

Ernest "Tom" Papadakis is the son of Greek immigrants who settled in San Pedro, CA when he was very young. His father scrimped and saved for many years, and finally bought a restaurant. That restaurant was the beginning of an empire for the Papadakis clan. As the restaurant prospered, Mr. Papadakis added a hotel, and a liquor store, and then several more liquor stores. His children eventually joined the family business, and it continued to grow. Ernest Papadakis is now the sole owner of the family corporation, which includes a chain of liquor stores, a shopping center, and of course, the original hotel. Angie and Ernest's oldest son Nick, now helps his father manage the business.

Angie and Ernest's second and third sons, Tom and John, following the family tradition, started a Greek restaurant in Los Angeles, called Papadakis Taverna. It is widely recognized as one of the best Greek restaurants in the Nation.

The Papadakis family is a monument to Greece and an example for Greek-Americans. Though Angie and Ernest could not speak English when they began school, they managed to graduate and prosper. They have kept the spirit of their heritage alive, much as their ancestors did for 400 years in Greece, and they have enriched our community as well. My wife, Lee, joins me in commending Angie and Ernest Papadakis, their sons, Nick, John and Tom, and their seven grandchildren on Greek Independence Day as a family that exemplifies the spirit of Greece. We wish them all the best in the years to come.

CELEBRATION OF GREEK INDEPENDENCE

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Ms. PELOSI. Mr. Speaker, I am pleased to rise to commemorate Greek Independence Day as a Member of Congress. My own father, when he served in Congress, appointed the first Greek-American to a service academy and I am proud of my close relationship with the Greek-American community.

Nearly 167 years ago, the Greek people began the struggle that would gain them independence from 400 years of Ottoman rule. This struggle would return Greece to the embrace of its ancient democratic traditions, traditions which provided a model for our own system of government.

The Greek people have contributed much to the world. The ancient idea of Aristotle, that power should rest in the hands of the people, formed the basis for our Constitution. Greek literature, architecture, and philosophy have contributed to our understanding and enjoyment of the world. Their contributions have been vital to the development of 20th century thought.

The relationship between Greece and America is not limited to an ancient legacy, however. Over 3 million Greek immigrants have come to the United States. American citizens of Greek descent have become Members of Congress, respected business leaders, and noted scientists. The distinguished mayor of San Francisco is among them.

On this day, it is fitting to restate our commitment to an unoccupied Cyprus. Greek Cypriots have not only lost their land, but are threatended with the loss of the very history that created the Greek spirit of Cyprus.

It is with great pride that I rise in celebration of the enduring relationship between our two countries. Thank you.

GREEK INDEPENDENCE DAY

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. HUGHES. Mr. Speaker, I rise to join with my colleagues from across this Nation to commemorate and celebrate Greek Independence Day.

It was 167 years ago this Friday that the people of Greece rose up, broke the bonds of foreign domination, and fulfilled their destiny as an independent nation. That seems like a long time to us now, but it is only a brief moment in the long history of a remarkable people and a remarkable culture.

Although thousands of miles separate our two nations, Greece and the United States continue to enjoy a close and important relationship. The people of America should not forget that we are the beneficiaries of the democracy that developed and flourished on the islands of Greece over 2,000 years ago. The founders of our Nation were students of the classics, and gained insight and inspiration from the freedom-loving Greeks of antiquity.

Just 45 years after the signing of the Declaration of Independence, it was the Greek people who looked to the American Revolution as the archetype in their struggle for freedom. The series of uprisings that we commemorate today ultimately overturned 400 years of Ottoman rule and gave birth to the modern Greek state. In time, Greece would send many of its sons and daughters to these shores, where their descendants continue to revitalize the democratic revolution that began here over 200 years ago.

Indeed, the heritage of the first Greek immigrants and those who followed has been permanently woven into the rich tapestry that is America.

Mr. Speaker, here we stand, on the same spot where Members of Congress stood in 1821 and proclaimed their solidarity with the Greek people in their struggle for freedom. Today, as we remember and recreate that event, let us also recognize and reaffirm our ties to the people of Greece.

GREEK INDEPENDENCE DAY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. FORD of Michigan. Mr. Speaker, I rise to join my colleagues in the celebration of Greek Independence Day. The enormous contributions of the ancient Greeks to democracy and republican government are well known. The contributions of the modern Greek patriots, who declared their independence from the Ottoman Empire on March 25, 1821, and fought 6 years for their freedom, are less well known in the United States. But they are an inspiration to all who take the time to learn about them, and a special inspiration to people of Greek descent around the world.

Even in my own congressional district, which includes the city and township of Ypsilanti, named for Alexander Ypsilanti, who issued the Greek Declaration of Independence, I suspect that the exploits of the Greeks who won their freedom are not well known. I encourage everyone, therefore, to read the exciting history of the Greeks' war for independence and to celebrate with them their 167th anniversary of freedom.

I insert a beautifully written statement of Greek Independence Day prepared by Peter and Zoe Kokenakes of Livonia, MI in the RECORD at this point:

COMMEMORATING GREEK INDEPENDENCE DAY, MARCH 25, 1988

The celebration of 167 years of Greek Independence from the Ottoman Empire, an event which led to a resurgence of freedom throughout the Western world, occurs on March 25, 1988.

Just as over 200 years ago the American people declared, "We hold these truths to be self-evident . . . " and launched on the great adventure of freedom, so also the valiant Greek patriots declared: "We, descendents of the wise and noble people of Hellas, contemporaries of the enlightened and civilized nations of Europe, beholding the advantages which they enjoy under the protection of law find it no longer possible to suffer without cowardice and self contempt the cruel yoke of the Ottoman power which has weighed upon us for more than four centuries. After this prolonged slavery, we have determined to take arms and to avenge ourselves and our country."

Freedom from aggression and tyranny is not easily won. Freedom, "a pearl of great price," was won through sacrifice, valor, anguish, bloodshed and death.

The Greeks appealed to the United States for help and support and were rewarded by the understanding of a new nation which appreciated the concepts imbued in freedom.

Thomas Jefferson, answering a plea for help in the establishment of the government after the heroic struggle, replied: "No people sympathize more feelingly than ours with the sufferings of your countrymen; and none offers more sincere and ardent prayers to heaven for their success. Possessing ourselves the combined blessings of liberty and order, we wish the same to other countries and to none more than yours which, the first of all civilized nations, presented examples of what man should be."

In 1821 the poet Shelley wrote, "We are all Greeks. Our laws, our literature, our religions, our art, have their roots in Greece."

The historian Will Durant emphasized, "Civilization does not die, it migrates; it changes its habitat and its dress, but it lives on. Greek civilization is alive; it moves in every breath of mind that we breathe; so much of it remains that none of us in one lifetime could absorb it all. Greece is the bright morning star of the western civilization which is our nourishment of life."

Even though the names of the Greek heroes—Diakos, Kolokotronis, Kanaris, Androutzos, Mavromihalis, and Ypsilanti, to name a few, may not be widely known outside the Greek culture, they belong in the annals of the freedom fighters of the world—the George Washingtons of Greece.

Lovers of freedom, our citizens and friends of Greek descent carry within them the torch of liberty, the patriotism of ardent Americans, and the honor of serving God and country.

Let us, with them, remember and celebrate March 25th reiterating the exultant cry of the Hellenes "Xaire Eleutheria." Hail to Freedom.

Written by,

PETER AND ZOE KOKENAKES,
Livonia, MI.

FORMER REPRESENTATIVE WICKERSHAM DIES

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. WATKINS. Mr. Speaker, last week this body lost a former colleague who served in the U.S. House of Representatives for ten terms nonconsecutively from 1941 to 1965. He served in the 77th, 78th, and 79th Congresses, rested a term, and then returned for the 81st through the 84th Congress, rested a few more terms and then returned to Congress for the 87th and 88th Congresses. When I say "rested," I really don't mean that, for I doubt that Victor Wickersham ever truly "rested."

Victor Eugene Wickersham (1906–88) was noted for his ability to remember names and places those names with faces in the sprawling areas of western Oklahoma. The district at one time encompassed nearly a third of Oklahoma in an area that is generally thinly settled. He shook hands with the young and gave them candy, knowing as those of us who stay here awhile know, that youngsters will eventually grow up and become voters. He shook hands with the older voters and tended to their needs, knowing that those people who are helped usually tend to remember that help. He sent baby care books to the parents of the new born and agricultural books to the farmers. He listened and talked to the constituents and took care of their needs. They returned him time and time again, with a few timeouts for readjustments.

Mr. Speaker, Oklahomans take their politics seriously and as a result, Victor was not a nonentity; those who were for him, were truly for him, and those who opposed, were strongly opposed. Everyone had firm ideas, one way or the other, about Victor Wickersham. He won election a couple of times by cliff hangers. For instance, a recount in 1960 sent him back to Congress with a 76-vote victory out of 135,000 votes cast. He had won the primary by 402 votes out of 81,000 cast, and had lost the previous primary by 81 votes out of 90,000 cast.

The story is told that the late Senator Robert S. Kerr was one time driving through southwestern Oklahoma near Mangum, "Wickersham country" and stopped to get gasoline and a Dairy Queen ice cream, which Bob loved, at a rural filling station. Senator Bob, a large man known for his effusive nature and an ego almost as large as he was, went over to introduce himself to one of the local citizens seated on a bench before the two-pump station. "Hello, I'm Senator Bob Kerr," Senator Kerr said as he introduced himself to the nester. The old gentleman hesitated just a moment before he said, as he shook Senator Kerr's hand, "What ever happened to that little red-headed feller from Altus?" referring to State Senator Ryan Kerr. "No, no," Bob is reported to have said, "I'm your United States Senator, up in Washington. He's up in Oklahoma City in the State senate." The old man shook his head a minute and then said, "Well, what ever happened to Wickersham?"

Victor Wickersham rendered long and good service to Oklahoma and to the old Seventh and Sixth Districts which were merged and which he served so long. This was back in the days, believe it or not, when Oklahoma had eight districts and a Representative-at-large. Victor had a saying: "Call me anytime after midnight—that's the only time I'm not busy." And, those who knew Congressman Wickersham know that he spoke the truth, for he was forever busy on behalf of his district, his State, and his people. Upon leaving the Congress, Mr. Wickersham entered real estate, investment, and insurance businesses in Oklahoma. He was elected to the Oklahoma House of Representatives in the early 1970's, and just last month, after a few years "rest," on February 9, he took the oath of office to again serve in the Oklahoma House. His oath came at a time, Mr. Wickersham said, which coincided to the minute to the precise time of his birth in 1906 near Lone Rock, AR. At the age of 82, he had won a special election to fill a resignation vacancy. He said, upon reentering public life, that a doctor had told him recently he could do anything that a 60-year-old man or a 10-year-old mule could do. And we believed him. He was indefatigable.

Unfortunately, a stroke has taken Mr. Wickersham from us. His death leaves a vast void in Oklahoma's political heritage, for when Victor Wickersham was active, there was no void as he filled the space around him with energy and activity. Earlier this month, a few days before his death, he had written to me asking for a copy of a speech I had made on rural development. I'm sorry that he didn't get to read it, for I'm sure he had some plans of his own to help the southwestern Oklahoma district he represented in the Oklahoma House of Representatives.

Mr. Speaker, we will miss Representative Victor Eugene Wickersham but Oklahoma is the better for him having elected him to office.

NEW RESTRICTIONS ON ANTI-APARTHEID ACTIVITIES IN SOUTH AFRICA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. BROOMFIELD. Mr. Speaker, on February 24 the South African Government imposed sweeping restrictions on a number of organizations which have actively opposed the political, economic, and social consequences of apartheid.

While the Government's order does not disband these organizations as such, it prohibits them from "carrying on or performing any acts whatsoever." In the case of the leading black labor union—the Congress of South African Labor Unions [COSALU]—it has been prohibited from engaging in political activities.

The chief organization affected was the United Democratic Front [UDF], which is a broad-based, multiracial coalition of groups, primarily composed of blacks. The UDF is associated with the already banned African National Congress [ANC]. Some elements of both the UDF and ANC, it is true, advocate a socialist program or accept the use of violence.

The UDF, not to mention the other groups subject to the order, including the Detainees' Patents Support Committee, nevertheless represented some of the few remaining channels of legitimate dissent. As Bishop Tutu commented in response to the government's new action, "Peaceful paths to change are being closed off one by one."

Mr. Speaker, I voted to uphold the President's veto of the Comprehensive Antiapartheid Act. While I supported the act on the first vote, I believe that the administration must have sufficient flexibility to respond to developments in South Africa.

The administration has clearly stated its categorical rejection of the institutions of apartheid. In response to the recent crackdown on opposition organizations, the State Department spokesman indicated that the United States Government is "appalled" and that the South African Government had been informed of our "shock and distress" at this action.

I commend the administration's forthright actions in this regard. The United States must continue to find positive means to advance the participation of nonwhite South Africans in their country's society and economy.

PERSONAL EXPLANATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. GILMAN. Mr. Speaker, I was unavoidably detained on Thursday, March 17, because I had important matters to attend to in my congressional district, and as a result I was not able to cast my votes on rollcall No. 34 (to direct the Speaker to take such steps as are necessary that the audio and visual broadcast coverage of House proceedings not be interrupted), rollcall No. 35 (Walker amendment to the Disaster Relief and Emergency Assistance Amendments), and rollcall No. 36 (passage of the Disaster Relief and Emergency Assistance Amendments of 1988). Had I been present, I would have voted "yea" on rollcall 34 and on rollcall 36. I would have voted "nay" on rollcall 35.

GYMNASTICS PACIFICA INVITED TO AUSTRALIA

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. McCANDLESS. Mr. Speaker, it has come to may attention that Gymnastics Pacifica, comprised of 31 young athletes from Corona, Norco, Riverside, Mira Loma, Lake Elsinore, and Placentia have been in serious training for a performance at the U.S. Pavillion at Expo '88 in Brisbane, Australia, this summer.

This outstanding group will also be presenting demonstrations in Cairns on the Barrier Reef, the Gold Coast, and Sydney, as well as in Auckland, New Zealand.

This trip is an especially great honor, since Gymnastics Pacifica is the only California gymnastics team that received an official invitation to perform. I am very proud of these fine young athletes, and commend their accomplishments to my colleagues.

WIDENING THE NATIONAL SECURITY DEBATE

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. MRAZEK. Mr. Speaker, several weeks ago a splendid article, authored by Dr. Carl Sagan and entitled "The Common Enemy," appeared simultaneously in Parade magazine and the popular Soviet publication Ogonyok. The editors of these respective publications, Mr. Walter Anderson and Mr. Vitali Korotitch, deserve a lot of credit for staging this breakthrough in Soviet-American relations.

In this article, Dr. Sagan suggested that, in addition to the military threat posed by the Soviet Union and others, preserving the national security of the United States now entails managing emerging global environmental and economic concerns. He also emphased the special responsibilities the United States and the Soviet Union, as the technological leaders of the world, bear in addressing global concerns.

I fully agree with Dr. Sagan's analysis. The combined impact of these global concerns forces reevaluation of our present concepts of national security. The United States and the Soviet Union do bear special responsibility in reforming our present relationship to one that can start to address these global concerns. As Secretary of State George Shultz recently stated,

> * * * In this period of profound historical change, both the United States and the Soviet Union must make the most of opportunities to transform the adversarial character of the United States-Soviet relationship to one that is better for both our peoples and for the world at large.

In many ways, we are living in an age without precedent. With man-made and natural phenomena reaching beyond national borders as never before, we have come to a historical crossroads. Present security structure may not be adequately focused to address emerging national and international concerns. At the same time, we simply cannot afford to abandon our present security structure no matter how imperfect it may be. Our Nation is faced with a classical systems problem in which a transition must be managed from one concept of security to another.

The challenge we face is to make certain that we implement policies that begin to address a broader view of security. In addition to these efforts, we must start to research, develop and implement a new security program that does fully address the linkage between military, environmental, and economic concerns. It should be pointed out that these concerns not only affect all nations, but transcend ideological barriers and partisan politics as well.

I would like to submit to my colleagues that one example of this process is represented in a speech written over 20 years ago by Lt. Col. Howard Kurtz and his late wife Harriet of War Control Planners, Inc. The Kurtzs had the help of over 200 military and political leaders from both political parties as they prepared this speech, originally intended for President Johnson. In 1969, Esquire magazine condensed the essence of their work into one sentence:

> Since right now international arms agreements are improbable because no country trusts any other country, the Kurtzs' plan would first provide something trustworthy and then ask the military powers to begin trusting it.

With these thoughts in mind, I submit for the RECORD Dr. Sagan's article and the draft speech written by Lieutenant Colonel Kurtz and his late wife Harriet. While I am not endorsing the Kurtzs speech per se, I do believe their suggestions deserve wider debate and discussion. The collective destiny of all nations may very well depend on such a debate taking place.

THE COMMON ENEMY

(By Carl Sagan)

If only, said the American President to the Soviet General Secretary, extraterrestrials were about to invade—then our two countries could unite against the common enemy. Indeed, there are many instances when deadly adversaries, at one another's throats for generations, put their differences aside to confront a still more urgent threat: the Greek city-states against the Persians; the Russians and the Polovtsys (who once had sacked Kiev) against the Mongols; or, for that matter, the Americans and the Soviets against the Nazis.

The alien invasion is, of course, unlikely. But there is a common enemy—in fact, a range of common enemies, some of unprecedented menace, each unique to our time. They derive from our growing technological powers and from our reluctance to forgo perceived short-term advantages for the longer-term wellbeing of our species.

The innocent act of burning coal and other fossil fuels increases the carbon dioxide green house effect and raises the temperature of the Earth, so that in less than a century, according to some projections, the American Midwest and the Soviet Ukraine—current breadbaskets of the world—may be converted into something approaching scrub deserts. Inert, apparently harmless gases used in refrigeration deplete the protective ozone layer; they increase the amount of deadly ultraviolet radiation from the Sun that reaches the surface of the Earth, destroying vast numbers of unprotected microorganisms that lie at the base of a poorly understood food chain—at the top of which precariously teeter we. American industrial pollution destroys forests in Canada. A Soviet nuclear-reactor accident endangers the ancient culture of Lapland. Raging epidemic disease spreads worldwide, accelerated by modern transportation technology. And inevitably there will be other perils that, with our usual bumbling, short-term focus, we have not yet even discovered.

The nuclear arms race, jointly pioneered by the United States and the Soviet Union, has now boobytrapped the planet with some 60,000 nuclear weapons—far more than enough to obliterate both nations, to jeopardize the global civilization and perhaps even to end the million-year-long human experiment. Despite indignant protestations of peaceable intent and solemn treaty obligations to reverse the nuclear arms race, the United States and the Soviet Union together still somehow manage to build enough new nuclear weapons each year to destroy every sizable city on the planet. When asked for justification, each earnestly points to the other. In the wake of the Challenger space shuttle and Chernobyl nuclear power plant disasters, we are reminded that catastrophic failures in high technology can occur despite our best efforts. In the century of Hitler, we recognize that madmen can achieve absolute control over modern industrial states. It is only a matter of time until there occurs some unanticipated subtle error in the machinery of mass destruction, or some crucial communications failure, or some emotional crisis in an already burdened national leader. Overall, the human species spends almost $1 trillion a year, most of it by the United States and the Soviet Union, in preparations for intimidation and war. Perhaps, in retrospect, there would be little motivation even for malevolent extraterrestrials to attack the Earth; perhaps, after a preliminary survey, they might decide it more expedient just to be patient for a little while and wait for us to self-destruct.

We are at risk. We do not need alien invaders. We have all by ourselves generated sufficient dangers. But they are unseen dangers, seemingly far removed from everyday life, requiring careful thought to understand, and involving transparent gases, invisible radiation, nuclear weapons that almost no one has actually witnessed in use—not a foreign army intent on plunder, slavery, rape and murder. Our common enemies are harder to personify, more difficult to hate than a Shahanshah, a Khan or a Führer. And joining forces against these new enemies requires us to make courageous efforts at self-knowledge, because we ourselves—all the nations of the Earth, but especially the United States and the Soviet Union—bear responsibility for the perils we now face.

Our two nations are tapestries woven from a rich diversity of ethnic and cultural threads. Militarily, we are the most powerful nations on Earth. We are advocates of the proposition that science and technology can make a better life for all. We share a stated belief in the right of the people to rule themselves. Our systems of government were born in historic revolutions against injustice, despotism, incompetence and superstition. We come from revolutionaries who accomplished the impossible—freeing us from tyrannies entrenched for centuries and thought to be divinely ordained. What will it take to free us from the trap we have set for ourselves?

Each side has a long list of deeply resented abuses committed by the other—some imaginary, most, in varying degrees, real. Every time there is an abuse by one side, you can be sure of some compensatory abuse by the other. Both nations are full of wounded pride and professed moral rectitude. Each knows in excruciating detail the most minor malefactions of the other but hardly even glimpses its own sins and the suffering its own policies have caused. On each side, of course, there are good and honest people who see the dangers their national policies have created—people who long, as a matter of elementary decency and simple survival, to put things right. But there are also, on both sides, people gripped by a hatred and fear intentionally fanned by the respective agencies of national propaganda, people who believe their adversaries are beyond redemption, people who seek confrontation. The hard-liners on each side encourage one another. They owe their credibility and their power to one another. They need one another. They are locked in a deadly embrace.

If no one else, alien or human, can extricate us from this deadly embrace, then there is only one remaining alternative: However painful it may be, we will just have to do it ourselves. A good start is to examine the historical facts as they might be viewed by the other side—or by posterity, if any. Imagine first a Soviet observer considering some of the events of American history: The United States, founded on principles of freedom and liberty, was the last major nation to end chattel slavery; many of its founding fathers—George Washington and Thomas Jefferson among them—were slave-owners; and racism was legally protected for a century after the slaves were freed. The United States has systematically violated more than 300 treaties it signed guaranteeing some of the rights of the original inhabitants of the country. In 1899, two years before becoming President, Theodore Roosevelt, in a widely admired speech, advocated "righteous war" as the sole means of achieving "national greatness." The United States invaded the Soviet Union in 1918 in an unsuccessful attempt to undo the Bolshevik Revolution. The United States invented nuclear weapons and was the first and only nation to explode them against civilian populations—killing hundreds of thousands of men, women and children in the process. The United States had operational plans for the nuclear annihilation of the Soviet Union before there even was a Soviet nuclear weapon, and it has been the chief innovator in the continuing nuclear arms race. The many recent contradictions between theory and practice in the United States include the present Administration, in high moral dudgeon, warning its allies not to sell arms to terrorist Iran while secretly doing just that; conducting worldwide covert wars in the name of democracy while opposing effective economic sanctions against a South African regime in which the vast majority of citizens have no political rights at all; being outraged at Iranian mining of the Persian Gulf as a violation of international law, while it has itself mined Nicaraguan harbors and subsequently fled from the jurisdiction of the World Court; vilifying Libya for killing children and in retaliation killing children; and denouncing the treatment of minorities in the Soviet Union, while America has more young black men in jail than in college. This is not just a matter of mean-spirited Soviet propaganda. Even people congenially disposed toward the United States may feel grave reservations about its real intentions, especially when Americans are reluctant to acknowledge the uncomfortable facts of their history.

Now imagine a Western observer considering some of the events in Soviet history. Marshal Tukachevsky's marching orders on July 2, 1920, were, "On our bayonets we will bring peace and happiness to toiling humanity. Forward to the West!" Shortly after, V.I. Lenin, in conversation with French delegates, remarked; "Yes, Soviet troops are in Warsaw. Soon Germany will be ours. We will reconquer Hungary. The Balkans will rise against capitalism. Italy will tremble. Bourgeois Europe is cracking at all its seams in this storm." Then contemplate the millions of Soviet citizens killed by Stalin's deliberate policy in the years between 1929 and World War II—in forced collectivization, mass deportation of peasants, the resulting famine of 1932-33 and the great purges (in which almost the entire Communist Party hierarchy over the age of 35 was arrested and executed, and during which a new constitution that allegedly safeguarded the rights of Soviet citizens was proudly proclaimed). Then consider Stalin's decapitation of the Red Army, the secret protocol to his nonaggression pact with Hitler, and his refusal to believe in a Nazi invasion of the USSR even after it had begun—and how many millions more were killed in consequence. Think of Soviet restrictions on civil liberties, freedom of expression and the right to emigrate, and continuing endemic anti-Semitism and religious persecution. If, then, shortly after your nation is established, your highest military and civilian leaders boast about their intentions of invading neighboring states; if your absolute leader for almost half your history is someone who methodically killed millions of his own people; if, even now, your coins display your national symbol emblazoned over the whole world—you can understand that citizens of other nations, even those with peaceful or credulous dispositions, might be skeptical of your present good intentions, however sincere and genuine they may be. This is not merely a matter of mean-spirited American propaganda. The problem is compounded if you pretend such things never happened.

"No nation can be free if it oppresses other nations," wrote Friedrich Engels. At the London Conference of 1903, Lenin advocated the "complete right of self-determination of all nations." The same principles were uttered in almost exactly the same language by Woodrow Wilson and by many other American statesmen. But for both nations the facts speak otherwise. The Soviet Union has forcibly annexed Latvia, Lithuania, Estonia and parts of Finland, Poland and Romania; occupied and brought under Communist control Poland, Romania, Hungary, Bulgaria, Czechoslovakia, East Germany and Afghanistan; and suppressed the East German workers' uprising of 1953, the Hungarian Revolution of 1956 and the Czech attempt to introduce glasnost and perestroika in 1968. Excluding World Wars and expeditions to suppress piracy or the slave trade, the United States has made armed invasions and interventions in other countries on more than 130 separate occasions, including China (on 18 separate occasions), Mexico (13), Nicaragua and Panama (9 each), Honduras (7), Colombia and Turkey (6 each), the Dominican Republic, Korea and Japan (5 each), Argentina, Cuba, Haiti, the Kingdom of Hawaii and Somoa (4 each), Uruguay and Fiji (3 each), Guatemala, Lebanon, the Soviet Union and Sumatra (2 each), Grenada, Puerto Rico, Brazil, Chile, Morocco, Egypt, Ivory Coast, Syria, the Persian Gulf, Peru, Formosa, the Philippines, Cambodia, Laos and Vietnam. Most of these incursions were small-scale efforts to maintain compliant governments or to protect American property and business interests; but some were much larger, more prolonged and on far deadlier scales.

United States armed forces were intervening in Latin America not only before the Bolshevik Revolution but also before the Communist Manifesto—which makes the anti-Communist justification for American intervention in Nicaragua a little difficult to rationalize; the deficiencies of the argument would be better understood, however, had the Soviet Union not been in the habit of gobbling up other countries. The American invasion of Southeast Asia—of nations that never had harmed or threatened the United States—killed 58,000 Americans and more than a million Asians; the U.S. dropped 7.5 megatons of high explosives and produced an ecological and economic chaos from which the region still has not recovered.

More than 100,000 Soviet troops have, since 1979, been occupying Afghanistan—a nation with a lower per capita income than Haiti—with atrocities still largely untold (because Soviets are much more successful than Americans in excluding independent reporters from their war zones).

Habitual enmity is corrupting and self-sustaining. If it falters, it can easily be revived by reminding us of past abuses, by contriving an atrocity or a military incident, by announcing that the adversary has deployed some dangerous new weapon or merely by taunts of naiveté or disloyalty when domestic political opinion becomes uncomfortably evenhanded. For many Americans, communism means poverty, backwardness, the Gulag for speaking one's mind, a ruthless crushing of the human spirit and a thirst to conquer the world. For many Soviets, capitalism means heartless and insatiable greed, racism, war, economic instability and a worldwide conspiracy of the rich against the poor. These are caricatures—but not wholly so—and over the years Soviet and American actions have given them some credence and plausibility.

These caricatures persist because they are partly true, but also because they are useful. If there is an implacable enemy, then bureaucrats have a ready excuse for why prices go up, why consumer goods are unavailable, why the nation is noncompetitive in world markets, why there are large numbers of unemployed and homeless people or why, criticism of leaders is unpatriotic and impermissible—and especially why so supreme an evil as nuclear weapons must be deployed in the tens of thousands. But if the adversary is insufficiently wicked, the incompetence and failed vision of government officials cannot be so easily ignored. Bureaucrats have motives for inventing enemies and exaggerating their misdeeds.

Each nation has military and intelligence establishments that evaluate the danger posed by the other side. These establishments have a vested interest in large military and intelligence expenditures. Thus, they must grapple with a continuing crisis of conscience—the clear incentive to exaggerate the adversary's capabilities and intentions. When they succumb, they call it necessary prudence; but whatever they call it, it propels the arms race. Is there an independent public assessment of the intelligence data? No. Why not? Because the data are secret. So we have here a machine that goes by itself, a kind of de facto conspiracy to prevent tensions from falling below a minimum level of bureaucratic acceptability.

It is evident that many national institutions and dogmas, however effective they may once have been, are now in need of change. No nation is yet well-fitted to the world of the 21st century. The challenge then is not in selective glorification of the past, or in defending the national icons, but in devising a path that will carry us through a time of great mutual peril. To accomplish this, we need all the help we can get.

A central lesson of science, is that to understand complex issues (or even simple ones), we must try to free our minds of dogma and to guarantee the freedom to publish, to contradict and to experiment. Arguments from authority are unacceptable. We are all fallible, even leaders. But however clear it is that criticism is necessary for progress, governments tend to resist. The ultimate example is Hitler's Germany. Here is an excerpt from a speech by the Nazi Party leader Rudolf Hess on June 30, 1934:

"One man remains beyond all criticism, and that is the Führer. This is because everyone senses and knows: He is always right, and he will always be right. The National Socialism of all of us is anchored in uncritical loyalty, in a surrender to the Führer."

The convenience of such a doctrine for national leaders if further clarified by Hitler's remark: "What good fortune for those in power that people do not think!" Widespread intellectual and moral docility may be convenient for leaders in the short term, but it is suicidal for nations in the long term. One of the criteria for national leadership should therefore be a talent for understanding, encouraging and making constructive use of vigorous criticism.

So when those who once were silenced and humiliated by state terror now are able to speak out—fledgling civil libertarians flexing their wings—of course they find it exhilarating, and so does any lover of freedom who witnesses it. *Glasnost* and *perestroika* exhibit to the rest of the world the human scope of Soviet society that past policies have masked. They provide error-correcting mechanisms at all levels of Soviet society. They are essential for economic well-being. They permit real improvements in international cooperation and a major reversal of the nuclear arms race. *Glasnost* and *perestroika* are thus good for the Soviet Union and good for the United States.

There is, of course, opposition to *glasnost* and *perestroika* in the Soviet Union: by those who must now demonstrate their abilities competitively rather than sleepwalking through lifetime tenure; by those unaccustomed to the responsibilities of democracy; by those in no mood, after decades of following the norms, to be taken to task for past behavior. And in the United States too, there are those who oppose *glasnost* and *perestroika*: Some argue it is a trick to lull the West, while the Soviet Union gathers its strength to emerge as a still more formidable rival. Some prefer the old kind of Soviet Union—debilitated by its lack of democracy, easily demonized, readily caricatured. (Americans, complacent about their own democratic forms for too long, have something to learn from *glasnost* and *perestroika* as well. This by itself makes some Americans uneasy.) With such powerful forces arrayed for and against reform, no one can know the outcome.

In both countries, what passes for public debate is still, on closer examination, mainly repetition of national slogans, appeal to popular prejudice, innuendo, self-justification, misdirection, incantation of homilies when evidence is asked for, and a thorough contempt for the intelligence of the citizenry. What we need is an admission of how little we actually know about how to pass safely through the next few decades, the courage to examine a wide range of alternative programs and, most of all, a dedication not to dogma but to solutions. Finding any solution will be hard enough. Finding ones that perfectly correspond to 18th- or 19th-century political doctrines will be much more difficult.

Our two nations must help one another figure out what changes must be made; the changes must help both sides; and our perspective must embrace a future beyond the next Presidential term of office or the next Five Year Plan. We need to reduce military budgets; raise living standards; engender respect for learning; support science, scholarship, invention and industry; promote free inquiry; reduce domestic coercion; involve the workers more in managerial decisions; and promote a genuine respect and understanding derived from an acknowledgement of our common humanity and our common jeopardy.

Although we must cooperate to an unprecedented degree, I am not arguing against healthy competition. But let us compete in finding ways safely to reverse the nuclear arms race and to make massive reductions in conventional forces; in eliminating government corruption; in making most of the world agriculturally self-sufficient. Let us vie in art and science, in music and literature, in technological innovation. Let us have an honesty race. Let us compete in relieving suffering and ignorance and disease; in respecting national independence worldwide; in formulating and implementing an ethic for responsible stewardship of the planet.

Let us learn from one another. Capitalism and socialism have been mutually borrowing methods and doctrine in largely unacknowledged plagiarisms for a century. Neither the U.S. nor the Soviet Union has a monopoly on truth and virtue. I would like to see us compete in cooperativeness. In the 1970s, apart from treaties constraining the nuclear arms race, we had some notable successes in working together—the elimination of smallpox worldwide, efforts to prevent South African nuclear weapons development, the Apollo-Soyuz joint manned spaceflight. We can now do much better. Let us begin with a few joint projects of great scope and vision—in relief of starvation, especially in nations such as Ethiopia, which are victimized by superpower rivalry; in identifying and defusing long-term environmental catastrophes that are products of our technology; in fusion physics to provide a safe energy source for the future; in joint exploration of Mars, culminating in the first landing of human beings—Soviets and Americans—on another planet.

Perhaps we will destroy ourselves. Perhaps the common enemy within us will be too strong for us to recognize and overcome. Perhaps the world will be reduced to medieval conditions or far worse.

But I have hope. Lately there are signs of change—tentative but in the right direction and, by previous standards of national behavior, swift. Is it possible that we—we Americans, we Soviets, we humans—are at last coming to our senses and beginning to work together on behalf of the species and the planet?

Nothing is promised. History has placed this burden on our shoulders. It is up to us to build a future worthy of our children and grandchildren.

SPEECH IN SEARCH OF A STATESMAN CAPABLE OF DELIVERING IT

(By Howard G. Kurtz)

I am addressing mankind tonight and will use every means at my command to have this message brought home to every man, woman and child in every country on Earth. What I have to say may be a matter of life or death for every human being. I hope they listen carefully. This is a message of hope.

In 1945 when the United Nations was chartered in San Francisco, many people believed that war had ended and mankind had entered a new era of peace. This was a tragic delusion. History's endless parade of war after war has continued. The potential horror of war has grown worse, not better.

We are living in a new historic age of anxiety.

In 1945, that same year, the first atomic bomb was exploded. This signalled the dawn of an era of exploding research and development and escalating progress in science and technology, in hundreds of new fields. Civilization has been projected into the Nuclear Age, and then into the Space Age, and now into even newer technological ages.

As a result, the strategic power under the command of the head of state of a modern major nation is beyond easy vision or description. There hardly are words to explain. But I can tell you this: it used to be thought that only God could command the power to destroy mankind in the twinkling of an eye. But today the leaders of several nations command the power to launch the war that could annihilate world civilizations.

The great rivers of new knowledge coming from the research and development centers cannot be dammed up within the boundaries of any one nation. Within ten years perhaps thirty nations will command this power of death for mankind. By that time the weapons of total annihilation will be so cheap that criminal elements may obtain this power to hold mankind for ransom. Breakthroughs in chemical and biological and nuclear warfare will magnify and compound the forces of destruction.

This is a new historic time of dread. In this new age no nation ever again will find positive national security and political independence by use of its power to destroy human life. In this new age an attempt to destroy an enemy can destroy mankind. All nations have moved into a common chamber of danger. The world is like a room filled with gas, in which men who strike matches endanger the lives of everyone in the room.

We must create new history. It is no longer safe merely to relive old history.

There will always be war and aggression between nations until there is created a global safety authority of some kind, with the strength and the authority to maintain the common good of national security and political independence for all nations.

Historians and political scientists find no precedent for such a Global Safety Authority. But before 1940 there was no precedent for atomic bombs, as before recent times there was no precedent for many of the miracles of modern medical science.

We live in an age that breaks precedents. We need not be enslaved by historical precedents of war and catastrophe.

It is predicted that by the year 2000 world population will exceed six billion people. Scientists and engineers tell us that we have within reach the means to produce the food, clothing, housing, warmth, health, education and welfare for all of these people. But nations are not producing to meet these human needs, because today the world spends nearly $200 billion a year on an escalating arms race, producing anti-human forces of destruction.

Nations have learned the secrets of the power of death for mankind because they have invested their human and natural resources in massive mobilizations for the specific purpose of learning these secrets.

I say to every man, woman and child in every nation that the time has now come for a massive mobilization of human and natural resources for the purpose of learning the secrets of the power of safety and well-being for the people of all nations. If we believe that the intention of creation is toward greater life for the family of mankind, then let us begin to direct the forward march of science and technology toward such a greater purpose. I believe in the future of mankind.

I hold before the world the long-range vision of a stronger United Nations. At the base of this future United Nations will be a Global Safety Authority. The purpose of this Authority will be to maintain positive control over all power of destruction. It will have power to maintain public inventory of all war material and personnel. It will have authority to act to stop unauthorized war production. It will have power to maintain public inventory of all movement toward mobilization for war. It will have authority to stop such mobilization. It will have power and authority to prevent violation of one nation's borders by the forces of any other nation, large or small. It will have authority to divert any inter-nation conflict to proper courts of inter-nation conflict law.

I hold before the world the long-range vision of a stronger United Nations in which man will maintain dominion over the forces of destruction. Instead of living in ever-increasing fear of the anti-human force of advancing science and technology, man's increasing knowledge will be redirected to feed the hungry, clothe the naked, heal the sick, educate the illiterate, and free the patriotic people of every nation to work toward their own national goal in their own national way, free from the dread of war or domination by any foreign power.

Will it ever be possible to trust the national security and political independence of the United States to a stronger United Nations with monopoly control over global armed forces management? Will it ever be possible for all nations to trust their national security and political independence to such a remodeled United Natons? Will the American people ever find reason to believe that this global United Nations power will not come under the control of communists, or any other group with intentions to dominate the world? Will the people of all other countries ever find reason to believe that this global United Nations power will not come under the control of American political power?

I do not know the answer to these questions. I am proposing that a long period of serious research and exploration begin today, in search for the answers to these questions about the future safety and well-being of mankind.

To the rising generation of young men and women in every nation we declare open for exploration and pioneering a new generation of creativity and invention to dwarf any era in past history.

I say, let the national security leadership of all nations begin thinking and experimenting beyond the strategy of defense, and beyond the strategy of deterrence, to explore a new future strategy of prevention more appropriate to the age of global danger. Let us create new history more in keeping with the danger man has created.

Black and terrifying, the escalating danger of global war today looms above mankind like a thunderstorm of death. But beyond that dark horror, I see a white light of hope. I believe that man can create global safety systems in time.

I propose four giant strides forward on the road to the permanent end of war between nations . . . to lasting peace and prosperity. I propose four giant strides forward in the creation of a demonstration model of a Global Safety Authority. These will be four giant strides forward toward a stronger, more effective, and greater United Nations of the future. One day, when and if our efforts succeed, the present United Nations will evolve into a world security organization capable of guarding the national security and political independence of every nation.

I am preparing to issue directives to the appropriate departments of my government, and preparing to seek the full support of the Congress and of the American people, for four large-scale development projects:

FIRST STRIDE: ALL-NATION SPACE STATIONS

I propose construction of a new series of reconnaissance satellites. The use of these surveillance space stations will be made available to all nations. All nations will be invited to develop surveillance systems for experimental installation in these orbiting laboratories. All nations will be given full access to all information inputs and outputs from these global surveillance systems, so that all national defense establishments, all regional defense establishments, and the United Nations Military Staff Committee can gain protracted experience in working together to test the effectiveness and to establish the future requirements for a Global Safety Authority intelligence capability. Through these satellites we may begin to find answers to the question: Can a future United Nations Safety Force be made dependable and effective?

SECOND STRIDE: ALL-NATION WAR ALARM SYSTEM

I propose the construction of an advanced global command and control headquarters, near the United Nations Headquarters, with duplicate synchronous display centers in the capitals of all cooperating nations and in the headquarters of all regional defense organizations. This center will be open to the public of all nations and to the governments of all nations. The large illuminated display walls in this prototype global command center will be connected by direct communications lines to the national command center in the Pentagon in Washington. The people of the world can begin to see the global surveillance and intelligence capabilities that the United States already possesses and that enable it to exert command and control over military forces spread across more than half the earth. No information which would be detrimental to the security of the United States will be passed to these public exhibitions, but the world can begin to see the emergence of global command and control systems that could eventually bring armed forces management for the world to the new United Nations Global Safety Authority. Every other nation will be invited to connect its national command center to this world display. No other nation will be expected to divulge information that could jeopardize its own security. But all nations will gain practical experience in the interface problems in the successful operation of a future war safety control system of global dimensions. The people of all nations will begin to see the open experiments which may one day lead to the development of a new system of security.

THIRD STRIDE: WAR PREVENTION CONFERENCES

I propose a continuing series of multinational War Prevention Conferences. Military and political leaders of all participating nations can begin to hammer out the requirements and force structures for the future Global Safety Authority. They can analyze and experiment with unprecedented new political checks and balances which will be required to make certain that this all-nation safety constabulary cannot become a tyrant over the minds of men or over the governments of independent nations, and that it cannot be captured by any one political power clique to be used to conquer the world. These War Prevention Conferences will be held on many levels, outside of official channels of the United Nations. They will be held with individual nations, or with groups of individual nations, or with regional defense organizations. Free discussion will be encouraged from every source where new ideas may emerge to help solve this problem which has been insoluble throughout the ages. Can a Global Safety Authority be made effective and safe to the point that the people of all nations will trust their national safety to this mobilization for the prevention of war? The world will be waiting for answers to this question.

FOURTH STRIDE: ALL-NATION WAR-PREVENTION GAMES

I propose a continuing series of multinational war-prevention games. Where war games are used to develop military proficiency in waging war, these war-prevention games will be utilized to develop and test the increasing proficiency in preventing war throughout the world in the new historic era. A purpose of these games will be to allow the public and press of all nations to see that nations are making serious efforts to solve the problem of war, and what progress is being made toward this great and grave objective.

I repeat that all nations are invited to cooperate in these four giant strides forward toward peace and prosperity for all nations.

But the United States offers to lead in this ten-year demonstration no matter what nation or nations hold back at this point. We expect nations to be suspecious of our motives. We invite nations to work with us to satisfy these suspicions. We will earn their confidence.

We will use every means at our command to see that the people of all nations are kept fully informed as to the progress being made toward the global protective systems which one day will bring peace and prosperity to all nations.

No nation will be expected to weaken its present defense force or posture during these experiments. No patriotic people will be asked to give up their pride in their own native land, or swear allegiance to a massive single world government. National governments once again will concentrate on the prosperity of their citizens, instead of on preparations to kill and be killed in war with their neighbors. There will be a common defense force for all.

I believe that all people on earth can find security and prosperity in a revised and strengthened United Nations, in time. I believe man now has the inventiveness and creativity to begin to transform the United Nations into an effective world security organization, bringing safe prosperity within reach of all nations.

Each nation can work out its own independent path toward its own independent vision of a great society. This can become a great planet. I hope that every man, woman and child around the world who hears this message will tell his neighbors and his friends that the time now has come to take giant strides forward toward peace and prosperity for all nations.

AID TO THE NICARAGUAN CONTRAS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. RANGEL. Mr. Speaker, I have never voted for aid to the Contras, but today I am going to tarnish my record in order to avoid a greater evil, military aid to the Contras. I am going to vote for the Democratic alternatives, although I do so under duress. If it is necessary to give humanitarian aid to the Contras, real humanitarian for the first time in the history of this war, I am willing to do so to end the conflict. Oscar Aris along with the religious and peace groups that have fought with us against Contra aid every inch of the way, now urge us to support the Democratic alternative. It is not an easy or comfortable decision for them, nor is this an easy vote for me, but I do it for peace and in the hopes that we can help rebuild a country that we have tried to destroy for the last 8 years.

I will support the Democratic alternative, because I am profoundly disturbed by the number of civilian deaths that have taken place in Nicaragua. I support the alternative only to avoid our giving military aid.

Everyone that lives in Nicaragua or has visited that country knows that the Contras are not a serious military threat, but that their main purpose is to limit the gains of the revolution, to lay waste to every hospital, school, and crop the people have attempted to build. I am particularly proud that the Democratic alternative seeks to aid those children who have suffered from among other things, Contra attacks. Countless children have been orphaned, but many more have died from TB and diarrhea because government and international health-care workers were unable to reach them. This is the real untold story in Nicaragua, the unknown loss. I am pleased we will finally be aiding the people of Nicaragua and that the United States will at last be working for democracy. I urge the passage of the Democratic alternative and I urge my liberal colleagues to join with me.

Lastly, I would like to submit for the RECORD letters I have received form two American doctors working in northern Nicaragua. I am delighted that they will finally be getting the medicine necessary for their immunization campaigns. I also want to submit for the RECORD a letter from the brother of a woman who lives in my district, also living in Nicaragua. History will prove that they, not the Ollie Norths of this world, are the real American patriots.

JINOTEGA, NICARAGUA,
January 10, 1988.

DEAR FRIENDS: Once again the hills of Jinotega are a lush green and the coffee beans red. People everywhere are being mobilized to pick the coffee. Though the harvest interrupts much of our work, there is still some time for teaching. Susan is now directing the continuing education of the parteras or lay midwives. These campesino (peasant) women travel long distances once a month to share experiences, receive replacement supplies provided by the European organization, Doctors without Borders, and hear a lecture on the subject that they choose the month before. Today, the workshop was pre and postnatal exercises using material provided by Susan's mother, Olive.

We are anxiously awaiting the January 15th meeting of the five Central American presidents in Costa Rica. Their evaluation of the Equipulas Peace Accords represents an important moment for the future of the Americas. In the recent meeting with the International Committee on Verification and Security, Dr. Gustavo Paragon [1] testified to Nicaragua's compliance with the spirit of the accords. All five countries have a long way to go to conform to the letter of the accords. In our region, the local reconciliation commissions have had a difficult time. According to Father Douglas of Jinotega, the commissions in Mancotal and nearby Sisle have been paralyzed due to *contra* threats to the lives of their personnel. Witness for Peace (U.S. religious organization having a permanent presence in Nicaragua's warzone) volunteers report similar difficulties throughout the region.

There is sad but not unexpected news to convey. Three year old, Gloria Rosales Lopez [2] died the end of December of malnutrition. San Jose de Bocay remains without clean drinking water and food shortages continue.

For the last four days the city of Jinotega has been on alert because of the proximity of the *contra*. Twice in the past month they have temporarily cut off the road south of us to Matagalpa. Government troops and *contra* have been killed and civilians injuried. No one enters the city after 6pm or leaves before 6am. We continue to feel safe in the city but worry about our neighbors and our work just outside of town.

The nearby *contra* threat, both real and perceived, adds further disincentive to patients who need clinic visits. With skyrocketing transportation costs family visits to the health clinic, necessary to control the spread of tuberculosis (TB) in the rural area, is becoming impossible. The pressure is on us to make more rural visits ourselves but we too are afraid.

Yesterday with our nurse Antonia and two Witness for Peace volunteers, we visited a patient in Datanli, about 5 km northeast of town. While examining him we saw people leaving their homes, carrying bundles and babies running from the *contra*. We joined the refugees and sped away in our red jeep. We hope their lives will soon return to normal and they will be able to resume their regular clinic appointments.

The difficulties of TB control in the warzone were also graphically illustrated last month when we checked on patients in Yali, 40 km north of Jinotega. Of 12 patients in treatment over the last six months, eleven have had to abandon the program. Fear to travel is the most likely reason for this behavior, since during October and November approximately 60 civilians were kidnapped by the *contras* from around Yali.

Nicaraguans are accustomed to hardships and are far from giving up the new society that they are building. To help solve the problems of TB control and to deal with MINSA's (Ministry of Health) drastic reduction in funding health brigadista (barefoot doctors) training, the Jinotega teaching center is negotiating with the Catholic church and the Red Cross to take a more active role in training and maintaining the health workers in the rural areas. By traveling as church representatives or with the Red Cross we also hope to reduce our susceptibility to attack. Vaccinations in the more contested areas could also be conducted under these auspices. We continue to be inspired by the innovative spirit with which Nicaragua meets each challenge to their advances in health and social reform.

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[1] The director of our Nicaraguan sponsor, CEPAD (Protestant Committee for Aid in Development) and a member of the Nicaraguan Reconciliation Commission.

[2] Daughter of Pable Rosales, one of the two Nicaraguans assassinated with Ben Linder; she has appeared in two previous newsletters.

Today we were visited by one of the local artists in town. Aureliano Martin Orozco is a very talented 11 year old young man. He has given us many drawings of doves carrying boughs of holly, of the world with a bright shining sun, of little girls picking cherry red flowers. The one thing all the drawings have in common is a yearning for peace. That is Aureliano's and our hope for this year. But this hope will not be realized without a change in U.S. policy. The upcoming vote in early February is extremely important. Please support the will of the five Central American presidents and tell your congressperson to say no to more *contra* aid.

por la paz,

Susan Cookson and Tim Takaro.

Jinotega, Nicaragua, *January 21, 1988.*

Katherine Robinson,
Foreign Policy Aide,
Office of Rep. Charles Rangel.

Dear Katherine: Greetings from the mountains of northern Nicaragua. We hope that the winter snows have been at least a little enjoyable for you. For us it remains warm in temperature but hotter than usual with respect to the war.

As described in our Dec. 7 and Jan. 10 newsletters, difficulties with life in general and health work in particular have dramatically increased over the past months. As you know, Congress will soon make a critical decision regarding the future of this impoverished but proud country. When we spoke with you in D.C. last fall, we described from our own experiences war crimes of the *contra* including violations of medical neutrality and atrocities against civilians. We also related how the terror perpetrated by the *contras* disrupts nearly all aspects of normal life in the north and how it is slowly strangling the society, retarding recent advances in health and other social services.

It is clear since our time in the States that the *contra* have not changed in their behavior. We will briefly cite several newly reported incidents in our region which we have confirmed with witness for Peace and the Catholic Church. Two more health posts have been attacked. On Oct. 9, the health center in Mancotal was robbed during a *contra* attack, it had been completely burned in the May attack. On Jan. 5, the health clinic near Pancasan was ransacked, riddled with bullets and partially burned. A 14 year old girl was kidnapped during that attack. This brings to ten the number of health centers subject to deliberate attacks in the last 12 months in our health region. A 23 year old nurse from Yali died this winter after being in a coma for more than a month from injuries received in one of several random mortar attacks on northern municipalities. Since November 1st, 3 ambulances have been attacked, 2 in our region. In the Dec. 20 attack, both the patient and attending physician, Dr. Eric Pineda, died.

Though the administration may want the *contra* to change, they remain the brutal terrorists that they have always been, with wanton disregard for medical and civilian neutrality. We hope this information will be helpful, please relate it to Rep. Rangel. As medical personnel working to promote life, this policy of death is abhorrent. It's criminal manifestations violate the ideals of America.

Thank you for your concern.

Sincerely,

Susan Cookson, MD.
Jim Palermo, MDMPH.

Waslala, Nicaragua, *December 9, 1987.*

Dear Robin: Hope all is well in the "Big Apple". I imagine that you have now settled into your new job. How is it going? Is it what you expected? I imagine things are quite expensive. Here in Waslala I pay 50,000 cordobas a month for my humble abode. A dollar is worth about 12,000 cordobas so it comes to about 5 U.S. dollars a month. That's not to say its anything fancy, pretty much just a stall. However there is running water late in the afternoon and early in the morning. There's an out-house out back with the door falling off. In the morning the roosters begin to crow before 4 o'clock. One begins, and pretty soon for miles you can hear roosters crowing. The pigs start oinking too. Lot of pigs around here.

Unfortunately there is no electricity or telephones here in Waslala because the Contras have cut the lines. They've blown up some of the bridges on the road up here from Matagalpa so transportation is difficult. It takes hours to go a short distance. There is a large military presence here in Waslala so the chances of attack is slim. However the surrounding areas have been attacked more than once by the Contras in the past U.S. planes drop supplies to the Contra at night by parachute. The big anti-aircraft machine gun up on the hill sometimes tries to shoot them down. It makes a lot of noise. When a plane passes overhead, everyone that has a machine gun starts shooting—not that they have any chance of hitting it. The main people that suffer because of U.S.-Contra aggression are the poor farmers, the women, the children. I've talked to many mothers and fathers who have lost sons. The Contras plant mines in the road. One minute you have a busload or truckload of innocent people and the next minute dead and maimed war victims. To tell the truth in many ways I'm embarrassed to be a U.S. citizen after seeing what our tax dollars have done down here. The Contras have never committed one act which was beneficial to the Nicaraguan people since they were banded together by the CIA.

Still the people here treat me very kindly. Can you imagine a woman whose son was killed by the Contras making a meal for me. People chased off their farms allowing me to stay in their homes. The people here are incredibly kind and open. I pray that the American people are Christian enough not to permit the Reagan Administration to pass more aid to the Contras. The Contras are murderers. I have spent more time in church here in Nicaragua than I have spent in the last twenty years in the U.S. It is something to see young Catholics praying, machine gun by their side. If the people in the small communities do not carry arms their communities will be destroyed and its members killed or kidnapped. This is the reality around here.

This must be a lot for you to try to understand and I'm aware you don't have time to think a lot about something which seems so far away. No matter what conservatives and others may say about communism and Russians remember that we have no right to kill and maim innocent people. You don't spread democracy by killing Christians. Hopefully when you get a few extra minutes you can pray for the suffering people of Nicaragua and put in a good word for them now and then. I thought what the U.S. was doing was wrong when I lived in the States. Living in Nicaragua, I'm convinced. Keep smiling and tell Jimmy and little Lisa to write.

Love,

Marcos.

GREEK INDEPENDENCE DAY

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. FEIGHAN. Mr. Speaker, I am pleased to join my colleagues in recognition of March 25, 1988 as Greek Independence Day: a national day of celebration of Greek and American democracy.

This week, we mark the 167th anniversary of the revolution that brought freedom to Greece. Each year, as we remember this day, we also remember the strong ties that bind our two countries together—as sister democracies, as strong allies and as recipients of a common heritage that stretches throughout the Greek and American cultures—in politics, law, the arts and science. And finally, we remember the strongest ties—the blood ties of Greek-American families to their relatives in Greece.

We remember that Greece is the birthplace of democracy—a plan for a system of government that has made our own country a beacon to the world. We remember today the times when democracies have been under siege. We acknowledge those who have fell in war so that others may live in peace. For Greece, that price was excessively high. In World War II, 600,000 men—a full 9 percent of the Greek population—lost their lives.

Over the years we have witnessed the strengthening of those ties. We share membership in NATO where Greece plays a strategic role in defending the south eastern flank of the region. We share strong commercial ties. Americans benefit greatly from these ties—including the tourism industry that allows so many Americans to view the spectacle of the Acropolis and the beauty of the Greek isles. It is estimated that 360,000 Americans will visit Greece this year—up 100,000 from last year.

This year, our two countries face important bilateral negotiations over the presence of NATO bases in Greece. These bases are vital—not only to the United States, but to Greece and to all our NATO partners. It is my hope that these negotiations proceed to a successful conclusion. I am confident that we can conclude an agreement that provides Greece and NATO with the security we all seek. And I am confident that this agreement can be reached without compromising Greek sovereignty or independence.

Finally, Mr. Speaker, I think it appropriate to acknowledge the progress in Greek-Turkish relations this year. The meeting of the two Prime Ministers in Davos helped create a climate of better understanding and leaves the door open for further progress in resolving the differences between our two NATO allies. Progress in this area will serve to bolster the already strong ties that I have mentioned and we in Congress should acknowledge the leadership in both capitals that made this recent meeting a success.

In closing, let me commend Mr. BILIRAKIS for taking out this special order and for the leadership he has shown in a range of issues dealing with Greece and Cyprus. I think it is valuable to have this time to allow Members of Congress to express their support for the sanctity of the Greek-American relations and the dream of democracy that our two countries share. We should take time upon the anniversary of Greek independence to celebrate that dream and to look forward to a year where differences will be resolved, common ties will be strengthened, and the mutual appreciation and affection between our two peoples will thrive.

RESEARCH SUBMARINE MARKS 2,000TH DIVE

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. STUDDS. Mr. Speaker, it is with great pride that I bring to the attention of my colleagues the news that yesterday the Nation's first research submarine—the deep submergence vehicle *Alvin*—made its 2,000th dive to the ocean floor.

The *Alvin* is the most active scientific research submersible in the world today and has made significant contributions to the advancement of marine science and engineering throughout the years. The *Alvin* is a 25-foot, three-person submersible owned by the Navy and operated by the Woods Hole Oceanographic Institution. In 1966 the *Alvin* located a hydrogen bomb dropped in the Mediterranean off Spain. In 1974 the *Alvin* began the first extensive study of the mid-ocean ridge system. The discovery of hydrothermal vents on the Galapagos Rift followed in 1977, leading to heavy demand for its use in a number of studies.

The *Alvin* and its support ship, the 210-foot research vessel—*Atlantis II*, are on a 26-month voyage in the Pacific. Yesterday's dive on the East Pacific Rise off Mexico to a depth of about 8,500 feet represented its 2,000th. It brought Woods Hole scientists to another remote section of the ocean floor, observing volcanic and tectonic processes and furthering our understanding of the ocean.

Mr. Speaker, I ask my colleagues to join me in congratulating the *Alvin* on this historic occasion. In addition, I wish to share with my colleagues this article that appeared in yesterday's Cape Cod Times.

WHOI's Underwater Explorer Marks 2,000th Trip to the Deep

(By Renee Twombly)

Woods Hole.—It's oceanography's deep-seas spaceship—the best and only way to get from here to the mysterious there.

The 25-foot-long sub with the hard hull and cutesy name, Alvin, will be lowered overboard its mother ship, Atlantis II, sometime this morning into the Pacific Ocean off Mexico.

In its interior will be a pilot and two scientists who want to look at a place where volcanic processes have ripped the ocean floor apart, 8,500 feet beneath the surface.

It's another day in the life of Alvin, but it also marks a unique record. This is Alvin's 2,000th trip to the netherworld.

Making 170 dives a year in depths up to 13,000 feet, Alvin is considered the most active submersible in the world today, and it is 24 years old.

Alvin has been the vehicle that made all the big undersea discoveries possible, said Barrie Walden, manager of Woods Hole Oceanographic Institution's submersible engineering and operations. WHOI operates Alvin, but it is owned by the U.S. Navy's Office of Naval Research.

It is the sub that first explored the mid-Atlantic ridge system in 1974, confirming the theory that the ocean's crust is made of plates that move. It first spied black smokers and giant tube worms at hydrothermal vents three years later.

It has made other adventurous headlines. Alvin, in 1966, located a hydrogen bomb that was dropped in the Mediterranean off Spain. It also took WHOI scientists to the side of the Titantic in the summer of 1986.

"This is a record for scientific utilizaiton," Walden said yesterday. "It's a workhorse. There's no one else in the ballpark."

In terms of oceanographic use, the Alvin has no competition in the United States and only one rival in the world—the Nautile, operated by the French. But the Nautile is much newer, and much less experienced. The Navy owns an updated version of Alvin, called Turtle, used primarily for naval tasks.

There are submersibles that can top Alvin's 13,000-foot maximum depth. The Navy operates Sea Cliff, also used mostly for Navy projects, which can dive to 20,000 feet. The Japanese are building a similar sub, and the Soviet Union apparently has taken delivery of two such subs.

According to WHOI spokesman Shelley Lauzon, between 1964 and 1987, adding all of Alvin's dives, it has dropped a total of 11,727,964 feet. Its average depth per dive has been more than 6,000 feet, for an average stay beneath the ocean of more than six hours. It has spent a total of 12,210 hours submerged.

During that period, Alvin has carried 3,324 people. If the submersible's pilots are included, the total is 5,850.

Most of the dives, 723, have been for geology projects, followed by 595 dives for biology and 216 for tests and training. It has only made 26 dives for Navy tests and 13 for public-relations purposes.

Use of Alvin is highly prized among oceanographers, both at WHOI and nationwide. Proposals for dives are made years in advance, and come at a price—$20,000 a day for Alvin and Atlantis II; $7,000 for Alvin alone—according to Walden. Alvin is supported by the Navy, the National Science Foundation and the National Oceanic and Atmospheric Administration.

But there was a time when oceanographers scoffed at Alvin, thinking the submersible temperamental and unreliable, said Walden.

WHOI scientist emeritus Dr. Allyn Vine is credited with convincing the Navy after World War II to fund development of a manned submersible, and the result was Alvin, named after Vine. But after the sub was delivered by the Navy to WHOI in 1964, fully a decade was spent in developing its technology and working out problems in its operation, said Walden. It was both a boon and a bust, he said.

"In the first 10 years, scientists were using money provided by the Navy for Alvin. They were being underwritten," he said. The Navy was using WHOI research and improvements on Alvin to make design alterations on Navy subs Turtle and Sea Cliff.

"But the problem was that the scientists had not gotten a lot out of it, because of technical problems, and when the Navy began to decrease their funding, the science community was asked to pick up the slack. If we delivered 50 percent of the dives, we were happy. But the scientific community had real doubts," he said.

That led to one major improvement in Alvin that assured it a place in the hearts of oceanographers. The Navy in the early 1970s "was interested in making something big out of titanium, just for the experience," and they chose to remake Alvin's hull. It allowed the sub to increase its diving limit from 6,000 feet to its present capability. Several years later, its aluminum frame was replaced with titanium.

The real test for Alvin was in 1974, in a program known as Project FAMOUS (French-American Mid-Ocean Undersea Study). It was the first extensive study of the mid-ocean ridge system, an underwater mountain range encircling the Earth "like a seam on a baseball," said Ms. Lauzon. The ridge mountains are higher than any found on land and they form the boundaries of great plates that make up the Earth's surface.

Three years later, in an exploration of this system north of the Galapagos Islands, WHOI scientists using Alvin discovered bizarre marine life, including foot-long mussels and 12-foot tube worms on the Galapagos Rift. In 1979, Alvin researchers found black smokers that spew 350-degree-Celsius water from the volcanic undercrust into the open ocean, supporting diverse vent communities.

Since those discoveries, Alvin has explored approximately 50 miles of this great mid-ocean ridge system, estimated to be 46,000 miles long.

Alvin and Atlantis II, its 210-foot support ship, are expected back in late November, after a 26-month voyage in the Pacific that began in September 1986.

A TRIBUTE TO A GREAT AMERICAN

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. GUARINI. Mr. Speaker, It is with deep sorrow that I acknowledge the retirement of my good friend and true patriot PETER RODINO, who has so ably represented all of the people of the 10th Congressional District of New Jersey and the entire Nation with distinction and honor. I am truly privileged to have known the chairman for many years throughout his distinguished career as an attorney, as my colleague on the Narcotics Committee, and as chairman of the influential House Judiciary Committee.

Having presided over such prominent hearings as President Nixon's impeachment, the chairman has certainly left his mark on the institution he loves so well, the U.S. Congress. Similarly, he has become a legend in the civil rights movement by guiding the progress of the 1966 civil rights bill, the Voting Rights Act extension, and by protecting the freedom guaranteed under the U.S. Constitution.

Mr. RODINO is highly regarded for his sterling record in Congress and for his concern for mankind. His accomplishments are nothing short of remarkable. The counsel and advice which he generously provides to fans and political aspirants will be sorely missed. He will undoubtedly go down in history as one of the most effective Members of the U.S. House of Representatives.

I am certain that my colleagues would join me in hailing Chairman RODINO's success and in wishing him well in the future. Likewise, I would like to share with the Members an editorial which appeared in a recent edition of the New Jersey newspaper the Star Ledger. The following text reflects on his achievements:

[From the Star Ledger, Mar. 16, 1988]

VIEWPOINT: A LEGACY OF SERVICE

After 40 years in Congress, Peter W. Rodino is now in the final phase of a productive congressional career. He has achieved an influential stature in Washington power circles that few, including himself, could have foreseen when he succeeded a popular, entrenched Republican congressman, Fred Hartley, for his first term.

As the dean of the New Jersey congressional delegation, Rep. Rodino has seen many changes in his long tenure—cyclical, ideological shifts in the White House and in the legislative branch. But the Rodino liberal heritage, which was rooted in the great social changes wrought in the New Deal era of President Franklin D. Roosevelt, has remained steadfast.

And so, too, has his unswerving commitment to New Jersey's 10th congressional district which he served throughout his long career in Washington. But the district has seen radical changes in the last decade in racial and ethnic composition. These changes figured prominently in Rodino's decision to forgo another term.

If he had so chosen, Mr. Rodino conceivably could have returned to the capital for his 21st term. But in his carefully reasoned decision to retire, the veteran legislator set the stage for another important change, the election of the first black congressman in New Jersey's history. An unfortunate aspect of the Rodino retirement will be the loss of his influential seniority on key congressional committees.

While he has had a key role in an impressive body of major legislation, Peter Rodino will undoubtedly be most notably identified for presiding over the historic impeachment hearings of President Richard Nixon in the aftermath of the Watergate political scandal. As chairman of the House Judiciary Committee, Rep. Rodino won high praise for his evenhanded, tempered leadership in that lamentable affair.

But Peter Rodino takes a much broader, sweeping overview of his congressional service. He succinctly encapsulates his career as "helping to secure the rights and protections under the Constitution which guarantees basic fundamental freedoms and liberties for all Americans . . . helping to build a society that is caring and compassionate in which every citizen enjoys equality of opportunity."

The Rodino political credo has even more contemporary pertinence for his home district in its greatly changed character. And it should serve as a legislative benchmark for his successor. Rep. Rodino has left a continuity of constructive service to the community and nation indelibly imprinted on his long career of public service.

SALEM, MA: A LEGACY OF HISTORY

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. MAVROULES. Mr. Speaker, I respectfully submit the following testimony presented by Massachusetts State Senator Frederick E. Berry during a congressional field hearing conducted in the proud and historically rich city of Salem: One of the many beautiful and visionary maritime communities that dot the north shore that I represent with intense pride.

Senator Berry, Fred, is a man I admire and respect greatly. I have known him for many years. He is the paradigm of a public servant and has overcome personal obstacles that would have easily and understandably defeated most people. His testimony is a tribute to both himself and the community he serves. I thank Fred for his contribution.

The field hearing was conducted by my good friend Congressman IKE SKELTON, to whom I also extend my thanks; it focused on small business and tourism and the need for and the benefit of a strong cooperative effort among local, State, and Federal entities. Salem, with its present exemplary revitalization efforts, was the perfect venue for this hearing. Below is the text of Senator Berry's remarks:

TESTIMONY OF FREDERICK E. BERRY,
SENATOR, 2D ESSEX DISTRICT

Chairman Skelton, members of the Committee, my name is Frederick E. Berry. I am the Massachusetts State Senator from the 2nd Essex District. On behalf of myself and my constituents, I welcome you to Salem.

I would also like to take this opportunity to thank Congressman Mavroules for his efforts in bringing this committee to Salem for today's hearing.

The City of Salem has a rich and varied history. From the original settlement of the village along the North River through the Witchcraft Trials of the late 1600's, and into the early 1800's when, with its China Trade, this city was the maritime capital of the world. Salem and its citizens have played an extremely important role in the development of our country and our country's culture.

Too often, I think, we look at our country's past from the wrong point of view. We see our history as a series of events that have conspired to shape our society. Our history is not events—our history is people. Salem's history was shaped by its citizens; by the original settlers, by the participants in the witchcraft hysteria, by the merchants who sent ships from Salem Harbor to points all over the globe and by the men who sailed on those ships.

These people have left us a legacy—a legacy which lives today in our many museums and cultural institutions, in our architecture and at the National Park Service Maritime Site.

Over the years this legacy has developed into a tourism industry that is now the single largest industry in Salem. Currently, almost 1 million people visit Salem every year. This influx of tourists is vitally important to Salem's economy. It creates jobs for the city's citizens in both the historical institutions and in the general business community that provides products and services to tourists. It also generates property tax revenues when those businesses servicing tourists and the tourism industry develop and grow. The impact of tourism on Salem's economy and the future economic development of the city cannot be overstated.

As I said a moment ago, nearly 1 million people visit Salem each year. Obviously, this is a significant number, but we must make a concerted effort on the local, state, and federal levels to further develop Salem's tourist industry.

One such concerted effort to use tourism as an economic development tool is currently underway. Both the City of Salem and the Federal Government are working to expand Salem's National Park Service Site by purchasing the adjacent St. Joseph's Polish Club, as well as renovating the entire site.

My point in mentioning this project is to illustrate that projects such as this are very difficult, if not impossible, without a high level of cooperation between the different levels of government, as well as the private sector.

For its part, the Commonwealth will be doing its utmost to cooperate with local governments for the development of tourism. Through the Governor's recent bond issue, 500 million dollars will be available for tourist related improvements, and Salem will be able to take advantage of many funding opportunities, including the possible construction of harbor walkways, a visitor's center and funds for new marketing efforts.

The Federal Government has the opportunity to play a very key role in the development of the tourism industry in general and of Salem specifically by continuing adequate funding of its park sites—most notably The National Maritime Site, by providing funds for the marketing of these sites, by providing funds to assist in initiating and expanding businesses that serve, either directly or indirectly, the tourism trade and by maintaining historic preservation through restoration funding or tax credits.

For their part, the City of Salem and the City's business community must continue to work together, and together they must work with Federal and State Government so that the legacy left to us by so many past generations of Salem citizens, and the spirit which helped to create that legacy, can be held out to the nation and the world as an example of how a community can cherish its past while at the same time incorporating that past into its plans for the economic development.

Thank you.

NATIONAL INVENT AMERICA WEEK

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. WATKINS. Mr. Speaker, I have today reintroduced a joint resolution calling for the Congress and the President to recognize and commemorate National Invent America Week, July 24 to July 30, 1988. This group, in its second year, seeks to recognize and foster innovative creative thinking in grades kindergarten through the eighth grade. Already, schools in 15 States are participating in this effort to recognize young inventors and to teach them how to solve problems by creative thinking.

Mr. Speaker, it just happens that this week on March 23, 24, and 25, 1988, there will be held in Poteau, OK, on the campus of the Kiamichi Vocational Technical School, a cosponsor—along with Rural Enterprises, Inc.—the Fifth Annual New Projects and Processes Fair. This was an event that this Member originated to recognize new ideas and new products to, first find ideas which can be developed into marketable items; second, find a location in the Third District of Oklahoma to manufacture those products; and third, create by the manufacturing of those new products or processes new jobs and economic opportunities for the citizens of the Third District. The first year, the New Products and Processes Fair had about 40 entrants. Last year, in the fourth year, there were 257 entries. And this year, I am informed that we have in excess of 300 new ideas of processes submitted.

In this event, each entrant has their idea evaluated for its potential marketability by experts. If an idea has great merit, which many of them have in the past 4 years, we assist the inventors secure help in financing, training of potential employees in the vocational technical system, find a site for the manufacturing plant, and thus put Oklahomans to work. We are teaching entrepreneurship and that people can do things and take action to change their economic conditions.

The New Products Fair is developing a can-do problem-solving attitude among the participants as a result of their creativity. The effort to create new products is creating a new attitude to solve our own economic problems.

Mr. Speaker, my primary mission in the Congress has been to try to change the economic conditions in the Third District so that the people who live there can find a good job, raise their families, and live where they want to live. We are making progress and the Fifth Annual New Products and Processes Fair, and National Invent America Week will help further those efforts.

CELEBRATING GREEK INDEPENDENCE

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. McHUGH. Mr. Speaker, it is an honor for me to join in observing Greek Independence Day on March 25 as a celebration of Greek and American democracy.

The idea that governmental power must rest ultimately with the people was born in ancient Greece, and became the model for our American democracy many centuries later. It is a testament to the fundamental validity of that principle of statecraft that democracy was reborn in Greece in the 19th century with American democracy as an inspiration and model.

Since that rebirth of democracy in Greece, ending almost 400 years of oppression by the Ottoman empire, the progress of democracy for the Greek and American peoples has in many ways been a joint venture. Early in this century, approximately one-quarter of the younger Greek male population emigrated to the United States and became part of the success story of 20th century America. And when democracy around the world was most severely threatened in midcentury, approximately 9 percent of the total population of Greece died fighting on the allied side in World War II.

Mr. Speaker, many Greek-Americans live in the communities of upstate New York which I am privileged to represent. It is therefore a special honor for me to join today in celebrating the joint contributions that the Greek and American people have made that democracy might not only survive but flourish. The vibrant, energetic people of our Greek-American communities continue to enrich American life by sharing with us the enduring character of their language, music, dance, and other cultural traditions. Today we salute them, as well as Greek independence, with gratitude and admiration.

A LETTER FROM HOME: END THE BUDGET DEFICIT NOW

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. KOLBE. Mr. Speaker, two constituents of mine, William and Ann Moore of Tucson, recently wrote me to express their support for a balanced Federal budget. The Moores' determination to eliminate the budget deficit has been frequently expressed by the Members of this body. But their belief that a balanced budget can be achieved only by addressing the deficit's underlying cause—the Federal Government's unwillingness to cut spending and set realistic budget priorities—is a message that has often been lost amid the clamor of special interests for more and higher spending and taxes.

A distinguished former colleague of mine from Arizona, Senator Goldwater, used to talk a great deal about a "silent majority" of Americans who were sick and tired of business as usual in Congress and elsewhere. If there is truly a silent majority in this country today, it is the millions of Americans who are waiting for Congress to do its part to confront the deficit openly and expeditiously. I hope all my colleagues will listen carefully to what the Moores have to say, because they speak for a great many other people from across the United States.

An Open Letter to the U.S. Congress and President Reagan:

We are writing this letter out of frustration and anger and we believe these feelings to be shared by tens of millions of Americans.

During the past several years we have watched in utter amazement the federal budget deficit increase the national debt to proportions that if not reversed will change forever the economic hopes of future generations as we have known them.

You have been elected by the people to protect our economic freedom and security for which we have all worked so hard, for which millions have died and you are not carrying out that responsibility.

Our constitution provides you with open ended spending regardless of the national income and further gives you the power to increase the debt ceiling when you find yourselves running out of credit, leaving we the people as the debtors.

If you think you are above having to answer to us for your selfishness and if you think we do not care—You are wrong.

If you think the American people are not watching and not listening to your every word and not understanding the terrible economic position in which you are putting us—You are wrong.

If you think the budget cutting package where almost one half the cuts are generated by higher taxes and the selling of government owned assets shows great political courage, hard work and leadership—You are wrong.

If you think a meaningful budget cutting package can be achieved by not including entitlements and social security and if you think that the majority of entitlement and social security recipients do not want to help achieve a balanced budget—in order to insure the very future of entitlement programs—You are wrong.

If you think that current low inflation, low interest rates and increased gross national product means that everything is fine and we are not headed for economic paralysis—you are wrong.

If you think we are not close to losing our ability to correct our own economy from within our borders—you are wrong.

If you think, based on your spending habits and resulting accelerating national debt obligations, we would not be facing the possibility of 400 billion dollar annual deficits should we enter a strong recession—you are wrong.

Make no mistake—The budget cutting decisions that are made during the next few weeks will be some of the most important decisions any of you will make while holding an elected office. Perhaps that's the problem. No real courage to face up to the problems of our country because you want to be elected or re-elected.

Therein lies the fallacy—For the American people will surely fill future elected positions with those who put the national interest first.

WILLIAM B. and ANN LAURIE MOORE.

What is most convincing about the Moores' letter is that they have the facts on their side. Last year, the Federal Government spent about $1,000 more than it collected in taxes for every man, woman, and child in America. Yet taxes have increased by more than $100 billion this decade. As fast as Government revenues have increased, Government spending has grown even faster.

In the process, we are realizing the worst fears of the founders of this country. "When the people find they can vote themselves money," Benjamin Franklin once said, "that will herald the end of the Republic." This is ominously close to what Congress does today. We used to pay as we go. Now we pay as we borrow.

Mr. Speaker, we simply can't afford to ignore the deficit any longer. The time has come for every Member of this body to stand up—not for higher taxes, but for a higher standard of fiscal discipline.

The first step is to pass a balanced budget amendment to the Constitution. Such an amendment is long overdue. Indeed, responsible legislators have warned against excessive government borrowing since the birth of our Nation. As Thomas Jefferson wrote, "To preserve our independence, we must not let our leaders load us with perpetual debt." He later added: "I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our Government to the genuine principles of the Constitution; I mean an additional article, taking from Government the power of borrowing."

From Jefferson's time forward, the American people have spoken. While they have tolerated deficit spending during wars or national emergencies, they have also insisted that Government budgets be balanced during peacetime. Forty-seven of the fifty States have some form of balanced budget requirement written into their constitutions; the remaining three States—Connecticut, Maine, and New Hampshire—have statutory requirements. The two major grassroots citizens groups aimed at reducing Government spending, the National Taxpayers Union and Citizens for a Sound Economy, report that public support for a Federal balanced budget amendment runs as high as 85 percent.

My own experience confirms this. At every townhall meeting I have held in my district since coming to Congress, someone brings up the need for a balanced budget amendment.

As so often happens, Congress is lagging behind the people. But this appears to be changing. Five years ago, the other body passed a balanced budget amendment by a vote of 69-31, two votes more than the two-thirds needed for adoption. The House version of the amendment fell short by only 46 votes. This year, I've joined 236 of my House colleagues in sponsoring the balanced budget amendment. At the same time, 32 States—including my homestate of Arizona—have petitioned Congress to convene a constitutional convention on the amendment, just two votes shy of the two-thirds needed. Six other States are now considering doing the same.

In sum, Congress isn't there yet. But I respectfully submit that even those Members who haven't seen the light are beginning to feel the heat.

A balanced budget amendment won't be foolproof. No law can be. But it is far better than the alternative: massive Federal borrowing that steals not just from our children, but from our grandchildren. The time has come to make their legacy our own, and to restore the confidence that William and Ann Moore and millions of other Americans have placed in this body. I urge my colleagues to do everything possible to cut wasteful spending and make a balanced budget part of our Constitution. The silent majority won't be silent for much longer.

GREEK INDEPENDENCE DAY

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DONALD E. LUKENS. Mr. Speaker, March 25 is designated as Greek Independence Day, a national day of celebration of Greek and American democracy. This day marks the 167th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire.

As a young nation that had just won her freedom, the United States fully supported the Greek uprise against the Ottoman Empire. Many of our democratic ideals in the United States and the Western World originated from the Greeks. In 1921, 45 years after the United States won her freedom, the Greeks looked to the American Revolution as the they fought for their independence in the 1820's.

Today there are over 3 million Greek Americans living in the United States. Their culture has contributed greatly to American society.

Today is a celebration of freedom. I join the Greeks in celebrating their independence.

A SOVIET SPACE STRATEGY

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. HEFLEY. Mr. Speaker, today marks the fifth anniversary of the Strategic Defense Initiative.

At this time, I feel it is most important to recognize the main objective and goal of SDI—to deter and defend against Soviet strategic power and aggression. This goal is based on hard evidence that the Soviets are continually increasing and improving their military capabilities, not only in terrestrial and maritime capacity—but also, and with even greater charge and commitment—space.

To address this issue, I am submitting for the record an article written by General Piotrowski, "A Soviet Space Strategy."

General Piotrowski is Commander-in-Chief of the North American Aerospace Defense Command and the U.S. Space Command, both headquartered at Peterson Air Force Base in Colorado Springs. Prior to his present assignment, he was the Vice Chief of Staff of the U.S. Air Force.

Mr. Speaker, I recommend the following article to my colleagues.

A SOVIET SPACE STRATEGY

(By Gen. John L. Piotrowski, USAF)

In brief.—Even by static indicators relating to hardware, numbers and demonstrated operational capabilities, the military space forces amassed by the Soviet Union not only are impressive, but superior in significant respects to those of the United States and its allies. Yet, a fuller appreciation of Soviet space assets can only be drawn from a projection of their dynamic role in a conflict scenario and their function in an overall, integrated plan of operations. Presented here is such a dynamic "model" featuring a plausible employment scheme for the Soviet forces. It yields the disturbing picture that even on the basis of current capabilities, the Soviets command the potential of dominating the medium of space, with all of its implications for the terrestrial and maritime dimensions of military conflict.

Western analysts and commentators most often describe the space infrastructure and space forces of the Soviet Union in terms of static comparisons with the space forces and assets of the United States and its allies. They observe that the Soviets, for example, have trained four times as many scientists and engineers, conduct five times as many launches annually, and command almost twice as many operational launch pads as the West. They boast a three-to-one (and growing) advantage over the West in manned spaceflight experience. They sustain cosmonauts on-orbit for months at a time, conduct space station resupply missions with unmanned cargo launches, and rotate crews of cosmonauts, while annually lifting to orbit ten times the weight of the materiel launched by the West. Finally, and ominously, the Soviets have one operational antisatellite system as well as three additonal types that could be used during hostilities today, and are able to relaunch from the same pad in a fraction of the time it takes us in the West.

All these observations are correct. Even taken in isolation, each is impressive. Yet, generalizations drawn from an array of static indicators allow only a rough appreciation of the Soviet space program. Its true significance is that it is a military program that has resulted in a potent military space force. Of the Soviet spacecraft orbiting the earth today, over 90 per cent have military or military-related missions. Over 85 per cent are exclusively military systems.

Still, numbers alone are inadequate in assaying the capability of this force. The military utility of Soviet space forces can better be illuminated by some sort of dynamic model—a model that suggests a plausible employment scheme for the forces.

Before adducing such a model, however, several questions need to be addressed: What would a Soviet space strategy seek to accomplish? What might be the key features of a Soviet space force employment plan? Upon what would its success depend?

BASIC OBJECTIVES OF SOVIET SPACE FORCES

It should be recognized that any Soviet space strategy or force employment plan would be executed in support of overall geopolitical objectives and—faithful to longstanding Soviet doctrine—would be integrated with combined arms plans and operations. While the idea of a "war in space" appeals to the imagination, it is difficult to envision that any conflict involving what the Soviets would define as their vital interests would be confined to space. It is much more likely that the Soviets will always view space as an extension of the terrestrial and maritime battlefield.

For the foreseeable future, then, the focus of Soviet military space forces will probably be on their capability to support the political-military objectives of the Soviet leadership and to enhance the operations of Soviet land, naval and air forces. Operations against U.S. or allied spacecraft would, therefore, probably be undertaken with the objective of denying those terrestrial and maritime forces the essential force-enhancing services provided by spacecraft.

And, indeed, such services have become integral to contemporary force postures. Modern military operations rely on space forces for communications relay, aids to navigation, environmental data, and surveillance and warning information. Terrestrial forces denied these kinds of services are, or would be, at a considerable disadvantage—especially in the face of forces fully enhanced by them. Thus, a plausible Soviet space force employment strategy would be constructed to satisfy two tactical objectives: increase the space support provided to Soviet land, naval and air forces, while simultaneously denying space support to the forces of the United States and its allies.

Force enhancement would be accomplished by launching the appropriate kind of spacecraft at the appropriate rate and time. Denial or negation would be attained by degradation, disruption or destruction of U.S. and allied spacecraft, launch facilities and/or the many and dispersed ground-supporting systems. The latter include satellite control stations, receiving sites, data distribution and relay nodes for space-derived information and space surveillance sensor sites. Because the United States' and NATO's ground-supporting systems comprise a global network, it is likely that any conflict involving the NATO nations could also envelope some of these elements.

COORDINATION OF SPACE AND TERRESTRIAL OPERATIONS

The actual Soviet employment plan would be highly dependent on a number of interrelated elements: the political objectives sought by the Soviets in general, as well as at any given point within the spectrum of conflict; their calculations of the risks and consequences of initiating a particular activity; the location and timing of their terrestrial and maritime operations; and continual assessments—within the ever-present constraints imposed by "the fog of war"—of the effectiveness of operations already prosecuted.

The last point deserves elaboration. Because the medium of space provides the vantagepoint of the ultimate "high ground," space forces have a particular potential for extending to the national leadership and combatant commanders a comprehensive understanding of the multi-dimensional battlefield. The degree to which this potential is realized—and once realized, exploited—largely determines the degree to which "the fog of war" is dissipated. If one side can gain a large amount of certain knowledge concerning the battlefied, and the other side is laboring under broad uncertainties, there is little doubt as to where the advantage rests. Thus, both Soviet space-support and space-denial would be truly high-leverage operations if successfully executed in anticipation of, or at the crucial moment during, terrestrial and maritime operations. This is another way of saying that the timing and tempo of Soviet space force-enhancement and force-denial activities would be determined by the timing and tempo of the terrestrial and maritime operations they support.

Still, the coordination of activities in the space dimension of the battlefield with operations in the land or sea dimensions is by no means an easy task. Land forces in contact with the enemy move at speeds measured in miles per day, naval forces at around 30 miles per hour, air forces at 500 miles per hour, while space forces travel at 17,000 miles per hour. These speed differentials spell out only part of the problem for combined arms planning and execution. Preemployment preparation times and spacecraft dwell times (the time when the spacecraft is in position to serve the forces it enhances—or revisit times (how often the spacecraft returns) are especially important aspects of space force planning.

Dwell-times and revisit-times are a function of orbital mechanics, unless the spacecraft has been designed for a mission that requires maneuver. Thus, dwell-times and revisit-times are essentially fixed (within limits) in peacetime and in conflict. But preemployment preparation times are not necessarily fixed. They comprise such time parameters as those applying to the needed manufacture of spacecraft and boosters (depending on the militarily significant inventory already available), the delivery of boosters and spacecraft to launch facilities, the integration of a particular spacecraft to a booster, the preparations for launch and the resolution of any early on-orbit anomalies and the speed with which launch pads can be refurbished for subsequent launches.

ROLE OF SPACE FORCES IN DETERRENCE AND ESCALATION

Preemployment preparation times thus relate to the crucial factor of rapid responsiveness of space forces, including their capability to conduct "surge" operations in time of crisis. This brings us to an aspect of space forces that has failed to draw the general recognition it deserves: namely, the contributions such forces can make to deterrence—to the prevention of conflict. Thus, a launch surge during a period of tension may signal a nation's resolve and its preparedness to respond should the crisis deepen. An increase in on-orbit operational spacecraft or on-orbit spares—analogous to "forward-deployed" forces or "ready reserves"—sends a similar signal. The same is true if on-orbit spares in the "standby" mode are suddenly made operational or "mobilized."

Similarly, by launching additional spacecraft and/or manuevering craft already in orbit to concentrate coverage over a specific terrestrial area, a nation can provide a clear indication that the area or the activities within it involve its vital interests. The advantage of all of these surge actions is that they are essentially non-threatening and nonescalatory means of improving capability and signalling resolve, both of which can enhance deterrence. Deterrence is also bolstered by the aggressor's knowledge that an increased number of opposing surveillance and warning spacecraft can deny him the ability to achieve surprise.

Negation or denial activities can also enhance deterrence of higher-intensity forms of conflict or help provide escalation control. Yet, this option would probably entail greater risks and, therefore, would demand more careful calculations of the possible consequences.

The existing Soviet Galosh antiballistic missile (ABM) system provides an example. This nuclear-armed weapon is credited with having an antisatellite (ASAT) capability. In a theater or regional conflict phase, would the Soviets use this weapon in an antisatellite role? If they do contemplate such use, they will have to calculate the consequences of crossing the nuclear threshold, the collateral effects of a nuclear detonation in low earth orbit, etc.

But the Soviets have recourse to other ASAT systems. Thus, the Soviet co-orbital satellite interceptor is armed with a conventional fragmentation warhead. Offhand, while its employment would appear to entail fewer risks, nevertheless they could be substantial. The first engagement could escalate the conflict; in fact, an antisatellite attack could very well be the commencement of hostilities. If combat had already been joined on the land, at sea or in the air, an antisatellite attack would escalate the conflict by at least extending the dimensions of the lethal battlefield.

A Soviet ASAT attack would also provide unambiguous warning to Western space forces, which could then take defensive measures against attack. Most importantly, even a conventional ASAT attack against the "sovereign possession" of a nation that had no operational ASAT to respond in kind (the United States is such a nation) could have unpredictable consequences for the attacker. The burden of attempting to calculate accurately an expected response falls on the shoulders of the attacking nation—much in the same way that a nation declaring "deterrence" to be its "strategy" must carefully calculate the consequences if it fails to provide the means necessary to deter.

ATTRIBUTES OF A SOVIET EMPLOYMENT PLAN

A Soviet space force employment plan would govern the activities of Soviet space forces across the spectrum from peace through global war by stipulating objectives for each phase. The plan would also be cast in a continuum—meaning that actions taken at the lower level of the spectrum would serve Soviet goals at that level, while also facilitating transition to the next higher level.

In the early phases, the Soviets might be careful not to take any irreversible actions—that is, they probably would concentrate on increasing the size and capability of their own on-orbit space forces without attempting to deny U.S. or allied forces "freedom of space" by engaging in denial or negation actions against them. Because Soviet space force preemployment-preparation times are so short, a surge could be undertaken with little warning. As the Soviets have demonstrated, such a surge could also be sustained for a long period.

Once the Soviets decided on conflict, they would commence denial or negation activities. These could precede terrestrial and maritime hostilities or be timed to correspond with them. One must assume, however, that a Soviet attack on U.S. or allied military spacecraft—representing, as these do, both sovereign possessions and strategic systems—would signal the Soviet intention, or at least willingness, to escalate a conflict.

It is, of course, our principal objective that deterrence not fail. Nonetheless, in adducing a plausible Soviet space force employment plan, I have generally not denied the Soviets any initiative within the range of options available to them. The model assumes that they will use their military space forces in an attempt to influence or even control the outcome of terrestrial and maritime events. The Soviet employment plan presented here is not one stolen from the inner sanctum of the Kremlin, nor is it a plan that the Soviets necessarily would have to follow. Rather, it describes a space strategy the Soviets could plausibly employ across the spectrum of conflict.

* * * * *

A SOVIET EMPLOYMENT PLAN: PHASE ONE

As tension mounts and the Soviets judge that the potential for armed conflict has increased, they would initiate a series of actions designed to enhance their warfighting ability. In this phase, the actions could involve their terrestrial and maritime forces. It is highly likely, however, that they would involve Soviet space forces.

Soviet space forces would begin generating toward a warfighting posture—and by that is meant a war-supporting or force-enhancing posture. The quickest way to do this would be to have sufficient on-orbit spaces in the "standby" mode. These spares could be quickly and electronically "mobilized" to join already operational Soviet space forces. Another way, of course, would be to launch additional spacecraft.

A launch surge, designed to complete or reinforce Soviet force-enhancing satellite constellations, would probably also begin in this phase. We know from experience that the Soviets are capable of greatly increasing the number of space launches they normally conduct in peacetime.

A "normal" launch rate for the Soviets is approximately one space launch every four days. During the Falkland Islands conflict in 1982, however, the Soviets conducted 29 space launches in 69 days. While all these launches were not necessarily stimulated by the crisis, they do demonstrate an impressive Soviet surge capability—a capability they would undoubtedly employ in a future crisis involving Soviet interests.

Besides completing or reinforcing their on-orbit forces, the Soviets would probably also increase the number of intelligence-collecting spacecraft. This category includes Soviet radar ocean-reconnaissance satellites, electronic-intelligence photo-reconnaissance satellites.

These spacecraft would be used not only to improve the Soviets' global detection and targeting capability, but would also allow them to maneuver some systems in order to provide increased localized coverage of what they judged to be military significant activities or areas, without simultaneously creating coverage gaps in other places. It is also likely that these unmanned capabilities will be augmented by manned spacecraft.

The Soviets profess that their cosmonauts have used visual observations, cameras, radars, spectrometers and multispectral electro-optical sensors in their "observations" from manned spacecraft. In a contingency, these capabilities—however rudimentary—could be applied to the task of locating, identifying and tracking potential targets from outer space. We also know that the MIR space station has six docking ports. These could be used to increase the military capability of the space station.

Thus, during this phase the Soviets might augment or replace the MIR crew with fresh cosmonauts—perhaps the most seasoned and experienced available—or they might launch additional modules to increase the capability of the MIR. In any case, during this phase the Soviets would generally increase ths size of both their manned and unmanned space force.

The outcomes the Soviets would desire during this phase are an increased ability to keep U.S. and allied forces under surveillance; an improved ability to target those forces; improvement in real-time or near-real-time force direction and command and control capabilities; and enhanced global and localized intelligence, navigation, and environmental observation capabilities.

The implications for the United States and its allies would be manifold. Terrestrial and maritime forces and activities could come increasingly under Soviet surveillance. For its part, the space surveillance network of the United States and its allies would have more objects to identify, track, monitor and catalogue. Prudence would also demand that the number of observations per object would increase in all cases, but most importantly with respect to those Soviet spacecraft with maneuver capability.

The United States and its allies might begin preparing additional spacecraft for launch in an attempt to improve capabilities commensurately. However, lacking a surge capability, the U.S. and allied peacetime space order of battle would also have to be adequate for a crisis or conflict. The small upslope in the U.S. "Satellites On-Orbit" line indicates that—depending on the length of time involved—the United States and its allies could increase their space capability by some degree.

Throughout this phase, deterrence of conflict remains the U.S. and allied goal. Space forces, along with military forces in other media, contribute to that goal. Since deterrence functions by creating a Soviet perception that the costs of their aggression will exceed the probable gains, it is vitally important that they not perceive an exploitable weakness in any area. And this leads to Phase 2.

PHASE TWO OF THE PLAN

In this phase, the Soviets perceive—correctly or not—that they might achieve important advantages by denying U.S. and allied forces some of the force-enhancing capabilities provided by U.S. and allied spacecraft. They must also perceive either that they could do this without incurring grave risks or that the potential risks are worth the probable gains.

Thus, they begin antisatellite (ASAT) operations. Of the four potential ASAT technologies from which the Soviets have to choose—the Galosh, lasers, co-orbital ASATs or electronic warfare—it is likely they would choose the one adjudged to be the least observable and least escalatory. They might also decide—using similar guidelines for evaluating a hierarchy of options—to attempt to degrade U.S. and allied space capabilities by operations against the global ground-supporting network. Because elements of this infrastructure reside outside North America, the Soviets might calculate that operations against extraterritorial sites could be conducted without inviting escalation. Depending on the response, attacks against U.S. space and ground segments might increase and become increasingly overt.

If Soviet ASAT engagements were successful, U.S. and allied space forces would be attrited at a rate greater than the rate at which they would be replenished. Consequently, some U.S. and allied force-enhancing capabilities would be degraded or lost.

If the United States possessed an operational ASAT of its own, it is less likely that the Soviets would enter this phase at all. An operational U.S. ASAT not only could deter the Soviets from attacking U.S. or allied spacecraft by placing Soviet spacecraft at risk, but it could also be employed to deny the Soviets some critical force-enhancing capabilities.

PHASE THREE OF THE PLAN

This phase assumes increasingly belligerent Soviet activities. Soviet ASAT attacks become more overt, as do attacks against the U.S. and allied ground-supporting space infrastructure. The Soviet goal during this phase is, quite simply, to dominate space in an attempt to increase their Soviet ability to control the outcome of terrestrial events.

The plausible outcomes desired by the Soviets would include: negation of critical force-enhancing elements of the U.S. and allied space forces; degradation and disruption of satellite control and data distribution capabilities; and creation of exploitable "gaps" in the U.S. and allied spacecraft coverage or services, including a reduction in the timeliness of data distribution.

Simultaneously, the Soviets would probably continue their launch surge to strengthen support to their forces in preparation for a potential widening or escalation of the conflict. If Soviet operations were successful, the implications for the United States and its allies would be serious. Some spacecraft, especially those in low-earth orbits, would be lost. The United States and its allies would either compensate for these losses by launching additional spacecraft, or accept the diminution in force-enhancing services. In either case, it is likely that some disruptions and delays in command and control and logistics communications would occur.

Soviet attacks against ground sites would result in the loss of those that were "soft" or lightly defended. Those that had functional replacements that survived—including those with highly survivable mobile elements—would continue to operate. Still, some net loss in capability—volume, speed, access, etc.—would probably be sustained.

Having attained the level of space superiority they desired, Soviet terrestrial and maritime forces would confront U.S. and allied forces significantly disadvantaged in the force-enhancing capabilities provided by spacecraft. Assuming that the conflict were still confined to conventional operations, Western forces would be increasingly subject to "the fog of war" with its penalties of uncoordinated, ill-timed or inappropriate actions. Although conventional conflict is not necessarily a precursor to nuclear conflict, space forces would also be involved in the event of such escalation.

PHASE FOUR OF THE PLAN

In this phase, the entire space infrastructure comes under attack as the Soviets strive for "victory in war." Their broad aims in a global war would be to impose defeat or surrender on the United States and its allies by disrupting and destroying their military forces, to limit damage to vital Soviet political, military, and economic structures, and to set the stage for domination of the post-war world.

IMPLICATIONS FOR WESTERN SPACE STRATEGY

Some concluding observations are in order. The first is that the static indicators of Soviet military space power become truly worrisome when viewed in a dynamic context. The Soviets command a potent force, the capability to employ that force effectively in a conflict, and even today the potential capability to dominate the medium of space.

Next, it must be recognized that the plausible Soviet employment plan presented here is based only on current Soviet capabilities. The additional lift capacity of the recently tested "Energiya" heavy lift booster, the development of a Soviet space plane, and the launch of the Soviet space shuttle will shortly provide the Soviets with expanded military space capabilities.

Third, it appears that the advantage today in the military space forces resides with the Soviets. The momentum of the Soviet military space program, the lack of an equivalent momentum in building corresponding capabilities in the West, as well as the long lead-times required by the West to close these gaps in capabilities that have opened do not augur well for the future. The space forces of the United States and its allies do not match the Soviets in assured access to space or in military significant surge capability. The United States does not have today an operational antisatellite system. These deficiencies can be remedied, but only if a clear commitment is undertaken to do so.

A final observation is perhaps the most important one. The Soviet leadership may well perceive our lack of remedy to these shortcomings as a function not of programmatic errors, but of a larger failure of will. It clearly is not in our best interests for the Soviets to believe that we lack resolve. A restoration of the military space balance could contribute greatly to convincing the Soviet leadership that we have the will and the wherewithal to deter or counter effectively any military force employment plans—on land, at sea, in the air or in space—that they might contemplate. Conveying this message is the essence of deterrence. If we fail to do so, we must be conscious of the significantly heightened risks that we are thereby accepting.

Secretary of Defense Weinberger's observation demands our respectful attention: "Budget deficits and domestic program cuts can be rectified; but security shortfalls carry the risk of irreversible losses." Robust space forces can, and must, make greater contributions to our security. Superior technology and tactics may compensate for many shortcomings, but they cannot redress an inadequate force structure. That is the single most important lesson we must learn from a plausible Soviet space force employment plan.

TRIBUTE TO JOANNA HODGES

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. McCANDLESS. Mr. Speaker, a longtime resident of Palm Desert, in the 37th Congressional District of California which I have the honor to represent, is about to add to Coachella Valley history. Joanna Hodges, a music teacher at the College of the Desert, will be holding the 10th annual Joanna Hodges Piano Conference and Competition at the college, and at various sites throughout the Coachella Valley for 2 weeks beginning March 26, 1988.

Joanna's competition is now one of the four largest in the Nation, and attracts many young aspiring performers from throughout the music world. For some, this event will be their first opportunity to compete and gain experience in this rigorous arena.

This event for Joanna and her support group is a hands-on affair. From finding housing for several hundred contestants, entertaining critics and judges, providing superior and free entertainment for the public, to raising the funds to pay for it all, this is a labor of love on the part of Joanna and company.

This year, for the first time, the Gala Winners Concert will be held on the stage of the spanking-new McCallum Theater for Performing Arts at the Bob Hope Culture Center. Those talented musicians will perform on a $60,000 Steinway concert grand piano—donated to the theater by the Joanna Hodges piano competition and its supporters.

I invite my colleagues to join me in congratulating this remarkable teacher and patron of those who play and love the piano on her competition's 10th anniversary.

NUCLEAR WHISTLEBLOWERS PROTECTION ACT AMENDMENTS OF 1988

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. SLATTERY. Mr. Speaker, on March 2, I introduced H.R. 4071, the Nuclear Whistleblowers Protection Act Amendments of 1988.

As someone who is deeply concerned about nuclear powerplants' potential safety problems, I want to make sure that these problems do not escalate into major threats to public safety. The best way to do this is to ensure that plant workers, who are safety's first line of defense, have the security of knowing they can report these problems without being harassed or losing their jobs. H.R. 4071 will strengthen existing laws created to protect whistleblowers in an effort to encourage these employees to come forward.

Section 210 of the Energy Reorganization Act of 1978 contains provisions intended to protect nuclear whistleblowers—employees who disclose potential violations of nuclear health and safety laws—from retaliation by their employers. The term "whistleblower" has been defined as an act of disclosing any information that the employee reasonably believes evidences a violation of any law, rule or regulation, mismanagement, corruption, abuse of authority, or threats to public health and safety at the worksite. Section 210 mandates that a complainant under the act file a written complaint with the Department of Labor within 30 days of the alleged retaliatory conduct. A Department of Labor investigator responds to the complaint and issues a report, finding for one side or the other. The losing side can appeal the ruling to an administrative law judge, who will issue a decision that is appealable to the Secretary of Labor. If discrimination is found, the complainant has a right to be reinstated with back pay, compensatory damages, attorney's fees, and other "make whole" remedies.

This legislation, which would apply to claims filed after the date of the enactment of the act, contains the following provisions:

The statute of limitations for filing a claim would be extended from 30 days to 1 year.

A Federal district court judge in Kansas recently ruled that bringing a claim before the Department of Labor precludes the claimant from seeking a remedy in Kansas courts. Other Federal judges in other States have interpreted the statute differently. This bill would make it clear that filing a claim with the Department of Labor does not prevent an employee from also filing a lawsuit in State court.

Nuclear powerplants would be required to "prominently post" the whistleblower protection provisions of the law in the workplace. Employees should be made aware of their rights and responsibilities so that potential intimidation will not have a chilling effect on reporting safety problems. Other Federal whistleblower protection statutes require prominent posting.

Whistleblowers who bring their concerns directly to plant management, rather than to Federal regulators, would be granted explicit protection. The Secretary of Labor, the Nuclear Regulatory Commission, and five Federal circuit courts of appeal have ruled that the existing law protects these whistleblowers. Unfortunately, the Fifth Circuit Court of Appeals does not agree. This provision would clear up that confusion.

The Secretary of Labor and Federal courts would be granted the ability to assess "exemplary damages" against employers who repeatedly intimidate, harass, or fire whistleblowers. Punishing these acts with additional monetary damages will drive home the seriousness of discriminatory, bad faith conduct on the part of the employer.

The whistleblower protection provisions would be extended to 140,000 employees of contractor-operated Department of Energy nuclear facilities. This would overturn a recent ruling by the Wage and Hour Division of the Department of Labor.

Attorneys who file frivolous whistleblower complaints—or workers who file such complaints who are not represented by attorneys—could be held by the Secretary of Labor to be liable for expenses and attorney's fees incurred by the employer in responding to such a bad faith complaint.

The text of the legislation follows:

H.R. 4071

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Whistleblowers Protection Act Amendments of 1988".

SEC. 2. EMPLOYEE PROTECTION.

(a) INTERNAL WHISTLEBLOWERS; EMPLOYERS.—Section 210(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)) is amended by—

(1) inserting "(1)" after "SEC. 210. (a)";

(2) striking ", including" and all that follows through "licensee or applicant,";

(3) inserting after the dash, the following new subparagraphs:

"(A) notified his employer (or an agent of such employer) of an alleged violation of this Act or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

"(B) opposed any practice made unlawful by this Act or the Atomic Energy Act of 1954;

"(C) testified before Congress or at any Federal or State proceeding regarding any provision, (or proposed provision) of this Act or the Atomic Energy Act of 1954;"; and

(4) redesignating paragraphs (1) through (3) as subparagraphs (D) through (F); and

(5) adding at the end the following new paragraph:

"(2) As used in this section, the term 'employer' includes—

"(A) a Commission licensee;

"(B) an applicant for a Commission license;

"(C) a contractor or subcontractor of a Commission licensee or of an applicant for a Commission license;

"(D) the Department of Energy;

"(E) a contractor of the Department of Energy operating a Department of Energy facility under contract; and

"(F) any other employer engaged in any activity under this Act or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).".

(b) Time Period for Filing Complaints.—Section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) is amended by striking "thirty days" and inserting "1 year".

(c) De Novo Review.—Section 210(b)(2)(A) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(2)(A)) is amended—

(1) by inserting "(i)" after "(2)(A)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Notwithstanding subsection (c)(2), in the event that the Secretary does not issue an order under clause (i) within the 120 day period prescribed by such clause, the complainant shall be entitled to de novo review of the complaint in any district court of the United States.

"(II) Nothing in this clause shall be construed to preclude the applicability of the provisions of section 554 of title 5, United States Code, to the issuance of an order under clause (i).".

(d) Nonpreemption.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is amended by adding at the end the following new subsection:

"(h) Notwithstanding subsection (c)(2), the provisions of this section shall not be construed to preclude a complainant under this section from pursuing any right or remedy otherwise available to such complainant under any law—

"(1) contemporaneously with pursuit of relief under this section;

"(2) subsequent to the issuance of a final order by the Secretary under this section; or

"(3) subsequent to judicial review under subsection (c)(1).".

(e) Posting Requirement.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(i) The provisions of this section shall be prominently posted in any place of employment to which this section applies.".

(f) Exemplary Damages.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851), is further amended by adding at the end the following new subsection:

"(j) In any action brought under this section, the Secretary, or on appeal under subsection (b)(2)(A)(ii), the United States district court, shall have jurisdiction to grant all appropriate relief, including injunctive relief, compensatory, and exemplary damages.".

(g) Sanctions for Frivolous Complaints.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(k)(1) If the Secretary determines that an attorney filed a complaint under subsection (b)(1) for a complainant without a good faith belief that there was a reasonable basis for such complaint, such attorney shall be liable for the costs, fees, and expenses (including reasonable attorney fees) incurred in responding to such complaint.

"(2) In the event that a complainant under subsection (b)(1) is not represented by an attorney, the complainant shall be liable for the costs, fees, and expenses described in paragraph (1) if the Secretary determines that such complainant filed the complaint without a good faith belief that there was a reasonable basis for such complaint.".

SEC. 3. APPLICABILITY.

The amendments made by this Act shall apply to claims filed under section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841) on or after the date of the enactment of this Act.

SEC. 4. TECHNICAL AMENDMENT.

The second of the two sections of the Energy Reorganization Act of 1974 that is numbered 210 (42 U.S.C. 5851) is redesignated as section 211.

PARLIAMENTARY ASSOCIATION FOR EURO-ARAB COOPERATION OPPOSES PLO OFFICES CLOSURE

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. CROCKETT. Mr. Speaker, in letters to Secretary of State George Shultz, the Parliamentary Association for Euro-Arab Cooperation makes a compelling argument against closure of the PLO offices. The group is composed of the representatives of 650 members of Western European National Parliaments and members of the European Parliament. Their letters are one more indication of the depth of worldwide opposition to the error that this Congress has made in mandating the closure of the PLO offices in this country.

I would like to share them with my colleagues and, therefore, I include them in today's CONGRESSIONAL RECORD.

Parliamentary Association for
Euro-Arab Cooperation,
September 17, 1987.

Hon. George Shultz,
Secretary of State, State Department, Washington, DC.

Dear Secretary of State: We have been distressed to read that the American Administration is planning the closure of the PLO office in Washington. This seems a particularly unfortunate decision to have taken at a moment when Chairman Yasser Arafat has just stated during the recent UN-organized meeting in Geneva of Non-Governmental Organizations on the question of Palestine that the PLO is prepared to recognize UN Security Council resolutions 242 and 338 and to talk directly to Israeli government representatives in the context of an International Conference.

Very often in the past, the West has not reacted quickly and positively enough to moderate and realistic Arab initiatives. We are thinking in particular of Prince Fahd's proposals and the subsequent Fez Declaration of September 1982. As a result, extreme elements in the Arab world use the argument that every concession made on the Palestinian issue simply serves to weaken the Arab position. This argument makes it much more difficult for realistic Arab leaders—and we must say here that we personally believe that Chairman Arafat is one of these—to maintain good relations with the West.

As you know, the majority of Western European countries have PLO offices in their capitals; many in fact give diplomatic status to PLO representatives. We have heard nothing from responsible sources to suggest that these offices are viewed as a threat to internal security.

Several of our members have met Mr. Hassan Abdel Rahman in New York and have appreciated his sober analysis of US attitudes to the Palestine question. Quite frankly, we believe that European opinion in general would regard the closure of his office as a concession to the Israeli lobby in the United States in a pre-election year, rather than as an action taken in the national interest of the United States.

We are glad that one of the co-signatories of this letter, Senator Michael Lanigan proposes to put some of these points personally to Ambassador Margaret Heckler at a meeting this week-end.

Yours sincerely,

Tijl Declercq,
Michael Lanigan,
Co-Chairmen.
Andrew Faulds,
Dr. Wendelin Ettmayer,
Vice-Chairmen.
Lord Mayhew,
Raymond Offroy,
Honorary Chairmen.

Parliamentary Association for
Euro-Arab Cooperation,
March 4, 1988.

Hon. George Shultz,
Secretary of State, State Department, Washington, DC.

Dear Secretary of State: We were a little disappointed not to receive an answer to our letter of September 17th, 1987, and even more disappointed to learn that the United States government had pressed ahead with its decision to close the PLO office in Washington.

We have now learnt that there are moves afoot to close the PLO office attached to the United Nations in New York. According to the interpretations we have been given of the agreement between the UN and the US government, such a move is of dubious legality; we are not, however, experts in this field.

It is as politicans representing 650 members of Westen European National Parliaments and members of the European Parliament—all of them deeply concerned with the search for peace with justice in the Middle East—that we write to express our dismay. For reasons which you will understand, it is difficult for the Arabs to regard the US as an honest broker in their conflict with Israel. This has undoubtedly been an obstacle to the peace missions undertaken by yourself and your predecessors. To close the PLO office at any time would be against the interests of peace and of the US in particular—to close it at the present moment would be a tragic error since it would be regarded by all Arabs as a slap in the face.

Our years of experience in dealing with Arabs and Israelis in connection with the Middle East problem have convinced us that the PLO is not a "terrorist" organization, though we have strongly criticized actions taken by some of its fringe groups. The mainstream leadership, as was shown by Chairman Arafat's Cairo Declaration of 7th November 1985, has always made the distinction between resistance to military occupation and actions outside the Occupied Territories.

Many of our members come from countries that have both been under occupation or that have had to deal with independence movements that were long treated as "terrorist" and with whom it was considered impossible to negotiate. Every opinion poll and independent journalists and observers recognize that the PLO alone can speak for the Palestinians. We therefore believe that all the efforts for peace, in which you yourself are so creditably engaged, will achieve nothing until this nettle is grasped and the PLO can take part in an international conference under UN auspices to solve the problem.

Yours sincerely,

TIJL DECLERCQ,
MICHAEL LANIGAN,
Co-Chairmen.
ANDREW FAULDS,
DR. WENDELIN ETTMAYER,
Vic-Chairmen.
LORD MAYHEW,
RAYMOND OFFROY,
Honorary Chairmen.

DR. JAMES F. ROTH, OF AIR PRODUCTS, RECOGNIZED FOR SCIENTIFIC EXCELLENCE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. RITTER. Mr. Speaker, if the United States is to remain as a leading industrial power, our Nation's scientific community must expand the frontiers of our scientific knowledge to develop new commercial applications from our fundamental and applied research efforts. Our Nation's economic strength and high standard of living depend upon our ability to accelerate the commercialization of scientific research.

Accordingly, it gives me great pleasure, Mr. Speaker, to bring Dr. James F. Roth to the attention of my colleagues. He received the 1988 Perkin Medal, the highest recognition for chemical achievements in the United States, on March 9. Dr. Roth is the chief scientist and corporate research director for Air Products & Chemicals, Inc., of Allentown, PA, in my district.

Dr. Roth received this coveted award from the Society of Chemical Industry for his work in the field of applied chemistry. The award recognizes Dr. Roth's accomplishments and leadership in the fields of catalysis and chemical process development, which have been the hallmark of his career.

Mr. Speaker, Dr. Roth is one of the country's most successful and productive industrial scientists. During the course of his career, he has been responsible for a number of scientific advances in applied chemistry. He was the principal inventor of two widely licensed commercial chemical processes. The first converts inexpensive methanol into acetic acid, which is used in a wide range of products from adhesives to paints. The second is a catalytic process for the production of linear olefins, a major step in the development of biodegradable detergents.

In his successful career, Dr. Roth has amassed over 100 United States and foreign patents, and published more than 30 scientific papers. Under his leadership as Air Products' director of corporate research, the company's research efforts in catalysis, separations, polymers, and other related fields have doubled in the last 5 years.

Mr. Speaker, as one who holds a science degree in metallurgy from the Massachusetts Institute of Technology, I can appreciate the magnitude of Dr. Roth's achievements. I am truly pleased that my constituent has received this prestigious honor. It is a personal pleasure to me as a member of the scientific community—and it is also an inspiration to other scientists. At this point, I include articles from the Allentown Morning Call and the Chemical and Engineering News concerning Dr. Roth's high honor.

[From the Allentown (PA) Morning Call, Dec. 23, 1987]

AIR PRODUCTS SCIENTIST TO GET TOP CHEMISTRY PRIZE

James F. Roth of South Whitehall Township, chief scientist and director of corporate research for Air Products and Chemicals Inc. will receive the 1988 Perkin Medal for outstanding work in applied chemistry.

The gold medal is the highest recognition for chemical achievements in the U.S., according to Roth.

The 81-year-old award is presented by Society of Chemical Industry (American Section) to recognize technical accomplishments and leadership in the field of catalysis and chemical process development. The society said Roth had made outstanding advances in applied chemistry as the principal inventor of processes for the commercial production of acetic acid and the production of linear olefins used to make biodegradable detergents.

Both processes have been licensed and are used extensively in worldwide production.

Roth said the award is presented more for achievements over time rather than immediately following a specific accomplishment.

Roth said the creation of linear olefins, the active ingredient in biodegradable detergents, came during the 1960s, known to scientists as the "age of environmentalism."

Detergents at that time didn't break down and got into waterways where they continued to foam. Roth and his fellow researchers reconfigured the olefins, enabling them to be consumed by microorganisms present in waterways.

"That was one of the landmark developments of the time," Roth said last week.

Roth said acetic acid is the main component used in making adhesives (including Elmer's glue), water-based interior paints, polyester, polyvinyl acetates and polymers.

Roth has written more than 30 scientific papers and holds more than 100 U.S. and foreign patents.

He came to Air Products nearly eight years ago from Monsanto Co., where he was a senior director of research and development. At the time, he said, Air Products' industrial gas business was beginning to mature and the company decided to diversify.

"In order to sustain growth, they had to come up with new products," Roth said. He oversees the company's exploratory and fundamental research efforts in catalysis, separations, polymers and other fields.

Air Products has close to 1,000 employees engaged in research and development, most of whom live in the Lehigh Valley, Roth said.

When Roth came to Air Products, the company was spending about $30 million a year on research and development, according to Kevin J. Ramundo, manager of corporate and financial communications. It spent $57 million on R&D last year, more than twice the budget five years ago, and is expected to spend well over $60 million for the current fiscal year.

As a result, Ramundo said, Air Products received 34 patents in 1979; this year, it received 123.

Roth will receive the award at a dinner March 9 in New York City.

[From the Chemical and Engineering News, Mar. 7, 1988]

AIR PRODUCTS' JAMES F. ROTH WINS 1988 PERKIN MEDAL

(By Joseph Haggin)

James F. Roth, principal scientist and director of corporate research for Air Products & Chemicals in Allentown, Pa., has been awarded the 1988 Perkin Medal for his outstanding work in applied chemistry. Roth, who will receive the medal this week at a ceremony in New York City, is best known for his work in the mid-1960s in developing the synthesis of acetic acid by the low-pressure carbonylation of methanol using a homogeneous catalyst, a rhodium complex with an iodide promoter.

The Perkin Medal is awarded annually by the American Section of the Society of Chemical Industry to an outstanding chemist chosen by a jury of officers from the Society of Chemical Industry, the American Chemical Society, the Electrochemical Society, the American Section of the Société de Chimie Industrielle, the American Institute of Chemical Engineers, and the American Institute of Chemists. The medal, first awarded in 1906, commemorates the synthesis of the first synthetic dye by Sir William Henry Perkin in 1856.

One effect of the acetic acid process was to shift the feedstock for acetic acid from ethylene to methanol. This shift has had a major economic impact, because much of the acetic acid produced today utilizes the methanol-based process.

Roth is also well known for the development of the first commercial process for making linear olefins by the direct, single-step, catalytic dehydrogenation of the higher normal paraffins. This achievement was instrumental in easing the conversion of detergents to biodegradable materials in the 1960s and 1970s. The catalyst used in this process is a supported, monofunctional, platinum-based material.

In addition to these achievements, Roth was also active in the development of auto emission catalysts before his former employer, Monsanto, opted to get out of the emission catalyst business. Roth was attempting to use a base metal catalyst in a two-stage converter. His catalysts, based on copper, turned out to be too sensitive to the residual sulfur in the motor fuel, and the noble metals were eventually adopted as the industry standard. However, before the research was terminated abruptly by Monsanto, there was still optimism that a successful base metal catalyst could be developed. Roth says that base metal catalysts in emission converters may still be useful some day if the sulfur in the fuels can be eliminated. Before leaving Monsanto, Roth also was instrumental in developing Roundup herbicide, now being used in large quantities around the world.

Roth's research activity had been consistently productive at Monsanto, where he spent the last 10 years there as a research manager in catalyst development. He has continued his intense interest in catalysis at Air Products, where he has expanded it considerably to include such things as membrane technology and a broad variety of applications in C_1 chemistry.

In looking at the future of applied catalytic chemistry, Roth suggests that a very active field will be catalytic oxidative coupling of methane to make C_2 compounds and the subsequent manufacture of aromatics from natural gas. He has already encountered some of this technology in Japan, where it's expected to become commercial in the near future.

Roth also foresees the growth of specialty chemicals through the application of asymmetric syntheses. Another development that caught his attention in Japan was development of new, optically active ligands, in particular for the manufacture of L-menthol. This is very exciting work, Roth says, and he wishes that there were more people engaged in it in the U.S.

Yet another field of interest at Air Products is membrane reactors and separators. Again the Japanese are among the leaders, with considerable work in progress on selective reactions and separations in bioreactors. The U.S.S.R. is also among the leaders in this field.

Roth says he is very concerned about the future of catalytic chemistry in the U.S. Although academics seem to him to have a pretty good handle on things, he is less comfortable with the industrial research situation. His chief concern is that industry R&D isn't well structured to promote the breakthroughs that will be necessary to maintain the U.S.'s premier position in catalysis.

In the past, most industrial catalytic developments in the U.S. have been more of the incremental improvement variety. This has produced some very important and profitable developments. However, Roth believes that this approach is running its course and what will be needed in the future are "disjoints." By "disjoints," Roth means major, and often abrupt, changes in direction caused by new catalytic materials. He hesitates to call them revolutionary, but they are definitely not the incremental changes one usually finds in industrial catalysis. If immediate steps to foster the capability to generate more "disjoints" aren't taken in the U.S., Roth believes, the major new developments within a decade will come from overseas.

As an example of a disjoint Roth cites Mobil's ZSM-5 synthetic zeolite. He says that the ZSM-5 is so broadly useful in the chemical industry that it has caused some totally new and different thinking about catalytic chemistry. He would like to see more of these new materials in the near future, but this may not happen without a more progressive policy that favors long-range R&D.

One area of current research that doesn't excite Roth very much is clusters. He says that for about 15 years people all over the world have been diligently trying to generate a new catalytic chemistry based on the cluster with very modest success. So far, he says, he hasn't seen anything really exciting in the development of cluster catalysts, though clusters are very interesting for the insight they provide theoreticians.

In directing the R&D effort at Air Products, Roth has emphasized some new directions—among them, the work on new catalytic chemistry and the novel use of membranes—all with his characteristic down-to-earth approach that continues to be productive.

GREEK INDEPENDENCE

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. DYSON. Mr. Speaker, I rise today to join with my colleagues in paying tribute to the Republic of Greece, as it prepares to celebrate 167 years of independence from the Turkish empire.

The fight for Greek independence, like our own, was difficult and costly. Thousands of Greek patriots gave their lives so that one day Greece would be free. Since obtaining its freedom in 1821, Greece has developed a close relationship with the United States which has grown stronger with the passage of time.

The very basis of our friendship continues to be our mutual love and respect for democracy. It was the ancient Greek philosophers, such as Socrates, Plato, and Aristotle, who taught that the citizenry should rule. Even today, 2,000 years later, the desire to be free from oppression continues to burn in hearts and minds of millions of men and women.

Thomas Jefferson, the third President of the United States, and the author of the Declaration of Independence, once said "No government can continue to do good but under the control of the people". His philosophy, as well as the philosphy of many other American statesman, can be traced to the sage teachers of ancient Greece.

Over the years, the bond between the United States and Greece has been strengthened, not only by our mutual values, but also by the millions of Greek nationals who have emigrated to our country and contributed to our rich and diverse culture.

Therefore, Mr. Speaker, I would like to once more extend my best wishes to the people of the Greek Republic as they prepare to celebrate their independence day, and to thank the millions of Greek Americans who have helped make this country great.

FOREIGN OIL INTEREST SEEKS CHANGES IN LAW IN LIGHT OF PANAMA CRISIS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. WOLPE. Mr. Speaker, I am deeply distressed to learn that the British Petroleum Oil Co. is encouraging Congress and the administration to waive section 7(d) of the Export Administration Act so that it can export Alaskan North Slope crude oil to various Pacific Rim countries. My colleagues all have received a letter dated March 18, 1988, from BP America Inc., which purports to demonstrate the benefits of allowing exports at this time. In my view, this effort to take advantage of the situation in Panama is unconscionable.

Since 1973, Congress has consistently strengthened the statutory provisions that restrict the exports of Alaskan North Slope crude oil, reaffirming the policy that this strategic U.S. energy resource should be reserved for U.S. consumption. In response, an efficient distribution system has been developed to move Alaskan crude oil to U.S. markets. The American shipping industry has assured us that adequate tonnage exists in the domestic coastwise tanker fleet to maintain the regular and prompt movement of Alaskan oil to the lower 48 States via the Panama Canal. I understand contingency plans have been established to move this crude to market should the Trans-Panama Pipeline be closed for any reason. Nonetheless, we are being urged to abandon longstanding national energy policy for the benefit of a single, foreign-owned company.

To demonstrate the harm exports would cause, I bring to your attention a letter dated March 21, 1988, to Secretary of State Shultz from Ambassador Juan B. Sosa, the legal representative in the United States of the Republic of Panama. He says:

> I believe that British Petroleum is using the present misfortunes in Panama in order to achieve objectives that it has unsuccessfully sought in the U.S. Congress and from U.S. administrations for many years. To be sure, British Petroleum might profit from shipping Alaskan oil to Japan and using cheap, non-U.S.-flag tankers. However, this would be at the expense of the Republic of Panama, the U.S.-shipping industry, and the American people.

I include the Ambassador's letter along with my remarks:

MARCH 21, 1988.

Hon. GEORGE P. SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: As the legal representative in the United States of the Republic of Panama, I am writing to inform you of my Government's extreme concern at learning that efforts are in progress which would undermine the economic future of the Republic of Panama.

As you know, the Trans-Isthmus Pipeline across Panama has been the single largest contributor to the gross national product of the Republic for several years—directly and indirectly contributing well over $150,000,000 in revenues annually. As you are also aware, and as a result of the joint efforts of our two Governments, those revenues are now being denied to the Noreiga forces and are being held instead for the ultimate benefit of the legitimate Government of Panama. These funds will eventually provide essential resources to facilitate the democratization of the Republic of Panama.

Through the efforts of the Pipeline company, oil originating in Alaska has continued to flow through the Panama Pipeline despite recent events there. Indeed, oil has continued to be transported by means of a Pipeline terminal and the Panama Canal even during intermittent power outages that may have affected Pipeline operations. There may certainly have been some inconvenience for Standard Oil Co. (Ohio) and Exxon, the shippers of that oil. To date, however all parties involved have cooperated with our efforts to preserve the sound economic future of the Republic of Panama by continuing Pipeline operations during the present period of strife.

We have recently learned that British Petroleum, the owner of Standard Oil, has made known its intention to attempt to obtain a "temporary" waiver of Section 7(d) of the Export Administration Act of the United States, and perhaps of the Jones Act as well, so that Standard Oil could sell its Alaskan oil outside the United States, presumably to Japan. British Petroleum's subsidiary, Standard Oil, currently ships approximately 450,000 barrels per day of Alaskan oil across Panama. British Petroleum's efforts is apparently based on Standard Oil's marginally reduced flow of Alaskan oil across Panama during the past week. It is the considered opinion of the Republic of Panama that British Petroleum's request to circumvent United States export policy and deny funds necessary to the ultimate economic strength of the democratic Republic of Panama should be denied.

British Petroleum's concern as to the flow of oil is overstated. I am advised that sufficient U.S. flag tankers are available and that they can be accommodated in the Panama Canal to maintain close to normal movement of Alaskan oil even should the Pipeline encounter future temporary shutdowns. Utilization of the Canal by tankers carrying Alaskan oil is, of course, also of considerable economic importance to the Republic. More important, perhaps, is the ability of the Canal to play its role in the continued security of the hemisphere by providing safe transit for American oil

I believe that British Petroleum is using the present misfortunes in Panama in order to achieve objectives that it has unsuccessfully sought in the U.S. Congress and from U.S. administrations for many years. To be sure, British Petroleum might profit by shipping Alaskan oil to Japan using cheap, non-U.S. flag tankers. However, this would be at the expense of the Republic of Panama, the U.S. shipping industry, and the American people.

Our common concern for stability and economic prosperity in Panama calls for prompt repudiation of any attempt by British Petroleum to divert Alaskan oil away from the Panama Pipeline. I therefore urge the Administration and the Congress to reject British Petroleum's request.

Respectfully,

JUAN B. SOSA,
Ambassador of the Republic
OF PANAMA
to the United States of America.

DITH PRAN SURVIVOR OF THE KILLING FIELDS URGES CONGRESS TO PASS LEGISLATION TO IMPLEMENT THE GENOCIDE CONVENTION

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. SOLARZ. Mr. Speaker, last week Congressman Mazzoli's Subcommittee on Immigration, Refugees and International Law held an important hearing on H.R. 807, the Genocide Convention Implementation Act of 1987. A number of emminent witnesses appeared at the hearing to indicate their strong support for passage of this legislation which would allow the United States to become a full party to this important convention.

Many times Members of this body have risen to commemorate the victims of the Holocaust and to urge that never again must such an event be permitted to happen. I can think of no finer memorial to the memories of those 6 million European Jews murdered by the Nazis than the passage of this legislation by the Congress. One of the witnesses testifying on behalf of this legislation is a more recent survivor of an Asian holocaust, Dith Pran, the journalist whose story was told in the Killing Fields.

Because of the international significance adoption of this legislation will have, and the particular and personal relevance that this issue has for Dith Pran and all Cambodians who suffered under Pol Pot, I ask that his statement be included in today's CONGRESSIONAL RECORD.

The statement follows:

STATEMENT OF DITH PRAN

Chairman Mazzoli and subcommittee members, my name is Dith Pran. I am a survivor of the Khmer Rouge genocide. Perhaps you know about my story from the motion picture the Killing Fields. Presently I reside in New York City where I am a photographer for the New York Times. I am honored to be invited to testify this morning with respect to U.S. ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide.

Mr. Chairman, I would like to make three points.

First, I can tell you that genocide is not simply an historical problem, something from Hitler's and Stalin's time. From my own experience and from what I have seen with my own eyes, I can tell you that genocide is a problem in our day and age as well. I have heard the crack of the rifle that kills and the thud of the axe handle hitting the head. I have seen the bodies piled by the side of the road. I have seen the mass graves and walked through the killing fields. I have seen people forced into starvation and exhaustion from forced labor.

I am not speaking just of mass murder and extreme human rights violations, which of course the Khmer Rouge did as well. But I am talking of actual genocide as defined in the Genocide Treaty.

Many people still don't know that the Khmer Rouge killed off the Buddhist monkhood, Cambodia's preeminent religious group. The Khmer Rouge killed off Cambodia's ethnic minorities such as the Cham. And of course, as is better known, Pol Pot's forces destroyed part of the Cambodian national group itself, millions of Cambodians who were deemed not to fit in with the crazy revolution of the Cambodian communists.

We could put it all in the movie the Killing Fields because it would have been too terrible for people to watch. But I can tell you that it happened. Most of my family died. Most of the families of most of my friends died. I was lucky to be a survivor. That is why I have tried to tell people around the world the story about what happened in Cambodia, and why we ask governments around the world to respond against the Khmer Rouge genocide.

For the victims and survivors of Pol Pot's genocide I must appeal to the United States Congress to fully ratify the Genocide Treaty without further delay. This should be the least that can be done by the United States Government to take a strong stand against such crimes by governments.

Mr. Chairman, my second point is that the Cambodian genocide itself is not a matter of history. Still lead Pol Pot, Ieng Sary, Son Senn Ta Mok, Ke Pauk, Comrade Duch and the other killers from the Communist Party of Kampuchea, the Khmer Rouge are waging a guerrilla war seeking to return to power—an outcome prevented only by the occupation army of Vietnam, Cambodia's historical enemy. That is why other Cambodian survivors and myself are seeking international action against the Khmer Rouge genocide to bring to justice the state and individuals responsible for genocide and to prevent the re-occurences of genocide in Cambodia.

So we go to the State Department to ask for the support to get justice for the Cambodian people, and they tell us they sympathize and wish us good luck. But they tell us that they cannot do anything until the Congress finishes the steps required for full U.S. ratification. That is why I appeal to your committee to finish up the legislation so the United States can take action against genocide.

Last month a Cambodian colleague and I, and some of the lawyers and human rights specialists who help us, have just been to the U.N. Human Rights Commission in Geneva and to some of the European democracies to seek support for action to prevent the re-occurence of genocide in Cambodia in the increasingly more likely event of the withdrawal of the foreign occupation forces. I have seen that it is difficult for the U.S. to take action against genocide in U.N. forums because the United States is not what they call a State Party to the Genocide Convention.

I do not fully understand the technicalities on exactly why this is so, but the lawyers say, and the diplomats seem to agree, that the U.S. must first ratify the Genocide Convention before the United States can take legal or diplomatic action against genocide at the U.N. or even state a very strong position against genocide. I think you could ask Ambassador Schifter or other ambassadors to explain this better. But this is why I urge you to complete without further delay the steps necessary for U.S. ratification.

Now I am proudly a citizen of the United States, the strongest leader of the democratic countries of the free world. Frankly, it seems strange to me as a Cambodian survivor, now a United States citizen, to go to some of the smaller European democratic countries to get help and action against the Khmer Rouge genocide. Perhaps the European and other smaller democracies will be able to help us. But the problem of Cambodia obviously involves the Communist superpowers of China and the Soviet Union. That is why I think the United States, as the most powerful of the democratic free countries, will have to be involved in preventing Pol Pot's Khmer Rouge from coming back to power.

This is a real problem that will have to be faced in the next two years. It is no good to have the Vietnamese army prevent Pol Pot from returning to power. That means the end of Cambodian independence. That is why we ask the democratic countries to take action against the Khmer Rouge genocide.

I know the Khmer Rouge very well and I can tell you that they will try to seize power, and they will start again the killing of Cambodians. We do not ask the United States to come back to Cambodia with

American troops or with B52's. But we do ask for the United States to do all that can be done in the area of law and diplomacy to bring to justice the leaders of the Communist Party of Kampuchea and to prevent the re-occurrence of genocide by the Khmer Rouge.

Thirdly, Mr. Chairman, while we want the International Court of Justice to adjudge and declare that the international crime of genocide was committed against the Cambodian people, and while we want competent organs of the U.N. to take action to prevent the re-occurrence of genocide in Cambodia, it is also very, very important to the survivors of the Cambodian genocide that the world learn a lesson from what happened to the Cambodian people—and the very little international response against the Cambodian genocide while it was going on.

We know that genocide was committed against the Armenian people after World War I. After the Holocaust against the Jewish people, maybe it was thought that genocide would never happen again. But it did happen again to the Cambodians. This means that the laws, institutions and organizations envisioned and established after the Holocaust and after Nuremberg to deter and respond to genocide need to be strengthened and improved so that there can be a better, more prompt and more effective response to the next "Cambodia."

I do not mean to imply that there is something magical about the Genocide Treaty, or that something magical will automatically happen when 97 as opposed to 96 countries ratify that Convention. The point I am trying to make is that the means and methods available to the international community to prevent and respond to genocide need to be strengthened and improved. We must be practical and realistic about this, and I think that such improvements are unlikely to be made if the United States is not involved in this process.

Certainly we hope that an increase in the international will and means to oppose genocide will be one of the lessons the world can learn from the terrible experience of the Cambodian people.

Thank you for your consideration and support.

INTRODUCTION OF LEGISLATION TO DISAPPROVE CERTAIN AGREEMENTS AND A PLAN RELATED TO THE PROPOSED COMPACT WITH PALAU

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. DE LUGO. Mr. Speaker, the United States currently has full authority for the administration of the western Pacific islands of Palau under a trusteeship agreement with the United Nations Security Council.

In 1986, the President proposed replacing United States authority in Palau with self-governing authority in all matters other than those involving national security through a compact of free association.

The compact would provide the people of Palau with some $428 million and other benefits, including free entry into the United States, for 15 years. It would provide the United States with military base rights that figure into almost any alternative to the Philippines for 50 years.

The 99th Congress did not give the President the authority he sought to implement the compact because of doubts that Palau had constitutionally approved it as the President said it had. These doubts were later proved well-founded by Palau's supreme court.

The last Congress did approve the compact in concept, however, because it believed the compact to generally be fair to the interests of both the United States and Palau and because the majority of the people of Palau support it.

In conceptually approving the compact, Congress required that the President reach agreements with the Government of Palau on three areas where it believed the compact as proposed was not adequate: law enforcement, use of U.S. assistance, and Palau's development plans. These agreements are not to take effect until after a period of congressional review.

Late last year, the President again asked Congress for authority to implement the Palau Compact, saying that the islands had finally constitutionally approved it through another approval effort. The administration also submitted for congressional review agreements it had negotiated with Palauan officials regarding mutual assistance in law enforcement matters and procedures for the implementation of United States economic assistance, programs and services and a proposed Palau development plan.

Once again, however, there are doubts about Palau's approval of the compact. This time, though, Palau's supreme court was prevented from ruling on the constitutionality of Palau's approval.

Violence intimidated the plaintiffs into withdrawing the lawsuit on the issue. This prompted the Interior and Insular Affairs Committee to investigate Palau's efforts to approve the compact.

This investigation is ongoing but I can say now that it has found a number of serious problems related to law enforcement, use of United States assistance, and Palau's development plans. These problems include:

Payments ranging to the hundreds of thousands of dollars to Palauan leaders from the contractor for power facilities that Palau wants United States compact assistance to pay for;

Allegations of corruption and other improper acts related to U.S. development assistance;

Heroin trafficking that the Drug Enforcement Administration involves transshipment to the United States and may have addicted more than 400 of Palau's 15,000 people; and

Questionable acts related to Palauan "passports"—which are not authorized—and counterfeit United States currency, among other matters.

The chairman of the Committee on Interior and Insular Affairs, our colleague MO UDALL, and I, as chairman of the Subcommittee on Insular and International Affairs, believe the agreements and plan submitted by the administration to be inadequate in light of what the committee's investigation of the situation in Palau has found to date and other factors. Accordingly, we are today introducing legislation to disapprove the agreements and plan, as is provided for in the law conceptually approving the compact.

The most important inadequacies of the proposed agreements are that they do not: First, provide the means needed to ensure that the payments to Palauan officials that I have mentioned and other serious allegations of improper acts are independently investigated and, if warranted, prosecuted; and second, provide the assistance Palau needs—and, in some cases, has requested—for effective law enforcement.

Palauan supporters as well as critics of the compact have told us that the administration has not taken the actions or provided the assistance needed to deal with these problems. They also told us that administration officials declined to make the specific commitments of the needed assistance in these agreements.

Further, before the administration reached their agreement with Palauan officials on the agreements, it was told that the agreements would not be acceptable if they did not provide for the concrete commitments of United States action that are needed to deal with the problems that I have mentioned.

Administration officials have responded to these criticisms by saying that the agreements provide the framework which will provide for the necessary actions. I would point out, however, that the law which conceptually approved the compact provides much of the framework stated in the agreements. Further, the situation in Palau, as well as congressional intent, requires specific commitments.

An administration document identifies the two most important inadequacies of the proposed development plan. The paper prepared by an interagency group says of the plan that:

"It does not specify the private sector projects intended to aid in the development of the economy.

"It does not prioritize the development projects that will be funded by compact capital account funds.

"(It is thus impossible from reading the plan to determine, and monitor, the manner in which compact funding will be allocated to the private sector or to public projects.)"

A further inadequacy is that the proposed plan covers fiscal years 1987 to 1991. The requirement is for a plan covering the first 5 years of compact funding. The compact, as I have explained, was not implemented in fiscal year 1987 and may very well not be implemented in fiscal year 1988.

Administration officials will respond to these criticisms by saying that a Palauan official has promised that these inadequacies will be corrected. I would point out, however, that the inadequacies would have to be corrected before we can determine whether the plan is adequate in terms of the situation in Palau and for meeting congressional intent with respect to the plan.

After it completes its investigation, the Committee on Interior and Insular Affairs will recommend measures for addressing the problems that I have outlined. Agreement on these measures should make it possible to implement the compact, if it is constitutionally approved.

KEEPING A PERSPECTIVE ON THE WEST BANK PROBLEM

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. COURTER. Mr. Speaker, this is an extremely painful time for Israel, and for that democracy's many friends.

News coverage of the violence has been so exhaustive that it seems that almost every rock thrower in the West Bank and Gaza had made his way onto our television screens and newspaper pages. Demonstrations last month in the Baltic States might be dealt with in near silence, but in a democracy every wound is open to the public view. One result is that many Americans are urging, or even demanding, that Israel make concessions.

That is an easy thing to call for and a difficult thing to do. There may be concessions which Israel could implement to ameliorate the situation of the Arab population in the West Bank, like the elimination of discriminatory economic regulations which make it difficult to export products. But such measures, and perhaps even the maximization of autonomy in chiefly Palestinian areas, would fall far short of satisfying many of the leaders of the uprising.

In considering the problems which the Israeli and Arab populations in these regions face, Mr. Speaker, we must keep several fundamentals in mind. One is the truth, unmentioned by some but true nonetheless, that the West Bank alone is not the problem. Riot leaders recently interviewed on CBS television clearly want nothing less than what PLO charter itself insists upon: the dissolution of the Israeli state and Arab control of all of Palestine. One might make any number of concessions to such people without result, since what they want is surrender.

Second, to concede even the entire West Bank to a population wishing to create a Palestinian state on it would in no way help with the larger regional problem: the need for a workable international peace accord. I stand today by the letter which a number of Senators and Congressmen sent to President Reagan several years ago on the subject of the territories. We declared, in part:

"Even if the West Bank problem were resolved by the surrender of territories for peace, the fundamental problem would remain; namely, the failure of the Arab leaders to recognize the legitimacy of Israel . . . and there is no reason to assume that the granting of these areas to Arab rule would end the conflict. The fundamental issue is the right of Israel to exist in security. We believe that issue is nonnegotiable." Whatever accord is made will have to address more than the West Bank problem.

Third, Mr. Speaker, I believe that some Americans are too quick to look to Tel Aviv for a solution to the Middle East peace problem. They have nothing to say, for example, about the Syrian occupation of much of Lebanon, but when the Middle East is discussed they speak only of what Israel should do to create peace. The problem of the Middle East peace is a Gordian knot, a tangle which no one has been able to untie. Some criticize Prime Minister Shamir for being inflexible. But he at least is talking about peace, even as the countries surrounding his formally remain in a state of war with Israel. What is going to break the deadlock is this: the Arabs must come forward. No combination of international talks, however ingenious, will work absent a desire by Arab rulers, if not also by their more passionate countrymen, to coexist with the Israeli democracy.

Mr. Speaker, one of our country's wisest observers of political affairs, Mr. George Will, recently wrote a column about the territorial demands which some are making of Israel. He clarifies the Israeli dilemma and in so doing points to the dangers we must avoid in forging American policy. I commend the article to all my colleagues in Congress.

[From the Washington Post, Mar. 17, 1988]

ISRAEL HAS NOWHERE TO GO

(By George F. Will)

This year, the 40th anniversary of the founding of Israel and the 50th anniversary of Munich, finds Israel suddenly cast in the role of Czechoslovakia at a proposed international conference. Israel's reluctance to play that part causes it to be called, as Czechoslovakia was, an obstacle to peace.

In 1938, the "West Bank" issue was the Sudetenland, a portion of Czechoslovakia with an ethnic German majority. Then, as now, a nation which said it needed territory for security was told to yield the territory in the name of of "ethnic self-determination"—Woodrow Wilson's rhetoric appropriated by Hitler.

In the 1988 conference, the United Nations—the folks who brought us the "Zionism is racism" smear—would invite all "the parties involved in the Arab-Israeli conflict." Imagine the Reagan administration's reaction if invited to submit "the Central American conflict" to an international conference involving the permanent representatives on the U.N. Security Council (including the Soviet Union and China) and all other "interested parties," including, of course, Cuba.

International conferences can do several things. They can sow seeds of war (Versailles) or delay war by carving concessions out of small nations (Munich). But the path to peace does not run through such conferences. The path is direct bilateral negotiations between nations.

In the context of the Arab-Israeli conflict, an international conference is a device for sparing Israel's enemies the need to set foot on that path. Advocates of such a conference say it is merely a procedural umbrella to facilitate progress on substance. But if Jordan cannot act independent of Syria and the PLO regarding procedures, it will be no more independent regarding substance.

And remember George Kennan's axiom: the unlikelihood of any negotiation reaching agreement grows by the square of the number of parties involved. There would have been no Camp David agreement if Syrian and Soviet diplomats had been ensconced in cabins in Maryland's Catoctin Mountains.

Between the disastrous year of 1961—Bay of Pigs, Berlin Wall—and the present, there have been few unmixed blessings for the West. But one such blessing was the 1972 explusion of the Soviet presence from Egypt and thus effectively from a central role in the region. Today, as the Reagan administration toils to insert the Soviet Union at the center of Middle East diplomacy, recall candidate Reagan's words when castigating President Carter.

Carter, said Reagan, tried "inserting them [the Soviets] more deeply into the Middle East" as a participant in an international conference to settle Israel's fate. This, said Reagan, would jeopardize the "major effort to keep the Soviets out of the Middle East peace process."

The Soviet aim is to carve out of Jordan a Palestinian state—another Cuba, not just another Syria—that would cause Jordan to disappear and then would whittle away at what remains of Israel, the West's base that matters most in the region. True, there would be American "guarantees" for Israel—the sort of guarantees South Vietnam had. Saigon is now Ho Chi Minh City, and Israel will be forgiven for not trusting American "guarantees" to prevent Tel Aviv from from becoming Arafatville.

There can be no meaningful guarantee against infiltration and shelling. And if the 1973 attempt to destroy Israel by all-out assault had begun on the 1967 borders (which were armistice lines set by the first attempt to destroy Israel) and the attacks had advanced as far as they did in 1973, they would have reached the Mediterranean.

Why does a nation that has won five wars feel insecure? Because it can only lose one, and there is always one being waged against it. Behind the boys throwing rocks there are big battalions. CBS recently interviewed a leader of the rock-throwers:

Question: If you get a state on the West Bank and Gaza, will this be enough?

Answer: Palestine is indivisible. Haifa, Acre, Jaffa, Galilee, Nazareth—all these are parts of Palestine.

Question: So the Israelis are right—it's a fight to the death? There's no compromise possible, no coexistence possible? It's to be Israel or a Palestinian state; there cannot be both, right?

Answer: I'm not saying that I want to kill the Jews or throw the Jews into the sea. I am saying that everybody who came here from outside the country should go back where he came from."

Question: What I'm hearing is that a state of Isreal . . . cannot exist.

Answer: No, I say no, no. Unacceptable. I want Palestine, all of it, entirely.

That interview illuminates the fact that nothing fundamental has changed, including this: as Golda Meir said, "We Jews have a secret weapon in our struggle with the Arabs—we have no place to go."

NATIONAL GROUND WATER RECHARGE DEMONSTRATION PROGRAM ACT OF 1988

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. LOTT. Mr. Speaker, today I am introducing legislation to establish a national pilot program to test artificial ground water recharge techniques under diverse geologic and hydrologic settings where a need exists to augment current supplies of quality ground water. Ground water supplies about half the Nation's population and 90 percent of our rural population with drinking water. Often taken for granted, ground water is not always a limitless resource in the quantity and quality desired. Moreover, the hydrologic cycle cannot alone always resupply aquifers in sufficient amounts to compensate for pumpage. Artificial recharge can help, but current statutory authority for recharge testing is limited to the Western half of the Nation while the scope of the problem is truly nationwide. For this reason, I propose the establishment of a national pilot program to test recharge techniques.

My bill will complement the High Plains States Groundwater Demonstration Program Act of 1983, Public Law 98-434, which authorized testing of recharge techniques by the Bureau of Reclamation in arid or semiarid Western States on a cooperative and cost-shared basis. As $3 million is provided in the President's fiscal year 1989 budget for initial construction under the 1983 act and site selection recommendations were made to Congress in December, this is the right time to identify gaps in current recharge testing plans and respond accordingly. Congress needs to recognize testing of recharge techniques should be made available to all States now facing tough choices in determining how to respond to a dwindling supply of quality ground water.

This national pilot program for testing recharge techniques is the right response at the right time. My bill goes beyond the geographic limits of the 1983 act while retaining established cooperative and cost-sharing features. Lessons learned from testing artificial recharge methods in some arid locations may be of limited usefulness when applied in more humid areas. Existing soil conditions, geology, evaporation rates, the quality of available surface waters, and the quality of present ground water are variables that need to be addressed on an area-specific basis. Coastal aquifers, for example, may not only involve different recharge characteristics, but salt water intrusion can pose additional serious problems. Recharge to counter salt water intrusion is particularly crucial as it may take many years and considerable hardship in order for fresh water to recharge an aquifer experiencing such intrusion. Once salt water intrusion has occurred, it is very difficult to flush out. Complete aquifer restoration may prove to be impossible. Thus, artificial recharge is an appropriate and timely means to protect vulnerable aquifers, to enhance the natural recharge cycle, and to reduce the prospects of more drastic action being taken later.

The availability of quality fresh water in sufficient quantities is a key determinant of how we live and how we make our living. While conjunctive use, conservation, and better management of existing ground water supplies are existing strategies States can use to reduce consumption of existing ground water resources, consumption restrictions imply that some supply sacrifice will be required, resulting in serious economic and social costs.

My proposal offers an additional strategy. Known recharge techniques such as injection wells, percolation ponds, and spreading basins can also be utilized, but site-specific testing is necessary in order to determine which recharge technique is best suited to specific geologic and hydrologic conditions.

In Mississippi, 93 percent of our population relies on ground water. More than half of all the fresh water used for domestic, agricultural, industrial and commercial purposes is ground water. Fresh water aquifers have been endangered by past reinjection of oil-field brines into saline aquifers and by sea water encroachment toward fresh water aquifers along the gulf coast. Application of agricultural pesticides and fertilizers cause concerns that percolation to underlying aquifers will cause contamination of rural wells. We have experienced a decline in ground water levels both in our industrial and urbanized areas, and in the Yazoo Delta area where irrigation of crops and catfish farming have placed large demands on the ground water resource. These declines result in increased pumping lifts, decreased well yields, and deterioration of quality due to migration of brines toward supply wells.

Ground water resources investigations undertaken by the U.S. Geological survey in recent years are to be credited for identification of early warning signs and well siting options. A large ground water modeling investigation of areas along the Mississippi Gulf Coast has identified areas where salt water encroachment is expected to reach municipal and industrial water-supply wells within a few years. Investigations of the ground water resources in areas of large water use, such as Natchez and Laurel, MS, have been helpful to local officials in managing their ground water resources and in siting new wells. In addition, the Geological Survey has completed a very complex ground water digital model of the Mississippi River alluvial aquifer that underlies 7,000 square miles of important agricultural production. Findings indicate management choices made in the near term can influence the supply of quality ground water for our future and our children's future.

Artificial recharge of potable water into aquifers in times of surplus surface water to assure that adequate supplies are available in times of shortage is particularly well suited for Mississippi and other States receiving substantial seasonal rainfall. No experimentation of this kind has been done in Mississippi except for the reinjection of oil-field brines into existing saline aquifers. True hydrologic testing of the potential for increasing supplies of quality ground water has yet to be undertaken.

Mississippi is not alone in facing the need to find new sources of quality ground water. According to the National Water Supply published by the U.S. Geological Survey, significant ground water depletion is not uncommon throughout the lower Mississippi Valley and gulf coast, in parts of Florida, and along the Atlantic Coastal Plain in Georgia, Virginia, New Jersey, and other States. Long Island, Cape Cod, and the Chicago-Milwaukee region similarly suffer from a dwindling supply of quality ground water.

Application of recharge techniques in these additional hydrologic and geologic settings will yield a comprehensive set of national recharge test applications and results. It will provide the Nation with area-specific test results for States to utilize in determining which ground water recharge techniques are appropriate for consideration in making their ground water management decisions.

Mr. Speaker, I would like to point out that the Bureau of Reclamation is particularly well suited to accept this additional responsibility and expand its scheduled recharge testing activities to satisfy the needs of a national pilot program. The Bureau is successfully undergoing a reorientation of its mission by expanding its focus to include innovative water resources management techniques using its existing personnel and facilities and by providing guidance to the States in making water resource management decisions. The national pilot program is consistent with the goals and objectives of the Bureau as it moves toward a greater emphasis on water resources management.

SUMMARY OF THE NATIONAL GROUNDWATER RECHARGE DEMONSTRATION PROGRAM ACT OF 1988

Section one identifies the title of the bill as the "National Groundwater Recharge Demonstration Program Act of 1988".

Section two specifies that the Department of the Interior, acting through the Bureau of Reclamation, shall implement the national program in two phases and in a manner that will supplement recharge demonstration site selections made in 17 Western States under the High Plains States Groundwater Demonstration Program Act of 1983, P.L. 98-434.

Section three describes phase I as being a detailed plan of demonstration projects chosen to show the application of various recharge technologies in diverse geologic and hydrologic settings. Site selection requires a declining water table, the feasibility of surface water use for recharge, and a high probability of recharge success based on physical facility, chemical, and economic considerations. A report describing the site selections recommended in the detailed plan is to be transmitted to Congress within two years.

Section four provides phase II authority for the Bureau of Reclamation to design, construct, and operate demonstration projects selected. States shall assist in determining how cost-sharing will be established with beneficiaries. Annual progress reports to Congress are specified and a final evaluation report is due within five years.

Section five instructs the Geological Survey to evaluate impacts upon surface water and groundwater quality by recharge projects.

Section six authorizes $1.5 million for phase I detailed plan requirements.

Section seven authorizes $75 million for phase II demonstration project design, construction, and operation.

Section eight requires States and localities to pay 20 percent of phase II costs.

Section nine provides fiscal coordination with the budget process of Congress.

H.R. 3445

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. DOWDY of Mississippi. Mr. Speaker, since 1981 we have heard a great delay about the importance of the role of the States in the Federal system and the need to return to the States control over local matters which were being addressed by the Federal Government.

I want to call to the attention of my colleagues a classic example of this problem and the need for prompt action on corrective legislation. I have introduced H.R. 3445, the Natural Gas Consumer Protection Act, to protect consumers from unfair and unnecessary natural gas rate increases that will result from a policy adopted by the Federal Energy Regulatory Commission.

FERC has usurped State ratemaking authority and embarked down a misguided deregulatory path that threatens affordable natural gas rates for residential and small business consumers. Through regulatory fiat, FERC has encouraged and promoted the bypass of State-regulated local gas distribution companies by interstate pipelines who seek to provide direct service to large users.

Unlike local gas companies, pipelines are under no legal obligation to serve any customer who requests service. With the FERC regulatory windfall and the absence of a nondiscriminatory service obligation, pipelines are given a bill of approval to solicit the largest and most lucrative industrial customers to leave the system. As these preferred customers leave the system, a rate spiral is inevitable as the fixed costs of the system are borne by a shrinking number of ratepayers. FERC-sponsored cream skimming will leave our residential and small business constituents holding the bag and paying exorbitant gas prices.

This prospect has alarmed State public service commissions across the country, including the Mississippi Public Service Commission, which supports the legislation I have introduced to correct this regulatory imbalance and protect consumers. Mr. Speaker, I include a copy of a letter to me from the Mississippi Public Service Commission in the RECORD immediately following my remarks.

H.R. 3445 simply provides that FERC is prohibited from authorizing uneconomic bypass by interstate pipelines where the distribution company is providing nondiscriminatory cost-based transportation of gas, as determined by the relevant State PSC. If a gas distribution company refuses to provide nondiscriminatory transportation of gas at cost-based rates, consumers would be harmed by being deprived of access to lower prices gas supplies. Clearly, such anticompetitive behavior cannot be tolerated. Congress should encourage the flow of low-cost gas to consumers.

My bill protects consumers from uneconomic and wasteful bypass by interstate pipelines, which have no inherent cost advantage over local gas distribution companies. At the same time, the bill ensures that the distribution companies do not act as a bottleneck and prevent consumer access to low-cost gas supplies. The bill promotes competition in bringing gas to market while preserving essential State regulation of the local distribution function. By restoring the balance between Federal and State regulatory authority in this area, it protects our constituents from suffering unfair rate increases as a result of unwarranted intrusion by the FERC into local rate matters.

Mr. Speaker, it's time to insist on fairness, common sense and a proper respect for the legitimate role of the States in our energy policies. I urge my colleagues to join me in supporting H.R. 3445 and enacting a prompt solution to a Federal power grab that left unchecked will pick the pockets of consumers across the country.

MISSISSIPPI PUBLIC SERVICE COMMISSION,
Jackson, MS, October 14, 1987.
Hon. WAYNE DOWDY,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN DOWDY: We are writing to you on a matter of great importance to natural gas consumers within the State of Mississippi.

In recent months, the Federal Energy Regulatory Commission has embarked upon a policy to permit interstate pipelines to bypass state-regulated local distribution companies and sell gas directly to certain large industrial natural gas consumers. This "cream skimming" by interstate pipelines threatens reliable and reasonably-priced gas service for the remaining local distribution customers by shifting the system's fixed costs onto a smaller number of remaining customers, thus forcing up their costs. This is especially harmful to homeowners and small businesses who cannot easily leave the local distribution system.

The Mississippi Public Service Commission has attempted to fashion retail natural gas rates within Mississippi to allow our industrial users to have access to competitively-priced fuel while ensuring that homeowners and small businesses have reliable and reasonably-priced gas service. The rate design scheme approved by the Commission is being eroded by the FERC action. FERC bypass policy effectively removes the ability of the Public Service Commission to structure fair and equitable rates for gas consumers within Mississippi by allowing certain favored large industrial users to be "picked off" by the interstate pipelines, while less favored homeowners and commercial users are left with the local distribution company.

As you know, the Mississippi Public Service Commission has long favored increased competition in the gas industry. However, the FERC has failed to devise a policy that respects state concerns and which ensures that competition is conducted in a fair and equitable manner. Until the FERC devises such a policy, Congress should prohibit the FERC from authorizing bypass when the local distributor is transporting gas on a non-discriminatory basis for others and is willing to provide that transportation service at cost-based rates, as determined by the distributor's state public utility commission.

We believe that this approach strikes an appropriate balance between outright prohibition of bypass in the absence of state public utility commission approval and current FERC policy of allowing bypass in virtually all cases. It is our understanding that you are working on legislation that would provide this balance. We encourage you to proceed with this legislation, as we believe it will meet the needs of Mississippi's natural gas consumers.

This Commission and Staff is available for any questions that you may have in regard to these matters.

Respectfully,

NEILSEN COCHRAN,
Chairman.
LYNN HAVENS,
Vice Chairman.
D.W. SNYDER,
Commissioner.

STATE JUSTICE INSTITUTE

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. KASTENMEIER. Mr. Speaker, today, I am introducing legislation to reauthorize the State Justice Institute [SJI]. I am pleased to be joined by the chairman of the House Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary, Mr. SMITH of Iowa, the ranking minority member of my subcommittee, Mr. MOORHEAD, the ranking minority member of the full committee, Mr. FISH, and a key member of my subcommittee, Mr. CARDIN. A companion piece of legislation is being introduced in the Senate by Senator HEFLIN, chairman of the Senate Judiciary Subcommittee on Courts. As was done in 1984 when the Institute was created, my subcommittee—the Subcommittee on Courts, Civil Liberties, and the Administration of Justice—will work closely with our counterpart Senate subcommittee.

The Institute was established by Congress in 1984 to further the development and adoption of improved judicial administration in the State courts. Because the Institute's Board of Directors was not appointed until late 1986, the Institute did not become fully operational until early 1987. Although it was originally authorized for a 3-year period, the Institute has only received 2 years of appropriations. Since its creation, the Institute has moved forward vigorously to achieve the objectives established for it by Congress.

The proposed legislation reauthorizes the Institute for 3 years—fiscal years 1989, 1990, and 1991. The authorization levels are extremely modest: $15,000,000 for fiscal year 1989; $15,000,000 for fiscal year 1990; and $20,000,000 for fiscal year 1991. The first 2 years are freeze figures from the amount authorized for fiscal year 1988.

The reauthorization bill also contains several technical amendments necessary to the operation of the Institute.

One of the fundamental justifications for Congress' enactment of the State Justice Institute Act in 1984 was that financial assistance provided by the Institute to State courts and their affiliated organizations would also benefit the Federal courts and help the State courts comply with Federal constitutional and legislation requirements. Its programs and grants have already demonstrated that the Institute will fully meet Congress' expectations.

In both fiscal year 1987 and fiscal year 1988, the Institute's program guideline designated projects that would "improve the administration of justice in the State courts and at the same time * * * reduce the work burdens of the Federal courts" as being of "special interest" to the Institute. The guideline cited the following areas as particularly suited for such projects: State court civil cases where a party is also subject to a Federal bankruptcy proceeding; the adjudication of Federal law questions by State courts; and other projects designed to better allocate judicial burdens between State and Federal courts.

In its first round of fiscal year 1987 funding, the Institute funded a number of projects in these and other areas that should be of substantial value to the Federal courts and Federal judicial personnel as well as State courts. Several projects are designed to reduce the workload burdens of the Federal courts; others would demonstrate innovative procedures and practices that could result in increased efficiency in both State and Federal courts; and still others support programs that will educate and make information available to Federal judges and other court personnel.

Beyond providing assistance to the Federal judiciary, other SJI grants will help State and local courts implement the requirements of Federal legislation such as the Child Support Amendments of 1984 and the Adoption Assistance and Child Welfare Act of 1980. The Institute is in the process of completing its second and final fiscal year 1987 funding round, and many proposals in that round also seek to conduct research or demonstration projects in State courts that should be of substantial benefit to the Federal courts and Federal interests generally.

In its October 13, 1987, report to Congress on the effectiveness of the Institute, the U.S. Department of Justice concluded that "Although the Institute has only recently begun implementation of its program, much has been accomplished since it began operation." The Office of Management and Budget has also recently commended SJI for "having successfully complied with the intent of the State Justice Institute Act of 1984." Despite these accolades, the administration is currently opposing reauthorization of the Institute, solely on budgetary grounds. Given the current debate on fighting crime, strengthening federalism and improving this country's justice system, I hope that the State judiciaries will convince the administration that a well-structured, fiscally accountable and modestly funded program—such as is recommended in the proposed reauthorization—is meritorious and worthy of support.

During its first year, the Institute received 325 concept papers requesting over $48,000,000 in support. The amount requested was approximately eight times greater than the $6.5 million available for award. These facts alone indicate the great need and demand for the Institute's assistance to the State and local courts. It has become abundantly clear that there is a substantial need for a focused source of assistance to those courts, and that the Institute is now being seen as that source.

The Institute is authorized to award grants, cooperative agreements, and contracts for the purpose of improving the administration and quality of justice in the State courts, assuring each person ready access to a fair and effective system of justice, fostering coordination and cooperation between the State and Federal courts, and encouraging education for State court judges and court personnel. Its program covers civil as well as criminal jurisdiction, and both trial and appellate courts. Congress appropriated $10.98 million for the Institute's activities in fiscal year 1988.

The Institute has sought to focus its program by designating "special interest" program categories that address the most important needs of the State and local courts. For fiscal year 1988, SJI has designated the following areas as "special interest" program categories: Education and training for judges and other key court personnel; evaluation of alternative dispute resolution programs; the future and the courts; the application of technology in the courts; jury system management; reduction of litigation expense and delay; enforcement of fines and orders to pay; the implication of AIDS for the courts; programs and procedures for victims and witnesses; courthouse security and operation; the relationship between State and Federal courts; and the special needs of the largest urban trial courts.

It is apparent that the courts of our country need the support and leadership of the Institute in addressing these critical problems. I ask my colleagues' support for a 4-year reauthorization of the State Justice Institute.

A sectional analysis of the proposed legislation follows:

SECTION-BY-SECTION ANALYSIS

TITLE I

Sec. 101. Reauthorization of Institute Activities

This section amends the State Justice Institute Act of 1984 by extending authorizations for appropriations for three years, through fiscal year 1991.

TITLE II—TECHNICAL AMENDMENTS

Section 201. Rulemaking

This section amends the rulemaking provision of the State Justice Institute Act of 1984 (sec. 203(f)) to conform it with the provisions of the Administrative Procedure Act, 5 U.S.C. 553(d), that govern rulemaking by Federal agencies.

Section 202. Civil service retirement

This section amends section 205(d)(2) of the State Justice Institute Act to make Institute employees eligible for coverage under the Federal Employees' Retirement System established under chapter 84 of Title 5, United States Code.

Section 203. Use of funds

This section makes three minor changes in the scope of the Institute's funding authority. The first change amends section 206(c)(3) of the State Justice Institute Act to clarify that the Institute may support alternative dispute resolution projects that involve judicial, as well as nonjudicial, personnel. The second amendment deletes section 206(c)(4) of the Act, which authorizes the Institute to expend funds to "assist State and local courts in meeting requirements of Federal law to recipients of Federal funds." The third amendment renumbers the remaining paragraphs of section 206(c) in light of the deletion of paragraph (4).

Section 204. Certifying vouchers for disbursement

This section amends Section 205(d)(2) by authorizing the Secretary of the Treasury to disburse funds for the support of Institute functions upon the certification of vouchers by duly designated officers of the Institute.

Section 205. Matching requirements

This section amends section 206(d) of the State Justice Institute Act to make the 50% matching fund requirement imposed on State judicial systems applicable to units of other branches of State and local governments as well.

Section 206. Interim funding

This section amends section 207(a) of the State Justice Institute Act to eliminate the requirement that the Institute continue interim funding, until after the conclusion of a formal administrative hearing, to a recipient whose application for refunding has been denied by the Board of Directors.

Section 207. Provisions for suspension of funding; restrictions on disclosure of information

This section amends section 209 of the State Justice Institute Act by deleting current section 209(2), which establishes special hearing procedures for recipients whose applications for refunding had been denied, and adding a new section 209(b) to protect the confidentiality of information made available to persons conducting research under a grant from the Institute.

IT WAS THE BEST OF SYSTEMS, IT WAS THE WORST OF SYSTEMS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. STARK. Mr. Speaker, again, Prof. Uwe Reinhardt has made some excellent comments on the tremendous successes, and tremendous failures of the American health care system.

It is worth reprinting his remarks in the CONGRESSIONAL RECORD so that we can all consider how we can preserve the best features of our system and eliminate the shameful features.

[From the Washington Post, Mar. 15, 1988]

THE U.S. SYSTEM: ERRORS OF YOUTH

(By Uwe E. Reinhardt)

"The youth of America is their oldest tradition," Oscar Wilde wryly observed. "It has been going on now for three hundred years."

But "youth" really is an American tradition, if we interpret it to mean "youthful thinking." We display it often in our public policies and nowhere more consistently than in our health policy.

Here we have chased the impossible dream. We have earnestly hoped to extract from a price-competitive health-care market an egalitarian distribution of health services. Merely to attempt such a feat requires the mind to soar high above the confines of logic. One must think young.

A recent Lou Harris poll once again reaffirms America's egalitarian tradition: 91 percent of the respondents agreed that "every American should have the right to get the best possible health care—as good as the treatment a millionaire gets." Alas, we have not so far translated this lofty tradition into an actual entitlement, for reasons we judge perfectly sound.

A universal entitlement to health care would require added taxes and also added regulation of the health sector. But we abhor added taxes, because we are human, and we abhor added regulation, because we believe that excellent health care can come only from a system in which doctors and hospitals are free to produce and to price their services as they see fit and as the "market" permits (such as that "market" can ever be for a commodity that is purchased by distant third-party payers on behalf of aching, frightened and often dying "consumers").

Such youthful thinking has left us with a health policy that might be judged comical were it not so tragic. No other industrialized nation now allocates quite as much of its GNP to health care as we do (11.2 percent in 1987 and rising). Yet some 35 to 40 million Americans are without health insurance at this time. When the uninsured fall critically ill, they may have some rights to lifesaving interventions but rarely to technically attainable relief from acute pain, let alone from acute anxiety. The poor among them become health-care beggars, casting about for some kindly purveyor of charity care, sometimes without success.

Americans regularly decry the rationing of health care under "socialized medicine"—notably by Britain's National Health Service (NHS). True, the British must queue up for elective surgical procedures, and it has been alleged that some lifesaving procedures—such as kidney dialysis—are being withheld from older people. But whatever one may think of Britain's approach to rationing, it is effected through democratically set limits on the physical capacity of the NHS. Presumably, in one of the best functioning democracies of the world, those limits are pretty much what the British people want them to be.

The American health system certainly does not suffer from limited capacity. On the contrary, we lament a surplus of doctors and hospital beds. Yet we now deny millions of poor people access to these surplus resources, and solely because they lack ability to pay. It takes adolescent chutzpah to decry from that vantage point the rationing of health services elsewhere and to praise America's as "simply the best health system in the world."

We could put American health policy on a more respectable footing even without copying any one of the foreign health systems outright, if only we aspire to the intellectual maturity that characterizes these nation's health policies.

Elsewhere, it has long been appreciated that the design of a health system involves a trade-off among at least three desirable goals: (1) equity in distribution, (2) economic and clinical freedom for providers and (3) cost-effectiveness of care. Most other nations have stressed the first goal (equity in distribution) and the third (cost control) at the expense of the second (the provider's economic freedom). Typically, over 90 percent of these countries' citizens have access to one health system on equal terms, leaving only a small minority of the well-to-do to search the globe for superior, privately purchased services.

We need not adopt quite that trade-off for our own health system. For example, we might guarantee everyone access to a publicly financed health program delivered through health maintenance organizations (HMOs) or other forms of managed care, but make it easy to opt out in favor of the more traditional open-ended system, as long as those opting out will pay the required surcharge for "free choice" and "pluralism"—allegedly as much as 25 percent above absolutely necessary costs.

The quality of a health system has at least three dimensions: (1) its clinical quality, (2) its ethical quality and (3) its amenities (freedom of choice, luxury of facilities, etc.). Are we sure that we outrank the world on the ethical dimension? If not, we cannot fairly claim to have the best health system in the world.

A more defensible statement might be this: At its best, the American health system is unmatched anywhere in the world. At its worst, no other industrialized nation would ever want to match it.

(Uwe E. Reinhardt is James Madison Professor of Political Economy at Princeton University.)

AN OPEN LETTER TO THE WALL STREET JOURNAL ABOUT DESTROYING A GOOD MAN'S REPUTATION

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. SHUSTER. Mr. Speaker, following is a letter which I sent today to Mr. Robert L. Bartley, editor of the Wall Street Journal:

Mr. Robert L. Bartley,
Editor, the Wall Street Journal,
New York, NY.

Dear Mr. Bartley: As one who has respected and relied upon the accuracy and thoughtfulness of The Wall Street Journal over the years, I was appalled by the Journal's handling of Bruce Carnes' alleged slur against black college students.

Mr. Carnes, Deputy Undersecretary of Education, responded to the Journal's March 15, 1988 article which claimed that he stated, "It's possible that their (black colleges') student bodies contain a high level of thieves," by categorically denying that he ever made such a statement to the Journal reporter. The Journal edited Mr. Carnes' letter response (attached) to the extent that it made little sense. The Reverend John P. Whalen, President of the Consortium of Colleges & Universities of the Washington Metropolitan Area, has written that he has worked with Mr. Carnes for many years and has "never once discovered any trace of unfairness or prejudice with regard to black colleges or anything else in the man. And, I have studied him with particular care!." Further, an official of the Department of Education was present at the interview conducted by the Journal's Gary Putka, and assures me that he is prepared to testify under oath that Mr. Carnes never made the statements attributed to him.

So what do we have here? A dedicated public servant's reputation being tarnished—possibly forever. (Can you imagine his going through Senate confirmation hearings next year, or ten years from now?) The preponderance of evidence supports Mr. Carnes' statement that he never made the offending remarks. (Indeed, if he had made them, it's puzzling that the Journal would wait nearly two months to publish such a sensational charge.) In fact, the Journal did not even accurately print the man's response.

Watching this good and decent man's reputation being assaulted by The Wall Street Journal, I feel like the little boy, standing outside the ball park during the Black Sox scandal, imploring Shoeless Joe Jackson, "Say it ain't so, Joe. Say it ain't so!"

Sincerely,

Bud Shuster.

U.S. Department of Education,
Washington, DC, March 15, 1988.

Letter to the Editor:
The Wall Street Journal, New York, NY.

Dear Editor: I am deeply interested that the Journal article on guaranteed student loan defaults (March 15, 1988) has grievously misrepresented my views concerning black colleges and their students. In fact, it ascribes to me a view that is precisely the opposite of the one I hold and have repeatedly stated.

My view is that black colleges should be held to the same standards on student loan defaults as other institutions because their students are as capable as others of meeting their commitments. I have consistently stated before Congress and on many other occasions that the default problem is, in large part, an issue that all institutions of higher education must confront. To help historically black colleges in this task, the Department will conduct workshops and seminars to assist those with high default rates in managing student loans. We believe that the default problem that exists at some black colleges will thus be greatly alleviated.

Sincerely,

Bruce Carnes,
Deputy Under Secretary.

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. CLINGER. Mr. Speaker, on Wednesday, March 16, and Thursday, March 17, I was absent from the Chamber. Had I been present I would have voted "yea" on rollcall No. 29; "nay" on rollcall No. 30; yea on rollcall No. 31; yea on rollcall No. 32; yea on rollcall No. 33; yea on rollcall No. 34; nay on rollcall No. 35; and yea on rollcall No. 36.

INDIAN DEVELOPMENT FINANCE CORPORATION ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. RICHARDSON. Mr. Speaker, on May 18, 1987, I introduced H.R. 2455, the Indian Development Finance Corporation Act. This bill would create a federally chartered corporation which would furnish capital, financial services, and technical assistance to Indian business enterprises. Senator Inouye has introduced similar legislation in the Senate.

After hearings before the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian affairs, I am today introducing a revised version of the Indian Development Finance Corporation Act that incorporates many of the constructive comments made by Indian and business leaders at the hearings. My staff and committee staff have also had numerous discussions with tribal delegations and their technical experts on the best way to structure the Indian Development Finance Corporation [IDFC].

The major change in the new bill pertains to the related issues of the capitalization method and corporate structure. The new bill conforms the proposal more closely to the World Bank model by providing that Indian tribes will be members of the IDFC in much the same way that individual countries are members of the World Bank. Each tribe will be offered a chance to participate by purchasing a percentage of the 500,000 shares of common stock at $50 per share based on a formula developed by the Board of Directors. The Board could arrange with the tribe to accept 10 percent of the payment in cash and the remaining 90 percent as a callable commitment. The United States will purchase 2 million shares of nonvoting capital stock at $50 per share of which 20 percent will be paid in and 80 percent callable. Services of the IDFC will be provided only to Indian business enterprises at least 51 percent owned by member tribes.

I am hopeful that with these changes, which have also been incorporated into the bill reported by the Senate Select Committee on Indian Affairs, we can establish the Indian Development Finance Corporation this year and begin the long process of economic development on Indian lands. I urge my colleagues to join me in this effort to develop Indian businesses and end the tragic cycle of unemployment and poverty which exists on our Indian reservations.

OHIO'S MR. VETERAN—BERYL WARD

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. McEWEN. Mr. Speaker, I rise today to express my personal and sincere appreciation for the work and commitment of the State Adjutant of the Ohio Department of the Disabled American Veterans, Beryl U. Ward. He has earned the title "Mr. Veteran" by his unselfish dedication to the needs of the veterans of Ohio and our Nation.

Beryl Ward began his career of service as a Veterans of Foreign Wars [VFW] service officer. In 1968, he took over the helm of the Disabled American Veterans [DAV] as State adjutant and treasurer under Commander Albert Statler. Mr. Statler was the first in a long line of 20 commanders which have turned and always found Beryl Ward there for support and guidance. He has been there for 20 years and always available for any and all function of local chapters. Beryl has taken very little time for himself and has given up recording compensatory time.

Mr. Speaker, Beryl volunteered for the U.S. Army on October 20, 1941, and served in the 162d Infantry. He saw conflict in the South Pacific during World War II and was wounded in action in New Guinea in 1943. For his service, Beryl Ward was awarded the Bronze Star, the Purple Heart, and the Combat Infantry Badge. He was honorably discharged in 1945.

After the World War II, Beryl attended college on the GI bill. He received an associate degree in business administration from Sinclair College in Dayton, OH. In 1950, Beryl earned his baccalaureate from Salmon and Chase College. In addition, over the years he has periodically returned to college at Wittenberg University and the Ohio State University to improve his skills.

From 1954 to 1964, Beryl owned and operated his own accounting firm and managed three Lawson stores. In 1964, Beryl left the private sector and dedicated his efforts to public service.

Mr. Speaker, as the State adjutant for the Ohio DAV, he has been responsible for the Department of Ohio's membership doubling in size from 23,050 to 53,838. But his most notable accomplishment has been his efforts to make the DAV a strong voice for Ohio veterans. As a legislative liaison and registered lobbyist, Beryl has diligently worked for the enactment of State and Federal veteran's legislation which continue to positively affect America's veterans.

For all his involvement in the State of Ohio, Beryl has remained an active participant in the formulation of national DAV policy and direction. In 1972-73, Beryl was national chief of staff under national commander Jack Hicks. He is one of the cornerstones of the DAV and continues to play a leadership role at the national level.

Beryl Ward has received volumes of honors. But his most notable award was in 1974 when the Governor of Ohio established November 13, 1974, as "Beryl U. Ward Day" for this contribution to Ohio's veterans.

Mr. Speaker, Beryl's "can do" attitude and his willingness to sacrifice for America's veterans could not have been accomplished without the strong support of his wife, Ginny. She has shared Beryl with us and allowed him to contribute his time and energy for this noble purpose. On this occasion, as we honor the many accomplishments and unselfish service of Beryl Ward, I want to again express my deepest appreciation on behalf of a grateful Nation.

TRIBUTE TO THE YOSEMITE CLUB

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. SHUMWAY. Mr. Speaker, at this time I ask that my colleagues join with me in paying tribute to the Yosemite Club of Stockton, CA, and in extending the congratulations and best wishes of the House of Representatives to the club as it celebrates its 100th birthday.

On April 17, 1888, a group of prominent and respected business and professional men met in the Superior Court Room in Stockton to sign the articles which would incorporate the Yosemite Club. The club thus became the first such institution in the State of California and, today, it has the distinction of being the State's longest continuously operating incorporated club.

When those articles were signed 100 years ago, Stockton was surrounded by a sea of waving wheat. The gold rush days were over, and men who had settled in the area turned their time and talent to what remains the backbone of the area today, a more reliable form of "gold:" agriculture. The success of that early wheat crop was a promising harbinger of continued success and prosperity for Stockton. Then and now, the Yosemite Club's membership has reflected the commitment of area leaders to enhancing the economic prosperity and lifestyle of the community.

Since 1908, the Yosemite Club has made its home on the top floors of the Bank of Stockton Building, a beautiful, stately, and historic site. The club's membership—now 450 strong—continues to enjoy the gracious hospitality and atmosphere which have traditionally been the Yosemite Club's trademarks.

As a club member myself since January 30, 1969, I am both privileged and proud to extend every best wish to the Yosemite Club as it celebrates its centennial. I know that my colleagues will be pleased to join with me in this well-deserved congratulatory tribute.

CONNECTICUT STUDENTS RECEIVE HONORS AT TOKYO VIDEO FESTIVAL

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mrs. JOHNSON of Connecticut. Mr. Speaker, the Video Club of the North Canaan Elementary School of Canaan, CT, has been exchanging videotaped "letters" with a similar club at Sumiyoshi Junior High School in Kawasaki City, Japan, for the past 2 years. Last fall, a documentary on the exchange featuring scenes videotaped in Canaan, won the grand prix at the 10th Annual Tokyo Video Festival, out of 1,700 entries from 30 countries.

It is with great pleasure that I recognize the creative achievement of these young people who have devoted many hours of careful thought and hard work to accomplish their goals.

I am proud of this innovative and ambitious group of students for undertaking and successfully completing this exciting project.

To Mrs. Donna Boynton and the students of the North Canaan Elementary School, I congratulate you on this exciting award, and am pleased to have such aspiring students in my district.

Congratulations!

SOVIET ARMENIAN SITUATION

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. LEHMAN of California. Mr. Speaker, during the past month some of the largest unauthorized protests in the history of the Soviet Union have taken place in the Soviet Republic of Armenia as well as the Soviet Republic of Azerbaijan. Thousands of Armenian nationals have assembled in an attempt to pressure the Soviet Government to reunite the Nagorno Karabakh region in Azerbaijan with the Soviet Republic of Armenia.

The Nagorno Karabakh region although located inside Azerbaijan is more closely linked culturally and historically to Soviet Armenia as compared to Azerbaijan. The region throughout the centuries has been a historic center of Armenian culture and today has a population which consists of 80 percent ethnic Armenians. Only since 1921 when the Treaty of

Moscow was signed has the region been under the control of Azerbaijan.

The 1921 treaty represented a violation of the territorial integrity of Armenia and its people. It arbitrarily separated those living in what is now considered Soviet Armenia from their brothers in Nagorno Karabakh. It further violated the integrity of the Armenian people in a century that only several years earlier saw the massacre of 1½ million Armenians and the loss of lands that had been Armenian for over 2,500 years.

Today's protest movement provides the Armenians with a chance to reclaim this land that is rightfully theirs. They deserve to be reunited with their kinsmen of Nagorno Karabakh. To continue the policy of separation would only be unfair and inhumane.

I hope Mr. Gorbachev is taking serious notice and giving serious consideration to the legitimate demands of the thousands of Armenians who have protested during the past weeks. I call upon him and his government to begin the process of discussion and negotiation that is needed if Nagorno Karabakh is to be reunited with Soviet Armenia. His response to this situation can be seen as a sign as to whether his policies of glasnost and perestroika are merely rhetoric or truly legitimate. It is my hope it is the latter.

TRIBUTE TO DR. J. ALFRED CANNON

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. HAWKINS. Mr. Speaker, in behalf of my colleagues JULIAN C. DIXON and MERVYN M. DYMALLY, and myself, I would like to pay tribute to Dr. J. Alfred Cannon who recently passed away. Dr. Cannon, one of the founding members of the Charles R. Drew Postgraduate Medical School, brought to this institution a dynamic vision of the possibilities of progress in the medical profession.

Born in Long Island, NY, on August 8, 1928, Dr. Cannon graduated from the College of Physicians and Surgeons, Columbia University, in 1954. Upon moving to southern California, he completed his residency in psychiatry at UCLA's School of Medicine where he later earned a master's degree in public health and held a faculty appointment. In March 1966, Dr. Cannon was part of a group who established a committee to develop a plan for creating a teaching hospital in the Watts community, in south central Los Angeles. Five months later, the Drew Postgraduate Medical School became a legal entity with J. Alfred Cannon serving as one of the original board members of its board of directors.

Among the many institutions he founded and helped build, were: Central City Community Mental Health Center, Mafundi Institute, Inner City Cultural Center, Frederick Douglass Child Development Center, Ujima Village, Watts Writers' Workshop and others.

Dr. Cannon's commitment, leadership and activism mirrors in many respects my own image of a public servant:

> The leadership belongs not to the loudest, not to those who beat the drums or blow the trumpets, but to those who day in and day out, in all seasons, work for the practical realization of a better world—those who have the stamina to persist and remain dedicated. To those belong the leadership.

Mr. Speaker, Dr. Cannon epitomized the best that America can produce. Although he will be sorely missed, his legacy of providing medical and cultural services to the Los Angeles community will live on in the many health facilities and programs he fostered. Dr. Cannon was a community leader and a pioneer, but more importantly he was a friend.

THE 175TH ANNIVERSARY OF THE SISTERS OF LORETTO

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. MAZZOLI. Mr. Speaker, I am proud to join with others in my hometown of Louisville and Jefferson County, KY, in honoring the 175th anniversary of the Sisters of Loretto, a Roman Catholic women's religious order founded in Kentucky. The year-long celebration of this anniversary will be drawing to a close next month and I am pleased to be able to take this chance to pay tribute to Sister Patricia Hummel and other Sisters of Loretto in Kentucky and around the world.

Mr. Speaker, with all of today's advanced technology in communication and transportation, sometimes it is hard for many of us to really understand how isolated and primitive our frontiers were just a few centuries back. The religious communities that accompanied the pioneers to the frontiers brought with them their values and their talents and helped to educate future generations—and thus shape and reshape our history.

The Sisters of Loretto, founded in 1812 near Hardin's Creek, KY, are one such order to whom we in Kentucky—and many other States along our old western frontier—owe much. In 1842 the first Loretto School, Cedar Grove, opened in Louisville, and was followed in later years by Loretto Elementary and High School in West Louisville, St. Benedict, Guardian Angel, and St. Jerome Elementary. Today, their influence and presence remains strong in the community through teaching; working with orphans and cancer victims; and working on women's problems, and on peace and justice issues.

The Loretto Sisters' many contributions reach far beyond just Louisville and Jefferson County. Through the years the sisters established academies, senior colleges and teaching schools for women around the Nation and overseas—schools which set standards for excellence in women's education in both the 19th and 20th centuries.

I wish the best for the sisters this year and for all the years to come. Their devotion and achievements have improved the quality of human life throughout the world and should be applauded in this, their 175th anniversary year.

LOUDOUN COUNTY TO MEMORIALIZE VIETNAM VETERANS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. WOLF. Mr. Speaker, I am proud to share with my colleagues the efforts of a group of my constituents in Loudoun County, VA, who are working to honor the memory of the men and women from Loudoun who were killed while serving their country in Vietnam.

This group is spearheading a private fundraising effort among their Loudoun County neighbors for a memorial to Loudoun Countians who died in Vietnam. Loudoun County will be the first county in the Commonwealth of Virginia and perhaps in the Nation to erect a Vietnam memorial to honor the country's own servicemembers who gave their lives in Vietnam. Those to be remembered are Armed Forces personnel who were residents of Loudoun County during the Vietnam war or whose spouse, parents, or relatives were residents at that time.

To honor these gallant men and women from Loudoun who served in Vietnam, the memorial will be erected on the Court House lawn in Leesburg. The upgraded monument area will include the existing World War I, World War II, and Korean war memorials, which will be renamed the "Plaza of Honor."

The Vietnam memorial will be dedicated on Veterans Day, November 11, 1988, by the people of Loudoun County as a way to keep alive forever the memory of their fellow countians who gave the ultimate sacrifice to keep alive the torch of freedom.

THE LIFE OF HENRY SHAW, FORMER MEMBER OF CONGRESS FROM WESTERN MASSACHUSETTS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. CONTE. Mr. Speaker, Henry Shaw was a distinguished State legislator, an early industrialist, and for 4 years a U.S. Representative from what was then known as the 12th Congressional District of Massachusetts. During his period of influence in the U.S. Congress both his crowning achievement and ultimate demise were inextricably intertwined with the career of Congressman Henry Clay, of Kentucky.

It was a broken-down carriage that landed Henry Shaw in Lanesborough with his friend from law school, John Savage. Born near Putney, VT, in 1788, Shaw moved to Albany, NY, in 1810 to begin his career as a lawyer. When the collapse of their carriage detained them in the Berkshires, Henry Shaw and John Savage were extended kind hospitality from Gideon Wheeler, a prosperous farmer who hosted the two young men for the weekend. It turned out to be a wonderful weekend for Mr. Shaw, Mr. Savage, and the Wheeler family and a profitable one for the town of Lanesborough—the town inherited a distinguished son. Mr. Savage later married Ruth Wheeler, and in 1813 Henry Shaw moved to Lanesborough to marry Laura Wheeler.

The Shaws began raising sheep and worked a small farm in Lanesborough, while Henry continued practicing law. He quickly became a prominent member of the community and joined with members of the Agricultural Society in developing a strategy to promote and protect American industry.

In 1817 he was elected to the U.S. Congress as a Democrat. It was there that he befriended Henry Clay, a man of similar background and concerns. It was Clay who sponsored the most controversial legislation of Shaw's tenure. When Maine petitioned for statehood in 1819, a stipulation was attached to admit Missouri as a slave State. In order to resolve the dilemma over the issue of slavery in the States emerging from the Louisiana Purchase Territory, Henry Clay supported a compromise that allowed Missouri to form a constitution with no restrictions on slavery but prohibited slavery in any territory north of 36° 30′ north latitude.

The compromise was intolerable to the residents of western Massachusetts. However, Shaw supported his friend Clay and voted for the measure. Shaw was voted out of office in 1821 but it was not the end of his political career, nor the end of his influence in the U.S. Congress.

After returning to Lanesboro, Shaw continued raising sheep and he continued in his advocacy of U.S. industry. He also kept up his friendship with Henry Clay, who often visited the Shaw family in Lanesborough. In 1824 he was an influential player behind the introduction of Clay's legislation to protect a fledgling American wool mill industry from foreign competition.

Following the passage of this legislation, Mr. Shaw opened many of his acres for pasture space and encouraged his friends to do the same. In 1827 he became a large shareholder and president of the Pontoosuc Wool Mill. He later became president of the Agricultural Bank from 1830–40.

Throughout this entire period of industrial activity, Mr. Shaw also served as a Massachusetts State representative from 1824–30 and again in 1833 and as a State senator in 1835. As a State legislator, Mr. Shaw's most widely known accomplishment was the defeat of a proposed rail line from Boston to Albany. However, in 1840 he changed his mind and both he and the Pontoosuc Mill purchased shares in the Western Railroad.

Before leaving Massachusetts for New York City, Mr. Shaw ran an unsuccesful campaign for Governor of the State of Massachusetts. He also became involved in New York politics—quickly getting himself elected to the New York Assembly—before he died in Peekskill, NY, on October 17, 1857.

Mr. Shaw never lost his appetite for political office despite the defeats he suffered. However, as an industrialist, Mr. Shaw displayed a clear vision and a solid understanding of the American economy. Surely a broken-down carriage has never brought so much to the town of Lanesborough.

SPACE EXPLORATION

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. ANDREWS. Mr. Speaker, the economic and scientific windfall that space exploration has brought to our Nation must not be ignored. It is interesting to note that the Apollo mission yielded a 7-to-1 return on every dollar invested. However, since 1981 our Nation's initiative and leadership in aerospace trade has declined significantly.

For example, Arianespace, the Frence equivalent of NASA, now controls more than 50 percent of the world's commercial satellite launching business. In addition, Japan has committed over $40 billion toward becoming a major space player by the year 2000.

As recently as 20 years ago, the per capita number of scientists and engineers working in research and development in the United States far exceeded that of other nations. That is no longer the case. Japan a nation of half our population produces nearly as many engineers as the United States.

Along with this decline in scientists and engineers a direct correlation can be drawn between the percentage of Federal dollars being appropriated for space exploration. For example, in 1965 the NASA budget was 3.79 percent of the Federal budget and today it is only 0.78 percent of the Federal budget.

Today the Japanese devote 2.8 percent of their gross national product to nondefense research and development expenditures while we spend about 1.8 percent. Can there be any doubt as to why our balance of trade is so lopsided?

What worries me is that we as a nation are not worried. There must be a national sense that the space station will be the major mechanism for reaching our goal to establish man as a builder and permanent worker in space.

Fortunately, Budget Committee members in the process of solving our current deficit problem had the wisdom not to damage the Nation's future. Included in the fiscal year 1989 budget resolution the National Aeronautics and Space Administration receives a $1.25 billion increase.

A yes vote for the budget will send a clear signal to the Japanese, the French and the Germans that America intends to rejuvenate its commitment in space.

Let there be no mistake that a vigorous U.S. civil space program contributes directly and positively to maintaining the Nation's competitive position.

Space exploration not only drives the economy over the long term, but is the best investment for our future because it sharpens the skills and harnesses the talents of all Americans involved.

Other countries recognize that the jobs and products of the future will come from space exploration. So should we. We can't afford to be left behind.

KERN COUNTY YOUTH FOR CHRIST

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. THOMAS of California. Mr. Speaker, I ask you to join me in paying tribute to the Kern County Youth For Christ, who are celebrating 30 years of service to the youth of Kern County, CA.

Worldwide, Youth For Christ has established branches in over 60 nations and touches tens of thousands of young lives through programs reaching out to youngsters in schools and juvenile institutions. Funded solely through the gifts of supporters and staffed by dedicated volunteers, it provides a healthy environment in which young people can interact and grow as individuals.

This organization is fueled by its belief in miracles. It believes in the simplest miracles of all—those of human compassion, sharing, and understanding. Youth For Christ's dedicated team of volunteers helps our young people develop positive images of themselves, and trained counselors work with troubled youth to help them grow physically, mentally, socially and spiritually so that they may become productive members of society.

By enriching the lives of young people, society's most important asset, we are investing in our future. At a time when many young people are not receiving the kind of guidance they need to actively participate in society, I find it gratifying that groups like Youth For Christ are taking the initiative to meet the needs of our youth. On behalf of the people of the 20th Congressional District, I applaud the Kern County Youth For Christ for their valuable efforts, and encourage others to follow their example of commitment to our youth.

BILL INVITES MORE LANDLORDS TO DROP SECURITY DEPOSITS

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. PANETTA. Mr. Speaker, I would like to call to the attention of my colleagues the following article on the benefits of the legislation I recently introduced, H.R. 3975, on February 18, 1988, to make permanent a rental housing program for military families. The article appeared in the Navy Times on March 7, 1988. The article explains the advantage of making permanent a current DOD pilot program which encourages landlords near a military installation to waive security deposits in exchange for a Government guarantee for payment by withholding the money from the service member's pay.

This article points out that the housing officials at three test sites have indicated that the guarantee program has been successful according to preliminary reports by service officials. It is important to note that no appropriation of funds is necessary because the service member would be ultimately responsible for meeting the costs of any damage or breach of lease.

H.R. 3975 directs the Secretary of Defense to establish a permanent program involving military personnel and their civilian landlords. This legislation makes permanent the pilot program which has been in effect at Fort Ord over the last 16 months. The program has been implemented with a high degree of success resulting in the solution of problems with military residents to payment and landlords obtaining guarantees on security deposit payments.

I commend this article to all my colleagues and hope that it will encourage each Member to consider cosponsoring H.R. 3975 which will resolve one of the most pressing and financially disabling issues our service members and their families face by making permanent this highly successful pilot program.

[From the Navy Times, Mar. 7, 1988]

Bill Invites More Landlords To Drop Security Deposits

(By Grant Willis)

Washington.—More private landlords would be encouraged to rent apartments to service members without requiring security deposits if Congress approves a proposal by Rep. Leon E. Panetta, D-Calif.

Panetta introduced a bill Feb. 18 that would authorize the Defense Department to extend the life of a pilot program that guarantees security deposits and to expand it to other stateside installations.

The program, which began in May 1987, has involved more than 1,400 rental housing units near Fort Ord, Calif.; NAS Moffett Field, Calif.; and Luke AFB, Ariz.

Panetta's proposal would authorize DoD to make the guarantee program permament. Each service would decide which installations would operate the program, or whether the program would continue at all. Congressional sources say the new bill is likely to pass because the program helps military families without costing the government any money.

Authorization for the one-year pilot program expires May 31 unless Congress passes new legislation. Panetta hopes to get his bill, H.R. 3975, passed early this spring so the program can continue without interruption, a congressional aide said.

However, Congress may include the Panetta bill in its annual defense authorization package for fiscal 1989. If that happens, the aide said, the three test installations won't be able to guarantee any new security deposits between June and Oct. 1, start of the new fiscal year. Military tenants who sign leases under the program before June will not have to pay security deposits until their leases expire, the aide added.

Under the pilot program, a service member's installation guarantees payment for any damage or unpaid rent up to the amount of a normal security deposit. In return, the landlord agrees to waive the deposit.

If the renter leaves without paying for rent or property damage, the installation reimburses the landlord and deducts the money from the service member's paycheck.

Panetta, whose district includes Fort Ord, proposed the original pilot program in an amendment to the fiscal 1987 National Defense Authorization Act. The congressman said he is concerned that military families recover only one-fourth the cost of each permanent move, and that families who arrive at a new duty station are hit particularly hard by initial security deposit payments and rent.

The deposit guarantee program has been successful at the three test installations, according to preliminary reports by service officials. DoD is scheduled to send Congress a final study on the results of the pilot program in May.

SALUTING AGRICULTURE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. BEREUTER. Mr. Speaker, this week has been designated National Agriculture Week, and it is quite appropriate to use this occasion to pay tribute to our Nation's farmers. It is a time to salute American agriculture. It is a time to acknowledge that cautious optimism has generally replaced the despair of just a short time ago.

A recent editorial in the Wayne, NE, Herald captured the feelings that people hear more and more as they travel through our rural communities and visit with those who work and depend on farming the land for a living. One paragraph in particular stands out in this editorial, and I quote from it:

> So, while some may have been too eager to proclaim that every farmer in the nation was in financial trouble, others now probably are too eager to proclaim that every farmer is now out of trouble. Agriculture is a worldwide, high-technological complex industry. The families who are involved in that industry must deal with complex problems and solutions. An industry like that doesn't simply plummet or be rescued overnight.

Mr. Speaker, I include the text of the full editorial in the Congressional Record:

[From the Wayne (NE) Herald, Mar. 21, 1988]

Saluting Agriculture

As the United States celebrates national agriculture day this year, an interesting change can be noted. The farm crisis that was on the minds of almost every politician, journalist and farm leader in years past isn't spoke of as much anymore.

Indeed, the past year has brought some changes. Livestock prices have been at profitable levels. Exports of some commodities are beginning to increase, after years of depressed sales. Land prices have increased [for the first time] in many years. Farm income is at surprisingly high levels. Some farmers are even in a position to say that 1987 was one of their best years ever.

Everyone in the United States who has an interest in how the food they eat gets to their dinner table should welcome those improvements. A stronger farm economy is not only good for farmers and ranchers, but for the entire nation.

But if there has been one lesson learned in the past few years of turmoil in the farming sector it's that there are no blanket statements to be made. Not every farmer enjoyed a robust year in 1987. Not every farmer was able to stay away from foreclosure or selling part of his machinery or livestock. Not every farmer was able to turn a profit.

In that respect, 1987 provided an important lesson: It taught Nebraskans that there are no simple problems in agriculture and no simple solutions. While some may be faring better, others may be faring worse. An understanding of the complexity of the working of the agricultural economy can only help in working toward better times for all of this nation's farmers and ranchers.

So, while some may have been too eager to proclaim that every farmer in the nation was in financial trouble, others now probably are too eager to proclaim that every farmer is now out of trouble. Agriculture is a worldwide, high-technological, complex industry. The families who are involved in that industry must deal with complex problems and solutions. An industry like that doesn't simply plumment or be rescued overnight.

This year, as we celebrate National Agriculture Week, March 20-26, be glad for those who have enjoyed a successful year, but also work to help those who have not. And while you're at it, give those farmers and ranchers some thanks for the effort they give in feeding this nation and others.

A MONUMENT TO HONOR RAOUL WALLENBERG, HERO OF THE HOLOCAUST

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. HOWARD. Mr. Speaker, I rise in support of House Joint Resolution 403, which authorizes a monument to be built honoring Raoul Wallenberg, the great hero of the Holocaust. On October 6, 1981, Mr. Wallenberg became an honorary citizen of the United States. Only one other person, Sir Winston Churchill, has been so highly honored by our Nation.

It is fitting that both of these men should be chosen as outstanding members of the international community, deserving of our country's highest honor for foreign citizens. Both men showed limitless courage and fortitude in the face of Nazi oppression and a world turned upside down.

Wallenberg, a junior Swedish diplomat during World War II, went to Hungary at the request of the United States to help rescue Jews facing extermination in the Nazi death camps. Giving up the security and comfort of his life in Stockholm he used American assistance and his position as a member of the Swedish diplomatic "corps" to bring thousands of Jews under his personal protection. He drew upon his remarkable skills as an orator and an unflappable belief in the sanctity of human life to rescue thousands of Jewish lives from the clutches of death at the hands of the Nazis. Wallenberg constantly risked his own life to save others.

Unfortunately, this story does not have a happy ending. After the end of the war, Wallenberg was arrested by the Red Army and imprisoned in the Soviet Union. Despite reports by the Soviet Government that Wallenberg died in prison years ago, evidence is mounting which suggests that he is still alive and in a Soviet prison. For this reason, I and many of my colleagues in both parties signed a letter to General Secretary Gorbachev, urging Wallenberg's release or a full, complete, and public accounting of his fate. However effective this letter may prove to be, it is important that we also remember the service of Raoul Wallenberg in a highly visible manner. Therefore, I am pleased to join my colleagues in honoring this great hero of our age with a statue in our Nation's Capital, as a constant reminder of one man's selfless dedication to his fellow man.

MACKAY/CHANDLER BILL

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. CHANDLER. Mr. Speaker, I rise to join the gentleman from Florida [Mr. MACKAY], in introducting this urgently needed, bipartisan bill to aid the Nicaraguan resistance. The time for acrimonious charges back and forth across the aisle must end now. After 7 years of supporting the Contras, we have an obligation to get together and work for both peace and freedom.

The prospects for peace and democracy in Nicaragua have never been so dismal and so encouraging at the same time.

The Sandinistas and the resistance are meeting for the first time in Sapoa and an agreement seems reachable.

But last week, the Sandinistas showed us how they deal with weakness.

The invasion of Honduras was a clear attempt to destroy the Contras after our failure to send aid.

We must give the peace process and the resistance the support they need. This bill accomplishes that.

It provides $48 million in humanitarian aid to the resistance.

It allows previously obligated aid to be delivered.

And, should the peace process not be successful and normal congressional procedures not provide further aid to the Contras, the House will be able to again readdress the issue after June 1.

These special procedures will be suspended between July 15 and January 31 to further ensure we keep partisan political objectives as low-key as realistically possible.

This is a bipartisan approach. It is urgently needed, and I urge my colleagues and the leadership to bring it up for immediate consideration.

NURSING HOME CARE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. WYDEN. Mr. Speaker, if the Reagan administration has its way, our Nation's poor elderly nursing home residents will soon be denied essential medical care.

Under a rule that will become law on April 8, States will be able to count medical costs of nursing home residents as income available to pay for nursing home care. For the first time since the Medicaid program was started, seniors will have to choose between items like eyeglasses, prescription drugs and hearing aids or their space in a nursing home.

Under current law, nursing home residents are allowed to deduct the costs of noncovered medical services from their pensions and Social Security income before paying their nursing home bill. The amount the resident cannot pay is made up by Medicaid. This way, residents are assured that they will get necessary medical items despite the fact that they are already impoverished and eligible for Medicaid.

The Reagan rule will allow States to try to recover the money residents spend on medical items to help pay that portion of their nursing home bill that the State's Medicaid program now covers. The administration estimates this rule will save Federal and State governments $615 million over 3 years. That $615 million will come out of residents' pockets.

Mr. Speaker, our elderly poor don't have $615 million. This rule will force those patients to go without necessary medical services.

Mr. Speaker, today I am introducing legislation to prohibit the administration from allowing States to count that money as income under Medicaid. The Congressional Budget Office has told me that prohibiting the implementation of this regulation will not cost the Federal Government money. I urge my colleagues to join me and the distinguished chairman of the Health and Environment Subcommittee Mr. WAXMAN in sponsoring this important legislation.

TRIBUTE TO DONALD KEMPER, MOLLY METTLER, AND HEALTHWISE, INC.

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. STALLINGS. Mr. Speaker, today I rise to commend Donald Kemper and Molly Mettler—two outstanding Idahoans who have been invited to participate in the World Health Organization's Second International Conference on Health Promotion.

Mr. Kemper and Ms. Mettler are the executive director and the director of Community Programs, respectively, of Healthwise, Inc., a nonprofit health promotion research and development center located in Boise, ID.

In 1979, under the direction of Healthwise, Inc., a coalition of governmental, community, and business people in Boise launched a long-term effort to improve the lives of older Idahoans. Today, Boise can be proud that the goal of building a vigorous, health and productive older population is rapidly becoming a reality. More than 20 percent of the city's older residents participate in health-enhancing activities.

Today, the effort continues. Mr. Kemper and Ms. Mettler have the opportunity to present the details of Healthwise's success before representatives from more than 50 countries at the World Health Organization's Conference in Australia on April 7, 1988.

Entitled "Building a Positive Image of Aging: The Experience of a Small American City," Mr. Kemper and Ms. Mettler will focus on the development, replication, and statistical findings of two programs, "Growing Wiser" and "Growing Younger." The presentation will focus on Boise's efforts to embrace aging as a positive experience for its citizens.

I commend Mr. Kemper, Ms. Mettler, the staff of Healthwise, Inc., and countless others from the Federal, State, and local government, business leaders, and community leaders who have made this program possible. Your contributions to your community are appreciated and will not be forgotten.

GRAND RAPIDS, MI: 150 AND STILL GROWING STRONG

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. HENRY. Mr. Speaker, on April 5, 1938, the Michigan State Legislature officially incorporated the village of Grand Rapids, MI. Its official population of 750 residents was drawn from a mix of French traders, merchants, and New England settlers lured into the fertile soils of the valley of the Grand River. The extensive forests of the area lent themselves to the rapid development of Grand Rapids as a major logging and sawmill center, and ultimately as the "furniture capital of the world" as highly skilled European artisans were attracted to locate in this rapidly expanding community.

Early Grand Rapids bore the marks of a true frontier town. As its first trustees struggled over the annual $200 village budget, they also had to enact ordinances prohibiting shooting and gambling within the city's limits. Over time, the city has matured into being one of the most economically diverse and culturally sophisticated cities of the entire Midwest.

The industrial and commercial base of the Grand Rapids community today is benefited by not only the diversity of its economic infrastructure, but by the reputation its work force enjoys for hard work and skilled craftsmanship. Whether it be in the automotive, furniture, or food industries, the scores of machine tool shops, chemical specialty companies, major publishers, sophisticated medical services, or as a hub for regional finance, legal services, foreign trade, and aviation, Grand Rapids continues to grow because of its reputation for economic productivity and as a highly prized environment in which to live and raise a family.

Blessed by an array of excellent public and private higher educational institutions, a constructive relationship between its public and private elementary and secondary school systems, and a significant meshing of public and private agency involvement in meeting the social needs of its citizens, the spirit of community obligation, community participation, and community pride is high.

Grand Rapids has grown and prospered during its 150 years because, while rooted firmly in the moral and spiritual traditions it welcomed with the many immigrant communities which have been attracted to the city, it has always kept its eye on the future. The first major urban area in the United States to take such innovative steps as to fluoridate its drinking water, or to develop municipal hydroelectric power, or to protect its waters from industrial pollution—it now once again looks to the future with innovative attempts at substantially invigorating the relationship between its industries and the research capacities of its higher educational institutions. Taking pride in the tremendous physical redevelopment of its downtown area, yet at the same time protecting the integrity of its local neighborhoods with their respective ethnic and local flavors, it is clearly one of the most liveable cities in America.

Mr. Speaker, the ultimate strength of any political unit rests with the character and the quality of the people of which it is composed. And the people of Grand Rapids continue to lend their vigor in investing of themselves in their community. Levels of charitable giving and contributions to the voluntary sector rank among the highest in the United States. Whether it be the thousands who participate in the annual Calder Arts Festival—now one of the largest festivals of its type in the entire Nation—or their local churches and service clubs, the people of Grand Rapids know that they share in something special.

Mr. Speaker, please join with me in wishing the city of Grand Rapids a happy sesquicentennial birthday, and many more good years to come!

NATIONAL AGRICULTURE WEEK

HON. GLENN ENGLISH

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. ENGLISH. Mr. Speaker, I rise today in support of National Agriculture Week. The appropriateness of this celebration lies in the roots of our Republic which were agrarian in nature. The early writings of the colonial period often referred to the needs of the farmers and their rights under the struggling new government. The right to own land and to be self-sufficient from the toiling of that land was a basic right and the drafting of the Constitution vigorously gave the landowner protections which he had hitherto been denied in Europe. However, the Founding Fathers recognized that the basis for a strong democratic society would be found in a blending of both rural and urban, even though at the time 98 percent of the American population farmed while only 2 percent lived in towns and cities. Today, that statistic has been reversed with slightly over 2 percent of the Nation living on farms while the remaining 98 percent live off-farm. Whether one calls home the heart of Manhattan or the heart of the Oklahoma Panhandle, both urban and rural dwellers recognize the long-standing role the American farmer has had in shaping the traditional values of this country and providing all our citizens with one of the most dependable, inexpensive, food sources in the world.

While recognizing the contributions the American family farmer has made in our daily domestic lives, one should not overlook the importance agriculture has had in our trading relations. That same reliable, and accessible food supply has been made available to the less developed countries of the world who have turned to the United States and its abundant foodstuffs both in times of natural disasters and civil upheaval to fulfill deficient commodity inventories or when national production policies have not met domestic feeding needs. Some of those same countries which have relied upon American food supplies are now our strongest trading partners. Still other nations which are heavily dependent upon one or two cash crops imported their first seeds from enterprising American traders who ventured from the shores of the new country in search of markets for their agricultural bounty.

Today in the State of Oklahoma we are celebrating National Agriculture Day Statewide. Oklahoma has been blessed with an abundant supply of agricultural commodities and the farmer and those who provide necessary component services are one of the cornerstones of the State's economy. The sixth Congressional District, which I represent, is one of the largest wheat producing districts in the United States. That wheat is grown in some of the harshest weather conditions in the Southwest, yet year after year at harvest time, the wheat crop proves to be a vital economic boost to the entire State. I commend the Governor of Oklahoma, the Honorable Henry Bellmon, and all State officials who have been responsible for organizaing the events of this special day. Also, recognition is in order for the artist who was commissioned for this year's Agriculture Day Poster. The artist, Bart Forbes, was born in Oklahoma and his poster "Continuing the Legacy" is a reminder of the long-standing traditions in our agricultural communities.

Those of us who serve the needs of our constituencies are often confronted with something that has been dubbed by the press as having either an "urban" or "rural" bias. As we inaugurate National Agriculture Week, I hope my colleagues on both sides of the aisle, from both the cities and the towns, will join with me today to recognize those dedicated men and women who give us our food supplies. While this body may not always be unanimous in its approach to farm policy, there can be no doubt that each of us shares a deep appreciation for the American family farmer whose labor gives us the widest selection of nutritious agricultural products in the world.

MINE COUNTERMEASURE VESSELS, A GOOD INVESTMENT IN SECURITY

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. ROTH. Mr. Speaker, this morning I had the opportunity to tour the latest addition to our Nation's Navy, the U.S.S. *Avenger.*

The *Avenger* joins the Navy fleet as the first of a new class of minesweeper and will play a key role in protecting our homeports and meeting threats to our forces on the high seas. The latest technological advancements in design and equipment have gone into the construction of the *Avenger.*

Particularly, I would like to commend the builders of the vessel, Peterson builders of Sturgeon Bay, WI. In touring the *Avenger,* the intricate craftsmanship is plainly evident—from the wooden hull down to the oak table in the commander's war room. The engines, crew accomodations and state of the art tracking equipment were all expertly designed and installed with the minimum of space loss.

The employees at Peterson builders take great pride in knowing that the vessels they construct will help save the lives of Americans. They have done a first-class job in constructing the *Avenger* and I invite my colleagues to tour this new minesweeper.

At a time when our Nation is facing greater challenges on the world's oceans, the MCM class minesweepers will play a critical role in protecting U.S. interests. It adds a much needed capability to our Navy and I'm confident that it will serve our country with distinction well into the 21st century.

TRIBUTE TO JAZZ ARTIST, GIL EVANS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. CONYERS. Mr. Speaker, I rise today to lament the loss of one of America's most significant artists: jazz great, Gil Evans.

Gil Evans, composer and arranger, was one of America's most prolific contributors to the great art form of jazz. He began his career in his hometown, Stockton, CA, in 1933, where a band he created became so popular that it won him a spot on Bob Hope's radio show.

It was between 1941 and 1948 that he began to make a name for himself with recomposed arrangements such as "Anthropology" and "Yardbird Suite." With Miles Davis, Gerry Mulligan, and John Lewis, Evans joined in one of the most important collaborations in American musical history, reworking be-bop and orchestral music for the milieu of jazz, producing such memorable works as "Donna Lee."

A close friend of Charlie Parker, Evans is remembered for such lasting impressions as "In the Still of the Night." Evans is also known for a series of classic expressions that he arranged for Miles Davis, including "Miles Ahead," "Porgy and Bess," and "Sketches of Spain." These collaborations were brilliant, and are an inextricable part of the evolution of this uniquely American art form.

Evans' career is marked also by his versatility. He planned work with Jimi Hendrix, and when Hendrix died instead recorded a tribute to him. He also composed works for Sting and other contemporary musicians. To Evans, music was like life: always evolving and growing, always reaching for new limits and relationships.

Of course, the list of his contributions goes on, and so does the lasting and timeless works he left us.

THE U.S. SAVINGS RATE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, March 23, 1988, into the CONGRESSIONAL RECORD:

THE U.S. SAVINGS RATE

In recent years, the U.S. savings rate—the money saved by individuals, companies, and government—has declined dramatically. Unless this trend is reversed, our country's long-term productivity and growth will be harmed.

The overall amount of a country's savings is important because the money saved provides a pool of funds that can be used for factories, machinery, roads, and other improvements that boost productivity and generate income. Generally, the level of a nation's investment is determined by its level of saving. Thus a low rate of saving can harm a nation's future economic growth and productivity, and consequently the living standards of its people. Since 1983, the United States has been saving less as a nation than it has been investing. As a result, we are now relying on foreign capital to cover a large portion of our investment needs. That means an uncertain source of funds and a drain on future earnings of U.S. producers.

In the 1950s and 1960s, total net savings in the United States averaged between 7 percent and 8 percent of gross national product (GNP). But during the 1970s and 1980s the rate declined sharply. From 1981-86, the U.S. savings rate averaged 2.8 percent of GNP, and last year it was only 1.3 percent of GNP. That is far lower than the savings rates of the other major industrialized countries. For example, over the past 25 years West Germany has saved twice as much as we have (as a percent of GNP), and Japan has saved three times as much.

Of the three components of national savings—government, personal, and corporate—the sharpest decline has occurred in government and personal savings. Gross corporate savings—money set aside to buy plant and equipment—increased from $341 billion in 1980 to $553 billion last year. The government savings rate has been negative during most of the post-war period. Last year the federal government's deficit—or "dissaving" of $152 billion offset a surplus of $45 billion by state and local governments. The rate of personal saving the money households put into bank accounts, bonds, and the like—is only about a third of what it was 15 years ago. Last year, gross personal savings totalled $120 billion.

The reasons for the federal government's deficits in recent years are well-known. There has been a sharp decline in revenues because of the 1981 tax cuts, and an increase in spending, especially for defense. The reasons for the decline in personal savings are not as clear. Several factors appear to be important: Higher Social Security benefits and improved private pensions have lessened the need to save for retirement. Improved insurance coverage has partially replaced precautionary saving. Easier access to loans and credit has reduced the need for savings to make down payments on houses and other big-ticket items. Other important factors appear to be self-indulgence by Americans, the desire by many to improve their standard of living at a time when median family income has barely kept up with inflation, and the arrival of the "baby boomers" into their prime spending years.

Several steps have been taken in recent years to try to reverse the trend and raise the U.S. rate of national saving. One of the objectives of the 1981 "supply-side" tax cuts was to encourage personal and corporate savings. However, the cuts did not work as well as expected. Individual Retirement Accounts (IRAs) were greatly expanded in 1981 to encourage higher personal savings, but the results have been mixed. IRAs may have stimulated some additional saving, but not enough to reverse the decline in the personal savings rate since 1981. A problem with these approaches is their limited ability to produce net U.S. savings, since they drain U.S. government revenues in order to encourage private savings.

On the other hand, the personal savings rate might be improved somewhat by the phase-out of the deductibility of consumer interest. Since consumers will, by 1991, no longer be able to deduct their interest on credit cards or consumer loans on their federal income taxes, they will have more incentive to save for their purchases. In addition, recent changes in the financing of Social Security will lead to huge surpluses being built up in future years, as the "baby-boom" workers pay higher Social Security taxes to build up reserves for their retirement. These surpluses could boost the overall federal savings rate.

Some argue that the amount of U.S. savings is understated, because many individuals have been "saving for the future" with their houses and because the current system does not measure things like corporate contributions to pension funds or capital improvements. Yet no matter how savings are measured, it is clear that additional steps are needed to increase the U.S. savings rate. Perhaps the surest way to raise the overall level of national saving is to reduce the federal budget deficit. If there were no federal budget deficit, the U.S. savings rate would be significantly higher. However, it would still be low by historical standards, so efforts must also be made to improve the personal savings rate.

One approach being explored—both to raise government revenues and to encourage personal saving over consumption—is a federal tax on consumption. It could be structured as a national sales tax at the retail level or as a "value-added" tax—a tax on the value added to a product at each stage of its production and distribution. A 5% national consumption tax could raise more than $100 billion a year. The idea of a tax on consumption, combined with provisions to prevent the tax from falling too heavily on lower-income households, is getting more attention from policymakers. A review of the incentives in the U.S. tax code is in order, since it contains more incentives for consumption than almost any other system in the world.

Although we need to improve the U.S. savings rate, the shifts must be done gradually. Too rapid a decline in the federal budget deficit could touch off a recession, as could too rapid a switch from personal spending to saving. But eventually the U.S. savings rate must improve. Otherwise we will not have the resources needed to bring about long-term economic growth, improved productivity, and a higher standard of living in America.

EXCERPTS OF LETTERS FROM PYATRAS PAKENAS, LITHUANIA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. SHAW. Mr. Speaker, again today I would like to enter into the RECORD excerpts from the letters of Pyatras Pakenas of Vilnius, Lithuania, to his wife, Dr. Galina Vileshina of Fort Lauderdale, FL. This couple is being kept apart by the Soviet Government, which refuses to let Pyatras Pakenas leave the Soviet Union. He has been denied an exit visa 18 times.

These letters from Pyatras to Galina, which have been published by the Fort Lauderdale News/Sun-Sentinel, convey some of the pain of being kept apart from a loved one. A permanent reunion for Pyatras and Galina is long overdue.

NOVEMBER 17, 1987.

My dear, this is the evening and I sit alone at home. I cannot find a place because you are not next to me * * * I want to cry * * * Now everything is very hard to accept. You are very gentle. You are a woman that I like more than my life, and I think always about you * * *

In spite of everything, you didn't lose anything. You only became better. Now I more and more want you. And I understand that I cannot live without you * * *

In my heart everything turns over. I thought that for this year I became like a stone. But you brought me so many joys that I found myself, and you make me again happy.

I miss you very much, and I miss our children and our grandson. I want to talk to my grandson, because I like him and I think he will be my teacher and my good friend.

VOLUNTEERS OF AMERICA BEGINS ITS 93D YEAR OF SERVICE

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. BAKER. Mr. Speaker, on March 8, Volunteers of America, one of the Nation's largest human service agencies, will begin its 93d year of service. Volunteers of America was founded by Ballington and Maud Booth in New York City in 1896. Today, VOA operates human service programs in 40 States, provides direct service to over three-quarters of a million recipients and affects the quality of life of more than 5 million Americans.

Volunteers of America has always worked with others to provide what is needed most in a particular setting rather than imposing its own social service model on a community. By the early 1900's, Volunteers of America had established fresh-air camps, rescue homes for young women, day nurseries, homes for unemployed men, hospitals and shelters for the homeless. Volunteers of America responded to emergencies, such as the San Francisco earthquake and fire, and served more than 4 million Americans during the Great Depression.

Today, with almost a century of experience, Volunteers of America is providing residences for the elderly and low-income families, nursing homes, group homes for the mentally retarded and emotionally impaired along with prevention and rehabilitation services in the area of substance abuse. Volunteers of America is among the leaders in providing corrections services to all levels of government. Recent partnerships developed by Volunteers of America are teaching illiterate adults to read and providing entrepreneurial skills to innercity youngsters. Program volunteers and donors along with VOA professionals are not only helping others, but also are experiencing the true spirit of American philanthropy.

With the unique ability for timely responses to social service needs, Volunteers of America is taking a leadership role in today's most pressing problems. With a remarkable frequency, Volunteers of America is adding services to alleviate hunger and homelessness. New day care services are being added in both the public and private sector. The responsiveness of this organization speaks well of its philosophy of meeting individual community needs. Recognized throughout the Nation as a cost-effective provider of services, Volunteers of America carries out many of its programs on a contract or competitive bid basis. The professionalism displayed by Volunteers of America is exceeded only by its dedication to providing quality human services.

The board of directors and professional leadership of VOA seek the highest level of commitment from its volunteers, expects it of the staff and demands it of themselves. Volunteers of America's service philosophy is to work in partnership with others to identify community needs and meet those needs. This, combined with a commitment to maximize dollars spent on programs rather than administration, has resulted in a variety of services.

Volunteers of America is organized, governed, and run with the peak efficiency that is demanded of any growing enterprise. In the years to come, Volunteers of America will continue its search to find new ways to offer more help to more of those in need through innovative and creative resource management.

This year, March 6-13 has been designated National Volunteers of America Week in recognition of its founding. Today, as we celebrate Volunteers of America's 92d anniversary, it is clear that Volunteers of America makes a difference in all of our lives, renews our faith in the philanthropic consciousness of the Nation, and rekindles our hope for the future.

OPM SHOWS WISDOM AND COURAGE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. FRANK. Mr. Speaker, earlier this week, Dr. Constance Horner, President Reagan's appointee as Director of the Office of Personnel Management, promulgated a thoughtful and appropriate policy for dealing with the issues presented by Federal employees who suffer from AIDS or who are carrying the AIDS virus. Sadly, there has been a good deal of misinformation about the impact of AIDS and the AIDS virus in the workplace. In some cases, people acting out of genuine misinformation have urged that people with AIDS or carrying the AIDS virus be summarily fired from jobs, despite evidence that the overwhelming majority of these people would present no health threat whatsoever to their coworkers or others with whom they came into contact. Far worse, many people, including public officials who should know better, and have had access to scientific medical information which indicates that people with AIDS and the AIDS virus are no threat in the great majority of situations in the workplace joined in the effort to legitimize discrimination against these people. In 1986, for example, the Justice Department issued a formal opinion justifying the right of employers to dismiss people with AIDS or with the AIDS virus. That opinion was shortly invalidated by the U.S. Supreme Court, which pointed out that Federal antidiscrimination statutes prevented firing people when there was no valid medical reason, if the entity involved received Federal funds. And this opinion was codified in the recently enacted Civil Rights Restoration Act.

Just before both Houses of Congress acted to override the President's veto of the Civil Rights Restoration Act, the Office of Personnel Management promulgated a policy for dealing with Federal employees who have AIDS or the AIDS virus. I was very pleased to see Dr. Horner take the position which the Supreme Court took in the Arline case, and which Congress embodied into law in the Civil Rights Restoration Act.

Specifically, what Dr. Horner sensibly did was to note that people with AIDS and with the AIDS virus will pose no threat to the health of others in the overwhelming majority of situations that occur with Federal employees. Dr. Horner widely and courageously explained the Government's responsibility to deal with misinformation and fear, and the policy she has set forward is one that will fully protect the public health while also protecting the rights of individuals with AIDS or with the AIDS virus.

Particularly given the demagogic efforts that have sadly existed to manipulate honest fears about AIDS, Dr. Horner's actions are worthy of congratulation. In setting down these sensible and fair policies for protecting the rights of Federal workers with AIDS and with the AIDS virus, Dr. Horner has acted in the finest traditions of executive leadership. I have expressed to Dr. Horner my admiration for her position in this matter and I want to note it here. I hope that other employers in both the private and public sectors will take advantage of the excellent example which Dr. Horner has set on behalf of the Federal Government, and that they will promulgate similar policies. There is no conflict between full protection of the public health and sensible protection of people with AIDS and the AIDS virus. Dr. Horner deserves credit for recognizing and acting on this fact.

KOREAN FOOD SERVICES MARKET OPENS TO AMERICAN BUSINESS

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. ALEXANDER. Mr. Speaker, I'm pleased to announce that the Government of Korea through its Ministry of Finance has approved a joint venture agreement between First Korea Corp. and the Delaware-North Co. International.

This historic agreement to have a major American corporation provide, with its Korean partner, a competitive choice in food service at Kimpo Airport in Seoul, Korea, is in response to numerous requests from Members of Congress and officials of the United States Commerce Department.

This is the first time that the Korean Government has licensed a foreign joint venture for catering services and food processing at Kimpo Airport, and will provide all the airlines that service Korea with a new supplier who will provide a more competitive environment to offer good food at a reasonable price.

Charles Kim, president and owner of First Korea Corp. will be a leading force in the joint venture project with Delaware-North Cos.

Delaware-North Cos. is a privately held multimillion dollar corporation with expertise in the food, parking, and racing industries. They are the owners of one of the premiere racing properties in the United States, located in my congressional district in West Memphis, AR.

CARL HIAASEN TELLS IT LIKE IT IS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 23, 1988

Mr. LEHMAN of Florida. Mr. Speaker, Carl Hiassen's column in the Miami Herald on March 21, was one of candor and courage. I want my colleagues to know that there is a strong voice in the Miami press that can critically analyze the administration's policy in Central America. Ours is not an easy community in which to speak out against this policy. I commend Carl Hiaasen's article of the attention of my colleagues:

REAGAN IS PLAYING WAR AGAIN—WITH REAL SOLDIERS

(By Carl Hiaasen)

It was too much to hope that Ronald Reagan could dodder through the remainder of his term without endangering any more American troops.

Stung by congressional rejection of his contra aid plan, the president has sent 3,200 U.S. soldiers to Honduras. His excuse is a major border entry this week by Sandinista troops.

The Nicaraguan forces are not occupying Honduras, or taking over villages, or firing on civilians. They are attacking the base camps of contra rebels, who flee into Honduras when things get too hot in their homeland.

Israel doesn't tolerate enemy guerrilla encampments in its borders, and neither would we. Why expect Nicaragua to do less?

The Sandinistas have chased the rebels into Honduras dozens of time before, and we seldom sent a post card. This time, however, the White House has declared it an invasion.

"Incursion" is a better word. That's what Richard Nixon called it in 1970 when he sent U.S. combat troops into Cambodia to attack North Vietnamese base camps. Nixon didn't call it an act of aggression, but that's what we're saying about the Sandinistas.

Is there a difference? Certainly. When we invaded Cambodia, we weren't even defending native soil. The Nicaraguans are.

Exactly how many Sandinistas entered Honduras is in dispute, estimates ranging from hundreds up to 7,000.

I wouldn't trust Daniel Ortega's word on anything, but if there is one person with shabbier credibility, it's Assistant Secretary of State Elliott Abrams, the architect of this perilous charade.

The other night on television, Abrams gave a sniveling, whiny performance in which he had the gall to call Ortega a liar. This, from a man who sat there and repeatedly lied to congressional committees investigating aid to the contras—and later admitted it.

Abrams was lucky not to be indicted along with Ollie North and the other space cowboys. The fact that Reagan keeps him around says everything about the two-faced morality of our foreign policy.

Time and again under Reagan, young Americans have died in the wrong places for the wrong reasons—bombed in their barracks in Lebanon, killed by friendly fire on the shores of Grenada, bushwhacked aboard the USS *Stark* in the Persian Gulf. Not since Lyndon Johnson have we had a president so willing to make U.S. soldiers a foreign target.

At a meeting in a Miami hotel the other night, a group of Nicaraguan exiles heartily applauded news of Reagan's decision to send U.S. forces to Central America. I understand their emotion, but I would sympathize even more if some of them—trim and able-looking men—had gone to the airport and booked a flight to Honduras for themselves. The battle is there, not here.

Likewise, many callers to Latin talk-radio stations are acclaiming Reagan for sending in the 82nd Airborne; one even suggested that we roll straight into Cuba, while we're at it. Here's a better idea: If you feel that way, go do it yourself.

It's easy to cheer when it's someone else who is flying off on the troop planes. Nicaragua is not our country, and it's not our fight.

The contras are falling because they have little support from the people. While rebel forces include many courageous soldiers, they also include murderous thugs who persist in slaughtering women and children. This strategy, wins few friends in the countryside.

Whenever a president calls out the troops, there's a natural instinct to rally behind him. This is not a bad thing—it's patriotism. Nobody wants to think our commander in chief would play politics with American lives, yet there's no other explanation for the hype job in Honduras.

Sending soldiers is Reagan's favorite way of waving the flag. Every time he does, we end up digging new graves at Arlington.

It's not real war, but it's the closest thing.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 24, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 25

9:30 a.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Archives and Records Administration, U.S. Secret Service, and the Administrative Conference of the United States.

SD-124

Armed Services

Readiness, Sustainability and Support Subcommittee

To resume open and closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.

SR-222

Commerce, Science, and Transportation

To hold hearings on the nominations of Frank DeGeorge, of Maryland, to be Inspector General, Robert H. Brumley II, of Virginia, to be General Counsel, and Marc G. Stanley, of Maryland, to be an Assistant Secretary, all of the Department of Commerce.

SR-253

Foreign Relations

To hold hearings on the nomination of Daniel G. Amstutz, of New York, for the rank of Ambassador during his tenure of service as chief Agricultural Negotiator in the Uruguay Round of Multilateral Trade Negotiations.

SD-419

Governmental Affairs

Federal Spending, Budget, and Accounting Subcommittee

To hold hearings on proposed legislation authorizing funds for the Office of Federal Procurement Policy

SD-342

Select on Intelligence

To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

Special on Aging

To hold hearings to examine adverse drug reactions in the elderly.

SD-628

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1989 for atomic energy defense programs, including nuclear energy, weapons research and development testing and production programs, and a new production reactor program.

SD-116

Foreign Relations

Business meeting, to continue consideration of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

SD-419

10:30 a.m.

Finance

Taxation and Debt Management Subcommittee

To hold hearings on the tax treatment of single-premium and other investment-oriented life insurance.

SD-215

2:00 p.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on the Air Force revised space launch program and policy.

SR-222

Foreign Relations

Business meeting, to continue consideration of the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11).

SD-419

MARCH 28

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Mines, and the Office of Surface Mining.

SD-128

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Management and Budget (OMB), and the Office of Federal Procurement Policy.
SD-116

Armed Services
Readiness, Sustainability and Support Subcommittee
To resume open and closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on Army and Air Force ammunition programs.
SR-222

Commerce, Science, and Transportation
To hold hearings on the nominations of Robert L. Pettit, of the District of Columbia, to be Associate Deputy Secretary of Transportation, and Edward R. Hamberger, of Maryland, to be an Assistant Secretary of Transportation.
SR-253

Finance
Taxation and Debt Management Subcommittee
To hold hearings to review certain tax provisions which have recently expired or will expire this year, focusing on the exempt treatment of mortgage revenue bonds and the targeted jobs tax credit.
SD-215

Governmental Affairs
To resume hearings on proposed legislation relating to the elevation of the Veterans Administration to Cabinet status.
SD-342

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Power Marketing Administrations, including Bonneville Power Administration.
SD-138

Energy and Natural Resources
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on civilian nuclear radioactive waste activities and the Department's plans to implement the amendments to the nuclear waste program enacted by P.L. 100-203 (Omnibus Budget Reconciliation Act, 1987).
SD-366

Judiciary
To hold hearings on pending nominations.

11:30 a.m.
Conferees
On the education and labor provisions (plant closings) of H.R. 3, Omnibus Trade and Competitiveness Act.
EF-100, Capitol

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Naval Petroleum Reserve, and the Strategic Petroleum Reserve.
SD-116

Armed Services
Conventional Forces and Alliance Defense Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on budgeted and unbudgeted alternatives for improving conventional defenses in NATO, including air defenses.
SR-222

MARCH 29

9:30 a.m.
Armed Services
Defense Industry and Technology Subcommittee
To hold hearings on Department of Defense policies and international agreements that affect the defense industrial base.
SR-222

Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 2167, to provide for Federal energy conservation standards for fluorescent lamp ballasts.
SD-366

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for force structure programs.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Indian Affairs.
SD-116

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

2:00 p.m.
Select on Intelligence
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

3:00 p.m.
Select on Indian Affairs
Business meeting, to resume consideration of S. 802, to transfer ownership of certain lands held in trust for the Blackfeet Tribe, and to begin consideration of S. 1236, to authorize funds for fiscal year 1988 for housing relocation under the Navajo-Hopi Relocation Program.
SR-485

MARCH 30

9:00 a.m.
Rules and Administration
To hold hearings on S. 2061, to establish national standards for voter registration for elections for Federal office.
SR-301

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to resume markup of S. 1516, Federal Insecticide, Fungicide and Rodenticide Act Reform of 1987.
SR-332

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Rural Electrification Administration.
SD-138

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of the Air Force.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Smithsonian Institute, and the Woodrow Wilson International Center.
SD-116

Appropriations
Military Construction Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for military construction and family housing programs.
SD-192

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Legal Services Corporation.
S-146, Capitol

Environment and Public Works
Environmental Protection Subcommittee
Hazardous Wastes and Toxic Substances Subcommittee
To hold joint hearings on S. 570 and S. 571, bills to reduce atmospheric pollution to protect the stratosphere from ozone depletion.
SD-406

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To resume hearings on S. 909, to require government agencies to turn back to the Treasury any savings generated from contracting out.
SD-342

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

10:00 a.m.
Armed Services
Projection Forces and Regional Defense Subcommittee
To hold hearings to review Persian Gulf operations in relation to the revised Department of Defense authorization request for fiscal year 1989.
SR-222

MARCH 31

9:00 a.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on proposed legislation authorizing funds for the Department of Energy, focusing on atomic energy defense activities.
SR-222

Veterans' Affairs
To hold hearings on proposed legislation relating to agent orange and related issues.
SR-418

9:30 a.m.
Small Business
To hold hearings on S. 1929, to create a corporation for small business investment.
SR-428A

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Strategic Defense Initiative.
SD-192

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Geological Survey.
SD-116

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Aviation Administration, and the General Accounting Office.
SD-138

Banking, Housing, and Urban Affairs
To hold hearings on proposals for structural and regulatory reform in the securities markets.
SD-538

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 314, to require certain telephones to be hearing aid compatible.
SR-253

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

2:00 p.m.
Armed Services
Readiness, Sustainability and Support Subcommittee
To resume open and closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on overseas base agreements and associated military construction programs; and to review a GAO report on the administration of U.S. maneuver damage claims in Europe.
SR-222

Energy and Natural Resources
Research and Development Subcommittee
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on the uranium enrichment program, and the need for restructuring of the enrichment enterprise.
SD-366

APRIL 11

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Forest Service.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency.
SD-124

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-192

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-192

APRIL 12

9:30 a.m.
Energy and Natural Resources
Research and Developmental Subcommittee
To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on the Super-conducting Super Collider and the basic science budget.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy conservation and emergency preparedness programs.
SD-116

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-138

2:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-138

APRIL 13

9:00 a.m.
Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold joint hearings with the Committee on Rules and Administration on provisions of S. 1947, to provide for the acquisition of the Old City Post Office building in the District of Columbia by the Architect of the Capitol for use as a Senate and House of Representatives office facility.
SR-301

Rules and Administration
To hold joint hearings with the Committee on Governmental Affairs' Subcommittee on Federal Services, Post Office, and Civil Service on provisions of S. 1947, to provide for the acquisition of the Old City Post Office building in the District of Columbia by the Architect of the Capitol for use as a Senate and House of Representatives office facility.
SR-301

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative priorities of AMVETS, Vietnam Veterans of America, and the Jewish War Veterans.
SD-106

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Labor.
SD-124

Governmental Affairs
Oversight of Government Management Subcommittee
To continue hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Farmers Home Administration, Federal Crop Insurance Corporation, and the Farm Credit System Assistance Board.
SD-138

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for reserve components' military construction and

defense agencies' military construction and family housing programs.
SD-116

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-192

Commerce, Science, and Transportation
To hold oversight hearings in conjunction with the National Ocean Policy Study on the implementation of the Marine Mammal Protection Act.
SR-253

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-192

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for ACTION, Corporation for Public Broadcasting, Railroad Retirement Board, Federal Mediation and Conciliation Service, National Mediation Board, National Labor Relations Board, and the Occupational Safety and Health Review Commission.
SD-124

APRIL 14

9:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to review environmental conditions and trends in marine and near shore-coastal waters.
SD-406

10:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Gallery of Art, Commission on Fine Arts, FDR Memorial Commission, and the Advisory Council on Historic Preservation.
SD-138

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transit Administration, and the Washington Metropolitan Transit Authority.
SD-124

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.
SD-192

APRIL 15

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Prospective Payment Assessment Commission, Physician Payment Review Commission, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on the Handicapped, Soldiers' and Airmen's Home, and the U.S. Institute of Peace.
SD-192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the General Services Administration and the Executive Office of the President (with the exception of OMB).
SD-116

APRIL 18

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for fossil energy research and development, and clean coal technology programs.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.
SD-124

1:00 p.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Postal Service, and the Office of the Secretary of the Treasury.
SD-116

APRIL 19

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.
SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.
SD-124

APRIL 20

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.
SD-192

10:00 a.m.
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Army military construction and family housing programs.
SD-124

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for drug enforcement and coordination programs.
SD-146, Capitol

1:30 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Territorial Affairs, and territorial governments.
SD-138

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.
SD-192

APRIL 21

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.
SD-116

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the Department of Health and Human Services.
SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the

Office of the Secretary of Transportation, and the General Accounting Office.

SD-124

APRIL 22

9:30 a.m.

Appropriations

Labor, Health and Human Services, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.

Judiciary

Courts and Administrative Practice Subcommittee

To resume hearings on S. 1482, to make certain improvements with respect to the Federal judiciary.

SD-226

APRIL 25

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.

SD-124

APRIL 26

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-124

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency.

S-126, Capitol

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, and the Navajo-Hopi Indian Relocation Commission.

SD-116

APRIL 27

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.

SD-124

APRIL 28

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-116

10:00 a.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for diplomatic security programs.

S-146, Capitol

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.

SD-124

10:30 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2068, to protect marine and near shore-coastal waters through establishment of regional marine research centers.

SD-406

1:30 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on fossil energy research and development and the clean coal technology programs.

SD-366

2:00 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management.

SD-116

APRIL 29

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.

SD-192

MAY 9

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 10

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 11

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.

SD-124

MAY 12

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.
SD-192

10:00 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for trade activities of the Department of Commerce and the U.S. Trade Representative.
S-146, Capitol

MAY 17

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

2:00 p.m.
Energy and Natural Resources
Research and Development Subcommittee
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on renewable energy and energy conservation programs.
SD-366

MAY 19

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 24

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 25

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 26

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-138

JUNE 7

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 9

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

HOUSE OF REPRESENTATIVES—*Thursday, March 24, 1988*

The House met at 11 a.m.

Rev. Charles A. Mallon, permanent deacon, Holy Family Church, Mitchellville, MD, offered the following prayer:

Unless the Lord builds the house, those who build it labor in vain, unless the Lord watches over the city, the watchman stays awake in vain.—Psalm 127: 1-2.

Father, in our foolishness, we imagine that we are in control of the events which shape our lives. We acknowledge the powers and forces around us that patronize our vanity and destroy our dependence upon You.

Father, You are revealed in the tablets of stone and in the flesh of our hearts. Allow these revelations to cleanse our hearts of all vanity and to motivate our lives in obedience to Your devine love.

We ask this through Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 3981. An act to make section 7351 of title 5, United States Code, inapplicable to leave transfers under certain experimental programs covering Federal employees, except as the Office of Personnel Management may otherwise prescribe; and

H.J. Res. 480. Joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2151) "An act to amend section 416 of the Agricultural Act of 1949, and for other purposes."

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 90) "Joint resolution to authorize and request the President to call and conduct a White House Conference on Liberty and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, and for other purposes," disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PELL, Mr. KENNEDY, Mr. MATSUNAGA, Mr. DODD, Ms. MIKULSKI, Mr. STAFFORD, Mr. HATCH, Mr. QUAYLE, and Mr. THURMOND to be the conferees on the part of the Senate.9

The message also announced that pursuant to section 143 of the Nuclear Waste Policy Act, as amended by section 5021 of Public Law 100-203, the Chair on behalf of the President pro tempore and with the concurrence of the Speaker of the House of Representatives, appoints Mr. Victor Gilinsky, of Maryland, Mr. Alex Radin, of the District of Columbia, and Mr. Dale E. Klein, of Texas, to the Monitored Retrievable Storage Review Commission.

STATUS OF HOUSING FOR THE POOR

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HOYER. Mr. Speaker, last evening James W. Rouse received the second annual "Honor Award" from the National Building Museum.

Mr. Rouse is recognized as one of the most visionary of 20th-century developers. That vision has transformed cities across this country, both in projects he has developed and in those developed by people who have followed his lead. In my own State, Mr. Rouse's development of the Inner Harbor is recognized as having been the catalyst for revitalization of downtown Baltimore. And a little to the south of that city, Mr. Rouse over the past 25 years has created an entire vibrant, heterogeneous community—Columbia—out of what was once farmland.

In accepting the Honor Award, Jim Rouse discussed his vision of the current state of housing for the poor in America. We should all listen to his message that "housing for the very poor is a current disgrace and its correction a crucial necessity." The statistics he shares with us about homeless children and families, and the millions who pay one-half of their incomes for inadequate housing are chilling.

Mr. Rouse is serving on the task force created by the Senate Banking Committee on new alternatives to attack our Nation's housing crisis. While we await the release of their report next week, I urge my colleagues to read Jim Rouse's message. We must recognize our moral obligation as what he calls, "the wealthiest country in the world, with the highest problem-solving capability in the history of mankind." He urges us "to provide the opportunity for all our people to have fit and affordable housing by the year 2000."

I urge my colleagues to review his speech that I am including in the RECORD.

You passed a lot of pictures to get in here tonight. They spoke of two cities—two cities which exist in almost every city in America.

There is the sparkling, growing city of fine new office buildings, hotels, restaurants—of new institutions of art, music, education, entertainment that mark the extraordinary rebirth of the American center city.

There is new vitality, new life, new spirit downtown in cities across the country—Baltimore feels like a new city. The spirit of the people soars with pride in what has happened and with high expectancy for the future. There is a new sense of community among the people of Baltimore—centered on the inner harbor.

And in Washington, which never tumbled as far as Baltimore, there is new strength, new energy, growth and confidence about the future of the center city.

These are the cities of those who are making it.

But right alongside in almost every city is a second city of those who are not making it—the city of the poor. It is like a Third World city—the city of people who are struggling to survive in miserably unfit housing in wretched, disorderly neighborhoods—with too little food, too little health care, too little work, and too little training for work, too little education, too little happiness, too little hope. It is like another nation where we are growing people who feel left out, abandoned, separated from the opportunities for the good life that abounds all around them.

The people of this country for the most part, people like those of us in the room this evening—leaders in business, banking, government, the managers of our wealth and our institutions—do not know how millions and millions of people in our country live. We think we do. We have read the dismal figures, seen pictures of dilapidated housing in derelict neighborhoods, but most of us have not walked those streets, stepped inside those houses, climbed the stairs in those apartments, have not seen good people with clean, decent families huddled in that miserable housing, paying outrageous rents; have not looked into the saddened, sullen faces; felt the hopelessness, the distrust, suspicion, and separation that pervades their life and all around them.

Let me tell a little story that illustrates that feeling—that suspicion and distrust.

Jubilee Housing is known by many here tonight as a nonprofit group that has performed miracles in transforming wretched

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

buildings and miserable lives in northwest Washington. Their work began in 1973 with the purchase of the Ritz and Mozart, once fine buildings, home for 90 very poor families—no doors on the front, the lobbies were the street. Mail boxes ripped off the walls, elevators didn't run, five-floor walk-ups. Garbage and trash thrown down the elevator shafts out of fury and frustration. The stench made one gag. This was their home. Think of it. Now with over 50,000 hours of volunteer work and a little cash, they have been restored to decent buildings with new hope for the families living there.

One day I was working with Rosa Hatfield to help raise money for Jubilee. Rosa, a black woman with very low income, lived in the Ritz with her three children. She had been very suspicious of Jubilee's takeover, had gradually turned around to become a co-worker and manager of the Ritz. We had come to know one another well enough to talk frankly with each other.

One day, I turned to Rosa and asked, "Rosa, what did you think when all those white people came in here to fix up these apartments?" Her reply was, "I thought the same thing everyone else thought: what are they going to do to us now."

There in a sentence was the mood that burns inside the hearts and minds of millions of very poor people who feel abandoned and stepped on by our society.

Most of us don't know those lives and don't know:

That there are more than 32 million people living in poverty in the United States, up from 25 million 10 years ago.

Don't know that, while the number of poor people seeking housing has increased, the quantity of housing affordable to them has declined. Therefore, the cost of housing has gone up—way up.

Don't know that of 13 million families with incomes under $10,000 a year, nearly half—42%—pay more than 50% of their income for housing. Think of it, over half their income in rent.

And the pools of jobless at the heart of our cities are 30%-40%, sometimes 50%, of the population in the areas.

It is said that 48% of all young, black men seeking work are jobless. This means that a kid graduating from high school—or quitting before he graduates—has about an equal chance of work or hustle—hustling to survive, petty crimes, drugs, then larger crimes, with families living in fear. Trapped in these urban jungles.

And now the new phenomenon that arises from our national unawareness—and inattention to these conditions—the homeless—the picture of men and women asleep along the sidewalk; of families with no place to spend the night—shocks us all.

And who are the homeless.

A 1985 study of homelessness by the Maryland Department of Human Resources reports that:

The leading causes of homelessness include the lack of low-income housing, unemployment, eviction, release from an institution. And, of course, there are the drug addicts, alcoholics, and those who simply choose to live outside of society.

But the Department of Human Resource report also showed that:

22% of the homeless were children.

28% were in family groups.

36% were females.

In central Maryland counties (that excludes Baltimore City), family groups predominate, with 40% to 50% of the homeless being children.

A recent *Washington Post* survey showed that 25% of the people in shelters were working, but with no place to live. National estimates show 30-35% of the homeless are families. A *Los Angeles Times* study showed 44,000 families living in cars or garages in Los Angeles.

Is this our country? Can this really be America?

Homelessness has drawn the attention of the media, of caring people, of the politicians as has nothing else relating to the housing of the poor. Homelessness has awakened us to the desperate need of the poor.

And in this, there is hope. For as the homeless open us up to caring, we are led to the conditions behind the homeless—to the millions and millions of near-homeless—the people at the edge who are paying rent they cannot afford, often for housing that is unfit, who have little in reserve—who live with the knowledge and the fear that one setback and they are on the street.

And as we are awakened by homelessness to the deeper, wider needs of poor people, we look for answers. "What can be done?" "What can our country do to correct these dreadful conditions?"

Last September, Senators Cranston of California and D'Amato of New York, the chairman and senior minority member of the housing subcommittee of the U.S. Senate Banking Committee, asked David Maxwell, the fine, caring man who is chairman and CEO of Fannie Mae (short name—the Federal National Mortgage Association), and me to head up a task force to find some answers to that question—"What can be done?"

We asked 24 men and women to join us on this task force. Our criterion for selection was that they be experienced in housing, open and caring. Everyone we asked agreed to serve.

We met almost every week for two days and a night from September to mid-December. And since then various members have met over many weeks to draft the report. It will be released at a press conference next Monday, the 28th.

The task force has included home builders, public officials, a mayor, bankers, for-profit and nonprofit developers, real estate leaders, housing professionals.

One of the most notable and important aspects of the task force operation has been the wide area of agreement among men and women of very diverse backgrounds—particularly the clear conviction that housing for the very poor is a current disgrace and its correction a crucial necessity.

There has been no significant new housing legislation since 1978, and, as a result of the very large federal deficits, there has been a substantial reduction in financial support for housing programs.

This decline in federal funds for low-income housing has resulted in a steady decline of fit and affordable housing to meet a steadily increasing need for such housing. Thus, the critical conditions our country faces.

It is the hope and purpose of the task force to lift the housing conditions of poor people in America to a compelling level of concern and commitment by the federal government, state and local governments, for-profit and nonprofit developers; business, churches, civic groups, and individuals—to stimulate a true national program which can bring the forces of the country to bear in a resourceful, inventive, productive campaign to provide the opportunity for all our people to have fit and affordable housing by the year 2000.

To meet this goal, the federal government must provide the essential leadership in calling for that national commitment. And it must support the call with funds that will stimulate and support a rising tide of state, local, and private initiatives.

These initiatives are a bright new hope in housing. They consist of new financing programs and taxes by state and local government—14 states now have housing trust funds. Many more, including Maryland, Virginia, and Pennsylvania, have special state financing programs. Dade County and Miami have a real estate transfer tax for low-income housing. Montgomery County has a tax on conversion of apartments to condominiums. These are examples. There are many others—also to house the poor.

The new initiatives come from hundreds of nonprofit housing corporations working in neighborhoods to acquire, rehabilitate, and build new housing for very low income families. Many are church initiated. The Enterprise Foundation, LISC (the Local Initiatives Support Corporation), Habitat for Humanity, and Neighborhood Housing Services are national, nonprofit organizations assisting these local programs.

Many business corporations, national and local and charitable foundations are, for the first time, providing substantial funds for these initiatives.

One small city with a large vision, Chattanooga, Tennessee, has committed itself to making all housing occupied by very poor people fit and affordable in 10 years.

This bold, pace-setting commitment, scheduled and costed over 10 years, depends upon federal funds not now available to join local funds for financing.

In fact, it illustrates the new partnership opportunity. There is no possibility that this city of 180,000 people, even with the deep commitments by city government, business, charitable, religious and civic resources, can carry out this $200 million program without strong support from the federal government. But the federal government, by investing in this effort, will enable a partnership with local leadership, energy, and money that can build a lighthouse for America.

This new wave of state and local initiatives is a new hope. In total resources it is very small in relation to total need. It is spotty in geographic coverage. But it is an important opportunity for a strong partnership between federal funds in association with local delivery systems to transform the lives of the poor. Here is a case in which 2 + 2 can equal 6.

This new partnership presents the realistic possibility for meeting the housing needs of the poor in our country. It requires a strong commitment in leadership and funding from the federal government and strong commitment from leaders in the states, cities, and the private sector to carry out the local initiatives supported by these funds.

Together we can forge a new America with fit and affordable housing for all who seek it.

We are the wealthiest country in the world, with the highest problem-solving capability in the history of mankind.

Surely we have the capacity to match our resources to our deep concern for the dignity and well-being of our people.

LEGISLATION TO PROHIBIT DAMS ON SNAKE AND LOWER SALMON RIVERS, ID

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, today I am introducing a bill in the House to prohibit the building of dams on portions of the Snake and lower Salmon Rivers in Idaho. This bill is similar to one that Senator McClure of Idaho has introduced in the Senate.

The reason for this measure is simple; there are now renewed efforts to construct several dams on portions of these two beautiful rivers. This legislation is needed to prohibit the Federal Energy Regulatory Commission from licensing any dams on these pristine portions of the rivers. They are in the vicinity of the Hells Canyon National Recreation Area, and there is great public opinion against any possible construction of more dams in the area.

Mr. Speaker, this is not a new issue for Idahoans. We have fought over the years to keep development off these sections of these two rivers. I believe that this bill will send the clear message that Idahoans want these portions of the rivers to be kept in their natural state.

THE OUTRAGE IN IRAQ

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, not since the nightmare of Jonestown—when 913 men, women, and children were killed by poison—has the American public been exposed to pictures of deliberate horror like those that are coming from Iraq showing the use of cyanide, mustard gas, and nerve gas by the Iraqi Government against its own people.

Since the media are excluded from access to these events, we do not know whether it is 3,000 or 5,000 children, women, and old men who are dead as a result of this outrageous use of poison gas by Iraqi authorities.

The U.S. Navy is now protecting Iraq and its allies in the Persian Gulf. The administration must use its leverage with the regime in Baghdad to convince them that mass poisoning of its own civilian population is unacceptable in the eyes of civilized nations. The United Nations must send a mission to investigate this barbaric mass murder—and it must do so immediately.

LEGISLATION DESIGNATING WILD AND SCENIC RIVERS IN OREGON

(Mr. DENNY SMITH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENNY SMITH. Mr. Speaker, today I am introducing legislation that would designate 40 segments of rivers in Oregon as wild and scenic. This legislation is identical to a bill introduced by Senator Hatfield and Senator Packwood. It seeks to preserve approximately 1,600 miles of free flowing rivers, and is the largest single effort to enlarge the Wild and Scenic Rivers System in the lower 48 States since Congress enacted the Wild and Scenic Rivers Act in 1968.

Anyone in Oregon can tell you that I am a strong advocate of genuine multiple use of the State's public lands. This bill fits in well with that multiple use concept. It will specify the management of certain river stretches flowing through public lands, in an effort to preserve our State's natural beauty.

This bill is a discussion draft. I intend to be actively involved in the hearing process, and to ensure that any concerns about the impact of the bill are addressed.

Mr. Speaker, I would just like to reiterate that I am encouraged that this effort will preserve important scenic areas in Oregon, without destroying the wood products industry on which our State so heavily depends for our economic livelihood.

DO NOT PARDON INDICTED IRAN-CONTRA PARTICIPANTS

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, some voices are being heard these days urging the President to issue pardons to John Poindexter, Oliver North, and other indicted participants in the Iran-Contra affair. Other craftier voices are saying, "Yes, grant the pardons but not until after the elections in November. That way George Bush will not be hurt by an outraged electorate."

Will Mr. Bush tell us what he thinks of the idea of pardons? Do not bet on it. But regardless of the timing, granting pardons would be an inexcusable violation of the public trust.

A Presidential pardon would be viewed by the American public as an endorsement of a gross misconduct by public officials. It would seriously undermine the confidence of the American people in their Government.

Along with a number of our colleagues, I am writing the President urging him not to issue any pardons. We must insist that those indicted be tried and those convicted of crimes be sentenced. To do less would threaten the very integrity of our system of government.

GREEK INDEPENDENCE DAY

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, tomorrow, March 25, marks an anniversary that is celebrated every year with great love and respect by every citizen in the world who might have heritage in the Greek tradition.

March 25, 1821, was the day when the Greek nation then declared independence against the Ottoman Empire. Simultaneously, on March 25 then and since, the Greek Orthodox and Eastern Orthodox adherent celebrates one of the great religious holidays on the entire calendar. So in a confluence of events on March 25, it is a glorious day of celebration to many, many people throughout the world, and to add to the historic significance of it, on that March 25, 1821, when independence was declared in Greece, the one who raised the flag of independence was a priest. The religious holiday and the ethnic holiday and the great independence fervor which hits every citizen of the world of Greek descent or of Greek blood or of Greek heritage on March 25 will be repeated tomorrow.

MILITARY BREACH OF PROMISE ON HEALTH CARE

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, earlier this week I received an announcement made by the Army's Medical Command indicating that beginning April 1, no Army hospital anywhere in the 50 States would be filling prescriptions issued by civilian doctors treating active duty military personnel, their dependents, or those on the retired list.

Mr. Speaker, this announcement amounts to a serious breach of promise in which our military members along with the retired community were assured medical services would be available to them through any military hospital anywhere in the entire United States.

The Army has correctly stated that the necessity for curtailment of these services and the breaking of faith with our military people comes about because of curtailment in moneys for the remainder of fiscal year 1988. Somehow in some way, Mr. Speaker, the Army is going to need to find these additional military dollars perhaps through curtailment of some Army program within this year's budget. I have explained to the Surgeon General's Office as well as the Secretary of the Army's Office the seriousness of this directive and have assured them that I stand ready to assist in finding some way to see that these funds are restored during the remainder of this year.

PEACE IS BREAKING OUT IN NICARAGUA

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, all Members of the Congress should take great satisfaction this morning in the very welcome news from Nicaragua.

Negotiators from the Nicaraguan Government and the Contras have agreed to a preliminary ceasefire aiming toward a political resolution of the 7-year war.

The worst fear of Ronald Reagan, Elliot Abrams, and the whole Iran-Contra administration has come true: peace is breaking out.

Let's start figuring out how to support peace instead of how to sustain war.

And let us also demand broader changes in our Central American policy—a policy of failure from start to finish.

A failed policy which has resulted in Salvadoran political victories by the extremist rightwing Arena Party—led by a man our own Government has linked to death squads and murder.

A policy which propped up Manuel Noriega in the dual role of military leader and drug czar for years, jeopardizing a real United States security interest, the Panama Canal.

A policy which has ignored the rampant corruption and drug running in the Honduran military.

The progress of the Nicaraguans, in spite of our own saber rattling, sends a powerful signal to our own Government.

We can no longer tolerate the failed policies of the Reagan administration in Central America—policies which have meant war, not peace; drugs, not economic development; and military strongmen, not democracy.

SERIOUS FLAWS IN SHULTZ ARAB-ISRAELI PEACE PLAN

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, when we heard that Secretary Shultz was embarking on an effort to bring an end to the Arab-Israeli conflict, Americans responded with enthusiasm and encouragement.

No one here doubts the Secretary's commitment, nor his best intentions. But now we have had a few weeks to examine his proposal, and to our regret, we have found many serious flaws.

The Shultz plan is the classic case of good intentions gone sour.

The great tragedy of the Shultz plan is that it supplanted the Camp David process the only realistic framework for peace.

The wisdom of Camp David was in its recognition that true peace and security can only be built on a foundation of experience and mutual trust.

And this can only come from a transitional period of self-administration that would then lead to negotiations on the permanent status of the territories.

But in the interests of haste, the Secretary has opted for a quick fix instead.

By shortening the interim period and rushing the talks on final status, the Shultz plan asks Israel to hand over the territories—without having this crucial experiment in coexistence, and without being able to know for sure whether or not the Arabs are willing to end their 40-year quest to drive Israel into the Mediterranean Sea.

And Prime Minister Shamir was absolutely right to object to the idea of an international conference.

Can we reasonably expect Israel to entrust its security to a tribunal stacked 4 to 1 against her? When two of the countries refuse to officially recognize Israel's existence, and the other two are, at best, indifferent to Israel's survival?

And other than warming the hearts of Israel's enemies, what would be achieved by bringing the Soviets to the Mideast peace table, when the Soviet Union has trained and armed the PLO murderers for years, and when they are the cosponsors of that vile United Nations resolution equating Zionism with racism?

Mr. Speaker, the Arab riots have created a sense of panic. But panic rarely makes for good policy. We ought to stick steadfastly to the Camp David accords, the one plan that has brought some modicum of peace to that war-torn area.

□ 1115

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL 6 P.M., FRIDAY, MARCH 25, 1988, TO FILE LEGISLATIVE REPORTS AND INVESTIGATIVE REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until 6 p.m., Friday, March 25, 1988, to file two legislative reports and seven investigative reports.

The SPEAKER pro tempore (Mr. WEISS). Is there objection to the request of the gentleman from Texas?

There was no objection.

SUPPORT DEMOCRACY IN HONG KONG

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, Chinese leaders have objected to any British Parliamentary debate on Hong Kong's post-1997 constitution, "the Basic Law." Based on reports of its contents, China has much to fear from such a debate.

Beijing's Basic Law provides that its National People's Congress will have the final say in Hong Kong's judicial matters instead of the colony's own judiciary as required by the 1984 British-China accord. In addition, the structure of Hong Kong's legislative council will effectively bar China's opponents from being elected.

Mr. Speaker, Britain and the rest of the West need not kow tow to China's designs on Hong Kong's future. Until 1997, Britain is charged with protecting Hong Kong's freedoms, including political freedoms and freedom of speech. The most effective way to secure democracy for Hong Kong is to install solid democratic institutions long before the colony is handed over to China.

Surprisingly, Prime Minister Thatcher recently bowed to pressure from the PRC and announced that it will not permit direct elections in Hong Kong until 1991, and then only 10 of the 57 members of the Legislative Council will be directly elected.

I ask my colleagues to sign my letter to Margaret Thatcher urging her to implement direct elections before 1991 and thus support democracy in Hong Kong.

TODAY IS A HISTORIC DAY FOR NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. GUARINI] is recognized for 5 minutes.

Mr. GUARINI. Mr. Speaker, today is a historic day for Nicaragua. And today is a historic day for the Western Hemisphere.

Last night, at midnight in Nicaragua, the Sandinistas and Contras agreed on a 60-day truce.

They agreed on a series of actions that would, if implemented, increase freedom in Nicaragua.

They agreed on further talks that could, if successful, end the bloodshed in this divided nation.

They agreed that the time has come to end the fear, end the hatred, end the violence, end the war, end the killing, and end the suffering.

Equally important, they agreed that repression must stop, that division must stop, and that peace requires a true, lasting, national reconciliation.

Mr. Speaker, in recent days I have met, at length, with Contra leaders. I believe they want peace. They have shown they want peace.

At Sapoa, both sides showed a willingness to compromise, to be flexible, to meet each other half-way.

As a result: hope has replaced hatred. And for Nicaraguan children, they woke this morning to a day without death.

Today, the United States has a historic opportunity.

Let's put our bitter debate behind us.

Let's pass a humanitarian aid package, consistent with the Contra-Sandinista agreement.

Let's work with the democracies of Latin America, who are united in support of peace with democracy.

Let's develop a long-term economic assistance package, to help the people, to build the future, to foster trade throughout the hemisphere. In helping them we are helping ourselves.

And today, I call on President Reagan to immediately resume negotiations with Nicaragua. Let's accept their challenge. Let's see if they'll get rid of foreign advisers, prohibit foreign bases, renounce advanced weapons, and meet our range of security concerns.

Mr. Speaker, as we seek peace in the region, we should seek a political truce as home. For too long, we have torn ourselves apart debating this issue. It is time to unite, to work together, to seek a true bipartisan policy.

Last night, Contras and Sandinistas stood side by side, singing the Nicaraguan national athem.

Maybe, as they reconcile with each other, we can help them by coming together ourselves.

THIS ADVERTISEMENT IS THE HEIGHT OF CORPORATE IRRESPONSIBILITY

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, I rise to bring to the attention of the Members of the House an advertisement in the Wall Street Journal dated Thursday, March 10, 1988, on page 23.

Now it is not that I want the Members to take advantage of this advertisement, because the advertisement in my mind is the height of corporate irresponsibility. It is an advertisement by Continental Airlines suggesting that the citizens of the United States should abuse the tax laws by flying out of the country on April 15, thereby getting their taxes delayed until June 15.

To quote from the ad, "So don't put it off. Take advantage of a loophole big enough to fly a 747 through."

Now, Mr. Lorenzo may have been able by abuse and manipulation of various laws to break a union and to avoid proper maintenance of his airplanes and escape FAA scrutiny there, but it is time that this kind of irresponsibility came to an end. The people of America should flood Continental with phone calls saying, "This is irresponsible." And the Congress should definitely look into these sorts of activities by this airline and anyone else who advocates that people should abuse the tax statutes by flying out of the country for 1 day in order to get their taxes delayed.

STRATOSPHERIC OZONE DEPLETION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. BOLAND] is recognized for 5 minutes.

Mr. BOLAND. Mr. Speaker, I would like to share with the Members of the House an editorial from today's New York Times concerning the loss of stratospheric ozone. Recent research findings by the National Aeronautics and Space Administration, the National Science Foundation, the Environmental Protection Agency, and others have stunned scientists at the severity of the ozone depletion problem. The destruction of ozone by chlorofluorocarbons [CFC's] used in some propellants, refrigerants, and foam containers appears to be much more serious than previously thought.

The loss of ozone will lead to increases in ultraviolet radiation which will increase human skin cancer and alter the ocean's food chain. The depletion of ozone, and the closely related problem of global warming, will make many other environmental problems pale in significance. The United States must urge other countries to join us in ratifying the Montreal Protocol aimed at cutting CFC emissions in half by the end of this century. At the same time, Congress must continue to direct additional resources to ozone research to complete a thorough scientific reassessment. Additional research and documentation of the severity, causes and effects of ozone loss may make it clear that more aggressive control measures will be required internationally.

The Editorial follows:

[From the New York Times, Mar. 24, 1988]

THE RACE TO SAVE THE OZONE SHIELD

The chemical threat to the life-protecting ozone layer in the high atmosphere turns out to be more serious than feared. The damage may already be three times greater than the worst future loss assumed in a pending international treaty to cap production of the destructive chemicals. Even stronger measures may soon be needed.

The ozone layer screens out the part of the sun's ultraviolet light that harms living things. Scientists have long warned that the ozone might be destroyed by the chlorine wafted up in man-made chemicals known as chlorofluorocarbons, or CFC's. These are widely used as refrigerants and in auto airconditioners and foam packaging.

Those warnings, disputed at first, have become increasingly credible, although the evidence is still circumstantial. Ground and satellite readings confirm a decline in global ozone. Ozone fluctuates for natural reasons, but chlorine from CFC's is present in the high atmosphere, and most scientists now believe chlorine is implicated in the recently discovered "ozone hole" over Antarctic.

Each 1 percent drop in ozone is thought to allow a 2 to 3 percent rise in the ultraviolet light reaching the earth. No one knows what effect that might have, but any large increase would be reason for serious concern. The light is destructive to DNA, the hereditary material, and to proteins. Damage to plankton, organisms that inhabit the upper few feet of the oceans, would quickly reverberate through ocean food chains. People could suffer increased skin cancer and impairment of the immune system.

Last year the State Department, led by Ambassador Richard Benedick, scored the notable coup of persuading European countries, with their reluctant chemical industries, to join a pact to control CFC's and halons. Under the Montreal protocol, production is to be frozen at 1986 levels, then cut in half by 1999. Computer models suggested this reduction would hold the global ozone loss to 1 percent, compared with 6 percent without controls. The Senate recently ratified the treaty by 83 to 0.

But the computer models underestimated. A new NASA review of past measurements suggests the ozone layer has already been depleted by up to 3 percent since 1969. The models also failed to predict the Antarctic ozone hole, where 50 percent or more of ozone is lost. It seems that a circular flow of winds develops over the Antarctic each September, isolating the air from the rest of the atmosphere. Within this cool vortex, conditions are ideal for chlorine to destroy ozone. When the vortex breaks up in October, the ozone-depleted air may spread, accounting for some of the global depletion.

Still, though it's prudent to prepare for the worst, newly published measurements show the ultraviolet light reaching the U.S. has in fact fallen during the time the ozone layer was thinning. This puzzling finding has yet to be explained.

All the more reason to hold off panicky attempts to renegotiate the Montreal protocol before it is ratified. The most urgent step is get the protocol ratified by enough countries to put it into effect. European countries have opted for a procedure that invites delay. China has not even signed on.

If current estimates of the ozone threat are confirmed, the next step should be a new international agreement to tighten the CFC production target. An 85 percent reduction is needed simply to prevent the ozone hole getting any worse; a 95 percent reduction would let it heal over decades.

CFC's take some seven years to reach the ozone layer, so that corrective action will take years to have any effect. There is no time to wait for evidence of biological damage. The Montreal treaty is a fine first step, if a second will follow quickly.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, two of the colleagues that preceded me referred to the newspaper accounts about a ceasefire in Central America between the ruling leaders of the Nicaraguan Government and the so-called rebels that, based in Honduras, founded by us, financed by us and violation of international law and in violation of our own laws, we have now created, as we have in other parts of the world, clients that we do not know what to do with.

The cease-fire is a direct result of the inevitable forces that have burgeoned up from the midst of this area or region where, for too long, we have had endless bloodshedding and which, in turn, was the motivating factor for bringing together the seven leaders of the seven nations that for more than 200 years had been much able to get together on too much. As a matter of fact, our policy in the past has been to divide and conquer.

We, under the administration of Ronald Reagan, resuscitated and revived the old gunboat dollar diplomacy last exerted by President Calvin Coolidge who, interestingly enough, President Ronald Reagan admires.

It was this return to a very much outworn and discarded policy or practice—I will not dignify it with the word "policy." Policy signifies that either an individual or a group of individuals has thought out a course of action with premeditated consideration, sober and discreet consideration. I think that can hardly be said about what, in the name of our country, in the name of our people, we have done. We in the Congress have on more than half a dozen occasions just within the last 7 years voted against our own laws, because the anachronism of recognizing the regime that the President has been asking us to destabilize or overthrow by founding what has turned out to be the Contras in Honduras, we first started out in 1981 when Gen. Alexander Haig was Secretary of State, drew the line, said this was an East-West conflict in the smallest country, El Salvador in January. The administration had barely been installed in power in 1981 when he announced and even said ominously, "If necessary we will go to the source of all this trouble," meaning Cuba and Fidel Castro.

So from the beginning the administration opted for a unilateral interventionist policy.

So the first thing that General Haig did was to get his buddies, the military junta that was then ruling Argentina to lend him a few Argentinian soldiers, bring them to Honduras and train what now we know as the rebels or the Contras.

At that time, Nicaragua was being governed by the revolutionary junta which consisted of about four or five individuals, including three priests. One of them, one of the outstanding scholars, literary scholars, and a Latinist expert, widely known throughout the literary world—maybe not in the English-speaking world—but in the rest of the world as quite a bit of a scholar.

□ 1130

He is hardly one that we would equate with what we define as a Communist or Marxist-Leninist, as in every country, because, if, as the President says, and no longer ago than just 48 hours ago, that if this Communist, Marxist-Leninist regime was to continue in power, the Congress would have to answer for it because it had turned down what he considered his version of request for aid.

So the idea then is again the idea that has impelled us to a counterproductive course of action, going back to 1918 and the invasion of Russia by our forces together with and under the leadership then of the French and the British. Now we lost over 300 American soldiers in our incursion into Russia in 1918 in order to try to put down what was known as the Bolshevik Revolution, and, of course, history will show that that was an absolutely futile gesture. There was no way that any external force was about to put down an indigenous uprising by a whole people that were trying to lift themselves from the oppressive tyranny of the czars, and peasantry and the system of peonage that ruled Russia at the time.

What I think we ought to do is reexamine our mind set, not only with respect to this part of the world that we consider to be the Iron Curtain world or in those areas that we consider the incursion of Communist forces, because our thinking has been based on misperceptions of what that real world is, just like our current thinking. Even now, within and without the Congress, within and without the Presidency, our misperception with respect to what we call and lump in one big mass, Latin America, is the fact that any cursory examination and reading of the history of the evolvement of the culture and the history of each one of these 21 entities that we all lump very conveniently in this general designation as Latin America, we would find that we have a thoroughgoing and an abysmal misconception and a wholesale ignorance that today can be costly, just like our ventures into other parts of the world where with the same limitation of knowledge, lack of knowledge and ignorance, has led us to a heavy price, very costly in blood and in treasure.

I still believe that, and this is a way I feel now: With all of the $5 billion-plus that we have poured into El Salvador in the last 7 years, we have lost for the first time members of our armed services under conditions that anyone else would describe as inaction, but which our Government says the soldiers died in an accident. And as I said the other day, just as in the case of the 241 marines in Beirut, they are listed as having died in an accident.

Now how long, how long, American Congress, can we continue with this foolish, self-defeating folly? How long until the Sandinistas, and, of all people, the Contras, can sit down together and say, "Yes, we can declare an armistice, oh, for 60 days, but maybe we can continue talking and lead to something more permanent"?

Where does that leave us? Where does that leave all my colleagues that have consistently voted for aid to the Contras while they would tell me as chairman of the Housing Subcommittee that we did not even have $40 million for our homeless? In 1982 suddenly they can find $274 million for the Contras. What are you going to do now with those 20,000 to 25,000 in Honduras? Honduras doesn't want them, never has wanted them. We have compelled them because we have been in actual physical occupation of Honduras for over 6 years. We have never for 1 day in the last 6 years have had less than 10,000 of our servicemen in Honduras present at any one given date.

Now I think that my colleagues would be the first to accept that, if the American people were fully charged with full knowledge, that they would have a hard time reconciling these conflicting votes, where at home, no charity. Charity outside on the streets, but not at home. That is folly.

I think that, as I have pondered, that if we had gotten those giant B-52's and loaded them up with the equivalent in dollars or $5 denominations of the $45 to $50 billion we poured in Southeast Asia and just flown them over and bombed Vietnam with dollars, we'd be better off today than having lost 55,000-plus of our soldiers, untold treasure, most of which ended up in the equivalent of gold holdings in the vaults of the Central Bank, principally of France and other countries.

And this is what I really wanted to develop this morning, and I will try to be as succinct as possible. Except for the fact that there has been no comprehension that these situations are the most esoteric; apparently qualities like these are hard to understand, but which really are not matters involving finance, monetary affairs, that have everything to do with whether we triumph or lose in the field, I knew we had lost in Southeast Asia because I knew we were losing at the financial tables in Europe.

I have been on the Banking Committee since I came to the Congress. That is 26½ years ago. For 10 years I was chairman of the Subcommittee on International Finance. I do not claim that makes one an expert, but it certainly does charge us with at least having some minimal knowledge, and it has been most distressing, almost immoralizing, to see the course of action.

After all, it is fine to say we should change policy, oh, Mr. President, now that these people have gotten together. But remember we have just stationed brigade-size and the 82d Airborne Battalion ready in Honduras. Are we going to call them back, as we should and as I asked on Monday when I introduced the resolution in which I alleged that the President is in outright violation of the War Powers Limitation Act and that those troops ought to be recalled and centered? Is that going to be done? What reason is the President going to give us for the continued occupation of Honduras?

But more importantly, as this crisis developed more than a month ago, it looked as if the so-called Contras were out there and the Honduran officials were saying, "Well, look, internationally we cannot admit that they are here because we are in violation of international law."

But what I cannot understand is the obtuseness of my colleagues, present and past, and the occupants of the White House when we see fit to keep an ambassador with a portfolio accepted by the Government of Nicaragua as our duly empowered envoy, which in international comity and law means that we recognize that government as the legal government of that country while at the same time our leader, the President, is advertising for private funding of supplies and armament to be sent to these forces that we alone have maintained in Honduras. The Honduran assembly has never once done anything but made pronunciamentos protesting the presence of American troops.

Now why is it that our press doesn't quote that? Even the most conservative newspaper in Tegucigalpa in 1982 said, "We have lost everything, even our honor," referring to the fact that we were occupying the country.

Now the reason there is that Honduras has always been occupied and run by United Fruit. Now it is the big power, J. Peter Grace, who now heads this great conglomerate that owns what is now known as Standard Brands, United Fruit to anybody else, that is actually influencing more than any one person the policy of this administration with respect to Latin America. It is mentalities like this billionaire that are defining what is a Communist, what is a Communist element, what is a Marxist-Leninist, and it goes back to our destabilization of the Guatemalan regime in 1954 of Colonel Arbenz. And of course he fled the moment that our United Fruit funded mercenary pilots bombed and strafed the capital in Guatemala City, and Arbenz fled. Our CIA took great credit for having destabilized a Marxist element. Colonel Arbenz, no more than the Argentinian military, when just months later they found themselves invading what we call the Falklands and thinking that since they had supplied us with soldiers in Honduras that we would take their side to discover that Jeane Kirkpatrick and Secretary of State, Mr. Haig, were hard put to come to their side. Naturally they had to side with Great Britain.

That changed the whole course to this day in Argentina, these military that were the most outspoken anti-Cuban Castro men in power in all of South America, that Argentina military junta who were guilty of the worst atrocities of these desapara citos, disappearing citizens, men, women and children. What it has led to was ironically that less than a year and a half after that in Havana, Cuba, these same generals were toasting Fidel Castro just like the very people that received heroic treatment from El Salvador here in the United States just less than 2 years ago; man by the name of Delbujon. It is a French name. I do not know if I pronounce it right or not. He has been the so-called conservative, but actually that is an abusive word. We have to translate these words if we are to understand the culture and the particular milieu and environment of the different countries because just like democracy means one thing to us, democracy means certainly a different thing to the Russian mind. But in light of their historical and cultural development it is their definition of democracy.

We called our next door southern neighbor a democracy, but actually it is a federal republic, but what would we think if we had our federal republic with the power of the President to remove municipal mayors, governors of state and smaller choices? We would say, my God, we are not following our Constitution. Yet in centralized federal republics like Mexico that is exactly what can happen under their particular definition of a federal republic form of government, Confederation of States, the United States of Mexico. That is the actual official title of the Mexican Government.

□ 1145

The Confederation of States, the United States of Mexico, is the actual official title of the Mexican Government, just like in Russia the official title is the United Socialist Soviet States, the same basic principle.

The difference is that each one of our peoples have had an entirely different cultural and historical condition. So unless we involve ourselves in the abuse of the use of words, we have to be careful to make sure we define it.

The most democratic nation in the whole North Hemisphere in the new world is Costa Rica. This is President Arias, the so-called Arias peace plan originator. There they have had free mandatory public school education for more than a hundred years. They are right next door to El Salvador, sunk in poverty, sunk in illiteracy, sunk in anything but democracy.

Then next to them also is Honduras, the poorest country of all Central America. That is where we rule.

In Costa Rica they have far more open elections than we have, because any party can file a candidacy and, for instance, in the last elections in which Ambassador did everything he could to keep Arias from being elected. In that country, there are two Communist elected representatives to their assembly. And where do you think they come from and what entity do they represent? They represent the Cindicatos, or the labor unions, or syndicates. Where? At the United Fruit Plantation. That is where the two so-called Communist delegates come from; freely elected by those plantation district to the Honduran Assembly.

I would like to know how far anybody in this country would get if he were to run as a Socialist Communist candidate. Nowhere. And, of course, that is our privilege. That is the way we define it, but for us to sit here and commit our young into an enterprise that is not even understood, as we did before in these ventures into other parts of the world far removed, with undescribed reasons and causes.

As a matter of fact, I want to refer to this present situation when the President ordered the 82d Airborne down to Honduras. There was a column by Philip Geyelin on Tuesday, March 22, in the editorial page of the Post. He refers to the comments made by the public information officer of the 82d, and I think it is very, very significant, because this is exactly what has happened all along, all the way from Korea to Vietnam to Beirut, where we had 241 marines slaughtered, unnecessarily, needlessly, and directly because of a Commander in Chief who on an ideological basis disregarded over a period of 14 months the united unanimous recommendation of the chief military experts of our country, the Joint Chiefs.

Now, here is what public affairs officer, Maj. Mike Nason, said at the time that they were announcing the expedition of the 82d Airborne. He said:

[From the Washington Post, Mar. 22, 1988]

ONE MORE FLABBY FLEXING OF U.S. MUSCLE

(By Philip Geyelin)

With an enemy as dense and disorganized as the Sandinista junta, President Reagan scarcely needs the 82nd Airborne Division.

But when it comes to making his case for aid to the Nicaraguan resistance, he does occasionally need the Sandinistas.

And so, it appears, does the 82nd Airborne. In midcrisis last week, the division's public affairs officer, Maj. Mike Nason, said something about the show of U.S. strength that, in the welter of explanations and justifications, had at least the ring of truth. "Maybe at the highest echelons of government they have a political reason for us to be here," he told reporters. "But we see it as a blessing in disguise." The 82nd Airborne Division's money for training, he noted, had been cut by 25 percent in the across-the-board whack at the defense budget. Plans for maneuvers in Panama had been canceled; the division's commanders welcomed the work.

So score one for military budget-busting. Score one as well for wavering congressmen caught up in the gridlock over contra aid. Sen. Nancy Kassebaum (R-Kan.), one of the 10 cosponsors of a new contra aid package, was refreshingly candid about that. "Given the changed circumstances, a lot of people are looking for political cover, quite frankly," she said. "They don't want to face that nagging question: Did you lose Nicaragua?"

That's not all the good stuff—if we are to apply to the latest developments in Central America the standards to which we should now be thoroughly accustomed. As the Sandinistas apparently move back across the Honduran border and U.S. and Honduran forces seem to be ready to wind up their 10-day "training exercises," more than the usual openings for self-serving scapegoating and point-scoring present themselves.

Thus, the White House finds it convenient to hold Congress responsible for inviting the Sandinistas' "knockout blow"—always assuming it had anything more than a show of its own power in mind by shutting off aid. House Speaker Jim Wright blames the administration and Republican members for scuttling his contra aid package and argues that it was this that emboldened the Sandinistas' leadership. The administration, naturally, credits its emergency troop deployment for scaring the Sandinistas off.

For their part, critics of the president's "training exercise" diplomacy can take cold comfort from the storm of nationwide protests—the cries of "another Vietnam" and "another Lebanon"—for what that says about the limits that public opinion imposes on the use of American power. But when you consider the record of the past seven years, those analogies don't really work. "Another Nicaragua" is analog enough for what has happened in the past week—despite all the war fever.

It is not, after all, as if we had been conditioned to expect coherence, credibility or constructive consequences from the Reagan administration in Central America. On the contrary, what we have been witnessing is depressingly familiar, down to the bootless argument over whether the Hondurans requested U.S. help on their own initiative or were strong-armed into asking for it. The official account has it that Honduran President Jose Azcona asked for unspecified "assistance" and was offered a menu, so to speak, to choose from—today's specials, which featured the 82nd Airborne, a unit of combat helicopters or a squadron of jet fighters.

He chose the "training exercise" because it would be "spectacular"—and not, he insisted, because "we don't feel capable of defending ourselves." He explained that he just didn't want to "disparage" the help of a country like the United States.

This hardly sounds like the dealings of a great power in charge of its own destiny. Rather, it sounds like just one more flabby flexing of American muscle in a way that only calls attention to the flab in what passes for a policy. Originally, you will remember, the point was supposed to be interdicting Sandinista support for the rebels in El Salvador. Other times, the president has betrayed his deep-down desire to overthrow the Sandinistas, forcibly.

True, he now seems to have settled, at least for the record, on something less ambitious but no more realistic. He would make those Marxist-Leninists in Managua "say uncle" and embrace democracy under pressure from "freedom fighters" fully funded by Congress with arms and other supplies. To this end, he has given lip service and little more to the so-called Guatemala peace plan authored by Costa Rican President Oscar Arias.

Leaving aside whether the president's goal is negotiable (not even the peace planners would guarantee that), we are left with a peace process that in any case is only barely alive. Meanwhile we are also left with the prospect that a divided Congress will reluctantly wind up voting just enough money to keep the contras in the field, fighting inconclusively and indefinitely. We are left, that is to say, with a presidential obsession and with no means to achieve its ends. Nobody wins, while the hapless Nicaraguan people, combatants and noncombatants alike, continue to lose.

Here is the important part:

Maybe at the highest echelons of government they have a political reason for us to be here—

He told reporters—

but we see it as a blessing in disguise.

What he meant by a blessing in disguise was that now they would be recognized as having been shortchanged in the last budgetary cutback because of an across-the-board cut in that continuing resolution last December 22, which I did not vote for, incidentally, mandated an across-the-board cut that hit the 82d Airborne.

This is how we can get caught in our own folly when we pursue courses of action that are contrarty to our laws, our Constitution.

One of the outstanding authors of the last century on congressional government, Luce, in his first paragraph said with respect to lawmakers:

The lawmaker must himself be the first to obey the law.

Every time we voted to the Contras, we were violating our own statutes. We were violating our own treaties, which form an integral part of our corpus of laws, as the Constitution says. All treaties and laws become, and treaties have the force of law. We have been in violation of several of these treaties, some of them regional, that we ourselves initiated.

We cannot, either privately, collectively or as public officials, violate while we presume to be lawmakers the very laws that we have passed.

There was a reason why the Congress in 1973-74 passed the War Powers Limitation Act. I happened to have some part in it, since one of the leading hands in shaping it was a fellow Texan, a brilliant man by the name of Robert Eckhardt, Bob Eckhardt. I remember clearly as if it were today what it was. The Congress was intending, and I know and as I said all during the 1960's, from the first year, and mind you, the President was one of the most intimate friends I have had as President, barring none, and that was John F. Kennedy. I was raising the issue with him in 1963 in May about having advisers in Southeast Asia with no ability to defend themselves, and yet facing hostility and either serious bodily harm or death.

I told the President to his face that it is folly. He was not aware, apparently, but he did become aware. That was the big difference between President Kennedy and President Reagan. One was accessible. This one is not. One was not an ideologg. This one is. That is where the American people come in.

Now, how can we sit by and ignore this? The President seems to make it the main purpose to eliminate Marxist-Leninism communism. Well, no bomb, atomic or otherwise, can ever kill an idea. We will never, never conquer what we call communism with bombs, anymore than the imperial Roman emperors could kill Christianity by throwing the Christians to the lions and crucifying them or otherwise killing them. It is the same thing today.

The only way anything, no matter what "ism," whether it is the obverse, fascism or whatever you want to call it, or communism, the only way to fight is to fight for social justice, social justice. Get on the side of the people.

Certainly our own origins ought to show that there are times when oppression is of such a nature that there must be a Declaration of Independence even if it means having to fight and die for it. How many of us today are prepared to fight to the death to preserve our liberties here at home? I am not talking about somewhere else, but here at home.

How can we when we act as if we do not even recognize intrusions into these liberties, and yet they are.

The President, for instance, on May 1, 1985, announced an embargo based on his pronouncement, according to the Espionage Act of 1917, that Nicaragua posed an immediate and a clear danger to not only our national interests, but our safety. On the basis of that declaration, he had the power to invoke an embargo, which he did as of that date.

Every year, every May thereafter, he has come before us and announced that he is extending that declaration an additional year. He will do it again, I am sure, unless something miraculous happens. I do not see it.

I think the President is committed, as I said a year ago, as I said 2 years ago, inexorably in a course that is calculated to lead the United States into a military intervention. I still say it. I see nothing to remove that, because the plans are there. Too much money has already been invested. The President himself is out on a stake. He has told us as of last year that he will not leave the Nicaraguan question—meaning a Marxist-Leninist government—for his successor.

So what does that mean? Well, all through history, and I think we in America are not used to this, just like during the period of assassinations in our country. It made me kind of unpopular to point out that these countries we consider very unstable, Mexico, for instance; yes, maybe there you could be guilty of a political assassination, but not in America, and boom, we had John Kennedy in 1963. Within a matter of a short period of time we had the assassination of Martin Luther King. We had the assassination of Robert Kennedy, and then we had the attempted assassination of George Wallace and then President Ford himself, not once but on more than two occasions.

Now, in Mexico you have not had a political assassination since 1923.

Now, some of us are very sensitive because of the background of our families, and therefore we are sensitive to human personalities that all through history, even in our own history—remember, we have had our Aaron Burrs and we have our Alexander Haigs who are in that vein.

President Reagan, as Shakespeare says:

> Of what meat doth he eat? What think you, that through base spaniel fawning or obeisance you can melt or soften the blood of that Caesar?

So I say the problem right now is what are you going to do with 20,000 or 25,000 of these Contras that we support and we still have to do something about? Honduras does not want them. I do not know, maybe this is an agreement they can reach with the Nicaraguans. I do not know. All I do know is this, that we had better start studying a little bit more, and as one of the predecessor speakers this morning said, we better start developing long-range policies. Well, of course, that is fine to think of, but we cannot confine if we are to intervene unilaterally in Nicaragua, we will never confine it to Nicaragua. The whole region is in flames.

□ 1200

In El Salvador, here is D'Aubuisson, who was received as a hero by the so-called conservative forces in Washington, DC, a hero, yet he is the one that in Spanish said, "You bet, I am proud of the escuadrones de gloria," the glorious squads. This is what we call the death squads. They are the ones that assassinated, and he had a hand in it, Archbishop Romero in 1980. It was his squads that killed the five American nuns, the four Scandinavian reporters and several other Americans, and our CIA cheek-by-jowl with these individuals, assassins. Because that is what the sorry record will show, murder will out, and that is a fact. I have been saying it since 1980 and 1981.

That is no comfort to me, because I see this inexorable course of action that this leader has embarked on, chosen by the American people, and whose term of office still continues and will have the full power to act, and I am saying that in these cases it was contemplated under our system that this coequal, separate, and independent branch of the Government would then rise to the occasion, serve the interests of the American people, and counterbalance. Instead of that, it has been yielding and succumbing.

All of that is fine and dandy, but the most important things that have to do with our security continue to be unrelated and unreported.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I am certainly glad to yield to the gentleman, my colleague from Pennsylvania.

Mr. GEKAS. I thank the gentleman for yielding.

Before the gentleman leaves the subject of El Salvador, as the gentleman will recall, I never fail to seize the opportunity to exchange some discussion with him during these special orders.

I have no quarrel with the gentleman's feelings as he is expressing them about the rancor that is caused by the existence in the past, and perhaps even of the present, of the death squads in El Salvador. I do believe that we ought to, as a body, hail the fact that duly conducted elections in El Salvador, regardless of the result, must be continued to be monitored, and which we must continue to have a watchful eye, nevertheless, should be a source of satisfaction to us, that the elections were held, No. 1 and, No. 2, that the Duarte government in place now, even though it might have more loyal opposition opponents than ever it did before, we must give them the benefit of the doubt.

I know the gentleman down deep agrees that that is the proposition that underlies our basic American position in that quarter.

Mr. GONZALEZ. Not really. No, sir. I have an entirely different interpretation.

As in the case of the Contras in Honduras, actually, Napoleon Duarte is considered to be our man that we installed. The elections that were first held a few years ago we sponsored, we paid every penny of the cost of those elections, including the cost of over 100 observers.

The problem remains that the answers by those who are claiming victory in this last so-called election are those that are in defiance of the United States. D'Aubuisson is now a nationalist and is actually claiming his victory, because he was appealing to the nationalist instinct of the Salvadorans, in other words, independence from the intrusion of North America.

That, to me, is certainly indicative of whatever it is we have invested, whatever it is that we have involved ourselves with, we are still far removed from anything that we can interpret as a victory from our concept.

Just a year ago this month, when everything was being reported here that the so-called Farabundo Marti, or the rebels in El Salvador, had been dispersed, that Duarte had controlled them, they attacked the biggest garrison up in that northeast province, killing over 250 soldiers and the first American military, and it was in brigade size.

Where did they come from? They could not have done what they did without having had the support of the general populace or the peasantry in that area. What I am saying is that we may be satisfied by what we call an election, but, again, we are interpreting elections from our experience.

That process is totally unknown down there. I know what I am telling the gentleman.

Mr. GEKAS. I do not doubt the gentleman.

Mr. GONZALEZ. The Nicaraguans in November 1984 had what they called an election, and they had various parties represented. They had the Marxist-Leninist, they had the out-and-out Socialists, they had the independents, and they had about a total of six.

When they counted the votes, the winners in what they called their first constitutional election, and they had observers from all over the place, and we questioned it, President Reagan questioned the validity of that election, but the fact is that in many respects it was a lot more open than even the Salvadoran election. When they counted the votes and all, they declared the present government in power. They had for the first time what they called a duly elected President and other officials of the government, and the junta went out.

From the standpoint of our traditions of elections, it is a far different cry. We are not talking about the same thing.

Mr. GEKAS. If the gentleman will yield, I understand that.

Mr. GONZALEZ. As the gentleman knows, in Russia they have 99 percent voting. They called it free elections but actually not in our terms, because you can only have official candidates.

You cannot have a real party opposition.

We have got to be careful that we do not make the mistake of thinking that because it seems that they are following the trappings and the external activities and processes of what we consider to be an integral part of an elective and a free franchise, universal franchise election such as we are accustomed to, I must remind the gentleman just 100 years ago we did not have it either.

We had elections that were restricted to property owners. Nobody who did not own property could vote. We had indentured servants that were indentured, and this was at the time of the Civil War. In fact, Texas and the Western States were populated by indentured servants that jumped their indenture.

For us to say that we had the same kind of electoral activity 100 years ago as we have today would be to make a similar comparison to what these later arrived countries that these processes were going through. We cannot equate them at all. That is the only basis that I disagree.

I think the gentleman and I would find it insulting to have anybody say that we were treacherous or that we would give aid and comfort to the enemies of our country. I think the gentleman and I want the same thing, and that is, one, the integrity and the preservation of the American interest. We have great stakes in our front porch and back porch, and there is no question about that.

I think our difference is how do we approach this the best way to ensure that our best interests in the long term are not weakened physically.

We can stop to ponder, suppose that through our aid, and even with our military, the Contras did come in and physically take over Nicaragua. There is no question from every report that has emanated from every person present there, from all kinds of levels, from the Vatican to the various Western governments, that they would not be able to rule unless they implanted themselves and our troops were there. Then the whole region would be, because when the news came out, when was it, last week, the week before, that the Nicaraguan armed services or whatever had invaded Honduras, we, for the first time, went to the Organization of American States, and you know what they did. They repudiated. They would not pass a similar resolution to the one we passed last week with respect to Panama.

That means to me that what I feared the most 8 years ago has come to pass, and that it is going to take a lot of work for us to forge again that moral suasiveness power of leadership which is so important with this organization that is regional, but which is representative of what we initiated several decades ago.

In other words, we went to the Organization of American States and said, "Hey, look, you have got to say something both about this incursion as well as this election of the duly constituted president or leader in Panama." And the Organization of American States said, "No, we are not, because that is meddling in the internal affairs of that country."

Mr. GEKAS. I understand.

Mr. GONZALEZ. I will guarantee you that 15 years ago I remember when President Johnson ordered the troops into Santo Domingo. I remember as if it were today. One night, and I think it was in May, and it had been a sultry day, and I had gone out to the canal, and I came back. I looked, and I saw that the office lights were on, and it was around 8:30–8:45 p.m. I noticed that the little secretary was still there.

I said, "What are you doing?" She said, "The President has been calling." She said, "You have to call the White House, operator 18." So I called. The President himself answered, and he said, "Henry, I just called to tell you that the newspapers in the morning will be full of stories, and I am just calling to tell you that I know what I am doing. I am not about to let a Communist Castro force take over, and I am going to protect American property and lives. But I do not want in the morning to have you running off and some of my other friends from Texas with the press after you asking you to make comments and making it look as if I am invading unnecessarily. I do not want to have you running off like a goat on a hill at the sound of a gunshot."

So I said, "Mr. President, I do not know what you are talking about." He said, "Well, you will find out about it. I just want you to be alerted."

Of course, as a matter of fact, no press called me at all, but the next morning, yes, the invasion of Santo Domingo, and American property and lives apparently were being jeopardized, and more importantly, there were some forces that seemed to be at the behest and call of Fidel Castro.

He then, later that week, had a briefing, because he was very accessible, and he said, "Look, I called the OAS President, and I said, 'Look, I want to have your imprimatur.'" He did not use the word "imprimatur."

Mr. GEKAS. In other words, his acknowledgment.

Mr. GONZALEZ. The sanction of the OAS. Then he turned around, and I am not going to say, not because I think I will be violating privity, but in very salty, earthy terms, he described how obtuse the president of the OAS was and how he kind of had to persuade him. He did. If we look back, you will see that the OAS went along and agreed that the President was exercising his right in defending American lives and interests in Santo Domingo.

We have never done that since 1980, and that is the first time I ever spoke here was April 1, 1980. Jimmy Carter was President and they were sending advisers to El Salvador.

I had two constituents that were in the first contingent that went down there, and they called me, and they wanted to know why the American Embassy employees were getting hazardous duty pay and were traveling in armored cars, and they did not even have a side arm to protect themselves with.

□ 1215

And it was the same thing. I said to myself, "My gosh, we have learned nothing." This was what a little airman told me in May 1963. It was not Ronald Reagan, it was President Kennedy then, In 1980 it was President Carter.

I said—I could not get to the President, he was not too accessible either. So finally the son of a constituent who happened to be in military intelligence stationed in Panama, came up, sought me out, told me very disturbing things about what was going to happen in El Salvador before the end of the month. I said, "Well, look, I am not an expert. I do not belong to the committee. What do you want me to do?" He said, "Can't you reach somebody over in the State Department to tell them that this is entirely different from Nicaragua?" Remember this was 1979; the Sandinistas had just proclamed victory that June, I believe. This was in August, or maybe it was in September 1979. What he was telling me was that this junta or this government that is in Salvador is going to be thrown out by the end of the month. That was when Duarte was exiled.

I was absolutely in awe when, sure enough, by the end of that month the newspapers reported that that government was out.

So then I tried to get hold of people over in the State Department; I could not. I tried to get hold of some people close to the President; I could not.

So then I took the floor for the first time, and I invite the gentleman to look at that RECORD, because I said what I fear is that in a matter of months, maybe 3 at the most, if we continue unilaterally, we ought to really be doing this at least with some kind of aegis of the Organization of American States; then if they turn us down and our national interests are at stake, well there is nothing in international law that prevents you from acting for your own security.

Mr. GEKAS. I thank the gentleman. If the gentleman would yield I simply want to underscore what I gather from the gentleman's remarks, that when it is proper to do so, American national interests would demand action on the part of our Government.

Mr. GONZALEZ. Absolutely.

Mr. GEKAS. In that regard with respect to El Salvador, if we see that the rebels there who will not negotiate or will not do anything but stay recalcitant as they are, if they constitute a danger we must support that Government of El Salvador, no matter the elections turn out in a democratic way.

Mr. GONZALEZ. If the gentleman will let me comment at that point——

Mr. GEKAS. Well, I will end my part and then if the gentleman does not mind——

Mr. GONZALEZ. Very well.

Mr. GEKAS. All I want to say is in review of what we have discussed here, that even if the gentleman or anybody else should, down in his heart, be dissatisfied with the ultimate result of the recent elections in El Salvador, it is important that we as a Congress of the United States put our stamp of congratulations on the system at work to the Salvadoran people for undergoing a proper democratic election and then do our best to indicate to the new elements that we will not tolerate any kind of upheaval that would return that country to what it was before the United States came to its help to restore democratization. That is my main point.

Mr. GONZALEZ. Well, I think that if we have the given, which you assume, you assume that we are interpreting correctly the will——

Mr. GEKAS. There is no choice.

Mr. GONZALEZ. The will of the Salvadoran people.

Mr. GEKAS. There is no choice, but we must honor that at the moment, is what I am saying.

Mr. GONZALEZ. Well, I qualify that because we cannot divert, no matter how much we try, nor could the Russians, nor could the Cubans, a people who are determined, anymore than the British. And we had to have the aid of the French; if the French Fleet had not been out here off the Chesapeake Bay, I doubt we could have stood off the British Army that would have landed.

So it is the same thing with these revolutionary forces, if they are truly indigenous, if they indeed—even though you have leaders mouthing the dialects of Marxist-Leninism—but if they are in effect part of the native indigenous rebellion or revolution, we cannot externally impose our will or divert, rechannelize that revolutionary effort.

Mr. GEKAS. Then the same would constitute the situation as to the Contras. The Contras in Nicaragua are indigenous, they are a rebel group as such, they are indigenous, native Nicaraguans. You would have to apply a different standard from what the gentleman is saying to what we are trying to do with the Contras.

Mr. GONZALEZ. No, on the contrary; the Sandinistas conducted their rebellion in Nicaragua against Somoza. The Contras have been hiding out in Honduras and using that as a base to make incursions into Nicaragua.

Mr. GEKAS. But the gentleman will agree they are indigenous to the blood, to the soil of Nicaragua, the Contras are.

Mr. GONZALEZ. No.

Mr. GEKAS. The campesinos.

Mr. GONZALEZ. Not entirely.

Mr. GEKAS. Well, the gentleman is not going to insist that entirely the rebels in El Salvador are all Salvadorans?

Mr. GONZALEZ. No, but the leaders—well, yes.

Mr. GEKAS. What distinction do you make there?

Mr. GONZALEZ. Will the gentleman not agree that the original reason given in 1981 for going into Honduras was to help interdict the so-called arms shipments from Nicaragua to the Salvadorans, that is part of the original premise?

Mr. GEKAS. Yes.

Mr. GONZALEZ. But nobody alludes to that now because never once did we interdict anything because the arms used, 1 year ago this month of March, in the attack on that garrison were all homemade. And they had to have come from within and not externally because they were not the sophisticated rockets or anything; they were actually homemade.

One of the leaders of the Salvadoran army, a colonel, quit about a year and a half ago and is now one of the leaders in the rebellion. The rebel group in Salvador is entirely different. It consists of five different groups; the Farabundo Marti, which may be the principal one; you also have four others. You have the out and out Marxist-Leninists or Communists but who are the least numerous and up to now have had the least influence. Then you have these others who have been in a revolutionary status for many, many decades.

Mr. GEKAS. That does not excuse it.

Mr. GONZALEZ. No, wait, just a minute, just a minute. What I am saying is that unless the people—guerrilla warfare implies that you have some kind of a base of support among the populace. You could not operate otherwise, as we found out in Vietnam, or should have found out.

What I am saying is that if we assume that this particular force is one that has been imposed by other external powers such as Cuba or Russia, that is one thing. But to make a fatal mistake and say, while it is, that it is not indigenous, I think is contrary to our best interests.

Mr. GEKAS. I say—I acknowledge that it is indigenous in El Salvador. I acknowledge that the rebels there are Salvadorans. I acknowledge that they are of the soil. And I say that the Contras in Nicaragua are of the same ilk in their native land.

I thank the gentleman.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. GUARINI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BOLAND, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on March 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. MORELLA) and to include extraneous matter:)

Mr. GUNDERSON in two instances.
Mr. BROOMFIELD.
Mr. CRANE.
Mr. LOTT.
Mrs. JOHNSON of Connecticut.
Mr. WELDON.
Mr. PORTER.
Mr. SHAW.
Mr. LEWIS of California.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. BARNARD.
Mr. HALL of Ohio.
Mr. MOLLOHAN.
Mr. HOYER.
Mr. MAZZOLI.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2151. An act to amend section 416 of the Agricultural Act of 1949, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On March 21, 1988:

H.R. 3689. An act to designate the U.S. Post Office Building located at 300 Sycamore Street in Waterloo, IA, as the "H.R. Gross Post Office Building"; and

H.R. 2631. An act to authorize appropriations for the Bureau of the Mint for fiscal year 1988, and for other purposes.

On March 22, 1988:

H.R. 3967. An act to amend the Department of Defense Authorization Act, 1985, to extend medical benefits for certain former spouses.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 24 minutes p.m.), under its previous order, the House adjourned until Monday, March 28, 1988, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the fourth quarter of calendar year 1987 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Joseph Wolfe, staff	10/4	10/10	Switzerland		1,176.00						1,176.00
Commercial transportation							2,721.00				2,721.00
Romano L. Mazzoli, MC	11/22	11/28	West Germany		465.00		([3])				465.00
Robert W. Kastenmeier, MC	11/23	11/26	Switzerland		588.00		299.95		165.67		1,053.62
	11/26	11/29	France		690.00						690.00
Military transportation							5,113.67				5,113.67
Howard L. Berman, MC	11/24	11/26	Switzerland		392.00		299.95		165.67		857.62
	11/26	11/28	France		460.00						460.00
Commercial transportation							2,521.00				2,521.00
Hamilton Fish, Jr., MC	11/23	11/26	Switzerland		588.00		259.95		165.67		1,013.62
	11/26	11/30	France		920.00						920.00
Military transportation							2,618.26				2,618.26
Commercial transportation							2,129.97				2,129.97
Carlos J. Moorhead, MC	11/23	11/26	Switzerland		588.00		259.95		165.67		1,013.62
	11/26	11/29	France		690.00						690.00
Military transportation							5,429.55				5,429.55
Henry J. Hyde, MC	11/23	11/26	Switzerland		588.00		259.95		165.67		1,013.62
	11/26	11/29	France		690.00						690.00
Military transportation							5,429.55				5,429.55
Michael Remington, staff	11/23	11	Switzerland		588.00		299.95		165.67		1,053.62
	11/26	11	France		920.00						920.00
Commercial transportation							2,18.00				2,118.00
Virginia Sloan, staff	11/21	11/26	Switzerland		980.00		299.95		165.67		1,445.62
	11/26	11/30	France		920.00						920.00
Commercial transportation							3,887.00				3,887.00
Thomas Mooney, staff	11/23	11/26	Switzerland		588.00		259.95		165.67		1,013.62
	11/26	11/28	France		460.00						460.00
Military transportation							315.88				315.88
Commercial transportation							3,887.00				3,887.00
Committee total					12,291.50		38,410.48		1,325.36		52,027.34

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] No transportation expenses.

PETER W. RODINO, JR., Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Joan M. Bondareff	10/18	10/23	England		855.00		[5] 2,347.00 [4] 70.00				3,272.00
Hon. Jim Bunning, MC	12/11	12/13	Nicaragua		306.00		([5])				306.00
Rebecca L. Feemster	12/7	12/12	Switzerland		805.00		[3] 2,139.00				2,944.00
James K. McCallum	10/4	10/6	Taiwan		424.00						424.00
	9/30	10/4	Japan				[4] 8.46		[6] 69.58		78.04
Rodney H. Moore	10/4	10/6	Taiwan		424.00						424.00
	9/30	10/4	Japan				[4] 8.46		[6] 69.58		78.04
Jeffrey Pike	10/4	10/6	Taiwan		424.00						424.00
	9/30	10/4	Japan				[4] 8.47		[6] 69.59		78.06
Lisa Pittman	10/18	10/23	England		1,026.00		[3] 2,347.00 [4] 80.00				3,453.00
Committee total					4,264.00		7,008.39		208.75		11,481.14

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Commercial air transportation.

[4] Ground transportation.

[5] Transportation provided by military aircraft.

[6] Miscellaneous expenses.

WALTER B. JONES, Chairman, Mar. 2, 1988.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3214. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a copy of the 1987 annual report of the Office of the U.S. Courts, bound together with the reports of the proceedings of the Judicial Conference of the United States, held during 1987, pursuant to 28 U.S.C. 604(a)(4) and (h)(2); 28 U.S.C. 2412(d)(5); to the Committee on the Judiciary.

3215. A letter from the Secretary of Agriculture, transmitting the annual report covering the major accomplishments of the Forest Service for fiscal year 1987, pursuant to 16 U.S.C. 1674(c); jointly, to the Committees on Agriculture and Interior and Insular Affairs.

3216. A letter from the Secretary of Transportation, transmitting the Department's report, "Use of Controlled Substances and Highway Safety," pursuant to 23 U.S.C. 403 notes jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AuCOIN (for himself and Mr. Wylie):

H.R. 4250. A bill to amend the National Housing Act to exempt the single family home mortgage insurance program administered by the Secretary of Housing and Urban Development and the guarantee authority of the Government National Mortgage Association from sequestration or reduction under the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. BENTLEY:

H.R. 4251. A bill to extend the deadline of destroying chemical weapons; to the Committee on Armed Services.

By Mr. CRAIG (for himself and Mr. Stallings):

H.R. 4252. A bill to prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho, and for other purposes; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. CRANE (for himself, Mr. Porter, and Mr. Hastert)

H.R. 4253. A bill to authorize a demonstration project for the restoration of the Des Plaines River Wetlands; to the Committee on Public Works and Transportation.

By Mr. JENKINS (for himself, Mr. Barnard, and Mr. Darden):

H.R. 4254. A bill to ensure the continued stability and viability of recreational opportunities on certain lakes in the State of Georgia; to the Committee on Public Works and Transportation.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Shays, Mr. Boehlert, and Mr. Rowland of Connecticut):

H.R. 4255. A bill to amend the Solid Waste Disposal Act to provide for the safe management of municipal incinerator ash; to the Committee on Energy and Commerce.

By Mr. JONES of North Carolina (for himself, Mr. Tauzin, Mr. Davis of Michigan, and Mr. Fields):

H.R. 4256. A bill to provide temporary authority to certain employees of the Panama Canal Commission to purchase food and other goods at any commissary or exchange store located in Panama which is operated by any military department of the United States; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

By Mr. Ridge (for himself, Mrs. Boxer, Mr. Bryant, Mr. Moorhead, Mr. Yatron, Mr. Hyde, Mr. Horton, Mr. Swindall, Mr. Montgomery, Mr. Murphy, Mr. Flippo, Mr. Hunter, Mr. Dornan of California, Mr. Bilbray, Mrs. Vucanovich, Mr. Lagomarsino, Mr. Denny Smith, Mr. Robert F. Smith, Mr. Oxley, Mr. Smith of New Jersey, Mr. Wortley, Ms. Kaptur, Mr. Barton of Texas, Mr. Solomon, Mr. Schuette, Mr. Ritter, Mr. Gallo, Mr. Cheney, Mr. Bunning, Mr. Petri, Mr. Coble, Mr. Inhofe, Mr. Hansen, Mr. Robinson, Mr. Lewis of Florida, Mr. DeLay, Mr. Roe, Mr. Tauke, Mr. Packard, Mr. Callahan, Mr. Holloway, Mr. Herger, Mr. Rowland of Connecticut, Mr. Combest, Mr. Boulter, Mr. Coats, Mr. Derrick, Mr. Mack, Mr. Erdreich, Mrs. Patterson, Mr. Harris, Mrs. Bentley, Mr. Chapman, Mr. Bevill, Mr. Upton, Mr. Lipinski, Mr. Johnson of South Dakota, Mr. Shumway, Mr. Donald E. Lukens, Mr. Richardson, Mr. Daub, Mr. Glickman, Mr. LaFalce, Mr. Watkins, Mr. Dannemeyer, Mr. Emerson, Mr. Hutto, Mr. Shuster, Mr. Sweeney, Mr. Dyson, Mr. Hastert, Mr. Hiler, Mr. Penny, Mr. Jontz, Mr. Leath of Texas, Mr. DeFazio, Mr. Ray, Mr. Nielson of Utah, Mr. Burton of Indiana, Mr. Schaefer, Mr. Gekas, Mr. Spratt, Mrs. Saiki, Mr. Wolf, Mr. Thomas of Georgia, Mr. de Lugo, Mr. Howard, and Mr. Gallegly):

H.R. 4257. A bill to prevent the mailing of unsolicited sexually oriented advertisements, and for other purposes; jointly, to the Committees on Post Office and Civil Service and the Judiciary.

By Mr. SMITH of Texas (for himself and Mr. Swindall):

H.R. 4258. A bill to ensure the application of the H-2A temporary agricultural worker program to all agricultural labor and services; to the Committee on the Judiciary.

By Mr. DENNY SMITH:

H.R. 4259. A bill to amend the Wild and Scenic Rivers Act of 1968, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SOLOMON:

H.R. 4260. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of firefighting vehicles; to the Committee on Public Works and Transportation.

By Mr. TAUKE:

H.R. 4261. A bill to establish conditions to be imposed by the Interstate Commerce Commission for the protection of employees in certain rail transactions, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. BENTLEY (for herself, Mr. Dymally, Mr. Kemp, Mr. Wortley, Mr. Owens of New York, Mr. Hansen, Mr. Young of Florida, Mr. Wilson, Mr. Fauntroy, Mr. Nielson of Utah, Mr. Roe, Mr. Konnyu, Mr. Gingrich, Mr. Horton, Mr. Parris, Mr. Blaz, Mr. Craig, Mr. Garcia, Mr. Borski, Mr. Stump, Mr. Hawkins, Mr. Lipinski, Mr. Conyers, Mr. Lewis of Florida, Mr. Lagomarsino, Mr. Jenkins, Mr. Towns, Mr. Weber, Mr. Wheat, Mr. Solomon, and Mr. Fazio):

H.J. Res. 518. Joint resolution designating the week of September 25, 1988 as "Religious Freedom Week"; to the Committee on Post Office and Civil Service.

By Mr. DELLUMS:

H. Res. 413. Resolution expressing the sense of the House that the Governor of the State of California, or the California State Parole Board, or both, should take actions within their power to bring about the immediate release from prison of Elmer "Geronimo" Pratt; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 341: Mr. Shumway.

H.R. 1213: Mr. Manton.

H.R. 1815: Mr. Matsui and Mr. Fauntroy.

H.R. 1957: Mr. Thomas of California, Mr. Hefley, Mr. Rowland of Georgia, and Mr. Moody.

H.R. 2532: Mr. Edwards of Oklahoma, Mr. Tauzin, and Mr. Morrison of Washington.

H.R. 3791: Mr. McCandless, Mr. Fields, Mrs. Bentley, Mr. Atkins, Mr. Howard, Mr. Erdreich, and Mr. Lewis of Florida.

H.R. 3893: Mr. Leath of Texas.

H.R. 4088: Mr. Lewis of Georgia.

H.J. Res. 438: Ms. Kaptur and Mr. Daub.

H.J. Res. 452: Mr. Mack.

H.J. Res. 459: Mr. Dicks, Mr. Gunderson, Mr. Konnyu, Mr. Donnelly, Mr. Grant, Mr. Spratt, Mr. Petri, Mr. Scheuer, Mr. Guarini, Mr. Ravenel, Mr. Levin of Michigan, Mrs. Boggs, Mr. Coughlin, Ms. Kaptur, Mr. McDade, Mr. Baker, Mr. Clay, Mr. Coyne, Mr. Conte, Mr. Moakley, Mr. Gingrich, Mr. Kildee, Mr. Foley, and Mr. Stokes.

H.J. Res. 489: Mr. Daub, Mr. Ritter, Mr. Blaz, Mr. Green, Mr. Schaefer, Mr. Hayes of Illinois, Mr. Traficant, Mr. Fazio, Mr. McMillen of Maryland, Mr. Berman, Mr. Sawyer, Mr. Weldon, Mr. Carper, Mr. Chapman, Mr. Hayes of Louisiana, Mr. Cardin, Mr. Wyden, Mr. Dymally, Mr. Conyers, and Mr. Conte.

H.J. Res. 491: Mr. DeFazio, Mr. Manton, Mrs. Patterson, Mr. Stark, and Mr. Traficant.

H.J. Res. 492: Mr. DeFazio, Mr. Manton, Mrs. Patterson, Mr. Stark, and Mr. Traficant.

H.J. Res. 493: Mr. DeFazio, Mr. Manton, Mrs. Patterson, Mr. Stark, and Mr. Traficant.

H.J. Res. 494: Mr. DeFazio, Mr. Manton, Mrs. Patterson, Mr. Stark, and Mr. Traficant.

H.J. Res. 495: Mr. DeFazio, Mr. Manton, Mrs. Patterson, Mr. Stark, and Mr. Traficant.

H.J. Res. 496: Mr. DeFazio, Mr. Manton, Mrs. Patterson, Mr. Stark, and Mr. Traficant.

H.J. Res. 497: Mr. DEFAZIO, Mr. MANTON, Mrs. PATTERSON, Mr. STARK, and Mr. TRAFICANT.

H.J. Res. 498: Mr. DEFAZIO, Mr. MANTON, Mrs. PATTERSON, Mr. STARK, and Mr. TRAFICANT.

H.J. Res. 499: Mr. DEFAZIO, Mr. MANTON, Mrs. PATTERSON, Mr. STARK, and Mr. TRAFICANT.

H.J. Res. 500: Mr. DEFAZIO, Mr. MANTON, Mrs. PATTERSON, Mr. STARK, and Mr. TRAFICANT.

H.J. Res. 503: Mr. MORRISON of Washington.

H.J. Res. 504: Mr. TRAFICANT, Mr. HERTEL, Mr. TRAXLER, Mr. LAGOMARSINO, Mr. FUSTER, Mr. OWENS of New York, Mr. ROWLAND of Connecticut, Mr. SKELTON, and Mrs. LLOYD.

H. Con. Res. 254: Mr. MACKAY, Mr. LAGOMARSINO, Ms. OAKAR, Mr. SKAGGS, Mr. CHAPMAN, Mr. GARCIA, Mrs. BOXER, and Mr. BARNARD.

SENATE—*Thursday, March 24, 1988*

(*Legislative day of Monday, March 21, 1988*)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. SHELBY].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

And God said, "Let there be light" * * *.—Genesis 1:3.

And there was light.

God of Creation, who spoke light into existence, we thank You for the creative power of words. They create beauty. They paint pictures. They make music. They illuminate. They teach. They inform. They edify. They inspire. They challenge. They persuade. They win arguments. But the Apostle James warns us that "the tongue is a little member and boasteth great things. Behold how great a matter a little fire kindleth. And the tongue is a fire." (James 3:5-6.) Words also lose arguments—demean and belittle—cut and wound—enervate and discourage — desecrate — incite — destroy. In times of aggravation, frustration, and delay, as emotions replace reason—and tempers rise—help us all to heed the Biblical warning and grant us control of our tongues. We pray in His name who always spoke the truth in love. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BYRD. I thank the Chair.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain for his thoughtful and timely prayer. As I look back over my own life, I find that I have been my own worst enemy and many of my problems over the years came as a result of words too hastily spoken. Once a word has been spoken, it cannot ever be taken back. One might say so, but it is gone, gone forever, beyond one's reach.

NORIEGA MUST GO

Mr. BYRD. Mr. President, the people of Panama are daily expressing their dissatisfaction with the conditions in their country and the fervent desire that General Noriega leave Panama. All sectors of the country have united behind the national civic crusade in a nationwide general strike to force the departure of Noriega. Officers of the Panamanian Defense Forces have attempted to oust the general because he has favored his personal interests and drug dealing over the best interests of the military institutions and the people of Panama.

The situation in Panama today borders on chaos due to General Noriega's continued presence. But despite offers of asylum, he has refused to leave. His continued presence in Panama is a threat to the safety and economic future of the Panamanian people.

Mr. President, the President of the United States has said that General Noriega should leave. I fully support him in that sentiment. The administration is following a well-balanced policy to force the departure of this corrupt military drug-dealing despot. He must eventually go and when he does this Senator stands ready to work with the administration to help restore the Panamanian economy.

General Noriega has frequently claimed that the administration and the Congress are pressing for his departure because they secretly desire to negate the 1978 Panama Canal treaties and thereby maintain control over the canal beyond the year 2000. Mr. President, that is just so much hogwash.

This country does not seek to negate the treaties. Our President has never sought to negate the treaties. Only last week, the joint leadership of both Houses met at the White House with our President. He stated that we have been and remain committed to fulfilling our obligations under the Panama Canal treaties.

General Noriega is trying to cover-up the fact that he is using Panama as a base for drug trafficking, while denying the citizens of Panama the right to a democratic government of their choosing. The United States intends to fully honor the commitments made in the canal treaties.

Mr. President, former Senator Baker and I wrote two amendments to the canal treaties which fully guarantee that the Panama Canal shall remain open, secure, neutral and accessible to the maritime traffic of all nations.

One of those amendments grants the United States and Panama—the United States and/or Panama—the right to defend the canal against any aggression or threat directed against the peaceful transit of vessels through the canal.

Mr. President, the United States has that clear right today, and it has that clear right after the year 2000 under those treaties.

Those amendments by Senator Howard Baker and myself were not simply understandings. They were amendments that resulted in our having to go back to the Panamanian Government and secure their acquiescence and agreement. Therefore, those amendments are as much a part of the treaties as is any other verbiage within those treaties.

So, even after the year 2000, the United States is fully authorized to take whatever action is necessary, and even against insurrections or whatever threats might occur in Panama, to keep the canal open and to assure the safe passage of vessels of all nations.

Also in the event of war, one amendment by Senator Baker and myself assures that U.S. vessels will go to the head of the line in transiting that canal. The United States is fully protected, and, in some respects, more so than it was prior to the approval and ratification of those treaties.

The United States will carry out its commitments. President Reagan spoke out in opposition to the treaties before he was President. But since he has become President, he has kept the commitments of the United States under those treaties, and he has reiterated that we continue to keep our commitments. We will keep our commitments as long as Panama abides by its commitments under the treaties.

If there is an abrogation of the treaties, it will not be by the United States without ample justification. So we have the right to defend the canal against any threat, including one which General Noriega might pose to its unrestricted operation. I can assure him that the Congress will fully support the President of the United States in exercising that right.

The people of Panama are suffering great hardship under the military dictatorship imposed upon them by General Noriega. They have the support of the American people and this Congress in their valiant efforts to secure a representative democratic government and civilian control over the Panamanian defense forces. I hope the administration will fashion a comprehensive program of economic cooperation with Panama to become effective immediately on the departure of General Noriega.

Mr. President, General Noriega has to leave Panama, today, or tomorrow, or next week. Let there be no doubt in anyone's mind that he has to go.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the assistant Republican leader is recognized.

CLOSED SESSION PROPOSAL

Mr. SIMPSON. Mr. President, I thank the majority leader. There is a meeting of the Judiciary this morning that requires my presence. Therefore, I will relinquish my portion of the leadership time to the Senator from Pennsylvania [Mr. SPECTER].

I was absent from the Chamber, and I inquire of the majority leader, and I believe he spoke on this with regard to the closed session or the executive session or the special session, to discuss, I believe it was, the missile issue.

The majority leader expressed to me and to others, both parties, that we did not have a location for that. I inquire, and I missed this portion and was not able to visit with my staff, is it possible to hold that Monday of next week or early in the week in the selected Chamber? I inquire of the majority leader if that is possible.

Mr. BYRD. Mr. President, on yesterday, I met with the distinguished assistant Republican leader and Mr. HELMS and Mr. BOREN, at which time I read a memorandum that I had received from the Secretary of the Senate, Mr. Joseph Stewart, indicating that the Old Senate Chamber would be better, from the standpoint of security, than would this Chamber for codeword discussions, and so on; and that Mr. Stewart would need a day in advance in order that that Chamber could be properly prepared and swept.

I also indicated that I would be happy to make arrangements within the schedule for such a closed meeting if we knew in advance how many hours that Mr. HELMS, Mr. SYMMS, Mr. WALLOP, and others would want for such a debate. We will try to work it in, taking into consideration the mix of other demands and requirements.

So I will be happy to inquire of Mr. Stewart if preparations can be made in time for a Monday closed session. I would like to have the closed session and get it over with. I think it is going to be required, and I want to be cooperative in carrying it out.

Would the leader tell me at this time how many hours would be desired?

Mr. SIMPSON. Mr. President, I am not able to share that information, but I would think that certainly 2 or 3 hours. I do recall now explicitly that there would be at least a day or a day-and-a-half of delay while that particular Chamber was swept and had the proper surveillance.

I appreciate very much the majority leader telling us. Perhaps that could take place this week if the Secretary of the Senate can advise us. I agree with the majority leader, the earlier the better on that issue.

But I think half a day will be appropriate, and if it could be so that it be Monday or Tuesday, that would be even more appropriate.

Mr. BYRD. Mr. President, on second thought, I am a little concerned about Monday. I know very little about what has to be done in order to adequately secure the Old Senate Chamber. It would appear to me that whatever preparations are needed would need to go forward the day before the Chamber is used for this purpose.

If the security preparations were carried through, let us say, today or tomorrow or even Saturday, I am not sure that the Senate could be absolutely safe in scheduling such a meeting on Monday after a weekend. So it may be the preparations would need to go forward on Monday so that the Senate could use the Chamber on Tuesday. Can we explore that?

Mr. SIMPSON. Indeed, Mr. President, and I look forward to visiting with the majority leader concerning that.

I relinquish the remainder of the leadership time to Senator SPECTER.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

THE INF TREATY

Mr. SPECTER. I thank the Chair, and thank the distinguished assistant Republican leader for yielding me time.

I am glad to see the distinguished majority leader on the floor because I have sought this time to comment about the majority leader's statements yesterday, as quoted in this morning's media, where he raises the issue of the authoritativeness of treaty interpretation, going back to the dispute on narrow versus broad interpretation of the ABM Treaty.

In so doing, Mr. President, I believe he is raising a very serious issue and taking a dangerous tack on the INF Treaty and on future trading negotiations, which the President is not entering into.

When the majority leader raises the issue on authoritativeness of treaty interpretation, he really is trying to rewrite both international law and U.S. constitutional law at the same time. The treaty between the United States and the Soviet Union on antiballistic missiles is not controlled by the representations of the Executive to the United States Senate, although that is the critical factor for domestic treaty ratification, but rather the treaty between the United States and the Soviet Union constitutes the meeting of the minds and the agreement between those parties.

Where that differs, if in fact it does, by what understanding the Senate may have, that does not modify the basic treaty on ABM.

But more fundamentally, I believe it is a very serious mistake to seek in any way to hold the INF Treaty hostage by the placement of a condition or reservation, even though it may be the intent of the parties who seek the condition or reservation not to have to send it back to the Soviet Union for the Soviet Union's agreement.

Treaty ratification is difficult and delicate, and we saw that with SALT II, and there are those in this Chamber who would like to derail the INF Treaty. I hope that none in this Chamber will seek to relitigate the ABM Treaty in terms of damaging the potential for the INF Treaty.

When the distinguished majority leader yesterday made a comment that the Executive should not go on a treaty binge or a summit binge, I would respectfully remind the majority leader that it is the constitutional prerogative of the President to undertake those treaty negotiations——

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SPECTER. In midsentence, I do.

Mr. BYRD. I beg the Senator's pardon. Would he complete his sentence and then yield? He referred to the majority leader.

Mr. SPECTER. Well, it is too late now to complete that sentence, so I will yield at this point.

Mr. BYRD. I am sorry. I simply say that the distingusihed Senator does not have to "remind," to use his word, this Senator as to what the constitutional prerogatives of the President are. I am not going to seek to remind the Senator from Pennsylvania as to what the Constitution may say or what it may or may not provide. I have admired his ability, the fact he has had tremendous experience as a lawyer, and as a prosecutor, and he certainly has every right to say whatever he wishes on this matter, but this Senator does not have to be reminded of what the President's prerogatives are. I am well aware of them. Now, I will be glad to listen further to what the Senator has to say. I thank the Senator for yielding.

Mr. SPECTER. When I used the word "remind," it was originally intended as a figure of speech, but when the majority leader raises the issue, I am not so sure that it is just a figure of speech. If the majority leader was accurately quoted in this morning's New York Times, which says:

> I would urge in this summit binge and treaty binge, that we go a little slow, and do the job right, because this Senate is not

going to be jerked around and hastened overly in order to meet summits.

If that is correct, then it may be that the distinguished majority leader needs to be reminded about the separation of power between the article I authorities, the Congress, and the article II authorities, the President, because there is no occasion, as this Senator sees it, to characterize what the President is doing as a "summit binge."

In this body, we have passed four sense-of-the-Senate resolutions urging the President to enter into summits, and I know that history well because I took the lead in April 1982 in proposing that first sense-of-the-Senate resolution. This body is on record in urging the President to proceed with summits. I believe that the President ought to be commended for his activity in pursing on an intense basis negotiations with the Soviet Union.

The **ACTING PRESIDENT** pro tempore. The time has expired.

Mr. **SPECTER**. I ask unanimous consent for an additional 5 minutes, taking time from morning business.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **SPECTER**. The President has produced in conjunction with the balance of the negotiation process an INF Treaty, and the President is now under way on what appears to be productive for a strategic arms reduction treaty. This Senator does not know if it is wise or not to have a reduction of 30 or 50 percent of forces, of strategic forces, but I commend the President for exercising his constitutional duties to pursue the matter.

When the distinguished majority leader talks about a "treaty binge," there can be no binge by the President alone. A treaty cannot be entered into without ratification by this body, and we will take our time on that ratification. The various committees, Foreign Relations and Armed Services and Intelligence, the latter committee on which I serve, have had extensive hearings, and we have made certain findings out of Intelligence as published in yesterday's news media and we are going slow so that there is every opportunity for the Senate to exercise appropriate reins. It seems to me that the President ought to be commended in terms of the activities which he has undertaken. President Reagan has a unique opportunity to negotiate with the Soviet Union because of his historic position in being very cynical and critical of the Soviet Union. When President Reagan enters into a treaty with the Soviet Union, it has significant weight, probably more weight than any President in modern times, because we all know of his statements about the Soviet Union, the evil empire, in his very critical comments, and there is public confidence that if President Reagan enters into a treaty, it is probably a good treaty and one which has been carefully entered into—not that that would in any way relieve the Senate from its full responsibility to make a very close scrutiny of any such treaty.

It seems to me, Mr. President, that we ought not to relitigate the ABM controversy at this time on the INF Treaty. Hearings really have not been completed on the joint Judiciary Committee-Foreign Relations Committee hearings on ABM from last year, and this Senator believes, after an exhaustive analysis of the law and relevant documents, there is a great deal to recommend a broad interpretation, because it is not the representations to the Senate alone but it is the negotiating record, the ratification record and the subsequent practices of the parties. But most fundamentally, Mr. President, on an occasion where we have an opportunity for a historic breakthrough, we should encourage our President to proceed. When he has finished his work, as is his responsibility under the Constitution, the matter will come to the Senate, where we will have an opportunity to review what has been done. And certainly no one in this body will have greater authority than the distinguished majority leader, who establishes the schedule to preclude any binge of any sort, to assure that we will have a very calm deliberative consideration. But I hope that the ABM issue would not either mire INF or scuttle in advance the Strategic Arms Reduction Treaty.

I thank the Chair, and I yield the floor.

Mr. **BYRD**. Mr. President, I ask unanimous consent to proceed for 3 minutes.

The **ACTING PRESIDENT** pro tempore. The majority leader.

Mr. **BYRD**. Mr. President, I do not think that the distinguished Senator from Pennsylvania and I are too far apart. What I said yesterday is in the RECORD for all to read, and I would like to say it again today. It simply is this.

By the way, if the Senator carefully read my speech yesterday, he will understand that I did not want to refight the ABM Treaty battle, and I so indicated. I do not want to fight that battle at this point. I am interested in dealing with the INF Treaty. I have expressed as much support for the INF Treaty as has the Senator from Pennsylvania. My criticism yesterday was also not "directed to the President."

I am somewhat amused by the distinguished Senator's rush to the floor and his attempt apparently to be critical of my remarks of yesterday. He can read them in the RECORD. I have no apology for them. Perhaps the Senator is still smarting over the recent tiff that occurred in this Senate over the issuance of warrants to arrest Senators. The Senator was quite outspoken in that regard, and he expounded upon his constitutional theories in that instance.

Mr. **SPECTER**. Will the majority leader yield for a question?

Mr. **BYRD**. I have my own constitutional theories.

Mr. **SPECTER**. Will the majority leader yield for a question?

Mr. **BYRD**. Yes, I will be glad to yield.

Mr. **SPECTER**. What is the relevance of the so-called tiff on the warrant issue to what we are discussing here this morning?

Mr. **BYRD**. I do not know. I do not think it has any.

Mr. **SPECTER**. Why do you mention it?

Mr. **BYRD**. Because perhaps the Senator is still smarting. I do not know. Perhaps he is not.

Mr. **SPECTER**. Why not ask the Senator? The answer is no. It has not got anything to do with INF.

Mr. **BYRD**. Very well. But I referred yesterday to the INF Treaty, and I referred to the rush to summits. I have no problem with the President going to the summit. There are many things that can be discussed on such an agenda. And they can be matters other than a START Treaty. But there is at least the appearance of an effort to have a START agreement come out of that summit. The summit date has been set. I hope we are not getting into a situation where we are going to use calendar deadlines as the pressures to reach treaty agreements.

That is the point I was trying to make. Does the Senator find any fault with that?

Mr. **SPECTER**. I have a comment about it. I would not characterize it as a fault. That would be language too strong. But I would say to the distinguished majority leader that, human nature being what it is, negotiations being what they are, progress is customarily made at the very end of the negotiations. It was Secretary Kissinger who, I believe, said it was the last 20 minutes that produces the major breakthroughs. And in this body we finally got a continuing resolution at 3:30 a.m. on December 22.

So in our own experience we know that when you have a deadline, it compels greater concentration, and perhaps greater action. But I agree totally with the majority leader that we ought not to act on the treaty in order to meet a deadline if the Executive is so disposed, but I do not think President Reagan thinks that it would be up to the U.S. Senate to put on the brakes. We are fully capable of doing that. But I think that deadlines frequently are very healthy things.

Mr. **BYRD**. A deadline can be a healthy thing in many matters, but I hope that we will not let a deadline become the pressure leverage to come out with a START agreement. At least the perception of such could be harmful. That is what I am saying. I am saying we ought to take our time, let us be sure it is a good agreement, let us be sure it is in the security interests of this country and that it is not being driven by a calendar deadline. That is what I am saying.

I wanted to put the administration on notice, and I will repeat it here, that this Senate, as long as I am majority leader, is not going to be driven by deadlines with regard to treaties. And I am also saying that I hope it will be helpful to the administration to understand that, if it is the perception of this Senate that such treaty was the result of deadline crafting, why, problems with regard to such a treaty are going to be compounded here. I hope the Senator feels the same way. I gather from what he has said that he does.

Mr. SPECTER. I am not compounding. I would articulate it significantly differently. President Reagan is in the final year of his administration. His term will end January 20, and he has undertaken a rather slow course not entering into summits in 1981, 1982, looking for one in 1983, and then we had the Korean Airline, No. 007. And it took a long time to have summits. But now there is some momentum going forward.

I think he does sense a pressure, a desirability of moving ahead promptly because he has a meeting with General Secretary Gorbachev in late May, early June, of this year. I believe that there is a time pressure that President Reagan senses. I think it can be a healthy thing. And the treaty need not necessarily be ratified during the Reagan administration, or even signed during the term of the Reagan administration. But I believe that the time pressure is very healthy. But I do not think it ought to be overdone.

But I do commend the President and the Secretary of State. I noted that the Secretary of State met for many hours with Mr. Shevardnadze, and longer than they would have if they did not have a summit meeting until late May, longer than they would have if the President's term did not expire shortly.

So this time pressure I think is useful. I think the President's stand as someone very critical of the Soviet Union has inspired a lot of confidence not only of the American people but NATO people around the world that he is not going to make unwise assessments.

But the point I do totally agree with the majority leader on is that this body has got to be separate and independent to take a hard look at whatever is done. But I would not say that the President is on a "binge." I would say that he is moving ahead promptly, and I would encourage him to move promptly.

Mr. BYRD. Well, the Senator would not say anything about a binge. I did not say the President was on a binge. The Senator might wish to read my statement more carefully. I referred to the administration. I did not say anything about the President. As a matter of fact, when the President came back from the first summit, I congratulated him. On what? On not having given anything away.

So I do not think the President has to have the distinguished Senator from Pennsylvania to protect him against the particular verbiage the majority leader of the Senate uses. Perhaps the word "binge" was a little too strong, and it offended the distinguished Senator from Pennsylvania.

But a calendar deadline fits in with Mr. Gorbachev's plans, too. He is having problems in his own country. Perhaps he has to have a treaty for his own reasons. I am not sure that the Soviet leaders fully understand the constitutional system and how things are done in this country. While Mr. Gorbachev was here I thought it might be well, and I did not think for a moment that he would get word that I had said these things. But it might be well for the Soviets to understand that simply because a treaty is signed between the negotiators of the two countries, this Senate is not a rubberstamp.

I made a trip to the Soviet Union to talk to Mr. Brezhnev. I had the conversation with him on July 4, 1979, about that very thing—our constitutional system—in relation to the SALT II Treaty. I sought to impress upon Mr. Brezhnev on that day, and on the next day, July 5, I sought to impress upon the Soviet Foreign Minister, Mr. Gromyko, the same thing; that this Senate would not be intimidated by anything the Soviet leadership said, that the Senate was not a rubberstamp, that it required a two-thirds majority of this Senate to approve the ratification of treaties, and that a two-thirds supermajority in this Senate with respect to SALT II was going to be very hard to get under the very best of circumstances, and that the words, the statements, that were appearing and coming out of the Soviet Union were not helpful.

So perhaps my using the word "binge"—I do not know how the Soviets interpret that word—will have some good impact if they ever read about it and learn about it; that this Senate does have an equal part with the Executive in the making of treaties. This Senate will fulfill its responsibilities. It is not a rubberstamp for any President. I am sure the distinguished Senator from Pennsylvania agrees with me in that respect.

I guess what the Senator's problem is in the main, if I understand, is my use of the word "binge." As I say, maybe I spoke a little too strongly in that regard. But I am glad to say today that I think we should move a little slowly; that I do not think we should unduly raise expectations either in the Soviet Union or here.

The ACTING PRESIDENT pro tempore. The time of the majority leader and the Senator from Pennsylvania has expired.

Mr. BYRD. Mr. President, I know we are imposing on the time of the distinguished Senator from Wisconsin.

I ask unanimous consent to proceed for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The majority leader.

Mr. BYRD. I think it might be well for the Soviets and our own people not to have their expectations raised too much. They need to understand that simply because the administration may enter into an agreement in the form of a treaty, that does not mean that the treaty is all the way home. This Senate is going to have its say. It is going to look very carefully especially at any treaty with the Soviet Union.

I compliment the President. I do not know whether the Senator from Pennsylvania complimented the President following the first summit or not. But this Senator did, and I have reiterated it on this floor and elsewhere a number of times. I did not see the Senator from Pennsylvania rush over and commend the Senator from West Virginia for applauding the President of the United States on that occasion. But that is all right.

Mr. SPECTER. Will the Senator yield?

Mr. BYRD. Yes. I yield.

Mr. SPECTER. I did not see any occasion to rush over and commend the Senator from West Virginia for commending the President. But had the Senator from West Virginia accused the Soviets of being on a binge, I would have rushed over this morning and commended the Senator from West Virginia on that.

Mr. BYRD. Well, I am warning the Soviets not to be on a binge.

Mr. SPECTER. Well, I would have commended the Senator from West Virginia.

Mr. BYRD. I thank the Senator. I think we had better quit while we are both ahead.

Mr. SPECTER. But when the Senator from West Virginia seeks to distinguish in his speech that he did not say the President was on a binge, but that the administration was on a binge, I would say that that is a distinction without a difference.

Mr. BYRD. Well, the Senator might say that, but he sought to put words in my mouth when he gained the floor, and I am not going to let him get away with it.

Mr. SPECTER. That is not true. That is not true.

Mr. BYRD. At least, I take it that way.

Mr. SPECTER. Well, you can take it that way, but it is not true. I was very careful to say what was attributed to the distinguished majority leader.

Mr. BYRD. I am sorry, I did not say that the President——

Mr. SPECTER. And I read a quotation. Was my quotation inaccurate, Senator BYRD?

Mr. BYRD. The Senator can read what I said in the RECORD.

Mr. SPECTER. Well, the Senator could hear when I read the quotation.

Mr. BYRD. The Senator made reference to the President. I never used the President's name. I never referred to the President by title.

Mr. SPECTER. The only quotation that I cited is that Senator BYRD did not refer to the President. I cited the quotation very carefully in terms of what the distinguished majority leader was quoted as saying. And I think one more comment might be in order.

I came to the floor this morning——

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator may have 1 more minute to complete his statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. I thank the majority leader. I thank the Chair.

I would just say that the reason I came to the floor this morning was not to make the comments about the majority leader's statement of yesterday. I came to the floor this morning to make a statement about Prime Minister Shamir's visit; and it was only after I read the morning press and was here that I felt that is a precedent.

So, in the balance of my minute, Mr. President, I should like to introduce my statement.

ARAB-ISRAELI RELATIONS

Mr. SPECTER. Mr. President, now that Prime Minister Yitzhak Shamir has concluded his visit to the United States, an assessment of the significant events of the past several weeks may provide some insights on ways to improve Arab-Israeli relations. Discordant voices have been heard on all sides: Thirty U.S. Senators signed an unprecedented letter criticizing Israel's Government; President Mubarak proclaimed the Camp David accords "a thing of the past whose time has ended"; meetings involving President Reagan and Secretary of State Shultz with Prime Minister Shamir produced no tangible progress.

As a participant of several meetings involving Mr. Shamir with Senate and House Members, I found the Prime Minister's visit a step forward for several reasons:

First, a close analysis of Prime Minister Shamir's statements shows some flexibility;

Second, it is now apparent that the interested parties themselves—the Israelis and the Arabs—will have to work out the problems however long that may take; and

Third, the United States-Israeli differences, while substantial, appear less problemsome than they were in 1982.

I applaud the initiative of President Reagan and Secretary Shultz on the U.S. Middle East proposal. I also applaud Prime Minister Shamir's fortitude in visiting the United States at a time when he knew that both public and private receptions would be contentious and difficult. President Reagan's approach is especially admirable to persuasion rather than pressure, recognizing that Israel must exercise its own judgment on the pending issues which are vital for Israel's security and perhaps survival.

Prime Minister Shamir's recent visit presented a significant contrast with Prime Minister Begin's meetings with Senators in Washington, DC, in June 1982 after Israeli forces moved into Lebanon. Those sessions were contentious and filled with harsh rhetoric. I personally heard Prime Minister Begin's sharp response to President Reagan's September 1, 1982, peace proposal when I visited Israel in mid-September. The U.S. response to the events at the camps in Chatila and Sabra in late September 1982 were comparable, if not stronger, to today's reactions to events in Gaza and the West Bank.

Prime Minister Shamir's meetings with Senators and House Members were restrained by contrast. There were expressions of concern with the criticism being more implicit than explicit. Expressions of support and talk of working out the problems dominated the meetings between Mr. Shamir and U.S. Congressmen.

In the context of five wars during the past 40 years as a result of the Arab-Israeli conflict, we should recognize that a solution in the Middle East may take a long time, perhaps a generation, two generations, or longer. Those from the Middle East who understand the historic perspective seem prepared for a long struggle while some Americans at a distance press for a quick fix.

This difference in attitude was brought home forcefully to me when I had a unique opportunity to discuss Arab-Israeli relations in a lengthy meeting last January in Syria with Syria's President Hafiz al-Assad. President Assad and I discussed and disagreed on the Biblical interest of Israel controlling land from the Nile to the Euphrates. But I gained substantial insight into Middle Eastern perspective when President Assad spoke about his refusal to join President Sadat in negotiating with Prime Minister Begin in 1978. President Assad spoke of the great value of each grain of sand and inch of ground and emphasized that Arab leaders had limited, if any, rights to negotiate the interests of the next generation on the one following or for that matter the next 25 generations.

Against this backdrop, I can better understand Prime Minister Shamir's bargaining position. I do not know if Mr. Shamir or Mr. Peres is correct on the issue of an international conference. I do believe, however, that it is a decision for Israel and not United States Senators. Perhaps a compromise can be found. Prime Minister Shamir agreed to a meeting under the umbrella of the recent U.S.-U.S.S.R. summit with President Reagan and General Secretary Gorbachev giving introductory speeches with Arab-Israeli negotiations to follow; but King Hussein declined. If a compromise arrangement can be found, it must be done by the parties most directly affected.

Much has been said about Prime Minister Shamir's unwillingness to concede "land for peace" now, but little has been said about his agreement to negotiate the final status of Gaza and the West Bank—Judea and Samaria—under the terms of the Camp David accords. Considering the history and heavy costs of the Camp David accords, there is good reason to insist that the accords should be the foundation for future negotiations.

In his recent visit, Prime Minister Shamir emphasized the importance of the Camp David accords. He reminded us that since President Sadat and Prime Minister Begin could not decide on the issue of sovereignty for Gaza and the West Bank, they agreed to have local autonomy for a period of 5 years to create a new atmosphere with mutual confidence and then to negotiate on the final status of the territories. Prime Minister Shamir acknowledged that negotiation on final status could involve sovereignty or other solutions which we could not now imagine by new leaders who might not now be known.

Prime Minister Shamir's repeated statement on "negotiations on final status of the territories" seems to me to leave open the issue or at least the possibility of concessions on "land for peace" as part of the bargaining process.

I personally reject criticism of Prime Minister Shamir for refusing to make concessions on "land for peace" before the negotiations begin. How can any negotiator be expected to make critical concessions before he sits down at the bargaining table? That is the principal reason why I declined to sign the letter from 30 U.S. Senators which contained a critical reference to Mr. Shamir's position on "land for peace."[1]

During the three extended meetings involving Prime Minister Shamir and U.S. Senators and House Members, I heard repeated efforts to elicit his "vision" or later "bargaining position" on the issue. If he articulates such concessions now, what is left for negotiations? How can commitments be made now when no one can foresee the events or conditions which may follow a period of local autonomy? Who can make concessions or state negotiating positions today to bind a different Israeli leader years in the future?

As I see it, the United States should be resolute in building on the Camp David accords because it represents the most progress to date on the Arab-Israeli controversies. We should not acquiesce in any efforts, including those by President Mubarak, to move away from the accords. When Secretay of State Shultz spoke to a group of Senators on February 17, 1988, I questioned him about the statement attributed to President Mubarak that the Camp David accords were a thing of the past.

Secretary Shultz responded that some of the language of the Camp David accords drew negative responses from Arab nations so we should seek to express ourselves in different terms. The problem with that approach is that we will be opening the door to a retreat not only from the language of the Camp David accords, but from its principles as well. It was arduous to reach that agreement and we should do everything in our power to bring others to the accords instead of letting anyone including President Mubarak withdraw even inferentially. I ask unanimous consent that a copy of my letter dated February 18, 1988, to Secretary of State Shultz, together with newspaper articles be printed in the RECORD at the end of this statement.

The Acting President pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, when the meetings involving President Reagan and Secretary Shultz with Prime Minister Shamir ended, our President and Secretary of State refrained from critical comments. Many other Americans have not been so restrained. Beyond the complicated issues on Arab-Israeli relations, there are many currents in Israeli internal politics. As I see it, the preferable course is to allow Israel to work out its own domestic political problems and then to deal directly with the procedural and substantive issues in dealings with Egypt, Jordan, and other Arab nations with the help of the United States.

From my January 1988 meeting with President Assad, I believe it is entirely possible that Syria may one day reasonably soon be willing to participate in Middle East negotiations. President Assad repeated his preference for an international conference which is, at least, a starting point. Reports appear reliable that the Soviet Union has been unwilling to give Syria military and economic concessions which it sought. Syria's domestic economic problems and a concern over President Mubarak's increasing power in the Arab world may provide some motivation for Syria to undertake some role in the Middle East peace process. Israel would obviously be keenly interested in security agreements with Syria.

In the meantime, the United States should act, preferably in concert with others, to try to improve the quality of life for the Palestinians. The Senate Foreign Operations Subcommittee has initiated modest appropriations on the Palestinian issue and reprogramming of $23 million is underway. It may be that either United States Government or private sources could put up funds to be matched by Arab moneys, perhaps from Saudi Arabia, to improve housing and the infrastructure in Gaza and the West Bank.

It may be that the Palestinians would refuse such assistance because of the preference of some to keep the West Bank and Gaza in turmoil and to use the Palestinians as pawns on collateral issues. To the extent that the quality of life can be improved, it should be done. To the extent that it cannot be improved because collateral Arab interests are served by turmoil there, the responsibility should be fixed.

Experience has demonstrated that the peace process in the Middle East moves very slowly. Patience and persuasion rather than pressure should guide U.S. actions. In the long run, the United States Government can be helpful, but the Israelis and Arabs must work out their own solutions in their own ways, even if it takes a very long time.

EXHIBIT 1

U.S. SENATE,
Washington, DC, February 18, 1988.

Hon. GEORGE P. SHULTZ,
Secretary, Department of State, Washington, DC.

DEAR SECRETARY SHULTZ: Following up on my suggestion at yesterday afternoon's meeting with you and other senators, I urge you and President Reagan to resist forcefully any effort by President Mubarak or other Arab countries to reject future interim Middle East negotiations based on the Camp David Accords.

As we discussed yesterday, the New York Times reported that President Mubarak had said the Camp David formula was "a thing of the past whose time has ended." While I have no objection to the avoidance of certain labels which may bring negative responses, I believe it is extremely dangerous for the United States to acquiesce in an approach which undermines the Camp David Accord. That agreement was formulated with extraordinary difficulty, doubtless cost President Sadat his life, and remains the only Arab/Israeli agreement to provide a basis for further negotiations.

As I see it, the objective has to be to bring other Arab nations to support the Camp David Accord which was agreed to by Egypt. We should, therefore, not stand by and allow President Mubarak to repudiate or undermine that Accord.

My concerns further arise from what I believe to be a significant shift in President Mubarak's position since he first visited Washington and addressed senators at a luncheon in February 1982. At that time, President Mubarak spoke very forcefully about adhering to President Sadat's commitments and the Camp David Accord. In interim meetings in 1983 and 1984, President Mubarak seemed to retreat from those commitments. When President Mubarak visited Washington last month and spoke with a group of senators, he had moved even further from his prior commitments. For these reasons, I believe it is important that the United States government should react very forcefully in opposition to President Mubarak's recent statements and any effort by Egypt and other Arab nations to scuttle the Camp David Accords.

As I mentioned to you yesterday, I believe that it may be possible at this time to obtain some participation by President Assad of Syria. My meeting with President Assad in Damascus last month (as recorded in cables to the State Department from Ambassador Eagleton) provided some indicators of President Assad's interest in improving bilateral relations with the United States which could extend to some willingness to participate in Middle East peace talks.

These thoughts and suggests are offered in response to your request in yesterday's meeting. As I said then and repeat now, I applaud your personal participation in the Mid East peace efforts and look forward to working with you on this important subject.

Sincerely,

ARLEN SPECTER.

[From the New York Times, Mar. 7, 1988]

TWO IN U.S. SENATE DISPUTE CRITICISM OF SHAMIR

(By Neil A. Lewis)

WASHINGTON, MAR 6.—Two United States Senators expressed disagreement today with a letter signed by 30 of their colleagues criticizing Prime Minister Yitzhak Shamir of

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[1] In addition to declining to sign the letter from 30 U.S. Senators because it undercut Prime Minister Shamir's bargaining position, I also felt it inappropriate for people thousands of miles away making comments which could be interpreted as undue pressure considering the pending issue on United States foreign aid to Israel. When I was asked to sign the letter, I was told the circulators were seeking 51 signatures. Perhaps more important than the fact that 30 Senators signed is the fact that perhaps even more than 30 refused.

Israel, suggesting he has obstructing peace efforts.

Senator Arlen Specter, A Pennsylvania Republican who is widely viewed as among the strongest supporters of Israel in Congress, said: "I was asked to sign it and I declined. It's a very bad idea for us in Washington to be giving any such advice to people in Israel thousands of miles away." He said if any senators disagreed with Mr. Shamir's publicly stated resistance to ceding occupied territories for peace, they should tell the Israelis privately.

Senator Chic Hecht, a Nevada Republican who was not asked to sign the letter, said the comments expressed in it were ill-advised. "The people of Israel elected their owner leadership," Mr. Hecht said. "Israel is our most important ally in the Middle East and we should not interfere."

Two leaders of American Jewish organizations who were asked to comment differed in their reactions. Abraham H. Foxman, national director of the Anti-Defamation League of League of B'nai B'rih, said the letter could undercut attempts to achieve a Mideast peace settlement. "I think it's well-intentioned," he said, "but premature and counterproductive."

But Hyman Bookbinder of the American Jewish Committee said the senators acted appropriately because the issue is being debated in Israel and the United States. "I accept this as a legitimate process that is going on," Mr. Bookbinder said.

Mr. Foxman suggested that the American criticism might deepen rivalries between Mr. Shamir's Likud bloc and the Labor Party.

The two-page letter sent to Secretary of State George P. Shultz this weekend supported his efforts to forge a new settlement between Israel and Palestians. The letter was signed by several of Israel's staunchest supporters in the Senate, inlcuding Carl Levin, a Michigan Democrat; Rudy Boschwitz, a Minnesota Republican; Alan Cranston, a California Democrat, and Daniel Patrick Moynihan, a New York Democrat.

The letter's principal point was to object to the stance taken by Mr. Shamir and his Likud party in opposition to trading territory for peace.

The letter reads in part:

"Successive Israeli leaders have declared their dedication to the Camp David Accords including Resolution 242's 'land for peace' formula and have indicated that it would apply to the West Bank and Gaza. According to this formulation, Israel would contemplate the relinquishing of territory in exchange for a peace treaty guarantee in Jordanian and Palestinian recognition and acceptance of Israel.

"That has always been our understanding.

"Accordingly, we were dismayed to read in The New York Times of Feb. 26 that Prime Minister Shamir had said that "this expression of territory for peace is not accepted by me."

"We hope that the Prime Minister's statement did not indicate that Israel is abandoning a policy that offers the best hope of long-term peace. Israel cannot be expected to give up all the territory gained in 1967 or to return to the dangerous and insecure pre-67 borders. Resolution 242 does not require it to do so. On the other hand, peace negotiations have little chance of success if the Israeli Government's position rules out territorial compromise.

"We are also disturbed by reports that Jordan may be backing away from the idea of a joint Jordanian-Palestinian delegation that would negotiate with the Israelis at a peace conference. These accounts indicate that Jordan may insist on an independent P.L.O. presence at the negotiating table.

"We hope that these reports are without foundation. Israel rejects negotiations with the P.L.O., and rightly so. However, its officials have indicated that it would negotiate with a joint Jordanian-Palestinian delegation. Jordan's abandonment of the joint delegation concept now would deal a serious blow to the peace process.

"We believe that it is only through a compromise by both sides that we will achieve Middle East peace."

[From the New York Times, Mar. 6, 1988]

SENATORS CRITICIZE SHAMIR'S POSITION ON MIDEAST PEACE

(By Neil A. Lewis)

WASHINGTON, March 5.—Thirty United States Senators, including many of Israel's staunchest supporters, have written a letter criticizing Prime Minister Yitzhak Shamir and his Likud party, suggesting they may be obstructing efforts to reach a peace settlement in the Middle East.

The extraordinary public criticism of Israel was contained in a letter addressed to Secretary of State George P. Shultz, who returned home today after several days in the Middle East. Mr. Shultz has proposed the broad outlines of a plan for an interim settlement between Israel and the Palestinians. [Page 20.]

LAND FOR PEACE

The senators who signed the letter said they were dismayed at Mr. Shamir's continued resistance to the concept of Israel's ceding some of the territories it occupies in exchange for peace, a cornerstone of Mr. Shultz's current efforts. Although the letter also contains criticism of Arab states except for Egypt, Congressional aides said it was intended principally to send a message to Mr. Shamir and his supporters in the Likud bloc.

In criticizing the Shamir position, the senators appeared to be siding with the approach of the Israeli Labor Party, the partner in Isarel's coalition Government. Shimon Peres, the Israeli Foreign Minister and the top Labor official in the coalition, has expressed strong interest in the Shultz approach.

The senators said they supported Mr. Shultz's latest "effort to break the dangerous Middle East statemate, a statemate that has led to the current cycle of violence and counterviolence." Noting that Mr. Shultz's strategy is based on United Nations Security Council Resolution 242, the senators said the resolution "can be summarized in three words: land for peace."

CIRCULATED BY JEWISH SENATORS

Accordingly, we were dismayed to read in The New York Times of Feb. 26 that Prime Minister Shamir has said that "this expression of territory for peace is not accepted by me."

The senators said they do not expect Israel to give up all the territory gained in its 1967 war with its Arab neighbors, nor does the United Nations resolution require Israel to do so. "On the other hand," the letter said, "peace negotiations have little chance of success if the Israeli Government's position rules out territorial compromise."

The letter was circulated by Senators Carl Levin, a Michigan Democrat, and Rudy Boschwitz, a Minnesota Republican.

Also signing the letter were such strong supporters of Israel as Edward M. Kennedy of Massachusetts, Alan Cranston, Democrat of California, and Daniel Patrick Moynihan, a New York Democrat, Howard M. Metzenbaum, an Ohio Democrat, and Frank R. Lautenberg, a New Jersey Democrat. A copy of the letter was provided to The New York Times.

In his recent visit to Israel, Mr. Shultz was obliged to deal separately with Mr. Shamir and Mr. Peres because of their different views. Under the coalition arrangement, the two sides have each occupied the Prime Minister's office at different times.

In the days before Mr. Shultz's arrival in Israel last month, Mr. Shamir said the divisions between the Likud and Labor parties on the issue of whether to cede territory for a peace agreement could threaten the coalition. He threatened to call early elections, although Labor Party officials said it was unlikely they could be held before the scheduled date of Nov. 1.

Congressional aides said that some senators declined to sign the letter, apparently because they were not inclined to go along with the criticism of Mr. Shamir.

The other signers were Lowell P. Weicker Jr., a Connecticut Republican; George J. Mitchell, a Maine Democrat; Brock Adams, a Washington Democrat; Thomas A. Daschle, a South Dakota Democrat; J. Bennett Johnston, a Louisiana Democrat; Donald W. Riegle Jr., a Michigan Democrat; Tom Harkin, an Iowa Democrat; Warren B. Rudman, a New Hampshire Republican; Bob Kasten, a Wisconsin Republican; J. James Exon, a Nebraska Democrat; Patrick J. Leahy, a Vermont Democrat; John Kerry, a Massachusetts Democrat; Mitch McConnell, a Kentucky Republican; William S. Cohen, a Maine Republican, Alan K. Simpson, a Wyoming Republican; Christopher J. Dodd, a Connecticut Democrat; Dennis DeConcini, an Arizona Democrat; Kent Conrad, a Democrat of North Dakota; John Glenn, an Ohio Democrat: Timothy E. Wirth, a Colorado Democrat, Wendell H. Ford, a Kentucky Democrat, and Bob Graham, a Florida Democrat.

Mr. SPECTER. I thank the Chair, and I express my regrets to the distinguished Senator from Wisconsin for taking so much of his time; but I would like to add that I offered to yield to him before starting my statement.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Mr. President, I apologize to the Senator from Wisconsin, also. He has been very patient, as he always is.

Mr. President, I am concerned, may I say, in closing my remarks on this matter—I probably would not have said anything today, but because the distinguished Senator from Pennsylvania alluded to the majority leader in his remarks, which he had a perfect right to do, I felt that I should respond—I am concerned about the national security of this country, and I have urged caution in rushing to a treaty, and I stand by that statement.

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I am delighted I was here to hear what I think was one of the best debates I have heard in a long time.

These are two of my favorite Senators, two of the best Senators, indeed, in the Senate. They are brilliant; they are forthright. Their exchange, I think, was very productive.

I would not call that a binge of a debate, but it was an excellent debate.

Mr. President, I should like to speak on the INF Treaty very briefly.

WHY THE SENATE SHOULD RATIFY THE INF TREATY

Mr. PROXMIRE. Mr. President, to what extent does Senate ratification of the INF Treaty advance arms control and peace? Recently, Gerard Smith spoke out on this. Mr. Smith was chief negotiator of the ABM Treaty and SALT I. He is currently the chairman of the board of the Arms Control Association. This distinguished arms control expert finds three specific reasons for Senate ratification of the arms control treaty.

First, he hails the advances made in the INF agreement on verifying compliance. Verification of compliance with these superpower nuclear agreements has been far and away the most vulnerable aspect of the treaties. Arms control opponents have charged that the Soviets always cheat on these agreements. The United States complies. Result: a unilateral disarmament by the United States, a military advance by the Soviets. Most careful observers of Soviet and American compliance with arms control agreements recognize these charges as nonsense. Every agreement has its ambiguities. Either side can interpret the ambiguities to charge the other with violations. In some cases, as with the Krasnoyarsk radar constructed by the Soviets, the violation seems to be overt and conspicuous. But even in this case, the violation has no military significance. The Krasnoyarsk radar has never been completed. No interceptors have been deployed. It is militarily useless. Nevertheless, arms control critics have a point. Unless verification of compliance procedures are detailed and specific, unless they permit effective determination by both sides that the other side is in compliance, either party is likely to violate an agreement, if it feels that it can get away with it, and if it believes its supreme national interest is served in doing so.

The INF Treaty certainly provides the most far-reaching and specific verification procedures that have been negotiated to date. It requires detailed on-the-spot, short-notice inspection. It requires that potential sites be opened up to satellite inspection. It goes every bit as far as our own military experts are willing to go permitting Soviet access to U.S. military activities.

Second, Ambassador Smith contends that the INF treaty improves stability. What have NATO military experts regarded as the primary threat to Western Europe? Answer: the Soviet Intermediate Nuclear Forces. And what has most urgently concerned the Soviet military? Answer: the short flight time of the Pershing II that has all of European Russia in its sites, and can strike with virtually no effective warning. The INF treaty would ban both.

Third, the ratification of the INF treaty emphatically establishes the legitimacy and solid common sense of arms control agreements by our country with the U.S.S.R. If the most anti-Communist, pro-military American administration in this century can champion an arms control treaty with the Soviet Union, how extreme must be the right wing kooks who oppose arms control agreement with the U.S.S.R. in the future?

With the ratification of INF, arms control has become established as the prime peace policy of our country.

The attitude of the Soviet Union in agreeing to this INF treaty also represents a major advance for arms control. Consider the major concessions the Soviet Union has made in this treaty. First, there is the disproportionate reduction of Soviet nuclear missiles compared to U.S. missiles. The Soviets must destroy three nuclear weapons for every one the INF treaty calls on the United States to destroy. This can serve as an invaluable precedent in reaching a conventional arms reduction agreement with the U.S.S.R.

Second, the INF treaty provides for far and away the most intensive verification agreement on record. Unlike the United States, the Soviet Union is a closed, in fact, a tightly closed, society. Under the INF agreement, for the first time, NATO experts, including U.S.A. personnel, will be able to observe the destruction of U.S.S.R. missiles. They will be able to keep U.S.S.R. nuclear missile assembly plants under constant surveillance. They will be able to make as many as 20 annual short notice inspections of the plants. The Soviets will be required to open up hundreds of missile launching sites to our highly advanced camera-in-the-sky satellites. Here is verification with a vengeance. It will provide a critical precedent for more far-reaching strategic and conventional arms reduction agreements.

Mr. President, I ask unanimous consent that the article to which I have referred by Gerard Smith, from the January-February issue of Arms Control Today, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE INF TREATY—A REASON FOR HOPE

(By Gerard C. Smith)

(The following article is based on a speech given at the annual meeting of the Arms Control Association on December 14, 1987. Gerard C. Smith was chief negotiator of the ABM Treaty and the Interim Agreement on Strategic Offensive Forces (SALT I), and is now chairman of the board of ACA.)

A speaker must be somewhat brash in undertaking to comment on events of just several days before. It reminds me of the Chinese sage who, when asked recently what were the effects of the French Revolution, said, "It's too soon to tell."

Nonetheless, I'll make a stab at it. Let me say at the start that to ban the INF is not like "Ban the Bomb." In this case we are to eliminate non-nuclear hardware for delivering bombs (or more precisely warheads) to targets. The nuclear explosive material will still be available for other military, or, more hopefully, for civilian purposes. I say this not to demean a fine accomplishment but to clarify what in recent conversations with nonexperts I have found to be an incorrect understanding of this "nuclear" arms control agreement.

With the signing of the INF Treaty, the United States witnessed an important step toward improving the security of both superpowers by reducing the danger of war. This substantial international accomplishment foreshadows the likelihood of improved Soviet-American political relations and further control over nuclear delivery systems and conventional armed forces. I endorse this treaty unreservedly.

While gratified by the Reagan administration's conversion from outright opposition to outright enthusiasm for arms control, I admit to some pleasant perplexity as to the reason why. But whatever the reason, we owe a debt of gratitude and appreciation to my friend and collaborator in the making of the ABM Treaty, Paul Nitze [ambassador at large and the special adviser to the President and the secretary of state on arms control matters]. Despite the appropriate and almost exclusive crediting of presidents for successful international negotiations, all informed people realize that Paul Nitze was the mentor, the conscience, and the counselor whose influence carried the INF day. May I say, "He is now out of the woods."

The seven-year runup to this summit included a number of administration acts hostile to arms control: the unjustified criticism of earlier agreements, the confusing vision of an impenetrable defense against ballistic missiles, the illegitimate attempt to alter the ABM Treaty, the abandoning of agreed limits on strategic arms, and the reckless and exaggerated claims of Soviet cheating.

In the last analysis, the general conclusion will probably be that arms control, like other great policy issues, is the result of political decisions rather than of technical analyses—and politics is nothing if not unpredictable.

The American political landscape has abruptly changed in the last year in ways no one could have imagined—for example, the Iran-contra scandal and the rather sudden and belated realization that bloated deficits have mortgaged our future, in good part to foreign nations, with potentially disastrous consequences for our security and economy. In addition, I would attribute recent progress in arms control more to the accession of a new Soviet general secretary than to any special wisdom and foresight of American policy. Perhaps a comparison may not be too odious. Remember when our policy was to reject all Soviet proposals that forward-based systems targeted on the Soviet Union should be controlled? Who then would have thought that missiles based forward in Europe would be among the first systems to be banned?

It seems reasonable to conclude that Soviet leaders are willing to accept constraints on their armament in the INF and hopefully future treaties in order to create conditions permitting a reallocation of resources and a correction of past economic mistakes. We can also hope that they are in the process of changing their general attitude toward nuclear weapons and finally are understanding the wisdom of a farsighted communist who said many years ago that the atomic bomb did not respect the class struggle.

And, who would have foreseen the positive strength of congressional actions over the past year? The Senate refused to allow the gutting of the ABM Treaty by a unilateral amendment labeled as a "reinterpretation." The House refused to be stampeded into full funding of a flawed SDI program depsite its superficial attraction and heavy pressure from the White House. Some of the progress that we are now hailing might not have occurred had these congressional actions not taken place.

But whatever the cause, the Reagan administration, regardless of its anti-Soviet fulminations and anti-arms control attitudes, did negotiate this INF Treaty and the President is entitled to take substantial credit. If he is able to get Senate consent to ratification, and move on to reduce the numbers of long range strategic missiles and bombers, his role as an arms controller will be even more secure.

THE INF TREATY

The INF Treaty, while politically important, is militarily modest. It gives a positive thrust to arms control in general, placing an administration with a conservative ideology in the position of enthusiastically endorsing a process which so many of its members appeared for years to suspect. The verification provisions which make up the bulk of the agreement should provide important precedents for verification of other arms agreements. It could also set a course toward improved political relations over a broad front.

Its military modesty is owing both to the minimal reduction of the sides' missiles and the fact that left unbanned are large numbers of weapons which can hit the very targets aimed at by the INF systems. And unfortunately, the number of these unbanned weapons can be increased without limit since the United States chose last year to exceed the SALT levels for such systems. Also, other types of theater nuclear forces, such as aircraft, are not constrained in numbers and probably will be modernized.

Nevertheless, the military and strategic implications of the treaty are not without significance. For example, crisis stability should be improved. For nearly 10 years the United States and its Western allies have focused attention on Soviet INF systems as the primary threat to Europe, and the Soviet Union has thought with some justification that the short flight time of the Pershing II was a prime threat to the Soviet authorities (giving them little or no warning). These systems are to be banned permanently.

The treaty's comprehensive verification provisions are especially noteworthy and a genuine breakthrough. A more concrete example of *glasnost* would be hard to find. Arms control will take on new significance when Americans become aware of Soviet officials in their country checking on our fidelity to international commitments and looking out for American cheating.

Aside from how significant the substance of these anti-cheating measures are, the Soviet concession to our views about their necessity is remarkably encouraging. For some 40 years their refusal to accept inspectors posed a major obstacle to agreed limits on weapons. In 1970, failure to pursue a ban on MIRVs (multiple independently-targetable reentry vehicles) was due in part to Soviet policy against on-site inspection—although our interest in such a ban unfortunately was minimal to non-existent.

One should not that in past times our demand for on-site inspection was often artificial and disingenuous. But now that the INF deal has been negotiated with its massive array of monitoring procedures, a major barrier to arms limitations has been breached. Let us hope that no new artificial barriers are created by either side. The verification precedents now set should prove useful in wrestling with the more difficult problems of monitoring deep reductions in strategic arms.

INF RATIFICATION

Although the ratification debate will be lively, it now seems likely that the Senate will consent. But a comprehensive airing of differing views is to be expected, as this will be the first full Senate floor debate of an arms control treaty since 1972.

The Republican administration will have to defend the treaty against its conservative friends, including most of its presidential candidates, although some of these may change their views as the winds of positive public opinion freshen. If the President retains the support of his party and the Democrats continue to have the good sense to back this Republican-sponsored treaty, the prospects for ratification should be good.

But the debate will have consequences well beyond the specific terms of the treaty. The President and his advisers will have to argue convincingly the wisdom of arms control, explain the significance of compliance issues and the standards acceptable for verification. And they will have to clarify the somewhat confused current understanding of the treaty interpretation process.

The President will have to explain to his conservative critics why he has signed a new treaty despite repeated charges of Soviet violation of previous agreements. On this score, it was good to see that in his recent report to Congress the President reversed his previous policy that compliance with past treaties was an "essential prerequisite" for future agreements.

It would be helpful were the administration to put in better perspective its earlier cheating charges—some of which I believe were misleading or unjustified. This issue cannot be avoided. Are the Soviets serious about arms control or will they violate any and all agreements?

The administration is likely to be embarrassed by its earlier criticism of past approaches to verification and its call for airtight, thoroughly reliable verification. While new adjectives are used to describe its present policy, it has yet to explain how the standard on which the INF Treaty is premised differs from the requirement of past administrations—that verification need only be "adequate." Merely pointing to on-site inspection won't be enough. To my mind, the claim that this time there will be better verification is somewhat evasive. Our past verification capabilities were effective. If not, how could we have known about Soviet actions that we claim to be treaty violations? I suspect there is an element of public and congressional relations involved in the heavy emphasis on on-site inspection. Be that as it may, the great detail we have been able to negotiate should help to reduce disputes about what the treaty does and does not permit.

I hope that the new monitoring procedures will be made applicable to resolve ambiguities and disputes about the ABM and the nuclear testing treaties. It is encouraging that the Soviets have allowed on-site inspection of a sort at the Krasnoyarsk radar and that they have offered to permit U.S. inspector to visit Gomel where we recently claimed a violation was taking place. And then there are the planned experiments at the nuclear test sites of the two nations.

Probably the most troublesome ratification problem on the horizon derives from a development which occurred during the reinterpretation debate. The State Department legal adviser, Judge Sofaer, announced a new doctrine to the effect that the Senate cannot rely on representations by executive branch officials as to the meaning of a treaty but must search the negotiation record, which he says is the governing factor. It is not clear what constitutes a negotiating record, since as a general practice no agreed record of such proceedings is kept.

A game of chicken is now under way with senators wanting to review the whole course of the negotiations, I think mainly to demonstrate the error of the new doctrine. Although the administration has said it will provide the necessary record, the procedure has not yet been disclosed.

If, as I trust will be the case, the INF Treaty is ratified—and by a healthy margin—the arms control process will have been re-legitimized. This should help revive a bipartisan national consensus regarding security policies which serve our interests.

A bipartisan approach to arms control and improvement of Soviet-American relations would mark a significant turning point. Whether or not one likes the term "detente," we could then have reason to hope for reduced tensions and declining risks of war.

STRATEGIC ARMS REDUCTIONS

I understand that some progress was made at the summit on an agreement for deep reductions of longer-range strategic systems. But mixed with this progress was a good deal of ambiguity about what is permissible in the interim in the way of development and testing of space-based defensive systems. The record on this score strikes me as sheer doubletalk. That is a classic practice for diplomatic deferral of issues unripe for solution, but should not be followed by a "we won" attitude such as one frequently heard immediately after the summit.

I would not be surprised to see a change in the present Soviet position that a condition precedent to their agreeing to deep cuts must be our agreeing to some restraints on SDI. The natural switch would be what lawyers call a "condition subsequent"—the parties could agree to deep cuts, but if one side moved to engineering and testing defensive weapons in preparation for deployment, the other side would be relieved of its obligation to continue to cut its offensive forces. The prospect of our thus losing the benefit of a reduction treaty might be as effective a deterrent to our mounting defenses as the present situation where we cannot have both agreed reductions and defenses. But that would be an option left to the Soviets. And the uncertainty as to whether retaliatory forces would in the future have to face strategic defenses or not would likely result in a less stable, more unpredictable military balance.

The purpose of arms control is not just to decrease the size of the threat in numerical terms but also to improve crisis stability. Let's hope that our security managers keep firmly in mind the advice of the Scowcroft Commission some four years ago: design agreements to lessen the risk that either country might gain an advantage by striking first. While reducing the number of weapons is much better than increasing them, our planning must never neglect the problems of force composition after deep reductions have been made. On this score, I trust that undue emphasis on possible vulnerabilities of our strategic forces will not occur again as in the early 1980s. We seem to have passed the window of vulnerability without being caught in a draft.

A START (strategic arms reduction) treaty is no simple enterprise. It would involve a major restructuring of the strategic forces of both sides. The verification requirements are much more stringent than for the INF deal. It appears that the control of sea-borne cruise missiles involves much more complex problems than faced to date. And over all will hang the unknown factors of the relationship between space-based defenses and earth-based offenses.

In the enthusiastic backwash of the INF deal we hear some predictions about a very early follow-on agreement for deep reductions in strategic forces. They strike me as unrealistic.

Some understanding must eventually be reached on the issue of the ABM Treaty and strategic defenses. Whether it involves tacit or explicit arrangements, some constraints on strategic defenses will be necessary and in our interest, because if the ABM Treaty's main purpose is not respected in the coming years, the world will see a double arms competition for both strategic defenses and for offensive arms.

Whether or not we eventually offer—and the Soviets accept—commitments along the lines of the ABM compromise contained in the fiscal year 1988 defense authorization bill which the President signed, it is apparent that the center of gravity on the ABM issue has shifted considerably. The willingness of the Soviet leaders to defer temporarily the issue of how the ABM Treaty is to be interpreted seems to have resulted from their observation of what has happened in the United States over the last two years in connection with the ABM Treaty and SDI.

The reinterpretation debate demonstrates the foresight of our founding fathers in establishing the separation of government powers. Congress has recently successfully challenged an attempt to emasculate the ABM Treaty. In the face of criticism that their actions jeopardized the administration's ability to negotiate, a number of courageous senators and congressmen stood fast on constitutional grounds and refused to permit a unilateral amendment of a treaty which the Senate consented to some 15 years ago.

And credit for that degree of progress which we have seen on START should go to those members of Congress who said "no" when the administration began improperly to interpret the ABM Treaty—even though they were accused of adopting a pro-Soviet position. A number of people in the arms control community also deserve recognition for providing guidance to the Congress without which the outcome could well have been different.

The Congress has said in no uncertain terms that it does not like the cavalier way that the administration has treated past arms control agreements. On the ABM Treaty issue, with significant majorities it voted to prohibit the executive branch from implementing the "reinterpretation," which as a lawyer I believe to be invalid and politically pernicious. Premature death of the treaty has been avoided. I trust that this restraint will be continued in the future until the "reinterpretation" is laid to rest.

Budgeting constraints on SDI, the growing skepticism of the scientific community, and the changing nature of the program leave its future in serious doubt. I hope we someday will remember it as we recall the nuclear-powered airplane project (the ANP) of the 1950s—as a flawed concept which never emerged from the research phase and gradually faded into oblivion.

We read that in connection with the summit, movement was made toward agreement on multi-year promises not to withdraw from the ABM Treaty. I find the notion troublesome. Any party can and will withdraw from a treaty if its supreme interests are jeopardized, regardless of any promise to the contrary. While such a commitment may have political significance, its legal basis seems invalid. I would not like to have to argue before a Senate committee that the United States should be bound to abide by a treaty for a given term of years even if our supreme interests were endangered. The ABM treaty is a sound instrument of unlimited duration and should not be encumbered with an ineffective self-destruct clause.

I would like to finish these remarks by repeating that in my view the best result of the INF bargain is that it offers reason for hope. That virtue may well be an essential condition for an international regime more resistant to war and most likely to evolve in time into a lasting peace with justice.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, there are some other Senators who have been waiting to speak in morning business. Is the Senate now in morning business?

The ACTING PRESIDENT pro tempore. The Senate is not in morning business. We have gone over into the other time.

Mr. BYRD. Mr. President, I certainly am cognizant of the problems for the managers, that have been created by the extended colloquy this morning, and I want to thank Senators for their patience in waiting to make their morning business statements.

How many of those morning business statements are there, may I ask?

I believe the Senator from Mississippi has one.

Mr. COCHRAN. Mr. President, if the majority leader will yield, I have a statement I would like to put in the RECORD and then about a 30-second statement on another subject to put in the RECORD, and include the balance of my remarks as if all were read.

Mr. BYRD. Very well.

How much time does the distinguished Senator from Rhode Island wish?

Mr. CHAFEE. I would like to say to the distinguished majority leader I have a statement I would like to read that would go as long as 10 or 12 minutes. Obviously if there is a time problem I will just shorten it down. If I could have that much I would appreciate it.

Mr. BYRD. Could the Senator limit it to 5 minutes? The morning business statements were limited to 5 minutes.

Mr. CHAFEE. Yes, I will be agreeable to that.

Mr. BYRD. I thank the Senator.

And now the distinguished Senator from Missouri. Did he have a morning business statement?

Mr. BOND. Mr. President, I do. It is on a relevant subject. I would cut it short to maybe 3 minutes and submit it for the RECORD, but there are a few items I wish to call to my colleagues' attention.

Mr. BYRD. Very well.

I wonder if I could address this question to the managers. Could we have an extension of morning business for, say, 10 minutes?

I think 10 minutes will probably accommodate the three Senators.

Mr. HATCH. I have been informed on our side we have a Senator trying to catch a plane. He wants to make the cloture vote and he objects to this time going beyond 11 o'clock.

We do need some time. I think we can shorten our remarks, but we do need some time to at least explain the status of this bill before we have a cloture vote.

So I have to ask the majority leader if we could go ahead and have the two remaining arguments before the cloture vote, do it in a reasonable period of time, and then have the cloture vote say at 12 or 15 minutes after we decide when to go, then as soon as the vote is over, have these morning business items taken care of. I think it would help everybody.

Mr. CHAFEE. If I may say to the majority leader, I am delighted and it is perfectly fine to me to go on later. I do not have to go until later.

Mr. HATCH. The Senator can put his statement in 15 seconds.

Mr. COCHRAN. If the majority leader will yield, I have no intention of holding up the schedule of business today. These statements can be made any time today.

I am happy to accommodate the manager of the bill by deferring.

Mr. BYRD. Very well.

Mr. BOND. Mr. President, I am happy to submit my statement later if that will accommodate the managers of the bill.

Mr. BYRD. Mr. President, all Senators are being very cooperative.

I ask unanimous consent that the mandatory quorum call be waived. That will save 20 minutes at least or at least 15 minutes.

Mr. HATCH. Could we have unanimous consent to go until 11:20 a.m.?

Mr. BYRD. Yes.

Mr. HATCH. Make it 11:15.

Mr. METZENBAUM. No. I think I would like the quorum call for at least 10 minutes.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Thanking all Senators who have statements they wish to make in morning business and assuring them they will have that opportunity yet today, I ask unanimous consent that the mandatory quorum call be waived and that the vote to invoke cloture occur at 11:20 today.

Mr. HATCH. That will be fine.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BYRD. With the time to be equally divided between the two managers.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. I thank all Senators.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The Senate resumed the consideration of S. 79.

Mr. HATCH. Mr. President, here we go again. For those who have not been following the debate over the last few hours with regard to S. 79, we are now being asked to vote a second time in 2 days to invoke cloture on what used to be known as S. 79, the High-Risk Occupational Disease Notification and Prevention Act.

Yesterday, the Senate expressed its will by voting against cloture by 59 to 33. I admit there are a lot of soft votes in there but that certainly was a vivid demonstration of the serious problems with this bill. I also think it is graphic proof that this bill in its former form lacks significant support in this body and I think it should in its present form. I can think of no better evidence that this bill is not yet ready for floor consideration, a conclusion which apparently even the supporters of S. 79 have reached.

Today, we will have an opportunity to vote again, but the game has changed. As the majority leader noted last night, when the Senate was on the verge of recessing, the sponsors of the legislation brought to the floor a brand new bill. Using yet another parliamentary gimmick, they threw away S. 79 and brought in a totally different piece of legislation.

This maneuver has two consequences. First, we are now being asked to invoke cloture on a bill that most of my colleagues have never even seen. And, if amendments are needed, they would be impossible to draft because there are no available printed copies of the bill. And of course, they are now cutoff, to a large degree, because of the modification of the underlying bill and because of the procedure that was followed last night which, of course, I find to be certainly less than desirable.

Second, all of the amendments to S. 79 that were filed in strict compliance with the rules of the Senate are suddenly out of order. With a stroke of the parliamentary pen, these amendments automatically became invalid. Instead of providing an opportunity to vote on these amendments, the sponsors have chosen a course of action that would preclude many of us from even offering our amendments.

The sponsors then came to the floor to explain what they had done. With the lack of accuracy that has marked this legislation, they said all the substitute did was include into S. 79 the language of the amendments offered by Senators BREAUX and DIXON.

That description is simply not accurate. The new bill contains a variety of changes which were not found in the amendments of these two Senators. And I am not talking about the inclusion of an amendment filed by Senator DANFORTH or the fact that an amendment which was offered by Senator FORD and subsequently withdrawn is apparently now included in the new bill.

Although my review is far from complete, it appears that there is brand new language affecting small businesses, farmers, migrant health centers, the discrimination provisions, the obligations of workers upon termination, the employee transfer provisions, the impact of the bill on other laws, procedural rights, and liability claims.

That is pretty overwhelming, when you think about it, especially coming from a committee that has the votes, 11 to 5, to put on this floor whatever they want to with regard to this bill. And, actually, I think there has been a certain amount of boasting about that. We know we cannot stop anything in the committee, but we at least want a chance to debate these matters on the floor of the U.S. Senate.

Again, these changes were found during my first reading of the new proposal, the ones I have just listed. I can only wonder what will become apparent when we have the opportunity to study this bill in detail. There have been no hearings, there has been no debate, there has been no markup, and yet we had a brand-new bill here on the floor brought by people who had an 11-to-5 vote to guarantee them that they could bring whatever legislation they wanted to the floor of the U.S. Senate.

The only provisions of the prior bill which seems to remain intact are those which protect the tobacco industry. Now, that is amazing to me.

We are quickly developing a new legislative style in this body. It could be called legislation by desperation. To get votes, the sponsors toss this section in, toss that part out. Exclude these employees, exempt those employers. Of course, the end product is ridiculous, but sometimes you can eek out a narrow victory. The fact that the bill is impractical, unworkable, and will never become law is apparently not as important as the perception of a political victory.

The sponsors want to create a brand-new Federal agency that will regulate every single employer in the United States, all State governments, all city governments, and all localities. They want to create a panoply of new rights and remedies for every working man and woman, except those whose employers need to be protected in order to win votes, albeit the tobacco industry and others. And they want to target countless occupational hazards except, of course, those which are politically divisive.

And Mr. President, they want to legislate this package without any legitimate debate or review. We have reached a point of absurdity in our consideration of what I would like to call S. 79, but then again I am not sure what we are supposed to call the new bill before us.

Mr. President, the purpose of having committees is to provide a practical and deliberate process for the formulation of legislation. It allows interested Senators to study the legislation, hold hearings, and determine what works and what does not.

I see no reason why we should shift this process to the floor of the Senate. I see no reason why we should waste a week of the Senate's time on the bill that is not ready for consideration.

Mr. President, I hope my colleagues will join me in an effort to end this embarrassment by voting not to invoke cloture. S. 79, or should I say son of S. 79, or clone of S. 79 should be sent to the graveyard of mistaken legislation before it causes anymore trouble.

Now, there will be an attempt to say, "Well, the reason we did the unique parliamentary approach is, because there is going to be a filibuster." Well, there may be; I do not know. But the first day was tied up by a parliamentary tree established by the people who are proponents of this bill, and much of the second day also. We had not even had debate one, not even statement one before cloture was filed on this bill.

Yesterday we did talk at length and we intend to talk a little bit more to explain the profound inaccuracies and problems in this bill. You cannot do it in just a few hours. It is that complex.

The old bill was 79 pages. Only God knows how big the new bill is. And I suppose only He is going to know what that the total ramifications are, since there have been no committee hearings or any other consideration of this matter.

Now, I can tell you right now, this is not the way to legislate. I want to do it in a proper, appropriate way. Frankly, I hope that our colleagues will vote against cloture.

We do want to bring amendments to the floor today. I hope we can do that. I hope we can proceed in an orderly fashion. But, to be honest with you, I wonder how you can proceed when nobody at this time, I think, including the sponsors, fully understands what is in this newly filed bill which they put in the form of a modification of the old bill that passed 11 to 5, overwhelmingly, in our committee, as it was expected to do, but now that it gets on the floor it has run into trouble.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I want to explain to all my colleagues what happened on the floor of the Senate last night, why we felt compelled to modify the committee amendment, and where we go from there. Legislation is about compromise. It is about offering amendments, accepting some, rejecting others. It is about debating amendments and voting on amendments.

That is what we are trying to do on this bill. Senators DIXON, FORD, and BREAUX all came to the floor to offer amendments to this bill. The Dixon amendment would exempt seasonal agriculture workers from the medical removal provisions of the bill. The Ford amendment would shift any cost of medical monitoring for seasonal agriculture workers from the agricultural employers to the Federal Government. Senator BREAUX's amendment was designed to protect small business—an exemption from medical removal requirements for employers with 50 or fewer employees—instead of 10 or fewer as the bill originally provided—and a cap on the cost of medical monitoring for those small employers at $250 per employee per year.

In addition to those amendments that were formally offered on the floor, other Senators were prepared with amendments. Senator LEVIN had an amendment to include a small business phase-in for medical removal so that for the first 3 years under the law. Employers with 100 or fewer employees would be exempt and thereafter employers with 50 or fewer would be exempt. Senator DANFORTH filed an amendment to prohibit any claims for mental or emotional distress resulting directly or indirectly from actions under this act, a subject to which Senator QUAYLE had addressed himself in the committee and on the floor yesterday.

A number of other Senators had expressed concern that the liability-neutral language of the bill was not broad enough to effectutate the sponsors' stated intent to leave employers and employees in the same position as they are in today.

We were prepared to address all these issues. Frankly, I believe the Dixon, Ford, Breaux, Levin, and Danforth amendments and the concerns to broaden the prohibition on litigation weaken this bill. But, as I said earlier, legislation involves compromise and I was prepared to accept those amendments.

I must say, I am absolutely shocked to have heard the acting minority leader and the manager of the bill on the other side talk about what a terrible thing it is to be accepting amendments. I thought that is how we were supposed to legislate. I did not think we were supposed to come to the floor and say this is the way the bill should be written and not be willing to consider anything else.

In all the years I have been in the U.S. Senate, I have heard about amendments being accepted, offered, compromised, and all sorts of procedures. It is a regular way of doing business on the floor of the U.S. Senate.

Unfortunately, the opponents of this bill who had earlier vowed to kill it at all costs refused to allow me to accept these modifying amendments. They staged a filibuster to prevent the Senate from either accepting the amendments or voting on the amendments. In the process they foreclosed all Senators from offering any amendments, germane or nongermane, to the bill.

In short, we were not being allowed to legislate. To break this logjam, the chairman of the Labor Committee, at my request, polled the committee and was given authority to modify the committee substitute.

He used the very same procedure that Senator DOLE used in 1982 with respect to a Finance Committee bill.

The modification is exactly the same as the bill reported out of committee, except that the Dixon, Ford, Breaux, Levin, and Danforth amendments along with new language to strengthen the liability-neutrality provision of the bill are added.

An unintended consequence of the modification was that all amendments properly filed prior to the cloture vote became nongermane and the time to file proper amendments to the modification had already elapsed. It is not nor has it ever been my intention to be unfair to any Senator. When the majority leader pointed out the unintended consequence of our action, we offered to delay the cloture vote or to extend the time for filing amendments. The acting minority leader, perfectly within his rights, preferred to proceed with the cloture vote as scheduled.

But as I said publicly last night, this modification unintentionally deprived the minority of certain rights and could be viewed as unfair. Therefore, to assure that no one is treated unfairly and to demonstrate that we want to be reasonable, I am voting "no" on today's cloture petition and I urge all my colleagues, even those who support this bill, to vote "no" as well.

Once we dispose of this cloture vote, the bill will be open to amendment. I understand that the committee modification, by incorporating the pending Dixon-Breaux amendments, causes those amendments to fall. Therefore, we are hopeful that Senators will offer their amendments. We are prepared to discuss them and vote on them. In other words, we are prepared, as we have been for the past several days, to legislate.

I want to finish where I began: By referring to the need for give and take on the floor of the Senate. With all due respect to some of my colleagues on the other side, there is nothing unseemly about making changes in a bill on the floor of the Senate. Deriding this process as a fire sale, as has been done, should not obscure the basic point. It is right and proper that bills change when they come to the floor.

This is an important worker health measure. There are 84 of my colleagues who were not part of the Labor Committee process. Many of them want a chance to participate in shaping the bill. That is their right. I may agree or disagree with what they propose, but it is essential for the working of this body that they be allowed to bring their concerns to the floor.

After the cloture vote today, I would hope my colleagues will participate in the amendment process on the floor so that we can move forward to pass this vital worker health measure.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this is a fire sale. In all honesty, I do not know what else you could call it. Let us just review where we are.

First of all, the bill was laid down last Friday and cloture was filed. Then we moved on to another bill. Then we moved back to this bill on Monday.

We started the debate on Tuesday. The sponsors filled up the parliamentary tree. No amendments could be offered by our side. Cloture was rejected then by a vote of 59 to 33.

Then the tree was opened up, except you cannot offer an amendment to the substitute, meaning that there was not any reason for anybody to try anyway. Then at the last minute a new bill was offered.

I might add that our rules in the Labor Committee provided that the committee may poll any matter of the committee business. No poll was conducted, or at least not of minority members. Further, a poll takes unanimous consent which was not obtained.

You can see why we are upset about it. I have never been that much of a stickler for the rules, but what was done last night was, in my opinion, reprehensible. We have a brandnew bill here, from a committee that has total control over the agenda, by those who sponsor S. 79. They could have put out an awfully good bill if they wanted to right, from the start. In fact, they have done whatever they wanted to do whenever they wanted to do it. We get into the debate on the thing and the minute we start to debate, they start to complain because we will not allow them to accept amendments.

Well, we do not have to allow them to do that. The fact of the matter is that we have a right to have those amendments voted on and I told Senator METZENBAUM that we would do that. If they want to modify the bill, they could have modified the amendments, I suppose, and technically, under the rules, they can do what they did. But practically and from a principle of comity they should not have.

That is where we are. We now have a totally new bill. It is a complex bill. The old one was 72 pages long. This will be more, I expect, and in the process not 1 day of hearings, not 1 day of consideration in the committee, even though the committee operates the way it does. And now we are expected to sit here and take it.

To make a long story short, I think we should not only vote against cloture, but people should reconsider this type of legislation and I think, whether we are Democrats or Republicans, we ought to be upset about this type of legislation. It is not the way to go. It is not the thing to do. Frankly, it may be done if there is a great consensus to do it, but certainly not in this way.

I have to object to it. I hope everybody will vote against cloture, as the distinguished Senator from Ohio has indicated. I think that is good and I think they will vote against cloture, if this continues, from here on in. I reserve any time I have.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I do not rise to comment further in connection with the statements of my colleague, but I do want to point out to my colleagues a strong supportive editorial that was in the New York Times today, entitled "New Defense for Workers' Health." They talk about it as a modest and sensible measure, threatened by a Senate filibuster.

I hope that editorial will be read by all my colleagues. I think it is strong support for this legislative proposal.

I want to repeat, Mr. President, I think all the Members of the Senate should vote against cloture today in order that there be an opportunity for amendments to be offered and that we may move forward with the crafting of the legislative document.

I might say that I have some difficulty in understanding the opposition when they seem to think that there is something wrong with our offering amendments or accepting amendments to the bill but have no difficulty at all in offering amendments of their own, which certainly is within their rights.

I look forward to further debate on this bill and to further consideration of such amendments as may be offered.

Mr. President, I ask unanimous consent the New York Times editorial may be included in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 24, 1988]

NEW DEFENSE FOR WORKERS' HEALTH

A bill passed by the House could ease the minds and maybe lengthen the lives of thousands of American workers. It's a modest and sensible measure, threatened by a Senate filibuster.

The bill would create a panel of experts in the Department of Health and Human Services to identify groups of workers at risk because of past exposure to substances or conditions now recognized as hazards. The workers, both active and retired, would be notified by the National Institute of Occupational Safety and Health (Niosh) and encouraged to be monitored for diseases associated with the exposure. Under certain conditions, employers would have to pay for the monitoring.

Niosh would be charged with notification. The overwhelmed Occupational Safety and Health Administration would remain responsible for prevention of hazardous work conditions.

Senator Howard Metzenbaum, the Ohio Democrat who sponsors the bill, points out that the "long latency period" of many occupational diseases makes prevention or successful treatment possible if the illness is detected early. Many big U.S. corporations, especially chemical companies, recognize the moral and economic reasons for dealing with the problem before it goes to the courts. But a coalition led by the National Association of Manufacturers and championed by Senator Orrin Hatch, Republican of Utah, threatens a filibuster.

The opponents contend that the measure could cost business $5.8 billion to $6.4 billion a year, much of it for litigation they believe would follow notifications. But the bill contains language ruling out notification alone as grounds for lawsuits. Harm must be demonstrated. Senator Metzenbaum estimates the cost of medical monitoring at $22 million to $67 million a year. That's not peanuts, but it ought to be considered a legitimate cost of doing business.

Also legitimate is the requirement that an employee endangered by a hazard be able to request transfer to another assignment with no loss of pay. Notification would make no sense if the employee simply had to continue at risk, and the employer always has the option of abating the hazard.

These all seem a reasonable price to pay for the health of America's workers.

Mr. HATCH. Mr. President, how much time do I have?

The PRESIDING OFFICER. Nineteen seconds remaining.

Mr. HATCH. In those 19 seconds I am going to say that the New York Times editorial certainly is invalid because we now have a new bill before us and I hope everybody in the Senate understands that. I do not think it is a better bill nor do I think it is an easier bill for people to vote for so I hope everybody will consider voting against this bill and listening to the debate, which is important, to show why even this bill is not very good.

The PRESIDING OFFICER. The time of the Senator from Utah has expired. The Senator from Ohio has 1 minute, 20 seconds remaining.

Mr. METZENBAUM. Mr. President, I am prepared to yield back my time.

CLOTURE MOTION

The PRESIDING OFFICER. The Senator from Ohio yields back the remainder of his time. The hour of 11:20 having arrived, the time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 79, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

Senators Bob Graham, Claiborne Pell, Edward M. Kennedy, Barbara A. Mikulski, Alan Cranston, Paul Sarbanes, Harry Reid, Tom Harkin, Spark Matsunaga, John Glenn, Tom Daschle, Wendell Ford, Patrick Leahy, Paul Simon, Howard Metzenbaum, and Timothy E. Wirth.

CALL OF THE ROLL

The PRESIDING OFFICER. Under the previous order, the mandatory quorum call under rule XXII has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 79, the High-Risk Occupational Disease Notification and Prevention Act, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Mississippi [Mr. STENNIS] are absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 2, nays 93, as follows:

[Rollcall Vote No. 69 Leg.]

YEAS—2

DeConcini
Pell

NAYS—93

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—5

Biden
Boren
Gore
Simon
Stennis

The PRESIDING OFFICER. On this vote, there are 2 yeas and 93 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The Senate continued with the consideration of the bill (S. 79).

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I have a parliamentary inquiry I would like to propound to the Chair.

On modifying the committee substitute to the original text, did the modification of the committee amendment offered by the Senator from Massachusetts require authorization by the Labor and Human Resources Committee?

The PRESIDING OFFICER. The Senator from Massachusetts had to be authorized by a majority of the committee in order to offer his substitute.

Mr. QUAYLE. The Senator from Massachusetts had to be authorized by the majority of the committee in order to modify the substitute.

The PRESIDING OFFICER. The Senator is correct.

Mr. QUAYLE. I thank the Chair. I might ask—the chairman of the committee is on the floor—how that authorization by the Labor and Human Resources Committee was in fact obtained.

Mr. KENNEDY. In response to the Senator from Indiana, by member-to-member phone calls.

Mr. QUAYLE. In other words, polling?

Mr. KENNEDY. The Senator is correct.

Mr. QUAYLE. But polling requires unanimous consent, does it not? I was never contacted.

Mr. KENNEDY. Some 11 members of the committee were contacted and approved of the measure. Past precedents, which I will submit in just a moment, the Senator will find permit that procedure to be followed. And if we have a short quorum call—I just was off the floor on another matter—I will be glad to submit the past precedents. We followed the past precedents of the Senate, complied with them and took then the appropriate action. I am not suggesting that every member was contacted, I do not represent that, in the submission of the modification.

Mr. HATCH. Will the Senator yield?

Mr. QUAYLE. We can put in a quorum call. I am just reading the committee rules. Nothing says that we have to abide by the committee rules, I guess. But the committee may poll, like telephone conversation, matters of committee business as a matter of unanimous consent. That is in our rules. I was never asked that there be a poll of the members to substitute the committee amendment. Had I been asked, I would have objected to that. I was not consulted. I am a member of the committee. And I think once again we are seeing—we can go ahead and tramp on the rules of the committee, but the rules of the committee and the rules of the Senate say that committee amendments may be modified when authorized by the committee. That means the committee has to meet. They have got to authorize these. And just doing it by phone call to 11 Senators—I guess they contacted 11 Senators, or I do not know if they contacted a majority—I say is simply not in compliance with the committee rules.

Mr. HATCH. Will the Senator yield just so I can make a comment and maybe ask the distinguished Senator from Massachusetts a question also.

I agree with the Senator from Indiana that the committee rules require unanimous consent. Certainly, I was not notified. I think the reason the rules require that is because, had the distinguished Senator from Indiana and/or I been notified, we could have resolved this problem in advance. As a matter of fact, we finished at a quarter to 5 and we were all kept waiting around here for almost an hour until the distinguished Senator from Massachusetts came on the floor.

He did not come up to us and tell us what was going to happen. We could have maybe worked it out, just filed a major modification, which now is a completely new bill. I do not care who you are; you have to be concerned about stuff like that, without one word to the ranking minority member of this committee, standing here all day long talking about the old bill. Now, if they were going to do that, they could have told me 3 hours before and I would not have had to stand here all day, and we would have worked it out. They could have modified these three amendments if they had wanted to. We knew that rule. But we wanted votes on them and we wanted to debate each one of them in the appropriate time after we made what really are preliminary opening statements. The only thing I can conclude is that there is such an assurance that there are 11 votes against the five of us who are so opposed to this bill that we just do not count. Apparently the ranking Republican leader on the committee does not count when it comes to things like this.

Now, I admit anybody can file an amendment and technically I suppose the distinguished Senator from Massachusetts was acting within the rules except for the requisite rule of the committee which requires unanimous consent for polling.

Now, I might add also that there was a number of times when I was chairman of that committee that that rule was enforced by the distinguished Senator from Massachusetts, and rightly so. I had no problems with it. We abided by those rules—we tried to—because we wanted the minority to understand what was going on. Here we did not. In all honesty, I feel very badly about it. We had to go through a really unnecessary cloture vote to prove our point because we knew where we were on this thing had we not had this thing happen. It is a matter of great concern to me that we can abuse the committee rules like this, and not inform, at least not inform anybody who is concerned, on the other side before you do a parliamentary maneuver like this.

So it is a real sad day as far as I am concerned. I am very upset about it. I do not want to say anything more, but

I appreciate the distinguished Senator from Indiana allowing me to make the statement and extending me this courtesy.

Mr. QUAYLE. Mr. President, let me just——

Mr. KENNEDY. Could I complete my answer to the Senator from Indiana?

Mr. QUAYLE. Mr. President, in a second.

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. QUAYLE. Let me just say this. As far as the rules of the Senate, the Senate procedures say committee amendments may be modified when authorized by the committee. But the Senator acting under the direction of the committee must be so authorized to make such modification.

Now, what we are going to find out, since he says they contacted a majority of Members by telephone, it is not going to be a violation of a Senate rule. What it is a violation of clearly is committee rules. He is chairman of the committee and evidently he can abide by the committee rules or not abide by the committee rules. But the Labor and Human Resources Committee rules say anytime a matter like this will be polled it has to be done with unanimous consent. I was not contacted. Had I been contacted, I would have in fact objected.

So the issue before us is not a violation of a Senate rule. The issue before us is that in fact it is a violation of the committee rules, and it had been my hope that the committee chairman would feel bound to observe the committee rules as well as the rules of the Senate.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the particular committee rules apply to reporting out pieces of legislation and reporting out nominees. The committee conformed to the rules of our committee when we reported out this legislation. There is also a procedure in the Senate rules that permits modification of amendments and we followed this particular procedure which is established in time-honored precedents.

So I think before the Senators get all riled up they ought to recognize that we have not violated any of the committee rules but conformed with the Senate rules, and it was only done when there was a denial for the manager of the bill to get an expression by the Senate on the particular measures which had been included in the modification.

Mr. QUAYLE. Will the Senator yield.

Mr. KENNEDY. Mr. President, I hear what is being stated but, quite frankly, I find it unconvincing and unsupportable and we will rest our case with that explanation.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I just read page 2 of the Labor and Human Resources Committee rules. It says, "The committee may poll any matters of committee business." It does not say nominations or certain categories, it says "committee business" as a matter of unanimous consent. This is page 2. I think certainly this was committee business. Unanimous consent was not obtained. I do not know where he gets the idea there are certain things that can be polled. It does not say that in the committee rules.

The committee rules are very, very clear. And, as a matter of fact, I ask unanimous consent that the rules of procedure of the Committee on Labor and Human Resources be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES EDWARD M. KENNEDY, CHAIRMAN

RULES OF PROCEDURE (AS AMENDED FEBRUARY 25, 1987)

Rule 1.—Subject to the provisions of Rule XXVI, paragraph 5, of the Standing Rules of the Senate, regular meetings of the Committee shall be held on the second and fourth Wednesday of each month, at 10:00 a.m., in room SD 430, Dirkson Senate Office Building. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2.—The Chairman of the Committee or of a subcommittee, or if the Chairman is not present, the ranking Majority member present, shall preside at all meetings.

Rule 3.—Meetings of the Committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of Rule 26.5 of the Standing Rules of the Senate.

Rule 4.—(a) Subject to paragraph (b), one-third of the membership of the Committee, actually present, shall constitute a quorum for the purpose of transacting business. Any quorum of the Committee which is composed of less than a majority of the members of the Committee shall include at least one member of the Majority and one member of the Minority.

(b) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the Minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a Minority member, the measure or matter shall lay over for a day. If the presence of a member of the Minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(c) No measure or matter shall be ordered reported from the Committee or a subcommittee unless a majority of the Committee or subcommittee is actually present at the time such action is taken.

Rule 5.—With the approval of the Chairman of the Committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6.—Proxy voting shall be allowed on all measures and matters before the Committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the Committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

The Committee may poll any matters of Committee business as a matter of unanimous consent; provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

Rule 7.—There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each Committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of Rule 26.5 of the Standing Rules of the Senate, unless a majority of said members vote to forgo such a record. Such records shall contain the vote cast by each member of the Committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any Committee member. The Clerk of the Committee, or the Clerk's designee, shall have the responsibility to make appropriate arrangements to implement this Rule.

Rule 8.—The Committee and each subcommittee shall undertake, consistent with the provisions of Rule XXVI, paragraph 4, of the Standing Rules of the Senate, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9.—The Committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the Chairman and the ranking Minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee or a subcommittee. The Committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10.—Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition.

Rule 11.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12.—It shall be the duty of the Chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the Committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13.—Whenever a meeting of the Committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of Rule 26.5 of the Standing Rules of the Senate, no person other than members of the Committee, members of the staff of the Committee, and designated assistants to members of the Committee shall be permitted to attend such closed session, except by special dispensation of the Committee or subcommittee or the Chairman thereof.

Rule 14.—The Chairman of the Committee or subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time schedule for such meeting.

Rule 15.—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or a subcommittee for final consideration, the Clerk shall place before each member of the Committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added.

Rule 16.—An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

Rule 17.—(*a*) The Committee, or any subcommittee may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the Committee.

(*b*) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the Committee or subcommittee shall constitute a quorum: provided, with the concurrence of the Chairman and ranking minority member of the Committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(*c*) The Committee may, by a majority vote, delegate the authority to issue subpoenas to the Chairman of the Committee or a subcommittee, or to any member designated by such Chairman. Prior to the issuance of each subpoena, the ranking minority member of the Committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the Chairman of the Committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the Committee requesting same, or to any assistant to a member of the Committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the Rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the Chairman of the Committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(*d*) Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(*e*) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the Committee or subcommittee.

Rule 18.—Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the Committee which shall be sworn to as to its completeness and accuracy. The Committee form shall be in two parts—

(I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and,

(II) information relating to financial and other background of the nominee, to be made public when the Committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Information relating to background and financial interests (Part I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the Committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (Part II) shall not be required of any nominee when the Committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the Chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19.—Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended or suspended at any time; provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20.—In addition to the foregoing, the proceedings of the Committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

[Excerpts from the Standing Rules of the Senate]

RULE XXV

STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(m)(1) Committee on Labor and Human Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Measures relating to education, labor, health, and public welfare.
2. Aging.
3. Agricultural colleges.
4. Arts and humanities.
5. Biomedical research and development.
6. Child labor.
7. Convict labor and the entry of goods made by convicts into interstate commerce.
8. Domestic activities of the American National Red Cross.
9. Equal employment opportunity.
10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.
11. Handicapped individuals.
12. Labor standards and labor statistics.
13. Mediation and arbitration of labor disputes.
14. Occupational safety and health, including the welfare of miners.
15. Private pension plans.
16. Public health.
17. Railway labor and retirement.
18. Regulation of foreign laborers.
19. Student loans.
20. Wages and hours of labor.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to health, education and training, and public welfare, and report thereon from time to time.

* * * * *

RULE XXVI

COMMITTEE PROCEDURE

1.[1] Each standing committee, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such testimony and to make such expenditures out of the contingent fund of the Senate as may be authorized by resolutions of the Senate. Each such committee may make investigations into any matter within its jurisdiction, may report such hearings as may be had by it, and may employ stenographic assistance at a cost not exceeding the amount prescribed by the Committee on Rules and Administration.[2] The expenses of the committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

* * * * *

5. (a) Notwithstanding any other provision of the rules, when the Senate is in session, no committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate com-

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[1] As amended. S. Res. 281, 96-2, Mar. 11, 1980 (effective Feb. 28, 1981).

[2] Pursuant to section 68c of title 2, United States Code, the Committee on Rules and Administration issues "Regulations Governing Rates Payable to Commercial Reporting Forms for Reporting Committee Hearings in the Senate." Copies of the regulations currently in effect may be obtained from the Committee.

menced and in no case after two o'clock post meridiem unless consent therefor has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leaders, from his designee). The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget. The majority leader or his designee shall announce to the Senate whenever consent has been given under this subparagraph and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

(b) Each meeting of a committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance of any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

(e) Each committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of its members vote to forgo such a record.

* * * * *

GUIDELINES OF THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES WITH RESPECT TO HEARINGS, MARKUP SESSIONS, AND RELATED MATTERS

HEARINGS

Section 133A(*a*) of the Legislative Reorganization Act requires each Committee of the Senate to publicly announce the date, place, and subject matter of any hearing at least one week prior to the commencement of such hearing.

The spirit of this requirement is to assure adequate notice to the public and other Members of the Senate as to the time and subject matter of proposed hearings. In the spirit of Section 133A (*a*) and in order to assure that members of the Committee are themselves fully informed and involved in the development of hearings:

1. Public notice of the date, place, and subject matter of each Committee or subcommittee hearing should be inserted in the Congressional Record seven days prior to the commencement of such hearing.

2. Seven days prior to public notice of each Committee or subcommittee hearing, the Committee or subcommittee should provide written notice to each member of the Committee of the time, place, and specific subject matter of such hearing, accompanied by a list of those witnesses who have been or are proposed to be invited to appear.

3. The Committee and its subcommittee should, to the maximum feasible extent, enforce the provisions of Rule 9 of the Committee rules as it relates to the submission of written statements of witnesses twenty-four hours in advance of a hearing. When statements are received in advance of a hearing, the Committee or subcommittee (as appropriate) should distribute copies of such statements to each of its members.

EXECUTIVE SESSIONS FOR THE PURPOSE OF MARKING UP BILLS

In order to expedite the process of marking up bills and to assist each member of the Committee so that there may be full and fair consideration of each bill which the Committee or a subcommittee is marking up the following procedures should be followed:

1. Seven days prior to the proposed data for an executive session for the purpose of marking up bills the Committee or subcommittee (as appropriate) should provide written notice to each of its members as to the time, place, and specific subject matter of such session, including an agenda listing each bill or other matters to be considered and including:

(*a*) two copies of each bill, joint resolution, or other legislative matter (or Committee Print thereof) to be considered at such executive session; and

(*b*) two copies of a summary of the provisions of each bill, joint resolution, or other legislative matter to be considered at such executive session; and

2. Three days prior to the scheduled date for an executive session for the purpose of marking up bills, the Committee or subcommittee (as appropriate) should deliver to each of its members two copies of a cordon print or an equivalent explanation of changes of existing law proposed to be made by each bill, joint resolution, or other legislative matter to be considered at such executive session.

3. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, each member of the Committee or a subcommittee (as appropriate) should provide to all other such members two written copies of any amendment or a description of any amendment which that member proposes to offer to each bill, joint resolution, or other legislative matter to be considered at such executive session.

4. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, the Committee or a subcommittee (as appropriate) should provide each member with a copy of the printed record or a summary of any hearings conducted by the Committee or a subcommittee with respect to each bill, joint resolution, or other legislative matter to be considered at such executive session.

COMMITTEE REPORTS, PUBLICATIONS, AND RELATED DOCUMENTS

Rule 16 of the Committee Rules requires that the Minority be given an opportunity to examine the proposed text of Committee reports prior to their filing and that the Majority be given an opportunity to examine the proposed text of supplemental, minority, or additional views prior to their filing. The views of all members of the Committee should be taken fully and fairly into account with respect to all official documents filed or published by the Committee. Thus, consistent with the spirit of Rule 16, the proposed text of each Committee report, hearing record, and other related Committee document or publication should be provided to the Chairman and ranking minority member of the Committee and the Chairman and ranking minority member of the appropriate subcommittee at least forty-eight hours prior to its filing or publication.

Mr. HATCH. Will the Senator yield for a question?

Mr. QUAYLE. I think it is very, very clear that we in fact have violated the committee rules. I am not going to make a point of order that there is a violation of the Senate rules. But I think that we should also comply with the committee rules. That would be an understanding that I hope we would have, and in this case we do not have that understanding.

Mr. HATCH. Will the Senator yield for a question?

Mr. QUAYLE. I am glad to.

Mr. HATCH. The question I have is if those rules did not apply here, why do they apply anywhere? If they do not comply with a modified bill, why would they go and poll the 11 Senators? Why not let the minority know what is going on as well?

Mr. QUAYLE. The Senator will have to direct that question to the chairman of the committee.

Mr. HATCH. We went to the bother of polling.

Mr. QUAYLE. We know what the rules of the committee are. They were violated. They can be violated, and they have been. I just do not think it should go without being reported.

I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. HATCH. Mr. President, parliamentary inquiry: Will the Senator yield for a parliamentary inquiry?

Mr. QUAYLE. Yes.

Mr. HATCH. Where are the amendments as far as the bill? I understood there were two additional amendments that were still pending.

The PRESIDING OFFICER. The pending question is the committee amendments to S. 79, as modified.

Mr. HATCH. What happened to the two amendments that were on the bill? They could not have been taken off by the pending amendment.

The PRESIDING OFFICER. The two amendments numbered 1773 and 1797 were subsumed by the act of modifying the committee amendment.

Mr. HATCH. I think we will find that he did not state that when he so modified. Therefore, they could not have been subsumed by the bill itself.

I think if the Chair will look at the record, he will find he did not so state that, and I think those amendments are still there. And they should be withdrawn.

The PRESIDING OFFICER. The Chair will review the record.

Mr. HATCH. The Chair is going to have to review the record because I believe the Chair will find that the statement of the Senator from Utah is correct.

Mr. McCONNELL. I suggest the absence of a quorum. I believe I have the floor.

Mr. HATCH. Will the Senator withhold? Can we come back to this issue immediately after the quorum call is dispensed with?

The PRESIDING OFFICER. We will return to this. This is the pending business. The Chair is reviewing the record, and I thank the distinguished Senator for withholding.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the committee amendment to S. 79, as modified; but the specific business befoe the Senate is the clarification by the Chair on the two amendments that have been questioned by the Senator from Utah.

Mr. HATCH. Is the Senator from Utah correct in his assertion that the distinguished Senator from Massachusetts did not withdraw those amendments and that they need to be removed from the bill?

The PRESIDING OFFICER. The Senator from Utah is correct. The Chair had been advised that the two amendments were identical to those in the modification. That is not the case. The Senator from Utah is correct.

Mr. HATCH. So the advice was incorrect.

The PRESIDING OFFICER. The representations made to the Chair yesterday, apparently were not correct. The Senator from Utah this morning is correct.

AMENDMENTS 1773 AND 1797 WITHDRAWN

Mr. HATCH. Well, I think the way to proceed, then, with the permission of the majority floor manager, is that I would ask unanimous consent that the two amendments involved be withdrawn, so that the parliamentary situation can be corrected.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair notes his thanks to the Senator from Utah for expeditiously clarifying the situation.

Mr. HATCH. I thank the Chair.

I believe the Senator from Kentucky has an amendment.

The PRESIDING OFFICER. The Senator from Kentucky has been recognized and is recognized.

Mr. McCONNELL. Mr. President, I yield to the distinguished Senator from Missouri.

Mr. DANFORTH. Mr. President, I understand that the Senator from Kentucky has the floor.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. McCONNELL. I yield to my friend.

Mr. DANFORTH. I seek recognition, Mr. President.

The PRESIDING OFFICER. Does the Senator from Kentucky yield the floor?

Mr. McCONNELL. I yield the floor.

The PRESIDING OFFICER. The Senator can yield for a question.

Mr. McCONNELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 1811

(Purpose: To amend the Standing Rules of the Senate to require bills and joint resolutions reported by any committee of the Senate to contain a litigation impact statement)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 1811.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it so ordered.

The amendment is as follows:

At the end of the committee substitute, add the following new section:

SEC. . LITIGATION IMPACT STATEMENT.

Paragraph 11 of rule XXVI of the Standing Rules of the Senate is amended by—

(1) in subparagraph (c), by striking "paragraphs (a) and (b)" and inserting "paragraphs (a), (b), and (c)";

(2) by redesignating subparagraph (c) as subparagraph (d); and

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 1812

(Purpose: To provide for a tort liability law that affords persons harmed by products equitable and expeditious payment of their damages, and for other proposes)

Mr. McCONNELL. Mr. President, I send an amendment to the pending amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 1812.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

At the end of the pending amendment, add the following new title:

TITLE II—TORT LIABILITY REFORM ACT

SUBTITLE A—GENERAL PROVISIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Tort Liability Reform Act".

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "claimant" means any person who brings a civil action pursuant to this title, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "collateral benefits" means all benefits and advantages received or entitled to be received (regardless of any right any other person has or is entitled to assert for recoupment through subrogation, trust agreement, lien, or otherwise) by any claimant harmed by a product or by any other person as reimbursement of loss because of harm to person or property payable or required to be paid to the claimant, under—

(A) any Federal law or the laws of any State (other than through a claim for breach of an obligation or duty); or

(B) any life, health, or accident insurance or plan, wage or salary continuation plan, disability income or replacement service insurance, or any benefit received or to be received as a result of participation in any pre-paid medical plan or Health Maintenance Organization;

(4) "commerce" means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of that State; or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

(5) "commercial loss" means economic injury, whether direct, incidental, or consequential, including property damage and damage to the product itself, incurred by persons regularly engaged in business activities consisting of providing goods or services for compensation;

(6) "economic loss" means any pecuniary loss resulting from harm which is allowed under State law;

(7) "exercise of reasonable care" means conduct of a person or ordinary prudence and intelligence using the attention, precaution, and judgment that society expects of its members for the protection of their own interests and the interests of others;

(8) "harm" means any harm recognized under the law of the State in which the civil action is maintained, other than loss or damage caused to a product itself, or commercial loss, with respect to which recovery is available under the commercial or contract law of the State;

(9) "manufacturer" means (A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of a product;

(10) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(11) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(12) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state (A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state or as a component part or ingredient; (B) which is produced for introduction into trade or commerce; (C) which has intrinsic economic value; and (D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(13) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(14) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 203. APPLICABILITY.

(a) Except as provided in subsection (b), (c), or (d), the provisions of this title shall apply to any civil action against any person, in any State or Federal court, based on any cause of action, including negligence, strict or product liability, breach of implied warranty, or professional malpractice, in which damages are sought for physical injury or for physical or mental pain or suffering or for property damage other than damage to the product itself.

(b) This title shall not apply to—

(1) a civil action for loss or damage to a product itself or for commercial loss which shall be governed by State commercial law; or

(2) a civil action for intentionally committed battery, assault, false imprisonment, trespass, or conversion.

(c) The provisions of this title shall preempt and supersede Federal or State law only to the extent such law is inconsistent with this title. Any issue arising under the provisions of this title that is not governed by the provisions of this title shall be governed by applicable State or Federal law.

(d) Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law, except the Federal Employees' Compensation Act;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1602 et seq.);

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment, or the threat of such contamination or pollution.

(e) As used in this section, "environment" has the meaning given to such term in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

(f) This title shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

SEC. 204. JURISDICTION OF FEDERAL COURTS.

The district courts of the United States shall not have jurisdiction over any civil action pursuant to this title, based on section 1331 or 1337 of title 28, United States Code.

SEC. 205. EFFECTIVE DATE.

(a) This title shall take effect ninety days after the date of its enactment and shall apply to all civil actions pursuant to this title commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effective date of this title.

(b) If any provision of this title would shorten the period during which a manufacturer or product seller would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, bring any civil action pursuant to this title within one year after the effective date of this title.

SUBTITLE B—LIABILITY STANDARDS

SEC. 211. JOINT AND SEVERAL LIABILITY.

(a) Except as provided in subsections (b) and (c), a person found liable for damages in any such action subject to the provisions of this title, shall be liable for damages only to the extent of such person's proportionate responsibility for the injury and shall not be jointly and severally liable.

(b) Notwithstanding the provisions of subsection (a), any person found liable for damages in an action subject to the provisions of this title may be jointly and severally liable therefor if such person's proportionate responsibility for the injury is found by the trier of fact to exceed 50 percent.

(c)(1) This section shall not apply to persons acting in concert where the concerted action caused the injury for which such persons are found liable.

(2) As used in this section, the terms "acting in concert" or "concerted action" shall mean the participation in joint conduct by two or more persons who consciously and deliberately agreed to jointly participate in such conduct.

SEC. 212. LIABILITY STANDARDS.

Except as otherwise provided in this subtitle, no person shall be found liable for any damages in any civil action subject to the provisions of this title unless the claimant proves by a preponderance of the evidence that such person was negligent, and such negligence was the proximate cause of the damages sought.

SEC. 213. UNIFORM STANDARDS OF MANUFACTURER LIABILITY.

(a) In a product liability action, a manufacturer is liable to a claimant for harm only if the claimant establishes by a preponderance of the evidence that—

(1) the product causing the harm was in a defective condition unreasonably dangerous to the claimant or to the claimant's property (A) because it deviated in a material way from the design specifications, formulations, or performance standards of the manufacturer or from otherwise identical units of the same product; (B) because it did not conform to an express warranty made by its manufacturer; (C) because it failed to contain adequate warnings or instructions; or (D) because of its design, and

(2) the defective and unreasonably dangerous aspect of the product was a proximate cause of the harm complained of by the claimant.

(b)(1) In a product liability action, a manufacturer shall not be liable on the grounds that a product was in a defective condition unreasonably dangerous to a claimant because of its design if—

(A) the manufacturer did not know and could not know that a product was in a defective condition unreasonably dangerous to a claimant because of its design in light of knowledge reasonably available to the manufacturer, or

(B) there was not a practical and technically feasible alternative design that would have prevented the harm without substantially impairing the reasonably anticipated or intended function of the product.

This paragraph shall not apply if, on the basis of clear and convincing evidence, the claimant establishes that the product for which the action was brought is egregiously unsafe, the ordinary consumer or user of the product cannot reasonably be expected to have knowledge of the product's risks, and the product has little or no usefulness.

(2) In a product liability action, a manufacturer shall not be liable on the grounds that a product was in a defective condition unreasonably dangerous to a claimant because of its design, if the characteristics of the product are known to the ordinary user or consumer and the harm was caused by an aspect of the product that is an inherent characteristic of the product and that would be recognized by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who use or would be reasonably anticipated to use the product. This paragraph shall not be construed to limit a manufacturer's liability solely because the risk of harm is patent, open, or obvious.

(3) For purposes of paragraphs (1) and (2)—

(A) the term "knowledge reasonably available to the manufacturer" means knowledge reasonably available to qualified experts, and

(B) a characteristic is an "inherent characteristic" if it is an essential aspect of the character of the product which cannot be eliminated without significantly compromising the product's function or desirability.

(c) In a product liability action against a manufacturer for harm allegedly caused by an improperly designed drug or medical device, the manufacturer shall not be liable if the drug or medical device was unavoidably unsafe. As used in this subsection, a drug or medical device is "unavoidably unsafe" if it is apparently useful and desirable, if it is incapable of being made safe without significantly impairing the effectiveness of the product's ordinary use, and if the product does not deviate from the design specifications, formulations, or performance standards of the manufacturer or from otherwise identical units of the same product and was accompanied by adequate warnings as defined in subsection (d)(2).

(d)(1) For purposes of subsection (a)(I)(C), a product is in a defective condition unreasonably dangerous to a claimant or the claimant's property because it failed to contain adequate warnings or instructions if—

(A) at the time the product left the manufacturer's control, the product did not contain an adequate warning of or instruction with respect to an aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property, that was known or could have been known by the manufacturer in light of knowledge reasonably available to the manufacturer, or

(B) the manufacturer did not provide an adequate and timely warning of an aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property that was discovered or reasonably could have been discovered between the time the product left the manufacturer's control and the time of the claimant's injury.

For purposes of subparagraph (B), a timely warning is a warning which is given within a reasonable period of time after the manufacturer discovered or reasonably could have discovered the aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property.

(2) For purposes of subsection (c) and paragraph (1)(A) of this subsection, a warning or instruction with respect to a product is adequate if it is one that a reasonably prudent person in the same or similar circumstances would have provided with respect to the product's dangers and communicates adequate information on the dangers and safe use of the product. The term "knowledge reasonably available to the manufacturer" means knowledge reasonably available to the qualified experts.

SEC. 214. UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY.

(a) Notwithstanding the provisions of section 213, in any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant; (B) the product seller failed to exercise reasonable care with respect to the product; and (C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product; (B) the product failed to conform to the warranty; and (C) the failure of the product to conform to the warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the product seller with respect to the construction, inspection, or condition of the product, and any failure of the product seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this subtitle based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with those warnings and instructions which it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this subtitle except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) A product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

SEC. 215. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) Punitive damages may, if otherwise permitted by applicable law, be awarded in any civil action subject to this subtitle to any claimant who establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a manufacturer's or product seller's conscious, flagrant indifference to the safety of those persons who might be harmed by a product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Except as provided in subsection (b), punitive damages may not be awarded in the absence of a compensatory award.

(b) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

(c)(1) Punitive damages shall not be awarded pursuant to this section against a manufacturer or product seller which caused the claimant's harm where—

(A) the drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or medical device (as defined under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug was approved by the Food and Drug Administration; or

(B) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

The provisions of this paragraph shall not apply in any case in which the defendant withheld from or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government information that is material and relevant to the performance of such drug or device.

(2) Punitive damages shall not be awarded pursuant to this section against a manufacturer of an aircraft which caused the claimant's harm where—

(A) such aircraft was subject to premarket certification by the Federal Aviation Administration with respect to the safety of the design or performance of the aspect of such aircraft which caused the claimant's harm or the adequacy of the warnings regarding the operation or maintenance of such aircraft; and

(B) the aircraft was certified by the Federal Aviation Administration under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.).

The provisions of this paragraph shall not apply in any case in which the defendant withheld from or misrepresented to the Federal Aviation Administration information that is material and relevant to the performance or the maintenance or operation of such aircraft.

SEC. 216. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Any civil action subject to this title shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be filed within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b)(1) Any civil action subject to this subtitle shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years after the time of delivery of the product.

(2)(A) With respect to any good other than a capital good, a manufacturer or product seller shall not be subject to liability to a claimant for harm caused by a product in any civil action subject to this subtitle if the manufacturer proves, by a preponderance of the evidence, that the harm was caused after the product's useful safe life.

(B) A manufacturer or product seller may be subject to liability for harm caused by a product after its useful safe life if—

(i) the manufacturer has warranted that the product can be utilized safely for a time longer than the useful safe life;

(ii) the manufacturer intentionally misrepresents facts about the product or intentionally conceals information about the product and that concealment was the proximate cause of the claimant's harm; or

(iii) the harm was caused by exposure to a product, which exposure first occurred within the useful safe life of the product, even though the harm did not manifest itself until after such useful safe life.

(C) In any civil action brought pursuant to this paragraph, there is a presumption that the harm was caused after the useful safe life of the product if the harm was caused more than ten years after the time of delivery of the product. Such presumption may be rebutted by a preponderance of the evidence.

(3) A motor vehicle, vessel, aircraft, or railroad used primarily to transport passengers for hire shall not be subject to the provisions of this subsection.

(4) As used in this subsection—

(A) the term "time of delivery" means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold; and

(B) a product's "useful safe life" begins at the time of the first use of the product following delivery and extends for the time during which the product would normally be likely to perform or be stored, or both, in a safe manner.

(c) As used in this section, the term—

(1) "capital good" means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1954, and which was—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes; and

(2) "toxic harm" means harm which is functional impairment, illness, or death of a human being resulting from exposure to an object, substance, mixture, raw material, or physical agent of particular chemical composition.

(d) Nothing in this section shall affect the right of any person who is subject to liability for harm under this title to seek and obtain contribution or indemnity from any other person who is responsible for such harm.

SEC. 217. RECORD RETENTION.

(a) Any claimant and any person who is a party to a civil action subject to this subtitle who anticipates bringing such an action, or who has notice that he or she may be made a party to such an action, shall retain all material, documents, and other data (including, in the case of the claimant, the product alleged to have caused the claimant's harm) within such person's possession, custody, or control that are relevant or may lead to the discovery of evidence relevant to the claim or action.

(b) In any civil action subject to this subtitle, if the court determines that a party has willfully disposed of, destroyed, concealed, altered, or removed any material, document, or data in violation of subsection (a) or any State or Federal rule, regulation, or statute requiring the retention of such material, document, or data, there shall be a rebuttable presumption that the facts to which the material, document, or data relate are established in a manner adverse to the position of the party who has committed the violation. The court shall assess a civil penalty against such party in an appropriate amount not less than $1,000 and order such party to pay the other party's costs, including reasonable attorney's fees, incurred in proving the violation.

(c) In any other civil action subject to this subtitle, in which the court determines that a party has nonwillfully violated subsection (a) or any State or Federal rule, regulation, or statute requiring the retention of such material, document, or data, and that no other means are available to establish the facts to which the unavailable material, document, or data relate, the court may, in the interest of justice, establish a rebuttable presumption that the facts to which the material, document, or data relate are, for the purposes of such action, established in a manner adverse to the party who has committed the violation.

SEC. 218. WORKERS' COMPENSATION OFFSET.

(a) In any product liability action subject to this subtitle which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law—

(1) any damages awarded shall be reduced by the sum of the amount paid as workers' compensation benefits to which the employee is or would be entitled for such harm, and

(2) the action shall, on application of the claimant made at the claimant's sole discretion, be stayed until such time as the full amount payable as workers' compensation benefits has been finally determined under such workers' compensation law.

The determination of workers' compensation benefits by the trier of fact in a product liability action subject to this subtitle shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b)(1) Except as provided in paragraph (2), unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee, neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a product liability action may be brought pursuant to this subtitle.

(2)(A) Except in jurisdictions which allocate payment of workers' compensation benefits among all responsible employers, if the claimant's injury arose as a result of exposure to workplace conditions with multiple employers, paragraph (1) shall not apply if the employer or the workers' compensation insurer of the employer establishes, and the trier of fact determines, that the claimant's harm was not in any way caused by the fault of any of such employers or coemployees.

(B) In all other circumstances, paragraph (1) shall not apply if the employer or the workers' compensation insurer of the employer establishes, and the trier of fact determines, that the claimant's harm was not in any way caused by the fault of the claimant's employer or coemployee.

(c)(1) Except as provided in subsection (d), in any product liability action subject to this subtitle in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party claim tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this subtitle shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured. Any action other than such a workers' compensation claim shall be prohibited, except that nothing in this subtitle shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

(d) Subsection (c) shall not apply and applicable State law shall control if the employer or the workers' compensation insurer of the employer, in a product liability action subject to this subtitle, asserts or attempts to assert, because of subsection (b), a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller.

SEC. 219. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) In any civil action subject to this subtitle in which all defendants are manufacturers or product sellers, a manufacturer or product seller may assert in complete defense of such action that the claimant was under the influence of intoxicating alcohol or any drug and that such condition was more than 50 percent responsible for such claimant's harm.

(b) In any civil action subject to this subtitle in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was under the influence of intoxicating alcohol or any drug and that such condition was more than 50 percent responsible for such claimant's harm.

(c)(1) For purposes of this section, the determination of whether a person was under the influence of intoxicating alcohol shall be made pursuant to applicable State law.

(2) As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

SUBTITLE C—EXPEDITED SETTLEMENTS

SECTION 231. GENERAL RULE.

(a) Any claimant may, in addition to any claim for relief made in accordance with this subtitle, include in such claimant's complaint an offer of settlement. For the purposes of this subtitle, an offer of settlement shall be limited to a claim for payment of the claimant's net economic loss, pursuant to section 234.

(b) Any defendant in such an action may make an offer of settlement for the claimant's net economic loss. Such offer shall be made by certified mail, return receipt requested, within ninety days after service of the claimant's complaint, or within the time permitted pursuant to applicable State or Federal law for the responsive pleading, whichever is longer, except that if such pleading includes a motion to dismiss in accordance with applicable law, the defendant may take such an offer to the claimant within ten days after the court's determination regarding such motion. A copy of such offer shall be filed with the court within such time period.

(c)(1) The recipient of an offer of settlement made in accordance with subsections (a) and (b) shall determine whether to accept or reject such offer.

(2) A recipient of such an offer shall provide to the offeror written notice of acceptance or rejection of such offer by certified mail, return receipt requested, within ninety days after the date on which such offer is made. A copy of such notice shall be filed with the court within such time period.

(d) In any case in which an offer of settlement is made under subsection (a) or (b), the court may, upon motion made prior to the expiration of the applicable period for response, enter an order extending such period for discovery. Any such order shall contain a schedule for discovery of evidence material to the issues of the circumstances of the harm and the appropriate amount of relief, and shall not extend such period for more than ninety days. Any such action shall be accompanied by a supporting affidavit of the moving party setting forth the reasons why such extension is necessary to promote the interests of justice and stating that the information likely to be discovered is material, and is not, after reasonable inquiry, otherwise available to the moving party.

(e) Subject to subsection (d), and unless otherwise agreed by the parties, failure to respond to a settlement offer within the applicable time period set forth in subsection (c), shall be deemed to be a rejection of the offer of settlement, and the provisions of section 233 shall apply.

(f) Any party to an offer of settlement pursuant to this subtitle shall be bound by the court's determinations as to any disputes involving net economic loss. Such disputes shall be resolved by the court on an expedited basis, unless the parties agree to be bound by determinations made pursuant to any voluntary alternative dispute resolution procedures established or recognized under the law of the State in which the civil action for damages for harm caused by a product has been brought, or under the rules of the court in which such action is maintained.

(g) When an offer of settlement is made in accordance with this section, a civil action brought by a claimant shall be stayed until—

(1) notification by the recipient of such offer pursuant to subsection (c); or

(2) failure to respond to such offer within the time periods specified in subsection (c) or (d).

This subsection shall not apply to discovery pursuant to subsection (d).

SEC. 232. RIGHTS UPON SETTLEMENT.

(a) Subject to the provisions of subsection (b), a claimant may not bring or maintain a civil action against any person for damages arising from the same harm if—

(1) any defendant has accepted the claimant's offer of settlement made pursuant to section 231 and has paid or agreed in writing to make payment to the claimant;

(2) any defendant's offer of settlement made in accordance with section 231 has been accepted in writing by the claimant.

In such circumstances, the court shall dismiss the civil action of the claimant upon motion by any party to the settlement, except that the court shall retain jurisdiction for the purpose of resolving disputes concerning the extent of the claimant's net economic loss and for other purposes consistent with this subtitle.

(b) If a claimant is precluded from bringing or maintaining a civil action under subsection (a), a defendant who has entered into a settlement with the claimant may not be made a defendant in any action brought by any other part for contribution, reimbursement, subrogation, or indemnity for damages arising from the same harm, in the absence of a prior written agreement to the contrary, except as provided in section 235.

(c) Neither the claimant's employer nor any insurer shall have any right of subrogation, contribution, or indemnity against the defendant or any lien on the claimant's settlement from the defendant, nor shall the defendant have any right of contribution or indemnity against the claimant's employer or fellow employee.

SEC. 233. RIGHTS UPON REJECTION OF OFFER OF SETTLEMENT.

If a party has rejected an offer of settlement pursuant to section 231 and the action proceeds to trial, the party shall, upon request, pay the opposing party's costs unless the verdict is more favorable to the rejecting party than the offer of settlement. For purposes of this section—

(1) the term "costs" means—

(A) in the case of a plaintiff, court costs, reasonable attorney's fees, and interest, from the date of the filing of the plaintiff's action, on an award as determined by the court, and

(B) in the case of a defendant, court costs, and

(2) a verdict shall be considered more favorable to a party if—

(i) in the case of a plaintiff, the amount of the verdict is at least 10 percent more than the offer of settlement (as determined by the court), and

(ii) in the case of a defendant, the amount of the verdict is at least 10 percent less than the offer of settlement (as determined by the court).

SEC. 234. PAYMENT OF NET ECONOMIC LOSS.

(a) Subject to subsection (b) and section 231, net economic loss shall be paid periodically as costs are incurred, but not later than thirty days after the date on which reasonable proof of the fact and amount of net economic loss incurred is submitted to any defendant who is a party to a settlement under this subtitle.

(b)(1) An obligation to make payment of net economic loss may be discharged initially or at any time thereafter by a settlement agreement, including an agreement to make a lump-sum payment, except that no such discharge shall be made with respect to harm giving rise to an estimated value of net economic loss equal to or greater than $10,000 unless the court determines that the settlement is fair to the claimant.

(2) A settlement agreement may be modified upon a finding that a material and substantial change of circumstances has occurred after the date on which the agreement was made or that there is newly discovered evidence concerning the claimant's

physical condition, loss, or rehabilitation, which could not have been known or discovered in the exercise of reasonable diligence prior to the date of such agreement.

(3) The court, upon application of any party to the settlement, may make appropriate orders concerning the protection and disbursement of the proceeds of a settlement agreement entered into under this section.

(c) If a period of five years has elapsed after the most recent claim for payment is made with respect to the harm at issue, the claimant shall not be entitled to receive payment for any additional net economic loss with respect to that harm.

SEC. 235. REIMBURSEMENT.

(a) A defendant who has entered into a settlement with a claimant under this subtitle shall be subrogated to any rights of the claimant against another person arising from or contributing to the harm at issue to the extent that the amount of loss paid or to be paid in the settlement exceeds such defendant's comparative proportion of responsibility for such loss.

(b) Any other person provided with notice by a defendant that an offer of settlement has been made shall, within ninety days after receipt of such notice, determine whether to contribute its proportionate share of such claim. Any potentially liable person who would benefit may join in the defendant's response to the claimant's offer of settlement or in an offer of settlement made by the defendant. Such person shall give written notice to the claimant and the defendant. A person who joins in such a settlement is deemed to have agreed to pay a share of the claimant's net economic loss pursuant to section 234, based on the comparative responsibility of all those joined in the settlement other than the claimant.

(c) Persons who join in a settlement pursuant to subsection (b) shall be bound by the court's determination, made upon motion by any such person, of their proportionate shares of responsibility for the claimant's loss, unless such persons agree to be bound by determinations made pursuant to any voluntary alternative dispute resolution procedures established or recognized under the law of the State in which the civil action for damages for harm caused by a product has been brought, or under the rules of the court in which such action is maintained.

(d)(1) If any person who is responsible for causing the claimant's harm and who has received notice under subsection (b) refuses to contribute such person's proportionate share of loss pursuant to this subtitle a defendant who has entered into a settlement agreement pursuant to section 231 to pay such loss may recover from such person a total amount equal to the amount of subrogation recovery pursuant to this section plus one-half of the amount of such subrogation recovery, in addition to reasonable attorney's fees and costs incurred in seeking such subrogation recovery.

(2) If an action is brought under this section against another person (other than the claimant's employer or fellow employee) for contribution, reimbursement, or indemnity and the action is not a civil action subject to this subtitle, such action shall be governed by applicable standards of liability under State or Federal law.

SEC. 236. DEFINITIONS.

(a) As used in this subtitle, the term—

(1) "claimant" means any person who brings a civil action pursuant to this subtitle, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "net economic loss", in accordance with subsection (b), includes—

(A) reasonable expenses incurred for reasonably needed and used medical and rehabilitation care and services;

(B) lost income from work which the claimant would have performed if the claimant had not suffered harm, reduced by any income earned from substitute work actually performed by the claimant or by income the claimant would have earned in available appropriate work which the claimant was capable of performing but unreasonably failed to undertake;

(C) reasonable expenses incurred in obtaining ordinary and necessary services in lieu of those the claimant would have performed, not for income, but for the benefit of the claimant or the claimant's immediate family, if the claimant had not suffered the harm;

(D) lost earnings of a deceased person who suffered fatal harm caused by a product which, if the person had not died, would have been contributed to claimants who are entitled to receive benefits by reason of such person's death under the law of the place where the deceased person was domiciled; and

(E) reasonable expenses incurred by the claimant in preparation and submission of an offer of settlement or a response pursuant to section 231, including a reasonable attorney's fee,

less the total amount of collateral benefits paid or payable to the claimant by reason of the same harm.

(b)(1) The lost income taken into account under subsection (a)(2)(B) shall be reduced by the amount of all Federal, State, and local income taxes and any Social Security or other payroll taxes which would be applicable to such income, but which would not be applicable to compensation paid under this subtitle.

(2) Where harm occurs in circumstances that might entitle a claimant to benefits (including workers' compensation benefits) which would reduce the amount of the claimant's net economic loss in accordance with subsection (a)(2) and it cannot reasonably, within the time provided for payment under section 234 or any reasonable extension of such time, be determined whether or in what amount such benefits will be payable, the defendant shall place in an interest-bearing escrow account that portion of the economic loss which the defendant reasonably anticipates the claimant will receive from such other sources, until the claimant's right to such benefits and the amount of such benefits finally has been determined under applicable law.

(3)(A) The total amount of compensation for economic loss paid or payable to a claimant from any other source shall, for purposes of subsection (a)(2), be reduced by the amount of legal fees and other costs incurred by the claimant in collecting such compensation.

(B) Attorney's fees may be on a contingent basis but, for the purposes of subsection (a)(2), shall be calculated solely on the basis of an hourly rate which should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications and experience and the complexity of the case.

(4) Except as otherwise provided by any provision of Federal law, no program of compensation whether public or private, the benefits of which would be deducted from a claimant's economic loss in order to calculate net economic loss under subsection (a)(2), may make payment of benefits secondary to payment of net economic loss by a defendant under this subtitle.

Mr. McCONNELL. Mr. President, for the last few days, we have been debating the issue of high-risk occupational disease notification and prevention.

There are many on this side of the aisle who feel that that measure, if enacted, would create a whole new body of litigation and a great new additional caseload upon the various courts of this country.

I might say that many of us feel that court crowding, the litigation crisis, is an extremely important problem that has been unaddressed by Congress over the years. Some have said that the liability insurance crisis, which many of us give as a principal result of the litigation crush, is simply over, but in fact the tort and insurance liability crisis is not over.

To say that there is no longer an insurance coverage crisis is like saying there was no energy crisis a few months after the oil crisis of 1973. Although oil slowly became available, afterward there were staggering prices, the inflation rate had skyrocketed, millions hit the unemployment lines, and the standard of living inched downward. The crisis did not subside until realistic legislative action was taken curbing irresponsible energy use and breaking dependence on foreign oil.

Mr. President, the situation is the same with the liability insurance crisis. We have staggering prices; costs still going up; a 20-percent increase, for example, in the last 4 months of 1986; inflated costs for other goods and services; some vital services totally unavailable.

With respect to obstetric care, for example, in my State of Kentucky, four out of five family doctors will not deliver babies any more. Other medical services and treatments have been adversely affected. Municipal and school services have been adversely affected. Hazardous waste cleanup has been adversely affected. Jobs are drying up as businesses close down high-risk operations.

This crisis is penalizing research and innovation and risktaking. It cuts into our ability to compete with foreign rivals, and the overall standard of living drops as a result.

In addition to that is the declining quality of insurance coverage. Price stabilization masks inadequacies in coverage. Companies are forced to underinsure; and when they do that, they run the risk of bankruptcies, of jobs being swallowed up. Thousands of uncompensated victims are potentially the result of that.

New policies tend to exempt many risks from coverage. Whole industries sometimes self ensure without adequate loss reserves. It is a danger in fact of an industrywide liabilitywide meltdown. Crucial activities unable to obtain coverage include environment, hazardous waste cleanup activities, directors' and officers' insurance, medical malpractice, municipal insurance, police, ambulance and fire. The situation is in fact a serious crisis.

I was among those earlier in this discussion of this issue, and I might say that the discussion goes on forever. I do not suppose there is a single subject about which there have been more congressional committee hearings. It has managed to work its way into virtually every committee on Capitol Hill in both the House and the Senate, and yet nothing is ever done. We have never had a meaningful vote on either the floor of the House or Senate on either product liability or a broader concept of tort reform.

The bill that I was promoting early on prior to 1988 and prior to the offering of this amendment was considerably more drastic in some people's view than the amendment currently pending before us. This particular amendment I want to describe at this particular point and compare it to some of the more drastic measures that many of us who have advocated that there ought to be some Federal solution to this problem have pointed toward over the years.

The amendment before us retains many of the reforms from the proposal I offered in 1986. We made changes, however, which respond to legitimate concerns raised in last year's tort reform debate.

Let me start by saying what is not in this amendment. There are no caps on pain and suffering or punitive damages. There is no periodic payment of damages in excess of $100,000. We did not do anything about attorney contingency fees. There is nothing in this amendment which will deny full and fair compensation to any wrongfully injured plaintiff.

What is in the amendment, Mr. President? It contains noncontroversial modest reforms that have been widely supported across the country and fair balanced needed restoration of crumbly tort standards. This amendment would require in any civil suit a showing that the defendant was at fault, in other words, Mr. President, to put fault back into the system.

When I was in law school 20 years ago, we did not have no-fault tort but that seems to have evolved.

In the area of joint and several liability, the amendment would require proof that the defendant was primarily the cause of injury before making the defendant pay 100 percent of the damages.

For punitive damages, Mr. President, it would require truly egregious conduct to be shown before punitive damages could be assessed.

There would be penalties on lawyers who bring frivolous suits or stall resolution of lawsuits.

And finally it would promote alternative dispute resolution. It is high time that we did something about the crush of litigation in this country, encouraging people to settle their disputes outside the courtrooms of America.

This amendment would restore commonsense standards of fairness and reason that should not have been abandoned in the first place, and I might say even the American Bar Association now recommends most of these reforms which this amendment advocates.

Mr. President, I offered this amendment on behalf of myself, and the Senator from Missouri, Senator DANFORTH, and the Senator from Wisconsin, Senator KASTEN, both of whom have been extremely active and involved in the field of product liability legislation, and also the Senator from Texas, Senator GRAMM, who has a longstanding interest in this subject.

This amendment in effect incorporates the provisions of S. 554, a bill I introduced in 1987 but has in addition thereunto a section that the senior Senator from Missouri, Senator DANFORTH, has advocated for some time regarding expedited liabilities and settlements, and he will be, I assume, explaining that section at the appropriate time.

Mr. President, we have dealt with a lot of legislation in the 100th Congress and particularly in this session that deals in this Senator's opinion with a lot of problems that are not really problems. But there is not any question that the liability insurance crisis is real and that even if it were not real, even if we just had a litigation crisis, we have a serious, serious problem in this country that cries out to be dealt with.

In August of 1986, the White House Conference on Small Business which brought in small businessmen from all over the country declared as the No. 1 problem tort reform. Product liability came in, I believe, ninth. But clearly the need for tort reform, the liability insurance crisis, the delay in being able to solve litigation, conclude litigation, is a massive, huge problem confronting this country and yet we have never had in this body a single meaningful vote on either tort reform or product liability legislation ever; despite all of the hearings that have been held in various committees in both Houses of Congress, we have never had a vote.

We had one rather meaningless vote on a motion to proceed in late 1986 to a product liability bill, but that was it. Everybody voted for it. It was not clear who was for product liability legislation or who was against it, and in the area of comprehensive tort reform certainly no vote at all.

So we have an opportunity, it seems to this Senator, to go on record in dealing with a bill that clearly has an impact on the crush of litigation in this country, to deal with this most important issue on this bill.

With regard to the liability explosion, the fallout statistics are really enormous.

If you just look at civil cases in Federal courts alone, in 1967 there were 72,000 cases. In 1977, there were 131,000 cases. By 1987 there were 255,000 cases. That is a 200-percent increase in 10 years, a 350-percent increase in 20 years. Those figures come from the Institute for Civil Justice and the Administrative Office of the U.S. Courts. It was a 350-percent increase in the number of cases in Federal court in the last 20 years.

Looking, specifically at tort lawsuits in State courts, State court tort filings increased 20 percent in 7 years, from 1977 through 1984. And those figures come from the National Center for State Courts.

Federal court tort filings increased 60 percent in 5 years, from 1980 to 1985. Those figures come from the Administrative Office of the U.S. Courts.

There were 21,000 tort filings in Federal court in 1960, Mr. President. There were 42,000, exactly double that number, Federal court filings in 1985. Again the source, the Administrative Office of U.S. Courts.

If we set aside those suits involving car accidents and property, the increase is even more dramatic. There were 11,000 noncar, nonproperty tort actions in Federal court in 1960; 31,000, almost a threefold increase, in 1986—31,000, a threefold increase, by 1986.

Let us look at it from a different point of view, Mr. President, not just the number of cases filed, but the awards. Let us look at million-dollar verdicts. In 1963, there were two million-dollar verdicts in the country—two in the entire country. Ten years later, in 1973, there were 18 verdicts above $1 million. In 1983, 10 years later, there were 360 million-dollar verdicts. That is a 2,000-percent increase in 10 years; an 18,000-percent increase in 20 years.

Mr. President, I ask unanimous consent that the committee substitute, as modified, be printed for the use of the Senate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. METZENBAUM. Reserving the right to object. What is the nature of the request of the Senator from Kentucky?

Mr. McCONNELL. If the Senator will suspend for just a minute.

This way, everyone will have a printed copy of the bill before them and it will be easier to offer amendments and understand what is in it.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. METZENBAUM. Reserving the right to object, does the Senator from Kentucky know that the amendments have already been printed and are on the desks? it seems to me this would be duplicative of that which has already occurred.

Mr. McCONNELL. All I would say to my friend from Ohio is, I am told that this is a new bill and we do not have all the amendments.

Mr. METZENBAUM. I am going to object only in order that the staff may speak to each other. We want the Members of the body to have a full opportunity to know what is before them. We think it already is. But if, for some reason, it is not, I will certainly accede to the Senator's request.

Mr. McCONNELL. I thank the Senator from Ohio.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, let us look at medical malpractice and product liability cases alone, getting down to the nub of the problem here.

In 1975, there were $12 million verdicts in medical malpractice and product liability cases. In 1985, 10 years after that, there were $160 million verdicts—$160 million, up from $12 million in 10 years; a 13-fold increase in just 10 years. That is from Jury Verdict Research, Inc., those statistics.

Mr. President, I am told the Senator from Ohio has no objection, so I will repeat the unanimous consent request. I ask unanimous consent that the committee substitute, as modified, be printed for the full use of the Senate.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, looking at medical malpractice filings, medical malpractice suits in Federal court first went from 385 in 1978 to almost 2,000 in 1986. That is a 425-percent increase in 7 years.

Medical malpractice lawsuits per 100 physicians, another way of looking at it, more than doubled from 1976 to 1981, and more than tripled for obstetricians in the same period.

The frequency of malpractice claim filings, another way of looking at the same problem. In 1976, there were 10.5 claims per occupied hospital bed. By 1985, there were 3.5 claims per bed. Claim frequency has more than doubled in 10 years.

Let us look at the whole problem from another perspective, the average medical malpractice awards. In 1976, the average medical malpractice award was $15,000. Ten years later, in 1985, it was $40,000. Awards have nearly tripled on the average in 10 years.

Uninsured medical malpractice costs. In 1984, it was $165 per occupied hospital bed. In 1985, 1 year later, $425 per occupied hospital bed, a 150-percent increase in 1 year.

Total uninsured malpractice losses, looking at the whole industry. In 1985, there were $130 million in uninsured losses. In 1990, 5 years later, $2 billion total uninsured malpractice losses are projected.

Product liability filings. Product liability filings in Federal court increased over seven times in 10 years from 1975 to 1985.

So, clearly, Mr. President, we have a liability explosion in terms of the number of cases filed, in terms of the amount of the awards. And, obviously, that is being passed along to the consuming public.

Mr. President, I yield the floor.

Mr. DANFORTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

MODIFICATION TO AMENDMENT NO. 1811

Mr. DANFORTH. Mr. President, I send a modification of amendment No. 1811 to the desk.

The ACTING PRESIDENT pro tempore. The Senator has a right to modify the amendment. the amendment is so modified.

The modification is as follows:

> At the end of the committee substitute, add the following new section:
>
> SEC. . It is the sense of the Senate that a Comprehensive Tort Reform Act should be adopted during the 100th Congress.

Mr. DANFORTH. Mr. President, I do not know if the Senator from Kentucky would like to resume his discussion at this point. I have some points that I would like to make on the subject of tort reform but I do not think the Senator has completed his at this point.

Mr. McCONNELL. What I would prefer to do, I say to my friend from Missouri, is to allow him to go forward for awhile at this point and I will resume later.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. DANFORTH. Mr. President, first, I think it is important to spell out to the Senate what this amendment does. This amendment is the product of a long period of discussion involving Senator McCONNELL, Senator KASTEN, and myself and our staffs.

The subject of tort reform in one form or another has never been brought to the Senate before for a vote. A product liability bill was reported out of the Senate Commerce Committee in 1986 and that bill was filibustered in the last days of the Senate. So we never really have voted on this very important question of tort reform, to my knowledge.

I think it is fair to say, Mr. President, that if you ask a dozen different people to give their views on the precise form of a tort reform bill, you would get a dozen different answers. It is a very complex subject. It is a subject on which law professors have testified before the Senate Commerce Committee, panels of people who are committed to tort reform, product liability reform, have testified and they have different nuances of their positions.

But I think there is such a general recognition that the time has come to get on with this subject that all of us, despite somewhat different views on the details of legislation, think that we should join forces and offer to the Senate a tort reform amendment, and that is what we are doing right now.

The amendment that has been offered by the Senator from Kentucky does the following: first of all, the scope of the amendment. It applies to civil actions filed in State and Federal courts based on negligence, strict liability, product liability, breach of implied warranty or professional malpractice.

With respect to joint and several liability, under this amendment joint and several liability shall apply only with respect to those defendants whose proportionate responsibility for injury to the plaintiff exceeds 50 percent.

As a general rule under this amendment in actions subject to this amendment, the defendant shall be liable only if shown to be negligent and such negligence was the proximate cause of the plaintiff's injury.

With respect to manufacturer liability, in product liability actions, the manufacturer is liable only if the product was in an unreasonably dangerous condition and such condition was the proximate cause of the injury. A manufacturer shall not be liable because of product design if there is no practical and feasible alternative design that would have prevented harm. A manufactuer shall not be liable for the unreasonably dangerous characteristics if such characteristics are known and inherent.

With respect to product seller liability, a product seller is liable only for its own negligence or its own express warranties.

On punitive damages, punitive damages may be awarded only if the plaintiff establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a conscious flagrant indifference to the safety of those who might be harmed by a product. Punitive damages shall not be awarded against a manufacturer of drugs or aircraft subject to approval by the government.

With respect to uniform time limitations, actions subject to this amendment must be filed within 2 years of the time the injury is discovered. Actions subject to this amendment concerning capital goods must be initiated within 25 years of delivery of the product. Manufacturers of goods other than capital goods shall not be liable for harm caused after a product's useful safe life. Such useful safe life is rebuttably presumed to be 10 years.

With respect to workers' compensation offset, damages paid to the plaintiff shall be reduced by the amount paid to the plaintiff as workers' compensation.

With respect to alcohol or drugs, the plaintiff may not recover for harm if the plaintiff was under the influence of alcohol or drugs and such condition was more than 50 percent responsible for the plaintiff's injury.

There is also a provision for expedited liability settlements.

Plaintiff or defendant may include with the complaint or responsive pleading an offer of settlement for net economic loss. The recipient shall respond within 90 days. Failure to respond constitutes rejection of the offer.

If an offer of settlement is made and the recipient refuses to settle and loses, the recipient is liable for the offeror's reasonable attorneys' fees from the time the offer is rejected until the entry of judgment.

If a settlement offer is agreed to, the plaintiff would be entitled to receive net economic loss. The court shall resolve any disputes concerning the level of net economic loss or the parties may agree to use a dispute resolution procedure. The parties may agree on a lump sum to settle the claimant's net economic loss.

(Mr. SHELBY assumed the chair.)

Now, Mr. President, that is the substance of the amendment offered by the Senator from Kentucky.

Mr. President, I have been visited in my office within the last few days by municipal officials from my home State of Missouri. I have discussed with these municipal officials the problems they face with respect to tort liability. They tell me that this is an unpredictable problem for municipal government.

I visited a few days ago with members of the board of aldermen from Overland, MO. Overland is a community in north St. Louis County. I would say that it would be fairly described as a middle-income, probably predominantly blue collar community. The people who have served on the board of aldermen in Overland are subject to a judgment for punitive damages.

Mr. President, as one member of the board of aldermen from Overland said: You know, we really do not get anything out of this job except the satisfaction of doing a public service. It is hard to recruit people to go into public service if they are going to be sued all the time. The case in Overland, MO, and other cases that I have heard about in other communities in my State have dealt with zoning. The board of aldermen zones some property, people in the adjoining property file a lawsuit against the board of aldermen claiming that there is a taking because their property values are reduced. It is a civil suit filed against individual members of the board of aldermen to hold them personally liable for zoning decisions.

Or the person who has bought the property applies for a zoning variance, the board of aldermen does not grant that variance, and that person files the lawsuit claiming that the value of his property has been diminished by the board of aldermen. This is happening to municipal officials, people who receive very little income, people who are interested in performing a public service, people who are willing to take the kind of job when their phones are ringing off the hook every night from their constituents because they feel it is a contribution that they want to make to their community, and for their trouble they are sued. Increasingly I am hearing this from officials in local government. It is a major, major problem. And they say: do something about it. And that is what this amendment would do.

Then there is the case of physicians. I had the privilege this past weekend of attending a meeting of the Missouri State Medical Association. The physicians in attendance were very aware of the problem of malpractice insurance. Everyone had a horror story about how the costs of malpractice insurance had gone through the roof and how lawsuits had threatened their practice.

They claim that they are unable to practice medicine according to their best judgment because they have to practice defensive medicine so as to avoid successful lawsuits against them. So it is a problem not only for municipal officials, it is a problem for the medical profession.

We wonder about the high costs of health care in this country. What can be done about it? What can be done to reduce the costs of health care? The physicians will tell you that one thing that can be done to reduce the costs of health care is to reduce somewhat this burden of malpractice insurance and defensive medicine.

And the cases go on and on.

Product liability. We had in the last Congress hearings in the Senate Commerce Committee on product liability cases. The product liability system is widely called a lottery, a lottery because people who are injured enter the lottery and they find out, 5 years or so later, whether they have hit the jackpot or not; whether they scored or not. Maybe they have. And if they have scored, somebody pays for it, and it is insurance rates that pay and the cost of living for the American people that pay.

But the pathetic thing is that litigation can be strung out for such a long period of time that the people who are badly hurt, who have high medical expenses, who cannot go to work, can be kept in court forever so that they finally have to settle for less than their claim should be worth; whereas, people who are not so badly hurt, who do not have to lose their jobs, can hang in there and wait and see if the pot of gold is there.

So it has been called the lottery.

I am a lawyer. I am proud to be a member of the bar. I understand that some of my fellow lawyers do not want to see any kind of reform. They are doing very well under the present system, with 30, 40, and 50 percent of recovery going to litigation expenses and lawyer fees. This gold mine is one to be mined very industriously. Sell your services on television. Advertise.

Mr. President, the practice of law should be a public service, and clearly the civil justice system of this country is something that has gotten out of control. We have a chance to address this problem. That is what this bill is all about. That is what this amendment is all about.

I could go on at great length giving examples from my State. Lafayette County, MO, closed its jail for 7 weeks after its liability insurance policy was not renewed, closed its jail because it could not get liability insurance to operate its jail.

In Kansas City, MO, the police department saw its automobile liability insurance increased by 140 percent in 1986 alone.

In St. Joseph, MO, bus service was shut down because the insurance company went out of business.

In the Alton School District, the football team was pulled off the field while the school district set up a new insurance program to address the lack of available insurance. On and on and on.

Malpractice rates for family practice physicians rose 135 percent in 1985. Hospital insurance rates increased by more than 150 percent in the same year.

At the Wetzel Clinic, in Clinton, MO, which provides care to a wide rural area in the western part of our State, 7 of the 10 doctors who used to deliver babies were squeezed out of practice by insurance rate increases. The gynecologists and the obstetricians apparently are among the worst hit by this situation.

I could go on and on with the examples. I will not. But I would say to the Senator from Kentucky, I congratulate him on his amendment. Maybe other Senators have different ideas for perfecting it. There is certainly room for debate. But so far, this legislation has been getting nowhere. It is stuck. It has been dragging along. We have been working, trying to get it to the floor of the Senate to no avail at all. At the same time, this tremendous cost goes up and up and up.

Mr. McCONNELL. Will the Senator yield on that point?

Mr. DANFORTH. This Senator will happily yield.

Mr. McCONNELL. I have heard a number of people around the country speak of our reluctance to act on this subject in spite of the fact that it was assigned No. 1 spot in the White House Conference on Small Business in August of 1986, in spite of the fact that it ranks high among the American people. There is something that is frustrating about it. I have heard it said that there are too many lawyers. I hope that is not the case. Sixty-two of the one hundred Members of this body are lawyers. I hope that is not the reason we are addressing the problem now. It raises the suspicion throughout the land that somehow we are unwilling to tackle this problem which is important to the American people because of some reservation among fraternal members, in effect, about stepping up to this issue. I think that strikes at our credibility.

As I said earlier today, almost every committee of the Senate and House, with the possible exception of the Intelligence Committee, has had hearings on this subject and nothing has happened. It seems to me that the Senator from Missouri is right on the mark. Maybe sooner or later we ought to vote on some of these proposals and let the American people know whether or not we have any interest in addressing this problem.

Mr. DANFORTH. I think the Senator has made a very good point. As he pointed out, at the White House Conference on Small Business, when it was held a couple of years ago or so, the small business delegates to that White House conference set out a priority list of what was most important to them, what issues were most important.

The No. 1 item on the list was tort reform, product liability reform—the No. 1 issue on the list of small business.

We are in the Congress and our job, as I understand it, is to attempt to be responsive to our constituents. These were not the big business people. These were not the big corporate giants. These were small business people.

The small business people said No. 1 was product liability reform.

I went to National Airport in 1985 when the Cardinals were playing the Royals in the World Series and one of my constituents, an obstetrician, saw me at the airport. I did not think I would get to the plane in time to see the ball game because he had literally grabbed me by the lapels to tell me about the problem of practicing medicine because of malpractice.

We worry about the cost of health care. We worry about the cost of our budget of health care. And yet, we just stand by for some reason and do nothing, nothing, to address the problem of malpractice litigation.

Mr. McCONNELL. Of course, our friends who are physicians in the larger cities do complain about the cost of their liability insurance, but they are probably able to absorb it and keep on going. But if you turn to rural Kentucky and rural America, where the diversity of specialities is not available, then the practical effect of this liability insurance crisis is not just the higher premiums; it is unavailability. The physicians out in the poorer sections of our country who have been providing this health service at a reasonable rate are simply not going to be there any more. They are folding up their tents all across rural Kentucky. The health options available to rural people are disappearing.

Mr. DANFORTH. I am told that while several years ago it was very difficult to get into medical school, now it is not difficult to get into medical school.

I am also told particularly obstetricians and gynecologists are leaving the practice of medicine because they believe that it is a hassle now. What professional wants to be constantly under fire for malpractice?

It is not just the financial risk. It is the fact that the professional reputation of the physician is at stake. That clearly has a major effect on health care, on the quality of health care and on the cost of health care.

Mr. McCONNELL. As the Senator from Missouri is aware, we are the only country in the world that has this problem. We are a very litigious society.

You mentioned baseball awhile ago. I think it could be argued that filing of lawsuits is the new American pastime. We do it constantly. I saw some statistic recently indicating that 1 out of 14 Americans that particular year, which I think was either last year or the year before, were involved in a lawsuit. The reason for it obviously, as the Senator from Missouri said, is it is much like the lottery, only it is better than the lottery. If you file a lawsuit, you are very likely to get something. They are likely to give you something just to make you go away.

It raises the question why other societies do not have it. Other societies have a concept of "loser pays." If you bring a lawsuit in virtually every other society in the world and you are unsuccessful, you pay your lawyer, the other side's lawyer and the court costs. It has a remarkable effect on the filing of lawsuits.

That is not in the amendment that the Senator from Kentucky has offered here. Some have said it ought to be. But that simple notion of loser pays, if mandated across the country, would take care of the litigation crisis and completely solve the liability problem. But we have not advocated that. Others have said do something about contingency fees. We have not advocated that.

So the proposal we have offered here is not draconian in nature. It deals with certain elements of simple justice for the civil justice system.

Mr. DANFORTH. I want to make it clear, also the effect here is not just on small business. It is not just on physicians. It is not just on Government employees, members of boards of aldermen and the like. It is a much greater reach than that.

For example, the Amateur Softball Association had a premium increase of over 2,000 percent between 1985 and 1986. The Amateur Softball Association had a 2,000-percent increase in a single year. I would think that we want Americans to have the kind of quality of life that allows them to join softball associations and join leagues, that allows their kids to be in Boy Scout troops or to play football, and when the cost of these things goes through the roof, something is happening to our lifestyle in this country.

There are all kinds of examples of what this has done to football helmets, the cost of a football helmet, the cost of baseball and softball equipment.

The producers of baseball and softball equipment saw its premiums go from $14,300 in 1984-85 for $500,000 worth of coverage to $70,000 for the same coverage in 1985 and 1986.

Clearly, something is wrong. As I say, the Senator from Kentucky has offered us an amendment which I am sure reasonable people can debate the specific terms of. If you have a suggestion for modifying it, let us know, but let us not do nothing. Let us not just wring our hands forever and say, "Oh, there is nothing to be done." Of course there is something to be done.

This is an outrage, really. It is an outrage. It is a national scandal to have this situation the way it exists.

I hope all Senators will address their attention to this issue. As I say, if they have any modifications they would like to suggest, let us hear from them.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from South Carolina.

Mr. HOLLINGS. Madam President, this Senator was just chairing, of course, as my colleagues on the Commerce Committee, namely Senator KASTEN and Senator DANFORTH, know a hearing with respect to the Bryant amendment on foreign investment filings, which is an important amendment on the trade bill as well as the substantive bill introduced by Senator HARKIN of Iowa on the Senate side. We are just now finalizing that particular hearing. I understand now that we are back into product liability.

I am trying to correlate in my mind for my colleagues in the Senate exactly where we are. Exactly where we are is this: an antitrust suit was filed yesterday by some eight attorneys general of several States. I emphasize attorneys general because my distinguished colleague from Missouri used to be an attorney general. We have a bipartisan group, the attorney general from Wisconsin, the attorney general from West Virginia, with other States involved being California, Texas, Massachusetts, Minnesota, Alabama, and New York; we have a bipartisan group of attorneys general who have now had an opportunity to investigate the fraudulent activity on the part of the American insurance carriers and the national insurance services over the past several years and now have reduced it to quite a significant antitrust suit.

That is where we are. We have exposed the nonsense of this so-called product liability crisis that the Senator from Kentucky now wants to treat in a spurious fashion on this particular bill. It is out of order on this bill. If we had had cloture, it would not have been an acceptable amendment. It is an absolutely wrong procedure and they know they are just flagellating, trying to get a headline and using the valuable time of the Senate to get some stories and utterances that amount to absolute ridiculous nonsense.

I was listening just a minute ago, and I heard the Senator from Missouri talk about a lottery, that all law practice now is a lottery, he says. You just get into the lottery and you wait 4 or 5 years and if you strike it rich, you get a lot of money.

That is the most irresponsible description of legal proceedings in the tort field I have ever heard. Anyone who has practiced at the bar, whether it be in my small State of South Carolina or any of the other 49 States, knows that it is not easy to bring any lawsuit. With respect to actual proof, the burden is on the plaintiff. It is by a preponderance of evidence, and you have to get a unanimous vote. You do not get a split decision, as we have most of the time here on the floor of this body. No, you have to get all 12 votes, and you have to withstand all the motions and all the shenanigans and delays put on by the insurance industry.

I emphasize that because the Senator from Missouri also made another unfounded utterance, and that is they get 30 percent, they get 40 percent of the cost of the litigation. That makes it sound like it is some grand lottery and the lawyers are all into it, just deal the cards and win a big pile of money. The truth of it is that our committee has studied this issue. In our committee report, reference is made to a survey by the Insurance Services office that they found, of every dollar in cost 42 cents went to the defendants lawyers; 42 cents in defense costs, quoted on page 112 of the committee report in the 2d session of the 99th Congress, in August 1986.

But that study also showed that, for every dollar allowed to the plaintiff, the plaintiff pays an average contingent fee of 33 cents. There is no risk assumed in the insurance or defendant's lawyer's case.

I have organized insurance companies. I have been the president and chairman of the board of a couple of them. I have also practiced on the plaintiff's side, and I can tell you now that when you get a client and you get an insurance account, it invariably pays you to sit and look pretty. You charge by the hour and you sit and think. And as long as you can sit and think and wonder, the pay runs up. But you take a plaintiff's case, a poor client—and that is why it is on a contingent basis because you do not have to pay the lawyer so much now for the cost of filing, for the cost of investigation, for the cost of the motions or the appearances.

This Senator had veritably twenty thousand plus dollars invested in one of the last cases I handled. We went all the way to the Supreme Court, and the poor client did not have a dime. If we had lost that case on appeal, we would not have gotten a dime. That was the understanding.

That is the contingency fee found by the American Bar Association and all the judicial conferences to be a very sound and appropriate instrument in our society to give poor plaintiffs a chance to have their claims heard in a court of law.

But when you hear the Senator from Missouri describe it on the floor here in a very serious fashion, it sounds like there is just one big grand lottery, they are dealing the cards and getting all the money. To listen to this, you would think there would be runaway thievery going on out there, and the McConnell amendment is going to stop the runaway thievery. That is absolutely irresponsible. Nothing could be further from the truth.

When it comes to those costs, let us look at the record and find out. The sponsors of the amendment talk about stringing it out. Obviously, the plaintiff's lawyer does not want to string it out. That lawyer does not get anything unless he gets it to the trial, gets a verdict, takes up the appeal, wins the appeal, and brings it to a conclusion. Then he finally gets paid on a contingency basis.

So it does not pay him to stretch it out. He is telling the court every time there's a markup of the docket, "If Your Honor please, we are ready for trial. Let's go to trial." Now the defendants and the insurance lawyers, who are on the hourly pay schedule whether they win or lose, say, "Well, we have got another motion. A witness is out of town." Or they say "It is inconvenient this week because I am into this other case," because those insurance lawyers can always say they are hired by other companies and for other cases. And I say, from hard experience, 40 years at the trial bar in this country, Madam President, any delay devices from something other than the descriptions here of a lottery. I do not know where it is.

I asked the judges, because I was astounded to hear about delay some 4 or 5 years ago when this movement started. I also asked the judges about runaway juries. We should listen to different judges in the State of South Carolina—by the way Federal judges, Republican appointees of President Reagan and President Nixon. For example, consider Judge Wilkins, President Reagan's appointee who was seriously considered as chairman of the Sentencing Commission until he declined to be his appointee as head of the FBI. I talked to Judge Wilkins while we were on a plane together during his travels. I said, "I got a big rhubarb going on at the Federal level now about taking over tort law, and I'm hearing tales about runaway juries." He said, "Senator, it is not that way in the State of South Carolina. I can tell you that right now."

So I know from hard experience and first-hand information from very respected jurists that this is not the situation. This could occur in some other State. But I can tell you now having been a Governor trying to attract industry and continuing now as a Senator trying to attract industry, we do rely on the substantial stable nature of our people, who give a day's work for a day's pay. We do not have runaway juries. These juries are, generally speaking, a conservative society when it concerns business. When it concerns education and health care and the hungry poor, they are very liberal. And they want to see that element of society taken care of.

Returning to this lawsuit that has been filed, let us turn to the article here, "States and Insurance Industry Battling on Liability Coverage" in yesterday's New York Times by Lawrence M. Fisher—I ask unanimous consent that we include this article, and the other articles here, Madam President, in the CONGRESSIONAL RECORD at this particular point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATES AND INSURANCE INDUSTRY BATTLING ON LIABILITY COVERAGE

(By Lawrence M. Fisher)

SAN FRANCISCO, March 22.—A long dispute between several states and the insurance industry over the reduction or elimination of liability coverage for local governments reached a critical point today.

California, New York and six other states filed antitrust suits here today in Federal District Court. They charged that 31 insurance companies, reinsurers, brokers and insurance industry trade associations had conspired to create a global boycott of certain types of commercial general liability insurance.

The suits contend that four major insurance companies conspired with Lloyd's of London, Insurance Services Office Inc. and others to eliminate all coverage for environmental damages stemming from pollution and to reduce sharply all liability coverage available to public agencies, business and nonprofit organizations.

The four large insurers are the Hartford Fire Insurance Company; the All-State Insurance Company, a subsidiary of Sears, Roebuck & Company; the Aetna Casualty and Surety Company, a unit of the Aetna Life and Casualty Company, and the Cigna Corporation.

Insurance industry representatives and company spokesmen say that the changes made in standard liability policies were all in accordance with the laws in each state. In addition, they argue that no insurance company is obliged to adopt specific rates or policy structures, and that the industry is too competitive for any collusion to have occurred.

At a news conference here, John K. Van de Kamp, California's Attorney General, said the result of the changes in coverage was that some cities had been unable to obtain any liability insurance at any price and others had faced dramatically higher premiums for shunken coverage.

INDUSTRY FUND SOUGHT

"This illegal boycott was a major contributor to the insurance crisis that forced so many cities and businesses up against the wall," Mr. Van de Kamp said. "In every instance, it was the public and the consumer who paid the price for this collusive exercise in corporate greed."

The suits seek damages, which Mr. Van de Kamp estimated in the millions of dollars, for the more than 1,500 public agencies affected, as well as court orders forcing the resumption of the discontinued coverage. In addition, the suits seek the creation of an industry-supported fund to insure public agencies, and the restricting of the Insurance Services Office, the 1,400-member trade organization named in the suit.

In addition to California and New York, the states involved in the suits are Massachusetts, West Virginia, Alabama, Minnesota, Wisconsin and Arizona. Separately, Texas filed a suit in the state district court under the state's antitrust, deceptive trade practices and consumer protection laws.

In Manhattan, New York State's Attorney General, Robert Abrams, said the suit represented one of the largest cases ever filed by a group of states in a Federal court and of "enormous consequences." He added that the states had to take the action because the Federal Government "did nothing."

Central to the complaints of the states is the allegation that, starting in 1984, Hartford, Allstate, Aetna and Cigna conspired with the trade group to shrink general commercial liability coverage by shifting the standard insurance policy to the "claims made" form, from the "occurrence" form.

Caught with declining investment income due to lower interest rates, insurance companies saw a simultaneous increase in the number of so-called long-tail claims in the early 1980's. Such claims are made for injuries that, by their nature, are not discovered until long after exposure to a hazard, such as asbestosis, or problems resulting from the use of the Dalkon Shield intrauterine device. Some companies faced unexpected claims on policies written many years earlier.

An occurrence form policy would cover any liability that happened during the policy period, regardless of when it was claimed, while the claims-made form covers only claims made during the period of coverage.

In addition, the claims-made forms were made retroactive, so that they typically only covered liabilities occurring after the policy began, and pollution coverage was excluded from standard commercial liability policies altogether. Although the coverage offered under the new form was considerably less, premiums were not reduced and in some cases increased, the suits asserted.

But Kenneth Ferraro, a spokesman for Hartford, said claims-made forms had been used for certain types of policies for more than 30 years, and were still only used at Hartford for "very large accounts which involve difficult-to-predict long-term liability exposures." These are accounts with annual premiums of $1 million or more, which account for less than five-tenths of 1 percent of the company's accounts, or less than 8.3 percent of its total general liability premiums. Claims-made forms are "the only way we feel we can afford to write those," he said.

The decision to use claims-made forms on a particular account does not involve other insurance companies or organizations, Mr. Ferraro added. And while Hartford did assist Insurance Services Office in the development of its claims-made form, this was "sanctioned by and consistent with state law," he said.

An Allstate spokesman also denied any wrongdoing or involvement in any collusion. A Cigna spokesman said the company had yet to see the complaints. Telephone calls to Aetna were not returned.

UNFOUNDED AND MERITLESS

Insurance Services called the allegations "unfounded and meritless" and said it would "vigorously defend itself."

While the suits charge that Insurance Services became an "instrument of coercion" by making the claims-made form an industry standard, a spokesman said the organization acted with the full cooperation of lawmakers in all 50 states. "The thrust of the suits alleges that we did precisely what we are licensed to do, which is to gather statistics, formulate rates and sell that to 1,400 insurers," said the spokesman, Christopher Guidette.

Mr. Guidette pointed out that occurence policies had not been replaced or eliminated, and he said that in some states, including New York and Massachusetts, insurance commissioners never approved the claims-made form so it is not used there at all. "No company is obliged to use our rates," he added. "The charges are unfounded and meritless."

Insurance companies are exempted from the antitrust laws by the McCaren-Ferguson Act, a Federal law passed in 1945. But Mr. Van de Kamp, who has frequently argued for the repeal of the act, said the actions of the defendants constituted "boycott, coercion or intimidation," actions that are specifically not granted immunity.

"Individual insurance companies have the right to decide how they want to write policies," he said. "They can't get together in a collusive kind of way and decide to restrict coverage."

Mr. Van de Kamp said he hoped the suits would prompt lawmakers to reconsider the McCarren-Ferguson Act. "Even under current law, however, the boycotts and coercion we have uncovered in this case are clearly illegal," he added.

The California Attorney General's involvement in the case dates to January 1986 when the city of Lafayette, about 25 miles from San Francisco, wrote for aid after it tried and failed to get any liability coverage after approaching 118 insurance companies. San Benito County, also a plaintiff, saw insurance costs for covering its police force go to $230,000, from $68,000.

RESTRUCTURING PREDICTED

Mr. Van de Kamp said the successful completion of the suits would result in a "massive restructuring of the commercial general liability business" that would actually benefit some insurers. "Those in the wrong are among the leaders of the insurance industry, but many people in the industry have been victimized themselves because they were restricted in the kinds of coverage they could provide" he added.

But Robert E. Vagley, president of the American Insurance Association in Washington, said the action amounted to a "coordinated political public relations effort by a few Attorneys General."

Many reports, including a 1987 study by the United States Justice Department have shown the insurance industry to be free of collusion, he added. "It is no coincidence that the suit was filed in the state of California where personal injury lawyers are fighting to preserve their fees," Mr. Vagley added.

[From the Journal of Commerce, Mar. 23, 1988]

STATES LAUNCH ANTITRUST SUIT AGAINST THE INSURANCE INDUSTRY: PROBE OF 1984-86 LIABILITY CRISIS LED TO LEGAL ACTION

(By Paula Green)

The insurance industry is the largest of what could be the biggest antitrust lawsuit in the history of the United States.

Attorneys general in eight states launched a major offensive against the insurance industry Tuesday as they charged more than 30 major U.S. and British insurers and reinsurers with conspiracy, boycott and other antitrust violations.

Seven states—New York, Alabama, California, Minnesota, Massachusetts, West Virginia and Wisconsin—filed suit in U.S. District Court in San Francisco Tuesday. An eighth state, Texas, filed suit in state court in Austin. The federal lawsuits are separate suits that contain similar allegations of antitrust violations.

"This is the most insidious consumer fraud ever perpetrated on the American public in decades," said Texas Attorney General Jim Mattox.

A representative for Mr. Mattox said the lawsuit is the biggest antitrust action ever taken in Texas, and with the joint actions of the other states, it may be the biggest antitrust lawsuit ever undertaken in the country.

The lawsuits are the product of a two-year investigation stemming from the liability insurance crisis of 1984 to 1986. Insurance buyers, ranging from small business owners to municipal police departments to day-care operators, were unable to obtain or could not afford liability insurance during that period. Some consumers saw their insurance premiums jump by more than 1,000% in a single year.

At a press conference in New York Tuesday, New York Attorney General Robert Abrams said insurers used their market power and coercive and manipulative practices to restrict the limits of coverage available to insureds.

"The policies were so reduced in value that they could hardly be described as insurance," Mr. Abrams said. "We are alleging that there was a conspiracy to limit the coverage you could get."

The insurers named as defendants in the New York lawsuit include Hartford Fire Insurance Co. and Aetna Casualty & Surety Co., both of Hartford, Conn.; Allstate Insurance Co., Northbrook, Ill.; and Cigna Corp., Philadelphia.

Reinsurers include General Re Corp., Stamford, Conn.; Prudential Reinsurance Co., Newark, N.J.; North American Reinsurance Co., New York; and seven syndicates that are part of the Lloyd's of London insurance market.

The Insurance Services Office Inc., a New York-based industry trade group that collects industry loss information and sets advisory rates insurers can follow, and the Reinsurance Association of America, a Washington-based trade group for reinsurers, were also named as defendants.

In a statement, Robert E. Vagley, president of the American Insurance Association, an insurance company trade association, said, "Although we have not seen formal charges from the attorneys general, we are totally dismayed by the accusation of market manipulation and boycott by the insurance industry."

"Accusations that the insurance industry is not competitive are preposterous," Mr. Vagley said. "Study after study has shown that the industry is one of the most competitive in the nation, including a recent Justice Department study that found no evidence of collusion by insurers.

"We see no basis for this lawsuit, which appears to be a coordinated public relations exercise by some attorneys general," he added.

A spokesman for ISO labeled the charges "meritless and unfounded."

"We're being sued for precisely what we are licensed to do," said Christopher Guidette, who added that the group has not yet seen lawsuits.

He added that he did not expect the charges to affect the short- or long-term operations of the group or its regional offices.

Mr. Abrams alleged that the insurance industry successfully conspired on two major fronts.

One alleged conspiracy, he said, produced the universal exclusion of pollution damage liability from the types of coverage provided by a commercial general liability policy. This type of policy is used by most commercial insurance consumers.

Mr. Abrams said the second product of the conspiracy was a shift from the occurrence form toward increased use of the claims-made form. The occurrence policy, which has traditionally been used by insurers, provides coverage for bodily injury and property damage that occurs during the policy period. The claims-made policy provides coverage for claims filed during the policy period. The industry has said that the use of claims-made policies will provide a better estimation of future losses, especially in the long-tail lines.

During this period, the industry also attempted to include the legal costs within a policy's limits. Mr. Abrams said. Thus, if an insurance company spent $600,000 defending a policyholder who had a $1 million policy limit, only $400,000 would be available for the actual settlement costs. Previously, defense costs were provided in addition to the policy limits.

"There was a collusive effort to bully the entire U.S. insurance industry into offering these terms," said Chris Braithwaite, a spokesman for Mr. Abrams. "Then, when they could not convince the other domestic providers, they went into the reinsurance market and boycotted the primary insurers who hadn't written these terms."

The reinsurers would not offer their product to the primary insurers that did not follow some of the restricted terms of coverage that the Insurance Services Office later adopted, Mr. Abrams said.

Robert Hunter, president of the National Insurance Consumer Organization, said insurers blamed the civil justice system for the high premium hikes of the hard market.

"We've known about the industry's concerted price-fixing for years. The industry's antitrust exemption granted by the McCarran-Ferguson Act allows insurers to fix prices. There has never been any question about that," Mr. Hunter said.

Under the McCarran-Ferguson Act, insurers are exempted from federal antitrust laws except in cases of boycott, coercion or intimidation. The federal act is the 43-year-old cornerstone of insurance regulation and allows for the state regulation of the industry.

"The industry is a cartel—no doubt about that," added Mr. Hunter, whose group is the industry's chief critic. "The industry has been making money hand over fist and a lot more (money) than it is willing to expose. They are hiding profits. Even now that the industry is making money again, massive profits, they are still hiding money."

Mr. Hunter added that "the industry acted in collusion to intimidate legislators into tort reform actions. It engineered a massive public relations campaign."

However, every independent study, he said, including a recent federal study by the General Accounting Office, indicates there hasn't been an explosion in tort-related lawsuits.

"ISO is finished," Mr. Hunter said.

In the suit, the attorneys general are asking the court to order insurers and reinsurers to restore the broader limits of coverage they previously offered insureds. The suit also seeks a restructuring of ISO and monetary damages for the governmental entities injured by the conspiracy, such as a school board that could not obtain liability insurance during the crisis.

[From the Wall Street Journal, Mar. 23, 1988]

FOUR BIG INSURERS CHARGED WITH SCHEME TO LIMIT COMMERCIAL LIABILITY COVERAGE

(By Peter Waldman and Beatrice E. Garcia)

Seven state attorneys general, citing dozens of alleged secret meetings, dinner parties and behind-the-scenes threats, charged for of the nation's largest insurers with conspiring to manipulate the availability and cost of commercial liability coverage.

In separate antitrust lawsuits filed in federal court in San Francisco, the top prosecutors of Alabama, California, Massachusetts, Minnesota, New York, West Virginia and Wisconsin alleged that a conspiracy of giant insurance companies caused the so-called liability crisis earlier this decade by colluding to jack up prices and limit the scope of insurance coverage. The basic thrust of the accusations is that a few of the largest insurers jointly pressured the rest of the industry to go along with certain policy-writing changes that made it much tougher for public agencies, businesses and nonprofit organizations to buy liability insurance.

Named as defendants in the suits were Hartford Fire Insurance Co., Hartford Conn., a unit of ITT Corp.; Allstate Insurance Co., Northbrook, Ill., a unit of Sears, Roebuck & Co.; Aetna Life & Casualty Co., also in Hartford, and Cigna Corp., Philadelphia. Also named were the Insurance Services Office Inc., a New York-based trade group, and a number of major London-based reinsurance companies and their U.S. brokers.

Insurance companies have a special exemption from federal and most state antitrust laws, as a result of their peculiar need to share actuary information. While that immunity allows the industry to engage in price-fixing, however, it explicitly proscribes act of "boycott, coercion or intimidation." The U.S. Supreme Court ruled in 1978 that insurers could be liable for antitrust violations when they conspire to boycott certain customers.

In news conferences across the country, the seven attorneys general denounced the alleged conspirators, blaming them for afflicting day-care centers, recreational facilities and other public and private services with unnecessary anguish and in some cases, bankruptcy.

"International conspiracies resulted in policies so shrunken in scope, so reduced in value to the customer, that they can hardly be described as insurance at all," said New York Attorney General Robert Abrams.

California's attorney general, John Van de Kamp, said: "It was the public and the consumer who paid the price for this collusive exercise in corporate greed."

COMPANIES RESPOND

A spokesman for Aetna Life called the action "another political move by political officeholder who have consistently opposed any and all efforts to address the real problems of the nation's liability system." The spokesman added that "any business decisions made by Aetna executives are made independently."

A spokesman for Allstate said the company hadn't seen the suit but stressed that "Allstate is not now, and never has been, involved in a conspiracy to fix prices or contain the market."

A Cigna spokesman said the company doesn't comment on litigation, but pointed out that Cigna's policy is to conduct business "in conformity with all state, federal and foreign antitrust laws."

Stephen Martin, vice president for government relations at Hartford, said. "These charges are totally without substance."

In New York, a spokesman for the Insurance Services Office, the trade groups that coordinates industry wide policy standards and that is alleged in the suits to have been a focal point of the conspiracy, called the accusations "unfounded and meritless." He added that the group has "conducted its operations properly and legally."

Other investigations of the insurance industry have found no evidence of collusion. For example, a Justice Department report issued a year ago called such a conspiracy "implausible."

The crux of the prosecutors' claims, which probably will be heard all together by U.S. District Court Judge William Schwarzer, is that Hartford, Cigna, Aetna, Allstate an the London-based reinsurers jointly pressured the Insurance Services Office and its member companies into revising certain standard forms used for writing commercial liability policies.

Specifically, the suits allege that the conspirators, using "boycotts, threats, intimidation and other coercive conduct," forced the industry into abandoning traditional "occurrence" coverage, under which a person could collect for losses even after a policy had expired, as long as those losses occurred during the policy's term. Instead, without lowering premium rates, the industry changed to so-called claims-made policies, which compensate only for losses actually claimed during the policy term.

NARROWER RISKS

Likewise, the suits charge the companies with conspiring to add so-called retro-dates to policies, limiting insurers' liability to losses occurring after specified times, typically the starting date of a policy. The claims-made and retro-date changes narrow the risk for insurance companies by eliminating liability of chronic injuries that may not surface until years after they occur.

Also, the prosecutors allege that the companies, particularly the British reinsurers, boycotted writing any policies for pollution liability, causing a drastic shortage of that type of insurance.

As evidence for their claims, the attorneys general included a 17-page section in their complaints, under the heading of "facts," describing a three-year series of meetings and agreements among major insurance executives. Thomas Dove, the lawyer in the California attorney general's office who spearheaded the two-year, multistate investigation, pointed out that unlike in many suits, the prosecutors' assertions aren't prefaced with the cautionary words, "on information and belief."

"We already have evidence in hand for every point in there," he said

For example, the complaint quotes a memo written by a staff member of the Insurance Services Office about a meeting that took place at the Garrick Club in London on July 4, 1984. Attending that meeting, according to the suit, were representatives of "leading" British reinsurance companies who the staff member said were "almost militant" in demanding that U.S. liability policies be altered.

Less than three months later, the suit says, at a private dinner at the Board Room club in New York, the reinsurers informed the directors of the Insurance Services Office of their "agreed positions" that the coverage changes be made. The next day, at the Office's executive committee meeting, the directors voted to include many of the alterations being urged.

In another matter, the suit alleges that the major British reinsurers agreed at a London meeting on Nov. 6, 1985, to boycott writing any pollution policies for North American customers. "We have the written and signed agreement," said Mr. Dove.

[From the Washington Post, Mar. 23, 1988]

8 STATES SUE U.S., BRITISH INSURERS

(By Sharon Warren Walsh and Caroline E. Mayer)

Attorneys general representing eight states yesterday filed suit against four major U.S. insurance companies and numerous British companies, charging them with conspiring to manipulate the U.S. market for commercial liability insurance during the insurance crisis of 1984 and 1985.

The suits, filed in U.S. District Court of Northern California, allege that the companies violated state and federal antitrust laws by conspiring to boycott or eliminate certain types of insurance and make others essentially unaffordable.

"These defendants have sucked the blood of our nation's economic well-being," Texas Attorney General Jim Mattox said at a news conference in Texas, where a separate suit was also filed. Other states joining the California suit included New York, Minnesota, Massachusetts, West Virginia, Alabama and Wisconsin. At least a dozen other states are expected to file their own cases shortly.

Charged in the suit were 31 U.S. and international defendants, including the Hartford Fire Insurance Co., Allstate Insurance Co, Aetna Casualty and Surety Co., and CIGNA Corp. Also named were the Washington-based Reinsurance Association of America, which represents 30 U.S. reinsurers, and the Insurance Services Office (ISO), a trade group for nearly 1,500 insurance companies that tends to set industry standards because it develops the actuarial statistics that companies use to set rates.

The class-action suits were filed on behalf of cities and towns in eight states, many of whose police forces, day care centers, schools, recreation services and nonprofit organizations found it difficult, if not impossible, to obtain liability insurance.

The filings cap a two-year investigation of the insurance industry initiated by the California attorney general's office after the Justice Department declined to investigate the charges, according to several state attorneys general. At the time, the Justice Department's antitrust division was headed by Douglas Ginsburg, the appeals court judge who last year withdrew his nomination to the U.S. Supreme Court.

Justice Department officials yesterday acknowledged receiving allegations of wrongdoing by insurance companies from consumer groups in 1986. But Assistant Attorney General Charles F. Rule said the allegations were so vague that "we felt no further investigation was warranted unless further facts were provided. Nobody gave us any information."

The eight attorneys general apparently saw things differently. Calling the conspiracy a "global insurance boycott,';' California Attorney General John Van de Kamp said: "The conspirators unlawfully used their enormous power in the marketplace to prevent competing companies from offering the kinds of insurance they were boycotting . . . This illegal boycott was a major contributor to the insurance crisis that forced so many cities and businesses up against the wall."

Court papers filed in the case detail secret meetings and communications between the companies and Lloyd's of London, a major international insurance firm that reinsures or takes some of the risks for the firms. When the U.S. companies were unable to convince some insurance firms to stop writing certain kinds of policies, such as pollution coverage, the firms "conspired with Lloyd's of London and other reinsurers to deny reinsurance to companies that refused to go along," Van de Kamp said.

Although most of the companies charged had not seen the lawsuit yesterday, they issued strong denials of any wrongdoing.

"Allstate is not now and never has been involved in a conspiracy to fix prices or constrain the market," said Robert Pike, senior vice President, secretary and general counsel. "Any suggestions to the contrary are patently false."

Jason Wright, a spokesman for Aetna, said: "Today's action should be seen for what it is—another political move by political officeholders who have consistently opposed any and all efforts to address the real problems of the nation's liability system. This is an attempt to stifle legitimate debate on an important public policy issue . . . a lawsuit crisis."

The attorneys general are seeking an injunction against the insurance companies, undetermined financial damages, a fund to cover uninsured losses resulting from the alleged conspiracy, divestiture of subsidiaries allegedly used to manipulate the market and the reorganization of the ISO.

The case is a complicated one because of the way the insurance industry is regulated. Under federal antitrust laws, the industry is one of the few remaining groups that is permitted to meet and set prices and policy conditions without fear of prosecution. However, the industry is not exempt from a boycotting provision of the law. According to state attorneys general, boycotting occurred when the companies convinced reinsurers to deny policies to companies that refused to go along with the cutbacks in coverage.

The lawsuit may give Congress added fuel to enact proposed legislation to repeal the industry's antitrust exemption, a move that has received qualified support from the Reagan administration.

Mr. HOLLINGS. Let me just put in the RECORD the entire article, because I do not want to just pick out those parts favorable to me. I am confident that this case will prove itself because these are responsible attorneys general. They have had a thorough investigation.

What they have found is more or less a conspiracy to boycott. The Senator from Kentucky, the author of this fly-by-night amendment, the Senator from Missouri, the Senator from Wisconsin, who have left the floor: I wish they would stay around and listen to find out what is going on, instead of putting in their appearance, a kind of hit-and-run driving and then leaving the floor, so they do not have to listen to the facts of this particular case.

But the truth of it is that the insurance crisis has been over for quite some time, last year at about this time. The Business Week Magazine printed an article entitled "The Crisis

Is Over—But Insurance Will Never be the Same."

I ask unanimous consent that this article be included in the RECORD at this particular point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CRISIS IS OVER—BUT INSURANCE WILL NEVER BE THE SAME

Remember the "insurance crisis" of 1986? In one of America's scarier business episodes, companies and cities across the country buzzed angrily with horror stories about price hikes of up to 1,000 percent and abrupt, unprovoked cancellation of policies.

Everyone played the Blame Game: Too many lawsuits and recklessly generous juries. No, it was a price-fixing conspiracy engineered by a greedy insurance industry. No, it was a sign that the American character had deteriorated, with everybody trying to pass risks on to the next guy. But all agreed that the crisis could only deepen.

Wrong, on all counts. The property/casualty insurance crisis is largely over, down to "vestiges," says California Insurance Commissioner Roxani M. Gillespie. Except for a few high-risk sectors such as ski lifts and medical malpractice, few would-be buyers of coverage are having to "go naked," and premium prices are starting to come back down.

This doesn't mean that "the crisis" can be forgotten. On the surface it would appear to be merely part of a "normal" insurance cycle: When premiums and profits are high, the business attracts more entrants, who crowd in by slashing rates—until the financially weaker ones drop out, coverage becomes scarce, and premiums climb again. But calling the recent travail a "normal" insurance cycle is like calling the Great Depression an ordinary business cycle.

LOSS PREVENTION

As the decade began, insurers were underpricing their products to collect premiums to invest at then-high interest rates. But rates fell just as losses from carelessly written policies hit home, and huge asbestos cases loomed. By late 1984, insurers started a panicky retreat from their ruinous price war. When insurance is scarce, "the system can make all kinds of demands" on insurance customers, observes one broker. It did. Insurers jacked prices sharply higher. That began attracting more capital, the seed needed to increase the basic insurance crop. "When capacity is there, it will find a home," adds the broker. So plain vanilla supply-and-demand largely explains the rise and fall of the insurance crisis.

Still, it's becoming clear that last year's crunch is altering the insurance world—perhaps permanently. More customers are taking matters into their own hands. Before the crisis, such "self-insurance" totaled no more than 25 percent of the market. Now, it's about 33 percent and growing. "We've learned our lesson," declares Norman B. Chanzis, risk-management director at American Standard Inc. Insurers are "smug in their assumption that we'll all come back. I don't intend to."

Many risk managers are emulating the approach of Hardee's Food Systems Inc. The chain pays for losses of up to $2 million itself "and just buys insurance against catastrophe," says risk manager Susan M. Werner. The key: "We have a good loss-prevention program." Helping make the big deductible practical are measures such as installing nonskid floor to minimize falls.

Other companies took more elaborate steps. Du Pont Co. invested $20 million to help create two companies that now insure it and some 550 others against catastrophic losses. Not all the clients will buy all their coverage from the two, ACE Insurance Co. and XL Insurance Co. But they serve as a source of stable capacity in the high-risk end of the business.

Control Data Corp., one of many companies to have lost liability coverage for its officers and directors, joined last year with 50 other companies to form Corporate Officers & Directors Assurance. Partly in response, at least 10 regular insurance companies are actively competing again to sell such policies.

To the alarm of local officials, countless cities were forced to find insurance alternatives. Warwick, R.I., for instance, started pooling funds with other cities in the state to create an insurance "trust" offering liability coverage for municipal services. Dallas is considering a similar arrangement in Texas. "We know with a 100% certainty that we'll have to go through another cycle," says Mark Ferraro, the city's risk manager. "We want a guarantee that there will be some capacity."

Ferraro's attitude is typical of a new credo among corporate chieftains and political leaders: Protection against many risks is too important to be left to traditional insurance companies. Those that do return to them will be armed with a greater sensitivity to risk. In a widely echoed observation, Warwick Mayor Francis X. Flaherty notes: "Now that we are dealing with our own money [we realize] the key to success is loss prevention." To help cut accidents, he says, Warwick is having police cars stick to regular speed limits unless they're rushing to a life-threatening emergency.

PRICE BATTLES

As more erstwhile clients are learning to live without them, insurers are trying to woo them back. With the industry enjoying record profits in 1986, competition is heating up (chart). Sighs Michael G. Fitt, president of Employers Reinsurance Corp., a General Electric Co. unit: "We have two problems in our business: short memory and we can't stand prosperity."

Insurance companies are offering customers better policy terms. And after last year's huge rate increases, prices have not only leveled off but are definitely heading lower, says Michael P. Dinstein, vice-president at insurance broker Fred S. James & Co. Says Fitt of Employers Reinsurance: "There are a number of major companies out there starting to cut rates."

The price battles are fiercest over property insurance, mainly because insurers got through 1986 without paying for any massive natural disasters. Casualty competition is getting strong in most lines of business. Global Marine Inc., partly because it is doing less offshore drilling, saw its liability rates drop 15% to 20% when it renewed its policy in February, says insurance manager James R. Frazier.

Nonetheless, "problem areas still exist," says Robert Clements, president of insurance broker Marsh & McLennan Inc. Few insurers are willing to do business with ski areas. Hidden Valley Resort Community & Conference Center in the mountains of western Pennsylvania expects to pay an additional 20% premium increase this year—after last year's liability premium jumped from $50,000 to $165,000. For some high-risk lines of insurance, such as pollution policies for chemical companies and malpractice insurance for doctors, finding coverage is still tough.

Yet even some of these markets could improve. St. Paul Cos., the biggest underwriter of medical malpractice insurance in the country, still has a moratorium on new malpractice policies. However, because physician claims and paid-out losses rose only slightly in 1986, Timothy R. Morse, a senior officer in St. Paul's medical services unit, says there's "some cause for optimism."

Pollution, toxic waste, and chemical exposures will take longer. Insurers still worry that "there is the potential for catastrophic loss," says Du Pont's insurance manager, James A. Mitchell Jr. Insurers recoiled from the potential liability from asbestosis claims, and they aren't about to step back in. The potential losses in such cases may be so huge as to be uninsurable—or only partly insurable. Most of Corporate America is willing to take the risk. Du Pont, for example, insists that last year's "crisis" didn't cause it to stop any product launches.

With more customers bearing their own risks, through pooling or other arrangements, the industry's market has shrunk. That spells trouble. In a fight for slices of a smaller pie, insurers may well slash prices too low, setting off another severe cycle. As Chairman William McCormick of Fireman's Fund Insurance Co. says, property/casualty insurance is "like aluminum. Every time supply and demand shifts, the prices go way up or down."

Insurers ability to engage in suicidal price behavior will be slightly tempered, though. A number of reinsurance companies, which backstop insurers in exchange for a portion of premium income, have failed already. And more of the smaller, poorly capitalized ones are expected to go under in the next few years as claims pile up. When that happens, the original insurers get stuck, so they'll want to go slow on premium cuts. Also, state insurance commissioners and Congress are considering stronger industry regulation to prevent another wild cycle.

HORROR STORIES

Nevertheless, there's certain to be another insurance shortage. And next time around, insurers are likely to be hard-pressed for excuses when they play the Blame Game. During the 1986 crisis, the industry embarked on a splashy public relations campaign proclaiming that the "insurance crisis" was really a "lawsuit crisis." Some three dozen states did make minor changes in the law. But the insurance crisis has abated without help from an overhaul of the nation's civil justice system.

Cool analysis is discrediting last year's horror stories about an epidemic of multimillion-dollar jury awards for relatively little cause. In a sample of 359 cases in the 1982–85 period, mostly involving product liability, punitive damages were "insignificant," according to a study published by the American Enterprise Institute. "The civil litigation system is stable," says Mark Peterson of the Rand Institute for Civil Justice. Only in mass toxic tort cases, notably those involving asbestos, is potentially enormous cost a real concern.

Even insurance executives are finding it harder to pass on the blame. "If we were an electric company delivering voltage and went form 110 to 220 to 400 to 0, we'd have blown all our customers' appliances," exclaims McCormick of Fireman's Fund. "They'd go to another elecrtic company or get their own generators." That's happening now. The legacy of the insurance crisis is that insurance is becoming everybody's business.

By Christopher Farrell in New York, with Resa King in Stamford, Joan O'C. Hamilton in San Francisco, and bureau reports.

Mr. HOLLINGS. The sponsors of this amendment are talking about a crisis now. What they have is a political crisis for votes, that is what they have. They do not have an insurance crisis, and they do not have a product liability crisis.

I would also refer to another article I would include in the RECORD. This article was in the Economist on June 6, 1987. I ask unanimous consent it be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AFTER THE STORM

(The world's insurance industry is slowly recovering from its worst year since 1906 and a recession that has lasted from the late 1970s. The recovery may be short-lived. Many of the old problems remain, and have been joined by new ones. Has the industry, asks Vince McCullough, learned the lessons from inadequate management in the past and will it manage more sensibly the ups and downs of the insurance cycle?)

(Graphs and charts mentioned in the article, not reproducible in the RECORD.)

An optimist in the insurance industry today is a bit like the American farmer who came up out of his cyclone cellar to find his home ruined. To his wife, he remarked, "Don't see anything the matter here, ma. Ain't it grand? The wind stopped blowin'."

The American property/casualty insurance industry accounts for more than half the world's premiums. It has entered only recently into its first phase of reconstruction and the recovery is precarious. Rates on some classes of business have risen spectacularly, in, for example, product and professional liability. Others have not. Workers' compensation in America, for instance, made a loss of $4 billion in 1986 and there is little prospect of an improvement this year. The recession which hit the industry in the late 1970s to mid-1980s produced many casualties. Virtually every insurer was making losses on underwriting, including the three British insurance companies heavily committed to the American market—Commercial Union, General Accident and Royal Insurance.

Only a few bucked the trend. Among the biggest to do so in 1982 and 1983 were Safeco Insurance of Seattle, General Reinsurance of Greenwich, American International Group of New York and Mission Insurance of Los Angeles.

In America, the property/casualty (that is, non-life) industry made losses of $25 billion in 1984. According the the National Association of Insurance Commissioners, 21 property/casualty insurers went bust in 1985, including Transit Casualty of Missouri, a public transport liability insurer. In 1986, the commissioners say another 16 went to the wall.

The crisis is not over. Many other insurers are still on the sick list. Through its early warning test for solvency, the National Association of Insurance Commissioners reckons that 271 companies are financially rocky and another 319 companies need, in the jargon, "targeted" attention. The Californian Department of Insurance alone is keeping a close eye on 110 companies which it thinks may yet be heading for trouble.

Past endurance is no guarantee of future survival. On the intensive care list is Mission Insurance of Los Angeles, which is now facing liquidation. The New Jersey Insurance Commission is looking at the loss-wracked insurance operations of Beneficial Corporation. So too is the Securities and Exchange Commission because Beneficial is at the centre of one of the largest insurance fraud cases ever brought before the courts in America. In Illinois, of the state's 705 property/casualty companies, 235 are being watched.

The main cause of the problem has been the failure of insurance companies to provide adequate reserves. In layman's terms, this means simply that the companies did not put aside enough money to meet future claims. An analysis by an accountancy firm, Ernst & Whinney, showed that 43 American companies which it examined had "under-reserved" by $1.6 billion in 1984. Analysts at an American broking firm, Fox-Pitt Kelton, recently suggested that the deficiency industry-wide could be as high as 40%.

In an earlier survey in 1982, The Economist warned that "there is a lot of imprudent underwriting . . . Some firms will fail; others will be forced into mergers." Those who thought otherwise were looking too closely at history to concentrate on what was happening in the industry.

Since 1906, when the San Francisco earthquake and fire, which left 452 people dead and damaged $350m-worth of property, America's (and therefore much of the world's) property/casualty insurance industry had grown used to a boom-and-bust business cycle. Three or four good years were followed, inevitably, by three or four bad ones.

In the good times, when premium rates are high (and insurance companies are generating a return on equity of 20-25%, as in the early 1970s), capital flows into the business from outside sources—from industrial companies, foreign insurers, life assurance firms and from fringe operators who see the chance to make easy money. A rate war then develops as insurers try to snatch business away from their rivals. As underwriting losses mount, weaker companies go under or withdraw from the insurance business. Underwriting capacity shrinks, premium rates rise and those remaining start minting money again.

The trap for many insurers has been cash-flow underwriting. This occurs especially in periods of high interest rates (as in the early 1980s), when the underwriter hopes to make a profit, not on underwriting, but on investing the premiums before a claim falls due.

A critical element in this relationship between investment income and underwriting is the time lag which exists between some premium payments and the losses paid out on policies. This lag means that income can be earned on the cash-inflow from investing premiums before losses are paid. This is especially true of liability insurance where the lag between premium payments and claim payments may be years, if not decades.

The result of an error in medical procedures, or in the side effects of new drugs, may not be known for half a lifetime. Victims of the killer disease mesothelioma (or asbestosis) rarely showed symptoms until some 30 years after they were exposed to asbestos dust.

These kinds of insurance are called long-tail business. By contrast, fire insurance is short-tail because claims are paid usually within a short time after the damage is done. The longer the tail on the business, the greater the incentive for insurers, especially during periods of high interest rates, to cut premiums and invest the proceeds until the claims come in.

In 1981-82, American interest rates peaked at 20.5%; in Britain, they touched 17%. Underwriters were willing to write business at a near-certain loss because they could take the premiums and invest them in, for example, the short-term money market or in government bonds. The investment income, it was hoped, would be more than enough to offset losses on underwriting. Cash-flow underwriting paid off—almost. But, as interest rates tumbled between 1981 and 1984, the American industry's combined ratio rose to 118%. This ratio measures claims and expenses as a percentage of premium income, before adding on any investment income. Any figure over 100% means that the industry (or company) is making an underwriting loss. In 1984, the American industry chalked up a loss of more than $4 billion—even after allowing for investment income. In 1985, the loss rose to $5.6 billion.

The danger of cash-flow underwriting is that once started, virtually everyone has to play the game and cut rates—if only to hold on to business. In 1981, America's Aetna Life and Casualty tried to run against the herd and lost market share. High interest rates do not necessarily mean bumper profits.

As the accompanying chart shows, the rise in interest rates in the early 1980s led to a rapid decline in profitability. The deterioration continued despite the fall in interest rates in 1982 and 1983. The reason: the accompanying price war. Once price-cutting is used as a competitive weapon, the decline in rates can be big and difficult to reverse. This is true of almost any competitive industry: witness the recent and fierce price wars in both the airline and lumber businesses in America.

When interest rates began to tumble, some insurers found themselves with problems because investment income quickly reflected lower interest rates, even though premium income on some lines of business could not be raised for up to three years.

One of the effects of record high interest rates in the early 1980s was a great deterioration in the profitability of liability business (for example, faulty goods and accidents). The combined ratio rose from 92% in 1978 to 151% in 1984; in medical malpractice, from 102.6% to 161.1%. By comparison, the combined ratio for all non-life business rose from 95.9% to 116% over the same period.

NEW BOY NETWORK

Inevitably, following the savaging of some property/casualty insurers during the downturn, many firms have changed management either at, or close to, the top. For some, the changes have not been cosmetic. Nor have they been made on the basis that "somebody must take the blame. Let's give a leg up to some bright boy inside the organisation." Some companies brought in outsiders to run the business. Look at Fireman's Fund, the property/casualty insurer which was a wholly-owned subsidiary of American Express until October 1985, when a chunk of it was sold to the public. In that year, Fireman's Fund made a net loss of $45m, up from a loss of $6m in 1984. American Express despatched its president, Mr Sanford

Weill, and another top executive, Mr William McCormick, to the headquarters of its insurance subsidiary in Marin County, California, to sort out the mess. Mr McCormick stayed on as its chairman and chief executive. He has presided over the sale to outside investors of 73% of the equity of Fireman's Fund and of a recovery in net profits to $160m in 1986 and an expected $265m this year.

Two other property/casualty insurers also brought in outsiders to run their businesses. Mr James Lynn, a Washington lawyer and a cabinet member in the Nixon administration, had never managed a business in his life. Yet Aetna Life and Casualty hired him as its chairman and chief executive in 1985. Crum & Forster, an insurance company owned by Xerox Corporation, brought in Mr John Lundberg, once a deputy New York banking superintendent, and former head of the American Savings Bank of New York. America's third largest property/casualty insurer, Travelers, took on Mr Alvin Way, a former president of American Express, and, as its finance director, Mr Thomas Thorsen, who was on the board of America's General Electric company.

Since 1984, things have got better for all these companies. So they have for the industry as a whole, but only slightly and slowly. In 1986, the industry swung into the black with an estimated operating profit of $4.5 billion (after taking in investment income of $21.6 billion) earned on premiums of $175 billion. This includes a loss on underwriting of $17 billion and the operating profit represents a return of 2.6% on premium income. In other words, for every dollar of premiums taken in, property/casualty insurers earned 2.6 cents. This is well below the average four cents in the ten years before 1984. But don't weep yet for the insurers. That is not the whole picture.

Net income after taxes for the industry was around $11.5 billion in 1986. How did that happen? Simply because insurers (and analysts) disregard realised capital gains on investments—which, thanks to booming stockmarkets around the world, gave the industry a $5.5 billion windfall in 1986 (on top of a $3.5 billion bonus in 1985).

Virtually all the major property/casualty insurers showed an improvement in their combined ratios in 1986. Among them were Fireman's Fund, St. Paul, American International Group and Transamerica, although only Chubb Corporation, with a ratio of 99.5%, made a profit on underwriting.

Apart from rate increases, especially in commercial liability, insurers have benefitted from smaller catastrophe losses (normally defined as a single loss over $5m). Insured catastrophe losses in 1986 were around $870m, which represents a fall of almost 70% on the $2.8 billion of 1985. This was almost entirely due to the absence of any large hurricanes—defined as those causing damage in excess of $100m. In 1985, six hurricanes hit the mainland, including Elena and Gloria, causing more than $1.1 billion in damages. Moreover, catastrophe losses in the first two months of 1987 were only $46.5m, compared with $164.5m a year earlier.

Insurers have also benefited from cutting costs. Every company is affected by the cost of doing business. In the property/casualty industry, expenses are made up of commissions to agents, salaries, rents and utility charges. The expense ratio of any company or industry is calculated by dividing expenses by income, which in the case of the insurers is made up of premiums. The expense ratio for America's property/casualty insurers has falled from 28.4% in 1983 and 28% in 1984 to 26.0% in 1985 and an estimated 24.8% last year. One of the fastest ways of achieving a cut in expenses is to fire people, which is precisely what many American insurers did in 1982-84, including the Boston-based subsidiary of Britain's Commercial Union.

Commercial Union (CU) and other British insurers heavily committed to America also showed some improvement. Roughly 27% of CU's non-life premium income comes from North America, 40% of General Accident's and 46% of Royal Assurance's. Using the standard measure of profitability in the property/casualty business, Commercial Union's combined ratio last year fell from 128.4% to 111%; Royal's was down from 114.3% to the near-break-even point of 102%.

The three British companies are energetically tackling the problems of the American market, perhaps with more vigour than some of the home-grown insurers. Take, for instance, Royal Insurance, which sells insurance through a network of 5,000 independent agents in America. Royal long ago decided that it could not compete effectively or aggressively for personal lines of business (for example, motor and homeowner's insurance). Competition is too fierce from direct insurers who drum up business through mail shots and advertising, cutting out the cost of the middleman. So Royal has concentrated on building up its traditional business in commercial lines, such as blanket cover for industrial companies. This accounts for 75% of its American premium income.

In 1986, Royal registered a $238m turnround in pre-tax profits in America; its combined ratio of 102% was well below the industry's average. Much of the improvement was due to better results in commercial multi-peril business, although all classes of commercial business produced an underwriting profit—save, that is, for general liability and workers' compensation. Royal reckons that business will remain good for "at least the near term". However, there are ominous, if early, signs in America that the bad old ways may return more quickly than expected.

The quarter-on-quarter rate increases that were common during 1985 and 1986, are now beginning to taper off. Rates are reportedly being cut by as much as 50% in some commercial insurance lines. Has the fuse to another price war been lit?

GOOD TIMES, AGAIN

[Dollars in millions]

Company	1985		1986	
	Earnings*	Combined ratio	Earnings*	Combined ratio
Aetna Life & Casualty	$421.60	111.39	$502.20	105.89
American General	93.08	108.25	132.00	101.72
American International	382.81	105.81	521.44	101.36
Chubb	156.97	105.89	186.78	101.82
CIGNA	155.80	114.72	450.79	103.92
Continental Corp.	159.20	132.13	247.10	102.97
Fireman's Fund	171.10	94.55	321.00	107.73
SAFECO	52.34	109.56	115.07	107.30
St. Pauls	114.97	117.80	246.55	107.90
Travelers	129.90	127.10	289.63	111.46
USF&G	278.96	132.46	410.97	109.97

Operating earnings and investment income are pre-tax.

Source: Goldman Sachs.

THE BALLOON'S GOING UP

Under the McCarran-Ferguson Act, each state in America controls its own insurance business through superintendents of insurance. The act exempts insurers not only from federal control but also effectively from antitrust legislation. Even so, state regulators are a tough breed. They have been reluctant to permit some rate increases in personal classes of business such as motor insurance because of growing demands of consumer advocates, like Mr. Ralph Nader, for new restrictions on insurers. The insurance business is no stranger to public hostility but this time it is fighting against two armies—those who want the repeal of the McCarran-Ferguson Act and those, not always different protagonists, who do not want the reform of America's tort laws for which the insurers are screaming.

Tort reform is one of those campaigns which the insurance industry wages each time it starts making big losses on all or some classes of liability business. In the early 1910s, the industry lobbied to move workers' compensation cases out of the courts. In the 1960s, it mounted a campaign to encourage state legislators to pass no-fault motor liability laws. Both attempts brought changes, but in practical terms they have had little effect on the insurers.

Last year, 39 states passed tort-reform measures aimed at limiting what the industry sees as absurdly high court awards for damages. They were reacting to the great liability insurance crisis of 1985-86, when insurers pulled out of many classes of liability business pleading it was commercial suicide to write it at any premium.

Some of the areas which insurers refused to cover in 1985-86 were: pollution risks, liquor liability (that is, cases relating to drunken driving), day-care centres, medical malpractice, asbestos removal from schools, commercial fishing boats, municipal liability, commercial trucking and high-limit coverage (above $50m) for industrial concerns. The insurers argued that they were pulling out because liberal court decisions made the potential losses incalculably large, or because the risk itself was no longer actuarially predictable.

Insurers quote cases where judges have stretched the meaning of liability beyond comprehension. Take, they say, the case of the burglar who fell through a skylight while burgling a school, broke his back and was paralysed. The thief sued and was awarded a lump sum of $260,000 and $1,500 a month for life. Or a woman who was raped in her hotel room in Las Vegas and who sued the Stardust Hotel. She was awarded $3.25m. And what of the overweight gardener with a tricky heart who started a Sears lawnmower and suffered a coronary? A jury ordered Sears to pay him $1.8m. Crackpot decisions? Of course, but how typical are they? And do they justify insurers ducking out of, what is after all, their primary role?

Not according to consumer-rights champions such as Mr. Ralph Nader. Together with the National Insurance Consumer Organization (NICO), he has launched an attack on the industry's non-providers of insurance. One target is Lloyd's of London, which obtains around 50% of its $7 billion a year in premium income from America, including around $2 billion in reinsurance. Mr. Nader has accused Lloyd's of being in collusion with American insurers in refusing to cover certain liability business and so jacking up rates.

The hue and cry in 1986 from consumers, state commissioners and even Capitol Hill about insurers not fulfilling their role as bearers of risks shook the industry. Ever since, it has been been trying to rebuild its image while at the same time making changes in liability policies and pressing for tort reform.

So far, only about half a dozen states have enacted broad tort-reform legislation, with the other states passing measures which have a more limited effect. According to the industry's mouthpiece, the Insurance Information Institute, the new provisions help restore the balance between the rights of plaintiffs and those of defendants, and "would cap non-economic damages, such as awards for pain and suffering, thus making insurance more affordable."

The insurance industry has also launched its triennial attack on the contingency-fee system under which American trial lawyers operate. Acting for plaintiffs in liability cases, lawyers agree to charge a fee only if they win the case and achieve a monetary settlement for their clients. The fee is usually 30-40% of any settlement, but can be as high as 60%. There is no set scale. Consumer advocates say that such a system allows access to the courts for everyone, regardless of their financial position. Insurers argue that the system encourages lawyers to go to trial and shoot for the moon. They would like the system scrapped—or at least modified to a sliding scale based on the size of court awards. Neither is likely to happen.

Nor is the industry's plea for a change in the system of awarding punitive damages. In civil cases, these are awarded over and above any damages for compensation. Originally, judges gave punitive damages only where the defendant had been proved to be wilfully negligent. Nowadays, punitive damages are too often larger than compensatory damages, and too often awarded regardless of any negligence.

The industry is on surer ground with its proposals for changes to the wording of liability policies. These, it says, will make "losses . . . more predictable". The first change would be to make all general liability policies on a so-called "claims-made" basis. In the past, most policies have been written on an occurrence basis—that is, an injury, say, by a faulty pharmaceutical product, which occurs during the period of a policy is covered by that policy even though the injury may not come to light for years afterwards. This means that there are often long time lags between the injury (or, in the jargon, the insured event) and the date on which the claims are reported.

A claims-made policy would cover claims made in a certain period and thus shorten the time between collecting the premium and the payment of losses. This makes insurance companies' costs more predictable and rate calculation more accurate. However, claims-made policies have not been widely accepted by the consumer and are being used for only a fraction of liability business.

The second change in the policy would place a limit on the amount which an insurer would pay out in claims during any policy period. Often in the past, insurance companies have been providing cover without any ceiling. The insurers had depended on the so-called "per occurrence limit" to place reasonable, predictable caps on the liability.

However, the changing legal climate has given rise to occasions where "per occurrence" limits can be stacked. Take a fictitious case. It is suddenly discovered that drinking tap water causes cancer of the bladder. The utility, covered by product liability insurance, is sued. The court rules that each sip of water was a separate occurrence and the insurance company is liable up to the limit of coverage for each sip of water taken by the suffering consumer.

The third proposed change by insurance companies is to put limits on legal defence costs paid by the companies. At present, most liability insurers provide a provision under which they pay for all the legal costs of a policyholder, say a company which fights a claim against it for negligence. In extreme cases, this has resulted in legal costs way above the lmits of cover of the policy.

A recent study by the Insurance Service Office put the legal expenses incurred on behalf of policyholders in 1986 at $5.1 billion, almost double the level of 1979. In the area of general liability, for every dollar shelled out in claims or losses, insurers spent another 36 cents for defense costs.

COVER UP

Have any of these changes helped increase the availability of liability insurance? In many areas, sadly no. However, some insurers, all too aware of the damage that the unavailability is doing to their image, are trying to cobble together some kind of cover for the worst affected.

In day-care insurance, for example, two big insurers, working with child-care centres, have developed nationwide day-care insurance programmes. Coverage for nurse-midwives has been dealt with in a similar fashion. A consortium of ten insurance companies, working with the National Association of Insurance Commissioners and the American College of Nurse-Midwives (ACNM), has developed a professional liability programme to cover certified nurse-midwives affiliated to the ANCM.

In addition, the market-assisted plans (or MAPs that many states have established to meet the lack of cover have been proving successful. Under MAPs, individual companies voluntarily agree to provide cover (in contrast to underwriting associations or pool arrangements in which participation is mandatory). For example, the Pennsylvania MAP, set up in late 1985, placed 94% of the business submitted to it. Of 1,314 applications received by North Carolina's MAP in the 14 months of its existence, only two were rejected. Around half the states have organised MAPs.

There has been a pay-off for some states following the passage of tort reform through their legislatures. Following the reforms, some insurers have said that they will now re-enter the market or ease their underwriting requirements for liability insurance for municipalities, school districts, day-care centres and sellers of alcohol. One insurer has already reduced its rates by 10% for the municipalities it insures following Connecticut's tort-reform law. Likewise in New Hampshire: 23 insurance companies involved in a MAP have said they will reduce rates by 16%.

None of this has let the insurers off the hook. They are already worried that bumper profits in 1987 and, probably, 1988 will be seen as excessive by consumer advocates and policyholders who have seen rates either skyrocket or the usual cover disappear from the market. It will be even worse for insurers if the same view is taken by the insurance commissioners.

Many insurers are expecting to report profit increases of between 20% and 50% this year—which could mean an operating profit for the American industry of between $6 billion and $8 billion. The Insurance Information Institute is organising a campaign to "put industry profits into perspective", including television advertising to bolster the industry's image, and a round of speech-making by executives to the media to explain the insurers' results to the "lay audience".

None of this cuts any ice with Mr. Robert Hunter of the National Consumer Organisation. He and others see the public-relations exercise as attempting to vindicate bumper profits. Mr. Hunter points out that insurers' net income, including investment income and capital gains, was already at record levels in 1986.

The insurers have another argument up their sleeves. The Insurance Services Office claims that the federal Tax Reform Act of October 1986 will add $7.5 billion to the industry's tax bill over the next five years. One of the biggest property/casualty insurers, Continental Corporation, reckons that its tax bill over the next four years will grow by $250m-350m as a result of the act. The problem for the insurers is that the new law requires them to discount their loss reserves.

Every insurance company deducts from its profits sums which it sets aside to meet future losses. These loss reserves have in the past been invested and earned income until claims fall due. Under the new law, the insurance companies will be required to deduct an allowance for future investment income when they put aside money to meet likely future claims. That is, their loss reserves should (theoretically) be lower, thus releasing more profit which is taxed. Some cynics think that the insurance companies will simply jack up reserves to compensate for the allowance deduction.

Either way, it may not be a bad thing for the industry. Many think that discounting loss reserves will eliminate cash-flow underwriting.

However, America's property/casualty insurers face a bigger challenge than persuading the public that they are not money-grubbing shysters. The McCarran-Ferguson Act, which gives state insurers the right to regulate the industry and insurers limited exemption from some antitrust legislation, is at risk. Much of the support for the repeal of the act is a result of the liability insurance crisis and charges levelled at the industry that it violates antitrust laws.

In September 1986, the National Conference of State Legislatures (NSCL) unanimously recommended that Congress either repeal the McCarran-Ferguson Act or clarify and define its specific antitrust exemptions. The NSCL also called for insurers to submit financial information to the federal government, including details of premiums written, claims, legal costs, reserves and investment income.

In February 1987, the American Congress began hearings that could eventually lead to the act's repeal. Mr Daniel Oliver, the chairman of the Federal Trade Commission (FTC) argued that the act is anti-competitive and allows price-fixing by the industry. Also in favour of this repeal is the Justice Department's antitrust division and the National Association of Attorneys General.

Some states have already taken legal action against insurers. In August 1986, California's attorney general issued subpoenas to 125 insurance companies as part of an investigation into possible violations of the state's antitrust and unfair trade practices legislation. The subpoenas dealt specifically with liability coverage for government agencies and for public officials' errors and omissions.

In West Virginia last year, the attorney general filed suit against the five largest medical-malpractice insurance companies, alleging that their refusal to cover hospitals and doctors violates the state's antitrust laws. In New Jersey, the state insurance department has begun a two-year survey into antitrust and the property/casualty industry.

Most of the big New York and Hartford, Connecticut, insurers think that, despite the flurry of legal and official action, McCarran-Ferguson will survive. Others are not so sure. Travelers thinks the current debate poses "the biggest threat to McCarran in its history".

The industry is taking no chances. Another one of its many mouthpieces, the National Association of Independent Insurers (NAII), called earlier this year for "the equivalent of a march on the capital" and for its members to become "more politically active". According to Mr. John B. Crosby, senior vice-president and general counsel of the NAII: "This is not an issue on which we can expect a public outpouring, either pro or con. We have few friends." On that score, he never said a truer word.

Mr. HOLLINGS. Madam President, the best of the best were also asked about this supposed crisis. The conference board said, "Now, with all of this talk about a crisis, we had better study it and find out what the cost is of insurance." So the conference board, conducted a survey that was expertly done by the best of consultants and surveyors, if I can remember it correctly. The conference board polled the risk managers of 232 major U.S. corporations, each having a minimum annual sales revenue of $100 million and representing a range of U.S. manufacturing and nonfinancial service firms.

Now we hear the cries of the Senator from Missouri, all about this crisis and closing down the parks, and running off little playground football teams and everything else of that kind, because of some kind of a lottery. Here is responsible evidence published, very recently. The product liability response, on page 13, under the heading of Management Decision-making in Response to Liability, the respondents were asked "How much of the final prices of your products can be attributed to the cost of liability insurance?" For two-thirds of the firms, the answer was, "One percent or less."

So, you see this is a political crisis for votes, so that they can headline all of these stories about how they are looking out for the little people. That is an exception for them to come down and associate with the little people, because usually these gentlemen are representing big business. But now they come on the floor and talk about a lottery, and other things of that kind when the study of the industries that they supposedly represent, the major industries surveyed by the conference board, says that there is not any cost crisis. The cost is 1 percent or less.

I ask unanimous consent, Madam Chairman, that this particular conference board report be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRODUCT LIABILITY: THE CORPORATE RESPONSE

(By Nathan Weber)

ABOUT THIS RESEARCH

Corporate and congressional concern over commerical insurance and tort liability reached an apogee in 1986, with warnings of impending breakdowns in the insurance industry and predictions of dire consequences for business and the economy in general unless serious reforms were enacted. To ascertain the extent, if any, of the crises in both liability insurance and the tort system, especially as they affect corporate decision making, The Conference Board poled the risk managers of 232 major U.S. corporations. The corporations, each having a minimum annual sales revenue of $100 million, represent a range of U.S. manufacturing and nonfinancial service firms. Information provided by the manufacturing managers pretains entirely to *product* liability. In the case of service corporations, the data reflect *professional* liability. Utilities polled reported on general liability. The findings in this report do not deal with such related issues as officers and directors liability, malpractice, or municipal insurance. Nor do they reflect the experience of the nation's small business entities.*

PRODUCT LIABILITY AS A CORPORATE FUNCTION

Primary responsibility for product liability

Title or department:	Percent
Risk manager	40
Chief counsel	19
CFO	10
More than 1	10
CEO	6
Product safety manager	4
Marketing	2
Corporate planning	1
Other	8

Importance of product liability

	Percent
Full-time function	20
Part-time function	76
No response	4

Respondents, by Industry

Industry:	Number of firms
Manufacturing	166
Wholesale and retail trade	21
Transportation and utilities	18
Services	14
Agriculture, mining	9
Other	5

Type of manufacturing firms:	Number
Machinery and equipment	63
Stone, glass, metal	31
Chemicals, plastics, rubber	20
Food and tobacco	19
Textile	13
Wood products	10
Printing and publishing	10

Respondents' markets

	Percent
Soley or primarily consumer market	31
Soley or primarily industrial and commercial market	47
Equally consumer and industrial market	17
No response	4

WHY THIS REPORT

The current debate about the crucial issues of product liability and tort reform is a heated one. On one side consumer groups, trial attorneys and others argue that insurance companies have created an insurance "crisis" by underpriced premiums when income from investments was high. Now that interest rates have declined, they say, insurers have been forced to increase premiums at a geometric rate—regardless of actual risk. But insurers blame litigious citizenry, lawyers and judges for an irresponsible use of the judicial system, a use that—in their view—results in astronomical and often undeserved, as well as unpredictable, judgments.

Such risk, insurers say, compel them to raise their prices in simple self-defense. Some corporate risk managers, while acknowledging the insurers' explanations, fault them for placing barriers to the development of alternative insuring mechanisms.

In preparing this report, The Conference Board had two aims: First, to permit the contesting parties to state their cases and to examine the evidence supporting these claims; and second, to ascertain how major corporations (which purchase almost half of the commercial liability coverage) deal with the intertwined issues of insurance availability and product liability.

The risk managers of 232 major U.S. corporations were asked to respond to a detailed questionnaire. Their responses not only shed light on their own corporate experience—from litigation and legal cost experience to product safety improvements—but also raised additional questions about the extent and dimensions of the product liability and insurance availability issues themselves.

JAMES T. MILLS,
President.

CHAPTER 1—INTRODUCTION

Horror stories portraying a judicial system run amuck awarding astronomic amounts to countless individuals wrongly suing large corporations and local governments were a media staple during much of 1986. Many of the stories anecdotally depicted a scenario of rapacious trial attorneys urging consumers to sue manufacturers and other businesses for accidents that occurred largely through the consumers' own carelessness. So enormous was the burden on insurance companies to pay high court awards, the stories maintained, and so unpredictable the whims of overly generous judges and juries, that insurers were forced to increase rates drastically, restrict coverage severely, or eliminate completely their provision of liability insurance—with grave consequences for the very viability of business and governments, and therefore for consumers and the economy in general. The malaise would deepen, the articles maintained, until the tort liability system is radically overhauled.

Predictably, no sooner did the stories circulate, than trial attorneys and consumer activists, sensing the advocacy efforts of the insurance industry, reacted with their own accusations, charging insurers with producing a smokescreen to shield themselves from angry customers. The real cause of the liability-insurance crisis was not the tort system, they argued—which at the least provided consumers with some compensation for injuries and deaths caused by unsafe products and services—but the behavior of the insurance companies themselves. The insurers, they charged, were so ambitious for premium dollars to invest that they undercharged corporate and municipal customers and took on marginally insurable risks when interest rates were soaring in the late 1970's and early 1980's. Once interest rates—and therefore investment returns—fell, the insurers no longer chased after premium dollars to invest. Instead, they multiplied by 100 percent or more the prices they charged corporations and governments for liability insurance. Or they abandoned such coverage altogether for safer, and currently more profitable, policies. All the while the insurers—in an alleged conspiracy, according to some—blamed the injured consumers and their legal protectors. Solve the crisis by reforming the insurance industry, argued the attorneys and consumers, not the tort liability system.[1]

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* Footnotes at end of article.

At this writing (November 1986), partisans of each position have spent the better part of the year strenuously promoting their opposing views in the media, at innumerable public forums, and in state and federal legislatures. Efforts on both sides have met with some success, to date mostly at the state level. Reforms of both the tort system and the insurance industry have been enacted, to one degree or another, by over 40 state legislatures, although many of the changes are themselves facing legal challenges. (See page 18 for a summary of state reforms.) Even at the federal level, while temporarily sidetracked, reforms appear more likely to be enacted than at any time during the previous decade, according to many Congress watchers.

Notwithstanding the reforms, the accusations and countercharges show little sign of abating. As the controversy swirls, one fundamental set of questions remains unanswered: What, in fact, has been the impact of the liability and/or insurance crisis on the nation's major corporations and, by extension, on the economy? Further, to what extent has product liability insurance truly become unaffordable or unavailable to large U.S. corporations, and how has management responded to this development? How in fact has the corporate world reacted to both current insurance prices and to lawsuits filed by aggrieved consumers?

Some answers to these questions are provided in this report. The information was supplied by risk managers of 232 major U.S. manufacturing, trade and service corporations, excluding financial firms, who responded to a detailed questionnaire. The firms record a minimum of $100 million a year in sales.

[Charts not reproducible in the RECORD.]

Major finding: Minor impact

The most striking finding is that the impact of the liability issue seems far more related to rhetoric than to reality. Given all the media coverage and heated accusations, the so called twin crises in product liability and insurance availability have left a relatively minor dent on the economics and organization of individual large firms, or on big business as a whole. In the worlds of one manager: "There may be less here than meets the eyes."

The *Product liability:* For the major corporations surveyed, the pressures of product liability have hardly affected larger economic issues, such as revenues, market share, or employee retention. Liability lawsuits, which are indeed numerous, are overwhelmingly settled out of court, and usually for sums that are considered modest by corporate standards. As a management function, product liability remains a part-time responsibility in most of the responding firms. Where product liability has had a notable impact—where it has most significantly affected management decision making—has been in the quality of the products themselves. Managers say products have become safer, manufacturing procedures have been improved and labels and use instructions have become more explicit.[2]

Insurance availability: For most of the companies surveyed, product liability, insurance coverage has remained fairly steady, notwithstanding increases in its cost. Furthermore, the source of the insurance has remained constant: Corporations continue to secure liability insurance primarily from standard commercial insurers, as opposed to "capitives" or other source alternatives. (However, a growing number of firms say they either have alternative sources, or will consider alternatives for the near future.) While management has passed along the increased cost of insurance to consumers in the form of higher prices for products and services, the extent of such price rises has been minor.

A careful reading of the insurance press—which, understandably, has taken the lead in trumpeting the crisis—reveals that doubts about the extent or severity of the liability situation had been voiced on different occasions by experts. In May, for instance, a corporate risk manager, speaking at the 50th annual Chicago Insurance Day, announced: "We really don't see this as a crisis. It's just another manageable problem." In June, an advisory committee of the National Association of Insurance Commissioners (NAIC), consisting of representatives of several insurance trade associations, issued a report asserting that the crisis is not anywhere as widespread as generally believed, even for such "high risk" entities as liquor stores, daycare centers and municipalities. (That report was immediately tabled by NAIC, which had not been shown the results prior to its release to the press.[3]) And in the area of tort law, a new study of 172 federal cases and 119 states cases—dealing primarily with product liability—found that the awarding of punitive damages was, for the most part, "insignificant." That study was published in a journal of the American Enterprise Institute.[4]

The findings of the present survey also refute the general contention of a severe and deepening crisis in tort liability and insurance availability, at least for the nation's large corporations. The impact on the general economy, likewise, is believed to have been minor.

CHAPTER 2—INSURANCE ISSUES

Amount of Coverage Remains Steady

In spite of legitimate complaints about the rising cost of product and professional liability insurance, the amount of coverage purchased by corporations has remained remarkably constant—and in many cases has actually increased—over the past five years. In 1982, when the insurance market was "soft"—a buyer's market in which premium prices were low and supply or availability (called "capacity" in the insurance industry) was plentiful—52 percent of the firms surveyed were insured for $1 million in primary coverage. By 1986, faced with a "hard" market in which the insurance seller was in command with high prices and restricted supply, 54 percent of those same firms had the same amount of primary liability coverage. The percent of respondents who had no coverage grew by only three points between 1982 and 1986, from 7 percent to 10 percent.

The only place coverage declined was at the low end of the scale: A fifth of the firms had coverage under $1 million five years ago, whereas today almost none (4 percent) of the firms insures for that amount. This probably reflects the standardization of a $1 million primary coverage contract within the insurance industry.

Coverage in all other ranges has remained stable regardless of the amount of insurance held. For example, 9 percent of the firms were covered for $5—$10 million in 1982, and 8 percent in 1986. (See Table 1.)

TABLE 1.—PRODUCT (OR PROFESSIONAL) LIABILITY INSURANCE (232 CORPORATIONS) [1]

[In percent]

	1986	1985	1984	1873	1982
Primary coverage:					
Below $1 million	4	13	18	19	20
$1 million	54	56	53	52	52
$1.1 to $2 million	16	7	7	6	5
$2.1 to $4 million	4	2	2	2	1
$5 to $10 million	9	8	8	8	8
$11 million and above	4	7	7	6	6
No coverage	10	7	7	7	7
Excess coverage:					
Below $25 million	41	20	19	22	25
$25 to $49.9 million	26	18	16	17	17
$50 to $99.9 million	17	27	26	24	26
$100 million or above	11	29	33	31	26
No coverage	6	4	4	4	5

[1] Details may not add to 100% because of rounding.

Note.—Primary product liability coverage has remained remarkably constant between 1982 and 1986. However, the amount of excess liability coverage has declined in 1982. 26 percent carried excess coverage of $100 million or more. By 1986, only 11 percent had that amount. The major change occurred between 1985 and 1986. Excess coverage is provided by reinsurers, many of whom abandoned the market in 1985.

These findings confirm the results of earlier research conducted by the Risk and Insurance Management Society (RIMS), a professional organization whose members are, primarily, corporate risk managers. In a survey of year-end insurance renewals released in February 1986, RIMS reported that for product liability insurance, "limits [i.e., extent of coverage] and deductibles were stable" for 237 respondents.[5]

Declines in excess coverage

Where there is a noticeable difference between 1982 and 1986 is in the area of excess, or surplus, coverage. Excess coverage with limits well above those of primary coverage, is made available for additional premium payments, and is fairly standard in most commercial liability-insurance policies. In 1982, a quarter of the firms purchased excess or surplus coverage of $100 million or more; at present, only a tenth of the companies could obtain, or were willing to buy, that much. Instead, far more companies have had to accept a much lower amount of excess coverage—usually under $25 million. Today, 41 percent of the firms have that relatively small amount, whereas five years ago only a quarter of the companies had to settle for such low excess coverage.

The explanation for this is that excess coverage is provided mainly by reinsurers—often referred to as "the insurer's insurer." Reinsurers had left the market in droves by 1985, particularly in liability lines. According to the Insurance Services Office, the industry's ratemaking advisory body, since 1984, 90 reinsurers withdrew totally or partially from the U.S. market.[6]

By mid-September 1986, however, the reinsurance industry showed signs of recovery. According to congressional testimony prepared by the Reinsurance of America

(RAA), first quarter premiums and surplus (net worth) were up, and new reinsurance companies were entering the market. However, this improving position does not mean that reinsurance will now be more available or less costly. "Reinsurers will commit their resources only where they believe the potential for profits is greatest," a spokesperson for the RAA said. "Therefore, they cannot say that there will be increased capacity in certain lines, pollution coverage in particular." [9]

How insurance is obtained

Here again, patterns are remarkably steady, notwithstanding a five-year-old federal law that makes it easier to secure insurance from alternative sources. (See discussion of the Product Liability Risk Retention Act, page 20.) For primary coverage, corporations chose—by an overwhelming amount: 89 percent in 1982, 86 percent today—to buy their insurance from regular commercial insurance providers, as opposed to, say, industry captives or other arrangements. "Single parent captives," or insurance companies set up by a corporation simply to insure itself, provided coverage for only 6 percent of the firms five years ago, and only 5 percent of the firms today. This pattern is almost identical for excess coverage.

Increased cost of insurance

The most significant change for corporations since 1982 has been the cost of the premiums. The Board survey reveals that management complaints about the increasing cost of liability insurance premiums are based on fact. In 1982, more than one in four companies paid under $50,000 in premiums for primary coverage. By 1986, only one in ten firms paid that relatively low amount. At the high end of the premium price scale, five years ago only one out of seven corporations spent $500,000 or more on primary premiums. Today, over twice as many—more than one out of three—companies have to spend that much to obtain the same amount of coverage. Even in the middle ranges, the findings reveal that corporations are spending more. Premium costs of between $50,000 and $100,000 were paid by 16 percent of the firms in 1982. Today, only half as many can pay that middle range price. (See Table 2.)

TABLE 2.—PREMIUM PAYMENTS FOR PRIMARY COVERAGE (232 CORPORATIONS) [1]

[In percent]

	1986	1985	1984	1983	1982
Below $25,000	7	11	15	16	16
$25 to $49,999	4	8	11	12	12
$50 to $99,999	8	15	16	17	16
$100 to $499,999	32	32	31	26	27
$500,000 and above	36	26	18	18	17
No response	13	9	9	11	12

[1] Details may not add to 100% because of rounding.

Note.—Corporations able to secure liability insurance with premium payments below $25,000 dropped by over half from 1982 to 1986. During the same period, those having to pay $500,000 and above more than doubled.

Premium payments for excess coverage reveal even more starkly the rise in prices. For example, in 1982, one out of five corporations paid under $25,000 in excess coverage premiums. Today, very few firms—only 3 percent—pay that low amount. At the high end of the scale, the number of firms having to pay a half million dollars or above for excess coverage soared from 8 percent to 48 percent. (See Table 3.)

TABLE 3.—PREMIUM PAYMENTS FOR EXCESS COVERAGE (232 RESPONDENTS) [1]

[In percent]

	1986	1985	1984	1983	1982
Below $25,000	3	10	17	20	20
$25 to $49,999	6	9	17	18	18
$50 to $99,999	5	15	22	21	18
$100 to $499,999	23	34	23	21	22
$500,000 and above	48	20	9	9	8
No response	15	11	11	12	14

[1] Details may not add to 100% because of rounding.

Note.—Premium payments for excess liability coverage have gone up for most corporations. In 1982, a fifth of the respondents paid under $25,000 in excess premiums. By 1986, only 3 percent could obtain excess insurance at that rate. At the high end, almost six times as many corporations must pay half a million dollars or more for excess coverage today, compared to five years ago.

The increase in premium costs is borne out by the RIMS survey mentioned above. Of the respondents in that survey, more than a third reported that they had to pay premium increases of over 100 percent in order to renew their product-liability policies.

Deductibles have risen

Another measure of insurance cost is the steepness of the "deductible" portion of a policy. The deductible is the amount of a claim that must be paid by the customer before the insurance company begins to pay. In effect, the higher the deductible, the costlier the insurance policy.

For respondents in the survey, deductibles have risen, but not drastically. One in seven of the companies paid no deductible either in 1982 or 1986.

At the low end of the scale, five years ago a little over a third of the firms' policies had deductibles of under $100,000, whereas today only a quarter of the companies are liable for that amount.

Corporations having to pay between $100,000 and $499,999 increased by only five percent points during the past five years.

At the high end of the scale, the number of firms having to pay deductibles of $1 million and above doubled between 1982 and 1986, from 9 percent to 19 percent. (See Table 4.)

TABLE 4.—DEDUCTIBLE RETENTION (232 CORPORATIONS) [1]

[In percent]

	1986	1985	1984	1983	1982
No deductible	16	15	16	15	15
Below $100,000	26	32	34	35	38
$100,000 to $499,999	27	34	35	33	32
$500,000 to $999,999	12	8	6	7	6
$1 million and above	19	11	9	9	9

[1] Details may not add to 100% because of rounding.

Note.—Deductible, which effectively add to the cost of insurance, have risen, but not drastically for most. Between 1982 and 1986, the number of corporations paying deductibles under $100,000 decreased from a little over a third to a quarter. By contrast, the percent of corporations having to pay $1 million or above doubled between 1982 and 1986.

Overall, then, the survey findings on deductibles reinforce the RIMS study, which concluded that deductibles for product liability insurance were stable at their latest renewal.

To be sure, those firms that do have to bear the increases are finding it expensive. In some instances, the Board survey shows, the rise has been huge: A producer of industrial chemicals in Mississippi saw its deductible increase 20-fold in the past year, from $5,000 to $100,000, while its coverage dropped from $5 million to $1 million. Nor can it be said that the industry of that firm—chemicals—is the sole cause of the increase. A manufacturer of diesel engines in Indiana had its deductible leap from under $100,000 annually for the previous four years to $1 million in 1986, while the amount of its coverage has remained constant, as it has for most of the firms. A West Coast computer manufacturer went from no deductible in 1984 to $25,000 the following year to $100,000 in 1986—all for the same $1 million in coverage. And a Texas manufacturer of oil field equipment and related services had its 1986 deductibles increase from $100,000 to $250,000 over the previous year, with a sizable increase in its premium cost, for the same $1 million coverage.

Increases in deductibles, plus rising premium costs, are motivating about a quarter of the respondents to consider switching to an alternative insurance supplier within the next two years. The alternative insurer will likely be some form of captive company, established either by the firm itself, or by several allied firms in a joint venture. One example: Eight corporate risk managers recently announced plans to establish the Corporate America's Risk Exchange (CARE). The new agency would provide up to $50 million in excess coverage, with deductibles as low as $1 million.[8]

CHAPTER 3—LEGAL ISSUES

Soaring number of lawsuits

The current findings leave no doubt that a substantial number of lawsuits are filed against companies on product liability charges. Two-thirds of the corporations surveyed have had such suits filed against them within the past five years. While the number of suits varies from one to 1,000 or more per year, most of the companies are defendants in multiple suits. Thus, among those sued, 60 percent face up to 25 lawsuits annually, 20 percent must deal with between 30 and 100 suits each year, and 14 percent are defendants in 101 to 500 suits.

Causes and effects of the lawsuit increase

Consumer groups and trial attorneys maintain that the rising number of lawsuits is a consequence of unsafe products or unclear instructions on using products—or simply growth in the number of product users.[9] Corporate spokespeople reject that argument. They maintain that they are named in so many suits not because they are primarily responsible for injurious use of their products, but because of a shotgun legal tactic favored by plaintiffs' attorneys. This shotgun approach—naming as many defendants in a lawsuit as possible—is facilitated, they insist, by a legal doctrine known as "joint and several liability."

Essentially, the doctrine of joint and several liability holds that all the defendants found culpable in an action are equally—and fully—liable to compensate the plaintiff for damage suffered. If any one of those defendants cannot pay the amount a court awards, the other defendants must make up the difference, regardless of how small a role they may have played in the actual injury. Ultimately, the defendant most able to pay—the defendant with the "deepest pockets," usually a large corporation or a municipality—may be called upon to pay the entire amount. One of the theories behind this doctrine is that compensation for the person suffering a serious or incapacitating accident takes priority, as a matter of justice, over allocating damages according to the degree of a defendant's responsibility. Were it not for the doctrine, say its advocates, injured people who may be effectively unable to earn a living, or maintain a normal life, would have a much more difficult time obtaining compensation for their injuries.

Regardless of the merits or defects of the doctrine, facing multiple suits each year may be a daunting task. And indeed it is, for an individual or even a small business, no matter what the number of suits. Time spent in court, as well as pretrial depositions, and responses to interrogatories, can detract seriously, if not completely, from the time needed to conduct a business.

But for many major corporations, the task of responding to a large number of lawsuits has become a way of business life. For them, defending against legal allegations has become a matter of course, an everyday business expense. The time and money needed to deal with each and every suit, while certainly steep, are not life threatening in most cases. for a few, of course, such as Johns Manville and A. H. Robins, the weight of such litigation has led them to seek refuge in bankruptcy. But the impact on most of the corporations studied has not been that serious.

The risk manager of a food and chemical products manufacturer in Ohio was asked how the 250 lawsuits his firm has faced within the past five years have affected the company's ability to do business. "Not at all," he replied, adding: "It doesn't take much to set up a claims handling operation, even if you don't have insurance." He said that he believes this to be the situation in many major corporations. An exception, he added, might be firms that manufacture a product that has had widespread catastrophic consequences.

The risk manager of an energy company in the Midwest also replied "No" to the question of whether facing 1000 lawsuits adversely affected the company's ability to do business during the past five years. "It's relative to the size of the company," he said. "Obviously, it would bury us if we were a small Ma and Pa operation. But we are a Fortune 25 company."

And a manager of a major retailer in the Southwest said that the problem was not in the lawsuits lodged against his firm, but in the fact that some of the medium-sized vendors or manufacturers could not afford product-liability insurance. He said his firm would not sell any product that was not covered by such insurance. To do so in the light of joint and several liability, he continued, would subject his company to paying the full amount of claims for which they were barely repsonsible.

Thus, the sheer number of suits a corporation faces may not have a significant bearing on its ability to carry on its regular business operations. The impact of the liability lawsuit phenomenon on management decision making may vary greatly among firms in general, but appears to be relatively minor for those surveyed. This conclusion is suggested by two survey findings: Product liability remains a part-time function in most corporations, and most of the cases are settled out of court.

There is no question that, even where corporations are not required to make significant court-awarded payments, they must still bear the ever increasing cost of attorneys and associated fees. (The cost to the public may also be high. A recent study of the cost of litigation to taxpayers—the cost to government, or society in general—estimates that administrative expense, independent of awards, will reach between $16 and $28 billion a year by decade's end.[10]) For this reason, the elimination of joint and several liability—especially in the awarding of punitive damages (as opposed to awards for economic loss, such as wages or medical expense, or for pain and suffering)—is a major priority of corporations active in efforts to reform tort law. See section on "Reforms Sought by Corporations,"

Court verdicts: How corporate defendants fare

Corporate and insurance industry spokespeople argue that courts are granting plaintiffs too many awards—and at too high a dollar amount. To explore this issue, this survey asked respondents to indicate which way the judgment went for the latest five cases in which they were defendants. For all the complaints about judges and juries being overly sympathetic to consumers who bring suits, the defendant corporations in the survey did not fare badly in the courts. Out of a total of 659 most current cases, only 6 percent of the final court judgments were against the firms after all appeals were exhausted.

In a quarter of the suits, the cases were either dismissed or the court ruled in favor of the firm. For the remaining two-thirds, the cases were settled out of court—presumably with the firms' insurers offering plaintiffs a settlement.

Out-of-court settlements

How high are the out-of-court settlements on average? For the 403 out-of-court settlements for which information was provided, actual financial awards were for amounts below $25,000—a minor sum by corporate standards. This was so in more than 57 percent of the cases. At the high end of the scale, a little over 2 percent of the settlements were for $500,000 or above. Million dollar-plus settlements were awarded only 3 percent of the time. (See Table 5.)

TABLE 5.—OUT-OF-COURT SETTLEMENTS OF FIVE LATEST CASES (403 CASES) [1]

[In percent]

	Case 1	Case 2	Case 3	Case 4	Case 5	Average
Below $25,000	51	55	55	60	62	57
$25 to $49,999	16	14	12	13	9	13
$50 to $99,999	10	11	16	17	14	14
$100 to $499,999	15	14	12	7	10	12
$500 to $999,999	2	3	3	1	3	2
$1 million and above	6	3	1	1	3	3
Total cases	96	88	83	70	71	403

[1] Details may not add to 100% because of rounding.

Court awards

Very few of the risk managers responded to questions seeking information on the size of awards granted to plaintiffs by the courts. This is understandable in light of the finding that only 6 percent of the court judgments were in favor of the plaintiffs. Nevertheless, of those who did respond, most of the awards for economic loss, pain and suffering, and punitive damages were for amounts under $25,000.

Most common allegations

Allegations brought in liability actions range from flaws in the design and construction of products to poor or misleading use instructions, to misrepresentation about the product's features in promotional literature, such as advertisements. For the corporations surveyed, the most frequent allegations were as follows:

Defect in product design: The most common allegation according to the survey, is that the design of the product in question is defective. In effect, people who suffer accidents or injury through the use of a product most commonly charge that the mishap was a consequence of the faulty design of the product. This was the allegation in over a third of the latest 659 cases brought against respondents.

Failure to warn: In almost a quarter of the cases, companies are sued on an alleged failure to warn the consumer adequately about potential—foreseeable—hazards associated with use of a product. Examples include drinking or inhaling chemical products, standing on the top step of a ladder, or the use of a chain saw without first clearing away potential obstructions. In a small number of cases, manufacturers are sued on the grounds that they did not foresee a "reasonable" misuse of a product—such as using a screwdriver as a lever, or a hammer to bang objects other than nails—and so did not provide proper warning.

Insufficient or improper labeling: Related to a failure to warn is insufficient or incorrect labeling of a product, which plaintiffs allege can cause or contribute to a misuse. A fifth of the cases in the survey included this allegation.

Construction defect: Another fifth of the cases alleged a defect in the construction of a product, as opposed to the actual design. In such cases plaintiffs are charging a lapse in the manufacturer's quality control procedures.

CHAPTER 4—MANAGEMENT DECISION MAKING IN RESPONSE TO LIABILITY

The primary intent of The Board's research was to weigh the impact that product liability has on management decision making, and, by extension, on the economy in general.

Price increases: The most common decision made by management in light of the product-liability issue has been to raise the cost of products and services. This decision was cited by over two-fifths (43 percent) of the respondents. No other management action was undertaken by as many corporations.

The extent of the increase, however, has been small. In most firms, liability expense consists of three or four major components: the cost of insurance, litigation fees, settlement amounts, and sometimes, overhead. Only the first component—insurance—can be measured with any degree of accuracy. Therefore, respondents were asked how much of the final prices of their products can be attributed to the cost of liability insurance. For two-thirds of the firms, the answer was *one percent or less.* For another 11 percent of the companies, liability insurance accounted for only 2 to 3 percent of the final price.

This is the case even for many firms with high liability potential. For example, the risk manager of a corporation that manufactures aircraft parts and other engineered materials explained: "We sell $150 million a year in aircraft products, and we pay $250,000 in liability premiums. It is a very small amount." Another corporation, a California aerospace manufacturing firm, also indicated its pass-along in prices added only 2 to 3 percent to its price list. (Some firms in the sporting goods industry may be an exception to this rule.)

It is almost impossible, for several reasons, to obtain data on the other components—in particular, litigation expenses and judgments or settlements. First, corporations, particularly publicly held firms, are loath to reveal how much they pay in litigation costs. They are even hesitant to share such information with their own trade associations, according to officials of those groups. Second, the litigation expenses vary with the number of suits, with the states in which they are sued, and with the amount of time it takes to settle each case. Thus, unlike insurance, litigation expenses are not known at the start of any one year, and cannot easily be computed into the final price of a product. (This is also true, of course, for settlement amounts.) Efforts to obtain data on the portion of prices attributable to litigation expenses in such industries as housewares and appliances, machine tools, and automobiles were not fruitful.

In the processed food industry, however, a trade association official offered a "ballpark estimate" for the price pass along: "Combining the expense of insurance premiums, legal fees, staff time, plus a huge amount of laboratory work, between 6 and 10 percent of the final price reflects these expenses." He added, however, that the amount of the price increase is very small in absolute figures, "Because of the extraordinary high quality control that exists in the processed food industry, our settlement costs are very low compared to most other industries. If you say $25,000 is the average settlement cost in other industries, that is about ten times higher than the standard settlement in the food industry. Even our legal fees are low, because of the extent to which we have refined our claims handling system." (Unlike most other industrial trade groups, the National Food Processors Association handles the liability claims of its members.)

"The only cost that consumers are really paying for," this executive continued, "is quality control." He said that the food industry's "phenomenal safety record" accounts for the "minuscule" loss record in claims handling.

Thus, while it may be true, as noted by a representative of the National Association of Insurance Brokers, that "Anytime a business or organization is faced with substantial new costs of doing business, these costs influence the price structure of goods and services," that influence is not significant with respect to expenses associated with produce liability.[11] The major determinants of pricing in large companies remain what they have always been: Shifting market tastes, technological innovations, the rise and fall of interest rates, domestic and foreign competition, labor and raw material costs, and so forth. Product liability does not constitute a major cost category, except in a small number of specialized firms such as football helmet manufacturers.

Improved labels: The next most common management decision, taken by over a third of the firms, was to alter the labeling information on product use, making the instructions more explicit and warning against dangers associated with improper use.

Product design: The third most common decision, made by almost a third of firms, was to improve the safety design of the product. (Among the firms that improved their products' design, manufacturing process or labeling, a fifth reported a subsequent decline in product-related accidents.)

Discontinuation of product: One finding here deserves special attention. Almost a quarter of the firms have decided, within the past three years, either to discontinue manufacture of a product for the U.S. market, to rescind provision of a service, or to recall products already on the market, because of product-liability considerations. Theoretically, such decisions can have a considerable impact on the fortunes of the firms themselves and on the overall economy. Curtailment of production may mean foregone revenues, which, in turn, may precipitate layoffs and cause other negative ripples throughout the economy.

To test the theory, the questionnaire asked respondents to estimate how much money they lose annually—how much they forego in net revenues—through liability-related elimination of products or services to the U.S. market. Only one out of eight respondents answered the question, an even smaller percentage than those who ceased production. Of the small remainder—41 corporations with $100 million or more in sales annually—under half estimate foregone revenues of less than $1 million a year, a third estimate losses between $1 and $5 million, and the rest, in decreasing percentages, forego higher amounts.

When placed within the context of the entire sample of 232 corporations, the above figures suggest, again, that product liability has a minor impact on this group of corporations. For the 25 percent of corporations that have been pressured by liability problems to eliminate products or services, or to recall products from the market, the amount of revenue most of them forego is very small in relation to their annual sales income.

It should follow that few employees are laid off as a consequence of product liability. And that, indeed, is what the survey shows. Of the quarter of respondents who ceased production or recalled products, 13 firms, or less than 6 percent of the total, laid off employees within the past three years for this reason.

"Defensive liability" techniques

The spate of media attention given the liability and insurance crisis during 1986 would indicate that product liability is a major concern, and its reform a top political priority, for U.S. corporations. Survey findings present a mixed picture on this assumption. One the one hand, product liability remains only a part-time function for over three-quarters of the respondents. And in only one out of ten companies is the performance rating of a department head dependent, even in part, on product-liability claims brought against the firm. Both these findings suggest that the issue is not a central focus of most corporate decision makers in the conduct of their business.

On the other hand, at least two-thirds of the companies undertake one or more "defensive liability" practices, the two most common being to establish formal safety objectives and to monitor relevant court decisions. In addition, over half the companies are active to some degree in efforts to reform product-liability or insurance laws and regulations. For most of the active firms, this involvement takes the form of contributing to a business or industry lobbying group.

Reforms sought by corporations

A little over half of the risk managers volunteered information on the type of reforms they advocate. For most of these respondents, it is the tort system they wish to see changed. By contrast, only 6 percent recommend change in the insurance industry.

Tort Reform: The most frequently mentioned reforms sought by respondents in the area of tort law include establishing a cap on court awards, rescinding the doctrine of "joint and several liability," and restricting, or eliminating, the use of contingency fees by plaintiffs' attorneys.

Advocating a cap on court awards may reflect management's concern with the reportedly growing number of multi-million-dollar judgments, particularly as a result of awards for pain and suffering and for punitive damages. According to the survey, however, most liability cases are settled out of court, and for relatively modest sums.

The desire to end the joint and several liability doctrine reflects management's discontent with being targets of a shotgun approach to liability lawsuits. As noted earlier, such an approach names as many defendants as possible in a suit, regardless of the amount of blame any one defendant may bear. Ultimately, the wealthiest defendant becomes the payer of last resort, irrespective of degree of blame. And while the number and amount of court awards has not been steep, at least to most respondents of this survey, the legal expense required to respond to charges is certainly unwanted.

Establishment of a cap on contingency fees—which would limit the percentage of a court award going to the plaintiff's attorney—might serve as disincentive for lawyers to sue. Over 42 percent of the respondents seek this reform, and another 20 percent seek an end of what they call "frivolous" law suits. Together, almost two-thirds of the corporate respondents seek to limit sharply the number of suits filed against them.

Insurance reform: Reforms of the insurance industry sought by 6 percent of the respondents include: stricter regulations of rates; easing the ability to establish and operate self insuring (risk retention) mechanisms; and requiring insurance firms to compile and release more pertinent statistics. Several respondents also recommended improved product-safety requirements, which they felt would result in few lawsuits.

CHAPTER 5—LEGISLATIVE ACTIVITY

Partisans of reform of both the tort system and the insurance industry battled ferociously during 1986, both in the national and state arenas. While some federal insurance legislation was amended at this writing (November 1986), reforms—both major and minor—were passed or are likely to be passed in over 40 state legislatures, a reflection of the fierce lobbying efforts by organizations representing the insurance industry, corporate and association risk managers, trial lawyers, and consumer groups.[12] Many of those changes now face court challenges on state constitutional grounds.

State Legislation

Concerning tort or liability reform, many states imposed caps on noneconomic and punitive damage awards, limited or rescinded the doctrine of joint and several liability as applied to punitive damages, and allowed court awards to be paid out in installments—so-called structured payments—rather than in a single lump sum. Some states also reduced court awards by the amount of compensation a plaintiff receives from "collateral sources"—workers compensation, social security payments, and so forth. Predictably, these reforms were hailed by the insurance industry and corporate spokespeople, and condemned by consumer advocates and trial attorneys.

In the area of insurance, one of the most common reforms was the authorization of—or requirement for—joint underwriting associations (JUA's), a process by which all commercial insurance companies in a state take on the liability risks that no one insurer wishes to assume. JUA's constitute, in effect, an alternative market. In some states, such as in Minnesota, the insurance commissioner was given increased leeway to provide state government coverage for a limited period of time. The state of Florida enacted some of the most far reaching changes, mandating a rollback of insurance rates up to 40 percent for 90 days, with a further rollback to 1984 levels unless insurance companies can demonstrate that those levels are unjustified. In protest, several major insurance firms announced a cessation of new liability policies in Florida. In response, the president of the Florida Senate warned that he would seek legislation barring any insurer who withdraws from the state from reentry for the next ten years, with coverage to be provided by newly formed joint underwriting association.[13] The intensity of the battle in Florida—still heated as of this writing—serves as a barometer for the rest of the nation. In New York, for instance, the state commissioner publicly requested insurers to lower their rates by up to 20%, to compensate for the savings they can expect from state tort reforms.[14]

Federal Legislation

Product Liability and Tort Reform

On the federal level, the Uniform Product Liability Act (S. 2760) was reported out of the Senate Commerce Committee at the end of June, 1986. While it did not pass the entire Senate, the action of the Commerce Committee raised speculation that almost a decade of efforts by the insurance industry and risk managers to secure national tort liability reform would soon reach fruition, perhaps as early as the next session. Introduced by Senator John Danforth (R-Mo), the bill contained most of the elements advocated by corporate risk managers and insurers. Major provisions included:

Expedited settlement procedures: Either party to a dispute can seek to settle the claim quickly, by accepting the following terms: Payment to the claimant of a court-determined economic loss (loss of wages, medical expense, and so forth); plus payment of $100,000 for "dignity loss." The economic loss is to be paid in installments rather than in a lump sum. The dignitary loss, a substitute for the existing category of "pain and suffering," is intended as compensation for death of a family member, permanent disfigurement, loss of an organ or limb, and so on.

If the defendant rejects the terms, and then loses in court for an amount equal to or greater than those terms, the defendant has to pay the claimant's legal fees, up to $100,000. If the claimant rejects the offer, he or she may only collect a limited amount, set by formula, for both economic loss and punitive damages.

Sellers' liability: Sellers of defective products, such as retailers, dealers and the like, would be liable, in most cases, only if their own lack of reasonable care in handling the items was the proximate cause of the injury. In effect, this provision severely modifies the doctrine of joint and several liability.

Multiple defendants: In cases involving more than one defendant, each defendant's liability for noneconomic charges would be limited to that defendant's degree of responsibility for the injury, as determined by the court. This provision would further erode the notion of joint and several liability.

Punitive damages: Punitive damages could be awarded only where it is proven that an injury was the result of "conscious, flagrant indifference" on the part of the manufacturer to the user of a product. Furthermore, no punitive damage at all could be imposed in cases involving over-the-counter drugs, aircraft, or medical devices that have been approved for marketing by a federal agency.

Other provisions included:

A two-year time limit for the filing of complaints, starting from the time a claimant discovers—or "should have discovered"—the injury and the possible cause;

A definable statute of repose, in this case a 25-year time limit in which any complaint can be brought, with the exception of claims against toxic substances. For items not considered "capital goods," the statutory time limit is ten years;

Awards granted in a liability case to be offset by any benefits the claimant obtains under the federal workers compensation law;

A disclosure provision, requiring insurance companies to report to the Secretary of Commerce annual data showing the impact of this law on their business operations. The purpose of this provision is to test whether the absence of tort reforms is the cause of insurance price increases and availability declines, as the insurance industry alleges. Disclosure had been urged by Senator Paul Simon (D-Il) who argued that Congress finds "great difficulty" in securing adequate statistical information about the industry on which to base regulatory policy.[15]

A provision to make it more difficult to sue U.S. firms in U.S. courts for accidents occurring abroad. European courts are said to be more lenient toward manufacturers in liability cases. However, this may change in light of a new statute passed in 1985 by the Common Market.

Some 200 product liability bills were introduced in the House in 1986, but none was reported out of committee. Judiciary Subcommittee Chairman Peter Rodino (D-NJ), in a statement released on June 9, 1986, indicated the reasons for his reluctance to accept insurance industry allegations that they are financially ailing due to the tort system: "For product liability, including both bodily injury and property damage, of the premium dollars taken in over the past ten years, less than half have been paid out for claims and allocated adjustment expenses—the companies have paid out just $1.7 billion on a premium volume of $4.3 billion. That's a positive cash flow of $2.6 billion, not including investment income." The statement added that these figures were derived from information provided by the Insurance Services Office.

One of the bills presented to Congress was submitted by the Reagan Administration at the end of April 1986. That bill would have limited noneconomic awards to a total of $100,000 for all claims arising out of a single injury of death; would have sharply curtailed contingency fees; and would have released manufacturers from liability in design defect (the most common allegation in liability lawsuits) and failure-to-warn cases, unless it can be proven that the ability to eliminate the defect was technologically "reasonably feasible" at the time the product was manufactured.[16]

Risk Retention

The Product Liability Risk Retention Act of 1986 (PL 99-563), signed by the President on October 27, amends a five year old law by expanding the right of small business and other groups to obtain liability insurance in an alternative market. Essentially, the Risk Retention Act allows corporations and others to insure themselves if they cannot or choose not to purchase insurance on the regular market. Self insurance is obtained through the establishment of a "risk retention" group that writes policies and accepts payments at rates set by the members. The law overrides any state law that prohibits the establishment of either risk retention or insurance purchasing associations.

The amended act eliminates obstacles faced by numerous trade and professional groups to establish captives, allows risk retention groups to expand the types of insurance they may provide from product to general liability insurance, and authorizes state commissioners to halt a group's operation if the commissioner believes it to be in "hazardous financial condition." The amendments also require the Secretary of Commerce to report on how the Act helps to resolve "problems relating to the unavailability and unaffordability of liability insurance."

Because risk retention groups compete directly with existing private insurance companies, the latter have strenuously opposed both the law itself and any efforts to expand its applicability or the type of insurance it covers. State commissioners, in turn, have pushed for increased state regulations of the groups, warning that the absence of state oversight leaves consumers unprotected in the event of a group's insolvency. On the other hand, corporate risk managers support the Act, which provides them with access to another market, and often ally themselves with other groups seeking to self-insure (for example, midwives). Insurance brokers who would be able to sell policies for the risk retention groups, also support the Act.

Antitrust Immunity

A bill to amend the McCarran-Ferguson Act, which has been shielding insurance companies from the reach of most federal antitrust laws since 1945, was introduced by Senator Simon in 1986, but is not considered likely to be acted on soon. Most insurance industry representatives oppose any weakening of the Act, which allows for collective rate setting and other activities prohibited in other industries. McCarran-Ferguson also provides that the regulation of insurance is fundamentally a state rather than a federal matter.

Repeal or "sunsetting" of the Act is urged primarily by consumer advocates, but for the past several years a number of insurance representatives have also argued that the Act has outlived its usefulness. By repealing the Act, they maintain, insurance companies would be released from state regulation, which they assert has become unnecessary given the competitive structure of the industry.[17]

Conclusion

The uproar over the tort liability system and the policies of the insurance industry that filled the pages of the nation's popular and business press during 1986 seem, upon analysis, to reflect more the political muscle of competing groups in society than any actual or impending disaster. At least for major corporations, the so-called twin crises of liability and insurance have had relatively little impact. Since 1982, product-liability coverage has remained steady in most cases, although its cost has risen substantially. While the actual number of lawsuits faced by corporations is high, most tort claims are settled out of court, for relatively modest sums.

Management does pass on the cost of the insurance, and perhaps legal expenses, in consumer prices, but the total amount of the increase for most firms is small. While exerting some negative impact on corporations and on society, product liability has also motivated management to positive actions: for example, improving product safety; product use and warning labels, and manufacturing quality. Nevertheless, legislators in over 40 states have been moved by the uproar to pass, or deliberate on, tort and insurance reform laws. On the federal level, significant tort reform may be nearing enactment after a decade of efforts by the insurance industry and risk managers. It is not inconceivable that these legislative reforms will have more of an impact on corporate behavior, and on consumers, than the supposed crises that gave rise to them.

[*] For a review of directors liability, see Jeremy Bacon, *Liability Insurance for Directors*, The Conference Board, Perspectives #1, 1986.

[1] A brief sampling of such articles includes: "Sorry, America, Your Insurance Has Been Cancelled," *Time*, March 24, 1986; "Business Struggling to Adapt As Insurance Crisis Spreads," *Wall Street Journal*, January 21, 1986; "Mass Torts: A National Disaster," *Best's Review*, December 1985; "Liability: Business Dives for Cover," *International Business Week*, February 10, 1986; "Liability Insurance: A Growing Crisis," *New York Times*, February 20, 1986; "Drive to Limit Liability Awards Grows as Consumer Groups Object," *New York Times*, March 2, 1986; "Finger Pointing Distinguishes Attempts to Fix Blame for Liability Crisis," *National Journal*, March 15, 1986; "When Products Turn into Liabilities," *Fortune*, March 3, 1986; "Products Liability: Boon or Bane?," *Road Rider*, April 1986; "The Tort Reform Quagmire," *Forbes*, August 11, 1986.

[2] For a description of the safety program undertaken by Johnson & Johnson in the Tylenol case, see David E. Collins, "Cultural Heritage and Crisis Management," in Melissa A. Berman (ed.), *Corporate Culture and Change*, The Conference Board Report No. 888, 1986. For a broader analysis of product safety, see E. Patrick McGuire, *The Product-Safety Function: Organization and Management*, The Conference Board Report No. 754, 1979; and E. Patrick McGuire, *Managing Product Recall*, The Conference Board Report No. 632, 1974.

[3] Coleen Mulcahy, "Liability Woes Not a 'Crisis' Level, RM Says," *National Underwriter*, May 29, 1986; Lisa S. Howard, "NAIC Tables Report Stating Ins. Crisis is Exaggerated," *National Underwriter, June 20, 1986.*

[4] William M. Landes and Richard A. Posner, "New Light on Punitive Damages," *Regulation*, September/October 1986, p. 33 ff.

[5] Insurance Availability Study: Management Report," New York: Risk and Insurance Management Society, Inc., 1986, p. II-2.

[6] Daniel J. McNamara, "Remarks at the Annual Meeting of Insurance Services Office, Inc." New York: January 14, 1986.

[7] "Reinsurance Industry Resuming Profitability, House Panel Told," *Daily Executive Report*, September 11, 1986, p. A-18.

[8] David Katz, "Risk Managers Plan Their Own Excess Insurer," *National Underwriter*, September 26, 1986.

[9] Robert T. Roper, "A Preliminary Examination of Available Civil and Criminal Trend Data in State Trial Courts for 1978, 1981, and 1984," Williamsburg, Va: National Center for State Courts, April 1986.

[10] Andrew Schotter and Janusz Ordover, *The Costs of the Tort System*, New York: New York University's C.V. Starr Center for Applied Economics, March 1986.

[11] *Congressional Record*, February 27, 1986, Vol. 132, No. 2, p. S-1808.

[12] For a description of state-by-state reforms, see *Resolving the Liability Crisis: State Legislative Activities in 1986*, Denver: National Conference of State Legislatures.

[13] Peter Van Aartijk, "E&S Carriers Pick Up Slack in Florida Market," *National Underwriter*, July 25, 1986.

[14] David Katz, "N.Y., Citing 20 Percent Savings, Asks Cuts to Match Tort Reforms," *National Underwriter*, September 19, 1986, p. 6.

[15] Senate Judiciary Panel Members Press Justice Department Office on Insurance Data," *Daily Executive Report*, September 10, 1986 p. A-9.

[16] "White House Sends Congress Three Draft Bills to Improve Tort Reform Situation," *Daily Executive Report*, May 1, 1986, p. A-13.

[17] For a review of the historical setting of the McCarran-Ferguson Act and a discussion on the merits of state versus federal regulation, see Nathan Weber, *Insurance Deregulation: Issues and Perspectives*, The Conference Board Report No. 824, 1982.

Mr. HOLLINGS. Finally, here for a minute, the findings of the U.S. General Accounting Office published in January of this year on product liability, "The Extent of 'Litigation Explosion' in the Federal Courts Questioned."

We look at that particular report, and they do find a surge in filings, as I remember it here, between the years 1979 and 1981. This report also said that over 60 percent of the growth in product liability cases since 1976 came about as a result of asbestosis—the asbestosis claims that we are all familiar with, that did in Johns-Mansville and several other companies. No one had heard about the danger, the nature of asbestos; but then, when they found out, all these claims came in.

At the same time, the report says some growth was related to the Dalkon Shield, where they have just gotten a doctor for lying. We had part of that in these hearings way back, because we had a Senator very interested in the firm of Dalkon Shield, and that firm was trying to drag their feet at that particular time. Now we find out that they hid the testimony, that they were found in contempt, that particular company, and now we find that the doctors they put on the witness stand were lying.

So, the reasons for this increase in product liability, according to GAO, relate mainly to the Dalkon Shield, asbestosis, and bendectin.

I quote now, Madam President, from the GAO report about the so-called litigation explosion crisis:

> Since 1981, product liability cases have grown at about the same rate as other civil filings and personal injury cases.

I repeat:

> Since 1981, product liability cases have grown at about the same rate as other civil filings and personal injury cases.

So, there you are. There is not any substance to this notion of a so-called lottery and everybody getting 40 percent and 50 percent of the money, and all you have to do is wait until you hit the jackpot.

The U.S. Senate is a serious body and we have Senator McCONNELL's bill, S. 554, referred, very properly, to the Judiciary Committee. What that bill involves is tort law, and its traditional jurisdiction at the State level.

Having been in law practice on the plaintiff's and defendant's side, if I had to state the greatest number of claims in tort, it would be automobile accidents. If there were a crisis—and now we have proved categorically that there is not—if there were a crisis that the U.S. Congress would want to take notice of in litigation, they would start with the automobile accident cases.

No. 2, then, would be, in order of priority, the malpractice cases with doctors. Yes, they did fit that in. That is not product liability. That is malpractice. But in the remarks by the distinguished Senator from Missouri—the only part I could hear since I was coming over from our hearing this morning—he threw in the idea of malpractice.

We all know the Florida experience. We all know that you could not get an operation performed in certain places there. You had to leave southern Florida and go off to another part of the State, or to another State, in order to be operated upon.

I think it was in the State of West Virginia that they veritably closed down hospitals and would not pay any insurance. There was no doubt about some kind of conspiracy going on, in my opinion, some kind of boycott going on.

That was in malpractice and not product liability. But the proponents here are trying to confuse and diffuse, and somehow build up this noncase, because they do not have a case to present to the U.S. Senate at this point.

If you go to the business claims, the largest verdict, I think was $11 billion, when Pennzoil sued Texaco. I can refer to a lot of these other cases now. That verdict constitutes a greater sum of money than all the product liability cases in all States for the past 8 years—one breach of contract. But we do not see them coming up here now and saying, "Let's take Federal jurisdiction." They do not say that. That was tried at the State level, in the Texas court. They tried to remove it. I remember that.

The verdict there, exceeds all the product liability cases throughout this entire country, in all 50 States, for the last 7 years. We have not had $11 billion in verdicts.

The Reagan administration had an Assistant Attorney General come up before our committee. When I questioned him, we found that he was quoting from newspaper clippings and headlines. He was not giving any basic statistical, reliable information, taking into account all cases. Certainly, the one case with $1 million or a $5 million verdict is going to hit the headlines. But the sponsors of this amendment do not talk about the thousands and thousands of other cases that are settled and have been paid for, making a more safe society.

I know of the records of cases from Greenville, SC, where an attorney in 1986 had gone with the University of South Carolina and made a study. They considered all cases, not just some cases in the headlines or in the newspapers. That study found, of course, that 83 percent of the verdicts resulted in verdicts of less than $10,000, instead of the millions and millions some like to cite. So, there you have the record.

I cannot even attend the hearings of the Commerce Committee because the other members of the committee are running down on the floor, talking about lotteries and talking about let the wheel of fortune turn and maybe 40 years from now you will hit the jackpot.

Anybody who has been in the practice of law knows that is absolutely unfounded. Of course, more than anything else, there is no crisis. There is the Business Week; the news article in the Economist; the survey by the conference board; there is the January report of the General Accounting Office. There has been no explosion or crisis.

In any case, the States would respond if necessary. In fact, I believe 43 States have acted within the last 2 years on some aspect of insurance or tort law. I mentioned the State of Florida. Florida acted on joint and several liability, and States should act on that level. That has been my position from the very beginning.

This is an important subject at the Federal level. We cannot, as the Senator from Kentucky wishes to do in his amendment, come down and, without finding a Federal cause of action to put in the Federal court, tell the 50 States to take that cause of action in the 50 States, interpret it with Federal guidelines, appeal to the several 50 State supreme courts for the interpretation of language included in the particular Federal law, and thereafter appeal it to the U.S. Supreme Court—all in the name of saving attorneys' costs, bureaucracies, and fees.

I have never heard of a bigger bonanza for those insurance lawyers, who are paid by the hour, just sitting up there in that nice library, in that nice leather-covered chair. They have music that comes in now, to keep them awake, I guess. Otherwise, they would be falling asleep around those conference tables, because the longer they can stay there and wonder, the more they get paid. But the poor little plaintiff's lawyer, who is there on a contingency basis for his client, trying to get his day in court, has to wait to be paid until a successful conclusion of the case. That requires all 12 of the jurors finding, by a preponderance of the evidence, that the case has been proved, and an appellate court finding no legal error in that particular record.

That is quite a gauntlet in the trial of cases. Very few lawyers like to get into it. It is hard work: correlating all the witnesses, putting in the time; and you pay the overhead, while the other lawyer sits around making those depositions and interrogatories by the hour.

The secretary gives that lawyer file No. 52; he puts out a bunch of questions, and you have to answer all those questions. You are not getting paid to answer that.

In the face of this, we come here and listen to tales of some wheel of fortune, and a lottery, and striking the jackpot.

This amendment is totally out of order. I do not know how the Senator from Ohio feels about it. I would be prepared to move to table it. I do not support the overall bill. I do not believe in this high-risk designation. I think that institutes another bureaucracy. I think it puts us again in a more uncompetitive position as an American producer.

So ordinarily I would say let something like this bog the bill down, but I think we ought to be serious about this matter and not listen to talk of lotteries and jackpots. I am interested in finding out just exactly what the manager of the bill proposes.

I yield the floor.

Mr. ADAMS. Mr. President, during the course of the debate on the high risk notification bill, it appears that a number of amendments—all on important subjects, all worthy of serious debate—will be offered in attempt to prevent us from dealing with this bill or at least burdening it with extraneous considerations so that it will never be passed.

Mr. President, I support the High Risk bill and, as a result, I am compelled to vote against each amendment offered in an effort to kill it. I simply want to state, for the record, this simple fact: my votes on these amendments, and the votes of my colleagues, do not necessarily reflect our position on the merits. All of us in the Senate understand what is going on: we are being forced to cast votes which distort our positions on important issues because opponents of the High Risk Notification bill are utilizing procedural ploys for political purposes.

Mr. President, I regret the fact that the opponents of the High Risk bill will not allow us to debate the merits of the bill. Even more, I regret the fact that they are attempting to muddy the water by attempting to distort the position of their colleagues on other issues which should be considered on their own merits.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Madam President, I wonder if the Senator from Ohio would indulge me and give me his attention for a minute?

It has occurred to me that during the debate on this amendment I made some comments which could be taken as offensive by the Senator from Ohio. I want him to know that I regret that situation and I apologize to him.

Mr. METZENBAUM. I thank the Senator from Missouri. I did not take offense but I certainly do appreciate his rising and making that statement. He has been my friend.

Madam President, this amendment proposed by the Senator from Kentucky has been very eloquently debated by my colleague from South Carolina. I do not intend to debate it, not because I do not share the same concerns as the Senator from South Carolina, but because this amendment does not belong in this bill.

Senator McCONNELL introduced this exact amendment as a separate piece of legislation in February 1987. His bill is pending in the Judiciary Committee where it belongs.

Tort reform is a serious matter, and it indeed is a controversial matter and an issue that should not be denied appropriate committee consideration. But the fact is that is where it belongs.

It has nothing at all to do with this bill. We have tried and spent hundreds of hours negotiating with interested parties to make this bill liability neutral and, as I said yesterday on the floor of the Senate, I am prepared to go further. In fact, we did go further in the modification that was submitted to tighten up the fact that it was to be liability neutral.

We do not want this legislation to create litigation, and we do not want to get into this whole question that is posed by the McConnell-Danforth amendment.

If Senator McCONNELL and Senator DANFORTH want to debate tort reform, I think that that is an entirely appropriate subject. I am not one who says that it does not have a right on the agenda, but I am certain they should not be using this bill as a vehicle. I will not question their legal right to do so. I am not questioning their right under the rules of the Senate. But the fact is that there are Senators galore on that side of the aisle and on this side of the aisle as well who do indeed have serious concerns about the substance of the high-risk occupational notice bill. I believe that those are the concerns to which we should be addressing ourselves, rather than trying to add onto it something that is totally, totally unrelated.

So I would just hope that the authors of the amendment having made their case and having heard the eloquent response of the Senator from South Carolina would recognize that this may confuse the issue, but it certainly will not resolve the issue, and I would hope that they might see fit to withdraw the amendment now that they have permitted us in the Senate to be so enlightened by the wisdom of their remarks.

Mr. McCONNELL. Madam President, will the Senator from Ohio yield for an observation?

Mr. METZENBAUM. Surely.

Mr. McCONNELL. He will recall many people argued for the plant closing amendment, that it might not be an appropriate addition to the trade bill, and the Senator from Ohio responded it was entirely within the rules of the Senate to offer that measure to that particular bill. In fact he succeeded.

We, as the Senator from Ohio knows, have had no luck at all getting committee action on either extensive tort reform out of Judiciary or product liability out of Commerce.

Frankly, we are looking for a vote here.

I just wondered if the Senator from Ohio is willing to give us a vote on this amendment.

Mr. METZENBAUM. If the Senator from Kentucky wishes to proceed forward, he has a right to do so.

I know the Senator from South Carolina has previously indicated he was prepared to offer a motion to table. Nobody wants to cut anybody off from the debate, but if the Senator from Kentucky has any concerns about that, I will yield the floor in order that the Senator from South Carolina may be recognized for this purpose.

Mr. McCONNELL. I will say to my friend from Ohio that is perfectly acceptable to us with one exception. The Senator from Wisconsin is here. He has been a leader in this field and would like to speak.

Mr. KASTEN. Madam President, will the Senator yield?

Mr. McCONNELL. Yes, I yield.

Mr. KASTEN. I am in strong support of the position the Senator from Kentucky has taken, and the Senator from Missouri. We have worked together in the Commerce Committee and among our offices.

I am perfectly willing to go forward with a vote right now. I think the issue is clear and I do not want to delay the Senate.

I have some short remarks and I want to present those remarks. If it is convenient to the Senator right at this moment, it is convenient to me.

Madam President, I am in support of the amendment before us to S. 79. The amendment addresses just one of the severe problems that I have with the current version of S. 79.

Though I have not yet had the opportunity to deliver my statement with respect to my significant concerns with S. 79, I would like to associate myself in regard to the consideration of the underlying bill with the remarks of the Senator from Utah [Mr. HATCH]. To summarize very briefly, no one in this body can object to reasonable measures which protect the health and safety of America's workers. However, the laudatory purpose of this bill is thwarted by the practical operation of its provisions. In addition to duplicating current programs and creating a new bureaucracy, I am concerned by the new rights and tort liabilities created. The amendment before us speaks to just the tort problems of S. 79.

The adoption of this amendment would address just the tort issues of S. 79. There are significant other problems that will still need to be addressed. Again, I would like to commend the Senator from Utah for pointing out that we are really doing the committee's work on the Senate floor. I can't believe that a measure to expand current programs to accomplish the goals of this legislation, without all of its other problems, cannot be agreed upon. But let me address the amendment cosponsored by Senators MCCONNELL and DANFORTH and me.

The facts relative to the general liability and product liability crisis have been well presented by Senator MCCONNELL. We have tried for four Congresses to deal with the product liability crisis which has faced U.S. consumers, producers, and sellers. The courts are clogged, and yet here we open up vast new areas of liability. S. 79 does more to protect the rights of the trial lawyers of this country than the safety and health of America's workers. Since this body has not yet voted on tort reform despite the horrible situation that has existed, and since S. 79 is not tort neutral, but a litigation disaster, it is appropriate that we address this amendment at this time.

With respect to the attempts to make this bill tort neutral, I have had several lawyers, well versed in such matters, tell me that any trial lawyer that cannot work his or her way around the bill's protections is not worth his or her salt. To apply bandaids on this bill, will not work. The protections which need to be afforded the American public are broad reaching. This bill will interact with the law of torts generally. If we are not willing to address this problem generally, to solve the liability problem which is a drag on the American economy, how can we even begin to think of enacting a measure such as S. 79 which just multiplies the problem by 100-fold? Especially when there are other options.

The problem cannot be denied. This litigious society supports more attorneys in Los Angeles County than in the whole country of Japan. In the area addressed in S. 79, we have only to look at the litigation fostered by the NIOSH test case in Georgia and the National Tire Workers Litigation Project. We have all seen the advertisements on television and heard the radio commercials of the law firms and legal clinics asking if you have been injured and suggesting that you give them a call. The new question will be whether you have been notified by the Federal Government for any contact with a substance that you might have been around 30 years ago.

I believe this amendment should be considered by this body for all of these reasons. I urge its adoption, and a vote against the motion to table. Thank you, Madam President.

Mr. McCONNELL. I thank my friend from Wisconsin.

I say to the Senator from Ohio we will be perfectly happy for the Senator from South Carolina to make this motion.

Mr. HOLLINGS. Madam President, in making my motion, I also remind everyone that the State Association of Attorneys General and the Association of State Supreme Court Justices oppose this bill.

In light of that and in light of the record made about the parade having passed and the States having acted in this particular regard, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is the Senator moving to table the underlying amendment or the second-degree amendment?

Mr. HOLLINGS. In responding to the distinguished Chair, I ask the leader of the bill because I barely knew what was going on. All I knew I came out of the hearing room and they said, "You better get out on the floor." I do not know where I am. Which one do I want to table?

Mr. METZENBAUM. I think what we have pending is the Danforth amendment with a second-degree amendment of Senator MCCONNELL, and I would guess that the Senator from South Carolina would want to table the Danforth amendment, which would then carry with it the second-degree amendment.

Mr. DANFORTH. The Danforth amendment is the shell and the McConnell amendment is the second-degree amendment, which has the substance.

Mr. HOLLINGS. Having been appropriately instructed, I move to table the Danforth amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina to lay on the table the amendment of the Senator from Missouri. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Mississippi [Mr. STENNIS] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Nebraska [Mr. KARNES] and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 39, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—53

Adams
Baucus
Bentsen
Bingaman
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cohen
Conrad
Cranston
D'Amato
DeConcini
Dixon
Dodd
Exon
Fowler
Glenn
Graham
Harkin
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simpson
Stafford
Thurmond
Wirth

NAYS—39

Armstrong
Bond
Boschwitz
Chafee
Cochran
Danforth
Dole
Domenici
Durenberger
Evans
Ford
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Helms
Humphrey
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Proxmire
Quayle
Roth
Rudman
Specter
Stevens
Symms
Trible
Wallop
Warner
Wilson

NOT VOTING—8

Biden
Boren
Daschle
Gore
Karnes
Simon
Stennis
Weicker

So the motion to lay on the table amendment No. 1811 was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. HEFLIN. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1813

(Purpose: To ensure enactment of acid rain legislation)

Mr. NICKLES. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 1813.

Mr. NICKLES. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. BYRD. Madam President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read the amendment.

The assistant legislative clerk continued to read the amendment, as follows:

At the end of the pending amendment, add the following new section:

"SEC. 17. That this section shall be cited as the Acid Deposition Control Act of 1988.

AMENDMENT NO. 1814 TO AMENDMENT NO. 1813

(Purpose: To ensure the enactment of acid rain control legislation in the 100th Congress)

Mr. RUDMAN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment numbered 1814 to Amendment No. 1813.

Mr. RUDMAN. Madam President, I would just as well have the entire amendment read but I will ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. RUDMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. DIXON). Is there objection?

Mr. HEFLIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read the amendment.

The assistant legislative clerk continued to read the amendment.

Mr. RUDMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read the amendment.

The assistant legislative clerk continued to read the amendment.

Mr. RUDMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HEFLIN. I object.

The PRESIDING OFFICER. An objection is heard. The clerk will continue to read the amendment.

The assistant legislative clerk continued to read the amendment.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from Alabama.

Mr. HEFLIN. Mr. President, I remove my objection.

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with.

The amendment is as follows:

(The text of the amendment is printed later in today's RECORD under "Amendments Submitted.")

Mr. RUDMAN. Mr. President, let me start out by making a few things clear. This amendment is not offered to bring down S. 79. It has nothing to do with S. 79 in that sense. But anyone who has followed the acid rain debate in this Chamber—I should say who has not followed the acid rain in this Chamber because there has not been one—but has followed it in the committees over the last 7 or 8 years has to realize that there is a conspiracy of sorts to keep that bill from ever being considered by the U.S. Senate.

As a matter of fact, what is now pending before the Senate as a second-degree amendment is precisely the language crafted by the Senate Environment and Public Works Committee after full hearings, and reported out overwhelmingly to the floor, where it has languished for some time.

As a matter of fact, the leaders in acid rain legislation have been the Senator from Maine [Mr. MITCHELL] and the Senator from Vermont [Mr. STAFFORD]. I have followed their lead for 8 years.

Now we come to the floor of the Senate with a new bill that has to do with health in the workplace and, if you will, health of American citizens. That is precisely the reason and the only reason that this is offered here today.

I have heard many arguments that we ought not to consider amendments to this nature because they have not been heard, they have not been studied, they have not been deliberated. That is not the case here. This bill has been studied, debated, deliberated, carefully crafted by my friends from Maine and Vermont, joined in by many others, hundreds of thousands, in fact, millions of Americans writing to people in the Senate, "Do something about acid rain," and nothing has been done.

I will make an offer here and now that I will be willing to put this amendment down this minute if the majority leader will assure me of a vote at a time certain on this amendment. That is a standing offer. If the majority leader wants to come to the floor and say, "Yes, this bill which has been debated and deliberated, is pending and ought to have a vote in the U.S. Senate," if I can be assured that we will have such vote, then I will withdraw the amendment. So no one can accuse me of bad faith.

I know that there are some interesting things going on here. I understand the environmental groups. I seriously doubt who they represent because I will get you a ton of mail delivered here this afternoon from the people of Maine and New Hampshire and Vermont, but the groups have said, "Oh, no, don't offer this now. We oppose it on this bill."

That is wonderful. I am delighted to see all these environmental groups opposing acid rain on the floor. It tells me what their true political stripes are. They are opposing this because of their coalition with organized labor. Plain and simple.

There are two separate issues here. First, health of workers. Second, the health of many Americans who have been sitting under acid rain for two decades now. They are both environmental issues, and they both ought to be considered.

So when somebody says to me, "Well, the environmental groups really oppose placing this on this bill," frankly, where I come from, that is politely called poppycock; impolitely called something else, which the rules do not allow on the floor of the U.S. Senate.

How long do we have to wait to solve the problem? What could be more germane to this bill than this amendment?

I want to talk a little bit about acid rain. I will say one thing, Mr. President. There is one good thing that will happen: At least for the first time ever the acid rain bill was read in the U.S. Senate. We could not even do that before. At least it was read.

Let me refer to a recent issue of Environmental Action, "Acid Rain is Killing More Than Lakes and Trees." There is increasing evidence that acid rain, and the pollutants which cause it, attack our respiratory systems, affecting most seriously those members of our society who are the most vulnerable—children, pregnant women, people over the age of 65, and people who already suffer from heart and respiratory diseases. In addition to those problems caused by breathing sulfur dioxide and nitrogen oxides, the acid precipitation they cause increases the acidity of the water which passes through our water systems and increases the leaching of toxic substances from the pipes.

What we are talking about here are substances such as lead, cadmium, substances which cause kidney damage, Alzheimer's disease, and Parkinson's disease.

These are not simply idle claims. This is why those of us in the New England area and across the Northern States have been so anxious to get this legislation before us because it is a matter of deep concern to the American people.

Last year when the Senate Environment and Public Works Committee held their hearings, Dr. Richard Narkewicz, director of the American Academy of Pediatrics said:

> The ingredients of acid rain have been shown to adversely affect the respiratory tract and consequently the quality of health for children. They contribute greatly to quality of health for children. They contribute greatly to morbidity and mortality rates.

He adds:

> The sources of the pollution are being identified and technology to reduce pollutants has been in operation for many years. Does it not make more sense to eliminate the cause of the health problem wherever possible rather than have untold numbers of children suffer?

Dr. Philip Landrigran, professor of Community Medicine and Pediatrics at the Mt. Sinai School of Medicine, said that after active and passive smoking, he considers acid rain to be the third largest cause of lung cancer in America.

Tell me this bill is not germane. Tell me these so-called environmental groups oppose it today. Well, good for them. Let them oppose it today. Let the country see who is for causing this health problem to go away and who is interested in political expediency. Let me tell you, this issue, after it is voted on today, is going to cause a stir across this country. We are going to see who is for us and who is against us.

I received a letter this summer from 106 New England organizations, from all of the New England States—106. They are not part of the Washington lobby group. They do not have lunch on expense accounts in the fancy downtown restaurants, but I guarantee you up in Bradford, Burlington, Manchester, and up in Coos County they care about it. And if I could get them down here, they would come in and tell you. Those are the environmental groups I tell you about, not the high-priced, high-powered lobbyists that pollute this town. They wrote and they said:

> Please get the Congress to address the single most important environmental problem we have. New England more than any region of the country suffers from pollution that it is unable to control.

I will submit for the Record a list of those groups, and they are impressive. Let the national environmental lobby tell those groups that this is not the time to vote on acid rain legislation. What is a better time than when we are talking about health?

Frankly, Mr. President, I think it is one of the great disgraces in the history of this body that over the last 8 years under both parties we have been unable to raise this issue to at least vote. Had we lost, I could understand. But at least we should have a chance to vote. Since my very first days in this body, I have worked with my friend from Maine who, for reasons which are obscure to me, is going to move to table this, and I find that absolutely incredible—the leader of the fight against acid rain in this body, the Senator from Maine, my good friend, John Mitchell, and my friend from Vermont, Senator Stafford, the chairman of the committee that reported the legislation, who has been trying, and trying, and trying to get this legislation before this body without success.

Now, I have not offered this to play some cute manuever on this bill that is pending, which will probably never become law anyway. That is not my intention. But we have a trait up in northern New England. We are patient, to a point. And when we lose it, we become obstinate and stubborn. Many people counseled me today:

> Don't do that; the national environmental groups don't like it. A lot of your friends in the Senate who would like to vote with you really don't think they can because this other bill is more important.

I have heard enough of that kind of talk in this town. It is about time we take up issues head on. If the recent Presidential campaigns around this country prove anything to me, when no single person in either party has really lit up the country, it is that the American people like to hear some straight, plain talk, without maybes, without modifications, without excuses, just some straight, plain talk.

We have shuffled this issue from front burner to back burner to no burner. Committees have spent hours, and hours, and hours on this issue. Can we get a vote? In 1981, 1982, 1983, 1984, 1985, 1986, 1987, or 1988, the answer is clearly no. We all know why. There are powerful interests that do not want this legislation even considered because, of course, it might win. Jefferson and Madison would turn in their graves; when the American people want an issue confronted, you cannot get a vote in the most deliberative body in the world.

Our constituents, of course, have been working together. We have got the New Hampshire-Ohio Acid Rain Partnership, 200 citizens from Ohio and New Hampshire trying to work on the problem, coming up with ideas that would work. Here in the Senate for some reason we cannot do what our constituents can do. We cannot even have a bill on the floor and honestly debate it, amend it, change it, at least act on it.

I do not have to explain this bill. The bill is understood to all. But I do want to put some things in the Record so the Record will be complete. I ask unanimous consent to put in the Record the following: from the National Clean Air Coalition, "The Health Effects of Pollutants that Cause Acid Rain;" the second from Environmental Action, "Acid Rain is Killing More Than Lakes and Trees," and the third, a letter from organizations such as the Sierra Club, the Audubon Society, and others.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE HEALTH EFFECTS OF POLLUTANTS THAT CAUSE ACID RAIN

Our nation's leading medical authorities agree that the airborne pollutants which cause acid rain also create respiratory health problems for millions of Americans. Sadly, those who suffer the most are those least able to withstand this assault on their breathing—children, the elderly and people already living with respiratory diseases.

The Clean Air Act is our nation's plan for controlling and preventing air pollution. The cornerstone of the Act is the control of the six most common and widespread pollutants, including sulfur dioxide. The primary ambient air quality standards are intended to safeguard health allowing for a margin of safety to protect sensitive members of the population such as children, the elderly, pregnant women, and persons with chronic diseases such as lung or heart disease.

During the debate on the reauthorization of the Clean Air Act, much attention has been given to the problem of sulfur loadings in the atmosphere—acid rain. It is well documented that reductions in emissions of sulfur dioxide achieved through acid rain control programs would also result in reductions of the transformation products of sulfur dioxide, acid rain.

The emissions of sulfur-bearing compounds from burning coal and oil need to be controlled more effectively. Today nearly 30 millions tons of sulfur oxides are emitted from these sources into the air each year in the United States. These pollutants remain airborne for long periods of time and may travel great distances, creating high concentrations far from emissions sources.

To pinpoint and analyze the effects of pollutants, researchers conduct toxicological studies with experimental animals, clinical studies of humans exposed under controlled conditions and epidemiological studies of large populations exposed under highly variable ambient conditions. Health studies have focused on the impact of sulfur pollutants on the clearance of foreign matter from the respiratory tract and defenses against infectious agents, respiratory mechanics, aggravation of respiratory and cardiovascular disease, and mortality.

WHAT DO THE EXPERTS SAY

Richard Narkewicz, President, American Academy of Pediatrics:

"We recommend that strict measures be enacted to control emissions of sulfates, ozone and oxides of nitrogen from both industrial and automotive sources.

"* * * the ingredients of acid rain have been shown to adversely affect the respiratory tract and consequently the quality of health for children. They contribute greatly to morbidity and mortality rates.

"I can assure you that ozone, sulfates and the oxides of nitrogen cause diseases in children and aggravate preexisting respiratory conditions. Each year these diseases are involved in about 1,000,000 hospitalizations in children under 15 years of age."

Dr. Bailus Walker, Jr., President, American Public Health Association:

"As a public health organization, we come before you today to say that acid rain affects more than just fish or trees—it directly and indirectly affects the health of people.

"APHA calls upon Congress to move forward and begin to reduce acid rain in an effort to protect human health and welfare.

"Acute respiratory effects of concern include an increase in the frequency of respiratory asthmatic attacks, deficits in pulmonary function and increases in the frequency of respiratory diseases in both children and adults."

Dr. Thomas Godar, American Lung Association:

"In 1981 the ALA encouraged the (Environment and Public Works) Committee to consider the need to strengthen the health protection measures of the Act—today my message is the same but with greater urgency. The striking advances in information concerning health effects in the last several years justify this urgency."

ACID RAIN IS KILLING MORE THAN LAKES AND TREES

(By Rose Marie L. Audette)

The rap for killing lakes, streams and their dependent fish life has been hung firmly around acid rain's neck. Acid rain has also been charged with killing trees, the phenomenon of "forest dieback" that the Germans call Waldsterben.

But acid rain has yet to be indicted on perhaps its most insidious offense: Acid rain is a health hazard.

For humans, the worry is not the acidic rain itself, though you probably wouldn't want to have been in Wheeling, W.V. when rain as acidic as battery acid fell, or in Jacksonville, Fla., when acidic rain dissolved the paint on 2,000 imported BMW's.

Rather, scientists and health professionals worry about two more dangerous effects of acid rain:

The air pollutants that cause acid rain—often called "acid rain precursors"—harm humans. They assault the respiratory systems of healthy adults and take their heaviest toll on the most vulnerable—children, the elderly and those who already have asthma and bronchitis.

In addition, acid precipitation has been shown to acidify water, increasing the leaching of toxic substances like lead, cadmium, asbestos and aluminum from soil and water pipes into drinking water.

Fran DuMelle Washington director of the American Lung Association, has been working on clean air issues at the national level since 1979. In that time, she's seen Congress interest in the health effects of air pollutants "come and go. "After a initial bout of hearings in the early 1980s, the health effects question became "quiescent," DuMelle says.

But in the scientific world, research continued. And in the past five years, dramatic new evidence has amassed—evidence that points clearly to acid rain's detrimental health effects. Today, says DuMelle, the new scientific evidence is creating concern on Capitol Hill.

As Congress prepares once more to consider amendments to the Clean Air Act, Sen. George Mitchell (D-Maine) called hearings in February on the health effects of acid rain before his Environmental Pollution Subcommittee of the Senate Environment and Public Works Committee.

"Current levels of acid air pollution are able to produce substantial adverse health effects in certain segments of the American population and particularly in children," Dr. Philip J. Landrigan, a professor of community medicine and pediatrics at the Mt. Sinai School of Medicine, told the February 7 hearing.

Landrigan estimated that acid rain is probably the third largest cause of lung disease after active smoking and passive smoking.

Some 50,000 premature deaths a year in the United States and Canada may result from sulfates and other particulates, according to a key report from the congressional Office of Technology Assessment (OTA), which attempted to provide "reasonable estimate" of acid rain's toll.

Normal rain is slightly acidic with a 5.6 on the pH scale that measures acidity. In certain troubled parts of the United States and Canada, however, rain is 30 to 40 times more acidic than normal rain, averaging a pH of 4 to 4.3.

The key elements to watch in the acid rain phenomenon are sulfur dioxide (SO_2) and nitrogen oxides (NO_x, which is pronounced like box), both emitted by a number of human sources. In 1980, about 65 percent of SO_2 emissions came from electric utilities burning of coal and other fossil fuels. For NO_x, 44 percent came from cars, trucks and other "mobile sources" and 29 percent were the products of utility combustion.

Once in the air, SO_2 and NO_x mix with other airborne chemicals and water to form a batch of "secondary pollutants," including sulfuric acid, nitric acid, sulfates and nitrates. When SO_2, NO_x or the secondary pollutants drop to earth accompanying rain, snow, sleet or hail, that's acid precipitation.

A related pollutant—though not an acid rain precursor—is ozone, a key ingredient of smog. Ozone forms when NO_x mixes with hydrocarbons from auto emissions and solvent vapors in the presence of sunlight (see "When ozone harms," Mar/Apr 1987).

The concern for human health is that before being "washed" from the air by precipitation, small particles of these various pollutants can be inhaled and become lodged deep in the lungs.

Emissions of both SO_2 and NO_x have risen steeply since World War II—with SO_2 increasing 50 percent and NO_x increasing 400 percent.

Emissions are also higher in the 31 states in the eastern half of the country. Some 80 percent of the total SO_2 is emitted in those states and 65 percent of the NO_x.

Although emission levels have improved since passage of the Clean Air Act in 1970, if current patterns continue, SO_2 will increase 30 percent and NO_x will rise 50 percent from 1980 to 2010. Unless, that is, a national acid rain program is implemented.

Acute air pollution crises were once all too common. A deadly acidic fog settled on London in December 1952. Thirteen died.

Today, air pollution is still killing, but the deaths are from chronic, long-term exposure.

The population most at risk from these air pollutants includes tens of millions of Americans: Infants, children, the elderly, pregnant women, those with heart disease and the 7 percent of the U.S. population with asthma, emphysema or chronic bronchitis.

At Congress' request, the National Institute of Environmental Health Sciences (NIEHS) convened two workshops of scientists in 1983 and 1984 to "assess the state of knowledge of the possible effects of acid rain on human health." Dr. James Fouts, senior scientific advisor to the NIEHS director, is compiling scientific findings in the field. Fouts believes that progress has been made in studying acid rain's health effects.

Fouts compares the state of knowledge to tobacco research in the 1950s, when it was known that cigarette smoke was harmful, but not to what degree. "We've shown in animals that when they breathe these air pollutant constituents, they get in trouble. We can show some decrements in lung function in humans. But we need more studies to pin down the range of responses."

Children are especially at risk, testified Dr. Richard M. Narkewicz at the February hearings on the health effects of acid rain. Narkewicz, a practicing pediatrician in Burlington, Vt., and president-elect of the American Academy of Pediatrics, testified that the "ingredients of acid rain," specifically ozone, sulfates and NO_x, "cause disease in children and aggravate preexisting respiratory conditions."

Pulmonary disease accounts for one-fifth of all hospitalizations of children under 15. Children have more acute respiratory infections than adults because their immune system isn't fully developed, Narkewicz said, and irritating pollutants make those infections worse.

Narkewicz explained why children are more vulnerable to air pollutants. "Children's airways are much narrower than an adult's. The diameter of the bronchus at the root of an adult bronchial tree averages about one inch: the same bronchus in a child is about an eight of an inch. A minor irritation caused by acid air pollution, which would produce only a slight response in an adult, will result in a dangerous level of swelling in the lining of the narrow airway of a child. Although children's airways are small . . . they breathe more rapidly and move more of the pollutant past airway and lung surfaces than do adults."

Some of the key scientific work on acid rain pollutants comes from two Canadian scientists, Dr. David Bates and Dr. Bonnie Stern.

Bates was in London working on emphysema and bronchitis when the 1952 killer fog struck. He was involved in tobacco research in the 1950s. And since 1977, Bates, a professor of medicine at the University of British Columbia, has been studying levels of air pollutants measured by 15 monitoring stations in Ontario Province and their relationship to hospital admissions for pulmonary conditions (asthma, bronchitis and viral and bacterial pneumonia).

He found a "consistent" and "highly significant" relationship between hospital admissions during the summer and levels of sulfates and ozone in the air. "Admissions go up when pollution goes up," Bates says.

These hospitalizations for acute health problems are just "the top of a pyramid," Bates says. "That you can show it at all, means almost certainly that there are much larger effects that you can't prove."

The actual cause of these health problems, Bates cautions, may not be ozone and sulfates, but some other pollutant present along with these pollutants. Although he found no link between hospital admissions and SO_2 or NO_x levels, the mystery actor could be sulfuric aerosols.

Dr. Bonnie Stern works for the Canadian government's Health and Welfare department. She has been studying what she calls the "acid pollutant mix" of sulfates, particles and ozone.

Her 1983 "summercamp" studies monitored respiratory health by having 1,400 children blow into a machine that measured their lung capacity. Half the group, in a heavy acid deposition area in Ontario, showed a "small but statistically significant decrement in lung function" compared to another group of children in an unpolluted area of Manitoba.

Children in the high-impact area showed short-term decreases in lung function 14 hours after levels of sulfate, particles and ozone rose. Stern cautions that the findings are "suggestive but not conclusive." Although adjusted for parental smoking and socio-economic status, the health differences could result from unexamined differences between the two geographic areas, such as indoor air quality.

The long-term effects of this periodic decrease in lung capacity is not known. Stern suggests that such "repeated assaults on the lungs" could predispose the child to chronic obstructive lung diseases like emphysema and bronchitis later in life, especially if the adult smokes or works in a smelter or chemical factory.

A number of other studies have added pieces to the puzzle. Mt. Sinai's Landrigan summarized some of them at February's Senate hearing:

Preliminary evidence from the massive "Harvard Six-City Study" now underway shows that acid air pollution, particularly fine particulates associated with total sulfate particulates, produces respiratory symptoms like bronchitis in school children.

Controlled studies of human volunteers at the University of Rochester showed that exposing normal adults to sulfuric acid aerosols produced "respiratory dysfunction." Similar effects appeared in asthmatics when they were exposed to even lower pollutant levels.

A major laboratory study underway at New York University showed that repeatedly exposing healthy animals to "modest exposures" of sulfuric acid mist produced "hyperresponsive airways." If those animals were later exposed to air pollutants or cold air, the animals suffered "bronchoconstriction similar to that seen in asthma."

This data confirms that "current, relatively low levels of air pollution can produce toxic effects in the lung," Landrigan concluded. "These effects are not benign. Nor do they represent a form of adaptation of the respiratory tract to pollutant exposure. They are, in fact, pathologic effects. Whether they have long-term consequences remains to be seen."

Best-documented and best-understood among the effects of acid rain are its impacts on lakes, streams and aquatic life. A 1986 report from the National Academy of Science determined that there was "a causal relationship" between acid rain and acidification of lakes and streams. Surveys by the Environmental Protection Agency (EPA) have found that acid rain has increased the acidity of surface waters and shallow groundwaters in many parts of the country.

Another well-known scientific fact is that acidified water is "aggressive," which means it can leach unwanted substances into drinking water. The solubility of a number of toxic metals—cadmium, aluminum, copper, mercury and lead, for example—increases as water's acidity increases. These toxics substances are then more likely to be picked up from corroded water pipes and from the solder that holds those pipes together, as well as from whatever soil the water passes through before reaching reservoirs or seeping into underground aquifers—including, at times, city dumps and toxic landfills.

This leaching is particularly a concern in the northeastern United States where soil is naturally thin, rocky and acidic. "There's no doubt that metals can be leached by acid in acid rain," says Dr. James Fouts of NIEHS. "The question is how much?"

Cadmium. Acid-soluble cadmium can be released from galvanized pipe or copper-zinc solder. Because of its long half-life, cadmium levels build up in the body over time. It is associated with kidney damage. Elevated levels have been recorded in drinking water supplies impacted by acid rain.

Aluminum. As water pH decreases, mobilization of normally insoluble aluminum—which makes up 5 percent of the earth's crust—rises. Aluminum has been connected to Alzheimer's and Parkinson's disease and some disorders of the central nervous system.

Lead. Where drinking water is corrosive, lead levels have been found to be three times higher in the "first flush" water sample. An EPA study leaked to the press last fall found that nearly 40 million people—one out of every five Americans—has drinking water with lead levels higher than EPA's proposed new standard of 20 parts per billion. Lead has been associated with brain damage in children and increased risk of hypertension and heart attack in adult white males (see "Deadly lead," Mar/Apr 1986).

A recent study of New York City's drinking water supply by the Environmental Defense Fund (EDF) focused on the Catskill watersheds, which supply 40 percent of the city's drinking water and are located in an area where rain averages a pH of 4.2 compared to normal rain's 5.6 pH.

"Nitrates in the system have been increasing since at least 1960 and that increase is attributable to atmospheric deposition," says EDF scientist Michael Oppenheimer. Though nitrate levels are currently at 25 percent of the health standard, the study said, they are "rapidly approaching" the limit and will exceed it if acid rain continues.

The study also confirmed that acid rain causes leaching of toxic substances. "Acid rain has increased the corrosivity of the system's water," Oppenheimer says. "As a result, piping is leaching heavy metals."

Most at risk from leaching may be users of small, private or rural water facilities, which may not routinely monitor or treat water. This is even more true of private systems where families draw water directly from wells or rainwater collection systems. Shallow well water has also been shown to contain higher levels of lead and copper in areas impacted by acid rain.

The level of proof required for scientific certainty hasn't been met yet on acid rain's health effects. The level of proof required to set public policy is another matter. Acid deposition is so widespread (and so, consequently, are its health effects) that many scientists, health professionals and environmentalists say it's time for prompt action.

Dr. Landrigan of Mt. Sinai told Congress: "The available data are sufficient, and sufficiently alarming, to justify the imposition now of strict standards."

Dr. David Bates of Canada concurs. "It's not just trees and fish," he says. "Adverse health effects are occurring as a result of the precursors of acid rain. We know enough to take action."

Environmental advocates are hoping that the new evidence of acid rain's negative health effects will add momentum to Congress's perennial consideration of acid rain bills and amendments to the Clean Air Act.

At least one senator was deeply moved by testimony at the February hearings on acid rain's detrimental effect on health.

"I was frankly stunned by that testimony," says Sen. Max Baucus (D-Mont.) Baucus reacted by introducing a bill requiring EPA to set more stringent health standards on ozone and small particulates, and to set a short-term standard on SO_2 that would limit how much SO_2 can be released in a one-hour period and thereby reduce "peak" emission levels. EPA has been considering setting such a standard for nine years.

Congress is not likely to enact a one-hour standard, however. Nor is EPA likely to take meaningful action soon. More likely protection from acid air pollution and toxic leaching into acidified water will come from cuts in SO_2 and NO_x mandated by Congress as part of acid rain legislation.

"For six years, Congress has taken no action to control acid rain or tighten up the Clean Air Act," notes Environmental action attorney Daniel Becker. "But the mounting evidence of human health effects makes it imperative that Congres pass a comprehensive clean air bill this year. Further delay will please the polluters, but jeopardize the health of millions of Americans."

JUNE 9, 1987.

Hon. WARREN B. RUDMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR RUDMAN: We believe that reauthorization of the Clean Air Act is now the single most urgent environmental priority before Congress and this nation. We are writing to ask you to join with the other New England members of Congress in seeing that the 100th Congress becomes the Clean Air Act Congress.

Ten years have passed since Congress reviewed the Clean Air Act; it has been due for reauthorization since 1981. Although progress has been made since the Act was originally passed, the goals have not been achieved and many new problems have come to light. Congress in 1977 provided for reauthorization in the Clean Air Act to deal with new and continuing problems, yet every Congress since 1981 has neglected this responsibility to the nation's citizens.

The need is now urgent for action to correct the array of pressing air pollution problems, including acid deposition, ground level ozone, visibility degradation, air toxics, and depletion of stratospheric ozone. Together these pollutants threaten public health, degrade resources, and cause untold billions of dollars in damages to crops, forests, lakes, buildings, and monuments across the country.

New England, more than any other region of the country, suffers from air pollution that it is unable to control. We continue to be damaged by the various forms of air pollution because we are "downwind" of heavily industrialized and urbanized areas of the country. As individual states, we can correct our own contributions to these problems, only to find ourselves subjected to emissions from other states due to the long range transport phenomenon. It is absolutely essential that the New England Congressional delegation work in concert and continually be in the forefront of efforts to reauthorize the Clean Air Act.

We appreciate your consistent efforts and support in the past. We urge you now to make Clean Air Act reauthorization a top priority and to seek out every opportunity to advance this issue with your colleagues both privately and within the legislative process. While there are regional differences on certain air pollution problems, we believe most strongly that resolution of these differences is possible and vital to the long-term health of this nation's citizens, its natural resources, and its economy.

You with the other thirty-four members of Congress from New England can be the force to move this issue to the forefront of England can be the force to move this issue to the forefront of the Congressional agenda. We stand willing to help you in any way that we can to ensure that the 100th Congress is known as the Clean Air Act Congress.

Truly yours,

Jacquelyn Tuxhill, Chair, NH Citizens Task Force on Acid Rain.

Freda H. Goldman, President, Rhode Island Lung Association.

Edward F. Miller, President, American Lung Association of Maine.

Eric Palola, Associate Director, Vermont Natural Resources Council.

Everett B. Carson, Executive Director, Maine Natural Resources Council.

Cort Richardson, Executive Director, Vermont PIRG.

Elisa Campbell, Chair, Sierra Club, New England Chapter.

Gerard A. Bertrand, President, Massachusetts Audubon Society.

Joey Corcoran, Director for Environmental Affairs, Connecticut Audubon Society.

Sandra J. Oja, President, New Hampshire Bass Federation.

Marshall K. Berger, Jr., Esq., Chairman, Air Conservation Committee, American Lung Association of Connecticut.

Hugh Putnam, Executive Director, New England Forestry Foundation.

Trudy Coxe, Executive Director, Save the Bay.

David W. Hoskins, Conservation Director, Appalachian Mountain Club.

Dan Messier, Chair, Toxics Committee, Community Labor Coalition (CLOC) Rhode Island.

Aileen G. Katz, New Hampshire League of Women Voters.

M.W. Coulter, President, Maine Council, Atlantic Salmon Federation.

Steven P. Smith, Executive Lung Association of New Hampshire.

C. William Ryan, Environmental Program, Director, Mass PIRG.

Sharon F. Francis, Coordinator, New Hampshire Natural Resources Forum.

Davida Andelman, Environmental Occupational Health Educator, American Lung Association of Massachusetts.

Dr. Nancy Anderson, New England Environmental Network, Lincoln Filene Center, Tufts Univ.

Elizabeth Stevens, Director, Greenpeace Northeast.

Emily Bateson, Conservation Law Foundation.

Vivian Kellogg, Director, The Conservation Society of Southern Vermont.

Marlee Coughlan, President, Maine League of Women Voters.

Pamela P. Resor, Executive Director, Mass. Association of Conservation Commissions.

Paul O. Bofinger, President/Forester Society for the Protection of NH Forests.

Judy Damuth, President, Rhode Island League of Women Voters.

Kelly McClintock, Executive Director, Environmental Lobby of Massachusetts.

Joan Saxe, Conservation Chair, Maine Sierra Club.

Peter Kellman, Maine AFL-CIO.

Dennis Duczik, President, Regional Environmental Council.

Susan Shaer, President, Massachusetts League of Women Voters.

Dr. Joseph Barth, President, Sheepscot Valley Conservation Association.

Diane Geerken, Clean Air Chair, Vermont Sierra Club.

Paul J. Kress, President, Massachusetts Wildlife Federation.

Dr. Herbert M. Meyer, President, Mystic River Watershed Association.

Ann Young Doak, NH Chairman, New England Wildflower Society.

Juliet E. E. Peverley, President, Lake Winnipesaukee Association.

Lori Fisher, Executive Director, Lake Champlain Committee.

Mary Edgerton, Staff Director, Maine People's Alliance.

Peter Lavigne, Executive Director, Westport River Defense Fund.

David Sienko, Chair, Rhode Island Sierra Club.

William Klein, Director, Nantucket Planning and Economic Development Commission.

Marjory J. Swope, Executive Director, NH Association of Conservation Commissions.

Ed Spencer, Director, Connecticut River Watershed Council.

David P. Hodgdon, Friends of the Blue Hills.

Jefi Fair, Director, Loon Preservation Committee.

Meade Cadot, Director, Harris Center for Conservation Education.

Sandra Ledbetter, New England Political Director, League of Conservation Voters.

Gary J. Joseph, Vice President, Wellfleet Conservation Trust.

Robert Gray, President, Cape Cod Coalition of Conservation Commissions.

Thomas A. Howe, Executive Director, Lakes Region Conservation Trust.

Robert Z. Norman, Chair, Upper Valley Group, Sierra Club.

Allen Knowles, Neponset Conservation Association.

D. Dickinson Henry, Jr., Executive Director, Audubon Society of New Hampshire.

Avis Boyd, Executive Secretary, Stripers Unlimited.

Daniel Burnham, Chair, Monadnock Sierra Club.

Laurel Bowerman, Rhode Island Parks, Association.

Robert Carlson, New Hampshire Wildlife Federation.

Barry Gibson, Editor, Saltwater Sportsman Magazine.

Thomas F. Horn, Vice President, Atlantic Center for the Environment.

Nathan Tufts, Jr., Merrimack River Watershed Council.

Marcia Benes, Executive Director, Mass. CLEAN, President, Massachusetts Association of Health Boards.

Walworth B. Williams, Secretary/Treasurer, Big Island Pond Corporation.

Amy Goldsmith, New England Program Director, Clean Water Action Project.

Lorraine Tisdale, President, GASP.

John Kilmartin, President, Friends of Belle Isle Marsh.

Jane Grant, Environmental Committee of the Christian Social Relations, Commission of the Episcopal Diocese of New Hampshire.

James B. Wallen, President, Lakes Region Clean Water Association.

Henry Waidlich, President, Millers River Watershed Council.

Charles Donahue, Jr., Director, Health Planning Council for Greater Boston.

George F. Pooler, President, Hamden County Sportsmens Council.

Brendan O'Neill, Executive Director, Vineyard Conservation Society.

Bill Schaefer, Staff Attorney, Connecticut Fund for the Environment.

Mark Primack, Director, Boston Greenspace Alliance.

Daniel D. Call, President, Westfield River Watershed Council.

David C. Shaih, Chair, Friends of the Earth, Maine branch.

John Quinney, Executive Director, New Alchemy Institute.

Mike Meixsell, Executive Director, Sudbury Assabet Concord Rivers Watershed Association.

George Wislocki, Executive Director, Berkshire Natural Resources Council.

Alan Lee Hankin, Ph.D., Executive Director, Catharine Nordell Lloyd, Centre for Environmental Studies.

Jack Borden, Founder and Director, "For Spacious Skies."

Sara Muyskens, New England Regional Director, The Wilderness Society.

Steve Hunt, Executive Director, Save the Harbor, Save the Bay.

Charles E. Hewitt, Executive Director, Maine Audubon Society.

Richard H. Daley, Executive Director, Mass. Horticultural Society.

Terry Campbell, Clerk/Treasurer, Friends of the Quabbin.

Bob Jones, Executive Director, American Lung Association of Vermont.

Barry Schiller, Ecology Action of Rhode Island.

Carolyn Richter, Chair, Sierra Club, Connecticut Chapter.

Frederick Winthrop, Director, Trustees of Reservations.

Allen Morgan, Executive Director, Sudbury Valley Trustees.

Alan Levine, President, Citizens for Lexington Conservation.

Tom Berube, Worcester Country, League of Sportsmen.

Marion McLaughlin, Co-Chair, Connecticut Citizens Action Group.

Edmund Mierzwinski, Executive Director, Connecticut PIRG.

Cathy Gorman, President, Mass. Fair Share.

Raymond Farnsworth, President, Ipswich River Watershed Association.

Fred Andrews, President, Berkshire Country League of Sportsmen.

Dennis Roy, Executive Director, Rhode Island PIRG.

Ed Himlan, Executive Director, Nashua River Watershed Association.

John E. Cupples, President, Massachusetts Public Health Association.

Claire Anderson, President, Vermont League of Women Voters.

Sandie Rahuba-Purik and Jonathan Purik, Lakes Group Sierra Club.

Mr. RUDMAN. Mr. President, I will not take a lot more time. I have anticipated all the arguments. I know what they are going to be. I probably will not even respond to them.

Let everybody understand what is going on here today. Organized labor—and I have a great respect for them—really cares about the bill that is pending, and they have the clout to get that bill before the Senate. It deals with health. We have been trying to get a bill before the Senate that was offered, deliberated, and reported, and we cannot get it before the Senate.

A few moments ago I offered to withdraw this amendment here and now, if I could be given a time certain when this could be heard. No one has come to the floor to make that offer. This offer, I assume, will not be forthcoming. Thus, nobody can accuse me of bad faith here. I only want this legislation considered.

So, Mr. President, I will conclude by simply saying that people will now vote. There will be a tabling motion made. This is probably going to be the last chance this year that we will have to debate and vote on this issue. I would implore those people who have been pressured not to vote for this now because everybody knows if it passes, other people will decide to pull down the underlying bill, be fair to your constituents; care about the health of the country; do not listen to arguments that this is not the time and the place for it. All you have to do is raise your hand and say "yes" on an up-and-down vote and then go on the bill. That is all that is required. We have for too long heard too much and done too little about acid rain.

I ask my colleagues to seriously consider that this amendment is as important or more important to the American people and to the children of this country, the future workers of this country, than the workers protected in the bill before us.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. DODD). The Senator from Maine.

Mr. MITCHELL. Mr. President, I yield to my distinguished colleague, the former chairman of the Senate Environment Committee, the Senator from Vermont, such time as he requires without yielding my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I join the distinguished Senator from Maine [Mr. MITCHELL] in a motion to table the amendment offered by my friend, the very able Senator from New Hampshire. I do so with regret. My position on the need to control pollutants that cause acid rain is well known to all. I have spent a good share of my career in the Senate trying to do something about it. However, in spite of the articulate presentation by my friend from New Hampshire, this amendment really is designed to bring about the defeat on this occasion of the bill in front of the Senate, S. 79, of which I am a principal cosponsor. For that reason I am prepared, if a motion to table is made, to support it.

At the same time, I want to take the opportunity to say that I will continue to make every effort to bring before the Senate action on S. 1894, from which the amendment of the Senator from New Hampshire is extracted, the full bill, the Clean Air Standards Attainment Act of 1987. That is the bill which our committee voted out 14 to 2 and is the bill which will handle not only acid rain but some other contaminants in the atmosphere. Passage of that bill is extremely necessary. And so it is that I find under these circumstances, while I admire the presentation made by my friend, the able Senator from New Hampshire, I am unable to support it. I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I oppose this amendment and will at the appropriate time at the conclusion of my remarks move to table the amendment. I have the greatest respect for the Senator from New Hampshire, who offers the amendment. I welcome his interest in the subject of acid rain, and the energy and enthusiasm which he has put into the subject. I do not take this step lightly as I have been pressing for Senate action on acid rain for 7 years.

I introduced the first bill to control acid rain in 1981. I have introduced a comparable bill each Congress since then. I am the principal author of S. 1894, the Clean Air Act, which was reported, as my distinguished chairman just indicated, by a vote of 14 to 2 by the Senate Environment and Public Works Committee, and which is now pending on the Senate Calendar.

In testimony before the Subcommittee on Environmental Protection last year, the heads of the American Public Health Association, the American Academy of Pediatrics, the American Lung Association, and the director of the Mount Sinai Hospital Environmental Health Department all testified that acid rain should be controlled solely on the basis of concern over human health. That is a new finding that should compel us to enact legislation to control acid rain.

Recently medical researchers from the University of California at San Diego linked high rates of colon and breast cancers to sulfurdioxide emissions. These epidemiologies concluded that sulfurdioxide absorbs sunlight, impairing the body's ability to produce certain necessary vitamins. This is of particular concern in States such as Maine that have high cancer rates. This is a relatively new finding that should compel us to enact legislation to control acid rain.

And these findings are in addition to the well-documented environmental damage to aquatic life in our lakes and streams, and the contribution of these pollutants to forest damage. Acid rain is also adversely affecting our relationship with Canada, a relationship we ought not jeopardize.

So the need for legislation to control acid rain is clear. But the need to oppose this acid rain amendment to this pending bill is equally clear. I accept the Senator's statements regarding his intentions.

So I will not talk about the intent of this amendment. I will talk about the effect of this amendment.

The effect of this amendment will not be to enact acid rain legislation. That is why those who have been in the forefront of combating acid rain and attempting to craft legislation to deal with it overwhelmingly oppose this amendment at this time. The effect of this amendment will simply be to defeat the pending bill. That will be the clear and unambiguous effect, which the Senator from New Hampshire acknowledged in his own statement. He said that if this amendment were approved by the Senate the underlying bill would be withdrawn, and therefore there would be neither control of acid rain nor protection of workers from the materials which the underlying legislation is intended to protect them from. Those are not my words. Those are the words of the Senator who offered the amendment. And therefore it is indisputable that whatever the intention the only effect of this amendment will be to defeat the underlying legislation.

The issue properly before the Senate is whether or not to provide notification to and monitoring of workers of past exposure to hazardous substances, this being thoroughly debated as it should be. It is an important bill. But introducing this issue in this amendment at this time only obscures the underlying and fundamental issue, and indeed will have the indisputed effect—the one thing we do not disagree on—if this amendment is adopted. The whole bill with this amendment will be withdrawn.

Senator STAFFORD, one of the most distinguished great Members of this body who served as chairman of the Senate Environment Committee for 6 years in a very positive and productive way has joined with me and the chairman of the full committee now, Senator BURDICK, in trying to craft legislation to deal with this. And we are going to have a vote on that before this year is out.

I say to the Senator from New Hampshire that I hope when the appropriate time comes when we have a chance to pass acid rain legislation, when the effect of offering it is not simply to defeat another bill but rather to pass the bill, he will be here with us, with the same energy and enthusiasm that he has demonstrated today.

Mr. RUDMAN. Will the Senator yield for a question?

Mr. MITCHELL. Yes, I will.

Mr. RUDMAN. I am very heartened by my friend's remarks. Is the Senator now telling me that the majority leader has now set a time for the consideration of legislation?

Mr. MITCHELL. No, I cannot say that.

Mr. RUDMAN. That is really the issue that I am talking about. My friend from Maine knows that.

Mr. MITCHELL. We are going, Senator STAFFORD and I—and all of those who spent years working on acid rain legislation who wrote the bill that the Senator now offers as an amendment—are going to make an effort, and we are going to try to get this Senate to vote on it. And we are going to do the best we can to present it. But no one ought to be misled by this effort.

It is not a surprise that everyone who has led the fight for acid rain control legislation, including the Members of this body and all of those groups who the Senator derides but who have contributed so much, are against this amendment. And they are against it because this amendment will have one effect and one effect only. And it will not be to advance the cause of acid rain legislatin. It will be to defeat the legislation that provides notification to workers of exposure to hazardous substances.

And there are some of us who want both. We want to see acid rain legislation passed, and we want to see legislation passed to notify workers of hazardous substances, and we are not for an amendment the effect of which, according to the person who offered the amendment, will be to defeat both.

So if any Member of this Senate favors either acid rain legislation or legislation notifying workers of exposure to toxic substances, they should, based on the statements of the Senator who offered the amendment, vote against it. And that is what we are going to do.

And the distinguished chairman of the full committee, the present chairman, Senator BURDICK, also joins Senator STAFFORD and me in opposing this amendment.

So I say in conclusion that I have the greatest respect for the Senator from New Hampshire. He knows that. And we look forward to his effort, and assistance when we try to move acid rain legislation in a context in which we have a chance to have it become enacted into law and in a context in which it is not used to defeat other legislation which we regard as important.

So I urge all Senators, I urge everyone who supports the need for acid rain control legislation, to join me in voting to table this amendment.

Would the Senator like to be heard before I move to table?

Mr. RUDMAN. Mr. President, if the Senator will yield, I should like to be recognized for 2 or 3 minutes, and then we may vote.

Mr. MITCHELL. I am pleased to do that now, and I will make some concluding remarks and move to table the amendment.

I yield to the Senator for that purpose.

Mr. RUDMAN. Mr. President, let me respond to one point made by the Senator from Maine. He is right in the effect that he assesses from what I stated. I believe that if we can adopt this amendment, this bill will be pulled down. That is going to send a very powerful signal to a lot of people who are interested in this bill that it is time to deal with the American people on acid rain.

We all know why the acid rain bill is not pending. We all know why the current business is pending. One group has a great deal of clout; the other group does not.

The Senator from Maine says to me that I freely admit that both will be defeated. That is absolutely true. But the purpose is not to defeat the underlying legislation. The purpose is to inform the American people and the Senate that there is going to be very important legislation that is not going to get through this body until people vote on acid rain, because that is the issue.

The Senator says, "Well, I can guarantee that we are going to vote on it." He did not say "guarantee." He said, "I assure you that we will vote on it this year." I hope so. I have waited 7 years, as has the Senator from Maine and the Senator from Vermont.

I hope people recognize that irrespective of the procedural matters we are involved in—and the Senator is quite correct, that the underlying legislation might be defeated—people will look at this vote as a vote as to whether or not we cared about getting acid rain before the U.S. Senate and voted on up or down. No one mistakes that that will be one of the considerations.

Finally, I want to make a simple statement and serve notice on everyone.

I decided about 2 weeks ago, after talking to a lot of folks, that it was time to bring acid rain to the attention of the American people and the Senate, as my friend from Wisconsin [Mr. PROXMIRE], every morning brought to the attention of the American people the Genocide Treaty. I think he did that for 4 years. I do not intend to do that, but I intend to do this: Every time there is legislation that I think is appropriate or even inappropriate, I shall offer a similar amendment. We will let the Senate table acid rain amendments for a millennium, and then we will wait for the election in 1988.

Mr. MITCHELL. Mr. President, I hope the Senator will join us in a constructive effort to get acid rain legislation enacted. I strongly disagree with the characterization he has placed on this vote. I think it would be highly unfair for anyone to infer that because Senator Stafford votes to table, somehow he does not care about acid rain as much as does Senator Rudman.

I think that even the Senator from New Hampshire will acknowledge that Senator Stafford has been in the forefront of the effort. While the Senator from New Hampshire has not been on the relevant committee and therefore has not had the opportunity to be in the frontlines, as has the distinguished Senator from Vermont, I am sure the Senator from New Hampshire does not want the impression to be created among the people of Vermont that their Senator, the chairman of the committee which reported out this bill, the man who helped write this bill, the man who has done more to protect the American environment in this decade than any other living American, the man who has led the fight against acid rain—I am sure that the Senator from New Hampshire is not suggesting that the people of Vermont should infer that because Senator Stafford votes to table this, he does not care about acid rain or that he does not care about protecting the environment, or that he does not care about the interests of the people of Vermont. The opposite is true, and we all know that.

So, for the reasons previously stated, Mr. President, I move to table the underlying Nickles amendment and the second-degree Rudman amendment with it, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, will the Senator withhold that motion for a moment, so that I might speak on the issue?

Mr. MITCHELL. Does the Senator want to speak briefly?

Mr. SIMPSON. Just 3 or 4 minutes.

Mr. MITCHELL. Certainly.

I yield to the Senator for this statement, with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, that is more than appropriate, because I have been very interested in acid rain legislation, and I have worked for a long period with the Senator from Maine on acid rain legislation.

I have always said that we need to debate the acid rain issue on the floor of the Senate. That has to take place someday. It must take place, because what happens—and the American public should be aware of this—is that we pass bills in the Environment and Public Works Committee that are so unrealistic they never go anywhere. They go to the desk and there is great breast pounding and press releasing, and they say: "The Environment and Public Works Committee did a bill again on acid rain. Isn't that magnificent?" It would be magnificent if they were worth a whit, but none of the acid rain bills are worth a whit, because they are destined for purists. They are backed by people who do not like to legislate, who do not like to compromise.

The Senator from Maine and I have been working for 2 years together, trying to get an appropriate acid rain bill.

I know the intensity of the sincere Senator from Vermont. Indeed, I have worked with him when he was chairman of the committee. He was a superb chairman. He is a superb ranking member. Senator Stafford is indeed one who has worked so diligently for this, but so has the fine Senator from New Hampshire.

Senator Rudman is not doing this as some partisan ploy. It has been on his mind and is very real to him, and intensely real to him, as it is to all of us.

So, we can talk about acid rain all we want in committee and never do anything, because there is no cross-section of America represented in the debate. There is nobody from the Midwest; there is nobody from the Southwest. That debate is never going to take place until we get here on the floor. The States that are most affected are not represented on the Environment and Public Works Committee. They never have been there to participate.

In my State, we have SO_2 restrictions which are six times more stringent than the Federal Government's, so we do not know why we have to pay the ticket for the Midwestern States that decide to do nothing. That is not correct.

We have a tough problem here.

NO_x is just as big a problem as SO_2, and I am ready to do something. We have not authorized the Clean Air Act for over 10 years because the Environment and Public Works Committee always approves something that is never going to pass the Senate as a whole. We did that again this year.

For this reason, I would oppose passage of the committee-passed bill. I will continue to work with Senator Mitchell to see if we can develop a moderate acid rain bill in the future. I know that Senator Mitchell wants to do that. We will keep struggling.

Senator Proxmire has been a fine mover in this. He keeps struggling along with us. I hope we can do something that will crown his efforts in the Senate as he leaves us this year. But the original legislation, as it came out of the Environment and Public Works Committee, is fundamentally flawed, and that is why it never gets anywhere, and why it never will get anywhere.

The cost of the control program is too low, and the 40-year new source preformance requirement is unnecessary.

Several of the amendments adopted in committee have moved this bill closer to the goal of receiving widespread support. In particular, the adoption of a phased approach to sulfur dioxide reductions, similar to that found in the Proxmire-Simpson bill, is a major improvement in the bill. The revised bill includes changes adopted to the nitrogen oxide emissions reduction requirements which strengthen the bill by achieving the same environmental results for half the cost of the original bill's nitrogen oxide provisions. While our negotiations have produced some positive results, more needs to be done in order to ensure that a bill can become law during this session of Congress.

Unfortunately, I am not able to lend full support to the bill that was reported by the committee because I believe it has many fundamental flaws. I did vote for committee passage of the bill because I believe it is critically important to get the bill out of committee so that Senators representing the Midwest and other regions of the country can have some proper debate and participate in the legislative process. Many changes are needed in the committee bill before it can be adopted by the Senate and I know that Senator Mitchell will continue to be open to the need for change.

There has been much talk recently that Congress must pass acid rain legislation in order to protect the health of our children. Public health is always the most important factor when we consider clean air legislation. However, I would note that there are no peer reviewed studies to indicate that SO_2 emissions are causing increased hospital admissions. Those who promote acid rain control in order to protect human health are misguided or they are trying to add an element of emotion to the acid rain issue. The reason we have not passed acid-rain legislation for 10 years is because too much emotion and not enough reason has served to polarize the debate. If we are to proceed successfully, let us at least proceed from a basis of fact, not from fear, guilt, emotion, or plain old hype and hoorah.

ACID RAIN PROVISIONS

One of the largest remaining problems with the committee bill lies in the size of the reduction in the sulfur dioxide emissions required. Sections 181 and 182 of the bill require a 12-million-ton sulfur dioxide reduction below 1980 levels to be achieved by the year 2000. A simple 12-million-ton reduction would more than double the $2.6 billion annual price tag associated with a 10-million-ton reduction package that I have proposed. To make matters worse, the provisions of section 183 effectively force the use of costly scrubbers on roughly two-thirds of the existing powerplants in this country and preclude other options such as the use of natural gas, fuel switching, clean coal, or other strategies. The combined effect of the bill's SO_2 provisions will be to require an annual SO_2 reduction of 15 million tons by the year 2010, thus pushing the cost of the bill over the $10 billion mark on an annual basis by 2010. This is more than four times the cost of the Proxmire-Simpson bill and translates into rate increases greater than 20 percent to electricity consumers in many States. I am certain that many of my colleagues would find the prospects of such rate increases abhorrent.

Acid rain is a very serious environmental problem that needs to be addressed by Congress. I remain flexible on the absolute tonnage level that is required, but a 10-million-ton sulfur dioxide reduction approximates the raw 50-percent reduction and deposition recommended by the National Academy of Sciences several years ago. In addition, there is no concrete scientific evidence that demonstrates that a 12-million-ton bill will produce significant additional environmental benefits over a 10-million-ton reduction. We do know that current analysis shows the committee bill will quadruple the cost to consumers for acid rain control over the Proxmire-Simpson bill. That is why I believe the SO_2 reduction target needs to be reduced from the 12-million-ton figure.

NEEDED CHANGES IN THE BILL

As I noted at the outset of this statement, I believe the markup process in committee has improved the acid-rain portions of this bill in some respects. Senator Mitchell and I are trying to develope the kind of legislation that could enjoy broad support in the Congress, but we need to continue negotiations among key Senators in order to produce a final package for floor consideration. I see the need for four key changes in the committee acid-rain bill:

First, reduce the overall sulfur dioxide emission reduction requirement,

Second, exempt new plants meeting the New Source Performance Standards [NSPS] from onerous requirements in the bill,

Third, delete the special plant-specific requirements of section 183(b), and

Fourth, exempt clean Western and Central States from the sulfur dioxide emission reduction requirements in the bill.

Making the above changes in the committee-passed bill would certainly increase the chances that the bill could get widespread support on the Senate floor.

There is a lot more I could say about the bill. I know of Senator Rudman's persistence and doggedness. I admire him so. He will bring it before us time and time again. At some point in time, we will have to deal with it responsibly and moderately and honestly. We have never had that debate on the floor of the Senate for 10 years.

But do not bother to come to the debate on it in the Environment and Public Works Committee because it is a farce.

I have nothing further.

Mr. President, I ask unanimous consent to have printed in the Record a comparison of emission reductions and costs of the Proxmire-Simpson and Mitchell acid-rain bills.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE PROXMIRE-SIMPSON AND MITCHELL ACID RAIN BILLS: COMPARISON OR EMISSION REDUCTIONS AND COSTS

	Proxmire-Simpson	Mitchell
Annual SO_2 reduction in 2,000 (millions of tons)	[1] 9.5	13.0
Annual NO_x reduction in 2,000 (millions of tons)	3.5	[2] 3.5
Annual SO_2 control cost in 2,000 (billions of dollars)	[1] $2.3	8.0
Annual NO_x control cost in 2,000 (billions of dollars)	$0.5 to $1.0	[2] $0.5 to $1.0
Total control costs (billions of dollars)	$2.8 to $3.3	$8.5 to $9.0
Number of States with greater than a 5-percent electric rate increase	1	[3] 17
Number of States with greater than a 10-percent electric rate increase	0	[3] 8

[1] SO_2 reductions and costs. OTA analysis of the 1986 Waxman bill is used to estimate non-utility SO_2 reductions, 0.5 million tons, and costs, $0.25 billion/year, for Proxmire-Simpson.

[2] NO_x Reductions and costs. Estimates for the Mitchell bill do not include additional stationary source control requirements under the ozone nonattainment title of the Environment Committee bill. The NO_x provisions in the acid rain bills are the same.

[3] Electric rate increases. The number of states with greater than a 5 or 10 percent average electric rate increase under the Mitchell bill are understated because they are based solely on ICF's analysis of the 12 million ton SO_2 reduction component of the bill. The costs of the bill's 30 year/0.9 pounds and 40 year/NSPS provisions in section 183 and its NO_x provisions would increase costs and electric rates—figures for Proxmire-Simpson include—consideration of both SO_2 and NO_x control costs). States with greater than a 5 percent electric rate increase under the Mitchell bill are: West Virginia, Ohio, Indiana, Wisconsin, Kentucky, Missouri, Arkansas, Kansas, Pennsylvania, Maryland, Virginia, Georgia, Florida, Maine, Tennessee, Mississippi, and Iowa. The first eight states listed above have rate increases above 10 percent, although the list is not in descending order of rate increases. The only State with an electric rate increase greater than 5 percent under Proxmire-Simpson is Ohio's 6.1 percent.

Sources: ICF June 8, 1987 analyses of Proxmire-Simpson: ICF March 6, 1987 and October 30, 1987 analysis of Mitchell, Senate Environment Committee bill; and EPA review of Senate Environment Committee bill.

Mr. LEAHY. Mr. President, I have voted to table the Rudman amendment even though I strongly support this legislation. Senators Mitchell and Stafford are the leaders in the Senate on this issue. They have recognized, and I agree, that this is not a serious attempt to pass acid rain legislation. It is merely an attempt to undermine and kill the underlying legislation.

I will support and I will fight for any serious effort to cut acid rain.

I further ask unanimous consent that a letter from the president of the Sierra Club on this matter be printed in the Record immediately following my statement.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Sierra Club,
Washington, DC, March 21, 1988.

Hon. Warren B. Rudman,
U.S. Senate, Washington, DC.

Dear Senator Rudman: The Senate is currently considering S. 79, the High Risk Occupational Disease Notification and Prevention Act of 1987.

We urge you to support this bill, oppose any amendments, and vote for cloture on debate, should this become necessary.

In particular, we urge you to oppose any amendments that would seek to study or otherwise address the acid rain problem or any other air pollution problem. As you may know, the Senate Environment and Public Works Committee reported S. 1894, a comprehensive revision of the Clean Air Act last October. This bill is awaiting consideration by the full Senate. We believe any proposals to study or address air pollution problems should be considered during Senate debate of S. 1894.

Just as passage of S. 1894 would contribute greatly to community health, passage of S. 79 will contribute to workplace health. S. 79 is a limited reasonable proposal deserving your support. Extraneous amendments will only detract from its effectiveness.

Sincerely,

Lawrence D. Downing,
President.

Mr. BYRD. Mr. President, this is not the time and place to have a debate on acid rain legislation. This amendment is not relevant or germane to the legislation we are considering. It is an attempt by the opponents of this legislation to kill the bill. The amendment would impose enormously expensive acid rain control provisions on American industry.

This type of acid rain control legislation would be devastating to the economy of West Virginia. Electric bills would skyrocket, and our energy-intensive industries would be unable to remain competitive.

The Clean Coal Technology Program which I have established to promote the use of coal in an environmentally acceptable manner provides a positive, nonregulatory approach to the issue of acid rain. I hope Senators will vote to table the amendment.

Mr. SYMMS. Mr. President, I favor the motion to table the amendment of the two distinguished Senators from New Hampshire. I think it is a bad piece of legislation that sets a very dangerous precedent.

The passage of this amendment would put the Senate squarely on record supporting acid rain controls before we know what the scientific picture is. It is very clear that this entire amendment here before us is a $100 billion crapshoot that this Nation can ill afford.

I must say that I am delighted to be on the side on this issue with my colleagues from Maine and New Jersey. This time they are correct—now is not the right time to pass the legislation.

Currently, this Nation leads the world in emission controls of all types. We spend about $30 billion annually to protect air quality in this country.

The results have been dramatic. While other countries promise reductions and announce plans to meet goals, the United States has reduced SO_2 emissions over the past 12 years by almost 30 percent. This has occurred not during a time of reduced production, but at a time when coal usage has soared by 80 percent. As one Washington Post editorial stated:

> The concentrations of * * * sulfur dioxide, have fallen sharply since the 1970s, when Congress began to go after it. Simply to have held air pollution constant over the past 14 years would have been a great achievement, because electric power consumption has risen by a third in that time and the number of motor vehicles by nearly half.

And there is every reason to believe that these trends will continue.

In testimony before the Environmental Protection Subcommittee, RPA Administrator Thomas demonstrated with measurable data that air quality has improved dramatically over the past decade and a half. He documented the reduced emissions and presented information on the huge expenditures that have been, are being, and will continue to be made. His presentation made a convincing argument that the present Clean Air Act is working, and working well, to protect the health and welfare of Americans.

The Administrator also asserted that he has ample authority to do whatever is necessary to continue the progress. He complained that scientific knowledge does not justify what is contemplated in this amendment. He does not need, nor want, the additional authority or needless responsibilities that would be mandated by it.

In his testimony, Administrator Thomas said of the acid deposition provisions of the bill that was then before the committee:

> [T]his bill not only presupposes that today's scientific knowledge justifies an acid rain control program, but that it justifies a very large control program to be implemented over a very short time. * * * I think this proposed program is premature at best, and I cannot support it.

In 1980, our distinguished colleague from New York, Senator MOYNIHAN, showed perception and responsibility when he authored title VII of the Energy Security Act, Public Law 96-294. Congress passed that law and thereby established the National Acid Precipitation Assessment Program [NAPAP]. Commendable progress has been made under this program, which involved 12 Federal agencies, to study the causes and effects of acid rain. We know a lot more now than we did a few years ago and we will learn even more as the study is completed over the next 3 to 4 years.

In mid-September of this year, the interim NAPAP assessment was released and, although knowledge is by no means complete, it was concluded that any problem is considerably less severe than many of us had been led to believe. To quote from a summary of the report:

> An interim assessment by the National Acid Rain Assessment Program [NAPAP] concludes that scientific uncertainties preclude regulatory decisionmaking on acid rain. * * *

I ask unanimous consent that the referenced summary of the NAPAP report be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. It is regrettable that the Committee on Environment and Public Works did not closely examine and carefully consider the NAPAP interim findings before reporting the committee bill. If it had, committee members would realize there is no environmental crisis from acid rain, and they would not be proposing drastic additional control measures that will cost our citizens higher electric bills, jobs, and further reduce our industries' competitiveness.

NAPAP's finding clearly illustrate that acid rain poses no environmental crisis, that claims of adverse effects are exaggerated or wrong, that air quality has improved and will continue to get better, and that the expenditure of billions of wasted dollars has been prevented. As the Wall Street Journal stated in its editorial on September 23, 1987:

> The lesson of the acid-rain experience * * * is that environmentalism has passed the stage when the mere assertion of a problem can elicit a rush to regulation and financial commitments from elected officials. In the future, environmentalists will have to prove their claims before the public signs on to multi-billion-dollar fixes. Clearly, the environmentalists' claims have not been proved.

Nor has science been able to verify the acid rain crisis to which Canadian politicans point accusing fingers. A recent study entitled "Effects of Acidic Deposition on Canadian Ecosystem: A Review" calls into question some of the heretofore unchallenged allegations of Canadian politicians. The review, conducted by a group of five recognized air and environmental science experts, summarizes the key conclusions in the six volume report of the Canadian Research and Monitoring Coordinating Committee [RMCC] released in August 1986, and evaluates the scientific basis for these conclusions.

The report determined that, in many cases, the conclusions presented in the Canadian assessment documents are not supported by a careful review of the available data. The report notes that while the scientific data itself is typically of high quality, "the conclusions presented in Canadian assessment documents ignore major uncertainties in our understanding and quantificiation of the effects from acidic deposition." The critique further described the Canadian's assertions, as presented in the Executive Summary of the RMCC (1986), as "not an accurate reflection of the more detailed scientific discussions in the body of the text nor of the scientific literature in general."

It is interesting to notice how the national press, the same press that has given so much play to Canadian acid rain propaganda in the past, is now tempering their views with economic reality. Even the Washington Post has endorsed balancing clean air legislation with cost consideration. In an editoral on March 22, 1987, the Post asked: "With the cost of controlling air pollution already over $30 billion a year, how much more should the country spend on it—and is acid rain necessarily the top priority?" Again, in a July 20, 1987 editorial, the Post notes that "Last year Americans spent about $77 billion for clean air, clean water and waste disposal * * * The outlay for pollution control, now approaching 2 percent of GNP, is large enough to effect the way the economy works."

The economic and employment impacts of title II are devastating. Obviously, electric utility rates would be increased significantly. The EPA's study shows a cost of $6 to $8 billion annually would be incurred to comply with emissions reductions mandated by this title. But what about other industries, jobs, and the overall economy?

The National Association of Manufacturers [NAM], in September, released a report with startling and sobering conclusions which the Members of this body should consider carefully before acting on "acid rain" proposals.

Based on modeling work by the reputable and competent Data Resources, Inc., and using figures from various Government studies on proposed acid rain control legislation, NAM reported that measures similar to the touted "acid rain controls" of this amendment could:

Cost the economy 213,000 to 862,000 jobs by the year 2000;

Result, by the year 2000, in a cumulative loss to the economy, as measured by GNP, of $59 to $223 billion;

Increase consumer costs by as much as 2 percent above the baseline by the mid-to-late 1990's;

Raise retail electricity costs 13.4 percent;

Contribute a full percentage point to interest rates;

Cause a peak loss in the housing industry of 103,000 housing units.

Typical of environmental extremist's callous disregard for other's values, a spokesman for the Sierra Club, having only read a summary of the report, said: "this is a dog-bites-man story: Industrial polluters find that acid rain control is expensive. I'm not surprised." A Natural Resources Defense Council spokesperson labeled the report standard claptrap. These organizations should realize that livelihoods are at stake. Their values, although shared by many, must be balanced with the values of those whose economic survival could be jeopardized.

Mr. President, the vote on this amendment should go down as the final statement of the U.S. Senate on legislation of this type. We must assert that there is no evidence to support acid rain legislation at this time. If we can defeat this amendment, I do not anticipate that it will surface again this year. There is no evidence to support the amendment of my colleague from New Hampshire, nor the legislation that came out of the Environment and Public Works Committee. Neither should be passed now, nor later on this year.

I look forward to seeing a very sound, strong vote to table this amendment.

I yield the floor.

EXHIBIT 1

INSIDE EPA SUMMARY OF INTERIM NAPAP REPORT

[Taken From Inside EPA, Sept. 18, 1987]

NAPAP SAYS UNCERTAINTIES IN ACID RAIN DATA PRECLUDE CONTROL DECISION

An interim assessment by the National Acid Precipitation Assessment Program (NAPAP) concludes that scientific uncertainties preclude regulatory descisionmaking on acid rain, though NAPAP expects to resolve many issues by 1990. The report is the second major document by NAPAP, authorized by Congress to undertake a ten-year study on the adverse effects of acid rain. The report's main conclusion could become ammunition for both sides of the acid rain debate, sources say—both as a basis for postponing regulatory action because of a lack of evidence and for swiftly implementing controls because such evidence will never be sufficiently documented.

Canadian environmentalists reportedly are outraged at the report's findings, and plan to launch an extensive campaign for sulfur dioxide reduction in the U.S.

The five-year interim assessment presents the "state of the science" on acid rain and focuses on the reduction of scientific uncertainties resolved by the research to date. The report states that "Preliminary evaluation of possible economic impacts of acidic deposition as been attempted, but the lack of quantifiable effects constrains the assessment." NAPAP continues that "many facets of the acid rain problem remain to be explored," and asserts that only the "major" uncertainties will be addressed in NAPAP's remaining years. But NAPAP believes that it can provide a sound basis for decisionmaking on acid rain by addressing such uncertainties.

The report says it will contribute to knowledge on: quantities of man-made emissions of acid rain precursors; status of technology for reducing emissions; effect of acid rain on crops; and patterns of wet deposition in the U.S. Uncertainties to be reduced by 1990 include: sources, quantities, and reactivities of sulfur dioxide, nitrogen oxide, volatile organic compounds, methane and alkaline substances; the origin of hydrogen perioxide; influence of urban emissions on local deposition; forest soil types sensitive to change by acid rain; the effect of acid rain on aquatic life; and the damage to galvanized steel and carbonate stone from SO_2. The effect of wet and dry acidity on painted surfaces; human health effects from acidic aerosols; and contributions of individual sources of emissions to deposition as specific receptors; will likely remain unresolved, NAPAP says.

Findings in the interim report include:

Effects of acid rain on crops, aquatic systems and forests. NAPAP foresees no significant change in these resources at present air pollution levels, and concludes that watersheds both in the Northeast and the Upper Middle West will likely remain at current levels. The report continues: "Further significant surface water acidification is unlikely to occur rapidly at current deposition levels." Short-term "foliar" effects on crops or healthy forests also are unlikely.

Relationship: SO_2 and acid rain. The report found that SO_2 reductions are unlikely to result in a decrease in acid rain in the northeastern U.S. Though the report concludes that cuts in SO_2 emissions may reduce dry and wet deposition of SO_2 compounds, the magnitude and extent of the reduction are uncertain.

Economic impacts. Acid rain has no effect on crops, but may benefit soil by acting as fertilizer, through nitrogen, a plus assessed at $100-million a year. NAPAP says that though little is known about the effects of acid rain on vegetation, ozone presents adverse effects, a loss estimated at a billion dollars per year. But NAPAP said "There is insufficient information for an analysis of the economic impacts of acidic deposition, ozone, and associated pollutants on forests at this time."

Clean coal. The Energy Dept.'s clean coal program will spur implementation of new technology, and may result in a significant decline in SO_2 and NO_x emissions at much lower cost. NAPAP reports other promising technologies: the catalytic converter for VOCs, and the flue gas desulfurization of SO_2 control.

SO_2 trends. SO_2 reductions have decreased 27 percent, 8-million tons/year, between 1973 and 1985, a trend which has continued into the 1980s, NAPAP reports.

NO_x VOC trends. NO_x emissions increased during the 1950s and 1960s until 1973, when emissions reached a plateau of around 20-million metric tons/year. VOCs have declined to 20 million metric tons in 1985, from a peak in 1970.

Emissions to Canada. SO_2 emissions from power plants in the eastern states bordering Canada were reduced by about 20 percent between 1975 and 1985. The greatest reductions wre achieved in Michigan, where SO_2 was reduced from 1.2 million metric tons/year in 1975 to about 0.6-million in 1986.

NAPAP states that a rational control strategy should be based on a careful assessment of acid rain's precursors and a determination of which cause damage. NAPAP states that since some geographical areas may not be sensitive to acid rain effects, "an economic strategy of control must be built on a careful quantification of the sum of all effects, taking such factors into account."

Mr. MITCHELL. Mr. President, I would just like to note that the committee which the Senator from Wyoming so sharply criticizes is a committee on which he serves as a member, that during this decade it was chaired by a Republican, a member of his own party. For 6 of the 7 years of this decade it had a Republican majority.

Contrary to the assertion that it reports bills out that do not go anywhere in the Senate, in just the last couple years the Environment Committee under Senator STAFFORD's distinguished leadership reported out the Superfund Act, which became law, reported out the Clean Water Act, which passed over the President's veto, which I believe the Senator from Wyoming supported; it reported out the Safe Drinking Water Act which became law and reported out the Resource Conservation and Recovery Act which became law.

The fact of the matter is that under Senator STAFFORD's great leadership, the Environment Committee has had one of the most productive and successful years in Congresses in our recent national history and in fact some may regard these laws as not worth a whit but I regard them as very significant laws which have gone a long way toward protecting the environment.

I am not ashamed to be a member of the Senate Environment Committee. I am proud to be a member of that committee, and I am not ashamed to have served under Senator STAFFORD's leadership. They did a great job and I think the environment and the American people are a lot better off for it including all these laws, and I think these are significant laws that will go a long way toward protecting the health and well-being of the American people.

Mr. President, I renew my motion to table the underlying Nickles amendment.

Mr. SIMPSON. Mr. President, I would like to respond, if I might, just for a moment because I think the Senator from Maine has misinterpreted my remarks and I would like to clarify them if I may.

Mr. MITCHELL. Certainly. I will yield to the Senator for that without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I was referring solely to acid rain legislation when I spoke. I was the cosponsor of Superfund. I was on the conference committee of the Clean Water Act and urged the President not to veto it. I have been in the forefront of the safe-drinking-water law and all those fine pieces of legislation passed under Senator Jennings Randolph, as chairman, and under Senator STAFFORD, as chairman. And Senator BURDICK does a magnificent job and is exceedingly fair to us all.

I speak only and solely on acid rain issues and the Clean Air Act. That has been the one that is totally and extraordinarily difficulty for us. On all of these other things, I am very proud to be a part of that committee as we have dealt with a lot of the tough ones, and Senator MITCHELL indeed has also done so. I just want to be very clear on that.

Mr. STAFFORD. Mr. President, will the Senator yield for a question?

Mr. SIMPSON. Indeed.

Mr. MITCHELL. I have the floor and I will yield.

I yield to the Senator from Vermont for a question.

Mr. STAFFORD. My recollection is, I would say to the very able Senator from Wyoming, that he voted for the various clean air bills that the committee has generated over the last 7 or 8 years; am I not correct?

Mr. SIMPSON. Mr. President, that is absolutely true because I got so tired having my mailroom break down after I voted against it a time or two and yet knew it was never going anywhere. So that got to be so tedious I finally wised up and began to vote for it each time it went through. At least it saved me a ton of mail and it seems it is a very sensible way to do business in view of the absurdness of the 10-year reckless exercise.

Mr. MITCHELL. Mr. President, is the Senator finished?

Mr. SIMPSON. Yes.

Mr. MITCHELL. I am pleased and gratified to have the Senator's clarification of his earlier remarks. I do not believe he originally limited his remarks to the acid rain bill.

Mr. SIMPSON. Yes, I did, Mr. President. I did indeed limit my remarks to that.

Mr. MITCHELL. In any event, then it is now clear that he was referring only to acid rain and that he joins Senator STAFFORD and me in the pride of the committee for the other laws which we have enacted.

Having completed debate, I, therefore, unless the Senator from New Hampshire or the Senator from Wyoming wishes to be heard, in that event I will renew my motion to table the underlying Nickles amendment and the Rudman amendment thereto, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment of the Senator from Oklahoma.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Mississippi [Mr. STENNIS] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE], the Senator from Nebraska [Mr. KARNES], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 22, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—70

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Warner
Wirth

NAYS—22

Boschwitz
Chafee
Cohen
D'Amato
Domenici
Durenberger
Evans
Garn
Gramm
Hatch
Hatfield
Helms
Humphrey
Kassebaum
Kasten
McClure
Murkowski
Packwood
Rudman
Simpson
Wallop
Wilson

NOT VOTING—8

Biden
Boren
Dole
Gore
Karnes
Simon
Stennis
Weicker

So the motion to lay on the table amendment No. 1813 was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, it is now 3:15. We have had two amendments, neither of which had anything at all to do with this bill. I would just like to say to my colleagues on both sides of the aisle: The floor is open. We have had two nongermane amendments. I have heard all the horror stories about how bad this bill is. We have said publicly, not once but time and time and time again: We are prepared to work out amendments if people believe we can improve this bill. We are prepared to meet the issues if there are some who want to offer amendments, whether we can agree to them or not.

I would hope we might get to the point of dealing with some actual amendments having to do with this bill so we can move on and pass it.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I agree. I think it is time for Senators to bring amendments to the floor.

We make the request of all Senators to consider any amendments they have to this bill, including any other amendments they care to bring at this particular time. In order to allow some time for that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent that I may address the Senate for 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

SENATE CONCURRENT RESOLUTION 109—TO ESTABLISH INTEREST SECTIONS IN THE UNITED STATES AND VIETNAM

Mr. McCAIN. Mr. President, today I am submitting legislation on behalf of myself, Mr. SIMPSON, Mr. WARNER, Mr. MURKOWSKI, Mr. SIMON, Mr. RIEGLE, Mr. KERRY, and Mrs. KASSEBAUM. It is a Senate concurrent resolution expressing the sense of Congress that the President should negotiate with the Government of Vietnam to establish interest sections in the capitals of both countries.

Mr. President, 15 years ago this month I returned from Vietnam; 13 years ago the United States ended its involvement in Indochina. During the intervening period there has been little or no progress on a number of issues that remain outstanding between our two nations. Among them are the terrible issue of those Americans still listed as missing in action; the continued Vietnamese occupation of Cambodia; some 20,000 Amerasian children, many of whom we would like to be able to bring to the United States; family members of Vietnamese in this who should be allowed to come to the United States through the orderly departure program, the issue of the refugee camps that exist along the borders of Vietnam and its neighbors, and the thousands of Vietnamese remaining in reeducation camps.

Mr. President, these issues remain. There has been very little progress on these issues despite the best efforts of many Members of Congress and many Members of both this and previous administrations.

The issue of our relations with Vietnam has been, to say the least, very emotional. I certainly understand the viewpoints of many Americans who say we should never have anything to do with the Vietnamese Government.

Let me make it perfectly clear that in submitting this resolution with my good friend Tom Ridge, the Congressman from Pennsylvania, who is the only enlisted combat veteran of the Vietnam war who serves as a Member of Congress, we view this as no incentive or concession to the Vietnamese. This is not a prelude to full diplomatic recognition. Nor do we view it as a way for the Vietnamese to secure economic assistance unless and until we resolve the issues I mentioned.

Mr. President, let me also elaborate exactly on what an interest section means. It means exactly what we have between the United States and Cuba. There are presently Cubans who work out of the Czech Embassy here in Washington, and Americans who work out of the Swiss Embassy in Havana. This arrangement has been in being since 1977. Because of the existence of interest section, several issues have been resolved between our two countries.

I might remind my friends that the United States has a full-blown embassy in Managua. We have ambassadorial relations with every nation behind the Iron Curtain. The only nations that I know of with which we have no diplomatic relations are North Korea, Albania, and Vietnam.

Mr. President, I think the time has come to help the American people and the Vietnamese people resolve the issues that still exist between us.

One of the issues which has not gone away, but which in the opinion of many is even more important to the American people, is that of those servicemen still listed as missing in action in Southeast Asia.

Mr. President, I am not guaranteeing that the establishment of an interest section will bring progress, but I am making a case that the establishment of an interest section will provide the facility for an ongoing continuous dialog which does not exist today between our two nations. If we do not think there is at least some communication between our two nations I would remind my colleagues that there is an almost incessant stream of Congressmen and Senators and delegations from the executive branch that travel to Vietnam with amazing frequency. They come back many times with good information, but return often with misinformation. We have the wrong impression of the state of our relations or the state of progress between ourselves and the Vietnamese Government on these very difficult issues that continue to exist between us.

In conclusion, Mr. President, I think the time has come, 13 years after the completion of our involvement in Southeast Asia, to begin a dialog, in hopes that that dialog will resolve these issues which are so important to the American people. I believe these issues can be adequately addressed through the maintenance of a steady and firm line of communication between our two nations. I urge my colleagues to support this resolution, and that we move forward on it as quickly as possible. I yield the floor.

Mr. DODD. Mr. President, I ask unanimous consent that I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I am honored to join with my distinguished colleague and friend from Arizona, Senator John McCain, in sponsoring this very important resolution expressing the sense of the Congress that the President should negotiate with the Government of Vietnam to establish interest sections in the capitals of both countries. This resolution recognizes the need to undertake new policy initiatives in resolving the many humanitarian concerns which remain long after the sounds of war have ended. Humanitarian concerns which touch the lives of Americans:

Families whose sons remain unaccounted for, 15 years since the last combat troops left the shores of Vietnam;

Vietnamese who have settled in America and have been separated from their families for many years;

Amerasian children who do not know their fathers; and

Children who are sick and dying in refugee camps throughout Southeast Asia.

Mr. President, these people personify the harsh realities of war and the aftermath of war.

Mr. President, a short time ago I visited Vietnam and witnessed the human tragedy of that war. I held two small Vietnamese children who were separated from their mother from infancy. I consoled the children's aunt who wept uncontrollably and longed to be reunited with her family. Separation from one's family, at any age, can be a very difficult and emotional experience. These two small children, who were so young and so far away from their mother, are examples of the many children, brothers and sisters, parents and grandparents in Vietnam. People who have been separated from their families for many years and have only a glimmer of hope of ever seeing their loved ones again. The seriousness of this issue is heightened by the fact that many of these children are Americans. They are the children of American servicemen who served in that country. Children who are now stigmatized by their race.

Mr. President, since my return from Vietnam, I have received hundreds of letters and telephone calls from Vietnamese people who are now American citizens pleading for my help. They simply have nowhere to turn and are unable to contact their families in Vietnam, even under the most dire emergency situations. The resolution my colleagues and I are introducing today is intended to address these and the many other humanitarian concerns dividing our two countries by establishing an office in our respective capitals for the sole purpose of improving communication and cooperation between Vietnam and the United States. The resolution before us does not seek to normalize relations with Vietnam; nor does it seek to provide economic assistance.

The pressure remains on the Vietnamese to take the necessary steps to improve relations. It is simply a message of the American people's willingness to communicate and cooperate in order to more expeditiously resolve humanitarian concerns.

The Vietnam war was clearly one of the most divisive conflicts in our Nation's history. As ranking minority member of the Senate Veterans' Affairs Committee, I have gained a deeper insight and awareness of the enormous sacrifices made by the men and women who served in uniform during that period and of the suffering experienced by those who carry the scars of that war in their everyday lives. We simply can never repay those, who, as Lincoln once wrote, "have borne the battle, and their widows and their orphans." The wounds of war are slow to heal; but, Mr. President, we must go forward if the healing process is to be complete. And I believe that the vast majority of Vietnam combat veterans want us to take this important step. A short time ago, I read a very moving article in the Washington Post by a severely disabled Vietnam veteran who once harbored bitter hatred for the Vietnamese people. Today he asks us to move forward to address the humanitarian concerns of both people.

Mr. President, on October 26, 1967, a young navy pilot was shot down while flying a mission over North Vietnam. Severely wounded, he would spend 5½ brutal and dehumanizing years as a prisoner of war in a North Vietnamese cell, much of that time in solitary confinement. He was the most injured pilot to have survived the North Vietnamese prison camps. This young pilot, John McCain, taught us the meaning of the word courage, and he does so again today by being the principal sponsor of this humanitarian resolution. His name on this document, "Hold Up Resolution", is eloquent testimony to the compelling need for this resolution. What more needs to be said.

I ask unanimous consent that the article may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VIETNAM: MY ENEMY, MY BROTHER

(By Frederick Downs, Jr.)

Twenty years ago this month, in Tam Key, Vietnam, I stepped on a land mine. It was a type we called a "Bouncing Betty," because when you stepped on it, it bounded into the air and exploded waist-high, so that it would do maximum damage. My left arm was blown off; grevious damage was also done to my right arm, both buttocks, both legs and both feet. Five of the men in my platoon were wounded along with me.

Within a four-week period after that, my platoon—already reduced from 40 men to 27—was destroyed. All but seven of those remaining 27 were killed or wounded, and the platoon, Delta 1-6, my family and responsibility, ceased to exist as a fighting unit. I had given my all to Vietnam. I was proud to have been an infantryman. I was proud of my men. I wept when South Vietnam fell.

So I had good reason to be carrying a lot of hate when I returned to Vietnam for the first time last August, as part of a team sent by President Reagan to explore greater cooperation with Vietnam on a range of humanitarian issues. The leader of our group was retired Gen. John W. Vessey Jr., a former chairman of the Joint Chiefs of Staff. I was included because I am head of prosthetic services for the Veterans Administration. My job was to study the needs of disabled Vietnamese and see how we could help, particularly in the area of prosthetics. It was a trip that changed the way I think about Vietnam—and maybe about America, too.

We let down through a clear, sunny sky. Hanoi was off to the left. As we descended, we could see "Uncle Sam's Duck Ponds," our slang for bomb craters, scattered across the landscape. I was surprised at the large number and by the fact that they hadn't been filled in so many years later. Some were spaced haphazardly, others in neat rows spread from the American aircraft that had dropped the bombs 15 or more years ago.

Flying into Hanoi was a confusing experience for me. When I first got off the airplane and stood on the tarmac, I was surprised and slightly embarrassed to realize that my knees were weak and my hands were trembling. The adrenalin was pumping through my body and I felt the way I had long ago as I waited for the helicopters to take us into battle.

I could not suppress the feeling that I was in enemy territory. The shock of this after two decades was strange and unexpected. "What the hell am I doing here?" I asked myself. I had lost my arm fighting against Hanoi! In the years since, I had stayed angry at the Hanoi government for a number of reasons: their mistreatment of the South Vietnamese, their meanness on the POW/MIA issue, their arrogance and intractability on everything to do with America, and the simple fact that they had won the war.

And yet, driving from the airport into Hanoi, that hard edge of hatred seemed to soften. So little had changed in this land in 20 years. The women wore the same black pajamas and conical hats; bicycles still clogged the roads; water buffalos toiled in the rice paddies; fish traps stood at every drainage point in the fields and ditches; children played alongside the road; adults squatted in the doorways of their dwellings.

Here and there along the road, I could see cemeteries, graveyards for the soldiers who died in the war with America, each tombstone bearing a large red star.

We crossed the Red River on the bridge next to the one so frequently bombed during the war. It had taken 20 years but we were finally in the city limits of Hanoi. The city looked poor but reasonably neat. It could be called shabby. Streets, curbs, sidewalks and buildings are in need of repair. None of the buildings was taller than the trees. In the tropical heat and humidity, the entire city looked faded. But it takes money to keep paint looking good, and this is a desperately poor country. According to the United Nations, Vietnam ranks 162nd out of 164 countries in the world in per-capita income.

What I saw over the next few days turned my thinking about Vietnam upside down. We checked into the government guest house and were allowed to go where we wanted in the city. What happened to me, to put it in the simplest terms, was that I began to see the Vietnamese as a people.

My impressions of Hanoi were of an impoverished city, one drained of all resources by 50 years of war. A city too poor even to generate much trash. The North Vietnamese had finally won their war, but at the expense of consuming practically everything they had. A true Pyrrhic victory! Their problems were compounded by an economic policy which for the last 15 years was, by their own admission, a dismal failure.

The signs of poverty were everywhere. Women stood in line to buy a single smear of lipstick; street vendors used hypodermic needles to refill ballpoint pens; fixing flats was a constant activity on the streets. There was very little soap in the country (which perhaps accounts for the gray drabness of the clothing). Cigarettes were sold one at a time. Practically no one had a watch, so they all seemed to depend on the big clock on the main post office for telling time. What a sound it made. Not a bell but a gong.

We often walked in the park observing the people and in turn being observed by them. The kids were fascinated by my hook. They gathered around us, their faces full of curiosity and wonderment. They followed along for a short distance until their parents called. I was fascinated by the number of fathers who had their children on outings or spins around the lake. I did not expect to see this from hard-core Vietnamese. Maybe I hadn't imagined that these men I had hated for so long could love their children. That is what war does to us: It prevents us from seeing our enemies as human beings. But there was a great deal of love and pride evident in the faces of these Vietnamese fathers.

I walked over to the lake to see what the water looked like. I had watched a father squat by the edge and cool himself and his child with water he scooped up in his hands, and I was curious whether the water was clean. It was filthy: cloudy with the look of sewage and run-off from the gutters. I learned later that malaria and other infectious diseases are rampant throughout Vietnam. And I thought: The Vietnamese, my old enemies, suffer the afflictions that plague so much of the world—polio, typhoid, diarrhea, the whole host of microorganisms that inflict mankind.

Because the Vietnamese are so poor, they lack the medicine to combat disease and infection. In one operating room we observed a 7-year-old girl with polio being prepared for surgery. There was no disinfectant on her skin or in the operating room and there were no antibiotics. The infection rate in the operating rooms was over 50 percent, we were told. To put this in perspective, the international standard which countries try to acheive is 3 percent. And I thought: This Vietnamese girl's mother and father don't love their child any less than I love my own two daughters.

One night I walked into a cafe with Bill Bell, a colleague who speaks Vietnamese and has been coming to Vietnam since 1973 as part of the official team that has been trying to recover POWs and MIAs. A group of about 15 older men were sitting around a couple of tables. They stopped talking immediately when we entered and watched us suspiciously as we walked to the bar. "Old cadre," remarked Bill, as we leaned against the teak bar.

Bill told me about one old veteran he had met a few years ago who related his travels along the Ho Chi Minh trail. During one trip, while driving a truck full of supplies, he had been strafed by American planes three times. Each time the bullets punctured his tires. He did not have any patching material so he improvised by hunting around the jungle and killing frogs. He skinned the frogs and used the hide to patch the tires.

Bill told me other stories: of editorials in the Hanoi newspapers raising hell with the government for not living up to the promises made to its veterans. The Vietnamese vets were complaining that they were not getting prosthetic limbs to replace the real arms and legs they had lost while fighting for their country. And younger veterans were complaining that the older veterans had all the good jobs.

I knew exactly what those Vietnamese vets were talking about. Certain problems are universal in nature, and veterans of any country voice much the same type of complaints. And I realized that I was beginning to feel a sense of kinship for their problems.

The odd thing was, the people I met seemed to genuinely like us, too. When we were out walking, they usually assumed we were Russian, since there are plenty of Russians around, and they seemed wary of us. But when they learned that we were Americans, their coldness turned to friendliness and curiosity. Maybe it's that we all share the same horrific experience of the Vietnam War.

This sense of kinship bothered me, to be honest. I had spent 20 years thinking of the North Vietnamese as the murderous ghouls who degraded our dead soldiers by holding them as ransom. Like my fellow Vietnam vets, I believed that they received some perverse pleasure from torturing the unfortunate families of gallant American men lost in battle, I hated the Vietnamese and believed they hated Americans just as much.

But here I was in the middle of Hanoi relating to these people as human beings—discovering that I did not hate them as people. What was even more unsettling was that these people did not seem to hate us. As I walked around the lake in the evening or in the hot humid noonday sun watching the busy streets full of Vietnamese I felt a sense of freedom. Not politically but spiritually. I was actually enjoying myself for the most bizarre of reasons: I was taking a walk in Vietnam and I wasn't on guard for my life.

As a soldier in Vietnam 20 years ago, I had always wanted to be able to take a walk, to go for a stroll and look around without having to worry about getting shot or blown up by the Vietnamese. Now here I was in the middle of Hanoi, among friendly people, having a good time. I could relax. The war was over.

One evening, the Vietnamese delegation hosted a dinner for us. At the dinner I spoke to a Vietnamese official. He represented to me the quintessential North Vietnamese. He had been a prisoner of war under the Japanese, he had been shot in the stomach in 1952 while he was a Vietminh fighting the French and he was in charge of "Clandestine Affairs in Urban Areas" in the fight against the Americans. His brother was killed in a B52 raid in 1972. Surely this man would hate me.

As we relaxed and conversed in comfortable surroundings I thought to myself that my dinner companion was no pilgrim. He was a hardcore soldier who had been fighting for his country's freedom from foreign domination all his life. Whether I agreed with his political philosophy or his definition of freedom or not, I respected the man for his determination and sacrifice. He had fought hard because he had wanted his countrymen to have a better life.

So I began to ask myself: Who will help these people achieve the goals they fought for so long and hard? Certainly not the Soviets. We saw nothing—in any area of civilian life—that the Russians have done to help the people of Vietnam achieve that better life. The North Vietnamese know they need help from someone. What country is rich enough to help them? And what country, in their eyes, owes them that help?

For years I have been reading about Vietnamese claims that we owe them war damages for what we did to them. I thought they had it backwards; my concern had been with the damage Vietnam had inflicted on America—the dead and wounded, the POWs and MIAs and the psychological damage inflicted on literally millions of other Americans. I didn't pay much attention to their demands for help.

Americans are a generous people. when we finish our wars, we usually try to help the other side back on its feet, no matter how many casualties we suffered or how hateful our adversaries. We helped create the modern economic miracles of Japan and Germany. But for Vietnam, we have done nothing. And if we're honest, we know why. It is because they won the war, and we still hate them for it.

When we left Vietnam, our delegation recommended that humanitarian aid be provided to Vietnam by non-governmental organizations. As medical experts, we knew this was the right thing to do because the medical needs are enormous. We did not like the politics of Vietnam but we liked the people. I came to believe that they deserved the assistance of the people of America. There will always be differences between our two countries, but there is a lot of common ground to work with.

Let me put it another way: Twenty years ago, when I lost my arm in Tam Key, I thought that I was fighting for the people of Vietnam. Today, although the government in Hanoi is not what I would like, the people still need our help. The North Vietnamese we fought and the South Vietnamese who were our allies are all under one government now. There are hundreds of thousands of our former friends and enemies who were left disabled by that war. They all share a common plight now. Do we leave these people handicapped with no hope for rehabilitation, no hope of recovering either physically or economically? Or should we try to help them?

Any soldier who has been in combat knows that there comes a time after the battle, when the smoke has blown away and the dust has settled, when you must lean down and give your foe a hand. For in that moment of generosity, the war is truly over.

Mr. DODD. Mr. President, I cannot help but comment on the remarks of my colleague from Arizona.

I would like to ask him if I may be added as a cosponsor. It is a commendable suggestion, particularly coming from him, one who bears the scars of war, and who would ordinarily be one of the last people to propose such an idea.

CEASE-FIRE AGREEMENT BETWEEN THE GOVERNMENT OF NICARAGUA AND NICARAGUAN RESISTANCE

Mr. DODD. Mr. President, I rise to commend the leaders of the Contras in Nicaragua as well as the members of the Sandinista Government. I will mention them specifically: the leadership of Dr. Adolfo Calero, Alfredo Cesar, Aristides Sanchez, as well as members of the Sandinista negotiating team of Humberto Ortega, Minister of Defense, Mr. Jans Wischnewski, an adviser, and others who signed this agreement last evening in Nicaragua. It at least begins a process of achieving a cease-fire. I think it is an historic moment achieved in face-to-face negotiations that many including myself did not think would probably be possible, but it did occur. It is not completed, obviously. There are a number of steps yet to be met in this process over the next month or so. But, nonetheless, I happen to believe it is going to be successful.

I think the people responsible for achieving that success deserve our commendation at this juncture. We will watch carefully over the next few weeks to see if, in fact, what is pointed out in the agreement will be achieved.

For this Senator's part, I am prepared to support a humanitarian aid package to the Contras that will comply with both the spirit and the letter of this proposed agreement so that we can move the process along.

I do not know what the timetable is for that with an Easter recess coming up, Mr. President, but if at all possible I think it would be encouraging to try to get that done.

I think our distinguished leader has indicated that such proposal would probably be initiated in the House and then come to the Senate. If that is the case, I would urge our colleagues in the other body to move on that front. Again I urge that when they do so it be done following the letter and spirit of this Sapoa agreement so we can support this particular effort.

Mr. President, I do not think any resolutions are appropriate at this juncture on a matter like this because it is not completed yet. It is an important step but it is not a final step as far as a cease-fire agreement.

Mr. President, I ask unanimous consent that a copy or text of this agreement, the agreement between the constitutional government of Nicaragua and the Nicaraguan resistance, be included in the RECORD at this point. I urge my colleagues to read over this agreement—it is not a lengthy one—to familiarize themselves with the terms so they can watch these talks proceed over the next several weeks.

There being no objection, the agreement was ordered to be printed in the RECORD, as follows:

[Unofficial Translation]

AGREEMENT BETWEEN THE CONSTITUTIONAL GOVERNMENT OF NICARAGUA AND THE NICARAGUAN RESISTANCE

The Constitutional Government of the Nicaraguan Republic and the Nicaraguan Resistance, meeting in Sapoa, Nicaragua on March 21, 22, and 23, 1988, for the purpose of contributing to the implementation of the Esquipulas II Accords and in the presence of two witnesses, His Eminence Cardinal Miguel Obando y Bravo, President of the Episcopal Conference of Nicaragua and His Excellency Embassador Joao Baena Soares, Secretary General of the Organization of American States (OAS) have reached the following:

AGREEMENT

1. To cease offensive military operations throughout the national territory for a period of 60 days beginning on April 1, 1988. During this period there will take place a process of integral negotiations to achieve a definitive Cease-Fire, and its effective implementation will be carried out jointly with the other commitments contemplated in Esquipulas II for the purpose of ending the war.

Both parties agree to meet again at the highest levels in Sapoa next April 6 to continue the definitive cease-fire negotiations.

2. During the first 15 days, the Resistance forces will locate themselves in zones, whose areas, size and modus operandi will be mutually determined through Special Commissions meeting in Sapoa beginning Monday, March 28, 1988.

3. The Nicaraguan Government will decree a General Amnesty for persons tried and convicted of violating the Law of Maintenance of Order and Public Security and for the members of the Army of the former regime for crimes committed before July 19, 1979.

In the former cases, the Amnesty will be gradual, taking into account the religious feelings of the Nicaraguan people, during Holy Week, on Palm Sunday, it will begin with release of the first one hundred prisoners; later, at the moment when it has been verified that the forces of the Nicaraguan Resistance have entered the mutually agreed upon zones, fifty percent of the prisoners will be released. The remaining fifty percent will be released at a later date at the moment when the definitive Cease-Fire is signed, which will be determined at the April 6 meeting in Managua.

With respect to the prisoners contemplated in the final part of the first paragraph of Number 3, their release will begin with the signing of the definitive Cease-Fire depending on a prior decision of the Inter-American Commission on Human Rights of the OAS.

The Secretary General of the OAS will be the guarantor and depository of the implementation of this Amnesty.

4. To guarantee food and basic supplies for the irregular forces, exclusively humanitarian aid will be solicited and received, in accordance with Number 5 of the Esquipulas II Accords, and it will be channeled through neutral organizations.

5. The Nicaraguan Government will guarantee unrestricted freedom of expression as contemplated in the Esquipulas II Accords.

6. Once the Nicaraguan Resistance forces are concentrated in mutually accepted zones, they will send to the National Dialogue as many delegates as its corresponding political organizations up to a maximum of eight. In the National Dialogue, among other themes, the issues related to Military Service will be treated.

7. It is quaranteed that all individuals who for political or any other reasons have left the country can return to Nicaragua and incorporate themselves into the political, economic and social life, without any conditions other than those laid down in the laws of the Republic. They will not be tried, punished or persecuted for any political-military activities they might have engaged in.

B. The Constitutional Government of Nicaragua certifies that the individuals who will have been reintegrated into normal civilian life will be able to participate, under equal conditions and guarantees, in the Central American Parliamentary elections and the municipal elections, on the dates scheduled for them, as well as in the national general elections on the dates which have been determined in the Political Constitution.

9. For the purpose of verifying the compliance with this Agreement, a Verification Commission will be formed with the participation of the President of the National Episcopal Commission, His Eminence Cardinal Miguel Obando Y Bravo, and the Secretary General of the OAS, His Excellency Ambassador Joab Beana Soares.

The technical aid and services required for this Commission, which will allow for the expeditious implementation, follow-up and verification of this Agreement, will be sought from and entrusted to the Secretary General of the OAS.

ADDITIONAL PROVISIONAL AGREEMENT

Both parties agree to prolong to April 1, 1988 the cessation of offensive military operations agreed to by both parties this past March 21.

In good faith the signatories below subscribe to this Agreement, with two identical copies this 23rd day of March 1988, in Sapoa, Rivas, Nicaragua.

For the Nicaraguan Government: General of the Army, Humberto Ortega Saavedra, Minister of defense; Hans Juergen Wischnewski, Advisor; Paul Reichler, Adviser.

For the Directorate of the Nicaraguan Resistence; Dr. Adolfo Calero Portocarrero, Ing. Alfedo Cesar Aguirre, Dr. Aristides Sanchez Herdocia.

CEASE-FIRE COMMISSION OF THE NICARAGUAN RESISTANCE

Lic. Jaime Morales Carazo, Chief Negotiator; Dr. Fernando Aguero Rocha; Diogenes Hernandez Membreno (Comandante Fernando); Oborno Collemann (Comandante Blas); Ing. Roberto Urroz C.; Walter Calderon Lopez (Comandante Tono); Arturo Salazar Barberena (Comandante Omar); Almirante Ramon Emilio Jimenez, Adviser.

WITNESSES

Cardinal Miguel Obando Y Bravo.
Ambassador Joao Baena Soares.

ORDER OF BUSINESS

Mr. DODD. Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, does the Senator wish me to yield to him?

Mr. HEINZ. I thank the majority leader. The Senator from Pennsylvania just seeks time to deliver a statement.

Mr. BYRD. How long does the Senator wish to speak?

Mr. HEINZ. No more than 5 minutes.

Mr. BYRD. Mr. President, I have no objection, of course, but I hope that the Senate will continue to debate the business that is before it, and if Senators wish to offer amendments, it is a good time to offer them. It is only 3:30 in the afternoon. I will yield the floor for the moment.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

CHILD PROTECTION AND OBSCENITY ENFORCEMENT ACT

Mr. HEINZ. Mr. President, I rise today to announce my cosponsorship of S. 2033. That legislation is better known as the Child Protection and Obscenity Enforcement Act of 1988. I do so because all across this country and all across my own State of Pennsylvania, there are many people who are justifiably angry over the extent to which pornography has permeated our society, and what concerns them, in particular, is the sexual exploitation of our children.

I share their concern. I share their great difficulty with this subject, and, in particular, I share it because parents have little means with which to police their telephones.

I have received a large volume of mail regarding pornography, especially dial-a-porn, from concerned citizens. I want to share one or two examples with my colleagues.

One individual, Mr. R.J. Miller of Elkins Park, PA, wrote:

> I urge you to support legislation prohibiting commercial, indecent, and obscene phone messages. This "service" is a violation of my home; a violation over which I have no control.

Children do not have to participate in pornography to be exposed to its harmful physical and psychological effects. Business cards are left on automobile windshields across the country advertising dial-a-porn numbers. Unsolicited sexually explicit mail is being mailed to homes, advertising dial-a-porn numbers and pornographic merchandise.

Another of my constituents, Carroll Ballard, of Swarthmore, PA, has written expressing her deep concern over this subject:

> I certainly don't dispute people's right to have pornography or join the Nazi party or any number of obnoxious activities. I just don't want pornographers randomly soliciting my support or business in my home. Pornography is an incendiary topic with me and it is hard to separate my emotions from the issue and cull out the real infractions of my right to privacy.

The receipt of unsolicited, sexually explicit mail must be stopped. Karen Anne Capie of Bensalem wrote:

> As the mother of two young children, I find this form of unsolicited adult material very offensive. Who is going to see to it that only 18-year-olds will read the mail before their parents come in from work?

Mr. President, these are legitimate concerns. They raise the right questions, and I think all of us in this body agree that they are concerns and agree with the questions must be answered.

Above all, the ministers of many communities like McDonald, Midway, Hickory, and Cecil, and hundreds of others, to name only a few, have written to express their concerns over this issue. They wrote:

> We are extremely outraged and concerned over the implications associated with the distribution of sexually oriented materials to the families of our communities. The very labeling of the envelopes themselves, "For Adults Only" seems more like an enticement to younger children than a warning or precaution.

I agree with that as well.

Mr. President, there are Federal statutory provisions which authorize people who do not wish to receive pandering advertisements through the mail to request that such mailings be stopped from being delivered to their homes. The problem with this is twofold: First, too few are aware of this service, and; second, one must first receive the unwanted mail in order for the Post Office to know which company it should issue a prohibitive order.

What we must do is a far better job of stopping this mail at its source. By abolishing dial-a-porn, there will be no "Service" to pander. By strengthening current obscenity laws, there will be no material to advertise.

That is what the Child Protection and Obscenity Enforcement Act would do. This bill would strengthen existing laws, and ensure that the criminals who abuse and victimize children and spread pornography in our communities can be brought to justice.

S. 2033 is a comprehensive legislative package which strengthens existing Federal laws dealing with obscenity. Under this bill, child pornography would be made an offense under RICO, the Racketeer Influenced Corrupt Organization Act. Among other things, this proposed new law would increase the ability of the Justice Department to attack the interstate traffic of pornography and obscenity. Our legislation also takes into account new technologies by, for example, banning the use of computers to advertise, distribute, or receive child pornography and other obscene material.

The bill would make it a Federal offense to establish the receipt or possession of obscene material. The bill also contains forfeiture provisions which have demonstrated success in the drug and racketeer enforcement areas. Under this legislation, the Government will be permitted to order wiretaps for felony obscenity offenses.

In the communication area, the bill deals with the dial-a-porn issue in an effective and constitutionally acceptable manner. Recognizing the first amendment problems in this area, S. 2033 bans the use of obscene language over the telephone while requiring indecent material be put beyond the reach of minors. Thus, the Child Protection and Enforcement Act balances free speech concerns with the public's legitimate concerns over our children's exposure to pornography via the telephone.

The bill also deals with obscenity on cable television. However, of all the letters, calls, and town meetings I have had where pornography is discussed, relatively few have expressed serious objections to what is being shown on cable. Maybe this is because we already have enforceable legislation banning obscenity from cable. Maybe this is because cable is required to provide lock boxes to parents who wish to black out particular programming. Maybe this is because cable is a subscription service, offering protection to both the subscribing and nonsubscribing public against unwanted reception of adult-oriented material.

Nevertheless, cable television has now grown to become one of this country's leading communications media. Over half of America's households who own televisions receive their programming through cable. I strongly believe that cable has a moral obligation to ensure that children, as well as disinclined adults, are not exposed to adult-oriented programming.

Mr. President, a recent Federal sting operation in Illinois uncovered a cache of 1,000 child-porn magazines. This enforcement effort, known as "Operation Borderline," is an ambitious project of the U.S. Customs Service. Borderline alone is expected to yield 100 pedophile guilty pleas or convictions.

It is a start, but it is only the start of a major Federal assault that we may need to make on the most despicable of crimes. I feel it illustrates the need for further congressional action. For this reason, I strongly support efforts to close loopholes in existing laws dealing with obscenity and child sexual abuse and why I strongly support the Child Protection and Obscenity Enforcement Act.

Mr. President, I yield the floor.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The Senate continued with the consideration of the bill (S. 79).

Mr. BYRD. Mr. President, the Senate has been having good debate today, and it has been having votes on amendments. I hope that the Senate will continue to debate the measure. The middle of the afternoon is not the right time for morning business speeches. I hope that Senators will be prepared to debate and vote on amendments. I had not planned to offer a cloture motion today because I felt the Senators were making progress and debating the measure.

I was prepared to suggest the absence of a quorum, but I see the ranking manager is on the floor, and I will not do so. I hope the Senators, however, will not have to use the best part of the afternoon to make morning business speeches. Now is the time to go forward with the debate and act on amendments.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, we have been trying to ascertain what really is in this new substitute bill that has never been heard by the committee, never had 1 day of hearings, never has had a committee markup, and incidentally at the last moment appears on the floor of the Senate as the new bill. So we are trying to figure out what it says. We are trying to get amendments straightened out. We are trying to do a lot of things that literally we thought we had done when we had the original bill put out of the committee on an 11-to-5 vote.

As I say, the majority can do anything they want on that committee with regard to these types of issues. We figure when they finally brought this out after all the debate we had in the committee, all the hearings we had in the committee, all the markup time we had in the committee, that would be the bill.

Now, it is not unreasonable to understand why, in poring through almost a 100-page bill, we are a little bit concerned about how we can bring up substantive and other types of amendments. Nevertheless, I believe we will have some amendments. I have chatted with some Senators who have expressed a desire to come, and we will try to encourage them to come as soon as they can. But I think it is certainly not a cause for alarm that we now have some delay because it is a new bill, with nothing basically known about it other than what we know about the old bill. We are in the process of trying to straighten out some of the problems which naturally have arisen since last evening. With that I would like to suggest the absence of a quorum until we have someone here who would like to present an amendment.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I would like to ask the majority floor manager of the bill just a few questions because I think that we should try to clarify the bill at least as far as we can. I have to admit we do not know what is in this bill yet. We have been studying it all day. I suspect it will take us probably a few more days to even start to understand it and to get our amendments put together.

Mr. President, even after several hearings on this issue, debate during the Labor Subcommittee and full committee executive sessions and the issuance of a committee report, there was a lot of confusion about the provisions of the legislation that is now no more. You can imagine how we are confused about the present legislation, so I will ask the distinguished Senator from Ohio to clarify a few points about the intent of the legislation.

For instance, first, there seems to be some confusion surrounding the definition of an occupational health hazard. S. 79 does define "health hazard" to include "a chemical, a physical, or a biological agent" or an "industrial or commercial process."

Now, the committee report goes on and it provides some further enlightenment when it says:

> Physical hazards may include ionizing radiation (as with uranium mining), and nonionizing radiation (as with radio transmitters). Chemical hazards may include organic substances (such as vinyl chloride used in the plastics industry) and inorganic substances (such as inorganic arsenic present in metal smelter operations).

The committee goes on to say in the report that processes may include things which pose "discrete identifiable risks even though the precise agents which create the risk cannot always be identified."

Now, it might help everybody concerned about this bill to clarify what could or could not be included within this definition. For example, I would ask my friend would this definition be broad enough to cover noise in the workplace?

Mr. METZENBAUM. I doubt that very much, but it might depend upon the extent of the noise and the significance of it and really what kind of problem it raises.

Mr. HATCH. If it does not cover noise, why would it not?

Mr. METZENBAUM. Because it would not be considered that kind of occupational exposure in the nature of fumes or gases.

Mr. HATCH. I would like you to show me in the bill where it excludes noise because I think the bill——

Mr. METZENBAUM. I have not said to you that it excludes noise. I have said that in most cases it probably would not include noise. Under certain circumstances, I think it might be possible for the board to make a determination that noise was included, but I would guess that in the overwhelming majority of cases it would not be included.

Mr. HATCH. I wonder if we should not make that more clear so people do have a standard that they understand.

Mr. METZENBAUM. I think that is a reasonable suggestion, and I would be very happy to have your staff work with mine to clarify that. I think that is totally reasonable.

Mr. HATCH. All right. You can see why I am concerned because if noise becomes a hazard, then who is going to define what type of noise or to what extent the noise has to be in order to be a hazard? I think it just points out how poorly drafted the bill may be. I do not know what the new bill says on this particular area, but I do not think it clarifies that particular area.

Mr. METZENBAUM. Let me say to the Senator that——

Mr. HATCH. Or does the new bill clarify it?

Mr. METZENBAUM. When you talk about 100 pages and you do not know what the changes are, we only changed about 4 pages of the bill. It has now been urged that the entire matter be printed. But I do not want the Senator to get the impression that we made changes hit, skip, and miss throughout 100 pages of the bill, rather, just on about 4 pages.

Mr. HATCH. If that is so, we have not been able to ascertain that. It is pretty difficult for us to understand what has and has not been changed, because it is a cut-and-paste job.

Mr. METZENBAUM. If you look at what we submitted yesterday as the modified committee amendment, I think you will see that it is quite limited. But we want to be cooperative in every way possible to be certain that there is not any misunderstanding as to what we did put into the bill.

Mr. HATCH. All right. If we cannot resolve this noise problem, what do we do? Because we do not want to have an open-ended liability for all businesses including many, many small businesses with regard to the issue concerning noise because that could be advocated by anybody who wants to give any business a rough time.

Mr. METZENBAUM. In the last analysis, it would be determined by the board. Now, generally speaking, they would not make a determination that all plants have this exposure or creation of deafness but it could very well be that in a plant which, let us say, covered 12 acres, with an environment where the machines are pounding away and where there is that kind of exposure, they might come to that conclusion.

But I think we have to recognize the thrust of the legislation. The thrust of the legislation really has to do with the issue of cancer and cancer-causing workplace hazards. Noise leading to deafness might be determined to be a hazard. And as I said, in order to clarify that, if the Senator from Utah wants to work out some language on it, I would have no difficulty in agreeing to that. But in the last analysis whatever determination is to be made it is not a matter of opinion for me or you or someone else, but it is a matter of science and this board which would be totally science-related.

Mr. HATCH. If it is a matter of science and if the major thrust of the bill is to try and attack problems that might lead to cancer, then why is not smoking and passive smoking part of the bill? Why do we not have provisions in here to resolve all of the problems that occur in industry, that could result and certainly do result in having to be in the area of tobacco smoke?

Mr. METZENBAUM. The Senator knows that I have stood shoulder to shoulder with him with respect to the challenges created by reason of smoking.

Mr. HATCH. Then why is it not in this bill?

Mr. METZENBAUM. But I think there is a distinction, and I am proud to say to you that all of the health groups that are concerned about this subject have indicated their opposition to adding an amendment which I think that the Senator has been contemplating.

Mr. HATCH. All of the health groups——

Mr. METZENBAUM. I believe so.

Mr. HATCH [continuing]. Would be opposed to having passive smoking as part of this bill, which is one of the major causes of cancer, according to the Surgeon General?

I personally do not agree with that. I do not think that is true.

Mr. METZENBAUM. The Lung Association is with us on the issue.

Mr. HATCH. They are with you on the passive smoking issue, the Lung Association, the American Lung Association, and the American Heart Association.

Mr. METZENBAUM. The answer is yes.

Mr. HATCH. I don't believe so.

Mr. METZENBAUM. I want to say this to the Senator. They are with him on the issue generally but they are opposed to his smoking amendment, the one we have heard talked about being on this bill.

Let me read something stated by the American Lung Association, the American Cancer Society, and the American Heart Association in a letter addressed to a very distinguished Member of the United States Senate, the Senator from Utah, Senator HATCH, dated February 3, 1988. They said:

> S. 9 * * * generally addresses the issue of tobacco use in the context of the purpose of this legislation * * *

These groups, like this Senator, take a back seat to no one when it comes to protecting the health and rights of nonsmokers. But the lung, cancer, and heart associations, it is my understanding, have urged the Senator from Utah not to introduce any smoking amendments to S. 79. And I think that should send a strong message. As a matter of fact, I ask unanimous consent that this letter be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN LUNG ASSOCIATION,
February 3, 1988.

Hon. ORRIN G. HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: The American Lung Association, the American Cancer Society, and the American Heart Association appreciate your continued interest in issues addressing the hazards of tobacco in the workplace. We share your concern regarding the protection in the workplace of the nonsmoker from the health risks of exposure to side stream tobacco smoke.

The ALA and ACS strongly support enactment of S. 79, the High Risk Occupational Disease Notification and Prevention Act of 1987 as a mechanism to reduce the incidence of occupational diseases. (The AHA has taken no position on this legislation.) Occupational lung disease including lung cancer is the number one work related disease in the United States. Occupational cancer costs this nation $1.3 billion annually—$254 million in direct costs, $5.15 million in morbidity costs and $1.05 billion in mortality costs. The scientific and medical community recognize that in those instances where a worker smokes, the risk of occupational disease is greatly increased.

S. 79, as reported by the Senate Committee on Labor and Human Resources, generally addresses the issue of tobacco use in the context of the purpose of the legislation, ". . . to establish a federal program to notify individual employees within populations at risk of occupationally induced disease that they are at risk because of exposure to an occupational health hazard". Specifically, S. 79 includes the following provisions:

Risk Assessment Board: sec. 4(c) (1) and (2). The Board, under its general duties, is required to review the medical and scientific literature related to the incidence of occupational diseases. We expect that any study utilized by the Board for purposes of making a determination related to occupational lung disease will include available relevant data on smoking habits since this is a known contributing factor.

The Board is also directed to determine the appropriate type of medical monitoring. In the case of occupational lung disease, we believe that medical monitoring will include counseling relative to smoking cessation.

In sec. 4(c)(2)(D) the Board is expressly directed to review the extent of the increased risk of illness or disease caused by occupational health hazards in combination with such factors as smoking.

Employee Notification and Counseling: sec. (b)(5). The contents of the notification to employees must include information on contributing factors to increased risk of illness including smoking where the data base reviewed by the Board demonstrates such a finding.

Further, the contents of the notification must also include information on appropriate medical monitoring. Again, if the Board includes smoking cessation as a part of its medical monitoring recommendations, the notification must provide this information to the employee.

It has come to our attention that you are considering several amendments to S. 79 which address tobacco use. We have reviewed your amendments from the Committee mark-up as well as your comments, and believe that your amendments will not advance the goals of S. 79 which focus on employee notification regarding workplace hazards generated by the work process. While we agree that tobacco related issues in the workplace are important, we have concerns about the impact of your proposed amendments on S. 79 and your statements that even with passage of such amendments you would not support S. 79. We believe that there are better vehicles to address your tobacco concerns and would like an opportunity to meet with you to explore more appropriate vehicles for your series of amendments. Therefore, we encourage you to reconsider your position before proceeding with these amendments to S. 79.

Sincerely,

FRAN DU MELLE,
Director, Government Relations, American Lung Association,
ALAN DAVIS,
Vice President for Public Affairs, American Cancer Society,
SCOTT BALLIN,
Vice President for Public Affairs, American Heart Association.

Mr. HATCH. I think if they did not like the amendment that I presented in the committee, then it seems to me they certainly would like some way of having passive smoking addressed by this bill. So in the spirit of compromise that the Senator and I have been chatting about, why do we not come up with a way of putting passive smoking into this bill so that it will be satisfactory to the American Lung Association because I am just as amenable to compromise as the Senator from Ohio.

And if my amendment is not acceptable to them, I will be happy to work with them, and with the Senator from Ohio, with the American Lung Association, the American Cancer Association, the American Heart Association, and all of the others to remedy one defect of this bill by addressing the hazards of tobacco in the workplace.

Mr. METZENBAUM. There is a young fellow on the floor who I think might have an interest in any tobacco or smoking amendment that the Senator from Utah might have. That is the distinguished Senator from North Carolina sitting behind him. I am sure that the distinguished Senator from Kentucky, Senator FORD, would have considerable interest in any smoking amendment that the Senator from Utah or any other Senator might advance.

Mr. HATCH. I think it is probably true. Let me just say this: It says in the last paragraph:

> It has come to our attention that you are considering several amendments to S. 79 which address tobacco use. We have reviewed your amendments from the Committee mark-up as well as your comments, and believe that your amendments will not advance the goals of S. 79 which focus on employee notification regarding workplace hazards generated by the work process. While we agree that tobacco related issues in the workplace are important, we have concerns about the impact of your proposed amendments on S. 79 and your statements that even with passage of such amendments you would not support S. 79. We believe that there are better vehicles to address your tobacco concerns and would like an opportunity to meet with you to explore more appropriate vehicles for your series of amendments.

While they agree tobacco-related issues in the workplace are important——

Mr. METZENBAUM. But should not be addressed in this bill.

Mr. HATCH. They seem to say that. However, I think, if we are doing an occupational safety and health bill, and everybody agrees that passive smoking is a workplace hazard, the way to solve the problem, since this bill is directed toward workplace hazards, or at least purports to be directed against workplace hazards, is to remedy the defect by coming up with an amendment that will help solve the problem.

Who knows? If the amendment is strong enough, if it is good enough, and we can make other appropriate changes in the bill, who knows? I may look at the bill with a more favorable eye. There are so many defects in the bill besides this that I have to say even, if we put it in right now, the way I understand the bill to be drafted, I would have some difficulties with that. Let me just do this.

I understand the distinguished Senator from North Carolina is on the floor. Let me reserve some other questions until after he proceeds.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair for recognizing me.

Mr. President, momentarily I will send to the desk an unprinted amendment which is virtually identical to an amendment which passed the House of Representatives on October 15 of last year by a very substantial margin.

The amendment I will propose would ensure that our Nation's health care workers and emergency personnel are provided with the same quality of care as other classes of individuals determined by the Government to be at risk of occupational disease. Specifically, the amendment would designate as "population at risk" all health care workers and emergency care workers including physicians, nurses, dentists, dental hygienists, firefighters, emergency care workers, and any other person at risk of occupational exposure to AIDS or the HIV infection.

In designating the health care workers as a population at risk this amendment will ensure that health care workers are personally notified on their risk of exposure to an occupational hazard, and are provided with the same testing and monitoring provided to other workers designated as "population at risk."

Mr. President, if anybody is clearly exposed to a health hazard it is the American health care worker and emergency personnel, and constantly so I might add. They, unlike any other professionals in America, are on the front line every day being exposed to one of the deadliest epidemics in the history of this country, perhaps even the world.

Current research shows that the AIDS virus is transmitted by contact with certain bodily fluids. Health care workers must manage a patient's blood and other vital fluids known to carry and in some cases transmit the deadly AIDS virus. So if ever there was an occupational hazard that deserves the attention of this Senate, Mr. President, it is the AIDS virus in the health care setting.

I guess it is not necessary to elaborate on how serious the AIDS problem is. We have done that many times, and it is being done daily, one way or another in the media and otherwise. But just for the record, as of March 18, just a few days ago, 56,212 Americans are reported as having AIDS 31,420 of that number are dead.

In 1991 alone it is projected more people will die of AIDS than the total number of Americans who died on the battlefields during the entire Vietnam war. That is only the tip of the iceberg, Mr. President. There are valid estimates that 1.5 million Americans right now are infected with the virus.

Dr. James Mason, Director of the Centers for Disease Control recently released a report on the rate of HIV infection and these statistics are startling. He said 50 surveys and studies indicate that in some areas the serial prevalence rate in homosexual and bisexual men has reached 70 percent, or to put it another way, 70 out of 100 homosexuals are infected right now with the deadly AIDS virus.

Among drug users, 65 out of every 100 in New York City and Puerto Rico are infected with the virus right now.

Among hemophiliacs, according to Dr. Mason's reports, approximately 70 percent of Americans afflicted with hemophilia A and 35 percent of Americans with hemophilia B are infected right now.

According to a report by the American Council on Science and Health, 74 percent of the hemophiliacs receiving factor 8 are infected. According to the winter 1988 edition of a periodical entitled, "Perspectives," 10 percent of the sex partners of infected hemophiliacs have become infected with the AIDS virus.

AMENDMENT NO. 1815

(Purpose: To designate health and emergency care workers who are at risk of occupational exposure to the disease known as acquired immune deficiency syndrome or the virus known as HTLV-III or LAV virus as a population at risk)

Mr. HELMS. Mr. President, I send to the desk the amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1815.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, between lines 7 and 8, of the committee substitute insert the following:

(g) DESIGNATION OF HEALTH AND EMERGENCY CARE WORKERS REQUIRED.—Notwithstanding any other provision of this section, the Board shall designate as a population at risk those health care workers and emergency care workers who are at risk of occupational exposure to the disease known as acquired immune deficiency syndrome or the virus known as HTLV-III or LAV virus. The Board shall develop the form and method of notification and determine the appropriate type of medical monitoring or health counseling with respect to such population in accordance with clauses (iii) and (iv) of subsection (c)(1)(A). The designation of such population at risk shall be subject to notice, comment, and review in accordance with subsection (d).

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM and Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The bill clerk continued the call of the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HELMS. I object.

The PRESIDING OFFICER (Mr. LAUTENBERG). Objection is heard.

The clerk will call the roll.

The bill clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 15]

Byrd
Helms
Kennedy
Lautenberg
Metzenbaum
Nickles
Rockefeller

The PRESIDING OFFICER. A quorum is not present.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia [Mr. BYRD] to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Mississippi [Mr. STENNIS] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from Kansas [Mr. DOLE], the Senator from Nebraska [Mr. KARNES], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 33, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—58

Adams
Baucus
Bentsen
Bingaman
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Stafford
Thurmond
Wirth

NAYS—33

Armstrong
Bond
Boschwitz
Chafee
Cohen
Danforth
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hecht
Heinz
Helms
Humphrey
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Proxmire
Quayle
Specter
Stevens
Symms
Trible
Wallop
Warner
Wilson

NOT VOTING—9

Biden
Boren
Cochran
Dole
Gore
Karnes
Simon
Stennis
Weicker

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The Senator from Massachusetts.

AMENDMENT NO. 1816

(Purpose: To authorize an emergency program to disseminate information to reduce workplace risk of transmission of Acquired Immune Deficiency Syndrome)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 1816 to amendment No. 1815.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

"(g) INFORMATION FOR HEALTH AND SAFETY WORKERS.—Within 90 days after the date of enactment of this Act, the Secretary of Health and Human Services, shall develop and implement a program to disseminate information to all health workers, public safety workers, and emergency service workers in the United States concerning methods to reduce in the workplace the risk of becoming infected with human immunodeficiency virus. The information disseminated under this section shall be based on the guidelines issued by the Directors of the Centers for Disease Control.

"Funds appropriated to the Department of Health and Human Services for AIDS prevention programs and activities shall be used to carry out this subsection. No funds authorized to be appropriated under this Act shall be used to carry out this subsection."

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I know the Senator from North Carolina has introduced an amendment and I have introduced an amendment in the second degree. I would be glad to have the Senator from North Carolina make his case and I would make mine and we can move toward resolving that, since the issue has been raised by the Senator from North Carolina. Otherwise, I am quite prepared to proceed.

As I said, Mr. President, the Senator from North Carolina has an amendment in terms of notification of certain public health officials that might be at risk in terms of the AIDS virus and he wants to be able to make the case for that situation.

As I understand, if that amendment is actually accepted, given the amounts which have been included in the legislation, it would take probably 8 to 10 years of the funding of this legislation and effectively emasculate the whole legislation and would further notify them and alert them without giving——

Mr. HELMS. Mr. President, the Senator is entitled to be heard and I cannot hear him.

The PRESIDING OFFICER. The Senator is right. All conversations should be suspended. The Senator is entitled to be heard.

Mr. HELMS. I thank the Chair.

Mr. KENNEDY. Mr. President, in terms of the notification of, as I understand it, approximately 4 million American workers that are related to various public health aspects which would be included in the definition without then the kind of notification about how any of those individuals might actually determine what steps they ought to take after the notification, I have introduced an amendment in the second degree that would follow the kinds of notifications that would have been recommended by the Centers for Disease Control for the Public Health Services workers, which would cost considerably less and also include recommendations to guide those particular workers as to how they might proceed in determining both whether they have been actually affected and what steps they might take for future protection.

So we will have an opportunity to debate this issue, but I do think it is probably appropriate to let the Senator from North Carolina make his particular case. I draw the attention of the Senate to the fact that we do have an amendment in the second degree, which I will explain when I have an opportunity after the Senator from North Carolina. Then I hope that the Senator will accept the amendment in the second degree.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair. Mr. President, I thank the able Senator from Massachusetts.

It may be that in a few minutes the managers of the bill will consider laying aside both the first-degree and second-degree amendments as they now stand at the desk to see if we can work an accommodation. I understand that there are two or three other Senators ready to offer amendments. Let me say this to the Senator, I do have a problem with the second-degree amendment.

If I understand it correctly, it will require the Department of HHS to implement a program designed by the Centers for Disease Control to notify health care workers.

My problem is this. This bill gives the Risk Assessment Board the responsibility for notifying workers about all other occupational diseases. This amendment will treat health care workers exposed to AIDS differently from workers exposed to other occupational health hazards.

In any case, I would like to finish my comments with respect to my amendment but I am willing to forgo that for the time being in the event that the managers of the bill think it might be expeditious to lay this whole matter aside by unanimous consent. I believe Senator NICKLES has an amendment which will not take long. I would just inquire about that.

Mr. KENNEDY. Mr. President, as far as I am concerned, I would certainly be glad to follow that recommendation. We have basically included in the second-degree amendment what has been a procedure which has been recommended to the body by the full Labor and Human Resources Committee. But I think the point the Senator makes is one that is worthy of addressing. If we can move the whole process of the legislation forward by setting this aside and revisiting it, and see if we cannot accommodate the different interests, that would be very satisfactory to me. I think it probably makes some sense. That would be rather than taking up the time of the Senate in our various amendments.

Mr. HELMS. I thank the Senator.

Mr. KENNEDY. I would suggest perhaps if the Senator from North Carolina wants to temporarily set aside his amendment, I would hope no one would object to it. In the meantime, we can try and work out, perhaps, some accommodations.

Mr. HELMS. May I ask if the distinguished ranking manager is agreeable to this?

Mr. HATCH. I am certainly agreeable.

Mr. HELMS. Mr. President, I ask unanimous consent that the amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Stephen S. Trott, of Virginia, to be a U.S. circuit judge for the Ninth Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JUDICIARY

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of Stephen S. Trott, of Virginia, to be U.S. circuit judge for the Ninth Circuit.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HATCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The Senate continued with the consideration of the bill (S. 79).

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

AMENDMENT NO. 1817

(Purpose: To provide that a Financial Impact Statement shall accompany the Conference report of the High Risk Occupational Disease Notification and Prevention Act)

Mr. NICKLES. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Oklahoma.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 1817.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

FINANCIAL IMPACT STATEMENT

SEC. . None of the provisions of this Act shall become effective unless:

(a) The Committee on Labor and Human Resources requests that the Director of the Government Accounting Office prepare a financial impact statement, as described in subsection (b) below, to accompany the Conference report of this bill.

(b) The financial impact statement required by subsection (a) of this section shall state the extent to which enactment of this bill would result in increased costs to the private sector and State and local governments and shall include, at a minimum, a detailed assessment of the annual impact of the bill (projected annually over a five-year period from its effective date and expressed in monetary terms where appropriate) on—

(1) costs to consumers and business;

(2) national employment;

(3) the ability of United States industries to compete internationally;

(4) State and local governments, fiscally and otherwise, and;

(5) outlays by the Federal Government, including indirect costs it will incur as an employer, as compared to outlays for the same activity in the current fiscal year (as reported by the Congressional Budget Office): *Provided*, That the financial impact statement may consist of a brief summary assessment in lieu of the detailed assessment set forth above if preliminary analysis indicates that the aggregate effect on each of categories (1)-(4) above is less than one hundred million dollars.

AMENDMENT NO. 1818

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Alaska.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 1818 to the Nickles amendment No. 1817.

Mr. MURKOWSKI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after "SEC. " in the amendment and insert in lieu thereof the following:

FINANCIAL IMPACT STATEMENT

None of the provisions of this Act shall become effective unless:

(a) The Committee on Labor and Human Resources requests that the Director of the Government Accounting Office prepare a financial impact statement, as described in subsection (b) below, to accompany the Conference report of this bill.

(b) The financial impact statement required by subsection (a) of this section shall state the extent to which enactment of this bill would result in costs or savings to the private sector and Federal, State and local governments and shall include, at a minimum, a detailed assessment of the annual impact of the bill (projected annually over a five-year period from its effective date and expressed in monetary terms where appropriate) on—

(1) costs or savings to consumers and business;

(2) national employment;

(3) the ability of United States industries to compete internationally;

(4) State and local governments, fiscally and otherwise;

(5) outlays by the Federal Government, including indirect costs it will incur as an employer, as compared to outlays for the same activity in the current fiscal year (as reported by the Congressional Budget Office); *Provided*, That the financial impact statement may consist of a brief summary assessment in lieu of the detailed assessment set forth above if preliminary analysis indicates that the aggregate effect on each of categories (1)-(4) above is less than one hundred million dollars; and

(6) increase or decrease of total health expenditures.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my friend and colleague, the Senator from Alaska, for his cooperation.

Mr. President, this amendment is a very simple amendment, but I think it is one that is needed in regard to this bill.

We have heard time and time again that this bill is very expensive. We have heard people state it would cost jobs; that it would make American firms less competitive internationally. I happen to agree with those statements. I did a little research to find out what different groups said about how much this bill would cost and the cost was in the billions, not in the millions; that it would cost firms, domestic firms that are trying to compete internationally billions of dollars.

The amendment which we have before us now would basically instruct the GAO to do a financial impact study to find out the extent of the increased costs, or possibly savings, to the private sector and also the costs or savings to State and local government as well as the Federal Government. The study shall include at a minimum a detailed assessment of the annual impact of the bill and the costs or savings to consumers and business, an assessment on national employment, the ability of the U.S. industries to compete internationally, the costs to State and local government fiscally and otherwise, and also the costs or savings on outlays by the Federal Government including indirect costs that the Federal Government will incur as an employer as compared to the same activities in the current year.

We also go further and say that the financial impact statement may consist of a brief summary assessment in lieu of the detailed assessment set forth above if the preliminary analysis indicates that the aggregate effect on each of these categories is less than $100 million.

Mr. President, the reason why we have included the last statement is because we do not want the GAO to do a lot of de minimis studies for the sake of study, but I am concerned about imposing an enormous financial burden on businesses throughout this country. We seem to have a tendency in this particular year, in this session of Congress, to do a lot of things, in this Senator's opinion, which are very detrimental to business, and therefore detrimental to employment and to our ability to be able to compete internationally. I am afraid that is exactly what this bill is all about. It is going to hurt us internationally. At least that is this Senator's opinion. By having the GAO do a study we will help confirm or possibly disprove that theory.

I looked around to find out what other people and other groups were saying this bill would cost. I expect that it has probably been entered into the record, but Nathan Association did a very extensive study, and they estimated that employers' total costs would be $5.8 to $6.4 billion per year. That is billions of dollars. That has a detrimental impact. Thousands of jobs could be lost if we pass this legislation, if the Nathan study is correct.

Mr. President, I ask unanimous consent that at least the summary of the Nathan analysis be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EMPLOYERS' TOTAL COST OF $5.8 TO $6.4 BILLION PER YEAR

Because of our limited knowledge of the pathology and extent of occupational diseases associated with hazardous substances, and because of the lack of specificity in the proposed program itself, we constructed four different scenarios—a baseline and three alternatives—and estimated employers' costs to be between $5.8 and $6.4 billion per year. As expected, the employers' direct cost of a high-risk worker notification program is relatively small (2 to 10 percent of total cost) compared with the indirect cost of potential litigation. Our estimates are summarized in Table 3.

TABLE 3.—SUMMARY OF THE EMPLOYERS' ANNUAL AVERAGE DIRECT COSTS OF A 5-YEAR, HIGH-RISK NOTIFICATION PROGRAM, BY SCENARIO

[Billions of Constant Dollars]

	Total cost	Direct cost	Indirect cost	
			Defense	Compensation
Baseline	5.828	.119	2.103	3.606
High medical testing and monitoring costs	5.851	.142	2.103	3.606
High incidence of exposure at current employment	5.888	.179	2.103	3.606
High incidence of job-removal protection	6.365	.656	2.103	3.606

Source: Robert R. Nathan Associates, Inc., tables 4, 5, 6, 7.

Mr. NICKLES. I received some information, Mr. President—I am sure that most of my colleagues did—from the National Tooling & Manufacturing Association. They did a study, and I will also include it in the RECORD, which basically said the total cost of the bill for a small company could be about $42,000 to $50,000 per year; for a medium-sized company—and they state a medium-sized company could have 57 workers, which is not a particularly large company—the total cost could be $102,000 to $125,000 per year. Some of my colleagues know that I ran a medium-sized company in Oklahoma. I can tell you that the company I grew up in, I might say, the last couple years has not made that kind of profit. We have not made that much profit in 3 or 4 years.

As a matter of fact, we have been operating at a loss, as many firms in Louisiana and Texas. Other industries have also been losing money. They cannot afford an additional $100,000 burden. Again we are talking about companies maybe with 40, 50, possibly 100 employees. The total cost to the country, when you say it might be $5 or $6 billion a year, loses its relevance or its pertinence to an individual situation. But when you look at a specific company, one with 57 workers and its costs are estimated to exceed $102,000, that concerns this Senator. For a small company, one with 16 workers, this could cost as much as $40,000 or $50,000. I am not sure that they need that additional expense in regulations.

I can tell you as a person who operated one of those companies I am very concerned about the health of workers who I have been associated with past and present. But I can also tell you the cumbersome clerical work it would take to try to find out the information to be used for notification. I can tell you for a small business to go back 30 years, it can be an astronomical burden. I am not sure it can be done in the companies that I have been associated with.

I mentioned this manufacturing company I worked at for years. Yes, it employed about 100 people. But I do not know that we have records that go back 30 years and would tell me every person that has worked in that company. I can tell you time records were kept at one time. But I think they are discarded after a while. Then certainly to try to figure out whether or not an employee would be affected, in other words in a particular category in that plant where he might have been exposed to a hazardous chemical of some nature, would be next to impossible to find out.

So I guess if we did the notification, we would have to send the notification to all the employees because it would not be possible to segregate those one, two, or few that might have had some potential exposure.

So I find the notification requirements to be maybe idealistic, and in many cases impossible to comply with.

I met with a constituent earlier today, a large employer in my State. He said, "This is the problem I find as a small employer." I find it very hard to comply with the notification, not to mention the liability problems that could possibly ensue. He said, "Well, Senator, I came * * *" he has a much, much bigger company with thousands of employees. He said, "We do not keep those records, either. We couldn't tell you every person that has been employed in the last 30 years." Think of it. You can identify the employees you have had that worked 10 years, 20 years, or 30 years because they have a retirement or a benefit of some kind. But a lot of us employ a lot of people. Maybe they are summer employees. They come in, work 3 or 4 months. We do that. I am sure every Senator does that.

It may be quite a clerical burden to try to determine who all the employees are who have had some association with a particular firm or activity in that firm that might have had some classification of high-risk exposure.

I just wondered how big of a door we are opening. This same employer said, "This looks to me like legislation that is a bottomless pit." There is no telling, not only for the identification, but for the risk assessment to try to determine, if you have thousands of employees, which ones may or may not have been exposed to some type of hazard. It would be next to impossible.

So the net effect would be notifying probably many, many times the number of people who ever had any real exposure to any type of a health hazard whatsoever. You may well be causing, for those individuals and their families, a great deal of anxiety for no reason whatsoever. They may receive a letter from HHS, this new board that we are appointing, that says, "Dear former employee: This is to advise you that you may have been exposed to a certain chemical that may greatly increase your likelihood of contracting cancer." Automatically you may have caused those employees a lot of needless anxiety.

For the employer you may be telling the employer yes, you need to do a lot of screening and testing and followup medical activity, and you may be imposing on that employer a tremendous amount of potential liability.

The Nathan study which I alluded to, and inserted in the RECORD, showed liabilities in the billions of dollars for companies. I question whether or not we need to do that. I think we need more accurate detail. We need more information.

That is what this amendment that I have introduced, and the Senator from Ohio has made some suggestions and improvements on that we have agreed with basically that said to let us ask GAO. We have seen what the chamber of commerce, the National Association of Manufacturers have said. I put in some information from the Tooling Association. There are other groups as well. Some people might say that is bias, or that is proindustry.

Let us have the General Accounting Office, give us a detailed assessment of what they believe the cost would be to the taxpayers, what it would be to the Federal Government, what it would be to the State government, what it would be to the local government, what it would be to employers, and what it would be as far as the cost in the number of jobs.

It may well be that they will come back and say, "Well, enactment of this legislation will cost thousands of jobs. It will put a lot of small businesses out of business."

I am concerned about the information that the national Tooling & Machining Association said. If a company had 57 workers, their cost may be over $100,000 in an effort to comply with this legislation. I am concerned about imposing additional cost on businesses that may well be having a very difficult time surviving.

Mr. President, I think this is an important amendment. I think it is an amendment that would help determine the solution to the problem. We also asked GAO to give us this information to accompany the conference report on the bill. So in the likelihood, if this passes both the House and the Senate, we would have that information before we have final passage on the conference report.

Mr. President, I ask for the yeas and nays on Mr. MURKOWSKI's amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NICKLES. Mr. President, can the majority leader give us a determination of how late we will be on the legislation tonight?

Mr. BYRD. My guess is that upon the disposition of the matter which is now before the Senate, the amendment by the Senator from Alaska, there will be no more rollcall votes today.

Mr. NICKLES. I thank the majority leader.

Mr. BYRD. I thank the Senator from Ohio again.

Mr. METZENBAUM. Mr. President, we have heard countless arguments by opponents of the bill who predict that enormous employer costs will result from the enactment of S. 79, but these critics simply ignore the fact that this bill will save employers money—not hundreds of dollars, not thousands of dollars, but, rather, tens of millions, even hundreds of millions, of dollars each year.

That is why Johns-Mansville and General Electric and IBM and Union Carbide and Crum & Forster Insurance Co. and dozens of other companies are actively supporting this bill—not simply because they are nice guys, not simply because they want to support a bill that I have. It is because this bill makes economic sense for employers.

The pending amendment offered by my friend from Oklahoma addresses itself to a study he would like to have made by the General Accounting Office with respect to the financial impact. In conjunction with his efforts and those of Senator MURKOWSKI, we have worked out some language that not only will take care of the costs but the savings as well, in the private and the Federal sector and State and local governments.

With that thought in mind, knowing that there are positive pluses to be found, savings to be found, we think that the amendment is an acceptable amendment.

Let me make one observation: There was some reference to the Robert Nathan report. There are a few people in town whom I have known for a longer period of time than Robert Nathan, but in this respect, and in connection with this bill, somebody missed the ball. So I ask unanimous consent, on behalf of Senator STAFFORD and myself, that an analysis in response to the Nathan report be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

METZENBAUM AND STAFFORD RESPONSE TO THE NATHAN COST STUDY ON S. 79

Robert Nathan & Associates, a private consulting firm hired by opponents of S. 79, has released a report concluding that the bill will cost business billions of dollars annually. The report is a manipulation of numbers that is riddled with factual errors, baseless assumptions, and distortions of the legislation. Focusing on only three of the numerous misrepresentations will demonstrate the intellectual bankruptcy of the report.

1. UNIVERSE OF WORKERS TO BE NOTIFIED

Nathan Assumption: Notices will be sent only to those workers who cannot be helped by medical monitoring.

Fact: S. 79 expressly provides that the first priority is to notify those workers likely to benefit from medical monitoring.

Nathan Assumption: Notices will be sent to 475,000 workers each year.

Fact: Cost analysis by Department of Health and Human Services concluded that only 100,000 to 300,000 workers could be notified annually under budget of S. 79.

Conclusion: Nathan has focused entirely on the wrong population, then overestimated the number of workers to be notified by between 50% and 400%. This gross overestimate underlies Nathan's entire cost analysis.

2. MEDICAL TRANSFER OR REMOVAL

Nathan Assumption: Up to 25 percent of all screened workers will be eligible for medical transfer.

Facts: Medical transfer provisions already exist under two statutes: OSHA lead standard and the Coal Mine Safety and Health Act. Of hundreds of thousands of workers covered, less than 1 percent of exposed workers per year actually have qualified for medical transfer protection under the lead standard and the Coal Act.

Nathan Assumption: Suitable alternative jobs will never be available and employers will have to pay each transferred worker a full year's wages and benefits as severance.

Fact: Those workers who do qualify under lead standard and Coal Act all receive job transfers; employers do not send workers home with pay.

Conclusion: Nathan has fabricated frequency of transfers and cost per transfer.

3. LIABILITY

Nathan Assumption: 25 percent of workers who respond to notice will file liability claims against employers.

Facts: This occurred under one NIOSH pilot project (Augusta) where the company exposed workers to a known bladder carcinogen that had been banned in several European countries and discontinued by every other American company years earlier. Nathan ignores the fact that even under current law there has been no significant increase in claims following notification in the other two NIOSH pilot projects or in notification programs operated by private employers. And S. 79 goes beyond current law to expressly prohibit notified workers from filing claims arising directly from the notification process.

Nathan Assumption: Average compensation per claim is $60,000.

Fact: Average compensation for Augusta pilot project, which Nathan uses to establish frequency of claims, is $4,500. Use of $60,000 overestimates liability costs by over 1300 percent.

Conclusion: Nathan's assertion of liability costs in the billions is without foundation. The Nathan Report misrepresents the facts on this important piece of public health legislation.

Mr. METZENBAUM. Mr. President, I say to my colleague from Oklahoma that he has asked for a rollcall vote. He is entitled to it under the rules. I certainly have no objection to that. But since we are willing to accept it, I want to say that I will vote for the amendment as amended with the second-degree amendment, and I urge all my colleagues to do likewise.

I believe we are ready for the vote.

The PRESIDING OFFICER. The Senator yields the floor.

The majority leader.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report the cloture motion.

The legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 79, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

Senators Bob Graham, Claiborne Pell, Edward M. Kennedy, Barbara A. Mikulski, Alan Cranston, Paul Sarbanes, Harry Reid, Tom Harkin, Spark Matsunaga, John Glenn, Tom Daschle, Wendell Ford, Patrick Leahy, Paul Simon, Howard Metzenbaum and Timothy E. Wirth.

Mr. BYRD. Mr. President, following the rollcall vote which is about to occur on the amendment by Mr. MURKOWSKI, there will be no more rollcall votes today.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a question?

Mr. BYRD. I yield.

Mr. METZENBAUM. May we also have an understanding—I think Senator HATCH is agreeable to it—that upon the conclusion of the vote, there will be no further action in connection with this bill today?

Mr. HATCH. I am certainly in agreement, and we will just begin anew tomorrow. At what time?

Mr. BYRD. About 11:30.

Mr. HATCH. Will we devote very much time to this bill tomorrow? I think everybody would like to know that.

Mr. BYRD. I intend to spend tomorrow on the bill. It is my understanding that the Senator and other Senators wish to debate the bill.

Mr. HATCH. We do.

Mr. BYRD. And act on the amendment before cloture is invoked.

Mr. HATCH. I say to my dear colleague from West Virginia, let us encourage all Senators who have amendments to be willing to come with those amendments tomorrow, Monday, and Tuesday, however long we go.

I think it has been a pretty good day today. We have had one amendment right after the other—frankly, some germane and some nongermane, nevertheless amendments. If we continue to do that, I will feel good about it.

I still have a lot to say about the bill. We still have not reviewed the changes.

Mr. METZENBAUM. The Senator from Utah is not willing yet to vote for it?

Mr. HATCH. The more we look at the changes that occurred yesterday, the less likely we are to vote for this bill. I will have a lot to say about it, and we will have a lot of questions for the distinguished floor manager tomorrow. I wish we would have the chairman of the committee on the floor as well. We could have a very good colloquy.

The PRESIDING OFFICER. Is there further debate?

Mr. BYRD. Mr. President, upon the disposition of the amendment, if Senators wish to remain and talk about the bill, that is fine. There will not be any more rollcall votes, so far as I am concerned. If no Senators wish to discuss the bill further today, the Senate will shortly go out.

Mr. METZENBAUM. I ask the majority leader: Upon the disposition of the vote—I know he has other business—could we just go off the bill?

Mr. BYRD. That is fine.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the Murkowski amendment to the Nickles amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Mississippi [Mr. STENNIS] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE], the Senator from Nebraska [Mr. KARNES], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—92

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Wirth

NAYS—0

NOT VOTING—8

Biden
Boren
Dole
Gore
Karnes
Simon
Stennis
Weicker

So the amendment (No. 1818) was agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to the Nickles amendment, as amended.

The amendment (No. 1817) as amended, was agreed to.

Mr. BOSCHWITZ. Mr. President, I rise today to announce my opposition to S. 79, the High Risk Occupational Disease Notification Act. I believe this legislation unnecessarily duplicates Federal efforts regarding the evaluation of hazards in the workplace. Further, the bill is certain to impose enormous burdens on employers, consumers, workers and the Federal Government because of increased litigation and monitoring requirements and increased insurance costs.

Some of the concerns addressed by S. 79 arise from studies completed by the Federal Government. Many of the individuals involved in those studies, approximately 250,000 people, have not been notified about the findings. I understand, however, that steps are being taken to notify these people.

I strongly oppose the requirement in S. 79 that past and present employees be notified of possible risks associated with a past or present occupation, other than those directly involved with a Federal study. The scientific and logistical problems with extrapolating risks to the population at-large, together with the overwhelming task of notifying past or present workers who may have been exposed to the risk make this bill unworkable.

It seems to me that one sure consequence of this bill will be to limit employment opportunities for people in occupations deemed hazardous by the new board. As I understand the bill, only the current employer is responsible for the medical monitoring; there is no attempt to spread the financial burden to a previous employer where actual exposure may have taken place. Therefore, an employer who knows that a prospective employee has worked in a targeted industry will be less willing to hire the employee, given the financial burdens associated with medical monitoring, not to mention possible personal injury lawsuits.

If indeed it is necessary to expand Federal involvement in this area, it would seem more appropriate to improve and strengthen existing occupational safety standards and procedures rather than create a brand new Government authority with unrestricted powers. Mr. President, I understand that the Departments of Labor and Health and Human Services are currently implementing several programs that will provide information to workers and further the battle against occupational disease. Notably, these programs are not encumbered with complicated and controversial provisions most likely to trigger increased litigation and insurance costs.

For example, OSHA has recently expanded its Hazard Communication Standard to all private sector employers. OSHA anticipates that the expanded standard will significantly reduce the number of occupational illnesses by ensuring that workers are aware of the dangers associated with chemicals they use at work and are trained to protect themselves. Similar provisions already exist in my State under the Minnesota Right to Know Act.

Further, the expanded communication standard will reach tens of millions of workers, far more than could be reached through an individual notification program required under the bill. Best of all, the standard will focus on reducing exposure to disease, rather than wait for sufficient evidence of occupational disease to trigger notification.

I am concerned that S. 79 will generate substantial tort and administrative litigation, much of it without merit. Because the after-the-fact notification anticipated by the bill will be directed at populations rather than individuals, large numbers of people will receive a notice that they may have been exposed to a substance which may cause disease. It doesn't take much of a leap of faith to anticipate an increase in the number of workers' compensation claims against employers, even if the person making the claim has exhibited no signs of being injured.

Similarly, notification will likely lead to an increase in the number of products liability claims. My fear is that many claimants will suffer no physical disease attributable to their past or present occupation. Instead, the suit may be premised on emotional distress associated with an increased likelihood of contracting a disease based upon a past or present occupation.

Although many of these claims eventually will be denied, the suits will impose a heavy cost on employers, manufacturers and the court system. Undoubtedly, those increased costs will be passed on to consumers in the form of higher prices and to taxpayers in the form of higher taxes. The expense of increased litigation may even force some businesses to close their doors.

I am especially concerned about the impact of this legislation on small business. As my colleagues know, this country has been experiencing an insurance crisis that is a consequence of a litigation explosion. If enacted, S. 79 will aggravate the insurance crisis by causing insurance companies either to withdraw coverage from certain classes of industry or to raise their rates so high as to be unaffordable. This result would benefit no one, most especially those employees working for affected businesses.

The current version of S. 79 contains a limited exemption from the medical removal and monitoring provisions for employers with fewer than 50 employees. This narrow exemption does not, however, shield small employers from the other expenses and burdens imposed by the bill. Moreover, because of the additional monitoring burdens and financial obligations imposed by the bill, it is going to be much more difficult to sell a business when the owners employees have received a notice regarding occupational risks. To sell the business will require a steep discount in the sale price and a broad indemnification clause. My greatest fear is that this bill will make such businesses unmarketable, regardless of the efforts undertaken by a specific employer to rid his workplace of occupational hazards.

Mr. President, like the rest of my colleagues, I believe we must continue to provide support for occupational disease identification and risk education programs. As I have noted, OSHA and the Department of Labor currently are actively pursuing such programs. The current version of S. 79 does not address my concerns about the tremendous burdens placed on employers, consumers, workers, and the Federal Government. For that reason I intend to vote against it.

Mr. PRESSLER. Mr. President, I have struggled intellectually with the issue of legal reform since my days at Harvard Law School. There are many fine lawyers in our society, and many of them agree that some changes are needed. The American Bar Association has proposed reforms in many aspects of tort law. Recently, a young lawyer, Kevin V. Schieffer, and I wrote a lengthy law review article on Joint and Severed Liability. Since we are debating this topic, I wish to call attention to the introduction and conclusion of our article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the University of Denver College of Law, Vol. 64, 1988, No. 4]

DENVER UNIVERSITY LAW REVIEW

Foreword:

Articles:

Joint and Several Liability: A Case for Reform, Senator Larry Pressler, Kevin v. Schieffer.

JOINT AND SEVERAL LIABILITY: A CASE FOR REFORM

Senator Larry Pressler[*] and Kevin v. Schieffer[**]

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I. INTRODUCTION

One of the great strengths of the common law is its ability to adapt to a changing legal environment. Its flexibility allows courts to weave from ancient doctrines new rules to resolve problems as they arise in an increasingly complex society. Occasionally the courts' handiwork becomes so entangled in confused definitions and internal inconsistencies, and travels so far from a doctrine's original rationale, that it cries out for reform. Such is the case with joint and several liability.

The doctrine of joint and several liability works to hold any one of multiple tortfeasors liable to a plaintiff for the entire harm caused by their combined acts. This doctrine applies even when the trier of fact determines that an individual tortfeasor's proportionate share of fault is slight. Thus, theoretically a party found one percent at fault can be held liable for the entire amount of damages awarded.

As a result of this shortcoming, plaintiffs often target persons they perceive to have the greatest resources from which to pay claims. Commonly known as "deep-pocket" defendants, they are especially likely to be brought into a suit when it appears that the party most responsible for the harm is judgment-proof.

Some argue that the deep pocket abuse is curtailed effectively through the common law rule requiring that a party be determined to have been a "legal cause" of the harm in order for liability to attach. However, this rule has proved ineffective because typically it has required little more than an indirect contributory role. Because the chain of causation becomes tenuous at best in these cases, this approach has been criticized.

The thesis of this article is that the doctrine of joint and several liability should be refined to accommodate the current law on joint torts and to reflect the original policy goals underlying its common law origins. The purpose of this article is to assist the reformer in identifying the various issues which should be addressed in any reform proposal, to discuss and develop the theoretical and policy rationale for reform, and to recommend specific reforms. This article will critically examine the theories and justifications underlying the ancient common law doctrine of joint torts. It will apply them to today's legal setting by focusing on relatively recent common law developments such as the advent of comparative fault and alternative liability, and illustrate the need for change. Finally, the article will discuss how joint and several liability reform can (1) lead to more equitable results in the majority of cases; (2) punish the true wrongdoers; and (3) eliminate a great deal of uncertainty in the law of joint torts.

II. BACKGROUND

The current insurance "crisis" has given joint and several liability reformers new impetus. Joint and several liability has been named by the insurance industry and other deep-pocket defendants as one of the leading culprits in causing skyrocketing liability insurance premiums. Local governments have cited it as a reason for increasing taxes and eliminating public facilities and services. Because of their deep pockets, public entities, particularly municipalities, are often brought into suits for their passive roles in "causing" accidents. For example, cities have been held responsible for virtually the entire damages in million-dollar awards because they have failed to trim hedges on private property, "causing" a vehicle whose driver was high on drugs to collide at an intersection equipped with stop signs; because they have located a street light too close to the curb, "causing" injury upon impact when a driver veered off the road and ran into a light pole; because their traffic lanes were too narrow, "causing" a collision between negligent drivers; because they failed to place warning signs along a beachfront during the off-season, "causing" injury to a man who ran into the surf and dove into shallow water, hitting his head on a sandbar and leaving him a quadraplegic.

As long as the plaintiff can convince the trier of fact that the deep-pocket defendant was a contributing factor in bringing about the injury, and thereby a legal cause, the doctrine of joint and several liability potentially exposes it to entire liability. Although juries commonly find that the deep pocket's responsibility for the harm caused is very slight, often only a few percentage points, this is sufficient to establish liability for the entire judgment. Although deep-pocket defendants have a right of contribution against the remaining defendants, those parties are often insolvent or otherwise judgment-proof.

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[*] United States Senator, South Dakota; B.A. 1964, University of South Dakota; M.A. 1966, Harvard University; J.D. 1971, Harvard University. Senator Pressler is a member of the Senate Committee on Commerce, Science, and Transportation and the author of several pieces of legislation dealing with the issue of joint and several liability. In Committee hearings and on the Senate floor, he has been the leading advocate of reform.

[**] Chief of Staff to Senator Pressler, B.A. 1982, University of South Dakota; J.D. 1987, Georgetown University. As Chief Legislative Counsel, Mr. Schieffer formerly assisted Senator Pressler on issues before the Committee on Commerce, Science, and Transportation.

The issue of joint and several liability has received extensive debate at the federal level for the first time since uniform product liability legislation was introduced seven years ago. Efforts are now being made by federal legislators to limit the doctrine. The Reagan Administration has urged complete repeal except in cases involving "concerted action". The most recent product liability bill reported by the Senate Commerce Committee contains an amendment abrogating joint and several liability for noneconomic damages.

Also, many states have begun to focus on the issue of joint and several liability. Twelve years ago, joint and several liability was universally applied in every state. Since then, however, at least thirty-three states have either abolished or substantially limited joint and several liability. In 1986 alone, fifteen state legislatures enacted joint and several liability reform laws. Additionally during 1986, voters in California approved an initiative measure abolishing the doctrine as it pertains to non-economic damages. And already in 1987, at least ten states have enacted legislation reforming joint and several liability.

VIII. SUGGESTED REFORM

To summarize the basic provisions which should be included in joint and several liability reform legislation, some of the issues set forth above are revisited in the following discussion.

A. Operative language

The operative language abrogating joint and several liability should consist of a simple across-the-board abrogation, with the exception of cases involving concerted action. It is important to include a clear statutory definition of "concerted action" in order to give the courts and parties proper guidance. Such a definition should require that the actors consciously work together, intending to do the wrongful act which causes the harm. For example, liability for two negligent component manufacturers normally would be several if they acted independently. However, if they agreed to "cut corners" to come up with a cheaper product, they would have acted in concern and should be jointly liable.

For all multiple torts independently committed, liability should be several, not joint. Liability should be equated with apportioned responsibility. There are numerous other options the reform-minded legislator might consider, but all are similarly plagued with either theoretical problems of justification, or practical problems in implementation, or both.

B. Burdens of Proof

There should be no burden of proof as to apportionment of responsibility. It should be left to the trier of fact to make its best estimate based on the evidence presented. Apportionment need not be reducible to an exact mathematical computation.

C. "Empty Chair" Problems

As a general rule, only parties to the case should be considered in apportioning responsibility. This policy is to ensure that the trier of fact has the benefit of the best evidence available. However, in those cases where the plaintiff chooses to release persons who are potentially liable, or where it is impossible for a defendant to implead a responsible party, those parties should be considered in allocating responsibility.

D. Offsetting Adjustments for Release

When the plaintiff releases a defendant or potential defendant, the final award accordingly should be offset by the percentage of responsibility, as opposed to settlement dollar amount, attributable to that defendant or potential defendant.

E. Policy Considerations

Anyone attempting to articulate specific reform proposals immediately confronts an insoluble policy dilemma. Some substantially innocent parties will suffer. The reason for this sad state of affairs is that the doctrine of joint and several liability makes a difference only when a true wrongdoer is judgment-proof. If all responsible parties had money, the difference between right of contribution (the present alternative to several liability) and pure several liability (the approach advocated here) would be one largely of administrative convenience and efficiency.

The limitations of any reform effort must be realized with frustrating clarity. The goals of the reform effort then come into sharper focus, as we realize that we can never reasonably expect to bring complete justice to this area of the law. The best that can be hoped for is to minimize the injustice to both plaintiffs and defendants. The issue, then, boils down to two fundamental questions. First, upon whom do we place the burden of responsibility for the wrongful act of a judgment-proof third party? Second, what is the most efficient means of accomplishing this task? There is no "right" answer to the first question. The policy decisions which flow from this analysis are necessarily laden with strong philosophical prejudices, and the resolution of both questions is uniquely political.

As has been illustrated previously, it is no longer possible categorically to answer the first question based on the "innocence" of the plaintiff. At first blush, it might seem that if the plaintiff—who may or may not be at fault—is to shoulder the burden of the missing third person's responsibility, liability should be several. If it is to fall on the shoulders of independent defendants who already have paid for their apportioned share of responsibility, liability should be joint and several. Still, the inquiry must go deeper. Regardless of how the first question is answered, the second question regarding efficiency inevitably should lead to a pure several liability approach.

Under today's system of joint and several liability, the liability of the missing third person is generally borne by some deep-pocket defendant who then distributes the loss throughout society. The cumbersome and costly legal process necessary for this system to work is expensive in terms of both time and money, making it grossly inefficient. Add to that the artificial market distortions caused by deep-pocket defendants passing costs on to consumers, and the system quickly becomes difficult to defend—at least if one accepts the proposition that deep-pocket defendants, such as manufacturers, insurance companies, municipalities, and large corporations, are capable of passing the costs on to unrelated third persons such as consumers and taxpayers.

Even if the answer to the first question involves a conscious policy decision to compensate the plaintiff, that goal could be met much more efficiently through the adoption of several liability supplemented by some type of compensation system other than tort litigation. Examples include a national insurance plan or a "tort trust fund" approach. These could be administered much more cheaply and efficiently than the present system and would ensure that the plaintiff is fully compensated.

The several liability approach places greater emphasis on individual responsibility, times. Logically, it also would lead to greater efforts toward punishing the true wrongdoer.

IX. CONCLUSION

The theoretical underpinnings of the doctrine of joint and several liability, as applied to concurrent torts, have been eroded gradually by parallel developments in the law. Except for cases involving concerted action, the doctrine should be abrogated. In its stead should be instituted a system of pure several liability, based on the common sense apportionment of each wrongdoer's responsibility.

This system would not be perfect. Apportionments are not reducible to exact mathematical computations. Undoubtedly, there would be cases where justice may be better served under the present system. There is no "right" answer. The issue involves a fundamental policy question of who should shoulder the burden of actions for which a third party is responsible. Faced with that question, the result will never lead to perfect justice. The goal of the reform urged herein is to minimize the injustice. At one point in our legal history, joint and several liability may have served that purpose better than the approach suggested in this article. But in the wake of developments such as comparative fault, alternative liability and jury apportionment of damages, that no longer is the case.

Originally joint and several liability was applied to punish the wrongdoer and protect the innocent plaintiff. Today, the true wrongdoer often escapes all liability because the focus is on the deep pocket; the compensated plaintiff no longer is always innocent; and the substantially innocent third parties, or more likely consumers and taxpayers who are completely innocent and totally unrelated to the case, ultimately pay the bill for all of them. "This all goes to show that a rule of law applied without regard to its reason may become a rule of injustice.

MORNING BUSINESS

Mr. **BYRD.** Mr. President, I ask unanimous consent that there be a brief period for morning business and that Senators may speak therein up to 5 minutes each.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

U.N. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Mr. **CRANSTON.** Mr. President, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women is currently pending in the Senate Foreign Relations Committee. This Convention calls for ratifying nations to "pursue by all appropriate means and without delay a policy of eliminating discrimination against women."

Adoption of the Convention on December 18, 1979, by the General Assembly of the United Nations represented an important step toward attainment of the goal of equality for women. Moreover, adoption of this Convention marked the culmination of a series of consultations over a 5-year period with members of international women's organizations, experts in the field of human rights and members of the United Nations Commission on the Status of Women.

Mr. President, the U.N. Convention on the Elimination of All Forms of Discrimination Against Women sets out in legally binding form internationally accepted principles and measures to achieve equal rights for women. It also recommends temporary special measures to speed achievement of equality between women and men. Measures in the Convention provide for equal access for women and men in political and public life, including the right to vote and run for public office, as well as equal access in education and employment. The Convention underlines the social services needed in order to combine participation in public life with family obligations.

Mr. President, an article written by one of my California constituents, Riane Eisler, entitled, "Human Rights: Toward an Integrated Theory for Action," which appeared in the summer 1987 issue of Human Rights Quarterly, addresses the significance of the Convention in the context of human rights. In that article, Ms. Eisler contends that, "[b]ecause it expressly address[es] violations of the human rights of women, the Convention is a potentially pivotal turning point in the human rights movement." Ms. Eisler describes the Convention as a "missing link for the construction of an internally consistent theory of human rights that expressly rejects the traditional exclusion of 'women's rights' from the purview of international rights activities."

Ms. Eisler maintains that adoption of the Convention by the General Assembly of the United Nations, "marked the first time that the right of half of humanity to protection from oppressive practices embedded in laws and customs was forcefully addressed by this important international body."

As of January 31, 1987, 94 countries had ratified or acceded to the U.N. Convention on the Elimination of All Forms of Discrimination Against Women, including our neighbors to the north and south, Canada and Mexico, as well as Australia, Brazil, Great Britain, France, the Federal Republic of Germany, Japan, the Peoples' Republic of China, and the Soviet Union.

Mr. President, I ask that a complete list of the countries which have ratified or acceded to the Convention be printed in the Record at the conclusion of my remarks.

In 1980, after 20 countries had ratified or acceded, an oversight committee, the U.N. Committee on the Elimination of Discrimination Against Women [CEDAW], was established to assess the progress being made in implementing the Convention. CEDAW is composed of 23 experts who, though nominated by their governments, serve the Committee in their personal capacity. Committee members are elected for terms of 4 years by their states parties, which are countries which have ratified or acceded to the convention. These states parties are required to submit reports to CEDAW every 4 years on steps they have taken in their respective countries to comply with the provisions of the Convention. CEDAW meets annually to review the data submitted by state parties and issues a report each year in which the Committee may make recommendations to the U.N. based upon the findings of the Committee.

Mr. President, the United States played an active role in drafting the U.N. Convention on the Elimination of All Forms of Discrimination Against Women. Indeed, on July 17, 1980, the United States became one of the first countries to join as a signatory. The Convention was thereafter submitted to the U.S. Senate for its advice and consent by President Jimmy Carter on November 12, 1980.

Unfortunately, after almost 8 years since joining as a signatory, the United States has yet to ratify the Convention and thereby make the formal commitment necessary to obligate our Govenment to its provisions.

As a member of the Senate Foreign Relations Committee, Mr President, I well know the backlog of treaties under our jurisdiction. I feel, however, and I know others on the Foreign Relations Committee agree, that the U.N. Convention on the Elimination of All Forms of Discrimination Against Women is an important international human rights instrument which represents both an outstanding accomplishment of the United Nations system and a significant advance in the development of international human rights law.

It is important that we begin to build a hearing record and commence the formal process necessary for ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women by the Senate of the United States. Therefore, I hope that despite this year's heavy work schedule, space on the agenda will be found for the scheduling of a hearing for this Convention.

Finally, Mr. President, I ask that a list of national organizations supporting U.S. ratification or accession to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women be printed in the Record at the conclusion of my remarks.

There being no no objection, the material was ordered to be printed in the Record, as follows:

List of States That Have Consented To Be Bound of the Provisions of the U.N. Convention on the Elimination of All Forms of Discrimination Against Women

(As of January 31, 1988, 94 Countries)

Angola, Argentina, Australia, Austria, Bangladesh, Barbados, Belguim, Bhutan, Brazil, Bulgaria, Burkina Faso, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, Indonesia, Iraq, Ireland, Italy.

Jamaica, Japan, Kenya, Lao People's Democratic Republic, Liberia, Malawi, Mali, Mauritius, Mexico, Mongolia, New Zealand, Nicaragua, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Spain, Sri Lanka, Sweden, Thailand, Togo, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yugoslavia, Zaire, Zambia.

List of National Organizations Supporting U.S. Ratification or Accession to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women

American Association of Retired Persons (AARP).

American Association of University Women (AAUW).

American Bar Association (ABA).

Amnesty International, USA Chapter (AIUSA).

Association for Women in Psychology.

Black Women's Agenda, Inc.

Business & Professional Women, International & USA (BPWUSA).

Church Women United.

Gray Panthers.

International B'nai B'rith Women.

Lawyers Committee for Human Rights.

National Assembly of Religious Women.

National Association of Commissions for Women.

National Board of the YWCA of the USA.

National Coalition of 100 Black Women.

National Conference of Christians and Jews, Inc.

National Council of Jewish Women.

National Organization for Women (NOW).

National Spiritual Assembly of the Baha"I'S of the United States.

National Women's Conference Committee (NWCC).

National Women's Political Caucus (NWPC).

National Women's Studies Association.

Soroptimist International of the Americas, Inc.

St. Joan's Alliance (Both U.S. & International).

Unitarian Universalist Service Committee.

United Methodist Church.

United Nations Association of the United States (UNA USA).

Women for International Peace & Arbitration.

Zonta International.

FEDERAL COURT NOMINEES ON EXECUTIVE CALENDAR

Mr. LEAHY. Mr. President, three nominations to the Federal courts were ordered reported by the Judiciary Committee at its business meeting on Thursday morning and are now on the Executive Calendar. These nominees were examined at a committee hearing held on February 29, 1988, at which Senator HEFLIN presided. For the benefit of my colleagues who will soon vote on these nominations, I offer the following brief summaries of the nominees' qualifications and the testimony elicited at the hearing.

First Emmett Cox has been nominated to be U.S. circuit judge for the 11th circuit. For the past 6 years, the nominee has been U.S. district judge for the southern district of Alabama. He was in private practice for 22 years before that, specializing for most of that time in trial work. Judge Cox is 53 years old, and is a graduate of both the University of Alabama and the University of Alabama Law School. He appears to be well regarded by most of the legal community in his area. A majority of the ABA Committee rated Judge Cox "Well Qualified" for the post to which he has been nominated, while a minority rated him "Qualified."

At the hearing on February 29, Senator HEFLIN read statements of support for Judge Cox on behalf of Senator SHELBY, Congressman SONNY CALLAHAN, and himself. Judge Cox was then questioned on the following topics: his approach to dealing with a heavy caseload, what cases he was asked about when he was interviewed for the nomination at the Justice Department, whether he has considered taking action to expunge a restrictive covenant from property that he owns, and the correctness of his finding of criminal contempt against an attorney in the case of United States versus Turner.

The committee also heard testimony on Judge Cox's nomination from Morton Stavis, a New York attorney who participated in the Turner, voter fraud case. Mr. Stavis questioned several of Judge Cox's rulings on scheduling of the case, which he said would have worked to decrease the number of black people in the jury. He also criticized Judge Cox's findings of criminal contempt against one of the defense counsel in the case. In response, Judge Cox stated that he accepted the 11th circuit's decision reversing his contempt ruling, and noted that the defendants in the Turner case were ultimately acquitted. Judge Cox also answered written questions submitted by Senator THURMOND concerning judicial temperament and the proper role of precedent in judicial decisionmaking.

Second, George Marovich has been nominated to the U.S. District Court for the Northern District of Illinois. For the past 12 years, the nominee has been a judge of the Circuit Court for Cook Country, IL. He was in private practice for 22 years before that, during which time he worked in a variety of areas of law, including real estate law, probate law, and municipal law. Judge Marovich is 57 years old, and is a graduate of Thornton Community College and the University of Illinois College of Law. He appears to be well regarded by the legal community in his area, and received a unanimous "Well Qualified" rating from the ABA Committee.

At the hearing on February 29, Judge Marovich was introduced by Gov. James Thompson. He was then questioned concerning his tendency as a state court judge not to render written rulings, his lack of litigation experience in private practice, his approach to pro bono service, and his experience handling a politically charged lawsuit involving the Chicago City Council. The nominee also answered written questions submitted by Senator THURMOND concerning his views of judicial activism and the role of precedent in judicial decisionmaking.

Third, Kenneth M. Hoyt has been nominated to be U.S. district judge for the southern district of Texas. Since 1984, the nominee has been a Texas State appellate judge. He also served as a State trail court judge from 1981-82. Judge Hoyt has spent the remainder of his legal career in private practice with several firms in Houston, conducting a general practice with an emphasis on municipal law. Concurrently, he served 2 years as city attorney and controller of Kendleton, TX. The nominee, who is 40 years old, holds undergraduate and law degrees from Texas Southern University. He is well regarded by his peers and colleagues, and was rated "Well Qualified" by a majority of the ABA Committee, with a minority finding him "Qualified."

At the hearing on February 29, Judge Hoyt was introduced by Senator GRAMM. He then responded to questions from Senator HEFLIN concerning his lack of Federal litigation experience; his views on remedies for police misconduct; the role of a Federal judge in enforcing the constitutional rights of criminal defendants; and organizational memberships.

Mr. President, I would note for the RECORD that once the Senate confirms these three nominees, it will bring to 12 the number of Federal judicial posts which have been filled by confirmation this year. Judiciary Committee hearings will be held on seven more nominees by next Monday, and I predict that most of these will also soon appear on the Executive Calendar. In the same time period, the Senate has received only 10 nominations for judicial posts. Thus, it remains clear that whatever bottlenecks exist in the process of selecting Federal judges are located in the executive branch, not in the Senate. The Judiciary Committee will continue, as it has done throughout this Congress, to give fair, thorough and expeditious consideration to all judicial nominees.

BICENTENNIAL MINUTE

MARCH 7, 1850: DANIEL WEBSTER SPEAKS FOR THE UNION

Mr. DOLE. Mr. President, 138 years ago this month, on March 7, 1850, one of the most famous speeches in the Nation's history was delivered on the Senate floor. During the dramatic debates that took place in 1850 over the issues of slavery and secession, Senator Daniel Webster of Massachusetts eloquently responded to the classical Southern argument advocated by Senator John C. Calhoun of South Carolina. Calhoun, who felt States existed as sovereign entities within the Union, contended that Southern States had the right to uphold the institution of slavery. Webster, although he was morally opposed to slavery, felt a strong obligation to preserve the Union at any cost, even if this meant forsaking abolitionism. Persuaded by his old rival, Senator Henry Clay of Kentucky, Webster decided to argue on behalf of a compromise that might appease both the North and the South.

Generations of Americans have memorized portions of Webster's stirring speech, particularly its opening lines:

> Mr. President—I wish to speak today not as a Massachusetts man, nor as a Northern man, but as an American, and a member of the Senate of the United States * * *. I have a part to act, not for my own security and safety, for I am looking out for no fragment upon which to float away from the wreck, if wreck there must be, but for the good of the whole, and the preservation of all * * *. I speak today for the preservation of the Union: "Hear me for my cause."

Webster's "Seventh of March" speech caused an uproar among New England abolitionists, Free-soilers and reformers. They felt betrayed by their spokesman, whom they had admired as a God. Likewise, Southern secessionists viewed Webster's and Clay's compromise as abhorrent. Eleven years later the Union, whose preservation Webster had so eloquently advocated in his speech, was at war.

MILITARY'S DEPENDENCE ON FOREIGN SUPPLIERS

Mr. DIXON. Mr. President, the Wall Street Journal of today, Thursday, March 24, has a very interesting article entitled "Vital Parts: Military's Dependence on Foreign Suppliers Causes Rising Concern." Once again, I am pleased to see my colleague, the distinguished Senator from Alabama, in the Chair because he is a member of the Armed Services Committee familiar with this very serious problem concerning the defense industrial base of this Nation.

I would like to read certain sections from this very extensive article that I believe are important to members of the Armed Services Committee and I hope to every Member of Congress, concerning our deteriorating defense industrial base.

I quote from this article by Tim Carrington in the Wall Street Journal of today:

> Pentagon strategists recently discovered that if war broke out, Soviet bombers could gravely wound the U.S. simply by attacking a small German plant 30 miles west of the Czechoslovakian border.
>
> The plant makes all of the high-purity silicon the U.S. buys for chips used in thousands of missile guidance systems. Destruction of the plant would stall U.S. missile production for months, crippling the West's capacity to resupply its forces with missiles. Alarmed, the Defense Department says it will guarantee business to one or two U.S. silicon suppliers it hopes to lure into making the crucial material.
>
> Military officials concede that the U.S. arsenal is riddled with foreign-made parts that might not be available during a global crisis. In wartime, this weakness could emerge as the soft underbelly of the recent defense buildup. Ball bearings in U.S submarines, aircraft and tanks come increasingly from Europe and Asia. Some Navy ships ride at anchor on Spanish chains.

The article states further:

> Congress, the military and the arms industry differ over what to do about the U.S. military's growing dependence on foreign components, but they agree on one sobering conclusion: In a global war today the U.S couldn't come close to accelerating armaments production as it did in World War II.
>
> "We have sustained major structural damage to our industrial base," says Pat Choate, director of policy analysis at TRW Inc. "They can put individual weapons systems on line now, but there is no surge capacity" because old plants have rusted away and shipments of important foreign parts would be interrupted.
>
> To dramatize the military's dependence on Japanese electronics, a senior Pentagon official recently warned uniformed procurement officers that if there is major conflict, "we're going to subcontract the war to Japan."

It says later in the article:

> In World War II, Germany suffered crippling bottlenecks in its armaments production after allied forces bombed several ball-bearing plants.

I go down to the conclusion of the article where it says:

> Foreign suppliers also gained contracts through political and commercial deals worked out by the Pentagon and its biggest contractors. The Defense Department has signed a slew of "memoranda of understanding" with allies calling for joint weapons development. In addition, large aerospace concerns increasingly offer "off set agreements" to foreign governments that buy their weapons; these require the contractor to purchase large amounts of parts from those countries.
>
> Regardless of how the foreign purchases begin they often involve the very parts that make weapons perform.

Mr. President, this article goes on at length, so I will simply ask that this complete article from the Wall Street Journal be reproduced in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VITAL PARTS: MILITARY'S DEPENDENCE ON FOREIGN SUPPLIERS CAUSES RISING CONCERN

(By Tim Carrington)

WASHINGTON.—Pentagon strategists recently discovered that if war broke out, Soviet bombers could gravely wound the U.S. simply by attacking a small German plant 30 miles west of the Czechoslovakian border.

The plant makes all of the high-purity silicon the U.S. buys for chips used in thousands of missile guidance systems. Destruction of the plant would stall U.S. missile production for months, crippling the West's capacity to resupply its forces with missiles. Alarmed, the Defense Department says it will guarantee business to one or two U.S. silicon suppliers it hopes to lure into making the crucial material.

Military officials concede that the U.S. arsenal is riddled with foreign-made parts that might not be available during a global crisis. In wartime, this weakness could emerge as the soft underbelly of the recent defense buildup. Ball bearings in U.S. submarines, aircraft and tanks come increasingly from Europe and Asia. Some Navy ships ride at anchor on Spanish chains.

Rep. Mary Rose Oakar, an Ohio Democrat, says the Pentagon bought $9 billion of foreign parts and equipment last year, up from $5.4 billion in 1981. But analysts say the figure is much higher because foreign parts creep into weapons undetected through the 100,000-odd subcontractors that provide components for full-blown weapons systems assembled in the U.S.

SOBERING CONCLUSION

Congress, the military and the arms industry differ over what to do about the U.S. military's growing dependence on foreign components, but they agree on one sobering conclusion: In a global war today, the U.S. couldn't come close to accelerating armaments production as it did in World War II.

"We have sustained major structural damage to our industrial base," says Pat Choate, director of policy analysis at TRW Inc. "They can put individual weapons systems on line now, but there is no surge capacity" because old plants have rusted away and shipments of important foreign parts would be interrupted. Potential fixes for the problem are hard to fashion. Some ailing U.S. industries advocate narrowly protectionist buy-American requirements, while others envision expensive plans to rebuild the nation's industrial base.

To dramatize the military's dependence on Japanese electronics, a senior Pentagon official recently warned uniformed procurement officers that if there is major conflict, "we're going to subcontract the war to Japan." The National Council for Industrial Defense—a newly formed lobbying group—plans to sue the Pentagon next month for entering agreements to buy certain weapons from allies.

BUY-AMERICAN LEGISLATION

Congress tacked on to last year's catch-all budget resolution a list of items it recommended the Defense Department purchase from U.S. suppliers, but Congress is considering tougher buy-American legislation this year. A bill sponsored by Rep. Oakar would require the Pentagon to purchase certain critical parts only from U.S. suppliers. The measure also calls for the Pentagon to help rebuild domestic producers suffering from foreign competition. "We have a big budget relative to our military needs," says Rep. Oakar, "but we're diminished in our ability to produce equipment in times of national crisis." A proposal from Sen. Alan Dixon, an Illinois Democrat, would give concessions to companies that prepare for a surge in production in the event of war.

The Defense Department opposes broad buy-American proposals as well as plans to prop up moribund industries. "Some would have us subsidize obsolescence, and we don't want to do that," says Robert Costello, the undersecretary for acquisition. He favors helping certain industries that are ready to help themselves. "When they lay out a plan to become world-wide competitive, then we'll be there to help," he says.

Currently, Mr. Costello is devising a rescue for U.S. makers of ball bearings. Because of a surge in bearing purchases from Japan, Singapore, Thailand and Europe, domestic producers may be forced to "shut down production lines and some close their doors permanently," a Pentagon study warns. In World War II, Germany suffered crippling bottlenecks in its armaments production after Allied forces bombed several ball-bearing plants.

BEARINGS BUSINESS

An Air Force officer working on the rescue plan says more than 30 congressional offices have called to press for generous terms. The Pentagon initially envisioned publishing a list of weapons that would have to contain U.S. bearings. But after a lobbying campaign, the bearing industry and its backers on Capitol Hill appear close to winning a blanket requirement for use of domestic bearings throughout the U.S. arsenal, except where procurement officers could prove national benefits from buying overseas ones. "It would be very good for business," says Donald Ross, president of MPB Corp., a Keene, N.H., bearing company.

But the Pentagon has rejected other pleas. Defense officials recently rebuffed makers of optics equipment who wanted assured military business. "The defense budget is getting smaller, and we're just not going to shield the optics industry" from foreign competition, an Army officer involved in the talks says.

The Pentagon is cool toward sweeping buy-American plans like Rep. Oakar's. "When you look at the bills on the Hill, they're clearly protectionist," says a Pentagon official who prefers the current case-by-case approach.

He and others point out that the foreign dependence grows out of trends that are bigger than the proposed solutions. The economy on which the defense base rests is both international and interdependent. In addition, Pentagon procurement rules—rewritten to encourage competition—place a premium on lower prices, even if that means buying overseas.

The high dollar drove companies in the defense and civilian sectors to look for foreign bargains. The shift meant that U.S. companies lost many of the benefits of high-volume production—including lower unit prices and a stream of revenue to support research and development. The lower dollar will help U.S. companies compete, but the high-volume efficiencies and the business ties with contractors foreign suppliers have locked in won't dry up with a drop in the dollar.

Some foreign parts are more desirable: They not only meet the standards at lower cost but also can be delivered months sooner than rival American parts. TRW Vice President Arden Bement says, "Whereas in the past the U.S. looked on itself as a paragon of quality, that's not the case anymore." TRW, General Electric Co., and other large contractors have set up overseas networks of procurement officers to acquire parts and components from Asian and European manufacturers.

Several years ago, the Navy found that a Spanish company could produce anchor chains meeting its quality requirements at a lower price than those sold by Baldt Corp., the sole U.S. producer. Because of fears of a cutoff during a crisis, the Pentagon plans to allot enough business to Baldt to keep it going. "What's it mean if you lose your one anchor-chain manufacturer, that your ships are constantly in motion?" asks one Pentagon official.

Foreign suppliers also gained contracts through political and commercial deals worked out by the Pentagon and its biggest contractors. The Defense Department has signed a slew of "memoranda of understanding" with allies calling for joint weapons development. In addition, large aerospace concerns increasingly offer "offset agreements" to foreign governments that buy their weapons; these require the contractor to purchase large amounts of parts from those countries.

Regardless of how the foreign purchases begin, they often involve the very parts that make weapons perform. For example, FMC Corp.'s Bradley Fighting Vehicle depends on a sophisticated sensor system from the Netherlands to inform soldiers of potential threats and targets. Without this part tucked into the turret of the armored vehicle, the Bradley would be comparatively helpless on the battlefield.

Industry studies show that half of the gear-box components in the M-1 Abrams tank are produced overseas. Richard Norment, executive director of the American Gear Manufacturers Association, claims this has contributed to the withering of the U.S. gear-making industry. Today, he estimates that U.S. plants could produce only one-third of the M-1 gears the U.S. would need to mobilize for war.

If the Pentagon lost access to Japan's gallium arsenide, it would face bottlenecks in making missile guidance systems, radar apparatus, communications equipment and electronic-countermeasures systems vital to penetrating enemy air space. Officials also say that gallium arsenide, which uses less power and is considered faster than silicon, would probably be critical to any space-based anti-missile system the U.S. might deploy. "We'd like to have a gallium-arsenide industry in the U.S.," says one senior Pentagon official. "But having said that, how do you do it?"

Super-powerful magnets, used in satellite components, were developed by the U.S., but Japan now dominates production. New sources are on the horizon, according to a study by the National Research Council, but these are in Italy, the Netherlands and West Germany, not the U.S.

Sen. Jeff Bingaman, a New Mexico Democrat, criticizes the Pentagon for scrimping on research money for sprucing up the U.S. technology base. "The research and development base for defense has grown substantially, but the technology-base part hasn't shared in that growth," he says. The current budget squeeze, however, makes heftier financing unlikely, and even more money wouldn't end the foreign dominance that already exists.

Mr. DIXON. Mr. President, in conclusion, let me say that I have introduced a bill, S. 1892, concerning our defense industrial base. There will be an amended or substitute bill introduced by this Senator shortly, in the early part of next week, modifying that legislation, addressing additional fixes we need to make to preserve our defense industrial base.

I am delighted to say I have had a recent conference with Dr. Costello, the Under Secretary of Defense for Acquisition, who has indicated support for legislation to address the problem of our deteriorating defense industrial base. I am happy to report to my colleagues that we are going to have thorough hearings on this vital issue this year. I am not wedded to particular provisions in my legislation, but I feel we must have legislation to address this very serious question concerning our national security.

I am indebted, as I think all my colleagues should be, and America generally should be, to the Wall Street Journal and Mr. Carrington for the article that appears in that very fine publication today, highlighting this very serious threat to our national security interests.

NEED A LIFT?

Mr. STEVENS. Mr. President, as part of its effort to help the young people of this country, the American Legion has published its 37th edition of "Need a Lift?" This handbook contains information regarding career opportunities and educational benefits for students who need financial assistance to continue their education.

The information in this book can be used by parents and school counselors, as well as students, in planning and financing a higher education. It is available for general distribution through the American Legion, National Emblem Sales, P.O. Box 1050, Indianapolis, IN 46206, for the nominal fee of $1.

It is important for the young people of this country to be as well informed as possible regarding the opportunities and benefits available to them. I ask unanimous consent that section IV of this excellent publication be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION IV.—SOURCES OF SCHOLARSHIPS AND OTHER FORMS OF FINANCIAL AID AVAILABLE TO ALL STUDENTS

A. FEDERAL PROGRAMS

1. U.S. Department of Education provides the largest source of funding for financial aid programs. These programs are listed in the following paragraphs. Applications are available at postsecondary schools and high schools. The "Student Guide: Five Federal Financial Aid Programs, 1987-88" may be obtained by writing to Federal Student Aid Programs, Department DEA-86, Pueblo, Colorado 81009.

a. College Work-Study Program (CWSP). This program provides employment to students enrolled in college and eligible postsecondary institutions who need financial aid to meet college expenses. The financial aid administrator sets the student's work schedule. In arranging a job and assigning a work schedule, the aid administrator takes into account the student's health, class schedule and academic progress.

b. Guaranteed Student Loan Program (GSL). This program provides loans to students for educational expenses and is available from eligible lenders such as banks, credit unions, savings and loan associations, State agencies and schools. Students must be enrolled on at least a half-time basis in participating postsecondary institutions, ranging from vocational and technical schools to degree-granting institutions. All applicants must undergo a needs test. Students are eligible for Federal payment of interest charges of 8 percent on their loans during school years, during a 6-month grace period, and during authorized periods of deferment. A 5 percent origination fee is charged, which will be deducted proportionately from each loan payment.

Loans must be repaid. Repayment normally is over a 5-10 year period. The amount of the student's repayment depends on the size of his or her debt. The more the student borrows, the higher the payments will be. Failure to repay on a timely basis can damage a person's credit rating and may lead to legal action to recover the debt.

Deferment of payment may be granted for a variety of reasons as listed in the publication, "Student Guide: Five Federal Financial Aid Programs, 1987-88" listed above, Deferments are not automatic and must be applied for through your lender.

Depending on your need, you may borrow up to $2,625 a year, if you're a first or second-year undergraduate student; $4,000 a year, if you have completed 2 years of study and have achieved third-year status; $7,500 a year, if you're a graduate student. The total GSL debt you can have outstanding as an undergraduate is $17,250. The total for graduate or professional study is $54,750, including any loans made as an undergraduate.

c. Pell Grant Program. Formerly called the Basic Grant Program, this program makes funds available to eligible students attending participating colleges, community/junior colleges, vocational schools, technical institutions, hospital schools of nursing, correspondence schools and other participating postsecondary institutions. To apply for the grant, an applicant must demonstrate need and be an undergraduate student enrolled on at least a half-time basis. For the 1987-88 award period, individual awards will depend on program funding. The maximum award for the 1986-87 academic year was $2,100. To apply for a Pell Grant, a student must complete the Federal form called "Application for Federal Student Aid" or one of several private or State need analysis applications which are used to determine eligibility for other sources of student aid: the Financial Aid Form (FAF), the Family Financial Statement (FFS), the Pennsylvania Higher Education Assistance Agency (PHEAA) form or the Student Aid Application for California (SAAC). Only one application is required. Further information may be obtained from the Office of Student Financial Aid at the institution or a high school guidance counselor.

d. Perkins Loan (formerly National Direct Student Loan Program—NDSL). These loans are available to students enrolled at least half time in a regular program of study at a participating school and who have need of financial assistance to continue. Aggregate loans may not exceed $18,000 for a graduate student including undergraduate loans; $9,000 for students who have not their bachelor's but have completed 2 years leading to a bachelor's degree; $4,500 for any other student. Repayment of the loan begins nine months after a borrower ceases to carry at least one half the normal academic work load, and is to be repaid within 10 years. Interest of 5% will begin at the time the repayment period begins.

You may defer repayment or have portions of your loan cancelled under certain conditions. These conditions are listed in the publication, "Student Guide: Five Federal Financial Aid Programs, 1987-88" listed on the previous page. Procedures for deferment or cancellation are also outlined in the publication.

e. Plus Loans and Supplemental Loans for Students (SLS). PLUS loans are for parent borrowers. SLS loans are for students. Interest rates are variable (maximum 12%). Like GSL's, they are made by a lender such as a bank, credit union, or savings and loan association. Parents and graduate students may borrow $4,000 per year. Independent undergraduates also may borrow $4,000 per year. All borrowers must begin repaying these loans within 60 days, unless the borrower is entitled to a deferment and the lender agrees to let the interest accumulate until the deferment ends. The negotiation of each loan is between the student and the lending institution. Individuals who desire more information or wish to initiate a loan should discuss the matter with their lender and the financial aid administrator at their school.

f. Supplemental Education Opportunity Grant (SEOG) Program. This grant program is for students with great financial need (priority given to Pell grant recipients). Students must be enrolled at least half-time as an undergraduate or vocational student in a regular program of study at an educational institution participating in the program. Graduate students are not eligible. The amount of the award may be up to $4,000 yearly.

2. U.S. Department of Health and Human Services also administers programs of assistance for students enrolled in health professions programs.

Information on these programs may be obtained from the Health Resources and Services Administration, Bureau of Health Professions, 5600 Fishers Lane, Rockville, MD 20857 or the Office of Financial Aid at the school you plan to attend.

a. Exceptional Financial Need Scholarship Program for First-Year Students is for students with exceptional financial need. Purpose of the program is to encourage students to pursue careers in medicine, osteopathy, dentistry, optometry, pharmacy, podiatry or veterinary medicine. Citizens or Nationals of the United States may apply as well as lawful permanent residents of Puerto Rico, Virgin Islands, Guam, the trust territory, or the North Mariana Islands. Scholarships will cover (1) cost of tuition for school year and other reasonable educational expenses plus a monthly stipend for 12 consecutive months; (2) no service obligation accompanies the scholarship.

b. Program of Financial Assistance for Disadvantaged Health Professions Students is a program that provides financial assistance without a service or financial obligation to disadvantaged health professions students who are of exceptional financial need to pursue a degree in medicine, osteophatic medicine, or dentistry by providing financial support to help pay for their costs of education. Federal funds for this program are allocated to participating accredited schools of medicine, osteopathic medicine, and dentistry located in the United States and Puerto Rico. These schools are responsible for selecting the recipients of such assistance.

Your are eligible to apply if you are a citizen or national of the United States, or a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands or the American Samoas; are accepted for enrollment or are enrolled in a participating school of medicine, osteopathic medicine or dentistry as a full-time student; and are determined by your school's Financial Aid Director to be of "exceptional financial need" and to meet "disadvantaged" criteria. "Disadvantaged background" means that a student comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a school of medicine, osteopathic medicine, or dentistry, or comes from a family with an annual income below a level based on low-income thresholds according to family size, based on data from the U.S. Bureau of the Census and made available through the Department of Health and Human Services. Depending on funding available, a student may receive up to $10,000 or his/her unmet need, whichever is less. Aid may be used to cover the cost of tuition and other reasonable education expenses including fees, books, laboratory expenses and other costs of attending school.

You should contact the Director of Student Financial Aid at the schools where you intend to apply for admission or where you are enrolled.

c. The Health Education Assistance Loan (HEAL) Program is similar to the Guaranteed Student Loan Program of the U.S. Department of Education. Students of medicine, osteopathy, dentistry, podiatry, veterinary medicine and optometry, may borrow up to $20,000 a year, not to exceed a total of $80,000. Pharmacy, chiropractic, health administration, clinical psychology or public health students may borrow up to $12,500 per year, not to exceed a total of $50,000. For students to take part in the program, their school must have an agreement with the Secretary.

The maximum interest is the average of the bond equivalent rates of the 91-day Treasury Bills auctioned for the previous quarter plus percentage points, rounded to next higher ⅛ of 1%. The loan principal is repayable over a 10-25 year period starting after the borrower ceases to be a full-time student. However, payments of principal are not required during periods of up to 4 years of internship and residency training or up to 3 years of service in the Armed Forces, National Health Service Corps, Peace Corps of Volunteers in Service to America (VISTA). Deferments are also made during periods of full-time study. At HHS's discretion, borrowers may enter into agreement with HHS for repayment of loans, plus interest, at a rate of not more than $10,000 a year for each year of service in NHSC or in private practice in a health manpower shortage area. Minimum service period is 2 years.

d. The Health Professions Student Loan Program. Under this program, Federally supported loans are available at participating schools of medicine, dentistry, osteopathy, optometry, pharmacy, podiatry and veterinary medicine for students who need assistance to pursue a full-time course of study at the school. The amount of the loan depends upon the student's need as determined by the school; however, the maximum amount per academic year is the cost of tuition plus $2,500 or the amount of the financial need of the student, whichever is less. The loan is repayable over a 10-year period beginning one year after the student ceases to pursue a full-time course of study at a health professions school. During the repayment period, interest accrues on the total loan at the rate of 9%. Repayment on a loan may be deferred during periods of active military duty, service under the Peace Corps Act or in the Public Health Service (up to three years each). Repayment may also be deferred during periods of advanced professional training, including internships and residencies. Obligation to repay the loan will be canceled in the event of death, or permanent and total disability.

e. National Health Service Corps (NHSC) Scholarships are awarded to U.S. citizens enrolled or accepted for enrollment as full-time students in accredited U.S. schools of allopathic or osteopathic medicine, dentistry, and other health disciplines needed for the mission of NHSC. These scholarships include a monthly living stipend and payment of school tuition. Each year of scholarship support incurs a year of Federal service obligation. The minimum service obligation is 2 years.

The NHSC places full-time primary health care practitioners in selected federally-designated Health Manpower Shortage Areas of the United States. Virtually all of these practitioners owe service obligations of 2 to 4 years due to their participation in the NHSC Scholarship Program.

Due to the limited appropriated funds which may be available, first-time scholarship awards for 1988-89 academic year will be restricted to students of allopathic or osteopathic medicine and dentistry who have been participants at their health professions schools of the Federal "Scholarship Program for First-Year Students of Exceptional Financial Need." No first-time awards will be available for pre-medical or predental undergraduate education, or for students of medicine or dentistry entering their first year in 1988-89.

The scholarship program is administered by the Bureau of Health Care Delivery and

Assistance, Division of Health Services Scholarships. For further information write to: NHSC Scholarships, Parklawn Building, Room 7-16, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443-1650, or for toll-free message tape, call 1-800-638-0824 (except Maryland).

f. Minority Access to Research Careers Program (MARC) Honors Undergraduate Research Training Awards. The Minority Access to Research Careers Program's Honors Undergraduate Research Training Program is designed to increase the number of well prepared minority students who can compete successfully for entry into graduate programs leading to the Ph.D. in biomedical research. Its goal is also to help develop strong science curricula and research opportunities to prepare students for careers in biomedical research. A formal research experience for the recipient is an essential feature of the program. Summer study and research should be part of the overall training program at outstanding institutions or laboratories selected to enhance and supplement the trainee's formal course work and research training experience. The criteria for selection of trainees includes evidence that the candidate has clear potential to perform at a high level in the biomedical sciences and that the candidate has demonstrates a determination to subsequently enter graduate programs leading to the Ph.D. degree. Applicants must be honor students in their third or fourth year of college. The college or university must have an enrollment drawn substantially from ethnic minority groups such as American Indians, Blacks, Hispanics, and Pacific Islanders.

Each school will make awards for stipend and tuition support for five to ten students. The award may include travel expenses to one national meeting closely related to a project.

Applications may be filed by January 10, May 10 or September 10. Apply for information or application to: United States Department of Health and Human Services, National Institutes of Health, National Institute of General Medical Sciences, Westwood Building, Room 9A18, Bethesda, Maryland 29892.

3. Other U.S. Department of Health and Human Service Programs are:

a. Commissioned Officer Student Training and Extern Program COSTEP is a recruiting device for the Commissioned Corps of the Public Health Service (PHS) which offers excellent opportunities for students in health-related fields to get maximum benefit during free periods (31-120 days) of the academic year. Students may apply for assignments at any time during the year; however, the majority of students are hired for the summer period. To be eligible a student must have completed a minimum of one year of study in a medical, dental, or veterinary school; or have completed a minimum of two years of a professionally accredited baccalaureate program in the following course of study: dietetics, engineering, nursing, pharmacy, therapy, sanitary science, or medical record administration; or be enrolled in a masters or doctoral program in a health related field other than those mentioned above. The student must expect to return to college as a full-time student in an accredited field of study following completion of the COSTEP assignment. Students must be free of any obligation that would conflict with extended duty in the PHS Commissioned Corps, may not be a member of another uniformed service nor owe a service obligation to another uniformed service, and must meet the qualifications for appointment in the Commissioned Corps. These include being a citizen of the United States, meeting the physical standards of the corps, and being under 44 years of age. Transportation is paid to and from the location of the assignment. For applications contact: Division of Commissioned Personnel, ATTN: COSTEP, Parklawn Building, Room 4-35, 5600 Fishers Lane, Rockville, MD 20857. Deadline for applications: October 1 for assignments from January through April, February 1 for May through August, and May 1 for September through December. COSTEPs are commissioned as junior assistant health service officers in the Commissioned Corps of the PHS. The pay for a single COSTEP officer is $1,260.90 salary, $253.20 quarters allowance, $112.65 subsistence for a total of $1,626.75 per month. for COSTEP officers with dependents, the quarters allowance is $343.20 for a total of $1,716.75 per month. The quarters and subsistance alowances are not taxable. COSTEPs are eligible for medical and dental care while on duty and receive many of the benefits of commissioned officers. For additional information you may call the COSTEP office at (301) 443-6324.

b. Professional Nurse Traineeship Program. Professional nurse traineeships are available through participating training institutions to help registered nurses prepare to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, to serve as nurse practitioners, or to serve in other professional nursing specialities requiring advanced training. Traineeships provide a living stipend (not to exceed $6,552) and tuition and fees as set by the participating training institution. Trainees are selected by the training institutions. Further information is available from: Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Room 5C-26, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857. Students should request information through the Dean of Nursing at their institution. NOTE: This assistance is only for students studying at the master's or doctoral level.

c. Nursing Student Loan Program. Federally supported loans are available through participating schools of professional nursing for students who need assistance to pursue full-time or half-time courses of study. Amount of an individual loan depends on the general availability of student aid funds and on need as determined by the student's school; however, no loan may exceed $2,500 per academic year, and no student may receive more than a total of $10,000 for all years in loan assistance. The total loan is repayable over a 10-year period beginning nine months after the borrower completes or discontinues nursing studies. During the repayment period, interest accrues on the total loan at the rate of 6%. Repayment on a loan may be deferred during periods of active military duty and service in the Peace Corps and also during periods of full-time advanced professional training in nursing. Obligation to repay the loan will be cancelled in the event of death or permanent and total disability. Contact the Director of Student Financial Aid at the school the student is attending or plans to attend.

4. The U.S. Department of Interior Administrates a Program of Indian Tribal Grants and Loans. Over 45 Indian tribes have established their own Grant and Loan Programs to promote higher education for their members. Contacts for tribal assistance should be made through the U.S. Dept. of the Interior, Bureau of Indian Affairs, Washington, D.C. 20240, or through the Tribal Headquarters.

5. Indians Higher Education Grant Program is a program for students who are members of a tribal group being served by the Bureau and who are enrolled in accredited institutions of their choice in pursuit of an undergraduate or graduate degree. Must demonstrate financial need by the institution they are or will be attending. For information, write to: Department of the Interior-B1A, Office of Education Programs, MS 3512, Code 522, 18th & C Street, N.W., Washington, D.C. 20240.

6. The U.S. Information Agency Sponsors: The Fulbright Teacher Exchange Program. Under the Mutual Educational and Cultural Exchange Act qualified American educators may work in elementary and secondary schools abroad, and, in some instances, institutions of higher education in various countries. To be eligible, an applicant must be teaching currently as an elementary or secondary school teacher, college instructor, assistant, associate or full, professor. Candidates must have at least a bachelor's degree, be a U.S. citizen at the time of application, proficiency in the language of the host country and have at least three years of successful full-time teaching experience. Two years are required for participation in summer seminars held in Italy and the Netherlands. Evidence of good health, emotional maturity and stability also is required. Round-trip transportation to some countries for those selected to participate may be provided. A maintenance allowance, may also be provided, paid in the currency of the host country is based upon the country's cost of living. For teachers, participating in the Exchange Program, the successful applicant's U.S. salary is continued by the participant's own school. Seminar grants may include round-trip transportation and tuition costs, but for some, the participants are responsible for their own maintenance expenses. Regional interviewing communities conduct preliminary screening of applicants. Annual application deadline date is October 15. Application forms can be obtained from and then submitted to the Teachers Exchange Branch, E/ASX, Room 353, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547.

B. ASSISTANCE FOR UNDERGRADUATES ONLY

AFL-CIO Department of Education. The AFL-CIO offers a scholarship guide with a wide variety of scholarships to postsecondary institutions including; two and four-year colleges and universities, graduate schools, culinary institutes, musicians training institutes, vocational, technical and nursing schools. Through most scholarships listed in the guide are available to union members and their families, some are available to the general public. Single copies are available without charge for union members only. Copies are $3.00 for all others. Checks should be made payable to the Secretary-Treasurer AFL-CIO and sent to the AFL-CIO Pamphlet Divisions, 815 16th Street, N.W., Washington, D.C. 20006.

Aid Association for Lutherans (AAL) awards at least 400 ALL-COLLEGE SCHOLARSHIPS annually, 200 of which are renewable and 200 nonrenewable scholarships. Each applicant must be a high school senior owning an AAL certificate of membership and insurance in his or her own name. The

CEEBSAT must be taken no later than December of the high school senior year. The American College Test (ACT) will also be accepted. Individual stipends for the renewable scholarships, range from $500 to $1750 and are renewable for three additional years or until requirements for a baccalaureate degree are met, whichever is earlier. The 200 nonrenewable awards are for $500. Financial need is not considered until winners have definitely been selected. Renewal is based on satisfactory academic progress and continuing AAL membership. Completed AAL applications must be submitted to College Scholarship Service/Sponsored Scholarship Programs before November 30. Applications may be secured by writing: Scholarships, Aid Association for Lutherans, Appleton, WI 54919. AAL scholarship assistance is also available to AAL members at Lutheran colleges, universities and seminaries participating in other AAL scholarship programs. For more details, contact the institution's financial aid office.

Aid Association for Lutherans (AAL) will be awarding up to 100 Vocational/Technical School Scholarships annually. Up to 50 scholarships will be awarded to persons who graduated from high school in previous years, and up to 50 scholarships will be awarded to graduating seniors each year. Applicants must own an AAL certificate of membership and insurance in their own name. Persons of any age may apply for their scholarships provided they will have completed high school or have a GED, and have a well-defined course of study. They must be enrolled or planning to enroll in an accredited vocational/technical institute or community college on either a full or half-time basis with the intent of completing requirements for a vocational diploma or an associate degree. Individual award amounts are $500 for full-time attendance and $250 for half-time attendance. Awards will be renewable for up to one year for full-time studies after the initial year and up to three half years after the initial half year, or until a degree/diploma is earned, whichever is earlier. Applications must be requested by November 30. Applications may be obtained by writing: Scholarships, Aid Association for Lutherans, Appleton, WI 54919.

American Medical Technologists' Scholarship Program offers five scholarships of $250 each to high school graduates interested in pursuing medical technology or medical assisting studies. Awards are based primarily on need, with consideration given to goals, schools grades, activities, experience and personal references. Applicants must be enrolled, or contemplate enrolling in a school accredited by the Accrediting Bureau of Health Education Schools (list available by contacting the ABHES, 29089 U.S. 20 West, Elkhart, Indiana 46514), or enrolled or contemplate enrolling in a college, university or junior college medical technology or medical assisting program. April 1 is the filing deadline for applications and supporting documents. Write: AMT, 710 Higgins Road, Park Ridge, IL 60068. Telephone: (312) 823-5169.

The American Society for Metals Foundation for Education and Research sponsors $500 undergraduate scholarships for students in metallurgy and materials science who are attending colleges or universities and are citizens of the United States, Canada or Mexico. Selection is based on interest in metallurgy or materials science, motivation, achievement, potential and scholarship. In addition, some indivdiual A.S.M. chapters sponsor programs on a local or regional basis. ASMFER also supports scholarships through the National Merit Scholarship Program. For further information, write: ASM International, Metals Park, OH 44073. Telephone: (216) 338-5151.

ASMT Education and Research Fund sponsors a two-year scholarship of $3,000, awarded at $1,500 per year; those applying should be medical technology students who have completed the 1st term of their sophomore year. The scholarship is awarded for the junior and senior years, and the second year continuation is contingent on satisfactory academic performance. In addition, the scholarship recipient receives travel and hotel expenses for the current ASMT annual meeting. Any student who is a permanent resident of the U.S., enrolled full-time in an accredited degree program in medical technology, who has completed the first term of the sophomore year and will enter the junior year within 12 months is eligible to apply. Written requests for application materials should be addressed to: ASMT, 3 Metro Center, Suite 950, Bethesda, MD 20814. Applications must be received by April 30 of each year.

The Business and Professional Women's Foundation Scholarships. Scholarships are awarded for full-time or part-time programs of study and they may cover academic, vocational, or paraprofessional courses.

Eligibility: 1. Be a woman 25 years of age or older and a U.S. citizen; 2. Demonstrate critical need for financial assistance; 3. Be officially accepted into an accredited program or course of study at a U.S. institution; 4. Be graduating within 24 months; 5. Training must lead to entry or re-entry into the workforce or improve chances for advancement. BPWF scholarships do not cover study at the doctoral level (except law and medical students) or correspondence courses. Scholarships range from $500 to $1000 and are awarded for a one year period to cover tuition, fees, and school-related expenses such as child care and transportaton. Application forms are available between February 1, and April 1, and July 1 and September 1. Deadlines are April 15th and September 15th and materials must be postmarked on or before these dates.

BPW Career Advancement Scholarship: awarded to women 25 years of age or older.

Clairol Scholarship: awarded to women 30 years of age of older.

Avon Products Foundation Scholarship; awarded to women heads of households who are supporting one or more dependents, and pursuing education leading to careers in sales.

New York Life Foundation Scholarship for Women in the Health Professions: awarded to women seeking the education necessary for a career in the health professions at the undergraduate level only.

For information and applications (there is one application form for all four of the scholarships) please write to the BPW Foundation at 2012 Massachusetts Ave., N.W., Washington, D.C. 20036 and enclose a self-addressed business-size envelope with two stamps.

NOTE: Loans are available to Women in Graduate Business Studies and Women in Engineering Studies.

Club Managers Association of America maintains undergraduate scholarships for students enrolled at colleges and universities offering courses in Hotel, Restaurant and Institutional Management. These scholarships, normally made available to students who have completed at least one year of undergraduate work at a four-year school, are awarded on the basis of scholastic ability, financial need and interest in private club management. Write: Club Managers Association of America, 7615 Winterberry Place, Bethesda, MD 20817.

The Education Council of the Graphic Arts Industry, Inc., Council's National Scholarship Trust Fund has awarded scholarships during the past 25 years for studies in printing management, printing technology and graphic arts education. Approximately 75 scholarships are awarded each year. Applications must be filed by January 15. Applications may be requested by writing: 4615 Forbes Avenue, Pittsburgh, PA 15213 ATTN: NSTF. Telephone: (412) 621-6941.

Educational Communications Scholarship Foundation provides a minimum of 65 awards annually of $1,000 each. Approximately 500 semi-finalists are selected on the basis of aptitude test scores, grade point averages and leadership activities. Semi-finalists are required to write an essay which is evaluated by committee. Some consideration is given for need for financial aid, but this is not a major factor. Applications must be submitted by June 1 and may be obtained in most high school guidance offices or write direct to: Educational Communications Scholarship Foundation, 721 N. McKinley Road, Lake Forest, IL 60045. Telephone: (312) 295-6650. Please state name, address, grade point average and class year.

The Elks Foundation is offering 1,736 college scholarships ranging from $1,000.00 to $5,000.00 and totaling $2,552,400.00 for the academic year 1987-88. The 1987 Schedule of Awards includes 500 "Most Valuable Student" Scholarships awarded in nationwide competition, and 1,236 scholarships each for $900.00 allocated on a state-quota basis. "300" four-year scholarships are to be awarded to the highest-rated boys and girls in the 1987 competition. Applications may be made by students in the graduating class of a high school, or its equivalent, who are citizens of the United States of America and residents within the jurisdiction of the B.P.O. Elks of the U.S.A. Scholarship, leadership and financial need are the criteria by which applicants are judged. Application must be made on an official form furnished by the Elks National Foundation, which will be available at Elks lodges after November 1. Applications, properly executed must be filed not later than January 20 with the Scholarship Chairman or Exalted Ruler or Secretary of the Elks lodge in whose jurisdiction the applicant resides.

Entomological Society of America annually awards one $1,000 undergraduate scholarship sponsored by BioQuip Corporation. Portions of the award are paid at the beginning of each semester or term. Students from Mexico, Canada or the United States must be an undergraduate pursuing a course of study in Entomology or a related field (Biology, Zoology, etc.) and show an interest in the science of Entomology. Application deadline is July 1, each year. For further information, write: Entomological Society of America, 4603 Calvert Road, College Park, MD 20740. Telephone: (301) 864-1334. Additional scholarships are available.

The Foundation of the National Student Nurses' Association offers a number of scholarships each year for Registered Nurses. Scholarships are awarded to Nurses for undergraduate studies and are based on financial need, academic achievement and a demonstrated commitment to nursing through involvement in nursing student organization and/or school and community activities. Requests for application must be received before January 15 each year, with a completed application deadline of February 1. Awards are made in April. For further information and application, send a self-addressed, stamped envelope with 44¢ postage to: Foundation of the National Student Nurses' Association, 555 West 57th Street, Suite 1325, New York, NY 10019. Telephone: (212) 512-8820.

The Harry S Truman Memorial Scholarship Program, enacted by Public Law 93-642, is authorized to award scholarships, through nationwide competition, to persons who demonstrates outstanding potential for and who plan to pursue a career in public service. Scholarships awarded under this Act shall not exceed four academic years neither shall they exceed the cost of tuition, fees, books, room and board, or $7,000 whichever is less for each year of study. Recipients must be college juniors in the initial year of the award. Each state shall be assured at least one recipient each year and the scholarships may apply to any institution of higher education offering courses of study or training to prepare persons for a career in government. The institution's nominations must be forwarded to the Foundation by December 1. Truman Scholarship Foundation, 712 Jackson Place, N.W., Washington, DC 20006.

Horatio Alger Scholarship Program offers one $5,000 scholarship to a graduating senior from each high school hosting a Horatio Alger Day. Eligibility requirements for the scholarship include: must be a Senior in high school, have a significant financial need and must participate in the Horatio Alger Day at his/her school. Grades, character, college entrance scores, school activities, community involvement and part-time/summer work record will also be considered in the final decision. Preliminary screening is accomplished by a committee of local school officials/staff. Final selection is made by the Horatio Alger Association of Distinguished Americans, Inc. A requirement for hosting a Horatio Alger Day is that the host school must provide an audience of at least 1,000 Junior/Senior students for the keynote speaker provided by the Association. Schools not having a Junior/Senior population sufficient to meet this requirement, will be required to extend invitations to neighboring schools to provide a minimum audience. Only one scholarship, however, will be awarded to the hosting school. For more information about the Horatio Alger Day and Horatio Alger Scholarship, contact the Horatio Alger Association of Distinguished Americans, Inc., One Rockefeller Plaza, Suite 1609, New York, NY 10020.

Knights of Columbus "Pro Deo and Pro Patria Scholarship Trust" is for undergraduate scholarships. The Knights of Columbus has an established trust fund which will provide annually $1,000 scholarships to members, to sons and daughters of living or deceased members. The fund will also annually provide two $1,000 scholarships to Columbian Squires. Awards will be made on the basis of academic excellence regardless of need and may be renewed annually subject to satisfactory academic performance. Five of these scholarships, and one for the Columbia Squire, are placed at The Catholic University of America. Students admitted to the freshman class may apply for these scholarships through the Director of Financial Aid, Catholic University of America, Washington, D.C. 20064. Final filing date of applications is February 1. Five of these scholarships and one for the Columbian Squire, may be used at a Catholic college of student's choice. Final filing date for these applications is March 1. Applications for these scholarships may be obtained from the Director of Scholarship Aid, Knights of Columbus, Supreme Council, Columbus Plaza, P.O. Drawer 1670, New Haven, CT 06507.

National Achievements Scholarship Program for Outstanding Negro Students, a compensatory activity, created in 1964, is conducted by National Merit Scholarship Corporation (NMSC) which also administers the National Merit Scholarship Program (as described in a later entry). All grants to the Achievement Program are specified for the purposes of honoring academically able black students and awarding them college undergraduate scholarships. Currently, some 700 Achievement Scholarships worth over $2 million are awarded in each annual competition.

To enter the Achievement Program, black high school students must take the PSAT/NMSQT (which simultaneous makes them participants in the Merit Program), mark a space on their answer sheets requesting consideration in the Achievement Program and meet NMSC eligibility requirements.

About 1,500 of the highest scoring eligible black students are designated Semifinalists in each Achievement Program. To ensure nationwide representation, Semifinalists are named in each of several U.S. geographic regions, proportionate to each region's Negro population.

Semifinalists must meet further requirements and advance to Finalist standing in order to continue in the Achievement Scholarship competition. All winners are chosen from the Achievement Program Finalist group. The selection of winners includes an evaluation of each Finalist's academic record and test scores, extracurricular activities and attainments, and the endorsement and recommendation of the student's school.

About 350 of the annual awards are National Achievement $2,000 Scholarships that are single-payment awards. Every Finalist is considered for one of these awards. About 225 are corporate-sponsored four-year Achievement Scholarships for which winners must meet preferential criteria specified by the grantor organization, and are worth between $500 and $4,000 or more for each of the four college years: About 125 are college-sponsored Achievement Scholarships that provide between $250 and $2,000 during each of the winner's four undergraduate years of attendance at the sponsor college university.

The PSAT/NMSQT Student Bulletin gives requirements students must meet to be eligible to participate in the Achievement Program and also lists sponsor organizations that currently provide support for Achievement Scholarships. A copy can often be obtained from the student's high school. Questions should be directed to: National Achievement Scholarship Program for Outstanding Negro Students, One American Plaza, Evanston, IL 60201 (312) 866-5100.

National Association of Secondary School Principals sponsors the Century III Leaders Program which provides 102 $1,500 scholarships (State winners); 102 $500 awards (State alternates; 2 each per state and D.C.); 306 $100 awards (State finalists); 9 $500 awards (National semi-finalists); and one $10,000 national award to high school seniors who are selected by their schools. For information, contact the school principal in early September (in advance of the October 22 deadline).

Also offered are 450 $1,000 National Honor Society Scholarships, See NHS chapter advisor at the school in early January for the February deadline. The newest scholarship program is the Reader's Digest "Don't Drink and Drive" Challenge. Annual awards will total $500,000. School personnel should write to the National Association of Secondary School Principals to request an information packet: NASSP, 1904 Association Drive, Reston, VA 22091.

National Merit Scholarship Program is a nationwide competition for college undergraduate scholarships. The Merit Program is conducted by National Merit Scholarship Corporation (NMSC), an independent non-profit organization, established in 1955 to administer this annual competition. Over 6,000 Merit Scholarships, valued at about $21 million, have been awarded each year in recent programs. Secondary school students throughout the U.S. enter the competition by taking the Preliminary Scholastic Aptitude Test/National Merit Scholarship Qualifying Test (PSAT/NMSQT) given by their schools in October. To participate, students must meet published eligibility requirements.

About 15,000 top-scoring students are designated in each Merit Program. The highest scorers in each state are named Semifinalists in numbers proportionate to the state's percentage of the National total of graduating high school seniors.

Semifinalists must meet further requirements and advance to Finalist standing in order to continue in the Merit Scholarship competition. All Merit Scholars are chosen from the group of approximately 13,500 Finalists. The selection of winners includes an evaluation of each Finalist's test scores, academic and extracurricular achievements and the endorsement and recommendation of the student's school.

At least 1,800 of the annual awards are National Merit $2,000 Scholarships that are single-payment awards allocated to winners on a state representational basis, and every Finalist is considered for one of these awards. Over 1,400 are corporate-sponsored Merit Scholarships for which winners must meet preferential criteria specified by the grantor organization providing funding for the award; most of these awards are renewable for up to four years and provide stipends between $500 and $4,000 (or more) annually; a few may provide single payments of $2,000. Over 2,800 are college-sponsored, four-year Merit Scholarships that provide between $250 and $2,000 during each of the winner's four undergraduate years of attendance at the sponsor college or university.

Details concerning eligibility and the Merit Scholarships offered are published annually in the PSAT/NMSQT Student Bulletin, sent to high schools. Questions and requests for additional information should be sent to: NMSC, One American Plaza, Evanston, IL 60201 (312) 866-5100.

National Federation of the Blind offers over twenty scholarships ranging from $1,800 to $10,000 for legally blind students pursuing or planning to pursue a full-time postsecondary course of training or study. All scholarships awarded by the Federation are awarded on the basis of academic excellence, service to the community, and financial need. Applicants need not be members of the National Federation of the Blind. Applications must be completed and submitted by March 31 of the year in which the scholarship is awarded. Recipients will be notified of their award by June 1 and brought to the National Federation of the Blind Convention in July at Federation expense. Applications may be obtained from local and state Federation officers or by writing: National Center for the Blind, 1800 Johnson Street, Baltimore, MD 21230.

National Presbyterian College Scholarships are offered by the Presbyterian Church (U.S.A.) to qualified Presbyterian young people entering as college freshmen any of the participating Presbyterian church-related colleges in the fall of each year. There are approximately 250 awards ranging from $500 to $2,000. There are honorary awards with no stipend where no need is shown. To qualify, applicants must be members of the United Presbyterian Church (U.S.A.). Applications are available after mid-August and the filing deadline is December 1. Information may be secured by writing: National Presbyterian College Scholarships, Vocation Agency, Presbyterian Church (U.S.A.), 475 Riverside Drive, Room 430, New York, NY 10115-0094. Telephone: (212) 870-2618.

National 4-H Council, through 50 business corporations and foundations, offers more than 270 4-H college scholarships with total value of more than $250,000 and range from $500-$1,500. The majority are open only to current 4-H members who have won state honors in specific 4-H projects. (Other college scholarships, ranging in value from $500 to $1,000, are available to present or former 4-H members who either are in, or plan to attend college.) Applicants for the latter should have an interest in one of the following fields: (1) animal science; (2) veterinary medicine; (3) forestry; or, (4) agricultural, home economics or closely related career fields. For further information on eligibility requirements, write to the county 4-H office, the State 4-H Leader at the State Land-Grant University, or the National 4-H Council, 7100 Connecticut Avenue, Chevy Chase, MD 20815.

Samuel Robinson Scholarships are for undergraduate students enrolled in one of the Presbyterian-related colleges. No one may receive the scholarship more than once. Applicants must successfully recite the answers of the Westminister Shorter Catechism, and write a 2,000-word original essay on an assigned topic related to the Shorter Catechism. Amount of Award: $500. Deadline: April 1. For further information, contact the financial aid officers at the Presbyterian-related colleges or Presbyterian Church (U.S.A.), 475 Riverside Drive, Room 430, New York, New York 10115-0094.

Science Talent Search, conducted by Science Service and sponsored by the Westinghouse Electric Corporation and the Westinghouse Educational Foundation, annually offers scholarships for boys and girls in their last year of high school. Awards are based on high school records, national test scores, recommendations of high school teachers, a thousand-word report on an independent science research project by the student and interviews by judges of the forty finalists at the Science Talent Institute in Washington, D.C. Awards include 10 scholarships: one $20,000, two $15,000, three $10,000 and four $7,500. The remaining 30 finalists each receive Westinghouse Science Awards of $1,000. State Science Talent Searches are conducted currently with the National Competition in 36 states and the District of Columbia. Entry deadline date is December 15. Detailed information is available from Science Service, 1719 N Street, N.W., Washington, D.C. 20036. Telephone: (202) 785-2255.

Soroptimist International of the Americas Youth Citizenship Award of $1,250 per Soroptimist region and a finalist award of $2,000 offered to high school seniors demonstrating good citizenship qualities. Citizenship qualities include integrity, worth and ability, and encourage youth to develop the highest concepts of patriotism and effective cooperation in home and community affairs. Deadline is December 15. For further information, contact Soroptimist International of the Americas, 1616 Walnut Street, Philadelphia, PA 19103. Telephone: (215) 732-0512.

Student Opportunity Scholarships. These scholarship are for young persons of limited opportunities, members of racial/ethnic groups who are communicant members of the Presbyterian Church (U.S.A.). Must be entering college as an incoming freshman and apply to the college for financial aid. Amount of Award: $100 to $1,400. Those eligible should write between January 15 and March 15 to: Student Opportunity Scholarships, Presbyterian Church (U.S.A.), 475 Riverside Drive, Room, 430, New York, NY 10115-0094. Telephone: (212) 870-2618.

The Ted and Peg Serrill Journalism Scholarship is offered annually by the National Newspaper Foundation to a college Junior enrolled full-time in journalism. The scholarship program is designed to encourage study in the print media field. The scholarships, in the sums of $1,000, $500 and $250, are payable during the Junior year. The student must have at least a B average and a recommendation by the Dean, Director or Department Head of the school in which he/she is enrolled. Deadline is June 13. Write for an application to: Selection Committee, Serrill Scholarship, National Newspaper Foundation, 1627 K Street, N.W., Suite 400, Washington, D.C. 20006. Telephone: (202) 466-7200.

The Westinghouse Eductional Foundation sponsors the following awards annually:

1. The Westinghouse Family Scholarship—ten $12,000 and sixty-five $3,000 scholarships. Information on the Westinghouse Family Scholarship may be obtained from the Personnel Relations Office where the student's parent is or was (if deceased, retired or permanently disabled) employed.

2. The Science Talent Search—forty awards. The student should request his science teacher to write to Science Talent Service, 1719 N Street, N.W. Washington, D.C. 20036 to obtain information and application forms.

3. 4-H Electric Program—4-H Club members should contract their local 4-H leader or County Extension Agent for information and application.

4. Bertha Lamme Scholarship—these scholarships are awarded to young women entering engineering as freshmen. For information write: Society of Women Engineers, United Engineering Center, Room 305, 345 East 47th Street, New York, N.Y. 10017. Telephone (212) 705-7855.

5. National Achievement Scholarship Program for Outstanding Negro Students. For information, write to: One American Plaza, Evanston, IL 60201.

Eligibility for each of these scholarships is limited to students residing in the United States. The Family Scholarship, The Science Talent Search and The Bertha Lamme require that the applicant be in his or her last year of high school and applications must be submitted during the Fall months of their Senior year. Students aged 14 through 19 are eligible for the 4-H Electric Program.

Western Golf Association sponsors the Evans Scholars Foundation, which annually awards approximately 200 four-year scholarships to qualified caddies. Eligibility for Evans Scholarships: (1) Candidates must have completed junior year in high school in upper 25% of class; (2) must have caddied for a minimum of two years; and (3) must require financial assistance to attend colleage. Information is available by writing to Western Golf Association, Golf, IL 60029. Telephone: (312) 724-4600.

C. ASSISTANCE FOR GRADUATES AND UNDERGRADUATES

American Congress on Surveying and Mapping/American Society for Photogrammetry and Remote Sensing fellowships and scholarships for 1987-88: (1) Wild Heerbrugg Geodetic Fellowship—a $4,000 award for one graduate student, to be used for study in geodesy at a school of the recipient's choice; (2) Wild Heerbrugg Photogrammetric Fellowship—a $4,000 award for one graduate student, to be used for study in photogrammetry at a school of the recipient's choice; (3) American Association for Geodetic Surveying Fellowship—a $2,000 award for one graduate student, to be used for study in a program that focuses on geodetic surveying or geodesy at a school of the recipient's choice; (4) Schonstedt Scholarship in Surveying—a $1,500 award for one undergraduate student, to be used for study in surveying by a student who has completed at least 2 years of a 4 year curriculum leading to a degree in surveying; (5) The William A. Fischer Memorial Scholarship—a $1,500 award for graduate study in remote sensing related to the natural, cultural, or agricultural resources of the Earth; (6) The American Cartographic Association Scholarship—a $1,000 award for full-time students of junior or senior standing. Applicants should be enrolled in a cartography or other mapping science curriculum in a 4-year degree granting institution; (7) The Berntsen Scholarship in Surveying—a $1,000 award for one undergraduate student, to be used for study in surveying in a 4-year degree program of the recipient's choice; (8) The Robert E. Altenhofen Memorial Scholarship—a $500 award for one undergraduate or graduate student, to be used for study in photogrammetry at a school of the recipient's choice. Deadline for applications is January 15, except for the Robert E. Altenhofen Memorial Scholarship, which has a deadline of January 1, 1988. Request application forms and instructions from: Joint Education Director, 210 Little Falls Street, Falls Church, VA 22046.

The American Dental Hygienist's Association Institute for Oral Health offers the following scholarships: (1) Certificate Scholarship Program to students who are in a certificate/associate degree or bachelor's degree dental hygiene program, have completed at least one year in dental hygiene curriculum and have a minimum grade point average of 3.00 (on a 4.00 scale); (2) Baccalaureate Dental Hygiene Scholarship Program to students who have a minimum grade point average of 3.00 (on a 4.00 scale) and can provide evidence of acceptance as a full-time bachelor's degree candidate in an accredited four-year college or university; if a Baccalaureate Degree sought is not in Dental Hygiene, evidence of a Dental Hygiene Certificate or qualification for the Dental Hygiene Certificate within the current academic year must be provided; (3) Graduate Dental Hygiene Fellowship Program to students who can provide evidence of acceptance as a full-time Master's or Doctoral degree candidate in a university program, are graduates of a certified associate dental hygene program or baccalaureate program, and are licensed Dental Hygienists or will receive a bachelor's degree at the end of the current academic year. While being enrolled in a dental hygiene curriculum, must maintain a minimum grade point average of 3.00 (on a 4.00 scale). The maximum scholarship is $1,500, depending on need. Deadline for applications is May 1. Information and application may be obtained by writing: American Dental Hygienist's Association Foundation, 444 North Michigan Avenue, Suite 3400, Chicago, IL 60611.

The American Dental Hygienists' Association Institute for Oral Health Research Grant Program makes research grant funds available for licensed dental hygienists or students pursuing a dental hygiene degree who submit a complete research grant application according to the specified guidelines. The purpose is to provide financial assistance to associate, baccalaureate, master's, doctoral candidates and practicing dental hygienists to implement research. All proposals and applications due by June 1; awards are in usual amounts up to $1,500. Further information and application may be obtained by writing: American Dental Hygienists' Association Foundation Institute, 444 Michigan Avenue, Suite 3400, Chicago, IL 60611.

The American Institute of Architects. Scholarships are available for the first professional degree candidate, and for a graduate student in architecture. Graduate scholarships are available for one academic year to study health facility design. Finally, a scholarship program is available for students from minority or disadvantaged backgrounds. For further information write Director, Education Programs, The American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006.

The American Society of Heating, Refrigeration, Air Conditioning Engineers, Inc. offers grant-in-aid to full-time graduate students of ASHRAE-related technologies to encourage students to continue preparation for service in the industry. An application is made on the student's behalf by a faculty adviser. Up to $6,000 may be awarded during a calendar year. Applications are available from the Director of Research, American Society of Heating, Refrigeration and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, GA 30329.

The Dow Jones Newspaper Fund, Inc. is an organization to encourage talented young people to consider careers in journalism. The Journalism Career and Scholarship Guide, published by the Fund, provides information on what to study in college, where to study journalism/mass communications, general information on where jobs are and how to find them. It also lists more than $3 million in financial aid from universities and colleges, newspapers, professional societies and journalism-related organizations for students majoring in journalism/mass communications. Single copies of the Guide are available at no charge to interested individuals. Bulk orders are also available at $2.00 per copy. The Fund operates three editing internship programs: the newspaper Editing Intern Program for College Juniors, the Minority Editing Intern Program for College Seniors, and Minority Reporting Intern Program for College Sophomores.

The internships offer students the opportunity to earn scholarships after successfully completing a summer of paid employment as copy editors or reporters on daily newspapers. The Fund also sponsors: High School Journalism Workshops for Minorities that are designed to identify minority high school of the year. For information on these programs, as well as a copy of the Journalism Career and Scholarship Guide, write the Dow Jones Newspaper Fund, P. O. box 300, Princeton, NJ. 08543-0300. Telephone: (609) 452-2820.

Educational Foundation of the National Restaurant Association (NRA): Foodservice Management Scholarships—available for student of foodservice management (Hotel-Restaurant Management, Institutional Management, Dietetics, Culinary Arts and other foodservice-related curricula). Must have FULL-TIME STATUS for full academic year beginning with fall term. Judged on basis of motivation toward an industry career, academic records, and financial need. Some programs offered are:

Heinz Scholarships—Supported by the H.J. Heinz Company Foundation—offers seven Senior College Awards of $2,600 each over two years and three Junior Community College Awards of $1,900 each over two years.

Gold Plate Scholarships—Supported by the International Foodservice Manufacturers Associations Educational Foundation—offers up to 100 awards of $750 for one year to Junior/Community College, Senior College, and Graduate students.

Griffith Laborities Scholarships offers one Culinary Arts Award of $3,000 over two years to a Junior/Community College student majoring in Culinary Arts, and a Food Technology Award of $3,000 over two years to a student entering his/her Junior year in a Food Technology/Science major.

The Nestle Company Scholarships, two awards ($1,500 and $1,200) each for one year to Junior/Community College students earning an associate degree in Culinary Arts.

Heinz Graduate Degree Fellowships are available to teachers and administrators of foodservice career education programs and awarded on a competitive basis to teachers and administrators enrolled in academic programs leading to a master's or doctor's degree to improve skills in teaching foodservice courses or administering foodservice career education. One Fellowship of $2,000; one Fellowship of $1,200; five Fellowships of $1,000 each. Applications for fellowships are available on request directly from NRA. Applications and supporting documents must be postmarked no later than December 31.

NRA Teacher Work-Study Grants—up to 25 grants of $2,000 each are awarded on a competitive basis to teachers and administrators who wish to update their knowledge of the foodservice industry by obtaining 8 weeks of "hands-on" experience in the industry. Applications for grants available on request directly from NRA. Applications and supporting documents must be postmarked no later than December 31.

Additional scholarships are also offered. Information may be requested on complete scholarship program by writing to NRA. Applications for the scholarship awards will be available after November 1. Request applications from Department Chairman or Director of Financial Aid, or write directly to NRA. All applications and supporting documents must be received by NRA postmarked no later than March 1. NRA, 20 North Wacker Drive, Suite 2620, Chicago, Illinois 60606. Telephone: (312) 782-1703.

Institute of Food Technologists adminsters fellowships and scholarships to students pursuing a program leading to a degree in the general field of Food Technology or Food Science. During the tenure of a scholarship, winners must be enrolled in an IFT approved U.S. or Canadian educational institution. Graduate fellowship winners may be enrolled in any U.S. or Canadian educational institution that is conducting fundamental research in food science or technology. Awards include 30 freshman and sophomore, and 52 junior and senior scholarships of $500 to $2,000; and 23 graduate Fellowships up to $10,000. A booklet on IFT Scholarship/Fellowship Programs and applications is available after September 15 from IFT Scholarship Department, 221 N. LaSalle St., Suite 300, Chicago, IL 60601, or, from Department Head of approved institution. Telephone: (312) 782-8424.

The International Chiropractors Association has two scholarship programs, the Womens' Auxiliary and King Koil scholarship programs, which provide funds to student ICA chapters for distribution to student ICA members. ICA also furnishes career information to interested individuals. Upon request, ICA will send a list of chiropractic colleges. Write to the International Chiropractors Association, Career-Scholarship Information, 1901 L St., N.W., Suite 800, Washington, D.C. 20036.

Kappa Kappa Gamma Fraternity Scholarship Awards. Undergraduate and graduate scholarships are available to members of Kappa Kappa Gamma and to any woman student who is a citizen of the United States or Canada who has completed two years of study on a campus with a chapter of Kappa Kappa Gamma or who will be a graduate student on a campus with a chapter of Kappa Kappa Gamma. Application forms are on file with your scholarship chairman, or may be obtained by writing to Fraternity Headquarters, P.O. Box 2079, Columbus, Ohio 43216. (Please send a self-addressed, stamped envelope). Address your questions regarding scholarships to the chairman or director of philanthropies: Mrs. Wilma Johnson, 22 Burlington Road, Bedford, MA 01730.

The Material Handling Education Foundation, Inc. awards scholarships to students enrolled in programs of study pre-qualified by the Foundation. Majors in Industrial, Electrical, and Mechanical Engineering; Computer Science; and Marketing and Sales may qualify. The program should include an emphasis in material handling through direct and related courses, or through independent study. To be eligible, students must be: beyond their second year of a Bachelor's program, or beginning graduate study; U.S. citizens and maintaining at least a "B" average. The application deadline is early February; the forms are available from faculty members at approved institutions. For general information, you may write: The Material Handling Institute Inc. 8720 Red Oak Blvd., Suite 201, Charlotte, NC 28210. Telephone: (704) 522-8644.

The National Board of Civil Air Patrol has authorized scholarships to be awarded to Civil Air Patrol members each year in the following categories: Undergraduate, Advanced Undergraduate, Graduate and Technical/Vocational Scholarships. Deadline date is April 1. Information and forms may be secured from: Civil Air Patrol Unit Commanders or from National Headquarters, Civil Air Patrol/TT, Maxwell AFB, AL 36112.

National Congress of Parents and Teachers does not have a scholarship and loan program at a national level. Some state PTA's have such programs and others are encouraging scholarship grants at council and local levels. Awards are made possible by dues received for memberships, memorial gifts and/or voluntary contributions to PTA's. Most are for teacher training eductation, but some are for family life education, guidance and counseling instruction, librarianship, teachers of exceptional children and inservice teachers' summer term work. Special fellowships offered. Inquiries should be sent to the inquirer's state PTA office.

Nurses' Educational Funds is an organization which grants scholarships to registered nurses pursuing further full-time study through degree programs. Men and women who are members of The American Nurses Association and who qualify for these awards study in graduate nursing programs accredited by the National League for Nursing in colleges and universities of their choice. Funds are contributed by nurses, business and industrial firms, organizations and individuals. The Board of Directors determines the amount and number of awards each year on the basis of availability of funds and the nature of applications. Deadline for applications is February 15 preceding the academic year for which award is made. Write for application forms or additional information to Nurses' Educational Funds, 555 West 57th Street, New York, NY 10019. Telephone: (212) 582-8820.

The Rotary Foundation Scholarships are available to graduate or undergraduate students, journalists or teachers of the handicapped. Vocational scholarships are also available for artisans, technicians and professionals who have been employed in a technical or professional field for at least 2 years. Freedom From Hunger Scholarships will be granted to students from developing country districts working toward advanced degrees in agricultural studies. Age limit requirements vary with each scholarship. All scholarships are for one academic year in a country other than the recipient's own and provide for school fees, room and board, round trip airfare between home city and place of study and expenses for limited travel during the year. Applications are due October 1. Contact your local Rotary Club for details.

The Society of Exploration Geophysicists Education Foundation offers numerous scholarship opportunities to students who intend to pursue a college course directed toward a career in Geophysics. Scholarships ranging from $750 to $1,000 annually are available to students wishing to enter college, already in college and at the graduate level. Applications must be filed prior to March 1. Applications and further information may be secured from the Society's Scholarship Committee, P.O. Box 702740, Tulsa, OK 74170.

The Society of Naval Architects and Marine Engineers annually awards both undergraduate and graduate scholarships to encourage study in naval architecture and marine engineering or closely related fields. All applicants must be a citizen of either the United States or Canada:

1. Undergraduate Awards, normally $1,000 each, are to be applied for by contacting one or more of the following schools directly: University of California (Berkeley); University of Michigan (Ann Arbor); Massachusetts Institute of Technology (Cambridge); State University of New York Maritime College (Fort Schuyler) and/or Florida Atlantic University (Boca Raton, FL). These are the only five schools where undergraduate awards are available.

2. Graduate Awards are in amounts varying from $1,000 and up. File with the Society no later than February 1. Applications or graduate awards and information can be obtained by writing to: Mr. Robert G. Mende, Secretary and Executive Director, The Society of Naval Architects and Marine Engineers, One World Trade Center, Suite 1369, New York, New York 10048. Telephone: (212) 432-0310.

D. ASSISTANCE FOR GRADUATES ONLY

The American Association of University Women Educational Foundation awards approximately 80 fellowships annually, ranging up to $10,000 for pre-doctoral, and up to $20,000 for postdoctoral fellowships. These awards are for women of the United States who have completed all requirements for the doctorate except the writing of the dissertation. Postdoctoral fellowships are awarded to women who hold a doctoral degree and wish to pursue further advanced research. Awards are also made to women for the final year of study in the fields of law, medicine, architecture, and business administration (the MBA degree). These "selected professions" awards are between $3,500 and $9,000. Applications are available after August 1 of each year. Deadlines for application vary from November 15 through February 1. For further information, write to: Director of Educational Foundation Programs, AAUW, 2401 Virginia Avenue, N.W., Washington, D.C. 20037.

The American Osteopathic Association, through the Auxiliary to the American Osteopathic Association, annually awards one National Osteopathic College Scholarship of $4,000 and additional scholarships of $2,000. These scholarships cover the sophomore year of medical training. Awards are based on scholarship (top 20% of class), financial need, good moral character, freshman attendance at a college of osteopathic medicine, motivation and aptitude for the osteopathic medical profession and citizenship in the U.S. or Canada. Deadline June 1 for receipt of applications. The National Osteopathic Foundation, individual Colleges of Osteopathic Medicine and other osteopathic state organizations administer loan funds. For information write: American Osteopathic Association, 212 East Ohio Street, Chicago, IL 60611.

The Daniel and Florence Guggenheim Foundation offers Fellowships each year to approximately 10 young scientists and engineers for graduate study in energy conversion, transportation, jet propulsion, space flight and flight structures. The fellowships provide stipends ranging up to $7,000 depending on the level of advancement of the student, plus tuition. They are open to qualified science and engineering students who are residents of the United States or Canada. Students graduating in aerodynamics, fluid mechanics, engineering sciences, physics, physical chemistry, applied physics, applied mathematics, or, aeronautical, mechanical, chemical or civil engineering are sought. (The Fellowships are open to women as well as men.) The Fellowships will be used for study at The Daniel and Florence Guggenheim Laboratories at Princeton University, (all in Dept. of Mechanical and Aerospace Engineering), the Daniel and Florence Guggenheim Jet Propulsion Center at California Institute of Technology and the Daniel and Florence Guggenheim Institute of Flight Structures at Columbia University. Applications and additional information should be obtained directly from Princeton, California Institute of Technology or Columbia.

Dental Laboratory Technology Scholarships are available upon completion of application to the American Fund for Dental Health. These are one-year scholarships, ranging from $500 to $600. Upon reapplication, a scholarship may be renewed for a second year by the Selection Committee if the student satisfactorily completes the first year and funding is available. Deadline date is June 1. For full information, write to: American Fund for Dental Health, Attn: Director of Programs, 211 East Chicago Avenue, Chicago, IL 60611.

Dental Scholarships for Minority Students are available through the American Fund for Dental Health. Students selected under this program may receive up to $2,000 for their first year of dental school. Upon re-application and report of satisfactory progress, a grant for $2,000 may be renewed for the second year of dental studies. A maximum of $4,000 may be paid over a two-year period. To be eligible, students must be U.S. citizens from the following minority groups under-represented in the dental profession—American Indians, Blacks, Mexican-Americans and Puerto Ricans. They must be entering their first year of dental school. Application deadline is May 1. Applications are available from the Student Affairs or Financial Aid Office of the dental school they plan to attend. Write: American Fund for Dental Health, Attn: Director of Programs, 211 E. Chicago Avenue, Chicago, IL 60611.

Eisenhower Memorial Scholarship Foundation, Inc. awards several graduate scholarships, ranging from $1,000 to $3,000 at the discretion of the Board of Trustees and upon the recommendation of the Graduate Scholarship Committee. Applicants must be U.S. citizens having an academic degree equivalent to a Bachelor's Degree from an accredited college or university. Students interested should also have a plan of study or research which will advance the applicant's professional competence and have intentions of devoting full-time graduate study during the scholarship year. Financial need will not be a consideration. Awards will be based on these applicants who appear most likely to make the greatest contributions and of becoming thought leaders in the area of advancing the principles of individual freedom, patriotism, limited government and free-market economics. The award is for one academic year and is not renewable. For further information and application write: Eisenhower Memorial Scholarship Foundation, Inc., 303 North Curry Pike, Bloomington, IN 47401, or call Mr. E.M. Sears, Executive Director by phone (812) 332-2257.

Foreign Area Programs of the Social Science Research Council and the American Council of Learned Societies offer fellowships for doctoral dissertation research in social science and humanistic fields related to many foreign areas. Since these programs reflect the distinctive needs and character of the area, a general account of terms and conditions cannot be offered here. Inquiries should be directed to Social Science Research Council, Fellowships and Grants, 605 Third Avenue, New York, NY 10158.

The Foundation of the American College of Healthcare Executives offers a limited number of loans to assist worthy students to continue their professional education and training towards careers in hospital administration. Loans are available to students in graduate programs in hospital or health services administration, accredited by the Accrediting Commission on Education for Health Services Administration, and acceptable to the American College of Healthcare Executives. Applicants must be student associates of ACHE, and demonstrate financial need. Applications must be endorsed by the University Program Course Director prior to submission to ACHE's Student Loan Committee. For further information, contact the American College of Healthcare Executives, 840 North Lake Shore Drive, Chicago, IL 60611.

Also offered is the Albert W. Dent Scholarship, designed to provide financial aid for and increase enrollment of minority and physically disabled students in healthcare management graduate program. For information, write to address above.

The Institute of International Education offers American college graduates approximately 690 scholarships for study in foreign countries, about 500 of which are provided under the Fulbright Program. Over two hundred of the scholarships are financed by various foreign governments, foreign universities and private donors. In most cases, the scholarships provide travel expenses and partial or complete tuition and maintenance for a full academic year. Students now enrolled in colleges or universities should first consult with their campus Fulbright Program Advisers. Deadline is October 31. Further information and application forms are available from the Institute of International Education, U.S. Student Programs Division, 809 United Nations Plaza, New York, NY 10017, or from any of the Institute's regional offices in Chicago, Denver, Atlanta, Houston and San Francisco. Telephone: (212) 984-5330.

The Knights of Columbus Graduate Fellowships are established at the Catholic University of America, Washington, DC, for work in the fields offered in the Graduate School. The fellowships cover room, board and tuition, and may be renewed annually up to three years.

For these awards, preference is given to members of the Knights of Columbus, to the wife, son, daughter or sister of a member. The member must be in good standing in the Order; if deceased, he must have been in good standing at the time of his death.

These Fellowships are administered by the Graduate School of the Catholic University for applicants who have been accepted for graduate work there. Application forms may be obtained from the Director of Financial Aid, Catholic University of America, Washington, DC 20064.

The Knights of Columbus-Bishop-Charles P. Greco Graduate Fellowships were established in 1973 for members, their wives, sons and daughters, and for the widow and children of a deceased member. These fellowships are for full-time graduate study leading to a Master's degree in a program designed for the preparation of classroom teachers of mentally retarded children. The fellowship is granted to a candidate at the beginning of the program of study and offers financial assistance for the educational costs at the graduate school up to a maximum of $500 a semester. The grant is renewable each succeeding semester of the program to a maximum of four semesters upon evidence of satisfactory performance. The deadline is May 1. Application forms may be obtained from the Committee on Fellowships, Knights of Columbus, P.O. Drawer 1670, New Haven, CT 06507.

National Medical Fellowships, Inc., awards scholarships to members of the four underrepresented minority groups (Native Americans, American Blacks, Mexican Americans and Mainland Puerto Ricans) who have been accepted by or are attending accredited schools of allopathic and osteopathic accredited schools of medicine in the U.S. Applicants must be U.S. citizens.

NMF General Scholarship awards are based on financial need and are awarded to first and second-year medical students. Special merit awards are granted to outstanding juniors and seniors.

Applications should be requested from The Scholarship Program, National Medical Fellowships, 254 West 31st Street, 7th Floor, New York, NY 10001. All NMF applications are available in March. The deadline for entering medical students is August 30 and for renewal applicants is April 28.

The National Wildlife Federation annually awards a limited number of graduate fellowships of up to $10,000 for study at an accredited college or university in the field of natural resources conservation. Research which is carried out as part of a research program may be considered within this fellowship program. The deadline is November 30. Write to: The Executive Vice President, National Wildlife Federation, Confidential #8, 1412 Sixteenth St. N.W., Washington, D.C. 20036.

Woodrow Wilson National Fellowship Foundation conducts the following programs in higher education:

(1) Mellon Fellowships for Graduate Studies in the Humanities for beginning graduate students who plan careers in college teaching. (for more information on Mellon write: P.O. Box 288, Princeton, NJ 08542) (2) Charlotte W. Newcombe Dissertation Fellowships for Ph.D. candidates writing on topics of religious and ethical values in all fields. Application Request Deadline—December of each year. (3) Women's Studies Research Grants for Ph.D. candidates writing their dissertations on a topic concerning women. Application Request Deadline—November of each year. (4) Administrative Internships which place holders of M.B.A. and other professional degrees in management positions at developing colleges. (5) Visiting Fellows program which sends professionals to college campuses for a week at a time. (6) Spencer Dissertation Year Fellowships for Research Related to Education for Ph.D. candidates in the social sciences or education (for information on Spencer Fellowships, write to P.O. Box 410, Princeton, NJ 08542). Application Request Deadline—November of each year. No fellowships for undergraduate study are available.

Applicants interested in the above programs should write for further information to: Woodrow Wilson National Fellowship Foundation, Box 642, Princeton, New Jersey 08542.

SUPPORTING THE OMNIBUS ANTI-DRUG ABUSE ACT OF 1988

Mr. STEVENS. Mr. President, I am pleased to join my good friend from New York in support of the Anti-Drug Abuse Act of 1988 (S. 2205).

It is time to get tough on drugs. We must crack down hard on drug traffickers and reach out to those who have suffered the ravages that drug abuse brings.

This bill is a comprehensive approach to dealing with the drug issue in this country and approaches the problem from both the supply side and the demand side. It will go a long way toward addressing what I believe is one of the most pressing problems facing this Nation today.

The measure is multifaceted. It authorizes an additional $2.4 billion over the President's budget request for Federal, State, and local programs designed to curb drug abuse and reduce the flow of illegal narcotics across our borders.

The bill would also authorize $1.5 billion over 3 years to help State and local law enforcement agencies attack the drug problem where it is most acute—at the local level; and it would provide money for a new international economic incentive grant program to encourage drug source countries to eradicate their drug crop.

A major frontal assault would be launched on the demand side. An additional $485 million would be authorized for alcohol and drug abuse block grants, 40 percent of which could be used for alcohol and drug treatment facilities.

The President's drug education effort would be augmented with an additional $50 million to teach our young people how to "just say no."

On the international front, the bill creates within the State Department an Ambassador at Large for Anti-Drug Efforts.

It also directs our top military leaders—the Joint Chiefs of Staff—to train and direct a Latin American strike force. This group composed entirely of Latin Americans would work to eradicate and interdict narcotics in the Western Hemisphere under agreements negotiated between our Ambassador at Large and drug producing nations.

Let's make no mistake about it. We are at war with the international drug cartels. If we are to win this battle, we must bring out the heavy artillery and put our top military minds to work on the problem.

I have only one reservation about the legislation. It would transfer the U.S. Coast Guard from the Department of Transportation to the Department of the Treasury. I have some serious concerns about this proposed reorganization and look forward to working with Senator D'AMATO and the Senate Judiciary Committee to address this matter.

I urge my colleagues from both sides of the aisle will join us in declaring war on drugs by cosponsoring this important legislation.

GREEK INDEPENDENCE DAY

Mr. PRESSLER. Mr. President, I would like to take just a few moments to speak in observance of the 167th anniversary of Greek Independence

Day. The Congress has designated March 25, 1988, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy.

The democracies of Greece and the United States of America are a very close intellectual, philosophical, and ethical relationship. Colonial leaders in the United States courageously grasped freedom and equality from an oppressive monarchy. The great Americans of that time created a viable political structure in which the fledgling United States could experiment with a Republican-Democracy based on concepts developed by the great classical Greek philosophers.

As educated men, the American rebels turned to the first political scientists, the Greeks, for insight and guidance. Thomas Jefferson gave credit, "* * * to the ancient Greeks * * * we are all indebted for the light which led ourselves (the American colonists) out of Gothic darkness." Plato's great dialectics in the Republic loosely referred young America's leaders to democracy, which Plato described as, "* * * a charming form of government, full of variety and disorder, and dispensing a kind of equality to equals and unequals alike."

Many Senators would be proud to say. "Our Constitution is called a democracy because power is in the hands not of a minority but of the whole people." The Greek statesman and ruler Pericles delivered those words some 2,000 years ago.

The framers of the U.S. Constitution knew Pericles' words well. The lessons learned by the ancient Greeks shed light upon the path taken by the American Colonies toward democracy.

America, I'm proud to say, returned the philosophical favor when in 1921, Greek leaders translated our Declaration of Independence and used it in making their own declaration of independence. In an address to the Messenian Senate of Calamata that same year, Petros Mavomichalis, a Greek commander in chief, noted the intertwined relationship shared by our two democracies: "* * * trusting that in imitating your [America] we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you * * * it is for you, citizens of America, to crown this glory * * *." We have enjoyed strong ties to the modern Greek democracy since its inception.

When America's current government was very young, our two great countries established a firm friendship. Later, in the early 1900's, emigration tied us together even more intimately when a tremendous number of young Greeks came to the United States. These Greek immigrants and their descendants are now integral members of America's cultural fabric. They are talented, resourceful, and very hard working.

We are two of the far too few constitutional democracies on Earth. We are united through philosophy, heritage, and immigration. As an American, I am proud to honor the 167th anniversary of the Greek Declaration of Independence on March 25, 1821.

NATIONAL BRIDGE CHAMPIONS

Mr. HECHT. Mr. President, some years ago, like most Americans, I spent a great deal of time engaged in that wonderful recreational activity known as bridge. In fact, in 1947, I achieved master points, but since coming to the Senate, most of my bridge activity has been focused on last year's highway bill. Nevertheless, I have maintained an interest in the card game.

In October of last year, the World Contract Bridge Team Championships were held in Ocho Rios, Jamaica. For only the third time in 50 years of world championships, the open team and women's team titles went to the same country. The United States won its seventh consecutive Bermuda Bowl, symbol of the world open team championship, and recaptured the Venice Cup, symbol of the world woman's team championship. The only precedent for this was the world championships in Budapest, Hungary, in 1937 when the Austrians were double winners, and an Italian double victory in the 1972 world championships in Miami, FL.

Five Americans: Chip Martel, Lew Stansby, and Hugh Ross, from California, Bobby Wolff and Bob Hamman from Texas—retained the open team championship that they won 2 years ago in Sao Paulo, Brazil. The sixth winner was Mike Lawrence from California. The team was captained by Dan Morse of Texas.

The American winners of the Venice trophy for the women's title were captain Carol Sanders from Tennessee, Lynn Deas, Juanita Chambers, and Judi Radin from New York; Beth Palmer from Maryland, Cheri Bjerkan from Illinois, and Katherine Wei from Texas and New York.

In addition, Mrs. Wei, chairman of the board of the Falcon Shipping Group, won the Goren Award sponsored by the International Bridge Press Association for Bridge Personality of the Year. Mrs. Wei is an Asian-American and the second Asian to win the award. In 1981, it was awarded to Deng Xiaoping, senior leader of the People's Republic of China. Apart from having won the Venice Cup with her partner, Mrs. Radin, Mrs. Wei has won two other gold medals representing the United States. By winning their gold medal, this partnership has achieved the highest ranking status in bridge—that of world grand master.

Mr. President, I salute these bridge champions, and know that both my colleagues and bridge enthusiasts around the country are proud of this tremendous victory.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

Mr. SPECTER. Mr. President, today I join Senator DIXON and Senator BOND, cochairmen of the Congressional Call to Conscience for 1988, in speaking out on behalf of Soviet Jewry. As we begin the 12th year of the Congressional Call to Conscience for Soviet Jews, we are reminded of the continuing plight of Jews who have been denied permission to emigrate from the Soviet Union. The Union of Councils for Soviet Jews sponsors this important vigil, which promotes bipartisan efforts in demonstrating concern for freedom of emigration from, and human rights in, the Soviet Union.

Despite a recent increase in the level of Soviet Jewish emigration, Soviet performance in this area remains unsatisfactory. As a signatory to the Helsinki Final Act, the Soviet Union has agreed to conform with the Universal Declaration of Human Rights, which states that "everyone has the right to leave any country, including his own."

Mr. President, the United States Government consistently has condemned the unwillingness of the Soviet Union to respect basic human rights. During every high-level meeting between American and Soviet officials, such as the December 1987 meetings between President Reagan and General Secretary Gorbachev, the issue of Soviet Jewry has occupied an important place on the agenda, and should continue to do so in future meetings.

During the December 1987 summit between President Reagan and General Secretary Gorbachev, I joined with all other Senators in writing to President Reagan, Secretary of State Shultz, and Soviet General Secretary Gorbachev urging that action be taken on human rights and freedom of emigration for Soviet Jews. The Soviet Jewry rally held on The Mall in Washington, DC, prior to the summit was attended by 250,000 people and was a strong testimony to the support and commitment nationwide to Soviet Jewry. I participated in the rally, and was moved by the presence of released refuseniks which made it a truly momentous occasion. In addition to these actions, as a member of the Foreign Operations Subcommittee, I consistently press the plight of Soviet Jewry with the Secretary of State.

This subject has personal significance for me because of my own family's experiences. My father came to the United States from Russia in 1911 at the age of 18 and my mother came to this country with her parents in 1905 at the age of 5, from an area on the Polish-Russian border. I will continue to work to help to ensure that Soviet violations of human rights do not go unnoticed and that the Soviets abide by their international obligations.

Mr. President, many Jews who have applied for visas have been harshly treated and ostracized in Soviet society. Therefore, it is critically important that both private citizens and United States government officials continue to underscore their deep commitment to the cause of human rights in the Soviet Union through expressions of concern sent directly to Soviets. We must continue to pressure the Soviet authorities until more Jews are allowed to leave the Soviet Union to join their families in Israel and elsewhere.

The human rights situation in the Soviet Union must change. I urge my colleagues to join us in helping the plight of Soviet Jewry.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

RETURN OF ENROLLED BILL S. 854—MESSAGE FROM THE PRESIDENT—PM-124

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States:

To the Senate of the United States:

Pursuant to Senate Concurrent Resolution 106, I am hereby returning the enrolled bill S. 854, "An Act entitled the "Nevada-Florida Land Exchange Authorization Act of 1988," to the Senate for the purpose of making a necessary technical correction.

RONALD REAGAN.

THE WHITE HOUSE, *March 24, 1988.*

MESSAGES FROM THE HOUSE

At 10:17 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 106. Concurrent resolution requesting the President to return the enrolled bill (S. 854) entitled "Nevada-Florida Land Exchange Authorization Act of 1988."

The message also announced that the House has passed the following enrolled bills, in which it requests the concurrence of the Senate:

H.R. 285. An act to deny crewmember status in the case of certain strikes and lockouts;

H.R. 2819. An act for the relief of Tracey McFarlane;

H.R. 3459. An act to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs and for other purposes; and

H.R. 3757. An act to amend title 5, United States Code, to permit voluntary transfer of leave by Federal employees where needed because of medical or other emergency situation.

At 12:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 268. Concurrent resolution setting forth the congressional budget for the U.S. Government for fiscal years 1989, 1990, and 1991.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2151. An act to amend section 416 of the Agricultural Act of 1949, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore [Mr. SHELBY].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 285. An act to deny crewmember status in the case of certain strikes and lockouts; to the Committee on the Judiciary.

H.R. 3757. An act to amend title 5, United States Code, to permit voluntary transfers of leave by Federal employees where needed because of medical or other emergency situation; to the Committee on Governmental Affairs.

The following bill, received from the House of Representatives for concurrence on March 22, 1988, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2707. An act to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes; to the Committee on Environment and Public works.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 268. Concurrent resolution setting forth the congressional budget for the U.S. Government for fiscal years 1989, 1990, and 1991; to the Committee on the Budget.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3459. An act to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs and for other purposes.

ENROLLED JOINT RESOLUTIONS SIGNED

The Deputy President pro tempore (Mr. MITCHELL) reported that on today, March 24, 1988, he had signed the following enrolled joint resolutions which had previously been signed by the Speaker of the House of Representatives:

S.J. Res. 185. Joint resolution to designate the period commencing on May 2, 1988, and ending on May 8, 1988, as "National Drinking Water Week;" and

S.J. Res. 255. Joint resolution to authorize and request the President to issue a proclamation designating April 24 through April 30, 1988, as "National Organ and Tissue Donor Awareness Week."

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, March 24, 1988, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 2151. An act to amend section 416 of the Agricultural Act of 1949, and for other purposes;

S.J. Res. 185. Joint resolution to designate the period commencing on May 2, 1988, and ending on May 8, 1988, as "National Drinking Water Week;" and

S.J. Res. 255. Joint resolution to authorize and request the President to issue a proclamation designating April 24 through April 30, 1988, as "National Organ and Tissue Donor Awareness Week."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2214. An original bill to authorize competitive oil and gas leasing and development on the Coastal Plain of the Arctic National Wildlife Refuge in a manner consistent with protection of the environment, and for other purposes (Rept. No. 100-308).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary:

Emmett Ripley Cox, of Alabama, to be U.S. circuit judge for the eleventh circuit;

Kenneth M. Hoyt, of Texas, to be U.S. district judge for the Southern District of Texas;

George M. Marovich, of Illinois, to be U.S. district judge for the Northern District of Illinois;

Roger J. Marzulla, of California, to be an Assistant Attorney General;

Deborah J. Daniels, of Indiana, to be U.S. attorney for the Southern District of Indiana for the term of 4 years; and

Grover W. Garrison, of Louisiana, to be U.S. Marshal for the Middle District of Louisiana for the term of 4 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SANFORD:

S. 2211. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to revise the method of calculation of the federal deficit by removing the surpluses attributable to the Social Security Trust Funds from revenues by fiscal year 1991; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977.

By Mr. DURENBERGER:

S. 2212. A bill to amend the Internal Revenue Code of 1986 to provide for establishment of a credit for the cost of long-term health care insurance, and for other purposes; to the Committee on Finance.

By Mr. BYRD (for Mr. GORE):

S. 2213. A bill to amend the Federal Trade Commission Act to strengthen the authority of the Federal Trade Commission respecting fraud committed in connection with sales made with a telephone; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

S. 2214. An original bill to authorize competitive oil and gas leasing and development on the Coastal Plain of the Arctic National Wildlife Refuge in a manner consistent with protection of the environment, and for other purposes; placed on the calendar.

By Mr. CHILES (for himself, Mr. NUNN, Mr. LEVIN, and Mr. BINGAMAN):

S. 2215. A bill to amend the Office of Federal Procurement Policy Act to authorize appropriations for an additional 4 years, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KERRY:

S.J. Res. 279. A joint resolution disapproving the certification by the President under section 481(h) of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

By Mr. HATCH:

S.J. Res. 280. A joint resolution to designate the week of November 27, 1988 through December 3, 1988 as "National Home Care Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY (for himself, Mr. DURENBERGER, Mr. KERRY, Mr. D'AMATO, Mr. GRAHAM, Mr. HELMS, Mr. PELL, Mr. LUGAR, and Mr. DODD):

S. Con. Res. 108. A concurrent resolution urging measures to hasten the transition to democracy in Panama; placed on the calendar.

By Mr. McCAIN (for himself, Mr. SIMPSON, Mr. WARNER, Mr. MURKOWSKI, Mr. SIMON, Mr. KERRY, Mr. RIEGLE, Mrs. KASSEBAUM, and Mr. DODD):

S. Con. Res. 109. A concurrent resolution expressing the sense of the Congress that the President should negotiate with the Government of Vietnam to establish interest sections in the capitals of both countries for the purpose of resolving specific issues between the countries; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANFORD:

S. 2211. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to revise the method of calculation of the Federal deficit by removing the surpluses attributable to the Social Security trust funds from revenues by fiscal year 1990; referred jointly to the Committee on Governmental Affairs and the Committee on the Budget, under the standing order of August 4, 1977.

DEFICIT DISCLOSURE BILL

Mr. SANFORD. Mr. President, today I am introducing a bill, joined by my distinguished colleagues, Senators STEVE SYMMS and KENT CONRAD, which will protect the integrity of the Social Security trust funds and which will require the Government to tell the people the truth about the real size of the budget deficit. This bill, which I have named the "deficit disclosure bill," would amend the Gramm-Rudman legislation by removing certain trust funds from the equation when the Federal deficit is calculated.

We in Congress know that Social Security is self-contained. We know its surpluses cannot be used for other purposes. No cutting of Social Security payments, and no addition of COLA's, will affect the budget deficit by one single penny. The people of the Nation do not understand this.

When we in the Congress talk about the deficit, we know that we are shading the truth because we are adding the surpluses in Social Security and other trust funds to make the real deficit look smaller. But it is not smaller. We know this, but the people of the Nation, including editorial writers, do not realize it.

When we say that, under the Gramm-Rudman schedule, we will balance the budget and eliminate the deficit by 1993, we in the Congress know it will not be balanced. We know we will be counting the rapidly increasing surpluses in Social Security trust funds. We know they will have been falsely counted. Those surpluses will hide about $100 billion of real deficit in the operating portion of the Federal budget. We also know that the annual Social Security surpluses will keep building and can hide larger and larger deficits in coming years. The citizens of the Nation do not know all of that.

I have a chart here, Mr. President, which in red below the line shows the Gramm-Rudman schedules, so that you can see by 1992, the end of 1992 and the beginning of year 1993 and following this schedule we will have said we have reduced the deficit to zero. But we have not. Above the line I show the increasing surplus of the Social Security trust funds. They are used to shield, to eliminate a good part of the deficit as the public understands it.

But let me show you what the real deficit will be by the time we say that the budget is balanced. The real deficit will continue to be extremely large because we have said we have balanced it when indeed we have not.

When we look at the surpluses being built up in the Social Security trust funds as reserves for future obligations, we see that in just a few years the total balance will exceed the current national debt. The person on the street can't know this because we don't let it show.

When we assure America that we are going to keep the Social Security trust funds safe and secure, we just hope we can do so. We in the Congress know that means we're going to invest those funds in Government bonds, loans in effect, that must be paid back, like any other U.S. bond, when it is called. The person on the street doesn't know that.

We cannot protect the integrity of the Social Security trust funds unless we set them off by themselves, out of temptation's way, where they stand on their own as the broad self-sustaining insurance plan that they are.

When we talk to economists and people on Wall Street, they understand that the Federal deficit under the Gramm-Rudman calculation is not the full deficit, but rather the amount of money the Government needs to borrow from outside sources over and above what it borrowed from Social Security and other trust funds. The person on any street but Wall Street doesn't know that.

We know Social Security trust funds cannot be used for the operating budget, no matter how large they become. We also know that deceit in accounting for the real deficit will bring us to such tremendous public debt that all trust funds and the entire economy will be endangered. The public has not been made aware of that danger.

There is a simple first step on the path to dealing with this concealment: That is to let the people know what the real deficit in the operating budget is. We do that by bringing the truth of the real deficit into the open. The administration and the Congress cannot take the necessary hard steps to cut the deficit unless we are honest about the gravity of the situation. Until the public knows the real nature and magnitude of the deficits, and what we will have to do to reduce them, they will not give us the support the President and Congress must have if we are to make the hard choices we have been putting off year after year.

We cannot get on with building and improving highways and bridges, airports, and air safety, if we hold back funds in order to build surpluses to help conceal the real size of deficit.

The bill I am introducing is very simple. It removes the Social Security trust funds from the calculation of the deficit starting next year. It keeps the same targets we agreed upon when we revised Gramm-Rudman last year. But that simple change will mean that by 1993 the Federal budget really will be balanced or we will know the reasons why.

We must set the trust funds outside of the operating budget. Thus we will protect the trust funds for the purposes they were created. Thus we will tell the truth about the true size of the deficit.

By Mr. DURENBERGER:

S. 2212. A bill to amend the Internal Revenue Code of 1986 to provide for establishment of a credit for the cost of long-term health care insurance, and for other purposes; to the Committee on Finance.

TAX CREDIT FOR COST OF LONG-TERM HEALTH CARE INSURANCE

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would provide a tax credit to encourage people to purchase long-term care insurance for themselves and for their parents. In the last 6 months, I have introduced three bills that would encourage individuals and companies to establish plans for meeting future long-term care needs. The legislation I am introducing today would assist people who currently are facing the prospect that a spouse or a parent may soon have to enter a long-term care facility.

This legislation provides a 15-percent tax credit for purchasing a long-term care insurance to cover the taxpayer, or the taxpayer's spouse or parents. The maximum credit that could be claimed would be $300—$600 if the insurance covers two elderly individuals. The credit would phase out for wealthy individuals in the same way that the benefit of the 15-percent bracket phases out.

Under this legislation, if a person purchases this insurance for his or her parents, he could claim the credit even if the parents are not considered dependents as defined in the Internal Revenue Code. And if the costs of insurance for parents are shared by brothers and sisters, the credit would be allocated among the purchasers of the insurance.

This bill also permits a taxpayer to claim a medical expense deduction for any long-term care costs incurred for a nondependent parent of the taxpayer or the taxpayer's spouse.

Finally, Mr. President, after consulting with several experts in the area, I have made some technical revisions to the definition of long-term care.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LONG-TERM HEALTH CARE INSURANCE.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25, the following new section:

"SEC. 25A. LONG-TERM HEALTH CARE INSURANCE.

"(a) Allowance of Credit.—

"(1) In general.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the long-term health insurance costs paid by such individual during such taxable year for a qualifying individual.

"(2) Applicable percentage defined.—

"(A) General rule.—For purposes of paragraph (1), the term 'applicable percentage' means 15 percent of the cost of long-term health care insurance incurred by a taxpayer during any taxable year which does not exceed—

"(i) $300 if such insurance covers 1 qualifying individual, or

"(ii) $600 if such insurance covers 2 or more qualifying individuals.

"(B) Phase out of 15 percent credit.—In accordance with tables developed by the Secretary, the applicable percentage shall be reduced ratably in the same manner and over the same amount as the 15-percent rate is phased out for taxable income in excess of the applicable dollar amount under section 1(g).

"(b) Qualifying Individual.—

"(1) Definition.—The term 'qualifying individual' means the beneficiary of long-term health care insurance if such individual is—

"(A) the taxpayer,

"(B) the spouse of the taxpayer, or

"(C) the parent of the taxpayer or of the taxpayer's spouse (in the case of a joint return under section 6013).

"(2) Parent need not be dependent.—For purposes of paragraph (1), a parent of the taxpayer or of the taxpayer's spouse need not qualify as a dependent under section 152.

"(3) Insurance costs paid by more than 1 person.—If more than 1 individual contributes to the long-term health care insurance costs for a parent, the amount of such costs shall be allocated proportionately among all individuals contributing to such costs during that year on the basis of the amounts contributed by such individual.

"(c) Definitions of Long-Term Health Care Insurance and Long-Term Health Care.—For purposes of this section—

"(1) Long-term health care insurance.—The term 'long-term health care insurance' means an insurance contract through which long-term health care benefits are provided and the renewal of such contract is guaranteed.

"(2) Long-term health care.—

"(A) In general.—For purposes of this section, the term 'long-term health care' means providing necessary diagnostic, preventive, therapeutic, and rehabilitative services, or maintenance or personal care services, required by a chronically ill individual in a qualified facility by a qualified provider.

"(B) Definitions.—For purposes of subparagraph (A)—

"(i) Qualified facility.—The term 'qualified facility' means—

"(I) a nursing, rehabilitative, hospice, or adult day care facility, including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution, licensed under State law, or

"(II) an individual's home if a physician, licensed under State law, certifies that without home care the individual would have to be cared for in a facility described in subclause (I), except that such home shall be treated as a qualified facility only to the extent the cost of such services is not greater than the cost of similar services provided in a facility described in subclause (I).

"(ii) Chronically ill individual.—The term 'chronically ill individual' means an individual who has been certified by a physician, licensed under State law, as requiring assistance with eating, toileting, mobility, bathing, or dressing.

"(iii) Maintenance or personal care services.—The term 'maintenance or personal care services' means any service the primary purpose of which is to provide needed assistance with any of the activities of daily living described in clause (ii).

"(iv) Qualified provider.—The term 'qualified provider' means a medical practitioner licensed under State law, registered nurse, licensed registered nurse, qualified therapist, trained home health aid employed by a licensed home health agency, or trained home health aid licensed under State law, but does not include a relative or other person who ordinarily resides in the home.

"(3) Physician.—The term 'physician' has the meaning given to such term by section 213(d)(4).".

(b) Conforming Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after the item relating to section 25 the following new item:

"Sec. 25A. Long-Term Health Care Insurance.".

SEC. 2. DEDUCTION FOR NON-DEPENDENT PARENT LONG-TERM HEALTH CARE EXPENSES.

(a) In General.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end thereof the following new subsection:

"(f) Special Rule For Non-Dependent Parent.—A taxpayer may treat as a deductible expense for purposes of subsection (a), any expense incurred by a taxpayer during the taxable year for long-term health care (as defined by section 25A(c)(2)) if such expense is incurred for a non-dependent parent of the taxpayer or the taxpayer's spouse (in the case of joint return under section 6013).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988.●

By Mr. CHILES (for himself, Mr. NUNN, Mr. LEVIN, and Mr. BINGAMAN):

S. 2215. A bill to amend the Office of Federal Procurement Policy Act to authorize appropriations for an additional 4 years, and for other purposes; to the Committee on Governmental Affairs.

REAUTHORIZATION OF THE OFFICE OF FEDERAL PROCUREMENT POLICY

● Mr. CHILES. Mr. President, today I am introducing the reauthorization of the Office of Federal Procurement Policy Act of 1988.

Senators NUNN, LEVIN, and BINGAMAN join me as cosponsors to this legislation.

Mr. President, one of my first responsibilities when I came to Congress in 1971 was to replace the late Scoop Jackson as a member of the Commission on Government Procurement. Then Federal outlays for procurement of goods and services, from paperclips to major weapon systems, was some $55 billion a year. In contrast, that figure has grown to some $200 billion in this fiscal year.

In 1974 I helped implement the Commission's No. 1 recommendation to establish a central manager in the executive branch for procurement policy by sponsoring the Office of Federal Procurement Policy Act.

A lot of water has passed over the dam since then. That Office was reauthorized in 1979 and again in 1983. This bill is intended to extend the authorization 4 additional years. It also amends the act by clarifying the Administrator of OFPP's regulatory authority, establishing a high level Federal Acquisition Regulatory Council, reestablishing a Cost Accounting Standards Board within OFPP, and mandating the development of an executive branch consensus on a consistent methodology to be used by agencies for measuring contractor profits.

From the beginning, Congress envisioned the role of OFPP to lead, coordinate, simplify, and save the taxpayer money in Government contracting. The OFPP was established by law within the Office of Management and Budget. Strong accountability ties to the President and Congress were incorporated in its charter. The idea was to give the Office clout within the executive branch and the capability to be responsive to Congress.

The record for OFPP has been checkered. But in this my last year in Congress, and after 14 years of watching the pendulum go back and forth on this Office, I believe the need for a strong OFPP is greater than ever.

Let me add the present cosponsors of this legislation have worked together in an attempt to overcome the traditional concerns of the Department of Defense regarding this Office. Since the last reauthorization in 1983 the position of the Under Secretary of Defense for Acquisition has been established by Congress to handle within the Department similar procurement policy needs that Congress intends the the Administrator of OFPP be accountable for Governmentwide. I believe these 1988 amendments to the Office of Federal Procurement Policy Act will enhance the ability of both the Administrator and the Under Secretary to accomplish their responsibilities.

I invite my colleagues to review this bill and join me as cosponsors.

This Friday, at 9:30 in the morning, in room 342 of the Dirksen Building, the Governmental Affairs Committee Subcommittee on Federal Spending, Budget, and Accounting will hold a hearing on this bill. We will hear from the Comptroller General, the Under Secretary of Defense for Acquisition, the present and former Administrators of OFPP, industry, and the American Bar Association.●

● Mr. BINGAMAN. Mr. President, I am pleased to join Senator CHILES today as an original cosponsor of legislation to reauthorize the Office of Federal Procurement Policy. The bill proposes to make several important changes designed to strengthen the overall coordination of procurement policy in the executive branch.

I believe that the proposed legislation is an excellent vehicle for further deliberations by the Senate on this important function. I commend Senator CHILES for carefully consulting with a broad range of Senators with a potential interest in this legislation in the course of developing it. The list of original cosponsors reflects a vote of confidence in the senior Senator from Florida's consultative process.

The Governmental Affairs Committee will be holding a hearing on this legislation on Friday. I look forward to the testimony from the Under Secretary of Defense for Acquisition, Dr. Robert Costello, the current Administrator of OFPP, Mr. Robert Bedell, the Comptroller General, Mr. Charles Bowsher, and panels of former OFPP administrators and industry witnesses. While I think we have a very good vehicle for further action, undoubtedly we will want to make some adjustments following our review of the testimony.

Let me note that I paid particular attention to the need for the reestablishment of a Cost Accounting Standards Board function in the development of this legislation. The legislation establishing the earlier Cost Accounting Standards Board is constitutionally defective in several respects. The need for further action on cost accounting standards has become more evident as the years have passed since the previous Cost Accounting Standards Board ceased to function. The proposed legislation sets up a board within the Office of Federal Procurement Policy consisting of five members. The OFPP Administrator will serve as chairman of the board. One member shall be appointed by the Administrator of the General Services Administration, one by the Secretary of Defense, and two by the OFPP Administrator from private industry and the accounting profession respectively.

The proposed legislation gives the OFPP Administrator, after consultation with the board, the exclusive authority to make, promulgate, amend, and rescind cost accounting standards designed to achieve uniformity in the allocation of costs to Government contracts. While we have chosen this approach in the draft legislation, we may need to consider other alternatives at the upcoming hearing such as vesting the full board with the authority for cost accounting standards. So I look forward in particular to the testimony of how to improve the proposed section of the bill dealing with the Cost Accounting Standards Board at our upcoming hearing.

Mr. President, let me conclude by noting that the last time the reauthorization of the Office of the Federal Procurement Policy came before the Senate, there were significant substantive differences between the Armed Services Committee and the Governmental Affairs Committee over the legislation. As chairman of the Defense Industry and Technology Subcommittee of the Senate Armed Services Committee, which obviously has a profound interest in the defense acquisition system, and as a member of Senator CHILES' Subcommittee on Federal Spending, Budget and Accounting of the Governmental Affairs Committee, I want to commend Senator CHILES for working so diligently to resolve such problems in the legislation he is introducing today.●

By Mr. BYRD (for Mr. GORE):

S. 2213. A bill to amend the Federal Trade Commission Act to strengthen the authority of the Federal Trade Commission respecting fraud committed in connection with sales made with a telephone; to the Committee on Commerce, Science, and Transportation.

TELEMARKETING FRAUD PREVENTION ACT

● Mr. GORE. Mr. President, today I am introducing the Telemarketing Fraud Prevention Act of 1988. This bill addresses a matter which has become of increasing concern during the past several years. I am pleased to join my colleague Congressman LUKEN in introducing this legislation.

Telephone sales have become a popular way to sell goods and services. Industry sources estimate that in 1986 $118.5 billion in sales were made over the telephone. While telephone sales can be a convenience to consumers—allowing them to shop at home—dealing with an unknown business can have devastating results.

Telemarketing fraud is the deceptive peddling of goods and services over the telephone. Typically, a consumer is contacted and offered goods and services at discount prices or of a nature "too good to be true." Payment is generally required in advance, often by credit card. When the goods or services arrive, the consumer finds that the bargain doesn't exist, or is not of the promised value.

Fraudulent schemes have involved the sale of vitamins, diet aids, credit card protection programs, luggage, time-share arrangements—for example, vacation condominiums—and office machine supplies. The fraud involves a cross section of Americans, including small business, the elderly, and middle-income persons.

The Federal Trade Commission [FTC] is uniquely situated to address these issues, with authority to conduct investigations, provide consumer redress, and seek injunctive relief. The FTC indicates that in 1987 it received about 3,100 complaints concerning telemarketing fraud and about 269 different firms were involved. And the number of complaints received by the FTC has grown by about 20 percent each year.

There has already been some response to this burgeoning illegal industry. For example, the FTC and the National Association of Attorneys General recently established an automated databank on telemarketing fraud, to use their collective data to track down the most serious violators. In addition, some States have enacted telemarketing fraud legislation. Other States have been aggressive in pursuing those who run such operations. However, it appears that the extent of this type of fraud is so widespread as to require action by the Federal Government. I am hopeful that this legislation will assist the FTC in its effort to prosecute those who defraud American consumers of their hard-earned money.

The bill permits consumers and financial institutions to bringing lawsuits under the FTC Act directly against those engaged in telemarketing fraud. It also instructs the FTC to promulgate a rule to require that merchandisers tell consumers they may get a refund if they are dissatisfied, and that there is a "cooling-off" period after the purchase.

This legislation also includes a provision to amend the FTC Act regarding venue requirements for defendants. At present, the FTC has difficulty bringing into court individuals and firms operating in several States to defraud consumers. The bill I am introducing would remove current limitations requiring that all parties reside or transact business in the same State. The legislation is intended to be narrowly written to ensure that only fraudulent parties, not legitimate telemarketing operators, are covered by the terms of the bill.

Telemarketing fraud is a crime, and we must do all in our power to see that it is eliminated. This legislation should strengthen current State and Federal enforcement procedures. I look forward to working with my colleagues to afford protection to consumers and legitimate businesses from fraudulent marketing practices.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Telemarketing Fraud Prevention Act of 1988".

(b) REFERENCE.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Trade Commission Act.

SEC. 2. COMMISSION AUTHORITY UNDER SECTION 19.

(a) STATE ENFORCEMENT.—Section 19 is amended by redesignating subsection (e) as subsection (l) and by inserting after subsection (d) the following:

"(e)(1) Any attorney general of a State and any other official of a State vested under State law with the authority to enforce State consumer protection laws may bring a civil action in the name of the State in a district court of the United States having jurisdiction of the defendant to secure relief, as provided in subsection (b), against any person, partnership, or corporation which engages in telemarketing which is a fraudulent or dishonest act or practice or which violates the rule promulgated pursuant to subsection (g) if the attorney general or other official alleges that such telemarketing affects or may affect the State or its residents.

"(2) No action may be commenced under paragraph (1) unless the Commission has been given written notice of the commencing of the action—

"(A) at least 30 days before the action is to be commenced, or

"(B) as early as practicable if the attorney general or other official commencing the action—

"(i) alleges that the harm to the public is ongoing, may recur, or presents an imminent hazard, and

"(ii) petitions the court for temporary or preliminary relief from such harm.

The Commission may intervene, by its own attorneys, in any such action, and the attorney general or other official of another State may intervene in any such action if the State or its residents are or may be affected by the telemarketing with respect to which the action is brought.

"(3) In an action brought under paragraph (1) a court may grant relief in the same manner and circumstances as it could if the action is brought by the Commission under subsection (a). Such relief may include relief relating to persons, partnerships, or corporations outside the State and relief applicable to conduct outside the State of an attorney general or other official who is a party to the action. An attorney general or other official of any State may petition any court which has jurisdiction of a person, partnership, or corporation subject to an order of a court granting relief to enforce such order with respect to such person, partnership, or corporation if the attorney general or other official alleges that failure to comply with such order affects or may affect such State or its residents.

"(4) For purposes of this section—

"(A) the term 'attorney general' means the chief legal officer of a State, and

"(B) the term 'State' includes the District of Columbia.".

(b) CITIZENS' SUITS.—Section 19, as amended by subsection (a), is amended by inserting after subsection (e) the following:

"(f)(1) Any person, partnership, or corporation may commence a civil action to secure relief, as provided in subsection (b), against a person, partnership, or corporation which engages in telemarketing which is a fraudulent or dishonest act or practice or which violates the rule promulgated pursuant to subsection (g). Such an action may be brought in a district court of the United States having jurisdiction of the defendant.

"(2) No action may be commenced under paragraph (1) unless the Commission has been given written notice of the commencing of the action at least 30 days before the action is to be commenced.

"(3)(A) In any action under paragraph (1), the Commission, if not a party, may intervene as a matter of right.

"(B) The court, in issuing any final order in any action brought under paragraph (1), may award costs of suit and reasonable fees for attorneys and expert witnesses if the plaintiff prevails.

"(C) Nothing in this subsection shall restrict any right which any person, partnership, or corporation may have under any statute or common law to seek enforcement of this Act or any rule or order under this Act or to seek any other relief.".

(c) REQUIREMENTS FOR TELEMARKETING.—

(1) Section 19, as amended by subsection (b), is amended by inserting after subsection (f) the following:

"(g)(1) The Commission shall promulgate rules for the telemarketing activities of a person, partnership, or corporation which engages in telemarketing. Such rules shall include a requirement that any person, partnership, or corporation engaged in telemarketing shall inform the person, partnership, or corporation to whom the telemarketing is directed that—

"(A) such person, partnership, or corporation is entitled to a refund of any money paid for the product or service which is the subject of the telemarketing if delivery of the product or service is not made—

"(i) within the time period included in the offer of the product or service, or "(ii) if no time period is included in the offer, within 30 days of the date the offer is made, and

"(B) if such person, partnership, or corporation—

"(i) makes an unsolicited telephone call to a person, partnership, or corporation or otherwise communicates with such person, partnership, or corporation offering a free gift or prize or the substantial equivalent thereof and invites such person, partnership, or corporation to respond, and

"(ii) there is no Federal statute governing such solicitation involving the specific product or service offered or sold in connection with such solicitation,

such person, partnership, or corporation may cancel an order of such product or service not later than the expiration of 3 days after the date on which there is a sales agreement.

The rules shall include a rebuttable presumption that if a person, partnership, or corporation subject to the requirements of this paragraph does not keep adequate records to show compliance with such requirements such person, partnership, or corporation shall be considered to be in violation of such requirements.

"(2) Any person, partnership, or corporation who violates any rule promulgated under paragraph (1) shall be considered to have engaged in an unfair or deceptive act or practice in or affecting commerce.

"(3) The Commission shall promulgate the rules under paragraph (1) in accordance with section 553 of title 5 of the United States Code.".

(2) The Federal Trade Commission shall promulgate the rules prescribed by section 19(g) of the Federal Trade Commission Act (as added by paragraph (1)) within 180 days of the date of the enactment of this Act.

(d) HARASSMENT.—Section 19, as amended by subsection (c), is amended by inserting after subsection (g) the following:

"(h) A person, partnership, or corporation which engages in telemarketing may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the telemarketing. A person, partnership, or corporation who engages in such conduct shall be considered to have engaged in an unfair or deceptive act or practice in or affecting commerce.".

(e) MULTIPLE DEFENDANTS.—Section 19, as amended by subsection (d), is amended by inserting after subsection (h) the following:

"(i) In an action brought under subsection (a), (e), or (f), a court may, whenever it appears to the court that the ends of justice require that other persons, partnerships, or corporations should be parties in such action, cause such parties to be summoned whether or not they reside in the district in which the actions were brought.".

(f) LIMITATION.—Section 19, as amended by subsection (e), is amended by inserting after subsection (i) the following:

"(j) For purposes of this section, a financial institution or other participant in a payment system used to pay for products or services offered or sold through telemarketing, including the credit or payment authorization aspect of such payment system, is not, by virtue of such participation, a person, partnership, or corporation which engages in telemarketing or acts in concert with, or on behalf of, a person, partnership, or corporation which engages in telemarketing.".

(g) DEFINITION.—Section 19, as amended by subsection (f), is amended by inserting after subsection (j) the following:

"(k) For purposes of this section, the term 'telemarketing' means the use of a telephone in the ordinary course of business to communicate with a person an offer for sale or to complete a sale of a product or service.".

SEC. 3. CLEARINGHOUSE.

The Federal Trade Commission shall establish a clearinghouse for inquiries made to Federal agencies concerning telemarketing (as defined in section 19(k) of the Federal Trade Commission Act). The clearinghouse will provide information to persons making inquiries respecting persons, partnerships, or corporations engaged in telemarketing or direct such inquiries to the appropriate Federal or State agency.●

By Mr. KERRY:

S.J. Res. 279. Joint resolution disapproving the certification by the President under section 481(h) of the Foreign Assistance Act of 1961; referred to the Committee on Foreign Relations.

DECERTIFICATION OF THE BAHAMAS

Mr. KERRY. Mr. President, on March 1 the Department of State issued its International Narcotics Control Strategy Report, the most critical report the Department makes to Congress regarding the war on drugs. Based on that report the President has for the second consecutive year recommended to certify the Bahamas as "fully cooperating" in the war on drugs.

As I did last year, I am again offering a resolution to decertify the Bahamas.

Last year I argued that while the Bahamian Government had given the appearance of full cooperation, drug trafficking had continued unabated. Last year I spoke about the alleged corruption in the government and wondered whether, indeed, meaningful cooperation was even possible.

This year I am sad to report that many of the rumors of government corruption have been corroborated.

Last May, before the Subcommittee of Narcotics and Terrorism, which I chair, we heard testimony that high government officials have been bribed, including the Prime Minister. We heard that islands have actually been rented by drug traffickers, and we heard that the problem is getting worse and not better.

More recently, direct evidence of government corruption at the highest levels has been introduced into evidence in the trial of Carlos Lehder. Witnesses have testified to direct payments to Prime Minister Pindling to allow drug operations to continue.

Even within the International Narcotics Control Strategy Report serious questions are raised about Bahamian corruption.

For instance, at one point in the report, the State Department notes that "the Bahamas is still burdened by narcotics-related corruption; moreover much of the narcotics effort there is directed and facilitated by the United States. There is a need for independent Bahamian action." Later in the report, the Department claims that "the already excellent cooperation improved even more."

I have to admit to being more than just a little bit confused. It sounds to me that the Bahamian Government cooperates by allowing the United States, by itself, to combat Bahamian drug trafficking that is carried out by Bahamian officials. The report is replete with such contradictions and obfuscations.

Besides the corruption, I remain very concerned about the case of Nigel Bowe, Nigel Bowe has been indicted in this country for drug trafficking and is reputed to have directed one of the largest drug trafficking organizations in the Caribbean. Last year, the report noted that the "extradition request for Nigel Bowe has been held up on specious grounds." This year, the report states that "extradition proceedings against major trafficker Nigel Bowe are proceeding slowly." What is happening? Are the grounds specious? When I posed this question to Assistant Secretary of State Wrobeleski at the recent March 14 hearing, her response was evasive, uninformed.

If the Bahamian Government really wants to show genuine signs of cooperation, I can think of no other action that would hold greater positive symbolism than the extradition of Nigel Bowe. That would show that no one is above the law in the Bahamas.

Until that happens, I don't believe that the Bahamas should be certified. It's not enough that the Bahamas allows U.S. helicopters to enter Bahamian air space to arrest traffickers. It's not enough because what generally happens is that the arrests and seizures are made by Bahamian drug officers, many of whom are corrupt. It's not enough that seizures of drugs are up because these officers simply resell the drugs they've seized and then release the traffickers.

The fundamental question we must ask ourselves is how serious are we in fighting the war on drugs. If my colleagues are serious about that war, I hope they will join me in decertifying the Bahamas.

By Mr. HATCH:

S.J. Res. 280. Joint resolution to designate the week of November 27, 1988 through December 3, 1988, as "National Home Care Week"; to the Committee on the Judiciary.

NATIONAL HOME CARE WEEK

● Mr. HATCH. Mr. President, our country is now facing a crisis of major proportions, because of the steadily growing population of older Americans in need of long-term health care.

Today, I would like to present home health care as a major component of any program designed to meet this growing need of our Nation's citizens. Today, I will introduce a resolution designating the week of November 27 through December 3, 1988, as "National Home Care Week." This resolution honors the numerous health care professionals who provide compassionate and much needed care for elderly and disabled individuals in their homes. The individuals and organizations who make such a very worthwhile contribution to society do, in fact, deserve to be honored. It is our additional hope that, by commemorating the cause of national home care, public awareness of this alternative will be heightened.

Home health care organizations, programs—proprietary and nonprofit, and hospital-based associated with nursing homes, have shown that they can provide quality, cost-effective care. Most important of all, they allow older and disabled individuals to remain in their own homes.

One example of cost-savings for home care service can be found in my home State of Utah where a statewide program, called "Alternative," is ongoing. It focuses on persons applying for nursing home admissions for nonmedical reasons and has achieved a 25-percent reduction in State expenditures for nursing home care.

It is becoming more evident every day that our Nation cannot depend alone on nursing homes and institutionalized hospital care. As we in Congress look at proposals addressing long-term care problems, I urge you all to look at the results of over 6,000 home health care programs around the country and the important services they provide to numerous Americans.

At this time I ask unanimous consent that the entire resolution be included in the RECORD and that a letter from Val Halamandaris, president, National Association for Home Care, be included in the RECORD. I urge my colleagues to support this resolution.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 280

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care, including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, health counseling and education, and homemaker-home health aide services, is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving such services;

Whereas the Federal Government has supported home health services since the enactment of the medicare program, with the number of home health agencies providing services increasing from less than five hundred to more than five thousand; and

Whereas many private, public, and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization and enabling such patients to remain independent: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 27, 1988 through December 3, 1988 is designated as "National Home Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

NATIONAL ASSOCIATION FOR HOME CARE,
Washington, DC, March 24, 1988.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR: On behalf of the 6,000 members of the National Association for Home Care, I would like to thank you for your support in sponsoring the National Home Care Week resolution once again. National Home Care Week has proved to be a tremendous success in raising public awareness of home care as a cost-effective and humane health care option.

We greatly appreciate your asking Congress to again designate the week after Thanksgiving as "National Home Care Week" and heartily endorse this measure. We stand ready to assist you in this effort.

Best regards,
Sincerely,
VAL J. HALAMANDARIS,
President.●

ADDITIONAL COSPONSORS

S. 70

At the request of Mr. TRIBLE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 70, a bill to provide for the imposition of the death penalty for certain continuing criminal enterprise drug offenses.

S. 840

At the request of Mr. THURMOND, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 840, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 1378

At the request of Mr. THURMOND, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from North Carolina [Mr. HELMS], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 1378, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1457

At the request of Mr. FORD, the names of the Senator from Connecticut [Mr. DODD], the Senator from North Dakota [Mr. BURDICK], the Senator from Rhode Island [Mr. PELL], the Senator from Vermont [Mr. STAFFORD], the Senator from Colorado [Mr. WIRTH], the Senator from Arkansas [Mr. PRYOR], the Senator from Delaware [Mr. ROTH], the Senator from Ohio [Mr. METZENBAUM], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Vermont [Mr. LEAHY], the Senator from Maryland [Ms. MIKULSKI], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Montana [Mr. BAUCUS], the Senator from West Virginia [Mr. BYRD], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 1457, a bill to establish, with respect to any grant or research protocol of the National Institutes of Health, a restriction that any person obtaining or using for any research purpose any animal acquired from any animal shelter shall not be eligible to receive any such grant or research protocol.

S. 1600

At the request of Mr. FORD, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from New York [Mr. MOYNIHAN], were added as cosponsors of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1673

At the request of Mr. CHAFEE, the names of the Senator from Georgia [Mr. FOWLER], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1776

At the request of Mr. ARMSTRONG, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1776, a bill to modernize United States circulating coin designs, of which one reversed will have a theme of the Bicentennial of the Constitution.

At the request of Mr. DOMENICI, the name of the Senator from Florida [Mr. CHILES] was added as a cosponsor of S. 1776, supra.

S. 1794

At the request of Mr. MOYNIHAN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1794, a bill to establish, within the Department of Transportation, the High-Speed Ground Transportation Office; to develop the technology for a magnetically levitated superconducting transportation system; and for other purposes.

S. 2024

At the request of Mr. BAUCUS, the names of the Senator from Georgia [Mr. FOWLER] and the Senator from

New York [Mr. Moynihan] were added as cosponsors of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2033

At the request of Mr. Thurmond, the name of the Senator from Utah [Mr. Garn] was added as a cosponsor of S. 2033, a bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes.

S. 2049

At the request of Mr. Cranston, the name of the Senator from Arizona [Mr. DeConcini] was added as a cosponsor of S. 2049, a bill to establish an independent national commission on the Veterans' Administration Home Loan Guaranty Program; to amend title 38, United States Code, to authorize reductions in the interest rate on loans made by the Veterans' Administration to finance the sales of properties acquired by the Veterans' Administration as the result of foreclosures, and to establish credit worthiness requirements for assumptions of Veterans' Administration vendee loans; and for other purposes.

S. 2065

At the request of Mr. Heinz, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 2065, a bill to recognize the organization known as Veterans of the Vietnam War, Inc.

S. 2072

At the request of Mr. Moynihan, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of S. 2072, a bill to amend title 23, United States Code, to authorize the use of rights-of-way along Federal-aid highways for the construction of transportation systems that will be part of the Federal-aid highway system.

S. 2098

At the request of Mr. Hollings, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 2099

At the request of Mr. Symms, the name of the Senator from Nevada [Mr. Hecht] was added as a cosponsor of S. 2099, a bill to amend the Internal Revenue Code of 1986 to permit taxpayers to elect to pay tax shown on return in installments and to authorize the Secretary to enter into installments agreements.

S. 2167

At the request of Mr. Metzenbaum, the names of the Senator from Hawaii [Mr. Matsunaga] and the Senator from Rhode Island [Mr. Pell] were added as cosponsors of S. 2167, a bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for flourescent lamp ballasts.

S. 2191

At the request of Mr. Reid, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 2191, a bill to authorize a Western Center for Nuclear and Groundwater Research.

S. 2205

At the request of Mr. Dodd, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of S. 2205, a bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

S. 2206

At the request of Mr. D'Amato, the names of the Senator from Idaho [Mr. McClure] and the Senator from Pennsylvania [Mr. Specter] were added as cosponsors of S. 2206, a bill to amend the Controlled Substances Act to provide for the imposition of the death penalty for the intentional killing of a law enforcement officer and for certain continuing criminal enterprise drug offenses.

SENATE JOINT RESOLUTION 21

At the request of Mr. Hollings, the name of the Senator from Arkansas [Mr. Bumpers] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

SENATE JOINT RESOLUTION 59

At the request of Mr. Thurmond, the name of the Senator from Tennessee [Mr. Sasser] was added as a cosponsor of Senate Joint Resolution 59, a joint resolution to designate the month of May 1987 as "National Foster Care Month."

SENATE JOINT RESOLUTION 234

At the request of Mr. Thurmond, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of Senate Joint Resolution 234, a joint resolution designating the week of April 17, 1988, as "Crime Victims Week."

SENATE JOINT RESOLUTION 266

At the request of Mr. Symms, the name of the Senator from Indiana [Mr. Quayle] was added as a cosponsor of Senate Joint Resolution 266, a joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE RESOLUTION 391

At the request of Mr. Heflin, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of Senate Resolution 391, a resolution calling on the United States to assist the Government of Colombia in its battle against the terrorist activities of illegal drug producers and traffickers.

AMENDMENT NO. 1663

At the request of Mr. Cranston, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of amendment No. 1663 intended to be proposed to H.R. 2881, a bill to establish a National Commission on Acquired Immune Deficiency Syndrome.

SENATE CONCURRENT RESOLUTION 108—URGING MEASURES TO HASTEN THE TRANSITION TO DEMOCRACY IN PANAMA

Mr. KENNEDY (for himself, Mr. Durenberger, Mr. Kerry, Mr. D'Amato, Mr. Graham, Mr. Helms, Mr. Pell, Mr. Lugar, and Mr. Dodd) submitted the following concurrent resolution; which was ordered placed on the calendar:

S. Con. Res. 108

Whereas on February 26, 1988, President Reagan reaffirmed that the United States continues to recognize President Delvalle's government as the legitimate government of Panama;

Whereas on March 18, 1988, representatives of the Government of the United States met with General Noriega in an effort to persuade him to leave Panama as the first step in a peaceful transition to democracy;

Whereas, in response to that initiative, General Noriega announced a "State of Urgency" in Panama, accused the United States of waging an "undeclared war" against the people of Panama, and rejected the United States Government's proposal;

Whereas, allegations have been made that the Government of Cuba shipped large quantities of arms and ammunition into Panama between February 12 and 15, 1988; and

Whereas it is the policy of the United States to support the restoration of genuine democracy to Panama, to assist President Delvalle's government in its effort to establish civilian control and authority over the Panamanian Defense Forces, and to encourage the establishment of the Panamanian Defense Forces as a professional military institution: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the situation in Panama constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States;

(2) the United States should act immediately to impose additional diplomatic, political, and economic pressure on General Noriega and should obtain his extradition from Panama;

(3) based on the unanimous and unequivocal statement of support for President Delvalle issued by the political leaders of Panama on March 6, 1988, the United States should take immediate steps to provide additional diplomatic, political, and economic support to President Delvalle's government; and

(4) the Government of the United States should consider a comprehensive package of emergency financial and other economic assistance to be made available to President

Delvalle's transitional government of national reconciliation and reconstruction after General Noriega has left Panama in order to assist in the rebuilding of Panama's economy.

Sec. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

SENATE CONCURRENT RESOLUTION 109—RELATING TO INTEREST SECTIONS FOR RESOLVING SPECIFIC ISSUES BETWEEN THE UNITED STATES AND VIETNAM

Mr. McCAIN (for himself, Mr. Simpson, Mr. Warner, Mr. Murkowski, Mr. Simon, Mr. Kerry, Mr. Riegle, Mrs. Kassebaum, and Mr. Dodd) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 109

Whereas fifteen years have passed since the United States withdrew its Armed Forces from Vietnam, and thirteen years have passed since the conclusion of the Vietnam conflict;

Whereas issues of concern between the United States and Vietnam remain unresolved, including the fullest possible accounting for Americans missing in acting during the Vietnam conflict, the resettlement of American individuals still in Vietnam, the release of political prisoners in Vietnamese reeducation camps, the departure of individuals who wish to emigrate from their country through the Orderly Departure Program, the protection of the health and safety of Indochinese refugees living in camps throughout Southeast Asia, and the continued Vietnamese occupation of Cambodia;

Whereas the unresolved humanitarian issues between the United States and Vietnam have caused great distress and hardship to the people of both countries, and it is in the interest of both countries that the issues be resolved as soon as possible;

Whereas increased channels of communication and cooperation between the United States and Vietnam will be necessary to address and resolve these issues in an expeditions and comprehensive manner;

Whereas the countries could facilitate the process of resolving these issues by establishing an interest section of the United States in the capital of Vietnam and an interest section of Vietnam in the capital of the United States to provide unofficial representation of the interests of each country; and

Whereas the establishment of interest sections should not be construed as willingness, interest or intent of the United States to extend or to promote improved economic or diplomatic relations between the countries; Now therefore be it

Resolved by the Senate (the House of Representatives concurring), That is is the sense of the Congress that the President should negotiate an agreement with the Government of Vietnam for the establishment of interest sections in the capitals of the United States and Vietnam for the sole and exclusive purpose of resolving the aforementioned issues.

AMENDMENTS SUBMITTED

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

DANFORTH (AND McCONNELL) AMENDMENT NO. 1811

Mr. DANFORTH (for himself and Mr. McConnell) proposed an amendment, which was subsequently modified, to the bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes; as follows:

At the end of the committee substitute, add the following new section:

Sec. . It is the sense of the Senate that a Comprehensive Tort Reform Act should be adopted during the 100th Congress as modified.

McCONNELL AMENDMENT NO. 1812

Mr. McCONNELL proposed an amendment to amendment No. 1811 proposed by Mr. Danforth and Mr. McConnell to the bill S. 79, supra; as follows:

At the end of the pending amendment, add the following new title:

TITLE II—TORT LIABILITY REFORM ACT

SUBTITLE A—GENERAL PROVISIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Tort Liability Reform Act".

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "claimant" means any person who brings a civil action pursuant to this title, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "collateral benefits" means all benefits and advantages received or entitled to be received (regardless of any right any other person has or is entitled to assert for recoupment through subrogation, trust agreement, lien, or otherwise) by any claimant harmed by a product or by any other person as reimbursement of loss because of harm to person or property payable or required to be paid to the claimant, under—

(A) any Federal law or the laws of any State (other than through a claim for breach of an obligation or duty); or

(B) any life, health, or accident insurance or plan, wage or salary continuation plan, disability income or replacement service insurance, or any benefit received or to be received as a result of participation in any pre-paid medical plan or Health Maintenance Organization;

(4) "commerce" means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of that State; or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

(5) "commercial loss" means economic injury, whether direct, incidental, or consequential, including property damage and damage to the product itself, incurred by persons regularly engaged in business activities consisting of providing goods or services for compensation;

(6) "economic loss" means any pecuniary loss resulting from harm which is allowed under State law;

(7) "exercise of reasonable care" means conduct of a person or ordinary prudence and intelligence using the attention, precaution, and judgment that society expects of its members for the protection of their own interests and the interests of others;

(8) "harm" means any harm recognized under the law of the State in which the civil action is maintained, other than loss or damage caused to a product itself, or commercial loss, with respect to which recovery is available under the commercial or contract law of the State;

(9) "manufacturer" means (A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of a product;

(10) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(11) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(12) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state (A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state or as a component part or ingredient; (B) which is produced for introduction into trade or commerce; (C) which has intrinsic economic value; and (D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(13) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, re-

pairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(14) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 203. APPLICABILITY.

(a) Except as provided in subsection (b), (c), or (d), the provisions of this title shall apply to any civil action against any person, in any State or Federal court, based on any cause of action, including negligence, strict or product liability, breach of implied warranty, or professional malpractice, in which damages are sought for physical injury or for physical or mental pain or suffering or for property damage other than damage to the product itself.

(b) This title shall not apply to—

(1) a civil action for loss or damage to a product itself or for commercial loss which shall be governed by State commercial law; or

(2) a civil action for intentionally committed battery, assault, false imprisonment, trespass, or conversion.

(c) The provisions of this title shall preempt and supersede Federal or State law only to the extent such law is inconsistent with this title. Any issue arising under the provisions of this title that is not governed by the provisions of this title shall be governed by applicable State or Federal law.

(d) Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law, except the Federal Employees' Compensation Act;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1602 et seq.);

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment, or the threat of such contamination or pollution.

(e) As used in this section, "environment" has the meaning given to such term in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

(f) This title shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

SEC. 204. JURISDICTION OF FEDERAL COURTS.

The district courts of the United States shall not have jurisdiction over any civil action pursuant to this title, based on section 1331 or 1337 of title 28, United States Code.

SEC. 205. EFFECTIVE DATE.

(a) This title shall take effect ninety days after the date of its enactment and shall apply to all civil actions pursuant to this title commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effective date of this title.

(b) If any provision of this title would shorten the period during which a manufacturer or product seller would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, bring any civil action pursuant to this title within one year after the effective date of this title.

SUBTITLE B—LIABILITY STANDARDS

SEC. 211. JOINT AND SEVERAL LIABILITY.

(a) Except as provided in subsections (b) and (c), a person found liable for damages in any such action subject to the provisions of this title, shall be liable for damages only to the extent of such person's proportionate responsibility for the injury and shall not be jointly and severally liable.

(b) Notwithstanding the provisions of subsection (a), any person found liable for damages in an action subject to the provisions of this title may be jointly and severally liable therefor if such person's proportionate responsibility for the injury is found by the trier of fact to exceed 50 percent.

(c)(1) This section shall not apply to persons acting in concert where the concerted action caused the injury for which such persons are found liable.

(2) As used in this section, the terms "acting in concert" or "concerted action" shall mean the participation in joint conduct by two or more persons who consciously and deliberately agreed to jointly participate in such conduct.

SEC. 212. LIABILITY STANDARDS.

Except as otherwise provided in this subtitle, no person shall be found liable for any damages in any civil action subject to the provisions of this title unless the claimant proves by a preponderance of the evidence that such person was negligent, and such negligence was the proximate cause of the damages sought.

SEC. 213. UNIFORM STANDARDS OF MANUFACTURER LIABILITY.

(a) In a product liability action, a manufacturer is liable to a claimant for harm only if the claimant establishes by a preponderance of the evidence that—

(1) the product causing the harm was in a defective condition unreasonably dangerous to the claimant or to the claimant's property (A) because it deviated in a material way from the design specifications, formulations, or performance standards of the manufacturer or from otherwise identical units of the same product; (B) because it did not conform to an express warranty made by its manufacturer; (C) because it failed to contain adequate warnings or instructions; or (D) because of its design, and

(2) the defective and unreasonably dangerous aspect of the product was a proximate cause of the harm complained of by the claimant.

(b)(1) In a product liability action, a manufacturer shall not be liable on the grounds that a product was in a defective condition unreasonably dangerous to a claimant because of its design if—

(A) the manufacturer did not know and could not know that a product was in a defective condition unreasonably dangerous to a claimant because of its design in light of knowledge reasonably available to the manufacturer, or

(B) there was not a practical and technically feasible alternative design that would have prevented the harm without substantially impairing the reasonably anticipated or intended function of the product.

This paragraph shall not apply if, on the basis of clear and convincing evidence, the claimant establishes that the product for which the action was brought is egregiously unsafe, the ordinary consumer or user of the product cannot reasonably be expected to have knowledge of the product's risks, and the product has little or no usefulness.

(2) In a product liability action, a manufacturer shall not be liable on the grounds that a product was in a defective condition unreasonably dangerous to a claimant because of its design, if the characteristics of the product are known to the ordinary user or consumer and the harm was caused by an aspect of the product that is an inherent characteristic of the product and that would be recognized by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who use or would be reasonably anticipated to use the product. This paragraph shall not be construed to limit a manufacturer's liability solely because the risk of harm is patent, open, or obvious.

(3) For purposes of paragraphs (1) and (2)—

(A) the term "knowledge reasonably available to the manufacturer" means knowledge reasonably available to qualified experts, and

(B) a characteristic is an "inherent characteristic" if it is an essential aspect of the character of the product which cannot be eliminated without significantly compromising the product's function or desirability.

(c) In a product liability action against a manufacturer for harm allegedly caused by an improperly designed drug or medical device, the manufacturer shall not be liable if the drug or medical device was unavoidably unsafe. As used in this subsection, a drug or medical device is "unavoidably unsafe" if it is apparently useful and desirable, if it is incapable of being made safe without significantly impairing the effectiveness of the product's ordinary use, and if the product does not deviate from the design specifications, formulations, or performance standards of the manufacturer or from otherwise identical units of the same product and was accompanied by adequate warnings as defined in subsection (d)(2).

(d)(1) For purposes of subsection (a)(I)(C), a product is in a defective condition unreasonably dangerous to a claimant or the claimant's property because it failed to contain adequate warnings or instructions if—

(A) at the time the product left the manufacturer's control, the product did not contain an adequate warning of or instruction with respect to an aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property, that was known or could have been known by the manufacturer in light of knowledge reasonably available to the manufacturer, or

(B) the manufacturer did not provide an adequate and timely warning of an aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property that was discovered or reasonably could have been discovered between the time the product left the manufacturer's control and the time of the claimant's injury.

For purposes of subparagraph (B), a timely warning is a warning which is given within a reasonable period of time after the manufacturer discovered or reasonably could have discovered the aspect of the product in a defective condition unreasonably dangerous to the claimant or claimant's property, including an aspect of the product's design in a defective condition unreasonably dangerous to the claimant or claimant's property.

(2) For purposes of subsection (c) and paragraph (1)(A) of this subsection, a warning or instruction with respect to a product is adequate if it is one that a reasonably prudent person in the same or similar circumstances would have provided with respect to the product's dangers and communicates adequate information on the dangers and safe use of the product. The term "knowledge reasonably available to the manufacturer" means knowledge reasonably available to the qualified experts.

SEC. 214. UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY.

(a) Notwithstanding the provisions of section 213, in any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant. only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant; (B) the product seller failed to exercise reasonable care with respect to the product; and (C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product; (B) the product failed to conform to the warranty; and (C) the failure of the product to conform to the warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the product seller with respect to the construction, inspection, or condition of the product, and any failure of the product seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this subtitle based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with those warnings and instructions which it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this subtitle except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) A product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

SEC. 215. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) Punitive damages may, if otherwise permitted by applicable law, be awarded in any civil action subject to this subtitle to any claimant who establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a manufacturer's or product seller's conscious, flagrant indifference to the safety of those persons who might be harmed by a product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Except as provided in subsection (b), punitive damages may not be awarded in the absence of a compensatory award.

(b) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

(c)(1) Punitive damages shall not be awarded pursuant to this section against a manufacturer or product seller which caused the claimant's harm where—

(A) the drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or medical device (as defined under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug was approved by the Food and Drug Administration; or

(B) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

The provisions of this paragraph shall not apply in any case in which the defendant withheld from or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government information that is material and relevant to the performance of such drug or device.

(2) Punitive damages shall not be awarded pursuant to this section against a manufacturer of an aircraft which caused the claimant's harm where—

(A) such aircraft was subject to premarket certification by the Federal Aviation Administration with respect to the safety of the design or performance of the aspect of such aircraft which caused the claimant's harm or the adequacy of the warnings regarding the operation or maintenance of such aircraft; and

(B) the aircraft was certified by the Federal Aviation Administration under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.).

The provisions of this paragraph shall not apply in any case in which the defendant withheld from or misrepresented to the Federal Aviation Administration information that is material and relevant to the performance or the maintenance or operation of such aircraft.

SEC. 216. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Any civil action subject to this title shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be filed within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b)(1) Any civil action subject to this subtitle shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years after the time of delivery of the product.

(2)(A) With respect to any good other than a capital good, a manufacturer or product seller shall not be subject to liability to a claimant for harm caused by a product in any civil action subject to this subtitle if the manufacturer proves, by a preponderance of the evidence, that the harm was caused after the product's useful safe life.

(B) A manufacturer or product seller may be subject to liability for harm caused by a product after its useful safe life if—

(i) the manufacturer has warranted that the product can be utilized safely for a time longer than the useful safe life;

(ii) the manufacturer intentionally misrepresents facts about the product or intentionally conceals information about the product and that concealment was the proximate cause of the claimant's harm; or

(iii) the harm was caused by exposure to a product, which exposure first occurred within the useful safe life of the product, even though the harm did not manifest itself until after such useful safe life.

(C) In any civil action brought pursuant to this paragraph, there is a presumption that the harm was caused after the useful safe life of the product if the harm was caused more than ten years after the time of delivery of the product. Such presumption may be rebutted by a preponderance of the evidence.

(3) A motor vehicle, vessel, aircraft, or railroad used primarily to transport passengers for hire shall not be subject to the provisions of this subsection.

(4) As used in this subsection—

(A) the term "time of delivery" means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold; and

(B) a product's "useful safe life" begins at the time of the first use of the product following delivery and extends for the time during which the product would normally be likely to perform or be stored, or both, in a safe manner.

(c) As used in this section, the term—

(1) "capital good" means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1954, and which was—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes; and

(2) "toxic harm" means harm which is functional impairment, illness, or death of a human being resulting from exposure to an object, substance, mixture, raw material, or physical agent of particular chemical composition.

(d) Nothing in this section shall affect the right of any person who is subject to liability for harm under this title to seek and obtain contribution or indemnity from any other person who is responsible for such harm.

SEC. 217. RECORD RETENTION.

(a) Any claimant and any person who is a party to a civil action subject to this subtitle who anticipates bringing such an action, or who has notice that he or she may be made a party to such an action, shall retain all material, documents, and other data (including, in the case of the claimant, the product alleged to have caused the claimant's harm) within such person's possession, custody, or control that are relevant or may lead to the discovery of evidence relevant to the claim or action.

(b) In any civil action subject to this subtitle, if the court determines that a party has willfully disposed of, destroyed, concealed, altered, or removed any material, document, or data in violation of subsection (a) or any State or Federal rule, regulation, or statute requiring the retention of such material, document, or data, there shall be a rebuttable presumption that the facts to which the material, document, or data relate are established in a manner adverse to the position of the party who has committed the violation. The court shall assess a civil penalty against such party in an appropriate amount not less than $1,000 and order such party to pay the other party's costs, including reasonable attorney's fees, incurred in proving the violation.

(c) In any other civil action subject to this subtitle, in which the court determines that a party has nonwillfully violated subsection (a) or any State or Federal rule, regulation, or statute requiring the retention of such material, document, or data, and that no other means are available to establish the facts to which the unavailable material, document, or data relate, the court may, in the interest of justice, establish a rebuttable presumption that the facts to which the material, document, or data relate are, for the purposes of such action, established in a manner adverse to the party who has committed the violation.

SEC. 218. WORKER'S COMPENSATION OFFSET.

(a) In any product liability action subject to this subtitle which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law—

(1) any damages awarded shall be reduced by the sum of the amount paid as workers' compensation benefits to which the employee is or would be entitled for such harm, and

(2) the action shall, on application of the claimant made at the claimant's sole discretion, be stayed until such time as the full amount payable as workers' compensation benefits has been finally determined under such workers' compensation law.

The determination of workers' compensation benefits by the trier of fact in a product liability action subject to this subtitle shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b)(1) Except as provided in paragraph (2), unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee, neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a product liability action may be brought pursuant to this subtitle.

(2)(A) Except in jurisdictions which allocate payment of workers' compensation benefits among all responsible employers, if the claimant's injury arose as a result of exposure to workplace conditions with multiple employers, paragraph (1) shall not apply if the employer or the workers' compensation insurer of the employer establishes, and the trier of fact determines, that the claimant's harm was not in any way caused by the fault of any of such employers or coemployees.

(B) In all other circumstances, paragraph (1) shall not apply if the employer or the workers' compensation insurer of the employer establishes, and the trier of fact determines, that the claimant's harm was not in any way caused by the fault of the claimant's employer or coemployee.

(c)(1) Except as provided in subsection (d), in any product liability action subject to this subtitle in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party claim tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this subtitle shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured. Any action other than such a workers' compensation claim shall be prohibited, except that nothing in this subtitle shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

(d) Subsection (c) shall not apply and applicable State law shall control if the employer or the workers' compensation insurer of the employer, in a product liability action subject to this subtitle, asserts or attempts to assert, because of subsection (b), a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller.

SEC. 219. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) In any civil action subject to this subtitle in which all defendants are manufacturers or product sellers, a manufacturer or product seller may assert in complete defense of such action that the claimant was under the influence of intoxicating alcohol or any drug and that such condition was more than 50 percent responsible for such claimant's harm.

(b) In any civil action subject to this subtitle in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was under the influence of intoxicating alcohol or any drug and that such condition was more than 50 percent responsible for such claimant's harm.

(c)(1) For purposes of this section, the determination of whether a person was under the influence of intoxicating alcohol shall be made pursuant to applicable State law.

(2) As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

SUBTITLE C—EXPEDITED SETTLEMENTS

SECTION 231. GENERAL RULE.

(a) Any claimant may, in addition to any claim for relief made in accordance with this subtitle, include in such claimant's complaint an offer of settlement. For the purposes of this subtitle, an offer of settlement shall be limited to a claim for payment of the claimant's net economic loss, pursuant to section 234.

(b) Any defendant in such an action may make an offer of settlement for the claimant's net economic loss. Such offer shall be made by certified mail, return receipt requested, within ninety days after service of the claimant's complaint, or within the time permitted pursuant to applicable State or Federal law for the responsive pleading, whichever is longer, except that if such pleading includes a motion to dismiss in accordance with applicable law, the defendant may take such an offer to the claimant within ten days after the court's determination regarding such motion. A copy of such offer shall be filed with the court within such time period.

(c)(1) The recipient of an offer of settlement made in accordance with subsections (a) and (b) shall determine whether to accept or reject such offer.

(2) A recipient of such an offer shall provide to the offeror written notice of acceptance or rejection of such offer by certified mail, return receipt requested, within ninety days after the date on which such offer is made. A copy of such notice shall be filed with the court within such time period.

(d) In any case in which an offer of settlement is made under subsection (a) or (b), the court may, upon motion made prior to the expiration of the applicable period for response, enter an order extending such period for discovery. Any such order shall contain a schedule for discovery of evidence material to the issues of the circumstances of the harm and the appropriate amount of relief, and shall not extend such period for more than ninety days. Any such action shall be accompanied by a supporting affidavit of the moving party setting forth the reasons why such extension is necessary to promote the interests of justice and stating that the information likely to be discovered is material, and is not, after reasonable inquiry, otherwise available to the moving party.

(e) Subject to subsection (d), and unless otherwise agreed by the parties, failure to respond to a settlement offer within the applicable time period set forth in subsection (c), shall be deemed to be a rejection of the offer of settlement, and the provisions of section 233 shall apply.

(f) Any party to an offer of settlement pursuant to this subtitle shall be bound by the court's determinations as to any disputes involving net economic loss. Such disputes shall be resolved by the court on an expedited basis, unless the parties agree to be bound by determinations made pursuant to any voluntary alternative dispute resolution procedures established or recognized under the law of the State in which the civil action for damages for harm caused by a product has been brought, or under the rules of the court in which such action is maintained.

(g) When an offer of settlement is made in accordance with this section, a civil action brought by a claimant shall be stayed until—

(1) notification by the recipient of such offer pursuant to subsection (c); or

(2) failure to respond to such offer within the time periods specified in subsection (c) or (d).

This subsection shall not apply to discovery pursuant to subsection (d).

SEC. 232. RIGHTS UPON SETTLEMENT.

(a) Subject to the provisions of subsection (b), a claimant may not bring or maintain a civil action against any person for damages arising from the same harm if—

(1) any defendant has accepted the claimant's offer of settlement made pursuant to section 231 and has paid or agreed in writing to make payment to the claimant;

(2) any defendant's offer of settlement made in accordance with section 231 has been accepted in writing by the claimant.

In such circumstances, the court shall dismiss the civil action of the claimant upon motion by any party to the settlement, except that the court shall retain jurisdiction for the purpose of resolving disputes concerning the extent of the claimant's net economic loss and for other purposes consistent with this subtitle.

(b) If a claimant is precluded from bringing or maintaining a civil action under subsection (a), a defendant who has entered into a settlement with the claimant may not be made a defendant in any action brought by any other part for contribution, reimbursement, subrogation, or indemnity for damages arising from the same harm, in the absence of a prior written agreement to the contrary, except as provided in section 235.

(c) Neither the claimant's employer nor any insurer shall have any right of subrogation, contribution, or indemnity against the defendant or any lien on the claimant's settlement from the defendant, nor shall the defendant have any right of contribution or indemnity against the claimant's employer or fellow employee.

SEC. 233. RIGHTS UPON REJECTION OF OFFER OF SETTLEMENT.

If a party has rejected an offer of settlement pursuant to section 231 and the action proceeds to trial, the party shall, upon request, pay the opposing party's costs unless the verdict is more favorable to the rejecting party than the offer of settlement. For purposes of this section—

(1) the term "costs" means—

(A) in the case of a plaintiff, court costs, reasonable attorney's fees, and interest, from the date of the filing of the plaintiff's action, on an award as determined by the court, and

(B) in the case of a defendant, court costs, and

(2) a verdict shall be considered more favorable to a party if—

(i) in the case of a plaintiff, the amount of the verdict is at least 10 percent more than the offer of settlement (as determined by the court), and

(ii) in the case of a defendant, the amount of the verdict is at least 10 percent less than the offer of settlement (as determined by the court).

SEC. 234. PAYMENT OF NET ECONOMIC LOSS.

(a) Subject to subsection (b) and section 231, net economic loss shall be paid periodically as costs are incurred, but not later than thirty days after the date on which reasonable proof of the fact and amount of net economic loss incurred is submitted to any defendant who is a party to a settlement under this subtitle.

(b)(1) An obligation to make payment of net economic loss may be discharged initially or at any time thereafter by a settlement agreement, including an agreement to make a lump-sum payment, except that no such discharge shall be made with respect to harm giving rise to an estimated value of net economic loss equal to or greater than $10,000 unless the court determines that the settlement is fair to the claimant.

(2) A settlement agreement may be modified upon a finding that a material and substantial change of circumstances has occurred after the date on which the agreement was made or that there is newly discovered evidence concerning the claimant's physical condition, loss, or rehabilitation, which could not have been known or discovered in the exercise of reasonable diligence prior to the date of such agreement.

(3) The court, upon application of any party to the settlement, may make appropriate orders concerning the protection and disbursement of the proceeds of a settlement agreement entered into under this section.

(c) If a period of five years has elapsed after the most recent claim for payment is made with respect to the harm at issue, the claimant shall not be entitled to receive payment for any additional net economic loss with respect to that harm.

SEC. 235. REIMBURSEMENT.

(a) A defendant who has entered into a settlement with a claimant under this subtitle shall be subrogated to any rights of the claimant against another person arising from or contributing to the harm at issue to the extent that the amount of loss paid or to be paid in the settlement exceeds such defendant's comparative proportion of responsibility for such loss.

(b) Any other person provided with notice by a defendant that an offer of settlement has been made shall, within ninety days after receipt of such notice, determine whether to contribute its proportionate share of such claim. Any potentially liable person who would benefit may join in the defendant's response to the claimant's offer of settlement or in an offer of settlement made by the defendant. Such person shall give written notice to the claimant and the defendant. A person who joins in such a settlement is deemed to have agreed to pay a share of the claimant's net economic loss pursuant to section 234, based on the comparative responsibility of all those joined in the settlement other than the claimant.

(c) Persons who join in a settlement pursuant to subsection (b) shall be bound by the court's determination, made upon motion by any such person, of their proportionate shares of responsibility for the claimant's loss, unless such persons agree to be bound by determinations made pursuant to any voluntary alternative dispute resolution procedures established or recognized under the law of the State in which the civil action for damages for harm caused by a product has been brought, or under the rules of the court in which such action is maintained.

(d)(1) If any person who is responsible for causing the claimant's harm and who has received notice under subsection (b) refuses to contribute such person's proportionate share of loss pursuant to this subtitle a defendant who has entered into a settlement agreement pursuant to section 231 to pay such loss may recover from such person a total amount equal to the amount of subrogation recovery pursuant to this section plus one-half of the amount of such subrogation recovery, in addition to reasonable attorney's fees and costs incurred in seeking such subrogation recovery.

(2) If an action is brought under this section against another person (other than the claimant's employer or fellow employee) for contribution, reimbursement, or indemnity and the action is not a civil action subject to this subtitle, such action shall be governed by applicable standards of liability under State or Federal law.

SEC. 236. DEFINITIONS.

(a) As used in this subtitle, the term—

(1) "claimant" means any person who brings a civil action pursuant to this subtitle, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "net economic loss", in accordance with subsection (b), includes—

(A) reasonable expenses incurred for reasonably needed and used medical and rehabilitation care and services;

(B) lost income from work which the claimant would have performed if the claimant had not suffered harm, reduced by any income earned from substitute work actually performed by the claimant or by income the claimant would have earned in available appropriate work which the claimant was capable of performing but unreasonably failed to undertake;

(C) reasonable expenses incurred in obtaining ordinary and necessary services in lieu of those the claimant would have performed, not for income, but for the benefit of the claimant or the claimant's immediate family, if the claimant had not suffered the harm;

(D) lost earnings of a deceased person who suffered fatal harm caused by a product which, if the person had not died, would have been contributed to claimants who are entitled to receive benefits by reason of such person's death under the law of the place where the deceased person was domiciled; and

(E) reasonable expenses incurred by the claimant in preparation and submission of an offer of settlement or a response pursuant to section 231, including a reasonable attorney's fee,

less the total amount of collateral benefits paid or payable to the claimant by reason of the same harm.

(b)(1) The lost income taken into account under subsection (a)(2)(B) shall be reduced by the amount of all Federal, State, and local income taxes and any Social Security or other payroll taxes which would be applicable to such income, but which would not be applicable to compensation paid under this subtitle.

(2) Where harm occurs in circumstances that might entitle a claimant to benefits (including workers' compensation benefits) which would reduce the amount of the claimant's net economic loss in accordance with subsection (a)(2) and it cannot reasonably, within the time provided for payment under section 234 or any reasonable extension of such time, be determined whether or in what amount such benefits will be payable, the defendant shall place in an interest-bearing escrow account that portion of the economic loss which the defendant reasonably anticipates the claimant will receive from such other sources, until the claimant's right to such benefits and the amount of such benefits finally has been determined under applicable law.

(3)(A) The total amount of compensation for economic loss paid or payable to a claimant from any other source shall, for purposes of subsection (a)(2), be reduced by the amount of legal fees and other costs incurred by the claimant in collecting such compensation.

(B) Attorney's fees may be on a contingent basis but, for the purposes of subsection (a)(2), shall be calculated solely on the basis of an hourly rate which should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications and experience and the complexity of the case.

(4) Except as otherwise provided by any provision of Federal law, no program of compensation whether public or private, the benefits of which would be deducted from a claimant's economic loss in order to calculate net economic loss under subsection (a)(2), may make payment of benefits secondary to payment of net economic loss by a defendant under this subtitle.

NICKLES AMENDMENT NO. 1813

Mr. NICKLES proposed an amendment to the bill S. 79, supra; as follows:

At the end of the pending amendment, add the following new section:

"SEC. 17. That this section shall be cited as the Acid Deposition Control Act of 1988.".

RUDMAN AMENDMENT NO. 1814

Mr. RUDMAN proposed an amendment to amendment No. 1813 proposed by Mr. NICKLES to the bill S. 79, supra; as follows:

At the end of the amendment add the following new title:

"TITLE II—ACID DEPOSITION CONTROL"

SEC. 201. Title I of the Clean Air Act is amended by adding the following new parts:

"PART E—INTERSTATE TRANSPORTATION AND ACID PRECURSOR REDUCTION

"FINDINGS AND PURPOSES

"SEC. 180. (a) The Congress finds that—

"(1) the long-range transport of pollutants and their transformation products is an interstate and international problem;

"(2) current levels of emissions of air pollutants from existing sources as well as increased emissions from new and existing sources threaten public health and welfare and the environment in States and countries other than those in which emitted;

"(3) reduction of total regional atmospheric loading of pollutants such as sulfur oxides and nitrogen oxides will enhance protection of public health and welfare and the environment;

"(4) more effective regulation of the interstate transport of air pollutants is needed in order to protect the health and welfare of the citizens of downwind States and the economic growth opportunities of downwind States; and

"(5) in particular—

"(A) the deposition of acid compounds from the atmosphere is causing and contributing to widespread long-term ecosystem degradation;

"(B) the principal source of the acid compounds in the atmosphere, and their precursors, is the combustion of fossil fuels;

"(C) the problem of acid deposition is of national and international significance and cannot be addressed adequately without Federal intervention;

"(D) control strategies and technology for precursors to acid deposition exist now that are economically feasible; and

"(E) current and future generations of Americans will be more adversely affected by delayed action, so that efforts to remedy the problem should commence now.

"(b) The purposes of this part are to:

"(1) protect public health and welfare and the environment from any actual or potential adverse effect caused by ambient concentrations or deposition of air pollutants, including the products of atmospheric transformation of pollutants; and

"(2) preserve the rights and responsibilities of States to protect the public health and welfare and the environment of their citizens from air pollution originating in other States.

"GOAL OF PART E

"SEC. 181. There shall be achieved a reduction in annual emissions of sulfur dioxide, not later than January 1, 1993, of five million tons, not later than January 1, 1998, of ten million tons, and not later than January 1, 2000, of twelve million tons, and not later than January 1, 1996, there shall be achieved a reduction in annual emissions of oxides of nitrogen of four million tons, from the total actual annual level of such emissions between January 1, 1980, and December 31, 1980.

"ACID PRECURSOR CONTROLS

"SEC. 182. (a) Each State shall achieve within its borders an annual statewide average rate of emissions of—

"(1) sulfur dioxide not greater than 0.9 pounds per million British thermal units of heat input, not later than January 1, 1998, for all major stationary sources that are fossil fuel fired steam generating units, including both electric utility and nonutility units, that were in operation during any part of calendar year 1980; and

"(2) oxides of nitrogen for all major stationary sources that are fossil fuel fired steam generating units, including both electric utility and nonutility units, not greater than an annual average rate of emissions of oxides of nitrogen that is based on annual average emission rates of 1.0 pounds per million British thermal units of heat input for cyclone boilers, 0.5 pounds per million British thermal units of heat input for wall-fired boilers, and 0.4 pounds per million British thermal units of heat input for tangential-fired and other boilers, in the proportion that such boilers are of the total boiler capacity of such State, not later than January 1, 1996.

"(b)(1) Not later than two years after the date of enactment of this part each State shall adopt—

"(A) enforceable measures adequate to achieve the reduction in emissions required by subsection (a), applicable to each source subject to such subsection, including emission limitations and schedules of compliance for such sources and additional means of emission reduction in accordance with section 184 of this Act; and

"(B) such additional enforceable measures, including, but not limited to, controls on other stationary sources in such State, as are necessary, taking into account the requirements of subsection (a), section 110, section 111, and title II of this Act, to achieve within its borders a reduction in annual emissions below the level of such emissions during calendar year 1980, of sulfur dioxide equal to that fraction of twelve million tons that is the ratio of all the actual utility emissions in such State in excess of 0.9 pounds of sulfur dioxide per million British thermal units of heat input during calendar year 1980 (where such actual excess utility emissions in such State exceed 1,000 tons) to the total in all States of all the actual utility emissions in excess of 0.9 pounds of sulfur dioxide per million British thermal units of heat input during calendar year 1980. Such additional enforceable measures shall achieve for such State (i) its fraction of five million tons of such twelve million tons not later than January 1, 1993, (ii) its fraction of ten million tons of such twelve million tons not later than January 1, 1998, and (iii) its fraction of the total twelve million tons not later than January 1, 2000, calculated as provided in the preceding sentence. Such additional enforceable measures shall include emission limitations and schedules of compliance for such sources.

The Governor of such State shall submit such measures to the Administrator for review in accordance with paragraph (2) of this subsection.

"(2) The Administrator shall approve within six months such measures submitted under paragraph (1) of this subsection if the Administrator finds that such measures (A) contain enforceable requirements for continuous emission reduction, including for each source limitations on emission rate, assumed rates of operation, and limitations on aggregate annual emissions consistent with such assumed rates of operation, (B) contain requirements for the installation and operation of continuous emission monitoring by the source and additional monitoring by enforcement agencies to assure that the emission limitations are being met, and (C) are adequate to achieve the reduction in emissions for such State required by this section within the time specified.

"(3) Each emission limitation, schedule for compliance or other measure adopted and approved under this section shall be deemed a requirement of the State implementation plan approved or promulgated for such State under section 110 of this Act.

"(4)(A) Not later than three years after the enactment of this part, the owner or operator of each stationary source subject to an emission limitation under this part shall certify to the State the means by which such source intends to comply with such emission limitation, identifying the extent to which it will rely on fuel substitution, installation of a system of continuous technological emission reduction, retirement of existing facilities, implementation of energy conservation measures, or a combination thereof.

"(B) Not later than five years after the enactment of this part, each stationary source (i) for which certification is not provided within the time required by subparagraph (A), or (ii) that certifies that it will comply with an emission limitation established under this subsection or section 183 in whole or in part through the use of fuel substitution, shall be in compliance with such emission limitation.

"(C) Not later than five years after the enactment of this part, each major stationary source that certifies pursuant to this section that it will comply with an emission limitation established under this subsection or section 183 through the installation of technological system of continuous emission reduction, the retirement of existing facilities, the implementation of energy conservation measures, or a combination thereof, shall enter into binding contractual commitments to acquire, install, construct, or retire such system or facilities, or provide such services as needed to implement any energy conservation measure.

"(D) Each stationary source subject to an emission limitation under this part shall be in compliance with such emission limitation, not later than the date specified in the measures submitted under paragraph (1) and in no event later than (i) January 1, 1998, in the case of emission limitations in compliance with subsection (a)(1), (ii) January 1, 1996, in the case of emission limitations in compliance with subsection (a)(2), (iii) January 1, 1993, in the case of emission limitations in compliance with paragraph (1)(B)(i) of this subsection, (iv) January 1, 1998, in the case of emission limitations in compliance with paragraph (1)(B)(ii) of this subsection, and (v) January 1, 2000, in the case of emission limitations in compliance with paragraph (1)(B)(iii) of this subsection. Notwithstanding the preceding sentence or any certification provided or required under subparagraph (A) of this paragraph, at any time prior to January 1, 1995, the owner or operator of a stationary source subject to an emission limitation under this subsection may file an amended certification with the State and the Administrator that such source intends to comply with such emission limitation through the installation of clean coal technology (as defined in section 192(a)). In such case, not later than January 1, 1996, the owner or operator of such stationary source shall enter into binding contractual commitments to acquire, install, or construct such clean coal technology.

"(E) No major stationary source in operation before January 1, 1981, in any State with an emission reduction requirement under this section and not otherwise exercising its authority to substitute under subparagraph (F) or (G), shall increase its actual rate of emissions of sulfur dioxide or oxides of nitrogen over that experienced by such source during the calendar year 1980, unless there has been identified for such source in accordance with section 184 of this Act a simultaneous net reduction in emissions of such pollutant at one or more points in excess of the proposed increase in emission rate, and not otherwise required by a State implementation plan under section 110 or 111 of this Act or under this section or section 183 of this part. With respect to any source that increased its rate of emissions prior to the date of enactment of this part, the net reduction in emissions shall be accomplished by January 1, 1998.

"(F) Any State with actual utility emissions during calendar year 1985 not exceeding 150,000 tons of sulfur dioxide per year (as determined in the National Acid Precipitation Assessment Program inventory) is authorized to substitute an annual statewide average rate of emissions of sulfur dioxide not greater than 0.9 pounds per million British thermal units, to be achieved not later than January 1, 1993, in lieu of the annual statewide average emission rate specified in subsection (a) and in lieu of the emission reductions for sulfur dioxide otherwise required by paragraph (1)(B) of this subsection. A State may make such a substitution in the enforceable measures submitted under paragraph (1). In such case, such enforceable measures shall also include provisions to assure that a total actual annual level of emissions of sulfur dioxide in such State in excess of 250,000 tons is prohibited.

"(G) Any State with actual utility emissions during calendar year 1985 not exceeding 40,000 tons of sulfur dioxide per year and over 90 percent of coal-fired utility emissions of sulfur dioxide from a single source is authorized to substitute a requirement that such source comply with the standards established under section 111(b) for new sources of such class or category as of January 1, 2003, or on and after the date thirty years following the completion of construction, whichever is earlier, in lieu of the annual statewide average emission rate specified in subsection (a) and in lieu of the emissions reductions for sulfur dioxide otherwise required by paragraph (1)(B) of this subsection. A State may make such a substitution in the enforceable measures submitted under paragraph (1). In such case, such enforceable measures shall also include provisions to assure that a total actual annual level of emissions of sulfur dioxide in such State in excess of 100,000 tons is prohibited.

"(5)(A) Together with the enforceable measures submitted by a State and approved by the Administrator under this subsection, the State shall submit—

"(i) an electric load forecast through January 1, 1998, that includes specific projected rates of operation for each utility; and

"(ii) contingency plans that contain additional enforceable emission reduction measures that shall be implemented in the case actual electric load growth exceeds projected load growth or reductions in electric load due to energy conservation measures do not occur as expected, where such deviations from the forecast would otherwise result in a failure to meet the emission reduction required for such State under this section.

"(B) Each State shall submit to the Administrator annual electric load reports for each year after the submission of such forecast that report changes in actual load from the previous calendar year. If actual electric load and the associated emissions deviate from the forecast to the extent, as determined by the Administrator, that the emission reduction requirements of this section will not be met for such State, the Administrator shall require the implementation of additional enforceable emission reduction measures, including those specified in a contingency plan submitted under subparagraph (A), to assure that such emission reduction requirements are met.

"DEFAULT REQUIREMENTS AND SPECIAL RULE FOR GROWTH

"SEC. 183. (a) In the case of any State that does not have enforceable measures in accordance with section 182(b)(1) approved by the Administrator within two years and six months after the date of enactment of this part the owner or operator of each fossil fuel fired steam generating unit in such State which is a major stationary source of emissions of sulfur dioxide shall comply not later than January 1, 1998, with an emission limitation for each such facility not greater than 0.9 pounds of sulfur dioxide per million British thermal units of heat input on a monthly average.

"(b)(1) On and after January 1, 1998, sources of sulfur dioxide in each State shall comply with the requirements of either paragraph (2)(A) or paragraph (2)(B) of this subsection. Each State shall determine which requirements shall apply within such State, and submit enforceable measures to implement such requirements, as part of the enforceable measures adopted and submitted pursuant to section 182(b), not later than two years after the enactment of this part.

"(2)(A)(i) Unless the State has adopted enforceable emission limitations meeting the requirements of clause (ii), any fossil fuel fired steam generating unit (including any utility or nonutility unit) on which construction has been completed for thirty years or more shall comply with an emission limitation not greater than 0.9 pounds of sulfur dioxide per million British thermal units of heat input on a monthly average. This subparagraph shall take effect January 1, 1998.

"(ii) For each year beginning January 1, 1998, the State shall further reduce emissions of sulfur dioxide attributable to sources in such State (other than sources going into operation after such date) below the aggregate emissions ceiling for such State described in subparagraph (B), by the amount determined by the State, pursuant to regulations promulgated by the Administrator, to be equivalent to the emissions of sulfur dioxide from each fossil fuel steam generating unit (including any utility or nonutility unit) on which as of that year construction has been completed for thirty years or more that are in excess of 0.9 pounds of sulfur dioxide per million British thermal units of heat input on a monthly average. Emission reductions associated with units that cease operation or reduce hours of operation shall not be credited toward the reduction requirements of this subparagraph.

"(B) On and after January 1, 1998, aggregate statewide emissions of sulfur dioxide shall not exceed an aggregate emissions ceiling for such State, equal to the actual annual emissions in such State between January 1, 1980, and December 31, 1980, minus the reduction in annual emissions determined under section 182(b)(1)(B).

"(C) Effective January 1, 2003, each fossil fuel fired stationary source shall comply with the standards established under section 111(b) for new sources within such class or category on and after the date 40 years following the completion of construction of such source.

"(c) Not later than December 31, 1989, the Administrator shall revise the standards under section 111(b) applicable to new electric utility generating units to express emissions limitations in terms of units of pollutant emitted per unit of electric energy output and to require, consistent with subsection (a)(1) of section 111, that such emissions limitations be achieved through increases in combustion, generating, and transmission efficiencies.

"(d)(1) Not later than January 1, 1990, the Administrator shall propose revised standards of performance pursuant to section 111 for emissions of oxides of nitrogen from fossil fuel fired steam generating units, including both electric utility and nonutility units. Not later than January 1, 1991, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen. The Administrator shall consider the degree to which a standard of performance approaching 0.1 pounds per million British thermal units of heat input, or less, is achievable as determined in accordance with section 111(a)(1).

"(2) Not later than January 1, 1990, the Administrator shall propose standards of performance pursuant to section 111 for emissions of oxides of nitrogen from large stationary diesel and turbine engines. Not later than January 1, 1991, the Administrator shall promulgate such standards of performance.

"ENFORCEABLE EMISSION REDUCTION PROGRAMS

"SEC. 184. (a) For the purpose of attaining emission reductions required by section 182 of this Act or maintaining the limitation on emissions required by subsection (b)(4)(E) of such section or section 183(b)(2)(A)(ii), the following methods or programs for net emissions reduction may be used, in addition to enforceable continuous emission reduction measures, by a State or the owner or operator of a source, if emission limitations under such methods or programs are enforceable by the Federal Government, States other than those in which the emissions occur, and citizens under section 304 of this Act:

"(1) programs for energy conservation where reductions in emissions can be identified with such programs;

"(2) least emissions dispatch to meet electric generating demand at existing generating capacity;

"(3) retirement of major stationary sources at an earlier date than provided in schedules on file with the Federal Energy Regulatory Commission, the Internal Revenue Service, or State utility regulatory agencies;

"(4) trading of emission reduction requirements and actual reductions on a State or substate basis, for which States and the Administrator are authorized to establish emission banks or brokerage institutions to facilitate such trading; and

"(5) precombustion cleaning of fuels.

"(b) It shall be a first priority under this part to achieve the reductions in emissions required by section 182 through conservation of electricity or other energy. If the Governor of any State certifies to the Administrator, as part of the measures submitted under section 182(b), that a program encouraging or requiring the conservation of electricity or other energy will be implemented in such State and that such program will result in a reduction in emissions of sulfur dioxide or oxides of nitrogen, then such State may calculate the extent of the emissions reduction accomplished by such program of conservation, and may comply with the requirements of sections 181 and 182 by substituting such emissions reduction for a portion of the total emissions reductions attributable to the emissions rate limitations of section 182(a). Such emissions rate limitations may be adjusted to reflect such substitution.

"(c) Interstate trading of emission reduction requirements and actual reductions or limitations on emissions under section 182(b)(4)(E) shall not be allowed under this part, except in the case of trading among units owned by a utility with steam generating units and a service territory in more than one State if the Administrator, in accordance with regulations and prior to the inclusion of emission limitations based on such trading in enforceable measures submitted under section 182(b), determines that such trading is feasible and workable and will result in enforceable emission limitations in each affected State.

"PART F—CLEAN COAL TECHNOLOGIES

"FINDINGS

"SEC. 190. The Congress finds that—

"(a) acid deposition is a serious environmental problem in both the United States and Canada;

"(b) air emissions from sources in both the United States and Canada are causing significant deposition of sulfates, nitrates and other acidic compounds on ecosystems in both nations;

"(c) acid deposition is a serious transboundary problem as air pollutants emitted by sources in both nations cross their mutual border causing diplomatic as well as environmental problems;

"(d) both the United States and Canada have a responsibility to assure that activities within their jurisdiction or control do not cause damage to the environment of other States;

"(e) the United States and Canada have a long tradition of successfully resolving transboundary environmental problems, both through the International Joint Commission and on a government-to-government basis;

"(f) the recommendations of the Special Envoys with respect to acid deposition build upon that tradition and, in combination with the long-term control program required under part E of this title, constitute an appropriate near-term effort to address the transboundary acid deposition problem; and

"(g) control strategies and clean coal technologies necessary to carry out the recommendations of the Special Envoys exist now and can be deployed on a cost effective basis to reduce transboundary air pollution.

"STATEMENT OF POLICY

"SEC. 191. It is the purpose of this part to fully implement the recommendations of the Special Envoys with respect to acid deposition and transboundary air pollution problems and to improve relations between the United States and Canada by securing near-term reductions in the movement of air pollutants which may be precursors of acid deposition from areas within the United States to areas within Canada. To that purpose—

"(a) The Secretary of Energy is directed to promote the rapid deployment of existing clean coal technologies so as to reduce total atmospheric loadings of air pollutants which may be precursors of acid deposition and the transboundary movement of such pollutants.

"(b) The Administrator is directed to promote the vigorous enforcement of existing laws and regulations with respect to air pollution in a manner which is responsive to the problems of transboundary air pollution.

"(c) The Secretary of State is directed to seek establishment of a bilateral advisory and consultative group on transboundary air pollution comprising both diplomatic and environmental management officials from the United States and Canada to provide a forum for consultations on issues related to transboundary air pollution and to advise the directors of each nation's environmental program.

"DEFINITIONS

"SEC. 192. For purposes of this part—

"(a) the term 'clean coal technology' means any technology, including technologies applied at the precombustion, combustion or post-combustion stage, deployed at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity or industrial process steam which is not in widespread use at commercial scale as of the date of enactment of this part;

"(b) the term 'coal' means anthracite, bituminous or subbituminous coal, lignite, or any fuel derivative thereof;

"(c) the term 'conventional technology' means any technology, including technologies applied at the precombustion, combustion, or post-combustion stage, which achieves a significant reduction in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity or industrial process steam which is in widespread use at commercial scale on the date of enactment of this part;

"(d) the term 'high-sulfur coal' means coal with a heat value of ten million British thermal units per ton which has a sulfur content greater than 1 per centum sulfur by weight or coal with an equivalent or greater sulfur content after adjustment for the heat value of the coal;

"(e) the term 'precursors of acid deposition' means air pollutants including sulfur dioxide, sulfates, oxides of nitrogen and nitrates and their transformation products which may be deposited in a wet or dry form and which when deposited contribute to the acidification of aquatic and other ecosystems;

"(f) the term 'clean coal technology project' means the design, construction, or operation of equipment and facilities at the location of a specific installation which generates electricity or industrial process steam but only to the extent that the equipment and facilities are necessary to achieve emissions reduction through application of a generic clean coal technology or technologies and shall not include the design, construction, or operation of any other equipment or facilities associated with the installation which are not directly related to emissions reduction; and

"(g) the term 'Secretary' means the Secretary of the United States Department of Energy.

"PROGRAM

"SEC. 193. (a) GENERAL AUTHORITY.—The Secretary, pursuant to authority provided by the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577), acting jointly with the Administrator is authorized and directed to carry out a program for the construction and operation of facilities to acquire further experience with respect to the commercial deployment of clean coal technologies which significantly reduce air emissions of sulfur dioxide or oxides of nitrogen resulting from the utilization of coal in the generation of electricity or industrial process steam. The Secretary and the Administrator may enter into contracts or cooperative agreements with, or provide financial assistance in the form of grants to, the owner or operator of any such facility to assure the deployment of clean coal technologies. The program established by this section shall include—

"(1) solicitations for proposed projects to deploy such technologies;

"(2) selection of suitable projects from among those proposed;

"(3) supervision of the construction and operation of such projects;

"(4) monitoring and evaluation of the results of the projects which are conducted; and

"(5) dissemination of information on the effectiveness and feasibility of the clean coal technologies which are operated.

Not later than one hundred and eighty days after the date of enactment of this part, the Secretary acting jointly with the Administrator shall publish regulations to assure the satisfactory implementation of each element of the program authorized by this part.

"(b) SOLICITATION.—Not later than two hundred and ten days after the date of enactment of this part, the Secretary acting jointly with the Administrator shall publish a solicitation for proposals to deploy clean coal technologies which will significantly reduce air emissions of sulfur dioxide or oxides of nitrogen resulting from the utilization of coal in the generation of electricity or industrial process steam. The solicitation notice shall provide for a thirty-day application period and shall prescribe the information to be included in the proposal, including technical and economic information sufficient to permit the Secretary and the Administrator to assess the potential effectiveness and feasibility of the technology to be deployed and the reductions in air emissions of sulfur dioxide or oxides of nitrogen which can be expected to be achieved through deployment of the technology. A second solicitation shall be conducted not later than twenty-one months after the date of enactment of this part.

"(c) APPLICATIONS.—Any person or any public or private entity which is the owner or operator of a major source of air emissions as defined in this Act may submit an application to the Secretary and the Administrator in response to the solicitations required by subsection (c) of this section. The application shall contain a proposed deployment plan setting forth the various phases of the project and such other information as the Secretary and the Administrator may require. Such plan shall provide that the technology to be deployed will be installed and operational as expeditiously as practicable, but in no case later than thirty-six months after the date on which the project is selected for assistance by the Secretary.

"(d) SELECTION CRITERIA.—The Secretary acting jointly with the Administrator may provide assistance under this part to a project which utilizes a clean coal technology, if the Secretary and the Administrator determine that the project will provide experience with respect to the operation of such technology at commercial scale and only if the project satisfies each of the following criteria—

"(1) the project will utilize technology which would be appropriate for retrofit on a significant number of existing coal-fired sources of air emissions of sulfur dioxide or oxides of nitrogen;

"(2) the project will contribute to a reduction in the transboundary movement of air pollutants which are precursors of acid deposition from areas within the United States to areas within Canada;

"(3) the technology to be deployed will significantly reduce air emissions of sulfur dioxide or oxides or nitrogen (measured as a percentage removed) associated with coal utilization or, if providing less than significant reductions (measured as a percentage removed), the technology deployed will achieve reductions at a cost per ton of reductions which is substantially less than the cost associated with conventional technology;

"(4) the technology to be deployed will result in a reduction of emissions of sulfur dioxide or oxides of nitrogen at a cost which is equal to or less than the cost of achieving comparable emission reductions with conventional technology; and

"(5) the project will utilize as a feedstock coal mined in the United States and the location of the facility will be in the United States.

In selecting among projects for assistance which have similar reduction potential, both with respect to the rate of emissions and the transboundary movement of air pollutants which may be the precursors of acid deposition, the Secretary acting jointly with the Administrator shall give priority to those projects which achieve reductions at the least cost per ton of reductions achieved and which would be appropriate for retrofit at existing sources of air emissions which utilize high-sulfur coal. The Secretary and the Administrator shall assure that, consistent with the criteria of this subsection, projects are selected that represent a broad variety of coal types and reasonable geographic diversity.

"(e) REVIEW BY THE ADMINISTRATOR.—The Secretary shall not select any project for assistance under this part unless the Administrator shall first have made a determination that the proposed project satisfies each of the criteria established by subsection (d) of this section.

"(f) PROHIBITIONS.—The Secretary or the Administrator shall not select for assistance any project which incorporates reductions in air emissions of sulfur dioxide or oxides of nitrogen which are required according to a State implementation plan developed and approved pursuant to section 110 of this Act. The preceding sentence shall not apply to projects required wholly as a result of part E of this title. Not more than 15 per centum of the funds appropriated pursuant to this part may be committed to projects in any one State. No reductions in air emissions of sulfur dioxide or oxides of nitrogen which is achieved by a source through the deployment of clean coal technology in a project assisted under this part shall be available for banking or trading to achieve compliance with a State implementation plan by any other source of such emissions.

"(g) NOTIFICATION.—The Secretary and the Administrator shall select or refuse to select a project for assistance under this section within ninety days of receiving the completed application. In the case of a refusal to select a project for assistance, the Secretary and the Administrator shall notify the applicant within such ninety-day period of the reasons for refusal.

"(h) COST-SHARING.—In providing financial assistance under this part to a clean coal technology project, the Secretary acting jointly with the Administrator shall endeavor to enter into agreements and make other arrangements for maximum possible cost-sharing with State and local agencies, utility companies, technology vendors and other persons. Total Federal funds for any project shall not exceed 50 per centum of the cost of the project (including the entire capital cost and operating costs over a two-year period beginning on the date on which operation of the technology commences) estimated at the time of the award of such assistance. The owner or operator of the facility (or any other project sponsor) shall not be required to reimburse the United States from future revenues of the project.

"(i) FURTHER PROVISIONS.—

"(1) The Secretary may vest fee title or other property interests acquired through assistance of any clean coal technology project in any entity including the United States.

"(2) Cost-sharing by the owner or operator of the facility (or other project sponsor) is required in each of the design, construction and operating phases of the project.

"(3) Financial assistance for costs in excess of those estimated as of the date of the award of original financial assistance may not be provided in excess of the proportion of costs borne by the Government in the original agreement and only up to 25 per centum of the original financial assistance.

"(4) Other appropriated Federal funds may not be used for cost-sharing by the owner or operator of the facility (or other project sponsor).

"(5) Existing facilities, equipment and supplies or previously expended research and development funds are not cost-sharing for purposes of this part except as amortized, depreciated, or expensed in normal business practice.

"(j) RECONSTRUCTION.—No project which receives financial assistance under this part shall be deemed to be a significant modification or reconstruction which would require compliance with a new source performance standard promulgated pursuant to section 111 of this Act by the source at which the project is carried out.

"ADVISORY COMMITTEE

"SEC. 194. (a) Not later than ninety days after the date of enactment of this part, the Secretary acting jointly with the Administrator shall establish, according to the provisions of the Federal Advisory Committee Act (5 U.S.C. app 1, et seq.), a Clean Coal

Technologies Advisory Committee composed of the Secretary and the Administrator, or the Secretary's or Administrator's designees, who shall be cochairs, and ten members appointed by the Secretary and the Administrator who shall be selected from representatives of State and local governmental agencies or interstate or regional planning organizations with air pollution control responsibilities and who by their experience or technical expertise can advise, consult with, and make recommendations to the Secretary or the Administrator on matters of policy relating to the control of air emissions which may be precursors of acid deposition and the selection of clean coal technology projects which satisfy the criteria of section 193(d) of this Act. Five members shall be selected by the Secretary and five members shall be selected by the Administrator. The Committee shall also include three representatives of Canada who shall be nominated by the Minister of Environment Canada for service on the Committee.

"(b) Terms.—Each member of the Committee (with the exception of the Chair) shall hold office for a term of three years and members shall be eligible for reappointment.

"(c) Support.—Such clerical and technical assistance as may be necessary to discharge the duties of the Committee shall be provided from personnel of the Department of Energy.

"(d) Compensation.—Members of the Committee (with the exception of the Chair) shall, while attending meetings or conferences of the Committee or otherwise engaged in business of the Committee, receive compensation and allowances at a rate to be fixed by the Secretary, but not exceeding the daily equivalent of the annual rate of base pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Committee. While away from their homes or regular places of business in the performance of services for the Committee, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(e) Exception.—Section 14(a) of the Federal Advisory Committee Act (5 U.S.C. app 14), relating to termination, shall not apply to the Committee established by this section.

"AUTHORIZATIONS

"Sec. 195. (a) There are authorized to be appropriated to carry out the provisions of this part $500,000,000 in each of the fiscal years 1988, 1989, 1990, 1991, and 1992.

"(b) The sums authorized by this section shall be in addition to the amounts available from the Clean Coal Technology Reserve established pursuant to Public Law 98-473.".

SMELTER CONTROLS

Sec. 202. Section 119 of the Clean Air Act is hereby repealed, and any primary nonferrous smelter order issued under such section shall terminate as of January 1, 1988. Any primary nonferrous smelter to which such an order was issued shall be in compliance with the applicable emission limitation or standard no later than January 1, 1988. No order under section 113 or other provision of the Clean Air Act, nor the order of any court, shall permit any extension or delay in such compliance beyond Janaury 1, 1988.

INTERNATIONAL COOPERATION

Sec. 203. (a) Not later than April 1, 1988, the President shall institute negotiations with Canada and Mexico for the purpose of concluding a tripartite agreement—

(1) to minimize projected and existing levels of air pollution;

(2) to create an institutional framework to control sources of transboundary air pollution;

(3) to establish a North American air quality monitoring network;

(4) to encourage increased research and dissemination of information on air pollution control strategies; and

(5) to develop uniform minimum levels of protection for public health and the environment.

(b) The President shall undertake to enter into international agreements to apply uniform standards of performance for the control of the emissions of air pollutants. For this purpose the President shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums.

(c) In the negotiations with Canada pursuant to this section, or in any bilateral negotiations with Canada involving transboundary air pollution and controls on precursors to acid deposition, the President shall seek to assure that prior to the effective date of the control provisions of part E of title I of the Clean Air Act, Canada shall adopt and enforce reductions in sulfur dioxide emissions comparable to those undertaken in the United States, including the appropriate installation of technological systems of continuous emission reduction. Recognizing the significant effect of sulfates on degradation of visibility in western Canada and the western United States, the President shall seek to assure that the adoption and enforcement of such reductions and the installation of appropriate technological systems shall include the Provinces of western Canada.

(d) The Environmental Protection Agency shall perform atmospheric field experiments to determine the effects of emissions of sulfur dioxide from the Nacozari smelter in Mexico, before and after implemention of pollution controls, on concentrations of oxides of sulfur and deposition thereof and effects on visibility in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Texas, Utah, and Wyoming. The experiments shall place particular emphasis on the effects of the smelter, before and after implementation of pollution controls, on acid rain and visibility in the above-mentioned States. The Environmental Protection Agency shall also perform atmospheric field experiments to identify the impact of other industrial areas and sources in northern Mexico, including the Tijuana, Mexicali, and Monterrey areas.

EMISSION TARIFF STUDY

Sec. 204. Not later than January 1, 1989, the Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall submit to the Committee on Environment and Public Works and the Committee on Finance of the United States Senate and the Committee on Energy and Commerce, the Committee on Public Works and Transportation, and the Committee on Ways and Means of the United States House of Representatives, a study, together with appropriate legislative proposals, on a system of tariffs on emissions adequate to encourage reductions in emissions of precursors of acid deposition and other forms of environmental pollution.

National Academy of Sciences

REVIEW OF ACID DEPOSITION RESEARCH NEEDS

Sec. 205. The Administrator of the Environmental Protection Agency shall enter into appropriate arrangements with the National Academy of Sciences to conduct an evaluation and identification of the major priorities of research needed to fully understand the mechanism and effects of the sources and long-range transport of air emissions. Such study shall review and make recommendations regarding research and evaluations undertaken to date and future research programs, if any, beyond those now underway required to understand the effects of acidic and other disposition on terrestrial forest ecosystems; aquatic ecosystems; health effects including those associated with acid aerosols and oxidants; and mechanisms of long-range transport and disposition (including modeling and monitoring). Such study shall be structured so as to require a preliminary report to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives, a final report within twelve months of date of enactment. From the sums available for the conduct of the National Acid Precipitation Assessment Program in fiscal year 1988, the sum of $1,000,000 shall be made available by contract to the National Academy of Sciences to complete the study required by this section.

ACID DEPOSITION STANDARDS

Sec. 206. Not later than thirty-six months after the date of enactment of this Act, the Administrator shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the feasibility and effectiveness of an acid deposition standard or standards to protect sensitive and critically sensitive aquatic and terrestrial resources. The study required by this section shall include, but not be limited to, consideration of the following matters:

(1) identification of the senstive and critically sensitive aquatic and terrestrial resources in the United States and Canada which may be affected by the deposition of acidic compounds;

(2) description of the nature and numerical value of a deposition standard or standards that would be sufficient to protect such resources;

(3) description of the use of such standard or standards in other Nations or by any of the several States in acid deposition control programs;

(4) description of the measures that would need to be taken to integrate such standard or standards with the control program required by part E of the Clean Air Act;

(5) description of the state of knowledge with respect to source-receptor relationships necessary to develop a control program based on such standard or standards and the additional research that is on-going or would be needed to make such a control program feasible; and

(6) description of the impediments to implementation of such control program and the cost-effectiveness of deposition standards compared to other control strategies including ambient air quality standards, new

source performance standards and the requirements of part (E) of the Clean Air Act.

HELMS AMENDMENT NO. 1815

Mr. HELMS proposed an amendment to the bill S. 79, supra; as follows:

On page 47, between lines 7 and 8 of the committee substitute insert the following:

(g) Designation of Health and Emergency Care Workers Required.—Notwithstanding any other provision of this section, the Board shall designate as a population at risk those health care workers and emergency care workers who are at risk of occupational exposure to the disease known as acquired immune deficiency syndrome or the virus known as HTLV-III or LAV virus. The Board shall develop the form and method of notification and determine the appropriate type of medical monitoring or health counseling with respect to such population in accordance with clauses (iii) and (iv) of subsection (c)(1)(A). The designation of such population at risk shall be subject to notice, comment, and review in accordance with subsection (d).

KENNEDY AMENDMENT NO. 1816

Mr. KENNEDY proposed an amendment to amendment No. 1815 proposed by Mr. Helms to the bill S. 79, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

(g) Information for Health and Safety Workers.—Within 90 days after the date of enactment of this Act, the Secretary of Health and Human Services, shall develop and implement a program to disseminate information to all health workers, public safety workers, and emergency service workers in the United States concerning methods to reduce in the workplace the risk of becoming infected with human immunodeficiency virus. The information disseminated under this section shall be based on the guidelines issued by the Directors of the Centers for Disease Control.

"Funds appropriated to the Department of Health and Human Services for AIDS prevention programs and activities shall be used to carry out this subsection. No funds authorized to be appropriated under this Act shall be used to carry out this subsection."

NICKLES AMENDMENT NO. 1817

Mr. NICKLES proposed an amendment to the bill S. 79, supra; as follows:

At the appropriate place in the bill, insert the following new section:

FINANCIAL IMPACT STATEMENT

Sec. . None of the provisions of this Act shall become effective unless:

(a) The Committee on Labor and Human Resources requests that the Director of the Government Accounting Office prepare a financial impact statement, as described in subsection (b) below, to accompany the Conference report of this bill.

(b) The financial impact statement required by subsection (a) of this section shall state the extent to which enactment of this bill would result in increased costs to the private sector and State and local governments and shall include, at a minimum, a detailed assessment of the annual impact of the bill (projected annually over a five-year period from its effective date and expressed in monetary terms where appropriate) on—

(1) costs to consumers and business;

(2) national employment;

(3) the ability of United States industries to compete internationally;

(4) State and local governments, fiscally and otherwise, and;

(5) outlays by the Federal Government, including indirect costs it will incur as an employer, as compared to outlays for the same activity in the current fiscal year (as reported by the Congressional Budget Office): *Provided*, That the financial impact statement may consist of a brief summary assessment in lieu of the detailed assessment set forth above if preliminary analysis indicates that the aggregate effect on each of categories (1)-(4) above is less than one hundred million dollars.

MURKOWSKI AMENDMENT NO. 1818

Mr. MURKOWSKI proposed an amendment to amendment No. 1817 proposed by Mr. Nickles to the bill S. 79, supra; as follows:

Strike all after "Sec. ." in the amendment and insert in lieu thereof the following:

FINANCIAL IMPACT STATEMENT

None of the provisions of this Act shall become effective unless:

(a) The Committee on Labor and Human Resources requests that the Director of the Government Accounting Office prepare a financial impact statement, as described in subsection (b) below, to accompany the Conference report of this bill.

(b) The financial impact statement required by subsection (a) of this section shall state the extent to which enactment of this bill would result in costs or savings to the private sector and Federal, State and local governments and shall include, at a minimum, a detailed assessment of the annual impact of the bill (projected annually over a five-year period from its effective date and expressed in monetary terms where appropriate) on—

(1) costs or savings to consumers and business;

(2) national employment;

(3) the ability of United States industries to compete internationally;

(4) State and local governments, fiscally and otherwise;

(5) outlays by the Federal Government, including indirect costs it will incur as an employer, as compared to outlays for the same activity in the current fiscal year (as reported by the Congressional Budget Office): *Provided*, That the financial impact statement may consist of a brief summary assessment in lieu of the detailed assessment set forth above if preliminary analysis indicates that the aggregate effect on each of categories (1)-(4) above is less than one hundred million dollars; and

(6) increase or decrease of total health expenditures.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, March 24, 1988, at 2 p.m., to hold hearings to receive testimony on the Federal Election Commission's fiscal year 1989 budget authorization request, and on Senate Concurrent Resolution 88, to facilitate the convening of a Silver Haired Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 24, 1988, to hold a hearing on Federal collection of information on foreign investments in the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 24, 1988, to hold a hearing on S. 1245, a bill that would allow tax-exempt bonds to be issued for privately owned high-speed rail projects.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on March 24, 1988, to hold a hearing on judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 24, 1988, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Thursday, March 24, 1988, to hold a joint hearing with the House Interior Committee on the Salt River Water Settlement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Energy and Natural Resources Subcommittee on Public Lands, National Parks and Forests be authorized to meet during the session of the Senate on March 24, 1988, at 1 p.m. to receive testimony concurring S. 1593, to designate the sight of the Glorieta Battle in the Civil War as a national historic site; S. 1693, to amend the National Trails System Act to provide for a study of the Coronado Trail, and for other purposes; S. 1912, to authorize a study of the feasibility of establishing a National Mimbres Museum in Silver City, NM, and for other purposes.

S. 2157, a bill to authorize three feasibility studies to be conducted in New Mexico dealing with the San Gabriel Historic Landmark, the significance of the Los Luceros Hacienda, and the establishment of an interpretive center to highlight the first colonization of the interior of the United States in New Mexico; and S. 2162, a bill to provide for the establishment of the Zuni-Cibola National Historical Park.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 24, 1988, in open session to receive testimony on recruiting, retention, and compensation programs for the total force in review of the amended fiscal year 1989 Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, and the Subcommittee on Hazardous Wastes and Toxic Substances, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, March 24, 1988, beginning to conduct a joint hearing on issues related to ground water legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, March 24, 1988, to hold hearings on the Health Care Financing Administration's management of medical laboratories.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, March 24, 1988, to hold a hearing on oversight of conservation programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DIESEL FUEL COLLECTION PROCEDURES

● Mr. HEFLIN. Mr. President, I rise today to discuss the provision in the Budget Reconciliation Act which changed the collection point for diesel fuel excise tax on Federal highway users from retailers to wholesalers. This new tax collection procedure, which is scheduled to take effect April 1, 1988, is intended to strengthen enforcement and to increase the collection of the diesel tax from those who use our Nation's highways. These are goals I strongly support. However, the means Congress devised to achieve these ends are inefficient, unwise, and unworkable. I therefore call for the speedy repeal of these provisions.

Before this act was passed, a retailer, who was collecting the tax, was presumed to be able to distinguish between sales of fuel to highway and nonhighway users. The retailer would then collect the tax due from taxable users of the fuel but would not collect any tax from exempt users. Under the new procedure, diesel wholesalers are responsible for collecting the tax and remitting it to the Internal Revenue Service. Diesel wholesalers will have no idea who the end user of the fuel will be and thus will have to charge the tax on all sales. This will force virtually all diesel consumers to pay the tax up-front when they purchase fuel. Only thereafter, will those who can demonstrate that they did not use the fuel on a federally funded highway be able to apply for a refund from the Internal Revenue Service.

Mr. President, this amounts to an interest free loan by diesel consumers to the Federal Government. The unfairness of this situation is blatantly obvious. This will have a profound effect upon all tax exempt consumers of diesel fuel, such as States, local municipalities, farmers, fishing vessels, domestic waterway operators, the mining industry and the petroleum industry, which is itself a large consumer of diesel fuel. These are all areas which cannot afford a severe cash flow drain.

Recently, the Senate Finance Committee held hearings on the collection of Federal fuel taxes. The loud and clear message to come out of this hearing is that the procedures adopted in the Budget Reconciliation Act are unworkable and must be repealed.

Mr. President, the effective date of the revised diesel fuel tax collection procedures is April 1 of this year. That is about a week from now. Time is quickly running out. While I wish we could simply repeal this provision in the next week, it is obvious that this is not possible in the time we have remaining. That is why I have cosponsored Senator GRAMM's bill, S. 2210, which will delay the implementation of this provision until October 1, 1988. This will give Congress and the administration time to study excise tax collection procedures more closely and to develop a better plan to enforce the collection of the tax.

I commend the Finance Committee for recognizing the magnitude of this problem and holding hearings. I encourage the members of the Finance Committee to quickly mark up and report out legislation to solve this problem. I then call for the full Senate to quickly consider and pass this legislation so that a permanent solution can be implemented.●

PROFESSOR HILLMAN NAMED DISTINGUISHED TEACHER

● Mr. WILSON. Mr. President, it is my sincere pleasure to congratulate Prof. Robert W. Hillman of the University of California, Davis School of Law, who was named as that institution's 1988 Distinguished Teaching Award winner. Professor Hillman has been recognized by his colleagues and the students and alumni of the UC Davis School of Law for his unyielding commitment to the study and teaching of the law.

After graduating second in his class from Duke University Law School where he was editor-in-chief of the Duke Law Journal, Bob Hillman clerked for Judge Joseph T. Sneed of the U.S. Court of Appeals for the Ninth Circuit. Following his clerkship, Bob Hillman became an associate with the Los Angeles office of Paul, Hastings, Janofsky & Walker, and 4 years later was named general counsel of Star-Kist Foods, Inc.

In 1981, Mr. Hillman accepted a position on the UC Davis law faculty. During his 7 years at UC Davis, Professor Hillman has taught business associations, business planning, securities regulations, international business transactions, comparative contract law, and international finance.

In addition to his time spent at UC Davis, Professor Hillman has been a visiting lecturer of law at the University of Southern California Law Center and at the University of International Business and Economics in Beijing, China. Professor Hillman's publications include a textbook on securities regulation and a treatise on corporate law. Moreover, Professor Hillman has published 12 law review articles or commentaries, his most recent work being titled, "Law Firms and Their Partners: The Law and Ethics of Grabbing and Leaving."

During his 7 years at UC Davis, Professor Hillman has inspired some of the brightest business attorneys in California. His unique experience as a practitioner combined with his scholarly research of contemporary business problems has made him a favorite of the UC Davis law students.

In addition to his research and teaching responsibilities, Professor Hillman has been the faculty adviser to the UC Davis chapter of the Federalist Society—a group with which I am very familiar. At a time when some law schools seem to draw the greatest notice when the faculty is espousing positions on the fringes of American law, the Federalist Society strives to return a balanced discourse to law schools regarding constitutional jurisprudence and the role of the judiciary.

The Law School at the University of California, Davis, has selected a most worthy recipient of its Distinguished Teaching Award.

My congratulations are extended to the law school for its selection, and to Professor Hillman for being named the 1988 Distinguished Teacher at the UC Davis School of Law.●

ADULT EDUCATION WEEK

● Mr. COCHRAN. Mr. President, there is new evidence that adult education programs are changing the lives of many Americans. This week is being celebrated as Adult and Continuing Education Week to salute and honor those who are working so hard to make learning opportunities available to many adults.

My State was delighted by the selection of Eddie Lewis, of Brandon, MS, as a recipient of one of the seven Outstanding Adult Learner Awards given by the American Association for Adult and Continuing Education.

I congratulate him and those dedicated educators and volunteers who have made this award possible.

I ask that a copy of his nomination for this prestigious award be printed in the RECORD.

The material follows:

NOMINATION OF EDDIE LEWIS, OUTSTANDING ADULT LEARNER

The Rankin Program for Adult Literacy (R-PAL) is proud to nominate Eddie Lewis as its Outstanding Adult Learner. Through his determination and efforts. Eddie has been a model adult learner in the reading and adult education programs.

Eddie, a 39 year old man, was born in Rankin County, Mississippi, and has spent his life in this county. In order to help support his family, he had to drop out of school in the fifth grade. His strong belief in family is evident today. He and his wife, Eva, are the parents of two sons, Eric and Aaron. One of his goals in continuing his education was to help his sons and encourage them with their schooling.

Eddie has worked as a mechanical technician for 16 years with Goodyear. His company purchased computers to help the mechanics diagnose problems with car engines. Because of his limited educational background, Eddie did not understand how to program the computers or read the results. He called R-PAL on March 27, 1986 to apply for the Adult Literacy Program. Eddie was matched with a tutor on April 9, 1986. He tested on a 2.2 reading level using the Slosson Oral Reading Test and only wrote in manuscript.

Eddie and his tutor, Carole Robbins met twice a week for a total of three hours. The Laubach Way to Reading Series of four books was used as the basic text. Not only did Carole tutor Eddie in reading, but she also tutored him in math, English, and cursive writing. A special relationship developed between Eddie and Carole. She spoke to new tutors at a tutor-training workshop of her experiences working with Eddie. She said that Eddie told her he wanted to do something for her because she had done so much for him. She told Eddie, "You came into my life when I was having a personal crisis, and you have been a life-line for me. You have helped me more than I can ever help you." When Eddie reached Book 3 of the Laubach Series, Carole, who is a computer consultant, began to tutor him on the use of the computer. As Eddie gained confidence in himself, he began to use the computer at work. This helped him become more efficient on his job. He also began writing invoices for customers.

Eddie completed the Adult Literacy Program on September 20, 1987. He had successfully passed all four levels in the Laubach Series. On September 28, Eddie enrolled in the Adult Education/GED class at Hinds Community College in Pearl. His next goal is to obtain his GED certificate.

In February, 1988, Goodyear is sending Eddie to a computer seminar in Birmingham, Alabama. This seminar will teach Eddie even more uses of the computer with his job. Eddie is proud of the fact that he has been able to show other people at work how to use the computer on the job. "Some of the people even have been to college," he told me, "I have the confidence now to try to help others."

Eddie accomplished all of these goals in one-and-a-half years. During this time he worked approximately 9 hours a day on his job, and also played and coached softball during the summer months. He organized and coached a softball league for young boys in his neighborhood. "I do this for boys who have no father-figure, and to help them stay out of trouble," said Eddie.

Eddie attended the student-tutor year-end program both years that he was enrolled and received certificates each year. He also encouraged a neighbor to call R-PAL and seek help with his reading. Eddie is pleased that he has been able to build a new home for his family during the past year. Carole taught him how to write checks. He has opened a checking account in his name. "I now write checks each month to pay for my house as well as other bills," he told me proudly, "I have confidence in myself to do many things."

Eddie has been an inspiration to his family, his tutor, the R-PAL Coordinator, and other reading students in the program, as well as, to his fellow workers at Goodyear. Eddie is a good choice to be considered for an Outstanding Adult Learner in 1988.●

CIVIL RIGHTS RESTORATION ACT (GROVE CITY)

● Mr. GLENN. Mr. President, I am pleased to announce that I joined my Senate colleagues in voting to override the President's veto of the Civil Rights Restoration Act. The 73 to 24 vote count passing the bill certainly bespeaks the interest of the Senate in legislating a guarantee of civil rights to all Americans.

The purpose of this measure is simple—to insure that the tax dollars of all cannot be used against some. Simple justice requires that there be no unfair treatment because a person happens to be a member of a racial or ethnic minority; nor whether he be handicapped, or female, or old. Yet, we have practiced discrimination in this country—as we continue to do—against these groups and others. Why would I not support a measure to correct such injustice?

Specifically, this bill restores equal protection provisions of four major civil rights statutes which were seriously curtailed by the Supreme Court's decision in Grove City College versus Bell. Those statutes include title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, title IX of the Education Act Amendments of 1972, and section 504 of the Rehabilitation Act of 1973.

Until 1984, these laws had applied institutionwide; that is, if any part of an institution practiced discrimination, the entire institution would lose its Federal funding. Consequently, if the admissions department practiced discrimination and the English department did not, Federal funds would be withdrawn from the English department, as well. This bill expresses the sense of Congress that the sanction should indeed be institutionwide, rather than program specific. The effect of this is to overturn the Supreme Court's decision and restore the rights which it affected.

Contrary to extreme comments by opponents of the bill, this measure would not force the hiring of homosexuals—with or without AIDS. It would not expand the rights of drug addicts, nor affect the spending of Social Security checks. In fact, this measure creates no new rights whether embraced by the Constitution or not, nor takes any away. It is, instead, purely restorative in nature and simply overturns the Supreme Court's decision.

This bill has been subjected to an organized crusade of misinformation and distortion, spurred by the Moral Majority's claim that the bill interferes with religious rights and freedoms. This is simply not true. The bill has no impact on churches and their choice of ministers or other religious teachers and leaders. Nor would it interfere in any way with the practice of individual religions. To insure that there is no interference with religion, the bill contains a specific exemption for educational institutions which are controlled by religious organizations.

Moreover, the bill has received broad support from religious organizations including the Baptists, the Catholics, the United Methodists, the Presbyterians, the Episcopalians, the Churches of Christ, the Union of American Hebrew Congregations, the Evangelical Lutherans, and the Church of the Brethren—to name a few. The bill is further supported by the American Association of Retired Persons [AARP] which represents the Nation's largest organized group of Social Security users.

I am pleased that the Senate had the ability to sort through the rhetoric surrounding this issue and pass a bill to insure that hard-won civil rights are restored to their proper recipients.●

THE 100TH BIRTHDAY OF MARY MORAN SHURTLEFF

● Mr. HUMPHREY. Mr. President, 100 years ago, on March 27, 1888, Mary Moran Shurtleff was born in Hopkinton Village, NH. She was born just a few days after the Great Blizzard of 1888 that took nearly 500 lives in Northeastern States. It was in 1888 that Benjamin Harrison was elected our Nation's 23d President, defeating Grover Cleveland. Also, 1888 was to be the first year that an intercity telephone link was set up.

The poem "Casey at the Bat" was published in 1888 and Gilbert and Sullivan's operetta "The Yeoman of the Guard" opened at London's Savoy Theatre. And 1888 was the year that the National Geographic Society was founded by Alexander Graham Bell's father-in-law, Gardiner Greene Hubbard.

The year 1888 saw the birth of French singer-actor Maurice Chevalier; British adventurer T.E. Lawrence—better known as Lawrence of Arabia—poet T.S. Eliot and popular composer Irving Berlin and American sports hero Jim Thorpe. And Mary Shurtleff has outlived them all.

A lot has happened in the 100 years since Mary Moran Shurtleff was born. Our Nation has fought two world wars in defense of freedom and despite the great sacrifice, freedom is still far from secure.

In her lifetime, Mary Shurtleff has seen the development of cars and airplanes, jets, rockets, and intercontinental missiles. She has lived from the time of the Wright brothers' historic flight to see men walk on the Moon. She has lived to see the development of the telephone, radio, television, and computers.

Mary Shurtleff has seen a lot of changes in our society during her 100 years and even today this remarkable woman—at the age of 100—is known in Hopkinton Village for her sharp mind and keen wit.

Mary Shurtleff is a remarkable woman. She is the oldest driver in the State of New Hampshire. She has her own automobile. She was the supervisor of the hot lunch programs in the schools for many years and town officials say she has earned the love and respect of the younger generation.

Mr. President, I am proud to honor New Hampshire's Mary Moran Shurtleff on her 100th birthday.●

A BRIGHT DAY FOR PEACE IN CENTRAL AMERICA

● Mr. PELL. Mr. President, yesterday was a bright day for peace in Central America. After 3 days of unprecedented high-level, direct talks on Nicaraguan soil, the long-hoped for cease-fire between the Sandinista government and Contras is about to become a reality. The agreement providing for a cessation of military operations for a 60-day period while a definitive cease-fire is being negotiated will go in to force on April 1. It was forged by the parties to the conflict themselves, exercising their determined will to end the bloody and costly warfare and to bring peace to their nation and deserving people.

This agreement came about because both sides made major concessions that hopefully will end the fighting and should go a long way in promoting the establishment of a democratic pluralistic system in Nicaragua.

The process is by no means over and complete. There are many details to work out and therefore there are any number of pitfalls that could be in the way of a definitive cease-fire and a lasting peace. It is incumbent on the Sandinista government and the Contras to build on the positive momentum that has been developed in the 3 days of meetings at the small border town of Sapoa. Mistakes, rash acts, and inopportune timing have been characteristic obstacles in the way of peace throughout the conflict. I am hopeful that both sides will be especially careful not to fall back to that ill-fated pattern.

The United States for its part should maintain a careful distance to allow the parties to continue the peace process and national reconciliation by themselves and on their own terms, within the context of the Central American peace plan—the Esquipulas Agreement. Nicaragua, in the coming months, will need help and support from the international community and this is where the United States can play a major and constructive role.

I am optimistic that this agreement will result in full compliance with the peace plan and that we will have seen the end of United States military assistance to the Contras as well as the end to substantial Soviet military assistance to the Sandinistas. Another significant step would be the start of bilateral negotiations between the United States and Nicaragua on matters of mutual security concerns. But this can wait for another day—first things first.

I look forward to the day when the respective sectors in Nicaragua work together within the democratic system for the good of the people. Events of the past few days have taken them further toward that goal.●

IN DEFENSE OF FORWARD DEFENSE

● Mr. WIRTH. Mr. President, part of our analysis of the balance of conventional forces in Europe must include an understanding of strategy and doctrine. NATO forces have forged a strategy called Forward Defense, which is carefully described and defended by Mr. Philip Karber in the May 1984 Armed Forces Journal. I wish to share Mr. Karber's analysis with my colleagues today.

The analysis follows:

[From Armed Forces Journal, May 1984]

IN DEFENSE OF FORWARD DEFENSE

(Philip A. Karber)

Philip Karber, a senior defense analyst with the BDM corporation, sees the NATO strategy of Forward Defense receiving an underserved barrage of criticism as more and more attention is focused on the conventional balance in Europe. For Karber, the introduction in 1967 of Flexible Response as fundamental NATO doctrine to reduce the chance of early nuclear first-use by strengthening its conventional deterrent has made it an unequivocal necessity for NATO to maintain a "forward defense" of Western Europe with forces deployed right at the inter-German border.

While many today see the strategy of Forward Defense as a political concession necessary to keep West Germany in the Atlantic Alliance, in Karber's view, nothing could be further from the truth. In the Western European theater, NATO is hampered by a critical lack of strategic depth, for within 300 kilometers of the border major ports of resupply are enveloped and 90% of NATO's Center Region airbases and support facilities are overrun. However, Karber points out that it is right at the border itself that the natural corridors of invasion are at their most narrow, and therefore this is where NATO forces could pose their most dense and effective defense.

Forward Defense is also the logical approach given NATO's need for an effective defense with potentially minimal warning time. With sufficient reserve backing, Forward Defense provides a solid resistance on the best terms for the West. However, lacking sufficient reserve mobilization, the same situation that yields a favorable scenario for NATO results in multiple and deep penetration by Warsaw Pact forces. The soundness of Forward Defense as a fighting concept is confirmed by the East's massive conventional force build-up, as the Soviet bloc has had to work assiduously to develop the capacity to avoid having to fight a forward-deployed, prepared defense reinforced in depth. Karber believes that the ultimate success of Forward Defense in combat is dependent on the intelligence capability and political resolve necessary to detect and act upon signs of a Soviet minimum-warning attack. Used properly, new conventional technologies and improved air-fighting capabilities would also enhance Forward Defense. NATO needs also to improve its anti-armor defenses, and must avoid, at all costs, losing any of its quick-reaction potential. If NATO is not resolute in its forward defense of Western Europe, the Soviets will establish the capability for nuclear denial during the early conventional period of hostilities.

NATO'S SEARCH FOR OPERATIONAL DEPTH

In December 1967, after years of intense discussion and much political persuasion from the United States, NATO formally adopted the new doctrine of Flexible Response. The primary change in emphasis was to reduce the possibility of NATO's early resort to nuclear first use by having sufficient conventional forces to meet a major attack. The new doctrine recognized that the West may not have the conventional power to defeat a massive and sustained attack. Nevertheless, Flexible Response requires that NATO forces be able to hold such an attack at bay while defending as far forward as possible in order to buy time—time to determine the intent and magnitude of the aggression, time for Soviet political elites to reassess both the strength of Western political resolve and the risk of continued hostilities, and time for careful NATO consideration of its nuclear options.

The passage of every year since has witnessed an increased interest in the viability of NATO's conventional defense—fueled by Soviet achievement of strategic nuclear parity, by the massive build-up of Warsaw Pact military capability in Central Europe, by the development of a wide range of new technologies which portend significant change in the nature of conventional warfare.

Today, more than ever before, the future of NATO as a military alliance hangs on the success or failure of its conventional defense forward. Ironically, the greater the emphasis given to conventional forces, the more vituperative are the arguments over NATO's strategy for employing them. Within the last several years, no element of Flexible Response has been subjected to such a withering barrage of criticism as the strategy of Forward Defense.

Unfortunately, the political importance of maintaining Forward Defense as a keystone of Alliance unity has often obscured the real military advantages which Western defense planners perceived at the time it was adopted. In fact, the impression is increasingly given that as a force employment concept Forward Defense verges on strategic pornography—a plan with little redeeming military value which is kept wrapped in a NATO brown paper wrapper so as not to offend West German sensitivities.

Whatever the current impression, at the time of its conceptual origin, Forward Defense was supported by sound military logic—in terms of operational depth, defensibility of terrain, force density, and timing of mobilization. While a number of factors have changed—the threat, tactics, and air/ground interrelationships, and technology—the contribution of this strategy to deterrence and collective security should not go unappreciated.

Maneuver is the essence of modern land warfare. Given the high mobility of mechanized formations, the greater the distance that an attacker must traverse between his border crossing and the seizure of strategic objectives, the more opportunity the defense has to absorb the shock of the initial blow. Depth offers an outnumbered defender the opportunity to buy time with space—time to grind down with disproportionate attrition the quantitative superiority of the opposing assault formations. As offensive forces become progressively strung out with open flanks over unfriendly territory, the defender has room to counterattack, disrupting the attacker's game plan and seizing the initiative.

Unfortunately, Western Europe as a theater of military operations is characterized by a lack of strategic depth. A 100-kilometer penetration serves the continental connection of the Danish peninsula and seals off the Danubian plain from the Central Front. At a distance of less than 200 kilometers from the inner-German (or inter-bloc) border, NATO's Northern and Central Army Groups are split down the command seam, the north/south logistic line of communications for US forces in southern Germany is cut, and the Rhine is breached—the last geographically strategic barrier short of the Pyrenees. At 300 kilometers the major ports of resupply are enveloped, and 90% of NATO's Center Region airbases and support facilities are overrun. Given this shallowness, any defensive strategy must make its definitive stand within the first 150 kilometers of the inter-bloc border. For 30 years, successive NATO commands have chosen not to give a potential opponent a free ride over this area, but, instead, to the extent that their available forces permitted, to use this terrain for defensive depth.

An alliance which a *priori* limits its military strategy to the defensive automatically gives up many advantages: options for a spoiling attack; the opportunity to seize more advantageous positions; the choice of timing, location, and the method of engagement. One of the few positive values of being on the defensive is in taking advantage of friendly terrain.

Terrain is one of the few factors affecting the outcome of combat that tends to favor the defense. In order to seize territory the attacker must move. Movement means exposure, which produces a heightened probability of being engaged by fire. On the other hand, being on his own terrain, the defender enjoys a much greater familiarity with the battlefield, can enhance geographic obstacles in order to retard the opponent's rate of advance, and can exploit its existing cover (hills, forests, and urban areas) to reduce his own vulnerability, and thus extract a disproportionate rate of attrition from the attacker in the initial moments of an engagement.

Luckily, much of the terrain of West Germany is particularly favorable for the defense, as this map illustrates. While there are not insurmountable obstacles and the Rhine is the only significant antitank barrier, most of the terrain is broken by large stretches of forest (the hilly woods of central and southern Germany) or soft soil (the marshes of northern Germany). While the density of roads, from Autobahn to logging trail, makes every kilometer accessible to tracked vehicles, this terrain is nevertheless not particularly conducive to a high speed advance by massed armor. From the perspective of trafficability, as opposed to topography, the infamous North German Plain is not an area like the Russian Steppe where entire armored divisions, not to mention tank armies, can meander at will. Rather, an attacker must repeatedly subdivide units on, multiple axes and proceed through constricted passages—often in march formation. Likewise, one looks in vain for the Fulda *gap*, which in reality is merely a series of narrow mini-gaps with relatively higher viscosity than some other sectors of the front. Scattered across the breadth of Germany are large built-up urban areas which, while they permit high offensive trafficability, also give the defender usually favorable points of observation, fields of fire, and protective cover. Even where open terrain is prevelant, it is dotted by a town, village, or hamlet an average of once every six kilometers.

For the defender, this terrain is best suited to the antitank ambush, where, from under cover and from hull defilade, the lead elements of an armored column are suddenly engaged from multiple directions. By the time the attacker recovers from the surprise and prepares for an organized assault with heavy suppressive artillery support, the defender has covertly withdrawn to the next ambush site several kilometers down the corridor—leaving behind a favorable 1:6 loss exchange rate. This tactic, repeated over and over, can slow the most aggressive armored advance to a crawl and drain the attacker of his quantitative superiority.

Nevertheless, the very aspects of West German terrain which can permit a defender to fight outnumbered and win, can also work against him. The absence of "big" *gaps* means that the defender cannot concentrate his forces in a few *high-threat* areas, but must cover all the routes of potential ingress. The terrain is only of advantage to the defender if he occupies it; otherwise it permits the attacker to maneuver large numbers of small formations very deeply, very quickly. The high interconnectivity of these many corridors means that the defender cannot merely focus on east/west routes—lest an attacker veer into the flank or rear of an unsuspecting adjacent defender. To realize the full advantage of these terrain compartments requires the defender to be in position long enough to undertake considerable preparation (demolition and emplacement of obstacles to channelize movement; mining of high-speed approaches; construction of alternate hull defilade firing positions for vehicles; entrenchment, overhead cover, and barbed wire for infantry).

While defended forests and urban areas make rapid mechanized assault difficult for the offensive, they are particularly vulnerable to traditional dismounted infantry infiltration. To truly hold this terrain for any length of time requires a high concentration of defenders—indeed the larger urban areas are manpower "black holes" capable of consuming multiple divisions.

The most significant aspect of West German terrain is where the poor trafficability areas are located with respect to operational depth. Within the 150 kilometer band discussed earlier, the most defensible terrain for virtually the entire breadth of the front is near the inter-bloc border. Behind the first 50 kilometers, the terrain tends to open up—corridors become wider, with a higher degree of intersection, and north/south movement is easier—none of which facilitates a stable defense. Beyond 100 kilometers there are large areas of concentrated urbanization and forest, but their isolation and sheer size do not provide the interlocking derfensibility available near the border.

One of the major difficulties of selecting where to defend is correlating the position to the quantity of forces needed to hold it successfully. For over a generation, Western defense analysts have been calculating and debating the level of force superiority needed for an attacker to successfully penetrate a defensive position.

But the outcome of combat is less dependent on the ratio of forces than it is to the density of the defense—that is, the ratio of force to space. Thus, for example, a NATO mechanized brigade screening a 30-kilometer sector of open terrain would be hard pressed to delay a Soviet force at 2:1 odds for more than several hours, whereas the same unit in well-prepared positions on a 10-kilometer constricted movement corridor could stop a force at 6:1 odds for several days. The longer the front and the more open the terrain, the greater the number of NATO-deployed forces will be required to block a rapid Warsaw Pact armored advance.

As a result of the postwar division of Europe, the inter-bloc border places NATO at a disadvantage, due to the fact that the defender's limited assets must be stretched to cover a convex arc running from the Baltic Sea to the Bavarian Alps. The further back NATO fights, the lower the density of the defense. First, because the front is longer. Second, the more the defense is stretched, the easier it is for attacking formations to inter-penetrate the integrity of the defense—producing a highly irregular front at the tactical level, one which stretches the defense even further.

Thus, the combined effect of these factors—coupled with less defensible terrain further back—means that a typical NATO defensive line 150 kilometers deep will reduce the defensive density by one-third, or require 50% more forces to achieve the same results as a Forward Defense near the inter-bloc border.

The significance of the force-to-space ratio is exacerbated when the need for tactical and operational reserves is considered. Reserves are critical to the success of a defense: they provide the means to react to the attacker's points of main effort so that the defensive line is not shattered when hit with the shock effect of a concentrated and echeloned armored assault; they provide elasticity to the defenses for phased withdrawal under pressure; they provide the means of rescuing units which have been momentarily enveloped or overrun; they are the only source of force-generation capable of launching a counterattack—to exploit an attacker's open flank or take advantage of his unit disorganization after an assault has failed—without dangerously dismantling the defensive line; they are the prime means of securing the rear area from vertical envelopment (heliborne or paratroop assault) and raiding units which infiltrate the defense.

In peacetime, the active NATO force that is available for immediate commitment consists of 71 brigades. To cover the front with a sufficiently dense Forward Defense requires approximately 75% of these units—leaving an average of only one brigade per corps sector as a tactical reserve and nine brigades for Army Group reserve.

With this level of forces, a defense 150 kilometers to the rear leaves no reserves, or with 25% of the units allocated for a reserve, stretches the density of the defending line to the point of breaking.

The reduced defensibility of the terrain, the extended convex frontage (which requires more time for the deployment of reserves to their committed sector), and the difficulty of laterally moving reserves when much of the north/south road net is in the hands of the enemy, all mean that a rearward defense has much less staying power and is far more brittle with respect to rapid penetration than a Forward Defense with the same level of forces.

NATO's active in-place brigades are only sufficient to provide the initial resistance to a Warsaw Pack attack. Facing an in-theater, unfavorable force ratio of 2:1 and given the opponent's offensive advantage of the initiative (selecting the axes of main concentration), a defense which can defeat a series of initial, hasty armor assaults can be infiltrated by dismounted infantry, suppressed by massive artillery bombardment, and worn down by the sheer weight of repeated attack in rapid succession by follow-on echelons. This threat is real whether NATO draws its main defense line forward or back, but the closer to the border the defenders make their stand, the earlier it will develop. Once NATO's limited reserves are committed, the danger of an imminent breakthrough or the realization that an offensive penetration is already in progress will force the forward defenders to fall back to the rear—with all the attendant disadvantages previously discussed (reduced depth, less defensible and unprepared terrain, an ever-expanding frontage with a rapidly declining density of force to cover it). The speed with which the defense is forced to withdraw rearward becomes particularly acute if the Soviets have already moved their second strategic echelon of 30 or more divisions into Eastern Europe from the western USSR and can introduce them into the battle unimpeded by NATO interdiction.

The Forward Defense strategy was designed with this contingency in the forefront of concern, and the need for substantial reinforcement was always recognized as a requisite for its success. Over the decade and a half since the adoption of the Flexible Response doctrine, NATO has made substantial progress in preparing to augment its active in-place formations by the mobilization of European reserves and the faster introduction of external reinforcements. Within 10 days of unimpeded mobilization, the forward defending units can be backed up by an additional 23 brigades. By M+30, a total of 107 brigades could be available. These figures do not include the French, whose new-found enthusiasm for Forward Defense could be matched by the commitment of up to three corps and a Rapid Action Force, comprising 13 divisions (albeit the latter are more equivalent to US armored brigades in terms of combat power).

Whereas at least 75 percent of NATO's active in-place brigades would be committed forward, the distribution of the reinforcing forces would be reversed, doubling the tactical and operational reserves by M+10. This not only strengthens the staying power of the forward line, but—with higher confidence in its stability combined with the availability of powerful uncommitted reserve formations—permits the defender to seek decisive engagement and wrest the initiative from the attacker by aggressively counterattacking where the offensive has become overexposed or weakened by disproportionate attrition. Of course, the use of NATO's second echelon as a reserve presumes that it will arrive while the Forward Defense is still holding. If it is late, or worse, if NATO's first echelon had less than 96 hours to deploy, then the reinforcements will be dissipated in piecemeal commitment to shore up a retreating and ever-expanding front line.

As long as NATO reacts to Warsaw Pact offensive preparation with step-by-step mobilization and reinforcement of its own, Forward Defense not only remains viable but provides the most time and the best opportunity for NATO's second echelon to have a decisive effect. Conversely—and here there is a real danger—if NATO hesitates (whether out of fear of being provocative or political indecision to react on ambiguous warning, or both) in responding to the indications of Warsaw Pact accelerated readiness and large-scale movement of units to assembly areas, Forward Defense becomes a victim rather than victor vis-a-vis time. A Forward Defense strategy that is tested before its first echelon brigades are ready and redeployed is extremely vulnerable to a short-warning attack. The plethora of small ingress routes that make a dense defense so successful virtually insures multiple deep penetrations if there are insufficient defenders forward to cover every one.

At the time NATO formally adopted the Flexible Response doctrine, the temporal dimension of the Warsaw Pact threat was viewed in terms of how long it would take them to mobilize, not how quickly they could preempt the deployment of NATO's Forward Defense. This perspective was not unrealistic. The mid-1960s conventional force balance in Central Europe was the best it had been in the postwar competition. The forces of the Warsaw Pact deployed in Central Europe had less than a 50 percent advantage over NATO in conventional weaponry, and in level of technological capability were decidedly inferior to the quality of Western forces. Without large-scale mobilization and reinforcement, the success of an Eastern-bloc conventional attack would have been improbable. NATO recognized that the Eastern bloc could launch probing attacks with in-place forces (the "Hamburg grab" being a popular scenario), but given their small-scale and limited objectives, could confidently be dealt with by a Forward Defense.

The optimism vis-à-vis the immediate threat was not limited to quantitative ratios of conventional weaponry, but driven by the Warsaw Pact's lack of combined arms integration at the level of maneuver units, disparate mobility of artillery and air defense units to keep up with mechanized formations, a tactical air force with insufficient range and payload to pose a non-nuclear offensive threat, and inadequate logistics and transport to keep pace with fast rates of advance or high-intensity combat. Thus, extended preparation time and massed concentration offered the only means of compensating for these deficiencies. But this involved a process that would give NATO weeks of advance warning with sufficient reaction time to deploy a dense, prepared defense forward and to add depth by reinforcement of its own.

Today, the Warsaw Pact threat is dramatically different. In fact, there is no testiment to the potential power of NATO's Forward Defense strategy as strong as the extent to which the Warsaw Pact has built up its forces and developed new employment concepts to avoid fighting a forward-deployed, prepared defense reinforced in depth. Since the mid-1960s the Soviets have led a Warsaw Pact military build-up in forward offensive capability unprecedented in postwar Europe. Over this period they have added more than 40,000 conventional weapons in Central Europe—an increase of more than the total NATO had in active units at the time.

Today, the Warsaw Pact not only has the necessary mass deployed forward, but by 1980 the Warsaw Pact active units in Central Europe had strengthened their inventory of conventional weaponry to the point that their premobilization strength exceeded the total quantity of systems available in 1965 after 30 days of mobilization and the reinforcement of over 30 divisions. Through its methodical build-up, the Eastern bloc has altered the Central European military balance more significantly than had they reinforced their forces in Eastern Europe by over 30 divisions in 1965. Yet they have achieved this without triggering a countermobilization by NATO.

Because of qualitative improvements in all combat arms and supporting elements and with significantly increased unit readiness, the Warsaw Pact no longer needs the time traditionally associated with extended mobilization and reinforcement in order to field a potent offensive threat. NATO's long-presumed technological advantage, in which qualitative superiority was to compensate for quantitative inferiority, may still exist in the West's scientific laboratories, but it is no longer evident in the forces deployed in Central Europe.

The Eastern bloc's acquisition of a *Forward Offensive* capability would not be nearly so disturbing if it were not so actively developing new operational concepts which not only take advantage of the changed military balance in Central Europe, but are uniquely designed for a short-warning attack to preempt NATO's deployment of a Forward Defense.

The Soviets' strategy for a conventional war in Europe, which surfaced at about the same time as Flexible Response, remains dissimilar to NATO's doctrine because they still do not view a conventional campaign as an alternative to theater nuclear warfare but, rather, as an opportunity to conduct nuclear denial under conventional conditions. Thus, in the early 1970s, the Soviets introduced the concept of an Air Offensive, a multi-staged sequential attack to be launched in the first hours of a campaign. This operation envisaged first the orchestrated employment of nearly 2,000 aircraft, including frontal aviation fighters, medium bombers, and "strategic" bombers from long-range aviation in a set of concentrated strikes against NATO's main operating airbases, command and communications infrastructure, and ground-based nuclear assets. With warning and mobilization, NATO would have time to disperse its nuclear warheads from their peacetime, centralized storage sites; a higher percentage of nuclear-delivery aircraft would be vectored to alternate fields and placed on quick-reaction alert; surface-to-surface missile launchers and tactical nuclear artillery would be hard to acquire as targets once deployed in the field; Western command and release communications would be harder to degrade and more redundant. NATO's peacetime posture makes each of these components lucrative and efficient targets, but they must be attached as a synergistic set and with minimal defensive reaction time.

By 1980 the marriage of concept and capability had matured to the point where, under short-warning conditions, the Soviet-led Air Offensive not only would endanger NATO's nuclear forces but in the process would seriously degrade Western conventional capability as well. Even if the Air Offensive fails in its primary mission, the sheer magnitude of the attack will preoccupy Western aerial assets to the point that they will have minimal impact on the ground campaign for the first several days of conflict—the very time they are needed most.

The Eastern bloc ground forces are not expected to gnaw their way through a deployed defense, because the *preemptive offensive* presumes that the attack will be initiated before the defense is prepared. The problem for the Warsaw Pact is less one of creating gaps in the front via the massed breakthrough than of exploiting gaps where a continuous front does not exist due to the conditions of a short-warning attack.

The increased depth between the front and NATO's vulnerable rear area that a Forward Defense provides means that, unless the Soviet can effect a large number of simultaneous deep penetrations all across the front, the few that do get through can be sealed off and destroyed by reserves. The more mobilization time NATO has: the greater the difficulty the Warsaw Pact first echelon will have in penetrating the Forward Defense line; the stronger the rear area security will be to contain raiding forces; and the larger the tactical and operational reserves that will be available to destroy an OMG.

The ultimate success of a Forward Defense is less dependent upon the relative margin of superiority of the aggressor than on the amount of clear and unambiguous warning that an attack is imminent, and the strength of the political will of NATO to respond before before it occurs.

Over the last several years there has been a growing interest in second-echelon interdiction, Air/Land battle, the attack of follow-on forces, "Deep Strike," etc. Lest the enthusiasm for new ideas be misleading, none of these concepts offers an alternative to a Forward Defense strategy. Whatever name they are called and however they are implemented, these concepts all have three significant factors in common: 1) an attempt to gain additional operational *depth* for the theater by carrying the air war across the inter-bloc border, 2) a rationale that makes sense only as a *complement* to Forward Defense and, 3) an implicit *dependence* upon Forward Defense for their success.

When the Forward Defense strategy was adopted there was a direct link between the air and ground campaigns. NATO's air fleet was so qualitatively superior and the offensive ground attack potential of the Warsaw Pact so limited, that it was generally assumed that ground forces conducting a Forward Defense would receive heavy support from the air, particularly the firepower of close air support to help forward units stave off a breakthrough and a secure fighter-enforced air defense covering friendly forces.

Over the last decade the shift in the air balance in central Europe has been so dramatic—the growth of offensive potential of the Warsaw Pact air forces combined with the increased lethality of the air defenses organized in the maneuver units—that NATO's ground forces must divert increasingly large resources to provide for their own airspace protection. And it is the Warsaw Pact whose sorties will intervene most in the ground battle, at least during the first days of an unreinforced campaign. In fact, under short-warning conditions, the ground forces in the forward positions will be critical to the survivability of NATO's air forces. Because of the lack of depth in the theater, NATO's main operating airbases are only minutes from the interbloc border. In order to give them the maximum protection and response time, NATO's ground-based mobile radar low-level reporting system and Hawk SAM air defense belt have to be deployed forward. But without protection by the ground forces, the air defense assets would either be overrun in the early part of a campaign, or withdrawn so far rearward as to be ineffective.

In short, there is much to be gained in further developing NATO's concept and capability for battlefield air interdiction—as long as it is related to the battlefield. Without the delaying action of an interdiction campaign, a defense forward will have trouble handling a reinforced Warsaw Pact attack—however, without a Forward Defense on the ground, an air interdiction capability will be irrelevant.

In an era when maneuver is ascendent, it favors the attacker, in that the inherent advantage of the initiative (being able to choose the time, place, means, and method of attack) results in the defense being quickly penetrated and rapidly overrun. On the other hand, when firepower is dominant (as in World War I), maneuver is reduced to a crawl, exposure during an attack results in high attrition, and the inherent stability of the defense produces a stalemate. With only few exceptions, most of the new military technology is oriented to antimaneuver firepower. No simple wonder weapon has been invented, but when the newer systems are employed in an orchestrated manner they have the potential of creating a combined arms maelstrom that greatly enhances the stability of the defense against mechanized assault.

Thus, the introduction of advanced sensor technology and the creation of true all-source intelligence fusion centers may give NATO ground forces the warning they need to deploy forward. Realizing that an unreinforced attack is insufficient against a NATO defense that is prepared, the Warsaw Pact will be forced to bring up substantial reinforcements, which in turn will buy NATO more time. Once NATO has closed the gaps of its defensive line, every battalion that can be added from the mobilization of reserves or the introduction of reinforcements is worth several times its number on the opposing side. Facing deployed defenses in depth, the Warsaw Pact forces must mass in the hope of punching a hole through NATO's defense.

This is a situation for which much of the new technology is applicable. The slow rate of advance during a breakthrough and highly perceptible signatures will not only permit the new generation of tactical sensors to provide real-time target acquisition, but also allow the defense to deploy rapidly in threatened sectors. It is against messed armored targets that the new generation of air-delivered, stand-off area munitions are optimized. Although unlikely to produce high attrition in and of themselves, the effect of scatterable mines, dual-purpose improved conventional munition bomblets, fuel-air explosives, and top-attack bombing warheads will slow down significantly the momentum of the attack by creating disorganization in the assault elements, suppressing their concentrated fire support, and disrupting the closure rate of the second echelon. Reducing the tempo of attack would give NATO's infantry and armor time to service the targets presented. By taking maximum advantage of terrain, they can reduce their own vulnerability vis-a-vis the attacker, which must move over exposed ground despite a relative disadvantage in visibility and far less fire effectiveness.

The effect of this combined arms battle, when replicated over and over across the breadth of the Central European front, is to make Forward Defense viable not only as a means of securing the territorial integrity of NATO, but also as the mechanism of a strong conventional deterrent. Unfortunately this dream has more than an equal likelihood of turning into a nightmare.

There are several fundamental problems in assuming that an inherent defensive advantage is conveyed to NATO with the new generation of armament.

First, technology is neutral. Although a given weapon or group of systems may be clearly defensive on the tactical level, when combined with surprise, quantity, and innovative doctrinal orchestration, the same technology can be decisively offensive at the operational or theater levels. For example, the new armor that increases the survivability of NATO tanks, when mounted on Eastern bloc tanks, greatly reduces their vulnerability to defending antitank warheads. The vehicle-mounted ATGM can provide protective fire support to a high-speed Warsaw Pact mechanized assault and also may be used defensively for flank protection in a breakthrough, so that assaulting armored assets can remain concentrated throughout the depth of an attack. Artillery-fired antimaneuver submunitions prevent the very tactical movement upon which the cohesion of the active defense depends. Likewise multiple rocket launchers and air-delivered scatterable mines can forestall the timely arrival of NATO reserves. Attack helicopters can leapfrog and outflank the ground defenses and add momentum to the exploitation of a breakthrough Fighters armed with all-aspect air-to-air and surface-to-air missile envelopes can prevent NATO close air support aircraft from intervening in a critical ground battle. Warsaw Pact fighter bombers armed with the same type of advanced air-to-surface munitions as NATO depends upon for its interdiction campaign can seriously impede Western sortie generation as well as ambush the forward deployment of NATO brigades caught out of position at the start of hostilities.

Even advanced intelligence-gathering technology—satellite photography, aerial side-looking radar, infrared detection, and electronic communications intercept—can be used offensively to identify the location of exploitable gaps in the defender's line. This was one of the lessons from the defeat of the Egyptian army in 1973 which Warsaw Pact commentaries noted with particular interest.

Depending on how the new conventional technology is employed and the operational environment in which it is used, virtually all of the new tactically "defensive" firepower could significantly increase the lethality of the assaulting formations, increase the speed of penetration and rate of advance for mechanized warfare, and compound the paralyzing shock effects of the modern combined arms offensive.

A second problem for NATO in placing optimistic hope on *qualitative* salvation is that much of this technology is still developmental and will not, under currently funded programs, be fielded until the late 1980s. Third, given current Warsaw Pact modernization momentum and investment in advanced "state of the art" technology, it is not at all clear that NATO will, in fact, be the first to field them. Fourth, most of these new systems will not be deployed in sufficient quantity. Throughout the 1980s there will be a growing gap between NATO armies in their respective levels of technology; indeed, across the Central Front some national corps will be as much as two generations behind their adjacent Allied units.

Lastly, modernization will not be inexpensive: not only will most of the new systems cost more to procure than the weaponry they are replacing, but the associated bow wave of training, maintenance, and logistic support will also come at a higher price. To take advantage of the defensive supremacy of new technology will require a substantial increase in NATO's resources.

There is no cheap or easy solution. Expedients such as a national division of labor in system development would make procurement more efficient, and likewise an early priority on deployment of new, more effective munitions (particularly for air and artillery) would make existing weapons platforms more effective.

Throughout much of NATO's history the concepts of deterrence and defense have been viewed as mutually exclusive. The former was associated with credible nuclear weaponry and the latter with unaffordable conventional armaments. The breakthrough achieved with the Flexible Response doctrine was to link war-preventing nuclear deterrence and war-fighting conventional defense as complementary rather than competing concepts. For future decades any successful strategy for NATO must bind these concepts in new and even more interdependent ways. Conventional forces will take on an increasingly heavy burden in deterring conflict. Nuclear forces will take on the new task of ensuring that any conflict that does occur remains conventional.

A successfully implemented Forward Defense strategy offers enormous deterrent potential:

In a crisis it provides NATO with a wide range of credible responses which can simultaneously demonstrate resolve and restraint.

It prevents the leadership of the Warsaw Pact from contemplating "quick and limited grabs" while raising the expected costs and unsettling uncertainties involved in a major aggression.

It can force the Soviets to undertake a host of mobilization and reinforcing measures which give NATO the opportunity to strengthen the pre-conflict density and depth of its own conventional ground forces and redeploy sufficient assets to redress the aerial imbalance.

It can force Warsaw Pact forces into attack postures which slow their offensive momentum, increase their vulnerability to air interdiction, and make them violate their own requirements for dispersal against anticipated nuclear use.

It reinforces the nuclear deterrent by ensuring its survival during conventional conflict, by presenting lucrative Warsaw Pact ground and air targets for nuclear strike, and by giving NATO decisionmakers time to deliberate the course of Deliberate Escalation.

However, it *must* never be forgotten that Forward Defense is not a deterrent-in-being unless the forces which comprise it are deployed and prepared. The air and ground offensive concepts of the Warsaw Pact pose their greatest threat in a short-warning, rapidly developing attack. New technology or a quantitatively expanded force structure will not meet that threat if the readiness of the forces NATO already has is not upgraded.

Any decline in NATO's current quick reaction potential, whatever the financial savings or "cost effectiveness" rationalization, should be evaluated for what it is—*one more incentive for Warsaw Pact preemptive attack.*

Quantitatively, NATO's largest single shortfall is in its insufficient numbers of mobile, protected, direct-fire, high-velocity gun platforms to engage Warsaw Pact armor superiority. All other armament categories are strained to the point of inadequacy because of the West's numerical weakness in tanks. Under the current doctrine of Flexible Response, NATO is driven to depend on the early first use of nuclear weapons, primarily to compensate for this imbalance in armor and anti-armor.

The most fundamental nuclear problem facing NATO in the 1980s is not in vainly trying to shore up the credibility of its own first-use doctrine (although the logic of unilaterally dismantling it defies common sense), but rather in ensuring that Warsaw Pact dominance of the nuclear escalation process does not provide it militarily usable first-use options or politically useful coercive leverage.

Of the various characteristics of NATO's nuclear arsenal, survivability has taken on a new and dominant importance, both in the context of conventional and of nuclear operations. It is ironic but true that the growing vulnerability of NATO's nuclear force to conventional strike serves more as an *incentive* for short-warning preemption than as a *deterrent* to massed attack.

Thus the Soviets cannot be allowed to complete their growing capability for nuclear denial during the conventional period of hostilities. Likewise NATO's conventional forces, concentrated on the ground to prevent a penetration of the forward line and overcrowded on major airbases, must not be inhibitied by the threat of tactical nuclear and chemical first use by the Warsaw Pact, and the only means of deterring this is to maintain a response in kind. the role and capability of theater and strategic nuclear forces must be to enforce unambiguously Soviet perceptions of the disutility of any resort to weapons of mass destruction.●

THE PASSING OF A GOOD AND SINCERE FRIEND

● **Mr. PELL.** Mr. President, on Wednesday this week a dear friend of ours from Canada died suddenly at 67. It was sad news and we grieve with the Stephen B. Roman family. Stephen was an indefatigable fighter for freedom of the nation from which he emanated—the Slovaks of Czechoslovakia. As busy as he was directing a multibillion-dollar conglomerate, he devoted a lot of time and effort for human rights. It was during the conferences he organized as president of the Slovak World Congress that I and a number of Senators and Congressmen—including most recently the Prime Minister of Canada Brian Mulroney—had an opportunity to see the dedication Stephen B. Roman exhibited in the cause for his Slovak brethren in Czechoslovakia. It truly can be said that there may never be another Stephen B. Roman, son of a poor immigrant family who came to Canada with his older brother, and carved out a huge fortune, but never forgot his nation.

I am particularly saddened by his passing because of my special feelings for the Slovak and Czech peoples. I had served as a young foreign service officer in the Slovak capital of Bratislava in 1974-48 and got to understand their deep aspirations for the values of freedom and self-determination. I understand that Stephen B. Roman was planning to visit his native Slovak land in the near future—which he had not seen since 1968, just prior to Dubcek's downfall.

It is always sad to see someone we know and admire pass away from our midst. Stephen B. Roman will be sorely missed by all Slovaks throughout the free world—and by very many even behind that, at times still "impenetrable Iron Curtain." He could have provided the leadership necessary to pave a way for meaningful dialog between the Slovaks living outside of Czechoslovakia and those on the Slovak soil. I am hopeful of and interested in the reopening of the U.S. Consulate General in Bratislava, where I served, and I would have loved to have invited Stephen B. Roman, a Canadian citizen of Slovak heritage to try and emulate the American example by establishing a Canadian consular office in Bratislava. From among the more than 5 million Americans and Canadians of Slovak heritage there will be many, many who will wish to visit the land of their ancestors, as "otvorenost," Slovak glasnost, will penetrate into the Danubian basin of Czechoslovakia.

And as his Slovak Byzantine Catholic bishop will say, May the Almighty bless you, Stephen B. Roman, on your last journey from this world. We will miss you.●

ORDER TO PLACE H.R. 3459, THE ORPHAN DRUG AMENDMENTS ACT, ON THE CALENDAR

Mr. BYRD. Mr. President, while Mr. Domenici is on the floor, I ask unanimous consent that H.R. 3459, the Orphan Drug Amendments Act, received today from the House, be placed on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

NON-COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA, INCORPORATED

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1397.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1397) entitled "An Act to recognize the organization known as the Non-Commissioned Officers Association of the United States of America", do pass with the following amendments:

Page 5, strike out line 16, and insert: "following:"

Page 5, line 17, strike out (73).

Mr. BYRD. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

TECHNICAL CORRECTION TO THE PRICE-ANDERSON AMENDMENTS ACT OF 1987

Mr. McCLURE. Mr. President, on March 16, 1988 the Senate adopted amendment No. 1671 to H.R. 1414, the Price-Anderson Amendments Act. The amendment added to the bill a set of expedited procedures for the consideration of certain compensation plans that would be submitted to Congress by the President in the event that public liability appears likely to exceed the limit on aggregate public liability established in the Act.

This action is recorded in the Congressional Record of March 16 at page S 2349.

Unfortunately, the text of amendment No. 1671 adopted at that time contained a typographical error and was technically incomplete in that a subparagraph (5)(E) was missing. This subparagraph describes the procedures for congressional floor debate and consideration of resolutions approving such compensation plans.

Mr. President, I ask unanimous consent that amendment 1671 be modified when the bill is engrossed to correct a typographical error in clause (5)(D)(ii)—replacing "with" with "was" in the subparagraph (5)(E) as follows:

"(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(ii) Debate on the resolution referred to in clause (i) of this subparagraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to."

Mr. President, I ask that the full text of the corrected amendment be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

On page 15, line 2, strike "subsection i.," and insert "the procedures set forth in subsection 170i. and will in accordance with such procedures,"

On page 18, line 20, insert after the word "plans.", the following new paragraphs:

"(3) Any compensation plan transmitted to the Congress pursuant to paragraph (2) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

"(4) No such compensation plan may be considered approved for purposes of subsection 170 e. (2) unless between the date of transmittal and the end of the first period of sixty calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in paragraph 6 of this subsection.

"(5) For the purpose of paragraph 4 of this subsection——

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

"(6)(A) This paragraph is enacted by Congress—

"(i) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by clause (B) and it supersedes other rules only to the extent that it is inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(B) For purposes of this paragraph, the term 'resolution' means only a resolution of either House of Congress the matter after the resolving clause of which is as follows: "That the ——— approves the compensation plan numbered ——— submitted to the Congress on ———, 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled, but does not include a resolution which specifies more than one compensation plan.

"(C) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(D)(i) If the committee to which a resolution with respect to a compensation plan has been referred has not reported it at the end of twenty calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

"(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(iii) if the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

"(E)(i) When the committee has reported, or has been discharged from further consideration of a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(ii) Debate on the resolution referred to in clause (i) of this subparagraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

"(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

"(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate and the House of Representatives as the case may be, to the procedures relating to a resolution shall be decided without debate."

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I have a unanimous-consent request that has been cleared by the distinguished Republican leader, Mr. Simpson. He is on the floor.

I ask unanimous consent that at 10:15 a.m. tomorrow, the Senate turn to the consideration of a Senate concurrent resolution relating to the situation in Panama to be submitted today by Messrs. Kennedy, Helms, and others; that the concurrent resolution be considered under a time limitation of 45 minutes equally divided and controlled between Senators Pell and Helms or their designees; that no amendments or motions to recommit with instructions be in order; provided, further, that the concurrent resolution be placed directly on the calendar as of today.

And I also ask unanimous consent that if a rollcall vote is ordered on that concurrent resolution, which there will be, it be a 30-minute rollcall vote.

And I ask unanimous consent that it be in order to ask for the yeas and nays at any time.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

ORDER FOR YEAS AND NAYS

Mr. BYRD. Mr. President, I ask for the yeas and nays on the concurrent resolution.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ROLLCALL VOTE

Mr. BYRD. Mr. President, this would mean at 10:15 a.m. tomorrow, the Senate would turn to the concurrent resolution. There will be 45 minutes for debate. There will be a rollcall vote at the expiration of the 45 minutes or at 11 o'clock a.m. That is when the 45 minutes would expire. That will be a 30-minute rollcall vote. So the rollcall vote would extend from 11 to 11:30 a.m. tomorrow.

CALL FOR THE REGULAR ORDER

Mr. BYRD. I ask unanimous consent that the call for the regular order be automatic at the expiration of the 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished assistant Republican leader, Mr. Simpson. I also thank Mr. Metzenbaum for yielding.

Mr. SIMPSON. Mr. President, I thank the majority leader for certainly placing together a unanimous-consent agreement that can get us on with our activities. I want to state that it is my understanding, when I addressed the majority leader, that we will then return to the pending business at the conclusion of this unanimous-consent agreement.

Mr. BYRD. Yes. I would plan to come in at 9:15.

ORDERS FOR FRIDAY

RECESS UNTIL 9:15 AM

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:15 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that following the prayer on tomorrow, there be a period for morning business, not to extend beyond 10:15, that Senators may speak therein, and that the time of the two leaders be reserved until following morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I make that request because Senator Chiles and Senator Domenici wish to speak in morning business, but they have to begin at 9:15 tomorrow because of other appointments.

I did not respond to the distinguished assistant Republican leader. The answer is yes, that the Senate will resume consideration of the pending business, which is the unfinished business, at the conclusion of the disposition of the vote on the Panama resolution.

PROGRAM

Mr. BYRD. Mr. President, on tomorrow the Senate will come in at 9:15. Following the prayer, there will be morning business not to extend beyond 10:15 and the time of the two leaders will be reserved until following morning business.

At 10:15, the Senate will proceed to the Panama resolution, Senate Concurrent Resolution 108. There will be 45 minutes for debate on that resolution. Therefore, at 11 o'clock a.m., the Senate will proceed with the rollcall vote on the resolution. No amendments are in order, no motions to recommit, with or without instructions, are in order, and the time will be equally divided between Mr. Helms and Mr. Pell. The rollcall vote will be a 30-minute rollcall vote, with the call for the regular order to be automatic at the conclusion of 30 minutes; in other words, the rollcall vote will last from 11 to 11:30.

Upon the disposition of the resolution, the Senate will resume consideration of the unfinished business, the high risk legislation. I expect rollcall votes throughout the afternoon.

I think the Senate had a good debate on that bill today. There were several votes and amendments. Tomorrow is a good opportunity for the Senate to continue its debate and action on amendments.

A cloture motion was entered today. We will vote on cloture on Monday. Consequently, tomorrow is a good opportunity for Senators to proceed with action on the bill and on amendments thereto and on debate.

I urge Senators to have their amendments ready so that a reasonable amount of business can be transacted on that bill.

Mr. President, does any other Senator seek recognition?

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate I move in accordance with the order previously entered that the Senate stand in recess until the hour of 9:15 a.m. tomorrow.

The motion was agreed to; and, at 5:50 p.m., the Senate recessed until Friday, March 25, 1988, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate March 24, 1988:

DEPARTMENT OF JUSTICE

MICHAEL J. NORTON, OF COLORADO, TO BE U.S. ATTORNEY FOR THE DISTRICT OF COLORADO FOR THE TERM OF 4 YEARS VICE ROBERT N. MILLER, RESIGNED.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

JOY CHERIAN, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 1993, REAPPOINTMENT.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

L. CLAIR NELSON, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF 6 YEARS EXPIRING AUGUST 30, 1994, REAPPOINTMENT.

CONFIRMATION

Executive nomination confirmed by the Senate March 24, 1988:

THE JUDICIARY

STEPHEN S. TROTT, OF VIRGINIA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

EXTENSIONS OF REMARKS

QUESTIONABLE PAYMENTS REGARDING PALAU'S IPSECO POWER FACILITIES

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. UDALL. Mr. Speaker, the President has proposed legislation that would take two actions with respect to the proposed Compact of Free Association with Palau.

One would authorize the implementation of the compact (which provides Palau with some $428 million).

Another would repeal the protection Congress has attempted to provide compact assistance for Palau from actions in U.S. courts related to Palau's debt for power facilities purchased from a British company, International Power Systems Co. Ltd. [IPSECO], which are now estimated to be about $40 million.

Part of this $40 million debt is for payments made to several leaders in Palau and others by IPSECO, which should be brought to the attention of my colleagues.

The San Jose Mercury-News reported last November 29 that payments totaling $450,000 were made to several Palauan leaders and in connection with the IPSECO transaction. Based upon information uncovered recently by the General Accounting Office, the total of payments to individuals for which no justification can be found is about $1 million.

I have heard an argument that allegations with regard to this matter were old or had not yet been substantiated as if by this they somehow were not deserving of investigation. The information that has been revealed during the investigation of problems in Palau by the GAO and the press should put these arguments to rest.

Even if the allegations were old or had not been substantiated to date, it does not follow that they should not be investigated at all. In light of the allegations of corruption in high places in the past in our Nation as well as others in our hemisphere that are receiving world attention today, I do not believe that the American nor the Palauan people want payments which are so questionable to be simply ignored.

A recent letter from a majority of the members of Palau's House of Delegates voiced a similar view in view in commenting on a letter that Chairman DE LUGO of the Subcommittee on Insular and International Affairs and I sent to Chairman FASCELL of the Foreign Affairs Committee. They said:

> The allegations that you set forth have been labelled wild and it has been suggested that because some of these charges have been made before, that they do not need to be investigated. This, of course, is nonsensical. It suggests that the longer charges remain uninvestigated, the less likely that they are of substance. In the case of Palau, each passing day seems to bring new evidence of corruption of public officials and mismanagement and misappropriation of both federal and local funds.

An independent investigation of the IPSECO payments to either clear up the entire matter, if it can be, or to bring charges, if they are warranted, should not have to hold up the implementation of the Compact of Free Association with Palau. This, however, assumes that an arrangement can be worked out to conduct such an investigation and prosecutions, it warranted, even with Palau in freely associated state status. Furthermore, it should be emphasized that if the facts are to be fully pursued in this matter, a cooperative effort of both Palaunan and American law enforcement and judicial systems will be needed.

Mr. Speaker, the Secretary of the Interior has full law enforcement and other authority in Palau under the agreement with the United Nations Security Council regarding the administration of the Trust Territory of the Pacific Islands. I have called upon him to ensure that the necessary actions are taken on this matter so that consideration of the Compact of Free Association with Palau can be expedited by the Committee on Interior and Insular Affairs, assuming that the compact is constitutionally approved.

Because of—first, the serious nature of this matter, second, the need to address it responsibly and thereby facilitate consideration of legislation to implement the Compact, third, the questions which have been raised by officials of Palau, the executive branch of the Unites States as well as Members of Congress, and fourth, the growing interest in Palau around the United States, I would like to insert several letters to Secretary Hodel and the news article I referred to into the RECORD at this point:

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 24, 1988.

Hon. DONALD P. HODEL,
Secretary of the Interior,
Washington, DC.

DEAR MR. SECRETARY: This is to follow-up the letter sent to you March 1 regarding the need for an independent investigation and prosecutions, if warranted, of payments to Palauan officials and others by International Power Systems Company, Ltd. (IPSECO) which sold Palau power facilities.

As you know, that letter reiterated a request which you were sent December 9, 1987 based upon a newspaper report in which certain leaders of Palau were said to have acknowledged receiving payments from IPSECO as well as other information obtained by the Committee.

We must now reiterate the request because the General Accounting Office has confirmed the reported payments and has identified other payments to individuals by IPSECO for which no justification has been found. The total of such payments is approximately one million dollars.

These payments were made by IPSECO from funds borrowed by Palau to pay for the power facilities so that ultimately the people of Palau or the people of the United States may wind up paying for them with interest. Because of this, we share the concerns many Palauans have expressed over these payments and the debt that Palau faces for the IPSECO facilities, which now totals some $40 million.

As stated in the letter of December 9, "It is particularly urgent that this matter be explored because the President of the United States has proposed the effective repeal of the protection provided Palau in current law from actions in the U.S. related to power facilities debt in legislation to authorize implementation of the Compact of Free Association."

As we have explained before, this investigation need not be completed prior to the implementation of the Compact nor does it need to be done by a federal authority. But it should be initiated as soon as possible; carried through to conclusion; result in prosecutions, if warranted; and be independently conducted.

Mr. Secretary, we intend to have the Committee on Interior and Insular Affairs move expeditiously on legislation to authorize implementation of the Compact of Free Association. This assumes, though, that a means is worked out for having these and other allegations of potential wrongdoing in Palau independently investigated and, if warranted, prosecuted and that the Compact is constitutionally approved.

We would, therefore, appreciate hearing from you as soon as possible regarding actions which would result in the needed investigation.

Sincerely,

RON DE LUGO,
Chairman, Subcommittee on Insular and International Affairs.
MORRIS K. UDALL,
Chairman.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 1, 1988.

Hon. DONALD P. HODEL,
Secretary of the Interior, U.S. Department of the Interior, Washington, DC.

DEAR MR. SECRETARY: This is in response to your letter of February 4 regarding the request that Chairman Ron de Lugo, Representative Robert J. Lagomarsino, and I made to you on December 9 for an investigation of the International Power System Ltd. (IPSECO) power plant transaction in Palau.

Your letter indicates that there has been a misunderstanding between us on this matter which I will attempt to correct.

Our earlier letter requested that you use the full authority vested pursuant to law and international agreement in the Secretary of the Interior to (1) ensure that an independent authority investigates the IPSECO transaction and (2) ensure that any violations of law related to it are prosecuted.

In your response, you indicated that you did not initiate these actions because you

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

thought that our earlier discussion in November took precedence over the request. That was not my intent and I regret the misunderstanding.

In our November discussion, we agreed to have the Inspector General work with the General Accounting Office (GAO) and to avoid duplication of effort. As we discussed, the GAO is conducting a wide-ranging, fact-finding inquiry in Palau that I, along with Congressmen de Lugo and George Miller, requested be conducted.

The GAO inquiry will not go far enough, however, to determine with certainty whether criminal charges should be brought. Further, as you know, the GAO does not have authority to file such charges if violations of law have occurred.

The type of in-depth investigation needed in this matter can only be carried out and conducted pursuant to your comprehensive authority for law enforcement and other matters concerning the governing of Palau.

In your letter, you stated that "the Department was considering delegating to the Inspector General and the Assistant Secretary for Territorial and International Affairs broad powers on law enforcement issues", but postponed such a delegation for the reason mentioned above. I believe that the delegation is appropriate in this case to enable the facts of the entire IPSECO transaction to be determined, and to help ensure that justice is carried out with regard to any Palauans or Americans who might have violated laws in relation to it.

Once procedures for an independent investigation and, if necessary, prosecution are worked out, they should be utilized for other matters for which investigations and/or prosecutions may need to be initiated during the trusteeship period. These procedures should also ensure that investigations and prosecutions initiated during the trusteeship period continue beyond trusteeship termination so that they will not impede the transition to free association status.

Many Palauans are deeply concerned about the IPSECO transaction, both from the standpoint of possible unlawful payments to Palauan officials and from the standpoint of the financial impact that the possibly inflated cost of the power plant may have on Palau's development for many years to come.

Palau's Senate President, Joshua Koshiba, and House Speaker, Santos Olikong, are among those who have expressed concerns in this regard. In fact, in his letter of February 17 to the Department's Assistant Inspector General (copy enclosed), Senator Koshiba strongly recommended that this matter be audited by the Inspector General along with other matters which involve "recent revelations of bribery. . ." Senator Koshiba also stated that the IPSECO transaction, "could be a financial disaster for Palau" by virtue of the current litigation in federal court regarding Palau's debt for the plant.

Mr. Secretary, Palau's debt related to the IPSECO power facilities, now said to be about $40 million, continues to increase. President Reagan has proposed the repeal of the protection which the Congress has attempted to provide Palau from actions in federal courts related to this debt. Palau has no prospect for paying this debt without at least relying upon some assistance from the United States.

These circumstances suggest that substantial amounts of U.S. taxpayer dollars—through the Compact or otherwise—may ultimately be used to help satisfy at least a significant portion of this debt. We should ensure that any wrongdoing which has occurred in relation to the creation of the debt is investigated and, if warranted, prosecuted so that the people of Palau and of the United States can be assured that justice will be done in this matter.

Sincerely,

MORRIS K. UDALL,
Chairman.

[Note: Copy of cited letter from Palau Senate President Joshua Koshiba appears in Extensions of Remarks of the March 22, 1988 CONGRESSIONAL RECORD.]

[From the San Jose Mercury News, Nov. 29, 1987]

U.S.-BACKED OFFICIALS POCKET $450,000 ON STRATEGIC ISLAND

(By Pete Carey)

Three top officials of Palau, a strategically vital American trust territory near the Philippines, were paid $450,000 by a company that built a costly power plant on the sun-drenched Pacific island group.

The 16 megawatt electrical generating plant was a financial fiasco from its inception and has raised questions about the ability of the trust territory to manage its money, much of which comes from U.S. aid.

Palau, with a population of 15,000, is to soon begin receiving a long-term, $1 billion U.S. aid package under an agreement that would end its status as an American trust and allow nuclear-armed U.S. Navy ships in its waters for the first time. In addition, the United States has considered Palau as a fallback location in case it loses its bases in the Philippines.

The power plant "was pie in the sky from Day 1," said Larry Morgan, a spokesman for the U.S. Department of Interior.

Under an agreement with the United Nations, the United States administers Palau as part of a Pacific trust territory, and the Interior Department, by law, is its financial overseer.

A General Accounting Office team left last week for Palau to look into the island cluster's financial condition and how its leaders have managed federal money. The investigation was requested by the House Committee on Interior and Insular Affairs.

However, congressional investigators have not yet looked into the payments, which were discovered during a Mercury News examination of how the islands are being governed during a transition from trustee to self rule.

Paluan President Lazarus E. Salii and two top officials say there is nothing irregular about the payments, which began in July 1983, a month after a consortium of international banks loaned $32 million to the government of Palau to pay a British firm to build the plant.

Records of the payments found recently by accountants for the firm of Cork Gully, which the British Department of Trade has appointed to liquidate IPSECO, International Power Systems Co. Ltd. IPSECO is a bankrupt British company that once cut a deal-making swath across current and former U.S. trust territories in the Pacific.

The firm built a power-generating plant in the Marshall Islands and sold aircraft there. It also tried to sell a power plant to Truk, an island in the Federated States of Micronesia, according to Interior Department officials.

But its biggest deal came when the company's founder-president, an Englishman named Gordon Mochrie, landed a contract to build a huge electrical power plant in Palau.

PALAUANS SPLIT OVER PROJECT

From the beginning, Palauan officials were divided over the project, but opposition gradually faded and the plant was built. Then the government discovered it had no money left for power-transmission lines, and the plant sat in lonely, silent splendor until Palau arranged a loan from Japan. It is now running.

According to sources familiar with Cork Gully's review of IPSECO records, the accountants are seeking a fuller explanation of the company's payments to:

Lazarus E. Salii, now president of Palau. An "L.E. Salii" received $100,000 on July 19, 1983, according to IPSECO's books. At the time, Salii was Palau's ambassador to the United States for trade negotiations. The money was deposited in a Bank of America account in Kowloon, Hong Kong. Through an aide, Salii told the Mercury News that he was paid for "gathering data for an airline," which was represented by IPSECO President Mochrie.

The study was for British Aerospace Co., according to Michael Mirando, special assistant to President Salii and to his predecessor, President Harou I. Remeliik, who was assassinated in 1985. Mochrie represented British Aerospace in the deal, Mirando said, and the payment "had nothing to do with IPSECO or the IPSECO power project. . . . We sit here very confused as to why payment would come through IPSECO." The airlines was never started, he said. Mochrie could not be reached for comment.

Carlos Salii, the president's brother and a key member of the Palaun legislature. Cork Gully's review of IPSECO records indicates a "C. Salii" received $100,000 on July 18, 1983; $75,000 in March 1984; and $75,000 in November 1984. The money was deposited in a savings account at the Hong Kong and Shanghai Banking Corp. in Kowloon. Carlos Salii said he was retained as an attorney by IPSECO and that he has been cleared by the Palauan government of any conflict of interest. Asked what he did for IPSECO, he said, "Let them tell you that. I'm not going to tell you what I did."

Y.M. Gibbons, member of the legislature, mayor of Palau's capital city of Koror and the high chief in the islands' traditional form of government. Gibbons confirmed that he received a $100,000 "political contribution" from IPSECO. He said he used it for political campaigns. In 1983, Gibbons filed a lawsuit to prevent the installment of the IPSECO plant. He later withdrew the suit, reserving the right to reinstitute it later.

Asked why IPSECO officials would contribute so much to his political causes, he said that "they were interested in several things. One is he (Mochrie) wanted to contribute to my running for presidency. That was one of the reasons." As to other reasons, Gibbons said he can't remember. "It's been a long time," he said.

Critics say the plant should have cost much less than $32 million. It was build over the heated protests of the U.S. Department of Interior, which complained in 1983 that there had been no competitive bids for the deal, that estimates of revenue from the plant were grossly inflated and that "sound management practices had not been followed."

To pay for the project, Mochrie obtained financing from a consortium of international banks, which loaned Palau $32 million in

1983. The money went directly from the banks to IPSECO, according to Interior Department officials.

TRIAL SET TO START DEC. 7

Fuel sales to tuna boats in the area were to pay for the loans, but the tuna moved to new waters. The banks have yet to receive a single loan payment and are suing Palau. A trial is scheduled to begin Dec. 7 in federal district court in New York City.

Meanwhile, the Reagan administration is considering allowing the banks to recover their money from the U.S. economic assistance that Palau will receive under the new "compact of free association," which is similar to agreements reached with neighboring trust territories.

Recently, some opponents of the compact have charged the United States secretly encouraged the power plant deal that put Palau in debt, forcing it into the compact of free association. Since 1981, the United States has been gradually increasing the level of Palau's self-government in preparation for the new relationship with the United States.

No solid evidence supports the allegation, and in fact the U.S. Interior Department warned Palau repeatedly against the deal.

"We always have taken the position it was a bad deal, and that they were paying too much for it (the power plant)," said Morgan, the Interior Department spokesman. "Time has proven us right."

ELECTION YEAR BUDGET

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. GUNDERSON. Mr. Speaker, I would like to take this opportunity to address passage of House Concurrent Resolution 268, the first concurrent budget resolution for fiscal year 1989 and, in particular, my reasons for voting against it.

We have once again passed up an opportunity to accomplish real-deficit reduction and instead have settled on a budget resolution that is at best a quick fix to a lingering problem.

The election year spending plan adopted by the House used the relatively optimistic economic assumptions of the Office of Management and Budget, and projected a fiscal 1989 deficit of $134 billion. If the House had used the economic assumptions of the Congressional Budget Office, as it has in the past, we would be looking at a deficit closer to $170 billion.

The House Budget Committee, in order to meet the target of $148 billion in spending authority for all discretionary programs, agreed to a $4 billion change in programs, from discretionary to mandatory. We will also be faced with a 7-percent increase in spending with an inflation rate of 4 percent. How can we expect to achieve true deficit reduction? Once again, we have put this problem on the shelf for 1 more year, and the end result is, at best, business as usual.

Yesterday, I voted in favor of the budget amendments proposed by my distinguished colleagues, Messrs. PORTER and FRENZEL, and Messrs. PENNY and TAUKE. These budget alternatives were serious efforts aimed at real deficit reduction.

The Penny-Tauke budget substitute, was a bipartisan effort at reducing the deficit while still allowing for increases in spending. Using economic assumptions that take into account the difference between OMB and CBO, this plan would cap defense and nondefense discretionary outlay increases at one-half the amounts contained in the budget. This would produce a fiscal year 1989 deficit of $128.4 billion, compared with the $134 billion deficit that the budget resolution offered using the highly optimistic OMB figures. By using a comparison of OMB and CBO numbers we are able to achieve a more reasonable figure that still falls within the Gramm-Rudman target of $136 billion.

The Porter-Frenzel amendment was an alternative that is the fairest and most effective way to achieve real deficit reduction, using the more conservative CBO assumptions. Many of us in Congress felt that the summit agreement should have had as its minimum foundation a freeze in spending growth. The Porter-Frenzel amendment, by freezing across-the-board by function outlays at fiscal year 1988 levels, would save $33 billion more than the Budget Committee's recommendation. The baseline budget deficit meets the Gramm-Rudman deficit reduction targets using the less optimistic CBO economic projections.

Mr. Speaker, I hope that during future congressional consideration of this budget resolution, we can move toward real deficit reduction.

GREEK INDEPENDENCE DAY: A CELEBRATION FOR TWO COUNTRIES

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. HOCHBRUECKNER. Mr. Speaker, March 25 marks the 167th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. I am happy to join with my colleagues in declaring today—Greek Independence Day—as a national day of celebration of Greek and American democracy.

When struggling for independence both the United States and Greece drew from the experiences of the other. In the 18th century, this Nation's Founding Fathers looked to Greece when developing a government. It was in ancient Greece that the combination of democracy and liberty first became a reality. James Madison acknowledged this debt when he wrote in the Federalist Papers that the Grecian republics served as a model for the democracy that he helped to create.

America returned this favor in the 19th century when Greek patriots achieved independence. These brave men and women looked to the recent success of the United States as an example of what was possible. They even used a translation of the Declaration of Independence to announce their own freedom. In the ensuing years, America and Greece have remained two of the most important examples of democracy for the rest of the world.

There is also an important human element in the relationship between our countries. I am proud that the greatest number of the 3 million Greek-Americans reside in my State of New York. Greek immigration to the United States reached its height at the beginning of the 20th century. However, there was a resurgence in the mid 1960's. In all, almost three-quarters of a million people left Greece to begin a new life in America. These men and women have contributed to America in every way imaginable—from medicine to the entertainment industry. They have also helped remind us that while we are the largest democracy in the world, we were not the first. From this lesson, we can gain the humility and perspective needed to maintain a democratic government into the future.

In 1988, a special year for Greek-Americans, a member of their community is running for the highest office in this country. The response from other Greek-Americans that has greeted this candidate indicates the continued vitality of the concept of democracy. For over 2,000 years this devotion to democracy has remained a constant. I rise today to commend both this commitment to an ideal by a people and its proud history which has served as an example to every nation in the world.

KID'S LINE

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. MFUME. Mr. Speaker, in this age of drug abuse, homicide, and suicide among our youth, it pleases me to know that there are so many people that refuse to give up on them. These dedicated individuals not only contribute money, but they give of themselves when it would be so easy to give up, turn their backs and say, "there is nothing I can do," or, "it's not my problem." I would like to commend and thank the director of the Mayor's Office for Children and Youth, Ms. Dale Hart, and the many volunteers who are all a part of a successful and innovative program located in my congressional district of Baltimore. This program is entitled Kid's Line.

Kid's Line was developed in 1984, in hopes of coping with the problems of Baltimore's "latchkey children," of which there are approximately 40,000 in the city and surrounding areas. This service is made available to youngsters who are left alone after school while they await the arrival of their parents. The program is staffed by volunteers from the Community College of Baltimore and funded by various city and State agencies as well as private contributions. Volunteers are available to answer telephones, give advice, or just to play games with a lonely and in many cases, frightened child. Young teens have somewhere they can call when they are confused about peer pressure in relation to drugs, violence, and sex. As a result, there may be times that a youth can be deterred from straying in the wrong direction when they know there is someone available who will listen when they need to voice their concerns. In many cases, this program can also be instrumental in preventing potential suicides, which have become an increasing problem in communities across the country.

Mr. Speaker, this program by no means is meant to take the place of adult supervision. Instead, it is a positive outlet for the youth of Baltimore to express their fears and doubts when there is no one else to listen. There is still work to be done in the area of funding for day care services and after school activities. That is why I implore my colleagues to support funding for programs such as these. I truly believe that if we show our youth that we as adults care, we will see a monumental improvement in the way they start to take pride in themselves and their community.

GREEK INDEPENDENCE DAY

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. MAVROULES. Mr. Speaker, this year we are celebrating the 167th anniversary of Greek independence; this anniversary commemorates the beginning of Greece's long struggle to free itself from the bonds of the Ottoman Empire. It was on March 25, 1821, that Archbishop Germanos and his fellow Hellenes raised their banner of rebellion.

Greek Independence Day is indeed a joyous occasion for all those who share our hellenic heritage—a heritage darkened by four centuries of Turkish rule, from the fall of Constantinople in 1453 to the revolt of 1821.

During these difficult years of Turkish rule, our proud culture was hidden in monasteries and passed from generation to generation as our ancestors gathered secretly to transmit our history and culture.

Those years of oppression resulted in Greece's daring struggle for an achievement of independence.

Yet, March 25 is a day of celebration not only for the Greek community but for the world community as people all over the globe strive for the opportunity to live by the democratic principles first established in Greece. Today we pay tribute to the unbreakable spirit of our ancestors in their struggle for independence.

Throughout history, Greece has represented an ideal in man's endless search for freedom and liberty. The principles of which I spoke represent perhaps the greatest contribution a nation has ever made to society. They are the guiding tenets that give hope to millions and millions of people.

Nowhere are these principles better represented than in the United States.

James Madison and Alexander Hamilton celebrated them in "The Federalist Papers" and when Pericles spoke of democracy in Greece 2,000 years ago, he could have been describing the ideals that guide our American government today. He said:

> Our constitution is called a democracy because power is in the hands of not a minority but of the whole people. When it is a question of settling private disputes, everyone is equal before the law; when it is a question of putting one person before another in positions of public responsibility, what counts is not membership of a particular class, but the actual ability which a man possesses.

And while Greece has provided America with the philosophical foundation for its great experiment in democratic government, America in turn acted as the role model for Greek independence. It is a symbiotic relationship that continues to benefit both countries.

The American Revolution helped to guide Greece as they fought for their independence during the 1820's, using our Declaration of Independence as their own.

Addressing the Messenian Senate in 1821, Petros Mavomichalis appealed to the citizens of the United States, saying:

> Having formed the resolution to live or die for freedom, we are drawn toward you for a just sympathy since it is in your land that liberty has fixed her abode, and by you that she prized as by our fathers.

And just as the issues of Greece and Cyprus and human rights today attract a concern far beyond her shores, the Greek revolt in 1821 was an event of great interest to a fledgling American nation.

The cause of Greece captured the concern and support of many early Americans. And although the American republic was young, and the journey to Greece took 60 days, many Americans did make that journey to fight against the Turkish tyrants.

For these lovers of freedom, democracy, and human dignity, Greece was a reminder of the great classical age of Plato and Aristotle—of the great democratic city states and the world of Alexander.

Greeks and Americans have stood and continue to stand together in the fight for freedom and democracy for each other and for all people.

Therefore, as we celebrate Greek Independence Day, it is important that we recognize the great contributions of Greek Americans to this country.

Although Greek Americans began to arrive in America over 300 years ago, their numbers were not great until the 1890's. As they settled every part of this country, Greek Americans have established and distinguished themselves in professions from government and business to entertainment and the arts. It goes without saying that I am proud to be a Greek American and proud of the Greek successes in the United States.

But, I am even prouder of the heritage of freedom that our forefathers left for people everywhere. The concept of democracy, upon which the government of Athens was founded 2,000 years ago, has had a profound influence upon the development of Western civilization. The ancient Greeks' emphasis upon the dignity and rights of the individual and the rule of law are still the basis for democracy today.

But the struggle continues. Oppressed people the world over long for the freedom that Greece, through years of struggle, has won. On this day it is especially fitting to remind the world that both Greece and America are strongly committed to freedom and equality for all people.

While celebrating Greek Independence Day, we, in a larger sense, are celebrating the development and manifestation of democracy for all mankind. Our most fitting tribute to Greece as the birthplace of democracy is to continue the fight against tyranny wherever it exists.

As long as the fight to make all men free continues we and the rest of the world continue to honor Greece. Our indomitable spirit—our rich and proud heritage—is what our celebration of Greek Independence Day is all about.

GREEK INDEPENDENCE DAY

HON. ALAN B. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. MOLLOHAN. Mr. Speaker, on March 25 we celebrate Greek Independence Day, which, of course, coincides with the 167th anniversary of the beginning of the revolution that freed Greece from the tyranny of the Ottoman Empire.

The officials designation of tomorrow's celebration—"Greek Independence Day: A National Day of Celebration of Greek and American Democracy"—is entirely appropriate, for the underlying political concept of democracy has played out a curious dialectic between our two countries.

Ancient Greece, of course, saw both the origin of the theoretical concept of democracy as well as its first practical application. An early proponent of constitutional democracy described the system in this way:

> (It) is called a democracy because power is in the hands not of a minority but of the whole people. When it is a question of settling private disputes, everyone is equal before the law; when it is a question of putting one person before another in positions of public responsibilities, what counts is not membership of a particular class, but the actual ability which the man possesses.

This quote is pulled not from the Federalist Papers or Thomas Jefferson's writings on the Declaration of Independence, but from an address delivered by Pericles over 2,000 years ago.

If Greece gave birth to democracy, the United States rescusitated it and proved it could work—indeed that it is particularly suited to work—in the modern world. If our Constitution and Declaration of Independence owe much to the ancient Greek theorists, we have at least partially repaid the debt when the 19th century Greeks translated our Declaration of Independence into Greek and adopted it as their own explanation for severing their bonds with the Ottoman Empire.

Mr. Speaker, please join me then in thanking Greeks and Americans of Greek ancestry as well as congratulating them. Our two nations have much in common and much to share.

IN THE CRADLE OF INDEPENDENCE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. FLORIO. Mr. Speaker, on March 25, 1821, the civilization that gave birth to the democratic ideal of freedom inaugurated a new era in history. Having been subjected to the rule of the Ottoman Empire for over 400 years, the Greek patriots rose up in a rebellion that eventually gave way to liberation, freedom, and unification.

On March 25, 1987, more than 150 years after the first battle in the fight for independence, Greece enjoys the benefits of freedom and has met the responsibilities of that freedom through her active role in furthering the democratic ideal. Those benefits are the legacy of the Greek nation's forefathers, who paid the price to redeem themselves from despotism and foreign rule.

The ideal that the Greek nationalists fought for in 1821 is to ensure that the voices of individuals are heard and never extinguished.

In 1821, there were many patriots who fought against the oppression of the Ottoman Empire. From Greek soldiers who sacrificed their lives for their country to men, women, and children who participated in the fight for feedom and furthered the goal of independence through both concrete and symbolic steps, the Greek community took up arms and joined arms in the fight for independence.

The spirit of 1821 endures every day, but one day has been set aside each year to commemorate that special series of events in the liberation of Greece from foreign oppression. Doubly significant for the Greek nation and for the Greek Orthodox religious community, this date marks a particularly important time in Greek history.

It is important to remember that both Greece and the United States share the common ideals of freedom and self-determination. The time between Greek Independence Day and the Fourth of July for the United States differs by several decades, but both struggles are in the same spirit of freedom.

When the Thirteen Colonies banded together in 1776 to declare their independence and to form the United States, they were following in the footsteps of the democratic tradition. The history of freedom and independence began in the cradle of democracy almost 2,000 years before 1776, but the spirit was still vigorous 2,000 years later in the American Colonies.

Less than half a century after the War for Independence by the American Colonies, the Greek patriots reclaimed their freedom. Four hundred years of foreign rule were not strong enough to break the democratic tradition that Greece had helped create in the first place.

It is only fitting that March 25 marks the rebirth of freedom in the country that gave birth to democracy.

Greek Independence Day is significant not only for the democratic ideal that the free world shares, but also for the fact that Greece is now a partner in democracy. As the Greek nation and the Greek community celebrate Greek Independence Day, I would like to join them in their celebration and to congratulate Greece for her freedom and to hope that her continued efforts on behalf of democracy are successful.

UTILITY'S ELECTRICITY PURCHASING FORESTALLS NEED FOR STAGGERS REFORM

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. RITTER. Mr. Speaker, in the continuing debate over whether or not to reregulate the railroads to protect the supposedly captive electric utilities from the monopoly power of the railroads, I would like to insert into the RECORD an article from the March 1, 1988, Washington Post. In the article, Virginia Power announced that during the next 6 years it expects to contract with outside companies to satisfy virtually all of its expected growth in electrical demand. It will receive its purchased electricity over the interstate grid. By the year 2000, Virginia Power expects to obtain 30 percent of its total power sales from outside suppliers.

This article illustrates a central fact which has been generally overlooked in the debate over railroad market power and the ICC's performance in protecting electric utility customers under the Staggers Act of 1980. Today, electricity has become a commodity. Additional supplies are readily available to almost every utility at a given market price. This interstate market clearly constrains railroads' ability to increase rates in movements of utility coal.

Think about it. If you ran an electric utility, even in the unlikely event all of your generating plants burned coal and all were served by the same railroad, would you have no choice but to pay whatever the railroad asked for moving coal? No. Even if you did not choose to take your case to the ICC, you could still threaten to buy more power from outside suppliers. This means that today, virtually no electric utility is captive to any railroad, and the push for reregulation of the railroads—that is, H.R. 1393—is simply an effort to use political power to win rate concessions above and beyond the price reductions which have already been obtained in the free market.

[From the Washington Post, Mar. 1, 1988]

VIRGINIA POWER TO BUY ELECTRICITY FROM OUTSIDE

(By Elizabeth Tucker)

Virginia Power plans to announce today that it will turn to outside companies to supply virtually all the new electricity capacity it will need in the next six years, a move that the utility says will save consumers hundreds of millions of dollars.

Virginia Power plans to auction off the right to build 1,750 megawatts of new capacity in its service territory to outsiders by 1994—an amount of generating capacity equal to Virginia Power's North Anna nuclear generating station.

The Richmond-based utility anticipates that about 30 percent of its overall generating capacity will come from outside sources by 1994, including 1,181 megawatts of power the utility already agreed to buy from outsiders last year.

The outside companies, which would build and operate the plants and sell power to Virginia Power, would range from entrepreneurs to other utilities to industrial companies or municipalities that produce electricity for their own needs or as a byproduct of waste disposal. The utility expects to get between 100 and 150 proposals to build the additional 1,750 megawatts.

The plan would be the boldest attempt yet by a utility to ask outside sources to supply a significant chunk of power, and will all but remove Virginia Power from the financially risky business of building power plants for its own needs. "We're certainly disengaging ourselves from the construction of large-scale generating facilities," said William N. Curry, a spokesman for the company.

The plan has been approved in principle by the Virginia State Corporation Commission, and any contracts signed with entrepreneurs to build plants would be monitored by the SCC staff. Rates charged consumers for electricity produced by the outside plants would be regulated by the SCC just like power the utility generates itself for its 1.6 million customers.

By looking to outsiders for the construction and ownership of generating facilities, Virginia Power is attempting to turn to its advantage a 1978 federal law that requires utilities to purchase power from qualified independent power producers and industrial customers that produce electricity for industrial purposes.

An overabundance of such power in some states has led utilities and regulators to craft new rules that allow the auctioning of new capacity. In some states, the utilities compete against the entrepreneurs to provide the new power. Dominion Resources Inc., Virginia Power's corporate parent, has become a supplier of electricity to other utilities through a partly owned subsidiary that builds small generating plants.

According to Larry W. Ellis, manager of system planning and power supply at Virginia Power, the utility would only consider constructing new power plants if it could build them more cheaply than entrepreneurs could supply the power. Company Chairman William W. Berry has said on a number of occasions that regulation is a substitute for competition if no market exists, Ellis said. "But we believe a market exists and we can use that market," Ellis said.

Experts who follow the industry yesterday said the most significant thing about Virginia Power's strategy is the utility's reduced role in building its own future plants.

"Auctioning off the right to build new generating facilities is not new, but the Virginia Power objective, if it really holds to that, is quite unique," said Douglas Bohi, director of the office of eonomic policy at the Federal Energy Regulatory Commission. "The utility is saying that it really doesn't want to build any new generating units in the foreseeable future and that is pretty much a trend setter. Indeed, it is a logical way for the industry to go."

However, Mark D. Luftig, an analyst at Salomon Brothers in New York who follows the electric utility industry, said he views the trend with caution. "I would rather see the utilities build the plant because there is greater reliability," he said. "I think you need to have both and to some extent it's good, but you need to make sure you are letting both sides compete fairly."

Jack H. Ferguson, president of Virginia Power, said in written remarks prepared for today's announcement that the utility industry has few economic incentives to build new power plants and thus must rely on outsiders to meet rising demand for electricity created by a robust economy.

"We believe that this will be the largest block of capacity yet purchased by a utility under competitive bidding," he said. "Virginia Power is on the leading edge of an important and beneficial change to major reliance on competition and market forces to protect the interests of electricity customers."

Ferguson said that the electricity business has shifted from a natural monopoly where utilities built large power plants to one in which "economies of scale have vanished and building new units has become expensive and risky." Many utilities that built large nuclear power plants in the 1970s, for example, saw demand for electricity fall and were not allowed to charge customers for these plants when they were ready to bring them into service.

Under the plan to be announced today, the utility will sign 25-year contracts with a wide variety of electricity producers, Ferguson said.

Each bidder's price will be measured against what customers would pay for electricity generated by Chesterfield Seven, a small 185-megawatt plant that Virginia Power plans to bring into service by 1990. As part of its strategy, Virginia Power will allow entrepreneurs to use its transmission system to ship power to other utilities in the area.

"We do believe it's reliable," said Ellis of the power that will be generated by others. Contracts will financially penalize electricity suppliers that fail to provide power on a reliable basis, he said. If one of the outside suppliers went out of business, "We have the right to take over and operate it and pay fair market value," Ellis said. "We are going to monitor the engineering, the technology, their financing capabilities."

TRADE IN BRAZED ALUMINUM HEAT EXCHANGERS

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. GUNDERSON. Mr. Speaker, during this time when the 100th Congress is diligently working to put its final touches on a comprehensive trade reform bill, I would like to call to the attention of the House a disturbing international trade situation affecting a company in my congressional district.

Yesterday, the top executive of ALTEC International, Inc., which is located in La Crosse, WI, and is the only remaining U.S. producer of brazed aluminum heat exchangers, briefed me on a potential dumping practice by a Japanese company.

Japanese producers of large brazed aluminum heat exchangers—Sumitomo Precision Products and Kobe Steel—have increased their United States market share dramatically. This trend culminated recently with the award to Sumitomo of the first stage of a major project. What concerns me about this award is that Sumitomo's bid price was at an historically low level and 25 percent below ALTEC's cost of production. The remainder of the project—some $2.4 million worth—will be bid on this coming Monday, March 28. If this portion is secured by Sumitomo, then Japanese producers will have captured more than 60 percent of the United States market thus far in 1988.

I have no quarrel with U.S. producers being beaten by fair trade practices employed by other nations. That's part of the risk our Nation chose to run when we embarked on a course of competitive capitalism. However, the situation facing ALTEC does not on its face appear to be fair trade.

ALTEC is pursuing an antidumping action with the U.S. Department of Commerce. But these actions are complex and time consuming, because of the intricate definitional problems associated with dumping. My purpose for making this statement today, then, is to make clear the serious interest on Capitol Hill in the situation facing ALTEC.

As an example of this congressional interest, yesterday, Senators BOB KASTEN and WILLIAM PROXMIRE and I wrote to the United States Trade Representative Clayton Yeutter, United States Department of Commerce Secretary C. William Verity, and the Japanese Ambassador to the United States Nobuo Matsunaga bringing the ALTEC situation to their attention.

Mr. Speaker, I may take the time over the coming days and weeks to update you on this significant international trade matter.

JOHN F. O'ROURKE TO BE HONORED

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to pay tribute to John F. O'Rourke of Stony Brook, NY. Mr. O'Rourke, who will celebrate his 60th birthday on April 3, 1988, has led a very active career and deserves our recognition and praise. His dedication to this country and his career are superb examples of the qualities of citizenship that we all strive for.

Active both in his career as an engineer at Grumman, and in the Stony Brook community Mr. O'Rourke has distinguished himself as a very capable leader. From his service as chief petty officer of the U.S.S. *Frank Knox* during World War II to his current position as senior subcontract administrator for Grumman's F-14 fighter program John O'Rourke has always been held in the highest esteem by his peers.

Mr. O'Rourke received a B.A. in engineering from Brooklyn Polytechnic Institute and a masters in business administration from Adelphi University. As an engineer myself, I can personally relate to the many years of work that John O'Rourke has committed to Grumman. The field of engineering is changing rapidly. As we explore new technologies, new methods and procedures are developed. Engineers must constantly learn new ways of performing old tasks. It is very exciting to see people like John O'Rourke continue to help with the advancement of this important science.

Mr. O'Rourke has led a very distinguished career. Prior to 1970 he worked as a design engineer on the lunar module, the Gulfstream II corporate jet, and the EA6A. In all these projects, Mr. O'Rourke brought a professionalism and attention to detail that exemplifies the best our Nation has to offer. Grumman awarded Mr. O'Rourke its "Project Sterling" award in 1978 and 1988 for overall excellence and cost savings relating to the F-14 fighter program. These awards express Grumman's appreciation for the quality of his work.

Finally, as John F. O'Rourke celebrates his 60th year of life, I wish to extend my best wishes and join a very large group of people in wishing him every continued success.

LEGISLATION EXEMPTING FHA FROM GRAMM-RUDMAN SEQUESTRATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. AuCOIN. Mr. Speaker, today I am introducing legislation that would exempt the FHA credit authority from the Gramm-Rudman balanced sequestration process. I'm pleased to have as a coauthor Congressman CHALMERS WYLIE of Ohio, the ranking Republican on the House Committee on Banking, Finance and Urban Affairs.

Congress created the FHA single-family housing program, section 203b, in 1934. Since then, it has helped over 15 million Americans fulfill their dream of homeownership and has helped raise the Nation's homeownership rate from about 40 percent in the 1930's to more than 63 percent today. The FHA program is especially popular in my district, where it's estimated that FHA-backed mortgages account for over 50 percent of all residential mortgages in the Portland area.

Coupled with the mortgage-backed securities program operated by the Government National Mortgage Association [GNMA]—which would also be exempt under my bill—FHA enhances the smooth functioning of the entire mortgage market by promoting competition and efficiency that benefits both producers and consumers of housing throughout the country.

Under FHA, the Federal Government acts as the insurer of mortgages that are provided by private lenders and investors. The insurance is paid for by FHA premiums—the program involves no Federal outlays. In fact, FHA actually is a money-making proposition.

Every year the Government imposes a limit on the amount of mortgages that FHA can guarantee. For fiscal year 1988, the FHA insuring authority is $96 billion and GNMA guarantees are expected to be issued on $83.4 billion in securities.

If these caps are reached, all FHA activity stops. No new loans can be made. Applications are put on hold. This occurred just 2 years ago when the FHA cap was reached because the home mortgage market was bursting at the seams. Congress then passed legislation to increase the credit authority level.

Under current law, if sequestration under Gramm-Rudman takes place, FHA's credit authority is subject to the across-the-board cuts. So, there's the possibility that, if we have another healthy home-buying year and Gramm-Rudman goes into effect, all FHA activity could come to a screeching halt.

This situation doesn't make any sense. And that's why I'm introducing this legislation.

The fact is that FHA is a profit-making program. So why should we put a lid on its activities? Why should we close FHA's doors when it gets more people into the homeowning market—homeowners that eventually contribute to our Nation's economy?

Statistics show that the income earned on FHA's primary insurance business has exceeded all expenses—including operating costs, overhead, and claims paid. In fact, FHA has accumulated a significant reserve to cover future claims. The latest records show that, despite record foreclosures throughout the housing industry in fiscal year 1985, FHA enjoyed a net income of $162 million and held reserves in excess of $3.7 billion at the end of the year.

The volume of FHA activity should be determined by supply and demand considerations, rather than by arbitrary fiat. It's not logical to put a lid on the FHA program because capping FHA does reduce the deficit. But it would dash the homebuying dreams of thousands of Americans.

Mr. Speaker, there is precedent for this legislation. Just last year, the Congress passed a law, Public Law 100-198, which exempted the VA home loan program from sequestration. We also exempt other insurance programs like the Federal Deposit Insurance Corporation insurance funds and the Federal Savings and Loan Insurance Corporation fund.

I want to make it clear that I was an early supporter of Gramm-Rudman. But the FHA program does not cost the Government one nickel. Subjecting it to across-the-board Gramm-Rudman cuts will not reduce the deficit. But it will be very costly to low- to middle-income Americans who wish to get a piece of the American dream. And that's why my legislation has been endorsed by the Mortgage Bankers Association of America, the National Council of Savings Institutions, the National Association of Homebuilders, and the National Association of Realtors. Following my statement are their statements of endorsement.

I encourage my colleagues to support this legislation.

The National Association of Home Builders strongly supports legislation authorized by Cong. Les AuCoin exempting the Federal Housing Administration and Government National Mortgage Association from automatic credit authority cuts under Gramm-Rudman requirements.

FHA is self-supporting and involves no federal expenditures, so cutting its credit authority will have no effect whatsoever on the federal deficit. The intent of the Gramm-Rudman legislation, which NAHB supported, was to reduce the federal deficit. Its provisions should not be applied to the FHA program which is self-supporting, has substantial reserves and truly has no effect on the deficit.

NATIONAL COUNCIL OF
SAVINGS INSTITUTIONS,
Washington, DC, March 22, 1988.

Hon. LES AUCOIN,
House Rayburn Office Building,
Washington, DC.

DEAR LES: On behalf of the National Council of Savings Institutions, I would like to offer our support for your proposed legislation to exempt Federal Housing Administration (FHA) mortgage insurance and Government National Mortgage Association (GNMA) mortgage-backed securities programs from the Gramm-Rudman sequestration process.

The FHA mortgage insurance and GNMA mortgage securities programs are self-supporting and, in fact, return a profit for the government. However, in the past, mortgage and housing markets have been severely disrupted when the credit ceilings were insufficient to meet market demand. Removing these profitable programs from the sequestration process will add stability to the market, and will not in any way deter efforts to reduce federal deficits, which is the overall intent of the Gramm-Rudman budget process.

Please let us know what we can do to help you secure passage of your important legislation.

Sincerely,

JAMES J. BUTERA.

MBA SUPPORTS LEGISLATION TO EXEMPT FHA AND GNMA FROM SEQUESTRATION

The Mortgage Bankers Association of America (MBA)[1] supports the legislation introduced today to exempt the Federal Housing Administration (FHA) and Government National Mortgage Association (GNMA) from the Gramm-Rudman sequestration process. MBA believes these exemptions are justified as both these programs are self-supporting insurance programs, and there is ample precedent for exemption of these types of programs from the Gramm-Rudman sequestration process.

FHA is a self-supporting *insurance* program, rather than a Federal spending program supported by taxpayer dollars. The FHA single family program was created in 1934 to facilitate the growth of homeownership in the United States. The funds for mortgages are provided by private lenders, and FHA insures those mortgages for private borrowers who meet the program criteria. Insurance premiums paid by those borrowers are set to cover administrative costs and defaults, and the fund is actuarially sound. If FHA determines after evaluating a cohort group of borrowers who have repaid their loans, that premiums were set too high, distributions are paid to those individuals who actually paid the excess premiums.

Consequently, cutting the FHA programs funds in the context of reducing the Federal deficit merely affects the soundness of the fund and penalizes Federally insured borrowers who have paid their premiums.

The Government National Mortgage Association guarantees the timely payment of principal and interest on a security composed of FHA and Veterans Administrations (VA) guaranteed mortgages. Thus, GNMA provides a secondary guarantee, and lenders, such as mortgage bankers already pay GNMA a commitment fee to cover administrative costs and program defaults. As of September 1987, the GNMA Reserve Fund totalled $1.7 billion. Thus, the program does not cost the government money, and subjecting it to sequestration, the across the board cuts required when the deficit exceeds certain levels, does nothing but undermines the fund.

There are many precedents for exempting programs from sequestration; the Veterans Administration Loan Guarantees mentioned above are exempt from sequestration, as are other insurance programs such as the Federal Deposit Insurance Corporation insurance funds and the Federal Savings and Loan Insurance Corporation insurance fund.

We applaud Representative AuCoin's efforts to redress the inequity in the present situation.

PARTNERSHIP FOR FAMILIES

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. MILLER of Washington. Mr. Speaker, the baby boom generation is producing a baby boomlet and in the process, changing the face of the American family.

While the traditional two-parent household is still the norm, consider:

Today, 1 of every 4 American children will spend at least some part of their lives in a single parent household.

More than 50 percent of all mothers with children under 6 and nearly 70 percent of mothers whose youngest child is between 6 and 13, work outside the home.

Two-thirds of working mothers with preschool children are the family's sole wage earners or supplement a family income of $15,000 or less.

By 1995, two-thirds of all mothers with children under 6 will be in the work force.

The demand for affordable, quality child care is increasing as quickly as the number of working parents. Of all the challenges created by these profound changes in our society, perhaps the most important is, who is minding the children?

Congress is now considering two distinctly different bills to help meet this challenge. One bill, the Act for Better Child Care [ABC], would establish a federally directed and supported national child care program with mandatory Federal standards.

The ABC bill would cost $2.5 billion the first year. But despite it's multibillion-dollar price tag, this bill serves a relatively small proportion of those who need child care, so the costs would probably increase considerably.

Some of my colleagues object to the ABC bill just because of the price tag. To help reduce our huge budget deficits, this year Congress has agreed to cap all new spending programs at $3 billion. The ABC bill would soak up almost 90 percent of these funds, putting the squeeze on other needed proposals including welfare reform, antipollution efforts, and job training.

But perhaps even more important than what we spend is how we spend it. After many years in local and Federal Government, I've seen what happens when we try to solve social problems with multibillion-dollar Federal bureaucracies. It doesn't work.

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[1] The Mortgage Bankers Association of America is a nationwide organization devoted exclusively to the field of housing and other real estate finance. MBA's membership comprises mortgage originators and servicers, as well as investors and a wide variety of mortgage industry-related firms.

To help meet the demand in our changing society for quality and affordable child care, we can't just spend—we've got to spend smart.

Spending smart means responsive, local control instead of central bureaucracies. It means child-care programs as diverse as the people they serve. Spending smart means using all available resources by encouraging private and public partnerships instead of expecting the taxpayer to foot all the bills.

The Hatch-Johnson child-care proposal is a step in this direction. This legislation focuses on State and local control. It provides $750 million over the next 3 years in State block grants to help fund a wide range of programs including:

Child-care vouchers for low-income children;

Startup costs for employer-sponsored child-care centers;

After school child-care programs; and

Training for child-care workers.

Hatch-Johnson also provides $25 million for a revolving loan fund to help home-based, family day-care facilities meet accreditation and licensing standards; and $100 million is set aside to help States set up liability insurance pools for licensed child-care providers.

There is also a tax credit for employers that establish on-site child-care programs and finally, to help working parents who want to stay home and care for their children, the bill provides a special income tax exemption for the year the baby is born.

Hatch-Johnson is not a perfect bill. But by leveraging scarce Federal resources to help expand a range of locally controlled child-care programs; and by taking advantage of existing local resources and expertise, Hatch-Johnson spends smart.

Right now, we are still many months from a final vote in Congress on this issue. On Saturday May 21, 1988, I will sponsor a day-long child-care conference at the Shoreline Community College in my district.

At this conference, cosponsored by the Snohomish County Children's Commission and the Junior League Association, I hope to learn more from local and national experts including educators, professional child-care providers and parents about this crucial issue. I want to learn more about what does and does not work for the parents and children of the First District.

The answer to the question, "Who's minding the children?" is a crucial challenge confronting parents, employers, workers, and local and Federal government. The following editorial from the Herald newspaper in Everett, WA, is evidence that this question is being asked in all the right places.

DAY CARE: PARTNERSHIP FOR FAMILIES

Perhaps President Nixon believed he could veto the contemporary American family when he struck down a major child care initiative in 1971.

He was wrong. The new fabric of the American family is tightly woven with two incomes and single parents. So it's no surprise that demand for pro-family policies, such as widely accessible, quality child care is growing.

Fast-forward two decades to 1988, when Congress is considering two landmark child care bills: S. 1885, introduced by the Democrats, and S. 1678, by Republicans. Evidently, there's been a lot of soulsearching since Nixon's veto, because federal lawmakers across the ideological spectrum are finally acccepting some implications of societal change. Whether they agree with that change, they are finally responding to it, instead of chasing cozy images of what the family used to be a half-century ago.

Both day-care bills in Congress are progressive and pro-family. Their thrusts, however, are very different. The Democrats emphasize affordable child care for low- and middle-income families, while the Republicans emphasize increasing the general availability of day care, without regard to means testing.

Ideally, the best policy should meet both those objectives, in which case the Republican proposal, drafted by Sen. Orrin Hatch of Utah, stands out as the best plan of action. Hatch is a staunch conservative. His sponsorship of this measure is indicative of how far Congress has come in recognizing the new American family.

Hatch's legislation has three prongs. It awards seed money for new or expanded day-care programs, and the measure gives tax breaks to businesses that provide employee day-care facilities. It also offers revolving loans for improvements at unlicensed day-care facilities.

The Hatch approach rewards innovation among newcomers to the day-care field. It also coaxes underground day-care providers into the open market, where quality can be observed.

Health and safety standards are not ignored, even though Hatch pointedly refuses to detail them, on the grounds that different states have different needs. But states will be required to set up advisory boards, comprised of parents, day-care operators, and civic leaders to establish day-care standards. This aims at giving parents a say in determining the level of service they are willing to pay for.

Hatch not only meets his own success criteria, by increasing the availability of daycare, he also stands to meet the Democrats' criteria for improving affordability. Consider that increasing day-care capacity actually eases upward pressure on day-care fees, because families are no longer competing for too few slots.

Unfortunately, the Democrats' proposal is not so promising. Sure, their $2.5 billion block grant sounds terrific, but its determination to improve affordability is doomed on two counts.

Consider, first of all, that increasing the demand for day care, by increasing pay vouchers, will actually push up fees for day-care services. Federally mandated health and safety standards, though well-intentioned, will also force up operating costs at day-care centers, which will be passed onto families. Thus the Democrats' proposal offers no assurance that it can meet its own criteria for success. More likely, federal subsidies will have to increase steadily to keep pace with spiraling day-care fees.

That raises a second problem: paying for day care in an era of huge federal deficits. Once the Democrats' new entitlement program is in place, the cost of fully subsidizing day care for the 16 million children in qualifying low- and middle-income families could run as high as $24 billion, or even $32 billion over several years. Even at $2.5 billion, the day-care outlay will only amount to $60 per qualifying child, per year.

Of course, Democrats are right to recognize that the day-care need is there. Here in Snohomish County, 54,000 children must compete for 12,000 licensed day-care slots. But Washington is better off than many states. The Children's Defense Fund reports that in 22 states, child care programs serve fewer children now than in 1981.

Clearly, children's needs for a safe, supervised environment are going unmet, and will not be satisfied unless the federal government accepts a partnership role with states. Fortunately for the modern family, it appears that partnership is in the making.

CONTAMINATED DRINKING WATER: PINE RIDGE INDIAN RESERVATION, SD

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. MILLER of California. Mr. Speaker, the American Indian Task Force of the Washington, DC-based Rural Coalition has released an important study on drinking water quality on the Pine Ridge Indian Reservation, SD. What the report found was very disturbing.

The 400-page report concludes that unsafe levels of uranium have been found in the drinking water supplies for the reservation. Uranium was discovered to be at levels nearly twice that found by the National Academy of Sciences to cause adverse health effects.

In addition, the report found residents could be at risk from nitrate pollution caused by drinking water wells being drilled too close to sewage lagoons and septic tanks.

The Interior Subcommittee on Water and Power Resources has held hearings on the water supply situation on the Pine Ridge Reservation, and other parts of south-central South Dakota. Our hearings concluded that the situation in this region is critical.

The Rural Coalition report graphically demonstrates that prompt action is needed to avert a public health hazard.

What makes this situation so tragic is that there are no readily available alternatives for the residents of the reservation. Shannon County, where the reservation is located, is the poorest county in the Nation. Tribal residents are unable to afford technical "fixes" to their problems—assuming such "fixes" are available.

Mr. Speaker, my colleague from South Dakota, Mr. TIM JOHNSON, has introduced legislation to improve the delivery of potable to the reservation and surrounding areas (H.R. 2772). It is my hope that this legislation can be promptly considered by the House so that we can correct the water supply situation in the area.

NEW REPORT SUGGESTS URANIUM, NITRATE CONTAMINATION IN SOME WATER SUPPLIES

RAPID CITY, SD.—Some water supplies in the state might contain unsafe levels of uranium, a substance not regulated by the federal Environmental Protection Agency, according to a new report.

The 400-page document was discussed at an Indian water resources meeting hosted by the Rosebud Sioux Tribe last week in Rapid City.

In addition to uranium contamination, the report said Indian reservation residents could be at risk from nitrate pollution and other sources. Nitrate contamination largely results from wells drilled too close to sewage lagoons and septic tanks, according to the report.

The report was the result of a two-year study funded by a private research grant given to the American Indian Task Force of the Rural Coalition. The Rural Coalition is a Washington, D.C.-based lobbying group made up of about 140 member organizations.

The document was written by Mary Lee Johns and Deb Rogers, an environmental researcher.

Ms. Rogers said uranium has been shown to harm the kidneys, heart and blood systems and weaken the body's ability to ward off diseases. Uranium also is connected with long-term radiation effects such as cancer and genetic damage, she said.

The main aquifers affected are on the Pine Ridge Indian Reservation, while problems also have been found on the Rosebud reservation and on land held in trust for the Sisseton-Wahpeton tribe in eastern South Dakota, the report said.

Radiation levels from uranium in municipal reservation water supplies on the Pine Ridge reservation included 19 picocuries at Manderson, an average of 11 picocuries at Pine Ridge Village and a high of 16 picocuries at Sharp's Corner, according to the report.

The National Academy of Sciences has said adverse effects could be expected at radiation levels above 11.5 picocuries, but Ms. Roger said there's a strong chance uranium radiation could be harmful at levels considerably lower than the academy standard.

Nitrate levels were dangerously high in some aquifers feeding the reservations, she said. Nitrates are suspected of causing cancer and hinder the blood in carrying oxygen to the body, Ms. Rogers said. The substances can contribute to infant mortality from "blue-baby disease," she said.

Nitrate pollution on reservations occurred where the Indian Health Service allowed municipal wells to be placed within contamination distance of sewage lagoons, Ms. Rogers said. Other potential sources are shallow aquifers feeding private wells, she said.

The legal standard for nitrates in water is 10 parts per million, but studies indicate that even 1 part per million can have adverse effects, and levels above 5 parts per million might contribute to birth defects, according to Ms. Rogers.

EXCERPT FROM THE LETTERS OF PYATRAS PAKENAS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. SHAW. Mr. Speaker, here is another excerpt from the letters of Pyatras Pakensa to Dr. Galina Vileshina. Pyatras and Galina are a divided spouse couple being kept apart by the Soviet Government. Every day, Mr. Pakenas writes to his wife, Dr. Vileshina, who lives in my district in Fort Lauderdale. Again, I call on the Soviet Government to end their suffering and allow Pyatras Pakenas to join his wife. These excerpts were published in the Fort Lauderdale News/Sun Sentinel.

DECEMBER 4, 1987.

My dear, I'm sorry that you fell and twisted your ankle. I kiss you everywhere where you have pain, and I really hope that everything will be OK and you soon will be in good health. Please be very careful. Be careful with your legs. We need your legs, because without you I never can get permission. Only your help can bring me for a reunion with you. And you need your leg for one reason. Because maybe in the future you will have to kick somebody who held me so long here. Who knows?

HOUSE PREROGATIVES

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. LOTT. Mr. Speaker, I am inserting at this point in the RECORD letters which the distinguished Republican leader, Mr. MICHEL, and I have sent to the House and Senate majority leaders regarding their recent statements on the prerogatives of the House to originate appropriations bills. A similar letter was sent on March 15 to the House Speaker on the same subject—see CONGRESSIONAL RECORD, March 17, 1988, pages E708–709. The letters follow:

CONGRESS OF THE UNITED STATES,
Washington, DC, March 23, 1988.

Hon. TOM FOLEY,
House Majority Leader,
U.S. House of Representatives,
Washington, DC.

DEAR TOM: We read with interest your comments as quoted in yesterday's Washington Times regarding the prospect of originating a new Contra aid bill. Quoting from that article: "If it seems to affront the constitutional primacy of the House on money matters, I think we would object."

While we fully defend and support the constitutional prerogatives of the House to originate general appropriations bills, a proposition long established under our precedents, we would hasten to point out that none of the recent Contra aid bills qualifies as a general appropriation measure. To quote from *Cannon's Procedure* (1959 ed., p. 20): "Under immemorial custom the *general appropriations bills,* providing for a *number of subjects* as *distinguished from special bills* appropriating *for single, specific purposes,* originate in the House of Representatives and there has been no deviation from that practice since the establishment of the Constitution." [emphasis added]

As you know, all of the recent Contra aid bills have involved only transfers of already appropriated funds. As a ruling on a point of order established on the most recent House contra aid bill (H.J. Res. 484), the measure "is not a general appropriations bill. It only transfers unobligated funds and does not appropriate new budget authority." (Chairman Hughes, Committee of the Whole, Congressional Record, March 3, 1988, pp. H675–76) Indeed, even if a measure provided new budget authority for Contra aid *only,* it would still not qualifiy as a general appropriation bill because it would be for a single, specific purpose, as opposed to a multiplicity of purposes.

Our concern extends beyond the immediate issue of Contra aid to the larger institutional imperatives of comity and an effective working relationship between the Houses. If the door is mistakenly opened to such an expanded application of the appropriations origination clause, it would be possible for any Member to force a House vote on a resolution to return to the Senate any bill which contains even the most miniscule transfer or reappropriation provision. This in turn could throw a giant monkey wrench into our legislative machinery.

We would therefore repectfully urge that you consider the precedents, as we have, with a view to clarifying any misunderstandings which may have been created by the statement attributed to you in the Washington Times article. We think such a clarification would be useful to House and Senate Members alike.

Thank you for taking the time to consider our view and the larger institutional issues and precedents involved.

With warm regards, we are

Sincerely yours,

ROBERT H. MICHEL,
Republican Leader.
TRENT LOTT,
Republican Whip.

CONGRESS OF THE UNITED STATES,
Washington, DC, March 23, 1988.

Hon. ROBERT C. BYRD,
Majority Leader,
U.S. Senate,
Washington, DC.

DEAR BOB: We read with concern your observation in the Senate last Friday (March 18, 1988) that the Senate could not make the next move on a Contra aid bill because—". . . any measure which appropriates money is going to have to begin at the other end of the Capitol, and therefore the Senate would simply have to wait. (*Congressional Record,* March 18, 1988, p. S 2608)"

While we fully defend and support the constitutional prerogatives of the House to originate *general* appropriations bills, a proposition long established under our precedents, none of the recent Contra aid bills, including S.J. Res. 276 introduced by Sen. Graham and others, qualifies as a general appropriation bill. To quote from *Cannon's Procedure* (1959 ed., p. 20): "Under immemorial custom the *general appropriations bills, providing for a number of subjects as distinguished from special bills appropriating for single, specific purposes,* originate in the House of Representatives and there has been no deviation from that practice since the establishment of the Constitution."

As you know, all of the recent Contra aid bills have involved only *transfers* of already appropriated funds, not new appropriations. And, as a ruling on a point of order established on the most recent House Contra aid bill (H.J. Res. 484), the measure "is not a general appropriations bill. It only transfers unobligated funds and does not appropriate new budget authority." Chairman Hughes, Committee of the Whole, *Congressional Record,* March 3, 1988, pp. H 675–76) Indeed, even if a measure provided new budget authority for Contra aid only, it would not qualify as a general appropriations bill because it would be a single purpose as opposed to a multi-purpose money bill.

Our concern extends beyond the immediate issue of Contra aid to the larger institutional imperatives of comity and an effective working relationship between the Houses. As we're sure you can especially appreciate as the Majority Leader of the

Senate, if the door is erroneously opened to such an expanded application of the appropriations origination clause, it would be possible for any House Member to force a House vote on a resolution to return to the Senate any bill which contains even the most miniscule transfer or reappropriation provision. This in turn could throw a giant monkey wrench into our legislative machinery.

While we appreciate your defense of the legitimate prerogatives of the House, we would urge you to reconsider any impression you may have left that you seek to expand House prerogatives vis-a-vis the Senate. On such reconsideration, you may wish to clarify any misunderstandings which may have been created. We think such a clarification would be useful to House and Senate alike in preserving the rights and responsibilities of both bodies.

Thank you for taking the time to consider our views and the larger institutional issues and precedents involved.

With warm regards, we are

Sincerely yours,

ROBERT H. MICHEL,
Republican Leader.
TRENT LOTT,
Republican Whip.

THE SHUTTLE SAFETY SAGA

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. PORTER. Mr. Speaker, 56 people died in the last 4 months on commuter airlines. These carriers are playing an increasing role in our air transportation system—estimates are that 60 million passengers will use commuter airlines by the end of 1988.

From 1980 to 1986, the safety record for the commuters was an upward curve, until last year. Then it took a sudden downturn.

Commuters have a 60-percent annual pilot turnover rate, in alarming statistic. For instance, when Texas Air bought Eastern's shuttle business, they began offering jobs to Eastern's pilots. The senior guys aren't interested, but the junior pilots will surely jump at the chance to be promoted to captain. It follows then that less experienced pilots will soon be commanding shuttle flights during peak traffic at our country's busiest airports transporting a record number of passengers.

Mr. Speaker, every Member of this body regularly uses commuters to New York or Boston. Today the FAA announced a special safety inspection program aimed at the commuter business. They are taking action none too soon.

THE ANNIVERSARY OF THE MURDER OF MAJ. ARTHUR NICHOLSON

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. BROOMFIELD. Mr. Speaker, today, we mark the third anniversary of the senseless murder of Maj. Arthur D. Nicholson in East Germany. Our Government must put this issue on the front burner in our upcoming talks with the Soviets. It is unbelievable that the Kremlin has yet to apologize for the brutal murder of that innocent American.

Even though 3 years have passed since the murder of Major Nicholson, the Soviet Government still refuses to apologize and pay compensation for the assassination of a young Army officer.

In recent weeks, Defense Secretary Carlucci raised this issue with the Soviet Defense Minister. Mr. Carlucci was given a slick diplomatic shuffle by General Yazov. He was told that the general would refer the issue to political leaders in the Kremlin. For 3 years, the Soviets have given excuses for not taking action on this important humanitarian issue.

I hope that Secretary of State Shultz raised this issue during the recent talks with the Soviet Foreign Minister. I also urge the President to discuss this important matter at the upcoming summit meeting with the Soviets.

America should not do business with a country that shoots first, asks questions later, and refuses to apologize for a terrible mistake.

IN TRIBUTE TO DR. REGINALD S. LOURIE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. MILLER of California. Mr. Speaker, today, we mourn the loss on March 20 of Reginald S. Lourie, a pediatrician and psychoanalyst whose compassion and commitment have created new opportunities for thousands of children and families in this country.

Dr. Lourie came to Washington, DC, in 1948 to join the staff at Children's Hospital and became its director of psychiatry. He also served as medical director of Hillcrest Children's Center and the Regional Center for Infants and Young Children.

As a faculty member at the medical schools of George Washington, Howard, and Georgetown Universities, he helped train hundreds of child psychiatrists. He also was influential in teaching young pediatricians to consider mental and emotional factors in their treatment of children.

Dr. Lourie was concerned throughout his career with the prevention of mental and emotional disabilities. Understanding that sick children need the support and involvement of their parents, Dr. Lourie played a key role in liberalizing visiting hours for parents of hospitalized children. When he joined the staff of Children's Hospital, parents were allowed to visit their children only 1 or 2 hours a week, on the theory that their presence would be disruptive to doctors and nurses. Recognizing the value of family support, Dr. Lourie reversed that standard to allow parents almost unlimited visiting privileges.

Dr. Lourie was highly effective in influencing national policy and programs to benefit children. He served as chairman of President John F. Kennedy's Task Force on the Mental Health of Children and was on the national founding and planning committee for Head Start. In 1964, in the earliest stages of the Head Start Program for 4- and 5-year-olds, Dr. Lourie and others pointed out that even younger children could benefit from early intervention and family support. Several years later, Head Start's parent/child centers were created to support the development of infants and their families.

Over the decades, Dr. Lourie's attention to the importance of the first 3 years of life and the importance of preventive approaches to enhance the healthy growth of very young children and their families has had a major impact on clinical practice and on public policy. Professionals from a wide range of disciplines are now involved in the field of infant mental health. Pioneering organizations and initiatives such as the National Center for Clinical Infant Programs, the Regional Center for Infants and Young Children, and the Center for Successful Child Development—(the Beethoven project)—reflect Dr. Lourie's vision. His ability to synthesize complex developmental findings from several fields of scientific inquiry and to interpret these discoveries in a way that help professionals and policymakers unite has improved the lives of vulnerable young children.

Dr. Lourie received numerous honors for his many contributions. In December 1987, he was presented with the Dolley Madison Award of the National Center for Clinical Infant Programs. The text of that award described Dr. Lourie as "a colleague, teacher and friend (who) possessed the uncanny ability to see through posturing, indifference and even anger to the core of human need for dependency and caring; who always sees in each person the adaptive struggle for closeness and intimacy and whose legendary anecdotes and stories sculpt truths into view, transforming unsmiling doubters into grinning believers."

Those of us in the Congress and all across the country who have had the privilege of knowing Reginald Lourie will continue to be inspired by his deep wisdom, his broad compassion, his boundless optimism and his fierce commitment to all the children of this country.

INTRODUCTION OF CENSUS APPORTIONMENT LEGISLATION

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. DAUB. Mr. Speaker, this week, I am introducing legislation, H.R. 4234, which will prevent a grave injustice from occurring within our representative process.

Current Federal policy calls for the inclusion of undocumented aliens in the 1990 census count. This will mean that outsiders who have violated our immigration laws and entered our country illegally will be counted among those eligible for representation in the U.S. House of Representatives.

While our Constitution stipulates that the census must count "the whole number of persons" in the United States for reasons of determining congressional apportionment, I hardly believe that our Founding Fathers had illegal aliens in mind when they drafted the blueprint for our method of government.

My bill will ensure that only taxpaying U.S. citizens will be privileged with representation by excluding from the census count all aliens who have not been lawfully admitted to the United States for permanent residence.

In addition, my legislation will mandate the inclusion in the census count of members of the Armed Forces and their families who have been assigned to a post of duty outside the United States. As it stands now, the census count will disregard service personnel and family members stationed abroad in 1990.

It seems unconscionable to me that we would deny representation to men and women—all rightful citizens—who have faithfully served their country while rewarding individuals who have flouted our laws with entitlement to a voice in our Government.

Mr. Speaker, my bill will reverse this inequity, and honor what were no doubt the original intentions of our Nation's Founders. I urge my colleagues to join me in serving justice and preserving the cause of democracy by cosponsoring H.R. 4234.

GEORGIA RESERVOIR MANAGEMENT IMPROVEMENT ACT

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. BARNARD. Mr. Speaker, today I introduced with my colleagues, Mr. JENKINS and Mr. DARDEN, and Mr. FOWLER on the Senate side, the Georgia Reservoir Management Improvement Act, and I recommend the House's serious consideration of this legislation.

It is not news to anyone living in the Southeast that we have experienced drought conditions for the last several years. This rainfall shortage has had a severe effect on lake levels in many States including Georgia. In fact, several of the lakes in northeast Georgia have been at below normal levels for 70 percent of the time for the last 7 years with individual reservoirs dipping down more than 10 feet below normal.

Such severe conditions work an obvious hardship for all the lake users including marina owners and others who make their living from tourism on the lakes, weekend boaters and fishers, cities who get their drinking water from the lakes, and all of us who benefit from lower electric rates from hydropower produced at Federal dams. Keeping all of these interests balanced requires a delicate juggling act by the Army Corps of Engineers, who is charged with the responsibility of managing these dams and lakes built on national waterways.

The difficulty for the recreational users to date has been that they have no legal footing to compete with the other interests involved. Our legislation seeks to remedy that problem by adding recreation and water conservation as authorized purposes at the five northeast Georgia lakes, namely Thurmond, Russell, Allatoona, Lanier, and Hartwell. Water conservation is defined as the management of a project's water level through reduced or measured usage to build capacity of water.

In addition, our bill requires that each appropriate district Corps of Engineers office establish a drought management plan to cover the reservoirs during times of low rainfalls. Specific requirements include notification of lake residents and users of impending lake level changes due to drought, as well as optimal strategies for meeting all project purposes, especially recreation and water conservation, during rainfall shortages. These reports are due by January 1, 1989, and must be available for public comment for at least 60 days.

The final section of this legislation encourages the creation of citizens advisory councils. Such councils could be comprised of local and State officials, corps representatives, real estate agents and land developers, lake residents, environmental groups, et cetera. Their purpose would be to act as a channel between the corps and local residents in resolving any dispute, not limited to lake levels. It has been the experience at other corps projects that such councils can be extremely beneficial in moderating and reducing friction between all lake users and managers.

Though recreation and water conservation were not original purposes when the lakes were authorized, the economic boon afforded by the reservoirs cannot be denied. They are a significant source of commerce and tax revenue for the nearby counties and municipalities. Studies compiled by the Clarks Hill-Russell Authority estimate tourism at Thurmond Lake to be worth about $80 million a year, including boat sales, gas, motels, bait shops, et cetera. I believe that an industry contributing that much to a region deserves to be recognized and given a legal foot to stand on in Federal legislation.

Our purpose in introducing the Georgia Reservoir Management Improvement Act is not to penalize any group of users or to criticize the corps. Rather we have seen a statewide problem in managing the corps lakes—which belong to all of us—and we are attempting to offer a plan which will satisfy all interested parties. We invite any comments or cosponsors who are interested in this legislation.

THE $200 BILLION DEFICITS ARE NO ANSWER

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, I voted against final passage on the budget yesterday, because I don't think it responsibly deals with the deficit problem.

First, the resolution's projected deficit of $134 billion is, according to the Congressional Budget Office, understating the deficit by $36 billion. The reason for that is the economic assumptions that were used were far too optimistic and will never be realized.

Second, in order to get to the deficit figure they use—even if it is overly optimistic by some $36 billion—they use surpluses in the Social Security account this year of nearly $46 billion to offset against operating budget deficits.

So in fact, instead of having a $134 billion budget deficit next year, if you used realistic economic assumptions and if you did not offset the Social Security surpluses, you would have an operating budget deficit of close to $215 billion.

It seems to me this budget just does not address in any real way, the serious budget deficit problem we have in this country.

I hope the Senate can put together a better effort.

We need to use honest numbers and we need to make hard choices if we're going to solve this probelm.

I hope, as the budget process moves forward, we will see an effort to make genuine deficit reductions.

TESTIMONIAL DINNER HONORING WILLIAM R. HUTTON

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. CONTE. Mr. Speaker, earlier this week I had the pleasure of attending a testimonial dinner in honor of my good friend William R. Hutton, former executive director of the National Council of Senior Citizens. As a member of the sponsoring committee for the dinner, I want to take this time to commend Bill and wish him the very best in his endeavors.

Over the years, Bill the "great warrior" and his organization have been welcome advisors of mine on a wide range of issues important to this country's senior citizens. Two years ago, at the Council's national convention and silver anniversary in Florida, I was honored, along with my good friends Tip O'Neill and CLAUDE PEPPER, as the first recipients of the NCSC Distinguished Service Award. I count that award as among my most cherished in my 30 years as a Member of this body.

During the presentation, Bill told me that my voting "report card" was 100 percent on seniors' issues. Mr. Speaker, I am sure my colleagues will agree that it is Bill who has the perfect record when it comes to commitment and action on behalf of seniors. Bill's kind of dedication over 25 productive years of service is something to be proud of.

For 25 years, Bill and I stood side by side, fighting for enactment of the Medicare system in 1965, against reductions in Social Security benefits, and for a comprehensive health care plan such as the ones we are considering in the 100th Congress.

Mr. Speaker, it would be almost impossible to properly assess the enormous contributions that Bill has made to the National Council of Seniors Citizens and to America's elderly in general. I do know that he will be sorely missed by many of us on the Hill who have had the distinct honor and pleasure of working with Bill over the years, and I will miss his leadership a great deal.

Bill, your retirement is well deserved. My wife Corinne and I wish you and Miriam the very best of everything and many decades of good health and happiness, so that in the golden years of life you can enjoy the spiritual satisfaction of life that you have so ably earned in a lifetime of dedication to your fellow man.

PROCLAMATION TO CELEBRATE NATIONAL AGRICULTURE WEEK

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is fitting that the first week of spring, March 20-26, has been designated National Agriculture Week. As a representative from Connecticut, I am pleased to pay tribute to the men and women who love the land and their work very deeply, and who are as much a national asset as the fertile soil.

American agriculture is a product of our rich history as well as our rich soil. Politics and agriculture have been intertwined ever since this country was founded. Ninety percent of Americans were farmers when the Constitution was written. Many of the delegates to the Constitutional Convention were farmers or had grown up on farms. And of course several of our early Presidents including our Founding Father, George Washington, worked the land.

The framers of the Constitution wrote this amazing document when we were an agrarian society totaling 4 million people. Today our country is 60 times as large and many times more complex. Much of expansion and success in agriculture can be attributed to the philosophy of a Federal-State-local partnership and the establishment of the land-grant college system, experiment stations, and the Extension Service.

These three institutions which link teaching, research, and extension education have had a profound effect on the growth and advances in agriculture and as a result on all Americans. As stated in "Our American Land, 1987 Yearbook of Agriculture":

> The experiment stations produced hybrid corn and streptomycin. By the time the land-grant colleges reached their hundredth anniversary, the State universities (of which they are a part) enrolled one-fifth of all the undergraduate students in the Nation. Of the 36 then living Nobel Prize winners in the United States 18 had earned degrees in land-grant colleges and State universities.

The Extension Service, the largest outside-the-classroom educational institution in the world, is truly an American invention. It is based on grassroots support and its mission is to disseminate knowledge and encourage freedom of thought and expression. The Extensive Service has grown and expanded from its traditional image of "cooking and cows." The 4-H youth development program is as vital in urban areas as it is in the rural countryside. The Extension Service provides educational programs in community and resource development, natural resources and the environment, nutrition and health, as well as agriculture, home economics, and family living.

Today the American farmer provides food and fiber for more than 75 other people—making American agriculture a model of productivity and efficiency. Our farmers are constantly trying new approaches and innovations in response to research developments. They utilize a variety of techniques and methods to grow and sell their commodities. They have creatively harnessed computers and airplanes, banded together in marketing groups and sold directly to consumers in an attempt to influence the prices they receive for their products. As a result of these innovations and American farm policy, the American consumer is the beneficiary of an abundance of cheap food.

I am especially proud of Connecticut's farmers. They are the product of generations of independent, self-sufficient, industrious people who have weathered many storms; natural, political, environmental, and economical. Their farms may be small in comparison to other agricultural States but their dedication and efficiency have made them fiercely productive and competitive. There are over 3,800 farm families in Connecticut who grow and produce milk, eggs, oysters, fruit, vegetables, wines, and other crops to help feed our 3 million citizens.

Our State is constantly feeling the pressure of development and the repercussions of the loss of farms and farmland, that is, the increased cost of land, the decrease of farm services, the problems associated with urban neighbors and traffic. We need to balance these detriments with the benefits associated with dense populations—a ready market in close proximity.

To address these opportunities, Connecticut has developed a creative "Connecticut Grown" marketing program which has expanded sales and increased profits for growers of native food crops. I am pleased with the results of Connecticut's farmland preservation program which has saved 79 farms with more than 13,500 acres from the developers' bulldozers. And a majority of our dairy farmers are participating with our northeast neighbors in a unique marketing strategy to address the regional differences in milk marketing.

Connecticut agriculture is moving into a new area of productivity and profitability as we build a market-driven farm economy. The Connecticut farmer understands the problems facing agriculture and the complexity of the issues. He is striving to overcome them on his own but we need to do more. Future agriculture policy must address regional differences more equitably and effectively.

TRIBUTE TO THE BALLARD BRUINS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to pay tribute to the 1987-88 Kentucky high school basketball champions, the Ballard Bruins, of Louisville and Jefferson County, KY, which I am privileged to represent in the House.

This past Saturday, in a hard-fought rematch of last year's final, Coach Scotty Davenport's Bruins defeated a fine team from Clay County High School by a 88-79 margin. With this victory Ballard became the first team from Jefferson County to win the Boys' State Tournament since 1977 when yet another great Bruin team won the title.

After their heartbreaking loss in the 1987 final, the Bruins committed themselves to return to the "Sweet Sixteen" with their sights set on the championship trophy. And, through the leadership of Coach Davenport, the talents and hard work of great players like Kenneth Martin, Allan Houston, and Mark Bell, and the support of a spirited student body, Ballard did just that.

While I have the opportunity, Mr. Speaker, I would also like to salute the great high school basketball fans of Louisville and throughout the rest of the Commonwealth. Kentuckians' love for basketball is no secret. And, the record-breaking crowds at Freedom Hall, including a sold-out crowd of 19,575 at the championship game, is testimony to their passion for this great sport.

Kentucky is rich in basketball tradition, and the Ballard Bruins are a great part of that tradition. The team, coaches, faculty, and students are all to be commended for a job well done. Congratulations to the Ballard Bruins, "Kings of the Bluegrass" for 1988!

FIFTY YEARS OF SHOES

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. WELDON. Mr. Speaker, I rise today to commemorate Carl R. Dillman. For 50 years, Carl has been selling high quality shoes to the people of Delaware County, PA. His reputation as an honest, straightforward salesman has earned him a steady clientele. Many people in Haverton where his store is located refuse to buy their shoes from anyone else. I commend Carl for his persistence and entrepreneurship.

While many shoe salesmen have lowered their standards to sell cheaply made shoes from abroad, Carl has stuck to his guns. He sells only the finest orthopedic shoes made in America. These shoes are usually more comfortable and better for one's feet than a pair of Nike sneakers or Hush Puppie loafers. Carl's shoes are corrective shoes and, therefore, conform to one's feet. I recommend that all the children of Delaware County begin wearing his shoes, so they can learn to appreciate quality at an early age.

Indeed, Mr. Speaker, Carl represents the small businessman who has become the backbone of our economy in Delaware County. Through their thrift and hard work, these entrepreneurs provide the personal service that customers cannot receive in the large department stores. Whether it is cashing a personal check or keeping the store open an extra 10 minutes, the small businessmen of my county continue to earn their customers.

No one is quite sure what keeps Carl going at the age of 84. Some people suggest it is his thirst for dry sherry and egg in the morning before work. Others say it is his love for the Phillies. Whatever his driving force may be, I hope he keeps up the good work.

THE RETIREMENT OF CAPT. DAVID W. VAN DYKE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. HOYER. Mr. Speaker, I want to bring to the attention of my colleagues and the citizens of Maryland's Fifth Congressional District an extraordinary example of dedicated public service. Mr. David W. Van Dyke, a veteran of the Prince Georges County, MD, Police Department is one of the finest examples of commitment and professionalism in public service. Fulfilling a childhood dream, Mr. Van Dyke, began his career as a police officer in 1966. He was promoted through the ranks from detective, to detective first class, sergeant, and lieutenant until he achieved the rank of captain in 1983. On February 27, 1988, Capt. David W. Van Dyke retired just 14 days short of serving 22 full years with the Prince Georges County, MD, Police Department.

Captain Van Dyke served with the distinction that may have been expected of someone whose life-long ambition had been to become a police officer. There are countless examples of his professionalism and dedicated service.

Those who know him recognize David Van Dyke as a man committed to improving law enforcement from the inside—protecting the integrity of law enforcement as an institution as well as the rights of his fellow officers. The captain is an acknowledged expert on the police officer's bill of rights. He wrote the Prince Georges County, MD, Police Department's disciplinary manual and served as the department's first one member hearing board officer. As commander of the Bowie District Station, the captain worked as an adviser to the county department of corrections, and prepared the department's emergency response manual.

He is equally committed to the broader community which he serves. The captain received 26 letters of commendation during his 22-year tenure as an officer in the Prince Georges County Police Department. He was a narcotics investigator and officer in charge of the gambling squad, criminal intelligence, as well as the department's internal affairs division. As a juvenile detective, he received a Meritorious Service Award when he took it upon himself to reopen a closed case originally believed to be a suicide. In this instance, the captain's characteristic resolve resulted in a successful homicide prosecution and conviction.

Captain Van Dyke's commitment to his neighbors did not end at the close of a shift. The young children that learned and played under his tutelage as a Cub and Boy Scoutmaster and as a Little League coach were probably unaware of his professional accomplishments. They were, however, keenly aware of his commitment and attention to their needs as they grew into adulthood.

Mr. Speaker, in closing, I want to congratulate Captain Van Dyke as he successfully concludes a brilliant career in the Prince Georges County Police Department. I am sure the citizens of our community join me in wishing him as interesting and as fulfilling a retirement.

SYVA CO. COMMENDED FOR AIDING IN WAR ON DRUG ABUSE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. LEWIS of California. Mr. Speaker, I would like to address a few comments to the drug abuse crisis which threatens not only our families, our schools, and our youth, but, as we are learning to our dismay, the vitality and quality of our economic production, the safety of our public transportation, and the integrity of our national defense. While there are many opinions on how to best attack this problem before it weakens us further, before it takes additional lives, I believe we have become united as a nation on the need to do something.

The enormity and nature of the problem dictate that Federal, State, and local governments will have a major role in the war on drugs, and I commend this body on the legislation on drug abuse it passed in the last Congress. It is well known that the administration is pushing forward with its own program, which includes testing for drug abuse for those in certain positions within the Federal Government. Indeed, both House and Senate are currently considering legislation which would extend drug testing requirements to some transportation industry employees in the private sector.

As might be expected, however, the proposals for testing and treatment for drug abuse have stirred opposition by those concerned with the rights of the accused. Law suits have been filed, and several important initiatives await resolution in the courts. Under these circumstances, it is all too easy for the private sector to assume the role of a passive spectator, awaiting the eventual outcome of these issues by others. Recent actions in California, however, point out that individuals and companies can still significantly move the process forward, even where the issues are national in scope.

I speak of a recent Drug Testing Litigation Conference cosponsored by the Syva Co., a California company located in my congressional district, which is a leading manufacturer of drug testing systems. With out pushing any particular position, Syva saw that it could usefully bring together observers and advocates for different interests in an effort to clarify the issues, identify areas of agreement, and assess the current state of drug testing technology. There was of course no final resolution of opposing positions at this conference, though I believe that opportunities like this establish relationships and sow the seeds of new ideas which will allow us to get on with the business of government.

I commend Syva on its initiative in bringing together such a diverse and important group on neutral turf, and I encourage Americans everywhere to likewise consider what they can do to remove the obstacles that hobble us in our common dedication to eradicate drug abuse.

IN RECOGNITION OF WORLD HOME ECONOMICS DAY

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. OBEY. Mr. Speaker, last Sunday, March 20, was "World Home Economics Day," established by the International Federation for Home Economics and celebrated throughout the world by its members in over 80 countries. I am proud of the work that is done by the Home Economists in my district of the State of Wisconsin, and in honor of this day I would like to acknowledge the importance and the impact of the home economics profession.

The home economics profession was founded as a distinct discipline in the early 1900's. It examines the details of intimate human environments and their relationship to the development and interaction of the individuals within these environments. Home Economists can be described as professionals who help families do the best they can with the resources and constraints they have. They are dedicated to improving the quality of life for families and individuals.

In order to maintain its mission to improve the quality of life, the home economics profession has grown and expanded as changes in the society affect basic family needs. To promote understanding of the contemporary family, home economist work in America's schools, businesses, in the extension service, and in other local, State, and Federal Government agencies. They provide research on many issues affecting the family including: child care, suicide, aging, nutrition, family planning, financial management, child abuse, consumer education, hunger, teen pregnancy, substance abuse, housing, family stress, and AIDS.

The profession of home economics continues to serve families by tackling the everyday problems that families face. For this reason, I want to take this opportunity to thank home economists for choosing as their priorities the needs of families and individuals and for their dedication to strengthening the basic social unit in our country and throughout the world.

A TRIBUTE TO G. HARRIS JORDAN

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. CRANE. Mr. Speaker, G. Harris Jordan concludes 10 years of devoted service on my legislative staff and finally as my legislative director as of the 31st of this month. A native of Duluth, MN, Harris found his way to Washington, DC, after a 4-year stint in the U.S. Army with a distinguished tour of duty in Vietnam as an officer in the U.S. Army Corps of Engineers. After his honorable discharge in 1970, he went to work as a special assistant to Senator Stephen Young. From that position he went into the private sector while completing requirements for his B.A. degree from George Washington University in the School of Public and International Affairs in 1978. That is the year, on May 5, that he joined my staff.

Two years before Harris came on board I had moved from the Banking Committee to the Ways and Means Committee. The scope of the latter committee's jurisdiction, and the complexity of much of its legislation can easily overwhelm any Member without exceptional staff support. Harris plunged into that responsibility with enthusiasm and great ability. Any successes I may have enjoyed legislatively on the Ways and Means Committee owe a huge debt of gratitude to Harris Jordan. His research abilities and recognition of tactical opportunities have been invaluable. Members get the public credit, but no Member can succeed without a talented staff. Harris Jordan can accept that acknowledgment in addition to his skillful management of my entire legislative staff. He has worked long hours, often under considerable stress, but always with patience and good humor.

In 1969, Harris married Holly Costich, a lovely and supportive wife who bore him a beautiful daughter, Kendall, in 1975. They stand on the threshold of a new career as a family, one that holds great promise for the Jordans. Harris has taken a position as director of governmental affairs with the American Society of Association Executives. We will miss you, Harris, but know you are going on to greater successes in the future. We wish you all good fortune, extend inexpressible appreciation for your loyalty and service, but refuse to say goodbye; only, "So long, Harris, we'll be seeing you."

A TRIBUTE TO BASIL AND BETTY GREEN

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 24, 1988

Mr. McEWEN. Mr. Speaker, on April 24 a special couple will celebrate their 45th wedding anniversary.

Basil and Betty Green have served as a shining example to many residents of Brown County, not only for their commitment to the community, but for their deep and abiding affection for one another.

Betty and Basil Green truly understand the art of patience which makes a marriage strong and the perseverance and hard work that goes into a successful long-term relationship.

This is a joyous occasion for Basil and Betty as well as their seven childen—Kenneth Sterling Green, Linda Dalline Green Dyer, Ronald Eugene Green, Ralph Randall Green, Robert Clinton Green, Mark Douglas Green, and Lisa Ellen Green Bradford—and 12 grandchildren—Ken, Clint, Joe, Cassie, Melissa, Jim, Andy, Paul, Terry, Jerry, Justin, and Lauren.

They are celebrating a truly wonderful thing: 45 years of love for one another. It is something for which all of us who believe in strong families can be proud.

SENATE—*Friday, March 25, 1988*

(Legislative day of Monday, March 21, 1988)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable KENT CONRAD, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *when they knew God, they glorified Him not as God, neither were thankful* * * *.—Romans 1:21.

Eternal Father, architect of the universe—ordering the stars in their courses—the tides—the seasons—the rhythm of history * * * Lord of the ages—we celebrate Thee—we praise Thee. On this fresh spring day, we have so much for which to be thankful. We thank Thee for spring—for the return of the leaves—the grass—the flowers. We thank Thee for the bursts of color and fragrance and beauty—for invigorating warmth. We thank Thee for life which transcends death—for resurrection and its hope. Thank Thee for blessings so routine they are virtually monotonous. Forgive us, generous Father, for receiving so much and being thankful so little. Thank Thee for this weekend with all its possibilities for rest and renewal—for family and friends—for worship and fellowship.

And gracious Father, we remember those of our Senate family who are laid aside by illness. May the balm and blessing of spring touch their lives with healing and restoration. In the name of the Great Physician. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 25, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KENT CONRAD, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10:15 a.m. with Senators permitted to speak therein.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

FAREWELL TO GAIL COWPER

Mr. BYRD. Mr. President, one of the pleasures of serving in the U.S. Senate comes in knowing and working with the talented and dedicated staff. It contributes so much to the effective functioning of this great body. These men and women, who are on the job before the Senate convenes and are often on the job after the Senate adjourns, may not receive much public recognition. Yet, without their efforts, the work of this institution would be severely impacted.

One such person is Ms. Gail Cowper, who today will leave the office of the Parliamentarian for a career opportunity that will take her away from this Chamber and this institution. Ms. Cowper joined the office in January of 1984 from her previous position as chief counsel with the Senate Budget Committee, and she has served as the Assistant Parliamentarian since January of 1987.

Anyone who is familiar with the operation of the Senate recognizes that the position the Parliamentarian and every Assistant Parliamentarian holds is one of the most demanding jobs in the Senate. The judgments and advice that they are called upon to render must often be made with little time for study and research and frequently in the midst of contentious debate.

Despite these pressures, Ms. Cowper has performed her demanding tasks with unfailing grace, competence, and good humor. Senators and staff on both sides of the aisle have valued her sound advice as well as her expert knowledge of the budget process. Her professional capabilities and her personal qualities have served the Senate well, and I am certain will serve her well in the future.

Mr. President, I know my colleagues join with me in offering Ms. Cowper our thanks for a job well done and our very best wishes in her future endeavors.

Mr. President, I yield the floor.

Mr. CHILES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. CHILES. Mr. President, I certainly want to associate myself with the remarks of the distinguished majority leader.

As many in the Senate Chamber know, I have announced that I will be retiring at the end of the year. Imagine my surprise, however, when I discovered that there is someone in this Chamber now who will beating me out the door. I am talking about Gail Cowper, the Assistant Parliamentarian, whose last day it is today.

Those of us who have come to rely on Gail's thorough knowledge of parliamentary procedure and helpfulness in explaining it will greatly miss her. Those of us who work in the budget process will miss her at least twice as much.

You see, Gail as the majority leader pointed out, used to be the chief counsel for the Budget Committee. She served with us from 1981 through 1984, when she left us for the Parliamentarian's Office. Because of her unique background and experience, Gail has been an invaluable resource on budgetary procedure.

But beyond merely knowing what she talks about, Gail has always been most available for inquiries. In a town where the standard reply is: "I'll get back to you later with an answer," Gail most of the time has the answer off the top of her head and that has been a tremendous help to all of us.

So, on this, her last day, I just wanted to come to the floor to say "thank you" for the many times she has helped me and my staff.

We are going to miss you. We do thank you for the great work that you have done for this body, the U.S. Senate. I know that my current chief counsel is kind of wondering how he is going to get his job done when you go. On behalf of the Budget Committee, I want to say good luck, Gail, and best of all wishes to you.

Mr. DOMENICI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I join my good friend, the chairman of the Budget Committee. While I am not planning on leaving, he is. I am

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

sorry about that. I have already said that.

The young woman sitting up there in the Parliamentarian's chair is planning to leave. I am here because I am sorry about that. I really would like her to know, however, that I vividly recall when the then majority staff director hired this young lady.

Gail came on as one of our lawyers. That was fine. She was right out of law school. I said, "Certainly, she will learn." She did.

But then the time came to have a chief counsel. We had one for awhile and that person was leaving. The staff director came to me and said, "We have a new chief legal counsel." I said, "who might that be?" The response was "Gail." I said, "Are you kidding? She is almost fresh out of law school. She has just been here for awhile."

I always take his advice, and he said, "Yes, she can do it."

I will say to you, she never let us down. She never let him down and she never let us down.

I am very proud that we had the opportunity to have her on the Budget Committee, to watch her legal talents grow.

Mr. President, this is a very, very complicated process that we have. I am positive that few Senators—and this is not said disparagingly, but it is said because I believe it is so and perhaps as it should be—understand the intricacies and nuances of the Budget Act and all of its processes and procedures.

As we all know, and as the majority leader who so kindly joined us here on the floor knows, we have built on that complication with each year, with the addition of Gramm-Rudman-Hollings and other things.

It is an absolute nightmare unless you have someone there who is levelheaded, who understands this institution, who understands that the institution is what is important—not the Budget Committee—and, certainly, that its processes and procedures have to be interpreted with good, common sense. She always did that.

When she left the Budget Committee, she did not go far. She stayed right here. As already indicated, she now sits as Assistant Parliamentarian.

Mr. President, we are sorry to see her go, but we are absolutely certain that her work here will help her along in life and that she will succeed at whatever she does. It is my privilege to join the majority leader and the distinguished chairman of the Budget Committee in just saying two things:

Thank you very much. Second, the very best of luck to you. Thank you very much.

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I knew nothing about this situation with Gail Cowper until I just came on the floor this morning, but I have been very impressed by our Parliamentarians ever since I have been here. It is a very, very difficult job. I think we have been blessed with superb Parliamentarians, and we have Senator ROBERT BYRD, the majority leader, who knows the rules better than anybody in all the years I have been here—and that has been more than 30—and he has been the kind of very effective leader who has put our Parliamentarians through their paces.

They have met the test. I think Gail Cowper is a superb example of this. I understand she was so good as a counsel for the Budget Committee that the Parliamentarian took her away. Now she is going on to private law practice and, of course, like the other Senators, I wish her the very, very best of luck. She has done a fine job. I believe we are all in her debt.

Mr. BYRD. Mr. President, as I sat and listened to Senator CHILES and Senator DOMENICI and Senator PROXMIRE speak of the departure of Gail Cowper from the Senate, it reminded me of a poem by Longfellow, "The Arrow and the Song":

I shot an arrow into the air,
It fell to earth, I knew not where;
For, so swiftly it flew, the sight
Could not follow it in its flight.

I breathed a song into the air,
It fell to earth, I knew not where;
For who has sight so keen and strong,
That it can follow the flight of song?

Long, long afterward, in an oak
I found the arrow, still unbroke;
And the song, from beginning to end,
I found again in the heart of a friend.

Ms. Cowper has, by her grace and charm, her ability and her courteous response to the questions of Senators and their aides, excited an admiration among us all, and it is an admiration and an affection that will always live in the hearts of her friends.

Mr. ADAMS. Mr. President, I want to join with my colleagues in paying tribute to Gail Cowper, our Assistant Parliamentarian. I am a new Member in the U.S. Senate; but I have been around Washington long enough to know that the rules do more than govern how the game is played—they often determine the outcome of the game.

In the context, Gail Cowper and her colleagues in the Parliamentarian's Office are models of professionalism, objectivity and fairness. They serve all of us—Republicans and Democrats, senior and junior members alike—with patience and promptness. I know that my staff has, on my behalf, made calls to the Parliamentarian's Office both early in the morning and late in the day. No matter what crisis the parliamentarians were dealing with, they found time to respond to the questions that were asked.

Let me make one final point: we ask parliamentarians to make judgments about the rules. And Gail certainly has. But she does something else, something that isn't in her job description but which is critical to allowing us to do our jobs: she helps us learn about the rules, she teaches as well as decides. Gail has demonstrated a respect for, and love of, the Senate as an institution. She has communicated that attitude along with her knowledge of the rules to everyone who has come in contact with her. She has served each of us as individuals—and she has served the institution as well. She has my thanks and my gratitude and admiration.

THE BUDGET

Mr. BYRD. Mr. President, next week the Senate Budget Committee will begin marking up the budget resolution for fiscal year 1989. The broad outlines of their work were set by last year's agreement between the Congress and the President.

The bipartisan budget agreement last year has yielded some real dividends. The deficit was forced down further with budget cuts and a modest increase in revenues. The 2-year budget package was designed to meet the strictures of the Gramm-Rudman-Hollings law. We wanted to keep decisions in elected hands rather than relying on the automatic cuts, the so-called sequestration, that would otherwise be required under the Gramm-Rudman-Hollings approach.

The administration's budget, with its economic assumptions of reasonably healthy growth, low inflation, and declining interest does not quite reach the Gramm-Rudman-Hollings target of $136 billion, but it is close enough to avoid the mandatory cuts under sequestration. The administration's economic assumptions are optimistic, but they are more realistic than the rose colored optimism that seemed to color past administration budgets.

The President's latest budget has taken at least a small step in some of the right directions. For instance, the President is seeking increases in spending for education, something that has been a Democratic priority for the past 7 years. The budget also includes additional funds to fight the drug epidemic that is plaguing our country and to enhance scientific and health research.

But there are too many other areas where the administration continues to turn its back on the real needs of the American people. Once again, the administration has proposed, not just to cut, but actually to terminate critical economic development programs such as urban development action grants, the Economic Development Administration, mass transit grants, Amtrak and the Appalachian Regional Commission which is of particular concern in my own State of West Virginia.

Mr. President, in many parts of the country these programs are the building blocks of regional renewal. They are the catalysts that help towns and cities to keep their heads above the tides of economic change that are sweeping over the country.

So let there be no mistake about it. In the midst of an overall recovery, one region after another has tasted the bitter fruit of economic decline.

First the Rust Belt and farmers, then parts of the high technology sector and the oil patch have experienced recession rather than recovery. Mr. Edward Yardeni, a top economist, talks in terms of a rolling recession—an economic punch that hits one part of the country and then another.

There are parts of the country that have never bounced back from the steep recession of 1982. Small lumber towns in the Northwest, rural communities all over the country, and a number of manufacturing centers in the Midwest are struggling to get back on their economic feet. In West Virginia, able-bodied men and women are still unable to find jobs even though the administration proclaims an unprecedented peacetime recovery.

It is true that the internationalization of the U.S. economy and the pace of technical change in the workplace would have put strains on even the most stable of economies. But the Reagan administration has compounded the problem by pursuing economic policies that led to enormous volatility—the worst recession since the Great Depression and the highest real interest rates since the early 1930's. They have run the dollar up a hill and down again, distorting some investments and delaying others. A surge of foreign imports has downsized a number of industries and left whole communities gasping for economic breath.

Through all this, the administration has done little or nothing to ease the process of adjustment, to help workers or communities find their economic balance. Training, regional planning, targeted loans and grants can help stimulate communities to make the most of their strengths. Turning our backs on these programs, Mr. President, is bad for our people and bad for our national economy as well. And so we must work together. Senator CHILES is proceeding to the markup. He and others on the committee will work to see that our budget resolution provides for a more balanced approach to an economic future in which all Americans can prosper. I will join with them and support them in that endeavor.

Mr. President, I yield the floor.

CONGRESSMAN JAMES HOWARD PASSES AWAY

Mr. BYRD. Mr. President, it has come to my attention that Congressman JAMES J. HOWARD passed away earlier today. Permit me to take a few minutes of the Senate's time to express my condolences to the family and friends of this dedicated public servant.

Congressman HOWARD was first elected to the U.S. Congress in 1964 and served as chairman of the House Public Works and Transportation Committee since 1980. A former teacher, he was constantly seeking ways to improve the American education system. He was also constantly promoting legislation to improve this Nation's highways.

Mr. President, the Members of this Chamber have lost a good friend and colleague, the State of New Jersey has lost an outstanding Representative, and the United States has lost a good legislator and a good man.

Mr. ADAMS. Mr. President, I want to join with my colleagues in paying tribute to Gail Cowper, our Assistant Parliamentarian. I am a new Member in the U.S. Senate; but I have been around Washington long enough to know that the rules do more than govern how the game is played—they often determine the outcome of the game.

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DON'T LET TRADE BILL BECOME A "BRING BACK BRIBERY BILL"

Mr. PROXMIRE. Mr. President, 11 years ago the Congress enacted legislation that has stopped American corporations from paying bribes to foreign officials. We adopted that legislation because American corporations had paid massive bribes to the Prime Minister of Japan, to top officials in Italy, the Netherlands, and elsewhere. The disclosure of these bribes had a profoundly adverse affect on American foreign policy. In Japan the Prime Minister was tried, convicted, and sent to jail. In Italy and the Netherlands governments supporting United States policies suffered severe losses. Then in 1977 the Congress enacted the Foreign Corrupt Practices Act. The act was effective. It was effective because it provided a "paper trail" that required the top officials of corporations to accept full responsibility for payments their corporations made to officials of foreign governments. At the heart of this legislation was the provision that if the officials of American corporations had "reason to know" that their corporation had paid bribes then the American corporate officials would be guilty of violating the law. The Senate version of the trade bill now in conference with the House would change this. The Senate trade bill strikes the "reason to know" provision in current law. In place of "reason to know"it substitutes language that would make the top officials of corporations that have paid bribes to foreigners only guilty if they "directly authorized the bribe expressly or by a course of conduct."

Mr. President, this makes the trade bill a "bring back bribery" bill with a vengeance. It is true that language in the report of the bill declares that the Congress does not intend to permit "head in the sands" conduct by corporate officials. But isn't this precisely what the bill would do? It is doubtful that any large corporation would employ a policy making official who would personally hand cash to a foreign official or who would direct one of his subordinates to pay a $1.4 million bribe to a prime minister, as the Lockheed Corp. paid $1.4 million to the Prime Minister of Japan. That is not the way corporate bribes are paid or ever have been paid. No corporate official is going to "expressly authorize" a bribe. No corporate official is going to engage in "a course of conduct" that associates him in any way with a bribe. We know this because we know that such action by a corporate official is wholly unnecessary. In a letter to the New York Times on March 22, Michael Waldman explains why. He writes:

> A corporation desperately wants a big contract. It hires a middleman well known for bribery, pays him money up front and writes "we want this contract. Don't pay any bribes, of course, but get the job done." A week later, he cables, "Send more money". The firm, asking no questions, sends the cash. It gets the contract. Under the Senate bill the company would not be liable since it never authorized a payoff.

Mr. President, why are we weakening our antibribery law? There has been not one shred of evidence that the Foreign Corrupt Practices Act has had any adverse effect on American exports. Indeed, if there were to be an effect it would have shown up in the export figures in the years immediately following the enactment of the legislation. Did it? No, indeed. On the contrary in the years 1978 and 1979, directly after the 1977 antibribery bill became law, our exports sharply increased. The very fact that the United States became the first country to make it illegal for its corporations to pay bribes and made the law effective, strengthened the integrity of American trade. Foreign countries could know that when goods were bought from American corporations they were sure that they were bought on the basis of quality and price, not on the basis of bribery.

Mr. President, if the Senate provisions on bribery stay in the trade bill this Senator will be constrained to vote against the bill and do all I can to defeat it. Whatever its other merits or demerits may be, the trade bill will become a "bring back bribery" bill in my view.

Mr. President, I ask unanimous consent that the article in the March 22 New York Times headlined "Back to Corporate Payoffs Abroad?" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 22, 1988]

BACK TO CORPORATE PAYOFFS ABROAD

(By Michael Waldman)

WASHINGTON.—As James C. McKay, the special prosecutor, continues investigating the Iraqi pipeline affair, Congress seems poised to gut the very antibribery law Attorney General Edwin P. Meese 3d allegedly ignored.

Buried deep in the pending trade bill are provisions that drastically weaken the Foreign Corrupt Practices Act, the 1977 law prohibiting corporate bribery of foreign officials, which was passed following major scandals. If a House-Senate conference committee approves these provisions, this key statute will be left more loophole than law.

Foreign bribery by American corporations is central to the pipeline affair. E. Robert Wallach, Mr. Meese's friend and adviser, sent him a memo describing a proposed payoff to the Israeli Labor Party by Bruce Rappoport, a foreign agent employed by Bechtel, the pipeline contractor. Mr. Meese allegedly took no action about the proposed payment aimed at preventing an attack on the pipeline (which was never built). His inaction was shocking, yet insensitivity to foreign payoffs is consistent with the Reagan Administration's seven-year campaign against one our most effective and necessary anticorruption laws.

The act resulted not from gooey idealism but from bitter foreign policy experience. The original law was passed following business bribery so pervasive that the former head of the Securities and Exchange Commission, Ray Garrett Jr., called it "the corporate Watergate."

The bribery scandal came to light when the chairman of United Brands committed suicide after his company paid bribes to the Honduran Government. A subsequent investigation revealed that at least 450 American corporations paid hundreds of millions of dollars in bribes abroad in the 1960's and early 1970's.

Italy's Christian Democratic Party was tarred by links to Exxon. Crown Prince Bernhard of the Netherlands took funds from Lockheed. Most spectacularly, it was revealed that Japan's Prime Minister, Kakuei Tanaka, had been paid off by Lockheed. This led to his resignation and subsequent criminal conviction.

As a result, Congress unanimously passed the law. It made it illegal for companies to pay bribes abroad, greatly tightened accounting standards and forbade corporations to pay agents if the corporations had "reason to know" the funds would be used for a bribe.

The law has reduced bribery overseas without unduly burdening exporters. A 1981 Congressional survey of 250 companies showed the law had little or no impact on their business abroad. Honest American companies were freed to compete based on the quality of their product, not the quantity of their payoff.

But the Reagan Administration and its corporate allies have long sought to defang the law. They inserted into the trade bill language proposed by Senator John H. Chafee, Republican of Rhode Island. The House has passed similar, but less harmful, legislation.

The Senate bill would weaken the law in many ways. Payments would be deemed acceptable if "reasonable" and based on "local custom." That would have allowed corporations to sink to the level of "custom" in the Shah's Iran and Ferdinand E. Marcos's Philippines. By far the worst change would eliminate the "reason to know" standard for bribes paid by agents. Instead, a company would be liable only if it explicitly or implicitly directed or authorized the payment.

Consider this scenario: A corporation desperately wants a big contract. It hires a middleman well known for bribery, pays him money up front and writes: "We want this contract. Don't pay any bribes, of course. But get the job done." A week later, he cables, "Send more money." The firm, asking no questions, sends the cash. It gets the contract. Under the Senate bill, the company would not be liable, since it never authorized a payoff.

If the Foreign Corrupt Practices Act is rolled back, lawmakers would be hard pressed to explain why they shredded the antibribery statute just as it figured in a major scandal. Worse, they would retroactively condone the Attorney General's apparent tolerance of foreign payoffs.

URANIUM ENRICHMENT PROGRAM GIVEAWAY

Mr. REID. Mr. President, I rise today to state my opposition to the massive give away of taxpayers' dollars that will take place if we approve the so-called Nuclear Revitalization and Uranium Enrichment legislation now before the Senate.

Anyone who looks closely at this legislation will see that it is little short of a new Government subsidy program for nuclear power companies that are already firmly ensconced in the upper echelons of the Fortune 500. Exxon, Conoco, and Anaconda are only a few that will handsomely benefit from this legislation.

The fact is that foreign and domestic nuclear utility companies agreed to reimburse the American taxpayer for the full cost of the uranium enrichment program and testified in 1978 that no subsidies were needed. The Department of Energy has totally mismanaged the program to the point where the bill to the U.S. Treasury has grown to $8.8 billion. And what is the DOE's response? Is it to clamp down on the Department of Energy and the nuclear power companies so that this program pays it own way? Not quite, Mr. President. Instead we now find legislation before the Congress to cancel the nuclear industry's debt.

I have to admit that I find it ironic that the primary justification for ramming the permanent high level nuclear waste dump down the throats of Nevadans last December was to save the Government $3 billion in site characterization costs, and now the very same people are sponsoring an $8.8 billion giveaway to some of the most prosperous companies in the Nation. In fact, I find it more than ironic; I find it outrageous. But this is exactly the kind of incestuous relationship that has developed between the Department of Energy and the nuclear industry. Can anyone blame the people of Nevada who doubt that the Department of Energy will be objective in studying the proposed Nevada dumpsite which the nuclear industry wants approved so badly?

Further, should this bill pass as presently written, the Federal Government will have squandered the billions of dollars that it has spent to corner the market for a valuable energy commodity for the next 10 years. Not only will it have squandered billions, it will force the Treasury to give up new moneys. Unilaterally giving up the monopoly on uranium enrichment could cost the taxpayers of this country another $30 billion.

This privatization initiative would do even more to deny the Government funds that rightfully belong to all Americans.

First, the bill forgives all but $364 million of an $8.8 billion debt owed to the Treasury by foreign and domestic nuclear utilities.

Second, the legislation authorizes the Department of Energy to provide financial assistance to some of America's most profitable companies to cleanup uranium mill tailings sites that have been allowed to fester as open sores on the landscape of the West since the early days of nuclear power.

Third, it transfers all assets of the uranium enrichment program to a new corporation but leaves the U.S. Government holding the bag for all of the liabilities incurred by that program. The wholly owned Government corporation that would be established would not be required to recover its costs as the law now requires the program under the Department of Energy. Among the liabilities left to the Treasury are the tremendously expensive costs of decommissioning and decontamination of the enrichment. Facilities—another nuclear cleanup, the brunt of which must be borne by the American taxpayer.

To my mind, this legislation is a totally inappropriate response to yet another example of gross mismanagement and ineptitude by the Department of Energy. If we are ever to achieve a balanced budget and not jeopardize the futures of our children, we must stop the kind of abuses contained in this bill. To give away or to forgive billions of dollars to already profitable companies and to foreign governments is a travesty.

Mr. President, I will vote against this boondoggle and I hope that a majority of my colleagues will join with me in putting the American taxpayer ahead of the mismanagement of the Department of Energy and the greed of the nuclear industry.

WELFARE REFORM—THE NEED TO ATTACK FAMILY DEPENDENCY

Mr. COCHRAN. Mr. President, this country's poorest families are now served by a welfare system in need of reform. It now seems clear to nearly everyone that current welfare policy tends to set up cycles of dependency among young mothers and children that deprive them of both self-esteem and a sense of responsibility.

There are 99 programs to assist low-income persons in various ways. They cost State and Federal taxpayers nearly $160 billion annually. More than 52 million Americans, nearly 20 percent of the population, receive benefits—a participation rate far larger than at any time in the past.

In constant dollars, welfare spending grew 625 percent between 1960 and 1985. About 20 million people use food stamps, and millions more participate in other feeding programs. More than 4 million receive direct Federal subsidies to pay their rent, and millions more live in public housing. More than 23 million Americans have free health care under Medicaid.

These programs have done much to reduce human need in America. Thanks to increased benefits under Social Security, Medicare, and supplemental security income to serve the elderly, blind, and disabled, the poverty rate for those over 65 dropped from 25 percent in 1968 to 12.6 percent in 1985. In 1986, median family income, adjusted for inflation, scored one of the biggest gains in 15 years.

Unfortunately, such gains have not reached mothers and children in female-headed households. Living at the bottom of the social scale, these people have remained in the grip of welfare dependency. Nearly 40 percent of all female-headed families lived in poverty in 1987; among black female-headed families, the poverty rate was 54 percent.

Today, roughly 20 percent of all American children live below the poverty line, including half of all black children and more than one-third of Hispanic children. This is a much higher rate than for adults or the elderly. America has thus become the first modern society in which poverty among children is greater than poverty among the aged. Something must be done about dependency among these poorest of Americans.

Where should we begin? At the outset, we should realize that it is not very useful to talk about the poor as a group: Different citizens are poor for different reasons. For some, such as the elderly and the disabled, the problem may be nothing more than a lack of money, and its remedy can be a straightforward transfer of cash. For others, the problem may result from the interlocking of such difficulties as teen pregnancy and addiction. For some, welfare may be a bridge from misfortune to the solid ground of self-reliance. For others, it can become a way of life.

The dependency of poverty has become largely a matter of women and children. Divorce, abandonment, and illegitimacy have made single motherhood the main avenue by which persons become dependent upon public assistance. About 3.8 million families consisting of almost 11 million persons—including 7.3 million children—receive about $15 billion annually in aid to families with dependent children [AFDC]. Three-fourths of all stays on AFDC began with the creation of a female-headed household, 45 percent because of absence, divorce, separation, or death of the male partner and 30 percent when an unmarried female had a baby and became head of a household.

This situation is of special concern in my State of Mississippi. One of every three Mississippians is a child. Nearly one-third of our children live in poverty. Nearly one-fifth live with only one parent. Our children are having children; we have one of the highest teen birth rates in the Nation. Teenage mothers lack education, skills, and life experience, and many are likely to neglect or to abuse their children.

The rising tide of poor households headed by single mothers has converted AFDC, a once obscure cash grant program established in 1935 primarily to help children of widows, into the Nation's fastest-growing and largest means-tested cash benefit program. While the program accounts for only about 10 percent of total Federal assistance to the poor, it has received the lion's share of attention, since AFDC recipients are about the only poor who have a chance to escape the cycle of dependency.

We have found in reviewing the situation of those who are considered to be in poverty that about 70 percent of those who become poor at a given time are no longer poor within 3 years. Of the population that is poor at any given time, however, more than half are in the midst of a spell of poverty likely to last at least a decade. One-third of these long-term poor are elderly with restricted chances of increasing their income. The other two-thirds live in households headed by women with children at home. Single mothers are likely to stay poor longer, while children born into poverty can expect one of the longest stays in the ranks of the poor.

More effort must be directed at these long-term poor who stay on welfare rolls for long periods of time. While simple income transfers were once deemed sufficient to meet the welfare problem, our goal today should be not merely to maintain those on welfare but to assist them in a transition, whenever possible, to self-sufficiency. Welfare recipients should be viewed as individuals with personal needs and civic responsibilities just like everyone else. Public assistance should be used to help those who cannot help themselves; those who can help themselves should be encouraged to do so.

This can be done if we in the Congress have the patient determination to enact in this session welfare reform legislation with all the necessary elements: encouragement of stable families, child support for unstable families, transitional benefits during the move from welfare dependency to self-sufficiency, and education and work programs for those leaving welfare.

STABLE FAMILIES

Where possible, we need to encourage families to stay together. The existing welfare system provides little or no incentive for mothers and fathers to form and maintain families. Indeed, welfare income often increases when parents break up or never marry. In approximately half the States, two-parent families are automatically ineligible for AFDC, regardless of how poor the families are. Since family stability should be one of our major goals, it would be wise for all States to provide this assistance to help intact families in hard times, rather than restricting public assistance only to families that have already collapsed. Congress should mandate welfare eligibility for two-parent families.

CHILD SUPPORT

Only a third of all single women with children and just a tenth of never-married mothers get any child support judgments. Of those who do, only half receive the full amount owed, a quarter get some but not all that is owed, and the remaining quarter get nothing at all.

A national effort to increase child support collections may prove to be one of the most promising approaches to reducing child poverty rates. Congress in 1984 enacted the child support amendments that required States to crack down on delinquent parents, including withholding money from wages or tax refunds. That legislative initiative needs to be strengthened.

Stringent enforcement of child support orders, including paternity determinations, is a policy that cuts across all ideological lines. No one quarrels with parental responsibility for children. Public assistance should be the last resort when support from parents is inadequate to meet children's needs.

TRANSITIONAL BENEFITS

Welfare clients need some assistance during the period of transition from welfare dependence to productive participation in the labor force. Under current law, persons leaving welfare to work often lose access to affordable medical care and food stamps, while entailing considerable costs for clothing, transportation, and child care. Any serious effort to enable recipients to participate in the labor force must include extended Medicaid benefits, affordable child-care services, and continued income supplements through the period of transition from welfare to work.

EDUCATION AND WORK

It has been said that the real measure of success in fighting poverty is "not to give someone a fish and feed him for a day but to teach him how to fish and he will feed himself for life." We must offer work as an alternative to welfare through governmental training and education programs whose primary aim is to move welfare recipients toward independence.

The basic idea of reform is to require persons on welfare to undergo training that will qualify them for jobs in private employment. Although Federal law has for more than 20 years required welfare mothers with children aged 6 and older to sign up for some kind of job-related training, many States have treated the requirement as little more than a formality. This situation must change.

CONCLUSION

Legislation to reform family welfare should be based upon the sound principle that there are reciprocal responsibilities between poor families and society at large. Government should pledge not only to help poor families by giving them things but to make the economic mainstream accessible to them. Welfare recipients, on the other hand, should accept an obligation either to work or to prepare themselves for the work force, and to take primary responsibility for support of their children. Just as society has an obligation to help its most needy citizens, those citizens who benefit from public assistance have an obligation to society.

Mr. President, I yield back the balance of my time.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

SUCCESSFUL DEMOCRATIC ELECTIONS IN EL SALVADOR

Mr. SYMMS. Mr. President, I want to take a moment this morning to make a few comments about what has happened in El Salvador and insert two Wall Street Journal articles in the RECORD immediately following my remarks. I ask unanimous consent that that be permitted.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. Mr. President, I want to congratulate the courageous people of El Salvador who went to the polls last weekend once more to confirm their country on a democratic path. I congratulate all Salvadorans who stood up to the threats from leftwing, pro-Sandinista terrorists who attempted to disrupt the elections through bombings, murders, and threats. The American people owe a great debt to all the freedom-loving people of Central America who are willing to risk death to preserve their liberties, be it at the ballot box in El Salvador or the battlefield in Nicaragua.

It is clear that the political spirit of Salvadorans is maturing. In 1982 they had their first democratic election in years. At that time their respect for the United States was so high that many Salvadorans voted for the Christian Democrats, a socialist party responsible for the nationalization of most of the country's farmlands, because the United States State Department made it appear that President Reagan backed the Christian Democrats. Nameless U.S. bureaucrats also engineered almost a million dollars in illegal and hidden campaign assistance for the Christian Democrats, which in my view was a sad event in the history of our foreign policy.

Since then, the socialist government of El Salvador has been rocked by scandal. Not surprisingly, much of the scandalous activity was promoted by our State Department, which often camouflaged political payoffs as development aid. When the inspector general of the Agency for International Development reported that U.S. laws had been broken in this scam, the State Department and the top echelon of AID complained, insisting that it was in the interests of the United States to promote democracy by rigging elections and silencing critics of the massive program of political payoffs and graft which became associated with American aid.

That system of institutionalized corruption almost destroyed the economy of El Salvador. However, the Salvadoran people have now spoken with independence and maturity. They are ready to give the pro-United States Republican National Alliance Party—whose Spanish acronym is ARENA—a chance to govern the country on a free-enterprise, anti-Communist platform.

I believe Napoleon Duarte, the current President of El Salvador, deserves our commendation and praise for allowing the election to take place even though his socialist party was voted out of office for the more pro-free enterprise pro-capitalist party, the ARENA Party. These elections took place peacefully. They did not have to change governments over the end of a smoking pistol. And I think that is a big improvement and both sides are to be congratulated. In fact on my last trip to Central America I had requested to see some of the ARENA Party leaders on the trip and the meeting took place at the house of Mr. Ray Prendez who was the leader of the Christian Democrats, to show you the kind of comity the two political parties have, although they have differing points of view. It would be more comparable to the way the Republicans and the Democrats may get along here. They may have a different point of view on certain philosophical issues but they were working together toward the common good of allowing their country to mature politically and to elect people to office that the people chose to have.

Since its founding 7 years ago, ARENA has been very brave in its defense of democracy in El Salvador, Mr. President, even when in the democratic opposition. ARENA members have often been the victims of the terrorist attacks which have become an unhappy ingredient of El Salvador's sad tradition of violence.

Nonetheless, the ARENA Party has renounced violence and has chosen the democratic path, and its patience and hard work have paid off. It would be foolish for this party to join in the violence that has rocked El Salvador, because El Salvador's future and that of all legitimate political parties lie in the direction of a stable political development free of interference by both the "land reformers" in the United States State Department and the terrorists directed from Sandinista Nicaragua.

El Salvador's Communist terrorists often try to provoke violence in that country so the so-called human rights advocates can start attacking the country's Government. Ironically, the Government is usually the target of the terrorism as well, but any attempt to defend itself, short of outright capitulation, is attacked as a human rights violation. Mr. President, I don't want to play the prophet, but I think we should be watching El Salvador for signs that the Communist terrorists, supplied and directed by their Sandinista comrades in Nicaragua, will be escalating their campaign of terror against all legitimate parties in El Salvador so the pro-Communist groups the world over can start their anti-Salvadoran human rights campaigns all over again. In the same spirit I urge all Salvadorans to continue on the path of political development, and not to answer one act of terrorism with another. Surely the Communists will often masquerade as rightwing death squads, but the true conservatives in that country would only harm themselves by joining in the violence.

It should be clear to all of us by now that the Communist Sandinistas will bear any burden, pay any price, to eradicate freedom throughout Latin America. The Salvadoran people have defied the Communist terrorists at the ballot box, and they have spoken with their votes. But the Nicaraguan people were never allowed a free election when their military government was overthrown by the Sandinista military victory in 1979. Thus the freedom-loving people of Nicaragua have no ballot box; they have only the battlefield; they can speak only with bullets, until the Sandinistas stop trying to inflict a military defeat on the freedom fighters, the last bastion of liberty in that country.

El Salvador has shown us how a democratic government can emerge and mature, once a military government leaves the scene. If the Nicaraguan people are allowed by the United States Congress to replace the Sandinista commandantes with a representative government, then a political solution is every bit as possible in Nicaragua as it was in El Salvador. It is a lesson which we cannot afford to ignore.

I think all Senators will join me in extending our heartiest congratulations to the people of El Salvador for this very important step in their democratic tradition.

I call the attention of my colleagues to the two articles that will be inserted in the RECORD: "Take Your Money and Go," from the Wall Street Journal editorial, March 23; and today's Wall Street Journal, "Meet the Winners in El Salvador," a very important article by Mario Rosenthal that points out how profreedom capitalists were elected by the people in El Salvador. The Salvadoran voters know that socialism only helps share the profits and does not help produce anything. They are voting for a profreedom government.

Mr. President, it is terribly ironic that the President's Commission on Privatization has just published its report, and on pages 209 through 217 it details the faults and errors of the U.S. efforts to create socialism and big government in other countries. I would like to ask unanimous consent that those pages be inserted in the RECORD at this point as well.

I thank the Chair, and I yield the floor

EXHIBIT 1

[From the Wall Street Journal, Mar. 23, 1988]

TAKE YOUR MONEY AND GO?

A funny thing happened in El Salvador's parliamentary and local elections this past weekend: The rightist Arena party won big, partly on promises of sending home U.S. foreign aid bureaucrats and military advisers. Arena gained control of the national assembly and most cities, including the nation's capital, San Salvador. A greatly weakened President Jose Napoleon Duarte remains in power, pending a presidential election next year.

Press reports are styling this as a defeat for both President Duarte and the United States, a curious linkage considering that it is U.S. policy to promote free and democratic elections throughout the world. Certainly this election was free and democratic. An estimated 70% of the voters turned out, braving once again the death threats of Marxist guerrillas who have been trying to undermine El Salvador for over a decade. The election is not a defeat for the U.S.—only for the internal policies the U.S. has designed and supported in El Salvador.

These policies have included land reform, which is to say nationalizing profitable farms and turning them into collectives. Also nationalizing banks and export firms to break up "oligarchies." And of course support of indigenous politicians, especially President Duarte, who advance these notions and thus win "liberal" credentials.

Since 1980, the U.S. has sent close to $3 billion to tiny El Salvador, which has some five million inhabitants. Some of the money helped the government fight the guerrillas and repair infrastructure damage they have inflicted. But a large chunk financed land seizures and "developmental aid." U.S. economic advisers have been more intent on income redistribution than income creation, a curious circumstance considering the extent to which supply-side economic policies originated in the U.S. have been enthusiastically embraced by governments around the world free of any influence from the U.S. foreign aid bureaucracy.

The end result has been to impoverish the people of El Salvador and bloat the government bureaucracy. Since 1980, per capita income has declined 38%. As private, competitive options have been replaced by government monopolies, corruption and party patronage have increased accordingly.

The Carter administration started these policies on the rationale, translated into the simplest terms, that the U.S. should give the Salvadorans socialism before the Marxists did it. The Reagan administration found itself in no position to reverse the Carter policies. It never really took over the foreign aid bureaucracy, which depends for its livelihood on large projects of the type the U.S. had launched in El Salvador. And of course, congressional Democrats insisted that if anyone except President Duarte ran the country, they would defund the war effort as they have just defunded the Contras, turning the whole place over to the Communists.

There never was any evidence that the Salvadoran people were thirsting for socialism, though of course they weren't happy with coups and counter-coups. The U.S. would have been more constructive if it had simply guaranteed them genuine democracy so they could decide for themselves how much land reform and socialism they wanted. By the time they were given a real vote, socialism was a fait accompli.

So last weekend the Salvadoran voters decided to throw the rascals out, Americans included. Arena has specifically proposed to send home U.S. military advisers and press the government's anti-insurgency efforts more vigorously. It is not yet clear how much power it will have to implement such a policy with the presidency still in the hands of Mr. Duarte. Nor is it yet clear what Arena might attempt by way of revitalizing the Salvadoran economy.

But one thing is clear. Whatever role the U.S. might have played in preventing a Marxist takeover in 1980, it has been on the wrong track since then. El Salvador has been a laboratory for testing old-fashioned aid policies with a vengeance and they have failed with a vengeance. They have worked exactly counter to the force that drives economic progress, the creative energy and ambitions of individuals.

Arena Party President Alfredo Cristiani, a businessman and Georgetown graduate, had this to say to our David Asman early this year: "It's bad enough that we had to be guinea pigs in a U.S. social experiment. But at least it could have been a free market experiment instead of a socialist one." Now that El Salvador's voters have echoed that grievance, perhaps the U.S. should take it seriously.

[From the Wall Street Journal, Mar. 25, 1988]

MEET THE WINNERS IN EL SALVADOR

(By Mario Rosenthal)

SAN SALVADOR.—The people of El Salvador repudiated the government of Napoleon Duarte Sunday, giving the conservative Arena Party a landslide victory in elections for deputies to the Legislative Assembly and municipal officers. They did it the hard way, braving a threat by Communist subversives to machine-gun anything that moved on the streets or roads on election day and the two days previous. Public transportation was paralyzed, but the people walked or rode in trucks provided by the government to cast their votes. On three previous occasions, brave Salvadoran voters stood up to similar threats not to vote, even under gunfire.

Despite the huge victory of the opposition, and the lengths to which Salvadoran voters went in order to cast their ballots, the U.S. press has shown virtually no interest in interviewing Arena members to find out how they might change the country. With few exceptions, reporters featured in-depth interviews with losing Christian Democrats and their supporters, but none with winning Arena officials, justifying their arrogance with sidebar allegations linking some Arena members with death squads. While U.S. editors may enjoy such stories, they were too stale and overworked and had no effect whatsoever on the Salvadoran electorate.

Thankfully, the Christian Democrats themselves did not display such arrogance. One of the great surprises of the election was that the Christian Democrats did not attempt to win fraudulently. And in an unusually cordial gesture, both President Duarte and his son Alejandro—who ran for mayor of San Salvador after the Duarte-dominated Legislature Assembly revoked an anti-nepotism law—conceded defeat on national television the very night of the election.

The second greatest surprise was that the ruling party received so little direct support from the U.S. Embassy. About all the embassy did this time was to withhold information on misuse of U.S. aid funds by Christian Democrat administrators. In the past, U.S. Ambassador Edwin Corr and his aides have operated as President Duarte's main public-relations crew, producing optimistic reports that made things look much better than they really were. But to the people of El Salvador, with empty stomachs, it was time for a change.

In addition to a majority of the municipalities throughout the country, Arena won 35 out of 60 seats in the Legislative Assembly. This is sufficient to pass regular bills, but not enough to override a presidential veto. Arena members fear President Duarte may use his veto power to counter laws designed by Arena to liberalize the current state-controlled economy.

In an interview conducted shortly after the results came in, Alfredo Cristiani, Arena president and Legislative Assembly victor, pointed out that working through the Assembly has limitations. First there is the risk of the presidential veto. Second, and even knottier, is the complete control the president has of the monetary system and the Central Reserve Bank. This power was secured through a series of decrees and regulations imposed by the Christian Democrats. This means that Arena will have little influence on credits, which today flow largely to government bureaucrats, the agrarian reform program and cooperative enterprises, to the detriment of the private sector.

Mr. Cristiani said that Arena had no intention nor desire to reverse the agrarian reform, though his party considers it a total failure. "The collectivist structure of the agrarian reform is at the root of its failure," said Mr. Cristiani. "The campesinos are not motivated because they don't own their land, nor do they control the sale of what they produce. We plan to return those lands to private ownership, but to the campesinos themselves. When they feel secure as owners of their lands and crops—and not insecure as members of a cooperative from which they can be expelled for any reason, including personal vendettas—their production will multiply. At the present time it has fallen to less than one-half of its pre-reform levels." El Salvador, once self-sufficient in its basic staples of rice, beans, corn, sorghum and edible oils, must now import all these items to avert famine.

Mr. Cristiani said that the state monopoly on the internal and external commercialization of coffee and the mismanagement of the crop by the government must be completely revoked. "The planters must be paid market prices and not prices plucked from the air by opportunistic politicians. As a matter of fact, the producers should be paid, period." The state coffee monopoly withholds payment for extensive periods, but charges interest and threatens to take over properties with unpaid crop loans and mortgages. "Healthy competition between the government bureau and private brokers would motivate planters now about ready to give up," he said.

Although Arena sees the need to privatize the banking system to a certain extent, Mr. Cristiani said that this is very difficult because the monetary system is entirely in the hands of President Duarte.

The low-intensity war strategy, openly endorsed by the U.S. Embassy as the answer to the eight-year-old armed insurgency, may be good geopolitical strategy for the U.S. but is disastrous for the Salvadorans who are killed and wounded as a result. Arena will propose that a committee be created to formulate a National Peace Proposal, based on a national consensus and seeking a political solution. "But this proposal should not violate the constitution nor destroy the democratic system," said Mr. Cristiani.

The possibility of an early end to the conflict, as against the interminable "low intensity strategy," would build confidence among all groups in the country, from the campesino to the investor. But investments will not begin to flow freely until the armed conflict is ended. The laws covering investment and export incentives must be revised, he said. They are poorly written and contain contradictions that preclude any progress in those areas.

"The failure or success of our work in the Legislative Assembly depends largely on the Duarte government. After our victory was clear President Duarte telephoned to congratulate us. We told him that it was not our intention to systematically oppose him in the legislature and that we hoped he would not systematically oppose our initiatives by the use of his veto power, and his control of all government operations. He agreed to talk with us to see what we could do together to solve the present crisis. I hope he was sincere," Mr. Cristiani said.

Mr. Cristiani also praised the neutrality of the U.S. Embassy in Sunday's elections. "I hope that this is the way it will be from now on," he said. "The U.S. should back the government and not any specific personality or party."

The most significant result of the election is that the people of El Salvador rejected Mr. Duarte's collectivist economic policies. "The people of El Salvador want a free, market-oriented economy, where private enterprise and private property are respected," Mr. Cristiani said. "Besides, how can there be political freedom where there is no economic freedom?"

INTERNATIONAL DEVELOPMENT PROGRAMS

State-owned enterprises have played a dominant role in the economies of most developing countries during the past three decades. In these countries, the number of public enterprises has mushroomed, as has their portion of production and service activities. In Mexico, for example, there were 150 state-owned enterprises at the beginning of the 1960s; in 1986 there were at least 400.[18] However, this situation is changing.

Privatization in many developing countries is now viewed as a way to raise cash for reducing government debt, to curb public spending, to increase output, to improve the quality of goods and services, or to broaden the base of ownership and participation in the economy. In short, many less developed countries now consider private entrepreneurs and market economies, rather than centralized planning and state-owned enterprises, as the most appropriate mechanisms for encouraging economic growth and improving the standard of living.

As of 1986, in many less developed countries, state-owned enterprises accounted for 10 to 20 percent of gross national product (GNP). They often dominate the service, industrial, and agricultural sectors of the economy and are the major recipients of capital investment. State-owned enterprises are responsible for between 20 to 60 percent of total investment spending in developing nations.[19] This trend cuts across all ideologies and economic systems.

The growth of the state-owned sector in the former colonial nations of Africa, Asia, and Latin America that began around 1960 can be attributed to a number of factors. The leaders of the newly independent nations often inherited state domination of the economy. Socialist ideas encouraged leaders to perceive state ownership as the most effective way to achieve economic independence from "neocolonialism." In some instances, government came into ownership when private sector firms, seen as important to development, failed because of mismanagement, a lack of capital, or insufficient technical skills. Finally, political exigencies required governments in developing nations to find employment for their supporters and the growing populations of their urban centers.[20] By the early 1980s, many of these governments were living with the failures of centrally planned economies, and they began to explore alternative methods of development by relying on the private sector.

THE PROBLEM DEFINED

After World War II, United States foreign assistance to developing nations were directed to governments that frequently channeled it into various state-owned enterprises. Both donor and host governments believed that the public sector could best provide the resources necessary to plan and implement many critical development activities, such as providing transportation, water, and health services; marketing crops; and even producing basic consumer goods.

The billions of dollars channeled through state-owned enterprises for development projects often had limited results. In many cases, the capital was ill-managed and the state-owned enterprise proved unable to perform its intended tasks effectively. As a result, these state corporations came to rely on government subsidies, and drained resources rather than spurred development.

The subsidization of unprofitable state-owned enterprises placed a staggering burden on many developing nations. In Niger, for example, the cumulative deficit of 23 state-owned enterprises exceeded 4 percent of Niger's gross domestic product for a single year.[21] In many other countries the figures are even higher: 10 percent for Zimbabwe and 11 percent for Sri Lanka.[22] According to the World Bank, large state-owned enterprises owe at least 60 percent of the external debt of Latin American countries.[23]

While accumulating these debts, state-owned enterprises in less developed countries have filed to meet popular expectations in the production and delivery of goods and services. Manufactured goods are often poorly produced and in short supply. Services are irregular, and, in many instances the state agency responsible can barely function. Throughout the Third World, state-owned enterprises have failed to provide badly needed services such as health care, trash removal, or road maintenance services. In particular, state corporations—known as national marketing boards—often are the sole legal buyers and marketers of agricultural products. Their policies have distorted prices and resulted in decreased production of necessary food and export crops.[24]

The experience of over two decades of financially draining, inefficient, and politically, rather than economically, responsive state-owned enterprises encourage the leaders of many less developed countries to consider privatization as a means to stimulate economic development.[25] In Bangladesh, more than 400 public sector assets have been divested, including newspapers, a fishing fleet, chemical and food-processing plants, and 8 percent of the government-owned steel and engineering corporations.[26] In Senegal, the Government's large-scale agricultural enterprise ONCAD was liquidated, and discussions exploring the possibility of privatizing some of the government-owned banks are under way.[27] In Costa Rica, dozens of state industrial, agricultural, and service enterprises held by the state holding company CODESA have been, or are, in the process of sale or liquidation.[28]

Footnotes at end of article.

Although there is growing consensus among experts regarding the need for more reliance on the private sector and individual initiative to fuel economic growth in the less developed countries, some analysts still believe state-owned enterprises are necessary in these countries.[29] Expertise and resources required to provide essential services may not be available from the private sectors of some less developed countries. State-owned enterprises also service the more remote areas of the country, which private firms might neglect because they appear unprofitable. Moreover, state-owned enterprises provide the sole source of employment for many sectors of the population. Finally, some experts believe that the privatization of certain basic industries and services will result in the escalation of prices of essential goods to levels beyond the means of the poor.

AID POLICY AND APPROACH

In recent years, the Agency for International Development (AID) has changed its approach to promote development through free-market institutions and private enterprise. Its Private Enterprise Initiative [30] emphasizes not only direct assistance to private business ventures but also the use of the private sector (including profit-making private enterprises and nonprofit private voluntary organizations) to deliver traditional assistance programs in areas such as health care.

A major component of the initiative involves supporting the transfer of state-owned enterprises in less developed countries to the private sector. In 1986, each AID Mission was directed to engage in privatization activities or projects with its host government. Approximately 70 major activities are now under way worldwide, and about a dozen have been completed successfully.

To encourage overseas missions to make privatization an important aspect of their work, specific policies have been instituted. Agency guidelines now stipulate that "AID assistance to or through a parastatal (state-owned enterprise) should be given in the context of exposing the parastatal to market forces and scheduled divestiture of the government interest." [13] In short, government-owned enterprises should be moving toward market-based operations and divestiture to qualify for AID assistance. Thus, the use of AID funds should be accompanied by clearly articulated divestiture planning. They should not be used solely to improve the ability of state-owned corporations to respond to market forces.

AID has several resources to help host governments implement their privatization programs. These include technical experts to help plan strategies, evaluate financial records, prepare legal documents for change of ownership, and locate suitable buyers. If the government is incapable of discharging the state-owned company's debt or labor obligations before divestiture, the local AID Mission may be requested to provide small loans or grants.[32]

As more governments in the Third World have viewed public sector activities as "targets of opportunity" for privatization, AID Missions have assisted in the divestiture of industrial firms, agricultural enterprises, and public services. For instance, in Jamaica, AID recently assisted in the privatization of the National Commercial Bank. In Guatemala, AID is working with the government to open the air routes to private carriers. Previously, AID activities included the promotion of retail fertilizer distribution by the private sector in Bangladesh and the sale of government-owned banana plantations to private growers in Belize.[33] These efforts have strengthened the economies of these countries.

The Commission recommends:

RECOMMENDATION (3)

The Agency for International Development should increase its support of privatization in developing countries by directing its funds to the private sector. It should facilitate, where possible, the privatization of those state-owned enterprises that are recipients of U.S. foreign assistance.

EMPLOYMENT AND OWNERSHIP CONCERNS

A number of critical concerns are associated with the privatization of state-owned enterprises in developing nations. Besides broad issues of economics, privatization raises issues of the financial strategies best suited to accomplish particular objectives, the legal foundations necessary to provide adequate support for privatization, tax structure, and politics.

In some ways, the political issues are the most important. Experts agree that the most significant barriers to privatization that government decisionmakers in less developed countries must overcome are political rather than financial.[34] The government may be fully aware of the financial drain of subsidies to state-owned enterprises, but it may also refuse to reduce or eliminate them because of the political risks involved.

Whenever the government explores the steps necessary to privatize, it will probably face opposition from the following groups:

Political parties and opposition groups with conflicting partisan or ideological goals;

Segments of the private sector that share in any special concessions made to public sector firms through allocation of foreign exchange, tax rates, or preferred markets;

Ministry officials who benefit from positions on the boards of state-owned enterprises and managers who run the companies and do not believe that a change in management will improve operations; and

Labor unions that may foresee a loss of jobs, a reduction of union strength, and a possible weakening of government responsibility for pension and job security rights.

A successful privatization program must overcome strong resistance from people who perceive it as a direct threat to their livelihood. Because many sectors of the population in Third World countries are employed in state enterprises, the potential for widespread public opposition exists.

In less developed countries, state-owned enterprises are often used as a means to disguise unemployment problems. Although some developing countries deal with unemployment through a compensation system or through a military draft, many leaders seem to view state enterprises as a place to absorb unemployed workers.[35] As a result, many agency or department heads see their task as providing employment rather than developing and delivering goods and services.

Observers agree that by using state-owned enterprises as a welfare mechanism, many workers are underemployed, resulting in a misdirection of their talents and skills. Although state-owned enterprises do provide nominal jobs, in the long run, they divert people from full development of their talents and skills. Long-term employment prospects will be improved as more efficient private enterprises create new market opportunities.

Another critical concern associated with the sale of state-owned enterprises in the developing world involves the purchasers. Governments attempting to transfer state-owned enterprises to the private sector must, on occasion, create legal and financial mechanisms to do so. They must identify potential buyers, decide upon the form of transfer and develop public support, sometimes for an innovative program such as an employee stock ownership plan or a debt-equity swap.

In many countries, some investors are politically unacceptable, either to the government or to the general population. Not only are foreign investors suspect, but local ethnic minorities are sometimes excluded from the purchase of domestic firms. For example, Indians in certain African countries or the Chinese in various Southeast Asian nations are prohibited from ownership. In many nations, sale of state enterprises to close friends or relatives of the country's leadership is highly resented. In this case, privatization could mean the replacement of a government monopoly with a private one.

Divestiture of state-owned enterprises through broad equity ownership—as in the form of public stock offerings or employee ownership plans—is one means of creating popular support for the sale of state corporations to the private sector while minimizing public criticism and worker resistance. Moreover, such ownership offers unique opportunities to strengthen individual economic freedoms in developing nations.

In Jamaica, for instance, the government recently sold 51 percent of its holdings in the National Commercial Bank through the sale of over 30 million shares of bank stock. Apart from the nearly 2,000 bank employees who invested (98 percent of bank employees), 15,000 applications from the general public were for under 300 shares, and 7,000 applications were for 300 to 1,000 shares.[36] This broadly based ownership of privatized state-owned enterprises not only involved the "redistribution of wealth," it also served to create a constituency for future privatization activities.

Plans whereby corporate equity is transferred to employees via a trust established by the corporation have been viewed as a means to democratize privatization in less developed nations.[37] At the La Perla coffee and spice plantation project in Guatemala, for exmaple, the owners transferred 40 percent of the plantation's stock to an employee association, to be paid from the future earnings of the plantation plus employee and employer contributions averaging 3 percent of pay.[38] Funds generated through this type of plan enable workers to purchase the state-owned enterprise and participate in management and policy decisions.

Conversion to employee ownership requires careful planning and promotion. In many cases, it is far from certain that the workers could be persuaded to trade current cash payments for shares in a company whose future is uncertain. In addition, unions might object if their position could be weakened under such an ownership plan. Moreover, if the firm fails and liquidation of the enterprise is necessary, the workers (who under an employee ownership plan assume most of the risk) will lose the employment and benefits that are now secured through the government.

The Commission recommends:

RECOMMENDATION (4)

Employee stock ownership plans should be promoted by the Agency for International Development as a method of transferring state-owned enterprises to the private sector in developing countries.

INTERNATIONAL FINANCIAL ISSUES

Financing the sale of state-owned enterprises is a key privatization issue in developing nations. Depending on the size of the enterprise being sold, possible sources of financing include local entrepreneurs, domestic lending institutions, multinational corporations, international lending agencies, and foreign governments.

The privatization of small state enterprises usually can be financed in less developed countries through local capital sources—especially if an organized market exists. Private sector buyers may be able to pay the full cost from their own resources or with assistance from domestic lending institutions.

Loans for the purchase of relatively large state-owned enterprises in less developed countries are likely to be more difficult to secure. Local commercial banks are frequently more interested in short-term loans with greater security than a recently privatized state enterprise usually provides. In the case of large business loans, commerical bankers will often require full collateral or government guarantee. Governments are reluctant to guarantee these loans because, if the firm defaults, the government may find itself the unwilling participant in a "reverse privatization."

Because of the potential difficulties in arranging finances to transfer state-owned enterprises to private entrepreneurs, many governments in developing countries have turned to international or regional lending organizations and agencies. International financial institutions such as the World Bank, however, have displayed ambivalent attitudes toward privatization in these countries. Multilateral lending agencies and organizations often have rules and regulations that can stifle private sector investment. In addition, they have hesitated to depart from the traditional practice of lending to the public sector, because of a continuing belief—or hope—that state-owned enterprises might be made more efficient with additional funds.

Bilateral donors and multilateral or regional banks have, on some occasions, worked at cross purposes, with one donor attempting to assist privatization of a state-owned enterprise, while another funds the enterprise to keep it in the public sector. Some international banks, however, are experimenting with private sector alternatives and directing their staffs to explore further opportunities to encourage the privatization of state-owned enterprises in less developed countries.

The Commission recommends:

RECOMMENDATION (5)

The Agency for International Development should continue to encourage multilateral financial institutions and regional banks to act more decisively in private sector lending, privatization, and divestiture in less developed countries.

Foreign investors could provide a majority of the capital needed for privatization. In return, they could retain a share in the ownership of the new firm or a percentage of its profits. A key issue for governments in less developed countries which wish to attract private foreign investors and companies is how to accomplish this task, especially when many of these governments are in the midst of a major debt crisis.

When a government is interested in transferring a state-owned enterprise to the private sector and is prepared to seek foreign investors, debt-equity swaps, in particular, may provide inducements to foreign businesses and corporations that might not otherwise be interested in financing new private sector enterprises.

In debt-equity swaps, foreign or local investors purchase international commercial bank debts at a discount, convert the debt to local currency, and buy all or part of the equity in the enterprise. When the transaction is completed, the country's external debt is reduced, the investor has acquired a company at a discounted price, and a government agency has successfully shifted one of its holdings to the private sector.

Debt swapping has been accomplished mainly in Latin America, especially in Chile. Since introduced in 1985, swaps have totaled almost 10 percent of Chile's debt to foreign commercial banks and have played an important role in financing the privatization of state-owned enterprises.[39]

Not all indebted developing countries may choose to participate in debt-equity swaps, however. Some of the countries see no great advantage in debt-equity swaps, as it is possible to reschedule debt as long as interest payments can be met. Furthermore, there is the hope that the debt may be cancelled altogether by the lending institutions, who have grown frustrated over the years in their attempt to collect these outstanding debts.

Even for those countries interested in pursuing debt-equity swaps, there can be difficulties. Debt-equity swaps may promote inflation within the country if the government prints new money to meet the local currency needs resulting from the swaps. If large multinational corporations, in particular, purchase the debt, the government might face charges of selling indigenous firms to foreign interests. Moreover, privatizing state-owned enterprises in the Third World can be difficult enough without the complications of debt-equity swaps.

Nevertheless, debt-equity swaps can be an important means of financing the privatization of state-owned enterprises in developing countries. At the same time, these swaps can help both to reduce the debt pressures on developing nations and to stimulate the flow of capital from developed nations to indebted countries.

The Commission recommends:

RECOMMENDATION (6)

The Agency for International Development should support debt-equity swaps as one means of financing privatization activities unless developed countries and solving the problem of Third World debt.

SUMMARY

Privatization should be a well-integrated part of the U.S. foreign assistance program. Many developing countries are voluntarily taking steps to expand private ownership in their economies. The United States, through the Agency for International Development, can encourage these efforts and pave the way for an infusion of innovative ideas from the private sector to enhance these nations' progress. The effectiveness of the U.S. foreign assistance will improve as private sector initiatives become an integrated aspect of these programs.

FOOTNOTES

[18] Elliot Berg, "The Role of Divestiture in Economic Growth," in Steve Hanke ed., Privatization and Development (San Francisco: Institute for Contemporary Studies, 1987), p. 24.

[19] Berg, "The Role of Divestiture in Economic Growth."

[20] L. Gray Cowan, "Privatization: A Technical Assessment," unpublished manuscript, Bureau for Program and Policy Coordination, U.S. Agency for International Development, September 1987.

[21] George B.N. Ayittey, "A Blueprint for African Economic Reform," Journal of Economic Growth, vol. 2, no. 3, (1987), p. 9. See also John R. Nellis, Public Enterprises in Sub-Saharan Africa (World Bank Discussion Papers, November 1986).

[22] From *The World Bank's World Development Report, 1983,* cited in Cowan, "Privatization," p. 3.

[23] From *1986 Inter-American Development Bank Annual Report,* cited in *SWAPS: The Nesletter of New Financial Instruments* (Washington, DC: Intrados Group, January 1988), p. 3.

[24] Cowan, pp. 70–73.

[25] James Brooke, "In Africa, A Rush To Privatize," *New York Times,* July 30, 1987. See also Donald May, "Third World Warms Up to the Private Sector," *Washington Times,* February 28, 1987.

[26] L. Gray Cowan, "A Global Overview of Privationzation," in Hanke, ed., *Privatization and Development,* p. 12.

[27] Testimony of Richard E. Bissell, Bureau for Program and Policy Coordination, U.S. Agency for International Development, submitted to the President's Commission on Privatization, Hearings on Agency for International Development (hereafter cited as Hearings on AID), January 8, 1988.

[28] Ibid. See also Elliot Berg and Mary Shirley, *Divestiture in Developing Countries* (World Bank Discussion Papers, June 1987).

[29] Frances Moore Lappe, et al., eds., *Betraying the National Interst* (New York: Grove Press, 1987), pp. 119–23.

[30] Bissell testimony. See also *Economic Growth and the Third World: A Report on the A.I.D. Private Enterprise Initiative* (Washington, DC: Bureau for Private Enterprise, U.S. Agency for International Development, April 1987); Neal Zank, "A.I.D.'s Private Enterprise Initiative," *The World and I* (January 1988), p. 42.

[31] U.S. Agency for International Development, *A.I.D. Policy Determination-14, Implementing A.I.D. Privatization Objectives,* June 16, 1986, p. 2.

[32] Ibid., pp. 10–11.

[33] Bissell testimony.

[34] Testimony of Gordon Johnson, Center for Privatization, hearings on AID, January 8, 1988.

[35] Ibid. See also Hay Group, Inc., *Privatization and Employment Policy: Issue Analysis* (Washington, DC: Bureau for Program and Policy Coordination, U.S. Agency for International Development, June 1987).

[36] Bissell testimony. See also Roger Leeds, "Privatization of the National Commercial Bank of Jamaica: A Case Study" (Cambridge, MA: John F. Kennedy School of Governmet, Harvard University, September 1987).

[37] *High Road to Economic Justice: U.S. Encouraragement of Employee Stock Owership Plans in Central America and the Caribbean* (Washington, DC: Presidential task Force on Project Economic Justice, October 1986). See also testimony of Stuart Butler, heritage Foundation, Hearings on AID, January, 28, 1988.

[38] *SWAPS: The Newsletter of New Financial Instruments,* p. 5.

[39] Steve Hanke, "the Anatomy of a Successful Debt Swap," in Hanke, ed., *Privatization and Development,* p. 164.

TRANSITION TO DEMOCRACY IN PANAMA

The PRESIDING OFFICER. Under the previous order the hour of 10:15 a.m. having arrived the Senate will now proceed to the consideration of Senate Concurrent Resolution 108 which the clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 108) urging measures to hasten the transition to democracy in Panama.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The time for debate on this resolution is limited to 45 minutes. The time is to be equally divided and controlled by the Senator from Rhode Island, Mr. Pell, and the Senator from North Carolina, Mr. Helms, or their designees.

The Senator from Rhode Island.

Mr. PELL. Mr. President, I enthusiastically support this resolution on Panama, and the distinguished Senator from Massachusetts, Mr. Kennedy, deserves great credit for bringing it to us on the floor. We passed a similar resolution in our committee some weeks ago. But this resolution incorporates some of its elements and is more current.

It is a clear statement in support of democracy in that country whose people are locked in a struggle to free themselves from the hold of General Noriega and to establish civilian supremacy over the military. The diverse sectors of Panamanian life, including the various political opposition groups, are united in support for President Delvalle so that normalcy can be restored in the short term and measures can be taken to institutionalize the democratic system.

This resolution recognizes that the situation in Panama represents a danger to our national and foreign policy interests and expresses the sense of the Senate that the United States should impose additional pressure on the Noriega controlled government. A strong vote in favor of this resolution will send a clear message to all the people of Panama that the United States Senate supports them in their struggle for democracy.

I yield to the Senator from Massachusetts for as much time as he cares to take.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank the chairman of the Foreign Relations Committee for his support of this resolution and his leadership in this whole area of Central America.

One month ago, the people of Panama were given help from an unexpected quarter in the struggle to restore genuine democracy to their country. On Thursday, February 25, 1988, President Eric Arturo Delvalle issued an order dismissing Gen. Manuel Antonio Noriega from his position as the commander of the Panamanian Defense Forces.

That courageous decision—a lawful exercise of the constitutional powers of the President of Panama—has given new hope to all Panamanians. Even though General Noriega has defied President Delvalle's order. Even though the guns and clubs of the military dictatorship still keep that country in chains, the hope of freedom burns brighter than ever in Panama today.

It is now time for the Senate to add its voice again to the worldwide expressions of support for democracy in Panama.

Last month, at the beginning of the confrontation between President Delvalle and General Noriega, we offered a resolution declaring the Senate's support for President Delvalle and calling for measures to assist the people of Panama in their struggle to restore genuine democracy to their country. That resolution received unanimous support from the members of the Senate Foreign Relations Committee, but the Senate went into recess before it could act.

I ask unanimous consent that the text of that resolution be reprinted at this point in the Record.

There being no objection, the text of the resolution was ordered to be printed in the Record, as follows:

S.J. Res. 267

Whereas on February 25, 1988, President Eric Arturo Delvalle of Panama announced the dismissal of General Manuel Antonio Noriega, the commander of the Panamanian Defense Forces (PDF);

Whereas President Delvalle is the duly constituted head of the Government of Panama and has the authority to dismiss General Noriega under the terms of the Constitution of Panama;

Whereas the Panamanian people enthusiastically support the order dismissing Noriega;

Whereas General Noriega has not yet obeyed President Delvalle's lawful order and gives every indication that he will defy that order;

Whereas the Government of the United States agrees with the President of Panama and the Panamanian people that a necessary first step toward the restoration of democracy is the departure of General Noriega as commander of the Panamanian Defense Forces: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, It is the sense of the Senate, That—

(1) President Delvalle has the full support of the American people in his effort to assert civilian control over the Government of Panama and to restore democracy to the people of Panama;

(2) President Delvalle should receive the full moral, policitcal and diplomatic support of the Government of the United States in his effort to assert civilian authority over the Government of Panama;

(3) In the event General Noriega continues to defy President Delvalle's lawful order to step down as commander of the Panamanian Defense Forces, the Government of the United States should support President Delvalle in the Organization of American States and in the United Nations;

(4) the Government of the United States should formally terminate any and all contacts with General Noriega, since General Noriega is no longer the lawful commander of the Panama Defense Forces;

(5) the Government of the United States should work with other nations of the region to mobilize support for President Devalle and the duly constituted Government of Panama;

(6) That, the situation in Panama constitutes an unusual and extraordinary threat to the national security, foreign policy and economy of the United States, and therefore, the Government of the United States should consider further measures to support democracy, including economic sanctions, in the event General Noriega continues to defy President Delvalle's lawful order;

(7) the Government of the United States should make clear the commitment of the American people to support the people of Panama—politically and economically—in their effort to restore civilian rule and genuine democracy to Panama, and to that end, should put together a package of economic aid and financial assistance for Panama in the event progress toward genuine democracy is achieved, and

(8) The President of the United States should immediately study the impact on the energy supplies and national security of the United States and the economy of Panama of a possible shutdown of the trans-Panama pipeline.

At the request of Mr. Pell, the Senator from North Carolina [Mr. Sanford], the Senator from Washington [Mr. Evans], the Senator from Washington [Mr. Adams], the Senator from Indiana [Mr. Lugar], the Senator from Virginia [Mr. Trible], the Senator from Kentucky [Mr. McConnell], the Senator from Alaska [Mr. Murkowski], and the Senator from Maryland [Mr. Sarbanes] were added as cosponsors to S.J. Res. 267, a bill in support of democracy in Panama.

Original sponsors of the resolution are Senators Pell, Kennedy, Durenberger, Kerry, Graham, D'Amato, Cranston, and Dodd.

Mr. KENNEDY. Mr. President, today, along with Senators Durenberger, Kerry, D'Amato, Graham, Helms, Pell, Lugar, Dodd, Cranston, Boschwitz, and Kasten, I am offering a further resolution, which reflects the events of recent weeks, which reiterates the Senate's support for democracy in Panama, and which urges the United States to take additional measures to assist the people of Panama in their historic struggle.

I urge the Senate to give this resolution its resounding and overwhelming support.

As we conduct our deliberations today, we should be mindful that we have many audiences. To each of these various audiences, we should send a clear message.

To the people of Panama, we say, the American people are with you. We know the sacrifices that you are making for your freedom.

We know that the future of democracy in your country hangs in the balance. We support your aspirations, and we will follow your lead. We do not seek to compel you—or to decide for you—or in any way to violate your sovereignty as a nation. What we have done so far, we have done only in response to the request of your lawful president.

Nor do we seek to suspend or abrogate the Canal Treaties to which our country has given its solemn commitment. Those treaties are the law of your land and of our land too.

And finally, we say to you one more thing; once General Noriega has departed, the American people will help to rebuild your economy. Today, you are conducting a general strike that is 96 percent effective; today your economy has been paralyzed; and your financial system has been closed down. Tomorrow, when you have regained control of your country, we want to work with you. That will be the moment of challenge for all Americans. That will be the time that the United States will be called upon to match its words with deeds—by providing emergency financial support to allow Panama's banking system to reopen, and by providing long-term bilateral and multilateral assistance to aid in the reform, revival, and development of Panama's economy.

To the officers and members of the Panamanian Defense Forces, we say that the American people do not seek the destruction of your institution. We recognize the important role that a professional military must play in preserving the freedom of a democratic society.

The future of the PDF will only be in jeopardy if you continue to use your power to repress your people. We urge you to renounce the appeals to tyranny. Reject the path of dictatorship. Open up your country and let the light of freedom and democracy come in—once and for all time—for the nation and for the people of Panama.

To the leaders of the political parties in Panama, we say: Carry your coalition forward. Keep the cause united—now and until 1989. Do not use this crisis to advance personal ambitions or partisan aims. Once the shackles of dictatorship are lifted, the temptation will be to revert to the bickering that has fragmented Panamanian politics for years. But the stakes are too high, and your newly won freedom is too fragile to allow for a return to "politics as usual."

Support President Delvalle in his efforts to establish a transition government of national reconciliation and reconstruction—at least until elections can occur in 1989 as required under the constitution.

I ask unanimous consent to have printed at this point in the RECORD the historic statement of unity and support for President Delvalle issued by the Panamanian political parties and the National Civic Crusade on March 6, 1988.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY PANAMANIAN POLITICAL PARTIES AND THE NATIONAL CIVIC CRUSADE

The undersigned representatives of political parties of Panama, the National Civic Crusade and other democratic opposition forces, reflecting united commitment of the people of Panama, declare that, notwithstanding charges of interferences in the electoral process of May, 1984, and in the constitutional processes of the Republic, they support the decision of the current occupant of the office of President—Eric Arturo Delvalle—with the clear approval of the people of Panama, to replace the Chief of Panama's Defense Forces and subsequent measures he has taken to restore civilian constitutional order to our country.

The undersigned understand that by these decisions Eric Arturo Delvalle has committed himself to changes towards legitimate Democracy proposed by the National Civic Crusade and opposition democratic parties. Our principal objective must now be to establish jointly a Government of national reconciliation capable of providing justice, due process of law, liberty, reconstruction of democratic institutions, fiscal order and economic development, which are fundamental to authentic Democracy and to the conduct of free, open and honest elections.

We reiterate our unqualified unity of purpose and our irreversible decision to support the democratic objectives which we have proclaimed.

An essential task of the Government of national reconciliation must be to insure that the commitments undertaken by the United States in the Torrijos-Carter Treaties, and consistently reaffirmed by the Government of the United States, are fully carried out in the spirit of mutual cooperation and understanding stipulated in those treaties.

This Government of national reconciliation will include representatives of the political parties and other forces dedicated to the reestablishment of democratic order in Panama and will seek an understanding with the Defense Forces, so as to define the legitimate role that the professional institution of the armed forces will play in accordance with the Constitution of the Republic of Panama.

MARCH 6, 1988.

Mr. KENNEDY. Finally, to General Noriega, we say step aside now, while you still have the chance—for your own sake, for your family's future, but most importantly, for the well-being of the Panamanian people. We are prepared to help you take that step, if you are prepared to give Panama back to the people of Panama. The longer you wait, the more blood that is shed, the more difficult it will be.

Today with this resolution, we give the people of Panama our word, and we offer them our hand. We may be 2,000 miles away, but we are there with you in spirit. Let this vote send our message forth, and let it be strong and clear: Long live a free and democratic Panama.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, could I ask the Senator from Massachusetts a question? Is there a time limit here?

The PRESIDING OFFICER. There is.

Mr. HELMS. Mr. President, I yield for that purpose.

The PRESIDING OFFICER. The Senator from North Carolina yields to the Senator from Rhode Island for the purpose of a question to the Senator from Massachusetts.

Mr. CHAFEE. Mr. President, I wanted to ask the Senator from Massachusetts about the second point he has here, that the United States should impose additional diplomatic and economic pressure on General Noriega.

There is always a great tendency for the Senate or the Congress as a whole, and especially the Senate, to want to get into any act that is in town. Things are going pretty well and the United States has managed to stay away from the bullying role that all too many in Panama are quickly prepared to ascribe to the United States.

So I am wondering: Is the State Department in favor of this resolution? Are we blundering into a situation that is going along pretty well for the United States?

I am nervous about this—not nervous, but questioning the additional economic sanctions that now seem to be imposed by the U.S. Government rather than Delvalle's Ambassador requesting certain action here. Could the Senator explain that?

Mr. KENNEDY. I would be glad to. This is in direct response to President Delvalle. President Delvalle has actually requested a full embargo. So it is, in effect, in response to the legitimate leader of Panama and, second, it does have the complete support of the administration. This is in response to the legitimate leader of Panama. It is their request. They are asking for this type of resolution. They support it, as well as the fact that it does have the support of the administration.

Mr. CHAFEE. Well, that is very important, because we can get too many cooks in the broth all too often.

Mr. KENNEDY. I could not agree with the Senators more.

Mr. CHAFEE. This has the support of the Secretary of State?

Mr. KENNEDY. The Senator is correct.

Mr. CHAFEE. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I yield 6 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from North Carolina yields 6 minutes to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise today as an original sponsor of Senate Concurrent Resolution 108 urging additional measures in support of a democratic transition in Panama.

I rise also as part of an unusual and broad bipartisan coalition that has closely followed events in Panama during the last year. It was this coalition on the floor of this Senate which was responsible for the passage of Senate Resolution 233 on June 26 of last year which put the Senate on record supporting the resignation of General Noriega.

The crisis in Panama, caused by what has now come to be characterized as General Noriega's "narco-militarism" has dominated the news in that country and in the Americas for many, many months. From June of 1987 until February of this year, the situation in Panama was in political stalemate.

On February 25, this year, 8 months after we articulated here an inter-American consensus on the problem in Panama and on the solution, the world was shocked when Panamanian President Delvalle took the bold and courageous step that it now turns out he had contemplated for some time to join this consensus with the political leaders of Panama dismissing Noriega as the commander in chief of the Panama Defense Forces. This action—announced live on Panamanian television—was legal and completely within the powers of the President, as laid out in the Constitution of Panama. It was impressive. It was impressive in Panama and it was impressive across the world.

General Noriega reacted with characteristic repression. He closed the media up—reopened it in January; shut it down in February. Noriega's puppets in the legislative assembly voted to remove President Delvalle and replace him with a Noriega puppet, Education Minister Solis Palma. Without legal basis, Noriega essentially enacted a coup d'etat in Panama.

The U.S. Government properly continued to recognize President Delvalle as the legitimate head of state. Delvalle was forced to go into hiding as Noriega's thugs came to deport him. After Noriega's coup, President Delvalle and his supporters continued their fight against Noriega through the pursuit of a novel economic strategy.

Efforts to get at the heart of Noriega's financial power—the Panamanian banking system—received United States support and have proven to be very effective. United States banks holding Panamanian Government assets had those assets frozen through legal action. The national airlines of Panama will not fly to the United States for fear their aircraft will be seized.

Payments from the Panama Canal Commission will be placed in escrow pending an outcome of the political crisis. The global business community has been told that any payments to the Noriega front men will not be considered payment to the Government of Panama.

And the people of Panama have responded. Despite threats and intimidation, a general strike was highly effective—and was reinstituted this week. The nation has been paralyzed. Banks have been forced to close because of fear of massive withdrawals. The people of Panama want Noriega out, they want genuine democracy, and they want global support for their efforts to oust an entrenched dictator who holds a monopoly on military power.

There should be no doubt that the pressure on Noriega is working. Government workers, traditionally loyal to the regime, have taken to the streets to protest the government's inability to pay their wages. And the last bastion of support for Noriega—the Panama Defense Forces—had long-simmering cracks split wide open last week when a number of senior officers attempted to oust Noriega. Though the coup attempt ultimately failed, the fight to oust Noriega continues. Even after Noriega's purge in the wake of the coup, it is clear that many officers in the PDF know that their future—and the future of their institution—can only be secure if Noriega is deposed.

After the coup attempt, representatives of the United States Government met with Noriega to discuss terms for his departure. His conditions for leaving—remaining in Panama, choosing his successor, dropping the United States indictments against him—illustrate that he is determined to keep his stranglehold on Panama no matter how much it costs the nation. After initially promising signs, it became clear Noriega is playing for time, time to consolidate his dictatorship with Cuban and Libyan support.

Earlier this week Noriega offered to negotiate with the opposition in Panama. Rather than indicating conciliation as he intended, this only revealed his weakness. Noriega's concessions are too little, too late. He is isolated within his military, within his country, and within the hemisphere.

Though Noriega is isolated, he is not yet defeated. Recent revelations show his intentions in chilling detail. PDF officers who left Panama within the last week have revealed that Noriega has imported at least three planeloads of weapons from Cuba. These weapons have been stored throughout Panama, evidently in preparation for a protracted struggle. Noriega may even be consulting with Cuba over a long-term economic plan. While he has little support, Noriega does have the guns.

Panama stands at a crucial crossroads. Noriega seems to be digging in while Panamanians are more united than ever before in demanding his ouster. The United States Senate needs to speak out firmly in support of a democratic transition in Panama—and that is what this resolution does.

The resolution before the Senate encourages the administration to pursue the extradition of General Noriega to face trial for his narcotics trafficking activities. The 1904 Extradition Treaty between the United States and Panama provides for the extradition of nationals at the discretion of the nation. What the United States should do now is ask President Delvalle to allow the extradition of Noriega. If he agrees, the legal basis for U.S. extradition would be in place. Then our Government would be free to tackle the more difficult logistical questions surrounding the physical extradition of Noriega.

Noriega has been offered asylum in Spain—and the United States has offered not to seek his extradition from Spain to face the drug charges. But Noriega needs to know that offer is not good forever—and that he will not be free to pursue his sordid activities without fear of paying the consequences.

The resolution before the Senate also addresses the vital question of what happens after Noriega leaves. The efforts to achieve democracy in Panama have—in keeping with Panama's traditions—so far been relatively free of violence. If, however, the economic and financial pressure are successful in ousting this dictator, the cost will be high. Panama's economy is shattered—and it will take considerable assistance to restore it to previous levels.

The resolution calls on the United States Government to prepare for the departure of Noriega by considering a package of economic and financial aid to help rebuild Panama. Such aid would be absolutely essential in making Panama's economy, once again, to be the success story of the region. Such aid would also have tremendous prospects to be part of a successful one-time rescue package.

I congratulate the Senator from Massachusetts for his work on this issue. I also wish to thank the other cosponsors—Senators KERRY, D'AMATO, GRAHAM, HELMS, PELL, LUGAR, and DODD. I am pleased to be a part of the bipartisan coalition that has remained so committed to democratic developments in Panama.

I urge the unanimous passage of this resolution. I ask unanimous consent that several documents be printed in the RECORD at this point, including a copy of the March 6 declaration referred to in the resolution, a statement by President Delvalle, and an article from the Washington Post that describes the price being paid by Panama's poor in the crisis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECLARATION AND MESSAGE TO THE PEOPLE OF PANAMA

The National Government, represented by the President of the Republic, together with the Vice President of the Republic, declares to the Nation that, in spite of all the efforts carried out by it to reach a transition towards true democracy in Panama; principal reason why the Republican Party and the Liberal Party joined with other political parties to form the coalition known as UNADE, and having finally arrived at the unfortunate conclusion that the measures taken by it do not guarantee the objectives proposed, expresses its decided interest in taking up and backing up the positions and measures established by the National Civic Crusade, so that through the unification of all the political and civic forces of known democratic orientation, finally reach the goal that all the Panamanians have been longing for, which is the rule of Democracy, Justice and Liberty.

Ten days ago, in use of the powers that the Constitution and the laws grant to the President of the Republic, I decided to relieve from his post the Commander in Chief of the Defense Forces, Manuel Antonio Noriega, because of his interference in the political development of the country and of the Government, so that the conditions which prevent our wellbeing cease, and that a state of peace and tranquility prevail so that the Nation may grow and develop within respect of the laws, of international agreements and of the community of nations.

At that time, the personal interests of General Noriega and those of some other high ranking military of a minority in the National Assembly gathered to approve a resolution, without any constitutional or legal grounds, with the purpose of giving a military coup.

Said decision has not been accepted in Panama or abroad and has also created a climate of financial insecurity that threatens with the complete paralization of the national economy.

In face of the noted increase of deterioration of social, economic and moral conditions, that put at stake the right of life itself, it is necessary for us to be united and do all that is in our power to save Panama. To reach this goal, we should comply with a program that will make possible the reconciliation of all Panamanians, without distinction of any kind, and the reconstruction of the Nation.

In order to avert this devastating threat over all aspects of our national life, and after consulting with all those Panamanians willing to sacrifice, even their political and private interests, we call for the organization of a Government of National Reconciliation, made up of Panamanians from all the political sectors, with the firm commitment to respect the aspirations and desires of the Panamanian people.

To these effects we consider of immediate urgency the following:

1. Re-establish the public liberties and the respect of the rights of citizens.

2. Proceed with the cleaning up of the Public Administration.

3. Clean up the Justice Department.

4. Totally reconstruct the electoral institution.

5. Place the Defense Forces under civilian power, the National Constitution and the Law.

6. Respect the principle of separation and balance of the powers, as it is established in the National Constitution.

7. Achieve economic recuperation in order, and with particular attention, to solve the problems that face a large number of Panamanians in poverty.

To reach the goals stated we should comply with a specific program that will make possible the reconciliation and reconstruction, therefore calling it a governmental of National Reconstruction and Reconciliation:

1. The decision to relieve General Manuel Noriega from his post as the Commander in Chief of the Defense Forces is hereby ratified.

2. Proceed immediately with the opening of the means of communication (media) presently closed, so it may function with full guarantees within the law.

3. (This Government) shall be made up of new Ministers, Vice Ministers, and other new highranking officials of the Administration, which appointments shall be made with the agreement of the political parties, the National Civil Crusade and other democratic opposition forces.

4. In accordance with the National Constitution and the laws in force and in agreement with all the political parties of the opposition, the National Civic Crusade and other democratic opposition forces:

(a) Shall resolve the appointment of new Magistrates to the Supreme Court of Justice, the Attorney General of the Nation, the Attorney General of the Administration and other high ranking officials of the judiciary system, with the object of reconstructing the Judicial Branch and the Public Ministry, to guarantee the Nation due process of law and justice.

(b) Shall resolve the appointment of a new General Comptroller of the Republic as well as a Deputy Comptroller of the Republic, Directors and Managers of independent and semi-independent institutions, to guarantee sound fiscal management.

(c) Shall proceed to appoint new Magistrates to the Electoral Tribune, in order to guarantee a clean electoral process.

5. Shall proceed to retire those members of the Defense Forces that are due for retirement; those officials that rebel ignoring the Constitutional and the Laws, shall be dismissed. Thereafter, the corresponding promotions shall be made in agreement with military ranking.

6. Shall adopt, with urgency and using all the resources of Branches of the State, as well as in coordination with banks, private enterprises and the workers of the Republic of Panama, the measures necessary to reactivate the economy, respecting the rights of the workers, with special attention to the problems of those most in need.

The Government of National Reconciliation shall be made up of persons that are known to have good public reputation, known for their honesty, strength of character, integrity and capability. Likewise, the appointments, dismissals, and substitutions, shall be made in consensus among the groups that have formed the agreement for the constitution of the new government.

We take this occasion to call upon all the serious and responsible officers, commissioned officers and troops, of the Defense Forces of Panama, that they pay due honor to their slogan "All for Our Country", so that they once again may place their institution within the framework of the Constitution and the laws of the Republic, that will permit them to enjoy the consideration and respect of all citizens. If our proposal, honest and reasonable, is not backed-up by the armed forces, history, the nation and their own children shall condemn them, as the alternative to this is chaos, desperation, hunger and misery.

It is necessary to publicly state, to be recorded in history, special acknowledgement to the democratic opposition political parties and the National Civic Crusade, for the unselfishness and sacrifice made by them in these crucial moments for the Nation, as they have laid aside their party interest and political solution to the national problem, in search of the wellbeing of the Nation.

Our commitment, as those of all the Panamanians that love their country, is to forget the quarrels and unfortunate remarks made in the past and work for the unification and reconstruction of a new nation, for all of us should participate in the search of this common goal, so that we may live in peace and harmony with each other.

May God give all of us the strength to fulfill our duty and may he look down upon our people granting us the right to live in peace, which with faith we hope for.

ERIC ARTURO DELVALLE,
President of the Republic.
RODERICK ESQUIVEL,
Vice President of the Republic.

Given in the City of Panama on March 7, 1988.

STATEMENT BY PANAMANIAN POLITICAL PARTIES AND THE NATIONAL CIVIC CRUSADE

The undersigned, representatives of political parties of Panama, the National Civic Crusade and other democratic opposition forces, reflecting united commitment of the people of Panama, declare that, notwithstanding charges of interferences in the electoral process of May, 1984, and in the constitutional processes of the Republic, they support the decision of the current occupant of the office of President—Eric Arturo Delvalle—with the clear approval of the people of Panama, to replace the Chief of Panama's Defense Forces and subsequent measures he has taken to restore civilian constitutional order to our country.

The undersigned understand that by these decisions Eric Arturo Delvalle has committed himself to changes towards legitimate Democracy proposed by the National Civic Crusade and opposition democratic parties. Our principal objective must now be to establish jointly a Government of national reconciliation capable of providing justice, due process of law, liberty, reconstruction of democratic institutions, fiscal order and economic development, which are fundamental to authentic Democracy and to the conduct of free, open and honest elections.

We reiterate our unqualified unity of purpose and our irreversible decision to support the democratic objectives which we have proclaimed.

An essential task of the Government of national reconciliation must be to insure that the commitments undertaken by the United States in the Torrijos-Carter Treaties, and consistently reaffirmed by the Government of the United States, are fully carried out in the spirit of mutual cooperation and understanding stipulated in those treaties.

This Government of national reconciliation will include representatives of the political parties and other forces dedicated to the reestablishment of democratic order in Panama and will seek an understanding with the Defense Forces, so as to define the legitimate role that the professional institution of the armed forces will play in accordance with the Constitution of the Republic of Panama.

MARCH 6, 1988.

[From the Washington Post, Mar. 24, 1988]

PANAMA'S POOR BEAR BRUNT OF CRISIS

(By William Branigin)

SAN MIGUELITO, PANAMA, March 23.—Raquel Arispe arrived early at the makeshift chapel in a squatter settlement here to assure herself a free lunch of rice and beans.

"I had some food saved up, but it ran out," said the 38-year-old mother of nine, who was laid off recently from her job as a maid.

"The situation is extremely critical," said the Rev. Carlos Mejia, who supervises the distribution of charity to improverished residents of his 50,000-member parish. "We can't respond to the number of people coming to us for food."

As the midday sun beat down on the cinderblock houses and wooden shacks spread over the hills of this squatter area, Mejia stood in the shade of the chapel's tin roof and said, "I don't know how much longer we can go on like this."

Panama's poor are starting to feel the pinch of a political and economic crisis that has been escalating for the past month as opposition groups demand the uster of military strongman Gen. Manuel Antonio Noriega.

The closing of banks since March 4, U.S. economic sanctions, an acute shortage of cash and the government's inability to pay its workers are combining to make life desperate in working-class areas like this township a few miles northeast of Panama City.

Residents of San Miguelito and the poor neighborhoods of the capital are far from starvation, and there does not seem to be any panic yet about the food situation. But many Panamanians now wonder where their next meal is coming from, and the food supplies being distributed free to the needy are running low.

Caritas, a Roman Catholic charity that is leading the effort to feed the hungry in these hard times, says it is giving away plastic bags of food worth about $5 each to 7,000 families a day.

The food, 90 percent of it donated by private companies and the rest purchased on credit, is distributed by 150 parishes, some of which have also set up supplemental soup kitchens to provide free lunches and dinners.

"Every day the number of people going to the parishes is increasing," said Fulvio de la Rivera, a deacon who helps to run the Caritas feeding program.

Now the organization appears to be coming under criticism from the Noriega regime, which is running a separate program to distribute what it calls "dignity bags" to government workers at a cost of about $15 a bag, which is usually deducted from the recipients' salary.

Because of the cash crisis, the government has reduced its semimonthly wage payments across the board to $75 per worker, with some of that amount paid in balloa coins rather than the U.S. dollars used as Panama's currency.

An article in the military-run newspaper Caritas of "interfering in policies" through involvement with the opposition National Civic Crusade. Many of the businesses donating food to Caritas are members of the crusade.

About 300 supporters of the crusade turned out Wednesday for the funeral of Alcibiades Vasquez, 27, who died Sunday of wounds received during antigovernment protests on March 16.

The distribution of the food bags is one way in which Panamanians are trying to cope with the crisis, which was brought on by Noriega's ouster of president Eric Arturo Delvalle Feb. 26 for trying to fire him as commander of the Panama Defense Forces.

In the second successful general strike since then, most shops, businesses and industries in Panama City remained closed for a third day today to demand Noriega's "immediate" resignation and departure.

Since the banks closed early this month amid the cash crunch and fears of a massive run, private businesses have set up a cooperative system using coupons in place of dollars. Employees of one company, for example, are given part of their salary in coupons which they trade for groceries from a supermarket that does business with the company—all on the understanding that payments will be sorted out later when the banks reopen.

According to Commerce Minister Mario Rognoni, the government is considering copying the system as one possible way to resolve its cash shortage. However, opposition sources said the government lacks the credibility to carry out such a measure and that most business would refuse to accept its coupons.

Unions of government employees, such as the striking dock workers at the port of Balboa at the Pacific entrance to the Panama Canal, also have organized distribution of food bags and lunches. But union officials say supplies are running out and that they will now accept the government's offer of $75 semimonthly paydays, but without going back to work.

In San Miguelito, many people have even fewer options. Olga Pinzon, 27, an unmarried mother, arrived at Christ the Redeemer Church with her two small children at 6 a.m. to receive rice, beans, milk and corn.

"There was a crowd of people already who had been waiting since 4 a.m.," she said as she stood in front of the church's closed iron gate. "I'll wait and see if they give me something later."

Judith Gonzalez, 40, a teacher who helps run the two-week-old food program at the church, said 658 bags were distributed before the food ran out at 10 a.m. She said the solution of the crisis was "for Noriega to leave" and a transition government to take over.

Although this township of about 175,000 people long has been considered a stronghold by Noriega, who claims to represent its poor, mostly nonwhite population, interviews with residents made it clear that opposition to the general is widespread. Comments in support of U.S. intervention are commonly heard, even from people who should be Noriega's constituents.

"This man should go as quickly as possible," said a 20-year-old secretary named Elizabeth, whose father is a member of the Defense Forces.

A friend, who said her brother was a member of the feared G2 military intelligence unit, agreed. She said many members of the military oppose Noriega, "except on paydays."

The government announced that it had declared the U.S. Embassy's economic counselor, David Miller, persona non grata and given him 48 hours to leave. The embassy had no immediate comment. A similar order against the director of the U.S. Information Service, Terrence Kneebone, was ignored on the grounds that the United States does not recognize the present government. The military-run newspaper La Republica said Miller was involved in the "destabilization" of Panama that it said was engineered by the embassy.

The PRESIDING OFFICER. Who yields time? The Senator from Rhode Island.

Mr. PELL. I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me extend my compliments to, first of all, the chairman of the committee, the Foreign Relations Committee, for scheduling this today and for the manner in which this resolution was considered by the Foreign Relations Committee.

Second, to commend my colleagues from Massachusetts and Minnesota, for their leadership on this resolution; my colleagues from New York, North Carolina, Massachusetts, Senator KERRY, as well for their active involvement in this particular question.

I would say in response to the issue raised by our colleague from Rhode Island, Senator CHAFEE with Senator KENNEDY a moment ago, that I think most of us, if not all of us here, will have from time to time disagreements with the administration over the conduct of foreign policy, particularly in the Western Hemisphere and Latin America. This Senator feels the administration during the last several weeks, I would not say during all time but during the last several weeks, has done a very fine job. I commend everything they have tried to do and applaud what they have attempted to do and succeeded in doing in some instances.

On this particular issue, unlike some others where we find ourselves divided on a question—and if we are united, divided with the administration over the conduct of foreign policy—on this particular question I think we find ourselves in the enviable position, unfortunately too rare a position, where the White House and the Congress are singing with one voice the same tune in the same key.

So, today I applaud this resolution and urge my colleagues to support it unanimously so that we send that kind of strong significant message—not only General Noriega, but as Senator KENNEDY of Massachusetts has pointed out, principally to General Noriega and to the political leadership of that country—that this Congress, this Government, this people in the United States are united and serious about what we perceive to be the only immediate solution to once again putting Panama back on a road toward peace, stability, and most importantly, democracy.

A couple of points need to be mentioned. I think it was revealing, and again the Senator from Minnesota made this point, and I could not agree with him more, that what you are witnessing in Panama is the following: You are witnessing a general who, as each hour passes, finds himself more and more and more isolated with a circle of support shrinking. The circle of support only a few months ago included a certain segment of the population, the business community, possibly some of the banking community, certainly some of the government employees and clearly the military.

Today, as we close out the month of March, we find that that circle of support is now limited to the cadre of military officers and even that circle has shown breaches in the last several days when major political or military figures have defected from that country and have revealed in the media and elsewhere the problems that General Noriega faces and some of the actions that he has taken.

I, too, hope and believe that General Noriega's time is limited. I would urge him that he reconsider the offer made by this Government to be willing to forgo the indictments, if you will, the legitimate indictments, in my view, and accept the Spanish offer. That offer may not be around very long. He may find the Spanish Government may have second thoughts about that particular offer. I think it would be regrettable if he did not take advantage of that and do what all of us agree is clearly in the best interests of Panama, and that is to step down and allow the legitimate government to reemerge and the electoral process to go forward in the coming months.

Last, Mr. President, I would again in response to a concern raised by our colleague from Rhode Island say this resolution is a moderate resolution. This is not a strident resolution at all, and it is thoroughly and totally supported by the administration. That does not preclude this Congress from considering other steps. We hope we will not have to get to them. The Senator from Rhode Island is correct. Too often, I suppose, we do try and weigh in on things, sometimes only adding to the divisiveness and clouding up what ought to be a clear message. But General Noriega and his supporters ought to know that this is not the only or the last recourse available to this Government.

While the administration is proceeding, I think in a very expeditious, thoughtful, intelligent way, there are additional steps that we can take. So I hope that the general will understand that it is in his interests to read this message clearly, intelligently. What it expresses on behalf of the American people is: take advantage of the offers that have been made and try to clear the air before things grow worse.

Mr. President, again I compliment the authors of this resolution. They worked long and hard on this. They sought and received the kind of support this resolution deserves.

Mr. President, I conclude my remarks with the full text of my prepared remarks.

Mr. President, the situation in Panama continues to deteriorate steadily, as it has since the political crisis first erupted last June. At that time, you will recall, Panamanians took to the streets demanding the removal of General Noriega as commander of the Panamanian Defense Forces [PDF], and the resignation of other members of the PDF who had allegedly been deeply involved in money laundering, narcotics trafficking, and other illegal activities.

General Noriega has gone to great lengths to remain in power. He has suspended the constitutional guarantees of the Panamanian people, shut down opposition newspapers and other independent media, forced many Panamanians in opposition to his regime into exile, put the Panamanian Defense Forces in the streets in a futile effort to quell the public outcries for his removal, replaced the President of the Republic, Eric Devalle, with one more willing to do his bidding.

Despite these desperate efforts to hang on to power, today General Noriega stands virtually alone, with few if any, Panamanians supportive of his remaining in power. Even members of his own defense forces, one thought a monolith of support for their commander, have demonstrated by recent actions, that they too are coming to the view that General Noriega's departure is in the national interest of Panama. The first coup attempt, against General Noriega, by members of the general staff may not have been successful, but the message it sent is crystal clear: "General, it's time to depart."

The economy of Panama is at a virtual standstill. Banks are unable to do business. The Government of Panama cannot even meet its most basic financial commitments such as government employee payrolls. The current damage to the economy threatens to become permanent unless political stability can be restored quickly.

The Government of Spain has offered General Noriega asylum in that country. Officials from the United States Government have indicated that they would welcome General Noriega's departure to Spain.

General Noriega should quickly take Spain's offer while it is still a live option. No one believes that General Noriega can remain in power much longer—except perhaps the general himself. For the sake of his nation, he should act now to remove himself from the political process and depart from Panama.

The resolution pending before the Senate today reiterates congressional support for the manner in which the Reagan administration has responded to events in Panama. This policy truly has broad bipartisan support, as the overwhelming vote in support of this resolution later today will demonstrate. The resolution also expresses support for additional international economic and diplomatic efforts to restore political stability and return Panama to civilian rule. Finally, and most importantly, it recognizes that civilian authorities in Panama are likely to require U.S. assistance in the post Noriega period. Economic recovery from the disaster which has been wrought by the current crisis will be a formidable task, but it is one which Panamanian people are anxious to begin. I hope that the opportunity presents itself in the very near future.

I urge my colleagues to support this resolution.

The PRESIDING OFFICER. The Senator from Connecticut yields the floor. Who yields time? The Senator from North Carolina.

Mr. HELMS. Mr. President, nobody has worked harder on this entire issue than the distinguished Senator from New York [Mr. D'AMATO] to whom I yield 6 minutes at this time.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I am delighted and pleased to be able to support this resolution sponsored by Senators KENNEDY, DURENBERGER, HELMS, and myself. Let me, too, commend Senator PELL, chairman of the Foreign Relations Committee, for moving so expeditiously in bringing this matter to the floor today. I think he does the people of Panama a great service, and equally the people of this Nation. But here we find ourselves with a unique opportunity to do a number of things.

Panama is important to the national interest and security of the United States. And Panama is jeopardized, as this resolution states, with Noriega at the helm: a gun trafficker, an oppressor of human rights, and now someone who is seeding the hills with Cuban arms.

I think it is extremely important that the U.S. Senate clearly indicate that this is not going to be a 60-day wonder, that we are not going to lose interest in this matter in a short period of time, as we traditionally have over time in dealing with matters that garner public attention but thereafter are precluded by other events.

Clearly, if the United States is going to move to protect its interests, our national security, Noriega must go. And if he does not go of his own will, then certainly all legal means, no matter how difficult, must be employed by this country. This includes calling for his extradition, which is part of this resolution. We should pursue that, Mr. President, and we should pursue that with all vigor and determination. I have been informed that if we begin that process, we have every reason to believe that President Delvalle will, to the best of his ability, move to implement that request. Thereafter, Mr. President, a whole series of options and possibilities would be available to the United States.

Mr. President, there are those who might ask, is the United States meddling in the affairs of another country? The United States is acting like the leader of democracy that it should be by standing up to a petty dictator and, yes, giving legitimate recognition to President Delvalle.

But, Mr. President, as Senator DODD has indicated, we can wait just so long. I think it is imperative that we make it known by way of action that we are prepared to assist the humanitarian needs of the Panamanian people today, and certainly in helping to rebuild the Nation of Panama whose economy has been shattered; that we are ready, able, and willing to undertake that which is necessary to give the kind of strength hopefully to the forces of democracy that will provide the transition to true civilian rule.

Let me conclude by saying, Mr. President, we should be very, very clear in our message to Noriega and company that time is running out. Failing the kinds of actions that Noriega could take which would eliminate the need for any force, then we must move in such an appropriate way to see to it that our interests and the interests of the people of Panama are protected, that we have the capacity and that we have the willingness to undertake those acts. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 10 minutes 5 seconds.

Mr. PELL. Mr. President, I yield 6 minutes to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I join my colleagues in thanking the distinguished chairman of the Foreign Relations Committee, on which I have the pleasure of serving. I thank him for helping us in bringing this matter expeditiously to the floor.

I also thank my colleague, Senator KENNEDY, for his work, cooperation, and commitment on this issue.

Mr. President, this resolution sends, as Senator KENNEDY has said, several messages to several different people. I think it is very important to underscore those.

First of all, there is a message, obviously, to the Panamanians, to the Panamanian leadership and the Panamanian people, who are bearing the brunt and the difficulty in the effort to rid themselves of one man's will to continue in power.

There is a message to all in Latin America and in Central America, not only about the value of democracy and the efforts that people will go to to achieve it, but, also, about American commitment to try to rid this region of someone who engages in criminal conspiracies against our country.

Finally, there is a most important message, not only to Americans but to our own law enforcement community, about our commitment to the effort to rid this region, this hemisphere, of those who engage in brazen criminal conspiracies against the United States, whether it is narcotics trafficking, or arms shipments that are illegal, or double dealing with other countries, or any aspect of General Noriega's activities.

So this resolution carries, I think, significant messages.

I would remind our colleagues that the resolution says in one of the four principal statements of resolution that the situation in Panama constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

That is a significant statement because that is a statement which I think not only empowers us to take action at some time if we have to, but states very succinctly what has happened in this region as a result of General Noriega's activities.

Mr. President, it is clear that General Noriega is losing support. It is clear that the Panamanian people have been willing to take enormous risks in order to rid themselves of this leader.

It is also clear that there is more that the United States can do, and in the immediate days ahead I hope that we will undertake, as the opposition has asked us to do, to provide emergency food assistance or even medical supplies for those poor who are most hit by these steps.

It is important that Panamanians understand the degree to which we are both concerned and committed to mitigate the effects that General Noriega has wrought on Panama while at the same time, obviously, trying to continue pressure that removes him.

I hope that food program will begin.

At the same time, Mr. President, I think we have to recognize that of the three latest defectors, General Noriega's personal pilot, his personal helicopter pilot, whom I met with earlier this week, made it clear that General Noriega only remains in power because he holds those special units of the PDF that have the most fire power. The broad base of the PDF does not support the general.

Unlike Torrijos, who used to be able to turn on the nationalistic spigot, if you will, at will when he wanted to, this general cannot turn out the students, cannot turn out the people, cannot create a broad base of support because the people of Panama are against him.

I think it is also important to point out, Mr. President, that this resolution does another important thing. It states a commitment by the United States to provide economic assistance and to be ready to move immediately to undo some of the damage in the effort to try to get rid of General Noriega, so that if General Noriega leaves Panamanians will know, and the leadership of the opposition will know, that as long as they are together and united in the effort to provide democracy, this country will move immediately to address the question of liquidity, the question of economic harm, and to provide the assistance necessary to put Panama on a strong economic footing as rapidly as possible.

Finally, Mr. President, what is happening in Panama today is not as much a tribute to efforts by the United States to help the opposition, not as much tribute, even, to the opposition leadership itself, though they deserve tribute. It is a tribute to the dedication and commitment of the Panamanian people to choose something else, to the dedication of the Panamanian people to remain committed to democracy and to be willing to risk themselves, to go without food, to place themselves in front of guns where they have none, and to say that they are going to demand change, and that they join together with us in this country in refusing to give in to the power of a terminal conspiracy willing to not only pollute the streets of America with destruction, but willing to steal a whole government from a whole people.

I think that the efforts that the Panamanians have made make clear that they deserve our respect and our admiration. I believe it is important that we as a Senate and as a Congress move now to earn their respect and their admiration for our commitment to our own precepts, concepts, and interests. I yield back whatever remaining time I have.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina.

Mr. HELMS. Mr. President, do I have about 10 minutes?

The PRESIDING OFFICER. The Senator from North Carolina has 10 minutes, 2 seconds.

Mr. HELMS. I thank the Chair.

Mr. President, it was said yesterday in the cloakroom when the agreement was reached to schedule this debate and the vote on this resolution, looking at the list of cosponsors, that this has got to be the widest wingspread in political history. If you look at the varying views and bipartisan nature of the cosponsors and authors, it just proves the point this is not a conservative resolution or liberal resolution or Republican or Democrat. It is a resolution aimed at a man who is a symbol for destroyed liberty and doing so in the cruelest, most barbaric way, and small wonder that the people of Panama are standing up, even willing to risk their lives to get rid of this dictator.

I was thinking back over the years. It was 10 years ago next month, April 1978, that I first stood on this floor and discussed this man Noriega. He was then dealing in drugs, and it was known to many in the Government at that time, but it was felt because of his importance as a figure in Panama that we ought to go slow about clamping down on him.

Panama is not just another country, as the distinguished Senator from Massachusetts [Mr. KERRY], who now sits in the Presiding Officer's chair, has emphasized.

Panama is vital to the free world, and the Panama Canal is the link between the east and the west. If it is allowed to be destroyed or rendered inoperative, then everybody loses.

So there are all sorts of reasons for this resolution, all sorts of good reasons for this resolution, which is why you have such divergent philosophical cosponsors as the distinguished Senator from Massachusetts [Mr. KENNEDY] and this Senator from North Carolina, Mr. D'AMATO, Mr. KERRY. We all are united, and I think this Senate will vote unanimously for this resolution—I pray that will be the case—to send a message to Mr. Noriega that in the name of freedom his days must be numbered.

Senator DODD had it exactly right. If Noriega thinks this is the end of it, this resolution, or whatever the Federal Government of the United States is doing at the moment, if he feels that that is all we are going to do, he better think again. I am proud to join with the other distinguished Senators in the sponsorship of this resolution.

It has been a month since President Delvalle dismissed General Noriega from his post as commander of the defense forces, and, as of this moment, General Noriega refuses to accede to the demands of the Panamanian people. He is in power because, as Senator KERRY says, he has the guns, and he has the control of that well armed group of the military.

Last week it became increasingly evident that the people of Panama want Noriega out. Hundreds of Panamanian defense force officers attempted a coup against Noriega. The coup failed. What happened? Noriega immediately moved to arrest or jail or fire all of those involved.

Three majors from the air force managed to escape to the United States, and I met with them one morning this week. The distinguished chairman of the Foreign Relations Committee may remember I excused myself for a few minutes to go upstairs and meet with the majors. They have quite a story to tell, and they are telling it. The people of the United States and, indeed, the people of the world deserve to know it.

Maj. Augusto Villalaz, second in command of the Panamanian Air Force, told us last week that he personally flew three flights of weapons and ammunition from Cuba to Panama in the last month under orders from Noriega.

He said that the cargoes he flew included 95,000 pounds of AK-47 rifles and RPG-7 grenade launchers and mortar rounds. According to all three of these air force officers, Fidel Castro has agreed to send Noriega a half million pounds of weapons and ammunition.

Maybe this information will be surprising to some, but it is known that Mr. Castro had been helping Noriega for years. In fact, Noriega's only other friends seem to be the Marxist dictator of Nicaragua and the terrorist ruler of Libya.

By the way, the weaponry flown from Cuba to Panama by these three pilots were Soviet-made.

Major Villalez says Noriega ordered him to go to Cuba to pick up $50 million in cash from Qadhafi. Unfortunately, in this instance, for Mr. Noriega the money never arrived.

But the point is, Mr. President, that the people of Panama are willing to do whatever is necessary to get Noriega out of Panama once and for all.

The prodemocratic forces began an indefinite, nationwide strike this week to increase the pressure on Noriega. Even the Noriega advisers have admitted that the shutdown is 95-percent effective. Sure, it is causing great pain and discomfort for the people of Panama, but the impressive point is that they are willing to endure it; they are volunteering to do it. It is clear then that the people of Panama will not endure the dictatorship any longer.

So the resolution before us today, and upon which we will vote shortly, is intended to send another clear signal to Noriega that he must go and he must go now. If he decides that he will not go, then the message that will follow this one is that further action will be undertaken, certainly in this Senate and certainly by this Senator.

The resolution also gives the administration the ability to take further measures on its own to get Noriega out. The Department of Justice has stated that it fully intends to take Noriega to trial on two indictments against him in this country. I believe the United States must seek the extradition of Noriega and bring him to trial as quickly as possible.

Furthermore, we need to continue to pressure him and his cronies with every diplomatic, political, and economic means possible.

Negotiations with this tyrant are not an option. But perhaps most important, this resolution serves to show the people of Panama that we are standing with them in their struggle for freedom.

It is now clear that the presence of Noriega in Panama is not only a threat to the survival of freedom in Panama—but also a direct threat to the security of the United States. Noriega has been strategizing with Communists in Cuba and Nicaragua. He has been accused by many of involvement in various murders. And he has endangered the lives of many Americans through his deep involvement in drug trafficking with the Colombian drug king-pins.

The United States must use every proper means possible to remove Noriega and to restore stability to Panama. The Panamanian people deserve our help. They want Noriega out, and they want their country back. Let us give the people of Panama a chance.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. KERRY). The Senator has 37 seconds left.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise in support of the efforts of the people of Panama in their struggle to reestablish a democratic civilian government.

The Panamanian people have struggled valiantly for almost a year to achieve this objective. A number have lost their lives. Many have fled the country to safeguard their lives and the lives of their families. Many more have been brutally attacked, beaten, and imprisoned. Shopkeepers who strike against the government of General Noriega have had their shops looted and cars burned by his henchmen. All who oppose Noriega know that they do so at great risk to their property and to their personal safety.

Still, great numbers of Panamanians have not been intimidated. The number of people demanding justice and a democratic government has increased each day. Defectors have streamed away from Noriega as his true activities have been revealed. Recently, a large number of officers and men of the Panama Defense Force, disgusted with the drug and arms traffic and the pervasive corruption, attempted to overthrow General Noriega. They failed. Today, a general strike against General Noriega grips the country and he remains in power only because of a small and heavily armed palace guard.

There are few countries which are more important to the United States than Panama. A strong middle-class supports the democratic process. Like its democratic neighbor to the north, Costa Rica, Panama enjoys a high rate of literacy. Most Panamanians speak English as their first or second language. The largest community of United States citizens in this hemisphere who reside outside of the United States reside in Panama. Finally, the Panama Canal is and will remain one of the most important manmade geographic features in the world.

The nature and disposition of the Panama Canal make it very difficult to protect militarily. A stable democratic government is clearly the best means to ensure continued operation of the canal and its uninterrupted use by all nations of the world.

For these reasons, I support Senate Concurrent Resolution 108, which urges the President to take measures to hasten the transition to democracy in Panama. I commend its authors. In the transition to democracy, it is particularly important that economic stability be restored to Panama. The dollar-based financial system of Panama will continue to be important to the United States as well as the people of Panama. The people of Panama can depend upon the support this Resolution offers.

The United States stands ready to help the people of Panama. General Noriega should heed the call from the Panamanian people and the world community and depart. Spain has generously offered to take him. He should go while the opportunity remains open.

Mr. PELL. What is the time situation?

The PRESIDING OFFICER (Mr. Sanford). The Senator from Rhode Island has 3 minutes and 39 seconds remaining.

Mr. PELL. I yield 1 minute to the Senator from Louisiana.

Mr. BREAUX. I thank the Senator.

Mr. President, I rise in support of this resolution. There are many threats to the peace and security of the United States, some would argue a Soviet threat, others would argue a Sandinista and Nicaraguan threat. I argue that the greatest threat to the people of America and families of America and children of America is presented not by the Soviets or the Sandinistas but by the international drug lords who bring about the constant flow of drugs into the United States. American mothers and fathers are pleading with us to provide effective help. Despite great efforts that help and assistance is not forthcoming. Removing the international drug lords who threaten the future of America must be accomplished and must be accomplished now. It is not enough to just say no in this country. We must also say no to the international drug traffickers who are targeting this country and the children and families of America.

This resolution, Mr. President, says no more Noriega, no more, and I rise in support of it.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. I yield 1 minute to the Senator from Florida, Mr. Graham.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I join the remarks that have just been made by the Senator from Louisiana. Not only is drug trafficking a major threat to this Nation, as we have seen in Panama and other countries in our hemisphere, but it offers the potential of undermining sovereign government and substituting nonelected narcotics funded cartels which threaten the very existence of those sovereign governments.

That the Panamanian defense force has maintained support within the country of Panama in spite of its leadership is, I think, an important lesson in the post-Noriega period in Panama. That military has been able to maintain public support in large part because it has reformed itself over a period of years by a civic action military rather than simply a combat military. I believe that is an important lesson in terms of how the United States should try to conduct itself in terms of military reform in other countries.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. Mr. President, I conclude briefly by saying I underscore the last paragraph in this resolution, which is our commitment to a post-Noriega policy of economic assistance and reform within Panama. I consider that to be a legal and moral commitment which this Senate is making to a new day of United States-Panamanian relations. I thank the chairman of the committee for this time.

Mr. PELL. Mr. President, I yield 30 seconds to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senator Sanford and Senator Levin be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, it would be helpful if we were joined in putting great pressure on General Noriega by our Latin American friends, but they have not been very active in this regard. I think the conclusion we all have is that Noriega must go, he will go, and this resolution will help him down that slippery slope.

Mr. DODD. Will my colleague yield 10 seconds?

Mr. PELL. How much time do I have?

The PRESIDING OFFICER. Seven seconds.

Mr. DODD. I just want to underscore that point, Mr. President. As chairman of the Western Hemisphere Subcommittee, I am going to watch very carefuly which of our Latin American allies and colleagues support this kind of an effort. We are going to have tough times with budgets up here, but if we cannot get other Latin countries to support the Panamanian people on this kind of a point, this Senator anyway is going to take notice of that when appropriations are considered.

The PRESIDING OFFICER. The Senator's time expired. The Senator from North Carolina has 20 seconds remaining.

Mr. HELMS. I will use that to make certain that the yeas and nays have been ordered.

The PRESIDING OFFICER. Yes, they have indeed.

Mr. HELMS. I yield back the other 8 seconds, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Illinois [Mr. Simon] are necessarily absent.

I further announce that the Senator from Oklahoma [Mr. Boren] is absent because of death in the family.

I also announce that the Senator from Delaware [Mr. Biden] and the Senator from Mississippi [Mr. Stennis] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Nevada [Mr. Hecht], the Senator from Nebraska [Mr. Karnes], and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska [Mr. Karnes] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—92

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye

Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wirth

NAY—0

NOT VOTING—8

Biden
Boren
Gore
Hecht
Karnes
Simon
Stennis
Wilson

So the concurrent resolution (S. Con. Res. 108) was agreed to.

The PRESIDING OFFICER. Without objection, the preamble is agreed to.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

Mr. KENNEDY. Mr. President, what is the unfinished business?

The PRESIDING OFFICER. The clerk will report the unfinished business.

The legislative clerk read as follows:

A bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

The Senate resumed consideration of S. 79.

Pending:

(1) Helms Amendment No. 1815, to designate health and emergency care workers who are at risk of occupational exposure to the disease known as Acquired Immune Deficiency Syndrome (AIDS) or the virus known as HTLV/III or LAV virus as a population at risk.

(2) Kennedy Amendment No. 1816 (to Amendment No. 1815), in the nature of a substitute, to authorize an emergency program to disseminate information to reduce workplace risk of transmission of Acquired Immune Deficiency Syndrome (AIDS).

AMENDMENT NO. 1816 AS MODIFIED

Mr. KENNEDY. What is the pending amendment?

Mr. QUAYLE. Point of order, Mr. President. The Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

The pending question is the amendment No. 1816, the Kennedy amendment to amendment No. 1815, the Helms amendment.

Mr. KENNEDY. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. It will be so modified.

The modification is as follows:

In lieu of the matter proposed to be inserted, insert the following:

"(g) INFORMATION FOR HEALTH AND SAFETY WORKERS.—Within 90 days after the date of enactment of this act, the Secretary of Health and Human Services shall develop and implement a program to distribute information and educational materials to all health workers, public safety workers, and emergency service workers concerning modes of transmission of the human immunodeficiency virus. This program shall include a plan to provide notification to all health workers, public safety workers, and emergency service workers concerning methods to reduce in the workplace the risk of becoming infected with the human immunodeficiency virus. The information distributed shall be based on the guidelines issued by the Directors of the Centers for Disease Control. Funds appropriated to the Department of Health and Human Services for AIDS prevention programs and activities shall be used to carry out the program described in this paragraph. No funds authorized to be appropriated under this act shall be used to carry out the program described in this paragraph (g)."

Mr. KENNEDY. Mr. President, for the benefit of the Senate, the modification was tightening of the language, and I am going to explain my amendment at this time.

The high risk notification debate on the House side indicates concern about providing health- and emergency-care workers with information about how to reduce their risk of occupational exposure to the etiologic agent for AIDS.

However, the amendment which was offered to address this concern demonstrates a fundamental misunderstanding of what this bill does and what it does not do.

My amendment mandates that within 90 days, the Centers for Disease Control develop and implement an emergency program to disseminate information to all health workers, public-safety workers, and emergency-care workers concerning methods to reduce in the workplace risk of becoming infected with human immunodeficiency syndrome [HIV]. This requires no additional appropriation and can be accomplished through previously committed AIDS prevention program and activity moneys.

Such a mandate will ensure that health-care workers and other professionals are provided with useful information about exposure control procedures. Although it is clear that not nearly all health-care workers are populations-at-risk, all can benefit from prevention techniques. Such education is invaluable and our major tool for stopping the spread of this virus.

I wholeheartedly support this type of notification approach when it comes to informing health-care workers about the risk of occupational exposure to AIDS, hepatitis B, and other blood-borne illnesses. I realize that this approach is different from that authorized by the pending legislation, but I offer this amendment here in hopes of clarifying the most productive and practical means by which to accomplish our shared goal—the health and safety of those individuals who care for the sick.

By contrast, this legislation creates a risk-assessment board designed to designate classes of workers as populations already at risk due to occupational exposures to chemicals and agents and provide notification as well as suggestions about medical monitoring and health counseling. Although this type of notification is extremely important for hundreds of thousands of workers who are already exposed to occupational carcinogens, it is not the approach recommended by any public-health official or organization for dealing with AIDS. There is no statistically significant scientific evidence, as required by S. 79, upon which to base the designation of all health- and emergency-care workers as population-at-risk of AIDS. Although the House bill now requires that the Risk Assessment Board make this designation, such an indiscriminate and unwarranted notice to those 3-4 million employees will certainly foster unnecessary fear and lead to extensive human and fiscal costs.

Basically, Mr. President, the amendment which I have offered is effectively the way in which S. 1220 deals with notification. It is the result of a good deal of work with the Centers for Disease Control, the AMA, the Surgeon General and other public health officials. The amendment that we offer today is essentially that approach which has been included in S. 1220, which was examined by the Labor and Human Resources Committee to be the most effective way of dealing with this issue.

In contrast, the underlying amendment would require notification to the 3 or 4 million public health and emergency care workers. It is only perceived that this board will be able to actually mail out abut 300,000 notices a year. So, unless my amendment is accepted, we are effectively emasculating the whole bill and the purposes for the bill.

I believe the amendment which I offer to the underlying amendment is a responsible, thought-out approach. I hope that the Members will accept the amendment.

Mr. President, this amendment is offered on behalf of myself and the Senator from Minnesota, Senator DURENBERGER.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I ask that my name be added as a cosponsor of the amendment of the Senator from Massachusetts and the Senator from Minnesota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I rise in opposition to the amendment of the Senator from North Carolina and in support of the substitute offered by the chairman of the Committee on Labor and Human Resources.

Mr. President, I share the concern of the Senator from North Carolina that health care workers be properly warned of the risks of contacting the AIDS virus. I believe that Senator KENNEDY's amendment is more than sufficient to address these concerns.

Furthermore, we have here today another example of how we should not be dealing with the AIDS crisis. The Labor and Human Resources Committee has passed out a bipartisan comprehensive AIDS authorization bill. Instead of considering an amendment here and an amendment there on AIDS why don't we deal with the whole problem.

S. 1220 addresses the risk to health care workers. S. 1220 mandates implementation of joint guidelines which have been issued by OSHA and the Centers for Disease Control. These guidelines include programs to inform workers about the risks of occupational exposure and the means to protect themselves. The bill also provided $35 million for specialized training of such health care professionals.

The Helms amendment has been opposed by employee and employer groups in the health and emergency care field, as well as public health organizations. I hope we can join together and defeat this amendment and turn to the real issues before us.

Mr. ADAMS. Mr. President, I rise in support of the amendment of the Senator from Massachusetts, Senator KENNEDY. We have recently had an enlightened policy announced by the Federal Government for handling this tragic epidemic of AIDS that the United States faces. As a member of the Committee on Labor and Human Resources, we have heard testimony from the Surgeon General and from witness after witness after witness that indicates that we must approach this matter in the way that is set forth in this amendment by Senator KENNEDY.

We have to be certain that we do not panic in the face of a public health problem of enormous proportions. We must be certain that we put the resources into both attempts to find a cure and attempts to be certain that there is a complete education program that defines carefully what it is that we are faced with. Misinformation or misdirected attempts at this point in our Nation's history in dealing with this kind of a public health situation can not only detract, but make it more dangerous for the public.

This is a good amendment that has been offered by the Senator from Massachusetts. It follows essentially the Federal guidelines that have just been announced. It provides a system that ties to the true fabric of this bill and would prevent what I believe would be a type of amendment that would be very harmful to not only the approach that we take to this devastating problem but to the general problem itself that we are facing in a number of other bills.

So I am pleased to join the Senator from Massachusetts in support of his amendment. I hope other Members do also and that we adopt it.

Mr. KENNEDY. Mr. President, I want to include in the RECORD those that are opposed to the Helms amendment. They include the American Medical Association, representatives of emergency and health care workers, including the International Association of Firefighters, AFSCME, service employees, the U.S. Conference of Mayors, the International Association of Fire Chiefs, as well as the AIDS community. The only ones, apparently, that support the Helms amendment want to stop S. 79.

Mr. President, I am prepared to go to a vote.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I think we ought to wait momentarily for the sponsor of the underlying amendment, Senator HELMS. He is not on the floor at this moment, but I do believe that we can contact him to see how he would like to proceed.

Therefore, I would, at this particular moment, unless there are others that want to speak, I think we ought to probably put in a quorum call momentarily to see where we are.

Mr. President, since we are waiting, instead of putting in a quorum call, I think what I would like to do is to revisit the issue of the pending substitute and to try to get a disposition on how we, in fact, should, in my judgment, comply with or basically repeal committee rules.

AMENDMENT NO. 1819

Mr. QUAYLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Indiana [Mr. QUAYLE] proposes an amendment numbered 1819.

On page 30, line 10, to the text proposed to be stricken, insert:

"It is the sense of the Senate that this is an appropriate time to emphasize the importance of compliance with Committee rules of procedure. There are sound practical reasons why compliance with committee rules is not, and should not be, enforced by points of order on the Senate floor. This lack of an enforcement mechanism enhances rather than diminishes the need for strict adherence to committee rules. It is therefore further the sense of the Senate that it is essential that chairmen of committees comply with their committee's rules even though, or rather just because, such compliance is not enforceable."

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. The clerk will resume the call of the roll.

The bill clerk resumed the call of the roll.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KENNEDY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk resumed the call of the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I just had an opportunity to read this amendment. I was not aware of it prior to the time the Senator from Indiana submitted it. As far as I am concerned, I would hope the Senate would accept it and we could go back to debating some of the other substantive measures before the Senate. So I would urge the Senate accept the amendment.

Mr. QUAYLE. Mr. President, let me speak to this resolution. Let me go through the reason and necessity of this sense-of-the-Senate resolution.

As far as the modification of the substitute, although the substitute could be modified and there is no point of order against the way it was modified, the committee rules were in fact violated. The committee rules were, pure and simple, violated.

I think this is an appropriate time. I think it is unfortunate that we have to take the Senate's time to go through and remind those who in fact have the responsibility of being chairmen of the committees that the committee rules in fact should be complied with.

That is the essence of the amendment.

Let me just read a letter, Mr. President, that I sent to the chairman of the committee today.

DEAR MR. CHAIRMAN: I want to formally record my strenuous protest against your failure to abide by the Labor and Human Resources Committee's rules when offering the modification to S. 79. It is well established that committee amendments may be modified "when authorized by the committee." That is Senate procedure, page 56. Rule 6 of the Labor and Human Resources Committee Rules provides that: The committee may poll any matter of the committee business as a matter of unanimous consent; provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

When I asked on the Senate floor yesterday how the committee had authorized you to offer the modification, you answered that you had polled the members. As that poll did not include me or the ranking minority member of the committee, the poll clearly did not comport with the committee rules. I was then somewhat astounded when you explained that this rule only applies to the reporting of bills or nominations when the Senate Rules clearly provide that polls may not be used for either of these purposes.

Mr. President, let me make a parliamentary inquiry to make sure that I am correct.

Would a point of order rest against a bill that was reported out by polling?

The PRESIDING OFFICER. If the poll is taken on the motion to report the bill, then the Senator is correct.

Mr. QUAYLE. A further parliamentary inquiry: Would a point of order rest against the polling of a nomination before the Senate?

The PRESIDING OFFICER. If it was done under the same circumstances, yes.

Mr. QUAYLE. I thank the Chair.

Then that supports the record that the chairman of the Senate Labor and Human Resources Committee was inaccurate in his statement yesterday before the Senate that he could, in fact, poll bills and nominations. I think we have to have an understanding of what the rules are or just not have rules. On the committee rules, maybe what we ought to do is not have committee rules in the Labor and Human Resources Committee. At least we would know what the rules were then. There are no rules. If we do not have rules, I will not have rules to impose but we will know what the situation is. It is unfortunate to have rules and think you know what the rules are and what the rules of the game are and then they are not complied with. That is not only not fair but I do not believe that is the spirit under which the Senate should operate. That is the reason for the Senate resolution.

It is, of course, well established that a violation of Committee rules does not create a point of order on the Senate floor.

Am I correct, that if there is a violation of the committee rules there is no point of order on the floor of the Senate to enforce the committee rules? I make that as a parliamentary inquiry.

The PRESIDING OFFICER. That would depend on the committee rule it violated under rule XXVI.

Mr. QUAYLE. A further parliamentary inquiry. In other words there are some committee rules that could be enforced by a point of order on the floor of the Senate?

The PRESIDING OFFICER. There are a few rules and precedents that are enforced on the Senate floor.

Mr. QUAYLE. A further parliamentary inquiry, Mr. President. Would a point of order rest against a modification to a committee amendment that did not comport with the committee rules?

The PRESIDING OFFICER. The answer is no.

Mr. QUAYLE. So a point of order would not rest against that situation. In other words, in the situation that is before us, if the committee rules were violated as far as modifying the committee substitute, a point of order would not be appropriate on the floor of the Senate.

The PRESIDING OFFICER. That is correct.

Mr. QUAYLE. I thank the Chair. That is my understanding. In this particular case, the Senator from Indiana, even though the committee rules were violated, cannot make a point of order on the modification because the point of order would not rest on the floor of the Senate where committee rules were violated.

I can understand that. I do not think we should have a rule in the Senate to enforce all the committee rules. We would be here all day, particularly with the Labor and Human Resources Committee. We would be using up quite a bit of time trying to get committee rules enforced in the Senate. I can see the prudence in the Senate that they do not want to get involved in that.

Let me say, Mr. President, further reading the letter:

> Rules are not enacted to protect the majority; they can protect themselves. Rules are enacted to protect the minority out of an innate sense of fairness perhaps aided by the reflection that members of the majority on occasion be in the minority. If it is the intention of the chairman to flout the rules of the committee whenever it suits his convenience and there is no appeal to another body, I would recommend that we repeal the rules or at least stamp them like the old one-way railroad ticket, "Good for this day and trip only."

Maybe that is the way we ought to, in fact, go ahead. As far as the Senator from Indiana is concerned, it would be far preferable not to have any committee rules. At least I would know what the rules are. What I do not like is to have rules and not have them complied with. That, I believe, is not the spirit in which we ought to conduct ourselves. That is basically the reason I have in this sense of the Senate resolution, that since there is a lack of enforcement mechanism to enforce committee rules upon the chairman of the committee, what this sense of the Senate resolution says is: it be the sense of the Senate that it is essential that chairmen of committees comply with their committee rules even though, or rather just because such compliance is not enforceable. So at least we will get an expression of the Senate that even though we cannot come to the Senate floor and get enforcement of committee rules that are violated, we will get a sense of the Senate that we in fact should comply with committee rules even though they are not enforceable when we come to the full Senate.

Mr. President, we have heard on this floor a lot of discussion about rules, about laws, about fairness, about decency. I think when we look at this situation the only thing is if we have rules and we understand what the rules are, we simply ought to abide by them. We are lawmakers. That is our responsibility. As lawmakers, we should perhaps even have a higher regard and our standards would be even higher for not only the laws that we make for the land but certainly for the rules that we go by when we have our individual legislation that comes out of the committee.

Mr. President, the issue that is before us is here because of what did happen the other day, as far as having a situation where the modification simply did not comport with the committee rules.

I feel it important that this be pointed out. I do not think we need to take a lot of time on the amendment. The Senate will speak on this, and the chairman of the committee has indicated he will be willing to accept this amendment. That will be fine with me.

I think the record will note probably this amendment will be accepted without dissent. The issue is: What is happening in the Labor and Human Resources Committee would be the flouting of the committee rules.

As I said and I say again, I prefer to have no rules at all rather than have rules and then have them disregarded. Just tell me what the rules are, but do not tell me what the rules are and then change them at your own convenience. That is what I object to. That is why I take this time and why I have offered a sense of the Senate.

I am glad the chairman of the committee appears to be willing to accept it because I think it shows there is now a clear understanding that the chairman of the Senate Labor and Human Resources Committee should comply with the committee rules.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, as has been already indicated by the chairman of the committee, we are prepared to accept this amendment. Everybody agrees it is essential that chairmen of committees comply with their committee rules even though such compliance is not enforceable. We could not be more in agreement. The amendment is acceptable.

Mr. QUAYLE. Does the Senator from Ohio accept the reason I brought this here is the committee rules were not complied with and were violated on the modification of the substitute?

Mr. METZENBAUM. Absolutely not. Let me just say the Senator from Massachusetts abided by the rules of the committee, and the Senator abided by the rules of the Senate.

The Senator from Indiana has been attempting to make that point for several days. The point is not valid, but as far as his sense of the Senate proposal is concerned, we have no problem with that. The sense of the Senate, "appropriate time to emphasize the importance of compliance with committee rules of procedure," we agree. Also, "There are sound practical reasons why compliance with committee rules is not, and should not be, enforced by points of order on the Senate floor." We agree.

I guess that many children in school would agree with the same thing. So I do not think we are in disagreement.

The only point is that the Senator from Indiana would like to claim that there has been a violation of some rules, and we are not in agreement on that because we have not been in violation of the rules.

Mr. QUAYLE. Then we do have a misunderstanding. We ought to go through the procedure, and I will ask the Senator from Ohio that as far as when he got the modification of the committee substitute, how was that obtained?

Mr. METZENBAUM. I do not want to yield to that question for a moment. I have the floor, and I want to address myself to another subject. I will come back to it.

Let me say something. For days now, a number of Members of this body have been talking about offering amendments to the pending legislation, and for days we have been trying to get those amendments called up. One whole day was spent while we attempted to accept some amendments that made the bill more acceptable to the business community that provided exceptions for agriculture and the small business community. Thereafter, we went into a day when we had a couple of extraneous amendments that were tabled by rather substantial margins.

We are here now on Friday morning ready to deal with the substance of this legislation, and I must say to my friend from Indiana that I am not prepared to spend the time of the Senate debating whether rules were or were not violated. The Parliamentarian makes those decisions. He makes the decisions.

You have been on this subject before. You were the one who has talked so much about this bill being a problem. You were the one who has said you have an amendment——

Mr. BYRD. Mr. President, I ask for the regular order. I have done this about a dozen times the last 2 or 3 days.

Mr. METZENBAUM. I agree with the leadership. We are to address the Chair and not fellow Members of the Senate.

Mr. BYRD. I would like the Chair to respond to my call for the regular order.

The PRESIDING OFFICER. The Senators will address the Chair and will refer to fellow Senators in the third person.

Mr. BYRD. I thank the Chair, and I thank the Senator.

Mr. METZENBAUM. It will be my privilege. Not having much more to say, I will address the Chair and say I yield the floor.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I ask for some response from the Senator from Ohio, or the chairman of the committee, as to how they can say the rules were complied with in the committee, as to how they can say the rules were complied with in the committee? I will just read them very straightforward:

> The committee may poll any matters of committee business as a matter of unanimous consent.

That is on page 2 of the Rules of Procedure of the Senate Committee on Labor and Human Resources.

I would just like to have an explanation on how unanimous consent was obtained on doing the committee business, on doing the committee business of providing a modification to the committee substitute. I can ask that of either the chairman of the committee on the floor or to the chairman of the subcommittee on the floor. How was the rule complied with?

Mr. KENNEDY. Mr. President, when the Senator from Indiana concludes, I will make a response when he yields the floor, and I will give a response to that at that time.

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. QUAYLE. I can just say what was told to me the other day: That the chairman of the committee indicated that the members were, in fact, polled. That is in the committee record. That is in the CONGRESSIONAL RECORD: That committee members were polled.

I just read: "The committee may poll any matters of committee business as a matter of unanimous consent."

It is not real tricky. It is not real difficult to understand what the rules of the committee are.

I see my good friend from Connecticut, who is a member of the commitee, is now on the floor. I said earlier, and I say to him, I would rather not have any rules than to have rules that are not complied with. At least I know what the rules are: No rules. What I do not like is to have rules and then, at the convenience of the chairman, go ahead and ignore them. That is the objection. There is no enforcement mechanism on the floor of the Senate for me to enforce the committee rules of the Labor and Human Resources Committee, at least on this particular issue. The Chair has informed me that there are perhaps some that I could enforce.

So again I ask that question. What is the answer? Silence is the answer. I guess there is no answer. I would like to see a defense sometime whether, in fact, these rules, which I suggest were violated, and I submit that they were violated, and I also submit to show nobody, in fact, will stand up to challenge that, except to say they were not violated.

When we get into questions and anwers and look at the committee rules: Silence. Silence is the answer. I understand what the votes are in the committee. It is almost always 11 to 5. That is fine. But we have the committee rules and the resolution says that we ought to comply with them.

So apparently there is no answer, no willingness to engage in debate. But by silence and sitting there, and I can just read it again:

> The committee may poll any matters of committee business as a matter of unanimous consent.

Unanimous consent was not obtained. Polling was, in fact, the procedure, and I submit that is a clear violation of committee rules.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, Wednesday on behalf of an ample majority of members of the Labor and Human Resources Committee, I offered a modification to S. 79 to incorporate several compromise amendments. I read in the CONGRESSIONAL RECORD some of the remarks of the distinguished Senator from Utah about my use of this modification procedure.

Mr. President, I do not intend to get into a prolonged debate about this procedure with the Senator from Indiana. I would simply state that there is precedent for this procedure dating back to 1914. I would further add that before the Senator from Utah and the Senator from Indiana continue to call the committee's modification "reprehensible, in violation of the Senate rules, and spirit of the rules" he should consult with the distinguished minority leader, Senator DOLE, who used this procedure for the Senate Finance Committee, and he should talk with the distinguished Senator from New Mexico, Senator DOMENICI, who has used this procedure for the Budget Committee. And he should also talk with representatives of the

Rules Committee that have used this procedure.

The Senator from Ohio repeatedly asked for debate on pending amendments. The Senator from Utah, during the committee process, who had made no bones about the fact that he intended to filibuster this bill, refused to debate the pending amendments. But if he thought that this Senator or the members of the Human Resources Committee were going to fold up our tents and give up on this bill, which will prevent working men and women from dying in the work place, the Senator from Indiana and the Senator from Utah are wrong.

We went through 5 full markups and entertained almost 100 amendments offered by Senators HATCH and QUAYLE. We passed the bill out of the committee. We continue to push for its approval here in the Senate. We did not violate any of the rules either of the committee or of the Senate.

Mr. QUAYLE. Will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. QUAYLE. He refers to the minority leader, Senator DOLE. Does the Finance Committee have the same rule as the Labor and Human Resources Committee, which says that when we poll Members it must be done by unanimous consent?

Mr. KENNEDY. The procedures which have been followed, which we followed the other day exactly conform with past precedent, Mr. President. We are not talking about a particular piece of legislation. We are not talking about reporting out an individual nomination. Those particular rules which the Senator has identified relate to that kind of activity of the Human Resources Committee. The modification procedure which we followed, and which we favor, is a precedent that goes back to 1914. Once the measure is reported out—and it was reported out with a quorum—we come under the rules of the full Senate. The procedures that we followed are consistent with the rules of the Senate, and that has been designated by the Parliamentarian.

Mr. President, the Senator from Indiana does not want this bill, does not like it, wants to filibuster the bill. He has been making great pronouncements about how we cannot get a serious discussion about any of these measures. And if we want to continue these matters, we will be glad to talk about them in the Human Resources Committee and I will be glad to have a meeting of the committee. But it seems to me we are taking the time of the Senate on this important measure. The Parliamentarian has indicated that the action that we have taken follows past precedent. The Senator from Indiana does not like it. But that happens to be what the rules are.

Mr. QUAYLE. Will the Senator yield?

Mr. KENNEDY. I will be gald to take a couple more questions and then, quite frankly, I hope we could begin to debate the bill. I know the Senator might not want to debate the bill, but I hope we could get back to debating the bill. We have two amendments dealing with AIDS, substantive amendments. I have responded to the various questions. We responded the other day. I hope we could get to the substance of the bill.

The Senator wants to filibuster evidently, but I will take a couple more questions. I will try to make the responses brief, and then if he just wants to continue on through the afternoon, he should let some of the Senators know whether he is going to permit any votes to be taken.

Mr. QUAYLE. Will the Senator yield?

Mr. KENNEDY. We indicated we would accept the Senator's amendment. I do not know what more the Senator would want. We are glad to accept the Senator's amendment.

Mr. QUAYLE. Will the Senator yield? I have no desire to prolong the debate. As a matter of fact, I do not even intend to ask for a rollcall vote because you said you accepted the amendment.

Mr. KENNEDY. Be glad to.

Mr. QUAYLE. The point I want to make is that the Labor and Human Resources Committee rules provide that the committee may conduct matters of committee business. It does not say nominations or bills. It says any matters of business. Committee business is in fact a modification, a committee modification. And it says as a matter of unanimous consent. I do not know about other committees. I do not think the Finance Committee has that. We do have this rule. Maybe we ought to get rid of the rule, but it is the rule of the Labor and Human Resources Committee. You are the chairman of the Labor and Human Resources Committee and this was not complied with.

Mr. KENNEDY. If the Senator will yield——

Mr. QUAYLE. I cannot enforce it here on the floor but it is a violation of the committee rules.

Mr. KENNEDY. If you want a response, I will respond. The fact is that measure had left the Senate Human Resources Committee and we conformed with the rules during the committee process. It was reported out with a quorum under the committee's rules. That measure is out on the Senate floor being debated. But there is a time-honored way in which this body recognizes that modifications can be made and that happens to be the fact. That has been the fact since 1914. That measure is out, o-u-t, of the Human Resources Committee. It is difficult for the Senator to understand. It is out of the committee. But the Senate rules permit modifications using the procedures which have been a precedent.

Now, the Senator does not like it. He did not want to debate the four or five measures that were before the Senate on that afternoon, would not permit a rollcall vote on them, would not debate them, and now he does not want to debate the other measures of the Senator from North Carolina. But that happens to be the way it is.

Now, the Senator might not like it, and I would hope that if he does not, he would go to the Rules Committee and bring about some other change, but the modification process is a time-honored precedent that has been used by Republicans and Democrats and been used within the last few years.

That happens to be the way it is, Senator. If you want to change it, I would suggest that you go to the Rules Committee and do so.

Mr. QUAYLE. Will the Senator yield? I do not have to go to the Rules Committee. Do it in the Labor and Human Resources Committee. We can change the rules. You have the votes. You can put in any rules. If you want to, you can have no rules. As I said, I would rather have no rules than rules that are not complied with; I know where I stand.

The Senator knows that to modify the committee substitute he has to get authorization from the Labor and Human Resources Committee. He has to get authorization from the committee, which he did. He got authorization from the Labor and Human Resources Committee but the committee rules say that authorization shall be provided—if you are going to poll, and the Senator told me that he polled the members, it has to be done by unanimous consent. I was not contacted. The ranking minority member was not contacted. And the rules of the Labor and Human Resources Committee, not the rules of the Senate, were violated.

Mr. KENNEDY. Well, that is the Senator's reading. If the Senator was correct, the Parliamentarian would have stated it. But the Senator is wrong in his understanding of it. The Senator is wrong, as I said a minute ago, about what the Parliamentarian says. He is the one who decides the rules, Senator. You might not like this procedure but it has been used around here.

Mr. QUAYLE. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. Mr. President, I have stated, restated, re-re-restated what happened. I do not intend to discuss it any further. I have indicated to the Senator I will be glad to get the

Human Resources Committee together. We can argue this over there, but I would hope we would get to the substance of the legislation.

Mr. QUAYLE. Parliamentary inquiry, Mr. President, so that my distinguished chairman will understand what the Parliamentarian is going to tell us. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. QUAYLE. Parliamentary inquiry, Mr. President. It is my understanding that to modify a committee amendment, the committee must authorize that modification. Am I correct?

The PRESIDING OFFICER. That is correct.

Mr. QUAYLE. That is correct. So I tell my chairman of the Labor and Human Resources Committee the Parliamentarian has spoken, that you have to get authorization from the committee. Whether you like it or not, you have got to get authorization from the committee. You cannot just go out and do it. You have to get authorization from the committee. And when you go to get——

Mr. KENNEDY. Will the Senator yield?

Mr. QUAYLE. Authorization from the committee, when you go back to get authorization from the committee, you in fact should—you do not have to because I cannot enforce violations of committee rules on the floor, but you should—and that is what this resolution that you are going to accept says—you should comply with the committee rules. The committee rules say, "The committee may poll"—the Senator from Massachusetts said that he polled—"any matters of committee business"—this is committee business. I might ask a parliamentary inquiry. Is getting a modification from a committee considered committee business? I assume that it is.

The PRESIDING OFFICER. It has not in the past.

Mr. QUAYLE. Committee business as a matter of unanimous consent.

Mr. KENNEDY. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, is the modification that was submitted to S. 79 in conformity with the Senate rules?

The PRESIDING OFFICER. It is in conformity with past precedents.

Mr. KENNEDY. According to the past precedents of the U.S. Senate that was a legitimate modification?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I have no further comments, Mr. President. The Parliamentarian has spoken. The Parliamentarian indicated that the steps taken were completely justified based upon past precedent. The Senator from Indiana does not like it. I have no further comment.

Mr. QUAYLE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. It is possible to go ahead with past precedents of the Senate, but in fact committee rules could or could not be complied with, that the compliance with the committee rules is not a point of order, nor is it discussed when a modification is done. That is not full Senate business. That is the committee's business. So, therefore, you can go ahead and have compliance with past precedents but still violate the committee rules. Is the Senator from Indiana correct?

The PRESIDING OFFICER. Under the precedents of the committee, the chairman, who has been in the Senate and on the Senate floor, is allowed to make modifications to a committee amendment so long as he is authorized by a majority of the committee members.

Mr. QUAYLE. Further parliamentary inquiry. With that authorization the committee rules would require you have unanimous consent. It would not be a point of order in the Senate. It would be a violation of the committee rules which the Senate does not enforce. But you could have that situation.

The PRESIDING OFFICER. The Senate in the past has allowed the Members to obtain authorization in various matters.

Mr. QUAYLE. In other words, it is possible to obtain authorization but violate committee rules?

The PRESIDING OFFICER. Well, the Senate is not in the position to enforce the committee rules.

Mr. QUAYLE. I understand that since the Senate is not in the position to enforce the committee rules it is possible to have authorization of modifications or have modifications that are authorized but those modifications could be in violation of committee rules. Is the Senator correct on that?

The PRESIDING OFFICER. The Senator can obtain authorization in any way he chooses in conformance with the Senate rules.

Mr. QUAYLE. I thank the Chair. Anyway, it usually means he can do it in compliance with the committee rules or in violation of the committee rules.

The PRESIDING OFFICER. The committee rules can be raised in question on the floor.

Mr. QUAYLE. I thank the Chair, and I fully understand that. That is the point. We cannot enforce nor am I suggesting we need a rule on the Senate floor to start enforcing committee rules because we would be sitting here, making—as a matter of fact a point of order would be against that modification. But I think that my case is well stated.

I thank the Chair for answering the questions.

The point is that the chairman in fact can go ahead and modify that, he can do it, he can comply with the committee rules, or cannot comply with the committee rules. In this case he did not comply with the committee rules, and that is why the sense of the Senate is necessary. I think by accepting this sense of the Senate reinforcing it is an admission that the committee rules were in fact violated.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Indiana [Mr. QUAYLE].

The amendment (No. 1819) was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, my understanding is the Kennedy-Helms amendment is the pending business.

The PRESIDING OFFICER. The question recurs on the Kennedy amendment.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. METZENBAUM. I believe that has been worked out, but I am not certain that it has been with the Senator from North Carolina. I think if the Senator from North Carolina could be reached in order to make that determination, we do not want to ask the Senate to accept the amendment without his being apprised of the fact. But I think there is an agreement. Is the Senator from Indiana in a position to indicate whether or not the Senator from North Carolina is in agreement to go forward to pass this amendment?

Mr. QUAYLE. Will the Senator yield?

Mr. METZENBAUM. Yes.

Mr. QUAYLE. Unfortunately, I am not in a position to give an answer one way or another. I simply do not know. I will have to check with the Senator from North Carolina. Is it the Senator's understanding it has been worked out?

Mr. METZENBAUM. That is my understanding. But I was not a party to the negotiations. So I do not want to do anything that anyone could claim we have passed something and the Senator from North Carolina's rights were not protected.

Mr. QUAYLE. Will the Senator yield? Let me in all due diligence and respect to my friend from North Carolina try to ascertain from him directly, or from Members of the Cloakroom or his staff, where we are on that issue. I have not discussed that issue nor debated it. I presume we would move forward on it. I have no desire to hold up. It is not my amendment.

Mr. METZENBAUM. The Senator from Ohio wants to move forward with this bill. The Senator from Massachusetts, who is a mover of the second-degree amendment and who has been in touch with the Senator from North Carolina, has been on the floor an hour-and-a-half waiting to adopt the matter. I would say as manager of the bill that I am going to ask for the regular order rather shortly. I would hope some definite answer could be reached on that subject.

Meanwhile, Mr. President, let me again repeat as I have done time and time before, we are ready for amendments. The floor is open to amendments. I see the distinguished Senator from Oklahoma on the floor. I do not want to say in the negative that he is not rising to offer an amendment. I do not see many other Members on the floor.

But let it be heard loud and clear, we are prepared for amendments. If you want to change this bill, come to the floor and offer your amendments. We are willing to consider them. If they are at all reasonable, we are prepared to accept them. But I believe the working people of this country are entitled to some action on this bill. It is obvious we are engaged in a filibuster, a filibuster to delay bringing this matter to a vote.

Monday we will have an opportunity to vote cloture. Cloture requires 60 votes. I believe a majority of the Members of this Senate want this bill. But if there are some Members who are not yet on board, who are not yet prepared to vote for it, find some specific provisions of it objectionable, and have amendments that do not destroy the intent of the legislation, we are prepared to consider them, to negotiate with them, to compromise with them, and hopefully to accept them.

Mr. President, I yield the floor.

Mr. QUAYLE. Mr. President, parliamentary inquiry: The Senator from Ohio indicated he was going to request sometime this afternoon regular order. If that request were to be made, what would regular order be?

The PRESIDING OFFICER. The question would recur on the Kennedy amendment to the Helms amendment to the committee substitute.

Mr. METZENBAUM. Will the Chair be good enough to—is it not the fact that——

Mr. QUAYLE. Who has the floor?

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. QUAYLE. With that notice, I think basically what we are saying is call for regular order is just basically moving to try to adopt the Kennedy second-degree amendment to the Helms amendment. That would be where we would be moving to. That is where we would need to ascertain whether we can move. I am not in the position to give that kind of information at this time.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Let me point out to my colleague from Indiana that we are prepared to act with respect to the Kennedy amendment to the Helms amendment, and it is my understanding that by having the Kennedy amendment to the Helms amendment, the Helms amendment is accepted to the Senator from Massachusetts. Is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. METZENBAUM. Therefore, if we accept the Kennedy amendment to the Helms amendment, and then accept the Helms amendment, as amended by the Kennedy amendment, the regular order before the body would, I believe, provide for passage of this bill.

I am prepared to call for passage of this bill as promptly as possible. I am prepared to consider amendments. But I am not prepared to just sit here and twiddle my thumbs for hours on end, without anybody coming forward with any amendments and then complaining about the fact that they did not have an opportunity to offer amendments. They can offer amendments now, right this minute, because I am confident that if there were amendments to be called up, we could work out a procedure to set aside the Kennedy amendment to the Helms amendment temporarily, in order to take up an amendment. There is no reason why amendments cannot be considered. We welcome them.

I yield the floor.

Mr. QUAYLE. Mr. President, a parliamentary inquiry. Would it be possible for an amendment to be offered to the substitute amendment, or is that tree full?

The PRESIDING OFFICER. No further amendments are in order.

Mr. QUAYLE. So the Senate should know that that part is full, and no amendment could be offered. What we have to do is dispose of the Kennedy amendment, and we have to dispose of the Helms amendment, so that we can offer amendments to the committee substitute. That is where we are right now.

We are trying to see whether—the Senator from Ohio indicates that it has been worked out. I will have to check. I will be delighted to come back and report that we have a Kennedy-Helms understanding on this issue. Maybe we do. I simply do not know. Someone informed me, at least indirectly, that there may not be that understanding.

Mr. METZENBAUM. Mr. President——

Mr. QUAYLE. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. QUAYLE. That is where we are right now, that the amendment tree for the substitute is full.

So those Senators who have their amendments in their pockets or in their machines or who have been thinking about them for months, when we dispose of these amendments, can offer amendments. I think everybody knows where the lay of the land is.

As far as sitting here this afternoon, a cloture motion has been filed, and we will have a cloture vote on Monday.

Mr. President, a parliamentary inquiry. Has a motion been filed today on this bill?

The PRESIDING OFFICER. Will the Senator restate the question?

Mr. QUAYLE. Has a cloture motion on S. 79 been filed today?

The PRESIDING OFFICER. Not today.

Mr. QUAYLE. We have not yet filed it. It is the understanding that one may be filed. Everyone knows where these votes are. We will vote on one Monday; and if one is filed today, we may vote on Tuesday. That is the lay of the land. I think everybody pretty well knows what it is.

The tree is full right now. When we proceed to deal with the Kennedy amendment first, then another amendment would be in order; or, if we deal with Kennedy-Helms, there will be two possible amendments we can offer. There is no use offering an amendment to the committee bill, because the substitute will take care of that.

Mr. WEICKER. Mr. President, a parliamentary inquiry. If the Kennedy amendment is adopted, then would not the situation be that there would be no Helms language; it would be the Kennedy language? The Helms language would go away?

The PRESIDING OFFICER. The Helms language would be extended to the Kennedy amendment.

Mr. WEICKER. But in lieu of the matter proposed to be inserted, is it true that the Helms language would no longer exist—rather, it would be substituted by the Kennedy language?

The PRESIDING OFFICER. There is a complete substitute in the form of a perfecting amendment, so that Senator is correct.

Mr. WEICKER. I thank the Chair.

Mr. METZENBAUM and Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I want to give fair warning. In about 5 minutes, I am going to ask for the regular order, which would have to do with the adoption of the Kennedy amendment immediately thereafter. If it is accepted, or if we need to have a rollcall, then I will ask for regular order on the Helms amendment, as amended by the Kennedy amendment. I think we have been waiting long enough on this.

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. QUAYLE. I think we are trying to figure it out. The Senator can ask for regular order at any time. If that is the case, I will put in a quorum call.

Mr. METZENBAUM. I point out that a quorum call could be put in. We would then have to go to a live quorum. I just want to move this bill along.

I do not have any objection to the Kennedy amendment or the Helms amendment as amended by the Kennedy amendment, but I want to give people an opportunity to offer amendments.

I have said time and time again that if somebody wants to offer an amendment now, I would ask unanimous consent that the Kennedy amendment to the Helms amendment be laid aside temporarily, reserving its position on the calendar, in order that another amendment could be taken up. My colleagues should understand that we are ready and willing to consider any and all amendments.

(Mr. REID assumed the Chair.)

Mr. CHAFEE. Mr. President, I would like to address a question to the floor manager of S. 79.

First of all, as I understand it, the notification that has to go out can go back as far as 30 years, am I correct in that; employees that have worked for you for the past 30 years?

Mr. METZENBAUM. If the records are available, yes.

Mr. CHAFEE. Now, let us take a hypothetical. I am a manufacturer who, 15 years ago was deep into textiles. I had a thousand workers in textiles, but gradually I have moved out of that area and closed my mills and have switched into other activities. I might well be making chain saws or involved in the insurance industry.

Now, if the board determines that the textile plant, with the lint and cotton dust that was in the air, could well be a cause of white tuberculosis, if you want to call it that, white lung disease, and, therefore, notices should go out to my employees. I had a thousand employees at one time and, over the course of the years—between the 30 years and when I closed the plant—I might have had a total of 2,500 employees.

Now, those records are long gone. They may be in some warehouse, I do not know. But then it is determined that notices must go out. What happens and who pays for it?

Mr. METZENBAUM. Let me see if I can answer the Senator's question, which is a good one. S. 79 has no new recordkeeping requirements.

Mr. CHAFEE. Now, when you say S. 79, are we talking about the substitute amendment, the bill that is before us?

Mr. METZENBAUM. The bill that is before us.

Mr. CHAFEE. The substitute bill.

Mr. METZENBAUM. No new records will have to be created by employers. If the information is available, then the employers should provide it to the Government.

Under OSHA, they are required to keep some records with respect to their employees and, if they have those records, they should provide them to the Government. If the information does not exist or——

Mr. CHAFEE. I am not saying it does not exist. In some warehouse, in some files, it may well be there. I cannot swear, cross my heart, hope to die that the names of those workers are not somewhere, and I might well have them under my control.

Mr. METZENBAUM. I think the Senator's question is a very valid one. The fact is, if it is not readily available, the Government is in no position to require you, the employer, to go back and dig it out. If it is in a bunch of boxes, it has been put away, nobody has paid any attention to it for years, under those circumstances, the lawyer says, "Can't do it; just not readily available," the Government would then be required to find other means to advise the affected former employees. In many instances, the Government would then use public service announcements and other forms of group notice, precisely because individual notice to the former employees is not practicable. The bill specifically provides for that approach.

Let me read the language——

Mr. CHAFEE. You do not have to read it. If you tell me that is so, that is adequate.

Now, my next question is this: I am a dry cleaner. I have 20 employees. It is a high-turnover business. There are pants pressers, there are people working in there exposed to what might be the dangerous cleaning fluids. The Government says that all of the dry cleaning industry must notify its employees. I have 20 employees and over the past 5 years I may well have had a total of 90 employees; never more than 20 at a time, but it has a high turnover. This is in the past 5 years that I have had this many employees.

Now, the Government says that notices must go out. I cannot find those names, at least the names of who they were at that time and where they lived. Unquestionably, they have moved. It is a transient type of population. They are not long-stayers in the job and, frankly, I am not a high payer. I am a low-wage businessman.

Now, what happens? Who pays for me to search through those files, if anybody, and who do I mail it to? Or do I do the mailing?

Mr. METZENBAUM. First of all, the Government would have the responsibility to provide the notification. The employers do not do anything else unless they volunteer to do so. The employer has the choice of making the notification, but is not required to make the notification.

In other words, let me say it a different way: the Government notifies the employer that there is this problem. First of all, the Government does not give out new industrywide notification, nor are they permitted under this law to make a determination industrywide. To make a determination in a particular plant or several plants that have this problem, they tell the employer. The employer says, "Thank you for telling me. We will tell our employees or former employees." Then, that is it.

Or the employer says, "No, we are not inclined to provide that notification. You are welcome to the records we have, which are only the records that we keep under OSHA. Here they are. And you, Mr. Government, may or may not notify them if you want to."

Mr. CHAFEE. Is there any dispute on this?

Unfortunately, I am caught in a trap. I have another appointment.

But do the opponents of the legislation agree with that interpretation?

Mr. METZENBAUM. Let me make a correction.

Mr. CHAFEE. Yes.

Mr. METZENBAUM. I said there never is an industrywide notification.

Mr. CHAFEE. I am not talking about that point.

Mr. METZENBAUM. I might not have made that statement accurately.

Mr. CHAFEE. I am talking about my records. I am running a small shop. I am trying to keep the books and answer the telephone and see the trucks repaired, and I just do not have good records.

Mr. QUAYLE. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. QUAYLE. Here is the problem and the issue in a little bit different perspective. Take your drycleaning example. Let us say this risk assessment board determines that if an employee has been exposed to a particular substance for a period of years, 1 year, that, in fact, they have a higher incidence of getting a certain disease and, therefore, should be notified. The problem is that the Government will require the employer to go back and comb his files not only for all the employees but all the employees that were exposed to that particular hazard for 1 year. And that is a very, very difficult burden.

Mr. CHAFEE. Yes, but the Senator from Ohio said that the Government does that; that I do not have to go back through all these records.

Mr. METZENBAUM. If the Senator from Indiana does not mind my commenting, Mr. President, may I respond to the Senator from Rhode Island?

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. CHAFEE. Yes, go ahead.

Mr. QUAYLE. What is the question?

Mr. CHAFEE. The question is: who does the research? You say that—I am a dry cleaner—I have to go back and dig and find out and send out the info. The Senator from Ohio says, no, I can say, "I cannot afford the time; I am up to my ears. You, the Government, you go find the records."

Do you disagree with that?

Mr. QUAYLE. What did he say?

Mr. CHAFEE. He said that the Government does it.

Mr. QUAYLE. I agree.

The problem is that if the Government comes in and combs those files, combs all of the files of this laundromat, how do they determine who, in fact, has been exposed to that for one year? And that is where you get the Government involved in this thing, trying to make that determination. And if they cannot make that determination, what they will do is notify everyone and they will be notifying a lot of people that will not have this increase of risk, and that is the fundamental problem.

Mr. CHAFEE. I see a problem there. You are liable to scare a lot of people to death.

Mr. QUAYLE. That is right. That is the problem. That is the problem with this bill.

Mr. CRANSTON. Mr. President, I rise in support of the amendment offered by my good friend, the Senator from Massachusetts [Mr. KENNEDY] to require the Secretary of Health and Human Services to develop and implement a program to disseminate information to all health-care, public safety, and emergency services workers regarding AIDS and on ways to reduce the risk of on-the-job transmission of the AIDS virus. As many of my colleagues already know, this provision is contained in S. 1220, the comprehensive AIDS bill that the Senate will be considering shortly. This amendment is being offered in order to address the issue of exposure of Health-care workers to the AIDS virus and to do so in a rational, reasonable fashion that would still preserve the integrity of the legislation before us.

Mr. President, when the high-risk notification bill was debated in the House, an amendment was adopted that would require that all health-care employees be designated as a population at risk under S. 79. That means that millions of health-care workers would be notified of possible exposure to the AIDS virus and would become the first, and very likely only, priority of the bill, for reasons I will explain later.

I well appreciate the need to inform health-care and emergency-care professionals about the risk of transmission of the HIV virus. A small risk does exist, and all health and public safety personnel should be educated about that risk and trained about taking precautions to reduce it. At issue here is what is the best method to communicate that information.

The Occupational Safety and Health Administration and the Department of Health and Human Services have responded to the need of health-care workers by issuing an advisory notice to employers about the risk of contracting infectious diseases, including AIDS and hepatitis B, on the job. Because it is impossible to know which patients are infected with the AIDS virus, hospitals, health-care workers, and public safety personnel are being urged to implement universal precautions. Training regarding those precautions could effectively prevent unnecessary exposure to the AIDS virus.

That work is ongoing. The amendment offered by the Senator from Massachusetts seeks to build on that effort by requiring that an information campaign targeted to the public health and safety professional be implemented within 90 days.

On the other hand, requiring the Risk Assessment Board, which would be established by this legislation, automatically to designate all health-care workers as a population at risk—regardless of whether they have ever engaged in an activity that could possibly have exposed them to the virus—could result in confusing, not complementary, information being given to health-care workers. In providing information to the public about AIDS, we should take care that the information is factual and straightforward and not unduly inflammatory.

As many of my colleagues know, in recent weeks we have seen again the specter of casual transmission of AIDS raised in a book by Masters and Johnson—even though all the best public health and epidemiological data indicate that the AIDS virus cannot be casually transmitted. I would add that the public health community has nearly unanimously responded that the book's statements in that regard have no basis in fact and are irresponsible.

Under S. 79, as reported, notification by the Risk Assessment Board should occur only when there is strong medical and scientific evidence regarding occupational exposure to a hazard and subsequent development of a disease. Thus, I am concerned that requiring notification through this mechanism in this one situation—involving AIDS—in which those standards may not have been met may cause more unnecessary alarm about workplace exposure.

I would also note that there is nothing in this amendment or in the bill as reported that would preclude the board, if the scientific evidence warrants it, from deciding that a further notification of some populations of health-care workers regarding AIDS is necessary. I would stress again that the Board should make that determination, not the Congress.

Mr. President, the real issue is, as most of my colleagues know, that the amendment adopted in the House—and which we expect to be offered in the Senate—would preclude the Government from achieving the goals of this legislation. S. 79 is a modest bill—it would authorize the appropriation of $25 million a year for the purpose of notifying between 200,000 and 300,000 current and former workers annually about exposure to hazardous substances in the workplace. Notification would be authorized when statistically significant evidence shows that persons exposed to a hazardous substance have suffered chronic health effects. There must be scientific studies that demonstrate a linkage between exposure and the development of a disease. And then the Board would give priority to notifying those who are likely to benefit from medical monitoring or counseling. If all health-care and emergency personnel were mandated to be notified about AIDS, there would be no room in the budget to notify other workers.

Mr. President, we can all agree that all possible actions should be taken to ensure that health-care workers and emergency personnel have all the available information to protect themselves from possible exposure to the AIDS virus. The pending amendment accomplishes that goal without compromising the legislation at hand.

I urge all my colleagues to support the pending amendment and oppose any subsequent amendment that would require the Risk Assessment Board to designate health-care workers as a population at risk.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I indicated at an earlier point that I was going to ask for the regular order in order that we might act on the Kennedy amendment. I ask for the regular order.

Mr. HATCH. Would the Senator withhold on that. I would like to have him allow me——

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. HATCH. Will you withhold?

Mr. QUAYLE. I understand we will be recognized.

Mr. METZENBAUM. I will temporarily, not withdraw the request, but I will yield for a question to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Will the Senator allow the Senator from Utah to speak to the two amendments that are up? I would like to make some remarks about them before any action is taken.

Mr. QUAYLE. Parliamentary inquiry, Mr. President.

Mr. HATCH. I have not debated it.

Mr. QUAYLE. If the Senator asked for regular order and the Senator from Utah is standing asking for recognition, is not the Senator from Utah recognized?

The PRESIDING OFFICER. The Senator from Ohio had not yielded the floor and still maintains the floor.

Mr. METZENBAUM. If I may say so while I have the floor, although I asked for the regular order, which would then cause us to move toward a rollcall vote, I believe that under the rules the Senator from Utah would still be in a position to ask for recognition in order to be heard.

The PRESIDING OFFICER. The Senator from Ohio is correct.

Mr. HATCH. I would do that. But I would like to ask my colleague to withdraw his request. We can make it later. And let me go ahead and make at least some arguments that I think are crucial with regard to this issue.

Mr. METZENBAUM. Is it on the second-degree amendment?

Mr. HATCH. It happens to be on both amendments, yes.

Mr. METZENBAUM. I yield the floor.

Mr. QUAYLE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. If in fact the Senator from Ohio requests regular order and any Senator is standing seeking recognition, is not that Senator recognized?

The PRESIDING OFFICER. There is no question that when the Senator yields the floor, then any Senator seeking recognition will be recognized.

Mr. QUAYLE. I think Senators ought to understand that is the procedure. The Senator from Ohio at any time, of course, can ask for regular order. That is basically asking for a vote on the Kennedy amendment. The Senator here can seek to have recognition, then the Senator can speak. The Senator from Ohio asking for regular order does not cut off Senators from speaking.

Mr. METZENBAUM. I already said that.

Mr. QUAYLE. Nor does it cut off Senators from putting in a quorum call.

The PRESIDING OFFICER. The Senator from Indiana is correct.

The Senator from Utah.

Mr. HATCH. I would like the distinguished Senator to not call for a vote today. All he would get is a mandatory Sergeant at Arms request for Senators to come and that would inconvenience a lot of Senators who are at various places at this time.

Frankly, I do not see any way of getting off these two amendments at the present time because I disagree with them. To me, once again we are faced with what really to me seems to be incredible hypocrisy by the supporters of this legislation. We now learn that they are opposed to the Helms amendment which would declare AIDS an occupational health hazard, which it is. I think everybody in America is scared to death of AIDS. There are 6.8 million health care and laboratory workers in America, all of whom are very, very concerned because they do not have any way of knowing who has AIDS, and who does not have AIDS when, they come to their job at hospitals, medical testing facilities, doctor offices, nursing situations, and nursing homes. You add it up. Everybody is concerned about it.

What they are saying is that they are opposed to the Helms amendment which would declare AIDS an occupational health hazard, which it is so far as I can see, and require the notification procedure set up in this bill to be followed.

What is wrong with that? If this bill has merit, and I have to say that the way it is written I do not think anybody who reads it fairly, including a number of people in the New York Times, can say it has much merit the way it is written—if it has merit, then it seems to me the number one fear as a health hazard in America today, namely AIDS, ought to be covered by this particular bill. But the supporters want us to oppose this amendment.

First, they tell us that the board cannot handle notification of the up to 6.8 million health care workers this amendment might require to be notified. They tell us the funding for the board is only one-tenth of what it needs to be to notify that many workers. If that is true, Mr. President, then what is the board to do when faced with the 4 million workers who are exposed to asbestos, fewer than the number the opponents of this amendment say are too many to be notified if it is AIDS.

Most of those who have been exposed to asbestos have been notified. They know the problem with asbestos. Would it not be better to go to the 8 million people who are concerned about AIDS? How can the board cope with the almost 2 million people who are exposed to benzene who would be covered, or the 2 million exposed to carbon monoxide who would be covered by this bill? What about the 1.6-million workers exposed to formaldehyde or the 1.5 million exposed to cadmium?

It seems to me the supporters of this legislation have created yet another class of workers who are excluded under this legislation. It seems that whenever the board is faced with large numbers of employees exposed to a known occupational health hazard, the board will have to say, "Sorry, there are too many of you so you are not covered by this wonderful legislation that we say is so good."

Mr. President, no wonder some of those large companies with large numbers of workers exposed to known occupational health hazards have supported this legislation. There are not many at that. As a matter of fact, darn few, if you add them up. We have just learned that they cannot be covered because they have too many workers for the board to notify in this one instance of probably the singlemost feared occupational health hazard in American industry. That is the issue of AIDS. Maybe we should consider renaming this legislation the employees small companies' notification act.

The second argument that has been made against this amendment is that it will duplicate activities already under way.

Supporters of the second-degree amendment tell us that the Centers for Disease Control is already educating health care workers and if we want to act responsibly we will not duplicate those efforts. That has been the argument here.

Well, Mr. President, I heard that argument before. It is the same one I have been making about this bill for the last year and a half. My gosh, the same Senators who are now responding to the gay community's complaints about the amendment by the Senator from North Carolina have turned a deaf ear for the last year and a half as we have faced precisely the same issue and they have turned a deaf ear for the last year and a half to the farmers of this country who have complained about the board duplicating efforts already under way at the EPA.

They have turned a deaf ear to the small business man who has complained about the legislation duplicating efforts made by OSHA. When the issue turns to AIDS they suddenly become concerned about duplication. That is hypocrisy. Either way we are going to help the workers of America if this bill is capable of doing that, and I question seriously whether it is capable of doing that, or we are not.

The third concern which has been raised about this amendment is that it will scare all of those hospital workers who get notified once they get notice. Can you imagine that? They may not want to work with the AIDS patients anymore. That might cause them to worry unnecessarily. This is a notification bill? It is unwilling to attack the one major problem in America? Who controls this body? Special interest groups? Or are we trying to do what is right for the workers of America?

I think the more you look at the deals that have been cut and the deals that have been made you realize we are not trying to help the workers of America.

So, Mr. President, I think it is just one more argument we have all heard before because I have been making the argument for the last year and a half. The exact same problem will occur with every notice that this board sends out. Yes, these notices are going to scare people. They will scare people who are notified about AIDS just about the same as they will scare the same health care workers when they are notified about ethylene oxide, hepatitis or any one of a number of other occupational risks covered by this bill.

Mr. President, the arguments which have been made by the supporters of this legislation against the amendment show more than I ever could how unfair and unworkable this legislation really is. The fact is that whether we adopt the language which is included in the House bill that is now offered by the Senator from North Carolina or keep the language which is currently in S. 79, AIDS is covered by this legislation.

While I may agree with the opponents of this amendment, that the board may not be able to appropriately address this problem and it would duplicate existing efforts and the notices might frighten some health care workers, these problems are not different from the problems which will be created by this board with every notification it sends out.

Mr. President, AIDS is the No. 1 public health problem today. If there are 6.8 million health care and laboratory workers who have risk of this occupational disease, then they have a right to know.

I do not think we should leave them off the bill if the bill has any merit at all. I have to say, it has been portrayed as a bill that is going to notify the workers of America about occupational hazards. It is going to duplicate that which exists. It will cost the taxpayers almost three-quarters of a billion dollars already in the pipeline. Why are we doing this, to add another layer of bureaucracy to do that which is already being done? Then they say we cannot do it about the No. 1 feared health hazard in America because we might upset people.

We might have people in fear of working with patients. I think people are in fear of working with any patients right now because they do not know whether they have AIDS. They ought to be notified if this bill is worth anything.

The way this bill is written all it does is encumber America with excessive expenses that do not do much good for the people of America and does not do much good for the cause of the workers in America and duplicates all kinds of programs already in existence that do this work.

Mr. President, AIDS is the No. 1 public health problem today. If there are 6.8 million health care and laboratory workers who are at risk from this occupational disease, then they have a right to know, if this bill has any merit at all.

If this board is to be created to notify workers about their risk, then let us use it to do just that. Notify workers about the risks they face with the No. 1 public health problem.

Mr. President, I urge my colleagues to oppose this second-degree amendment of the Senator from Massachusetts and really adopt the amendment by the Senator from North Carolina.

I might also say, Mr. President, that it is typical around here when you have an amendment that cuts against a major special interest group in this country that the proponents certainly are interested in standing up for them; that no matter what the issues, no matter what their arguments have been before, they turn them upside down and they go against their own arguments for the bill.

Frankly, if this matter is voted upon, any vote for the Kennedy amendment will be a vote to not notify people who need to be notified about this No. 1 health hazard in America. Any vote for the Kennedy amendment, it seems to me, will be a vote for special interest groups that themselves need to be notified from time to time.

If there are too many workers to be notified, and it is too encumbering and too costly for this bill, my gosh, why do we have this bill? Those are the arguments of the proponents of the bill.

I submit, they do not have much merit, and that is one reason why they have played so many games with so many special interest groups in this country, and I personally expect before the end, they are going to come in and amend it so it is watered down to nothing, as they did on the plant closings bill, so they can get a "victory."

I would be ashamed to take the time of the Senate to do that, but I suspect that is what it is going to come to. Frankly, I question why any Senator should vote for a bill like that which has the costs and expenses that this one does.

So, number one, one reason why they cannot take the AIDS amendment by Senator HELMS and want to nullify it with the Kennedy amendment, which is exactly what happens, and let us not play any games here; let us not have anybody fail to understand what is happening. The Kennedy amendment makes the Helms amendment toothless. The Helms amendment has teeth.

It basically says that if AIDS is a health hazard and the board decides that it is, then they are going to have to notify these health workers.

The argument that that would mean too many workers to notify under the bill, I think, is a specious argument, and I would be ashamed to make it, if in fact that is the argument and, it seems to me, after listening for a while that that seems to be the argument, or at least one of them.

The second argument is that the Helms amendment would require the duplication of too many existing efforts. Come on. How can they who argue for this bureaucratic ensnarlment bill, which duplicates all kinds of present Federal Government programs. How can they come in here and have the straight face to argue that the reason they cannot take the Helms amendment, which would resolve the problem on AIDS and require notification with regard to AIDS if the board decides it is a health risk, how can they argue that it duplicates existing efforts when they are duplicating existing efforts by the mere fact that they want this bill?

Let me just talk about duplication for a minute. The fiscal year 1988 budget allocations for occupational safety and health activities come to $580 million. That is a lot of money: $580 million for occupational health and safety activities. Private costs are just one aspect of health and safety activities. That is the right-to-know laws, valued at $12.2 billion.

Let us just look at it. The Department of Labor is one agency that has this responsibility under the Occupational Safety and Health Act of 1970, OSHA, and the Mine Safety Health Act of 1977. That is MSHA. Their mandate is to create a safe and healthful workplace. The impact of these laws are OSHA and MSHA have regulations governing every aspect of workplace safety, including the occupational exposure of workers to potentially hazardous substances.

What about the duplication this bill happens to make? Look at this: Regulations have already been implemented dealing with occupational safety and health; prevention of occupational disease; medical monitoring and removal; and research into the identification of employees at risk of occupational disease.

That is already in existence. Why do we need this bill? It is totally duplicative, and yet we have them come in here and say if we notify people about AIDS under this bill, if this bill passes, that it duplicates existing efforts. How do they have the gall to come in here and say we cannot duplicate existing efforts to notify people with AIDS when they do it so much in MSHA and OSHA?

Look at the Department of Labor again. This is another agency. They have the Hazard Communication Standard, 29 CFR 1910.1200, effective May 1985. The expansion is effective in May of 1988. A little over a month away.

The mandate for that Hazard Communication Standard will be the prevention of occupational disease and notification of workers regarding hazards and risks in the workplace.

My goodness gracious, that sounds like a duplication of what they want to do here in this bill, and that is already law.

Why do we need this bill? Why are we going to add this to the taxpayers of America when we have a bill that is going to cost almost three-quarters of a million dollars to implement at taxpayers' expense driving up the cost to all consumers, and it already does what this bill is called upon to do? Probably better than this bill, if you really look at it carefully.

What is the impact of that? It requires employers to provide information regarding hazards in the workplace and how employees can protect themselves through training programs, labels on containers and material safety data sheets. It covers more than 575,000 hazardous substances; will provide information to 32 million workers. That is present law. We do not need this bill to get that done. Present law does that.

It will provide information to 32 million workers in almost 4 million U.S. worksites; will prevent more than 143,300 work-related cancer deaths over the next 40 years.

My gosh, it seems to me that present law does a pretty good job or is going to do a pretty good job once these HAZCOM standards go into effect this May. Why are we spending billions of dollars to implement this bill?

Let us go to the Department of Labor again. Let us go to the next one that is a duplication. This argument that we cannot solve the AIDS problem because it might duplicate existing efforts is so specious that I think it points out why this bill is such a travesty.

Again, the Department of Labor: Access to Employee Exposure and Medical Records Rule, 29 CFR 1910.20, effective August of 1980. Since 1980, 8 years now, we have had this duplicative effort. If we pass this bill, it is just going to duplicate what is here.

What is the mandate? To inform workers of the existence, location, and availability of medical records and to inform workers of their rights to those records. That is what this bill does. It is a little more bureaucratically ensnarled. It is going to cost a little more to do it maybe but this bill does that. If duplicates what has already been done, or at least attempts to.

What is the impact of that access to employee exposure and medical records rule that has been in existence since 1980? All current and former workers have access to these records which informs them of harmful exposures in the workplace and their medical conditions.

Why, my goodness, it is already being done. Why are we going to spend billions of taxpayer dollars in consumer costs to implement this bill? Why would anybody vote for this bill?

If that is not duplicative, I do not know what is. My goodness, it is already being done. Why then do we have this wonderful victory for unions of America who want this bill so badly? Why does not every union in America realize that they are requiring all of them to pay more costs on everything because of the increase in consumer costs? It seems to me that would be pretty plain to any union member, that their own leaders are asking for a bill that duplicates already existing regulations.

Well, the duplication is information regarding the medical condition of the worker due to workplace exposure that will be made available to the worker.

That is what this bill does, but we are already doing it. We have been doing it for 8 years. Why are we doing this? Why do we need another bill? Why would we saddle the people with this bill? How can the New York Times have the gall to write an editorial saying it is a very modest bill? I think that is one of the greatest newspapers in the world, if not the greatest, but my gosh, how could an editorial board write an editorial saying that this modest bill deserved to be passed? On that theory, we could have another 2,000 or 3,000 modest bills this year that will bankrupt the country even worse.

Let us go to the Department of Labor again. Let us just go to another standard, the asbestos standard, 29 CFR 1910.1001 and 1926.58, an already existing standard. The mandate is protection of workers from harmful exposure to asbestos. The impact is it requires the employer to ensure that the worker is not exposed to asbestos above set harmful levels. It requires medical monitoring of employees. It requires written worker notification of medical monitoring results.

My goodness, it is already being done. Why do we need another bill to do it again? As a matter of fact, the duplication of this will would be that, the employer funded medical monitoring of workers and written notification to the workers of medical monitoring results will be duplicated by this bill. Come on. Why would anybody need this additional bill.

Let us go to the Department of Labor again; Nitrobiphenyl Standard, 29 CFR 1910.1003. OK, what is the mandate? The protection of workers from harmful exposure to 4-Nitrobiphenyl. The impact is that it requires extensive worker protection from exposure to chemicals, medical monitoring of employees, and written notification of workers of monitoring results. And what is the duplication? What does this bill duplicate in this already existing rule that has been in existence for quite a while? It duplicates employer-funded medical monitoring of workers and written notification to workers of medical monitoring results.

Why do we need this bill? Why is it so important that we pass this bill? Why do we saddle the taxpayers of America with another bureaucracy, another overlay of reporting forms and conditions when we are already doing it?

Let us get to the Department of Labor again. Alpha-Naphtaylamine. That is a standard, too. It is 29 CFR 1910.1004. The mandate is to protect workers from harmful exposure to alpha-Naphtaylamine. The impact is the same as the 4-Nitrobiphenyl standard that I just went over. And the duplication is exactly the same: Employer-funded medical monitoring of workers and written notification to workers of medical monitoring results. My goodness gracious.

Let us go to the Department of Labor again, 4.4-Methylene bis Standard, 29 CFR 1910.1005. The mandate of this Methylene bis Standard is protection of workers from harmful exposure to 4.4 Methylene bis. The impact is the same as Nitrobiphenyl. And of course the duplication is the same as Nitrobphenyl, and the same standard: Employer funded medical monitoring of workers and written notification to workers of medical monitoring results.

What about the Department of Labor again, the Methyl chloromethyl ether Standard, 29 CFR 1910.1006. The impact is protection of workers from harmful exposure to Methyl chloromethyl ether. Of course, the impact is the same as the Nitrobiphenyl, the same as the Nitrobiphenyl standard and of course the duplication is the same as the Nitrobiphenyl standard as well.

What about the Department of Labor again, 3.3 Dichlorobenzidine Standard, 29 CFR 1910.1007. The mandate is protection of workers from harmful exposures to our 3.3 Dichlorobenzidine. The impact is the same as for Nitrobiphenyl. And the duplication is the same as for Nitrobiphenyl.

We can go on and on where we already provide the appropriate mandates. We already provide the services that this bill actually talks about.

I ask unanimous consent that the rest of these DOL Standards be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DOL—bis-Chloromethyl ether Standard, 29 CFR 1910.1008. Protection of workers from harmful exposure to bis-Chloromethyl ether. Same as 4-Nitrobiphenyl Standard. Same as 4-Nitrobiphenyl Standard.

DOL—beta-Napthylamine Standard, 29 CFR 1910.1009. Protection of workers from harmful exposure to beta-Napthylamine. Same as 4-Nitrobiphenyl Standard. Same as 4-Nitrobiphenyl Standard.

DOL—Benzidine Standard, 29 CFR 1910.1010. Protection of workers from harmful exposure to benzidine. Same as 4-Nitrobiphenyl Standard. Same as 4-Nitrobiphenyl Standard.

DOL—4-Aminodiphenyl Standard, 29 CFR 1910.1011. Protection of workers from harmful exposure to 4-Aminodiphenyl. Same as 4-Nitrobiphenyl Standard. Same as 4-Nitrobiphenyl Standard.

DOL—Ethyleneimine Standard, 29 CFR 1910.1012. Protection of workers from harmful exposure to Ethyleneimine. Same as 4-Nitrobiphenyl Standard. Same as 4-Nitrobiphenyl Standard.

DOL—beta-Propiolactone Standard, 29 CFR 1910.1013. Protection of workers from harmful exposure to beta-Propiolactone. Same as 4-Nitrobiphenyl Standard. Same as 4-Nitrobiphenyl Standard.

DOL—2-Acetylamino-fluorene Standard, 29 CFR 1910.1014. Protection of workers from harmful exposure to 2-Acetylaminofluorene. Same as 4-Nitrobiphenyl Standard. Same as 4-Nitrobiphenyl Standard.

DOL—4-Dimethyl-amineoazobenzene Standard, 29 CFR 1910.1015. Protection of workers from harmful exposure to 4-Dimethyl-amineoazobenzene. Same as 4-Nitrobiphenyl Standard. Same as 4-Nitrobiphenyl Standard.

DOL—N-Nitrosodimethylamine Standard, 29 CFR 1910.1016. Protection of workers from harmful exposure to N-Nitrosodimethylamine. Same as 4-Nitrobiphenyl Standard. Same as 4-Nitrobiphenyl Standard.

DOL—Vinyl Chloride Standard, 29 CFR 1910.1017. Protection of workers from harmful exposure to vinyl chloride. Requires employer-funded medical surveillance program for each employee exposed to vinyl chloride in excess of defined level. Employer-funded medical surveillance program.

DOL—Inorganic Arsenic Standard, 29 CFR 1910.1018. Protection of workers from harmful exposure to inorganic arsenic. Requires employer-funded medical surveillance program for each employee exposed to inorganic arsenic in excess of defined level. Employer-funded medical surveillance program; worker notification of medical test results.

DOL—Lead Standard, 29 CFR 1910.1025. Protection of workers from harmful exposure to lead. Requires employer-funded protections for workers from lead exposures including medical monitoring and medical removal. Employer-funded medical monitoring; medical removal; and worker notification of medical condition.

DOL—Coke Oven Emissions Standards, 29 CFR 1910.1029. Protection of workers from harmful exposure to coke oven emissions. Requires employer-funded protections for workers from coke oven emissions including medical monitoring. Employer-funded medical monitoring and worker notification of medical condition.

DOL—Cotton Dust Standard, 29 CFR 1910.1043. Protection of workers from harmful exposure to cotton dust. Requires employer-funded protections for workers from exposure to cotton dust including medical monitoring program. Employer-funded medical monitoring and worker notification of medical condition.

DOL—1,2 - Dibromo - 3 - chloropropane Standard, 29 CFR 1910.1044. Protection of workers from harmful exposure to 1,2-Dibromo-3-chloropropane. Requires employer-funded protections for workers from exposure to 1,2-Dibromo-3-chloropropane including medical monitoring program. Employer-funded medical monitoring and worker notification of medical condition.

DOL—Acrylonitrile Standard, 29 CFR 1910.1045. Protection of workers from harmful exposure to acrylonitrile. Requires employer-funded protections for workers from exposure to acrylonitrile including medical monitoring program. Employer-funded medical monitoring and worker notification of medical condition.

DOL—Ethylene Oxide, 29 CFR 1910.1047. Protection of workers from harmful exposure to ethylene oxide. Requires employer-funded protections for workers from exposure to ethylene oxide including medical monitoring program. Employer-funded medical monitoring and worker notification of medical condition.

DOL—Benzene. Protection of workers from harmful exposure to benzene. Requires employer-funded protections for workers from exposure to benzene including employee surveillance, medical monitoring, and job removal. Employer-funded medical monitoring, worker notification, and medical removal protection.

Mr. HATCH. What about EPA, Toxic Substance Control Act? Of course the mandate is to monitor and control the use of toxic substances. It requires, employers to record and report their use of toxic substances. What is the duplication? It results in the collection of information accessible to employees on hazardous substances in the workplace. It mandates collection of data on occupational disease, and that is all toxic substances. That is what this bill does. But why do we need this bill since it is already being done under the Toxic Substances Control Act?

It has EPA again. How about the worker protection standards for agricultural pesticides, 29 CFR 170. The mandate is to protect agricultural workers from harmful exposures to pesticides. The impact is it requires employers to protect workers by providing worker training, medical monitoring of workers, and personal protective equipment for workers. What is the duplication? Does this bill duplicate? You bet your life it does. It results in hazard and risk information being given to workers and medical monitoring supplied. The same thing that this bill is supposed to do. Why do we need this bill?

Should not the workers of America get upset about this? Do they not realize they are paying for all of this. Do they not realize that they have to pay every nickel through the nose for increased costs because of bills like these? Are they not sick and tired of the thousands and thousands of programs that we pass here? We have got 2,000 programs out of this committee alone.

Why? Because it has been dominated so long by one special interest group. Literally anything they want comes to the floor. Of course, a good 95 or 98 percent of everything that comes to the floor is rejected. But even with that, you are talking about thousands of programs and bills, and a cost to the taxpayers, many of which do work and help very well but do not need to be duplicated; and a lot of which do not work very well, and are excessively costly to the taxpayers.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. DODD). The Senator from Utah has the floor.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. President, I hope that Senators who have amendments to the bill will come to the floor and offer those amendments or at least let us have some action on the amendments that are pending?

Here we are. It is 10 minutes after 2 o'clock on a beautiful Friday afternoon out there. I, too, would like to be out for the rest of the day. I would like to be in the eastern part of West Virginia, in my cabin. I do not play golf or else I might like to get out and play a little golf, but I would not know how to play a game of golf.

I thought we had an understanding that we would be in 3 weeks and out 1 week. I know that that suggestion was applauded and I think it has been working rather well.

But for some reason or other my instincts tell me that some Senators have already gone for the afternoon, and I am sure they would like to have these two valiant and able, dedicated managers stand here all afternoon and debate this bill and not have any rollcall votes. That is fine if there is some real debate going on on this bill.

But if we are going to talk on other matters—which are also important matters—then we ought to know about it. The cloture vote is coming up on Monday—and my friends on the other side of the aisle said some days ago that they needed time to debate the bill, time to debate amendments, time to study the modification, so I think the Senate should be working on the bill this afternoon.

Then I would hope that the Senate on Monday would invoke cloture. It is only reasonable to expect that, if Senators are not going to be here to debate the bill or not going to be here to vote on amendments, then they are ready for cloture. They cannot very well say: "We need more time. We should not have invoked cloture because we need more time to debate, more time to prepare amendments" and so on.

Here is the ranking manager, Mr. HATCH, who has been here at considerable physical inconvenience to himself. Here is the manager, Mr. METZENBAUM, who is also on the job. Both of them are at their posts of duty.

Why should they have to stand here all afternoon and talk just to protect the rest of us who want to get out and take a walk in the woods or play golf? I do not think they should have to do it. I think it is an imposition on them, and it is an imposition on a lot of other Senators who are staying around here expecting action on this bill.

If we are not going to have action, boys, why don't you all go home? Why should you all have to stay? Why should that Senator have to stay here?

Mr. CHAFEE. I am ready to go.

Mr. BYRD. He is ready to go. Why should he have to stay here? He has reasons to get back to Rhode Island.

Mr. CHAFEE. Right, desperate reasons.

Mr. BYRD. Why should some Senators be discriminated against in this fashion? They are being discriminated against because some Senators have already gone. Some have left for reasons of necessity. Others may not have. Every Senator has to decide for himself where his duty lies.

The people at the desk. They would like to get out for the afternoon also. The Presiding Officer would like to get out.

Mr. EXON. Do not leave me out.

Mr. BYRD. And the Senator from Nebraska can always be counted on to be at his post of duty.

Mr. CHAFEE. Always anxious to leave.

Mr. BYRD. No, he is not anxious to leave, nor is he eager to leave. He is just as willing to stand right here and do his work as are the rest of us.

But my West Virginia coal miners are working this afternoon. I would guess that the farmers out in Nebraska are working in the fields this afternoon.

Mr. EXON. I hope so.

Mr. BYRD. They cannot take the afternoon off and play golf. Why should we as Senators be special?

If I were the manager of this bill, I would not tell any Senator he can leave without missing votes. He has as much reason to be here as I have as manager of this bill.

Mr. HATCH. If the Senator will yield, I do not think either of us have told any Senator to leave. I hope that the Senator believes that the colloquys and the remarks that we are making are very important remarks with regard to making a record on this bill and sometimes doing the Senate business is not just in having votes; it is to make sure we have a bill.

I might also point out there are two amendments, already pending that have constituted a tree, that do make it difficult for other amendments on a late Friday afternoon.

All I am saying is that I have a number of questions that I would like to ask the distinguished Senator from Ohio and hopefully we can use a little bit of time to make a good record on this bill, and then if the Senator does want a vote, it is within his power to do so ultimately. Personally, I would like to debate the matter between the two floor managers for as long as either of us will stay here today and then hopefully let our colleagues, many of whom want to get home where they are not just going to relax and play golf, they are going to work.

I understand the majority leader's position, too. This is a Friday, an important day, and we ought to be working. That is what I thought we were doing, at least the two of us, and there have been others here also.

Mr. METZENBAUM. Mr. President, will the Senator from West Virginia yield for a question?

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. I will address a point and I am delighted to yield.

I want to comment that I think the majority leader's job is a very difficult job and sometimes it is not an easy job to do with regard to whether or not we vote, and so forth. I admire the way he does run this floor and run the Senate through his offices.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. HATCH. I am glad to yield.

Mr. METZENBAUM. Will the Senator be good enough to explain why we have not voted? Yesterday afternoon about 4 o'clock the Senator from North Carolina laid down an amendment, and shortly thereafter the Senator from Massachusetts came over and laid down a second-degree amendment. We have been trying to be courteous to the Senator from North Carolina and we have tried all day today to find out why we cannot go forward with the amendment of the Senator from Massachusetts as well as the amendment of the Senator from North Carolina. The Senator from North Carolina has not been on the floor and I have stood up and said we are prepared to vote but as a courtesy to the Senator from North Carolina I will not ask for that vote.

Would you be good enough to explain to me why we cannot go forward with a vote on both the amendment of the Senator from Massachusetts as well as the amendment of the Senator from North Carolina?

Mr. HATCH. Let me say this. It is my understanding and it has been my understanding that the two staffs have been trying to work out an accommodation on the amendment and then this afternoon Senator KENNEDY, the distinguished Senator from Massachusetts, came and amended his amendment again or modified it again. So, I think it is easily answered.

These are difficult amendments. They are hotly contested. As I understand it, there is some hope that they can be accommodated and resolved, but I have not been a part of the negotiations. That is what we have been going through here from the beginning. We get to the point we think we know what the bill is and then someone comes in and modifies it or modifies an amendment. I think it is easy to understand why. I would be happy to call the distinguished Senator from North Carolina and ask him to come and speak for himself on this. But I have no problem, if there has to be a vote.

Mr. METZENBAUM. Let us go.

Mr. HATCH. Except that I think that at least the Senator from North Carolina ought to be available to express himself with regard to it.

I do not intend to allow a vote on the Kennedy amendment until I think negotiations are through, until I see another way to go, and until the Senator from North Carolina is satisfied, but we did not tie up the tree. We would had a vote on the amendment of the Senator from North Carolina a long time ago.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. I yield under the same conditions as before.

Mr. BYRD. My question simply is why not by unanimous consent set these amendments aside and take up some other amendment?

Mr. HATCH. That would be fine with me.

Mr. KENNEDY. Mr. President, will the Senator yield? Who has the floor?

Mr. HATCH. I am happy to yield for a question.

Mr. KENNEDY. The fact is we have not been in the process of negotiations since 10:15 or 10:30 this morning when some language was referred over to myself and Senator WEICKER and we had indicated at that time as possible compromise language that that was acceptable.

We responded and said that was acceptable and at that time the offer was withdrawn. That was about 10:20 this morning. From 10:20 until 2:20, with the exception of approximately an hour, I have been on the floor waiting to either debate the Senator from North Carolina or to go ahead and have a vote. That happens to be the condition.

As I understand further, the Senator from North Carolina has indicated that he is prepared to vote on the Kennedy amendment, but he wants a vote on his amendment. We want to go just by the standard rules. This is a legitimate amendment in the second degree and we are prepared to vote on it. We have the support of the medical profession as well as all of the various groups. It is language that has been drafted, effectively, by the Centers for Disease Control.

The modification probably changes three words, not the substance. If it is a question of interpretation, I would be glad to consider the previous second-degree amendment. So I do not want to suggest that with the modification we are changing the thrust or the substance of it. We have been ready to vote on this measure for 4 hours.

Mr. HATCH. I might add that I have been on the floor debating the very amendment that the distinguished Senator from North Carolina has brought to the floor. This, coupled with the amendment that the distinguished Senator from Massachusetts has that amended the amendment of the distinguished Senator from North Carolina.

But I think the majority leader has made an excellent suggestion, and that is, let us temporarily set these amendments aside until we can resolve this conflict and go ahead with the rest of the business of the bill.

I will be happy to do that. I have a lot of record to make on this bill with the distinguished majority floor manager. I would like to do that. I think it is the way legislative activity should occur. And I think it is important.

Now, if there has to be a vote, there can be a vote. If the distinguished majority leader has to have that, I would be delighted to consider yielding for that purpose.

Mr. KENNEDY. Would the Senator yield for that purpose?

Mr. HATCH. Well, not yet. Are we going to temporarily set the two amendments aside?

Mr. KENNEDY. No.

Mr. HATCH. Well, the distinguished Senator from Massachusetts says we are not going to set the two amendments aside. It seems to me, if you want a vote, if I was willing to yield, you could move to table one or the other amendment and get your vote.

Mr. METZENBAUM. Why would we want to table the Senator's own amendment? We want to vote on it. If he does not have the votes, he loses.

Mr. KENNEDY. Are you prepared to yield the floor?

Mr. HATCH. I am not prepared to yield the floor. I am willing to temporarily set the two amendments aside so we can proceed to others.

I think it makes my point. We did not make this tree. We did not tie up the Senate in knots on these amendments.

But it is important to note that there is some controversy over these two AIDS amendments. And it is pretty important to note that there cannot be a vote right now on that. Now, they can make an argument there should be, but there is an equally important argument on the other side.

So let us temporarily set them aside and let us call Senators over who have amendments so they can offer them.

Mr. METZENBAUM. Why can there not be a vote now?

Mr. HATCH. Why do you need a vote?

Mr. METZENBAUM. The Senator has had his amendment pending for hours. Why can we not vote it up or down?

Mr. HATCH. Because there is controversy over the two amendments. There might be some further accommodation that would satisfy both Senators.

I think one of the principles of comity is to try to work it out with both Senators. The Senator from Massachusetts says he does not believe it can be worked out with both Senators. Maybe that is so. I have not heard from the Senator from North Carolina.

But I am willing, in order to expedite the process of this body, to either go to debate again right now and ask the questions that I think have to be asked before this matter is finally decided if we are going to do our legislative work and have a colloquy between the distinguished floor manager and myself. It is certainly the most legitimate work we can do, it seems to me, at this time. Or, I am willing to temporarily set these amendments aside and take the tree away and invite Senators——

Mr. METZENBAUM. It is not our tree.

Mr. HATCH. Sure it is. The distinguished Senator from Massachusetts was the one who filed the final amendment that locked up the tree.

So all I am saying is that I am willing to temporarily set this aside and let us get people over to offer amendments, if that is the way you prefer to go. I would prefer to do what I consider the most important legislative work here, and that is to discuss this bill between the two leaders on the floor, make the record, for whatever good reason or not it should be made, and go on from there. That is legitimate, important legislative business. It is going to take a little bit of time to do that, without discombobulating our colleagues.

Mr. METZENBAUM. Why can we not vote? The Senator from North Carolina has not been on the floor all day. Why can we not vote now? As I understand the rules of the Senate, that is the regular order. The amendment of the Senator from Massachusetts is up. Why can we not vote?

Mr. HATCH. Why do you ask the same question when I have answered it three times? All we have to do is set these two amendments aside and let us get another amendment offered that we can vote on or let us have a quorum call and get your vote. If that is so all-fired important, let us do it that way.

Mr. METZENBAUM. Will the Senator from Utah assure us that we can get another amendment up that we can vote on this afternoon?

Mr. HATCH. I do not know.

Mr. METZENBAUM. Well, a lot of questions are not going to solve anything.

Mr. HATCH. Mr. President, I ask unanimous consent that I may be permitted to yield to the distinguished Senator from Massachusetts to make a tabling motion, with the understanding that, as soon as the vote is over, I be recognized to start a colloquy with the distinguished Senator from Ohio concerning the aspects of this bill that I think have to be covered and questions that I think have to be answered, without losing my right to floor and without it having be considered as a second speech under the rule.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Mr. President, reserving the right to object. If I may get a clarification from the distinguished Senator from Utah, Mr. President: Does that imply that there would be a rollcall vote on the motion to table?

Mr. HATCH. It does.

Let me ask that: Would there be a formal rollcall vote on the motion to table?

Mr. KENNEDY. Yes.

Mr. HATCH. There will be a formal rollcall vote on the motion to table, according to the distinguished Senator from Massachusetts.

Mr. PRYOR. And, if I may, Mr. President, one more question of clarification: Would that rollcall vote be imminent?

Mr. HATCH. I have to ask the distinguished Senator from Massachusetts to respond to that. Correct me if I am wrong, the distinguished Senator from Massachusetts asked me to yield for 15 seconds so that he could move to table the Helms amendment and ask for the yeas and nays in the process. All I am asking is that I have the floor after the vote so that Senator METZENBAUM and I can continue our colloquy.

Is that correct?

Mr. KENNEDY. Mr. President, I said I wanted to speak for 15 seconds to make the motion to table, add some cosponsors, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent to add as cosponsors to my amendment: Senators LAUtenberg, Moynihan, Cranston, Gore, Evans, Simon, Heinz, Kerry, Bradley, Wirth, Weicker, Dodd, and Metzenbaum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I indicate that I will offer this amendment as an amendment to the whole bill.

Mr. President, I move to table the underlaying amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts [Mr. Kennedy] to table the amendment of the Senator from North Carolina [Mr. Helms]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. Bentsen], the Senator from New Mexico [Mr. Bingaman], the Senator from New Jersey [Mr. Bradley], the Senator from Arkansas [Mr. Bumpers], the Senator from Florida [Mr. Chiles], the Senator from Tennessee [Mr. Gore], the Senator from New Jersey [Mr. Lautenberg], the Senator from Vermont [Mr. Leahy], the Senator from Georgia [Mr. Nunn], the Senator from Rhode Island [Mr. Pell], the Senator from North Carolina [Mr. Sanford], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I further announce that the Senator from Oklahoma [Mr. Boren] is absent because of death in the family.

I also announce that the Senator from Delaware [Mr. Biden] and the Senator from Mississippi [Mr. Stennis] are absent because of Illness.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. Pell], and the Senator from Illinois [Mr. Simon] would each vote "yea."

Mr. SIMPSON. I announce that the Senator from Nevada, [Mr. Hecht], the Senator from New Hampshire [Mr. Humphrey], the Senator from Nebraska [Mr. Karnes], the Senator from New Hampshire [Mr. Rudman], the Senator from Idaho [Mr. Symms], the Senator from Wyoming [Mr. Wallop], and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming, [Mr. Wallop] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 33, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—45

Adams
Baucus
Breaux
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
Danforth
Daschle
Dodd
Durenberger
Evans
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Proxmire
Riegle
Rockefeller
Sarbanes
Sasser
Specter
Stafford
Weicker
Wirth

NAYS—33

Armstrong
Bond
Boschwitz
Cochran
D'Amato
DeConcini
Dixon
Dole
Domenici
Exon
Garn
Gramm
Grassley
Hatch
Heflin
Helms
Kasten
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Pryor
Quayle
Reid
Roth
Shelby
Simpson
Stevens
Thurmond
Trible
Warner

NOT VOTING—22

Bentsen
Biden
Bingaman
Boren
Bradley
Bumpers
Chiles
Gore
Hecht
Humphrey
Karnes
Lautenberg
Leahy
Nunn
Pell
Rudman
Sanford
Simon
Stennis
Symms
Wallop
Wilson

So the motion to lay on the table amendment No. 1815 was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, before we got into the colloquy which led up to this vote, I was going through the number of duplications of existing law that this bill actually accomplishes. It is the most extraordinary thing I have seen in years.

The argument against having health workers notified as far as the potential of AIDS, the high risk of AIDS, basically evolved into three basic arguments by the proponents of the bill.

No. 1, there would be too many workers to be notified under the bill. Therefore, the cost would go up.

That is precisely the argument I have been using against the bill.

No. 2, it duplicates existing efforts.

Of course, I have been making that case also. That is precisely the point I have been making against the bill, because it duplicates so many existing efforts already done by us lawmakers and by the regulators in the Federal Government.

Last but not least, the argument seems to go that if we adopted the Helms amendment, we would be scaring too many people about the threat of AIDS by notifying them, that they might have some difficulties if they are exposed to AIDS-carrying patients or patients infected with AIDS.

I think all three of those arguments make a good case against this bill.

So I have been taking time to put into the Record a number of approaches that this bill duplicated with already existing law.

Mr. President, I ask unanimous consent that the rest of that list be placed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record,as follows:

EPA—Superfund Amendments & Reauthorization Act, Title III, eff. 7/1/88. To monitor and protect communities regarding releases of chemicals into the environment. Establishes a massive community right-to-know and emergency planning program with broad new reporting responsibilities for facilities that produce, use, store or release hazardous substances. Results in a massive dissemination of information to community and workers regarding hazards in the workplace.

HHS—Health Hazard Evaluations, 42 CFR 85, by the National Inst. for Occupational Safety and Health (NIOSH). To study health hazards in the workplace and to notify employees and employers of those hazards. Each year NIOSH conducts about 550 health hazard evaluations (workplace studies requested by employees, employers, or their representatives) involving thousands of employees. NIOSH sends the results of the studies to the requestor, the company involved, employee representatives, union headquarters, DOL, and state agencies. Final reports are posted by employers and sent to affected workers. Results of medical tests performed by NIOSH on workers are sent directly to the workers. Review of health hazards in worker population; medical monitoring of affected workers; direct individual notification results to worker of actual health hazard and medical tests performed by NIOSH.

HHS—Epidemiologic Research by NIOSH. To determine epidemiologic impact of workplace on employees. NIOSH has conducted about 400 field studies of workers. If medical tests are conducted on employees by NIOSH, test results are sent directly to the workers. Medical monitoring of employees; direct notification to employees of actual health risk; research on health risks in workplace conducted.

HHS—National System for Reporting of Workplace Disease and Hazards, proposed by NIOSH, 1/88. To establish a national system of reporting workplace diseases and hazards. By the early 1990's NIOSH hopes to have in place a national system for reporting of workplace diseases and hazards. Extensive research will be conducted on workplace diseases and hazards as a result of the widespread information that will be collected.

State Laws—Worker-Right-To-Know Laws. To provide workers with information on hazards in the workplace and how to work safely with those hazards. At least 33 states have work-right-to-know laws that require employers to provide worker training, labels on hazardous materials, fact sheets on hazardous materials and a hazard communication program for the workplace. Require massive worker notification and training about the hazards in the workplace.

California State Law—Proposition 65, eff. 2/88. To warn citizens of health risks in the community. Requires companies to prove that their products and emissions are safe or to give public warnings, and establishes a "bounty hunter" provision whereby citizens who sue violators can keep 25% of any fines. Results in hazard and risk notification to all citizens.

Mr. HELMS. Will the Senator yield to me for 2 minutes?

Mr. HATCH. Without losing the floor.

Mr. METZENBAUM. Mr. President, object.

Mr. KENNEDY. Mr. President, object.

Mr. HATCH. Mr. President, I am going to ask a series of questions. The distinguished Senator from Ohio requested that I not ask them summarily, but submit them and he will answer them for the record. So I presume he will do that. I presume he can do that, but I prefer, in order to make this record, to ask the distinguished Senator from Ohio a number of questions with regard to this bill so we can make a record, a final record that will be a true legislative record on what this bill does and does not do.

I would like to take time to do that now. I think it is probably the most legitimate time we can take during the remaining part of the debate this day.

Mr. President, we have now had a day to review the Kennedy-Metzenbaum surprise version of S. 79. Like I say, I have several questions about several provisions of the bill.

First, I would like to ask the distinguished Senator from Ohio the definition of an occupational health hazard. It was not changed in the surprise package. So I would assume the sponsors would know whether noise is included in the definition of the new package. The Senator from Ohio indicated yesterday that noise may or may not be covered. So let me just try again.

Could the Risk Assessment Board, based on a study, find that a type of noise qualified as an occupational health hazard?

Mr. METZENBAUM. I will be very happy to have the Senator from Utah submit that question, as well as his others, in writing. I will be certain that first thing Monday morning we will have the answers for him.

Mr. HATCH. Does the Senator know enough about it right now to be able to tell us whether noise is, in effect——

Mr. METZENBAUM. I answered it yesterday.

Mr. HATCH. You feel that the same answer yesterday applies to this question today?

Mr. METZENBAUM. That is correct.

Mr. HATCH. That is all I want to establish, that it may or may not apply.

Mr. METZENBAUM. I think it would depend upon the circumstances. It would be something for the Risk Assessment Board to make a determination on their own. Under certain circumstances, I think, they will find noise was an occupational hazard. I do not think you can just say somewhere or someplace where the decibels were over a particular amount that that was particularly a health hazard.

Mr. HATCH. So the answer, as I view it, is the issue of noise will not be banned, and it literally could apply, but the distinguished Senator from Ohio is not sure how or in what way it will be applied but will leave it up to the Risk Assessment Board?

Mr. METZENBAUM. I think it is a matter that will have to be left to the Risk Assessment Board.

Mr. HATCH. It seems to me that is a pretty broad-based matter to be left up to the Risk Assessment Board.

Mr. METZENBAUM. I would say you have broad-based issues you are dealing with in connection with this matter, and whenever you have health hazards, you cannot, as we stand here on the floor, make a determination as to what is going to happen in the future.

I saw in the paper this morning where Du Pont Corp., did a 100-percent reversal in connection with damage being caused to the ozone layer and indicated that they are going to promptly eliminate a product they have been selling for a number of years, and not very long ago indicated they were going to phase it out.

So, I think when you are dealing with health, health is not one of those matters that you can just say it is black and white.

Yesterday, Senator HATCH asked me a question about whether noise could ever be an occupational health hazard under S. 79. I would like to clarify the answer I gave yesterday.

As the Senator from Utah should know, the first requirement under the bill for an occupational health hazard is that it be a chemical, physical, or biological agent generated by or integral to the work process or an industrial or commercial process found in the workplace. Noise could meet that first requirement because it could be, in certain circumstances, a physical agent generated by the work process.

The second requirement for an occupational health hazard is that there be statistically significant scientific evidence that chronic health effects have in fact occurred in people exposed to the hazard. I do not know if there is sufficient scientific evidence that noise is an occupational health hazard. That is the job for the Risk Assessment Board and it is not our place on the floor of the Senate to be debating the merits of any particular scientific studies.

Thus, if there is statistically significant scientific evidence that workers exposed to high decibel levels of noise generated by the work process over a period of time have developed permanent hearing loss or even complete deafness, then that decibel level of noise could be considered an occupational health hazard.

Mr. HATCH. Then, in other words, it does apply, and it is going to have to be determined by the Risk Assessment Board.

Mr. METZENBAUM. That is correct.

Mr. HATCH. I think that is a pretty wide-open requirement when you consider noise, and that is something, I think, Senators should stop and think about because it is a very, very serious, wide-open requirement that could involve millions of employees.

Mr. METZENBAUM. Will the Senator from Utah yield?

Mr. HATCH. Let me ask the questions for the time being. I will be happy to, without losing my right to the floor and without this being considered a second speech under the rules.

Mr. METZENBAUM. I am sorry that my colleague from Utah has chosen to oppose the worker notification principles set forth in S. 79. I am particularly sorry that he has gone to such lengths to criticize the secondary prevention approach. The idea that notification between exposure to a hazard and the onset of disease is an important public health initiative.

I must note at this point that Senator HATCH does not object to risk notification and secondary prevention when it is used to benefit the citizens of his State. Indeed, he has even been known to support legislation aimed specifically at notifying individuals at risk of cancer. I refer here to Public Law 98-558, signed into law in October of 1984. That law provides for the National Cancer Institute to establish or support notification and cancer screening activities in St. George, UT, for residents over age 40 who are at risk of cancer due to fallout from the Nevada nuclear tests of the 1950's and 1960's.

The notification and screening effort authored by my good friend from Utah was massive and expensive. More than $3 million was appropriated over a period of 6 years. Some 4,000 cancer screenings per year are being given free of charge to residents over age 40. Senator HATCH on the floor of the Senate referred to these cancer screenings as "a logical extension" of the Utah studies on the consequences of past exposure to radiation. When asked whether the project was unduly expensive, he replied, "It's a very small cost compared to the benefit to society."

Obviously there are differences between the Utah cancer screening tests and the program in S. 79. The Utah project is aimed at the general population, not workers. The Utah project authorizes medical monitoring even before we have clear evidence of statistically significant risk in the "nuclear fallout" areas of southern Utah—that is something the Risk Assessment Board would not allow.

But the general point I want to make is quite simple. Risk notification combined with medical monitoring is an idea that even Senator HATCH is prepared to say makes sense. Notification goes to a large population, including thousands who have never been studied themselves. Notification goes to persons exposed to a health hazard up to 30 years ago. And notification is accompanied by medical monitoring, so that the at-risk population can learn as soon as possible if further medical intervention is warranted. I congratulated Senator HATCH on embracing these principles for the citizens of Utah. But if it is good enough for Utah, should it not be good enough for the rest of the country?

Mr. HATCH. I think the Senator raises a good point, and that is if medical monitoring, which is commonly used by NIH and other health facilities in this country, Federal health facilities if you will, is needed in the rest of the country as it is in St. George, UT, the pivotal center of the three States that were attacked by the emission of low-level ionizing radiation that resulted in, we believe, the deaths of many, many people out there, then I would be for having those monitoring stations all over the country. I would have no problems at all with that. What I have problems with is duplicating efforts that are being made all over the Federal bureaucracy just for the sake of having a bill that might pass.

Let me also read from the Cincinnati Inquirer, if we are going to refer to each other's States. This is an October 13, 1987, editorial. It is entitled "Worker Safety. Congress Should Ignore a Bill That Costs More Than It's Worth."

> Who could possibly be opposed to a piece of legislation known as the High Risk Occupational Disease Notification and Prevention Act of 1987? Everyone, surely, believes that workers exposed to high risks on the job should be aware of their peril, and everyone, surely, believes that the risks should be prevented if humanly possible. But the legislation's title is no real clue to its probable cost and to the fresh mischief it would unleash.
>
> The legislation, with which the House of Representatives comes to grips this week, would create a seven-member risk-assessment board to survey clinical studies indicating that industrial workers might be harmed by some substance in the workplace. The board would then give priority to identifying employees and former employees who might benefit from "medical surveillance" or "health counseling."
>
> Once those determinations were made, it would be up to the employer to provide any recommended testing, evaluation or medical monitoring.

That is a little bit different from what we did in St. George, UT, which passed, I might add, overwhelmingly. We tried to attack a specific problem that literally, I think, almost anybody with a conscience would have to admit exists as a result of the atmospheric tests in the fifties and sixties, which resulted in the deaths of a great number of people in Nevada, Arizona, and Utah, and, who knows, maybe elsewhere. But the fact is, nobody doubts that was the center of low-level ionizing radiation impact. We have gone to great lengths to establish that, but we are not saddling all the employers with having to follow up on this.

We are making it clear that monitoring, in this case, may save millions of lives with regard to cancer-susceptible people. It is just a smart thing to do. It is a very cost saving thing to do. This bill is not a smart thing to do. In fact, if I had to characterize it, I think it is a dumb thing to do, the way it is written, because it duplicates a whole raft of programs that the Federal Government already is doing. And it does so at a tremendous, multibillion-dollar cost which it saddles not only on the back of Government but on the back of employers everywhere, and I might add at a cost to the consumers because these corporate employers do not pay taxes. They do not always pay for these things. They just pass those additonal costs on to consumers, and really upon the backs of the elderly because unlimited costs like these that lead to pushups in inflation hurt every senior citizen who is retired living on a fixed unemployment income.

Now, let me read the rest of this editorial because I think it is a pretty good editorial. I think the writer pretty well understands this bill much more than perhaps some of our Members who have not had time to focus on it.

> In 1980, interestingly, the National Institute of Occupational Safety and Health (NIOSH) conducted a pilot study to determine the feasibility of a program similar to the one Congress is now considering. The results should have put the proposal to rest for all time. The Augusta Chemical Plant in Augusta, Ga., was chosen for the pilot study. Finding every employee and former employee believed to have been exposed to the substance in question wound up costing the plant $5,000 for each employee identified and located. The notifications produced $335 million in damage suits. The experiment was an unmitigated disaster, which is why the proposal has been dormant for seven years.

Now, if I could comment, this bill is an unmitigated disaster and would be within a short time after enactment if we are so disingenuous as to pass it.

The editorial goes on to say:

> Now, with the pilot program all but forgotten, it is back in the House hopper. Ohio's Sen. Howard H. Metzenbaum is sponsoring a companion bill in the Senate.
>
> If nothing had been done in the area of employee safety in the last two decades, there might be an argument for a legislative initiative like this one. But the fact is that much has been done and workplace injuries have been dramatically reduced. There is neither moral nor economic justification for a fresh program, a fresh bureaucracy and a fresh assault on U.S. consumers, who would wind up, as they usually do, paying the bill.

That sums it up pretty well, but let me read one other editorial.

Mr. METZENBAUM. Will the Senator from Utah yield for a question?

Mr. HATCH. Be glad to.

Mr. METZENBAUM. Does the Senator from Utah recognize that I am really not concerned about the Cincinnati Inquirer editorial; I am really concerned about his failure to use appropriately my middle initial; it is "M" not "H."

Mr. HATCH. I just quoted that out of the paper.

Mr. METZENBAUM. I appreciate that.

Mr. HATCH. But I will remember that. The second one is the Ohio Manufacturers' Association Newletter, which makes this point, among others, but I will just put in this one point. It is under paragraph C.

> Congress should defeat legislation designed to increase labor costs to American industry and radically alter industrial relations in this country.
>
> The "Occupational Disease Notification" legislation, backed by organized labor, is altogether unnecessary in view of the Hazard Communication Standard promulgated and being enforced by federal OSHA. Proposed notification bills will do nothing but bankrupt state workers' compensation systems and radically increase these costs imposed on American employers.
>
> Another Congressional proposal that has no basis in need or reasonability is the current "plant closing" legislation which mandates that punitive measures be taken against companies on the verge of bankruptcy if they are forced to close a facility or lay off a large number of employees. The proposal penalizes most those industries who can least afford it and makes domestic employers all the more uncompetitive in the world marketplace.

By the way, that is another HOWARD M. METZENBAUM initiative.

> The issue of "comparable worth" is another congressional proposal which is—

Supported by the distinguished Senator from Ohio——

> that presents a substantial threat to American industry because of the potential to mandate the concept to the private sector—which would result in the regulation of domestic wage scales, further increasing the labor costs involved in American-made products.

If the Senator was so sincere in his comments about St. George, how in good conscience can he prohibit forever his Risk Assessment Board from really helping the thousands of Americans who will die from passive smoking? Why is he so afraid to notify people who might come in contact with a health hazard called AIDS? That was the purpose of the last motion to table, to get rid of a very effective amendment that would have required notification to health employees concerning AIDS. Well, if we are so concerned, why are we not concerned about this?

Let me go to another question. The committee report specifically states that, "Biological hazards include viruses and other pathogens," and goes on to include anthrax, hepatitis, and other infectious occupational diseases.

Is it correct, I might ask my distinguished friend from Ohio, that all infectious diseases could be covered by this definition and does this definition cover AIDS or tuberculosis, for example? If it does, maybe we do not need the Helms amendment. It is certainly broad-based language. It certainly seems to cover all those things, or at least one might be able to conclude that it does. But maybe one can conclude it does not. I do not know. The language is pretty open ended and pretty undefined.

Mr. METZENBAUM. As I indicated to my colleague from Utah earlier, I believe this is one of those questions that should be submitted in writing. We will be very happy to respond, and will respond if he will provide them to us today. We will respond before noon on Monday or within 1 hour after we convene.

Mr. HATCH. Mr. President, I ask unanimous consent that, if a quorum call is called for, I do not lose my right to the floor for any purpose; that this not be considered as a second speech under the rules once the distinguished Senator from Ohio calls for a quorum call; and that the floor come back to me for any purpose I desire immediately after the quorum call is suspended.

Mr. METZENBAUM. Reserving the right to object, I will not object. I want to have the Senator from Utah clarify if in fact he means in connection with the first quorum call, and not making the request as a ruling on all other quorum calls in the day?

Mr. HATCH. Yes, just this particular quorum call, and that this quorum call not lead to a rollcall vote.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. There is no objection.

The PRESIDING OFFICER. Hearing none, it is so ordered. Does someone suggest the quorum call?

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, knowing that the Senator from Utah has the right to the floor without affecting that right that was given to him by the unanimous-consent request, I want to say that the Senator from Massachusetts, Senator KENNEDY, had told a number of Members prior to the last vote that he would offer an amendment, and I was prepared to assist him in that connection, relative to the very subject that we just tabled.

By reason of the facts and circumstances, the Senator from Utah having the floor, having indicated he intends to hold on to the floor, Senator KENNEDY is not in a position to offer an amendment under those circumstances, but I want to say that were the floor open, he would either offer an amendment or I would offer it on his behalf, and will do so at the earliest possible time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah retains the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate my colleague, and I do not see any way the distinguished Senator from Massachusetts would be denied his right to bring up the amendment come Monday following the cloture vote. He is in the majority, and he probably could be first recognized. I have no problems with him doing so.

But I do need to clarify something that I said earlier today. It was kind of a quip here on the floor when I suggested that the two votes for cloture yesterday were votes for the bill. And I think that is, by necessity, an inaccurate statement. I would like to rescind that remark, and make it very clear to those two colleagues that their votes were for cloture, and not necessarily for the bill.

I would like just to make that correction in the RECORD so that my two colleagues will not be harmed in any way as a result of what must really be a quip, and was not really fully thought out.

So I would like to do that as a courtesy to them, and let everybody know that their votes for cloture were merely that, votes for cloture. And for whatever reason, they wanted to vote for cloture and not necessarily for the bill.

With that, it is my understanding, if I can address the distinguished Senator from West Virginia, that we will continue this debate on Monday. I will be able to go into some of these important questions that we now have because I hope this bill will not be passed or cloture invoked in any way, but at the very least we ought to make these questions a matter of record and any responses thereto so everyone understands the full import of this bill.

Am I correct in that understanding?

Mr. BYRD. Very well.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk. This cloture motion will mature on Tuesday.

The PRESIDING OFFICER. The clerk will report the cloture motion.

The legislative clerk read as follows:

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 79, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.
>
> Senators Bob Graham, John Kerry, Claiborne Pell, Christopher Dodd, Edward Kennedy, Alan Cranston, Daniel K. Inouye, Patrick Leahy, Tom Daschle, Timothy E. Wirth, Daniel Moynihan, Barbara A. Mikulski, Bill Proxmire, George J. Mitchell, Harry Reid, Wendell Ford, and Howard Metzenbaum.

Mr. HATCH. Mr. President, may I interrupt the distinguished Senator from West Virginia again?

Mr. BYRD. Yes.

Mr. HATCH. I am afraid I did not understand what the distinguished Senator from Ohio was saying. I think he was saying that the distinguished Senator from Massachusetts wanted to refile a different amendment, but basically the same amendment that was tabled along with the Helms amendment in the last vote, and that the distinguished Senator from Ohio wanted to file an underlying amendment first, and they would like to do that today.

Mr. METZENBAUM. Right.

Mr. HATCH. I would have no objection to that, although I have to point out that that does set up the tree again and ties up the floor with regard to other amendments.

Mr. METZENBAUM. The Senator from Utah has no objection, then.

I ask unanimous consent that I be allowed——

Mr. HATCH. Mr. President, will the Senator withhold?

I have just received an objection to my position on this side. Maybe we had better leave it the way it was and go from there. I am sorry. I, personally, have no objection; but we do have an objection to filling up the tree today, and I suspect that will have to wait until Monday.

Mr. BYRD. Mr. President, an objection will not stop the tree. So far as I am concerned, I do not care if the tree is filled.

Mr. HATCH. Let us wait until Monday and then fill up the tree, if the Senator wishes.

The PRESIDING OFFICER (Mr. Daschle). The Chair advises all Senators that the Senator from Utah retains the floor.

Mr. BYRD. Pardon me?

The PRESIDING OFFICER. The Senator from Utah retains the floor.

Mr. BYRD. I thought the Senator from Utah yielded the floor to me.

Mr. HATCH. I thought I yielded it under the same condition.

Mr. BYRD. I have no desire to have the floor, but I understood that the Senator yielded.

Mr. HATCH. I apologize. I understood that it was under the same conditions.

Mr. BYRD. The Senator retains the floor?

Mr. HATCH. Yes.

Let me ask the distinguished Senator from Ohio: Is it OK if we wait until Monday on filling up the tree again?

Mr. METZENBAUM. Yes.

Mr. HATCH. I wish we could quit filling up the tree.

Mr. METZENBAUM. Will the Senator from Utah agree to a unanimous consent request that no further amendments be offered this afternoon?

Mr. HATCH. I will agree, and I will agree, also, to go off the bill at this time.

Mr. BYRD. Mr. President, does the Senator yield the floor?

Mr. HATCH. Yes.

Mr. QUAYLE. Mr. President, I wish to make a statement about something that appeared in the Record during my opening statement on S. 79 on page S 2782, third column, which I believe may have been a misprint. Mr. President, I submitted a list of associations and companies that are opposed to S. 79.

The statement in the Record says they are supporting the bill, while my concluding remarks on page S 2783 is correctly stated as saying they are opposed to the legislation.

Mr. President, I again send to the desk the list of opponents of S. 79. I think that it is clear to all the nation that the business community opposes this bill, I want there to be no doubt about that fact.

Mr. President, I ask unanimous consent that the list of businesses opposing S. 79 be inserted in the Record immediately following my statement.

There being no objection, the material was ordered to be printed in the Record, as follows:

COALITION ON OCCUPATIONAL DISEASE NOTIFICATION

March 17, 1988.

Hon. Senator Howard Metzenbaum,
U.S. Senate, Washington, DC.

Dear Senator Metzenbaum: We the undersigned representing more than a million companies in the United States, many of which are located in your state, oppose the High Risk Occupational Disease Notification and Prevention Act of 1987, S. 79, as currently drafted and revised. The bill will result in billions of dollars in unwarranted litigation claims against employers, staggering costs for all businesses, especially small businesses, and the creation of an unnecessary and costly new government bureaucracy. These costs are simply not affordable in these days of tough competition and budget restraint. We urge you to vote no on S. 79.

Very truly yours,

National Association of Manufacturers.
Chamber of Commerce of the United States.
National Federation of Independent Businesses.
National Association of Wholesaler-Distributors.
American Mining Congress.
American Farm Bureau.
American Petroleum Institute.
The Business Roundtable.
National Council of Agricultural Employers.
Adhesive and Sealant Council.
Aerospace Industries Association.
Air-conditioning & Refrigeration Wholesalers.
Alliance of American Insurers.
Aluminum Extruders Council.
American Coke and Coal Chemicals Institute.
American Federation of Small Business.
American Feed Industry Association.
American Furniture Manufacturers Association.
American Hardware Manufacturers Association.
American Iron and Steel Institute.
American Jewelry Marketing Association.
American Machine Tool Distributors Association.
American Meat Institute.
American Retail Federation.
American Retreaders Association.
American Road and Transportation Builders Association.
American Subcontractors Association.
American Supply Association.
American Textile Manufacturers Institute.
American Traffic Safety Services Association, Inc.
American Veterinary Distributors Association, Inc.
American Wood Preservers Institute.
Appliance Parts Distributors Association, Inc.
ARMTEK Corporation.
ARMCO Inc.
Asarco Incorporated.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated General Contractors of America.
Association of American Railroads.
Association of Footwear Distributors.
Assn. of Plumbing-Heating-Cooling Contractors.
Association of Steel Distributors.
Association of the Wall & Ceiling Industries-International.
Automotive Service Industry Association.
Aviation Distributors & Manufacturers Association.
Bearing Specialists Association.
Beauty & Barber Supply Institute, Inc.
Bechtel.
Bethlehem Steel Corporation.
Bicycle Wholesale Distributors Association, Inc.
Biscuit & Cracker Distributors Association.
Blasch Precision Ceramics, Inc.
Borg-Warner.
Bridgestone Tire Company.
Calazeras Cement Company.
Cast Metals Association.
Caterpiller Inc.
Ceramic Title Distributors Association.
Champion Spark Plug.
Chesebrough-Ponds, Inc.
China Clay Producers.
Chrysler Corporation.
Cleveland Cliffs Inc.
CNA Insurance Companies.
Composite Can & Tube Institute.
Concrete Minnesota Inc.
CnRock Materials & Inc.
Cooper Tire and Rubber Company.
Cooper & Brass Servicenter Association.
Corhart Refractories Corporation.
Council for Periodical Distributors Association.
Council of Wholesale-Distributors.
Door & Hardware Institute.
Eagle-Picher Industries.
Edison Electric Institute.
Electrical-Electronics Materials Distributors Association.
Eli Lilly Corporation.
Employers Mutual Companies.
Explosive Distributors Association, Inc.
Farm Equipment Wholesalers Association.
Fire Suppression Systems Association.
Flexible Packaging Association.
Fluid Power Distributors Association, Inc.
FMC Corporation.
Food Industries Suppliers Association.
Food Marketing Institute.
Foodservice Equipment Distributors Assn.
Ford Motor Company.
Frey Concrete.
Gates Rubber Company.
GenCorp. Inc.
General Ceramics, Inc.
General Merchandise Distributors Council.
General Motors.
Georgia-Pacific.
Goodyear Tire & Rubber Company.
Greater Wash/MD Service Station & Repair Assn.
Gypsum Company.
Halliburton Co.
Health Industry Distributors Association.
Hecla Mining Company.
H.G. Hudson Manufacturing Company.
Hilltop Basic Resource Inc.
Hobby Industry Association of America.
Houston Lighting and Power Company.
Independent Medical Distributors Assn.
Institutional & Service Textile Distributors Association, Inc.
International Sanitary Supply Association.
Irrigation Association.
International Truck Parts Association.
Jewelry Industry Distributors Association.
Kemper Group.
Kerr-McGee Corporation.
Keystone Coal Mining Corporation.
Liberty Mutual Insurance Group.
M.A. Hanna Company.
Machinery Dealers National Association.
Mack Trucks.
Material Handling Equipment Distributors Assn.
Maytag Corporation.
Mead.
McCreary Tire and Rubber Company.
Michelin Tire Corporation.
Mobil Chemical Corporation.
Mobil Oil Corporation.
Monument Builders of North America.
Motor Vehicle Manufacturers Association.
Motorcycle Industry Council.
Motorola.
Music Distributors Association.

National-American Wholesale Grocers' Assn.
National Appliance Parts Suppliers Assn.
Nat'l. Assn. For Hose & Accessories Distributors.
Nat'l. Association of Aluminum Distributors.
National Association of Casualty & Surety Agents.
National Assn. of Chemical Distributors.
National Assn. of Container Distributors.
National Association of Decorative Fabric Distributors.
National Assn. of Electrical Distributors.
National Association of Fire Equipment Distributors.
National Association of Floor Covering Distributors.
National Association of Homebuilders.
National Assn. of Independent Insurers.
National Assn. of Manufacturing Opticians.
National Assn. of Marine Services, Inc.
National Association of Meat Purveyors.
National Assn. of Plastics Distributors.
National Assn. of Service Merchandising.
National Association of Sporting Goods Wholesalers.
National Assn. of Tobacco Distributors.
National Assn. of Truck Stop Operators.
National Association of Writing Instrument Distributors.
National Automobile Dealers Assn.
National Beer Wholesalers Association.
National Building Material Distributors Association.
National Business Forms Association.
National Candy Wholesalers Association.
National Coal Association.
National Commercial Refrigeration Sales Association.
National Electronic Distributors Assn.
National Fastnener Distributors Association.
National Food Brokers Association.
National Food Distributors Association.
National Forest Products Association.
National Frozen Food Association.
National Grain and Feed Association.
National Grocers Association.
National Independent Poultry and Food Distributors Association.
National Industrial Belting Association.
National Industrial Glove Distributors Association.
National Industrial Sand Association.
National Intergroup Inc.
National Kitchen & Bath Association.
National Kitchen Cabinet Association.
National Lawn & Garden Distributors Association.
National Locksmith Suppliers Association.
National Machine Tool Builders Association.
National Marine Distributors Association.
National Moving & Storage Association.
National Paint Distributors, Inc.
National Paper Trade Association, Inc.
National Particle Board Association.
National Pest Control Association.
National Plastercraft Association.
National Printing Equipment & Supply Assn.
National Ready Mixed Concrete Association.
National Restaurant Association.
National Sand & Gravel Association.
National Sash & Door Jobbers Association.
National School Supply & Equipment Assn.
National Screw Machine Products Association.
National Small Business United.
National Solid Wastes Management Assn.
National Stone Association.
National & Southern Industrial Distributors Associations.
National Spa and Pool Institute.
National Textile & Apparel Distributors.
National Tooling and Machining Association.
National Truck Equipment Association.
National Welding Supply Association.
National Wheel & Rim Association.
National Wholesale Druggists' Association.
National Wholesale Furniture Association.
National Wholesale Hardware Association.
Newmont Mining Corporation.
New York State Electric and Gas Corporation.
North American Heating & Airconditioning Wholesalers.
North America Wholesale Lumber Assn., Inc.
Optical Laboratories Association.
Outdoor Power Equipment Distributors Assn.
Pennwalt Corporation.
Pet Industry Distributors Association.
Petroleum Equipment Institute.
Petroleum Equipment Supply Assn.
Petroleum Marketers Association of America.
Phillips Petroleum Co.
Portland Cement Association.
Power Transmission Distributors Association, Inc.
Printing Industries of America PRM Concrete Corporation.
Procter & Gamble.
Reynolds Metals Companies.
R.R. Donnelly & Sons Company.
Rochester & Pittsburgh Coal Company.
Rubber Manufacturers Association.
Russell Corporation.
Safety Equipment Distributors Assn., Inc.
Scaffold Industry Association.
Scott Paper Company.
Security Equipment Industry Association.
Shell Oil Company.
Shipbuilders Council of America.
Shoe Service Institute of America.
Society of American Florists.
Sorptive Minerals Institute.
Specialty Tools & Fasteners Distributors Association.
Spring Service Association.
Southwestern Bell Corporation.
Textile Care Allied Trades Association.
The American Society of Personnel Administrators.
The AntiFriction Bearing Manufacturers.
The B.F. Goodrich Company.
The Can Manufacturers Institute.
The Firestone Tire & Rubber Company.
The Formaldehyde Institute.
The Goodyear Tire & Rubber Company.
The National Cotton Council.
The National Grange.
The Small Business Legislative Council.
The Society of the Plastics Industry.
The Standard Oil Company.
The West Company, Inc.
Toy Wholesalers' Association of America UBA, Inc.
U.S. Borax and Chemical Corp.
U.S. Business and Industrial Council.
Umetco Minerals Corporation.
Unigard Insurance Group.
Union Camp.
Uniroyal Goodrich Tire Company.
United Pesticide Formulators & Distributors Association.
USG Corporation.
USX Corporation.
Utah International Inc.
Video Software Dealers Association.
Volkswagen.
Wallcovering Distributors Association.
Warehouse Distributors Association for Leisure & Mobile Products.
Water and Sewer Distributors Association.
Wausau Insurance Companies.
Wholesale Florists & Florist Suppliers of America.
Wholesale Stationers' Association, Inc.
Wine & Spirits Wholesalers of America, Inc.
Winter Brother Concrete Inc.
Woodworking Machinery Importers Assn.
Woodworking Machinery Distributors Assn.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period of morning business, not to extend beyond 10 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

NICARAGUA

Mr. NICKLES. Mr. President, there has been a great deal of euphoria over the fact that the peace negotiations in Nicaragua have been somewhat successful, that there is a ceasefire and peace is at hand, and a lot of congratulations are going about in Washington, DC, and in Central America. But my concern is that we may well have peace in hand, but we may not have freedom in hand.

My concern is that, in looking at the agreement that was reached, it seems to be a very lopsided agreement, very much in favor of the Sandinistas and in opposition to those who wish to regain freedom in Nicaragua.

When we look at the balance of the issues, we do not see the Soviets withdrawing support from Nicaragua. We do not see a commitment that the Sandinistas are no longer going to take military aid from the Soviet Union or from Cuba. We do not read that the Cubans are going to withdraw their military advisers. We do not read that the Soviet Union is going to withdraw their military advisers, or that the Soviets are going to reduce their military commitment in Central America in any way.

The Soviet Union commitment in Nicaragua is significant and substantial. In 1986, the Soviets put in $600 million in military aid. In 1987, they put in $505 million of military aid. That makes the amount of assistance that the United States put in on behalf of those who are trying to regain freedom in Nicaragua a very small amount.

We debated for days in this Chamber and in the House about putting in $3.6 million for military aid. At the same time, the Soviet Union, already this year, had given the Sandinistas $100 million in military aid, in an effort to consolidate and build their base in Nicaragua.

I want peace in Nicaragua. I want peace in Central America. I also want freedom. I am concerned that as a result of the vote by Congress in denying the democratic resistance the means, both in humanitarian assistance and military assistance, we basically pulled the rug out from under them, and we gave no base from which they could achieve a successful resolution of the problem in Nicaragua. When I say "successful," I am talking about peace, but peace with freedom.

They do have a couple of promises, and I hope that those promises this time will bear fruit; that they will actually be realized; that we will see some participation in the political freedoms; but I am very skeptical of the promises that have been made by the Sandinistas. Their batting record on promises has been very consistent. They have consistently broken their promises when it pertains to freedom of the press, freedom of religion, and freedom of participation.

I am concerned that what we have right now is nothing but more promises, promises that will be broken. The net result will be that the democratic resistance will be defunded. They will be disorganized. They will cease to exist as an opposition or as the moving force trying to regain freedom in Central America. I think the real loss is not just to the United States but it is a loss of freedom everywhere and certainly to those people in Nicaragua.

Mr. President, there is an excellent article in today's Washington Post by Charles Krauthammer that says "The Contras Surrender." I will read one section of it. He talks about this accord. He says:

> There is not a word in the accord about cessation of Soviet military aid to the Sandinistas. Not a word about the departure of Cuban and East Bloc advisers. Not a word about curbing the growth of the massive Sandinista army, by far the largest in Central America and growing. Not a word about power sharing. Not a word about separating the army and the secret police from Sandinista control.

Mr. President, I think this is an excellent article, and I commend it to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 25, 1988]

THE CONTRAS SURRENDER: THE DEMOCRATS GET THEIR WAY

(By Charles Krauthammer)

Peace appears to be breaking out in Nicaragua. The contras, in a position of extreme military weakness and demoralized by their American abandonment, have negotiated the terms of their surrender. There was hardly the time and no longer the will even to disguise the nature of the transaction. In keeping with contemporary mores, contra leader Adolfo Calero was not asked to hand over his sword, only his army.

To see the meaining of the cease-fire accord there is no need to read between the lines. It is all in the lines. During the initial truce, the contras will retreat to enclaves. At which point, the Sandinistas will release half their supply of political prisoners. The other half will be kept in reserve, to be released after the signing of a final cease-fire detailing how the contras will lay down their arms and reintegrate themselves into Nicaraguan life. Humanitarian aid to the retreating contras is permitted but only through "neutral organizations," such as the Red Cross or the U.N. High Commission for Refugees. The transformation of the contras from guerrilla army to refugee band will be official.

In return for the contras' surrender, the Sandinistas promise, once again, free speech. Also promised is free participation for returning exiles in elections, starting with municipal elections (already postponed by the Sandinistas) and elections for the powerless (and yet to be created) Central American parliament. Contras will be permitted representation in the "national dialogue" now going on internally in Nicaragua and to which the Sandinistas have yielded not an ounce of their power. Indeed, last week they successfully managed to split the internal opposition in two. There is not a word in the accord about cessation of Soviet military aid to the Sandinistas. Not a word about the departure of Cuban and East Bloc advisers. Not a word about curbing the growth of the massive Sandinista army, by far the largest in Central America and growing. Not a word about power sharing. Not a word about separating the army and the secret police from Sandinista control.

As one Sandinista official said during the last hours of the talks, "We are not negotiating our Revolution in there." And so they did not. The Revolution, meaning Sandinista rule, is secure. What was negotiated at Sapoa was the demise of the only remaining threat to that rule.

One can hardly blame the contras for giving up. They had had enough, trying to fight an enemy armed with billions of dollars of Soviet weaponry while daily checking Congress' mood to see whether they would be permitted any bullets with which to fire back.

The last straw was the congressional cutoff of aid to the contras, followed less than two months later by last week's massive Sandinista assault on retreating contras in northern Nicaragua. When the Sandinista attack moved across the Honduran border, a border that no one can find and till recently nobody cared about, the American reaction turned farcical. There was puzzlement at yet another Ortega blunder. The New York Times, for example, opined that "Managua knows how to snatch defeat from the jaws of political victory." But the Sandinista attack made perfect sense. What is the threat of contra aid if there are no contras left? Since Feb. 29 the contras had not been able to be resupplied by air because of the congressional ban. They had to get their supplies from depots on the Nicaraguan-Honduran border. And that is exactly the area the Sandinistas attacked and from which they routed the retreating contras. Some blunder.

We've been through this before. In March 1986 the Sandinistas mounted a similar offensive into Honduras two days after Congress voted down aid to the contras. Tip O'Neill, enraged that Ortega should be more interested in winning his war than in providing political cover for his American friends, denounced Ortega as a "bumbling, incompetent Marxist-Leninist communist." Ortega has now negotiated his enemy's capitulation. Some bumbler.

The Democrats have gotten their way. Two months ago, they voted to give peace a chance by entirely disarming one side of the Nicaraguan civil war. In fact, they gave defeat a chance, and it worked. The war appears to be ending. The anticommunist resistance, which had made remarkable political and military gain before the latest congressional cutoff, has been starved into submission. Starved not by its enemy, which did not have that power, but by its American patron. It takes cynicism to let people who have tied their fate to America be beaten into surrender, and call the result peace. But we have practice. Congress brought a similar speedy peace to Indochina in 1975.

Ten years later Ted Koppel had Le Duc Tho on "Nightline." Tho asked for "a few words to the American people." Koppel obliged. "On the occasion of the celebration of 10 years of liberation of the south," said Tho, "we wish to profess gratitude to the American people for their support and contribution to our recent victory."

Wednesday night, immediately after signing the cease-fire accord, Daniel Ortega gave a speech thanking all those who have "heroically defended" the peace process: "the Nicaraguan people, the EPS [Sandinista army] fighters, the peasants, the workers, the women, the mothers, the international community, the American people and U.S. representatives like Mr. Jim Wright."

There may be little to salvage now in Nicaragua. But there is still something to be salvaged in this country: accountability. The Democrats have calculated, correctly, that destroying the contras is not a political liability in 1988. But who lost Central America will become an issue some day. And on that question it is worth keeping the record straight and the memory fresh.

Mr. WALLOP. Mr. President, will the Senator yield for an observation?

Mr. NICKLES. I am happy to yield.

Mr. WALLOP. Mr. President, I compliment my colleague and friend from Oklahoma.

Mr. President, we have seen today and over the weekend the failure of our support for a friend in search of democracy in Central America. We spent an hour or a little better this morning talking about how valuable we think that democracy of Panama is, and I agree with that.

Would to God the House Democrats and others had felt so strongly about democracy in Nicaragua just a little to the south.

We have abandoned our friends. Our reputation in the world has been tarnished.

Mr. President, I wish to point out to my colleagues an excellent article in today's Washington Post by Charles Krauthammer on the situation in Central America. What Mr. Krauthammer has so poignantly and movingly described is the abandonment of friends in the region in order to appease—only temporarily I fear—our enemies there.

The Contra surrender that has been in the newspapers in the last week is a direct result of the actions taken by this Congress, abandoning the Nicaragua Democratic Resistance by denying them military aid. The Marxist-Leninist Sandinista regime has managed to win a victory almost without firing a shot. I am reminded of a quotation of another day, when standing before members of the German Press Corps on November 10, 1938, Adolf Hitler characterized the German occupation of the Czech Sudetenland like this:

> It is a fabulous success * * * so great that our present day world is hardly able to assess it. I myself became most aware of the grandeur of this success for the first time when I stood in the middle of the Czech fortified line. Then and there I realized what it is to take possession of fortifications representing a front almost 2,000 kilometers long without firing one single shot of live ammunition. Gentlemen, this time, by means of propaganda in the service of an idea, we have obtained 10 million human beings with over 100,000 square kilometers of land. That is something really magnificent.

I am sure that Daniel and Humberto Ortega are celebrating the victory of tyranny as we stand here and listen to our colleagues call for the need to preserve and promote democracy in Panama. They are toasting their victory in Managua as we speak of the need for America to stand by her friends, the Panamanian people who want only to live their lives in freedom. It is ironic that we are doing so in the same week that we have abandoned another friend, the Nicaraguan Democratic Resistance, and with them the entire Nicaraguan people, in the very same region.

Indeed, Mr. President, the victory of the Sandinistas this week is no less magnificent for them than that achieved by Hitler 50 years ago. By means largely of propaganda in the service of an idea, they have destroyed their only resistance. The Nicaraguan people's only fortifications, their line of defense, has been taken by the enemy of freedom and democracy. And they have done so without giving up their military relationship with the Soviet Union, without instituting anything in terms of democratic reforms. Not a word in the agreement, Mr. President, is devoted to anything about democracy in the region. It says nothing about power-sharing. Clearly, for the Marxist-Leninist Sandinistas and their Soviet and Cuban patrons, this victory has been "something really magnificent."

Mr. NICKLES. I thank the Senator from Wyoming for his observation and also for his leadership in this very important issue. I think it is an issue on which we need to educate our friends and our allies as well.

SOCIAL SECURITY

Mr. NICKLES. Mr. President, we had a hearing yesterday in the Budget Committee that dealt with Social Security and the fact that the surplus currently running in the Social Security System masks the real size of the deficit.

We are going to be taking up the budget this next week. Hopefully we will be able to report out a budget resolution. But I point out to my colleagues the real size of the deficit, if you eliminate all the surplus that is currently in the various trust funds, is much, much higher than most of us, I think, have realized.

Last year the real size of the operating deficit, taking out the trust fund surplus, was $223 billion. That is because we had a surplus in Social Security of $19.6 billion and a surplus in other trust funds of $53 billion.

I see the Presiding Officer, and I know that he shares this same concern as the Senator from Oklahoma, and I compliment him for his willingness to dig into the deficit and the problems of the deficit and hopefully the solutions as well. The deficit for 1988 operating is really $244 billion. We say it is going to be $146 billion. That is just because we have a total surplus of all the trust funds of $97 billion, surplus from Social Security of $37 billion, actually $36.8 billion and a surplus from other trust funds of $60.7 billion.

For 1989 in the budget we are going to be marking up next week, we have a surplus of other trust funds of $67.5 billion and in Social Security of $45.1 billion.

That is $112 billion of surplus in trust funds that really does mask the total size of the Federal deficit.

The Federal deficit under OMB estimates next year will be $242 billion.

Mr. President, these figures I think are staggering. I think they tell us we have a lot of work to do.

Mr. President, I ask unanimous consent that the OMB table that I am reading from be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET FUNDS AND THE FEDERAL DEBT TRANSACTIONS BY FUND GROUP

[In billions of dollars]

	1987 actual	1988 estimate	1989 estimate	1990 estimate	1991 estimate
RECEIPTS					
On-budget:					
Federal funds	537.8	560.8	593.2	644.8	697.3
Trust funds	216.6	231.5	247.9	261.4	276.8
Interfund transactions	−113.7	−123.0	−134.9	−144.4	−155.6
Total, on-budget receipts	640.7	699.3	706.2	761.7	818.5
Off-budget (trust funds)	213.4	239.9	258.5	282.4	306.0
Total, Federal Government receipts	854.1	909.2	964.7	1.044.1	1.124.4
OUTLAYS					
On-budget:					
Federal funds	760.9	805.0	835.3	873.1	914.0
Trust funds	163.6	170.8	180.4	195.6	209.2
Interfund transactions	−113.7	−123.0	−134.9	−144.4	−155.6
Total, on-budget outlays	810.8	852.8	880.9	924.2	967.6
Off-budget (trust funds)	193.8	203.1	213.3	224.1	236.1
Total, Federal Government outlays	1.004.6	1.055.9	1.094.2	1.148.3	1.203.7
SURPLUS OR DEFICIT (−)					
On-budget:					
Federal funds	−223.1	−244.2	−242.2	−228.3	−216.7
Trust funds	53.1	60.7	67.5	65.8	67.6
Total, on-budget surplus or deficit (−)	−170.0	183.5	−174.7	−162.5	−149.1
Off-budget (trust funds)	19.6	36.8	45.1	58.3	69.9
Total, Federal Government surplus or deficit (−)	−150.4	−146.7	−129.5	−104.2	−79.3

Source: OMB budget for fiscal year 1989, p. 6d–19.

Mr. NICKLES. Mr. President, I have a table that shows the various trust funds and the outlays and receipts of those trust funds. So individual Members can find out which trust funds have a surplus and not and where this total amount of surplus is coming from, I ask unanimous consent that it also be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

OUTLAYS AND RECEIPTS OF TRUST FUNDS

[In millions of dollars]

Description	Outlays			Receipts		
	1987 actual	1988 estimate	1989 estimate	1987 actual	1988 estimate	1989 estimate
On-budget:						
Railroad retirement trust funds	8,620	8,967	9,335	9,277	9,815	9,678
Black lung disability trust fund	643	613	729	642	610	729

OUTLAYS AND RECEIPTS OF TRUST FUNDS—Continued

[In millions of dollars]

Description	Outlays			Receipts		
	1987 actual	1988 estimate	1989 estimate	1987 actual	1988 estimate	1989 estimate
Veterans life insurance trust funds	1,074	1,115	1,167	1,408	1,437	1,440
Federal employees retirement funds	26,046	27,587	29,568	44,029	46,563	48,810
Military retirement fund	18,078	19,123	20,320	31,919	33,563	35,060
Unemployment trust fund	20,527	17,500	18,500	27,613	26,200	26,100
Health insurance trust funds	81,640	87,657	94,491	90,532	102,728	117,024
Highway trust funds	13,476	14,219	14,705	14,310	15,506	15,527
Airport and airway trust fund	2,631	3,007	3,858	3,940	4,238	4,580
State and local government fiscal assistance trust fund	76					
Foreign military sales trust fund	9,910	8,572	8,204	8,504	8,417	8,062
Other trust funds (nonrevolving)	2,151	3,050	3,623	3,750	4,244	4,140
Trust revolving funds	−2,037	1,222	−830			
Subtotal	182,836	192,632	203,672	235,925	253,322	271,149
Intrafund receipts from on-budget	−10	−1	−1	−10	−1	−1
Intrafund receipts from off-budget	−2,614	−2,890	−3,009	−2,614	−2,890	−3,009
Proprietary receipts from the public	−16,656	−18,913	−20,228	−16,656	−18,913	−20,228
Total on-budget	163,556	170,827	180,434	216,645	231,517	247,910
Off-budget:						
Federal old-age, survivors, and disability insurance trust funds	208,070	220,537	234,544	227,640	257,310	279,682
Interfund receipts from on-budget	−14,205	−17,411	−21,201	−14,205	−17,411	−21,201
Proprietary receipts from the public	−33			−33		
Total off-budget	193,832	203,126	213,342	213,402	239,899	258,481
Total	357,388	373,953	393,776	430,047	471,416	506,391

Source: OMB budget for fiscal year 1989, p. C–13.

Mr. NICKLES. Mr. President, back to this idea of the Social Security, we had the hearing yesterday. We talked about the fact that Social Security was having large trust funds. I just quoted the figures for 1988 and 1989 as $36- and $40-some billion. It is projected that in the 1990's and mid-1990's the surplus will be $100 billion just in Social Security trust funds alone; in other words, we will be paying in about $100 billion more than it is paying out if we leave the taxes and the benefits pretty much as they are today.

A lot of people will say this is great news, the Social Security fund is going to be in such good shape. It is going to have lots of money forever. We are not going to have to worry about Social Security. It is in great shape.

Mr. President, I wish that were the case, but unfortunately Congress has been spending all the money.

Senator CHILES said yesterday at the hearing, and I hope he does not mind if I borrow his quote, that this reminds him of the Biblical time when Joseph was in charge of the grain storage in Egypt and he was storing the grain for 7 years, 7 years of good time so he would be ready for the 7 years of drought. But unfortunately somebody was sliding in the back door and taking all the grain out.

And that is what Congress is doing right now because we are spending all the money. We are spending all the money of the Social Security trust funds surplus and we are spending all the money in all these other trust funds which I mentioned was $60 billion.

So the trust fund may run a surplus of $100 billion but, instead of having that money in the bank and savings account and growing to pay for the expenses that most of us think it is there to cover, our Congress is spending the money.

There was an excellent article, Mr. President, in the Washington Post yesterday by Deborah Steelman, and she makes this point and makes it very well.

She talks about the Social Security trust fund and talks about the fact that Congress fixed Social Security, we increased the taxes, made some changes, going to make it solvent, going to have some surplus in the first years in the 1980's and 1990's, we are going to save up for the baby boom and the money is going to be there. She says, and I quote:

> Sounded like a fine idea, so they passed a law requiring a series of payroll tax increases to accumulate the necessary funds and to make Social Security "safe" for all future generations.

She goes on:

> Only one slight hitch: the Social Security Trust Fund doesn't save money; it lends it to the U.S. government. The U.S. government, in turn, spends not only every dollar it collects through income taxes but also every dollar it borrows from the trust fund on today's basic programs: education, highways, law enforcement * * *.

Any everything else we spend money on.

> The biggest borrower on this continent—the U.S. government—borrows the money to pay for these programs from the largest, and the fastest growing, source of financing on this continent, the Social Security Trust Fund. And if you think that the U.S. government is saving for the day it has to pay this money back to the trust fund, think again.
>
> The federal government finances its spending by two methods, taxing and borrowing. Its largest two tax sources are the income tax and the payroll tax. The income tax is supposed to pay for today's basic programs, and the payroll tax is supposed to pay for the benefits of future retirees.
>
> But the federal government spends much more than it takes in through the income tax. It must borrow the rest, and while some people are kind enough to lend the federal government money through savings bonds, it must borrow most of its money from big institutional lenders. And the biggest institutional lender on the block, loaded up with all those fat payroll taxes, is the Social Security Trust Fund. Because of the payroll tax increases over the past five years, this giant trust fund can afford to pay benefits to today's retirees and lend the federal government big bucks, all at the same time.

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 24, 1988]

AND WHO'S GOING TO PAY BACK ALL THE MONEY BORROWED FROM SOCIAL SECURITY?

(By Debarah Steelman)

In this political year we have heard much about how safe our Social Security is. And we have heard much about other needs of our ever-aging population, the need to provide catastrophic health care and long-term care. But few discuss this dark secret: that the taxes being collected to pay for such deferred benefits are in reality only financing our current federal borrowing binge.

When lawmakers "fixed" Social Security five years ago, they said they would collect enough money to put the Social Security Trust Fund on solid footing for the next 75 years; they would "prefund" it, saving enough money over the next 10 to 20 years to pay for benefits to the huge generation that will retire 20 to 40 years from now. Sounded like a fine idea, so they passed a law requiring a series of payroll tax increases to accumulate the necessary funds and to make Social Security "safe" for all future generations.

Only one slight hitch: the Social Security Trust Fund doesn't save money; it lends it to the U.S. government. The U.S. government, in turn, spends not only every dollar it collects through income taxes but also every dollar it borrows from the trust fund on today's basic programs: education, highways, law enforcement and the like.

The biggest borrower on this continent—the U.S. government—borrows the money to pay for these programs from the largest, and the fastest growing, source of financing on this continent, the Social Security Trust Fund. And if you think that the U.S. government is saving for the day it has to pay this money back to the trust fund, think again.

The federal government finances its spending by two methods, taxing and borrowing. Its largest two tax sources are the income tax and the payroll tax. The income tax is supposed to pay for today's basic programs, and the payroll tax is supposed to pay for the benefits of future retirees.

But the federal government spends much more than it takes in through the income tax. It must borrow the rest, and while some people are kind enough to lend the federal government money through savings bonds, it must borrow most of its money from big institutional lenders. And the biggest institutional lender on the block, loaded up with all those fat payroll taxes, is the Social Security Trust Fund. Because of the payroll tax increases over the past five years, this giant trust fund can afford to pay benefits to today's retirees and lend the federal government big bucks, all at the same time.

The books do not show the unfunded liabilities lurking in our future, and the taxpayers never see the time bomb ticking away in their own Treasury Department. But one day, when that huge generation retires and starts to collect its Social Security benefits, the Treasury will have to pay back all the money it has borrowed from the trust fund.

And where will the money come from? From the double-whammied taxpayer of the future, who not only will have to pay increased payroll taxes to support a retired generation much larger than his own but also increased income taxes to fund the Treasury's repayment of the debt it owes to the trust fund.

The federal deficit is consuming the trust fund, and future generations will have to cough up twice the taxes or pull back on Social Security benefits. Given the fact that the generation retiring between 2010 and 2030 will be the largest single voting bloc in history, it is not difficult to predict the choice.

So how can politicians say Social Security is "safe"? And how can others argue that even more benefits—such as long-term care—should be added to this Ponzi schemer? Either they believe that future generations should pay for our interstate highways and other current benefits programs, or they are practicing some of the most cynical, myopic politics our nation has ever seen.

We live in a time when lawmakers, think that smoke-and-mirrors deficit reduction is accomplishing something; they won't be in office 40 years from now. But a few recognize the fall we've been set up to take. They know we cannot fund further entitlements through this scheme, and they know we as a government, and as a people, must stop our consumer binge and start saving money.

But the politics of immediate gratification are hard to fight. The people who vote generally want something for it, and they want it right now. If we can't figure out a way to support those lawmakers who see a future beyond the next election, I am afraid it is a bleak one.

And bear in mind that I haven't mentioned two of the most cynical aspects of this scheme. One, that general revenue programs are supposed to be funded on the progressive income tax and are instead being funded by the most regressive tax on the books, the payroll tax. And even worse, that today's taxpayer, told daily (especially in election years) to rely on the government to provide for all of his/her retirement income and health care needs, follows so precisely the example set by the government, never even thinking about slowing down his/her own spending/borrowing binge to save for the future.

Mr. NICKLES. Mr. President, I will conclude. The scary scenario, and I will include a table from the Social Security Administration on their anticipated annual surplus and also accumulated surplus. It shows a very large accumulated surplus and if the money were there, if it were actually in a private bank, if the money were there to be spent for the future retirees, the Social Security would be in great shape. But it is not. We have borrowed these moneys. What we have to show in the accumulated surplus is nothing but really a Government IOU, some Government bonds. And the way the Government has paid off Government bonds is to issue more Government bonds. We have not paid off any debt at any time in the last several years and so when the debt is due and this shows in the year 2030 the year 2034, the system starts paying out a lot more than it takes in. Everyone in here knows that.

And you say, "Well, that's great. We can go back to this accumulated surplus."

All we have in the accumulated surplus is a large amount of T-bills that we are going to have to pay more money on to pay the interest, much less the principal. That means future generations are going to be really hit hard. Not only are they going to have to pay enormous taxes to pay for the ongoing Social Security benefits, but also they are going to have to pay enormous income taxes to be able to finance this accumulated surplus, to be able to pay the interest on this debt that we borrowed because we did not live within our means today. Because we borrow all the money out of the Social Security surpluses today, the future generations are not going to have the money to pay the Social Security benefit. At that time, the money going to Social Security, they are going to have to use it to pay this debt. They are going to at least have to pay interest on this debt that we are borrowing from the Social Security fund.

To me, that is not financially responsible. To me, I think Members of this body and others are going to have to look further down the road and try to be responsible so that we do not pass on to our future generations an enormous liability because we ended up spending all the money that we should have been saving for Social Security and these other retirement funds.

Mr. President, I ask unanimous consent that the table from the Social Security Administration be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ALTERNATIVE II–B (SECOND MOST PESSIMISTIC) PROJECTED ANNUAL AND ACCUMULATED SOCIAL SECURITY SURPLUSES

[In billions of dollars]

	Annual surplus	Accumulated surplus
Year:		
1986 [1]	[1] 4.7	[1] 46.9
1987	20.1	67.0
1988	36.8	103.8
1989	41.4	145.2
1990	54.3	199.6
1991	61.0	260.5
1992	69.6	330.2
1993	78.1	408.4
1994	86.8	495.2
1995	96.0	591.2
1996	106.2	697.3
2000	177.1	1,289.3
2005	306.2	2,545.4
2010	434.4	4,488.6
2015	506.3	6,909.4
2020	476.2	9,392.3
2025	334.1	11,393.6
2030	112.3	12,411.1
2035	−$143.1	12,213.2

[1] Actual figures.

Source: Social Security Administration.

Mr. CHAFEE. Mr. President, on behalf of all of us, I thank Senator NICKLES for the outstanding work that he has done in the whole matter of all our national indebtedness, but particularly drawing attention to the problems raised by the envisioned Social Security surplus and what is actually happening. I think he has performed a great service and I think we owe him a debt of thanks.

Mr. NICKLES. I thank the Senator.

THE PROPOSED TRANSFER OF UNITED STATES NUCLEAR SUBMARINE TECHNOLOGY TO CANADA

Mr. EXON. Mr. President, I rise today to voice my concern regarding the proposed transfer of United States nuclear submarine technology to Canada. Let me state up front that I am not necessarily opposed to such a transfer. However, I do have a number of concerns which I would like to explore in hearings when and if this proposed transfer is sent to the Congress for our approval.

In its 1987 "Defence White Paper," our good ally and very close friend, Canada, expressed a commitment to acquire 10 to 12 nuclear-powered submarines. Canada does have diesel-electric submarines in its fleet today but is opting for nuclear propulsion for its future submarines. The rationale for this is that Canada must patrol three oceans, the Pacific, Atlantic, and Arctic, and only nuclear-powered submarines have the speed, endurance, and the ability to safely operate under ice.

The wisdom of this decision is not one for our Nation to yield to the Canadian on. It is not for this Nation to determine what should be the proper course of action to our friend and ally to the north. There are good arguments for the Canadians to spend an awful lot of money on this proposition but at the same time I think we could legitimately ask the question of our key supporter in NATO whether or not it is wise for them to spend $8 billion of their defense dollars for a fleet of 10 to 12 nuclear submarines.

Indeed, I personally welcome the recent acknowledgment by the Canadians that they should be doing more for their own defense and in contribution to NATO. The concern of the United States should focus, in my opinion, on whether or not we wish to transfer nuclear submarine technology to another nation. We have done so only once in the past, to the British, who now operate 19 nuclear submarines of their own. Great Britain is a special friend and ally with whom we have very close defense ties. We enjoy similar ties with the Canadians.

My specific concern, however, has to do with whether Canada fully recognizes and can afford the extensive infrastructure of training and support facilities to ensure that our transferred technology will be operated safely. Mr. President, more and more ports of the world are being closed to the U.S. Navy for reasons of antinuclear sentiment around the world. From New Zealand to the Philippines to Northern Europe, we are faced with a serious challenge to the continued operation of and support for the necessary presence of the U.S. Navy. In short, in this era of nuclear phobia, we must maintain and enhance our safe standards of shipboard nuclear propulsion.

Our Navy has had over 34 years experience with nuclear-powered ships and we have had no accidents. This is the result of a very careful training program, very stringent operating procedures, and shipyards and workers highly skilled in nuclear technology.

For Canada, nuclear-powered ships will be a new experience. Although the Canadians considered acquiring nuclear subs in the early 1960's and began an exchange program with the United States and Royal Navies on the matter, the proposed submarines would be Canada's first nuclear-powered ships. To be fair, the Canadians do operate nuclear powerplants and their safety record is good. But submarines are different.

Canada's Navy is indeed impressive in its professionalism and technology. Its record is long and admirable. In fact, the Royal Canadian Navy was the third largest navy in the world at the end of World War II. We have worked long and closely with the Canadians in the area of nuclear weapons and defense. That is a sound relationship which could be expanded if it proves prudent to do so.

But Mr. President, I want to be absolutely sure that the Canadians understand the tremendous responsibility they assume when they acquire nuclear submarines.

If they should ever experience a nuclear accident or incident, the blame, rightly or wrongly, could be transferred by the United States. Rightly or wrongly, our Nation as well as Canada, could and probably would bear the consequences. We could see more ports around the world closed to our nuclear powered or nuclear armed ships. This is the heart of my concern. With 40 percent of our naval forces nuclear, any nuclear-powered accident, however minimal, would be blown all out of proportion and we would very likely find a "Not Welcome" sign posted more prominently in more ports where it is vital for our ships to port if they are to perform their critical mission.

So before we either transfer nuclear power technology or allow the British to transfer the technology we initially provided to them, I will pursue this matter very carefully in the hearings in the Armed Services Subcommittee on Strategic Forces and Nuclear Deterrence.

This subcommittee, which I chair, has oversight responsibility for our Navy's Nuclear Propulsion Program. I have already discussed this issue with Secretary of Defense Frank Carlucci, Secretary of State George Shultz, and other officials of our Defense and Navy Departments. I think they understand and share my concerns.

I want to alert all that, should the administration decide to transfer this technology, the Senator will exercise his right and responsibility to review and act on such a decision. This is a decision that thus far has been pursued without congressional consultation. I am also fearful that the administration has not addressed the fundamental question that if we authorize the British to transfer our highly classified and closely held naval nuclear technology to the Canadians, how can we justify keeping this from other allies?

This is the decision that has thus far been pursued by the administration simply on their own without consultation with Congress. I am also fearful that the administration has not addressed the fundamental question: If we authorize the British to transfer our highly classified and closely held technology in this area to the Canadians, how, Mr. President, can we justify keeping this from our other allies?

I am pleased and delighted to see my good friend, working colleague, the Senator from Virginia, former Secretary of the Navy, and the ranking member of the Armed Services Committee is here on the floor. He has expressed similar sentiment. And without objection, I would like to yield to the Senator from Virginia at this time.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. I thank my distinguished colleague.

Mr. President, the Senator from Nebraska, and I came to the Senate some 9 years ago, and we have sat side by side at the table of the Senate Armed Services Committee, where he succeeded me as the chairman of an important subcommittee, the Subcommittee on Strategic Forces and Nuclear Deterrence. He speaks with considerable knowledge on all subjects relating to nuclear power, and in particular on this one.

Mr. President, on March 15 I had an opportunity to attend a breakfast meeting with members of the British press. During the course of that breakfast, we discussed the current proposal of the Canadian Government to manufacture nuclear-powered submarines. This is an ambitious undertaking. Simply stated, it entails the building and operating of one of the most complicated and costly weapons platforms in the world.

It has come to my attention that portions of that morning's discussion have been reported in the British press in a way that might imply that I have reached a final decision to oppose this Canadian proposal. I have not made a decision, but take this opportunity to state my present concerns, along with my distinguished colleague, the Senator from Nebraska [Mr. EXON]. The United States executive and legislative branches should weigh these concerns when viewing Canada's proposal to acquire a nuclear submarine fleet by the year 2010, because those submarines might incorporate restricted United States technology. I plan to take an active role in the congressional debate.

In June of 1987, the Canadian Government issued a White Paper on defense proposing the acquisition of 10 to 12 nuclear-powered submarines. Canada is currently considering options of either acquiring the British *Trafalgar*-class submarine design or the French *Rubis*-class submarine design. Since the *Trafalgar*-class nuclear propulsion technology is a derivative of designs and equipment supplied to the British by the United States in the late 1950's, United States approval—including congressional consent—is required prior to transfer from Great Britain to Canada of this technology.

The role of Congress in any transfer of naval nuclear propulsion technology is set forth in the Atomic Energy Act of 1954, as amended. That act provides for a 90-day notice-and-wait period, during which Congress has the opportunity to hold hearings—which our distinguished chairman and I recommend—and, if it chooses, to pass a joint resolution of disapproval.

As a former Secretary and Under Secretary of the Navy (1969-74), I am familiar with the enormous complexities and special requirements of nuclear submarine technology and procedures. I was involved with the development, design approval, acquisition, and continuing infrastructure needed to support nuclear-powered vessels, particularly the SSN-688 class attack boats and the initiation of the Trident program; and also had responsibility for developing and supporting before the U.S. Congress the budgets required to support these programs. I have an appreciation, both in that capacity and today as a member of the Armed Services Committee, of the potential for the enormous cost overruns that often accompany nuclear construction programs.

Just recently, the problem of the current cost overruns with the 688 class, both past and present, were brought to the attention of the Armed Services Committee. A news article reported that the cost to complete construction of 23 *Los Angeles* (SSN-688) class submarines might be $1.2 billion above contract target costs.

The U.S. Congress knows from decades of experience that the costs associated with ocean-going nuclear vessels are enormous, encompassing not just development and acquisition, but also constant training and elaborate supporting shore establishment and overhaul facilities. Let there be no misunderstanding: This is an enormously complex and costly matter, and no nation should enter into such an undertaking without an exhaustively thorough appreciation for those complexities and costs. Congress will carry certain responsibilities as assigned by the Atomic Energy Act of 1954, should the Canadians desire the British submarine design. With the benefit of knowledge derived from our own experience, Congress must conscientiously and fairly examine the Canadian proposal, in our own national security interests. We need to know how Canada proposes to institute this program; and how Canada proposes to insure, as my distinguished chairman mentioned, that the standard of nuclear safety of such a fleet will be at least as high as that of the United States and the British in the operation of their fleets.

Additional questions should be raised. For example, the Soviets have introduced eight new attack submarine designs within the last 10 years and have accelerated the rate at which they are reducing the noise levels of their submarines. Soviet technological advances are expected to continue. The Soviets are pouring unrestricted sums into their submarine program. Will the *Trafalgar* or the *Rubis* designs—if one or the other is selected for the Canadian submarine force—will they be sufficiently quiet and combat capable to produce a credible force against the likely increase in capability of the Soviet submarine fleet? That Soviet force will be entering operation in the late 1900's and beyond and would be in direct competition with any such submarines as Canada may have operating in its Arctic waters.

Canada is a close ally and trusted friend. We need not mention that here. Canada is a sovereign nation, entitled to decide how it will allocate its defense resources. As an ally, it is the responsibility of the United States to give such advice as may be requested—I repeat, advice as may be requested—to assist Canada in structuring its proposal. It is my understanding that the administration is now cooperating with Canada and Great Britain to ascertain the scope of United States technology involved; and it is my expectation and hope that the United States will share in every other respect our experience, both cost and otherwise, in operating our submarine force.

In the past, other allies have made inquiries of the United States for assistance in developing nuclear submarine programs and, with the exception of Great Britain, this assistance has not been provided. This newest proposal would involve changing U.S. policies and procedures developed over the years for the transfer of naval nuclear propulsion technology.

Mr. President, let me make my position clear. I have not yet taken a position in opposition to the transfer of this nuclear technology to Canada. I now alert the Congress, however, to the magnitude of the decision it may be asked to make. I am simply reserving my judgment until all inter-government discussions are completed, both the United States and the Canadians have a thorough understanding of the implications of this undertaking, together with Great Britain, and the administration, if it so elects, petitions the Congress.

Mr. President, I also ask unanimous consent to have printed in the RECORD the relevant provisions of the Atomic Energy Act concerning the role of Congress in this procedure. This is set forth in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2152), paragraphs c and d.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

c. the proposed agreement for cooperation (if not an agreement subject to subsection d.) together with the approval and determination of the President, has been submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of thirty days of continuous session (as defined in subsection 130 g.): *Provided, however,* That these committees, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and

d. the proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., or 144 c., or if entailing implementation of section 53, 54 a., 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President, for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed agreement for cooperation: *Provided,* That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency, when required by subsection 123 a., has been submitted to the Congress. Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91c., 144b., or 144c.) to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, the Nuclear Regulatory Commission, the Department of State, the Department of Energy, the Arms Control and Disarmament Agency, and the Department of Defense shall, upon the request of either of those committees, promptly furnish to those committees their views as to whether the safeguards and other controls contained therein provide an adequate framework to ensure that any exports as contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security.

[If, after the date of enactment of the Nuclear Non-Proliferation Act of 1978, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the requirement set forth in subsection 123a.(2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to subsection 123b.(3) for purposes of the Commission's consideration of applications and requests under section 126a.(2) and there shall be no congressional review pursuant to section 128 of any subsequent license or authorization with respect to that state until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress.

ORDER EXTENDING MORNING BUSINESS FOR 10 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for not to exceed 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS OFFERED BY MR. HELMS

Mr. HELMS. Mr. President, let me correct the record with respect to some comments that were made earlier.

For example, the distinguished Senator from Ohio made the flat statement this afternoon that the Senator from North Carolina had not been on the floor all day. The fact is that I managed for this side a resolution, and I was here for most of the morning.

Second, there were complaints about my amendment and the second-degree amendment of the Senator from Massachusetts. The fact is that I was prohibited yesterday, by priority recognition of the majority, from even making my statement about my amendment.

Of course, I took some exception to that. I have been around this place for a while. You are not inclined to be excessively cooperative when you are treated in that fashion.

So, as Shakespeare said, "Me thinks thou doth protest too much."

I am perfectly willing for Mr. KENNEDY to offer his amendment provided, in turn, I could offer a second-degree amendment to his this afternoon. But, no, that is not satisfactory.

I thoroughly recognize that under the traditions of the Senate, but not under the rules, the managers of the bill or the leaders of the Senate have priority recognition, but the rules say the Senator seeking recognition first.

So, I hope that the distinguished Senators will not protest too much.

Let me just say for the record what is wrong with the Kennedy amendment.

As I understand it, the amendment offered by the Senator from Massachusetts as a second-degree amendment to mine would require the Department of Health and Human Services to implement a program designed by the Centers for Disease Control to notify health care workers about the risk of AIDS in the health care setting.

All right. My reaction to that is here we go again. AIDS, I insist, is the No. 1 health concern in this country today.

The amendment offered yesterday and which he intended to offer in somewhat modified form today would treat AIDS as a disease differently from every other occupational health hazard.

Frankly, as the father of a daughter who is a registered nurse, I took exception to that.

Whereas my amendment would provide health care workers with the same medical opportunities and type of personal notification offered to other populations within the society designated as "at risk" of an occupational hazard, the Kennedy amendment would simply provide notice on ways to avoid contracting AIDS in the workplace.

That is clearly discriminatory. And I wager that not half of the Senators who voted to table my amendment a while ago even knew what the substance of my amendment was, and that gives me concern, when two or three of them come to me now and say, "Look, I didn't understand what your amendment was about."

It has been pointed out in discussions on this amendment that the Helms amendment will send panic throughout the health care industry. Bosh, Mr. President!

I will simply point out that this bill will send—I am talking about the pending bill—will send undue panic throughout any population designated as "at risk." So, perhaps, this is a valid criticism of the bill itself—not of my amendment.

It has been pointed out by the Senator from Massachusetts that the Helms amendment would require that 4 million workers be notified and that it would take years and years to notify this many workers.

Absurd.

In response, I suggest that the Senators look at the committee report itself.

In appendix VII, the committee report states that 4 million workers have been exposed to asbestos and hundreds of thousands of workers have been exposed to other hazardous chemicals and substances in the workplace. If it will take years to notify 4 million health care workers, I see no reason why it would not take the same period to notify 4 million asbestos workers or the other hundreds of thousands of workers designated by this Board as a "population at risk."

Perhaps the Senator from Massachusetts has made a valid criticism about this bill—that the notification scheme envisioned in this bill is unworkable and unmanageable. But, I emphasize, this is a criticism that is applicable to the whole bill, and not of the amendment which I offered yesterday and which was tabled today.

But we will consider this further as we proceed with this bill for such time as we proceed with it. And if we can get a fair shot at an amendment that Senators will understand with respect to health care workers, then we can move along.

I would point out that the tabling vote that just occurred could have occurred 24 hours earlier had it not been for the fact that I was denied my right even to explain my amendment on this floor.

I thank the Chair and I yield the floor.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GREEK INDEPENDENCE DAY

Mr. MATSUNAGA. Mr. President, by resolution of this Congress, today is "Greek Independence Day," marking the date in history when the Greek people in 1821 revolted against nearly four centuries of despotic rule under the Ottoman Empire. It occurs to me that this observance brings out a reciprocity at work in the fortunes of nations which should not go unnoticed as we in this body consider present-day issues of foreign policy.

It was the cultural and political heritage of the Greeks of antiquity which inspired the Founding Fathers of our own country to call for a constitutional democracy in the 19th century; and it was the Revolutionary War of the American people which in turn provided inspiration for Greek independence. The spirit of freedom is contagious; it has ancient origins and indeed at times, long periods of dormancy, but it cannot be forever suppressed. It is a universal fever first diagnosed and treated so brilliantly by the Greeks of old.

Yesterday I joined with colleagues in paying my respects to his eminence, Archbishop Iakovos, primate of the Greek Orthodox Church of North and South America at a Capitol reception to salute this day. He is a most able and disarming religious leader and it was an honor for the U.S. Congress to receive him. In fact, there is a small congregation of his church in my own Aloha State. Indeed, while small in number, immigrants from Greece were among Hawaii's earliest European settlers. One of these was the pioneer Waikiki hotelman George Lycurgus, who entertained such luminaries of yesteryear as writer Robert Louis Stevenson, and at great personal risk remained loyal to the Hawaiian monarchy when Queen Liliuokalani was overthrown. He went on in this century to manage the world famous Volcano House on the big island of Hawaii where he displayed equal, steadfast fealty to the Volcano Goddess Pele while living to a venerable age.

Today some of our country's most illustrious citizens claim Greek ancestry. Among them is my friend and colleague, the distinguished senior Senator from Maryland, Paul Sarbanes, not to mention the Governor of Massachusetts—who may well be living down the Hill from us this time next year—Michael Dukakis; a prospect devoutly to be wished, Mr. President, if I may be allowed to express a partisan sentiment.

In any event, Mr. President, on this Greek Independence Day, I would echo the words of the poet Shelley when he proclaimed: "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece."

TRADE WITH JAPAN

Mr. MATSUNAGA. Mr. President, during the recent Senate recess, my colleague on the Finance Committee, the junior Senator from Montana, Mr. Baucus, had the opportunity to travel to Japan. During that visit, Senator Baucus delivered a speech to the Foreign Correspondents' Club in Tokyo which outlined his views on a new, more comprehensive approach to our trade relations with Japan. I share the view of Senator Baucus that we need to move away from a contentious, confrontational approach to our trade relationship with Japan and toward an understanding for the resolution of our economic problems with a longer term perspective in mind. The present tensions between the United States and Japan on trade issues serve to undermine our critical trans-Pacific partnership. As a Senator from Hawaii and chairman of the Senate Finance Subcommittee on International Trade, I am very aware of this vital partnership and the vast opportunities which a healthy United States-Japan trade relationship creates for all of the Pacific Basin.

Mr. President, I commend the Senator from Montana, Mr. Baucus, for his forward-looking vision regarding this topic of critical importance to both countries, and I ask unanimous consent that the complete text of his speech be printed into the Congressional Record so that others may learn from it.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Address by U.S. Senator Max Baucus "A Mutual Accord for Economic Growth," Tokyo, Japan, March 11, 1988

INTRODUCTION

This is my fifth visit to Japan. My first visit was in 1963. I was a college student, hitch-hiking around the world. I visited Tokyo, then took the bullet train to Kyoto.

It was a very different world in 1963. Kennedy was President. Ikeda was Prime Minister. The dollar was worth 363 yen. The United States had a $350 million trade surplus with Japan, and U.S. per capita income was five times Japan's.

The relationship between our two countries was the result of our relative economic and political strengths. As one Japanese diplomat says, America was the big brother, and Japan was the little brother. In 1963, one American trade negotiator described Japan as a "model for developing countries" and spoke of helping Japan to "emerge" as a world power.

Japan certainly has emerged. Today, 25 years later, America and Japan are both economic superpowers. Japan has become the world's largest creditor and has a per-capita GNP slightly higher than America's. Edward Deming taught the Japanese about quality control, and now the Japanese are reminding us about the importance of quality and service.

BILATERAL PROBLEMS

What are the effects of these changes?

Essentially, our friendship and support for each other remain solid. Our combined economies account for about one-half of the free world's GNP. We have a strong security relationship. And our political leaders—particularly former Prime Minister Nakasone, Prime Minister Takeshita and President Reagan—have developed close personal relationships.

Nevertheless, there is a growing tension underlying our friendship because our bilateral relationship has not kept up with our changing economic fortunes. In particular, we remain locked in a seemingly unending series of reactive and ad hoc trade disputes which are putting serious strains on the free world's most important partnership.

The pattern is familiar, whether the issue is the GATT-12 dispute about Japanese agricultural quotas, Kansai airport, the Toshiba incident, or semi-conductors, or beef quotas.

U.S. negotiators identify a perceived trade barrier. Japanese negotiators object that the real problem is quality, price, marketing, or some other commercial factor. Positions harden on both sides.

Finally, the dispute reaches a boiling point. High-level negotiators shuttle between Tokyo and Washington. Headlines blare about an impending trade war. At the last minute, the President and Prime Minister intervene. They direct the negotiators to work out. The issue is settled . . . but only temporarily.

THE PROBLEMS OF AD HOC INCREMENTALISM

This melodramatic pattern of resolving disputes may be exciting. But it doesn't befit two economic superpowers.

And it diverts attention from more serious problems. We're straining to make marginal progress toward limited goals. Meanwhile, our overall economic problems multiply. We're like passengers on a ship who spend their time arguing about the position of the deck chairs and ignore the iceberg ahead.

What's more, this pattern of resolving disputes is itself dangerous. In both countries, it generates suspicion and anger. The general public doesn't hear about the positive aspects of our relationship. They hear about an endless series of trade disputes.

Public opinion also reflects this frustration. Twenty-four percent of Americans, according to a recent poll, said our trade problems with Japan made them less inclined to buy Japanese products. A majority described our relations with Japan as only fair or poor. And eighty percent said that trade problems with Japan were at least partly to blame for America's economic problems.

These results are unsettling. If the public loses faith in our bilateral relationship, there will be dramatic political consequences.

This has already begun. The Gephardt Amendment in the U.S. House of Representatives' trade bill is the most obvious manifestation. Yes, it is blunt protectionism. Virtually every serious economist is against it. Yet, it passed the House of Representatives.

Hopefully the Gephardt Amendment will not be in the final legislation; but its passage by the House of Representatives certainly waves a red flag. Our bilateral relationship is under increasing strain. And time is running out.

TOWARDS MUTUAL ECONOMIC GROWTH

That's the situation.

Ultimately, we have two choices. We can continue the old pattern of ad hoc reaction and incremental change.

Or, we can take another course. We can rise to the challenge and make a dramatic break from the old pattern.

How? By establishing a comprehensive bilateral accord that fosters faster, mutual economic growth—and at the same time makes easier the task of correcting our potentially ruinous trade imbalances.

To accomplish this, the accord must contain two main elements. First, it must establish mutually agreed upon numerical targets for bilateral trade flows which increase trade and reduce imbalances. Second, it must outline specific steps each country is to take, in its domestic and international policies, to help achieve these targets.

The mutual economic accord of which I speak would treat trade balances as being of major importance, but it would recognize that trade is but one of the important elements in the economic relationship between the U.S. and Japan.

Further, the mutual accord I have in mind would be flexible. It would be mutually negotiated, not unilaterally imposed. It would not treat trade deficits as the exclusive measure of economic performance. And it would not blame the trade deficit entirely on Japan.

Rather, it would link trade policy with other policies to construct a package that would benefit both countries immediately and could lead to a bilateral free trade agreement.

SETTING TARGETS

Let me take a few moments now to explain, in more detail, how the mutual accord might work.

The critical first step would be the establishment of overall trade balance targets.

The basis for these targets already exists. Both countries want to increase bilateral trade and reduce the existing imbalance in an orderly way.

To accomplish this, the agreement should set a minimum percentage target for an annual increase in bilateral trade and an annual dollar target for reduction in the trade imbalance.

DOMESTIC AND FISCAL PROBLEMS

To achieve these targets, the agreement would need to address a series of economic measurements.

Some analysts, for example, say that the U.S. budget deficit is responsible for more than half of the U.S. trade deficit. The point is valid.

The mutual economic accord must start with a more serious and more vigorous U.S. commitment to conquer its budget deficit problem. The U.S. should come up with specific reduction amounts, specific and credible means of achieving those reductions, and a specific time period over which it will be done.

For its part, Japan could take specific steps to release pent-up consumer demand. For example, Japan could agree to reduce savings rates and to reduce the artificially high consumer prices for food and housing. Japan is to be complimented for the steps it is already taking. Yet, under a mutual economic accord it could agree to do more.

These items absorb disproportionate shares of the Japanese consumer's budget and restrict his purchases of consumer goods. Releasing this tremendous consumer demand would increase sales of both domestic and imported products. This would inevitably increase U.S. sales to Japan and reduce the trade imbalance.

EXCHANGE RATES

Second, both nations must reach an agreement on how to stabilize exchange rates within an acceptable range.

The yen and the dollar have been on a roller-coaster, with the dollar rising from 200 yen in 1980, to 250 in 1985, then falling to about 130 yen today. No company directly involved in trade can begin to cope with such uncertainty.

The G-7 agreement has helped modify the volatility. But, frankly, it's only a half-hearted beginning. Like it or not, we can't make real progress until we are willing to make commitments to meet exchange rate targets.

Therefore, under a mutual economic accord the U.S. and Japan could regularly agree on an acceptable range of exchange rates between the dollar and the yen in view of trade flows and other economic factors.

Once this range is agreed upon, the central banks of both nations could be obligated to hold exchange rates within that range. The exchange rate stability produced under this plan would benefit both nations, and the world.

Obviously, both countries will need to retain some flexibility. And they would need to coordinate their actions with the rest of the G-7 nations. The key is for the United States and Japan to acknowledge that informal coordination is inadequate, and to take the lead in establishing a strong enforceable regime.

TRADE BARRIERS

Next, the accord must address the issue of trade barriers.

I know this is a delicate subject. And, although a Diet member recently told me that I am known in Japan as the "Beef General," I'm not here today to lecture about the evils of Japanese protectionism.

Japanese trade barriers are part of the problem. In fact, they may account for as much as 30 percent of the bilateral trade imbalance.

But we have to avoid over-emphasizing trade barriers. Both countries therefore could agree to pursue trade remedies more selectively. On the U.S. side, this might mean emphasizing those cases that would most improve the trade balance. This would break the endless cycle of trade squabbles over relatively small issues like the GATT 12 case and legal services.

And, in any case, the main pressure for opening markets would come from the mutually agreed upon overall trade targets. Both nations would have to make concessions in order to meet trade targets, but they would have some flexibility in selecting those concessions.

The mutual economic accord could also provide that Japan open its markets to less developed countries—particularly the Latin American LDCs.

Over the last ten years, the U.S. has taken 60 percent of the exports from LDCs. Japan, on the other hand, has taken only about 5 percent—even though it has the fastest growing economy in the developed world.

This disparity diverts exports into the U.S. and undermines the economies of many LDCs—some of which otherwise would be good export markets for U.S. goods. Therefore, a new system of preferences should be instituted to encourage more LDC exports to Japan.

BURDEN SHARING

Finally, the agreement must address our relative international security and foreign assistance commitments.

Most of us are familiar with the general outline of the problem. Japan spends about 1 percent of its GNP on security. That comes to about $120 per capita. The U.S. spends about 7 percent of GNP, or $1,200 per capita.

Although it may be politically impractical for Japan to dramatically increase its per capita defense expenditures, Japan could meet its burden sharing obligation with sizable increases in foreign assistance, direct payments to the United States, or some other method.

But whatever the choice, the bottom line is that Japan would make a firm commitment to increase its spending for the common achievement of our international obligations.

IS IT ACHIEVABLE?

That's the outline: a mutual agreement, trade balance targets, specific steps to reduce the U.S. budget deficit, provisions to increase Japanese consumer demand, exchange rate stabilization procedures, reduction in trade barriers, and more equal sharing of international obligations. All leading to expanded trade, correction of trade imbalances, and—hopefully—eventual development of a free trade agreement.

Yes, that's ambitious—and, yes, it wouldn't be easy. Inertia is a powerful force. And both countries will be reluctant to make bilateral commitments in areas that have been traditionally reserved for domestic policy.

But the alternative, of uncertainty and deterioration, is much worse.

A WINDOW OF OPPORTUNITY

What's more, we now have a special opportunity, because the United States is about to elect a new President.

Observers of American politics recognize that that event—the election of a new President of either party—affords the single best chance for implementing important new policies.

Starting with the new President's election in November, there will be a "honeymoon" period in which the President and the Congress will come together, working in a nonpartisan manner, to promote the common good.

What does this mean for those of us convinced of the need to strengthen U.S.-Japan economic relations?

It means there is going to be a window of opportunity for us. The good news is the window will be opening soon. The bad news it is probably will start closing six to eight months into next year.

Another point: Given the tenor of the current campaign, the next President is likely to have a mandate to make dramatic changes to improve America's international competitiveness.

We must recognize that mandate could be interpreted two ways. It could be considered a mandate for protectionism or it could become a positive mandate for enhancing economic relations between the U.S. and Japan.

Obviously, time is critical. All of us who care about the direction and quality of our two nations' long-term relations should begin at once to prepare for the opportunity that will be presented.

CONCLUSION

Our challenge is to define the economic issues between the U.S. and Japan in a way that produces a positive mandate for change in both countries. That's what the bilateral economic accord—which I am suggesting—would do.

It would emphasize that our approach to solving our bilateral problems has not fallen short because it has been too ambitious, but rather because it has been too narrow.

It has been too narrow because it has failed adequately to encompass major economic and fiscal problems which by their nature define and limit the potential for international trade.

It is time to free ourselves of the limitations of our current approach to resolving trade disputes. And if we do that the economic potential for both nations is almost unlimited.

We should start today.

Thank you.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader if Calendar No. 597 on the Calendar of Business has been cleared on his side.

Mr. HELMS. It has, I will say to my friend.

Mr. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order 597.

The PRESIDING OFFICER. Without objection, it is so ordered.

WITHDRAWAL AND RESERVATION OF CERTAIN FEDERAL LANDS

The bill (S. 1508) to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, NV, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of November 6, 1986 (100 Stat. 3457), is amended by—

(1) striking out the period at the end of section 1(b)(2) of the Act and insert in lieu

thereof "and lands comprising approximately 89,600 acres of land in Lincoln County, Nevada, as generally depicted on the map entitled 'Groom Mountain Addition to Nellis Air Force Range', dated September 1984, and filed in accordance with section 2."; and

(2) striking out section 5(b)(2)(B) of the Act.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONCURRENT RESOLUTION INDEFINITELY POSTPONED—SENATE CONCURRENT RESOLUTION 96

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar No. 519, Senate Concurrent Resolution 96, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATING MARCH 29, 1988, AS "EDUCATION DAY, USA"

Mr. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 470 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 470) to designate March 29, 1988, as "Education Day, USA."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 470) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—SENATE RESOLUTION 394

Mr. HELMS. Mr. President, I ask unanimous consent that there be a star print of Senate Resolution 394.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Senator from North Carolina, who is the acting leader on the other side for the moment, whether or not the following calendar orders have been cleared on the Executive Calendar: Calendar Orders 521 and 574.

Mr. HELMS. I will advise the distinguished majority leader that they have been cleared on this side.

Mr. BYRD. I thank the Senator.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Calendar Orders 521 and 574, that they be considered en bloc, confirmed en bloc, a motion to reconsider be laid on the table, the President to be immediately notified of the confirmation of the nominees, that pertinent statements be included in the RECORD at the appropriate place, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Milton Frank, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Nepal.

April Catherine Glaspie, of California, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iraq.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senator will now resume legislative session.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be 15 minutes of additional morning business at this time and that Senators may be permitted to speak therein for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

A SALUTE TO GREEK INDEPENDENCE DAY

Mr. MELCHER. Mr. President, recently a friend of mine who happens to be a Greek American and I were discussing the significance of the relationship between Greece and the United States and the particular observance of this day. March 25 is Greek Independence Day, the day when Greek revolutionaries rose up against their Ottoman oppressors. In our discussion, my friend provided me with his focus on the rewarding relationship between Greece and America. I draw on his very fine perceptions and I share with him the great mutual respect that exists between the cradle of philosophy and democracy, Greece, and the new leader of the free world—America. The day is the Greek national holiday, but in a larger sense, it is a day of celebration for all people who treasure freedom. For Americans, Greek Independence Day marks the beginning of one of the unique relationships in the history of nations, an undying affinity between the world's oldest democracy, Greece, and the world's greatest democracy, the United States of America. There is an untold story to Greek independence, the tale of how the United States, after itself having recently broken the bonds of colonial rule, came to provide vital aid to the Greek revolutionaries.

In 1821, the leaders of the Greek War of Independence sought American assistance for their fledgling cause. "What friendship and zeal will [the Greeks] not manifest to you, when, through your aid, they shall have broken their chains?" Petros Mavromichalis, a Greek revolutionary wrote. "The bonds of gratitude and fraternity will forever unite the Greeks and the Americans. Our interests are of a nature more to cement an alliance founded on freedom and virtue."

For the last 167 years these words have proven most prophetic, for since that time the people of Greece and the people of the United States have fashioned a relationship of mutual respect, dignity, and common ideals.

When word of the valiant Greek struggle for emancipation spread through the towns and villages of our young Nation, Greek support committees aided the independence movement by dispatching money and supplies to the Greek insurgents. Many Americans, such as the Rhode Islander Dr. Samuel Gridley Howe, themselves went to Greece to fight for freedom.

The sentiment of the American people was ably expressed by Edward Everett, secretary of the Greek support committee in Boston, who pleaded with his fellow countrymen by declaring that: "Let not the freest state on earth any longer be the only one which has done nothing to aid a gallant people struggling for freedom."

American poets were also inspired by the struggle of the Greeks, with James Gates Percival leading the American literary effort with his "Ode on the Emancipation of Greece:"

"Greeks! arise, be free,
Arm for liberty;
From those mountains where you lurk,
Send the voice of freedom forth,

The voice of freedom did go forth and by 1929 the Ottoman Empire conceded that it would lose its grip on Greece. The United States quickly developed warm and cordial relations with the new republic and since that time the United States and Greece have fought side-by-side for freedom during both world wars. Today the two countries continue their defense of freedom through their partnership in NATO.

Every American should be proud of our contribution to Greek independence. Cynics have argued that America dispenses foreign aid simply to gain military or political advantage, but the important lesson to be learned from America's assistance to Greek independence is that helping people fight oppression and occupation has a long, long history in our country, so much so that it has become a part of our national character.

Greece has contributed to America, we have learned that a government of laws, not men, is the most durable form of government, and our notions of beauty, symmetry, philosophy, and science are grounded in the experience of the Ancient Greeks. Yet there has been another side to the equation. When Greece asked for American assistance during the most critical time in its modern history, not only the Government, but the people, of our great Nation responded with generous support.

For all Americans, March 25 should be considered the beginning of one of our most valued friendships, and on this day I urge all Americans to pay homage to those great Greek revolutionaries, and to America's inspirational—and never-ending—support of liberty and justice everywhere.

Let freedom ring.

CLOSING OF THE PLO OBSERVER MISSION OFFICE

Mr. D'AMATO. Mr. President, on Monday of this week, the PLO was required by law to close its U.N. mission in New York City. The PLO has defied that law, and the Justice Department has filed suit seeking an injunction, ordering the PLO observer mission closed.

The point of the matter is that the United States is well within its rights to ask the PLO to leave.

Indeed, neither the U.N. Charter nor the headquarters agreement make any reference nor confers any rights to observer missions.

The PLO does not have a legal right to remain in New York. They operate there as a U.S. "courtesy."

Mr. President, the purpose of the Antiterrorism Act of the 1987 is to send a signal to terrorists around the world that they are not welcomed in the United States. What signal do we send when a former Attorney General, Ramsey Clark, is working hard to keep a PLO mission in the United States open and is defending the likes of Yasser Arafat, one of the world's most notorious terrorists?

It is true that under our law, everyone is entitled to representation, and that is the difference between a civilized nation and an organization like the PLO. We are pursuing this dispute through legal channels, with all parties being heard, rather than settling it with rocket-propelled grenades, AK-47's, and murder.

Mr. Clark's defense of these clients goes well beyond the requirements of courtroom procedure. He is engaging in a full-fledged public relations campaign on their behalf. This apparent commitment is shocking and embarrassing from one who was formerly this Nation's highest law enforcement officer.

I am not aware that Mr. Clark has ever raised his voice against the countless and senseless killings of innocent people by the PLO. He is currently defending a terrorist named Mahmood Abed Atta, who has been convicted of shooting a driver of a civilian bus in Israel. Abed Atta is affiliated with Abul Abbas, and yet Ramsey Clark is attempting to prevent his extradition from the United States.

The PLO, to put it specifically, is one of the world's most vicious terrorist organizations known to man. And to paraphrase Will Rogers, Ramsey Clark has never met a terrorist he did not like.

The PLO has been involved in numerous terrorist attacks. Let us take a look at the litany of this organization and the horror it has brought just upon innocent Americans.

Do we forget Munich and the Olympics and the slaughter of the Israelis there and, yes, an American citizen? That was in 1972.

What about our United States Ambassador to Sudan, who was killed in 1973?

Or the United States Ambassador to Lebanon, who was kidnaped and murdered in 1976?

Or what about the aide of Senator Javits who was murdered in Istanbul in 1976?

Or the Americans who were killed in 1974 in the midair explosion of a TWA flight in which 88 people were killed?

Mr. President, these were only American examples. The list of PLO murders of Israelis is too tragically long to list. Ten years ago this month, the coastal road massacres left 35 civilians dead and 80 wounded. In the last year alone, there have been at least 10 separate terrorist attacks by the PLO.

Mr. President, who here can forget the most incredible attack in 1985 against a paralyzed citizen of the United States from New York, Leon Klinghoffer, who was so brutally murdered?

Mr. President, I find it personally appalling that a former Attorney General would fight for a known terrorist organization, and not just in a court of law, but by way of publicity, by way of propaganda campaigns.

I think he sends the wrong message, and I think that this Congress did the right thing in 1987 by passing in this body unanimously that measure which ordered closure of this terrorist agent and its operation in Washington and in New York.

The PRESIDING OFFICER. The Senator from Alaska.

ESTABLISHMENT OF VIETNAM INTEREST SECTIONS

Mr. MURKOWSKI. Mr. President, yesterday I was honored to join with my distinguished colleague and friend from Arizona, Senator JOHN McCAIN, in sponsoring a very important resolution expressing the sense of the Congress that the President should negotiate with the Government of Vietnam to establish interest sections in the capitals of both countries. Although my statement was made a part of the RECORD, I want to take this opportunity to speak briefy on this subject because of the importance I place on the many unresolved humanitarian issues associated with the Vietnam war. This resolution recognizes the need to undertake new policy initiatives in resolving the many humanitarian concerns which remain long after the sounds of war have ended. Humanitarian concerns which touch the lives of Americans:

Families whose sons remain unaccounted for, 15 years since the last combat troops left the shores of Vietnam;

Vietnamese who have settled in America and have been separated from their families for many years;

Amerasian children who do not know their fathers; and

Children who are sick and dying in refugee camps throughout Southeast Asia.

Mr. President, these people personify the harsh realities of war and the aftermath of war.

Mr. President, last year I visited Vietnam and witnessed the human tragedy of that war. I had the privilege of holding two small Vietnamese children who were separated from their mother from since near infancy. I consoled the childrens' aunt who wept uncontrollably and longed to be reunited with her family in the United States. Separation from one's family, at any age, can be a very difficult and emotional experience. These two small children, who were so young and so far away from their mother, are examples of the many children, brothers and sisters, parents and grandparents in Vietnam.

But these two children were fortunate. I was able to take them home on our Air Force plane and unite them with their mother in Fairbanks, AK.

But people who have been separated from their families for many years and have only a glimmer of hope of ever seeing their loved ones again, and for whom concern and compassion we must maintain. The seriousness of this issue is heightened by the fact that many of these children are Amerasian. They are the children of American servicemen who served in Vietnam, children who are now stigmatized by their race.

Mr. President, since my return from Vietnam, I have received hundreds of letters and telephone calls from Vietnamese people who are now American citizens pleading for my help. They simply have nowhere to turn and are unable to contact their families in Vietnam, even under the most dire emergency situations. The resolution my colleagues and I are introducing today is intended to address these and the many other humanitarian concerns dividing our two countries by the specific suggestion of establishing an office in our respective capitals for the sole purpose of improving communication and cooperation between Vietnam and the United States.

Mr. President, the resolution before this body currently does not in any way seek to normalize relations with Vietnam, nor does it seek to provide any economic assistance at this time.

Of course, the pressure remains on the Vietnamese to take the necessary steps to improve relations. It is simply a message of the American people's willingness to communicate and cooperate in order to more expeditiously resolve humanitarian concerns.

Certainly the Vietnam war was clearly one of the most divisive conflicts in our Nation's history. As ranking minority member of the Senate Veterans' Affairs Committee, I have gained a deeper insight and awareness of the enormous sacrifices made by the men and women who served in uniform during that period and of the suffering experienced by those who carry the scars of that war in their everyday lives. We simply can never repay those, who, as Lincoln once wrote, "have borne the battle, and their widows and their orphans." The wounds of war are slow to heal; but, Mr. President, we must go forward if the healing process is to be complete.

I believe that the vast majority of the Vietnam combat veterans want us to take this important step. A short time ago I read a very moving article in the Washington Post by a severely disabled Vietnam veteran who once harbored bitter hatred for the Vietnamese people. Today he is asking us to move forward to address the humanitarian concerns of boat people.

Mr. President, I ask unanimous consent that article be made part of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 31, 1988]

VIETNAM: MY ENEMY, MY BROTHER—EVEN A VET CAN QUIT HATING A WAR-BROKEN PEOPLE IN PAIN

(By Frederick Downs, Jr.)

Twenty years ago this month, in Tam Key, Vietnam, I stepped on a land mine. It was a type we called a "Bouncing Betty," because when you stepped on it, it bounded into the air and exploded waist-high so that it would do maximum damage. My left arm was blown off; grevious damage was also done to my right arm, both buttocks, both legs and both feet. Five of the men in my platoon were wounded along with me.

Within a four-week period after that, my platoon—already reduced from 40 to 27—was destroyed. All but seven of those remaining 27 were killed or wounded, and the platoon, Delta 1-6, my family and my responsibility, ceased to exist as a fighting unit. I had given my all to Vietnam. I was proud to have been an infantryman. I was proud of my men. I wept when South Vietnam fell.

So I had good reason to be carrying a lot of hate when I returned to Vietnam for the first time last August, as part of a team sent by President Reagan to explore greater cooperation with Vietnam on a range of humanitarian issues. The leader of our group was retired Gen. John W. Vessey Jr., a former chairman of the Joint Chiefs of Staff. I was included because I am head of prosthetic services for the Veterans Administration. My job was to study the needs of disabled Vietnamese and see how we could help, particularly in the area of prosthetics. It was a trip that changed the way I think about Vietnam—and maybe about America, too.

We let down through a clear, sunny sky. Hanoi was off to the left. As we descended, we could see "Uncle Sam's Duck Ponds," our slang for bomb creaters, scattered across the landscape. I was surprised at the large number and by the fact that they hadn't been filled in so many years later. Some were spaced haphazardly, others in neat rows spread from the American aircraft that had dropped the bombs 15 or more years ago.

Flying into Hanoi was a confusing experience for me. When I first got off the airplane and stood on the tarmac, I was surprised and slightly embarrassed to realize that my knees were weak and my hands were trembling. The adrenalin was pumping through my body and I felt the way I had long ago as I waited for the helicopters to take us into battle.

I could not suppress the feeling that I was in enemy territory. I was surrounded by North Vietnamese. The shock of this after two decades was strange and unexpected. "What the hell am I doing here?" I asked myself. I had lost my arm fighting against Hanoi! In the years since, I had stayed angry at the Hanoi government for a number of reasons: their mistreatment of the South Vietnamese, their meanness on the POW/MIA issue, their arrogance and intractability on everything to do with America, and the simple fact that they had won the war.

And yet, driving from the airport into Hanoi, that hard edge of hatred seemed to soften. So little had changed in this land in 20 years. The women wore the same black pajamas and conical hats; bicycles still clogged the roads; water buffalos toiled in the rice paddies; fish traps stood at every drainage point in the fields and ditches; children played alongside the road; adults squatted in the doorways of their dwellings.

Here and there along the road, I could see cemeteries, graveyards for the soldiers who died in the war with America, each tombstone bearing a large red star.

We crossed the Red River on the bridge next to the one so frequently bombed during the war. It had taken 20 years but we were finally in the city limits of Hanoi. The city looked poor but reasonably neat. It could be called shabby. Streets, curbs, sidewalks and buildings are in need of repair. None of the buildings was taller than the trees. In the tropical heat and humidity, the entire city looked faded. But it takes money to keep paint looking good, and this is a desperately poor country. According to the United Nations, Vietnam ranks 162nd out of 164 countries in the world in per-capita income.

What I saw over the next few days turned my thinking about Vietnam upside down. We checked into the government guest house and were allowed to go where we wanted in the city. What happened to me, to put it in the simplest terms, was that I began to see the Vietnamese as a people.

My impressions of Hanoi were of an impoverished city, one drained of all resources by 50 years of war. A city too poor even to generate much trash. The North Vietnamese had finally won their war, but at the expense of consuming practically everything they had. A true Pyrrhic victory! Their problems were compounded by an economic policy which for the last 15 years was, by their own admission, a dismal failure.

The signs of poverty were everywhere. Women stood in line to buy a single smear of lipstick; street vendors used hypodermic needles to refill ballpoint pens; fixing flats was a constant activity on the streets. There was very little soap in the country (which perhaps accounts for the gray drabness of the clothing). Cigarettes were sold one at a time. Practically no one had a watch, so they all seemed to depend on the big clock on the main post office for telling time. What a sound it made. Not a bell but a gong.

We often walked in the park observing the people and in turn being observed by them. The kids were fascinated by my hook. They gathered around us, their faces full of curiosity and wonderment. They followed along for a short distance until their parents called. I was fascinated by the number of fathers who had their children on outings or spins around the lake. I did not expect to see this from hard-core Vietnamese. Maybe I hadn't imagined that these men I had hated for so long could love their children. That is what war does to us: It prevents us from seeing our enemies as human beings. But there was a great deal of love and pride evident in the faces of these Vietnamese fathers.

I walked over to the lake to see what the water looked like. I had watched a father squat by the edge and cool himself and his child with water he scooped up in his hands, and I was curious whether the water was clean. It was filthy: cloudy with the look of sewage and run-off from the gutters. I learned later that malaria and other infectious diseases are rampant throughout Vietnam. And I thought: The Vietnamese, my old enemies, suffer the afflictions that plague so much of the world—polio, typhoid, diarrhea, the whole host of microorganisms that inflict mankind.

Because the Vietnamese are so poor, they lack the medicine to combat disease and infection. In one operating room we observed a 7-year-old girl with polio being prepared for surgery. There was no disinfectant on her skin or in the operating room and there were no antibiotics. The infection rate in the operating rooms was over 50 percent, we were told. To put this in perspective, the international standard which countries try to achieve is 3 percent. And I thought: This Vietnamese girl's mother and father don't love their child any less than I love my own two daughters.

One night I walked into a cafe with Bill Bell, a colleague who speaks Vietnamese and has been coming to Vietnam since 1973 as part of the official team that has been trying to recover POWs and MIAs. A group of about 15 older men were sitting around a couple of tables. They stopped talking immediately when we entered and watched us suspiciously as we walked to the bar. "Old cadre," remarked Bill, as we leaned against the teak bar.

Bill told me about one old veteran he had met a few years ago who related his travels along the Ho Chi Minh trail. During one trip, while driving a truck full of supplies, he had been strafed by American planes three times. Each time the bullets punctured his tires. He did not have any patching material so he improvised by hunting around the jungle and killing frogs. He skinned the frogs and used the hide to patch the tires.

Bill told me other stories: of editorials in the Hanoi newspapers raising hell with the government for not living up to the promises made to its veterans. The Vietnamese vets were complaining that they were not getting prosthetic limbs to replace the real arms and legs they had lost while fighting for their country. And younger veterans were complaining that the older veterans had all the good jobs.

I knew exactly what those Vietnamese vets were talking about. Certain problems are universal in nature, and veterans of any country voice much the same type of complaints. And I realized that I was beginning to feel a sense of kinship for their problems.

The odd thing was, the people I met seemed to genuinely like us, too. When we were out walking, they usually assumed we were Russian, since there are plenty of Russians around, and they seemed wary of us. But when they learned that we were Americans, their coldness turned to friendliness and curiosity. Maybe it's that we all share the same horrific experience of the Vietnam War.

This sense of kinship bothered me, to be honest. I had spent 20 years thinking of the North Vietnamese as the murderous ghouls who degraded our dead soldiers by holding them as ransom. Like my fellow Vietnam vets, I believed that they received some perverse pleasure from torturing the unfortunate families of gallant American men lost in battle. I hated the Vietnamese and believed they hated Americans just as much.

But here I was in the middle of Hanoi relating to these people as human beings—discovering that I did not hate them as people. What was even more unsettling was that these people did not seem to hate us. As I walked around the lake in the evening or in the hot humid noonday sun watching the busy streets full of Vietnamese I felt a sense of freedom. Not politically but spiritually. I was actually enjoying myself for the most bizaree of reasons: I was taking a walk in Vietnam and I wasn't on guard for my life.

As a soldier in Vietnam 20 years ago, I had always wanted to be able to take a walk, to go for a stroll and look around without having to worry about getting shot or blown up by the Vietnamese. Now here I was in the middle of Hanoi, among friendly people, having a good time. I could relax. The war was over.

One evening, the Vietnamese delegation hosted a dinner for us. At the dinner I spoke to a Vietnamese official. He represented to me the quintessential North Vietnamese. He had been a prisoner of war under the Japanese, he had been shot in the stomach in 1952 while he was a Vietminh fighting the French and he was in charge of "Clandestine Affairs in Urban Areas" in the fight against the Americans. His brother was killed in a B52 raid in 1972. Surely this man would hate me.

As we relaxed and conversed in comfortable surroundings I thought to myself that my dinner companion was no pilgrim. He was a hardcore soldier who had been fighting for his country's freedom from foreign domination all his life. Whether I agree with his political philosophy or his definition of freedom or not, I respected the man for his determination and sacrifice. He had fought hard because he had wanted his countrymen to have a better life.

So I began to ask myself: Who will help these people achieve the goals they fought for so long and hard? Certainly not the Soviets. We saw nothing—in my area of civilian life—that the Russians have done to help the people of Vietnam achieve that better life. The North Vietnamese know they need help from someone. What country is rich enough to help them? And what country, in their eyes, owes them that help?

For years I have been reading about Vietnamese claims that we owe them war damages for what we did to them. I thought they had it backwards; my concern had been with the damage Vietnam had inflicted on America—the dead and wounded, the POWs and MIAs and the psychological damage inflicted on literally millions of other Americans. I didn't pay much attention to their demands for help.

Americans are a generous people. When we finish our wars, we usually try to help the other side back on its feet, no matter how many casualties we suffered or how hateful our adversaries. We helped create the modern economic miracles of Japan and Germany. But for Vietnam, we have done nothing. And if we're honest, we know why. It is because they won the war, and we still hate them for it.

When we left Vietnam, our delegation recommended that humanitarian aid be provided to Vietnam by non-governmental organizations. As medical experts, we knew this was the right thing to do because the medical needs are enormous. We did not like the politics of Vietnam but we liked the people. I came to believe that they deserved the assistance of the people of America. There will always be differences between our two countries, but there is a lot of common ground to work with.

Let me put it another way: Twenty years ago, when I lost my arm in Tam Key, I thought that I was fighting for the people of Vietnam. Today although the government in Hanoi is not what I would like, the people still need our help. The North Vietnamese we fought and the South Vietnamese who were our allies are all under one government now. There are hundreds of thousands of our former friends and enemies who were left disabled by that war. They all share a common plight now. Do we leave these people handicapped with no hope for rehabilitation, no hope of recovering either physically or economically? Or should we try to help them?

Any soldier who has been in combat knows that there comes a time after the battle, when the smoke has blown away and the dust has settled, when you must lean down and give your foe a hand. For in that moment of generosity, the war is truly over.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MURKOWSKI. If I may ask unanimous consent for 1 minute, I appreciate it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I appreciate the kindness of the Chair and particularly the majority leader.

Mr. President, on October 26, 1967, a young Navy pilot was shot down while flying a mission over North Vietnam. Severely wounded, he would spend 5½ brutal and dehumanizing years as a prisoner of war in a North Vietnam cell, much of that time in solitary confinement. He was the most injured pilot to have survived the North Vietnamese prison camps. This young pilot, John McCain, taught us the meaning of the word courage. And Senator John McCain of Arizona, a Member of this body, does so again and did so yesterday by being the principal sponsor of this humanitarian resolution. His name on this document, Mr. President, is eloquent history and testimony to the compelling need for this resolution.

Mr. President, what more needs to be said?

I thank the Chair, and I thank the majority leader for accommodating me for additional time.

Mr. BYRD. Mr. President, the able Senator is welcome.

C-17 CONFERENCE IN BLACKSTONE, VA

Mr. WARNER. Mr. President, this morning it was my pleasure to go into central Virginia to the small community of Blackstone in Nottoway County, for a C-17 procurement conference. There I was joined by Governor Baliles and Congressman Sisisky. Traveling with me at my invitation this morning was Brig Gen. Michael Butchko, the program director in charge of the C-17 airlifter development and procurement for the Department of the Air Force.

Col. Maynard Austin, the mayor of Blackstone, Dr. Jimmy Harris, who is also the chairman of the Nottoway Economic Development Commission, and Mr. Jerry Wilson, the president of Citizens Bank & Trust, are to be congratulated for their initiative in having this most important procurement conference held in central Virginia. Virginians also express appreciation to Douglas Aircraft for holding this conference.

Together with others, I have through the years encouraged defense contractors to look to small firms as subcontractors and vendors. Many of these firms are located in rural areas of my State where the wage rates are quite competitive and where the quality of workmanship and the attitude of the workers assure a good days' work for a good day's pay. This is certainly true of this section of Virginia.

Historically, Blackstone has had a long affiliation with the Department of Defense, primarily the Army. They are looking now, together with help from the Virginia congressional delegation, to obtain funding to lengthen their runway at the Blackstone Army Air Field.

Airlift, which will include the capabilities of the C-17 in the near future, is becoming ever more important to our military capability. While our defense once focused on our own shorelines, that defense perimeter now is located far beyond our shores, part of a forward deployment. We have decided that our own peace can best be defended in distant locations where we wish to deter wars from occurring again—such as in Europe and in the Northwestern Pacific. We must have the capability to sustain our troops in distant locations.

Our Nation's strategic mobility can come only from sealift or airlift. Unfortunately, this Nation has allowed its merchant marine to decline, and now with the ever-increasing Soviet submarine threat we are more and more dependent on rapid air transport. Furthermore, modern technology has changed the nature of warfare, accelerating the pace of combat to such a degree that the first few days are more important than ever before. No longer can we expect situations similar to World War II, in which our Nation had adequate time to mobilize and train, to build armaments, and then to travel the seas carrying those armaments to the far-away places.

Today's wars are more likely to be fought with equipment which is on hand or available in a matter of days. In fairness to the men and women who are serving our Nation in distant posts, it is essential that we have a fast, responsive transport system for logistics support.

Hopefully, if we exercise foresight and make adequate preparations, our strength will keep peace and deter war.

I want to thank the Governor of Virginia for his courtesy this morning in allowing General Butchko and me to precede him. This is outside the normal order or protocol, which recognizes first the chief executive officer of our Commonwealth. This courtesy allowed me to make the vote which the Senate will not proceed to hold at 11 a.m.

HONORING THE UNIVERSITY OF RHODE ISLAND BASKETBALL TEAM

Mr. CHAFEE. Mr. President, last night sports fans across the country were treated to a wonderful display of athletic prowess and competition. The NCAA basketball regional semifinal game between the University of Rhode Island and Duke was a classic of college basketball. Unfortunately, the Rhody Rams came up just short in the last minute of the game, and I congratulate the Blue Devils for their 73-72 victory.

Last night's contest was the conclusion and culmination of a remarkable and wonderful season for the University of Rhode Island. Coach Tom Penders came to the university just 2 years ago, and during his short tenure he has transformed the program from one without an identity and little recent success into a "sweet sixteen" team.

A member of the Atlantic 10 Conference, Rhode Island has a long history of intercollegiate basketball. The University of Rhode Island is where Coach Frank Keaney is credited with developing the "fast break." The school has appeared in the NCAA tournament on three previous occasions and has participated in the postseason National Invitation Tournament seven times.

This year, under the guidance of Coach Penders, the "Runnin' Rams" achieved their greatest season ever, compiling a record of 28-7. They finished second in the regular season Atlantic 10 standings behind the No. 1 ranked team in the country, Temple University. Three of Rhodys' seven losses this season came at the hands of Temple—all by less than 10 points.

Despite this great season, many of the so-called basketball experts challenged the notion that the University of Rhode Island deserved another bid in the NCAA tournament. Well, justice was done, and the Rams were selected to play in the east region, though they were only seeded 11th of 16 teams in the region.

Not many people across the country were aware of the Rams' abilities, including the folks in Missouri, whose Tigers were Rhode Island's first opponent in the tournament. The Rams dispatched Missouri and its All-American Derrick Chevious with a decisive 87-80 victory.

Next came a showdown with mighty Syracuse, the champion of the Big East Conference. Now, as many basketballl watchers know, the Atlantic 10 lives in the shadow of the Big East. So it was with great joy that we watched Rhode Island defeat the Orangemen, last year's runnerup in the national championship, 97-94, last Saturday afternoon.

Rhode Island's win over Syracuse set the stage for the showdown last evening with the fifth ranked team in the Nation, the Blue Devils from Duke. Although the outcome was not what we could have wished for in the Ocean State, it was thrilling to watch the Rams compete in the regional semifinals.

This Rhode Island team was made up of an outstanding group of young men, who gave their all throughout the regular season, the conference tournament and the NCAA tournament. Tom Garrick and Carlton Owens, the team's senior cocaptains, were unknown by most of the country before the tournament began. By the end of last night most basketball experts were calling them one of the finest backcourts in the country. Those who are familiar with these two athletes, and the rest of the Ram team, know them to be some of the finest young people in the country.

Tom Garrick, a native of West Warwick, RI, came to the University of Rhode Island because it was the only division one school that offered him a basketball scholarship. In retrospect, quite a few schools would do so now, especially those who had the opportunity to see the Ram star score 50 points against Rutgers in the Atlantic 10 tournament.

The other senior star, Carlton Owens, was not a highly recruited high school player either. Yet, those who have seen him play know his nickname of "Silk" is well-deserved.

Mr. President, these two young men were not the only ones who contributed to the Ram's success, so I wish to salute the entire University of Rhode Island team for a glorious season. All of the players—Garrick, Owens, John Evans, Mergin Sina, Kenny Green, Bonzie Colson, Steve Lane, Dave Bernsley, Jimmy Christian, Andre Green, Josh Oppenheimer, and Dennis Tabisz—have proven the experts wrong and made the entire State of Rhode Island very proud.

In addition, I wish to formally congratulate and thank Coach Penders, his assistant coaches Jamie Ciampaglio, Al Skinner, and Rich Pagliuca; Dr. John Chuckran, the athletic director, who is retiring this year; and Dr. Edward Eddy, the president of the University of Rhode Island.

Mr. President, I ask permission to include in the Record a wonderful column by Bill Reynolds, a sports writer for the Providence Journal, entitled "Rams, fans say thanks for magical season," which captures what this team has meant to Rhode Island.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RAMS, FANS SAY "THANKS" FOR MAGICAL SEASON

(By Bill Reynolds)

EAST RUTHERFORD, NJ.—Maybe it was too much to expect that the Rams could keep the magic alive.

Too much to expect that the Rams could keep this roll going, the incredible roll that started last week against Missouri and just seemed to keep right on going through Syracuse. This feeling the Rams somehow had been touched by pixie dust.

For if someone had told you at the beginning of the season that the Rams would be here in the East Regional, right here among the final 16 teams in the country, what would you have said? What were the odds on that back in November? Who wouldn't have made that pact with the Devil right then?

So when the Rams' incredible season ended last night, when their dream died here in this swamp in North Jersey called the Meadowlands, ended in the dying seconds when the clock ran out on their comeback, all you could really say is thanks.

WHO COULD ASK FOR MORE?

For this has been one of those dream seasons, one that will grow in importance as the years go by. And someday it won't really matter that, after all the tumult and the shouting last night, the Rams came up a point short. Or that fate ran out the clock on the Rams in the final seconds, the pixie dust not quite enough.

"Our kids played their hearts out," said Tom Penders. "We told our kids that we were going to stay out there until they dragged us off the floor."

That they did.

And who really could ask for any more?

The problem, of course, was that to beat Duke and keep the Final Four dream alive, the Rams needed great games from Owens and Garrick. Not good games. Great games. They were the two who have carried the Rams all year, the two whose brilliance took this team to another level. They had become the Rams' "X" factor, the two that had upset the equation all year long.

The Rams didn't have enough depth?

Owens and Garrick will do something to counteract that.

Kenny Green can't play the entire game because of his knees?

Garrick and Owens will do something to compensate.

MIRRORS, PLUS

If the Rams were not supposed to be good enough to get this far, Owens and Garrick had been better than anyone figured, the wings this URI team has rode on all season long. Last night Garrick had three early fouls, and never really found his shooting touch.

The intangibles have taken care of everything all year that Owens and Garrick overlooked. If the Rams lacked both depth and size underneath, Penders' pressure defense camouflaged it. If the Rams perhaps didn't think they could play with the top teams in the country, Penders somehow convinced them they could.

The point is this is a season that's been done a little bit with mirrors. The magic of Owens and Garrick. The emergence of Green as one of the best young talents in the East. Some coaching magic. The moon getting in the way of Aquarius. Some pixie dust.

This is a tournament that traditionally has belonged to the team on a roll, and for a magical few days last week that was the Rams.

And for a while last night it appeared the roll was going to continue, another script covered with pixie dust. Early in the second half they were up by five, and who couldn't afford to dream.

But it just wasn't to be.

So when Penders came into the interview room afterwards, he talked about the one rebound the Rams didn't get, a missed foul shot that bounced straight back instead of up in the air. Just one of those crazy bounces.

"Our kids played great," he said. "It was a great game. Two teams going head to head and at the end only one was standing . . ."

His voice seemed to trail off.

What more was there to say?

What more was left to say except thanks?

BICENTENNIAL MINUTE

MARCH 10, 1925: SENATE REJECTS AN ATTORNEY GENERAL

Mr. DOLE. Mr. President, 63 years ago this month, in March 1925, the Senate rejected the nomination of Charles Beecher Warren to serve as Attorney General in the Cabinet of President Calvin Coolidge.

The Senate had not voted down a Cabinet nominee since 1868. Fifty-seven years later President Coolidge submitted the name of Charles Warren, a Michigan lawyer—to succeed Attorney General Harlan Fiske Stone who had just gone to the Supreme Court. However, during the 1920's the Republican Members of the Senate were sharply divided between the conservative and progressive wings of their party. Warren met the approval of conservatives, but his ties to the Sugar Trust upset progressives. They charged that he would not pursue a vigorous antitrust policy in the Justice Department.

On March 10, 1925, progressive Republicans joined with Democrats to block Warren's nomination by a 40 to 40 vote. Normally, Vice President Charles Dawes could have cast the deciding vote, but the Vice President was absent, taking his regular noontime nap at his suite in the Willard Hotel. Frantic calls finally aroused the sleeping statesman, who rushed to the Capitol. A Republican Senator changed his vote in order to move for reconsideration and allow Dawes to cast the tiebreaker, but now the lone Democratic Senator who had voted for Warren changed his vote, and the nomination failed, 39 to 41.

President Coolidge promptly sent Warren's nomination back to the Senate, and intimated that if the Senate failed to act he would make Warren a recess appointment. Angered by this strategy, the Senate rejected Warren once again, by the even wider margin of 39 to 46. The President finally nominated an obscure Vermont lawyer as his Attorney General, whom the Senate promptly and overwhelmingly approved.

DESTRUCTION OF THE EARTH'S OZONE LAYER

Mr. CHAFEE. Mr. President, on any day of the week, we can pick up the paper or turn on the evening news and be faced with news of ghastly activities throughout the world. Last week seemed to be particularly bad.

There were stories about Noriega and rioting in Panama, Ortega and warfare in Honduras and Nicaragua, violent strife and killings in Israel, and grisly murders in Northern Ireland. Closer to home, there were stories on drug abuse, teen pregnancies, and the homeless in America. Individually and collectively, we face an incredible number of challenges.

In the midst of all this, there were a number of stories about an enormous, immediate problem that could well dwarf all of these other matters. I am referring to reports about man's continued use of chemicals that are destroying the Earth's protective ozone layer.

On Monday of last week, the Senate voted unanimously to approve ratification of the Montreal Protocol, an historic international agreement to limit global use of chlorofluorocarbons, known as CFC's, and halons. Scientists have been predicting for years that these man-made chemicals end up in the upper atmosphere and destroy the ozone layer, the shield which protects life on Earth from the Sun's damaging ultraviolet radiation.

Mr. President, the timing of our vote last week could not have been more opportune. On Tuesday morning, while the American public was reading about the vote to approve the treaty, three scientists representing more than 100 government and academic scientists from around the world held a press briefing at NASA headquarters. They were announcing the results of a new international study on global ozone trends.

Their message was startling, it was sobering and it was frightening. March 16 headlines told the story: the Washington Post: "Evidence of Ozone Depletion Found Over Big Urban Areas: Pattern Widens; Severity Surprises Experts"; the New York Times: "Study Shows Significant Decline in Ozone Layer"; and the Wall Street Journal: "New Ozone Study Shows Depletion Exceeds Estimates."

This most recent study provides the first evidence of worldwide ozone depletion. Specifically, by analyzing data collected since 1969, these scientists found that over an area from 40 degrees north—a line running roughly from Philadelphia through Columbus, Ohio, and Reno—to 53 degrees north—a line running through central Canada—we are destroying ozone at a rate of 2 percent each summer and 5 percent each winter. This area includes most of Europe and China.

From 53 degrees north to 64 degrees north—an area covering most of Alaska, northern Canada, and the Soviet Union—we are seeing ozone losses exceeding 6 percent in the wintertime. These numbers are staggering. It is important to note that these measurements are far greater than the depletion that was being predicted by computer models.

In the southern hemisphere, the panel reported a year-round depletion of 5 percent or more at all latitudes south of 60 degrees south. This means that the "seasonal hole" over Antarctica is no longer "seasonal" and that it is getting dangerously close to inhabitated portions of South America, Australia, and New Zealand.

Prior to this, many scientists and industry representatives were telling us that the famous "hole" over Antarctica was an interesting, isolated phenomenon, limited to that remote part of the globe. They told us there was no proof that CFC's destroy ozone on a global scale. They told us that warnings from Doctors Rowland and Molina—warnings first issued in the early 1970's about CFC's destroying ozone—were just speculation, they were mere theories, unproven.

Today, we have moved beyond speculation. We have moved beyond theory. Dr. Watson, the NASA scientist who chaired the international panel said:

> Things are worse than we thought. There has been a long-term change since 1969 that had not been recognized before.

Dr. John Gille, a scientist with the National Center for Atmospheric Research and one of the leaders of the panel that prepared the report said that, if earlier data has given scientists "a smoking gun," this report has given them "the corpse."

He noted that:

> For the first time, we have a really definitive answer that ozone has decreased.

He said:

> We understand what is going on and we can predict it will be much more severe in the future.

With each passing day we learn more about this problem and we learn that it is far worse than anyone thought. The New York Times of March 20 had a story on page 1 with the headline "Even With Action Today, Ozone Loss Will Increase." Mr. President, I ask unanimous consent that copies of these recent stories be printed in the RECORD following my statement.

Mr. President, the destruction of the Earth's ozone layer is a global disaster. There is no longer any reason to doubt that man-made chemicals are responsible for it and that it is within our power, indeed it is our responsibility, to reverse this deadly trend as quickly as possible.

There are several things that we can and must do. First, we need to convince the rest of the world to ratify the Montreal agreement. This new evidence should be used by the United States and by the United Nations Environment Programme to launch a massive diplomatic mission to accelerate the ratification process.

It is important to keep in mind that the agreement does not take effect until it is ratified by 11 countries representing two-thirds of the world's CFC production. This means that, in addition to the United States, the major producing countries in the European Economic Community as well as Japan must ratify the treaty before it enters into force. I have heard disturbing reports that several of these countries, such as the United Kingdom and France, are in no hurry and may not act to approve the treaty in the near future. In short, all we have today is a piece of paper with no legal force.

Second, there is absolutely no rational reason to delay an emergency meeting of all interested parties to reassess the adequacy of the Montreal protocol. The fact that the protocol calls for such a meeting in 1990 is not a sufficient reason to delay. The provision for a 1990 reassessment did not anticipate that such shocking new evidence would appear so soon.

Under the terms of the agreement as it is currently written, industrialized countries will have to freeze consumption and production of CFC's and then gradually reduce consumption by 50 percent over the next 11 years. The United States had been seeking a 95-percent reduction but, based on the evidence available last September, the other countries would not go along with reductions beyond 50 percent. This new evidence shows that a mere 50-percent reduction will not protect the ozone layer.

Another problem with the treaty is the fact that, even when it does go into effect, nonindustrialized countries will be allowed to increase the use of CFC's between now and the turn of the century. Similarly, those countries that do not sign on are free to do as they wish and the only penalties they will face are extremely mild trade sanctions.

Finally, we have to be ready to impose new, more stringent requirements in this country to eliminate the U.S. contribution to the problem. Production controls alone will not suffice, especially if those controls do not go beyond a 50-percent reduction.

For several years, many of us have been chastizing the scientific community for not being bold, for not speaking out when there was a problem, for constantly saying more study is needed, instead of calling for action.

Let us recognize that the group of 100 scientists cannot be criticized for sugar coating the ozone depletion report. They have told us in clear, unequivocal terms that we have a major problem and that we have to act. It is our responsibility to rise to this challenge.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 20, 1988]

EVEN WITH ACTION TODAY, OZONE LOSS WILL INCREASE

(By James Gleick)

The destruction of the earth's protective ozone layer, set in motion by the release of industrial gases into the atmosphere, will continue for decades despite the best efforts of governments and industries to control it, scientists now agree.

Society appears to have ignited a sequence of atmospheric processes that cannot be quickly reversed. The surprisingly rapid depletion of ozone now seen by satellites—confirmed last week by a Government panel of 100 atmospheric scientists—has prompted widespread rethinking of forecasts that the changes would be gradual.

Ultraviolet radiation reaching populated areas could rise as much as 5 to 20 percent early in the 21st century, according to projections from a variety of still-unreliable computer models. Those levels would cause vast increases in skin cancer, and biologists say they could devastate some crops and ocean populations.

Even if emissions are halved in the next decade, as called for under an international treaty awaiting ratifications, levels of chlorine gases in the atmosphere will continue to rise. A single chlorine molecule remains in the stratosphere, breaking down tens of thousands of ozone molecules, for as long as a century.

"A REAL HOLE HERE"

"We're going to have to live with our past mistakes, and the situation will get worse," said Irving M. Mintzer, head of the climate program of the World Resources Institute, a research group in Washington. "We've dug ourselves a real hole here."

Furthermore, the latest ozone measurements reflect only gases released in the 1970's and earlier; gases now rising through the lower atmosphere will take seven to 10 years to reach the stratosphere, six to 15 miles above Earth's surface. More gases in refrigerators and insulating foams will be gradually released over the decades.

Government scientists estimate that levels of these gases will not stop rising until they reach 6 to 8 parts per billion, more than double their present levels. "What we do in the next few years is very important, but the effects won't be felt until down the line," said Richard Stolarski of the National Aeronautics and Space Administration.

The 31-nation treaty negotiated last year in Montreal would first stablize the rate of emissions of chlorofluoro-carbon gases and then gradually reduce them to half of their 1986 levels. Environmental experts argue, however, that the recent ozone findings make the assumptions underlying the Montreal protocol seem too optimistic, and they see a need for much tighter controls.

Government environmental officials, on the other hand, say they are unwilling to reopen the delicate treaty process and that the issue of further cuts in emissions can be taken up beginning in 1990 under a timetable in the current accord.

A new study by the Environmental Defense Fund, an advocacy group in New York, estimates that an 85 percent cut in emissions will be necessary to stablize the levels of destructive chlorofluorocarbons and other gases. Other environmental groups are also using the 85 percent figure and asserting that, even with that sharp a reduction, the levels in the atmosphere would not stablize for years.

"Current ozone depletion is effectively irreversible," the fund's report states. "CFC's in the atmosphere will continue to grow throughout the 21st century even under the protocol's 50 percent emissions cut."

FLAWS IN THE MODELS

The head of NASA's official effort to predict future ozone depletion, Michael J. Prather, is preparing a report to Congress at the end of this month that will assemble calculations from an international assortment of computer models. Dr. Prather said the forecast of ozone loss over the next 30 years would range from 1 to 4 percent.

The same models, however, had previously predicted half or less of the depletion that has now been observed. They do not take into account the surprising seasonal "hole" in ozone over Antarctica, or the unusual polar processes that seem to be so powerful in breaking down ozone molecules.

"These are the best models we have, but we know they're missing things," Dr. Prather said. "We are missing the Antartctic phenomenon. We know we're not getting the right ozone depletion down there."

As a rough guideline, Dr. Prather and other model users believe that emissions of chlorine gases will stay more or less constant even under the terms of the treaty. The cutbacks in the United States and other industrial nations may be offset by exemptions for poor countries and increases by countries that will not join the accord.

Fifteen years have passed since scientists first predicted that chlorine gases, then used in spray cans and still used in refrigerators, insulating foams and industrial solvents, would act as powerful catalysts in the chemistry of the upper atmosphere, breaking down the trace amounts of ozone that absorb ultraviolet radiation.

HIGHER RATES OF OZONE LOSS

The forecasts that motivated the Montreal treaty assumed about a 1 percent loss of ozone, already enough to cause tens of thousands of extra skin cancers each year. The extra ultraviolet light, at the short wavelengths most damaging to the genetic material of cells, would mean a 3 to 6 percent increase in the rate of most skin cancers, according to estimates published by the Environmental Protection Agency.

The actual loss of ozone now seems much greater. The new Government panel, sponsored by NASA, reached a consensus estimate of a 1.7 percent loss in the latitudes from Florida to Pennsylvania and 3 percent from Pennsylvania north to mid-Canada.

Even without human intervention, ozone waxes and wanes with a natura variability that is poorly understood Ozone is the three-atom form of oxygen, which ordinarily forms molecules of two atoms. Near the ground, it is a noxious pollutant; in the stratosphere, its absorptive ability makes Earth's life possible.

Ozone molecules are continually broken down in reactions hastened by chlorofluorocarbons and re-formed by reactions spurred by sunlight. Scientists believe that the outcome of this interaction is closely tied to the 11-year cycle of solar radiation and that the next few years are likely to bring a short-term renewal of ozone, as solar activity reaches its maximum. Then as solar activity wanes again, the scientists expect ozone to resume its decline.

Data have been hard to come by. The report last week was the most authoritative attempt to reconcile incomplete, and sometimes inconsistent, readings from ground stations and satellites. The satellite data go back less than a decade, not enough to give a reliable sense ozone's long-term behavior.

"HOLE" ABOVE ANTARCTICA

Nothing in the direst predictions of environmentalists a decade ago prepared scientists for the discovery in 1985 of a "hole" in the ozone over the South Pole. Depletion over the entire Antarctic continent in springtime has been as high as 50 percent, and the hole has widened each year, now reaching populated areas of South America.

Urgent scientific expeditions have sought the cause, with some success. Though agreement is far from complete, atmospheric chemists believe they have worked out the complex chain of reactions that destroy ozone at such rapid rates. This chemistry, tied to extreme cold and the formation of cloud droplets suggests that ozone can be unexpectedly sensitive to chlorine compounds.

Natural causes, at first considered to be possible explanations for the hole, now seem to have been ruled out. Some scientists pointed to the influence of particles sent into the atmosphere by the El Chichon volcanic eruption in 1982, for example, but the satellite readings show no special effect from the Mexican eruption.

Most scientists are now also persuaded that the seasonal ozone hole, along with a less dramatic loss of ozone at the North Pole, must be connected to the less extreme worldwide depletion. But no one know just how. Some sicentists view the holes as chemical "factories," churning out ozone-depleted air that spreads through the hemispheres.

Every 1 percent loss of ozone allows roughly 2 percent more ultraviolet light to reach Earth's surface. Many scientists guess that a 1 percent depletion takes about a decade at the present rate, and the rate may accelerate.

"Under the treaty, we can expect depletion to grow by at least a factor of three by sometime in the middle of the next century," said Michael Oppenheimer, author of the Environmental Defense Fund report. "We're on an upward ramp that will level off at about 10 percent depletion. We're headed rapidly into the realm of dangerous ultraviolet radiation."

Among biologists specializing in the effects of light on organisms, concern is growing. The American Society of Photobiology, meeting last week in Colorado Springs, presented new research highlighting the urgency of the problem.

"On a global scale, the most significant thing is the destruction of plants," said Thomas Coohill, the group's president-elect. "If you start tampering with the layer of ozone that quickly, you don't have enough time to evolve protective mechanisms."

Sunlight with extra radiation at the short, ultraviolet wavelengths appears no brighter to people or most other creatures, including the tiny ocean organisms that will be among the most vulnerable. Neither sunbathers nor plankton will sense the extra danger.

Some biologists believe that damage to plankton, floating near the ocean surface, could have severe consequences.

"Our data say that these organisms are already under very drastic ultraviolet stress right now," said Donat Haber of the University of Marburg, West Germany. "Most of them are incredibly sensitive. When you expose a population of these organisms, they will die within a few hours."

New research by Dr. Haber's group suggests that a 5 percent increase in ultraviolet light can cut the lifetime of some microorganisms in half. If this occurred on a large scale, the effects could reverberate upward through ecological systems and even influence Earth's climate.

Some sensitive bacteria create nitrogen, which is indispensible for such crops as rice. Phytoplankton, such as algae, play a central role in Earth's carbon dioxide cycle, taking in vast amounts. A significant destruction of phytoplankton could raise carbon dioxide levels, speeding the warming of the atmosphere.

They also provide food for larger creatures. "When you go through the food chain, the effects multiply, and eventually we will be losing millions of tons of fish protein," Dr. Haber said.

The effects of increased ultraviolet light on human health are also poorly understood, though the connection between ultraviolet radiation and skin cancer has been established.

"What's not known—and I think it's really critical—is what are the effects for certain infectious diseases," said Margaret Kripke, a University of Texas immunologist who recently headed an E.P.A. panel on the consequences of ozone depletion.

Ultraviolet light appears to damage the immune system, making people more vulnerable to some virus infections and parasitic diseases. It alters immune cells in the skin and causes other changes that scientists do not understand, turning off some of the immune response to foreign substances.

Research into the biology and chemistry of the ozone problem is intensifying. For those concerned with public policy, however, the psychology of the issue—pervaded by scientific uncertainty—remains troublesome.

"It's not a Chicken Little problem—we don't all die at the end of the week," Dr. Mintzer said. "We're asking people to reduce the risk of an invisible, odorless, colorless gas because we perceive that there will be a risk of destruction of an invisible shield, allowing the penetration of invisible rays."

[From the Washington Post, Mar. 16, 1988]

EVIDENCE OF OZONE DEPLETION FOUND OVER BIG URBAN AREAS

(By Cass Peterson)

Atmospheric ozone has decreased by as much as 3 percent over densely populated areas of North America and Europe since 1969, according to a new international study that provides the first evidence of worldwide ozone depletion.

The study found even more dramatic ozone losses during the winter months and at higher northern latitudes, including wintertime drops of more than 6 percent in Alaska and the Scandinavian countries.

The severity of the ozone decrease came as a surprise to researchers, and once again confounded scientific theories that had projected a much smaller rate of ozone depletion.

It also raises immediate questions about potential health effects. Stratospheric ozone filters out the most damaging ultraviolet solar rays, and federal experts have estimated that each percentage point of decrease in ozone could lead to a 5 to 7 percent increase in numbers of skin cancers.

"Things are worse than we thought," said Robert Watson of the National Aeronautics and Space Administration. "There has been a long-term change since 1969 that had not been recognized before."

More than 100 scientists from U.S. and U.N. agencies collaborated on the study, which reanalyzed nearly two decades of ozone data gathered by satellite and by ground-based instruments.

Watson and other scientists said there is little doubt that the ozone decrease is attributable to chloro-fluorocarbons (CFCs) and other man-made chemicals that destroy ozone in the stratosphere. The figures reported in the study were adjusted to account for natural ozone changes, which can come from sun spots, volcanic activity and unusual weather patterns.

"We have strong evidence that change in the ozone is wholly or in large part due to man-made chlorine," Watson said.

The report comes a day after the Senate ratified a 31-nation treaty to cut global CFC emissions by 50 percent over the next decade. Scientists yesterday questioned whether the treaty, signed last year in Montreal, is stringent enough. "The Montreal protocol can do absolutely nothing," Watson said.

F. Sherwood Rowland of the University of California at Irvine, who headed one of the study groups, said the current changes are occurring at chlorine levels of about 3 parts per billion in the atmosphere, and the treaty will allow chlorine levels to reach 6 to 7 parts per billion before they are reduced.

"We're seeing severe damage now and we know it's going to get worse because we have more chlorine on the way," he said.

According to the study, ozone has declined by about 3 percent at latitudes between 40 and 52 degrees north, which includes the contiguous United States above a line running roughly from New York City to Eureka, Calif. Between the latitudes of 30 and 39 degrees north, which includes most of the rest of the continguous United States, ozone levels decreased about 1.7 percent.

Because most ground-based stations are in the United States or European nations, ozone depletion levels for the Southern Hemisphere had to be estimated from satellite data alone, which is considered less accurate and has been gathered for only 10 years.

The exception is the Southern Hemisphere area closest to Antarctica, where researchers have monitored ozone from ground stations. According to the study, ozone in that area has been reduced about 5 percent since 1979, probably because of a deep "hole" that develops in the ozone over Antarctica each year.

The Antarctic phenomenon came as a surprise when it was first reported in 1984 because none of the computerized "models" that scientists use to predict ozone depletion projected decreases of that size. Last year, ozone levels over Antarctica dropped by more than 50 percent, the deepest depletion since the "hole" was first reported.

The worldwide figures reported yesterday were similarly startling, because the overall ozone decreases are three times greater than expected. Had the models been accurate, scientists would have expected to see ozone decreases of perhaps .5 to 1 percent—small enough that they would have been hard to distinguish from natural fluctuations.

"All the previous reports have said there is no statistically significant trend since the 1960s," Watson said. "What we are reporting is clearly a statistically meaningful decrease in ozone. Our models are not doing a good job."

One problem, scientists said, is that current models have not taken into account the added effect of ice crystals, which form over Antarctica in the coldest months and provide a base for chlorine reactions with ozone.

Rowland said similar reactions may be taking place over the Arctic, which would explain why ozone has decreased more at latitudes closer to the North Pole than it has at more southerly latitudes.

Next winter, scientists hope to conduct the kind of intensive research in the Arctic that they have conducted the last two years in Antarctica.

[From the New York Times, Mar. 16, 1988]

STUDY SHOWS SIGNIFICANT DECLINE IN OZONE

(By Philip Shabecoff)

WASHINGTON, March 15.—Federal scientists reported today that atmospheric ozone over the Northern Hemisphere had declined significantly over the last two decades. The study, the most authoritative so far, reaches a conclusion similar to another reported earlier this year but adds important new details on the extent of worldwide depletion of the protective ozone shield.

Today's study, released by the National Aeronautics and Space Administration, also found that loss of ozone in the Southern Hemisphere, which is most acute in springtime over Antarctica, was spreading into wider areas and that ozone levels were reduced throughout the year.

Ozone in the upper atmosphere absorbs ultraviolet rays from the sun that can cause skin cancer and eye problems and damage other human health and natural systems. Scientists estimate that for every 1 percent decline in atmospheric ozone, 2 percent more ultraviolet radiation reaches the earth's surface.

CONSENSUS ON BLAME

Government and academic scientists who helped prepare the new study said that there is now, for the first time, a broad scientific consensus that man-made chemicals are responsible for much of the ozone loss.

They also said that the new findings showed that the health threat from ultraviolet radiation piercing the thinning ozone shield is a serious one. They said it required quick international ratification of a treaty reached by 31 nations last September to restrain the use of chlorofluorcarbons and other chemicals that are destroying ozone in the upper atmosphere.

Dr. Robert T. Watson, a NASA scientist who was chairman of the panel of scientists that prepared the new report, said at a news conference today its findings suggested that more "draconian" measures than the treaty may be needed to stabilize the protective ozone shield.

The study was prepared by more than 100 scientists who analyzed atmospheric measurements from both satellites and ground stations. They found that after discounting for natural causes of depletion, such as decreased solar activity, ozone in the range of 30 degrees to 60 degrees north latitude decreased 1.7 to 3 percent from 1969 to 1986.

This area includes most of the heavily populated regions of the United States and Canada, Western Europe, the Soviet Union, China and Japan.

IMPROVEMENTS ON EARLIER STUDY

The ozone loss was found to be as much as 6.2 percent in the wintertime at some latitudes, more severe than had been predicted by scientific models.

An analysis published earlier this year by scientists at the University of Illinois found that global ozone levels dropped by 5 percent from 1979 to 1986. But scientists at today's news conference said that they had made new, more accurate corrections of raw data from satelite instruments, accounting for much of the difference.

Dr. Kenneth Bowman, an author of the Illinois study, said that the results reported in the NASA study are based on a recalibration of data from the satellite measurements and that there was "no real disagreement" in the two studies, except that his estimates of ozone depletion were a little higher. He said that, based on the refinement of the measurements, he would agree that the decline in ozone was not quite as large as his report had suggested.

THEORY OF CHEMICALS

Today's study also found that the dramatic loss of ozone that has been occurring over Antarctica in springtime is now having an effect on much of the Southern Hemisphere. The ozone layer over the Antarctic declined by as much as 50 percent last September. But today's study notes that ozone appears to have decreased since 1979 by 5 percent or more throughout the year at all latitudes south of 60 degrees south.

The report said that an expected cyclical increase in solar radiation, which stimulates the production of ozone in the atmosphere, is expected to offset ozone losses to man-made chemicals from 1985 to 1991. But the loss of ozone is expected to resume after 1991 as solar radiation declines.

In the early 1970's, F. Sherwood Rowland and Mario Molina, scientists at the University of California, Irvine, speculated that chlorofluorocarbons, industrial chemicals widely used in refrigeration, insulating foam, solvents and aerosal propellents were remaining in the atmosphere for long periods and combining with and destroying ozone molecules. Later, halons, chemicals used in fire extinguishers, were added to the list of suspects.

That theory has now gained wide acceptance as correct.

Dr. John Gille, a scientist with the National Center for Atmoshperic Research and one of the leaders of the panel of scientists that prepared today's study, said that for a long time it was strongly suspected that the man-made chemicals were destroying the ozone layer. But he said this study had produced "the corpse."

"For the first time," he said in an interview, "we have a really definitive answer that ozone has decreased. We understand what is going on and we can predict it will be much more severe in the future.

ELEMENTS OF TREATY

The protocol adopted last September in Montreal would freeze the production and use of chlorofluorocarbons at 1986 levels starting in 1989 and roll back production by as much as 50 percent by 1999.

The United States Senate voted on Monday, 83 to 0, to approve ratification of the international agreement and President Reagan today praised the vote. But the only other nation to ratify the protocol so far is Mexico.

Dr. Rowland noted, however, that because chlorofluorocarbons remain in the atmosphere for many decades, the destruction of ozone will continue after the freeze as more of the chemicals are used and released into the atmosphere.

"My own view is that we are seeing severe damage now and we know it is going to get worse because more chlorine is on its way" into the atmosphere, Dr. Rowland said.

Dr. Watson of NASA said that study shows that "ratification of the Montreal protocol is an essential first step."

But he added that it suggests Lee M. Thomas, Administrator of the Environmental Protection Agency, and Mustafa K. Tolba, the director of the United Nations Environmental Program, "should look long and hard" at whether to invoke a provision of the protocol that calls for member nations to reconvene if scientific evidence shows that the agreement is insufficient to protect the ozone layer.

Mr. Thomas said after today's news conference that the findings of the new study would be considered during a reassessment of the global ozone situation scheduled under the protocol for 1990. "The crucial first step, however, is international ratification of the Montreal protocol," he added.

[From the Wall Street Journal, Mar. 16, 1988]

NEW OZONE STUDY SHOWS DEPLETION EXCEEDS ESTIMATES

(By Barbara Rosewicz)

WASHINGTON.—A new scientific report found that the earth's ozone layer, which shields out ultraviolet rays that can cause skin cancer, has decreased over the Northern Hemisphere more than previously thought.

The report said its measurements factored out natural causes and it suggested that the shrinkage is attributable "wholly or in part" to gases, most likely ozone-depleting chemicals known as chlorofluorocarbons, or CFCs.

The report, by more than 100 scientists assembled through the National Aeronautics and Space Administration, is the most thorough to date attempting to measure widespread changes in the earth's ozone. There had been no scientific consensus on previous estimates. Responding to findings of a seasonal gap in the ozone layer over the Antarctic, which was blamed largely on these chemicals, 31 countries have signed a treaty to reduce their use of CFCs. The Senate ratified the treaty Monday. So far, only the U.S. and Mexico have ratified.

In northern latitudes that cover most of the U.S. and Europe, the ozone layer shrank a total of 1.7% to 3% from 1969 to 1986, especially during the winter, the study said.

"For the first time, scientists have measured changes in ozone over the northern latitudes where people live. It's a measurement greater than people thought, so it must be reason for concern," said Robert Watson, a NASA scientist.

The figures are based on a new analysis of old data collected from land-based equipment. Earlier analyses that used the data differently had found either isolated decreased or no statistically significant decreases in annual ozone levels globally. Separate satellite data had indicated a higher, 1% a year depletion rate, but the scientific panel said that estimate is wrong because it didn't account for deterioration of equipment.

The report estimated global depletion of ozone, not counting that over the polar caps, at 2.6% from late 1978 through 1985, but much of it may be due to natural causes. Scientists have better data by which to study the Northern Hemisphere than to study global changes.

The study still doesn't pinpoint how much CFCs, which are widely used in refrigerants, foam insulation and solvents, contribute to ozone depletion. To get closer to that answer, Mr. Watson said he hopes the U.S. government will fund an expedition to take air samples over the Arctic similar to the expedition that studied the thinning of the ozone layer over the Antarctic.

Meanwhile, the NASA report is expected to prompt efforts on Capitol Hill for an even tougher international agreement curbing CFC production. If that fails, there may be attempts by Sen. John Chafee (R., R.I.) and others to press for unilateral action by the U.S. to reduce CFC use, coupled with trade sanctions against foreign products containing CFCs.

[From the Boston Globe, Mar. 16, 1988]

NEW STUDY SHOWS GLOBAL OZONE DEPLETION

(By Dianne Dumanoski)

WASHINGTON.—Over the past 17 years, the world has experienced a measurable and significant ozone loss linked to manmade chemicals, according to a new international report on ozone trends.

Moreover, at higher latitudes in the Northern Hemisphere, where Europe and North America have large populations, ozone loss has far exceeded what scientists had expected.

For several years now, scientists have documented a dramatic and worsening hole in ozone layer over Antarctica, but this new report is the first firm indication that ozone is also being lost elsewhere.

"This is very, very important result," said Robert Watson, who heads the upper atmosphere research program for the National Aeronautics and Space Administration. "This is the first time scientists are saying there are measurable meaningful changes that are not attributable to natural causes," he said after a news conference yesterday at headquarters of the National Space and Aeronautics Administration.

If early data had given scientists "a smoking gun," noted John Gille of the National Center for Atmosphere Research in Boulder, now this report had given them "the corpse. We're actually seeing a decrease in a very credible and verifiable way."

During the winter months in the region between 30 and 64 degrees north latitude, losses run as high as 6 percent—a decrease three to four times greater than that predicted by computer models of the atmosphere. The average loss over the year ranges form 1.7 percent to 2.3 percent.

The average winter ozone loss at Boston's latitude—42 degress north—is roughly 4.7 percent, according to the data. A monitoring station in Caribou, Maine, has found that ozone levels dip by as much as 8 percent in March.

Ozone, a form of oxygen concentrated in the stratosphere, blocks the sun's harmful ultraviolet radiation and makes life on Earth possible. Ultraviolet radiation causes skin cancer and can suppress the immune system. Scientists fear increased ultraviolet radiation will decrease crop production and damage the ocean food chain that supports the world's fisheries.

While an analysis of satellite data published earlier this year had reported a five percent ozone drop worldwide since 1979, Watson said this report was incorrect, because of problems with the satellite measuring devices.

The winter losses north of the equator have raised questions about whether the North Pole is losing ozone through the same chemical processes responsible for the Antarctic hole. The ice crystals that form in the stratosphere during the extreme cold of the Antarctic winter play a critical role in the chemical reaction that leads to rapid and dramatic ozone destruction.

Sherwood Rowland, a leading atmospheric scientist from the University of California, noted that such stratospheric clouds do occur over the North Pole, but they are less prevalent than over Antarctica. He said that there is reason to suspect that the same kind of chemistry involving gases and particles may be involved in the winter losses in northern regions.

A scientific team has already taken some measurements over the North Pole, Watson said, adding that NASA wants to mount a major expedition to the region next winter.

Watson noted that the ozone loss over Antarctica has continued to worsen and it may be affecting the entire southern hemisphere.

Scientists are now virtually certain that man-made chemicals, such as chlorofluorocarbons and halons, are causing the ozone hole over Antarctica and they appear to be a major factor in the ozone loss elsewhere on the planet, Watson said.

Chlorofluorocarbons or CFCs are widely used to cool refrigerators and air conditioners, to manufacture cushions and styrofoam products, and to clean computer chips. The use of halons for fire extinguishing systems has been increasing rapidly in recent years, according to industry figures.

On Monday, the US Senate ratified the Montreal Protocol, a global treaty mandating a freeze on halons and major cuts in CFCs by the end of the century. But, since the treaty was concluded last September, new data from Antarctica and this ozone trends report have emerged, prompting leading scientists and environmentalists to call for a phase-out of these ozone depleting chemicals. The Senate Committee on Environment and Public Works will be holding hearings on this question later this month.

PATCHING THE OZONE BLANKET BEFORE PROTECTION IS LOST

Two important events took place this past week with regard to the earth's ozone layer.

On Monday, the U.S. Senate voted unanimously to ratify an international agreement calling for a 50 percent reduction over the next decade in the use of chemicals, primarily chlorofluorocarbons (CFCs), that deplete the layer. Ozone is essential in protecting the earth from the sun's ultraviolet rays, which can cause, among other things, skin cancer and eye problems.

The following day, the National Aeronautics and Space Administration released a study that seemed to confirm the opinion conclusively that the ozone is in danger, and not only over Antarctica, where a hole in the layer had earlier been spotted. It found that, over the last 17 years, there has been a significant decline in atmospheric ozone over the Northern Hemisphere. It added that the depletion in the Southern Hemisphere was spreading. The study, prepared by more than 100 scientists from government and academic centers, cited man-made chemicals as the principal reason for the loss. (CFCs are used in such items as refrigerators, air conditioners, foam insulation and cleaning solvents; halons, another chemical responsible, are used in fire extinguishers.)

"For the first time," said a leader of the study, Dr. John Gille of the National Center for Atmospheric Research, "we have a really definitive answer that ozone has decreased. We understand what is going on and we can predict it will be much more severe in the future."

In addition, the study stressed the serious danger to health of ultraviolet radiation reaching earth, and called for a prompt ratification of the international agreement already approved by the Senate.

The treaty—which calls for a freeze next year on production and use of CFCs at 1986 levels, to be followed by more drastic cuts—was signed last September in Montreal by 31 nations. Of those, unfortunately, only Mexico and the United States have ratified it.

The need to do something now, based on the results of this study, is serious and urgent. Obviously, other countries must be persuaded to act quickly so the agreement can go into effect. Locally, to its credit, the Rhode Island Senate Health, Education and Welfare Committee is considering legislation that would prohibit the manufacture of products involving the use of CFCs.

Rhode Island Senators Claiborne Pell and John Chafee have expressed their views that the international treaty, laudable as it is, is still not stringent enough to cause the very rapid and sizable decrease in CFC and halon use needed to protect the ozone layer. Senator Chafee has hinted at the possible use of unilateral controls and trade restrictions to influence other countries to take a firm stand.

The fact that this problem affects so many of the countries makes the coordination of efforts to deal with it all the more difficult. At the same time, that international scope makes it imperative to address the problem effectively and soon.

REV. BILL HOLLISTER HONORED

Mr. LEAHY. Mr. President, two very special friends of mine and my family are the Reverend William Hollister and his wife, Joan. I have worked with Bill and Joan Hollister from my early days as a State's attorney straight through my career in the Senate. They have been two special people who have, time and time again, helped to shape the conscience of our community and our State.

They have done so not for any personal gain but as their commitment as human beings. Recently an article entitled "Church's 'Social Conscience' Leaves" was printed in one of our local newspapers and I would like to share it with my colleagues in the Senate, and I ask unanimous consent that the article be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, Mar. 19, 1988]

CHURCH'S "SOCIAL CONSCIENCE" LEAVES

(By Maggie Maurice)

Even the invitation was different.

Instead of a standard retirement dinner for the Rev. William H. Hollister, who was stepping down as pastor of Christ Church, Presbyterian, the church invited friends to "Come celebrate and honor Bill Hollister, friend and leader of 32 years in the Burlington community."

And that's what they did, from Gov. Madeleine Kunin on down, through former Gov. Philip H. Hoff, Episcopal Bishop Harvey D. Butterfield, and Rabbi Max B. Wall, to a rousing "Auld Lang Syne" led by soprano Jill Levis, a CCP member.

Hollister, who has spent the past year on sabbatical studying at Union Theological School and traveling in Nicaragua and France, is not retiring. He has opened a consulting business in South Burlington.

The Rev. Ewell Reagin of Yellow Springs, Ohio, will be the interim minister.

Seldom has there been such a cross-section of people gathered in one room. Clergymen, politicians, businessmen, professors, teachers, writers.

"He was a social conscience for all of us," the governor said.

Hollister organized the Vermont March for Civil Rights in 1963. Three busloads of Vermonters went to Washington to join other marchers at the Lincoln Memorial. When Martin Luther King was assassinated, he led the mourners down Main Street. He was one of the founders of the Loft, a coffeehouse for teen-agers and adults on Church Street.

In 1968, he was a founder and first executive director of the Burlington Ecumenical Action Ministry (BEAM), which renovated the old fire station, now the Church Street Center. BEAM was the first agency to push for low-cost housing in the city.

"There was no automatic route to take," said Kunin about the Martin Luther King march. "Hollister provided one. We walked down Main Street in a spirit of mutual mourning.

"There was a spirit of commitment, sharing anger, despair over Martin Luthr King. Bill Hollister taught a lot of us who were not members of that church. From a personal point of view, I thank him," she said. "Little did I know that those early steps would lead to the life I have today."

And so it went through the years.

"You taught me, don't be afraid to fail for a just purpose," Wall said. "You didn't push. You gently led."

Hollister was born in 1930, graduated from Williams College and Union Theological School. He and his wife, Joan, were married in 1954 and came to Burlington the next year. Their church was a converted TV store on North Avenue, with the house next door.

The Hollisters have five children, four of whom were there Sunday night: Chad, Mark, Kip and Kristen. Their daughter Jody was in Boston, expecting a baby momentarily.

In 1981, Christ Church, Presbyterian purchased St. Anselm's Chapel on the University of Vermont campus, a lively center of activity.

Hollister was one of the early Witnesses for Peace in Nicaragua, and when he returned, members of CCP debated becoming a sanctuary for illegal refugees from Guatemala and El Salvador. From March 1985 to July 1986, the church was home to a family from Guatemala.

"Bill taught us the importance of saying 'yes' to life, 'yes' to people who were oppressed," said Dicken Bettinger, CCP member. "In typical fashion, he was strong behind the scenes."

"It's amazing how many people he touched in the community," said emcee Ken Wolvington, a member of the Session, the governing body of CCP.

Hollister stood, smiling down on the faces below. It hadn't all been smooth sailing, he admitted.

"There've been countless people who tried to 'straighten me out,'" he said. "At one point there was a petition in the congregation to have me removed."

But this was a night of triumph. "It's difficult to say how much appreciation means," he said. "What you have said means the world."

TESTIMONY OF ARCHBISHOP ROGER MAHONY

Mr. CRANSTON. Mr. President, Archbishop Roger Mahony of the U.S. Catholic Conference strongly endorsed the Intermediate-Range Nuclear Forces Treaty before the Senate Foreign Relations Committee on February 22. "The INF Treaty is significant in itself and significant as a part of a larger political and strategic process," he said.

In his testimony, Archbishop Mahony described the relationship of disarmament to peace, nuclear use, and nuclear deterrence by making reference to Pope John Paul II's January 1988, address to the Diplomatic Corps: "Disarmament, justice for safeguarding the rights of individuals and of peoples, and development," should be the three criteria for peace.

Recognizing that the treaty calls for only a 4-percent reduction in missiles, Archbishop Mahony still sees that these asymmetrical cuts "should not be underestimated," and that the treaty should be ratified without any crippling amendments. Unlike SALT II, which was not approved by Congress and was used as an excuse to introduce new and modernized nuclear weapons, the INF Treaty should serve as "a point of departure rather than a point of arrival," as Pope John Paul II has said. A START agreement is to be the next necessary step to bridge East-West relations. Such a step can also be a fine prelude to a comprehensive test ban treaty according to the archbishop.

Although Archbishop Mahony spoke on behalf of the Roman Catholic Church, his call for an end to the arms race was nonsectarian. His call for peace was simply stated in light of the bishops' pastoral letter, "the Challenge of Peace No. 189:" "Progress toward a world freed of dependence on nuclear deterrence must be carefully carried out. But it must not be delayed."

I ask unanimous consent that Archbishop Mahony' statement be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Testimony of Most Reverend Roger Mahony for the U.S. Catholic Conference

Mr. Chairman: My name is Roger Mahony. I am the archbishop of Los Angeles and the chairman of the Committee on International Policy of the U.S. Catholic Conference (USCC). I speak on behalf of the U.S. Catholic Conference, the public policy agency of the Roman Catholic bishops of the United States. The conference is made up of 298 bishops, serving some 52 million Catholics.

On behalf of the USCC, I begin by expressing our sincere gratitude for the invitation to present our views on the moral considerations that we believe should guide your evaluation of the INF Treaty and post-INF arms control policy.

With this testimony, we urge you to ratify the INF Treaty, without crippling amendment and without undue delay. We do so as teachers and pastors not technicians or political leaders. We do so with deep respect for the technical complexity of the treaty in all its political and strategic dimensions. But as teachers and pastors, we also recognize that no question of foreign affairs surpasses the nuclear arms race in terms of moral content and importance.

In our 1983 pastoral letter, *The Challenge of Peace: God's Promise and Our Response*, we examined in considerable detail the moral and religious aspects of the nuclear arms race. It is the responsibility we feel for continued assessment of the meaning, morality and direction of nuclear policy which brings us to testify today.

In my testimony, I, will first outline briefly the moral and religious themes which shape our views. Next, I will argue that the INF Treaty is significant in itself and significant as part of a larger political and strategic porcess. Finally, I will suggest that ratification of this treaty should be just the first of ever more determined steps toward nuclear and conventional arms reductions.

I. THE MORAL AND RELIGIOUS PERSPECTIVE OF THE TESTIMONY

The bishops' 1983 pastoral letter reflects a long and constant tradition on war and peace within the Catholic community and examines difficult issues of the nuclear arms race in light of it. I would like to highlight the key aspects of the pastoral letter's moral analysis which provide the framework for my discussion of the INF agreement.

A. *The Relationship of Disarmament to Peace:*

In our view, the INF Treaty should be seen in the context of a broad, distinctly positive vision of peace. It goes without saying that peace is the moral imperative; but toward what kind of peace should we strive? As the Second Vatican Council defined it: "Peace is not merely the absence of war. Nor can it be reduced solely to the maintenance of a balance of power between enemies. Nor is it brought about by dictatorship. Instead, it is rightly and appropriately called 'an enterprise of justice' (Is. 32:17)" (*Pastoral Constitution* #78).

Pope John Paul II has elaborated on this theme by describing three conditions for peace: "Disarmament, justice for safeguarding the rights of individuals and of peoples, and development" (Address to the Diplomatic Corps, Jan. 9, 1988).

It is the first of these three conditions—disarmament—which concerns us here today. It should be noted that our concern for disarmament as one condition for peace grows out of a quite realistic Catholic teaching on international relations. This realism recognizes a nation's right to legitimate defense within the strict moral limits of the criteria of the just war doctrine.

But in a nuclear age, the moral limits on war have taken on a qualitatively new character. It is the qualitatively new character of war in the nuclear age that has led this fundamentally realistic Catholic teaching to arrive at two moral judgments. First, the arms race is to be unreservedly condemned as a theft from the poor and as a dangerous way to maintain a "peace of a sort" (*Pastoral Constitution* #81). Second, the political process of mutual, verifiable arms control and disarmament is essential to place human and moral constraints on technology and the arms competition. In Catholic teaching, arms control agreements are indispensable means to control and reverse the arms race.

Our strong emphasis on the necessity and efficacy of reversing the arms race by means of agreements such as the INF Treaty derives its logical force in large part from our extreme skepticism that nuclear use could be morally acceptable and from our strictly conditioned moral acceptance of nuclear deterrence.

B. *Nuclear Use and Nuclear Deterrence:*

Because of their character, their location, and the strategy they support, the deployment of intermediate-range nuclear weapons in Europe has given greater immediacy to the question of the moral limits on the use of nuclear weapons. In *The Challenge of Peace*, we made distinct judgments on nuclear use. While we have not condemned every conceivable use of nuclear weapons *a priori*, it is "our view that the first imperative is to prevent any use of nuclear weapons and our hope that leaders will resist the notion that nuclear conflict can be limited, contained, or won in any traditional sense" (*The Challenge of Peace* #161).

Perhaps the more difficult moral judgment involves the strategy of deterrence, of which the INF weapons are only a small part. A consideration of the concrete elements of this strategy led us in 1983 to "a strictly conditioned moral acceptance of nuclear deterrence" (*The Challenge of Peace* #186). In our judgment, deterrence was acceptable under two key conditions. First, deterrence policy must be a transitional imperative, providing time and space during which steps should be taken to halt the arms race, reverse its course and move toward not only arms control but nuclear disarmament. Secondly, as a transitional imperative, the components of the deterrent must be limited to those which are sufficient to deter; the quest for nuclear superiority or nuclear war-fighting capability must be eschewed.

These two restraints disallow any blanket endorsement of all weapons systems, strategic doctrines, or policy initiatives advanced in the name of strengthening deterrence. Nuclear deterrence should be used as a step on the way toward progressive disarmament. We do not consider it adequate as a long-term basis for peace.

II. THE INF TREATY

Because we believe the arms race must be reversed through mutual, verifiable arms control agreements, we urge you to ratify the INF Treaty as a modest but important step toward this kind of progressive disarmament. We recommended ratification because, in our judgment, this treaty is a significant achievement in itself, and is significant as one part of a larger political and strategic process.

A. *Significant in Itself:*

As many have already noted, the treaty's real significance lies in the fact that it does not merely limit but actually reduces nuclear armaments. The global elimination of all U.S. and Soviet ground-launched INF missiles creates, as Pope John Paul II said, "a new situation" (Address to the Diplomatic Corps, January 9, 1988). It underscores the fact that the spiraling nuclear arms race can be reversed if only we are willing to recognize mutual security interests and pursue negotiated solutions with some of the same skill and vigor with which we pursue the arms race itself.

While the actual numbers of missiles eliminated are relatively modest—they carry only about 4% of already excessive and redundant nuclear warheads—the very fact of their elimination gives us hope that we are on the road to reducing nuclear weapons to a level sufficient to deter, and ultimately, to eliminating them completely.

A second reason the treaty is significant in its own right is that its asymmetrical reductions should improve the balance of theater nuclear weapons in Europe, and in doing so, reduce the possibility of an early or first use of nuclear weapons. Since they were deployed in the late 1950s, Western Europeans have considered the Soviet SS-4 and SS-5 intermediate-range missiles the most immediate nuclear threat to Europe. The successor to these missiles, the even more threatening SS-20, provided part of NATO's rationale for its 1979 decision to deploy ground-launched cruise missiles (GLCMs) and Pershing IIs. The Soviet's SS-12/22s and SS-23s which will be destroyed have no U.S. counterpart. The asymmetrical reductions which will result in the elimination of all of these weapons systems should improve the nuclear balance in Europe until further reductions can be negotiated.

Moreover, the possibility of early or first use of nuclear weapons in Europe is diminished by the removal of these weapons. Some of the weapons to be eliminated are deployed in areas likely to be overrun in the early stages of war, thus increasing the likelihood of rapid and uncontrollable decisions on their use. More importantly, the Pershing IIs and cruise missiles were deployed to strengthen NATO's "flexible response" strategy, which contemplates the first use of nuclear weapons in response to a Warsaw Pact conventional attack.

While we recognize that this strategy is intended to deter any war in Europe, we judged, in *The Challenge of Peace*, that the first use of nuclear weapons would be morally unacceptable because of the likelihood that such use could not be controlled, and hence, would result in unacceptable collateral loss of life. The elimination of the INF missiles should reduce but will certainly not eliminate the threat and perceived necessity of the first use of nuclear weapons in Europe. Therefore, we repeat our plea in our 1983 peace pastoral that NATO move rapidly toward the adoption of a "no first use" policy. This should be done in tandem with negotiating significantly reduced and more balanced conventional forces in Europe, improving confidence-building measures along the lines of the Helsinki process, and developing an alternative conventional defense posture.

In addition to diminishing the possibility of early or first use, this agreement eliminates two missiles—the SS-20 and the Pershing II—which many experts consider destabilizing because of their vulnerability and "prompt hard-target kill" capability that threatens to make the other side's retaliatory forces vulnerable.

Finally, this treaty is significant because it offers unprecedented verification requirements. This complex and intrusive process should allay any serious doubts about the ability to monitor compliance, it should serve as an important precedent for the even more intrusive verification provisions that will be required for agreement on strategic and chemical weapons, and it should contribute to the slow process of creating the climate of trust which is a condition of progressive disarmament through negotiation.

B. *Significant as Part of Larger Process*

The importance of the real, asymmetrical cuts, the diminished threat of nuclear use, and the verification provisions should not be underestimated, but it is clear from these hearings that the real significance of—and controversy over—the treaty involves its part in a larger political and strategic context. The treaty is the product of and a factor in a larger process of nurturing a more positive relationship with the Soviet Union. Certainly, arms control and disarmament are not the whole of peace, nor are they the whole of U.S.-Soviet relations. Regional conflicts and human rights issues are just two of the many sets of problems which demand resolution as a prerequisite to the more stable, peaceful relationship with the Soviet Union that should be our goal. The USCC will continue to focus its attention on these essential conditions of peace.

While the INF Treaty is only a part, it can be a significant part in a more stable and peaceful superpower relationship if it becomes part of a larger process of disarmament. As Pope John Paul II explained, this process of disarmament is not "an end in itself. . . . (but) is one of the elements in the research process for a firmer type of security aimed in the end at establishing mutual relations based on faithful dialogue, on closer cooperation and on greater trust" (Address to the Diplomatic Corps, January 9, 1988).

Finally, we applaud this treaty and urge its prompt ratification precisely because it has reinvigorated the arms control process after more than a decade of growing doubt over its future. The failure to ratify SALT II, the Threshold Test Ban Treaty, the Peaceful Nuclear Explosions Treaty, or any other major arms control treaty since 1972; direct attacks on the very idea of negotiated arms control; and the rapid modernization of all aspects of the U.S. and Soviet nuclear arsenals have undermined and delayed the necessary movement on arms control. Our "conditional acceptance" of deterrence in moral terms is intrinsically tied to the concept of arms control. That linkage has been inadequately fostered in recent years and needs to be reconstructed. We sincerely hope that, as Pope John Paul II said, the INF Treaty is "a point of departure rather than a point of arrival" in the arms control process (Address to the Diplomatic Corps, January 9, 1988).

III. POST-INF ARMS CONTROL POLICY

What kind of progress on arms control do we envision? How can the INF Treaty be a "point of departure" for the arms control process? We urge that the treaty be the beginning of a process that will lead to rapid progress on a strategic arms agreement and on agreements that could help defuse and diminish the NATO-Warsaw Pack confrontation.

In his 1979 testimony before this same committee, Cardinal Krol, testifying on behalf of the Bishops' Conference, supported the SALT II Treaty. But in giving this support he expressed fears that SALT II would be used as an excuse to increase military expenditures and modernize strategic forces on both sides, rather than as the basis for a follow-on treaty that would make deep cuts in the strategic arsenals of both sides.

Regrettably, our fears of 1979 have been realized. SALT II was not ratified and it did not usher in an era of deep cuts. Instead, the United States embarked on an unprecedented peacetime military buildup which included major additions to and modernization of all legs of the nuclear triad. The Soviet Union, for its part, has shown no less restraint. We cannot and should not proceed along such a dangerous path again. The INF Treaty must not become the excuse for the introduction of new, modernized nuclear weapons in Europe, nor should its significance be allowed to pale in the face of an unabated strategic arms race. Rather, we sincerely hope that it becomes the model for much deeper cuts in nuclear weapons, especially strategic arsenals. The asymmetrical reductions in strict verification provisions of the INF Treaty should serve as important precedents for the much more complicated START talks, in which considerable progress has already been made. Movement toward strategic arms reductions should coincide with a more vigorous pursuit of a comprehensive test ban treaty.

The INF Treaty and a possible START agreement have brought renewed attention to the East-West confrontation in Europe. In *The Challenge of Peace* we said that the moral imperative to control and ultimately end the nuclear arms race was not intended to make the world safe for conventional war. In the judgment of many experts, the removal of the Pershing II and cruise missiles will not increase the threat of conventional war in Europe. Nevertheless, their removal and the possibility of significant strategic reductions highlight the need for more vigorous pursuit of agreements to stabilize conventional forces at much reduced levels.

Conventional arms and troops reductions would require corresponding action on tactical nuclear and chemical weapons as well. The tactical nuclear weapons that remain in Europe continue to multiply dangers of early use disproportionate to their deterrent value. For the same reason, rather than continue to produce new binary chemical weapons for placement on the front lines in Europe, the United States should seek more aggressively to resolve the remaining issues of verification in the Geneva talks on a world-wide ban on chemical weapons.

IV. CONCLUSION

To summarize, our position is as follows:

1. Our first imperative is to prevent any use of nuclear weapons, and to reject policies and force structures based on the notion that nuclear war can be limited, contained, or won.

2. Nuclear deterrence is not acceptable as a long-term basis for peace; our goal should be a sufficient deterrent, not nuclear superiority, a deterrent that is not an end in itself but a step toward a progressive disarmament.

3. Our policy should be aimed at achieving this progressive disarmament primarily through negotiated deep cuts in and the eventual elimination of the world's nuclear arsenals.

4. The INF Treaty is a modest but important first step toward achieving these deep cuts and, as such, should be ratified, without crippling amendments or undue delay, by the Senate. It offers real, asymmetrical reductions in potentially destabilizing weapons, and thereby diminishes the possibility of their early or first use; it reinvigorates the arms control process at a critical juncture and contributes to a more positive U.S.-Soviet relationship.

5. But the INF Treaty must be a point of departure to mutual, verifiable arms control measures that make deep cuts in strategic weapons, ban all testing of nuclear weapons, outlaw chemical weapons, and reduce conventional forces to a new balance at the lowest levels possible.

It is our deep conviction in offering these proposals that, as we said in our 1983 pastoral, "Progress toward a world freed of dependence on nuclear deterrence must be carefully carried out. But it must not be delayed" (*The Challenge of Peace* #189). As Pope John Paul II said recently of the INF agreement: "If the Washington agreement constitutes a beginning and a benefit to the international community, may it also represent for it a point of no return! A return to the arms race would no doubt be fatal for everyone. The nations which live in different political or social systems now realize even more than they must learn to live together, to finds grounds for cooperation and to deepen their peaceful relations" (Address to the Diplomatic Corps, January 9, 1988).

We pray that the INF Treaty is a point of no return for the arms race, and it is in this spirit that we offer this testimony before you today.

JOAQUIN BALAGUER RICARDO, PRESIDENT OF THE DOMINICAN REPUBLIC

Mr. PRESSLER. Mr. President, this morning I had the distinct honor and privilege to meet here in the U.S. Capitol with the President of the Dominican Republic, Joaquin Balaguer Ricardo. He is a remarkable gentleman who has served his nation extremely well for many years. It seems to me appropriate to share with our distinguished Senate and House colleagues, and all who read the CONGRESSIONAL RECORD, the background of President Balaguer.

Despite being handicapped by blindness and serious illness, 80-year-old President Balaguer is serving his fifth term as President of the Dominican Republic. He is very active both in his own nation and throughout the Caribbean region. Under his leadership, the Dominican Republic's relations with Haiti have improved. At home, he has been especially concerned about rural development, agrarian reform and the welfare of agricultural workers. His government has improved public services through important public works projects.

President Balaguer holds a law degree from the National Autonomous University of Santo Domingo and has studied in Paris at the Sorbonne and the Institute of Political Science. He served in a variety of government positions before becoming Vice President in 1957 and President in 1960. During a period of civil disturbances following the assassination of Rafael Trujillo in 1961, he lived in exile in Puerto Rico and New York. When he returned home in 1965, he served three terms as President, from 1966 to 1978. After an interlude of 8 years out of office, he began his current Presidential term in 1986.

President Balaguer is considered a conservative populist and respected intellectual who has authored many works of history and politics, as well as poetry.

Mr. President, this is the record of a legendary political figure in the Western Hemisphere. His indefatigable and brilliant leadership in the face of tremendously adverse circumstances is a most remarkable lesson and instructive example for all of us. I wish more Americans had the opportunity to make the acquaintance of President Balaguer.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 2216. A bill to designate the National Space Technology Laboratories in Bay St. Louis, Mississippi, as the "John C. Stennis Space Center"; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself and Mr. HEINZ):

S. 2217. A bill to amend the National Labor Relations Act with respect to the right to organize of certain security personnel; to the Committee on Labor and Human Resources.

By Mr. HEINZ:

S. 2218. A bill to amend the Federal Mine Safety and Health Act of 1977 to prohibit collection of certain overpayments unless existing regulatory requirements are met and the Secretary of Labor establishes that the beneficiary has engaged in fraud or willful misconduct; to the Committee on Labor and Human Resources.

By Mr. RIEGLE (for Mr. SIMON (for himself, Mr. RIEGLE, Mr. SARBANES, Mr. SPECTER, Mr. BRADLEY, Mr. WILSON, Ms. MIKULSKI, Mr. KENNEDY, Mr. PRESSLER, Mr. GLENN, Mr. D'AMATO, Mr. HEINZ, Mr. PELL, Mr. SIMPSON, Mr. MURKOWSKI, Mr. PRYOR, Mr. LAUTENBERG, Mr. DODD, Mr. BOSCHWITZ, Mr. BURDICK, Mr. BOREN, Mr. LUGAR, Mr. MATSUNAGA, Mr. GORE, Mr. INOUYE, and Mr. LEVIN)):

S.J. Res. 281. Joint resolution to designate the month of October 1988, as "Polish American Heritage Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN:

S. 2216. A bill to designate the National Space Technology Laboratories in Bay St. Louis, MS, as the "John C. Stennis Space Center"; to the Committee on Commerce, Science, and Transportation.

JOHN C. STENNIS SPACE CENTER

Mr. COCHRAN. Mr. President, today I am introducing legislation to designate the National Space Technology Laboratories of the National Aeronautics and Space Administration in Bay St. Louis, MS, as the "John C. Stennis Space Center."

In the Senate, our distinguished and respected colleague, JOHN STENNIS, has been very instrumental in the development and support of our Nation's programs in space. As chairman of the Senate Armed Services Committee and more recently as chairman of the Senate Appropriations Committee, Senator STENNIS has been in positions that have enabled him to be a strong influence in the authorization and funding of these important programs.

The facility in our State was constructed initially to serve as a test site for rocket engines. It has been expanded over the years and now employs nearly 5,000 people who are engaged in a wide variety of research for our space and defense programs.

I am hopeful that all Senators will join as cosponsors of this bill to honor my colleague from Mississippi.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Space Technology Laboratories of the National Aeronautics and Space Administration located in Bay St. Louis, Mississippi, is named and designated as the "John C. Stennis Space Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to such center shall be held to be a reference to the "John C. Stennis Space Center".

By Mr. HARKIN (for himself and Mr. HEINZ):

S. 2217. A bill to amend the National Labor Relations Act with respect to the right to organize of certain security personnel; to the Committee on Labor and Human Resources.

SERVICE WORKERS PROTECTION ACT

● Mr. HARKIN. Mr. President, one of the most basic rights won by workers over the years has been the right to freely choose the bargaining agent of their choice. While the NLRB continues to protect this right for most workers, the freedom of choice for thousands of workers in the bailment and delivery sector has been significantly curtailed. Today, I am proud to introduce legislation which would amend the National Labor Relations Act to protect those workers employed in delivery and bailment services.

Under section 9(b)(3) or the guard amendment of the National Labor Relations Act, employees who are considered guards cannot choose as their representative a union that also contains nonguard employees as members. Recent NLRB decisons have expanded this definition to the point that many employees in such traditional service jobs such as watch persons, door persons, desk employees, lobby attendants, concierges, courier drivers, and elevator operators who previously would have been entitled to NLRB certification under a unit of their choosing, are now being told that they are, in fact, guards and therefore may not be represented by a nonguard union or affiliate. Moreover, in some cases, employees with longstanding bargaining relationships are having union recognition withdrawn under NLRB sanction. The limitation indicates the importance of how the term "guard" is defined under the law.

When the guard amendment was introduced in 1947 as part of the Taft-Hartley Act, guards were militarized, gun carrying, law enforcing employees. Prior to the amendment's adoption, the Board had approved of the representation even of militarized plant guards by the same labor organizations that represented an employer's production and maintenance employees, so long as they were segregated in a separate bargaining unit. Demilitarized guards, on the other hand, were permitted representation by the same union, but could opt by election to be a part of the production and maintenance unit. Shortly before the enactment of the Taft-Hartley amendments, the Supreme Court issued an opinion supporting the Board's position that a union which represents production and maintenance employees could also be certified to represent the guards of the same employer under a separate unit.

The goal of section 9(b)(3) was to prevent divided loyalties among the membership of production employees and plant guards in a common union where industrial strife might arise when guards were called upon to enforce their own employers' rules against fellow union members. But the divided loyalty problem is more fiction than fact. For example, a local of the Service Employees International Union in Chicago represents 6,000 guards working mostly for security contractors. The guards often work at the same building where there are other SEIU members. The dire consequences feared because these guards protect an employer's property and are members of a mixed union have simply not occurred. At the same time, these guards benefit from representation by the union of their choice.

The congressional debate that took place in 1947 supports my belief that the original concern was that mixed representation might split the allegiance of plant guards between the employers and the union in the factory setting. The language of the bill supports this perception. Unfortunately, the NLRB has not been faithful to its own initial interpretation of the bill. In a series of cases involving contract service guards, the Board has found that, even though they did not guard their own employers' premises and despite the fact that their employer was not the same as the employer of the production employees working on the premises, certain service employees could not be in a unit with other nonguard employees.

In *Benjamin Franklin Hotel Associates* v. *Local 36, SEIU,* 4-RC-16218 (7/86) the Board acting on a request for review of a regional director's decision, held that doormen and utility employees were guards, in addition to the desk employees whose guard status had already been determined by the regional director. By reaching this and other similar decisions, the Board has abandoned its earlier position that performance of police functions compelling compliance with the employer's rules or taking personal action against violators of the employer's rules, is necessary to bring the employee within the definition of guard.

The legislation I am introducing today would bring the scope of the law into conformity with its original intent. It would ensure that desk employees, doormen, concierges, lobby attendants, courier drivers, and elevator operators are guaranteed the freedom to choose whether or not to be represented by a labor organization and, if they so decide, to choose the bargaining agent they believe will best represent them.

It is up to this body to protect workers who are now being denied one of our most fundamental labor rights: the freedom to choose the union of their choice.

What does this mean in terms of the worker who is left without union protection because the NLRB has expanded its definition of a guard? Take the example of Mr. Ortiz, an SEIU member in New York City. A recent NLRB decision ruled that his "guard" duties, even though he spends only one-fifth of his time opening the doors in the apartment where he works, were sufficient to exclude him from the bargaining unit. In losing union protection, Mr. Ortiz suffered a drastic decrease in pay and a loss in his health and welfare benefits.

In this case, and many others, employers are driven by the strong economic incentives for classifying an employee as a guard, and not by any outdated fears of conflict of interest among guard and nonguard workers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Service Workers Protection Act".

AMENDMENT TO THE NATIONAL LABOR RELATIONS ACT

SEC. 2. Section 9(b)(3) of the National Labor Relations Act (29 U.S.C. 159(b)(3)) is amended—

(1) by striking out "guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises" and inserting "plant security guard whose primary responsibility is to prevent employee disorders and misconduct of employees"; and

(2) by inserting "plant security" before "guards" each place such term appears.●

By Mr. HEINZ:

S. 2218. A bill to amend the Federal Mine Safety and Health Act of 1977 to prohibit collection of certain overpayments unless existing regulatory requirements are met and the Secretary of Labor establishes that the beneficiary has engaged in fraud or willful misconduct; to the Committee on Labor and Human Resources.

OVERPAYMENT COLLECTION OF BLACK LUNG BENEFITS

● Mr. HEINZ. Mr. President, today I am introducing legislation to address a system which has penalized the elderly, the sick, and those with little or no income. The system I am referring to is the one used to reclaim black lung benefits from recipients. The Black Lung Program is designed to compensate miners who suffer from black lung. It is a worthy program and one that I have supported since its inception.

However, I am deeply troubled by administrative practices, which were not part of the original legislation, which strip miners of their benefits. When a miner is found eligible for black lung compensation, his benefits are subject to administrative challenges for years. The miner must show, when an overpayment is alleged, or when he is declared ineligible for compensation, that he is without fault in receiving benefits.

Benefits are stripped from recipients primarily during administrative law proceedings which overturn claims approved previously at a lower level. Many times it is simply the case that claims were approved erroneously by the Department—that the claimant is actually ineligible for benefits. When this occurs, however, the beneficiary must then prove that he or she was relying upon inaccurate information in making the claim for black lung benefits. Until this fact is established, recovery of payments previously made cannot be waived. Thus, the miner and his family must refund all payments received.

A waiver of repayment may be made in certain other instances. The hardship of an individual is taken into account in some cases when collection is seen as "defeating the purpose" of the act. Another example where a waiver would be granted occurs when a person's financial position worsens after he or she is promised benefits.

Let me emphasize that current practice threatens low-income, elderly families in my home State. When a black lung recipient is notified that he is no longer eligible for benefits, and may have to repay every penny received over several years, the miner and his family often face financial ruin. Some of my constituents have been hospitalized for stress and trauma as a result of their experience with this process.

I will cite just one example. Carl Balliet of Wilkes-Barre, PA, an elderly resident of my State who had received several thousand dollars in black lung compensation, was found ineligible for benefits years after the fact. He will be required to pay back every penny of his benefits. Mr. Balliet is fearful for his financial security, and his health has worsened seriously since he was stripped of his benefits.

Mr. President, promoting stress and causing suffering to program recipients is not the way to run an efficient program! This collection process is especially distressing since it was not sanctioned by Congress in the Federal Mine Safety and Health Act of 1977. This procedure was established by regulation without congressional endorsement. It is high time that the Congress gave some direction to the Department, and straightened this collection mess out.

The legislation I am introducing today prohibits the collection of overpayments unless the Secretary finds, through either a judicial or administrative proceeding, that the recipient engaged in fraud or willful misconduct. This is a much more equitable, judicial approach.

This legislation does not prohibit the Department from withholding further payments to ineligible recipients. It simply prevents unnecessary hardship where recipients are not to blame for an error. We should be guided by the principle that a mistake made on the part of the Federal Government should not be allowed to cause suffering and dislocation to program recipients. In the Black Lung Program, we have not adhered to such a principle and for this reason, I have introduced this legislation.

I urge my colleagues to join me in supporting this effort to bring more fairness into the process by which the Department of Labor collects overpayments of black lung benefits.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OVERPAYMENT COLLECTION OF BLACK LUNG BENEFITS.

Section 411 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 921) is amended by adding at the end thereof the following new subsection:

"(e)(1) There shall be no adjustment or recovery in any case where an overpayment under this part has been made with respect to an individual—

"(A) who is without fault; and

"(B) adjustment or recovery would—

"(i) defeat the purpose of this title; or

"(ii) be against equity and good conscience.

"(2) There shall be no adjustment or recovery in any case where an overpayment under this part has been made with respect to an individual unless the Secretary establishes in a judicial or administrative proceeding that the individual has engaged in fraud or willful misconduct.".●

By Mr. **RIEGLE** (for Mr. Simon, for himself, Mr. Riegle, Mr. Sarbanes, Mr. Specter, Mr. Bradley, Mr. Wilson, Ms. Mikulski, Mr. Kennedy, Mr. Pressler, Mr. Glenn, Mr. D'Amato, Mr. Heinz, Mr. Pell, Mr. Simpson, Mr. Murkowski, Mr. Pryor, Mr. Lautenberg, Mr. Dodd, Mr. Boschwitz, Mr. Burdick, Mr. Boren, Mr. Lugar, Mr. Matsunaga, Mr. Gore, Mr. Inouye, and Mr. Levin):

S.J. Res. 281. Joint resolution to designate the month of October 1988, as "Polish-American Heritage Month"; to the Committee on the Judiciary.

POLISH-AMERICAN HERITAGE MONTH

● Mr. **SIMON**. Mr. President, for several years now Congress has passed Polish-American Heritage Month in recognition of the many contributions Polish-Americans have made to this Nation. I am pleased to join Senator Donald Riegle in introducing the same resolution this year designating October 1988 as Polish-American Heritage Month.

Polish-Americans have strengthened the United States throughout our history, beginning with the participation of Kazimierz Pulaski, Tadeusz Kosciuszko, and other Polish immigrants in the American Revolutionary War. Since then Polish-Americans have been leaders in the United States in all walks of life. We as a nation have been greatly enriched by the important contributions made by Polish-Americans.

Individuals of Polish descent have also made great contributions on an international level. All Poles and Americans of Polish descent can be proud of the great achievements of His Holiness Pope John Paul II. His efforts to bring peace and well-being to the citizens of the world is something of which all Poles and Americans of Polish descent can be proud.

The present struggle in Poland and the heroic efforts of Nobel Peace Prize recipient Lech Walesa in forming the Solidarity Labor Federation illustrate the desire of all Poles to live in a free and independent nation. All Americans look with pride on the efforts of Solidarity to restore freedom to their homeland.

Polish-American Heritage Month is a time to remember and honor the contributions Poles and Polish-Americans have made to the United States. Mr. President, I ask my colleagues to support this important resolution.●

● Mr. **RIEGLE**. Mr. President, on behalf of Senator Simon, myself, and 24 other Senators, I am pleased today to introduce a joint resolution designating October, 1988 "Polish-American Heritage Month."

The Polish-American community, which maintains close ties with friends and loved ones in Poland, is well-deserving of the tribute proposed by this joint resolution. Both in the homeland and in this country, individuals of Polish ancestry have distinguished themselves through outstanding accomplishments in a variety of areas, and have greatly enriched the lives of their families and their fellow citizens.

In Poland, the Solidarity movement continues to represent the aspirations of the Polish people for greater freedom. The Polish example has inspired and given new hope to the citizens of the neighboring Soviet-occupied republics of Latvia, Lithuania, and Estonia, in their own human rights struggle.

The same inspired commitment to human rights and freedoms, which Polish citizens like Lech Walesa and the late Father Popieluszko have demonstrated under the banner of Solidarity, is evident among members of the Polish-American community. They have been unwavering in their support for their brothers and sisters in Poland, and have worked diligently to ensure continued United States support for the Solidarity movement.

Just as Polish-Americans are dedicated to improving the quality of life for those in the homeland, they are committed to preserving essential fredoms and traditions in the United States. That commitment, still evident today, was dramatically demonstrated by the brave leadership of Kazimierz Pulaski and Thadeusz Kosciuszko in the American Revolutionary War.

Mr. President, I urge all Senators to join in cosponsoring this important joint resolution, in recognition of the important contributions of all Polish-Americans.●

ADDITIONAL COSPONSORS

S. 58

At the request of Mr. Danforth, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of S. 58, a bill to amend the Internal Revenue Code of 1986 to make the credit for increasing research activities permanent and to increase the amount of such credit.

S. 552

At the request of Mr. Evans, the name of the Senator from Hawaii [Mr. Matsunaga] was added as a cosponsor of S. 552, a bill to improve the efficiency of the Federal classification system and to promote equitable pay practices within the Federal Government and for other purposes.

S. 972

At the request of Mr. Chiles, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of S. 972, a bill to amend the Immigration and Nationality Act to require, pending deportation proceedings, the detention of aliens who have been convicted of aggravated felonies.

S. 973

At the request of Mr. Chiles, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of S. 973, a bill to provide for additional criminal penalties for deported aliens who reenter the United States, and for other purposes.

S. 974

At the request of Mr. Chiles, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of S. 974, a bill to impose criminal penalties upon persons who neglect or refuse to appear before certain proceedings under the Immigration and Nationality Act.

S. 975

At the request of Mr. Chiles, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of S. 975, a bill to impose criminal penalties against persons aiding aliens violating certain laws to enter the United States.

S. 976

At the request of Mr. Chiles, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of S. 976, a bill to amend the Immigration and Nationality Act to establish a connection between certain computerized indexes containing information on deportable aliens.

S. 1081

At the request of Mr. Bingaman, the name of the Senator from Pennsylvania [Mr. Heinz] was added as a cosponsor of S. 1081, a bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply, with provision for the conduct of scientific research and development in support of such program and plan.

S. 1220

At the request of Mr. Kennedy, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1346

At the request of Mr. Matsunaga, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of S. 1346, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1513

At the request of Mr. Heinz, the names of the Senator from Alaska [Mr. Stevens], the Senator from Minnesota [Mr. Boschwitz], and the Senator from Indiana [Mr. Lugar] were added as cosponsors of S. 1513, a bill to provide for the inclusion of the Washington Square area within Independence National Park, and for other purposes.

S. 1522

At the request of Mr. Riegle, the names of the Senator from Wisconsin [Mr. Kasten], the Senator from Wyoming [Mr. Wallop], the Senator from Mississippi [Mr. Stennis], the Senator from North Dakota [Mr. Conrad], and the Senator from Kentucky [Mr. McConnell] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1673

At the request of Mr. Chafee, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1737

At the request of Mr. Garn, the names of the Senator from North Dakota [Mr. Burdick], the Senator from North Dakota [Mr. Conrad], the Senator from Washington [Mr. Adams], the Senator from Washington [Mr. Evans], the Senator from Alaska [Mr. Murkowski], the Senator from California [Mr. Wilson], the Senator from Alaska [Mr. Stevens], and the Senator from Oregon [Mr. Hatfield] were added as cosponsors of S. 1737, a bill providing for the completion of the Colorado River storage project.

S. 1839

At the request of Mr. Melcher, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of S. 1839, a bill to amend title XVIII of the Social Security Act to provide for coverage of adult day health care under the Medicare Program, and for other purposes.

S. 1883

At the request of Mr. DeConcini, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of S. 1883, a bill to amend the act entitled "An act to provide for registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes."

S. 2122

At the request of Mr. Bradley, the names of the Senator from Tennessee [Mr. Gore], and the Senator from California [Mr. Cranston] were added as cosponsors of S. 2122, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the medicaid program, and for other purposes.

S. 2188

At the request of Mr. Pryor, the names of the Senator from Tennessee [Mr. Gore], the Senator from Alaska [Mr. Stevens], the Senator from Virginia [Mr. Warner], and the Senator from Michigan [Mr. Levin] were added as cosponsors of S. 2188, a bill to amend section 307 of the Federal Employees' Retirement System Act of 1986.

S. 2194

At the request of Mr. Nickles, the name of the Senator from Alaska [Mr. Stevens] was added as cosponsor of S. 2194, a bill to amend section 307 of the Federal Employees Retirement System Act of 1986.

S. 2205

At the request of Mr. DeConcini, the names of the Senator from Washington [Mr. Adams], the Senator from South Dakota [Mr. Daschle], the Senator from Georgia [Mr. Fowler], the Senator from North Carolina [Mr. Sanford], and the Senator from Colorado [Mr. Wirth] were added as cosponsors of S. 2205, a bill to enact the Omnibus Anti-drug Abuse Act of 1988, and for other purposes.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DeConcini, the name of the Senator from South Dakota [Mr. Daschle] was added as cosponsor of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States were killed in Afghanistan.

SENATE CONCURRENT RESOLUTION 108

At the request of Mr. Kennedy, the names of the Senator from Alaska [Mr. Murkowski], and the Senator from Wyoming [Mr. Simpson] were added as cosponsors of Senate Concurrent Resolution 108, a concurrent resolution urging measures to hasten the transition to democracy in Panama.

At the request of Mr. Byrd, his name was added as a cosponsor of Senate Concurrent Resolution 108, supra.

AMENDMENT NO. 1816

At the request of Mr. Adams, his name was added as a cosponsor of amendment No. 1816 proposed to S. 79, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

At the request of Mr. Kennedy, the names of the Senator from Minnesota [Mr. Durenberger], the Senator from New Jersey [Mr. Lautenberg], the Senator from New York [Mr. Moynihan], the Senator from California [Mr. Cranston], the Senator from Tennessee [Mr. Gore], the Senator from Washington [Mr. Evans], the Senator from Illinois [Mr. Simon], the Senator from Pennsylvania [Mr. Heinz], the Senator from Massachusetts [Mr. Kerry], the Senator from New Jersey [Mr. Bradley], the Senator from Colorado [Mr. Wirth], the Senator from Connecticut [Mr. Weicker], the Senator from Connecticut [Mr. Dodd], and the Senator from Ohio [Mr. Metzenbaum] were added as cosponsors of amendment No. 1816 proposed to S. 79, supra.

AMENDMENTS SUBMITTED

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

QUAYLE AMENDMENT NO. 1819

Mr. QUAYLE proposed an amendment to the bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes; as follows:

On page 30, line 10, to the text proposed to be stricken, insert:

"It is the sense of the Senate that this is an appropriate time to emphasize the importance of compliance with committee rules of procedure. There are sound practical reasons why compliance with committee rules is not, and should not be, enforced by points of order on the Senate floor. This lack of an enforcement mechanism enhances rather than diminishes the need for strict adherence to committee rules. It is therefor further the sense of the Senate that it is essential that chairmen of committees comply with their committee's rules even though, or rather just because, such compliance is not enforceable."

WARNER (AND NUNN) AMENDMENT NO. 1820

(Ordered to lie on the table.)

Mr. WARNER (for himself and Mr. NUNN) submitted an amendment intended to be proposed by them to the bill S. 79, supra; as follows:

In section 3, paragraph (4), strike out the period at the end thereof and insert in lieu thereof the following: ", except that the United States shall not be included within the meaning of the term 'employer' with respect to any person during any period of time such person is or formerly was an officer or enlisted member of the armed services serving on active duty, as defined by section 101 of title 10, United States Code.".

HATCH AMENDMENTS NOS. 1821 THROUGH 1893

(Ordered to lie on the table.)

Mr. HATCH submitted 73 amendments intended to be proposed by him to the bill S. 79, supra; as follows:

AMENDMENT No. 1821

On page 80, after line 23, insert the following:

SEC. 15. WORKER PROTECTION STANDARDS.

Within one year after the date of the enactment of this section, the Secretary of Labor shall, pursuant to section 6 of the Occupational Safety and Health Act of 1970, promulgate standards for the health and safety protection of employees exposed to the tobacco smoke of other individuals, commonly referred to as passive smoking.

On page 79, line 4, strike out "SEC. 15." and insert in lieu thereof "SEC. 16.".

On page 30, in the table of contents, redesignate "Sec. 15." as "Sec. 16." and insert after the item "Sec. 14" the following new item:

"Sec. 15. Worker protection standards.".

AMENDMENT No. 1822

On page 70, line 9, insert "by the employer" after "confidential".

AMENDMENT No. 1823

On page 72, line 13, strike all after the comma through "evidence" on line 15.

AMENDMENT No. 1824

On page 70, strike lines 6 through 15.

AMENDMENT No. 1825

On page 70, after line 15, insert the following:

"(e) EMPLOYER ACCESS.—Nothing in this section shall be interpreted to restrict the employer's access to medical monitoring information."

AMENDMENT No. 1826

On page 70, strike line 21 through line 6 on page 71.

AMENDMENT No. 1827

On page 71, strike lines 7 through 16.

AMENDMENT No. 1828

On page 70, between lines 5 and 6, insert the following:

(6) SPECIAL EMPLOYEE LIMITATION.—An employer shall not be required to provide medical removal protection for an employee who has been employed for less than 12 months.

AMENDMENT No. 1829

On page 20, strike out lines 12 through 17.

AMENDMENT No. 1830

On page 3, line 5, insert "high" before "risk."

AMENDMENT No. 1831

On page 3, line 13, insert "high" before "risk."

AMENDMENT No. 1832

On page 3, line 17, insert "high" before "risk."

AMENDMENT No. 1833

On page 3, line 21, insert "high" before "risk."

AMENDMENT No. 1834

On page 4, line 4, insert "high" before "risk."

AMENDMENT No. 1835

On page 4, line 12, insert "high" before "risk."

AMENDMENT No. 1836

On page 4, line 13, insert "high" before "risk."

AMENDMENT No. 1837

On page 4, line 24, insert "high" before "risk."

AMENDMENT No. 1838

On page 5, line 3, insert "high" before "risk."

AMENDMENT No. 1839

On page 5, line 6, insert "high" before "risk."

AMENDMENT No. 1840

On page 7, line 17, insert "high" before "risk."

AMENDMENT No. 1841

On page 7, line 18, insert "high" before "risk."

AMENDMENT No. 1842

On page 8, line 2, insert "high" before "risk."

AMENDMENT No. 1843

On page 8, line 6, insert "high" before "risk."

AMENDMENT No. 1844

On page 8, line 10, insert "high" before "risk."

AMENDMENT No. 1845

On page 10, line 13, insert "high" before "risk."

AMENDMENT No. 1846

On page 11, line 3, insert "high" before "risk."

AMENDMENT No. 1847

On page 11, line 11, insert "high" before "risk."

AMENDMENT No. 1848

On page 11, line 15, insert "high" before "risk."

AMENDMENT No. 1849

On page 12, line 13, insert "high" before "risk."

AMENDMENT No. 1850

On page 12, line 14, insert "high" before "risk."

AMENDMENT No. 1851

On page 13, line 14, insert "high" before "risk."

AMENDMENT No. 1852

On page 13, line 24, insert "high" before "risk."

AMENDMENT No. 1853

On page 14, line 4, insert "high" before "risk."

AMENDMENT No. 1854

On page 15, line 4, insert "high" before "risk."

AMENDMENT No. 1855

On page 15, line 12, insert "high" before "risk."

AMENDMENT No. 1856

On page 18, line 9, insert "high" before "risk."

AMENDMENT No. 1857

On page 18, line 11, insert "high" before "risk."

AMENDMENT No. 1858

On page 18, line 14, insert "high" before "risk."

AMENDMENT No. 1859

On page 19, line 1, insert "high" before "risk."

AMENDMENT No. 1860

On page 19, line 2, insert "high" before "risk."

AMENDMENT No. 1861

On page 19, line 3, insert "high" before "risk."

AMENDMENT No. 1862

On page 19, line 9, insert "high" before "risk."

AMENDMENT No. 1863

On page 19, line 13, insert "high" before "risk."

AMENDMENT No. 1864

On page 19, line 19, insert "high" before "risk."

AMENDMENT No. 1865

On page 20, line 10, insert "high" before "risk."

AMENDMENT No. 1866

On page 20, line 15, insert "high" before "risk."

AMENDMENT No. 1867

On page 22, line 14, insert "high" before "risk."

AMENDMENT No. 1868

On page 22, line 18, insert "high" before "risk."

AMENDMENT No. 1869

On page 23, line 23, insert "high" before "risk."

AMENDMENT No. 1870

On page 24, line 15, insert "high" before "risk."

AMENDMENT No. 1871

On page 25, line 12, insert "high" before "risk."

AMENDMENT No. 1872

On page 25, line 20, insert "high" before "risk."

AMENDMENT No. 1873

On page 26, line 7, insert "high" before "risk."

AMENDMENT No. 1874

On page 26, line 13, insert "high" before "risk."

AMENDMENT No. 1875

On page 26, line 17, insert "high" before "risk."

AMENDMENT No. 1876

On page 26, line 19, insert "high" before "risk."

AMENDMENT No. 1877

On page 27, line 6, insert "high" before "risk."

AMENDMENT No. 1878

On page 27, line 21, insert "high" before "risk."

AMENDMENT No. 1879

On page 28, line 6, insert "high" before "risk."

AMENDMENT No. 1880

On page 30, line 22, insert "high" before "risk."

AMENDMENT No. 1881

On page 34, line 11, insert "high" before "risk."

AMENDMENT No. 1882

On page 34, line 24, insert "high" before "risk."

AMENDMENT No. 1883

On page 35, line 49, insert "high" before "risk."

AMENDMENT No. 1884

On page 35, line 32, insert "high" before "risk."

AMENDMENT No. 1885

On page 39, line 5, insert "high" before "risk."

AMENDMENT No. 1886

On page 39, line 16, insert "high" before "risk."

AMENDMENT No. 1887

On page 47, line 24, insert "high" before "risk."

AMENDMENT No. 1888

On page 48, line 14, insert "high" before "risk."

AMENDMENT No. 1889

On page 50, line 3, insert "high" before "risk."

AMENDMENT No. 1890

On page 50, line 9, insert "high" before "risk."

AMENDMENT No. 1891

On page 51, line 6, insert "high" before "risk."

AMENDMENT No. 1892

On page 56, line 2, insert "high" before "risk."

AMENDMENT No. 1893

On page 56, line 11, insert "high" before "risk."

METZENBAUM AMENDMENT NO. 1894

(Ordered to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill S. 79, supra; as follows:

In the committee substitute as modified, on page 81, strike "person." and in lieu thereof insert the following: "person.

"SEC. 17. INFORMATION FOR HEALTH AND SAFETY WORKERS.—Within 120 days after the date of enactment of this act, the Secretary of Health and Human Services shall develop and implement a program to distribute information and educational materials to all health workers, public safety workers, and emergency service workers concerning modes of transmission of the human immunodeficiency virus. This program shall include a plan to provide notification to all health workers, public safety workers, and emergency service workers concerning methods to reduce in the workplace the risk of becoming infected with the human immunodeficiency virus. The information distributed shall be based on the guidelines issued by the Directors of the Centers for Disease Control. Funds appropriated to the Department of Health and Human Services for AIDS prevention programs and activities shall be used to carry out the program described in this section. No funds authorized to be appropriated under this act shall be used to carry out the program described in this section."

NOTICES OF HEARING

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Monday, March 28, at 9:30 a.m. on proposed legislation relating to the elevation of the Veterans' Administration to Cabinet status. For further information, please call Len Weiss, staff director, on 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, March 25, 1988, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. BYRD. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Friday, March 25, 1988, to hold a hearing to consider adverse drug reactions: Are safeguards adequate for the elderly.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Taxation and Debt Management of the Committee on Finance be authorized to meet during the session of the Senate on March 24, 1988, to hold a hearing on the tax treatment of single-premium and other investment-oriented life insurance.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, March 25, 1988, in closed session to receive testimony on the Air Force revised Space Launch Program and policy in review of the amended fiscal year 1989 Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Readiness, Sustainability and Support of the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, March 25, 1988, in open/closed session to receive testimony on the amended fiscal year 1989 Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CALL TO CONSCIENCE ON SOVIET JEWRY

● Mr. GLENN. Mr. President, we have all been encouraged during the past year by an increase in the number of refuseniks who have been permitted to emigrate from the Soviet Union. This seemingly positive development does not mean that the actual Soviet emigration policy has changed, however. It means only that Soviet authorities gave in to the pressure exerted by continued Western attention paid to a particular group of refusenik cases.

During my career in the Senate, I have signed countless letters to Soviet officials requesting their assistance in resolving specific emigration cases. I believe, however, that it is time to ask Soviet authorities why such a request is necessary.

Why is a request to Soviet officials for special attention to a particular emigration case necessary when the right to emigrate is already guaranteed to the Soviet people by the Helsinki Final Act? Why is a request to Soviet officials from Members of this body, the U.S. Senate, needed when the individuals seeking to emigrate have already, and repeatedly over many years, sought permission to emigrate through the appropriate Soviet channels?

The reality is, Mr. President, that although there has been a recent increase in the number of refuseniks being permitted to emigrate, Soviet policy has not changed in this area. This year, for example, the Soviets waived the first-degree relative requirement for emigration. A requirement that restricts emigration to those with an immediate family member in their country of destination. This restriction, when enforced, prevents an estimated 90 percent of Soviet Jews from emigrating and is clearly inconsistent with any humane emigration policy.

Unfortunately, there is no reason to believe that this waiver of the first-degree relative rule is anything other than a temporary concession to world opinion. A concession that may be revoked at any time.

Last year, I made special mention of Dr. Benjamin Charny, the Soviet mathematician. He has, since his first application to emigrate in 1979, been repeatedly denied permission by the Soviets based on state secrecy. He was again refused permission in January of this year despite his urgent need of cancer treatment available only in the West.

The Soviet's cruel refusal to Benjamin Charny, and tens of thousands like him who wish to emigrate, is more an indication of their emigration policy than the relatively few cases in which permission to emigrate is granted. The existence of cruel and burdensome emigration restrictions, such as the first-degree relative rule, or State secrecy claims, are more representative of Soviet emigration policy than the arbitrary or politically motivated decision to temporarily waive certain restrictions.

We must not forget, despite success in some cases, that a genuine reform of that regime's approach to emigration will be demonstrated only through permanent liberalization of their emigration policies. It must be made clear to the Soviets that we will not be fooled by cosmetic reforms in this area. We are closely watching developments in their emigration policy, and we are waiting for genuine progress on this issue.●

WINNERS OF 1988 YOUNG WRITER'S CONTEST

● Mr. GRASSLEY. Mr. President, today, I would like us to recognize the achievements of 108 young people across our country. We all know that a strong command of the English language is essential to succeed in today's society. These promising young people are the winners of the 1988 young writer's contest. Nearly 10,000 youngsters in grades one through eight participated.

The literary works consisting of poems, essays, and stories written by these young winners will be published in the fourth edition of "Rainbow Collection: Stories and Poetry by Young People."

I am particularly proud of two Iowans, fifth grader Jennifer Craig of Irving and fourth grader Robin Sanders of Johnston in Iowa. Jennifer with her poem, "A Real Fantasy," and Robin Sanders with her story, "Mystery of the Old House," have demonstrated at their ages that they are on that road to success. I would like to share their contributions with you.

A REAL FANTASY

(By Jennifer Craig)

The Unicorn runs across the land,
And the mermaids sun themselves on rocks and sand,
And Pegasus flies through the air,
And they say there are dragons everywhere.
Can these beasts really be?
They sure seem real to me.
But maybe it's just a fantasy.
A real, real fantasy.

I can see the Phoenix burn with fire.
And see the griffin fly higher and higher.
I can see the giant bird's nest of gold.
But I guess in stories these beasts are only told.
Can these beasts really be?
They sure seem real to me.
But maybe it's just a fantasy.
A real, real fantasy.

MYSTERY OF THE OLD HOUSE

(By Robin Sanders)

Down the road from the Nelson's house, there was an old house. Everyone knew not to go near it.

Jay and Kathy were the detectives of the Nelson family. One day, they wanted to find out what was scary about the house. After breakfast they went to the old fence around the house. The gate squeaked terribly. They went to the door and it squeaked even worse. Suddenly, the lights blinked off and on.

There was a loud bang! They turned around and saw a tall white figure. There were noises above the room. Many people thought it was a bedroom.

Kathy whispered, "I'm scared." They ran out of the house quickly.

Kathy wondered what made that noise, so Jay suggested they search for clues.

They both had a feeling that something was strange around the gate. They searched awhile. Jay found half of a piece of paper. Kathy found another half. They taped the two together. The note said:

Dear new ones to come, find secret in panel.—Charles Mathews

"So we heard the panel bang!" said Jay.

"If only we could . . . yes! Let's climb over the big fence!" said Kathy.

The next day they went with a ladder to the house. Jay climbed over the fence. Kathy handed the ladder over and climbed over herself.

They set the ladder up at a two-story window. Kathy climbed up and opened the window. Silently they crept inside.

Sure enough Kathy saw a man slip into the closet and Jay saw him come out.

Kathy stepped into the passageway in the closet. (She had solved so many mysteries that she knew to bring a small crowbar.) She found a knothole that had an arrow pointing left. So Kathy pried away the next board and there was a piece of paper. It was a letter that said:

"To Whom It May Concern,

"I am an inventor. I built this house because my children loved tunnels and passageways. I built the gate and door squeaky so it would act like a doorbell. I knew soon I would die, but I didn't have a will. I left my money under the one and only step in this passageway. I wish for it to be given to a major charity. Thanks!

"CHARLES M."

Meanwhile, Jay scared the ghostly figure more than it scared him. Somehow he got into the passage with Kathy. She told him what she found out. Kathy went upstairs to dial 911, then ran down the passage and helped Jay to find their discovery.

They had just found $708,052.94 when the police arrived. They arrested two men, James and Ron Mathews. They confessed to scaring others away so that they could find the money and take it. The money went to the Salvation Army, and the Nelsons had a big party for Jay and Kathy.●

GREEK INDEPENDENCE DAY

● Mr. WEICKER. Mr. President, today marks the 167th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. During the reign of the Sultan, people were deprived of all civil rights. This stands in marked contrast to the status of individual rights when the Greeks obtained their independence in 1821.

Greek-Americans have contributed immensely to our society. Some examples are: Dr. George Papanicolau who invented the Pap test, which has saved many womens' lives by detecting cancer, and Dr. George Kotzias who developed I-dopa to combat Parkinson's disease.

It is only appropriate that the United States takes part in the spirit of Greek Independence Day. As Thomas Jefferson once said, "* * * to the ancient Greeks * * * we are all indebted for the light which led ourselves—American colonists—out of Gothic darkness." This relationship came full circle when Greece attained its independence and used the United States Declaration of Independence as its own declaration of freedom.

Mr. President, I commend the nation of Greeks on its Independence Day celebration and hope that it results in joyous celebration throughout the day.●

NELDA BARTON

● Mr. McCONNELL. Mr. President, I rise today to insert into the Record an article I recently read in Corbin! This Week, the newspaper of Corbin, KY. The article is a personality profile of one of Kentucky's finest citizens and a dear friend of mine, Nelda Barton.

The article details Nelda's many and diverse accomplishments as a dedicated civic leader. She has accumulated several awards, such as the John Sherman Cooper Distinguished Service Award, the Honorary Mother of Kentucky Award, and the Better Life Award from the Kentucky Association of Health Care Facilities. However, many of her deeds are not publicly rewarded—although they are certainly not unnoticed—such as her service as PTA president, scout leader, and businesswoman.

Nelda is not unfamiliar to many Members of this body for, in addition to her many achievements in Kentucky, she is also a highly recognized and well respected figure in the national Republican Party. Since 1968, she has been a national committeewoman and is now the vice chairman for the Southern District of the National Committee.

Her dedication to the party cannot be overstated. She is the consummate Republican—always observing the party's "11th Commandment" of not criticizing another Republican. Everything she has done she has undertaken with a special flair and determination. This commitment has been recognized by the Reagan administration which sent her to observe preparations for elections in Central America as a charter member of the National Republican Institute for International Affairs. In addition, she just completed service with the Federal Council on Aging, a position for which she was nominated by President Reagan and confirmed by this body 5 years ago.

I insert this article into the Record so that my colleagues can be aware that Nelda's special enthusiasm, talent, capacity to serve, and intelligence have combined to create an extraordinarily talented lady who has earned the respect of colleagues across the nation.

The article follows:

FLICKERING INTEREST IN POLITICS LED TO NATIONAL INVOLVEMENT FOR BARTON

(By Teresa J. Hill)

In 1960, Nelda Barton decided to help her brother-in-law, Henry "Babe" Barton in his bid for tax commissioner. She threw herself wholeheartedly into the campaign and was rewarded when he walked away victorious.

It was that experience 28 years ago that changed a flickering interest in local politics into a career that has taken her to the White House for lunch with President Reagan and around the country as Vice-Chairman of the Republican National Committee.

Without a doubt, Barton personifies the slogan, "You've come a long way, baby."

Barton has come a long way, but she's never left what she considers her hometown roots. "I love Corbin. This is where my home is; where my family and friends live," she said. "when you've raised your children here and struggled through those times here, you can't think of anyplace else as home."

"Home" used to be Providence, Kentucky, where Barton, then Nelda Ann Lambert, graduated as valedictorian of Providence High School. Barton said she still treasures that award because it "opened the door to win a scholarship to Western Kentucky University.

"My family was like most in those days—we had limited means—and I knew in order to continue my education, I'd have to win a scholarship."

Three years later she was a medical technician and met her husband, the late Dr. Harold Barton while he was doing his internship. The two married and moved to Corbin, where Dr. Barton began to practice medicine.

Barton's husband taught her a life-long philosophy that she has taken to heart and that explains her intense involvement in so many activities. "He taught me how important it is to speak out for what's right and good," Barton said. "My husband was a man of integrity . . . he cared deeply for his medicine and his patients.

"He taught me to live life to the fullest," she continued. "He had a rather short life but he certainly lived every day of it."

Dr. Barton died unexpectedly in 1977 after he suffered a heart attack.

The mother of four children, Barton's first priority has always been her off-spring. "I've always been involved in whatever interested my children," she said. "I was PTA president, served as a scout leader—one year I got talked into being a Cub Leader."

Barton believes that all parents should take an active interest in what their children and the school systems are doing. On Governor Wallace Wilkinson's proposed limited budget for education she is open in her criticism. "I feel it's a mistake . . . the people are really getting concerned about education and to have a governor who is not supportive is really a tragedy."

Supporting people and policies is something Barton does well. She believes in the Republican Party and the ideals that it represents. "I believe in free enterprise and less government in our lives. I guess trying to elect good, responsible candidates to office is why I get so involved," Barton said.

Does she think that her efforts have made a difference in the government? "I certainly hope so! I've spent an awful lot of years trying to make this country a better place to live in," Barton laughed. "I'm a flag waver."

Barton's achievements have not gone without recognition. A long list of honors exemplifies the diversity of her involvments.

Among a few she has received are the John Sherman Cooper Distinguished Service award from the Kentucky Young Republican Federation; the Honorary Mother of Kentucky Award; the Better Life Award from the Kentucky Association of Health Care Facilities; Kentucky Women of Achievement Award; and on October 22, 1973, the mayor of Corbin even proclaimed it "Nelda Barton Day."

All of these awards have been very important to Barton, but she said, "The occasion that meant the most to me was when I was invited to the White House for lunch with the President of the United States.

"I was very nervous!" she said. "But President Reagan is one who puts you at ease. By the time you leave you feel like one of his closest friends."

Corbin City Commissioner Nancy Mitchell has known Barton politically and as a friend for over 10 years. "Nelda is very thorough in whatever she decides to do," Mitchell said. "She makes a lot of sacrifices; a lot of people assume she gets reimbursed, but she doesn't.

"I definitely admire her. She's someone you look up to and respect. You want to follow in her footsteps. You'll find that's true with most women involved in the Republican Party in Corbin or on the state, or even national level."

Mitchell continued, "And whatever she does, it's because she's concerned about the people involved and she'll work hard for them."

Working hard is something Barton is familiar with. Besides her family and politics, she is co-owner, chairman and/or on the board of directors of several businesses, including seven nursing homes, two banks, two newspapers and several apartment complexes.

She stays actively involved in the running of each of these businesses and has contributed greatly to their success.

Being a woman in fields dominated mostly by men has not been a handicap," Barton said. "I've never had a problem with that (being a woman) and serving on these boards . . . I do feel that women have to work a little longer and harder to climb the ladder of success, but if they keep an open mind and try to look at everything objectively, they'll succeed."

Being involved in so many projects would be too much for most people and Barton admitted that at times, she does feel she has overextended herself. But she feels very strongly that once someone accepts a position they should carry through with it and do the best possible job they can.

When she is not seeing to her business or political concerns, Barton said she spends time with her family. And she loves to fish, but said that she rarely finds time.

However, it comes as no suprise that when she does take to the water, she is no slouch. "I used to be great. I have a 20-pounder that I caught on bass tackle," Barton said, crediting her late husband with her expertise. "Before I ever went fishing, Harold put a bucket in the yard and I had to stand a certain distance from it and hit it three times in a row before I could go.

She smiled as she remembered those times. "Many a time we'd fish all night long."

Her husband was a big game hunter, but Barton said she had no desire to participate. "I left that to the boys."

There's not much else in life that Barton has "left to the boys."

Congressman Hal Rogers called her, "The hardest working, the nicest, and the most efficient politician I've ever known.

"She has a long list of achievements, most recently . . . our district led the state with 67 percent for Vice-President Bush. That compares to 59 percent for the rest of the state."

Barton is the National Committee Chairwoman for Kentucky for the Elect Bush as President campaign and Rogers said Barton's work made for the percentage difference.

Asked if he thought Barton's achievements were unusual for a woman, Rogers said, "They are very unusual for anyone, man or woman. Being able to keep as many balls in the air as she does—business, political and her private life—as successfully as she does shows what an impressive person Nelda Barton is."

Barton herself sees her success in very simple terms. "I've never expected it to be handed to me on a silver platter. I've always worked hard for what I've gotten in life and I've enjoyed it."

And she has every intention of continuing to work and enjoy life to the fullest. "Every day I see two or three different things I'd like to know about or become involved in," she said. "I have no intention of slowing down. I have too many places to go and too many people to see to stop now."●

ANNIVERSARY OF BYELORUSSIA

● **Mr. SIMON.** Mr. President, today, March 25, 1988, Americans of Byelorussian descent will celebrate the 70th anniversary of the Declaration of Independence of the Byelorussian state. I would like to take this opportunity to commend the people of Byelorussia for their courage and resiliency in their continuing struggle to live in a free and independent nation.

After the fall of the Tsarist Russian Empire in February 1917, many people previously under Russian rule were able to restore their independence. Byelorussia became one of these fortunate peoples when on March 25, 1918, the Byelorussians declared their independence in the capital city of Minsk. However, this independence was shortlived. In 1921 Byelorussia was partitioned between Poland and the Russian Soviet Federated Socialist Republic after being defeated in an armed conflict.

This is a important and proud day for all Americans of Byelorussian descent. Mr. President, I would like to invite all Americans to join with me in honoring this very special occasion.●

GREEK INDEPENDENCE DAY

● **Mr. LAUTENBERG.** Mr. President, today is "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." I am proud that I introduced the Senate resolution designating March 25, 1988, as Greek Independence Day.

Today marks the 167th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. It is fitting that we celebrate this day together with Greece in order to reaffirm the common democratic heritage of Americans and Greeks.

The ancient Greeks forged the very notion of democracy, placing the ultimate power to govern in the people. As Aristole said.

> If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will best be attained when all persons alike share in the government to the utmost.

Because the concept of democracy was born in the age of the ancient Greeks, all Americans, whether or not of Greek ancestry, are kinsmen of a kind to the ancient Greeks. America's founding fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our Government. For that contribution alone, we owe a heavy debt to the Greeks.

The common heritage which we share has forged a close bond between Greece and the United States, and between our peoples. And it is reflected in the numerous contributions made by present day Greek Americans in New Jersey and across the country to our American culture.

Designating today as Greek Independence Day is a tribute to these contributions, past and present, which have greatly enriched American life. I look forward to celebrating Greek Independence Day again next year.●

PRESIDENT NIXON EVALUATES THE SOVIETS AND ARMS CONTROL

● **Mr. DOMENICI.** Mr. President, former President Richard Nixon recently wrote an article in the New York Times magazine, an article that I believe should be read by every Member of this body, as well as every American.

The article, "Dealing With Gorbachev," is an excerpt from President Nixon's forthcoming book, "1999: Victory Without War."

Mr. Nixon's article is particularly instructive as we in the Senate move toward floor debate on the INF Treaty, and as we sort out the continuing problems with Central America.

President Nixon puts many of the great global issues of East and West in context. He frames these issues in a way that every one of us should examine with great care.

The Gorbachev Era represents, in President Nixon's view, "a dangerous, challenging new stage" in the East-West struggle. It is an era when we must prevent ourselves becoming "psychologically disarmed before the man who controls the most powerful armed forces in the world," Mr. Nixon wrote.

Whether we like it or not, the task of leadership has devolved upon us. The sooner we face it—and the sooner the people of great nations, especially those in the West, stop feeling guilty about being powerful—the sooner a genuine international order, based on a stable balance of national power, will be achieved.

President Nixon goes on to examine the forces that could produce such a meaningful agreement. "The United States should give Gorbachev what he wants—a relaxation of tensions with the West and an expansion of economic ties—only if he gives us what we want: the elimination of Soviet superiority in first-strike land-based nuclear missiles; a reduction in Soviet repression at home as called for by the Helsinki accords, and a halt to Soviet agression abroad," President Nixon writes. "Kremlin leaders will strike deals, but they will never give us something for nothing. Neither should we."

I am certain that some analysts will argue that President Nixon is too tough; they will contend that we must trust the Soviets to a greater extent because Mr. Gorbachev has extended the hand of friendship.

President Nixon answers that, and answers it forcefully: "Regardless of the refinements he has introduced into Moscow's public relations techniques, he has preserved the long-term objective of pushing for global predominance."

Recognizing that is vitally important as we enter the debate on ratifying a treaty to eliminate American and Soviet intermediate range missiles from Europe.

"Americans tend to view arms control as an end in itself, but the Russians consider it a means to an end. Moscow is right. Arms control alone cannot produce peace or insure our security. But properly negotiated arms-control agreements can help to produce the stability that could reduce the chances of a crisis escalating into a war," Mr. Nixon writes.

"The United States and the Soviet Union have one overriding common interest: to avoid nuclear war over our differences. Though the two superpowers can never be friends, they cannot afford to be enemies. This common interest in survival makes peace possible despite the political differences that make continued conflict inevitable."

Then President makes two points that I believe we need to carry with us, particularly as we look beyond the INF Treaty to a possible START Treaty, one involving long-range strategic missiles.

"It would also be utter folly to make concessions in arms-control negotiations to help Gorbachev succeed at home," President Nixon states as one point.

"Just because a bad agreement can be verified," Mr. Nixon also tells us, "does not make it a good agreement."

I support the INF Treaty. I certainly hope that I will be able to support a START Treaty, should the President successfully negotiate one with the Soviets.

But as we consider these issues—and the opportunities ahead—I urge everyone to reflect on the wisdom President Nixon has stated.

Mr. President, I ask that Mr. Nixon's article from the New York Times Magazine be printed in the Record.

The article follows:

[From the New York Times, Mar. 13, 1988]

Dealing With Gorbachev

(By Richard Nixon)

Since coming to power three years ago as General Secretary of the Communist Party of the Soviet Union, Mikhail S. Gorbachev has captured the imagination of many in the West with a personal style that is refreshingly different from that of his predecessors. If we mistake a change in style of leadership for a change in Soviet international goals, Gorbachev may capture the rest of the West as well.

The beginning of the Gorbachev era does not represent the end of the rivalry between the two superpowers. Rather, it represents the beginning of a dangerous, challenging new stage of the struggle. Under Gorbachev, the Soviet Union's foreign policy has been more skillful and subtle than ever. But it has been more aggressive, not less. If his dramatic domestic reforms are successful, we will confront a more productive—and more formidable—Soviet Union.

In the last 40 years, I have met a number of great leaders—Churchill, de Gaulle, Adenauer, de Gasperi, Yoshida, Mao Zedong and Zhou Enlai. Gorbachev is in that league.

I have met with three of the principal postwar leaders of the Soviet Union—Nikita S. Khrushchev in 1959 and 1960, Leonid I. Brezhnev in 1972, 1973, and 1974, and Gorbachev in 1986. Gorbachev is by far the ablest of the three. And, at age 57—much younger than the others when they became General Secretary—he can expect to rule the Soviet Union for over a generation.

Gorbachev's neatly tailored suits, refined manners, beautiful wife and smooth touch with reporters have made him a star with the press and the diplomatic corps. An American official who met him was impressed by the fact that he had "good eye contact, a firm handshake and a deep, melodious voice." A British politician even remarked that Gorbachev was the man he most admired in the world. A disarmament activist took this a step further, saying: "Gorbachev is like Jesus. He just keeps giving out good things, like arms-control proposals. . . ."

All of that is fatuous nonsense. After meeting Joseph Stalin, an American diplomat commented: "His brown eyes are exceedingly wise and gentle. A child would like to sit on his lap, and a dog would sidle up to him." When Khrushchev rose to power, some pundits wrote him off as a buffoon because he wore ill-fitting clothes, was poorly educated, spoke bad Russian, drank too much and had crude manners. Brezhnev received higher marks—he wore silk shirts with French cuffs—but was ridiculed for his earthiness and his awkward public manner. Feature stories on Yuri Andropov, Brezhnev's successor, pointed out his fondness for tennis, jazz, Scotch whiskey and abstract art.

Stalin's "gentle" eyes belied his brutal mind. Khrushchev's peasant manners did not stop him from building the Berlin War, and Brezhnev's clumsy speech did not prevent him from undertaking the greatest military buildup in world history. Andropov's "with it" style could not conceal the fact that he had been the ruthless head of the world's most repressive police force.

Whoever reaches the pinnacle of power in the Kremlin has learned his politics in the toughest school in the world. If we accept the views of Gorbachev propounded by his admirers, we would be leaving ourselves psychologically disarmed before the man who controls the most powerful armed forces in the world.

We have and always will have profound differences with Gorbachev and other Soviet leaders. One reason is that we believe in our system and the Soviet Union rejects it. That is easy for most Americans to grasp. But some Americans have more difficulty with the other side of the coin—that the Russians believe their system is superior to ours. No matter how critical we are of the Russians and their actions in the world, we should never be contemptuous of them. We must respect the Soviet Union as a strong and worthy adversary. Respect is important between friends; it is indispensable between potential enemies in the nuclear age.

Gorbachev himself is a powerful reminder that we underestimate the Soviet Union at our peril. He is a highly intelligent, sophisticated man of the world, and a great communicator—the antithesis of the common perception of a bearded Bolshevik intent on blowing up the world.

In July 1986, I met with Gorbachev for an hour and 45 minutes in the Kremlin. He received me in a more richly decorated room than those in which I had met Khrushchev in 1959 or Brezhnev in 1972 and 1974. Earlier in the week I had had highly detailed, two-hour meetings with Soviet President Andrei A. Gromyko and the foreign-affairs adviser Anatoly F. Dobrynin about arms control and a wide range of other issues. Even though Gorbachev had spent the entire previous day with the Politboro, it was clear from his questions and comments that he had acquainted himself with everything that had been said in my earlier meetings. This permitted him to use his own time to refine nuances or to cover new ground. All in all, it was the most impressive performance I have witnessed in nearly 40 years of meetings with world leaders.

Gorbachev has supreme self-confidence and iron self-control. He is not as quick as Khruschev was, but is therefore not as prone to mistakes. He thinks before he speaks. He is good at small talk but prefers to get on with the business at hand. He seldom indulges in humor, preferring to concentrate on the serious issues he has prepared so well to discuss. Some say he has a quick temper, but I disagree. He uses his temper, he seldom loses it. On the rare occasions he does lose it, he quickly recovers and continue his relentless drive to dominate the dialogue. He may digress from time to time, but only to make his point. He never loses his train of thought. He has an exquisitely disciplined mind.

Khruschev fulminated about the rightness of Soviet policies, but in my meetings with him he never stepped beyond the most recent Soviet propaganda line. Brezhnev read prepared statements and then deferred all discussion to his subordinates. When I saw Gorbachev, he did the talking for the Soviet side, without notes, and he exhibited a thorough understanding of all the intracacies of arms control and other issues. He understands power and knows how to use it.

Like his predecessors, Gorbachev seeks to expand the influence and power of the Soviet Union. Regardless of the refinements he has introduced into Moscow's public-relations techniques, he has preserved the long-term objective of pushing for global predominance. But he is the first Soviet leader who has faced the fact that his country suffers from fundamental internal problems that threaten its status as a superpower. He is a dedicated Communist, but when he looks at the Soviet position in the world, he wears no ideological blinders.

In the last 15 years the Soviet Union has increased its superiority in conventional military power. It has expanded its coastal navies into a blue-water navy—the second-largest in the world in terms of tonnage. Most disturbing, it has acquired decisive superiority in the most powerful and accurate nuclear weapons—land-based intercontinental ballistic missiles. It has projected its power into Southwest Asia and its proxies have tallied victories in Southeast Asia, southern Africa and Central America. Its sustained political and propaganda offensive in Western Europe has prompted major political parties to adopt essentially neutralist platforms, which, if implemented, would lead to the dissolution of the North Atlantic Treaty Organization alliance.

Communism has proved to be an effective means for winning and keeping power. That experience serves to confirm Gorbachev's ideological beliefs. He knows that the Soviet Union must address great problems, but he still believes it represents the wave of the future.

Yet, as he surveys the international scene, Gorbachev cannot be encouraged. To the west he sees signs of political unrest in virtually every country of the Soviet bloc, from Poland through Bulgaria. With these uncertain allies at its side, the Soviet Union confronts an alliance that has lasted longer than any other in history. NATO, whose European nations outspent the United States in defense from 1972 to 1982, has significantly strengthened its forces in the field. While the Soviet Union has undermined the international resolve of the Labor Party in Britain and the Social Democratic Party in West Germany, their drift toward neutralism has in turn undercut their electoral appeal. Chancellor Helmut Kohl has been reelected to another four-year term. Prime Minister Margaret Thatcher routed her divided opposition at the polls. Under President Francois Mitterrand and Prime Minister Jacques Chirac, France has bolstered its military forces and increased its cooperation with NATO.

As Gorbachev looks to the east, he sees the enormous challenges posed by China and Japan. China, still a potential enemy of the Soviet Union, does not today represent a military threat, but its huge population and enormous natural resources create an awesome danger for the future. Beijing's economic reforms compound the threat. If the Soviet Union's growth rate continues to lag behind China's as much as it has over the last five years, China will surpass Russia in gross national product by the middle of the next century.

Japan, with few energy resources and less than half the population and one-sixtieth the territory of the Soviet Union, has a per capita income more than twice as high. With its growth far outpacing Moscow's, Japan will leave the Soviet Union hopelessly behind in the next century. More ominous from the Kremlin's point of view, the Japanese Government has recently rescinded the formal limitation keeping defense spending under 1 percent of G.N.P. and has undertaken a significant, though still modest, program to upgrade its defenses.

Beyond its immediate frontiers, Russia's clients in the third world are queuing up for handouts. They are not allies of Moscow, but dependencies; none could survive without massive economic subsidies or military assistance. Lenin wrote that capitalist countries turned to imperialism as a profit-making venture. If that was true, the Communist Revolution in Russia certainly did usher in a new era, because Moscow's empire impoverishes rather than enriches the Kremlin. Vietnam costs the Soviet Union more than $3.5 billion a year, Cuba over $4.9 billion; Angola, Mozambique and Ethiopia a total of more than $3 billion, and Nicaragua nearly $1 billion. Its imperial domain costs the Kremlin over $35 million a day.

In the battle of ideas, the Communist ideology has lost its appeal. In the 1950's, many noncommunists in the third world admired the Soviet model of economic development. Today, no developing nation's government aspires to become a bureaucratic nightmare like that in the Soviet Union, with its jungles of red tape and its stagnant swamp of an economy. In the 1930's, Americans who spied for Moscow acted out of ideological conviction. Today, Americans who have been convicted of spying for the Russians did it for cash.

Moscow's military power is its only asset. Great as that may be, it cannot be sustained over the long term without matching economic power. The Russians' dilemma is that their assets are ill-suited to solving their problems, and their problems are undermining their assets.

One of the Soviet Union's biggest problems has been Afghanistan, which Gorbachev has described as "a bleeding wound." He wants to cut his losses there, and we should help him do so, but not at the expense of the millions of anti-Communist Afghans who have put their faith in us.

Therefore, all Soviet troops must leave Afghanistan before United States aid is cut off to the guerrillas. At the same time the United States stops supporting the anti-Communists, all Soviet military aid to the Communist Government in Kabul must be cut. Any agreement that does not conform to these two conditions would amount to a sellout. The abandonment of South Vietnam by the United States Congress in the years 1973 to 1975, when our aid to Saigon was cut to a trickle even as the Russians massively stepped up their aid to Hanoi, was a dark page in our history. We must not write another such page in our dealings with the Afghan freedom fighters, who also depend on us for survival.

We should also insist on establishment of a neutral government that will guarantee the safety of the three million Afghan refugees in Pakistan and the two million in Iran as they return to their homes. And demands for a non-Communist interim government in Kabul by Pakistan President Mohammad Zia ul-Haq should not be brushed aside for the sake of delivering a deal in time for the next United States-Soviet summit meeting.

Gorbachev does not underestimate the Soviet quandry. Nor do his Communist neighbors to the east. A Chinese leader, after explaining why China's current economic reforms were essential if it intended to step into the front rank of nations, once told me that if the Soviet Union did not adopt similar changes Russia would "disappear" as a great power in the next century. That is true, and Gorbachev knows it.

The growth rate of the Soviet economy is virtually zero. Productivity is dropping. Absenteeism, corruption, malingering and drunkenness are rife. The standard of living is sinking—the life expectancy of Russian men is actually going down. A worker in the Soviet Union must spend more than seven times as many hours as a West European to earn enough money to buy a car. The advanced West European countries have at least 15 times more industrial computers than the Soviet Union; the United States has 45 times more.

Western economists used to undertake esoteric extrapolations to gauge the depths of Moscow's economic crisis. Today, they have only to read Gorbachev's speeches. In 1961, Khruschev claimed the Soviet Union would catch up and surpass the United States economically in a decade. Brezhnev swept economic problems under the rug. Andropov thought more discipline among the workers was the solution.

In Gorbachev, the Soviet Union finally has a leader who understands that without a growing economy the country's international position will erode and its military power atrophy. Without economic growth, he cannot afford the current level of Soviet military spending, provide even a marginal improvement in the standard of living, or hold the Soviet system out as a paragon for developing nations.

Gorbachev faces the classic dilemma of Communist totalitarian systems: to have progress he must allow more freedom. But allowing more freedom threatens his power. Excessive centralization is the principal problem of the Soviet economy. But decentralizing economic decision-making carries the risk of prompting demands for political decentralization. And political decentralization would mean the dissolution of the Communist system.

Moscow has put itself into a unique historical position: It does not have a single ally among the major powers of the world. The Kremlin faces potential adversaries in Western Europe, China, Japan, Canada and the United States, whose combined gross national products account for more than 60 percent of the world economy.

Moreover, in not one of the 19 nations in which they rule did the Communists gain power by free democratic election, and none of them dares to have one. If the Soviet Union's strength wanes, its satellites will certainly try to break out of the Kremlin's orbit.

Gorbachev has responded with a far-reaching campaign of reform, but he faces monumental obstacles. Some have even argued that he has only a 50-50 chance of remaining in power for five years. They point out that in every speech he makes he refers to the opposition to his reforms. They recall that when the last great Soviet reformer, Khrushchev, tried to revitalize the system his colleagues in the Politburo promptly gave him the boot.

I do not believe a similar fate awaits Gorbachev. He has shown great skill in consolidating his power. Unlike Stalin, he does not have his rivals killed. unlike Khrushchev, he does not leave them in positions in which they can threaten his power (Brezhnev stood near Khrushchev during our Kitchen Debate in 1959). Instead, Gorbachev ferrets them out and replaces them with his supporters. In just two years, he has replaced all but one of the members of the party Secretariat, the key body that runs the party apparatus. Of the 13 members of the all-powerful Politburo, which runs the country's day-to-day affairs, only two are holdovers from the Brezhnev era. Gorbachev has also replaced two-thirds of the provincial party secretaries and more than 60 percent of the Government ministers. His ruthless discharge of Boris N. Yeltsin, one of the strongest supporters of reform, was a shot across the bow to anyone—friend or foe—who is tempted to challenge his authority.

It is a mistake to accept the idea that Gorbachev is a foreign-policy moderate beset by conservative rivals. He may have his internal foes, but the entire leadership forms a united front to confront the external world. Creating the impression of a battle between "hawks" and "doves" within the Kremlin is a common Soviet ploy. Some of Franklin D. Roosevelt's advisers were conned into believing that Stalin was fending off hard-liners. In meetings with Henry Kissinger and me, Brezhnev made a great show of stepping out to consult with his "hawks," in the hope that we would make concessions to help him out with his domestic opposition. We must not be fooled by this shopworn tactic. Gorbachev's rivals oppose him not because he is a moderate, but because they want his power.

Under no circumstances should the United States allow its foreign policy to be affected by changes in Soviet domestic policy.

It would also be utter folly to make concessions in arms-control negotiations to help Gorbachev succeed at home. His reforms will rise and fall on their own merits. Nothing this country does can affect what happens within the Kremlin. If we reward Moscow every time the Soviet press publishes exposés of problems in the Soviet Union, Moscow will collect strategic gains while we collect newspaper clippings.

The United States and the Soviet Union have one overriding common interest to avoid nuclear war over our differences. Though the two superpowers can never be friends, they cannot afford to be enemies. This common interest in survival makes peace possible despite the political differences that make continued conflict inevitable.

If we are to live with our differences instead of dying over them, we must devise a process for dealing with them short of war. We should seek to create rules of engagement for an ideological conflict that will last until well into the next century.

Americans tend to view arms control as an end in itself, but the Russians consider it a means to an end. Moscow is right, Arms control alone cannot produce peace or insure our security. But properly negotiated arms-control agreements can help to produce the stability that could reduce the chances of a crisis escalating into a war.

Our focus should be on how to negotiate in a way that serves our interests. We need to develop the capacity to craft proposals that both achieve our goals and create political pressures on the Soviet Union to accept our terms. Then, if Kremlin leaders turn us down, we gain in the political competition; if they accept our offer, we gain our objectives.

Gorbachev has proved to be a master at this maneuver. When the United States proposed, in November 1981, the zero-option—which called for no American or Soviet intermediate-range missiles in Europe—it did so not because policy makers thought that such a solution served Western interests but because it expected the Russians to reject the idea and suffer politically for doing so. It was assumed that the proposal would score political points in Europe and enable the United States to station intermediate-range nuclear forces in NATO countries. That tactic worked as long as the Soviet Union remained obstinate at the negotiating table.

But Gorbachev soon figured out that a zero-zero solution ultimately favored Moscow, eliminating American capabilities to retaliate from Europe without affecting Soviet capabilities to strike. When Gorbachev accepted the American offer, the Reagan Administration felt it had no choice but to proceed with the agreement, despite serious reservations in parts of the Department of Defense, by the former NATO commander Bernard Rogers and allies in Europe. One of the principal reasons reluctant supporters of the accord, such as Henry Kissinger and myself, used to rationalize our position was that for the United States to refuse its own offer would be too costly in terms of public opinion in Western Europe.

How can we put political pressure on Soviet leaders to make the deals we want at the price we want to pay? This requires that American policy makers understand Soviet motivations and vulnerabilities. It also requires a keen sense of gamesmanship. Most importantly, it requires an ability to package proposals with a sense for public relations. We cannot negotiate successfully unless the peoples of the West support our initiatives. A united front of Western powers—which a politically attuned proposal can galvanize—places maximum pressure for the Soviet Union to negotiate on our terms.

Before entering negotiations, we should have a thorough understanding of what the two superpowers can agree about and what we cannot agree about, and we need to define in very specific terms what we want to achieve.

We can agree on measures to reduce the likelihood of accidental nuclear war; on ways to reduce and stabilize the strategic nuclear balance; on the means to prevent the proliferation of nuclear weapons; on ways to resolve some—but not all—conflicts in contentious regions of the world, and on ways to structure mutually beneficial relations, such as trade and cultural exchange.

The United States and the Soviet Union will not be able to agree on total disarmament.

In talks on strategic weapons, it makes no sense to pursue an across-the-board reduction of 50 percent in the arsenals of the two superpowers. Such a reduction would codify the decisive Soviet superiority in land-based first-strike nuclear weapons. Our primary goal should be to achieve a large cutback in Soviet first-strike weapons, so that Moscow does not ever have enough for a credible first-strike capability. None of the current Administration proposals that have surfaced in the press meets that test. Also, we must not risk overlooking this issue by permitting verification to dominate the debate. Just because a bad agreement can be verified does not make it a good agreement.

It also makes no sense to try to convince the Russians that both countries should pursue an abstract concept, such as strategic stability. Gorbachev is not interested in what we think is "good"—but rather in what he thinks he will get. To achieve the zero-zero INF deal he wanted, he was willing to give up several times as many warheads as we did. Kremlin leaders will strike deals, but they will never give up something for nothing. Neither should we.

The United States should give Gorbachev what he wants—a relaxation of tensions with the West and an expansion of economic ties—only if he gives us what we want: the elimination of Soviet superiority in first-strike land-based nuclear missiles; a reduction in Soviet repression at home as called for by the Helsinki accords, and a halt to Soviet aggression abroad.

Moscow has made arms control its first priority in United States-Soviet negotiations in part to distract attention from the vital political issues. We must now allow the Russians to achieve this objective by treating the questions of Soviet expansionism and repression as unfortunate obstacles to progress in arms control. We must force the Kremlin to address our concerns, and linkage is the only means of doing so. If they are to benefit the cause of real peace, arms deals should not be concluded unless the Soviet Union cooperates in a reduction of the political tensions that are the root cause of the conflict between the superpowers.

As the British journalist Brian Crozier has written, "What the Soviets or their surrogates do in Central America or southern Africa is the substance; the arms deal is the shadow." If the Reagan Administration goes forward on arms control without linkage it risks creating a dangerous euphoria in which anyone who dares raise the issue of Soviet aggression around the world will stand accused of poisoning the atmosphere of superpower relations.

Americans tend to believe that conflict is unnatural, that people from all nations are basically alike, that differences are products of misunderstanding, and that permanent and perfect peace is a reachable goal.

But what moves the world for good or ill is power, and no sovereign nation will give up any of its power—not now and not ever. This is an immutable aspect of national character.

André Malraux once told me, "The United States is the first nation in history to become a world power without trying to do so." Whether we like it or not, the task of leadership has devolved upon us. The sooner we face it—and the sooner the people of great nations, especially those in the West, stop feeling guilty about being powerful—the sooner a genuine international order, based on a stable balance of national power, will be achieved.

It is often said today that Americans' pride in their nation has been restored. It would be more accurate to say that after several years of steady economic growth, and because most of the bad news from abroad—at least as far as Americans are involved—has been of relatively isolated incidents, many of us have the sense that things are better than they were eight years ago.

But national pride not tempered by adversity is sterile. National pride that lacks awareness of our international responsibilities is empty. National pride without the impulse to share that of which we are so proud is selfish. Too often, what we have called a restoration of national pride has been no more than complacent, comfortable smugness. Real pride comes not from avoiding the fray but from being in the middle of it, fighting for our principles, our interests and our friends.

It will take more than a few successful but relatively minor military missions like the invasion of Grenada and the raid on Libya to build lasting new confidence in the United States. Almost nowhere else on earth are people as secure and as prosperous as in the United States. Both our power and our blessings challenge us to adopt policies whose ultimate goal is to make the world safer and better. The stakes in this struggle for peace with freedom are far higher than they were in any of historys' armed struggles.

Those who ask whether Mikhail Gorbachev is sincere in his desire for peace beg the question. He sincerely does not want war. But he just as sincerely wants victory. The Soviet Union seeks victory without war. If we seek peace without victory we are doomed to defeat.

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6 WAYS TO COMPETE WITH THE U.S.S.R.

Even if agreements are worked out on issues such as nuclear-arms control, the United States and the Soviet Union will still be in conflict on others, such as the future of Europe and regional conflicts in the third world. To compete effectively, the United States must develop six key capabilities:

IDEOLOGICAL POWER

Our values of freedom and democracy have a tremendous appeal around the world. The strength is that there is no prescription on how people should live, only that individuals and nations should be free to choose how they live.

Radio Moscow broadcasts in scores of languages to every corner of the world. In addition, the Soviet Union publishes and distributes thousands of books and newspapers abroad and provides scholarships at Russian universities for almost 100,000 foreign students.

Too often, the United States steps onto the battlefield of ideas unarmed. One of the most effective foreign-policy programs for the United States has been support for Radio Free Europe and Radio Liberty, which have prevented the complete indoctrination of the peoples of Eastern Europe and the Soviet Union.

The problem is that these stations stand virtually alone as examples of American ideological action; the programs transmitted on

Voice of America are often so trivial that Gorbachev has announced the Soviet Union will no long bother to jam the frequencies. We do not need to fill the airwaves with crass propaganda, but we should be telling people what their own governments refuse to tell them about their own countries.

DIPLOMACY

The Soviet Union has mastered the art of integrating its diplomacy into overall strategy. The United States has had some diplomatic successes, but there have been many instances in which we have failed to recognize that diplomacy is not just a means for compromise, but a competitive tactic.

As the Iranian hostage crisis showed, when American interests are challenged, the first—and often only—reaction of many of our diplomats is to negotiate. They reflexively treat disputes as great misunderstandings rather than insurmountable differences. They fail to understand that adversaries sometimes use talks as a play for time. The United States sometimes even has to use force while we negotiate, as we did in December 1972 when it took the bombing of Hanoi to break the stalemate at the Paris peace talks.

ECONOMIC AID

With an economy twice the size of the Soviet Union's, the United States has the resources to race ahead of the Soviet Union in this area. In quantitative terms of dollars, we have; but in terms of impact, we have not.

Foreign-aid programs have never been politically popular in the United States, and with the budget defict, support for such programs is now at an all-time low. They must be radically revived if they are to survive. In doing so, we have to overcome the myth that foreign aid is just a waste of money. True, much of the money we contribute to international agencies for distribution to the governments of developing nations is misspent on boondoggles or diverted by corrupt officials.

But foreign aid is not wasteful if it is spent wisely. Certainly the $14 billion we expended on the postwar reconstruction of Western Europe and Japan was not a waste.

We need to learn to serve our strategic purposes with our foreign aid. Our economic and political support for the Central American democracies is an excellent illustration. It has prevented an economic collapse and a Communist victory in El Salvador. In 1986, we spent $435 million on aid for that country, which is far less than we would need to spend if a deteriorating situation forced us to use American troops to defend our interests in Central America—and far less than it would cost if we forfeited those interests.

MILITARY AID

Americans do not like to think of themselves as arms merchants. But military aid is often the best way to protect our interests and those of our allies. It is also the principal way in which the Soviet Union will seek to challenge our interests in the coming decades.

If we fail to provide our allies and friends with adequate military assistance, Moscow's clients will advance on every front. We will then face a choice of forfeiting our interests or forfeiting the lives of American troops to defend them.

MILITARY POWER

We must not allow our failure in Vietnam to blind us to the stark reality that without military power and the will to use it surgically and selectively in crucial conflicts, we will be routed in our rivalry with the Soviet Union.

Since Vietnam, the American military establishment has concentrated its resources on its forces in Europe and the Far East, devoting a disproportionate share in preparing for the big war that will probably never be fought. It has woefully neglected our ability to intervene in third-world battlegrounds, such as the Persian Gulf, where our nuclear power is useless and where Moscow is most likely to try to outflank us.

COVERT OPERATIONS

There are those who argue that the United States should not engage in covert operations, especially after the disastrous Iran-contra affair. But it would be a fatal mistake for the United States to renounce covert action as a foreign-policy instrument, because the Soviets continue to exploit covert operations to arm insurgencies, finance Communist and other leftist parties, disseminate disinformation, train international terrorists and assassinate opponents.

We do not and should not emulate the Soviet Union's behavior. But to abandon covert action would be, in effect, donning a straitjacket.

The hundreds of millions of dollars in covert assistance that the United States has provided to the resistance in Afghanistan has not only helped force Moscow to agree to a withdrawal, but has also inflicted such cost on the Kremlin that its leaders will think twice before again embarking on such an adventure.●

THE REMARKS OF ELIE WIESEL

● Mr. DODD. Mr. President, on February 16, 1988, Elie Wiesel delivered a speech opening the Nobel Laureate Conference in Paris. In this stirring address, Elie Wiesel praises the great achievements in science that mark this century as unique. Yearning for truth, Mr. Wiesel acknowledges, is praiseworthy and part of what defines man. However, he, with eloquence, aims in this address to remind us that man's sense of solidarity, and therefore responsibility, is an equal component of man's definition.

The tragedies that mark history are understandable to the degree that man lost his sense of solidarity in the windstorms of hate and selfishness. Elie Wiesel accepts the burden of reminding us of that error. Through deeds and words, he teaches us that we are responsible for our neighbor, fulfilling an oath he made while imprisoned by the Nazis. Along with his comrades, Elie pledged, "If by some miracle, I emerge alive, I will devote my life to testifying on behalf of those whose shadow will fall on mine forever and ever." Elie Wiesel's brilliant insight enables us to learn of our imperfections as well as our facility to repair those imperfections.

War between nations, war between brothers and sisters, horrific acts by one individual against another are still too prevalent. We, however, are making progress and Elie Wiesel is largely responsible for that progress. Our debt of gratitude to Elie Wiesel is infinite.

Mr. President, I ask to enter Elie Wiesel's opening and closing remarks to the Nobel Laureate Conference in the RECORD.

The remarks follow:

[Given at the Nobel Laureate Conference in Paris]

ELIE WIESEL, PEACE, 1986, OPENING PLENARY SESSION, JANUARY 18, 1988

Mr. President of the Republic, respected colleagues and friends:

Allow me first to thank you, Mr. President, in the name of all the participants, for your warm welcome. Because of you, we feel at home here. The role you have chosen to play in our work does credit to France, where intellectuals have greater access to the government than they do elsewhere. When one of us suggested to you that you host this colloquium, you did not hesitate to say yes. As a thinker, writer, man of action and a great statesman, you share our anguish as well as our hope that humankind will be able to avoid the pitfalls which its own victories ceaselessly place in its path.

In a sense, this is part of our goal in meeting today. This constant acceleration of history having become an indisputable fact, it would be interesting and even useful to define its direction by taking a look at the century that will follow our own. What will it be like? And what means do we have at hand for shaping its course? To be more precise: since human beings have the capacity to affect events, what can they do to guide them towards the sun rather than down into the abyss?

To paraphrase Paul Valery, the future is no longer what it once was, and so we must approach it cautiously. There has been too little caution in our past, though on more than one level it may inspire us with pride. The composition of the present colloquium is the most visible proof of this. So much knowledge, so many outstanding minds gathered together under one roof may well deal a mortal blow to what is left of humility on this planet. Would it be too great an exaggeration of your importance to declare that since Antiquity no century has seen such a blossoming of science and intelligence as this century to which you have contributed so much? In the wake of medical discoveries and technological revolutions, we have witnessed the defeats of epidemics and plagues. Life has been prolonged and new possibilities for happiness found: in 50 years, humanity had made more progress than in the previous twenty centuries.

Even better: whereas the Greek and Roman philosophers had to direct contact with the Jewish prophets and the Chinese and Hindu visionaries, who were their contemporaries, modern researchers are able to take part in the same debate in person . . . Just think—Imaging a colloquium that included Jeremiah and Pythagoras, Lao-tse and Zoroaster, and perhaps Siddhartha . . . Are you their successors? Being modest, you would probably claim to be merely disciples. Still, you must admit you are luckier than they: you are not being asked to die in order to become famous . . . In fact, nothing is being asked of you except . . . to know everything. You are supposed to solve all problems—even those that do not yet exist: How to disarm without disarming. How to win a war without losing it. How to reconcile the tears of starving children with the political aims of the great and small powers.

The fact is that in these times, everything is connected. Poetic creation and the quest for identity, economic upheavals and urban crime, the mysteries of weather prediction and the mysteries of elections. Not only the earth, but also history seems to have shrunk—what happens in one place affects people living everywhere.

Perhaps this the noblest accomplishment of our century: as we abolish distance, men everywhere recognize one another as brothers. Or rather: ought to recognize one another as brothers. For, let us confess, on a moral level, our society is merely groping for progress. Our priorities seem without real focus. We are more preoccupied with problems of space than with any ethical quest, or any quest for an ethic. Concrete matters interest us more than humanity's heart and soul. Man walks on the moon, but remains distant from his fellow man. He explores the depths of the sea, the limits of the universe, but his next door neighbor remains a stranger. We live to be very old, but old age has become a burden and a curse.

Conflicts, tensions, wars: ours is a wounded planet. How can it be healed? The battles in Central America, the famine in Africa, the tragedy of defenseless children, the discrimination against minorities, ethnic, racial and religious. And then too, the situation in the Holy Land where two peoples warily watch one another and oppose one another. How are we to reconcile the anguish of the one and the need for identity of the other? Frustrated, desperate children fight with stones and burning tires and other children, barely older, try to thwart them. When will they understand that in order to live together in mutual respect and dignity, they will both have to transcend themselves by extracting from their past not only fear and distrust but also fraternity and faith? When will these brothers, who share the same love of the Book, cease to be enemies? Let us beware of easy, simplistic answers. Politically almost insoluble, humanly tragic, the problem's inherent curse of violence will surely weigh on some of our debates.

Of course, you are not responsible for all this, or rather: you are no more responsible than anyone else. But that is precisely the point: aren't we all responsible, and isn't each of us a little more so than anyone else? Isn't this the reason for our meeting here, today: to proclaim the principle our ancestors articulated, that we are all responsible for one another? To put it another way: that man is defined not only by his yearning for truth, but also by his sense of solidarity, and therefore of responsibility?

And here I must say something: We regret the absence of our colleague Lech Walesa—that man of courage and of faith. Certain circumstances prohibited him from being here with us today. And so we went to his territory—to his home, to Poland, to be in solidarity with him there. We spoke with him. He assured us that he would be in solidarity with us here, as we were with him there.

We also regret the absence—the involuntary absence—of another illustrious colleague, Andre Sakharov. His presence in this room would surely contribute to the elevation of our discussions and debates. It is too bad that Dr. Sakharov's new friend, General Secretary Gorbachev, does not realize this.

Whenever the horizon seems particularly dark we ask ourselves: What mistakes have we made? And in the name of what truth did we make these mistakes, to justify what lie? At what point did our quest go wrong?

Yesterday, several of us went on a painful pilgrimage, a pilgrimage to the end of Night: I admit that it was the idea of someone who, as a young adolescent, returned from there even as he remained a prisoner of the dead. He was anxious to again see himself there, with those he had left behind.

Our meeting begins today, January 18, 1988. Auschwitz was evacuated on January 18, 1945. Coincidence? There are no coincidences in the traumatized history of our generation. Everything is significant, everything carries a symbolic value. We cannot ignore that. So we set off early yesterday morning and I experienced again the nocturnal silence that once accompanied the "selection." The silence of Birkenau. Its quality, its density have not changed. Like the silence that preceded Creation, the silence of Birkenau entered and enveloped us. With my eyes closed, I once again saw Death at work under a sky in flames.

Auschwitz: monument of ashes, the sorrow and shame of the twentieth century. It forces us to question everything. The very foundations of culture, of faith, of science. Educated men and women, gifted, refined lovers of literature, music and art, were able to commit those most hideous crimes. To that effect, they mobilized all their nation's economic, technical, scientific, and military resources. There were, among them, engineers, doctors, psychiatrists, architects, priests, philosophers: the murderers' world was as rich and diverse as the victims'. How can we explain such an abdication of culture and morality? I have tried to understand for forty years without success. For me, the mystery of Auschwitz remains intact. Anyone who has not experienced it will never understand. But then, why is the witness so eager to testify? To give warning. To invoke the past for the sake of the future.

That is why we made the pilgrimage yesterday. It seemed inconceivable to us to try to look at the coming century without first looking back at the evil symbol of the century that is now approaching its end. As a Hassidic Teacher once said: You wish to find the spark? Look for it in the ashes.

Humanity went astray in Auschwitz. Its ashes are everywhere. Because of it, our task seems all the more urgent. Humanity must be saved—or at least our humanity. We must look beyond abstractions to human beings whose lives and dignity are threatened. We are all on a train that is racing towards a precipice; we cannot change trains, but we must try to change its direction. We are not permitted to stop trying, the Talmud tell us, even if we cannot accomplish it. Is the task too complex, too difficult? One of the characteristics of intelligence is that it never gives up.

We are confronting frightening problems. Hunger. Oppression. Misery. Racial, economic and ideological discrimination. Religious fanaticism. AIDS. Terrorism. The threat of nuclear war. And so, let the physicists occupy themselves with more than just physics. Let the chemists also examine the rights of man. Let the biologists, physicians, and novelists talk about peace. Let all the participants examine our possibilities for peace—Why not?

We will listen to all the speakers with respect, and interest. To insure that the debates will not be disturbed, they will take place behind closed doors. Without projectors, without cameras, the discussions will surely gain in depth.

One word of explanation, before I conclude: in truth, any one of you could have presided over this colloquium or led one of the workshops; each of you is, by definition, the best in his or her field . . . But who knows better than we do the role that chance plays in life?

Thank you, therefore, for having come in such numbers and some of you from so far away, to take part in this conference, the need for which seems evident. One has only to listen well to the rumblings in countries near and far, to measure the dangers that lie in wait for a humanity threatened in its sovereignty and in its dreams. Perhaps, by some miracle, we will be able to transform some of these many dangers into the beginnings of a promise.

ELIE WIESEL, PEACE, 1986, CLOSING SESSION, JANUARY 21, 1988, 3:45 PM

Mr. President, Mrs. Mitterrand, dear colleagues, and friends:

We have now come to the end of this special conference. It opened under the sign of gratitude; it will also close under the sign of gratitude.

Gratitude to you, Mr. President, for offering us a warm and friendly hospitality worthy of France.

Gratitude to you, dear colleagues and friends, for consistently participating in all the discussions, which were sometimes long but always stimulating, often passionate but never stormy: They allowed each of us to give our best.

People will ask us: What have you learned during these four days? First and foremost, we have learned to get acquainted, and perhaps to recognize ourselves in one another. We have discovered that beyond our specialized areas of expertise, we share not only concerns and anxieties, but also commitments and hopes for our children's future.

We also have seen for ourselves, Mr. President, that there exist in this world Statesmen capable of listening to scientists and to Men and Women of Letters who support their idea of what politics is.

What, finally, was the goal of our conference: to take action, or to see that action was taken so that our past might not become our children's future?

People will ask us: Have you solved some of the most important problems facing our society? These problems are as vastly extensive as they are vastly complex. How could we solve in three days what humanity either has ignored or has not been able to solve either in 50 or 5,000 years, indeed, since Cain and Abel? Even the Nobel Foundation has not yet discovered the secret of how to give the Laureates universal wisdom along with their worldly fame. They know better than anyone how much remains for them to find out, or even to learn.

The success of this conference must be looked for and located in the conference itself: the fact that it has taken place is significant and important.

What was the task we set ourselves, a task we announced right here, on the occasion of the Opening? To identify problems and distinguish among them according to their importance. To name the evils that loom over the coming century, though we could not be sure of exorcising them: Epidemics. Famine. Fanaticism. Terrorism. Torture. Pollution. AIDS. The Misery of Children beaten and killed far from the eyes of men and women, and perhaps even from the eyes of God as well. And that somber threat: the threat of Nuclear annihilation.

Even as we enumerated the problems—and we did this before we began—we started to feel discouraged. Yet, it is precisely this conference that prevents us from becoming discouraged. Each participant is proof of what an individual is capable of undertaking and successfully accomplishing for the good of another.

Here, very simply summarized, are the main conclusions we reached:

1. All life forms must be considered as part of humanity's essential patrimony. To harm the ecological balance is therefore a crime against the future.

2. The human species is a single entity, and every individual belonging to it has the same right to liberty, equality, and fraternity.

3. Humanity's richness lies also in its diversity. This richness must be protected in all its aspects—cultural, biological, philosophical, spiritual. To this end, we must ceaselessly strive to be tolerant, to listen to others, to reject final truths.

4. The most important problems confronting humanity today are at once universal and interdependent.

5. Science is a power, and access to it must be equally shared among individuals and nations.

6. The separation that exists in many countries between the intellectual community and the political powers must be reduced. Each must recognize the part the other plays.

7. Education must become an absolute priority in all budgets and must help to enhance all aspects of human creativity.

8. The sciences and technology must be made available, in particular, to developing countries to allow them to control their futures and to define for themselves the areas of knowledge necessary for their futures.

9. While television and the news media constitute an essential means of education for the future, it is important that this education develop a critical spirit towards what is broadcast by the media.

10. Education, food, and preventive medicine are the most important tools for a demographic policy and the reduction of infant mortality. In particular, scholars and politicians must work together to encourage the widespread use of existing vaccines and the development of new ones.

11. All research into the prevention and treatment of AIDS must be pooled and stimulated, rather than held back and compartmentalized, particularly through the cooperation of the drug industry. Once available, the vaccine must be guaranteed by public authorities.

12. Molecular biology, whose recent advances give us hope of progress for medicine in general and the isolation of the genetic aspect of certain diseases in particular, must receive official encouragement.

13. Disarmament will provide a significant impetus to social and economic development, given earth's limited resources and the fact that those resources are currently being drained by the arms industry.

14. We are asking that an international conference be held to deal in a general way with the Third World's debt problem, which is an obstacle to its economic and political development.

15. Governments must commit themselves unambiguously, and in a way that binds them by law, to respect human rights and the treaties they have ratified.

16. The Conference of Nobel Prize Winners will meet again in two years to study these problems. In the meantime, when an emergency is perceived, or wherever human rights are threatened, a smaller group of Nobel Laureates will convene on the spot to draw attention to the emergency or to the abuses.

What words would we say—or wish to say—to the children, the young people, of the 21st Century? Perhaps these:

Because we are thinking of you, our children, who are also our hope, we want to leave you our heritage. We implore you: Take care to make it a source of wonder rather than of malediction. Profit from our knowledge; let it illuminate your destiny rather than bind it in chains. We urge you to look upon the words that connect us as an appeal and not as insult. We encourage you to look upon speech not as a prison but as a form of liberation; let it become for you a prayer and not an expression of remorse.

Together we represent a human experience that binds us to one another. Because of this experience, some of us will tell you that the gravest sin a human being can commit is to persuade other human beings that they are not Princes. We are all Princes. We are not slaves, not objects, but Princes who have a right to sovereignty.

We also want to say to our children that we bequeath them our profound conviction that on our shrinking planet all are bound together by the same need for freedom, the same sense of Solidarity, and the same glimmer of Memory.

To say it another way: my freedom is defined, not by another's lack of freedom, but by his freedom; my freedom depends on his. In the presence of a man or woman in prison, I cannot consider myself free. Hence our obligation never to shut ourselves away in what we think to be our freedom: our freedom can only be assumed in relation to another person's freedom.

To a man born blind, God is blind. To a prisoner, to a condemned man, God is condemned, by Himself. On the other hand, to a free person, it is another's freedom which strengthens and deepens his own. Source and seal of truth, God wishes all people to be likewise. Whoever comes between the Divine Freedom and the Freedom of Human Beings, even if it be in the name of a fanatic faith, betrays both together.

How can we make an impression on our contemporaries, awaken them, show them the thousand dangers presaged by the waning of this cursed and blessed century, express to them our anguish but also our hope—in short, communicate to them our conviction that Humanity's fate is not sealed; that everything is still possible. It is up to human beings to build on the ruins, with the ruins, a hearth, a shelter, a dwelling in which life will be celebrated and not profaned, in which the future will not be accompanied by anguish.

What does the mother give her child, the teacher his pupil, if not hope? What does the friend say to his straying companion, if not that the road leads somewhere? What does the seeker say to the one watching him if not that there is a tomorrow, that life is worth living? What is science's quest, what is art, if not a powerful appeal to hope?

In conclusion, Mr. President, dear Colleagues and Friends, let us simply say this: At the dawn of the 21st Century we have weighed both the Threats and the Promises which history has handed down to us. And we have concluded that though neither outweighs the other, what will make the difference will be our awareness of them.

In Cracow, last Sunday—though it seems far away now—in the courtyard of the city's oldest synagogue, which dates from the 16th Century, a Rabbi gave me the text of a letter which Rabbi Israel Baal Shem Tov, the Master of the Good Name, had written to a friend:

"Grave events are about to take place in this community. We must act without waiting further. I therefore ask you to come with all possible speed so that we may intercede together there to annul the decree. . . ."

This letter, dated 1760, was written in a little village called . . . Auschwitz.

Let us hope that two centuries from now, a scholar will not have to discover a document signed by all of us in Paris containing warnings of another kind.

I would like to conclude with a story:

One of the Just Men came to Sodom, determined to save its inhabitants from sin and punishment. Night and day he walked the streets and markets protesting against greed and theft, falsehood and indifference. In the beginning, people listened and smiled ironically. Then they stopped listening; he no longer even amused them. The killers went on killing, the wise kept silent, as if there were no Just Man in their midst.

One day a child, moved by compassion for the unfortunate teacher, approached him with these words: "Poor stranger, you shout, you scream, don't you see that it is hopeless?"

"Yes, I see," answered the Just Man.

"Then why do you go on?"

"I'll tell you why. In the beginning, I thought I could change man. Today, I know I cannot. If I still shout today, if I still scream, it is to prevent man from ultimately changing me."

(From *One Generation After.*) ●

GREEK INDEPENDENCE DAY

● Mr. DIXON. Mr. President, March 25, 1988, marks the anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire.

As ancient Greece is the birthplace of U.S. democracy, so too, was the American revolution the role model for the modern Greek independence movement that began 167 years ago. In fact, Greek intellectuals translated the U.S. Declaration of Independence and used it as their own declaration and many American volunteers sailed to Greece to participate in Greece's war for independence.

During the early part of this century, 1 of every 4 Greek males emigrated to the United States. Greek Americans, many of whom reside in Illinois, have become immensely successful in the United States serving in labor, business, law enforcement, media, the military, and many other areas. Greek Americans have contributed greatly to the artistic and educational vitality of our country and have risen to serve in the highest political offices in the land. During World War II, more than 600,000 Greeks and Greek Americans died fighting on the side of the allies.

As Will Durant wrote:

> Greek civilization is alive . . . it moves in every breath of mind we breathe . . . so much of it remains that none of us in one lifetime could absorb it all. Greece is the bright morning star of that Western civilization which is our nourishment and life.

Herro Hera Elestria! (Long Live Freedom!)●

GREEK INDEPENDENCE DAY

● Mr. SARBANES. Mr. President, on this day 167 years ago, the Greek people began an arduous struggle to reestablish their independence after nearly four centuries of Turkish Ottoman domination. Struggling for 8 long years against tremendous odds, the brave Greek patriots ultimately succeeded in securing the independence of their country and reaffirming the rights and dignity of the individual. Today we pay tribute to their courage and determination, and to the enduring ideals and principles with which they endowed their new nation.

The Greek War of Independence has significance for all of us. It is not only an inspiring chapter in the long history of Greece's devotion to liberty; it is also a milestone in the struggle for freedom in the modern world. Having recently celebrated the bicentennial of our own Constitution, we are called to reflect on the origins of many of the principles which serve as the underpinnings of that momentous document, as well as on the long relationship between the Greek and American democracies. Thomas Jefferson acknowledged the debt our Founding Fathers owed to the classical philosophers of Greece when he said, "to the ancient Greeks * * * we are all indebted for the light which led ourselves (the American colonists) out of Gothic darkness." In fact, the contributions of the ancient Greeks stretch throughout Western civilization; as Shelley wrote in the preface to his poem "Hellas": "Our laws, our literature, our religion, our arts have their roots in Greece."

Although the Greek uprising in 1821 was regarded skeptically by the monarchical governments of Europe, it was greeted with great enthusiasm in the young American Republic, where the recent experience of colonial domination overthrown and democratic republic established was very vivid. State legislatures and town meetings across the Nation passed resolutions in support of the effort, and American volunteers sailed to Greece to participate in the long struggle. On the floor of the U.S. House of Representatives, the great orator Daniel Webster put the case to his colleagues in 1823, "The Greeks, a people of intelligence, ingenuity, refinement, spirit, and enterprise, have been for centuries under the most atrocious, unparalleled Tararian barbarism that ever oppressed the human race. They look to us as the great Republic of the Earth, and they ask us by our common faith, whether we can forget that they are now struggling for what we can now so ably enjoy?"

The ties which were forged between the two nations and the two peoples in the early days of the American Republic have been reinforced in countless ways over the last 150 years. As nations and peoples, Americans and Greeks were steadfast Allies in World War I. In World War II, the Greek defeat of Mussolini's legions gave the besieged free world its first victory over the Axis Powers, forcing Hitler to dispatch his own armies to occupy Greece. Under a brutal Nazi occupation, the Greeks mounted a fierce resistance; their valiant efforts were an inspiration to their allies and succeeded in tying down valuable divisions of fascist troops. In the aftermath of the war President Harry Truman and the American people helped Greece repel a Communist insurgency and to turn to the task of rebuilding their country, ravaged by nearly 9 years of armed conflict.

This great friendship was further solidified by the thousands of Greek immigrants who came to the United States early in this century and subsequently, adding to the richness and diversity of American society. These new Americans brought with them a profound commitment to the principles of democracy, as well as a strong adherence to important values—hard work, education, family and church—which have been passed down through generations of Greek families. Their contributions to this country are evidenced by the many Americans of Greek descent who have risen to prominence in business, the arts, education and government service.

Today Greece is a vibrant democracy, an important member of the NATO alliance and full participant in the European Community. Unfortunately, however, the Greek struggle for freedom has not ended, since the Turkish occupation of Cyprus has kept thousands of Greek Cypriots uprooted from their homes and separated from their communities for nearly 14 years. Greeks and lovers of freedom everywhere cannot rest until Cyprus is again unified, and peace and justice restored to its people.

As we join today in celebrating Greek Independence Day, we honor the Greek people for their great and continuing sacrifices on behalf of freedom for all peoples. Their devotion to the principles of democracy and respect for the rights of the individual gave rise to the modern day kinship between Greece and America, a relationship founded on a shared aspiration to our peoples' highest ideals and bound together by friendship and mutual admiration.●

CONGRATULATIONS TO COLLEEN CALLAHAN BURNS

● Mr. DIXON. Mr. President, I would like to take this opportunity to congratulate lifetime Illinois resident, Colleen Callahan Burns, on being named winner of the 13th Annual Commendation Awards from American Women in Radio and Television.

Colleen, farm director and reporter for WMBD-TV and radio in Peoria, IL, took top place in the television news stories category for her entry "Farm Wife Financier" which features a Illinois woman who became a self-taught expert in commodity marketing when forced to do the marketing for a farm her sister and she inherited. That "farm wife" now teaches marketing to other farm wives throughout the United States.

Farm Wive Financier was also cited as an excellent example of programming which effectively portrays the changing roles of women. Colleen herself, became the first woman farm director at WMBD in 1973 and had been continually recognized for her work throughout the State of Illinois, and especially in the farm community. I personally know Colleen and consider her, not only an outstanding journalist, but a great friend. I again would like to congratulate Colleen on her many accomplishments and wish her and her family the best in their future endeavors.●

GREEK INDEPENDENCE DAY

● Mr. SIMON. Mr. President, today is the 167th anniversary of Greek independence. It is only fitting that the United States celebrate the independence of the nation and people who developed democracy, our long-time friend and ally, the Republic of Greece.

Throughout history Greece has given the world great philosophers, artists and a rich political tradition. Much of the American language, culture and identity can be traced to Greece. Not long ago there was a travel advertisement which said, "Come home to Greece." And, in a sense, everybody who is dedicated to freedom and democracy has his or her roots in Greece.

Today, Greek Americans continue to play a vital role in shaping our future. Greek Americans have distinguished themselves as leaders and innovators in politics, science and art. My home State of Illinois is fortunate to have a strong, active Greek American community. Their enthusiasm and a commitment to democracy and freedom is inspiring.

Greek Independence Day is a day to celebrate both Greek and American democracy. It is with great pleasure that I take part in such a holiday, and I commend the people of Greece and Greek Americans who hold the democratic ideal.●

BYELORUSSIAN INDEPENDENCE DAY

● Mr. BRADLEY. Mr. President, I am honored to join many of my colleagues in the U.S. Senate to pay tribute to the nearly 1 million American citizens of Byelorussian descent on the occasion of the 70th anniversary of the declaration of independence of the Byelorussian Democratic Republic. On this day of recognition, I applaud the spirit of the Byelorussian people in their continued struggle for freedom, human dignity, and national independence.

The Byelorussian Democratic Republic declared independence from Russia on March 25, 1918, in the capital city of Minsk. On January 1, 1919, the Bolshevik government created its own puppet state, the Byelorussian Soviet Socialist Republic [BSSR], and began to wage war against the independent Byelorussian Democratic Republic. In 1921, independent Byelorussia was conquered and divided between the Soviet Union and Poland. Although Byelorussian sovereignty was short lived, the Byelorussian people retain their love of freedom and pride in their separate identity.

After the invasion, the Soviets immediately commenced to eradicate the Byelorussian language, cultural values, artistic traditions and religion. Russian colonizers flooded Byelorussia, and installed themselves in ruling positions, relegating Byelorussians to second-class citizenship. Agriculture and industry were nationalized by force and thousands of writers, teachers, state officials, scholars, physicians, lawyers, and even students were sent to Siberian prisons and concentration camps. With only a few token exceptions, books, magazines and newspapers with Byelorussian content were destroyed. The Byelorussian language was replaced by the Russian language in government, schools and publications, and the names of towns and institutions were dedicated to Russians. Historic monuments and churches were also destroyed in a further attempt to extinguish Byelorussian culture.

Soviet intimidation of those who desire to emigrate or monitor compliance to international human rights agreements continues today. On this historic milestone, let us speak for the thousands of Soviet refusniks whose only crime is their love of freedom and the desire to emigrate from the Soviet Union. We must use our voices for those whose pleas continue to fall on unsympathetic ears.

Even in the face of such massive pressure, the national spirit of the Byelorussian people strongly thrives today. The United States must continue to recognize the plight of the Byelorussian people. We, as a nation, must not forget our struggle for freedom, and on this day of recognition, let us rededicate ourselves to the cause of freedom as we support those who are speaking out against oppression. I join my colleagues in praising the spirit of the Byelorussian people and in deploring human rights violations inflicted on these courageous people in their quest for freedom and dignity.●

ORDER FOR RECESS UNTIL 11 A.M. ON MONDAY NEXT

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 o'clock a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS ON MONDAY NEXT

Mr. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the two leaders have been recognized under the standing order, there be a period for morning business, not to extend beyond 11:30 a.m., and that the remaining half-hour under the rule be equally divided between Mr. HATCH and Mr. METZENBAUM.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the mandatory quorum then would begin at 12 o'clock noon.

I ask unanimous consent that no motions to recommit, with or without instructions, be in order prior to the vote on cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M., MONDAY, MARCH 28, 1988

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 11, o'clock a.m. on Monday next.

The motion was agreed to; and at 4:01 p.m., the Senate recessed until Monday, March 28, 1988, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, March 25, 1988:

DEPARTMENT OF STATE

MILTON FRANK, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF NEPAL.

APRIL CATHERINE GLASPIE, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF IRAQ.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Monday, March 28, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O loving God, for the gift of renewal in our spirits, in our minds and hearts, and in all our relationships. During this season of new growth may Your redemptive power help us to see a new way to peace, a fresh approach to understanding each other, a renewed commitment to solving the problems before us, and an awakened awareness of the needs of the people about us. May our lives be transformed by Your grace and better reflect the sense of wonder, the joy and opportunities that are before us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 470. Joint resolution to designate March 29, 1988, as "Education Day, U.S.A."

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1414. An act to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1397) "An act to recognize the organization known as the Non Commissioned Officers Association of the United States of America."

The message also announced that the Senate had passed a bill and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1508. An act to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, NV, and for other purposes; and

S. Con. Res. 108. Concurrent resolution urging measures to hasten the transition to democracy in Panama.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF THE HONORABLE JAMES J. HOWARD FROM THE STATE OF NEW JERSEY

Mr. HUGHES. Mr. Speaker, I offer a privileged resolution (H. Res. 414) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 414

That the House has heard with profound sorrow of the death of the Honorable James J. Howard, a Representative from the State of New Jersey.

Resolved, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The SPEAKER. The gentleman from New Jersey [Mr. HUGHES] is recognized for 1 hour.

Mr. HUGHES. Mr. Speaker, the funeral for the late Honorable JIM HOWARD will be held at 10 a.m. at St. Catharine's Roman Catholic Church in Springlake Heights, NJ. The delegation will be leaving from the House steps at 7 a.m. and will return to the House steps at 2:15 p.m. Members interested in joining the delegation to attend the funeral should contact the Sergeant at Arms.

Mr. Speaker, when I first came to the Congress in 1975, JIM HOWARD was one of the Members I turned to for guidance and assistance. He helped teach me the ropes about the legislative system and how it works. But more than that, he taught me how important it is to work hard and to stand up for the issues that you really believe in.

There's no question but that JIM HOWARD was one of the workhorses of the Congress. He had a unique ability to work extremely hard for his congressional district and the State. You can't travel anywhere in New Jersey that you don't see JIM HOWARD's fingerprints on a transportation, shore protection, or economic development project that created jobs and helped improve the quality of life in our State.

This same zest for hard work carried over on a national scale. JIM HOWARD was deeply committed to creating jobs and putting people to work through public works projects. He believed that America's future depended on a modern network of highways and mass transit projects. He used his position as chairman of the Public Works and Transportation Committee to carry out these goals by helping to steer billions of dollars over the years into every district in the country. He looked out for New Jersey and his own district, but he was also extremely fair and judicious in working with other Members of Congress in addressing their local needs.

JIM HOWARD never really had a safe seat in the Congress. He was first elected during the Johnson landslide of 1964, and a lot of people thought his election was a fluke. But he proved everyone wrong. With his penchant for hard work and productivity, he turned his district around. In fact, it was his unrelenting drive to work harder and produce more that probably led to the circumstances that caused his fatal heart attack last week.

JIM HOWARD was a good husband and father, an outstanding public servant, and a great personal friend. Our country has suffered a major setback with his loss. I hope and pray that he will be remembered for the many contributions he made to our country, the State of New Jersey, and the congressional district that he loved so dearly.

My deepest sympathy goes out to his wife of many years, Marlene, and their three beautiful children, Marie, Kathy, and Lenore.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. COELHO. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 2:30 p.m. on Tuesday, March 29, 1988.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

JAMES J. HOWARD INTERSTATE HIGHWAY

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 4263), to designate Interstate Route I-195 in the State of New Jersey as the "James J. Howard Interstate Highway," and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I shall certainly not object, and under my reservation, I yield to the distinguished gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is a privilege and with a great deal of pride that I bring this bill, to designate Interstate Route I-195 in the State of New Jersey as the "James J. Howard Interstate Highway," to the House for consideration. This legislation acknowledges the contributions of one of our dear friends and colleagues, JAMES J. HOWARD of the State of New Jersey, by designating I-195 in the State of New Jersey as the James J. Howard Highway. Through his drive and ability this highway was constructed to connect the State capital, Trenton, with his district in Ashbury Park, NJ. It is only fitting and proper that one of JIM HOWARD's first major achievements in the Congress should carry his name.

For over 23 years, JAMES J. HOWARD represented the Third District of New Jersey. His distinguished service was longer than any other Member of Congress from that district. After being elected to the 89th Congress, JIM HOWARD went on to represent the interests of the people of New Jersey, and indeed of the Nation, in a superb manner.

In the 97th Congress, he was elected chairman of the Committee on Public Works and Transportation. He was the first Congressman from New Jersey to serve as chairman of that committee. Through his legislative prowess, JIM HOWARD was responsible for many of the benefits that are enjoyed by all the people of this Nation.

He has sponsored legislation that has touched almost every aspect of the lives of the citizens of this country.

Many of his legislative achievements have focused on the preservation of life through the enactment of highway safety legislation. JAMES HOWARD has sponsored legislation for many of the most effective highway safety efforts ever adopted by the Congress, including the national maximum speed limit, the 21-year-old minimum drinking age law, antidrunk driving legislation, motor carrier safety, and uniform commercial drivers' license.

JIM HOWARD has also been a champion of the cause to improve the Nation's infrastructure. It can be said with great certainty that no person has done more in the last half century to improve the Nation's infrastructure than has JIM HOWARD. And when one looks at our infrastructure today in relation to 50 years ago, and how far we have come, then one realizes also that no person, ever, has done more to build this Nation's backbone; its highway and public transit network, its dams and sewage treatment plants, its airports, and its buildings.

The work that JIM did for this country was not glamorous work, but it was critically needed. And it was work that JIM threw himself into long before the fancy term "infrastructure" was ever coined.

JIM knew that his efforts, though underappreciated by some, helped everyone. It provided jobs for those who were unemployed and clean water for those who were thristy and it was achieved with an overriding sensitivity to our environment.

During his tenure in Congress, JIM HOWARD served the Nation and his constituents well. He always approached regional concerns and the local concerns with a view of what is in the best interest of the Nation. The residents of the Third District of New Jersey benefited from legislation that he sponsored to provide clean water; the closing of the New York Bight 12-mile sewage sludge dump site; funding for community colleges nationwide, including Ocean County Community College; the 200-mile fishing limit; the electrification and modernization of the north Jersey coast line to Long Branch; the construction of a new intermodal transportation center in Asbury Park, known as the James J. Howard Transportation Center; and the reconstruction of Convention Hall in Asbury Park and construction of the Asbury Park municipal building.

Mr. Speaker, it has been an honor and a privilege to have served for over 19 years on the Committee on Public Works and Transportation alongside my close and dear friend, and leader, JIM HOWARD.

Mr. Speaker, I am pleased to support the enactment of this legislation to help recognize the tremendous work of Congressman JAMES J. HOWARD for the State of New Jersey, its Third District and the Nation. He has served his constituents and America well. There is no way that we could ever adequately thank JIM HOWARD for all his work, or express our gratitude, but this is a small step toward that effort.

□ 1210

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I want to associate myself with the remarks of the distinguished gentleman from California.

Mr. Speaker, I rise in strong support of this legislation which, in a small way, recognizes the tremendous contribution JIM HOWARD has made to this Nation and the Interstate Highway System in particular.

It is especially appropriate to designate Interstate I-195 in New Jersey as the "James J. Howard Interstate Highway," not only because it was the first legislative initiative of JIM HOWARD, but also because JIM spent much of his congressional career laboring to complete the national system we now know as our Interstate Highway System.

Interstate I-195 was first authorized as part of the bipartisan effort known as the Howard-Cramer Act. JIM worked cooperatively with the Public Works and Transportation Committee's ranking Republican member to get this legislation through. And that's the way JIM HOWARD always worked, in true bipartisan fashion, to pass legislation to help the people of our country. He did not care if the constituents elected a Republican or Democrat to Congress. If they needed his help, he was happy to provide that assistance.

We in Arkansas have benefited greatly by his support. Our quality of life has been enhanced greatly by the Clean Water Act, the water resources projects and programs of the Corps of Engineers, and certainly by the Federal-Aid Highway Program that JIM so effectively shepherded as chairman of the Surface Transportation Subcommittee and later as chairman of the full committee.

I could go on to mention his many other accomplishments, his deep love of the environment, and his devotion to his Irish heritage. But suffice it to say that JIM HOWARD was a tremendous leader and a tireless soldier in the effort to improve the infrastructure of our Nation. He expended enormous energy to raise the Nation's consciousness about the determination of our public works systems. He once told me that he went to bed at night worrying about the Nation's infrastructure and felt that he was the only one concerned. We know that he was not alone and we will miss his leadership in this area. JIM HOWARD knew that without a modern system of public works this great Nation cannot expand economically.

So today I join my colleagues in naming Interstate I-195 the "James J. Howard Interstate Highway" as an appropriate recognition of 22 years of hard work in the public service of our Nation by JIM HOWARD.

Ginny and I join all of our colleagues and friends of JIM HOWARD in expressing our heart-felt sympathy to

Marlene and their daughters, Marie, Lenore, and Kathleen.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SHUSTER. Mr. Speaker, on March 25, 1988, we lost a truly great American. Jim Howard was not only a statesman, but a dear friend. The Congress will sorely miss his tremendous contributions to this body. I would like to express my deepest sympathies to Chairman Howard's family as we all grieve his loss.

As chairman of the House Public Works and Transportation Committee, Jim Howard accomplished much for our country's transportation system. As a result of Jim's efforts, millions of Americans confidently use our many airports, highways, and public transit systems each day. Jim has worked diligently to achieve funding for necessary projects to improve water resources, clean water, dams and sewage treatment plants, public buildings, and Federal-aid highway projects. These projects have resulted in a stronger economy, more jobs, safer and more efficient transportation systems, and a greater quality of life for all Americans. Although Jim is no longer with us, his legislative accomplishments will appreciate for years to come. I strongly support this legislation to name Interstate 195 from Trenton to the Jersey shore for our former chairman, the Honorable James J. Howard.

It is highly appropriate that we honor Jim Howard in this special way so that his memory will live on. It is even more appropriate that this memorial should be the designation of a New Jersey interstate as the "James J. Howard Interstate Highway." The highway symbolizes Jim's greatest contributions—those enjoyed by the American driving public. Its placement in New Jersey, honors him and his constituents of the Third District that he represented so well for more than 23 years.

We have lost a Congressman and colleague who has had a colossal influence on our country's infrastructure. All Americans have benefited from his presence. In this small way, we can show our tremendous appreciation for his achievements and ensure that his spirit lives on.

The Clerk read the bill, as follows:

H.R. 4263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The segment of the National System for Interstate and Defense Highways designated as I-95 in the State of New Jersey shall hereafter be known and designated as the "James J. Howard Interstate Highway".

SEC. 2. REFERENCE.

Any reference in a law, map, regulation, document, or other paper of the United States to the highway referred to in section 1 shall be deemed to be a reference to the "James J. Howard Interstate Highway".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4263, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

TRIBUTE TO THE HONORABLE JAMES J. HOWARD

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, I too join in the tribute to the distinguished Member of Congress, Jim Howard, not only a giant in the Congress but an enormously decent man.

As chairman of the House Committee on Public Works and Transportation, James Howard had the unenviable task of setting our national infrastructure priorities. It is a difficult task to tell one community that its dire needs are not as dire of those of another community—that one community would get its new highway, while another would have to wait. In his deliberations on such issues, Chairman Howard was an eminently fair and just leader, slowly building a consensus on bills passing through his committee, satisfying the needs of our constituents throughout the country. His leadership and friendship will be sorely missed.

PROGRESSION OF THE TRADE BILL

Mr. Speaker, one of the pieces of good news over the weekend was the positive progress on the trade bill. I think it is critically important as we move ahead into this legislative session that the priority you have attached to the trade bill be carried out forcefully.

One cause of concern in terms of this trade bill, Mr. Speaker, is news that the House conferees have rejected a Senate proposal on repealing the windfall profit tax. I think it is critically important that people in this country recognize that there have been no windfalls, there have not been any funds, going to the Treasury and that we make every effort to repeal the windfall profit tax to send a signal to the Southwest, to the energy producers of this country, that they are part of the American economy.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2260

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2260.

The SPEAKER. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

TRIBUTE TO THE HONORABLE JAMES J. HOWARD

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, I would like to take just a moment to express my deep respect to Jim Howard and his family.

Walking over to the Capitol a few minutes ago and seeing this glorious spring day with trees in bloom and the breath of such a beautiful season in the Washington air and then to look up at the top of the Capitol and the tops of our buildings and see the flag at half-staff in honor of Chairman Howard.

Mr. Speaker, he was my chairman on the Committee on Public Works and Transportation. He gave me his time and his energy and his consideration as well as his humor and his encouragement.

I will always remember that and I will always appreciate it. I am proud to represent his daughter, Lenore, who lives in my district in Colorado and through her was able to get the chairman to visit my part of Colorado. That was an enormous honor for me.

I would like to again express my deepest sympathy to the Howard family.

APPOINTMENT AS MEMBERS OF FUNERAL COMMITTEE OF THE LATE HONORABLE JAMES J. HOWARD

The SPEAKER. Pursuant to House Resolution 414, the Chair appoints as members of the funeral committee of the late James J. Howard the following Members on the part of the House:

Mr. Rodino of New Jersey;
Mr. Wright of Texas;
Mr. Michel of Illinois;
Mr. Foley of Washington;
Mr. Coelho of California;
Mr. Roe of New Jersey;
Mr. Rinaldo of New Jersey;
Mr. Florio of New Jersey;
Mr. Hughes of New Jersey;
Mr. Courter of New Jersey;
Mr. Guarini of New Jersey;
Mr. Dwyer of New Jersey;
Mrs. Roukema of New Jersey;
Mr. Smith of New Jersey;
Mr. Torricelli of New Jersey;
Mr. Saxton of New Jersey; and
Mr. Gallo of New Jersey.

Without objection, the Chair will reserve the right to add other Members to this delegation and will announce any additional names later in the day

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *March 28, 1988.*

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 4:10 p.m. on Friday, March 25, 1988 and said to contain a message from the President whereby he transmits the annual report pursuant to section 601(a) of the Nuclear Non-Proliferation Act of 1978.

With great respect, I am,

Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNUAL REPORT ON NUCLEAR NON-PROLIFERATION ACT OF 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. GRAY of Illinois) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs:

(For message, see proceedings of the Senate of today, Monday, March 28, 1988.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, March 29, 1988.

INTERNATIONAL CHILD ABDUCTION REMEDIES ACT

Mr. CARDIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3971) to establish procedures to implement the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and for other purposes, as amended.

The Clerk read as follows:*** BAD MAG TAPE ***

H.R. 3971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hnternatinnal Child Abduction Remedies Act".

SEC. 2. FINDINGS AND DECLARATIONS.

(a) FINDHNGS.—The Cnngress makes the followhng findings:

(1) The international abduction or wrongful retention of children is harmful to their well-behng.

(2) Persnns should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.

(3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.

(4) The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of the narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(b) DECLARATIONS.—The Congress makes the following declarations:

(1) It is the purpose of this Act to establish procedures for the implementation of the Convention in the United States.

(2) The provisions of this Act are in addition to and not in lieu of the provisions of the Convention.

(3) In enacting this Act the Congress recognizes—

(A) the international character of the Convention; and

(B) the need for uniform international interpretation of the Convention.

(4) The Convention and this Act empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "applicant" means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(2) the term "Convention" means the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(3) the term "Parent Locator Service" means the service established by the Secretary of Health and Human Services under section 453 of the Social Security Act (42 U.S.C. 653);

(4) the term "petitioner" means any person who, in accordance with this Act, files a petition in court seeking relief under the Convention;

(5) the term "person" includes any individual, institution, or other legal entity or body;

(6) the term "respondent" means any person against whose interests a petition is filed in court, in accordance with this Act, which seeks relief under the Convention;

(7) the term "rights of access" means visitation rights;

(8) the term "State" means any of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(9) the term "United States Central Authority" means the agency of the Federal Government designated by the President under section 7(a).

SEC. 4. JUDICIAL REMEDIES.

(a) JURISDICTION OF THE COURTS.—(1) The courts of the States shall have original jurisdiction of all actions arising under the Convention.

(2) The United States district courts shall have jurisdiction of any action arising under the Convention to the extent authorized by chapter 85 of title 28, United States Code.

(b) PETITIONS.—Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangements for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction of such action and which is authorized to exercise its jurisdiction in the place where the child is located at the time the petition is filed.

(c) NOTICE.—Notice of an action brought under subsection (b) shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) DETERMINATION OF CASE.—The court in which an action is brought under subsection (b) shall decide the case in accordance with the Convention.

(e) BURDENS OF PROOF.—(1) A petitioner in an action brought under subsection (b) shall establish by a preponderance of the evidence—

(A) in the case of an action for the return of a child, that the child has been wrongfully removed or retained within the meaning of the Convention; and

(B) in the case of an action for arrangements for organizing or securing the effective exercise of rights of access, that the petitioner has such rights.

(2) In the case of an action for the return of a child, a respondent who opposes the return of the child has the burden of establishing—

(A) by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and

(B) by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.

(f) APPLICATION OF THE CONVENTION.—For purposes of any action brought under this Act—

(1) the term "authorities", as used in article 15 of the Convention to refer to the authorities of the state of the habitual residence of a child, includes courts and appropriate government agencies;

(2) the term "wrongful removal or retention" and "wrongfully removed or retained", as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child; and

(3) the term "commencement of proceedings", as used in article 12 of the Convention, means, with respect to the return of a child located in the United States, the filing of a petition in accordance with subsection (b) of this section.

(g) FULL FAITH AND CREDIT.—Full faith and credit shall be accorded by the courts of the States and the courts of the United States to the judgment of any other such court ordering or denying the return of a child, pursuant to the Convention, in an action brought under this Act.

(h) Remedies Under the Convention Not Exclusive.—The remedies established by the Convention and this Act shall be in addition to remedies available under other laws or international agreements.

SEC. 5. PROVISIONAL REMEDIES.

(a) Authority of Courts.—In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 4(b) of this Act may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition.

(b) Limitation on Authority.—No court exercising jurisdiction of an action brought under section 4(b) may, under subsection (a) of this section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

SEC. 6. ADMISSIBILITY OF DOCUMENTS.

With respect to any application to the United States Central Authority, or any petition to a court under section 4, which seeks relief under the Convention, or any other documents or information included with such application or petition or provided after such submission which relates to the application or petition, as the case may be, no authentication of such application, petition, document, or information shall be required in order for the application, petition, document, or information to be admissible in court.

SEC. 7. UNITED STATES CENTRAL AUTHORITY.

(a) Designation.—The President shall designate a Federal agency to serve as the Central Authority for the United States under the Convention.

(b) Functions.—The functions of the United States Central Authority are those ascribed to the Central Authority by the Convention and this Act.

(c) Regulatory Authority.—The United States Central Authority is authorized to issue such regulations as may be necessary to carry out its functions under the Convention and this Act.

(d) Obtaining Information From Parent Locator Service.—The United States Central Authority may, to the extent authorized by the Social Security Act, obtain information from the Parent Locator Service.

SEC. 8. COSTS AND FEES.

(a) Administrative Costs.—No department, agency, or instrumentality of the Federal Government or of any State or local government may impose on an applicant any fee in relation to the administrative processing of applications submitted under the Convention.

(b) Costs Incurred in Civil Actions.—(1) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions, and travel costs for the return of the child involved and any accompanying persons, except as provided in paragraphs (2) and (3).

(2) Subject to paragraph (3), legal fees or court costs incurred in connection with an action brought under section 4 shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(3) Any court ordering the return of a child pursuant to *** BAD MAG TAPE *** an action brought under section 4 shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

SEC. 9. COLLECTION, MAINTENANCE, AND DISSEMINATION OF INFORMATION.

(a) In General.—In performing its functions under the Convention, the United States Central Authority may, under such conditions as the Central Authority prescribes by regulation, but subject to subsection (c), receive from or transmit to any department, agency, or instrumentality of the Federal Government or of any State or foreign government, and receive from or transmit to any applicant, petitioner, or respondent, information necessary to locate a child or for the purpose of otherwise implementing the Convention with respect to a child, except that the United States Central Authority—

(1) may receive such information from a Federal or State department, agency, or instrumentality only pursuant to applicable Federal and State statutes; and

(2) may transmit any information received under this subsection notwithstanding any provision of law other than this Act.

(b) Requests for Information.—Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) Respnnshbility of Government Entities.—Whenever any department, agency, or instrumentality of the United States or of any State receives a request from the United States Central Authority for information authorized to be provided to such Central Authority under subsection (a), the head of such department, agency, or instrumentality shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality in order to determine whether the information requested is contained in any such files or records. If such search discloses the information requested, the head of such department, agency, or instrumentality shall immediately transmit such information to the United States Central Authority, except that any such information the disclosure of which—

(1) would adversely affect the national security interests of the United States or the law enforcement interest of the United States or of any State; or

(2) would be prohibited by section 9 of title 13, United States Code,

shall not be transmitted to the Central Authority. The head of such department, agency, or instrumentality shall, immediately upon completion of the requested search, notify the Central Authority of the results of the search, and whether an exception set forth in paragraph (1) or (2) applies. In the event that the United States Central Authority receives information and the appropriate Federal or State department, agency, or instrumentality thereafter notifies the Central Authority that an exception set forth in paragraph (1) or (2) applies to that information, the Central Authority may not disclose that information under subsection (a).

(d) Information Available From Parent Locator Service.—To the extent that information which the United States Central Authority is authorized to obtain under the provisions of subsection (c) can be obtained through the Parent Locator Service, the United States Central Authority shall first seek to obtain such information from the Parent Locator Service, before requesting such information directly under the provisions of subsection (c) of this section.

(e) Recordkeeping.—The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

SEC. 10. INTERAGENCY COORDINATING GROUP.

The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide advice on its implementation to the United States Central Authority and other Federal agencies. This group shall meet from time to time at the request of the United States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the interagency coordinating group at rates not to exceed those authorized under subchapter I of chapter 57 of title 5, United States Code, for employees of agencies.

SEC. 11. AGREEMENT FOR USE OF PARENT LOCATOR SERVICE IN DETERMINING WHEREABOUTS OF PARENT OR CHILD.

Section 463 of the Social Security Act (42 U.S.C. 663) is amended—

(1) by striking "under this section" in subsection (b) and inserting "under subsection (a)";

(2) by striking "under this section" where it first appears in subsection (c) and inserting "under subsection (a), (b), or (e)"; and

(3) by adding at the end the following new subsection:

"(e) The Secretary shall enter into an agreement with the Central Authority designated by the President in accordance with section 7 of the International Child Abduction Remedies Act, under which the services of the Parent Locator Service established under section 453 shall be made available to such Central Authority upon its request for the purpose of locating any parent or child on behalf of an applicant to such Central Authority within the meaning of section 3(1) of that Act. The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of the Convention and this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SHAW. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland [Mr. Cardin] will be recognized for 20 minutes and the gentleman from Florida

[Mr. SHAW] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 3971 is to establish court and administrative procedures for the implementation of the Hague Convention on the Civil Aspects of International Child Abduction.

I would first like to compliment the chairman of our subcommittee, the gentleman from Massachusetts [BARNEY FRANK] for bringing this matter to the floor in such an expedited procedure.

I should point out that the hearing took place in our subcommittee on February 3 of this year. The subcommittee markup was on February 25, the full committee on March 15 and we already have the bill before this House.

Mr. Speaker, I really want to thank the gentleman for his expedited procedure so that the House could consider this matter at this early date.

I would also like to compliment the ranking minority member, the gentleman from Florida [CLAY SHAW] for the work that he did in making sure that we could, as a House, consider this matter at the earliest possible moment.

The chairman of the full committee, the gentleman from New Jersey [Mr. RODINO] also deserves the thanks of our colleagues for this matter currently being before the House.

Last, I would like to compliment the sponsor, the gentleman from California [Mr. LANTOS] for the work that he has done in trying to find procedures in which we can stop the unlawful abduction of children.

What the purpose of the convention was all about, Mr. Speaker, was to remove any reward for kidnaping or taking a child to another country and to encourage the use of court proceedings to determine issues involving children rather than snatching of children.

It is a simple approach that is taken by this convention, and that is to restore the factual situation that existed prior to the child's removal or retention. It does not seek to settle the dispute about legal custodial rights. I think that is very important for me to emphasize that point, Mr. Speaker. The purpose of the convention is not to settle disputes but to return to the status quo, to remove the incentive to abduct a child.

The international abductor is denied legal advantage for taking the child.

The Hague Convention on Civil Aspects of Child Abduction was signed by the United States on December 23, 1981. The President transmitted it to the Senate of the United States on October 30, 1985. It was ratified by the Senate on October 9, 1986 subject to the reservation as to cost.

I might say that that reservation is also contained in the legislation that is before you.

However, it is the opinion that legislation is needed in order for ratification and that is the reason why the bill is before this House today.

There are currently 29 countries which have signed the Hague Convention; 9 have ratified, including Australia, Canada, France, Hungary, Luxembourg, Portugal, Spain, Switzerland, and the United Kingdom.

□ 1225

The legislation that is recommended by the committee will place original jurisdiction in our State courts to determine whether the habitual residence of the child is satisfied to order the return of that child to that particular residence.

The Federal court jurisdiction is retained as provided for under chapter 85, title XXVIII.

The bill before us establishes a U.S. central authority. It is authorized to discharge the duties imposed on the United States by the convention, to cooperate in locating children who have been abducted and to assist in the return of those children to their habitual residence.

It establishes in the legislation an Interagency Coordinating Group to monitor the operation of the convention, including representatives from the Secretary of State, Health and Human Services, and the Attorney General and such private citizens that may be appointed.

Parent locator service is available to the central authority for the purposes of locating certain absent parents or children and that particular amendment was recommended by the Ways and Means Committee.

Mr. Speaker, section 4(e) of the legislation deals with the burden of proof. It provides that the parents seeking the return of the child must establish his or her particular case by the preponderance of the evidence, but that the respondent must show that one of the exceptions provided for under the conventions has been established by clear and convincing evidence. It is for that reason that we have the Frank-Morrison modification that is incorporated in the amended bill that is before us. That modification makes it clear that the clear and convincing evidence would only be used on those nebulous exemption grounds that if the court found there was a grave risk to the physical or psychological harm of the child or that fundamental principles for human rights and freedom would negate the reason for returning the child. If the person who is responding to the particular petition wishes to invoke one of those exceptions, then under the Frank-Morrison modification the person would have to establish that by clear and convincing evidence.

The procedural exemptions that are contained in the convention would only have to be established by a preponderance of the evidence.

Mr. Speaker, this is important legislation and I urge my colleagues to support the suspension.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3971, the International Child Abduction Remedies Act. I think it is fitting that Congress address this issue head-on with legislation like we have before us today, especially in light of the increase over the recent years of the abduction of children into foreign countries.

Certainly, a person who abducts a child should not be able to succeed in that abduction simply by fleeing to a foreign country and then hiding behind legal obstacles in a foreign country in order to keep that child from being recovered by his or her rightful custodial parent or guardian. This legislation addresses that problem by implementing the Hague Convention on the Civil Aspects of International Child Abduction. This legislation, like the Hague Convention, sets forth procedures under which a parent whose child has been abducted may seek recovery of that child in a foreign country without the obstacle of a protracted custody battle. The purpose of the Convention is simply to return the custody of the child to the status quo that existed before the child was abducted; and then if a legal custody battle is to ensure at least the wrongdoer will not benefit from a lengthy legal contest by having custody of the child during the legal dispute.

Members of the Subcommittee on Administrative Law and Governmental Relations have hammered out some of the issues surrounding this legislation at the subcommittee level and further at the full committee level and I believe this bill before us today represents a good product of the committee process.

Mr. Speaker, I would like to commend our colleague, the gentleman from Massachusetts [Mr. FRANK], together with the gentleman from Maryland [Mr. CARDIN], as well as my colleague, the gentleman from California [Mr. LANTOS], who I believe will be heard on this bill at a later time, for introducing this bill and to my other colleagues on the Judiciary Committee for the constructive debate and consideration which has brought this bill to the floor today.

We had many witnesses of pathetic situations that were caused by the long dragging out of the legal process, and I believe this bill will go a long way toward correcting these abuses which our committee has examined.

Mr. CARDIN. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. Lantos], the sponsor of the bill, the person who brought the bill to the House.

Mr. LANTOS. Mr. Speaker, I want to thank my friend and colleague from Maryland for yielding me this time.

Mr. Speaker, the Department of State has estimated that there are about 3,500 American children who have been taken abroad by noncustodial parents and that at the present time there is no international mechanisms for returning these children to their homes in the United States with their court-determined custodial parent.

Child abduction by noncustodial parents has been the fastest growing problem to U.S. consular officers stationed abroad, and there is little the State Department can do at the moment other than to report on the health of the child and recommend that the custodial parent seek relief in the courts of the country to which the child has been abducted. But foreign courts have been uniformly reluctant to return children, absent an international convention which provides a fair and equitable mechanism for such actions.

In 1980, the United States joined several other nations to develop just such a mechanism which was signed in 1981, becoming the Hague Convention on the Civil Aspects of International Child Abduction. The U.S. Senate ratified that convention unanimously in 1986.

Now, the convention, Mr. Speaker, is implementing legislation to provide for the judicial structure to hear and to resolve these cases. My legislation, H.R. 3971, is this implementing legislation and it is a long overdue U.S. response to a heart-wrenching problem. Several countries are now fully participating in the convention, and as we become a partner in the convention most of the European nations are poised to join us.

In my discussions with representatives with both the European parliaments and different European legislatures, I have heard a great deal of support for a system to return children wrongfully taken from their country by a noncustodial parent. I think we can safely say that with the implementing bill, the legislation before us, we will join a larger international community of nations committed to bringing children back to their parents.

A version of this bill was considered last fall as part of the State Department authorization. The clean bill we will vote on today provides necessary implementing procedures and outlines appropriate judicial jurisdictions while providing parents from other nations access to locator services used in interstate abductions with the same safeguards in use that this service provides to our own citizens.

I want to thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. Frank]; the chairman of the full committee, the gentleman from New Jersey [Mr. Rodino]; the ranking Republican members of both the subcommittee and the full committee; and my good friend and colleague, the gentleman from New York, Congressman Gilman, who was so helpful in this legislation.

What we are about to do, Mr. Speaker, is to bring back American children to their parents from whom they have been wrongfully abducted, and I strongly urge the passage of this legislation.

Mr. SHAW. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Gilman].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of H.R. 3971, the International Child Abduction Remedies Act. I would like to commend the gentleman from California [Mr. Lantos] for introducing this fine bill and for his commitment toward resolving the complications associated with international child abduction cases.

Mr. Speaker, I am contacted by dozens of constituents each Congress who have had their child abducted by a spouse, removed from the United States, and have no legal course of action for their return. This has been a frustrating situation for the custodial parent, the courts, and for lawmakers alike. In 1980, the Hague Convention on the Civil Aspects of International Child Abduction establishing an administrative and legal system for promptly returning abducted children retained in foreign countries was adopted. H.R. 3971 simply implements the Hague Convention by directing the President to designate a Federal agency to serve as the U.S. central authority to respond to information requests on abducted child.

International child abduction is a growing problem affecting thousands of American children each year. We can no longer keep our eyes closed. H.R. 3971 would cost the Federal Government well below $1 million annually, a modest amount to ensure the safe return and provide for the welfare of these children.

As a cosponsor of the International Child Abduction Remedies Act, I urge my colleagues to join together in conquering this spreading disease, and john hn supporting this important and long-overdue legislation.

Mr. LIPINSKI. Mr. Speaker, I rise today in strong support of H.R. 3971 and urge its adoption by the House. I have personal knowledge of how devastating international parental kidnaping can be—one of my constituents, Mrs. Particia Roush-Samuta, had her two beautiful little girls taken away from her by their father, Khalid Al-Gheshayan, a Saudi Arabian national. They have been held against their will in Saudi Arabia for over 2 years. The pain of being separated from her two daughters has been a very difficult burden for this brave woman to bear.

This important measure will implement the Hague Convention on the Civil Aspects of International Child Abduction and, consequently, will make it easier to insure the prompt return of abducted children. Sadly, since Saudi Arabia is not signatory to the Hague Convention agreement, this legislation will not force the return of my constituent's little girls. However, I believe passage of the bill is an important first step in recognizing and coming to grips with this growing problem.

Last October, the Senate passed the Hague Convention agreement. Yet, because accompanying Federal legislation was deemed necessary to fully implement all aspects of the agreement, legislation had to be introduced in the Congress. The result is what we see before us today. I sincerely hope my colleagues will allow this measure to be passed promptly so that we can begin to abide by the provisions of the convention. To date, 9 of the 29 signatory countries have ratified the convention.

I wish to commend Chairman Frank, Congressman Lantos, and the many others whose interest in this important piece of legislation made its passage a reality.

Mr. CARDIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHAW. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Gray of Illinois). The question is on the motion offered by the gentleman from Maryland [Mr. Cardin] that the House suspend the rules and pass the bill, H.R. 3971, as amended.

The question was taken; and (two-thirds having favored in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to establish procedures to implement the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CARDIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 3971.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

ABANDONED SHIPWRECK ACT OF 1987

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 858) to establish the title of States in certain abandoned shipwrecks, and for other purposes.

The Clerk read as follows:

S. 858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Shipwreck Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(a) States have the responsibility for management of a broad range of living and nonliving resources in State waters and submerged lands; and

(b) included in the range of resources are certain abandoned shipwrecks, which have been deserted and to which the owner has relinquished ownership rights with no retention.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(a) the term "embedded" means firmly affixed in the submerged lands or in coralline formations such that the use of tools of excavation is required in order to move the bottom sediments to gain access to the shipwreck, its cargo, and any part thereof;

(b) the term "National Register" means the National Register of Historic Places maintained by the Secretary of the Interior under section 101 of the National Historic Preservation Act (16 U.S.C. 470a);

(c) the terms "public lands," "Indian lands" and "Indian tribe" have the same meaning given the terms in the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-470ll);

(d) the term "shipwreck" means a vessel or wreck, its cargo, and other contents;

(e) the term "State" means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and

(f) the term "submerged lands" means the lands—

(1) that are "lands beneath navigable waters," as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301);

(2) of Puerto Rico, as described in section 8 of the Act of March 2, 1917, as amended (48 U.S.C. 749);

(3) of Guam, the Virgin Islands and American Samoa, as described in section 1 of Public Law 93-435 (48 U.S.C. 1705); and

(4) of the Commonwealth of the Northern Mariana Islands, as described in section 801 of Public Law 94-241 (48 U.S.C. 1681).

SEC. 4. RIGHTS OF ACCESS.

(a) ACCESS RIGHTS.—In order to—

(1) clarify that State waters and shipwrecks offer recreational and educational opportunities to sport divers and other interested groups, as well as irreplaceable State resources for tourism, biological sanctuaries, and historical research; and

(2) provide that reasonable access by the public to such abandoned shipwrecks be permitted by the State holding title to such shipwrecks pursuant to section 6 of this Act, it is the declared policy of the Congress that States carry out their responsibilities under this Act to develop appropriate and consistent policies so as to—

(A) protect natural resources and habitat areas;

(B) guarantee recreational exploration of shipwreck sites; and

(C) allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

(b) PARKS AND PROTECTED AREAS.—In managing the resources subject to the provisions of this Act, States are encouraged to create underwater parks or areas to provide additional protection for such resources. Funds available to States from grants from the Historic Preservation Fund shall be available, in accordance with the provisions of title I of the National Historic Preservation Act, for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

SEC. 5. PREPARATION OF GUIDELINES.

(a) In order to encourage the development of underwater parks and the administrative cooperation necessary for the comprehensive management of underwater resources related to historic shipwrecks, the Secretary of the Interior, acting through the Director of the National Park Service, shall within nine months after the date of enactment of this Act prepare and publish guidelines in the Federal Register which shall seek to:

(1) maximize the enhancement of cultural resources;

(2) foster a partnership among sport divers, fishermen, archeologists, salvors, and other interests to manage shipwreck resources of the States and the United States;

(3) facilitate access and utilization by recreational interests;

(4) recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

(b) Such guidelines shall be developed after consultation with appropriate public and private sector interests (including the Secretary of Commerce, the Advisory Council on Historic Preservation, sport divers, State Historic Preservation Officers, professional dive operators, salvors, archeologists, historic preservationists, and fishermen).

(c) Such guidelines shall be available to assist States and the appropriate Federal agencies in developing legislation and regulations to carry out their responsibilities under this Act.

SEC. 6. RIGHTS OF OWNERSHIP.

(a) UNITED STATES TITLE.—The United States asserts title to any abandoned shipwreck that is—

(1) embedded in submerged lands of a State;

(2) embedded in coralline formations protected by a State on submerged lands of a State; or

(3) on submerged lands of a State and is included in or determined eligible for inclusion in the National Register.

(b) The public shall be given adequate notice of the location of any shipwreck to which title is asserted under this section. The Secretary of the Interior, after consultation with the appropriate State Historic Preservation Officer, shall make a written determination that an abandoned shipwreck meets the criteria for eligibility for inclusion in the National Register of Historic Places under clause (a)(3).

(c) TRANSFER OF TITLE TO STATES.—The title of the United States to any abandoned shipwreck asserted under subsection (a) of this section is transferred to the State in or on whose submerged lands the shipwreck is located.

(d) EXCEPTION.—Any abandoned shipwreck in or on the public lands of the United States is the property of the United States Government. Any abandoned shipwreck in or on any Indian lands is the property of the Indian tribe owning such lands.

(e) RESERVATION OF RIGHTS.—This section does not affect any right reserved by the United States or by any State (including any right reserved with respect to Indian lands) under—

(1) section 3, 5, or 6 of the Submerged Lands Act (43 U.S.C. 1311, 1313, and 1314); or

(2) section 19 or 20 of the Act of March 3, 1899 (33 U.S.C. 414 and 415).

SEC. 7. RELATIONSHIP TO OTHER LAWS.

(a) LAW OF SALVAGE AND THE LAW OF FINDS.—The law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 6 of this Act applies.

(b) LAWS OF THE UNITED STATES.—This Act shall not change the laws of the United States relating to shipwrecks, other than those to which this Act applies.

(c) EFFECTIVE DATE.—This Act shall not affect any legal proceeding brought prior to the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. SHUMWAY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 858, the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, historic shipwrecks are a key part of our Nation's history, vividly illustrating the importance of our maritime heritage. By passing S. 858 we will join the Senate in recognizing the significance of the historic shipwrecks and in providing greater protection for them. S. 858, the product of years of consideration and compromise, asserts U.S. title to certain abandoned shipwrecks and transfers that title to the State so that they can manage these cultural resources located on their State-submerged lands.

Our image of historic shipwrecks is often pirate vessels and Spanish galleons loaded with treasure and gold. But most of the abandoned shipwrecks fit into neither category. They are everything from tugboats to schooners to ferries. These shipwrecks provide recreational opportunities for divers, commercial opportunities for salvors and unique information for archeologists. Modern technology has greatly improved our access to these shipwrecks, increasing the need of their protection.

In my part of the country, Minnesota and the Great Lakes, there are at least 7,000 shipwrecks, ranging from small sailing craft from the fur trade era to military vessels, palace steamers, and modern steel freighters. Only a few of these shipwrecks have great historic significance. Most do not. For those with historic significance, the greatest treasure many of them can yield is the knowledge we can gain about our history, not the odd artifacts pulled from them.

Currently, some 27 States have laws concerning the protection of historic shipwrecks. These States spend a disproportionate amount of effort and expense in admiralty court arguing for jurisdiction over the shipwrecks on their State-submerged lands. Admiralty law developed in the ancient Mediterranean—long before anybody even thought of cultural resources. It was designed to encourage the retrieval of commercial goods, not the protection of cultural resources. S. 858 does not affect the jurisdiction of admiralty law over the greater percentage of shipwrecks not defined as historic. By asserting title to that small percentage of shipwrecks defined as historic and transferring that title to the States on whose submerged lands they lie, this bill clarifies the jurisdiction over the abandoned shipwrecks and helps the States protect their cultural resources.

This bill will not end the conflicting interests and desires of the different groups interested in historic shipwrecks. But it does provide a framework where these groups can—and must—work together. As stated in the bill, all the principal groups are included in developing the Secretary of the Interior's guidelines. I particularly want to note that it is our intention that sport divers be assured access to these historic shipwrecks to the maximum extent practicable. Access to historic shipwrecks is not, however, the same as collection from them. People are welcome to visit the resources but not to take irreplaceable resources away with them.

I believe that the historic shipwrecks will come to be increasingly understood as a key part of our national heritage. With this legislation they will receive the greater protection they need. These vessels have been wrecked once. They should not be allowed to be wrecked again, wrecked again and lost for all time.

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Mr. Speaker, I reserve the balance of my time.

Mr. SHUMWAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill should be voted down today on both substantive and procedural grounds.

First, the substantive reasons. In my mind, there is a constitutional question as to whether this bill is a good idea, even in theory. At the very least, however, if the House is to pass S. 858 and send it to the President for his signature, the bill should be amended to correct the legal and policy problems it poses in its present form.

PROBLEMS WITH S. 858 AS DRAFTED

First, by far the most glaring problem with the bill is that it fails to protect the interests of sport divers, and the private sector generally. Proponents of the bill point to section 4's so-called rights of access provisions as protection for sport divers. That is simply not true. Section 4 contains only nonbinding recommendations regarding rights of access.

Simply stated, there is no legal, binding, or enforceable way, under this bill as it is written, to ensure that sport divers' right to dive on these wrecks, even for purely recreational purposes, will be protected by States. Moreover, there will no longer be the same private sector incentive to go out and discover wrecks as there is now under the present system. I can't stress these points enough. These two factors—the failure to protect sport divers and the elimination of private sector incentive to discover shipwrecks—more than any, are, in my mind, why this bill should be voted down under suspension.

Because of these gaps in S. 858, the 4 million sport divers throughout the United States are virtually unanimous in their opposition to the bill. And they are by far the largest constituency group affected by the bill.

Among the sport diving groups officially opposed to S. 858 are:

The Professional Association of Diving Instructors [PADI];

The National Association of Underwater Instructors [NAUI];

The National YMCA Scuba Program;

The Florida Association of Dive Operators;

The National Association of Scuba Diving Schools;

The International Diving Educators Association [IDEA];

The Atlantic Alliance for Maritime Heritage Conservation; and

Skin Diver magazine.

Let me give some examples of how the private sector and responsible sport divers will lose out under this legislation.

In 1986, the U.S. District Court for the District of Delaware resolved conflicting claims for the right to recover English ironstone china from a 19th-century sailing vessel which is wrecked at the mouth of the Delaware Bay. The court held that the sport diving group, Ocean Watch, had demonstrated that its members had been diving on, and responsibly recovering, china plates and dishes from the so-called China wreck, and were, therefore, entitle to unfettered access. With enactment of S. 858, there is no way for the Federal courts to protect sport diving interests, as they have done in the past, and sport divers, fearing heavy-handed State regulation which will greatly restrict diving access, understandably oppose this bill on this basis.

Given the track record of certain States like Florida, Texas, and Georgia, sport divers have good reason to be concerned. Despite the constitutional basis for Federal involvement in shipwreck cases, some States have assumed that they have title to shipwrecks on their submerged lands and passed laws accordingly. According to testimony in our hearing, in Wisconsin, for example, the State attempted in 1986 to enact legislation which would have asserted ownership to 300 shipwrecks in their State waters, leaving only the rest open for sport diving. The problem was, there are only 300 known shipwrecks in Wisconsin waters, and therefore nothing left for sport divers.

In Georgia, again according to committee testimony, three sport divers became interested in the Civil War vessel, the C.S.S. *Nashville.* The divers attempted to get a State permit to dive on the wreck and perform archeological studies and recovery of artifacts. The State had no permitting procedure so they went ahead with their plans. The divers responsibly recovered and preserved a whole host of artifacts and put them on public display. The Georgia Department of Natural Resources then came along and seized all the artifacts, and the artifacts are now under lock and key away from public view. And divers are no longer permitted on this shipwreck. The three divers have since published a book which goes into a great deal of history and detail known only because of their efforts, and which may not have been possible under the provisions of this bill.

In New Jersey, a diver who was involved in a program—ironically with the blessing of the State—to work on a historic shipwreck site was arrested by the State simply for diving on the shipwreck.

In Texas, the private sector is virtually outlawed from any involvement in State shipwrecks. As a result, very few shipwrecks are ever found there any more.

There are countless other examples, including the State of Florida jailing Mel Fisher who discovered and salvaged the *Atocha* for all the world to see and learn from simply because the State wanted the *Atocha* for its own State archeologists. And no one can claim that Fisher failed to perform responsible salvage—he hired some of the world's finest archeologists.

By giving State bureaucracies complete control over shipwrecks, this bill would, in effect, throw a wet blanket on the private sector's incentive to go out and discover shipwrecks, and that certainly is not an archaeologically sound idea. We risk never finding out the history of many of these great vessels if we cut out the private sector. And we will eliminate their recreational value to many sport divers in the process.

The bill could easily be amended to correct these major flaws and protect the grave concern of the sport divers and the private sector—but under suspension there is no opportunity for amendments.

Second, a related problem with this bill is that it completely abdicates any and all Federal involvement in shipwreck cases located in territorial waters—despite the fact that article III, section 2 of the U.S. Constitution says that admiralty and maritime matters are to be under the jurisdiction of the Federal Government; and despite the fact that for 200 years Federal admiralty courts have handled these cases.

This bill could easily be amended to preserve Federal judicial oversight on these matters without changing the structure of the bill, and thus preserve the constitutional role we have had for over 200 years. Again, this amendment can't be offered under suspension of the rules.

Third, the bill does not comport with international law. The State Department is officially on record as saying that the geographic scope of the act, in the case of Texas, Florida, and Puerto Rico, extend beyond 3 nautical miles to 9 miles and, therefore, is inconsistent with international law.

A simple amendment to the definition section of the bill could solve this inconsistency—but the rule doesn't allow amendments.

Fourth, the bill is overly broad in it's application. Despite what proponents say, this bill applies to all shipwrecks in territorial waters that are embedded in the submerged lands. Testimony in our committee hearings indicated clearly that any shipwreck that has been on the ocean floor for more than a week would be embedded to the extent that it is covered by this bill.

Amending the criteria for which shipwrecks are covered by this act could easily be accomplished—but not under suspension.

Fifth, the bill creates potential conflicts for national marine sanctuaries. Under this bill title to any shipwrecks in a national marine sanctuary within the territorial seas would have to be transferred to the State it was located off of. One example of such a shipwreck in a national marine sanctuary is the famous Civil War vessel U.S.S. *Monitor.*

Again, a simple amendment, if it were allowed, could fix this potential legal problem.

Sixth, under this bill even Federal shipwrecks don't have to be managed in a manner which protects sport divers. The section 5 and five guidelines are again nonbinding.

This, too, could easily be improved upon by a simple amendment.

PROCEDURAL REASONS TO OPPOSE S. 858

This brings us to the procedural question. Procedurally, this bill should be opposed by the House Members because, under suspension of the rules, we are prevented from making the improvements this bill is desperately in need of: Improvements which I've just outlined, and improvements which Members on both sides of the aisle generally agreed were needed when the full Merchant Marine and Fisheries Committee considered the bill last Wednesday.

I offered amendments to correct all of these problems with the bill last Wednesday. The only argument that was made by Members, including the author of the House bill, Mr. BENNETT, was that if we change the bill and improve it, there is no guarantee that the other body will pass it again. No one raised a substantive or policy reason as to why my amendments shouldn't be adopted.

When I asked if there was anyone in the other body who has stated his or her intention to kill the bill if we returned it to the Senate, no one was able to indicate a real threat to its passage. The bill passed the Senate once unanimously this Congress, and there is no reason to believe it wouldn't pass it again.

This don't-amend-it-or-we'll-kill-it argument is merely scare tactics on the part of proponents of the bill to get it passed, not on the part of those of us who have legitimate concerns and want to see the bill's flaws improved or eliminated.

This House should not give up its legislative duty to amend and improve a bill which the other body has sent us. Let's vote it down under suspension and bring it back up under an open rule so Members can offer amendments and address their concerns.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina [Mr. JONES], the chairman of the Committee on Merchant Marine and Fisheries.

Mr. JONES of North Carolina. Mr. Speaker, I rise today in strong support of S. 858, the Abandoned Shipwreck Act on 1987. This legislation is needed to clarify the responsibility of States for the management of historic and certain other shipwrecks in State waters.

I was the original sponsor in the 98th Congress of a bill, H.R. 3194, which would have transferred to the State title to abandoned historic shipwrecks in State waters. Unfortunately, although this bill passed the Hosue, the Senate failed to take any action on it. Now we are presented with the situation in which the Senate has acted on shipwreck legislation and it is up to the House to act.

S. 858 may not be perfect legislation, but, in my opinion, it represents a reasonable solution to an issue which has been before us for at least the past four Congresses. Significantly, S. 858 asserts U.S. title to any abandoned shipwreck that is: First, embedded in submerged lands of a State; second, embedded in coralline formations protected by a State on submerged lands of a State; or third, on submerged lands of a State and included in or determined eligible for inclusion in the National Register of Historic Places. Having asserted the sovereign prerogative of the U.S. Government to these three classes of abandoned shipwrecks, the U.S. transfers its title to the States on or in or on whose submerged lands the shipwrecks are located.

The States are in the best position to manage historic shipwrecks in State waters. We believe that approximately 50,000 shipwrecks lie in State waters, of which only 5 to 10 percent may be of true historic significance. The States will not be without guidance in determining which shipwrecks are of historic significance. For those shipwrecks which may be eligible for inclusion in the National Register, the Secretary of the Interior, after consultation with the appropriate State historic preservation officer, will make a written determination that an abandoned shipwreck meets the criteria for eligibility. These criteria are currently set forth in Interior Department regulations at 36 CFR 60. In addition, the Director of the National Park Service, after consultation with all appropriate interest groups, including Federal and State agencies, divers, salvors, archaeologists, historic preservationists and fishermen, is directed to issue guidelines to assist States and Federal agencies in developing programs and regulations for managing shipwrecks covered by this bill.

The States also are not operating in a vacuum in this area. Based on their interpretation of the 1953 Submerged Land Act, some 27 States have developed laws and programs that pertain to the management of historic shipwrecks. Many of the States have written to me expressing their intention of continuing to implement these same laws and programs even after the passage of Federal legislation confirming their title to abandoned shipwrecks.

I am particularly proud of the fine underwater archaeology program developed by my State of North Carolina. This program is headquartered at the Fort Fisher State Historic Site, near Wilmington, NC, and has done an excellent job of surveying shipwrecks in North Carolina's waters and recording its maritime history. The State's program is supported by several universities, particularly East Carolina University which has an outstanding marine archaeology program. This program and others in existence today can serve as models both for the guidelines to be developed by the National Park Service and for other States wishing to develop historic shipwreck management programs under the auspices of Federal legislation.

Many divers have written to me expressing their concerns that diver access is not adequately protected by S. 858 and will not be protected adequately by State programs. I am satisfied that this is not the case. In the first place, S. 858 expresses the declared policy of Congress that States should carry out their responsibilities so as to guarantee recreational exploration of shipwreck sites. Nothing could be clearer than that Congress intends for divers to continue to have recreational opportunities to explore and visit shipwreck sites. The States must provide reasonable access by the public to abandoned shipwrecks; access may be limited if a shipwreck is particularly fragile or for health and safety reasons.

I also have taken a survey of coastal States with historic preservation programs. The States have informed me that they do not intend to restrict access to shipwreck sites for recreational divers. If, on the other hand, divers intend to excavate or recover artifacts from historic shipwrecks, State permits are likely to be required. If the States do not live up to the declared policy of Congress, recourse should be available in appropriate State courts.

S. 858 removes from the law of salvage and the law of finds those abandoned shipwrecks to which title has been asserted and transferred to the States under section 6 of the bill. I am satisfied that it is within Congress' constitutional authority under the admiralty clause and the necessary and proper clause of the Constitution to modify admiralty law in this way. Congress has the authority to modify admiralty and maritime law based on changes in experience and circumstances. What Congress is saying by passing S. 858 is that the law of salvage and finds no longer suits a modern society's need to protect its maritime heritage.

Under the prevailing American law of finds, absent an assertion of the Federal Government's sovereign prerogative, abandoned shipwrecks become the property of the finder. S. 858 asserts the sovereign prerogative of the United States to certain shipwrecks in U.S. waters and declares that the States are the owners of these shipwrecks. The law of finds may be appropriate for the recovery of modern shipwrecks, but it does not suit the preservation of historic shipwrecks. The courts have already recognized that shipwrecks embedded in submerged lands of a State belong to the State, so section 6(a)(1) of the bill does not represent a change in the current law of finds.

The law of salvage allows the finder of a wreck to receive a salvage award based on several factors, including whether the wreck is in marine peril. Again, by passing this bill, Congress is saying that historic shipwrecks are not believed to be in marine peril, necessitating recovery by salvors, so that the law of salvage is not required as a uniform admiralty rule for those specific classes of shipwrecks covered by S. 858.

Finally, I would like to emphasize that S. 858 does not supersede the authority of the Under Secretary for Oceans and Atmosphere in the Department of Commerce to designate and manage historic shipwrecks located within and protected by national marine sanctuaries in State waters.

Again, I urge my colleagues to support S. 858. This bill is an important step for the United States to undertake in providing responsible management for our endangered maritime heritage.

Mr. SHUMWAY. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I am pleased to have the opportunity to address the House today in opposition to S. 858, the Abandoned Historic Shipwreck Act of 1988. For 8 years this body has held hearings, listened to witnesses, and discussed possible ways to best protect archeologically significant shipwrecks which lie in our coastal waters. As a member of the Committee on Merchant Marine and Fisheries, I have listened to the testimony on this legislation, and I believe a number of concerns remain to be considered before the House should vote on this bill.

We have been told by the proponents of this legislation that S. 858 would help preserve and protect shipwrecks of historical significance. As some of my colleagues have pointed out, however, this particular bill does nothing of the sort. The bill creates no systematic means for preserving shipwrecks beyond ceding control over these vessels to the States. There are no guidelines for States to follow which would enhance preservation. In fact, taking the right of exploration away from individual divers might easily prove counterproductive from a preservation standpoint.

As I mentioned earlier, the bill grants all control over certain shipwrecks to the States, and unfortunately, few of those States have the economic resources necessary to launch publicly financed exploration and recovery efforts for the numerous wrecks which might lie in their coastal waters. Under this bill, States may restrict access to ships and prevent private divers from working to assist in their preservation. The vast majority of these divers share both an appreciation of the importance of the wrecks, and the resources and the time to search for them and ensure that adequate steps are taken to preserve their remains.

In fact, history has shown that those States which have title to vessels in their waters, have gone so far as to completely deny sport divers the right to even search for such wrecks. Texas for example has taken this very approach, and many interested parties are worrried that as a result, important archeological treasures will never be discovered.

The bill only serves to further expand Government's control over yet another area which has previously been left to private individuals. Individuals who have contributed substantially to our understanding of our Nation's history. Sport divers have been instrumental in the discovery of a number of shipwrecks which have proven to be extremely valuable to those interested in history.

I do believe that the Government has a positive role to play in the discovery and recovery of such vessels. I do not, however, feel that it is wise for us to establish a system that will actually discourage sport divers, who historically have been far more successful than the States at locating ships lost for centuries on the ocean floor, from helping to preserve a piece of American history. For these reasons, I oppose S. 858 and would urge my colleagues to do likewise.

☐ 1255

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida [Mr. BENNETT], a historian and sponsor of this measure.

Mr. BENNETT. Mr. Speaker, I thank the gentleman for yielding me this time.

My interest in this bill came about when I purchased a cannon for the National Park Service from my own money and gave it to the National Park Service.

In doing this, I found out something I had not previously known, and that is that even cannon, even bronze cannon, and certainly iron or steel cannon, can be destroyed by the act of bringing them up.

The *Mary Rose,* a 16th-century vessel recently discovered off the coast of Europe, even had a book in it which was brought up.

There have been delicate things brought up by people who are knowledgeable. There has been an advance of knowledge about how to preserve things coming up. The average person does not know that.

The purpose of this bill is to see to it that objects of great scientific and historical value are, in fact, preserved. That cannot be left to just anybody, because the average person would not know that an object brought up to the surface would be destroyed so quickly. So that is the purpose of this legislation: to preserve for our culture, for our future, this type of material.

Of course, you could have additional perfecting amendments on any bill. Some people, I guess, could improve the Lord's Prayer if they really thought about it. Everybody has ideas about how you do things better. Some amendments that have been suggested I have no particular objection to. They would be all right, but would doom the bill because it is highly likely—almost certain—the Senate would choose not to act on this bill again.

A bill virtually like this bill, only a little stricter, already passed the House enthusiastically in the 98th Congress, and this bill passed the Senate, also enthusiastically, this year. The Senate sponsor, BILL BRADLEY, of New Jersey, said that probably won't happen again.

This bill will help our country preserve its history and the history of mankind in a very delicately framed bill, and it will be helpful to everybody.

The main reason some sport divers are opposed to this bill is because there is a publication Skin Diver magazine, that has refused to ever publish a copy of the bill, and it will not publish refutations to its point of view. So there are some sport divers that are alarmed. However, they have no real reason to be alarmed about the bill.

According to a study done for Chairman JONES of the House Merchant Marine and Fisheries Committee, no State has sought to keep sport divers from diving on wrecks. No State.

States have sought to keep the admiralty law out of dealing with the historic shipwrecks, because the admiralty law gives a push to bring things up out of the sea regardless of how they are brought up. Admiralty laws considers it a blessing that they come up. That's OK for most shipwrecks; not for historic ones.

This law will see to it that things are carefully taken care of from the standpoint of preservation.

I congratulate the committees on their work, on this bill, and I sincerely hope this bill will pass.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from Florida has consumed 3 minutes.

Mr. SHUMWAY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida, [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman from California for yielding me this time.

Mr. Speaker, I would like at this time to congratulate my colleague, the gentleman from Florida [Mr. BENNETT], and all those associated in bringing this bill to the floor. It is a very necessary bill.

The argument has been made, and I think very rightly and correctly so that sport divers today have great concern with this bill and have quite appropriately registered their opposition to it.

I would, however, observe that I believe that the sport divers of tomorrow might very well be very grateful to this body for the passage of this bill in bringing it along. There is much history down there, and I think the gentleman from California [Mr. SHUMWAY], was absolutely correct when he stated that we may be discouraging advancement of new discoveries through new expeditions because of the redtape that we are inserting here.

I believe that the States will act responsibly. I believe that my own State of Florida will act responsibly where so many of these wrecks are found, and I think this new area of protection, this bill, would afford to, even though it certainly is a bill that certainly could be improved as most bills that come to this floor can be improved, I believe its passage will go a long way toward preserving these archaeological treasures that will be here and available to future generations.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I am glad to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I want to congratulate the gentleman on his statement.

I think the gentleman will find the dilemma that exists really only covers a small number of the shipwrecks that are even within State waters. It does not cover the *Atocha* or some other ships in deeper international waters.

I hope some day that we can have a policy that deals with the *Titanic* and other ships.

I think the sport divers are a very important recreational activity, but the problem that exists today in Admiralty Court is the only way that you get established is a salvor has a conflict to establish his right to a shipwreck, but many of these resources are not all gold coins and so forth. There are these cultural resources that are so important, and then the States, in order to protect their rights, or the Archivists or whoever else, has to spend a lot of money on litigation on law that is rooted only in the salvage of it, not really looking at the historic resource, although by the owners of the *Atocha* and otherwise to deal with the archaeological resource. But in Admiralty Court they only deal with those that are valuable.

I would urge passage of this bill. There has been a great deal of responsible research that has gone on. Most of the divers have acted quite responsibly, recognizing the historic significance of the treasures with which they are working. However, there have been some abuses. There has been dynamiting, there have been some things that would absolutely guarantee for future generations that these ship-wrecks, these valuable pieces of history, be lost for all time.

I would urge passage of this legislation.

Mr. VENTO. Mr. Speaker, I yield 4½ minutes to the gentleman from New Jersey [Mr. HUGHES].*** BAD MAG TAPE ***

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding me this time.

I have a question of the distinguished chairman of the subcommittee relative to section 4 dealing with the general responsibilities of the State under section 4 in developing appropriate and consistent policies to protect natural resources and to guarantee appropriate access.

Is it the intent of the committee to ensure that the States, in developing a management plan, would provide access by recreational divers as well as other users?

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the gentleman is exactly correct. There has been a great deal of discussion about the recreational diving and so forth. Access will be provided in section 4. The right to access, of course, is the title of section 4.

Mr. HUGHES. As the gentleman knows, one of the main concerns, the main concern actually of the recreational divers, is that they will be denied access. I had hoped that we could develop specific legislation to require the States to develop management plans to provide that, of course, with those exceptions that deal with health and safety and other factors that would be relevant to particular wrecks.

Can the gentleman tell me if in fact the States do not provide access to recreational divers, what is the recourse?

Mr. VENTO. The recourse would be obviously court, but it is the intent of that section that the responsibility of the State is to guarantee recreational access. That would be for recreational purposes, not to go into a salvage operation or to remove or destroy this resource. As the gentleman from Florida points out, the price of discovery should not be destruction of the resource, and I think we all agree with that.

Mr. HUGHES. The gentleman would agree that, in fact, any State plan that does not provide recreational divers access to wrecks would violate Federal policy?

Mr. VENTO. If the gentleman will yield, it would not be consistent with the policy of the law and the intent of this measure.

Mr. HUGHES. I listened to the gentleman from North Carolina [Mr. JONES], the distinguished chairman of the full Merchant Marine and Fisheries Committee. I noticed in his statement that he indicated very clearly that it is the hntent of the Merchant Marhne and Fisheries Committee in passing out S. 858 to in fact guarantee that access by recreational divers.

I wonder if the gentleman from North Carolina would tell me that it is unquestionably the intent of the Merchant Marine and Fisheries Committee to guarantee the recreational divers access to these wrecks?

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. The gentleman is absolutely correct.

We do not do anything to harm the recreational divers. I think some of them have begun to realize that the bill does not harm them, as they thought at one time. We have taken every safeguard we could in language in the bill to protect their rights.

Mr. HUGHES. I thank the gentleman for his answer.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Of course, while the committee expects the sport divers to be allowed access to the historic shipwrecks to the fullest extent practicable, considering safety and the fragility of particular shipwrecks, those would be legitimate exceptions that would of course come under the responsibility of the States.

Mr. HUGHES. I understand. I would just say I share many of the concerns expressed by my colleague from California insofar as clarifying some of these points in the legislation. I voted in the committee to report out S. 858 because I think it is a good bill on balance. I would have much preferred to have addressed some of the issues we have talked about today more directly, including the question of whether or not there would be access to Federal courts to in fact initiate rights.

I just want to say I think it is the intent of the Congress to guarantee recreational divers access, and I just regret that given the situation in the other body in particular and the fact that we have been 8 years attempting to develop legislation, and the gentleman from Florida [Mr. BENNETT] has just led this fight admirably for 8 years, it is time to enact legislation and I intend to support this bill.

Mr. VENTO. I appreciate the gentleman's observations. If he will yield further, after 8 years, after the Senate has moved and taken some action, obviously there are many who would attempt to again submarine these bills. But I also want to point out to the gentleman that this has the support of the administration. We have resolved most of the questions. It is a modest step, but it is a necessary first step to give at least the States the opportunity to spend their money in trying to protect these rather than trying to be in court. That is where they are today, in the Admiralty Courts, with no rights for these historic resources which are so much an important part of our American legacy.

Mr. HUGHES. I thank the gentleman and I agree with my colleagues. I also agree with the gentleman from Florida [Mr. SHAW] who made the observation I think that all users are going to thank the day that the Congress did step in and provide some protection so that we can preserve many of these historic wrecks for antiquity, and at the same time guarantee all other users, salvors, recreational divers, and others who have a legitimate interest in exploring the vast majority of the wrecks which in fact happen to be nonhistoric, to have that right as a part of a recreational sport and for salvage purposes.

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Mr. SHUMWAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to summarize a couple of points which I have made.

Any sports diver or salvor that might have an interest in a sunken shipwreck is going to approach that from various points of view.

Obviously, No. 1, there is a natural interest. No. 2, I suppose there is some degree of self-interest involved.

He wants to discover what is there and hopefully bring it up intact so that it might be preserved or sold in the marketplace or utilized for public inspection.

It seems to me, therefore, that as far as cultural resources are concerned and preserving the archeology is concerned, there is a great deal of awareness of those needs on the part of salvors and skin divers. Certainy if there is not, there are court mechanisms available under present law to see that those particular needs are taken into account as this activity goes forward.

I have heard time and again from the proponents of this bill that it will affect very few shipwrecks. In fact, someone has said as few as 5 percent. Mr. Speaker, as I read section 6 it does not say just a few shipwrecks; it says the United States asserts title to any abandoned shipwreck that is embedded in submerged lands of a State. Virtually that is all of the shipwrecks within those submerged lands.

Finally, Mr. Speaker, I would just like to say that if we do want to preserve access to these shipwrecks on the part of sports divers, and that wish has been repeated several times during the debate here this afternoon, then why do we not legislate it in the bill? If we really want to manifest that as our intent, then I think we should enact it. The bill should therefore be amended to indicate that is the purpose of this body.

As it now stands, I would submit once again that access is only a wish; it is couched in predatory terms, it is not binding on States and there is no recourse mechanism in this legislation which would allow enforcement of a congressional wish list on the part of States.

Mr. Speaker, I respect the chairman very much in his position on this bill. He said we have taken every safeguard that we could. Mr. Speaker, I do not believe we have. Until we have amended this bill in a responsible fashion, we should not vote it out of this body and send it to the President for his signature.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I regret that there has been such misinformation about this bill. Specifically, first, S. 858 does not I repeat—does not—contradict international law, as report language (H. Rept. 100-514, part I, analysis of section 3) makes clear: This is "not intended to constitute an assertion of U.S. sovereignty outside the U.S. territorial sea." This language was drafted with the assistance of the Department of State. Second, rather than conflicting with marine sanctuary law, the report language specifically states (section 7(B) that S. 858 does not affect the authority to designate or manage marine sanctuaries. Third, and most important, this bill does not apply to all shipwrecks. The shipwrecks covered here are only those that meet one of three tests—being embedded in State submerged lands, embedded in coralline formations or eligible for the National Register of historic places. U.S. title is asserted only for these shipwrecks, not for the majority that are not embedded or eligible for the National Register.

Marine geologists consulted explained that the process of becoming embedded—so that, in the words of the bill, the use of tools of excavation is required to move bottom sediments to gain access to the shipwreck—is a lengthy one, requiring "many decades." A century would be an unusually short time for a ship to become embedded. Given that coral grows an average of one centimeter annually, becoming embedded in coral is also a very slow process. The key time test for the National Register of Historic Places is 50 years. This bill is not concerned with "recent shipwrecks".

Finally, while the guidelines which will be prepared by the Secretary of the Interior are not binding on the States, the policy set forth in S. 858 clearly shows congressional intent. To make the guidelines binding on the States would change congressional policy toward State management of State submerged lands—policy clearly in place since the 1953 submerged lands act (to enforce these guidelines would require the establishment of a new Federal bureaucracy. I prefer to see the money used for greater protection of the shipwrecks.)

Much has been claimed about the effects of S. 858 on sport divers. The bill language specifically declares that it is the policy of Congress that States should, and I quote, from the measure before the House "Guarantee Recreational Exploration of Shipwreck Sites." Indeed, this bill helps assure that sport divers will have something to dive on in the future. Report language reaffirms that divers should be given access to the maximum degree feasible. The bill certainly does not restrict diver access.

Mr. Speaker, S. 858 is limited in its scope and effect. It is a bill that the administrative supports. Unfortunately, it has been misrepresented and misunderstood. I hope my colleagues will see beyond the murky waters to see the value of the historic shipwrecks for us all, and to the need to pass S. 858.

Mr. Speaker, I summarize by saying that I understand some of the concerns of my colleague. But I would point out to him that this does have the strong support of the administration, and well it should. It has been considered by this House for four Congresses, for 8 years. The committees of jurisdiction, not myself specifically but Congressman BENNETT and Congressman WALTER JONES, chairman of the Committee on Merchant Marine and Fisheries, and many others labored long and hard on this particular policy.

We finally have the Senate which acted on the bill. I do not believe the bill ought to run the gauntlet again in terms of the Senate, in terms of the holes that are so common in that body, with a measure that is a really a modest measure. This is a modest step. It takes what we call the submerged lands, ships that are embedded, which is defined by the bill—and coral grows about 1 centimeter a year, incidentally, in the areas where we have coral which accumulates. Not all areas have that. Or if they are embedded or if they are recognized in order to be on the Historic Preservation Register, they have to be at least 50 years old. So it then gives the responsibility for those limited number of ships in those areas, 5 percent I would say, maybe a little higher, it gives that responsibility to the States.

This is a States rights bill, Mr. Speaker. It says the States are going to have some authority over these historic resources because they carry out the policy in most of our historic resources in each of those States, just as they carry out certain responsibilities with regard to natural resources in those submerged land areas.

This is very consistent, it is a very small step. It does not deal with the breadth of historic resources which are maritime resources.

Where else do we permit—in other words, if you find a historic resource someplace in our great Nation, you discover it, that does not give you the right to destroy it. That does not give you the right. That is, of course, the case here.

We are operating under ancient law here established in the Mediterranean.

Today we are saying let that work here.

You cannot start taking samples away from this, which is by necessity destroying that which you are trying to preserve. We are saying let a policy exist where we go courtroom by courtroom, decision by decision, where there is litigation. What type of policy is that? No consistent policy.

For heavens sake, all we are seeking here is a policy that addresses the small number that are in the States areas. Twenty-seven States have acted. I think we can give them some responsibility with the guidelines we have here; insures port access, insures orderly process and preserves really what is our maritime historic legacy.

I think it is important that we do that. Not all of these ships have valuable items on them, that is valuable to the sports divers, something like gold or something like a plate that can be sold. The fact is that many of them, though, contain the very history of our young Nation. I hope that we can take the step this week to pass this overwhelmingly with administration support, the support of Governor Schaefer and many, many Members of the Senate and House who have come forth in these areas and recognized it. The Speaker of the House, JIM WRIGHT, very interested in this particular issue, offered a statement before the committee.

I hope we can march forward and really take this modest step in line with the other laws that we have passed in this century, some of them rather recently, as we begin to understand and appreciate our cultural heritage.

This is a small step, Mr. Speaker.

With that I ask the Members for their support.

Mr. LOWRY of Washington. Mr. Speaker, I would like to rise in support of S. 858, and briefly explain what this bill does and what it doesn't do, and I would also like to give some brief background in terms of the context of this particular bill, S. 858.

First, S. 858 is very similar to H.R. 74, which was originally introduced by our colleague, Mr. BENNETT, who has been a leader on this issue for a number of years. The primary purpose of S. 858 is for the Federal Government to assert and transfer to the States title to certain abandoned shipw-recks which are embedded in State submerged lands, State-protected coral formations, or are determined eligible for the National Register of Historic Places.

The legislation also requires the Secretary of the Interior to prepare guidelines to assist States in developing legislation and regulations for managing these shipwrecks. Specifically, these guidelines include the following:

First, the enhancement of cultural resources;

Second, the fostering of partnership or cooperation among sport divers, fishermen, archeologists, and salvors;

Third, the facilitating of recreational access; and

Fourth, the recognition of the interest of those engaged in discovery and salvage.

Finally, the legislation encourages States to create underwater parks and clarifies that funds from the Historic Preservation Fund may be used to study, interpret, protect, and preserve historic shipwrecks.

To reiterate, Mr. Speaker, the primary purpose of this legislation is for the Federal Government to assert title and transfer to the States the title to certain abandoned shipwrecks which are found in State waters only. In effect, Mr. Speaker, this would remove certain shipwrecks which are of historic and archeological significance to the States from Federal Admiralty Court jurisdiction and the "law of finds." I might add, this does not mean that the historic shipwrecks could not be salvaged. It only means that the State would clearly have title to the shipwreck and would be in a position to ensure that any salvage operation was carried out properly. The State would be able to ensure that the plan for the recovery of the ship's "valuables" include the careful documentation which goes along with preserving the ship's historical and archeological values as a window into the past.

I would like to stress here that the recovery of a ship's treasures, its cultural and historical resources, is a one-time opportunity—and it should be done properly. I believe that this legislation would assist the States in ensuring that it is done properly.

In addition, Mr. Speaker, I would like to respond to some of the points which have been raised in opposition to this legislation. First, this bill does not deny access to shipwrecks for recreational divers. In fact, the bill encourages recreational access to shipwrecks.

Second, this bill does not affect all shipwrecks in territorial water as alleged by some of its opponents. It only affects those classes of vessels which are: First, embedded in submerged lands of a State; second, embedded in coralline formations protected by a State on submerged lands; and third, on submerged lands of a State and included on the National Register of Historic Places. Given the States' incentive to only include those vessels which are truly of historical and archaeological significance, and given accompanying report language which further clarifies the term "embedded," it is very clear that this legislation does not apply to all vessels in the territorial sea.

Finally, opponents assert that this bill is inconsistent with international law and the management of the National Marine Sanctuaries. As chairman of the Subcommittee on Oceanography, which overseas matters both with respect to the International Law of the Sea and the National Marine Sanctuaries Program, I can assure Members that this is simply not the case. In fact, Mr. Speaker, committee report language accompanying S. 858 specifically addresses these points.

Finally, Mr. Speaker, with respect to the context of this legislation, I would like to point out that the Subcommittee on Oceanography did consider this legislation and reported out H.R. 74, favorably. S. 858 is almost identical to H.R. 74, and some of the areas where the bills differ slightly have been dealt with properly in the reports filed by both the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs. Therefore, Mr. Speaker, I would urge that we pass S. 858, unamended.

Mr. Speaker, I would again like to compliment Mr. BENNETT for his steadfast leadership on this important legislation. I know that he has persisted in moving this legislation because of his strong views about the values of historic preservation and the value that these shipwrecks will have for future generations as a window to the past.

Mr. Speaker, I would also like to compliment Mr. VENTO and Mr. UDALL and their staff for their fine work in moving this legislation along.

Mrs. MORELLA. Mr. Speaker, I rise to urge my colleagues to join me in support of the Abandoned Historic Shipwreck Act, which I believe will benefit the historical interests of both our Nation and the States, and equally benefit the private involvement of divers and the diving industry.

Last week a group came to my office representing both sports-orientated scuba divers, and those whose livelihood depends on providing goods and services connected with diving, including the tourist business. I realized after talking to them that confusion exists not over the intent of the bill, nor what it says, but over what may happen if the bill is enacted.

As a cosponsor of H.R. 74, I would like to share with you why this bill is so important to Maryland, important enough to be a top priority item for Governor Schaefer. We have in Maryland waters at least 300 historically important shipwrecks. Admiralty Court salvage law will not protect many of these historical artifacts, nor was it intended to do so. This legislation will allow for that protection through State management where, in fact, all legitimate diving interests can be heard in the decisionmaking process.

There already is a bill pending in the Maryland State Legislature which both protects and benefits diving. It will allow for sport divers without any permits to be free to explore anywhere on the ocean floor. With "two hands and a camera" there are absolutely no restrictions, and, in fact, sports divers are free to pick up any remnants that are not embedded. No, they will not be able to bring down excavating equipment of any sort. They cannot, as happened recently, claim they were sport divers and use torches to cut apart the remains of the *New Jersey*, a Civil War wreck lying in the bottom of the Patuxent River.

After reading the Senate and House report on the Abandoned Shipwreck Act, I believe that every effort has been made to establish fair guidelines for State management of these shipwrecks. The subcommittee and committee votes on this have been unanimous. It is only misinformation that is casting any shadow on its passage. I believe that this bill is needed now, before any more historic losses occur to unscrupulous salvagers. A veritable "time capsule" of understanding and appreciation for our past lies buried in those 300 historic shipwrecks embedded off Maryland shores. This legislation will allow all of us to share in the knowledge that will be gained by their preservation.

Thank you, Mr. Speaker, for allowing me this time to urge unanimous action on S. 858.

Mr. DAVIS of Michigan. Mr. Speaker, the recent discovery of a number of historic shipwrecks, whether they be in Federal or State waters, underscores the interest the American public has in these underwater treasures. My office has been flooded with mail concerning S. 858 that we are considering today.

Recreational divers have urged me not to support these bills because of the danger that a State could shut the door on diving access to many of these wrecks, depriving them of an enjoyable and harmless hobby and driving those who operate diving operations out of business. Salvors also protest this legislation, citing the Admiralty law provisions in our Constitution and the specter of huge penalties.

On the other hand, historic preservationists admonish me to vote for passage of the Senate bill with no changes, fearing that if the bill should be returned to the other Chamber, it would never see the light of day again and valuable pieces of our history would be lost due to unscrupulous salvors and divers.

I think the truth is somewhere between the two.

S. 858 is not a perfect bill and may create more problems than we realize now. Mr. SHUMWAY, our ranking member on the Oceanography Subcommittee, who has been a leader in developing responsible shipwreck legislation, has drafted a number of amendments which go a long way in fixing serious deficiencies. I haved joined with him and others on the committee to file additional views in our committee's report on this legislation that detail these deficiencies. I hope that you will listen to him and seriously consider the points that he is making. Concerns have been voiced in Michigan that administration of this bill may undermine and complicate the management of shipwrecks in national lakeshores.

During the committee markup, I also prepared an amendment regarding diving safety, based on section 503 of my bill, H.R. 1922, which related directly to the activities surrounding shipwreck exploration recovery operations. I believe we should not forget our responsibility regarding maritime safety in any legislation we pursue. My proposed amendment would have recognized the use of the traditional divers flag and the right of the States to regulate recreational diving safety within their waters. In recent years confusion has developed between the requirements of Federal law under the Inland Navigation Rules Act of 1980 and various State regulations that govern diving activities. In particular, the proper signal to display when diving has been particularly troublesome. The States that have elected to regulate diving safety call for the display of a divers flag which is traditionally recognized as a bright or fluorescent red flag having a diagonal white stripe. The Federal rules, however, do not recognize this traditional safety signal.

In title II of Public Law 98–498 entitled "Marine Safety," two Coast Guard safety advisory bodies, the Rules of the Road Advisory Council and the National Boating Safety Advisory Council, were directed to study this problem and to make recommendations regarding safety and recreational diving operations and navigation. Both safety councils recommended that the regulation of recreational diving safety and the need for the display of the traditionally recognized divers flag was best left to the States and that no Federal legislation or regulation was required.

My proposal merely would have recognized the role of the States in regulating recreational diving safety and removed any ambiguity or conflict between the State regulations and the Federal navigation rules. No new Federal regulations would have been required as a result of this change. The provision would have emphasized that the display of the divers flag should not interfere with commercial navigation. Further, it would have encouraged the States to coordinate their regulations so that they are as uniform as possible and urges the U.S. Government to propose consideration of the traditional divers flag as a safety measure by the international community. No interference with commercial vessel traffic would have been permitted.

Finally, this amendment would not have exempted divers from compliance with the Inland Navigational Rules where they apply. It would, however, have enabled the recreational diving community to enjoy its activities without the fear of technically being out of compliance with the Federal navigational rules which were designed for commerical operations. I hope we can correct this deficiency and pursue this needed statutory change either as an amendment to this bill or in separate legislation as soon as possible.

Further, I note that in the committee's report on section 5(b) of S. 858, we encourage the formation of a committee to balance the concerns of various interest groups in developing guidelines under the legislation. It is my expectation that the committee will be formed under the requirements of the Federal Advisory Committee Act.

Mr. Speaker, I do agree that we need to have Federal legislation which sorts out the conflicting court decisions regarding the control over these shipwrecks. Michigan, fortunately, does not share this problem, and offers a model to the rest of the coastal States for managing these important resources. I urge my colleagues to vote against S. 858 in the hope that we pass an amended bill that will create balanced shipwreck management programs, with access to all groups who have a stake in this area. It is our responsibility to remove the flaws in S. 858 and approve the best possible legislation.

Mr. FIELDS. Mr. Speaker, I rise in strong opposition to S. 858, the so-called Abandoned Shipwreck Act of 1988.

Frankly, this bill has no business being considered under suspension of the rules. It is flawed in a number of important ways and Members of this body should have an opportunity to offer amendments to improve it.

I believe the amending process is particularly important in light of the fact that our colleague from California, Congressman NORM SHUMWAY, has an amendment to protect the rights of sport divers, which I have yet to hear a single word of opposition. In fact, the House sponsor of this bill, Mr. BENNETT, has not only indicated that he supports the Shumway amendment, but that he would introduce legislation to eliminate this major deficiency in S. 858.

Mr. Speaker, this is the wrong way to legislate. Let's improve S. 858 here and now and let's stop worrying about what the other body will or will not do. In their unrelentless attempt to avoid real debate, the proponents of this legislation have asked us to accept a flawed bill by denying this body its legitimate right to work its will.

During our committee's consideration of S. 858, there were several amendments offered which address the concerns of our Nation's 4 million sport divers, the Department of State, and several other groups which are deeply troubled about certain provisions in this bill.

What is wrong, Mr. Speaker, with giving this body the chance to vote "up or down" on each of these amendments? Isn't that how our legislative process in this, the people's body, is supposed to work?

Mr. Speaker, in addition to the procedural problems I have in bringing up S. 858 today, I also have a number of serious reservations about this legislation which I would like to discuss.

Before doing that, however, I would like to briefly touch upon the origins of this legislation. As many of my colleagues may know, this bill is a direct result of the failure of the State of Florida to win its battle against Mel Fisher in Federal district court.

After more than 7 years of litigation and hundreds of court challenges, the State of Florida was unable to convince even one Federal judge that it had any legal basis or right to the *Atocha* treasure.

While the State had no success in court, Federal District Judge James Lawrence King made admiralty law work in that case by establishing an "East Coast Shipwreck project." As a result of this cooperative effort involving private salvors, archeologists, and sport divers, more archeological data was gained from the shipwrecks of the 1715 Spanish Plate Fleet in Florida waters than had been collected during the entire 20-year program controlled by the State of Florida.

Unfortunately, the State of Florida refused to accept the mandate of the courts and instead turned its attention to the U.S. Congress. As a result, the first Abandoned Shipwreck Act was born.

While proponents will argue that their sole interest is the protection of the abandoned shipwrecks, the real goal of this legislation is to severely restrict, if not prohibit, access to these vessels.

S. 858 is a blatant political attempt to throw out 200 years of admiralty law, and the precedents of hundreds of court cases, by granting to the States, with little or no guidelines or restrictions, ownership to these vessels.

And, once States have these vessels, how will they manage these resources? Well, if past history is any indication, the answer is: Not very well. We have already seen a number of States, including my own, enact regulations which outlaw all private salvage operations and restrict sport diver access.

Mr. Speaker, there are no reported cases where a shipwreck under the jurisdiction of Federal admiralty court has been destroyed. Yet, States have a number of blights on their record. For instance, no one talks about the H.M.S. *Debraak,* an 18th-century British warship which sank off the coast of Delaware. In this case, the State of Delaware attempted to salvage this important vessel and ended up destroying it. Instead of following prescribed archeological procedures, the State yanked the ship from its watery grave, deposited it in the open air for several weeks without proper preservation, and then dumped it into a big hole at one of its State parks.

What you ended up with was a shattered piece of junk instead of a beautiful underwater monument which could have been enjoyed by thousands of recreational divers.

And what about the 572 artifacts found by Mel Fisher that the State of Florida confiscated and then lost during the 7 years of court litigation. If a State can't even safeguard a few valuables, can we really expect that they are going to protect hundreds of shipwrecks. Sadly, the answer is no.

Mr. Speaker, these examples clearly indicate that State ownership is not a guarantee of historical preservation or protection. The private sector can and has provided adequate protection for the public interest. And the *Atocha* is a good example of that—more than half of the *Atocha* treasure will end up in museums and galleries for the enjoyment of all Americans.

Mr. Speaker, sadly, I must conclude that by enacting this legislation we will end up doing far more harm than good. Without the incentive to find these vessels, they will not be found, and they will continue to deteriorate off the coast of States throughout America. And, the real losers are the American people—as they will be denied the opportunity to enjoy and appreciate this important part of our history.

Finally, while much has been said about the protection of the rights of the 4 million sport divers in this Nation, there is nothing in S. 858 which guarantees or mandates sport diver access to any shipwrecks in State waters.

While it is true that the author of this bill has included a "Sense of Congress" statement about reasonable access to the general public, this provision is unenforceable and nonbinding. Once enacted, the State can and will restrict access to these vessels.

I was hoping that at a minimum we would include language in this bill which guarantees sport divers the opportunity to continue to enjoy their hobby. As one of my constituents so articulately stated, "There is no desire on the part of sport divers to destroy items of historical significance. In fact, more items are on public display as a result of artifacts they have donated to museums and galleries than from any other source, including archeologists."

To restrict sport diving access is also counterproductive because there is no question that it is the sport diver and not the professional archeologist who finds the vast majority of shipwrecks. According to the Atlantic Alliance for Maritime Heritage Conservation, in 1 year, sport divers discovered more than 2,500 wrecks while Federal and State archeologists together found less than 200. And of all these finds, there has never been anyone who has sighted examples of looting, scavenging, or destruction of these ships or their artifacts.

Mr. Speaker, the authors of this bill don't like to hear this but admiralty law worked well: shipwrecks and artifacts have not been destroyed. Moreover, admiralty law provides the necessary incentive for private individuals to go out and discover shipwrecks and it assures access to all interest groups.

Mr Speaker, we must not disciminate against these 4 million Americans and those latter-day Christopher Columbus' who are willing to find and salvage these shipwrecks in a proper, safe, and archeologically-sound way.

I urge my colleagues to vote "no" on this bill so that it can be considered, as it should, in the normal and proper legislative manner.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 858.

The question was taken.

Mr. SHUMWAY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. SHUMWAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be posponed.

The point of no quorum is considered withdrawn.

FEDERAL CAVE RESOURCES PROTECTION ACT OF 1987

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1975) to protect cave resources on Federal lands, and for other purposes, as amended

The Clerk read as follows:

H.R. 1975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Cave Resources Protection Act of 1988".

SEC. 2. FINDINGS, PURPOSES, AND POLICY.

(a) FINDINGS.—The Congress finds and declares that—

(1) cave resources on Federal lands are an invaluable and irreplaceable part of the Nation's natural heritage; and

(2) these resources are threatened due to improper use, increased recreational demand, urban spread, and a lack of specific statutory protection.

(b) PURPOSES.—The purposes of this Act are—

(1) to secure, protect, and preserve cave resources on Federal lands for the perpetual use, enjoyment, and benefit of all people, and

(2) to foster increased cooperation and exchange of information between governmental authorities and those who utilize cave resources located on Federal lands for scientific, educational, or recreational purposes.

(c) POLICY.—It is the policy of the United States that cave resources be managed in a manner that will protect and maintain such resources for present and future public use.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) CAVE.—The term "cave" means any naturally occurring void, cavity, recess, or system of interconnected passages which occurs beneath the surface of the earth or within a cliff or ledge (including any natural resource therein, and natural subsurface water and drainage systems, but not including any vug, mine, tunnel, aqueduct, or other man-made excavation) and which is large enough to permit an individual to enter, whether or not the entrance is naturally formed or man-made. Such term shall include any natural pit, sinkhole, or other feature which is an extension of the entrance.

(2) FEDERAL LANDS.—The term "Federal lands" means lands which are owned by the United States and administered by the Secretary of Agriculture or the Secretary of the Interior.

(3) INDIAN LANDS.—The term "Indian lands" means lands of Indian tribes or Indian individuals which are either held in trust by the United States for the benefit of an Indian tribe or subject to a restriction against alienation imposed by the United States.

(4) FEDERAL CAVE RESOURCE.—The term "Federal cave resource" means a cave located on Federal lands or Indian lands, together with associated topographic and hydrological features.

(5) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(6) NATURAL RESOURCE.—The term "natural resource" includes any material or substance occuring naturally in caves, such as animal life, plant life, paleontological deposits, sediments, minerals, speleogens, speleothems, and water.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture or the Secretary of the Interior, as appropriate.

(8) SPELEOTHEM.—The term "speleothem" means any natural mineral formation or deposit occuring in a cave or lava tube, including but not limited to any stalactite, stalagmite, helictite, cave flower, flowstone, concretion, drapery, rimstone, or formation of clay or mud.

(9) SPELEOGEN.—The term "speleogen" means relief features on the walls, ceiling, and floor of any cave or lava tube which are part of the surrounding bedrock, including but not limited to anastomoses, scallops, meander niches, petromorphs and rock pendants in solution caves and similar features unique to volcanic caves.

SEC. 4. SPECIAL MANAGEMENT ACTIONS.

(a) IN GENERAL.—The Secretary shall take such actions as may be necessary to further the purposes of this act. Those actions may include (but are not limited to)—

(1) regulation and restriction of use of Federal cave resources;

(2) entering into volunteer management agreements with persons of the scientific and recreational caving community; and

(3) appointment of advisory committee.

(b) PLANNING AND PUBLIC PARTICIPATION.—The Secretary shall—

(1) ensure that Federal cave resources are considered in any land management plan prepared, revised, or amended after the enactment of this Act; and

(2) foster communication, cooperation, and exchange of information between land managers, those who utilize cave resources, and the public.

Nothing in this Act shall be deemed to require the preparation, revision, or amendment of any land management plan not otherwise required by applicable law.

(c) DISTURBANCE OF FEDERAL CAVE RESOURCES FOR MANAGEMENT PURPOSES.—The Secretary may disturb Federal cave resources where the Secretary finds that such a disturbance is necessary for the management or interpretation of a Federal cave resource and where the disturbance is consistent with applicable land management plans and the regulations under section 10. Such disturbance should not be treated as a violation of any provision of section 7.

(d) EXEMPTION.—The Secretary may exempt any cave located on Federal lands or Indian lands from any or all of the provisions of this Act if he determines that management of the cave pursuant to such provisions is inappropriate. The Secretary shall promulgate regulations under which such exemptions may be granted. The regulations shall require that the Secretary publish a public notice setting forth the reasons why the Secretary determines that the cave should be exempted from the provision or provisions concerned and that the Secretary provide an opportunity of at least 30 days for public comment before such exemption takes effect.

SEC. 5. CONFIDENTIALITY OF INFORMATION CONCERNING NATURE AND LOCATION OF FEDERAL CAVE RESOURCES.

(a) IN GENERAL.—Information concerning the nature or location of any Federal cave resource may not be made available to the public under section 552 of title 5, United States Code, unless the Secretary determines that disclosure of such information would further the purpose of this Act and would not create a substantial risk of harm, theft, or destruction of such resources.

(b) EXCEPTIONS.—(1) Notwithstanding subsection (a), upon the written request of the Governor of the State in which a cave resource is located, which includes in such request—

(A) the specific site or area for which information is sought,

(B) the purpose for which such information is sought, and

(C) a commitment by the Governor to adequately protect the confidentiality of such information to ensure the protection of the cave resource from destruction by vandalism and unauthorized use,

the Secretary shall provide to the Governor information concerning the nature and location of Federal cave resources located within such site or area.

(2) Nothwithstanding subsection (a), upon the written request of any bona fide research institution, which includes in such request—

(A) the specific site or area for which information is sought,

(B) the purpose for which such information is sought,

(C) a commitment by such institution to adequately protect the confidentiality of such information to ensure the protection of the cave resource from vandalism and unauthorized use,

the Secretary may, after considering the purpose for which such information is sought and the value of the proposed use and activities in terms of enhancing understanding of the cave resource, furnish the requesting institution with information concerning the nature and location of caves and natural resources located in caves upon lands located within such site or area.

SEC. 6. COLLECTION AND REMOVAL FROM FEDERAL CAVES.

(a) PERMIT.—(1) Any person may apply to the Secretary for a permit to collect or remove any natural resource from caves located on Federal lands or Indian lands and to carry out activities associated with such collection or removal. The application shall contain such information as the Secretary deems necessary, including information concerning the time, scope, location, specific purpose of the proposed collection or removal and associated activity, and the manner in which such collection or removal and associated activity is to be performed.

(2) Unless the Secretary determines that such collection or removal and associated activity will not pose a substantial risk of charm to the cave resource, the Secretary shall require the permittee to post a bond or cash deposit in an amount sufficient to—

(A) ensure compliance with this Act and regulations issued pursuant to this Act; and

(B) offset any potential damage sustained by the cave resource as a result of the actions of the permittee.

(3) The Secretary may approve a permit under this subsection if the Secretary determines that the proposed collection or removal activities are consistent with the pur-

pose of this Act and with other applicable provisions of law.

(b) Revocation of Permit.—Any permit issued under this section shall be revoked by the Secretary upon a determination by the Secretary that the permittee has violated any provision of subsection (a) or (b) of section 7, or has failed to comply with any other condition upon which the permit was issued. Any such permit shall be revoked by the Secretary upon assessment of a civil penalty under section 8 against the permittee or upon the permittee's conviction under section 7. The Secretary may refuse to issue any permit under this section in the case of any person who has violated any provision of subsection (a) or (b) of section 7 or who has failed to comply with any condition of a prior permit issued to such person.

(c) Transferability of Permits.—Permits issued under this Act are not transferable.

(d) Federal Cave Resources Located on Indian Lands.—(1)(A) Upon application by an Indian tribe, the Secretary of the Interior shall delegate all authority of the Secretary under this section with respect to issuing and enforcing permits for the collection or removal of any natural resource, or to carry out activities associated with such collection or removal, from any Federal cave resource located on the Indian lands concerned.

(B) In the case of any permit issued by the Secretary for the collection or removal of any natural resource, or to carry out activities associated with such collection or removal, from any Federal cave resource located on Indian lands (other than permits issued pursuant to subparagraph (A)), the permit may be issued only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribe.

(2) If a permit issued by the Secretary under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Secretary, before issuing such permit, the Secretary shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 5.

(3) A permit issued by the Secretary shall not be required under this section for the collection or removal of any natural resource, or to carry out activities associated with such collection or removal, by any Indian tribe or member thereof from any Federal cave resource located on Indian lands of such Indian tribe.

(e) Effect of Permit.—No action specifically authorized by a permit under this section shall be treated as a violation of section 7.

(f) Exception.—This section shall not apply with respect to any Federal cave resource administered by the National Park Service, located within any unit of the National Park System, or located within any unit of the National Wildlife Refuge System.

SEC. 7. PROHIBITED ACTS AND CRIMINAL PENALTIES.

(a) Prohibited Acts.—

(1) Whoever—

(A) in any manner knowingly destroys, disturbs, defaces, mars, alters, or harms any cave resource located on Federal lands or Indian lands, or

(B) enters a Federal cave resource with the intention of committing any act described in this paragraph (A),

shall be punished in accordance with subsection (b).

(2) Whoever—

(A) knowingly kills, injures, or otherwise interferes with any natural resource located in a cave on Federal lands or Indian lands, or interferes or obstructs the free movement of any natural resource into or out of any cave located on Federal lands or Indian lands, or

(B) enters a Federal cave resource located on Federal lands or Indian lands, with the intention of committing any act described in subparagraph (A),

shall be punished in accordance with subsection (b).

(3) Whoever knowingly collects or removes any natural resource found within any cave located on Federal lands or Indian lands shall be punished in accordance with subsection (b).

(4) Whoever possesses, consumes, sells, barters or exchanges, or offers for sale, barter or exchange, any natural resource with knowledge or reason to know that such resource was removed from any cave located on Federal lands or Indian lands shall be punished in accordance with subsection (b).

(5) Whoever counsels, procures, solicits, or employs any other person to violate any provisions of this subsection shall be punished in accordance with section (b).

(6) The prohibitions contained in this subsection shall not apply to any action authorized under other applicable State or Federal laws (including fish and wildlife laws).

(b) Punishment.—The punishment for violating any provision of subsection (a) shall be imprisonment of not more than one year or a fine in accordance with title 18, United States Code, or both. In the case of a second or subsequent such violation, the punishment shall be imprisonment of not more than 3 years or a fine in accordance with title 18, United States Code, or both.

(c) Exception.—This section shall not apply with respect to any Federal cave resource administered by the National Park Service, located within any unit of the National Park System, or located within any unit of the National Wildlife Refuge System.

SEC. 8. CIVIL PENALTIES.

(a) Assessment.—(1) The Secretary may issue an order assessing a civil penalty against any person who violates any prohibition contained in this Act, any regulation promulgated pursuant to this Act, or any permit issued under this Act. Before issuing such an order to any person, the Secretary shall give to such person written notice and the opportunity to request a hearing within 30 days. Each violation shall be a separate offense, even if such violations occurred at the same time. A hearing under this subsection shall not be subject to section 554 or 556 of title 5 of the United States Code but shall provide a reasonable opportunity to be heard and to present evidence.

(2) The amount of such penalty shall be determined by the Administrator taking into account appropriate factors, including (A) the seriousness of the violation; (B) the economic benefit (if any) resulting from the violation; (C) any history of such violations; and (C) such other matters as justice may require.

(b) Judicial Review.—Any person aggrieved by an assessment of a civil penalty under subsection (a) may file a petition for judicial review of such assessment with the United States District Court for the District of Columbia or for the district in which the violation took place. Such a petition shall be filed within the 30-day period beginning on the date the order assessing the civil penalty was issued. The Secretary shall promptly file in such court a certified copy of the record on which such penalty was assessed. The district court shall not set aside or remand such penalty unless there is not substantial evidence on the record, taken as a whole, to support the finding of a violation or, unless the Secretary's assessment of penalty or requirement for compliance constitutes an abuse of discretion.

(c) Collection.—If any person fails to pay an assessment of a civil penalty—

(1) within 30 days after the order was issued under subsection (a), or

(2) if the order is appealed within such 30-day period, within 10 days after the court has entered a final judgment in favor of the Secretary under subsection (b),

the Secretary shall notify the Attorney General and the Attorney General shall bring a civil action in an appropriate United States district court to recover the amount a penalty assessed (plus costs, attorneys' fees, and interest at currently prevailing rates from the date the order was issued or the date of such final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) Subpoenas.—The Secretary may issue subpoenas in connection with proceedings under this subsection compelling the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to being an action to enforce any subpoena under this section. The district courts shall have jurisdiction to enforce such subpoenas and impose sanctions.

(e) Exception.—This section shall not apply with respect to any Federal cave resource administered by the National Park Service, located within any unit of the National Park System, or located within any unit of the National Wildlife Refuge System.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS, SPECIAL FUND FOR FEDERAL CAVE RESOURCES.

(a) Authorization.—There are authorized to carry out this Act.

(b) Fund.—Any money—

(1) collected by the United States as permit fees for use of Federal cave resources,

(2) received by the United States as a result of the forfeiture of a bond or other security by a permittee who does not comply with the requirements of such permit issued under section 7, or

(3) collected by the United States by way of civil penalties or criminal fines for violations of this Act,

shall be placed in a special fund in the Treasury. Such moneys shall be available for obligation or expenditure (to the extent provided for in advance in appropriations Acts) as the Secretary shall determine for the improved management, benefit, repair, or restoration of the particular Federal cave resource affected or damaged.

SEC. 10. REGULATIONS.

The Secretary of Agriculture and the Secretary of the Interior shall each issue regulations implementing the provisions of this Act. Such regulations shall be consistent with the purposes and policies of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 1975, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1975, the Federal Cave Resources Protection Act was introduced by our colleague, Representative RICK BOUCHER, and presently has the cosponsorship of 29 other House Members. The legislation would provide new and specific authorities to the Secretaries of the Interior and Agriculture regarding the management of caves located on certain federally administered public lands.

At present, there are approximately 40,000 known caves in the United States. A significant number of these caves are located on Federal lands, including over 4,200 caves on BLM and Forest Service lands alone. The Federal management of cave resources is a little known element in the administration of our public lands. Existing general land management laws provide little consideration to Federal cave resources specifically. As such, many caves, while still in relative obscurity, are open to indiscriminate use that has raised concerns with those interested in the scientific, educational, and recreational resources that caves have to offer.

The authorities provided for by H.R. 1975 will assure that cave resources are given due consideration in any action taken as part of the existing BLM and Forest Service land management planning processes after the enactment of this legislation. As the CBO report accompanying H.R. 1975 shows, this legislation will add little additional costs to the Federal Government because we do not direct a new planning process but rather direct that consideration of cave resources be provided as new plans are prepared or existing plans are revised or amended under authority of existing law.

H.R. 1975 also provides Federal land managers with authority to control indiscriminate use of caves by providing permitting and enforcement authorities. These tools will assist Federal land managers in assuring that use of cave resources are carried out in accordance with applicable law. H.R. 1975 is by no means intended to stifle use of caves but its purpose is rather to prevent indiscriminate use of caves that could inflict permanent damage on the natural resources contained within.

The proper management of Federal cave resources will afford present and future generations the opportunity to see and learn of the fascinating natural resources that exist in and inhabit the world underground. I support adoption of H.R. 1975 and recommend its passage by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1975 the Cave Resources Protection Act. Since introduction of the bill we have worked out the major concerns of the Members on both sides of the aisle. It is important that Members know what this legislation does and does not do.

It does give protection to a valuable resource on our public and forest lands, and caves. Many times, caves, are the only remaining example of early American archeological sites. Some contain irreplaceable pictographs and other examples of our countries first residents. Also, it does provide penalties for those who abuse these areas, and it does allow controlled exploration and definition of cave resources. In addition, it allows the Secretaries of Agriculture and Interior to keep in confidence the location of caves if they can not be adequately protected. The Secretaries are also provided with a process to exempt caves from this act, after public comment. These are some of the things the Cave Resource Protection Act does.

But, just as important, is what this legislation does not do, and does not require. To some on our side of the aisle, this was of paramount importance. Let me highlight some examples. This legislation would not trigger or cause another round in the planning cycle. Cave resources would be considered in the normal 10-year update process. It is not the intent of this legislation to stop projects on public lands, nor should it be used or abused to do that. All we want is that cave resources be considered in a normal and logically, multiuse land management planning system. State water rights and wildlife management are not impacted, no new management authorities are authorized in these areas.

While the administration opposes this bill I think we have worked out the majority of their concerns. We still have a long way to go between our actions here today and a bill being signed into law. So we may even be able to work out their remaining problems.

Mr. Speaker, in closing I would like to thank the chairman and his staff for working with us in addressing our concerns and of course to congratulate Congressman BOUCHER and Congressman CRAIG, the cosponsors of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON], an able member of the subcommittee.

Mr. RICHARDSON. I thank the gentleman for yielding.

Mr. Speaker, first of all I wish to commend the chairman and Representative BOUCHER and Representatives CRAIG and LUJAN for their work on this bill. This is a very important piece of legislation which fills the present gap in the protection of our Federal Indian caves. It is also very important to my State of New Mexico which has over 1,000 caves, many of which are on Federal and Indian lands which will now be protected under this bill.

When this legislation was originally introduced and considered last July in hearings I had two concerns. The first was for the protection of caves on Indian lands. That concern has been addressed in the substitute bill which was reported from the Subcommittee on Public Lands and includes my amendment which adds Indian caves to the caves which are protected by the bill.

It also protects Indian sovereignty by giving tribes authority to establish their own permit system for their tribal lands

Second, the second concern I had was to protect a recently discovered cave in Carlsbad Caverns National Park known as the Lechuguilla Cave. This cave is at least 13 miles long, the second longest in the Nation and is deeper than the main cavern at Carlsbad. It has all the various formations found at the main cavern only in Lechugilla they are larger and more spectacular.

I was concerned that this cave also be protected. I have since learned, Mr. Speaker, that this cave lies below that part of Carlsbad Cavern National Park which is already designated as wilderness. It is my understanding since the cave lies beneath wilderness that it is included and protected as part of the Carlsbad National Park Wilderness. I wanted to ask the chairman of the Subcommittee on National Parks and Public Lands for his interpretation and intent regarding inclusion of the below-ground resources such as caves when designating areas as part of the wilderness system.

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Mr. VENTO. Mr. Speaker, if the gentleman will yield, it certainly is my understanding that in that instance and other instances where we have actually designated wilderness, that any cave that would be located in that area would be treated as wilderness.

Mr. RICHARDSON. Mr. Speaker, I thank the chairman.

I think as this cave is beneath the wilderness area, I think it fully satisfies my concerns.

Once again, Mr. Speaker, I commend the gentleman from Virginia, Mr. RICK BOUCHER, Chairman VENTO, and I commend the minority, and especially the distinguished chairman of the National Parks and Public Lands Subcommittee for their prodigious support in the passage of bills protecting our culture and our heritage and our wilderness designations. It is a pleasure to serve on this subcommittee.

Mr. Speaker, I strongly support this bill which fills the present gap in the protection of our Federal and Indian caves. It is also very important to New Mexico which has over 1,000 caves, many of which are on Federal and Indian lands which will be protected under this bill.

I had two concerns when this bill was first considered at the hearing last July. The first was for the protection of caves on Indian lands. That concern has been addressed in the substitute bill which was reported from the Subcommittee on Public Lands. It includes my amendment which adds Indian caves to the caves which are protected by the bill. It also protects Indian sovereignty by giving tribes authority to establish their own permit system for their tribal lands.

My second concern was to protect a recently discovered cave in Carlsbad Caverns National Park known as the Lechuguilla Cave. This cave is at least 13 miles long, the second longest in the Nation and is deeper than the main cavern at Carlsbad. It has all the various formations found at the main cavern only in Lechuguilla they are larger and more spectacular. The superintendent at Carlsbad is very concerned that this cave be preserved in its pristine state for future generations and has asked me to have it designated as a wilderness.

I intended to offer an amendment to H.R. 1975 which would designate Lechuguilla Cave as a wilderness. I have since learned that this cave lies below that part of Carlsbad Cavern National Park which is designated wilderness. It is my understanding that since the cave lies beneath wilderness that it is included and protected as part of the Carlsbad Cavern National Park Wilderness.

I wanted to ask the chairman of the National Parks and Public Lands Subcommittee for his interpretation and intent regarding inclusion of below ground resources such as caves when designating areas a part of the wilderness system.

Thank you, Mr. Speaker. Because the Lechuguilla Cave beneath the wilderness area is also included in the wilderness designation I will not offer my amendment.

Mr. Speaker, I include the following:

CLIMBING DOWN INTO THE DEEPEST CAVE IN THE STATE

(By Mark Taylor)

I fastened my seat harness, clipped myself to the rope and then slowly edged myself backwards, to the crumbling limestone lip of Lechuguilla Cave's 90-foot deep entrance pit. Several months ago, word had leaked out of the tight-knit caving community of a fantastic discovery: A new cave that, some believe, may dwarf the famous Carlsbad Caverns. For even a casual caver, such as myself, such news was the stuff of sleepless nights and wild fantasies. But, as I began my journey into this eerie terrain, the promise of hidden things began to evaporate at the thought of sliding down a rope into the yawning blackness. I was, I have to admit, nervous. Maybe even a little scared.

Once over the edge of the pit, the familiar security of the rope allowed me time for some mind-clearing deep breathing and quiet reflection. With the rope steadily hissing through the hardware clipped to my seat harness the fear turned to wonder. I was dropping into the unblinking blackness of a wild cave. All my concerns were pushed aside.

Until two years ago, this abyss was just another pit honeycombing the ragged limestone ridges of the Guadalupe Mountains, in the backcountry of Calsbad Caverns National Park. Volunteer cavers, encouraged by the National Park Service, began excavating the floor of the pit in 1984 and two years later punched through to a passage whose end has yet to be reached.

While it's anybody's guess just how big the cave will prove to be, the explored and mapped passageways now run to a tad under 13 miles in length and 1,207 feet in depth. Already the long-ignored hole is 170 feet deeper than the Caverns. Lechuguilla is the deepest cave in New Mexico and the third deepest in the United States.

Exploration is being carried out by a group of volunteers organized into the Lechuguilla Cave Project. Dozens of cavers from several states have been drawn to the project. Due to the hazardous climbing conditions, Lechuguilla will never be included on the tourist program, but Park Superintendent Rick Smith says a videotape tour may be produced for visitors to the park.

"It's a spectacular cave," said Carlsbad Caverns resident cave specialist Ronal Kerbo. "The enormity of the discovery is already double to anything else in the Guadalupes. Its sister is only Carlsbad Caverns, and in fact, it may be the Caverns' big sister."

Lechuguilla actually isn't a recent discovery. Years ago, local miners harvested the thick deposits of bat guano laid down on the pit floor over thousands of years. Today, all that remains of the old mining operation are a few shattered boards and tangled loops of rusted wire gathered at the foot of one wall.

Like giant subterraneous rock barometers, caves "breathe" with the passing of high and low weather systems. And for such a simple pit, there was a tremendous amount of air pulsating through Lechuguilla. Far more air than could be accounted for in such a small cavern.

"We knew there was something," recalled Farmington caver Barbara am Ende. "There was a 40-mph wind blowing up through the guano deposits."

And, as I descended into the black hole, I was on my way to discovering where this breeze was coming from. Luckily, I had some good company. Our leader for this expedition was am Ende, a paleontologist with the Bureau of Land Management. Along for the trip were scientists David Hafner and Rick Smartt, from Albuquerque's New Mexico Museum of Natural History, who came to identify bone deposits volunteers had spotted in the cave.

Hafner's brother, Mark, of Baton Rouge, Louisiana, caver Bill Greenlee of Andrews, Texas and myself went along—for the adventure of it all.

After reaching the bottom, am Ende directed us to a narrow side passage, which falls away into a small room where the locked entrance to the new cave is located. The gate is kept locked to protect both the cave and inexperienced cavers who might have made it this far. While the entry pit is unnerving, its just a taste of drops awaiting further down.

Once past the gate, am Ende led us down the main passage to the first fossil. It is a fairly sizable hunk of bone, lying half exposed in a smooth flow of undisturbed ancient mud. Crouching beside it, Smartt examined it closely. The tentative verdict: an Ice Age bison or camel. Its age may run to some 16,000 years.

Farther on, we arrived at Wooden Lettuce, an impressive slope of sulphur colored flowstone. Greenlee freeclimbed the slope and tied off a handline for the rest of us to use. The climb up was well worth the effort.

A narrow passage leads to a dazzling corridor of delicate "sodastraw" formations, a tiny pond of pristine cave water. We also came upon what Smartt identified as the remains of a small bobcat, also some 16,000 years old.

After returning to the main passage, we arrived at the jumping off point for the monster drop of the day, Boulder Falls. It is a 150-foot vertical drop. From top to bottom it's 15 stories of empty air.

Under the best of circumstances, that first backward step into nothingness on a rappel line is a nervy moment. Doing it in the thick darkness of a cave adds a special edge to the experience.

The first to step off the edge was am Ende.

"I really need to do this more often." She laughed nervously, a moment before disappearing over the edge.

Within moments, the only sign of her was the distant twisting shadows cast by her headlamp. A few minutes later she hollered from the bottom that she was "off rope."

The drop down Boulder Falls begins against one wall which, 30 feet later, falls away leaving the caver in free-fall emptiness. About 50 feet from the bottom, the wall from the opposite side of the room comes up from behind and stays with one pretty much to the floor of the room.

Once we regrouped, am Ende led the way across the Colorado Room, down a jumbled grade of gypsum blocks to a magnificent room called Glacier Bay.

On the way, Smartt identified another cluster of bones nested in a hollow of rocks as those of a ringtail cat. How it got this far into the cave is anybody's guess.

Glacier Bay is named for the massive blocks of icy white gypsum that appear to float on the blackness like ice flows in water. Dripping water has drilled a maze of holes through the highly soluble gypsum blocks. On top of the largest block, the dripping water has carved the perfect profile of a raven. In the surreal glow of our headlamps the formation stood like a ghost against the seamless dark.

Beyond here, the passage leads on to other wonders with such enticing names as Manifest Destiny, Nirvana, Winter Wonderlands, Beyond Reason and the Fortress of Chaos.

Tempting as it was to continue, the time had arrived to turn back.

Despite the two major vertical drops and all the time it took to reach Glacier Bay, a look at a map of the explored passages showed we had barely entered the front foyer of the grand cave. There was much more territory, known and unknown, stretched in the anonymous darkness before us.

By the time the last of us topped the lip of the entrance pit, we were underground 13 hours. The Guadalupe Mountains were canopied with a clear winter sky speckled by countless blue-white stars.

"We only saw a few hundred feet of the cave, which really isn't much," am Ende said. "But it's still impressive as all get-out."

No doubt . . .

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I note that the gentleman from Virginia [Mr. BOUCHER], the author of this bill, is not present because of some transportation problems, but I do want to recognize that he has done his job with this, obtaining 29 sponsors, and has worked with my staff and others to put this measure together and I want to commend that gentleman for it.

Mr. EMERSON. Mr. Speaker, I appreciate the opportunity to address the House today on the Federal Cave Resources Protection Act. I rise in support of this legislation, and I would like to commend National Parks and Public Land Committee Chairman VENTO and ranking minority member Mr. CRAIG for their hard work and diligent efforts in bringing this legislation before the House.

The State of Missouri has more known caves than any other State in our Nation—4,825 at the last count—and 266 of those caves are in the Mark Twain National Forest, which is partially in my district. These caves have many centuries of history behind thel, and should be protected and thoughtfully managed for future generations. I welcome the opportunity to support legislation enhancing the authority of the Secretaries of Agriculture and Interior in overseeing the management of these valuable and irreplaceable resources.

I know that there has been some concern over the holes in this legislation—specifically with regard to mining operations, mineral leasing, and reclamation. While Missouri has the most caves in the Nation, we also have the most lead and clay resources. I strongly believe that the activities of recovering these mineral resources, including road construction and maintenance, should not be impeded by any section of this legislation. I thank both gentlemen for their persistence in addressing these concerns and for working out the final version before us today. It is my understanding that this legislation meets with the approval of the Forest Service, the Bureau of Land Management, and all other involved parties.

Mr. Speaker, on that note, let me reiterate my support for this bill, and urge my colleagues to join with me in passing this legislation. The bill will be of great help in ensuring consistent and responsible long-term management practices for federally owned caves.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1975, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

THE STRING OF HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, last week toward the end of the week reports were given us showing that the schedule for this week's business had been changed. It had been announced for some time that at the end of business Wednesday, the day after tomorrow, we would be going to what we call a district work week, more or less, a little bit more than a week, for the Easter holidays; however, at the last minute on Thursday some of us found out that that had been changed because the Speaker was considering offering another aid package for the Contras; so I could not think of anything more mistaken than to propose that at this time in view of the developments in Central America and a pending second meeting of the adversaries, the Sandinistas or the Nicaraguan Government leaders and the so-called Contras or rebels in Honduras who have been there from the beginning because we got them there. We funded them. We have fed them. We have armed them and we have kept them there in clear violaton of international law, particularly since we continue to have an Ambassador with portfolio from the United States in Managua, the capital accepted by the Nicaraguans as our emissary, and we in turn under international law recognize the Nicaraguan Government as the lawful duly constituted Government of Nicaragua.

In the meanwhile, in violation of our statutes, as I have been saying now since a long time ago, 7 years ago—6 years ago, and even the President has solicited private contributions of arms and money for this group that was first constituted by the Secretary of State, Gen. Alexander Haig, in 1981, the moment he took office with the Reagan administration, and prevailed on the Argentine military, the despots ruling Argentina at the time, to lend some Argentine soldiers so we could put them in Honduras, since we could not get the Hondurans to do it or any other neighboring Central American country.

We thought and were ignorant and foolish enough, that is, the leadership was, to think that with a handful of Argentine soldiers we could train what now we call the rebels or the Contras, most of the leaders being ex-Somocistas, that is, the very people who lost power, the Guardianationale, the most hated armed group in any country by the people who won the revolution, those installed in power in Nicaragua now.

Now, if there is any delusion, either in the Speaker's mind or in the minds of any of my colleagues, collective minds, that the leaders in Nicaragua do not have the overwhelming majority, proponderant support of the majority of the Nicaraguan people, let me attempt to disabuse them of that malconclusion.

Now, I then sent a letter last Thursday to the Speaker imploring him to cease and desist until the second meeting of these preliminary meetings, because all we have at this point is a cease fire or a truce, there is nothing really definitely settled, and it has always been considered even under the Arias plan that the United States sustained support of the rebels in Honduras constituted an impossible obstruction to the realization of the so-called Arias peace plan.

So I am hoping and praying since I spoke last week on this subject matter, and even joined by one of my distinguished and highly esteemed and beloved colleagues from the other party, I did feel that I should report, and I will place in the RECORD at this point my letter to the Speaker, with carbon copies to the Democratic leaders, the majority whip, and the majority leaders.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 25, 1988.

Hon. JIM WRIGHT,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: When I contacted the cloakroom staff yesterday regarding the schedule for next week, I was surprised to learn that Representative Foley had announced that the House would conduct business on Thursday, March 31. Since I and many others had prepared to leave Washington no later than Thursday morning, and had bought airline tickets for this purpose, I contacted Tony Coelho, in as much as I could not reach you, about the change. Tony advised me that you were preparing a package of humanitarian aid for the contras that can be supported on a bipartisan basis and that the schedule change was to accommodate a possible vote on this package.

I cannot think of a worse thing for you to do at this time. As you know, aid to the contras has been at the heart of the failure of the Arias peace plan. With a ceasefire in place and the parties expected to meet in two weeks, it is possible that they will soon agree on a package of humanitarian aid to be administered by a third-party, not the United States. In light of these events, it is folly itself to act prematurely, and I implore you not to undermine the peace talks by proposing an aid package now.

With all good wishes, I remain

Sincerely yours,

HENRY B. GONZALEZ.

From that, I want to go into what is at the basis of these other symptomatic headline grabbing events, that is, momentarily headline grabbing. Nicaragua will push to the forefront when the President sends the 82d, or a contingent of the 82d Airborne; but in the meanwhile, we are not seeing in the headlines what is happening in the Persian Gulf, which is very inherently dangerous, or much less what is happening over in Korea where we have over 45,000 of our troops stationed, and much less paying any attention to what is happening in Europe and forgetting the trend or the string of history that has led us to such folly as taxing the American people for $315 billion of what we euphemistically call a defense budget, of which at least, and I am sure that is very conservative, over 55 percent of that is so-called destined for European defense.

Now, we must see ourselves at these critical times as others see us. From reading the writings of the Intelligentsia, both in our country, the literary figures, because if you really want to know a country, even its finances, you do not go to the bankers, you go to the poets and you go to the thinkers.

In reading West European journals, which I do, Central and South American and Mexican journals, which I do, I find that we are in like a cocoon. We are self-enclosed. We are self-contained, and we do not have the foggiest notion, at least judging from the discussions that I have sat and listened to here on these various issues, particularly the Central American issue, that there is any awareness of how we are looked upon.

Fortunately for us in Nicaragua, for example, we have a peculiar historical involvement. The people themselves have always had a very high reservoir of good will toward Americans. As a matter of fact, compared say to Panama, where I would say traditionally it has been nonexistent, Nicaragua up to now, up to the murderous assaults on innocents, including American citizens like Benjamin Linder, as in El Salvador, the five American nuns, the Archbishop of El Salvador, all of these crimes were committed by hands armed by us and with our most so-called erstwhile secret agencies, such as the CIA, in cheek-by-jowl partnership with these agencies.

Now, we do not think so. I doubt that very few of my colleagues or very few of our American citizens like to think those things, but those of us who have lost our innocence, particularly since the assassination of President John Kennedy, must give some credence to what is being written in these countries, what their concept of America's agents and their realization of the extent of America's agents is, actually are speaking and acting in the name of our country and our people, so that the atrocities that have piled up, 60,000 deaths in the smallest Central American country, El Salvador, where nobody up to now, not even General Haig who drew the line and said it was an East-West confrontation ever found any caches of substantial amounts of arms from the Communist countries.

□ 1340

As a matter of fact, the rebel leaders, some of whom have been interviewed by some of our underground press correspondents, jokingly talk about how 99 percent of their arms are American made. Some of them were turned over by the soldiers from the Salvadoran Army that we have armed and trained, some of them were captured from these soldiers, but very few if any Russian or Cuban-originated armament. So that in the same way, in the other most important and for our destiny the most vital, the economic, the international financial, the monetary, the fiscal, those are fancy words used for these issues, there the United States is in far graver danger. In fact I would say very, very much danger compared to any of the issues that the President has attempted to raise and scare the American people with respect to some feared physical invasion from the south like when he stretched the imagination beyond any kind of credibility and mentioned that the town of Harlingen in Texas was in the path of invasion from Nicaragua.

It is unbelievable. This has made us the laughingstock of all of these brilliant minds in these countries.

We like to think that these countries are inferior. Culturally they are far from it. Two of the most important cities in Nicaragua, Leon and Grenada, were founded long ago. Grenada was founded in 1524. The first printing presses, and the first colleges existed in Mexico and Cuba way over 150 years before the first colonizers came to the United States from England to the northern part of the hemisphere. But in the case of this other more obtuse, abstruse, complicated subject matter, I think we should concentrate, because one actually is connected with the other. If we have troops in Korea of 45,000, if we have our sailors at risk in the Persian Gulf, if we have over 300,000 soldiers in Germany alone, and mind you, we like to think that we are the defenders there but if one reads the journals and the literature outpourings in these countries, that is not the point of view at all. As a matter of fact in recent articles published by the organization known as the European Community, the EC, there was a brilliant article discussing the history of the so-called American contingency, or responsibility for defense of Europe. They go back to 1946, 1947, and 1950, when I think without much perceptible notice on the part of America we rearmed Germany, thereby beginning the foundation or the predicate for what later became known as the cold war. But whether it is 300,000-plus in Germany, 45,000-plus in Korea, untold thousands now because at any given moment we are not reporting how many sailors we have off the coast of the Isthmus of Panama in Central America, and how many of our air patrols are over that area, we know that for the past 6 years there seldom has been a day we have not had at least 10,000 soldiers in Honduras without the permission of the Honduran representatives who never have invited us and in fact have protested our presence.

There were critical editorials in 1982 when we first began to increase our forces there after the debacle of the Argentine experience, because naturally Argentina was thinking that since they were good enough to lend us some soldiers, that when they decided to invade the Falkland Islands they felt secure that the United States at least would not side with England, that we would be neutral and maybe possibly be sympathetic.

Of course reality and the history of the connecting link between the mother country and the United States should have removed any doubt about where the United States would be. The point is that with the withdrawal of those Argentine it left us the task of, one, either increasing our own troops which we did; or, two, helping to fill in the gap and train our own group of rebels that would "destabilize" the then Nicaraguan junta.

It was the same thing on the financial markets that occurred. In two world wars the United States was the only creditor nation involved in the wars. In World War I we were the only creditor nation and the United States had just become a creditor and not a debtor nation by the time we got involved in 1917. We had not been a debtor nation since 1913. For instance, when we built the Panama Canal, and we are proud of the fact that we built the Panama Canal, we had to go with a handout from the French bankers to get the necessary capital, the necessary loans in order to finance the building of the canal. But by 1917 we were in the black, we were a creditor nation, we had involved our financiers such as Loeb & Kuhn, Brown & Brothers of New York, they all had ventures all the way from China where we had interfered in the old Chinese imperial but debauched and bankrupt regimes, and we got involved in a poor country fight before the outbreak of the war in 1914 in Europe as to who was going to control some of the investments. The private bankers of the United States in the name of the United States, because there are American ambassadors in the middle of all of this, actually had a tax imposed on every transaction or sale of tobacco, opium or whatever, in order to have the emperor pay the interest on those loans.

Then with the outbreak of the war, with the Russian competition, the British competition, the French competition, and the German competition relaxed, we kind of moved in. In 1916 our Secretary of State, deceiving the President of the United States, but in the name of the United States actually made a deal for these financial giants of that time in New York, but the same thing has been done in Nicaragua and all throughout the New World.

We cannot conceive of what it is we are to countries where every utility, every major economic operation is American, including the telephone company, the water company, streetcars and whatever transportation is present, and it is from that standpoint, the financial standpoint, that much of our policy has been developed with respect particularly to Nicaragua.

In Europe, why is it that the United States ended up as the protector of the land mass with at one point 600,000 soldiers there and they were not cut in half to 300,000 until many years later? We changed the designation of our troops from "army of occupation" to "defense troops."

To the people in the country occupied however, there is a different psychological even spiritual feeling about it. After all, it is their homeland and since 1947 Europe has radically changed but not our predicate, our base for our defense budgets. Our budget is based on a 1947 Europe.

President Reagan's actions in Nicaragua are actually unbelievable. I cannot believe it has happened. It is a retrogressive turning of the clock back to Calvin Coolidge and President Taft who sent the Marines in in the 1920's and kept them there. Augusto Sandino actually came from the middle class, a small town in one of the provinces of Nicargua, but he has a famous saying that we do not discuss or debate sovereignty, we fight to defend sovereignty.

The reason is that there had been a struggle for power in Nicaragua and the United States financial interests having a big stake in it, it did not accept the winner of a so-called election in the 1920's so we invaded and then later Calvin Coolidge sent the Marines again and this time installed Anastasio Somoza who was the original Somoza who after embracing Sandino, who pledged that as long as Nicaragua exerted its sovereignty and independence he would put down his arms, but the Marines spent 13 years chasing him and never could catch him any more than General Pershing chasing all over northern Mexico ever caught Pancho Villa.

These historical lessons ought to tell us something and it ought to have caused our leaders to have at least read a little bit of history, certainly the people in the State Department should have, but if the American people knew of the thinking and the mentality of such men as Elliot Abrams, the Deputy Secretary of State for Inter-American Affairs, and his deputy, believe it or not a fellow that has the same name as the filibusterer, as they call them in Latin America filibusteros, General Walker who proclaimed himself President of Nicaragua and after three attempts to come back was finally captured by the British, turned over to the Hondurans, who executed him. If my colleagues go to Honduras today to this particular town at the site of a maternity hospital, they will see a marker commemorating the place where Walker was executed. Unbelievably, Elliot Abrams' choice for our representative in that area is another William Walker who, together with the Ambassador from the United States to Honduras, trooped in unannounced and invaded this maternity hospital in order to pay their respects to the memory of William Walker.

□ 1355

I do not know of anybody that has any knowledge of the people of those countries that could believe that in 1988 the United States would have envoys of that limited ignorant and foolish mentality.

Let us look at the root cause. For the first time in our history, as I have said ad nauseum, we have an ideologue as President. What he has done in every department is to have put people in power that, first, meet and must be approved from their ideological test.

The reason Elliot Abrams is around is not that he has any particular foreign service background. He happens to be the son-in-law of Norman Pateris who is the editor of Commentary. This is a magazine that brought Kirkpatrick to the attention of President Reagan, and who ideologically, since she has been imbued, since she was a teacher here at Trinity College, as an unbounded anti-Communist, the people in the age of McCarthy, we used to say, would see a pinko under each bed.

It was Norman Pateris that unloaded Jeane Kirkpatrick, and she was appointed by our President to be our Ambassador to the U.N.

The first thing she did was get rid of all of the career diplomats. We cannot have had the defeats we have had diplomatically just because suddenly the United States was inept, there had to be a reason, and the reason is simple, an ideologue such as Jeane Kirkpatrick, who really reaches such a point of ideology as to almost be malevolence in what she has espoused in Latin America.

She was one of those that defended the Argentine military, the most atrocious, tyrannical despotism to ever have visited our new world. She defended them as being authoritarian and not totalitarian, if anybody can reason that way. Only an ideologue can.

She then brought to the U.N. legation staff of the United States after she got rid of these career capable diplomats we had had for years, Mr. Pateris' son-in-law, Elliot Abrams. That is how he started.

When she left the U.N., Mr. Abrams came to the State Department, and now of all things, with no knowledge of the history, much less language, culture, that man is the one that came to Congress, lied to congressional committees, and is the one that is determining the definition of our conduct with such a gigantic, aggregious stupidity as to send a man with the name of William Walker who himself has no diplomatic background, engendering these old hatreds, fears, which have given the United States a back eye in that part of the country.

In Europe, we have done pretty much the same thing. When President Reagan went to the Bonn summit meeting, it was the second economic summit meeting, and the first was in 1979, also in May, and President Carter was President. Yet, when President Reagan went in May 1985, one would have thought that the only reason he went there was to lay a wreath at a Nazi cemetery.

The fact is that that was one of the most important economic statute of limitations that our financiers were given by the European Community which finally had put in place an inner European Community currency system, financial system, known as the European Monetary System, EMS, and the European Currency Unit, ECU.

The first unveiling of that was in May 1979 when Jimmy Carter went over to represent us at the so-called economic summit of 1979, also in Bonn, Germany.

There was a short communique at the end of that meeting, one line, and this was printed all over the German journals, French, British, Spanish, but in the United States, I believe it was only the New York Times that had the text of this communique.

The last sentence said, "We accept in principle the European Monetary System and the European Currency Unit."

I could not believe that there was no discussion, and there has been none.

It is not with any particular sense of pride that I report to you, my colleagues, that only one voice has even mentioned this development in the Congress on either side of the Rotunda, and that is mine. I was not chairman for 10 years of the Subcommittee on International Finance for nothing, and I raised my voice in 1979, and, of course, my colleagues, as today I spoke for the record, and this is the reason I am here today.

I have spoken for the record since the first week I came to the Congess in January 1962, soon after I was sworn in.

The fact that the Congress, I believe wisely, thought it a good idea to have the proceedings available to the American television viewing audiences does not mean that I started with that. It means that by the time the Congress accepted television coverage, I had had about some 18 years or more of speaking out on this House floor for the record.

It is not that we could not have submitted our speech in writing, for many years it would have been printed in the RECORD as if we had uttered it on the House floor, but I had 5 years of a great privilege service in the State senate of Texas where the rule of unlimited debate prevails, and I saw how significant it is for the people to discuss, to argue, to debate, because otherwise, our people are uninformed; and, uninformed, we cannot have a true representative form of government, at least not democratically elected form of government.

When I pointed out that what the European development was that finally after the original Treaty of Rome, the first so-called Treaty of Rome which was a meeting of the European communities, gave birth to the beginning of the European Community, they were glad enough just to begin with some semblance of togetherness, and they could not put together an intricate international currency type of market, and it wasn't until years later that finally the glimmerings of a plan developed. It was Palermo, Italy, just about 1 month before the summit meeting in 1985 in Bonn that these ministers finally put everything in place so that today, in Europe in every one of those countries, at least in continental Europe, you have the European Currency Unit as the medium of exchange.

For example, in the last issue of the European Community publication, they had a very interesting article about an educational grant or foundation or fellowship in order to provide an opportunity, for example, of an interested or willing or motivated Italian student to go study in France or Germany or England or maybe in Luxembourg and vice versa. They provided, according to the article, a stipend of 5,000 ECU's, European Currency Units. They did not say dollars. Then in parentheses they said that one European Currency Unit, ECU, is worth $1.25.

In 1979, by then, I pointed it out in a speech I made on the House floor for the RECORD, that the big 6 or the 10, which ever way you want to consider the European Community, and mind you, for the last 3 years, Spain and Portugal have come in, and this is where our export of agricultural food and fiber dipped, and this is when we began to have our farm problems, together with the default of the Chinese purchase of 6 million metric tons of our grain which they did not keep their word 2 or 3 years ago. It will be 3 years in the autumn, unlike the Soviets who have kept every single part of the agreements they have entered since 1964 for the purchase of wheat and grain from the United States.

As of 3 years we are a debtor nation, the biggest debtor nation in the world. All of the debtor nations put together have over a trillion dollars' worth of debt, but the six countries in Europe, with West Germany the principal holder, and the others together, have far greater gold reserves than we have.

I remember that struggle. I have been on the Banking Committee since I came here, and it is going on 27 years. We like to think, as our leaders have said and various Secretaries of the Treasury, particularly Bill Simon in 1975-76, that we would demonetize gold, and my thought on that was it is great provided the other countries do it, too, and we are not going to get France, much less the others, good, bad, or indifferent.

The fact is that you cannot have that unilaterally, and then especially in 1971 when President Nixon devalued the dollar, although there was not one American newspaper that called it that, and only the financial writers said that what President Nixon had announced in 1971 was that the United States was going off the gold exchange system, that is, we were not able to pay off this big overhang of Eurodollars which at that time, compared to later, was a piddling $80 billion.

It reached the fantastic $750 billion-plus in value equivalent in the value of gold. It was not the old gold standard.

That collapsed in 1922 after World War I. The nations got together in Locarno, Italy, and I remember that. What are other things I remember as a child? The disarmament agreements go hand in hand.

□ 1410

Believe it or not, when old William Jennings Bryan got up and made that electrifying speech saying, "Thou shalt not crucify this country on the cross of gold," that is exactly what is happening in the world. It goes back some time.

But after World War I, the United States being the only creditor nation, the so-called war debts of our allies were really the lesser of the problem, even though the newspapers and articles seemed to make it look as if the government-to-government debt was the big issue; it was the private international debt.

As I remember, as a 13-, 14-, 15-year-old boy, I remember the Hoover moratorium on the payment of debts, Germany saying "You can't bleed us anymore," and that was true. Europe, France, and England saying, "Well, old Uncle Sap," as they are saying now—and at this point I would like to place in the RECORD and ask unanimous consent to do so, an article that appeared in the business section of the Washington Post on Thursday, March 10 of this year.

The article referred to is as follows:

POUND'S RISE DOESN'T THREATEN CURRENCY POLICY, BAKER SAYS

(By Hobart Rowen)

Treasury Secretary James A. Baker III yesterday minimized British Prime Minister Margaret Thatcher's refusal to intervene to stop a rise in the pound sterling compared to the dollar, saying it posed no threat to the policy of international cooperation on currency policy.

Market observers expressed concern that the British action might threaten the stability of the dollar. But while the pound finished higher yesterday for the third day in a row, the dollar also rose slightly against most other currencies.

In testimony before the Joint Economic Committee, Baker said Thatcher's decision not to put a ceiling on the price of the pound should not affect the agreement the United States, Britain and five other nations reached Dec. 22. That pact said a further fall in the dollar should be avoided as counterproductive.

He acknowledged that he had not been informed of the Thatcher government decision before its announcement Tuesday in Parliament.

To keep the pound from rising, the British government would either have had to increase its intervention by selling sterling or lower British interest rates to make the pound less attractive. The Thatcher government apparently concluded that either measure would be inflationary.

Baker said that Thatcher's decision was an "internal" matter, as well as one relating to British relationships to the European Community. British oficials have been more concerned with the pound-mark relationship than the pound-dollar relationship, striving to keep the pound below the 3-mark level to encourage British exports to West Germany.

When Baker downgraded the significance of the British step to the dollar, Sen. Paul Sarbanes (D-Md.) asked, "Suppose others follow?"

Baker said that other economic powers have not withdrawn support of the dollar, "and there is no reason to think they will."

He added that there is nothing in the Dec. 22 agreement that governs interest rates. The countries can make their own domestic decisions, he said.

In his prepared testimony, Baker said the coordination process, having led to substantial changes in currency values that are helping to reduce trade imbalances, needs further improvement.

In the New York market, the pound rose yesterday to 3.0852 German marks and to $1.848, up from $1.843 the day before. The dollar was slightly higher against both the mark and the yen.

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BANK BOARD ACTS TO CALM S&L JITTERS

In an attempt to calm Wall Street jitters, the Federal Home Loan Bank Board yesterday promised to help buy collateral underlying $12.6 billion in loans to the American Savings and Loan Association should the government decide to liquidate the troubled California S&L.

American Savings is the nation's third-largest S&L, but the largest of the several hundred sick institutions whose problems the bank board must try to solve. The board regulates S&Ls.

The board said that yesterday's promise extends similar guarantees made each year since 1985 that, barring an unforeseen catastrophe, the government would keep American Savings open. Yesterday's pledge differred, however, by promising only that the bank board would try to help Wall Street investment firms recover their money should the S&L be closed.

The bank board's pledge said the agency had no plan to take over or close American Savings "at this time," but fell short of giving a specific date for how long the promise might last. In addition, it promised only to buy up collateral using its "best efforts," thus making no pledge to support prices.

The headline on this particular article says, "Pound's Rise Doesn't Threaten Currency Policy, Baker Says."

It reads, "Treasury Secretary James A. Baker III yesterday minimized British Prime Minister Margaret Thatcher's refusal to intervene to stop a rise in the pound sterling compared to the dollar, saying it posed no threat to the policy of international cooperation on currency policy," and so on. He acknowledged that he had not been informed of the Thatcher government decision before its announcement Tuesday in Parliament.

Should we now, as we should have in 1930, 1931, 1932, blamed the French, the British, and the Germans for shaking off the yoke of that gross treaty of Versailles that imposed slavery on Germany? Should we blame "Maggie" Thatcher for looking after her own country? Of course not. We should blame ourselves for being so stupid as to forget our national interest because of ideology. What "Maggie" Thatcher is saying is, "Hey look boys, after all, we are both Tories. If you were in England you would be a Tory. I am Tory. And England first, foremost and last, you know. You boys ought to know that we also are conforming. We are not doing anything out of line because we are conforming to the European Community of which we are now a part and our agreement in our so-called European monetary system, European currency unit" which developed out of the so-called Snake agreement after President Nixon abandoned the gold exchange standard, devalued the dollar not once but twice, and went into this terrible arrangement giving rise to instability known as the floating exchange system.

If anything, money markets fear any kind of instability. The reason we became a creditor nation by 1917 is that with the advent of war and instability in Europe that gold and money fled to the United States for haven. It did the same thing in World War II. But after, and what we have now, is practiced on us, what we have been practicing on so-called Third World countries. There is nobody that can match the speculators in the gold markets, London, Switzerland, France.

Mr. Speaker, the other article appearing on that same page that should have been related, but obviously it is not, in the roundup on the left it says, "Bank Board Acts To Calm S&L Jitters." It reads, "In an attempt to calm Wall Street jitters, the Federal Home Loan Bank Board yesterday promised to help buy collateral underlying $12.6 billion in loans to the American Savings and Loan Association should the government decide to liquidate the troubled California S&L."

Now, Mr. Speaker, I would like to place that article, No. 2, with the first article because they are connected.

California S&L's, why they are going to make Texas S&L's, which are in a terrible mess, they are going to make them look like pikers. But what precedes these things? Well, between 1922 and 1929 the average bank in the United States where the drug store owner, the ex-German ship captain Ernst von Helms, ran this drug store and every week he would send me with a little paper sack with $1,200, $1,300, $1,500 in currency and the bank deposit slip and I would get on my bicycle and go all the way down to San Antonio, to the City Central Bank of San Antonio on the corner of Navarro and Houston. I would go up to the teller, barely reach, he would stamp it.

Nobody would have ever thought anything would happen to me in that good old pristine clean age. But I would do that every week.

And all of a sudden the stock market declined that fateful October in 1929.

Mr. von Helms was standing in the doorway of the drug store, his original site on North Flores and Cadwalder—I was born on Upson Street, half a block away, and later he moved to a new and richer environment then, kind of on the edges at that time. Nobody today could dream of San Antonio having been that size. This was on McCullough and Ashby. But in 1929, he said, after October, "Well, you know," just like now when we had that October 19, 1987, collapse when people said, "Well, everybody is coasting along now." Then you see an article like today's paper saying people are still worried about it. The reason is these movements are glacierlike, slow, but immutable, they are inexorable. It is in, it is like a glacier moving, barely detectable, but moving.

So it was not until October, 2 years later, 1931 that I had the sorrowful countenance of Capt. Ernst von Helms literally crying because the San Antonio Drug Co. had just foreclosed on him and his stock, his inventory. City Central had collapsed, closed its doors. There was no Federal Deposit Insurance Corporation at the time.

Where did all of these moneys go that the banks had? Well, I will tell you where they went, just like in these roaring eighties, all these high flyers were going; they were going out to get their usurious rate of interest.

So, Mr. von Helms would send me with the deposits—and when I say $1,300 in terms of 1927, 1928, 1929, let me tell you I am talking about the equivalent of $5,000 to $10,000 today. I mean, a penny would buy things. I could get two Hershey kisses for a penny. I could get a pint of milk for a nickel. I could get two loaves of bread for a nickle on sale, usually three cents each, two for a nickel on Saturdays. We are talking about another world.

But the same basic verities ruled then as they rule today and have at all times including what I have said again ad nauseam, usury, usurious extortionate rates of interest are the downfall cause of all empires.

Spain "Where Tyre, where Nineveh, where is the pomp, where is the glory?" For ages it has been outlawed. But the United States right about the time Abraham Lincoln was killed, the Congress approved the first basis of a national banking system known as the National Currency Act, abolished the only antiusury act we ever had on a national basis. So that when a person like I got up in 1966 at the first credit crunch in June of 1966 and said, "Look, it is possible," everybody was saying, "What is the matter with you? The day will never come when you will have to pay more than 6 percent. On long-term fixed 30 year mortgages?

My goodness, it won't even get to 6 percent."

Well, it was less than 2 years that you had a jump of 1 percent, one whole percentage point in the prime interest rate overnight. That had not even happened during the Civil War. So we have been left defenseless; the words I use were, "strip naked" to these raw predatory economic forces.

Add to it this misbegotten notion that all of the laws that the Congress saw fit to pass since the President Theodore Roosevelts, the Woodrow Wilsons, to curb the predators, the ones that Thomas Jefferson warned us against at the founding of the Nation in the first and second Continental Congresses. Even Alexander Hamilton. Today they call him a conservative but actually our labels and our use of words have become so corrupted that I should not even use them.

So after World War I the German wizard, they called him, Hilmar Schacht, later known as Hitler's financier, he had dual citizenship. If in the United States he was an American citizen, if he was in Germany he was a German citizen. All during Hitler's rule in Germany you had dual citizenship in Germany.

So he played the Wall Street markets very well. The German Imperial Government had floated bonds, the German Government later floated some bonds. The Japanese Imperial Government in 1921 floated imperial government bonds on Wall Street to mature in 20 years. Well, that was 1941. That matured about the time of Pearl Harbor.

Now why were they selling? Because they were offering, like these high flyers, these higher rates of interest so these bankers would send the deposits up to Wall Street and they in turn would invest them in these government bonds.

There was one kingdom in the edge of Europe that did not even exist by the time World War II came around and yet it floated $20 million worth of bonds that these investors in the hands of the speculators, greedy as always. So we entered the period of what I called the money manias of the 1970's.

The record will show I mentioned them; I am not saying now what I would like to have said then because I have been exceptionally concerned.

So at this point I think that one of the articles that most illustrates better than any because he himself says he was a participant in one veture with Ivan Boesky. The title of the article is "The Monster That's Eating Wall Street." It appeared in the "Outlook" section of the Washington Post on Sunday, January 10, 1988. The monster that is eating Wall Street, let me tell you something; it is eating the vitals of America, not Wall Street. Voodoo credit, buy-out mania are killing value and values. But it is so fashionable to talk about values today.

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About 2 years ago—well, the last election I believe was in 1984, to be correct. I did not have an opponent, and 3 weeks after the election I received a check for $4,000 from an organization headquartered in Washington. Now, through happenstance, and I do not impugn motives, but through happenstance it happened to be an organization that had business with one of my main committee assignments, so, as has been my practice all along, I returned it. Somehow or another a newspaper reporter found out, called me and said, "Did you accept this or did you return it? We've been looking at the report the lobbyists filed and your financial reports, and you don't report it."

And I said, "Of course I haven't. I didn't get it."

"Well, wasn't it sent?"

I said, "Yes, but I sent it back."

First place, because I had not possible justifiable reason for accepting any kind of contribution for a race that was terminated when I didn't have an opponent. I never bother anybody for fundraisers if I don't have an opponent.

So he wrote an article that was very interesting to me because he said, "Congressman returns money," which is surprising to a Washington that considers this archaic—archaic; that is, old fashioned.

Well, if we reached that point, I don't know what I can do or say. I just think that it is self-evident that, if we maintain the independence that we swear to and we take our oath of office and that we should have equal accessibility to all constituents regardless of race, color, creed or economic position, then the system is not functioning no matter how much we might think it is because I read the constitutional debates that led to the formulation of the constitutional article I providing for the Congress and the main objective in mind by these people who wrote the Constitution as to what the House of Representatives should be.

So anyway what I am saying today is that in anticipation of what I know is inevitable, just a matter of time, will it be before election in November, or will it be soon after, or a few months after? Makes no difference. Too many forces are loose in what I call too many variables in this equation.

In 1979, I used that to point out that for the first time our financial system in the United States had exceeded the 22-to-1 rule of thumb that the big international wizards at the Bank of International Settlements use. And when you have 22-to-1 ratio of debts to assets, they consider it gone.

I had a call from of all people—now mind you there was no television coverage then, my colleagues—the chairman of the Federal Reserve Board, may his soul rest in peace because he has passed on since, calling me and saying that his attention had been called to what I said, and he wanted to have breakfast with me the next morning, and I did. I went and had breakfast with him, and after that breakfast I really got scared and apprehensive and have been talking since then, Unfortunately, I do not know how much good it has done.

Today I am proposing a national finance SWAT team.

At this point I would like to insert two newspaper articles, one entitled "The Monster That's Eating Wall Street," and the other, an editorial entitled "A Backdoor Bailout for Banks."

The articles follow:

THE MONSTER THAT'S EATING WALL STREET—VOODOO CREDIT, BUY-OUT MANIA ARE KILLING VALUE AND VALUES

(By James K. Glassman)

Three years ago, before the insider-trading scandal broke, Ivan Boesky, the famous arbitrageur, decided he wanted to buy a large national magazine. In this venture, I became an extremely minor partner and an extremely major voyeur.

It was a pretty lousy experience, all in all. We didn't get the magazine—partly because Ivan changed his mind about something at the last second. But that's another story. This story is about the clear and frightening vision this little adventure gave me into the soul of the American economy in the roaring '80s.

The question at first was how much we were going to bid for the magazine. Since this was a small deal—barely $100 million—Boesky relegated the calculations to one of his minions. Our first meeting took place in Ivan's old office—a chaotic warren on Wall Street—and it went like this:

Boesky Aide: OK, now how much did this company make last year before taxes?

Me: Five million. [The figures I'm using here are rough estimates. I forget the actual numbers.]

Boesky Aide: Fine. What were the depreciation and the other non-cash expenses?

Me: Three million or so.

Boesky Aide: So how much cash can we take out each year? What's the total cash flow?

Me: Eight million. Five plus three is eight.

Boesky Aide: Good. You did that without a calculator?

Me: But depreciation is a real expense, isn't it? Even if it doesn't cost us dough now. I mean, at some point we'll have to replace these machines and desks.

Boesky Aide: Later. Let's get back to the facts: On $8 million, we can borrow at a multiple of nine. So that's $72 million. We can liquidate the excess assets in the pension plan, sell off the real estate, cash in the CDs they've got on the balance sheet, and sell the unproductive subsidiary. That's another $20 million. And we'll put up, say, four million of our own money in equity. So that's it. We'll bid $96 million.

And that was it. There was no discussion of budgets or projections, of the magazine industry's prospects, of impending inflation or recession, or of how well the company had been run in the past. The key was the multiple: How much borrowing power did the cash flow (the actual money-in-the-till profit) give us? In this case, it was $72 million, which became the core of our bid. The cash flow would service the debt. In other words, if interest on the debt were 10 percent, we'd take $7.2 million of our profits each year to meet it and have a little (very little—$800,000) left over for reducing the principal or meeting contingencies.

We lost. Someone else obviously had a more generous banker. But I did get an education—a scary lesson in value, and in values.

I learned that the value of a company was determined by what a man with a lot of nerve and a decent track record (a record, it turned out, built on playing with a stacked deck) could persuade a banker to give him. It was as simple as that. Not only the magazine we were after, but almost every American institution, was up for sale, at a price determined by the eagerness of bankers to put their funds to work.

I also learned that there was a huge gap between the real world of business and the unreal world of finance—or maybe I should say, the world of numerology. It was the manipulation of numbers, often in mystical processes, that enabled people like Boesky to buy—or at least to threaten to buy and, in the process, to transform—actual corporations with living, breathing people inside.

Since the Oct. 19 crash and the rush of books like Tom Wolfe's novel "The Bonfire of the Vanities" and movies like Oliver Stone's "Wall Street," there's been a lot of talk about greed. "Greed is good," says Stone's villain Gordon Gekko. Greed isn't good, but it also isn't really the point. Sure, it is the driving force—it keeps the players playing—but it's always been that way.

I think that something else has been more important in fueling the financial excesses of the '80s; intellectual excitement. To many people, including very smart folks on Wall Street, playing with numbers is fun. And playing with numbers is no longer a nerdy accountant's game. Play with them the right way and you become, in the words of Wolfe's hero, Sherman McCoy, a "Master of the Universe."

You don't have to dirty your hands with actually running companies or producing things. Better, you don't need to become personally involved with employees or customers. But you still get the kick of owning—or influencing—important institutions.

And it's all done through what Wolfe calls "the electric doughnut"—the telephone: "One fine day, in a fit of euphoria, after he had picked up the telephone and taken an order for zero-coupon bonds that had brought him a $50,000 commission, just like that, this very phrase bubbled up into his brain . . . Masters of the Universe."

But, of course, McCoy and all the other players are about as masterful as little plastic dolls—and they know it. No one—not Robert Prechter or George Soros or Michael Steinhardt or whichever genius of the month is plastered on the cover of Fortune—can tell the future. In a rising market, everyone is brilliant. And everyone knows, deep down, that it's all a sham.

It's that knowledge that makes the market so pathetically fragile. And this is what scared me the most about my Boesky experience. Because of the alienation between business and finance (like the alienation between the magazine and our evaluation of it), Oct. 19 could easily happen again—and for reasons that have nothing to do with the budget deficit or the weak dollar. It was Lord Keynes (who made a fortune as an investor) who first articulated the separation of the stock market from the greater economy. That separation has become greater over the past 50 years. What moves stock prices are waves of solipsistic enthusiasm and despair that sometimes turn into panics of buying and selling.

The reason that the market remains vulnerable today is that Wall Street players aren't ignorant boosters. They're smart, and what was in the back of their minds on the day of the crash is still there: that something is wrong with the system that's made them rich, and that's bought them $3 million apartments and all the truffled angel-hair pasta they can eat.

The power of greed pales before the power of ideas, and the most powerful idea of the past decade was that debt could be used to gain control of billion-dollar corporations.

It began with the high inflation and high interest rates of the '70s and with a clever method for coping with these frightening conditions: the money-market fund. An investment firm would sell shares in a pool of assets, usually loans to large banks. In effect, small investors could own pieces of certificates of deposit that would earn more than their own deposits in banks could earn. And so, the train of events began . . .

Banks and savings-and-loan associations were limited in the interest they could pay depositors by "Regulation Q,"a long-standing Federal Reserve directive. With the advent of money-market funds, deposits (quite naturally) began flowing out of banks and S&Ls and into higher-yielding investments. Some institutions faced a severe cash crunch.

To avert disaster, Congress in 1980 passed the Depository Institutions Deregulation Act, based on the sentiment that "all depositors, and particularly those with modest savings, are entitled to receive a market rate of return on their savings." The act phased out interest ceilings over a six-year period. Reg Q was dead, and the financial world was changed forever.

Reg Q, in normal times, had been more a boon than a burden to banks. It meant that they did not have to compete with each other for deposits on the same terms that other businesses competed—that is, on price. Cash, in the form of deposits, is the raw material of banking. And Reg Q held down the price of that raw material.

With Reg Q gone, banks found themselves paying more for deposits and needing to make up those higher costs with higher revenues. So they made more aggressive loans, including loans to individuals and companies that wanted to take over other companies.

Suddenly, the borrower, not the lender, was king. Suddenly, you could borrow practically anything to buy practically anything.

Some of the Masters of the Universe gorged themselves on what Wolfe calls "the golden crumbs" that fall off when the cake is passed around. Other Masters did even better.

The best idea of all was junk bonds, invented (or at least best put to use) by Michael Milken of the Los Angeles office of Drexel Burnham Lambert. If Mr. A wanted to take over Company B, he could pay for the acquisition by issuing I.O.U.s, or bonds, which would be repaid over the years out of Company B's profits, or out of the proceeds from the sale of some of Company B's subsidiaries. The result was that Mr. A could own—not just manage but actually own—Company B without spending a nickel, except to pay the facilitators of the arrangement, such as Mike Milken.

And, with economic times accommodating, those IOUs (belying their tag "junk bonds") became excellent investments.

Armed with the power of Milken's idea, the Boeskys and the Icahns and the Trumps began buying things—or threatening to buy them. They could own big institutions: TWA, CBS. . . . Anyone could own anything! Given a place to stand, like Archimedes, you could do a leveraged buyout of the whole world.

The final effect of the junk-bond revolution was to increase even further the distance between the financial and corporate worlds. Corporations, these huge and humming institutions, were reduced to mere things, objects of Carl Icahn's fancy, acquisitions—even if they weren't bought. They lost their traditions, their moral authority, their mythic proportions. It all became cash flows and multiples.

This is not to say that these institutions shouldn't be up for sale. The pressure that corporate raiders put on flabby companies forces them to shape up or get taken over, and that kind of market discipline is good for the companies and good for the economy.

Still, despite the ameliorative effects, something is being lost here. And you don't have to be a hopeless sentimentalist to be worried. In "Greed and Glory on Wall Street," Ken Auletta described the implications of the sale of Lehman Brothers, the old-line investment firm, to Shearson/American Express: "The death of Lehman signals the passing of a way of life—of a handshake as solid as a contract, of a mutual loyalty between client and banker, of fierce but respectful competition, of a belief in something larger than self—in this case, The Firm."

Institutions like Lehman Brothers—and other important partnerships and corporations—are repositories of tradition and morality. The Masters of the Universe, the deal-oriented players who have held sway over corporations, are not. The loss of the moral authority of corporations is serious—to the culture, and, I think, to the economy as well.

A piece by Art Kleiner last November in the New York Times Magazine described the sale of Ted Bates Worldwide, the huge advertising agency, to Saatchi & Saatchi, the British conglomerate. It told much the same story as Auletta's book. The article ends with Robert Jacoby, the former CEO of Bates, saying wistfully, "Clients were partners at one time; they trusted us. They lost that somewhere along the line. And the warmth went out of the business."

The warmth is gone because the business itself is no longer as important as the process of acquiring it. The money and the thrill are in the transaction, not in the managing or producing.

"I don't do it for the money," writes Donald Trump at the beginning of his repulsive new book, "Trump: The Art of the Deal." "I've got enough, much more than I'll ever need. I do it to do it."

Trump is telling us he's the businessman as existentialist. He's cool. He doesn't really care so much about the company or the project. He cares about the deal. He does it to do it, like a romantic killer out of Camus.

Doing it to do it is the style of the '80s. Boesky was that way. Read the takeover literature, those books about the fights for

Martin Marietta and Walt Disney. The chase became an end in itself, an incredible exhilaration. The hunters could barely remember what they were hunting.

As long as this existential financial activity only involved making bets on which way the price of a stock would go—passing around pieces of paper—not much harm was done. But when doing it to do it meant buying whole companies with living people inside, it became another matter.

George Gilder, the supply-side theologian, wrote in his 1981 book "Wealth and Poverty" that he was perplexed that, despite the decline of socialism around the world, capitalism had failed "to win a corresponding triumph." He shouldn't have been surprised. Not even its staunchest adherents (including Gilder) have managed to give capitalism—or, more precisely, the market mechanism—a moral authority.

Despite Gordon Gekko's contention, capitalist morality does not reside in markets driven by greed. It resides in the companies and partnerships and corporations themselves—in the way they treat their employees and their communities, in the goods they produce, in the values they represent.

The values of society's producers, in short, are more important and more lasting than those of its financiers and traders.

The problem is in the deal-making process. It's entertaining, certainly—and it's stimulating intellectually, but it's also sick. And when stock prices start dropping again, they may go into a prolonged free fall, with no moral or rational foundation to hold them up.

A BACKDOOR BAILOUT FOR BANKS

Twenty Texas savings and loans lost more than $4 billion last year. Now insolvency is consuming the commercial banks as well. Texas Commerce Bancshares and First City Bancorporation of Houston are belly up, and last week the giant First Republic Bank of Dallas took the first formal steps toward oblivion. Is the entire Texas banking system about to disappear down some bottomless black hole of debt?

No, but many Oil Belt lenders—victims of hard times, mismanagement and fraud—are beyond recovering their money. Healthy savings and loans already have pledged $11 billion to cover insolvencies within the thrift industry, and the Federal Deposit Insurance Corporation, the separate insurance fund for commercial banks, still has some $18 billion in reserve.

But depositors' losses in the thrift industry alone could run as high as $50 billion. The blame rests principally with the lenders. But the surviving banks and thrifts that played it prudently shouldn't be expected to pay that bill alone. Some of the cost will have to be absorbed by the taxpayer.

Regulatory changes in the early 1980's permitted savings and loans to diversify into commercial lending. The timing could not have been worse: when energy prices collapsed, Oil Belt thrifts were stuck with billions in bad debts.

The Federal Savings and Loan Insurance Corporation, which hnsures deposits for thrifts, quickly ran through its reserves. Last year, over objections of politically connected managers eager to milk the last dime in salaries from their thrifts, Congress finally gave the agency borrowing authority to merge or close down more of the insolvent institutions. But that $11 billion line of credit will cover just a fraction of the insurers' liabilities.

There are really only three potential sources for more cash: the remaining solvent thrifts; the commercial bank insurance agency, the F.D.I.C.; and the U.S. Treasury.

Healthy thrifts already have been hit by stiff increases in deposit insurance premiums, and most would shift to F.D.I.C. coverage if their premiums were raised again. Were Congress to merge the two insurance funds, this escape route for the solvent thrifts would be closed and the F.D.I.C.'s $18 billion reserve added to the common insurance pool. But such a merger would be bitterly opposed both by banks and thrifts. And there is now reason to believe that much of the F.D.I.C.'s $18 billion will be needed to cover insolvencies of commercial banks.

William Isaac, a former F.D.I.C. chairman, offers a plan to make the merger acceptable to both industries and to add tens of billions to the insurance fund. Both banks and thrifts are currently required to maintain deposits with the Federal Reserve that pay no interest, a regulation that costs these institutions about $2.5 billion annually in lost income. Mr. Isaac suggests paying market-rate interest, provided that the banks and thrifts agree to merge their insurance funds and to divert the extra income into the insurance pool.

Critics say this is only a back door to Federal assumption of the thrift liability. They're right: Every dollar of interest paid to the banks by the Fed would be one less dollar paid to the Treasury. But the alternative, forcing solvent banks and thrifts to shoulder more of the burden, isn't fair. The whole economy benefits from deposit insurance. Why require institutions that resisted high-risk investments to cover all losses for those that didn't?

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LUJAN) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Washington, for 60 minutes, on March 29.

Mr. BILIRAKIS, for 60 minutes, on March 29.

Mr. MORRISON of Washington, for 5 minutes, on March 29.

(The following Members (at the request of Mr. RICHARDSON) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MFUME, for 5 minutes, on March 29.

Mr. OWENS of New York, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes, on March 29.

Mr. OWENS of New York, for 5 minutes, on March 30.

Mr. OWENS of New York, for 5 minutes, on March 31.

Mr. OWENS of New York, for 5 minutes, on April 1.

Mr. GAYDOS, for 60 minutes, on March 29.

Mr. GAYDOS, for 60 minutes, on March 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LUJAN) and to include extraneous matter:)

Mr. RHODES.

Mr. PORTER in two instances.

Mr. BUECHNER.

Mr. LENT.

Mr. MOLINARI.

Ms. SNOWE.

(The following Members (at the request of Mr. RICHARDSON) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. LANTOS in three instances.

Mr. STOKES.

Mr. MANTON.

Mr. FUSTER.

Mr. TORRES.

Mr. HALL of Ohio.

Mr. CHAPPELL.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1508. An act to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, NV, and for other purposes; referred to the Committees on Interior and Insular Affairs and Armed Services.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1397. An act to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 30 minutes p.m.), pursuant to House Resolution 414 and under its previous order, the House adjourned until tomorrow, Tuesday, March 29, 1988, at 2:30 p.m. in memory of the late Honorable JAMES J. HOWARD.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3217. A letter from the Secretary of Defense transmitting the sixth quadrennial review of military compensation: interim report on Reserve retirement, pursuant to 37 U.S.C. 1008(b); to the Committee on Armed Services.

3218. A letter from the Deputy Assistant Secretary for Procurement, Office of the Assistant Secretary of Defense, transmitting the annual report of independent research and development and bid and proposal costs, pursuant to 10 U.S.C. 2358 note; to the Committee on Armed Services.

3219. A letter from the Secretary of Defense transmitting notification of a report submitted on the Titan IV program that this system has exceeded its baseline unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

3220. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize certain contruction at military installations for fiscal year 1989, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Armed Services.

3221. A letter from the Auditor, District of Columbia, transmitting a copy of his report entitled, "Review of Contract Between the District of Columbia Board of Education and Willie L. Leftwich, P.C. Relating to Asbestos Removal in D.C. Public Schools," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3222. A letter from the Auditor, District of Columbia, transmitting a copy of his report entitled, "Duplicate Payment For The Same Course Taught," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3223. A letter from the Secretary of Education, transmitting a report on the vocational rehabilitation of migrant and seasonal farmworkers; to the Committee on Education and Labor.

3224. A letter from the Director, Office of Legislative Affairs, Agency for International Development, transmitting the report of economic conditions prevailing in Egypt which may affect its ability to meet international debt obligations and stabilize its economy pursuant to 22 U.S.C. 2346 note; to the Committee on Foreign Affairs.

3225. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting copies of the original report of political contributions by E. Allan Wendt, of California, for rank of Ambassador during his tenure as Senior Representative for Strategic Technology Policy in the Office of the Under Secretary of State for Coordinating Security Assistance Programs, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3226. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting copies of the original report of political contributions by Robert S. Gelbard, of Washington, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Bolivia, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3227. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a request from the Government of Egypt that the U.S. Government permit the use of foreign military sales financing for the purchase of M-1A1 tanks for assembly in Egypt, pursuant to section 42(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3228. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting determination of the President that certain U.N. specialized agencies have complied with decisionmaking procedures on budgetary matters prior to any U.S. payment to their assessed budget for calendar year 1987, pursuant to Public Law 100-204, Section 702; to the Committee on Foreign Affairs.

3229. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3230. A letter from the General Counsel, Legal Services Corporation, transmitting the Corporation's annual report of its activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3231. A letter from the USPS Records Officer, U.S. Postal Service, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552(a)(o); to the Committee on Government Operations.

3232. A letter from the Chairman, Federal Election Commission, transmitting reports regarding the receipt and use of Federal funds by candidates who accepted public financing for the 1984 Presidential primary and general elections, pursuant to 26 U.S.C 9009(a)(5)(A); 26 U.S.C. 9039(a); to the Committee on House Administration.

3233. A letter from the Comptroller General, transmitting the report and recommendation of the General Accounting Office concerning the claim of Merrill L. Johnson-Lannen for reimbursed relocation expenses, pursuant to 31 U.S.C. 3702(d); to the Committee on the Judiciary.

3234. A letter from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation, "Interpol Authorities Act of 1988," pursuant to 31 U.S.C. 1110; to the Committee on the Judiciary.

3235. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the fiscal years 1989 and 1990 for certain maritime programs of the Department of Transportation, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Merchant Marine and Fisheries.

3236. A letter from the Secretary of Transportation, transmitting a report on the enforcement of vehicle weight limitations for the period from October 1984 through September 1985, pursuant to 23 U.S.C. 141 note; to the Committee on Public Works and Transportation.

3237. A letter from the Assistant Secretary for Civil Works, Department of the Army, transmitting a final survey report and environmental impact statement on the Alenaio Stream and other harbors and rivers in Hawaii; to the Committee on Public Works and Transportation.

3238. A letter from the General Counsel, Federal Emergency Management Agency, transmitting a draft of proposed legislation to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, pursuant to 31 U.S.C. 1110; to the Committee on Science, Space, and Technology.

3239. A letter from the Chairman, National Research Council, transmitting a report on the quality control systems for the AFDC and Medicaid programs, pursuant to 42 U.S.C. 603 note; jointly, to the Committees on Ways and Means and Energy and Commerce.

3240. A letter from the Secretary of Energy, transmitting the 1987 annual report on the high-level radioactive waste management demonstration project at the Western New York Service Center, West Valley, NY, pursuant to 42 U.S.C. 2021a note; jointly, to the Committees on Energy and Commerce; Interior and Insular Affairs; and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 11. A bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, and 1989, and for other purposes; with amendments (Rept. 100-158, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. S. 858. An act to establish the title of States in certain abandoned shipwrecks, and for other purposes (Rept. 100-514, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on Mar. 24, 1988, the following reports were filed on Mar. 25, 1988]

Mr. BROOKS: Committee on Government Operations. Report on failing the test: Proficiency standards are needed for drug testing laboratories (Rept. 100-527). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on defense subcontractors gain windfalls in overpriced noncompetitive defense contracts (Rept. 100-528). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on duplicative threat simulators waste millions and compromise testing of vital weapons (Rept. 100-529). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on ready reserve force ship management controversy risks national security. (Rept. 100-530). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on equal access to health care: patient dumping (Rept. 100-531). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 3932. A bill to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President;

with an amendment (Rept. 100-532). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 3933. A bill to amend and extend the authorization for the National Historical Publications and Records Commission, and for other purposes; with an amendment (Rept. 100-533). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Mar. 28, 1988]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1975. A bill to protect cave resources on Federal lands, and for other purposes; with an amendment (Rept. 100-534). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KASTENMEIER (for himself, Mr. Moorhead, Mr. Synar, Mrs. Schroeder, Mr. Crockett, Mr. Berman, Mr. Boucher, Mr. Bryant, Mr. Cardin, Mr. Fish, Mr. DeWine, Mr. Coble, and Mr. Slaughter of Virginia):

H.R. 4262. A bill to amend title 17, United States Code, to implement the Berne Convention for the Protection of Literacey and Artistic Works, as revised at Paris on July 24, 1971, and for other purposes; to the Committee on the Judiciary.

By Mr. RODINO (for himself, Mr. Foley, Mr. Coelho, Mr. Michel, Mr. Lott, Mr. Florio, Mr. Hughes, Mr. Smith of New Jersey, Mrs. Roukema, Mr. Dwyer of New Jersey, Mr. Rinaldo, Mr. Roe, Mr. Torricelli, Mr. Gallo, Mr. Courter, Mr. Saxton, Mr. Guarini, Mr. Anderson, Mr. Mineta, Mr. Oberstar, Mr. Nowak, Mr. Rahall, Mr. Applegate, Mr. de Lugo, Mr. Savage, Mr. Sunia, Mr. Bosco, Mr. Borski, Mr. Kolter, Mr. Valentine, Mr. Towns, Mr. Lipinski, Mr. Rowland of Georgia, Mr. Wise, Mr. Gray of Illinois, Mr. Visclosky, Mr. Traficant, Mr. Chapman, Ms. Slaughter of New York, Mr. Lewis of Georgia, Mr. DeFazio, Mr. Cardin, Mr. Grant, Mr. Skaggs, Mr. Hayes of Louisiana, Mr. Perkins, Mr. Clement, Mr. Hammerschmidt, Mr. Shuster, Mr. Stangeland, Mr. Gingrich, Mr. Clinger, Mr. Molinari, Mr. Shaw, Mr. McEwen, Mr. Petri, Mr. Sundquist, Mrs. Johnson of Connecticut, Mr. Packard, Mr. Boehlert, Mrs. Bentley, Mr. Lightfoot, Mr. Hastert, Mr. Inhofe, Mr. Ballenger, and Mr. Upton):

H.R. 4263. A bill to designate interstate route I-195 in the State of New Jersey as the "James J. Howard Interstate Highway"; to the Committee on Public Works and Transportation.

By Mr. ASPIN (for himself and Mr. Dickinson) (both by request):

H.R. 4264. A bill to authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1989 to amend the National Defense Authorization Act for fiscal year 1988 and 1989, and for other purposes; to the Committee on Armed Services.

By Mr. HAMMERSCHMIDT:

H.R. 4265. A bill to amend title 39 of the United States Code to designate as nonmailable matter solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government and solicitations which are offered in terms implying any Federal Government connection or endorsement unless such matter contains conspicuous notice that the products or services offered are provided free of charge by the Federal Government or that the Federal Government does not endorse the products or services offered, and for other purposes; jointly, to the Committees on Post Office and Civil Service and the Judiciary.

By Mr. STOKES:

H.R. 4266. A bill to temporarily suspend the duty on mixed ortho/para toluene sulfonomide; to the Committee on Ways and Means.

By Mr. VENTO (for himself and Mr. Dellums(:

H.J. Res. 519. Joint resolution to continue the withdrawal of certain public lands in Nevada; jointly, to the Committees on Interior and Insular Affairs and Armed Services.

By Mr. HUGHES:

H. Res. 414. Resolution expressing the condolences of the House on the death of Representative Howard of New Jersey; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

289. By the SPEAKER: Memorial of the Legislature of the State of California, relative to clandestine drug laboratories; to the Committee on Energy and Commerce.

290. Also, memorial of the Senate of the State of West Virginia, relative to the national childhood vaccine injury compensation law; to the Committee on Energy and Commerce.

291. Also, memorial of the Legislature of the State of California, relative to commercial whaling; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 115: Mr. Espy and Mr. Herger.

H.R. 245: Mr. Thomas of Georgia, Mrs. Patterson, Mr. de la Garza, Mr. Leath of Texas, and Mr. Andrews.

H.R. 303: Mr. Hatcher Mr. Kostmayer, Mr. Courter, Mr. Dorgan of North Dakota, Mr. Florio, Mr. Torres, Mrs. Kennelly, Mr. Madigan, and Mr. Stokes.

H.R. 763: Mr. Owens of New York, Mr. Roe, Mr. Fascell, Mr. Bennett, Mr. Weiss, Mr. Pepper, Mr. Hatcher, Mrs. Collins, Mr. Rangel, Mr. Smith of Florida, Mr. Mfume, Mr. de Lugo, Mr. Towns, Mr. Lewis of Georgia, Mr. Dymally, and Mr. Nowak.

H.R. 1064: Mr. Upton and Mrs. Bentley.

H.R. 1158: Mr. Studds, Mr. Flake, Mr. Synar, and Mr. Gejdenson.

H.R. 1580: Mr. Panetta Mr. Bruce, Mr. Scheuer, Mr. Akaka, Mr. Moakley, Mrs. Boggs, Mr. Shays, and Mr. Yates.

H.R. 1782: Mr. Frenzel and Mr. Swift.

H.R. 1959: Mr. Johnson of South Dakota.

H.R. 2039: Mr. Hiler, Mr. Upton, Mr. Smith of New Hampshire, Mr. Lungren, Mr. Herger, and Mr. Davis of Illinois.

H.R. 2041: Mr. Moody.

H.R. 2262: Mr. Spratt.

H.R. 2793: Mr. Roberts and Mr. Anthony.

H.R. 3119: Mr. Morrison of Connecticut.

H.R. 3132: Mr. Hochbrueckner.

H.R. 3133: Mr. Bustamante, Mrs. Bentley, Ms. Oaker, and Mr. Grant.

H.R. 3146: Mr. Swift, and Mr. Kostmayer.

H.R. 3250: Mr. Ford of Tennessee, Mr. Johnson of South Dakota, Mr. Brown of California, Mr. Levine of California, and Mr. Mazzoli.

H.R. 3312: Mr. Coyne.

H.R. 3353: Mr. McEwen.

H.R. 3375: Mr. Downey of New York and Mr. Pickle.

H.R. 3511: Mr. Cardin and Mr. Lewis of Georgia.

H.R. 3553: Mr. Bryant, Mr. Feighan, Mr. Jenkins, Mr. Leland, and Mr. Flippo.

H.R. 3679: Mr. Upton.

H.R. 3715: Mr. Hiler and Mr. Houghton.

H.R. 3724: Mr. Neal, Mr. Dellums, and Mr. Robinson.

H.R. 3769: Mr. Bates.

H.R. 3812: Mr. Roe, Mr. Ackerman, Mr. Evans, Mr. Stark, Mrs. Boxer, Mr. Biaggi, and Mr. Mrazek.

H.R. 3826: Mr. Grant, Mr. Fazio, Mr. Hughes, Mr. Atkins, Mr. Nichols, Mr. Brown of California, Mr. Bevill, Ms. Pelosi, Mr. Young of Florida, Mr. Nielson of Utah, Mr. Neal, Ms. Oakar, Mr. Shaw, Mr. Ireland, Mr. Towns, Mr. Bustamante, Mr. Bilirakis, Mr. Garcia, and Mr. Davis of Illinois.

H.R. 3842: Mr. Bustamante and Mr. Espy.

H.R. 3885: Ms. Pelosi.

H.R. 3893: Mr. Bustamante, Mr. Boucher, and Mr. Goodling.

H.R. 3919: Mr. Bateman, Mrs. Bentley, Mr. Biaggi, Mr. Clinger, Mr. Daub, Mr. DeFazio, Mr. de Lugo, Mr. Fawell, Mr. Fazio, Mr. Fish, Mr. Flake, Mr. Frost, Mr. Hertel, Mr. Horton, Mr. Lancaster, Mr. Lehman of Florida, Mr. Lent, Mr. Levin of Michigan, Mr. Mineta, Ms. Oakar, Mr. Scheuer, Mr. Smith of Florida, and Mr. Wilson.

H.R. 3927: Mr. St Germain, Mr. Fauntroy, Ms. Oakar, Mr. Vento, Mr. Garcia, Mr. Frank, Mr. Lehman of California, Mr. Morrison of Connecticut, Ms. Kaptur, Mr. Kennedy, Mr. Mfume, Mrs. Roukema, Mr. Wylie, Mr. Bereuter, Mr. Bartlett, Mr. Roth, Mrs. Saiki, and Mr. Bunning.

H.R. 4023: Mr. Morrison of Connecticut, Mr. Ackerman, Mr. Studds, Mr. Owens of New York, Mr. Fauntroy, Mr. DeFazio, Mr. Hochbrueckner, Mr. Fascell, Ms. Pelosi, Mr. Fazio, and Mr. Garcia.

H.R. 4056: Mr. English, Mr. Gilman, Mr. Oberstar, Mr. Ortiz, Mr. Mfume, Mr. Rangel, Mr. Walgren.

H.R. 4072: Mr. Rodino and Mr. Jacobs.

H.R. 4074: Mr. Yatron.

H.R. 4136: Mr. Biaggi, Mr. Fuster, Mr. Lantos, Mr. Dingell, Mr. Hayes of Illinois, and Mr. Bates.

H.R. 4192: Mr. Robinson, Mr. Kastenmeier, Mr. Quillen, Mr. Penny, Mr. Gray of Illinois, Mr. Frost, Mr. Synar, Mr. Chapman, Mr. Sundquist, Mr. Crane, Mr. Perkins, Mr. Boucher, Mr. Lagomarsino, Mr. Leath of Texas, Mr. Sisisky, Mr. Grant, Mr. Tauke, Mr. Wortley, Mr. Huckaby, Mr. Ortiz, Mr. Rowland of Georgia, Mr. Hefner, and Mr. Horton.

H.R. 4243: Mr. Frank, Mr. Kildee, Mr. Kastenmeier, Mr. Fuster, Mr. Udall, and Mr. Fauntroy.

H.J. Res. 55: Mr. Dellums, Mr. Gingrich, Mr. Stump, Mr. Manton, Mr. Lancaster, Mr. Boucher, Mr. Markey, Mr. Murphy, Mr. Clarke, Mr. Kastenmeier, Mr. Sharp, Mr. MacKay, Mr. Fuster, Mr. Wortley, Mr. Nagle, Mrs. Morella, and Mr. McCollum.

H.J. Res. 139: Mr. Foglietta and Mrs. Bentley.

H.J. Res. 148: Mr. Aspin, Mr. Clarke, Mr. Frost, Mr. Hochbrueckner, Mrs. Johnson of Connecticut, Mr. MacKay, Mr. Matsui, Mrs. Morella, Mrs. Patterson, and Mr. Shays.

H.J. Res. 452: Mr. Kemp.

H.J. Res. 459: Mr. Clinger and Mr. Bennett.

H.J. Res. 468: Mr. Swindall, Mr. Owens of Utah, Mr. McCloskey, Mr. Leland, Mr. Mrazek, Mr. Moakley, Mr. Skelton, Mr. Moody, Mr. Skaggs, Mr. Fauntroy, Mr. Lowry of Washington, Mr. Borski, and Mr. de la Garza.

H.J. Res. 485: Mrs. Bentley, Mrs. Boxer, Mr. Clement, Mr. Hayes of Louisiana, Mr. Ford of Michigan, Mr. Frost, Mr. Garcia, Mr. Jones of North Carolina, Mr. Kolbe, Mr. Lipinski, Mr. Levin of Michigan, Mr. Mineta, Mr. Owens of New York, and Mr. Weiss.

H.J. Res. 488: Mr. Smith of Florida, Mr. DeFazio, Mr. Daub, Mr. Fazio, Mr. Quillen, Mr. McCloskey, Mrs. Boxer, Mr. Lehman of Florida, Mr. Konnyu, Mr. Wortley, Mr. Fields, Mrs. Morella, Mr. Chapman, Mr. Dwyer of New Jersey, Mrs. Saiki, Mr. Weiss, and Mr. Jontz.

H.J. Res. 508: Mr. Mack, Mr. Lagomarsino, Mr. Wortley, Mr. Ireland, Mr. Henry, Mr. Lewis of Florida, Mr. Parris, Mr. Saxton, Mr. Coats, Mr. McGrath, Mrs. Bentley, Mr. Gunderson, Mr. Boland, Mr. Annunzio, Mr. Flippo, Mr. Solarz, Mr. Gray of Pennsylvania, Mr. Biaggi, Mr. Manton, Mr. Denny Smith, Mr. Fuster, Mr. Grant, Mr. Clinger, Mr. Fawell, Mr. Jeffords, Mr. Shaw, Mr. Roberts, Mr. Rowland of Georgia, Mr. Young of Florida, Mr. Sunia, Mr. Smith of Florida, Mrs. Collins, Mr. Bevill, Mr. Hayes of Louisiana, Mr. DeFazio, Mr. Murphy, Mr. Donnelly, Mr. Dymally, Mr. Oberstar, Mr. Fields, Mr. Wolf, Mr. Hyde, Mr. Owens of Utah, Mr. Nelson of Florida, Mrs. Lloyd, Mr. Schumer, Mr. Kolter, Mr. Berman, Mr. Traxler, Mr. Applegate, Mr. Dwyer of New Jersey, Mr. Kildee, Mr. Valentine, Mr. McDade, Mr. Lehman of Florida, Mr. Quillen, Mr. Fascell, Mr. Ackerman, Mr. Shumway, Mr. Derrick, Mr. Crockett, Mr. Emerson, Mr. Lewis of California, Mr. Horton, Mr. Young of Alaska, Mr. Roth, Mr. Guarini, Mr. Gray of Illinois, Mr. Wilson, Mr. Chapman, Mr. Michel, Mr. Matsui, Mr. Schaefer, Mr. Johnson of South Dakota, Mr. Tallon, Mr. Volkmer, Mr. Mrazek, Mr. Fazio, Mr. Borski, Mr. Daub, Mrs. Morella, Mr. Yatron, Mr. Bliley, Mr. Regula, Mr. Tauke, Mr. DeWine, Mr. Lott, Mr. Porter, Mr. de la Garza, Mr. Courter, Ms. Kaptur, Mr. Moakley, Mr. Watkins, Mr. Natcher, Mr. Towns, Mrs. Patterson, Mr. Waxman, Mr. Chappell, Mr. Ortiz, Mr. Traficant, Mr. Roe, Mr. Rodino, Mr. Weiss, Mr. Dyson, Mr. Clement, Mr. Erdreich, Mr. LaFalce, Mr. Scheuer, Mr. Stallings, Mr. Hall of Texas, Mr. Lehman of California, Mr. Owens of New York, Mr. Rangel, Mr. Weldon, Mr. Neal, Mr. Vander Jagt, and Mr. Smith of Iowa.

H. Con. Res. 237: Mr. Packard, Mr. Dyson, Mr. Bilbray, Mr. Waxman, Mr. Vento, Mr. Kostmayer, Mr. Dixon, Mr. Manton, Mr. Owens of New York, Mr. Stallings, Mr. Gallo, Mr. Downey of New York, Mr. Fazio, Mr. Upton, Mr. Lewis of Florida, Mr. Callahan, Mr. Bonior of Michigan, Mr. Gradison, Mr. Bruce, Mr. Shumway, Mr. Mineta, Mr. Pepper, Mr. Davis of Illinois, and Mr. Evans.

H. Con. Res. 239: Mr. Akaka, Mr. Sabo, Mr. Bryant, Mr. Pepper, Mr. Borski, Mr. Sikorski, Ms. Oakar, Mr. Vento, Mr. Saxton, Mr. Hughes, Mr. Fauntroy, Mr. Beilenson, Mr. Weiss, Mr. Ackerman, Mr. Horton, Mr. Bates, Mr. de Lugo, Mr. Schuette, Mr. Oberstar, Mr. Kolter, Mr. Martinez, and Mr. Eckart.

H. Con. Res. 252: Mr. Chapman.

H. Res. 379: Mr. Shaw.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2260: Mr. Richardson.

PETITIONS, ETC.

Under clause 1 of rule XXII,

141. The SPEAKER presented a petition of the council of the city of New York, NY, relative to making the census more accurately reflect actual population levels in urban areas; which was referred to the Committee on Post Office and Civil Service.

SENATE—*Monday, March 28, 1988*

(*Legislative day of Monday, March 21, 1988*)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. CONRAD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *power belongeth unto God.*—Psalm 62:11. *For there is no power but of God; the powers that be are ordained of God.*—Romans 13:1.

Eternal God, in whom all power resides, how often Your servants are faced with the powerlessness of power—when the power of one frustrates the power of many. We are grateful for this paradox, Father, for we know that "all power corrupts and absolute power corrupts absolutely." We praise You for a political process envisioned by our Founding Fathers which protects against the perils in power which is unchecked and unaccountable.

And, Gracious Father, at no time are we more aware of our powerlessness, however great our power, than when it comes to self-control—when we fail to be what we want to be or know we ought to be. We remember Alexander the Great, who conquered the world—yet wept because he could not conquer himself. You have promised that "the fruit of the spirit * * * is self-control." Give us grace to submit to the rule of the Holy Spirit—and win the greatest victory—to conquer self. In the name of Him who lived in obedience to the Spirit of God. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

RESERVATION OF LEADER TIME

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting Republican leader is recognized.

CHAPLAIN'S PRAYER

Mr. SIMPSON. Mr. President, again as always I thank our Chaplain for his remarkable insights into the human condition about control of self and self-control. That is one I might flunk. It is good to sort that through occasionally. It is very helpful and very moving.

CLOSED SESSION

Mr. SIMPSON. Mr. President, if I might inquire of the majority leader, there was discussion last week about a closed session which the majority leader was very swift to acknowledge and assure would take place and yet this Chamber would not be secure enough for that effort, at least for what was to be discussed. It was about armament and SS-20's. The majority leader was good enough to request the Secretary of the Senate to find us a room. We now have been assured that the Old Senate Chamber is at least sufficient for that purpose.

I would inquire of the majority leader if it would be possible simply because of the time constraints building up on the issue of armament and treaties if that could not take place tomorrow, and I do not believe it would require perhaps more than half a day, although I am not absolutely certain of that.

Mr. BYRD. I would hope that it would not take more than a half-day or that much, but I certainly will be happy to see if the arrangements can be made today for such a meeting tomorrow.

We only have 4 days this week, including today. The Senate will not be in session on Good Friday. There will be a cloture vote tomorrow on the high-risk legislation.

I would like to have such a meeting in the Old Chamber, and I hope it is warmer in there than it is in here, by the way.

I would like to have a meeting in the Old Chamber at such time that we could complete it by noon if not before, if we could have it in the morning during the morning completed by noon, so that it will not delay the process of the Senate on getting on with our other business.

Let me get back to the distinguished leader on the other side of the aisle, if I may. I will explore that, if I may explore it, keeping in mind what I have just proposed as a suggestion that we convene early enough that we could complete the closed session by or before noon.

Mr. SIMPSON. Mr. President, I appreciate that very much. I think that would be appropriate to try to conclude that before noon and then perhaps by agreement, and I will visit with the majority leader, have the cloture vote soon thereafter.

Mr. BYRD. Yes.

Mr. SIMPSON. Or at least put that package together and I will pledge to work toward that.

Mr. BYRD. Fine. I will be glad to try to work with Senators.

Mr. President, I yield the floor.

Mr. SIMPSON. Mr. President, I respectfully yield 5 minutes of my time to Senator SYMMS but only at the conclusion of the remarks of the Senator from Wisconsin.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business for not to extend beyond the hour of 11:30 a.m.

HOW MUCH CAN WE REDUCE THE DEFICIT W/ARMS CONTROL?

Mr. PROXMIRE. Mr. President, future Congresses and Presidents will have a far more difficult problem bringing the Federal budget under control than we do. In the past 7 years we have massively increased the Federal debt. We have also established a momentum of heavy spending and inadequate taxation that will almost certainly push the Federal debt to $4 or $5 trillion and beyond. Just one substantial recession in the next few years could push the deficit to levels that could leave our Federal Government $5 trillion in the red. Much of the momentum of heavy spending will come from the cost of paying interest on that debt. With a $5 trillion debt, the present net interest cost of $145 billion would zoom to $300 billion or higher each and every year. Congress will have to appropriate every nickel of that expenditure. Congress cannot postpone this interest spending for a single day. Congress cannot stretch it out.

Can Congress reduce the burden of entitlement programs? The problem here is that one overwhelming entitlement program and the pace setter for all other is Social Security. Here is a program financed by its own dedicated

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tax. That tax brings in tens of billions of dollars more each year in revenue than Social Security pays out in benefits. That excess income can only be used to pay Social Security benefits and for no other purpose. Thirty years from now the Social Security reserve will exceed $10 trillion. Congress cannot and should not spend a penny of that vast sum except for Social Security entitlements. So proposals to cut Federal spending by reducing entitlements make no sense. This is specially true is view of the low present level of entitlement benefits including Social Security.

With interest cost rising by leaps and bounds, this leaves discretionary social and military spending. Congress has held down spending on social program for the past 8 years. Can the Congress actually cut spending in social programs? Realistically no way. Can Congress hold this major area of spending down? Yes and Congress should. But holding down spending on social programs is not nearly enough to bring the Federal deficit under control.

This leaves military spending. In an article in the New York Times on February 12, Leonard Silk analyzes several "expert" proposals to cut military spending. Kaufman at Harvard proposes a 5-year reduction that would primarily hit weapon systems and knock out $70 billion a year. Calleo at Johns Hopkins proposes a $50 billion hit. Epstein of Brookings a 2-year $12½ billion a year hit.

Silk writes that the military industrial complex has great strength in any administration—Republican or Democratic and with the Congress. In Silk's view that will almost certainly prevent any net reduction of military spending. Silk contends that the zero real growth proposed by Defense Secretary Carlucci represents a $235 billion savings below the 3-percent real growth in the military budget Secretary Weinberger had called for. This is a savings of nearly $70 billion per year. Silk contends that this is probably the best we can really expect. Does that mean that a real freeze on military spending is the best we can do? Will we have to forget future reductions in military spending?

No. There is one realistic and very significant prospect. We can responsibly and safely cut military spending if we succeed in negotiating an end to the conventional as well as strategic arms race with the Soviet Union. Successful—carefully designed—arms control can and will actually enhance our national security while at the same time permitting king-size savings in military spending.

What does this kind of arms control require? Two things. First, it demands thorough, meticulous, effective verification of compliance. Neither superpower trusts the other. Neither should. The INF Treaty shows the way for verification on which both countries can rely. Second, successful arms control requires an agreement that makes compliance in the clear national interest of both countries. An agreement that would permit major reductions in military spending on both sides would today especially be in the clear interest of both nations. The Soviet Union will enjoy an even greater savings for their beleaguered economy than the United States will. After all the much less productive and less technologically advanced U.S.S.R. must spend a mammoth 15 percent of its GNP to stay on a military par with the United States. The United States spends less than 7 percent. With an effective verification of compliance system in place, we will know if the U.S.S.R. engages in any militarily significant violation. The Soviet know we will know. With their massive stake in maintaining a treaty that lifts the immense burden of the arms race from their economy, they will have every reason to comply.

Arms control does offer the one, clear responsible and safe route to the reductions of our massive fiscal deficit.

Mr. SYMMS. Mr. President, am I correct that I have 5 minutes under morning business and 5 minutes from the leader's time?

The ACTING PRESIDENT pro tempore. There is no limitation on morning business.

Mr. SYMMS. I thank the Chair.

FOREIGN INVESTMENT IN THE UNITED STATES

Mr. SYMMS. Mr. President, on Thursday and Friday the stock market plunged over 90 points. Most of us remember the events of last October, when the stock market suffered the largest decline in history. Most of us remember the fear and uneasiness that accompanied those events.

The conventional wisdom is that nobody knows why the stock market goes up or down, but, Mr. President, on Thursday and Friday there was a common consensus that foreign selling caused the market to decline. The dollar also declined Thursday and Friday, and many people attributed the decline in the markets to the decline in the dollar. Yet, if foreigners are selling assets to get them out of the United States and out of dollar-denominated investments, the dollar is going to decline as a consequence of the selling. A declining dollar cannot be the cause of selling, but rather the effect of selling.

Mr. President, I have an opinion of what may have happened last week, and I think it is something that my colleagues and all of us in the Congress should be very concerned about, and also those in the administration. Last Thursday, there were hearings in the Senate Commerce Committee to look into the issue of foreign investment in the United States. There is an amendment in the House version of the trade bill, presently in conference, to require all sorts of disclosure of information by anyone who wants to bring capital investments into the United States. The supporters of this provision will tell you it is harmless, because it only requires disclosure. Some advocates are suggesting this harmless measure is part of the war on drugs. But I believe, Mr. President, it has a much more far-reaching and possibly sinister effect that could be very negative to markets in the United States.

In my opinion, the stock market decline Thursday and Friday was related to the Senate Commerce Committee's hearings to focus attention on foreign investment. The supposedly "harmless" measure to require extensive foreign disclosure of investments is very threatening and ominous to people abroad.

Mr. President, we should be very, very careful in dealing with this issue. It is not merely a disclosure of information. It does not look harmless to people around the world. It looks dangerous to them—and appearances are all that count in the world of investments. Every investment is an expectation—an expectation of future earnings, future value. Expectations depend on appearances.

Let me remind my colleagues of one historical case of disclosure of information that was not harmless. You can be assured that this example is not very far from the minds of foreign investors in the United States. In the 1930's, citizens of Austria, Belgium, Germany, Holland, Poland, and several other countries were required to disclose their religion. Millions of people had to wear yellow stars on their coats. This was just a disclosure of information. And yet, we know what it led to. That kind of horror must never happen again. The United States is committed to prevent it. My point is that "disclosure" is not the real reason for the proposed measure directed against foreign investment in the United States.

The constitutional foundation of our society demands that we treat all men and women as equals. This equal protection of the laws applies to every person's property regardless of their citizenship. It is a serious mistake for Members of this Congress to send signals, false and dangerous signals to everyone in the world, that we might be prepared to undermine our constitutional system by treating foreign capital investment differently from the way we treat capital investment by Americans at home.

The fear campaign about foreign capital investment goes something like this: My colleagues will recall a motion picture in the 1950's, which was recently remade because it is a very effective and frightening motion picture. Its title was "Invasion of the Body Snatchers."

In the movie, invaders from outer space come to a small town and begin to kill the people, one by one, and replace them with aliens who look just like the missing individuals. The aliens grow inside giant pea pods and then kill the real human beings. They look just like us, but of course they have no emotions and are not human.

Fear mongers who want us to be worried about foreign investment in the United States are crassly appealing to this irrational fear. The new factories, which create jobs for American workers, are somehow not really American if they are built with foreign investment. They are somehow not good, but are really sinister. Of course that is nonsense, but most political issues are nonsense after all. Members of Congress certainly know all about that.

This fear mongering may be a strategy to win votes in the coming elections, but there are far worse consequences. That is what I would caution my colleagues about. It may be that it would be to the advantage of one political party to have the stock market collapse and have an economic depression because Americans tend to vote for change. So with the Republicans in the White House, maybe they think that would cause more people to vote for a Democrat. But if the United States disrupts the international capital markets, we could start a world economic collapse that could make the Great Depression of the 1930's look like a Sunday picnic.

I can say to the distinguished Presiding Officer that there are many, many landowners in North Dakota who would love to have some investor come to their farms and offer to buy them out. They would not care whether the investors came from France or Germany or from Timbuktu, or Japan or the Pacific Rim. They would be delighted if they could sell their farms for what they have invested in them and liquidate their assets. No one would run off with the farmland, after all.

If we discourage foreign investment, it will cause havoc. Perhaps the advanced nations, such as the United States and Canada, would simply have unemployment and political turmoil and budget deficits—giant budget deficits that would make recent years seem tiny.

We think we have big budget deficits now. If you create a situation where we have an enomous flight of capital from the United States, the deficit problem will grow much worse. That is what happens in banana republics, Mr. President—the flight of capital from those kinds of unstable countries. We are, after all, the bastion of stability in the worldwide economy and we are the best place to invest money.

But a world economic collapse could mean the collapse of the Third World nations, particularly those that are starting to follow the path of the free market in their economic development strategy. Mark my words—if you want to see Communist governments throughout South and Central America, Africa, and Asia, a world economic collapse would probably bring that about. Then we could have 1,000 years of a new Dark Age in a Communist version of feudalism.

Mr. President, these are strong words, but it could be caused by an irrational American response to foreign investment.

This horrible specter, Mr. President, can be caused by rash congressional action—just as in 1930. I am not trying to say here that the mere requirement of disclosure of foreign investment would cause this new Dark Age, but it is a step in that direction. There is no sensible reason to take even one tiny step in that direction. There is no reason to send a signal to foreign investors that we have any worries about their eagerness to bring us capital, and jobs, and higher wages, and greater productivity for American workers. There is no excuse for a dumb step in the wrong direction.

Foreign investment is a very tiny part of the total investment in this country—about 5 percent. The largest foreign investors in America are the British; next are the Dutch. The Japanese are No. 3—I suppose they are the ones we are supposed to believe are the aliens from outer space, as in "Invasion of the Body Snatchers," because their investment has mostly come in the last 8 years, during the Reagan administration. That, of course, is the entire purpose of this sinister campaign against foreign investment: it can be blamed on the economic growth policies of the Reagan administration thus claiming there is something wrong with having sustained economic growth for 65 months.

I know this economic success story must be frustrating for some, and I have to say that I have even been somewhat confounded, because I come from the old school and believe that we should have done more to have a balanced budget. But the fact of the matter is, Mr. President, that America has created 15 million new jobs and we have seen real per capita disposable income reach the highest levels in our history as a result of President Reagan's economic recovery program of 1981. Credit must be given to the man in the White House because of the confidence he has given to the world, making people willing to invest their money in the United States of America.

Again, it is the perception of investors we must pay attention to. Whether or not all the economic policies have been perfect—that can be disputed for centuries by the economists—but the perception is stability, is confidence, is strength, and foreign investment has been pouring into the United States because of the expectations that this is a safe place to invest money and the rate of return may be good.

But more importantly, in regard to the increase in Japanese investment in the United States, they had capital export controls in the 1970's. Japan had a policy of keeping all its savings at home. They deregulated their capital markets in this decade, and have become world investors. There is nothing wrong with Japan starting to follow a path the United States has followed for over 200 years, but you can trust that in the first 5 years the trend of Japanese investment is going to be higher than average. But this is hardly the "Invasion of the Body Snatchers," but just catchup ball.

I referred earlier to the stock market decline of last week and the hearings before the Senate Commerce Committee. The capital markets in the United States are the most important in the world. They serve investors all over the world. Even when the investment itself is not in the United States, our capital markets service that investment. The United States dollar, in the Euro-currency markets, is the money of account for most of the world's investments. Nobody in his or her right mind should want to do anything to give London or Zurich or Tokyo a competitive advantage in the world capital markets. Those markets have no such disclosure requirements.

We may not think disclosure requirements are important, but, believe me, foreign investors think they are important.

I rise today to express my concerns on this subject, and to warn my colleagues that with this issue they are playing not just with economic fire, but with economic thermonuclear fire. Leave the issue of investment where it belongs—in the free market. There is no policy issue in the ownership of investment. An investment—for example an office building—is just as valuable, or as powerful, as its economic utility. It gets its economic utility from its productive power in serving consumers. There is no other risk, no other threat, no other aspect about it. And consumers have so many other choices, there is no danger at all of undesirable economic exploitation.

At hearings before the Budget Committee on Tuesday of last week, concern was expressed that foreign investors who do business in the United States have been participating in our political system, with political action committee money. I suppose if you do not approve of political action committees in the first place, and you do not approve of private citizens contributing to political races and you would rather have the Government fund the campaigns, then maybe you are going to be concerned about that. And if you feel that way, you certainly will not approve of them when companies with foreign shareholders set them up. That is not the issue, however.

Foreigners are not allowed to contribute in U.S. political campaigns. It is illegal. It is against the law. And I think it is a very little, minor problem in the United States.

The issue is whether foreign-owned businesses in the United States have just as much right to express opinions about good and bad public policy as domestically owned business. I think this is a fundamental issue of free speech. Businessmen know a lot of things about the American and world economy that Congressmen and Senators need to listen to—lest we do silly, impractical, and costly things to the economy. We sometimes hurt our constituents in the mistaken attempt to do something good for them. My colleagues who vote with me in the minority so often know exactly what I mean by that.

I know many of us on the short-end of the vote around here many times think that Congress may be well-intentioned but, as we have all said, sometimes the highway to hell is paved with good intentions. I do not impute anything about my colleagues who voice doubts about foreign investment in the United States, but I would strongly caution them to remember that without foreign investment in the United States the situation would be much more difficult.

If there were some reason to believe a foreign enemy were attempting to sabotage our economy, there might be a reason to ask the FBI to keep an eye on them. Congress would not have to pass a new law for that. But foreign investment in the United States is not a threat; it is not a danger; it is good for American workers and their families.

As a matter of fact, I would cite for the RECORD the example of the GAF Corp. back during World War II. It was a foreign-owned company. It was in the chemical business. The United States was concerned that GAF may have been largely German-held and German-backed, although it was a Swiss-registered company.

They nationalized it and used it for producing chemicals and film in our war effort. It was held for many years and finally reprivatized. But those things can happen in an emergency.

The threat and the danger is from those Members of Congress who would do rash and unwise things to discourage foreign investment. The stock market decline last week was just a small taste of what will happen on a massive scale if we take unwise steps to frighten foreign investors.

Mr. President, on Saturday, March 26, to add to my concern, in the New York Times there was an article drumming up the fear of foreign investment, by Martin Tolchin. I would like to have printed in the RECORD a letter that I wrote to the editor of the New York Times today. I sent it to them for publication to point out that by letting someone like Martin Tolchin write this article, someone who has a clear financial interest on the subject—he and his wife have coauthored a book on the subject and are promoting book sales—that it does somewhat of a disservice to the readership of the New York Times to not put a little disclaimer on the article that said: "Martin Tolchin has a new book on the market on this particular subject"; because he clearly has a bias on the issue.

I do not have any quarrel with him having a different opinion than I have on the fear, or any threat from having foreign investment enter this country. But what I do get concerned about is one of the major newspapers in the country adding to the feeling of fear, and that is going on.

Mr. President, I ask unanimous consent that my letter to the New York Times be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 28, 1988.

Mr. MAX FRANKEL,
Executive Editor, the New York Times, New York, NY.

DEAR MR. FRANKEL: On Saturday, March 26, the page one story by Martin Tolchin on foreign investment in the United States caught my attention. Inasmuch as Mr. Tolchin and his wife have a financial interest in promoting their topical book, *Buying into America*, does it not seem inappropriate he should write page one "news reports" on the issue?

I am sure op ed page items by Mr. Tolchin or his wife on the subject of foreign investment would be of interest to your readers, but just as you would never permit a reporter who owns shares in a company to write news items about it, nor a reporter who had authored a book sympathetically portraying the PLO to write news reports about Palestinian claims against Israel, I think the self interest of the reporter in this case is also too close to the subject matter.

Sincerely,

STEVE SYMMS,
U.S. Senator.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the second half-hour, under rule XXII, will be equally divided and controlled by the Senator from Ohio [Mr. METZENBAUM] and the Senator from Utah [Mr. HATCH].

The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

The Senate resumed consideration of the bill (S. 79).

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. As I mentioned today, we are going to a third cloture vote on S. 79, the High-Risk Occupational Disease Notification and Prevention Act. The first two votes were probably the most one-sided cloture votes I have witnessed since I have been here.

One of them, in particular, was kind of a superficial vote because of what we consider to be the unfairness of the amendment that was filed the night before. But I think both cloture votes have indicated the serious problems with this bill or with some of the tactics, intentional or not, which have been utilized by the sponsors in an attempt to salvage this legislation.

There have been accusations galore on both sides about stalling, about deceit, about misrepresentations, about confusion, about bill switching, about filling up the amendment tree.

One fact still remains: S. 79 is an impractical, unworkable, and unreasonable bill. This simple fact has remained unchanged since we began consideration of this measure over a week ago. It was true when we had the first cloture vote, and it was true when we had the second cloture vote, and it is true today as we anticipate the third cloture vote.

The debate over the last few days has revealed that S. 79 is not a high-risk occupational disease notification bill at all. As it is currently crafted, it will notify some workers who may be at risk from some diseases, but it will not protect the 15 Americans who will die each day due to passive smoke. It will not protect health care workers who may be exposed to AIDS. It will not protect short-term migrant workers or employees of small businesses. When you get done figuring out all the people excluded and all the diseases exempted, you begin to realize for many Americans this bill will promise much but deliver little and at a very high cost. I found it interesting, despite all the rhetoric from the sponsors about who cares more about employee health, they are the ones who are exempting employers. They are the ones who are excluding employees. They are the ones who are protecting known workplace hazards for political expediency. They are the ones who are destroying their own legislation in order to slip something through the Senate, something or anything.

What kind of a health policy is this? Why not prepare a policy that will work for all Americans that will cover all types of occupational hazards and will treat all employers fairly? Why are we wasting our time on a ridiculous bill, whose real beneficiary may be the plaintiffs' bar of this country; that is, plaintiffs' attorneys in this country, who are consistently looking for ways of suing and bring litigation? Why not admit it: this bill is an embarrassment.

We all know that over the weekend, the fire sale began. Several of my colleagues have been asked what they need changed before they can endorse this bill. The sponsors have made clear that no provision is sacred, no section is sacred. The sponsors, of course, call this compromise. We should call it desperation.

If cloture is not invoked today, and I believe it will not be, we expect yet another watered-down version of S. 79 to spring forth, and perhaps this one will be limited to just notification. I am not sure what it will be, but I assume the sponsors simply want to get something through the Senate so they can declare a victory and advance to the rear.

S. 79 really represents a failure of the committee process. If the sponsors really wanted to improve employee health, they would not have rammed legislation through the committee they knew would have to be abandoned on the Senate floor and they knew the White House would have to veto. The sponsors knew this. They knew this legislation was doomed from the outset. I still wonder why they did not choose to fashion legislation like the polygraph bill, legislation which really has a chance of success.

Mr. President, as we prepare to vote yet again on cloture, I hope my colleagues will keep in mind that S. 79 is beyond repair. It is opposed by the overwhelming majority of the business community. It is opposed by the overwhelming majority of the small businessmen and women of this Nation. And, it should be opposed by this body.

The alleged small business improvement helps no one. S. 79 is still opposed by the National Federation of Independent Business, the largest small business organization in this country. It is still opposed by the Small Business Legislative Council, and it is still opposed by National Small Business United.

The alleged improvement for farmers helps no one. S. 79 is still opposed by the American Farm Bureau and the National Council of Agricultural Employers. In the process of adopting language which helps no one, the sponsors have managed to jeopardize the migrant health program which is critically important to hundreds of thousands of migrant workers. Even the National Association of Community Health Centers are now expressing concerns about parts of the legislation.

In sum, despite a week of revision, despite a week of promised improvements, S. 79 is still flawed legislation. It still duplicates existing programs. It is still unnecessarily costly. It is still burdened by bad science. It is still guaranteed to cause a liability insurance crisis for many, if not all, employers in America. And, it is still not the best approach available for protecting employee health and safety.

I hope that my colleagues will continue to vote against cloture. There is no better way of sending a signal to the leadership that this bill does not belong before the Senate. We can have effective health policy for employees. We can have one program that protects all workers and does not duplicate Federal activities already in place. We can address these issues without destroying small business. We can achieve all of these objectives, but not through S. 79. It is time to admit that S. 79 is an embarrassing mistake and move on to the other important issues before the Senate.

Mr. President, I reserve the remainder of my time.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I yield 11 minutes to the Senator from Louisiana.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized for 11 minutes.

Mr. BREAUX. Mr. President, I thank the distinguished chairman of the subcommittee who has worked so hard to bring this legislation to the Senate floor.

It is interesting that we have spent so much of our time trying to work to improve this legislative. Some real serious efforts have gone forth to address the concerns of those particularly from the other side who have said this bill is not a good bill for various reasons.

What we have done for the last several days is to address those various reasons and to try to offer amendments which have now become part of the bill which corrected what they said was wrong with the bill. That is part of the legislative process. That is why we are here on the floor.

But it is interesting to note that despite all we have done in addressing the reasons why people said they are not for the bill, no matter what we do, I am afraid the other side would never accept this legislation. It is very clear. I received an interesting letter from the Secretary of Labor saying that they are adamantly opposed to this bill, that it is so seriously flawed that the bill cannot be amended so as to be acceptable.

We have a piece of legislation dealing with health that they feel is so flawed that no matter what we do, no matter where we address their concerns, it will never be accepted. I think that is indicative of the problem we are facing trying to get this legislation passed.

Others, on the other side of the aisle particularly, have said, "Well, this bill is bad because it is going to do violence to small businesses, and they are not going to be able to handle some of the provisions of the legislation." I offered an amendment which is now part of the bill which provides a small business exemption from the employee transfer provisions that they said would hurt small business.

We exempted small businesses from those requirements that they said would do violence to their being able to be economically successful.

Small business said, "Well, we could not afford the cost of medically monitoring those employees in these high-risk areas." So we put on a cap of $250 per year. In truth, almost all businesses that would be covered would have these monitoring activities covered through the normal health insurance programs. If you say that an employee has to have a chest x ray once every 6 months, that would normally be covered.

Some have said they are opposed to this bill because it would encourage lawsuits. The Senator from Missouri, Mr. DANFORTH, proposed an amendment saying that employees would not be able to sue because of stress that may be brought about by being notified that they were in a high-risk area. We have taken care of the liability of being sued for stress problems.

Some have said, "we cannot be for this bill because it hurts farmers, and therefore we are going to have to oppose this legislation. We would like to support it, but because of the farm problem we cannot do so.

We have amended the bill to take care of the farm problem. I dare say that most farms are family owned operations that do not have 50 employees in the first place and, second, we have exempted seasonal workers up to 6 months so that they would not be covered. We have taken care of the farm problem. We have taken care of the small business problem. We have taken care of the lawsuit problem, but we are still haunted, Mr. President, by the letter from the Secretary that says, "We don't care what you do; we are going to be against the legislation." I think that is the real crux of the problem.

Mr. President, I come from an area that has almost all of the industries that would be affected by this legislation, and the vast majority the industries that are affected are supportive of it. I commend them for doing that in Louisiana. The area from New Orleans all the way up to Baton Rouge is really an industrialized valley of petrochemical industries. The chemical industry directly employs 27,000 people in the Louisiana plants that make chemical products for the good of the country. Louisiana ranks very high in the total employment of people involved in the chemical industry.

The Chemical Manufacturers Association supports this legislation. It is not just the working people; it is not just labor unions; it is not just liberals in Congress who are concerned about the health and welfare of the people of this country. Also, the Chemical Manufacturers Association, representing the major chemical producers of the country, say they have looked at this legislation and support it because they think taking care of their employees is important.

Louisiana is one of the major producers of natural gas and oil. About 64,000 people in Louisiana work in the oil and gas industry, and 27,000 work in the chemical manufacturing industry. That is the good news. The bad news is the health statistics for my home State. The National Institutes of Health indicate that white males in the industrialized corridor along the Mississippi River in Louisiana since 1950 have experienced overall cancer mortality rates significantly in excess of the national cancer mortality rates. Our Louisiana Department of Health says that white and black males have experienced significant excess cancer rates in Louisiana since 1950, about the time the growth of these plants really started exploding. Six river parishes, the equivalent of counties in other parts of the country, ranked among the top 10 percent of all counties in the United States for lung cancer mortalities during the 1970's. The American Cancer Society estimates that we are going to have 17,000 new cases of cancer in Louisiana in 1988 bringing about 8,600 deaths. Even more importantly the American Cancer Society says that about 174,000 people, who could have been saved by an early diagnosis and treatment, will probably die in this country this year.

Mr. President, that is what we are talking about. We are talking about trying to let people know, when they work in a hazardous workplace or when they work in a high-risk area, that it is not just enough to put something on the bulletin board, it is not enough to say, "Here are the dangerous chemicals that happen to be in this workplace." What this legislation says is that we as a society and as a Government working hand in hand with employers in this country owe a higher obligation to workers than just posting something on a bulletin board, and that higher obligation is at the very least the notification to people that they are in a high-risk population.

Some have said they do not want the Government doing it. Fine. The legislation says that the employer can do it. The employer can take the time and the effort and the money if he so desires to let the people who have worked there and who are working there know that they are working in a high-risk occupation and that they are going to be notified of such and that there will be certain medical procedures of which they can make themselves available to reduce the risk of diseases that could cost them their lives.

Mr. President, it is very frustrating sometimes that we in Congress get letters from families, from wives of husbands who are now deceased, or from children saying, "Why can't we guarantee a healthy workplace? Why can't we do something about it?"

Mr. President, we cannot eliminate all potential areas of concern. We cannot make the workplace 100 percent safe. We cannot guarantee that there will never be an accident. We cannot guarantee that there will never be a disease that a person may contract while working in a petroleum plant or an oil refinery, but we cannot just talk about it. There are some things we can do which will guarantee the workplace will be in fact a little safer and that the person employed in that workplace will be notified of the conditions that exist there.

Mr. President, that is what this legislation is all about. It is not going to solve all the problems certainly, but it goes a very long way toward showing that we have concern for the American worker, that we as a government can help make safer that situation in which he finds himself in the future. That is all that this legislation does.

We have heard arguments against provisions in the bill that have been corrected, and I have mentioned some of those—the liability from lawsuit, the extra burdens on small business, the costs, and the American farmer.

I think the finest thing we can say about this bill now is that those who support it, the organizations, the men and women of America, the companies in the oil and gas industry, and the chemical and petrochemical industries have all finally come together to say that this legislation is something we cannot only live with but can aggressively support.

I hope that I can go back to my State of Louisiana and tell the thousands of people who go to work every morning, because that is the only job they have, and they have to work in that workplace to feed their families in very tough and difficult economic times, we have enacted legislation which will go a long way to guarantee that when they come home in the evening they will be able to tell their families they have worked in a place in which they feel comfortable, that they are not in fear of the unknown, they are not ignorant of the conditions in the workplace but they are completely, totally informed employees who have medical monitoring provided to them when it is necessary and where circumstances dictate.

That is what this legislation is about, and I think it is time that we all come together and support this major effort at reform, this major effort in helping people in the workplace know that they can do work feeling secure and safe in the knowledge that everything which can be done.

I thank the chairman for yielding me this time.

Mr. HATCH. Mr. President, I have been interested in the remarks by my distinguished colleague and friend from Louisiana. I do not want to rebut all of his remarks, but certainly if he thinks that the liability aspects are corrected by amendments that have been made to this bill, then he needs to practice law a little bit longer because I guarantee if this bill passes, there is going to be a liability explosion in this country like we have never seen before. The small business people who he feels are protected under this bill are going to have the problem of not being able to get liability insurance in the future to solve their problems.

This is a lawyers' relief bill. It is neither a plaintiff's nor defendant's lawyers bill. It is a bill for those lawyers who get hired at so much an hour to pursue some of the ill-begotten cases in society.

Guess who loses in the end? The employees again because those jobs are going to dry up, and small businesses are going to go out of business because they cannot get insurance to protect themselves from liability. By gosh, the employees are the ones who take it, but not just them.

Look at what has happened in the medical profession. We have made it so easy to sue doctors in this country. That today—and Joe Califano told us in our committee about 9 years ago when he was Secretary of Health and Human Services when he was asked, "What does the mere fear of malpractice litigation cost; what does that cost as far as the total medical bill in this country," he said, probably 35 percent of all of the cost of medicine and medical care treatment in this country comes from the mere fear of medical malpractice lawsuits.

Can you imagine what is going to happen in this area when you have notification required by the Federal Government pursuant to the provisions of this bill? You are going to have billions and billions of dollars of losses.

We have cited some where businesses have won. But they are no longer in business. I can tell you this; lawyers love this bill. They should, because plaintiffs' lawyers are going to have thousands more lawsuits to bring, and defense lawyers are going to have thousands of lawsuits to defend at a cost to the insurance industry which, of course, escalates the cost of liability insurance.

That insurance costs every consumer in this country just like every dollar of medical care and treatment is costing every consumer in this country because the do-gooders around this body have helped to drive up those costs with unreasonable legislation. This legislation is even worse.

Think about it. This bill is filled with flawed science. It only takes care of some of the problems. It is interesting to me that my colleague talks in terms of, we have exempted small business. Well, if it is important for the safety and health of employees, why exempt anybody? If the bill is so well written, why have any exemptions?

Mr. BREAUX. Will the Senator yield?

Mr. HATCH. Sure.

Mr. BREAUX. I think the Senator certainly understood what I have said. We do not exempt small business from notifying their employees of danger in the workplace.

Mr. HATCH. This Senator would not exempt them.

Mr. BREAUX. There is a requirement of being transferred to an equally well paid job in the company to which the exemption applies.

Mr. HATCH. Does the Senator not think that costs money? Does the Senator not think that drives up legal costs, and does the Senator not think that drives up business costs?

Mr. BREAUX. Does the Senator argue that if the small business person knows of a health matter in the workplace he should not be obligated to notify his employee?

Mr. HATCH. The Senator's exemption, as I understand it, went to the transfer provision.

Mr. BREAUX. That is exactly what I am trying to notify the employee of, and I know the Senator did not mean to imply that.

Mr. HATCH. I did mean to imply that. I mean to imply exactly what I imply, and that is this bill is going to drive up costs like you cannot believe. It is going to hurt employees, employers, and especially small business employers. It is going to involve a plethora of litigation like nobody has ever thought of before. That is what this country does not need.

We need opportunity in this country. What do we do? We exempt passive smoke, one of the serious hazards, we exempt AIDS, we exempt radon, and a lot of other things that are serious. We say we are going to protect the workers of America by exempting all of these things.

I think the Senator from Utah is making some pretty good points on this. We also exclude, it seems to me, some of the worst health hazards in this country. We do it in a bill that duplicates that which is already being done by at least 12 agencies in the Federal Government. To me it is absolutely amazing when we create a whole new bureaucracy in the process.

How can we sit here and say we are trying to do something with the budgetary problems in this country, and about the increase of business problems in this country when we pass a bill like this? I sure hope the Members of the Senate will think this through before they vote for something along this line.

Employers are defined in this bill as a person engaged in a business affecting commerce, who has employees, including the United States or any State or political subdivision of a State. That is everybody.

An occupational health hazard is so ill-defined. "A chemical, physical, or biological agent generated by or integral to the work process," but it excludes passive smoking, asbestos, ultraviolet light, radon gas, and AIDS, all of which are found in the workplace. Of course, we can go on and on.

I hope our colleagues in this body will realize that this is precisely what should not be happening with $200 billion deficits. It is really not going to protect anybody. It is going to cause an explosion in litigation. It is going to cause an explosion in costs to the consumers all over this country while duplicating that which we already are doing better under present law.

I reserve the balance of my time.

Mr. METZENBAUM. Mr. President, what is the time situation?

The ACTING PRESIDENT pro tempore. The Senator from Ohio has 3 minutes and 33 seconds.

The Senator from Utah, for the information of the Senator, has 2 minutes and 6 seconds.

Mr. METZENBAUM. Mr. President, let us make something clear. Let us talk about what this bill is about, not what it is not about. This bill is about cancer. It is about getting cancer in the workplace. It is about being exposed to noxious fumes, toxic gases, and other hazardous substances, and learning about it too late. This bill has to do with giving an employee notice that that has occurred somewhere in the past.

American Cancer Society data indicate that we can save up to 250,000 lives in the next 10 years with this bill. That is the reality of what this legislation is all about. It is not about some of the things my distinguished colleague speaks about. It is not about this filibuster that has been going on. We are talking about lives being at stake.

We have not had any debate on amendments to improve or modify the bill. Instead of tort reform or acid rain, we ought to be getting down to business. We have been talking about amendments, the procedures, and the hearings. This bill does not have to do with the U.S. Chamber of Commerce or the National Association of Manufacturers. It has to do with people.

If you have anything in your heart, any concern about people, then you will not be standing here arguing all of these technicalities and all of the gobbledegook we have been hearing about this legislation for the last week.

This bill is not about plaintiffs' attorneys and lawsuits. Lawsuits specifically are negated. You cannot use the information that you obtain under this legislation for the purpose of filing lawsuits. The liability cost comes from failure to notify people, not from notifying them.

Just ask the Manville Corp. which learned their lesson through the asbestos tragedy the hard way. They support this bill because they realize the kind of notification this bill provides may very well keep some other company from having the problems that they had, and continue to have by reason of that litigation.

I say to my colleague, and I say to the Members of the Senate, we are ready to vote. But, no. The filibuster goes on, and we keep people who have been exposed from having an opportunity to learn something about what has happened to them in the past. You can talk about all of this other stuff you want. Talk about the hearings, talk about amendments, talk about anything you want. All we have had so far is two amendments having nothing at all to do with this bill—tort reform and acid rain.

If you really have some compassion for people, if you are really concerned about people, you will not try to play courtroom lawyer, you will not try to play technician. You come out here and either vote for cloture, because there is much doubt in this Senate that more than a majority are prepared to vote for the bill if you let us have an up-or-down vote on the bill. But instead of that, we continue to get the constant talk, the constant rattle, the constant irritant, I say, Mr. President, it is the time we get down to business and pass this bill on an up-or-down vote.

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, I think it is time that we call things what they are. This is another do-good, costly, unworkable, liberal spending bill that is going to drive costs for our country up like you cannot believe without providing nearly the benefits that it should.

To stand here and say that this bill is about cancer, when you exempt the biggest cause of cancer in the workplace today, smoking, is almost ludicrous—in fact, it is ludicrous.

To say that it is about noxious fumes, when you exempt radon gas, is unbelievable. When you say it is about toxic gases—come on.

The fact is that we have 12 agencies already instituted that are going to do a better job in these areas than this bill will do, without the explosion of litigation and the accompanying costs.

Ask anybody who goes to the hospital what it costs. It is do-good bills like this that literally have cost us in this society. They do not work. They just cost people and allow people to run home and say, "Look what we have done for the poor persons in America," when all they have done is stick it to the poor persons in America.

We have the hazard communications standard going into effect in May, which covers 5,000 chemicals and 32 million employees—every one of the areas the distinguished Senator from Ohio says he is going to cover on toxic gas, noxious fumes, and cancer.

It is going to cost $680 million. I agree with the premise because I do want to protect the workers of America. But do not tell us you are protecting them when you are driving up the cost for everybody in America, when you are not protecting them, and are establishing a bureaucracy on top of a bureaucracy.

No wonder we have $200 billion deficits. It is these do-good bills that have been doing it to us, and this is one of the worst bills ever brought before Congress.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

● Mr. WARNER. Mr. President, in just a few minutes the Senate will resume consideration of S. 79, the High Risk Occupational Disease Notification and Prevention Act of 1987. Later today there will be another cloture vote on the modified committee amendment in the nature of a substitute.

S. 79 is a bill that sounds good. I don't believe there is anyone in this Chamber who is not concerned about the health of the American worker and doesn't believe that this Nation should take all necessary and practical steps to make the workplace safer. However, good ideas and salutary "short titles" do not necessarily make every bill good legislation. It is evident from the past several days of debate that this bill has not been thoroughly thought out nor all the practical implications fully considered. A number of Senators still have real and valid concerns about the scope and ramifications of this bill. There are still a number of amendments to be offered and considered.

Mr. President, this afternoon I will be traveling with the President and, being necessarily absent, will be unable to participate in the vote on the cloture petition. If I were here, however, I would vote against cloture. This bill is much too important, complicated, and controversial to foreclose every opportunity to explore, debate, and correct weaknesses in the bill now.●

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. One hour having passed since the Senate convened, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 79, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

Senators Bob Graham, Claiborne Pell, Edward M. Kennedy, Barbara A. Mikulski, Alan Cranston, Paul Sarbanes, Harry Reid, Tom Harkin, Spark Matsunaga, John Glenn, Tom Daschle, Wendell Ford, Patrick Leahy, Paul Simon, Howard Metzenbaum and Timothy E. Wirth.

QUORUM CALL

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The bill clerk called the roll, and the following Senators answered to their names:

[Quorum No. 16]

Boschwitz
Cochran
Conrad
Daschle
Hatch
Kennedy
Metzenbaum

The PRESIDING OFFICER. A quorum is not present. The clerk will resume the call of the roll.

The bill clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Breaux
Byrd
Cohen
Dodd
Dole
Harkin
Mitchell
Sarbanes
Shelby

The PRESIDING OFFICER (Mr. DASCHLE). A quorum is not present.

The bill clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Bumpers
Cranston
D'Amato
Danforth
DeConcini
Dixon
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Hatfield
Hecht
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
McClure
McConnell
Melcher
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sasser
Simpson
Specter
Stafford
Symms
Thurmond
Wallop
Weicker
Wirth

Mr. BYRD. Mr. President, I move that the Sergeant-at-Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia [Mr. BYRD] to instruct the Sergeant-at-Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from New York [Mr. MOYNIHAN], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Mississippi [Mr. STENNIS] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Utah [Mr. GARN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nebraska [Mr. KARNES], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. STEVENS], the Senator from Virginia [Mr. TRIBLE], the Senator from Virginia [Mr. WARNER], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 15, as follows:

[Rollcall Vote No. 76 Leg.]

YEAS—68

Adams
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers

Burdick
Byrd
Cochran
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McClure
Melcher
Metzenbaum
Mikulski
Mitchell
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Thurmond
Wirth

NAYS—15

Armstrong
Bond
Cohen
Evans
Gramm
Hecht
Helms
Kasten
McConnell
Murkowski
Nickles
Quayle
Symms
Wallop
Weicker

NOT VOTING—17

Biden
Chafee
Chiles
Garn
Gore
Heinz
Humphrey
Karnes
Matsunaga
McCain
Moynihan
Simon
Stennis
Stevens
Trible
Warner
Wilson

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

CLOTURE VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee substitute to S. 79, the High-Risk Occupational Disease Notification and Prevention Act, shall be brought to a close? The yeas and nays are automatic under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. Chiles], the Senator from Tennessee [Mr. Gore], the Senator from New York [Mr. Moynihan], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] and the Senator from Mississippi [Mr. Stennis] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. Garn], the Senator from Pennsylvania [Mr. Heinz], the Senator from New Hampshire [Mr. Humphrey], the Senator from Nebraska [Mr. Karnes], the Senator from Arizona [Mr. McCain], the Senator from Alaska [Mr. Stevens], the Senator from Virginia [Mr. Trible], the Senator from Virginia [Mr. Warner], and the Senator from California [Mr. Wilson] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. McCain], the Senator from California [Mr. Wilson], and the Senator from Virginia [Mr. Warner] would each vote nay.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 41, nays 44, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—41

Adams
Baucus
Bentsen
Bradley
Breaux
Burdick
Byrd
Chafee
Conrad
Cranston
Daschle
DeConcini
Dodd
Durenberger
Ford
Glenn
Graham
Harkin
Hatfield
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Packwood
Pell
Proxmire
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Stafford
Weicker
Wirth

NAYS—44

Armstrong
Bingaman
Bond
Boren
Boschwitz
Bumpers
Cochran
Cohen
D'Amato
Danforth
Dixon
Dole
Domenici
Evans
Exon
Fowler
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Johnston
Kassebaum
Kasten
Lugar
McClure
McConnell
Murkowski
Nickles
Nunn
Pressler
Pryor
Quayle
Roth
Rudman
Sasser
Shelby
Simpson
Specter
Symms
Thurmond
Wallop

NOT VOTING—15

Biden
Chiles
Garn
Gore
Heinz
Humphrey
Karnes
McCain
Moynihan
Simon
Stennis
Stevens
Trible
Warner
Wilson

The PRESIDING OFFICER. On this vote, the yeas are 41, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The Senate continued with the consideration of the bill (S. 79).

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1900

(Purpose: To authorize an emergency program to disseminate information to reduce workplace risk of transmission of Acquired Immune Deficiency Syndrome)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. Metzenbaum] proposes an amendment (No. 1900).

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the Committee substitute as modified, on page 81, line 26, strike "person." and in lieu thereof insert the following: "person".

Sec. 17. Information for Health and Safety Workers—Within 120 days after the date of enactment of this act, the Secretary of Health and Human Services shall develop and implement a program to distribute information and educational materials to all health workers, public safety workers, and emergency service workers concerning modes of transmission of the human immunodeficiency virus. This program shall include a plan to provide notification to all health workers, public safety workers, and emergency service workers concerning methods to reduce in the workplace the risk of becoming infected with the human immunodeficiency virus. The information distributed shall be based on guidelines issued by the Directors of the Centers for Disease Control. Funds appropriated to the Department of Health and Human Services for AIDS prevention programs and activities shall be used to carry out the program described in this section. No funds authorized to be appropriated under this act shall be used to carry out the program described in this section.

AMENDMENT NO. 1901 TO AMENDMENT NO. 1900

(Purpose: To authorize an emergency program to disseminate information to reduce workplace risk of transmission of Acquired Immune Deficiency Syndrome)

Mr. CRANSTON. Mr. President, I send to the desk a second-degree amendment on behalf of myself and Mr. Kennedy, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. Cranston], for himself and Mr. Kennedy, proposes an amendment (No. 1901) to amendment No. 1900.

In the pending amendment, delete "120" and in lieu thereof insert "90".

Mr. KENNEDY. Mr. President, I am proud to join with a bipartisan coalition of my colleagues in proposing the notification approach which is reflected in the pending amendments. The cosponsors are Senators Durenberger, Adams, Cranston, Dixon, Evans, Gore, Simon, Moynihan, Weicker, Lautenberg, Bradley, Wirth, Heinz, Kerry, Dodd, Metzenbaum, Riegle, Mikulski, Stafford, and Chafee.

The pending amendments respond to concerns articulated by Members of the House and by the senior Senator from North Carolina, that health care workers are not getting due consideration in this debate. I strongly disagree with such an assessment for a variety of reasons. I am very cognizant of the labor intensive nature of caring for people with AIDS.

I am also very cognizant of the reality, as defined by every public health organization in the country, that AIDS is not transmitted by casual contact. It is true that health care and emergency care workers who interact with blood and bodily fluids of patients, regardless of their illness, must use precautions. This is precisely the goal of my amendment.

To educate all health care employees about risk reduction, exposure control procedures are necessary to prevent the transmission of HIV. However, to assume, as does Senator HELMS, that all 3 to 4 million health care workers are "at-risk" of having already been exposed to HIV is an unwarranted overstatement that will lead to no positive result. As the old Southern adage appropriately states, "Everyone is entitled to their own opinion, but no one is entitled to their own facts."

Surely a small percentage of the 3 to 4 million health care workers come in direct skin contact with blood and bodily fluids as a part of their regular occupation. Further, the occasions for health care workers to have had direct skin exposure to tainted blood or bodily fluids coincident with abrasions or cuts of the skin are extremely rare. Therefore, the class that the Senator wishes to designate as "at-risk" is seriously broad.

As stated by the American Nurses's Association in a letter opposing the designation of health care workers as a population at-risk of occupational exposure to HIV, "Studies have shown that health care workers with extensive occupational exposure to HIV-infected patients are at minimal risk for HIV transmission."

In addition, the American Federation of State, County, and Municipal Employees, the Service Employees Union, the U.S. Conference of Mayors, the American Medical Association, and the American Nurses Association, all point to other carcinogens as posing a far greater risk to health care workers than occupational expousre to HIV. For this reason, and because the pending legislation sets up a sound process for making designations, they have all opposed the amendment offered by Senator HELMS. Their letters are on the desks before you and I encourage you to read them and heed their advice.

Senator HELMS has also suggested that because we have created a role for the CDC or HRSA [1] in the education of health care workers, we have thereby denied such employees the same notification and medical monitoring available to other populations. This is simply untrue.

The program required by our amendment will implement the recommendations of all public health officials that health care workers should be informed about risk reduction procedures.

We believe this action is extremely important as do an extensive list of organizations that support this principle within S. 1220.

Education for prevention by HRSA however, in no way preempts or effects potential designation and notification by the Risk Assessment Board established by S. 79.

Should the Board, after careful consideration, decide, on the basis of statistically significant scientific evidence, that health care workers, or some subgroup therein, should be notified about their risk of occupational exposure to HIV, there is nothing about these amendments which would in any way prevent such a determination.

However, should the Board decide that there are other occupational hazards which place populations at much greater risk than health care workers vis-a-vis AIDS, such a determination will reflect a scientific deliberation and not any kind of barrier created by these amendments. My colleague from North Carolina may call this discrimination, and in fact he has, I call it sound public health policy.

While these amendments allow the carefully designed risk assessment process to proceed as planned they also see to it that within 90 days, health care workers are educated about how to prevent potential workplace exposure to HIV. I therefore encourage you to join me and the 21 cosponsors in supporting this initiative.

I would, however, like to take this opportunity to applaud the Senator from North Carolina for his sincere concern about AIDS. His statement on the floor last week once again drives home the message about the serious nature of the AIDS crisis. I encourage Senator HELMS to join the bipartisan coalition of 38 cosponsors to S. 1220 and to do everything within his power to ensure swift action on this vitally important public health measure.

This bill was reported unanimously out of the Committee on Labor and Human Resources on July 15 and has been awaiting action by the full Senate. The Senator from North Carolina quoted some horrifying statistics upon which I would like to reflect. According to his information, since we introduced our comprehensive AIDS legislation last spring, we have lost 10,000 Americans to AIDS while 20,000 more have been diagnosed with the deadly disease.

I frankly am tired of coming to the Senate floor and attempting to solve the greatest health challenge of our day through amendments offered to other pieces of legislation. We can no longer play politics with public health. If my colleague is truly interested in stemming this tide, as I am sure that he is, let us, for the first time in the 8 years of this epidemic, have the AIDS debate. Not by happenstance but by determination.

Mr. HATCH. Mr. President, I think this is a good and appropriate time, since the amendment tree is now again locked up, to go into some features of this bill with the distinguished floor manager and chief sponsor of the bill, the distinguished Senator from Ohio.

If he would be amenable, I would like to ask him some further questions about this particular bill for the benefit of all of our colleagues who are watching what is going on and who really are trying to make up their minds to determine whether or not they should support or not support this bill.

I will ask the distinguished Senator from Ohio a question. Given the fact that some electronics firms have endorsed this legislation, there has also been some confusion and some discussion about video display terminals, or what we call VDT's and whether or not VDT's are covered by this legislation.

My question is: If a single study found that working with VDT's increased the risk of eyestrain, headaches or any one of a number of musculoskeletal problems with hands or caused birth defects, would not VDT's fall within the definition of an occupational health hazard, as defined by this bill?

Mr. METZENBAUM. In answer to my distinguished colleague, mere strain or discomfort would not fall within the coverage of this legislation. If there were birth defects, that very well could fall within the provisions of the bill.

In answering, let me further say that I know my colleague had some questions the other day. We had asked for the questions to be submitted in writing. My colleague certainly had a right not to do that, but I am frank to say to the distinguished Senator, I want to be certain that our answers are complete.

I am sorry that we did not have them in advance so that we might be prepared to respond to them. We are going to try to respond to them. But, as you well know, I think it took a fair amount of time to prepare them, and we will attempt to answer them promptly.

In some instances, I may suggest the absence of a quorum in order to consult with my staff on some technical matters.

Mr. HATCH. I would have no objection if the distinguished Senator for Ohio wants to have his answers before the end of the day. I think that is only fair.

Just to get back to that question again, if the VDT's result in severe strain or severe chronic headaches, or any number of other musculoskeletal diseases, in addition to birth defects, would not they also be covered by this bill?

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[1] (HRSA—"Health Resources and Services Administration".)

Mr. METZENBAUM. I think it is fair to point out——

Mr. HATCH. The conditions are chronic, clearly.

Mr. METZENBAUM [continuing]. That strain would not be, as I see it, in the nature of the occupational exposures about which we are speaking, but in the final analysis I think that the Risk Assessment Board, which is composed of highly scientific, qualified people, would have to be making the determination. As the Senator posed the question, it is my opinion that the answer would be in the negative, but I think the final answer would have to be made by the Risk Assessment Board in evaluating the data submitted to it.

Mr. HATCH. As I see the broadness of the definitions within the bill, I think that literally some of these are going to fall within coverage of the bill. Of course, I will be interested in more definitive answers from the distinguished sponsor of the bill as we go along. But as one can see, these questions are important to determine whether or not the bill does need to be amended, to determine what changes might in fact occur or need to occur.

Mr. METZENBAUM. As I have said to my colleague, if the bill needs to be amended, I am not going to stand here and tell the Senator that we have some special attribute of brilliance that says we and we alone know how to draft a bill. We have attempted to draft a bill to provide that the board would look at all the scientific evidence. It would be highly unusual to rely on one study unless the evidence was overwhelming.

But, as I have said previously, if there is better language that can be used to make this a better bill, we are prepared to evaluate it and in all probability accept it.

Mr. HATCH. As the distinguished Senator from Ohio does remember, one of the major issues that did come up was the use of VDT's video display terminals.

Mr. METZENBAUM. I remember that.

Mr. HATCH. Let me ask another question along that same line. It can be argued that the work process in many occupations leads to stress. Now, under S. 79, assuming there was the necessary study could the Risk Assessment Board find stress to be an occupational hazard under this bill?

Mr. METZENBAUM. I think under rare and unusual circumstances that is barely possible, but I would say generally speaking it is my opinion—and I am in no position to predetermine the action of the Risk Assessment Board, but I think it would be the rarest of cases when a determination was made that stress was an occupational hazard. For example, steel mill workers who are shoveling coal or shoveling coke into the ovens may be under a lot of stress, but I think what we are really saying is that stress is not integral to the workplace, so it is not an occupational health hazard in all probability. But again the final determination will have to be made by scientists, not by two Senators on the floor.

Mr. HATCH. As I have been pointing out, I do not see anything in this bill that would prevent it from being covered. In fact, I think the language is broad enough that it would be. But what we are trying to do is point out some of the defects of the bill without necessarily determining what the ultimate Board decisions will be, assuming the bill passes.

Let me just ask this question. If there was a study which found that sitting at a desk all day increased the worker's risk of developing chronic lower back pain, is there anything that would prevent this condition from being covered under the definitions of this bill?

Mr. METZENBAUM. Let me read from the committee report:

> The committee does not mean to suggest that work processes resulting in more physical discomfort—in other words, sitting in an office chair for 10 hours—may constitute an occupational health hazard. The committee is confident that the Risk Assessment Board can make the necessary judgments in this regard.

Mr. HATCH. But they could in that regard. In other words, they could find literally an occupational health hazard throughout this bill, nothing would prevent them from so finding?

Mr. METZENBAUM. Just sitting in an office chair does not really constitute——

Mr. HATCH. I am talking about sitting in a chair, which leads to chronic low back pain. The Senator would have to admit that the Risk Assessment Board would find that that is an occupational health hazard under this bill.

Mr. METZENBAUM. That meaning the Senator's vote, we would probably be glad to accept an amendment specifically spelling out that it is not so. But I doubt very much that even with that amendment the Senator would be prepared to vote for it. But it is an indication that we do not intend to cover that as an occupational health hazard.

Mr. HATCH. I would not be the one who exempts anybody under the bill, if we had to have a bill. The Senator from Ohio has made it clear that he thinks this legislation does not cover passive smoking in the workplace because passive smoking is not generated by or integral to the work process. Now, I wonder if he would explain why he thinks it is not covered by the definition of occupational health hazard, passive smoking is not covered.

Mr. METZENBAUM. As my colleague knows, the bill already requires the Risk Assessment Board to consider the compounding effects of smoking when it reviews the evidence on a particular occupational health hazard. The bill also requires that notification include any known information——

Mr. HATCH. Will the Senator allow me to interrupt? He is talking about active smoking there, not passive smoking. My question is limited to passive smoking.

Mr. METZENBAUM. I am answering with respect to both active and passive smoking. The bill also requires that notification include any known information about the extent to which smoking increases the risk of the disease in question. These provisions set forth the appropriate response for smoking as a contributing factor to occupational disease. As stated by the American Lung Association, the American Cancer Society, and the American Heart Association in a letter to the Senator from Utah dated February 3, 1988, S. 79 generally addresses the issue of tobacco in the context of the purpose of this legislation.

These groups, like this Senator, take a back seat to no one when it comes to protecting the health and rights of nonsmokers. But the Lung Association and the Cancer Society and the Heart Association have urged the Senator from Utah not to introduce any smoking amendments to S. 79 and that should send a strong message.

Mr. President, I ask that their letter of February 3 be inserted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN LUNG ASSOCIATION,
Washington, DC, February 3, 1988.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: The American Lung Association, the American Cancer Society, and the American Heart Association appreciate your continued interest in issues addressing the hazards of tobacco in the workplace. We share your concern regarding the protection in the workplace of the nonsmoker from the health risks of exposure to side stream tobacco smoke.

The ALA and ACS strongly support enactment of S. 79, the High Risk Occupational Disease Notification and Prevention Act of 1987 as a mechanism to reduce the incidence of occupational diseases. (The AHA has taken no position on this legislation.) Occupational lung disease including lung cancer is the number one work related disease in the United States. Occupational cancer costs this nation $1.3 billion annually—$254 million in direct costs, $5.15 million in morbidity costs and $1.05 billion in mortality costs. The scientific and medical community recognize that in those instances where a worker smokes, the risk of occupational disease is greatly increased.

S. 79, as reported by the Senate Committee on Labor and Human Resources, generally addressed the issue of tobacco use in the context of the purpose of the legislation, " . . . to establish a federal program to notify individual employees within populations at risk of occupationally induced disease that they are at risk because of exposure to an occupational health hazard". Specifically, S. 79 includes the following provisions:

Risk Assessment Board: sec. 4 (c)(1) and (2) The Board, under its general duties, is required to review the medical and scientific literature related to the incidence of occupational diseases. We expect that any study utilized by the Board for purposes of making a determination related to occupational lung disease will include available relevant data on smoking habits since this is a known contributing factor.

The Board is also directed to determine the appropriate type of medical monitoring. In the case of occupational lung disease, we believe that medical monitoring will include counseling relative to smoking cessation.

In sec. 4 (c)(2)(D) the Board is expressly directed to review the extent of the increased risk of illness or disease caused by occupational health hazards in combination with such factors as smoking.

Employee Notification and Counseling: sec. (b)(5) The contents of the notification to employees must include information on contributing factors to increased risk of illness including smoking where the data base reviewed by the Board demonstrates such a finding.

Further, the contents of the notification must also include information on appropriate medical monitoring. Again, if the Board includes smoking cessation as a part of its medical monitoring recommendations, the notification must provide this information to the employee.

It has come to our attention that you are considering several amendments to S. 79 which address tobacco use. We have reviewed your amendments from the Committee mark-up as well as your comments, and believe that your amendments will not advance the goals of S. 79 which focus on employee notification regarding workplace hazards generated by the work process. While we agree that tobacco related issues in the workplace are important, we have concerns about the impact of your proposed amendments on S. 79 and your statements that even with passage of such amendments you would not support S. 79. We believe that there are better vehicles to address your tobacco concerns and would like an opportunity to meet with you to explore more appropriate vehicles for your series of amendments. Therefore, we encourage you to reconsider your position before proceeding with these amendments to S. 79.

Sincerely,

FRAN DU MELLE,
Director, Government Relations, American Lung Association.
ALAN DAVIS,
Vice president for Public Affairs, American Cancer Society.
SCOTT BALLIN,
Vice President for Public Affairs, American Heart Association.

Mr. METZENBAUM. Frankly, the bill's focus is on exposures generated by the work process. It is not right to take legislation aimed specifically at occupationally generated hazards and tack on an effort to address a quite distinct public health problem. And so I would say to my colleague that the argument that our definition of occupational health hazard includes agents such as asbestos, formaldehyde, or the AIDS virus, which has been injected into this debate by some, is merely an effort to confuse the body. The fact is the cigarette issue is not really the issue. I stand solidly with the Senator in being concerned about smoking but it should be dealt with as a separate problem rather than diverting or undermining the purpose of S. 79.

In that respect, I must note for the record Senator HATCH's repeated statements, both public and private, that he has no intention of supporting this bill but instead will do all he can to kill it. I think everyone in the Senate should understand that the efforts to offer a so-called health amendment with respect to cigarette smoking in the workplace is really sort of a smoke screen to divert the effort and to defeat the legislation.

(Mr. SANFORD assumed the chair.)

Mr. HATCH. Let me just say that, if the distinguished Senator will consider taking my tobacco amendments, it will go a long way toward helping me to support this legislation, even though I still feel it is bad legislation and it is certainly detrimental to the health and safety of our business community in America as well as employees and consumers of America.

Let me read, in rebuttal to what the distinguished Senator from Ohio has said, a letter addressed to me from the American Heart Association. This is dated March 24, 1988, it is right up to speed:

DEAR SENATOR HATCH: The American Heart Association understands that you have offered a series of amendments to S. 79 concerning smoking in the workplace. We want to commend you for your continued leadership in the area of smoking and health and to offer our assistance in your efforts to insure that smokers and nonsmokers alike are protected to the maximum extent possible against this killer.

The AHA has taken no position on S. 79 and hope that your amendments are not viewed as being offered to defeat S. 79. In our opinion, your amendments to S. 79 are clearly valuable to AHA's public health agenda that they warrent indpendent consideration.

For example, we would support and actively participate in any hearings that you might consider having on the issue of smoking in the workplace which would review and devise the most appropriate legislative and regualatory approach to this issue.

Sincerely,

SCOTT, D. BALLIN,
Vice President and Legislative Counsel.

Mr. President, I have another question for my friend from Ohio. Some of the scientists who have spoken in support of this legislation have used ultraviolet light as an example of an occupational health hazard, which can be alleviated because effective medical intervention is available.

I ask the distinguished Senator from Ohio: Is ultraviolet light covered by this bill?

Mr. METZENBAUM. Does the Senator mean by ultraviolet light, sunlight?

Mr. HATCH. Right.

Mr. METZENBAUM. The answer is no.

Mr. HATCH. I think we have to say skin cancer effects of sun exposure can be very, very serious. Thus would it not be a hazard if it affects farmers, construction workers, lifeguards, and such under the Senator's bill?

Mr. METZENBAUM. I think the contention is being made that every worker who works outdoors could be subject to notification under this bill because of the risks associated with exposure to sunlight. That contention simply is not true, and it demonstrates a critical misunderstanding of the limited scope of the legislation. S. 79 defines an occupational health hazard as a "chemical, a physical or biological agent generated by or integral to the work process." That is a very narrow definition.

It excludes many legitimate health hazards that occur outside the workplace or that have nothing to do with the work process. A worker may be at a higher risk of cardiac problems because of obesity and bad diet. That is a legitimate health hazard, but it has nothing to do with the workplace. So it cannot trigger notification under the bill. The fact that workers eat high-cholesterol foods at the company cafeteria each day does not change the reality. Diet is not an employer-generated part of the work process.

Similar studies indicate that excessive exposure to sunlight leads to and increases risk of skin cancer. I do not deny exposure to sunlight could be a serious health hazard. But it is not an occupational health hazard as described in S. 79. Sunlight is a natural element that is not generated by the work process. Sunlight is not a manmade agent found in the workplace that is integral to the work process.

At most, sunlight, like diet, is a secondary risk factor that may contribute to the increased risk in particular cases. Let us look at an example. A roofer needs a hammer, nails, and shingles to fix a roof. If the shingles are made of asbestos, and they are cut, torn, or otherwise altered in the work process, that roofer may be exposed to an occupational health hazard but the roofer does not need sunlight to fix the roof. The job can be completed on either a sunny or a cloudy day. The same holds true for constructing buildings or highways. In fact for logistical reasons much of that work is now done at night. The authors of S. 79 never intended that sunlight be defined as an occupational health hazard.

In this regard we are supported by the Centers for Disease Control within the Department of HHS. At Senator HATCH's request the CDC last summer prepared a report listing occupational health hazards to which 19 million workers have been exposed since 1957. The CDC table also discusses contributing risk factors for each of the 36 hazards listed.

Significantly the CDC, Centers for Disease Control, does not list sunlight as an occupational health hazard but does list sunlight as a contributing factor for certain substances that are occupational health hazards. In short sunlight is not viewed as occupational in the way that benzene, asbestos, and other workplace-generated substances are occupational. The argument that exposure to sunlight will trigger notification just is another scare tactic I am afraid designed to confuse the debate on this important occupational health hazard.

Mr. HATCH. Mr. President, the distinguished Senator from Ohio just mentioned asbestos. Why do not we just talk about asbestos for a minute or two because it has been a matter discussed lately.

The EPA recently released a study which found that 14 percent of commercial and public buildings in the United States contain damaged asbestos materials ranging up to 500,000 buildings nationwide.

The Washington Post recently estimated that 34 million Americans occupy residential, public, and Federal Government buildings containing friable asbestos. Are any of these 34 millions Americans covered by this legislation since the asbestos will not be "generated by or integral to the work process"?

Mr. METZENBAUM. I want to apoligize to my colleague. I was occupied, looking at someone else, and did not realise he was leading to a question? Can he repeat it?

Mr. HATCH. As I said, 34 million Americans occupy residential, public, or Federal Government buildings containing friable asbestos. I will put in the RECORD at this point an article by Michael Weisskoff, in the Washington Post. I do not have the date on this. Let me put it into the RECORD in any event. It certainly came after 1986.

There being no objection the material was ordered to be printed in the RECORD, as follows:

ASBESTOS HAZARD SEEN IN COMMERCIAL BUILDINGS

(By Michael Weisskoff)

Fourteen percent of commercial and public buildings in the United States contain damaged asbestos materials, exposing occupants to the risk of inhaling the tiny, cancer-causing fibers, the Environmental Protection Agency reported yesterday.

But the EPA, in a report to Congress, offered no plan of inspection, notification or removal of damaged asbestos from the estimated 500,000 buildings nationwide. Instead, the agency recommended a three-year program of training and education, and assessment of an ongoing project to rid schools of the lethal fibers.

The agency's failure to propose remedial steps was critized by all sides in the asbestos debate—industry, environmentalists, unions and Congress.

Assistant EPA Administrator John A. Moore said comprehensive regulations are not "appropriate" because of the limited number of contractors qualified to remove asbestos and concern that improper removal of the crumbling fibers would further contaminate the air. Moreover, he said, an asbestos inspection and abatement program for the nation's 3.6 million public and commercial buildings would cost $51 billion and divert "finite resources" from the school project.

In the meantime, he said, the greatest risk is faced by occupants of buildings whose air ducts are lined with asbestos and maintenance workers exposed to pipes and boilers insulated with the fire-retarding material.

"Don't panic," Moore said at a news conference. "There's nothing to suggest there are terrible conditions that exist out there in any routine fashion."

The Service Employees International Union criticized the report and called "unacceptable" the EPA's failure to require that occupants be notified of asbestos dangers. John F. Welch, president of the Safe Buildings Alliance, which is made up of former producers of asbestos building materials, faulted the agency for failing to quantify the risk of exposure.

"Everything in this report points to aggressive federal intervention except EPA's recommendations, which amount to nothing more than sweeping this alarming problem under the rug," said Rep. James J. Florio (D-N.J.), who sponsored the law requiring the removal of asbestos in schools.

Congress, in enacting the school program in 1986, also required the EPA to quantify the risk of asbestos in public and commercial buildings—offices, shops, hotels, apartment houses, factories, hospitals and churches—and determine whether to extend the inspection and removal regulations imposed on schools.

Asbestos has been used since the 1920s as a fire-retardant and insulating material. It is a potential danger when sprayed or applied to building surfaces in "friable," or easily crumbled form. If disturbed or damaged, it releases toxic fibers that when inhaled can cause lung and abdominal cancer and other lung diseases.

The EPA found that of 231 buildings inspected, 14 percent contained damaged asbestos material and most of those were "significantly damaged," the agency said. Most of the worst cases—317,000 buildings if the findings are extrapolated—involve asbestos used as thermal system insulation in nonpublic areas of buildings, such as boiler rooms, the agency reported.

Air monitoring of 43 federal government buildings showed that fiber concentrations were very low, even in areas with significantly damaged asbestos material, according to the report.

The report did not quantify the number of people routinely exposed to damaged asbestos material. But a theoretical risk analysis based on 1980 Census figures showed that about 34 million people occupied residential, public and federal government buildings with friable asbestos.

The EPA recommended four steps to deal with asbestos: increase the number of trained asbestos contractors; inform building owners of the dangers, focusing their attention on thermal insulation; improve enforcement of workplace and air pollution laws directed at asbestos, and "objectively assess" the school program's effectiveness.

Mr. HATCH. It says that census figures show about 34 million people occupied residential, public, and Federal Government buildings containing friable asbestos. That was a theoretical risk analysis based on 1986 census figures. Would any of those 34 million Americans be covered by this legislation since asbestos would not be in those cases "generated by or be integral to the work process"?

Mr. METZENBAUM. Where asbestos is not part of the work process, and in the case the Senator just mentioned it certainly is not, it is not covered. In all candor the Senator addresses himself to a very important concern. But frankly, even a great piece of legislation like this cannot cover all of the problems. That is one that the Senator I think will have to draft some new legislation on and we would be very happy to work with him on it.

Mr. HATCH. I would also put in the RECORD at this point by unanimous consent the environmental news released Monday, February 29, 1988, which mentions that there are 501,000 buildings with partially damaged asbestos and 317,000 buildings with significantly damaged material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EPA RELEASES ASBESTOS-IN-PUBLIC-BUILDINGS STUDY AND RECOMMENDATIONS TO CONGRESS

The U.S. Environmental Protection Agency estimates, in a report prepared for Congress, that about 20 percent of all public and commercial buildings in the United States may contain some asbestos material. According to the report, about two-thirds of these buildings, 14 percent of all buildings in the agency survey, are estimated to have at least some damaged asbestos and approximately nine percent have significantly damaged asbestos.

The report to Congress is entitled "EPA Study of Asbestos Containing Materials in Public Buildings."

There are approximately 3.6 million public and commercial buildings in the EPA survey population, 733,000 of which EPA estimates contain asbestos. About five percent of all buildings have sprayed- or trowelled-on asbestos surfacing material, such as acoustical plaster on ceilings. There are 501,000 buildings with partially damaged asbestos and 317,000 buildings with significantly damaged material. An estimated 16 percent of all buildings contain asbestos in thermal-system insulation, which is mostly on or in pipes, boilers, tanks or ducts. This type of insulation is basically in non-public areas, such as boiler or machinery rooms. Because these are limited access areas for the general public, asbestos exposures in these areas would be limited primarily to service and maintenance workers.

The Asbestos Hazard Emergency Response Act (AHERA), which Congress passed on Oct. 22, 1986, directed EPA to conduct a study of the extent and condition of asbestos-containing materials in public and commercial buildings to determine whether comprehensive federal regulations requiring inspection and appropriate response by building owners are warranted for public and commercial buildings.

In a letter accompanying the report to Congress, EPA Administrator Lee M. Thomas raised concerns about improperly removing asbestos from public and commercial buildings. Improper removals can cause occupants to be exposed to dangerously high levels of airborne asbestos.

"If we are not careful, we will stimulate more asbestos removal actions in public and commercial buildings over the next few years than the infrastructure of accredited professionals and governmental enforcement can effectively handle," he said. "This is why the school regulations . . . established a carefully structured process by which case-by-case determinations are made by trained professionals . . ."

Thomas also expressed concern that completion of the AHERA school asbestos program could be jeopardized by increasing demands on the available trained and accredited asbestos inspectors and removal professionals. (Children appear to incur the greatest risk of contracting mesothelioma from asbestos).

For these reasons, Thomas said, "I therefore strongly recommend that we take steps now to focus our attention on assessing and improving the quality of asbestos-related actions that currently take place in public and commercial buildings."

Thomas recommended the following four steps be taken over a three-year period:

First, enhance the nation's technical capability to deal with asbestos in buildings by expanding the universe of trained and accredited asbestos inspectors and abatement professionals, thereby ensuring that the asbestos in public and commercial buildings can be handled as safely as it is in the schools. EPA believes that $6 million over the three-year period would be sufficient to complete this goal.

Second, focus special attention on thermal-system-insulation asbestos in these buildings because it appears more prevalent, in worse condition and generally easier to control than other asbestos-containing materials. EPA envisions a $1.8 million effort over three years to achieve this recommendation.

Third, improve the enforcement of existing regulations designed to assure that asbestos which is being removed is done so in a manner that is safe for both the building occupants and workers.

Finally, objectively assess the effectiveness of the AHERA school rules and other current activities in order to improve the nation's ability to deal more effectively with asbestos in public and commercial buildings.

Thomas said that federal regulations should be considered in three-years' time "after we have had more experience with the AHERA school rule, have dealt with the large demand for trained professionals and have completed the important studies. Today's report," he said, "should not be interpreted as ruling out an inspection program or even greater federal regulation of these public and commercial buildings at some later time."

Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances, said, "If building owners feel compelled to remove asbestos from their property, we strongly recommend they first consult with trained and experienced experts before deciding on any action. This should reduce the chance of their doing more harm than good and their potential liability for undertaking unsafe activities. We caution them that only loosened fibers in the air present a risk and that actions such as encapsulation and proper maintenance practices can be safer in many circumstances than full removals.

"It is also important that building custodians be well informed about asbestos since they are most likely to come in contact with asbestos-containing materials," Moore said.

There are approximately 35,000 school buildings which contain friable asbestos, as compared to more than 730,000 public and commercial buildings. The total cost of the AHERA schools program is about $3 billion compared to approximately $51 billion in estimated costs for a similar regulatory program in public and commercial buildings.

The EPA intends to assess the asbestos in public and commercial buildings situation again once the agency's recommendations have been intact for three years and with the aid of further studies, more trained professionals and more experience from the implementation of AHERA.

Asbestos is a known human carcinogen which can cause lung cancer, mesothelioma or abdominal cancer and asbestosis, which is a disease that attacks the lining of the lungs. Asbestos can present a health hazard when it becomes friable (crushed or pulverized) and emits microscopic fibers. These fibers persistently remain in the ambient air and can cause health problems after long periods of exposure.

Mr. HATCH. Let me address another question to the distinghished Senator from Ohio. There has recently been a lot of debate about exposure to formaldehyde in the manufacturing sector and there has been some disagreement on what actions OSHA should take. I know one of the arguments the supporters of this legislation have made is that it fills the gap in existing Federal control of programs. So my question is does the bill cover formaldehyde exposure who are in manufacturing industries or who are not working with a specific produce which contains formaldehyde?

Mr. METZENBAUM. Formaldehyde exposure is covered whenever that chemical is used as a part of the production process—in other words, as a decontaminant on apparel.

Mr. HATCH. What would happen if a plant were accidentally built near a toxis waste dump, resulting in increased health risk to workers? If the Board was aware of that problem, does the bill allow for or provide for notification to workers?

Mr. METZENBAUM. I think the answer is, "Probably not," but I think there might be a close case. If there are any close cases, they are at the margins and can be addressed in conference report language. But the basic distinction is clear, and I think this is the important part of the plant made by the Senator from Utah—that occupationally generated hazards are covered and lifestyle generated hazards are not covered.

I think the bill emphasizes that time and time again, and I think it is the answer to the Senator's question.

Mr. HATCH. I am not talking about lifestyle matters. I am talking about exposures in the workplace.

Let me summarize what the Senator from Ohio has said so far. He has stated—and I hope I am restating this correctly—that the intent of this legislation is to cover things like VDT's stress, and hepatitis. But in an effort to protect certain industries, the bill excludes, or keeps out of coverage, asbestos, ultraviolet light, passive smoking—and who knows what else?

I think that is a far statement, in summary, of what the distinguished Senator from Ohio said.

Mr. METZENBAUM. I do not think so. I think asbestos is covered. If the VDT situation is occupationally leading to exposure and harm, and it is so determined by the Risk Assessment Board, then, yes, it is covered.

There is no effort to provide any special exclusions, except to making clear that there is a distinction between occupationally developed hazards and normal lifestyle hazards.

I think there is one other point that must be made: There never is, never has been, and never will be any piece of legislation that can address itself totally to every conceivable kind of occupational exposure, every kind of noxious fume, every kind of toxic gas. This is the reason we have this well-respected, well-chosen, very independent Risk Assessment Board, and I think we are going to have to have some confidence in the people.

The administration experts analyzed S. 79 and concluded that there were sufficient funds authorized to notify between 100,000 and 300,000 workers per year that they are at increased risk of disease. The Senator from Utah knows that those same experts—these are administration people—concluded that it is a medically and scientifically sound approach to worker notification.

What bothers me is that the Senator from Utah would repeat, time and time again, what I would call efforts to obfuscate the issue. The issue is simple, and that is, if the Risk Assessment Board determines that if occupational hazards have occurred, then the notification would result.

I repeat: The administration's experts concluded that the bill was medically and scientifically sound and the right approach to worker notification.

Mr. HATCH. I think the issue is the nonoccupational hazards the distinguished Senator from Ohio and those who support him are willing to exclude in order to protect the tobacco industry.

For instance, asbestos: I do not see why a teacher in a classroom who suffers from asbestos should be covered while a person inhaling passive smoke is not, when both are known health hazards, and passive smoking is an even greater hazard than asbestos.

I might add that both of them are not caused by or generated in the workplace or integral to that workplace. Yet one is covered by the bill, and one is not.

It is not obfuscation. I think it is a legitimate thing to point out that, in the zeal to make sure you have enough votes here, you are excluding a lot of hazards that are real hazards and including a lot that may not be.

Mr. METZENBAUM. I do not think anywhere in the bill is the tobacco industry excluded in its totality. If there were occupational hazards in the workplace where tobacco is grown or processed, it would be covered, as are all other industries that would be covered.

Mr. HATCH. Passive smoking is included, as I understand it.

Mr. METZENBAUM. Now the Senator is talking about the smoking. I am talking about the tobacco industry as a producer.

Mr. HATCH. There is no question that if there is some defective harvesting machine or defective instrument, that may be covered, or some defective fire protection, and so forth. But what about the Surgeon General's report, the reports of many of the top leaders in this country, with regard to heart, lung, and other diseases caused by passive smoking? Why do we exclude passive smoking from the bill?

Mr. METZENBAUM. The bill already requires the Risk Assessment Board to consider the compounding effects of smoking when it reviews the evidence on a particular occupational health hazard.

The bill also requires that notification include any known information about the extent to which smoking increases the risk of the disease in question. These provisions set forth the appropriate response if smoking is a contributing factor to occupational disease.

To emphasize: The Senator well knows that the effort to inject into this bill the issue of smoking is an effort to confuse the issue, to alienate many who are concerned about the American tobacco industry.

No Member of this body has stood more strongly with the Senator from Utah in making it clear that I recognize the dangers of smoking. We are talking about occupational hazards, to distinguish from the dangers of smoking.

Mr. HATCH. I ask the distinguished Senator from Ohio another question:

I think there is also confusion about other provisions of the bill, and I think it would be helpful if we considered a hypothetical example.

Ethylene oxide is used in many offices and hospitals and is a known occupational health hazard. Let us say that the first study that the Board reviews finds that workers in hospitals who run sterilizing equipment utilizing ethylene oxide 8 hours a day, 5 days a week, for 10 years, have a 5-percent increased risk in developing leukemia and an increased risk of health defects and miscarriages for women of childbearing age.

First, how many members of the Board does it take to determine that ethylene oxide is an occupational hazard? Does it require a unanimous board, a simple majority of the board members, or a simple majority of the board members who are present at the time?

Are these deliberations public and will the individual votes be recorded and made available to the public? What about the views of any dissenting members? Will they be available to the public?

So there is a series of questions. Maybe I should break them up.

Mr. METZENBAUM. Break them up.

Mr. HATCH. Let me break them up so I can assist the Sentor.

First, how many members of the Board does it take to determine that ethylene oxide is an occupational health hazard, a unanimous Board, simple majority of all Board members, or a simple majority of the Board members present?

Mr. METZENBAUM. The majority of all Board members.

Mr. HATCH. All Board members would have to vote, not just those present?

Mr. METZENBAUM. I did not say they would all have to vote. We, in this body, do not have such a rule.

Mr. HATCH. Some by proxies.

Mr. METZENBAUM. We are talking about a majority of Board members.

Mr. HATCH. In other words, those who are not present can vote by proxy.

Mr. METZENBAUM. I do not think the bill addresses itself as to whether or not there may be proxy votes. That would be up to the Risk Assessment Board to make its own determination.

Mr. HATCH. Would these deliberations by the Risk Assessment Board be made public and will the individual votes be recorded and made available to the public under the Senator's bill?

Mr. METZENBAUM. Under the bill they would not be made public but I do not believe the bill provides—Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, we have now begun another day of debate on S. 79. It is obvious that a substantially large number of the Members of the Senate have voted for cloture. It is also obvious that I think about six or seven of the Members of the Senate who would likely vote for cloture were not here today because of Presidential elections, illness, and other responsibilities.

But as we begin another day of debate, it occurs to me that perhaps some of my colleagues have lost sight of what is at stake in this bill. I think that is the important issue. American workers are dying by the tens of thousands from occupational diseases and many of those deaths can be prevented if we can just reach exposed workers before their disease starts to develop.

That is what this bill is all about.

It has nothing to do with the gobbledegook I have been hearing on the floor of the Senate.

With regard to cancer alone, the American Cancer Society testified that we now have the medical and scientific know-how to save 8,000 to 25,000 of those men and women each year.

Why do we not do it? Because we have some letters from the small business community, because NAM is opposed to it, because the U.S. Chamber of Commerce is opposed to it. If we waited for them, we never would have had Social Security. We never would have a minimum wage law. We never would have a National Labor Relations Board. We never would have an Occupational Safety and Health Act. We never would have half the legislation that protects the people of this country.

What we are talking about is human beings and maybe some of those trade associations do not care about human beings and their health.

Over a 10-year period, we have it in our power to save the lives of up to a quarter of a million productive workers. Think what that would mean to our economy. Think what it would mean to their families.

Oh, it is easy to sit in an office and say we are against this bill and have some red herrings entered across the face of it, saying it is going to hurt small business. We have tried to meet with small business day in and day out and we stand prepared today to meet with them.

Do not give me this stuff that this bill is going to destroy small business. I was a small business person in a number of different businesses. You have to protect the lives of people in this country.

Who are these workers at risk? They are decent hard-working Americans.

They are the constituents of my colleagues on both sides of the aisle. Are people like the 1,400 workers at a Georgia chemical company who were heavily exposed to a deadly bladder carcinogen between 1949 and 1972. Take Willie Hall as their representative. Mr. Hall is a 59-year-old poor, black man of immense human dignity.

Here are his own words before a Senate subcommittee.

I worked for Augusta Chemical from 1963 to 1968, making BNA. [betanaphthylamine]. I was the distiller, and I was the grinder, and I was the mixer, me and a fellow named Flatten. And after Flatten died they made me head manager of it. He died of cancer. And they had another gentleman, Roger Huff, he had the same thing that I have. So I became ill in 1976. And when I was working, nobody told me that stuff was bad for your health. So they removed my kidney, my bladder, and also I have had two strokes since then. And since then, instead of getting better, I am getting worse. It has gotten so I just cannot cope anymore.

How do we know about Willie Hall? Because a Georgia television station investigated the appallingly high disease rate among current and former employees of this one company. Willie Hall, who survived bladder cancer, spoke for many who did not.

Are there others? Of course there are—tens of thousands more. Listen to Dr. John Finklea, who was appointed Director of NIOSH by President Ford, and who is now an esteemed medical school faculty member at the University of Alabama at Birmingham. Dr. Finklea, in a letter to Senators SHELBY and HEFLIN, identified a range of Alabama workers who are at increased risk of disease from past workplace exposure. Dr. Finklea, appointed Director of NIOSH by President Ford, cited among other rayon plant workers at risk of coronary artery disease; construction workers with prolonged exposure to asbestos, and production welders exposed to chromium and nickel fumes.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the following letter from Dr. Finklea to Senator SHELBY be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

The University of Alabama at Birmingham, School of Medicine, Department of Medicine, Division of General and Preventive Medicine.

Birmingham, AL, February 5, 1988.

Hon. RICHARD SHELBY,
U.S. Senate,
Washington, DC.

DEAR SENATOR SHELBY: A an occupational physician and a former director of the National Institute for Occupational Safety and Health, I am writing you to urge you to support The High Risk Occupational Disease Notification and Prevention Act (S-79). This legislation constructively deals with a major occupational health problem that has not been adequately addressed by existing legislation. The legislation establishes a system for identifying workers at increased risk and for developing prevention-oriented medical recommendations for the physicians who provide primary medical care for workers and their families.

While working as an occupational physician in Alabama, I from time to time care for individuals who are at increased risk of developing disease because of prior workplace exposures. The proposed legislation would be beneficial for these patients and for several groups of Alabamians. For example, several years ago a rayon plant in Childersburg was closed down. This occurred prior to the time that it was discovered that workers in the churn room of such plants were at increased risk for developing early onset coronary heart disease. Because I have seen and heard of workers with early onset coronary artery disease who worked in the plant and who did not have other coronary artery disease risk factors, it is likely that a larger group is at risk. Currently there is no practical system for identifying these workers, advising them and their physicians regarding prevention-oriented medical care, and encouraging them to adopt lifestyles that would help reduce their coronary heart disease risk. Likewise, there are a large number of workers in Alabama thought to have been exposed to asbestos who often do not receive periodic medical examinations and prevention-oriented care. Many of these individuals work in construction, e.g. laborers, plumbers/steamfitters, sheet metal workers, plasterers and sheetrock workers. Others include retired railway workers and maintenance workers at power plants and paper mills. Decisions also need to be made on what, if any, long-term medical follow-up is needed for retired tiremakers and employees laid off from the primary metals industries. Specific job assignments in these industries have been linked to delayed adverse health effects. Likewise, decisions are needed on long-term follow-up for several hundred production welders, especially welders currently or formerly exposed to chromium and nickel fumes.

The proposed legislation should, in the long run, be helpful to industry as well. Under S-79 the government will be responsible for identifying a limited number of problems requiring worker notification and medical follow up. This requirement should help focus our efforts and limited resources where they are most needed. S-79 will give good direction as to what if any medical follow up is required as a result of past exposures to potentially hazardous chemicals or materials. It provides for the development of clearer guidance for employers, workers and physicians.

The legislation will also help the Federal research agencies deal with their responsibilities for informing unknowing participants in epidemiologic studies about the finding of such studies and the implications of the results of such research for the individual participant. Unfortunately, it has not been customary in the past for Federal Agencies to ensure that unknowing participants have access to study results.

S-79 provides for involving a group of medical centers in the notification and follow-up process. Designated medical centers would be asked to answer questions posed by physicians caring for workers and to participate in relevant research. Hopefully, one or more of the medical schools in our state could become a part of such a network.

If there are any specific questions about this health issue that I could help clarify for you or your staff, please do not hesitate to contact me. Thank you very much for your time and your careful consideration of this matter.

Sincerely yours,

JOHN F. FINKLEA, M.D.

Mr. METZENBAUM. As is often the case, these victims of occupational disease are drawn heavily from among the most vulnerable members of our society—many are poor, many are minorities. Ten years from now, if this bill or something like it has not become law, 100,000 or more may be dead. Their families will not know that their lives could have been saved, but we in the U.S. Senate will. We will know where the responsibility lies.

That is why I am asking my colleagues to take a good hard look at what has transpired on the Senate floor. Since last Tuesday, the so-called debate on this bill has been nothing less than a sham. We attempted to discuss and adopt changes to address concerns of small business and the agricultural community, and also concerns voiced about employer liability. The opposition prevented us from accepting or voting on these proposed amendments, and even refused to debate the issues raised. We had to resort to a parliamentary maneuver just to get those changes before the Senate as a part of the bill. What we have discussed, debated, and voted on are proposed amendments dealing with tort reform and acid rain—issues that have nothing whatever to do with this bill. Now we are engaged in a discussion of whether notifying workers at potential, not acutal, risk of one disease—AIDS—should be the sole focus of this bill for years to come. After three cloture votes, we have heard scarcely a word from colleagues on both sides of the aisle who have expressed public, and private, desires to improve this bill.

My colleague from Indiana, with whom I worked so constructively at the subcommittee level, has not stepped forward to participate. In his letter of march 21 to his colleagues, Senator QUAYLE proposed a number of changes in S. 79. In that letter, he expressed "confidence that the majority of the flaws in S. 79 can be remedied," while pointing to the liability issue as a particularly difficult area. Yet Senator QUAYLE has not offered a single amendment to improve the bill. Why? Is the difference on his part and the part of others in the Senate to those who may get cancer in the workplace? I cannot believe that. The Members of this body are decent human beings. They are feeling human beings. They are family people. They are people who have a concern for their fellow men and women. And so why do we not try to work together—let us reason together—to bring about a bill that can save lives instead of just bringing about a bill or the defeat of a bill to accommodate some of the best lobbyists working the Halls of the U.S. Senate?

I, of course, recognize that those opposing S. 79 have every right to filibuster the bill and not engage in the process of improving—or weakening—the bill through amendments. But in this instance, I want my colleagues to understand what is at stake. By failing to invoke cloture, we will be rejecting this bipartisan approach to worker notification. It is an approach that has been deemed medically and scientifically sound by the top scientists in the Reagan administration. It is an approach that has been embraced by public health organizations and observers around the country. It is an approach that has strong support from organized labor, women's groups, environmental and consumer organizations, and key portions of the business community. And, most important, it is an approach that will save thousands of lives each year.

We are talking about saving lives. If some beloved member of one's family were involved and had been struck by an occupational hazard, I cannot believe that that individual would not be on the floor here supporting this bill.

I know that when we bring up Alzheimer's legislation, we gain a tremendous amount of support because Alzheimer's has so impacted the American community that there is hardly a family that does not know of another family, or their own, for that matter, where Alzheimer's has had an impact. And so we are willing to pass legislation having to do with Alzheimer's. And I am grateful to my colleagues for that because I have offered the amendments and the legislation.

But here we have something of the same nature, maybe even worse, in some respects. Here we have something having to do with cancer. We have been on the floor of the Senate for years—and I remember when I was in the lay field, when I was not a Member of this body, and I was cochairperson of the National Conquest of Cancer Committee. I remember how supportive the Members of Congress were to providing funds for research in the area of cancer.

Now we are not talking about research in this measure. We are talking about literally saving the lives. We are talking about a determination that somebody has been exposed to high-risk occupational hazards. We are saying: "Let them know the truth. Let them know the facts. Put them on notice. See to it that there is monitoring. In the case of the larger employers, move them from one job to another. Let us do something about it."

I see the difficulty of overcoming the strength of the minority in this Senate as well as the high-priced lobbyists who are working to defeat this bill. The high-priced lobbyists conceivably can prevail. If they prevail, they will make their dollars, but it is the poeple of this country that will suffer. It is those who have been exposed and continue to be exposed without any hope that they will be notified of what the problem is who will suffer.

At this point I want to restate my desire to make changes in response to concerns rasied by various Senators. If the Risk Assessment Board is not accountable enough to the political process, we are prepared to discuss that subject and work out other language. If the new, expanded language on liability is still not strong enough, we are prepared to make further adjustments there as well.

We do not want this to be a lawyer's heyday. We have gone as far as the insurance company representatives who support this bill believe we need to go, as far as the corporate giants, such as General Electric and IBM and the American Electronics Association and the other groups that are supporting this bill. We have tried to make those accommodations.

If Senators are worried about a 30-year retroactivity provision and wish to see notice tied more closely to the latency period of the disease in question, we are willing to discuss that subject.

My point is simple. We are prepared to accept or negotiate changes to the test of the bill. And for that, my colleagues on the other side of the aisle have seen fit to criticize the manager of the bill, to say that somehow I am out here bargaining, compromising. Of course. That is part of the legislative process, and I am proud of it.

I am standing here now saying again that we are prepared to discuss the merits of this bill, the substance of this bill, and we are prepared to accept amendments if somebody can come forth and make it better.

But the next time a vote is taken on the cloture question, which is tomorrow, I say to my colleagues, the issue is not a question of what the small business community wants. The issue is a very, very simple one: Do you believe that people who are at risk of getting cancer, because of having worked for their employers, are entitled to be notified? Are they entitled to some protection from the U.S. Senate? And if you do believe that, then your vote ought to be yes. But if you are indifferent to them, if you do not care how many of them die from cancer, then vote no. That is what the issue is all about.

You might consider this a cancer protection bill. If you have some amendments, come forth with them this afternoon.

I have not seen anybody come forth with an amendment to improve the bill except Senators Breaux, Dixon, Ford, Levin, and Danforth and their amendments have been accepted.

I am now convinced that if we are ever to modify this bill in ways that Members regard as meaningful to address their concerns, we must first invoke cloture.

But I will say this to my colleagues: If you do not want us to invoke cloture, if you do not want us to invoke cloture to protect the Willie Halls of this country, about whom I spoke before and who is in danger of losing his life and saw two of his fellow workers doing the same kind of work that he does lost their lives, then so be it. It is your call. It is your decision.

If you do not want to invoke cloture, give us an up or down vote on the bill. We are prepared to do that. I believe that there are a majority of the Senate who are prepared to vote for the bill.

But there is a filibuster going on. And it just means that a minority of the Senate, under the rules—and I understand the use of those rules and have not been adverse to using them before. But never have I used the right filibuster to defeat the public interest—that is what we see here—to defeat the health conditions of people in this country.

The issue has to do with whether or not you believe that those who are at risk of getting cancer are entitled to some protection from the U.S. Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I think this debate has moved ahead with dispatch and we are certainly, right now, going into some cogent and very important aspects of this particular bill. I do not see how anybody could look at this bill and read it and see the disaster that it is and vote for it. We all know why people are voting for and against this bill; it is because of political pressure, as far as I can see it. It is nice to come here and say we are going to notify everybody of health defects and we are going to notify everybody of health hazards but they are being notified today.

Like I say, we have this HAZCOM procedure that will be put into place on May 23 that will notify people of more than a half million chemical hazards in this country. Why are we duplicating it? Why do we have to do this?

Let me just say this. I have not seen an overwhelming vote for this yet nor have I even seen a majority vote for it. I am sure that if the truth was known and this was a secret ballot, this bill would not get more than 25 votes. And they would be the most hardcore votes in this body. And even they would have qualms about voting for this type of legislation under present budgetary constraints and circumstances. They realize how difficult our society is because it has become too litigious because we wonderful Members of the Congress create litigation like it is manna from Heaven; and opportunities for litigation like never before.

Oddly enough, the ones who create the most litigation opportunities are those who are adulated by some of these consumer groups in this country and they are responsible for increased costs to our Nation and our society like never before. This bill is a perfect illustration.

Let me go to another question to the distinguished Senator. Before we moved off of these questions to allow the majority leader to take some time, we were talking about the votes of the board members, whether they had to be present or whether a majority did. The distinguished Senator from Ohio, if I recall him correctly, said that a majority of the Board would have to determine whether something was a health hazard.

He said that the individual votes would not be revealed to the public, something with which I find a lot of difficulty.

Mr. METZENBAUM. I did not say that.

Mr. HATCH. I thought you did.

Mr. METZENBAUM. I did not say that.

Mr. HATCH. OK. The individual votes would be made public?

Mr. METZENBAUM. That has not been determined in the legislation. I think it would be a determination of the Board.

Mr. HATCH. But the Board could not make it public if they so decide?

Mr. METZENBAUM. There are some boards that do that now. The National Labor Relations Board does not make their votes public.

M. HATCH. I do not doubt that. I am just trying to establish the parameters here. If the Board wants to make their votes public, they can; if they do not, they do not have to, under this bill.

Mr. METZENBAUM. If you want it to be made public, I will accept an amendment to that effect. If you want it not public, I will accept an amendment that way. It really does not matter to me.

Mr. HATCH. Let me ask another question. Assume the Board determines ethylene oxide is an occupational health hazard. Its next responsibility is to identify the population at risk of disease as a result of that; as defined in S. 79 as "A class or category of employees exposed to an occupational health hazard under working conditions such as concentrations of exposure or durations of exposure or both, comparable to the clinical or epidemiologic data."

The question is: Is it the Senator's intention or is it the bill's intention that employees will be notified who have been exposed for shorter durations or at lower concentrations?

Mr. METZENBAUM. That would depend on the specific study. If the Risk Assessment Board felt that a shorter duration exposure required the notification the answer would be yes.

Some critics, I might say, have suggested that it will be difficult to identify and defined a population at risk under S. 79. But, frankly, the bill is quite specific about how to define and limit such a population.

For employees to be part of a population at risk under this bill, they must have been exposed to the toxic agent in question under working conditions comparable to those identified in human studies linking that agent to significant health risks.

The record on epidemiologic studies indicates that health risks may be characterized in a number of different ways. Some studies assessed risk simply on the basis of years of employment. Other studies show results based on general categories of exposure to a substance: High, medium or low; over certain years of employment. Still other studies assess risk based on specific units of exposure, such as parts per liter of air.

Obviously, identification of working conditions comparable to those that have been studied must rely on existing epidemiological data. The authors of the bill expect that comparable working conditions will be defined as precisely as possible in order to facilitate the notification process.

The definition of comparability is a scientific judgment, properly left to the expertise of the Risk Assessment Board. But it is clear from the range of epidemiological studies available and underway that there is ample material on which to make these determinations.

Mr. HATCH. OK. The Board has determined that ethylene oxide is an occupational health hazard. Let us say that they have also decided that all employees who work with ethylene oxide for more than 1 hour a day, 3 days a week for 1 year, are at risk. Let us say that that is what the Board does. One hour a day, 3 days a week for at least 1 year.

The Secretary of the Department of Health and Human Services then draws up a notice which identifies the hazard, lists the associated diseases, states the extent of the risk, latency periods, possible contributing factors, and counseling information. Can the Senator give us an idea of what that notice might say or how it might read? Because that is what they have to do under this bill.

Mr. METZENBAUM. I think my colleague is a very intelligent Member of the Senate and I think he understands exactly what the notice would say would be a determination of the Risk Assessment Board. I am a little bit puzzled by the nature of the inquiry, because what we are talking about is giving adequate notice. I suppose you could make up any kind of a circumstance which would have to do with kinds of exposure that might have occurred and continue to occur, or maybe do not continue to occur. The Risk Assessment Board would determine whether or not that was sufficient risk to cause a notification to become a reality.

So I do not know what the notice would say and I am certain that my colleague would agree that we ought not to try to put in a piece of legislation the language on a subject of that kind. We certainly ought not to be writing out the language in the legislation nor even in the report. I think we have to trust the people who are to do the job to be able to do the job of notidication properly and indicating the factual basis on which that notification occurs.

Mr. HATCH. Let us assume that the board can, and the job of, notification can be done properly, or at least can be done. The distinguished Senator from Indiana, our colleague, Senator QUAYLE, has a lot of doubts because he has been asking for a year, year and a half, for some illustration of how this actually would be done. But let us assume it can be. To whom is that notice sent? Does the Board send the same notice to everyone or would it be adapted to the possible problems of individuals?

Mr. METZENBAUM. I think it would be sent to everyone who was a part of that group that fits within the definition and the conclusions reached by the Risk Assessment Board.

In other words, if some people were exposed only 1 hour a day, 1 day a week, they, obviously, would not be in that category. I think that my colleague is attempting to complicate the issue by suggesting exposure 1 hour a day, 3 days a week. I think that in and of itself would be quite unusual in the workplace. I think it depends on what the factual situation is.

But I suppose you can make up an even rarer case: What if the individual were exposed 1 hour every 6 months and the Risk Assessment Board came to the conclusion that that was a factor? Of course, that is such an unbelievable speculation, and it is so absurd on its face—and I have made it, I am not suggesting that your concept is absurd—but I am trying to say that you get to the point of absurdity.

I think we just have to do that which we do in so many other instances, and that is we have to have some faith in the Risk Assessment Board.

My staff has just presented me with some notes as to the discussion concerning how difficult it will actually be to formulate a notification for hundreds or thousands of workers. Critics have suggested that notices somehow are an unprecedented undertaking. In fact, there are numerous examples in recent years where either the Federal Government or private companies have transmitted this notification to workers.

In the past 10 years, NIOSH has conducted several pilot notification programs. One program involved 1,300 current and former chemical company workers who were at increased risk of bladder cancer.

Another effort involved 12,000 active and retired patternmakers in the automobile and agricultural implement industries who had a double risk of mortality from colon and rectal cancers.

The third project involved over 1,000 current and former employees at a glass and insulation products plant who had an increased risk of lung cancer.

In each instance, notice was sent to hundreds or thousands of current and former employees. In these notices, workers were told about an increased risk of a particular disease associated with a specific hazardous exposure. They also were given a telephone number to contact for medical testing.

American companies, as well as the Government, have recognized the need to notify their workers regarding the results of epidemiological and medical studies that indicate possible increased health risks.

Over the last few years, Johnson & Johnson has made a number of efforts to notify employees about the possible cancer risks from exposure to ethylene oxide used during the preparation of medical instruments and supplies.

The notification included direct communication of study results, as well as medical surveillance recommendations.

In 1986, Union Carbide notified workers in some of its West Virginia facilities about the results of a large epidemiological study of this work force which was jointly conducted with NIOSH.

The notification was conducted through posting the study results on all company bulletin boards and reporting the results in the company newsletter.

Recently, Hilton-Davis Chemical Co. in Cincinnati individually notified each of its workers who may have been exposed to DCB, a suspected bladder carcinogen. Each worker who have been exposed to this chemical was advised to see his or her own physician regarding the need for medical monitoring.

For purely illustrative purposes, I submit a copy of one of the NIOSH notice letters and also the Hilton-Davis notice letter as part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HILTON-DAVIS,
Cincinnati, OH, Septembner 29, 1986

DEAR * * *: Several months ago you responded to a National Institute of Occupational Safety and Health (NIOSH) information survey questioning your knowledge of handling 3,3′ Dichlorobenzidine Dihydrochloride (DCB) while employed at Hilton-Davis. NIOSH recently released the results of that survey to Hilton-Davis. Your name is included on a list of employees who reported having some recollection of handling DCVB.

The chemical structure of DCB is similar to Benzidine, which was found to be a bladder cancer-causing agent in animal studies. OSHA issued regulations in the early 1970's calling for controls on the handling of DCB. Though DCB has not been directly associated with human bladder cancer, Hilton-Davis installed engineering controls and instituted operating procedures for worker protection. In addition, a medical surveillance program regarding DCB was initiated.

If you believe that you may have worked with DCB while employed at Hilton-Davis, it is recommended that you consider contacting your physician and discussing with him the appropriateness of having a urine cytology test performed. This test is an inexpensive, simple, and painless procedure performed on a urine sample. Medical follow-up should be undertaken as advised by your physician.

If you or your physician have any questions about the urine cytology test procedures, contact me at the Hilton-Davis plant, (513) 841-3773.

Sincerely,
ALAN D. BERENSON, M.D.,
Medical Director.

CINCINNATI, OH, *August 1981.*

The National Institute for Occupational Safty and Health (NIOSH) is the Federal agency responsible for studying and health and safety of workers. In one of its studies, NIOSH has learned that while employed at the Augusta Chemical Company you may have been exposed to a chemical called betanaohthylamine (BNA) which is known to cause cancer of the bladder. While most people who worked at this company will not get bladder cancer, your risk is higher if you were exposed. NIOSH, therefore, recommends that you obtain medical advice and learn of the warning signs for this disease.

To help you know if you are all right, testing services will be provided free of charge at the Medical College of Georgia. If you have questions or would like to schedule an appointment to have these tests done, please call (404) 328-2204 at the Medical College within one month of receipt of this letter.

Please keep this letter as part of your medical records or give it to your doctor.

Sincerely yours,
PAUL A. SCHULTE,
Epidemiologist.

Mr. METZENBAUM. I do not mean to suggest that these letters are a model for notice under S. 79. The bill requires the inclusion of additional information, such as the extent of the risk, latency period for the disease and counseling recommendations, that is not in these two letters.

The S. 79 notice also would be likely to go to a more limited number of employees: Those exposed under specific working conditions, rather than employees who simply have had some exposure at some time.

My point is simply that there are many instances where progressive companies, as well as the Federal Government, are engaged in notifying current and former employees about their individual health risks.

While we should leave the details of notification to the experts, in other words, the Risk Assessment Board and NIOSH, I want to emphasize that the notice program is a readily achievable and realistic one.

Mr. HATCH. I would just like to point out, we have been asking for some forms. Apparently the Senator has some form which the company can use in order to make that type of notice, or that the Board can use.

As I have listened to the distinguished Senator's comments in response, he seems to say yes and no. If the answer is yes, does the Board send the same notice for everyone, is it the intention of the authors of this legislation that everyone, male and female, smoker and nonsmoker, workers exposed for 30 years and workers exposed for a short time period, will they all receive the same notice saying they are at the same risk? Is that what is going to happen under this legislation?

I am just asking a few little delineations that anybody who thinks about it would ask, and yet I do not see anywhere in the bill or anywhere in the report language that that problem is solved.

Let me just ask further, if the answer is no, the same notice is not sent to all, then what factors does the Senator think the Board will use to divide populations into different groups for different notices? What is there in this bill that would distinguish an employer with good safety and health practices from one with poor safety and health practices?

What I am doing is pointing out how difficult it is to give logical and good notice that does not subject the employer to litigation, and there is no way that you can be absolutely certain enough to send the same notice to everybody, all of whom have different risk factors involved, in order to make this bill work.

I would like the Senator's answer to those questions if yes, if no.

Mr. METZENBAUM. Well, not yes or no. I want to say once again——

Mr. HATCH. Or both.

Mr. METZENBAUM. I want to say once again that this bill is not a bill to provide, nor will it cause more litigation. My colleague has been constantly talking about litigation. I have said on the floor of the Senate, we originally had language in to make it litigation-proof. When our amendment that was offered as a committee amendment tightened up that language, I have said if you want to tighten it up further, fine with us.

Now I am asked by the Senator from Utah a question as to whether or not all workers will be notified, some workers will be notified, how will the determination be made, and somehow tying that in with litigation which, I must say, is a nonsequitur, as far as I am concerned, under the best of circumstances.

But let me make this clear. We are talking about cancer; we are talking about risks to human lives. We are not talking about some technical abstract idea.

The Senator from Utah would like to have it all very simple, cut out and put in a box. But we know the medical profession does not practice medicine that way, and the Risk Assessment Board is going to have to make its determination based upon scientific data.

We here on the floor of the U.S. Senate cannot make a determination as to what kind of a diagnosis some doctor is going to make of some particular case, nor can we say in advance what the Risk Assessment Board is going to do.

The bill is drafted to try to protect people who are at risk of cancer and other death-dealing illnesses, and we put in place scientific data in order to make that determination.

If the Senator says to me: If a person has a large lump on their right arm and a bruise on their left leg, and it is showing up and it is black and blue and also feels some pain in the back of their neck, does that mean that this individual has this, that or some other kind of illness? I would not have the slightest idea. I am not sure that any doctor would have the slightest idea based upon that limited information.

You go to people who are experts, and that is what this bill does. We call upon the Risk Assessment Board for the finest people in the country to be appointed to the Board.

We have an appointment procedure. If that appointing procedure is not satisfactory to my colleague, tell me one you like better, and if it is at all reasonable, I will accept it.

But having said that, I am not in any position to determine which workers are going to be notified, when will they be notified, under what circumstances, or what it will say.

If you believe, as I know you do, that there is a concern about people being exposed to cancer, then you have to vote for this bill.

Now, although the Senator opposes this worker notification bill, it bothers me that he has gone to such lengths to criticize the secondary prevention approach, the idea that notification between exposure to a hazard and the onset of disease is an important public health initiative. As the Senator well knows, and as I said when we were on this bill last week, I know that he did not object to risk notification and secondary prevention when it had to do with the citizens of his State. He did a great job for them. He supported legislation, and I helped him with it, aimed specifically at notifying individuals at risk of cancer.

His bill became law in October 1984. It provides for the National Cancer Institute to do much more than our bill does. It provides for the National Cancer Institute to establish or support notification and cancer screening activities in St. George, UT, for residents over age 40 who are at risk of cancer due to nuclear fallout from the Nevada tests in the fifties and sixties—very specific, very protective, very much concerned about his own constituency. I doff my heart to the Senator. I have no quarrel with what he did. But what I am saying is why is he so indifferent to those who may be at risk of cancer? Why is he not willing to let them be notified?

The notification and screening efforts authorized by the Senator's bill at that time were massive and expensive, and I am not quarreling about that. But more than $3 million was appropriated over a period of 6 years. Some 4,000 cancer screenings per year are being given free of charge to residents over age 40. And on the floor of the Senate, the Senator referred to those cancer screenings as "a logical extension" of the Utah studies and the consequences of past exposure to radiation.

We are in the same ballpark. We are in the same league. And when asked whether the project was unduly expensive, my colleague from Utah replied, "It is a very small cost compared to the benefits to society." Three million dollars a year, 4,000 cancer screenings a year. We are talking here about $25 million for 100,000 to 300,000 notices a year.

Obviously, there are differences between the Utah cancer screening activities and the program in S. 79. The Utah project is aimed at the general population, not workers. The Utah project authorizes medical monitoring even before we have clear evidence of statistically significant risk in the nuclear fallout areas of southern Utah. That is something the Risk Assessment Board would not allow. The Senator's bill goes further than does ours. But the general point I want to make is quite simple. The Senator's bill provided for screening every year—an idea that even Senator HATCH is prepared to say makes sense. Notification in his legislation goes to a large population including thousands who have never been studied themselves. Notification goes to persons exposed to a health hazard from up to 30 years ago, and notification is accompanied by medical monitoring so that the at-risk population can learn as much as possible and as soon as possible if further medical intervention is warranted.

I congratulate my colleague from Utah on embracing the principles that he has for the citizens of Utah. But if it is good enough for Utah, should it not be good enough for the rest of the country?

Mr. HATCH. The thing that bothers me about this argument is that the Senator has distorted what really is a good little bill for cancer screening for people who were exposed to radiation exposure, low-level ionizing radiation in the fifties and sixties, which requires no notification other than word of mouth. The publicity that it naturally generates allows for voluntary appearance for cancer screening for the purpose of determining whether or not they have cancer. To help these people who clearly have been abused and for whom everybody, I think in their right mind, would have to say this is a good thing, as the distinguished Senator from Ohio has said. And I agree with it. That is the type of legislation we ought to have.

I think it is a distortion, too, to stand here and say all we are trying to do is solve cancer in our society. If you are going to solve cancer, I am not the one excluding passive smoking, which is one of the largest causes of cancer at the workplace in our country. I am not excluding a lot of small business people, although I think that under the circumstances they ought to be excluded—so should everybody else—from this type of onerous bill. I am not excluding AIDS because it might be too expensive, it might lead to fear, and it might be duplicative of current Federal programs.

I have used every one of those arguments against this bill. But if you are going to have notification, you ought to have notification for the real causes of occupational health hazards in this country. Certainly passive smoking is one of them. So do not stand here and tell me that you want to stamp out cancer when you are not even willing to do that which has to be done if you want to stamp out cancer. Talk to the Heart Association. Talk to the American Cancer Society. You are not going to take care of asbestos for schoolteachers. You admit that the asbestos problems are prevalent in schools.

No, all of these areas have been specially excluded in order to get as many votes as possible on this bill. Now, I suspect before we get through tomorrow, or whenever it is, there will be even more concessions made.

The fact is it is a total distortion to compare the cancer screening clinic in St. George, UT, in the center of a tri-State area where people were bombarded by low-level ionizing radiation for about 20 years through the atmospheric tests in the fifties and sixties, where everybody admits there was some incidents and where we have had the top scientific experts in the world come in and testify before the Labor and Human Resources Committee. We have had the leading radioepidemiological studies in the world done pursuant to that legislation, pursuant to the work that I have done in that committee, with this bill for which we do not even know what the form is going to look like in any particular instances.

As a matter of fact, we have just spent another 10 or 15 minutes talking with the distinguished Senator from Ohio, and he has no idea what the form is going to look like. He has no idea how it is going to apply to different types of subjects, male-female, smoker-nonsmoker. We all know that some incidents of illness occur much more rapidly and much more effectively with smokers than with nonsmokers.

What are the factors the board is going to use to divide populations into different groups for different notices? What is there in the bill that distinguishes an employer with good safety and health practices from an employer with poor practices? Nothing. Yet this is a bill we are supposed to wholesale pass here today.

I note the distinguished Senator from Mississippi is here. I know he wants to speak on the bill, and I would be more than happy to interrupt my questions at this time and relinquish the floor. I ask unanimous consent that I be permitted to do so without losing my right to the floor, without having it be a second speech under the rules, and without our colleague being interrupted so that his speech may be placed in the RECORD at an appropriate place.

The PRESIDING OFFICER (Mr. GRAHAM). Is there objection? Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I am concerned by the bill before the Senate because it would adversely affect the opportunity for many in the agricultural sector, our farmers and ranchers, for operating at a profit.

An enormous expense is going to be imposed upon the agriculture industry, the producers of the food and commodities which are so important to the wellbeing of our country as a whole.

Agriculture as everybody knows is one of our most important industries. It accounts directly or indirectly for about 20 percent of our gross national product. It is one industry where we have reason for hope and optimism that we can readjust our international trade imbalance because our agricultural exports are going up. We are getting a better share of the international market because of aggressive marketing techniques, new programs that were included in the 1985 farm bill, and credit assistance that is made available in some of our export enhancement programs. These improvements are good not only for the producers but for America's overall economic health.

This bill would put all of that in jeopardy, Mr. President. We have about 750,000 farmers and ranchers who would be directly affected by this legislation. Three million workers are employed by these farmers today. A very substantial group would be affected by this legislation.

One problem that agriculture has with the bill is that it duplicates some steps now being taken by the Occupational Safety and Health Administration to notify and acquaint current agricultural workers with certain risks associated with chemicals or activities in agriculture today. Some regulations have been extended to agriculture which were previously restricted to manufacturing, regulations that require notice in some cases to currently employed workers.

To adopt this bill would simply add another requirement to one just extended to the agriculture sector last August by OSHA, a requirement dealing with some of the same problems that are being discussed by proponents of the legislation here on the floor of the Senate today.

The point here is that we do not need to enact a bill if what we are worried about is already being dealt with by another government regulation. I am specifically referring to the Environmental Protection Agency responsibility to regulate the use of pesticides. Another area already being regulated involves an OSHA regulation, the Hazard Communications Standard, issued last August, requiring that agricultural workers be informed of any hazardous substances they may deal with and establishing safeguards for handling them. These regulations are already part of the Federal regulatory scheme.

To impose in a new piece of legislation an additional burden of notification extending not only to those now working but also requiring farmers to go back and try to resurrect the names and addresses of previously employed workers would add very expensive, very onerous burdens to the agriculture sector. Just a few months ago I heard impassioned pleas that something should be done to help save the family farm. We can help by giving the farmer a break with regard to additional expensive regulations, and by continuing to try to design programs assuring our agriculture sector a chance to operate profitably and to be competitive in the international marketplace with our home-grown commodities and foodstuffs.

Any attempt to turn around here in just a matter of months and think up a whole new array of very expensive burdens for the same people we are trying to help needs to be thought out very carefully. I think we are going too far. I think the American Farm Bureau knows what it is talking about when it says that this is legislation that would very seriously affect American agriculture.

Mr. President, I ask at this point to insert a copy of a letter written to the senior Republican on the committee, Senator HATCH, from John Datt, executive director of the Washington office of the American Farm Bureau Federation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, March 24, 1988.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: We have analyzed the Kennedy/Metzenbaum substitute to S. 79 introduced on the Senate floor late yesterday afternoon.

The agricultural exemption in Section 9 addresses itself to the medical removal protection provisions in the bill. It provides that provisions for medical removal protection under the Act shall not be applied for the first six months of employment in the case of seasonal agricultural workers unless the Secretary of HHS provides for up to $1,000,000 each fiscal year from the Migrant Health Program to pay the cost of medical monitoring.

We are not opposed to such a limited exemption; but it would not eliminate our opposition to the bill, since it applies to only one requirement in the bill and does not address itself to reporting and liability concerns that agricultural employers have with respect to the bill. It does not obviate our overall position that the bill is duplicative of existing programs and that the 30-year retrospective feature of the bill is unworkable.

The language in the substitute appears to be limited to "medical monitoring," and does not appear to be sufficiently broad to include medical transfers or paid medical leave. We are highly doubtful that a million dollars a year would even begin to pay the cost of monitoring, not to mention medical leave.

Agricultural employers employ more than two million persons for seasonal jobs each year, only one tenth of whom are migrant workers. Ninety percent of them are local commuters who work seasonally for a few days or weeks on farms.

Thus Farm Bureau continues in strong opposition to the bill.

Sincerely,

JOHN C. DATT,
Executive Director,
Washington Office.

Mr. COCHRAN. Mr. President, I wish to highlight a few things in this letter to show Senators that the newly introduced substitute which is supposed to address many of the problems that farmers have with this bill does not really reach the objections of agriculture.

I note that the Kennedy-Metzenbaum substitute that was recently offered purports to exempt agriculture from section 9 of the bill. Senators should know that section 9 concerns medical removal protection under the act; that is, transferring workers from one job to a safer job on the same farm if they are found to be subjected to certain risks because of contacts with chemical or other hazardous substances. But the substitute does not address—this is pointed out in the letter—the other opposition that the agriculture sector has to the bill. It applies only to one requirement. The substitute does not have anything to do with reporting and liability concerns that agriculture employers have with respect to the bill.

Think about this: Illustrative of the comments made by the American Farm Bureau Federation would be a situation in which a former worker would receive notification from a farmer, assuming the worker could be found, informing the worker:

> When you were working here, you may have been exposed to certain risks because you came into contact with poison that we used in the cotton fields, or insecticides that were used in the corn fields, and you may be at risk for certain diseases or illnesses. And here they are.

Well, this fellow, who thought he was getting along pretty well, and might not have had any symptoms of any disease, might become not only alarmed but upset at his prior employer for having subjected him to health risks 20 years earlier. What the previous employer might receive next would be a summons. The fact of the matter is that this legislation is going to encourage litigation against employers who may have employed workers who were in contact with chemicals that in retrospect appear to have been dangerous to those workers. Of course, the farmer himself has probably been working with those same chemicals and in those same situations for his entire life, and it really helps his attitude to get to send that letter out. It is great for morale to get a chance to sign those letters.

The point is that this legislation would put at risk the economic well-being of every farmer in America.

I am concerned, as everybody in this body is, with trying to minimize health risks in every way possible and to notify previous workers of problems that we know. But it is another matter when we just suspect that they may have come in contact with hazardous agents or that they may have been involved in unsafe conditions simply because they were in dusty fields or in a poultry processing plant.

I think the point that is illustrated by the Farm Bureau letter is that the effort to exempt agriculture from the legislation has not succeeded by the adoption or inclusion of the provision that is in the substitute right now because it is targeted only to a very narrow issue area in the bill. That area is the medical removal protection which seeks to protect workers by moving them away from the place of hazard and giving them another job. It imposes a requirement on every other industry that, if the worker is in a risky environment and he demands to be moved because of personal medical problems in that environment, the employer must comply within a certain period of time, within the provisions of this bill.

Agriculture is exempted from this requirement in the amendment included at the request of the Senator from Kentucky [Mr. FORD] and the Senator from Illinois [Mr. DIXON]. But the amendment does not address the problem of employer liability for previous exposure. It does not address the problem of finding seasonal workers to notify 20 or 30 years after their employment, recalling their names, trying to get in touch.

Those are enormous and expensive burdens for agriculture, in my judgment, and that point is made in the letter from the American Farm Bureau Federation.

Also, Mr. President, I invite the attention of the Senate to another concern expressed in a letter from the National Council of Agricultural Employers, dated March 24, to Senator HATCH.

The National Council of Agricultural Employers represents the employers of about 75 percent of the agricultural work force. They have reviewed the amendment included in the provision sent to the desk as a substitute, and they conclude that for a variety of reasons, the amendment does not support the initiative to exempt agriculture from the provisions of this bill.

I am going to read a sentence or two:

> The amendment exempts agricultural employers of less than fifty workers, or employers whose workers are employed longer than six months, from the medical removal provisions of S. 79. It further requires that medical monitoring of seasonal agricultural workers employed less than six months be paid out of a transfer of $1 million from the Migrant Health Program of the Public Health Service.
>
> Most agricultural employers in the labor-intensive industries will not be covered by this "agricultural exemption" because they either (a) employ their workers six months or longer or more likely, (b) employ more than fifty workers at a time.

They also note that this amendment pertains only to the medical removal provisions of S. 79. I read again:

> It does nothing to address the fundamental problems represented by the bill. Specifically: the impact on agriculture with regard to litigation, liability, health insurance costs and practical compliance with notification of workers from the past thirty years.

Mr. President, I ask unanimous consent to have this letter from the National Council of Agricultural Employers printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL OF
AGRICULTURAL EMPLOYERS,
Washington, DC, March 24, 1988.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: It is my understanding that during the Senate floor debate on S. 79, the High Risk Occupational Disease Notification and Prevention Act, it is likely that efforts will be made by Senators Ford and Dixon to offer an "agricultural exemption" amendment.

The National Council of Agricultural Employers, which represents employers of about 75% of the agricultural workforce (in fruits, vegetables, nursery, floral and livestock industries in thirty-five states), has reviewed the amendment and does not support such an initiative for a variety of reasons.

The amendment exempts agricultural employers of less than fifty workers, or employers whose workers are employed longer than six months, from the medical removal provisions of S. 79. It further requires that medical monitoring of seasonal agricultural workers employed less than six months be paid out of a transfer of $1 million from the Migrant Health Program of the Public Health Service.

Most agricultural employers in the labor-intensive industries will not be covered by this "agricultural exemption" because they either (a) employ their workers six months or longer or more likely, (b) employ more than fifty workers at a time.

The "exemption" pertains only to the medical removal provisions of S. 79. It does nothing to address the fundamental problems represented by the bill, specifically; the impact on agriculture with regard to litigation, liability, health insurance costs and practical compliance with notification of workers from the past thirty years.

The Migrant Health Program budget is already stretched dangerously thin, despite increases in the FY89 budget. As the medical monitoring/notification program envisioned by S. 79 will be an entitlement program, $1 million will not begin to meet the medical monitoring costs of a population estimated to be 2.5 million individuals. Additional funds to meet the demand would have to be generated by direct appropriations.

S. 79 is bad legislation. Inclusion of the Ford/Dixon "agricultural exemption" amendment will not cause NCAE to endorse, or even drop our firm opposition, to S. 79.

On behalf of the agricultural employer community, I want to thank you for your leadership on this vital issue.

Sincerely,

ELIZABETH D. WHITLEY,
Executive Vice President.

Mr. COCHRAN. Mr. President, I think it can be clearly understood from these two letters that the effort by the proponents of the bill to deal with the concerns of agriculture in this legislation have fallen far short of the mark.

The amendment that is included is very narrow. It applies only to one portion of the bill. It does nothing to deal with the practical consequences for a farmer having to try to find and notify workers who worked for him during the past 30 years and to advise them now of risks that some think were attendent to the workplace as it existed during the time when that employee was on the farm.

In summary, those who are familiar with the day-to-day, practical activities on the farms in America feel that the workers who are engaged in agricultural activities are provided protection under current law and regulations set forth in EPA rules about hazards of chemicals in the farm area and by OSHA, which has recently extended the Hazard Communications Standard to nonmanufacturing industries, such as agriculture.

They feel that S. 79 would result only in the imposition of very costly burdens on American farmers and ranchers, and the employees, the workers, really would not benefit as a result of the new burdens.

So we run up the cost, again, of doing business, with no benefit corresponding to the increased cost. That is the concern of American agriculture, as I understand it. The point they are making is one to which we should listen before we rush to enact this bill, without considering its practical consequences.

I have another letter—a memorandum, actually—addressed to all Members of the Senate, dated March 18, from the American Feed Industry Association, which deals with that industry's objections to S. 79. This industry letter points out:

> S. 79 * * * could negatively affect U.S. agriculture by dramatically increasing farmer output costs, exposing several segments of the food chain to potentially devasting legislation and liability claims, and ultimately impact the cost of food to the consumer, with little appreciable benefit to workers.

They go on to point out some reasons why they are opposing passage of S. 79. They say:

> The creation of another level of federal bureaucracy through establishment of a Risk Assessment Board with the Department of Health & Human Services is a waste of federal tax dollars and totally unnecessary. The feed industry today is covered by OSHA's Hazard Communications Standard, requiring detailed records and worker notices on hazardous substances in the workplace and education programs on potential worker exposure. Prior to any additional and possibly pointless programs, oversight hearings on effectiveness of the Hazard Communication Standard should be held.

In order that the Senate may be advised, Mr. President, of the reasons for this industry's opposition, I ask unanimous consent that a copy of the memorandum be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN FEED INDUSTRY ASSOCIATION,
Arlington, VA, March 18, 1988.

To: All Members of the U.S. Senate.
From: The American Feed Industry Association.
Subject: The Negative Affects on Agriculture of S. 79, "High Risk Occupational Disease Notification and Prevention Act."

The American Feed Industry Association (AFIA) urges you to reject S. 79 when it reaches the Senate floor later this month. S. 79 is not just a "hard industry" bill, but could negatively affect U.S. agriculture by dramatically increasing farmer input costs, exposing several segments of the food chain to potentially devastating litigation and liability claims, and ultimately impact the cost of food to the consumer with little appreciate benefit to workers.

AFIA is the national trade association representing the manufacturers of nearly 75% of the primary formula livestock and poultry feed sold annually in the U.S. The U.S. feed industry employs workers at over 9,000 manufacturing sites in 48 states, mainly in rural America. By federal definition, more than 70% of AFIA's member companies are small businesses.

Feed represents 70% of the farmer's cost of producing milk, meat and eggs. If the feed industry is forced to pay its share of S. 79's estimated $5.8-6.4 billion annual price tag, in addition to the millions spent today on effective state and federal worker safety regulations, that cost increase will pass back to the farmer, increasing his cost of production. The ripple effect throughout the food chain is obvious. The bill contains no consideration or exemption for agriculture or small business.

Why do AFIA's nearly 600 member companies join with nearly 1 million other U.S. firms in opposing S. 79? Here are the reasons:

The creation of another level of federal bureaucracy through establishment of a Risk Assessment Board with the Department of Health & Human Services is a waste of federal tax dollars and totally unnecessary. The feed industry today is covered by OSHA's Hazard Communications Standard, requiring detailed records and worker notices on hazardous substances in the workplace and education programs on potential worker exposure. Prior to any additional and possible pointless programs, oversight hearings on effectiveness of the Hazard Communication Standard should be held.

The exposure to liability claims cannot be ignored, despite S. 79's so-called protections. AFIA points to a pilot study conducted by the National Institute for Occupational Safety & Health (NIOSH) in 1978-81 which revealed a single company was hit with $335 million in lawsuits after a similar notice requirement was sent to 800 workers.

The bill lacks either a scientific or pragmatic basis for determining populations at risk or what constitutes actual risk, ignoring the relationship of concentration and duration of exposure. NIOSH today conducts regular scientific Health Hazard Evaluations when actual or alleged problems arise. Unlike the shot-gun approach to worker notice contained in S. 79, which will create unfounded fear and apprehension in workers, NIOSH conducts its efforts on a case-by-case, site-by-site basis, recognizing that hazardous exposure is usually the result of a problem in a specific plant.

Rural America and the farm economy is just beginning to rebound from the disastrous levels of the early 1980's. To impose upon farmers, feed makers and others the staggering costs of S. 79, with no scientific evidence of need would be ill-advised. Allow current successful programs to continue to operate and review these programs before placing what may very well be a totally unnecessary, but burdensome program on the backs of small business.

AFIA again urges you to vote against S. 79 when it reaches the Senate floor. If I can be of any further assistance, please don't hesitate to call on me.

Sincerely,

STEVE KOPPERUD,
Vice President—Legislation.

Mr. COCHRAN. Mr. President, when the bill was introduced and it was clear it was coming to the floor for consideration, the Department of Agriculture reviewed it and submitted to the Members of the Senate its observations about the High-Risk Occupational Disease Notification and Prevention Act. I think that I have pointed out most of the concerns that are contained in the previous communications that are also included in the Department's memo, but so that Senators will be advised about the Department of Agriculture's views, I ask unanimous consent that a copy of the statement from the Office of the Secretary on this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, February 17, 1988.

HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The Department of Agriculture opposes S. 79, the "High Risk Occupational Disease Notification and Prevention Act of 1987" and will recommend to the President that he veto the bill if enacted. The Department of Justice has described the enormous litigation costs which would be imposed upon employers, consumers, workers, and the Federal Government. The Department of Commerce and the Small Business Administration have detailed the potential costs to U.S. industry and the loss of competitiveness in the world marketplace, which would be equally applicable to the agricultural industry. The Department of Labor has noted that those proposals are duplicative of other federal efforts for the protection of workers, but this is even more true as to farm employment due to the overlapping protections with the Federal Insecticide, Fungicide and Rodenticide Act.

We believe that a major flaw in these proposals is that they focus upon past occurrences and the courts rather than present risks and the workplace. This does not serve the best interests of the nation's agricultural employees. According to the Office of Migrant Health of the U.S. Public Health Service, the major health problems affecting farm workers include tuberculosis, parasitic infestation, hypertension, heat prostration, and contact dermititis. We believe that the current efforts of the Departments of Labor, Health and Human Services, and the Environmental Protection Agency in providing information and preventing these diseases would be of much greater benefits to workers.

To illustrate the difficulties which might be associated with this bill, it is useful to consider its practical effects:

SUNLIGHT MAY BE A "HAZARDOUS OCCUPATIONAL EXPOSURE"

Sunlight is "a physical agent * * * found in the workplace for which there is statistically significant evidence (based on at least one study conducted in accordance with established scientific principles, that acute or chronic health effects (skin cancer) may occur in exposed employees. The term includes * * * agents that damage the * * * skin.* * *"

Agricultural workers would appear to be a "employee population exposed to an occupational health hazard at intensities or durations comparable to at least one study * * *"

Given the latency between exposure and the manifestation of disease, notification and monitoring of individual employees of their past exposure, rather than information on risk avoidance, would be of little value in preventing skin cancer.

Industrial hygiene directed toward risk prevention would be appropriate for sun exposure, however, this bill makes no provision for such activity.

Employer paid medical monitoring "if any part of such exposure occurred in the course of the employee's employment by that employer; * * *" would be inappropriately burdensome to a employer of a few weeks for a condition which might require lifetime monitoring.

The medical removal contemplated by this bill would be impractical on a farm, since virtually all jobs are performed in sunlight. Given the current level of medical malpractice litigation, would a seasonal worker's physician be likely to not recommend medical removal, particularly since there would be no loss of income to his patient?

The provision for medical removal protection, by paying a worker for a period of 12 months if alternative employment is unavailable is inappropriately burdensome for an employer who may have hired a worker for only a few weeks. Should he be held responsible for a condition which likely developed over decades? And for circumstances over which he had no control?

Mr. COCHRAN. Mr. President, so Members will understand that it is not agriculture organizations only that are opposing this bill, I have a copy of a letter that was sent originally to Senator Wendell Ford, and copies were given to Senator Hatch and others who are involved in handling the legislation on the floor, from the National Association of Community Health Centers. One might assume that they would be all for this bill, but you look at the letter and you get down here to the bottom of it and they say this: "* * * in order for the migrant health centers to comply with this edict"—that is included in the bill—"basic medical services to all 500,000 farmworkers now served would have to be immediately terminated. Hence, we feel that this amendment, as currently conceived, would have serious negative consequences on the health status of the very farmworkers that it is intended to help."

Mr. President, I think it is clear from statements such as this that the Senate has available to it now, together with the comments that are made by very well respected farm organizations and the Office of the Secretary of Agriculture, that the Senate ought to pull this bill down and take another look, that we ought not to go forward and pass this legislation which could have economically devastating consequences on the producers of America's food and fiber as well as associations and health centers that are now involved in trying to deal with the health problems of farm workers.

So this bill has serious problems and it is not just to frustrate the intentions of the managers of the bill, those who are proposing that we pass this bill, that some of us are interested in bringing out these concerns. They seem to be legitimate concerns. They seem to be based on experience, on practicality, and on good intentions just as good as the intentions of the proponents of the legislation, which I do not question at all.

So that the record may be clear and Senators may be advised about these concerns, I ask unanimous consent that this letter from the National Association of Community Health Centers, dated March 24, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

National Association of
Community Health Centers, Inc.,
March 24, 1988.

Hon. Wendell H. Ford,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senator Ford: On behalf of the National Association of Community Health Centers (NACHC), I am writing to express our deep concern regarding a proposed amendment which we understand you have offered to the "High Risk Occupational Disease Notification and Prevention Act" (S. 79) to stipulate that medical monitoring of seasonal farmworkers be performed by clinics receiving funds under the federal Migrant Health program. The NACHC is strongly supportive of the bill's worker notification provision, especially as it would portect agricultural farmworkers who have had a long history of pesticide exposure and poisoning. NACHC is also confident that the Migrant Health Centers stand ready to fully participate in the medical monitoring activities.

However, we have the following serious concerns about the proposed amendment, as we understand it:

1. All costs of the medical monitoring will have to be borne by health providers, or the exposed individual, or by third parties including the Federal Government, without the shared responsibility of employers.

2. While we are pleased that the bill provides $1 million to the Migrant Health program in the current fiscal year for medical monitoring, we must note with distress that, according to available information, the initial screening visit alone would cost $224.00 per person. Even if only 10% of the seasonal farmworker population was eligible for such initial screening, it would cost $44.8 million. That cost exceeds by $1.3 million the current $43.5 million allocation for the Migrant Health program.

Therefore, in order for the Migrant Health Centers to comply with this edict, basic medical services, to all 500,000 farmworkers now served would have to be immediately terminated. Hence, we feel that this amendment, as currently conceived, would have serious negative consequences on the health status of the very farmworkers that it is intended to help.

Although we wish to repeat our support for the intent and purpose of S. 79, especially as it concerns seasonal farmworkers, we want the record to show that we continue to have serious concerns about the amendments attached to the bill. Furthermore, we have been advised by your staff, Ms. Kennie Gill, that these concerns have been noted and will be addressed in the colloquy. We also stand ready to assist your office in correcting these provisions.

Sincerely,

Dan Hawkins,
Director, Policy Analysis.

Mr. COCHRAN. Mr. President, I think everything that can be said about the concerns of agriculture is said in the documents which I have tendered to the Senate and will be included in the Record. When taken together, I think they make a very compelling argument that this bill has serious problems and that we ought not to pass it. We ought to go back to the drawing board, and we ought to have hearings on OSHA's new regulations to see whether they can be effective or whether we need to duplicate them by passage of this bill.

I thank the Senate and I yield the floor.

Mr. METZENBAUM. Mr. President, will the Senator from Mississippi yield for a question?

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Ohio for the purpose of a question?

Mr. COCHRAN. I am happy to yield.

Mr. METZENBAUM. My understanding is the Senator addressed himself to letters from the farmers. Since we have gone out of our way to protect the farmers, I have a feeling that there may be some misunderstanding on their part. Are copies of those letters available to me?

Mr. COCHRAN. Mr. President, I say to my good friend, they are available. I will get copies made and provide copies to the Senator. As a matter of fact, there are two letters that I have that I included in the Record. One is from the American Farm Bureau Federation, the other from the National Council of Agricultural Employers, which are addressed to Senator Hatch, and I do not see any notation of copies being provided to the Senator from Ohio.

The letter from the National Association of Community Health Centers, which I just included in the Record, is addressed to Senator Ford and a copy was sent to Senator Kennedy and Senator Metzenbaum.

The memorandum from the American Feed Industry Association was sent to all Members of the Senate, dated March 18. The other item is a statement from the Office of the Secretary of Agriculture, dated February 17, which I presume went to all Senators as well.

I will have copies made and provided to the Senator from Ohio.

Mr. METZENBAUM. I say to my colleague from Mississippi I have not seen any of them, but I would like to ask another question: Is it not the fact that the American Farm Bureau is pretty much speaking for the corporate farmers of America in that letter? As we well know some of the biggest farms in America are not operated by individual farmers, about whom I am particularly concerned, but when it has to do with the large corporate farmers that employ 20,000 or 40,000 people, I think my colleague from Mississippi would agree that they ought to be subject to the same requirements to protect their employees as are the other employers in this country, and I think we have to make that distinction. I want to protect the small farmer in America.

I believe that the large corporate farmers owe it to their workers to give them the same kind of protection as we call for industrial corporations.

Mr. COCHRAN. Mr. President, if the question is whether or not the American Farm Bureau Federation is speaking for all farmers, the answer is that it is speaking for its members, and I know from my personal knowledge that membership of the American Farm Bureau Federation includes small farmers as well as some large farmers, but they do not represent corporate farming as such.

I can remember when I was growing up in Mississippi, both sets of my grandparents were members of the American Farm Bureau and local Farm Bureau chapters. They were very active in those chapters, and they were not corporate farmers. They were small family farmers. And many of the people who are members of the Federation today are small farmers just like they were when I was a boy.

We just had a large group of Mississippians here in Washington for an annual meeting and some people came to Washington for the first time as a part of the delegation from our State, and the trip was sponsored by the Mississippi Farm Bureau.

So I disagree with the suggestion that the Senator makes in his question that this one letter is from only those agriculture interests that are considered large corporate conglomerates because that is not my understanding of the organization.

Mr. METZENBAUM. The thrust of my question was, and I may be misinformed on this. I know that in Ohio, the Ohio Farm Bureau speaks for individual farmers and they have corporations involved as well, some of whom are not actually in farming but I do know they have a great number of individual farmers who are members of that organization.

It was my understanding—I may have been misinformed on the subject—that each of the organizations, like the Ohio farmers or the Mississippi Farm Bureau, the Utah Farm Bureau has an association with the American Farm Bureau, but that is a totally separate organization. If I am misinformed, perhaps the Senator from Mississippi can correct my understanding of that.

Mr. COCHRAN. I think they are organized separately, that is correct. There is a board and an advisory group that helps develop positions on individual pieces of legislation at the national level, and it does not necessarily include members of all of the local chapters or even the members of the board of each State bureau or federation. The Senator is correct in that. It is a separate entity that ends up being the American Farm Bureau Federation.

But I might say that the points made in this letter I think apply to all farmers and apply to all ranchers whether they are small family farmers or not, and the exemption the Senator is talking about that has been included in this substitute applies only to one small part of the bill's requirements and that is the medical removal protection of the act. It does not have anything to do with notification. It does not have anything to do with potential liability or previous risk to which workers might have been exposed. I think that the point is made here.

Mr. METZENBAUM. I want to point out that the exemption also applies to monitoring for the small farmers. We provide an exemption for that as well. So we have removed the medical removal. We have removed the monitoring. We have tried to accommodate the problems of the small farmers where there might be some costs involved. Then with respect to larger ones there is a limitation with respect to the amount of dollars because a farmer who has less than 50 employees would be exempt to begin with unless there are 100 employees for the first 3 years of the bill.

We are concerned about the small family farmer. I would not think most of them have more than 50 employees working for them. And we have made exclusions also with respect to seasonal employees where they do not work for a period of in excess of 6 months a year.

I will say to my friend from Mississippi that we are prepared to consider any amendments to protect the small farmer. We have no problem about that. We do not believe that that is the thrust of this legislation. We think the thrust of this legislation really has to do more with the problems in industry where there are high risks, where people can come down with cancer by reason of exposure to toxic fumes and gases. We are more concerned about them.

So if the Senator from Mississippi could be prevailed upon to join us in supporting this bill and has some constructive amendments, please feel free to offer them. And if they do not destroy the bill, we will certainly be prepared to give them every possible consideration.

Mr. COCHRAN. Mr. President, I am happy to review the bill as amended by the substitute that has been sent to the desk. I do not know that my views are going to be changed. I feel that there are duplications included in this legislation with existing regulatory requirements and burdens that are newly imposed on agriculture by OSHA and that are being developed at EPA which address these problems, which seek to deal with the problem of risks in the workplace, risks when this contact with hazardous substances, dust and other particles might have adverse health consequences for those who come in contact with them.

We are all concerned about doing what is right about these concerns and making sure that workplaces are as healthy as they can be.

We all know there are some occupations and some tasks where there are some risks, though. I can remember being stepped on by a cow. I can remember almost being run over by a vehicle while working out on the farm.

Now I do not think that Congress some 20 years later ought to legislate a notice to me that you might get hurt. If you get too close to the cattle while they are in a catch pen, you might get stepped on. And if you did, you might develop arthritis or some other difficulty in later years as a consequence of that experience.

We could go on and on and on detailing the requirements for notice and warnings and suggestions to previous employees about the risks that they encountered when they were working on the farm 20 or 30 years ago. And that is the point that some of these statements make: that to impose upon someone who happened to be involved in agriculture several years ago a requirement to find people who worked for you, if you were fortunate enough to have somebody working for you, and notify them about consequences of risks to which they were exposed is a financial burden.

The question is: Do the facts justify that burden being imposed on agriculture in the way that it is being imposed by this legislation? I think the compelling weight of the evidence is that it does not justify it, that the benefits in this instance are not going to justify the expenses and burdens imposed on agricultural employers. That is what these statements say. That is what common sense suggests when the provisions of the bill are weighed against practical considerations which we have all brought to this place from our experiences back home.

And with that, I rest my case.

The PRESIDING OFFICER. Under the previous unanimous consent order, the Senator from Utah continues to hold the floor.

Mr. HATCH. Mr. President, I want to personally express my gratitude to the distinguished Senator from Mississippi for the terrific statement that he has made, because I think he expresses the feelings of all rural America concerning some of the problems that are involved in this bill. He has stressed, as I have stressed, the duplication that this bill makes on existing law and on existing agencies of Government.

I would like to just add to what he has said, because existing worker health and safety laws and regulations more than cover what this bill will do.

For instance, in the Environmental Protection Agency, the law is worker protection standards for agricultural pesticides. The mandate is to protect agricultural workers from harmful exposures to pesticides. The impact is that it requires employers to protect workers by providing worker training, medical monitoring of workers, and personal protective equipment for workers.

So what is the duplication? Hazard and risk information given to medical workers and medical monitoring supplied.

Why do we need this bill when we have all of that done by the worker protection standards for agricultural pesticides?

Let us take another example. EPA has the Superfund Amendments and Reauthorization Act, title III. As a matter of fact, it will become effective this July. It is already law. The mandate is to monitor and protect communities regarding releases of chemicals into the environment. The impact is, it establishes a massive community right-to-know and emergency planning program with broad new reporting responsibilities for facilities that produce, use, store or release hazardous substances.

What is the duplication? Results in a massive dissemination of information to community and workers regarding hazards in the workplace.

Why do we need this bill? The Superfund Amendments and Reauthorization Act takes care of the problems that this bill seems to want to, in a duplicative way, take care of.

Well, what about health hazard evaluations at HHS by the National Institute for Occupational Safety and Health. The mandate is to study health hazards in the workplace and to notify employees and employers of those hazards.

Each year the National Institute of Occupational Safety and Health conducts about 550 health hazard evaluations—that is, workplace studies requested by employees, employers, or their representatives—involving thousands of employees. NIOSH sends the results of the studies to the requester, the company involved, employee representatives, union headquarters, Department of Labor, and State agencies. Final reports are posted by employers and sent to affected workers. Results of medical tests performed by NIOSH are sent directly to the workers.

What is the duplication on this? Review of health hazards in worker population; medical monitoring of affected workers; direct individual notification to a worker of actual health hazard and medical tests performed by NIOSH.

I think the distinguished Senator from Mississippi certainly makes a good case against this bill. What do we need another agency for? Why do we need another set of millions of taxpayers' dollars spent to duplicate that which is already being done by a plethora of Federal agencies?

Even if this bill is reduced down to just plain notification—that is all it is, that we have to notify people of high risks—you cannot believe the costs involved in that and you cannot believe the duplication that would occur under existing law.

It really bothers me that people come to the floor and act like this will save the poor and help the downtrodden, the needy and the workers of America. It does not help the workers of America. This just socks it to their pocketbooks because of the high cost of the Federal Government instruction in matters that are already being done.

It really bothers me that year after year we stand here on the floor and we have to fight this type of stuff. And they come out and say, "Well, you are heartless. You are not trying to help the poor, the downtrodden, the workers of America."

This does not help the workers of America. We have already 12 major agencies doing exactly what this bill says. It hurts the workers of America—that is what we have to start understanding—not only because they exclude some of the most important health hazards that should be covered, if this bill was that important—and they do it for pure, crass political reasons. It means votes if they exclude these major health obstacles or hazards in the bill.

But it is not just simply for that. It is because it is duplicative of almost everything that is being done today.

I think the distinguished Senator from Mississippi has more than made a good case. The farmers of America are going to be hurt by this bill. Even the community health center people say their program will be ruined if this bill goes through with the amendments that have been put on the bill.

Mr. FORD. Will the Senator yield for a question or to straighten out this problem?

The PRESIDING OFFICER. The Senator yields for a question.

Mr. FORD. Are you familiar with the letter from the National Association of Community Health Centers dated March 25?

Mr. HATCH. Yes, sir, March 24.

Mr. FORD. March 25. They now understand this amendment by the Senator from Kentucky and now support the amendment. I would like to correct the record because that letter of March 24 has already been put in the RECORD, saying that they disapproved of the amendment. After the Association understood the amendment, what the Senator from Kentucky was trying to do, the National Association of Community Health Centers have sent me a letter saying they now approve the amendment.

Mr. HATCH. Would the Senator mind reading that into the RECORD so we can answer it, because I think they are going to have a heck of a time explaining why they gave this record 1 day before.

Mr. FORD. They did not understand it. This debate is full of misinformation.

Mr. HATCH. Read the letter into the RECORD.

Mr. FORD. It says:

> Thank you for clarifying the operation of your amendment to S. 79 to address the concerns we expressed to you in our letter of yesterday. With this clarification, we are confident the amendment addresses the concerns of Community and Migrant Health Centers.

Does my colleague want me to read the rest of it?

Mr. HATCH. Sure. What I would like to know——

Mr. FORD. I will be glad to give the Senator a copy of it if he wants it.

Mr. HATCH. What was the amazing, miraculous explanation you gave them that caused them to change the two-page letter they wrote before?

Mr. FORD. Because it is a limited amendment. There is no $250 per seasonal worker cost with this amendment. Seasonal workers will be protected by the Migrant Health Program with funds earmarked under this bill.

Let me just say to my good friend, I am not trying to stonewall. I have been criticized for trying to support this amendment. When you support this amendment, you are trying to defend the people you represent, the seasonal workers and the farmers who employ them.

This bill by some stretch of the imagination may pass. If this bill passes, and I do not do anything, I do not get into the fray and try to protect the people I represent, then I should not be here.

That is the reason for my amendment. My amendment is proper. My amendment works. And it protects the farmer and the seasonal worker. The Association of Community Health Centers agrees with me; regardless of the misinformation they received from opponents of this bill. After they sat down and analyzed the amendment, they said this is fine. And they wrote me a letter saying that they support my amendment.

Mr. HATCH. I think it just goes to show they are still mixed up.

Mr. FORD. They are not mixed up, Senator. They wrote a letter. After they read my amendment, they supported it, and wrote another letter. You can say whatever you want, the letter that criticized it was the day before. Nobody explained my amendment to them. Once they understood it they said it is all right and wrote a letter saying so. I think that kind of ends the debate from there.

Mr. HATCH. It does not end the debate. Let me ask you, did you explain to them—did you say that all costs of medical monitoring will not have to be borne by health providers or the exposed individuals or by third parties including the Federal Government without the shared responsibility of employers?

Mr. FORD. That is correct, because medical monitoring is funded by the funds earmarked from this bill. That is all.

Mr. HATCH. $1 million——

Mr. FORD. That is right.

Mr. HATCH [continuing]. Will pay for 5,000 workers. There are hundreds of thousands of these workers. Hundreds of thousands. Apparently you have not explained it very well to them for them to give you that letter because their reason still stands in every sense of the word.

Mr. FORD. Nobody knows how many are going to be involved.

Mr. HATCH. There are hundreds of thousands. Let me give you another one.

Did you explain to them, "While we are pleased the bill provides $1 millon," that is all it provides, "$1 million to the migrant health program in the current fiscal year for medical monitoring, we must note with distress that according to available information the initial screening visit alone would cost $224 per person. Even if only 10 percent of the seasonal farm worker population is eligible for such screening it will cost $44.8 million. That costs exceeds by $1.5 million the current $43.3 million allocation for the migrant health program."

Do not tell me you told them the $1 million will take care of that.

Mr. FORD. That is pure hypothesis. The Board has never notified anybody. The Board must decide who to notify. They may notify 15, they may notify 10, or they may not notify anyone. We believe the $1 million will cover it.

Mr. HATCH. The experts who testified——

Mr. FORD. The experts are you and I.

Mr. HATCH. No, no.

Mr. FORD. Yes, we are, because you are going to vote one way and I am going to vote one way. We become the experts based on the information and the technical language we have on this bill, and the Constitution and statutes. We become the experts.

Mr. HATCH. I think we have a higher standard than that, Senator. I do not think it is which way we are going to vote. I think we have a higher standard which will allow us to look in and examine the testimony.

Mr. FORD. That is what I am saying.

Mr. HATCH. This is for the supporters, Senator METZENBAUM and those that support the bill S. 79, including I suppose, you——

Mr. FORD. Let me object to that, Mr. President. This amendment is by WENDELL FORD, Senator from Kentucky, representing his people.

Mr. HATCH. Sure, If you disregard——

Mr. FORD. You say it is just for Senator KENNEDY and Senator METZENBAUM. What I want you to know is I drafted this amendment. I drafted it to try to protect my seasonal workers and farmers and I introduced that amendment in order to do just that.

Now, if this amendment has anything to do with just getting support for this bill, then I will just withdraw it as I did the other day when I got involved with the filibuster. I withdrew this amendment then because I did not want to get involved with the distinguished Senator from Indiana and the Senator from Ohio because I was not a part of the filibuster.

I was just trying to amend the bill, if it passes, to protect the people I represent and the National Association of Community Health Centers now say they support it.

Mr. HATCH. Let me just correct my dear friend. Your amendment will work. I have to tell you that.

Mr. FORD. It will work?

Mr. HATCH. It will work if nobody is ever notified. But, there are plenty of risks that probably, under this bill, they will have to notify employees on, according to the experts in support of this bill—I am not talking about my people, the people that I believe in; I am talking about your people, the people that you believe in. They expect the average cost of medical monitoring will be no less than $224 per worker. It might be more. That $1 million——

Mr. FORD. We have been using as a rule of thumb $250.

Mr. HATCH. If I could just finish? That estimate for the $1 million provided for in this bill, for your people as you say it, they are mine, too, by the way—that estimate will take care of 5,000 of the hundreds of thousands, maybe millions of seasonal workers.

Let me tell you something. Whoever wrote that letter, No. 1, does not know what he or she is talking about.

Mr. FORD. Who signed that letter?

Mr. HATCH. Let me look at this. This letter is sent by Dan Hawkins, Director of Policy Analysis.

Mr. FORD. The same one who signed my letter.

Mr. HATCH. Then he does not know what he is talking about. He cannot say this one day and sign that piece of gibberish on the next.

Mr. FORD. He did not get accurate information in the beginning.

Mr. HATCH. That is accurate according to your own witnesses.

Mr. FORD. I do not have any witnesses. I am not a member of the committee. Do not give me all this credit now, Senator.

The only thing I want you to know is, the same person that signed the letter to you that the misinformation, came and talked to us as to what my amendment intended to do. They changed their minds after they had heard both sides.

You have to hear both sides in this game, you know, before you can make up your mind.

Mr. HATCH. I agree and I do not think they have heard your side very fairly because literally, if there is a hazard listed for occupational workers, and there undoubtedly will be, that hazard will affect probably hundreds of thousands of workers but certainly more than 5,000 and that $1 million provided for in this bill is gone just like that and those other workers will not be protected.

What I am trying to point out is that the original letter is correct.

There is a real misunderstanding on the part of this fellow to have made the mistake to write this letter. That is all I am pointing out. It is correct, in accordance with the testimony of those who testified for this piece of legislation, which certainly leaves a lot to be desired.

Now, with regard to the medical monitoring costs, which I think are very important, these community health centers better understand this. I haved worked hard to keep them alive.

Mr. FORD. I am not going to argue any more. I am not going to debate it any more.

Mr. HATCH. Why not? Is not this important for you to back up what you have been saying here?

Mr. FORD. I do not have to.

Mr. HATCH. You do not have to?

Mr. FORD. No, because my letter of March 25 is later dated than the one you have, dated March 24.

Mr. HATCH. It does not mean anything if they do not understand the problem.

Mr. FORD. They understood it from one perspective. Then they got the information from others. When they got arguments from both sides, they wrote the letter saying my amendment was all right, signed by the same person who signed your letter.

So I do not understand why we should get into saying the people do not know what they are talking about. You were using that letter until I got here. That is the reason I came from my office here just because it is in the RECORD, and I would like to get mine in the RECORD at some point.

Mr. HATCH. Mr. President, I ask unanimous consent that letter be placed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
COMMUNITY HEALTH CENTERS, INC.,
Washington, DC, March 25, 1988.

Hon. WENDELL H. FORD,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR FORD: Thank you for clarifying the operation of your amendment to S. 79 to address the concerns we expressed to you in our letter of yesterday. With this clarification, we are confident the amendment addresses the concerns of Community and Migrant Health Centers. Under the amendment we understand that funds for medical monitoring of seasonal farmworkers through Migrant Health Program-supported facilities will be limited to $1 million per year, and that these funds will derive from S. 79-based appropriations, not from current Migrant Health Program operating funds. With this modification, we are pleased to support the amendment, which stands to potentially benefit farmworkers currently at risk for pesticide contamination and other hazards.

Sincerely,

DAN HAWKINS,
Directors, Policy Analysis.

Mr. HATCH. It points out the individual who wrote both letters apparently does not know what he is talking about.

Maybe mine is suspect at this point.

I cannot imagine writing two letters back to back on two different days, close in days, where one clearly outlines the problems in accordance with what the experts said both in committee and in the report, and the other comes out with one paragraph piece of gibberish that really does not mean a thing.

The fact of the matter is, if they have a high occupational risk problem of migrant workers, that is going to eat up their budget so fast they will not know what hit them. That is what they do not want to happen.

Mr. FORD. Let me just say to my good friend from Utah, the American Farm Bureau supports my amendment: "We are not opposed to such a limited exemption, but it would not eliminate our opposition to the bill."

But they are for my amendment.

Mr. HATCH. I am not saying your amendment is a bad amendment. What I am trying to say is it does not diminish the high cost of what is going to happen if this bill passes and notification is, in fact, given.

My point is, your amendment would definitely work if there is no notification given, or certainly notification less than 5,000 workers. But that is highly unlikely and, frankly, impossible. When they realize how much of their budget is going to be eaten up by this, they are going to be screaming to us to double or triple or quadruple their budget. That is the point I have been making.

Everybody comes here and says this is a wonderful thing for employees and workers of America, and they never talk about what it is going to cost or who is going to pay for it. No, let us just not worry about those things in our zeal to make sure everybody lives in an absolute risk-free society, which is impossible to guarantee, but let us do anything under the guise that it is just going to cost the taxpayers. That is what your amendment does. This is what this whole bill does.

Actually, the Senator's amendment is not a bad amendment if there was enough money to take care of it in the migrant worker health program. The fact is, they will be the first to be back here to double, triple, or quadruple their budget so the program can be paid for. You can count on it. That is the point I am making on this bill.

What is really obscene is a lot of this is being done now by other agencies. We do not need a brand new agency to do this. The fact is the union leaders want this bill, and they do not care what it costs the taxpayers. They do not care who gets hurt or who pays for it. They just want it so they can go back to their people and say: "We have done another great thing for the little people of America," when they have not.

It is already being done. That is the point. I do not mind your amendment. I think the Senator has the best of intentions. I think he deserves a lot of credit for his amendment. The problem is it is not going to work the way he thinks it is going to work, and it is not going to work the way this man says it is going to work either.

Either he is misinformed, or he does not understand there are hundreds of thousands of migrant workers who will be affected. That is the problem. Who is going to pay for this?

Mr. FORD. Mr. President, will the Senator yield to me for just a moment?

Mr. HATCH. I will be delighted to.

Mr. FORD. I am not a preacher.

Mr. HATCH. Neither am I.

Mr. FORD. I am not accomplishing anything by preaching. The only thing I know is there is $1 million earmarked in the amendment and that is all. Anybody who is opposed to it raises the price; anybody who is for it lowers it.

What if a hundred thousand workers with a $6 urinalysis is all that is requested? What if that is it? We are not talking about $250. That is all we hear. Forty-eight million. We limit it at $1 million. that is all we are asking for. That is all I am trying to do.

I hear that side say all the time that we have a moral obligation to the employee. I have heard it time and time again, a moral obligation to the employee.

I have an amendment that I hope would protect my seasonal workers and farmers, tobacco, which the distinguished Senator from Utah is bitterly opposed to, but it is still a fact of life in Kentucky and is going to be that way for a long time. Whatever the Senator does it will outlive both of us.

But workers draw the plants and work just a few days. They come in and harvest and work just a few days. They come in and strip the leaves, bail it, and work just a few days. Somehow or another, those people and the farmers ought to be protected.

We have a letter, after information was given to them, that this amendment is bad. After they got the other side and compared it, then the association said the amendment is all right. We have that letter signed by the same individual from the same association. That is their legislative analyst.

So the only thing I am saying, Mr. President, is that I want the RECORD straight. I want the RECORD to show that there is no opposition to my amendment now, and the American Farm Bureau Federation is for my amendment; against the bill, but they are for my amendment.

I will make one other point. If this bill passes and all I did was be against it, then I would not have represented my people properly. This amendment is important to the farmers of my State. It is important to the seasonal workers in my State, and I have offered an amendment to this bill to protect my farmers and my seasonal workers.

If the opposing of this bill are going to take after me because I did that, well and good, Let them come down to Kentucky and make speeches against me for putting this amendment on the bill. Everywhere I go, they say it is a good amendment, but I did not explain it properly. Well, maybe it was misexplained or there was misinformation given.

I have done the best I can with this. I want the RECORD corrected so that at least when we get ready to vote on this so-called Ford amendment or the Dixon amendment that we understand the people supposedly opposing it are now, after exposed to the facts, in favor of the amendment.

Mr. HATCH. If the Senator would listen for 1 more minute, I think I can explain why I am not opposed to his amendment but why the bill is bad and why in protection of his——

Mr. FORD. I do not care whether the bill is good or bad——

Mr. HATCH. You are only worried about your workers. You do not care about all the rest of the taxpayers.

Mr. FORD. Yes, I do. That is why I put a cap on it.

Mr. HATCH. That is what I want to explain to you. What I want to explain is why they wrote this one paragraph of gibberish back to you, after writing a pretty darn influential and good letter.

Let me explain it. Your amendment basically says yes, you can apply this bill to the seasonal farm workers but only up to $1 million. You put a cap on it. That means if less than 5,000 people are notified——

Mr. FORD. Wait a minute. With your figure, with a $6 urinalysis, you can notify 100,000. That all may be that is requested. So you are going the maximum. I want to go the other route. That is what I just said. For those who are against the bill, the price is high. Those who are for the bill, it will be somewhat lower.

Mr. HATCH. No, no. I am going to read right from the record here.

> Apart from medical expenditures, the legislation imposes certain costs—

This is the majority record on this, not my record, the majority record.

Mr. FORD. It is not my record, either.

Mr. HATCH. Let me finish.

> Apart from federal expenditures, the legislation imposes certain costs on employers. The principal costs identified during Committee consideration are the actual expense of medical monitoring, other expenses related to the conduct of medical monitoring, and costs associated with litigation arising out of the notification process.
>
> Under the legislation, employers may incur the cost of medical monitoring for those current employees who (i) are at risk of a particular occupational disease as a result of exposure to an occupational health hazard, and (ii) received some part of their exposure in the course of employment with their current employer.

That means everybody.

> Employers are not responsible for medical monitoring costs with respect to their former employees (including retirees) or with respect to any current at-risk employees who were not exposed to the health hazard in question in the course of employment with the current employer.
>
> Dr. Landrigan in his testimony estimated the costs of various occupationally-related medical monitoring procedures should such testing be required.

Procedure	*Costs*
Medical examination by a physician..	$100
Chest X-ray	45
Pulmonary function testing	38
Complete blood count	10
Serum chemistry screen	25
Urinalysis	6

Mr. FORD. That is what I said.

Mr. HATCH. If all of these tests are administered to 100,000 to 300,000 workers each year at a cost of $224 per employee, the total cost range would be between $22 million and $67 million. That is assuming there are only 100,000 or 300,000 employees. If AIDS is covered, it is 4 to 8 million.

Now, what your amendment does is prevent any costs to the migrant health centers over $1 million. Their total budget is around $45 million. If we have hundreds of thousands of migrants notified of the health hazard, let us say a pesticide hazard, you are talking about maybe the whole $45 million. But I agree with you, under your amendment, if it becomes law, they will only have to be responsible for $1 million but guess who is responsible for the other $44 million? It is going to be every taxpayer in America. And by the way, we are going to have to pay through the nose for that monitoring.

Mr. FORD. No, it will not.

Mr. HATCH. That is the way I view it. That is the way I read it.

Mr. FORD. The Senator better get his facts straight.

Mr. HATCH. Who is going to pay for the monitoring costs?

Mr. FORD. The Senator better get his facts straight, because the taxpayers will not pay the other $44 million.

Mr. HATCH. Who is going to pay for it then, the employer? Or is there not going to be anything done; we are just going to notify them and let them go or we are not even going to notify them because that costs money, too?

Mr. FORD. The employee could be responsible for it.

Mr. HATCH. The employee?

Mr. FORD. Certainly. Absolutely.

Mr. HATCH. Not under this bill.

Mr. FORD. Yes, to be absolutely correct. I know a lot more about this bill than you think I do.

Mr. HATCH. What you are saying is if we have $1 million, those who use up the $1 million get the monitoring, and the rest of them do not?

Mr. FORD. That is about right.

Mr. HATCH. That is about right.

Mr. FORD. That is about right, but at least——

Mr. HATCH. So under this wonderful high-risk bill you are just going to notify those to the extent of $1 million, the rest of them can jump in the lake.

Mr. FORD. Now, wait a minute. I did not use that language. You are opposed to——

Mr. HATCH. Of course. I used it.

Mr. FORD. All right.

Mr. HATCH. But that is basically the extent of what is going to happen here. So how is that notification?

Mr. FORD. We do not even know we are going to use a million dollars, Senator, and you do not either.

Mr. HATCH. We sure do.

Mr. FORD. The point is it could be 150, it could be 3,000 at $6. You do not know. I do not know. We take a guess. And then you throw out the big one.

Mr. HATCH. Senator, all I have to do is take the viewpoint of the experts who testified for your bill and mine are higher.

Mr. FORD. One of them said $6.

Mr. HATCH. No.

Mr. FORD. Sure. One of the required tests is $6.

Mr. HATCH. My friend, that is only one small part of what we have been told is a total examination.

Mr. FORD. Sure, that is only one small part of it.

Mr. HATCH. The whole monitoring, if you add it up, comes to $224.

Mr. FORD. They could just ask for the $6 urinalysis and that is all they have to ask for.

Mr. HATCH. No. No.

Mr. FORD. Oh, yes.

Mr. HATCH. No. They have to take the rest of these tests as well.

Mr. FORD. They do not, and you know they do not.

Mr. HATCH. How are you going to check on people who are handling tobacco, who have formaldehyde that they have to deal with, without checking every one of these functions? First of all, how do you get by without a medical examination?

Mr. FORD. The Board determines that. You and I do not.

Mr. HATCH. Come on. Look. If we have the Federal Government imposing upon the medical profession and doctors to medically monitor these people, no doctor worth his salt is going to do it for less than $224, nor is he going to do it without doing all this monitoring. Those are the things we figure are a minimum.

Mr. FORD. The Board tells him. Mr. President, I am going to get out of this because I am getting into an argument on the bill.

Mr. HATCH. I think you are.

Mr. FORD. I do not intend to do that. I am trying to take care of my amendment. The Senator is trying to express to me some things that are not 100 percent correct. And I am not trying to tell anybody to jump in the lake Senator.

Mr HATCH. I hope not.

Mr. FORD. I am trying to protect my seasonal workers and farms. Now, I came over here because my good friend over here put in a letter and I wanted to get my letter in after it.

Mr. HATCH. All right. And I think that is fair.

Mr. FORD. I did not come over intending to get into an argument with you, or debate. It is not an argument. It is debate. But I just wanted to say to you that you are taking the extreme in every case, in every case, and I am trying to do something that is halfway decent for my workers. You have already said my amendment is a good amendment. So I am going to leave it at that.

Mr. HATCH. Let me retract it, if I gave you that impression. I think your amendment could be accepted in the sense that if there are fewer than 5,000 people who have to be notified and monitored, then your amendment is all right. But if there are more—and there is likely to be more—then your amendment is a disaster for those who will not be monitored under this bill or if they are, for the taxpayers who have to pay for such monitoring.

Mr. FORD. Well, the taxpayers will not have to pay for monitoring under this.

Mr. HATCH. I am not just conjuring up these figures. These figures come from the supporters of this bill. But I suspect they are much higher than these figures.

Mr. COCHRAN. Mr. President, will the Senator from Utah yield to me for an observation?

Mr. HATCH. I am happy to yield.

Mr. COCHRAN. Mr. President, I thank the Senator for yielding to me.

I would like to say in response to the colloquy between the Senators from Kentucky and Utah that this Senator was not aware of the letter that had been written on March 25 to the distinguished Senator from Kentucky by the migrant health center group. Had I been, I would have put that in the RECORD, or I would not have put in the RECORD the letter dated March 24, 1988, which pointed out opposition to the amendment.

The other letter went to the distinguished Senator from Kentucky and a copy went to Senator KENNEDY, but no copies were furnished to Senators on this side of the aisle, either to Senator HATCH or to Senator METZENBAUM, the managers of the bill.

Having said that, I would like to commend the Senator from Kentucky for his amendment. If we were in a position to vote on his amendment, I would vote for it because I think it does seek to address a problem that affects the agriculture sector. Instead of taking after him for introducing this amendment, I am going to take up for him. I think it is an amendment which improves the bill.

The point that I was seeking to make when I took the floor to talk about the agricultural interests and how they were affected by the substitute was that the amendment did not go far enough to try to deal with some of the other objections that agriculture has to the bill—notification, the expensive burden of trying to find previous employees, the encouragement of litigation that would result from notification that was sent to previous workers in many cases that I think would be a real problem to the bill, and the other points that were made which I will not repeat now.

But I think the amendment is a very good, very strong amendment, a good faith effort to deal with one concern that agriculture has, but there are many others and that is why the American Farm Bureau Federation, the National Council of Agricultural Employees, the American Feed Industry Association, and others continue to oppose the bill even with the amendment in it.

I thank the distinguished Senator for permitting me to respond.

Mr. HATCH. I thank the distinguished Senator from Mississippi.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. I will be glad to yield to my colleague for his comments.

Mr. FORD. I thank my distinguished friend from Mississippi for what he just said. It makes a fellow feel pretty good when my colleague says what he would have done, if he had had a copy of that letter. Why they did not send that side one, I will never know. All I was trying to do was to say what my amendment did. It protects my seasonal workers and farmers. I thank my distinguished friend from Mississippi for his kind words.

He seems to be convinced now, like the letter said that the association is convinced, and maybe people will understand sooner or later. All I was trying to do was to protect my seasonal workers and farmers.

Everything is hypothetical here. What if you worked 1 week or 2 weeks or 3 weeks at some occupation? Is that long enough to have to be notified? We do not know. And the distinguished Senator from Utah does not know. And so you can throw out all these cases. That is a very positive case. And it may be that the Board will say if you only work 2 days or 3 days or a week, it does not make any difference, and so seasonal workers may not ever be notified.

I thank the distinguished Senator for letting me have the time.

Mr. HATCH. I thank the distinguished Senator for bringing this message to us today. But let me just say this to him. It still does not alleviate the fact that, if you have less than 5,000 workers and if the average cost is $224 per monitoring per worker, and it may go up or down, but I suspect once they estimate that is what it is in the majority report it is probably not going to be any less than that; that the amendment is good as long as you do not have more than 5,000 workers.

Let me bring to the attention of my friend from Kentucky just one area of agriculture that the committee appendix lists. Take cotton dust. If cotton dust is listed as a hazard, and I suspect it probably will be, then there are 449,700 cotton workers in America. And the disease of concern is byssinoisis. That alone could lead to a cost of around $50 million. So what I am trying to point out is this: that the letter that we had yesterday is not rebutted by the letter we had today. The letter from yesterday just says they were assuming the whole $50 million budget of the community health centers would be eaten up if this bill passed without the distinguished Senator's amendment. That is probably true.

The distinguished Senator filed an amendment that provides for a cap of $1 million. So if there is a $50 million cost of medical monitoring as a result of notification to seasonal workers, only $1 million of the community health centers' money would be used. It means that $49 million, if $50 million is the cost, will have to be conjured up someplace else. That means the taxpayers of America are going to have to pay for that or the employers are going to have to pay that. In any event, it certainly means that somebody is going to get stung.

If the employers do, that means the farmers of America are going to have to pay for it. That was precisely the point I think, or one of the points, that the distinguished Senator from Mississippi made when he made his remarks.

So the letter may be accurate. But I call it gibberish following the letter of the day before because it indicates that nobody is going to have these costs. Somebody is. It will not be the community health centers beyond the $1 million, if the amendment of the Senator from Kentucky is adopted, but somebody will have to pay for every monitoring a cost above the $1 million.

Who is going to do that? Where are we going to find the doctors in those rural communities? Under this bill I presume the employers or the farmers are going to have to pay for that. So if anybody thinks they are representing farmers or their little people by voting for this bill, they have another thought coming. That is only one very minor area of this total bill and an expensive cost it will be.

What really gets me is when you get to real health hazards like AIDS, passive smoking, or any number of others like asbestos, they do not apply in this bill because it is going to be too expensive. Well, what do you think it is on all of these other aspects of this bill, or it is going to be duplicative? What do you think on other aspects of this bill? We have duplicated Federal programs all over the place, or in the case of AIDS, it might cause somebody some fears. My goodness. It seems to me that it would be better for people to be a little bit afraid of AIDS than to have it continue to spread the way it is. Maybe notification that you have a risk in dealing with people about AIDS, in the health profession alone, would be a crucial thing to do if you are really concerned about helping those who really cannot be helped or about helping those who really are the little people of our society.

Well, I have to confess when I hear the logic of some of our Members, I do get a little bit excited sometimes because it involves a lot more than just taking care of 5,000 people. We are talking about millions of people that will have to be notified doubly, triply, whatever it is, because there are all kinds of Federal agencies doing this work, already doing what this bill really contemplates doing.

Who is going to pay for it. H.R. Gross over in the House made a reputation. I do not predict a reputation but I am going to start asking who is going to pay for all of this stuff.

These people around here who have controlled the Congress for most of the last 50 years act like it is going to come out of thin air. They talk about the little people. I am a little worried about them, too. That is why I ran for the U.S. Senate, because I saw how heavily taxed we are. I saw how big the Federal Government was growing. I saw how we are financing it with deficit spending and the people who are doing it are the people who are controlling Congress, because the President can propose a budget but the Congress disposes, and in the process they do not ever make any priority choices; they just fund it all and act like there is a never-ending vault from the taxpayers to pay for all of this gibberish, and that is what it is.

This bill is one of the greatest examples that I know.

If you bring these things up, they start saying, well, my goodness, you are just taking the worse-case scenario. The heck I am. It is an everyday reality scenario that we all face because of all of these Federal programs, bills, and bureaucracies that are dominating every aspect of our lives.

If this bill will do some good, I might even see some merit in it. But I do not see how it is going to be any more good than what is being done already, and it is already being implemented at a cost of billions and billions of dollars.

If the truth is known, tens of billions of dollars are already being spent to solve the problems that this bill is going to duplicate, or at lest give duplicatory solutions to.

Let me go back to where we were before with the distinguished Senator from Ohio so we can make a record on this matter. We had just gotten through chatting about the factors of what we would have to take into consideration to give notice. You know, I do not think the majority sponsors of this bill, or the people in the majority who are sponsors of this bill, can really explain the factors that they think the Board will take into consideration to divide populations into different groups for different notifications or notices. You have to ask, what is there in this bill that distinguishes an employer with good safety and health practices from one with bad ones or with poor practices?

But let me ask the distinguished Senator from Ohio another question.

What happens if the study, pursuant to what is in the notification to be given, was based on brand X medical equipment sterilizing machines which uses ethylene oxide, but some employers use brand Y or Z which may or may not cause the same exposure levels? Does the Board only require notification of the employers who use brand X or does the Board include all employers regardless of whether it is a manufacturer or a machine?

If the distinguished Senator could answer that, I would appreciate it.

How do you distinguish? What do you do to make it work?

Mr. METZENBAUM. I think it would depend on whether brand X or Y were distinguishable or indistinguishable. If they are indistinguishable, no problem. If they are distinguishable, then it is quite obvious it is a different ball game.

Mr. HATCH. The Board will have to go out and study to make a final determination?

Mr. METZENBAUM. I think the Board has a responsibility. I would certainly not expect the Board to just operate on the basis of generalities. I would expect the Board to conduct their research as any other scientific inquiry is made to deal with the facts and only the facts, and if there are different brands then, of course, that would be part of it.

Mr. HATCH. Brown's textbook on environmental and occupational risks says that ethylene oxide is among the 25 top chemicals produced in the United States. So it is used by manufacturers of polyester fiber, and films, as well as a fungicide for books, drugs, leather, motor oil, paper, soil, bedding for animals, clothing, furs, furniture, and transportation vehicles.

Does the Senator think the Board would include employees from those other areas in the population at risk?

Mr. METZENBAUM. First, I want to commend my colleague's staff for going out and reading——

Mr. HATCH. I think they have done a pretty good job.

Mr. METZENBAUM [continuing]. All of that literature. I am sure my colleague who went back to Utah over the weekend did not read that material on the plane. But the staff has done a good job.

But having said that, let me say this: Opponents of this legislation have made numerous claims in their all-out effort to gut the legislation. But perhaps the most specious argument focuses on the so-called invalidity of extrapolation. It has been said that if you say something enough times, people will eventually believe that it is true. That is the hope of opponents of S. 79 who are chanting the buzzword "extrapolation" trying to convince Congress that there is a fatal flaw in the scientific reasoning underlying the bill.

I admit that S. 79 requires the Scientific Risk Assessment Board to extrapolate. If that is an invalid scientific approach, then the entire field of occupational medicine and indeed most of public health is invalid. Discussing scientific reasoning on the floor of the Senate may intimidate some people and that is exactly why the opponents are using this scare tactic. If we talk in plain English, everyone will understand there is no substance to this argument.

The dictionary defines "extrapolation" as "inferring an unknown from something that is known." How does that work in practice? OSHA uses extrapolation all the time in setting health standards. Based on studies of particular populations, OSHA concludes that a health risk exists above a certain exposure level. OSHA then prohibits exposure above that level even for populations that have not been studied. The same principle applies when HHS warns parents of the link between aspirin and Reye's syndrome for children.

And the same thing happens with risk notification. Suppose there are 100 lead battery plants in this country using the same process and the same substances and that scientists conduct studies at 3 plants to assess the dangers of lead exposure. Without extrapolation, only workers who are part of the study could be informed of health risks associated with lead exposure. That is absurd and does not reflect reality. Instead, scientists can and should extrapolate or infer that similarly situated lead workers will be at similar risk. Indeed, NIOSH has been extrapolating from studied to unstudied subjects for 17 years—it is a routine aspect of NIOSH risk assessment activities.

Not all inferences can be supported by the evidence. But S. 79 expressly provides for limits on extrapolation. In designating worker populations at risk of disease, the risk assessment board can extrapolate only to those workers who are "under working conditions (such as concentrations of exposure or durations of exposure, or both) comparable" to the working conditions found in the scientific studies. As the committee report on S. 79 stated, "comparable working conditions should be defined as precisely as possible." In determining comparability, the Board should look to the best available evidence, which in many cases will include data on both intensity of exposure and duration of the exposure. But the Board still can define comparable working conditions if the best evidence available consists only of scientific studies of intensity. That's exactly what OSHA just did in setting the health standard for short-term exposure to ethylene oxide based solely on intensity studies.

The bottom line is that the risk assessment board, composed of export occupational health professionals, should have no trouble making reasonable inferences from scientific studies to comparable worker populations. But the bill contains further safeguards. Once the Board designates a worker population at risk, an employer can apply to NIOSH for a variance. NIOSH must grant this exemption from notification if the employer can demonstrate that workers are not at risk because factors present in the particular workplace are fundamentally different from, and therefore not comparable to, the factors relied upon by the Board.

In sum, extrapolation is a common and accepted scientific practice and S. 79 sets specific limits and provides safeguards to ensure that reasonable inferences are drawn from the evidence. The so-called argument that "extrapolation" is invalid is just another red herring designed to confuse the real issue of protecting worker health.

I want to come back to what I said before. I want to point out that this bill does not have to do with extrapoltation. It does not have to do with some scientific definition. This bill, purely and simply, is this question: Do you want to vote to protect workers in the workplace who have been exposed so that they may be subject to cancer? It is a bill that tries to protect people from having cancer or other illnesses by reason of occupational exposure.

I say again that my colleague provided great leadership for 4,000 people in Utah, and those people were notified. The worry here is that if you notify people, they will sue. If you notified 4,000 in Utah, why will that not pose the same problems as you suggest for S. 79?

Any lawsuits with the screening program out there—I do not know if there have or have not been. If lawsuits come along and you still believe the program is worth it, why deny the rest of the workers of this country some protection?

This bill does not have to do with some scientific definition in a book. It has to do with people who may be contracting cancer, who can be saved. Scientific data from the American Cancer Society indicate that we can save up to 250,000 workers in a 10-year period. Why not give those workers a chance? Why not give them an opportunity to live? Why not give them an opportunity to obtain adequate medical protection?

Instead, we are talking about all this stuff and nonsense here today—the technical aspects. Change the technical aspects. Write it the way you want. But let us come up with a bill that will protect the workers. You did it for 4,000 people in Utah. Let us do it for workers all over the country.

Mr. HATCH. I have done it for millions in the country, because almost every major health bill passed within the last 6 or 7 years has been sponsored by me. I would like to do it for everybody in America, but I want to do it right, not like this.

I wish there were that same attitude of "Let's work together" in the committee. We passed this by 11 to 5, and no amendment worth anything was even given the time of an argument. Now we are on the floor and starting to point out the defects of the bill. We would have liked to point it out in the committee, but it was futile. They passed it arrogantly, and now they want to amend it any way they want to.

It is not extrapolation with which we have trouble. It is the parameters of extrapolation.

I take it that the long answer was "yes" to my question. In other words, since ethylene oxide is used to manufacture polyester fiber, film, fungicide for books, drugs, leather, motor oil, paper soil, bedding for animals, clothing, furs, furniture, and transportation vehicles, could the Board include employees in any of these other areas in the population at risk? The answer has to be "yes," under this bill, because it is so broadly drafted that the true extrapolation principles would include everybody. That is what we are saying is bad legislation.

At least, we knew what we were doing in the radiation screening clinic. By the way, there was no notification other than by word of mouth and through advertising, through the media articles that were written about it. It was not just 4,000 people. It was everybody in the tristate area who could prove they were affected. There were lawsuits, but the reason they did not go anywhere was because of the Federal Tort Claims Act, which prevented it. In this bill, nothing prevents lawsuits involving industry except the Federal Tort Claims Act with regard to some of the Federal Government activities.

Mr. METZENBAUM. We have that language in our bill—section 10(g). If the Senator feels that the language is not strong enough, be my guest. Make it stronger.

Mr. HATCH. I will look the language over.

This is an amazing phenomenon. We go through a year of hearings, we go through markups on this thing, and there is no ability on the part of anybody in the minority to amend this in any way. Now we get to the floor, and three cloture votes go down, and all of a sudden we are willing to amend it in any way.

I would be happy to do it, except that if this bill came down to a pure notification provision, and that is all it is—which I suspect it will be, in the final analysis, in order to try to get the votes for it—you are still talking about a bill that will cause untold havoc and expenses to the taxpayers.

(At this point, Mr. BREAUX assumed the chair.)

Mr. METZENBAUM. Will the Senator yield?

Mr. HATCH. And it is still going to duplicate a lot of what is already being done?

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. HATCH. Sure.

Mr. METZENBAUM. The Senator indicated that no amendments were accepted. Is he aware of the fact or has he forgotten that we accepted 20 Quayle-Hatch amendments?

Mr. HATCH. The Senator did accept some. That is true.

Mr. METZENBAUM. The Senator said there were no amendments accepted. Does he want to correct the RECORD on that?

Mr. HATCH. I will correct the RECORD. There were some amendments accepted. Clearly, we could not get the amendment we are arguing about today.

Mr. METZENBAUM. We took 20 and are prepared to take more. There has been not one amendment. We have been here a week on this bill. We have not had one amendment.

Mr. HATCH. I am talking about significant amendments. I have taken the amendment of the Senator from Kentucky. It does not mean anything—somebody is going to pay for medical monitoring beyond $1 million.

Mr. METZENBAUM. When the Senator offered the amendment in committee, did he think it was insignificant?

Mr. HATCH. I did not think it was of substance as today. It was certainly important.

Mr. METZENBAUM. Is the Senator going to propose a new amendment at this point?

Mr. HATCH. We have lots of amendments. We do not think this is the time or place.

Mr. METZENBAUM. When is the time?

Mr. HATCH. First of all there is a tree here that has everything tied up as usual. We had a tree which included this amendment by the proponents of this bill since we started which forbids amendments being offered.

Mr. METZENBAUM. No. Would the Senator recognize that is not the case?

Mr. HATCH. No, it is the case because we cannot allow the tree.

Mr. METZENBAUM. As a matter of fact, the Senator from North Carolina offered an amendment, and the floor is open. The Senator from New Hampshire offered an amendment. The Senator from Kentucky offered an amendment.

Mr. HATCH. That is true.

Mr. METZENBAUM. When the Senator says there was never an opportunity for amendment, I stood on this floor with my arms wide open and said: "Bring on your amendments. We are ready for them." And I say again "Bring on your amendments. We will find a way to get them. Do not worry about a tree. We will set the tree aside and take your amendment."

Mr. HATCH. We are thinking about them and that is why I am asking these questions, and I think we are finding lots of areas where this bill could stand amendment and maybe that is what we have to do. Let us go to another question.

What if another Federal agency had already determined that exposure to ethylene oxide at a given level and duration is safe? Let us say we have another Federal agency that certainly could be equal with this one, and it said ethylene oxide exposure is safe. Is there anything in this legislation that will prevent the Risk Assessment Board coming along a day, a week, or a year later, reaching a different conclusion and imposing this bill upon the taxpayers of America?

Mr. METZENBAUM. Some suggested, as did my colleague from Utah, that there is duplication in this bill, and that the hazard communication standard, promulgated by OSHA in 1983, provides ample information and protection for workers who are exposed to hazardous substances on the job, and that the notification and monitoring provided by S. 79 is unnecessary and duplicative. But the risk notification contemplated by S. 79 is not being performed under current law. Furthermore, scientists and other experts in the field recognize that there are critical differences in purpose and scope of coverage between the hazard communication standard and S. 79.

The hazard communication standard was designed to educate workers about hazards that are present in the workplace for the purpose of reducing exposures in the future. Under the standard, manufacturers and importers of hazardous chemicals are required to provide labels and material safety data sheets, informing users and their employers of the chemical's hazards. The standard provides for "primary prevention" of exposure to hazards and the development of occupational disease.

But there is a fundamental difference between educating workers prior to their exposure and notifying workers of health risks they face because of known past exposures, which is what his bill does.

The primary prevention approach of the hazard communication standard is important, but it cannot take the place of a secondary prevention program that promotes positive medical intervention between the time of exposure and the onset of a disease.

Risk notification under S. 79 is just such a secondary prevention program. It warns particular categories of workers who are known to be at increased risk of disease from past exposures, and provides for appropriate medical surveillance. S. 79 provides vital health care assistance that is not available under the hazard communication standard or other Federal programs.

At a Labor Subcommittee hearing last year on S. 79, we heard workers describe their experience using the hazard communication standard to obtain information on occupational hazards. One of the witnesses, who worked for a major steel producer, told the subcommittee:

> I have worked for 23 years in the continuous pickling [division], and I have never been notified by anyone that I was at risk other than that you are dealing with hazardous chemicals, but not what the personal risk was to my health.

Another witness testified that:

> I worked in [a coke and coal producing plant] for 17 years, and last year was the first time that I actually had a blood test to detect any benzene in my blood. The hazard communication standard requirements do not actually tell you what disease can be caused from these chemicals.

The testimony of these two workers illustrates the need for the type of information that S. 79 would make available but that the hazard communication standard does not.

And the worker that we had from Georgia, that poor Willie Hall, who talked about seeing his fellow workers in Georgia who one after another were exposed and lost their lives and he indicated his own personal physical condition.

How can anyone be indifferent to that poor worker from Georgia who was at risk at that very moment and very much in danger of his life?

Another important difference between the hazard communication standard and S. 79 is that the hazard communication standard fails to protect former employees and employees previously exposed to toxic substances.

One is prospective. One goes back to what happened in yesteryear.

We know that hundreds of thousands of Americans are at risk from having been exposed to occupational health hazards before they retired, were laid off, took a new job, or simply changed their assignment with their employer.

We are talking here about the risks that come about from previous exposure, and my colleague has talked several times and attempted to confuse the issue as have other Senators about the fact that there are 12 present programs to protect the workers of this country. That is not the fact. We need this bill because there is no way of getting that occupational notice, that notice of the previous exposure to the workers, no way of testing. These workers need to know the health risks they face. Indeed, because these workers may be well into the latency period of occupational disease development, they may receive even more benefit from notification and medical monitoring than current employees. Yet existing Federal efforts—including the hazard communication standard—fail to reach these workers. If we are to alert workers to potential health risks, these former employees and workers previously exposed should not be left in the dark.

You do not have to take my word for this. Leading national experts in the field agree that S. 79 fulfills a critical need not addressed by the hazard communication standard.

Let me quote from a letter, dated February 24, 1988, addressed to Senator KENNEDY by three prominent occupational health physicians, all of whom served NIOSH in Republican administrations. They state as follows:

> We are concerned that [the recent expansion of the hazard communication standard] will mislead people into believing that the hazard communication standard is an adequate substitute for high risk notification. It is not.
>
> Hazard communication and high risk notification are distinct public health programs. One cannot be substituted for the other. They complement each other. We strongly urge you and others in the Senate to recognize this distinction.

I ask unanimous consent that the entire letter from Drs. Finklea, Landrigan, and Melius be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEBRUARY 24, 1988.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR KENNEDY: We strongly support the High Risk Occupational Disease Notification and Prevention Act which will soon be debated in the Senate. Recently, the Occupational Safety and Health Administration (OSHA) has expanded the Hazard Communication Standard to include more industries. We are concerned that this change will mislead people into believing that the Hazard Communication Standard is an adequate substitute for High Risk Notification. It is not.

The Hazard Communication Standard will only provide information to current workers. Many workers may have been exposed to a toxic substance in a specific industry but no longer be working there. These include retired or disabled workers, workers who have changed jobs, and workers laid off from industries that are now closed. Given the recent changes in our economy, a large proportion of the workers to be notified under the High Risk bill will not be currently employed by the facility where they were initially exposed to the toxic substance. Hazard Communication and other OSHA standards cannot provide the needed information to these former workers.

The type of information provided by the Hazard Communication Standard will not be adequate to inform workers about their individual health risks. Hazard Communication is designed only to warn workers about the hazards of the substances with which they currently work and the ways of avoiding these hazards. Hazard Communication does not provide information on the medical examinations and follow-up needed to prevent later disease. Even if Hazard Communication were modified to include more medical information, this could provide only very general statements about the health risks and medical surveillance.

In contrast, High Risk Worker Notification would deliver the necessary individualized information to the worker most likely to develop disease. This information would benefit both the worker and his/her personal physician.

Hazard Communication and High Risk Notification are distinct public health programs. One cannot be substituted for the other. They complement each other. We strongly urge you and others in the Senate to recognize this distinction and to support the High Risk Occupational Disease Notification Act.

JOHN F. FINKLEA, M.D.,
University of Alabama in Birmingham.
PHILIP J. LANDRIGAN, M.D.,
Mount Sinai School of Medicine.
JAMES J. MELIUS, M.D.,
New York State Department of Health.

Mr. METZENBAUM. Let me conclude my remarks by saying again, vote for this bill if you want to protect workers who have given their best to American industry, who have gone out and done the job to make American industry the success that it is, the American workers who can outwork and outcompete and outsweat any workers anywhere in the world, if they are given a chance. What we are talking about now is talking about protection for these workers for occupational hazards that they have received in yesteryear. If the Senator shares my concern as I feel that he does, that those workers may have been subjected to noxious fumes and gases that could endanger their lives from cancer, then he has to be for this bill.

A vote for this bill is a vote to say that cancer is a risk and we are prepared to notify the workers so that they can be monitored and obtain adequate health care.

A vote against this bill is a vote for the high-paid and well-heeled lobbyists who are doing so much to try to defeat the legislation.

If the Senator is with workers as he is with the people of Utah in connection with cancer exposure, then I think he ought to reconsider and vote for this bill.

Mr. KENNEDY. Mr. President, will the Senator from Utah yield for a question.

Mr. HATCH. If I could just hold off for a minute so I could repond to this rather lengthy answer from the distinguished Senator from Ohio. It was a rather lengthy response but it was certainly not an answer.

My question really asked if the Risk Assessment Board basically, for all of those employees from all of those various industries, the polyester fiber industry, the film industry, fungicide for books industry, the drug industry, leather industry, motor oil industry, paper industry, soil industry, bedding for animals industry, clothing industry, furniture industry, and transportation vehicles, whether the Board could include employees in any of those other areas as a population at risk. I take it from that very long response that the answer is yes, but I am not quite sure what it meant.

Let me just read something into the RECORD that I think is quite important. This is a letter from Anna M. Carroll. The letter is addressed to me.

I hear all this talk that we have got to do something about cancer. Well, I agree with that. But there are ways to do it and there are ways that we are already doing it that are duplicated by this bill.

Look, it does not take any real insight to understand that OSHA already does provide medical monitoring for asbestos, for nitrobiphenyl, for the beta-napthylamine standard, methylene bis standard, methyl-chloromethyl ether, dichlorobenzidine, for bis-chloromethl, for beta-napthylamine, benzidine, for 4-aminodiphenyl, for ethylenlamine, beta-propiolactone, 2-acetylamino-fluorene, dimethyl-amineoazobenzene—I cannot even pronounce some of these words.

Nitrosodimethylamine; vinyl chloride—that has medical surveillance; inorganic arsenic has medical surveillance; lead standard has medical monitoring, medical removal; coke oven emissions, medical monitoring; cotton dust has medical monitoring; dibromo-3-chloropropane has medical monitoring; the acrylonitrile standard has medical monitoring; ethylene oxide has medical monitoring; benzene has medical monitoring, and even job removal.

We could go on and on. The fact is this is a repeat program that is already being done in many, many respects.

But, let me read this letter because I hear all this talk that we have to prevent cancer. Sure we do. We want to do everything we possibly can, but we have to do it in a reasonable way that does not bankrupt the country.

But where is the bill when it really does count, in one of the areas the Surgeon General has been so specific about? Let me read you this letter.

DEAR SENATOR HATCH: My name is Anna M. Carroll. I am 45 years old and have been diagnosed as having nonhereditary pulmonary emphysema. I have never smoked. My family didn't smoke. My husband doesn't smoke.

Experts on the hazards of passive smoking, including a research physicist at EPA, have told me that my emphysema is directly related to the fact that I was surrounded by chain smokers at work for more than 25 years (the same agency). Indeed, once I was no longer exposed directly to smokers on the job (the past six months), my vital capacity lung test showed a marked improvement.

The reason I am writing to you is because of the need for legislation to protect nonsmokers. It seems unfair that I, who have never smoked, must not only bear the brunt of a horrible disease caused by smokers, but must continue to be penalized by smokers when I attempt to travel by public transportation. I cannot take a bus or train. Even when I want to join a local tour group, I must first call up to see if smoking is permitted. If it is, I cannot participate. Travel by air has become a nightmare.

Recently, an airline told me if I wanted to be guaranteed a seat as far away from the smokers as possible, I would have to arrive at the gate an hour before departure time. I did, only to find there was no separate waiting area for nonsmokers. Airline and airport personnel only pointed fingers at somebody else—nobody would take responsibility. By the time I boarded the plane, I was in respiratory distress. The stewardess kept a close watch in case I suddenly required oxygen. I was unable to work the following day.

Tobacco smoke causes me chest pain and a struggle to breathe freely leaves me enervated. Now, even the smell of tobacco smoke causes anxiety attacks, particularly in situations where I cannot easily walk away.

Letters to the Secretary of Transportation, the FAA, airlines, etc., have done little to no good. There are no laws on the books, so nobody takes responsibility for protection of the innocent nonsmokers.

Senator, it is unfair that smokers have a choice—they can choose to travel by public modes of transportation and endanger the public health. I endanger no one, yet I am not free to travel wherever I please. Please do something to alleviate this problem. Your efforts will be greatly appreciated.

Sincerely,

ANNA M. CARROLL.

Well, if we have these desires to stop cancer, stop these other health problems, why are we not doing something about that problem in this bill? Why are we not doing something about the AIDS problem in this bill? Why are we not doing something more about the asbestos problem? Why are we not doing something about some of these toxic chemical problems?

Mr. KENNEDY. Will the Senator from Utah be willing to yield for a question?

Mr. HATCH. I am glad to yield.

Mr. KENNEDY. The Senator has just mentioned the AIDS problem. At the current time, we have an AIDS amendment pending on this legislation. We debated the subject last

Friday. Amendments have been offered and we have been willing to debate that subject today.

I just would want to know whether it is the intention of the Senator from Utah to permit those that favor this amendment to be able to at least have a vote on that this afternoon?

Mr. HATCH. Well, the person most interested in that topic—and I am interested in it—but the person most interested is tied up in a markup on the Intermediate Nuclear Forces Treaty, and that is the distinguished Senator from North Carolina.

Mr. KENNEDY. Is the answer to the question that as soon as the markup ends we can have a vote on this amendment? Because there has been a good deal of criticism, I know, of the Senator from Ohio and others that favor this legislation that we were not prepared to consider amendments and there were amendments to be offered. We debated this issue, I was personally on the floor for 3½ hours last Friday willing to debate the Senator from North Carolina. He introduced an amendment and then refused to debate it and finally resolve that particular issue.

Now we have an amendment that is before the Senate. I would be more than glad to, at a time certain, move to table my own amendment so that at least we could get some indication about what the will of the Senate would be on this particular measure.

I am wondering if the Senator from Utah would yield for that particular purpose, for me to offer a motion to table my own amendment, because if I am not able to get a debate on it, I would like to have the opportunity to at least table it and then to get some indication as to what the sense of the Senate would be on this particular measure. I have given assurance to other Members of the Senate that they would have an opportunity to express themselves on this issue. I want to be able to at least assure them that they would be able to get some form of a vote on this measure.

Mr. HATCH. I would like to confer with the Senator from North Carolina. As I recall, last Friday—I was here the whole time, from the beginning in the morning to when we finally ended in the afternoon—the distinguished Senator from North Carolina did come over toward the end of the day.

Mr. KENNEDY. The question is not——

Mr. HATCH. If I could finish.

The amendments were not laid down until this morning. He has not had the opportunity to come over and debate them. I think he feels very deeply about this issue. I do, too.

I ordinarily would not mind if the Senator moved to table his own amendment. Maybe we could work that out, I do not know.

But I would like to have at least some time when the Senator from North Carolina is present. In fact, the only people that spent a lot of time on this floor on this matter have been the distinguished Senator from Ohio, the Senator from Indiana, and, of course, myself.

Mr. KENNEDY. Evidently, as I understand it, the markup is going to continue on until tomorrow in the midafternoon, at which time there is going to be some vote in the Foreign Relations Committee. I would be quite prepared to go forward now, without making our case, although I believe the case was made last Friday, because the amendment which was introduced in my behalf is the sum and substance.

Mr. HATCH. Let me interrupt the Senator for a second here because I think we might be able to resolve this. I will make another request of the distinguished Senator from North Carolina to come over and debate the matter if he can. I think we all understand how difficult it is, especially when you are in committee markups, to be here at the sudden request of another Senator. But I will send that message and try to get back to the distinguished Senator.

I will do two things. I will ask the distinguished Senator from North Carolina, who has the prime interest on this side on this issue, to come over, if he can, to debate it. If he cannot, I will ask him if it will be all right if I yield to the distinguished Senator from Massachusetts to table his own amendment so that we can have a vote on it and Senators can express themselves on this matter.

If that is the case then we can resolve it that way, at least for today. I personally would not want it to go beyond a motion to table, and see what happens there, and go from there when we know more about where we are going on this bill.

But I will do both of those things in deference to my friend from Massachusetts and, hopefully, I can get back to you within the immediate future and then be finished for today, maybe. Whatever, I do not care.

Mr. KENNEDY. As I say I have no knowledge what the desire of the leader is in terms of additional business and I do not know what other amendments are to be offered. But I think it is unfortunate indeed and unfair, quite frankly, to other Members who want to be able to offer amendments to effectively have their amendments foreclosed because we have one Member that is involved, albeit in an extremely important measure. But what we are saying is we are closing out the opportunity for other Members to amend this bill because one Member is inconvenienced. Quite frankly, I am prepared to take an unusual step just so that we could, in effect, clear the deck so that additional business could be taken here.

Mr. HATCH. I have no problem, with that.

Mr. KENNEDY. As I understand it, the Foreign Relations Committee has just recessed. That is my information at the present time.

So, hopefully, the Senator from North Carolina will be available to make what statement he would on this particular measure and that could, at least, afford us an opportunity to resolve or at least dispose of these two amendments.

I thank the Senator from Utah for being willing to make those inquiries. I hope that they will be positively responded to so at least we can make some progress on the legislation this afternoon.

It is my information that the Foreign Relations Committee has recessed. This measure has 21 cosponsors. It is bipartisan in nature. We have debated the issue on Friday, so the Members are familiar with the issue itself. I hope that at least we can have some degree of finality one way or another, and I am prepared to make the motion to table as soon as I am able to get the floor or the majority leader would be able to gain the floor.

Mr. HATCH. In light of that good colloquy with my colleague, I ask unanimous consent that we suggest the absence of a quorum [so that I can make these phone calls], with the floor to be given back to me as soon as I can get back on the floor which should not take much more than, I would say, 10 or 15 minutes at the most and without it being considered a second speech under the rules, under those circumstances.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DIXON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH addressed the chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I yield to the majority leader.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. There will be a rollcall vote shortly.

Mr. HATCH. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. HATCH. It is our understanding the rollcall vote will be on the motion by the distinguished Senator from Massachusetts to table his own amendment.

Mr. BYRD. So I suggest that our respective cloakrooms should get the word out quickly because the vote will be on the tabling motion.

Let me say a few words about the schedule for tomorrow while Senators are being informed by the cloakrooms that there will be a vote.

(The remarks of Mr. BYRD relating to the schedule for tomorrow are printed at the conclusion of Senate proceedings today.)

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I intend in just a moment to offer a motion to table the underlying amendment, which is the Metzenbaum amendment which deals with notification of health workers about the danger of the AIDS virus. I take 1 minute so the Members have some understanding about where we are since we have had considerable debate on other matters on S. 79 this afternoon.

Last Friday, the Senator from North Carolina laid down an amendment to notify health workers in an alternative way. That amendment was tabled. I had indicated to the membership that we would have an alternative way of notification which has the support of the AMA and which, when it was a part of S. 1220, had the support of the Centers for Disease Control and the Public Health Service.

That is really the issue which is before the Senate at the present time. I would expect that if we were permitted to vote, we would have virtually a unanimous vote since there is strong support in the Senate for adequate notification to health workers about how to best avoid the dangers of contracting the AIDS virus. We had included that provision in S. 1220 which we have not had the opportunity to enact at this point. But that is the provision which is before us. It is a measure which I support.

In order to get some indication of the sentiment of the Members of the Senate, I will move to table the underlying amendment and hope that the Members of the Senate, who are concerned with the process of notifying health workers in the way that has been recommended by the AMA, the Centers for Disease Control, and the other public health services, will vote in opposition to that motion. So I urge my colleagues now who are concerned about adequate notification for health workers to vote "no" to tabling this amendment.

Now, Mr. President, I move to table the underlying Metzenbaum amendment numbered 1900 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to speak for 15 seconds.

The PRESIDING OFFICER. Is there any objection? The majority leader.

Mr. BYRD. Mr. President, this vote on the disposition of this tabling motion will be the last rollcall vote today. This will be a 15-minute rollcall vote. I ask unanimous consent that the call for the regular order be automatic at the conclusion of 15 minutes.

The PRESIDING OFFICER. The yeas and nays have been ordered. The question is on agreeing to the motion by the Senator from Massachusetts to table amendment No. 1900. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from New York [Mr. MOYNIHAN], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Mississippi [Mr. STENNIS] are absent because of illness.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. HEINZ], the Senator from Nebraska [Mr. KARNES], the Senator from Virginia [Mr. TRIBLE], the Senator from Virginia [Mr. WARNER], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 0, nays 86, as follows:

[Rollcall Vote No. 78 Leg.]

NAYS—86

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Helms
Hollings
Humphrey
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Wallop
Weicker
Wirth

NOT VOTING—14

Biden
Boren
Daschle
Gore
Heinz
Inouye
Karnes
Lautenberg
Moynihan
Simon
Stennis
Trible
Warner
Wilson

So the motion to lay on the table the amendment (No. 1900) was rejected.

Mr. KENNEDY. Mr. President, may I have the attention of the Senate for a moment?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, on the substance of the issue, we addressed this issue last Friday, and the Senate exercised its will by rejecting an altenative way of notification to health workers about the risk of contracting AIDS.

Traditionally and historically in this institution, when a motion has been made to table and it fails, generally that amendment is acceded to. That has been my experience around here in the last 25 years.

We have had a virtually unanimous vote. I must say that it is the first unanimous vote I have had in the U.S. Senate in 25 years. [Laughter.]

I hope we will have an opportunity to have this amendment accepted. I have no current illusions that that will be the case. But I think it is important that we understand the importance of this amendment and what the expression of the membership is on this issue.

The PRESIDING OFFICER (Mr. FORD). The question occurs on the amendment.

Mr. HATCH. Mr. President, according to our unanimous-consent agreement, we were going to have a vote, and that would end the discussion for today.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. HATCH. I yield.

JAMES J. HOWARD INTERSTATE HIGHWAY

Mr. BYRD. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside for not to exceed 5 minutes; that the Senate turn to the immediate consideration of H.R. 4263, a bill to name a portion of I-195 in New Jersey for the late Congressman JAMES HOWARD. That bill has just been received from the House.

I ask unanimous consent that no amendments be in order to the legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent that the 5 minutes be equally divided between Messrs. BRADLEY and LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4263) to designate Interstate Route I-195 in the State of New Jersey as the "James J. Howard Interstate Highway".

A TRIBUTE TO CONGRESSMAN JAMES J. HOWARD

Mr. BRADLEY. Mr. President, New Jersey has lost one of its most forceful advocates, and I have lost a friend whom I deeply respected. He was my political partner since I began in politics.

For 23 years JIM HOWARD had represented the residents of the Jersey shore. He has zealously fought to protect that shore as a place where families can go to escape the pressures of life and enjoy the natural beauty of the ocean.

But JIM probably gained greatest renown as chairman of the powerful House Public Works and Transportation Committee which he has led for the last 8 years. Chairman HOWARD recognized that the infrastructure of our older urban areas was crumbling, that for too long cities and States ignored the investment necessary to maintain them as they were struggling to meet pressing human needs. Under Chairman HOWARD's leadership, some of the most far-reaching legislation affecting our cities and States was enacted. He leaves a great legacy of accomplishments. It is most fitting that the legislation we are enacting today renames a portion of I-195, after the man who made it possible—Congressman JAMES HOWARD.

Although his committee was traditionally noted for highway construction, with Chairman HOWARD's leadership, for the first time a portion of the gasoline tax funds were dedicated to mass transit subsidies. Also under his leadership a water projects bill that will enable important port and sewage treatment projects to begin was adopted over the veto of President Reagan.

JIM HOWARD was much beloved by the people of the Third District and the people of New Jersey. We all share our grief with his wife, Marlene, and his three daughters, Marie, Kathy, and Lenore. We will miss him deeply.

A TRIBUTE TO REPRESENTATIVE JAMES J. HOWARD

Mr. LAUTENBERG. Mr. President, I rise in support of H.R. 4263, a bill to name Interstate 195 in New Jersey after the late Representative JAMES J. HOWARD, who died suddenly last week.

With JIM HOWARD's death, the Congress has lost one of its leaders. And New Jersey, especially the people of the Third District which he served for 24 years, has lost a dedicated and accomplished public servant.

Since 1981, JIM HOWARD chaired the House Committee on Public Works. He maintained a commitment to investing in America's infrastructure—its airports, ports, sewage treatment plants, highways, bridges, and roads. He knew that the future of our economy rests on these investments. He fought an obstinate administration to write new laws to build and rebuild our highways and to continue to clean up our water, and to expand and modernize our aviation system. These were no small battles. JIM HOWARD fought them and won.

JIM HOWARD fought just as hard to protect the environment.

Mr. President, the Third District in New Jersey includes a good part of the shoreline of New Jersey. It is a district whose economy, and whose every life, is linked up with the quality of the coastal and ocean environment.

JIM HOWARD was outraged at the continued pollution of our ocean and the degradation of our coast. He threw himself into the task of protecting the environment.

I can recall our joint efforts to stop the dumping of raw sewage in the Hudson, to move a dredged spoils dumpsite, and to close a sludge dumpsite just 12 miles off New Jersey's shore, and to preserve and expand the Sandy Hook ocean research center. This year, he was continuing the fight to stop ocean dumping of sludge altogether. I was proud to work with him, and he had the support of so many colleagues. The fight to protect our environment will be harder, because JIM HOWARD won't be there, with his leadership and his dedication.

Mr. President, JIM HOWARD leaves a great legacy to the State of New Jersey and our country. He leaves a legacy of infrastructure development that permits our Nation to operate. He leaves a legacy of environmental legislation. And with those laws and the laws that remain to be written, we can keep up the fight to protect the environment, the shore, and the ocean that he loved.

But Mr. President, there is something else JIM HOWARD gave to the people of New Jersey and to the people of this Nation. JIM HOWARD gave of himself to help save the lives of others.

There was no one more committed to highway safety than JIM HOWARD. We joined forces to pass the 21 drinking age law. He led the effort to set 55 as the national speed limit. And while the speed limit has been chipped away, there are hundreds of people who are alive today—people who would have been killed by speed on our roads—killed by drinking on our roads—but for the work of JIM HOWARD.

JIM HOWARD was one of the most powerful men in the House of Representatives. But more, he was an honorable man. He was dedicated to serving his district, his State, and his country.

He was a friend. He was a colleague. I will miss him.

Mr. President, by passing this bill we pay tribute to the late JIM HOWARD. I urge my colleagues to support H.R. 4263.

CONGRESSMAN JAMES HOWARD

Mr. BURDICK. Mr. President, last week, the House of Representatives lost one of its leaders, JAMES HOWARD from New Jersey.

Because of HOWARD's position as chairman of the House Public Works and Transportation Committee, I worked with him closely on many infrastructure issues, especially on highway matters. JIM HOWARD will be remembered for his dedication to transportation safety. In my experience of sitting across the conference table from JIM HOWARD, I found him dedicated to his principles and unflagging in his support for his ideals. He was an untiring spokesman for national highways, mass transit, and infrastructure needs.

Congressman HOWARD had a long and distinguished career serving his constituents in New Jersey. Congress will be a different place without JIM HOWARD.

TRIBUTE TO JAMES J. HOWARD

Mr. MOYNIHAN. Last Friday, March 25, 1988, the Congress lost—the Nation lost—a distinguished public servant, Representative JAMES J. HOWARD. Mr. HOWARD served the Third Congressional District of New Jersey for 23 years, a term unequaled by any previous Congressman from that district. In 1981 he assumed the chairmanship of the House Public Works and Transportation Committee, the first Congressman from his State to have that honor.

As chairman of that committee JIM HOWARD presided over a vast and important legislative agenda: Laws that clean up and conserve our water, build and maintain our highways, repair our dams and bridges, construct our ports, regulate our airports, and protect our oceans. I had the opportunity to work with this remarkable man on many House-Senate conferences over the years—Clean Water, Safe Drinking Water, the Highway Acts, Superfund, the Water Resources Development Act. JIM cared deeply about these issues—he understood how they affected the everyday quality of life and economic well-being of his constituents in New Jersey and of the Nation as a whole.

He was a tenacious and energetic negotiator. He fought for what he believed to be right, but always maintained a sense of humor and perspective. Whether it was the 55-mile-an-hour speed limit, the antidrunk driving bill he sponsored, or the 21-year-old minimum drinking age legislation, one always knew where JIM HOWARD stood, even if at times he stood alone. He successfully authored these landmark pieces of legislation, for which the Nation is in his debt. The people of New Jersey will best remember him for projects like the intermodal transportation center, convention hall, and municipal building in Ashbury Park, for defense of the New Jersey beaches, and for construction of I-195, which Congress will name in his honor.

He will be sorely missed in the Capitol, at home in New Jersey, and by his wife Marlene, and three daughters, Lenore Buchanan, Marie Howard, and Kathy Tjunin. We offer our deepest sympathy to them.

JIM HOWARD's legacy is the infrastructure of America, which underpins our economy and standard of living. To quote Lowell Jackson, "virtually every person in America relies on the conviction that government will operate [public works] facilities without fail, 24 hours a day, 365 days a year." These facilities include 575,000 bridges, 3.8 million miles of streets, 73,000 water and sewage plants, 10,000 sanitary landfills, and more. The fact that government fulfills any portion of this obligation is due in large part to the persevering efforts of JIM HOWARD.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. BRADLEY. I yield.

Mr. SYMMS. I thank the Senator for yielding.

I pay my respects and my sympathy to the Howard family.

I had the opportunity to serve for 8 years in the House with JIM and work with him on many issues that were pertinent to the highway system in my State and then had the opportunity to work with him for the years since I have been in the Senate where we have attended many conferences. He was always very vigorous in advocating his point of view and representing his views, which were always very strong but very clear cut and very forward.

I consider that we lost a real fine friend and a fine Congressman for the Nation who made a real contribution to the country.

I thank the Senator.

Mr. COCHRAN. Mr. President, will the Senator yield?

Mr. BRADLEY. I yield.

Mr. COCHRAN. Mr. President, let me say that in my experience in the House of Representatives I served with no one who was more thoughtful and considerate of a fellow House Member than JIM HOWARD was with me. I served on his Committee on Public Works and Transportation for 6 years and on subcommittees dealing with flood control, surface transportation, and investigations.

He brought his subcommittee to Mississippi one time at my request and was very gracious and generous in his devotion of time and attention to the problems of my State and the citizens of Mississippi.

I will be forever grateful to him and his family for their friendship and the many acts of kindness and consideration that he gave to me.

We have lost a true legislator, a dedicated, committed, hard-working legislator and we will all miss him for many, many years to come.

I appreciate the Senator yielding to me.

The PRESIDING OFFICER. Is there further discussion? If not, the question is on the third reading and passage of the bill.

The bill (H.R. 4263) was ordered to a third reading, was read the third time, and passed.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY. Mr. President, I thank the majority leader for allowing us to move this legislation at this time. I think it will mean a great deal to JIM HOWARD's family and all the people of New Jersey and his colleagues in the Senate and in the House.

So I thank the majority leader for his sensitivity to this issue at this time.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period of morning business not to extend beyond 10 minutes and that Senators may speak therein for not to exceed 2 minutes each.

The PRESIDING OFFICER. Without objection it is so ordered.

BICENTENNIAL MINUTE

MARCH 11, 1874: DEATH OF CHARLES SUMNER

Mr. DOLE. Mr. President, 114 years ago this month, on March 11, 1874, a towering member of the U.S. Senate died. Charles Sumner of Massachusetts, one of the leading civil rights advocates in the 19th century, stood among the Senate's greatest intellects and orators. He was also one of the most controversial Senators in our history.

Born in Boston in 1811, Sumner graduated from Harvard University and the Harvard Law School, and practiced law in Boston. In 1848 he helped to found the Free Soil party, dedicated to keeping slavery out of the territories. That year he lost a race as a Free Soil candidate for Congress. But in 1851 he was elected to the Senate by a coalition of Free Soilers and Democrats, and in 1856 he was reelected as a Republican.

Sumner's passionate opposition to slavery, and his fiery eloquence, won him a severe beating in 1856, when Congressman Preston Brooks of South Carolina entered the Senate Chamber and beat Sumner over the head with his cane. This violent action was a response to one of Sumner's speeches that had attacked both the Southern cause and Brook's uncle, Senator Andrew Butler. Sumner was absent from the Senate Chamber for 3 years, recuperating from his injuries. He returned on the eve of the Civil War, where he worked to persuade President Lincoln to emancipate the slaves, and after the war where he led the legislative efforts to protect the civil rights of the freedmen.

When the Republicans took control of the Senate in 1861. Sumner became chairman of the Senate Foreign Relations Committee, a post he held for a decade until the Republican Conference removed him from his chairmanship because of his opposition to President Ulysses S. Grant's plan to annex the Dominican Republic. In war and peace, Charles Sumner never hesitated to stand on principle, but paid the price for his outspokenness.

CELEBRATION OF GREEK INDEPENDENCE DAY

Mr. PELL. Mr. President, on Friday we celebrated Greek Independence Day, a day to be celebrated not by Greeks alone, but by all people who cherish freedom and democracy. Two thousand years ago the ancient Greek statesman Pericles proclaimed that the Greek "Constitution is called a democracy because power is in the hands not of a minority, but of the whole people." America's Founding Fathers looked to these words as they crafted our own Constitution and shaped the future of a democratic America. As Thomas Jefferson once said, "to the ancient Greeks we are all indebted for the light which led us out of Gothic darkness."

Just as these democratic principles of the ancient Greeks inspired a young America, so did the American Declaration of Independence inspire the modern Greeks as they struggled for their own independence in the 1820's. Greek intellectuals translated the American Declaration of Independence and embraced it as their own. And in 1821 a Greek commander stood before the Messenian Senate of Calamata and appealed to the citizens of the United States with the following words:

> Having formed the resolution to live or die for freedom, we are drawn toward you by a just sympathy since it is in your land that liberty has fixed her abode, and by you that she is prized as by our fathers.

This Greek and American love of liberty brought us together to fight side by side to battle oppression during World War II. And it was American and Greek determination that Greece should not have battled bravely in World War II only to fall to the Communists that President Truman unveiled the Truman doctrine and provided Greece with badly needed assistance.

The common bonds that have grown between the United States and Greece go beyond the shared democratic visions that we have inherited from ancient Greece. The modern-day bonds are clearly apparent in the tremendous contributions that Greek immigrants have made to American society—in art, in medicine, in music, in literature, and in politics. These contributions have been essential ingredients in the melting pot that is America. So as we celebrate Greek Independence Day, we celebrate the tremendous contribution Greek Americans have made to our national life, and we celebrate the freedoms and democratic principles that are dear to all Americans.

TAXPAYERS BILL OF RIGHTS

Mr. HEFLIN. Mr. President, I rise today to repeat my support of the taxpayers bill of rights. The Finance Committee recently reported out this legislation and I now call on the Senate to quickly consider and pass this desperately needed bill.

Mr. President, more Americans deal directly with the Internal Revenue Service than any other agency. To many Americans, the IRS is the Government. Its actions color our taxpayers' perceptions, positive and negative, toward all other Government functions. Congress must therefore set strong guidelines for the activities of the Internal Revenue Service. Because of the nature of the Internal Revenue Service's duties, Congress has granted the IRS very broad powers. It is now up to Congress to clearly state where those powers end. At a time when taxpayers are facing a barrage of new and bewildering forms that the Tax Reform Act of 1986 has spawned, Congress must act to make sure that taxpayers innocent mistakes do not become legal nightmares.

This bill would require the IRS to prepare a statement describing the rights and obligations of taxpayers and the procedures for audit, appeal, refund claim, and collection. The statement is to be distributed to taxpayers at the time the IRS makes its first contact regarding the determination or collection of any tax.

This bill would also change procedures involving taxpayer interviews. The bill requires the IRS to issue regulations to identify what constitutes a reasonable time and place for the scheduling of IRS interviews and examinations. The provision also would allow the taxpayers to make an audio recording of the interview. The IRS must inform the taxpayer of that fact, except in cases of criminal investigation, and supply a recording or transcript to the taxpayer upon the taxpayer's request.

The bill also requires the IRS employee to explain the audit and collection process to the taxpayer at the appropriate interview and allows the taxpayer to suspend the interview at any time if the taxpayer wishes to consult with an attorney or any qualified representative. The IRS would be prohibited from requiring the taxpayer to accompany his representative except upon an administrative summons. Where appropriate, the IRS may contact the taxpayer directly to notify the taxpayer if the representative is hindering or delaying the process.

The bill also would require the IRS to abate any penalties imposed on any deficiency attributable to erroneous written advice to the taxpayer by the IRS, unless the taxpayer provided inaccurate or inadequate information.

Another important provision is designed to provide relief to the overwhelming burden on small businesses. The bill contains a provision which requires the IRS to solicit comments from the Small Business Administration prior to the issuance of all final tax regulations. The SBA would then be given 4 weeks to provide its comments on the impact of the contemplated regulations on small businesses. In addition, under this provision, each time the IRS issues temporary regulations, it is also required to publish those regulations in proposed form. At the time the IRS publishes such temporary and proposed regulations, the IRS is required to solicit comments from the SBA. The SBA would be required to submit comments within 4 weeks. The temporary regulations would be permitted to remain in effect for no more than 2 years.

The bill also contains several provisions to protect taxpayers from the IRS. The bill contains a provision which expands the current law which permits taxpayers to recover expenses and fees for the IRS takes a position that is not substantially justified. Under current law, the taxpayer can only recover costs accruing after the case proceeds to court, and the taxpayer must take the case to final judgment and prevail. Under this bill, the taxpayer may recover costs accruing from the time the taxpayer first receives the communication from the IRS that would enable the taxpayer to go to the IRS Appeal Office. In addition, the taxpayer is not obligated to take the case to final judgment but can recover if the case is settled in the taxpayer's favor. This provision also shifts the burden of proof to the IRS to show that its position was substantially justified. If the IRS cannot carry the burden, the taxpayer may recover costs. Taxpayers seeking a recovery under this provision, however, are required to show that they made a good faith attempt to resolve their case in the IRS examination.

Mr. President, these are only some of the provisions which are intended to strengthen taxpayers rights and restore our citizens' faith in the Internal Revenue Service and our entire Government. I would like to congratulate Senators PRYOR, REID, and GRASSLEY for their efforts on this bill. I hope this measure may be brought to the floor and acted upon quickly.

Thank you, Mr. President.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which where referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON PREVENTING NUCLEAR PROLIFERATION—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 125

Under the authority of the order of the Senate of February 3, 1988, the Secretary of the Senate, on March 25, 1988, during the recess of the Senate, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I have reviewed the activities of the United States Government departments and agencies during the calendar year 1987 related to preventing nuclear proliferation, and I am pleased to submit my annual report pursuant to section 601(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242).

The report concludes that the United States during 1987 continued to make significant progress in its efforts to achieve its non-proliferation goals.

As I have indicated in previous statements to the Congress, my central arms control objective has been to reduce substantially, and ultimately to eliminate, nuclear weapons and rid the world of the nuclear threat. The prevention of the spread of nuclear explosives to additional countries is an indispensable part of our efforts to meet this objective. I intend to continue my pursuit of this goal with untiring determination and a profound sense of personal commitment.

Ronald Reagan.

The White House, *March 25, 1988.*

MESSAGES FROM THE HOUSE

At 2:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 414. A resolution relating to the death of the Honorable James J. Howard, a representative from the State of New Jersey.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 1397. An Act to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

At 3:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4263. An act to designate interstate route I-95 in the State of New Jersey as the "James J. Howard Interstate Highway".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Daniel G. Amstutz, of New York, for the rank of Ambassador during his tenure of service as Chief Agricultural Negotiator in the Uruguay Round of Multilateral Trade Negotiations.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Daniel B. Amstutz.

Post: Ambassador.

Contributions, amount, date, and donee.

1. Self: $120, 1982, Republican Senate; $100, 1986 Campaign Committee R.N.C.

2. Spouse: Not available.

3. Children and spouses names: Not available.

4. Parents names: Elizabeth and Gordon Amstutz, none.

5. Grandparents names: Deceased.

6. Brothers and spouses names: None.

7. Sisters and spouses names: Susanne and James Birchfield, none.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN:

S. 2219. A bill to amend title XIX of the Public Health Service Act to provide for the construction of community mental health centers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself and Mr. Domenici):

S. 2220. A bill to preserve the independence of the scientific evaluation group for the Waste Isolation Pilot Plant in New Mexico; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for Mr. Bradley (for himself, Mr. Lautenberg, Mr. Simpson, and Mr. Byrd)):

S. Res. 401. A resolution relative to the death of Representative James J. Howard, of New Jersey; considered and agreed to.

By Mr. BYRD:

S. Con. Res. 110. A concurrent resolution correcting the enrollment of S. 854, the Nevada-Florida Land Exchange Authorization Act of 1988; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mr. Domenici):

S. 2220. A bill to preserve the independence of the scientific evaluation group for the Waste Isolation Pilot Plant in New Mexico; to the Committee on Energy and Natural Resources.

INDEPENDENT REVIEW GROUP OF THE WASTE ISOLATION PLANT IN NEW MEXICO

Mr. BINGAMAN. Mr. President, I rise today on behalf of myself and Senator Domenici, to introduce legislation to preserve the independence of an organization created to provide scienific counsel and advice to the State of New Mexico related to the Waste Isolation Pilot plant.

This organization referred to as the Environmental Evaluation Group [EEG] was created in 1978 to provide an independent scientific evaluation of the Waste Isolation Pilot plant [WIPP] in New Mexico. The group functioned successfully as intended under three State administrations until 1987. Unfortunately, EEG has been reduced from being the only independent full-time scientists' group providing unbiased review and oversight of the U.S. Department of Energy's [DOE] WIPP project, to a minor bureau in the environmental improvement division of the New Mexico Health and Environment Department. This has resulted in a drastic lowering of the morale of scientists and the resignations of nearly all the scientists on staff. These actions have clear and serious repercussions on the State's ability to be assured of the health, safety, and environmental aspects of the WIPP project.

EEG was established to facilitate the hiring of experienced senior scientists and to provide them with an environment of trust, free from bureaucracy, which would allow them to carry out first-class scientific review work. The process has worked extremely well, and I know from my own experience with this group that they have performed their function in a most expert manner, free from biases, gaining the respect of scientists in the Department of Energy, Sandia National Laboratory, National Academy of Sciences and the State universities. Absent Nuclear Regulatory Commission involvement with WIPP, EEG is the only full-time group performing an independent peer review of WIPP.

When I served as attorney general, I filed a lawsuit on behalf of the State against the DOE because they declared that WIPP was ready for construction in 1981. The stipulated agreement resulting from this lawsuit required DOE to perform a number of scientific studies. As a result of EEG's evaluation of these studies in 1983, follow-up work was deemed necessary and became a part of the first modification to the consultation and cooperation agreement between the DOE and the State in 1984 and in 1987. Reports resulting from these studies are due to arrive throughout 1988 and should be reviewed by EEG before WIPP becomes operational. In addition, the performance assessment reports that determine WIPP's compliance with the EPA standards will be issued by DOE during the next 4 to 5 years. Most recently, the National Academy of Sciences issued a report on the potential problem of brine seepage at the WIPP facility. The NAS findings and recommendations tracked closely with those made previously by EEG. Clearly, the importance of having an independent evaluation capability in the State cannot be questioned.

The legislation I introduce today will preserve the independence of the organization known as EEG. My bill reestablished the EEG as a truly independent organization and provides specific administrative and management guidance. The new EEG will be viewed as the primary source of technical information on WIPP and this information will be available to all branches of State government and the congressional delegation.

I hope this legislation will restore confidence among the citizens of New Mexico who are concerned there may be no independent evaluation of the activities at WIPP.

I urge my colleagues to support his legislation.

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. MOYNIHAN, the names of the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 123

At the request of Mr. INOUYE, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 123, a bill to amend title XVIII of the Social Security Act to provide that psychologist services are covered under part B of Medicare.

S. 533

At the request of Mr. THURMOND, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 675

At the request of Mr. MITCHELL, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

S. 698

At the request of Mr. THURMOND, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 698, a bill to amend title 17, United States Code, to prohibit the conveyance of the right to perform publicly syndicated television programs without conveying the right to perform accompanying music.

S. 921

At the request of Mr. WILSON, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 921, a bill to warn certain consumers in connection with the purchase of a Medicare supplemental policy.

S. 1469

At the request of Mr. BOSCHWITZ, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1469, a bill to amend title VII of the Social Security Act to restrict the use of "Social Security" or "Social Security Administration" on goods not connected with such Administration.

S. 1474

At the request of Mr. BRADLEY, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 1474, a bill to require that any United States Government support for military or paramilitary operations in Angola be openly acknowledged and publicly debated.

S. 1727

At the request of Mr. HARKIN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1727, a bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

S. 1817

At the request of Mr. KENNEDY, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an eduational institution as payment for tuition and fees.

S. 1897

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1897, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Inc.

S. 1940

At the request of Mr. MOYNIHAN, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1940, a bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items.

S. 2003

At the request of Mr. GRAMM, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2003, a bill to amend the Internal Revenue Code of 1986 to exempt from tax diesel fuel used for farming purposes.

S. 2033

At the request of Mr. THURMOND, the names of the Senator from Pennsylvania [Mr. HEINZ], the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Montana [Mr. MELCHER] were added as cosponsors of S. 2033, a bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes.

S. 2036

At the request of Mr. THURMOND, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 2036, a bill to redefine "extortion" for purposes of the Hobbs Act.

S. 2042

At the request of Mr. DURENBERGER, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2087

At the request of Mr. BRADLEY, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2087, a bill to suspend until January 1, 1991, the duty of Iohexol.

S. 2098

At the request of Mr. HOLLINGS, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 2099

At the request of Mr. SYMMS, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 2099, a bill to amend the Internal Revenue Code of 1986 to permit taxpayers to elect to pay tax shown on return in installments and to authorize the Secretary to enter into installments agreements.

S. 2142

At the request of Mr. HARKIN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2142, a bill to establish a National Mars Commission, and for other purposes.

S. 2152

At the request of Mr. NICKLES, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 2152, a bill to increase the authority to transfer unobligated balances between certain accounts of the Department of Defense in order to meet increased military personnel costs resulting from fluctuations in foreign currency exchange rates, and for other purposes.

S. 2166

At the request of Mr. WARNER, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2166, a bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel use in the mining process.

S. 2176

At the request of Mr. Dixon, the names of the Senator from Hawaii [Mr. Inouye], the Senator from Rhode Island [Mr. Pell], and the Senator from Mississippi [Mr. Stennis] were added as cosponsors of S. 2176, a bill to amend the Internal Revenue Code of 1986 to permit the tax-free purchase of motor fuels by individuals who are exempt from paying the motor fuels excise tax, and for other purposes.

S. 2206

At the request of Mr. D'Amato, the name of the Senator from Texas [Mr. Gramm] was added as a cosponsor of S. 2206, a bill to amend the Controlled Substances Act to provide for the imposition of the death penalty for the intentional killing of a law enforcement officer and for certain continuing criminal enterprise drug offenses.

S. 2210

At the request of Mr. Gramm, the names of the Senator from Alabama [Mr. Heflin], the Senator from California [Mr. Wilson], the Senator from Alabama [Mr. Shelby], and the Senator from North Dakota [Mr. Burdick] were added as cosponsors of S. 2210, a bill to amend the Revenue Act of 1987 to delay until October 1, 1988, the imposition of the tax on diesel and aviation fuels at the wholesale level.

SENATE JOINT RESOLUTION 37

At the request of Mr. Hatch, the name of the Senator from Arizona [Mr. DeConcini] was added as a cosponsor of Senate Joint Resolution 37, joint resolution proposing an amendment to the Constitution of the United States relating to voluntary silent prayer or reflection.

SENATE JOINT RESOLUTION 226

At the request of Mr. DeConcini, the name of the Senator from Texas [Mr. Bentsen] was added as a cosponsor of Senate Joint Resolution 226, joint resolution to designate the week of May 8, 1988, through May 14, 1988, as "National Soccer Week."

SENATE JOINT RESOLUTION 266

At the request of Mr. Symms, the names of the Senator from New Mexico [Mr. Domenici], the Senator from North Carolina [Mr. Sanford], the Senator from Alabama [Mr. Shelby], and the Senator from Minnesota [Mr. Boschwitz] were added as cosponsors of Senate Joint Resolution 266, joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE CONCURRENT RESOLUTION 110—AUTHORIZING TECHNICAL CORRECTIONS IN THE ENROLLMENT OF S. 854

Mr. BYRD submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 110

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 854) Nevada-Florida Land Exchange Authorization Act of 1988, the Secretary of the Senate shall make the following corrections:

(1) In subsection (c) of section 5, strike "International Power Project" and insert in lieu thereof: "Intermountain Power Project".

(2) In subsection (g)(2) of section 5, after "Secretary under" insert: "any".

SENATE RESOLUTION 401—RELATIVE TO THE DEATH OF THE HONORABLE JAMES J. HOWARD, A REPRESENTATIVE FROM THE STATE OF NEW JERSEY

Mr. BYRD (for Mr. Bradley, for himself, Mr. Lautenberg, Mr. Simpson, and Mr. Byrd) submitted the following resolution; which was considered and agreed to:

S. Res. 401

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable James J. Howard, late a Representative from the State of New Jersey.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

AMENDMENTS SUBMITTED

HIGH-RISK DISEASE NOTIFICATION AND PREVENTION ACT

QUAYLE AMENDMENTS NOS. 1895 THROUGH 1899

(Ordered to lie on the table.)

Mr. QUAYLE submitted five amendments intended to be proposed by him to the bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes; as follows:

Amendment No. 1895

Add at the end:

"Notwithstanding any other provisions of this Act, all actions of the Risk Assessment Board and of the Secretary and the Secretary of Labor shall be subject to the provisions of the Administrative Procedure Act. (Title 5 U.S.C. Sections 551 to 559 and 701 to 706)

Amendment No. 1896

Add at the end:

"Notwithstanding any other provisions of this Act, no population at risk shall be notified unless members of that population have been exposed to an occupational health hazard at concentrations and durations of exposure comparable to those referred to in section 3(8)."

Amendment No. 1897

Add at the end:

"Notwithstanding any other provisions of this Act, no population shall be considered at risk unless there is a reasonable probability from clinical or epidemiologic evidence (conducted, analyzed and interpreted in accordance with established scientific principles) that chronic health effects have occurred in individuals exposed to a chemical, physical or biologic agent and that the health effects are causally associated with such exposure."

Amendment No. 1898

Add at the end:

"Notwithstanding any other provision of this Act, no population at risk shall be notified unless such population may derive a health benefit from such notification."

Amendment No. 1899

Add at the end:

"Notwithstanding any other provisions of this Act, all actions of the Risk Assessment Board shall be subject to review and approval by the Secretary."

METZENBAUM AMENDMENT NO. 1900

Mr. METZENBAUM proposed an amendment to the bill S. 79, supra; as follows:

In the Committee substitute as modified, on page 81, line 26, strike "person." and in lieu thereof insert the following: "person.

Sec. 17. Information for Health and Safety Workers.—Within 120 days after the date of enactment of this act, the Secretary of Health and Human Services shall develop and implement a program to distribute information and educational materials to all health workers, public safety workers, and emergency service workers concerning modes of transmission of the human immunodeficiency virus. This program shall include a plan to provide notification to all health workers, public safety workers, and emergency service workers concerning methods to reduce in the workplace the risk of becoming infected with the human immunodeficiency virus. The information distributed shall be based on guidelines issued by the Directors of the Centers for Disease Control. Funds appropriated to the Department of Health and Human Services for AIDS prevention programs and activities shall be used to carry out the program described in this section. No funds authorized to be appropriated under this act shall be used to carry out the program described in this section.

CRANSTON (AND KENNEDY) AMENDMENT NO. 1901

Mr. CRANSTON (for himself and Mr. Kennedy) proposed an amendment to the amendment No. 1900 to the bill S. 79, supra; as follows:

In the pending amendment, delete "120" and in lieu thereof insert "90".

KENNEDY AMENDMENT NO. 1902

(Ordered to lie on the table.)

Mr. KENNEDY submitted a motion intended to be proposed by him to recommit the bill S. 79 with instructions that it be reported back forthwith with an amendment; as follows:

The Committee reports the bill back to the Senate forthwith with the committee substitute in status quo and with the following amendment, at the end of Section 12 insert the following new subsection:

"(c) LIMITATION.—This section shall not be effective unless or until within 120 days after enactment of this Act, the Secretary of Health and Human Services shall develop and implement a program to distribute information and educational materials to all health workers, public safety workers, and emergency service workers concerning modes of transmission of the human immunodeficiency virus. This program shall include a plan to provide notification to all health workers, public safety workers, and emergency service workers concerning methods to reduce in the workplace the risk of becoming infected with the human immunodeficiency virus. The information distributed shall be based on guidelines issued by the the Directors of the Centers for Disease Control. Funds appropriated to the Department of Health and Human Services for AIDS prevention programs and activities shall be used to carry out the program described in this subsection (c). No funds authorized to be appropriated under this act shall be used to carry out the program described in this subsection (c)."

KENNEDY AMENDMENT NO. 1903

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to amendment No. 1902 proposed by him to the bill S. 79, supra; as follows:

In the matter proposed to be inserted strike "(c) LIMITATION." and all that follows through the end of the paragraph and insert in lieu thereof the following:

(c) LIMITATION.—This section shall not be effective unless or until within 105 days after enactment of this Act, the Secretary of Health and Human Services shall develop and implement a program to distribute information and educational materials to all health workers, public safety workers, and emergency service workers concerning modes of transmission of the human immunodeficiency virus. This program shall include a plan to provide notification to all health workers, public safety workers, and emergency service workers concerning methods to reduce in the workplace the risk of becoming infected with the human immunodeficiency virus. The information distributed shall be based on guidelines issued by the Directors of the Centers for Disease Control. Funds appropriated to the Department of Health and Human Services for AIDS prevention programs and activities shall be used to carry out the program described in this subsection (c). No funds authorized to be appropriated under this act shall be used to carry out the program described in this subsection (c).

KENNEDY AMENDMENT NO. 1904

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to amendment No. 1903 proposed by him to the motion to recommit with instructions (amendment No. 1902) to the bill S. 79, supra; as follows:

In the pending amendment to the motion to recommit with instructions strike "105" and in lieu thereof insert "90".

WATER RESOURCES DEVELOPMENT ACT

LAUTENBERG AMENDMENT NO. 1905

(Ordered referred to the Committee on Environment and Public Works.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill (S. 2100) to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; as follows:

At the end of the bill, add the following:

SEC. 304. Section 211 of the Water Resources Development Act of 1986 is amended—

(1) by designating subsections (d)-(g) as subsections (e)-(h); and

(2) by inserting the following new subsection.

"(d) DESIGNATION PLAN.—Not later than 120 days after the date of enactment of the Water Resources Development Act of 1988, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation in the House of Representatives his plan for designating one or more sites under subsection (a). The plan shall specify the actions necessary to comply with subsection (a), the funding requirements associated with these actions and the dates by which the Administrator expects to complete each of these actions. The plan also shall specify actions which the Administrator may be able to take to expedite the designation of any sites under subsection (a).".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration and the Subcommittee on Federal Services, Post Office, and Civil Service of the Committee on Governmental Affairs will hold a joint hearing on Wednesday, April 13, 1988, at 9 a.m., in SR-301, Russell Senate Office Building, to receive testimony on S. 1947. This bill would authorize the acquisition of the "Old City Post Office" in the District of Columbia by the Architect of the Capitol.

Members of Congress and governmental agencies interested in testifying or submitting a statement for the hearing record are requested to contact Jack Sousa, chief counsel of the Rules Committee, on 224-5648.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the public that the oversight hearing on the Department of Energy's fiscal year 1989 budget request for Uranium Enrichment Program, and the need for restructuring of the enrichment enterprise has been canceled.

The hearing was originally scheduled for March 31, 1988 at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

This hearing will be rescheduled at a later date. For further information, please contact Teri Curtin or Cheryl Moss at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, March 28, 1988, to receive testimony concerning the Department of Energy's fiscal year 1989 budget request for civilian nuclear radioactive waste activities and the Department's plans to implement the amendments to the Nuclear Waste Program enacted by Public Law 100-203.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 28, 1988, to hold a hearing on the following nominations to positions at the Department of Transportation: Edward R. Hamberger, of Maryland, to be Assistant Secretary for Governmental Affairs; and Robert L. Pettit, of the District of Columbia, to be Associate Deputy Secretary.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, March 28, to hold hearings on proposed legislation relating to the elevation of the Veterans' Administration to Cabinet status.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Readiness, Sustainability and Support of the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 28, 1988, in open/closed session to receive testimony on Army and Air Force ammunition programs in review of the amended fiscal year 1989 Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Conventional Forces and Alliance Defense of the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 28, 1988.

In open session to receive testimony on budgeted and unbudgeted alternatives for improving conventional defenses in NATO, including air defenses, and in review of the amended fiscal year 1989 Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Taxation and Debt Management of the Committee on Finance be authorized to meet during the session of the Senate on March 28, 1988, to hold a hearing on expiring tax provisions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BRADY KEYS—BLACK PIONEER

● Mr. FOWLER. Mr. President, in these times, with the significant troubles that face black youths in many of our communities across the country, there is nothing we need as much as positive role models. We need to show those youngsters who believe there is no escape from the vicious cycle of drugs and violence, that there is a way out, that they can become productive and respected citizens in their communities.

Brady Keys achieved the dream of many young people. He made it as an all-pro cornerback for the Pittsburgh Steelers, going for an entire season without a touchdown pass thrown against him. But Brady Keys went on to show that there is success for blacks beyond sports.

After his playing days, he settled in Albany, GA, where he started a successful fried chicken franchising business which made him a millionaire. He became the first black national franchiser, helping open the door for other black Americans to get their start and excel in business. Today he is Burger King's leading minority franchiser.

Brady Keys, Jr., was born May 19, 1937, in a ghetto of Austin, TX. He was the only child of A.C. and Brady Keys, Sr., who were divorced when young Brady was an infant. But he was not deterred by circumstances. He decided at an early age what he wanted out of life, declaring at age 8 that he would be a professional athlete and a successful businessman. Through his accomplishments, he has demonstrated the importance of setting goals, and proven to young people attempting to rise out of poverty that they can be achieved.

Still, if he were nothing more than a successful businessman, that would not be so remarkable. What is noteworthy is what he has put back into the community he made his home.

On February 12, 1987, the Albany Museum of Art held a 20-year anniversary tribute to Brady Keys, Jr.—at which the young people of Albany followed through on the example he has set for the community, presenting plays on drugs, teen pregnancy, abortion, AIDS, and other important problems and decisions facing our young people.

Brady Keys has set high standards through his efforts at promoting education on these subjects, and by his own personal example. He has also reached out to solve the problems of others through his generous support of charitable organizations such as the March of Dimes.

As Art Rooney, owner of the Pittsburgh Steelers, said of Keys, "Today Brady Keys has become a successful businessman, a recognized leader not only in the black community, but in the entire community, period."●

SOME ADVICE TO CONGRESS FROM A FED-UP TAXPAYER

● Mr. HELMS. Mr. President, I sense that Members of Congress, both House and Senate, may at long last gain an understanding of the mood of the American people regarding the big-spending practices that have prevailed in Washington during the past generation. No amount of sophistry is hereafter likely to fool an increasing number of citizens into believing that there is any sensible alternative to cutting down the size and scope of the Federal Government.

A decade ago, an ultraliberal editor in my hometown of Raleigh imagined that he could harm me politically and otherwise by sarcastically referring to me as "Senator No." He complained that I always voted "no" on what he regarded as essential legislation—that is, the big spending appropriations bills providing funds for the Federal bureaucratic programs he loves so much.

My response to Mr. Claude Sitton, editor of the Raleigh (NC) News and Observer, was that I believed the people of North Carolina sent me to Washington in the first place to vote "no" on Federal waste and extravagance, excessive Federal controls, and so forth. If anybody wanted to call me "Senator No"—then, fine. I was proud of the nickname, and I am now well into my third term in the Senate.

By the way, Mr. President, Editor Sitton has attracted a nickname for himself. Because of his vicious attacks on President Reagan and every other conservative in sight, many North Carolinians now refer to him as C.A.—Character Assassin—Sitton. It's a pretty good political and philosophical dialog between Mr. Sitton and those whom he criticizes so harshly.

The other day, Mr. President, I received a letter from James F. Welborn of Fort Myers, FL. Jim Welborn is a longtime friend with many ties to North Carolina. He sent me an "open letter" to Members of Congress. I feel his comments are worthy of being printed in the RECORD inasmuch as they reflect the feelings of hundreds of people who are writing to me daily along the same lines.

Therefore Mr. President, I ask that Jim Welborn's letter appear in the RECORD.

The letter follows:

MARCH 21, 1988.

Re "The Budget—American's Billion Dollar Shame".

Hon. MEMBERS OF CONGRESS,
Washington, DC.

DEAR SIRS: I have just read the "Reader's Digest" article quoted above. You cannot spend $1.58 for $1.00 of increased income and cure your deficit. Your spendthrift ways are bankrupting the United States. Your devious schemes to circumvent the Constitution of the United States, so that you may spend, spend, and spend, while telling the taxpayers you are cutting the budget, is now exposed to the world.

I cannot understand members of Congress who seem to have never heard of the Monroe Doctrine, and who have such little sense of responsibility to the taxpayers that they would scheme to deceive the public in such a deliberate manner. If I believed that, "mountains are low, valleys high, and that crocodiles sting and elephants fly", then I would believe in the deficit. It looks as if Congress is running the biggest can game in the world.

Why not try a little honesty? Repeal the "Congressional Budget and Impoundment Control Act" of 1974, and quit lumping everything together into one thousand page bills, and stop your damn spending!

"For want of a nail, the shoe was lost." For want of a return to constitutional procedures, the Country will be lost.

We stand at the crossroads of our civilization. If we do not cure our deficit, we risk our future of leading the world to a brighter and better tomorrow.

Sincerely,

JAMES F. WELBORN.

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Ms. Carrie McMillan, a member of the staff of Senator HATFIELD, to participate in a program in the People's Republic of China organized by the United States-China Friendship Program, from April 1-13, 1988.

The committee has determined that participation by Ms. McMillan in the program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs, in conjunction with the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Andrew Hyde, a member of the staff of Senator WARNER, to participate in a program in Korea sponsored by the Ilhae Institute, from April 1-10, 1988.

The committee has determined that participation by Mr. Hyde in the program in Korea, at the expense of the Ilhae Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Tom Lawton, a member of the staff of Senator SANFORD, to participate in a program in the People's Republic of China organized by the United States-China Friendship Program, from April 1-11, 1988.

The committee has determined that participation by Mr. Lawton in the program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs, in conjunction with the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Tom Bauer, a member of the staff of Senator SIMPSON, to participate in a program in the People's Republic of China organized by the United States-China Friendship Program, from April 1-12, 1988.

The committee has determined that participation by Mr. Bauer in the program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs, in conjunction with the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Robert M. Rozen, a member of the staff of Senator MITCHELL, to participate in a program in the People's Republic of China organized by the United States-China Friendship Program, from April 1-13, 1988.

The committee has determined that participation by Mr. Rozen in the program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs, in conjunction with the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Baker Spring, a member of the staff of Senator KARNES, who participated in a program in Iraq sponsored by the National Council of United States-Arab Relations, from January 11-19, 1988.

The committee has determined that participation by Mr. Spring in the program in Iraq, sponsored by the National Council of United States-Arab Relations, is in the interest of the Senate and the United States.

The select committee has received a request for a determinaton under rule 35, for Mr. Keith Smith, a member of the staff of Senator McCONNELL, to participate in a program in Korea sponsored by the Ilhae Institute, from April 1-10, 1988.

The committee has determined that participation by Mr. Smith in the program in Korea, at the expense of the Ilhae Institute, is in the interest of the Senate and the United States.

JAPAN DECIDES TOSHIBA VIOLATIONS UNIMPORTANT

● Mr. DECONCINI. Mr. President, last year I was an original cosponsor of legislation introduced by Senator GARN regarding Toshiba's sensitive technology violation in selling military equipment for submarine propellers to the Soviet Union. I need not remind my colleagues about this issue, for it will require millions of dollars for the United States to protect our submarines from quieter Soviet subs and assure the safety of our sailors. The outcry on Capitol Hill echoed loudly in Japan. It appeared that the initial reactions of the Japanese Prime Minister, Toshiba, and the Japanese Diet would deliver swift and prudent punishment for this obvious security violation.

Mr. President, yesterday an article appeared in the Washington Post which reported that a Tokyo judge has found Toshiba Machine Co. guilty of illegally trading with the Soviets. You might inquire; what type of justice was handed down by the Japanese court? You might be curious as to know what the punishment would be for helping the Soviets build clandestine submarines? The verdict handed down was a fine of $15,000 for Toshiba and suspended jail sentences for both of the Japanese executives previously charged in this case.

What kind of message does this "purported justice" send across the Pacific Ocean to the United States? Toshiba, which made $17 billion in annual sales last fiscal year, will be able to write off a $15,000 fine as if it were a parking ticket. Coming at a time of increased trade tensions and particularly when the trade conferees are deliberating the Toshiba legislation, it appears that the Japanese are once again relying on American good will.

Mr. President, I believe that the pending legislation in the trade conference should focus on tightening up the rules and regulations in Cocom and prevent Japan from threatening the security of the West in the future. While there are certain exceptions in the Senate version of the bill for future spare parts, sole sources, and contracts already signed or critical to United States production, we must also send a signal to the Japanese that justice has been achieved. Preventing future violations also entails discouraging Japanese business from doing this identical thing in the future. Penalties, fines, and jail sentences are a part of the solution. So far, Japan has not evidently heard about United States concern and disappointment with the violation itself and now with the judicial decision.

Japan is depending on the past precedent of United States apathy on trade that has allowed a $60 billion United States deficit to buildup between our two nations. Similar U.S. apathy will allow the trade conferees to agree to meaningless House language on Toshiba rather than the stronger Senate language. I urge the conferees to support U.S. resolve and commitment to address the preventive aspects of the Senate language and encourage the ensuing benefits for Western security.

I ask that a copy of the article in the Washington Post appear in the RECORD.

The article follows:

[From the Washington Post, Mar. 23, 1988]

JAPANESE JUDGE FINES TOSHIBA UNIT $15,000 FOR SELLING EQUIPMENT TO SOVIETS

(By Fred Hiatt)

TOKYO, March 22.—A Tokyo judge today found Toshiba Machine Co. guilty of illegally trading with the Soviet Union and fined it $15,000, while handing down suspended jail sentences to two of its executives.

The company was convicted of selling sophisticated milling machines to the Soviet Union beginning in 1982, which allegedly allowed it to build stealthier submarines. The case soured U.S.-Japan relations when it came to light last year, and Congress is still considering punitive legislation against Toshiba Machine Co. or its parent firm, the giant Toshiba Corp.

With an eye toward congressional reaction, Japanese officials today defended the sentence as sufficiently severe to send a message to other Japanese businesses. They acknowledged that Toshiba, with $17 billion in annual sales in its last fiscal year, will have no trouble paying the fine, but they said Reagan administrative sanctions and social disgrace have seriously punished the company.

They also said the two executives, given suspended terms of one year in one case and 10 months in the other, would suffer from disgrace and the end of their careers.

"I'm sure there will be some people who will be disappointed that nobody went to jail and the penalties weren't more severe," said one sympathetic western diplomat in Tokyo. "But the focus will be on preventive measures for the future, and in that area Japan has done a great deal."

[In Washington, Rep. John Dingell (D-Mich.) expressed "outrage" at the verdict and sentence. "The verdict says that crime pays. Toshiba made millions in profits from the sale to the Soviets, yet the fine is equal to the price of a single Toyota." He said the matter must be dealt with in the trade bill before a conference committee and that his subcommittee on oversight and investigations will look into the issue of technology sales to the Soviets.]

Toshiba was accused of selling four computer-controlled machines to the Soviet Union for 5.6 billion yen, or about $23 million at exchange rates at the time. Two Japanese trading companies and a Norwegian arms manufacturer also played a role in the sales.

Intelligence sources in the United States said the machines allowed the Soviet Union to manufacture smoother propeller blades for submarines, making the vessels quieter and more difficult to track.

After the sales became public, provoking outrage in the United States, then-prime minister Yasuhiro Nakasone condemned Toshiba Machine Co. for "committing a crime of betrayal against the Japanese people." Four top Toshiba executives resigned, two lower-ranking officials were arrested, and Toshiba Machine Co. was barred from trading with communist nations for one year, which one official estimated would cost the company $36 million in lost sales.

Coming at a time of increasing trade tension between Japan and the United States, the sale caused the Japanese to worry about their image in the United States. A ruling party committee expressed concern that Washington would suspect Japan of "pursuing economic benefits at the cost of the security of the West."

But many Japanese also contended that racism played a part in Congress's angry reaction to Toshiba's action, compared with a calmer attitude toward the Norwegian firm involved.

Judge Toshio Yonezawa said today that "there was too much of a profit-first rule" in the Toshiba subsidiary's behavior. "They neglected the rules and morals of international society."

The judge also found that Toshiba's top executives knew the exports violated Japanese and western alliance regulations but proceeded anyway, falsifying invoices to deceive government inspectors.

The judge sentenced Ryuzo Hayashi, 53, ex-manager of the casting division at the factory where the machines were produced, to one year in jail, and Hiroaki Tanimura, 51, former deputy section chief of the plant's machine tool division, to 10 months. Both sentences were suspended.

The sentences were suspended in part because the men were acting under orders or with the consent of higher executives, the judge said. No one else has been charged in the case.●

UMATILLA BASIN PROJECT—AGENCY SUPPORT

● Mr. HATFIELD. Mr. President, earlier in this Congress I introduced S. 1613, the Umatilla Basin Project Act. This legislation, if enacted, would settle a longstanding water distribution controversy between the agriculture interests in the Umatilla River basin and the Confederated Tribes of the Umatilla Indian Reservation. The conflict was initiated at the turn of the century when the Department of Interior began an irrigation project in the Umatilla River basin. That project strained the area's water resources, and severely reduced the salmon and steelhead runs in the Umatilla River which were guaranteed to the Umatilla Indians by the Federal Government in 1855.

On February 12, 1988, the Department of the Interior released its planning report/final environmental statement on the Umatilla basin project. I do not recall any water project proposal which has ever received the extraordinary support by fish and wildlife and other interests as was demonstrated during the review process for that document. The following are some of the supportive comments that were made by various Federal agencies in response to the planning report/draft environmental statement for the Umatilla basin project.

The Assistant Area Director for the Bureau of Indian Affairs recommends "implementation of the Columbia River pumping plan as the least-cost means of substantially addressing the Federal Government's obligations" to the tribes, and goes on to cite "the unprecedented cooperation between tribal and nontribal interests" in formulating the recommended plan.

The Regional Director of the U.S. Fish and Wildlife Service in Portland, OR, recommends "that the preferred plan be authorized for construction, and funding be provided for the necessary advanced planning and detailed design work needed before construction can begin." This is indeed unusual praise from our Nation's preeminent fish and wildlife agency in commenting upon a proposed water resources development project.

The Division Chief of the National Marine Fisheries Service, Portland, OR, comments on the plan: "We are pleased that this fishery restoration effort has culminated in the plan of action displayed here."

The Seattle office of the Environmental Protection Agency states that: "The recommended plan will result in significant environmental benefits * * *. We commend the Bureau of Reclamation's efforts to reach a creative solution to a difficult set of problems."

Furthermore, the recommended plan is supported strongly by the Oregon State Department of Fish and Wildlife, the supervisor of the Umatilla National Forest, the Oregon Department of Land Conservation and Development, and other organizations. The recommended plan also engenders a rare mix of support from environmental as well as developmental organizations. Such diverse groups as the Tri-State Steelheaders and local chambers of commerce all support authorization and construction of the proposed Umatilla basin project.

Mr. President, I ask that copies of the letters of some of the aforementioned organizations, which are included in the planning report/final environmental statement for the Umatilla basin project, be printed in the RECORD.

The letters follow:

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Portland, OR.

MEMORANDUM

Date: October 30, 1986.

To: Bureau of Reclamation, Washington, D.C.

Attention: Commissioner.

From: Assistant Area Director, Program Services.

Subject: Review of Proposed Planning Report/Draft Environmental Statement—Umatilla Basin Project, Oregon (DES 86/32).

As requested we have reviewed the subject statement and offer the following comments. These comments are being offered on a technical assistance basis only and do not necessarily represent the position of the Secretary of the Interior.

GENERAL COMMENTS

We recommend implementation of the Columbia River Pumping Plan as the least-cost means of substantially addressing the Federal Government's obligations under the Tribes' treaty reserved rights to fish. In addition, through continuing investigation, the project would lay the foundation for addressing other critical tribal and nontribal water needs in the basin.

There are enormous economic and political pressures inherent to water management in the Umatilla Basin that threaten to undermine the unprecedented cooperation between tribal and nontribal interests. It is imperative that the Columbia River Pumping Plan be implemented as quickly as possible to alleviate these pressures. Emphasis should be placed on early construction of the small pump complex while finalizing design of the large pump complex and formalizing agreements and institutional arrangements for the overall project.

1. Local Cost Share: the DEIS seems to significantly understate the substantial local cost share. Approximately $15 million of anadromous fish production and passage projects have been approved for funding by the region's ratepayers under the Columbia River Basin Fish and Wildlife Program; about $1.7 million are in place and another

$5 milion—$6 million of projects are in final design. This investment is equivalent to approximately 40% of the total construction cost of the Columbia River Pumping Plan. Implementation of the Columbia River Pumping Plan coupled with the fish production and passage projects would create conditions suitable for attainment of the major portion of the Confederated Tribes' fishery management objectives in the Umatilla River.

2. Project Energy Costs: In calculating the cost of energy associated with the Umatilla Basin Project the final EIS should take into account: (a) the regional glut of energy for which there is no market; (b) the Pacific Northwest Electric Power Planning and Conservation Act's mandate that fish be given equitable treatment in the operation of the Federal Columbia River Power system, e.g., in the price charged for energy consumed or energy production forgone; (c) the prospect that all energy costs will be paid by the region's ratepayers through the Columbia River Basin Fish and Wildlife Program of the Northwest Power Planning Council.

The 1986 Draft Amendment Document for the Columbia River Basin Fish and Wildlife Program includes a measure (704(a)(17)) for the Bonneville Power Administration to provide power or repayment for operation and maintenance costs associated with provision of power to the Columbia River pumping facilities. The average annual cost of the power requested in the proposed amendment plus the opportunity cost of potential power revenues forgone at the average priority firm rate of 22.3 mills/kwh would represent a direct local cost share of approximately 20%-25% of the total annualized cost of the pumping facilities and appurtenances.

3. Water Exchange Agreements: The DEIS proposes that water exchanges would be consummated among the irrigation districts involved in the exchange, Oregon Department of Fish and Wildlife, Bureau of Reclamation and any others necessary. As the lead Federal Agency involved with these proposed water exchange agreements the Bureau of Reclamation must assume a more aggressive posture regarding exercise of the federal trust responsibility toward the Confederated Tribes' treaty reserved rights to water and fish. The Bureau of Reclamation must resist any tendency to view the Tribes as just another user group.

4. Tribal Role in Project Operations: The DEIS is virtually silent on the role of the Confederated Tribes in project operations. If for no other reason than that the project is being advanced to address treaty-reserved rights, the Tribes would necessarily have a major role in devising and monitoring project operational regimes.

Years of trial and error in manipulating project flows and timing of fish runs will be required to obtain optimum project results. Once a broad management framework is established, annual management regimes will be required. In years of low runoff, these annual management regimes will be critical and potentially contentious. In all cases, real-time, hands on tribal involvement will be required.

The final EIS should recognize the requirement of an operational infrastructure that includes the Bureau of Reclamation, the Confederated Tribes, Oregon Department of Fish and Wildlife, Oregon Department of Water Resources and appropriate irrigation interests. The need for project funds to support tribal involvement should be clearly provided for.

SPECIFIC COMMENTS

5. Background and Summary page 3 paragraphs #3 and #4: It should be made explicit that while the Columbia River Pumping/Meacham Dam option was the most desirable, the Confederated Tribes, Oregon Department of Fish and Wildlife and irrigators agreed that the Columbia River Pumping Plan by itself was the pragmatic, least-cost alternative.

6. Page 5 paragraph #3: The Bureau of Reclamation must assume a more aggressive posture regarding exercise of the federal trust responsibility toward the Confederated Tribes' treaty reserved rights to water when consummating agreements for the exchange of Columbia River water for Umatilla River water to insure adequate flows for anadromous fish.

7. Page 5 paragraph #4: An operational infrastructure that includes the Bureau of Reclamation, Confederated Tribes, Oregon Department of Fish and Wildlife, Oregon Department of Water Resources and appropriate irrigation interests will be required. Project funds to support tribal involvement should be clearly provided.

8. Page 6 paragraph #2: The exercise of the Prior/Brown/Teel irrigation water permits represents the potential for serious confrontation between tribal and nontribal interests even with the construction of the Columbia River Pumping Plan. Constraints on use of these permits are absolutely necessary to avoid any reduction in improvement of anadromous fish passage associated with the project flows.

9. Page 6 paragraphs #4 and #5: The federal obligation to redress impact of a federal irrigation project on treaty-reserved rights of the Confederated Tribes should be explicitly recognized.

10. Page 7 paragraph #2: A reference to approximately $2 million in state and other (non Bureau of Reclamation) federal expenditures in the Umatilla River Basin for fishery enhancement efforts since 1980 should be added. Also the state of Oregon has established minimum stream flows for the Umatilla River and withdrawn the river from further appropriation.

11. Page 7 paragraph #4: The 1986 Draft Amendment Document for the Columbia River Basin Fish and Wildlife Program includes a measure (704 (a) (17)) for the Bonneville Power Administration to provide power or repayment for operation and maintenance costs associated with provision of power to the pumping facilities. It is appropriate that power to run the pumps be provided to help redress damage from power generating operations of the Columbia River Power System. We do not believe Bonneville Power Administration has unlimited discretion in complying with the Fish and Wildlife Program established by the Northwest Power Council.

12. Page 8 paragraph #3: It should be made clear that the Umatilla Basin Project as proposed has two components, the construction of pumping facilities to exchange Columbia River water for Umatilla River water and further study of nonfish water needs. At some point in the future the Confederated Tribes will desire to exercise their treaty reserved right to water for out of stream purposes on the Umatilla Indian Reservation. In addition, the basin's declining ground water resources will seriously impact domestic, municipal, industrial and agricultural water supplies of the non-Indian community. Additional storage of water in the basin will very likely be needed to meet these needs.

13. Page paragraph #5: Implementation of the Columbia River Pumping Plan is the least-cost approach to addressing the Confederate Tribe's treaty reserved rights to water for fishery purposes.

14. Page 9 paragraph #6: The Umatilla Basin Groundwater Task Force Report has been provided to the Governor of Oregon. Reference to this report should be updated as appropriate.

15. Page 11—Major Features: It is our understanding that the West Extension Irrigation Pumping Plant should be sized at 180 cfs not 100 cfs.

16. All fish passage improvements are included in the proposed five year action plan (1986 Draft Amendment Document 1504 (32.12)) under the Columbia River Basin Fish and Wildlife Program. On August 25, 1986 Administrator Jura of the Bonneville Power Administration committed to implement all Umatilla River program measures as included in the Columbia River Basin Fish and Wildlife Program. Costs for these improvements should therefore be deleted from the Umatilla Basin Project costs throughout the DEIS.

17. Page 23: The following points should be added to the list:

1. Provides for substantial tribal and nontribal fishery related economic development;

2. Contributes substantial off-site benefits to the region including freshwater and marine commercial and recreational fisheries;

3. Addresses the federal government's trust responsibility to the Confederated Tribes;

18. Page 25 #9: The state of Oregon established minimum flows in accord with project goals.

Page 25 #10: A reference should be added to the $15 million approved for Umatilla River fishery enhancement projects under the Columbia River Basin Fish and Wildlife Program and the commitment of the Bonneville Power Administration to implement these measures within four to five years.

20. Page 26 #1: Emphasis should be placed on early construction of the West Extension Irrigation District pumps while finalizing design of the larger pump complex and formalizing agreements for the overall project. Such action is necessary to insure that adult fish reach Three-Mile Dam.

21. Page 2-2 paragraph #3: See comments Page 6, Paragraph 2.

22. Page 2-15 paragraph 2 and Table 2-8: The impact on annual operating costs of the Bonneville Power Administration providing power to the pumping facilities under the Columbia River Basin Fish and Wildlife Program (1986 Draft Amendment Document, 704(a)(17)) needs to be discussed.

23. Page 2-26 Project Operation #1 and #2: The discussion should highlight the major cost-savings features of the Columbia River Pumping Plan. It is our understanding that the project will not pump the entire water supply for the Hermiston and Stanfield Irrigation Districts only that amount of water forgone when minimum flows are reached.

24. Page 2-29 Power Costs: See comments Page 2-15, Paragraphs 2 and 3.

25. Page 2-29 Cost Allocation: See comments Page 6, Paragraphs 4 and 5.

26. Page 2-33 paragraph #1: Some flow shortages are forecasted above Three Mile Falls Diversion Dam that could impact migration of spring and fall chinook. The report does not explain why this could occur

since the project purposes is to provde water exchanges to prevent such problems. Conditions could be compounded in low water years with increased irrigation demand. Under these conditions there should be provisions for sharing of water shortages. As it stands the irrigators would receive more water than historically available in a low water year.

27. Page 4-5: See comments page 11—Major Features Table.

28. Page 4-6 Table 4-1: This table should be updated.

29. Page 5-5 paragraph #3: Natural production of fall chinook could be sustained through a major trapping and hauling program, if the fish reach Three-Mile Dam, or preemption of irrigation diversions during critical fish migration periods.

30. Page 7-18 #6: Delete reference to "purchase"; insert obtain and generally rewrite to include alternative actions, e.g., interim use of existing West Extension pumps etc.

31. Page 7-18 paragraph #9: This paragraph and Attachment E should be deleted in light of the commitment of Bonneville Power Administration to implement all Umatilla River measures in the Columbia River Basin Fish and Wildlife Program.

32. Page 7-18 Footnote #1: This footnote should be deleted refer to comments page 11, Major Features Table.

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Portland, OR, November 4, 1986.

MEMORANDUM

To: Regional Director, Pacific Northwest Region, U.S. Bureau of Reclamation, Boise, Idaho.

From: Acting Regional Director, U.S. Fish and Wildlife Service, Portland, Oregon.

Subject: Planning Report/Draft Environmental Statement Umatilla Basin Project, Oregon.

The Fish and Wildlife Service is pleased to provide our comments on the subject Planning Report/Draft Environmental Statement for the Umatilla Basin Project, Oregon. In addition to these comments, the Fish and Wildlife Service has also commented at the public hearing on September 17, 1986, and in a memorandum from the Regional Director, Region 1, dated September 19, 1986 as part of the hearing record for the project. All of these documents constitute the Fish and Wildlife Service's input to the Planning Report/Draft Environmental Statement for this important project. Our input now is divided into general and specific comments.

GENERAL COMMENTS

The Planning Report/Draft Environmental Statement does a good job in documenting the problems and needs in the Umatilla Basin, and the specific accomplishments of the recommended plan in meeting these needs. The recommended plan is a flow enhancement project to restore spring and fall chinook runs and improve steelhead runs in the Umatilla River. Key project features include pumping facilities on the Columbia River, use of storage capability at existing Bureau of Reclamation facilities located at McKay Creek and Cold Springs National Wildlife Refuge, and improved passage and screening facilities at several irrigation diversions.

Both ocean and freshwater recreation and commercial catch of salmon and steelhead would increase as a result of the Umatilla Basin Project. The estimated annual benefit is over $2.2 million. Additionally, fish returning to the Umatilla Basin would help meet the treaty rights reserved by the Confederated Tribes of the Umatilla Indians in an 1855 treaty with the Federal Government. Most importantly, this would occur while the existing consumptive water uses would continue in support of the basin's important agricultural economy. Only minor impacts to resident wildlife would occur temporarily during project construction. More detailed information on the effects of the project were furnished in a 1984 Fish and Wildlife Coordination Act Report on the Umatilla Basin Project. We are pleased to see that the Bureau of Reclamation has adopted the findings of the Fish and Wildlife Coordination Act Report and has concurred in the recommendations of that report. The Umatilla Basin Project would also promote conservation of the bald eagle and this finding has been documented in the Planning Report/Draft Environmental Statement. The Fish and Wildlife Service support for the Umatilla Basin Project assumes that a legally binding agreement will be developed which guarantees that increased flows provided by the project will remain in the Umatilla River to benefit its fishery. We also understand that the Bureau of Reclamation has accepted the recommendations contained in the Fish and Wildlife Coordination Act Report which include provisions to mitigate any impacts to refuge facilities at Cold Springs National Wildlife Refuge and to monitor and adjust project operations to meet fishery restoration goals. In addition, we understand that water pumped from the Columbia River will result in a minor decrease in hydroelectric power production, but will not adversely affect spill needed for downstream passage of fish at McNary Dam.

We recommend that the preferred plan be authorized for construction, and funding be provided for the necessary advanced planning and detailed design work needed before construction can begin. This work should begin as soon as possible because the full benefits of ongoing hatchery and habitat improvement measures of the Oregon Department of Fish and Wildlife, the Umatilla Tribes, and others cannot be realized without the flows provided by the Bureau of Reclamation's project.

SPECIFIC COMMENTS

1. Background and Plan Summary, page 4, 4th paragraph: Here and elsewhere throughout the report, fish benefits are discussed in terms of numbers of adult anadromous fish returning to the Umatilla Basin. Although these numbers are consistent with findings of the Fish and Wildlife Coordination Act Report, the Fish and Wildlife Service is preparing a Planning Aid Memorandum that will update these numbers, based primarily on results of a more recent report completed by the Oregon Department of Fish and Wildlife entitled "Comprehensive Plan for Rehabilitation of Anadromous Fish Stocks in the Umatilla Basin." That report details specific fishery accomplishments of a number of measures, including flow enhancement with the Umatilla Basin Project. The Planning Aid Memorandum will be used by the Bureau of Reclamation as part of its verification memorandum, and will be provided prior to completion of the final Environmental Impact Statement so the new figures can be shown in the final document. These numbers are still being coordinated with the other resource agencies, but are close to those used in the Fish and Wildlife Coordination Act Report, with the total numbers exceeding those now shown in the Planning Report/Draft Environmental Statement.

2. Recommended Plan Summary, page 11: This summary states that the West Extension Irrigation District pump would be used to "possibly supplement water supplies to the district's lands during low flow summer periods." Elsewhere throughout the Planning Report/Draft Environmental Statement, it is stated that no irrigation measures are part of the preferred plan, and only with additional study would any irrigation features be planned for the future. This point should be clarified.

3. Recommended Plan, Prior/Broan/Teel Water Permits, page 2-2: The opportunity to work out a cooperative agreement for these additional permits appears good based on the willingness of all parties to work toward an agreement. However, that agreement should be based on the results of the Bureau of Reclamation's yet-to-be completed, revised hydrology study and other options not yet analyzed for providing fish flows with the project. This agreement should be developed and agreed to during advanced planning and be a part of the overall operational agreement for the project.

4. Upstream Passage Improvements at Existing Diversions, page 2-13: Stanfield Diversion Dam should be added to this section as a structure where modifications are needed to improve upstream passage of adult anadromous fish as part of the project. This was recognized as an area needing improvement in the recent Comprehensive Report completed by Oregon Department of Fish and Wildlife, and will be discussed in greater detail in the Planning Aid Memorandum being prepared by the Fish and Wildlife Service. This change should be made elsewhere throughout the Project Report/Draft Environmental Statement when discussing upstream passage problems and solutions.

5. Post-construction Monitoring Program, page 2-14: The Fish and Wildlife Service and National Marine Fisheries Service should be added as agencies that will cooperate and participate in the monitoring program.

6. Umatilla Project Irrigation District's Goals and Potential Solutions, page 4-22: It is not clear why this section is presented in the Planning Report/Draft Environmental Statement when it is clearly stated that no irrigation function has been developed as part of the recommended, or alternative plans. It is also clear that should the plan be revised and any of these features be added, significant additional planning and coordination would be required and need to be incorporated into a revised Planning Report/Draft Environmental Statement. Unless it is anticipated that some of these features are to be added to the current preferred plan, we suggest this section be dropped from the Planning Report/Draft Environmental Statement.

7. Improvement of Delivery and Distribution Facilities, page 4-24: It is mentioned that Cold Springs National Wildlife Refuge is incompatible with the operation of the pool levels necessary for maximum efficiency of the project, however, there is no documentation of what the problem is. This is particularly interesting since it is noted that the refuge has been in place since 1909 (page 7-27). The specific problem with operation of Cold Springs National Wildlife Refuge should be documented or this should be dropped from further discussion.

8. Common Goals to All District, page 4-24: It is not clear how the districts should participate in any revenue generated by the project when power production is not a part of the project. Does this mean to say that the districts will share in the power needs of the project?

9. Evaluation of Potential Irrigation Measures, page 4-25: We question the likelihood that the addition of a pump-generator facility as the West Extension Irrigation Diversion is a promising future consideration, because of the potential conflicts with restoring anadromous fish in the basin. Again, in light of the statements about the need for additional work should any of these measures be incorporated into the recommended plan (last paragraph), why is this section even being presented in the Planning Report/Draft Environmental Statement?

10. Pump-generator, page 4-27: See comments above. This discussion should also account for possible impacts to anadromous fish with the hydropower operation.

11. Wildlife Mitigation Measures, page 7-30: The features of the project that would be located on Cold Springs National Wildlife Refuge need to be coordinated with the Fish and Wildlife Service to determine their compatibility with refuge operations in accordance with provisions of the National Wildlife Refuge Administration Act.

In summary, we believe the Planning Report/Draft Environmental Statement does a good job in detailing project accomplishments and impacts, and we concur in the recommendations and conclusions as listed on pages 25 and 26.

DAVID F. RILEY.

U.S. DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, NATIONAL MARINE FISHERIES SERVICE,
Portland, OR, October 22, 1986.

Mr. JOHN W. KEYS III,
Acting Regional Director, Pacific Northwest Region, Bureau of Reclamation, Boise, ID.

DEAR MR. KEYS: The National Marine Fisheries Service (NMFS) has reviewed the Planning Report/Draft Environmental Statement (PR/DES) on the Umatilla River Basin, Oregon. We have been cooperators with the Bureau of Reclamation, the other resource agencies and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) for almost eight years in the current planning effort for the Umatilla Basin. We are pleased that this fishery restoration effort has culminated in the plan of action displayed here. Our general and specific comments on the PR/DES follow.

GENERAL COMMENTS

In general, we find the DEIS well written and comprehensive. It became obvious early in the planning effort for the Umatilla Basin Project that the environmental, social and political climates were in a constant state of flux. The forces that affect planning and analysis constantly challenged our staffs to be equitable to the myriad Basin interests yet at the same time remain fixed on the original objective of the study: water management to benefit anadromous fish. This basic concept of water for fish has remained the moving force behind our work to restore salmon and increase steelhead numbers produced in the Umatilla River Basin. A corollary probem that the Umatilla Basin Project seeks to alleviate is inadequate passage for adult and juvenile fish. We remain committed to the idea that both improved flows and passage improvements are needed if the fish production potential of the Umatilla is to be realized.

The Fall of 1986 has brought us to the season when we expect a return of adult upriver bright fall chinook salmon to the Umatilla. We remain hopeful that fish will enter the river in good numbers this year. However, the bulk of the very large Columbia River run has passed the Umatilla at this writing on its way over nearby McNary Dam. There has been on indication of a proportionately large run to the Umatilla River. Adult salmon have not returned in good numbers thus far in spite of channel work completed this year downstream of Three Mile Dam, and pumping to replace irrigation water. For the present, more water seems to be the missing ingredient in the timely upstream migration of fall chinook adults.

Finally, we are pleased that the Bureau has decided to address the issues surrounding the Westland boundary expansion in a separate feasibility report. This will prevent any further delay in planning and implementation of the Umatilla River Basin plan.

SPECIFIC COMMENTS

1. Page 2-2, second paragraph: Natural production estimates for spring chinook should probably be revised to agree with the figure in Oregon Department of Fish and Wildlife's comprehensive plan (700 adults). Also, some increase would be noted in hatchery steelhead returns due to the operation of the preferred plan. This would total an additional 648 steelhead being credited to the project as an accomplishment of increased flow and improved passage conditions.

2. Page 2-25, Table 2-19: Same comment as above.

3. Page 2-31, fifth paragraph, last sentence: This seems to indicate that there are no reimbursable costs to the irrigation districts. If this is so, is it correct to assume that project facilities would remain in Federal ownership?

4. Page 2-36, Table 2-23: Under "Beneficial effects" a figure of $4.85 million is assigned to the CTUIR. The source and derivation of this dollar amount should be identified.

5. Page 2-39, Table 2-25: The $4.85 million discussed above in the NED account appears in the Regional display as well. The complex table presented here has virtually no explanatory text and is very hard to understand or analyze. This information needs considerable development before it will be useful.

6. Page 2-28, Table 2-21: We recommend that a range of pumping costs be displayed based on what Bonneville Power Administration (BPA) may charge the project for the power.

7. Page 2-31, fourth paragraph: This paragraph ends with a discussion of fishery benefits being credited to the Administrator of BPA in exchange for pumping power costs. Please explain the formula used for crediting BPA with fish benefits.

8. Page 7-48, sixth paragraph: In the first sentence we believe the word "decisiveness" should be "derisiveness."

9. Page 7-49, seventh paragraph: We believe the statement about reservoir access is out of place in the discussion of present project area conditions because the preferred plan does not include the reservoir on Meacham Creek.

10. Page 7-65, third paragraph: In the third sentence "implanted" should be changed to "imprinted."

Thank you for the opportunity to comment on the PR/DES.

Sincerely,

DALE R. EVANS,
Division Chief.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Seattle, WA, October 30, 1986.

JOHN W. KEYS III,
Acting Regional Director, Pacific Northwest Region, Bureau of Reclamation, Boise, ID.

DEAR MR. KEYS: The Environmental Protection Agency (EPA) has reviewed the Umatilla Basin Project, Oregon, Planning Report Draft Environmental Statement (DEIS) prepared by your office. Our review was conducted in accordance with the National Environmental Policy Act (NEPA) and our responsibilities under Section 309 of the Clean Air Act. The DEIS describes alternative plans to improve streamflows in the Umatilla River and improve fish passage and screen conditions at some existing irrigation diversions.

The major feature of the Recommended Plan is construction of a pumping facility on the Columbia River which would deliver water to the Umatilla Basin. This water would permit some Umatilla River water now diverted for irrigation to remain in the river for improved flow and water quality. The Alternative Plan would have a similar goal, but includes construction of a dam and reservoir on North Fork Meacham Creek. The No Action alternative is clearly documented as being unacceptable.

The Alternative Plan would address the needs in the Umatilla Basin somewhat better than the Recommended Plan. In particular, the Alternative Plan reduces the number and magnitude of instream flow shortages, includes more stream habitat improvement work, and would allow chinook salmon to exist in the upper Umatilla River and on the Umatilla Indian Reservation itself. However, the Meacham dam and reservoir is estimated to require over $77 million to construct, resulting in an overall estimated cost ($112 million) that is triple that of the Recommended Plan ($37 million).

The Recommended Plan will result in significant environmental benefits. The minimum streamflows adopted by the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the Oregon Department of Fish and Wildlife, and the affected tribes (for the mainstem Umatilla River below Pendleton) will be substantially met, and the number and magnitude of shortages significantly reduced over the present situation. Fish passage and screening improvements will help ensure that the flow improvements will result in increased numbers of returning adults. Monitoring of a fairly significant duration (12 years, or up to three generational cycles of the anadromous fish species) will be performed to identify operational modifications where needed. (We suggest that the final EIS describe the workings of this monitoring program). These benefits will be accomplished without reducing the water historically available for irrigation purposes in the lower Umatilla Basin.

In addition to the positive substantive aspects of the Recommended Plan, the DEIS itself is a comprehensive and well-prepared document. We were particularly pleased with the acknowledgement and serious consideration given to the multiple-use problems of the basin. The thorough job of describing the policies and goals of various entities and agencies, and of the several related efforts to enhance and restore anadromous fish populations in the Columbia River Basin, should serve as a positive model for others engaged in the planning of activities that may affect these resources.

We commend the Bureau of Reclamation's efforts to reach a creative solution to a difficult set of problems.

We have rated the DEIS as LO—Lack of Objections. (An explanation of the EPA rating system the EISs is enclosed for your reference.) This rating and a summary of our comments will be published in the Federal Register.

Thank you for the opportunity to review the DEIS. If there are any questions about our comments, please contact Mr. Brian Ross of our EIS and Energy Review Section at (206) 422-8516 or FTS 399-8516.

Sincerely,

ROBERT S. BURD,
Director, Water Division.

STATE OF OREGON,
DEPARTMENT OF FISH AND WILDLIFE,
Portland, OR.

Re Preliminary Planning Report/Draft Environmental Statement, Umatilla Basin Project, Oregon

Mr. LARRY VINSONHALER,
Regional Planning Officer, Bureau of Reclamation, Boise, ID.

DEAR MR. VINSONHALER: The following comments deal with ODFW concerns regarding fisheries. The Wildlife Division will comment on wildlife concerns in a separate letter.

The Oregon Department of Fish and Wildlife strongly supports implementation of the "Recommended" Columbia River Pumping Plan as the most cost effective means of achieving fishery and tribal goals in the basin. We have the following major concerns which we would like you to address in the Final Environmental Statement.

1. The Draft Environmental Statement (DES) significantly understates project or Umatilla River benefits and National Economic Development (NED) or Columbia Basin benefits. Project benefits should be revised using updated fishery benefits listed in the 1986 tribes and fish and wildlife agencies' "Comprehensive Plan for Rehabilitation or Anadromous Fish Stocks in the Umatilla Basin" (Comprehensive Plan). These updated fishery benefits of the Comprehensive Plan are the most current and accurate estimates available of project benefits to naturally and hatchery produced salmonids in the Umatilla Basin due to increased flows and all other improvements which will be implemented under the Power Planning Council's Program. The large difference in project benefits between the DES and Comprehensive Plan is primarily in hatchery fishery benefits:

TABLE 1.—INCREASED ESCAPEMENT WITH THE RECOMMENDED PLAN

	Draft environmental statement	Comprehensive plan
Fall chinook:		
Natural production	10,688	10,100
Hatchery production	5,000	8,498
Spring chinook:		
Natural production	100	958
Hatchery production	2,500	6,402
Summer steelhead:		
Natural production	600	2,611
Hatchery production	0	2,716
Total	18,888	31,285

2. In the DES, project benefits to hatchery fall and spring chinook are footnoted "escapement indicates Columbia Basin fish that would be redistrubuted into the Umatilla Basin but does not represent an overall net increase to Columbia Basin runs." This is in part correct for NED benefits, however, for project benefits or benefits of the flow project to in-river Umatilla fisheries, all three species of hatchery fish including fall and spring chinook would be benefitted. Increased escapements of fall and spring chinook would result from increased downstream survival of smolts and increased upstream survival of adults to adult collection facilities on reservation land.

3. The DES also needs to emphasize (and if possible quantify) project benefits attributable to the temporal and spatial re-distribution of fall chinook within the Umatilla. Under the CRP Plan, fall chinook will be able to enter the Umatilla mid-September in a "bright" condition, which is highly desirable for Indian and non-Indian fisheries. Because of the earlier entry time, chinook will be susceptible to fisheries longer and catches will increase. Fisheries will also redistribute from the lower river to areas throughout the Umatilla which is also desirable. And, most importantly, chinook will be able to swim naturally to collection facilities on reservation land without artificial transport which satisfies treaty rights of the tribes.

4. National Economic Development benefits should include benefits to naturally produced fish of all species and hatchery spring chinook and summer steelhead since they constitute "new" fish to the Columbia Basin. NED benefits to these species should be based on the Comprehensive Plan's escapements displayed in Table 1. NED benefits should not allow additional benefits of hatchery bright fall chinook to ocean and zone 1-5 fisheries but should show benefits to zone 6 fisheries. We have reprogrammed upper river brights (225,000 yearlings and 3.0 million subyearlings annually) from Bonneville to the Umatilla River. These fish will not contribute additional fish to ocean and zone 1-5 fisheries, but because we are releasing fish at the head of zone 6 in the Umatilla River, they will contribute to zone 6 Indian fisheries as well as Umatilla fisheries as discussed above.

5. In addition, fishery economic values used in the DES are outdated. These values should be updating using recent economic values used by the fish and wildlife agencies in the Columbia Basin. This will increase the project's benefit/cost ratio in over 1:1.

6. The proposed change in water management of McKay Reservoir under the Columbia River Pumping (CRP) Plan may negatively impact the important warmwater fisheries in McKay Reservoir. We recommend conducting a more in-depth study prior to the Final Environmental Statement to fully document project impacts on reservoir fisheries. McKay Reservoir is well known for its crappie and bass fishing and is an important component of angling opportunity in NE Oregon. It is very nearly unique in Oregon in the extent and diversity of terrestrial vegetation in the drawdown zone. The vegetated drawdown zone is allowed to flourish because of suitable soils and the drawdown schedule. We feel, with considerable support in the literature, that the drawdown schedule and vegetated drawdown zone are critical elements in the reservoir's fish production.

7. Table 7-7 (p. 7-9) of the DES shows the proposed changes in reservoir elevations through the year. Three periods need comment. Water levels during April-June would change little under the plan, with a slight increase in June water levels. This is the period of crappie and bass spawning and early rearing; the conditions proposed add stability to reservoir levels and will be beneficial.

8. July-August water levels will be higher under the plan, about 13 feet higher at the end of July and 26 feet by the end of August. Increased pool elevations will diminish the survival of established willows and reduce the development of pioneering willows and annual vegetation. Table 7-19 indicates that that change of 13 feet will inundate 100 acres of formerly exposed bottom. If that acreage is currently vegetated in mid-summer, the loss of habitat and nutrient transfer is considerable and needs a closer examination. Without going to the site and establishing approximate elevations relative to vegetation distribution, we cannot know how much cover will be lost.

9. Water level manipulations at Cold Springs do not appear to pose any particular problem or benefit to the warmwater community. The degree of modification in the drawdown curve appears to be relatively slight. If a 5000 acre-foot minimum pool is maintained as stated in the plan, minor changes in water level through the summer drawndown pale in comparison. Cold Springs has chronically suffered from complete drawdowns to meet irrigation needs, to the extreme detriment of the game fish community. A guaranteed minimum pool would be a welcome change.

10. In summary, we would like to see a more specific evaluation of the proposed July-August water levels relative to existing vegetation stands and effects on fish population. It may well be that a relatively minor adjustment to the drawdown scheme could make the benefits much more probable. The proposed water management will not hamstring the bass and crappie fishery, but resident fish anglers should not have to accept reduced production for lack of a detailed evaluation of alternatives.

11. Flows in June under the CRP Plan fall far short of targeted fishery flows. June is an important month for the upstream migration of spring chinook and for the downstream migration of juveniles of all species. Table 2-10 shows that with Columbia River Pumping, average flows at Echo would be substantially increased (134 to 223 cfs) but targeted fishery flow of 250 cfs would be achieved in only 34% of years. During drought years, flows may impede or cause delay in the upstream migration of spring chinook which would cause serious problems in natural and hatchery production programs and would require additional trucking of adults. Although we are using early-run Carson stock spring chinook in our hatchery broodstock programs, we anticipate that a substantial proportion (25%) of spring chinook will be entering in June. Low flows and concomitant high temperatures in June may reduce production and downstream survival of juveniles, notably naturally and hatchery produced fall chinook. Additional trucking of juveniles would be necessary which would be costly. In subsequent planning, we feel it is important to identify and discuss the constraints and flexibility in operation of the flow project to provide for additional flows in June and other critical migration periods.

Sincerely,

HARRY WAGNER,
Chief of Fisheries.

U.S. Department of Agriculture,
Forest Service, Umatilla National Forest,
Pendleton, OR, September 17, 1986.
Regional Director,
Pacific Northwest Region, Bureau of Reclamation, Boise, ID.

Dear Sir: The Umatilla National Forest's comments on the Bureau of Reclamation's Planning Report-Draft Environmental Statement for the Umatilla Basin Project are as follows:

The Umatilla National Forest supports the Bureau of Reclamation's efforts to restore salmon and increase steelhead populations in the Umatilla Basin.

The Forest is maintaining water quality and riparian vegetation at a high level in the Umatilla Basin in anticipation of adult spring chinook salmon once again returning to the Umatilla Basin and the Umatilla Forest.

Implementation of the Umatilla Basin Project is necessary in order to take full advantage of the present anadromous fish habitat in the basin. The benefits of future habitat improvement projects will be further increased by this project. The Umatilla National Forest plans to complete habitat improvement projects in cooperation with Bonneville Power Administration in the Umatilla Basin during the next five years totaling approximately $500,000.

If you have any questions or need further information, please contact Bill Krantz at (503) 276-3811 Ext. 414.

Sincerely,

James A. Lawrence,
Forest Supervisor.

State of Oregon, Department of Land Conservation and Development,
Salem, OR, August 11, 1986.
Regional Director,
Pacific Northwest Region, Bureau of Reclamation, Boise, ID.

Dear Sir: The Department has reviewed the Planning Report/Draft Environmental Statement (PR/DES) on the Umatilla Project in north-central Oregon. The Department has also contacted the affected local governments in the area. Our review indicates that the draft document is consistent with the comprehensive plans of the affected counties. The Department supports the recommended alternative.

Thank you for the opportunity to review the draft document. Please keep us informed as the project progresses.

Sincerely,

James F. Ross,
Director.●

CAPITAL GAINS: NOT A "TAX BREAK FOR THE RICH"

● Mr. BOSCHWITZ. Mr. President, I rise today to share with my colleagues a letter I just received from a friend of mine, Marianne Kaufmann, of St. Louis Park, MN. As you know, I have for some time now been urging reinstatement of capital gains differential. Under the new tax law, the tax rates on long-term capital gains have increased substantially. When you combine the new law with State income taxes, the results are so much higher they are breathtaking. I firmly believe that such a subtantial increase is unwise.

Many people continue to think that a lower capital gains rate would be a "tax break for the rich"—that it will benefit only the top 1 percent of all taxpayers. Frankly, I think this is a flawed argument. Certainly taxpayers with an adjusted gross income of $100,000 or more account for about 55 percent of all capital gains. But this means 45 percent of these taxpayers fall below the $100,000 income level. Further, what is not mentioned is that this large concentration at the top reflects the temporary movement of taxpayers into the top income brackets in the year they realize a gain. Simply put, the sale of an asset kicks them into a higher tax bracket and distorts there true economic status.

A taxpayer's largest capital gain often comes from the sale of an asset which represents a substantial part of his or her net worth. In many cases, capital assets are sold to finance the taxpayer's retirement.

In Marianne Kaufmann's situation, she had invested the proceeds of her husband's life insurance in mutual funds. In December, the fund made sizable distributions which put her in a higher tax bracket, and she was forced to sell shares to pay her taxes. By selling these shares, she also is forced to pay the high rate on capital gains. Further, because of the downturn in mutual funds, Marianne might consider selling the rest of her shares—but for the high tax she would pay. As Marianne says in her letter, it's a "no-win" situation.

This letter from Marianne Kaufmann points out in stark terms the real world effect of increasing the tax on capital gains—and it isn't just the well-to-do who are paying the price.

Mr. President, I ask that Marianne Kaufmann's letter be included in the Record at this time.

The letter follows:

Dear Senator Boschwitz: I appreciate your effects to get the capital gains tax reinstated. It certainly is not just a special tax break for the "rich."

In my own case, my husband's life insurance lump sum proceeds were placed into mutual funds which were intended to provide income after I reach the age of 65 and no longer have my regular source of income. When the October 19 meltdown occurred, I did not panic but left my funds in place. Of course, they declined in value like most other investments.

However, December brought a most unpleasant shock. The funds made enormous distributions as required by law. In my case it was from 25 to 30 percent of assets. This put me in the highest income bracket and I had to sell a sizable portion of my shares to pay taxes and will have to liquidate further shares to pay for estimated taxes for 1988. The funds have not recovered from their fall, and if further distributions result in the same scenario, there will soon be nothing left of my savings.

I certainly would have been better off to use the funds than find myself in this no-win situation!

Sincerely,

Marianne Kaufmann.●

OMNIBUS ANTI-DRUG ABUSE ACT—S. 2205

● Mr. PRYOR. Mr. President, I am pleased to join with a number of my colleagues in cosponsoring S. 2205, the Omnibus Anti-Drug Abuse Act of 1988. This measure offers a deliberate and comprehensive approach to a problem that threatens to cripple our Nation.

The Omnibus Anti-Drug Abuse Act outlines several initiatives that build on the success of the original anti-drug abuse legislation of 1986, Public Law 99-570. Included in S. 2205 are provisions to:

First, authorize State and local narcotics control grant programs funded at $1.5 billion over the next 3 years, including $250 million next year to directly assist State and local law enforcement agencies;

Second, establish a new international economic incentive grant program funded at $600 million over 3 years, to encourage those countries that are sources of illegal drugs in the United States to destroy at least 40 percent of their illicit drug crop;

Third, increase the fiscal year 1989 budget for alcohol and drug abuse block grants an additional $485 million over last year's appropriation, targetting up to 40 percent of the funds for construction of new and renovation of existing drug treatment facilities;

Fourth, augment funding authorizations for additional drug enforcement personnel, the Drug Enforcement Administration, and operations of the Coast Guard and the Customs Service, as well as other law enforcement bureaus.

Drug abuse in America has become increasingly pervasive, Mr. President; our response to this danger must be swift, yet reasoned—solemn, but hopeful. The Omnibus Anti-Drug Abuse Act of 1988 presents a perfect approach. I urge my colleagues to support this measure.●

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS

● Mr. MURKOWSKI. Mr. President, I wish to take this opportunity to clarify section 15(g) of H.R. 278, the Alaska Native Claims Settlement Act Amendments of 1987. This bill was passed by Congress last December and became Public Law 100-241 when the President signed it on February 3, 1988.

Senator Stevens and I were the sponsors of the legislation which became Public Law 100-241; the so called 1991 amendments. I included section 15(g) in the legislation as part of the Murkowski substitute adopted by the Senate Committee on Energy and Natural Resources in August 1987. The provision has not been substantively changed since then.

Section 15(g) is intended to assist Alaska Native shareholder employment programs by clarifying the applicability of the Civil Rights Act of 1964 to certain business enterprises in which Alaska Native Corporations participate. I now understand that there may be some confusion as to the exact meaning of section 15(g).

Mr. President, section 15(g) was added to the 1991 legislation to make clear that Alaska Native Corporations and corporations, partnerships, joint ventures, trusts, or affiliates in which the native corporation owns at least 25 percentum of the equity are "Indian tribes" for purposes of section 701(b) of the Civil Rights Act of 1964. Section 701(b) provides an exception to the act's requirements for Indian tribes in order to facilitate Indian hiring preference. My intent, and the intent of Congress, in enacting section 15(g) of Public Law 100-241 was to ensure that Alaska Native Corporations and their affiliates are included in the class described as "Indian tribe" and thereby eligible for the exception granted by section 701(b).●

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished leader on the other side of the aisle as to whether or not the nominations under Department of the Interior and Department of Energy have been cleared on his side.

Mr. SIMPSON. Mr. President, those three items, I believe Nos. 571, 572, and 573 have been cleared on this side of the aisle.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

I ask unanimous consent that the Senate go into executive session to consider the aforementioned nominees, that they be considered en bloc, confirmed en bloc, the motion to reconsider en bloc be laid on the table, the President be immediately notified of the confirmation of the nominees, that Senators may insert statements in the Record appropriately, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE INTERIOR

T S Ary, of Oklahoma, to be Director of the Bureau of Mines, Horton, resigned.

DEPARTMENT OF ENERGY

C. Anson Franklin, of Virginia, to be an Assistant Secretary of Energy (Congressional, Intergovernmental and Public Affairs).

Ernest C. Baynard III, of Virginia, to be an Assistant Secretary of Energy (Environment, Safety and Health).

CONFIRMATION OF T S ARY TO BE DIRECTOR, BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

Mr. McCLURE. Mr. President, on March 23, 1988, the Committee on Energy and Natural Resources favorably reported the nomination of T S Ary to be the Director of the Bureau of Mines at the Department of the Interior by a vote of 19 to 0.

Mr. President, I believe that Mr. Ary is eminently qualified for this position. He has had an extended career in the energy field, serving most recently as president of the Minerals Exploration Division of the Kerr-McGee Corp., in Oklahoma City. From 1975 to 1980, he was vice president of Utah Exploration, Inc., and also worked for the Union Carbide Exploration Corp., from 1953 to 1974. His experience includes work as a land manager, exploration manager, and mining engineer.

Mr. Ary has been a member of the advisory committees for the International Atomic Energy Agency, the U.S. State Department Task Force on United Nations Law of the Sea Convention, and the National Strategic Materials and Minerals Program Advisory Committee to the Secretary of the Interior.

After he received his bachelor of science degree in mineral sciences from Stanford University, he took numerous graduate courses in mineral law, land management, mineral tax practices, and business management. Mr. Ary was also a carrier pilot in the U.S. Navy from 1942 to 1947.

Mr. President, I have known T S Ary for many years. I believe his comprehensive professional background and extensive and varied experience make him well qualified for the position of Director of the Bureau of Mines. I urge my colleagues to join me in supporting his confirmation.

CONFIRMATION OF C. ANSON FRANKLIN TO BE ASSISTANT SECRETARY FOR CONGRESSIONAL, INTERGOVERNMENTAL, AND PUBLIC AFFAIRS, DEPARTMENT OF ENERGY

Mr. McCLURE. Mr. President, on March 23, 1988, the Committee on Energy and Natural Resources favorably reported the nomination of C. Anson Franklin to be Assistant Secretary of Energy for Congressional, Intergovernmental, and Public Affairs by a vote of 19 to 0.

Mr. Franklin has an extensive record of public service. He most recently served as principal Deputy Assistant Secretary for Congressional, Intergovernmental, and Public Affairs at the Department of Energy. Prior to this appointment at the Department, he was the Director of Communications. Before coming to DOE, Mr. Franklin served as an Assistant Press Secretary to the President from 1982 to 1985.

A native of Richmond, VA, Mr. Franklin received his B.A. in foreign affairs from the University of Virginia in 1969.

Mr. President, I urge my colleagues to join me in supporting Mr. Franklin's confirmation to this position.

CONFIRMATION OF ERNEST C. BAYNARD III TO BE ASSISTANT SECRETARY OF ENERGY FOR ENVIRONMENT, SAFETY, AND HEALTH

Mr. McCLURE. Mr. President, on March 23, 1988, the Committee on Energy and Natural Resources favorably reported the nomination of Ernest C. Baynard III to be Assistant Secretary for Environment, Safety, and Health at the Department of Energy. The vote was 19 to 0.

Mr. Baynard comes to us from the firm of Newman & Holtzinger where he served as counsel. Previous to this, he held two positions with the Federal Government; from 1983 to 1984 as associate solicitor, Division of Surface Mining at the Department of the Interior, and from 1984 to 1986 as deputy general counsel at the Federal Energy Regulatory Commission. He has also spent many years in the practice of law with emphasis on energy and environment.

Mr. President, I would like to express my support for the confirmation of Mr. Baynard.

ORDER DISCHARGING COMMITTEE

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of the 10 nominations as members of the board of trustees of the Institute of American Indian and Alaskan Native Arts Development sent to the Senate on March 14, 1988, and that these nominations be referred to the Select Committee on Indian Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF POSTPONEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Calendar Order No. 592, H.J. Res. 377, a joint resolution designating March 27, 1988, as "National Black American Inventors Day," be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION OF S. 854

Mr. BYRD. Mr. President, I send to the desk a concurrent resolution and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 110) correcting the enrollment of S. 854, the Nevada-Florida Land Exchange Authorization Act of 1988.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The concurrent resolution (S. Con. Res. 110) correcting S. 854 was considered and agreed to, as follows:

S. Con. Res. 110

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 854) Nevada-Florida Land Exchange Authorization Act of 1988, the Secretary of the Senate shall make the following corrections:

(1) In subsection (c) of section 5, strike "International Power Project" and insert in lieu thereof: "Intermountain Power Project".

(2) In subsection (g)(2) of section 5, after "Secretary under" insert: "any".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEATH OF REPRESENTATIVE JAMES J. HOWARD OF NEW JERSEY

Mr. BYRD. Mr. President, I send to the desk a resolution on behalf of Senators Bradley and Lautenberg and I ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The bill clerk read as follows:

A resolution (S. Res. 401) relative to the death of Representative James J. Howard, of New Jersey.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration. Is there further debate? Hearing none, without objection, the resolution is agreed to.

Mr. SIMPSON. Mr. President, I would ask unanimous consent that my name appear as cosponsor on that resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I make the same request on my behalf.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. Res. 401

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable James J. Howard, late a Representative from the State of New Jersey.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

COMPACT OF FREE ASSOCIATION BETWEEN THE UNITED STATES AND THE GOVERNMENT OF PALAU

Mr. BYRD. Mr. President, I inquire of the distinguished leader on the other side of the aisle, has the Calendar Order No. 598 been cleared on his side?

Mr. SIMPSON. Mr. President, that item of business has been cleared on this side of the aisle.

Mr. BYRD. Mr. President, I thank my good friend. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 598.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The bill clerk read as follows:

A joint resolution (S.J. Res. 231) to authorize the entry into force of the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes.

The Senate proceeded to consider the joint resolution which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the resolving clause and insert in lieu thereof, new language.

Mr. JOHNSTON. Mr. President, passage of Senate Joint Resolution 231 is an historic occasion because it is the final legislative act of this body toward fulfilling a commitment made over 40 years ago. In 1947, when the ravages of war still touched the lives of many people in the islands of the Pacific, the United States was designated the administering authority of the Trust Territory of the Pacific Islands. This trusteeship consisted of those islands formerly held by Japan under mandate of the League of Nations. With the designation of administering authority came the obligation, under article 6 of the trusteeship agreement, to "promote the development of the inhabitants of the trust territory toward * * * the freely expressed wishes of the peoples concerned;".

The peoples of the trust territory have expressed their wishes, and for three of the four governmental entities comprising the trust territory, the United States has fulfilled those wishes. The Commonwealth of the Northern Marianas Islands became part of the United States pursuant to Public Law 94-241, and the Federated States of Micronesia and the Republic of the Marshall Islands became Freely Associated States pursuant to Public Law 99-239.

The people of Palau have expressed their wishes. On August 21, 1987, the Compact of Free Association, as enacted by the U.S. Congress in Public Law 99-658, was approved in a U.N.-observed referendum by a vote of 73 percent. The U.N. visiting mission concluded that "the mission is satisfied that the referendum was conducted fairly and in accordance with the rules, and that the results reflected the freely expressed wishes of the people of Palau."

The purpose of Senate Joint Resolution 231 is to implement the compact as enacted by Congress and approved by the people of Palau. Upon implementation of the compact the United States will meet its final obligation under the trusteeship agreement, and will thereby terminate the agreement.

The language of this resolution has been modified by committee amendment from the language as introduced in two respects. First, section 1 of the resolution has been amended to recognize the possibility that a lawsuit may be filed in Palau challenging the compact approval process in Palau. Second, section 2 of the amendment would amend section 104(e) of Public Law 99-658 regarding the payment of preexisting debts by Palau. There is no need to go into these modifications at length here. I refer my colleagues to the committee's report on Senate Joint Resolution 231—Senate Report 100-307—for a full explanation.

I would like to thank the committee staff and the ranking minority member of the committee, Senator McClure, for the years of effort that have gone into bringing this day of final action on the Trust Territory of the Pacific Islands. I would also like to thank my colleagues on the House side, Mr. Udall, Mr. Lagomarsino, and Mr. de Lugo for their contributions toward building agreement on the compact.

It was not an easy task to forge an agreement between the House, Senate, and administration of our Government, as well as the three branches of government in Palau. I particularly wish to thank Mr. de Lugo, chairman of the House Subcommittee on Insular and International Affairs, who traveled to Palau to impress upon the Palauan leadership the need to maintain the integrity of this agreement. His efforts have paid off and the agreement remains intact. I also intend to continue to support the integrity of the compact as enacted under Public Law 99-658.

Finally, and most importantly, I would like to recognize the achievements of the people of Palau. During the 40 years of U.S. administration they have assumed greater self-government and they are now on the threshold of independence. In the two generations of United States administration, the people of Palau have made major strides in their social, political, and economic development. This is not to say that there are not problems in Palau. There are. But the Compact of Free Association offers the best framework in which to deal with these problems. The people of Palau have a greater interest in, and a greater ability to solve, Palauan problems than do bureaucrats of another nation thousands of miles away. We have only to observe the Marshall Islands and the Federated States of Micronesia to witness the success of the compacts.

If there is any great danger of the people of the former trust territory, it is that we in the United States are unable to accept our new role as a partner, and cease being a big brother to Palau. Delay in implementation of the compact, and in assuming our new partnership role, has already contributed to political instability in Palau. The United States has a moral and legal obligation to respect the wishes of the people of Palau and to implement the compact as soon as possible.

Mr. President, I look forward to swift enactment of this resolution and to the fulfillment of our Nation's obligations to the people of Palau. In our 40 years of administering the trust territory we strived to teach democracy. We must now provide the people of Palau the opportunity to practice it.

Mr. McCLURE. Mr. President, I want to express my strong support for the passage of Senate Joint Resolution 231, to authorize the entry into force of the Compact of Free Association between the United States and the Government of Palau, and for other purposes, as reported by the Committee on Energy and Natural Resources. Both the President of the United States and the President of the Republic of Palau have requested the entry into force of the compact, and this legislation should be enacted.

At the outset of my remarks I want to note that it has now been over 20 years since the Congress of Micronesia and the United States began the process to provide for the future political status of the peoples of Micronesia and lay the groundwork for the termination of the Trust Territory of the Pacific Islands. It has also been 13 years since the Congress first began consideration of the covenant to establish a Commonwealth of the Northern Mariana Islands, the first of the four status agreements. The history of the negotiations is amply detailed in the hearings and reports of the Committee on Energy and Natural Resources and its predecessor the Committee on Interior and Insular Affairs. I did want to note that history because the floor manager of the Marianas covenant is now the floor manager of this, the last step of the process. I want to commend the chairman of the Energy Committee for his persistence and patience throughout the process and I think it is fitting that he be responsible for bringing this resolution to the Senate.

There is one other individual who also waits to see the final step of this process and that is the President of Palau, Lazarus Salii. When the Congress of Micronesia in 1967 established its Commission on Future Political Status, then Senator Lazarus Salii chaired it. The recommendation of the Commission was for free association with the United States rather than the territorial status which the United States had offered or full independence which other trust territories had opted for. It took considerable political courage for the Members of the Congress of Micronesia to opt for free association and to pursue that objective through the negotiating process.

It will take similar courage for those who would like to continue U.S. administration of the trust territory to understand that the era of paternalism has come to an end. There will be difficulties in the future and the United States needs to stand ready as a partner to assist the freely associated states. The emphasis should be on the word partner. There will be no future high commissioners nor are we about to entertain any efforts to subvert self-government in Palau and impose Federal administration. The people of Palau have repeatedly voted to end the trusteeship, exercise fully their inherent right of sovereignty, and enter into free association. There have been, and still are, those who would use Palau for their own objectives, but that has been true since Captain Wilson first arrived in the *Antelope* in 1783. Palau managed to survive that experience, although the Reklai probably still wishes Captain Wilson had landed further north, and my guess is that Palau will survive this latest effort of those who would disparage Palau's ability to enter full self-government.

Mr. President, the process of self-government in the insular areas has not been smooth. There have been problems in all areas. We have so far managed to resist the temptation to repeal the Organic Acts and reimpose administration from Washington. At times we have moved insular areas toward greater self-government faster than even they had suggested. I remember when Congressman BURTON decided that it was time for the people of American Samoa to elect their own governor whether they wanted to or not. Senator MATSUNAGA made a similar observation during our hearings on the Compact of Free Association with the Marshalls when certain elements within the Marshalls wanted a delay. Senator MATSUNAGA quite correctly suggested that their future growth would only be stifled so long as the trusteeship continued and that they needed to look to themselves and work out their future internally. The United States assumed a commitment when it became administrator of the trust territory and we should fulfill that obligation to respect the freely expressed wishes of the people of Palau.

I have also noted some comments that the Palau compact has only been conceptually approved. Unless the English language has changed, that assertion is simply wrong. Last Congress the Palau compact was approved, not conceptually, not in principle, not theoretically, but approved. The only issue which remained was the final approval by Palau and this resolution as reported by the committee deals with that issue directly and in a manner consistent with the desires of both Palau and the administration as well as those who are prepared to respect self-government. Again, there are undoubtedly those unwilling to release what they perceive as the reins of empire, or who would, in Kipling's phrase, wish to "Take up the White Man's burden", but it is now 1988 not 1899. Playing to the political minority in Palau to foster some ulterior motive is simply not supportable. An agreement was reached with the House, the administration, and Palau last year to end the trusteeship and permit the peoples of Micronesia to regain the sovereignty which is theirs by right and which has been exercised by one foreign power or another since the Pope divided the world between Spain and Portugal. However difficult it may be for some to stand by commitments, especially when it means that the last remaining trusteeship will finally be terminated, perversion of the English language will not work. Neither the compact with the Marshalls, nor the compact with the Federated States of Micronesia, nor the compact with Palau were approved conceptually, theoretically, hypothetically or otherwise—they were approved.

I want finally to speak to section 2 of the committee substitute. I will not go into the entire history of the IPSECO transaction, but I simply want to note that this amendment places the emphasis where it should be—on the possible use of Federal funds to support this exercise in mercantile adventurism. Palau may or may not have any liability with respect to this project. Certainly history has shown how baseless were the assurances made by those fostering the project that it would pay for itself. The issue is not whether Palau has any obligation, but whether the United States should participate in resolving the situation. When IPSECO and its financial partners embarked on their mission to the Pacific like some 20th-century version of Sir Francis Drake with a letter of marque to locate and seize foreign assets, they discovered U.S. appropriations. At first they tried to have Palau waive its sovereign immunity so that when this project self-destructed they could pursue Federal appropriations. The High Commissioner became rather excited by this idea and promptly suspended that portion of Palau's legislation. I ask that the text of the High Commissioner's communication be included in the Record.

Having failed once, they then sought to obtain a Federal guarantee and were told not only that the executive branch did not have that authority, but also that the executive branch would not seek that authority. They were informed, however, that the compact, which was still under negotiation, did have two catagories of funds which Palau could use in the future if Palau so chose—that is, a portion of the annual grant for energy, and funds which would be provided for capital projects which were not earmarked. This amendment is consistent with that statement. It does not mandate the use of those funds nor does it require Palau to use those funds for that purpose. When the issue of the IPSECO loans came before the Appropriations Subcommittee which I chaired a few years ago, I inquired as to what would happen when the plants failed to perform as promised. I asked what the banks planned to do and whether they "planned to seize some coral." That comment was widely reported, so I think there can be no question that whatever liability may or may not exist, the issue is one for the banks to resolve with Palau. Palau was not permitted to waive sovereign immunity, the institutions were told there would be no Federal guarantee nor recourse, and the Congress was quite clear. I do not know whether Palau will choose to use any portion of the discretionary funds or not—that is their decision.

I do want to emphasize that this is an issue solely for Palau to resolve. Some have attempted to suggest that the Federal Government should become involved as an attempt to delay implementation of the compact or suggest that the United States should undermine Palauan sovereignty to examine the IPSECO issue. Palau will have to deal with its problems itself. To the extent that Palau seeks assistance from the United States, I believe that we should be responsive. I reject the suggestion that we should use this or other internal matters in Palau as a subterfuge to perpetuate the trusteeship.

I want to congratulate Senator Johnston for his leadership on this matter. His suggestion on how to deal with the possibility of further litigation is a wise one, and I hope that the prompt enactment of this resolution will allow for complete implementation of the compact at some point this year together with the long overdue end of the last remaining U.N. trusteeship. He is to be congratulated as well as those in the Marshall Islands, Federated States of Micronesia, and Palau who have waited so long and those who in administrations since President Kennedy have labored to see this happen.

There being no objection, the text was ordered to be printed in the Record, as follows:

In accordance with section 4 of Secretarial Order 3039, 44 F.R. 28116 (1979), I hereby notify you that on this 5th day of May, 1983, I have suspended section 2(B) (II) of Republic of Palau Public Law 1-54 entitled "An act to exempt certain contracts and acts related to the power plant proposed by international power systems company, limited, from certain laws, to appropriate funds for the project, and for related purposes." That part of the law which is hereby suspended reads as follows: "(II) To waive the immunity of the Republic of Palau from suit, attachment or execution to such extent as the President shall determine consistent with the constitution." Pursuant to your request for expedited review, I have taken action before the expiration of the review period such that the balance of the law which is not suspended herein will take effect immediately pursuant to section 4B of Secretarial Order 3039. Notwithstanding my expedited review, I have exercised my authority to suspend herein only after the most careful reflection and deliberation.

The inconsistencies as outlined below from the virtually unlimited nature of the legislative grant of authority to waive immunities. The loan documents here before signed by the President reflect the executive branch determination that the only constitutionally imposed limitation to the waiver of immunity from execution or attachment will be the exemption of land and water. I have suspended the aforementioned part of the act for the following reasons:

(1) Inconsistency with Secretarial Order 3039, section 3A(1). Waiver of immunity from suit, attachment, and execution would expose United States grant funds to diversion from the purpose for which they were granted contrary to the terms and conditions of the grant for fiscal year 1983 as accepted by the President on March 13, 1983. Furthermore, exercise of the authority to waive immunities from suit, attachment and execution will preclude the President from making an unqualified acceptance of terms and conditions of future grants since the funds would be subject to diversion to a use not authorized thereby. Such a limitation on the High Commissioner's power to effectively impose terms and conditions is inconsistent with the mandate of section 3A(1) of Secretarial Order 3039.

(2) Inconsistency with Department of Interior and Related Agencies Appropriation Act, fiscal year 1983, (U.S. Public Law 97-394). A general or universal waiver of immunity from suit, attachment and execution exposes those funds originally appropriated by the United States Congress and subsequently granted to the Republic by the High Commissioner to attachment or execution. The attachment of or execution upon such funds would result in the expenditure of those funds for purposes other than those for which the monies were originally appropriated in U.S. Public Law 97-394 and other appropriation acts. It is clear from the conference committee report that such debts are not to be extinguished by use of monies appropriated by U.S. Congress. Since this waiver subjects grant funds to possible expenditure for purposes outside the budget authority granted in Public Law 97-394 and other acts, it is inconsistent therewith. I note that the Marshall Islands Loans Act specifically prohibits such grant funds from being used as security for loans and further requires this exclusion to be included in all loan agreements.

Regards,

Janet J. McCoy,
High Commissioner.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

So the joint resolution (S.J. Res. 231), as amended, was passed.

The preamble was agreed to.

The joint resolution, as amended, and the preamble are as follows:

S.J. Res. 231

Whereas the President of the United States has certified that the Compact of Free Association between the United States and Palau has been approved in accordance with section 411 (a) and (b) thereof, as required by section 101(d)(A) of Public Law 99-658; and

Whereas it is the sense of Congress that the President's certification is correct and proper in light of the internationally recognized act of self-determination by which the people of Palau have approved the compact and in view of the notification by the Government of Palau that is internal approval process has been completed: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That entry into force of the Compact of Free Association in accordance with Public Law 99-658 is hereby authorized: Provided, That, if an action is brought in the Supreme Court of Palau before the date of enactment of this resolution which challenges the procedure under which the Compact was approved pursuant to Republic of Palau Public Law 2-30, the Compact shall take effect in accordance with section 411 of the Compact only if—

(a) the Supreme Court of Palau issues a final ruling which sustains the August 29, 1987, certification by the President of Palau that the Compact was approved pursuant to the Constitution of Palau; or

(b) the action is otherwise disposed of under Palauan law, other than by a final ruling which overturns the August 29, 1987, certification, or

(c) in the absence of the circumstances described in paragraphs (a) and (b), the Compact is otherwise approved by the Government of Palau in a manner which satisfies the requirements of the Constitution of Palau and section 411 of the Compact.

Sec. 2. Strike subsection 104(e) of Public Law 99-658, and insert a new subsection 104(e) as follows:

"(e) Neither the Secretary of the Treasury nor any other officer or agent of the United States shall pay or transfer any portion of the sum and amounts payable to the Government of Palau pursuant to this joint resolution to any party other than the Government of Palau, except under the procedures established by the Compact and its related agreements. No funds appropriated pursuant to the Compact, this Act, or any other Act for grants or other assistance to Palau may be used to satisfy any obligation or expense incurred by Palau prior to November 14, 1986, with respect to any contract or debt related to any electrical generating plant or related facilities entered into or incurred by Palau which has not been specifically authorized by Congress in advance, except that the Government of Palau may use any portion of the annual grant under section 211(b) not required to be devoted to the energy needs of those parts of Palau not served by its central power-generating facility and any portion of the funds under section 212(b) of the Compact for such purpose if subsequent to the effective date of the Compact the President of Palau has formally communicated to the President of the United States and to the President of the Senate and the Speaker of the House of Representatives, that Palau intends to use such funds for such purposes.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE ON TUESDAY

CALENDAR CALL WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow call of the calendar be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTIONS AND MOTIONS OVER, UNDER THE RULE

Mr. BYRD. Mr. president, I ask unanimous consent that on tomorrow no resolutions or motions over, under the rule, come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Senate will come in at 9:30 tomorrow morning. I ask unanimous consent when the Senate completes its business today it stand in adjournment until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Reserving the right to object, and I certainly do not believe that I will, I just want to inquire. Tomorrow there are some who were made aware that the closed session might be at 9 o'clock. I think it is worthwhile expressing under this unanimous consent agreement that we will come in at 9:30 and do the Senate's business until 10 o'clock and that closed session will start at 10 o'clock in the old Senate Chamber.

And then, of course, the Senator can repeat his remarks. And then the Senator is seeking adjournment this evening?

Mr. BYRD. I was adjourning over instead of recessing. It would have no impact on cloture.

Mr. SIMPSON. As long as it has no impact on our activities. Excuse me. The Senator may certainly proceed.

Mr. BYRD. Mr. President, I ask unanimous consent that the convening hour be changed from 9:30 to 9 o'clock a.m.

The PRESIDING OFFICER. Is there any objection, The Chair hears none, and it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order on tomorrow, there be a period for morning business with Senators being permitted to speak therein for not to exceed 5 minutes each, the period for morning business to last until 9:30 a.m.

The PRESIDING OFFICER. Is there any objection to that unanimous-consent request? Without objection, it is so ordered.

CLOSED SESSION AT 9:30 A.M. TUESDAY

Mr. BYRD. Mr. President, I ask unanimous consent that at the hour of 9:30 a.m. tomorrow the Senate go into closed session; that it meet in the Old Senate Chamber for this closed session; that it stay in closed session no longer than 12:45 p.m., and that the time for debate be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Is there any objection to the unanimous consent request of the majority leader? Without objection, it is so ordered.

RECESS AT 12:45 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess tomorrow from the hour of 12:45 p.m. until the hour of 2 o'clock p.m. to accommodate the two party conferences.

The PRESIDING OFFICER. Is there any objection to that unanimous consent request? Without objection, it is so ordered.

ORDER OF PROCEDURE AT 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that beginning at 2 o'clock p.m., there be one half-hour of debate on the motion to invoke cloture, the time to be equally divided between Mr. METZENBAUM and Mr. HATCH, and that the vote on the motion to invoke cloture occur at the hour of 2:30 p.m. tomorrow with no intervening motions or quorum call.

The PRESIDING OFFICER. Is there any objection to that unanimous-consent request? Without objection, it is so ordered.

Mr. BYRD. So, Mr. President, that would mean that at 2:30 tomorrow the Senate will vote on cloture and what the Senate does following that vote will depend on the outcome of the vote. I have not filed any cloture motion as of now on this bill other than the one that was filed and which will mature on tomorrow. That may or may not be the last cloture vote, but that decision will be made on tomorrow.

ORDER FOR RECESS UNTIL TOMORROW AT 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes tomorrow morning at 9 o'clock, it convene following a recess instead of an adjournment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, does the distinguished assistant Republican leader have anything further he would like to say before the Senate goes out?

Mr. SIMPSON. Mr. President, I thank the majority leader. I do not have anything further to report.

DEATH OF JAMES J. HOWARD, A MEMBER OF CONGRESS FROM THE STATE OF NEW JERSEY

Mr. SIMPSON. Mr. President, I would just briefly say that I do extend my sympathy to the family of Representative JAMES HOWARD. He was a formidable man. I dealt with him on several occasions and came away from those occasions with great respect for him. He was fair with me and firm in my early years here. I respect him greatly. It is indeed a loss to be felt by all of us.

Mr. President, I work on the companion committee in the Senate, the Environment and Public Works Committee, and learned what an extraordinary person he was. I send my deepest sympathies to the family of one of our most respected Members.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, and as a further mark of respect for our late departed Member from New Jersey, the late JAMES J. HOWARD, that the Senate stand in recess until the hour of 9 a.m. tomorrow.

The motion was agreed to, and the Senate, at 5:14 p.m., recessed until Tuesday, March 29, 1988, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 28, 1988:

DEPARTMENT OF LABOR

DAVID COURTLAND O'NEAL, OF ILLINOIS, TO BE ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH, VICE DAVID A. ZEGEER, RESIGNED.

FEDERAL MARITIME COMMISSION

ELAINE L. CHAO, OF CALIFORNIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 1991, VICE EDWARD V. HICKEY, JR., DECEASED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR THE TERMS INDICATED:

FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 17, 1988:

RICHARD F. HOHLT, OF INDIANA, VICE THOMAS A. BOLAN.

FOR A TERM EXPIRING DECEMBER 17, 1990:

ALLIE C. FELDER, JR., OF THE DISTRICT OF COLUMBIA (REAPPOINTMENT).

U.S. POSTAL SERVICE

SUSAN E. ALVARADO, OF VIRGINIA, TO BE A GOVERNOR OF THE U.S. POSTAL SERVICE FOR THE TERM EXPIRING DECEMBER 8, 1996, VICE RUTH O. PETERS, TERM EXPIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 28, 1988:

DEPARTMENT OF THE INTERIOR

TS ARY, OF OKLAHOMA, TO BE DIRECTOR OF THE BUREAU OF MINES.

DEPARTMENT OF ENERGY

C. ANSON FRANKLIN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL, INTERGOVERNMENTAL AND PUBLIC AFFAIRS).

ERNEST C. BAYNARD III, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENT, SAFETY AND HEALTH).

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

WITHDRAWAL

Executive message withdrawing a nomination from further Senate consideration:

THE JUDICIARY

ALFRED C. SCHMUTZER, JR., OF TENNESSEE, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE, VICE ROBERT L. TAYLOR, RETIRED, WHICH WAS SENT TO THE SENATE ON DECEMBER 18, 1987.

EXTENSIONS OF REMARKS

STOP THE SPREAD OF CHEMICAL AND BIOLOGICAL WEAPONS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. PORTER. Mr. Speaker, Iraq's recent attack on its own Kurdish citizens in the Iranian-controlled border town of Halabja presents another grim reminder of the need to control the spread of chemical weapons. Media reports have also indicated this past year that Iran has acquired its own chemical stockpile. At the same time news reports out of Angola conclude that Russian-made nerve gas weapons have been used against Jonas Savimba's UNITA forces.

At a time when negotiations between the United States and Soviet Union on the elimination of chemical weapons are showing promising movement, it is imperative that the international community take steps to stop the proliferation of these weapons in all countries. I urge my colleagues to cosponsor the Chemical and Biological Weapons Non-Proliferation Act of 1987 (H.R. 2880) which I introduced last year. Along with 72 bipartisan cosponsors, I believe this legislation begins to direct our attention to the importance of controlling the spread of chemical weapons.

I would also direct my colleagues' attention to the article reprinted below, which appeared recently in the Journal of Defense & Diplomacy. Its author, Mr. Leonard Glickman, presents a telling tail of the disturbing proliferation of toxic weapons. I urge all Members to read this important article:

BIOCHEMICAL WARFARE MUST BE EXAMINED, CONTROLLED

(By Leonard Glickman)

In mid-June 1987 the White House Science Council addressed the issue of chemical and biological warfare and concluded that while the threat is severe, there is little understanding of its severity or what measures should be implemented to solve the problem. Recent events in Geneva seem to suggest that some progress is being made on an international agreement that would ban biochemical weapons. On July 1, 1987, congressmen John Porter (R-IL) and Ike Skelton (D-MO), along with 42 original cosponsors, introduced "The Chemical and Biological Nonproliferation Act of 1987" (House Resolution 2880) to raise public awareness of the proliferation of chemical, biological and toxin weapons.

While eliciting support for their bill in a letter addressed to their colleagues, the congressmen explain that the Act requires an annual report by the secretary of state to assess the risk of biochemical weapons proliferation in countries like Libya. The Act also creates an Industry Advisory Group to establish an official channel for affected industries to make public their views. The bill requires the secretaries of commerce and state along with other agencies such as Health and Human Services and the Arms Control Disarmament Agency to fully inform congress of all developments of significance to the proliferation and control of chemical and biological weapons. The bill also requires the secretary of state to make specific recommendations toward stemming the unprecedented spread of these weapons and their technologies.

THE THREAT HAS INCREASED

The world faces a very real biochemical warfare threat. In 1969, only 5 countries possessed these weapons. Now at least 15 do. The development and use of chemical munitions by the USSR and Third World countries has reached unprecedented proportions. The State Department estimates that more than 10,000 lives have been lost since 1980 as a result of chemical warfare by the Soviets in Afghanistan and by the Iraqis in the Gulf War.

WARSAW PACT HAS LARGEST STOCK

Simply stated, the Soviet Union and the Warsaw Pact have the largest and most advanced biochemical warfare capability in the world. While the United States discontinued production and modernization of its offensive and defensive biochemical warfare capability from 1969 until December 1987, the USSR maintained its capability at a high state of readiness with an immense stock of nerve and other lethal agents. On May 28, 1987, The Washington Post quoted Western estimates that the Soviet Union has from 200,000 to 500,000 tons of modern chemical arms. The Defense Department's most extensive report on Soviet violations of biological warfare treaties, Soviet Biological Warfare Threat, explains how Moscow has violated both the Geneva Protocol of 1925, which bans the use of biochemical weapons, and the Biological Weapons Convention of 1972, which calls for the disarmament of biological stockpiles.

The Pentagon's Soviet Military Power 1987 states, "because of organizational expansion, the peacetime strength of chemical troops in Soviet ground forces alone totals more than 60,000, and this number would double in wartime by mobilizing reservists."

The United States, by contrast, has less than 30,000 specially trained chemical personnel even during a full wartime mobilization. In addition, the Soviets have more than 30,000 specialized vehicles to complement their chemical forces while the United States fields less than half that number.

Reorganized Soviet specialized chemical units make up and serve in all five branches of their armed forces: ground forces, rocket forces, aerospace forces, air forces, and naval forces. At division levels and below, the units are known as chemical service and at the army level and above they are known as chemical troops. As Soviet Military Power 1987 points out, a large number of chemical warfare units responded to the Chernobyl nuclear accident. The long-term clean-up provided these units with valuable practical experience and illustrated Soviet military capability to perform in a contaminated environment.

USE SPREADS IN THE MIDDLE EAST

Nowhere in the world is the spread of chemical weapons more apparent than in the Middle East. Iraq has been accused of using mustard gas, hydrogen cyanide and tabun nerve gas in its war against Iran. Recently, an Iraqi chemical bombardment of the Iranian city of Sardasht caused hundreds of deaths. While addressing the Geneva disarmament conference on July 28, 1987, Iranian Foreign Minister Ali Akbar Velayti described the devastation as "so vast that even several days later when the U.N. specialists dispatched to the area arrived in the city, the afflicted areas were still highly contaminated." Despite years of worldwide protest, there is little evidence that Iraq will discontinue its use of chemical weapons. United Nations inspection teams visited the region in 1984, 1986 and the early part of 1987 and in each instance the use of chemical weapons by Iraq has been confirmed.

Other than Iraq, Syria is considered to be the primary Middle East nation engaged in employing chemical warfare. Many reports in such authoritative sources as Jane's Defence Weekly have described Syria as capable of developing and stockpiling advanced chemical systems and munitions that can be delivered by Soviet-supplied SCUD-B missiles. Maj. Gen. Amnon Shahaq, head of the Israeli Defense Forces Intelligence Branch, told the Israeli newspaper Bamahane on June 17: "There is no doubt the Syrians also are engaged in equipping themselves with chemical weapons. The Intelligence Branch, for its part, is doing all it can to warn of every threat, including biochemical warfare, in good time."

The London Sunday Telegraph reported in November 1986 that Libya has given Syria and Iran warheads filled with deadly nerve gas, that are traceable to the Soviet Union. Moreover, The Cairo Voice of the Arabs reported that Col. Moammar Gadhafi issued orders for the use of poisonous gas during the Chadian conflict as revenge for his series of defeats there. This was in addition to Libya's poisoning of drinking wells in the desert and its use of napalm and phosphoric bombs.

While the radical Arab states are building their stockpiles, it is the Eygptians who are leading the race to produce biochemical weapons. They began to explore the possibility of developing these weapons in the 1960s and used phosgene and mustard gasses during their involvement in Yemen's civil war.

After the 1973 Arab-Israeli War, Egypt vigorously increased its development efforts. Given Egypt's advanced industrial capacity, analysts assume that country now leads in the production of chemical weapons in the region.

A report in the Phalangist militia weekly Al-Masirah said that the Islamic fundamentalist group Hizbullah in Lebanon is attempting to produce a toxic gas described as metallic nitrogen in an underground laboratory in West Beirut.

BIOCHEMICALS IN REGIONAL CONFLICTS

Asia

Sankei Shimbun, a Japanese newspaper, reported in late 1986 that the Soviet Union supplied North Korea with chemical bombs filled with toxic gas. While details about this major weapons transfer are sketchy, it is believed that the bombs may contain Sarin, a highly toxic gas which attacks the central nervous system and quickly brings death to anyone exposed to it. The paper noted that the South Korean armed forces are ill-equipped to deal with chemical warfare and are particularly vulnerable because of their fixed positions along the demilitarized zone.

The use of toxic agents—especially mycotoxins, which are better known as yellow rain—by Communist forces in Southeast Asia has been widely publicized. Toward the end of 1982, State Department officials had documented 278 biochemical attacks in Laos, 141 in Kampuchea (Cambodia) and an unspecified number along the Thai-Kampuchean border. Reports of Vietnamese use of chemical weapons continue to surface. On July 29, 1987, the Kampuchean resistance reported that Vietnam continues "to use toxic chemical weapons to massacre our innocent people." It also reported that in July 1987, Vietnamese use of chemical weapons killed 61 people, seriously incapacitated 105 and caused many others to be affected during an attack on Takeo, Kompong Speu and Kampot provinces. Resistance leaders cautioned Kampucheans to test water, medicine, or any food on animals before consumption for possible harmful effects, and to guard drinking wells and marketplaces from contamination.

Afghanistan

As early as December 1979, Afghan and Soviet defectors testified about the use of chemical agents by the Soviets in Afghanistan. On November 19, 1986, Jane's Defence Weekly reported new evidence that posion gas had been fired at Islamic guerrillas battling Soviet troops. The Soviets have consistently denied their use of chemical and toxin agents in Afghanistan, yet in the absence of serious international controls it is unlikely they will cease using these relatively inexpensive but effective weapons.

Africa

While the State Department and some members of congress clash over U.S. policy toward Mozambique, reliable reports have accused the ruling Front for the Liberation of Mozambique (Frelimo) of using chemical weapons in attacks against the anti-Communist rebels, the Mozambique National Resistance Movement (Renamo). Renamo leader Alfonso Dhlakama has claimed that hundreds of civilians and thousands of cattle have died as a result of the use of chemical weapons. Dhlakama claimed Frelimo forces poisoned water and used a smoke-like substance that causes tremors, foaming at the mouth and death within 24 hours.

Dr. Nerayo Tecklemichael, a member of the Eritrean People's Liberation Front (EPLF) which is fighting against the Marxist Mengistu regime in Ethiopia, told Nuclear, Biological, and Chemical Defense and Technology that as recently as 1981 Mengistu began amassing a massive stockpile of chemical weapons. Tecklemichael said that even though the EPLF received advanced notice of this new threat and was prepared to meet it, casualties were still suffered as a result of the attack. Autopsies revealed a black substance in the tissues of EPLF casualties caught in Ethiopian chemical booby traps. With similar results, these same traps have been used against the Union for the Total Independence of Angola (UNITA) forces fighting the Marxist regime in Angola as well as against the Afghan resistance, the Malaysian government fighting a communist insurgency, and anti-Communist forces in Cambodia and Thailand.

MANUFACTURERS' PROTECTIVE GEAR

Israel faces such an alarming biochemical warfare menace that the Israel Defense Forces (IDF) and Israeli defense industries have been at the forefront in keeping pace with the biochemical threat. Shalon Chemical Industries has developed wide-ranging protective gear, from an infant protective crib to protective masks and filters for the general population. Elbit Computers has developed an early warning chemical agent sensor called CHASE which can identify the type of hazard while being immune to dangerous substances on the battlefield. This early identification of the hazard allows for quick response and treatment. Bezalel R&D has developed a unique air crew protection system. A specially designed hood and blower unit allows the crew to perform all missions in a contaminated environment without having to change into special flight equipment.

Israel's participation in the Strategic Defense Initiative (SDI) may also prove to be an effective defense against biochemical warfare. Israel is reportedly able to deploy a ground-based free electron laser weapon system capable of defending against the types of ballistic missiles that could carry warheads armed with biochemical substances.

INTERNATIONAL CONTROLS LACKING

While various international controls have been developed to monitor the spread of nuclear weapons, there are few such controls over the spread of chemical weapons. The Geneva Protocol of 1925 and the Biological and Toxin Weapons Convention of 1972 were designed to rid the world of these weapons but their premises are clearly being disregarded.

These agreements are easily violated because the technologies needed for the manufacture of chemical weapons are not as complex as those for a nuclear capability. The materials themselves can be obtained easily, often through deceptive means. Iraq, for example, may have developed its poison-gas potential by using materials which were shipped for use as insecticides.

The colorless and odorless nerve agents used in some chemical weapons, such as the Iraqi-developed ones, are one hundred times more lethal than the methyl isocyanate that killed 2,000 people in Bhopal, India in 1984. The deadly nerve gas warheads that Libya recently transferred to Syria can be used by that country on its Soviet-supplied surface-to-surface SCUD missiles. A single warhead can spread deadly contamination over a 25-mile radius and render any of Israel's major cities completely uninhabitable for 24 hours after an attack.

STRONGER LIMITS NEEDED

To date, the United States has done little to stem the chemical weapons proliferation. Only recently has the United States begun to monitor the spread of chemical weaponry in the Middle East. In early 1986, the State Department extended the 1984 Chemical Weapons Export Control Act to Syria, which prevents the sale of eight industrial chemicals that could be used in the manufacturing of chemical weapons, to Iran and Iraq. The U.S. State Department has expressed concern that Syria may have a chemical weapons' capability and has assisted Iran in its war effort, and that the Soviet Union has trained Syrian troops in protective measures to be taken in contaminated environments.

In August 1987 the State Department announced that it is imposing new controls on the export of eight additional chemical compounds to Iran, Iraq and Syria which could be used in the manufacture of chemical weapons. Other countries attempting to curb the export of chemicals that could be used as weapons are the 12-member European Common Market, Australia, Canada, Japan, New Zealand, Norway and Switzerland.

Kenneth Adelman, former director of the U.S. Arms Control and Disarmament Agency (ACDA), pointed out in Jane's Defence Weekly on January 31, 1987, that the United States is pursuing, both in the Geneva 40-nation Conference on Disarmament, and in bilateral discussions with the Soviets, an arms control agreement banning not only the use of chemical weapons but also their production, development, stockpiling, transfer and acquisition.

To illustrate the West's concern over biochemical weapons, David Mellor, a British Foreign Office official responsible for chemical weapons negotiations, told the British Broadcasting Corp. Worldwide Service on July 13, 1987, that he is proposing a worldwide ban on these arsenals to the U.N. Committee on Disarmament. Mellor stressed the need for an international organization not only to verify, but also to deal with the phased destruction of all these weapons. He believes that this could create a global ban on chemical weapons within 10 years.

Yet, because of the absence of a Western deterrent the Soviets are not likely to bargain away their clear military superiority by accepting a global agreement on the complete prohibition of biochemical weapons. Moreover, many Soviet surrogates have already obtained and used chemical weapons in battle.

VERIFICATION REMAINS AN OBSTACLE

Verification would be particularly difficult when applied to chemical weapons systems. Until recently, what had been standing in the way of an agreement in Geneva was the so-called challenge inspection. The Soviet Union had refused to agree to a proposal, first put forth by Vice President George Bush in 1984, allowing outside inspectors to visit any facility suspected of the clandestine production of chemical weapons. The party to be inspected would have 48 hours notice and no state could refuse.

In early August 1987 however, Soviet Foreign Minister Eduard Shevardnadze said the Soviet Union is now ready to accept tough verification procedures for a chemical weapons treaty, including the principle of mandatory challenge inspections without right of refusal. The USSR and the United States also agreed to allow experts from each country to visit chemical weapons sites in each other's countries to observe procedures for destroying these weapons. Without such stringent verification procedures any agreement would probably have the same effect as the Geneva Protocol of 1925.

But officials in the United States are skeptical about the change in Soviet attitude toward verification procedures. The chemical divisions in all five branches of the Soviet military organization are immense. Each division would face a very uncertain future should a treaty banning their existence be signed. To dismember and abolish the Soviet biochemical warfare capability would be a considerable task and would meet powerful resistance from within the Soviet military.

As important as a verifiable international agreement is, it does not address the lack of public understanding of the issue. It is this problem that Congressmen Porte's and Skelton's bill seeks to address. By requiring the secretary of state to keep the appropriate committees of congress fully informed of all developments of significance to the proliferation and control of biochemical weapons, public outrage could be used to facilitate an international climate conducive to the control and elimination of these weapons.

THE TREATMENT OF ARMENIANS IN THE SOVIET UNION—SOVIET NATIONALITIES POLICY AND HUMAN RIGHTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. LANTOS. Mr. Speaker, all of us in the Congress have followed closely the events that have taken place in Armenia and the disappointing reaction of Soviet officials to those events.

During the last month, significant demonstrations broke out in two Soviet Republics in the Caucasus Mountain region in which ethnic Armenians demanded that the autonomous region of Nagorno-Karabakh in the Azerbaijani Republic be reunited with the Armenian Republic.

These demands are consistent with the ethnic composition of the area—81 percent of the population of the total population of 170,000 is Armenian. Furthermore, this demand is consistent with the geographic boundaries of the republics. The Nagorno-Karabakh region is adjacent to the Socialist Republic of Armenia and it is a considerable distance from the capital of the Azerbaijani Republic.

The demands that have been made by the Armenian people in the Soviet Union are justified ethnic and humanitarian requests. There is no historic justification for this territory to remain a part of Azerbaijan. In fact the history of this region clearly indicates that to continue things as they are simply perpetuates a historical injustice.

Mr. Speaker, an excellent article appeared in the Washington Post by Prof. Richard G. Hovannisian which provides the appropriate historical background and understanding of this complex problem. I call it to the attention of my colleagues. Dr. Hovannisian is professor of Armenian and Near Eastern history and associate director of the Near Eastern Center at UCLA. He has written extensively on the early history of the Soviet Republic of Armenia.

USSR: THE BORDERS OF BLOOD—PROTESTS IN ARMENIA ARE TESTING THE LIMITS OF GLASNOST

(By Richard Hovannisian)

General Secretary Gorbachev's policies of openness and restructuring have raised expectations in the Soviet Union, especially among those nationalities with historic grievances stemming from decisions made during the Stalin era. As Soviet society attempts to face the Stalinist legacy, fundamental injustices are being revealed. The Armenian nationality question—which prompted the vast protest demonstrations earlier this month—is one such case.

Against a backdrop of increasing ethnic tensions, Gorbachev's recent declaration about the need to reassess policies regarding the multinational and multireligious society is an acknowledgement that the long-standing assertion that the Soviet peoples live in brotherhood and harmony has often struck a hollow chord.

More than 100 ethnic groups, including 15 republics of which Armenia is one, constitute the Soviet state. In dealing with the nationalities question, the Soviets have alternated between firmness and reform in response to appeals from its ethnic minorities. Those appeals have ranged from requests for greater cultural autonomy to objections to Russification programs to outright demands for independence. The general intent of the Soviet Union has been to allow as much cultural autonomy as possible without having that autonomy lead to nationalist expression. The minimal objective of each nationality has been to maintain its ethnic identity and historical integrity. The tone and content of each appeal was based upon each group's perception of a particular Soviet administation's nationalities policy. When those objectives are in conflict, headlines are made in the West.

Hence the latest outbreak of protests in Soviet Armenia, the most southern of the 15 Soviet republics, which borders Turkey. The demonstrations began two weeks ago in Nagorno-Karabakh, a 1,700-square-mile district in Soviet Azerbaijan, and spread to Yerevan, the capital of Soviet Armenia. With protestors reportedly numbering in the hundreds of thousands, they are considered to be among the largest unauthorized mass meetings ever held in Soviet history.

In general, the complaints registered by ethnic minorities of the Soviet Union have been directed against the policies of the central government. But the Armenian demonstrations are motivated by an historical grievance of a different nature—a question of land and boundaries. Armenians are asking Moscow to unite the Nagorno (mountainous) Karabakh district in Azerbaijan with the Soviet Republic of Armenia.

The district of Nagorno-Karabakh has a population of about 200,000, of whom some 80 percent are Armenian and the rest Azerbaijani. Armenians in Karabakh complain that discrimination by the Soviet leadership in Azerbaijan against the Armenian population has hindered development of the area and is intended to encourage Amenian emigration.

A historic center of Armenian life and culture, Karabakh through the centuries remained semi-autonomous under the rule of Armenian princes even when the rest of Armenia had been conquered by the Persian and Turkish empires. Thus Armenians have always regarded the area to be of prime historical, cultural and strategic significance.

After Karabakh's annexation to Russia at the beginning of the 19th century, the Armenians lived in relative peace until the Russian Revolution of 1917 led to a period of chaos in the Caucasus region. When the Armenian and Azerbaijani peoples declared their independence in the wake of the temporary Russian retreat from the area, Karabakh became a bone of contention. Azerbaijan, with Shiite Muslim population speaking the Turkish language, claimed and occupied Karabakh, despite the intense resistance of the Armenian population which demanded unification with the Armenian state.

The entry of the Red Army into the Caucausus in 1920 brought the fighting to an end; and when Armenia was Sovietized, Azerbaijan renounced its claims to Karabakh and agreed to its unification with Armenia. Nationalist Turkey, then under the leadership of Mustafa Kemal, was opposed to seeing a large Armenian state on its borders. An accommodation was reached by the terms of the Treaty of Moscow, signed in March 1921—the first offical treaty between the Soviet Union and Nationalist Turkey—which sanctioned the diminution of Armenia and awarded the disputed territories to Soviet Azerbaijan. These violations of territorial integrity were agreed to by Joseph Stalin. In 1923, parts of mountainous Karabakh were given the status of an autonomous district within the Soviet republic of Azerbaijan.

The Karabakh question poses a challenge to the Soviet system. Sensing a regime of genuine reform under Gorbachev, the Armenians of Karabakh are demanding neither greater autonomy nor separation from the Soviet Union. Their sole aim is to be reunified with their kinsmen not 10 miles distant.

If this comparatively straightforward question cannot be resolved to the satisfaction of hundreds of thousands of Soviet citizens now in the streets of Stepanakert and Yerevan, Gorbachev's new nationalities policy may end before it begins.

CONGRATULATIONS TO THE UNIVERSITY OF TEXAS WOMEN'S SWIMMING AND DIVING TEAMS

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. PICKLE. Mr. Speaker, on March 19, these young athletes won the NCAA Women's Swimming and Diving Championships for the fifth consecutive year with a record point total of 661 points, 118.5 points ahead of the outstanding team from Florida.

In achieving this outstanding feat, the Lady Longhorns came up with a tremendous effort throughout their lineup, according to their coach, Richard Quick. These women had to overcome illness and injury throughout the year. In fact, breaststroke star Tracey McFarlane was unable to compete in the 200-meter event after aggravating an injury, and Betsy Mitchell, who won both the 100-meter and 200-meter backstroke, was weakened from a bout with the flu.

Coach Quick said that this team is special in its ability to hand together and win. Their spirit and tenacity is an inspiration, and today University of Texas alumni everywhere are very proud of the accomplishments of these women.

I know my colleagues will join with me in congratulating the 1988 NCAA champion Lady Longhorns on their fifth consecutive national title. Hook 'em, Horns.

HANDICAPPED GIRL'S DETERMINATION NETS "YES I CAN" RECOGNITION

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. CHAPPELL. Mr. Speaker, I rise today to commend and congratulate a resident of my district, Michele Perry, age 10, of Orange Park, FL, who is in Washington this week to receive a national "Yes I Can" award from the Foundation for Exceptional Children. Michele has been an inspiration to all who have met her.

The following Florida Times-Union article does an excellent job of describing how and why this brave little girl is being honored this week:

[From the Florida Times-Union, Feb. 16, 1988]

HANDICAPPED GIRL'S DETERMINATION NETS "YES I CAN" RECOGNITION

(By Bob Phelps)

ORANGE PARK.—The dogged determination of a little girl who uses crutches and an artificial leg to improve her times in mile-long walks and runs has made her a national honor winner.

Michele Perry, who this summer will undergo her 14th and 15th major surgeries in her 10 years of life, has been chosen by the Foundation of Exceptional Children for national honors. She has been invited to an April 1 ceremony in Washington, D.C., to receive a plaque in the "Yes I Can! Program," funded by a grant from the Shell Oil Co.

Michele, the daughter of two Navy civil service employees, Wesley and Diane Perry, was co-nominated for the Yes I Can! award by her gym teacher, Kim Tracanna, and her gifted-program teacher at Lakeside Elementary School, Mary Summers.

Lakeside Principal Mary Bethea described the traits that led to Michele's nomination for the award: "Michele is a very bright little girl, always willing to give something a try. 'I can't' is just not in her vocabulary."

The Yes I Can! Program is designed to call attention to the achievements of the handicapped, said Natalie Morrison, a spokeswoman for the national foundation, based in Reston, Va.

"If anyone knows of a child who is handicapped who they feel has overcome a lot of adversity and made an achievement that is relative to his disability, they can nominate him for a Yes I Can! Award," she said.

"The award is given in seven different areas: academics, arts, athletics, community service, employment, extracurricular activity and independent living skills. A committee of experts chooses five winners in each area. Michele's area was in athletics. A lot of these kids really could probably win in every category."

Michele could be honored for her academic achievements as well, since she is enrolled in the gifted program at Lakeside and has a vocabulary that exceeds that of most high school students.

In the area of community service, Michele has appeared in television promotions and has been guest speaker at events for the Blood Bank of Jacksonville, from which she has received many transfusions during her years of surgery. She also serves as an acolyte at her church.

Miss Tracanna said Michele's determination has been an inspiration to her students.

"She goes above and beyond her physical limitations," Miss Tracanna said. "She strives always to do better. I have a group called the Lakeside Pacers, a running club with 220 kids.

"Michele has been real good at participating in the races. She'll use her crutches and her mother will hold her hand and sometimes she'll use her artificial leg. She'll go the whole mile."

Michele demonstrated athletic determination early on. Despite the fact that she has one leg, she learned when she was a kindergartner how to hop on one leg up onto her backyard diving board and dive into her pool.

Later, her doctors were forced to curtail her diving because she was fitted with a steel rod in her spine to help support her back, and they could not risk her damaging it with a fall.

Diane Perry said she was honored by her daughter's award, and happy that it gives Michele something to look forward to after her surgery in early March.

Michele is on the homebound program, recuperating from illness and regaining strength for pending plastic surgery in March to correct a problem of discomfort she is experiencing with her artificial leg.

This summer, she is scheduled to undergo two major surgeries, one to install a hinge in her partial leg to give it more flexibility, and one to install a longer bar in her spine.

"I'm used to it," Michele said of the consecutive surgeries. "It's not my favorite thing to do, but if it's got to be done, it's got to be done."

Helen Godfrey, Michele's grandmother said a school paper Michele wrote earlier this year indicated what a veteran of surgery Michele has become. Her teacher asked her to write who she would rather be, her father or mother, and why.

Her mother was scheduled to undergo a major hysterectomy and Michele wrote, "I'd like to be my mother, because I could go through the surgery for her and the pain afterward, because I could handle it better and I have more experience."

CELEBRATE GREEK INDEPENDENCE DAY

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. BUECHNER. Mr. Speaker, March 25 marks the 167th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire—an oppression they fought for almost 400 years—from the fall of Constantinople in 1453 until the declaration of independence in 1821.

During this time the people were deprived of all civil rights. Schools and churches were closed down; Christians and Jewish boys were kidnapped and raised as Moslems to serve the Sultan.

In 1823, Daniel Webster, U.S. Representative of Massachusetts, said of this time in Greek history, "This (Greek) people, a people of intelligence, ingenuity, refinement, spirit, and enterprise, have been for centuries under the atrocities unparalleled Tartarian barbarism that ever oppressed the human race."

Today as we celebrate Greek Independence Day, we should reflect on our own freedom as well. Greece, in a way, can be called the "birthplace of United States democracy".

As ancient Greek philosopher, Perciles, stated in an address made 2,000 years ago, "Our constitution is called a democracy because power is in the hands not of a minority but of the whole people. When it is a question of settling private disputes, everyone is equal before the law; when it is a question of putting one person before another in positions of public responsibility, what counts is not membership of a particular class, but the actual ability which the man possesses."

The Greek spirit of democracy of 1821 is still alive today. It is in the hearts of those who struggle against communism and the minds of free men and women everywhere. It is a privilege that we must honor and respect.

BYELORUSSIAN INDEPENDENCE DAY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. LIPINSKI. Mr. Speaker, as cochairman of the Democratic Council on Ethnic Americans, I rise today to inform my colleagues that Friday, March 25, 1988, marked the 70th anniversary of Byelorussian Independence Day. The 1918 proclamation of independence of the Byelorussian Democratic Republic took place in the capital city of Minsk. This year is especially important since 1988 marks the millennium of Christianity in Kievan Rus'—the ancient name for Kiev and an area where many present day Byelorussians mark their origin.

Although Byelorussian independence was short-lived due to the onslaught of the Red Army in 1920, strivings for democratic rule and nationalist aspirations in the country have remained strong, and Byelorussian-Americans have been working hard to maintain them.

Because of a continued, widespread campaign of russification, Byelorussia today runs the very real risk of losing its language and, consequently, its national identity. During the reign of terror under Josef Stalin in the 1930's, the Byelorussian intelligentsia and anyone who cared about the country's language and national culture were heavily repressed. This repression continued at the end of World War II, when many Byelorussians moved into the cities and were forced to adopt the Russian. Beginning in 1950, native schools in urban centers were phased out and many periodicals were changed over to the Russian language.

Sadly, the destruction of the Byelorussian language continues even under the supposedly more open and accommodating policies of Mikhail Gorbachev. In the last 18 months, Gorbachev has received two letters from the leading members of the Byelorussian intelligentsia—including some members of the Communist Party—describing the extent to which the national language has been banished from public life in the country. The intelligentsia began their first letter by claiming that language is the soul of the nation and criticized the superficial efforts of the Soviet Government to allow more widespread use of the native language. They requested that Byelorussian be introduced as a working language in all government bodies across the country and that it be taught at all levels of education.

By denying the existence of many unique—and oftern rebellious—nationalities in the Soviet Union, the Soviet can continue to appropriate for itself the history and culture of nations that are different from Russian.

Mr. Speaker, what we see in Byelorussia today is the same systematic policy of russification. While the present policy may not be as crude or as blunt as that organized under Stalin, its end is the same: The denial of Byelorussian language, customs, and national identity. By writing Secretary Gorbachev, the members of the ruling Communist Party of Byelorussia have themselves realized that the destruction of the Byelorussian language will mean the end of Byelorussia.

I want to take this opportunity to extend my best wishes to the nearly 1 million Americans of Byelorussian descent who commemorate this proud day in their nation's history and join with them in urging the Soviet Government to allow the widespread use of the Byelorussian language.

THE 100TH ANNIVERSARY OF FATHER DRUMGOOLE'S DEATH

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. MOLINARI. Mr. Speaker, I rise to congratulate Mount Loretto of Staten Island, NY, on celebrating the 100th anniversary of Father Christopher Drumgoole's death, founder of Mount Loretto on Monday, March 28, 1988.

Father Drumgoole was born in 1816 in Ireland. He left Ireland when he was 8 years old to join his mother in New York City.

After his ordination, Father Drumgoole began his crusade to help orphaned and neglected children. His efforts helped thousands of homeless children. The number of homeless children continued to increase and finally a larger home was needed.

Mount Loretto was opened in 1883 for the growing number of homeless children. Father Drumgoole built a trade school at the home so the children would learn how to earn a living. Even today, children continue to benefit from this valuable experience.

Father Drumgoole's work with homeless children has set an example for all children facilities to follow. Thousands and thousands of homeless children have been helped because of the high standards that Father Drumgoole set.

I am delighted to join with my friends at Mount Loretto in commemorating the 100th anniversary of Father Drumgoole's death.

MUDSLIDES AND DEBT IN BRAZIL

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. PORTER. Mr. Speaker, we all read two related news items about Brazil last week. The good news was that Brazil repaid a substantial portion of its external debt. The bad news was that mudslides outside Rio killed more than 200 people.

The news items are related because the mudslides are what can be called a "manmade natural disaster." The rains come every January, but they now bring death. Landless peasants and their families who are crowded into slums on steep hillsides slide to their death under torrents of mud.

There deaths are a direct result of Brazil's debt crisis. As pressure to raise cash for debt payments builds, the Brazilian Government has foreclosed on loans to small farmers. Cattle ranches and large landowners buy the land of these farmers, driving them off the land, and into the slums outside Rio. These are the families who were washed away last week.

Mr. Speaker, Brazil repaid part of its debt last week, yet the human costs of the debt crisis continue to be paid.

TO HONOR PHILIPPINE SCOUTS AND FILIPINO VETERANS OF WORLD WAR II

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. LANTOS. Mr. Speaker, a few days ago I testified before the Subcommittee on Libraries and Memorials of the Committee on House Administration regarding House Joint Resolution 243 to establish a memorial honoring the Philippine Scouts and Filipino veterans who served in the United States Army during World War II. During the course of this war, the Philippine Scouts, under Gen. Douglas C. MacArthur's command, exhibited tremendous bravery and valor. At the same time, many Filipino people serving in the United States Army Contributed efforts of equal courage. Unfortunately, the outstanding service which these men gave to the allied war effort has remained virtually unrecognized. The memorial to these great men will recognize the noteworthy acts they performed, and will also honor the loyal service which the people of the Philippines and the Filipino Americans unquestioningly gave to the United States during World War II. I would now like to share my testimony with my colleagues.

STATEMENT OF HON. TOM LANTOS

Madam Chair, I am delighted to make this statement on H.J. Res. 243 which authorizes the establishment of a memorial to honor Filipinos who served in the United States military services during World War II.

I commend my distinguished colleague and fellow Californian, Mr. Panetta, for his legislation to authorize the establishment of the memorial. I also wish to commend you, Madam Chair, as well as the members of your committee, for holding these important hearings.

I am honored to have in my Congressional district a number of Americans of Filipino background. Many are veterans of the Philippine Scouts who served with the United States armed Services during World War II. These Philippine soldiers served under extremely difficult combat conditions against the Imperial Japanese military forces after the attack on the Philippines in December 1941.

Many of these Filipinos were involved in the protracted struggle for control of the Philippines until the defeat of United States forces there in April 1942. They were involved in prolonged action under the constant strain of aerial and artillery bombardment. Furthermore, their ranks were decimated by disease as much as by fighting. Those Philippine Scouts who survived the notorious Bataan death march were held as Japanese prisoners of war.

Scouts, along with other members of United States military units who escaped capture, in many cases organized as guerrilla units and continued resistance against the Japanese. They made an important contribution to the war effort and supported the ultimate return of United States liberation forces under General MacArthur.

Madam Chair, it is most appropriate that a memorial be established on federal land here in our nation's capital to honor and recognize the bravery, service, and sacrifice of these Philippine Scouts. I urge the committee to approve this legislation and I urge my colleagues to support it.

MANCHACA VOLUNTEER FIRE DEPARTMENT BURNS MORTGAGE

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. PICKLE. Mr. Speaker, I would like to invite my colleagues to share in a celebration. The citizens of Manchaca, a community on the outskirts of Austin, the capital of Texas, are cheering the retirement of a $50,000 loan secured to build its own fire station. I was privileged to take part in a unique celebration March 20, in which 20 local residents burned the paid-off mortgage which they had cosigned 10 years ago.

The residents of Manchaca had a hard time securing that loan 10 years ago, and I was pleased to lend a hand in their negotiations. When the loan came through and the station was finally built, the local residents were delighted. I am reminded of the dedication ceremony they decided to hold, and the role I was able to play in it.

At that time, Manchaca was truly a rural community, and the dedication of their very own fire station was one of the biggest events of the year. The neighbors planned a huge barbeque and ribbon-cutting ceremony, and they invited me to attend.

When the big day arrived, they drove a big platform truck onto the lawn for a stage, and set up their picnic tables. They had pounds of barbeque, potato salad, frosted cakes, cookies, soft drinks, and kegs of beer. Just about every family within 5 miles of Manchaca thronged to the firehouse.

As the hour of the dedication drew near, my car pulled up and I got out followed by two rather bewildered gentlemen. One of them was the gentleman from Fort Worth, who at that time served this body as its majority leader, and now serves as its Speaker, Mr. WRIGHT. The other was our august former colleague from Boston, then the Speaker of the House, Tip O'Neill. These two Speakers were joined by local dignitaries including County Commissioner Ann Richards—who is now the Texas State Treasurer—and State District Judge Mary Pearl Williams.

Well, the crowd burst into applause, amazed that the leadership of the House of Representatives came to Manchaca to dedicate their firehouse. I couldn't tell if the crowd was more surprised to see them, or if my colleagues were more surprised to find themselves dedicating a firehouse.

It hardly seems possible that was 10 years ago. But the station is no less important to the people of Manchaca than it was then, and I am delighted to share their celebration with my colleagues.

I am inserting at this point in the RECORD an article from the Onion Creek Free Press recounting the burning of the mortgage on the fire station.

The article follows:

[From the Onion Creek (TX) Free Press, Mar. 24, 1988]

MANCHACA FIREHALL BURNS MORTGAGE

(By Dianna Aston)

MANCHACA.—A little over 10 years ago, a local congressman and 20 supporters of the Manchaca Volunteer Fire Department teamed up to wrangle a $50,000 loan from the federal government. They wanted to build a proper firehouse on one of the northern bends of FM 1626, a place where volunteers and community organizers in the unincorporated town could get together and make plans.

Sunday afternoon, they burned the FHA mortgage they had managed to secure on Feb. 14, 1977, as U.S. Rep. J.J. "Jake" Pickle, D-Austin, and hundreds of volunteers and friends cheered and applauded.

From a platform in the Firehall Pavillion, 22-year Fire Chief Randolph Walker and 22-year president of the board Clarence Vogel, both signers of the note, tossed slips of paper with their names on them into a pit of fire, then called on 18 other co-signers to do the same.

The note-burning ceremony and catfish fry afterwards were symbolic gestures—the final payment was actually made last month, but Vogel's wife, Betty, said they had been waiting for a pretty day to thank the community for participating in the fire department's main fundraiser, the barbecue and parade held each year in September. The money that poured in during the annual barbecues helped them make an annual $6,500 payment on the loan, Vogel said.

During the ceremony, Vogel singled out Pickle as the one who saw to it that they got the loan. Twelve years ago, backers of the MVFD found it nearly impossible to obtain affordable financing from local institutions, though Austin Savings and Loan did offer them a loan at a 12 percent interest rate. Vogel said that rate was just too high for a volunteer organization, so they turned to the government for help. When their request was denied, they sought Pickle's help.

The congressman met with Vogel and other volunteers, and a month later—after Pickle had had an "eye-to-eye" talk with a government loan administrator—the fire department received the mortgage, with a 5 percent interest rate. A short time later, construction on the Firehall began.

What started out as a place to store fire trucks and to conduct meetings soon became, in Pickle's words, "the life of this community," a place where firefighters and locals alike could gather for coffee, gossip, parties and other assorted assemblies. Today, groups like the Optimist Club, the Manchaca EMS and local homeowners associations meet every night of the week in the meeting room upstairs.

In the daytime, however, people mostly trek in for the hamburgers, chicken fried steaks or catfish. Six years ago, during the height of the Texas boom, a cafe was added to the Firehall to feed the hordes of construction workers. The workers are gone now, but the cafe remains, drawing a steady stream of regulars from morning to night.

The pride in what people like Vogel, Chief Walker, and the 38 volunteers have built in the fire department's 22-year history was evident Sunday afternoon, as the blue-uniformed men and women mingled among the crowd of well-wishers from around the state.

They told tall but true tales of this fire and that, but the real story was the fire department itself. Walker said the organization has come a long way since the early 1960s. Back then, Walker, said, they would rush to fires (as fast as they could in their green "56 Chevy pickup "fire truck"), get the furniture out of the house, and sit back and watch it burn—or beat it out, if they could, with tow sacks and brooms.

Walker recalled how MVFD founder Ray Turner, now retired, raised the money to buy their first *real* fire truck. Turner put a cigar box on the counter of his Country Corner grocery on Slaughter Lane, and a year later, the box contained $1,137. Turner and Walker took the money and headed to a fire truck auction in Katy, a town a few miles west of Houston.

Bids on one of the old trucks started at $3,000, then dropped to $2,500, $2,000 and on down. Desperate to get it sold, the auctioneer asked Turner how much he had in the cigar box. "If you take that truck out of here and give me the box, it's yours," Walker remembers the auctioneer saying. They made the trade.

When Walker began his tenure as fire chief, the MVFD, which covers a 90-square-mile area, provided services for about 2,500 people. Today, more than 65,000 suburbanites live in the Manchaca fire district "scattered over hell's half acres." The 38 volunteer firefighters respond to between 130 and 190 calls a year. And their firehall has been officially, and ceremoniously, paid off.

H.R. 3764, TO IMPOSE FEDERAL STANDARDS ON AIRPORT FEES CHARGED TO OFF-AIRPORT COMPANIES

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. RHODES. Mr. Speaker, on March 9, 17 of my House colleagues signed a letter expressing opposition to the provisions of H.R. 3764, a bill that would impose Federal standards on the ability of airports to charge fees to off-airport companies, such as car rental firms, hotels, motels, and parking lots, which operate courtesy vehicles on the airport to pick up and discharge their customers.

I support the intent of their letter and join them in expressing opposition to H.R. 3764, and urge that Federal standards on fees charged by airports not be adopted.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR 1988

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. HALL of Ohio. Mr. Speaker, I rise to participate in the 1988 Congressional Call to Conscience Vigil by speaking out against the oppression of Jews in the Soviet Union. In doing so, I add my voice to the growing call for freedom for these heroic people.

Though my congressional district in Ohio is many thousands of miles from the Soviet Union, its residents are deeply moved by the plight of the Soviet Jews. My constituents often tell me about Jews who are being denied the right to emigrate, and ask me to assist on their behalf.

During this Call to Conscience, I want to bring these cases to the attention of my colleagues in the House of Representatives. I also want to make a plea to the Government of the Soviet Union to show compassion to the Jews of the Soviet Union and to honor its commitment to basic human rights.

Each one of the cases is championed by different residents of my district. They have personally taken up the cause of these Soviet individuals who seek to leave the country in the pursuit of religious freedom. Their struggle is our struggle.

Boris Lifshitz and his wife, Galina applied to leave the Soviet Union in 1979. Their application has been repeatedly denied on the grounds of state secrets. Mrs. Lifshitz suffers from chronic steopmyelitis, a disease which can be fatal. However, she is so desperate to leave that she has risked her own health to go on a hunger strike.

Boris Kelman first applied to leave the Soviet Union in 1978. Today he, his wife, Alla and his two children are still waiting. Though Mr. Kelman is a highly skilled engineer, for the last 10 years he has been reduced to doing odd jobs for fear that higher level work would reduce his chances to leave.

George and Elena Keiss-Kuna and their son, Andy seek to be reunited with Mrs. Keiss-Kuna's mother and sister who live in Israel. They have been denied permission for the past 14 years. Both have been fired from their jobs as engineers because of their efforts to emigrate. Thus, they live under severe hardships while waiting for the chance to leave for Israel.

Alla Archipova applied for an exit visa to Israel every year since 1978. Each time Mrs. Archipova's request has been denied on the grounds that her parents refuse permission for her to leave; however, her ailing father is not even well enough to fill out the necessary forms. Moreover, her application papers are repeatedly "lost" by the Soviet officials and she is required to file the same papers over and over.

The family of Anatoly Genis was first refused permission to emigrate in 1977. Mr. Genis lives with his wife, Galia, and his three children, Peter, Seva, and Stephen. The family members are destitute and in poor health. Peter suffers from Cushing's disease, Seva is sickly with a chest infection, and Mrs. Genis has suffered from Diencephal syndrome since 1980.

Alexander Glina first applied to emigrate in 1982. He is married to Elena, and has a son, Yan. The family has been denied permission on the grounds of insufficient kinship. Both Mr. Glina and Yan suffer from a chronic illness.

Next week begins the Jewish holiday of Passover, which marks the exodus of the Jews from Egypt during Biblical times. It is a time when Jews the world over celebrate casting off the chains of slavery and entering the promised land. Unfortunately, for the Jews of the Soviet Union, those chains still bind, and the promised land is a place yet to come.

This year, these Jews must celebrate Passover in the shadow of affliction. But through our continued vigilence and ceaseless efforts, they can yet enjoy the light of liberty. Next year, may they celebrate Passover in Jerusalem. Next year, may they be free men and women.

SOVIETS MUST REUNITE PYATRAS PAKENAS AND GALINA VILESHINA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. SHAW. Mr. Speaker, today I am inserting into the RECORD another excerpt from the letters of Pyatras Pakenas of Vilnius, Lithuania, to his wife, Dr. Galina Vileshina, who lives in Fort Lauderdale. Pyatras has been denied an exit visa by the Soviet Government 18 times. These letters are testament to the pain they feel at being separated from one another, except for brief visits, for 8 years.

Today's excerpt is from a letter Pyatras sent to Galina after hearing her speak on the Voice of America.

DECEMBER 5, 1987.

I heard you today on the radio. You were wonderful. Everybody who listened to you can understand and can be sorry for us, because not to understand our fate, when you speak for us, it's impossible * * *.

Nobody can fight with you. They have to understand my government. They have to understand our love is forever, and it will come the day when they will decide my exit.

And it was very nice where you addressed Mr. Gorbachev. You asked how he would feel if he has to be without his wife for one minute. This was excellent. This question, it will be a good headline for the newspaper about our fate.

I cannot understand how you could make the speech when you have a bad leg. How you could come to the station to make the speech. My love * * * you have become a big politic woman.

MAINE AMERICAN LEGION TO HELP SCHOOL CHILDREN "SAY NO TO DRUGS AND ALCOHOL"

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Ms. SNOWE. Mr. Speaker, there is an old adage "As goes Maine so goes the Nation," and members of the Maine American Legion have proven this to be true again. The Legion has agreed to sponsor a "Say no to drugs and alcohol" program in Maine schools. Educating our children to the dangers of drugs and alcohol at an early age is the first step in ridding our Nation of the serious problem of drug and alcohol abuse.

The program being sponsored by the Maine Legion was created by Mrs. Nancy Atkins, a retired schoolteacher who uses story books, puppets, and her All American Sam dolls to teach third and fourth graders the dangers of drug and alcohol use. Mrs. Atkins has received recognition from First Lady Nancy Reagan for her work in the "Say No to Drugs Program."

Over 23 school districts have gotten involved with this program in Maine, with more expressing interest every day.

I applaud the leadership role the Maine American Legion is taking in this fight to save America's youth and I would like to share an article from the Maine Legionnaire with my colleagues which provides further details on this program:

ALL AMERICAN SAM ADOPTED BY MAINE LEGION

The executive committee of The American Legion, Department of Maine, took a giant step when it voted a "Say no to drugs and alcohol" program to be embarked upon in schools throughout the state. This was voted at a meeting held in Portland Jan. 24.

The American Legion will lend its support to Mrs. Nancy Atkins of Topsham. Mrs. Atkins, a retired school teacher and author of children's books, will teach children at the third and fourth grade levels the dangers of drugs and alcohol.

Mrs. Atkins presented the program to Legionnaires and Auxiliary members at their annual Mid-Winter Conference held in Portland during January. "It is time to teach our children at an early age, the dangers of drugs and alcohol," Commander Earl Colby said. Department Commander Colby said more than 20 million children live in families with alcoholics.

Mrs. Atkins' story books reach out and teach the children at an early age not to experiment with alcohol and drugs.

Using All American Sam dolls, puppets and books as teaching tools, Atkins reaches out to the children with a colorful package all tied up in red, white and blue. Atkins intent is to get attention; to motivate children to learn; to make them aware of substance abuse; to help them build self-esteem; to practice responding to peer pressure; to talk about being an American and the responsibilities to themselves, their parents, school and country.

Department Adjutant Nathaniel T. Cobb informed the executive committee that "there is a drug dilemma in this country and our young people are caught up in it."

"The time has come when we as Legionnaires and Auxiliary members should work to put an end to this menace that is killing our children."

Mrs. Atkins has taught in grade schools in Maine and Arizona for many years and with her drug awareness program she conducts one hour class room sessions.

Thousands of children have been captivated by the warm expressions and innocence of the All American Sam clown doll she created 10 years ago. Her story books are based on the fictional character, All American Sam. Mrs. Atkins has taken her program to children's story hours teaching them important values about themselves, love, loyalty of family and country. "Through the eyes of her Sam doll, children learn about having pride in being an American" she said.

Legion posts throughout the state who wish to have this drug awareness program need to notify State Headquarters to get on the schedule. They will also need to contact their superintendent of schools and the respective elementary school principals to discuss implementing this program into the schools.

The American Legion since its beginning has always waged a war against the evils of drugs and alcohol. They have distributed thousands of brochures, such as Children and Youth on the Rocks, the dangers of marijuana and hard drugs such as cocaine. These pamphlets are written with the teenager in mind.

Maine's American Legion All American Sam program will reach eight and nine year old children. "This is the age group The American Legion should concentrate it's efforts on," Americanism Officer Edward Roach told the committee.

Topsham Post 202 has already implemented the program. Mrs. Atkins has been in the school system of Yarmouth, Freeport and Farmington. She has been in contact with and is being considered by Lisbon, Gray, Brunswick, Winthrop, Topsham and Bath schools.

Atkins goal is to capture the attention of the kids, improve the children's interest and motivate them to think for themselves. They need to learn to love themselves first and consider themselves No. 1; only then can they learn to make more intelligent decisions.

Together they practice ways to respond to peer pressure by puppetry and role playing. These are pressures they are sure to face sooner or later, especially in the area of substance abuse.

Mrs. Atkins is a member of the auxiliary and has three brothers who have served in the Armed Forces. "I have selected The American Legion as the best organization to help me to reach my goal. As partners, we can make a difference in the education of our youth in Maine." I thank the Lord every day for His gifts and blessings. Some of us bury them for safe keeping, others invest them for valuable returns," she said.

When she was informed of the executive committee's action, she had this to say, "I am honored to become part of such a dynamic organization, I feel that together we can bring a very important ingredient to the classroom and the children, i.e. respect, responsibility and pride in being Americans."

Mrs. Atkins has received recognition from Mrs. Nancy Reagan for her work in the "Say no to drugs program" and from Lee Iacocca on her work teaching children about the Constitution of the United States.

COMMEMORATION OF GREEK INDEPENDENCE DAY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. LANTOS. Mr. Speaker, today I join those Americans of Greek descent and all Americans who support democracy in commemorating Greek Independence Day. On October 27, 1986, the President signed into law a resolution adopted by this Congress designating March 25 as "Greek Independence Day", a national day of celebration of Greek and American democracy.

This day is especially worthy of recognition by Americans, for the histories of the United States and Greece are integrally linked by a strong bond of democracy and friendship. The democratic form of government adopted by the ancient Greeks inspired this Nation's Founding Fathers as they set out to write our Constitution. Thomas Jefferson said it is "to the Greeks * * * we are all indebted for the light which led ourselves out of Gothic darkness".

Unfortunately, at the time the United States was establishing its democratic traditions, the Greeks were suffering under nearly four centuries of oppression by the Ottoman Empire. The Greeks were denied virtually all of their rights. They were forced to pay a capitation tax, which simply entitled them to remain alive, they were forced to contribute male children to the Sultan's private service, and their schools and churches were closed down.

By the end of the 18th century a growing sense of Greek nationalism was encouraged by the democratic revolutions in America and France. Greek intellectuals translated the United States Declaration of Independence to use as a model for their own declaration. On March 25, 1821, at a monastery in the Peolopennese, Bishop Germanos signaled the beginning of a decade of revolution which culminated with Turkish recognition of an independent and democratic Greek state in 1832. The newly formed United States was an inspiration to the Greeks during the revolution and in the years of Greek independence which followed the revolution.

The friendship between our two countries has continued to this day. The United States has received hundreds of thousands of Greek immigrants who have enriched our culture and made significant contributions to our society. The Greeks fought for democracy on the side of the Allies in both World Wars, losing over 600,000 men in World War II. Following the war President Harry Truman rushed aid to Greece to be used against the Communist rebels who had tried to overthrow the democratic Greek Government. A statue of President Truman was erected in Athens by the Greeks to show their appreciation for American assistance in defeating the Communists.

Today the United States and Greece share a special tradition of democracy and liberty. As we commemorate Greek Independence Day we proudly recognize our interdependence and the continued friendship between our two democracies.

IN TRIBUTE TO JUDGE JOHN V. SINGLETON

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. PICKLE. Mr. Speaker, on March 18, the people of Texas paid tribute to one who has been a giant in the field of jurisprudence, Judge John V. Singleton. We will lose one of our generation's strongest advocates of justice when Judge Singleton steps down from the U.S. District Court for the Southern District of Texas later this year.

His family, friends, and admirers came together in Houston not to lament his retirement, but to praise his leadership, his compassion, his honesty, and his unswerving devotion to justice. It was truly a celebration of an extraordinary career of service, and the atmosphere was jubilant.

In a more quiet and reflective atmosphere, my recollections would have been more personal. I simply don't know of any individual who is more loved or respected than John Singleton. He has had dear and loyal friends from his days at the University of Texas at Austin for over 50 years, and each one of them not only has deep affection for him, but also a uniquely warm and kindly feeling. We may laugh and cry, concur and differ, confer or argue on the issues of the day, but each of us is united in our genuine love of John Singleton.

John has made our lives much happier, and I pride myself in knowing that he has been my good and abiding friend for all these years. I know my colleagues share my heartfelt best wishes that John and Jane Singleton will enjoy a long and rich semiretirement, and that we may continue to benefit from his advice, experience, and example for many, many years to come.

IN HONOR OF GREEK INDEPENDENCE DAY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. CARDIN. Mr. Speaker, I am pleased the Congress has designated March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

The histories of democracy in Greece and America are uniquely intertwined. Early Greek democracy was the foundation upon which our Constitution was built. Thomas Jefferson recognized this relationship when he noted, "to the ancient Greeks we are all indebted for the light which led ourselves out of Gothic darkness." The great American experiment with democracy was really an extension of early Greek democracy.

Yet when the Greeks fought for their independence in the 1820's they used the American revolution as their ideal. Greek intellectuals translated the Declaration of Independence of the United States and used it as their own declaration. Thus the concept of democracy returned to its homeland after a fruitful journey to the shores of America.

Greece and America share much more than a love for democracy. As a land of immigrants, our country has benefited greatly from the influx of Greeks throughout our history. In the early 1900's one in every four Greek males between the ages of 15 and 45 departed Greece for the United States. Greek-Americans have emerged as leaders in all facets of life. My colleague in the Maryland delegation and a former Representative of Maryland's Third Congressional District, Senator PAUL SARBANES, is the son of Greek immigrants. Today he is recognized as one of the most thoughtful and respected leaders in the U.S. Senate.

As Percy Bysshe Shelly so aptly stated, "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece."

CONGRESSMAN MILLER RECOGNIZES RUSS SCOTT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. MILLER of California. Mr. Speaker, I would like to share with you and my colleagues the progress of Russ Scott in becoming a premier motorcycle racer in the Western United States. Through hard work and discipline Russ is achieving his success. As a friend and neighbor I want this body to know how proud I am of Russ.

I would like to share with you the following article which recently appeared in the Martinez News-Gazette:

[From the Martinez [CA] News-Gazette, Mar. 15, 1988]

SCOTT'S BACKYARD SPORT NOW A PROFESSION

(By Steve Dulas)

It isn't everyone who has a chance to turn a backyard avocation into a profession, but Russ Scott is trying to.

When Scott, 20, isn't helping with the cows or horses on his family's land in the Alhambra Valley, he is racing his motorcycle somewhere in the back yard.

He has set up a couple of motocross courses on his family's 400-acre parcel, which has helped him to become one of the elite professional motocross racers in the United States.

"It's really great when you can get support from your family like that," Scott said.

He started racing motocross—a closed dirt course loaded with turns, frame-bending jumps and tooth-rattling bumps—in 1980, while a student at Alhambra. He got serious four years later, and his family and neighbors have been very cooperative.

His track sits just below a ridge in the valley, overlooking all of Martinez.

"The sound carries pretty good up here, so I try to keep it down," he said. "The neighbors are pretty good about it."

The training helped Scott, 20, earn a place in the Expert division after the 1985 season. He is now ranked 53rd in California, 171st in the nation, as the 1988 season starts to heat up.

That means he won't have that much time to help out with the animals on the ranch between now and this fall.

Scott rode about 150 races last year throughout the western United States, he said. "The first year (in the Expert class) is a trial run," he said. "In '88 I'm pretty much going to hit it hard."

Scott is a familiar name and number on the western regional circuit, which runs from Southern California into Washington and Idaho. One of his goals is to race on the national circuit, he said.

He is familiar with some of the amount of travel involved. He won the Amateur Indoor Championship which encompasses a series of races in California and Texas, a couple of years ago.

"That really opened a lot of doors for me," Scott said.

That established his credibility as a racer, which helped him obtain sponsors. The initial outlay is relatively inexpensive compared to most motor sports, about $5,000 for the motorcycle and safety gear, he said. But keeping the bike running and going from race to race can be quite a financial strain, he said.

O'Neal (which supplies his racing clothes) came later on," he said. "They helped me out and along the way I picked up a couple of other sponsors."

Scott works at Cycle Gear in Richmond, which is one of his major sponsors. His boss, Dave Bertram, is also his mentor.

"He's No. 2 in the U.S. in enduro," Scott said. "I train three days a week with him."

Scott raced last weekend, but his sites are set on a race next weekend in Placerville, Hangtown.

"That's the nationals, with riders from all over the U.S." he said. "That's the big time. There will be over 150 riders competing just to get a spot. They only accept 40."

Being one of those 40 is one of Scott's goals, in addition to racing on the national circuit. Another is to have the racing number on his motorcycle, which is assigned each year according to the rankings, get lower and lower. His bike sports 53, his state ranking, on a white plate beneath the handlebars.

"I'd like to get No. 1 on there," he said.

HONORING ALFRED S. MADRID

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. TORRES. Mr. Speaker, I rise today to honor Alfred S. Madrid. Mr. Madrid is retiring after 14 years of dedicated service, as superintendent of Mountain View School District of El Monte. Mr. Madrid will be recognized for his outstanding service to the Mountain View School District at a special retirement dinner on May 13, 1988.

Alfred S. Madrid was born and raised in Silver City, NM. He received his B.A. and M.A. degrees from New Mexico Western University. He also did graduate work at San Diego State University, USC, and Northern Arizona University at Flagstaff. He is married and has two grown sons.

Mr. Madrid first arrived at Mountain View in 1966 as an assistant principal at Kranz Intermediate School. He then moved to Monte Vista School, where he was principal. In 1974, he was appointed superintendent replacing Charles Kranz. Madrid worked for Mountain View for a total of 22 years.

Alfred Madrid is active in his community. He is a member and former president of Five Points Rotary in El Monte, a member of the Challengers Fishing Club, West San Gabriel Valley Administrators Association and the Association of California School Administrators.

He has received several community service honors, including an award last year by the Boys Club of San Gabriel Valley for his outstanding work in assisting youths in the El Monte/South El Monte area. For his dedicated service to Mountain View, the board of trustees announced last year that it will name a new junior high school in his honor. The school is scheduled to be opened within 2 years.

Mr. Speaker, I ask that my colleagues join me in saluting Alfred S. Madrid, an individual that has worked tirelessly to promote educational excellence to the students of Mountain View School District and to congratulate him for a job well done.

A TRIBUTE TO THE H.D. WOODSON SENIOR HIGH SCHOOL CONCERT CHOIR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. STOKES. Mr. Speaker, on March 6, 1988, I had the privilege of attending the Janet Michelle Bogan Memorial Foundation, Inc., Commemorative Concert. This organization was established in memory of Janet Michelle Bogan who passed away 4 years ago at the age of 23. Janet Bogan was a friend and a special part of my family. While she is no longer with us, her spirit lives on through the work of the foundation. Dedicated to enriching the lives of those less fortunate and inspiring our youth to achieve, the foundation is a lasting memorial to Janet and her dreams.

On this occasion, we had the opportunity to enjoy the musical talents of the H.D. Woodson Senior High School Concert Choir.

Mr. Speaker, this diversified group of young musicians hails from Washington, DC, under the directorship of Mr. James Curtis Brown. Mr. Brown, who received his bachelor's and master's degrees from Howard University, organized the H.D. Woodson Concert Choir on January 27, 1986, with only three members. The choir has grown to a membership of 40 students and has performed for audiences throughout the city. Later this month, the choir will embark upon its first interstate tour to Detroit, MI.

The H.D. Woodson Concert Choir has adopted as its theme "God Can Make a Way." It is refreshing and enjoying to hear these beautiful voices united in harmony and spreading musical joy throughout our communities.

Mr. Speaker, I want to take this opportunity to commend the Woodson High School administration for its leadership in organizing and promoting the concert choir. I would also like to congratulate Mr. Brown and wish the choir continued success. I enjoyed the concert and I am pleased to bring these outstanding young musicians to my colleagues' attention.

THE H.D. WOODSON SENIOR HIGH SCHOOL CONCERT CHOIR

Ms. Lucille Christian, Principal.

Mr. James Curtis Brown, Director.

Angela Abney, Gregory Abner, Carlos Barrett, LaShawne Baylor, Pamela Beard, Teresa Beard, Millford Best, Alexander Brown, Kimberly Brown, Carl Clemons, and Monchica Davis.

Cheryl Dorsey, Nicolle Edwards, Sanyi Edwards, Damon Ellis, David Gambill, Runelle Gillium, Brenda Harold, James Harris, Jamese Hatley, Karen Haughton, and Sharlotta Hickman.

Jerri Jones, Kimberly Kennedy, Dionne McCoy, Clarence Minor, Tonya Mitchell, Melanie Morrisey, Tonya Moss, Candise Murphy, Vernard Portis, Christopher Power, and Jermaine Pressley.

Katina Randolph, Rolando Robinson, April Rogers, James Rush, Vincent Simms, Carol Smith, Freddie Temoney, Derek Waters, Wanita Watson, Cheryl Williams, and Marilyn Zimmerman.

IN RECOGNITION OF BRIGIT LYN TUXEN RECIPIENT OF THE CANCER COURAGE AWARD

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. LEHMAN of California. Mr. Speaker, I rise today to honor Brigit Lyn Tuxen, of Stockton, CA, recipient of the Cancer Courage Award, from the American Cancer Society.

Brigit, now 13, was diagnosed with high risk acute lymphoblastic leukemia in 1981, at age 5. Her case was considered "highly progressed," leaving her a 50 percent chance of recovery. For the next 3 years, Brigit battled her disease through an extensive chemotherapy program at the UC Medical Center in San Francisco.

Despite the side effects and trauma of her treatment, Brigit excelled as an A student at El Dorado Elementary School and won school and district awards for scholarship, citizenship and art. She is presently an honor student at Webster Middle School in Stockton.

Brigit completed her therapy more than 4 years ago and is now considered a long-term survivor.

A talented young artist, Brigit has used her skills and experience to educate teachers and parents through illustrations used in two of the American Cancer Society pamphlets.

Brigit is one of 57 individuals honored this week in Washington by the American Cancer Society. A recipient was chosen from each of the national divisions to represent the thousands of Americans who have survived cancer.

I am proud to share Brigit's story with you. She is a shining example of courage, bravery, and strength. I know you will join me in congratulating her and the other recipients of this distinguished award.

THE PUERTO RICO PRIMARY

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. FUSTER. Mr. Speaker, I rise to point out to my colleagues today a remarkable exercise in participatory democracy that took place Sunday, March 20 in my home island of Puerto Rico.

Close to 35 percent of registered voters participated in our primaries. More than 671,000 persons voted in the Democratic primary; some 3,000 in the Republican one. Moreover, the results of the Sunday primary demonstrated once again that the dominant political force in Puerto Rico is that which favors the existing Commonwealth status. Perhaps the people of Puerto Rico are trying to tell the outside world something—that despite claims, even in Congress, that Puerto Rico wants either statehood or independence, the people of Puerto Rico really favor the existing status.

That is the major lesson to be learned from the Sunday primary in Puerto Rico. The New York Times correctly picked up on that theme in its news story from San Juan in its March 22 edition, and I think my colleages ought to be aware of that reality. As the Times pointed out,

> In a boost for pro-Commonwealth advocates, the president of the Puerto Rican Senate was elected chairman of the island's Democratic Party Sunday * * * Miguel Hernández Agosto, the Senate president, is a member of the Popular Democratic Party, which is led by Gov. Rafael Hernández Colón and favors continuation of the island's commonwealth status. Mr. Hernández Agosto received about 56 percent of the vote in defeating Carlos Romero Barceló, a former Governor and a proponent of statehood for Puerto Rico.

Mr. Hernández Agosto headed a slate of uncommitted delegates all supporting the theme that they would only back Democratic Presidential candidates who clearly support the continuation and development of Commonwealth status. Candidates Jackson, Dukakis, and GORE all conveyed varying degrees of support for that theme in the last few days of the campaign in Puerto Rico.

Former Governor Romero, on the other hand, headed a slate of delegates committed on statehood, many of whom leaned toward Senator SIMON, who favors statehood for Puerto Rico. On the Republican side, both Vice President BUSH and Senator DOLE supported statehood.

Mr. Hernández Agosto won in an impressive manner. He not only obtained more than 56 percent of the vote but he also won in all voting districts, and our pro-Commonwealth party won 55 of the 57 delegates which Puerto Rico will send to the Democratic National Convention. The magnitude of the support for Commonwealth was truly overwhelming.

Although both Democratic and Republican primaries were held the same day, the fact that less than one-half of 1 percent of the voters participated in the Republican primary, despite strong campaigning by both BUSH and DOLE advocates, makes the Republican results not significant at all.

In the Democratic primary, the nonbinding popularity contest was won by the Reverend Jackson, with 32 percent of the vote, followed by Governor Dukakis with 26 percent, Senator SIMON with 21 percent and Senator GORE with 17 percent.

Sunday's primaries culminated weeks of exciting, often feverish, political activity in Puerto Rico. The results portend an eagerness to participate in setting the national agenda and a decisive reaffirmation of our existing commonwealth status.

GREEK INDEPENDENCE DAY

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. NELSON of Florida. Mr. Speaker, March 25, 1988, is Greek Independence Day, an occasion for celebrating both Greek and American democracy. Today is the 167th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire, an empire which deprived Greek citizens of all civil rights for nearly 400 years.

The United States served as a role model for the Greek people who declared their independence in 1821. The American Revolution became one of the ideals of the Greeks as they fought for independence. Greek intellectuals translated the Declaration of Independence of the United States and used it as their own declaration, resolving to live or die for freedom so that democracy can prevail.

Throughout history, the ancient Greek civilization has provided guidelines in the shaping of our democratic system. As Pericles stated in an address in Athens more than 2,000 years ago. "Our Constitution is called a democracy because power is in the hands not of a minority but of the whole people * * *."

Mr. Speaker, Greek civilization is alive within us; it moves in the political air we breathe. I would like to take this opportunity to ask my colleagues to join me in recognizing on Greek Independence Day, the importance of the legacy of Greek civilization for the world.

HARVEST AGAINST HUNGER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. ACKERMAN. Mr. Speaker, on March 31, in Queens County, NY, various individuals and organizations from throughout the borough will join together to create a "Harvest Against Hunger."

On this day, 3,000 people will enjoy a meal provided by and served at nearly a dozen of Queens' best restaurants and catering halls. In addition, packages of cheese, butter, nonfat dried milk, bread, flour, rice, and corn meal will be distributed to these people.

"Harvest Against Hunger" is the idea of Queens businessmen Al Simon, Julian Wager, and Buster Celestino, who owns Kneer's Golden Pheasant, one of the participating catering halls. He's also president of the Queens chapter of the New York State Restaurant and Caterers Association, the organization sponsoring this event.

This special event is being coordinated by the Walter Kaner Children's Foundation, whose president, Loretta King, and secretary, Peggy Daly-Friend, worked tirelessly to ensure its success. New York City Council Majority Leader Peter Vallone, and Councilman Walter McCafrey, and charitable, religious, antipoverty, business and community organizations from around Queens County join me in supporting and participating in this great cause.

The food and facilities will be provided by Paul Denardo of Astoria Manor, Philip Corbisiero of Ricardo's, Horst Hernik of Neiderstein's, Frank Antun of Antun's, Bob Santucci of Douglaston Manor, Catherine Best of Regency House, Paul and Tom Clalmaras of Crystal Palace, Sam Bruno of Bruno's on the Boulevard, the Russo Family of Dante's Caterers, Frank and Francis D'Orazi of Le Cordon Bleu, Mary Bottali of Villa Bianca, Tony Leggio of the Marriot Corp. and Allan Scherl of Terrace on the Park, who will provide kosher food.

The contributions and donations of Hebrew National, Maxwell House Coffee, Pepsi-Cola, and Canada Dry helped to make this special meal possible.

I also want to recognize Bernie Gold of Sultana, Joe Bellacicco of Bellacicco Bakery, Mort Pomerantz and Jerry Shier of Martin's Paint, Luis Rodriguez of the New York State Power Authority, John McCluckie of New York Telephone, and Bruce Wittner of Con Edison for their time and efforts on behalf of "Harvest Against Hunger."

Tickets for the meal are being distributed to needy individuals and families by Catholic Charities, the Queens Federation of Churches, the Jackson Heights-Elmhurst Kehillah, the Godian Fellowship Church, the Queens Community Jewish Council, the Metropolitan New York Coordinating Council on Jewish Poverty, and the Queens Interfaith Hunger Network.

These organizations are represented on the ad hoc "Harvest Against Hunger" committee by Thomas Patitucci, Rev. N.J. L'Heureux, Jr., Paula Feldstein, Rev. Carl L. Baldwin, Max Schoenbrot, Warren Feirstein, and Howard

Agress, and Pat Ardezzone respectively. They, and fellow committee member Francis D'Orazi of Le Cordon Bleu, all worked with great dedication to ensure that this event would be a success.

Special thanks also go to "Harvest Against Hunger" committee members Father Coleman Costello of the Outreach Project, Peter Chimera of A-Way Out, Tony Lento of Walter Kaner Children's Foundation, Pat Olsen, secretary of the Queens chapter of the new York State Restaurant and Caterers Association, Pam Green of the New York City Human Resources Administration and Queens businessman Bernie Dulke for their unyielding support.

Finally, I want to acknowledge the efforts of the many people who selflessly volunteered their valuable time to make this special occassion possible.

A TRIBUTE TO NEW YORK STATE SUPREME COURT JUSTICE VINCENT F. NARO

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 28, 1988

Mr. MANTON. Mr. Speaker, I take this opportunity today to pay tribute to New York State Supreme Court Justice Vincent F. Naro, one of my State's finest public servants. Vincent Naro has been serving the people of Queens and New York for more than 25 years. Tomorrow night, Vincent will be guest of honor at the Queens Borough Lodge 878, Benevolent and Protective Order of the Elks' Judiciary Night Dinner. In conjunction with this event, Queens Borough President Clare Shulman has declared March 29, 1988 "Justice Vincent F. Naro Day." I am glad to add my voice to the chorus of tributes in honor of my friend and neighbor, Vincent Naro.

During the last three decades of his distinguished career, Vincent has accomplished much. He first entered public service as an assistant district attorney and served in that capacity from 1961 until 1964. He was appointed counsel to the chairman of the New York State Senate Committee on Codes in 1965. Vince put that experience to good use in 1967 when he was appointed counsel to John F. Scileppi, chairman of the Ethics Committee of the Constitutional Convention. Vince was elected judge of the Civil Court of the City of New York in 1973. In August 1975, Vince was appointed to the New York State Supreme Court as an acting justice. In 1976, he was elected to the court in his own right, and now has served there with distinction for more than 12 years.

Mr. Speaker, Vincent F. Naro's contributions to the community are not limited to the courtroom. He has worked with various youth groups including the Queens Child Guidance Center, Elmjack Little League, the Teen Age Canteen of Jackson Heights, and the Catholic Youth Organization. Vincent also is active in church affairs. He is a past president of the St. Joan of Arc Holy Name Society, a former vice chairman of the parish council, a member of the Knights of Columbus and a founding member and past president of the Interfaith Council of Jackson Heights. Vincent's activities have also included professional organizations such as the District Attorneys' Association, the State District Attorneys' Association, the Queens County Bar Association, the Catholic Lawyers' Guild and the Supreme Court Justice Association of the city of New York.

Mr. Speaker, let me conclude by saying how proud the people of the Ninth Congressional District of New York are to claim Vincent F. Naro as a son of western Queens. He grew up amongst us, graduating from Long Island City High School before going on to Georgetown University, St. Peter's College, and New York University Law School. My congratulations go out to Vincent, his lovely wife, Ellen, and two children, Lisa Landum and Thomas Naro. The citizens of my borough, city, and State join with lodge 878 in honoring Vincent F. Naro for his lifetime of service.

GREEK INDEPENDENCE DAY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. LENT. Mr. Speaker, I'm pleased to join my colleagues in commemorating March 25, 1988, as Greek Independence Day. This date marks the 167th anniversary of freedom for the Greek nation and her people.

This is a day of importance for Greeks and Americans alike. The history of our two democratic nations has been entwined since the birth of the Greek Republic over 2,000 years ago. The ancient Greeks governed under the basic principles of government by the people and equality before the law. These same principles formed the foundation for our own American democracy, and as Thomas Jefferson once remarked, "* * * to the ancient Greeks * * * we are all indebted for the light which led ourselves (American colonists) out of Gothic darkness."

Inspired by the American colonists' successful revolt against British rule, the Greeks sought their own independence in 1821. Many Greek Americans returned to Greece to fight for their homeland's freedom. There's also an interesting historical footnote worth mentioning: the Greeks translated the United States Declaration of Independence and used it as their own statement of principles of government. It is a testament to the strength of the Greek Republic that it has withstood the devastation of two world wars and emerged victorious over a post-World War II Communist insurgency.

Greek Americans should take great pride in their illustrious heritage. Today, as we pay tribute to that indomitable spirit of Greek independence, I encourage all Americans to join in this national day of celebration of Greek and American democracy.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, March 29, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 30

9:00 a.m.

Armed Services

Closed joint briefing with the House Committee on Armed Services on unauthorized appropriations.

S-407, Capitol

Rules and Administration

To hold hearings on S. 2061, to establish national standards for voter registration for elections for Federal office.

SR-301

9:30 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to resume mark up of S. 1516, Federal Insecticide, Fungicide and Rodenticide Act Reform of 1987.

SR-332

Armed Services

Defense Industry and Technology Subcommittee

To continue hearings on Department of Defense policies and international agreements that affect the defense industrial base.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Rural Electrification Administration.

SD-138

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of the Air Force.

SD-192

Appropriations

Foreign Operations Subcommittee

To hold hearings to review multilateral development banks replenishment and policy issues, activities of the Multilateral Investment Guarantee Agency,

and the International Monetary Fund quota increase.
S-128, Capitol

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Smithsonian Institution, and the Woodrow Wilson International Center for Scholars.
SD-116

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Legal Services Corporation.
S-146, Capitol

Environment and Public Works
Environmental Protection Subcommittee
Hazardous Wastes and Toxic Substances Subcommittee
To hold joint hearings on the condition of the stratospheric ozone.
SD-406

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To resume hearings on S. 909, to require government agencies to turn back to the Treasury any savings generated from contracting out.
SD-342

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

Conferees
On H.R. 5, to improve elementary and secondary education.
S-116, Capitol

10:30 a.m.
Conferees
On the Exon-Florio Amendment, investment, competitiveness, and the Foreign Corrupt Practices Act provisions of H.R. 3, Omnibus Trade and Competitiveness Act.
SD-538

2:00 p.m.
Armed Services
Projection Forces and Regional Defense Subcommittee
To hold hearings to review Persian Gulf operations in relation to the revised Department of Defense authorization request for fiscal year 1989.
SR-222

Select on Intelligence
Closed meeting, to discuss intelligence matters.
SH-219

3:00 p.m.
Conferees
On the export controls provisions (licensing issues, Alaskan oil export and Toshiba) of H.R. 3, Omnibus Trade and Competitiveness Act.
H-324, Capitol

4:00 p.m.
Conferees
On Section 703 (Bryant Amendment) of H.R. 3, Omnibus Trade and Competitiveness Act.
2123 Rayburn Building

MARCH 31

9:00 a.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on proposed legislation authorizing funds for the Department of Energy, focusing on atomic energy defense activities.
SR-222

9:30 a.m.
Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To resume hearings on S. 1407, to expand and strengthen remedies in antitrust cases, and to improve antitrust enforcement, and certain provisions of S. 635, to protect intellectual property rights.
SD-226

Small Business
To hold hearings on S. 1929, to create a corporation for small business investment.
SR-428A

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Strategic Defense Initiative.
SD-192

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for emergency preparedness, and the U.S. Geological Survey.
SD-116

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Aviation Administration, and the General Accounting Office.
SD-138

Banking, Housing, and Urban Affairs
To hold hearings on proposals for structural and regulatory reform in the securities markets.
SD-538

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 314, to require certain telephones to be hearing aid compatible.
SR-253

Environment and Public Works
To hold hearings on the nomination of Robert E. Farris, of Tennessee, to be Administrator of the Federal Highway Administration, Department of Transportation.
SD-406

Select on Intelligence
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.
SH-219

2:00 p.m.
Armed Services
Readiness, Sustainability and Support Subcommittee
To resume open and closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on overseas base agreements and associated military construction programs; and to review a GAO report on the administration of U.S. maneuver damage claims in Europe.
SR-222

APRIL 1

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for March.
SD-628

APRIL 4

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To resume hearings to review international drug control programs, focusing on the drug cartels of Haiti and Central America.
SH-216

APRIL 5

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings to review international drug control programs, focusing on the drug cartels of Haiti and Central America.
SH-216

APRIL 6

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings to review international drug control programs, focusing on the drug cartels of Haiti and Central America.
SH-216

APRIL 7

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings to review international drug control programs, focusing on the drug cartels of Haiti and Central America.
SH-216

APRIL 8

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings to review international drug control programs, focusing on the drug cartels of Haiti and Central America.
SH-216

APRIL 11

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Forest Service.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency.

SD-124

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

APRIL 12

9:30 a.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on the Super-conducting Super Collider and the basic science budget.

SD-366

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.

SD-342

Small business

To hold hearings on the proposed Preferred Surety Bond Guarantee Program Act of 1988.

SR-428A

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency, and the Council on Environmental Quality.

SD-124

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy conservation and emergency preparedness programs.

SD-116

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-138

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-138

APRIL 13

9:00 a.m.

Government Affairs

Federal Services, Post Office, and Civil Service Subcommittee

To hold joint hearings with the Committee on Rules and Administration on provisions of S. 1947, to provide for the acquisition of the Old City Post Office building in the District of Columbia by the Architect of the Capitol for use as a Senate and House of Representatives office facility (pending on Senate Calendar).

SR-301

Rules and Administration

To hold joint hearings with the Committee on Governmental Affairs' Subcommittee on Federal Services, Post Office, and Civil Service on provisions of S. 1947, to provide for the acquisition of the Old City Post Office building in the District of Columbia by the Architect of the Capitol for use as a Senate and House of Representatives office facility (pending on Senate Calendar).

SR-301

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Labor.

SD-124

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Oversight of Government Management Subcommittee

To continue hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.

SD-342

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs on the legislative priorities of AMVETS, Vietnam Veterans of America, and the Jewish War Veterans.

SD-106

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Farmers Home Administration, Federal Crop Insurance Corporation, and the Farm Credit System Assistance Board.

SD-138

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for reserve components' military construction and defense agencies' military construction and family housing programs.

SD-116

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study on the Implementation of the Marine Mammal Protection Act.

SR-253

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

2:30 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for ACTION, Corporation for Public Broadcasting, Railroad Retirement Board, Federal Mediation and Conciliation Service, National Mediation Board, National Labor Relations Board, and the Occupational Safety and Health Review Commission.

SD-124

APRIL 14

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1632, authorizing funds for fiscal years 1988-1992 for the National Science Foundation.

SR-253

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Gallery of Art, Commission on Fine Arts, FDR Memorial Commission, and the Advisory Council on Historic Preservation.

SD-138

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transit Administration, and the Washington Metropolitan Transit Authority.

SD-124

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

APRIL 15

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Prospective Payment Assessment Commission, Physician Payment Review Commission, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on the Handicapped, Soldiers' and Airmen's Home, and the U.S. Institute of Peace.

SD-192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the General Services Administration and the Executive Office of the President (with the exception of OMB).

SD-116

APRIL 18

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for fossil energy research and development, and clean coal technology programs.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

1:00 p.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Postal Service, Office of the Secretary of the Treasury, and the National Treasury Employees Union.

SD-116

APRIL 19

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-138

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

APRIL 20

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Army military construction and family housing programs.

SD-124

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for drug enforcement and coordination programs.

S-146, Capitol

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings to review environmental conditions and trends in marine and near shore-coastal waters.

SD-406

1:30 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal 1989 year for the Office of Territorial Affairs, and territorial governments.

SD-138

2:30 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommitte

To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.

SD-192

APRIL 21

9:00 a.m.

Veterans' Affairs

To hold hearings on S. 11, Veterans' Administration Adjudication Procedure and Judicial Review Act, and to hold oversight hearings on activities of the Board of Veterans' Appeals.

SR-418

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.

SD-116

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on truck access.

SR-253

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the Department of Health and Human Services.

SD-138

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Transportation, and the General Accounting Office.

SD-124

APRIL 22

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies

To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.

Judiciary

Courts and Administrative Practice Subcommittee

To resume hearings on S. 1482, to make certain improvements with respect to the Federal judiciary.

SD-226

APRIL 25

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.

SD-124

APRIL 26

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-124

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the

Federal Emergency Management Agency.

S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, and the Navajo-Hopi Indian Relocation Commission.

SD-116

APRIL 27

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.

SD-124

APRIL 28

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-116

10:00 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for diplomatic security programs.

S-146, Capitol

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.

SD-124

10:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 2068, to protect marine and near shore-coastal waters through establishment of regional marine research centers.

SD-406

1:30 p.m.
Energy and Natural Resources
Research and Development Subcommittee
To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on fossil energy research and development and the clean coal technology programs.

SD-366

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management.

SD-116

APRIL 29

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.

SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.

SD-192

MAY 9

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 10

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.

SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 11

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.

SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.

SD-124

MAY 12

9:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation relating to agent orange and related issues.

SR-418

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.

SD-192

10:00 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for trade activities of the Department of Commerce and the U.S. Trade Representative.

S-146, Capitol

MAY 17

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

2:00 p.m.
Energy and Natural Resources
Research and Development Subcommittee
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of

Energy, focusing on renewable energy and energy conservation programs.

SD-366

MAY 19

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 24

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 25

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

MAY 26

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-138

JUNE 7

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

JUNE 8

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

JUNE 9

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

CANCELLATIONS

MARCH 30

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1989 for military construction and family housing programs.

SD-124

MARCH 31

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on the uranium enrichment program, and the need for restructuring of the enrichment enterprise.

SD-366

SENATE—*Tuesday, March 29, 1988*

(*Legislative day of Monday, March 21, 1988*)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Father in Heaven, in the name of the Prince of Peace, we come to Thee this morning in the beautiful words of St. Francis of Assisi.

"Lord, make me an instrument of Thy peace: where there is hatred, let me sow love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy.

"O Divine Master, grant that I may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned; and it is in dying that we are born to eternal life."

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 29, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the majority leader is recognized.

RESERVATION OF LEADERSHIP TIME

Mr. **BYRD.** Mr. President, I ask unanimous consent that the time of the two leaders be reserved.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin is now recognized.

THE CASE FOR RAISING INTEREST RATES NOW

Mr. **PROXMIRE.** Mr. President, why has this Federal Government pursued policies that have pushed debt in this country—Federal debt, household debt and business debt—all to alltime highs? We know the Federal debt is the curse of our National Government and a genuine disgrace. We are ashamed of the $2.4 trillion our Government owes, and we should be. A modest, reasonable amount of debt has its vital uses. In wartime or in depression, a country has every reason to borrow money to help defend itself or to push the country out of depression. A family that borrows money to finance a college education for its children deserves commendation. A business that borrows money to finance critical research and development not only helps itself, its stockholders and employees, it also helps our country. It increases productivity. It makes Americans more competitive. But the kind of deep, crushing debt that plagues our country today, the product of our Government living beyond its means, enfeebles it. The much bigger debt accumulated by the American family—a debt that now exceeds $2.9 trillion—and the mammoth American business debt—the biggest debt of all at $3 trillion plus—makes our economy far more fragile, much more likely to collapse into depression, come the next recession.

So what can we do about it? Almost no one will breathe a word of it. But one answer is higher interest rates. A stream of prospective homebuyers contemplating a bigger mortgage at 10 percent interest to buy a house will turn away if the interest rate rises to 12 percent. Push interest up to 15 percent and the stream of potential homebuyers who drop out becomes a flood. That's tough for the homebuilding industry. It knocks millions of workers in the home construction industry out of work. It slows the economy. But it instantly diminishes the rise of household debt. Rising interest rates not only slash borrowing to buy homes, they discourage borrowing to buy cars and television sets and refrigerators. But doesn't that slow the economy? Of course, it does. Put another way it requires more and more people to live within their means.

That is not all it does. This country is not only in trouble because too many Americans are borrowing too much money, too many of our countrymen are building up interest obligations that will cut cruelly into their standard of living later, but Americans are saving little or nothing from their income. Not only has the indebtedness of the American family soared out of sight, the savings of the American family have nosedived as never before. Think of it. Savings which are 20 percent of personal income in Japan, and were traditionally about 6 percent of income in America, have now fallen to a pitiful 3 percent this year. At the same time debt has shot up through the roof. Why do people save? The one big reason—the one real reward for saving—is the interest they receive. Here is the big free market incentive to save. Save because you are paid to save. So what happens when the Fed pursues policies that expand the money supply and reduce interest rates? Americans borrow more. And why not? The price of borrowing is interest. So when interest drops, it is cheaper to borrow. The result: Americans borrow more money. Debt increases. That is not all the damage that a policy of pushing down interest rates does. Why do Americans save? They save because they receive a reward for saving. That reward is interest. The higher the rate of interest, the more effective that reward. As interest rates fall, the reward for savings diminishes and savings fall.

So is there any wonder that sharply falling interest rates in the past 7 or 8 years have increased debt and diminished savings? Of course, this country has lived beyond its means in the private as well as the public sector. Our credit policies have encouraged this profligacy. For the economy as a whole, our credit policies have been at least as disastrous and irresponsible as the reckless fiscal policies that have plunged our Government into its biggest public debt ever.

● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

Obviously, a rise in interest rates would inflict immediate pain on our economy. It would increase unemployment. It would reduce profits. It would lower the American standard of living. This would be especially true if the rise in interest rates was pursued in tandem with a more restrained fiscal policy. Here is a combined policy that no one but a Member of Congress who is retiring and will never seek public office again would espouse. But it is a policy we should pursue, and the sooner the better.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator is notified that there are about 2 minutes remaining in morning business.

Mr. WALLOP. The Senator is aware. I appreciate that counsel.

SENATORS URGED TO ATTEND CLASSIFIED BRIEFING

Mr. WALLOP. I would like to take part of that 2 minutes, Mr. President, to urge Senators to attend the classified briefing. It looks from the people on the floor here there does not seem to be such an attempt. Yet we are talking about the fate of nations.

We are talking about the fate of our allies in Europe. We are talking about the exposures of American soldiers and military people in Europe. We are talking about the survival of NATO. We are talking about possible Soviet cheating that exists even in advance of the INF Treaty. It seems to me inconceivable that Senators would dare to vote on matters of such import without bothering to avail themselves of the information that we wish to present to them this morning.

In the opinion of this Senator, the CIA has cooked the figures on the numbers of SS-20's, and I am prepared to try to prove that in this classified session. But it is of absolutely no avail to the Senate, the United States, our allies, or anyone interested in the obligation and job of the U.S. Senate in giving our consent to ratify this treaty if such information is simply ignored and is not available. It is available and it will be made available. I doubt, given the history of this organization, that anybody is going to go back and read the transcripts.

I just urge Senators to come and listen to the arguments as to how the Soviet situation affects the beginnings of the INF Treaty and will create a permanent footnote in the compliance record that will be offered by this Senator from time to time.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE—CLOSED SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that upon completion of the closed session, the transcript, which will be taken by a reporter from the Intelligence Committee, be available for Members to revise their remarks for 1 week in the Intelligence Committee office and thereafter in the Office of the Senate Security, S-407, here in the Capitol, where it will be permanently kept.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that there be an expurgated version of the proceedings, that there be deleted therefrom anything which might be classified, and that such expurgated version be made part of the CONGRESSIONAL RECORD.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST: STAFF ACCESS TO CLOSED SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that during the closed session, in addition to the Secretary of the Senate, the Assistant Secretary of the Senate, the Legislative Clerk, the Parliamentarian, the Journal Clerk, the Sergeant at Arms, and the Secretaries to the Majority and the Minority, all of whom are authorized access under rule XXIX, the following committee and leadership staff be authorized access to the floor:

G. William Ashworth, David S. Sullivan, Arnold Punaro, Carl M. Smith, Robert G. Bell, Robert F. Bott, Sven Holmes, James Dykstra, George Tenant, Gary Sojka.

Edward Levine, Paul Joyal, Fred Ward, C. Richard D'Amato, Scott Harris, Al Lehn, David Smith, Michael Di Silvestro, Albert Saffold, Theresa M. Martin, Sheila Burke, and James Whittinghill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I read from rule XXIX concerning executive sessions.

> Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal from the service of the Senate, and to punishment for contempt.

Mr. SYMMS. Mr. President, is there any time remaining?

The ACTING PRESIDENT pro tempore. There is no time left.

Mr. BYRD. Does the Senator wish a minute or two?

Mr. SYMMS. I would appreciate it if I could have about 3 minutes.

Mr. BYRD. All right.

Mr. President, I ask unanimous consent that the distinguished Senator from Idaho be allowed to proceed for 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Idaho is recognized.

Mr. SYMMS. I thank the majority leader, and I will try to be brief. I only wish to add to what the distinguished Senator from Wyoming has said. Then I will ask unanimous consent to insert other material which is unclassified into the RECORD.

WHY WE URGENTLY NEED A CLOSED SESSION OF THE SENATE

Mr. SYMMS. Mr. President, there are many reasons why we need a closed session of the Senate and why we need it urgently, now.

I want to thank the majority leader and I want to do it now in the RECORD, thank him for making it possible that we can have this meeting before any discussion of the INF Treaty takes place.

Here is a summary of what will be reported in the closed session, the unclassified portion. All of these points have been discussed before in open Senate floor session and can be stated in unclassified form:

There are over 1,000 Soviet SS-20's, leaving a covert force of at least 300;

The CIA has attempted to "cook the books" on the SS-20 covert force issue;

The Soviets deliberately falsified their data in the Mutual Balanced Force Reduction negotiations, which are closely related to the INF Treaty, in order to preserve their military advantages with covert forces;

The INF Treaty is not verifiable, yet this conclusion was misleadingly buried in the classified section of an administration report whose unclassified sections have been given to the press;

INF verification hearings have been resisted and delayed several times, in order to try to cover up the conclusion that the INF Treaty is not effectively verifiable;

The INF Red Team correctly warned that the treaty would not be effectively verifiable;

There is conclusive, agreed intelligence evidence of a large SS-20 covert force;

There is strong evidence that the SS-20 covert force could use the SS-20 and SS-25 infrastructure;

In my opinion, contrary to the reports of the chairmen of the Senate Committee on Armed Services and the Senate Select Committee on Intelligence, the INF Treaty is not effectively verifiable.

First, now that the chairmen of the Senate Intelligence and Armed Services Committees have made their formal reports to the Foreign Relations Committee, several rebuttals to misrepresentations and distortions in INF intelligence need to be presented. It is urgent that these misrepresentations and distortions be cleared up immediately, before further myths may set in.

Second, we have attempted to extract all of the most important agreed intelligence related to the INF Treaty, and to put it in one place for interested Senators. Our report needs to be presented urgently, because we believe it to be of overriding importance. Most of our intelligence material is extracts from NIE's or draft NIE's—agreed national intelligence assessments.

Third, our extracts contain unique material not even considered by the committee reports. Some of this material is from draft NIE's not available even to the Senate Select Committee on Intelligence.

Fourth, by giving our extracts now to the whole Senate, we not only hope to both inform Senators of some unique materials, but also to stimulate debate and dialog. We would be delighted to hear comments and opposing views related to our unique material.

Fifth, the only way for us to present this material is in closed session of the Senate.

OFFICIAL UNCLASSIFIED AND OPEN SOURCES FOR SENATOR HELMS' FEBRUARY 8, 1988 CHART ON SOVIET CONCEALED SS-20 MISSILES

Mr. President, as the Senate nears consideration of the proposed INF Treaty on the Senate floor and in closed sessions in the Old Senate Chamber, we need to keep in mind that the Soviets falsified much of their data in this treaty, in order to maintain a covert force of 300 to 500 SS-20's.

I would like to describe for the Senate in more detail the sources behind the unclassified chart and chart description on the Soviet covert SS-20 force that Senator HELMS has prepared.

There are multiple, pre-existing, official, unclassified, sources for the most important data in the HELMS' chart:

A letter to Senator HELMS from the Secretary of State;

The open testimony of the Chairman of the Joint Chiefs of Staff;

And an authoritative series of Defense Department reports.

These official, unclassified sources are the basis for the HELMS' chart estimates of 840, 950, and 1,200 Soviet SS-20's.

There are several pre-existing press reports as sources for the HELMS' chart estimates of 950 and 1,200 SS-20's in the context of a July 1987 National Intelligence Estimate [NIE] and a January 1988 Draft National Intelligence Estimate.

There are several pre-existing press reports as sources for the HELMS' chart estimates of 550 and 700 Soviet SS-20's in the context of the respective NIE's.

Unclassified pre-existing official correspondence to Senator HELMS from the White House and from the CIA Director has referred to these NIE's, even by identification numbers, which are not used in the Helms chart.

Finally, multiple pre-existing press reports are the sources for the estimate in my chart of 2,250 Soviet SS-20's.

Mr. President, I ask unanimous consent that a memorandum from Senator HELMS to all Senators regarding the detailed sourcing of the SS-20 chart, together with its enclosures, be printed in the RECORD for the information of all Senators.

Mr. President, I ask unanimous consent that a memorandum from Senator HELMS to all Senators regarding the detailed source of the SS-20 chart, together with its enclosures, be printed in the RECORD for the information of all Senators and all staff.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 28, 1988.

MEMORANDUM

To: All Senators.
From: Senator Jesse Helms of North Carolina.
Re: Unclassified and open sources of SS-20 estimates.

SUMMARY

On March 21, an analysis of open-source discrepancies in the estimates of Soviet SS-20s produced was distributed to all Senators. Subsequently, the assertion was made that the analysis and attached chart revealed or confirmed code-word sensitive data. The fact is that neither the analysis nor the chart contained code-word sensitive data, and was based entirely on authoritative open testimony, official (unclassified) letters from the White House, the Secretary of State and the Director of Central Intelligence, unclassified DOD documents, and press accounts going back as far as 1976. The analysis and the covering letter clearly labelled the estimates as those "appearing in the public press" and "in open testimony." No suggestion was made that the estimates given were the actual estimates. Each Senator can decide for him or herself whether the unclassified numbers are accurate enough for public discussion of important public issues. It was highly inappropriate for one Senator to characterize unclassified numbers as identical to classified numbers, whether such a characterization was correct or incorrect. That is why I took strong exception to the Senator's declaration that the data in my analysis "are assessments that we heard at the time of code level" and that they were "figures . . . given in that session." My analysis was carefully drawn to avoid confirmation, but to allow public discussion. Classification is intended to protect sources and methods, and not to stifle public debate of national security issues.

INTRODUCTION

The unclassified description of concealed SS-20 missiles and accompanying chart was discussed on the Senate Floor on March 4, 1988, by Senators Symms and Wallop, in the course of debate of a Symms-Wallop-Helms amendment relating to the Soviet covert SS-20 force. Attached is the Congressional Record debate, in which assurances were given by the proponents that no classified material was involved—assurances that were accepted by the Chairman and Vice Chairman of the Intelligence Committee. (See enclosure No. 1.)

The analysis and accompanying chart were first released publicly on February 8, 1988. It was the subject of a story in Diario Las Americas on February 9, 1988, attached. (See enclosure No. 2.) It was also released to the press on February 9, 1988, in Concord, New Hampshire, after a speech on the INF Treaty given on that date. (See enclosure No. 3.)

A. Official Unclassified Sources for SS-20 Estimates and NIEs.

1. An unclassified CIA estimate provides evidence for over 450 SS-20 launchers. Attached is an excerpt from "Soviet Strategic Force Developments, "which was testimony before a Joint Session of the Subcommittee on Strategic and Theater Nuclear Forces of the Senate Armed Services Committee and the Defense Subcommittee of the Senate Committee on Appropriations, June 26, 1985, by Robert M. Gates, then the Deputy Director of CIA for Intelligence. This official unclassified source stated: "The SS-20 force of intermediate-range ballistic missiles is expected to expand to over 450 deployed launchers by 1987." (See enclosure No. 4. This testimony was reported in the press to be the declassification of the NIE.

2. The Defense Department's annual official unclassified publication "Soviet Military Power" from 1981 through 1987 also provides authoritative official unclassified estimates of SS-20 production. First, "Soviet Military Power" 1984 states that "each SS-20 unit is assessed to be equipped with refire missiles—one per launcher." (See enclosure No. 5.)

3. Combining these two pieces of CIA and DOD official unclassified data, we can easily arrive at an official unclassified SS-20 production estimate of about 900 to 950. This result is achieved merely by multiplying 2 times the 450 SS-20 launchers estimated, and adding another fifty for approximation.

4. Second, "Soviet Military Power" 1984 states that "The number of deployed SS-20 launchers could increase by at least 50 per cent by the late 1980s." (See enclosure No. 6.) The same document stated that there were then 378 SS-20 launches. Multiplying 50% of 378 and adding it to 378 yields 567 SS-20s estimated by the late 1980s. Multiplying this estimate by 2 for refires makes 1,134 SS-20s. This is approximately 1,200.

5. Third, by another method we can arrive at 1,000 to 1,200 SS-20s. Totalling up SS-20 production from all "Soviet Military Power" editions yields totals of between 1,000 and 1,200, assuming series production began in

1975. Indeed, there are two references to Soviet production of 1,000 LRINF missiles from 1976 through 1986. (See enclosure No. 7.) This Department of Defense series is thoroughly coordinated within the Intelligence Community, and thus it can be regarded as an unclassified NIE. One further piece of data is assumed for these estimates—that no SS-4s and SS-5s are included in these production estimates, which is reasonable because these systems were being deactivated beginning about 1970, according to open sources. Thus the only "LRINF missile" system being produced in this 1975-1986 period was the SS-20.

6. In sum, using three official unclassified methods and official unclassified estimates and data, we can arrive at authoritative SS-20 production estimates of about 900 to 950 or about 1,000 to 1,200.

7. The purpose of classification is to protect intelligence sources and methods. If official unclassified SS-20 production estimates range from about 900-950 to 1,000-1,200, then any lower estimates should be regarded as "sanitized." Any SS-20 estimates lower than these official unclassified estimates should not be considered classified, because they are transcended by higher official unclassified estimates. Thus lower estimates would not reveal sources and methods if higher official unclassified estimates exist and do not reveal sources and methods. Conversely, any higher estimates might be equally unclassified, if derived from open sources.

8. The attached December 23, 1987 unclassified letter to me from the White House establishes the fact that specific National Intelligence Estimates can be referred to in public, even by identification number, because the letter refers to "National Intelligence Estimate 11-3-8-87." (See enclosure No. 8.) Moreover, the attached unclassified letter to me of January 25, 1988, from CIA director Webster also refers to "a recent draft of Volume II of National Intelligence Estimate 4/11-88," also using the identification number. (See enclosure No. 9.) A book entitled "The Soviet Estimate," by John Prados, was published in 1982 describing many NIEs in great detail, and attached is a relevant chart extracted from the book. (See enclosure No. 10.) Thus, in sum, it is possible to discuss NIEs and draft NIEs in public, especially if no identifying NIE numbers are used. My chart did not use NIE identification numbers.

B. Unclassified Sources for Specific Estimate of 2,250.

1. According to an authoritative 12 year old press account written by a former Assistant Secretary of Defense, there were "about 1,200 SS-20s now being produced in Soviet factories" in 1976. Given later deployment during the execution of the 1976-1980 Five Year Plan of what turned out to be about 220 SS-20 launchers, it seems reasonable to associate about 220 SS-20 launchers with the production of 1,200 SS-20s. There seemed to be a ratio of production of 5 SS-20 missiles for each SS-20 launcher. If about twice as many SS-20 launchers were later deployed, including another 220 in the subsequent 1981-1985 Five Year Plan for a total of about 441 SS-20 launchers, then it would seem reasonable to associate another 1,200 SS-20s with this increment, or a total of about 2,400 SS-20s. Alternatively, 5 times 441 is 2,205 S-20s. The estimate of 2,250 is an approximate compromise between these estimates of 2,205 and 2,400. Boston Globe, September 5, 1976, "Soviet Mobile Missile Worries US." (See enclosure No. 11.) Note also that this press report is consistent with and supports current DIA unclassified estimates of 1,200 SS-20s produced.

2. According to the authoritative Heritage Foundation, there are up to five SS-20s for each SS-20 launcher. Using the CIA estimate of 450 SS-20 launchers, this would make 2,250 SS-20s produced. "Arms Control Handbook," The Heritage Foundation, 1987. (See enclosure No. 12.)

3. According to another press report, "Equally disconcerting to U.S. policy makers is the strong indication that for each SS-20 launcher, the Russians are now believed to have up to five missiles . . ." Combining this information with the CIA estimate of 450 SS-20 launchers also yields 2,250 SS-20s. New York Post, June 9, 1983, "'Lost' Red Missiles." (See enclosure No. 13.)

4. According to another press report, ". . . The SS-20 force is much bigger than anyone has publicly recognized and consists of 2,205 missiles . . ." New York City Tribune, November 17, 1987, "1977 Spy Data on SS-20s Cast Shadow Over INF Talks." (See enclosure No. 14.)

5. According to another press report, "But if the ill-fated Boris—a spy for America on the Soviet General Staff who was caught and executed in 1979—was accurate in his reporting to the CIA in 1976, and the SS-20 units were designed to consist of five missiles per launcher, the Soviets now have at least 2,205 . . ." New York City Tribune November 18, 1987, "INF Talks Grow Shaky as Concerns Over Missile Verification Mount in Washington." (See enclosure No. 15.)

6. According to another press report, "The Soviets are thought to have produced around 2,300 SS-20 missiles." Washington Inquirer, December 18, 1987, "Treaty Signed—Cheating Begins." (See enclosure No. 16.)

7. According to another press report, there were 2,250 SS-20s produced. New York City Tribune, December 1, 1987, "Soviet Admissions of Missiles Moscow Hid Shake Confidence of U.S. in Verification." (See enclosure No. 17.)

8. According to another press report, "The Soviets are thought to have produced around 2,300 SS-20 missiles . . ." New York City Tribune, December 8, 1987, "Soviet Ploy to Circumvent INF Pact Began with Secret Bases 2 Years Ago." (See enclosure No. 18.)

9. According to another press report, ". . . a U.S. spy in the Soviet Union said Moscow planned five missiles for each launcher." The Washington Post, December 16, 1987, "U.S. May Have Miscounted Some Soviet Missiles." (See enclosure No. 19.)

10. According to another press report, "The Defense Intelligence Agency . . . estimates total SS-20 production at 2,250 operational, refire, test and training missiles . . ." The Washington Times December 2, 1987, "Medium-range Missile Count Put at 2,000 By the Soviets." (See enclosure No. 20.)

11. According finally to one press account: "This has led the DIA to estimate the SS-20 count to be around 1,000, with other estimates based on Soviet plans for four refires of 2,250." New York City Tribune, January 27, 1988, "Helms and Shultz Are In High Stakes Duel Over Verifiability of Pact, Missile Numbers." (See enclosure No. 21.)

C. Specific Unclassified Sources for July 1987 NIE and January 1988 Draft NIE DIA Estimates of 1,200.

1. According to one press report, ". . . the DIA believes the Soviets have produced between 1,000 and 1,200 SS-20s." The report went on to describe "a draft intelligence estimate now being debated among U.S. analysts." The article further stated that the debate "Forced a delay in the release of a national intelligence estimate, an interagency report that was scheduled for completion last week." The Washington Times, February 1, 1988, "Spy Agencies Disagree on Number of SS-20s." (See enclosure No. 22.)

2. According to another press report, "Last July . . . DIA figured 1,200 . . . Just last month . . . DIA stuck with 1,200." Both of these DIA estimates were described in the context of "The 'national intelligence estimate'." The Wall Street Journal, February 3, 1988, "Crimson Whales, Contd." (See enclosure No. 23.)

D. Specific Unclassified Sources for July 1987 NIE and January 1988 Draft NIE Majority Assessments of 950.

1. According to one press report, "The Defense Intelligence Agency has resisted efforts to modify the position of a July intelligence estimate that lists the number of SS-20s at 950 missiles . . . The figure is the agreed estimate that was derived from a compromise between lower estimates by the State Department and CIA and a higher DIA figure . . . According to the officials, a draft intelligence estimate now being debated among U.S. analysts states that the Soviets have produced 950 SS-20s . . . The differences among State Department, Pentagon, and CIA analysts over the number of SS-20 missiles have forced a delay in the release of a national intelligence estimate, an interagency report that was scheduled for completion last week." The Washington Times, February 1, 1988, "Spy Agencies Disagree on Number of SS-20s." (See enclosure No. 22.)

2. According to another press report, "The 'national intelligence estimate,' a consensus view, is 950." The Wall Street Journal, February 3, 1988, "Crimson Whales, Contd." (See enclosure No. 23.)

3. According to unclassified, open testimony before the Senate Committee on Armed Services on January 25, 1988, the Chairman of the Joint Chiefs of Staff, Admiral Crowe, stated that the Soviets had "300" more SS-20s than the 650 that the Soviets declared in the INF MOU. Admiral Crowe implied that this estimate of 950 SS-20s was a DIA estimate, but the Admiral went on to suggest that DIA believed the Soviets had a covert SS-20 force of "580," implying a DIA estimate of 1,230 SS-20s. Defense Secretary Carlucci seemed to clarify this discussion by implying that the 950 SS-20 estimate was the NIE best estimate. (See enclosure No. 24, SASC testimony.)

4. According to another press report, "Mr. Helms said classified Defense Information Agency data indicate the Soviets could have up to 300 more medium range missiles than the 650 they say they have." The Washington Times, January 29, 1988. This was a seriously erroneous press story, and the next Monday, The Washington Times ran a "Correction" which stated: "The Times reported in Friday's editions that Sen. Jesse Helms disclosed classified information during a Senate Foreign Relations Committee hearing. This was incorrect. Mr. Helms was citing unclassified information from the Defense Intelligence Agency when he charged there were discrepancies among U.S. estimates on the number of Soviet medium range missiles covered by the INF treaty." (See enclosure No. 25.)

E. Specific Unclassified Source For State/INR Estimate of 840 Plus.

1. Unclassified letter from Secretary of State Shultz to me, May 13, 1987, page 3. The letter states: ". . . in addition to the approximately 440 SS-20 missiles now deployed, there may be as many as 200-400 (or more) such missiles in the U.S.S.R.'s inventory." (See enclosure No. 26.)

F. Specific Unclassified Source For State/INR and CIA January 1988 Draft NIE Estimate of 700.

1. According to one press report, "The State Department and CIA initial estimates of the total number of SS-20s, officials said, were revised last fall from a number below 600 to about 700. . ." This information was in the context of the description of "a draft intelligence estimate now being debated among U.S. analysts. . ." (See enclosure No. 22.)

2. According to another press report, "Just last month, however, the CIA and State Department reached new estimates of 700. . ." This information was described in the context of "The 'national intelligence estimate.'" (See enclosure No. 23.)

G. Specific Unclassified Source For State/INR and CIA July 1987 NIE Estimate of 550.

1. According to one press report, "Last July the CIA and the State Department estimated the Soviets had 550. . ." This information was described in the context of "The 'national intelligence estimate.'" (See enclosure No. 23.)

2. According to another press report, "The State Department and CIA initial estimates of the total number of SS-20s, officials said, were revised last fall from a number below 600 to about 700." (See enclosure No. 22.)

ENCLOSURE NO. 1

INTELLIGENCE OVERSIGHT ACT

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, I wonder while Senators are on the floor if we can get some understanding from the managers as to how they see the situation developing for the rest of the afternoon on the intelligence authorization bill.

I yield to the distinguished Senator from Maine.

Mr. COHEN. Mr. President, I thank the majority leader for yielding.

I would have to say the agenda is quite murky at this point. We believe that Senator HELMS will be sending an amendment to the desk momentarily.

I retract that. I believe Senator SYMMS has an amendment to offer to the pending measure which would pertain to identification of SS-20 missiles. I am not sure how long that will take. Perhaps a short period of time.

Then Senator HELMS has a rather controversial measure which would be sent to the desk, which would take a considerable amount of time.

Mr. BYRD. I wonder, before I yield the floor, if the Senators would be agreeable to time agreements.

Mr. SYMMS. Mr. President, if the Senator will yield, I think after my amendment is read and we have a brief discussion of it, it may be that the leader will wish to set this over and vote on it next week, though I cannot say that for sure at this time. In order to do justice to this amendment, we will have to have a closed session, and whether the leader wants to do that this afternoon or when we come back, I do not know.

I can send the amendment to the desk and let the clerk read it, have a discussion, and the leader can then direct what we will do, or I can read it myself.

Perhaps the leader can give us direction.

Mr. BYRD. I would like for us to be able to proceed as expeditiously as we can, hoping to complete action on the bill this afternoon, at least on the amendments thereto.

The Senator may proceed.

AMENDMENT NO. 1628

(Purpose: To provide that the Senate shall not consider in Executive Session a proposed Treaty Between the United States of America and the Union of Soviet Socialist Republics Concerning Intermediate-range Nuclear Forces unless and until the President certifies that the Soviet Union has provided accurate data regarding the size and composition of its SS-20 missile force)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 1628.

Add at the end of the bill the following new section:

"SEC. . (a) FINDINGS.—1. The Senate finds that a substantial discrepancy exists between various United States intelligence estimates of the number of SS-20 missiles possessed by the Soviet Union and the number of missiles reported by the Soviet Union to the United States pursuant to the Memorandum of Understanding to the proposed Treaty Between the United States of America and the Union of Soviet Socialist Republics Concerning Intermediate-Range Nuclear Forces (hereinafter the "INF Treaty") and that such discrepancy could indicate a covert Soviet SS-2. missile force of 300 to 550 SS-2. missiles carrying 900 to 1650 high-yield nuclear warheads.

2. The Senate finds further that, unless the present discrepancy is satisfactorily clarified, the United States could put at jeopardy its supreme national interest, its 300,000 troops stationed in Europe, and the security of NATO by ratifying the proposed Treaty and thereafter, pursuant to such Treaty, eliminating its own deterrent INF forces based in Western Europe.

(b) Taking account of the findings made in this Section, it shall not be in order for the Senate to consider the proposed INF Treaty in Executive Session unless and until the President of the United States has certified to the Senate that the Senate can rely with confidence on the accuracy of the number of SS-20 missiles reported to the United States by the Soviet Union.".

The PRESIDING OFFICER. The Chair would appreciate it if there could be some order in the Senate so the Senator might be heard.

Mr. SYMMS. Mr. President, I have a chart which will be put up in the back of the Chamber, and I have a few copies that Members can pick up if they wish to look at it. It is an unclassified chart which shows the range of assessments on concealed SS-20 missiles compared to the Soviet declared number under the INF Treaty. The chart is unclassified, and all of the remarks I will make in open session are unclassified. The chart and my remarks are based upon the following unclassified sources: one, "Soviet Military Power", Defense Department; two, Admiral Crowe's open testimony; three, press reports from many media; four, unclassified letters; five, the INF Treaty Memorandum on Data.

From this unclassified chart, it is clear that press reports show that the national intelligence estimate of 950 SS-20's exceeds the Soviet number by 300 missiles. This unclassified number must be considered a covert force which may be deployed or undeployed. We have to consider this.

Mr. President, before I go on with these unclassified remarks, I want to make clear with the chairman of the committee, the ranking Republican, and the majority leader that I intend to offer this amendment on this bill. I do not intend to offer it and withdraw it later. I want it on this bill.

Mr. ARMSTRONG. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate will wait until there is silence in the Chamber. We will not proceed until there is that silence.

We are not proceeding until there is total silence.

The Senator may proceed.

Mr. SYMMS. First, Mr. President, the Soviets declared that they had a maximum of 650 SS-20 missiles as of November 1, 1987, when they signed the INF Treaty on December 8, 1987. This is the total number of SS-20's that the Soviets are obligated to eliminate under the INF Treaty. The 650 number comes from the INF Treaty Memorandum of Understanding on Data, which the Senate declassified.

Under the terms of the treaty, this number of 650 is supposed to represent the total number of SS-20's ever produced and still in the hands of the Soviets.

Second, many recent press reports have stated that, in the National Intelligence Estimate of July 1987, the State Department Intelligence and Research Office and the CIA both made an estimate of the total SS-20's produced that was below the Soviet supplied number of 650. The State-CIA number was reportedly 550 SS-20's, 100 less than the Soviets declared on December 7 and December 8.

This State-CIA underestimate severely discredits the methodology of estimating used by State and CIA.

Third, Mr. President, according to various press reports, in the current draft of the National Intelligence Estimate of January 1988, the State-CIA estimate, has reportedly now been raised to 700. With the raising of the SS-20 estimate to 50 missiles above the Soviet-supplied number of 650, it became possible for the State Department to declare publicly that the Soviet-supplied number of 650 was "within the range of our uncertainties."

Indeed, this may be a true statement of the State-CIA range of uncertainties. But what is not made clear by the statement is the fact that with the severity of the State-CIA error in estimate, their methodology of estimating should be rejected along with their estimates.

Fourth, further evidence of the unreliability of the State estimates is that the State declaration on May 13, 1987, that there could be 840 or more SS-20's. This public estimate flies in the face of the reported secret State-CIA estimate of only 550 SS-20's which then was classified. Thus the State Department was publicly much higher than their then-secret estimate, another anomaly further discrediting the State Department estimative methodology.

Fifth, according to press reports, in the July 1987 NIE the majority of the intelligence community, that is, the four military service intelligence departments, plus the National Security Agency, all estimated that the Soviets had at least 950 SS-20's. This was the NIE best estimate, agreed to by the majority of the intelligence community. This judgment is reportedly repeated in the current draft NIE of January 1988.

That is a discrepancy of over 300 missiles, to put that into perspective, which is a significant imbalance that could be reflected right now in Western Europe, once we go through with the INF Treaty.

According to press reports, both the July 1987 and the current draft NIE of January 1988 reportedly contained an estimate by the DIA of 1,200 SS-20's produced. This estimate is reportedly based upon solid evidence.

Mr. BOREN. Mr. President, I wonder if the Senator will yield for a question.

Mr. SYMMS. I yield without losing my right to the floor and yield only for a question. I would be happy to yield for a question.

Mr. BOREN. Mr. President, I wish to ask my colleague a question. Referring to the National Intelligence Estimates, is the Senator referring to public comment from publications alleging the National Intelligence Estimates? I want to ask my colleague, he is not purporting to speak from classified sources in open session, is he?

Mr. SYMMS. This is all unclassified, what I am saying now.

Mr. BOREN. Could the Senator make that clear by citing the source? Because I think it would be very unfortunate if the implication were given that these were direct quotations from National Intelligence Estimates that have not been declassified.

Mr. SYMMS. These are from press statements that are public information, and it is unclassified is what I am saying. I repeat, the chart is unclassified, and all of my remarks here in open session are unclassified. The unclassified chart and my unclassified remarks are based upon the following unclassified sources: First, "Soviet Military Power," Department of Defense; second, Admiral Crowe's open testimony; third, press reports from many media; fourth, unclassified letters; and fifth, the INF Treaty Memorandum of Understanding on Data.

Mr. BRADLEY. Will the Senator yield?

Mr. SYMMS. In open testimony before the committee Admiral Crowe made one statement that that was the estimate.

Mr. BOREN. So the Senator is not alleging that the National Intelligence Estimates actually state figures——

Mr. SYMMS. No. What I am saying is that in order to debate this in full, I would agree with the chairman, the Senate must go into a closed session and then we can verify these press reports and these things that have been stated in public in a closed session.

Mr. BOREN. So the Senator is quoting from public sources——

Mr. SYMMS. Public sources only, some of which are official U.S. Government official unclassified sources.

Mr. BOREN. Which give their own rendition of what National Intelligence Estimates state? He is not quoting directly from National Intelligence Estimates; is that correct?

Mr. SYMMS. No. I am quoting from statements that have been publicly stated that are unclassified.

Mr. BOREN. I thank the Senator.

Mr. COHEN. Will the Senator identify the public statements?

Mr. SYMMS. One was from Admiral Crowe before, I think it was the Senate Armed Services Committee.

Mr. COHEN. I do not believe Admiral Crowe gave any indication of 900 warheads or 300 missiles.

Mr. SYMMS. That was from my own estimate. There are 3 warheads on each SS-20 and if, in fact, as these statements have been made, there are 300 unaccounted for SS-20's above the 650 the Soviets declared, then that would be 900 warheads that could be possibly hidden. That is my speculation.

Mr. COHEN. I gather from the Senator's statements that the Senator was citing the NIE as supporting that particular figure and that is not correct. Am I correct that the Senator is not citing the National Intelligence Estimates for the source of 900 warheads?

Mr. SYMMS. What I am doing is just simply multiplying the fact that if, in fact, as Admiral Crowe said publicly before our committee, that there possibly are 300 more SS-20's than we think there are, then I am saying that with 3 on each SS-20, that is 900.

Mr. COHEN. The Senator is citing Admiral Crowe?

Mr. SYMMS. That is not a classified number. That is public knowledge. That has been reported widely in the news media, in the Washington Post and other newspapers, the Washington Times.

Mr. COHEN. The Senator is not citing the Washington Post and the Washington Times as authority for——

Mr. SYMMS. No. Let me finish my statement and then we can discuss this further. I will be happy to answer questions.

Sixth, according to various press reports, both the July 1987 and the current draft of the NIE of January 1988 reportedly contained an estimate of the DIA of 1,200 SS-20's produced. This estimate reportedly is based upon solid evidence. Seventh, we have the estimate of 2,250 SS-20's produced, which is based upon analysis of reported evidence of SS-20 production and deployment under two Soviet 5 year plans, 1976-80 and 1981-85. This estimate may be the estimate most soundly based in terms of methodology and evidence. Mr. President, Senator HELMS stated publicly that press reports indicate that the majority of the intelligence community believes in the NIE that the Soviets produced at least 300 more SS-20 missiles than they have claimed in the INF memorandum of understanding. There may be as many as 1,600 more SS-20's than the Soviets declared.

Now, the chairman of the Committee on Foreign Relations publicly released a statement apparently by Ambassador Kampelman which said, and I quote: "The Helms statement is incorrect, the majority of the national intelligence community does not support the view that the Soviets withheld a number of SS-20's. All data will be reviewed in the updated memorandum of understanding and verified through the onsite inspection. The DCI, speaking for the entire intelligence community, has said that the Soviet data of the memorandum of understanding falls within the intelligence community estimates."

Now, Mr. President, the Kampelman statement released publicly by the distinguished chairman is not entirely accurate, but I can correct the record on this highly important issue only in a closed session. That is the entire point. So I just think that if we are going to proceed on this amendment—this chart is unclassified, and Senators may look at this—we need to go into a Codeword Session. These have been released figures. I just go across where these come from to help answer the question of my colleague from Maine. The 500 SS-20's are the State-INR, CIA, NIE of July 1987, reported in the press. That is unclassified; the draft NIE, January 1988. This was also reported in the press. My colleagues can look across here at where these come from. Unclassified letter to Senator HELMS, the majority assessment, majority assessment in 1988, reported in the press, the DIA-NIE, and so forth.

But in order to really discuss this, which can be verified, we need to go into a closed session. That is the point I was making with the distinguished majority leader, whether we want to discuss this today or do this when we return and make preparations to have a closed session so all Senators can get to the bottom of this issue.

The reason I offer this, Mr. President, on this bill is because I think it is pertinent the President needs to certify the accuracy of the Soviet numbers, and I think that all Senators need to have the opportunity to become aware of what it is we are getting into with the INF and we need to make preparations in advance before we move headlong into a discussion of this treaty. So this is the first opportunity, and I think an intelligence bill is one that is appropriate that we discuss matters of significant intelligence consequences. Now, to answer the question of my colleague from Maine, I am not directly quoting any NIE material on the floor. Rather, I am citing published reports, some of which are official, and all of which are unclassified.

However, if the published reports are accurate, it is a very serious situation—a Soviet covert SS-20 force of 300—which I believe warrants the attention of the Senators in a closed session. And that is where I would leave this at the present time.

I realize it is 4 o'clock; it is Friday afternoon; we have other business to attend to. I do not know that the Senators want to stay here for a closed session. We would have to sweep the Chamber. But I think it is something that should be discussed.

I am sure my colleagues know the rules, but it only takes two Senators to move to go to a closed session. I do not wish to burden my colleagues on Friday afternoon, if that is not the wishes of the majority leader, but I do believe this is a matter of critical importance to the security of the free world and of this country. I think it is an issue which needs to be discussed in a closed session in the Senate, and it should be discussed before this bill passes.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Idaho yield the floor?

Mr. SYMMS. Mr. President, I still maintain my right to the floor.

Mr. BOREN. Will the Senator yield for a question without losing his rights to the floor?

Mr. SYMMS. I yield the floor.

Mr. HATFIELD and Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. If I could just comment briefly, the Senator from Idaho has suggested this is a pertinent amendment. If there is any pertinence to the amendment, I fail to find it other than why this institution has become paralyzed and unable to take action. This amendment has absolutely no business being on this bill. This is a bill that deals with the regulations, if one wants to call it regulations, at least the construction of a mechanism whereby Congress may oversee its responsibility in dealing with covert activities. It has nothing to do with INF, SS-20's Pershing II's, GLCM's, or anything else.

For anyone to call up an amendment at 4 o'clock in the afternoon when people have departed or are ready to depart and indicating we have to go to closed session, I think, indicates why this body is unable to conduct its business in any sort of rational sense of the word.

First, I would point out, as serving on the Armed Services Committee and the Intelligence Committee, that we are making an investigation right now. We are holding hearings on the accuracy or inaccuracy of reports that have appeared in newspapers, leaks that have been generated by certain individuals to the public. These reports are then cited as authoritative before this body, and some Senators are now demanding a closed session. It is a nice, circular ring that we find ourselves, but the Intelligence Committee is conducting hearings for the purpose of determining whether or not we have made an accurate assessment of how many SS-20's currently exist in the Soviet inventory. Let us conclude our investigation.

Let the chairman and myself make a presentation to the Armed Services Committee on which the Senator from Idaho serves. The Senate Armed Services Committee is holding a number of hearings to determine whether or not this agreement is in our mutual interest.

Why, at 10 after 4 on a Friday afternoon before we are about to recess, are we bringing this measure up and demanding that we conclude it either with a closed session or a determination that we hold it over until next week? This amendment has no business being on this bill.

There is adequate time. The INF Treaty will be before us sometime this spring. Then the Senator's amendment, I think, would be in order, at least his inquiry and questions and analysis of whether it is the NIE or the Washington Post or the Washington Times that ought to be the authoritative source for how many SS-20's are in the inventory of the Soviet Union. But I find no pertinence to this amendment at this time at this hour on this bill.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I find myself in agreement with my colleague from Maine. I know the Senator from Idaho is very sincere in his concern about this matter. I know he has deep feelings about it. The Senator from Idaho knows that we are endeavoring in our committee through the appropriate process as we have been holding hearings on verification; I do not know how many scores of hours I have spent in our hearings on the verification on some of these very issues over the past several weeks.

He knows also that we have tried to respond to concerns of other Senators that have been raised, and we were pleased to have the Senator as a guest at one of our meetings recently in which we looked at the troubling matter that we are pursuing.

And I would just say to the Senator that we are going to do this in the appropriate way. We are certainly going to do our duty. I am absolutely committed to doing our duty to thoroughly look at these issues in the Intelligence Committee. This is a bill related to the procedures for oversight on covert actions which has not in any way related itself in subject matter to arms control verification, which is a matter of very great concern to this Senator.

I would hope that this afternoon he would agree to withdraw this amendment from this bill. He has expressed his very sincere concerns. And I intend, through the regular process to look at those concerns. I can tell him that there have already been some discussions of these general matters that he has raised in our committee and through our deliberations. And these issues will be addressed both in our classified and unclassified report to the Senate, and to the Senate Foreign Relations Committee.

So I would like to ask my colleague, having expressed his concern, if he would be willing at this point to withdraw his amendment so that we might then proceed with the orderly consideration of this bill on oversight procedures.

Mr. SYMMS. I think the Senator from Wyoming wants to be heard. I will be glad to work with the committee and maybe we can have a little consultation.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I did not mean to interrupt and to stand in front of the response of the Senator from Idaho to the Senator from Oklahoma. But I have to say something troubles me greatly, while the Senator from Maine is still on the floor. I think I heard, however inadvertently, the Senator accuse the Senator from Idaho of leaking.

Mr. COHEN. No.

Mr. WALLOP. I wanted to make that clear because the statement that this process is circular certainly made this Senator's ears perk up, as though it was the Senator from Maine's contention that the Senator from Idaho was leaking and then asking for a closed session, in which to discuss the information allegedly leaked. I know that was not the intention.

Mr. COHEN. That was not the case, nor did I indicate that. For the RECORD, I said stories are leaked to the press generally and then the stories are cited in our deliberations. There was a circular type of situation. I did not suggest the Senator from Idaho leaked anything and do not.

Mr. WALLOP. I thank the Senator from Maine. I did not want that to go in any way unremarked.

But I would say this: We are talking about hearings on the INF Treaty and things that are going to take place, and we will be able to know about it sometime in the future, and that thorough investigations will be made. But I would say about this bill that there has been only one public hearing, Mr. President, and that was in December while the rest of us were engaged in the frantic effort to clean up the mountain of the continuing resolution, the reconciliation bill, et cetera. With only two secret hearings, and one public hearing, this bill was passed out without much knowledge of anybody in the Senate.

I might add, I think it was irresponsible that it was not referred to the Senate Armed Services Committee and to the Senate Foreign Relations Committee, a portion of whose turf is simply eliminated in this bill.

So if we are to be criticized for asking for consideration of something that is not quite directed to the bill, I think we do it because part of what we see in the bill that lies in front of us. For instance, Foreign Assistance Act is the domain of the Senate Foreign Relations Committee. A portion of the Foreign Assistance Act is repealed by this bill. The Foreign Relations Committee has not had hearings on it.

So for us to bring up—and I say "us" because I am a cosponsor of the Senator's amendment—an amendment of this nature is not an abuse of the system of the Senate, but is an expression of the anxiety that we feel that some of us are being cut out of the process in learning and debating of things of real moment and content to the Senate of the United States. And a closed session of the Senate at the code word level would demonstrate the validity or the falaciousness of the reported intelligence estimates that have been in the papers and in the press which cause and give rise to the concern the Senator from Idaho expresses.

Let me just say I agree with the Senator from Maine. Sure, here is another example of what we do. But I would say to the Senator from Maine I have sat through many long debates on amendments of his, arms control amendments to the armed services authorization which were really no more relevant or irrelevant to the legislation in front of us than this amendment here tonight. It is 4 o'clock in the afternoon, but it is an important issue, and it is important that America knows that not everything we have been hearing with regard to the INF Treaty is as comfortable as some would have it through their public statements and observations about that treaty.

This is a matter that concerns the Senate, and the Senator is well within his rights to raise it as an issue on an intelligence bill.

Mr. COHEN. If the Senator will yield, there is no question he is well within his rights. The Senator from Maine was simply trying to point out that this is at the very least premature in terms of discussion of the relative accuracy of various estimates at the time when almost half of our colleagues—if you really want to have a discussion have it during the time when most of our colleagues are present—most of them, are in the process of leaving at this point. It is called up at 4:20 in the afternoon before a major recess.

All I am simply indicating is this is hardly the time to leave a fullblown top secret code word clearance discussion in closed session of the U.S. Senate if you are really serious about educating our colleagues about the accuracy or inaccuracy of various intelligence matters.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming still has the floor.

Mr. WALLOP. Had the Senator heard the opening statements of the Senator from Idaho, and I grant him there was, as there often is, a lot of commotion on the floor, he would have heard him say to the majority leader that it would be his intention to cooperate but he wanted it considered on this bill; he would withdraw it and give the Sergeant at Arms time to prepare the Senate for a classified session upon our return. I think—I am not speaking for the Senator from Idaho—but I think he expressed his desire to cooperate, but he did want it heard on this bill.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I thank my colleagues for the colloquy we have engaged in. I especially thank my colleague from Wyoming for looking after my interests.

I appreciate the perceptive comments of the Senator from Maine, and I appreciate part of what he had to say.

However, I say to my colleagues that we all have to ultimately make a decision on the INF Treaty. It is true, as the distinguished chairman of the committee says and the ranking member, the Senator from Maine, says, that maybe Friday afternoon, today, is not the time to clear the Senate and go to code-level closed session.

I am willing to withdraw my amendment if we can have some understanding with the majority leader that we can bring this amendment back up and notify the Sergeant at Arms that we need to have this discussion. Every Senator will have to make a decision.

Some Senators have already stated they are for the INF Treaty. Many Senators have said they are still open to the INF Treaty, to be convinced. I have said repeatedly in my State that I was still open-minded on it; but, after listening to some 20 days of hearings in the Armed Services Committee, someone will have to do a better job to convince me that this is in our national security, to ratify this INF Treaty, to confirm the signature of the President and the Soviet leader.

That is just one Senator's opinion. But I wish someone can erase this nagging concern I have that they are cheating, as they have cheated on other treaties they have signed, and someone can erase for me that they do not have a motivation to hide 300-plus SS-20's. They are chess players and we are checker players.

Their motivation would be simply this: Their motivation would simply be that they are going to have the ability to retarget the targets that they will now target once they move the SS-20's they do destroy out of here; that they will retarget those with SS-24's and SS-25's; and in a few years down the road, when they do ultimately go public with the fact that they have broken out of the ABM Treaty, they have deployed their own missile defense system, they have deployed a civil defense system to protect large numbers of their population, at that point they will roll out their SS-20's again. We will then be in a very vulnerable position, and it will be a different world from that we are used to living in.

I do not want to be a party to anything that allows the Soviet dictator the ability to visit the Port of New Orleans, for example, 5 or 10 years from now and say they would like to start loading wheat on ships at $1 a bushel and it will be done on credit.

So, a week from next Tuesday, pursuant to the provisions of rule XXI, it would be my intention to move to close the Senate, to discuss this amendment.

I want to hear if the majority leader would entertain that. If we do that, I will be happy to withdraw this amendment today, and we could bring it up at that time.

Mr. BYRD. Mr. President, what is the distinguished Senator's request?

Mr. SYMMS. I am requesting that a week from next Tuesday, pursuant to the provisions of rule XXI, I would like to move to close the doors of the Senate and discuss the pending amendment.

Mr. BYRD. Mr. President, I would hope that this bill would not still be before the Senate a week from Tuesday. I have no problem with the Senator asking for a closed session at some time when it is appropriate, but I certainly do not want to suggest that we are still going to be on this bill a week from next Tuesday.

[Enclosure No. 2 not reproducible for the Record]

Enclosure No. 3

Senator Jesse Helms of North Carolina, Statement on Concealed Soviet SS-20 Missiles, Concord, NH, February 9, 1988

The attached unclassified chart shows the range of assessments on concealed Soviet SS-20 missiles, compared with the Soviet declared number under the INF Treaty. From this chart, it is clear that the National Intelligence Estimate of 950 SS-20s exceeds the Soviet number by 300. This must be considered a covert force, which may be deployed or undeployed.

First, the Soviets declared that they had a maximum of 650 SS-20 missiles as of November 1, 1987, when they signed the INF Treaty on December 8, 1987. This is the total number of SS-20s that the Soviets are obligated to eliminate under the INF Treaty. Under the terms of the Treaty, this number of 650 is supposed to represent the total number of SS-20s ever produced and still in the hands of the Soviets.

Second, many recent press reports have stated that, in the National Intelligence Estimate of July 1987, the State Department Intelligence and Research Office and the CIA *both* made an estimate of total SS-20s produced that was *below* the Soviet-supplied number of 650. The State-CIA number was reportedly 550 SS-20s, 100 less than the Soviets declared on December 7/8. This State-CIA underestimate severely discredits the methodology of estimating used by State and CIA.

Third, in the current draft NIE of January 1988, the State-CIA estimate has reportedly now been raised to 700. With the raising of the SS-20 estimate to 50 missiles above the Soviet-supplied number of 650, it became possible for the State Department to declare publicly that the Soviet-supplied number of 650 was "within the range of our uncertainties." Indeed, this may be a true statement of the State-CIA range of uncertainties. But what is not made clear by this statement is the fact that with the severity of the State-CIA underestimate, their methodology of estimating should be rejected along with the results of their estimates.

Fourth, further evidence of the unreliability of State Department estimates is the State declaration on May 13, 1987, that there could be 840 plus SS-20s. This public estimate flies in the face of the secret State-CIA estimate of only 550 SS-20s then classified. Thus the State Department was publicly much higher than their then-secret estimate, another anomaly further discrediting the State Department estimative methodology.

Fifth, in the July 1987 NIE the majority of the Intelligence Community, that is, the four military service intelligence departments, plus the National Security Agency, all estimated that the Soviets had at least 950 SS-20s. This was the NIE best estimate, agreed to by the majority of Intelligence Community. This judgment is reportedly repeated in the current draft NIE of January 1988.

Sixth, both the July 1987 and the current draft NIE of January 1988 reportedly contained an estimate by DIA of 1200 SS-20s produced. This estimate reportedly is based upon solid evidence.

Seventh, we have the estimate of 2,250 SS-20s produced, which is based upon analysis of reported evidence of SS-20 production and deployment under two Soviet Five Year Plans, 1976-1980 and 1981-1985. This estimate may be the estimate most soundly based in terms of methodology.

In sum, the NIE majority assessment, the best estimate, is that there are at least 300 SS-20s that are concealed above the 650 declared by the Soviets. There may be as many as 1,600 more than the Soviets declared.

[Charts not reproducible for the Record.]

Enclosure No. 4

Soviet Strategic Force Developments

(Testimony Before a Joint Session of the Subcommittee on Strategic and Theater Nuclear Forces of the Senate Armed Services Committee and the Defense Subcommittee of the Senate Committee on Appropriations)

SS-20'S

The SS-20 force of intermediate-range ballistic missiles is expected to expand to over 450 deployed launchers by 1987, as a result of an extensive program of constructing new bases. More new bases were started in 1984 then in any pervious year. The total would have been considerably higher if the Soviets had not deactivated SS-20 bases in the central U.S.S.R. to convert to SS-X-25 ICBM bases. A follow-on to the SS-20, which also carries three warheads and is probably designed to improve lethality, began flight-testing in 1984.

Enclosure No. 5

Soviet Military Power—1983

PREFACE

"There is nothing hypothetical about the Soviet military machine. Its expansion, modernization, and contribution to projection of power beyond Soviet boundaries are obvious. A clear understanding of Soviet Armed Forces, their doctrine, their capabilities, their strengths, and their weaknesses is essential to the shaping and maintenance of effective US and Allied armed forces."

Those words from *Soviet Military Power*, published in September 1981, provide a fitting point of departure for this updated second edition. *Soviet Military Power 1983* reports on the size, capabilities, and deployment of the Soviet Armed Forces—and documents the improvement and the R&D which are shaping the increased capabilities of the Soviet Strategic Rocket Forces, and Air Defense Forces, the Ground Forces, the Air Forces, and the Navy—forces numbering more than 4.9 million men.

Since late 1981:

The USSR has begun test flights of two new land-based Intercontinental Ballistic Missiles, while continuing modernization of the deployed SS-17, SS-18, and SS-19 ICBM force.

The USSR has begun test flights of a new generation of strategic, manned bombers—the Blackjack bomber, larger than the US B-1.

The USSR has begun test flights of a new generation of ground, sea- and air-launched cruise missiles, missiles with nuclear capability with ranges in excess of 1,600 kilometers, significantly expanding the flexibility of Soviet strategic options.

The first of the USSR's 25,000-ton Typhoon-Class strategic ballistic missile submarines has test fired its MIRVed, nuclear-warhead, 8,300-kilometer-range submarine-launched ballistic missiles. A second Typhoon has been launched.

Modernization and forward deployment of increasing numbers of Soviet intermediate nuclear forces—land, sea, and air—have proceeded at an unparalleled pace.

More than 330 mobile launchers for the SS-20—a Longer-Range Intermediate-Range Nuclear Force (LRINF) missile with three nuclear warheads and reload for each launcher—are now arrayed against Western Europe, the Middle East, parts of Africa, and most of Asia, including China and Japan.

Su-24/Fencer ground-attack aircraft have been forward-deployed to nations of Eastern Europe and to border bases in Asia, extending the combat radius of these new nuclear-capable aircraft to include Japan and most of NATO Europe.

The USSR has introduced additional nuclear-capable weapons systems to its forward-deployed divisions in Eastern Europe. The new SS-21 mobile, short-range ballistic missile system is operational in Eastern Europe as is the 152-mm self-propelled gun, adding to Soviet conventional, chemical, and nuclear war-fighting options.

The USSR's T-80 main battle tank, in development in 1981, is in the field with Soviet Tank Divisions in both the USSR and Eastern Europe, adding to the extended combat capabilities of the more than 190 Soviet ground force divisions.

In 1981, two Soviet Kiev-Class aircraft carriers were operational. Now, three units are on the high seas, a fourth unit has been launched; and development continues on a newer, larger class of aircraft carriers.

Soviet Military Power 1984 provides a detailed report on the structure of the Soviet military and its pervasive role, as assigned by the Soviet leadership, in Soviet society—and how that translates directly into the increasing threat posed by the USSR's Armed Forces.

Building on the data provided in the First and Second Editions, *Soviet Military Power 1984* examines key developments in the continuing upgrade of the USSR's Armed Forces.

Modernization of the fourth-generation SS-18 and SS-19 ICBMs nears an end, while the USSR proceeds with the testing of the fifth-generation SS-X-24 and SS-X-25 ICBMs. There are no security requirements for the development of so large a quantity of strategic nuclear offensive weapons.

The 25,000-ton Typhoon-Class strategic ballistic missile submarine, which in 1983 was conducting test firings of its SS-N-20 missiles, is now fully operational. And now, another new SLBM, the SS-NX-23, is being tested.

The Soviet Union has three long-range, land-attack nuclear-armed cruise missiles nearly deployed—the sea-launched SS-NX-21, the aircraft-launched AS-X-15 and the ground-launched SSC-X-4—and it is pressing ahead with the development of more advanced strategic cruise missiles.

The Soviets now have three manned strategic bombers in development or production. In addition to the new Blackjack long-range strategic bomber and the Backfire bomber, the USSR has reopened production lines for the Bear bomber and is producing a new Bear H variant assessed to be the initial carrier for the AS-X-15 cruise missile.

The Soviets have continued to field additional mobile SS-20 launchers, each with a three-warhead missile and reload. In 1981, *Soviet Military Power* reported 250 launchers; in 1983, the total had risen to 330 launchers and now the total is 378 launchers. Construction of new SS-20 facilities in the Western USSR has resumed, even though 243 SS-20 missiles with 729 warheads and an equal number for refire are already in place opposite NATO.

New MiG-29/Fulcrum twin-engine fighter interceptors are now being introduced into Soviet air forces, greatly increasing offensive air capabilities. Additionally, the Su-27/Flanker is nearing deployment.

Fast-paced development continued in the Soviet space shuttle program, which will further increase the flexibility and capability of the USSR's essentially military manned and unmanned space systems.

The USSR continues a great investment in strategic and tactical defenses—with across-the-board upgrading of Soviet air, sea, land and missile defense forces.

ENCLOSURE NO. 6

SOVIET MILITARY POWER—1984

SOVIET MISSILES

With the initial deployment of the SS-20 LRINF missile in 1977, the Soviets launched a concerted effort to modernize and expand their intermediate-range nuclear force. Each SS-20 carries three MIRVed warheads, thereby providing a significant force expansion factor. To date, 378 SS-20s have been deployed, of which some 243 are opposite NATO. The mobility of the SS-20 system enables both on- and off-road operation. As a result, the survivability of the SS-20 is greatly enhanced because detecting and targeting them is difficult when they are field deployed. Further, the SS-20 launcher has the capability of being reloaded and refired; the Soviets stockpile refire missiles. The SS-20s also have very significant increases in accuracy and reaction time over the older SS-4s and SS-5s.

Force expansion is continuing, and the number of deployed SS-20 launchers could increase by at least 50 percent by the late 1980s. In addition to the SS-20 force, the Soviets still maintain some 224 SS-4 LRINF missiles. All of these older missiles are located in the western USSR opposite NATO. By the end of 1983, all SS-5 LRINF missiles were being retired.

Soviet theater nuclear capability has undergone other significant improvements, evident from the increased numbers, types, sophistication, accuracy and yields of tactical missiles including the SS-21, SS-22 and SS-23. The SS-21 is a division-level system that is replacing the older FROG-7. It has a range of about 120 kilometers compared to the FROG-7's range of about 70 kilometers, and is more accurate and reliable.

SOVIET MILITARY POWER—1986

AIRCRAFT PRODUCTION—U.S.S.R. AND NATO [1]

Aircraft type	U.S.S.R.			NATO		
	1983	1984	1985	1983	1984	1985
Bombers	35	50	50	0	0	2
Fighters/fighter-bombers	950	800	650	650	550	550
Transports	250	250	250	290	250	300
ASW	5	5	5	15	10	5
Helicopters	550	600	600	725	720	525
Utility/trainers	10	10	0	425	305	300

[1] Revised to reflect current total production information. Includes United States: excludes France and Spain.

MISSILE PRODUCTION—U.S.S.R. AND NATO [1]

Missile type	U.S.S.R.			NATO		
	1983	1984	1985	1983	1984	1985
ICBM's	150	75	100	0	0	0
LRINF	125	125	125	110	80	175
SRBM's	500	500	450	50	25	50
SLCM's	650	700	700	1,300	1,100	800
SLBM's	100	50	100	75	70	75

[1] Revised to reflect current total production information. Includes United States: excludes France and Spain.

MISSILE PRODUCTION—U.S.S.R. AND NATO [1]

Missile type	U.S.S.R.			NATO		
	1984	1985	1986	1984	1985	1986
ICBM's	75	100	125	0	0	10
LRINF	125	125	25	80	175	125
SRBM'S	500	450	400	0	0	0
SLCM's [2]	700	700	1,100	1,100	800	700
SLBM's	50	100	100	70	75	25

[1] Revised to reflect current total production information. Includes United States; excludes France and Spain.

[2] Short- and long-range sea-launched cruise missiles.

NAVAL SHIP CONSTRUCTION—U.S.S.R. AND NATO [1]

Ship type	U.S.S.R.			NATO		
	1984	1985	1986	1984	1985	1986
Submarines	9	8	8	12	8	7
Major combatants	9	8	9	19	16	11
Minor combatants	50	50	50	34	30	25
Auxiliaries	5	5	6	11	5	5

[1] Revised to reflect current total production information. Includes United States; excludes France and Spain.

AIRCRAFT PRODUCTION—U.S.S.R. AND NATO [1]

Aircraft type	U.S.S.R.			NATO		
	1984	1985	1986	1984	1985	1986
Bombers	50	50	50	0	2	25
Fighters/fighter-bombers	800	650	650	550	550	550
Transports	250	250	200	250	300	300
ASW	5	5	5	10	5	5
Military helicopters	600	600	500	720	525	350
Utility/trainers	10	0	55	305	300	250

[1] Revised to reflect current total production information. Includes United States; excludes France and Spain.

SOVIET MILITARY POWER—1984

MISSILE PRODUCTION—U.S.S.R. AND NATO [1]

Missile type	U.S.S.R.					1983, NATO
	1979	1980	1981	1982	1983	
ICBM's	225	250	200	175	150	0
LRINF	100	100	100	100	100	25
SRBM's	300	300	300	300	350	0
SLCM's	700	750	750	800	800	225
SLBM's	200	200	175	175	200	70
SAM's	53,000	53,000	53,000	53,000	55,000	6,000

[1] Revised to reflect current total production information. Includes United States, excludes France and Spain.

ENCLOSURE NO. 7

SOVIET MILITARY POWER—1987

UNITED STATES AND SOVIET PROCUREMENT OF MAJOR WEAPON SYSTEMS 1977–86

	U.S.	U.S.S.R.
ICBM's and SLBM's	850	3,000
IRBM's and MRBM's	200	1,000
Surface-to-air missiles [1]	16,200	140,000
Long- and intermediate-range bombers	28	375
Fighters [2]	3,450	7,150
Military helicopters	1,750	4,650
Submarines	43	90
Major surface combatants [3]	89	81
Tanks	7,100	24,400

UNITED STATES AND SOVIET PROCUREMENT OF MAJOR WEAPON SYSTEMS 1977–86—Continued

	U.S.	U.S.S.R.
Artillery	2,750	28,200

[1] Includes naval SAM's.
[2] Excludes ASW and combat trainers.
[3] Excludes auxiliaries.

ENCLOSURE NO. 8

THE WHITE HOUSE,
Washington, December 23, 1987.
Hon. JESSE HELMS,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: On behalf of the President, I would like to thank you for your December 18 letter regarding the January hearings which will be conducted by the Senate Foreign Relations Committee on the proposed INF Treaty.

I would like to assure you that your request for responses to twenty-four specific questions and a copy of National Intelligence Estimate 11-3-8-77 has been directed to the President's foreign policy advisers for their prompt attention. We will be back in touch with you as soon as we have had an opportunity to thoroughly review your inquiry.

With best wishes,
Sincerely,
WILLIAM L. BALL III,
Assistant to the President.

ENCLOSURE NO. 9

THE DIRECTOR OF CENTRAL INTELLIGENCE,
Washington, DC, January 25, 1988.
Hon. JESSE HELMS,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: I am responding to your letters of January 22, 1988 to General Odom and me. We have reviewed the highly sensitive classified information cited in the attachment to your letter. This information is, in fact, contained in a recent draft of Volume II of National Intelligence Estimate 4/11-88. The information is substantively accurate, although the final wording in the published version will, in some cases, be slightly different. In some cases, the citations omit reference to important caveats and additional observations. These statements are excerpts from a much broader set of judgments and issues regarding the monitoring of the INF Treaty and, in my view, by themselves do not constitute a sufficient basis on which to draw conclusions about the overall monitorability of the Treaty. This volume of the NIE, which contains highly source-sensitive information, has not yet been published. The judgments and information therein have been briefed to policy officials, negotiators, and in response to requests from members of Congress and security-cleared staff. A summary has been published.

I and my colleagues from the Intelligence Community will be prepared to discuss the issues you have raised during my testimony before the Senate Foreign Relations Committee on January 29. However, it is my understanding that intelligence monitoring capabilities will be discussed in detail in several hearings scheduled by the Senate Select Committee on Intelligence. I would ask you to consult with Chairman Pell, SSCI Chairman Boren, and SSCI Vice Chairman Cohen regarding the appropriate forum for detailed discussion of sensitive intelligence information regarding the monitorability of the INF Treaty.

Sincerely,
WILLIAM H. WEBSTER.

ENCLOSURE NO. 10

THE SOVIET ESTIMATE—U.S. INTELLIGENCE ANALYSIS AND RUSSIAN MILTARY STRENGTH

(By John Prados)

TABLE 1.—SOVIET ICBM DEPLOYMENT ESTIMATES, 1958–63

Estimate	Date	Mid-1959	Mid-1960	Mid-1961	Mid-1962	Mid-1963	Mid-1964
NIE Nov. 4, 1958	Dec. 23, 1958	[1] 100	[1] 100	[1] 500	500		
NIE Nov. 4, 1959	Feb. 9, 1960		35	140–200	250–350	350–450	
NIE Nov. 8, 1960	Aug. 1, 1960						
	Program A		30	150	270	400	
	Program B		35	200	450	NA	
	Program C		30	50	125	200	
NIE Nov. 4, 1960	Dec. 1, 1960				124–450	200–700	(2)
NIE Nov. 5, 1961	Apr. 25, 1961						
NIE Nov. 8, 1961	June 7, 1961				50–300	100–500	[3] 150–850
NIE Nov. 4, 1961 supplement	Jan. 10, 1962				35–100	100–250	[4] 150–450
NIE	February 1963					120–250	175–450

[1] The estimate predicted that an inventory of 100 and 500 ICBM's would be attained at intervals of two years, but gave the earlier years in the case of a "crash" program.
[2] The Air Force also predicted 950 Soviet ICBM's for mid-1964 and 1,200 in 1965.
[3] Additional Air Force predictions were 1,150 Soviet ICBM's in 1965 and 1,450 in 1966.
[4] The estimate also presented the range of 250–800 Soviet ICBM's for mid-1967.

Source: Memo, McQuade-Nitze, "The Missile Gap Estimates," May 31, 1963 (declassified July 25, 1979) DDRS (78)–263(d).

[From the Boston Sunday Globe, Sept. 5, 1976]

ENCLOSURE NO. 11

SOVIET MOBILE MISSILE WORRIES UNITED STATES

(By William Beecher)

WASHINGTON.—A new Soviet medium-range missile, preparations for deployment of which are just beginning in complexes aimed at Western Europe and China, is causing deep concern with the Administration.

The missile, called by Western intelligence the SS-20, is a solid-fuel, mobile weapon carrying three separately guided warheads.

The concern, a bit of which crept into public discourse last week, is based on the following information which has not been made public:

About twice as many SS-20s are being manufactured by the Soviet Union as the number of the missiles they are to replace.

The missile is estimated to be 10 times more accurate than deployed models.

Comprising the first two stages of the three-stage SS-16 intercontinental ballistic missile, the SS-20 is believed subject to quick transformation into an ICBM, giving the Russians the potential of having more than 1000 weapons that could cover targets throughout much of the United States but totally outside any SALT limitations.

Dr. Fred Ikle, director of the US Arms Control and Disarmament Agency without addressing any of these specifics, made a speech in Los Angeles a few days ago asking why the Soviets deem it necessary to add to SS-20 when they already possess regional nuclear superiority. The specter of such weapons, he decleared, "grows like a towering, dark cloud over Europe and Asia."

"Why are they adding to this arsenal?" Ikle asked. "What—we must ask with deep concern—is the possible political purpose?"

Some government analysis are apprehensive that the Russians are determined to field a force perceived as so preponderant—in Europe principally, but also in Asia—that they can expert to realize commensurately greater political leverage.

Especially if the Mutual Balanced Force Reduction talks result in a parallel scale-down of forces deployed on the central front in Europe, the appearance of twice as many Soviet nuclear missiles, each one carrying three times as many more accurate warheads, should not be lost on political leaders in Western Europe.

Work is under way at some of the SS-4 and SS-5 medium-range missile complexes in Southwestern Russia to construct new storage facilites, housing and command bunkers for the SS-20s, well-placed sources report. There are now about 540 of the older missiles in such sites. Some dismantling has begun. But with about 1200 SS-20s now being produced in Soviet factories, a question arises over how many of these are destined for the European front.

Sources report that a goodly number appear also headed for the Sino-Soviet front. The Russians are constructing facilities at an SS-7 ICBM site in Soviet Asia identical to those associated with the SS-20 in southwestern Russia. This suggests to some analysts that Russia intends to place additional numbers of medium-range missiles in its Far East deployment to increase coverage of targets in China.

Under the SALT-1 agreement, the Soviets are allowed to deploy more missile submarines if they dismantle their vintage SS-7 and SS-8 ICBMs. It thus appears that the SS-20 will be deployed as a replacement, unconstrained by SALT, in at least some of these sites.

The SS-20 is carried on the same transporter-launcher as the SS-16 ICBM. The only difference discernible from space satellites is that the firing cannister in which the missile is housed is about five feet shorter in the case of the SS-20.

But the SS-20, which has been tested at ranges of about 200 miles, could speedily be given a third stage and a larger cannister and thus become an ICBM.

In that the missiles are mobile, they would be hard to keep track of, compared with missiles in silos. It is anticipated that the SS-20s will normally be kept in a fixed site, with associated spare-parts warehouses, repair shops and troop barracks. But in time of crisis they could easily be moved to alternate sites, thus increasing their chances of surviving any missiles or bombers aimed at the fixed sites.

And even without being fitted with the SS-16's third stage analysts say, by putting on a ligher single warhead and making certain other 'difficult-to-detect' changes, the SS-20 could probably be given a 4000-mile range, sufficient to reach many targets in the United States.

The SS-20 has not been discussed either in the SALT or Mutual Balance Reduction talks, since the first negotiation deals only with long-range strategic weapons and the other deals only with troops and weapons stationed in the central NATO front and Warsaw pact territory. It then represents a gray-area weapon unconstrained by limits of any kind.

And yet it has clearcut potential of great significance in both areas. It is this failure of coming to grips with a new capability, and the implications of large-scale deployment in suggesting Soviet intentions, that is raising such great concerns within the upper echelons of the military, and arms-control communities.

ENCLOSURE NO. 12

THE HERITAGE FOUNDATION—ARMS CONTROL HANDBOOK

(By W. Bruce Weinrod)

Since some INF systems carry more than one warhead, launchers and warheads totals are different (see following graph). Because of geographical or numerical limitations, LRINFs could not be a component of a U.S. or Soviet first strike against each other. However, Soviet INF forces, for example, could be used in a first strike against NATO military sites, many of which are essentially unprotected. The graph indicates the USSR has a strong lead in numbers of LRINF launchers. Soviet LRINF launchers are reloadable. In addition, Moscow has a substantial lead in shorter-range INF missiles: it has around 370 such systems while the U.S. has none.

LRINF missiles are considered to be those with ranges between 1,800 and 5,500 kilometers.

Totals include all individual LRINF missiles; i.e., SS-4s, SS-20s, Pershing IIs, and individual ground-launched cruise missiles (four per launcher).

The USSR also stockpiles SS-20s and estimates suggest there are anywhere from two to five spare SS-20s (with 3 warheads each) for each launcher.

Latest public information is that around 171 SS-20 launchers are deployed in Asia; however, the SS-20 is mobile and could be redeployed from Europe to Asia or vice versa.

Some current and future Soviet defensive systems may be able to intercept U.S. LRINF systems; NATO has no similar capabilities.

The location of targets may have an impact upon the INF balance; many important NATO targets, for example, are within 500 miles of the intra-German border and therefore in close range of Soviet LRINFs (and shorter-range INFs also).

The USSR is developing a GLCM which could be deployed to target U.S. allies (the SS-CX-4).

ENCLOSURE NO. 13

[From the New York Post, June 9, 1983]

"LOST" RED MISSILES

(By Rowland Evans and Robert Novak)

U.S. failure to discover the location of three "regiments" of SS-20 intermediate-range nuclear missiles known or strongly suspected to be somewhere on Soviet soil has strengthened agreement within the Reagan Administration that early compromise with Moscow over the deployment of new U.S. missiles in Europe is impossible.

The three regiments each with ten launchers for the three-warhead missile, are believed to be somewhere in Central Russia. The U.S. intelligence community is understood to be certain that the 30 missing launchers in three regiments are deployed in the field.

It is believed that they have been positioned for potential use against either European or Asian targets—which includes the mainland of Communist China and the Japanese islands.

The still-rising numbers of SS-20 missiles aimed at Western Europe are clearly identifiable in their shelters from spy-satellite pictures that regularly photograph them.

The missing regiments, however, have not been spotted, raising questions as to whether the Soviets have arranged new and unknown camouflage protection for them.

Indeed, the unexpected discovery in April of one additional regiment of SS-20s under camouflage signalled a warning to the U.S. that the presumed total number of SS-20s, around 350, may be far less than the actual number.

That was before the existence of the three phantom regiments was even suspected.

The impact of those phantom regiments on U.S. policy could be considerable.

With talks now resuming in Geneva on the NATO plan to start deploying the Pershing 2 missile as a counter to the SS-20s, precise knowledge of the number of SS-20s is obviously essential to the U.S. negotiators, headed by veteran diplomat Paul Niles.

A just-published appraisal of these negotiations by the staff of the Senate Foreign Relations Committee virtually rules out agreement with the Soviets this year unless one or both governments proposed meaningful shifts in their current . . . positions."

Soviet refusal to identify the precise location of the missing regiments is likely to harden the U.S. position.

Equally disconcerting to U.S. policy makers is the strong indication that for each SS-20 launcher, the Russians are now believed to have up to five missiles not the previously estimated two missiles.

If American specialists are correct on this point, it means that the Soviets now have more than 5000 SS-20 warheads available for use against Western European and Oriental targets: the initial missile plus four backups for each launcher.

ENCLOSURE NO. 14

[From the New York City Tribune, Nov. 17, 1987]

1977 SPY DATA ON SS-20'S CAST SHADOW OVER INF TALKS

(By Peter Samuel)

WASHINGTON.—In 1979 a colonel of the General Staff of the Soviet Army, found guilty of espionage and treason, was strapped to a post, blindfolded and gagged and, following a quickly barked order, his body riddled by a firing squad.

Described by a U.S. government source as Boris, the colonel helped U.S. intelligence for several years before being caught by the KGB.

In 1976 Boris provided the CIA with one of his most intriguing pieces of information. He said the Strategic Rocket Forces planned to build 225 new mobile missile launchers for a system dubbed "Pioneer" during the Five Year Defense Plan 1976–80.

In 1977, U.S. reconnaissance satellites began observing the Pioneers, which were dubbed SS-20s. The presence of these two-stage, three-warhead ballistic missiles on multi-wheeled launchers forced the West German government of Helmut Schmidt to ask the United States to deploy a counter-system.

That system, in the form of the Pershing II and ground-launched cruise missiles now being placed in Western Europe (and being negotiated out again under the imminent INF treaty), has been deployed in an atmosphere of great political turmoil.

The deployment schedule did not quite match the Five Year Plan as outlined by Boris, but given the imperfections of execution of any plan, the information tracked well enough to confirm his credibility as an intelligence source. By now there are some 441 known SS-20 or Pioneer launchers.

Looking back to 1976, the most intriguing thing Boris told the United States was that the Five Year Defense Plan specified the assignment of five Pioneer missiles per Pioneer launcher vehicle, to result in a strength of 1,225 missiles at the end of the plan period.

Each Pioneer firing unit was designed with one first-shot missile and four reloads. It would fire from a presurveyed location; then the vehicles would speed to a second point, reload and fire the second missile.

The Pioneer was designed to fire, move, fire, move—until all five missiles were sent on their way into space and toward the release of their three warheads apiece (each with the explosive power of 150,000 tons of dynamite).

U.S. reconnaissance satellites have observed the SS-20 units carrying one reload and on one occasion two reloads. Signals intelligence has picked up indications of possible exercises including multiple reloads, according to our source.

The United States has never publicly gone beyond saying that SS-20 units carry a single reload missile and that the Soviet army stockpiles reload missiles, without specifying the number.

The official tables of warheads carried usually count only the warheads on the initial missile, so the Pentagon's Soviet Military Power in its INF table talks of the SS-20 force as 441 missiles and three warheads per missile making a total of 1,323 nuclear warheads.

Now that the United States and the Soviet Union are haggling over the INF treaty that is supposed to abolish these intermediate-range missiles, American officials are wondering how many SS-20s they should demand be dismantled. If Boris was right, then the SS-20 force is much bigger than anyone has publicly recognized and consists of 2,205 missiles and 6,615 warheads.

In comparison, the United States has roughly 6,000 nuclear warheads on all its different types of land- and submarine-based ballistic missiles combined.

One of America's leading nuclear weapons experts, Dr. Sam Cohen—perhaps best known for his advocacy of the neutron weapon—has long maintained that the SS-20 is not even a theater weapon but designed as an all-purpose strategic weapon.

One of the distortive effects of arms control counting rules is that missiles are classed according to the maximum range over which they are known to have been tested, which may differ considerably from their real capability. Similarly, their warhead numbers are totaled on a basis of the maximum number tested in test firing.

DESIGNED AS AN ICBM?

Cohen says in his recent book, "Mesmerized by the Bear: The Soviet Strategy of Deception" (Dodd, Mead & Co):

"There would seem to be very good reasons to believe that from the very beginning the Soviets planned the SS-20 as an ICBM [intercontinental ballistic missile] and then proceeded to deceive our technically marvelous but mentally gullible spy satellites into believing it was a theater missile by restricting their flight tests to theater missile ranges.

"Even then these test ranges have been barely—only 10 percent—below the accepted definition of an ICBM range, hardly enough to seriously reduce confidence in the missile's performance at intercontinental ranges."

The Soviets' testing the missile in a trajectory across the North Pole provides a further indication that the SS-20 was designed as an all-purpose strategic nuclear weapon system. The only possible target for such a track would be in North America, and the tests would be valuable in providing the Soviets with data on magnetic and gravitational anomalies that could affect SS-20 accuracy when fired against Canada or the United States.

Given the CIA's estimate that once new nighttime and all-weather satellites are in orbit the United States will probably be able to detect only about 20 percent of SS-20s, the Soviets have little incentive under the INF Treaty to do more than dismantle their lead missiles and to keep the reloads.

Given the great uncertainties U.S. intelligence has about how many SS-20 reload missiles exist, the negotiators are in a weak position to bargain for their being dismantled.

Enclosure No. 15

[From the New York City Tribune, Nov. 18, 1987]

INF Talks Grow Shaky as Concerns Over Missile Verification Mount in Washington

(By Peter Samuel)

Washington.—Some U.S. officials are concerned that the Soviets are eager to sign an intermediate nuclear forces (INF) treaty because it will remove an important American deterrent force from Europe while allowing the Soviets to continue their nuclear build-up unhampered.

On the face of it, the treaty seems to favor the West, as Secretary of State George Shultz often says.

Superficially, the impending INF treaty is a great victory for the West since it results in the removal of 441 SS-20 missiles with 1,323 warheads and 112 SS-4 launchers, making a total reduction of 1,435 Soviet warheads. In return, the United States is removing only about 300 warheads—on 108 Pershing II ballistic missiles and on 208 ground-launched cruise missiles.

In addition, almost as a goodwill bonus, the Soviets have agreed to give up about 600 shorter-range SS-12 Scaleboard and SS-23 missiles that have no American counterpart at all. The whole package has combined to make Soviet leader Mikhail S. Gorbachev look like a virtual strategic philanthropist!

But a senior U.S. government official, who wished to remain anonymous, told the *New York City Tribune* this week that the outlines of an alarming Soviet "cheat plan" have emerged.

Under the pressure of the Dec. 7 Washington summit deadline for signing the treaty, and on account of the U.S. intelligence community's complete bafflement over how many SS-20 missiles the Soviets have manufactured, Washington will agree to the dismantling of the 441 first-shots and perhaps a token 150 reloads, together with the demolition of some old sheds at known SS-20 bases, and SS-20 trucks.

But if the ill-fated Colonel "Boris"—a spy for America on the Soviet General Staff who was caught and executed in 1979—was accurate in his reporting to the CIA in 1976, and the SS-20 units were designed to consist of five missiles per launcher, the Soviets now have at least 2,205 triple-warhead missiles, the U.S. official said. They have been producing them since 1976 at the rate of perhaps 200 a year. If, in accordance with the upcoming INF treaty, they agree to take apart roughly 600, they can fulfill the terms of the agreement by scrapping 11-, 10- and 9-year-old missiles, the official said—and the Soviets will still have around 1,600 SS-20s left, enough to carry 4,800 warheads.

Indeed, the official told the *City Tribune*, Moscow need not even lose the 600 missiles. In the past year, the Soviets have been testing a new, improved version of the SS-20, dubbed the SS-20 Mod 2, with considerably improved accuracy. If this refined missile is produced at the same rate of 200 a year as the old, and the destruction of the 600 old SS-20s is strung out over 3 years, the Soviets will actually be able to conduct a modernization of their force in the guise of a withdrawal, the administration source said. They will be making no net reduction at all.

The Kremlin has conducted such cosmetic withdrawals before, in Afghanistan, where, with much fanfare, troop divisions have been pulled out, only to be quietly replaced by fresh units.

Now, the CIA, in a classified report obtained by the *City Tribune*, estimates that even with the new imaging radar reconnaissance satellite it will only have a 20 percent probability of detecting SS-20s in the field, so the United States will find it difficult to build a case for Soviet non-compliance.

The SS-20s have perfect cover in the form of the new SS-25 single-warhead, three-stage mobile intercontinental ballistic missile, which is a derivative of the SS-20. According to some analyses, the first two stages of the SS-20 and SS-25 are very similar, if not interchangeable, and the two can use the same transporter-erector trucks and base facilities.

Having been test-fired consistently over intercontinental range, the SS-25s are not covered by the intermediate-range treaty. Already the new SS-25s are being deployed to SS-20 bases, and one intelligence estimate is that the present 100 units will grow to 400.

One theory is that the Soviets have developed a modular "family" of mobile missiles, starting with the SS-16 of the 1960s, through the SS-20 to the SS-25, parts of which can be mixed and matched to various missions. According to this hypothesis, the various stages and transporters can be assembled like building blocks depending on the range of the targets they are to fire at, and the number and weight of warheads needed. Troops that train on one system are equally capable of operating the others.

William Van Cleave, a leading academic authority on strategic weapons, has long argued that the SS-25 is part of such a "family" of missiles.

The probable truth is that U.S. intelligence does not know enough about the details of any of these systems to form a firm assessment. The report that was obtained by the *City Tribune*, the *Soviet Land-Based Mobile Missile Study* done by the CIA's Critical Intelligence Problems Committee, delineated the problem in its executive summary when it said:

"There currently are large uncertainties in our knowledge of the deployment, operations and characteristics of Soviet mobile missiles."

Thus, some Washington analysts see the administration's situation as follows: A politically battered and bewildered President Reagan seems to have developed quite unwarranted enthusiasm for the pomp and ceremony of arms control and the feel-good effervescence of summitry. And advisers who should be cautioning him about the severe limits of verification are urging him on to sign a treaty that purports to regulate weapons it cannot count or even accurately characterize.

Enclosure No. 16

[From the Washington Inquirer, Dec. 18, 1987]

Treaty Signed—Cheating Begins

(By Peter Samuel)

The Soviets may have begun concealing a covert SS-20 force two or three years ago in preparation to evade the Intermediate Nuclear Force (INF) treaty. The deception is thought to have occurred already at two SS-20 bases in northern European U.S.S.R.

Defense authorities here name the two bases as Yurya and Verkhnyaya Salda, which are roughly northeast of Moscow, three-quarters of the way to the Barents Sea. The two are shown as SS-25 bases in the Pentagon's "Soviet Military Power" 1987 edition (page 25, upper map entitled "Nuclear Forces ICBMs"). The 1985 edition of "Soviet Military Power" showed these as SS-20 bases.

U.S. intelligence "lost" a brigade of 18 of the intermediate-range SS-20 missiles from each of Yurya and Verkhnyaya Salda sometime in 1985 or 1986. Satellite imagery no longer picked up evidence of the 36 SS-20 units earlier identified as located at these two bases. And it could not find them elsewhere.

Subsequently, the photo-analysts established that the new mobile intercontinental missile, the SS-25, was being deployed at each of these bases and so they are now classed as SS-25 bases. It is now thought likely that Yurya and Verkhnyaya Salda are the prototypes for the deception to be practiced at all SS-20 bases over the period during which these missiles are supposedly scrapped.

The garages formerly used to hold SS-20s and their launchers at Yurya and Verkhnyaya Salda were lengthened by 3 metres (10 feet). This accommodated the three-stage, intercontinental mobile missile, the SS-25.

(The SS-20 is a two-stage mobile missile which shares the first stage, at least, of the SS-25 and has been classified as intermediate-range because it has never been test-fired beyond the 5,000 km [ca. 3,500 miles] used in arms-control negotiations.)

The 36 SS-20s "lost" by U.S. intelligence may have been simply installed in the longer garages, so they could be multi-purpose. The two missiles, together with the early 1970s SS-16 mobile ICBM, are part of a modular family of mobile missiles that use the modernistic-styled, multiple-axle and large-wheeled MAZ-543 truck which erects its missile for firing, as well as transports it from one firing place to another.

The Soviets are thought to have produced around 2,300 SS-20 missiles although the U.S. has counted only 44 deployed launcher units. The Soviets have told U.S. negotiators in Geneva they have around 1,000 of the missiles, counting the spares. If these 1,000 are destroyed in conformity with the INF treaty, about 1,300 will remain for covert deployment. The 2,300 have been manufactured over more than a decade at the Votkinsk plant, now manufacturing SS-25s. The oldest SS-20s can be scrapped as part of the Soviets' supposedly "faithful" implementation of the INF Treaty, allowing the remaining 1,300 to be intermixed with SS-25s.

Analysts say that the Soviets have recently tested a follow-on, improved SS-20 (called Mod A), which suggests they may intend to covertly replace the 1,000 or so older models they intend to scrap. They may plan to ship these out of the Votkinsk manufacturing plant (or make them elsewhere) in the longer SS-25 cannisters and pass them off as "legal" ICBMs.

A draft study of the INF produced for the American Security Council says that the scheme may be "the greatest Potemkin Village in arms-control history," which could enable the Soviets to continue their nuclear buildup unhindered, while creating the political environment in which western nuclear forces are severely drawn down.

A study, produced by Washington defense consultant Dr. Joseph Douglass, of the relationship between Soviet defense developments and arms-control practices notes a history of careful Soviet planning to evade treaty restrictions. The first example of this was the SALT I treaty which, in article II, attempted to ban a new heavy ICBM. U.S. signals intelligence, via a satellite-based system codenamed Gamma Guppy in May 1972, intercepted a phone conversation in which Soviet party chairman Leonid Brezhnev asked a top military man, Marshal Grechko, for assurances that they would still be able to deploy a new heavy missile, despite the limits on silo-size in the SALT I treaty. This turned out to be the SS-19 missile which, together with the SS-18, constitutes a major threat to U.S. retaliatory forces today.

Heavy SS-19s were designed to fit in the missile silos of the older SS-11 missiles, classified as light missiles.

Other examples of planning to evade arms-control treaties are the continued development and deployment of mobile ICBMs SS-16, SS-24 and SS-25 during the term of the SALT II treaty and development of new types of ICBMs.

ENCLOSURE NO. 17

[From the New York City Tribune, Dec. 1, 1987]

SOVIET ADMISSIONS OF MISSILES MOSCOW HID SHAKE CONFIDENCE OF U.S. IN VERIFICATION

(By Peter Samuel)

WASHINGTON.—In Geneva at recent negotiations on the prospective INF treaty, the Soviets acknowledged that in addition to about 450 deployed SS-20 and SS-4 missiles they have another 550 non-deployed missiles, making a total of around 1,000 they should dismantle.

The Soviets conceded they had deployed 120 SS-12 "Scaleboard" systems and, somewhat to the surprise of U.S. negotiators, they said they had about 50 SS-23s.

Washington has never publicly estimated that the Soviets have more than 20 of the 300-mile-range SS-23 "Spider" system, which like the SS-12 Scaleboard is mounted on a MAZ-543 transporter-erector-launcher (TEL) truck.

But following the summer shoot-up of a Military Liaison Mission team in East Germany after the two Americans had taken photographs of a previously unknown SS-23 brigade (with 18 firing units). U.S. intelligence officers are extremely uncertain about the numbers of these successfully concealed missiles.

The Soviets admitted in the recent negotiations that they have in addition to the 170 deployed short-intermediate-range missile units on TELs, around 750 non-deployed missiles of the same kind. Non-deployed missiles are those manufactured and kept in store, either.

For use in test firing or dismantlement to monitor the readiness and reliability of the general stock of missiles.

For use as refire missiles from the deployed launchers so there can be follow-on salvos after the deployed missiles have been shot off.

For retention for covert deployment on their own unsighted launchers.

Intelligence estimates of deployed missiles are based on satellite photography of the silos and launchers and patterns of garaging and other buildings used to support the missiles. A senior U.S. government official last week told us that estimates of non-deployed or stored missiles is a hit and miss business—based on a variety of human sources, signals intelligence intercepts and observation of exercising patterns.

Another important way of deriving numbers of deployed missiles is estimates of the output of Soviet missile factories, based on information on materials going in, numbers of workers and such. In some cases the United States has had agents provide actual production plan numbers for missiles.

SOVIET MISSILE PRODUCTION

The Defense Intelligence Agency has produced the following production numbers for Soviet missiles—rounded to the nearest 50 at the request of our source:

SS-4—2300.
SS-5—300.
SS-11—2200.
SS-12—1800.
SS-16—200.
SS-20—2250.
SS-23—250.
SS-24—500.
SS-25—600.

The SS-5, SS-11, SS-16, SS-24 and SS-25 are not covered by the INF treaty since all have been test-fired beyond the 5,000km (3,000 miles) maximum range for intermediate range designation. All are known to be variable range missiles that can quite easily be used to hit targets within their maximum range.

The numbers illustrate the enormous threat to Europe the Soviets pose through their circumvention of the INF treaty: targets can be hit by the longer range missiles, fired at less than their potential.

There is also great possibility for Soviet cheating by simply retaining stored missiles. The Soviet potential to cheat here is indicated in the discrepancy between Defense Intelligence Agency estimates of the numbers of Soviet missiles produced and the numbers the Soviets now admit to and therefore commit themselves to dismantle.

On the basis of what the Soviets have acknowledged owning regarding INF missiles, they can be expected to say they are dismantling about 2,000 units but they could retain as many as 2,000. Actually the number would probably be considerably smaller than thus since the SS-4s included in this estimate are largely obsolete.

Of more concern, however, is the discrepancy between the DIA estimate of modern SS-20s, 2,250 and the 900 approximate number acknowledged by the Soviets. Those demolished would be the oldest SS-20s, leaving a modern covert force of as many as 1,300 of these three warhead and highly accurate missiles.

The Soviets as well could leave over 1,000 shorter intermediate range SS-12s and SS-23s.

The CIA has reported. "The U.S. probability of detecting SS-20s in the field is estimated at only about 20 percent, once new might time and all weather satellites are in orbit."

This identification of SS-20s would only be possible if the Soviets continue to deplore the missiles in tight-fitting distinctive canisters. Arms control specialists point out that the Soviets can rather easily avoid virtually all danger of U.S. detection of the SS-20s by deploying them in the SS-25 canisters.

The SS-25 is 3 meters (10 feet) longer, but shares the same first stage, so the SS-20 will fit conveniently in the longer canister and "look" exactly the same to satellite imaging SS-25s are being deployed to SS-20 bases already so the intermingling of the two similar systems the first quite legal under INF . . . will make it close to impossible for the United States to distinguish the two and make any convincing case of Soviet violations.

The mercurial Marshall Nikolai Ogarkov, now thought to command the European theaters of Soviet forces, is believed to have designed the INF evasion scheme now enshrined in a treaty being signed by Gorbachev and Reagan.

A former head of a directorate of Strategic Deception, a Chief Directorate of the Soviet General Staff, Ogarkov has had 6 years from the time of Reagan's embrace of the zero-zero option in 1981 to devise ways of hiding most of the SS-20 force and circumventing the treaty.

It hardly seems a coincidence that the Soviets should move to adopt the INF-treaty just as the legal cover-missile the SS-25 type comes on line in numbers.

ENCLOSURE NO. 18

[From the New York City Tribune, Dec. 8, 1987]

SOVIET PLOY TO CIRCUMVENT INF PACT BEGAN WITH SECRET BASES 2 YEARS AGO

(By Peter Samuel)

WASHINGTON, Dec. 7.—The Soviets may have begun secreting a covet SS-20 force 2 or 3 years ago in preparation to evade the Intermediate Nuclear Force (INF) treaty, defense authorities say:

The deception is thought to have occurred already at two SS-20 bases, Yurya and Verkhnyaya Salda, which are roughly northeast of Moscow three quarters of the way to the Barents Sea.

The two are shown as SS-25 bases in the 1987 edition of the Pentagon's *Soviet Military Power* (page 25, upper map entitled "Nuclear Forces ICBMs"). The 1985 edition of *Soviet Military Power* showed these as SS-20 bases.

U.S. intelligence "lost" a brigade of 18 of the Intermediate range SS-20 missiles from both Yurya and Verkhnyaya Salda some time in 1985 or 1986. Satellite imagery no longer picked up evidence of the 36 SS-20 units earlier identified as located at these two bases, and it could not find them elsewhere.

Subsequently the photo-analysts established that the new mobile intercontinental missile, the SS-25, was being deployed at each of these bases and so they are now classed as SS-25 bases. It is now thought likely that Yurya and Verkhnyaya Salda are the prototypes for the deception to be practiced at all SS-20 bases over the period during which these missiles are supposedly scrapped.

The garages formerly used to hold SS-20s and their launchers at Yurya and Verkhnyaya Salda were lengthened by 3 metres (10 feet). This accommodated the three stage inter-continental mobile missile, the SS-25.

The SS-20 is a two-stage mobile missile which shares the first stage at least of the SS-25 and has been classified as intermediate range because it has never been test fired beyond the 3,500 miles used in arms control negotiations.

The 36 SS-20s lost by U.S. intelligence may have been simply installed in the longer garages, so they could be used for a number of purposes. The two missiles, together with the early 1970s SS-16 mobile ICBM, are part of a modular family of mobile missiles that use the modernistic styled multiple axled and large wheeled MAZ-543 truck which erects its missile for firing, as well as transports it from one firing place to another.

The Soviets are thought to have produced around 2300 SS-20 missiles although the United States has counted only 441 deployed launcher units. The Soviets have told U.S. negotiators in Geneva they have around 1,000 of the missiles, counting the spares.

If these 1,000 are destroyed in conformity with the INF treaty, about 1,300 will remain for covert deployment. The 2,300 have been manufactured over more than a decade at the Volkinsk plant, now manufacturing SS-25s.

The oldest SS-20 can be scapped as part of the Soviets' supposedly "faithful" implementation of the INF treaty, allowing the remaining 1,300 to be intermixed with SS-25s.

Analysts say that the Soviets have recently tested a follow-on improved SS-20 (called Mod A) which suggests they may intend to covertly replace the 1,000 or so older models they intend to scrap. They may plan to ship these out of the Volkinsk manufacturing plant (or make them elsewhere) in the longer SS-25 canisters and pass them off as legal ICBMs.

A draft study of the INF produced for the American Security Council says that the scheme may be "the greatest Potemkin Village in arms control history," which could enable the Soviets to continue their nuclear buildup unhindered while creating the political environment in which Western nuclear forces are severely reduced.

A study produced by Washington defense consultant Dr. Joseph Douglass of the relationship between Soviet defense development and arms control practice notes a history of careful Soviet planning to evade treaty restrictions. The first example of this was the Article II in the Salt I treaty, which called for the banning of a new heavy ICBM.

U.S. signals intelligence via a satellite-based system codenamed Gamma Guppy in May 1972, intercepted a phone conversation between Leonid Brezhnev and Marshall Grechko where the Soviet party chairman asked the top military man for assurances that they would still be able to deploy a new heavy missile, despite the limits on silo-size in the SALT I treaty.

This turned out to be the SS-19 missile which together with the SS-18 constitutes a major threat to U.S. retaliatory forces today.

Heavy SS-19s were designed to fit in the missile silos of the older SS-11 missiles, classified as light missiles.

Other examples of planning to evade arms control treaties include the continued development and deployment of mobile ICBMs SS-16, SS-24 and SS-25 during the term of the SALT II treaty and development of new types of ICBMs.

ENCLOSURE NO. 19

[From the Washington Post, Dec. 16, 1987]

U.S. MAY HAVE MISCOUNTED SOME SOVIET MISSILES

(By Walter Pincus)

U.S. intelligence agencies may have underestimated the number of 300-mile-range SS23 nuclear-armed missiles deployed by the Soviets in Eastern Europe and totally missed the placement of Soviet ground-launched cruise missiles in Latvia if data provided by Moscow as part of last week's Intermediate-Range Nuclear Forces (INF) Treaty proves correct, according to government and congressional sources who have analyzed the information.

On the other hand, the analysts said the data indicate that the Pentagon's Defense Intelligence Agency (DIA) for several years may have overestimated by more than 30 percent the overall size of the Soviet intermediate-range nuclear SS20 mobile missile force.

New and sometimes unexpected information on Soviet nuclear weaponry was contained in the "memorandum of understanding," signed by Soviet leader Mikhail Gorbachev and President Reagan, published as part of the treaty and released to the public last week.

It has since caused the DIA and the Central Intelligence Agency to review their past estimates, according to informed sources.

The data also have put new life in long-standing intelligence community disputes and promises to provide fuel to congressional critics of the treaty who argue the Soviets cannot be trusted.

After the INF Treaty takes effect, the Soviets will provide an updated data base and U.S. teams will carry out on-site inspections of listed facilities to verify the data.

Until early this year, according to sources, U.S. intelligence could confirm only that about 10 SS23 missiles had been deployed at a base in the western Soviet Union. Then, according to those sources, a second base was discovered by chance by a U.S. military attache in East Germany.

But last week, the Soviets reported a total of 82 SS23 launchers and 167 missiles deployed in East Germany and the western Soviet Union. Sources said two Soviet bases with nuclear missiles were unknown to the United States. "That just proves smaller missiles are tougher to find," a congressional intelligence expert said.

Soviet disclosures about its SSCX4 ground-launched cruise missile, which was not projected for deployment until 1988 or 1989, have caused the biggest stir in U.S. intelligence circles.

The Soviets said last week they had 84 of the 1,800-mile range missiles "in storage," and six launchers in a site near Jelgava, south of Riga, capital of Latvia. They said "elimination facilities" are at the same site. The Soviets describe their cruise missiles as "tested but not deployed."

One source said moving the weapons to Jelgava showed how easy it may be to hide a usable nuclear force. Another said it was likely the Soviets made the move from the Kapustin Yar test range south of Moscow to Latvia to keep U.S. inspection teams away from the test facility.

The SS20 controversy shows how the United States tried to deal with a missile never seen by reconnaissance satellites. In 1975, before the first SS20 was built, sources said, a U.S. spy in the Soviet Union said Moscow planned five missiles for each launcher. Caught and executed in 1979, the spy's early information guided subsequent U.S. estimates.

SS20 deployment was cloaked in secrecy; missile, transporter vehicle, and protective transport cannister were never seen by the United States, which estimated the number of SS20s in the field by counting the garages for launchers and transporters.

"We counted garages, which we could see, not missiles," one intelligence sources said.

As the number of garages increased above U.S. projections, the CIA lowered its estimate of the "refire" SS20 force; DIA did not. Pentagon and DIA officials continued to insist on at least one extra "refire" SS20 for every deployed missile.

The Defense Department's 1985 edition of the unclassified "Soviet Military Power" estimates "about 400 deployed [SS20] launchers—with a . . . 3-warhead missile and reload." The 1987 edition indicated up to 900 SS20s in all, to go with the 441 missiles DIA reported as having been deployed.

This year's edition said that "the SS20 launcher can be reloaded and refired, and the Soviets stockpile refire missiles."

Last week, the Soviets reported having 659 SS20s, deployed or in some form of storage.

They said 405 of the mobile SS20s along with their launchers were deployed at 39 bases, 15 missiles with launchers were stored at 10 of those same sites, and 164 SS20 missiles were at two storage facilities.

In addition, 36 missiles were at the production facility and 29 missiles and 68 launchers were at an "elimination facility."

Senate critics of the INF Treaty have focused on the DIA numbers and charged, according to a congressional analysis done for one Republican legislator, "the Soviets may secretly be able to retain at least 250 more [SS20s]."

Treaty supporters said the Soviet numbers are within the range estimated by the CIA, and that the DIA estimates were wrong.

ENCLOSURE NO. 20

[From the Washington Times, Dec. 2, 1987]

MEDIUM-RANGE MISSILE COUNT PUT AT 2,000 BY THE SOVIETS

(By Warren Strobel)

As the first step in the long, complex process to guard against cheating on the treaty the superpowers will sign next week, the Soviet Union has told U.S. negotiators that it has about 2,000 medium-range missiles, two-thirds of them undeployed, concealed in storage.

Such figures, also supplied by the U.S. side, are crucial to ensuring that both nations eliminate their full complement of Intermediate-range Nuclear Force (INF) weapons. This data exchange will be double-checked in the first of many on-site inspections called for by the accord.

Yet the Soviet characterization of its own arsenal—about 1,000 long-range and 920 short-range INF missiles—elicited differing responses from U.S. government officials when it was delivered last month.

Some said the data match estimates made by various U.S. intelligence agencies.

"The numbers were in our range of estimates, our range of uncertainties," said one administration official.

"The data that we have from the Soviet Union are credible in the sense that they are very much in line with our own intelligence estimates," Secretary of State George Shultz said Sunday.

But a former Senate Intelligence Committee aide, Angelo Codevilla, now a scholar at Stanford University's conservative Hoover Institute, asked, "How do we know that they have not simply given us the numbers that U.S. intelligence has come up with?"

Mr. Codevilla said the CIA estimated the Soviet SS-20 force, the bulk of its long-range INF arsenal, at 1,000 missiles, roughly what the Soviets are now reporting.

However, the Defense Intelligence Agency—whose figures are often larger than the CIA's on Soviet military forces—estimates total SS-20 production at 2,250 operational, refire, test and training missiles, according to a U.S. government source.

"The [Soviet] numbers don't match with what we have in classified," said the source, who spoke on condition of anonymity. "They blow your mind."

Unclassified Pentagon estimates show the Kremlin as having 553 long-range INF missiles deployed on launchers—441 triple-warhead SS-20s and 112 aging SS-4s. But the Soviets told U.S. officials they have only a total of 450 deployed long-range INF missiles, with 550 more in storage.

In the shorter-range INF category, the Soviets say they have 120 SS-12/22 "Scaleboard" missiles on launchers and 50 SS-23s—30 more than U.S. intelligence estimated.

"Especially surprising," according to the government source, is the Soviets' admission that they have about 750 undeployed short-range INF missiles. "The Soviet data exchange has severly undermined verifiability," he said.

ENCLOSURE NO. 21

[From the New York City Tribune, Jan. 27, 1988]

HELMS AND SHULTZ ARE IN HIGH-STAKES DUEL OVER VERIFIABILITY OF PACT, MISSILE NUMBERS

(By Peter Samuel)

WASHINGTON, JAN. 26.—While Republican and Democratic senators joined forces today seeking to discredit him, Sen. Jesse Helms, R-N.C., has engaged Secretary of State George Shultz in a high-stakes battle over the ratification of the INF treaty.

At today's testimony before the Senate Foreign Relations Committee, the top U.S. arms control negotiators at Geneva, Max Kampelman and Maynard Glitman, said the treaty achieves the goal of eliminating Soviet medium-range missiles as a military threat to Western Europe and a political threat to the stability of the NATO alliance.

They told the committee that destruction of the missiles is the crucial provision because that meant that warheads could no longer be delivered to their targets.

Destroying the warheads themselves might be dangerous, Kampelman and Glitman said, because secret U.S. nuclear weapons designs might be exposed to Soviet inspection. They also cited the risk of radiation contamination throughout Europe.

With other senators siding against him, Helms pressed his claim "that contrary to some public assertions, the treaty does not destroy even one nuclear warhead."

"A missile is a carrying case and the warhead is the thing that goes 'boom' and kills you," Helms declared. "A missile doesn't kill you unless it falls on your head and cracks it open."

Kampelman said the treaty does permit removal of fissionable material and guidance systems before U.S. and Soviet missiles are destroyed by crushing them, burying them underground or exploding them after an aerial launching.

"The fissionable material by itself is not dangerous," Kampelman said. "The danger involved is when it is linked to that which shoots it, directs it, causes it to explode. A big section of the warhead does get destroyed, does get crushed."

Helms, though, has saved his wrath for Shultz, who has given ratification of the treaty high priority in the final year of the Reagan administration. Helms and his staff are deeply committed to the view that the treaty is detrimental to the security of the United States and its allies, and say, privately, the treaty is being sold with lies.

They say that the administration is misleading the American people on two central issues summed up in the terms: "Monitorability" and "Only 650?" SS-20s.

Monitorability refers to the ability of United States intelligence and verification inspectors to adequately track and identify Soviet missiles and detect violations. The "Only-650?" issue refers to the credibility of the Soviets' declaration that it has only 650 SS-20 missiles, which will be destroyed under the terms of the INF treaty.

The public has been shown only the tip of the iceberg of this dispute, the senator says, and on Monday he illustrated his point during the public hearings by having an aide walk across the room and deliver to Shultz a top secret report, which Helms said was of "paramount importance to our national security."

In a press release he said earlier that if the classified material was legitimate he would question "whether there should be further Senate action at this time on the proposed treaty."

Helms said he wanted confirmation from Shultz that the document was genuine and that he and the president knew its contents. Shultz declined to open the document, citing the presence of cameras in the room. Helms then suggested that the top secret folder contained material attached to a letter he had written him.

Shultz picked up: "Well, it is . . . it represents itself as being a set of quotations from highly classified materials that are in the hands of the intelligence people."

Helms: "Yup."

Shultz: "And how you came to have that I have no idea. You have better access than I do to whatever they [the intelligence people] are doing. . ."

The Secretary of State then said that, from what he had been able to ascertain, the problems raised in the secret reports "can be dealt with satisfactorily" but this should be discussed with the intelligence people in closed session.

Helms responded that he was encouraged Shultz had read his letter. He then put into the Senate record that he had received a hand-delivered letter from CIA Director William Webster which included the statement: "We have reviewed the highly sensitive classified information cited in the attachment to your letter.

"This information is, in fact, contained in a recent draft of Volume Two of The National Intelligence Estimate 4/11-88. The information is substantively accurate, although the final wording in the published version, will, in some cases be slightly different."

Helms in his letter to Webster charged that the secret material "discloses a major violation by the Soviet Union of the proposed treaty on Intermediate Nuclear Forces."

Officials have been unusually reticent in commenting on the content of the secret materials, but the indications are that they bear in part on two matters already reported in the City Tribune in the series published November 13, 16, 17 and 18.

These refer to:

The intelligence community's great difficulty in detecting mobile Soviet missiles and its need for considerably increased resources in order to be able to detect and identify them with confidence.

Indications from US intelligence that the INF-banned SS-20 missile is being covertly deployed with its slightly longer and INF-allowed "cousin," the SS-25.

Two former SS-20 bases in the western Soviet Union, Verkhnyaya Salda and Yurya have been gradually converted to SS-25 basis, U.S. intelligence has reported. The SS-25 canisters and garages, which are 10 feet longer than those for the SS-20, over the years 1984 to 1987 displaced the shorter canisters and garages identified as those to hold SS-20s. Analysts in Washington concluded the bases were being converted from the SS-20s to intercontinental SS-25s. U.S. intelligence reported that 36 SS-20s that were thought to be "lost," disappeared from these bases.

Another interpretation is that the same SS-20 missiles were simply moved into the longer canister and garages identified with SS-25s and were given 10 feet of "rattle room" as part of Soviet plans to test their ability to hide their intermediate range force.

In his opening statement today, Senate Republican Leader Robert Dole said he supported ratification of the treaty but said U.S. intelligence would need more resources to do the job.

"The intelligence chiefs I consulted assured me that, with adequate resources, and I underscore that, they can do the verification job," Dole said. "We may well need to beef up our own capability to ensure effective verification.".

This is an apparent allusion to intelligence assessments that the United States would only have about a 20 percent probability of detecting an illegally deployed SS-20, and that a principal surveillance system needed to search for mobile missiles—the Indigo-LaCrosse infrared imaging satellite—has been grounded by the space shuttle disaster and the lack of any U.S. heavy-lift launch capability.

A Mobile Missile Task Force Intelligence Requirements and Analysis Working Group (IRAWG) report dated Dec. 11, 1986 and addressed to the director of central intelligence said: "Our current capability to meet adequately the demands placed on our resources to address effectively the mobile missile problem is limited . . . A true capability to locate, identify and track mobile missiles is evolutionary and will require significant enhancement over present capabilities . . . It is clear that development of strategies to improve our capabilities will require many more experts than are currently available."

The "Only-650?" issue bears heavily on the credibility of the administration, because in its desire to get the treaty ratified, it is endorsing the Soviets' declaration that they have only 650 SS-20s to destroy. Yet, the record is replete with earlier statements by the administration emphasizing that the SS-20 system was built and deployed to reload and refire.

The Pentagon's Soviet Military Power publication has always said this, and its pictorial representations of SS-20 units in action have usually shown refire units. The number of refire missiles per ready-to-fire missiles atop their transporter-erector launcher trucks, has been estimated between one and four.

Even with the low estimate of one refire missile per deployed missile, there would, with the administration's count of 441 deployed missiles, be 882 missiles. In addition to those in the field, every missile system has its stockpile of missiles held for test firing and replacement of those that get damaged from the rigors of deployment.

This has led the Defense Intelligence Agency to estimate the SS-20 count to be around 1,000, with other estimates based on Soviet plans for four refires of 2,250.

A memorandum from Helms to his colleagues dated Jan. 25 discusses this issue at length on pages 22 and 23. It says that the DIA has "assumed that the SS-20 force was close to and even over 1,000." It goes on to say some intelligence analysts have estimated the numbers as high as 2,250 and adds: "This number is a derived number, not a detected number, but it is based upon some very reasonable assumptions and intelligence information . . ."

ENCLOSURE NO. 22

[From the Washington Times, Feb. 1, 1988]

SPY AGENCIES DISAGREE ON NUMBER OF SS-20's

(By Bill Gertz)

U.S. intelligence analysts have been unable to agree on the number of SS-20 nuclear missiles to include in the latest estimate of Soviet missile forces, according to administration and congressional officials.

The SS-20 is the primary missile to be eliminated under the terms of the U.S.-Soviet intermediate nuclear forces treaty, and Defense Secretary Frank Carlucci is expected to face tough questioning about the intelligence disagreement when he appears today before the Senate Foreign Relations Committee.

Mr. Carlucci's testimony kicks off the Foreign Relations panel's second week of ratification hearing on the INF treaty.

The differences among State Department, Pentagon and CIA analysts over the number of SS-20 mobile nuclear missiles have forced a delay in the release of a national intelligence estimate, an interagency report that was scheduled for completion last week, said the administration and congressional officials who declined to be named.

Opponents of the INF treaty seized upon the dispute last week during Senate ratification hearings.

Sen. Jesse Helms, North Carolina Republican and a leading critic of the accord, claimed that the uncounted SS-20s—triple-warhead, mobile missiles with a range of about 3,000 miles—are part of a "covert" force. In a hearing Thursday, he charged that the intelligence community had modified its estimates of SS-20 production to conform to Soviet data.

According to the officials a draft intelligence estimate now being debated among U.S. analysts states that the Soviets have produced 950 SS-20s—300 more than Soviet negotiators declared during INF talks.

The INF treaty figure of 650 includes 405 operational systems and an additional 245 "non-deployed" missiles stored in huge warehouses at several locations in the central Soviet Union.

The Defense Intelligence Agency has resisted efforts to modify the position of a July intelligence estimate that lists the number of Soviet SS-20s at 950 missiles, officials said. The figure is the agreed estimate that was derived from a compromise between lower estimates by the State Department and CIA and a higher DIA figure, they said.

According to one official, the DIA believes the Soviets have produced between 1,000 and 1,200 SS-20s.

The State Department and CIA initial estimates of the total number of SS-20s, officials said, were revised last fall from a number below 600 to about 700—after Soviet negotiators revealed that 650 SS-20 were produced.

State Department analysts dismissed the fact that the Soviets supplied four different sets of INF numbers during negotiations last fall as the result of "bureaucratic confusion" among Soviet negotiators, the official said.

Adm. William Crowe, chairman of the Joint Chiefs of Staff, told the Senate Armed Services Committee in a parallel ratification hearing last week that the U.S. intelligence community had estimated that the Soviets could have as many as 300 SS-20s beyond those declared in the INF treaty.

And chief U.S. arms negotiator Paul Nitze, in testimony Thursday before the Senate Foreign Relations Committee, made the unusual public disclosure that the three agencies were at odds over the number of deployed and non-deployed SS-20 missiles.

But he sought to minimize the importance of any SS-20s not declared by the Soviets in the INF pact by arguing that any undeclared missiles would not be militarily reliable.

In a prepared statement for the Foreign Relations Committee yesterday, Gen. Alexander Haig, a retired NATO commander who is now a GOP presidential aspirant, declared his opposition to the INF treaty "even if the warheads were to be destroyed and even if verification was far more stringent."

Gen. Haig noted: "In my view, the INF treaty . . . weakens rather than strengthens deterrence against war."

Another former NATO commander, Gen. Bernard Rogers, said Friday that the INF treaty has given him "gas pains" because of its impact on deterring conventional war and because of problems with verifying Soviet compliance.

Gen. Rogers said the U.S. spy satellites, known as National Technical Means, were unable to confirm whether the Soviets dismantled more than two dozen SS-20s bases several years ago.

"Using national technical means, we watched them remove 27 missiles from the garages, and we have never been able to find them since then, he told a National Press Club luncheon. "But we have continued to give them credit for them since then because we haven't seen them destroyed."

ENCLOSURE NO. 23

[From the Wall Street Journal, Feb. 3, 1988]

CRIMSON WHALES

When Senator Jesse Helms raised questions at the INF treaty hearings last week, he was accused of offering a "crimson whale," a cousin of the "red herring." While it may be in the interest of treaty supporters to portray Mr. Helms as some Monster from the Deep, his whales nonetheless have kept beaching themselves atop the treaty this week.

Consider the confusion over the SS-20, the major weapon the Soviets are supposed to remove if the treaty is ratified. The administration can't seem to figure out how many SS-20s the Soviets really have. Last July the CIA and State Department estimated the Soviets had 550, while the Defense Intelligence Agency, or DIA, figured 1,200. When INF was signed last November, the Soviets said 650. Just last month, however, the CIA and State Department reached new estimates of 700, while DIA stuck with 1,200. The "national intelligence estimate," a consensus view, is 950.

Grade-school arithmetic can tell you that if the Soviets chop up 650 missiles out of 950 they will have 300 left under the zero-option agreement. The administration argues that this is a tempest in a teapot, since the Soviet figure of 650 is "within the range of our uncertainties." We wonder how many Americans would be surprised to learn that the supposedly verifiable INF agreement depends on a "range of uncertainties," extending from zero to 300, not to mention 550 if the high DIA estimate happens to be right.

The much-advertised "on-site inspection" of Soviet bases might help us verify the number of SS-20s, of course, except that the inspection sites are specified by the treaty. If the Soviets ever want to cheat, all they have to do is put the missiles where the inspectors aren't allowed to go.

Another Helms whale was Article 14, the "non-circumvention" clause. This says the U.S. and Soviets "shall not assume any international obligations or undertakings" that would violate the treaty. That sounds simple enough, but several senators are wondering if it isn't an ambiguity big enough for the Soviets to drive a reinterpretation through.

"What is the purpose of this language?" Senator Dan Quayle asked in his opening statement last week. The plausible concern is that the clause could keep the U.S. from selling its allies technology that they need to defend themselves. Indeed, the Soviets already are saying INF prohibits the U.S. from modernizing the shorter-range nuclear weapons that will remain in Europe after INF is implemented.

The concern is heightened because the paragraph wasn't even in the treaty until late last November. "Who insisted on Article 14, by the way? They or us?" Senator Helms asked Defense Secretary Frank Carlucci on Monday. Replied Mr. Carlucci: "They wanted a real non-circumvention clause, and our negotiators negotiated them down to this kind of a provision." Mr. Carlucci dismissed the Soviet claims that INF prohibits NATO modernization as "pure nonsense" and "propaganda." The Reagan administration said similar things about the ambiguities in the 1972 ABM Treaty, only to find Senator Sam Nunn arguing that the Soviet interpretation was more correct.

INF also removes U.S. ground-launched cruise missiles from Europe, but what about air-launched or sea-launched cruises? Since the guidance systems are similar in all three types, are we also banned from providing them to our allies? Cruises are essential, of course, because they can carry *conventional* warheads, and thus defend Europe without threatening a nuclear exchange. But the U.S. gave up *all* ground-launched cruises as part of the INF because we said it was impossible to distinguish between nuclear and conventional. And on Monday Senator Joe Biden already was arguing that the same logic should apply to air-launched or sea-launched cruises in the START talks.

Unlike presidential dropout Biden, of course, Senator Helms is supposed to be off-the-wall. His original "crimson whale" was the issue of whether the treaty calls for the destruction of any nuclear warheads. It doesn't, as Mr. Carlucci explained at length: "The warhead essentially consists of the physics package—high explosives, highly enriched uranium, plutonium. That package, consistent with other weapons systems that have been destroyed, could either be reused or, depending on the circumstances, recycled." Keeping warheads is a good part of the treaty, he explained, because the Soviets can produce new ones easier than we can.

So Senator Helm's whales are that the treaty doesn't eliminate any nuclear weapons, that we can't verify it well enough to say whether remaining Soviet SS-20s missiles will be zero or 550, and that it's ambiguous enough to be interpreted as cutting NATO allies off from technical assistance for the most modern conventional weapons. Senator Helms, it would appear to us, is the last one whose face should be crimson.

ENCLOSURE NO. 24

SENATE ARMED SERVICES COMMITTEE

Chairman NUNN. Senator Humphrey?

Senator HUMPHREY. Thank you, Mr. Chairman, Admiral Crowe, when you and I spoke earlier, one of the matters we discussed was the fact that the treaty doesn't cover warheads—each party is free to do as it wishes with its warheads. One question that comes to mind immediately, of course, is in the view of the Joint Chiefs, can any of the warheads, which the Soviets will remove from those weapons covered by the INF Treaty, they used on other weapons not covered by the INF Treaty. The answer to that question is yes?

Admiral CROWE. Yes.

Secretary CARLUCCI. Can I elaborate on that?

Senator HUMPHREY. Well, I'm on a very short time here. The Chairman runs a tight ship, as you know, and I want to make the best—put the best face on it, Mr. Secretary——

Admiral CROWE. Incidentally, we have the same privilege.

Senator HUMPHREY. Our job is to try to, you know, satisfy ourselves, not to sell this thing.

Admiral CROWE. But with the warheads we would have the same——

Senator HUMPHREY. Yeah, I understand that, but I trust us and I don't trust them.

Admiral CROWE. Well, I don't know if this is a matter of trust. I don't——

Senator HUMPHREY. Well, trust me. (Laughs.) What warheads can be used on what weapons?

Admiral CROWE. Well, you can use the guidance package or the physics package on the materials for other weapons.

Senator HUMPHREY. But with what degree of difficulty? I mean, can these be bolted on existing or anticipated weapons or does it require a remolding of the——

Admiral CROWE. Yes, you would have to rework, et cetera, et cetera, and they will, too.

Senator HUMPHREY. I'm talking about them, not us.

Admiral CROWE. Yes.

Senator HUMPHREY. So there's nothing that can be just bolted on another weapon?

Admiral CROWE. As far as I know, no.

Senator HUMPHREY. Well, that's an important point. I mean, the Department of Defense has carefully examined that point, I hope.

Admiral CROWE. Well, yes, but there are a lot of things we don't know about their systems as they don't know about ours.

Senator HUMPHREY. Yes, of course. You can't know that with certainty. So they are free, in any event, and you say, with remolding—then the answer's obvious, with remolding, any fissionable material can be used on any weapon that's not covered by the treaty. Okay. I want to—Admiral, I want to pursue a little bit further the SS-20 data package discrepancy. For a number of years, the Department of Defense's "Soviet Military Power" book, including in the '87 edition, you folks have been saying that the Soviets have deployed 441 SS-20 launchers. And that's even after converting some of the SS-20 units to SS-25s. You were saying, as recently as the '86 edition, that there are 441 SS-20 launchers. Where does that estimate come from?

Admiral CROWE. The 441?

Senator HUMPHREY. Yes. Do you know what I'm referring to here? This——

Admiral CROWE. Yes.

Senator HUMPHREY. Military Power.

Admiral CROWE. That came out of our intelligence community.

Senator HUMPHREY. Now the Soviets, in their data package, tell us they have 459 deployed SS-20 launchers; correct?

Admiral CROWE. My figures don't—yeah, I have 405, Senator.

Senator HUMPHREY. That's missiles; is it not? 405 missiles?

Admiral CROWE. No, deployed launchers and deployed missiles.

Senator HUMPHREY. Both the same number?

Admiral CROWE. Well I'm afraid that that's not exactly right—Yes, deployed missiles; right. Yes, it would be the warheads that would be different. And that was in accord with what we thought it was.

Senator HUMPHREY. The deployed missiles is—and launchers are the same number; is that correct?

Admiral CROWE. Yes.

Senator HUMPHREY. Well, if they—all right, so let's say they have 405. We thought they had 441; they say they have 405. What has been the rule of thumb, estimate, on the number of warhead—excuse me, the number of missiles—what has been the rule of thumb on the number of reloads per launcher in our intelligent estimate?

Admiral CROWE. It depends——

Senator HUMPHREY. Is it one to two?

Admiral CROWE. It depends on the—one to two, somewhere in there, depending on the agency et cetera, et cetera.

Senator HUMPHREY. That's been our estimate. What has been the DIA estimate on the number of missiles for reload—per launcher?

Admiral CROWE. Yes, two reloads, DIA has—(is interrupted by someone, presumably staff, talking to him off-mike)—one reload. Okay, that's DIA.

Senator HUMPHREY. DIA has been estimating one reload. That would—that would imply 810 missiles, right? If that estimate were correct? And the Soviets say they have—how many? (Pauses to look through documents.)

(Someone speaks off-mike to Admiral Crowe).

Admiral CROWE [apparently to staff]. I understood that, but DIA actually comes out with 580——

Senator HUMPHREY. That would imply 810 missiles, and the Soviets say they have 523.

Admiral CROWE. That's about right; yes, sir.

Senator HUMPHREY. So we estimate——

Admiral CROWE. It comes out with a difference somewhere between 165 and 300.

Senator HUMPHREY. Somewhere between 165 and 300——

Admiral CROWE. Yes.

Senator HUMPHREY. We have always felt—we have always felt they had——

Admiral CROWE. DIA feels that way.

Senator ———. It's one agency.

Senator HUMPHREY [laughs]. We have always felt that they had somewhere between 165 and 300 more missiles than they claim they have.

Admiral CROWE. Well, we—you say, "always felt." That figure was what they felt, and it came out to be that more——

Senator HUMPHREY. Yeah, I understand.

Admiral CROWE. Given the figures they had.

Senator HUMPHREY. And that's the problem that you have with the SS-20 data package?

Admiral CROWE. That is correct. Yes.

Senator HUMPHREY. Well, that's a pretty big problem. Was that just brushed under the rug? Or how was that dealt with?

Admiral CROWE. Well, we're dealing with it now, Senator, We've got to deal with it. That's——

Senator HUMPHREY. How are we dealing with it?

Admiral CROWE. Well, we've got a number of procedures here that we're going to go through, et cetera. And we have no—incidentally, two agencies do not agree with that figure. They agree with—that the figure that has been given to us by the Soviets is within the range.

Secretary Carlucci. Senator, I know you may not want to hear from me, but I spent a number of years in the intelligence community——

Senator Humphrey. No. As much as I like you and respect you, my time is up, even now. Lots of things I'd like to discuss with you, but I'm going to have to play by the rules here I guess. I'm sorry.

Chairman Nunn. I would say that Secretary Carlucci's been trying hard to answer this question. We'll permit that——

Senator Humphrey. Well, on the Committee's time of course.

Chairman Nunn. We'll permit it on the Committee's time.

Secretary Carlucci. I think we have to be clear here that intelligence is not an exact science, that there are uncertainties in any intelligence estimates, and situations change. Our capabilities change. And in my years in the national security business, I've never seen the intelligence agencies uniformly agree on a set conclusion. There are always differences. The question is whether the differences are sufficiently serious for us to say this is a major violation. And the answer to that question is: No, it's something that we're going to have to resolve in the baseline inspection. It's something that will be resolved over a period of time. If they have these missiles, they cannot keep them hidden, certainly in a useful fashion, over a period of time.

Senator Humphrey. They have so far.

Secretary Carlucci. Sir?

Senator Humphrey. We haven't ever seen an SS-20. We've seen garages, but we haven't seen the missiles. So they are very good at hiding them.

Secretary Carlucci. Well, they may be able to hide some, but over a period of time, if they can't test them, they lose their military utility.

Senator Humphrey. Yeah, but that doesn't tell you how many they have.

Official SASC Transcript, January 25, 1988

The Chairman. Senator Kennedy, I think we better call it at that time. Do you need to follow up briefly?

Senator Kennedy. Just on the other point. I appreciate that response which I think is very helpful.

Can you tell us in the wake of the summit, is there follow up on the basis of the proposals of direct military to military?

Secretary Carlucci. I have made a proposal to the Soviets on a meeting with Marshall Yasov and I am awaiting their response.

The Chairman. Thank you, Senator Kennedy. Sentor Humphrey.

Senator Humphrey. Thank you, Mr. Chairman. Admiral Crowe, when you and I spoke earlier, one of the matters we discussed was the fact that the Treaty does not cover warheads. Each party is free to do as it wishes with it warheads.

One question that comes to mind immediately of course is in the view of the Joint Chiefs, can any of the warheads which the Soviets will remove from those weapons covered by the INF Treaty be used on other weapons not covered by the INF Treaty?

Admiral Crowe. Yes.

Senator Humphrey. The answer to that question is yes?

Admiral Crowe. Yes.

Secretary Carlucci. Can I elaborate on that?

Senator Humphrey. Well the Chairman runs a tight ship as you know, and I know you want to put the best face on it, Mr. Secretary.

Admiral Crowe. Incidentally, we have the same privilege.

Senator Humphrey. Our job is to try to satisfy ourselves, not to sell this thing.

Admiral Crowe. But with the warheads, we would have the same.

Senator Humphrey. I understand that. But I trust us and I do not trust them.

Admiral Crowe. Well I do not know if this is a matter of trust.

Senator Humphrey. Well trust me. What warheads can be used on what weapons?

Admiral Crowe. Well you can use the guidance package or the physics package or the material for other weapons.

Senator Humphrey. With what degree of difficulty? Can these be bolted on existing or anticipated weapons, or does it require remoicing?

Admiral Crowe. You would have to rework it, and they will too.

Senator Humphrey. I am talking about them, not us.

Admiral Crowe. Yes.

Senator Humphrey. So there is nothing that can just be bolted on another weapon?

Admiral Crowe. As far as I know, no.

Senator Humphrey. That is an important point. The Department of Defense has carefully examined that point, I hope.

Admiral Crowe. Yes. But there are a lot of things that we do not know about their systems, as they do not know about ours.

Senator Humphrey. Of course, you can not know with certainty. So they are free in any event, and you say with remolding then, the answer is obvious, with remolding, any fissionable material can be used on any weapon that is not covered by the Treaty.

Okay. Admiral, I want to pursue a little bit further the SS-20 data package discrepancy. For a number of years in the Department of Defense's Soviet military power book, including in the 1987 edition, you folks have been saying that the Soviets have deployed 441 SS-20 launchers. And that is even after converting some of the SS-20 units to SS-25. You were saying as recently as the 1987 edition that there are 441 SS-20 launchers.

Where does that estimate come from?

Admiral Crowe. The 441?

Senator Humphrey. Do you know what I am referring to here?

Admiral Crowe. Yes. That came out of our intelligence community.

Senator Humphrey. Now the Soviets in their data package tell us they have 459 deployed SS-20 launchers, correct?

Admiral Crowe. I have 405, Senator.

Senator Humphrey. That is missiles, is it not, 405 missiles?

Admiral Crowe. No, deployed launchers and deployed missiles.

Senator Humphrey. Both the same number?

Admiral Crowe. Deployed missiles, right. It would be the warheads that would be different. And that was in accord with what we thought it was.

Senator Humphrey. The deployed missiles and launchers have the same number, is that correct?

Admiral Crowe. Yes.

Senator Humphrey. Well, all right. So let's say that they have 405. We thought they had 441, they say they have 405. What has been the rule of thumb estimate on the number of missiles, what has been the rule of thumb on the number of reloads per launcher in our intelligence estimate?

Admiral Crowe. It depends on, one to two, somewhere in there, depending on the agency.

Senator Humphrey. That has been our estimate. What has been the DIA estimate on the number of missiles for reload per launcher?

Admiral Crowe. Two reloads.

Senator Humphrey. DIA?

Admiral Crowe. One reload, that is DIA.

Senator Humphrey. DIA has been estimating one reload. that would imply 810 missiles, right, if that estimate were correct and the Soviets say they have, that would imply 810 missiles and the Soviets say they have 523.

Admiral Crowe. That is about right. It comes out with a difference of somewhere between 165 and 300.

Senator Humphrey. Somewhere between 165 and 300. We have always felt they had——

Admiral Crowe. DIA, that's one agency.

Senator Humphrey. We have always felt they had somewhere between 165 and 300 more missiles than they claim they have?

Admiral Crowe. You say always felt, that figure was what they felt, and it came out to be that.

Senator Humphrey. And that is the problem that you have with the SS-20 data package?

Admiral Crowe. That is correct.

Senator Humphrey. Well that is a pretty big problem. Was that just brushed under the rug, or how was that dealt with?

Admiral Crowe. We are dealing with it now Senator. We have got to deal with it.

Senator Humphrey. How are we dealing with it?

Admiral Crowe. Well, we have a number of procedures here that we are going to go through et cetera, and incidentally, two agencies do not agree with that figure. They agree that the figure that is being given to us by the Soviets is within the range.

Secretary Carlucci. Senator, I know you may want to hear from me, but I have spent a number of years in the intelligence community——

Senator Humphrey. Well, my time is up, even now. There are lots of things that I would like to discuss with you both. But I am going to have to stop now, I am sorry.

The Chairman. I would say that Secretary Carlucci has been trying hard to answer this question. We will permit that.

Senator Humphrey. On the committee's time?

The Chairman. Sure. We will permit it on the committee's time.

Secretary Carlucci. I think we have to be clear here that intelligence is not an exact science, that there are uncertainties in any intelligence estimate and situations change, our capabilities change. And in my years in the national security business I have never seen the intelligence agencies uniformly agree on a set conclusion. There are always differences. The question is whether the differences are sufficiently serious for us to say this is a major violation.

The answer to that question is no. It is something that we are going to have to resolve in the baseline inspection. It is something that will be resolved over a period of time. If they have these missiles, they can not keep them hidden, certainly in a useful fashion.

Senator Humphrey. They have so far. We have never seen an SS-20. We have seen garages, but we have not seen the missiles. So they are very good at hiding them.

Secretary Carlucci. They may be able to hide some, but over a period of time, if they can not test them they lose their military utility.

Senator Humphrey. But that does not tell you how many they have.

The Chairman. Senator Glenn.

Senator Glenn. Thank you, Mr. Chairman. We are talking strategy today and we tend to get on a lot of details which are fine in carrying out that strategy. Almost every major conflict has reflected an economic problem or concern of either perceived or real. And we are much more likely to have military hot spots I think around some of these economic hot spots. We tend to concentrate on Europe and NATO as a result of that, but we look back in history and Hitler had his liebens round living room proposals that led to World War II and the Japanese had the greater East Asia coprosperity.

They were all economic in base is the point. The place where we have a greater economic interest right now it seems to me than almost anywhere in the world is that 70 percent of the world's oil reserves that are in the Persian Gulf.

ENCLOSURE NO. 25

[From the Washington Times, Jan. 29, 1988]

INF TREATY SAFEGUARDS UNPRECEDENTED—NITZE

(By Mary Belcher)

The U.S.-Soviet treaty banning intermediate-range nuclear weapons contains "the most comprehensive and intrusive" safeguards against cheating in arms control history, President Reagan's top arms adviser told Congress yesterday.

This does not, of course, guarantee that some INF missiles cannot be hidden away somewhere within the great expanses of the Soviet Union," Paul Nitze told the Senate Foreign Relations Committee. "No verification regime could provide such assurance.

"It does, however, ensure that the Soviets could maintain a clandestine, militarily significant force only at great cost and risk, and with steadily decreasing reliability," he said.

"Without the ability to flight-test the missiles, the Soviets would question the effectiveness of the these forces and their military value, especially over time."

The treaty would allow U.S. and Soviet experts to inspect one another's medium-range missile sites on short notice, provide continuous exchanges of information, and end all activities related to medium-range missile production and deployment.

Sen. Jesse Helms, North Carolina Republican, however, said the treaty is full of "loopholes" that the Soviets could easily slip through.

Mr. Helms, resuming his fight against the pact, has charged the Soviet Union is already violating the treaty by providing the United States with bad information about the number of medium-range missiles in Soviet arsenals.

Mr. Helms said classified Defense Information Agency data indicate the Soviets could have up to 300 more medium-range missiles than the 650 they say they have.

"Why is the DIA sticking by its estimates when the State Department and CIA are sticking by Soviet declarations?" Mr. Helms asked, suggesting that the "books have been cooked."

"We don't need any book-cooking around here," he said. "We need the facts."

Mr. Nitze agreed that intelligence agency estimates vary. But, he said, the data the Soviets gave the United States three months ago are, "on the whole, within the bounds of our intelligence estimates."

Mr. Helms also has argued that the treaty would allow the Soviets to take the warheads, or nuclear devices, from the medium-range missiles they destroy and attach them to long-range strategic missiles.

"Practically, I don't know whether it would be feasible for them to do so," said Mr. Nitze, explaining that medium-range and long-range Soviet missiles are very different systems.

He said the treaty would not prohibit the Soviets from pointing long-range missiles at the same Western European targets their medium-range weapons now cover.

But "it generally is a waste of assets" to use more expensive long-range systems to do the work of medium-range missiles, he said. "It's not an intelligent thing to do."

Sen. Alan Cranston, California Democrat, said of Mr. Helms: "I don't think he has picked up any followers, and each of his points have been handily knocked down,"

Mr. Cranston is intent on keeping the INF treaty free of "killer" amendments that would force its renegotiation. The Senate majority whip has said he believes the treaty will be approved by the 67 votes required, but amendments could be added by a simple majority of 51 senators.

"I have some very serious questions about this treaty," said Sen. Larry Pressler, South Dakota Republican and the only other committee member likely to seek major changes in the treaty.

"I get a feeling people are saying we should just roll over and play dead, and if you offer an amendment you're not on the team," Mr. Pressler said.

Mr. Pressler wants the Soviets to agree to reduce the Warsaw Pact's conventional-force advantage over NATO before the INF treaty takes effect.

"I believe that would be very unwise," Mr. Nitze said. "It would be a mistake not to ratify this treaty because some other desireable end is not accomplished."

[From the Washington Times, Feb. 1, 1988]

CORRECTION

The Times reported in Friday's editions that Sen. Jesse Helms disclosed classified information during a Senate Foreign Relations Committee hearing. This was incorrect. Mr. Helms was citing unclassified information from the Defense Intelligence Agency when he charged there were discrepancies among U.S. estimates on the number of Soviet medium-range missiles covered by the INF treaty.

ENCLOSURE NO. 26

THE SECRETARY OF STATE,
Washington, DC, May 13, 1987.

Hon. Jesse Helms,
U.S. Senate, Washington, DC.

Dear Senator Helms: Your letter of April 27 poses a number of questions about the INF Treaty we are currently negotiating with the Soviets. I agree with you that two of the fundamental principles that should form the basis of all arms control negotiations are equality and verifiability. I welcome this opportunity to respond to your specific questions.

To give your questions a full reply, I have enclosed a point-by-point response to the issues you have raised. Thank you for this opportunity to respond to your questions.

Sincerely yours,
George P. Shultz.

Enclosure: As stated.

Question. How will Soviet conventional and nuclear advantages be deterred under an INF treaty?

Answer. NATO forces, both nuclear and conventional, have succeeded to date in deterring a Soviet attack. Removal of Soviet nuclear warheads in exchange for U.S. warheads at a ratio of more than 4 to 1 in our favor will improve the relative nuclear potential of the West. Together with proposed modernization of our nuclear forces which will remain in Europe, this will only enhance deterrence. If Soviet SRINF missiles also are eliminated, it would further help NATO conventional capabilities as these systems now threaten NATO ports and airfields with nuclear, chemical and conventional warheads.

Question. Will the comparative Soviet advantages be greater after such a treaty? If not, what would be the Soviet incentive to agree to a treaty that would produce equal levels?

Answer. As noted above, the comparative Soviet advantages would be somewhat less after the implementation of an INF treaty. Gorbachev appears to be following a somewhat different strategy to supercede his former one which we successfully countered.

EQUALITY AND VERIFIABILITY

Question. How well can SS-20 reduction constraints be verified?

Answer. The SS-20 is a mobile missile, and consequently will require a strict verification regime. As an example, in addition to the approximately 440 SS-20 missiles now deployed, there may be as many as 200–400 (or more) such missiles in the U.S.S.R.'s inventory. As a result, we have devised a comprehensive verification regime to maximize the prospects for compliance and deter cheating. In addition to national technical means, our proposed verification regime includes on-site inspection to confirm the initial exchange of data on treaty-limited items; on-site inspection to confirm the elimination of systems; on-site inspections to monitor compliance with residual levels; and continuous monitoring (24-hour on-site presence) at various LRINF missile support facilities, such as missile production and final assembly facilities. Even so, the potential military risk is real for crises and wartime situations from illegal, covert, stored missiles. Beyond the comprehensive verification regime described above, this risk can be ameliorated through unilateral safeguards. The Soviets have already agreed to the use of national technical means, a comprehensive data exchange, on-site inspection of missile and launcher reductions, and some monitoring of residual LRINF missiles and launchers.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, March 21, 1988.

Dear Colleague: As the INF Treaty hearings wind down, an important debate has developed over the number of SS-20 missiles which the Soviets have produced and deployed, and the number which the Soviets have officially declared for elimination under the INF Treaty.

Attached is a memorandum which summarizes the information appearing in the public about the SS-20 production assessments prepared over the past year by our intelligence agencies. These include:

1. 650: The Soviet declared number of November 1987.
2. 550: CIA/State number of July 1987.

3. 700: CIA/State number of January 1987.

4. 840: State public number of May 1987.

5. 950: Majority intelligence community assessment of July, 1987.

6. 1200: DIA number of July 1987 and January 1988.

7. 2250: Private assessments of intelligence experts.

In addition, the memorandum discusses key verification issues:

1. How many SS-20s Soviets have produced.

2. How many SS-20s the Soviets will destroy.

3. Whether the Soviets can produce new SS-20s without detection.

4. Whether the Soviets have the ability to hide SS-20s outside of the declared sites.

5. Whether SS-20s hidden outside of the sites can be kept in operating condition without testing.

These issues pose great difficulties for effective arms control. If the best evidence is that the Soviets are cheating on the central obligation of eliminating all intermediate-range missiles, and that we don't have the capacity to verify compliance, then the national security of our country may be in jeopardy.

Sincerely,

JESSE HELMS.

MEMORANDUM

From: Senator Jesse Helms of North Carolina.

Re: The INF Treaty.

MARCH 21, 1988.

As the INF Treaty hearings wind down, an important debate has developed over the number of SS-20 missiles which the Soviets have produced and deployed, and the number which the Soviets have officially declared for elimination under the INF Treaty.

Although the exact numbers, of course, can be presented and discussed only in closed session, enough has appeared in open testimony and in the press to draw some grave conclusions. The fact is that the majority of our intelligence agencies (CIA and State Department INR excepted) believe that the Soviets have 300 to 600 more SS-20s than the 650 they have declared.

I hope all Senators will familiarize themselves with the salient points in this debate. If the consensus estimate of our intelligence agencies is correct then the claim that INF Treaty compliance can be verified is erroneous. Moreover, if the intelligence community is correct, then the Soviets are not acting in good faith.

THE RANGE OF ASSESSMENTS

Attached is a bar-chart summarizing the range of publicly declared assessments with regard to concealed SS-20 missiles, as compared with the number which the Soviets declared in the Memorandum of Understanding submitted with the INF Treaty. From this chart, it is clear that the National Intelligence Estimate of 950 SS-20s exceeds the Soviet number by 300. This is the minimum size of the covert force. The explanation of each bar in the bar-chart is as follows:

First, the Soviets declared that they had a maximum of 650 SS-20 missiles as of November 1, 1987, when they signed the INF Treaty on December 8, 1987. This is the total number of SS-20s that the Soviets are obligated to eliminate under the Treaty. Under the terms of the Treaty, this number of 650 is supposed to represent the total number of SS-20s ever produced and still in the hands of the Soviets.

Second, many recent press reports have stated that, in the National Intelligence Estimate of July 1987, the State Department Intelligence and Research Office (INR) both made an estimate of total 550 SS-20s produced, a number that was 100 less than the Soviets declared four months later. That failure in itself discredits the CIA/State methodology of estimating.

Third, in the draft NIE of January, 1988, the press reported that the CIA/State estimate had been raised to 700, or 50 more than the Soviets admitted. This estimate made it possible for the State Department to claim publicly that the Soviet-supplied number was "within the range of our uncertainties." It is noteworthy that a DOD study earlier had concluded that 50 SS-20s was a militarily significant number.

Fourth, the State Department declared publicly on May 13, 1987 that there could be 840 SS-20s, almost at the same time when they were reportedly claiming in the NIE that there were only 550—further straining the credulity of the methodology involved.

Fifth, in the July, 1987 NIE, the majority of the intelligence community, that is the four military service intelligence departments, plus the National Security Agency reportedly all estimated that the Soviets had at least 950 SS-20s. This was the NIE best estimate, agreed to by a majority of the intelligence community. This judgment was repeated in the January, 1988 draft of the current NIE, but the final draft of the NIE may well have failed to give any consensus estimate because of the political implications.

Sixth, both the July 1987 NIE and the January 1988 draft reportedly both contained estimates by DIA of 1,200 SS-20s produced. This is actually the most reasonable estimate when Soviet targeting requirements in Europe are taken into consideration (see further discussion below).

Seventh, responsible estimates as high as 2,250 SS-20s have been produced, based on further Soviet targeting requirements in Asia and analysis of evidence of SS-20 production and deployment under two Soviet Five Year Plans, 1976-1980 and 1981-1985. This estimate may be the estimate most soundly based in terms of methodology.

NOTE ON VERIFICATION

All of these estimates, including the CIA/State underestimate of 550 SS-20s raises severe problems with regard to verification.

Verification means the ability to judge whether the Soviets are complying with the INF treaty. It involves not just the monitoring of events in the Soviet Union but also the judgment as to whether those events are in compliance with the treaty. That means we have to know:

1. How many SS-20s the Soviets have produced up to the present time (including those produced, but not deployed).

2. How many SS-20s the Soviets will destroy.

3. Whether the Soviets can produce new ones without detection.

4. Whether the Soviets have the ability to hide SS-20s outside of the declared sites.

5. Whether SS-20s hidden outside of the sites can be kept in operating condition without testing.

1. Numbers: The SS-20 is a mobile missile system, based upon the design concept of launchers and multiple reloads. The number of reloads produced for each launcher depends upon the requirements of targeting theory. The Soviets have traditionally targeted about 600 sites in Western Europe, which alone would require 1,200 warheads to assure destruction (two to each target). Since each SS-20 has 3 independently targetable warheads (MIRV), the theoretical minimum of missiles required would be 400 SS-20s. However, the Soviets assume that in battlefield conditions, half of the weapons will be inoperable, destroyed, or otherwise unavailable. So to assure that half of them could be fired, would require 800 SS-20s deployed on launchers and nearby. In addition, each launcher needs at least one missile for test firing. With 405-450 launchers, the conceptual total would be 1,250, which happens to coincide with the DIA estimate as reported in public testimony.

2. *Destruction Procedures*: The treaty provides for the destruction of 650 SS-20s. We can verify that 650 missiles without warheads will be destroyed. But we cannot determine whether or not the missiles that are destroyed are functional ones. They could well be factory rejects never deployed, deployed missiles with aging components, or even uncompleted vehicles (dummies). The treaty does not provide us with any qualitative inspection.

3. *Producing New "SS-20s"*: The third problem is whether the Soviets can effectively produce new SS-20s under the terms of the treaty—thereby destroying old ones, while modernizing their fleet. This can be done by calling the new SS-20s SS-25s. Administration witnesses have testified that the first two stages of the SS-25 are so similar to the SS-20, that the SS-20 post-boost vehicles and the warheads can be bolted on to the first two stages of the SS-25. They further testified that the Treaty allows the Soviets to take the first two stages of the SS-25 through the portal at Votkinsk without challenge other than observation. They can bolt on the re-entry vehicles and warheads in the field.

4. *Hiding a Covert Force*: Once the SS-20 is in the field, it can be hidden anywhere with no chance of detection, and no right of inspection. It can be hidden under camouflage in appropriate terrain or inside SS-25 containers on SS-25 bases.

5. *Reliability of a Covert Force*: Old SS-20s never die, at least not for many years. Reliability testing can be conducted (illegally) through elimination launches, or by testing the SS-25 (legally). The SS-16 was deployed for ten years without testing before we even discovered it.

These issues pose great difficulties for effective arms control. If the best evidence is that the Soviets are cheating on the central obligation of eliminating all intermediate-range missiles, and that we don't have the capacity to verify compliance, then the national security of our country may be in jeopardy.

Mr. SYMMS. I thank the majority leader again.

CLOSED SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:30 having arrived, the Senate will now go into closed session.

Thereupon, at 9:35 a.m., the Senate proceeded into closed session.

RECESS UNTIL 2 P.M.

At the conclusion of the closed session the Senate, at 12:25 p.m., recessed until 2 p.m. today in open legislative session.

OPEN LEGISLATIVE SESSION

At 2 p.m., the Senate, in open legislative session, was called to order by the Presiding Officer (Mr. PRYOR).

THE CLOSED SESSION

Mr. SYMMS. Mr. President, I wish to say to my colleagues who were not able to attend that we had somewhat over half of the Senate that attended the closed session earlier this morning. I thought it was a very successful session. I thank the majority leader for arranging it and the distinguished leadership of the Intelligence Committee, Senator BOREN and Senator COHEN, for making themselves available to answer questions. The Senator from Wyoming [Mr. WALLOP] made a very fine presentation. It was a very good session.

I think each Senator must come to their own conclusion on how they are going to vote on the INF Treaty. But I think the question we have to ask ourselves—and I urge all of my colleagues to go back to the closed report and hearing and reread the debate that took place there. I think each one of us has to decide: Do the Soviets have a reason to cheat on how many SS-20's they have produced? Is there sufficient evidence to believe that they may have a covert SS-20 force?

Senators will come to a different conclusion on that. This Senator has come to the conclusion that they do have a motivation to cheat and that they probably have a hidden SS-20 force.

But that is an individual decision that we each have to make. In my view, and in my great respect for the separation of powers, just because a treaty has been negotiated by an administration, whether it happens to be of my party or the other party—those of us in the Senate, through the separation of powers, are not bound nor should feel obligated to vote to ratify a treaty.

Now, it is true, there is a political fallout either way one votes. If you vote against the treaty, there is a certain political fallout because of the inconsistency of America's policy with respect to our European allies.

On the other hand, if we vote for a treaty, we may have some real gnawing questions about the verifiability of it and whether there is already cheating underway as part of the strategic chess game of our adversaries, the Soviets. They have consistently cheated on every other treaty, so it is reasonable to believe that they may have now, and people may come to the conclusion to vote no.

SENATOR BYRD CONGRATULATED ON EFFORTS IN TURKEY

Mr. BOREN. Mr. President, on February 26 the Government of Turkey announced that it had decided to move forward with full implementation of the defense and economic cooperation agreement between our two countries. They did this by ratifying two "side letters" signed last year.

This is a most welcome development and should lead to further progress and improved cooperation across the broad range of activities in which our two countries are engaged. The action will enhance our security cooperation and will contribute to the common interests of NATO.

I recently had the opportunity to visit Turkey as part of a Senate delegation headed by the distinguished majority leader, Senator BYRD. During that visit, we urged the Turkish Government to take this step. Senator BYRD was especially effective in making this case, and I am sure that the decision of the Turkish Government to move forward at this time was in large measure due to the efforts of the majority leader.

Mr. President, the Secretary of State and the Secretary of Defense have recently written the majority leader to commend his actions on this issue. I ask unanimous consent that the texts of those letters be printed in the RECORD for the information of all Senators.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, DC, March 5, 1988.

Hon. ROBERT C. BYRD,
U.S. Senate.

DEAR SENATOR BYRD: I wish to thank you for your exceptional effort to elicit Turkish Government ratification of the extension of our bases agreement with Turkey. I admired your leadership in traveling to Turkey and your effective advocacy with Turkish officials, conveyed by Embassy reports of your meetings in Ankara.

Your effort not only advanced our major interests in the Turkish-American relationship, but also was an example of the kind of bipartisanship that is necessary to America's success in the world. In the weeks and months ahead, as we continue to try to reinforce our relationship with Turkey, it is good to know that you too will have your shoulder to the wheel.

Thank you again.

Sincerely yours,

GEORGE P. SHULTZ.

THE SECRETARY OF DEFENSE,
Washington, DC, March 10, 1988.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR: I am pleased to note that the US-Turkish Defense and Economic Cooperation Agreement side letter was ratified by Turkey on 26 February. As you are intimately aware, this opens the way for considerable progress in our defense relations, and will permit increased cooperation in areas of maximum benefit to both the United States and Turkey.

Further, this decision on the part of Prime Minister Ozal has sent a clear and positive signal to other nations of NATO's Southern Region with whom we are conducting, or plan to conduct, base rights negotiations.

I am aware of the key and successful role you have played in the resolution of this accord with our Turkish friends. You saw the need for positive action, took that action and conveyed to Ozal himself the need for an affirmative Turkish response.

Please accept my appreciation and that of this Department for your past support for this key ally, and my earnest wish that we can continue to provide Turkey with the means necessary to continue defense modernization.

Sincerely,

Mr. BOREN. Mr. President, again I thank the majority leader for his leadership on this matter that is so important to our national defense and national security interests. His actions have been in the best tradition of bipartisanship in foreign policy. His actions and his leadership on this issue show what can be accomplished when the two branches of Government work together with a common purpose.

I take this opportunity to especially commend him for his leadership and to express my pleasure to the Government of Turkey for the action which they have taken.

Mr. BYRD. Mr. President, I wish to thank the distinguished Senator from Oklahoma for his statement. I compliment him also on the participation that he engaged in as we visited the five NATO capitals and the contributions he made to those very interesting and positive discussions with NATO leaders.

Mr. President, the distinguished Senator from Oklahoma as is his wont in all instances was diligent in his duties and the counsel that he imparted as we moved from capital to capital in our discussions with NATO leaders was well received, and I think considerable reason for the success of that trip can be attributed to the high caliber of the leadership as was demonstrated by Senator BOREN.

Let me also take occasion to compliment him on the excellent performance that he has demonstrated as chairman of the Senate Committee on Intelligence. That was my reason for selecting him to go on that mission to visit the top government people, the opposition leaders, and other forces. I am always well paid when I look back upon the work that has been contributed by Senators like the distinguished Senator from Oklahoma, the chairman of the Intelligence Committee.

In our meeting this morning in our closed session—I will not go into any detail here—once again the Senator from Oklahoma demonstrated there his great knowledge of the subject matter and that great knowledge comes from work. It is not an osmotic process. It comes from heavy duty and the fact that he has conducted thorough hearings on the INF Treaty and on other matters that have come before his committee have made him eminently capable of the leadership that we look to from him as we attempt to reach the right judgment on matters from time to time before this Senate, and I allude in particular to instances in the INF Treaty which presumably will be called up in the reasonably near future.

We are not going to be in too big of a hurry, because having a treaty is not nearly so important as having a treaty that is good for us. That is what is important, not a piece of paper that we wave around and say, "Oh, we have reached an agreement"—a piece of paper. But is the agreement good for us? And we will be looking to the distinguished Senator for his wise counsel in the days ahead.

Mr. BOREN. Mr. President, the majority leader has literally made me blush with his comments. I am overwhelmed by them and indeed grateful to him for making those comments.

Let me say, for all of us who work in the area of foreign policy and national defense and national security affairs, that his leadership is an inspiration to us. It was one of the greatest learning experiences I have had to be a part of that delegation with him which he headed to the NATO countries. Time and time again he conducted himself in those meetings as a representative of the legislative branch of our Government, not as a Democrat, not as a partisan, not as a politician, but I would say as a statesman and American first. And he has demonstrated that by his leadership. And the action that has now been taken by the Turkish Government, I think, in no small part is because of his leadership and what can be done when legislative leaders conduct themselves in this manner. It is an inspiration to all of us.

I just want to express my appreciation to him again as an American citizen as well as a Senator for the spirit for which he approaches our Nation's interests in areas of critical importance.

No one is more watchful of the true interests of this country and our Nation's security than is the majority leader. I know that is a feeling and assessment that is shared on both sides of the aisle in the United States Senate.

Again, I want to commend him and thank him for his most generous remarks.

Mr. BYRD. Mr. President, I thank my friend.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The Senate resumed the consideration of the bill (S. 79).

Pending:

(1) Metzenbaum Amendment No. 1900, to authorize the emergency program to disseminate information to reduce workplace risk of transmission of Acquired Immune Deficiency Syndrome (AIDS). (By unanimous vote of 86 nays (Vote No. 78), Senate failed to table the amendment.)

(1) Cranston Amendment No. 1901 (to Amendment No. 1900), of a perfecting nature.

DIVISION OF TIME

The PRESIDING OFFICER. Under previous order, the hour of 2 p.m. having arrived, the second half hour under rule XXII will be equally divided and controlled by the Senator from Ohio, Senator METZENBAUM, and by the Senator from Utah, Senator HATCH.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, today we have an opportunity to vote yet again on whether or not to invoke cloture to S. 79, the so-called High Risk Occupational Disease Notification Act. I hope this motion is defeated, as its predecessors have been, because S. 79 is not ready for consideration by this Chamber.

When my colleagues come to vote, I hope they will keep the following four points in mind: first, the bill today is exactly the same measure that was before us yesterday on the floor of the Senate, when cloture was not invoked; second, as debate over the last few days has revealed, even the sponsors do not really understand S. 79; third, the bill is so flawed that the sponsors feel it is necessary to exempt whole categories of employees, employers and even occupational disease, instead of having a program that protects all employees and covers all employers; and fourth, the floor of the Senate is not the place to begin drafting legislation. That is part of what has happend here. It is not the work of the floor. That is the work of a committee. I hope my colleagues will keep these facts in mind this afternoon and vote for the fourth time not to invoke cloture.

It is very seldom that we go to four cloture votes on any bill. The bill has to be extremely important, and I don't think this bill merits that kind of importance.

Looking at the first point, the current bill before us, the Metzenbaum-Kennedy revised substitute, is the same legislation that was before this body yesterday, when the Senate voted not to invoke cloture. No provisions have been changed. No corrections have been made. The same flaws, same inconsistencies and same failures are present today that were in the bill yesterday. Unnecessary duplication still permeates the bill because it just plain unnecessarily duplicates a whole raft of programs already in existence in the Federal Government.

The bad science has not been corrected, and the liability problems have not been resolved. In sum, there is no new substantive reason to suddenly vote for cloture.

Second, the debate has revealed that much is not known about how this bill will work. Yesterday, most of the day was spent asking the sponsors questions. I was a little surprised at the objections that were made to these questions. And, by the way, we have many, many more questions, but just a few that we asked evoked, I think, interesting answers. I was a little surprised at some of the objections that were made to these questions. I was criticized for focusing on the substance of the bill, on the details of several of its provisions, and not on the general philosophy behind the bill.

Philosophically I think the goals of this bill are well intentioned. There is no question about that. But when you get into the actual guts of the bill you realize this is not going work and it is going to be a tremendous cost without very much benefit.

I was dumbfounded by these complaints, about what I was bringing up, because I thought one of the purposes of consideration of legislation was to determine whether a bill will work, whether it makes sense, and how it is going to be implemented. The historical record of Congress is replete with examples of mistakes caused when we legislate by title. I, for one, hope that we can avoid repeating this costly and unnecessary mistake.

I was also a little surprised at the vagueness of the answers to several of my questions. Responses that certain diseases may or may not be covered, that certain procedures may or may not be followed, that we just don't know what will happen in some instances—these answers did little to alleviate concerns that we really do not understand the legislation before us.

We were told that noise may or may not be covered. We were told that stress may or may not be covered. We were told that asbestos in offices may or may not be covered. We were told the board may or may not send the same notice to all employees, even though there may be significant differences in the actual risk for individual employees due to their level of exposure, personal habits, and the safety habits of their employers. And, we were never able to determine whether the board has authority to overturn the findings of other Federal safety and health agencies.

Mr. President, the only consistent response to these questions was that we should not bother ourselves with irksome and troubling details. Instead, we were supposed to rally around the rhetoric of helping to protect the health and safety of employees and march forward. Everyone in this Chamber wants a safe workplace. That is not the issue. We all know, however, that we are charged with doing more than just legislating by platitude. If we decide to promise to protect employee health, then let's figure out a way to deliver that promise to all Americans, not just a lucky few.

Turning now to the third point, S. 79 is so flawed it can not be corrected. It still duplicates existing programs. It is still unnecessarily costly. It is still burdened by bad science. It is still guaranteed to cause a liability crisis for many employers. Nothing has changed since yesterday. S. 79 is still an embarrassing mistake, as far as I can see.

The sponsors of this legislation have utilized some rather unusual tactics during the discussion of this bill. First, they argue that this bill is intended to combat cancer, toxic substances and noxious fumes. But, they have also made it clear that you have to be exposed to the right fumes and substances before you can be protected.

To Anna Carroll, who wrote to me about the dangers of passive smoking and her emphysema that was caused by working with smokers, we are supposed to say sorry, you were hurt by the wrong hazard. To the office worker or teacher exposed to asbestos, we are supposed to say sorry, we cannot help you. To the employees being poisoned by the noxious fumes at work which are not generated by the work process, we are supposed to say sorry, you are not covered. To thousands of farmworkers and employees of small businesses, we are supposed to say sorry, this bill's not for you. We have to exempt your employers from many of the provisions of this legislation to have a chance at passing it.

Why? Because the bill does not work, and it is too expensive. It does not have the right approach in really solving these problems.

I renew my questions from yesterday. Why not have one health policy that protects all employees, that does not discriminate on the basis of who their employer is or the type of disease to which they might have been exposed? Why not have a Federal health policy that augments existing efforts instead of duplicating them? If we are unhappy with the performance of the Federal agencies already in place, why not force them to do a better job?

Some of my colleagues have tried to point to the cancer detection and clincial research project in St. George, UT, as an example of why I should not oppose this legislation. Let's get a few facts straight. Under the Utah program, we are attempting to find out if exposure to atmospheric radiation increases the risk of cancer and whether there are methods available for early detection.

The Utah program—which is really a program for three States, Utah, Nevada, and Arizona, and, if the screening program is done right, it will be a program for all 50 States—is a scientific research project. It is not a notification program.

It is based on the assumption that, since the U.S. Government has been exploding nuclear bombs in the area, it makes sense to determine whether these explosions led to an increase in the incidence of cancer. The Utah project is much closer to the traditional research studies we all support at the National Cancer Institute and National Institute of Occupational Safety and Health, than the program envisioned in this bill.

Finally, Mr. President, the floor of the Senate is not the place to draft legislation. Of course, we offer amendments every day to bills before the full Senate, but we rarely start from scratch. The committee process on S. 79 failed. One should not bring legislation to the floor knowing at the outset that it will be vetoed and will probably have to be abandoned.

The question before us is quite simple. If you believe that the working men and women of this Nation should have a health policy that prevents exposure, that augments existing programs, and that encourages safety without jeopardizing one's employment, then vote against cloture.

The answer has been self-evident for the last three votes, and it should be self-evident again today.

The sponsors of the bill, it seems to me, should return to the legislative drafting board and try again. S. 79, in my opinion, simply will not work, it should not become law, and we should keep that in mind as we vote on cloture today.

I reserve the balance of my time.

Mr. METZENBAUM. Mr. President, we are about to take our fourth cloture vote on S. 79. Tens of thousands of American workers are dying each year from occupational disease, and we can prevent many of these deaths by passing this bill. This is what this bill is all about—prevent workers from coming down with cancer and other disease that come about from exposure in the workplace.

Workers are dying from cancer, and we have it in our power to save them. All we have to do is break this filibuster and get on with the process of amending and passing S. 79. I am convinced that a majority of the Senate will vote for this bill, but they cannot do so because of a filibuster, which is unprecedented on a worker health measure.

Instead of discussing worker health, we have spent days discussing tort reform, nothing at all to do with this bill; acid rain, nothing at all to do with this bill; and the Senate rules, obviously nothing at all to do with this bill. Now it is time to vote. It is time to stand up and be counted.

When we cut through all that has been said about S. 79, the issue is really quite simple. If you are interested in helping workers improve their health, if you are interested in saving the lives of tens of thousands of workers who otherwise will die from cancer or other horrible occupational diseases, then you will join me in voting "yes" on cloture.

One Senator said to me a little earlier, "My mail is running 15½ to 1 against the bill." Sure. It has been orchestrated. The worker in the workplace does not know what it is all about so far as protection is concerned. He does not understand what occupational exposure is. He understands, though, when it hits him, when his doctor tells him that he has cancer and he has a short lifespan ahead of him.

If you want to keep workers in the dark; if you believe the high-priced lobbyists for rich and powerful business groups, instead of the Reagan administration's own scientists—they are the ones who said this bill would accomplish its purpose—if you do not care that 250,000 workers in the next decade will die of occupational cancer that can be prevented through notification and early detection, join my colleague from Utah and vote "no."

Is it really so terrible to tell workers the truth when they are at a known high risk of occupational disease? Of course not. Will this modest bill result in the downfall of all American small businesses? It is absolutely ridiculous, although the high-priced lobbyists for the chamber of commerce and the National Association of Manufacturers would have you believe otherwise. You can listen to their campaign of misrepresentation, innuendo, and hype. They are good at it. They come around here and pressure Members of Congress, tell them what a horrible thing it will be. What care they if more workers die in the workplace by reason of occupational cancer? What care they that 250,000 more workers come down with cancer and die from it in the next 10 years?

You can listen to them, or you can listen to those who know something about occupational health and disability. They are the Reagan administration's own scientists. The top two officials at NIOSH, the Government agency with the most expertise in occupational health, conclude that worker notification under S. 79 is medically and scientifically sound.

Let me quote from the testimony before the Labor Committee:

> We certainly would agree that there is significant benefit from this type of notification and that it is feasible to do and certainly would benefit the people notified.

Those Reagan administration scientists are not alone. Public health organizations around the country support this bill. Organized labor, women's groups, the environmental community, consumer groups, and key segments of the business community all are active supporters of S. 79.

In fact, another major company has written to express its support for the bill. Let me quote from a letter from the chairman and chief executive officer of Hercules, Inc., a company with major interests in the chemical and aerospace industries. The letter says:

> As a responsible employer, Hercules shares your concern with preventing occupational disease and believes that a program of worker identification, notification, and medical surveillance is in the best interest of both workers and employers.
>
> * * * * *
>
> Finally, we believe that the medical monitoring costs of S. 79 are both reasonable and manageable. Indeed, we believe that medical monitoring of high risk workers is good business, since disease prevention and early detection is much more cost-effective than long-term treatment and hospital care.

Mr. President, I ask unanimous consent to have the letter from Hercules, Inc., printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HERCULES INC.,
Washington, DC, March 22, 1988.

Hon. HOWARD M. METZENBAUM,
U.S. Senate, Washington, DC.

DEAR SENATOR METZENBAUM: Hercules Incorporated, which has major interests in the chemical and aerospace industries, has recently reviewed the High Risk Occupational Disease Notification and Prevention Act (S. 79) and is pleased to inform you of its support for the legislation.

As a responsible employer, Hercules shares your concern with preventing occupational disease and believes that a program of worker identification, notification, and medical surveillance is in the best interest of both workers and employers.

On the liability question, the bill's language makes it clear that the intent of the legislaltion is to be liability neutral by neither adding to nor subtracting from any legal rights or obligations of workers or employers under existing law. In this respect, we understand it is your intent that the bill properly protect employers from any additional liability exposure, and we request that this be made a part of the legislative history and inserted in the Congressional Record.

The bill's Risk Assessment Board, staffed by qualified scientific professionals nominated by the National Academy of Sciences, is well conceived to make the kinds of medical and scientific judgments which are the driving force of the program.

Finally, we believe that the medical monitoring costs of S. 79 are both reasonable and manageable. Indeed, we believe that medical monitoring of high risk workers is good business, since disease prevention and early detection is much more cost-effective than long-term treatment and hospital care.

Sincerely,
DAVID S. HOLLINGSWORTH,
Chairman and Chief Executive Officer.

Mr. METZENBAUM. Mr. President, I have said from day one that we are prepared to modify this bill. We have gone to great lengths already to accept constructive changes. At the committee level, we accepted 20 amendments proposed by Senators QUAYLE and HATCH. On the floor, we were actually forced to use a parliamentary procedure to accept modifying amendments proposed by Senators BREAUX, DIXON, FORD, LEVIN, and DANFORTH. And, yes, I have said that we are prepared to do more.

Some have suggested that there is something wrong, something terrible: What kind of proposal is this, if you are prepared to accept more amendments? We want to be reasonable. We do not claim that somebody looked down on us from up high and told us exactly how we ought to have a bill of this kind.

We have spent hours and hours and days trying to improve upon the bill from its earliest inception. We have met with the biggest employers in the country, people like IBM and General Electric; insurance groups, such as Crum & Forster; the Chemical Manufacturers Association; the Electronics Manufacturers Association; W.R. Grace & Co.; American Cyanamid Co.; Mansville Corp., which went through its own bath of blood by reason of asbestosis; Church & Dwight; Alonzo, Inc.; Atlantic Richfield Co.; Occidental Petroleum.

We have changed and continue to change the bill, because we recognize that we do not have all the answers. We want to make it the best bill possible. But my colleagues on the other side will not allow any modifications during this filibuster.

They have come forward and said "No modifications." They have talked about amendments but not one constructive amendment has been offered from the other side. Two amendments were offered, one having to do with tort reform, totally unrelated to this bill, and the other one having to do with acid rain, totally unrelated to this bill.

If we can break this filibuster by invoking cloture, we can accept amendments to the bill that will improve its operation.

But as long as the filibuster continues, we will not be able to discuss the merits of particular amendments, we will not be able to accept amendments, we will not be able to vote on amendments. In short, we will not be able to do the job of legislating that the people sent us here to do.

The issue is at hand. The question is whether the Senate will do what is right for America's workers. Will we do what is right for Willie Hall, the poor, black factory worker from Georgia who was exposed to a deadly bladder carcinogen and who now valiantly fights against a cancer that has already taken a number of his coworkers? Willie Hall saw one man doing his job die by reason of cancer, saw another who replaced him die by reason of cancer. Now he is stricken with the same illness, cancer.

Are those people not entitled to any consideration? Is it not time that we say on the floor of the U.S. Senate: We do not care how many letters come in, we are going to do what is right, we are going to protect the workers on the job.

When my colleague knew the people out in Utah and two other States had been exposed to the possibility of cancer, he arranged with our help and we supported him so they would not only have medical monitoring as is provided for under this bill, but they would have medical examinations paid for by the Federal Government.

The question that we have now is will we do what is right for the tens of thousands of workers like Willie Hall who currently are in the dark about occupational health hazards and who may be developing deadly occupational diseases as we speak?

The Senator from Utah did what is right 4 years ago. He passed a cancer notification and screening program for all residents of St. George, UT, over age 40 who may have been exposed to radiation from open-air testing of atomic bombs in the 1950's and 1960's. Senator HATCH created a fine notification and screening program, but if it's good enough for Utah, it should be good enough for the rest of the country.

The Reagan administration's own Department of Energy is doing what is right for beryllium workers. The Department recently announced that it plans to notify some 10,000 workers who were exposed to beryllium during the 1950's and are now at risk of chronic respiratory disease. When asked why the Department of Energy was launching this risk notification program, Under Secretary Mary Walker replied: "We have no legal duty to notify—we have gone beyond that to do what we think is right."

Before this vote is cast, I urge my colleagues to look into their hearts, to consider the human tragedy that can be avoided by passing this legislation. If you have compassion for workers at high risk of cancer, if you can feel the suffering of the families of those workers, if you want to ease that suffering and save those workers, then you must vote "yes" to stop this filibuster.

Will the Chair be good enough to advise the Senator from Ohio how much time he has remaining.

The **PRESIDING OFFICER**. The Senator from Ohio has 1 minute and 21 seconds.

Mr. **METZENBAUM**. And the Senator from Utah?

The **PRESIDING OFFICER**. The Senator from Utah has 6 minutes.

Mr. **METZENBAUM**. Mr. President, will the Senator from Utah be willing to possibly extend our time maybe 10 minutes more on each side.

Mr. **HATCH**. Of course, I would. If the distinguished Senator needs that I would be delighted to do that.

Mr. **METZENBAUM**. I ask unanimous consent that the time allotted to the managers of the bill be extended 10 minutes on each side.

Mr. **SYMMS**. Mr. President, reserving the right to object, and I do not intend to object, I just want to inquire of the managers of the bill if we are going to continue to have these extensions, some of us have been waiting to get this vote over with.

Mr. **METZENBAUM**. No. This will be the only one.

Mr. **SYMMS**. It will just be for 20 more minutes?

Mr. **METZENBAUM**. Twenty minutes.

Mr. **SYMMS**. I withdraw the objection.

Mr. **METZENBAUM**. I thank the Senator.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HATCH**. Mr. President, I do not know that we have to take the full 20 minutes because I will be happy, of course, to share some of my time with the distinguished Senator from Ohio, who has fought long and hard for this legislation. He believes in it. One of the things I admire about the distinguished Senator from Ohio is that he believes what he does.

Having said that, I have to say there is very little reason to believe in this particular bill the way it is written.

I believe his intentions are noble. I think they are good intentions. I think that he wants to do what is right for the workers of America.

But the fact of the matter is we have about 12 agencies doing what is right for the workers of America. Why lay upon the American taxpayers another huge costly $7 billion bill, if we are lucky it will only be $7 billion, at a time when we really do not have the money? Who is going to pay for this?

I want to go back to the committee. Twenty amendments he said were accepted in committee. Only two of mine were accepted. I might add I had all kinds of substantive amendments but we were told by staff and others they were not going to accept anything and we knew that the votes were 11 to 5. In that committee the votes are 11 to 5 for anything, in this particular case the labor unions want, 11 to 5. There was no reason to drag out the committee structure. There was no reason to even try there, although we did try with a few of them. They were not going to accept any there because they knew they had the votes there.

Now that they have gotten to the floor they realize they should have listened to some of those amendments. They should have had a real debate in the committee. They should not just have said, "We've got you 11 to 5. We are not going to discuss this any further." And they should have tried to do something that would have modified or corrected this bill at that time. I even suggested to everybody concerned that you cannot modify the bill. There is no way you can get it to be a reasonable bill. Even if you strip it down and use just a notification provision, period, it would not work right. It would still be costly. It would still cause unnecessary litigation. It would still cause a litigation explosion in our society and it would not do the job. And, even so, it only applies to some employees and some employers, not to everybody.

They rejected a whole slew of substantive amendments in committee. The ones they took were technical amendments. They were substantive amendments that really everybody could agree on and nobody would reject anyway.

Le me just say this: This bill is all about, it seems to me, trying to do that which is already being done and being done fairly well.

I might add if we have some criticisms with what is already being done, we can correct what is already being done in OSHA, in the Occupational Safety and Health Administration, in the National Institute of Occupational Safety and Health, in the Mining and Safety and Health Administration, in the Environmental Protection Agency, in the Nuclear Regulatory Agency, in the Department of Transportation, in the Federal Aviation Agency, in the Department of Agriculture, in the Bureau of Alcohol, Tobacco, and Firearms, and you can go on and on. If we are not doing it right in those particular bills, then let us change those bills and let us use the existing infrastructure today on what has to be done.

I submit to you that most of what needs to be done is being done and on May 23 of this year we will implement a whole new set of regulations on better than 500,000 various chemicals that will do more than this bill will do, it seems to me, to help resolve most of the toxic fumes problems in our society.

The Senator from Ohio says what we want to do is tell the workers the truth, we want to save them from death, we ought to vote "yes" on the cloture. That is wrong. If we tell them the truth then we ought to use the existing systems that are telling them the truth and have them look at those systems. If we want to save people from death you do not do it just throwing money at it. You do it by effective programs that are already in existence.

He said the mail is running 15 to 1 against his bill. I wonder why. There is not a group of people in this country that can generate more mail than our trade union movement. I should not even call it the trade union movement. I think we should call it the trade union leaders because the average worker out there realizes that he is overtaxed now, he realizes that inflation is death to people on fixed incomes. The average worker, it seems to me, is certainly going to have to think twice before he wants this kind of a duplicative overlay on already existing legislation.

That is what he is going to get and it is going to be costly. If there is now 15 to 1 against this, then it is not just generated mail. There are people out there who are really concerned. Just stop and think about it. Rich and powerful groups that is what he seems to indicate here, like the family farmer writing in here right now saying this bill will hurt the family farm and the family farmers, like the small businessmen and women writing in saying this is going to hurt the small businessmen and women, like the average overtaxed taxpayer writing and saying, "I am sick and tired of all this," like the whole raft of people in the private sector who realize that inflation is going to occur if we keep throwing Federal dollars at problems and we are already throwing Federal dollars at problems.

Well, I think it is important to understand that even the sponsors of this legislation do not understand it. Even they cannot explain it and if they cannot explain it, can you imagine what that is going to be in society? Can you imagine what it is going to be to those employers who have to comply with it? Can you imagine what it is going to be to the doctors who have to provide the healing mechanism? Can you imagine what it is going to be for the insurance companies who do not know what to do now because their products are being priced out of the marketplace?

Look at the malpractice explosion in this country and look at the high cost of medical care. It is caused by the legislation like this that continues to drive all those costs up, not only because of the high cost of regulation and meeting the regulations, but the high cost of litigation that occurs as result of legislation like this.

In the end, who gets hurt? Everybody on a fixed income that has to pay taxes, that has to pay for the higher consumer goods, and that lose income because of inflation because of $7 billion bills. And, of course, they are the people who really cannot afford legislation like this.

We have a lot of mechanisms in place to help people in this country. They help do what this bill is intended to do. I think it would be a lot better for us to give our good intentions to what are already existing programs that may be improved, rather than to come up with a full brand new bureaucracy on top of thousands of bureaucracies existing in this town and across this country that are eating the taxpayers and citizens of this country alive.

Now, really, that is what is involved here. It is nice to stand up and say anybody who is against this bill is for death. Come on. There is not a person in Congress who is for death or who is for illness or who is for cancer. We all are concerned about it and I think we are concerned equally about it. I do not care whether you are conservative, liberal, or moderate, you have to be concerned about those things.

But there are ways of handling these problems and ways not to. This bill is not one of those ways, and it is not one of those ways we should utilize to help solve those problems.

I think this type of legislation is the type of legislation that has had its day. Literally, we have had 50 years of this type of giveaway program that does not work and costs the taxpayers an arm and a leg. Why do we not utilize these great programs that we do have? If there are defects in them, let us correct them. The fact of the matter is, there are not many defects in them. They are doing better. And one of the things that surprised me is that many of these programs really work and most of the ones I have indicated do work.

We can encourage them to do a better job. We can utilize our funds better. We can help people maybe in a little different and better way.

But the fact of the matter is, we have existing programs that do not need to be duplicated by this bill just because we have some do-gooders who really want to do something that is right but really is wrong.

We have had 50 years of this. I think a vote against cloture is a vote against more of this type of legislation. I think it is time for us to stand up and just send that message. I hope that our colleagues will do that today. I think it is important that we do it. I think it is important for the taxpayers of America. I think it is important for good government that we do this.

Mr. President, I wish to again commend my dear colleague from Ohio for his good intentions. But good intentions have been exhibited by many people who have been wrong. All of us have good intentions. The question is, Can we make them right intentions, can we do things that really work and not just duplicate programs that do work by replacing them with programs that are costly and really do not work and create more problems than really should exist and that are unfair in the process, not only to employers but the employees and to all concerned?

Mr. President, I reserve the balance of my time.

Mr. SYMMS. Will the Senator yield me a couple of minutes?

Mr. HATCH. I am happy to yield a couple of minutes to the Senator from Idaho.

(Mr. GRAHAM assumed the chair.)

Mr. SYMMS. Mr. President, I thank the distinguished Senator from Utah and I thank him for his leadership on this. I think when you read the title of the bill, the High-Risk Occupational Disease Notification and Prevention Act, I think that one of the things that we have to remember it that one of the biggest risks to the American people is to have the extensive intrusive arm of big government interfering in every transaction and every affair of mankind that takes place, depriving them of an opportunity to live and work and choose to work where they want to; and, second, depriving them of the fruits of their labors by having excessive government bureaucracy legislation and costs that all have to be paid for in the goods and services.

So I thank the Senator from Utah for his efforts on this and for his enlightened comments on it. I urge my colleagues to vote against cloture so that we could keep this debate going for many, many more days.

Mr. KASTEN. Mr. President, since I have been in the U.S. Senate, I know of no legislation about which I have such mixed feelings than the High Rish Occupational Disease Notification and Prevention Act. I am strongly in favor of protecting the health and safety of workers.

If prompt and effective government action can prevent serious illness from striking one worker in my State, I am for it. I totally subscribe to this basic purpose of S. 79—but we have programs for identifying and preventing illness and death of workers who are at risk of occupational disease.

My problem with this bill is that it is unnecessary and its laudatory purpose is thwarted by how it would function. The proposal is out of step with basic common sense—common sense that can be understood and appreciated by every worker in my State.

It defies common sense to establish an entirely new bureaucracy to handle a matter that is both highly specialized and is currently being addressed by the Occupational Safety and Health Administration. OSHA's very name indicates that worker safety is its basic responsibility. Moreover, under laws that we have enacted, OSHA is responsible to assure that our work places incorporate a clear and concise hazard communication program so that workers know about unsafe exposures in the workplace and how to protect themselves from such exposures.

It has been suggested in answer to questions that I asked of Senator METZENBAUM that the OSHA hazard communication standard [HCS] does not apply to public service employees and excludes all nonmanufacturing areas. But now, OSHA's expanded HCS will apply to some 32 million employees and cover more than 570,000 substances. Senator METZENBAUM has suggested that OSHA protections do not apply to former employees. The debate has pointed out the ability now for NIOSH to notify studied populations and for former employees to obtain material data safety sheets.

In sum, I think hazard communication needs to apply in this country broadly and vigorously—we need to inform workers how they can protect themselves against harms that are caused by toxic substances. We should give OSHA's HazCom Program a chance to at least be implemented and evaluated. Committee oversight should be undertaken not with the arrogance which marked this bill's consideration in committee, but with reality.

By way of contrast, I view with skepticism the so-called risk notification system as incorporated in S. 79.

I can understand and would support notifying workers actually studied by the Federal Government. Currently, NIOSH can engage in such a practice. On the other hand, the logic and the common sense of S. 79 fail when it extrapolates on the basis of workers studied to workers that have not been studied based on faulty science. What we have then is hundreds of thousands of notices going to people—notices that will serve more to frighten workers and to protect lawyers' incomes than to bring about safety.

A worker may be using a mask or other protective device and be absolutely safe from a hazard. Nevertheless, he will hear from the Federal Government that he may have cancer. This is classic blundering action by the Federal Government and will be conducted within the Federal Government by a new agency that, in the past, has not directly dealt with hazards in the workplace. The approach in S. 79 will do much more to generate new and unfounded lawsuits than it will to preserve health.

Proponents of S. 79 have been asked again and again to provide some protection against unfounded law suits. Unfortunately, they have refused to do so until just recently when this bill came to the floor. Under S. 79, aggressive plaintiff lawyers will be able to obtain the names and addresses of workers. If they are blocked from doing so, they can advertise and request that notified workers contact them. Lawyers would be more interested in leading workers to the courthouse rather than down the path of health and safety. Employers, employees and producers need to work together to establish a healthy environment. This bill does just the opposite. It puts the parties in an adversarial relationship that is hardly conducive to promoting occupational health.

S. 79 contains tissue paper preventions of such lawsuits. It excludes evidence of sending and receiving of the notice, certain findings of the HHS board and the fact that medical evaluation has been commenced. The lawsuits involving stress under the substitute are not eliminated, but they will now focus on how the plaintiff learned of the risk.

S. 79 stimulates suits by employees against employers as contained with having them work together to prevent workplace illness.

Plaintiffs' lawyers will appreciate the fact that the HHS has built up extensive files about particular hazards. Plaintiffs' lawyers can then suggest to workers that they bring tort suits against their employers on the ground that the employer must have known about these facts prior to the time that HHS discovered them. Rather than create cooperation between employee and employer to prevent health risks, S. 79 will add to our litigation crisis.

Hazard notification, by way of contrast, has employer and employee working together. Instead of creating stress, it works to prevent harm. Instead of lawsuits, it brings about health protection.

We need to continue to reasonably promote and improve the health and safety of workers in this country. We need to prevent occupational disease. We have programs and agencies doing that now. We do not need a new and unchartered bureaucracy spewing notices to people who are not in fact at risk at all. We do not need to create unfounded and unnecessary new liability crises.

I would support positive approaches to protect the health and safety of workers, but S. 79 creates real and unnecessary risks that far outweigh its purported benefits.

Concerning the concerns of small business, the substitute purports to incorporate certain "small business exemptions." This short-hand terminology has to be explained, because these provisions have not been supported by small business and have not eliminated the small business community's opposition to the bill.

First, employers of 100 persons or less—50 persons after 1991—are exempted only from the medical removal portions of the bill, and then only if the employer removes, or makes a good faith effort to remove, the hazard. This vague test will result in few actual beneficiaries of the "exemption." Further, the cap on medical monitoring means that the small employer has no financial obligation beyond the $250 per employee per year, but who pays if there are costs above this? Like so many questions asked of late, the proponents seem unable to provide the answers.

Let me repeat that not one small business organization has supported even the small business provisions, let alone S. 79. They point out that we would still be faced with the problems related to liability, unwarranted litigation, and the unnecessary bureaucracy established by this legislation. Pilot notification studies have shown that actual costs total about 6.9 to 8.1 percent of the annual sales of a typical small business. Even if some of these exemptions reduce the costs to 3.4 to 4.6 percent, with the average pretax profit of a typical small business being about 1.1 percent of annual sales, S. 79 would be a receipe for bankruptcies and resulting unemployment.

In summary, S. 79 is unnecessary in its duplication of existing programs and its new bureaucracy. The liability and litigation consequences would be disastrous. Numerous costs are imposed on business and society with achieving the benefits which would justify this legislation. Therefore, I cannot support S. 79, and hope that the Senate arrives at the same conclusion.

Mr. **DURENBERGER.** Mr. President, it is apparent that S. 79, the High Risk Disease Notification and Prevention Act of 1987 will not receive sufficient support in this body. I am sorry this is the case. Notifying workers of their risk of disease is an urgent responsibility, which one way or the other the Senate must fulfill; I regret that it was not done today. Nonetheless, I believe that we will return to this floor another day with a bill which enjoys broad support. And as a cosponsor of this bill, I will work with my colleagues to develop such a bill, hopefully soon.

For the record, I have problems with the procedural tactics of both sides of this controversy. I believe the majority leader acted prematurely last week to file cloture on this bill after only a brief debate. This is why I voted against cloture the first two times it was voted upon. But, by the beginning of this week, it became obvious that a filibuster was in progress, leading me to vote twice to cut off debate. The concern of those opposed to S. 79, which are serious, do not rise to the level which justifies preventing the Senate to come to a final vote.

I became a cosponor of the high risk bill on February 26, 1987. I did so after a compromise had been reached by the Chemical Manufacturers Association and American Electronics Association and the AFL-CIO. Besides CMA and AEA, major companies like Union Carbide, Eastman Kodak, General Electric, IBM, and many more companies publicly support this bill. In addition, the entire public health and medical community support this bill, including the American Medical Association, the American Lung Association, and the American Nurses Association. As the ranking member and former chairman of the Senate Finance Health Subcommittee, I know the human and budgetary costs of occupational disease.

As this bill has been discussed by my colleagues, I have heard much discussion of its ills and benefits. In some respects I agree with the opponents. But it became obvious early on that the opponents had decided that it was better to kill this bill than it was to improve it. The bill is not perfect, but I believe the American people would have been better served by a deliberate amending process rather than a filibuster.

I have heard over and over again, that this bill would duplicate efforts made by the Occupational Safety and Health Administration [OSHA]. This is incorrect. OSHA is a regulatory agency, its job is to prevent the diseases we all abhor, and hopefully the new hazard communication standards will do that. But what about those workers who were exposed years ago to an occupational hazard? OSHA standards do not touch these people. These people are ignorant of their risk. The high risk bill would have provided them with the essential education that could save their lives.

Through the numerous discussions with my constituents, collegues, and other concerned parties, three problems with the bill have been made clear to me. One is the adverse impact the bill would have on small businesses. Another is the potential liability employers may suffer from the bill. And third, pragmatic concerns of its implementation, including the 30-year look back provisions.

Small businesses would have been unduly impacted on by the version of this bill as reported from committee, particularly by the employee transfer and medical monitoring costs provisions. To a large extent this concern was ameliorated through the amendment that exempted employers with less than 100 employees from the employee transfer requirements. The Senate should have considered other amendments in this regard.

I have heard many express deep concerns over employers potential liability that may arise from this bill. The fear is that both the notification itself and the process leading to notification will trigger an avalanche of law suits against employers. Although the bill contains language forbidding the use of notification, or lack thereof, from being used as grounds for legal action or as evidence in a judicial action to prove employer liability as well as prohibiting suits stemming from stress related to notification, I share the concern and wonder whether this is enough to protect employers from frivolous suits. Perhaps, this issue would have been addressed and solved had the Senate been able to deliberate on the merits of the bill.

Finally, there were many pragmatic concerns about how this bill would be implemented. Ambiguities in the bill raised fears of unintended burdens on employers. The fears were many: That employers would have to do all the administrative work of identifying workers; they would have to physically turn over their records, many of which may be sensitive, to the Government; that it would be the employers duty to find addresses of long gone employees or search antiquated and incomplete records to determine if so-and-so employee fits into the population at risk; and finally there is the obvious problem that many employers will be forced to find employees from records that no longer exist, or more likely, never existed in the first place.

Many of these concerns stem from the 30-year look back requirement as well as ambiguities in the bill. The look back requirement is not an arbitrary burden, but is directly related to the bill's intent of notifying workers of their risk of disease. Many diseases take years to incubate. But further efforts may be necessary to clarify the administrative burden employers imposed by this bill. Let me say clearly, that as a cosponsor of the bill, that the burden of identification and notification is on the Government not the employer. The bill requires the employers to make available to the Government records they have in the normal course of their business. Once made available, the burden is on the Government to identify which employees deserved to be notified. If the available records are inadequate, then the Government must do the work, not the employer. This is why public service announcements are permitted. To me, this is the correct interpretation and only one there can be. If the detractors were correct, the burden imposed on employers would be immense. I could not nor would support such a burden. But since they are not correct, with the ambiguities cleared up so as to the correct interpretation, the bill is supportable.

In conclusion, I am disappointed that the Senate did not get to debate the merits of this bill. The cost of delay will not be payed by Senators. It will be paid by workers who will be exposed to occupational risks unnecessarily. It would have saved much cost to the people of America. Although the feeling against this bill was great and intense, the actual flaws were minor and would have been fixed. I look forward to the opportunity for the members of this Senate to sit up and be counted on the issue of occupational disease notification.

Mr. McCONNELL. Mr. President, I rise today in opposition to S. 79, the High Risk Occupational Disease Notification and Prevention Act.

First let me say, though this point probably will be lost amidst all the calculated rhetoric on the other side, that I strongly support improved worker health and safety; I believe it is one of top responsibilities of businesses to look after the health and safety of their employees; and I believe the Federal Government has taken a positive, active role in ensuring the safety of the workplace. I think there are few, if any, in this body who would disagree with those basic principles.

We do not need to enact S. 79, however, to fulfill the principle of workplace safety. S. 79's regulatory framework and statutory safeguards already have been created by Congress—they already exist. S. 79 will not double the amount of safety for American workers; it merely will double the redtape choking American businesses. It will not double the amount of just compensation to harmfully exposed workers; it merely will double the amount of unjust litigation crippling our industry and society.

We already have a system to regulate health and safety in the workplace, and we should be working to improve that one before adding on another layer of bureaucratic fat. Not very long ago, Congress established a "hazard communication standard" [HCS], to be enforced by the Occupational Health and Safety Administration [OSHA]. This accomplishes exactly the same purposes supposedly advanced by S. 79.

HCS requires employers to carefully evaluate harmful substances in the workplace, and inform workers of all occupational disease risks through detailed safety notices. Of particular note, the employer must state whether the hazard is a potential carcinogen.

Congress built a second layer of protection against occupational disease risks with the National Institute for Occupational Safety and Health [NIOSH]. NIOSH has the responsibility and resources for evaluating workplace safety on a highly scientific basis. Its onsite evaluations have provided thousands of workers with prior notice of occupational disease risks.

I might point out here that S. 79 would superimpose another, nonscientific regulatory body on top of NIOSH—the so-called Risk Assessment Board. Years of careful research and policy analysis would be cast aside, as the Risk Assessment Board went off on its own, preempting the risk notification efforts of NIOSH. Highly scientific decisions would no longer be made by scientists, but by a patchwork group of policy experts.

I will not go on further detailing the numerous other "right-to-know" statutes on the books. Such right-to-know provisions are scattered throughout the Federal code, covering nearly every type of hazardous substance. There are, for example, rules affecting workplace and product-use safety in the Toxic Substances Control Act and the Consumer Products Safety Act.

Thus, Mr. President, there is nothing in S. 79 that will better protect workers' health and safety than making improvements on the current system, which this body created years ago.

Now, Mr. President, if Congress already has set up an adequate system to protect workers' health and safety, then what really is behind S. 79? A number of speakers on our side will be answering this question, pointing at the Socialized Medicine Program buried embedded in this legislation, the intentional interference with free collective bargaining, and the campaign of socialization through regulation; but today I will focus my remarks on one of the most obviously dangerous purposes of this bill: To stimulate personal injury and worker compensation litigation on a scale far beyond our present imagination.

Passage of S. 79 will be a clarion call for hungry lawyers. They won't have to wear themselves out chasing ambulances any more; they can just follow right behind the Risk Assessment Board. In fact, S. 79 ought to be called the High Risk Occupational Disease Litigation Incentive Act. The Risk Assessment Board's so-called experts have a mandate to notify every worker who might have been exposed to something that might cause some disease; and then the hungry lawyer will pass out his business cards. Class action suits will jam up the courts, while the targeted employers—and their employees—will be bled dry by legal soldiers of fortune.

Mr. President, I have warned many times that runaway litigation is sapping the economic and enterprising strength of America. It is eroding our competitive edge. By the next decade, our light aircraft industry will dry up and blow away, because of liability costs which foreign competitors do not face. America's little league and pro football equipment is made in Japan and Korea, because their liability laws are not designed by lawyers for the benefit of lawyers. Yet today, Congress is acting on a bill that would blast open the courthouse door completely.

S. 79 will promote unprecedented, unjust litigation in at least three ways:

First, the bill will generate a tidal wave of suits for "severe emotional distress," in the wake of notification by the Risk Assessment Board. A number of States allow such suits, even if there is no showing of physical illness or injury. A worker could sue for millions, claiming emotional distress as a result of being notified that he or she might have been exposed to a carcinogen. If the Risk Assessment Board is wrong, of course, it doesn't have to pay; the employer or the State does.

Second, the bill before us today will butcher State worker's compensation laws by gutting the "immunity shield" that employers acquire under the system. This will give employees new causes of action against employers, for injuries already covered under the State worker's compensation laws. As with any broad violation of States rights, we ought to think long and hard before preempting this carefully balanced, State-run, worker protection system.

Third, S. 79 will directly fan the flames of litigation fever, by practically giving lawyers mailing lists of potential clients. Under this bill, attorneys will be able to obtain the names and addresses of every person notified by the Risk Assessment Board—enabling them to solicit ready clients for lucrative class-action suits. Since many jurisdictions require only minimal proof of causation in class-actions, these lawsuits will be a virtually guaranteed lottery ticket for fat, easy settlements. Thus, the Risk Assessment Board is primarily a job placement pool for lawyers, not a defender of America's work force.

The AFL-CIO already is prepared to ram millions of suits through this gaping hole in the courthouse door. Presumably in response to this legislation, they have set up an "Occupational Health Legal Rights Foundation," to help union members bring suits based on occupation-related disease. The foundation stands ready today to deploy hordes of union lawyers, expert witnesses by the dozen, and other helpful trial services at no cost to the worker.

Some large corporations will be able to afford the legal defense costs without any problem, of course. But small businesses will just fold under the pressure. I am sure that the cosponsors and other supporters of S. 79 think they are doing a noble thing. I respect that. But it is not overdramatizing the situation to say that this bill has the potential of wiping out the small operator in America, by forcing him to invest in insurance rather than his company's future.

S. 79 is not simply unnecessary or unwise, it is dangerous for this Nation's economic future. It will curb American innovation in promising new technologies. It will shackle small, startup enterprises. Ultimately, it even will destroy jobs—jobs that no one ever will work at or get paid for—because the jobs will just be too expensive from a liability standpoint to create.

In conclusion, the American worker will be badly served by S. 79. America's foremost growth industry, litigation, will benefit greatly, on the other hand. But the Senator from Kentucky does not feel that this industry and its white-collar legions need or deserve any special subsidy from the Government. Instead, this body should be working on the real problems our constituents are concerned about: The deficit, taxes, and the liability crisis which continues to hurt business, cut competitiveness, discourage innovation, and drive down our standard of living.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, I am obliged to vote against cloture on S. 79, the "High Risk Occupational Disease Notification and Prevention Act of 1987." After careful consideration, I believe this bill will do little, if anything, to protect the American worker from exposure to disease in the workplace. It will send businesses, large as well as small, including the family farmer, into a tailspin of litigation, triggering higher insurance premiums, loss of jobs, and higher overhead costs.

S. 79 would create a new Federal bureaucracy within the Department of Health and Human Services called the Risk Assessment Board. The Board is required to identify populations of present and former workers who they believe are or have been at increased risk of disease because of exposure to an occupational health hazard.

Once the Board identifies a population at risk, it must publish a notice of its decision in the Federal Register. After an expedited comment period and public hearing, the Board will make a final determination within 150 days after the initial notice. The Department of Health and Human Resources has no power to change the Board's determination.

The Secretary of Health and Human Services must make every reasonable effort to individually notify every worker or former worker within this "population at risk." The notice must identify the hazard and the diseases affiliated with it, the extent of the risk, any known latency periods, possible contributing factors, health information, including the most appropriate type of medical monitoring associated with the risk and the name and address of the nearest health center authorized under S. 79.

The employer is required to provide free medical monitoring to any notified employee, including former employees, if any part of the exposure leading to the notification occurred with that employer.

If the employee's physician determines that an employee should be transferred to a less hazardous job, the employer must transfer the employee to a less hazardous job. The employee, regardless of where he is transferred, must retain the same earnings, seniority, and employment rights and benefits of the vacated job. If another job is not available, the employer must continue pay and benefits for up to 12 months.

Mr. President, this bill before us, S. 79, has been promoted by its proponents as a bill to merely rescue the worker from the clutches of occupationally induced disease. If that was really the case, I don't think you would see the united opposition to the bill from small businesses, farmers, and other citizens concerned about the survival of America's small businesses.

Mr. President, this bill will add little to the Government's mission to insure safety in the workplace. The Federal Government already requires that businesses meet certain safety standards and notification requirements to insure a safe working environment.

The Occupational Safety and Health Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Resource Conservation and Recovery Act, and the Federal Food, Drug, and Cosmetic Act all contain right-to-know protections for the American public.

The most comprehensive of these, of course, Mr. President, is OSHA's Hazard Communication Standard [HCS], which went into full effect on May 25, 1986. More recently, on August 14, 1987, the Health Care Standards were broadened to cover virtually all employers subject to the Occupational Safety and Health Act [OSHA] or OSHA-State plan requirements.

These standards require employers to evaluate harmful substances in the workplace and inform their workers about those hazards and their risks through detailed material safety data sheets. The employer is required to include in these material safety data sheets "the health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical." I emphasize, that these material safety data sheets must state whether the hazard is or has been found to be potentially cancer-causing.

The standard also requires employers to train employees on hazard identification and emergency treatment methods and to put warning labels on all hazardous substances.

The Occupational Safety and Health Administration has also issued a related "access to medical records" standard, with specific right-to-know and medical monitoring requirements with respect to a number of chemicals and toxics including asbestos, coke oven emissions, and vinyl chloride.

So, to the extent that this bill notifies employees about workplace hazards, it merely duplicates other Federal programs.

But, as we all know, Mr. President, that's not the main objective of this bill. S. 79 charts a new course for the Federal Government by giving the Government the authority to notify categories of workers individually at their homes of a workplace hazard after the worker has been possibly exposed. S. 79 won't keep the worker from getting sick. Its proponents admit this fact and say S. 79 will insure that the worker won't get sicker.

I'm not so sure about that, Mr. President. Medical intervention, as envisioned by S. 79, may not keep the sick worker from getting sicker. According to a study by Robert R. Nathan Associates, Inc., some evidence shows that medical intervention has had only nominal effect in treating workers exposed to hazardous materials. The study states:

> Of the 19.5 million workers who may have been exposed to these 36 substances from 1957 to 1987, CDC rates treatments as ineffective to only moderately effective for 16.8 million (86 percent) of them.

While intervention is of questionable value, Mr. President, notification may cause undue stress and unnecessary alarm among employees. The Risk Assessment Board will notify as a "population at risk" those workers who have been exposed to an occupational hazard "at intensities or for durations comparable to at least one study that acute or chronic health effects may occur in exposed employees."

Before notification, the Risk Assessment Board does not need evidence that exposure has adversely affected the health of the notified employee. Undoubtedly, many workers who are not sick will be unduly alarmed, creating anxiety and unnecessary suffering in those workers.

The Department of Labor and others have pointed out the scientific difficulties in extrapolating risks to workers not directly involved in federally supported studies and serious practical difficulties in identifying and locating these workers.

Let me give you an example of this potential for overnotification. Take the word preserving industry. A population at risk, I remind Senators, means a "class or category of employees—exposed to an occupational health hazard under working conditions, such as concentrations of exposure or durations of exposure or both, comparable to the clinical or epidemiologic data."

Since virtually all workers at a wood preserving plant have the same duration of exposure to certain chemicals, it is probable that all present employees and those people who worked at a treating plant over the last 30 years would be notified.

The truth is that the level of exposure varies considerably in a wood treating operation. People working around the treating cylinder, which contains the vacuum chamber where the preservative is forced into the wood, have the highest level of exposure and therefore receive special training. These workers are also required to wear protective clothing and use respirators. The employees who are responsible for the area called the drip pad, where the preservative if fixed into the wood over a 2- to 3-day period, have the second highest level of exposure and are trained to handle this contact safely. However, workers who do nothing but load the wood onto trucks for shipment to retail establishments have the lowest level of exposure. They receive training but it is not as intense as that given to the other groups of workers.

The program which would be instituted by S. 79 would trigger notification to all three types of employees in the wood preserving industry—whether their area of responsibility was the treating cylinder, the "drip pad," or the loading area. The truck loader—who is least likely to face disease—will be alarmed unnecessarily.

This bill could, in fact, adversely affect the health of workers. I suggest that Members listen to a letter I received on March 22 from Dr. Richard J. Levine, an epidemiologist in my State. He wrote:

> I am writing to express opinions of my own and others in regard to the Metzenbaum bill S. 79. This bill is being considered to inform workers of the possible consequences of hazardous exposures. I and a number of my colleagues in the field of occupational health . . . feel that this bill might severely restrict future opportunities to learn about the consequences of hazardous exposures through studies of exposed workers.
>
> Once a worker has been exposed, presently there is little that can be done to minimize his risk of developing sequelae such as cancer. The benefits resulting from notifying workers about past hazardous exposures, therefore, are tenuous. The best preventive measures are to learn which substances are hazardous and at what levels of exposure, and then to take steps to ensure that exposures are kept below hazardous levels. In order to identify hazardous agents and exposures, studies must be conducted in the workplace.
>
> The Metzenbaum bill S. 79 may restrict opportunities for performing these studies. Estimates of disease risks and lists of exposed workers are more easily obtained from companies who have in the past permitted studies of their workforce. Instead of being rewarded for their efforts, these exemplary corporate citizens might now be penalized by the requirements of worker notification bills. Should this occur, employers will be less likely in the future to allow studies of their health of their workers.
>
> I urge you to take these thoughts into consideration in your deliberations on the Metzenbaum bill. Sincerely, Richard J. Levine, M.D. FAAOM [Fellow of the American Academy of Occupational Medicine].

I do not think that anyone wants to jeopardize the health and safety of employees. Yet, if this doctor is correct, we could be doing exactly that.

While the benefit and workability of risk notification is questionable, Mr. President, the burden on the small businesses and the family farmer is without dispute. I have not seen a single shred of evidence refuting the fact that this bill, S. 79, carries a hefty price tag for the American employer. The increased cost of liability insurance, employer provided medical surveillance, employer provided medical screening, job-removal protection, liability claims, attorneys fees, and court awards should shock anyone to their senses.

According to a study dated January 1988 by the Robert R. Nathan Associates, Inc., an economics and management consulting firm here in Washington, costs to America's businesses will skyrocket, Mr. President if S. 79 becomes law.

Under this bill, approximately 300,000 employees will be notified each year. Medical monitoring, according to the study, will cost $98 per subject, Medical screening will cost $148 per subject. Job-removal protection will cost $24,606 per worker, per year. Direct costs are estimated to reach $119 million per year.

Mr. President, sponsors of this legislation may believe the committee modification takes care of the problems this bill will create for the farmer and the small businessman. I disagree.

As I understand it, the committee modification does two things: First, it exempts seasonal workers from medical removal protections under the act. If a farmer's workers work less than 6 months a year, the farmer will not have to comply with this requirement. Second, with respect to farmers, he will not have to pay for the medical monitoring required under the bill if his workers are designated as a population at risk. The monitoring will be provided by the taxpayer through the Migrant Health Program.

The second exemption applies to small businesses. An employer with 100 or fewer employees for the years 1988 through 1990 and with 50 or fewer employees after 1990 is not bound to provide the same earnings, seniority, and benefits if the employee is transferred to another job. If the employer has entered into a union agreement, he must comply with the terms of that agreement.

Also under this modification, Mr. President, the same size employer is not required to pay more than $250 for medical monitoring for any employee.

The bill could still spell bankruptcy for the American farmer. The modification eliminates the direct cost burdens on only some farmers, but not all of them. It does nothing to relieve the American farmer from the threat of lawsuits and liability claims which this bill will certainly generate.

Let's talk about indirect costs for the farmer not exempted by the committee modification. Here's an example which the Department of Agriculture provided in a memorandum dated February 17, 1988:

Assume the Risk Assessment Board has determined that sunlight is an occupational hazard and that employees exposed to too much sun are "populations at risk." The Board notifies current agricultural workers and workers who did seasonal farm labor during the past 30 years by mail or by commercial advertisement that they could be at risk of developing cancer. The worker goes back to his employer, the farmer, and asks for medical monitoring paid for by the farmer. Upon recommendation of the employee's physician, the employee demands to be transferred to a job where he will not be exposed to the Sun. Since a transfer would be impossible on a farm, Mr. President, S. 79 would force the employer to provide the seasonal worker with wages and other benefits for up to 12 months.

If we are really concerned about the survival of the American farm, Mr. President, I suggest we think twice about passing this bill.

And what about the small businessman, Mr. President? Even with the committee modification, the small businessman will be zapped with higher costs. According to the Coalition on Occupational Disease Notification, few small business insurance plans cover the medical monitoring programs required under this act. These costs, up to $250 per employee per year will have to come out of the pockets of small businessmen.

The direct costs, although large, are merely a drop in the bucket when compared to the expected litigation costs resulting from this bill. Neither the farmer nor the small businessman will be exempt from these costs.

The committee report dismisses this criticism by confidently stating that it "emphatically intends that this preventive public health measure not create substantial new liability costs for employers." The committee goes on to cite a few pilot notification projects which "resulted in few if any instances of litigation."

I'm not convinced that the committee's emphatic intent will be an adequate plug in the litigation dike to hold back the flood of claims that will drown America's small businesses.

According to the Nathan study, this bill could generate $5.7 billion in litigation costs each year for the American businessman. The average claim will cost $35,000 in attorneys fees and court costs and $60,000 in compensation.

And, we can't forget other costs to the public sector, Mr. President. In addition to the authorization of the bill, at $25 million, Government expenditures for processing and adjudicating the liability claims must be taken into account. Although the Nathan study was unable to estimate the exact cost, the study did state that it represented a "potentially large indirect public sector cost."

As with all other business expenses, Mr. President, the small business must handle this overhead by reducing labor, which means loss of jobs, or by increasing the cost of the goods for the domestic and foreign consumer.

As I said at the outset, Mr. President, this bill will do nothing to protect the worker from exposure to a workplace hazard and will place an exorbitant cost burden on America's small businesses. We hear a lot of talk about the trade deficit, the plight of the American farmer, and the unemployed. If we are so interested in these problems, Mr. President, we should not exacerbate these problems by passing this legislation.

I urge my colleagues to vote against cloture and continue to oppose this legislation.

The PRESIDING OFFICER. Who yields time? Who yields time?

If no one yields time, time will be deducted equally from the time allocated to each of the controlling Senators.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture be a 30-minute rollcall vote; that the call for the regular order be automatic at the conclusion of the 30 minutes?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, may I say for the Record that I am reluctant to make such requests and I do not want us to get into the mode of having 30-minute rollcall votes, especially at this time of the day. But there are good reasons for it in this instance.

The only other request that I will make is I will ask unanimous consent that the vote begin now.

The PRESIDING OFFICER. Is there objection? The Senator from Wyoming.

Mr. SIMPSON. Mr. President, reserving the right to object, and I will not object, I want to thank the majority leader. This is an accommodation that will not need to occur again. Our minority leader has an announcement of import to make at 3 o'clock, in the Russell Building in room 325 and it is necessary to give those of us who wish to be there an opportunity to be there. This is an accommodation and not some precedent of any type.

I thank the majority leader.

The PRESIDING OFFICER. Is there any further objection to the request by unanimous consent that the vote be now? Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 79, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.
>
> Senators Bob Graham, John Kerry, Claiborne Pell, Christopher Dodd, Edward Kennedy, Alan Cranston, Daniel K. Inouye, Patrick Leahy, Tom Daschle, Timothy E. Wirth, Daniel Moynihan, Barbara A. Mikulski, Bill Proxmire, George J. Mitchell, Harry Reid, Wendell Ford, and Howard Metzenbaum.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 79, to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, with a modified committee amendment in the nature of a substitute, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. Bradley], the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I also announced that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Nebraska [Mr. Karnes] is necessarily absent.

The PRESIDING OFFICER (Mr. Dixon). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 42, nays 52, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—42

Adams
Baucus
Bentsen
Breaux
Burdick
Byrd
Chafee
Chiles
Conrad
Cranston
Daschle
DeConcini
Dodd
Durenberger
Ford
Glenn
Graham
Harkin
Hatfield
Heinz
Inouye
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Reid
Riegle
Rockefeller
Sarbanes
Specter
Stafford
Weicker
Wirth

NAYS—52

Armstrong
Bingaman
Bond
Boren
Boschwitz
Bumpers
Cochran
Cohen
D'Amato
Danforth
Dixon
Dole
Domenici
Evans
Exon
Fowler
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Johnston
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Nunn
Pressler
Pryor
Quayle
Roth
Rudman
Sanford
Sasser
Shelby
Simpson
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—6

Biden
Bradley
Gore
Karnes
Kennedy
Simon

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. METZENBAUM. Mr. President, the fourth cloture vote on S. 79 is now completed and the Senate has not invoked cloture. The filibuster will continue and those of us concerned with improving and enacting this bill to notify workers of a known high risk of occupational disease will be prevented from taking any constructive action.

Under those circumstances, it is not possible to continue debate on this bill. Therefore, I am asking the Senate leadership to withdraw S. 79 from the floor. Senator STAFFORD and I, as principal authors of the legislation, have been prepared from the beginning to accept constructive amendments, to debate amendments, and to have votes on amendments. But this filibuster, which is an unprecedented action against a worker health bill, has stopped all attempts to have a serious debate about the substance of the legislation. This filibuster has prevented the Senate from going about the job of legislating.

That is a shame. But a filibuster cannot stop this issue. It is too important. Workers are dying from occupational disease and they need our help. We must tell them the truth so that they can seek medical intervention to detect disease at its early, treatable stages. The Congress has not seen the last of risk notification. I vow to raise this issue again so that a majority of the Senate may exercise its will.

For now, I would like to thank all the groups that actively supported S. 79—organized labor, the public health community, environmental and consumer groups, women's groups, and especially those trade associations and companies that had the courage to look at the substance of the bill and to work with me and Senator STAFFORD to improve the legislation.

I particularly want to publicly say thanks to Jim Brudney and Al Cacozza of my staff, who put in more time on this bill than any two staffers could ever be expected to put in. When you tried to find them on a Sunday, they would be at the office. If they should have been at home, they were at the office. When I turned in every hallway, there they were, telling me how to change this, how to do that, how to pick up another vote. They gave of themselves far more than staffers are expected to give of themselves. They gave out of a sense of commitment, and I want to publicly indicate my appreciation to them.

I also thank the Senate leadership, Senator ROBERT BYRD, who agreed to schedule this legislation and allowed us four cloture votes to break the filibuster. He was supportive and was cooperative, and I think it is only appropriate that he be given recognition for the assistance and support he gave me in connection with this measure.

I want to thank my colleagues, particularly Senators BREAUX and FORD, who were most active in making constructive changes to the bill.

Finally, I want to thank my colleagues on the Labor Committee, especially the Chairman, Senator KENNEDY, and the principal co-author of this bill, Senator STAFFORD.

I want to say publicly that I have worked with my colleague from Utah. He is a tough opponent. He fights hard. He has fought hard in connection with this measure. He has fought fair. He had the votes in this instance. Sometimes we win them, and sometimes we lose them, and on this one, I have lost.

In conclusion, I feel that as long as workers are kept in the dark about occupational hazards, we will continue to fight for their right to know the truth.

Mr. HATCH. Mr. President, I thank my dear colleague for the kind remarks he has made at the end of this occasion.

I have to say that I have had some harsh things to say about this bill, and I think they are all justified. I do not think that, I know that. But I have no harsh things to say about my colleague.

I have watched my colleague from Ohio for many years around here, and there is not a more indefatigable opponent or proponent in the whole U.S. Senate. He is a remarkable human being.

I believe with all my heart that his intentions have been the most noble. I know that he feels very deeply about worker illnesses and the problems of workers in our society, as do I, and as does every Member of the Senate—those who voted for his proposal and those who voted against.

This has been a hotly divisive issue, a hotly contested issue, and there has been a bipartisan vote both ways.

I think he is correct: If there are workers out there who are not being properly cared for or properly notified, we must locate them and find some reasonable vehicle, preferably using vehicles already in existence, and correct any of those imperfections or past errors.

What I objected to so strongly is a brand-new bureaucracy back here, when we are loaded with bureaucracies which, if they were properly functioning and properly authorized, could do everything that he wants done here today, only in a much more efficient, less costly, and reasonable way.

I want to express my regard for him because there is no question in my mind what a tremendous adversary he is and what a tremendous opponent he is. We have had to basically be together for almost all the 12 years we have been in the Senate. We came to the Senate together—at least the second time Senator METZENBAUM came to the Senate—and we have worked side by side all these years. I have great respect for him.

I also thank the people who have worked with him. His staff members have been courteous; they have been decent; they have been tough; and I have great respect for them.

I also want to mention the distinguished chairman of the committee. He is very tough, and I am sorry that he is having health problems today, because I would have preferred to have had him here.

I want to mention a couple of my staff members, who have worked long, hard hours for a long, hard year and a half on this bill—Kevin McGuiness, my staff director, Dr. Win Froelich, the physician on my staff, Jeanette Carlile, Ann Schwindaman, Deanna Godfrey, and Angela Pope. All have done a terrific job on this bill, and I think they have been very worthy staff members and have been a tremendous help to me on this issue. I do not know of better staff members in the whole Senate or in Congress for that matter.

Having said all this, I thank all Senators who have been concerned about this issue, certainly those who have supported the positions that our side has taken.

I believe that this debate has shown that even though ideas are well-intentioned, they still have to be well constructed and they still have to be applied in meaningful, effective, and worthwhile ways. I believe that this debate on this legislation has shown that.

I believe that when the unions are right, they will have my vote as they did on the Polygraph Protection Act that Senator Kennedy and I brought to this floor just recently.

When they are wrong, they are going to have a strong opponent in me.

I just encourage them to be right in the future rather than wrong. I prefer supporting them in many aspects of their erstwhile desires than to continually have to fight them on bills that really should never have been brought to the floor to begin with.

That is a matter of opinion. That is my opinion. The distinguished Senator from Ohio has a different opinion, and I respect that and I respect him.

I would just like to end with those remarks and thank everybody concerned on both sides of this issue for the cordial and reasonable way that we fought this battle out, and I want to again thank the majority leader.

This has been a very difficult time for me, having severed my interior cruciate ligament and standing on the floor for the hours I have for the last couple of weeks, almost 3 weeks, it has not been easy.

But the majority leader has been very kind and very reasonable and very accommodative even though he has been on the other side of this issue.

I express my thanks to him. He has been running a very fair floor and that means a lot to people like me who have so many issues that are coming up this year on this floor.

I express that gratitude for all concerned. I thank the Chair.

Mr. BYRD. Mr. President, I thank both managers for their kind comments. I congratulate them both on having fought the good fight. They worked hard. They have been diligent. They have been at their posts of duty and that is what we expect and what we got.

Mr. President, I congratulate them. We cannot all win. We cannot win them all. We have to lose sometimes.

Mr. Metzenbaum has accepted the outcome gracefully, and Mr. Hatch has appropriately complimented all the staff people and Senators who have been a part of it.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I intend to move shortly to take up Calendar Order No. 565, the domestic uranium bill. I think that has been cleared on all sides.

Mr. HATCH. Mr. President, will the Senator yield for one other comment by me?

Mr. BYRD. I yield.

Mr. HATCH. I really appreciate the distinguished majority leader's yielding.

In my desire to congratulate the distinguished Senator from Ohio, I want to congratulate the single most important person on our side of this battle, and that is the distinguished Senator from Indiana. He is the ranking minority member on the Labor Subcommittee and he has had an incredible year and a half. He deserves a great deal of credit for the arguments, efforts, and tremendous leadership he has shown on this bill. I personally express my respect for the leadership he has provided because without him, we would not have been able to explain our side of this matter as much as we have been able to explain it. Without his lucid explanations on the floor, I do not think any of us would have understood this as well as we have.

I personally express my admiration for him and the leadership he provided and the ability and tremendous capacity that he has had to encourage some of us to be able to understand this better and to fight this legislation in the way that it has been fought. It has been a very good fight, and I think that the distinguished Senator from Indiana deserves an awful lot of the credit for the final result on this legislation.

I would feel very, very badly if I had not made that very clear on the floor.

URANIUM REVITALIZATION, TAILINGS RECLAMATION AND ENRICHMENT ACT

Mr. BYRD. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 565.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The clerk will report.

The clerk read as follows:

A bill (S. 2097) to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly-owned Government corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes.

The Senate proceeded to consider the bill.

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD. Mr. President, I hope to get a time agreement on the pending matter. I understand now that the request has been cleared on this side.

Mr. President, I ask unanimous consent that the pending bill be considered under the following time agreement:

I ask that there be 2 hours on the bill, to be equally divided between Mr. Johnston and Mr. McClure, in accordance with the usual form; that on an amendment by Mr. Reid, there be 1½ hours, the amendment being on unrecovered costs of the enrichment program, again the time to be equally controlled in the usual form; 2 hours on a Johnston, et al, Amendment No. 1465, relating to the tax exemption of the Government's Uranium Program and fees for the use of foreign uranium; 3 hours on a possible Evans-Bradley second-degree amendment to the Johnston Amendment No. 1465, dealing with the same subject matter; 1 hour on an amendment by Mr. McClure, the subject matter being Federal contributions in title II; 10 minutes on the Johnston-McClure Amendment No. 1466 relating to the budget impact of the bill.

Mr. President, I ask unanimous consent that in all instances, the division and control of time be in accordance with the usual form.

Provided further, that there be 10 minutes on amendment No. 1467 by Mr. Ford dealing with certain pending litigation; 1 hour on a Johnston-McClure amendment dealing with capital structure of the corporation; 1 hour on a Johnston decommissioning and decontamination amendment; 1 hour on a Metzenbaum amendment dealing with NRC licensing; 1 hour on a Johnston amendment dealing with licensing of uranium enrichment facilities; 1 hour on a Metzenbaum amendment dealing with decommissioning and decontamination.

Provided further, that there be no motions to recommit, with or without instructions; and ordered further that no tabling motion be in order on a Humphrey-Proxmire amendment and that there be no time limitation on a Humphrey-Proxmire amendment to establish the amount of unrecovered costs of the enrichment program; that no other amendment be in order than those amendments that have been specified; that there be not to exceed 20 minutes on any debatable motion, appeal, or point of order, if such point of order is submitted to the Senate; and that the agreement be in the usual form.

I think that about completes it.

The PRESIDING OFFICER. The majority leader has made a unanimous-consent request. Does any Senator have any objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators. I thank the two managers, Mr. Johnston and Mr. McClure. I especially thank my good friend across the aisle, the assistant Republican leader, Mr. Simpson, for the yoeman's work which he has done, together with our respective staffs, in putting together this complex time agreement.

Mr. SIMPSON. Mr. President, I thank the majority leader for those remarks.

I also thank the majority leader for the realistic way in which he handled the previous measure which became very contentious. There are lots of reasons why it failed to receive the vote of closing off debate, but the real reason is that the Senate worked its will. That is what that is called. So I would not put too great an impact on anything more than the fact that that is the way this unique body works and should work. It is very pleasing to see the majority leader remove that contentious item from further consideration and proceed here with the business of the Senate.

I hope—and assure, as I have in the past—to cooperate in every way and to have a good work program until the next designated recess period. I certainly pledge that from our side of the aisle and know that Senators Johnston and McClure will do their usual fine job of floor managing this matter.

Mr. JOHNSTON. Mr. President, first let me say I am delighted we got this time agreement. I think that most of the problems with respect to uranium enrichment are going away as Senators begin to understand what our bill is all about and what this industry is all about.

The time agreement just declared on the Senate floor provides, I might add, Mr. President, for a great deal more time than will be used.

We have a number of amendments that are 1-hour amendments that I would expect would be more like 5- or 10-minute amendments. So I would put my colleagues on notice to be ready, if they do have an amendment if they are included in this because I would hope and expect that this will move fairly rapidly.

Mr. President, today the Senate begins debate on S. 2097 and several amendments thereto. This bill, along with amendment 1465, comprises a package that addresses the issues in the front end of the domestic nuclear fuel cycle in a comprehensive way. Enactment of this legislation is critical to maintaining an efficient domestic system to supply fuel to the reactors that in 1987 produced 17 percent of our electricity.

This legislation is also critical to the role of the United States as a credible supplier of enriched nuclear fuel. The world market for such fuel is now worth approximately $2.5 billion annually and will continue to rise as more nuclear powerplants come on line around the world.

We will be asking the Senate to adopt S. 2097 and certain amendment to it. The most important of these is amendment 1465.

Amendment 1465 has been separated from the bill—S. 1846—originally reported by the Committee on Energy and Natural Resources to address uranium issues. This was done solely to address jurisdictional concerns of the Senate Finance Committee. We strongly support adoption of amendment 1465 so that the matters it addresses will be included in the legislation when it passes the Senate.

Mr. President, the legislation Senator McClure, Senator Ford, Senator Domenici, Senator Bingaman, Senator Simpson, Senator Wallop and I are recommending to the Senate has three major purposes, expressed in the three titles of the bill.

The first title—when amended by amendment 1465—will provide for the continuation of the longstanding Federal interest in the domestic uranium mining and milling industry.

The second title sets up a procedure to share equitably the costs of reclamation at uranium mining and mill sites.

The third title sets forth a bold and urgently needed reform of the Federal uranium enrichment enterprise.

The Committee on Energy and Natural Resources has worked to develop this legislation through two Congresses, under Republican leadership and under Democratic leadership. Support for the bill before the Senate today is bipartisan and strong.

URANIUM MINING

Title I—when amended by amendment 1465—will continue the tradition of Federal concern with the viability of the domestic uranium industry. Uranium is a material that is irreplaceable in its applications to defense. It is therefore a very special commodity. Congress has always recognized the special role uranium plays in our national defense by providing for Federal oversight and care for the health of the domestic mining and milling industry.

This legislation amends existing law to provide for a transition to a free market in uranium after the year 2000. By contrast, current law contains a permanent requirement that the Federal Government ensure the viability of the domestic uranium industry through management of uranium enrichment facilities operated by the Secretary of Energy.

Our bill is consistent with the recently negotiated "Canadian Free Trade Agreement," which calls for the repeal of the provision of law that requires Federal action to ensure the viability of the domestic uranium industry. We repeal this provision in amendment 1465. This provision is replaced, between now and the year 2000, by a system of charges on domestic use of foreign uranium. After 2000 all charges expire.

This limited system of charges established in amendment 1465 is designed to provide for an orderly transition from current law to a free market in uranium. We have emphasized our agreement with this result of the Canadian Agreement to the administration in our discussions with them about this legislation and about the legislation that will be developed to implement the agreement.

I ask unanimous consent that a copy of a December 1, 1987 letter to the President on this subject signed by 24 Senators be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Energy
and Natural Resources,
Washington, DC, December 1, 1987.

The President,
The White House,
Washington, DC.

Dear Mr. President: Uranium is now second only to coal as an energy source for electricity production in the United States, accounting for almost 20 percent of domestic electric power generation. Use of uranium as a fuel in nuclear power plants is now displacing over two million barrels per day of imported oil, and is saving the nation $15 billion per year in foreign oil payments. Similarly, the Nation continues to have a substantial reliance upon uranium for its national defense requirements.

A strong domestic uranium industry and a strong domestic enrichment enterprise are required if the United States is to ensure its ability to meet the demand for nuclear energy and its defense responsibilities. Ironically, at this critical time, both the uranimum mining industry and the uranium enrichment enterprise are severely depressed. Indeed, the uranium industry has been formally declared to be "non-viable" by the Secretary of Energy. There is a broad consensus that the uranium enrichment enterprise simply cannot continue to operate as it has in the past.

In order to resolve these problems, a comprehensive program is desperately needed.

Fortunately, the uranium producers and nuclear utilities have cooperatively sought development of such a program through the legislative process. On October 1, 1987, the Senate Energy and Natural Resources Committee ordered reported S. 1846, a comprehensive bill that ensures this country's utility and defense requirements for uranium will be met. Among other things, this legislation eliminates any restriction on the enrichment of foreign uranium for domestic use. For an interim period, this restriction is replaced by imposing a sliding scale of charges for the use by utilities of foreign uranium above specified levels. All restrictions expire automatically on January 1, 2001. The bill also totally reorganizes the uranium enrichment enterprise to permit operation as a continuing, commercial enterprise on a profitable and efficient basis.

We believe the uranium supply policy embodied in this legislation is compatible with the proposed U.S.-Canadian Trade Agreement. Canada does not sell uranium to the United States for military purposes. Therefore, it is imperative that any trade agreement with Canada recognize the importance of the U.S. uranium industry to our national defense.

The legislation reported by the Committee on Energy and Natural Resources revitalizes the domestic uranium mining industry in a manner that achieves the uranium trade objectives of Agreement. The bill repeals section 161(v) of the Atomic Energy Act, which requires the Secretary of Energy to restrict the enrichment of foreign uranium.

The bill also preserves existing contracts for the purchase of foreign uranium. It imposes limited charges for the use of foreign uranium in the next few years, while preserving a substantial share of the U.S. uranium market for foreign producers. In fact, taking into account the provision respecting preservation of existing contracts, the net effect of the legislation is to preserve 50 percent of the domestic market for imported uranium during the period of transition to a free market.

In summary, S. 1846 provides for a phased implementation of free trade in uranium. We understand that a gradual approach will also be proposed in implementing other areas of the U.S.-Canadian Agreement. We urge that in developing the Administration's proposals for implementing legislation for the uranium provisions of the Agreement, the Administration take advantage of the consensus among uranium producers, electric utilities, and Members of Congress that is reflected in the legislation reported by the Committee on Energy and Natural Resources.

Sincerely,

Wendell H. Ford, J. Bennett Johnston, Pete V. Domenici, James A. McClure, Jeff Bingaman, Jake Garn, Orrin G. Hatch, Don Nickles, Robert Dole, Chic Hecht, Ted Stevens, Steve Symms, Bill Armstrong, Richard Shelby, Malcolm Wallop, Alan K. Simpson, John Breaux, David L. Boren, John W. Warner, Mitch McConnell, Dennis DeConcini, John McCain, Frank H. Murkowski, Robert C. Byrd.

Mr. JOHNSTON. The administration will have to cooperate with Congress to achieve its goals with respect to trade with Canada, including trade in uranium. The vote on amendment 1465 may provide us with a good indication of how the Senate feels about the cooperation received so far.

URANIUM TAILINGS RECLAMATION

Title II of S. 2097 establishes a procedure to fund the reclamation of uranium tailings at sites owned by private companies.

Many of these sites were operated to produce uranium for defense purposes. So the Federal Government bears some responsibility for an environmentally acceptable cleanup of the tailings at these sites. The same is true for the ratepayers who benefit from electricity generated from nuclear power. And, finally, the site owners bear the major portion of the responsibility for this work.

This is the policy embodied in title II of the bill. The initial costs of cleanup are split three ways, with costs above $4.50 per ton the total responsibility of the site owners. This is an equitable solution to the problem of allocating cleanup costs. Most importantly, the establishment of this funding procedure will mean that the cleanup can begin. That will be the most important result of enacting title II.

URANIUM ENRICHMENT

The U.S. Uranium Enrichment Program has been in need of reform for several years. Our present program is governed by a statute written when the U.S. Government held a world monopoly in the provision of uranium enrichment services. That monopoly is a thing of the past. The U.S. enrichment enterprise has competition from consortia backed by foreign governments in Europe and from the Soviet Union. Several governments are active in developing the next generation of enrichment technology-atomic vapor laser isotope separation.

So today there is a market for uranium. The market is competitive now and will become much more competitive in the future. The U.S. enterprise must react to that market far more flexibly than it has in the past. Over the past decade the U.S. share of the world enrichment market has dropped from 100 percent to below 50 percent.

There is a market for uranium enrichment services, but it is far from a free market. All participants are governments. In Europe and in the Soviet Union these governments frankly subsidize their enrichment programs. This fact of life must be taken into account in devising legislation to restructure the U.S. enrichment enterprise to face current competitive realities and the evolution of the market over the long term.

This is what we have attempted to do in title III of S. 2097. It is our intent that the U.S. Enrichment Corporation established by title III represent the interest of the United States aggressively in the world enrichment market both today and over the long term. The Corporation should defend the very strong current present U.S. position in the domestic market and seek to restore to the extent practicable the role the United States once held as a supplier of services in the world market.

The returns to the United States, if we are successful, will be both tangible and intangible. A secure, low-cost supply of enrichment services domestically will enhance U.S. energy security and pay dividends to U.S. ratepayers and industry dependent on supplies of reasonably priced electricity. It is my belief that the nuclear share of our electricity supply can only grow over the long term. We will need a strong domestic enrichment enterprise to fuel this generating capacity.

In addition to our own energy security, we need to care about the energy security of our allies. We learned this in a very painful way in the 1970's, when energy concerns intersected with our efforts in foreign policy in ways we could not adequately control. Nuclear power helped soften the energy price increases of the 1970's. We could find its role important in the 1990's. The fulfillment of that role requires a secure supply of enriched fuel.

Finally, we do not want to encourage every nation in the world interested in electricity from nuclear power to conclude that it must develop the capability to enrich its own uranium. This technology that is essential for power production is also adaptable to weapons production. We will be better off if there are fewer rather than more places in the world where weapons-grade uranium can be produced. A strong U.S. Enrichment Program that is a competitive and reliable supplier of services worldwide can substantially reduce the pressure to develop enrichment capability on the part of countries seeking to use nuclear electricity.

These intangible concerns are very much a part of the committee's intent in designing the Corporation being presented to the Senate today and in the direction provided to the managers of the Corporation in the proposed organic statute for the Corporation.

The goals set forth for the Corporation will place strong demands on the managers of the Corporation to operate as a business, but with these security concerns in mind. This will require rigorous cost cutting, a strong marketing organization and intelligent investment in the development of enrichment technology.

If the structure we are setting up today performs as we intend, these goals will be achieved, and the United States will also make money from the sale of enrichment services. However, it will take time and hard work to get to a point where this can happen. The U.S. enterprise is presently carrying the burdens of years of unfortunate decisions and artificial costs.

The primary goal of the new Corporation is to restore the health of the U.S. enrichment enterprise and to get it moving again as a competitive force in the world market. If this is successful, the time for profit from the enterprise will come. But that time may not be soon. It would be wrong to regard the enterprise in its current state as a significant source of revenue for the Treasury. Too much damage has been done to customer confidence in the enterprise in the past by attempts to harvest revenue from the enterprise for the Treasury to the detriment of the long-term viability of the U.S. role in the enrichment market.

In the debate over the restructuring of the enterprise, no issue has been more contentious than the issue of the so-called enrichment debt. At time it appeared that we were being asked to restructure the enterprise to pay into the Treasury, over and above the costs of operating the business and providing the needed investments for the future, as much as $8.8 billion. In fact, there is no way this could conceivably happen. If enrichment services were priced to raise this kind of cash in addition to the demands of the enterprise itself, the enterprise would lose all of its customers very rapidly, and the result would be a total collapse.

Fortunately, almost no one is now proposing such a thing. S. 2097 provides for a repayment as a debt of the net excess appropriations to the program for commercial purposes since its inception—$364 million. The Government investment in the enterprise, represented by the assets transferred to the Corporation by this legislation would remain as the basis for the calculation of dividends to be paid to the Treasury. In this way this investment will provide profits for the taxpayers year after year from the net earnings of the Corporation.

In the event that the enterprise is sold, after authorization by a future Congress, the Government could then convert these assets to cash. But this is the only sense in which prior Government investment in the program would be directly converted into its value in cash.

Mr. President, I want to thank Senator CHILES, Senator PROXMIRE and Senator HUMPHREY for their efforts in shedding light on this complicated issue. I ask unanimous consent that a letter dated March 25, 1988 from Secretary of Energy John S. Herrington to Senator CHILES and the responses of the Department of Energy to a series of questions posed by Senator PROXMIRE and Senator HUMPHREY be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, March 25, 1988.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of March 21, 1988, regarding your interest in proposed legislation to reform the Department of Energy's uranium enrichment enterprise and a specific need to more fully understand its current financial prospectus.

The Department is also interested in legislative efforts to restructure the uranium enrichment enterprise as a Government corporation. We have been working with Congress in this regard, and specific attention has focused upon Title III of the Bill, S. 2097, that would accomplish this result. It is felt that any restructuring initiative should provide the enterprise with the flexibilities and advantages of a commercial business entity as a necessary element in improving its competitiveness and future viability. We believe that ultimately the enterprise should operate as a private business in order to achieve its fullest measure of success. The measures proposed in S. 2097 represent progress in establishing a more competitive enrichment enterprise; however, we continue to believe that the Bill does not represent the most effective basis to ensure its long-term success as a commercial entity.

One area of improvement in the existing legislation that could make the enrichment enterprise stronger involves the mechanism for recovering the Government's investment in the enterprise. In particular, we believe that significant benefits would occur if the proposed Government corporation was created as an entity that issued stock that was held by the U.S. Treasury. This provision would provide the means by which payments to the Treasury as dividends could be applied toward recovery of the remaining investment in the enterprise. Also, should the stock be subsequently sold to the public, receipts from this sale could further contribute to a return on the Government's investment.

The Department recognizes that concerns have been expressed regarding the issue of unrecovered Government investment in the enrichment enterprise. Specifically, it has been suggested that the original Government investment in the enterprise represents a "debt" which should be repaid through revenues generated by the enterprise. We share the goal of returning to the government amounts representing the investment it placed in the enterprise. However, in our view, these amounts represent an unrecovered investment in the enterprise as opposed to a specific debt for which the enterprise remains liable. The issuance of stock by the enrichment enterprise in the form of a Government corporation allows a return on investment by the payment of dividends on the stock, plus the potential for an even higher return by the eventual sale of this stock to the public. It is felt that this represents the most productive means by which the Government's investment in the enrichment enterprise can be recovered.

Creating an efficient mechanism for recovery of the Government investment by authorizing the issuance of stock represents just one of the benefits of providing the Government corporation with features more characteristic of a private business. Other features of a proposed Government corporation that are essential to its success include self-financing authority with the ability to borrow from the public for project financing, marketing independence and flexibility to effectively compete in the marketplace, and compensation at sufficient levels that can attract and retain quality executives. (See Exhibit A, attached.)

Creating the most efficient framework for restructuring the enrichment enterprise with enhanced commercial capabilities must take into account existing financial parameters associated with the enterprise. Your letter requested a number of specific explanations regarding the financial background of the uranium enrichment business. A detailed explanation addressing each of your questions is contained in the enclosure to this letter.

I trust that you will find this information responsive to your inquiry. If I can be of any further assistance, please let me know.

Yours truly,

JOHN S. HERRINGTON.

Enclosure.

Question: Given these potentially competing objectives, I am requesting the Department of Energy projections of the enterprise's operations. I would also like to know whether these projections show that the uranium enrichment enterprise will be both competitive and viable given a requirement to repay unrecovered costs of $3 billion of the Treasury. If not, at what unrecovered cost level will the enterprise remain viable?

In addition to Department of Energy projections regarding repayment, I am interested in an estimate of the net present value of the stream of payments for the $3 billion of unrecovered costs. S. 1846 requires that $364 million be repaid within 20 years. How does the net present value of that stream of payments compare with the projections you include for your estimate?

Answer: Regarding the current future financial condition of the enterprise, Department of Energy (DOE) analyses indicate that the enterprise could potentially be both competitive and viable. Our cashflow estimates indicate that substantial moneys can be generated through the end of the century.

While we believe there is a substantial surplus, there are a number of circumstances which have the potential to significantly reduce annual surpluses. These possibilities involve the amount of Government investment to be recovered, the potential of higher power costs caused by acid rain legislation, a possible strengthening of the U.S. dollar, and unexpected expenditures for decontamination and decommissioning (D&D) during the period. If the financial impacts of these factors prove to be negligible in the future, then the enrichment enterprise could recover as much as $3 billion of the unrecovered Government investment and remain viable.

In contrast to the current Administration position that identifies an unrecovered Government investment of about $3 billion, but not debt liability, both S. 1846 and S. 2097 would establish an initial debt of $364 million and require its recovery with interest over 20 years. This debt amount is significantly less than the surplus shown in DOE's cashflow projections and therefore it could be repaid under most conceivable scenarios. However, as noted previously, there are a number of uncertainties associated with DOE's projected cashflow and costs for items such as D&D have not been defined explicitly or included in the calculations.

Question: I would also like an explanation of the methodology the Department of Energy uses to determine its unrecovered cost figure. I am particularly interested in the logic behind the inclusion of an initial capitalization expense of $1.5 billion dollars.

The estimate used in S. 1846 excludes this expense. Why does the Department of Energy include the expense in its calculations? What percent of the $3 billion estimate the Department employs is accounted for by the initial capitalization?

Answer: Guidelines for recovering the cost of providing uranium enrichment services are derived from the Atomic Energy Act. This Act requires that the charge or price for enrichment services recover the Government's costs of providing enrichment services over a reasonable period of time. The Department has defined the costs to be recovered in enrichment services criteria that were formally published after congressional review. With one minor exception (in 1979 we added imputed interest costs on the uranium inventories needed to provide enrichment services), the costs to be recovered in the enrichment price have remained the same since 1969, when commercial sales began. The list of costs to be recovered include the power and other costs of operating the enrichment plants, research and development costs, depreciation of the enrichment plants, and imputed interest on the Government's investments in uranium enrichment.

The first identification of enrichment costs to be recovered occurred in 1969. Considerable judgment was exercised when the initial Government investment of $1.5 billion was established in 1969. At that time, the Department allocated the undepreciated value of the original enrichment plants (about $1 billion) that were built for defense needs as a cost to be recovered in future enrichment sales. The Department also assigned the existing inventories of separative work (produced at a cost of $500 million) as an asset to be sold to future enrichment customers. It was determined that these cost allocations were equitable because these assets were needed to provide enrichment services and therefore their costs should be recovered. To exclude these costs would have resulted in the Department using its enrichment plants to provide enriched uranium without a charge for the use of production plants that were not fully depreciated. Also, the exclusion of the costs associated with the separative work inventories would have meant that the Department would not recover the costs of generating this inventory.

With the establishment of the initial Government investment at $1.5 billion, the Department set prices to recover depreciation costs, while imputing interest on the unrecovered portion. During the 1970's, new assets were acquired for the enrichment enterprise, including an expansion of the enrichment plant capacity by 60 percent; the build up of a large stockpile of separative work units; and beginning in 1976, the construction of the Gas Centrifuge Enrichment Plant (GCEP). These expenditures greatly increased the Government's investment in uranium enrichment. All were financed from annual revenues. In 1984 and 1985, the Department determined that it was not appropriate to recover the Government's investment in unused and unneeded enrichment capacity. Therefore, the Department wrote off the Government investment in $1.2 billion of the gaseous diffusion capacity and the entire investment in GCEP of almost $3 billion. With these adjustments, the Department is reporting an unrecovered Government investment of $3.019 billion as of September 30, 1987.

Question: Finally, the Administration's 1989 budget includes a proposal to examine sale of the uranium enrichment enterprise. Although I appreciate the potential benefits to be derived from privatization, I am concerned that such a sale would not be viable without significant concessions on the part of the federal government with regard to the costs of decontamination and decomissioning of the uranium enrichment facilities. What are the Department of Energy projections of decontamination and decommissioning costs for the enterprise—assuming current environmental statutes are applied to its activities? What effect would these costs have on a proposed sale?

Answer: In addition to the investments that remain to be recovered, a future liability that will have to be addressed in enrichment pricing involves D&D costs. Estimates for D&D of the gaseous diffusion plants (GDP) are difficult to make because of uncertainties regarding potential alternative uses of the GDP facilities and the timing, extent, and technologies to be used for clean up. Clean up activities are not projected to be necessary until after the Year 2000 and the specific technology expected to be used for this clean up remains uncertain. In any event, after ensuring that these facilities are in an environmentally safe and secure condition, the first priority will be to identify alternative productive uses for them. Our preliminary estimate is that D&D, if required, would cost between $1 and 3 billion. It is expected that these costs would be allocated on an equitable basis between the Government and commercial customers.

The responsibility for eventual D&D of enrichment facilities that may be transferred to a potential new owner or operator would need to be addressed before effecting such a transfer. By requiring establishment of an appropriate D&D sinking fund, the financial impact on a possible future sale could be minimized.

EXHIBIT A: QUESTION AND ANSWER PREVIOUSLY SUBMITTED TO INQUIRIES FROM INDIVIDUAL SENATORS

Question: The report accompanying S. 1846 sets forth (S. Rep. No. 100-214, page 33) that ". . . the Corporation is authorized to price its services according to the market with no necessary expectation that these costs will be recovered at a later time." We would be interested in DOE's comments on this as well as on the structure of the new corporation in general.

Answer: Section 1508 of S. 2097—as well as the language contained in S. Rep. No. 100-124—makes it clear that the pricing objectives of the corporation shall be to recover costs and to generate profits. The committee report accompanying S. 1846 states:

". . . (the) recovery of costs and profitability are goals of the Corporation over the long-term, but not legal requirements that must be satisfied when business conditions make their satisfaction impractical."

With regard to the structure of the new corporation, the bill provides an approach to managing the enrichment enterprise that is an improvement over current law. However, it is felt that further changes should be incorporated to more fully allow the enrichment enterprise to operate with the flexibilities characteristic of a commercial business. The Administration in previous documents has submitted the following items to achieve this objective:

The successor government-owned corporation needs to be a profit-making business entity with a true corporate structure;

Stock should be issued by the corporation and held by the Secretary of the Treasury;

Corporate operations need to be managed under an independent Board of Directors appointed by the President, with the Board selecting its chief executive officer;

The corporation clearly needs to be a self-financing enterprise not funded by congressional appropriations and without access to the Federal Financing Bank (but with the authority to borrow funds from the public for project financing with no "agency" borrower characteristics or banking by the Government);

The corporation needs to be required to establish a decommissioning reserve account;

The Board should be required—within 2 years of incorporation—to complete a study and make recommendations to the Secretary of the Treasury and Congress on how it plans to proceed with the sale of corporation stock to the public;

The corporation needs to be explicitly exempted from section 161v. of the Atomic Energy Act; and,

Legislation establishing the new corporation needs to ensure that national security needs will be met on a priority basis.

QUESTIONS FROM SENATORS PROXMIRE AND HUMPHREY

Question 1: In 1986, the Department of Energy estimated the amount of unrecovered costs appropriated for recovery to be about $3.4 billion. Based on DOE's 1986 criteria (51 Fed. Reg. 27132-27146), what is the current estimate regarding the amount of unrecovered costs appropriate for recovery?

Answer: At the time the uranium enrichment services criteria were revised in 1986, the Department reported that the unrecovered Government investment or cost was $3,394 million. This investment decreased to $3,275 million as of September 30, 1986, and was estimated to be $3,019 million on September 30, 1987. This decrease primarily results from DOE payments to the Treasury to reduce the unrecovered investment in the enterprise.

Question 2: What is DOE's position regarding establishing the initial debt of a new uranium enrichment corporation at $364 million to be recovered over a period of 20 years?

Answer: We believe the Government corporation should be a stock issuing corporation. The unrecovered investment would then be returned in the form of dividends and, if any of the stock were subsequently sold to the public, the amounts received could also be applied for this purpose. This approach would eliminate any need for establishing the level for unrecovered investment in the enrichment enterprise.

Question 3: What level of unrecovered costs does DOE expect to return to the Treasury based on the current pricing structure?

Answer: For FY 1989, we have proposed that $90 million in revenues be invested in AVLIS and $91 million in revenues be returned to the Treasury as partial repayment of the unrecovered costs in the enterprise.

Question 4: What are DOE's estimates, on a utility by utility basis, of the cost associated with recovering $3.019 billion?

Answer: Because prices and utility requirements for enrichment services vary, it is impossible to provide precise estimates of which portion of past and present customer's costs could be associated with a recovery of about $3 billion.

Question 5: The report accompanying S. 1846 sets forth (S. Rep. No. 100-214, page 33) that ". . . the Corporation is authorized to price its services according to the market with no necessary expectation that these costs will be recovered at a later time." We would be interested in DOE's comments on this as well as on the structure of the new corporation in general.

Answer: Section 1508 of S. 2097—as well as the language contained in S. Rep. No. 100-214—makes it clear that the pricing objectives of the corporation shall be to recover costs and to generate profits. The committee report accompanying S. 1846 states:

". . . (the) recovery of costs and profitability are goals of the Corporation over the long-term, but not legal requirements that must be satisfied when business conditions make their satisfaction impractical."

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The corporation needs to be explicitly exempted from section 161v. of the Atomic Energy Act; and,

Legislation establishing the new corporation needs to ensure that national security needs will be met on a priority basis.

Question 6: Under both S. 1846 and S. 2097, the Federal Government is required to contribute $300 million to the uranium mill tailings fund. What is DOE's position regarding the appropriate Federal contribution to this fund?

Answer: As a general rule, DOE does not believe that it is appropriate for the Federal Government to contribute to a fund for the cleanup of active mill tailing sites. Nevertheless, if the overall bill is acceptable, the Administration would not object as long as the Federal liabilities are explicitly limited to $300 million or 30 percent, whichever is less, concurrent with non-Federal cost sharing.

Question 7: What is DOE's position with respect to the contributions to the uranium mill tailings fund which would be made through imposition of a fee of $22 per kilogram of uranium loaded in each reactor from nuclear licensees? What is the expected annual revenue which will be derived through this fee?

Answer: The Department does not object to Title II provisions as long as the overall bill is acceptable to the Administration and the Federal contribution to financing remedial actions at active sites is explicitly limited to a total amount of no more than $300 million or 30 percent, whichever is less, concurrent with non-Federal cost-sharing and based on total cleanup costs of about $1 billion.

We would point out, however, that there is no direct relationship between the amount of uranium loaded into a reactor for future years (1989 through the year 1993) and the cleanup costs for tailings produced well before that time. This serves as the basis for establishing a $22 per kilogram fee on U.S. utilities as that industry's contribution to the cleanup of active mill tailing sites. For example, Congress established a mechanism to fund Nuclear Waste Fund activities using the proportional relationship that exists between nuclear-generated electric power and the amount of spent fuel that is generated. There is no similar rationale to support Congress as it attempts to further "tax" the utility industry and its ratepayers to help pay for performing remedial actions at active mill tailing sites.

We estimate that imposing this fee on utilities could generate between $30 and $50 million annually to fund the cleanup of active mill tailings sites. We have developed this rough estimate using the following assumptions:

105 GWe of nuclear plants expected online in 1990;

65 percent average plant capacity factor;

42 Mwd/Kg average fuel burnup; and,

32 percent thermal-to-electric conversion efficiency.

This appears to represent about a 1 mill per kilowatt assessment on nuclear-generated electric power.

Question 8: What is DOE's position with regard to the imposition of charges imposed on foreign uranium included in Title I of S. 1846?

Answer: The Administration is opposed to imposing penalties on the use of foreign uranium in domestic facilities. If import restrictions such as those contained in Title I of S. 1846 are included in legislation, the Administration would veto such legislation.

Question 9: What effect on prices and production does DOE project from an import fee such as that proposed in Title I of S. 1846?

Answer: The Energy Information Administration (EIA) has done a preliminary analysis regarding the impact of imposing charges on foreign uranium as provided for in Title I of S. 1846.

For current market conditions, the EIA projects domestic prices of uranium (in 1987 dollars) to be about $25 per pound of uranium concentrate (U308) in the early 1990's, increasing to over $30 per pound by the late 1990's.

Enactment of Title I of S. 1846 would likely increase the cost of uranium concentrate by $5 to $10 per pound in the early 1990's and over $10 per pound in the late 1990's. This represents added annual costs of between $2 and $4 million to cover the costs of higher-priced uranium used to fuel each reactor. In addition, the fee that a utility pays to purchase foreign uranium could add another $6 million to the cost of annually refueling a reactor. Therefore, we can roughly estimate that the enactment of Title I of S. 1846 could cost a utility an average of $10 million more per reactor each year if it decides to use fuel that contains foreign uranium. With over 100 reactors now in commerical operation, enacting Title I provisions can represent a $1 billion increase in the annual cost of providing nuclear-generated electricity. These costs would have to be passed on to consumers in the form of higher rates.

EIA forecasts domestic uranium production to range from 10 to 20 million pounds per year throughout the 1990's. Enactment of S. 1846 could increase total domestic uranium production about 20 percent during this 10-year period.

Question 10: What is the current price of DOE's enrichment services? Please indicate the current ceiling price provided in DOE's enrichment contracts.

Answer: DOE is currently charging $117 per SWU for the first 70 percent of a customer's requirements and $90 per SWU for the remaining 30 percent.

The current ceiling price is $119.10 per SWU. While our FY 1989 ceiling price will not be known before June 1988, our ceiling price may decrease slightly because of lower power costs.

Question 11: What are the current prices being offered by Eurodif and Urenco for spot sales of enrichment services and for long-term sales of enrichment services?

Answer: DOE's competitors do not publish their prices; rather, they negotiate prices on an individual basis. Industry sources, however, have advised us that Eurodif prices to their partners are about $190 per SWU, whereas customers in the United States may receive prices as low as $115 per SWU. Industry sources have also told us that Urenco's partners pay about $170 per SWU. These industry sources inform us that Urenco's price may be as low as $120 per SWU for sales in the United States.

We are aware of several reports of spot sales or selected offers by Eurodif and Urenco at prices of about $100 per SWU.

Question 12: Please estimate the amount of excess capacity (available capacity over contracted demand given no cancellations) for the years 1988 through 2000 at DOE, Eurodif and Urenco.

Answer: It is estimated that significant excess enrichment capacity exists. With additional supply from the capacity expansion capability from both European suppliers, the potential to absorb most of DOE's existing market is of some concern. The attached table which presents the data of excess capacity from 1988 through the year 2000, assuming there are no contract cancellations, illustrates this point.

Question 13: What is DOE's rough estimate of the uncommitted demand for enrichment services, world-wide, for the period 1988-2000?

Answer: Assuming no cancellations of existing contracts held by each of the major enrichment suppliers, i.e., DOE, Eurodif, and Urenco, an estimate of enrichment requirements which are presently uncommitted is shown in the attached table. It should be noted that DOE's existing market does not currently extend beyond 1995, and a number of Eurodif's and Urenco's existing contracts expire before the year 2000. DOE's current commitments may or may not be renewed; however, there is enough supply capacity available from non-DOE sources to satisfy a substantial portion of DOE's existing market.

Question 14: What are the estimated costs associated with cleaning up and decommissioning DOE's existing enrichment facilities?

Answer: Our preliminary estimate is that a program that involves complete decontaminating and deocmmissioning (D&D) of the existing gaseous diffusion plants could cost between $1 to $3 billion. If such a program were ever actually conducted, these costs would be allocated between the Government and commercial customers.

Estimating these costs with any precision is difficult because of uncertainties regarding potential alternative uses of each facility, the extent of the D&D work that will need to be performed, and the technologies that we will use to decommission the facilities. D&D activities will not begin until after the facilities are retired from service and an approved plan for remedial action has been put forth. We are now in the process of assessing the scope and timing of needed D&D activities as well as determining whether DOE needs to seek authorizing legislation or to revise the uranium enrichment services criteria to recover these costs in the prices we charge for enrichment services.

EXCESS ENRICHMENT CAPACITY

[Millions of SWU]

Supplier	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
DOE	8.5	7.9	5.8	5.1	4.5	4.9	5.5	5.5	3.5	4.3	4.6	2.9	2.8
Eurodif	1.2	.3	1.8	5.1	4.4	3.8	3.3	3.1	3.4	2.2	2.0	2.1	1.4
Urenco	.3	.9	.9	.8	.7	.4	.8	1.2	.7	1.0	1.2	1.6	2.0
USSR	2.1	2.3	2.2	2.0	1.9	1.8	1.8	1.9	2.1	2.1	2.1	2.1	2.3
Total	12.1	11.4	10.7	13.0	11.5	10.9	11.4	11.7	9.7	9.6	9.9	8.7	8.5
Capacity Expansion Capability													
Eurodif	1.2	1.2	1.2	1.2	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8
Urenco				0.6	1.3	2.0	2.7	3.1	3.3	3.7	3.8	4.1	4.5
Total	1.2	1.2	1.2	1.8	6.1	6.8	7.5	7.9	8.1	8.5	8.6	8.9	9.3
Total non-DOE excess capacity and capacity expansion capability	4.8	4.7	6.1	9.7	13.1	12.8	13.4	14.1	14.3	13.8	13.9	14.7	15.0

UNCOMMITTED OPERATING REQUIREMENTS

[Millions of SWU]

Region	1988–90	1991–95	1996–2000	Total
United States	1.2	6.9	57.4	65.5
Far East	0	.8	31.9	32.7
Europe	.2	1.8	11.0	13.0
Other	0	.3	.7	1.0
Total	1.4	9.8	101.0	112.2

Mr. JOHNSTON. Mr. President, what this bill is about is preserving a domestic uranium-enrichment enterprise. That is really what it is designed to do and what it does do. If Senators will keep their eyes on that bill, they will not be confused by accounting methods and all kinds of arguments about what is the amount of the "debt" owed by the uranium-enrichment enterprise, by the electric utility industry, by the nuclear industry, to the Government. Because I think you cannot satisfactorily demonstrate what the amount of unrecovered investment is. But whether you can or not, that is not the question. If we could balance the budget on the back of this uranium-enrichment enterprise, we would do it in a New York second; and we would all be glad for it because it would be a source of free money. But this is no more of a cash cow than the golden goose that exists in the Treasury. It just cannot be done.

What we can do in this legislation and what we do in this legislation, Mr. President, is provide a domestic uranium-enrichment industry that will preserve the 5,205 American jobs that we have today and that will attempt to go back and increase that number of jobs.

In 1984 we had 11,582 jobs in uranium enrichment. Today we have 45 percent of what we had in 1984.

What has happened in the meantime? Well, what has happened in the meantime is that those who have wanted to balance the budget on the backs of the uranium-enrichment enterprise have run up the costs of what we call SWU's. We will be talking the rest of the day about a SWU. A SWU is a separative work unit which is a measure of an amount of work to produce enriched uranium. A SWU sells for $90 to $117.

But, in any event, by trying to balance the budget by running up the costs of a SWU, we have nearly run the DOE, which employs Americans, out of the business. That is what happened to those 6,000-odd workers. Over 6,000 workers lost and they have been lost because OMB saw a cash cow here and ran up the costs.

In fact, what we have got here today, Mr. President, is the DOE, which operates the American domestic uranium-enrichment enterprise, and charges $117 for a SWU. That same SWU is available in the international market for between $90 and $100 a SWU.

You say, how in the world is it that DOE can sell anything? How do you even retain 5,205 employees if you are selling above the world market price?

It is even a little more complicated than that because you have 10-year rolling contracts, so DOE's customers are locked in. They are locked in for 10 years and the way it works is every year they will have to say whether or not they want to extend for an extra year.

In 1982 they asked them, do you want to extend until 1992? And many of them said yes, and they did that up until 1985.

In 1985, when we were above the world market price, DOE knew that anybody was going to renew so they did not ask them for renewal for 1985, 1986, or 1987. So instead of having 10-year contracts that would go through 1997 or 1998, now all those contracts are cut off in 1995.

Moreover, there is a way to get out of existing contracts with a 10 percent per year penalty. In other words, if you are going to stop your contract 5 years ahead of time, you have a 50-percent penalty or 4 years 40 percent, 3 years 30 percent, 1 year 10 percent.

Those who would regard the uranium-enrichment enterprise as a cash cow would say that the debt is almost $9 billion—as if you are going to be able to squeeze this turnip for 9 billion dollars' worth of cash. In the first place, it is preposterous that $9 billion would be a debt or an unrecovered cost; totally preposterous, as I will explain. But if it was true, there is just no way that you can get utilities to buy uranium-enrichment services from DOE, and pay that debt. Because there is a world market.

Mr. President, we invented all this stuff, all the uranium-enrichment processes, the original gaseous diffusion technology, which still in use. It uses a tremendous amount of electricity, and it is not particularly efficient. But it will make enriched uranium as it made the bombs at Nagasaki and Hiroshima. It still can be used.

Then we came along with gas centrifuge enrichment. We invented that as well.

The gaseous diffusion process is in use up in Ohio and Kentucky; Portsmouth, OH and Paducah, KY. We have since invented an even more advanced technology called AVLIS, which is a laser driven isotope separation.

Each time we have invented a new technology, we have driven down the costs. We used to have 100 percent of the world market, we are now down to 50 percent of the world market. We only have 70 percent of the U.S. market.

We do not even have all of our own market now. We have got 70 percent of the Far East market. Only 11 percent of the West European market. And those shares are dropping like a rock.

People are waiting, indeed this very moment, to decide whether or not they are going to renew these very contracts.

They would really like to do business with the United States because they figure the United States, first of all, invented all the technology. We are a reliable supplier. We are a free country. We have been reliable in the past. If only we adopt a policy so that you do not try to balance the budget on the backs of uranium enrichment enterprise.

Electricity consumers' and utilities buy enriched uranium. In other words, if we can assure people we will be competitive, they will renew those contracts and the 5,200 jobs will remain and possibly go up, hopefully, to the 11,000 that it was in 1984.

This is not just a jobs bill. There are many reasons for wanting to be in this market. Right now we are selling 1 billion dollars' worth of enriched uranium on the world market. We could sell over $2 billion and we will, if this bill is passed, in my judgment. I think it is very clear we will. And that will, of course, help the balance of payments a great deal in addition to the 5,000 people employed.

There is every reason, Mr. President, to have a strong and viable uranium-enrichment business.

The potential market between now and 2000 could be as much as $10 billion.

Indeed, we could get those foreign sales.

Mr. President, much has been made about the amount of so-called debt. There is no debt. To have a debt, you must have a debtor and a contract. There was never any debt where the nuclear industry came in and made a deal with DOE.

What we did was starting to enriching uranium back then in 1944, maybe late 1943, as part of the nuclear weapons program to build some bombs. We did it at Oak Ridge, with the gaseous diffusion plant. We invested over $1 billion, and those were real dollars in those days; and then we started enriching uranium in the 1960's, I believe it was, for civilian nuclear reactors.

Did the civilian nuclear reactor industry agree to pay back the Government for all the bomb plutonium that was blown up at Nagasaki or Hiroshima? Mr. President, to ask the question is to answer to. Of course, it would have been absurd for them to do so. But that is what a lot of these writers, one on my own hometown newspapers, well-motivated, talking about a $1 billion debt, that is what they are talking about, about the uranium blown up and all of that equipment and everything back 40 years ago.

Obviously, that cannot be so.

If you want to know what the amount is, our calculation, for whatever relevance it is, is that there is an unrecovered cost—and really, that is what we are talking about—of $364 million. We have a detailed worksheet on that where it is explained, how much was invested, how much was recovered in costs, and what the interest rate on the unrecovered part is. For example, the interest rate in 1981 was 11.3 percent, the interest rate in 1982 was 12.3 percent. We charged interest on all that. It comes up to $364 million.

Mr. President, I ask unanimous consent that this table and explanation be placed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

I. CALCULATION OF THE UNRECOVERED COSTS OF THE URANIUM ENRICHMENT PROGRAM

The Government's cost of providing uranium enrichment services that has been incurred and not recovered—pursuant to section 161v of the Atomic Energy Act of 1954, prior to Fiscal Year 1987 is determined to be $364 million. The methodology for arriving at this figure follows.

Column I of the table below sets out the net appropriations to the uranium enrichment program. Net appropriations are defined as the difference between expenditures and revenues, from 1969, when the commercial operation of the enrichment enterprise began, through the end of Fiscal Year 1986. Expenditures consist of capital investment and operating expenses, including those costs incurred for the Gas Centrifuge Enrichment Plant in Portsmouth, Ohio. Revenues include all funds received from commercial customers from the sale of enriched uranium. This date is based on information from the Department of Energy's annual budget submissions and from the annual financial reports of the enrichment enterprise. Net appropriations at the end of Fiscal Year 1986 totaled $1.774 billion.

Column II represents revenues that would have been received from the sale of enriched uranium to the Government, if the Government had been paying the commercial price for the enrichment service. This is equal to outlays incurred in providing enrichment services for Government users. From 1969 through 1983, Government revenue is calculated by multiplying the number of separative work units (a measure of enrichment service) provided to the government by the commercial price. During this period, no appropriations were provided to government customers to pay the enrichment program for enrichment services.

From 1983 through 1986, funds were provided in appropriations bills for the separative work units produced for the government, although they were insufficient to cover expenditures. Government customers are not charged for non-cash expenditures, such as interest and depreciation, in their price for enrichment services. For these years, the difference between the amount provided in the appropriations bills and the commercial price is included in column II.

Column III, the sum of Column I and Column II, is equivalent to the net amount of money borrowed from or received by the Treasury in each year. In the years when money was borrowed from the Treasury, the amount of Column III becomes the principal upon which interest must be calculated.

The interest rates in column IV are the average long-term cost of money to the U.S. Treasury. This is documented in the financial reports of the uranium enrichment program in each year.

Interest is calculated on each amount from Column III, from the year when the money was borrowed or loaned to the end of Fiscal Year 1986, at the fixed rate in Column IV. Each year is treated as a separate "loan" from the Treasury, at a specific interest rate. Column V is the total amount owed on the "loan," principal plus interest, for each year. The total amount that has been borrowed from the Treasury since the inception of the commercial enrichment program in 1969, until the end of Fiscal Year 1986, is the sum of the yearly loans.

The unrecovered costs of the uranium enrichment enterprise under this interpretation are $364 million.

	Col.I	Col. II	Col. III	Col. IV	Col. V
Fiscal year	App. net	Rev. net	Govt rev.	Int. rate	Prin. and int.
1969	−105.7	60.0	−45.7	4.985	−104.5
1970	−89.1	60.0	−29.1	5.785	−71.6
1971	29.1	60.4	89.5	5.665	204.5
1972	−69.7	21.1	−48.6	5.242	−99.4
1973	−76.1	29.9	−46.2	5.600	−93.8
1974	302.9	22.3	325.2	6.782	714.7
1975	−79.9	34.1	−45.8	7.015	−96.6
1976	−300.0	53.0	−247.0	6.644	−470.0
1977	−507.0	116.3	−390.7	6.403	−683.0
1978	−283.8	114.3	−169.5	6.979	−290.8
1979	−91.0	121.5	30.5	8.202	53.0
1980	−204.0	109.8	−94.2	9.685	−164.0
1981	−237.5	177.3	−60.2	11.335	−103.0
1982	56.3	230.0	286.3	12.395	456.9
1983	79.8	98.2	178.0	11.050	243.8
1984	10.6	124.2	134.8	11.052	166.2
1985	300.1	90.0	−210.1	10.875	−232.9
1986	90.7	115.6	206.3	6.319	206.3
Total	−1,774.0	1,638.0	136.5		−364.0

Mr. JOHNSTON. Having described that and having put that into the Record, let me say, Mr. President, it is utterly irrelevant. Whatever it is, it belongs to the U.S. Government. The DOE belongs to the U.S. Government; the corporation created under this legislation belongs to the U.S. Government. You can say it is $1 trillion and it would be totally irrelevant, because what we should do, and what this bill does, is have a strategy whereby the price of uranium enrichment services is set at the optimum amount to not only make a profit but to optimize our markets. If you do not have any markets—you know the guy who was going broke selling apples on the street because he was charging a dollar. A guy comes along and says, "You are going broke. You are not selling any apples. Why not up your profit?"

He said, "Fine, I will double my profit. I will double the price." So he doubled the price to $2 and he still did not sell any apples.

We cannot continue to increase our price above the market price of uranium and expect to recover any debt, but we cannot say in business if we increase the price. We cannot the keep 5,200 people employed by doing that.

We are going to accept an amendment later on, Mr. President, and the distinguished Senator from Wisconsin has worked it out with us, whereby we are going to provide for stock to be held by the Treasury and at an optimum time later on, if the Congress so decides, they can sell that stock to the public and recover thereby whatever this cost of investment is, or if you want to call it a debt you can call it that. That will fully recognize the market price of not just the investment but the whole enterprise. We hope the enterprise, that is, the uranium enrichment business, will be worth a lot more by that time.

We hope that we can double our jobs, double our output, and capture more of the world market because it ought to be our market. We invented it. We are the most reliable supplier. We have the lowest factory cost. In other words, our productivity in uranium enrichment is better than anybody else in the world. It is one thing we do very well and we will continue to do better if we will adopt this market strategy.

There are a couple of other parts of this bill that I will very quickly go over, Mr. President.

We have a title dealing with mill tailings. Most of that was commingled mill tailings which are radioactive, of course, and ought to be cleaned up. We have a shared cost provision on that so that that will be done. The cost will be shared between private industry and the Government.

We have a uranium mining provision which is consistent with our trade agreement with Canada because it repeals the present law. The present law requires that you keep a healthy and viable domestic mining industry. We repeal that and provide that users of uranium may use 37.5 percent of foreign uranium without paying any tax. Then we provide a sliding scale for any amounts of foreign uranium used in excess of that percentage, and also provide for removal of that tax. Really, it is a fee for the using of it. I do not want to call it a tax because it it not a tax. It is a fee for the using of that. It is not an import fee but a fee for the use of the uranium. That also disappears in 2000.

What that will do is bring our domestic mining business back into a healthy state and once back in existence then put them on their own feet and let them compete.

Uranimum, Mr. President, I need not remind my colleagues, is an industry impressed with the public interest of the highest priority. It involves nuclear weapons as well as 20 percent of the domestic electricity business. I would hate to say what would happen if we were totally dependent on foreign, and what could be indeed unreliable, sources for our uranium for our nuclear weapons program. Canada is, of course, a good friend and they have been reliable, but we know, as in the case of New Zealand, how occasionally good friends do not sometimes walk down parallel paths in terms of policy. True independence, true sovereignty, certainly the status of being a superpower, demands that your more basic defense commodity be domestically produced.

(Mr. BUMPERS assumed the Chair.)

Mr. JOHNSTON. Mr. President, I am delighted that we have worked out most of the problem in this bill. I must say that the principal credit for this bill goes to my colleague from Kentucky, Senator Ford, who has for really longer than a few months—for years—worked on this matter; my colleague from New Mexico, Senator Domenici, who has had a long and abiding interest in this matter and who has been exceedingly helpful especially in putting together the corporate structure of this bill; and, of course, Senator McClure.

He and I traded posts as chairman and ranking member on that matter and both see the necessity for preserving not only the domestic uranium enrichment business, but the domestic mining business.

Mr. President, upon examination, I think the case for this bill is overwhelming, and I invite anyone who is concerned about this question of unrecovered costs, or call it debt if you will, to give us a chance to talk to you because I honestly believe that it is not an issue on which reasonable minds can disagree. Please understand, I think reasonable minds could disagree as to what the amount of the unrecovered cost is, because that is sort of an accounting question, and maybe it is not $364 million, although we think it is. We have laid out our figures and showed our methodology and would invite anyone to disagree with that. The real question is if it is a debt, or if it is an unrecovered cost, what is the best rate of recovery. I think the answer to that question is clear. That is to adopt a strategy to maximize your hold on the world market and not to minimize it. I yield the floor.

Mr. McCLURE addressed the chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE Mr. President, I thank the Senator from Louisiana for his statement and particularly for the credit that has been given to the distinguished Senator from Kentucky, Senator Ford, and the distinguished Senator from New Mexico, Mr. Domenici.

If work is the measure of paternity of the legislation, then Senator Domenici should be managing this bill, not I. As a matter of fact, he would be managing this bill on the floor except that as the ranking Republican on the Budget Committee, he has certain current responsibilities that require him this afternoon to be at the White House and also to confer with other Members of the Budget Committee on that measure coming to the floor.

I say that not to indicate any lack of interest on my own part or any lack of commitment or energy in bringing the bill to this point but to recognize the tremendous contributions that the Senator from New Mexico has made. I wish to recognize and honor that commitment.

I have a very brief statement at this point and then I will yield to the Senator from New Mexico.

Mr. President, the availability of competitive, domestic uranium supplies for nuclear electric power generation is critical to the provision of reliable electric supplies to American consumers. Today the Senate considers legislation to revitalize domestic uranium production and its associated enrichment industries.

Mr. President, I am pleased to join my colleagues in support of S. 2097 and amendment number 1465, which address several as-yet unresolved issues currently plaguing our uranium fuel cycle. Amendment 1465 is the text of title I of S. 1846, as reported by the Committee on Energy and Natural Resources.

Specifically, the bill and amendment together, as a package, would revitalize a severely depressed domestic uranium mining industry, would assign appropriate funding responsibilities for cleanup of active uranium mill tailing sites, and would restructure the Department of Energy's uranium enrichment enterprise in order for it to be able to function in a more businesslike and competitive manner.

In this manner, this measure will ensure adequate long-term, domestic supplies of uranium to meet the requirements of commercial nuclear power plants and the needs of the Department of Defense. In the furtherance of these purposes, S. 2097 in conjunction with the amendment 1465, contains three major initiatives. Title II creates a system for funding the reclamation of uranium mill tailings. Title III creates an independent Federal Corporation to operate the Federal enrichment program as a commercial enterprise. In addition, amendment 1465 adds a provision that reestablishes the viability of our domestic uranium mining and milling industry by imposing charges for the use of foreign uranium. Let me address each of these issues in some detail.

URANIUM MINING ISSUES

First, we have in this Nation a uranium industry that is down for the final count. Not only has production plummeted by over 75 percent in the last 5 years, but the Secretary of Energy has declared this industry to be "nonviable" for the last 3 years.

But because the Secretary was not responsive in carrying out the statutory requirements of 161v. of the Atomic Energy Act—dealing with restrictions on the enrichment of foreign uranium—the miners have sought relief in the courts. Their case was upheld in the 10th Circuit Court of Appeals, and is now pending before the Supreme Court. If the miners win in this final round, the Department will be forced to restrict its enrichment of foreign uranium, and this may bring down the entire enrichment enterprise, and the uranium industry along with it.

If, on the other hand, the miners lose in this final round, then they will surely become an extinct industry.

Neither outcome is acceptable to me, nor to the Committee on Energy and Natural Resources, and hence we offer an alternative that is embodied in amendment number 1465 which, as I mentioned earlier, is the text of title I of S. 1846 as reported by the committee, and is discussed in Senate Report 100-214.

Amendment No. 1465 would repeal section 161v, and replace it with a more acceptable and effective mechanism for sustaining a viable domestic uranium industry. It does so by discouraging the use of foreign uranium in domestic nuclear power plants via the imposition of a sliding scale of fees on excess amounts of foreign uranium. The restrictions do not place an undue hardship on our foreign customers, simply because the level of restrictions reflects current import levels. Furthermore, current contracts are grand-fathered, and the restrictions are lowered in 1995 and totally phased out by the year 2000. It is assumed that, by that time the domestic industry will have had adequate opportunity to recover the ground it has lost so badly and unfairly over the last 5 to 10 years.

Now, there are some critics of this amendment that will argue that we ought to let the free market decide the fate of this industry. To those people I would reply that the so-called free market does not, in fact, exist, especially with respect to some of our so-called friendly foreign suppliers whose industry is cleverly and indirectly supported by the Government.

Second, I would remind my colleagues that if, in fact, we lose our uranium industry through natural attrition, we should not assume that our energy security, let alone our national security, would remain secure in the hands of "friendly" trading partners. These "friendly" partners would not, as a matter of policy, supply our military needs with respect to uranium. And those "friendly" partners would not, as a matter of policy, fulfill our commercial market needs if such exports severely stressed their ability to meet their own domestic requirements.

So there are some very real, very necessary reasons to sustain a viable domestic uranium industry in this country, and I would hope my colleagues would support amendment No. 1465 when it is offered later in this debate.

UNITED STATES/CANADA FREE TRADE AGREEMENT

Before I leave this matter, I feel compelled to reconcile the approach of this amendment to the provisions of upcoming, proposed United States/Canada Free Trade Agreement.

There are some who would say at the onset that the United States/Canada Free Trade Agreement is generally unfavorable to United States interests, especially in our energy and natural resources sectors. Even the Canadian's own chief trade negotiator, Simon Reisman, is quoted as saying "The trade covered by the items we eventually agreed to are close to three-to-one in favor of Canada. * * * Our people were way ahead of them in terms of the analysis, the investigation, the facts, the methods, the procedures, the whole business. You would think that the United States was an underdeveloped country alongside us in terms of the way this negotiation went." But more importantly, our own National Governors' Association as well as other knowledgeable, concerned parties, have recognized the clear fact that this agreement treats our uranium industry unfairly.

Rather than reject the uranium provisions of the agreement out of hand, we propose a compromise that is consistent with other provisions of the agreement, wherein a phaseout of restrictions is allowed over a period of time. We see this approach taken with respect to many commodities and practices covered under the agreement, including wine, customers duties, investment limitations, automobile embargoes, log export restraints, architects' professional qualifications, and certain tariffs. All we are asking is that this phased approach be extended to uranium. At the same time, our approach does repeal section 161(v) of the Atomic Energy Act, as the United States/Canadian Free Trade Agreement would require. So we are not very far off the track with our approach, and we are anxious to speak to this issue now, before the implementing language of the Free Trade Agreement comes forward, by which time it will be too late to speak out on this particular issue.

So, in conclusion, I would ask my colleagues to view our uranium usage requirements under amendment 1465 as being compatible with the intent of the United States/Canada Free Trade Agreement, and moreover, vital to our national security interests.

URANIUM MILL TAILINGS RECLAMATION

Now, let me turn a moment to the second issue treated in S. 2097, that is, funding for uranium mill tailings reclamation. While I view this title of the bill as being the least controversial, I did want to impress upon my colleagues the importance of this title in terms of getting the reclamation job accomplished, and the fairness with which we have allocated the costs of this reclamation effort.

When Congress passed the Uranium Mill Tailings Reclamation Act of 1978, we had no idea of the extent of regulatory requirements that would be attached to the task of cleaning up mill tailing sites. In fact, we did not know anything about these regulations until just a few years ago, when the Environmental Protection Agency finally issued the regulations. The regulations turned out to be far more stringent than anyone could have imagined, and will cost nearly $1 billion to accomplish, according to DOE estimates. So we find ourselves in a situation where the industry has generated almost 200 million tons of mill tailings well before the regulations were known, at a customer price that did not and could not have reflected such exorbitant cleanup costs.

That same industry, now nearly extinct, should not and could not be held totally liable for these unanticipated costs, when it is in fact the customers who, under normal circumstances, would have paid this cost in the original price of the ore.

Title II of S. 2097 allocates the costs of this reclamation to the mining industry and its customers. The apportionment is roughly one-third miners, one-third commercial customers, and one-third the Federal Government—who was also a customer—up to a total of approximately $1 billion. Any costs above this are assigned to the miners. I think it is worth stressing that the private and Federal Government's obligations to this cleanup fund are limited and capped, so that ultimately the mining industry will be responsible for any unanticipated cost overruns associated with the cleanup activity. More importantly, I should note that the provisions of this title are vital to the accomplishment of this cleanup effort, which we would all agree is an environmentally sound objective.

Now, let me turn to the third title in S. 2097 dealing with the restructuring of our uranium enrichment enterprise.

UNITED STATES ENRICHMENT CORPORATION

Title III creates the U.S. Enrichment Corporation to manage the Federal enrichment program. The Corporation is charged to operate as a continuing, commercial enterprise, on a profitable and efficient basis.

For many years the United States had a worldwide monopoly on uranium enrichment services. For more than 20 years, the Federal Government has provided these enrichment services on a timely, reliable, and competitive basis. These services, now provided by the Department of Energy, were initially provided by the Atomic Energy Commission.

For a variety of reasons, that monopoly has been lost in the intervening years to foreign competitors. The program no longer possesses the necessary flexibility to adjust to changing international market conditions. The present situation must change. The legislation before us provides the necessary flexibility to reverse recent trends and enable the United States' enrichment services to once again be competitive. I am confident that if the restructuring which is provided for by S. 2097 can be facilitated then the United States can reestablish itself as the world's principal supplier of enrichment services.

When the United States was the sole suppliers of such services it was able to effectively promote our nonproliferation goals, preventing other countries from developing the capability to produce nuclear weapon's grade materials. If we are to continue to be effective in that regard, the United States must be able to provide foreign customers with assurances that it will continue to be a reliable, competitive supplier of enrichment services. Enactment of the legislation before us is essential in that regard.

In recent years, budgeters, as a part of efforts to balance the Federal budget, have sought to use the provision of uranium enrichment services as a potential source of Federal revenues, rather than recognize it for what it is—a service industry. Others have sought to indirectly constrain nuclear power development in the United States by raising the price paid by electric utilities for enrichment services.

Over the years the Federal Government has invested considerable funds in facilities to provide these services, which have been priced at cost, as required by law. When an attempt was made by the Atomic Energy Commission in the 1970's to price these services at higher than cost, the Congress specifically rejected the attempt.

In both 1970 and 1971, the GAO confirmed that the pricing methods employed by the Atomic Energy Commission were appropriate and in compliance with the Atomic Energy Act.

There are several different approaches that can be taken in estimating whether costs have been fully recovered or whether there exists a so-called "debt."

For example, between 1969 and 1986 total appropriations for the Federal uranium enrichment program were $18.4 billion. The program, in turn, collected $16.6 billion in revenues for services provided to defense and commercial customers. Therefore, there remains a net appropriation of $1.8 billion over this period. However, this figure includes an estimated $1.638 billion in costs incurred in the providing enrichment services to defense programs, that were not recovered and, arguably, are owed the Department of Energy as the provider of enrichment services to itself, in the capacity of a customer. If an adjustment is made for these unrecovered defense expenditures—or unrecovered costs—then the net appropriations are instead $136 million in excess of revenues. When imputed interest of $228 million is included the unrecovered Government appropriations—often characterized by others as unrecovered costs—becomes $364 million, the amount defined as debt in S. 2097.

For comparative purposes, let us look at two other approaches that are often taken to calculating unrecovered costs, which, as I will observe, do not necessarily equate to debt owed the Federal Government, but are more appropriately characterized as equity.

First, let us look at the GAO estimates that are frequently used to calculate debt. In 1988, the GAO also took the position that through 1986 the Federal Government invested $3.019 billion in its uranium enrichment facilities.

Second, let us look at the Department of Energy's estimates. The Department estimates that $3.019 billion have been invested in its uranium enrichment facilities that have so far been unrecovered. At this time, the majority of this investment consists largely of inventories of uranium, physical facilities—including gaseous diffusion facilities—the AVILIS project, and imputed interest. These are the very inventories and facilities that enable the Department of Energy to provide current enrichment services.

Rather than debt, these unrecovered costs consist of a physical, viable asset that the Federal Government which it owns and operates. This figure does not represent debt, rather it represents the equity that the Federal Government has in this asset. Under the legislation, title to these facilities would continue to reside with the Federal Government, in particular, the U.S. Enrichment Corporation. The Federal Government thus retains title to this equity.

The concept of converting this equity into debt is not consistent with generally accepted accounting procedures. Title to these facilities will not transfer from the Federal Government to someone else. The only money that the Federal Government is out of pocket is the difference between appropriations and recovered costs which have been assessed at $364 million and this amount has been appropriately defined as debt in the legislation before us. Everything else is appropriately classified as equity, which it is.

Administration of the Corporation resides in an Administrator, to be appointed by the President and confirmed by the Senate. The power of the Corporation is solely vested in the Administrator, notwithstanding any provisions of other law. However, because the committee was concerned that the Corporation have access on a continuing basis to expertise in the management and other disciplines relevant to the enrichment enterprise, S. 2097 provides for an advisory committee.

While the Corporation and the Administrator would be under the general supervision of the Secretary of Energy, the Secretary's supervision is limited to matters involving the common defense and security, health and safety, the environment, and nuclear hazard indemnification. In all other respects including all fiscal matters, such as the declaration of dividends, the Corporation would operate as an independent Federal Corporation. In particular it is intended that the Corporation be free from the restraints of budgetary and appropriations processes. It is not intended, either directly or indirectly, that any officer or employee of the executive branch—including the Director of the Office of Management and Budget and the Secretary—exercise any authority over the Administrator and that the Corporation would be free to manage its activities.

With respect to the declaration of dividends, under S. 2097, as well as the amendment that will be offered later by the Senator from Louisiana and myself, the decision of when to pay such dividends and their amount will be the exclusive decision of the Administrator.

In determining the need of the Corporation, the Administrator is required to retain such amount as are needed for the furtherance of the Corporation's functions, including, but not limited to, research and development, capital investments, and the establishment of cash reserves necessary for its purposes.

The structure of the Corporation as provided for in S. 2097 is intended to provide the Administrator maximum flexibility to operate the Corporation in a business like manner but still have some degree of accountability to the executive branch and the Congress until such time that the enterprise is privatized. In this regard, the bill provides for a report by the Administrator setting forth his recommendations for the eventual transfer of the functions and assets of the Corporation to private ownership.

Consistent with this objective, other amendments will be offered to clarify the structure of the Corporation and its budgetary treatment. For example, an amendment will be offered to clarify that the Corporation is to be self-financed. The amendment will direct the Corporation to issue stock representing the book value of its assets. This nonvoting stock will be held by the Federal Government until such time that the Congress authorizes its disposition, for example, as a part of privatization.

An amendment also will be offered to place the Corporation on budget. This amendment is in response to concerns raised by the Budget Committee.

In addition an amendment will be offered to provide for the eventual decommissioning and decontamination of the various properties of the Corporation.

Mr. President, as I stated in by opening remarks, the availability of competitive, domestic uranium supplies for nuclear electric power generation is critical to the provision of reliable electric supplies to American consumers and to meeting the needs of the Department of Defense. This measure and amendment 1465 will revitalize a severely depressed domestic uranium mining industry and would restructure the uranium enrichment activities of the Department of Energy into a Federal corporation that can function in a businesslike and competitive manner.

I urge your support for its early enactment.

Mr. President, I yield to the Senator from New Mexico 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Senator from Idaho has correctly stated the predicament I am in. We are trying to finish the budget tomorrow or the next day and the chairman and I have been asked to go down and talk to the President a little bit. Hopefully, tomorrow, even though I can spend some time on the floor, we will try to mark up the budget and the next day get it completed. So I will do my best to share this activity on the floor.

It has been a long time coming as far as the Senator from New Mexico is concerned, and let me just quickly summarize for the Senate why we have what I believe to be a very excellent three-part legislative package in an area that is very critical to the United States of America and that has been ignored for far too long.

If you started back 5 or 6 years ago and looked at the uranium enrichment business in the United States, you would find, probably for lack of a better word, I would say confusion and diminishing capability to compete and operate a very vital business called the uranium enrichment business in the United States. We had a monopoly as a government on those kinds of activities for many years in our country, and in moving from a government monopoly to furnishing services to the utility companies I can tell you that nothing but confusion ensued for about two decades, and before we finish today, or tomorrow, I will once and for all put in the Record a 25-year history of this accounting issue.

I have now researched it to the extent that every bit of legislative history that was ever written about it is now in an article, and if I cannot give it, I will share it with anyone who wants to know, but it will be in this Record so that we will not have GAO changing its mind. They ruled another way back yonder, I say to the chairman. Congress had two occasions when it was asked to change the rules to fit the current OMB interpretation of the debt, and Congress openly said no, that is not a fair treatment of what the private sector owes this Government for the enrichment business that they began to operate midway down its life. And yet we have people telling the American public that there is this huge debt, $8 or $9 billion, because somebody has decided that they would provide the rules, that they would vitiate the entire presentation of Congress heretofore twice ruled upon, and nonetheless say there is this golden goose that we ought to tap as part of the enrichment business.

So there sat an enrichment problem of high proportions. Out there in our sovereign States, because the Federal Government was the principal actor in the entire uranium business, we had a growing problem of mill tailings around our uranium mines. And so no one will think we are seeking a Federal gift here, it is estimated that 30 percent of the currently partially active-partially inactive mill site tailings around the country are the direct result of the Federal Government's monopoly days. It was their rules, their regulations; they paid for it; they set the price. So we are confirming that they ought to pay 33 percent.

We found that the utility companies were willing to sit down and talk about paying a portion of the cleanup because they, too, got into the business of buying uranium from American industry before the rules and regulations on cleanup were established. Incidentally, that did not occur until 1983. And so, obviously, the uranium mining companies, which have been going broke regularly, were going to be unable to pay for the cleanup. But the utility companies said, "We owe some of it." And we have worked some kind of real legislative compromise here by getting them to agree they will pay for a third of the cleanup. Then the uranium mining companies will pay for a third, and we have a chance at cleaning up $1 billion worth of mill tailings sitting around. You can see now where we have begun to put two pieces of the problem together. That is one. The episode on the new corporation, on which I have been pleased to work with my friend from Kentucky, Senator Ford, started some 4 years ago. It has evolved to the point where we have a bill before us which, while it will not go all the way in the direction of privatization, will set up a quasi-private, quasi-Government corporation to begin managing the uranium enrichment business in an orderly manner without hurting anyone and giving us a chance to remain competitive in a billion-dollar business that we are going to otherwise lose.

So we were able to put together working with the utility companies those two parts, and now with many interested Members of the U.S. Senate, this corporation that is in this bill to take over and manage the business. That left the third leg of the stool as the Senator from New Mexico started putting this together and it had to do with whether or not we should have a uranium mining industry.

We have had about 25 years under the Atomic Energy Act of this Nation a statutory provision saying we will have a viable uranium industry. Mr. President, Members of the Senate, there are some, including our trade ambassador who really believe that that has nothing to do with energy independence, and a viable nuclear industry in this country. And they go off and negotiate about uranium in total disregard of the fact that Congress has said, and never repealed by statute, we will have a viable industry.

So what we have done is to help the mining industry of this country with background information. We managed to have the Secretary of Energy under mandate to finally rule that we had a nonviable industry and lo and behold the courts of the United States, district and circuit within the Federal system, have granted relief to the mining companies of America saying your Government is in violation of its own laws by not doing what it should to maintain a uranium industry. That is now pending before the U.S. Supreme Court, and as my good friend, the chairman of the committee indicated, we have come forth in this bill with a repeal of that provision requiring that we have a viable industry and we have a 12-year transition rule to give us a chance to stay alive as we attempt to compete with the Canadians, Australians and the others, and I will have more to say about them, their current state of competitiveness, and their smugness at sitting off there at the extreme saying, "Don't worry, America, we will sell you uranium whenever you want it, whenever you need it."

Incidentally, I say to my friend from Louisiana, just recently the two largest producers of uranium in Canada have merged. While this bill is here on the floor, they have now merged and 50 percent of world spot market sales mining production are controlled by one company.

I remind the U.S. Senate that there has been one cartel that preceded the cartel on oil, and it was a cartel of Canadians, Australians, and others on uranium. And the United States of America just wants to be competitive. We want our mining companies to have a chance to come alive, to get into the business and provide us with some of our uranium.

When you put the three together, we have a very viable bill. For Senators who have been reading articles about the waiver on the debt, and those who have been reading about this terrible import quota that we are putting on, let me just say to all of you, the Energy Committee which is not known for the unanimity and harmony on matters nuclear voted 13 to 2 for this bill in its entirety, including the Domenici amendment which I will have to add on the floor, which I hope the committee supports and I believe they do. We did that because of jurisdictional issues, and not because of the support in our committee.

So I will return and I believe between us we can answer questions on all three major provisions of this three-pronged approach, which will revitalize our uranium industry and let it compete, which will put uranium enrichment back front and center as a viable industry, and which will permit American States to clean up the mill tailings mess that we have out there as a result of the confusion in this industry in going from Government to private sector control and ownership. I thank the distinguished ranking member for yielding. I yield the floor.

Mr. FORD. Mr. President, will the distinguished floor manager, our chairman, yield to me 4 minutes?

Mr. JOHNSTON. Mr. President, I yield 4 minutes to the distinguished Senator from Kentucky, but before I do, let me mention one other thing that we accomplished in this bill which was who would be the negotiator and work out with the TVA the amount of the demand charges. The demand charges were making up a very major part of the cost of the separative work unit, and until we had that worked out and figured out in this bill, it was very difficult to go forward. Working with the TVA, working with the industry, the Senator from Kentucky arrived at a legislative solution. That in turn was adopted by the TVA. We did not even need to put it in this bill. I think it was really a monumental accomplishment for which this Senator is grateful, and I know the whole industry is grateful.

So I yield to the Senator 4 minutes.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I thank my good friend from Louisiana, and chairman of the Energy Committee. No one has been better to work with than the Senator from Louisiana. I want to compliment my friend from Idaho Senator McClure, for his strong effort and understanding, and Senator Domenici as we have labored through this particular effort.

The staff has been magnificent. I want to say that up front instead of after the bill passes, because that takes the chance that if it passes we give them accolades; if it does not pass we might not do that. So I want to tell the staff how much I appreciate all of their hard work on both sides of the aisle, the trips they have made, the problems they have had with me personally because I wanted this, and they argued with me a little bit and I like that. Shoot, if the staff agreed with me and they rubberstamped so much, I would not have them. This side does not. So they are a joy to work with.

Let me just take a couple of items that are in addition to the detailed explanation of my distinguished colleagues.

Mr. President, I support all three titles of S. 2097. I would like to say a few words with respect to title III—U.S. Enrichment Corporation.

Mr. President, the DOE uranium enrichment enterprise is on the brink of disaster. The DOE business, as organized under the present law, is operated like a monopoly, but it is now operating in a highly competitive internal business environment.

The issue presented in S. 2097 is a very simple issue, Mr. President. Does the United States intend to stay in the enrichment business or not?

Mr. President, we should realize what we are giving up if this enterprise is not turned around and if killer amendments are adopted to S. 2097.

If not, the Congress should be honest and admit that the effort is too much—that it is better for foreign interests to furnish our uranium-enrichment services. That is the question and that is the answer if this bill does not pass.

The uranium-enrichment business is a $2.5 billion a year world market now. It will be a $3.6 billion a year market in 1996. And enrichment services revenue to DOE is $1.3 billion this year alone. It amounts to $400 million in trade, and some 4,600 jobs. It fuels our submarines and gives energy security for 17 percent of our domestic electricity.

All of this will go if our domestic enrichment enterprise collapses. That is what this bill will prevent.

It is approaching collapse if not turned around, and S. 2097 is an opportunity to turn it around. Four days of hearings held last March and May left little doubt in my opinion about that in this Senator's mind. The United States has lost 50 percent of the world market since the 1970's. If things continue as they are, DOE is in danger of losing more customers including much of the domestic electric utility market.

DOE's price is too high—$117/SWU versus $90 to $100 from the foreign competitors.

After 1995, and I make this point for a purpose, DOE projects that our foreign competitors will have over 14 million SWU capactiy and can take all of our business and any growth in the market, and this would shut us down. I was directly told by one of the largest users if things did not change, they would be forced to cancel their contracts and go to foreign markets. They were and would be forced to do that because of the cost, and we would be costing ourselves out of the market and out of customers.

Now, why is 1995 so important? We have a turnover contract with these people. They notify us this year whether they are going to continue the contract for another 9 or 10 years. The last 3 years, because of the shaky condition, they have not been asked, so we have only 7 years left under those contracts. If we are notified that they are not going to renew those contracts because they can purchase SMU's for a lot less money, then we are automatically out of the business.

So it is vitally important that we show an effort here to save this industry, so that we might be able to tell our customers and our prospective customers we are in the game as a player.

This Friday is the date that DOE must ask its customers if they are ready to continue with their contracts. So, at the end of this week, if we do not show some enthusiasm here, if we do not show a new direction, I am of the opinion that we will have a lot of triggering of contracts that will say, "No, we do not want these contracts after 1995."

This bill meets all the urgent needs, in my opinion. It converts the program to a Government corporation operating like a business, priced aggressively, to meet the market, to limit political intervention by OMB and Congress, to try to restore confidence of our customers. By all means, we need to be aggressive in this new technology that was referred to by our distinguished chairman.

All these things are important, and I hope it will be approved.

Utilities and ratepayers are threatened by a twist to turn an investment into a multibillion dollar debt.

Utilities fear that politicans will continue to drain revenues from the program and politicans—(domestic and foreign)—will continue to distort the program.

There is widespread doubt that the United States wants to stay in the enrichment business or will be a long-term supplier.

The enrichment enterprise faces stiff competition from foreign, government-backed consortia. The enterprise's efforts to meet this competition are hampered by an unwieldy and inflexible agency structure and by a statutory pricing provision that requires the Department of Energy to price enrichment services 30 to 40 percent above the world market price.

However, with this competition, we cannot guarantee that our customers will continue to be there: today's customers have someplace else to go. The Department of Energy has done an analysis of excess enrichment capacity and the capacity expansion capability of our competitors. Non-DOE excess capacity is 4.8 million separative work units [SWU]. A separative work unit, or SWU, is a measure of enrichment services. DOE's current commercial sales are at the 10 million SWU level.

Therefore, our competitiors could steal 50 percent of our business today.

But, DOE contracts are fairly firm through 1995, so I don't expect this to happen right away. However, after 1995, DOE projects that our foreign competitors will have over 14 million SWU capability and could take all of our business and any growth in the market. This would shut us down. I was directly told by one of the largest users if things did not change they would be forced to look elsewhere for SWUL's.

The 100th Congress must totally restructure the Enrichment Program to ensure that there will be a viable enrichment capability in the United States. S.2097, the legislation reported by the Energy Committee, is clearly needed.

The bill meets the following urgent needs:

Need for congressional statement that the United States intends to stay in the business.

To limit artificial costs—TVA demand charges, deficit reduction, spectre of $8.8 billion debt.

To take advantage of the fact that DOE plants are still lowest cost in the world—about $60/SWU at optimum capacity, excluding TVA demand charges and payments for deficit reduction.

To convert program to Government Corporation operating like business—price aggressively to meet market.

To limit political intervention by OMB, Congress.

To try to restore confidence of customers.

To develop AVLIS.

Mr. President, S. 2097 should pass.

Mr. President, S. 2097 and amendment 1465, offered by Senators JOHNSTON, McCLURE, DOMENICI, BINGAMAN, WALLOP, and me, are important pieces of legislation directed at addressing three problems in the uranium industry.

First, there is an ailing uranium industry that has been declared not to be viable by the Secretary of Energy for the last 3 years.

Second, there are mill tailings located in many of our Western States that have resulted from the mining of uranium. Many of these mines and mills have closed and it is now time to clean up the mess out there and prevent any environmental hazards from getting out of hand.

Finally, there is a DOE uranium enrichment enterprise which is on the brink of disaster. The DOE business is organized and operated like a monopoly, but it is now operating in a highly competitive international business environment. It is no wonder that DOE's share of the world market has fallen from 100 percent to less than 50 percent. Restructuring and providing the enterprise with a clear mandate to compete are imperative.

THE TITLE I/AMENDMENT 1465 REVITALIZATION OF THE DOMESTIC URANIUM MINING INDUSTRY IS NECESSARY FOR ENERGY AND NATIONAL SECURITY

Title I of S. 2097 and amendment 1465 repeal section 161v of the Atomic Energy Act. This section states that "to the extent necessary to maintain the viability of the domestic uranium industry" there should be restrictions on the enrichment of foreign uranium for domestic reactors. When this was written, DOE was the only supplier of enrichment services in the world. Invoking section 161v at that time would have necessarily resulted in a greater usage of domestic uranium. Today, however, if DOE could not enrich foreign uranium for domestic utilities at all, our utilities would go to our overseas competitors for their enrichment services and probably for their uranium as well. Instead of revitalizing an important industry to this Nation, current law would harm two industries. The law is obsolete and must be changed.

S. 2097 and amendment 1465 put in place for an interim period, a sliding scale of charges for the use of foreign uranium above certain levels. All restrictions expire automatically on January 1, 2001.

We believe that this is compatible with the proposed United States-Canada Free Trade Agreement. This legislation, with its gradual approach, is similar to many provisions that are proposed for other areas of the United States-Canada Trade Agreement. In fact, on December 1, 1987, 24 Senators sent a letter to the President expressing this point of view. Mr. President, I ask that a copy of this letter be placed in the RECORD.

It should also be pointed out that Canada does not sell uranium to the United States for military purposes. Therefore it is imperative that we recognize the importance of this industry to our national defense. I urge you to support amendment 1465.

A TITLE II MILL TAILINGS CLEANUP PROGRAM MUST BE ESTABLISHED

S. 2097 establishes a fund for the cleanup of mill tailings in Western States. Reimbursement from the fund is capped at $4.50 per ton. Contributions to the fund will be made by mill licensees and nuclear reactor licensees, according to a specific formula, and a Federal contribution to the fund is capped at $300 million.

This program is necessary because the Uranium Mill Tailings Radiation Control Act of 1978 did not provide for a comprehensive method of financing reclamation and remedial action at active uranium and thorium processing sites. The creation of an assured system of financing will facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites. In fairness, financing should be shared on an approximately equal basis by those parties which have shared in the benefits of uranium produced at these sites.

TITLE III RESTRUCTURES THE U.S. URANIUM ENRICHMENT ENTERPRISE AND DIRECTS IT TO COMPETE IN THE WORLD MARKET

S. 2097 establishes the U.S. Enrichment Corporation [USEC] as a Government Corporation under the Government Corporation Control Act and directs the uranium enrichment enterprise to operate as a "continuing, commercial enterprise on a profitable and efficient basis." In addition, this bill requires the USEC to pay the Treasury $364 million as the sole recovery from customers of any previously unrecovered costs of the Enrichment Program.

Uranium enrichment is a vital link in the commercial nuclear fuel cycle and in the production of fuel for nuclear submarines. Nuclear energy, which currently provides 16 percent of U.S. electric needs, is important to maintaining an adequate supply of energy at reasonable cost. Congress has consistently recognized energy and national security as strong reasons to maintain an efficient and competitive uranium enrichment capability in the United States.

Today's uranium enrichment enterprise brings in revenues of over $1 billion per year, and of that, almost 30 percent is from foreign customers. But this is in danger. Four days of hearings held last March and May in the Subcommittee on Energy Research and Development left little doubt about that in this Senator's mind.

The enrichment enterprise faces stiff competition from foreign, government-backed consortia. The enterprise's efforts to meet this competition are hampered by an unwieldy and inflexible agency structure and by a statutory pricing provision that requires the Department of Energy to price enrichment services 30 to 40 percent above the world market price. The structure under which this program now operates is appropriate to a world without competition.

However, with this competition, we can not guarantee that our customers will continue to be there: today's customers have someplace else to go. The Department of Energy has done an analysis of excess enrichment capacity and the capacity expansion capability of our competitors. Mr. President, I ask that these charts, be placed in the RECORD. Then show clearly that non-DOE excess capacity is 4.8 million separative work units [SWU's]. A separative work unit, or SWU, is a measure of enrichment services. DOE's current commerical sales are at the 10 million SWU level. Therefore, our competitors could steal 50 percent of our business today. But, DOE contracts are fairly firm through 1995, so I don't expect this to happen right away. However, after 1995, DOE projects that our foreign competitors will have over 14 million SWU capability and could take all of our business and any growth in the market. This would shut us down.

The 100th Congress must totally restructure the Enrichment Program to ensure that there will be a viable enrichment capability in the United States. S. 2097, the legislation reported by the Energy Committee is clearly needed.

S. 2097 IS NOT A BAILOUT

Some have referred to the $364 million payment to the Treasury as a bailout. This is hardly the case. The $364 million is not an arbitrary declaration of program debt; it represents the total cash cost of outlays from the U.S. Treasury to the Enrichment Program since the establishment of the program in 1969. Mr. President, I ask unanimous consent to place a table and an explanation of how this number was calculated in the RECORD.

The idea that this so-called debt may be $3 billion, or as high as $9 billion is nonsense. I do not believe, and the Energy Committee does not believe this to be the case for the following reasons.

First, the unrecovered costs merely constitute the present basis for the pricing of enrichment services. They do not constitute an actual debt that can be recovered from enrichment customers under present law. Neither the accounts of the Federal budget, nor those of the U.S. Treasury carry any "debt" for the Uranium Enrichment Program.

Second, a large component of the unrecovered costs is derived from the initial value assigned to the Enrichment Program when the program began commercial operation in 1969. For the most part, investment in these assets was originally made in the 1940's and 1950's for military purposes. Thus, it is inappropriate to try to recover these costs from the ratepayer of this country today. The value of these assets represents sunk costs which had nothing to do with the Commercial Enrichment Program.

Third, over half of the $9 billion asserted by others to be the unrecovered costs represents imputed interest. Accrual of this interest is not a matter of statutory law and is inconsistent with operation in a competitive world market. Furthermore, it does not represent actual borrowing by the Enrichment Program.

Fourth, the amount of unrecovered costs of the Enrichment Program that are represented by the book value of existing productive assets is not being lost. Rather this value for unrecovered investment will be carried forward on the books of the Corporation. As the book value is depreciated, there will be a return of the investment. Also, to the extent that the Corporation is able to return dividends to the Treasury, as directed in S. 2097, the Treasury will receive a return on these assets.

A corporation which provides profit to the taxpayers of this country is far from a bailout.

Finally, as a practical matter, it is impossible for the Enrichment Program to recover the higher estimate of unrecovered costs, and still remain competitive in the world market.

I urge you to oppose any amendment, which sets the unrecovered costs of the Enrichment Program at any level greater than the $364 million.

A commercial strategy with a clear mandate to compete must be pursued.

Today's enrichment enterprise follows traditional Government agency practices and is strongly influenced by noncommercial business objectives and decision processes. The history of the enrichment enterprise during the 1970's and the 1980's documents how this noncommercial behavior has undermined the competitiveness of the enterprise. In the early 1970's the Government sought to promote civilian nuclear power, so enrichment policies were adopted to promote it. When existing capacity was fully committed, the government stopped taking new orders and forced customers to look to foreign suppliers for enrichment services. By the late 1970's, energy security and nuclear nonproliferation became dominant national themes, and enrichment policies were fashioned to address them.

One of the consequences of the changing U.S. enrichment policy was the birth of strong and aggressive foreign competition. While it is likely that foreign suppliers would have built enrichment capacity anyway, it is doubtful that they would have built so much so quickly if the United States had not been operating under such cumbersome noncommercial practices. By 1984, the foreign competition had capitalized on U.S. policies that were inconsistent with the needs of the marketplace. U.S. market share fell from 100 percent to approximately 40 percent.

Despite DOE's attempts to pursue a commercial strategy, conflicting objectives, varied interpretations of the Atomic Energy Act and special interests create a volatile environment within which basic business issues such as pricing, reinvestment, and general management are obscured. As a result, the Uranium Enrichment Program lacks the clear mandate and structure needed to effectively manage the Enrichment Program. In addition, Congress lacks clearly defined measures of performance and solid accountability for the program.

The objectives of the enterprise must be clarified and the overall mission and appropriate business strategy be adopted. The basic strategic options for the enterprise are:

Harvest the business—deliberate Government exit from the enrichment service business, use of high prices and minimum expenditures on operations, cash-flow maximization, no investment in technology, loss of customers. Results in no assurance of domestic supply, but near-term return to the Treasury, that is, deficit reduction.

Maintain the business—competitive pricing, continue technology development, and pursue strategic market growth when financially viable. Direct efforts toward increasing business value.

Grow the business—deliberate strategy to gain market share by low prices, aggressive marketing, an accelerated technology improvement program, efforts directed toward world market dominance, potential loss leader with significant negative cash-flow.

S. 2097, adopts the middle strategy by restructuring the enrichment enterprise as a Government Corporation with a clear mandate to operate as a "continuing, commercial enterprise, on a profitable and efficient basis." In doing so, the Energy Committee expressly rejected the harvest strategy, which milks the enterprise for short-term profit at the expense of long-term viability.

A Government corporation will allow the enrichment program to compete in the world market:

In 1945, the Congress enacted the Government Corporation Control Act to govern the formation of public corporations where the provision of Government services is characterized by a buyer-seller relationship. The act has been used on numerous occasions to establish a commercial structure, owned by the Government, to conduct the business affairs of a commercially oriented enterprise. Examples include organizations such as the Federal Deposit Insurance Corporation, Export-Import Bank, Federal Savings and Loan Insurance Corporation, and Federal Prison Industries.

As Dr. Harold Seidman of the Brookings Institution, a recognized authority on Government corporations, testified on May 4, 1987, before the Senate Subcommittee on Energy Research and Development:

> There is no doubt that the Department of Energy's uranium enrichment program fully meets the prescribed criteria for the use of a government corporation. Yet the program has been denied the operating and financial flexibility accorded federal business enterprises organized as government corporations and consequently has been seriously handicapped in maintaining the United States competitive position in the world markets. Bringing the program under those systems of government financing, budgeting, accounting and auditing designed for comparable government enterprises would make possible substantial improvements in current performance and at the same time pro-

vide for more effective accountability to the Congress.

Congressional action is required to alleviate the state of confusion and conflict within the current enrichment enterprise and maximize taxpayer investment in these productive assets.

DOE supports restructuring as a Government corporation:

The Department of Energy, in testimony before the House Committee on Science, Space and Technology on March 15, 1988, testified to the following:

> The Administration has decided that the program could benefit from restructuring. The Administration has reviewed options and concluded that it would be appropriate to restructure the enterprise as a Government corporation. The Government corporation would, in some aspects, be similar to a private corporation (i.e., profitmaking). The Administration will seek congressional authorization in FY 1988 to form such a Government corporation.

In testimony before the Energy Committee on May 4, 1987, the Deputy Assistant Secretary of Energy for Uranium Enrichment testified that the objectives and advantages of restructuring are:

> Establish consensus for enrichment business regarding mission, goals & objectives.
>
> Provide stable policies & predictable prices.
>
> Assurance of long-term supply of enrichment services.
>
> Enhance value of the enterprise. Prevent loss of valuable national asset. Provide benefits to utilities, taxpayers. Improve U.S. competitive position.

Mr. President, S. 2097 fulfills these objectives.

AMENDMENT NO. 1466

(Purpose: To alter the budgetary consequences of the U.S. Enrichment Corporation)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and Mr. MCCLURE, proposes an amendment numbered 1466.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. HEFLIN). Without objection, it is so ordered.

The amendment is as follows:

In section 213 of the bill after "January 1, 1989." insert the following: "Such reimbursement shall be provided only to such extent and in such amounts as are provided in advance by appropriations Acts.".

In section 310 of the bill, strike the new section 1606 of the Atomic Energy Act and renumber the sections accordingly.

In section 310(b) of the bill in the Table of Contents strike the item "'SEC. 1606. Relationship to Federal budget." and renumber the remaining items of the Table of Contents accordingly.

In section 313 of the bill after "title.", insert the following: "For fiscal year 1989, total expenditures of the Corporation shall not exceed total receipts.".

Mr. JOHNSTON. Mr. President, this is a budget amendment. It is needed to satisfy the concerns of the Budget Committee. It reduces points of order under the Budget Act.

The amendment would place the enrichment corporation back on budget without compromising its autonomy. It is an independent entity, not subject to sequestration under Gramm-Ruddman. For 1989 expenditures, the corporation may not exceed receipts.

Finally, reimbursement and cleanup costs under title II can only be made to the extent of the amounts provided in appropriation acts. It has been agreed to by the Budget Committee, and I know of no opposition.

Mr. McCLURE. Mr. President, this is the amendment referred to in the unanimous-consent agreement setting time. It is amendment No. 1466. It was printed in the RECORD on February 23, 1988.

I know of no objection to the amendment, and I urge its adoption.

I yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1466) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1467

(Purpose: To modify application of the bill to certain pending litigation)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) for Mr. FORD proposes an amendment numbered 1467.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 310 of the bill, beginning with the words "'SEC. 1404. CERTAIN PENDING LITIGATION.—" strike everything through the words "certain enrichment services contracts." and insert in lieu thereof the following:

"'SEC. 1404. CERTAIN PENDING LITIGATION.—The Corporation may enter into or continue any contract in accordance with the provisions of this title without regard to any judgment in the proceeding pending before the United States Court of Appeals for the Tenth Circuit in Docket No. 85-2428, concerning the procedure followed by the Department in setting the terms of certain enrichment services contracts.".

Mr. JOHNSTON. Mr. President, this amendment has been agreed to. It deletes that portion of section 1404 of the bill that would settle the DOE-TVA demand charge litigation. Resolution of the dispute as part of S. 2097 is no longer necessary because, as I mentioned earlier, the parties have settled their lawsuit, using the compromise set out in section 1404 as their starting point. So it is no longer necessary as part of the bill.

I yield back the remainder of my time.

Mr. McCLURE. Mr. President, this is amendment No. 1467, identified in the unanimous-consent agreement as the Ford amendment, printed in the RECORD on February 23, 1988, on page S 1479.

Does the Senator desire to speak on the amendment?

If not, Mr. President, I urge the adoption of the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 1467) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1910

(Purpose: To clarify the capital structure of the United States Enrichment Corporation and expectations concerning returns paid to the federal government)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an amendment numbered 1910.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, after line 25, add the following and renumber the paragraphs accordingly:

"(6) To establish a corporate structure that is self-financing and would obviate the need for appropriations or other sources of government financing after enactment of this title;"

On page 54, beginning with line 19, strike all of subsection (a) through page 55 line 4, and insert the following new subsection in lieu thereof:

"(a) Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation."

On page 55, strike lines 13 through 20, insert the following new subsections, and renumber the subsections accordingly:

"(c)(1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for Fiscal Year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States; Provided, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator and the Secretary as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by federal law enacted after enactment of this title.

"(d) The Corporation shall pay into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions, including but not limited to research and development, capital investments and establishment of cash reserves."

On page 56, at line 3, beginning with "The money" strike everything through line 13 and insert in lieu thereof the following: "The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"(e) Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt, shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title."

On page 60 at line 19 add ", including an explanation of the decision to pay or not pay dividends" after "performance".

On page 74, strike section 313 (at lines 13 through 17) and renumber the sections accordingly.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the coauthors of this amendment be listed as Senators Johnston, Ford, Proxmire, McClure, and Domenici.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, this amendment was also alluded to a moment ago. It is a compromise amendment that makes avoidance of the need for Government financing a purpose of the new Corporation.

The Corporation would issue nonvoting, nonsalable stock to the Secretary of the Treasury, who would hold the stock for the United States. Management of the Corporation would remain with the Administrator and the Secretary of Energy, until and unless the stock is authorized by Congress to be sold. The stock would represent an equity investment equal to the book value of the assets transferred to the Corporation. The Corporation would pay a dividend on the stock out of earnings, unless they are needed for other corporate functions.

The stock and appurtenant rights, such as the chance of receiving dividends, together with the repayment of $364 million debt, is the sole recovery by the United States of previously unrecovered costs.

It deletes the superfluous authorization of appropriations so as not to create the impression that appropriations are expected to be made to the corporation.

It requires explanation in financial reports of the administrator's decision to pay or not to pay dividends out of earnings.

In return for these changes, the administration agrees to support S. 2097 with respect to, first, the capital structure of the corporation; second, the treatment of existing unrecovered costs of the enrichment enterprise; third, pricing; and, fourth, taxpayer equity.

The administration reserves its objections to other aspects of the corporation and the bill as a whole.

In other words, we have worked out this amendment with the administration and with Senator Proxmire, who had the amendment on unrecovered costs.

In plain language, what I just explained means that we are going to issue stock, hold it in the Treasury, and once this business becomes viable, we can sell that stock for whatever this corporation is worth—we hope at that time it will be worth a great deal—if we sell it, that money along with the $364 million representing the unrecovered costs will go to the Treasury.

It is a very prudent and proper resolution of this question because it not only returns unrecovered costs to the Treasury, but it makes this business a viable business. In the final analysis there is no recovery of profits or dividends or unrecovered costs or anything else to the Treasury unless you have a viable business. This compromise allows us to do that.

For the time being I will reserve the remainder of my time, but I think we will be able to yield it back.

Mr. McCLURE. Mr. President, I agree with the description of the amendment as stated by the distinguished chairman of the committee, the manager of the bill.

I want to go just a little further in detailing the approval of the administration with respect to this capital structure. I refer to a letter which has been written by the Director of the Office of Management and Budget, addressed to the chairman, dated March 29, 1988. After detailing the question of the so-called debt, the financing, capitalization of this production facility that we are dealing with here, Director Miller states:

> Both Congress and the Administration believe, however, that the problem is to find an equitable way to address the issue of the taxpayer's investment in the program. Perhaps there is a solution to this dilemma.
>
> The Administration believes that as a business the uranium enrichment program would benefit from privatization. Until such time as that is possible, however, the Administration agrees that an interim Government-owned corporation would allow the uranium enrichment program to be run in a more business-like way.

He then goes ahead to describe the structure as set forth in this amendment and then I quote from the letter:

> If an amendment were offered to Title III of S. 2097 covering the above capital structure, then the Administration would support this portion of the Bill. With such changes, the Administration believes that the matter of prior unrecovered Government costs would be adequately addressed and that the interest of the taxpayer would be protected.

The distinguished chairman of the committee referred to the reservations the administration has with respect to other provisions of the bill, but I think it is clear that this amendment meets the objectives as stated by the Director of OMB.

I know of no opposition to the amendment. I do hope that the amendment will be adopted.

Mr. PROXMIRE. Mr. President, I rise in support of the capital structure amendment to the Uranimum Enrichment bill. The amendment, while not perfect, is a vast improvement over the bill as reported out by the Senate Energy Committee. It provides a mechanism for the eventual recovery of the unrecovered costs identified by the General Accounting Office, Department of Energy, and Office of Management and Budget attributable to the enrichment enterprise. These sums are recouped through the sale of stock in the new Uranium Enrichment Corporation and are reflected in the Corporation's equity.

Thus the taxpayer benefits from the sale of stock and the receipt of dividends as well as from the recovery of $364 million which as transferred as debt. In addition, the bill deletes the now unnecessary language providing authorization for annual appropriations since the corporation is intended to be self-supporting.

Mr. President, when Senator Humphrey and I first looked at the issue of uranium enrichment in 1986 we wanted to maximize the return to the Treasury of unrecovered costs for the enrichment enterprise as required by section 161(v) of the Atomic Energy Act of 1954. In order to set the proper level for recovery we asked the General Accounting Office to prepare a report analyzing past enrichment enterprise data. According to the GAO, the Department had accumulated $8.8 billion of unrecovered costs under their interpretation of section 161(v). This figure drops to $3.019 billion when the Department writes off the value of unproductive assets. Thus the amendment we intended to offer would have adopted this amount for purposes of enrichment pricing.

Until the capital structure amendment was drafted, S. 2097 contained no assurances that the full $3 billion would be recovered. While the provisions of the capital structure amendment are not an absolute guarantee of such repayment, at least they move the program in the right direction since repayment to the Treasury, in the form of dividends, is one of the chief corporate functions.

In addition, I support new language requiring an annual corporation report on the nature of its profits so that the taxpayers get the best deal possible.

Mr. President, I am pleased that the committee has improved the bill and I urge the support of this amendment.

Mr. CHILES. Mr. President, I rise today to discuss the Budget Act and budget policy issues associated with S. 2097. First, let me extend my thanks to the distinguished chairman and ranking member of the Senate Energy and Natural Resources Committee for offering an amendment which brings this bill into compliance with the Budget Act. That amendment ensures that the Uranium Enrichment Corporation created by this bill will remain on-budget while preserving the much needed autonomy and flexibility the corporation will need to operate in today's competitive market.

Second, the issue of the amount of unrecovered costs the corporation would repay the Treasury has generated considerable attention. In fact, concerns over this issue have nearly swamped the larger purpose of title III of this bill.

As Chairman of the Budget Committee, I have taken a particular interest in the debate surrounding the unrecovered costs assigned to the corporation. After careful examination of the legislative history, the myriad of analyses performed on this topic and extensive consultation with the parties involved, I have come to the conclusion that the Energy Committee has taken the right approach with S. 2097. However, the bill does not go far enough in recognizing the equity component of the enterprise.

I understand that an amendment offered on behalf of the administration speaks directly to this issue. I am told the amendment would require the creation of stock in the corporation and require payment of dividends on that stock. Such an approach would assure repayment of unrecovered costs by maintaining a workable debt structure for the corporation. It also provides a reasonable expectation of return for the taxpayer.

This is a novel approach—in theory, the most workable strategy. However, it will be important for Congress to monitor its actual implementation. I have every hope and expectation that the amendment will have the desired effect. Of course, if problems arise, Congress retains the ability to respond.

This amendment is a product of long and exhaustive effort on the part of the Energy Committee and Senators PROXMIRE and HUMPHREY. I commend them on their efforts. I particularly wish to thank Senator JOHNSTON and his staff for their responsiveness to the concerns raised by the Budget Committee.

Mr. JOHNSTON. Mr. President, recently we have been involved in a great deal of controversy and misunderstanding with the administration concerning the unrecovered costs of the enrichment enterprise and how these costs would be reflected in the capital structure of the new Enrichment Corporation created by S. 2097. However, I am happy to report that reexamination has produced reconciliation at least on some fronts. After long discussion with the administration we have realized that our differences are not so great after all.

The amendment that I propose is sponsored by myself and Senators FORD, PROXMIRE, MCCLURE, DOMENICI. It would clarify various points of concern to the administration. With the changes contained in this amendment, the administration now supports the capital structure created for the new Corporation, the treatment of unrecovered costs in S. 2097 and the protection that the bill provides to the taxpayer. The administration continues to have reservations about other aspects of the management of the Corporation. But all financial issues are resolved by this amendment. For my own part I would have to say that the changes contained in this amendment are positive. They are in keeping with the intent of S. 2097. In effect, they make a good bill better.

The specific changes made by this amendment are described below.

First, in the purposes section of title III, the amendment would make it clear that the new Corporation is intended to be a self-financing entity that would not depend on annual appropriations.

Second, the amendment would clarify that the unrecovered costs of the enrichment enterprise are not being ignored by this legislation. Rather, the portion of such costs represented by the book value of the productive assets of the enterprise is being carried forward into the new Corporation as the equity component of the Corporation's capital structure.

This equity investment by the United States in the Corporation would be represented by stock. Under the amendment, the Corporation would be required to pay dividends on the stock out of any earnings of the Corporation, as a return on the Government's investment. However, earnings would not be required to be paid out in dividends if there is an overriding need for them to be retained for use in accomplishing corporate functions, such as research and development and capital investment. Of course, dividends would not be paid by the Corporation to the extent that it has no earnings.

I should mention, Mr. President, that the stock of the Corporation would have certain restrictions attached to it. Unlike ordinary stock it would have no voting rights that could be used to elect a board of directors, and indirectly, executive officers. Instead, management of the Corporation would be the responsibility of an Administrator appointed by the President, subject to supervision in certain areas by the Secretary of Energy, as currently provided in section 1501 of the bill.

Moreover, the United States would be prohibited from selling the stock until specifically authorized in Federal law. At present, I and the other sponsors of this legislation are unwilling to privatize the enrichment enterprise. It is unlikely that the Government would receive fair value from such a sale until the enterprise is placed on a more solid financial foundation. In addition, there are other practical difficulties involved in separating the enterprise from the Federal Government.

At a later time, Congress may well decide that the new Corporation should be sold to the private sector. We will have a better idea of the merits of that idea after we receive the privatization report required under section 1608 of title III. Should the decision to privatize be made, sale of the Corporation's stock will be the easiest way of accomplishing this goal. Until Congress makes that decision, however, the Corporation's stock may not be sold.

Mr. President, the amendment I am proposing would also clarify that the stock of the Corporation—including appurtenant rights—together with repayment of the $364 million debt provided in section 1506, shall constitute the only recovery by the United States of the unrecovered costs of the enrichment enterprise generated prior to enactment of this legislation. Appurtenant rights to the stock would include: First, the right to receive such dividends as the Corporation may declare; and second, the right to receive the proceeds from sale of the stock should Congress authorize privatization of the Corporation in the future.

Mr. President, this amendment would also require the Corporation to include an explanation of its decision to pay or not to pay dividends in its annual report.

Finally, Mr. President, this amendment would delete section 313 of S. 2097 which is a general authorization of appropriations to the Department of Energy and the new Corporation. Without this section, title III clearly amounts to authorizing legislation. Thus, the inclusion of section 313 creates the unfortunate misimpression, through redundancy, that future appropriations to the Corporation and the Department for purposes of carrying out title III are expected to be necessary. They are not; in fact the opposite is true.

Mr. President, with this amendment the concerns of the administration with the capital structure and other financial aspects of the new Corporation are satisfied. These changes are perfectly consistent with the Energy Committee's intent. They clarify S. 2097 in a positive way, and I believe they should be adopted.

Mr. HUMPHREY. Mr. President, in adopting the administration's proposal regarding the treatment of the unrecovered costs of the enrichment enterprise, the Senator from Louisiana improves significantly the provisions of S. 2097 pertaining to the new Enrichment Corporation. Specifically, the total financial interest of the United States in the Corporation would include the value of the assets transferred, including the opportunity to receive dividends generated from these assets and the right to receive proceeds from future sale of the Corporation, to the Corporation as well as the $364 million debt contained in the original bill. I understand that this totals in excess of $3 billion.

Mr. JOHNSTON. The Senator from New Hampshire is correct.

Mr. PROXMIRE. Mr. President, the Senator from New Hampshire and I have sought to ensure that this legislation provide a requirement for repayment of the Government's investment in the enrichment enterprise. I ask that the chairman of the Energy Committee clarify the obligation of the new Corporation regarding payment of dividends into the Treasury.

Mr. JOHNSTON. I assure the Senator from Wisconsin and the Senator from New Hampshire that under this amendment the new Corporation shall seek to maximize payment of dividends into the Treasury.

Mr. HUMPHREY. It is my understanding that implicit in the bill language is the requirement that the new Corporation shall avoid imprudent and unreasonable expenditures. In fact, an overriding need for retaining funds would likely arise, for example, when the Corporation determined that its business strategy required investments or other actions that would improve the potential profitability of the Corporation in the short or long term. Determinations of overriding need are made in the judgment of the Administrator in accordance with section 1501(c). Further, there is nothing in this legislation which would inhibit the ability of the Congress to require the Corporation to pay dividends to the Treasury if there are earnings. In any case, the Corporation shall seek to ensure a reasonable return to the Treasury.

Mr. JOHNSTON. The Senator is correct in that we cannot bind future Congresses. However, it is not our intent that Congress intervene in business decisions of the Corporation in the future. The whole point of this bill is to free the Corporation from the nonbusiness constraints so it can make profits.

Mr. PROXMIRE. In the event that the stockholders—in this case, the taxpayers—do not receive dividends, the Congress should receive a full explanation as to why the Corporation was not profitable or why it was deemed necessary to forgo payment of dividends to the Treasury.

Mr. JOHNSTON. Mr. President, the annual report required under section 1510 contains a summary of the Corporation's operating and financial performance. In presenting its report to the President, the Secretary and the Congress, the Corporation would provide a full report on this issue.

Mr. HUMPHREY. I appreciate the clarification provided by the senior Senator from Louisiana of his amendment regarding the unrecovered Government investment in the uranium enterprise. We share a common goal of strengthening the Enrichment Corporation and ensuring that the customers and not the taxpayers bear the costs associated with the enrichment of uranium for the commercial nuclear industry.

Mr. McCLURE. I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, if there are no requests to speak I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1910) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1911

(Purpose: To eliminate the treatment of uranium enrichment facilities as "production facilities" under the Atomic Energy Act with respect to the import of such enrichment facilities into the United States)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1911.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 73 at line 12 strike "import or".

Mr. JOHNSTON. Mr. President, this amendment eliminates the treatment of the enrichment facilities as "production facilities" under the Atomic Energy Act for the purpose of the import of such facilities into the United States.

Under current law, enrichment facilities are treated as production facilities for all purposes. As such, they are subject to the same stringent licensing requirements as nuclear reactors. Yet enrichment facilities involve much less radiological hazard than reactors.

For purposes other than import or export, S. 2097 already recognizes this fact and allows enrichment facilities to be licensed under the less stringent requirements of part 30 and 70 of the regulations.

Upon reflection it is apparent that there is also little reason for those wishing to import enrichment facilities into this country to have such facilities treated as "production facilities" and thus to be required to obtain a license for such import under part 110 of NRC regulations. However, under this amendment enrichment facilities would continue to be treated as "production facilities" for the purpose of export.

Export, unlike import, raises nuclear nonproliferation concerns and it is appropriate that the export of enrichment facilities should remain subject to the stringent requirements of part 110.

Mr. President, I should note that this amendment does not restrict the NRC's ability to regulate the importation of enrichment facilities. Section 312(d)(2) of S. 2097 requires the NRC to promulgate regulations to promote the common defense and security with respect to the ownership or possession of enrichment facilities and important component parts.

This language clearly allows NRC to place such regulations into effect as it believes are necessary to promote the common defense and security with respect to importation of enrichment facilities.

The only difference is that these regulations will be appropriate for regulating enrichment facilities as opposed to nuclear reactors.

So in effect, Mr. President, what this amendment does is it preserves all of the powers and all of the protections with respect to both concerns of the NRC insofar as they relate to enrichment facilities in the United States or proliferation concerns as they relate to exportation of equipment or facilities out of the United States. But it would not require the onerous licensing procedures as required of nuclear reactors under present law.

I think it is totally noncontroversial and I am prepared to yield back the remainder of my time.

Mr. McCLURE. Mr. President, the distinguished Senator from Louisiana correctly describes the amendment, as I understand it, and I would state only further that I believe this is a clarification of what we had intended in the original language of the bill. After the bill was written, there were those who looked at one of the provisions in the bill that raised some questions about its meaning. This amendment simply clarifies that meaning.

I, too, know of no opposition to the amendment, and I have no request from anyone to speak with reference to the amendment. I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1911) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, for the benefit of my colleagues, we are getting down to the last couple of amendments. There is an amendment in order by Senator REID on unrecovered costs, which may or may not be offered. There is an amendment in order by Senator HUMPHREY, which may or may not be offered.

There is an amendment relating to tax exemption of the Government's uranium enrichment program and fees for the use of foreign uranium, on which there will be a second-degree amendment by Senators EVANS and BRADLEY, which will be probably the principal undisposed of amendment, but Senator DOMENICI is at the White House.

There are two Metzenbaum amendments, one dealing with decommissioning and decontamination and one dealing with NRC licensing.

Other than those amendments, we are ready to go to third reading, but our Senators are out of pocket. So we are sending out SOS's for Senators to come in and offer their amendments.

In the meantime, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair is left in a quandary as to whether the time of the quorum call will be divided equally or not.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the quorum call be charged equally on the tax exemption of the Government uranium enrichment program amendment, which is divided between Senators JOHNSTON and McCLURE.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The clerk will now call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, a moment ago we made a mistake and struck a part of a section.

A moment ago with reference to amendment No. 1910 we inadvertently struck a section which should not have been struck, so I ask unanimous consent that on amendment 1910, which inadvertently struck section 313, it be modified to strike section 313 and insert the following in lieu thereof:

SEC. 313. For fiscal year 1989, total expenditures of the corporation shall not exceed total receipts.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. JOHNSTON. Mr. President, again I tell my colleagues we are waiting on Senators. We have disposed of the most contentious amendments save one. That is the amendment dealing with tax exemption of Government uranium corporation and fee for use of foreign uranium. Senator DOMENICI is at the White House.

Senator EVANS and Senator BRADLEY have second-degree amendments to that.

Senator METZENBAUM has two amendments and he is at another meeting.

Senator REID is supposed to be on his way to the floor.

I would think if we cannot get some Senators to the floor, we should perhaps consider putting the bill over until tomorrow. It is very hard to find where Senators are. I hesitate to go to third reading, although it is very tempting.

Mr. President, in order to restrain my temptation, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, in Las Vegas, NV, we have the greatest magical act in the world. They are called the maskers of illusion, two people by the name of Siegfried and Roy. The name of their act is called Beyond Belief.

The PRESIDING OFFICER. If the Senator will withhold, who yields time?

Mr. JOHNSTON. Mr. President, I think the Senator has a reservation on his amendment.

Mr. REID. Yes; I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator should send his amendment up in order to utilize the time.

Mr. REID. Mr. President, through you, I wonder if I can direct a question to the manager. Would he be willing to yield 10 minutes of time so I do not have to offer my amendment?

Mr. McCLURE. Will the Senator yield?

Mr. REID. Yes.

Mr. McCLURE. Is it the intention of the Senator not to offer his amendment?

Mr. REID. That is my intention at the present time.

Mr. McCLURE. I wonder if it would be possible to modify the unanimous-consent agreement to allow the Senator to speak for not to exceed 15 minutes in lieu of the time reserved for the offering of an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the unanimous-consent agreement be modified by deleting the amendment of the distinguished Senator from Nevada and, in lieu thereof, the Senator be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. I extend my appreciation to the distinguished manager.

As I said, Mr. President, in Las Vegas, NV, we have the greatest magical act in the world called Beyond

Belief, the stars of which are two people by the name of Siegfried and Roy. Well, I submit to this body today some of the magic being performed by the nuclear industry is just as much beyond belief as that act in Nevada that goes on every night at the Frontier Hotel.

Mr. President, I rise today to state my opposition to the massive giveaway of taxpayers' dollars that will take place if we approve title III of the so-called nuclear revitalization and uranium enrichment legislation now before the Senate.

Notwithstanding the assurances of the distinguished chairman of the Energy Committee I continue, as do many others, to believe that this legislation is little short of a new Government subsidy program for nuclear power companies that are already firmly ensconced in the upper echelons of the Fortune 500. Exxon, Conoco, and Anaconda are only a few that will handsomely benefit from this legislation.

The fact is that foreign and domestic nuclear utility companies agreed to reimburse the American taxpayer for the full cost of the Uranium Enrichment Program and testified in 1978 that no subsidies were needed. The Department of Energy has totally mismanaged that program to the point where the bill to the U.S. Treasury has grown to $8.8 billion. And what is the Energy Committee's response? Is it to clamp down of the Department of Energy and nuclear power companies so that this program pays its own way? No. Not quite, instead we now find legislation before the Congress to cancel the nuclear industry's debt.

I have to admit that I find it ironic that the primary justification for ramming the permanent high-level nuclear waste dump down the throats of Navadans last December was to save the Government $3 billion in site characterization costs, and now the very same people are sponsoring an $8.8 billion giveaway to some of the most prosperous companies in the Nation if not in the world. In fact, I find it more than ironic. I find it outrageous. But this is exactly the kind of incestuous relationship that has developed between the Department of Energy and the nuclear industry. Can anyone blame the people of my State who doubt that the Department of Energy will be objective in studying the proposed Nevada dump site which the nuclear industry wants approved so badly?

Further, should this bill pass as presently written, the Federal Government will have squandered the billions of dollars that it has spent to corner the market for a valuable energy commodity for the next 10 years. Not only will it have squandered billions, it will force the Treasury to give up new moneys. Unilaterally giving up the monopoly on uranium enrichment could cost the taxpayers, it is estimated by many, another $30 billion.

This "privatization" initiative would do even more to deny the Government funds that rightfully belong to all Americans.

First, the bill forgives all but $364 million of what I contend is an $8.8 billion debt owed to the Treasury by foreign and domestic nuclear utilities.

Second, the legislation authorizes the Department of Energy to provide financial assistance to some of America's most profitable companies to clean up uranium mill tailings sites that have been allowed to fester as open sores on the landscape of the West since the early days of nuclear power.

Third, it transfers all assets of the Uranium Enrichment Program to a new corporation but leaves the U.S. Government holding the bag for all of the liabilities incurred by that program. The wholly owned Government corporation that would be established would not be required to recover its costs as the law now requires the program under the Department of Energy. Among the liabilities left to the Treasury are the tremendously expensive costs of decommissioning and decontamination of the enrichment facilities. Another nuclear cleanup, the brunt of which will be borne, as usual, by the American taxpayers.

To my mind, this legislation is a totally inappropriate response to yet another example of gross mismanagement and ineptitude by the Department of Energy. If we are ever to achieve a balanced budget and not jeopardize the futures of my children and their children, we must stop the kind of abuses that I believe are contained in this legislation. To give away or to forgive billions of dollars to already profitable companies and to foreign governments is a travesty.

I supported the attempt by Senator PROXMIRE and, I believe, Senator HUMPHREY, to attempt to recover some of the costs of uranium enrichment.

There has been a compromise reached, and I talked to various people, including staff people who worked on this compromise. I still submit that the original amendment is appropriate and was appropriate. I am aware that the amendment would not pass. I am not going to offer the amendment.

I am going to, however, in my form of protest, vote against this bill with or without the stronger language of cost recovery. I do this because I truly believe, as I indicated in my opening statement, that this is a form of magic that will not benefit the people of this country.

I will vote against this boondoggle and I hope that many of my colleagues will join with me in putting the American taxpayer ahead of the mismanagement of the Department of Energy and the greed of the nuclear industry.

I yield back the remainder of my time.

Mr. JOHNSTON addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Nevada for his cooperative attitude on this matter. The Senator from Wisconsin [Mr. PROXMIRE] and others did work out a compromise with us, which has now been amended and is part of the bill that I believe satisfactorily and more appropriately deals with that question as previously explained.

I appreciate the fact the Senator from Nevada will let us move on with the bill.

Mr. President, under the unanimous-consent agreement, we are authorized to lay down amendment 1465 relating to the tax exemption of the Government uranium enrichment corporation and fees for the use of foreign uranium. That is subject to a 2-hour time limitation. There is a second-degree Evans-Bradley amendment dealing with the same subject matter which provides for a 3-hour time agreement.

What I propose is to lay down this amendment 1465, and I want to modify the amendment as well. I will ask for that unanimous consent in a moment because it will require a unanimous consent, but to explain to my colleagues, amendment 1465 deals with two matters: First, fees for the use of foreign uranium and, second, an exemption from taxation and a payment in lieu of taxes for the corporation.

What we want to do is simply strike that last proviso that gives the corporation tax-exempt status, and the reason is a very practical one: That we are advised by the distinguished Senator from Texas [Mr. BENTSEN] that this would be blue slip material with the House Ways and Means Committee if we keep that provision in. Since it is a Government corporation and the Government is paying it to itself anyway, it really is not at all essential or rather unimportant in the scheme of things. So it is certainly not necessary for our amendment.

In the initial bill that we reported out of committee, we had that provision in and struck the provision in order not to conflict with the Finance Committee. We were going to put it in as part of amendment 1465.

So this simply deletes it, not only from the bill from which it has already been deleted, but deletes it from the amendment.

So, Mr. President, I ask unanimous consent that it be in order to offer amendment 1465 at this time subject to the same time agreements as set forth in the unanimous-consent agreement but minus lines 14 through 19 on page 10 of the amendment dealing with the exemptions from Federal taxation of the corporation.

The **PRESIDING OFFICER.** Is there objection?

Mr. **DOMENICI.** Reserving the right to object, Mr. President, we need to talk to the distinguished Senator. I suggest the absence of a quorum.

The **PRESIDING OFFICER.** On whose time is the Senator suggesting the absence of a quorum?

Mr. **McCLURE.** I ask unanimous consent that the time on this quorum call be charged to both sides on the amendment.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **JOHNSTON.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **JOHNSTON.** Mr. President, there was a unanimous consent request pending, I believe, when the call for the quorum was asked for. I will repeat that, which is that it be in order to offer an amendment numbered 1465, but striking on page 10, lines 14 through 19, dealing solely with the exemption from taxation and payment in lieu of taxes of the corporation.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

Mr. **JOHNSTON.** Mr. President, I also ask unanimous consent that with respect to the same amendment, amendment No. 1465, on page 6, wherever the phrase "September 8, 1986" appears, that in lieu thereof, "September 30, 1986" be inserted, which simply extends the time of the grandfather.

The **PRESIDING OFFICER.** Is there objection to the modification?

Mr. **BRADLEY.** Mr. President, reserving my right to object, I just got a copy of the amendment. Does this relate to the 161(b) section?

Mr. **JOHNSTON.** No, it does not.

Mr. **BRADLEY.** I have no objection.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

AMENDMENT NO. 1465, AS MODIFIED

Mr. **JOHNSTON.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

Mr. **JOHNSTON.** Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The modified amendment is as follows:

In section 3 of the bill after paragraph (6) add the following and renumber the paragraphs accordingly:

"(7) the term 'domestic uranium' means—

"(A) any uranium that has been mined in the United States, unless such uranium is deemed to be foreign uranium under section 117; and

"(B) any uranium that is deemed to be domestic uranium under section 117.

"Uranium mined in the United States shall include uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in-situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

"(8) the term 'Equivalent Foreign Uranium' means the natural foreign uranium employed to produce the enriched foreign uranium included in a fuel assembly, considering the quantity of enriched uranium and the isotopic enrichment assays and tails assays ordered, and applying the Department's Standard Table of Enriching Services, or its replacement formula, plus the natural foreign uranium included in the assembly;

"(9) the term 'Equivalent Uranium' means the natural uranium employed to produce the enriched uranium included in a fuel assembly (excluding natural uranium employed through overfeeding), considering the quantity of enriched uranium and the isotopic enrichment assays ordered, and applying the Department's Standard Table of Enriching Services, or its replacement formula, plus the natural uranium included in the assembly;

"(10) the term 'foreign uranium' means (A) any uranium that has not been mined in the United States, unless such uranium is deemed to be domestic uranium under section 117; and (B) any uranium that is deemed to be foreign uranium under section 117;".

At the beginning of title I of the bill after the heading add the following and renumber the existing section accordingly:

"SEC. 110. DELETION OF SECTION 161v.

Subsection 161v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

"SEC. 111. AMENDMENT TO SECTION 170B.

Section 170B of the Atomic Energy Act of 1954, as amended, is further amended by deleting '1983' and substituting '2000', by deleting '1982' and substituting '2000', and by deleting '1992' and substituting '2011' in both places it appears.

"SEC. 112. IN GENERAL.

Any licensee of a civilian nuclear power reactor with fuel assemblies loaded after December 31, 1987, and prior to January 1, 2001, that contained foreign uranium shall be assessed and pay the charges, to be imposed and collected by the Secretary, as provided in section 123, except as provided elsewhere in this title.

"SEC. 113. CALCULATION OF CHARGES.

"(a) The charge to be imposed by the Secretary pursuant to section 112 shall be, subject to section 115, calculated upon the percentage of foreign uranium included in the aggregate of new fuel assemblies loaded into all of the civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calendar year as follows:

"$0.00/kg	on the kilograms of foreign uranium which comprise the first 37 and one-half per centum of the total weight of the uranium in new fuel assemblies loaded in such year.
"$200/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 37 and one-half per centum, but less than or equal to 55 per centum.
"$250/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 55 per centum but less than or equal to 60 per centum.
"$350/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 60 per centum but less than or equal to 70 per centum.
"$400/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 70 per centum but less than or equal to 80 per centum.
"$500/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 80 per centum.

"(b)(1) For calendar years after December 31, 1994, no charge shall be imposed on the kilograms of foreign uranium which comprise the first 50 per centum of the total weight of the uranium in new fuel assemblies loaded in such year.

"(2) There shall be no charge imposed on foreign uranium excluded from the charge by section 115. The foreign uranium excluded from the charge by section 115, shall be deemed the first foreign uranium contained in the aggregate of new fuel assemblies loaded into all of the civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calendar year for purposes of calculating the charges to be paid under this section.

"SEC. 114. CORPORATIONS OWNING MORE THAN ONE LICENSEE AND REACTORS WITH MULTIPLE OWNERS.

If a corporation owns more than one licensee, the percentage of foreign uranium which shall be considered included in new fuel assemblies loaded by each licensee owned by such corporation during a calendar year shall be the percentage of foreign uranium included in the aggregate of all new fuel assemblies loaded during such calendar year into all civilian nuclear power reactors owned by such corporation. Where a civilian nuclear power reactor is owned by more than one utility, an owner may, by mutual agreement with the other owners, elect to aggregate the pro rata share of new fuel assemblies in that plant with the pro rata shares of new fuel assemblies loaded in other civilian nuclear power reactors owned or operated by such owner.

"SEC. 115. EXCLUSION FROM CHARGE.

"(a) In making the calculation of charges required in section 113, a charge shall not be assessed on foreign uranium that is included in new fuel assemblies loaded in all civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calendar year is such uranium has been obtained under the terms of a contract for the purchase of uranium entered into prior to September 30, 1986, between the licensee or the corporation owning the licensees of such civilian nuclear reactors and the supplier, including:

"(1) such a contract under which the quantity of uranium to be purchased is fixed but with flexibility as to date of delivery; and

"(2) such a contract with a domestic supplier that allows the supplier to select the national origin of the uranium delivered.

"(b) Foreign uranium that is included in new fuel assemblies loaded into a civilian nuclear power reactor owned or operated by a licensee or the licensees owned by one corporation during any calendar year shall be subject to the charges assessed on foreign uranium if such uranium was obtained under the terms of contract executed on or after September 30, 1986, or obtained under an option which was exercised on or after September 30, 1986. The increased quantities of foreign uranium obtained under a contract executed before September 30, 1986, but that is modified or extended after that date to increase the quantity of foreign uranium delivered, shall be subject to the charges imposed by section 113.

"SEC. 116. DETERMINATION OF PERCENTAGE.

The percentage of foreign uranium that shall be deemed to be contained in the new fuel assemblies loaded in a year shall be determined by dividing the weight of Equivalent Foreign Uranium by the total weight of Equivalent Uranium in such fuel assemblies. For the purpose of this calculation, fuel loadings during refueling outages that begin in one calendar year and are completed in the following year may be counted in either year but not both.

"SEC. 117. FLAG SWAPPING.

"(a) For purposes of making the certification required under section 119 and calculating the charges imposed under this title, a characterization of the national origin of a particular lot of uranium shall be recognized as provided in this section.

"(b) If the national origin of a particular lot of uranium has not been changed from the nation in which it was mined, the nation in which such uranium was mined shall be used for purposes of making the certification required under section 119 and calculating the charges imposed under this title.

"(c) Any transaction in which a party tenders uranium having one national origin in return for receipt of uranium having a different national origin shall not be deemed to have involved a change in the national origins of the lots or uranium involved in the transaction if:

"(1) the transaction is accomplished in compliance with all applicable regulatory requirements; and

"(2) the lots of uranium involved in the transaction are held at the same location in the custody of a third party such that, in actuality or by reason of the accounting practices of the third party, the lots of uranium involved in the transaction are commingled.

"(d) If the national origin of a particular lot of uranium has been changed on or before January 1, 1986, from the nation in which it was mined, and such changed origin is shown on a DOE/NRC form 741 applicable to such uranium as of January 1, 1986, or on the first DOE/NRC form 741 executed after that date and applicable to such uranium, then the national origin of such uranium as shown on the first DOE/NRC form 741 reflecting the last change occuring on or before January 1, 1986, shall be recognized for purposes of making the certification required under section 119 and calculating the charges under this title.

"(e) If the national origin of a particular lot of uranium has been changed after January 1, 1986, from the country in which it was mined, from the national origin as shown on a DOE/NRC form 741 applicable to such uranium and recognized under subsection (d), or from a national origin recognized under this subsection prior to the change in question, such change in question shall be recognized for purposes of making the certification required under section 119 and calculating the charges owned under this title if the change was part of an exchange of national origins that:

"(1) to the best knowledge of the owner of the particular lot of uranium, involved equal quantities of uranium, calculated on an equivalent natural uranium basis, with no increase in the quantities of uranium designated as foreign and designated as domestic;

"(2) to the best knowledge of the owner of the particular lot of uranium, involved no uranium that has been loaded into a reactor, irradiated, contained in enrichment tails material or other by-product material of processing (including materials lost or unaccounted for) or materials owned by the United States Government; and

"(3) complied with all applicable regulatory requirements at the time of the exchange, including regulations promulgated under subsection (f).

"(f) The Secretary shall promulgate regulations within six months after the date of the enactment of this title that, to the extent reasonable and practicable, ensure that the purposes of this title are realized in the characterization of the national origin of uranium under this section.

"(g) For purposes of this section, the term 'uranium' shall include natural uranium and natural uranium equivalents.

"SEC. 118. DISPOSITION OF CHARGES.

The charges imposed by this title, and collected by the Secretary, shall be deposited within sixty days after the certification required in section 119 in the general fund of the Treasury of the United States as miscellaneous receipts.

"SEC. 119. CERTIFICATION.

The owner or operator of any civilian nuclear power reactor must certify to the Secretary by March 1 of each year the following information for the previous calendar year—

"(a) the total weight of uranium in new fuel assemblies loaded during such year;

"(b) the total weight of foreign uranium included in new fuel assemblies loaded during such year;

"(c) the total weight of foreign uranium included in new fuel assemblies loaded during such year which is excluded from the charge pursuant to section 115;

"(d) the total weight of domestic uranium included in new fuel assemblies loaded during such year;

"(e) the isotopic enrichment assays and tails assays employed in ordering enriched uranium used in the respective fuel assemblies during such calendar year; and

"(f) the equivalent natural uranium for each quantity of enriched uranium reported.".

In section 310 of the bill, in new section 1401(d) of the Atomic Energy Act, change the reference to "section 110" to "section 120".

Mr. DOMENICI. Mr. President, I reserve the right to object, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The amendment already has been modified, and there is no objection called for at the moment.

Mr. McCLURE. Mr. President, I ask unanimous consent that the time for the quorum call be charged equally to both sides on the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask the managers of the bill: I have two amendments which I understand are acceptable. Would they object to laying aside for 2 minutes the Domenici amendment in order that I may offer my amendment?

Mr. JOHNSTON. Mr. President, the D&D amendment would be acceptable, and I would like to reserve judgment on the other.

Mr. METZENBAUM. Pardon?

Mr. JOHNSTON. I would have no objection to the so-called decommissioning and decontamination amendment, but I would like to reserve judgment on the other one.

Mr. President, I ask unanimous consent we may temporarily lay aside the pending amendment, in order to consider an amendment by Mr. METZENBAUM on decommissioning and decontamination.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1912

(Purpose: Decontamination and decommissioning.)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) for himself, Mr. JOHNSTON, and Mr. McCLURE proposes an amendment numbered 1912.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 55, strike lines 5 through 12, and renumber the remaining subsections accordingly.

On page 59, on line 1, before "To" insert "(a)"; on line 7, after "assets," insert "decontamination and decommissioning,"; and, after line 19, insert a new subsection (b) as follows:

"(b)(1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its current customers in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning and decontamination of the various property of the Corporation, including property transferred under section 1505(a). Such costs shall be based on the point in time that such decommissioning and decontamination is undertaken and accomplished.

"(2) In order to meet the objective defined in paragraph (1), the Corporation, in consultation with the Secretary, shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) With respect to property that has been used in the production or low-assay separative work,

"(A) the cost of decommissioning and decontamination that shall be recoverable from commercial customers in prices and charges shall be in the same ratio to the total costs of decommissioning and decontaminating the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning and decontaminating such property shall be recovered in prices and charges to the Department.

"(4) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning and decontamination of such property shall be recovered in prices and charges to the Department.".

On page 72, after line 9, insert a new chapter 27, as follows:

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. (a) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the "Fund"). In accordance with section 1402(j), such account, and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(B) The Fund shall consist of—

"(i) amounts paid into it by the Corporation in accordance with section 1702; and

"(ii) any interest earned under subsection (b)(2).

"(b) ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States—

"(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) at the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within 60 days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS.—(a) When the Corporation determines that particular property should be decommissioned or decontaminated, or both, it shall in consultation with the Secretary; enter into a contract for the performance of such decommissioning and decontamination.

"(b) The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund."

"(c) Upon satisfaction of the terms and conditions of the contract entered into pursuant to subsection (a) and full payment of costs pursuant to subsection (b), the Corporation shall transfer to the Secretary all of its rights, title and interest in the particular property that is the subject of such decommissioning and decontamination contract.

Mr. METZENBAUM. Mr. President, the amendment is sent to the desk on behalf of myself and Senators JOHNSTON and MCCLURE.

This amendment requires the Enrichment Corporation proposed in this bill to set up a reserve fund to pay for the cost of decontaminating and closing down the Portsmouth, OH, and the Paducah, KY, nuclear enrichment plants.

This is an important public health and safety issue. These enrichment plants are over 30 years old. They are approaching the end of their useful lives.

When the time comes to shut them down, the cost to clean up the surrounding environment is going to be a very expensive undertaking.

According to the General Accounting Office, the cost could exceed $1 billion per plant.

As currently drafted, this bill would require the taxpayers to pick up those costs.

The taxpayers would have to shell out as much as $2 billion to clean up and close down these plants—some time within the next 10 to 20 years.

Under current law, the Department of Energy is supposed to include in its prices such amounts as are necessary to pay for the eventual decommissioning and decontamination. But the Department has not been doing so.

Again, according to the General Accounting Office report on the subject, GAO investigators were informed by a DOE official that when DOE decides to decommission the plant, then it will include the costs in its prices.

That is probably not legal.

And it does not make a bit of sense.

The Department is saying that when the decision is made to decommission the plants, it will come to Congress and ask for a taxpayer handout of $2 billion to do the job.

The taxpayers will wind up paying for a job that should have been paid for by the Department's commercial customers.

That is not an appropriate way to do business.

This amendment will require the new Enrichment Corporation to do what every other business does—to set up a reserve fund so that it can meet its liabilities when they become due.

The purpose of this bill is to revitalize the U.S. enrichment industry by permitting it to operate like any other business.

Let us do the job right. Let us make sure this business is prepared to meet its liabilities. I urge my colleagues to support the amendment.

Mr. JOHNSTON. Mr. President, this amendment deals with the problem of decommissioning and decontamination [D&D] in a more comprehensive fashion than the existing provision of S. 2097. The amendment establishes that the costs of decommissioning and decontaminating all property of the U.S. Enrichment Corporation, including the property transferred by S. 2097, are a prospective cost of doing business for the Corporation. The amendment also establishes a fund within the Corporation into which D&D costs, recovered in the Corporation's prices and charges, are to be deposited.

At this point, there is a great deal of uncertainty concerning the ultimate costs of D&D.

Applicable environmental standards are not entirely clear.

The timing of D&D is not certain.

The projected cost of particular decontamination and decommissioning actions can be projected, but not with precision.

Furthermore, the process of recovering D&D costs is not discrete. In the future, the Enrichment Corporation will be making capital investment in new plants. At the appropriate time, the D&D costs associated with these plants will have to be considered along with the D&D costs of property initially transferred to the Corporation.

In short, the process of funding the D&D costs of the Corporation's property will necessarily be an iterative one. The estimate of D&D costs that the Corporation seeks to recover will have to be periodically recalculated as provided in the amendment. At any given point, the estimated unfunded cost of D&D will constitute a prospective cost of doing business to be recovered from customers—including the Department of Energy—in prices.

Nevertheless, certain rules will apply. Section 1508 of S. 2097 provides in effect that prices to commercial customers shall be set at market levels, with the goal of recovering costs, whereas prices to the Department of Energy shall be set strictly on the basis of cost recovery. This distinction is preserved with respect to the recovery of D&D costs in the Corporation's prices.

In addition, the amendment provides that, with respect to property used in the production of low-assay separative work, the Corporation may only recover D&D costs from commercial customers and the Department in proportion to the amount of separative work that has been produced for either during the life of the property. In the case of property used solely in the production of high-assay separative work, D&D costs would only be recovered from the Department. This allocation assigns cost responsibility between the two customer classes according to historical benefits received—measured in terms of work performed.

Finally, the amendment provides for the Corporation to enter into contract for the performance of actual decommissioning and decontamination and for the Corporation to pay the D&D costs for such property out of the fund created for such purpose. After decontamination and decommissioning is performed the Corporation conveys the property to the Secretary.

Mr. President, I think this is an improvement of the bill, and we support it.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1912) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I thank the managers of the bill.

I ask unanimous consent that the pending amendment be temporarily laid aside, in order that the Senator from Ohio may offer an amendment which I understand will be accepted.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1913

(Purpose: To prohibit the suspension or modification of the application of antitrust provisions applicable to any licensee of the Perry Nuclear Powerplant, OH)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1913.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . PERRY NUCLEAR POWERPLANT ANTITRUST PROTECTIONS.—The Nuclear Regulatory Commission shall not suspend or modify the application of any antitrust provision contained in the Perry operating license No. NPF-58, as such provision applies to any licensee of the Perry Nuclear Powerplant, Unit 1.

Mr. METZENBAUM. Mr. President, I am offering an amendment which prohibits the Nuclear Regulatory Commission from lifting the antitrust conditions imposed on the utilities which are licensed to operate the Perry nuclear powerplant in Ohio.

This amendment will protect the electricity consumers in northern Ohio from unfair rate increases due to the Perry nuclear powerplant.

Under the current terms of the Perry nuclear plant license, the utilities which own Perry are required to carry power for municipal power systems [Munis] located within their service territories.

This allows these local power supply systems to shop around for the cheapest available power, providing competition to the owners of the Perry plant, thus helping to keep rates lower.

This requirement to carry power was one of several antitrust conditions imposed on Perry's owners in 1976. It was part of the deal which Perry's owners agreed in order to obtain their operating license.

These conditions have maintained competition in the sale of electricity, forcing Ohio Edison and the other utilities which own Perry to keep rates low in order to retain municipal power systems as customers.

Ohio Edison, however, has applied to the Nuclear Regulatory Commission to be relieved of these antitrust conditions.

If it were successful, the other Perry owners would presumably follow suit—like Cleveland Electric Illuminating and Toledo Edison.

That's why the city of Cleveland has filed a motion opposing the Ohio Edison application pending before the NRC. Cleveland's municipal power system is all too aware of the potentially disastrous results which would ensue if the NRC accedes to Ohio Edison's request.

Such a decision by the NRC would essentially hold all ratepayers in northern Ohio captive to the rising rates of a few utilities that own the Perry nuclear plant, which has now turned out to be very expensive.

The costs of building and operating the Perry nuclear powerplant have risen far beyond anything its owners ever anticipated. Nuclear power has not turned out to be the low cost alternative that they thought it would be.

Now those owners want to escape the consequences of an unfortunate business decision—a bad investment. They want to transfer their burden from the shareholders to the ratepayers, by getting out from under the original terms of their license.

It is quite simply unfair to deny municipal power systems the option of supplying low cost, alternative power to their customers. And the fact is, they do provide cheaper power.

On average, Ohio's municipal power systems provide power which is substantially less expensive than that sold by investor-owned utilties.

For example, public power customers in Cleveland pay approximately 20 percent less than utility customers—those served by CEI.

And that gap will only grow as more of Perry's costs are incorporated into rates.

In fact, on a statewide basis in Ohio, municipal power systems sell power that is 20 to 30 percent cheaper than power sold by investor-owned utilities.

Twenty-one cities located in Ohio Edison's service territory could face higher rates if the Ohio Edison request is approved, including Amherst, Beach City, Brewster, Columbiana, Custar, Cuyahoga Falls, Galion, Grafton, Hubbard, Hudson, Lodi, Lucas, Milan, Monroesville, Newton Falls, Niles, Oberlin, Prospect, Seville, South Vienna, Wadsworth, and Wellington.

In sum, I believe that the owners of Perry must be held to the original terms of their license, and should not be allowed to force ratepayers to shoulder the costs of their mistakes.

Mr. President, it is my understanding that this amendment is acceptable to the managers of the bill.

Mr. JOHNSTON. Mr. President, we are willing, with some reservations, to accept this amendment. It is one of those amendments where the result is good but the precedent is not particularly good.

Mr. President, this amendment would prohibit NRC from suspending or modifying antitrust provisions contained in the operating license for the Perry nuclear plant. The antitrust provisions require investor-owned licensees to wheel for municipal electric systems.

One of the Perry licensees, Ohio Edison Co., has petitioned NRC to waive the wheeling requirement as to itself. The company is currently providing wheeling to its municipal customers. Ohio Edison asserts that the NRC's antitrust concerns were based on the assumption that nuclear power would be "too cheap to meter," a presumption that has not proven true.

Ohio Edison and the affected municipalities are currently in settlement negotiations concerning the case.

This is an ongoing contested, adjudicatory proceeding before a regulatory agency. Congress occasionally directs the result of agency determination in noncontested matters. Only rarely does it legislate the decision in a contested case. Generally, this would only occur as the result of a policy initiative that has had the full benefits of hearings and committee consideration.

Here with this amendment, we would be gratuitiously interfering with agency adjudication. This is a matter committed to the NRC. Without expressing any opinion as to the merits of the controversy, why don't we let the NRC decide as they are suppose to do?

Frankly, we have spoken to the NRC, and they say the result is OK. Where the result is OK and where the Senator from Ohio wants that result, and the NRC does not object, I do not think we should let the precedent of this matter interfere. This should not be a precedent in further cases. Therefore, we will not object.

Mr. McCLURE. Mr. President, I find myself in kind of an awkward position here, because, frankly, I do not like the amendment. I am not certain that I dislike it enough to take the time of the Senate and cause the difficulties that would come if we contested the amendment. We would have to go through the effort of contesting the amendment and taking the time to do so. But I am troubled not just with the precedent.

I have been told that it is quite likely that this amendment may accomplish what NRC probably would have done in the absence of the amendment. But I am concerned about two things.

First, I do not want any implication that I approve the result, because I am not at all certain that this Senator approves the result. This deals with some questions that really ought to be litigated between parties, some of whom have already made an application before the NRC to have their rights protected in the NRC. We are short-circuiting that process, in which the people would have the opportunity, in an open forum, to present their views, present their case, and seek a resolution of it. What we are doing, instead of allowing that process to be done in the open processes before the NRC, is to step in by legislation and mandate the final result.

As I said, this very well might be what NRC would ultimately decide to do; but all the parties would have had their say in court; they would have had their opportunity to present the issue; they would have had their opportunity to debate the issues. They would have had an opportunity to have a reasoned resolution of the issues by the tribunal which we have established by law to handle those kinds of issues. There are some issues involved here.

So, to say that if we accept the amendment offered by the distinguished Senator from Ohio, we can well say this is a precedent—I would certainly wish to say that, but for the Senator from Idaho it is not a precedent. As a matter of fact, I do not like the result, or at least I am not sure I like the result. I certainly do not like the process of trying to mandate a result before the parties have had their opportunity and their day in court.

I think it is bad for us to do that, and I am more than a little bit concerned about the form of the final resolution, because I think there are some questions with respect to whether or not this is the proper resolution.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Kentucky.

Mr. FORD. Mr. President, I state on the RECORD that this Senator will not consider this as a precedent in making his decision as it relates to this subject matter in the future.

I have very, very serious reservations about the procedure here. I agree with my distinguished friend. The distinguished Senator from Louisiana said we are concerned about the precedent. It would be my judgment that this amendment could be laid out there.

If the official result is not as the Senator from Ohio wants under this amendment, then he can come back at some later date and say to his people "This is what I am going to do if the NRC does not rule as we want them to under this particular amendment."

That would be one suggestion I might have, but we are getting into an area here that we have argued a long time and the distinguished Senator from Idaho and I spent sleepless nights here trying to work out something as it related to wheeling. Here now we are saying to NRC we are going to abandon or reduce wheeling or whatever, and it is a problem I wish would not have to be made on this bill.

I yield to my friend and distinguished chairman and ask what he prefers in this particular case because he has a lot of weight with his responsibility and if his decision is approve it, then fine.

But I think we have an opportunity here to not do this subject to NRC's making the kind of judgment with the pressures being applied by the distinguished Senator from Ohio. That pressure is out there. It can be done. If NRC does not do it, then he has a right to come back and say, "They did not protect my people and I want to do something about it."

Now, the procedure is going to be eliminated, and I am worried about the procedure in the future.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I think there is a real desire to accommodate the Senator from Ohio on this committee. He is a good friend, and he is a valued member of the committee

But two of my colleagues now have spoken rather strongly on this, and the NRC has indicated that they have no intention of approving this application.

With this record having been made and with our strong intention stated to help the Senator just in case the action of NRC is not successful, I wonder if the Senator would consider withholding the amendment on this bill with the understanding that the committee will help him later on in case the NRC does not.

Mr. METZENBAUM. Might I make a countersuggestion to my friend who is a chairman of the committee and the ranking member? I would like to ask whether he would be willing to accept the amendment between now and the time the matter gets to the conference committee, and I will assume there will be a conference committee, that I perhaps may be in a position to obtain some confirmation from the NRC as to how they intend to dispose of the pending matter, and if I am concerned, and I am frank to say to the Senator I am concerned, about highly escalating rates in the northern Ohio sector. I am concerned further that there was a commitment made originally by the powerplant, and I am suggesting that he take the amendment and let me see if we cannot get some confirmation from the NRC.

The Senator just indicated that the NRC has stated to him that they do not intend to approve the application.

Mr. JOHNSTON. Not to me, but to staff.

Mr. METZENBAUM. To staff. That is even better, and that being the case, perhaps I can get them to confirm it to a Senator as well, that being me, and under those circumstances I wonder if we cannot work it out.

If the Senator will accept it and see if I can get that confirmation.

Mr. JOHNSTON. Mr. President, I am advised that this has the status of a strong rumor and not an actual statement.

Mr. McCLURE. Mr. President, if the Senator will yield, I guess the major reservation I would have with this suggestion the Senator from Ohio has made is that oftentimes when there is action pending in the Congress, particularly if it is passed in a committee or in one body of the Congress, an administrative agency will suspend any further proceedings with respect to the applications that are before it. I do not think that is what the Senator from Ohio is suggesting either.

Mr. METZENBAUM. No, just the opposite. I am suggesting that they move forward with dispatch.

Mr. McCLURE. I am not certain how we best get that accomplished because if we passed an amendment they may very well stop proceedings rather than speeding up.

Mr. METZENBAUM. I have a hunch that somehow they are monitoring what is going on on the floor here since it is not a private meeting since it is a matter concerning them and certainly the CONGRESSIONAL RECORD will speak to the debate, and I am saying here and now that if we can get confirmation, whether it is a final decision or not, that they do not intend to approve the application, I will join with the managers of the bill in urging that it be deleted in conference.

Mr. JOHNSTON. Mr. President, I think I probably misspoke myself earlier by stating as a fact that we had such confirmation from the NRC.

Staff advises me that it is more in the nature of a judgment and rumors rather than confirmation because indeed in a pending case they simply will not tell you what they are going to do.

They have not told my staff, my staff has now advised me, and they would not tell even us. We can pretty well figure out what they are going to do. I would not want to make the withdrawal of the amendment dependent on getting the NRC to say what they are going to do in a pending case because they will not tell us.

Mr. METZENBAUM. Does the manager of the bill have any idea as to when the NRC will be acting?

Mr. JOHNSTON. The staff does not know.

Mr. METZENBAUM. In a matter of this kind would it be within a week, a month, or a year?

Mr. JOHNSTON. I do not know.

Mr. McCLURE. I wonder if the Senator from Ohio could accommodate us to this extent and that would be to withdraw the amendment with the right to offer it again before we conclude the consideration of this bill on the floor, and that will give us until sometime tomorrow to perhaps run a check.

Mr. METZENBAUM. That is all right.

Under those circumstances, I am certainly pleased to be accommodating. The Senator is trying to accommodate me. I will withdraw the amendment with the understanding that I will be protected to offer the amendment at a later point.

Mr. McCLURE. I thank the Senator.

Mr. METZENBAUM. I thank the Senator.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 1465

Mr. JOHNSTON. Mr. President, the pending amendment, which is amendment 1465, puts back into the bill that portion dealing with charges for the use of foreign uranium which were taken out of the bill in order to satisfy the jurisdictional objections of the Finance Committee.

What it does is it creates a schedule of charges for the use of foreign uranium in domestic reactors not for the importation but for the use of the foreign uranium. Charges are incurred for the use of foreign uranium in excess of 37½ percent. In other words, the first 37½ percent of enriched uranium may be used in reactors without a charge, and above the 37½ percent there is a sliding fee depending upon the percentage of foreign uranium to be used.

Most of the existing contracts for the use of foreign uranium are grandfathered and the 37½-percent exemption is valid until 1994 and it is 50 percent thereafter. The charges expire in 2001. It creates rules for what we call flag-swapping between different lots of uranium and that is where uranium is foreign owned but may not physically move. So it is a complicated system that is dealt with under what we call flag-swapping.

It deletes section 161v of the Atomic Energy Act which limits enrichment of foreign uranium. That is the provision I referred to earlier that requires that we maintain a viable domestic uranium mining industry. And that provision, of course, 161v, is presently in litigation.

So, Mr. President, I think that adequately explains the amendment.

Mr. President, for the benefit of Senators, I think the following is a plan that the Senator from Idaho, Mr. McCLURE, and I would like to follow. Senator McCLURE would like to make a brief speech, maybe 10 minutes, on the pending amendment. Then we would like to put the matter over until tomorrow, subject, of course, to the majority leader's concurrence, and perhaps in the meantime lay down the Bradley-Evans amendment which has a 3-hour time agreement and start that in the morning about 9:30.

If we could do that, that would mean we would have not votes on this bill tonight and would start afresh on the Bradley-Evans amendment tomorrow.

Mr. EVANS. Mr. President, has the Domenici amendment been laid down?

Mr. McCLURE. Amendment No. 1465 has been laid down.

Mr. EVANS. The Senator from Idaho would like to make a brief speech on the opening of that.

We can lay down the amendment tonight if you wish. We were going to wait until some of the debate had occurred on behalf of the Domenici amendment or amendment 1465, but it does not make very much difference as far as we are concerned as to when we lay it down.

Mr. JOHNSTON. If the Senator would yield, I think that, frankly, all of the debate could occur on the Bradley-Evans amendment tomorrow and there are 3 hours provided on that.

Mr. McCLURE. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. McCLURE. I am trying to ascertain now whether the Senator from New Mexico also wants to make a statement on it tonight.

Mr. EVANS. That would be perfectly all right.

Would the Senator from Louisiana like us to lay down our amendment at this time or wait?

Mr. JOHNSTON. Perhaps if we could ask that you lay it down at the end of such debate as we would have tonight, so we could start afresh on it tomorrow.

Mr. EVANS. Assuming that the debate and action would not be extensive.

Mr. JOHNSTON. Of course, there is a time agreement anyway.

Mr. BRADLEY. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. BRADLEY. So it would be your intention to discuss the Domenici amendment that is now pending, time would expire on that, and the amendment of the Senator from Washington and the Senator from New Jersey would be laid down and debate on that would occur tomorrow?

Mr. JOHNSTON. Yes, that would be our desire.

Mr. BRADLEY. That is fine.

Mr. EVANS. That is fine.

Mr. JOHNSTON. We have sent for the majority leader. If he blesses our agreement, we can tell Senators there will be no further votes tonight.

Mr. McCLURE. But he has not yet done so.

Mr. JOHNSTON. That is right; he has not yet done so.

I yield the floor.

Mr. McCLURE. Mr. President, I want to speak very briefly with respect to the pending amendment and recognize that this is only the opening salvo in the longer debate which will occur when the Evans-Bradley amendment is offered.

We have in this Nation a uranium industry that is down for the final count. Not only has production plummeted by over 75 percent in the last 5 years, but the Secretary of Energy has declared this industry to be "nonviable" for the last 3 years.

But because the Secretary was not responsive in carrying out the statutory requirements of 161(v) of the Atomic Energy Act—dealing with restrictions on the enrichment of foreign uranium—the miners have sought relief in the courts. Their case was upheld in the 10th Circuit Court of Appeals, and is now pending before the Supreme Court. If the miners win in this final round, the Department will be forced to restrict its enrichment of foreign uranium, and this may bring down the entire enrichment enterprise, and the uranium industry along with it.

If, on the other hand, the miners lose in this final round, then they will surely become an extinct industry.

Neither outcome is acceptable to me, nor to the Committee on Energy and Natural Resources, and hence we offer an alternative that is embodied in amendment No. 1465. This amendment would repeal section 161(v), and replace it with a more acceptable and effective mechanism for sustaining a viable domestic uranium industry. It does so by discouraging the use of foreign uranium in domestic nuclear power plants via the imposition of a sliding scale of fees on excess amounts of foreign uranium. The restrictions do not place an undue hardship on our foreign customers, simply because the level of restrictions reflects current import levels. Furthermore, current contracts are grandfathered, and the restrictions are lowered in 1995 and totally phased out by the year 2000. It is assumed that by that time the domestic industry will have had adequate opportunity to recover the ground it has lost so badly and unfairly over the last 5 to 10 years.

Now, there are some critics of this amendment that will argue that we ought to let the free market decide the fate of this industry. To those people I would reply that the so-called free market does not, in fact, exist, especially with respect to some of our so-called friendly foreign suppliers whose industry is cleverly and indirectly supported by their governments.

Second, I would remind my colleagues that if, in fact, we lose our uranium industry through natural attrition, we should not assume that our energy security, let alone our national security, would remain secure in the hands of friendly trading partners. These friendly partners would not, as a matter of policy, supply our military needs with respect to uranium. And those friendly partners would not, as a matter of policy, fulfill our commercial market needs if such exports severely stressed their ability to meet their own domestic requirements.

So there are some very real, very necessary reasons to sustain a viable domestic uranium industry in this country, and I would hope my colleagues would support amendment No. 1465.

Before I leave this matter, I feel compelled to reconcile the approach of this amendment to the provisions of the upcoming, proposed United States/Canada Free Trade Agreement.

There are some who would say at the onset that the United States/Canada Free Trade Agreement is generally unfavorable to United States interests, especially in our energy and natural resources sectors. Even the Canadian's own chief trade negotiator, Simon Reisman, is quoted as saying "The trade covered by the items we eventually agreed to are close to three-to-one in favor of Canada. Our people were way ahead of them in terms of the analysis, the investigation, the facts, the methods, the procedures, the whole business. You would think that the United States was an underdeveloped country alongside us in terms of the way this negotiation went." But more importantly, our own National Governors' Association, as well as other knowledgeable, concerned parties, has recognized the clear fact that this agreement treats our uranium industry unfairly.

Rather than reject the uranium provisions of the agreement out of hand, we propose a compromise that is consistent with other provisions of the agreement, wherein a phaseout of restrictions is allowed over a period of time. We see this approach taken with respect to many commodities and practices covered under the agreement, including wine, customs duties, investment limitations, automobile embargoes, log export restraints, architects' professional qualifications, and certain tariffs. All we are asking is that this phased approach be extended to uranium. At the same time, our approach does repeal section 161(v) of the Atomic Energy Act, as the United States/Canadian Free Trade Agreement would require. So we are not very far off the track with our approach, and we are anxious to speak to this issue now, before the implementing language of the Free Trade Agreement comes forward, by which time it will be too late to speak out on this particular issue.

In conclusion, I would ask my colleagues to view our uranium usage requirements under amendment 1465 as being compatible with the intent of the United States/Canada Free Trade Agreement and vital to our energy and national security interests.

Mr. President, this is not the time to address the effects of the proposed Evans-Bradley amendment, but I do want to urge those Senators who will be cooperating in providing that amendment, do not try to create a win-win situation, in which 161(v) is repealed while getting the study that they envision. I would suggest to you that it is a perversion of what is intended here and I would hope that when we get around to debating that amendment, we will not have to debate also the question of repeal of 161(v).

Mr. JOHNSTON. Mr. President, under the unanimous-consent agreement, there are 2 hours provided for amendment 1465 and I think that that would have to be yielded back before the laying down of the Evans-Bradley amendment is in order.

I do not have any requests to speak on this side of the aisle on the amendment, myself. Of course, there would be ample time tomorrow on the Evans-Bradley amendments.

Does Senator DOMENICI wish to speak?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time did the Republican manager yield to the Senator from New Mexico, 10 minutes? That is all I want.

Mr. McCLURE. I yield 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. DOMENICI. Mr. President, I am hoping that Senators who are concerned with some of America's trade policies in some of the areas where the U.S. Government has not protected some of the industries in this country, that those Senators who have looked at that will listen tonight and tomorrow to the debate on the amendment that is pending, the amendment called 1465 offered by the distinguished chairman of the committee and manager of the bill and Senator McCLURE of Idaho, and I joined them.

Essentially this is an amendment that we have been working on in the committee for more than 2 years now. I would like to give a little history of why this amendment is necessary and what has happened to the uranium industry of the United States over the past 6 or 7 years.

Let me start by saying I am going to leave out all of the early history of the Atomic Energy Commission, the monopoly that the U.S. Government quite properly had in all of these areas. I am going to jump forward to a point in time when we decided that we were going to move part of this industry into the private sector and pull the Government out as rapidly as we could.

What we did, we looked out there at the world and we said: You know, uranium is a pretty important commodity. As a matter of fact, we said, it is absolutely essential for our national security. As we look around now we could add, today, an absolute essential to our energy independence.

But because it was not just any ordinary mining commodity or other commodity that we deal with foreign countries in an open market about and with regard to, we put a provision in the law that is very, very simple. It is the subject matter of this debate; a provision of the Atomic Energy Act that in essence said the following: The U.S. Government shall maintain a viable uranium industry.

We were really the world's producers of uranium. Early on, there was no concern about viability. As a matter of fact, it was truly the States of New Mexico, Wyoming, and a few others that produced uranium for America's early atomic history, American's early involvement in nuclear and atomic weapons and then the transition into atomic-powered plants and nuclear plants on the civilian side.

We had this statutory language simple and easy to understand: America shall maintain a viable uranium industry.

We began asking the Department of Energy about 6 years ago what is happening to the uranium industry in the United States? We have the Australians, the greatest off-again on-again producers of uranium in the world. They decide that they are going to be big players. Then they decide that they have policy issues with that, they are not so sure they want to supply uranium if it is going to be used for military purposes.

So they decide they are not quite sure that they want to be that big a player, but here they come beginning to sell their uranium here in the United States.

So we see kind of a lag in the nuclear industry in the United States and the American uranium industry is beginning to falter. We keep asking the Secretary of Energy year after year what about this provision: a viable American uranium industry? And just being honest with the U.S. Senate they decide that they do not care. They will not study it. They will not report on it. And we are watching hundreds and hundreds of employees being laid off, mines being closed; we are watching huge uranium investments that are there in order to supply uranium to the United States—we see them rendered for naught. They are there ready to mine and there is no uranium business to be had.

So we put a little amendment in that nobody objected to and it said: You cannot ignore this viability any longer. You have got to be honest and tell the Congress whether it is viable or not.

Lo and behold, once that is on the statute books we get a new Secretary of Energy. He is before our committee, the distinguished ranking member remembers it. We ask him only, as we confirm him, "Will you tell the truth about the uranium industry," and as he is confirmed or as we recommend his confirmation, he says "yes."

About 6 months later we get the first recognition by the Government of the United States that there is a statute around that says it is in our national interest to have a viable industry. They write a report and it says: "We have got to admit, as much as we would like to fudge, as much as we would like to not say what viability is, we really do not have a viable industry."

We got the report. It said: "America's uranium industry is dying."

Tomorrow, when we have a little more time, I will talk about our fine partners to the north, Canada, and what they are doing while all this is occurring because we are going to be hearing today: free trade, from those who would wipe out this amendment with their substitute tomorrow. We want the Senate to know what the Canadians are doing during that period of time as they begin to move into our market. But for now let us finish this very strange odyssey of a statute that says we are supposed to have an industry and an American Government that ignores it and does not care.

So, the report is forthcoming. We knew there was no viable industry. How did I know it? Five years ago we had 7,500 miners mining uranium. Today I think the number is less than 150. So the mining companies go to court and, lo and behold, the Department of Energy says: Why they will never win. After all, the Federal judges are not going to do anything about that. We have thumbed our noses at this industry and we are right, says the Department of Energy, we do not need an industry.

Even though our Government does not want to enforce the laws, we had that other third branch of Government, the courts, saying: It is as clear as the nose on your face that the statute says you have got to have an industry. So they say: "Stop importing uranium."

I want to say to the Senators that is not Senator DOMENICI's position. That is not the amendment that is before us, to stop importing uranium. But that is what the courts said because they saw no alternative.

The Department of Energy took it to the circuit court and said, "You just cannot tell us what to do." The circuit court said, "I am sorry. You are enjoined. You cannot import any more uranium because we do not have an American industry."

So they appealed to the U.S. Supreme Court.

If that is not enough insult, let me tell you what happened in the meantime. In the meantime I will tell you only the last part of the history of America and Canada and uranium.

Now, we begin negotiations on the so-called Canadian Free Trade Agreement. It is obvious to the Senator from New Mexico in all deference to our Trade Ambassador and our very good friend the Secretary of the Treasury, Jim Baker, it is obvious that they are negotiating with the Canadians and the Canadians are saying to our representatives, "Treat uranium like any other commodity in this agreement and wipe out that statute that says you are going to have a viable industry."

What do they do? They agree. They agree, even though they provided transition authority for other kinds of products.

I guess hindsight would tell me I should have expected it. The administration was reporting regularly that they were trying, desperately, to come up with a fair deal on uranium, but, frankly, since they did not care for all those months. The Canadians said, "We will always supply you with uranium. We do not only want your market; we want you to wipe out, in the Canadian Free Trade Agreement, this statute that protects your industry."

Yes, as my friend Senator McCLURE has just said, they did that. Even while the case is pending in the United States Supreme Court, they did that in the Canadian Free Trade Agreement.

Now, Mr. President, I appreciate the support of the chairman of the committee and Senator McCLURE, who have no production from uranium in their States. I appreciate his understanding and his support because I think it is predicated upon very good common sense and the wisdom of looking at what has happened to the United States when we grow dependent in areas of energy, and if you add the concern about national security you have the very profound remarks of the former chairman of the Energy Committee. As he said, we ought to provide some time for the American uranium industry to come back to life, to see if it can survive. That is what we do in our amendment.

We have a 12-year transition period when we say to the Canadians, "You can continue to export to our country. You just cannot own the whole market."

To the Australians who have part of our market, "You can continue and you can sell more."

But we have set some reasonable limits on how much they can send into our country unless they want to pay a penalty. This will permit, during this transition period, the American uranium industry to come back to life from an absolute moribund condition caused by two things. Not what the administration tells us, not what the Canadians tell us, but two things: an absolute arbitrary neglect of the law by our own Government and, second, a Canadian uranium industry that has built itself up with subsidies and protections so as to reach a point in time now when they can put us all out of business. They would sit here and say it is because they have such a superior product.

We would say to them, "Of course, while we refuse to do anything, you have built the base of your industry with subsidies and protection."

As a matter of fact, they have not even answered the question about how they have a full community surviving on the site of a uranium mine that has lower-yield uranium than those low-yield mines in America. These are mines that the Canadians laugh at us about and say they ought to be closed. They will not even tell us why theirs are still open.

We think we know why: Because they have built a protective mechanism under theirs by requiring long-term contracts for their own power industry, and when they do that they build a base of support and they will stay in business. Then they can export the excess.

Mr. President, all we are asking here is that you not wipe out that little bit of protection requiring viability and that you give us 12 years of transition in the uranium business so that we at the turn of the century can stand side by side with the Canadians. If they can beat us then and if we do not need our industry, we will say OK. But for now it seems to me what we are asking for is fair. We will explain it in more detail tomorrow as we proceed with this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, is the Senator from Idaho ready to yield back the remainder of his time?

Mr. McCLURE. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. The Senator from Idaho has 45 minutes, and the Senator from Louisiana has 27 minutes.

Mr. McCLURE. Mr. President, I know of no other Senators seeking an opportunity to speak on the pending amendment. Therefore, I am prepared to yield back the remainder of my time on this amendment.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The Senator from Washington.

AMENDMENT NO. 1914

(Purpose: To replace the domestic usage requirements in amendment No. 1465 (to S. 2097) with an investigation by the Secretary of Commerce on the impact of imports of uranium on national security under section 232 of the Trade Expansion Act of 1962)

Mr. EVANS. Mr. President, I send an amendment to the desk on behalf of myself, Mr. BRADLEY, and Mr. PACKWOOD, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself, Mr. BRADLEY, and Mr. PACKWOOD, proposes an amendment numbered 1914.

Mr. EVANS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike sections 111 through 119 in the amendment (from page 3, line 6 through page 10, line 10), and insert in lieu thereof the following:

Section 111: (a) Congress finds that—

(1) there is a possibility that the national security interest of the United States is being impaired by the current level of imports of source material from major uranium producing countries;

(2) section 170(B)(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(B)(e)) requires the Secretary of Energy to request the Secretary of Commerce to conduct an investigation under section 232 of the Trade Expansion Act of 1962, as amended, if imports of source material exceed 37.5 percent of actual or projected domestic uranium requirements for any two-year period; and

(3) the most recent data from the Energy Information Administration indicate that imports of source material as a percentage of domestic utility requirements for calendar years 1985 and 1986 were 34.4 percent and 43.8 percent, respectively, and are projected to be 29.8 percent in 1987.

(b) It is the sense of the Congress that the Secretary of Energy should request the Secretary of Commerce to conduct an investigation under section 232 of the Trade Expansion Act of 1962 with respect to source material as expeditiously as possible.

(c) In addition to the factors described in section 232(c) of the Trade Expansion Act of 1962, as amended, the Secretary of Commerce should give equal consideration in the investigation described in subsection (b) to—

(1) the current and projected levels of inventories maintained within the jurisdiction of the United States;

(2) the surge production capability of U.S. uranium producers in the event of a national emergency;

(3) the security treaties and other defense-related agreements between the United States and each major producing country; and

(4) the economic security interests of the United States in the maintenance of an open trading system, including any free trade agreement negotiated pursuant to section 102 of the Trade Act of 1974, as amended;

(d) By no later than May 1, 1988, the Secretary of Commerce should submit to the President under section 232(b) of the Trade Expansion Act of 1962 the report and recommendations of the Secretary of Commerce regarding the investigation described in subsection (b).

(e) By no later than May 15, 1988, the President shall submit such report and its recommendations, and his determination to take (or not to take) any action to adjust the level of imports based on such recommendations, to the Committees on Finance and Energy and Natural Resources in the Senate, and Committees on Interior and Insular Affairs, Energy and Commerce, and Ways and Means in the House of Representatives.

(f) For purposes of this section, the term "source material" has the meaning given to such term by section 11(2) of the Atomic Energy Act of 1954.

The PRESIDING OFFICER. Under the unanimous-consent agreement, there is a time limitation of 3 hours to be equally divided on this amendment.

Mr. EVANS. Mr. President, it is my understanding that the managers of the bill wish this amendment to be the first order of business in the morning. We will be prepared to go immediately to debate on this amendment with the opening of business in the morning, if that is the wish of the managers of the bill.

Mr. JOHNSTON. Mr. President, that is our wish.

We are sending a message to the majority leader right now to get his concurrence. If Senators do not desire to speak at this time, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I say to the majority leader that the status of the bill now is that there is one second-degree amendment pending on which there is a 3-hour time limit, and the disposition of Senators to come in at 9:30 on that unless the majority leader would like another time.

There is one other possibility of a very quick Metzenbaum amendment, and then we would go right to third reading. So that is the present status.

Mr. BYRD. Mr. President, as I understand the distinguished manager of the bill, Mr. JOHNSTON, the pending amendment before the Senate is the Evans-Bradley second-degree amendment.

Mr. JOHNSTON. The Senator is correct.

Mr. BYRD. To the pending Johnston amendment.

Mr. JOHNSTON. The Senator is correct.

Mr. BYRD. It is the proposition by the distinguished manager that the Senate go out tonight and start on the pending question at 9:30 tomorrow morning?

Mr. JOHNSTON. That is correct.

Mr. BYRD. Very well. I thank both managers. I think they have done a good piece of work today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

Mr. SIMPSON. Mr. President, I rise today to lend my strong support to the bill currently before the Senate, the "Uranium Revitalization, Tailings Reclamation, and Enrichment Act." And before I go further, Mr. President, I should like to pay a special note of appreciation at the outset to my good friend, PETE DOMENICI. His efforts on behalf of this legislation over the many years he has labored have been untiring. He has fought the battle in the trenches with perseverance and commitment, when at times the odds have been overwhelming—and I truly admire his efforts. Indeed, I am most pleased, Mr. President, to have been an original cosponsor of this legislation when it was first introduced in the 99th Congress, as well as when it was reintroduced early in this Congress, and to be able to support this legislation without reservation or hesitation today.

I also should like to express my gratitude to WENDELL FORD, JIM MCCLURE, and BENNETT JOHNSTON for their efforts in bringing this comprehensive legislative proposal through the Energy Committee and before the full Senate today. They have all done yeoman's work, at a time when their agendas have been filled with other legislative initiatives—and I appreciate their commitment to addressing the myriad issues facing our uranium industry and the nuclear fuel cycle today. Their support of this legislation reflects the truly bipartisan commitment to addressing this most critical issue.

This bill represents the culmination of 6 years of legislative effort to fashion a sound, sensible, and well-balanced program to address the challenges that we face today in the uranium industry and the nuclear fuel cycle, and to ensure that we have a healthy, competitive uranium mining and enrichment industry. This effort began in the Senate exactly 6 years ago this March 30—when we passed a provision that addressed the worsening situation in the uranium industry and that led to a statutory requirement that the administration report annually on the health of the domestic uranium industry, a provision included in the 1982-83 Nuclear Regulatory Commission authorization.

That statutory requirement led to a series of annual reports from the administration, culminating in consecutive reports for the past 3 years that have concluded that our domestic uranium industry is not viable. Indeed, Mr. President, I witnessed that situation in the most immediate and painful way—my home State, the State of Wyoming, which has been either first or second in the production of yellow cake, was wracked by the closing of mines and mills and the decline of employment from nearly 5,500 to less than 500 today, as subsidized foreign competition and skyrocketing domestic regulatory requirements dealt a "one-two" punch to an industry that is of critical importance to this country.

Following the nonviability findings, as the statute requires, the focus shifted to consideration of the remedies necessary and appropriate to implement the statutory requirement of section 161(v) of the Atomic Energy Act that we maintain a viable domestic uranium industry in this country.

Unfortunately, Mr. President, no response was forthcoming. None at all. Notwithstanding the critical importance of the uranium industry to our national security and energy security, as well as the clear and unambiguous statutory requirement that we maintain a healthy industry, the statutory requirement was simply violated with impunity and our domestic industry ignored. Because of that failure to respond, Mr. President, the uranium producers, after lengthy and time-consuming efforts to persuade the Department of Energy to take the statutorily required action, were forced as a last resort to seek relief through the courts.

And the courts have now found that the statute requires the maintenance of a healthy domestic industry, with the Federal district court and the court of appeals both ruling that the language of the statute is clear and unequivocal—in well-reasoned decisions that the Government, in one last gasp, is now seeking to overturn in the Supreme Court.

It is most unfortunate, Mr. President, that we did not all join together 3 or 4 years ago to address the undeniable problems facing the nuclear fuel cycle and the uranium industry and to provide the kind of relief that the statute requires.

We have a unique opportunity today, though, Mr. President to address at one time and in a comprehensive manner the issues that have festered for years—and that have now grown to immense proportions and pose immediate problems.

The legislation before us represents a carefully crafted, well balanced program to address these issues—to put our enrichment and uranium industries on a steady and certain path to recovery and, most importantly, to solve the entire range of problems once and for all, so that we need not legislate on this issue on an ad hoc, annual basis as we have done in the past.

The provisions in this bill have been described in thorough detail already by the floor managers, and I will not go into the specifics at this point. Before I conclude, though, Mr. President, I would like to comment on one issue in particular that the Senate will be asked to address as we proceed with the consideration of this legislation: at some point, an amendment will be offered by the leadership of the Energy Committee to restore the title 1 provisions of this bill that were reported from the Energy Committee but deleted as a result of jurisdictional objections. This amendment, which will address the issue of uranium imports and provide for a phase out of the statutory authority in section 161(v) of the Atomic Energy Act, is an essential part of this legislation—and I intend to support it wholeheartedly, and will urge my colleagues to do likewise. I will speak more at that time, Mr. President, about this issue. I thank the floor managers for yielding to me, Mr. President, and I yield the floor.

Mr. WALLOP. Mr. President, since 1973, the United States has been a country in search of an energy policy. As the world's largest producer, consumer and importer of energy, we were in desperate need of a coherent energy program. It was the OPEC challenge which finally triggered the search for a policy. However, this search has often been comical and confusing. It reached the height of folly with the passage of the National Energy Act in 1978. The purpose of this legislation was designed to protect American energy consumers from the OPEC energy cartel by discouraging American energy producers from expanding domestic production. In other words, the Congress was as effective in designing an energy policy as it now is in designing our foreign policy.

Despite the Federal laws and regulations, the American energy producers survived. In fact, we were able to find new energy reserves which presented a severe challenge to OPEC. The response has been to artificially reduce the price of oil, and crush our domestic oil producing capacity. Today, the oil industry is barely hanging on. That is one reason why I recently sponsored the Oil and Natural Gas Incentive

Equalization Act with Senator DOMENICI. That legislation would reinstate various tax incentives for energy exploration and development.

The legislation we are debating today is another aspect of our search for an energy policy. The Uranium Revitalization Act would affirm, once again, that the United States must have an uranium industry. This issue should have been settled by the Atomic Energy Act which recognized the uranium production industry as vital to our Nation's security. That act also led to the development of nuclear reactors as an energy source for powerplants. During the sixties and seventies the prediction was that nuclear energy was the resource of the future for generating electricity. After OPEC escalated the price of oil, the nuclear power industry was viewed as a major source of our future energy needs. Some argued that we would have 1,000 nuclear powerplants by the 1990's. The future of nuclear power was bright indeed.

The 1980's has been a bracing awakening for the nuclear power industry. For a variety of factors, the development of nuclear power has stalled. New plant orders have been canceled. And, what is worse for the future of the industry, mining and milling operations have virtually ceased. The problems of the industry are easily explained, but difficult to remedy.

Industry has been victimized by its own optimism. As the demand for electric energy appeared to expand on its ascending curve of 7-percent annual growth, the exploration and development of uranium stock also continued. The price for uranium exploded in the late seventies. At the same time, actual electrical power generating needs were beginning to grow in an erratic fashion. Our energy needs for the rest of this country were clearly lower than the predictions of the 1970's.

Another blow to the industry was Three Mile Island. The hysterical antinuclear campaign that erupted after the accident has virtually eliminated any rational discussion of the pros and cons of building a nuclear powerplant. And, building a powerplant has become a never-ending project. A 12-year time span for building a plant would be the norm today because of regulatory requirements. Any other type of powerplant could be built in one-third to one-half that timeframe.

The industry has been plagued by misfortune, misinformation, and miscalculation. The question arises as to whether it matters. Do we need a uranium industry? Are nuclear powerplants important to our future? For anyone concerned about our energy future, the answer to both questions is an unequivocal "Yes."

These questions were actually answered decades ago when we passed the Atomic Energy Act. That legislation includes the requirement that the uranium industry shall be maintained as a viable industry. The Congress has mandated that this industry must survive. The process is simple. The Department of Energy is required to determine annually whether the uranium mining industry is viable. If the determination is that the industry is nonviable, the solution is clear. No foreign uranium may be enriched by U.S. facilities for use in domestic powerplants. This is the so-called section 161(v) remedy.

This is a very straightforward remedy. By 1985, it was clear that the uranium industry was on a nonviable course. The collapse of commodity prices in the early eighties included a plunge in the price of uranium. At the same time, subsidized foreign production was flowing into the U.S. market. The Department of Energy dragged its feet on following the statutory requirements. Finally, legal action by the uranium producers forced the Department to make a viability determination. Not surprisingly, every determination in the past few years has been that the industry is nonviable.

Despite the rulings, no further action has been taken by the Department to ensure viability. The uranium producers sued in Federal court to force the Department to administer the law. The industry has won at every step in the process. Though several Senators, including myself, urged the Department not to continue to appeal, the case is now before the Supreme Court. Arguments may occur next month, and a decision is possible this summer. It is likely that the Supreme Court will uphold the lower courts, and require the Department to implement section 161(v).

This remedy at one time would have been an absolute solution. The U.S. Government did have a complete monopoly on uranium enrichment services. However, several European companies now provide enrichment services. About 10 percent of the United States domestic nuclear power enrichment requirements are provided by the Europeans. Thus, while 161(v) requires a 100-percent ban on enrichment of foreign ore, a small amount of foreign ore could still be used by domestic powerplants. However, the ban would be effective, since 90 percent of the ore used in powerplants would have to come from domestic production.

Those of us in the Senate who represent uranium mining States know that there is a more sensible approach to ensuring the viability of our uranium industry than this draconian fiat. Our solution is the Uranium Revitalization Act.

My colleagues who have cosponsored this bill have ably described the three major provisions of the bill. It is a coherent package that will preserve the nuclear option for our future energy needs. For instance, title III restructures and strengthens the U.S. enrichment industry. We need to modernize the facilities, and get the operation out of the bureaucratic Department of Energy. The program would become a free-standing government corporation off-budget. This title also resolves the key issue of debt owed for past enrichment services. This is a very complicated issue which has been obscured by erroneous accusations about the debt. My colleague from New Mexico, PETE DOMENICI, has done an incredible job of correctly analyzing the debt issue. The conclusion is that the owed debt is $364 million; and, it appears that the administration finally is convinced by the logic of our argument, and will accept our solution.

I just wish the administration would be as sensible on title I. This title is the heart of the matter. It would replace the 161(v) sanction. In its place, a fee charge would be applied to domestic utilities which use foreign ore in excess of a fixed percent of their total ore use. Rather than banning at the minimum 90 percent of foreign ore use, the utilities could rely on 37½ percent of foreign ore for their total ore needs. A sliding scale of charges would apply to foreign ore in excess of that amount. After 1994, utilities could use up to 50 percent foreign uranium before a fee is imposed. And, the fee would terminate after the year 2000. At the same time, the section 161(v) language would be repealed.

It is a simple, fair, and effective concept. It does not ban the use of foreign uranium, nor does the charge apply to all foreign ore. It is a much better deal for the utilities and foreign producers than exists under current law. And, our producers are confident that this phased-out program would enable them to stay on their feet and actively compete in the world market.

There is one last obstacle we face. It is the United States-Canadian Free Trade Agreement. This agreement is not law, and its approval is not assured. However, the administration and the Canadians argue that our phased-out fee program would violate the letter and the spirit of the agreement. This argument ignores the fact that the agreement does nothing about the subsidies which the Canadian Government has provided to its Government-owned uranium producers. It ignores the provisions in the agreement which provide a phase-out of other trade requirements over the same time period as the life of the title I fees. And, their arguments ignore the recent action by the Canadians to provide protection to their textile industry which is a blatant action in violation of the letter and spirit of the agreement.

This matter will not be resolved until we act on both the Uranium Revitalization Act and the Free Trade Agreement. Now is the time to proceed. I would urge the Senate to approve this legislation with the title I language.

Mr. SASSER. Mr. President, I would like to clarify, if I may, one point concerning S. 2097 with the floor manager, the Senator from Louisiana. I am concerned about the interpretation of section 1505(a)(1). I want to clarify that merely because the "facilities, real estate, improvements, and equipment related to the Oak Ridge K-25 plant in Oak Ridge, TN" are not being transferred to the new enrichment corporation, but are being retained in the ownership of the Department of Energy, that this in no way prejudices Oak Ridge in its competition for the AVLIS [atomic vapor isotope separation] technology, when and if it becomes available.

Mr. JOHNSTON. That is correct. Nothing in S. 2097 in any way prejudices Oak Ridge in its efforts to secure the AVLIS technology, when and if it is deployed.

SENATE JOINT RESOLUTION 282—PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

Mr. BYRD. Mr. President, I send to the desk a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential elections, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

> The joint resolution (S.J. Res. 282) proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential elections.

Mr. BYRD. Mr. President, I ask that the joint resolution be read the second time.

Mr. SIMPSON. Mr. President, I object.

The PRESIDING OFFICER. Is there objection? There is an objection. The resolution will be laid over 1 legislative day and will be read the second time.

ADJOURNMENT FOR 1 SECOND

Mr. BYRD. Mr. President. I ask unanimous consent that the Senate stand in adjournment for 1 second.

The PRESIDING OFFICER. Is there objection?

There being no objection, at 6:47 p.m., on Tuesday, March 29, 1988, the Senate adjourned until 6:47 p.m., the same day.

AFTER ADJOURNMENT

TUESDAY, MARCH 29, 1988

The Senate met at 6:47 p.m., pursuant to adjournment, and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME OF LEADERSHIP VITIATED

Mr. BYRD. Mr. President, I ask unanimous consent that the time for the two leaders under the standing order be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO MOTIONS OR RESOLUTIONS OVER UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over under the rule come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF CALENDAR WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be 1 minute for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL HELD AT DESK—H.R. 2819

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 2819, a bill for the relief of Tracey McFarlane, be held at the desk until the close of business on Thursday, March 31.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—H.R. 3971

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 3971, a bill to implement the Convention on the Civil Aspects of International Child Abduction be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

INJUNCTION OF SECRECY

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the treaty with Belgium on Mutual Legal Assistance in Criminal Matters (Treaty Document No. 100-16), transmitted to the Senate today by the President; that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the United States of America and the Kingdom of Belgium on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 28, 1988. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter more effectively criminal activities. The Treaty should be an effective tool to prosecute a wide variety of modern criminals including members of drug cartels, "white-collar criminals," and terrorists. The Treaty is self-executing and utilizes existing statutory authority.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: (1) the taking of testimony or statements of witnesses; (2) the provision of documents, records, and evidence; (3) the execution of requests for searches and seizures; (4) the serving of documents; and (5) the provision of assistance in locating, tracing, immobilizing, seizing, and forfeiting proceeds of crime, and restitution to the victims of crime.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, *March 29, 1988.*

SENATE JOINT RESOLUTION 282—PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

Mr. BYRD. Mr. President, has morning business been closed?

The PRESIDING OFFICER. Senate Joint Resolution 282 will be read a second time.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 282) proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional, and Presidential elections.

Mr. SIMPSON. Mr. President, I object to any further proceedings on that measure.

The PRESIDING OFFICER. Objection is heard. The joint resolution will go on the calendar pursuant to rule XIV.

BICENTENNIAL MINUTE

MARCH 12, 1959: PAINTINGS OF THE FIVE GREATEST SENATORS

Mr. DOLE. Mr. President, just 29 years ago this month, on March 12, 1959, the Senate dedicated the five porthole paintings of our "greatest" senators, that adorn the Reception Room outside this Chamber.

In part we have a 19th century painter, Constantino Brumidi, to thank for this more recent addition to the Capitol's artwork. Brumidi painted many of our rooms, particularly in the Rotunda and in the Senate wing, but because he did not want to monopolize the history portrayed in the Capitol, he left spaces to be filled in later. For instance, in the Brumidi Corridor that runs below this Chamber are recent medallion portraits of the landing of the first Americans on the moon, and a tribute to the crew of the *Challenger.*

When senators meet their visitors in the Senate Reception Room, they can view one of Brumidi's more elaborate efforts in decorating the walls and ceiling. In that room, Brumidi left 12 vacant "portholes," oval size areas, for future additions. In 1957, the Senate appointed a committee chaired by Senator John F. Kennedy, who had recently won a Pulitzer Prize for his book, "Profile in Courage," about courageous senators in our history. Kennedy's committee was assigned to choose the five greatest United States senators, to fill the lower five portholes.

Kennedy's committee had little trouble selecting the first three senators. Both the senators and their historical advisory committee unanimously chose the "great triumverate," Henry Clay, Daniel Webster, and John C. Calhoun. They had far greater trouble selecting the final three. The historians they polled selected George Norris, a Nebraska Republican, but Norris was still too controversial a figure to satisfy everyone on the committee. After much deliberation the committee chose Robert M. La Follette, Sr. and Robert A. Taft, Sr. (both Republicans) for the remaining paintings.

HOSTILE TAKEOVERS FORCE A SHORT-TERM FOCUS

Mr. SANFORD. Mr. President, I rise to speak on an issue that has been of concern to many of us for some time, but that was only recently brought into focus by a recent article in the New York Times. It involves the short-term focus that companies are forced to take when they incur huge debt as a result of hostile takeovers.

The Times tells how Pacific Lumber, a successful California logging company with a reputation for generous policies toward its employees and the environment, was the target of a hostile takeover bid. The raiders, in this case the Maxxam Group, were successful.

In the course of taking over the company, the raiders took on a huge debt. To pay off that debt, they are now selling off the company's assets, and hundreds of acres of centuries-old virgin redwood forest are being clear-cut.

"They're just chewing up the environment," one former Pacific Lumber employee told the Times. "They're just leveling everything," said another. "They're destroying the future, leaving nothing for the next generation."

Some use harsher words and phrases. Some say the raiders are "* * * raping the land and dismembering the company," and that the resulting environmental damage may create "another Appalachia."

But the raiders aren't limiting their damage to the environment; they've struck at Pacific Lumber's pension plan as well. The Times tells us that plan had $90 million in assets when it was terminated after the takeover, and that Maxxam kept more than $50 million while using $37 million to buy annuities for the plan participants.

A lawyer representing some of Pacific Lumber's former employees says his clients feel "hopeless and helpless." Who can blame them?

Not all is gloom and doom in the old Pacific Lumber Co. towns of northern California. The Times mentions new pickup trucks and fat paychecks. So there is some new prosperity.

But we must wonder about the cost of that prosperity. The redwoods have lasted hundreds of years. By carefully managing the growth and harvest of those redwoods, the old Pacific Lumber Co. gave thousands of people good, steady jobs with good benefits.

Now that the redwoods are being clear-cut, and the pension plan has been raided, how long will the new pickups be around? How long will the fat paychecks continue? Are these raiders selling the family jewels for a night on the town?

The Pacific Lumber situation is one example of how Wall Street shenanigans can affect small town America, but it reminds me of another—Burlington Industries, the Nation's largest textile firm and widely regarded as a leader in the industry.

Mr. President, my colleagues have heard plenty from me about Burlington, and the attempt to take it over last spring. They probably know that attempt failed, but I want them to know that the Burlington employees and the communities they live in are still paying for that unsuccessful attempt.

Last summer Burlington had to lay off 525 people, and close its research and development wing. Other layoffs have followed. Those people and their families had their lives uprooted. Burlington, already battered by textiles and apparels imports, must now try to survive and compete without the research and development support it once had. That can hardly help American competitiveness.

Both Pacific Lumber and Burlington Industries are examples of why we need discipline on Wall Street. We need to remind corporate raiders that true profit lies in producing goods, not in playing high-risk, high-finance games that affect other people's lives and communities.

The time will come for the Senate to consider legislation to reform the Nation's corporate takeover laws. And when that time comes, I will ask my colleagues to remember the redwoods and the loggers and the logging communities of northern California, and the textile mills and textile workers and textile towns of North Carolina.

Mr. President, I ask unanimous consent that this New York Times story be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 2, 1988]

THEY CUT REDWOODS FASTER TO CUT THE DEBT FASTER

(By Robert Lindsey)

SCOTIA, CALIF.—Thousands of redwood trees are being felled along California's wild northern coast in an environmental drama that is arousing high emotions and demonstrating how decisions on Wall Street can affect people, communities and natural resources far away.

The emotions have been stirred by the decision of a Houston financier, Charles E. Hurwitz, to double the rate of tree-cutting in the nation's largest privately owned virgin redwood forests. Mr. Hurwitz says the production increase is necessary to repay $795 million that his company, the Maxxam Group, borrowed in 1985 to buy the Pacific Lumber Company here.

Pacific Lumber, a venerable old California logging company that a 1951 Saturday Evening Post profile called "Paradise With a Waiting List," had a reputation for paternalistic policies toward employees and for harvesting timber at a pace slow enough to preserve its oldest stands of redwoods well into the 21st century.

Now, many residents here contend that trees are being cut so fast that both the region's environmental quality and its economy are in jeopardy. "To pay off this big debt, they're just chewing up the environment," said John Maurer, a former employee who quit to protest the new policies. "And they're taking out the cream, so there won't be anything left for the future."

COMPANY DEFENDS PRACTICES

But spokesmen for the company say the accelerated cutting is in line with common industry practice and is not environmentally unsound. They say production can be sustained indefinitely under current plans.

The Pacific Lumber takeover is one of many financed by selling high-yield, high-risk corporate notes, through Drexel Burnham Lambert, specialists in what some people call "junk bonds."

And, as in many such takeovers, Maxxam sought to pay back what it borrowed by selling or otherwise making use of the purchased company's assets.

Maxxam, through its Pacific Lumber subsidiary, now owns 300 square miles of forest in one of the nation's most undeveloped regions, including vast stands of towering redwoods never before logged. The company is doubling its production by logging for the first time in this "old growth," which yield premium-priced lumber with few knots and more beautiful grains. And instead of cutting some trees, the company is felling all the trees in selected tracts.

Maxxam's harvesting of these trees, many over 1,000 years old, to satisfy debts incurred in a corporate takeover has been under increasing attack from environmentalists and local, state and Federal officials for more than a year. In recent weeks these critics have scored several victories.

LOGGERS SEE ANOTHER SIDE

Perhaps most notable is that many company loggers and sawmill workers, who once scorned environmentalists as "tree huggers," have joined protests against the increased harvest. "They're just leveling everything," said Greg Garibay, a 34-year-old Pacific Lumber power plant worker. "They're destroying the future, leaving nothing for the next generation."

Environmental groups won court decisions blocking harvests in several parcels. Two bills were introduced in the California Legislature to prohibit large logging companies from cutting more timber than they grow each year.

Meanwhile, the harvest uproar has focused new attention on the takeover of Pacific Lumber.

Lawyers for the Federal Trade Commission say they are reviewing evidence presented by two United States Representatives who said it showed that Maxxam and Mr. Hurwitz might have violated Federal antitrust law in the acquisition. Congressional investigators also say they have evidence of "irregularities" in Maxxam's termination of Pacific Lumber's pension plan.

Spokesmen for Mr. Hurwitz deny any illegalities or improprieties in the acquisition or in the pension plan's termination.

BIG PAYCHECKS, BIG WORRIES

They also deny that the harvesting practices are detrimental to the environment or to the future of the local economy. John A Campbell, a Pacific Lumber executive for several years who is now vice president and operations director here, says consultants have determined that if the company maintains its current policies for 20 years, its timberlands "will still support a substantial timber inventory of old-growth redwoods and Douglas fir." If production is then reduced, he says, there will be enough timber growth to sustain production indefinitely.

Here in Scotia and nearby logging communities, loggers and sawmill crew members are driving new pickup trucks and enjoying the biggest paychecks of their lives, with many working a 60-hour week to meet the new production schedules.

But many also worry the trees are being cut so rapidly that the region's natural resources will be depleted to form what several called "another Appalachia."

"Many people who have worked for Pacific Lumber for years feel hopeless and helpless," said William Bertain, a lawyer here who represents former Pacific Lumber shareholders fighting the increased harvest and the terms of the takeover. "They feel Maxxam is raping the land and dismembering the company."

CLEARING OF LARGE TRACKS

One worker, who said he did not want his name published because he feared company reprisal, said cathedral-like groves of old redwoods towering more than 300 feet high were being "mutilated." While Pacific Lumber's practice had been to harvest logs by selectively removing some trees and leaving others for re-seeding and later harvest, the practice is now to clear all trees from areas ranging from 40 acres to more than 500 acres.

"Clear-cutting is bad for the land," the worker said. "We get monsoons here eight months of the year; soil is drained off the land; but people are afraid to speak up how they feel. They're stuck here. They can't afford to move out."

But Mr. Campbell, the company executive, defends clear-cutting as a responsible, common forestry practice.

"Removing the old-growth redwood, which now grow little if at all," he told a recent legislative hearing, "will allow the land on which they stand to regenerate forests of faster-growing new trees; in addition, there will be massive replanting."

Despite such assurances, opponents of corporate takeovers financed through high-yield bonds are using the cutting of centuries-old redwoods as further ammunition.

"This is a very important example of the takeover and dismemberment of a good corporate citizen," said Representative John D. Dingell, Democrat of Michigan, chairman of the Energy and Commerce Subcommittee on Investigations and Oversight. "It is bad for employees and the economic health of the area."

OTHER LEGAL QUESTIONS

Mr. Dingell, a Michigan Democrat, is attacking the Pacific Lumber deal on another front. In a Jan. 28 letter to the Federal Trade Commission, he and the ranking Republican on the subcommittee, Thomas J. Bliley Jr. of Virginia, said Mr. Hurwitz may have violated a 1976 Federal antitrust law in the acquisition of Pacific Lumber.

They contend that Maxxam, along with an affiliated company, acquired more than $27 million in stock in Pacific Lumber before notifying the Federal Trade Commission that it was interested in the company as a takeover target; the 1976 law, according to spokesmen for the subcommittee, requires a company to notify the F.T.C. whenever it has acquired more than $15 million worth of another company's stock.

On another issue, subcommittee staff members said Friday that questions had been raised about Pacific Lumber's pension plan, which had $90 million in assets when it was terminated after the takeover.

Maxxam kept more than $50 million and used $37 million to buy annuities for the 2,861 plan participants.

HIGH-RISK ASSETS

Those policies were purchased from the Executive Life Insurance Company of Los Angeles, which has provided annuities to employees at several companies taken over with Drexel Burnham financing. According to investigators, that insurance company was chosen for the annuities contract despite missing a bidding deadline. And four Pacific Lumber Executives objected to Executive Life because a large proportion of its assets are in high-risk securities, among them a significant share of the bonds issued for Maxxam's takeover of Pacific Lumber.

Efforts were made to reach Mr. Hurwitz for his repsonse to these allegations, but a spokesman said he was not available. In a telephone interview, Howard Bressler, general counsel to Maxxam, said the company had complied "meticulously" with all applicable laws in the merger. He said there was nothing improper about the handling of the pension plan and that the beneficiaries are well protected.

But Mr. Dingell objected that no one represented the employees' interests in the annuity purchase. With the $50 million the company took out of the pension plan, he said, "the employees are being asked to finance the takeover and get none of the benefits of ownership—and unfortunately, this is not an isolated case."

AMERICA'S GUARD OF HONOR

Mr. SANFORD. Mr. President, yesterday the 1,500 men from the first and second battalions in the 504th Parachute Infantry Regiment of the 82d Airborne Division began returning home to Fort Bragg, NC. These men answered the call of the President to conduct military exercises in Honduras.

The 82d is "America's Guard of Honor." Gen. George S. Patton used those words to describe the division during its occupation duty in Berlin during World War II. While the merits of last week's exercises caused a great deal of debate here in the Congress, there can be no debate about the support these men have from every Member of Congress and every American. All of our service men and women are sworn to protect and defend the United States from hostile forces both domestic and foreign, but it is America's "Guard of Honor," the 82d Airborne Division, that is most often called the first to fight.

Mr. President, the personnel of Fort Bragg and Pope Air Force Base, NC, always do their utmost to perform in a professional and diligent manner but do not often enough hear words of thanks and appreciation. Let us also not forget the families of these men who are returning from their military duties. The families are a vital part of our national defense because no one gives more direct support to our troops than they.

The two distinctive A's on the unit crest of the 82d stand for "All American." I offer them all, the troops and their families, my thanks and congratulations for another job well done. They are all truly "All American."

TRIBUTE TO CONGRESSMAN JAMES J. HOWARD

Mr. STAFFORD. Mr. President, I want to join my colleagues in paying tribute to Congressman James J. Howard, and in extending my sympathy to his wife, Marlene, and his daughters, Lenore, Marie and Kathy.

It has been my privilege to serve with Congressman Howard since he came to the Congress in 1964. We served together in the House of Representatives for a number of years. We worked together very closely during the past 8 years as he carried out his responsibilities as chairman of the House Public Works and Transportation Committee and I as chairman and ranking member of the Senate Environment and Public Works Committee.

Chairman Howard was involved with many landmark pieces of legislation in the areas of water resources, transit, highways, aviation, environmental pollution, and safety. I will long remember his impassioned defense of the 55-mile-per-hour speed limit and of the lives this law has saved. We agreed on this issue and while the 55-mile-per-hour speed limit was not retained, it was not for lack of Jim Howard's untiring efforts.

And this is how Chairman Howard approached all of his responsibilities. He was totally committed to the issues he cared about and to his constituents in New Jersey. He expended a tremendous amount of energy in carrying out his duties, and his influence and legacy will live on in many different ways and in many places all over the country.

IN HONOR AND MEMORY OF DR. GEORGE COPELAND ALBRIGHT, LONGTIME ORAL SURGEON

Mr. THURMOND. Mr. President, the State of South Carolina suffered a great loss with the death of Dr. George Copeland Albright, a longtime oral surgeon who died on Monday, March 21, 1988, at the age of 86.

Dr. Albright was one of the most highly respected and capable surgeons in the State. He was the first oral surgeon in the State to be certified by the American Oral Surgery Board and also served as chief of staff of oral surgery at St. Francis and Greenville General Hospitals. For many years Dr. Albright was a consultant in oral surgery at Shriners' Hospital for Crippled Children.

In addition to his duties as a surgeon, Dr. Albright was very involved in community service and was a devoted member and elder of the First Presbyterian Church of Greenville. His volunteer work showed the depth of his concern for others and the extent of his fine character. His life will serve as an example for future generations of South Carolinians.

We are deeply saddened by the death of Dr. Albright. Mrs. Thurmond joins me in extending our deepest sympathy to his lovely wife, Rebecca, and his daughters, Louise Quinn and Caroline Ryan.

Mr. President, I would like to ask unanimous consent that an article from the Greenville News on Dr. George Copeland Albright be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Greenville News, Mar. 22, 1988]

DR. ALBRIGHT, LONGTIME ORAL SURGEON, DIES AT 86

Dr. George Copeland Albright, the first oral surgeon in the state to be certified by the American Oral Surgery Board, died Monday.

Albright, 86, of 223 Camille Ave. was a longtime Greenville oral surgeon who practiced until about 18 years ago.

One of his daughters, Caroline Ryan, said his health had been failing for the past couple of years and he died at St. Francis Hospital, "where he mainly had his heart and his love."

He served as chief of staff of oral surgery at St. Francis and Greenville General Hospital from 1930 to 1959 and was a consultant in oral surgergy at Shriners' Hospital for Crippled Children for many years.

In the early 1950's, he had a practice at Calhoun Towers on North Main Street, but then he moved his practice to Vardry Street, near old General Hopsital, according to his associate for 11 years, Dr. Henry T. Little.

"He was just one of those people you meet and like," Little said. "We were great, great friends."

Little said Albright was thought of very highly in the dentistry profession. "He probably had one of the best reputations in the profession as anyone I've ever known," Little said.

Dr. J.R. "Knotty" Owings Sr., a Greenville periodontist who has known Albright since 1936, said he was "very likeable and friendly" and he was known in many Southern states as "an outstanding oral suregon."

Born Nov. 21, 1901, in Laurens, Albright was a son of the late Dr. George Copeland and Nancy Deborah Vance Albright.

He studied at Laurens public schools and attended Clemson University from 1920 to 1922. In 1926, he received his D.D.S. degree from Atlanta-Southern Dental College, now Emory University School of Dentistry.

He engaged in general dentistry in Laurens from 1926 to 1927 and in Greenville from 1927 to 1932.

Since that time, he had specialized in oral surgery in Greenville.

Albright was a member of the South Carolina Board of Dental Examiners from 1947 to 1951; a member of the American, South Carolina, Piedmont District and Greenville County dental societies; a member of the American Society of Oral Suregons; a member and past president of the Southeastern Society of Oral Surgeons; and a diplomate of the American Board of Oral Surgery.

He was a member and elder of the First Presbyterian Church of Greenville.

He was a member of the Poinsett Club; Psi Omega dental fraternity and the Omicron Kappa Upsilon honorary scholastic dental fraternity.

He was formerly a member of the Greenville Country Club, Green Valley Country Club and the Greenville Rotary Club.

Surviving are his wife, Rebecca Moore Adams Albright; his daughters, Mrs. Kirby J. (Louise) Quinn Jr. and Mrs. Joseph Murphy (Caroline) Ryan Jr., both of Greenville; a brother, Clarence Holland Albright of Rock Hill; four grandchildren and five great-grandchildren.

Graveside services will be Tuesday at 4 p.m. in Springwood Cemetery. The Mackey Mortuary is in charge of arrangements.

The family is at the home.

In lieu of flowers, memorials can be made to Thornwell Home for Children, P.O. Box 60, Clinton, S.C. 29325 or to the charity of one's choice.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE UNITED STATES-JAPAN COOPERATIVE MEDICAL SCIENCE PROGRAM—MESSAGE FROM THE PRESIDENT—PM 126

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 5(h) of the International Health Research Act of 1960 (Public Law 86-610; 22 U.S.C. 2103(h)), I transmit herewith the Twenty-first Annual Report of the U.S.-Japan Cooperative Medical Science Program for the period of July 1986 to July 1987.

RONALD REAGAN.

THE WHITE HOUSE, *March 29, 1988.*

MESSAGES FROM THE HOUSE

At 3:21 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1975. An act to protect caves resources on Federal lands, and for other purposes; and

H.R. 3971. An act to establish procedures to implement the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 4:29 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 4263. An act to designate interstate route I-195 in the State of New Jersey as the "James J. Howard Interstate Highway"; and

H.J. Res. 470. Joint resolution to designate March 29, 1988, as "Education Day, U.S.A.".

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. STENNIS].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1975. An act to protect caves resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3971. An act to establish procedures to implement the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and for other purposes.

MEASURES HELD AT THE DESK

The following bill, previously received from the House of Representatives for concurrence, was ordered held at the desk until the close of business on March 31, 1988, by unanimous consent:

H.R. 2819. An act for the relief of Tracey McFarlane.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. REID) reported that on today, March 29, 1988, he had signed the following enrolled bill, which had previously been signed by the Speaker of the House of Representatives:

S. 1397. An act to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 29, 1988, he had presented to the President of the United States the following enrolled bill:

S. 1397. An act to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

S. 2223. An original bill to promote and protect taxpayer rights, and for other purposes. (Rept. No. 100-309).

TAXPAYER RIGHTS

● Mr. BENTSEN. Mr. President, from the Committee on Finance I report S. 2223, a bill to promote and protect taxpayer rights, and for other purposes. I ask unanimous consent that the text of the reported bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS; AMENDMENT OF THE 1986 CODE.

(a) TABLE OF CONTENTS.—

Sec. 1. Table of contents; amendment of the 1986 Code.

TITLE I—TAXPAYER BILL OF RIGHTS

Sec. 100. Short title.

Subtitle A—Taxpayer Rights

Sec. 101. Disclosure of rights of taxpayers.
Sec. 102. Procedures involving taxpayer interviews.
Sec. 103. Taxpayers may rely on written advice of Internal Revenue Service.
Sec. 104. Taxpayer assistance orders.
Sec. 105. Office of Inspector General.
Sec. 106. Basis for evaluation of Internal Revenue Service employees.
Sec. 107. Procedures relating to Internal Revenue Service regulations.
Sec. 108. Content of tax due and deficiency notices.
Sec. 109. Installment payment of tax liability.
Sec. 110. Assistant Commissioner for Taxpayer Services.

Subtitle B—Levy and Lien Provisions

Sec. 111. Levy and distraint.
Sec. 112. Review of jeopardy levy and assessment procedures.
Sec. 113. Administrative appeal of liens.

Subtitle C—Proceedings by Taxpayers

Sec. 121. Awarding of costs and certain fees in administrative and court proceedings.
Sec. 122. Civil cause of action for damages sustained due to failure to release lien.
Sec. 123. Civil cause of action for damages sustained due to unreasonable actions by Internal Revenue Service.

Subtitle D—Tax Court Jurisdiction

Sec. 131. Jurisdiction to restrain certain premature assessments.
Sec. 132. Jurisdiction to enforce overpayment determinations.
Sec. 133. Jurisdiction to review certain sales of seized property.
Sec. 134. Jurisdiction to redetermine interest on deficiencies.
Sec. 135. Jurisdiction to modify decisions in certain estate tax cases.
Sec. 136. Refund jurisdiction for the United States Tax Court.

TITLE II—EXCISE TAX PROVISIONS

Sec. 201. Tax-free purchases of certain fuels.
Sec. 202. Expedited refund or income tax credit allowed for retail sales of certain fuels used in nontaxable uses.
Sec. 203. Marine retailers treated as producers.
Sec. 204. Exception from distilled spirits tax credit for wine content and flavors content.
Sec. 205. Small producers exempt from occupational tax on distilled spirits plants.
Sec. 206. Increase in gas guzzler tax.

TITLE III—MISCELLANEOUS PROVISION

Sec. 301. 1-Year extension of provisions relating to collection of nontax debts owed to Federal agencies.

(b) AMENDMENT.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—TAXPAYER BILL OF RIGHTS

SEC. 100. SHORT TITLE.

This title may be cited as the "Omnibus Taxpayer Bill of Rights".

Subtitle A—Taxpayer Rights

SEC. 101. DISCLOSURE OF RIGHTS OF TAXPAYERS.

(a) IN GENERAL.—The Secretary of the Treasury shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, prepare a statement which sets forth in simple and nontechnical terms—

(1) the rights of a taxpayer and the obligations of the Internal Revenue Service (hereinafter in this section referred to as the "Service") during an audit;

(2) the procedures by which a taxpayer may appeal any adverse decision of the Service (including administrative and judicial appeals);

(3) the procedures for prosecuting refund claims and filing of taxpayer complaints; and

(4) the procedures which the Service may use in enforcing the internal revenue laws (including assessment, jeopardy assessment, levy and distraint, and enforcement of liens).

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary of the Treasury shall transmit drafts of the statement required under subsection (a) (or proposed revisions of any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day. Any draft (or any revision of a draft) of the statement may not be distributed under subsection (c) until 90 days after the date it was transmitted to such committees.

(c) DISTRIBUTION.—The statement prepared in accordance with subsections (a) and (b) shall be distributed by the Secretary of the Treasury to all taxpayers the Secretary contacts with respect to the determination or collection of any tax (other than by providing tax forms). The Secretary shall take such actions as the Secretary deems necessary to ensure that such distribution does not result in multiple statements being sent to any one taxpayer.

SEC. 102. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

(a) In General.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7520. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

"(a) Recording of Interviews.—

"(1) Recording by taxpayer.—Any officer or employee of the Internal Revenue Service in connection with any in-person interview with any taxpayer relating to the determination or collection of any tax shall, upon advance request of such taxpayer, allow the taxpayer to make an audio recording of such interview at the taxpayer's own expense and with the taxpayer's own equipment.

"(2) Recording by IRS officer or employee.—An officer or employee of the Internal Revenue Service may record any interview described in paragraph (1) if such officer or employee—

"(A) informs the taxpayer of such recording prior to the interview, and

"(B) upon request of the taxpayer, provides the taxpayer with a transcript or copy of such recording but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of such transcript or copy.

"(b) Safeguards.—

"(1) Explanations of processes.—An officer or employee of the Internal Revenue Service shall before or at an initial interview provide to the taxpayer—

"(A) in the case of an audit interview, an explanation of the audit process and the taxpayer's rights under such process, or

"(B) in the case of a collection interview, an explanation of the collection process and the taxpayer's rights under such process.

Such officer or employee shall notify the taxpayer at such interview if the case has been referred to the Criminal Investigation Division of the Internal Revenue Service.

"(2) Right of consultation.—If the taxpayer clearly states to an officer or employee of the Internal Revenue Service at any time during any interview (other than an interview initiated by an administrative summons issued under subchapter A of chapter 78) that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service, such officer or employee shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.

"(c) Representatives Holding Power of Attorney.—Any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service who is not disbarred or suspended from practice before the Internal Revenue Service and who has a written power of attorney executed by the taxpayer may be authorized by such taxpayer to represent the taxpayer in any interview described in subsection (a). An officer or employee of the Internal Revenue Service may not require a taxpayer to accompany the representative in the absence of an administrative summons issued to the taxpayer under subchapter A of chapter 78. Such an officer or employee may notify the taxpayer directly that such officer or employee believes such representative is responsible for unreasonable delay or hindrance of an Internal Revenue Service examination or investigation of the taxpayer.

"(d) Section Not To Apply to Certain Investigations.—This section shall not apply to criminal investigations or investigations relating to the integrity of any officer or employee of the Internal Revenue Service."

(b) Regulations With Respect to Time and Place of Examination.—The Secretary of the Treasury or the Secretary's delegate shall issue regulations to implement subsection (a) of section 7605 of the Internal Revenue Code of 1986 (relating to time and place of examination) within 1 year after the date of the enactment of this Act.

(c) Clerical Amendment.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7520. Procedures involving taxpayer interviews."

(d) Effective Date.—The amendments made by subsections (a) and (c) shall apply to interviews conducted on or after the date which is 30 days after the date of the enactment of this Act.

SEC. 103. TAXPAYERS MAY RELY ON WRITTEN ADVICE OF INTERNAL REVENUE SERVICE.

(a) In General.—Section 6404 (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(f) Abatement of Any Penalty or Addition to Tax Attributable to Erroneous Written Advice by the Internal Revenue Service.—

"(1) In general.—The Secretary shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

"(2) Limitations.—Paragraph (1) shall apply only if—

"(A) the written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and

"(B) the portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide adequate or accurate information."

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to advice requested on or after the date of the enactment of this Act.

SEC. 104. TAXPAYER ASSISTANCE ORDERS.

(a) In General.—Subchapter A of chapter 80 (relating to general rules for application of the internal revenue laws) is amended by adding at the end thereof the following new section:

"SEC. 7811. TAXPAYER ASSISTANCE ORDERS.

"(a) Authority To Issue.—Upon application filed by a taxpayer with the Office of Ombudsman (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Ombudsman may issue a Taxpayer Assistance Order if, in the determination of the Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary.

"(b) Terms of a Taxpayer Assistance Order.—The terms of a Taxpayer Assistance Order may require the Secretary—

"(1) to release property of the taxpayer levied upon, or

"(2) to cease any action, or refrain from taking any action, with respect to the taxpayer under—

"(A) chapter 64 (relating to collection),

"(B) subchapter B of chapter 70 (relating to bankruptcy and receiverships),

"(C) chapter 78 (relating to discovery of liability and enforcement of title), or

"(D) any other provision of law which is specifically described by the Ombudsman in such order.

"(c) Authority To Modify or Rescind.—Any Taxpayer Assistance Order issued by the Ombudsman under this section may be modified or rescinded only by the Ombudsman, a district director, or superiors of such director.

"(d) Suspension of Running of Period of Limitation.—The running of any period of limitation with respect to any action described in subsection (b) shall be suspended for—

"(1) the period beginning on the date of the taxpayer's application under subsection (a) and ending on the date of the Ombudsman's decision with respect to such application, and

"(2) any period specified by the Ombudsman in a Taxpayer Assistance Order.

"(e) Independent Action of Ombudsman.—Nothing in this section shall prevent the Ombudsman from taking any action in the absence of an application under subsection (a).

"(f) Ombudsman.—For purposes of this section, the term 'Ombudsman' includes any designee of the Ombudsman."

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 80 is amended by adding at the end thereof the following new item:

"Sec. 7811. Taxpayer Assistance Orders."

(c) Issuance of Regulations.—The Secretary of the Treasury or the Secretary's delegate shall issue such regulations as the Secretary deems necessary within 90 days of the date of the enactment of this Act in order to carry out the purposes of section 7811 of the Internal Revenue Code of 1986 (as added by this section) and to ensure taxpayers uniform access to administrative procedures.

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 105. OFFICE OF INSPECTOR GENERAL.

(a) In General.—Paragraph (1) of section 2 of the Inspector General Act of 1978 (5 U.S.C. App. 3) (relating to the purpose and establishment of offices of inspector general and the departments and agencies involved) is amended to read as follows:

"(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);".

(b) Addition of Department of the Treasury to List of Covered Establishments.—Section 11 of such Act (relating to definitions) is amended—

(1) by striking out "or Transportation" in paragraphs (1) and (2) and inserting in lieu thereof "Transportation, or the Treasury",

(2) by inserting "or the Commissioner of Internal Revenue" before "as the case may be", and

(3) by inserting "Internal Revenue Service" before "as the case may be".

(c) Transfer of Existing Audit and Investigation Units.—Paragraph (1) of section 9(a) of such Act (relating to transfer of functions) is amended—

(1) by redesignating subparagraphs (I), (J), (K), (L), (M), and (N) as subparagraphs (K), (L), (M), (N), (O), and (P), respectively, and

(2) by inserting after subparagraph (H) the following new subparagraphs:

"(I) of the Department of the Treasury, the office of that department referred to as the 'Office of Inspector General', and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the 'Office of Internal Affairs, Bureau of Alcohol, Tobacco, and Firearms', the 'Office of Internal Affairs, United States Customs Service', and the 'Office of Inspections, United States Secret Service' which is engaged in internal audit activities;

"(J) of the Department of the Treasury, in the Internal Revenue Service of such department, the office of that service referred to as the 'Office of Assistant Commissioner (Inspection), Internal Revenue Service';".

(d) Special Provisions Relating to Department of the Treasury.—The Inspector General Act of 1978 is amended by inserting after section 8A the following new section:

"SPECIAL PROVISIONS REGARDING THE DEPARTMENT OF THE TREASURY

"Sec. 8B. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Bureau of Alcohol, Tobacco and Firearms, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service. The head of each such office shall report to the Inspector General the significant investigative activities being carried out by such office.

"(b) Notwithstanding subsection (a), the Inspector General of the Department of the Treasury may conduct an investigation of any officer or employee of such Department (other than the Internal Revenue Service) if—

"(1) the Secretary of the Treasury or the Deputy Secretary of the Treasury requests the Inspector General to conduct an investigation;

"(2) the investigation concerns senior officers or employees of the Department of the Treasury, including officers appointed by the President, members of the Senior Executive Service, and individuals in positions classified at grade GS-15 of the General Schedule or above or classified at a grade equivalent to such grade or above such equivalent grade; or

"(3) the investigation involves alleged notorious conduct or any other matter which, in the opinion of the Inspector General, is especially sensitive or of departmental significance.

"(c) If the Inspector General of the Department of the Treasury initiates an investigation under subsection (b), and the officer or employee of the Department of the Treasury subject to investigation is employed by or attached to a bureau or service referred to in subsection (a), the Inspector General may provide the head of the office of such bureau or service referred to in subsection (a) with written notice that the Inspector General has initiated such an investigation. If the Inspector General issues a notice under the preceding sentence, no other investigation shall be initiated into the matter under investigation by the Inspector General and any other investigation of such matter shall cease.

"(d)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General of the Department of the Treasury and the Inspector General of the Internal Revenue Service shall be under the authority, direction, and control of the Secretary of the Treasury and the Commissioner of Internal Revenue, respectively, with respect to audits or investigations, or the issuance of subpenas, which require access to information concerning—

"(A) ongoing criminal investigations or proceedings;

"(B) sensitive undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

"(E) intelligence or counterintelligence matters; or

"(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 8, United States Code, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note; Public Law 94-524).

"(2) With respect to the information described in paragraph (1), the Secretary of the Treasury or the Commissioner of Internal Revenue may prohibit the Inspector General of the Department of the Treasury or the Inspector General of the Internal Revenue Service, respectively, from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpena, if the Secretary or the Commissioner determines that such prohibition is necessary to preserve the confidentiality of or prevent the disclosure of any information described in paragraph (1).

"(3)(A) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General of the Department of the Treasury in writing of such exercise. Within 30 days after receipt of any such notice, the Inspector General of the Department of the Treasury shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Joint Committee on Taxation, together with any comments the Inspector General deems appropriate.

"(B) If the Commissioner of Internal Revenue exercises any power under paragraph (1) or (2), the Commissioner shall notify the Inspector General of the Internal Revenue Service in writing of such exercise. Within 30 days after receipt of such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs and the Committee on Finance of the Senate and to the Committee on Government Operations and the Committee on Ways and Means of the House of Representatives.

"(e) In addition to the standards prescribed by the first sentence of section 3(a), the Inspector General of the Internal Revenue Service shall at the time of appointment be in a career reserved position in the Senior Executive Service in the Internal Revenue Service as defined under section 3132(a)(8) of title 5, United States Code, with demonstrated ability in investigative techniques or internal audit functions with respect to the programs and operations of the Internal Revenue Service.

"(f)(1) In addition to the duties and responsibilities specified in this Act, the Inspector General of the Internal Revenue Service shall perform such duties and exercise such powers as may be prescribed by the Commissioner of Internal Revenue, to the extent such duties and powers are not inconsistent with the purposes of this Act.

"(2) No audit or investigation conducted by the Inspector General of the Department of the Treasury or the Inspector General of the Internal Revenue Service shall affect a final decision of the Secretary of the Treasury or his designee made pursuant to section 6201 of the Internal Revenue Code of 1986 or described in section 6406 of such Code."

(e) Disclosure of Tax Returns and Return Information.—Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent provided in section 6103(f) of the Internal Revenue Code of 1986, nothing".

(f) Conforming Amendment.—Section 5315 of title 5, United States Code (relating to positions of level IV) is amended by adding at the end thereof the following new items:

"Inspector General, Department of the Treasury.

"Inspector General, Internal Revenue Service."

(g) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 106. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) In General.—The Internal Revenue Service shall not use records of tax enforcement results—

(1) to evaluate enforcement officers, appeals officers, or reviewers, or

(2) to impose or suggest production quotas or goals.

(b) Application of IRS Policy Statement.—The Internal Revenue Service shall not be treated as failing to meet the requirements of subsection (a) if the Service follows the policy statement of the Service regarding employee evaluation (as in effect on the date of the enactment of this Act) in a manner which does not violate subsection (a).

(c) Certification.—Each district director shall certify quarterly by letter to the Commissioner of Internal Revenue that tax enforcement results are not used in a manner prohibited by subsection (a).

(c) Effective Date.—The provisions of this section shall apply to evaluations conducted on or after the date of the enactment of this Act.

SEC. 107. PROCEDURES RELATING TO INTERNAL REVENUE SERVICE REGULATIONS.

(a) In General.—Section 7805 (relating to rules and regulations) is amended by adding at the end thereof the following new subsections:

"(e) Temporary Regulations.—

"(1) Issuance.—Any temporary regulation issued by the Secretary shall also be issued as a proposed regulation.

"(2) 2-year duration.—Any temporary regulation shall expire within 2 years after the date of issuance of such regulation.

"(f) Impact of Regulations on Small Business Reviewed.—After the publication of any proposed regulation or before the promulgation of any final regulation by the Secretary, the Secretary shall submit such regulation to the Administrator of the Small Business Administration for comment on the impact of such regulation on small business. The Administrator shall have 4 weeks from the date of submission to respond."

(b) Effective Date.—The provisions of this section shall apply to any regulation issued after the date of the enactment of this Act.

SEC. 108. CONTENT OF TAX DUE AND DEFICIENCY NOTICES.

(a) In General.—Chapter 77 (relating to miscellaneous provisions), as amended by section 102, is further amended by adding at the end thereof the following new section:

"SEC. 7521. CONTENT OF TAX DUE AND DEFICIENCY NOTICES.

"Any tax due notice or deficiency notice, including notices described in sections 6155, 6212, and 6303, shall describe the basis for, and identify the amounts (if any) of, the tax due, interest, additional amounts, additions to the tax, and assessable penalties included in such notice. An inadequate description under the preceding sentence shall not invalidate such notice."

(b) Clerical Amendment.—The table of sections for chapter 77, as amended by section 102, is further amended by adding at the end thereof the following new item:

"Sec. 7521. Content of tax due and deficiency notices."

(c) Effective Date.—The amendment made by subsection (a) shall apply to mailings made after the date which is 180 days after the date of enactment of this Act.

SEC. 109. INSTALLMENT PAYMENT OF TAX LIABILITY.

(a) In General.—Subchapter A of chapter 62 (relating to place and due date for payment of tax) is amended by adding at the end thereof the following new section:

"SEC. 6159. AGREEMENTS FOR PAYMENT OF TAX LIABILITY IN INSTALLMENTS.

"(a) Authorization of Agreements.—The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to satisfy liability for payment of any tax in installment payments if the Secretary determines that such agreement will facilitate collection of such liability.

"(b) Extent To Which Agreements Remain in Effect.—

"(1) In general.—Except as otherwise provided in this subsection, any agreement entered into by the Secretary under subsection (a) shall remain in effect for the term of the agreement.

"(2) Inadequate information or jeopardy.—The Secretary may terminate any agreement entered into by the Secretary under subsection (a) if—

"(A) information which the taxpayer provided (upon request of the Secretary) to the Secretary prior to the date such agreement was entered into was inaccurate or incomplete, or

"(B) the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy.

"(3) Subsequent change in financial conditions.—

"(A) In general.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement.

"(B) Notice.—Action may be taken by the Secretary under subparagraph (A) only if—

"(i) notice of such determination is provided to the taxpayer no later than 30 days prior to the date of such action, and

"(ii) such notice includes the reasons why the Secretary believes a significant change in the financial condition of the taxpayer has occurred.

"(4) Failure to pay an installment or any other tax liability when due or to provide requested financial information.—The Secretary may alter, modify, or terminate an agreement entered into by the Secretary under subsection (a) in the case of the failure of the taxpayer—

"(A) to pay any installment at the time such installment payment is due under such agreement,

"(B) to pay any other tax liability at the time such liability is due, or

"(C) to provide a financial condition update as requested by the Secretary."

(b) Conforming Amendments.—

(1) Paragraph (1) of section 6601(b) (relating to last day prescribed for payment) is amended by inserting "or any installment agreement entered into under section 6159" after "time for payment".

(2) The table of sections for subchapter A of chapter 62 is amended by adding at the end thereof the following new item:

"Sec. 6159. Agreements for payment of tax liability in installments."

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 110. ASSISTANT COMMISSIONER FOR TAXPAYER SERVICES.

(a) In General.—Section 7802 (relating to Commissioner of Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations) is amended by adding at the end thereof the following new subsection:

"(c) Assistant Commissioner (Taxpayer Services).—There is established within the Internal Revenue Service an office to be known as the 'Office for Taxpayers Services' to be under the supervision and direction of an Assistant Commissioner of the Internal Revenue. The Assistant Commissioner shall be responsible for telephone, walk-in, and educational services, and the design and production of tax and informational forms."

(b) Annual Reports to Congress.—The Assistant Commissioner (Taxpayer Services) and the Taxpayer Ombudsman for the Internal Revenue Service shall jointly make an annual report regarding the quality of taxpayer services provided. Such report shall be made to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Levy and Lien Provisions

SEC. 111. LEVY AND DISTRAINT.

(a) Notice.—Section 6331(d) (relating to levy and distraint) is amended—

(1) by striking out "10 days" in paragraph (2) and inserting in lieu thereof "30 days",

(2) by striking out "10-day requirement" in the heading of paragraph (2) and inserting in lieu thereof "30-day requirement", and

(3) by adding at the end thereof the following new paragraph:

"(4) Information included with notice.—The notice required under paragraph (1)—

"(A) shall cite the sections of this title which relate to levy on property, sale of property, release of lien on property, and redemption of property, and

"(B) shall include a description of—

"(i) the provisions of this title relating to levy and sale of property,

"(ii) the procedures applicable to the levy and sale of property under this title,

"(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

"(iv) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159),

"(v) the provisions of this title relating to redemption of property and release of liens on property, and

"(vi) the procedures applicable to the redemption of property and the release of a lien on property under this title."

(b) Effect of Levy on Salary and Wages.—

(1) In general.—Subsection (e) of section 6331 (relating to levy and distraint) is amended to read as follows:

"(e) Continuing Levy on Salary and Wages.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343."

(2) Cross reference.—Section 6331(f) (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For release and notice of release of levy, see section 6343."

(c) Property Exempt From Levy.—

(1) Fuel, provisions, furniture, personal effects, books, tools, and machinery.—Section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new subsection:

"(e) Adjustments for Inflation for Certain Property.—In the case of calendar years 1989 and 1990, each dollar amount contained in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(1) such dollar amounts, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year.

In the case of any calendar year after 1990, such dollar amounts shall be such dollar amounts in effect in 1990."

(2) Wages, salary, and other income.—

(A) Increase in amount exempt.—Paragraph (1) of section 6334(d) (relating to exempt amount of wages, salary, or other income) is amended to read as follows:

"(1) Individuals on weekly basis.—In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be the exempt amount."

(B) EXEMPT AMOUNT DEFINED.—Subsection (d) of section 6334 (relating to property exempt from levy) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) EXEMPT AMOUNT.—For purposes of paragraph (1), the term 'exempt amount' means an amount equal to—

"(A) the sum of—

"(i) the standard deduction, and

"(ii) the aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs, divided by

"(B) 52."

(3) PROPERTY EXEMPT IN ABSENCE OF APPROVAL OR JEOPARDY.—

(A) IN GENERAL.—Subsection (a) of section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(12) PROPERTY EXEMPT IN ABSENCE OF CERTAIN APPROVAL OR JEOPARDY.—Except to the extent provided in subsection (f)—

"(A) the principal residence of the taxpayer (within the meaning of section 1034), and

"(B) any tangible personal property essential in carrying on the trade or business of the taxpayer, but only if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business."

(B) LEVY PERMITTED IN CASE OF JEOPARDY OR APPROVAL BY CERTAIN OFFICIALS.—Section 6334, as amended by paragraph (1), is amended by adding at the end thereof the following new subsection:

"(f) LEVY ALLOWED ON CERTAIN PROPERTY IN CASE OF JEOPARDY OR CERTAIN APPROVAL.—Property described in subsection (a)(12) shall not be exempt from levy if—

"(1) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, or

"(2) the Secretary finds that the collection of tax is in jeopardy."

(d) UNECONOMICAL LEVY; LEVY ON APPEARANCE DATE OF SUMMONS.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (f) as subsection (h) and by inserting after subsection (e) the following new subsections:

"(f) UNECONOMICAL LEVY.—No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

"(g) LEVY ON APPEARANCE DATE OF SUMMONS.—

"(1) IN GENERAL.—No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

"(2) NO APPLICATION IN CASE OF JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy."

(e) SURRENDER OF BANK ACCOUNTS SUBJECT TO LEVY ONLY AFTER 21 DAYS.—

(1) IN GENERAL.—Section 6332 (relating to surrender of property subject to levy) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULE FOR BANKS.—Any bank (as defined in section 408(n)) shall surrender (subject to an attachment or execution under judicial process) any deposits (including interest thereon) in such bank only after 21 days after service of levy."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 6332 is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)"

(B) Subsection (e) of section 6332, as redesignated by subsection (a), is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (d)(1)"

(f) RELEASE OF LEVY.—Subsection (a) of section 6343 (relating to release of levy) is amended to read as follows:

"(a) RELEASE OF LEVY AND NOTICE OF RELEASE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon and shall promptly notify the person upon whom such levy was made (if any) that such levy has been released if—

"(A) the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time,

"(B) release of such levy will facilitate the collection of such liability,

"(C) the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise,

"(D) the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

"(E) the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

For purposes of subparagraph (C), the Secretary is not required to release such levy if such release would jeopardize the secured creditor status of the Secretary.

"(2) SUBSEQUENT LEVY.—The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued 90 days after the date of the enactment of this Act.

SEC. 112. REVIEW OF JEOPARDY LEVY AND ASSESSMENT PROCEDURES.

(a) IN GENERAL.—Subsection (a)(1) of section 7429 (relating to review of jeopardy assessment procedures) is amended—

(1) by inserting "or levy is made under section 6331(a) less than 30 days after notice and demand for payment is made under section 6331(a)," after "6862,", and

(2) by inserting "or levy" after "such assessment".

(b) ADMINISTRATIVE DETERMINATIONS.—Paragraph (3) of section 7429(a) (relating to redetermination by the Secretary) is amended to read as follows:

"(3) REDETERMINATION BY SECRETARY.—After a request for review is made under paragraph (2), the Secretary shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances."

(c) TAX COURT REVIEW JURISDICTION.—Subsection (b) of section 7429 is amended to read as follows:

"(b) JUDICIAL REVIEW.—

"(1) PROCEEDINGS PERMITTED.—Within 90 days after the earlier of—

"(A) the day the Secretary notifies the taxpayer of the Secretary's determination described in subsection (a)(3), or

"(B) the 16th day after the request described in subsection (a)(2) was made,

the taxpayer may bring a civil action against the United States for a determination under this subsection in the court with jurisdiction determined under paragraph (2).

"(2) JURISDICTION FOR DETERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the district courts of the United States shall have exclusive jurisdiction over any civil action for a determination under this subsection.

"(B) TAX COURT.—If a petition for a redetermination of a deficiency under section 6213(a) has been timely filed with the Tax Court before the making of an assessment or levy that is subject to the review procedures of this section, and 1 or more of the taxes and taxable periods before the Tax Court because of such petition is also included in the written statement that is provided to the taxpayer under subsection (a), then the Tax Court also shall have jurisdiction over any civil action for a determination under this subsection with respect to all the taxes and taxable periods included in such written statement.

"(3) DETERMINATION BY COURT.—Within 20 days after a proceeding is commenced under paragraph (1), the court shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances.

If the court determines that proper service was not made on the United States or on the Secretary, as may be appropriate, within 5 days after the date of the commencement of the proceeding, then the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States or on the Secretary, as may be appropriate.

"(4) ORDER OF COURT.—If the court determines that the making of such levy is unreasonable, that the making of such assessment is unreasonable, or that the amount assessed or demanded is inappropriate, then the court may order the Secretary to release such levy, to abate such assessment, to redetermine (in whole or in part) the amount assessed or demanded, or to take such other action as the court finds appropriate."

(d) VENUE.—Section 7429(e) (relating to venue) is amended to read as follows:

"(e) VENUE.—

"(1) DISTRICT COURT.—A civil action in a district court under subsection (b) shall be commenced only in the judicial district described in section 1402(a) (1) or (2) of title 28, United States Code.

"(2) Transfer of actions.—If a civil action is filed under subsection (b) with the Tax Court and such court finds that there is want of jurisdiction because of the jurisdiction provisions of subsection (b)(2), then the Tax Court shall, if such court determines it is in the interest of justice, transfer the civil action to the district court in which the action could have been brought at the time such action was filed. Any civil action so transferred shall proceed as if such action had been filed in the district court to which such action is transferred on the date on which such action was actually filed in the Tax Court from which such action is transferred."

(e) Conforming Amendments.—

(1) Section 7429(c) (relating to extension of 20-day period where taxpayer so requests) and section 7429(f) (relating to finality of determination) are amended by striking out "district" each place it appears.

(2) Section 7429(g) (relating to burden of proof) is amended—

(A) by inserting "the making of a levy described in subsection (a)(1) or" after "whether" in paragraph (1),

(B) by striking out "TERMINATION" in the heading of paragraph (1) and inserting in lieu thereof "LEVY, TERMINATION,", and

(C) by striking out "an action" and inserting in lieu thereof "a proceeding" in paragraphs (1) and (2).

(3) The heading of section 7429 is amended by inserting "LEVY OR" after "JEOPARDY".

(4) The table of sections for subchapter B of chapter 76 is amended by inserting "levy or" after "jeopardy" in the item relating to section 7429.

(f) Effective Date.—The amendments made by this section shall apply to jeopardy levies issued and assessments made after the date of the enactment of this Act.

SEC. 113. ADMINISTRATIVE APPEAL OF LIENS.

(a) Establishment of Administrative Appeal for Disputed Liens.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by redesignating section 6326 as section 6327 and inserting after section 6325 the following new section:

"SEC. 6326. ADMINISTRATIVE APPEAL OF LIENS.

"(a) In General.—In such form and at such time as the Secretary shall prescribe by regulations, any person shall be allowed to appeal to the Secretary after the filing of a notice of a lien under this subchapter on the property or the rights to property of such person for a release of such lien alleging an error in the filing of the notice of such lien."

"(b) Certificate of Release.—If the Secretary determines that the filing of the notice of any lien was erroneous, the Secretary shall immediately issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous."

(b) Regulations.—The Secretary of the Treasury or the Secretary's delegate shall prescribe the regulations necessary to implement the administrative appeal provided for in the amendment made by subsection (a) within 180 days after the date of the enactment of this Act.

(c) Clerical Amendment.—The table of sections for subchapter C of chapter 64 is amended by striking out the item relating to section 6326 and inserting in lieu thereof the following:

"Sec. 6326. Administrative appeal of liens.

"Sec. 6327. Cross references."

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle C—Proceedings by Taxpayers

SEC. 121. AWARDING OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

(a) In General.—Section 7430 is amended to read as follows:

"SEC. 7430. AWARDING OF COSTS AND CERTAIN FEES.

"(a) In General.—In any administrative or court proceeding which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, the prevailing party may be awarded a judgment or a settlement for—

"(1) reasonable administrative costs incurred in connection with such administrative proceeding within the Internal Revenue Service, and

"(2) reasonable litigation costs incurred in connection with such court proceeding.

"(b) Limitations.—

"(1) Requirement that administrative remedies be exhausted.—A judgment for reasonable litigation costs shall not be awarded under subsection (a) in any court proceeding unless the court determines that the prevailing party has exhausted the administrative remedies available to such party within the Internal Revenue Service.

"(2) Only costs allocable to the United States.—An award under subsection (a) shall be made only for reasonable litigation and administrative costs which are allocable to the United States and not to any other party.

"(3) Exclusion of declaratory judgment proceedings.—

"(A) In general.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

"(B) Exception for section 501(c)(3) determination revocation proceedings.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).

"(4) Costs denied where party prevailing protracts proceedings.—No award for reasonable litigation and administrative costs may be made under subsection (a) with respect to any portion of the administrative or court proceeding during which the prevailing party has unreasonably protracted such proceeding.

"(c) Definitions.—For purposes of this section—

"(1) Reasonable litigation costs.—The term 'reasonable litigation costs' includes—

"(A) reasonable court costs, and

"(B) based upon prevailing market rates for the kind or quality of services furnished—

"(i) the reasonable expenses of expert witnesses in connection with a court proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States,

"(ii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

"(iii) reasonable fees paid or incurred for the services of attorneys in connection with the court proceeding, except that such fees shall not be in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for such proceeding, justifies a higher rate.

"(2) Reasonable administrative costs.—The term 'reasonable administrative costs' means—

"(A) any administrative fees or similar charges imposed by the Internal Revenue Service, and

"(B) expenses, costs, and fees described in paragraph (1)(B), except that any determination made by the court under clause (ii) or (iii) thereof shall be made by the Internal Revenue Service in cases where the determination under paragraph (4)(B) of the awarding of reasonable administrative costs is made by the Internal Revenue Service.

Such term shall only include costs incurred on or after the earlier of (i) the date of the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals, or (ii) the date of the notice of deficiency.

"(3) Attorney's fees.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

"(4) Prevailing party.—

"(A) In general.—The term 'prevailing party' means any party in any proceeding to which subsection (a) applies (other than the United States or any creditor of the taxpayer involved)—

"(i) with respect to which the United States fails to establish that the position of the United States was substantially justified,

"(ii) which—

"(I) has substantially prevailed with respect to the amount in controversy, or

"(II) has substantially prevailed with respect to the most significant issue or set of issues presented, and

"(iii) which meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect).

"(B) Determination as to prevailing party.—Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made by agreement of the parties or—

"(i) in the case where the final determination with respect to the tax, interest, or penalty is made at the administrative level, by the Internal Revenue Service, or

"(ii) in the case where such final determination is made by a court, the court.

"(5) Administrative proceedings.—The term 'administrative proceeding' means any procedure or other action before the Internal Revenue Service.

"(6) Court proceedings.—The term 'court proceeding' means any civil action brought in a court of the United States (including the Tax Court and the United States Claims Court).

"(7) Position of United States.—The term 'position of the United States' means the position taken by the United States in the proceeding to which subsection (a) applies as of the later of—

"(A) the date of the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals (or if earlier, the date of the notice of deficiency), or

"(B) the date by which the taxpayer has presented the relevant evidence within the control of the taxpayer and legal arguments with respect to such proceeding to examination or service center personnel of the Internal Revenue Service.

"(d) Special Rules for Payment of Costs.—

"(1) Reasonable administrative costs.—An award for reasonable administrative costs shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(2) Reasonable litigation costs.—An award for reasonable litigation costs shall be payable in the case of the Tax Court in the same manner as such an award by a district court.

"(e) Multiple Actions.—For purposes of this section, in the case of—

"(1) multiple actions which could have been joined or consolidated, or

"(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single court proceeding in the same court,

such actions or cases shall be treated as 1 court proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated.

"(f) Right of Appeal.—

"(1) Court proceedings.—An order granting or denying (in whole or in part) an award for reasonable litigation or administrative costs under subsection (a) in a court proceeding, shall be incorporated as a part of the decision or judgment in the court proceeding and shall be subject to appeal in the same manner as the decision or judgment.

"(2) Administrative proceedings.—A decision granting or denying (in whole or in part) an award for reasonable administrative costs under subsection (a) by the Internal Revenue Service shall be subject to appeal to the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute)."

(b) Conforming Amendment.—Section 504 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) No award may be made under this section for costs, fees, or other expenses which may be awarded under section 7430 of the Internal Revenue Code of 1986."

(c) Clerical Amendment.—The table of sections for subchapter B of chapter 76 is amended by striking out "court" in the item relating to section 7430.

(d) Effective Date.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

SEC. 122. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO FAILURE TO RELEASE LIEN.

(a) In General.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7432 as section 7433 and by inserting after section 7431 the following new section:

"SEC. 7432. CIVIL DAMAGES FOR FAILURE TO RELEASE LIEN.

"(a) In General.—If any officer or employee of the Internal Revenue Service knowingly, or by reason of negligence, fails to release a lien under section 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(b) Damages.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) the greater of—

"(A) actual, direct economic damages sustained by the plaintiff which, but for the actions of the defendant, would not have been sustained, or

"(B) $100 per day for each day occurring after the date which is 10 days after the taxpayer has notified the Secretary in writing (in such form and manner as the Secretary may provide) of such failure after the end of the period described in section 6325, and

"(2) the costs of the action.

"(c) Tax Court Jurisdiction.—The Tax Court shall have jurisdiction of any action brought under subsection (a) in the same manner as a claim for refund.

"(d) Settlement and Payment Authority.—The Secretary may settle any claims that could have been filed under this section. Such claims shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(e) Limitations.—

"(1) Requirement that administrative remedies be exhausted.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

"(2) Mitigation of damages.—The amount of damages awarded under subsection (b)(1)(A) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

"(3) Limitation on per diem damages.—No award for damages described in subsection (b)(1)(B) shall exceed $1,000.

"(4) Period for bringing action.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the failure to release a lien under section 6325 by the defendant."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 76 of such Code is amended by striking out the item relating to section 7432 and inserting in lieu thereof the following new items:

"Sec. 7432. Civil damages for failure to release lien.

"Sec. 7433. Cross references."

(c) Effective Date.—The amendments made by this section shall apply to notices provided by the taxpayer under section 7432(b)(1)(B) of the Internal Revenue Code of 1986, as added by this section, and damages arising after the date of the enactment of this Act.

SEC. 123. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO UNREASONABLE ACTIONS BY INTERNAL REVENUE SERVICE.

(a) In General.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to proceedings by taxpayers and third parties), as amended by section 122, is further amended by redesignating section 7433 as section 7434 and by inserting after section 7432 the following new section:

"SEC. 7433. CIVIL DAMAGES FOR UNREASONABLE ACTIONS.

"(a) In General.—If, in connection with any determination or collection of Federal tax, any officer or employee of the Internal Revenue Service carelessly, recklessly, or intentionally disregards any provision of Federal law, or any regulation promulgated under this title, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(b) Damages.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the determination or collection actions of the defendant, and

"(2) the costs of the action.

"(c) Tax Court Jurisdiction.—The Tax Court shall have jurisdiction of any action brought under subsection (a) in the same manner as a claim for refund.

"(d) Settlement and Payment Authority.—The Secretary may settle any claims that could be filed under this section. Such claims shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(e) Limitations.—

"(1) Requirement that administrative remedies be exhausted.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

"(2) Damages denied where plaintiff is contributorily negligent.—No award for damages may be made under subsection (b) if the plaintiff is found to have been contributorily negligent.

"(3) Mitigation of damages.—The amount of damages awarded under subsection (b)(1) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

"(4) Period for bringing action.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the actions."

(b) Damages for Frivolous or Groundless Claims.—

(1) In general.—Section 6673 (relating to damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.) is amended by inserting "(a) In General.—" before "Whenever" and by adding at the end thereof the following new subsection:

"(b) Claims Under Section 7433.—Whenever it appears to the court that the taxpayer's position in proceedings before the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, damages in an amount not in excess of $10,000 shall be awarded to the United States by the court in the court's decision. Damages so awarded shall be assessed at the same time as the deficiency, if any, and shall be paid upon notice and demand from the Secretary and shall be collected as a part of the tax."

(2) Clerical amendment.—The heading for section 6673 is amended by striking out "tax".

(c) Clerical Amendment.—The table of sections for subchapter B of chapter 76, as amended by section 122, is further amended by striking out the item relating to section 7433 and inserting in lieu thereof the following new items:

"Sec. 7433. Civil damages for unreasonable actions.

"Sec. 7434. Cross references."

(d) Effective Date.—The amendments made by this section shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

Subtitle D—Tax Court Jurisdiction

SEC. 131. JURISDICTION TO RESTRAIN CERTAIN PREMATURE ASSESSMENTS.

(a) In General.—Section 6213(a) (relating to time for filing petition and restriction on assessment) is amended by striking out the period at the end of the last sentence and inserting in lieu thereof ", including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a redetermination of the deficiency has been filed and then only in respect of the deficiency that is the subject of such petition."

(b) Appeal of Order Restraining Assessment, Etc.—Section 7482(a) (relating to jurisdiction on appeal) is amended by adding at the end thereof the following new paragraph:

"(3) Certain orders entered under section 6213(a).—An order of the Tax Court which is entered under authority of section 6213(a) and which resolves a proceeding to restrain assessment or collection shall be treated as a decision of the Tax Court for purposes of this section and shall be subject to the same review by the United States Court of Appeals as a similar order of a district court."

(c) Effective Date.—The amendments made by this section shall apply to orders entered after the date of the enactment of this Act.

SEC. 132. JURISDICTION TO ENFORCE OVERPAYMENT DETERMINATIONS.

(a) In General.—Section 6512(b) (relating to overpayment determined by the Tax Court) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)" in paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting the following new paragraph after paragraph (1):

"(2) Jurisdiction to enforce.—

"(A) In general.—If, after 120 days after a decision of the Tax Court has become final, the Secretary has failed to refund the overpayment determined by the Tax Court, together with the interest thereon as provided in subchapter B of chapter 67, then the Tax Court, upon motion by the taxpayer, shall have jurisdiction to order the refund of such overpayment and interest.

"(B) Sanctions if failure to refund not substantially justified.—

"(i) Burden of proof.—In any proceeding under this paragraph, the burden of proof shall be on the Secretary to establish that the Secretary's failure to credit, offset, or refund the overpayment and interest to the taxpayer was substantially justified. The Secretary's failure to refund the overpayment and interest shall be conclusively presumed to be substantially justified to the extent of any credit or offset made pursuant to section 6402.

"(ii) No jurisdiction over credits and offsets.—In deciding whether the Secretary's failure to refund an overpayment and interest was substantially justified, and for that purpose only, the Tax Court shall have no jurisdiction over the validity or merits of any credits or offsets that the Secretary is authorized to make under section 6402 and that the Secretary claims as credits or offsets to the overpayment and interest.

"(iii) Sanctions.—If the Secretary does not establish that the Secretary's failure to refund the overpayment and interest was substantially justified, then the taxpayer shall be entitled to interest at a rate of 120 percent of the overpayment rate provided by section 6621(a)(1), such interest to begin on the later of—

"(I) the date the Tax Court determines under this paragraph that the Secretary's failure to refund the overpayment was not substantially justified, or

"(II) the 121st day after the decision of the Tax Court determining the overpayment under paragraph (1) becomes final.

"(iv) Reviewability.—Any order of the Tax Court disposing of a motion by the taxpayer under this paragraph shall be subject to review, but only with respect to the matters determined in such order."

(b) Amendments Adding Cross References.—

(1) Section 6214(e) is amended by striking out "Reference.—" and inserting in lieu thereof "References.—" in the heading, by designating the undesignated paragraph as paragraph (1), and by adding at the end thereof the following new paragraph:

"(2) For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2)."

(2) Section 6512(c) is amended by striking out "Reference.—" and inserting in lieu thereof "References.—" in the heading, by designating the undesignated paragraph as paragraph (1), and by adding at the end thereof the following new paragraph:

"(2) For provision giving the Tax Court jurisdiction to award reasonable litigation costs in proceedings to enforce an overpayment determined by such court, see section 7430."

(c) Effective Date.—The amendments made by this section shall apply to overpayments determined by the Tax Court which have not yet been refunded by the 90th day after the date of the enactment of this Act.

SEC. 133. JURISDICTION TO REVIEW CERTAIN SALES OF SEIZED PROPERTY.

(a) Jurisdiction to Review Certain Sales of Property.—Section 6863(b)(3) (relating to stay of sale of seized property pending Tax Court decision) is amended by adding at the end thereof the following new subparagraph:

"(C) Review by tax court.—If, but for the application of subparagraph (B), a sale would be prohibited by subparagraph (A)(iii), then the Tax Court shall have jurisdiction to review the Secretary's determination under subparagraph (B) that the property may be sold. Such review may be commenced upon motion by either the Secretary or the taxpayer. An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court."

(b) Effective Date.—The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

SEC. 134. JURISDICTION TO REDETERMINE INTEREST ON DEFICIENCIES.

(a) In General.—Section 7481 (relating to date when Tax Court decision becomes final) is amended by adding at the end thereof the following new subsection:

"(c) Jurisdiction Over Interest Determinations.—Notwithstanding subsection (a), if—

"(1) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title,

"(2) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

"(3) within 1 year after the date the decision of the Tax Court becomes final under subsection (a), the taxpayer files a petition in the Tax Court for a determination that the amount of interest claimed by the Secretary exceeds the amount of interest imposed by this title,

then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest and the amount of any such overpayment. If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining the interest due, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court."

(b) Conforming Amendments.—

(1) Section 6512(a) (relating to effect of petition to Tax Court) is amended by inserting after "section 6213(a)" the following: "(or 7481(c) with respect to a determination of statutory interest)".

(2) Subsection (a) of section 7481 is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)".

(c) Effective Date.—The amendments made by this section shall apply to assessments of deficiencies redetermined by the Tax Court made after the date of the enactment of this Act.

SEC. 135. JURISDICTION TO MODIFY DECISIONS IN CERTAIN ESTATE TAX CASES.

(a) In General.—Section 7481 (relating to date when Tax Court decision becomes final), as amended by section 134, is further amended by adding at the end thereof the following new subsection:

"(d) Decisions Relating To Estate Tax Extended Under Section 6166.—If with respect to a decedent's estate subject to a decision of the Tax Court—

"(1) the time for payment of an amount of tax imposed by chapter 11 is extended under section 6166, and

"(2) there is treated as an administrative expense under section 2053 either—

"(A) any amount of interest which a decedent's estate pays on any portion of the tax imposed by section 2001 on such estate for which the time of payment is extended under section 6166, or

"(B) interest on any estate, succession, legacy, or inheritance tax imposed by a State on such estate during the period of the extension of time for payment under section 6166,

then, upon a motion by the petitioner in such case in which such time for payment of tax has been extended under section 6166, the Tax Court may reopen the case solely to modify the Court's decision to reflect such estate's entitlement to a deduction for such administration expenses under section 2053 and may hold further trial solely with respect to the claim for such deduction if, within the discretion of the Tax

Court, such a hearing is deemed necessary. An order of the Tax Court disposing of a motion under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) CONFORMING AMENDMENTS.—

(1) Section 6512(a) (relating to effect of petition to Tax Court), as amended by section 134, is further amended by striking out "interest)" and inserting in lieu thereof "interest or section 7481(d) solely with respect to a determination of estate tax by the Tax Court)".

(2) Subsection (a) of section 7481, as amended by section 134, is further amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), and (d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to Tax Court cases for which the decision is not final on the date of the enactment of this Act.

SEC. 136. REFUND JURISDICTION FOR THE UNITED STATES TAX COURT.

(a) IN GENERAL.—Section 7442 (relating to jurisdiction of the Tax Court) is amended to read as follows:

"SEC. 7442. JURISDICTION.

"(a) GENERAL RULE.—The Tax Court and its divisions shall have such jurisdiction as is conferred on them by this title, by chapters 1, 2, 3, and 4 of the Internal Revenue Code of 1939, by title II and title III of the Revenue Act of 1926 (44 Stat. 10-87), or by laws enacted subsequent to February 26, 1926.

"(b) REFUND JURISDICTION.—The Tax Court and its divisions shall have original jurisdiction of any civil action against the Secretary for the recovery of any tax, addition to the tax, additional amount, or penalty (including interest thereon) which would be subject to the deficiency procedures of subchapter B of chapter 63 if the Secretary determined a deficiency therein. The jurisdiction shall include any counterclaim, setoff, or equitable recoupment against (or for) the taxpayer."

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF SECTION 6212.—Paragraph (1) of section 6212(c) (relating to further deficiency letters restricted) is amended by inserting "or if the taxpayer has commenced a proceeding under section 7442(b)," after "section 6213(a),".

(2) AMENDMENT OF SECTION 6214.—Subsection (a) of section 6214 (relating to determinations by Tax Court) is amended to read as follows:

"(a) JURISDICTION AS TO INCREASE OF DEFICIENCY, ADDITIONAL AMOUNTS, OR ADDITIONS TO THE TAX.—

"(1) JURISDICTION TO DETERMINE.—Except as provided by paragraph (2) and by section 7463, the Tax Court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or any addition to the tax should be assessed, if claim therefor is asserted by the Secretary at or before the hearing or a rehearing.

"(2) LIMIT ON DETERMINATION.—In the case of any proceeding under section 7442(b), no deficiency shall be determined unless the Tax Court determines as part of the Court's decision that such deficiency was asserted by the Secretary in an appropriate pleading filed with the Tax Court within the period of limitations provided in section 6501."

(3) AMENDMENT OF SECTION 6228.—Paragraphs (1)(B) and (2)(A)(i) of section 6228(b) (relating to certain requests for administrative adjustment) are each amended by inserting "or 7442(b)" after "section 7422".

(4) AMENDMENT OF SECTION 6512.—Paragraph (1) of section 6512(b) (relating to overpayment determined by Tax Court) is amended by inserting "if the Secretary has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and certain excise taxes), if the taxpayer files a petition with the Tax Court within the time prescribed by section 6213(a), and" after "section 7463,".

(5) AMENDMENTS OF SECTION 7422.—

(A) The first sentence of paragraph (1) of section 7422(f) (relating to limitation on right of action for refund) is amended by striking out "A suit" and inserting in lieu thereof "Except as provided in section 7442(b), a suit"

(B) Section 7422 (relating to civil actions for refund) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULE IN CASE OF NOTICE OF DEFICIENCY.—If the Secretary has sent a notice of deficiency with respect to income tax for a taxable year, gift tax for a calendar year or calendar quarter, estate tax in respect to the taxable estate of a decedent, tax imposed by chapters 41, 42, 43, or 44 with respect to an act (or failure to act), or tax imposed by chapter 45 for a taxable period, no proceeding under section 7442(b) may be commenced in the Tax Court with respect to any such tax for so long as the taxpayer is permitted to file a petition with the Tax Court for a redetermination of such deficiency."

(6) AMENDMENTS OF SECTION 7423.—

(A) Section 7423 (relating to repayments to officers or employees) is amended to read as follows:

"SEC. 7423. RECOVERIES AGAINST OFFICERS OR EMPLOYEES.

"(a) REPAYMENTS TO OFFICERS OR EMPLOYEES.—The Secretary, subject to regulations prescribed by the Secretary, is authorized to repay—

"(1) COLLECTIONS RECOVERED.—To any officer or employee of the United States the full amount of such sums of money as may be recovered against such officer or employee in any court, for any internal revenue taxes collected by such officer or employee, with the cost and expense of suit.

"(2) DAMAGES AND COSTS.—All damages and costs recovered against any officer or employee of the United States in any suit brought against such officer or employee by reason of anything done in the due performance of such officer's or employee's official duty under this title.

"(b) NO EXECUTION AGAINST SECRETARY.—Execution shall not issue against the Secretary for a refund on a final decision of the Tax Court in a proceeding under section 7442(b), but any amount payable as a result of such decision shall be payable in the same manner as such an award by a district court."

(B) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7423 and inserting in lieu thereof the following new item:

"Sec. 7423. Recoveries against officers or employees."

(7) AMENDMENTS OF SECTION 7451.—

(A) Section 7451 (relating to fee for filing petition) is amended by striking out "petition" and inserting in lieu thereof "initial pleading", and by inserting "or for the recovery of any amount under section 7442(b)" after "section 6228(a)".

(B) The heading of section 7451 is amended by striking out "PETITION" and inserting in lieu thereof "INITIAL PLEADING".

(C) The table of sections for part II of subchapter C of chapter 76 is amended by striking out "petition" in the item relating to section 7451 and inserting in lieu thereof "initial pleading".

(8) AMENDMENT OF SECTION 7459.—The first sentence of subsection (c) of section 7459 (relating to reports and decisions) is amended by inserting "or overpayment" after "amount of the deficiency".

(9) AMENDMENT OF SECTION 7463.—The first sentence of subsection (a) of section 7463 (relating to disputes involving $10,000 or less) is amended by striking out "petition" and inserting in lieu thereof "pleading", and by inserting "or for a refund," after "of a deficiency".

(10) AMENDMENTS OF SECTION 7482.—

(A) Subparagraph (A) of section 7482(b)(1) (relating to venue) is amended by inserting "or a refund" after "tax liability".

(B) Subparagraph (B) of section 7482(b)(1) is amended by inserting "or a refund" after "tax liability", and by inserting "or refund" after "the liability".

(C) The last sentence of section 7482(b)(1) is amended by striking out "petition" the first time it appears and inserting in lieu thereof "initial pleading", and by inserting "or a refund" after "tax liability".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to proceedings commenced in the United States Tax Court on or after the date which is 6 months after the date of the enactment of this Act.

TITLE II—EXCISE TAX PROVISIONS

SEC. 201. TAX-FREE PURCHASES OF CERTAIN FUELS.

(a) IN GENERAL.—Subsection (c) of section 4093 (relating to exceptions; special rule) is amended to read as follows:

"(c) EXEMPTION FOR NONTAXABLE USES AND BUS USES.—

"(1) IN GENERAL.—No tax shall be imposed by section 4091 on fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)) or a use described in section 6427(b)(1).

"(2) EXCEPTIONS.—

"(A) CERTAIN LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

"(i) fuel used in a diesel-powered train, and

"(ii) fuel used in any aircraft.

"(B) CERTAIN BUS USES.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is not refundable by reason of the application of section 6427(b)(2)(A).

"(3) REGISTRATION REQUIRED.—Except to the extent provided by the Secretary, paragraph (1) shall not apply to any sale unless—

"(A) both the seller and the purchaser are registered under section 4101, and

"(B) the purchaser's name, address, and registration number under such section are provided to the seller.

"(4) Information reporting.—

"(A) Returns by producers and importers.—Each producer or importer who makes a reduced-tax sale during the calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing with respect to each such sale—

"(i) the name, address, and registration number under section 4101 of the purchaser,

"(ii) the amount of fuel sold, and

"(iii) such other information as the Secretary may require.

"(B) Statements to purchasers.—Every person required to make a return under subparagraph (A) shall furnish to each purchaser whose name is required to be set forth on such return a written statement showing the name and address of the person required to make such return and the information required to be shown on the return with respect to such purchaser. The written statement required under the preceding sentence shall be furnished to the purchaser on or before January 31 of the year following the calendar year for which the return under subparagraph (A) is required to be made.

"(C) Returns by purchasers.—Each person who uses during the calendar year fuel purchased in a reduced-tax sale shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing—

"(i) whether such use was a nontaxable use (as defined in section 6427(l)) and the amount of fuel so used,

"(ii) the date of the sale of the fuel so used,

"(iii) the name, address, and registration number under section 4101 of the seller, and

"(iv) such other information as the Secretary may require.

"(D) Reduced-tax sale.—For purposes of this paragraph, the term 'reduced tax sale' means any sale of taxable fuel on which the amount of tax otherwise required to be paid under section 4091 is reduced by reason of paragraph (1) (other than sales described in subsections (a) and (b) of this section)."

(b) Penalty for Failing to Provide Information.—

(1) Subparagraph (B) of section 6724(d)(1) (defining information return) is amended by striking "or" at the end of clause (ix), by striking the period at the end of clause (x) and inserting ", or", and by adding at the end thereof the following new clause:

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels)."

(2) Paragraph (2) of section 6724(d) (defining payee statement) is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels)."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on October 1, 1988.

(2) Refunds with interest for pre-effective date purchases.—

(A) In general.—In the case of fuel—

(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on September 30, 1988, and

(ii) which is used (before the claim under this subparagraph is filed) by any person in a nontaxable use (as defined in section 6427(l) of the Internal Revenue Code of 1986),

the Secretary shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of such Code (to the extent not attributable to amounts described in section 6427(l)(3) of such Code) if claim therefor is filed not later than December 31, 1988. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of such Code. Any claim for refund filed under this paragraph shall be considered a claim for refund under section 6427(l) of such Code.

(B) Interest.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of such Code except that—

(i) the date of the overpayment with respect to fuel purchased during any month shall be treated as being the last day of such month, and

(ii) the rate of such interest shall be the underpayment rate determined under section 6621(a)(2).

(C) Registration procedures required to be specified before effective date.—Not later than October 1, 1988, the Secretary of the Treasury or the Secretary's delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of such Code (as added by this section).

SEC. 202. EXPEDITED REFUND OR INCOME TAX CREDIT ALLOWED FOR RETAIL SALES OF CERTAIN FUELS USED IN NONTAXABLE USES.

(a) Expedited Refund.—Section 6427(i) (relating to time for filing claims; period covered) is amended by adding at the end thereof the following new paragraph:

"(4) Special rule for nontaxable uses of diesel fuel and aviation fuel taxed under section 4091.—

"(A) In general.—A claim may be filed under subsection (l) by any person with respect to fuel used for any period for which $750 or more is payable under such subsection (l) (disregarding any amount for which a claim has been previously filed under this subsection).

"(B) Time for filing claim.—A claim may be filed under this paragraph on or after the last day of the quarter during which a period described in subparagraph (A) occurs."

(b) Claim Paid With Interest.—

(1) In general.—Section 6427(l) (relating to refunds for nontaxable uses of diesel fuel and aviation fuel taxed under section 4091) is amended by adding at the end thereof the following new paragraph:

"(4) Interest.—The amount of interest payable under paragraph (1) shall be determined under section 6611 of such Code except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the last day of such month.

(2) Conforming amendment.—Paragraph (1) of section 6427(l) is amended by striking out "(without interest)" and inserting in lieu thereof "(with interest)".

(c) Allowance of Income Tax Credit.—Paragraph (2) of section 6427(k) (relating to income tax credit in lieu of payment) is amended by striking out "subsection (i)(2) or (h)(3)" and inserting in lieu thereof "subsection (i)(2), (i)(3), or (i)(4)".

(d) Conforming Amendments.—

(1) Paragraph (1) of section 6427(i) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(2) Paragraph (2)(A) of section 6427(i) is amended by striking out "(1),".

(e) Effective Date.—The amendments made by this section shall apply to fuel purchased for use in a nontaxable use (as defined in section 6427(l)(2) of the Internal Revenue Code of 1986) after September 30, 1988.

SEC. 203. MARINE RETAILERS TREATED AS PRODUCERS.

(a) In General.—Subparagraph (B) of section 4092(b)(1) (relating to certain persons treated as producers) is amended by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or" and by adding at the end thereof the following new clause:

"(iii) a retailer selling any taxable fuel exclusively to purchasers as supplies for commercial and noncommercial vessels."

(b) Effective Date.—The amendments made by this section shall apply to sales after September 30, 1988.

SEC. 204. EXCEPTION FROM DISTILLED SPIRITS TAX CREDIT FOR WINE CONTENT AND FLAVORS CONTENT.

(a) Wine Content.—Section 5010(c)(1) (defining wine content) is amended by adding at the end thereof the following new subparagraph:

"(C) Exception.—In the case of a distilled spirits product, the term 'wine content' does not include alcohol derived from wine to the extent such alcohol exceeds (on a proof gallon basis) 2½ percent of the finished product."

(b) Flavors Content.—Subparagraph (B) of section 5010(c)(2) (defining flavors content) is amended by striking out the "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) alcohol derived from flavors distilled at a distilled spirits plant, and".

(c) Effective Date.—The amendments made by this section shall apply with respect to distilled spirits withdrawn from bond after the date of the enactment of this Act.

SEC. 205. SMALL PRODUCERS EXEMPT FROM OCCUPATIONAL TAX ON DISTILLED SPIRITS PLANTS.

(a) In General.—Section 5081 (relating to imposition and rate of occupational tax) is amended by adding at the end thereof the following new subsection:

"(c) Exemption for Small Producers.—Subsection (a) shall not apply with respect to any taxpayer who is a proprietor of an eligible distilled spirits plant (as defined in section 5181(c)(4))."

(b) Conforming Amendment.—Paragraph (1) of section 5081(b) (relating to reduced rates for small proprietors) is amended by inserting "not described in subsection (c)" after "taxpayer".

(c) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 10512 of the Revenue Act of 1987.

SEC. 206. INCREASE IN GAS GUZZLER TAX.

(a) In General.—Section 4064(a) (relating to gas guzzlers tax) is amended by adding at the end thereof the following new paragraph:

"(8) In the case of any automobile sold by a manufacturer after September 30, 1988:

"If the fuel economy of the model type in which the automobile falls is:	*The rate is:*
At least 22.5	$ 0
At least 21.5 but less than 22.5	1,000
At least 20.5 but less than 21.5	1,300
At least 19.5 but less than 20.5	1,700
At least 18.5 but less than 19.5	2,100
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,000
At least 15.5 but less than 16.5	3,700
At least 14.5 but less than 15.5	4,500
At least 13.5 but less than 14.5	5,400
At least 12.5 but less than 13.5	6,400
Less than 12.5	7,700."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to vehicles sold by a manufacturer after September 30, 1988.

TITLE III—MISCELLANEOUS PROVISION

SEC. 301. 1-YEAR EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES.

Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking out "July 1, 1988" and inserting in lieu thereof "July 1, 1989".

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment:

H.R. 3097. A bill to amend the Public Health Service Act to revise and extend the program of assistance to organ procurement organizations, and for other purposes (Rept. No. 100-310).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Frank DeGeorge, of Maryland, to be inspector general, Department of Commerce; pursuant to previous order, further referred to the Committee on Governmental Affairs;

Joseph Trippe Nall, of North Carolina, to be a member of the National Transportation Safety Board for the term expiring December 31, 1992;

Marc G. Stanley, of Maryland, to be an Assistant Secretary of Commerce;

William Evans, of California, to be Under Secretary of Commerce for Oceans and Atmosphere;

Robert H. Brumley II, of Virginia, to be general counsel of the Department of Commerce;

Barbara McConnell Barrett, of Arizona, to be Deputy Administrator of the Federal Aviation Administration;

Robert L. Pettit, of the District of Columbia, to be Associate Deputy Secretary of Transportation;

Edward R. Hamberger, of Maryland, to be an Assistant Secretary of Transportation;

Rear Adm. Clyde E. Robbins as Commander, Pacific Area, U.S. Coast Guard, with the grade of vice admiral while so serving; and

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Thomas T. Matteson
Richard I. Rybacki
Martin H. Daniell, Jr.
Robert T. Nelson
Marshall E. Gilbert

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral (lower half):

Ronald M. Polant
William P. Leahy, Jr.
Joel D. Sipes
Richard A. Appelbaum
Arthur E. Henn

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably nomination lists in the National Oceanic and Atmospheric Administration and Coast Guard which were printed in their entirety in the CONGRESSIONAL RECORDS of February 2 and March 14, 1988, and, to save the expense of reprinting them on the Executive Calendar, I ask that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN (for himself, Mr. HOLLINGS, Mr. DANFORTH, Mr. INOUYE, and Mr. PACKWOOD):

S. 2221. A bill to expand our national telecommunications system for the benefit of the hearing impaired, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself and Mr. WEICKER):

S. 2222. A bill to amend the Public Health Service Act to reauthorize programs relating to the National Research Institutes established under title IV of such Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BENTSEN, from the Committee on Finance:

S. 2223. An original bill to promote and protect taxpayer rights, and for other purposes; placed on the calendar.

By Mr. SPECTER (for himself and Mr. HEINZ):

S. 2224. A bill to transfer the Colonial Court House in York, PA, to the control of the National Park Service; to the Committee on Energy and Natural Resources.

By Mr. ADAMS (for himself and Mr. EVANS):

S. 2225. A bill to authorize the Secretary of the Interior to take corrective action to protect certain portions of the Franklin County, WA, road system within the Federal Columbia Basin reclamation project; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 2226. A bill to provide financial assistance for innovative programs to address the educational needs of children at risk of experiencing low academic achievement, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 2227. A bill to authorize competitive leasing of quartz mineral deposits in the Ouachita National Forest; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 2228. To designate the U.S. Post Office Building located at 1105 Moss Street in Lafayette, LA, as the "James Domengeaux Post Office Building"; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, Mr. PELL, and Mr. SIMON):

S. 2229. A bill to amend the Public Health Service Act to reauthorize programs concerning health research and teaching facilities, and training of professional health personnel under title VII of such act, and for other purposes; to the Committee on Labor and Human Resources.

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. 2230. A bill to establish the Office of Enforcement and Border Affairs within the Department of the Treasury; to the Committees on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days of continuous session to report or be discharged.

By Mr. HOLLINGS (for himself, Mr. HEFLIN, Mr. CRANSTON, and Mr. DODD):

S.J. Res. 282. Joint Resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential elections; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself, Mr. HOLLINGS, Mr. DANFORTH, Mr. INOUYE, and Mr. PACKWOOD):

S. 2221. A bill to expand our national telecommunications system for the benefit of the hearing-impaired, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELECOMMUNICATIONS SERVICES FOR THE HEARING-IMPAIRED

Mr. McCAIN. Mr. President, today we enjoy a telecommunications system that surpasses those of all other countries in both technology and efficiency and which provides superior service to a large percentage of the population at reasonable cost.

Unfortunately, there is a segment of our population whose communications needs have been overlooked—the Nation's 24 million hearing-impaired citizens. These Americans, by virtue of their disability, haven't had the access to our telephone system that's so readily available to the rest of the Nation.

Initially, the restriction was a simple matter of technology. Over the years, however, technological advances have removed this impediment. Communications devices have been designed for use by the hearing-impaired that interface with standard telephones. TDD's—telecommunications devices for the deaf—are equipped with key-boards and digital display screens that permit messages to be typed and transmitted over standard telephone wires to other TDD's.

As a practical matter, however, the impediment remains as long as accessibility to TDD's is limited. A hearing-impaired person with a TDD can communicate only with those who also have TDD's. And those who have TDD's are family and friends of the hearing-impaired and service industries and agencies that cater to the needs of the hearing-impaired.

The vast majority of governmental agencies and businesses in this country do not. The needs of all disabled people have been addressed through extensive legislation, much of which has been successful. Equal access has become a catch phrase to address the removal of barriers, physical and attitudinal, experienced by the handicapped. But the problem of inability to communicate goes beyond the issues addressed in the context of equal access for the handicapped.

Many of the 24 million hearing-impaired people in this country are young people who are just beginning to move into the business world. As we have recently seen at Gallaudet University, these people are bright, articulate, and ready to participate and contribute if society is willing to accommodate their special needs.

Today I'm introducing a bill that will require the Federal Government to make such an accommodation. This is not largess. The purpose is to fulfill a mandate that existed long before the technology that could make it a reality: a rapid, efficient, nationwide telecommunications system available to all the people of the United States. This bill establishes a five-part program to accomplish this.

First, the bill requires the Federal Communications Commission to consult and coordinate with the Architectural and Transportation Barriers Compliance Board to establish and implement a telecommunications system for the hearing-impaired with and within the Federal Government.

The existing Federal relay system is inadequate to meet the needs of the hearing-impaired population. It is a pilot program, funded by the Compliance Board and housed by the Treasury Department and is scheduled to expire in August of this year. There is only one operator whose responsibility is to receive messages and inquiries on the TDD during normal business hours, relay to the appropriate departments and agencies and then respond to the party inquiring on the TDD.

When my staff attempted to make contact with this relay system, the calls either went unanswered or were answered with a message to leave a number and await a return call, which never came. In addition to being inadequate to meet the need, its existence is a well kept secret despite efforts to publish listings in appropriate directories. This legislation provides for the expansion and publication of the system to meet minimum service requirements as established by the Commission and the Board.

Second, in addition to an expanded relay system, this bill requires all Federal departments and agencies to be equipped with an accessible TDD and, depending on agency population, a station equipped to accommodate portable TDD's.

Third, the legislation also provides for the expansion and upgrading of the facilities as usage requires and for the installation of TDD pay phone stations where economically feasible. These stations will be placed at visible locations in or near the lobbies of Federal facilities and will accommodate users of portable TDS's.

Fourth, just as logos currently identify everything from handicapped parking places to restrooms, a logo identifying the location of a TDD or a TDD station is a vital accessory to the equipment itself. This legislation mandates the design and distribution of such a standardized logo.

Fifth, the legislation will place the Commission and the Compliance Board at the forefront of technological developments in this field. In addition to supporting the development of cost reducing telecommunications methods, the legislation mandates an active role by assigning to the Commission and the Board the responsibility of planning for the evolution of a hardware-based alternative to a Federal relay system.

Earlier I referred to recent events at Gallaudet University. You may recall that some people have been quoted as saying that the deaf are not prepared to function in the hearing world. I would argue that the deaf may be more prepared than the hearing world. We have neglected the needs of this segment of our population. We can no longer afford to do that.

The ability of the hearing-impaired to communicate with the Federal Government and for the Government to communicate with all its citizens is a necessary element for the efficient and representative management of this society in all its aspects. The Communications Act of 1934 was passed in order to provide the country with efficient, affordable, and accessible telephone service. The means to reach this segment of the population have been available for some time. It is the responsibility of the Federal Government to lead the way in seeing that the technology is utilized to the fullest extent possible.

The bill I am introducing today is an important step toward fulfilling that responsibility. The removal of impediments to meaningful communications will be an important step toward full participation of the hearing-impaired in the business of the Nation. I hope my colleagues join me in this effort to make our Government and our national telecommunications network more open and accessible to the 24 million Americans whose hearing deficiency can be overcome by the simple investment in a little available technology.

By Mr. KENNEDY (for himself and Mr. WEICKER):

S. 2222. A bill to amend the Public Health Service Act to reauthorize programs relating to the National Research Institutes established under title IV of such Act, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL RESEARCH INSTITUTES REAUTHORIZATION ACT

● Mr. KENNEDY. Mr. President, I rise to introduce a measure to reauthorize the National Institutes of Health. It is a particular pleasure to do so in the year following the centennial year of that great agency. In 100 years of sustained excellence, the NIH has grown from a one room attic laboratory in 1887 to the premier and largest medical research institution in the world today. It is altogether fitting that we now provide the NIH with the authority that will foster the even greater medical advances that we can expect to emerge from NIH-supported research as it enters its second hundred years.

In the past century, 88 eminent scientists who have had their research supported in whole or in part by the NIH have received the Nobel prize. Four distinguished NIH intramural scientists have also received the prize. Yet, the real glory of the NIH derives not from the great scientists it has supported, but from the truly impressive list of life-saving and life-enhancing medical breakthroughs this research has produced. Funding for NIH has not been money spent, but money invested, and every American has profited.

One only need look at the benefits that have accrued to children. NIH research has produced a drug cure for childhood leukemia, reduced mortality from neonatal respiratory distress syndrome, provided vaccines for life-threatening diseases such as rubella, developed early detection tests and treatments for congenital disorders that have saved thousands of children from mental retardation, made liver transplantations possible, demonstrated the cancer-causing role of asbestos in school construction, and begun the eradication of childhood maladies such as tooth decay which has recently shown a significant decline.

Or one only need look at the benefits that have accrued to the aged. NIH research has resulted in the development of corneal transplants and laser retinal therapy that has saved the eyesight of many, as well as improved therapies for cancer, heart disease and diabetes. But perhaps NIH's finest achievement for the elderly has been studies that have distinguished the normal biological processes of aging from simple deficiencies of life style and serious illness. This has allowed many of the myths of aging to be exploded and serious illnesses to be exposed, greatly altering and improving physicians' attitudes toward older patients.

These examples only scratch the surface of NIH's medical achievements and do not begin to disclose the staggering number of NIH's scientific achievements. Yet, it is important to recognize that the basic research of yesterday has yielded discoveries that will underpin tomorrow's advances in treatment. Never have we needed NIH's breakthroughs as we do today. We are still far from the cures we seek for many dread diseases. And we are confronted with a new and deadly epidemic, AIDS.

Yet even as we need NIH more than ever, its progress is threatened. It's outstanding record of achievement has only been possible as a result of the Federal Government's willingness to share the cost of facility construction and maintenance at research institutions. This support was severely cutback after 1969, and financially constrained research institutions have been forced to defer needed construction and maintenance in order to keep up research productivity. The insidious nature of this situation has increasingly led research institutions to call on pork barrel politics for help, a process that addresses a critical need in a haphazard and inefficient manner. The NIH and the medical research community it supports should not be forced to enter its second century in the inadequate and run-down facilities of its first century. No resource can prosper unless it is properly cared for and given room to grow.

There are four programs that require specific reauthorizations through this legislation. These include the program of the National Cancer Institute [NCI], the National Heart, Lung, Blood Institute [NHLBI], the National Library of Medicine, and the NIH training programs. The authorizations for NCI and NHBLI have been increased to 16 percent above current appropriations levels for 1989, and left open on a "such sums" basis for 1990 and 1991. This represents a small increase of 3 percent in real terms for each of these important Institutes. Due to the high rate of inflation in the health sector, an increase of 13 percent is required just to maintain the current programs of these outstanding research institutes. (Please examine the accompanying table for reauthorization amounts.)

The highlights of this legislation I am submitting are summarized briefly in the following remarks.

I propose to institute a construction and revitalization grant program at NIH that will rebuild and expand our biomedical research infrastructure. I further propose that this be a matching funds grant program to challenge the States and private donors to be part of a national effort to guarantee progress in medical research. The authorization for this facilities construction program is small—$150 million. Since each institution will be asked to match the Federal dollars it receives, this sum will have double the impact. And lastly, I propose award criteria to ensure that emerging centers of excellence, which may lag behind in their institutional development or which have faced significant barriers to their development, will be able to share in this opportunity.

An increasing cause for alarm for the NIH campus itself is the strain being endured by the intramural program. This program is a national resource, revered around the world, which must be protected. Government salary caps are causing severe recruitment and retention problems; NIH senior scientists and Institute Directors are beckoned away by medical schools which offer to pay twice their maximum salary. I propose incorporation of an HHS proposal to create a Senior Biomedical Scientist Service which, for a modest cost, will benefit senior scientists at NIH, FDA and CDC. We must do at least this much to maintain the world class stature of scientists at these institutions. I will also ask the Institute of Medicine to investigate the impact of establishing a publicly chartered National Institutes of Health foundation that might be a source of additional funds to augment the NIH budget.

Another area in critical need of attention is medical rehabilitation research. This field has brought much progress in the understanding and treatment of disabilities; yet it has not contributed to the extent it might for lack of an administrative focal point dedicated to its needs. Medical rehabilitation research cuts across many organ systems and scientific disciplines. Its more basic aspects are covered in separate efforts within the various institutes of NIH. Its more social and vocational, and to some extent medical, aspects are covered by programs of the National Institute of Disability and Rehabilitation Research in the Department of Education. But nowhere is there an entity devoted to the priorities and needs of medical rehabilitation research. The creation of such an entity is essential if this important area of medicine is to flourish.

I propose that a Center for Medical Rehabilitation Research be created at the NIH. Research advances will be made on a basic level and on the level of reintegrating the disabled into society, and new breakthroughs will be promoted in the clinical treatment of the disabled. The most important elements of this Center will be the development of an overall research plan for medical rehabilitation research, the augmentation of and coordination with existing NIH programs, and an emphasis on research training. This field is ripe for rapid progress, and the proposed Center, located in the rich biomedical environment of NIH, will greatly facilitate its achievements.

The astounding pace of medical advances is now often providing us not only with great opportunities, but also with difficult choices, as we gain more and more power to control our medical destiny. Advanced biomedical knowledge sometimes trespasses on the rights of society and the individual; there is also the risk that such concerns can lead to unnecessary obstacles in the path of new life-saving treatments.

For example, 10 years ago, concern over abuses caused a virtual elimination of Federal support for fetal research. Despite this prohibition, a good deal of research on fetal therapies has been conducted using other sources of funding. Important advances have been made that have allowed thousands of fetuses to survive. This work has gone forward without the rigorous scientific and ethical review that Federal regulations would have provided. It is time to reexamine this issue to determine whether there is a new consensus that will fully protect moral precepts without interfering with the potential of federally funded research to save babies.

I propose the creation of a Centers for Biomedical Ethics program to be administered by the NIH. Through cooperative agreements or grants, five such centers would be established extramurally. These Centers will provide guidance from ethicists and other experts as we confront the difficult choices that biomedical research is making possible and as we seek to make the best use of our opportunities and resources.

The national nursing shortage is receiving increasing attention around the country, and the traditional role of the nurse is under close examination. I am proposing that authority be given to the National Center for Nursing Research to set up innovative nursing demonstrations to restructure the role of the hospital nurse. The Center would be empowered to issue research and demonstration grants to extramural institutions to improve the quality of the nursing role with respect to patient care.

These are also exciting times for research on aging. I propose to capitalize on this momentum by authorizing the

National Institute on Aging to establish centers in geriatric research and research training. The primary emphasis of the centers will be the training of physicians to provide instruction in geriatrics to other physicians and to students of health professions. This will greatly facilitate the incorporation of research findings in geriatrics into improved patient care.

Another area of promise and need for emphasis is research on deafness and other communication disorders. This area is receiving increased public and congressional attention. Many are calling for the creation of a new institute at NIH to address this need. The question is how best to enhance research in this area. In view of the fact that the funding rate for proposals in this area is currently higher than the overall funding rate for NIH proposals, I believe that the greatest emphasis should be placed on attracting and training additional researchers to this field.

I propose the funding of eight centers for research and training in deafness and other communication disorders by the National Institute of Neurological and Communicative Disorders and Stroke. The centers will begin to immediately address the need for additional trained researchers in this area in an efficient and effective manner. This approach will get quickly to the heart of the problems and will avoid spending millions of dollars for administrative costs that would be required for the start up of a new NIH institute, money that might be better spent on research itself.

As one of the authors of the National Cancer Act of 1971, I am pleased to be able to say that the programs carried out by the National Cancer Institute since the adoption of that act have shown outstanding results and provide great hope for the future.

Nearly 50 percent of the patients are now curable, compared to 38 percent in the 1960's. Genetic and environmental risk factors have been clarified, increasing our ability to prevent and control cancer. Important systems have been devised to speed treatment advances to the patient and to make state-of-the-art case management information readily available.

Major discoveries have been made in cancer biology and immunology, including the discovery of reverse transcriptase, an important enzyme in AIDS etiology. Advances have also been made in our understanding of the role on oncogenes, the genes that cause cancer. A supercomputer system is now being developed that will provide researchers with an unprecedented ability to analyze and integrate data into meaningful patterns. An improved antitumor drug screening program will allow much more sophisticated search and evaluation of compounds for antitumor effects.

Despite impressive progress, 870,000 new cases of cancer are reported each year, and 450,000 deaths occur. We must provide greater encouragement to researchers to keep up and expand the fight. I propose a 16 percent increase in the authorization level for NCI. Discounting the 13 percent needed to maintain current services, this proposal allows about 3 percent real growth in 1989.

I am recommending a similar increase for the National Heart, Lung and Blood Institute. Research advances have helped lower the death rate for coronary heart disease by 43 percent since 1972. This progress has been made possible by the improved understanding and advances in treatment and prevention resulting from federally supported research. With a renewed and strongly supported effort, continued progress in the control of coronary heart disease, sickle cell anemia, and high blood pressure will be achieved.

I am also recommending that the 1988 authorization level for the medical libraries grant program of the National Library of Medicine be maintained for 1989. This level is still substantially greater than the 1988 appropriation. I also propose to remove the artificial restriction on the size of these grants, which threatens to impede this program. To assist the NLM in obtaining members for its Board of Regents, I am proposing that the members be appointed by the President. These changes will assist the NLM in maintaining its position as the premier medical library in the world.

Training is an area of increasing concern. I propose to reaffirm our commitment to research training by increasing the authorization level of the National Research Service Awards by 25 percent. This will allow for growth as well as allow for meeting increased costs by raising stipends, which is essential if we are to attract the brightest minds into health research. There has been essentially no growth in the number of trainees in the last 10 years, while the size of the biomedical enterprise has grown substantially. Perhaps of greatest importance, this increase will allow for a substantial growth in the number of research trainees in the important areas of drug and alcohol abuse and mental health research. These disciplines are substantially below the projected need as estimated by the National Academy of Sciences in its last report. The recent statements of the Chair of the President's Commission on AIDS underscores the overarching importance of improving our research endeavors in the area of drug abuse.

In the last century a partnership has developed in biomedical research between government, academia and industry. The Federal support of NIH has made it preeminent in the world and we have been a steady and reliable partner. The reauthorization bill I have proposed will enhance the NIH's ability to play its role and will challenge our partners to match our commitment. I have made improving the health care and quality of life of the American people a major goal of my professional life and passage of this bill will ensure continued progress of that goal. I urge my colleagues in the Senate to become cosponsors of this legislation so that we may move it quickly to final passage.

Mr. President, I ask unanimous consent that the text of the bill and a table of the proposed authorization levels be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.2222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Research Institutes Reauthorization Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Public Health Service Act.

TITLE I—BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

Sec. 101. Biomedical and behavioral research facilities.

TITLE II—BIOMEDICAL ETHICS

Sec. 201. Centers for biomedical ethics.
Sec. 202. Fetal therapy and research.

TITLE III—NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

Sec. 302. Centers for the Study of Deafness and Other Communicative Disorders.

TITLE IV—NATIONAL INSTITUTE ON AGING

Sec. 401. Centers of geriatric research and training.

TITLE V—NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH

Sec. 501. National Center for Medical Rehabilitation Research.

TITLE VI—NATIONAL CENTER FOR NURSING RESEARCH

Sec. 601. National Center for Nursing Research.

TITLE VII—NATIONAL CANCER INSTITUTE

Sec. 701. Purpose.
Sec. 702. Special authorities of the Director.
Sec. 703. National cancer research and demonstration centers.

TITLE VIII—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Sec. 801. Information and education.
Sec. 802. Resources program.
Sec. 803. National research and demonstration centers.
Sec. 804. Interagency technical committee.

TITLE IX—NATIONAL INSTITUTES OF HEALTH

Sec. 901. Appointment and authority of the Director.

TITLE X—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

Sec. 1001. Appointment and authority of the directors.
Sec. 1002. Advisory councils.
Sec. 1003. Authorization of appropriations.

TITLE XI—NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

Sec. 1101. Advisory boards.

TITLE XII—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

Sec. 1201. National arthritis and musculoskeletal disease programs.
Sec. 1202. Multipurpose disease centers.

TITLE XIII—NATIONAL LIBRARY OF MEDICINE

Sec. 1301. Board of regents.
Sec. 1302. Authorization of appropriations.
Sec. 1303. Grants for the development of new educational technologies.
Sec. 1304. Grants for basic resources of medical libraries.
Sec. 1305. Grants for establishment of regional medical libraries.

TITLE XIV—AWARDS AND TRAINING

Sec. 1401. National research service awards.

TITLE XV—GENERAL PROVISIONS

Sec. 1501. Peer review requirements.

TITLE XVI—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

Sec. 1601. Biomedical research.

SEC. 2. REFERENCES TO THE PUBLIC HEALTH SERVICE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

SEC. 101. BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

Title IV (42 U.S.C. 601 et seq.) is amended by adding at the end thereof the following new part:

"PART H—BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

"SEC. 499A. GRANTS FOR CONSTRUCTION.

"The Director of the National Institutes of Health, through the Director of Research Resources (hereinafter in this part referred to as the 'Director'), is authorized to award grants to public and nonprofit private institutions to expand, remodel, renovate, or alter existing research facilities or construct new research facilities pursuant to this part. Applications for grants shall be evaluated on the basis of merit as provided in section 499H.

"SEC. 499B. TECHNICAL REVIEW BOARD ON BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established in the Division of Research Resources of the National Institutes of Health a Technical Review Board on Biomedical and Behavioral Research Facilities (hereinafter referred to in this part as the 'Board') to advise the Director and the Advisory Council established pursuant to section 480 (hereinafter in this part referred to as the 'Advisory Council') on matters concerning the construction of facilities, and to conduct the peer review of applications received for this part.

"(2) MEMBERSHIP.—The Board shall be appointed by the Director, and consist of not fewer than—

"(A) 12 members appointed without regard to the civil service laws; and

"(B) an official of the National Science Foundation designated by the National Science Board.

"(3) FACTORS FOR APPOINTMENTS.—In selecting persons for appointment to the Board under paragraph (2), the Director shall consider factors such as—

"(A) experience in the planning, construction, financing, and administration of institutions engaged in the conduct of research in the biomedical or behavioral sciences;

"(B) familiarity with the need for biomedical or behavioral research facilities;

"(C) familiarity with the need for dentistry, nursing, pharmacy, and allied health professions research facilities; and

"(D) experience with emerging centers of excellence as defined in section 499C(d)(2).

"(b) DUTIES.—The Board shall—

"(1) advise and assist the Director and the Advisory Council in the preparation of general regulations and with respect to policy matters arising in the administration of this part;

"(2) make recommendations to the Director and the Advisory Council concerning—

"(A) merit review of applications for grants; and

"(B) the amount that should be granted to each applicant whose application, in its opinion, should be approved; and

"(3) prepare an annual report for the Advisory Council, which shall be available to the public, that—

"(A) describes the activities of the Board in the fiscal year for which the report is made;

"(B) describes and evaluates the progress made in such fiscal year in meeting the facilities needs for the biomedical research community;

"(C) summarizes and analyzes expenditures made by the Federal government for such activities;

"(D) reviews the approved but unfounded applications for grants; and

"(E) contains the recommendations of the Board for any changes in the implementation of this part.

"(c) TERMS.—

"(1) TERMS.—Each appointed member of the Board shall hold office for a term of 4 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term.

"(2) STAGGERED TERMS.—Of the initial members appointed to the Board—

"(A) three shall hold office for a term of 3 years;

"(B) three shall hold office for a term of 2 years; and

"(C) three shall hold office for a term of 1 year;

as designated by the Director at the time of appointment.

"(3) REAPPOINTMENT.—No member shall be eligible for reappointment until a year has elapsed since the end of such member's preceding term.

"(d) COMPENSATION.—Members of the Board who are not officers or employees of the United States shall receive for each day the members are engaged in the performance of the functions of the Board compensation at the same rate received by members of other national advisory councils established under this title.

"(e) USE OF MEMBERS.—The Director is authorized to use the services of any member or members of the Board, and where appropriate, any member or members of any other national advisory council established pursuant to this title, in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as the Director may determine. The Director shall make appropriate provision for consultation between and coordination of the work of the Board and the Advisory Council, with respect to matters bearing on the purposes and administration of this part.

"(f) ADMINISTRATION.—The administration of the Board's functions shall be the responsibility of the Director and shall be carried out in the same manner as the administration of the functions of the Advisory Council.

"(g) BOARD ACTIVITIES.—

"(1) IN GENERAL.—In carrying out its functions under this part, the Board may establish subcommittees, convene workshops and conferences, and collect data as the Board considers appropriate.

"(2) SUBCOMMITTEES.—Subcommittees formed under paragraph (1) may be composed of Board members and nonmember consultants with expertise in the particular area to be addressed by the subcommittees. The subcommittee may hold meetings as determined necessary to enable the subcommittee to carry out its activities.

"SEC. 499C. APPLICATION AND SELECTION FOR GRANTS.

"(a) SUBMISSION.—Applications for grants under this part shall be submitted no less frequently than annually to the Director by public and nonprofit private institutions.

"(b) AWARDING OF GRANTS.—A grant under this part may be awarded by the Director if—

"(1) the applicant institution is determined by the Director to be competent to engage in the type of research for which the proposed facility is to be constructed;

"(2) the applicant institution meets the eligibility conditions established by the Director;

"(3) the application contains or is supported by the reasonable assurances that—

"(A) for not less than 20 years after completion of construction, the facility will be used for the purposes of research for which it is to be constructed;

"(B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility; and

"(C) sufficient funds will be available, when construction is completed, for effective use of the facility for the research for which it is being constructed; and

"(4) the proposed construction will expand the applicant's capacity for research, or is necessary to improve or maintain the quality of the applicant's research. A grant under this part may be made only if the application therefor is recommended for approval by the Advisory Council.

"(c) ELIGIBILITY CONDITIONS.—Within such aggregate monetary limit as the Director may prescribe, applications that, solely by reason of the inability of the applicants to give the assurance required by subsection (b)(2), fail to meet the requirements for application set forth in this section, may be approved on condition that the applicants give the assurance required by such paragraph within a reasonable time and on such other reasonable terms and conditions as the Director may determine.

"(d) Awarding Grants.—

"(1) In general.—In acting on applications for grants under this part, the Director shall take into consideration—

"(A) the relative scientific and technical merit of the applications, and the relative effectiveness of the proposed facilities, in expanding capacity for biomedical or behavioral research and in improving the quality of such research;

"(B) the quality of research or training, or both, to be carried out in the facilities involved;

"(C) the need of the institution for such facilities in order to maintain or expand the institutions research and training mission;

"(D) the congruence of the research activities to be carried out within the facility with the research and investigator manpower needs of the United States; and

"(E) the age and condition of existing research facilities and equipment.

"(2) Institutions of emerging excellence.—

"(A) In general.—In addition to paragraph (1), the Director shall consider other criteria for the awarding of grants for the construction of research facilities to eligible institutions that demonstrate emerging excellence in biomedical or behavioral research.

"(B) Eligibility.—To be eligible for a grant under this paragraph, an institution shall—

"(i) have a plan for research or training advancement and the ability to carry out the plan; and

"(ii)(I) carry out research and research training programs that have a special relevance to a problem, concern, or unmet need of the United States;

"(II) have already demonstrated a commitment to enhancing and expanding their research productivity; or

"(III) have been productive in research or research development and training in settings where significant barriers to institutional development have been created by—

"(aa) the underrepresentation of minorities in health science careers;

"(bb) the health status deficit of a large segment of the population; or

"(cc) a regional deficit in health care technology, services, or research resources that can adversely affect health status in the future.

"SEC. 499D. AMOUNT OF GRANT; PAYMENTS.

"(a) Amount.—The amount of any grant awarded under this part shall be determined by the Director, except that such amount may not exceed—

"(1) 50 percent of the necessary cost of the construction of a proposed facility as determined by the Director; or

"(2) in the case of a multipurpose facility, 50 percent of that part of the necessary cost of construction that the Director determines to be proportionate to the contemplated use of the facility.

"(b) Reservation of Amounts.—On approval of any application for a grant under this part, the Director shall reserve, from any appropriation available therefor, the amount of such grant, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Director may determine. The Director's reservation of any amount under this subsection may be amended by the Director, either on approval of an amendment of the application or on revision of the estimated cost of construction of the facility.

"(c) Exclusion of Certain Costs.—In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of—

"(1) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, with respect to construction that is to be financed in part by grant authorized under this part; and

"(2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(d) Waiver of Limitations.—The limitations imposed by subsection (a) may be waived at the discretion of the Director for institutions described in section 499C(d)(2).

"SEC. 499E. RECAPTURE OF PAYMENTS.

"If, within 20 years after the completion of construction for which a grant has been awarded under this part—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private institution; or

"(2) the facility shall cease to be used for the research purposes for which it was constructed (unless the Director determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by agreement of the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.

"SEC. 499F. NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS.

"Except as otherwise specifically provided in this part, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research conducted by, and the personnel or administration of, any institution.

"SEC. 499G. REGULATIONS.

"Within 6 months after the date of enactment of this part, the Director, after consultations with the Advisory Council, shall prescribe regulations regarding the eligibility of institutions for grants awarded under this part, and the terms and conditions of approving applications for such grants. The Director may prescribe such other regulations as the Director finds necessary to carry out this part.

"SEC. 499H. PEER REVIEW OF APPLICATIONS.

"(a) In General.—The Director shall require appropriate peer review of applications for grants under this part in accordance with section 492.

"(b) Manner or Review.—Review of grant applications shall be conducted in a manner consistent with the system of scientific peer review conducted by scholars with regard to applications for grants under this Act for biomedical and behavioral research.

"(c) Membership.—Members of the peer review group established by the Director under section 499B shall be individuals who by the virtue of their training or experience are eminently qualified to perform review functions, except that not more than one-fourth of the members of any peer review group shall be officers or employees of the United States.

"SEC. 499I. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to award grants and carry out this part $150,000,000 for fiscal year 1989 and such sums as necessary for each of the fiscal years 1990 and 1991. Sums appropriated pursuant to this section shall remain available until expended.

"SEC. 499J. DEFINITIONS.

"As used in this part:

"(1) Construction and Cost of Construction.—The terms 'construction' and 'cost of construction' include the construction of new buildings and the expansion, renovation, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or offsite improvements.

"(2) Public or Nonprofit Private Institution.—The term 'public or nonprofit private institution' means an institution that conducts biomedical or behavioral research, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.".

TITLE II—BIOMEDICAL ETHICS

SEC. 201. CENTERS FOR BIOMEDICAL ETHICS.

(a) In General.—Subpart 1 of part E of title IV (42 U.S.C. 287 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 479A. CENTERS FOR BIOMEDICAL ETHICS.

"(a) In General.—The Director of the Division of Research and Resources shall enter into cooperative agreements and make grants to public and private nonprofit entities for the development or expansion of no less than five centers of excellence in biomedical and behavioral research ethics.

"(b) Duties.—Each center shall examine, analyze, issue reports and recommendations, gather, store, and disseminate information regarding the ethical issues and principles resulting from—

"(1) the conduct of biomedical and behavioral research;

"(2) the delivery of health care services and experimental therapy and procedures; and

"(3) the use of new technologies in the provision of health care.".

(b) Repeal.—Section 381 (42 U.S.C. 275) is repealed.

SEC. 202. FETAL THERAPY AND RESEARCH.

Section 498(c) (42 U.S.C. 298g) is amended to read as follows:

"(c)(1) Not later than 1 year after the date of enactment of this subsection, the Secretary shall appoint an Ethics Advisory Board that shall advise the Secretary and biomedical researchers regarding research on fetal therapy and on research involving human fetuses.

"(2) The Board shall consist of 15 members to be appointed as follows:

"(A) Seven members shall be appointed by the Secretary who shall be distinguished in biomedical or behavioral research. Of such members, four shall have had experience with research involving human fetuses, and three shall have had experience in research involving children.

"(B) Three members shall be appointed by the Secretary who shall be distinguished in the practice of medicine, or otherwise distinguished in the provision of health care. Of such members, one shall have expertise in obstetrics, and one shall have expertise in neonatology.

"(C) Four members shall be appointed by the Secretary who shall be distinguished in the fields of ethics, theology, and law.

"(D) One member shall be appointed by the Secretary who shall be representative of citizens with an interest in biomedical ethics but who shall possess no specific expertise in such.

"(3) The term of office of each member of the Board shall be 3 years, except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which such members predecessor was appointed shall be appointed for the remainder of such term. The terms of the members of the Board shall be staggered by the Secretary so as to establish a rotating membership.

"(4)(A) Not later than 90 days after the date of enactment of this subsection, the Secretary shall issue a contract proposal, to which the National Academy of Sciences shall be invited to apply, for a grant or contract to examine the scientific, ethical, and funding issues surrounding the conduct of research on fetal therapy and involving human fetuses.

"(B) As part of an examination conducted under subparagraph (A), the recipient shall review the regulations contained in section 46.208 of title 45, Code of Federal Regulations, and prepare and submit to the Secretary an analysis of the biomedical and ethical implications of exercising a waiver of the risk standard as contained in section 46.102(g) of title 45, Code of Federal Regulations. Not later than 18 months after the date of enactment of this subsection, the Secretary shall deliver a copy of such report to the Ethic Advisory Board, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate.

"(4) During the 2-year period beginning on the date of enactment of this subsection, the Secretary may not grant (under section 46.211 of title 45, Code of Federal Regulations or any successor to such section) a modification or waiver for fetal research.".

TITLE III—NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

SEC. 301. CENTERS FOR THE STUDY OF DEAFNESS AND OTHER COMMUNICATIVE DISORDERS.

Subpart 10 of part C of title IV (42 U.S.C. 285j) is amended by adding at the end thereof the following new section:

"SEC. 457A. CENTERS FOR THE STUDY OF DEAFNESS AND OTHER COMMUNICATIVE DISORDERS.

"(a) GRANTS.—

"(1) IN GENERAL.—The Director of the Institute may enter into cooperative agreements with, and make grants to, public or private nonprofit entities to pay all or part of the cost of planning, establishing, strengthening, or providing basic operating support for eight new or existing centers for disorders of hearing and communication diseases.

"(2) POLICIES.—A cooperative agreement or grant under paragraph (1) shall be entered into in accordance with policies established by the Director of the National Institutes of Health after consultation with the advisory council of the Institute.

"(b) USE OF FUNDS.—Each center provided with funds, or otherwise assisted under this section, shall conduct—

"(1) basic and clinical research into the cause diagnosis, early detection, prevention, control and treatment of, and rehabilitation from, disorders of hearing and other communication processes and complications resulting from such disorders;

"(2) training programs for physicians, scientists, and other health and allied health professionals;

"(3) information and continuing education programs for physicians and other health and allied health professionals who will provide care for patients with disorders of hearing or other communication processes; and

"(4) programs for the dissemination to the general public of information on the importance of prevention and early detection of disorders of hearing and other communication processes.

"(c) STIPENDS.—A center provided with funds or otherwise assisted subsection (a), may used funds provided under such subsection to provide stipends for health professionals enrolled in training programs described in subsection (b)(2).

"(d) DEMONSTRATION PROGRAMS.—Each center provided with funds or otherwise assisted subsection (a), may conduct demonstration programs—

"(1) to establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals at risk of developing disorders of hearing or other communication processes; and

"(2) to disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping.

"(e) DISTRIBUTION OF CENTERS.—The Director of the Institute shall, to the extent practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of the elderly, and of children affected by disorders of hearing or other communication processes.

TITLE IV—NATIONAL INSTITUTE ON AGING

SEC. 401. CENTERS OF GERIATRIC RESEARCH AND TRAINING.

Subpart 5 of part C of title IV (42 U.S.C. 285e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 445A. CENTERS OF GERIATRIC RESEARCH AND TRAINING.

"(a) GRANTS.—The Director of the Institute shall enter into cooperative agreements with, and make grants to, public and private nonprofit entities for the development or expansion of centers of excellence in geriatric research and training.

"(b) DUTIES OF CENTERS.—Each center developed or expanded under this section shall—

"(1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Director; and

"(2) conduct—

"(A) research into the aging processes and into the diagnosis and treatment of diseases, disorders, and complications related to aging;

"(B) advanced training programs in current methods of diagnosis and treatment of such diseases, disorders, and complications;

"(C) programs to develop individuals capable of conducting research concerning aging and concerning such diseases, disorders, and complications; and

"(D) educational and training activities for students of the health professions to enhance the knowledge of such students in geriatrics.

"(c) LIMITATIONS.—In making cooperative agreements and grants under this section for the development or expansion of centers, the Director of the Institute shall provide that such centers are—

"(1) geographically distributed throughout the United States; and

"(2) located at entities with proven research capabilities and emerging centers of excellence.".

TITLE V—NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH

SEC. 501. NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH.

Part E of title IV (42 U.S.C. 287 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 4—National Center for Medical Rehabilitation Research

"SEC. 486A. PURPOSE OF THE CENTER.

"The general purpose of the National Center for Medical Rehabilitation Research (hereafter in this subpart referred to as the 'Center') is the conduct and support of biomedical and related research and research training, the dissemination of health information, and other programs with respect to the rehabilitation of individuals with physical disabilities resulting from diseases or disorders of the neurological, musculoskeletal, cardiovascular, or other physiologic systems (hereafter in this subpart referred to as 'medical rehabilitation').

"SEC. 486B. APPOINTMENT OF THE DIRECTOR.

"The Director of the Center shall be appointed by the Secretary and shall report directly to the Director of the National Institutes of Health.

"SEC. 486C. SPECIFIC AUTHORITIES.

"In carrying out the purpose described in section 486A, the Director of the Center may—

"(1) make grants and enter into cooperative agreements and contracts;

"(2) provide for clinical trials with respect to medical rehabilitation;

"(3) provide for research with respect to model systems of medical rehabilitation;

"(4) coordinate the activities of the Center with similar activities of other agencies of the Federal Government, including the other agencies of the National Institutes of Health, and with similar activities of other public entities and of private entities;

"(5) support multidisciplinary medical rehabilitation research conducted or supported by more than one such agency;

"(6) with the approval of the Director of the National Institutes of Health and the advisory council established under section 465F, appoint technical and scientific peer review groups in addition to any such groups appointed under section 402(b)(6); and

"(7) support medical rehabilitation research and training centers.

"SEC. 486D. RESEARCH PLAN.

"(a) DEVELOPMENT.—After consultation with the Director of the Center, the advisory council established under section 486F, and the coordinating committee established under section 486E, the Director of the National Institutes of Health shall develop a comprehensive plan for the conduct and support of medical rehabilitation research.

"(b) CONTENTS.—The plan shall identify priorities with respect to such research and shall provide for the coordination of such research conducted or supported by the agencies of the National Institutes of Health.

"(c) Revision.— The Director of National Institutes of Health shall (after consultation with the Director of the Center and with such advisory council and such coordinating committee) revise the plan as appropriate.

"SEC. 486E. COORDINATING COMMITTEE.

"(a) Establishment.—The Director of the National Institutes of Health shall establish a committee to be known as the Medical Rehabilitation Coordinating Committee (hereafter in this subpart referred to as the 'Coordinating Committee').

"(b) Composition.—The Coordinating Committee shall be composed of the directors of the National Institute on Aging, the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute of Child Health and Human Development, the National Institute of Neurological and Communicative Disorders and Stroke, and of such other national research institutes as the Director of the National Institutes of Health determines to be appropriate.

"(c) Duties.—The Coordinating Committee shall make recommendations to the Director of National Institutes of Health and the Director of the Center with respect to the content of the plan required in section 486D and with respect to the activities of the Center that are carried out in conjunction with other agencies of the National Institutes of Health.

"SEC. 486FG. ADVISORY COUNCIL.

"(a) Establishment.—The Director of the National Institutes of Health shall establish a council to be known as the Medical Rehabilitation Advisory Council (hereafter in this section referred to as the 'Advisory Council').

"(b) Duties.—The Advisory Council shall advise, assist, consult with, and make recommendations to the Director of the National Institutes of Health and the Director of the Center on matters relating to the activities carried out by and through the Center and the policies respecting such activities, including recommendations with respect to the plan required in section 486D.

"(c) Membership.—

"(1) In general.—The Director of the National Institutes of Health shall appoint to the Advisory Council 18 appropriately qualified representatives of the public who are not officers or employees of the Federal Government. Of such members, 12 shall be representatives of health and scientific disciplines with respect to medical rehabilitation and 6 shall be individuals representing the interests of individuals undergoing, or in need of, medical rehabilitation.

"(2) Ex officio members.—The following officials shall serve as ex officio members of the Advisory Council:

"(A) The Director of the National Institutes of Health.

"(B) The Director of the Center.

"(C) The Director of the National Institute on Aging.

"(D) The Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases.

"(E) The Director of the National Institute of Child Health and Human Development.

"(F) The Director of the National Institute of Neurological and Communicative Disorders and Stroke.

"(G) The Assistant Secretary for Special Education and Rehabilitative Services.

"(H) The Assistant Secretary of Defense (Health Affairs).

"(I) The Chief Medical Director of the Veterans' Administration.

"(d) Chairperson.—The Director of the National Institutes of Health shall designate a chairperson from among the members of the Advisory Council.

"(e) Construction.—Except as inconsistent with, or inapplicable to, this section, the provisions of section 406 shall apply to the advisory council established under this section in the same manner as such provisions apply to any advisory council established under section 406.".

TITLE VI—NATIONAL CENTER FOR NURSING RESEARCH

SEC. 601. NATIONAL CENTER FOR NURSING RESEARCH.

Section 484 (42 U.S.C. 287c-1) is amended to read as follows:

"SEC. 484. SPECIFIC AUTHORITIES.

"To carry out section 483, the Director of the Center may—

"(1) provide research training and instruction and establish, in the Center and other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, health promotion, and the nursing care of individuals with and the families of individuals with acute and chronic illnesses;

"(2) provide individuals receiving such training and instruction under paragraph (1) or such traineeships or fellowships with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary;

"(3) make grants to nonprofit institutions to provide training and instruction and traineeships and fellowships under paragraph (1);

"(4) enter into cooperative agreements with, and make grants to, public and private nonprofit entities to fund all or part of research and demonstration projects that may include projects for research concerning—

"(A) innovative models of nursing care;

"(B) problems relating to the national nursing shortage; and

"(C) the quality of the nursing role with regard to patient care; and

"(5) in consultation with the Advisory Council established under section 485, make grants for the acquisition, construction, or renovation of facilities.".

TITLE VII—NATIONAL CANCER INSTITUTE

SEC. 701. PURPOSE.

Section 410 (42 U.S.C. 285) is amended by inserting "and rehabilitation from" after "treatment of".

SEC. 702. SPECIAL AUTHORITIES OF THE DIRECTOR.

Section 413(b) (42 U.S.C. 285a-2(b)) is amended—

(1) in paragraph (5), by striking out "with the approval of" and inserting in lieu thereof "in consultation with";

(2) in paragraph (7), by inserting "and to conduct the technical and scientific peer review required by section 492(b)" before the semicolon;

(3) in paragraph (9), by striking out "; and" and inserting in lieu thereof a semicolon;

(4) by redesignating paragraph (10) as paragraph (11);

(5) by inserting after paragraph (9) the following new paragraph:

"(10) may publish or arrange for the publication of information regarding cancer research, prevention, biology and diagnosis, control, and treatment to cancer patients and their families, physicians, and other health professionals, oncologic investigators, and the general public without regard to section 501 of title 44, United States Code; and"; and

(6) in paragraph (11) (as redesignated in paragraph (4)), by striking out "may" and inserting in lieu thereof "shall".

SEC. 703. NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS.

Section 414(a)(1) (42 U.S.C. 285a-3(a)(1)) is amended by inserting "control," after "prevention,".

TITLE VIII—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

SEC. 801. INFORMATION AND EDUCATION.

Paragraphs (1) and (2) of the second sentence of section 420 (42 U.S.C. 285b-2) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following: "the utilization of collaborative efforts with both the public and private sectors to—

"(1) increase the awareness and knowledge of health care professionals and the public regarding the prevention of heart and blood vessel, lung, and blood diseases and the utilization of blood resources; and

"(2) develop and disseminate to health professionals, patients and patient families, and the public of information designed to encourage adults and children to adopt healthful habits concerning the prevention of such diseases.".

SEC. 802. RESOURCES PROGRAM.

Section 421 (42 U.S.C. 285b-3) is amended—

(1) in subsection (a)(1)(D), by inserting "and rehabilitation from" after "treatment of"; and

(2) in subsection (b)—

(A) by striking out "; and" in paragraph (3) and inserting in lieu thereof a semicolon;

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) shall, in consultation with the advisory council for the Institute, support appropriate programs for education and training (including continuing education and laboratory and clinical research training).".

SEC. 803. NATIONAL RESEARCH AND DEMONSTRATION CENTERS.

Section 422(a)(1) (42 U.S.C. 285b-4(a)(1)) is amended—

(1) in subparagraph (A), by inserting "and rehabilitation" after "treatment"; and

(2) in subparagraph (B), by inserting "and rehabilitation" after "treatment".

SEC. 804. INTERAGENCY TECHNICAL COMMITTEE.

Section 423 (42 U.S.C. 285b-5) is repealed.

TITLE IX—NATIONAL INSTITUTES OF HEALTH

SEC. 901. APPOINTMENT AND AUTHORITY OF THE DIRECTOR.

Section 402(b)(6) (42 U.S.C. 282(b)(6)) is amended by inserting "and scientific program advisory committees" after "scientific peer review groups".

TITLE X—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

SEC. 1001. APPOINTMENT AND AUTHORITY OF THE DIRECTORS.

(a) Powers and Duties of Directors.—Section 405(b) (42 U.S.C. 284(b)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1)—

(A) by striking out "the human diseases" and inserting in lieu thereof "human diseases";

(B) by striking out "for which the national research institutes were established"; and

(C) by inserting "and agency of the National Institutes of Health" after "each national research institute";

(2) by adding at the end of paragraph (1) the following new sentence: "For purposes of Federal income, estate, and gift taxes, any gift accepted under subparagraph (H) shall be considered to be a gift or transfer to the United States."; and

(3) in the matter preceding subparagraph (A) of paragraph (2), by inserting "and agency of the National Institutes of Health" after "research institute".

(b) CARRYING OUT DUTIES.—Section 405(c) is amended—

(1) in the matter preceding paragraph (1), by inserting "and agency of the National Institutes of Health" after "national research institute";

(2) in paragraph (1), by inserting "or agency" after "institute";

(3) in paragraph (2)—

(A) by inserting "and agencies" after "institutes"; and

(B) by inserting "or agency" after "institute"; and

(4) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) may—

"(A) with the approval of the advisory council for the institute or agency and the Director of the National Institutes of Health, establish technical and scientific peer review groups in addition to those established under section 402(b)(6); and

"(B) appoint the members of peer review groups established under subparagraph (A).".

SEC. 1002. ADVISORY COUNCILS.

(a) APPOINTMENT OF MEMBERS.—Section 406(b)(3)(A) (42 U.S.C. 284a(b)(3)(A)) is amended by striking out "public health and the" and inserting in lieu thereof "two individuals who are leaders in the fields of".

(b) TERMINATION OF MEMBERSHIPS.—Section 406(h)(2)(A)(v) (42 U.S.C. 284a(h)(2)(A)(v)) is amended—

(1) by inserting "shall be nonvoting members and" after "the Board"; and

(2) by striking out "and the Assistant Secretary of Defense for Health Affairs" and inserting in lieu thereof "the Assistant Secretary of Defense for Health Affairs, and the Director of the Office of Energy Research of the Department of Energy".

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 408(a) (42 U.S.C. 284c(a)) is amended to read as follows:

"(1)(A) For the National Cancer Institute (other than its programs under section 412), there are authorized to be appropriated $1,587,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991.

"(B) For the programs under section 412, there are authorized to be appropriated $84,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991.

"(2)(A) For the National Heart, Lung, and Blood Institute (other than its programs under section 419), there are authorized to be appropriated $1,001,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991. Of the amount appropriated under this subsection for such fiscal year, not less than 15 percent of such amount shall be reserved for programs respecting diseases of the lung and not less than 15 percent of such amount shall be reserved for programs respecting blood diseases and blood resources.

"(B) For the programs under section 419, there are authorized to be appropriated $101,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1988.

TITLE XI—NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

SEC. 1101. ADVISORY BOARDS.

Section 430 (42 U.S.C. 285c-4) is amended—

(1) by striking out subsection (k); and

(2) by redesignating subsection (l) as subsection (k).

TITLE XII—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

SEC. 1201. NATIONAL ARTHRITIS AND MUSCULOSKELETAL DISEASES PROGRAMS.

Section 436 (42 U.S.C. 285d-1) is amended to read as follows:

"SEC. 436. NATIONAL ARTHRITIS AND MUSCULOSKELETAL DISEASES PROGRAMS.

"(a) PLAN.—The Director of the Institute, with the advice of the Institute's advisory council, shall prepare and transmit to the Director of the National Institutes of Health a plan for a national arthritis, musculoskeletal and skin diseases program to expand, intensify, and coordinate the activities of the Institute respecting arthritis, musculoskeletal and skin diseases. The plan shall include such comments and recommendations as the Director of the Institute determines appropriate. The Director of the Institute shall periodically review and revise such plan and shall transmit any revisions of such plan to the Director of the National Institutes of Health.

"(b) ACTIVITIES.—Activities under the national arthritis, musculoskeletal and skin diseases program shall be coordinated with the other national research institutes to the extent that such institutes have responsibilities respecting arthritis, musculoskeletal and skin diseases, and shall, at least, provide for—

"(1) investigation into the epidemiology, etiology, and prevention of all forms of arthritis, musculoskeletal and skin diseases, including sports-related disorders, primarily through the support of basic research in such areas as immunology, genetics, biochemistry, microbiology, physiology, bioengineering, and any other scientific discipline which can contribute important knowledge to the treatment and understanding of arthritis, musculoskeletal and skin diseases;

"(2) research into the development, trial, and evaluation of techniques, drugs, and devices used in the diagnosis, treatment, including medical rehabilitation, and prevention of arthritis, musculoskeletal and skin diseases;

"(3) research on the refinement, development, and evaluation of technological devices that will replace or be a substitute for damaged bone, muscle, and joints and other supporting structures; and

"(4) the establishment of mechanisms to monitor the causes of athletic injuries and identify ways of preventing such injuries on scholastic athletic fields.

"(c) ADMINISTRATION.—The Director of the Institute shall carry out the national arthritis, musculoskeletal and skin diseases program in accordance with the plan prepared under subsection (a) and any revisions of such plan made under such subsection.".

SEC. 1202. MULTIPURPOSE DISEASE CENTERS.

Section 441(b)(2)(A) (42 U.S.C. 285d-6(b)(2)(A)) is amended by inserting "and rehabilitation from" after "treatment of".

TITLE XIII—NATIONAL LIBRARY OF MEDICINE

SEC. 1301. BOARD OF REGENTS.

Section 466(a)(1)(A) (42 U.S.C. 286a(a)(1)(A)) is amended by striking out "ten members appointed by the Secretary" and inserting in lieu thereof "13 members appointed by the President".

SEC. 1302. AUTHORIZATION OF APPROPRIATIONS.

Section 469 (42 U.S.C. 286b) is amended by striking out the first sentence and inserting in lieu thereof the following new sentence: "For the purpose of grants and contracts under sections 472 through 476, there are authorized to be appropriated $14,000,000 for fiscal year 1989 and such sums as are necessary for each of the fiscal years 1990 and 1991.".

SEC. 1303. GRANTS FOR THE DEVELOPMENT OF NEW EDUCATIONAL TECHNOLOGIES.

Section 473 (42 U.S.C. 286b-4) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall make grants to appropriate public or private nonprofit institutions for the purpose of carrying out projects in the research, development, and demonstration of new educational technologies. Such projects shall assist in the training of health professions students, and enhance and improve the research and teaching capabilities of health professionals. Funding may support projects including those concerning computer-assisted teaching at health professions and research institutions, the effective transfer of new information from research laboratories to appropriate clinical applications, the expansion of the laboratory and clinical uses of computer-stored research databases, and the testing of new technologies for training health care professionals in non-traditional settings.".

SEC. 1304. GRANTS FOR BASIC RESOURCES OF MEDICAL LIBRARIES.

(a) LIBRARY CONSTRUCTION AUTHORITY.—Section 474(a) (42 U.S.C. 286b-5(a)) is amended—

(1) in paragraph (3), by striking out "and" after the semicolon;

(2) in paragraph (4), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) the acquisition, construction, or renovation of facilities.".

(b) REMOVAL OF GRANT CAP.—Section 474(b)(2) (42 U.S.C. 286b-5(b)(2)) is amended by striking out ", except that in no" and all that follows through "$500,000".

SEC. 1305. GRANTS FOR ESTABLISHMENT OF REGIONAL MEDICAL LIBRARIES.

Section 475(b) (42 U.S.C. 286b-6(b)) is amended—

(1) in paragraph (4), by striking out "and" after the semicolon;

(2) in paragraph (5), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) the acquisition, construction, or renovation of facilities.".

TITLE XIV—AWARDS AND TRAINING

SEC. 1401. NATIONAL RESEARCH SERVICE AWARDS.

(a) Multidisciplinary Research.—Section 487(a) (42 U.S.C. 288(a)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary, acting through the Director of the National Institutes of Health, shall assure that support is provided for multidisciplinary research training in disciplines not readily identified with existing categorical institutes.".

(b) Authorization of Appropriations.—The first sentence of section 487(d) (42 U.S.C. 288(d)) to read as follows: "There are authorized to be appropriated to make payments under National Research Service Awards and under grants for such awards $350,000,000 for fiscal year 1989 and such sums as are necessary for each of the fiscal years 1990 and 1991.".

(c) Effective Date.—The amendment made by subsection (a) shall become effective on October 1, 1988.

TITLE XV—GENERAL PROVISIONS

SEC. 1501. PEER REVIEW REQUIREMENTS.

Section 492 (42 U.S.C. 289a) is amended—

(1) in subsection (a)(2)(A), by inserting "and congruent with changing review need," after "to the extent practical,"; and

(2) in subsection (b), by inserting ", except as provided in section 413(b)(7)" before the period at the end thereof.

TITLE XVI—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

SEC. 1601. BIOMEDICAL RESEARCH.

Part A of title III is amended by inserting after section 301 (42 U.S.C. 241) the following new section:

"SEC. 301A. BIOMEDICAL SCIENTIFIC SERVICE.

"(a) Establishment.—The Secretary is authorized to establish a Senior Biomedical Scientific Service (hereinafter in this section referred to as the 'Service').

"(b) Membership.—

"(1) Civil service.—Individuals chosen to serve in the Service shall not be a part of the competitive service established under chapter 33 of subpart B of part I of title 5, United States Code.

"(2) Appointment.—A person may be appointed to the Service by the Secretary based solely on that person's distinction and achievement in the fields of biomedical research or clinical research evaluation.

"(c) Duties.—Members of the Service shall be assigned to duties that require expertise in biomedical research, behavioral research, or clinical research evaluation, and may also be assigned to supervise other scientists in carrying out the activities described in this subsection.

"(d) Compensation.—Individuals selected to serve on the Service staff by the Secretary under subsection (b), shall be compensated at a rate not in excess of 110 percent of the annual rate of pay in effect for level I of the Executive Salary Schedule established in section 5512 of title 5, United States Code.

"(e) Retirement.—For purposes of section 211, the continuous service in the Service of any person who commences such service on termination of service as a commissioned officer in the Public Health Service Corps may be treated as service as a commissioned officer in the Public Health Service Corps and shall not be considered as service that is subject to any other retirement system for officers and employees of the Federal government.".

PROPOSED AUTHORIZATION LEVELS

[In millions of dollars]

Institute/program	Authorizations		Fiscal year 1988 appropriations
	Current 1988	Proposed 1989	1988
National Cancer Institute	1,424	1,671	1,438
National Heart, Lung and Blood	1,025	1,102	926
National Research Service Awards	275	350	263
National Library of Medicine Grants	14	14	9●

● Mr. WEICKER. Mr. President, I rise in support of legislation to reauthorize the National Institutes of Health, the medical research arm of the Federal Government. In 1987, NIH celebrated its centennial year but the fact is that daily we celebrate its contributions to the health of our citizens and that of people throughout the world.

NIH supports biomedical and behavioral research in facilities in this country and abroad, conducts research in its own laboratories and trains promising young researchers for future work in the field. Because it constantly gives us new insights into the processes underlying health, disease, and disability, NIH is the best weapon humanity has in the battle against the major killers and cripplers of our time.

In recent years, Congress has stood firm in the face of funding cuts and other proposals that would have disarmed and even dismantled this vital contributor to our national security. Now it has an important opportunity to strengthen NIH's ability to perform its mission by giving it new authority to deal with some of the more serious realities facing medical research today.

For example, this legislation would enable the Division of Research Resources to address the worsening problem of aging and obsolete facilities and instrumentation in NIH-supported institutions. We have known about this situation for years but done little about it. A survey of cancer research laboratories conducted by the National Academy of Sciences a full decade ago found that more than one-third of those facilities needed remodeling and almost one-half needed more space. The AIDS crisis and the Federal Government's attempts to mobilize against it have further underscored the need to upgrade our research laboratories and equipment.

Last year the Appropriations Committee called for a panel of experts to recommend the design of a pilot research facilities construction program at NIH. That panel met earlier this year, and while its formal report has not yet been officially forwarded, it is my understanding that most of its recommendations are dealt with in this legislation.

Under the proposed new construction authority, public and nonprofit research institutions would be able to apply directly to NIH for construction money. A peer review system would determine the distribution of grants, with special attention given to applicants of emerging excellence, including smaller institutions which have not benefited to any great degree from NIH funds before, minority universities among them.

This legislation also addresses other factors affecting the Nation's medical manpower—including the growing ranks of the elderly in America, the nursing shortage, and the loss of research personnel to other private sector pursuits. New authority would enable the National Institute on Aging to establish and expand centers of excellence in geriatric research and training. It would also give the National Center for Nursing Research the ability to establish demonstration programs geared toward improving nursing recruitment and retention.

Authorization levels for the National Research Service Awards would be increased 28 percent in order to make larger stipends to more trainees. Disciplines not typically identified with a specific institute—such as physiatrists and surgeons—would be included. The Secretary of HHS is further authorized to establish an enhanced compensation system for civil service and commissioned corps scientists to make Government pay scales more competitive.

A free-standing National Center for Medical Rehabilitation Research would be established within NIH to help meet the need for more research in the field of medical rehabilitation.

Improvements in emergency medical systems, trauma centers, and in the care of the injured enroute to hospitals have made it possible for more people to survive injuries to the nervous and musculoskeletal systems, but with severely disabling effects. For example, it has been estimated that there are 1 million trauma-induced head and spinal cord injuriy victims in our country, the cost of whose care has been put at $4 billion per year. Researchers in this field are on the threshhold of an ability to repair and replace damaged tissue in the brain and spinal cord.

Medical rehabilitation is also opening many doors for children who are born with cerebral palsy and other developmental neurological conditions. The medical advances in this field have given these children a new lease on life. By creating this new center, Congress can strengthen its commitment to much needed breakthroughs of this kind.

The need for greater attention to hearing and communicative disorders is addressed through new authority to support eight centers within the National Institute of Neurological and Communicative Disorders and Stroke.

In sum, Mr. President, this is good legislation that recognizes the trouble points in medical research today and the new opportunities for tomorrow. I urge my colleagues to support this reauthorization bill.●

By Mr. SPECTER (for himself and Mr. HEINZ):

S. 2224. A bill to transfer the Colonial Court House in York, PA, to the control of the National Park Service; to the Committee on Energy and Natural Resources.

TRANSFER OF COLONIAL COURT HOUSE, YORK, PA

Mr. SPECTER. Mr. President, today I join my colleague, Senator HEINZ, in introducing legislation which would bring long overdue recognition to one of our Nation's premier historic sites, the Colonial Court House in York, PA.

The court house is the birthplace of the first national constitution governing the 13 former British colonies. In 1776, the Continental Congress adopted a resolution providing for the drafting of a permanent confederation of the Thirteen Colonies. As the Second Continental Congress met in Philadelphia to begin this process, news reached the assembled representatives of the impending attack on the city by a large British force under the command of General Howe. The Congress hastened westward to safer territory, and convened in York, PA, on September 30, 1777. It was in the York County Colonial Court House that these delegates engaged in extensive debate over the Articles of Confederation and eventually adopted the document on November 15, 1777.

The York County Colonial Court House is a testament to the spirit that united the original colonies and led to the drafting and passage of the U.S. Constitution in Philadelphia in 1787. Although the original court house was destroyed in 1841, an identical replica was constructed on the original site. This replica now contains authentic artifacts, memorabilia, and much of the original spirit which filled the court house in 1777.

The legislation we introduce today would transfer the York Colonial Court House to the control of the U.S. Park Service, which would operate and maintain the court house in a manner befitting its historical significance.

I recently visited the York County Colonial Court House and personally can attest that it is a significant site in the historical development of our Nation. Accordingly, I urge our colleagues to join us in support of this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. TO TRANSFER THE COLONIAL COURT HOUSE IN YORK, PENNSYLVANIA, TO THE CONTROL OF THE NATIONAL PARK SERVICE.

The Secretary of the Interior is authorized to accept for the United States the transfer of title of the Colonial Court House of York, Pennsylvania, a National Historic Site, from the York County Bicentennial Commission.

SEC. 2. OPERATION AND MAINTENANCE.

After the transfer authorized by section 1, the Colonial Court House of York, Pennsylvania, shall be operated and maintained by the National Park Service in a manner which encourages recognition of the great national and historic significance of the courthouse.

SEC. 3. AUTHORIZATION.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

By Mr. ADAMS (for himself and Mr. EVANS):

S. 2225. A bill to authorize the Secretary of the Interior to take corrective action to protect certain portions of the Franklin County, WA, road system within the Federal Columbia Basin reclamation project; to the Committee on Energy and Natural Resources.

FRANKLIN COUNTY ROAD SYSTEM

● Mr. ADAMS. Mr. President, I am pleased to introduce today, along with my senior colleague from Washington State, Senator EVANS, legislation designed to address serious problems caused by landslides in areas served by the Columbia Basin irrigation project in Franklin County in south-central Washington. This bill is intended as companion legislation to H.R. 2558, introduced last year by Congressman MORRISON in the House.

This region of my State is exceptionally dry, and has been that way for millions of years. One result has been the development of unique geological formations such as the Ringold formation in Franklin County. The Ringold formation is a sedimentary foundation made up of slightly undulating layers of clay, silts, and sands. When saturated, it becomes very unstable, and the steeper hills are prone to landslides.

The possible effects of intensive irrigation on this geological formation were recognized when the Columbia Basin irrigation project was designed in the late 1930's, but the Bureau did not at that time have the ability to predict where problems would occur. The result, therefore, of years of irrigation, and a significant increase in the amount of ground water in the formation, has been a number of massive landslides that have caused significant damage to Franklin County's road system.

This bill is designed to help the Bureau get started on developing a solution to this problem. It directs the Bureau to investigate the situation, and to make recommendations for corrective action. Up to $500,000 is authorized to be appropriated for this study, and the Bureau is to make a report detailing their recommendations to the President and Congress within 2 years of availability of funds for this study. ●

● Mr. EVANS. Mr. President, I am pleased to join my colleagues from Washington, Senator ADAMS, in sponsoring legislation that will address a problem in the southeastern portion of our State, Franklin County, WA. Due to a combination of unusual geology and the scope of irrigation in the Columbian Basin, a road instability problem has developed in Franklin County. Much of the county is underlain by the Ringold formation, which is impervious to water. When water hits this layer, it moves laterally until it finds an opening to move downhill. This action has resulted in large landslides, particularly along roadsides. These landslides cause extensive damage to the road system in Franklin County, in addition to creating safety hazards.

This bill would authorize the Bureau of Reclamation to undertake a $500,000 study to investigate the problems the county has experienced with the landslides, focusing in particular on the impact on the road system. The Secretary would also be required to prepare recommendations for corrective action. This report would examine physical problems and solutions as well as operational solutions to the problem. For instance, the Secretary would be authorized to examine irrigation practices to determine if any modifications to those practices would result in reduced amounts of water which would reduce the risk of landslides.●

By Mr. DOMENICI:

S. 2226. A bill to provide financial assistance for innovative programs to address the educational needs of children at risk of experiencing low academic achievements, and for other purposes; to the Committee on Labor and Human Resources.

EDUCATIONAL BLOCK GRANT FOR CHILDREN AT RISK ACT

Mr. DOMENICI. Mr. President, I rise today to introduce an initiative for educationally and economically disadvantaged children. This bill amends the Education Consolidation and Improvement Act of 1981 [ECIA of 1981] by adding a new chapter, the "Educational Block Grant for Children at Risk."

Mr. President, this bill will provide financial assistance to States for children at risk of failing in our educational system and our future economy.

It authorizes a discretionary block grant for 5 years for developing innovative programs to address the needs of children identified at the State and local level as being "at risk" of low academic achievement, future unemployment, and welfare dependency.

The bill authorizes nearly $500 million for the first year and such sums as are necessary for the following 4 years. While I am tempted to put a specific authorization level for the program for all years, I am hopeful that, as the program gets started, we will have a better idea of what is needed. Funds will be distributed to States based on the counts of school-aged children, with additional weight given for children living in poverty.

Mr. President, even though this bill has the name "education" in it, is not just about education. It is about our future work force and our future economy. It is about our future as a competitive nation.

If we look at our economy in the year 2000, the demographics of our future work force, and our current educational system, we will see some alarming trends

Research shows us that certain categories of children—those in persistent poverty, minorities, those who have limited proficiency in English, and those from single-parent families for example—are more likely to experience poor educational achievement. These children are also more likely to remain in poverty, to drop out of school, and to experience future unemployment.

These children are in our educational system today. They are also America's future work force:

Approximately 27 percent of total public elementary and secondary school enrollment is minority. By the year 2000, this will rise to 33 percent.

Minorities are more likely to live in poverty. Nearly 50 percent of all black children and 33 percent of all Hispanic children live in poverty. For each year that a child lives in poverty, the likelihood of falling behind a grade level increases by 2 percentage points.

By the year 2000, non-whites will make up 29 percent of new entrants into the labor force, twice their current share. Minority workers are less likely to have satisfactory schooling and on the job training.

Increasingly, new jobs in the economy will favor the most educated. The fastest growing jobs will be in professional, technical, and sales fields requiring post-secondary education and advanced skill levels. By the year 2000, people with less than a high school education will be able to fill only 14 percent of all jobs, compared with 18 percent today.

Mr. President, I could go on with these facts but the bottom line, quite simply, is that the future economy will demand a better educated work force. The economy will no longer find work for a work force that is illiterate.

Mr. President, I do not pretend to know all the answers. And I have only started to survey the problem. But we are clearly at a cross road. We can either continue on the path that we are on and address the needs of children at risk on a piecemeal basis or we can make a challenging and comprehensive investment in our future. In my mind, the answer is clear. It is time to invest in our future. The bill I am introducing today begins that investment.

Mr. President, State and local governments have already acknowledged that this investment is needed. Innovative programs to address the needs of these children are being initiated at the State and local levels.

In my State of New Mexico, the Albuquerque Hispano Chamber of Commerce has developed an ambitious agenda to help children that are at risk of dropping out of school. Albuquerque's Stay in School Program is just getting off the ground but already it has the ingredients of a successful program.

The program is pulling together educators, the business community, and social service agencies in order to combat the high dropout rates among Hispanic children in Albuquerque. Using resources from the private sector, the Hispano Chamber of Commerce has implemented an intensive campaign to promote the value of staying in school. It has developed a comprehensive directory of services available in the area for children at risk of dropping out. Using private donations, the program will also implement a Student of the Month award.

Mr. President, there are other examples of innovative efforts occurring at the local level for children at risk of failure.

The Annie E. Casey Foundation, a national foundation formed 40 years ago to provide care services, recently awarded planning grants to 10 cities for comprehensive programs targeted to children at risk. Five cities will be selected to receive operational grants for 5 years.

Known as the New Futures Program, these grants will support innovative programs for dropouts, unemployed youth, and pregnant teenagers. In awarding the grants, the foundation will give priority to programs that pull together activities in schools, local governments, and businesses.

Mr. President, my bill recognizes that initiatives such as Albuquerque's Stay in School Program and the Annie E. Casey Foundation's New Futures Program are being implemented across the Nation. The funds that are authorized in my bill can be used to support these programs and many many more.

Mr. President, I ask unanimous consent that a summary of my bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BILL SUMMARY

PURPOSE

A bill to establish discretionary grants within the U.S. Department of Education for the development of new or improved programs serving children at risk of low academic achievement. The block grant is intended to be a supplementary resource to be used by state and local agencies to provide comprehensive and coordinated services to at-risk-children.

ELIGIBLE PARTICIPANTS

Recognizing that there is no nationally accepted definition of an "at-risk" child, this bill provides state and local agencies with discretion to define their population. However, states must concentrate resources on children that are generally considered to be at-risk of low academic achievement, unemployment and welfare dependency.

Eligible children are those that are between the ages of 3-17 and include (but are not limited to):

Low income children eligible for Chapter 1, including pre-school children;

Minorities;

Pregnant teenagers or teenage parents;

Drop-outs;

Limited English proficient;

Homeless children;

Substance abusers;

Neglected and delinquent children;

GRANT ALLOCATIONS

From the amounts appropriated, the Secretary of Education is authorized to reserve up to 5 percent for activities of national significance including systematic evaluation of what works for at-risk children, dissemination of information on effective methods, research, evaluations, technical assistance to state and local agencies and the rewarding of outstanding state and local programs.

Grants are competitive and are distributed to Governors through the Secretary of Education. States must apply for grants every three years. The Governor shall designate state agencies responsible for the administration of the program. Language is included to state that nothing shall preclude state legislatures from enacting legislation relating to the state implementation of this program, consistent with the provisions of this bill.

Resources are allocated to states based on the counts of children aged 3-17, with additional weight given to children living at the poverty level.

States may reserve up to 5 percent of the state allocation for administrative costs and up to 20 percent of the state allocation for state wide programs; 75% of the state allocation must be used at the local level.

Grants are competitive to the local level. Local agencies *must* enter into cooperative agreements with other agencies offering services to children at risk. Agencies wishing to receive funds must submit an application to the state designated agency every three years.

State agencies shall award grants to programs that are serving children with the greatest need, programs that will address the multiple needs of students, and to programs in both urban and rural regions of the state.

ELIGIBLE ACTIVITIES

It is the purpose of this bill to explore innnovative methods of assisting children in "at-risk" categories. Considerable discretion is afforded to state and local officials in the design of programs. Examples of eligible activities include (but are not limited to):

Innovative projects and programs designed to improve the attendance and educational achievement of eligible students;

Supplementary educational programs to help students attain grade level proficiency in basic skills;

Innovate projects and programs for the prevention of youth suicide, drug and substance abuse treatment and prevention;

Projects designed to coordinate Federal, State and local efforts serving eligible students; and

Incentive-based programs to reward schools for lowering the drop out rate or reclaiming students who have dropped out.

EVALUATION REQUIREMENTS

In accordance with national standards, local agencies must conduct program assessments every three years. Assessments must be submitted to the state designated agency and must include an evaluation of the effectiveness of programs, with particular attention to the academic improvement of eligible children.

In accordance with national standards, state designated agencies must submit evaluations of state-wide and local programs to the Secretary of Education every three years.

PROGRAM IMPROVEMENT

Programs that show no improvement in children served or a decline in achievement in children served in any three consecutive years shall submit a detailed plan to the state designated agency that includes a proposal for corrective action. The state agency is authorized to provide technical assistance.

If achievement continues to decline, the Secretary of Education is authorized to provide technical assistance from the amounts reserved for the Secretary's Discretionary Fund.

FISCAL REQUIREMENTS AND PRIVATE SCHOOL PARTICIPATION

The fiscal requirements and the requirements for the participation of children enrolled in private schools that apply to Chapter 2 of the ECIA of 1981 are also applicable to this Chapter.

AUTHORIZATION LEVEL

The authorization level for this program is $486 million for FY 1989 and such sums as necessary for FY 1990 through FY 1993. For FY 1989, the authorization level is the same as the amount included in the Senate-passed trade bill for similar activities.

[Section-by-Section Analysis]

Educational Block Grant for Children at Risk

SECTION 1. SHORT TITLE

Names the Act the Educational Block grant for Children at Risk.

SECTION 2. FINDINGS

States that the Congress finds that efforts to reach certain categories of children that are at risk of failing in our educational system today and our future economy are narrow and fragmented. These at risk children are our future workforce; the future economy will require that these children are better educated. Also states that the needs of these children can best be served by discretionary block grants to the state and local levels and by programs that include accountability measures and rewards for outstanding performance.

SECTION 3. PROGRAM AUTHORIZED

Amends the Education Consolidation and Improvement Act of 1981 by redesignating Chapter 3 as Chapter 4 and adding a new Chapter 3, Innovative Programs for Children at Risk of Low Academic Achievement.

SECTION 590A. STATEMENT OF PURPOSE

States that the purpose of this Act is to provide additional assistance to LEAs with high concentrations of children at risk of low academic achievement in order to improve the achievement of these children so that they may avoid lives of unemployment or welfare dependency.

SECTION 590B. ELIGIBLE CHILDREN

Defines eligible children as those children who are between the ages of 3-17 who are at risk of low academic achievement and, as a result, future unemployment and welfare dependency. Provides examples of eligible children such as low income children eligible for Chapter 1 (including pre-school children), minorities, pregnant teenagers and teenage parents, children with limited English proficiency, drop-outs, substance abusers, homeless children, and neglected and delinquent children. Also states that local agencies may provide their own definition of children at risk.

SECTION 590C. GRANT ALLOCATIONS

From the amounts appropriated, the Secretary of Education may reserve up to 5 percent of the funds for programs of national significance, including systematic evaluations, information dissemination, research, technical assistance to state and local agencies, and rewards to outstanding state and local programs.

One-third of the funds are allocated to states (the 50 states, D.C. and Puerto Rico) based on the number of school aged children and two-thirds of the funds are allocated based on the number of children counted for the purposes of Chapter 1, including pre-school children. States may reserve no more than 5 percent of their allocation for state administrative costs and 20 percent of their allocation for statewide programs.

States must allocate at least 75 percent of their funds to the local level. Funds are competitive to the local level and distributed using the same factors as those for state allocations.

Local educational agencies *must* enter into cooperative agreements with community-based organizations, businesses, and other community organizations providing services to children at risk.

SECTION 590D. USE OF FUNDS

States that funds may be used for new and innovative programs designed to address the educational needs of eligible students including programs designed to improve attendance and educational achievement, supplementary educational programs to assist students to attain grade level proficiency in basic skills, programs for the prevention of youth suicide, projects designed to coordinate Federal, State and local efforts serving eligible students and incentive based programs to reward schools for lowering drop-out rates or reclaiming students who have dropped out.

SECTION 590E. APPLICATIONS

States must apply for funding to the Secretary of Education; applications must be submitted every three years. Applications must designate the state administering agency, describe the statewide activities, describe the funding allocation procedures, describe evaluation procedures, and other information required by the Secretary of Education.

Local agencies must submit applications every three years to the state designated agency. Applications must describe the program goals and objectives, assurances of cooperative agreements with other agencies, the activities of the program, assurances that only eligible children will participate, assurances of parental involvement, assurances of coordination of activities with other agencies, assurances that services provided are not duplicative of other services supported by federal programs, and any additional information that may be required by the State designated agency.

In all applications after the first, the program evaluation results must be included as well as a description of action taken to improve the performance of children not showing gains in educational achievement.

SECTION 590F. AWARD OF GRANTS

Provides that designated state agencies shall award grants to programs that are serving children with the greatest need, programs of high quality, programs that address the multiple needs of eligible children, and programs that are representative of urban and rural regions of the states.

SECTION 590G. FISCAL REQUIREMENTS AND PRIVATE SCHOOL PARTICIPATION

This section provides that the fiscal requirements that are applicable to Chapter 2, State Block Grants, are also applicable to this chapter (i.e. maintenance of effort, supplement not supplant, and comparability of service requirements). Also applies Chapter 2 private school participation requirements to this chapter.

SECTION 590H. EVALUATION AND PROGRAM IMPROVEMENT

Provides that, in accordance with national standards, local agencies must evaluate programs for their effectiveness in achieving the goals of this chapter with particular attention on the improvement of academic achievement. Local agencies must submit evaluations every three years and conduct a thorough assessment of the programmatic needs of eligible students who remains in the program after 3 years.

Using local evaluation data, State agencies must conduct program evaluations every three years. State agencies must inform local agencies of the specific evaluation data required and must collect data on the characteristics of program participants.

Provides that programs that show a decline in achievement of children served by this chapter for any three consecutive years must submit a detailed plan for improvement to the state designated agency. The state agency shall provide technical assistance for program improvement. If achievement continues to decline, the Secretary of Education is authorized to provide technical assistance from the amounts reserved under the Secretary's Discretionary Fund.

SECTION 590I. AUTHORITY OF STATE LEGISLATURE

This section states that nothing in this chapter shall preclude the enactment of State legislation providing for the implementation of this act, consistent with the provisions of this chapter.

SECTION 590J. AUTHORIZATION OF APPROPRIATIONS

Authorizes $486 million for FY 1989 and such sums as may be necessary for each year, FY 1990-1993.

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 2227. A bill to authorize competitive leasing of quartz mineral deposits in the Ouachita National Forest; to the Committee on Energy and Natural Resources.

COMPETITIVE QUARTZ LEASING IN QUACHITA NATIONAL FOREST

● Mr. BUMPERS. Mr. President, I am introducing legislation today to authorize competitive leasing of quartz within the Ouachita National Forest in Arkansas. The Forest Service and the Bureau of Land Management are currently experiencing a difficult resource management problem in this national forest. The Ouachita contains large deposits of quartz, a silica-based mineral which is valued for its aesthetic qualities and for certain industrial applications. Small mining operations have existed on and near the national forest for many years. Recently, however, the market for quartz crystals has expanded and values for certain crystals have increased dramatically. The best quality quartz, which sold for around $30 a pound in 1985, now commands prices of about $100 a pound.

It is my understanding that this new market for crystals is attributable to "new age" beliefs which assign metaphysical qualities and special healing properties to crystals. In the Ouachita Forest, where the quartz crystal formations are reputed to be the best in the world, the result has been an onslaught of new mining activity. In the past 2 to 3 years there has been a 300-percent increase in mining activities on the forest. Unfortunately, the Forest Service and Bureau of Land Management are hampered in their ability to consistently regulate this mining activity because of widely differing laws applicable to lands within the forest.

The Ouachita National Forest, created by a proclamation of President Theodore Roosevelt in 1907, consists of approximately 1.3 million acres in western Arkansas. Unlike most forests in the southern and eastern parts of the United States, which are made up of lands acquired by the Federal Government under the authority of the Weeks Act (36 stat. 961, as amended), the Ouachita consists of intermingled "acquired land" and land reserved from the public domain. On the acquired lands—approximately 600,000 acres—deposits of quartz crystals are leasable minerals. On the public domain lands, however, quartz crystal is treated as a locatable mineral subject to the mining law of 1872.

The applicable procedures can be described as follows: On acquired lands, a person interested in mining quartz must apply to the Bureau of Land Management for a prospecting permit. If minerals are found, the applicant may apply for a lease. If the applicant's mining plan is approved, a lease will be issued. Minerals located in "known leasing areas"—areas that contain known deposits and do not need to be explored—are leased competitively to the highest bidder. BLM is currently reviewing the data necessary to designate the entire Ouachita Forest a "known leasing area." In both situations, BLM and the Forest Service impose appropriate lease stipulations for environmental protection and reclamation work. Royalties and rentals on the leases are paid to the Federal Government and shared with the State of Arkansas.

In contrast, on public domain lands, anyone may stake a claim for quartz crystals. After payment of a $5 filing fee to the BLM, the claimant has the right to remove the minerals including quartz, subject to limited surface management regulation by the Forest Service. The Federal Government receives no royalties or rentals from the miner for the resources removed from the public land. In addition the miner may ultimately receive a patent to his claim—full fee title—if he complies with the requirements of the 1872 mining law for patenting. His total cost—$500 in improvements, $100 annual assessment work, and $5 an acre.

Recently I received a letter from the Supervisor of the Ouachita National Forest detailing some specific problems associated with the quartz crystal "rush." In regards to the 1872 mining law, the letter points out that:

> The provision for patenting away the surface with the mineral estate, will always pose a real threat to sound resource management as long as there is the potential for loss of control of the surface estate. * * * A real example of the effects of this situation can be found right now on the Ouachita National Forest. Lake Winona, in the northeast corner of the forest, is an extremely important resource not only for its recreational, aesthetic, and other values, but primarily because it provides * * * drinking water to the city of Little Rock. The National Forest lands adjacent to Lake Winona are "public domain" status lands open to mining claim location under the 1872 mining law. At the request of the city of Little Rock to protect the watershed, the forest is pursuing a withdrawal from "locatable" mineral entry for these lands. The 1872 mining law allows us virtually no choice but to outright remove the lands from total mineral entry for all "locatable" minerals, even though it is recognized that a well controlled minerals exploration program and low level mining activities could be conducted in such a way that they would have virtually no impact on the water quality or other valuable resources in that area.

Mr. President, the "rush" for quartz crystal on the Ouachita National Forest shares many of the elements of the gold rushes of the past: a rapid increase in mining activity; an increase in the number of people in the area; an increase in the size and nature of impacts; more operations in environmentally sensitive areas; and a significant increase in unauthorized activity.

Several thousand mining claims have been filed on the forest in the past 3 years. As the claims are not commodity specific, the agencies do not know how many are for quartz crystal. However, they have estimated that up to 2,000 claims have been filed for quartz. At the same time, on the same forest, quartz has been leased competitively for bonus bids approaching $300 an acre. The management regime makes no sense and is becoming an untenable situation for the Federal land managers. In addition, State and local residents who treasure the scenic beauty of the Ouachita Forest are becoming increasingly concerned about mining activity on public domain lands.

My legislation would authorize the Secretary of the Interior to lease quartz crystal deposits competitively anywhere within the Ouachita National Forest. Holders of valid existing mining claims would be given the opportunity to apply for patents within 6 months of enactment of the bill, and the mining law of 1872 would remain in effect for other locatable minerals.

The bill would clarify the management of this mineral on a forestwide basis, and provide the Forest Service and BLM with the administrative authorities necessary for dealing with this unique resource in the extremely intermingled public domain and acquired land ownership pattern within the Ouachita Forest boundary.

I believe this legislation will improve the land and minerals management in my State. It is good policy. I urge the Senate to act favorably on this legislation.●

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 2228. A bill to designate the U.S. Post Office Building located at 1105 Moss Street in Lafayette, LA, as the "James Domengeaux Post Office Building"; to the Committee on Governmental Affairs.

JAMES DOMENGEAUX POST OFFICE BUILDING

● Mr. BREAUX. Mr. President, today my distinguished colleague from Louisiana, Senator BENNETT JOHNSTON, and I are pleased to introduce legislation that would designate a U.S. Post Office in Lafayette, LA, to be named in honor of one of the State's more revered and respected spokesmen, James Domengeaux.

While Mr. Domengeaux's contributions to southwest Louisiana are too numerous to mention here, I would like to touch upon a few of the highlights of his career.

Mr. Domengeaux was born in Lafayette on January 6, 1907. He attended

Louisiana schools and was admitted to the bar of Louisiana in July 1930. He practiced law in Lafayette until 1940 when he was elected to the State legislature and was named chairman of the Appropriations Committee. After serving the spring session in the legislature he was elected to the U.S. Congress from Louisiana's 3d Congressional District.

In 1944 he resigned from Congress becoming only one of three Members of Congress since the Civil War to resign in order to volunteer for the armed services in time of conflict. He was reelected to Congress upon conclusion of the war and served until 1948. Mr. Domengeaux then returned to private practice in Lafayette and he is the senior partner in the law firm of Domengeaux & Wright.

Since returning to southwestern Louisiana he has served as an original member of the Tidelands Committee in the State and as secretary of the Louisiana Science Foundation.

Notwithstanding these accomplishments, maybe his greatest contribution centers on his efforts with CODOFIL [The Council for the Development of French in Louisiana]. Since 1969 he has served as the originator and chairman of this organization without any financial compensation.

As a pioneer in this effort, he realized the importance of preserving the unique French language and culture in the State that was gradually, but surely, fading away. He attempted to reverse this trend by soliciting the support of public officials, State agencies, parish school boards, community leaders, and, most importantly, the people, in promoting and encouraging the revival of French heritage and culture indigenous to the area.

In order to ensure the success of this movement, he realized that, without the participation of the younger generations, the language and culture would truly be dead. Therefore, Mr. Domengeaux started to send Louisiana's teenagers to places where they could interact daily within the language; to Quebec, France, Belgium, and other areas. By living with friends in other countries, these students return to Louisiana with a new respect and attachment for their heritage. Additionally, Mr. Domengeaux's campaign served as a catalyst for a French language renaissance in Louisiana, tributes to cajun music, and the teaching of French in elementary schools.

Through these successful efforts, people have a new-found sense of pride in their Acadian background. I believe that it is fitting to commend and recognize Mr. Domengeaux's achievements in preserving our valuable cultural assets by naming a public building in Acadiana after one of its most favorite sons.

Mr. President, I, therefore, urge my fellow colleagues to support this legislation in order to appropriately salute a gentleman whose contributions deserve to be recognized.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office Building located at 1105 Moss Street in Lafayette, Louisiana, is hereby designated as the "James Domengeaux Post Office Building." Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "James Domengeaux Post Office Building."●

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, Mr. PELL, and Mr. SIMON):

S. 2229. A bill to amend the Public Health Service Act to reauthorize programs concerning health research and teaching facilities, and training of professional health personnel under title VII of such Act, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH PROFESSIONS REAUTHORIZATION ACT

● Mr. KENNEDY. Mr. President, I am pleased to join my colleagues, Senators PELL, MATSUNAGA, METZENBAUM, and ROCKEFELLER in introducing the Health Professions Reauthorization Act of 1988. This legislation reauthorizes all the programs in title VII of the Public Health Service Act, and continues the targeted Federal support for the training of health professionals. Title VII programs received $156 million in appropriations for fiscal year 1988; this legislation provides for $209 million in fiscal year 1989, $223 million in fiscal year 1990, and $230 million in fiscal year 1991 to address persistent problems in the supply and distribution of our Nation's health manpower.

Over the past 20 years, these Federal programs have served to increase the number of medical care providers when shortages were felt, increase the number of primary care practitioners when an oversupply of subspecialists was recognized, stimulate health professions schools to increase their enrollment of underrepresented minorities, and facilitate the exposure of students to health manpower shortage areas. By all accounts, these programs have been very successful in stimulating change and bettering our health care system. But the job is not complete.

Despite a perceived glut in the aggregate supply of physicians, our citizens still need more primary care providers. Because of our increasingly elderly population, the demand for individuals trained in all disciplines of allied health far outstrips the supply. The costs of attending medical and other health professions schools is rising in excess of inflation, to the point where fewer individuals are pursuing these careers. Because of rising student indebtedness, by the year 2000, we may again experience shortages of physicians, dentists, and other health care providers. Many urban and rural areas of our country still cannot attract and retain physicians and other providers.

Despite considerable Federal resources directed toward increasing the enrollment of minority and disadvantaged individuals in health professions schools, the number of black and other minority graduates is declining. To reach our goals of improving access to high quality medical care, increasing the number of primary care and minority health care providers, and assuring an adequate supply of physicians, dentists, allied health specialists, and other practitioners for the American people, the programs under title VII of the Public Health Service Act should continue with expanded funding. The Health Professions Reauthorization Act of 1988 refocuses and directs Federal health policy toward these goals.

The educational indebtedness of graduates from health professions schools has risen sharply during the 1980's. As a result, applicants to health professions schools, particularly medicine and dentistry, have decreased substantially. And graduates are increasingly attracted to the higher paying subspecialities and away from primary care. The significant rise in the costs of attending these schools has exacerbated the problems. For the 1986-87 academic year, tuition and other expenses for 1 year at a public medical school averaged just over $12,000, with average costs at a private medical school just over $23,000. The impact of rising educational indebtedness has hit minority individuals particularly hard.

The average indebtedness of minority medical school graduates increased from $18,350 in 1980, to $41,457 in 1987, an increase of 126 percent. Among nonminority graduates, average indebtedness went from $17,125 in 1980, to $35,104 in 1987, an increase of 105 percent. Instances where students graduate from medical school with educational debts in excess of $100,000 are not uncommon. To counteract this alarming trend, I have included an additional $15 million in fiscal year 1989 for low interest health professions student loans and increased the authorization for the exceptional financial need scholarships from $7 million in fiscal year 1988 to $20 million in fiscal years 1989, 1990, and 1991. The ceiling for the Federal loan guarantees under the Health Education Assistance Loan Program has also been increased to provide for rising tuition and educational costs. Future health professionals should not have to assume crippling debt burdens prior to entering practice. We as a society will pay the cost of this debt in terms of fewer health care providers and lessened access to essential services.

This legislation continues the support for own Nation's 24 schools of public health. The Federal Government has been assisting schools of public health for over 30 years on the basis that the schools are a national resource for training health manpower for public service in Federal, State, and local health agencies, universities and private voluntary organizations. The original mission of the schools has been revised in recent years from preparing personnel to control communicable diseases through sanitation and inoculation, to preparing professionals in health policy, management, and environmental health concerns. Many schools have strong community outreach programs to provide services to communities and multistate regions, yet lack the third-party reimbursements system available to other health professions schools. Federal support of the schools is actually an investment in the front end of the health care system. The products of their efforts will not only help to prevent illness but will help slow down the rapidly escalating costs of medical care. I have included $5 million for each of the next 3 years to continue the public health student traineeships, and $5 million in fiscal year 1989 for capitation grants to schools of public health.

The Federal Government has a responsibility for helping to assure access to high-quality medical care for all citizens. Integral to this assurance is a supply of primary care physicians. Federal funds to support primary care residency programs have been allocated since the 1970's, facilitating the training of family physicians, general internists, and pediatricians. Without question, these dollars represent a good investment. Primary care physicians are locating their practices in shortage and rural areas in notably higher proportions than other medical specialists, thus helping to address the national problem of geographic maldistribution. And primary care physicians are much more cost efficient than their subspecialist colleagues. Maintaining the supply of family physicians will be very important, because more than one-third of current family/general practitioners are beyond the age of 55.

Federal support for family medicine departments and residency programs has spurred the establishment of programs and departments in 120 of the Nation's 138 medical schools. An average of 82 general internal medicine and general pediatric residency programs have been supported by Federal grants each year during the past 10 years. Over this period the number of federally supported residents in training in general internal medicine and general pediatrics per year doubled to 1,840. We propose to continue support for these vital programs; $7 million for family medicine departments, $41 million for family medicine residency programs, and $22 million for residency programs in general internal medicine and general pediatrics.

The Area Health Education Center [AHEC] Program has been very effective over the years in facilitating educational experiences in underserved areas for health professions students. In addition, these programs have served to link health care providers in rural areas with academic medical centers, providing continuing education and information exchange. AHEC's have done a particularly good job in encouraging health care providers to enter practice in health manpower shortage areas, and in facilitating the entry of minority students into the health professions. AHEC's originally started in the 1970's, such as in Massachusetts and North Carolina, have increased their programmatic efforts despite the loss of Federal funding.

The positive impact of their educational and outreach activities has been recognized in the States, and they have been successful at receiving funding from other sources. AHEC's that currently receive Federal funding need to be supported in the future to address problems such as high infant mortality and the health problems of low income communities in our border States. And several States, especially in the South, are anxious to receive funds to start AHEC's. As one of the most successful programs in title VII, we need to continue Federal support. This legislation includes $20 million in fiscal year 1989, $21 million in fiscal year 1990, and $16 million in fiscal year 1991 for the AHEC Program. This will provide core funding for current AHEC's, funds to train personnel to offer maternal and child health services in underserved areas and for personnel to provide services in States along the Mexican border and frontier areas addressing infant mortality, and funds for special projects and initiative of new AHEC's.

Since the early 1970's, federally sponsored programs to increase the number of underrepresented minority and disadvantaged students in health professions schools have been very successful. Before 1970, blacks represented less than 3 percent of all medical students in this country, despite their 12 percent representation in the general population. Fewer than 100 Mexican-Americans were enrolled annually in medical schools prior to this time. The Health Career Opportunity Program, funded under the educational assistance to individuals from disadvantaged backgrounds section of title VII has facilitated significant increases over the last 15 years in the enrollment of blacks, Mexican-Americans, mainland Puerto Ricans, native Americans, and other disadvantaged students in all health professions schools. Last year, the total enrollment in our Nation's medical schools of all underrepresented minorities was 8.7 percent, the highest it has ever been. Even though great strides have been made, our health professions schools need to increase the enrollment of these students to levels equal to their representation in the general population. Equal opportunities to enter the health professions need to be available to all of our citizens. The reauthorization of title VII includes a continuation of this program at $30 million for fiscal year 1989, equal to the fiscal year 1988 level.

The special projects section of title VII has been revised to allow for administrative flexibility and support of innovative projects in health professions schools. This section includes funding for 2-year schools of medicine and osteopathy, faculty and curriculum development, training in preventive medicine, and programs for physician assistants. An authorization of $8 million is provided for these very important programs.

With our rapidly increasing elderly population, the importance of providing health professions students with training in geriatrics is obvious. All physicians, dentists, allied health practitioners and other health professionals need improved and expanded training in geriatrics to provide high quality health care to this important segment of our population. In addition, greater numbers of faculty to teach geriatrics represent one of the most pressing needs in health professions education. This legislation establishes a new section in title VII to support geriatric education centers and geriatric faculty training. A total of $20 million will be provided for these critically important activities in fiscal year 1989. Well trained health care providers are essential for the care of our older citizens. These new programs appropriately focus and direct federal resources in this direction.

With the growing complexity and corporatization of our health care system, the need for well trained personnel in health administration is clear. Physicians and other clinicians, who also have training in business, economics and management, are in great need to increase the efficiency of health care systems large and small. State and local health offices, hospitals and managed care systems have and will continue to benefit from well trained personnel in health administration. Well trained managers have improved efficiency and productivity in the business and service sectors of our economy; their expertise will enhance our health care system. This legislation includes $1.5 million for fiscal year 1989 to support programs in health administration.

The Nation is entering what may be the most severe shortage of allied health professionals ever. The demand for physical therapists, occupational therapists, and other practitioners in the rehabilitation fields has hit crisis proportions among hospitals, nursing homes, home health agencies and hospices. These therapists are essential in the provision of care to the elderly, the chronically ill, handicapped children, and the mentally retarded. Shortages in these fields are expected to intensify in the coming years. This growing problem requires a renewed Federal initiative to assure that an adequate number of these practitioners is available. This reauthorization includes a new section to provide allied health student traineeships, faculty development, and improvement of curriculum. In addition, funds will be provided for recruitment of students into the allied health disciplines. A total of $15 million will be provided in fiscal year 1989 for these important allied health programs.

In summary, this legislation to reauthorize and revise the programs in title VII of the Public Health Service Act responds to persistent and newly recognized needs in our health care system. Health policy and Federal support for health professions education should be guided by the overall goal of improving access to high quality health care for all of our citizens. I appreciate the assistance of the many organizations that have made recommendations concerning this legislation. And I look forward to its consideration by the Committee on Labor and Human Resources.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Professions Reauthorization Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Public Health Service Act.

TITLE I—STUDENT ASSISTANCE

Sec. 101. Allied health professionals.
Sec. 102. Scope and duration of Federal loan insurance program.
Sec. 103. Eligibility of student borrowers and terms of Federally insured loans.
Sec. 104. Default of borrower under Federal loan insurance program.
Sec. 105. Schools of allied health.
Sec. 106. Loan agreements.
Sec. 107. Loan provisions.
Sec. 108. Authorization of appropriations.
Sec. 109. Distribution of assets from loan funds.
Sec. 110. Traineeships.
Sec. 111. Health professions scholarships.

TITLE II—GRANTS TO IMPROVE THE QUALITY OF SCHOOLS OF PUBLIC HEALTH

Sec. 201. Capitation grants for schools of public health.
Sec. 202. Eligibility for capitation grants.
Sec. 203. Application for capitation grants.

TITLE III—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

Sec. 301. Project grants for establishment of departments of family medicine.
Sec. 302. Area health education centers.
Sec. 303. Grants for training, traineeships, and fellowships in general internal medicine and general pediatrics.
Sec. 304. Family medicine and general practice of dentistry.
Sec. 305. Educational assistance to individuals from disadvantaged backgrounds.
Sec. 306. Special projects; geriatric education and training.
Sec. 307. Grants for minority education.
Sec. 308. Advanced financial distress assistance.

TITLE IV—PROGRAMS FOR PERSONNEL IN HEALTH ADMINISTRATION AND IN ALLIED HEALTH

Sec. 401. Grants and traineeships for graduate programs.
Sec. 402. Statistics and annual report.
Sec. 403. Allied health project grants and contracts.
Sec. 404. Allied health student traineeship.
Sec. 404. Traineeships for advanced training of allied health personnel.
Sec. 405. Traineeships for advanced training of allied health personnel.

SEC. 2. REFERENCES TO THE PUBLIC HEALTH SERVICE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 292a et seq.).

TITLE I—STUDENT ASSISTANCE

SEC. 101. ALLIED HEALTH PROFESSIONALS.

Section 701(13)(C) (42 U.S.C. 292a(13)(C)) is amended by inserting ", or a degree in social work or an equivalent degree" before the period.

SEC. 102. SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM.

Subsection (a) of section 728 (42 U.S.C. 294a(a)) is amended to read as follows:

"(a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 737) to borrowers covered by Federal loan insurance under this subpart shall not exceed $325,000,000 for fiscal year 1989; $375,000,000 for fiscal year 1990; and $450,000,000 for fiscal year 1991. If the total amount of new loans made and installments paid pursuant to lines of credit in any fiscal year is less than the ceiling established for such year, the difference between the loans made and installments paid and the ceiling shall be carried over to the next fiscal year and added to the ceiling applicable to that fiscal year. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program or to obtain a loan under section 731(a)(1)(B) to pay interest on such prior loans; but no insurance may be granted for any loan made or installment paid after September 30, 1994, and for the next fiscal year. The total principal amount of Federal loan insurance available in each fiscal year shall be granted by the Secretary without regard to any apportionment or other similar limitation.".

SEC. 103. ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED LOANS.

Section 731(a)(2)(D) (42 U.S.C. 294d(a)(2)(D)) is amended by inserting "not more frequently than" before "semiannually".

SEC. 104. DEFAULT OF BORROWER UNDER FEDERAL LOAN INSURANCE PROGRAM.

(a) IN GENERAL.—Section 733 (42 U.S.C. 294f) is amended—

(1) in subsection (b), by adding at the end thereof the following new sentence: "The Secretary may sell without recourse to eligible lenders (or other entities that the Secretary determines are capable of dealing in such loans) notes or other evidence of loans received through assignment under the first sentence.";

(2) in subsection (g), by inserting "any chapter of" before "title 11,"; and

(3) by adding at the end thereof the following new subsection:

"(h) A State statute of limitations shall not bar an action by an insurance beneficiary against a borrower if such action is commenced within 6 years of the date of default (excluding any period for which the statute of limitations is tolled).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(3) shall apply only to actions commenced under title 11 after the date of enactment of this Act.

SEC. 105. SCHOOL OF ALLIED HEALTH.

Section 737 (42 U.S.C. 294j) is amended by striking out paragraph (4).

SEC. 106. LOAN AGREEMENTS.

(a) IN GENERAL.—Section 740 (42 U.S.C. 294m) is amended—

(1) in subsection (a), by inserting before the period at the end thereof the following: ", or with any public or nonprofit private institution that has a graduate program in clinical psychology or allied health and that is located in a State";

(2) in subsection (b)(4)—

(A) by striking out "or" before "doctor of veterinary medicine"; and

(B) by inserting before the semicolon at the end thereof the following: ", or a doctoral degree in clinical psychology";

(3) in subsection (c)(1), by inserting ", or by graduate programs in clinical psychology," after "veterinary medicine"; and

(4) in subsection (c)(3)(C), by inserting before the semicolon a comma and "or at a graduate program in clinical psychology".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to loans made on or after the date of the enactment of this Act.

SEC. 107. LOAN PROVISIONS.

(a) In General.—Section 741 (42 U.S.C. 294n) is amended—

(1) in subsection (b)(1)—

(A) by striking out "or" before "doctor of veterinary medicine"; and

(B) by inserting before the comma at the end thereof the following: ", a doctoral degree in clinical psychology, or a bachelor of science in allied health or an equivelent degree";

(2) in subsection (c), by inserting after "veterinary medicine," the following: "or at a graduate program in clinical psychology or allied health,";

(3) in subsection (f)—

(A) in paragraph (1)(A), by inserting before the semicolon at the end thereof the following: ", a doctoral degree in clinical psychology, or a bachelor of science in allied health or an equivalent degree";

(B) in paragraph (1)(B), is amended by inserting before the semicolon at the end thereof the following: ", or at a graduate program in clinical psychology or allied health"; and

(C) in paragraph (1)(C), by inserting ", or as a full time faculty member not receiving a stipend or fellowship in a health professions school referred to in section 701(4) (as determined by the Secretary)" before the semicolon; and

(4) in subsection (l), by striking out "or podiatry" each place it appears and inserting in lieu thereof "podiatry, clinical psychology, or allied health".

(b) Statute of Limitations.—Section 741 is amended by adding at the end thereof the following new subsection:

"(n) A State statute of limitations shall not bar an action by a school against a borrower if such action is commenced within 6 years of the date of default (excluding any period for which the statute of limitations is tolled).".

(c) Effective Date.—The amendment made by subsection (b) shall apply only to actions commenced under section 741 of the Public Health Service Act after the date of enactment of this Act.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

Section 742 (42 U.S.C. 294o) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) For the purpose of making Federal capital contributions into the student loan funds of schools which have established such funds under section 740, there are authorized to be appropriated $15,000,000 for fiscal year 1989, $16,000,000 for fiscal year 1990, and $17,000,000 for fiscal year 1991. Not less than 30 percent of the amounts appropriated in each fiscal year under this section shall be allocated to schools of allied health."; and

(2) in subsection (b)(5), by striking out ", to schools which," through "this subpart".

SEC. 109. DISTRIBUTION OF ASSETS FROM LOAN FUNDS.

Section 743 (42 U.S.C. 294p) is amended—

(1) in subsection (a)—

(A) by striking out "September 30, 1991, and not later than December 31, 1991," and inserting in lieu thereof "September 30, 1994, and not later than December 31, 1994,"; and

(B) by striking out "September 30, 1991," and inserting in lieu thereof "September 30, 1994," in paragraph (1); and

(2) in subsection (b), by striking out "1991" each place in appears and inserting in lieu thereof "1994".

SEC. 110. TRAINEESHIPS.

Part C of title VII (42 U.S.C. 294 et seq.) is amended by inserting after subpart II, the following new subpart:

"Subpart III—Traineeships

"SEC. 751. PUBLIC HEALTH TRAINEESHIPS.

"(a) Grants.—The Secretary may make grants to accredited schools of public health to provide traineeships.

"(b) Limitations and Requirements.—

"(1) Application.—No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(2) Tuition and fees.—Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(3) Awarding traineeships.—In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least 80 percent of the funds received under this section shall go to individuals who—

"(A) have previously received a baccalaureate degree; or

"(B) are pursuing a course of study in—

"(i) biostatistics or epidemiology;

"(ii) health administration, health planning, or health policy analysis and planning;

"(iii) environmental or occupational health;

"(iv) dietetics and nutrition;

"(v) preventive medicine or dentistry; or

"(vi) maternal and child health.

"(c) Authorization of Appropriations.—For payments under grants under subsection (a), there are authorized to be appropriated $5,000,000 for each of the fiscal years 1989 through 1991.".

SEC. 112. HEALTH PROFESSIONS SCHOLARSHIPS.

(a) Headings.—

(1) Subpart IV.—The heading for subpart IV of part C of title VII is amended to read as follows:

"Subpart IV—Health Professions Scholarships".

(2) Subpart V.—Part C of title VII is amended by striking out the heading of subpart V.

(b) Scholarships for Students of Exceptional Financial Need.—Section 758 (42 U.S.C. 294z) is amended—

(1) in subsection (a), by striking out "and who are in their first year of study at such school";

(2) in subsection (b)—

(A) by striking out paragraphs (1) and (6);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (1) (as so redesignated)—

(i) by striking out "shall consist" and inserting in lieu thereof "may consist of all or part";

(ii) by striking out "paragraph (4)" in subparagraph (A) and inserting in lieu thereof "paragraph (3)";

(iii) by inserting "not in excess" before "of $400" in subparagraph (B); and

(iv) by striking out "paragraph (5)" in subparagraph (B) and inserting in lieu thereof "paragraph (4)";

(D) in paragraph (2) (as so redesignated), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)";

(E) in paragraph (3) (as so redesignated), by striking out "paragraph (2)(A)" and inserting in lieu thereof "paragraph (1)(A)"; and

(F) in paragraph (4) (as so redesignated)—

(i) by inserting "maximum allowable" before "monthly stipend"; and

(ii) by striking out "paragraph (2)(B)" and inserting in lieu thereof "paragraph (1)(B)"; and

(3) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) For the purpose of making grants under this section, there is authorized to be appropriated $20,000,000 for each of the fiscal years 1989 through 1991.".

TITLE II—GRANTS TO IMPROVE THE QUALITY OF SCHOOLS OF PUBLIC HEALTH

SEC. 201. CAPITATION GRANTS FOR SCHOOLS OF PUBLIC HEALTH.

Section 770 (42 U.S.C. 295f) is amended—

(1) in subsection (a)(2), by striking out "September 30, 1986," and inserting in lieu thereof "September 30, 1989,"; and

(2) by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e) An applicant school shall expend in carrying out its functions as a school of public health during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

"(f) For payments under this section, there are authorized to be appropriated $5,000,000 for fiscal year 1989, $6,000,000 for fiscal year 1990, and $7,000,000 for fiscal year 1991.".

SEC. 202. ELIGIBILITY FOR CAPITATION GRANTS.

Section 771 (42 U.S.C. 295f-1) is repealed.

SEC. 203. APPLICATION FOR CAPITATION GRANTS.

Section 772 (42 U.S.C. 295f-2) is amended by striking out subsection (e).

TITLE III—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

SEC. 301. PROJECT GRANTS FOR ESTABLISHMENT OF DEPARTMENTS OF FAMILY MEDICINE.

Section 780 (42 U.S.C. 295g) is amended—

(1) in subsection (c), by inserting before the period the following: ", and coordination of curriculum development and student and resident teaching activities with departments of internal medicine and pediatrics where there is a department within the same school";

(2) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) There are authorized to be appropriated $7,000,000 for each of the fiscal years 1989 through 1991 for payments for grants under subsection (a).".

SEC. 302. AREA HEALTH EDUCATION CENTERS.

Section 781 (42 U.S.C. 295g-1) is amended—

(1) in subsection (a)—

(A) by inserting "(A)" before "The" in paragraph (1);

(B) by adding at the end of paragraph (1) the following new subparagraph:

"(B)(i) Under subparagraph (A), the Secretary shall enter into contracts to establish and support area health education center programs that include training of personnel to offer maternal health services and child health services, including oral health screening and treatment, in underserved areas.

"(ii) In entering into contracts under clause (i), the Secretary shall give priority to programs that will train personnel to provide such services in areas along the border between the United States and Mexico, in frontier areas, and in areas in which the rate of infant mortality and low birthweight are disproportionately higher than such rates for the State in which such an area is located.";

(C) by adding "and" at the end of paragraph (2)(B)(i); and

(D) by striking out clauses (ii) and (iii) of paragraph (2)(B) and inserting in lieu thereof the following new clause:

"(ii) projects to increase the number of health care providers in health manpower shortage areas as defined in section 332.";

(2) in subsection (c)—

(A) by inserting before the semicolon in paragraph (1) the following: ", except that a program described in subsection (a)(1)(B) shall only be required to provide for active participation in such program of individuals who are associated with the administration of the school and each of the departments (or specialties if the school has no departments) of pediatrics, obstetrics and gynecology, family medicine, and dentistry"; and

(B) by inserting "except in the case of a program described in subsection (a)(1)(B)," before "provide" in paragraph (2);

(3) in subsection (d)(2)(C)—

(A) by inserting "(i) except as provided in clause (ii)," before "provide";

(B) by inserting "or" after the semicolon; and

(C) by adding at the end thereof the following new clause:

"(ii) in the case of a program described in subsection (a)(1)(B), provide for or conduct a medical residency program in obstetrics and gynecology in which no fewer than six individuals are enrolled in first year positions in such program;";

(4) in subsection (d)(2)(F), by striking out "and nurse practitioners" and inserting in lieu thereof ", nurse practitioners, and nurse midwives"; and

(5) by striking out subsection (g) and inserting in lieu thereof the following new subsection:

"(g) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for fiscal year 1989, $21,000,000 for fiscal year 1990, and $16,000,000 for fiscal year 1991. The Secretary shall obligate not more than 10 percent of the amount appropriated under this subsection for any fiscal year for contracts under subsection (a)(2). Of the amounts appropriated under this subsection for fiscal years 1989 through 1991, $3,000,000 shall be available in each such fiscal year for contracts under subsection (a)(1)(B).".

SEC. 303. GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS.

Section 784 (42 U.S.C. 295g-4) is amended—

(1) in subsection (b), by inserting ", and coordination of curriculum development and resident teaching activities with departments of family medicine where there is a department within the same school" before the period; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) There are authorized to be appropriated to carry out the provisions of this section $22,000,000 for fiscal year 1989, $22,000,000 for fiscal year 1990, and $22,000,000 for fiscal year 1991.".

SEC. 304. FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY.

Section 786 (42 U.S.C. 295g-6) is amended—

(1) in subsection (b), by inserting ", or enter into contracts with," after "grants to";

(2) in subsection (c), by inserting ", and coordination of curriculum development and resident teaching activities with departments of internal medicine and pediatrics where there is a department within the same school, and for residency or internship programs under paragraph (1) or (3) of subsection (a)" before the period; and

(3) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) There are authorized to be appropriated to carry out the provisions of this section $41,000,000 for each of the fiscal years 1989 through 1991. In making grants and entering into contracts under this section, the Secretary shall obligate not less than 7½ percent of such amounts in each such fiscal year for grants or contracts under subsection (b). If amounts are appropriated in excess of $38,000,000, for a fiscal year, 15 percent of such excess amounts shall be obligated for grants under subsection (b).".

SEC. 305. EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 787 (42 U.S.C. 295g-7) is amended—

(1) in subsection (a)—

(A) by striking out subparagraphs (D), (E), and (F) of paragraph (2) and inserting in lieu thereof the following new subparagraphs:

"(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education, and

"(E) paying such stipends to students enrolled in structured summer academic enrichment programs designed to support activities under subparagraphs (B), (C), and (D), as determined by the Secretary."; and

(B) by adding at the end thereof the following new paragraph:

"(3) All individuals participating in activities supported by a grant under this subsection must have completed the 10th grade of high school, or the equivalent of such.";

(2) by striking out subsection (b) and inserting in lieu thereof the following new subsection:

"(b)(1) Schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, podiatry, and public and nonprofit schools which offer graduate programs in clinical psychology that receive a grant under subsection (a) shall, during a period of 3 years, commencing on the date of the award of the grant, increase their first year enrollments of individuals from disadvantaged backgrounds by at least 20 percent.

"(2) If the increase in such first year enrollment is not attained by the end of the 3-year period, the grant recipient shall be ineligible for any subsequent grant under such subsection until the 20 percent increase in such enrollment is achieved and maintained.

"(3) The requirement for at least a 20 percent increase in such enrollment shall apply only to those schools referred to in paragraph (1) that have a total enrollment of such individuals from disadvantaged backgrounds that is less than 200 percent of the national average total enrollment of such individuals in all schools of each health professions discipline.

"(4) Determination of both first year and total enrollment of such individuals shall be made by the Secretary under the provisions outlined in section 708."; and

(3) by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated for grants and contracts under subsection (a)(1), $30,000,000 for fiscal year 1989, $32,000,000 for fiscal year 1990, and $34,000,000 for fiscal year 1991. Not less than 80 percent of the funds appropriated in any fiscal year shall be obligated for grants or contracts to institutions of higher education and not more than 5 percent of such funds may be obligated for grants and contracts having the primary purpose of informing individuals about the existence and general nature of health careers. Of the funds appropriated under this section for any fiscal year, not less than 20 percent shall be obligated for stipends under section (a)(2)(E).".

SEC. 306. SPECIAL PROJECTS; GERIATRIC EDUCATION AND TRAINING.

(a) SPECIAL PROJECTS.—Section 788 (42 U.S.C. 295g-8) is amended to read as follows:

"SEC. 788. SPECIAL PROJECTS.

"(a) TWO-YEAR SCHOOLS.—

"(1) IN GENERAL.—The Secretary may make grants to maintain and improve schools that provide the first or last 2 years of education leading to the degree of doctor of medicine or osteopathy. Grants provided under this paragraph to schools that were in existence on September 30, 1985, may be used for construction and the purchase of equipment.

"(2) ELIGIBILITY.—To be eligible to apply for a grant under paragraph (1), the applicant must be a public or nonprofit school providing the first or last 2 years of education leading to the degree of doctor of medicine or osteopathy and be accredited by or be operated jointly with a school that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

"(b) FACULTY AND CURRICULUM DEVELOPMENT AND CLINICAL TRAINING SITES.—

"(1) GRANTS AND CONTRACTS.—

"(A) IN GENERAL.—The Secretary may make grants to and enter into contracts with any health professions institution or any other public or private nonprofit entity for the development and implementation of model projects in areas such as faculty and curriculum development, and development of new clinical training sites.

"(B) ALLOCATION OF FUNDS.—Priority shall be given to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health, chiropractic, allied health, and to graduate programs at public and nonprofit private schools in health administration and clinical psychology in the allocation of funds under this subsection. Funds shall be allocated to each profession for award within that profession on the basis of competitive applications. Investigator-initiated projects should be encouraged. Funding priorities may be determined by the Secretary on consultation with the health professions schools and the National Advisory Council on the Health Professions Education.

"(C) PEER REVIEW.—Any application for a grant to institutions described in subparagraph (A) shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(2) HEALTH PROFESSIONS INSTITUTIONS AND ALLIED HEALTH INSTITUTIONS.—

"(A) SET-ASIDE.—Of the amounts available for grants and contracts under this subsection from amounts appropriated under subsection (e), at least 75 percent shall be obligated for grants to and contracts with health professions institutions and allied health institutions.

"(B) PEER REVIEW.—Any application for a grant to institutions described in subparagraph (A) shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(C) PREREQUISITES.—The Secretary may not approve or disapprove an application for a grant to an institution described in subparagraph (A) unless the Secretary has received recommendations with respect to such application from the appropriate peer review group required under subparagraph (B) and has consulted with the National Advisory Council on Health Professions Education with respect to such application.

"(c) TRAINING IN PREVENTIVE MEDICINE.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, and public health to meet the costs of projects—

"(A) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine; and

"(B) to provide financial assistance to residency trainees enrolled in such programs.

"(2) ADMINISTRATION.—

"(A) AMOUNT.—The amount of any grant under paragraph (1) shall be determined by the Secretary.

"(B) APPLICATION.—No grant may be made under paragraph (1) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(C) ELIGIBILITY.—To be eligible for a grant under paragraph (1), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine and support from other faculty members trained in public health and other relevant specialties and disciplines.

"(D) OTHER FUNDS.—Schools of medicine, osteopathy, and public health may use funds committed by State, local, or county public health officers or matching amounts for Federal grant funds for residency training programs in preventive medicine.

"(d) PROGRAMS FOR PHYSICIAN ASSISTANTS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine and osteopathy and other public or nonprofit private entities to meet the costs of projects to plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 701(8)).

"(2) APPLICATIONS.—No grant or contract may be made under paragraph (1) unless the application therefor contains or is supported by assurances satisfactory to the Secretary that the school or entity receiving the grant or contract has appropriate mechanisms for placing graduates of the training program with respect to which the application is submitted, in positions for which they have been trained.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated $8,000,000 for each of the fiscal years 1989 through 1991, of which 10 percent of the funds appropriated each fiscal year shall be used to carry out subsection (a). Funds provided to carry out this section shall remain available until expended without regard to any fiscal year limitation.".

(b) GERIATRIC EDUCATION CENTERS AND GERIATRIC TRAINING.—Part F of title VII (42 U.S.C. 295g et seq.) is amended by adding at the end thereof the following new section:

"SEC. 789. GERIATRIC EDUCATION CENTERS AND GERIATRIC TRAINING.

"(a) GERIATRIC TRAINING.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with accredited health professions schools, including schools of allied health, referred to in section 701(4) or 701(10) and programs referred to in section 701(8) to assist in meeting the costs of such schools or programs of providing projects to—

"(A) improve the training of health professionals in geriatrics;

"(B) develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

"(C) expand and strengthen instruction in methods of such treatment;

"(D) support the training and retraining of faculty to provide such instruction;

"(E) support continuing education of health professionals and allied health professionals who provide such treatment; and

"(F) establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

"(2) APPROVAL OF APPLICATIONS.—

"(A) PEER REVIEW.—Any application for a grant or contract under this subsection shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(B) PREREQUISITES.—The Secretary may not approve or disapprove an application for a grant or contract under this subsection unless the Secretary has received recommendations with respect to such application from the appropriate peer review group required under subparagraph (A) and has consulted with the National Advisory Council on Health Professions Education with respect to such application.

"(b) GERIATRIC MEDICINE TRAINING PROJECTS.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, schools of medicine, schools of osteopathy, teaching hospitals, and graduate medical education programs, for the purpose of providing support (including traineeships and fellowships) for geriatric medicine training projects to train physicians and dentists who plan to teach geriatric medicine or geriatric dentistry.

"(2) REQUIREMENTS.—Each project for which a grant or contract is made under this subsection shall—

"(A) be staffed by full-time teaching physicians who have experience or training in geriatric medicine;

"(B) be staffed by full-time or part-time teaching dentists who have experience or training in geriatric dentistry;

"(C) be based in a graduate medical education program in internal medicine or family medicine, or in a department of geriatrics in existence as of December 1, 1987;

"(D) provide participants in the project with exposure to a diversified population of elderly individuals;

"(E) provide training in geriatrics and exposure to the physical and mental disabilities of elderly individuals through a variety of service rotations, such as geriatric consultation services, acute care services, dental services, geriatric psychiatry units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals; and

"(F) provide training in geriatrics through one or both of the training options described in subparagraphs (A) and (B) of paragraph (3).

"(3) TRAINING OPTIONS.—The training options referred to in subparagraph (F) of paragraph (2) shall be as follows:

"(A) A 1-year retraining program in geriatrics for—

"(i) physicians who are faculty members in departments of internal medicine, family medicine, gynecology, geriatrics, and psychiatry at schools of medicine and osteopathy; and

"(ii) dentists who are faculty members at schools of dentistry or at hospital departments of dentistry.

"(B) A 1-year or 2-year internal medicine or family medicine fellowship program providing emphasis in geriatrics, which shall be designed to provide training in clinical geriatrics and geriatrics research for—

"(i) physicians who have completed graduate medical education programs in internal medicine, family medicine, psychiatry, neurology, gynecology, or rehabilitation medicine; and

"(ii) dentists who have completed postdoctoral dental education programs.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) GRADUATE MEDICAL EDUCATION PROGRAM.—The term 'graduate medical education program', means a program sponsored by a school of medicine, a school of osteopathy, a hospital, or a public or private institution, that—

"(i) offers postgraduate medical training in the specialties and subspecialties of medicine; and

"(ii) has been accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association through its Committee on Postdoctoral Training.

"(B) POST-DOCTORAL DENTAL EDUCATION PROGRAM.—The term 'post-doctoral dental education program', means a program sponsored by a school of dentistry, a hospital, or a public or private institution that—

"(i) offers post-doctoral training in the specialties of dentistry, advanced education in general dentistry, or a dental general practice residency; and

"(ii) has been accredited by the Commission on Dental Accreditation.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) Geriatric training.—For grants and contracts under subsection (a), there are authorized to be appropriated $10,000,000 for fiscal year 1989, $12,000,000 for fiscal year 1990, and $14,000,000 for fiscal year 1991.

"(2) Geriatric medicine training projects.—For grants and contracts under subsection (b), there are authorized to be appropriated $10,000,000 for fiscal year 1989, $12,000,000 for fiscal year 1990, and $14,000,000 for fiscal year 1991.".

(c) Conforming Amendments.—Section 783 (42 U.S.C. 295g-3) is repealed.

SEC. 307. GRANTS FOR MINORITY EDUCATION.

(a) Reorganization.—Section 788A (42 U.S.C. 295g-8a) is transferred to immediately after section 781 (42 U.S.C. 295g-1) and redesignated as section 782.

(b) Eligibility.—Subsection (c) of section 782 (as transferred and redesignated by subsection (a)) is amended to read as follows:

"(c) Only health professions schools shall be eligible for a grant under this section, and to be eligible such schools must—

(1) be a school described in section 701(4); and

(2) have received a contract under section 788A for fiscal year 1987.".

SEC. 308. ADVANCED FINANCIAL DISTRESS ASSISTANCE.

Part F of title VII (42 U.S.C. 295g et seq.) (as amended by section 307(a) of this Act) is amended by redesignating section 788B as section 788A.

TITLE IV—PROGRAMS FOR PERSONNEL IN HEALTH ADMINISTRATION AND IN ALLIED HEALTH

SEC. 401. GRANTS AND TRAINEESHIPS FOR GRADUATE PROGRAMS.

(a) In General.—Section 791 (42 U.S.C. 295h) is amended to read as follows:

"SEC. 791. GRANTS AND TRAINEESHIPS FOR GRADUATE PROGRAMS.

"(a) Grants for Graduate Programs in Health Administration.—

"(1) In general.—From funds appropriated under subsection (c)(1), the Secretary shall make annual grants to public or nonprofit private educational entities (including schools of social work and excluding accredited schools of public health) to support the graduate educational programs of such entities in health administration, hospital administration, and health planning.

"(2) Applications.—

"(A) In general.—No grant may be made under paragraph (1) unless an application therefor has been submitted to the Secretary before such time as the Secretary shall by regulation prescribe and has been approved by the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation, prescribe.

"(B) Requirements.—The Secretary may not approve an application submitted under subparagraph (A) unless—

"(i) such application contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) beginning in the fiscal year for which the applicant receives a grant under paragraph (1) that—

"(I) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submitted, except that in any case in which the number of minority students enrolled in the graduate educational programs of such entity in such school year will exceed an amount equal to 45 percent of the number of all students that will be enrolled in such programs in such school year, such application shall only be required to contain assurances that at least 20 individuals will complete such programs in such school year; and

"(II) such entity shall expend or obligate at least $100,000 in funds from non-Federal sources to conduct such programs; and

"(ii) the program for which such application was submitted has been accredited for the training of individuals for health administration, hospital administration, or health planning by a recognized body or bodies approved for such purpose by the Secretary of Education and meets such other quality standards as the Secretary shall by regulation prescribe.

"(C) Waiver.—The Secretary may waive (in whole or in part) the requirements of subclause (II) of subparagraph (B)(i) with respect to any school on written notification by the appropriate accreditation body or bodies that compliance with the assurances required by such subparagraph will prevent such school from meeting the accreditation standards of such body or bodies.

"(D) Consultation.—The Secretary may not approve or disapprove an application submitted under paragraph (1) except after consultation with the National Advisory Council on Health Professions Education.

"(b) Traineeships for Students in Other Graduate Programs.—

"(1) In general.—The Secretary may make grants to public or nonprofit private educational entities, including graduate schools of social work but excluding accredited schools of public health, that offer a program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose by the Secretary of Education and that meets such other quality standards as the Secretary by regulation may prescribe, for traineeships to train students enrolled in such a program.

"(2) Administration.—

"(A) Applications.—No grant for traineeships may be made under paragraph (1) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(B) Use.—Traineeships awarded under grants made under paragraph (1) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may consider necessary.

"(C) Set-aside.—In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least 80 percent of the funds received under this subsection shall go to individuals who—

"(i) have previously received a baccalaureate degree; or

"(ii) have 3 years of work experience in health services.

"(c) Authorization of Appropriations.—

"(1) Grants for graduate programs in health administration.—For payments under grants under subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1989 through 1991.

"(2) Traineeships for students in other graduate programs.—For payments under grants under subsection (b), there are authorized to be appropriated $500,000 for each of the fiscal years 1989 through 1991.".

(b) Public Health Personnel.—Subpart I of part G of title VII (42 U.S.C. 295h et seq.) is amended by repealing sections 791A, 792 and 793 (42 U.S.C. 295h-1a, 295h-1b, and 295h-1c).

SEC. 402. STATISTICS AND ANNUAL REPORT.

Subsection (c) of section 794 (42 U.S.C. 295h-2(c)) is amended—

(1) by striking out "Interstate and Foreign Commerce" and inserting in lieu thereof "Energy and Commerce"; and

(2) by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources".

SEC. 403. ALLIED HEALTH PROJECT GRANTS AND CONTRACTS.

Section 796 (42 U.S.C. 295h-5) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary shall make grants to and enter into contracts with eligible entities to assist them in meeting the costs of planning, developing, establishing, operating, and evaluating projects relating to:

"(1) Improving and strengthening the effectiveness of allied health administration, program directors, faculty, and clinical faculty.

"(2) Improving and expanding program enrollments in those professions in greatest demand and whose services most impact the elderly.

"(3) Interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly.

"(4) Demonstration centers to emphasize innovative models to link allied health profession's clinical practice, education, and research.

"(5) Adding and strengthening curriculum units in allied health programs to include knowledge and practice concerning prevention and health promotion, geriatrics, long term care, home health and hospice care, and ethics.

"(6) The recruitment of individuals into allied health professions, including projects for—

"(A) the identification and recruitment of highly qualified individuals, including the provision of educational and work experiences for recruits at the secondary and collegiate levels;

"(B) the identification and recruitment of minority and disadvantaged students, including the provisions of remedial and tutorial services prior and subsequent to admission, the provision of work-study programs for secondary students, and recruitment activities directed toward primary school students; and

"(C) the coordination and improvement of recruitment efforts among official and voluntary agencies and institutions, including official departments of education, at the city, county, and State, or regional level.";

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) For purposes of subsection (a), the term "eligible entities" means entities which are—

"(1) schools, universities, or other educational entities which provide for allied health personnel education and training and which meet such standards as the Secretary may by regulation prescribe; or

"(2) other public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in subsection (a)."; and

(3) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d)(1) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $4,800,000 for fiscal year 1989; and $5,000,000 for each of the fiscal years 1990 and 1991.

"(2) In each fiscal year for which funds are authorized to be appropriated under this subsection, all grants made with such funds shall preferentially be awarded to training centers for the allied health professions.

"(3) In each fiscal year for which funds are authorized to be appropriated under this subsection, all such funds appropriated shall be reserved for award to training centers for allied health professions.".

SEC. 404. ALLIED HEALTH STUDENT TRAINEESHIP.

(a) Grants.—The Secretary may make grants to, and enter into contracts with, public or nonprofit private schools of allied health or other educational entities offering an allied health program to assist students in meeting the costs of entry level education.

(b) Use of Grants.—Grants awarded under subsection (a) shall be used for tuition, fees, and such stipends and allowances for trainees as the Secretary may consider necessary.

(c) Elderly Population.—In making grants under this section, the Secretary shall ensure that 80 percent of the funds available for such grants shall be used to enable individuals to participate in allied health programs which prepare personnel to meet the rehabilitation needs of the elderly population.

(d) Taxation.—Notwithstanding any other provision of law, any payment to, or on behalf of, a participating student of tuition under this section shall be exempt from taxation.

(e) Authorization of Appropriations.—To carry out the purposes of this section, there are authorized to be appropriated $4,000,000 for fiscal year 1989, and $5,000,000 for each of the fiscal years 1990 and 1991.

SEC. 405. TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

Section 797 (42 U.S.C. 295h-6) is amended to read as follows:

"SEC. 797. TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

"(a) Grants.—The Secretary may make grants to and enter into contracts with public or nonprofit private educational entities to meet the costs of projects designed to—

"(1) plan, develop, establish, expand, and operate doctoral programs for the advanced specialty training of allied health professionals who plan to teach and conduct research in an allied health training program; and

"(2) provide financial assistance in the form of traineeships or fellowships to doctoral students who are participants in any such program and who plan to teach and conduct research in an allied health discipline or to postdoctoral students who are continuing specialized study and research in an allied health discipline.

"(b) Limitation.—The Secretary shall limit grants and contracts made or entered into under subsection (a) to those allied health fields or specialties as the Secretary shall, from time to time, determine to have—

"(1) the most significant national or regional shortages of practitioners;

"(2) insufficient numbers of qualified faculty in entry level or advanced educational programs; and

"(3) a significant role in the care and rehabilitation of patients and clients who are elderly or disabled.

"(c) Authorization of Appropriations.—For the purposes of making payments under grants under subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1989; $8,500,000 for fiscal year 1990; and $11,500,000 for fiscal year 1991.

"(d) Awarding of Grants.—In each fiscal year for which funds are authorized to be appropriated under this section, all grants made with such funds shall preferentially be awarded to training centers for the allied health professions.

"(e) Availability of Funds.—Funds appropriated under this section for any fiscal year shall remain available until expended or through fiscal year 1991.".

SEC. 406. ALLIED HEALTH PROFESSIONS DATA.

Section 798 (42 U.S.C. 295h-7) is amended to read as follows:

"SEC. 798. ALLIED HEALTH PROFESSIONS DATA.

"(a) Establishment of Reporting System.—The Secretary may make grants, or enter into contracts and cooperative agreements with, and provide technical assistance to, any non-profit entity in order to establish a uniform allied health professions data reporting system to collect, compile, and analyze data on the allied health professions personnel.

"(b) Data.—Data shall include the most current information concerning the supply, distribution, and utilization of allied health practitioners and faculty, including physical therapy, occupational therapy, respiratory therapy, speech pathology, and audiology, medical records, dietetics, medical technology, and radiological technology.

"(c) Reports.—

"(1) Annual report.—Not later than 1 year after the date of enactment of this section, and each year thereafter, the Secretary shall prepare and submit, to the President, the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report of the status and development of the uniform allied health professions data reporting system and of the activities carried out under this section.

"(2) Biannual report.—Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the Secretary shall also prepare and submit to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report that shall include a description and analysis of data collected pursuant to this section.

"(d) Authorization of Appropriations.—To carry out the purposes of this section there are authorized to be appropriated $1,200,000 for fiscal year 1989; $2,000,000 for fiscal year 1990; and $3,000,000 for fiscal year 1991. Funds appropriated for fiscal year 1989 shall remain available 3 years beyond the date of the last appropriation, and until at least 1991.".●

By Ms. MIKULSKI (for herself and Mr. Sarbanes):

S. 2230. A bill to establish the Office of Enforcement and Border Affairs within the Department of the Treasury; pursuant to the order of August 4, 1977, referred jointly to the Committee on Governmental Affairs and the Committee on the Budget.

COAST GUARD AND NATIONAL BORDER COORDINATION REVITALIZATION ACT

● Ms. MIKULSKI. Mr. President, I am pleased to announce that my senior colleague, Senator Sarbanes, and I are introducing legislation to revitalize our Coast Guard by transferring it from the Department of Transportation to the Department of Treasury.

This bill, the Coast Guard and National Border Coordination Revitalization Act, puts the Coast Guard where it belongs, in Treasury with Customs and other drug-fighting agencies. In recent years, the Office of Management and Budget has proposed sharp reductions in function 400, Transportation's budget function. They have done so each and every time because of their strong opposition to Federal funding for mass transit and Amtrak. And every year, Congress has been forced to try and do more with the activities in that function with less resources proposed in the President's budget.

Last year this complication resulted in a $100 million shortfall for the Coast Guard's operations. That funding gap has forced the Coast Guard to reduce its presence at numerous installations around the country. In Maryland, they have proposed a 5-year phaseout of the Coast Guard Yard at Curtis Bay. This would mean the loss of 700 jobs and would virtually end Curtis Bay's 89-year history of "service to the fleet."

In this process, I believe that the Appropriations Committees have been unfairly singled out as responsible for this shortfall. In reality, the real culprit has been an administration that has pitted aviation funds and the Coast Guard against public transportation. During interdiction and public safety should not be forced to compete with grant programs essential to the successful operation of State and local governments. The Congress has rejected this approach in each of the last 7 years and in all likelihood will do so again this year.

The legislation Senator Sarbanes and I are introducing would eliminate this kind of finger pointing at the Transportation Appropriations Subcommittee by guaranteeing that the Coast Guard is placed in the budget function where it best belongs, 750—administration of justice.

By moving the Coast Guard out of Transportation, the Coast Guard will not be forced to compete for resources with subways and Amtrak. There's no relation between mass transit and the

Coast Guard, and the Congress should not be forced into an annual showdown over the two because the administration opposes any Federal funds for public transportation.

The framework which this legislation sets out will also guarantee that the Federal Government has a more coordinated approach to fighting illegal drugs from entering into this country. The creation of an Office of Enforcement and Border Affairs within the Department of the Treasury, headed by an Under Secretary who reports directly to the Secretary, will ensure a one-stop shop that guarantees the best possible effort to reverse the growing crisis of drug abuse in America.

I am pleased that this bill was included last week as title V in S. 2205, the Omnibus Antidrug Abuse Act. It is my hope that we can enact this important Government reorganization through S. 2205 or some other vehicle. Only then can we begin to reverse the recent budgetary trend which has shortchanged the Coast Guard in its fight as one of the agencies who have become the cops for the new economy in the war against drugs.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary of Major Provisions, Coast Guard and National Border Coordination Revitalization Act of 1988

OFFICE OF ENFORCEMENT AND BORDER AFFAIRS

Establishes Office of Enforcement & Border Affairs within Dept. of Treasury, headed by the Undersecretary for Enforcement and Border Affairs.

Under this office, will be an Office of Border Management, responsible for all non-narcotics interdiction activities.

Under this Office, will also be Office of Narcotics Interdiction, responsible for all narcotics interdiction activities.

AGENCY COMPOSITION

Agencies within Office of Enforcement & Border Affairs:

Coast Guard [transferred from Dept. of Transportation].

Customs Service.

Bureau of Alcohol, Tobacco & Firearms.

Secret Service.

Immigration & Naturalization Service [transferred from Dept. of Justice].

Federal Law Enforcement Training Center.

TRANSFER OF COAST GUARD BUDGET FUNCTION

Transfer the Budget Function for the Coast Guard from Function 400, Transportation, to Function 750, Administration of Justice, beginning with FY 1989.

COAST GUARD RESPONSIBILITIES IN TIME OF MILITARY CONFLICT

Makes no change in Coast Guard's transfer to the Dept. of Navy in time of military conflict.

TRANSITIONAL PROVISIONS

Includes necessary transitional provisions to protect current personnel within Coast Guard and INS to prevent them from being adversely affected upon the transfer of their agencies to the Treasury Dept.●

● Mr. SARBANES. Mr. President, I am pleased to join my colleague, Senator Mikulski, in sponsoring the Coast Guard and National Border Coordination Revitalization Act of 1988. The purpose of this legislation is twofold: to provide greater stability in the Coast Guard's funding and increased coordination in our Nation's war against drugs.

The adoption of the budget for the Coast Guard has been the subject of serious controversy for the past few years. This has been precipitated, in part, by the agency's increased responsibilities in maritime drug interdiction and other activities at the same time that the Department of Transportation's resources, under which the Coast Guard operates, have come under increased pressure by the Federal deficit. While the Congress has sought to augment the Coast Guard's budget with funds from the Department of Defense, these funds have also been squeezed. Last year, in order to achieve the level of deficit reduction called for in the budget summit agreement, deep cuts were made in Department of Transportation programs including approximately $100 million from the Coast Guard's operating budget. In January of this year, the Coast Guard announced that, as a result of this $100 million shortfall in the agency's funding for fiscal 1988, drug interdiction efforts would be reduced by 55 percent and a number of important Coast Guard operations—including the shipbuilding and repair activities at the Curtis Bay Coast Guard Yard in Baltimore—would be phased out.

In order to address this problem and to ensure that the Coast Guard receives the resources necessary to perform its missions and continue vital operations like the Curtis Bay Yard, Senator Mikulski and I are introducing legislation to move the Coast Guard from the Department of Transportation to the Department of Treasury. This is a move that makes sense on several fronts. First of all, it will place the agency with the Customs Service and other bureaus involved in the attack on the national drug trafficking problem and help ensure a coordinated antidrug effort. This provision has also been included in the Omnibus Anti-Drug Abuse Act of 1988, which was introduced last week and is a very significant effort to combat the serious drug problem in our Nation.

Second, moving the Coast Guard to the Treasury Department, where it was housed for 177 years, will better enable us to provide a long-term approach for dealing with shortfalls in the Coast Guard's operating budget. It makes sense to remove the Coast Guard from the transportation function where it had to annually compete for resources from transportation specific programs. A major part of the Coast Guard's function is not transportation-specific, as it is with the other programs such as the Federal Aviation Administration, mass transit and other important programs in the Transportation budget. Placing it under the Treasury Department will enable us to more adequately address the needs of the Coast Guard, and our country, with regards to drug interdiction, marine and boating safety, and enforcement of laws and treaties.

I urge my colleagues to join me in supporting this measure to restore sound budget policy and strengthen the Coast Guard. ●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. Moynihan, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 552

At the request of Mr. Evans, the name of the Senator from New Jersey [Mr. Lautenberg] was added as a cosponsor of S. 552, a bill to improve the efficiency of the Federal classification system and to promote equitable pay practices within the Federal Government, and for other purposes.

S. 698

At the request of Mr. Thurmond, the name of the Senator from Idaho [Mr. McClure] was added as a cosponsor of S. 698, a bill to amend title 17, United States Code, to prohibit the conveyance of the right to perform publicly syndicated television programs without conveying the right to perform accompanying music.

S. 1522

At the request of Mr. Riegle, the names of the Senator from Montana [Mr. Baucus], and the Senator from South Carolina [Mr. Hollings] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1776

At the request of Mr. Armstrong, the names of the Senator from Alabama [Mr. Heflin], and the Senator from Ohio [Mr. Glenn] were added as cosponsors of S. 1776, a bill to modernize United States circulating coin designs, of which one reverse will have a theme of the bicentennial of the Constitution.

S. 1817

At the request of Mr. Kennedy, the names of the Senator from Nevada

[Mr. Hecht], and the Senator from Alaska [Mr. Stevens] were added as cosponsors of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 1851

At the request of Mr. Simon, his name was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 2015

At the request of Mr. Kennedy, the name of the Senator from Arizona [Mr. DeConcini] was added as a cosponsor of S. 2015, a bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program.

S. 2042

At the request of Mr. Durenberger, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2061

At the request of Mr. Cranston, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of S. 2061, a bill to establish national standards for voter registration for elections for Federal office, and for other purposes.

S. 2077

At the request of Mr. Kasten, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of S. 2077, a bill entitled the "Livestock Producers' Recordkeeping Act of 1988."

S. 2120

At the request of Mr. Matsunaga, the name of the Senator from Montana [Mr. Melcher] was added as a cosponsor of S. 2120, to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either.

S. 2134

At the request of Mr. D'Amato, the name of the Senator from Maine [Mr. Cohen] was added as a cosponsor of S. 2134, a bill to impose sanctions against the Republic of Panama.

S. 2152

At the request of Mr. Nickles, the name of the Senator from Arizona [Mr. McCain] was added as a cosponsor of S. 2152, a bill to increase the authority to transfer unobligated balances between certain accounts of the Department of Defense in order to meet increased military personnel costs resulting from fluctuations in foreign currency exchange rates, and for other purposes.

S. 2156

At the request of Mr. Lugar, the names of the Senator from Kansas [Mr. Dole], the Senator from Iowa [Mr. Harkin], the Senator from Minnesota [Mr. Boschwitz], the Senator from Montana [Mr. Melcher], the Senator from North Carolina [Mr. Helms], the Senator from Georgia [Mr. Fowler], the Senator from Mississippi [Mr. Cochran], the Senator from South Dakota [Mr. Daschle], the Senator from Nebraska [Mr. Karnes], the Senator from California [Mr. Wilson], the Senator from Kentucky [Mr. McConnell], the Senator from Missouri [Mr. Bond], the Senator from Louisiana [Mr. Johnston], the Senator from North Carolina [Mr. Sanford], the Senator from Maine [Mr. Mitchell], and the Senator from Florida [Mr. Chiles] were added as cosponsors of S. 2156, a bill to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget.

S. 2167

At the request of Mr. Metzenbaum, the names of the Senator from Montana [Mr. Melcher], the Senator from Indiana [Mr. Lugar], and the Senator from Pennsylvania [Mr. Heinz] were added as cosponsors of S. 2167, a bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts.

S. 2205

At the request of Mr. DeConcini, the name of the Senator from Wisconsin [Mr. Proxmire] was added as a cosponsor of S. 2205, a bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

SENATE CONCURRENT RESOLUTION 97

At the request of Mr. Adams, the names of the Senator from Virginia [Mr. Warner], the Senator from Georgia [Mr. Fowler], and the Senator from Arkansas [Mr. Bumpers] were added as cosponsors of Senate Concurrent Resolution 97, a concurrent resolution to commend the President, the Secretary of State, and the Administrator of the Agency for International Development on relief efforts that have been undertaken by the United States Government for the people in Ethiopia and other affected nations of sub-Saharan Africa, and encourage these officials to continue to extend all efforts deemed appropriate to preclude the onset of famine in these nations, and for other purposes.

SENATE RESOLUTION 377

At the request of Mr. Lugar, the names of the Senator from Montana [Mr. Melcher], the Senator from Vermont [Mr. Leahy], the Senator from Oklahoma [Mr. Boren], the Senator from Minnesota [Mr. Boschwitz], the Senator from Indiana [Mr. Quayle], the Senator from South Dakota [Mr. Pressler], the Senator from Iowa [Mr. Harkin], the Senator from Nebraska [Mr. Exon], the Senator from Missouri [Mr. Bond], the Senator from Arkansas [Mr. Pryor], the Senator from North Carolina [Mr. Helms], the Senator from Tennessee [Mr. Gore], the Senator from Kentucky [Mr. McConnell], the Senator from Pennsylvania [Mr. Specter], and the Senator from North Dakota [Mr. Burdick] were added as cosponsors of Senate Resolution 377, a resolution to express the sense of the Senate regarding negotiations on a new long-term agreement on agricultural trade with the Soviet Union.

SENATE RESOLUTION 388

At the request of Mr. Metzenbaum, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of Senate Resolution 388, a resolution expressing the opposition of the Senate to the proposed $400 million World Bank loan to restructure Mexico's steel industry.

AMENDMENT NO. 1680

At the request of Mr. DeConcini, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of amendment No. 1680 intended to be proposed to 100–11, a resolution expressing the sense of the House of Representatives that Federal excise tax rates should not be increased.

AMENDMENTS SUBMITTED

HIGH-RISK DISEASE NOTIFICATION AND PREVENTION ACT

WALLOP AMENDMENT NO. 1906

Mr. WALLOP proposed an amendment to the bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes; as follows:

Add at the end of the bill the following new section:

"Sec. a.

(1) Since the stated goal of the Treaty on Intermediate- and Shorter-range Missiles (hereafter referred to as the INF Treaty) is the global and verifiable elimination of all intermediate- and shorter-range missiles;

(2) Since a principal element of the INF Treaty's verification regime is the list of limited items to be destroyed contained in the INF Treaty's Memorandum of Understanding;

(3) Since a central premise of the INF Treaty is that the destruction of all items

on that list will effect the complete elimination of the Parties' inventories of limited systems;

(4) Since the realization of this premise depends critically upon the accuracy of the accounting of such inventories made in the Memorandum of Understanding;

(5) Since the United States received the Soviet data listed in the Memorandum of Understanding before the INF Treaty was signed and then chose to sign that Treaty, thereby accepting the essential accuracy of those data;

(6) Since the United States' ability to evaluate such Soviet data cannot be made with the precision that characterizes, for example, the reconciliation of a bank account, i.e., it does not have the ability to check Soviet data down to the last missile;

(7) Since consequently, U.S. intelligence judgments of actual Soviet force levels reflect the fact that each component of the United States Intelligence Community (e.g., the Central Intelligence Agency, the Defense Intelligence Agency, the State Department's Bureau of Intelligence and Research), using its own methodology, arrives at the individual agency's "best-assessment" of the precise number of missiles in the Soviet inventory;

(8) Since the United States Government's estimate of Soviet missiles like the intermediate-range SS-20 as a result represents a collective"best-assessment" of the USSR's inventory of such missiles expressed in a range of estimated force levels;

(9) Since the confidence we can have in the accuracy of the Soviet-provided data is a function of the breadth of the range of uncertainty in such intelligence "best-assessments" i.e., the greater the discrepancy between the high and low U.S. Intelligence Community estimates, the less confident can the United States be in its ability to gauge the accuracy of the Soviet-supplied data;

(10) Since the Administration has said that the number of SS-20's accounted for by the Soviet Union in the INF Treaty's Memorandum of Understanding fall within the range of U.S. Intelligence estimates of those forces;

(11) Since this fact is said to reflect favorably on the credibility of the Soviet-provided data; and

(12) Since the Senate could not properly discharge its responsibility to grant or withhold consent to the INF Treaty were it unable to assess the likelihood that, from the perspective of the United States, that Treaty's principal object and purpose would be realized through the complete elimination of all Soviet SS-20s.

(b) It is therefore the sense of the Senate that:

1. Before the Senate convenes in executive session for the purpose of considering the proposed INF Treaty, the President, without delegation, should certify that the monitored destruction of all systems enumerated in the Memorandum of Understanding will result, in his judgment, in the complete elimination of the Soviet Union's inventory of such systems;

2. If the President is unable to make the certification called for in subsection b.(1) of this section, he should then report to the Senate the number of SS-20's assessed by each agency of the U.S. Intelligence Community to exist in the Soviet inventory over and above the level declared by the USSR in the Memorandum of Understanding and describe the methodology used by each agency to arrive at that number;

(3) The report called for by subsection b.(2) of this section should also provide the President's judgment as to whether the Soviet Union was aware, before it provided the data now incorporated in the Memorandum of Understanding, of what was the range of U.S. intelligence agency estimates of the size of Soviet forces limited by the INF Treaty;

(4) The report called for by subsection b.(2) of this section should also contain an analysis prepared by the Joint Chiefs of Staff explaining whether the forces assessed to exist in the Soviet inventory by one or more U.S. intelligence agencies contained in the Memorandum of Understanding constitute a militarily-significant capability.

INDIAN SELF-DETERMINATION ACT AMENDMENTS

EVANS (AND INOUYE) AMENDMENT NO. 1907

(Ordered to lie on the table.)

Mr. EVANS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by them to the bill (S. 1703) to amend the Indian Self-Determination and Education Assistance Act, and for other purposes; as follows:

S. 1703, as reported, is amended by deleting section 209 and inserting the following in lieu thereof:

"SEC. 301. TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

The Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended by adding a new Title III, as follows:

"TITLE III—TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

SEC. 301. The Secretary of the Interior shall, for a period not to exceed five years following enactment of this title, conduct a research and demonstration project to be known as the Tribal Self-Governance Project according to the provisions of this title.

SEC. 302(a). At the request of the governing body of any Indian tribe otherwise eligible for mature contracts as defined in section 103(i), the Secretary shall negotiate and enter into a written agreement with such tribe which—

(1) shall enable the tribe to design and administer programs, services and activities according to its own budget and priorities;

(2) shall, except as provided in paragraph (3), provide for payment by the Secretary to the tribe of an amount equal to that which the tribe would have been eligible to receive under contracts or grants under this Act, including direct program costs and indirect costs, and for any funds which are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe and its members;

(3) shall not include payment by the Secretary of funds provided for tribally controlled community colleges pursuant to the Tribally Controlled Community Colleges Act (Public Law 95-471) or for elementary and secondary schools under the Indian School Equalization Formula (ISEF) pursuant to title XI of the Education Amendments of 1978 (Public Law 95-561, as amended);

(4) shall specify the functions and responsibilities of both a tribe and the Secretary relative to the Tribal Self-Governance Project, including the authority of the tribe to reallocate funds or modify budget allocations within any project year;

(5) shall allow for retrocession of programs or portions thereof pursuant to section 105(e);

(6) shall not allow the Secretary to waive, modify, or diminish in any way the trust responsibility of the United States with respect top Indian people which exists under treaties, Executive orders, and Acts of Congress; and

(7) shall be submitted by the Secretary ninety days in advance of the proposed effective date of the agreement to the Congress for the review of the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) At the request of the governing body of a tribe, and following the negotiation and under the terms of an agreement pursuant to subsection (a), the Secretary shall provide funding to such tribe to implement the agreement.

(c) For the year for which and the extent to which funding is provided to a tribe pursuant to this title, such tribe—

(1) shall not be entitled to contract with the Secretary for such funds under section 102;

(2) shall be responsible for the administration of programs, services and activities pursuant to agreements under the title; and

(3) shall not be required to provide the same programs, services and activities as the Secretary would have provided to the tribe and its members: *Provided*, however, That funds for trust services to individual Indians are available to support Self-Governance Demonstration Projects only to the extent that the same trust services are provided to individual Indians by the tribe.

SEC. 303. Unless the Secretary and the tribe otherwise agree, disputes arising under this title shall, upon written notice either from the Secretary or the tribe to the other and within ten days following such notice, be submitted to binding arbitration. Any subsequent arbitration decision or order may be enforced pursuant to section 110(a). For purposes of sections 110(a), 110(b), and 110(c), agreements under this title shall be treated the same as contracts are treated under such sections: *Provided*, That, for the purposes of this section, "disputes" shall include any determination of the application of federal laws and regulations to agreements authorized by this title: *Provided further*, That to the maximum extent feasible, the Secretary shall interpret applicable federal laws and regulations in a manner that will not prohibit or restrict the implementation of agreements authorized by this title.

SEC. 304. The Secretary shall identify in the President's annual Budget Request to Congress any funds proposed to be included in the Tribal Self-Governance Project and to be provided by the Secretary. The use of funds pursuant to this title shall be subject to specific directives or limitations as may be included in applicable appropriation acts.

SEC. 305. The Secretary shall submit to the Congress a written report on July 1 and January 1 of each of the five years following the date of enactment of this title on the relative costs and benefits of the Tribal Self-Governance Project. Such report shall be based on mutually determined baseline measurements jointly developed by the Secretary and the participating tribes, and shall separately include the views of such tribes.

Sec. 306. Nothing in this title shall limit or reduce in any way any services, contracts or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or other applicable federal law.

● Mr. EVANS. Mr. President, I am sending to the desk an amendment to S. 1703, the Indian Self-Determination Act Amendments of 1987. This amendment, which authorizes a 5-year research and demonstration program to be known as the Tribal Self-Governance project, is intended to supersede the amendment which Senator Inouye and I proposed on February 3, 1988. This previous amendment was the subject of a hearing conducted by the Select Committee on Indian Affairs on February 18, 1988, where testimony was taken from the administration and representatives of many Indian tribes and tribal organizations.

The key provision of this amendment directs the Secretary of the Interior, at the request of the governing body of any Indian tribe, to negotiate and enter into agreements with such Indian tribes to design and administer programs, services and activities which the Secretary is required to provide to such tribes and their members. Significantly, the amendment provides the authority to participating tribes to allocate funds within any project year according to their own priorities instead of those determined primarily by the Bureau of Indian Affairs. The revisions incorporated in this amendment are the result of the comments and recommendations received by the Indian Affairs Committee since we filed the earlier amendment. They have, in my opinion, substantially improved this proposal.

As Senator Inouye and I have previously explained, the primary motive for our work to develop this proposal has been to respond to the initiative taken by the several Indian tribes who requested demonstration project authority. Based on the valuable input we have received and our own analysis, we have concluded that the Self-Governance project should include the following features:

First, the Demonstration Project should be open to all Indian tribes who wish to participate rather than be limited to the original 10 who were included and identified in the Fiscal Year 1988 Continuing Appropriations Resolution. The primary criteria for eligibility under our modified proposal is that participating tribes must have a track record of financially sound and responsible Indian Self-Determination contract administration. We believe that this will be demonstrated by continuous administration of contracts under Public Law 93-638 for 3 or more years with no significant or material audit exceptions. Any tribe which can point to such a track record can apply for a demonstration funding agreement as authorized in this amendment.

Second, demonstration project agreements will include payment of an amount of funds equal to that which the tribe would have been eligible to receive under contracts and grants available pursuant to the Indian Self-Determination Act, including direct and indirect programs costs, and any funds which are specifically or functionally related to the provision of services by the Secretary to the tribe or its members. Section 306 of the amendment imposes a requirement that these agreements shall not limit or reduce in any way services, contracts or funds that any other tribe or tribal organization is eligible to receive by this act or any other law. Consistent with this provision, however, a tribe applying for an agreement may identify funds in addition to its BIA agency or local level budget which have been set aside or allocated for services specifically to its members for a particular reservation and proposes that such funds be included in the agreement.

Third, the two principal formula based education programs have been excluded from the scope of the agreements in response to tribal concerns that such formula funding does not readily lend itself to the reprogramming authority contemplated in the demonstration projects. In the future, Congress may examine the possibility of including these functions after the program has proven itself.

Fourth, the agreements shall not be interpreted as authority for the Secretary to waive, modify or diminish in any way the trust responsibility of the United States for Indian people as provided for under treaties, executive orders and Federal Statutes. Since the Self-Determination Act provides that any program can be contracted for by a tribal organization, this certainly includes trust functions as the report on S. 1703 properly points out. In such instances, the Secretary's responsibility as trustee is to make sure that contracts properly define the level of performance necessary to manage trust assets and to supervise such performance. If at any time during a contract period the trust is endangered or mismanaged and it is clear that the contractor cannot correct the problem, then the Secretary has authority to intervene to protect trust assets. Clearly, there is nothing in this relationship that requires a waiver of the trust and the same shall be true for demonstration agreements.

(5) We have also required that these demonstration agreements be submitted by the Secretary 90 days in advance of their effective date to the Congress for review. Members of Congress and the relevant committees are thereby provided an opportunity to exercise their overnight powers to urge a change of correction of any aspect of such agreements that may be of concern.

(6) Section 304 of this amendment requires the Secretary to identify in the administration's annual budget request any funds included in the Tribal Self-Governance project. Furthermore, it is made clear that the use of such funds shall remain subject to specific directions or limitations as may be included in applicable appropriation acts. Finally, the Congress will be kept fully informed of the progress made in implementing the Tribal Self-Governance Demonstration project by virtue of the requirement contained in section 305. This section directs the Secretary to submit written reports on the relative costs and benefits of the projects on January 1 and July 1 of each year. Participating tribes are given the opportunity to submit separately their views in such reports and to work with the Secretary to develop the baseline measurements upon which a cost-benefit evaluation is to be determined.

Mr. President, these amendments include carefully formulated checks and balances. I am confident they are protective of the important Federal Indian policy concerns that were conveyed to Senator Inouye and I during our deliberations on this proposal. In addition, a full explanation of our objectives and intentions has been provided in a letter Senator Inouye and I sent last week to 250 tribal leaders.

Our extensive consultation with Indian leadership regarding this proposal and in response to the intense interest which has been shown has proven to be most rewarding. As we now go forward with this bill, we can assure our colleagues in the Senate that the amendments to the Indian Self-Determination Act contained in S. 1703 are congruent with each other and the underlying statutory framework. The demonstration authority provided in this new title III builds upon the substantive reforms of S. 1703. Although there is an experimental aspect inherent to such demonstration programs, if proven to be workable and successful, as I believe it will, this experiment will show us the direction to a future government-to-government relationship that each Indian tribal group can define according to its own distinctive vision.

Mr. President, I look forward to speedy congressional action on this important bill, including adoption of this amendment.●

● Mr. INOUYE. Mr. President, I am pleased to support Senator Evans' amendments to S. 1703, the Indian Self-Determination Act of 1987. When Senator Evans agreed in the beginning of this session of Congress to serve as vice chairman of the Indian Affairs

Committee, I was positive that he would make a great contribution and his work as prime sponsor of this important bill certainly justifies my confidence in him.

I see that he has incorporated substantial improvements to the original proposal which we introduced last month at the request of 10 tribes. They have taken the initiative to develop a comprehensive funding authority entitled the Tribal Self-Governance Research and Demonstration project. Since this project was originally established in the BIA's 1988 appropriation bill, it makes sense for us to exercise our responsibilities as an authorizing committee to establish guidelines for the program. In doing so, I see that we have also provided protections for these tribes who will not be participating in this project as well as define some reasonable limitations on what is essentially an experimental program.

In closing, I would like to once again reiterate that the measure before us was not conceived in Washington. It was drafted in Indian country by Indian people to resolve Indian problems. As the vice chairman of this committee said in the committee report, it is perfectly appropriate that the bill was developed with the active participation of tribal leaders from tribes throughout the country. These are the people who will implement this bill; they are the ones who will rejoice in its strength—and they are also the ones who will struggle with its weaknesses.

We have no way of knowing what the outcome will be. It may be a great success, or it may fail. But as the vice chairman indicated, why not try? If we maintain the status quo and insist upon it, that is where we will be—right here. I think it is about time that we took bold steps and in taking these steps we may fall. But that is the way we learn.

I am confident that it will succeed. It is the product of many minds and many months. And we, both of us, Senator Evans and I, will assure you that everything will be done to expedite a successful consideration and passage.●

TAXPAYER RIGHTS

BENTSEN (AND OTHERS) AMENDMENT NO. 1908

(Ordered to lie on the table.)

Mr. BENTSEN (for himself, Mr. Packwood, Mr. Matsunaga, Mr. Dole, Mr. Baucus, Mr. Roth, Mr. Boren, Mr. Danforth, Mr. Bradley, Mr. Heinz, Mr. Mitchell, Mr. Wallop, Mr. Pryor, Mr. Durenberger, Mr. Riegle, Mr. Daschle, Mr. Armstrong, Mr. Byrd, Mr. Gramm, Mr. Burdick, Mr. Hollings, Mr. Stevens, Mr. Nunn, Mr. Johnston, Mr. Domenici, Mr. Bumpers, Mr. McClure, Mr. DeConcini, Mr. Melcher, Mr. Warner, Mr. Exon, Mr. Pressler, Mr. Heflin, Mr. Levin, Mr. Symms, Mr. Bingaman, Mr. Gore, Mr. Harkin, Mr. Breaux, Mr. Conrad, Mr. McCain, Mr. Reid, and Mr. Shelby) submitted an amendment intended to be proposed by them to the bill (S. 2223) to promote and protect taxpayer rights, and for other purposes; as follows:

Beginning on page 75, line 10, strike out all through page 77, line 3, and insert in lieu thereof the following:

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on April 1, 1988.

(2) Registration procedures required to be specified 90 days after effective date.—Not later than July 1, 1988, the Secretary of the Treasury or the Secretary's delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the Internal Revenue Code of 1986 (as added by this section).

On page 79, line 4, strike out "September 30, 1988" and insert in lieu thereof "March 31, 1988".

On page 79, line 16, strike out "September 30, 1988" and insert in lieu thereof "March 31, 1988".

On page 82, strike out lines 3 through 8, and insert in lieu thereof the following new section:

SEC. 301. AMOUNT OF CORPORATE ESTIMATED TAX INSTALLMENT REDUCTION RECAPTURE INCREASED.

(a) In General.—Section 6655(e)(1) (relating to lower required installment where annualized income installment or adjusted seasonal installment is less than amount determined under subsection (d)) is amended by striking out "90 percent" and inserting in lieu thereof "96 percent (93.5 percent in the case of any reduction after March 31, 1988, and before October 1, 1988)".

(b) Effective Date.—The amendment made by this section shall apply to reductions in required installments occurring after March 31, 1988.

● Mr. BENTSEN. Mr. President, I am offering an amendment to S. 2223 on behalf of the Committee on Finance. The purpose of the amendment is to provide immediate relief from the diesel tax collection problem created by last year's Budget Reconciliation Act. The amendment is cosponsored by 41 Members of the Senate, including 16 members of the Finance Committee.

The problem created by the budget reconciliation bill arose from a provision proposed by the administration to move the collection point for the Federal excise tax on diesel fuel from the wholesale level to the retail level. That change was intended to reduce what the Federal Highway Administration described as widespread evasion of the diesel tax. As passed in the Reconciliation Act, the change is scheduled to take effect April 1.

Since the enactment of the provision, we have learned of the serious problems it causes for those diesel fuel users who are exempt from the tax because they use the fuel for nonhighway purposes. Exempt users include farmers, mining companies, well drillers, barge operators, and others. The provision requires exempt users to pay the 15 cent-per-gallon diesel tax that they don't owe, and then file for a refund. In short, that amounts to an interest-free loan to the Government.

S. 2223, reported by the committee March 21, goes a long way toward solving the problem, but it does not go all the way. The bill permits all off-road users of diesel fuel to purchase diesel fuel tax-free at the wholesale level. The legislation also provides special, liberal rules for marine use, where the opportunities for tax evasion are limited, and requires the IRS to pay interest on refunds to any exempt users who purchase diesel fuel tax paid.

The shortcoming of the reported legislation is in the effective date. Members of the Finance Committee wanted to make the provisions of the legislation effective immediately—on April 1. But according to the Treasury Department, by doing so we would be adding more than $200 million to the budget deficit for fiscal 1988. We were unwilling to do that.

To avoid increasing the fiscal 1988 budget deficit, the committee agreed to report the bill out with an effective date of October 1, 1988. The bill contained sufficient revenue-raising provisions to offset the revenue loss for fiscal 1989 and beyond. We asked the staffs of the Finance Committee and the Joint Committee on Taxation to investigate sound ways of raising fiscal 1988 revenues to enable us to move the effective date up to April 1.

Having studied the matter since March 21, the committee is now in a position to endorse the April 1 effective date. That is what this amendment does. This amendment provides immediate relief for farmers and all other off-road users of diesel fuel.

To finance the amendment, we propose to continue reforms started last year in the corporate estimated tax. What we propose essentially is to require that estimated tax payments of corporations more closely follow the pattern of the income of each corporation over the year. Thus, corporations that earn greater amounts of income in the first part of the year would have to pay greater estimated taxes in that part of the year. Our amendment calls for a 2-year phase-in to the tighter rules. The proposal also makes it possible to eliminate the provisions in S. 2223 that extends the IRS refund offset program for another year.

Mr. President, the committee amendment perfects S. 2223. We have proposed to solve the diesel tax problems as of April 1, and we have done so in a fiscally responsible fashion.

The Finance Committee has done as much as it can on its own to solve the diesel problem. We can't act without a House bill. I know our colleagues on the House side share our concerns about the impact of this provision on the farm community and others. I urge them to act quickly, so that we can put this diesel tax problem behind us.

Mr. President, I ask unanimous consent that a staff explanation of the corporate estimated tax reform be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION OF CORPORATE ESTIMATED TAX PROVISION IN COMMITTEE AMENDMENT PREPARED BY THE STAFF OF THE JOINT COMMITTEE ON TAXATION

PRESENT LAW

Under present law, corporations are required to make estimated tax payments four times a year (sec. 6655). For small corporations, each installment is required to be based on an amount equal to the lesser of (1) 90 percent of the tax shown on the return or (2) 100 percent of the tax shown on the preceding year's return. For large corporations, each installment is required to be based on an amount equal to 90 percent of the tax shown on the return (except that the first payment may be based on 100 percent of the tax shown on the preceding year's return). For both large and small corporations, the amount of any payment is not required to exceed an amount which would be due if the total payments for the year up to the required payment equal 90 percent of the tax which would be due if the income already received during the current year were placed on an annual basis. Any reduction in a payment resulting from using this annualization rule must be made up in the subsequent payment if the corporation does not use the annualization rule for that subsequent payment. However, if the subsequent payment makes up at least 90 percent of the earlier shortfall, no penalty is imposed.

REASONS FOR CHANGE

The committee believes that a corporation that made an estimated tax payment based on its annualized income should be required to make up any shortfall in subsequent payments more rapidly in order to pay estimated tax on a more current basis.

EXPLANATION OF PROVISION

Under the bill, a corporation that used the annualization method for a prior payment must make up at least 96 percent (rather than 90 percent as under present law) of the shortfall in the subsequent payment in order to avoid an estimated tax penalty. This provision is phased in over two fiscal years. Effective for payments required to be made after the date of enactment, at least 93.5 percent of the shortfall in the subsequent payment must be made up in order to avoid an estimated tax penalty. The increase to 96 percent is effective for estimated tax payments required to be made after September 30, 1988.

EFFECTIVE DATE

The increase to 93.5 percent is effective for estimated tax payments required to be made after the date of enactment. The increase to 96 percent is effective for estimated tax payments required to be made after September 30, 1988.●

● Mr. DANFORTH. Mr. President, I welcome this amendment which moves the effective date to April 1, 1988, for the diesel fuel legislation the Senate Finance Committee approved on March 21, 1988. I was dissatisfied with the October 1 effective date of the committee's legislation as I see no reason to subject our farmers and other off-road users of diesel fuel to the pay-and-refund procedures for 6 months. I am pleased that the committee was able to develop a proposal that is revenue neutral and if passed would take care of the problem before it begins, April 1.

The Revenue Act of 1987 requires effective April 1, that farmers and other purchasers of diesel fuel for off-road use must pay the 15-cent per gallon excise tax at the time of purchase and apply later for a refund. Farmers in my State will be required to pay at least $14 million annually in excise taxes that they do not owe and recover the money by putting in applications for refunds. These pay-and-refund procedures result in expensive paperwork and damage to farmer's cash flow.

Now that the Senate Finance Committee has reached agreement on an April 1 repeal date, it is my hope that the House will send us tax legislation so that the repeal can be enacted by April 1, or as soon thereafter as possible.●

ASSESSING SOVIET FORCE LEVELS

WALLOP AMENDMENT NO. 1909

(Ordered to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him; as follows:

Add at the end of the bill the following new section:

"Sec. a.

(1) Since the stated goal of the Treaty on Intermediate-and Shorter-range Missiles (hereafter referred to as the INF Treaty) is the global and verifiable elimination of all intermediate-and shorter-range missiles;

(2) Since a principal element of the INF Treaty's verification regime is the list of limited items to be destroyed contained in the Treaty's Memorandum of Understanding;

(3) Since a central premise of the INF Treaty is that the destruction of all items on that list will effect the complete elimination of the Parties' inventories of limited systems;

(4) Since the realization of this premise depends critically upon the accuracy of the accounting of such inventories made in the Memorandum of Understanding;

(5) Since the United States received the Soviet data listed in the Memorandum of Understanding before the INF Treaty was signed and then chose to sign that Treaty, thereby accepting the essential accuracy of those data;

(6) Since the United States' ability to evaluate such Soviet data cannot be made with the precision that characterizes, for example the reconciliation of a bank account, i.e., it does not have the ability to check Soviet data down to the last missile;

(7) Since consequently, U.S. intelligence judgments of actual Soviet force levels reflect the fact that each component of the United States Intelligence Community (e.g., the Central Intelligence Agency, the Defense Intelligence Agency, the State Department's Bureau of Intelligence and Research), using its own methodology, arrives at that individual agency's "best-assessment" of the precise number of missiles in the Soviet inventory;

(8) Since the United States Government's estimate of Soviet missiles like the intermediate-range SS-20 as a result represents a collective "best assessment" of the USSR's inventory of such missiles expressed in a range of estimated force levels;

(9) Since the confidence we can have in the accuracy of the Soviet-provided data is a function of the breadth of the range of uncertainty in such intelligence "best-assessments" i.e., the greater the discrepancy between the high and low U.S. Intelligence Community estimates, the less confident can the United States be in its ability to gauge the accuracy of the * * *

(10) Since the Administration has said that the number of SS-20's accounted for by the Soviet Union in the INF Treaty's Memorandum of Understanding fall within the range of U.S. Intelligence estimates of those forces;

(11) Since this fact is said to reflect favorably on the credibility of the Soviet-provided data; and

(12) Since the Senate could not properly discharge its responsibility to grant or withhold consent to the INF Treaty were it unable to assess the likelihood that, from the perspective of the United States, that Treaty's principal object and purpose would be realized through the complete elimination of all Soviet SS-20's.

b. It is therefore the sense of the Senate that:

(1) Before the Senate convenes in executive session for the purpose of considering the proposed INF Treaty, the President, without delegation, should certify that the monitored destruction of all systems enumerated in the Memorandum of Understanding will result, in his judgment, in the complete elimination of the Soviet Union's inventory of such systems;

(2) If the President is unable to make the certification called for in subsection b.(1) of this section, he should then report to the Senate the number of SS-20's assessed by each agency of the U.S. Intelligence Community to exist in the Soviet inventory over and above the level declared by the USSR in the Memorandum of Understanding and describe the methodology used by each agency to arrive at that number;

(3) The report called for by subsection b.(2) of this section should also provide the President's judgment as to whether the Soviet Union was aware, before it provided the data now incorporated in the Memorandum of Understanding, of what was the range of U.S. intelligence agency estimates of the size of Soviet forces limited by the INF Treaty;

(4) The report called for by subsection b.(2) of this section should also contain an analysis prepared by the Joint Chiefs of Staff explaining whether the forces assessed to exist in the Soviet inventory by one or more U.S. intelligence agencies in excess of those accounted for in the Soviet-

supplied data contained in the Memorandum of Understanding constitute a militarily-significant capability.

URANIUM REVITALIZATION TAILINGS RECLAMATION AND ENRICHMENT ACT

JOHNSTON (AND OTHERS) AMENDMENT NO. 1910

Mr. JOHNSTON (for himself, Mr. FORD, Mr. PROXMIRE, Mr. MCCLURE, and Mr. DOMENICI) submitted an amendment to the bill (S. 2097) to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly-owned Government corporation to manage the Nation's enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes; as follows:

On page 33, after line 25, add the following and renumber the paragraphs accordingly:

"(6) To establish a corporate structure that is self-financing and would obviate the need for appropriations or other sources of government financing after enactment of this title;"

On page 54, beginning with line 19, strike all of subsection (a) through page 55 line 4, and insert the following new subsection in lieu thereof:

"(a) Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation."

On page 55, strike lines 13 through 20, insert the following new subsections, and renumber the subsections accordingly:

"(c)(1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for Fiscal Year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States; Provided, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator and the Secretary as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by federal law enacted after enactment of this title.

"(d) The Corporation shall pay into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions, including but not limited to research and development, capital investments and establishment of cash reserves."

On page 56, at line 3, beginning with "The money" strike everything through line 13 and insert in lieu thereof the following:

"The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"(e) Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt, shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title."

On page 60 at line 19 add ", including an explanation of the decision to pay or not pay dividends" after "performance".

On page 74, strike section 313 and insert the following:

"Sec. 313

For fiscal year 1989, total expenditures of the Corporation shall not exceed total receipts".

JOHNSTON AMENDMENT NO. 1911

Mr. JOHNSTON proposed an amendment to the bill (S. 2097) supra; as follows:

On page 73 at line 12 strike "import or".

METZENBAUM (AND OTHERS) AMENDMENT NO. 1912

Mr. METZENBAUM (for himself, Mr. JOHNSTON, and Mr. MCCLURE) proposed an amendment to the bill (S. 2097) supra; as follows:

On page 55, strike lines 5 through 12, and renumber the remaining subsections accordingly.

On page 59, on line 1, before "To" insert "(a)"; on line 7, after "assets," insert "decontamination and decommissioning,"; and, after line 19, insert a new subsection (b) as follows:

"(b)(1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its current customers in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning and decontamination of the various property of the Corporation, including property transferred under section 1505(a). Such costs shall be based on the point in time that such decommissioning and decontamination is undertaken and accomplished.

"(2) In order to meet the objective defined in paragraph (1), the Corporation, in consultation with the Secretary, shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) With respect to property that has been used in the production of low-assay separative work,

"(A) the cost of decommissioning and decontamination that shall be recoverable from commercial customers in prices and charges shall be in the same ratio to the total costs of decommissioning and decontaminating the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning and decontaminating such property shall be recovered in prices and charges to the Department.

"(4) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning and decontamination of such property shall be recovered in prices and charges to the Department."

On page 72, after line 9, insert a new chapter 27, as follows:

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. (a) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the "Fund"). In accordance with section 1402(j), such account, and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(B) The Fund shall consist of—

"(i) amounts paid into it by the Corporation in accordance with section 1702; and

"(ii) any interest earned under subsection (b)(2).

"(b) ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States—

"(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within 60 days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS.

"(a) When the Corporation determines that particular property should be decommissioned or decontaminated, or both, it shall, in consultation with the Secretary, enter into a contract for the performance of such decommissioning and decontamination.

"(b) The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

"(c) Upon satisfaction of the terms and conditions of the contract entered into pursuant to subsection (a) and full payment of costs pursuant to subsection (b), the Corporation shall transfer to the Secretary all of its rights, title and interest in the particular property that is the subject of such decommissioning and decontamination contract.

METZENBAUM AMENDMENT NO. 1913

Mr. METZENBAUM proposed an amendment to the bill (S. 2097) supra; as follows:

At the appropriate place, insert the following new section:

SEC. . PERRY NUCLEAR POWERPLANT ANTITRUST PROTECTIONS.—The Nuclear Regulatory Commission shall not suspend or modify the application of any antitrust provision contained in the Perry operating license No. NPF-58, as such provision applies to any licensee of the Perry Nuclear Powerplant, Unit 1.

EVANS (AND OTHERS) AMENDMENT NO. 1914

Mr. EVANS (for himself, Mr. BRADLEY, and Mr. PACKWOOD) proposed an amendment to amendment No. 1465 proposed by Mr. DOMENICI, and subsequently modified, to the bill (S. 2097) supra; as follows:

Strike sections 111 through 119 in the amendment (from page 3, line 6 through page 10, line 10), and insert in lieu thereof the following:

SEC. 11: (a) Congress finds that—

(1) there is a possibility that the national security interest of the United States is being impaired by the current level of imports of source material from major uranium producing countries;

(2) section 170(B)(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(B)(e)) requires the Secretary of Energy to request the Secretary of Commerce to conduct an investigation under section 232 of the Trade Expansion Act of 1962, as amended, if imports of source material exceed 37.5 percent of actual or projected domestic uranium requirements for any two-year period; and

(3) the most recent data from the Energy Information Administration indicate that imports of source material as a percentage of domestic utility requirements for calendar years 1985 and 1986 were 34.4 percent and 43.8 percent, respectively, and are projected to be 29.8 percent in 1987.

(b) It is the sense of the Congress that the Secretary of Energy should request the Secretary of Commerce to conduct an investigation under section 232 of the Trade Expansion Act of 1962 with respect to source material as expeditiously as possible.

(c) In addition to the factors described in section 232(c) of the Trade Expansion Act of 1962, as amended, the Secretary of Commerce should give equal consideration in the investigation described in subsection (b) to—

(1) the current and projected levels of inventories maintained within the jurisdiction of the United States;

(2) the surge production capability of U.S. uranium producers in the event of a national emergency;

(3) the security treaties and other defense-related agreements between the United States and each major producing country; and

(4) the economic security interests of the United States in the maintenance of an open trading system, including any free trade agreement negotiated pursuant to section 102 of the Trade Act of 1974, as amended;

(d) By no later than May 1, 1988, the Secretary of Commerce should submit to the President under section 232(b) of the Trade Expansion Act of 1962 the report and recommendations of the Secretary of Commerce regarding the investigation described in subsection (b).

(e) By no later than May 15, 1988, the President shall submit such report and its recommendations, and his determination to take (or not to take) any action to adjust the level of imports based on such recommendations, to the Committees on Finance and Energy and Natural Resources in the Senate, and Committees on Interior and Insular Affairs, Energy and Commerce, and Ways and Means in the House of Representatives.

(f) For purposes of this section, the term "source material" has the meaning given to such term by section 11(2) of the Atomic Energy Act of 1954.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, March 29, 1988 to conduct a hearing on "Reauthorization of National Institutes of Health."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 29, 1988 to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, March 29, beginning at 10 a.m., to conduct a markup of pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 29, 1988, in open session to receive testimony on DOD policies and international agreements that affect the defense industrial base.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 29, 1988, in open session to receive testimony concerning the military medical system in review of the amended fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND CONSERVATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation for the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 29, 1988, to receive testimony concerning S. 2167, a bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CITY OF EUNICE GAINS RECOGNITION THROUGH RESTORATION EFFORTS

● Mr. JOHNSTON. Mr. President, today I would like to recognize a community in my State of Louisiana whose dedication, loyalty, hard-work, and pride in our Acadian culture is resulting in the magnificent renovation of a historical theater that would otherwise stand as a dark, moldy, and empty ghost of a building.

The community I am referring to is the town of Eunice and the theater they are restoring is the Liberty Theatre for the Performing Arts.

In 1924 the Liberty was opened as a vaudeville house and a movie theater. Generations of families of Eunice remember the old movie house fondly, but time slowly took its toll on the building and in 1982 it was closed to the public.

In 1986 Mayor Curtis Joubert, of Eunice, along with a handful of volunteers, decided to take matters into their own hands and the city of Eunice purchased the dilapidated theater.

Since then, the structure has been designated as the temporary home of the Jean Lafitte National Historical Park Acadian Cultural Center whose main focus will be the housing and preservation of the Acadian heritage through weekly radio shows and exhibits depicting the food, music, folklore, and all other aspects of the rich southern Louisiana culture. The Liberty has been listed on the National Register of Historic Places and is also included in the Great American Movie Theatres' Preservation Press Guide, published by the Smithsonian. Most recently, the Liberty Center has gained further prominence through its designation as a rural arts center by the Southern Arts Federation.

It is clear that temporarily locating one of the Jean Lafitte satellite parks in Eunice will serve to ensure the success of the Liberty Theatre. But credit for the real success of the theater and the preservation of our vital Acadian heritage must be attributed to Mayor Joubert and to the people of Eunice who have given an enormous amount of their time and energy toward restoring the Liberty.

Over the past couple of years it was not at all unusual to find a number of restoration committee members at the theater during the wee hours of the morning chipping away old cement to reveal the original richly tiled green and white ceramic floors, scrubbing for hours on what appeared to be permanently black fixtures only to uncover the magnificent brass splendor that had been hidden for years, or repainting the severely chipped walls which encompassed the main auditorium. Local artists undertook the job of restoring several of the enormous original murals that had been covered up on the walls behind the stage curtains for decades and even went so far as to borrow safety belts from telephone linemen so they could mount the scaffold and restore the original stenciling that ran along the ceiling.

Businesses in town played a large part in the restoration process as well. An area bank volunteered their employees to work a minimum of 20 hours each on the theater. Lumber, building materials, and fabric to recover the 750 original seats were all donated as enthusiasm for the project grew.

Although the project is not totally complete and funding is desperately needed, the people of Eunice still persist. The Keller family, who owned the building before it was bought by the city, recently donated an old organ with wooden pipes—discovered by a worker in the backstage area—the value of which was estimated at $25,000 by the Historical Organ Society. Restoring the organ to working order would alone cost roughly $10,000.

In these hard economic times in my State of Louisiana I can certainly understand how attitudes sometimes turn negative when it seems that there is no light at the end of the tunnel for recovery. But when I see the genuine dedication and enthusiasm that Mayor Joubert and the people of Eunice have put forth so selflessly in their efforts to restore and preserve a heritage so dear to them I know that there is, indeed, a light at the end of that tunnel. And I thank the people of Eunice for setting such a beautiful example for our entire State—an example of how we can successfully restore to Louisiana the splendor that once was—just as Mayor Joubert and the community of Eunice are doing with the Liberty Theatre.●

HOPE FOR THE HOMELESS—FIVE APPROACHES THAT WORK

● Mr. DOMENICI. Mr. President, earlier this month, on March 4, I had the privilege of addressing a national meeting of the Association of Junior Leagues here in Washington, DC.

I focused my remarks on an excellent article in the February 29 issue of U.S. News & World Report, entitled "Hope for the Homeless—Five Approaches that Work."

The more I reflect on the growing problem of homelessness, the more I appreciate this article that focuses on successful ways to help the homeless. As we begin our legislative thinking about the needed reauthorization of the Stewart B. McKinney Homeless Assistance Act, I decided it would be timely to share this insightful article with my Senate colleagues.

After sending reporters around the Nation to find programs that work, U.S. News then compiled the findings, which were often surprising.

In one of the more fascinating quotations, U.S. News reporters said that "* * * the homeless antidote prescribed by some advocates—'housing, housing, and housing'—is mistaken."

As the reporters explained this surprising statement:

> To say that the homeless need housing is a bit like saying the poor need money—both statements are true, but neither ultimately does much to illuminate the problem. What's now clear is that if every homeless person were put in an affordable low-income apartment tomorrow, many would be back on the street several days later. The reason, as study after study has shown, is that the homeless are different from other poor people in one crucial respect: They are profoundly alone.
>
> Whether they are single mothers on welfare or drug addicts, the homeless almost invariably lack friends, close ties with family members and any affiliation with a church or local organization. And for the homeless, that isolation typically transforms temporary crises, such as an apartment eviction or an alcoholic binge, into prolonged emergencies.

Thus, the homeless, as seen by these U.S. News reporters, have a critical need for social services in a setting where they feel comfortable.

The five elements of successful homeless assistance programs indentified by the reporters revolve around these basics: a stable place for healing and social services, supported with every available source of assistance—from food stamps to supplemental security income.

Thus housing alone or social services alone are simply not enough. The long and often painful rehabilitation process requires a full set of appropriate services properly coordinated to meet the individual needs of the homeless person.

As these reporters put it:

> Despite the current paucity of programs for preserving low-income housing, the answer to the homeless problem is not simply another massive federal construction program. Indeed, it's clear that a Great Society, one-glove-fits-all solution won't work. In part, that's because the homeless are a troubled group of individuals who require more than just roofs over their heads.

With this spirit of locally focused and coordinated activities in mind, I urge my Senate colleagues to give this analysis careful attention.

I believe it is vital to continue our Federal assistance for the homeless. We should not, however, pretend to know all the answers. The worst thing we could do is to mandate prescribed courses of action to cities that have many varieties of homelessness.

I still believe that we can improve the McKinney Act by placing more trust in local providers, who pooled their own resources to help the homeless years before we enacted Federal legislation.

Mr. President, there is plenty of room in our federal system for each level of government to join with churches and other public and private organizations to help the homeless. Our challenge is to provide the five elements of successful programs described in the U.S. News report: First, stretch the safety net, second, treat them where they live, third, stop the revolving door, fourth, seal up the cracks, and fifth, preserve low-cost housing.

In closing, Mr. President, I would also like to call my colleagues' attention to a New Mexico magazine article about a local folk hero in Albuquerque, NM—Brother Mathias. This man embodies the type of commitment and resourcefulness that actually helps to improve the lives of homeless people.

Brother Mathias started the Little Brothers of the Good Shepherd in Albuquerque in 1951 with no money and two old buildings that were about to be torn down.

His story exemplifies the American spirit, valuing actions more than words. Today, this 88-year-old man is still helping those who are less fortunate, including those who are homeless. The Little Brothers of the Good Shepherd have 20 houses in the United States, Canada, England, and Ireland.

I ask that these two articles be printed in the RECORD.

The articles follow:

[From U.S. News & World Report, Feb. 29, 1988]

HOPE FOR THE HOMELESS

[By David Whitman]

A little over a century ago, Leo Tolstoy tried puzzling out a plan to rid Moscow of the poor and homeless. The famed novelist and wealthy aristocrat first went to the worst hovels in town and gave money to beggars. He realized, however, that he had been "cheated by men who said they only needed money to buy a railway ticket home" when he spotted them still in town days later. Next, Tolstoy spent several months helping take the Moscow census, searching for the "truly" needy. But Tolstoy saw the homeless could not be helped merely by "feeding and clothing a thousand people as one feeds and drives under shelter a thousand sheep." At last, he sadly concluded: "Of all the people I noted down, I really helped none. . . . I did not find any unfortunates who could be made fortunate by a mere gift of money."

That was more than 100 years ago in a city halfway around the world. Yet the same knotty problem that so frustrated and saddened Tolstoy today baffles the modern American urbanite. In our nation's cities, the faces of thousands of homeless men and women confront and unnerve passers-by on a daily basis—the pleading wino who stinks of urine, the addled bag lady who chatters loudly to a store window and the nomadic family of five that shivers through the night in a run-down car. The country's homeless, moreover, can no longer be considered evanescent, temporary victims of the 1982-83 recession. During the last three years of economic recovery, the number of homeless has actually increased, and a report released by the U.S. Conference of Mayors last December projects that all but two of 26 major cities surveyed this winter will have more homeless in 1988. A national poll released earlier this month shows the country's voters rank homelessness and hunger as the second most important issue facing the next President—just behind reducing the federal deficit, but well ahead of controlling the nuclear-arms race or finding a cure for AIDS. And so the elemental question about the poor and hungry—put to John the Baptist by the masses and later taken up by Tolstoy—is, once again, inescapable: *What then must we do*?

Until just recently, the answer to that question was indecipherable. When the number of street people first swelled in the early 1980s, little reliable information existed on the size of the homeless population. Estimates ranged from 250,000 individuals on a given night to 3 million homeless over the course of a year. Nor did the experts have a promising antidote. Instead, most government and charitable agencies simply opened hundreds of new shelters and soup kitchens to provide more food and beds for the nation's street people.

Though many of the homeless appreciated this well-intentioned aid, it ultimately proved about as effective as a Band-Aid on a bullet wound. Instead of rehabilitating the homeless, many of the nation's shelters now simply warehouse them, failing to provide such needed services as job training, psychiatric counseling and housing assistance. And while the proliferation of Spartan shelters is easy to understand—it's cheaper to throw an extra cot in the rectory basement than to provide transitional services—even the homeless advocates who once pushed for right-to-shelter laws now consider them shortsighted. As Mary Orton, executive director of Central Arizona Shelter Services, explains: "We've learned you don't do anybody a favor by offering them three hots and a cot—hot meals and a free place to live."

In part, attempts to help the homeless—including New York City's controversial plan to involuntarily commit the sickest of its street people—have run afoul of libertarian concerns. The homeless mentally ill, it is sometimes said, may be consigned to "die with their rights on". Yet in the end, the practical and philosophical reluctance to assist the homeless may stem less from the perceived threat to their civil rights than from the stubborn belief that the homeless reject help. President Reagan once suggested that many street people are homeless "by choice"—a bit of conventional wisdom that was clearly mistaken. To take but one example, the first national study of the homeless shows that they seek medical treatment with about the same regularity as the U.S. population as a whole. "That nothing can be done," write James Wright and Eleanor Weber in Homelessness and Health, "is no longer an acceptable excuse for doing nothing, if indeed it ever was."

As more and more communities experiment with homeless aid programs, liberal and conservative public-policy experts have now discovered new ways to best help those living in shelters and on the streets. What's surprising is that the most effective programs inevitably offer a specially tailored form of long-term support quite unlike that of the social programs of the Great Society era. To highlight how such programs work, *U.S. News* sent reporters to cities around the nation. Their report, in five sections, follows.

1 STRETCH THE SAFETY NET

It's 10 degrees in downtown Philadelphia, but inside this plain classroom, 15 homeless men and women sit at their folding-arm desks for the start of an intensive, 11-week job-training program. The class, run by the nonprofit Community Occupational Readiness and Placement Program (CORPP), doesn't begin with a crash course in reading want ads or a tutorial on résumés. Instead, students are first asked to draw self-portraits; next, they prepare a videotaped presentation that answers the question "Who am I?"

It may sound like the beginning of a primal-scream-therapy session, but for a surprising number of students—who have never pondered what they want out of life, much less a job—some introspection is necessary at first to help break old habits. In fact, if there is any lesson that those who work day to day with the homeless have learned, it is that they are desperately in need of what Tolstoy called "spiritual food"—and what today's social workers call "support systems."

When such support is provided, the results can be impressive. Todd Conway, 21, ended up in a shelter in January of last year after he couldn't get along with his roommates or afford his own apartment. He quickly became depressed and lost his job. Thieves stole his clock radio and cassette recorder—gifts he took with him to the shelter. Conway, with few job skills, spent the next 10 months in three Philadelphia shelters. Only after he went through CORPP and a secretarial-training program did Conway find a job as a clerk at the Internal Revenue Service. Today, he is a dapper young man with enthusiasm to spare for his work. But as Conway can attest, the homeless antidote prescribed by some advocates—"housing, housing and housing"—is mistaken.

To say that the homeless need housing is a bit like saying the poor need money—both statements are true, but neither ultimately does much to illuminate the problem. What's now clear is that if every homeless person were put in an affordable low-income apartment tomorrow, many would be back on the street several weeks later. The reason, as study after study has shown, is that the homeless are different from other poor people in one crucial respect: They are profoundly alone.

Whether they are single mothers on welfare or drug addicts, the homeless almost invariably lack friends, close ties with family members and any affiliation with a church or local organization. And for the homeless, that isolation typically transforms temporary crises, such as an apartment eviction or an alcoholic binge, into prolonged emergencies.

To rebuild that support network, CORPP turns its homeless students into a kind of peer support group, much in the same fashion that recovering drug addicts in Narcotics Anonymous encourage each other to persevere in breaking their habits. Each homeless trainee, for instance, does a videotaped mock job interview that his or her classmates critique. At CORPP and other model programs, the starting point for helping shelter clients is simple. As Sister Marie Sullivan, who directs the Christian Emergency Help Centers in Atlanta, sums up: "Somebody who is homeless has lost everything."

2 TREAT THEM WHERE THEY LIVE

Dr. Rodger Farr's skid-row mental-health clinic in Los Angeles may have won awards from the American Psychiatric Association, but it's certainly no social worker's heaven. In the clinic's drop-in-center, toothless women chatter loudly and young men rock persistently on metallic chairs as a fan silently pushes the overwhelming stench of urine throughout the room. Yet Farr's unappetizing clinic works in part precisely because he does force social workers beyond their traditional 9-to-5 office appointment schedule. What Farr and other experts around the country have discovered is that they can best assist the homeless through unorthodox outreach efforts. By traditional standards, the homeless are lously patients—they routinely miss appointments at the hospital or at the health clinic because they're too poor, drunk or mentally disoriented to take a bus across town. So Farr decided to take the services to the homeless mentally ill—by setting up shop in skid row and then dispatching teams of outreach workers to missions, bus terminals and soup kitchens to ferret out those in need of help.

It has proved to be a useful model. Today, a number of cities have set up outreach teams like Farr's, demonstrating that social workers can reach the homeless—so long as they don't wait for them. New York City outreach workers and volunteers, for instance, provided more than 43,000 rides to shelters last year. For the sickest of those on the streets, the outreach teams serve as a kind of wedge, prying them—once some initial trust is established—away from the street and into detoxification or other medical treatment at local clinics.

Not surprisingly, there are few overnight successes. Instead, Farr has found that he must build trust the old-fashioned way: Very slowly. His social workers, for instance, are more likely to tell a bag lady at first encounter how to get rid of lice and find new clothing than to try to coax her into taking medicine. One woman in her early 40s treated by the clinic was raped and beaten several times but continued to live on the streets for five years because she believed anyone who gave her food was trying to poison her. After a staff worker befriended her, she started visiting the clinic but would periodically skip her psychiatric appointments. Once she finally started taking medicine, however, her delusions faded. And after a year of on-again, off-again treatment, she moved to a low-rent suburban apartment and was transferred to her local mental-health facility.

3 STOP THE REVOLVING DOOR

Most model programs acknowledge that temporarily stabilizing the homeless—in a shelter, in a detox facility or in a hospital—is only the beginning of a long treatment process. Yet, extended rehabilitation of the homeless is relatively rare. The U.S. Conference of Mayors found that roughly a quarter of 26 cities surveyed last year, including major urban centers such as Detroit and Providence, had no transitional apartments for homeless families temporarily unable to rent their own apartments. Prospects for interim lodging are no better for the nation's chronic street people. Roughly 75 percent of all public inebriates go through detox in a few days—and then leave without an aftercare referral. The revolving door spins the emotionally disturbed out of mental-health facilities into the street as well. Many of the nation's largest cities have only 5 to 10 percent of the community and institutional placements needed for the mentally ill. "When you talk to the homeless mentally ill," says University of Southern California Prof. H. Richard Lamb, "you find almost none are on *anbody's* case load."

To stop the revolving door, say experts like Peter Smith of Partnership for the Homeless, "you need an extended Welcome Wagon." For those lucky enough to get on board, assistance typically involves a lot of firm handholding in a transitional setting. Philadelphia's Washington House, run by the Diagnostic and Rehabilitation Center (DRC) in a converted garage, provides drug-free barracks-style housing for 35 homeless alcoholics and drug abusers for four months after they finish detox. Instead of offering traditional outpatient care in facilities scattered around town, the Washington House provides lessons in personal hygiene, AA meetings, mandatory Breathalyzer tests and job counseling on site or at DRC's main detox facility. "you can therapize the hell out of these guys 18 hours a day," says DRC President Irving Shandler. "But if you send them to a flophouse at night where everyone is drinking, it's worth nothing. You've got to have them 24 hours a day."

That around-the-clock approach has paid off even among some hard-core clients. Take 36-year-old Frank Gigliotti—who, by his own estimate, has gone through detox 35 times. For the first half of 1987, Gigliotti was drinking half a gallon of wine a day, eating from garbage cans and spending each night with other drunks in an alley behind a Philadelphia restaurant. He didn't even know what his baby boy from his common-law wife looked like. One day last summer, his brother threw over a trash can in the alley in a fit of frustration and started sobbing when Gigliotti wouldn't come in for detox. The next day, a tearful scene in the alley with his mother persuaded him to go to the DRC detox facility; since then, he has stayed sober and has found a full-time job as a maintenance man. "I can see a lot clearer today," Gigliotti says quietly. "My son is beautiful—I took him the other day to the hospital for his polio shots."

Like the Washington House, the most effective transitional housing for the homeless offers more than cheap lodging or a private kitchen. Instead, the housing is subtly designed to encourage the homeless to rejoin the community. In Memphis, the Metropolitan Inter-Faith Association renovates and leases foreclosed HUD-owned properties for $1 a year, with 10 houses scattered in middle-class neighborhoods throughout the city. Each house has a private phone, facilitating job hunting and contact with social workers or peers during the 60 days families are allowed to remain. Ann, a 32-year-old addict who took back her children after she began rehabilitation, moved with her two young sons to a MIFA House in November. There, she was provided not only with daily necessities, such as toilet paper and mops, but a Christmas tree as well. Today, Ann and her boys live in a two-bedroom apartment in Memphis, and she works full time as a clerk at a health-food store—a comeback she attributes in part to the timely sanctity of her MIFA House. "At no time did I feel condescended to," she says. "They didn't make me feel like a junkie."

4 SEAL UP THE CRACKS

The current welfare system is so poorly suited to the homeless that a handful of cities have found that simply coordinating and centralizing local assistance often keeps people from missing out on needed services. The existing system is especially hard on homeless people who have multiple problems. In New York for instance, the city is primarily responsible for acute care and the state is responsible for long-term care—a difficult distinction to explain to a mentally ill person in Grand Central Station. Federal programs are not much better. The 1981 Temporary Emergency Food Assistance Program was designed to make surplus agricultural commodities available to needy Americans—but as of October, 1986, almost all the surplus food, 99 percent, was going to people who were *not* homeless. Explains Department of Agriculture official Anna Kondratas: "When you're homeless, you don't carry around a 5-pound block of cheese."

One place where better coordination has made a big difference is St. Louis. In 1982, the city's modest shelter system turned away roughly 1,200 people a month; today, it accepts virtually everyone. The difference is largely due to the Homeless Services Network, which opened late in 1985. The network, created and largely funded by the city, divvies up the job of helping the homeless, determining which local agency is best suited to perform each task. For instance, the Salvation Army runs a central walk-in computerized intake facility; the Red Cross provides transportation to shelters, health clinics and job interviews, and more than 100 community agencies supply everything from advice on finding housing to training in child rearing.

That kind of coordination can prevent the homeless from languishing in shelters. Three sisters—Kathy, Edna and Monica Rayford—all ended up at Grace Hill shelter in December after their landlord forced them out of the family apartment to make way for renovations. But with the assistance of peer counselors familiar with the local neighborhood, all three young women found permanent housing within two months. The counselors actually took each of the Rayford sisters to look for rental apartments—and when one was found made sure that it was suitable. One of the sisters, 20-year-old Monica, had never rented her own apartment and needed classes in family budgeting. Today, she and her 4-year-old son, Ranard—pictured on this week's cover—live in an inexpensive, privately owned one-bedroom apartment. The assistance of her counselor, she says, "made all the difference. On our own, my sisters and I couldn't find apartments in our price range—many of the landlords just wouldn't accept children or they told us we weren't old enough to rent."

5 PRESERVE LOW-COST HOUSING

Not all of the homeless are as fortunate as Monica Rayford. Far too often, those ready to leave the streets and shelters fail to find affordable low-income housing. Nationwide, the number of low-income families unable to find affordable housing rocketed from 8.9 million in 1974 to 11.9 million in 1983—an increase due to factors such as urban gentrification, arson, rent control and the conversion of apartments to offices and condominiums. One telltale sign of the housing crunch: More than 800,000 families have signed up to move into low-rent public housing, despite its unsavory reputation. In two thirds of the 26 cities surveyed by the U.S. Conference of Mayors earlier this winter, the wait for public housing is so long that city officials simply stopped taking new names.

Clearly, many homeless families—80 percent in New York City—ultimately leave the shelter system by finding their own housing, often with a relative or friend. Today, however, city and state officials are just beginning to create programs to preserve the low-income-housing stock for those who can't find low-rent units. One needed initiative—now in place in 12 states—is trust funds that offer financial incentives for developers to contribute to building low and moderate-income housing. With federal support for new public housing almost nil, local authorities have, of necessity, experimented widely with other programs as well. Massachusetts restricts condominium conversions; in New Jersey, a state program that pays off delinquent rents forestalled the eviction of roughly 8,000 low-income residents last year. And no city has had more impressive results than New York, which has rehabilitated more than 12,500 apartments for the homeless since 1983.

Still, for a variety of reasons, no level of government has done enough to preserve low-income apartments. Most cities, for instance, lack New York's vast inventory of abandoned and foreclosed buildings. Moreover, builders of low-income housing are still deterred from new construction by overly strict building codes and intricate laws governing the bidding of construction contracts. In Portland, Oreg., a county task force found that licensed group homes had to be licensed a second time by the city's office of residential facilities—a process involving two public hearings and inspections by as many as six city and county departments. Unfortunately, the recent overhaul of the federal tax code is expected to further tighten the low-income rental market because it eliminates traditional landlord tax benefits, such as large depreciation write-offs and the use of tax-exempt bonds to finance low-income housing.

Despite the current paucity of programs for preserving low-income housing, the answer to the homeless is not simply another massive federal construction program. Indeed, it's clear that a Great Society, one-glove-fits-all solution won't work. In part, that's because the homeless are a troubled group of individuals who require more than just roofs over their heads. Moreover, the needs of the homeless vary surprisingly from city to city. To take one recent example, city officials report that 80 percent of the homeless in Minneapolis are single men, while in Providence, 65 percent are families with children.

PROSPECTS FOR PROGRESS

Ultimately, there may never be a vaccine that prevents homelessness, but the programs outlined above can weaken its grip. In Philadelphia, 70 percent of the homeless alcoholics who enter the Washington House program end up employed or in school and live independently; across town in the CORPP job-training program, 35 percent of the students from shelters find jobs; in New York City, an estimated 70 percent of the homeless families assigned to renovated city apartments adjust well, with few problems reported with their landlords.

Still, as the statistics above illustrate, a sizable minority of the homeless don't benefit even from the most effective treatment programs. And unlike most welfare programs, the cost of failure can be tragically high. John T. spent six sober weeks at the Washington House last winter and even got a job as a painter. But he went AWOL last March. And by the time police found him in a rooming house, he had been dead for two days from an alcohol-drug overdose. Before the police arrived, fellow roomers had stolen John T.'s clothes and all his belongings.

Moreover, although experts largely agree on how to overhaul programs for the homeless—and despite the clear identifiable successes in places like Philadelphia, St. Louis and Los Angeles—major reform isn't likely soon. The first obstacle is money. New York city officials estimate that each bedroom in a renovated single/occupancy hotel costs about $35,000; in a shelter, the same bed costs the city only $10,000, providing a powerful financial incentive for maintaining the shelter status quo. Even an innocuous-sounding goal like "coordinating services" can ring financial alarm bells. As Irene Levine, associate director of the National Institute of Mental Health program for the homeless mentally ill, puts it: "At federal, state and local levels, mental-health and housing authorities vociferously argue that someone else should have the major responsibility for providing services to the homeless mentally ill." The Reagan administration's apparent attempt to duck financial responsibility for the homeless has been especially noteworthy. The President has publicly made only five brief references to the homeless (typically in response to questions raised at a press conference) during all of his second term. He has never made a substantive proposal or speech on the subject.

It's easy to criticize the administration's lack of initiative, but the truth is that many business and civic organizations are just as queasy about the homeless as are politicians and bureaucrats. Just about everyone favors getting the mentally ill off the streets and into community mental-health facilities—as long as the facility is not next door. Nationwide, for every community mental-health residence that is built, roughly 3 are blocked—even though studies indicate such facilities don't generally reduce property values.

Ironically, professionals who work with the homeless can be part of the problem, too. Understandably, many health-care providers and social workers prefer compliant middle-class clients to belligerent street people. When Dr. Farr set up his mental-health clinic on skid row in Los Angeles, he found that fearful workers at the Social Services Department interviewed the homeless through bulletproof glass. Like professionals in other fields, alcohol-abuse and mental-health counselors chase insurance dollars—money that is in short supply among street people. "The experts all talk about the industrial and hidden alcoholic," laments Philadelphia's Irving Shandler. "What happens is simple: The good bums drive out the bad bums."

In the final analysis, street people may always inspire excessive prejudice and fear. But the multibillion-dollar price tag affixed to America's growing homeless population could also force government officials, social workers and civic groups to alter the way we help the homeless and provide the nation's neediest citizens, for the first time, with real hope for the future. However, if the status quo is maintained—or even if the homeless are abandoned—life on America's streets will become that much more brutish.

His Irish Eyes Are Smiling—Brother Mathias Tends His Flock

(By Urith Lucas)

If Albuquerque had a patron saint, it would be Brother Mathias Barrett.

Brother Mathias turned used coffee grounds and day-old bread into a charity that feeds a multitude of the hungry.

He founded the Little Brothers of the Good Shepherd. Now international in scope, it has 20 houses in the United States, Canada, England and Ireland.

The Brothers also give shelter and comfort to the homeless, aged, the retarded, as well as destitute women and children.

Without fanfare, the Brothers opened a house in Toronto, Canada, where AIDS victims can live out their lives with dignity. Those with immune deficiency syndrome who have nowhere to go can stay in the homelike setting.

On St. Patrick's Day, thousands of New Mexicans celebrate Brother Mathias' birthday with a corned beef and cabbage dinner to raise funds for the Brother's many charities. He will be 88 this year.

Brother Mathias was born March 15, 1900, in Ballybricken, Waterford, Ireland. However, he and Albuquerque have adopted St. Patrick's Day—March 17—for his celebration.

He fits the role of a movie priest with his wit and charm. His eyes are not as strong as they were, but they twinkle with delight in life.

His voice retains the lilt of an Irish brogue. His robes of pristine white hang in graceful folds around his slight figure. He carries a crucifix and a small black pouch.

The Most Reverend Robert F. Sanchez, archbishop of the Catholic Diocese of Santa Fe, described Mother Teresa of Calcutta and Brother Mathias as "two of the most outstanding people I know." The archbishop added, "They are alike in many ways. Both are small of stature with great concern for others. They are fortified by their faith."

It all started in Albuquerque on January 19, 1951.

In December 1950, Archbishop Edwin V. Byrne asked Brother Mathias to establish an order to help the unfortunate. Previously, Brother Mathias had requested permission to form an order of lay brothers.

"What will you call it?" the archbishop asked.

"The Little Brothers of the Good Shepherd," Brother Mathias replied promptly.

"I didn't have a penny," Brother Mathias recalled with a smile. Then the late Monsignor José Garcia of Sacred Heart Catholic Church let him have two old buildings that were to be pulled down.

"It was 3 o'clock in the afternoon of January 19, 1951. I knew I had enough to start. I went to see Sister Frances Marie at St. Joseph Hospital. She saw my predicament. She gave me a couple of beds, some chairs and light bulbs," he said.

That very night two men came by for help.

Brother Mathias went to St. Joseph Hospital again. This time he was given used coffee grounds. Then he collected day-old bread from a nearby bakery. He had cups and could heat water.

"I felt encouraged. Then a lady, Mrs. Jewel, came around. She offered to bring me oleo and jam for bread.

"That night, in the line of humans, a lady came seeking a handout," he recalled. I went to see Sister Frances Marie. She let the lady stay at the hospital that night. The next day, I got the YWCA to help her. That stayed in my mind and led to adding special services for women," he said.

Ralph Looney of the Albuquerque Tribune sent photographer Clarence Redman to take a picture of the new refuge. "Redman gave me $10. Soon many others were helping," Brother Mathias recalled.

As a boy roaming the green hills of Ireland, Brother Mathias, then named Maurice Barrett, dreamed of serving God and helping the poor and homeless. The Catholic church was the center of life for his parents, Mary Foley Barrett and Tom Barrett, and their children.

He quit school, got a job in a cabinet factory and, at age 16, joined the Brothers of St. John, an ancient order that does hospital work. He got his first taste of serving the poor and sick. Work began at 4:30 or 5:30 am and lasted to 10 pm.

Maurice soon learned the routine. He received his habit and the name Brother Mathias on July 16, 1916. Boyhood memories rushed in as Brother Mathias recalled the moment. He was elated as his dream came true. Yet he says, somewhat wistfully, that Maurice was a beloved family name.

In 1920, he went to Lyon, France, where he took his formal vows on November 21, 1921. He worked in a hospital there and at a clinic in Paris, where he learned French.

Brother Mathias wanted to come to the United States soon after joining his order. He was sent, however, to Montreal, Canada, where for 14 years he worked with the Brothers of St. John of God. He felt closer to the United States.

Though he was recalled to Ireland in 1941, war prevented his trip, and by March 1941, Brother Mathias was in California. He had written Archbishop John Cantwell of Los Angeles, who had grown up in Tipperary, Ireland, telling of his dreams.

Brother Mathias went to work to help Skid Row poor. "I just had $5 of my own," Brother Mathias said.

He accomplished so much in California that Cardinal Richard J. Cushing, archbishop of Boston, asked him to set up a similar project in Boston. Brother Mathias was successful but worked so hard that superiors sent him to Ireland for a rest.

In December 1950, he was given permission to leave his religious order in Ireland. He came to New Mexico to help the Reverend Gerald Fitzgerald establish a home for alcoholic priests in the Jémez, and he began the work in Albuquerque.

It has been hard work. Over the years, Brother Mathias has made the rounds of food dealers and businessmen to get money and food. His magic words, showing appreciation for the gifts, are "thank you" and "it's lovely." His approach is gentle and humble.

However, his voice becomes stern, with less of an accent, and his manner is like a prosecuting attorney if he has to deal with red tape and runaround by bureaucrats when he needs immediate aid for the suffering.

Some retired business and professional men have become brothers. "We need men 20 to 30. The problem is describing the grandeur of the work they will do in a way they can understand," Brother Mathias said softly.

At Good Shepherd Centre in Wolverhampton, near Birmingham, England, Brother David sums up the Little Brothers.

"We do not preach to the men. Brother Mathias, our founder, believes that if our religion does not speak through action, it is worthless."●

EDIE JO VAN NESTE McGINLEY

● Mr. EXON. Mr. President, as U.S. Senators, all of us develop close friendship with our fellow Senators and with members of our own staffs and committee staffs.

We all realize that what we are able to do as Senators is not only what we personally can do, but it is often the result of the help of our staff members.

I have lost a very important member of my staff and a very dear friend of my wife Pat and myself.

Edie McGinley was a worker in all of my campaigns and in my first race for the Senate in 1978. She was the manager of my statewide campaign office. Edie had worked in State government and she brought much knowledge of Nebraska and Nebraskans to her work.

After I took office in 1979, I asked Edie to be my representative in North Platte, NE, in my district office. There had never been a Senate office in North Platte before.

Edie brought great dedication to that task and the people of the Third Congressional District of Nebraska had a person who would listen to their problems with great attention and then do all she could solve their problems. She cared about people a great deal and worked relentlessly on their behalf.

Late last year Edie herself began a personal battle against cancer. She brought to that battle the same intensity she had brought to her job. We thought she was winning that battle when on Saturday, March 26, 1988, an aneurysm struck and took her life. Edie had just reached her 50th birthday. She was struck down in the prime of life. Pat and I have lost a dear friend and the U.S. Senate and the people of Nebraska have lost a caring, dedicated public servant.

To her children, Deborah, Pamela and Stephen Van Neste, I offer my most sincere condolences. They can hold on to the thought that Edie did make a difference for good in this world and we all should hope that the same can be said about each of us.●

TRIBUTE TO JANE DELANO

● Mr. D'AMATO. Mr. President, I rise today to bring attention to the 126th birthday of an extraordinary New Yorker, Jane Delano, who was born March 26, 1862 near Townsend, NY. Jane Delano lived from 1862–1919 and lived a remarkable life, full of remarkable things achieved.

This dedicated American nurse and teacher was superintendent of the U.S. Army Nurse Corps and chairman of the American Red Cross Nursing Service in the early 1900's. While occupying this dual position, she developed the plan for making the Red Cross Nursing Service the reserve of the Army Nurse Corps.

The period from the organization of the Red Cross Nursing Service in 1910 to 1917 when the United States entered World War I was one of dramatic growth and historical signficance—a period which quickly followed by a speeding up of all Red Cross activities. By the time of the armistice, the Red Cross Nursing Service had assigned 17,931 nurses to the Army; 1,058 to the Navy; 284 to the U.S. Public Health Service, and 604 to work with civilian population in the countries of the allies. In addition, the nursing service also supplied 553 Red Cross aides for special work in France and over 15,000 graduate and practical nurses and volunteer aides to the influenza epidemic.

The war over and the influenza epidemic allayed, Miss Delano decided to make a trip overseas in the fall of 1918 to see the conditions under which the nurses were working and to estimate the needs of the future. Developing a mastoid from which she never recovered, she died at the Savenay Hospital Center in France on April 15, 1919. "What about my work? I must get back to my work." These last words spoken were so characteristic of her undying devotion to the Red Cross.

Miss Delano's uniqueness and great contributions to humanity went not forgotten. The Distinguished Service Medal of the United States and that of the American Red Cross were bestowed upon her posthumously. She has been, and will continue to be, fondly remembered among New Yorkers and around the world.●

REPORT OF THE COUNCIL ON COMPETITIVENESS ON THE FISCAL YEAR 1989 BUDGET

● Mr. BINGAMAN. Mr. President, earlier this month, the Council on Competitiveness, an organization of leading executives from industry, labor, and higher education dedicated to improving the ability of American companies and workers to compete in world markets, released its report on the impact of the President's fiscal year 1989 budget request. The report looks at the budget's impact on structural competitiveness problems, such as human resources, research and development, export promotion, and infrastructure, as well as the budget's macroeconomic effects.

The council's report concludes that deficit reduction is critical to restoring the U.S. competitive position. But, deficit reduction must not come at the expense of those programs needed to solve specific portions of our competitiveness problem. As Alan Magazine, president of the council, has said, "the challenge is to reconcile the need to reduce the budget deficit with greater support for procompetitiveness initiatives."

In assessing how well the budget request meets this challenge, I must say that the council's report is much more generous to the administration than am I. The council gives the budget mixed reviews. I am more critical. In earlier statements, I have discussed the problems of the administration's budget for education and export promotion. While the administration continues its rhetoric on the importance of education and export promotion, its funding requests continue to downplay these issues.

Mr. President, while I do not agree with all the findings in this report, I believe it correctly focuses our attention on the crucial issues. I commend the council for its work and urge my colleagues to study this report. I ask that the summary of the council's report be printed in the Record preceding my remarks.

The summary follows:

THE PRESIDENT'S FISCAL YEAR 1989 BUDGET REQUEST: A COMPETITIVENESS ASSESSMENT, COUNCIL ON COMPETITIVENESS, MARCH 1988

INTRODUCTION

The federal budget has profound implications for America's competitiveness. On a macroeconomic level, the budget deficit influences the extent to which the nation can increase domestic saving needed for investment, reduce the merchandise trade and current account deficits, and improve coordination of economic policies with other advanced industrialized countries.

On a structural level, the allocation of federal funds has a major impact on the nation's ability to educate and train its students and workers, improve the performance of science and technology, strengthen U.S. firms' ability to export, and upgrade America's infrastructure. All of these areas underpin America's ability to compete.

The Council on Competitiveness believes that the reduction of the federal budget deficit must be a top public policy priority. At the same time, the Council recognizes the need for adequately funded programs in areas that support the nation's long-term competitiveness. How these two objectives can be reconciled through U.S. fiscal policy is the subject of a separate Council initiative currently underway.

This assessment of the President's FY 1989 budget request is designed to increase awareness of the competitiveness implications of federal budget deficits and to highlight the impact on competitiveness of federal budget resource allocation.

SUMMARY

From a competitiveness perspective, the President's FY 1989 budget request gets mixed reviews. While some of the proposed funding increases for education and research and development programs are encouraging, the persistence of large U.S. budget deficits will make it difficult to advance important U.S. macroeconomic policy objectives.

The President's FY 1989 budget calls for spending approximately $1.1 trillion. This includes budget outlays of $294 billion for national defense, $511 billion for entitlement programs, $185 billion for non-defense discretionary programs, and $152 billion for interest payments on the national debt. The Administration expects revenues and asset sales of $965 billion and undistributed offsetting receipts of $41 billion.

The absolute level of the budget request and the allocation of resources among broad categories is consistent with the parameters agreed to by Congress and the Administration during the November 1987 Budget Summit and codified in the 1987 Omnibus Budget Reconciliation Act. The Budget Summit agreement mandated $46 billion in spending cuts and revenue increases for FY 1989 to meet targets established in Gramm-Rudman-Hollings legislation. For the most part, the agreed-upon spending reductions and revenue increases reflect politically expedient short-term actions rather than longer-term reforms that address the structural nature of the deficit.

The President's budget projects a federal budget deficit of $129.5 billion in FY 1989. The estimated deficit would continue a downward trend in the size of the budget deficit—from $221 billion in 1986 to $150 billion in 1987, to an estimated $146 billion in 1988.

The Administration's FY 1989 deficit estimate is based upon a set of economic assumptions that are considerably more optimistic than those of private forecasters and the Congressional Budget Office (CBO). CBO, for instance, projects lower growth estimates than the Administration (2.6 percent GNP growth compared to 3.5 percent GNP growth), higher inflation (4.2 percent compared to 3.7 percent) and higher levels of unemployment (6.1 percent compared to 5.6 percent). If the CBO forecast is correct, the FY 1989 deficit would be $176 billion, which would require at least $30 billion in additional spending reductions or revenue increases to meet the deficit-reduction target established by Gramm-Rudman-Hollings.

Macroeconomic effects of the deficit

Regardless of whose assumptions are correct, the federal deficit will remain large. As a result, it will continue to drain the national saving essential to finance domestic investment. In turn, America will continue to rely heavily on foreign capital to finance these needed investments. This reliance on foreign capital will reduce the American standard of living as more and more U.S. resources are transferred abroad to pay the principal and interest on foreign borrowings. If, as estimated, U.S. debt held abroad reaches $800 billion within five or six years, payments of interest and dividends to foreign creditors could exceed $50 billion annually.

Continued high deficits also will make dramatic reversals in the U.S. trade deficit more difficult to achieve. The trade deficit has been exacerbated in the 1980s by both a strong dollar up until 1985 and U.S. demand that has exceeded production. The result has been a flood of imports to satisfy consumers. The federal budget deficit has contributed to both phenomena. Although the dollar's value has fallen recently, continued high federal deficits fuel consumption and reduce the overall level of saving needed to increase domestic production enough to satisfy domestic and foreign demand for U.S. goods.

Finally, U.S. objectives for improved coordination of macroeconomic policy among the advanced industrialized nations are not expected to be considerably improved by the FY 1989 budget request. Until the United States addresses the structural causes of the budget deficit, countries such as Japan and West Germany will be reluctant to take measures to stimulate their economies and satisfy increased domestic demand through foreign imports from the United States and elsewhere.

Structural implications of the budget

More encouraging is that the FY 1989 budget request provides some indication that in deciding where to allocate resources, greater attention is being given to the need to address structural competitiveness problems. This is particularly the case with respect to human resource development and science and technology.

In assessing the President's budget request, two benchmarks need to be kept in mind. The first is that spending increases need to be viewed against the overall spending limitations for domestic discretionary programs established in the Budget Summit agreement. This agreement established overall budget authority and budget outlay increases of 2.1 percent and 5.6 percent respectively, over FY 1988 levels. Second, the budget request is in current dollars. Given projected inflation rates of 3.7 percent, funding that grows at less than 3.7 represents a real decline in program authority, while increases over 3.7 percent represent real gains.

In education, proposed spending increases represent a shift in Administration attitudes. When the Administration came into office in 1981, it sought to eliminate the Department of Education. As recently as last year, it proposed a $14 billion budget for the Department, which was 18 percent below the FY 1987 level. By contrast, the proposed FY 1989 budget seeks a 5 percent increase in total funding for Department of Education programs. Although no new significant education initiatives are proposed, the proposed funding increases are welcome.

Within this total, spending for two programs is particularly noteworthy from a competitiveness perspective: a 5.5 percent increase for compensatory education for disadvantaged youth (Chapter 1) and an 18 percent increase for student aid (Pell) grants. Strong support for these types of programs is essential to counter trends that are undermining the development of a skilled and flexible work force.

The President's budget also includes $980 million for a new worker-adjustment program to assist dislocated workers. While this proposal was introduced in the FY 1988 budget, it was not acted upon. This request represents a significant increase over current levels of $355 million for predecessor programs.

In science and technology, the budget includes a 4 percent increase in funding for research and development programs from $61.9 billion to $64.6 billion. Within this category, a number of programs are targeted for significant increases, including the National Science Foundation (19 percent), the general science programs of the Department of Energy (49 percent), and space-related activities of NASA (30 percent). However, the Council cautions that the biggest funding increases are for major new projects such as the Superconducting Super Collider, rather than in fundamental areas such as university infrastructure and engineering education, which are essential to a competitive America. In determining spending priorities, the federal government should make sure that the overall science and technology system is strong before funding mega-projects in specific areas. Federal funding for large science projects, even if warranted on its own merits, should not displace the basic investments in education and equipment that are necessary to keep our technology system healthy.

In the area of export promotion, the Administration has proposed $705 million in direct loans for the Export-Import Bank, a 2 percent increase over 1988 funding levels. Dramatic declines in authority for this program since the early 1980s have resulted from reduced overseas demand for procurement of "big-ticket" items, such as power plants, and the successful conclusion of multilateral financing agreements, which have shifted demand from direct credits to the Bank's guarantee programs. Eximbank programs can be expected to become more important to U.S. exporters' efforts given the window of opportunity provided by the falling value of the dollar.

With respect to infrastructure, the FY 1989 budget request for these programs of $29 billion represents a small decline from the FY 1988 level of $28 billion. Most of the decline is accounted for by the reduction in funding for public transit systems. A number of these infrastructure programs are financed through user fees that are paid into trust funds. The Council is concerned that funding from these trust funds is being used to reduce the federal deficit rather than for the purpose for which it is intended.

Particularly given funding constraints imposed by the Budget Summit agreement, the Council welcomes the proposed funding increases for a number of competitiveness-related programs. However, we also note that to be effective, there must be consistency in funding levels for these programs over time.●

INFORMED CONSENT: FLORIDA

● Mr. HUMPHREY. Mr. President, in addition to taking the life of an unborn child, abortion may also leave physical as well as emotional scars on the mother. For many, the wounds take years to heal. For others, a permanent scar of infertility may prevent them from ever conceiving a child again. Whether permanent or temporary, the scars of abortion are avoidable. This is especially true for the thousands of women who would never have consented to an abortion if the whole truth had been told. I'm not talking about subjective information, but factual, medically relevant information concerning the risks and alternatives to this procedure. Women are at least entitled to this. They are at least entitled to make an informed choice. I hope my colleagues will agree and will support my bills, S. 272 and S.

273. I ask unanimous consent that two letters from Florida be inserted into the CONGRESSIONAL RECORD.

The letters follow:

GIBSONTOW, FL, *March 2, 1987.*

DEAR SENATOR HUMPHREY: I am a Concerned Woman of America and four years ago I had an abortion. Unmarried, 17, and very scared, I took the advice of my father who thought it would ruin my life to keep the baby. My father had plenty of money and did send me to a good OBGYN, but there was no counseling.

I felt as though they were looking down on me. I didn't want to have the abortion, and if just one person would have talked to me about keeping my baby, I would have in a minute.

As soon as they told me I was pregnant, they said "You are going to have an abortion, aren't you?" Nobody was willing to help me keep my baby and my father wouldn't let me come home if I didn't have the abortion. I hope that you can help girls in the future that get in trouble. Nobody should be forced into having an abortion.

Thank you,

MRS. LAURA M. EDSALL.

HOLLYWOOD, FL,
March 3, 1987.

Hon. GORDON J. HUMPHREY: I feel a great need to write. Back in 1973, I was 18 and had an abortion in Buffalo, NY. The father of the baby is the man I am married to now. He took me from Rochester to a clinic in Buffalo, as my gynecologist referred us to it. My doctor wouldn't perform the "aspiration" as it was against his beliefs, but yet he gave us the name and address of the clinic.

Upon arriving, I was nervous, full of anxiety, and overwhelmed with guilt, even though I didn't recognize it as such. As I entered the clinic, a nurse rushed me back to the conference area. Other young women as well as married, were all sitting around a table full of cookies and beverages. We all had our cards because we would have our abortions on a first come first serve basis.

Another nurse entered carrying a plastic uterus. She simply showed us how our uterus would contract. After our "tea-talk" the same nurse handed us gowns and showed us where we were to change into them.

One by one we were called—same manner of that in a meat market. I remember the doctor physically. He was a thin black man—no personality, totally hardened to his profession. The nurse in assistance kept making flattering comments about my figure etc. . . . Anything was said to detour my thoughts from what was actually taking place.

As I sat up from the table, I noticed the Dr. quickly folding over a plastic garbage bag that was inside a container. I got weepy, and the nurse said, "It's all over honey, there's nothing to worry about."

Nothing to worry about? I was emotionally a mess. The psychological problems immediately followed. I started hearing a baby cry as I lay on my bed during the night. I felt like my body had been violated by a machine. My cramping was tremendous, and the "discharge" was nothing I could even imagine.

A year later I was married and pregnant, but later suffered a miscarriage. Later, my Dr. walked in and said "Sometimes these things happen especially if your body has already been previously disrupted in any manner." I could hardly believe it—why wasn't that said prior to the abortion?

I urge you to evaluate what is presented to women in these clinics. Also, I urge you to find out the truth as to what happens to many of the fetuses and babies after their mothers leave the operating table.

God Bless you in your endeavors.

REBECCA A. METCHICK.

TRIBUTE TO JIM CASEY

● Mr. ADAMS. Mr. President, I want to call to the attention of my colleagues the fact that March 29, 1988, will mark the centennial of the birth of James E. Casey, a truly outstanding American. His high ideals, strength of character, foresight, and accomplishments have left a positive and lasting impression on our Nation.

In 1907, at the age of 19, Jim Casey helped found in Seattle, WA, the small local messenger company that was to become United Parcel Service. This teenager's business venture was capitalized at $100. Today, United Parcel Service operates a delivery network that encompasses every address in all 50 States, extends to Puerto Rico, Canada, Japan, and 16 European countries.

The growth and success of United Parcel Service can be traced in part to a philosophy which Jim Casey once expressed, when he told his associates:

> Determined people make conditions, they do not allow themselves to be victims of them. Determined people working together can do anything.

Jim Casey backed his faith in cooperative effort by inaugurating a profit-sharing program for his employees so that he would not have what he called hired hands working around him.

This was one of the first incentive systems adopted by American business, and today the stock of United Parcel Service is owned almost entirely by the managers and supervisors who run the company, or by former managers, their estates, or heirs.

Determination was a dominant force in Jim Casey's life. He was born in a small Nevada mining town, the oldest of four children. While still an infant, his family moved to Seattle. There at the age of 11 he had to quit school to take a job and help support the family of six because of an ailing father.

As a delivery boy for a department store he earned $2.50 a week. He also worked as a messenger for a telegraph company, and finally, at age 15, he and two fellow messengers founded their own service.

Within 2 years, Jim Casey sold his interest in the business and returned to Nevada briefly to prospect for gold. He found none and went back to Seattle where in 1907 he and a companion founded the American Messenger Co.

The new company, which opened for business in a small, dark room under a Seattle sidewalk, was the forerunner of United Parcel Service.

In a struggle to survive against nine competing messenger services in Seattle, Jim Casey posted advertising placards near public telephones. These posters promised "Best Service and Lowest Rates." It was a pledge that became the firm's guiding business philosophy.

Jim Casey once explained:

> Anybody can deliver packages, from the small boy in the neighborhood on up to the most extensive delivery systems in the land. But the one thing we can offer that others will not always have is quality.

The new messenger service stayed open all night and on Sundays, even though there was little business. Jim Casey reasoned that this was the surest way to earn the American Messenger Co. a reputation for dependability.

His messengers used streetcars or walked to their destinations. Eventually, the company acquired bicycles and motorcycles and finally, in 1913, the firm purchased its first package delivery truck.

Within months after its founding, the company began concentrating on package deliveries in addition to its messenger service. With the purchase of its first truck, it began a regularly scheduled package delivery service in the Seattle area and contracted with major department stores to distribute their packages.

In 1919, the company changed its name to United Parcel Service and extended operations to Oakland, CA. In 1922, service was instituted in Los Angeles, and, by 1927, brown United Parcel Service vehicles were rolling through the Portland, San Francisco, and San Diego areas.

In 1930, the company began making deliveries for New York department stores, then on to Cincinnati in 1934, Milwaukee in 1938, and Chicago in 1940. As the company's reputation and capability grew, it moved into other metropolitan areas.

After World War II, the American economy underwent explosive changes that unleased a flood of small packages. United Parcel Service decided to extend its operations over broad areas of the Nation, making its package delivery service available to everybody, not just the department stores and specialty shops which it continued to serve.

The first attempts at this new kind of business were made in the more densely populated Midwestern and eastern seaboard areas where the company already was serving department stores. Gradually, the firm acquired operating authority that permitted it to deliver packages across the Nation.

Jim Casey pioneered in the development of special equipment that brought efficiency to package handling. During the company's formative years, he designed the first package sorting mechanism in Seattle. The basic theory of the device, which provided both storage and movement of packages, has been incorporated into the modern systems now used by package carriers everywhere.

Despite many innovations he brought to the package delivery business, Jim Casey was self-effacing, shunned personal publicity and constantly credited others with successes the company achieved.

During his lifetime, Jim Casey, who died 5 years ago, quietly engaged in many philanthropic works, including many that focused on child welfare. For these purposes, he and his family established the Casey Family Program for youth and the Annie E. Casey Foundation.

The Casey Family Program has financed a program for the long-term placement of disadvantaged children in foster homes. The project includes payment of monthly service fees to the foster parents to obtain participation of highly qualified foster families.

The Annie E. Casey Foundation, which Jim Casey formed with his brothers and sisters and named after their mother, has recently embarked upon two endeavors in which $100 million will be spent.

After intense study, the foundation has put $50 million into a New Futures Program for children at risk, offering $10 million each to five cities to help teenagers who drop out of school, cannot find a job, or have unwanted pregnancies.

The Annie E. Casey Foundation is also shaping a $50 million program to promote changes in child welfare. A third project will aim to reduce the sentencing of juvenile offenders to training institutions.

Jim Casey's legacy is an important contribution to the Nation's economy through the delivery network he pioneered and an enduring assistance to troubled youth.

I salute Jim Casey for these outstanding endeavors.●

GOLDEN ARROW AWARD

● Mr. EVANS. Mr. President, throughout my 30-year career in public service, it is all too often that I have seen attention focused on the negative aspects of Government. As a result, the outstanding work being done in the Federal sector often goes unnoticed.

For this reason, I created the Golden Arrow Award. I began this award program in January 1986 as a way to honor excellence in Federal employees and agencies. Specifically, the award recognizes superior achievement by a Federal employee or agency on behalf of the citizens of Washington State.

Recipients of the Golden Arrow Award are chosen quarterly on the basis of their demonstrated ability to "make the system work." The award may be issued in recognition of consistent cost-effective performance, or extraordinary worker or agency responsiveness, or it may honor an innovative program that produces significant benefits. Since I began this award program, we have had some impressive recipients indeed.

Our first golden arrow was awarded to Dr. R. James Cook, a U.S. Department of Agriculture scientist, who discovered the fungus that infects nearly 1 million acres of wheat annually throughout the northwestern United States. As a result of Dr. Cook's dedication and perseverance in wheat disease research, new ways are now being developed to control the fungus which, in turn, could improve crop yields by as much as 50 percent.

Our most recent recipient of the Golden Arrow Award was the Hazardous Material Response Branch of the National Oceanic and Atmospheric Administration regional office in Seattle, WA. The branch was honored for their development of a computer program called Computer-Aided Management of Emergency Operations, or CAMEO. This system has revolutionized the way in which hazardous material responders manage chemical accident emergencies. CAMEO quickly and accurately identifies the chemicals involved in an accident and gives specific instructions on how to respond to and control the spill.

NOAA designed CAMEO with the help of the Seattle Fire Department and funding from EPA's Chemical Preparedness Program. Beginning last year, Seattle was the first city in the Nation with a CAMEO unit operating in the fire department's hazardous material response van. The system has proved to be so successful, it is now being used by nearly 500 fire departments nationwide. The demand for incorporating CAMEO into other hazardous material response units has become so great, the National Safety Council is being considered to take responsibility for distribution of the program.

CAMEO, which began as a pilot project, will eventually be distributed around the country as a vital tool for firefighters, Coast Guard personnel, and other professionals responsible for hazardous material emergency management.

In a ceremony held in Seattle last month, I presented the Golden Arrow Award to Mr. John Robinson, manager of NOAA's Hazardous Material Response Branch. He graciously accepted the award on behalf of his department. Also receiving special recognition for their key role in the development of CAMEO's pilot design were the following members of the Seattle Fire Department: Capt. John Hadfield, firefighters Steve Beaumont, Phil Boreen, and Preston Bhang. These individuals comprise the Seattle Fire Department's Hazardous Material Unit. They provided the technical data about various chemicals and mapping information which is now a vital part of the computer program.

It has been my distinct pleasure to honor these professionals for their innovation and leadership in making CAMEO a reality.

It is this kind of superior performance that sets an outstanding example for the community as well as other Federal employees. I am proud to recognize these individuals and their achievements with the Golden Arrow Award.●

TRIBUTE TO DR. MONTE DUVAL

● Mr. DURENBERGER. Mr. President, the Washington health care community said goodbye to an outstanding leader last week when Dr. Merlin K. "Monte" DuVal resigned his position as president of American Healthcare Institute and returned to his adopted home State of Arizona. Monte DuVal will join Samaritan Health Service in Phoenix as senior vice president for quality assurance.

While I'm sure Arizonans are delighted to welcome Monte back, all of us in the Washington health care community will miss his thoughtfulness and his valuable insights about the present and the future of the health care delivery system in the United States.

Dr. DuVal has been a strong, refreshing voice for the hospital industry since he came to Washington in 1984 as the founding president of American Healthcare Institute [AHI], representing American Healthcare Systems, the largest not-for-profit health care network in the world. He came to Washington when the Congress was making dramatic changes in the way hospitals were reimbursed for providing care to Medicare patients. Dr. DuVal provided a steady and reasoned response to these often difficult debates.

He represented his AHI members well and in the process gained the respect and trust of all of us in Washington. To those who have followed Monte's career, his success should come as no surprise. He was educated at Dartmouth College and received his medical degree from Cornell University in 1946. He served as a member of the surgical faculty at the State University of New York College of Medicine at Kings County Hospital, Brooklyn, NY, and the University of Oklahoma's School of Medicine in Oklahoma City.

In 1963, Dr. DuVal was selected to be the founding dean for the College of Medicine at the University of Arizona and served as either dean or vice president for health services at the university from 1963 to 1979. He served as

Assistant Secretary for the Department of Health, Education, and Welfare—1971-73—and as the president of the National Center for Health Education in San Francisco before joining Associated Health Systems. Dr. DuVal is a board-certified surgeon and holds eight honorary degrees. Last year he was honored with the Dean's Award from the University of Arizona College of Medicine and the designation of the Merlin K. DuVal, M.D., Auditorium at the University of Arizona Health Sciences Center.

Monte's valued experience will be missed here in Washington but we are certain he will continue to influence us. With Monte's tireless energy and policy interests, we know we will see him often in Washington, advising us on the most important issue in health care—ensuring quality care for all Americans. We wish Monte DuVal and his wife, Ruth, the best of luck in their return to Arizona.●

CAPITAL GAINS AREN'T JUST FOR THE RICH

● Mr. KASTEN. Mr. President, one of the major criticisms of restoring a captial gains differential is that it will benefit the wealthy at the expense of the middle class and poor.

I call to the attention of my colleagues a letter which appeared in the March 26 edition of the Washington Post by Mr. C.M. Stripling on the issue of fairness and capital gains. Mr. Stripling is a tree farmer in Camilla, GA, and is the American Forest Foundation's 1987 National Outstanding Tree Farmer.

In his letter, Mr. Stripling points out that the 1986 Tax Reform Act's capital gains provisions have hit middle-income individuals, small businesses and—as in his particular case—family farms much harder than the affluent. He goes on to say that, "It doesn't take much of a tax increase to put us out of business. If we are going to talk fairness, it shouldn't matter whether you're rich or poor when it comes to how capital gains are taxed."

Mr. President, there are several reasons why reducing the capital gains tax is fair and equitable. First, experience of the 1978 and 1981 capital gains tax cuts shows that the wealthy actually pay more capital gains taxes at lower rates. Second, capital gains tax cut sparks the creation of new small businesses, new ventures and, more importantly, new jobs for American workers. Third, a capital gains tax cut benefits many middle-class Americans who invest in capital assets to finance their retirement. Clearly, a capital gains tax reduction is not a tax break for the rich.

Mr. President, I ask that Mr. Stripling's letter be placed in the RECORD.

The letter follows:

CAPITAL GAINS AREN'T JUST FOR THE RICH

Your March 15 editorial on "Capital Gains and Fairness" sure made me mad! A friend in Washington called and read the editorial to me, and I put this response to you in a purple airplane the next day so that he could drop it at your office while it was still hot.

Your statement that 50 percent of the capital gains go to upper-income people may be true, but that means that the other 50 percent goes to those of us in lower brackets. It doesn't take much of a tax increase to put us out of business. If we are going to talk fairness, it shouldn't matter whether you're rich or poor when it comes to how capital gains are taxed.

I just did my taxes, and your comments about millionaires hit me like salt on a sunburnt blister. I finally made a sale on some trees that I've been growing half a lifetime, and the new tax rates are taking 71 percent more of my income than under the old rules. That's a lot of money to me. It would replace my old pickup truck. It would reforest 150 acres of land. It would more than pay for the forestry consultant I hire to make sure my forest is in good shape. The topping on this bitter cake is that the paper work required to complete the process of being fleeced has more than doubled.

In spite of what the tax laws have done to me, I'm going to plant trees to replace those I've cut, and I'm going to hire foresters to keep my forest in prime condition. This farm goes back in my family a long time, and I want it to go forward for my family and others into the future.

I'll continue to take care of my land and send my money to Washington, but I'll feel like I've been treated badly. I've been planting and growing trees for 50 years now, and I've been through forest fires and tornadoes and droughts and ice storms, but the new tax laws are the biggest mess I've ever seen and the most discouraging to tree farmers. If the trend continues, we will eventually do all the work and take all the risks and then send all the money to Washington.

You mention that a bargain was stuck on taxes less than two years ago and that the bargain should not be broken. The deal you speak of is no bargain. It broke an implied commitment made to forest landowners more than 40 years ago, when the tax rates for long-term investments were lowered.

The more than 4 million Americans who own important tracts of forest land are unfairly treated under the new rules. These are ordinary folks, who sometimes wait a lifetime for some income from their forests. Many of them established their forests more than 40 years ago under that first "bargain" struck with Congress. The agreement at that time recognized that private forestry operations were risky, long-term investments, deserving of lower rate taxation of capital gains. There was also recognition that tax policy sets land-use policy and that if the nation approved of the conservation of private forests, a tax system that encouraged long-term investments would "put our money where our mouth was."

I think we landowners have kept our side of the long-term commitment. Although some forests certainly aren't as well cared for as I would like to see, overall we have planted billions of trees and constantly improved the application of forestry to the land. Most of us have done this work because we care about the land, but it sure helped to know that we got to keep some of our gains after years of work.

You use a lot of trees in putting out your paper, but your editorial ignored what it takes to grow those trees. Look outside Washington and the law books if you want to know what the system does.

—C.M. STRIPLING.●

RULES OF COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

● Mr. BURDICK. Mr. President, in accordance with the Rules of the Senate, I submit for the RECORD the Committee Rules of the Committee on Environment and Public Works.

The rules follow:

RULES OF PROCEDURE OF THE COMMITTEE

Rule 1. *Regular Meeting Days.*—The regular meeting day of the committee shall be the first and third Thursday of each month at 10:00 A.M. except that if there be no business before the committee, the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—Subject to section 133(a) of the Legislative Reorganization Act of 1946, as amended, committee meetings for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the chairman, after consultation with the ranking minority member. Subcommittee meetings shall be called by the chairman of the respective subcommittee, after consultation with the ranking minority member. Notice of a meeting and the agenda of business to be discussed by the committee will be provided to all members not less than twenty-four hours in advance of such meeting. Additions to the agenda after that time may be made with the concurrence of the ranking minority member. Such 24-hour notice may be waived in an emergency by the chairman, with the concurrence of the ranking minority member.

Rule 3. *Open Committee Meetings and Legislative Mark-up Sessions.*—Meetings of the committee, including hearings and legislative mark-ups, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds for closure under paragraph 5(b) of rule XXVI of the Standing Rules of the Senate (as amended by Senate Resolution 9, 94th Congress).

Rule 4. *Presiding Officer.*—(a) The chairman shall preside at all meetings and hearings of the committee except that in the absence of the chairman the ranking majority member who is present at the meeting shall preside.

(b) Subcommittee chairmen shall preside at all meetings and hearings of their respective subcommittees, except that in the absence of the subcommittee chairman, the ranking majority member of the subcommittee who is present at the meeting shall preside.

(c) Notwithstanding the rule prescribed by subsections (a) and (b), any member of the committee may preside over the conduct of a hearing.

Rule 5. *Quorums*—(a) Except as provided in subsections (b) and (d) five members, two of whom shall be members of the minority party, shall constitute a quorum for the conduct of business, except for the purpose of reporting any measure or matter.

(b) Quorums for the conduct of business by the subcommittees shall be a simple majority of the membership of the subcommittees with at least one minority member present.

(c) Once a quorum as prescribed in subsections (a) and (b) has been established for the conduct of business, the committee may continue to conduct business.

(d) Notwithstanding the rule prescribed in subsection (a), one member shall constitute a quorum for the purpose of conducting a hearing.

Rule 6. *Proxy Voting*—(a) Proxy voting shall be allowed on all measures, amendments, resolutions, or any other issue before the committee or any subcommittees. Any member who is unable to attend the meeting may submit a vote on any such issue, in writing or through personal instructions; however, proxies shall not be voted for the purpose of reporting any measure or matter except when the absent committee member has been informed of the matter on which the vote is being recorded and has affirmatively requested that such vote be so recorded. A proxy given in writing shall be valid until revoked, while a proxy given orally or by personal instructions is valid only on the day given.

(b) At the direction of the chairman, after consultation with the ranking minority member, members who are unable to be present and whose vote has not been cast by proxy may have their positions recorded on any vote on the same business day so long as the vote will not change the outcome.

Rule 7. *Public Announcement of Vote*—Whenever the committee, by rollcall vote, reports any measure or matter, or acts upon any measure or amendments thereto, the report of the committee on such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the committee.

Rule 8. *Announcement of Hearing.*—The committee, or any subcommittee thereof, shall make public announcement and provide notice to members of the date, place, time and subject matter of any hearings to be conducted on any measure or matter, at least one week in advance of such hearing, unless the committee chairman, or subcommittee chairman, with the concurrence of the ranking minority member, determines that there is good cause to begin such hearing at an earlier date, in which even not less than twenty-four hours notice shall be given.

Rule 9. *Statements of Witnesses at Hearings.* (a) Each witness who is scheduled to testify at any hearing of the committee, or any subcommittee thereof, shall file a written statement of proposed testimony not later than noon of the last business day preceeding the day on which such witness is scheduled to appear. At the time of appearance, each witness shall supply for the use of the committee or subcommittee, 25 copies of any prepared testimony or such greater number as may be requested in the letter of invitation. Except for witnesses from the Federal Government, this rule may be waived with regard to field hearings.

(b) The presiding officer at a hearing may have a witness confine any oral presentation to a summary of a written statement.

Rule 10. *Regularly Established Subcommittees.*—The committee shall have five regularly established Subcommittees as follows:

Subcommittee on Environmental Protection.

Subcommittee on Nuclear Regulation.

Subcommittee on Water Resources, Transportation and Infrastructure.

Subcommittee on Hazardous Wastes and Toxic Substances.

Subcommittee on Superfund and Environmental Oversight.

Rule 11. *Subcommittee Membership.*—Following consultation with the Majority Members and the Ranking Minority Member of the Committee, the chairman shall announce selections for membership of the subcommittees referred to in Rule 10.

Rule 12. *Environmental Impact Statements.*—No project or legislation proposed by the Administration shall be approved or other action taken on such project or legislation unless the committee has received a final environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1970, and the written comments of the Administrator of the Environmental Protection Agency. In accordance with section 309 of the Clean Air Act. This rule is not intended to broaden, narrow, or otherwise modify the class of projects or legislative proposals for which environmental impact statements are required under section 102(2)(C).

Rule 13. *Project approvals.*—(a) Whenever the committee authorizes a project, under Public Law 89-298, Rivers and Habors Act of 1965, Public Law 83-566, Watershed Protection and Flood Prevention Act, or Public Law 86-249, Public Buildings Act of 1959, as amended, the chairman shall submit for printing in the Congressional Record, and the committee shall publish periodically as a committee print, a report that describes the project and the reasons for its approval, together with any dissenting or individual views.

(b) Proponents of committee resolutions shall submit appropriate evidence showing need for review or reports on river and harbor and flood control projects.

Rule 14. *Naming of Public Facilities.*—No building, structure or facility authorized by the committee, shall be named for any living person, except former Presidents or former Vice Presidents of the United States, former Members of Congress over 70 years of age, or former Justices of the United States Supreme Court over 70 years of age.

Rule 15. *Building Prospectuses.*—(a) The committee shall act on all prospectuses for construction (including construction of buildings for lease by the government), alternation and repair, or acquisition submitted by the General Services Administration in accordance with section 7(a) of the Public Buildings Act of 1959, as amended, and such action shall be completed by the date of May 15 during the same session in which such prospectuses are submitted to Congress. The committee may consider prospectuses submitted for alterations or repairs necessitated by emergency building conditions at any time during the same session of the Congress in which they are submitted. Prospectuses rejected by majority vote of the committee or not contained in any bill reported to the Senate shall be returned to the GSA and must then be resubmitted in order to be considered for action by the committee during the next session of the Congress.

(b) Reports of building project surveys submitted by the General Services Administration to the committee under section 11(b) of the Public Buildings Act of 1959, as amended, shall not be considered by the committee as being prospectuses subject to approval by committee resolution in accordance with section 7(a) of that Act. Projects described in such survey reports shall be considered for committee action only if they are submitted as prospectuses in accordance with section 7(a) and they shall be subject to the provisions of subsection (a) of this rule.

Rule 16. *Broadcasting of Hearings.*—Public hearings of the committee, or any subcommittee thereof, may be televised or broadcast, or recorded for television or broadcast, upon notification in advance to the chairman through the staff director. During public hearings, photographers and other reporters using mechanical recording or filming devices shall position and use their equipment in such fashion as will not interfere with the seating, vision, or hearing of Committee Members or staff on the dais, nor with the orderly process of the hearing.

Rule 17. *Amendment of Rules.*—The rules may be added to, modified, amended, or suspended by a majority of the Committee Membership.●

ORDERS FOR TOMORROW

ADJOURNMENT UNTIL 9:15 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow the call of the calendar be waived and that no motions or resolutions over under the rule come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION OF LEADERSHIP TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reduced to 5 minutes each tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the order, there be a period for morning business not to extend beyond the hour of 9:30 a.m., and that Senators be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, at 9:30 a.m. tomorrow, the uranium enrichment bill would automatically come down, would it?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. The pending question at that time would be on the amendment in the second degree to the Johnston amendment?

The **PRESIDING OFFICER.** The majority leader is correct.

Mr. BYRD. There is a maximum of how much time on that amendment?

The **PRESIDING OFFICER.** There is a maximum of 3 hours under the time agreement.

Mr. BYRD. Three hours. So this would mean there would be a rollcall vote, in all likelihood, no later than, say, 12 o'clock, 12:30, or thereabouts.

Mr. President, I ask unanimous consent that upon the disposition of S. 2097, the uranium enrichment bill, the Senate proceed to the consideration of Calendar Order No. 595, S. 1886, the bill to modernize and reform the regulation of financial services.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

EXPIRATION OF MORNING HOUR ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that the morning hour be deemed to have expired on tomorrow.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

THE ASSISTANT REPUBLICAN LEADER

Mr. BYRD. Mr. President, I thank the distinguished assistant Republican leader for his fine cooperation in moving the program of the Senate along. I am very much appreciative of his assistance. This could not be done without such cooperation. And I value his cooperation, and feel myself fortunate that I have had such a splendid gentleman to work with in these last several days and weeks and months.

Mr. President, unless the distinguished Senator from Wyoming has something else or my friend from Oregon, I do not have anything else.

EXPIRATION OF MORNING BUSINESS

The **PRESIDING OFFICER.** The Chair would inform the Members that under the unanimous-consent agreement morning business has expired.

Mr. BYRD. Mr. President, I yield the floor.

THE SENATE'S SHORTEST LEGISLATIVE DAY

Mr. SIMPSON. Mr. President, I thank the majority leader.

Let me say that we just moments ago had the shortest legislative day in the history of the U.S. Senate—1 second. What we were doing, so all should be aware, is that the constitutional amendment on campaign spending, which is going to be controversial, is on the calendar now at the desk. That was the purpose of that. The majority leader fully within his appropriate right has shared all of that information with the leadership on this side of the aisle, and has indicated previously that we will deal with that issue. And this is obviously the intent, and all should be well aware that it now resides at the place on the calendar, and at the desk.

SENATOR ROBERT DOLE

Mr. SIMPSON. Let me say, Mr. President, to the majority leader, that our colleague, the colleague of us all, ROBERT DOLE, has announced today that he is wrapping up his campaign. And it will be good to have him back and embrace him among our membership.

It has been a very special privilege for me to be the acting leader of our party. I have enjoyed that very much. And I am going to give my complete loyalty to BOB DOLE. He will be winding up his activities this week, and after the Easter recess will be here in his full capacity as the minority leader and the Republican leader of the U.S. Senate. He made a very moving series of remarks today.

And I ask that those remarks be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DOLE WRAPS UP '88 CAMPAIGN

Nearly five months ago, I went home to Russell, Kansas, to declare my candidacy for the "highest office" the American people can bestow. It was only natural that I should begin my campaign for the Presidency on main street, among those from whom I have always drawn my strength and identity.

Today, here I am—bloodied but unbowed, as the poet says—reminding you that there was a special reason this year for those of us on the Republican side to walk, or in my case, to run the extra mile. That reason is the national interest. The Nation is entering a period in which there are great dangers and great challenges.

THE RACE

I entered this race convinced that to solve our problems and realize our potential, America requires strong leadership—the kind forged in the crucible of governance—. The kind that is sensitive to how ordinary people live, and attuned to their extraordinary possibilities.

I ran for my party's nomination because I was determined to lead a dialog on issues that matter. Issues that I care passionately about, involving the national defense and fiscal integrity of this country—profoundly interrelated issues I feared would get lost in the shuffle. I wanted these issues to be a part of a crucial dialog about this country's future.

It matters if we have this hostile Soviet client state the Sandinistas are building in our back yard. It matters if we have this monster deficit looming up like a tidal wave in our future. And it matters how we deal with these issues—whether we mortgage our future to them, or whether we make sure that the "buck stops here" and future generations don't have to pay up because of our cowardice.

I AM A FIGHTER

My campaign has been an appeal for all Republicans to recognize and celebrate the diversity of America. No party can govern that is not truly representative of this Nation of nations. No president can succeed who promises competence but withholds compassion. I seek a party as strong in its commitment to equal rights as it is to military and economic pre-eminence. For the defense of American freedom, whether at home or abroad, is ultimately indivisible—its success depends on a house united, and leadership with the will to win.

My friends know that I am a fighter. I don't like to lose. I make no apology for that. It is simply the way I am. They also know I am an optimist. If I weren't, I wouldn't be standing here today. I have been beaten before, and no doubt will be again. But I have never been defeated, and never will be.

END OF THE ROAD

My wife, Elizabeth, and my daughter, Robin, are beside me today, as they have been throughout this campaign. We have become even closer because of this journey. I will always be grateful for their love and support.

Bill Brock and Bob Ellsworth and Joe Fogg; my colleagues in the House and Senate; staff members and countless volunteers both here and across the country have made this campaign a labor of love, and my thanks seem hardly enough: More than one and a half million Americans have honored me with their support in primaries and caucuses, and for that I will always be humble.

But one thing you learn how to do pretty well in our business is to count. You come to trust your instincts to tell you when it's over. In my heart, I know that that time is now.

I congratulate George Bush and wish him well in November. The bottom line is keeping the White House Republican.

So today, I have come to the end of one road. But the journey is far from over. When people ask me why I ran for President, I will say because I wanted to make a difference, and that desire will remain with me for as long as I live.

Ronald Reagan has made an historic difference for America: He has set us on a new course to renewed prosperity, greater security, and more hope and opportunity for each and every American. But there is much more work to do.

So I return to the Senate as the Republican leader, eager to engage there the issues that confront America and ready to do all I can to elect Republicans in November—and doing all I can for our nominee, George Bush.

THE MAJORITY LEADER

Mr. SIMPSON. I would say to the majority leader that indeed I have enjoyed the opportunity of working with him. It has been a special privilege. I have come to know him even better. I learned much about him before but it was a great pleasure to do business with him. And I enjoyed it thoroughly, in his office or on the floor. And the purpose of the U.S. Senate is to legislate. And the purpose of a minority is to help legislate.

There were only two remarkable stalling points which nearly tore the drainpan out of the machine but once we passed those two points we did our business.

I would say that I have no listing of the business done in the last 5 or 6 weeks. But I think it is called heavy legislative activity except for S. 2. Then, of course, there was the issue that was laid to rest—at least, hopefully, for some time—today.

Other than that, I thought there was excellent progress. It was a pleasure to work with the majority leader. At no time did he fail to keep his word with me. We shared a great deal of remarkable insights about our colleagues on both sides of the aisle, which is what you have to do if you are going to get business done, like, "I can't do anything about it," and, "There is nothing I can do to accommodate you." Then you become flexible and do your work.

He shared those things with me. It was a delightful and pleasant experience. I certainly enjoy my role as assistant leader of the party and will be doing that again when our leader will return, I think, in renewed energy, to do the same things that I have been trying to do in these last weeks, now that that remarkable quest has ended for him.

I congratulate him, and I think we all do. It takes special people to do this, to seek this office, and we know them on both sides of the aisle, people who do it and who have returned to the bosom of the Senate, bruised. Yes, indeed, you cannot help but be bruised when you go through that. But there are many of them, and you admire them, that they are willing to put themselves out into the fray, as Teddy Roosevelt said, better than those timid souls who do not know the vigor of the chase, and defeat to them is not really defeat because they were in the arena.

So I admire ROBERT DOLE very much and all those on both sides of the aisle who sought the Presidency from the U.S. Senate. They are a special breed, and they deserve our commendation. It takes special people to do it. It is something that does not burn in my bosom, because my sense of privacy in my own life would never allow me to even believe that that would be something to pursue.

So, with that, my sincere thanks to the majority leader for a delightful experience.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate—and I sense that there will not be—I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:15 tomorrow morning.

The motion was agreed to; and at 7:02 p.m. the Senate adjourned until tomorrow, Wednesday, March 30, 1988, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate March 29, 1988:

THE JUDICIARY

RANDALL R. RADER, OF VIRGINIA, TO BE A JUDGE OF THE U.S. CLAIMS COURT FOR THE TERM OF 15 YEARS VICE ROBERT M.M. SETO, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HOWARD G. CROWELL, JR., [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. EMMETT PAIGE, JR., [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. BRUCE R. HARRIS, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. EDWIN S. LELAND, JR., [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. THURMAN D. RODGERS, [redacted] U.S. ARMY.

HOUSE OF REPRESENTATIVES—*Tuesday, March 29, 1988*

The House met at 2:30 p.m.

The Reverend Dr. Ronald F. Christian, assistant to the bishop, Metropolitan Washington, DC, Synod of the Evangelical Lutheran Church in America, Washington, DC, offered the following prayer:

It is in Your name, O God, that we place our trust;

Not in the security of powerful weapons;

Not in the assurance of the almighty dollar; and

Not in the prestige of a capitol office.

Help us, O God, to spend our lives for the cause of righteousness so that we save our souls in the hope of eternity;

Confront us, O God, to challenge our thoughts in the search of values before checking the price in hopes of finding a bargain;

Teach us, O God, to learn what it means to follow before seeking a position of leadership;

Remind us, O God, that discipline is the antidote to egotism.

O God, receive our thanks for this day; bless our Representatives with Your wisdom; and grant us shalom in our lives and peace in our world.

For it is in Your name, O God, that we trust and pray. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate agreed to the following resolution:

S. Res. 401

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable James J. Howard, late a Representative from the State of New Jersey.

Resolved, That the Secertary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

The message also announced that the Senate had passed a joint resolution and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S.J. Res. 231. Joint resolution to authorize the entry into force of the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes; and

S. Con. Res. 110. Concurrent resolution correcting the enrollment of S. 854 the Nevada-Florida Land Exchange Authorization Act of 1988.

SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE SHOULD BE EXPANDED

(Mr. **EDWARDS** of California asked and was given permission to address the House for 1 minute and include extraneous matter.)

Mr. **EDWARDS** of California. Mr. Speaker, I am delighted to be joined today by my fellow San Francisco Bay Area colleagues in introducing legislation which would preserve some of the most important wetlands and endangered species habitat in northern California. This legislation will allow for the expansion of the San Francisco Bay National Wildlife Refuge, and will bring a large portion of threatened marshland and wildlife habitat under the protection of the U.S. Fish and Wildlife Service.

Our bill would adjust the boundaries of the current 23,000 acre refuge to allow the addition of another 20,850 acres of additional lands, marshes, tidal flats, salt ponds, submerged lands, and open waters in the San Francisco Bay Area. These areas have been designated in a map prepared by the U.S. Fish and Wildlife Service as "the most important wetland areas in South San Francisco Bay located outside the existing refuge boundary."

Throughout the past few years, several landowners of threatened marshlands surrounding the wildlife refuge have expressed an interest in selling these parcels to the U.S. Department of the Interior. The measure we are introducing today will give these landowners the opportunity to sell or donate these threatened marshlands to the San Francisco Bay National Wildlife Refuge.

The bill contains an important provision to ensure that each additional parcel added to the refuge is purchased from willing sellers. This way, only those local landowners who have expressed an interest in selling or donating their lands will be affected by the scope of this legislation.

What is perhaps most unique about the refuge is that it provides open space in the heart of an urban area, accessible to nearly 5 million people. Also, the refuge provides an excellent educational program for people of all ages to learn about the bay environment, observe wildlife, fish, and hike.

Nearly two-thirds of the original wetlands and marshlands of the San Francisco Bay have been spoiled by pollution and development. This represents a very serious loss of invaluable threatened wildlife habitat. The marsh provides a home for some of California's most highly endangered species, including the California clapper rail, the salt marsh harvest mouse, the California least tern, and the peregrine falcon. These lands also serve as a prime nesting and feeding area for migratory shorebirds wintering on the Pacific coast.

The residents of the San Francisco Bay Area recognize the important contribution the refuge makes to the quality of life in this region. This legislation to expand our wildlife refuge has received the support of a broad range of counties, communities, and local groups in the San Francisco Bay Area.

I encourage my colleagues to join me and my fellow San Francisco Bay Area Representatives in our efforts to preserve the natural ecosystem of the San Francisco Bay.

A list of communities and organizations endorsing expansion of the refuge follows:

CITIES AND COUNTIES WHICH HAVE ENDORSED THE EXPANSION OF THE SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE

The City of San Jose.
The City of Fremont.
The City of Milpitas.
The City of Mountain View.
The City of Belmont.
The City of Redwood City.
The City of Palo Alto.
Santa Clara County.
San Mateo County.
Alameda County.

GROUPS WHICH HAVE ENDORSED THE EXPANSION OF THE SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE

Citizens' Committee to Complete the Refuge.
San Francisco Bay Chapter, Sierra Club.
Loma Prieta Chapter, Sierra Club.
Hayward Area Shoreline Planning Agency.
California Waterfowl Association.
California Wildlife Federation.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Baylands Conservation Committee.
Citizens for a Better Environment.
Committee for Green Foothills.
Defenders of Wildlife.
East Bay Green Alliance.
Federation of Fly Fishers.
Friends of Charleston Slough.
Friends of Redwood City.
Golden Gate Audubon Society.
League of Women Voters of the Fremont Area.
League of Women Voters of the Hayward Area.
League of Women Voters of South San Mateo County.
Madrone Audubon Society.
Marin Audubon Society.
Mono Lake Committee.
Mount Diablo Audubon Society.
Napa-Solano Audubon Society.
Native Plant Society, Santa Clara Valley Chapter.
North Bay Wetlands Coalition.
Ohlone Audubon Society.
Peninsula Conservation Center Foundation.
People for Open Space/Greenbelt Congress.
Planning and Conservation League.
Santa Clara Valley Audubon Society.
Save San Francisco Bay Association.
Sequoia Audubon Society.
South Bay Wetlands Coalition.
Sportsmen for Equal Access.
Tri-City Ecology Center.
Trout Unlimited.
United Anglers of California.
Urban Creeks Council.
Citizens for Alameda's Last Marshlands.
Citizens for Open Space in Alvarado.
Save our South Bay Wetlands.
Save Wetlands in Mayhews.
Whistling Wings/Pintail Duck Clubs.
North Bay Wetlands Coalition.
California Hawking Club, Inc.
Mission Creek Conservancy.
Friends of Foster City.

CONFEREES SHOULD ABIDE BY INSTRUCTIONS ON PORNOGRAPHY

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, one of the horrible blemishes on our society is pornography. It is time we do something about it.

When we in this House vote to instruct our conferees it is a very serious matter and should not be taken lightly by our conferees.

On March 1, 274 of us voted to instruct our conferees to accept the Senate prohibition on telephone transmission of pornography. We are now told by our conferees that they are working in contravention to the will of the majority of this House.

We in this body and the vast majority of American people are in favor of the Senate prohibition. If our present conferees cannot abide by the will of the House and the will of the American people, Mr. Speaker, then let us replace the conferees. The conferees are neither above the law nor should they be above the will and the recorded vote of this body.

MINNESOTA TRUCK COMPANY WINS SAFETY AWARD

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, I am most proud to bring to my colleagues' attention the fact the Schultz Transit Co. of Winona was awarded the grand prize in the National Fleet Safety Contest sponsored by the Interstate Carriers Conference.

The conference consists of more than 600 common and contract trucking companies domiciled in every State except Alaska and Hawaii and is affiliated with the American Trucking Associations.

The award was presented to Mr. Gene Schultz, president of Schultz Transit, and Geroge Snyder, vice president of safety, at the conference's annual meeting in Las Vegas. Schultz Transit logged more than 16 million miles in 1987 with only two reportable accidents. A remarkable record.

Gene Schultz has been in the trucking business more than 28 years and his dedication to safety is both commendable and laudable. A safety record like this one does not just happen. It takes hard work on the part of all Schultz employees, drivers and owner-operators. I also want to note that one of my best friends, Craig Hummer is a hardworking member of the Schultz Transit team.

I congratulate Gene Schultz for winning this award an unprecedented third time and commend him on his dedication to highway safety.

UNITED STATES TROOPS SHORED UP HONDURAS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DORNAN of California. Mr. Speaker, I do not know if you are aware that I have just returned from my 16th trip to Central America and my 4th trip to Honduras in almost as many months.

I had a 1-hour meeting with President Jose Azcona with only one other person in the room, our fine Ambassador down there, Ted Briggs. I also had an hour meeting prior to that with General Regalado, the commander of the Honduran forces. We all agreed that there is one damnable rumor inside this beltway that is absolutely a flagrant lie. The big lie is that somehow or other, President Reagan or his administration, forced upon Honduras the 7th Light Infantry Battalion and the 82d Airborne.

President Azcona was as forthright and forceful as he possibly could be, confirming to me what our Ambassador down there had told me, that the Hondurans wanted some assurance that the United States was not going to let Honduras twist in the wind with the 2,000 Communist soldiers of the Nicaraguan Party army on Honduran territory.

Mr. Speaker, there have been a lot of unfortunate speeches on this floor and press stories around the country including church groups saying ugly, absolutely un-Christian things that demoralize some of our young soldiers and their officers down there.

I would like to give the address of the 7th Infantry Division so that people can write to our soldiers when they get back to Fort Ord this weekend in California. I would also like to provide the address of the 82d Airborne so that when they get back to their command headquarters in Fort Bragg, NC, Americans can tell these young soldiers that we are proud of what they did to shore up Honduras. The Hondurans should also be congratulated, give them the wherewithal for sending in their Air Force into Nicaragua to remind these Communist Sandinista soldiers and the Ortega brothers that they were violating the sovereignty of Honduras.

The addresses for the 7th Infantry Division and the 82d Airborne Division are as follows:

Attention:

Commander: 7th Infantry Division (Light), Fort Ord, Attn: ASZ-CG, Fort Ord, CA 93941.

Commander: 82d Airborne Division, Attn.: Commander AFVC-PA, Fort Bragg, NC 28307.

Secretary of the Army, Hon. John O. March, Jr., The Pentagon, Washington, DC 20310.

□ 1440

LET US CUT OUT THIS CANCER FROM THE WESTERN HEMISPHERE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, General Noriega sent his thugs into the streets of Panama City to beat up the opposition. That includes American journalists.

It is obvious now that General Noriega will not leave without a fight. A close friend and ally stated that General Noriega has been stockpiling arms from Cuba for some time. No question now but Noriega represents a serious threat to our country.

What troubles me the most is that the CIA sort of worked hand in hand with this guy for about 7 years. I think it is time that the CIA come clean to Congress and tell us the truth. I think we are tired of being in a vacuum trying to figure out what happened and the CIA owes America an answer.

Finally, maybe it is time for Reagan to be Reagan; Noriega is a cancer that should be cut out and maybe it is time that the Reagan doctrine goes into Panama and cuts that cancer out from this Western Hemisphere.

PORNOGRAPHIC MAIL PROHIBITION ACT

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, a couple of days ago, I sent around a "Dear Colleague" which raised a few eyebrows. Some colleagues were stunned, some were outraged and just about everyone found the attached advertisement offensive. These ads are commonly referred to as "Mail Porn"—advertisements for pornographic materials which themselves are obscene and offensive.

Unbelievably, this type of advertisement is sent through the mails every day. Even more unbelievable is the fact that these unsolicited advertisements enter our own homes. Senior citizens, families with small children, no home is protected from mail porn. Of course, forms can be filed with the post office asking not to receive mail porn, but the burden is on the recipient. One form even requires the name of the company sending the material. Think about it, we must receive it and read it, identify the sender and only then can we try to stop it.

Mail porn operators send out thousands of advertisements in the hope of gaining even one new customer. They are willing to offend thousands of people in their homes in order to find just one who is interested. Now I ask you, just who are we trying to protect?

Last week, Congresswoman BARBARA BOXER and I introduced legislation to prohibit the sending of unsolicited obscene materials. Violators will be subject to a civil fine of $25,000. Additionally, violation of the criminal statute currently in effect would be redefined as a "racketeering activity" and subject to RICO forfeiture penalties.

We cannot and will not be subjected to obscenity in our own homes. Please join me in stopping mail porn by supporting the Pornographic Mail Prohibition Act.

CONVERSION OF POLITICAL APPOINTEES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today I am releasing the second GAO report on conversions of political appointees to career jobs. This report covers the last 3 months of 1987. Earlier, I released a report covering the first 9 months of 1987.

The total number of conversions—46—is not great; but, some of those conversions smell fishy:

The Education Department noncompetitively appointed the assistant to the director of mail analysis at the White House to a career job as an education program specialist.

The Energy Department appointed a Schedule C special assistant as a career supervisory marketing specialist.

The Department of Housing and Urban Development appointed a Schedule C assistant for congressional relations to a career job as assistant to the manager of its Jacksonville office.

The Federal Trade Commission hired the director of special projects from the National Endowment for the Arts as a GS-15 public affairs specialist.

These appointments could, under the loose Federal personnel laws, be perfectly legal. Yet, giving poorly qualified political appointees career civil service jobs undermines the merit system.

There is a fine irony in these conversions. The Reagan administration, which came to Washington intent on reducing the bureaucracy, is now layering its own people into permanent Federal positions. So much for the Reagan revolution.

APPOINTMENT AS ADDITIONAL MEMBERS OF FUNERAL COMMITTEE OF THE LATE HONORABLE JAMES J. HOWARD

The SPEAKER. Pursuant to House Resolution 414, and the order of the House of Monday, March 28, the Chair announces his additional appointments to the funeral committee of the late James J. Howard the following Members on the part of the House:

Mr. CONTE of Massachusetts;
Mr. SMITH of Iowa;
Mr. UDALL of Arizona;
Mr. ANNUNZIO of Illinois;
Mr. FORD of Michigan;
Mr. BEVILL of Alabama;
Mr. HAMMERSCHMIDT of Arkansas;
Mr. ALEXANDER of Arkansas;
Mr. ANDERSON of California;
Mr. COUGHLIN of Pennsylvania;
Mr. OBEY of Wisconsin;
Mr. LEHMAN of Florida;
Mr. MOAKLEY of Massachusetts;
Mr. SHUSTER of Pennsylvania;
Mrs. BOGGS of Louisiana;
Mr. DOWNEY of New York;
Mr. EARLY of Massachusetts;
Mr. MINETA of California;
Mr. NOWAK of New York;
Mr. OBERSTAR of Minnesota;
Ms. OAKAR of Ohio;
Mr. PANETTA of California;
Mr. RAHALL of West Virginia;
Mr. VENTO of Minnesota;
Mr. WATKINS of Oklahoma;
Mr. WEISS of New York;
Mr. STANGELAND of Minnesota;
Mr. FAZIO of California;
Mr. GINGRICH of Georgia;
Mr. FRANK of Massachusetts;
Mr. MCEWEN of Ohio;
Mr. MOLINARI of New York;
Mr. SAVAGE of Illinois;
Mr. SHAW of Florida;
Mr. CARR of Michigan;
Mr. KOSTMAYER of Pennsylvania;
Mr. BOEHLERT of New York;
Mr. BORSKI of Pennsylvania;
Mr. BOSCO of California;
Mr. COLEMAN of Texas;
Mrs. JOHNSON of Connecticut;
Mr. KOLTER of Pennsylvania;
Mr. LIPINSKI of Illinois;
Mr. ROWLAND of Georgia;
Mr. SUNDQUIST of Tennessee;
Mr. VALENTINE of North Carolina;
Mr. WHEAT of Missouri;
Mr. WISE of West Virginia;
Mr. PERKINS of Kentucky;
Mr. GRAY of Illinois;
Mrs. BENTLEY of Maryland;
Mr. KANJORSKI of Pennsylvania;
Ms. SLAUGHTER of New York;
Mr. VISCLOSKY of Indiana;
Mr. BALLENGER of North Carolina;
Mr. HASTERT of Illinois;
Mr. HAYES of Louisiana;
Mr. INHOFE of Oklahoma;
Mr. LEWIS of Georgia;
Mr. SKAGGS of Colorado;
Mr. UPTON of Michigan;
Mr. CLEMENT of Tennessee; and
Mr. DE LUGO of the Virgin Islands.

THE MOUNTING VIOLENCE OF GENERAL NORIEGA'S REGIME IN PANAMA

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, I am very disturbed by the mounting violence of General Noriega's regime in Panama. This instability threatens the very security of the Panama Canal, a vital waterway for both our own United States economy as well as for our national security.

Fortunately, American forces in the Canal Zone are at this time positioned to secure the canal from any attempt that General Noriega might make against it as part of any last stand. But, under the current treaty, our right to station troops in Panama ends in 1999.

This experience illustrates why we should consider renegotiating the security aspect of the Panama Canal Treaty with the goal of permitting United States troops to remain onsite at the canal for its safekeeping even after 1999. The canal is too vital to our security to walk away from it completely at the end of 1999.

THE RETURN OF RICHARD GEPHARDT

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, yesterday, our colleague DICK GEPHARDT ended his campaign in the graceful way he had conducted it all along. His was a class act from start to finish.

Those of us who were privileged to be there heard DICK cast no blame, express no regrets, and instead state that he is the luckiest man in the world.

Our House is certainly a luckier place, with one of our most innovative, thoughtful, and respected legislators continuing to serve with us. Surely, too, the people of Missouri's Third District are lucky to have his continued representation. For more than a decade DICK GEPHARDT's ideas have been a part of much of the major legislation of this House. From health care policy, to tax reform, to trade, he has offered new ideas and the legislative skill to get them adopted.

Apparently James Garfield will remain the most recent sitting Member of the House to be elected to the Presidency. Still we should congratulate DICK GEPHARDT on the campaign he did run.

For days and months he traveled across our country listening to the people, debating the issues and framing a new agenda for the Democratic Party. His message of economic justice continues on. In running for the Presidency, DICK GEPHARDT did each Member of this House proud. We welcome his continued service with us in the people's House.

LEGISLATION CONDEMNING USE OF CHEMICAL WEAPONS BY THE GOVERNMENTS OF IRAN AND IRAQ

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, I rise to express my concern over the use of chemical weapons by the belligerents in the war between Iran and Iraq. Last week, hundreds of innocent people were killed mercilessly by chemical weapons in the Kurdistan region of Iraq. We have all seen the news reports. Families gathered around the meal table—dead. Parents cradling children to their bosoms as the deadly fumes swept through their towns. It looked as if the fourth horseman of the apocalypse had ridden through the town, and left a swath of death in his wake.

Chemical weapons are horrible. They have been denounced by virtually every nation on the planet. The 1925 Geneva protocol banned their use, and it was hoped that they would never again be used. Yet it is believed that both Iran and Iraq have used these terrible weapons in the gulf war.

Utilizing chemical weaponry as a tool of war is, in itself, barbaric, but apparently the Government of Iraq has also used them against its own civilian population. It appears that this is not the first time that chemical weapons have been used in the Kurdistan region. The killing of innocents can never be justified, and massacres such as the one that occurred last week are beyond the pale.

I will be introducing legislation this week that condemns the use of chemical weapons by the Governments of Iran and Iraq. I urge my colleagues to join me in this effort—to, at least for the innocents, bring sanity back to the war in the gulf. We must not remain silent.

VETERANS' ADMINISTRATION HEALTH-CARE AMENDMENTS OF 1987

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2616) to amend title 38, United States Code, to improve health care programs of the Veterans' Administration, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendments to the Senate amendments as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Veterans' Benefits and Services Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND OTHER BENEFITS

PART A—COMPENSATION AND RELATED COST-OF-LIVING ADJUSTMENTS

Sec. 101. Disability compensation and dependency and indemnity compensation.
Sec. 102. Specially adapted housing assistance.
Sec. 103. Automobile assistance allowance.
Sec. 104. Service-connected death benefits.
Sec. 105. Effective dates.

PART B—OTHER COMPENSATION-RELATED PROVISIONS

Sec. 111. Improved benefits for former prisoners of war.
Sec. 112. Presumption of service connection for Lupus.
Sec. 113. Reinstated entitlement for certain survivors.
Sec. 114. Service-connected rehabilitation and education exemptions extensions.
Sec. 115. Study of scientific evidence regarding health effects of exposure to agent orange.
Sec. 116. Effective dates.

PART C—EDUCATION PROVISIONS

Sec. 121. Measurement of Laboratory Instruction.
Sec. 122. Tolling of delimiting periods.
Sec. 123. Authority to waive compliance surveys.
Sec. 124. Effective date of awards under the post-Vietnam era veterans' education assistance program.
Sec. 125. Repeal of expired program of accelerated-payment loans.

PART D—INSURANCE PROVISIONS

Sec. 131. Authority for annuity adjustments.
Sec. 132. Exemptions from State taxation.
Sec. 133. Mortgage protection life insurance.

PART E—PENSION PROVISION

Sec. 141. Income exclusion for casualty loss reimbursements.

TITLE II—VETERANS' RADIATION EXPOSURE

Sec. 201. Short title.
Sec. 202. Findings and conclusions; statement of purpose.
Sec. 203. Provision of disability and death benefits for certain veterans and their survivors.
Sec. 204. Radiation exposure estimates.
Sec. 205. Definitions.
Sec. 206. Preservation of existing rights.
Sec. 207. Extension of health-care eligibility.
Sec. 208. Requirements regarding veterans' environmental hazards advisory committee reports.
Sec. 209. Transportation of plutonium by aircraft through the air space of the United States.
Sec. 210. Effective date.
Sec. 211. Termination of provisions.

TITLE III—HEALTH CARE

PART A—HEALTH-CARE PROGRAMS

Sec. 301. Services to overcome service-connected disabilities affecting procreation.
Sec. 302. Free-basis authority expansion.
Sec. 303. Report on use of contract-care authorities.
Sec. 304. Contract care for service-connected disabled veterans overseas.
Sec. 305. Eligibility for domiciliary care.
Sec. 306. Pilot programs of noninstitutional alternatives to institutional care.
Sec. 307. Community nursing home care in Alaska and Hawaii.
Sec. 308. Acquired immune deficiency syndrome matters.
Sec. 309. Rules and regulations relating to hospital, nursing home, domiciliary and medical care.
Sec. 310. Increase in per diem rates for care in State homes.
Sec. 311. Conditional approvals of applications for State home grants.
Sec. 312. Medicaid treatment of per diem payments to State veterans' homes.
Sec. 313. Therapeutic and rehabilitation revolving fund restoration.
Sec. 314. Veterans' Administration recreation sponsorship authority.
Sec. 315. Pilot program of mobile health-care clinics.

Sec. 316. Mental illness research.
Sec. 317. Report on certain activities relating to training in geriatrics of medical and other health-professional schools affiliated with the Veterans' Administration.

PART B—HEALTH-CARE ADMINISTRATION

Subpart 1—Health Care Personnel

Sec. 321. Organization of the Department of Medicine and Surgery.
Sec. 322. Making nurse additional-pay authorities available to assist in recruitment and retention of pharmacists and occupational therapists.
Sec. 323. Disciplinary matters as to certain appointees.
Sec. 324. Disciplinary actions and grievances.
Sec. 325. Premium pay for Saturday work.
Sec. 326. Educational assistance program.
Sec. 327. Recruitment and retention bonus pay.
Sec. 328. On-call pay.
Sec. 329. Nurse representation.
Sec. 330. Authority to waive licensure and internship requirements for certain health-care personnel.
Sec. 331. Rates of pay for certain psychologists.
Sec. 332. Study of pay and other personnel management practices.
Sec. 333. Child-care services at Veterans' Administration facilities.

Subpart 2—Other Medical Administration Matters

Sec. 341. Repeal of authority to furnish tobacco to hospitalized veterans.
Sec. 342. Hospital cost collections.
Sec. 343. Tort claims.
Sec. 344. Annual Veterans' Administration medical facility construction authorization.
Sec. 345. Standardization of medical and pharmaceutical items.
Sec. 346. Requirements for the procurement of medical and pharmaceutical items.
Sec. 347. Multiyear medical procurements.
Sec. 348. Report on health care resources allocation.

TITLE IV—MISCELLANEOUS

Sec. 401. Prohibition against excessing of certain Veterans' Administration properties.
Sec. 402. National cemetery grave markers.
Sec. 403. Lease of former medical center (Minot, North Dakota).
Sec. 404. Native Hawaiian representation on the advisory committee on Native-American veterans.
Sec. 405. Sales of loans made by the Veterans' Administration to finance the sale of foreclosed properties.
Sec. 406. Transfer of the Arizona Veterans Memorial Cemetery to the Veterans' Administration.
Sec. 407. Naming of Veterans' Administration Medical Center in Shreveport, Louisiana.
Sec. 408. Denial of funds for projects using certain services of foreign countries that deny fair market opportunities.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or a repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND OTHER BENEFITS

PART A—COMPENSATION AND RELATED COST-OF-LIVING ADJUSTMENTS

SEC. 101. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) IN GENERAL.—(1) The Administrator of Veterans' Affairs shall, as provided in paragraph (2), increase, effective December 1, 1987, the rates of and limitations on Veterans' Administration disability compensation and dependency and indemnity compensation.

(2)(A) In the case of each of the rates and limitations in sections 314, 315(1), 362, 411, 413, and 414 of title 38, United States Code, that were increased by amendments made by title I of the Veterans' Compensation Rate Increase and Job Training Amendments of 1985 (Public Law 99-238), the Administrator shall further increase such rates and limitations, as in effect on November 30, 1987, by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1987, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Administrator may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1988, the Administrator shall publish in the Federal Register the rates and limitations being increased under this section and the rates and limitations as so increased.

SEC. 102. SPECIALLY ADAPTED HOUSING ASSISTANCE.

Section 802 is amended—

(1) in subsection (a), by striking out "$35,500" and inserting in lieu thereof "$40,000"; and

(2) in subsection (b), by striking out "$6,000" and inserting in lieu thereof "$6,775".

SEC. 103. AUTOMOBILE ASSISTANCE ALLOWANCE.

Section 1902(a) is amended by striking out "$5,000" and inserting in lieu thereof "$5,530".

SEC. 104. SERVICE-CONNECTED DEATH BENEFITS.

Section 907 is amended by striking out "$1,100" and inserting in lieu thereof "$2,250".

SEC. 105. EFFECTIVE DATES.

(a) COMPENSATION RATE INCREASES.—The provisions of section 101 shall take effect on the date of the enactment of this Act.

(b) OTHER INCREASES.—The amendments made by sections 102, 103, and 104 shall take effect on October 1, 1987.

PART B—OTHER COMPENSATION-RELATED PROVISIONS

SEC. 111. IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR.

(a) DEFINITION OF FORMER PRISONER OF WAR.—Section 101(32)(B) is amended by striking out "during a period other than a period of war in which such person was held".

(b) PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN DISABILITIES.—Section 312(b) is amended—

(1) by striking out "or" at the end of clause (11); and

(2) by inserting after clause (12) the following new clauses:

"(13) peripheral neuropathy,

"(14) irritable bowel syndrome, or

"(15) peptic ulcer disease,".

(c) INTERNMENT PERIOD REQUIRED FOR VETERANS' ADMINISTRATION DENTAL CARE.—Section 612(b)(1)(G) is amended by striking out "six months" and inserting in lieu thereof "90 days".

SEC. 112. PRESUMPTION OF SERVICE CONNECTION FOR LUPUS.

Section 301(3) is amended by inserting below "Leukemia" the following: "Lupus erythematosus, systemic".

SEC. 113. REINSTATED ENTITLEMENT FOR CERTAIN SURVIVORS.

Section 156(a)(1) of Public Law 97-377 (96 Stat. 1830, 1920) is amended—

(1) in subparagrah (B), by inserting "or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code" after "month"; and

(2) in subparagraph (A), by inserting ", or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code," after "(42 U.S.C. 402(g))".

SEC. 114. SERVICE-CONNECTED REHABILITATION AND EDUCATION EXEMPTIONS EXTENSIONS.

Section 113 is amended—

(1) in clauses (4) and (5) of subsection (a), by striking out "(but only with respect to fiscal year 1987)" each place it appears;

(2) by striking out subsection (e); and

(3) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 115. STUDY OF SCIENTIFIC EVIDENCE REGARDING HEALTH EFFECTS OF EXPOSURE TO AGENT ORANGE.

(a)(1) Within 60 days after the date of the enactment of this section, the Administrator of Veterans' Affairs is directed to conclude negotiations for and enter into an agreement with the National Academy of Sciences under which the Academy will conduct a review of all scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its component compounds and prepare the comprehensive report described in subsection (b). The Academy will conduct the review and prepare such report under an arrangement under which the actual expenses incurred by the Academy in conducting the review will be paid by the Administrator.

(2)(A) If the National Academy of Sciences is not willing to conduct the review and prepare the report described in paragraph (1) under the type of arrangement described in such paragraph, the Administrator shall enter into a similar arrangement with an appropriate nonprofit private scientific entity for such purposes.

(B) The Administrator may not obligate any funds under such an arrangement with a nonprofit private scientific entity as described in subparagraph (A) until specifically authorized to do so by a law enacted after the date on which this section is enacted.

(b) Not later than October 1, 1988, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and

House of Representatives and make available to the public a comprehensive report prepared pursuant to an arrangement described in subsection (a)—

(1) describing the review conducted under such subsection; and

(2) containing a statement of the conclusions of the Academy or such other entity as conducts the review, based on such review, as to the weight of the evidence on the human health effects of exposure to agent orange and its component compounds.

(c) The authority provided in this section to enter into a contract shall be effective for a fiscal year to the extent or in such amount as is provided for in an appropriation Act.

SEC. 116. EFFECTIVE DATES.

(a) AMENDMENTS TO TITLE 38.—(1) The amendments made by sections 111 and 112 shall take effect on October 1, 1987.

(2) The amendments made by section 114 shall apply with respect to a sequestration ordered, or a sequestration law enacted, for a fiscal year after fiscal year 1986.

(b) OTHER AMENDMENTS AND PROVISIONS.—(1) The amendments made by section 113 shall take effect on October 1, 1987.

(2) The provisions of section 115 shall take effect on the date of the enactment of this Act.

PART C—EDUCATION PROVISIONS

SEC. 121. MEASUREMENT OF LABORATORY INSTRUCTION.

(a) Section 1788 is amended by—

(1) inserting in clause (B) of the first sentence of the matter following clause (7) of subsection (a) "(or two fifty-minute periods)" after "two hours"; and

(2) inserting in subsection (c) "(or two fifty-minute periods)" after "two hours".

(b) The amendments made by subsection (a) shall apply to any enrollment or reenrollment commencing on or after the date of enactment of this Act.

SEC. 122. TOLLING OF DELIMITING PERIODS.

(a) EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ALL-VOLUNTEER FORCE.—Section 1431(d) is amended—

(1) in clause (1), by inserting, "or because of a condition (and under the circumstances described in paragraph (2) of this subsection" after "misconduct";

(2) in clause (2) by redesignating subclauses (A) and (B) as subclauses (i) and (ii);

(3) by redesignating clauses (1) and (2) as clauses (A) and (B);

(4) by inserting "(1)" before "In";

(5) by inserting at the end the following new paragraph:

"(2)(A) A condition referred to in paragraph (1)(A) of this subsection is an alcohol or drug dependence or abuse condition of an eligible individual in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such individual has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1)(B) of this subsection, an eligible individual's application for and extension of the 10-year period for use of entitlement under this chapter because of such a condition may be granted if such individual files an application for the extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) The period of time during which, based on the existence of such a condition, such 10-year period does not run shall not exceed the lesser of—

"(I) the period during which the eligible individual was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as such individual demonstrates, to the satisfaction of the Administrator, that such individual was prevented by the condition from initiating or completing such program of education, or

"(II) 4 years.

"(iii) When such an extension is granted, the 10-year period with respect to the individual will again begin running on whichever of the following first occurs—

"(I) the first day, following the condition becoming sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with the regulations prescribed pursuant to subparagraph (A) of this paragraph, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the fourth year of the extension.".

(b) PROGRAMS OF REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.—Section 1503(b) (1) is amended—

(1) by inserting "(A)" before "In";

(2) by inserting "(other than a condition described in subparagraph (B) (ii) of this paragraph)" after "medical condition" in subparagraph (A), as so redesignated; and

(3) by inserting at the end the following new subparagraph:

"(B)(i) Subject to clauses (iii) and (iv) of this subparagraph, in any case in which the Administrator determines, under regulations which the Administrator shall prescribe, that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in clause (ii) of this subparagraph made it infeasible for the veteran to participate in such a program, the 12-year period of eligibility shall not run during the period of time that the veteran was so prevented from participating in such a program.

"(ii) A condition referred to in clause (i) of this subparagraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(I) the veteran has received recognized treatment or has participated in a program of rehabilitation for the condition, and

"(II) the condition is sufficiently under control to enable the veteran to participate in a vocational rehabilitation program under this chapter.

"(iii) Clause (i) of this subparagraph applies only if the veteran has filed an application under this paragraph not later than one year after whichever of the following last occurs:

"(I) The last date of the period of eligibility otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to clause (i) of this subparagraph are published in the Federal Register.

"(iv) The period of time during which, pursuant to clause (i) of this subparagraph, the 12-year period of eligibility does not run shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for a condition described in clause (ii) of this subparagraph plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, or

"(II) 4 years.

"(v) When pursuant to clause (i) of this subparagraph a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on whichever of the following first occurs—

"(I) the first day, following such condition becoming sufficiently under control to enable the veteran to participate in such program of vocational rehabilitation, on which it is reasonably feasible, in accordance with under the regulations prescribed pursuant to clause (i) of this subparagraph, for the veteran to participate in such a program, or

"(II) the period of time during which that 12-year period of eligibility has, pursuant to such clause, been stopped from running equals 4 years.".

(c) EDUCATIONAL ASSISTANCE FOR POST-VIETNAM ERA VETERANS.—Section 1632(a) is amended—

(1) in paragraph (2)(A)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4)(A) of this section," after "misconduct,"; and

(B) by inserting "(except as provided in paragraph (4)(B) of this subsection)" after "length of time";

(2) in paragraph (3) by inserting "because of such disability" after "subsection"; and

(3) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) the veteran has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible veteran may be granted an extension of the applicable delimiting period because of such a condition if the veteran files an application for such extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date of which final regulations prescribed pursuant to subparagraph (A) of

this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by the condition from initiating or completing such program of education, or

"(II) 4 years.

"(iii) When such an extension is granted, the delimiting period with respect to the veteran will again begin running on whichever of the following first occurs—

"(I) the first day, following the condition becoming sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for the veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the end of the fourth year of the extension.".

(d) EDUCATION ASSISTANCE FOR VIETNAM-ERA VETERANS.—Section 1662(a) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting "or because of a condition (and under the circumstances) described in paragraph (4) of this subsection," after "misconduct"; and

(B) in the second sentence, by inserting "because of such disability" after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (1) of this subsection is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) the veteran has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such a condition if the veteran files an application for the extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by the condition from initiating or completing such program of education, or

"(II) 4 years.

"(iii) When such an extension is granted, the delimiting period with respect to the veteran will again begin running on whichever of the following first occurs—

"(I) the first day, following such condition becoming sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with the regulations prescribed pursuant to subparagraph (A) of this paragraph, for the veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the end of the fourth year of the extension.".

"(e) EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS.—Section 1712(b) is amended—

(1) in paragraph (2)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4)(A) of this section," after "misconduct";

(B) by inserting "(except as provided in paragraph (4)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability," after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such person has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such a condition if such person files an application for such extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the eligible person was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by the condition from initiating or completing such program of education, or

"(II) 4 years.

"(iii) When such an extension is granted, the delimiting period with respect to such person will again begin running on whichever of the following first occurs—

"(I) the first day, following the condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with the regulations precribed pursuant to subparagraph (A) of this paragraph, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the end of the fourth year of the extension.".

SEC. 123. AUTHORITY TO WAIVE COMPLIANCE SURVEYS.

The text of section 1793 is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, the Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons where at least 300 veterans or persons are enrolled under provisions of this title or when the course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 31, 34, 35, and 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section.

"(b) The Administrator may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if such an institution has a demonstrated record of compliance with all the applicable provisions of chapters 31, 34, 35, and 36 of this title warranting a determination that the waiver would be appropriate and in the best interest of the United States Government.".

SEC. 124. EFFECTIVE DATE OF AWARDS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATION ASSISTANCE PROGRAM.

Section 3013 is amended by inserting "32," after "31,".

SEC. 125. REPEAL OF EXPIRED PROGRAM OF ACCELERATED-PAYMENT LOANS.

Sections 1682A, 1686, 1737, and 1738 are repealed.

PART D—INSURANCE PROVISIONS

SEC. 131. AUTHORITY FOR ANNUITY ADJUSTMENTS.

(a)(1) Subchapter 1 of chapter 19 is amended by adding at the end the following new section:

"§ 727. Authority for higher monthly installments payable to certain annuitants

"(a) Notwithstanding sections 702, 723, and 725 of this title, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving such proceeds under a life annuity settlement option. The Adminstrator may make such adjustments only in accordance with a determination that the adjustments are administratively and actuarially sound for the program of insurance concerned.

"(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attribut-

able solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly annuity amounts authorized in sections 702, 723, and 725 of this title shall remain the minimum rates payable.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 726 the following new item:

"727. Authority for higher monthly installments payable to certain annuitants.".

(b)(1) Subchapter II of chapter 19 is further amended by adding at the end the following new section:

"§ 762. Authority for higher monthly installments payable to certain annuitants

"(a) Notwithstanding section 744 of this title, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving such proceeds under a life annuity settlement option. The Administrator may make such adjustments only in accordance with a determination that the adjustments are administratively and actuarially sound.

"(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) In no event shall calculations of the monthly installment amount be less than that authorized in section 744 of this title.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 761 the following new item:

"762. Authority for higher monthly installments payable to certain annuitants.".

SEC. 132. EXEMPTIONS FROM STATE TAXATION.

Section 769 is amended by adding at the end the following new subsection:

"(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority thereof, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

SEC. 133. MORTGAGE PROTECTION LIFE INSURANCE.

(a) IN GENERAL.—Section 806 is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Administrator is authorized—

"(1) to establish a program that provides the insurance benefits specified in this section and to obligate the United States to pay the insurance benefits under such program; or

"(2) to purchase from one or more life insurance companies, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), a policy or policies of mortgage protection life insurance on a group basis to provide such benefits.";

(2) in subsection (b), by striking out "Any policy of insurance purchased by the Administrator under this section" and inserting in lieu thereof "Any program established under subsection (a)(1) of this section and any policy of insurance purchased by the Administrator under subsection (a)(2) of this section";

(3) in subsection (d)—

(A) by inserting ", in the case of insurance purchased under subsection (a)(2) of this section," in the second sentence after "Veterans' Administration and"; and

(B) by striking out "directly to the insurer or insurers" in the third sentence and inserting in lieu thereof "directly to the United States (in the case of an insurance program established under subsection (a)(1) of this section) or directly to the insurer or insurers (in the case of insurance purchased under subsection (a)(2) of this section)";

(4) in subsection (e)—

(A) by designating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively;

(B) by inserting after paragraph (1), as designated in subclause (A), the following new paragraph:

"(2) Premiums collected for insurance under any program established under subsection (a)(1) of this section shall be credited to the 'Veterans Insurance and Indemnities' appropriation and all disbursements of insurance proceeds under such program shall be made from that appropriation."; and

(C) by inserting "subsection (a)(2) of" in paragraph (3), as designated in subclause (A), after "purchased under";

(5) in subsection (h)—

(A) by striking out "contracted for" each place it appears and inserting in lieu thereof "provided"; and

(B) by striking out "policy" in the third sentence and inserting in lieu thereof "Administrator (in the case of a program established under subsection (a)(1) of this section) or by a policy purchased under subsection (a)(2) of this section";

(6) in subsection (i)—

(A) by striking out "Insurance contracted for" and inserting in lieu thereof "Insurance provided in the case of any veteran"; and

(B) by striking out "the entire contract or agreement" in clause (5) and inserting in lieu thereof "the insurance program or, in the case of insurance contracted for under subsection (a)(2) of this section, the contract.";

(7) in subsection (j), by striking out "of the mortgage protection life insurance" and inserting in lieu thereof "life insurance under this section"; and

(8) by adding at the end the following:

"(k)(1) There may not be in effect at the same time any program under subsection (a)(1) of this section and any insurance contract purchased under subsection (a)(2) of this section.

"(2) The Administrator may terminate any program referred to in paragraph (1) of this subsection or any contract referred to in such paragraph in order to comply with the requirements of such paragraph.

"(l) The Administrator shall ensure that a veteran who is insured under a program or life insurance policy terminated under subsection (k) of this section shall continue to be insured under any successor program established under subsection (a)(1) of this section or any successor policy purchased under subsection (a)(2) of this section.

"(m)(1) In the case of any policy of insurance purchased in accordance with this section that is terminated under subsection (k) of this section—

"(A) the amount equal to the total amount of the premiums collected or received by an insurer under such policy on or after the date of the termination, and

"(B) any positive balance in the contingency reserve maintained by the insurer under such policy that remains after all charges have been made to such reserve,

shall be paid to the Administrator and shall be deposited in the Treasury of the United States.

"(2) Any insurer that is required to pay an amount out of funds in a contingency reserve under paragraph (1) of this subsection may, upon the election of such insurer, pay such amount in equal monthly installments over a period of not more than 2 years.

"(n) No right of a veteran or mortgage loan holder under an insurance program or policy terminated under subsection (k) of this section shall be impaired by reason of such termination if such right matured before the date of the termination.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1987.

PART E—PENSION PROVISION

SEC. 141. INCOME EXCLUSION FOR CASUALTY LOSS REIMBURSEMENTS.

(a) IN GENERAL.—(1) Clause (5) of section 503(a) is amended to read as follows:

"(5) reimbursement of any kind for any casualty loss, as defined in regulations which the Administrator shall prescribe, but in no event shall the amount to be excluded exceed the greater of the fair market value or reasonable replacement value of the property involved immediately preceding the loss;"; and

(2) Clause (I) of section 415(f)(1) is amended to read as follows:

(I) reimbursement of any kind for any casualty loss, as defined in regulations which the Administrator shall prescribe, but in no event shall the amount be excluded exceed the greater of the fair market value or reasonable replacement value of the property involved immediately preceding the loss;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1987.

TITLE II—VETERANS' RADIATION EXPOSURE

SEC. 201. SHORT TITLE.

This title may be cited as the "Veterans' Radiation Exposure Disability and Death Benefits Act of 1987".

SEC. 202. FINDINGS AND CONCLUSIONS; STATEMENT OF PURPOSE.

(a)(1) The Congress makes the following findings:

(A) In November 1985, the General Accounting Office (hereinafter in this section referred to as the "GAO") released the results of a two-year study requested by the Congress of radiation exposure and radiation safety measures during "Operation Crossroads", the 1946 nuclear weapons test series in the Pacific in which over forty-two thousand members of the Armed Forces participated, the largest number of participants of any such test series. The GAO concluded

that the estimates of radiation exposure prepared by the Defense Nuclear Agency (hereinafter in this section referred to as the "DNA") for that operation may have significantly understated the actual ionizing radiation exposure received by participants in Operation Crossroads. Specifically, the GAO found:

(i) The DNA radiation exposure estimates were derived primarily from readings taken from film badges designed to detect radiation, which were worn by participants in Operation Crossroads. However, only 15 percent of the participants actually were issued film badges, and the badges were not worn throughout the entire course of Operation Crossroads.

(ii) The DNA radiation exposure estimates failed to take into account problems related to the film badges which could have resulted in readings that were inaccurate by as much as 100 percent as a result of defects in the film or in its processing.

(iii) The DNA radiation exposure estimates failed to take into account the extent to which Operation Crossroads participants received additional radiation exposure as a result of a lack or violation of comprehensive decontamination procedures.

(iv) The DNA radiation exposure estimates did not adequately measure internal radiation exposure which could have resulted from ingestion or inhalation, thereby likely further underestimating total radiation exposure.

(B) In February 1986, the GAO began a Congressionally-requested study of three nuclear weapons test series (Operation Tumbler-Snapper, a 1952 Nevada test series, Operation Redwing, a 1956 Pacific test series, and Operation Dominic I, a 1961 Pacific test series) in order to determine the radiation exposure of personnel manning or decontaminating aircraft that flew through nuclear clouds at those tests. The GAO's preliminary findings from this study of approximately 900 Air Force personnel from these operations involved in cloud sampling parallel its findings in the Crossroads study that DNA radiation exposure estimates significantly understate actual radiation exposure and that radiation safety measures were inconsistently applied, and also found that, contrary to DNA assertions, a substantial number of the participants in these operations received significant amounts of radiation exposure.

(C) On the basis of the GAO reports, the Congress has concluded that the DNA's radiation exposure estimates provide an incomplete measure of the radiation exposure received by participants in Operation Crossroads, Tumbler-Snapper, Redwing, and Dominic I and that serious questions have been raised about the accuracy of such estimates in general.

(D) The DNA radiation exposure estimates have been relied on by the Veterans' Administration (hereinafter in this section referred to as the "VA") in evaluating, and generally denying, claims made by veterans or veterans' survivors for compensation in connection with radiation exposure received during Operation Crossroads.

(E) Including more than forty two thousand veterans who participated in Operation Crossroads, approximately 200,000 veterans participated in 235 detonations of nuclear devices in connection with the nuclear weapons testing program. As outlined in paragraphs (8) and (9) of section 2 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542), enacted on October 24, 1984, Congress found in that Act:

(i) The film badges which were originally issued to members of the Armed Forces in connection with the nuclear weapons testing program have previously constituted a primary source of dose information for veterans and survivors of veterans filing claims under chapter 11 or 13 of title 38, United States Code, for VA disability compensation or dependency and indemnity compensation in connection with exposure to radiation.

(ii) These film badges often provide an incomplete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses, were not issued to most of the participants in the tests, often provided questionable readings because they were shielded during the detonation, and were worn for only limited periods during and after each nuclear detonation.

(F) Studying the radiation exposure and long-term health effects of the tests other than Operation Crossroads and of the cloud-sampling operations other than Operations Tumbler-Snapper, Redwing, and Dominic I, would entail many years, and the delay in providing relief to veterans suffering radiation-related diseases would be unacceptable.

(G) Because of the relatively small size of the population of ionizing radiation-exposed veterans, the high incidence of cancer in the general population, and the great difficulty in locating individuals twenty-five to forty years after their radiation exposure, no scientifically feasible morbidity study has yet been designed of the veterans who participated in the nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan. A mortality study of a group of veterans from one series of detonations—Operation Crossroads—is only now in its early stages. An earlier mortality study of the veterans from five test series was severely criticized because of the failure to utilize a scientifically appropriate control group.

(H) Scientific research over many years has proven conclusively the dangers to human health from exposure to ionizing radiation.

(2) On the basis of the foregoing findings, the Congress concludes that a significant portion, if not all, of the veterans present at the nuclear detonations were exposed to some quantity of ionizing radiation from inhalation, ingestion, or external exposure and that no fully acceptable or reliable method has been developed to estimate those levels of exposure.

(3) The Congress makes the following further findings:

(A) It has become clear that the present process for adjudicating radiation-exposure claims that has been based on such radiation exposure estimating methods as are described in paragraph (1) of this section has resulted in a lack of fairness and consistency in the adjudication of those claims. As the Congress found in 1984 in section 2(12) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542), such claims—particularly those involving health effects with long latency periods—present adjudicatory issues which differ significantly from the issues presented in claims based upon the more usual types of injuries incurred in military service. Although since 1978 substantially more than six thousand claims for compensation or dependency and indemnity compensation have been filed by veterans and their survivors with the VA for disabilities claimed to have resulted from radiation exposure received during participation in the nuclear weapons testing program or in the occupation of Hiroshima or Nagasaki, Japan, the VA has awarded benefits in only twenty-eight of those cases.

(B) There is some evidence that officials of the United States Government were aware as early as 1945 of the risks of long-term, adverse health effects from exposure to ionizing radiation and much evidence of such awareness on the part of such officials by the early 1950's. Nevertheless, military personnel repeatedly were exposed to ionizing radiation in connection with the nuclear weapons testing program from 1945 to 1962. These military personnel were not informed of the risks associated with their participation in the program; nor was their health status systematically monitored thereafter.

(C) Accordingly, exposing these military personnel to such risks in experiments relating to the development and potential use of nuclear weapons, and making no systematic effort to monitor their health thereafter, places an even greater than usual responsibility on the Government to ensure that these veterans receive appropriate compensation as well as necessary health care through the VA for any disabilities resulting from such exposure.

(D) The precise correlation between specific doses of ionizing radiation and the probability of cancer induction in a particular body organ or tissue in a given individual is not known at this time. What is known, however, is the following:

(i) Certain body organs and tissues have been shown to have a high susceptibility to induction of cancers by ionizing radiation, and not to be associated with any other risk factors. The resultant diseases are cancer of the thyroid and leukemia (excluding chronic lymphocytic leukemia).

(ii) Other body organs and tissues have been shown to be moderately susceptible to induction of cancer by radiation and to not be as associated with any other risk factors. The resultant diseases are cancer of the small intestine, cancer of the stomach, cancer of the liver (except where cirrhosis or hepatitis B is indicated), cancer of the bile ducts, cancer of the gallbladder, cancer of the pancreas, lymphomas (excluding Hodgkin's disease), and multiple myeloma. The link between such diseases and radiation exposure, and therefore the likelihood that the disease was incurred during service, is less well-established than it is between the diseases referred to in division (i) of this subparagraph.

(iii) Certain other body organs and tissues have been shown to be moderately susceptible or somewhat susceptible to induction of cancer by radiation, but either generally much less susceptible than those described in divisions (i) and (ii) of this subparagraph or equally or even more associated with other risk factors than they are susceptible to induction by radiation. The resultant diseases are cancer of the lung, cancer of the colon, cancer of the esophagus, cancer of the rectum, cancer of the pharynx, cancer of the liver where cirrhosis or hepatitis B is indicated, cancer of the kidney, cancer of the urinary tract, cancer of the bladder, cancer of the brain and nervous system, cancer of the salivary glands, cancer of the bones and joints, and cutaneous melanoma. The link between such diseases and radiation exposure, and therefore the likelihood that the disease was incurred during service, is much less well-established than it is between the

diseases referred to in division (1) of this subparagraph.

(E) As stated in section 2(13) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542), it has always been the policy of the VA, and it is the policy of the United States, that when, with respect to individual claims for service connection of diseases and disabilities, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of a claim, the benefit of the doubt in resolving each such issue shall be given to the claimant.

(b) It is therefore the purpose of this Act to establish a process within the VA for carrying out the findings and conclusions of the Congress set forth in subsection (a) in order to—

(1) provide a monthly disability or death benefit equal to that provided in chapter 11 or 13 of title 38, United States Code, based on the exposure of a veteran to ionizing radiation during participation in the nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, when the veteran develops a disease, described in subparagraph (D)(i) of this paragraph, which has been shown to be strongly susceptible to induction by radiation and which has not been shown to be strongly associated with any other risk factors;

(2) provide such a monthly disability or death benefit based on the exposure of such a veteran to more than one rem of ionizing radiation during participation in the nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, when the veteran develops a disease, described in subparagraph (D)(ii) of this paragraph, which has been shown to be moderately susceptible to induction by radiation and which has not been shown to be associated with other significant risk factors; and

(3) provide special consideration of claims for compensation or dependency and indemnity compensation under chapter 11 or 13 of title 38, United States Code, based on the exposure of a veteran to ionizing radiation during participation in the nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, when the veteran (A) has an estimated service-related radiation exposure of more than 1 rem as computed pursuant to subsection (c) of section 354 of title 38, United States Code (as added by section 204 of this Act), develops a disease, described in subparagraph (D)(iii) of this paragraph, which has been shown to be moderately susceptible or somewhat susceptible to induction by radiation, but generally much less so than those diseases referred to in paragraphs (1) and (2) of this subsection, or is equally or more strongly associated with other risk factors than with radiation.

SEC. 203. PROVISION OF DISABILITY AND DEATH BENEFITS FOR CERTAIN VETERANS AND THEIR SURVIVORS.

Title 38 is amended by inserting after chapter 13 the following new chapter:

"CHAPTER 14—DISABILITY AND DEATH BENEFITS FOR CERTAIN VETERANS EXPOSED TO IONIZING RADIATION AND THEIR SURVIVORS

"Sec.
"451. Definitions.
"452. Disability and death benefits for radiation-exposed veterans and their survivors.
"453. Rates of disability and death benefits.
"454. Special consideration in connection with other diseases.
"455. Contrary affirmative evidence.
"456. Other benefits.

"§ 451. Definitions

"For the purpose of this chapter, the term 'radiation-exposed veteran' means a veteran (including a person who died in the active military, naval, or air service) who during such veteran's service (1) participated on site in the United States Government's test of a nuclear device or in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, or (2) in connection with such veteran's internment as a prisoner of war in Japan during World War II, experienced an opportunity for exposure to ionizing radiation from a nuclear detonation which the Administrator finds to have been comparable to the opportunity for such exposure of a veteran who so participated in such occupation.

"§ 452. Disability and death benefits for radiation-exposed veterans and their survivors

"(a) In the case of a radiation-exposed veteran who suffers or has died from a disease specified in subsection (c)(1) of this section, the Administrator shall pay a monthly disability benefit to such veteran or a monthly death benefit to the survivors of such veteran in accordance with section 453 of this title.

"(b) In the case of a radiation-exposed veteran who suffers or has died from a disease specified in subsection (c)(2) of this section and whose estimated service-related radiation exposure, as computed pursuant to section 354(c) of this title, exceeds 1 rem, the Administrator shall pay a monthly disability benefit to such veteran or a monthly death benefit to the survivors of such veteran in accordance with section 453 of this title.

"(c)(1) The diseases referred to in subsection (a) of this section are the following:

"(A) cancer of the thyroid, when manifested 5 or more years after the first date on which the radiation-exposed veteran participated in the ionizing radiation-exposing activity;

"(B) leukemia (except for chronic lymphocytic leukemia), when manifested within 30 years after the last date on which the radiation-exposed veteran participated in the ionizing radiation-exposing activity.

"(2) The diseases referred to in subsection (b) of this section are the following, when manifested 5 or more years after the first date on which the radiation-exposed veteran participated in the ionizing radiation-exposed activity:

"(A) cancer of the small intestine;

"(B) cancer of the stomach;

"(C) cancer of the liver, except where cirrhosis or hepatitis B is indicated;

"(D) cancer of the bile ducts;

"(E) cancer of the gallbladder;

"(F) cancer of the pancreas;

"(G) lymphomas (excluding Hodgkin's disease); and

"(H) multiple myeloma.

"(d) A benefit may not be paid under this section with respect to a disease or the death of a radiation-exposed veteran for any month for which compensation is payable to that veteran for that disease under chapter 11 of title 38, United States Code, or for which dependency and indemnity compensation is payable for that death under chapter 13 of such title.

"§ 453. Rates of disability and death benefits

"A disability benefit payable to a veteran for a disease specified in section 452(c) of this title shall be paid at the rate at which compensation would be payable under chapter 11 of this title for the disability resulting from such disease if the disability were determined to be service connected, and a death benefit payable to the survivors of a radiation-exposed veteran pursuant to section 452 of this title shall be paid based on the eligibility requirements (other than any requirement relating to the service-connection or compensability of a disability) and at the rates that apply to benefits under chapter 13 of this title.

"§ 454. Special consideration in connection with other diseases

"(a) When a claim is filed by a radiation-exposed veteran or a survivor of a radiation-exposed veteran for benefits under chapter 11 or chapter 13 of this title, in connection with any disease specified in subsection (b) of this section and such veteran's estimated service related radiation exposure, as computed pursuant to subsection (c) of section 354 of title 38, United States Code (as added by section 204 of this Act), exceeds 1 rem, the Administrator shall give special consideration to the adjudication of such claim, including giving conclusive weight to the findings of the Congress set forth in section 2 of the Veterans' Radiation Exposure Disability and Death Benefits Act of 1987 relating to the relationship between the disease for which benefits are claimed and ionizing radiation exposure, in the process of evaluating the claim using the radiation-exposed veteran's estimated service-related radiation exposure as computed pursuant to section 354(c) of this title.

"(b) The diseases referred to in subsection (a) of this section are the following, when manifested 5 or more years after the first date on which the radiation-exposed veteran participated in the ionizing radition-exposing activity:

"(1) cancer of the lung;

"(2) cancer of the colon;

"(3) cancer of the esophagus;

"(4) cancer of the rectum;

"(5) cancer of the pharynx;

"(6) cancer of the liver where cirrhosis or hepatitis B is indicated;

"(7) cancer of the kidney;

"(8) cancer of the urinary tract;

"(9) cancer of the bladder;

"(10) cancer of the brain and nervous system;

"(11) cancer of the salivary glands;

"(12) cancer of the bones and joints; and

"(13) cutaneous melanoma.

"§ 455. Contrary affirmative evidence

"The provisions of this chapter shall not apply with respect to a disease occurring in a radiation-exposed veteran—

"(1) where there is affirmative evidence that the disease was not incurred as the result of the veteran's participation in the United States Government's test of a nuclear device or in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946; or

"(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of the disease was suffered by the veteran between the date of the veteran's most recent participation in such a test or in such occupation and the onset of such described disease.

"§ 456. Other benefits

"(a) Any disease establishing eligibility for a disability or death benefit under this chapter shall be treated for purposes of all other laws of the United States (other than chapters 11 and 13 of this title) as if such disease were service connected.

"(b) Receipt of any disability or death benefit under this chapter shall be treated for purposes of all other laws of the United States as if such benefit were compensation under chapter 11 of this title or dependency and indemnity compensation under chapter 13 of this title, respectively.".

SEC. 204. RADIATION EXPOSURE ESTIMATES.

(a) Section 301 is amended by adding at the end the following new paragraphs:

"(5) The term 'radiation-exposed veteran' has the same meaning given such term in section 451 of this title.

"(6) The term 'DNA estimate' means the radiation exposure estimate calculated by the Defense Nuclear Agency of the Department of Defense pursuant to the guidelines, as in effect on July 31, 1987, prescribed by the Secretary of Defense pursuant to section 7(a)(1) of the Veterans' Dioxin and Radiation Compensation Standards Act (Public Law 98-542).".

(b) Section 354 is amended by adding at the end the following new subsection:

"(c) For the purpose of adjudicating a claim for benefits under chapter 11, 13, or 14 of this title, submitted by a radiation-exposed veteran or by the survivor of a radiation-exposed veteran, the veteran's estimated service-related radiation exposure shall be the total of the highest radiation exposure estimate determined by the Director of the Defense Nuclear Agency (or any other appropriate office of the Department of Defense) for that individual, as established by film badge reading, reconstruction, or a combination of film badge reading and reconstruction, plus—

"(1) in the case of a radiation-exposed veteran who participated on site in an operation in the United States Government's nuclear weapons testing program—

"(A) an additional 5 rems, if the DNA estimates indicate that 25 percent or more of the members of the radiation-exposed veteran's service branch participating in the operation, or 25 percent or more of the total number of participants in the operation, were exposed to more than 3 rems of ionizing radiation;

"(B) an additional 3 rems, if the DNA estimates indicate that 25 percent or more of the members of the radiation-exposed veteran's service branch participating in the operation, or 25 percent or more of the total number of participants in the operation, were exposed to more than 1 rem of ionizing radiation; or

"(C) an additional 1 rem, if the DNA estimates indicate that 20 percent or more of the members of the radiation-exposed veteran's service branch participating in the operation, or 20 percent or more of the total number of participants in the operation, were exposed to more than 0.5 rem of ionizing radiation;

"(2) in the case of a radiation-exposed veteran who (A) participated on site in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, or (B) was interned as a prisoner of war in Japan during World War II, an additional 1 rem; or

"(3)(A) in the case of a radiation-exposed veteran (i) who (I) participated on site in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, or (II) was interned as a prisoner of war in Japan during World War II, and (ii) participated in one or more nuclear weapons tests, the total of the highest numbers of rems determined for such veteran under subclauses (A), (B), and (C) of clause (1) of this subsection plus any number of rems determined under clause (2) of this subsection; or

"(B) in the case of a radiation-exposed veteran who participated on site in more than one nuclear weapons test, the total of the highest numbers of rems determined for such veteran under subclauses (A), (B), and (C) of clause (1) of this subsection.".

SEC. 205. DEFINITIONS.

For the purpose of this Act, the term "radiation-exposed veteran" has the same meaning given such term in section 451 of title 38, United States Code (as added by section 203 of this Act).

SEC. 206. PRESERVATION OF EXISTING RIGHTS.

Nothing in this Act shall in any way operate or be construed to prevent the granting of service connection under chapter 11 or 13 of title 38, United States Code, in the case of any disease or disability from which a radiation-exposed veteran suffers or has died, including those diseases or disabilities described in this Act, otherwise determined through the exercise of sound judgment to have been incurred in or aggravated by active military, naval, or air service, including such veteran's participation in the United States Government's nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946.

SEC. 207. EXTENSION OF HEALTH-CARE ELIGIBILITY.

The provisions of section 610(a)(1)(G) of title 38, United States Code, as such provisions relate to eligibility for hospital care on the basis of exposure to radiation, shall, notwithstanding any such provision, terminate no earlier than the date on which, pursuant to section 210 of this Act, the provisions of the amendments made by sections 203 and 204 of this Act terminate.

SEC. 208. REQUIREMENTS REGARDING VETERANS' ENVIRONMENTAL HAZARDS ADVISORY COMMITTEE REPORTS.

Section 6(d)(3) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542) is amended by striking out "the Committee and the Administrator" and inserting in lieu thereof "the Committee, the Administrator, and the Committees on Veterans' Affairs of the Senate and House of Representatives".

SEC. 209. TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH THE AIR SPACE OF THE UNITED STATES.

(a) Notwithstanding any other provision of law, plutonium in any form may not be transported by aircraft from a foreign nation to a foreign nation through the air space of the United States unless—

(1) the possible routes for shipment, including landing sites and refueling points, if any, have been evaluated in accordance with the National Environmental Policy Act (Public Law 91-190) and all other applicable law, and

(2) such plutonium is transported in a container which the Nuclear Regulatory Commission has certified to Congress as safe in accordance with subsection (b) and all other applicable law including Public Law 94-79 and related regulations.

(b) The Nuclear Regulatory Commission shall—

(1) conduct an actual crash test of a cargo aircraft carrying a sample full scale container loaded with test material;

(2) conduct an actual drop test from maximum cruising altitude of a sample full scale container loaded with test material;

(3) cerfity to the Congress that a safe container for use in the transport of plutonium by aircraft has been developed and tested—

(A) in accordance with paragraphs (1) and (2),

(B) in a way which uses the best practicable means to simulate actual transport conditions, and

(C) which did not rupture and release its contents into the environment during such tests; and

(4) evaluate the container certification required by Public Law 94-79 and paragraph (3) in accordance with the National Environmental Policy Act (Public Law 91-190) and all other applicable law.

(c)(1) The tests required by subsection (b) shall be designed by the Nuclear Regulator Commission after public notice and a reasonable opportunity for public comment on the design of such tests.

(2) The results of all tests under this section shall be available to the public and submitted to the Congress.

(d) Plutonium in any form contained in a medical device designed for individual human application is not subject to the provisions of this section: Provided, That this section shall take effect on December 15, 1987.

SEC. 210. EFFECTIVE DATE.

(a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) The amendments made by sections 203 and 204 shall take effect on January 1, 1988. No benefit may be paid for any period before such date by reason of the enactment of this Act.

SEC. 211. TERMINATION OF PROVISIONS.

The amendments made by sections 203 and 204 shall not apply with respect to any claim for benefits filed after September 30, 1991.

TITLE III—HEALTH CARE

PART A—HEALTH-CARE PROGRAMS

SEC. 301. SERVICES TO OVERCOME SERVICE-CONNECTED DISABILITIES AFFECTING PROCREATION.

Clause (A) of section 601(6) is amended to read as follows:

"(A)(i) surgical services, (ii) services to achieve pregnancy in a veteran or a veteran's spouse where such services are necessary to overcome a service-connected disability impairing the veteran's procreative ability, (iii) dental services and appliances as described in sections 610 and 612 of this title, (iv) optometric and podiatric services, (v) (in the case of a person otherwise receiving care or services under this chapter) preventive health-care services as defined in section 662 of this title, (vi) (except under the conditions described in section 612(f)(1)(A)(i) of this title) wheelchairs, artificial limbs, trusses and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Administrator determines to be reasonable and necessary, and (vii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and".

SEC. 302. FEE-BASIS AUTHORITY EXPANSION.

(a) Section 603(a) is amended—

(1) in clause (3), by inserting "or nursing home care under section 620 of this title" after "facility" the first time it appears;

(2) in clause (6), by striking out "or" at the end;

(3) in clause (7), by striking out the period at the end and inserting in lieu thereof "; or"; and

(4) by adding at the end the following new clause:

"(8) diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Veterans' Administration.".

SEC. 303. REPORT ON USE OF CONTRACT-CARE AUTHORITIES.

Section 201(b) of the Veterans' Health Care Amendments of 1979 (Public Law 96-22; 93 Stat. 54) is amended by striking out all after "implementation of" and inserting in lieu thereof "sections 603 and 620 of title 38, United States Code, and on the numbers of veterans provided contract treatment (and the average cost and duration thereof) in each State (as defined in section 101(20) of title 38, United States Code) in each of the categories described in—

"(1) the following provisions of subsection (a) of such section 603: subclauses (A) and (B) of clause (1); subclauses (A), (B), and (C) of clause (2); clause (3); clause (4); clause (5), with a breakdown showing inpatient care and outpatient treatment separately; clause (6); clause (7); and clause (8) (as added by section 302 of this Act), with a breakdown showing inpatient care and outpatient treatment separately; and

"(2) subsections (a) and (f) of such section 620.".

SEC. 304. CONTRACT CARE FOR SERVICE-CONNECTED DISABLED VETERANS OVERSEAS.

Section 624(b) is amended to read as follows:

"(b) The Administrator may furnish to any otherwise eligible veteran who is sojourning or residing abroad such hospital care and medical services as the Administrator determines are needed (A) for a service-connected disability, or (B) as part of a rehabilitation program under chapter 31 of this title.".

SEC. 305. ELIGIBILITY FOR DOMICILIARY CARE.

(a) IN GENERAL.—Subsection (b) of section 610 is amended to read as follows:

"(b) The Administrator, through Veterans' Administration facilities, may furnish such domiciliary care as the Administrator determines is needed by a veteran for the purpose of receiving treatment or rehabilitation if the Administrator finds, pursuant to regulations which the Administrator shall prescribe, that the veteran—

"(1) has a service-connected disability, or

"(2) is incapacitated from earning a living and has no adequate means of support.".

(b) CONFORMING AMENDMENT.—Section 622(g) is amended by striking out "sections 610(b)(2) and" and inserting in lieu thereof "section".

SEC. 306. PILOT PROGRAM OF NONINSTITUTIONAL ALTERNATIVES TO INSTITUTIONAL CARE.

(a) ESTABLISHMENT OF PILOT PROGRAM.—Subchapter II of chapter 17 is amended by adding at the end the following new section:

"§ 620D. Noninstitutional alternatives to institutional care; pilot program

"(a)(1) The Administrator, during the period beginning January 1, 1988, and ending December 31, 1991, and subject to subsection (c) of this section, shall conduct a pilot program under which veterans eligible under this chapter for and otherwise in need of hospital, nursing home, or domiciliary care will be furnished medical, rehabilitative, and health-related services in noninstitutional settings at not less than five nor more than ten demonstration project sites.

"(2) In selecting veterans for participation in the program, the Administrator shall accord priority to veterans who have service-connected disabilities, to veterans who are sixty-five years of age or older, to veterans who are totally and permanently disabled, and to veterans who are suffering from Alzheimer's disease or other forms of dementia.

"(b)(1)(A) In the conduct of the program, the Administrator shall (i) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (ii) in the case of each veteran furnished services under the program, appoint a Veterans' Administration health-care employee to furnish case management services.

"(B) For the purposes of subparagraph (A) of this paragraph, 'case management' includes the coordination and facilitation of all services furnished to a veteran by the Veterans' Administration, either directly or through contract, including, but not limited to, screening, assessment of needs, planning, referral (including referral for services to be furnished by the Veterans' Administration, either directly or through a contract, or by an entity other than the Veterans' Administration) monitoring, reassessment, and follow up.

"(2) In order to evaluate the cost-effectiveness of utilizing certain health services of agencies other than the Veterans' Administration in cases in which no Veterans' Administration facility in the vicinity of a demonstration project provides such services, the Administrator, in not more than two of the demonstration projects, may utilize appropriate health services of appropriate public and private agencies that furnish such services.

"(3) The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a facility furnishing services to veterans under subparagraph (1)(A)(i) of this subsection. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the facility concerned. The Administrator may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds alloted to the Veterans' Administration facility that provided the assistance.

"(c) The total cost of conducting the pilot program under this section shall not exceed 60 percent of the cost that would have been incurred by the Veterans' Administration during the period of the pilot program if the veterans furnished services under the pilot program had been furnished, instead, nursing home care under section 610 of this title. In any fiscal year, the cost of carrying out the pilot program shall not exceed 65 percent of the cost that would have been so incurred during such year in furnishing the veterans who received services under the pilot program with nursing home care under such section 610.

"(d) Not later than April 1, 1991, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the Administrator's evaluation, findings, and conclusions regarding the pilot program, and its results for the participating veterans, during its first 36 months. The report shall include a description of the conduct of the program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in the report.".

"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 620C the following new item:

"620D. Noninstitutional alternatives to institutional care; pilot program.".

SEC. 307. COMMUNITY NURSING HOME CARE IN ALASKA AND HAWAII.

Clause (A) of section 620(a)(2) is amended to read as follows:

"(A) the amount equal to 45 percent of the cost of care (as determined annually by the Administrator)—

"(i) (except as provided in subclause (ii) of this clause) furnished by the Veterans' Administration in a general hospital under the jurisdiction of the Administrator, or

"(ii) in the case of care in a State in which there are no general hospitals under such jurisdiction furnished by a non-Veterans' Administration hospital under contract with the Veterans' Administration; or".

SEC. 308. ACQUIRED IMMUNE DEFICIENCY SYNDROME MATTERS.

(a) CONFIDENTIALITY OF MEDICAL RECORDS.—Section 4132 is amended—

(1) in subsection (a), by inserting "infection with the human immunodeficiency virus," after "alcohol abuse,";

(2) in subsection (b)—

(A) in paragraph (1), by striking out "pursuant to section 4134 of this title";

(B) in paragraph (2)—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) In the case of any record which is maintained in connection with the performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local government agency or instrumentality charged under Federal or State law with the protection of the public health or safety and to which such Federal or State law requires disclosure of such record if a qualified representative of such agency or instrumentality has made a written request that such record be provided as required pursuant to such law for a purpose authorized by Federal or State law.";

(3) in subsection (c), by striking out "(b)(2)(C)" and inserting in lieu thereof "(b)(2)(D)", and

(4) in subsection (e)—

(A) by inserting "(1)" before "The";

(B) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

(C) by adding at the end of the following new paragraphs:

"(2) The provisions of this section shall not prohibit any disclosure of information or records relating to any patient's or subject's infection with the human immunodeficiency virus that is required or authorized by a law having general applicability to Federal health-care services programs.

"(3)(A) Subject to subparagraph (B) of this paragraph, the provisions of this section shall not prohibit the disclosure of such information or records by a physician or a professional counselor if—

"(i) the disclosure is made to the spouse of the patient or subject concerned or to an individual whom the patient or subject has, during the process of professional counseling or testing, identified as being a sexual partner of such patient or subject, and

"(ii) such physician or counselor, after making reasonable efforts to counsel and encourage such patient or subject to inform such spouse or sexual partner, reasonably believes that the disclosure is medically appropriate and that such patient or subject will not inform such spouse or sexual partner about the information involved.

"(B) The disclosure under this paragraph of the identity of a patient or subject shall be made only in a case in which the physician or professional counselor determines that such disclosure is necessary in order to protect the health of such spouse or sexual partner.".

(b) NONDISCRIMINATION.—(1)(A) Section 4133 is amended to read as follows:

"§ 4133. Nondiscrimination in the admission and treatment of certain individuals by Veterans' Administration health-care facilities

"Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Veterans' Administration health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection. The Administrator shall prescribe regulations for the enforcement of the nondiscrimination policy established by this section. Such regulations, with respect to the admission and treatment of alcohol or drug abusers, shall be prescribed in accordance with the provisions of section 3134 of this title.".

(B) The table of sections at the beginning of chapter 73 is amended by striking out the item relating to section 4133 and inserting in lieu thereof the following:

"4133. Nondiscrimination in the admission and treatment of certain individuals by Veterans' Administration health-care facilities.".

(2) Section 4134(a) is amended by striking out "section 4133 of this title," and inserting in lieu thereof "section 4133 of this title with respect to alcohol and drug abusers,".

(c) AIDS PREVENTION INFORMATION AND TRAINING.—(1)(A) The Administrator of Veterans' Affairs shall establish and carry out an acquired immune deficiency syndrome (hereafter referred to as "AIDS") information program for employees and consultants of the Veterans' Administration and beneficiaries of programs administered by the Veterans' Administration.

(B) The Administrator, in conducting the program under paragraph (1)—

(i) shall develop, in consultation with the Surgeon General of the United States and the Director of the Centers for Disease Control, publications and other materials containing information on AIDS, including information on the prevention of infection with the human immunodeficiency virus;

(ii) shall provide for periodic dissemination of publications (including the 1986 Surgeon General's Report on AIDS) other materials containing such information;

(iii) shall make publications and other suitable materials containing such information readily available in public waiting rooms at Veterans' Administration facilities;

(iv) shall disseminate to Veterans' Administration substance abuse treatment personnel and each person being furnished treatment by the Veterans' Administration for drug abuse, information (including the 1986 Surgeon General's Report on AIDS) on the risk of transmission of the human immunodeficiency virus associated with intravenous drug abuse; and

(v) shall disseminate, to each veteran-patient believed to be at high risk for AIDS, information (including the 1986 Surgeon General's Report AIDS) on preventing the transmission of the human immunodeficiency virus.

(2) The Administrator shall establish and carry out a program that provides for education, training, and other activities (including continuing education and infection control programs) regarding AIDS and the human immunodeficiency virus designed to improve the effectiveness and safety of health-care personnel and health-care support personnel involved in the furnishing of care under programs administered by the Veterans' Administration.

(d) RESTRICTION ON TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS.—(1) The Administrator of Veterans' Affairs may not conduct a widespread testing program to determine infection with the human Immunodeficiency virus in any fiscal year unless funds have been appropriated to the Veterans' Administration specifically for the conduct of such program in such fiscal year except as provided in paragraph (2).

(2) Within 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration (A) offers to test each inpatient receiving hospital care from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus in the following conditions: patients who are receiving treatment from the Veterans' Administration for intravenous drug abuse, patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and patients who are otherwise at high risk for infection with such virus and veterans who are younger than 40 years of age, and (B) provides pre- and post-test counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior informed and separate written consent of the patient tested.

SEC. 309. RULES AND REGULATIONS RELATING TO HOSPITAL, NURSING HOME, DOMICILIARY AND MEDICAL CARE.

The text of section 621 is revised to read as follows:

"The Administrator shall prescribe all rules and regulations which are necessary and appropriate to govern the furnishing of hospital, nursing home, and domiciliary care and medical services under laws administered by the Veterans' Administration and which are consistent therewith (including such rules and regulations as are necessary and appropriate in order to promote good conduct on the part of persons who are receiving such care or services in Veterans' Administration facilities), except that the Administrator may prescribe, in such rules and regulations, limitations in connection with the furnishing of such care during a period of national emergency (other than a period of war or an emergency described in section 5011A of this title).".

SEC. 310. INCREASE IN PER DIEM RATES FOR CARE IN STATE HOMES.

(a) IN GENERAL.—(1) Section 641 is amended—

(A) in subsection (a), by striking out clauses (1) through (3) and inserting in lieu thereof:

"(1) $8.70 for domiciliary care; and

"(2) $20.35 for nursing home and hospital care,"; and

(B) by adding at the end the following new subsection:

"(d) Whenever the Administrator makes a determination pursuant to section 620(a)(2)(A) of this title that the cost of care furnished by the Veterans' Administration in a general hospital under the direct jurisdiction of the Administrator has increased, the Administrator may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Administrator has determined that such cost of care has increased.".

(2) Payments pursuant to the amendments made by subsection (a)(1) shall be subject to the availability of appropriations.

(b) EFFECTIVE DATES.—The amendment made by subsection (a)(1)(A) shall take effect on October 1, 1987.

(2) The amendment made by subsection (a)(1)(B) shall take effect on October 1, 1988.

SEC. 311. CONDITIONAL APPROVALS OF APPLICATIONS FOR STATE HOME GRANTS.

Section 5035(b) of title 38, United States Code, is amended—

(1) in the first sentence of paragraph (4)—

(A) by inserting "(including projects that have been conditionally approved under paragraph (6) of this subsection)" after "projects"; and

(B) by striking out "July 1" and inserting in lieu thereof "September 30"; and

(2) by adding at the end the following new paragraphs:

"(6)(A) The Administrator may conditionally approve a project, conditionally award a grant for the project under this section, and obligate funds for the grant if the Administrator determines that the project drawings and specifications submitted with the application for the grant are at least 80 percent complete and that the State submitting the application will meet all the requirements referred to in paragraph (1)(A) of this subsection not later than 180 days after the date on which the Administrator conditionally approves the project. The Administrator may finalize the award of the grant and pay the amount of the grant to such State only if the State has met all of such requirements.

"(B) If a State does not take the action necessary to meet all of the requirements referred to in paragraph (1)(A) of this subsection not later than 180 days after the date on which the Administrator conditionally approves the application, the Administrator shall rescind the award of a grant to the State in connection with the application and shall deobligate the funds previously obligated in connection with the application.

"(7)(A) Subject to subparagraph (B) of this paragraph, the Administrator may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Administrator determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Administrator based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Administrator determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

"(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent of the amount of the grant initially awarded for such project, and the amount of such grant, as increased, may not exceed 65 percent of the cost of the project.".

SEC. 312. MEDICAID TREATMENT OF PER DIEM PAYMENTS TO STATE VETERANS' HOMES.

Section 641 is further amended by adding at the end the following new subsection:

"(e) Payments made to States pursuant to this section—

"(1) shall not be considered to be a third-party liability for any purpose under section 1902(a)(25) of title XIX of the Social Security Act; and

"(2) shall, for purposes of determining under such title XIX the reasonable costs of services provided by a State home, not be deducted directly or indirectly from the operating or other costs of such State home.".

SEC. 313. THERAPEUTIC AND REHABILITATION REVOLVING FUND RESTORATION.

(a) Notwithstanding subsection (b) of section 601 of the Veterans' Benefits Improvements and Health-Care Authorization Act of 1986 (Public Law 99-576), clause (2) of subsection (b) of section 113 of title 38, United States Code, as added by subsection (a) of section 601 of such Act, shall apply with respect to a sequestration order issued, or a sequestration law enacted, for a fiscal year after fiscal year 1985.

(b) The Secretary of the Treasury shall take such action as is necessary to implement subsection (a) and shall, not later than 60 days after the date of the enactment of this Act, report to the appropriate committees of the Congress on the actions taken by the Secretary pursuant to this section.

SEC. 314. VETERANS' ADMINISTRATION RECREATION SPONSORSHIP AUTHORITY.

Section 612 is amended by adding at the end the following new subsection:

"(l)(1) The Administrator may provide or, in cooperation with any organization named in or approved under section 3402 of this title, assist in providing recreational activities which would further the rehabilitation of disabled veterans if—

"(A) such activities are available to disabled veterans on a national basis, and

"(B) a significant percentage of the individuals participating in such activities are eligible for rehabilitative services under this chapter.

"(2) The Administrator, notwithstanding any other provision of law, may accept contributions of funds and other assistance from any appropriate source for the support of such activities and may permit any individual, organization, or corporation which has made such a contribution, or provided such assistance, to advertise the activity or their participation therein, if—

"(A) the Administrator has approved any such advertisement, and

"(B) such advertisement contains a clear statement that any product, project, or commercial line of endeavor has not been endorsed by the Veterans' Administration.".

SEC. 315. PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS.

(a)(1) In order to evaluate the impact on access to Veterans' Administration health-care services by eligible veterans residing in isolated rural areas which are at least 100 miles from the nearest Veterans' Administration health-care facility, the Administrator of Veterans' Affairs shall conduct a pilot program for a period of not less than 24 months, in four geographic regions, pursuant to which eligible veterans shall be furnished health-care services at a location convenient to their residences by Veterans' Administration employees furnishing such services through the use of appropriately equipped mobile health-care clinics.

(2) The pilot project mandated by paragraph (1) shall be carried out utilizing at least two mobile health-care clinics in each of the following geographic areas of the United States: the Northeast, the Midwest, the South, and the West.

(b) The amount spent in any 12-month period to carry out the pilot program mandated by subsection (a) of this section may not exceed $5,000,000.

(c) The Administrator shall conduct an evaluation of the efficacy and cost-effectiveness of furnishing care to eligible veterans utilizing mobile health-care clinics pursuant to subsection (a).

(d) Not later than 20 months after the beginning of the pilot program carried out pursuant to subsection (a), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an interim report on the implementation, operation, and results of the first 17 months' experience under the pilot program. Not later than 27 months after the beginning of the pilot program, the Administrator shall submit to such committees a final such report. Such report shall include—

(1) information on the health-care services, and a detailed breakdown of the costs thereof, that were furnished under such pilot program;

(2) information on the veterans furnished services under the pilot program, with a detailed breakdown with respect to service connection, age, prior access to and utilization of Veterans' Administration care and services, and the financial need of such veterans;

(3) the preliminary or final results of the Administrator's evaluation; and

(4) any plans for administrative action, and any recommendation for legislation, that the Administrator considers appropriate to include in the report.

SEC. 316. MENTAL ILLNESS RESEARCH.

Section 4101(c)(1) is amended by striking out the parenthetical phrase and inserting in lieu thereof "(including biomedical, mental illness, prosthetic, and health-care-services research, and stressing research into (A) spinal cord injuries and diseases and other disabilities that lead to paralysis of the lower extremities, and (B) post-traumatic stress disorder, dementias, and other mental disorders)".

SEC. 317. REPORT ON CERTAIN ACTIVITIES RELATING TO TRAINING IN GERIATRICS OF MEDICAL AND OTHER HEALTH-PROFESSIONAL SCHOOLS AFFILIATED WITH THE VETERANS' ADMINISTRATION.

(a) The Congress makes the following findings:

(1) In view of the estimate that, by the year 2030, the percentage of the United States' population that is age sixty-five and older will have risen to nearly 22 percent from the current level of approximately 12 percent, responding appropriately to the future health-care needs of the increasing elderly population of the United States represents one of our Nation's greatest challenges.

(2) Because veterans cluster in age groups related to periods of major conflicts, the aging of the general population is accelerated in the case of veterans, and veterans of War II and the Korean conflict will enter in the near future the age range with the greatest need for health and health-related services and constitute a very significant portion of the total veteran population.

(3) In response to the needs of the growing number of older veterans, the Veterans' Administration, pursuant to congressional guidance and direction, has increased its efforts with respect to the development of new approaches to furnishing such care, the training of health-care professionals in the care of older patients, and the carrying out and funding of research into diseases and disabilities associated with aging and into the aging process.

(4) As a result of the Veterans' Administration's affiliation arrangements with one hundred and one medical schools, fifty-nine dental schools, approximately five hundred nursing schools, and approximately three hundred and fifty other health-care professional training institutions through which over one hundred thousand students and trainees receive training in Veterans' Administration facilities annually and the important role which those arrangements fulfill in those schools carrying out their education and training missions, the Veterans' Administration has a vital opportunity to improve efforts to train health-care professionals in the care of older patients and to heighten research activity into diseases and disabilities associated with aging and into the aging process.

(5) As an indication of the importance of the Veterans' Administration's role in promoting efforts by affiliated health-care professional training institutions, the Congress in Public Law 96-330, provided that no Veterans' Administration medical center could be designated as the site for a Geriatric Research, Education, and Clinical Center—centers of excellence in the area of aging research, education, and treatment—unless the Veterans' Administration medical center has arrangements with affiliated schools which provide education and training in geriatrics and which provide medical residents and nursing or allied health personnel with training and education in geriatrics through regular rotation through all bed components of the Veterans' Administration medical center.

(b)(1) In light of the findings in subsection (a), not later than March 1, 1988, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the Veterans' Administration's activities, and the success of those activities, designed to promote increased efforts by affiliated medical and other health-professional training schools (1) in training heath-care professionals to care for older patients, and (2) in research into the aging process and diseases and disabilities associated with aging.

(2) The report shall include—

(A) information, for each academic year from 1980-1981 through 1986-1987, on the number of institutions affiliated with the Veterans' Administration (hereinafter in

this paragraph referred to as "affiliated institutions"), broken down by type of institution and type of training, that—

(i) have a program through which students or trainees receive education and training in geriatrics through regular rotation through Veterans' Administration medical centers, nursing homes, domiciliary care facilities, or other units providing extended care to veterans; or

(ii) have a formal program providing education and training in geriatrics; or

(iii) have both such programs;

(B) information on the number of affiliated institutions (broken down by type of institution) that are planning to establish programs as described in clause (A), together with a timetable for such actions;

(C) estimates of the costs, both to the Veterans' Administration and to the affiliated institutions, of the programs described in clauses (A) and (B);

(D) estimates of the number of Veterans' Administration patients receiving care or who will receive care from the students or trainees participating in programs described in clauses (A)(i) and (B);

(E) a description of the role of the Veterans' Administration in encouraging the establishment and continuation of the programs described in clause (A); and

(F) the views of the Administrator on the feasibility and desirability of requiring, as a condition of the Veterans' Administration's entering into or continuing an affiliation agreement with a health-care professional training institution, the establishment with such institution of the appropriate type of arrangements described in clause (C) (i) or (ii) of section 4101(f) of title 38, United States Code.

PART B—HEALTH-CARE ADMINISTRATION

Subpart 1—Health-Care Personnel

SEC. 321. ORGANIZATION OF THE DEPARTMENT OF MEDICINE AND SURGERY.

(a) OFFICE OF THE CHIEF MEDICAL DIRECTOR.—Section 4103(a) is amended—

(1) by inserting "persons, each of whom shall be qualified in the administration of health services" after "following";

(2) in clause (3), by striking out "shall be a qualified doctor of medicine" and inserting in lieu thereof "shall be a person with specified qualifications";

(3) in clause (4)—

(A) in the first sentence, by striking out "who shall be" the first place it appears and inserting in lieu thereof "all of whom shall be persons with specified qualifications,";

(B) in the second sentence, by striking out "qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicines" and inserting in lieu thereof "who are persons with specified qualifications solely by reason of clause (ii) of the last sentence of this subsection"; and

(C) in the last sentence, by striking out "qualified physician" and inserting in lieu thereof "person with specified qualifications"; (4) in clause (5)—

(A) by inserting a comma and "all of whom shall be persons with specified qualifications," after "Directors";

(B) by striking out the commas after "Administrator" and "Director"; and

(C) by striking out the second sentence;

(5) in clause (6), by inserting "upon the recommendation of the Chief Medical Director" after "Administrator";

(6) in clause (7)—

(A) by inserting ", each of whom shall be licensed in the appropriate service field" after "Optometric Service"; and

(B) by inserting "upon the recommendation of the Chief Medical Director" after "Administrator"; and

(7) by adding at the end the following new sentence:

"For the purpose of this subsection, the term 'person with specified qualifications' means (i) a person meeting the requirements set forth in clause (1), (2), (3), (5), (6), (7), or (8) of subsection (a) of section 4105 of this title, or (ii) a person who meets or has met the requirements set forth in clause (4) of such subsection.".

(b) TECHNICAL AMENDMENT.—Section 4103(b)(3) is amended by inserting a comma after "reappointed" and after "extended" and by striking out the comma after "reappointment".

SEC. 322. MAKING NURSE ADDITIONAL-PAY AUTHORITIES AVAILABLE TO ASSIST IN RECRUITMENT AND RETENTION OF PHARMACISTS AND OCCUPATIONAL THERAPISTS.

(a) Section 4104 is amended—

(1) in paragraph (2), by striking out "Pharmacists" and all that follows through "therapists" and inserting in lieu thereof "Psychologists (other than those described in paragraph (3) of this section)"; and

(2) in paragraph (3)—

(A) by striking out "and"; and

(B) by inserting ", pharmacists, and occupational therapists" after "nurses".

(b) Section 4107(f) is amended in the second sentence—

(1) by striking out "or licensed" and inserting in lieu thereof "licensed"; and

(2) inserting "pharmacists, or occupational therapists," after "nurses,".

SEC. 323. DISCIPLINARY MATTERS AS TO CERTAIN APPOINTEES.

Section 4106(g) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title or other federal law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions shall be addressed under the provisions of title 5 as though such individuals had been appointed under such title.".

SEC. 324. DISCIPLINARY ACTIONS AND GRIEVANCES.

(a) Section 4110 is amended—

(1) in subsection (a)—

(A) by striking out "of inaptitude, inefficiency, or misconduct" and inserting in lieu thereof "in disciplinary actions for performance or conduct during tenure with the Veterans' Administration, except with respect to matters described in subsection (f) of this section,"; and

(B) by adding at the end the following new sentence: "The Chief Medical Director may delegate the function of appointing a board to an employee of the Department of Medicine and Surgery who is not involved in deciding whether or not to file charges against the employee and who is not subordinate to any official involved in so deciding.";

(2) in the first sentence of subsection (d), by striking out "suitable" and all that follows and inserting in lieu thereof "that the proposed disciplinary action be sustained or modified within limitations prescribed by the Administrator."; and

(3) by adding at the end the following new subsection:

"(f)(1) An employee against whom disciplinary action (on any grounds other than grounds involing questions of clinical competence in matters involving direct patient-care activities) consisting of a suspension for 14 days or less, reassignment or reduction in rank without a reduction in basic pay, reprimand, or admonishment is proposed is entitled to—

"(A) an advance written notice stating the specific reasons for the proposed action;

"(B) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(C) be represented by an attorney or other representative; and

"(D) a written decision and the specific reasons therefor at the earliest practicable date.

"(2) Actions taken under paragraph (1) of this subsection shall be subject to review, at the discretion of the employee, under either the provisions of section 4120A of this title or an agency review procedure to be established by the Administrator, but not under both. Any such agency review procedure established by the Administrator shall include—

"(A) an informal review of the decision on the disciplinary action by an official of a higher level than the official who made the decision;

"(B) a prompt decision by such higher level official and a right to formal review by an impartial examiner within the agency;

"(C) a prompt report of the findings and recommendations by the impartial examiner; and

"(D) a prompt review of the examiner's findings and recommendations, together with any comments by the employee and the agency on such findings and recommendations, by an official of a higher level than the official who conducted the review pursuant to clause (A) of this paragraph.".

(b) Subchapter I of chapter 73 is further amended by adding at the end the following new section:

"§ 4120A. Grievances and certain disciplinary reviews

"(a) For the purpose of resolving (1) grievances of employees appointed under authority of this title who are members of a bargaining unit recognized under chapter 71 of title 5, or (2) disciplinary actions as described in subsection 4110(f)(1) of this title involving such employees, the Administrator shall authorize review of agency actions on grievances or disciplinary actions under the procedures negotiated under the authority of chapter 71 of title 5.

*"(b) For the purpose of resolving (1) grievances of supervisors and employees appointed under authority of this chapter who are not members of a bargaining unit recognized under chapter 71 of title 5, or (2) disciplinary actions as described in subsection 4110(f)(1) of this title involving such employees, the Administrator shall, at the request of the employee, authorize review of agency action on such grievances or disciplinary action pursuant to the procedures negotiated for such purposes under the authority of such chapter 71 for the Veterans' Administration facility with respect to which the grievance is filed or at which the disciplinary action is taken. In the case of a facility at which there is no negotiated procedure in effect, the Administrator, for purposes of this subsection, shall utilize the procedure negotiated with the national labor organization having the largest membership of Veterans' Administration employees. In the case of an employee who is not a bargaining unit member and who appeals under this subsection, such employee may have representation of his or her choosing, not provided by a union, during such review

and the employee and the agency each shall bear half the expense of any arbitration.

"(c) For the purposes of this section, the term 'grievance' means a matter of concern by an employee appointed under this title (as may be negotiated under authority of chapter 71 of title 5) with respect to his or her employment but does not include matters similar to those excluded from grievance procedures under chapter 71 of title 5.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by adding at the end of subchapter I the following new item:

"4120A. Grievances and certain disciplinary reviews."

SEC. 325. PREMIUM PAY FOR SATURDAY WORK.

Section 4107(e) is amended—

(1) in paragraph (3), by striking out "Saturday" and inserting in lieu thereof "Friday"; and

(2) in paragraph (10)—

(A) in subparagraph (A), by striking out "Administrator—" and all that follows and inserting in lieu thereof "Administrator may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection.";

(B) in subparagraph (B), by striking out "(A)(i)" and inserting in lieu thereof "(A)"; and

(C) by repealing subparagraph (C).

SEC. 326. EDUCATIONAL ASSISTANCE PROGRAM.

(a) Subchapter IV of chapter 73 is repealed.

(b) Part V is amended by adding at the end the following new chapter:

"CHAPTER 76—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—GENERAL

"Sec.
"4301. Establishment of program; purpose.
"4302. Eligibility; application; written contract.
"4303. Breach of contract; liability; waiver.
"4304. Exemption of educational assistance payments from taxation.
"4305. Program subject to availability of appropriations.

"SUBCHAPTER II—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

"4311. Duration of program.
"4312. Eligibility; application; written contract.
"4313. Obligated service.
"4314. Breach of contract; liability.

"SUBCHAPTER III—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL TUITION REIMBURSEMENT PROGRAM

"4321. Eligibility; application; written contract.
"4322. Obligated service.
"4323. Breach of contract; liability.
"4324. Allocation and distribution of funding.

"SUBCHAPTER I—GENERAL

"§ 4301. Establishment of program; purpose

"There is hereby established a program to be known as the Veterans' Administration Health Professional Educational Assistance Program (hereinafter in this chapter referred to as the "Educational Assistance Program"), which shall comprise (1) a scholarship program as provided for in subchapter II of this chapter, to be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this chapter referred to as the "Scholarship Program"), and (2) a tuition reimbursement program as provided for in subchapter III of this chapter, to be known as the Veterans' Administration Health Professional Tuition Reimbursement Program (hereinafter in this chapter referred to as the "Tuition Reimbursement Program"). The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel who provide either direct patient-care services or services incident to direct patient-care services for the Veterans' Administration and for the Nation.

"§ 4302. Eligibility; application

"(a) To be eligible to participate in the Educational Assistance Program, an individual, in addition to meeting the criteria specified in section 4312 of this title for participation in the Scholarship Program or in section 4321 of this title for participation in the Tuition Reimbursement Program, must—

"(1) be accepted for enrollment or be currently enrolled as a student (A) in an accredited (as determined by the Administrator) educational institution in a State, and (B) in a course of training offered by such institution and approved by the Administrator, leading toward completion of any degree in an appropriate discipline (as determined by the Administrator);

"(2) submit an application to the Administrator for participation in the Educational Assistance Program;

"(3) sign and submit to the Administrator, at the time of submission of such application, a written contract (described in subsection (e) of this section) to accept payment of educational assistance and to serve a period of obligated service as provided in section 4313 of this title for the scholarship program or in section 4322 of this title for the Tuition Reimbursement Program; and

"(4) at the time of submission of such application, not be obligated under any other Federal program to perform service after completion of the course of study or program of such individual referred to in clause (1) of this subsection.

"(b)(1) In distributing application forms and contract forms to individuals desiring to participate in the Educational Assistance Program, the Administrator shall include with such forms—

"(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Administrator, including in the summary a clear explanation of the damages to which the United States is entitled under section 4314 of this title with respect to the Scholarship Program or section 4323 of this title with respect to the Tuition Reimbursement Program, if the individual breaches the contract; and

"(B) a full description of the terms and conditions that would apply to the individual's participation in the Educational Assistance Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

"(c) In selecting applicants for acceptance in the Educational Assistance Program, the Administrator, in addition to according priority as set forth in section 4312(b)(1) of this title with respect to the Scholarship Program or in section 4321(b) of this title with respect to the Tuition Reimbursement Program, shall give priority to the applications of individuals who have previously received educational assistance under this program and have not completed the program of education undertaken under such section.

"(d)(1) An individual becomes a participant in the Educational Assistance Program only upon the Administrator's approval of the indivdual's application submitted under subsection (a)(2) of this section and the Administrator's acceptance of the contract signed by the individual under subsection (a)(3) of this section.

"(2) The Administrator shall provide written notice to an individual promptly upon the Administrator's approval under paragraph (1) of this subsection of the individual's participation in the Educational Assistance Program.

"(e) The written contract (referred to in subsection (a)(3) of this section) between the Administrator and a participant in the Educational Assistance Program, in addition to the provisions specified in section 4312(b) of this title with respect to the Scholarship Program or in section 4321(d) of this title with respect to the Tuition Reimbursement Program, shall contain—

"(1)(A) subject to clause (2) of this subsection, the Administrator's agreement—

"(i) to provide the participant with educational assistance as authorized in this chapter and specified in the agreement, and

"(ii) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title); and

"(B) subject to clause (2) of this subsection, the participant's agreement—

"(i) to accept such educational assistance;

"(ii) to maintain enrollment and attendance in the course of training until completed; and

"(iii) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator);

"(2) a provision that any financial obligation of the United States arising out of a contract entered into under this chapter, and any obligation of the participant which is conditioned thereon, is contingent upon funds being appropriated for educational assistance under this chapter;

"(3) a statement of the damages to which the United States is entitled under section 4314 of this title with respect to the Scholarship Program or section 4323 of this title with respect to the Tuition Reimbursement Program, for the participant's breach of the contract; and

"(4) such other statements of the rights and liabilities of the Administrator and of the participant as may be appropriate and consistent with the provisions of this chapter.

"(f) The maximum amount of (1) the monthly stipend paid to a participant in the Scholarship Program, specified in section 4312(d)(1)(B) of this title and as previously adjusted (if at all) in accordance with this subsection, and (2) the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program, specified in section 4321(e) of this title and as previously adjusted (if at all) in accordance with this subsection, shall be in-

creased by the Administrator for each school year ending in a fiscal year beginning after September 30, 1988, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend or tuition reimbursement multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

"(g) The Administrator shall report to Congress not later than March 1 of each year—

"(1) the number of students receiving educational assistance under the Educational Assistance Program, broken down to show the numbers of students receiving assistance under the Scholarship Program and the Tuition Reimbursement Progam separately, and the number of students enrolled in each type of health profession training under each program;

"(2) the education institutions providing such training to students in each program;

"(3) the number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence;

"(4) the average amounts of educational assistance provided per participant in the Scholarship Program and per participant in the Tuition Reimbursement Program;

"(5) the amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years;

"(6) the number of scholarships accepted, by health profession category, during the school year beginning in such year and the number, by health profession category, which were offered and not accepted; and

"(7) the number of participants who complete a course or course of training in each program each year and for all years such program (or predecessor program) has been in existence.

"(h) The Administrator shall prescribe regulations to carry out the Educational Assistance Program.

"§ 4303. Breach of contract; liability; waiver

"(a)(1) Any obligation under the Educational Assistance Program (or a written contract thereunder) of a participant in the Educational Assistance Program for service or payment of damages shall be canceled upon the death of the participant.

"(2) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under such Program (or a contract thereunder) whenever compliance by the participant is impossible due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance would be in the best interest of the Veterans' Administration.

"(3) Any obligation of a participant under such Program (or a contract thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

"(b) The Administrator, in cooperation with and with the consent of the heads of other relevant departments and agencies and with the consent of the participant or individual involved, may permit—

"(1) any period of obligated service required to be performed under this chapter to be performed in another Federal department or agency or in the Armed Forces; and

"(2) any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Department of Medicine and Surgery.

"§ 4304. Exemption of educational assistance payments from taxation

"Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, or a stipend under this chapter shall be exempt from taxation.

"§ 4305. Program subject to availability of appropriations

"The authority of the Administrator to make payments under this chapter is effective for any fiscal year only to the extent that appropriated funds are available for such purposes.

"SUBCHAPTER II—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

"§ 4311. Duration of program

"The Administrator may not furnish scholarships to new participants in the Scholarship Program after September 30, 1992.

"§ 4312. Eligibility; application; written contract

"(a) To be eligible to participate in the Scholarship Program, an individual, in addition to meeting the requirements specified in section 4302 of this title, must be accepted for enrollment or be enrolled (as described in clause (1) of section 4302(a) of this title) as a full-time student, except that an individual who is a Veterans' Administration employee described in subsection (e)(1) of this section may be accepted as a participant if accepted for enrollment or enrolled (as described in clause (1) of section 4302(a) of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

"(b)(1) In selecting applicants who are pursuing a course of training in nursing for acceptance in the Scholarship Program, the Administrator, in addition to according priorities as set forth in section 4302(c) of this title, shall give priority to the applications of individuals who have completed three years of a four-year course of training leading to a baccalaureate degree.

"(2) Before awarding the initial scholarship in any course of training other than in medicine or nursing, the Administrator, not less than sixty days before awarding such scholarship, shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of training and of the reasons why the award of scholarships in such course of training is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in the health profession concerned.

"(c) The written contract referred to in section 4302(a)(3) of this title between the Administrator and a participant in the Scholarship Program, in addition to the requirements set forth in such section, shall contain—

"(1) the Administrator's agreement, subject to section 4302(e)(2) of this title, to provide the participant with a scholarship (described in subsection (d) of this section) for from one to four school years (or in a case in which an extension is granted under subsection (e)(3) of this section, the number of school years provided for as a result of such extension) during which period the participant is pursuing a course of training described in section 4302(a)(1)(B) of this title; and

"(2) subject to section 4302(e)(2) of this title, the participant's agreement—

"(A) to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') of two calendar years for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program (to be reduced, in the case of a participant who is a part-time student, in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event, to less than one year);

"(B) if the participant's period of obligated service is deferred under section 4313(b)(3)(A)(i) of this title, to serve any additional period of obligated service prescribed by the Administrator under section 4313(b)(4)(B) of this title; and

"(C) in the case of a participant who is a part-time student, to maintain employment, while enrolled in such course of training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

"(d)(1) A scholarship provided to a participant in the Scholarship Program for a school year under a written contract under the Scholarship Program shall consist of—

"(A) payment to, or (in accordance with paragraph (2) of this subsection) on behalf of, the participant of the amount of—

"(i) the tuition of the participant in such school year; and

"(ii) other reasonable educational expenses, including fees, books, and laboratory expenses; and

"(B) payment to the participant of a stipend of not in excess of $485 per month (adjusted in accordance with section 4302(f) of this title) for each of the twelve consecutive months beginning with the first month of such school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration and the stipend of a participant who is a part-time student shall be adjusted as provided in subsection (e)(2) of this section.

"(2) The Administrator may contract with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A) of this subsection. Payment to such an educational institution may be made without regard to subsections (a) and (b) of section 3324 of title 31.

"(e)(1) To be accepted as a participant as a part-time student, an individual must be a full-time Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility on the date on which such individual submits the application referred to in subsection (a)(2) of section 4302 of this title and on the date on

which such individual becomes a participant in the Scholarship Program.

"(2) If a participant in the Scholarship Program is awarded a scholarship as a part-time student—

"(A) the maximum amount of the stipend payable to such participant under subsection (d)(1)(B) of this section shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant; and

"(B) a stipend may not be paid to such a participant under such subsection for any month during which such participant is not actually attending the course of training in which such participant is enrolled.

"(3) In the case of a participant who is a part-time student, the Administrator may extend the scholarship award period to a maximum of 6 school years if the Administrator determines that such an extension would be in the best interest of the United States.

"(f) Notwithstanding any other provision of law, participants in the Scholarship Program shall not by virtue of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

"§ 4313. Obligated service

"(a) Each participant in the Scholarship Program shall provide service in the full-time clinical practice of such participant's profession or in another health-care position, in an assignment or location as determined by the Administrator, as a full-time employee of the Veterans' Administration for the period of obligated service provided in the contract of such participant entered into under section 4302(a)(3) of this title.

"(b)(1) Not later than sixty days prior to (A) the date described in paragraph (3) of this subsection with respect to a participant in the Scholarship Program who is a full-time student, or (B) the date provided for under paragraph (5) of this subsection with respect to a participant who is a part-time student, the Administrator shall notify the participant of the date described in the applicable such paragraph for the beginning of such participant's period of obligated service.

"(2) As soon as possible after the applicable date described in paragraph (3) of this subsection or provided for under paragraph (5) of this subsection, the Administrator shall—

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is such an employee but is not serving in a position for which such participant's course of training prepared such participant, assign such participant to such a position.

"(3)(A)(i) With respect to a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State, except that the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) With respect to a participant receiving a degree from a school of nursing, the date for the beginning of the participant's period of obligated service is the later of (i) the date upon which the participant completes such participant's courses of training, or (ii) the date upon which the participant becomes registered as a graduate nurse in a State.

"(C) With respect to a participant receiving a degree from an institution other than a school of medicine, osteopathy, dentistry, optometry, podiatry, or nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant completes the course of training leading to such degree.

"(4) Any participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection—

"(A) shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility; and

"(B) may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(i) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(ii) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(5) The Administrator shall by regulation prescribe the date for the beginning of the period of obligated service of a participant who was a part-time student. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (a) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this subsection, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of training under the program.

"§ 4314. Breach of contract; liability

"(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the contract entered into under section 4302(a)(3) of this title, shall, in addition to any period of obligated service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.

"(b) A participant in the Scholarship Program who—

"(1) fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (such level determined by the educational institution under regulations prescribed by the Administrator),

"(2) is dismissed from such education institution for disciplinary reasons,

"(3) voluntarily terminates the course of training in such educational institution before the completion of such course of training,

"(4) fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become registered as a graduate nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Administrator, or

"(5) in the case of a participant who is a part-time student, fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility, in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the contract.

"(c) If a participant in the Scholarship Program breaches the written contract by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A = 3\Phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover; 'Φ' is the sum of the amounts paid under this subchapter or on *behalf of the participant and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4313(b)(4)(B) of this title; and 's' is the number of months of such period served by the participant in accordance with section 4313 of this title. Any amount of damages which the United States is entitled to recover under this section will, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.*

"SUBCHAPTER III—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL TUITION REIMBURSEMENT PROGRAM

"§ 4321. Eligibility; application; written contract

"(a) To be eligible to participate in the Tuition Reimbursement Program, an individual, in addition to meeting the requirements specified in section 4302 of this title, must—

"(1) be a full-time Veterans' Administration Nursing Service employee permanently assigned to a Veterans' Administration health-care facility and be enrolled in a course of training offered by an institution approved by the Administrator leading toward completion of (A) an associate or higher degree in nursing or (B) a masters or doctoral degree in a field related to nursing; or

"(2) if the Administrator determines that it is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in any other health profession, be a full-time Veterans' Administration employee in such profession providing either direct patient-care services incident to direct patient-care services who is permanently assigned to a Veterans' Administration health-care facility and be enrolled in a course of training offered by such an institution, and approved by the Administrator, leading toward completion of a masters or doctoral degree in an appropriate field.

"(b)(1) In selecting applicants described in paragraph (1) of subsection (a) of this section for acceptance in the Tuition Reimbursement Program, the Administrator, in addition to according priorities as set forth in section 4302(c) of this title, shall give priority, in the following order, to the applications of (A) individuals who have been employed as a full-time Veterans' Administration Nursing Service employee for at least 2 years and have demonstrated superior proficiency and performance, as determined by the Chief Nurse of the facility at which the individual is employed, in consultation with the local career development committee, (B) individuals who have been employed as a full-time Veterans' Administration Nursing Service employee for at least 2 years, and (C) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

"(2) In selecting employees described in paragraph (2) of subsection (c) of this section for acceptance in the Tuition Reimbursement Program, the Administrator, in addition to according priorities as set forth in section 4302(c) of this title, shall give priority, in the following order, to the applications of (A) individuals who have been employed as a full-time Veterans' Administration employee in the health profession concerned for at least 2 years and have demonstrated superior proficiency and performance, as determined by the appropriate supervisory employee in the same health profession at the facility at which the individual is employed, in consultation with the local career development committee, (B) individuals who have been employed as a full-time Veterans' Administration employee in the health profession concerned for at least 2 years, and (C) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

"(c) Before approving tuition reimbursement assistance in any course of training other than nursing, the Administrator, not less than 60 days before awarding such assistance, shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award assistance in such course of training and of the reasons why the award of such assistance in such course of training is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in the health profession concerned.

"(d) The written contract referred to in section 4302(a)(3) of this title between the Administrator and participant in the Tuition Reimbursement Program, in addition to the requirements set forth in such section, shall contain—

"(1) the Administrator's agreement, subject to section 4302(e)(2) of this title, to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Administrator, by the educational institution involved) of (i) a course or courses required for the course of study described in subsection (a)(1)(B) of this section, or (ii) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequisites; and

"(2) subject to section 4302(e)(2) of this title, the participant agrees—

"(A) to maintain employment while enrolled in the course of training being pursued by such participant, as a full-time Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility; and

"(B) to continue to serve as a full-time employee in the Department of Medicine and Surgery for one year (hereinafter in this subchapter referred to as the 'period of obligated service') after completion of the course for which the participant received tuition reimbursement.

"(e) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program shall not exceed $2,000 per year (adjusted in accordance with section 4302(f) of this title).

"(f) The Administrator may contract with an educational institution pursuant to which such an institution would provide a course or courses at a Veterans' Administration health-care facility to participants in the Tuition Reimbursement Program. Pursuant to the contract, the Administrator may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

"§ 4322. Obligated service

"(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Veterans' Administration for the period of obligated service provided in the contract of such participant entered under section 4302(a)(3) of this title.

"(b) A participant who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery shall be considered to have begun serving such participant's period of obligated service on the course completion date.

"(c) Except in the case of a participant whose tuition was paid pursuant to section 4321(f) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reimbursement will be provided and no period of obligated service will be incurred.

"(d) In the case of a participant whose tuition was paid pursuant to section 4321(f) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it would have been if the participant had successfully completed the course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

"(e) For the purposes of this subsection, the term 'course completion date' means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

"§ 4323. Breach of contract; liability

"(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility—

"(1) shall not receive reimbursement for tuition for the course or courses in which the participant is enrolled; and

"(2) in lieu of any service obligation arising from completion of a course or courses in a previous semester or quarter, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the contract.

"(b) If a participant in the Tuition Reimbursement Program breaches the written contract by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover; 'Φ' is the sum of the amount paid under this subchapter or on behalf of the participant and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in the participant's period of obligated service; and 's' is the number of months of such period served by the participant in accordance with section 4322 of this title. Any amount of damages which the United States is entitled to recover under this section will, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.

"§ 4324. Allocation and distribution of funding

"In determining the amount of funding to allocate to Veterans' Administration health-care facilities in connection with the Tuition Reimbursement Program, the Administrator shall take into account (1) the personnel ceiling for nursing personnel, and (2) the recruitment and retention needs of that facility, as determined by the Administrator.".

(c) The provision of subchapter IV of chapter 73 as in effect on the date of enactment of this Act shall be deemed to remain in effect with respect to scholarships awarded under such subchapter.

SEC. 327. RECRUITMENT AND RETENTION BONUS PAY.

(a) In General.—Subchapter I of chapter 73 is amended—

(1) in section 4107(d), by striking out "section 4118" and inserting in lieu thereof "sections 4118 and 4120"; and

(2) by inserting after section 4119 the following new section:

"§ 4120. Recruitment and retention bonus pay for certain health-care personnel

"(a) Notwithstanding any other provision of law, in order to recruit and retain the services of personnel in a category described in clause (A) or (B) of section 4107(g)(1) of this title, except for physicians and dentists, when the Administrator determines upon the recommendation of the Chief Medical Director, that there is a critical shortage of such personnel in the Department of Medicine and Surgery, the Administrator may pay a bonus to any such personnel as provided in this section and in regulations prescribed by the Administrator under subsection (i) of this section.

"(b) The bonus which may be paid under this section may not exceed $20,000, and may be paid only to an individual who executes a written agreement with the Administrator—

"(1) to be or to continue to be employed on a full-time basis in the Department of Medicine and Surgery for a specified period of service not less than 4 years; and

"(2) to serve during that period in a specific geographic location or a professional capacity with respect to which the Administrator has determined under subsection (f) of this section there are significant recruitment and retention problems.

"(c) A bonus may not be paid under this section (1) to any individual who is obligated to serve in the Veterans' Administration for a period of employment until such time as such individual completes such period of employment in accordance with any terms or conditions which such individual was obligated to satisfy, and (2) unless all personnel serving in the same professional capacity in the recruitment area for that category of employment are offered the opportunity to receive such a bonus under the same terms and conditions.

"(d)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement described in subsection (b) of this section.

"(2)(A) The Administrator may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commence under an agreement described in subsection (b) of this section.

"(B) In the event that the Administrator makes a payment under subparagraph (A) of this paragraph, the remaining balance of the bonus shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement described in subsection (b) of this section.

"(e)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which such individual is entitled.

"(2) The amount of any bonus paid under this section shall not be considered as basic pay for the purposes of sections 551, 552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

"(f) At least once each year the Administrator, upon the recommendation of the Chief Medical Director, shall determine the specific geographic locations and professional specialties, if any, as to which there are significant recruitment and retention problems in the personnel categories described in subsection (a) of this section. Upon making any such determination, the Administrator shall promptly notify the Committee on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis therefor.

"(g)(1) Any individual who receives a lump-sum bonus payment under subsection (d)(2) of this section and who voluntarily, or because of misconduct, fails to perform services as assigned by the Administrator for the first year of the period of obligated service provided in the agreement shall refund to the United States Treasury the amount of such lump-sum bonus payment, unless the Administrator determines, in accordance with regulations prescribed under subsection (i) of this section, that such failure is necessitated by circumstances beyond the control of such individual.

"(2) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

"(h) The Administrator shall prescribe regulations to carry out this section.

"(i) For the purposes of this section, the term 'recruitment area' means, with respect to persons in a health-care profession, a geographic area in which a health-care facility located in such area generally competes with all other health-care facilities located in such area in the recruitment of employees in that profession.".

(b) Conforming Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4119 the following:

"4120. Recruitment and retention bonus pay for certain health-care personnel.".

(c) Effective Date.

The amendments made by subsections (a) and (b) shall take effect on October 1, 1987.

SEC. 328. ON-CALL PAY.

Section 4107 is amended by adding at the end the following new subsection:

"(j)(1) Notwithstanding any other provision of law, an individual—

"(A) who (i) is employed in a position listed in paragraph (3) of section 4104 of this title, or (ii) meets the criteria specified in subclauses (i), (ii), and (iii) of subsection (g)(1)(B) of this section, and

"(B) who is employed in a work unit for which on-call premium pay is authorized, and

"(C) who is officially scheduled to be on call outside such individual's regular hours or on a holiday designated by Federal statute or Executive order, may be paid at the rate provided in subsection (e)(8) of this section except for such time as such individual may be called back to work.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection with respect to the rate of on-call premium pay, an individual who is scheduled to be on call pursuant to such paragraph and who was receiving standby premium pay pursuant to section 5545 of title 5 on the date of the enactment of this subsection, shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay equal to the greater of (A) the amount of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or (B) the amount of pay which such employee is entitled to receive including on-call premium pay described in such paragraph.".

SEC. 329. NURSE REPRESENTATION.

Section 4112 is amended by adding at the end the following new subsection:

"(c) The Administrator shall require that the Chief, Nursing Service, or the designee of the Chief, at each Veterans' Administration health-care facility be included in the membership of each policymaking and fiscal committee at each such facility, including, but not limited to (1) committees relating to (A) budget, (B) education, (C) position management, (D) clinical executive issues, (E) planning, and (F) resource allocation, and (2) the deans committee or other advisory committee established pursuant to subsection (b) of this section.".

SEC. 330. AUTHORITY TO WAIVE LICENSURE AND INTERNSHIP REQUIREMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Subsection (d) of section 4114 is amended to read as follows:

"(d)(1) Subject to paragraph (2) of this subsection, the Chief Medical Director may waive for the purpose of the appointment of an individual under this section the requirements set forth in section 4105(a) of this title—

"(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

"(B) that the licensure or certification of such an individual be in a State; and

"(C) that a psychologist have completed an internship.

"(2) The waivers authorized in paragraph (1) of this subsection may be granted—

"(A) in the case of clauses (A) and (C) of such paragraph, if the individual will (i) be employed to conduct research or serve in an academic position, and (ii) have no responsibility for furnishing direct patient care services; and

"(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.".

SEC. 331. RATES OF PAY FOR CERTAIN PSYCHOLOGISTS.

Notwithstanding any other provision of law, the Administrator of Veterans' Affairs, not later than 90 days after the date of the enactment of this Act, shall utilize the authority set forth insection 4107(g) of title 38, United States Code, to increase the rates of pay of clinical or counseling psychologists who hold diplomas as diplomates in psy-

chology from an accrediting authority approved by the Administrator unless the Chief Medical Director of the Veterans' Administration determines that such psychologists are not needed to furnish appropriate quality of psychological services for veterans. The amount by which such rate of pay shall be increased shall be the amount determined by the Administrator, upon recommendation of the Chief Medical Director, to be necessary to make the pay for such psychologists competitive with the pay of psychologists with the same qualifications and credentials serving in non-Veterans' Administration capacities.

SEC. 332. STUDY OF PAY AND OTHER PERSONNEL MANAGEMENT PRACTICES.

(a) In General.—The Administrator of Veterans' Affairs shall conduct a study in order to determine (1) the effects of the pay and other personnel management practices of the Department of Medicine and Surgery of the Veterans' Administration on the ability of the Veterans' Administration to recruit and retain categories of employees (A) who are qualified to provide direct patient-care services, or services that are incidental to direct patient-care services, in Veterans' Administration health-care facilities, and (B) as to which problems of recruitment and retention have arisen, and (2) the effects that flexible employment benefits programs would have on the recruitment and retention of such employees.

(b) Matters Required To Be Studied.—The Administrator, in conducting the study under subsection (a), shall determine the following:

(1) Whether there is inappropriate pay compression between the rates of pay of long-time employees of the Veterans' Administration and either the rates of pay of their supervisors or the rates of pay of relatively new employees performing the same services as a result of the position classification and pay systems applicable to such long-time and relatively new employees or to their supervisors.

(2) If any such inappropriate pay compression exists and such compression results from such position classification and pay systems, whether it is feasible to revise such system or systems in order to eliminate it and how much would be the cost to revise such system or systems for that purpose and to implement the revisions.

(3) Whether the payment of pay differentials (or of increased pay differentials) for evening or night service is needed in order to improve the ability of the Veterans' Administration to recruit and retain personnel to perform services referred to in subsection (a) on evening or night shifts, in what amounts such differentials should be paid, how much would be the cost of the payment of such differentials, and what, if any, effects the payment of such differentials would be expected to have on the ability of the Veterans' Administration to recruit and retain personnel to perform such services on a shift for which a differential is not paid.

(4) Whether it is feasible and desirable for recruitment and retention purposes for the Veterans' Administration to provide, without significant diminution of the health-care services furnished by the Veterans' Administration to veterans, each of the following benefits, in return for a fee not exceeding the amount of the cost incurred by the Veterans' Administration in providing such benefit, to each category of employees referred to in subsection (a) and how much would be the gross and net costs of providing such benefits:

(A) Diagnostic tests ordered by a physician who is not employed by the Veterans' Administration.

(B) Medications prescribed by any such physician.

(C) Laboratory services ordered by any such physician.

(D) Radiology services ordered by any such physician.

(5) Whether it is feasible and desirable for recruitment and retention purposes for the Veterans' Administration to provide opportunities for registered nurses who have received advanced degrees to carry out research in clinical, administrative, or educational areas.

(6) Whether it is feasible and desirable to establish programs which foster interdisciplinary professional collaboration and collegial relationships between physicians, registered nurses, and, as appropriate, other direct health-care personnel, and what effects such programs would have on the ability of the Veterans' Administration to recruit and retain registered nurses.

(7) Whether it is feasible and desirable to expand the administrative and supervisory responsibilities of the position of Chief of the Nursing Service, where such Chief has the requisite qualifications and experience, to include responsibility for support services and clinical departments other than nursing.

(c) Consideration of Flexible Employee Benefits Programs.—The Administrator of Veterans' Affairs, in conducting the study under subsection (a), shall review the personnel management practices of an appropriate sample of employers other than the Federal Government. The Administrator shall consider the extent to which such employers provide flexible employment benefits under programs designed to meet the individual needs to their employees, the advantages of such programs for such employers and employees, and the feasibility, desirability, and appropriateness of establishing and carrying out any such flexible employment benefits program for employees of the Department of Medicine and Surgery of the Veterans' Administration.

(d) Pilot Program.—In order to evaluate the effectiveness of various day and other personnel management practices in enabling the Veterans' Administration to recruit and retain sufficient employees who are qualified to provide direct patient-care services, or services that are incidental to direct patient-care services, the Chief Medical Director of the Veterans' Administration shall conduct a pilot program during calendar years 1988, 1989, and 1990, in not less than five Veterans' Administration medical centers to gain information and experience with respect to the matters required to be studied under subsections (a), (b), and (c). In the course of such pilot program, the Administrator—

(1) (1) shall—

(A) at not less than three sites, expand the administrative and supervisory responsibilities of the Chief of the Nursing Service to include responsibility for support services and clinical departments other than nursing;

(B) at not less then one site, establish a collaborative-practice committee involving physicians, nurses, and, as appropriate, other direct health-care personnel; and

(C) at not less than one site, significantly increase the pay differential for evening and night service; and (2) may implement changes in personnel management practices as otherwise authorized by law as to gain information with respect to any of the matters described in subsection (a), (b), or (c).

(e) Reports.—(1) Not later than the none year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study required by subsection (a), except with respect to the results of any activity pertaining thereto undertaken as part of the pilot program required by subsection (d). The report shall contain—

(A) the determination of the Administrator; and

(B) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of such study.

(2) Not later than 30 months after the date of enactment of this Act, the Administrator shall submit to such Committees a report on the results of the first 24 months' experience under the pilot program by subsection (d). The report shall contain--

(A) the evaluation of the Administrator of the effectiveness of each management practice undertaken in the pilot program on the Veterans' Administration's ability to recruit and retain health-care employees;

(B) information on the cost factors associated with each such management practice; and

(C) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of such pilot program.

(3) Not later than 42 months after the date of the enactment of this Act, the Administrator shall submit to such Committees a final report on the pilot program. The report shall contain—

(A) updates on all information provided in the report submitted to paragraph (2) of this subsection; and

(B) the Administrator's final assessment of the pilot program based on 36 months of operation.

SEC. 333. CHILD-CARE SERVICES AT VETERANS' ADMINISTRATION FACILITIES.

(a) In General.—Section 233 is amended by adding at the end the following new subsection:

"(c)(1) Subject to this subsection and regulations prescribed to carry out this subsection, the Administrator, to the extent that the Administrator determines that it is in the best interest of the Veterans' Administration and practicable to do so based on the demand for such care, shall provide for the establishment of onsite child-care centers at Veterans' Administration facilities for the care of the children of Veterans' Administration employees and, to the extent space is available, other Federal employees and other non-Federal employees.

"(2) In connection with the establishment of centers pursuant to paragraph (1) of this subsection, the Administrator—

"(A) shall furnish, at no or nominal cost to the centers, space in existing Veterans' Administration facilities, utilities, and other amenities necessary for the health and safety of the children; and

"(B) may, on a reimbursable basis, convert such space for use as a center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that basic telephone service and surplus furniture and equipment may be

furnished by the Administrator without reimbursement.

"(3) The Administrator shall prescribe regulations to carry out this subsection. Such regulations shall include provisions which—

"(A) provide for the participation of the parents of the children in a child-care center, either directly or through parent-advisory committees or both, in the establishment of policies to govern the operation of such center and in the oversight of such center's operation;

"(B) require the development and utilization of a process for determining the fitness and suitability of prospective employees of or volunteers at such centers;

"(C) authorize the parents of children in such centers to conduct fundraising activities in order to help defray the cost of the operation of such centers;

"(D) require the establishment of a schedule of charges for the provision of child-care services for each such center (including a sliding-scale schedule, based on the income and assets of a child's parents) sufficient to cover the expenses of operating each such center; and

"(E) require in connection with the operation of such centers compliance with all State and local laws, ordinances, and regulations relating to the operation of child-care centers.

"(4) In carrying out the provisions of this subsection, the Administrator may—

"(A) enter into contracts, under section 5022(a) of this title, for the operation of such centers with non-profit organizations comprised of parents of children who would receive child-care services in such centers;

"(B) enter into contracts, under such section, for the operation of such centers with other non-profit organizations which have a demonstrated expertise in the operation of child-care centers, except that any such organization must establish a parent advisory committee; and

"(C) provide for the direct management of such centers by the Veterans' Canteen Service created pursuant to chapter 75 of this title or otherwise by the Veterans' Administration, except that such management shall include provision for a parent advisory committee.

"(5) The Administrator may carry out the provisions of this subsection through such Canteen Service or otherwise.

"(6) A parent advisory committee referred to in this subsection shall be comprised of, and selected by, the parents of children in a center and be fully involved in the establishment of policies to govern the operation of the center and the oversight of the implementation of such policies.".

(b) Conforming Amendments.—(1) The heading of section 233 is amended to read as follows:

"233. Special services for employees".

(2) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

"233. Special services for employees.".

Subpart 2—Other Medical Administration Matters

SEC. 341. REPEAL OF AUTHORITY TO FURNISH TOBACCO TO HOSPITALIZED VETERANS.

Section 615 is repealed.

SEC. 342. HOSPITAL COST COLLECTIONS.

Paragraph (2) of section 629(b) is amended by adding at the end the following new subparagraph:

"(C) A legal proceeding under subparagraph (B) of this paragraph with respect to care or services furnished to any veteran under this chapter may not be sustained if such proceeding is instituted more than 6 years after the last day on which such care or services are furnished to such veteran.".

SEC. 343. TORT CLAIMS.

(a) Inapplicability of an Exception Relating to Federal Tort Claims in Medical Malpractice and Negligence Cases.—Section 4116 is amended by adding at the end the following new subsection:

"(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) of this section in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Department of Medicine and Surgery.".

(b) Increased Authority to Adjust Tort Claims Administratively.—(1) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§ 223. Administrative award of tort claims

"Notwithstanding the limitation contained in the proviso in the first paragraph of section 2672 of title 28, the maximum amount of an award, compromise, or settlement that the Attorney General may authorize the Administrator to make under such section in the case of any claim for money damages under section 1346(b) of title 28 or chapter 171 of such title shall be equal to the maximum amount of an award, compromise, or settlement which the Attorney General authorizes a United States attorney to make in the case of any such claim.".

(2) The table of sections at the beginning of chapter 3 is amended by inserting after the item relating to section 222 the following:

"223. Administrative award of tort claims.".

SEC. 344. ANNUAL VETERANS' ADMINISTRATION MEDICAL FACILITY CONSTRUCTION AUTHORIZATION.

Section 5004 is amended—

(1) in subsection (a)—

(A) by amending paragraph (2) to read as follows:

"(2)(A) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project unless (i) such bill, resolution, or amendment specifies the amount to be appropriated for such project, and (ii) the amount to be appropriated for such project is no more than the amount authorized, by a provision of law enacted in legislation which had been reported from the committees, to be appropriated for such project for that fiscal year.

"(B) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation which may be expended for a major medical facility lease unless such appropriation for such lease is authorized by a provision of law enacted in legislation which had been reported from the committees.";

(B) by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) For the purpose of this subsection—

"(A) the term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange; and

"(B) the term 'major medical facility lease' means a lease for space for use as a medical facility at an average annual rental of more than $500,000.";

(2) by amending subsection (c) to read as follows:

"(c) The amount obligated for any construction project, alteration project, or acquisition project that is authorized by a law described in subsection (a)(2)(A) of this section shall not exceed by more than 10 percent the amount authorized for such construction, alteration, or acquisition project in such law unless the Administrator, not less than 30 days before obligating any amount that would cause the amount so authorized for the project to be exceeded by more than 10 percent, provides the committees with notice of the Administrator's intention to do so and the reasons for doing so.";

(3) by striking out subsection (d); and

(4) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 345. STANDARDIZATION OF MEDICAL AND PHARMACEUTICAL ITEMS.

Not later than the beginning of the third fiscal year beginning after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall develop and fully implement an agency-wide plan for the cost-effective standardization, in a manner consistent with the effective furnishing of health-care services, of medical and pharmaceutical items procured by the Veterans' Administration. The plan shall provide for the procurement of generic pharmaceutical items where such procurement is more cost-effective than procurement of a name-brand pharmaceutical item except where the Chief Medical Director of the Veterans' Administration (1) determines, after consultation with the Food and Drug Administration, that an equivalent generic item is not available, or (2) determines that the availability of a name-brand item is necessary in the interests of effective patient care.

SEC. 346. REQUIREMENTS FOR THE PROCUREMENT OF MEDICAL AND PHARMACEUTICAL ITEMS.

(a) In General.—Subchapter II of chapter 81 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 5025. Procurement of medical and pharmaceutical items

"(a) Except as provided in subsection (b) and (c) of this section, the Administrator shall procure medical and pharmaceutical items only under national contracts.

"(b)(1)(A) Except as provided in subparagraph (B) of this paragraph, a medical or pharmaceutical item for use by the Veterans' Administration may be procured under a local contract instead of a national contract awarded by the Veterans' Administration only if—

"(i) the procurement is within the limits prescribed in paragraph (2) of this subsection, and

"(ii)(I) the item is not available for procurement under a national contract, or

"(II) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Veterans' Administration medical center, as determined by the director of the center in accordance with regulations which the Chief Medical Director shall prescribe.

"(B)(i) Subparagraph (A) of this paragraph shall not apply to an emergency procurement.

"(ii) In the case of the need for an emergency procurement of a medical or pharmaceutical item, no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

"(2)(A)(i) Except as provided in division (iii) of this subparagraph and in subparagraph (B) of this paragraph, not more than 20 percent of the total of all medical and pharmaceutical items procured by the Veterans' Administration in any fiscal year (measured as a percent of the total cost of all such medical and pharmaceutical items procured by the Veterans' Administration in that fiscal year) may be procured under local contracts.

"(ii) Local contracts for the procurement of medical or pharmaceutical items shall, to the maximum extent feasible, be awarded to regular dealers or manufactures engaged in the wholesale supply of medical and pharmaceutical items.

"(iii) The President may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the President, based on the experience of the Veterans' Administration during the 2 fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Veterans' Administration. The authority to increase such percentage may be delegated only to the Director of the Office of Management and Budget and may not be redelegated.

"(B) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

"(c) Any provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency, to the procurement of a medical or pharmaceutical item for use by the Veterans' Administration.

"(d)(1) Not later than December 1 of each fiscal year (beginning on December 1, 1988), the director of each Veterans' Administration medical center shall transmit to the Administrator a report containing a list indicating the quantity, and the cost therefor, of each medical and pharmaceutical item procured at that medical center under a local contract during the preceding fiscal year.

"(2) Not later than February 1 of each year (beginning on February 1, 1989), the Administrator shall submit to the Committee on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out the provisions of this section during the most recent fiscal year.

"(e) For the purposes of this section.

"(1) The term 'emergency procurement' means a procurement necessary to meet an emergency need, affecting the health or safety of a veteran being furnished health-care services by the Veterans' Administration, for a medical or pharmaceutical item.

"(2) The terms 'medical or pharmaceutical item' and 'medical and pharmaceutical items' include any item (in the case of the former term) or items (in the case of the latter term) listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65, 66, 73, or 89 in the document published by the Veterans' Administration, dated April 1986, and entitled 'Federal Supply Catalog, Centrally Managed Items,' or the document published by the Veterans' Administration, dated October 1985, and entitled 'Federal Supply Catalog, Nondepot Items,' but does not include any surgical instruments.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5024 the following new item:

"5025. Procurement of medical and pharmaceutical items.".

(c) APPLICATION.—Subsection (b)(2) of section 5025 of title 38, United States Code (as added by subsection (a)), shall apply to medical and pharmaceutical items procured for use by the Veterans' Administration on or after October 1, 1990.

SEC. 347. MULTIYEAR MEDICAL PROCUREMENTS.

(a) Section 213 is amended—

(1) by inserting "(a)" before "The" in the first sentence; and

(2) by adding at the end the following new subsection:

"(b)(1) The Administrator may enter into a multiyear contract if the Administrator determines that—

"(A) appropriations are available and adequate for obligations that are necessary for—

"(i) total payments that would be required during the full term of the contract; or

"(ii) total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charges payable under the contract; and

"(B) the contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

"(i) reducing costs;

"(ii) achieving economies in contract administration or in any other Veterans' Administration activities;

"(iii) increasing quality of performance by or service from the contractors; or

"(iv) encouraging effective competition;

"(C) during the proposed contract period—

"(i) there will be a continuing or recurring need for the supplies or services being procured;

"(ii) there is not a substantial likelihood of substantial changes in the need for such supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

"(iii) the specifications for the supplies or services are expected to be reasonably stable;

"(D) the risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive;

"(E) the use of a multiyear contract will not inhibit small business concerns in competing for the contract; and

"(F) in the case of the procurement of a pharmaceutical item for which a patent has expired less than 4 years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of contract.

"(2)(A) A multiyear contract authorized by this subsection shall contain—

"(i) a provision that the United States' obligation under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year in which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Administrator pursuant to subparagraph (B)(i) of this paragraph) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

"(ii) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by clause (i) of this subparagraph.

"(B)(i) If, during a fiscal year subsequent to the fiscal year in which a multiyear contract is entered into, the Administrator determines that, in light of other funding needs involved in the operation of Veterans' Administration health-care programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Administrator shall promptly cancel such contract pursuant to the provisions required by subparagraph (A)(i) of this paragraph.

"(ii) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds appropriated for a subsequent fiscal year or years for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

"(3) Nothing in this subsection shall be construed so as to supersede any other provision of law which authorizes multiyear contracts or to eliminate or restrict the Administrator's exercise of the right to terminate for convenience such a multiyear contract.

"(4) The Administrator shall prescribe regulations implementing this subsection.

"(5) For the purposes of this subsection:

"(A) The term 'appropriations' has the meaning provided such term in section 1511 of title 31.

"(B) The term 'cancel' or 'cancellation' refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.

"(C) The term 'multiyear contract' means a contract which (i) is for the procurement of supplies or services for use in a Veterans' Administration health-care facility, and (ii) by its terms is to remain in effect for a period which extends beyond the end of the fiscal year in which such contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

"(D) The term 'nonrecurring, unrecovered costs' means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under paragraph (5) of this subsection) are generally incurred on a one-time basis and include, but are not limited to, such costs as plant or equipment relocation, plant rearrangement, special tooling, special test equipment, preproduction engi-

neering, and specialized work force training.".

SEC. 348. REPORT ON HEALTH CARE RESOURCES ALLOCATION.

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this act, the Administrator of Veterans' Affairs shall submit to Congress a report on (1) the health care resources allocated by the Veterans' Administration to Veterans' Administration facilities (including contract facilities) in each State in fiscal years 1982 through 1986, and (2) the utilization of health care resources allocated to such facilities in each such fiscal year.

(b) CONTENT OF REPORT.—(1) The report required by subsection (a) shall include, with respect to each State and Veterans' Administration Medical District in each fiscal year referred to in such subsection, the following information:

(A) The number of Veterans' Administration hospital beds, domiciliary care beds, and nursing home beds located in the State and Medical District.

(B) The percentage of the total amount of the funds available to the Veterans' Administration for health care that was allocated for obligation and expenditure by Veterans' Administration hospitals, out-patient clinics, domiciliary care facilities, and nursing homes located in the State and the Medical District.

(C) With respect to each category of veterans described in subsection (c)—

(i) the number of veterans who, received health care in Veterans' Administration facilities referred to in subparagraph (B) which are located in the State in which they reside and the number of veterans who received health care in Veterans' Administration facilities referred to in subparagraph (B) which are located in a State other than the State in which the veteran resides;

(ii) the total cost of furnishing the health care referred to in clause (i);

(iii) the total cost of furnishing such health care with respect to each diagnostic category;

(iv) the total cost of furnishing such health care on an outpatient basis with respect to each diagnostic category;

(v) the total cost of furnishing such health care on an inpatient basis with respect to each diagnostic category;

(vi) the total number of patient encounters in which the Veterans' Administration furnished such health care on an outpatient basis with respect to each diagnostic category;

(vii) the total number of patient encounters in which the Veterans' Administration furnished such health care on an inpatient basis with respect to each diagnostic category; and

(viii) a comparison of the cost-effectiveness of the Veterans' Administration furnishing long-term health care to veterans in adult day care centers located in the State and the Medical District with the cost-effectiveness of the Veterans' Administration furnishing long-term health care to veterans in nursing homes located in the State and the Medical District.

(2) The Administrator may include in the report submitted under subsection (a) any additional information that the Administrator considers appropriate.

(c) VETERANS' CATEGORIES DEFINED.—The categories of veterans referred to in subsection (b)(1)(C) are as follows:

(1) Category A: Veterans who are eligible to receive health care from the Veterans' Administration because they have service-connected disabilities, are retired from active duty for a disability incurred or aggravated while in active military, naval, or air service, are in receipt of a pension under laws administered by the Veterans' Administration, are eligible to receive benefits under a State plan approved under title XIX of the Social Security Act (commonly known as "Medicaid"), are former prisoners of war (as defined in section 101(32) of title 38, United States Code), are veterans referred to in section 610(a)(1)(G) of title 38, United States Code (relating to veterans exposed to a toxic substance or radiation), or (in the case of veterans to whom section 19011(f)(1) of Public Law 99-272 applies) have an attributable income (as defined in section 622(f)(1) of title 38, United States Code) not greater than the Category A threshold (as defined in section 622(b)(1) of title 38, United States Code).

(2) Category B: Veterans who are eligible to receive health care from the Veterans' Administration because they have non-service-connected disabilities and, in the case of veterans to whom section 19011(f)(1) of Public Law 99-272 applies, have an attributable income (as defined in section 622(f)(1) of title 38, United States Code) that—

(A) in the case of veterans who have no dependents, is greater than $15,000 but less than $18,000; or

(B) in the case of veterans who have one or more dependents, is greater than $18,000 (increased by $1,000 for a second and each additional dependent) but less than $25,000 (increased by $1,000 for a second and each additional dependent).

(3) Category C: Veterans not described in paragraph (1) or (2): Provided, That this section shall take effect on December 15, 1987.

TITLE IV—MISCELLANEOUS

SEC. 401. PROHIBITION AGAINST EXCESSING OF CERTAIN VETERANS' ADMINISTRATION PROPERTIES.

(a) Section 234 of Public Law 99-576 is repealed.

(b) The Administrator of Veterans' Affairs may not declare as excess to the needs of the Veterans' Administration, or otherwise take any action to dispose of, the land and improvements at the Veterans' Administration Medical Center, West Los Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center, Sepulveda, California (consisting of approximately 46 acres), described in letters dated February 5, 1986 (and enclosed maps), from the Administrator to the Committees on Veterans' Affairs of the Senate and House of Representatives pursuant to section 5022(a)(2) of title 38, United States Code.

SEC. 402. NATIONAL CEMETERY GRAVE MARKERS.

(a) Section 1004(c)(2) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(C) in the case of any cemetery located nearby a Veterans' Administration health-care facility, the Administrator may provide for flat grave markers if the Administrator determines, upon the recommendation of the Chief Medical Director, that the use of upright markers at such cemetery would have a detrimental effect on the health of veterans receiving care at such facility; and

"(D) in the cases of the national cemeteries in Riverside, California, Bourne, Massachusetts, and Augusta, Michigan, and the proposed national cemetery approved by the Administrator, as of July 31, 1987, for Northern California, the Administrator shall provide for flat grave markers for interments occurring after the date of the enactment of this clause.".

SEC. 403. LEASE OF FORMER MEDICAL CENTER (MINOT, NORTH DAKOTA).

(a)(1) Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall, upon the satisfaction of the conditions specified in paragraph (2), lease to the Department of Labor for nominal consideration the 20.6 acres of land, in the city of Minot, North Dakota, on which the Department of the Air Force on July 31, 1987, was operating, under a no-cost lease from the Veterans' Administration, the John Moses Air Force Hospital and on which the Veterans' Administration Hospital, Minot, North Dakota, was formerly located.

(2) The conditions referred to in paragraph (1) are as follows:

(A) Sufficient funds are appropriated to the Department of Labor for fiscal year 1988 to establish a Job Corps Center in North Dakota.

(B) The property is selected by the Department to establish such a Job Corps Center.

(C) The Department agrees to use the property as a Job Corp Center for the duration of the lease.

(b) The lease to the Labor Department under subsection (a) shall be renewed for nominal consideration for successive 10-year periods upon request of the Secretary of Labor.

SEC. 404. NATIVE HAWAIIAN REPRESENTATION ON THE ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

Section 19032 of the Veterans' Health-Care Amendments of 1986 (Public Law 99-272; 100 Stat. 388) is amended—

(1) in subsection (b), by striking out "and Alaska Natives" and inserting in lieu thereof ", Alaska Natives, and Native Hawaiians";

(2) in subsection (c)(3)(A), by striking out "and Alaska Natives" and inserting in lieu thereof ", Alaska Natives, and Native Hawaiians,";

(3) in subsection (f)(1), by striking out "and February 1, 1988" and inserting in lieu thereof "February 1, 1988, and February 1, 1989";

(4) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

"(2) the term 'Native Hawaiian' has the same meaning given that term in section 813(3) of the Native American Programs Acts of 1974 (42 U.S.C. 2992c(3))."; and*

(5) in subsection (h), by striking out "second" and inserting in lieu thereof "third".

SEC. 405. SALES OF LOANS MADE BY THE VETERANS' ADMINISTRATION TO FINANCE THE SALE OF FORECLOSED PROPERTIES.

Section 2 of Public Law 100-136 is repealed.

SEC. 406. TRANSFER OF THE ARIZONA VETERANS MEMORIAL CEMETERY TO THE VETERANS' ADMINISTRATION.

(a) IN GENERAL.—The Administrator of Veterans' Affairs shall accept on behalf of the United States, without consideration, all right, title, and interest in the Arizona Veterans Service Commission in and to the Ari-

zona Veterans Memorial Cemetery in the State of Arizona, consisting of approximately 225 acres, if such right, title, and interest are so offered to the United States.

(b) CEMETERY TO BECOME PART OF THE NATIONAL CEMETERY SYSTEM.—After acceptance by the Administrator of Veterans' Affairs, the Arizona Veterans Memorial Cemetery shall become part of the National Cemetery System and shall be administered in accordance with the provisions of chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey conducted at no charge to the United States that is satisfactory to the Administrator of Veterans' Affairs.

(d) TERMS AND CONDITIONS.—The Administrator of Veterans' Affairs may require such terms and conditions with respect to the conveyance authorized by this section as the Administrator considers appropriate to protect the interests of the United States.

(e) WAIVER OF LIABILITY FOR REPAYMENT OF VETERANS' ADMINISTRATION GRANT.—The State of Arizona is not required to repay the Veterans' Administration, by reason of the acceptance of the Arizona Veterans Memorial Cemetery by the Administrator of Veterans' Affairs, the amount of any grant made to such State with respect to such cemetery under section 1008 of title 38, United States Code.

(f) EXPENDITURES.—(1) Except as provided in paragraph (2), during each of fiscal years 1988 and 1989, the Administrator may not expend, from appropriated funds, for the operation and maintenance of the Arizona Veterans Memorial Cemetery funds in excess of the amount that the Administrator estimates that the Administrator would have paid during the year involved to the State of Arizona pursuant to section 903(b)(1) of title 38, United States Code, in connection with the burial of deceased veterans had the cemetery not been transferred to the Veterans' Administration, or the amount so paid during fiscal year 1987, whichever amount is greater.

(2) The limitation in paragraph (1) may be exceeded in a fiscal year to the extent that the Administrator determines that expenditures in excess of the limitation are necessary and appropriate in connection with the need to make repairs of damage to such cemetery resulting from a fire, flood, or other natural disaster.

(3)(A) Subject to subparagraph (B), in each of fiscal years 1988 and 1989, the Administrator shall use for the operation and maintenance of such cemetery amounts available for payments under such section 903(b)(1).

(B) Expenditures under subparagraph (A) shall not exceed the applicable limitation under paragraph (1) without regard to paragraph (2).

(g) ACCEPTANCE OF GIFTS.—The Administrator may accept devises, bequests, and gifts made in any manner by any person or entity for the purpose of the operation, maintenance, or improvement of the Arizona Veterans Memorial Cemetery after the Administrator has accepted title thereto pursuant to subsection (a) and shall use the funds or property involved for the intended purpose.

(h) GRAVE MARKERS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator shall provide for the use of flat grave markers for interments at the Arizona Veterans Memorial Cemetery.

SEC. 407. NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTER IN SHREVEPORT, LOUISIANA.

The Veterans' Administration Medical Center in Shreveport, Louisiana, shall after the date of the enactment of this Act be known and designated as the "Overton Brooks Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Overton Brooks Veterans' Administration Medical Center.

SEC. 408. DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES

(a) IN GENERAL.—

(1) Funds appropriated pursuant to an authorization contained in this Act may not be used to carry out within the United States, or within any territory or possession of the United States, any construction project of the Veterans' Administration which uses any service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) Subsection (a) shall not apply with respect to the use of a service in a project if the Administrator of Veterans' Affairs determines that—

(A) the application of subsection (a) to such service would not be in the national interest,

(B) services offered in the United States, or in any foreign country that is not listed under subsection (c), of the same class or kind as such service are insufficient or are not of a satisfactory quality, or

(C) exclusion of such service from the project would increase the cost of the overall project by more than 20 percent.

(b) DETERMINATIONS.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for services of the United States in procurement, or

(B) fair and equitable market opportunities for services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) LISTING OF FOREIGN COUNTRIES.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b)

(2) Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraph (A) and (B) of subsection (b)(1).

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) DEFINITIONS.—For purposes of this section—

(1) The term "service" means any engineering, architectural, or construction service.

(2) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country: Provided, That this section shall take effect on December 15, 1987.

Amend the title so as to read: "An Act to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors, to improve housing, automobile, and burial benefits for service-disabled veterans, to provide for presumptions of service connection for certain disabilities of former prisoners of war, to provide disability and death benefits for certain veterans and their survivors based on exposure during service to ionizing radiation from a nuclear detonation, to improve Veterans' Administration health-care programs and their administration, and to provide authorities to help the Veterans' Administration overcome difficulties in recruiting and retaining health-care personnel and the disciplinary and grievance processes for such personnel, and for other purposes.".

House amendments to the Senate amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits and Services Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
Sec. 3. Definition of Administrator.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

Sec. 101. Eligibility for outpatient services.
Sec. 102. Eligibility for domiciliary care.
Sec. 103. Definition of nursing home care.
Sec. 104. Expansion of contract-care authority.
Sec. 105. Health care outside the United States for veterans with service-connected disabilities.
Sec. 106. Internment period required for eligibility for dental care for former prisoners of war.
Sec. 107. Readjustment counseling program improvements.
Sec. 108. Beneficiary travel program.

PART B—PILOT PROGRAMS AND REPORTS

Sec. 111. Adult day health-care program.
Sec. 112. Report on use of contract-care authorities.
Sec. 113. Pilot program of mobile health-care clinics.

Sec. 114. Modification of report on care furnished to veterans having chronic mental illness disabilities.
Sec. 115. Pilot program of contract community-based residential care for homeless chronically mentally ill and other veterans.
Sec. 116. Reports on assistance to homeless veterans.

PART C—MATTERS RELATING TO AIDS

Sec. 121. Confidentiality of medical records.
Sec. 122. Nondiscrimination.
Sec. 123. Information and training concerning AIDS prevention.
Sec. 124. Restriction on testing for infection with the human immunodeficiency virus.

PART D—OTHER MATTERS

Sec. 131. Definition of Veterans' Administration medical facilities to include certain recreational facilities.
Sec. 132. Veterans' Administration assistance with rehabilitation activities.
Sec. 133. Rules and regulations relating to Veterans' Administration health care.
Sec. 134. Per diem rates for care in State homes.
Sec. 135. Medical research.
Sec. 136. Conversion of underused space to domiciliary care beds.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

Sec. 201. Health-care quality assurance activities.
Sec. 202. Hospital cost collections.
Sec. 203. Tort claims.
Sec. 204. Nonprofit research corporations.
Sec. 205. Nursing home revolving fund.
Sec. 206. State home construction grants.

PART B—PAY AND OTHER PERSONNEL BENEFITS

Sec. 211. Additional pay authorities for nurses to be available for pharmacists and occupational therapists.
Sec. 212. Recruitment and retention bonus pay.
Sec. 213. On-call pay.
Sec. 214. Premium pay for Saturday work.
Sec. 215. Report on effect of certain pay and benefits amendments.
Sec. 216. Health Professionals Educational Assistance Program.
Sec. 217. Pay scales and awards for Department of Medicine and Surgery employees.

PART C—PERSONNEL ADMINISTRATION

Sec. 221. Disciplinary matters as to certain appointees.
Sec. 222. Personnel ceilings for noncareer research personnel.
Sec. 223. Authority to waive licensure and internship requirements for certain health-care personnel.
Sec. 224. Nurse representation on policy-making committees.

PART D—REPORTS

Sec. 231. Study of pay and other personnel management practices.
Sec. 232. Report on certain activities relating to training in geriatrics of medical and other health-professional schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

Sec. 301. Specially adapted housing assistance.
Sec. 302. Automobile assistance allowance.
Sec. 303. Service-connected death benefit.
Sec. 304. Effective date.

PART B—COMPENSATION-RELATED PROVISIONS

Sec. 311. Definition of former prisoner of war.
Sec. 312. Presumption of service connection for certain disabilities for former prisoners of war.
Sec. 313. Presumption of service connection for lupus.
Sec. 314. Presumption of service connection for certain radiation-exposed veterans.
Sec. 315. Reinstated entitlement for certain survivors.

PART C—EDUCATION PROVISIONS

Sec. 321. Measurement of laboratory instruction.
Sec. 322. Authority to waive compliance surveys.
Sec. 323. Effective date of awards under the post-Vietnam era veterans' education assistance program.

PART D—INSURANCE PROVISIONS

Sec. 331. Authority for annuity adjustments.
Sec. 332. Exemptions from State taxation.
Sec. 333. Direct administration of veterans' mortgage life insurance.

PART E—MEMORIAL AFFAIRS

Sec. 341. National cemetery grave markers.
Sec. 342. Contributions for certain projects.
Sec. 343. State veterans' cemetery construction grants.
Sec. 344. Grave liners.
Sec. 345. American Battle Monuments Commission foreign currency fluctuations.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

Sec. 401. Integrity of contracting out process at health-care facilities.
Sec. 402. Standardization of medical and pharmaceutical items.
Sec. 403. Requirements for the procurement of medical and pharmaceutical items.
Sec. 404. Multiyear procurement of certain medical items.

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

Sec. 411. Sequestration rules applicable to veterans' programs.
Sec. 412. Child-care services at Veterans' Administration facilities.
Sec. 413. Advisory Committee on Native-American Veterans.
Sec. 414. Management of canteen service.
Sec. 415. Technical amendments to chapter 37.

PART C—REAL PROPERTY

Sec. 421. Limitation on transfer of property to other agencies.
Sec. 422. Congressional procedures for approval of medical facility acquisition and construction.
Sec. 423. Use of former hospital in Minot, North Dakota.
Sec. 424. Naming of Veterans' Administration Medical Center in Shreveport, Louisiana.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. DEFINITION OF ADMINISTRATOR.

For purposes of this Act, the term "Administrator" means the Administrator of Veterans' Affairs.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

SEC. 101. ELIGIBILITY FOR OUTPATIENT SERVICES.

(a) CERTAIN VETERANS WITH SERVICE-CONNECTED DISABILITIES.—Paragraph (1) of section 612(a) is amended—

(1) in the matter preceding clause (A), by striking out "may furnish" and inserting in lieu thereof "shall furnish on an ambulatory or outpatient basis";

(2) by striking out "and" at the end of clause (A);

(3) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new clause:

"(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 351 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section).".

(b) OTHER VETERANS.—Section 612(a) is further amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (3) as paragraph (6); and

(3) by inserting after paragraph (1) the following:

"(2) The Administrator shall furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection—

"(A) to any veteran who has a service-connected disability rated at 30 percent or 40 percent; and

"(B) to any veteran who is eligible for hospital care under section 610(a) of this title and whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

"(3) The Administrator may furnish on an ambulatory or outpatient basis medical services which the Administrator determines are needed—

"(A) to any veteran who is a former prisoner of war;

"(B) to any veteran of the Mexican border period or of World War I; and

"(C) to any veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

"(4) Subject to subsection (f) of this section, the Administrator may furnish on an ambulatory or outpatient basis medical *services for a purpose described in paragraph (5) of this subsection to any veteran who is eligible for hospital care under section 610 of this title and who is not otherwise eligible for such services under this subsection.*

"(5)(A) Medical services for a purpose described in this paragraph are medical services reasonably necessary in preparation for hospital admission or to obviate the need of hospital admission. In the case of a veteran described in paragraph (4) of this subsection, services to obviate the need of hospital admission may be furnished only to the extent that facilities are available.

"(B) In the case of a veteran who has been furnished hospital care, nursing home care, or domiciliary care, medical services for a purpose described in this paragraph include medical services reasonably necessary to complete treatment incident to such care. Such medical services may not be provided for a period in excess of 12 months after discharge from such care. However, the Administrator may authorize a longer period in any case if the Administrator finds that a longer period is required by reason of the disability being treated.".

(c) Priority for Outpatient Services.—Section 612(i) is amended by striking out paragraphs (1) through (6) and inserting in lieu thereof the following:

"(1) To a veteran who is entitled to such services under paragraph (1) or (2) of subsection (a) of this section.

"(2) To a veteran (A) who has a service-connected disability rated at less than 30-percent disabling, or (B) who is being examined to determine the existence or severity of a service-connected disability.

"(3) To a veteran (A) who is a former prisoner of war, or (B) who is eligible for hospital care under section 610(e) of this title.

"(4) To a veteran eligible for medical services under subsection (a)(3)(B) or (a)(3)(C) of this section.

"(5) To a veteran not covered by paragraphs (1) through (4) of this subsection who is unable to defray the expenses of necessary care as determined under section 622(a)(1)(C) of this title.".

(d) Home Health Services.—(1) Section 617 is amended—

(A) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(B) by inserting after the section heading the following new subsection (a):

"(a)(1) As part of medical services furnished to a veteran under section 612(a) of this title, the Administrator may furnish such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of the veteran's disability.

"(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvements and structural alterations (or the amount of reimbursement therefor) under this subsection may not exceed—

"(A) $2,500 in the case of medical services furnished under paragraph (1) of section 612(a) of this title; or

"(B) $600 in the case of medical services furnished under any other provision of section 612 of this title.".

(2) Subsection (k) of section 612 is transferred to section 617 (as amended by paragraph (1)), inserted at the end of subsection (a) (as added by paragraph (1)), and redesignated as paragraph (3).

(3) The heading of section 617 is amended to read as follows:

"§ 617. Home health services; invalid lifts and other devices".

(e) Conforming Amendments.—(1) Section 612(f) is amended—

(A) by striking out paragraphs (1), (2), and (3);

(B) by striking out "(4)(A) The Administrator may not furnish medical services under this subsection (including home health services under paragraph (2) of this subsection)" and inserting in lieu thereof "(1) The Administrator may not furnish medical services under subsection (a) of this section (including home health services under section 617 of this title)";

(C) by striking out "subparagraph (B) of this paragraph" and inserting in lieu thereof "paragraph (2) of this subsection";

(D) by redesignating subparagraphs (B) through (G) as paragraphs (2) through (7), respectively;

(E) by striking out "this paragraph" each place it appears in such paragraphs and inserting in lieu thereof "this subsection";

(F) in paragraph (2) (as so redesignated), by striking out "this subsection and who is required under subparagraph (A)" and inserting in lieu thereof "subsection (a) of this section and who is required under paragraph (1)";

(G) in paragraph (3) (as so redesignated), by striking out "furnished under this subsection" and inserting in lieu thereof "furnished under subsection (a) of this section"; and

(H) in paragraph (5) (as so redesignated), by striking out "under this subsection" and inserting in lieu thereof "under section 617 of this title".

(2) Section 612 is further amended—

(A) in the first sentence of subsection (b)(4), by striking out "subsections (a) and (f) of this section" and inserting in lieu thereof "subsection (a) of this section (other than paragraphs (3)(B) and (3)(C) of that subsection)"; and

(B) by striking out subsection (g).

(3) Section 603(a)(2) is amended—

(A) in clause (B), by striking out "section 612(f)(1)(A)(ii) of this title" and inserting in lieu thereof "section 612(a)(4) of this title, for a purpose described in section 612(a)(5) of this title"; and

(B) in clause (C), by striking out "section 612(g)" and inserting in lieu thereof "section 612(a)(3) (other than a veteran who is a former prisoner of war)".

(f) Technical Amendments.—Section 612(b)(1)(B) is amended—

(1) in clause (i), by striking out "at time of" and inserting in lieu thereof "at the time of the veteran's";

(2) in clause (ii), by striking out "one hundred and eighty days" and inserting in lieu thereof "180 days";

(3) in clause (iii), by striking out "ninety days" each place it appears and inserting in lieu thereof "90 days"; and

(4) in clause (iv), by striking out "ninety-day" and inserting in lieu thereof "90-day".

(g) Repeal of Dated Provisions; Grandfather Provision.—(1) Section 612 is amended—

(A) in subsection (b)(1), by striking out subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively; and

(B) by striking out subsection (e).

(2) Any disability of a veteran of the Spanish-American War, upon application for outpatient medical services under section 612 or 624 of title 38, United States Code, shall be considered for the purposes thereof to be a service-connected disabilty and, for the purposes of section 612(b) of such title, to be compensable in degree.

(h) Clerical Amendments.—(1) The heading of section 612 is amended to read as follows:

"§ 612. Eligibility for outpatient services".

(2) The table of sections at the beginning of chapter 17 is amended—

(A) by striking out the item relating to section 612 and inserting in lieu thereof the following:

"612. Eligibility for outpatient services."; and

(B) by striking out the item relating to section 617 and inserting in lieu thereof the following:

"617. Home health services; invalid lifts and other devices.".

SEC. 102. ELIGIBILITY FOR DOMICILIARY CARE.

(a) Revised Eligibility.—Subsection (b) of section 610 is amended to read as follows:

"(b)(1) The Administrator may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Administrator determines is needed for the purpose of the furnishing of medical services to the veteran.

"(2) This subsection applies in the case of the following veterans:

"(A) Any veteran whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

"(B) Any veteran who the Administrator determines has no adequate means of support.".

(b) Conforming Amendment.—Section 622(g) is amended by striking out "sections 610(b)(2) and" and inserting in lieu thereof "section".

(c) Savings Provision.—The amendment made by subsection (a) shall not limit or restrict the eligibility for domiciliary care of a veteran who was a patient or a resident in a State home facility or a Veterans' Administration domiciliary facility during the period beginning on January 1, 1987, and ending on April 1, 1988.

SEC. 103. DEFINITION OF NURSING HOME CARE.

(a) Clarification of Definition.—Section 101(28) is amended—

(1) by striking out "skilled" in the first sentence; and

(2) by striking out the second sentence and inserting in lieu thereof the following: "Such term includes services furnished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.".

(b) Conforming Amendments.—Section 620(e)(1) is amended—

(1) by striking out the first sentence; and

(2) by striking out "(as defined in section 101(28) of this title)".

SEC. 104. EXPANSION OF CONTRACT-CARE AUTHORITY.

(a) Additional Covered Services.—Section 603(a) is amended—

(1) in clause (3), by inserting "or nursing home care under section 620 of this title" after "Veterans' Administration facility" the first place it appears; and

(2) by adding at the end the following new paragraph:

"(8) Diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Veterans' Administration.".

(b) STYLISTIC AMENDMENTS.—Section 603(a) is further amended—

(1) in the matter preceding clause (1), by striking out "furnish—" and inserting in lieu thereof "furnish any of the following:";

(2) in each of clauses (1) through (7), by capitalizing the first letter of the first word;

(3) at the end of each of clauses (1) through (5), by striking out the semicolon and inserting in lieu thereof a period; and

(4) at the end of clause (6), by striking out "; or" and inserting in lieu thereof a period.

SEC. 105. HEALTH CARE OUTSIDE THE UNITED STATES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

Section 624(b) is amended to read as follows:

"(b)(1) The Administrator may furnish hospital care and medical services outside a State to a veteran who is otherwise eligible to receive hospital care and medical services if the Administrator determines that such care and services are needed for the treatment of a service-connected disability of the veteran or as part of a rehabilitation program under chapter 31 of this title.

"(2) Care and services for a service-connected disability of a veteran who is not a citizen of the United States may be furnished under this subsection only—

"(A) if the veteran is in the Republic of the Philippines or in Canada; or

"(B) if the Administrator determines, as a matter of discretion and pursuant to regulations which the Administrator shall prescribe, that it is appropriate and feasible to furnish such care and services.".

SEC. 106. INTERNMENT PERIOD REQUIRED FOR ELIGIBILITY FOR DENTAL CARE FOR FORMER PRISONERS OF WAR.

Section 612(b)(1)(F) (as redesignated by section 101(g)(1)) is amended by striking out "six months" and inserting in lieu thereof "90 days".

SEC. 107. READJUSTMENT COUNSELING PROGRAM IMPROVEMENTS.

(a) REPEAL OF TRANSITION REQUIREMENT.—Subsection (g)(1) of section 612A is amended to read as follows:

"(g)(1)(A) The Administrator may close or relocate a center in existence on January 1, 1988, only as described in the national plan required by paragraph (3) of this subsection (or in a revision to such plan under paragraph (4) of this subsection in which the closure or relocation of that center is proposed).

"(B) A closure or relocation of a center which is proposed in such national plan may be carried out only after the end of the 120-day period beginning on the date on which the national plan is submitted. A closure or relocation of a center not proposed in such plan may be carried out only after the end of the 60-day period beginning on the date the Administrator submits a revision to such plan in which the closure or relocation of that center is proposed.".

(b) CHANGE IN REPORT DEADLINE.—Paragraph (2)(A) of section 612A(g) is amended—

(1) by striking out "April 1, 1987" and inserting in lieu thereof "April 1, 1988"; and

(2) by striking out "(or" and all that follows through "available)".

(c) REQUIREMENT FOR A NATIONAL PLAN.—Section 612(g) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3)(A) The Administrator, after considering the recommendations of the Chief Medical Director, shall submit to such committees a report setting forth a national plan for all centers in existence on January 1, 1988. Such national plan shall set forth the Administrator's proposals as to each such center for a period (to be determined by the Administrator) of not less than 12 months beginning on the date of the submission of the report. The plan shall include, as to each center, whether the Administrator proposes to relocate the center to a general Veterans' Administration facility, relocate the center to a new location away from a general Veterans' Administration facility, expand the center in the same location, or close the center. The plan shall also set forth any proposal of the Administrator to open additional centers.

"(B) The plan shall include the Administrator's evaluation as to how, in light of each of the criteria described in subparagraph (C) of this paragraph, the proposal set forth in the plan for each center covered by the plan would ensure the continued availability and effective furnishing of readjustment counseling services to eligible veterans needing such services in the geographic area served by that center.

"(C) The Administrator shall make the evaluation described in subparagraph (B) of this paragraph with respect to any center in light of the following:

"(i) The distribution of Vietnam-era veterans in the geographic area served by the center and the relationships between the location of such center and the general Veterans' Administration facility and such distribution.

"(ii) The distance between the center and the general Veterans' Administration facility.

"(iii) The availability of other entities (such as State, local, or private outreach facilities) which provide assistance to Vietnam-era veterans in the area served by the center.

"(iv) The availability of transportation to, and parking at, the center and the general Veterans' Administration facility.

"(v) The availability, cost, and suitability of the space at the general Veterans' Administration facility.

"(vi) The overall cost impact of the proposed closure or relocation, including a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimated number of veterans at the center and the general Veterans' Administration facility.

"(vii) The workload trends over the two previous fiscal years, and projected over the next fiscal year (or longer), at the center.

"(viii) Such other factors as the Administrator determines to be relevant to making the evaluation described in subparagraph (B) of this paragraph.

"(D) For the purposes of this paragraph, the term 'general Veterans' Administration facility' means a Veterans' Administration facility which is not a center and at which readjustment counseling would be furnished in a particular geographic area upon the closure or relocation of a center.

"(4) After submitting the plan required by paragraph (3) of this subsection, the Administrator may submit to the committees a revision to such plan in order to modify the proposal set forth in the plan as to any center. Any such revision shall include, with respect to each center addressed in the revision, a description of the Administrator's evaluation of the matters specified in paragraphs (3)(B) and (3)(C) of this subsection.

"(5) For purposes of determining a period of time under paragraph (1)(B) of this subsection, if the national plan (or a revision to the national plan) is submitted to the committees during the 121-day period beginning 60 days before and ending 60 days after the final day of a session of the Congress, it shall be deemed to have been submitted on the sixty-first day after the final day of such session.".

(d) DEFINITIONS.—Section 612A is further amended by adding at the end the following new subsection:

"(i) For the purposes of this section:

"(1) The term 'center' means a facility (including a Resource Center designated under subsection (h)(3)(A) of this section) which is operated by the Veterans' Administration for the provision of services under this section and which (A) is situated apart from Veterans' Administration general health-care facilities, or (B) was so situated but has been relocated to a Veterans' Administration general health-care facility.

"(2) The term 'Veterans' Administration general health-care facility' means a health-care facility which is operated by the Veterans' Administration for the furnishing of health-care services under this chapter, not limited to services provided through the program established under this section.".

(e) CONFORMING AMENDMENTS—(1) Subsection (g)(2)(B) of section 612A is amended—

(A) in clause (i), by striking out "a program" and all that follows through "health-care facilities" and inserting in lieu thereof "centers"; and

(B) in clause (ii), by striking out "paragraph (1) of".

(2) Subsection (h) of such section is amended—

(A) in paragraph (3)(B), by striking out " 'Centers' " and inserting in lieu thereof " 'Resource Centers' "; and

(B) in paragraphs (4)(A), (4)(B), and (5), by striking out "Center" and inserting in lieu thereof "Resource Center".

(f) PROHIBITION OF DELEGATION OF DUTIES.—The Chief Medical Director of the Veterans' Administration may not delegate the function of making recommendations under section 612A(g)(3)(A) of title 38, United States Code, as amended by subsection (c).

SEC. 108. BENEFICIARY TRAVEL PROGRAM.

(a) PROGRAM REVISIONS.—Section 111 is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) Except as provided in subsection (g) of this section and notwithstanding subsection (f)(2)(A) of this section or any other provision of law, if, with respect to any fiscal year, the Administrator exercises the authority under this section to make any payments, the Administrator shall make the payments provided for in this section to or for the following persons for travel during such fiscal year for examination, treatment, or care:

"(A) A veteran or other person whose travel is in connection with treatment or care for a service-connected disability.

"(B) A veteran with a service-connected disability rated at 30 pecent or more.

"(C) A veteran receiving pension under section 521 of this title.

"(D) A veteran (i) whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension which would be payable to

such veteran if such veteran were eligible for pension under section 521 of this title, or (ii) who is determined, under regulations prescribed by the Administrator, to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(E) Subject to paragraph (3) of this subsection, a veteran or other person whose travel to or from a Veterans' Administration facility is medically required to be performed by a special mode of travel and who is determined under such regulations, to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(F) A veteran whose travel to a Veterans' Administration facility is incident to a scheduled compensation and pension examination.

"(2) The Administrator may make payments provided for in this section to or for any person not covered by paragraph (1) of this subsection for travel by such person for examination, treatment, or care. Such payments shall be made in accordance with regulations which the Administrator shall prescribe.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, the Administrator shall not make payments under this section for travel performed by a special mode of travel unless (i) the travel by such mode is medically required and is authorized by the Administrator before the travel begins, or (ii) the travel by such mode is in connection with a medical emergency of such a nature that the delay incident to obtaining authorization from the Administrator to use that mode of travel would have been hazardous to the person's life or health.

"(B) In the case of travel by a person to or from the Veteran's Administration facility by special mode of travel, the Administrator may provide payment under this section to the provider of the transportation by special mode before determining the eligibility of such person for such payment if the Administrator determines that providing such payment is in the best interest of furnishing care and services. Such a payment shall be made subject to subsequently recovering from such person the amount of the payment if such person is determined to have been ineligible for payment for such travel.".

(b) Volunteer Transportation.—(1) Such section is further amended by adding at the end the following new subsection:

"(g) The Administrator, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or individuals who are volunteering their services to the Veterans' Administration, would take responsibility for the transportation, without reimbursement from the Veterans' Administration, to Veterans' Administration facilities of veterans (primarily those residing in areas which are geographically accessible to such facilities) who seek services or benefits from the Veterans' Administration under chapter 17 or other provisions of this title.".

(2) Not later than six months after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the implementation of subsection (g) of section 111 of title 38, United States Code, as added by paragraph (1).

(c) Stylistic Amendments.—Subsection (c) of such section (as redesignated by subsection (a)(1)) is amended—

(1) in paragraph (1)—

(A) by striking out "the" and inserting in lieu thereof "The"; and

(B) by striking out "hereof;" and inserting in lieu thereof "of this section.";

(2) in paragraph (2)—

(A) by striking out "actual" and inserting in lieu thereof "Actual"; and

(B) by striking out the semicolon at the end and inserting in lieu thereof a period; and

(3) in paragraph (3), by striking out "the expense" and inserting in lieu thereof "The expense".

(d) Clerical Amendments.—(1) The heading of section 111 is amended to read as follows:

"**§111. Payments or allowances for beneficiary travel**".

(2) The item relating to such section in the table of sections at the beginning of chapter 1 is amended to read as follows:

"111. Payments or allowances for beneficiary travel.".

(e) Transition Provision.—In determining for the purposes of subsection (b)(1) of section 111 of title 38, United States Code, as amended by subsection (a), whether during fiscal year 1988 the Administrator has exercised the authority under that section to make payments there shall be disregarded any exercise of authority under that section before the date of the enactment of this Act.

Part C—Pilot Programs and Reports

SEC. 111. ADULT DAY HEALTH-CARE PROGRAM.

(a) Three-Year Extension.—Section 620(f)(3) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

(b) Study Requirement.—The Administrator shall conduct a study of—

(1) the medical efficacy and the cost-effectiveness of furnishing adult day health care under section 620(f) of title 38, United States Code, as an alternative to nursing home care; and

(2) the comparative advantages and disadvantages of providing such care through facilities that are not under the direct jurisdiction of the Administrator and through facilities that are under the direct jurisdiction of the Administrator.

(c) Reports.—(1) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(A) an interim report on the study under subsection (b) not later than February 1, 1988; and

(B) a final report on such study not later than February 1, 1991.

(2) Each such report shall include—

(A) the results of the study under subsection (b) through September 30 of the year preceding the deadline under paragraph (1) for submission of the report; and

(B) any other recommendation that the Administrator considers appropriate for legislative or administrative action with respect to the furnishing of adult day health care under section 620(f) of title 38, United States Code.

(d) Repeal of Existing Study and Report Requirements.—Subsections (b) and (c) of section 103 of Public Law 98-160 (38 U.S.C. 620 note) are repealed.

SEC. 112. REPORT ON USE OF CONTRACT-CARE AUTHORITIES.

(a) Revised Report Requirement.—Section 603 is amended by adding at the end the following new subsection:

"(c) Not later than February 1 of each year, the Chief Medical Director shall submit to the appropriate committees of the Congress, through the Administrator, a detailed report on the furnishing of contract care and services during the preceding fiscal year under this section, sections 612A, 620, 620A, 624, and 632 of this title, and section 115 of the Veterans' Benefits and Services Act of 1988.".

(b) Repeal of Previous Requirement.—Section 201(b) of the Veterans' Health Care Amendments of 1979 (Public Law 96-22; 93 Stat. 54) is repealed.

SEC. 113. PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS.

(a) Program.—(1) In order to evaluate the desirability of using mobile health-care clinics to increase the access to Veterans' Administration health-care services of veterans who reside in isolated rural areas, the Administrator may conduct a pilot program under which eligible veterans residing in areas which are at least 100 miles from the nearest Veterans' Administration health-care facility are furnished health-care services at a location convenient to their residences by Veterans' Administration employees furnishing such services through the use of appropriately equipped mobile health-care clinics. The pilot program shall be conducted for a period of not less than 24 months.

(2) The pilot program authorized by paragraph (1) shall be carried out using at least two mobile health-care clinics in each of the following geographic areas of the United States: the Northeast, the Midwest, the South, and the West.

(b) Funding.—There is authorized to be appropriated $5,000,000 for each of fiscal years 1989 and 1990 in order to carry out this section. No funds may be used for the pilot program unless specifically appropriated for that purpose.

(c) Evaluation.—In carrying out the pilot program, the Administrator shall evaluate the efficacy and cost-effectiveness of furnishing care to eligible veterans through the use of mobile health-care clinics.

(d) Reports.—Not later than 20 months after the first health-care service under the pilot program is furnished, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an interim report on the implementation, operation, and results of the first 17 months' experience under the pilot program. Not later than 27 months after the beginning of the pilot program, the Administrator shall submit to such committees a final such report. Each such report shall include the following:

(1) Information on the health-care services that were furnished under such pilot program and a detailed specification of the costs of furnishing such services.

(2) Information describing the veterans who were furnished services under the pilot program, including a detailed description with respect to service connection, age, prior access to and use of Veterans' Administration care and services, and the financial need of such veterans.

(3) The preliminary or final results of the Administrator's evaluation.

(4) Any plans for administrative action, and any recommendations for legislation,

that the Administrator considers appropriate to include in the report.

SEC. 114. MODIFICATION OF REPORT ON CARE FURNISHED TO VETERANS HAVING CHRONIC MENTAL ILLNESS DISABILITIES.

(a) Report on Institutional Care Furnished Mentally Ill Veterans.—The report required by section 235 of the Veterans' Benefits Improvement and Health Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3266) shall, to the extent feasible, include (1) information on the number of veterans being treated by the Veterans' Administration for mental illness disabilities who were furnished hospital, domiciliary, or nursing home care by the Administrator during each of fiscal years 1986, 1987, and 1988, shown by type of care furnished and the duration of such care, and (2) the Administrator's analysis of any change in the numbers of veterans being furnished any type of such care during such fiscal years, with particular emphasis on the effect of the implementation by the Veterans' Administration of a resource allocation methodology.

(b) Deadline for Submission of Report.—Notwithstanding the date specified in subsection (c) of such section, the report required by such section shall be submitted not later than December 15, 1988.

SEC. 115. PILOT PROGRAM OF CONTRACT COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL AND OTHER VETERANS.

(a) Authority for Program.—(1) The Administrator shall conduct a pilot program to provide care and treatment and rehabilitative services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless veterans suffering from chronic mental illness disabilities who are eligible for care under section 610(a)(1) of title 38, United States Code.

(2) As part of the pilot program, the Administrator may also provide such care and treatment and rehabilitative services—

(A) to veterans being furnished hospital or nursing home care by the Administrator for a chronic mental illness disability; and

(B) to veterans with service-connected chronic mental illness disabilities.

(b) Criteria for Facilities.—Before furnishing care and treatment and rehabilitative services by contract under subsection (a) to a veteran through a facility described in subsection (a), the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

(c) In-Kind Assistance.—The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a facility described in subsection (a) under this section. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate care and services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

(d) Duration of Program.—The authority for the pilot program authorized by this section expires on September 30, 1989.

(e) Report.—Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience of the Veterans' Administration under the pilot program through September 30, 1988, and the recommendation of the Administrator (together with the reasons for such recommendation) as to whether the pilot program should be continued.

(f) Funding.—(1) There is authorized to be appropriated for the pilot program under this section $6,000,000 for each of fiscal years 1988 and 1989.

(2) Of the amounts appropriated for the pilot program for each such fiscal year, not less than $250,000 shall be expended for management and monitoring of the program to ensure that a high quality of care is provided under the program and to ensure an accurate accounting of funds for the program.

(3) During fiscal year 1989, funds may not be obligated for the pilot program under this section other than funds specifically appropriated for that program.

(g) Repeal of Contract Authority in Title 38.—(1) Section 620C is repealed.

(2) The table of sections at the beginning of chapter 17 is amended by striking out the item relating to that section.

SEC. 116. REPORTS ON ASSISTANCE TO HOMELESS VETERANS.

Not later than December 15 of each of 1988, 1989, and 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities (including outreach activities and delivery of medical benefits and other benefits) of the Veterans' Administration during the preceding fiscal year to assist homeless veterans. The report shall include any suggestions of the Administrator for changes in those activities.

Part C—Matters Relating to AIDS

SEC. 121. CONFIDENTIALITY OF MEDICAL RECORDS.

(a) General Rule.—Subsection (a) of section 4132 is amended—

(1) by inserting "(1)" before "Records";

(2) by inserting "infection with the human immunodeficiency virus," after "alcohol abuse,"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) of this subsection prohibits the disclosure to any person or entity other than the patient or subject concerned of the fact that a special written consent is required in order for such records to be disclosed.".

(b) Public Health Exception.—Subsection (b) of such section is amended—

(1) in paragraph (1), by striking out "pursuant to section 4134 of this title"; and

(2) in paragraph (2)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph (C):

"(C)(i) In the case of any record which is maintained in connection with the performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local public-health authority charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative of such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law.

"(ii) A person to whom a record is disclosed under this paragraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.".

(c) Disclosure to Spouse or Sexual Partner.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) Notwithstanding subsection (a) of this section but subject to paragraph (2) of this subsection, a physician or a professional counselor may disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to (A) the spouse of the patient or subject, or (B) to an individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

"(2)(A) A disclosure under paragraph (1) of this subsection may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

"(B) A disclosure under such paragraph may be made by a physician or counselor other than the physician or counselor referred to in subparagraph (A) of this paragraph if such physician or counselor is unavailable by reason of absence or termination of employment to make the disclosure.

(d) Penalty for Unauthorized Disclosure.—Subsection (g) of such section (as redesignated by paragraph (4)(A)) is amended by striking out "shall be fined" and all that follows and inserting in lieu thereof "shall be fined, in the case of a first offense, up to the maximum amount provided under section 3305(e) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 3305(e) of this title for a subsequent offense under that section.".

(e) Cross-Reference Amendments.—(1) Subsection (a) of such section is amended by striking out "subsection (e)" and inserting in lieu thereof "subsections (e) and (f)".

(2) Subsection (c) of such section is amended by striking out "subsection (b)(2)(C)" and inserting in lieu thereof "subsection (b)(2)(D)".

SEC. 122. NONDISCRIMINATION.

(a) Admission and Treatment of Persons Infected With The Human Immunodeficiency Virus.—Sections 4133 and 4134 are amended to read as follows:

"§ 4133. Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus

"(a) Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or who are infected with the human immunodeficiency virus shall not be

discriminated against in admission or treatment by any Veterans' Administration health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection.

"(b) The Administrator shall prescribe regulations for the enforcement of this section. Such regulations, with respect to the admission and treatment of such veterans who are alcohol or drug abusers, shall be prescribed in accordance with section 4134 of this title.

"§ 4134. Regulations

"(a) Regulations prescribed by the Administrator under section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title with respect to alcohol or drug abusers shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations described in subsection (b) of this section to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title.

"(b) The regulations referred to in subsection (a) of this section are—

"(1) regulations governing human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93-348; 88 Stat. 348); and

"(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

"(c) Regulations prescribed by the Administrator under sections 4131, 4132, and 4133 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title), as are necessary to prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

"(d) In prescribing and implementing such regulations, the Administrator shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the implementation of the regulations, which they and the Administrator prescribe.".

(b) Clerical Amendment.—The items relating to sections 4133 and 4134 in the table of sections at the beginning of chapter 73 of such title are amended to read as follows:

"4133. Nondiscrimination against alcohol and drug abusers and persons infected with human immunodeficiency virus.

"4134. Regulations.".

SEC. 123. INFORMATION AND TRAINING CONCERNING AIDS PREVENTION.

(a) Information Program.—The Administrator shall establish and carry out an information program relating to the acquired immune deficiency syndrome (hereinafter in this section referred to as "AIDS"). The information program shall be for employees and consultants of the Veterans' Administration, for other persons providing services in Veterans' Administration facilities to beneficiaries of programs administered by the Veterans' Administration, and for such beneficiaries.

(b) Required Elements of Information Program.—In conducting the program under subsection (a), the Administrator shall—

(1) develop, in consultation with the Surgeon General of the United States and the Director of the Centers for Disease Control, publications and other materials containing information on AIDS, including information on the prevention of infection with the human immunodeficiency virus;

(2) provide for periodic dissemination of publications (including the Surgeon General's Report on AIDS) and other materials containing such information;

(3) make publications and other suitable materials containing such information readily available in Veterans' Administration health-care facilities and such other Veterans' Administration facilities as the Administrator considers appropriate; and

(4) disseminate information (including the Surgeon General's Report on AIDS) on the risk of transmission of the human immunodeficiency virus, and information on preventing the transmission of such virus, to Veterans' Administration substance abuse treatment personnel, to each person being furnished treatment by the Veterans' Administration for drug abuse, and to each person receiving care or services from the Veterans' Administration whom the Administrator believes to be at high risk for AIDS.

(c) Training in AIDS Prevention.—The Administrator shall establish and carry out a program that provides for education, training, and other activities (including continuing education and infection control programs) regarding AIDS and the human immunodeficiency virus designed to improve the effectiveness and safety of all health-care personnel and all health-care support personnel involved in the furnishing of care under programs administered by the Veterans' Administration.

SEC. 124. RESTRICTION ON TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS.

(a) General Rule.—Except as provided in subsection (b), the Administrator may not during any fiscal year conduct a widespread testing program to determine infection of humans with the human immunodeficiency virus unless funds have been appropriated to the Veterans' Administration specifically for such a program during that fiscal year.

(b) Voluntary Testing.—(1) The Administrator shall prescribe regulations providing for a program under which the Veterans' Administration offers each patient to whom the Veterans' Administration is furnishing health care or services and who is described in paragraph (2) the opportunity to be tested to determine whether such patient is infected with the human immunodeficiency virus.

(2) Patients referred to in paragraph (1) are—

(A) patients who are receiving treatment for intravenous drug abuse,

(B) patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and

(C) patients who are otherwise at high risk for infection with such virus.

(3) Subject to the consent requirement in paragraph (4) and unless medically contraindicated, the test shall be administered to each patient requesting to be tested for infection with such virus.

(4) A test may not be conducted under this subsection without the prior informed and separate written consent of the patient tested. The Administrator shall provide pre- and post-test counseling regarding the acquired immune deficiency syndrome and the test to each patient who is administered the test.

(5) Regulations under paragraph (1) shall be prescribed not later than 180 days after the date of the enactment of this Act.

PART D—OTHER MATTERS

SEC. 131. DEFINITION OF VETERANS' ADMINISTRATION MEDICAL FACILITIES TO INCLUDE CERTAIN RECREATIONAL FACILITIES.

Section 601(4) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(C) public or private facilities at which the Administrator provides recreational activities for patients receiving care under section 610 of this title.".

SEC. 132. VETERANS' ADMINISTRATION ASSISTANCE WITH REHABILITATION ACTIVITIES.

(a) In General.—Chapter 3 is amended by inserting after section 215 the following new section:

"§216. Assistance to certain rehabilitation activities

"(a) The Administrator may assist any organization named in or approved under section 3402 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

"(1) the activities are available to disabled veterans on a national basis; and

"(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.

"(b) The Administrator may accept from any appropriate source contributions of funds and of other assistance to support the Administrator's provision of assistance for such activities.

"(c)(1) Subject to paragraph (2) of this subsection, the Administrator may authorize the use, for purposes approved by the Administrator in connection with the activity involved, of the seal and other official symbols of the Veterans' Administration and the name 'Veterans' Administration' by—

"(A) any organization which provides an activity described in subsection (a) of this section with assistance from the Administrator; and

"(B) any individual or entity from which the Administrator accepts a significant contribution under subsection (b) of this section or an offer of such a contribution.

"(2) The use of such seal or name or any official symbol of the Veterans' Administration in an advertisement may be authorized by the Administrator under this subsection only if—

"(A) the Administrator has approved the advertisement; and

"(B) the advertisement contains a clear statement that no product, project, or commercial line of endeavor referred to in the advertisement is endorsed by the Veterans' Administration.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 215 the following new item:

"216. Assistance to certain rehabilitation activities.".

SEC. 133. RULES AND REGULATIONS RELATING TO VETERANS' HEALTH CARE.

The text of section 621 is amended to read as follows:

"Rules and regulations prescribed under section 210(c)(1) of this title shall include rules and regulations to promote good conduct on the part of persons who are receiving hospital, nursing home, and domiciliary care and medical services in Veterans' Administration facilities. The Administrator may prescribe in rules and regulations under such section limitations in connection with the furnishing of such care and services during a period of national emergency (other than a period of war or an emergency described in section 5011A of this title).".

SEC. 134. PER DIEM RATES FOR CARE IN STATE HOMES.

(a) Increase in Rates.—Section 641(a) is amended by striking out clauses (1), (2), and (3) and inserting in lieu thereof the following:

"(1) $8.70 for domiciliary care,

"(2) $20.35 for nursing home care, and

"(3) $20.35 for hospital care,".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as of January 1, 1988.

SEC. 135. MEDICAL RESEARCH.

Section 4101(c)(1) is amended by striking out the parenthetical phrase and inserting in lieu thereof "(including biomedical, mental illness, prosthetic and other rehabilitative, and health-care-services research and stressing research into spinal-cord injuries and other diseases that lead to paralysis of the lower extremeties and research into injuries and illnesses particularly related to service)".

SEC. 136. CONVERSION OF UNDERUSED SPACE TO DOMICILIARY-CARE BEDS.

(a) In General.—(1) Subject to subsection (b), the Administrator shall, not later than January 1, 1988, in urban areas in which there are significant numbers of homeless veterans, convert underused space located in facilities under the jurisdiction of the Administrator to 500 domiciliary-care beds to be used for the care of veterans in need of domiciliary care, primarily homeless veterans.

(2) If the Administrator determines that it is impractical to undertake the conversions required in paragraph (1) to the extent required in that paragraph—

(A) because appropriate space for the conversions is not available in sufficient quantity, or

(B) because in areas in which there is sufficient space the numbers of homeless veterans in need of domiciliary care who would likely use the beds are not sufficient to warrant the conversions,

the Administrator shall carry out paragraph (1) only to the extent that the Administrator has not determined that it is impractical to do so.

(b) Prohibition Against Diminution of Certain Other Conversions.—Nothing in this section shall result in the diminution of the conversion of hospital-care beds to nursing-home-care beds by the Veterans' Administration.

(c) Funding.—The Administrator shall carry out subsection (a) within the limits of available appropriations.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

SEC. 201. HEALTH CARE QUALITY ASSURANCE ACTIVITIES.

(a) Actions To Improve Quality Assurance Activities.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall take actions to improve the operation of health-care quality assurance programs and activities in the Veterans' Administration, including actions to achieve the following purposes:

(1) Upgrading the Office of Quality Assurance within the Department of Medicine and Surgery Central Office and assigning responsibility for risk-management activities (to be carried out with the concurrence of the General Counsel) to it.

(2) Expanding, and assigning higher priority and greater resources to, quality-assurance programs and activities at each Veterans' Administration health-care facility, including implementation of the review (known as "occurrence screening") of patient records for adverse events which are not the natural consequence of the patient's disease, injury, or treatment and the maximum use of the facility's computerized management information system for such activities.

(3) Upgrading and expanding the office of the Medical Inspector in the Department of Medicine and Surgery Central Office, including increasing the number of employees assigned to such office on a full-time basis, so as to ensure that each medical inspection carried out by that office includes at least one such full-time employee and otherwise ensuring such adequate numbers of, and such skills and training on the part of, the employees assigned to that office as are necessary to ensure the independence, objectivity, and accountability of that office.

(4) Upgrading and expanding the activities of the Veterans' Administration's Office of Inspector General in overseeing, monitoring, and evaluating the operations of the Department of Medicine and Surgery's quality-assurance programs and activities and its Medical Inspector office so as to provide the Chief Medical Director, the Administrator, and the Congress with clear and objective assessments of the effectiveness of those programs and operations, including ensuring such numbers of, and such skills and training on the part of, employees assigned to the Office of the Inspector General as are necessary to carry out such oversight, monitoring, and evaluation effectively.

(b) Report.—Not later than 75 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, a report describing the actions taken pursuant to subsection (a), including reports of the Chief Medical Director and the Inspector General of the Veterans' Administration on such actions, and any future actions planned (and a timetable therefor) in connection with such actions. The report shall include—

(1) the Administrator's views on (A) the effectiveness of quality assurance and risk management and medical inspection programs and activities in the Department of Medicine and Surgery and of the oversight, monitoring, and evaluation of those programs and activities before the implementation of the actions described in the preceding sentence, and (B) how those actions will improve the effectiveness of these programs and activities; and

(2) a description of actions that have been or will be taken (and the justification for those actions) by the Administrator, the Inspector General, and the Chief Medical Director, as appropriate, to make other improvements in such programs and activities and the oversight, monitoring, and evaluation therefor.

SEC. 202. HOSPITAL COST COLLECTIONS.

Section 629(b)(2) is amended by adding at the end the following new subparagraph:

"(C) A proceeding under subparagraph (B) of this paragraph may not be brought after the end of the six-year period beginning on the last day on which the care or services for which recovery is sought are furnished.".

SEC. 203. TORT CLAIMS.

(a) Inapplicability of an Exception Relating to Federal Tort Claims in Medical Malpractice and Negligence Cases.—Section 4116 is amended by adding at the end the following new subsection:

"(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) of this section in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Department of Medicine and Surgery.".

(b) Increased Authority to Adjust Tort Claims Administratively.—(1) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§223. Administrative settlement of tort claims

"(a) Notwithstanding the limitations contained in section 2672 of title 28, the Administrator may settle any claim for money damages against the United States cognizable under section 1346(b) or 2672 of title 28 or section 4116 of this title to the extent the authority to do so is delegated to the Administrator by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States.

"(b) For purposes of this subsection, the term 'settle', with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.".

(2) The table of sections at the beginning of chapter 3 is amended by inserting after the item relating to section 222 the following:

"223. Administrative settlement of tort claims.".

SEC. 204. NONPROFIT RESEARCH CORPORATIONS.

(a) Authority of Administrator.—Chapter 73 is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"§4161. Authority to establish; status

"(a) The Administrator may authorize the establishment at any Veterans' Administration medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center. Except as otherwise required in this subchapter or under regulations prescribed by the Administrator, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

"(b) If by the end of the three-year period beginning on the date of the establishment

of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Administrator shall dissolve the corporation.

"§4162. Purpose of corporations

"Any corporation established under this subchapter shall be established solely to facilitate research as described in section 4101(c)(1) of this title in conjunction with the applicable Veterans' Administration medical center. Any funds received by the Administrator for the conduct of research at the medical center other than funds appropriated to the Veterans' Administration may be transferred to and administered by the corporation for that purpose.

"§4163. Board of directors; executive director

"(a) The Administrator shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

"(1) the director of the medical center, the chief of staff of the medical center, and the assistant chief of staff for research of the medical center; and

"(2) subject to subsection (c) of this section, members who are not officers or employees of the Federal Government and who are familiar with issues involving medical and scientific research.

"(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Chief Medical Director of the Veterans' Administration. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

"(c) An individual appointed under subsection (a)(2) of this section to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for research by the Veterans' Administration unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

"§4164. General powers

"(a) A corporation established under this subchapter may—

"(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this subchapter; and

"(2) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

"(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds. Such procedures shall include a peer review process.

"§4165. Applicable State law

"Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

"§4166. Accountability and oversight

"(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Administrator.

"(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Veterans' Administration with respect to which the Inspector General of the Veterans' Administration has responsibilities under such Act.

"(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

"(b) Each such corporation shall submit to the Administrator an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation's report to the Administrator for that year.

"(c) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corporation, and each employee of the Veterans' Administration who is involved in the functions of the corporation during any year—

"(1) shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

"(2) shall submit to the Administrator an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.

"(d) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.

"§ 4167. Report to Congress

"Not later than February 1, 1991, the Administrator shall submit to Congress a report on the experience through the end of fiscal year 1990 under this subchapter. The report shall include such recommendations as the Administrator considers appropriate.

"§ 4168. Expiration of authority

"No corporation may be established under this subchapter after September 30, 1991.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"4161. Authority to establish; status.
"4162. Purpose of corporations.
"4163. Board of directors; executive director.
"4164. General powers.
"4165. Applicable State law.
"4166. Accountability and oversight.
"4167. Report to Congress.
"4168. Expiration of authority.".

SEC. 205. NURSING HOME REVOLVING FUND.

(a) Establishment of Fund.—Chapter 81 is amended by inserting after section 5015 the following new section:

"§ 5016. Nursing home revolving fund

"(a)(1) Amounts realized from a transfer pursuant to section 5022(a)(2)(C) of this title shall be administered as a revolving fund and shall be available without fiscal year limitation.

"(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

"(b)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of nursing home facilities and may be made only as provided for in appropriation Acts.

"(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a nursing home facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5016. Nursing home revolving fund.".

SEC. 206. STATE HOME CONSTRUCTION GRANTS.

(a) Date of List of Approved Projects.—Section 5035(b)(4) is amended by striking out "July 1" and inserting in lieu thereof "August 15".

(b) Conditional Approval of Applications.—Section 5035(b) is amended—

(1) in paragraph (4), by inserting "(including projects that have been conditionally approved under paragraph (6) of this subsection)" after "projects"; and

(2) by adding at the end the following new paragraphs:

"(6)(A) The Administrator may conditionally approve a project under this section, conditionally award a grant for the project, and obligate funds for the grant if the Administrator determines that the application for the grant is sufficiently complete to warrant awarding the grant and that, based on assurances provided by the State submitting the application, the State will complete the application and meet all the requirements referred to in paragraph (1)(A) of this subsection by the date, not later than 90 days after the date of the conditional approval, specified by the Administrator.

"(B) If a State does not complete the application and meet all the requirements referred to in such paragraph by the date specified by the Administrator under subparagraph (A) of this paragraph, the Administrator shall rescind the conditional approval and award under such subparagraph and deobligate the funds previously obligated in connection with the application.

"(7)(A) Subject to subparagraph (B) of this paragraph, the Administrator may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Administrator determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Administrator based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Administrator determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

"(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent, and the amount of such

grant, as increased, may not exceed 65 percent of the cost of the project.".

PART B—PAY AND OTHER PERSONNEL BENEFITS

SEC. 211. ADDITIONAL PAY AUTHORITIES FOR NURSES TO BE AVAILABLE FOR PHARMACISTS AND OCCUPATIONAL THERAPISTS.

(a) CATEGORY OF APPOINTMENT.—Section 4104 is amended—

(1) in paragraph (2), by striking out "Pharmacists" and all that follows through "therapists" and inserting in lieu thereof "Psychologists (other than those described in paragraph (3) of this section)"; and

(2) in paragraph (3)—

(A) by striking out "and"; and

(B) by inserting ", pharmacists, and occupational therapists" after "nurses".

(b) AUTHORITY FOR PREMIUM PAY.—The second sentence of section 4107(f) is amended—

(1) by striking out "or licensed" and inserting in lieu thereof "licensed"; and

(2) inserting "pharmacists, or occupational therapists," after "nurses,".

SEC. 212. RECRUITMENT AND RETENTION BONUS PAY.

(a) AUTHORITY TO PAY BONUS.—Chapter 73 is amended by inserting after section 4119 the following new section:

"§4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel

"(a)(1) In order to recruit and retain registered nurses, the Administrator may enter into agreements under this section. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Veterans' Administration at, a Veterans' Administration health-care facility that is designated by the Administrator as a health-care facility with a significant shortage in registered nurses in any clinical service.

"(2) A registered nurse entering into an agreement under this section shall agree to remain employed by the Veterans' Administration as a registered nurse for a period of time to be specified in the agreement and to serve during that period in a specific health-care facility that is designated by the Administrator as a health-care facility with a significant shortage of registered nurses in that nurse's clinical service. Such period may not be less than two years or more than four years. Such employment during such period may be on a full-time basis or a part-time basis, as specified in the agreement. Part-time employment as specified in such an agreement may not be less than half-time.

"(b)(1) The Administrator shall pay to any nurse entering into an agreement under this section bonus pay in an amount specified in the agreement. The amount of such bonus pay may not exceed—

"(A) $2,000 per year, in the case of an agreement for two years,

"(B) $3,000 per year, in the case of an agreement for three years, and

"(C) $4,000 per year, in the case of an agreement for four years.

"(2) In the case of an agreement for employment on less than a full-time basis, the amount of bonus pay shall be pro rated accordingly.

"(c)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

"(2)(A) The Administrator may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commences under the agreement.

"(B) If the Administrator makes a lump-sum payment under subparagraph (A) of this paragraph, the remaining balance of the bonus shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

"(d)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which the individual is entitled.

"(2) The amount of a bonus paid under this section shall not be considered to be basic pay for the purposes of sections 5551, 5552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

"(e) At least once each year the Administrator, upon the recommendation of the Chief Medical Director, shall determine the specific health-care facilities and clinical services, if any, as to which there are significant problems with respect to the recruitment and retention of registered nurses. Upon making any such determination, the Administrator shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis for the determination.

"(f) The Administrator may enter into agreements under this section with individuals in a health profession other than nursing (and other than a health profession for which special pay may be provided under section 4118 of this title) if the Administrator determines that there are significant problems with respect to recruitment and retention of employees in that health profession. The Administrator's authority to enter into any such agreement under this section, and such agreement, shall be subject to the provisions of this section in the same manner as are the authority to enter into an agreement under this section with a registered nurse and such an agreement.

"(g)(1) Except as provided in paragraph (2) of this subsection, an individual who voluntarily, or because of misconduct, fails to perform services as assigned by the Administrator for the period of obligated service provided in an agreement under this section shall refund to the United States the amount by which the total amount of bonus payments received by that individual under this section exceeds the amount that such individual would have received under an agreement under this section to serve for the period of obligated service actually served (as determined at the time the agreement is entered into). If the period actually served is less than two years, the amount to be refunded is the entire amount paid to the individual.

"(2) An individual shall not be required to make a refund under paragraph (1) of this subsection if the Administrator determines, in accordance with regulations prescribed under subsection (h) of this section, that the individual's failure to perform services for the period of obligated service is due to circumstances (not including termination for cause) beyond the control of the individual.

"(3) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

"(4) The provisions of this subsection and the specific amounts that the individual could be required to refund shall be disclosed to the individual at the time the agreement is entered into and shall be clearly set forth in the contract.

"(h) The Administrator shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4119 the following:

"4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel.".

(b) CONFORMING AMENDMENT.—Section 4107(d) is amended by striking out "section 4118" and inserting in lieu thereof "sections 4118 and 4120".

SEC. 213. ON-CALL PAY.

Section 4107 is amended by adding at the end the following new subsection:

"(j)(1) The Administrator may pay an employee to whom this subsection applies pay at the rate provided in subsection (e)(8) of this section except for such time as the employee may be called back to work.

"(2) This subsection applies to an employee who meets each of the following criteria:

"(A) The employee is employed in a position listed in paragraph (3) of section 4104 of this title or meets the criteria specified in subclauses (i), (ii), and (iii) of subsection (g)(1)(B) of this section.

"(B) The employee is employed in a work unit for which on-call premium pay is authorized.

"(C) The employee is officially scheduled to be on call outside such employee's regular hours or on a holiday designated by Federal statute or Executive order.

"(3) Am employee who is eligible for on call pay under paragraph (1) of this subsection and who was receiving standby premium pay pursuant to section 5545 of title 5 on the date of the enactment of this subsection shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay for any period of on call duty at the rate equal to the greater of (A) the rate of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or (B) the rate of pay which such employee is entitled to receive including on-call premium pay described in paragraph (1) of this subsection.".

SEC. 214. PREMIUM PAY FOR SATURDAY WORK.

(a) EXTENSION OF SUNDAY WORK PREMIUM PAY.—Paragraph (3) of section 4107(e) is amended by striking out "Saturday" and inserting in lieu thereof "Friday".

(b) CONFORMING AMENDMENTS.—(1) Subparagraph (A) of paragraph (10) of such section is amended to read as follows:

"(A) Notwithstanding any other provision of law and subject to subparagraph (B) of this paragraph, the Administrator may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection if the Administrator determines that it is necessary to do so in order to obtain or retain the services of nurses.".

(2) Such paragraph is further amended—

(A) in subparagraph (B), by striking out "subparagraph (A)(i)" and inserting in lieu thereof "subparagraph (A)"; and

(B) by striking out subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tours of duty performed by nurses which begin on or after the first day of the first pay

period beginning on or after the date of the enactment of this Act.

SEC. 215. REPORT ON EFFECT OF CERTAIN PAY AND BENEFITS AMENDMENTS.

Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the amendments made by sections 211 through 214, relating to pay and benefits for various health care professionals in the Department of Medicine and Surgery. The report—

(1) shall particularly describe the effect of such amendments and other provisions of law on the ability of the Veterans' Administration to meet its requirements for nurses, pharmacists, occupational therapists, and physical therapists; and

(2) shall include such recommendations for further legislative action as the Administrator considers appropriate.

SEC. 216. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM.

(a) REPEAL OF OLD PROGRAM.—Subchapter IV of chapter 73 is repealed.

(b) IMPROVED AND EXPANDED PROGRAM.—Part V is amended by adding at the end the following new chapter:

"CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—GENERAL

"Sec.
"4301. Establishment of program; purpose.
"4302. Eligibility.
"4303. Application and acceptance.
"4304. Terms of agreement.

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

"4311. Authority for program.
"4312. Eligibility; application; agreement.
"4313. Scholarship.
"4314. Part-time students.
"4315. Status of participants.
"4316. Obligated service.
"4317. Breach of agreement: liability.
"4318. Expiration of program.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

"4321. Authority for program.
"4322. Eligibility; application; agreement.
"4323. Obligated service.
"4324. Breach of agreement: liability.
"4325. Allocation and distribution of funding.

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

"4331. Periodic adjustments in amount of assistance.
"4332. Annual report.
"4333. Regulations.
"4334. Breach of agreement; waiver of liability.
"4335. Service in other agencies.
"4336. Exemption of educational assistance payments from taxation.

"SUBCHAPTER I—GENERAL

"§ 4301. Establishment of program; purpose

"(a) There is hereby established a program to be known as the Veterans' Administration Health Professionals Educational Assistance Program (hereinafter in this chapter referred to as the 'Educational Assistance Program'). The program consists of—

"(1) the scholarship program provided for in subchapter II of this chapter, and

"(2) the tuition reimbursement program provided for in subchapter III of this chapter.

"(b) The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel for the Veterans' Administration and the Nation.

"§ 4302. Eligibility

"(a)(1) To be eligible to participate in the Educational Assistance Program, an individual must be accepted for enrollment or be currently enrolled as a student at a qualifying educational institution in a course of education or training that is approved by the Administrator and that leads toward completion of a degree in a field of education or training for which a scholarship may be awarded under subchapter II of this chapter or for which tuition reimbursement may be provided under subchapter III of this chapter.

"(2) A qualifying educational institution for purposes of this section is an educational institution that is in a State and that (as determined by the Administrator) is an accredited institution.

"(b) An individual is not eligible to apply to participate in the Educational Assistance Program if the individual is obligated under any other Federal program to perform service after completion of the course of education or training of such individual referred to in subsection (a) of this section.

"§ 4303. Application and acceptance

"(a) To apply to participate in the Educational Assistance Program, an individual shall submit to the Administrator an application for such participation together with an agreement described in section 4304 of this title under which the participant agrees to serve a period of obligated service in the Department of Medicine and Surgery as provided in the agreement in return for payment of educational assistance as provided in the agreement.

"(b)(1) An individual becomes a participant in the Educational Assistance Program upon the Administrator's approval of the individual's application and the Administrator's acceptance of the agreement.

"(2) Upon the Administrator's approval of an individual's participation in the program, the Administrator shall promptly notify the individual of that approval. Such notice shall be in writing.

"(c)(1) In distributing application forms and agreement forms to individuals desiring to participate in the Educational Assistance Program, the Administrator shall include with such forms the following:

"(A) A fair summary of the rights and liabilities of an individual whose application is approved (and whose agreement is accepted) by the Administrator, including a clear explanation of the damages to which the United States is entitled if the individual breaches the agreement.

"(B) A full description of the terms and conditions that apply to participation in the Educational Assistance Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

"(d) In selecting applicants for acceptance in the Educational Assistance Program, the Administrator shall give priority to the applications of individuals who have previously received educational assistance under the program and have not completed the course of education or training undertaken under such program.

"§4304. Terms of agreement

"An agreement between the Administrator and a participant in the Educational Assistance Program shall be in writing, shall be signed by the participant, and shall include the following provisions:

"(1) The Administrator's agreement—

"(A) to provide the participant with educational assistance as authorized in subchapter II or III of this chapter and specified in the agreement; and

"(B) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title).

"(2) The participant's agreement—

"(A) to accept such educational assistance;

"(B) to maintain enrollment and attendance in the course of training until completed;

"(C) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator); and

"(D) after completion of the course of training, to serve as a full-time employee in the Department of Medicine and Surgery as specified in the agreement in accordance with subchapter II or III of this chapter.

"(3) A provision that any financial obligation of the United States arising out of an agreement entered into under this chapter, and any obligation of the participant which is conditioned on such agreement, is contingent upon funds being appropriated for educational assistance under this chapter.

"(4) A statement of the damages to which the United States is entitled under this chapter for the participant's breach of the agreement.

"(5) Such other terms as are required to be included in the agreement under subchapter II or III of this chapter or as the Administrator may require consistent with the provisions of this chapter.

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

"§ 4311. Authority for program

"As part of the Educational Assistance Program, the Administrator shall carry out a scholarship program under this subchapter. The program shall be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this chapter referred to as the "Scholarship Program").

"§ 4312. Eligibility; application; agreement

"(a)(1) Except as provided in paragraph (2) of this subsection, an individual must be accepted for enrollment or be enrolled (as described in section 4302 of this title) as a full-time student to be eligible to participate in the Scholarship Program.

"(2) An individual who is an eligible Veterans' Administration employee may be accepted as a participant if accepted for enrollment or enrolled (as described in section 4302 of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

"(3) For the purposes of paragraph (2) of this subsection, an eligible Veterans' Administration employee is a full-time Veterans' Administration employee who is permanently assigned to a Veterans' Administration *health-care facility on the date on which the individual submits the application referred to in section 4303 of this title and on the date on which the individual becomes a participant in the Scholarship Program.*

"(b)(1) A scholarship may be awarded under this subchapter only in a qualifying field of education or training.

"(2) A qualifying field of education or training for purposes of this subchapter is education or training leading to employment (under section 4104 of this title) as any of the following:

"(A) A physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded function dental auxiliary.

"(B) A psychologist described in section 4104(3) of this title or a certified or registered respiratory therapist, licensed physical therapist, or licensed practical or vocational nurse.

"(3) The Administrator may designate additional fields of education or training as qualifying fields of education or training if the education or training leads to employment in a position which would qualify the individual for increased basic pay under section 4107(g)(1)(B) of this title.

"(4) Before awarding the initial scholarship in a course of education or training other than medicine or nursing, the Administrator shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of education or training. The notice shall include a statement of the reasons why the award of scholarships in that course of education or training is necessary to assist in providing the Veterans' Administration with an adequate supply of personnel in the health profession concerned. Any such notice shall be given not less than 60 days before the first such scholarship is awarded.

"(5) In selecting applicants for the Scholarship Program, the Administrator shall give priority to the applications of individuals who will be entering their final year in a course of training.

"(c)(1) An agreement between the Administrator and a participant in the Scholarship Program shall (in addition to the requirements set forth in section 4304 of this title) include the following:

"(A) The Administrator's agreement to provide the participant with a scholarship under this subchapter for a specified number (from one to four) of school years during which the participant is pursuing a course of education or training described in section 4302 of this title.

"(B) The participant's agreement to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program.

"(2) In a case in which an extension is granted under section 4314(3) of this title, the number of years for which a scholarship may be provided under this subchapter shall be the number of school years provided for as a result of the extension.

"(3) In the case of a participant who is a part-time student—

"(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

"(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

"(4) If a participant's period of obligated service is deferred under section 4316(b)(3)(A)(i) of this title, the agreement terms under paragraph (1) of this subsection shall provide for the participant to serve any additional period of obligated service that is prescribed by the Administrator under section 4316(b)(4)(B) of this title.

"§4313. Scholarship

"(a) A scholarship provided to a participant in the Scholarship Program for a school year under the Scholarship Program shall consist of payment of the tuition of the participant for that school year, payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year, and a stipend determined under subsection (b) of this section.

"(b) A stipend under this section for a school year shall be payment to the participant of not in excess of $485 per month (adjusted in accordance with section 4331 of this title) for each of the 12 consecutive months beginning with the first month of the school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veteran's Administration. The stipend of a participant who is a part-time student shall be adjusted as provided in sections 4314(1) and 4314(2) of this title.

"(c) The Administrator may arrange with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in subsection (a) of this section. Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

"§4314. Part-time students

"In the case of a participant who is a part-time student—

"(1) the maximum amount of the stipend payable to the participant shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant;

"(2) a stipend may not be paid for any month during which the participant is not actually attending the course of training in which the participant is enrolled; and

"(3) the Administrator may extend the period for which a scholarship may be awarded to the participant to a maximum of six school years if the Administrator determines that the extension would be in the best interest of the United States.

"§4315. Status of participants

"Participants in the Scholarship Program shall not by reason of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

"§4316. Obligated service

"(a) Each participant in the Scholarship Program shall provide service as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of the participant entered into under section 4303 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Administrator.

"(b)(1) Not later than 60 days before the participant's service commencement date, the Administrator shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

"(2) As soon as possible after the participant's service commencement date, the Administrator shall—

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is an employee in the Department of Medicine and Surgery but is not serving in a position for which such participant's course of education or training prepared such participant, assign such participant to such a position.

"(3)(A)(i) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State. However, the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date upon which the participant becomes licensed as a registered nurse in a State.

"(C) In the case of a participant not covered by subparagraph (A) or (B) of this paragraph, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date the participant meets any applicable licensure or certification requirements.

"(4) A participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility. Such a participant may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(A) at the rate of one-half of a calendar year for each year of internship or residency

or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(B) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(5) The Administrator shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (b) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of education or training under the program.

"§4317. Breach of agreement: liability

"(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 4303 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

"(b) A participant in the Scholarship Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

"(1) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Administrator).

"(2) The participant is dismissed from such educational institution for disciplinary reasons.

"(3) The participant voluntarily terminates the course of training in such educational institution before the completion of such course of training.

"(4) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Administrator.

"(5) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility. Liability under this subsection is in lieu of any service obligation arising under the participant's agreement.

"(c)(1) If a participant in the Scholarship Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\,\Phi\left(\ t-s\ t\ \right)$$

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'F' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4316(b)(4) of this title.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4313 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

"§4318. Expiration of program

"The Administrator may not furnish scholarships to new participants in the Scholarship Program after September 30, 1992.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

"§4321. Authority for program

"As part of the Educational Assistance Program, the Administrator shall carry out a tuition reimbursement program under this subchapter. The program shall be known as the Veterans' Administration Nurse Education Tuition Reimbursement Program (hereinafter in this chapter referred to as the "Tuition Reimbursement Program").

"§4322. Eligibility; application; agreement

"(a) To be eligible to participate in the Tuition Reimbursement Program, an individual must be a full-time employee in the Veterans' Administration permanently assigned to a Veterans' Administration health-care facility and must be enrolled in a course of training offered by an institution approved by the Administrator leading toward completion of (1) an associate or higher degree in nursing, or (2) a masters degree or doctoral degree in nursing.

"(b) In selecting applicants for acceptance in the Tuition Reimbursement Program, the Administrator (in addition to according priorities as set forth in section 4303(d) of this title) shall give special consideration and emphasis to individuals pursuing a course of study which will expedite an increase in the number of registered nurses employed by the Veterans' Administration. The Administrator shall then give priority, in the following order, to—

"(1) individuals who have been employed as full-time employees in the Nursing Service in the Department of Medicine and Surgery; and

"(2) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

"(c) An agreement between the Administrator and a participant in the Tuition Reimbursement Program shall (in addition to the requirements set forth in section 4303(c) of this title) contain the following:

"(1) The Administrator's agreement to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Administrator, by the educational institution involved) of (A) a course or courses required for the course of study described in subsection (a) of this section, or (B) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequisites.

"(2) The participant's agreement—

"(A) to maintain employment, while enrolled in the course of training being pursued by such participant, as a full-time Veterans' Administration employee in the Department of Medicine and Surgery permanently assigned to a Veterans' Administration health-care facility; and

"(B) to continue to serve as a full-time employee in such Department for one year (hereinafter in this subchapter referred to as the 'period of obligated service') after completion of the course for which the participant received tuition reimbursement.

"(d) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program may not exceed $2,000 per year (adjusted in accordance with section 4331 of this title).

"(e) The Administrator may arrange with an educational institution pursuant to which such an institution would provide a course or courses at a Veterans' Administration health-care facility to participants in the Tuition Reimbursement Program. Under such an arrangement, the Administrator may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

"§4323. Obligated service

"(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Veterans' Administration for the period of obligated service provided in the *agreement of such participant entered into under section 4303 of this title.*

"(b) A participant who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery shall be considered to have begun serving such participant's period of obligated service on the course completion date.

"(c) Except in the case of a participant whose tuition was paid pursuant to section 4322(f) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reimbursement will be provided and no period of obligated service will be incurred.

"(d) In the case of a participant whose tuition was paid pursuant to section 4322(f) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it would have been if the participant had successfully completed the course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

"(e) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

"§4324. Breach of agreement: liability

"(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility—

"(1) may not be provided reimbursement for tuition for the course or courses in which the participant is enrolled; and

"(2) in lieu of any service obligation arising from completion of a course or courses in a previous semester or quarter, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement.

"(b)(1) If a participant in the Tuition Reimbursement Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\,\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'F' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4323 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

"§4325. Allocation and distribution of funding

"In determining the amount of funding to allocate to Veterans' Administration health-care facilities for any fiscal year in connection with the Tuition Reimbursement Program, the Administrator shall take into account (1) the personnel ceiling for that fiscal year for nursing personnel, and (2) the recruitment and retention needs of such facilities, as determined by the Administrator.

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

"§4331. Periodic adjustments in amount of assistance

"(a)(1) Whenever there is a general Federal pay increase, the Administrator shall increase the maximum monthly stipend amount and the maximum tuition reimbursement amount. Any such increase shall take effect with respect to any school year that ends in the fiscal year in which the pay increase takes effect.

"(2) The amount of any increase under paragraph (1) of this subsection is the previous maximum amount under that paragraph multiplied by the overall percentage of the adjustment in the rates of pay under the General Schedule made under the general Federal pay increase. Such amount shall be rounded to the next lower multiple of $1.

"(b) For purposes of this section:

"(1) The term 'maximum monthly stipend amount' means the maximum monthly stipend that may be paid to a participant in the Scholarship Program specified in section 4313(b) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(2) The term 'maximum tuition reimbursement amount' means the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program specified in section 4322(e) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(3) The term 'general Federal pay increase' means an adjustment (if an increase) in the rates of pay under the General Schedule under subchapter III of chapter 51 of title 5.

"§4332. Annual report

Not later than March 1 of each year, the Administrator shall submit to Congress a report on the Educational Assistance Program. Each such report shall include the following information:

"(1) The number of students receiving educational assistance under the Educational Assistance Program, showing the numbers of students receiving assistance under the Scholarship Program and the Tuition Reimbursement Program separately, and the number of students enrolled in each type of health profession training under each program.

"(2) The education institutions providing such training to students in each program.

"(3) The number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence.

"(4) The average amounts of educational assistance provided per participant in the Scholarship Program and per participant in the Tuition Reimbursement Program.

"(5) The amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

"(6) The number of scholarships accepted, by health profession category, during the school year beginning in such year and the number, by health profession category, which were offered and not accepted.

"(7) The number of participants who complete a course or course of training in each program each year and for all years that such program (or predecessor program) has been in existence.

"§4333. Regulations

"The Administrator shall prescribe regulations to carry out the Educational Assistance Program.

"§4334. Breach of agreement; waiver of liability

"(a) An obligation under the Educational Assistance Program (or an agreement under the program) of a participant in the Educational Assistance Program for performance of services or payment of damages is canceled upon the death of the participant.

"(b) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under the Educational Assistance Program (or an agreement under the program) whenever noncompliance by the participant is due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance is in the best interest of the United States.

"(c) An obligation of a participant under the Educational Assistance Program (or an agreement thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

"§4335. Service in other agencies

"(a) The Administrator, with the consent of the participant or individual involved and the consent of the head of the department or agency involved, may permit—

"(1) a period of obligated service required under this chapter to be performed in the Department of Medicine and Surgery to be performed in another Federal department or agency or in the Armed Forces in lieu of performance of such service in the Department of Medicine and Surgery; and

"(2) a period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Department of Medicine and Surgery.

"(b) This section shall be carried out in cooperation with the heads of other appropriate departments and agencies.

"§4336. Exemption of educational assistance payments from taxation

"Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, or a stipend under this chapter shall be exempt from taxation.".

(c) Savings Provision.—The provisions of subchapter IV of chapter 73 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall remain in effect with respect to scholarships awarded under that subchapter.

(d) Transition.—Section 4331 of title 38, United States Code, as added by subsection (b), shall not apply with respect to a school year ending during fiscal year 1988.

(e) Clerical Amendments.—(1) The table of sections at the beginning of chapter 73 is amended by striking out the items relating to subchapter IV and sections 4141 through 4146.

(2) The tables of chapters before part I and at the beginning of part V are each amended by inserting after the item relating to chapter 75 the following new item:

"76. Health Professionals Educational Assistance Program 4301"...

SEC. 217. PAY SCALES AND AWARDS FOR DEPARTMENT OF MEDICINE AND SURGERY EMPLOYEES.

(a) Section 4103 Schedule.—Subsection (a) of section 4107 is amended to read as follows:

"(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law.".

(b) Section 4104(1) Positions.—subsection (b)(1) of section 4107 is amended to read as follows:

"(b)(1) The grades and annual ranges of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:

"Physician and Dentist Schedule

"Director grade.
"Executive grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.

"Nurse Schedule

"Director grade.
"Assistant Director grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.
"Junior grade.

"Clinical Podiatrist and Optometrist Schedule

"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.".

(c) Awards for Career Appointees.—Subsection (c)(3) of such section is amended by inserting "and any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title" after "applies".

Part C—Personnel Administration

SEC. 221. DISCIPLINARY MATTERS AS TO CERTAIN APPOINTEES.

Section 4106(g) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions (including similar actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individuals had been appointed under such title.".

SEC. 222. PERSONNEL CEILINGS FOR NONCAREER RESEARCH PERSONNEL.

(a) Exclusion From Personnel Ceilings.—Section 5010(a) is amended by adding at the end the following new paragraph:

"(6)(A) Temporary research personnel of the Department of Medicine and Surgery shall be excluded from any ceiling on full-time equivalent employees of the Veterans' Administration or any other personnel ceiling otherwise applicable to employees of the Veterans' Administration.

"(B) For purposes of subparagraph (A) of this paragraph, the term 'temporary research personnel' means personnel who are employed in the Department of Medicine and Surgery in other than a career appointment for work on a research activity and who are not paid by the Veterans' Administration or are paid from funds appropriated to the Veterans' Administration to support such activity.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to fiscal years after fiscal year 1987.

SEC. 223. AUTHORITY TO WAIVE LICENSURE AND INTERNSHIP REQUIREMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Subsection (d) of section 4114 is amended to read as follows:

"(d)(1) Subject to paragraph (2) of this subsection, the Chief Medical Director may waive for the purpose of the appointment of an individual under this section the requirements set forth in section 4105(a) of this title—

"(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

"(B) that the licensure or certification of such an individual be in a State; and

"(C) that a psychologist have completed an internship.

"(2) The waivers authorized in paragraph (1) of this subsection may be granted—

"(A) in the case of clauses (A) and (C) of such paragraph, if the individual (i) will be employed to conduct research or serve in an academic position, and (ii) will have no responsibility for furnishing direct patient care services; and

"(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.".

SEC. 224. NURSE REPRESENTATION ON POLICYMAKING COMMITTEES.

(a) Inclusion of Facility Chief of Nursing.—Section 4112 is amended by adding at the end the following new subsection:

"(c) The Administrator shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Veterans' Administration health-care facility be included in the membership of each policymaking committee at that facility. Such committees include (1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (b) of this section.".

(b) Technical Amendment.—Subsection (b) of such section is amended in the first sentence by striking out "deans committee" and inserting in lieu thereof "dean's committee".

Part D—Reports

SEC. 231. STUDY OF PAY AND OTHER PERSONNEL MANAGEMENT PRACTICES.

(a) In General.—The Administrator shall conduct a study in order to determine—

(1) the effects of the pay and other personnel management practices of the Department of Medicine and Surgery of the Veterans' Administration on the ability of the Veterans' Administration to recruit and retain categories of employees (A) who are qualified to provide direct patient-care services, or services that are incident to direct patient-care services, in Veterans' Administration health-care facilities, and (B) as to which problems of recruitment and retention have arisen, and

(2) the effects that flexible employment benefits programs would have on the recruitment and retention of such employees.

(b) Matters Required To Be Determined.—In conducting the study under subsection (a), the Administrator shall make determinations with respect to various factors which may affect the determinations to be made under subsection (a), including determinations of the following:

(1) Whether there is inappropriate pay compression between the rates of pay of long-time employees of the Veterans' Administration and either the rates of pay of their supervisors or the rates of pay of relatively new employees performing the same services as a result of the position classification and pay systems applicable to such long-time and relatively new employees or to their supervisors.

(2) If any such inappropriate pay compression exists and such compression results from such position classification and pay systems, whether it is feasible to revise such system or systems in order to eliminate such pay compression and how much would be the cost to revise such system or systems for that purpose and to implement the revisions.

(3) Whether the payment of pay differentials (or of increased pay differentials) for evening or night service is needed in order to improve the ability of the Veterans' Administration to recruit and retain personnel to perform services referred to in subsection (a) on evening or night shifts, in what amounts such differentials should be paid, how much would be the cost of the payment of such differentials, and what, if any, effects the payment of such differentials would be expected to have on the ability of the Veterans' Administration to recruit and retain personnel to perform such services on a shift for which a differential is not paid.

(c) Consideration of Flexible Employee Benefits Programs.—In conducting the study under subsection (a), the Administrator shall review the personnel management practices of an appropriate sample of employers other than the Federal Government. The Administrator shall consider—

(1) the extent to which such employers provide flexible employment benefits under programs designed to meet the individual needs to their employees,

(2) the advantages of such programs for such employers and employees, and

(3) the feasibility, desirability, and appropriateness of establishing and carrying out any such flexible employment benefits program for employees of the Department of Medicine and Surgery of the Veterans' Administration.

(d) Reports.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study required by subsection (a). The report shall contain—

(1) the determinations of the Administrator under subsections (a) and (b); and

(2) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of the study.

SEC. 232. REPORT ON CERTAIN ACTIVITIES RELATING TO TRAINING IN GERIATRICS OF MEDICAL AND OTHER HEALTH-PROFESSIONAL SCHOOLS AFFILIATED WITH THE VETERANS' ADMINISTRATION.

(a) Report.—Not later than August 1, 1988, the Administrator shall submit to the

Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the Veterans' Administration's activities, and the success of those activities, designed to promote increased efforts by affiliated institutions (1) in training health-care professionals to care for older patients, and (2) in research into the aging process and diseases and disabilities associated with aging.

(b) Matters To Be Included.—The report under subsection (a) shall include the following:

(1) Information, for each academic year from 1980-1981 through 1987-1988, on the number of affiliated institutions, shown by type of institution and type of training, that—

(A) have a program through which students or trainees receive education and training in geriatrics through regular rotation through Veterans' Administration medical centers, nursing homes, domiciliary facilities, or other units providing extended care to veterans; or

(B) have a formal program providing education and training in geriatrics; or

(C) have both such programs.

(2) Information on the number of affiliated institutions (shown by type of institution) that are planning to establish programs as described in paragraph (1), together with a timetable for such actions.

(3) Estimates of the costs, both to the Veterans' Administration and to the affiliated institutions, of the programs described in paragraphs (1) and (2).

(4) Estimates of the number of Veterans' Administration patients receiving care or who will receive care from the students or trainees participating in programs described in paragraphs (1)(A) and (2).

(5) A description of the role of the Veterans' Administration in encouraging the establishment and continuation of the programs described in paragraph (1).

(6) The views of the Administrator on the feasibility and desirability of requiring, as a condition of the Veterans' Administration's entering into or continuing an affiliation agreement with a health-care professional training institution, the establishment with such institution of the appropriate type of arrangements described in clause (C)(i) or (C)(ii) of section 4101(f)(1) of title 38, United States Code.

(c) Definition.—For purposes of this section, the term "affiliated institutions" means medical and other health-professional training schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

SEC. 301. SPECIALLY ADAPTED HOUSING ASSISTANCE.

Section 802 is amended—

(1) in subsection (a), by striking out "$35,500" and inserting in lieu thereof "$38,000"; and

(2) in subsection (b), by striking out "$6,000" and inserting in lieu thereof "$6,500".

SEC. 302. AUTOMOBILE ASSISTANCE ALLOWANCE.

Section 1902(a) is amended by striking out "$5,000" and inserting in lieu thereof "$5,500".

SEC. 303. SERVICE-CONNECTED DEATH BENEFIT.

Section 907 is amended by striking out "$1,100" and inserting in lieu thereof "$1,500".

SEC. 304. EFFECTIVE DATE.

The amendments made by sections 301, 302, and 303 shall take effect on April 1, 1988.

PART B—COMPENSATION-RELATED PROVISIONS

SEC. 311. DEFINITION OF FORMER PRISONER OF WAR.

Section 101(32)(B) is amended by striking out "during a period other than a period of war in which such person was held".

SEC. 312. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN DISABILITIES FOR FORMER PRISONERS OF WAR.

Section 312(b) is amended—

(1) by striking out "or" at the end of clause (11); and

(2) by inserting after clause (12) the following new clauses:

"(13) peripheral neuropathy except where directly related to infectious causes,

"(14) irritable bowel syndrome, or

"(15) peptic ulcer disease,".

SEC. 313. PRESUMPTION OF SERVICE CONNECTION FOR LUPUS.

Section 301(3) is amended by inserting below "Leukemia" the following: "Lupus erythematosus, systemic".

SEC. 314. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN RADIATION-EXPOSED VETERANS.

(a) Presumption.—Section 312 is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, a disease specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran to a degree of 10 percent or more within the presumption period (as specified in paragraph (3) of this subsection) shall be considered to have been incurred in or aggravated during the veteran's service on active duty, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) The diseases referred to in paragraph (1) of this subsection are the following:

"(A) Any form of leukemia other than chronic lymphoctic leukemia.

"(B) Cancer of the colon.

"(C) Thyroid cancer.

"(D) Breast cancer.

"(E) Cancer of the pharynx.

"(F) Cancer of the esophagus.

"(G) Cancer of the stomach.

"(H) Cancer of the small intestine.

"(I) Pancreatic cancer.

"(J) Multiple myeloma.

"(K) Lymphomas (except Hodgkin's Disease).

"(L) Cancer of the bile ducts.

"(M) Cancer of the gall bladder.

"(N) Primary liver cancer (except if cirrhosis or hepatitis B is indicated).

"(3) The presumption period for purposes of paragraph (1) of this subsection in the case of any veteran is the 40-year period beginning on the last date on which the veteran participated in a radiation-risk activity, except that in the case of any form of leukemia other than chronic lymphatic leukemia and in the case of cancer of the colon, such period shall be the 30-year period beginning on that date.

"(4) For the purposes of this subsection:

"(A) The term 'radiation-exposed veteran' means a veteran who, while serving on active duty, participated in a radiation-risk activity.

"(B) The term 'radiation-risk activity' means any of the following:

"(i) Onsite participation (including airborne participation) in a test involving the atmospheric detonation of a nuclear device.

"(ii) The occupation of Hiroshima and Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

"(iii) Internment as a prisoner of war in Japan (or service on active duty in Japan immediately following such internment) during World War II which (as determined by the Administrator) resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans described in clause (ii) of this subparagraph.".

(b) Effective Date.—Subsection (c) of section 312 of title 38, United States Code, as added by subsection (a), shall take effect on May 1, 1988.

(c) Requirements Regarding Veterans' Environmental Hazards Advisory Committee Reports.—Section 6(d)(3) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542) is amended by striking out "the Committee and the Administrator" and inserting in lieu thereof "the Committee, the Administrator, and the Committees on Veterans' Affairs of the Senate and House of Representatives".

SEC. 315. REINSTATED ENTITLEMENT FOR CERTAIN SURVIVORS.

Section 156(a)(1) of Public Law 97-377 (96 Stat. 1830, 1920) is amended—

(1) in subparagraph (B), by inserting "or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code" after "month"; and

(2) in subparagraph (C), by inserting ", or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code," after "(42 U.S.C. 402(g))".

PART C—EDUCATION PROVISIONS

SEC. 321. MEASUREMENT OF LABORATORY INSTRUCTION.

(a) In General.—Section 1788 is amended—

(1) in clause (B) of the first sentence of the matter following clause (7) of subsection (a), by inserting "(or two 50-minute periods)" after "two hours"; and

(2) in subsection (c), by inserting "(or two 50-minute periods)" after "two hours".

(b) Effective Date.—The amendments made by subsection (a) shall apply to any enrollment or reenrollment commencing on or after the date of enactment of this Act.

SEC. 322. AUTHORITY TO WAIVE COMPLIANCE SURVEYS.

The text of section 1793 is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, the Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

"(b) The Administrator may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if the Administrator

determines, based on the institution's demonstrated record of compliance with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be appropriate and in the best interest of the United States Government.".

SEC. 323. EFFECTIVE DATE OF AWARDS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATION ASSISTANCE PROGRAM.

Section 3013 is amended by inserting "32," after "31,".

PART D—INSURANCE PROVISIONS

SEC. 331. AUTHORITY FOR ANNUITY ADJUSTMENTS.

(a)(1) Subchapter I of chapter 19 is amended by adding at the end the following new section:

"§ 727. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance concerned. The Administrator may make such an adjustment without regard to the provisions of sections 702, 723, and 725 of this title with respect to interest rates and the use of mortality tables.

"(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in sections 702, 723, and 725 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 726 the following new item:

"727. Authority for higher monthly installments payable to certain annuitants.".

(b)(1) Subchapter II of chapter 19 is amended by adding at the end the following new section:

"§ 762. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound. The Administrator may make such an adjustment without regard to the provisions of section 744 of this title with respect to interest rates and the use of mortality tables.

"(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in section 744 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 761 the following new item:

"762. Authority for higher monthly installments payable to certain annuitants.".

SEC. 332. EXEMPTIONS FROM STATE TAXATION.

(a) EXEMPTION.—Section 769 is amended by adding at the end the following new subsection:

"(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority of a State, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to premiums paid for periods beginning after June 30, 1988.

SEC. 333. DIRECT ADMINISTRATION OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) REVISION OF PROGRAM.—(1) Section 806 is amended to read as follows:

"§ 806. Veterans' Mortgage Life Insurance

"(a) The United States shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran unless the veteran (1) submits to the Administrator in writing the veterans' election not to be insured under this section, or (2) fails to respond in a timely manner to a request from the Administrator for information on which the premium for such insurance can be based.

"(b) The initial amount of insurance provided a veteran under this section may not exceed the lesser of $40,000 or the amount of the loan outstanding on the housing unit. The amount of such insurance shall be reduced according to the amortization schedule of the loan and may not at any time exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, insurance is not payable under this section. If an eligible veteran elects not to be insured under this section, the veteran may thereafter be insured under this section, but only upon submission of an application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

"(c) The premiums charged a veteran for insurance under this section shall be paid at such time and in such manner as the Administrator prescribes. The rates for such premiums shall be based on such mortality data as the Administrator considers appropriate to cover only the mortality cost of insuring standard lives. In the case of a veteran receiving compensation or other cash benefits paid to the veteran by the Administrator, the Administrator shall deduct from such compensation or other benefits the premiums charged the veteran under this section.

"(d)(1) The United States shall bear the costs of insurance under this section to the extent that such costs exceed premiums established by the Administrator. Premiums collected on insurance under this section shall be credited to the 'Veterans Insurance and Indemnities' appropriation account, and all disbursements of insurance proceeds under this section shall be made from that account.

"(2) There are authorized to be appropriated to the Administrator for such account such amounts as may be necessary to carry out this section.

"(e) Any amount of insurance in force under this section on the date of the death of an eligible veteran insured under this section shall be paid to the holder of the mortgage loan, for payment of which the insurance was granted, for credit on the loan indebtedness. Any liability of the United States under such insurance shall be satisfied when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

"(f) The Administrator may prescribe such regulations relating to eligibility for insurance under this section, the maximum amount of insurance, the effective date of insurance, the maximum duration of insurance, and other pertinent matters not specifically provided for in this section as the Administrator determines are in the best interest of veterans or the United States.

"(g) The amount of the insurance in force at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by subsection (b) of this section or regulations prescribed by the Administrator under this section.

"(h) The Administrator shall issue to each veteran insured under this section a certificate setting forth the benefits to which the veteran is entitled under the insurance.

"(i) Insurance under this section shall terminate upon whichever of the following events first occurs:

"(1) Satisfaction of the veteran's indebtedness under the loan upon which the insurance is based.

"(2) The veteran's seventieth birthday.

"(3) Termination of the veteran's ownership of the property securing the loan.

"(4) Discontinuance of payment of premiums by the veteran.

"(j) Termination of life insurance under this section shall not affect the guaranty or insurance of the loan by the Administrator.".

(2) The item relating to section 806 in the table of sections at the beginning of chapter 21 is amended to read as follows:

"806. Veteran's mortgage life insurance.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act.

(c) Savings Provision.—Mortgage protection life insurance granted to any veteran under the former section 806 shall continue in force with the United States as insurer, subject to the terms of subsection (d). Nothing in that subsection shall impair any rights of any veteran or mortgage loan holder under the former section 806 that matured before the effective date specified in subsection (b).

(d) Discontinuance of Contract Program.—(1) Effective as of the effective date specified in subsection (b), the Administrator shall discontinue the policy of insurance purchased in accordance with the former section 806.

(2) All premiums collected or received by the insurer on or after such effective date under a policy purchased under the former section 806 shall be promptly forwarded to the Administrator and shall be credited to the "Veterans Insurance and Indemnities" appropriation account. Any positive balance of the contingency reserve maintained by the insurer under such policy remaining after all charges have been made shall be payable to the Administrator and shall be deposited by the Administrator in such account, except that such balance may, upon the election of the insurer, be paid by the insurer in equal monthly installments over a period of not more than two years beginning on the date, after such effective date, that the Administrator specifies.

(e) Former Section 806 Defined.—For the purpose of subsections (c) and (d), the term "former section 806" means section 806 of title 38, United States Code, as in effect on the day before the effective date specified in subsection (b).

Part E—Memorial Affairs

SEC. 341. NATIONAL CEMETERY GRAVE MARKERS.

(a) In General.—Section 1004(c)(2) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(C) in the case of any cemetery located on the grounds of or adjacent to a Veterans' Administration health-care facility, the Administrator may provide for flat grave markers; and

"(D) in the case of grave sites of cremated remains that are interred in the ground, the Administrator may provide for flat grave markers.".

(b) Grave Markers in Certain Locations.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator may provide for flat grave markers in the cases of the national cemeteries in Riverside, California, Bourne, Massachusetts, Augusta, Michigan, and Indiantown Gap, Pennsylvania, and the proposed national cemetery approved by the Administrator, as of July 31, 1987, for Northern California.

SEC. 342. CONTRIBUTIONS FOR CERTAIN PROJECTS.

Section 1004(f) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The"; and

(2) by adding at the end the following new paragraph:

"(2) The Administrator may, to the extent of appropriated funds available for such purpose, make a contribution to local authorities for the construction of road improvements or traffic controls or other devices on land adjacent to a national cemetery if the Administrator determines that such a contribution is essential to ensure safe ingress to or egress from the cemetery.".

SEC. 343. STATE VETERANS' CEMETERY CONSTRUCTION GRANTS.

Section 1008(b) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(3) in paragraphs (1) and (2) (as so redesignated), by striking out "per centum" and inserting in lieu thereof "percent"; and

(4) in paragraph (2) (as so redesignated), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)".

SEC. 344. GRAVE LINERS.

(a) Authority to Provide.—Section 906 is amended by adding at the end the following new subsection:

"(e)(1) The Administrator may provide a grave liner for any grave in a cemetery within the National Cemetery System in which remains are interred in a casket. The Secretary of the Army may provide a grave liner for such a grave in the Arlington National Cemetery.

"(2) The use of grave liners in a cemetery within the National Cemetery System or in the Arlington National Cemetery shall be in accordance with specifications and procedures approved by the Administrator or the Secretary, respectively.".

(b) Clerical Amendments.—(1) The heading of such section is amended to read as follows:

"§906. Headstones, markers, and grave liners".

(2) The item relating to such section in the table of sections at the beginning of chapter 23 is amended to read as follows:

"906. Headstones, markers, and grave liners.".

SEC. 345. AMERICAN BATTLE MONUMENTS COMMISSION FOREIGN CURRENCY FLUCTUATIONS.

(a) Establishment of Foreign Currency Fluctuations Account.—The Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121 et seq.), is amended by adding at the end the following new section:

"Sec. 13. (a) There is hereby established in the Treasury an account to be known as the 'Foreign Currency Fluctuations, American Battle Monuments Commission, Account'. The account shall be used to provide funds, in addition to funds appropriated for salaries and expenses of the American Battle Monuments Commission, to pay the costs of such salaries and expenses that exceed the amount appropriated therefor as a result of fluctuations in currency exchange rates of foreign countries occurring after a budget request for the Commission is submitted to Congress. The account may not be used for any other purpose. Funds in the account may be transferred to funds appropriated for salaries and expenses of the Commission.

"(b) Funds transferred under subsection (a) shall be merged with and available for the same time period as the appropriation to which they are applied. A provision of law limiting the amount of funds the Commission may obligate in any fiscal year shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) An obligation of the Commission payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) Funds transferred from the Foreign Currency Fluctuations, American Battle Monuments Commission, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) A transfer back to the account under subsection (d) may not be made after the end of the second fiscal year after the fiscal year in which the appropriation to which the funds were originally transferred is available for obligation.

"(f) Not later than the end of the second fiscal year following the fiscal year for which appropriations for salaries and expenses have been made available to the Commission, unobligated balances of such appropriation provided for a fiscal year may be transferred into the Foreign Currency Fluctuations, American Battle Monuments Commission, Account, to be merged with and available for the same period and purposes as that account.

"(g) The Commission shall submit to the appropriate committees of the Congress each year a report on funds transferred under this section.".

(b) Authorization of Appropriations.—There is authorized to be appropriated to the Foreign Currency Fluctuations, American Battle Monuments Commission, Account the sum of $3,000,000.

(c) Effective Date.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1988.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

Part A—Procurement Policy

SEC. 401. INTEGRITY OF CONTRACTING OUT PROCESS AT HEALTH-CARE FACILITIES.

(a) Requirement for Two Bidders.—Section 5010(c)(2) is amended by inserting "responsive bids are received from at least two responsible, financially autonomous bidders and" after "only if".

(b) Applicability.—The amendment made by subsection (a) shall apply only with respect to the awarding of contracts under solicitations issued after the date of the enactment of this Act.

SEC. 402. STANDARDIZATION OF MEDICAL AND PHARMACEUTICAL ITEMS.

Not later than October 1, 1989, the Administrator shall develop and fully implement an agency-wide plan for the cost-effective standardization, in a manner consistent with the effective furnishing of health-care services, of medical and pharmaceutical *items procured by the Veterans' Administration. The plan shall provide for the procurement of generic pharmaceutical items when such procurement is more economical than procurement of a name-brand pharmaceutical item unless the Chief Medical Director of the Veterans' Administration (1) determines, after consultation with the Commissioner of the Food and Drug Administration, that an equivalent generic item is not available, or (2) determines that the procurement of a name-brand item is necessary in the interests of effective patient care.*

SEC. 403. REQUIREMENTS FOR THE PROCUREMENT OF MEDICAL AND PHARMACEUTICAL ITEMS.

(a) IN GENERAL.—(1) Subchapter II of chapter 81 is amended by adding at the end the following new section:

"§ 5025. Procurement of medical and pharmaceutical items

"(a) Except as provided in subsections (b) and (c) of this section, the Administrator may not procure medical and pharmaceutical items under contracts other than national contracts.

"(b)(1) Except as provided in paragraph (2) of this subsection, a medical or pharmaceutical item for use by the Veterans' Administration may be procured under a contract other than national contract if—

"(A) the procurement is within the limits prescribed in paragraph (3) of this subsection; and

"(B)(i) the item is not available for procurement under a national contract,

"(ii) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Veterans' Administration medical center, as determined by the director of the center in accordance with regulations which the Chief Medical Director shall prescribe, or

"(iii) local procurement is demonstrably more cost-effective for the item.

"(2)(A) Paragraph (1) of this subsection does not apply to an emergency procurement.

"(B) In the case of the need for an emergency procurement of a medical or pharmaceutical item, no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

"(3)(A) Except as provided in subparagraphs (C) and (D) of this paragraph, not more than 20 percent of the total of all medical and pharmaceutical items procured by the Veterans' Administration in any fiscal year (measured as a percent of the total cost of all such medical and pharmaceutical items procured by the Veterans' Administration in that fiscal year) may be procured under local contracts.

"(B) Local contracts for the procurement of medical or pharmaceutical items shall, to the maximum extent feasible, be awarded to regular dealers or manufactures engaged in the wholesale supply of medical and pharmaceutical items.

"(C) The Administrator may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the Administrator, based on the experience of the Veterans' Administration during the two fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Veterans' Administration.

"(D) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

"(c) A provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency, to the procurement of a medical or pharmaceutical item for use by the Veterans' Administration.

"(d)(1) Not later than December 1 of each year, the director of each Veterans' Administration medical center shall transmit to the Administrator a report containing a list indicating the quantity of each medical and pharmaceutical item procured at that medical center under a local contract during the preceding fiscal year and the total amount paid for such item during such fiscal year.

"(2) Not later than February 1 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year.

"(e) For the purposes of this section:

"(1) The term 'emergency procurement' means a procurement necessary to meet an emergency need, affecting the health or safety of a person being furnished health-care services by the Veterans' Administration, for a medical or pharmaceutical item.

"(2) The term 'medical or pharmaceutical item' includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65, 66, 73, or 89 in the document published by the Veterans' Administration, dated April 1986, and entitled 'Federal Supply Catalog, Centrally Managed Items,' or the document published by the Veterans' Administration, dated October 1985, and entitled 'Federal Supply Catalog, Nondepot Items,'. Such term does not include surgical instruments.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5024 the following new item:

"5025. Procurement of medical and pharmaceutical items.".

(b) APPLICATION.—Subsection (b)(2) of section 5025 of title 38, United States Code (as added by subsection (a)), shall apply to medical and pharmaceutical items procured for use by the Veterans' Administration after September 30, 1990.

SEC. 404. MULTIYEAR PROCUREMENT OF CERTAIN MEDICAL ITEMS.

(a) AUTHORITY FOR MULTIYEAR CONTRACTS.—Chapter 1 is amended by adding at the end the following new section:

"§ 114. Multiyear procurement for certain medical items

"(a) The Administrator may enter into a multiyear contract for the procurement of supplies or services for use in Veterans' Administration health-care facilities if the Administrator makes each of the following determinations:

"(1) Appropriations are available for obligations that are necessary for total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charge payable under the contract.

"(2) The contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

"(A) reducing costs;

"(B) achieving economies in contract administration or in any other Veterans' Administration activities;

"(C) increasing quality of performance by or service from the contractors; or

"(D) encouraging effective competition.

"(3) During the proposed contract period—

"(A) there will be a continuing or recurring need for the supplies or services being procured;

"(B) there is not a substantial likelihood of substantial changes in the need for such supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

"(C) the specifications for the supplies or services are expected to be reasonably stable.

"(4) The risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive.

"(5) The use of a multiyear contract will not inhibit small business concerns in competing for the contract.

"(6) In the case of the procurement of a pharmaceutical item for which a patent has expired less than four years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

"(b)(1) A multiyear contract authorized by this section shall contain—

"(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Administrator pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

"(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

"(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Administrator determines that, in light of other funding needs involved in the operation of Veterans' Administration health-care programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Administrator shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

"(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

"(c) Nothing in this section shall be construed so as to restrict the Administrator's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

"(d) The Administrator shall prescribe regulations for the implementation of this section.

"(e) For the purposes of this section:

"(1) The term 'appropriations' has the meaning given that term in section 1511 of title 31.

"(2) The term 'cancel' or 'cancellation' refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.

"(3) The term 'multiyear contract' means a contract which by its terms is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

"(4) The term 'nonrecurring, unrecovered costs' means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"114. Multiyear procurement for certain medical items.".

Part B—General Administrative and Financial Matters

SEC. 411. SEQUESTRATION RULES APPLICABLE TO VETERANS' PROGRAMS.

(a) Restoration of Certain Revolving Funds.—(1) Notwithstanding section 601(b) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576), section 113(b)(2) of title 38, United States Code, shall apply with respect to a sequestration order issued, or a sequestration law enacted, for any fiscal year after fiscal year 1985.

(2) The Secretary of the Treasury shall take such action as is necessary to implement paragraph (1). Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the action taken by the Secretary pursuant to that paragraph.

(b) Extension of Exemption for Certain Service-Connected Rehabilitation and Education Benefits.—Section 113 is amended—

(1) in paragraphs (4) and (5) of subsection (a), by striking out "(but only with respect to fiscal year 1987)" each place it appears;

(2) by striking out subsection (e); and

(3) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(c) Technical Amendments.—Subsection (d) of such section is amended by striking out "a joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office" and inserting in lieu thereof "a report of the Director of the Office of Management and Budget".

SEC. 412. CHILD-CARE SERVICES AT VETERANS' ADMINISTRATION FACILITIES.

(a) Operation by Veterans' Canteen Service.—Chapter 75 is amended by adding at the end the following new section:

"§ 4209. Child-care centers

"(a)(1) The Administrator, through the Service, shall provide for the operation of child care centers at Veterans' Administration facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Administrator determines, based on the demand for the care involved, that such operation is in the best interest of the Veterans' Administration and that is practicable to do so. The centers shall be available for the children of Veterans' Administration employees and, to the extent space is available, the children of other employees of the Federal Government and the children of employees of affiliated schools and corporations created under section 4161 of this title.

"(2) There shall be in the Service an official who is responsible for all matters relating to the provision of child care services under the authority of this section.

"(b) The Service shall establish reasonable charges for child-care services provided at each child-care center operated under this section. The charges shall be subject to the approval of the Administrator. In the case of a center operated directly by the Service, the charges with respect to the center shall be sufficient to provide for the operating expenses of the center, including the expenses of personnel assigned to the center. In the case of a center operated by a contractor which is a for-profit entity, the charges shall be established by taking into consideration the value of the space and services furnished with respect to the center under subsection (c)(1) of this section.

"(c) In connection with the establishment and operation of any child care center under this section, the Administrator—

"(1) shall furnish, at no cost to the center, space in existing Veterans' Administration facilities and utilities, custodial services, and other services and amenities necessary (as determined by the Administrator) for the health and safety of the children provided care at the center;

"(2) may, on a reimbursable basis, convert space furnished under clause (1) of this subsection for use as the child care center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that the Administrator may furnish basic telephone service and surplus furniture and equipment without reimbursement;

"(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

"(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

"(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child-care centers.

"(d) The Administrator shall prescribe regulations to carry out this section.

"(e) For the purpose of this section, the term 'parent advisory committee' means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4209. Child-care centers.".

SEC. 413. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) Native Hawaiian Representation.—(1) Subsections (b) and (c)(3)(A) of section 19032 of the Veterans' Health-Care Amendments of 1986 (Public Law 99-272; 100 Stat. 388) are amended by striking out "and Alaska Natives" and inserting in lieu thereof ", Alaska Natives, and Native Hawaiians".

(2) Subsection (g) of such section is amended to read as follows:

"(g) Definitions.—For the purposes of this section:

"(1) The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(2) The term 'Native Hawaiian' has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).".

(b) One-Year Extension.—(1) Subsection (f)(1) of such section is amended by striking out "and February 1, 1988" and inserting in lieu thereof "February 1, 1988, and February 1, 1989".

(2) Subsection (h) of such section is amended—

(A) by striking out "second" and inserting in lieu thereof "third"; and

(B) by striking out "the Committee" and inserting in lieu thereof "the Administrator".

SEC. 414. MANAGEMENT OF CANTEEN SERVICE.

(a) Financial Management.—(1) The second sentence of section 4205 is amended by inserting "or other interest-bearing accounts" after "checking accounts".

(2) Section 4206 is amended by striking out the second sentence.

(b) Exemption of Canteen Service From Personnel Ceiling.—(1) Chapter 75 is amended by adding at the end the following:

"§ 4210. Exemption from personnel ceilings

"Persons who are employed by the Service and compensated from the revolving fund established by section 4204 of this title may not be considered to be employees of the Veterans' Administration for the purposes of any personnel ceiling which may otherwise be applied to employees of the Veterans' Administration by the President or an official of the executive branch.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4210. Exemption from personnel ceilings.".

SEC. 415. TECHNICAL AMENDMENTS TO CHAPTER 37.

(a) Technical Reorganization of Subchapter I.—(1) Section 1802(a) is amended—

(A) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(B) by striking out the first sentence and inserting in lieu thereof: "The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter.";

(C) by striking out "in the preceding sentence, or in section 1818 of this title," in the second sentence and inserting in lieu thereof "in paragraph (2)";

(D) by striking out "(1)" and "(2)" in the second sentence and inserting in lieu thereof "(A)" and "(B)", respectively;

(E) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively; and

(F) by adding at the end the following:

"(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

"(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

"(B) Each veteran who after December 15, 1940, was discharged or released from a period of active duty for a service-connected disability.

"(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who—

"(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

"(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

"(3) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.".

(2) Subsection (g) of section 1802—

(A) is amended by striking out "1801(a)" and inserting in lieu thereof "1801(b)"; and

(B) as amended by subparagraph (A) of this paragraph, is transferred so that it will appear at the end of subsection (a) of such section and is redesignated as paragraph (4) of such subsection (a).

(3)(A) Section 1815—

(i) is amended by striking out the section heading;

(ii) is amended by redesignating subsection (a) as paragraph (2)(A) and redesignating subsection (b) as subparagraph (B); and

(iii) as amended by clauses (i) and (ii) of this subparagraph, is transferred so that it will appear as paragraph (2) of section 1803(a), as amended by subparagraph (B)(ii) of this paragraph.

(B) Section 1803 is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"**§ 1803. Basic provisions relating to loan guaranty and insurance.**"; and

(ii) in subsection (a) by striking out paragraph (2).

(4) Section 1807 is repealed.

(b) TECHNICAL REORGANIZATION OF SUBCHAPTERS II AND III.—(1)(A) Section 1816(a)(4)(A)(i)(I) is amended by striking out "section 1816(a)(2) of this title" and inserting in lieu thereof "paragraph (2) of this subsection".

(B) Section 1816(c)(10) is amended—

(i) in subparagraph (A), by inserting "(or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection)" after "loan"; and

(ii) in subparagraph (B)(ii), by inserting "(5)(A) or" after "under paragraph".

(C) The heading and subsections (a), (b), and (c) of section 1816, as amended by subparagraphs (A) and (B) of this paragraph, are redesignated as a new section 1832 and transferred to subchapter III of chapter 37 so that they will appear following section 1831.

(D) Subsections (d), (e), and (f) of section 1816 are redesignated as subsections (a), (b), and (c), respectively, and transferred so that they will appear after section 1832, as transferred by subparagraph (C) of this paragraph with the following heading:

"**§ 1833. Property management**".

(2)(A) Section 1817(a) is amended by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810".

(B) Section 1817, as amended by subparagraph (A) of this paragraph, and section 1817A are redesignated as sections 1813 and 1814, respectively, and transferred so that they will appear after section 1812, as transferred by paragraph (4)(C) of this subsection.

(3) Section 1818 is repealed.

(4)(A) Section 1819 is amended by striking out "under this section" each place it appears in subsections (a)(4)(C), (b)(1), (c)(2), (c)(4), (d)(1), (e), (f), (g) (except where it appears in the second sentence), and (h)(1) and inserting in lieu thereof "for purposes specified in this section".

(B) Section 1819(c) is amended—

(i) in the first sentence of paragraph (3) by inserting before the period the following: "as specified in paragraph (4) of this subsection";

(ii) in the second sentence of paragraph (4), by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810"; and

(iii) in the second sentence of paragraph (4), by striking out "under such section 1810" and inserting in lieu thereof "for purposes specified in such section 1810".

(C) Section 1819, as amended by subparagraphs (A) and (B) of this paragraph, is redesignated as section 1812 and transferred so that it will appear following section 1811.

(5) Section 1832—

(A) is amended by striking out the section heading;

(B) is amended by redesignating subsection (a) as subsection (d)(1) and subsection (b) as paragraph (2); and

(C) as amended by clause (A) and (B) of this paragraph, is transferred so that it will appear at the end of the new section 1833 added by paragraph (4) of this subsection.

(c) CONFORMING AMENDMENTS.—(1) Section 1801(a) is amended by striking out "1819(a)(1)" and inserting in lieu thereof "1812(a)(1)".

(2) Section 1803(c)(3) is amended—

(A) in clause (A), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)"; and

(B) in clause (E), by striking out "1819(a)(1)(G)" and inserting in lieu thereof "1812(a)(1)(G)".

(3) Section 1804 is amended—

(A) in clause (C) of subsection (c)(2), by striking out "1819(a)(5)(A)(i)" and inserting in lieu thereof "1812(a)(5)(A)(i)";

(B) in clause (D) of subsection (c)(2), by striking out "1819(e)(5)" and inserting in lieu thereof "1812(e)(5)"; and

(C) in subsection (f), by striking out "1817A" each place it appears and inserting in lieu thereof "1814".

(4) Section 1810 is amended—

(A) in subsection (a)(9)(B)(ii), by striking out "section 1819(a)(5)" and inserting in lieu thereof "section 1812(a)(5)"; and

(B) in subsection (g)(2), by striking out "section 1819(e)(2)" and inserting in lieu thereof "section 1812(e)(2)".

(5) Section 1811 is amended—

(A) by striking out "1819" each place it appears and inserting in lieu thereof "1812"; and

(B) in subsection (b), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)".

(6) Section 1829(d) is amended by striking out "1817A" and inserting in lieu thereof "1814".

(7) Any reference, in effect on the date of the enactment of this Act, in any law to any of the sections, or parts thereof, which are redesignated or transferred by this section shall be construed to refer to the section, or part thereof, as redesignated or transferred by this section.

(d) TECHNICAL AMENDMENTS.—(1) Section 1803(a)(1) is amended—

(A) in clause (A)(i), by inserting "as specified in subparagraph (B) of this paragraph" before the period; and

(B) in clause (B), by striking out "under section 1810 of this chapter" and inserting in lieu thereof "for purposes specified in section 1810 of this title".

(2) Section 1811 is amended—

(A) in subsections (a), (b), and (g), by striking out "under section 1810 or" and inserting in lieu thereof "for purposes specified in section 1810 or"; and

(B) in subsection (d)(2)(B), by striking out "under section 1810(c)" and inserting in lieu thereof "for purposes specified in section 1810".

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 37 is amended—

(1) by striking out the item relating to section 1803 and inserting in lieu thereof the following:

"1803. Basic provisions relating to loan guaranty and insurance.";

(2) by striking out the item relating to section 1807;

(3) by striking out the items relating to subchapter II and inserting in lieu thereof the following:

"SUBCHAPTER II—LOANS

"1810. Purchase or construction of homes.
"1811. Direct loans to veterans.
"1812. Loans to purchase manufactured homes and lots.
"1813. Release from liability under guaranty.
"1814. Assumptions; release from liability."; and

(4) by striking out the item relating to section 1832 and inserting in lieu thereof the following:

"1832. Procedure on default.
"1833. Property management.".

(f) TECHNICAL NATURE OF AMENDMENTS.—The status of any veteran with respect to benefits under chapter 37 of title 38, United States Code, shall not be affected by the amendments made by, or other provisions of, this section.

PART C—REAL PROPERTY

SEC. 421. LIMITATION ON TRANSFER OF PROPERTY TO OTHER AGENCIES.

(a) GENERAL RULE.—(1) Paragraph (2) of section 5022(a) is amended to read as follows:

"(2)(A) The Administrator may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Veterans' Administration receives compensation equal to the fair market value of the property.

"(B) An interest in real property described in this subparagraph is an interest in real property that is owned by the United States and administered by the Veterans' Adminis-

tration and that has an estimated value in excess of $50,000.

"(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 5016 of this title.".

(2) Any proposed transfer of real property described in subparagraph (B) of section 5022(a)(2) of title 38, United States Code, as amended by paragraph (1), that is described in a report submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives by the Administrator not later than 30 days after the date of the enactment of this Act shall be deemed for purposes of subparagraph (A) of that section to have been described in the President's budget for fiscal year 1989.

(b) SPECIAL RULE.—(1) Section 234 of Public Law 99-576 is repealed.

(2) The Administrator may not declare as excess to the needs of the Veterans' Administration, or otherwise take any action to dispose of, the land and improvements at the Veterans' Administration Medical Center, West Lost Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center, Sepulveda, California (consisting of approximately 46 acres), described in letters dated February 5, 1986 (and enclosed maps), from the Administrator to the Committees on Veterans' Affairs of the Senate and House of Representatives pursuant to section 5022(a)(2) of title 38, United States Code, as in effect on that date.

SEC. 422. CONGRESSIONAL PROCEDURES FOR APPROVAL OF MEDICAL FACILITY ACQUISITION AND CONSTRUCTION.

(a) PROCEDURES.—Paragraph (2) of section 5004(a) is amended to read as follows:

"(2) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project or a major medical facility lease unless—

"(A) such bill, resolution, or amendment specifies the amount to be appropriated for that project or lease,

"(B) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and

"(C) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year.".

(b) DEFINITIONS.—Section 5004(a) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) For the purpose of this subsection:

"(A) The term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange.

"(B) The term 'major medical facility lease' means a lease for space for use as a medical facility at an average annual rental of more than $500,000.".

(c) COST VARIATIONS.—Subsection (c) of section 5004 is amended to read as follows:

"(c) Not less than 30 days before obligating funds for a major medical facility project approved by a resolution described in subsection (a)(2) of this section in an amount that would cause the total amount obligated for that project to exceed the amount specified in the resolution for that project (or would add to total obligations exceeding such specified amount) by more than 10 percent, the Administrator shall provide the committees with notice of the Administrator's intention to do so and the reasons for the specified amount being exceeded.".

(d) CONFORMING REPEAL.—Such section is further amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 423. USE OF FORMER HOSPITAL IN MINOT, NORTH DAKOTA.

(a) AGREEMENT WITH SECRETARY OF LABOR.—Upon the satisfaction of the conditions specified in subsection (b), the Administrator shall enter into an agreement with the Secretary of Labor for the use by the Secretary for nominal consideration of the 20.6 acres of land in the city of Minot, North Dakota, on which the Department of the Air Force on July 31, 1987, was operating, under a no-cost use agreement with the Veterans' Administration, the John Moses Air Force Hospital and on which the Veterans' Administration Hospital, Minot, North Dakota, was formerly located.

(b) CONDITIONS.—The conditions referred to in subsection (a) are as follows:

(1) Sufficient funds are appropriated to the Department of Labor for fiscal year 1988 to establish a Job Corps Center in North Dakota.

(2) The Secretary of Labor selects the property referred to in subsection (a) as the site for such a Job Corps Center.

(3) The Secretary agrees to use such property as a Job Corp Center for the duration of the lease agreement with the Administrator.

(c) RENEWALS.—The agreement between the Administrator and the Secretary of Labor under subsection (a) shall be renewed for nominal consideration for successive 10-year periods upon request of the Secretary of Labor.

(d) REVERSAL OF PRIOR ADMINISTRATIVE ACTION.—The action of the Veterans' Administration of September 29, 1987, in declaring the property referred to in subsection (a) to be excess to the needs of the Veterans' Administration is hereby rescinded, and such property is returned to the jurisdiction of the Veterans' Administration.

(e) PROHIBITION ON VETERANS' ADMINISTRATION EXPENDITURES.—Notwithstanding any other provision of law, the Veterans' Administration shall not expend any funds for the repair, improvement, or alteration of the property referred to in subsection (a) in connection with the use of such property by the Secretary of Labor.

SEC. 424. NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTER IN SHREVEPORT, LOUISIANA.

The Veterans' Administration Medical Center in Shreveport, Louisiana, shall after the date of the enactment of this Act be known and designated as the "Overton Brooks Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Overton Brooks Veterans' Administration Medical Center.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to revise, improve, and extend various veterans' programs; and for other purposes.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the proposed House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Mississippi?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I will not object, but I would ask the chairman of our Committee on Veterans' Affairs if he would explain the amendments before us.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans' Affairs, for that purpose.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman knows, last year the House passed nine veterans bills, five of them related to health care. On June 30 of last year we passed and sent to the Senate, H.R. 2616, a bill that would improve various health care programs administered by the Veterans' Administration [VA]. On the same day we passed H.R. 2327, a bill sponsored by the distinguished gentleman from New York [Mr. SOLOMON] that would require the VA to pay beneficiary travel to certain veterans who require hospital care and outpatient services.

Unfortunately, as the gentleman also knows, for whatever reasons, the other body failed to act on any of the health care measures until December 4, when it passed H.R. 2616 with comprehensive amendments. The Senate amendments not only pertain to health issues, but compensation, pension, insurance, education, training, housing, and memorial affairs, as well. I do not mean to be critical of the other body but waiting until December 4 to enact most of its legislative agenda did not provide us with sufficient time before the end of the session to resolve so many differences between the Senate- and House-passed bills.

We have had numerous informal discussions with our counterparts on the Senate side and, based on those discussions, I believe the proposed House amendments reflect a reasonable compromise to the amendments proposed by the Senate. That is not to say that we have reached full agreement on all of the issues. We have let it be known, however, that we feel very strongly about two or three things yet to be resolved, including beneficiary travel, eligibility for outpatient care, and eligibility for compensation benefits to veterans with certain disabilities who were exposed to radiation during

World War II and tests conducted thereafter.

I will not take the time of the House to explain exhaustively every single provision. There are blue-sheet summaries of the proposed amendments at the table for Members who are interested.

The proposed House amendments to the Senate amendments are as follows:

ELIGIBILITY FOR OUTPATIENT CARE

Section 101 of the proposed amendments would require the Administrator of VA to furnish outpatient services as the Administrator determines are needed to a veteran for any service-connected disability; veterans rated 50 percent or more for any disability, and any veteran disabled as a result of VA treatment or the pursuit of vocational rehabilitation. In addition, the Administrator would be required to provide outpatient services reasonably necessary in preparation for, to obviate the need for, or to complete treatment subsequent to, hospital admission to any veteran with a service-connected disability rating of 30 or 40 percent, and to any veteran whose annual income does not exceed the maximum annual rate of non-service-connected pension payable to a veteran in need of aid and attendance.

When Congress enacted Public Law 99-272, we mandated that certain veterans, including those with service-connected disabilities, those with annual incomes below certain levels, and other groups referred to as "category A veterans" set out in section 610 of title 38, United States Code, be provided hospital care. Despite difficulties anticipated by the VA, the law was smoothly implemented by the agency. It has been easy to implement; it has assured that veterans in need of hospital care are getting care, and mandating care for specific groups of veterans has forced the agency to plan for the future.

Public Law 99-272 did not change eligibility for outpatient care, nursing home care, or other medical services, except to require that category C eligible veterans be required to pay a nominal fee in connection with the receipt of services. This section of the amended bill will, if enacted, require VA to take care of certain veterans as stated above. By mandating health care to a limited, defined group of veterans, veterans would be able to predict the likelihood of receiving care from the VA, and the VA and the Congress would have a basis for allocation of resources. The VA is authorized to continue providing care to the extent possible to an additional group of veterans where space is available and, in certain cases, where the veteran voluntarily agrees to pay a certain fee in connection with the receipt of care. We believe that, instead of trying to shrink the pool of eligible veterans without any mandate to provide care for those veterans who remain eligible, the Federal Government should clearly identify those veterans who, as a matter of public policy, should receive health care, and mandate that they be provided care in VA facilities.

In addition, this provision would require the Comptroller General of the United States to conduct and report on a study of the potential and current demand for needed VA outpatient care for category A veterans, including suppressed demand for such care, and to ascertain the reasons for any denial of such care. Suppressed demand is thought to exist when eligible veterans perceive a need for care but, for reasons of physical, mental, or other barriers, such as lack of knowledge of their eligibility or reports of inadequate VA capacity to meet their needs, do not apply for care from the VA.

There are apparent inconsistencies in reported numbers of veterans who are turned away from needed VA medical care. According to the VA's demand for care survey of 1986, about 35,000 veterans were turned away per month from needed VA care, whereas reports of the VA's Medical Administration Service entitled, "Veteran Eligibility and the Furnishing of Health Care"—the latest version dated fiscal year to date through December 31, 1987—cites fewer than 1,000 are turned away each month. Revised demand for care survey planned for 1987 was anticipated to clarify the reasons for these differences. However, on September 17, 1987, the VA withdrew the survey from consideration for approval by the Office of Management and Budget [OMB]. In addition, an inspector general report, published September 14, 1987, entitled "Audit of Unmet Demand for VA Medical Care," cited that the current DM&S system for reporting outpatient visits does not provide meaningful demand data.

The House originally passed a provision that would have extended mandatory outpatient care for veterans for service-connected disabilities, for all disabilities of veterans rated at 50 percent or more, and in those cases where outpatient care would obviate the need for hospital care for former POW's, and for other category A veterans. However, as a result of the strong opposition in the Senate, the categories of eligibility for mandatory outpatient care in the proposed House amendments are more limited. We hope that by making the provision more limited it will be acceptable in the other body.

ELIGIBILITY FOR DOMICILIARY CARE

Section 102 would provide that, effective January 1, 1988, the eligibility for domiciliary care would be limited to veterans who have incomes at or below the pension aid-and-attendance level or who the Administrator determines have no adequate means of support. Veterans who were patients or residents in a VA or State veterans home domiciliary at some time during the period from January 1, 1987, and April 1, 1988, would not be limited or restricted from domiciliary eligibility.

I would note here, Mr. Speaker, that incapacity from earning a living in this eligibility definition does not include a temporal dimension. It may include temporary or long-term incapacitated from earning a living. A veteran would not be ineligible for domiciliary care on the simple basis of income above the aid-and-attendance level if the veteran was temporarily incapacitated from earning a living.

DEFINITION OF NURSING HOME CARE

The House originated section 103 which would clarify that the definition of "nursing home care" in title 38, United States Code expressly includes nursing care delivered in skilled, intermediate, and combined facilities and specifically does not include domiciliary care.

CONTRACT CARE

Section 104 would authorize the VA to contract on an inpatient or outpatient basis for emergency care for veterans who have been placed in community nursing homes at VA expense and for observation or examination to determine eligibility for a VA benefit

CONTRACT CARE FOR SERVICE-CONNECTED DISABLED VETERANS OVERSEAS

Section 105 would authorize the VA to furnish medical care outside the United States for the service-connected disability of a veteran who is in Canada, the Republic of the Philippines, or elsewhere, at the discretion of the Administrator.

INTERNMENT PERIOD REQUIRED FOR ELIGIBILITY FOR DENTAL CARE FOR FORMER PRISONERS OF WAR

Section 106 would reduce the minimum internment period required for eligibility for outpatient dental care for former prisoners of war from 6 months to 90 days.

READJUSTMENT COUNSELING PROGRAM IMPROVEMENTS

Section 107 would (A) repeal the current mandatory transition requirement; (B) require the Administrator, after considering the recommendations of the Chief Medical Director, to submit a national plan, at any time but not within 60 days before or after the end of a session of Congress, which sets forth, first, plans with respect to each vet center in existence on February 1, 1988, for not less than the next year as to its relocation to another VA facility, movement to another location, or closure, and which includes an evaluation of the ways in which decisions about each center would ensure the continued availability of readjustment counseling to persons eligible for and needing such services in the appropriate service area based on specified criteria drawn generally from certain of the VA's existing criteria; and, second, plans to open any new centers; (C) provide for no action to be taken with respect to any existing center prior to receipt of the national plan and for 120 days thereafter; (D) specify that, after the national plan is submitted, if the VA wishes to change the plan as to one or more centers, the Administrator must submit a revision to the national plan for that center or those centers in accordance with the same type of reporting requirements as apply to the initial plan and explain the basis for the changes in the plan; (E) provide for no action as outlined in any revision to be implemented for 60 days; (F) provide that, after the national plan is submitted, action could be taken as to the centers covered by the plan only in the way described therein or in a revision; (G) provide for no delegation to others of the Chief Medical Director's responsibility relating to the national plan; (H) postpone by 1 year the due date of a report from the Administrator of the effectiveness of the Readjustment Counseling Program in meeting the readjustment needs of Vietnam-era veterans.

To date, the Congress has not received the April 1, 1987, statutory report on the Administrator's evaluation of the effectiveness of the Vet Center Program in helping to meet the readjustment needs of veterans eligible for vet center counseling services. Therefore, there is a lack of clarity as to the VA's intentions regarding the Vet Center Program.

The House is concerned that there is no national plan for the operation of the Vet Center Program. The stated intention of the VA in proposing to relocate nine centers is to gain experience in such moves. Such anticipated experience is not likely to be beneficial in the absence of a national plan. Therefore, this provision includes constraints on movement, a requirement for a plan, and an extension of the due date of the effectiveness report.

BENEFICIARY TRAVEL PROGRAM

Section 108 provides that payments shall be made to eligible veterans traveling to or from a VA facility or other place for the purpose of scheduled care or examination or who are furnished outpatient care or admitted to an inpatient health-care facility; for a VA examination, treatment, or care; or in connection with vocational rehabilitation or counseling related to education benefits. The following categories of veterans are eligible: Veterans traveling for care of a service-connected disability; veterans with a service-connected disability rated at 50 percent or more; veterans whose annual income does not exceed the maximum annual rate of pension which would be payable if the veterans were eligible for pension; veterans who are determined to be unable to defray the expenses of the travel; veterans in receipt of a pension; veterans traveling for the purpose of a compensation or pension examination; and veterans with service-connected disability rated at 30 or 40 percent who are traveling for the purpose of receiving inpatient care or outpatient care on a prehospital or posthospital basis or to obviate the need for hospital care. The provision would also require the Administrator, in consultation and coordination with the Secretary of Transportation and veterans' service organizations, to take all appropriate steps to facilitate the establishment and maintenance of local transportation networks under which the organization, or individuals who are volunteering their services to the VA, would take responsibility for the transportation of veterans to VA facilities without reimbursement from the VA and requires the Administrator to submit to the Congress a report on the implementation of this provision.

On April 13, 1987, new VA final regulations were published which had little effect on the purposes for which the VA makes beneficiary travel payments to veterans, but which sharply curtailed eligibility. Prior to the regulation change, the categories of persons eligible for beneficiary travel were service-connected veterans, VA pensioners and other persons with low incomes, claimants presenting evidence of inability to defray travel costs, and claimants administratively determined to be unable to bear the cost of ambulance transportation. Since the April change, eligibility for reimbursement under the new regulations has been limited to veterans needing medically indicated special mode transportation such as ambulance or wheelchair van, those veterans meeting the current eligibility requirements to travel in conjunction with compensation and pension examinations, and veterans who travel beyond a 100-mile radius from the nearest VA medical care facility.

Clearly, the Administrator had discretionary authority to make the regulation change. Therefore, this provision is intended to more carefully prescribe the payment of beneficiary travel payments. This provision in no way ignores nor denigrates the contributions made by veterans' service organizations or other volunteers with regard to transportation of veterans to receive VA medical services. In fact, the provision makes certain that the VA actively encourages such contributions.

ADULT DAY HEALTH CARE

Section 111 would extend the authority to provide adult day health care for 3 years, through September 30, 1991, and would amend the required reporting dates to require an interim report to be due by February 1, 1988, and a final report by February 1, 1991.

REPORT ON USE OF CONTRACT CARE AUTHORITIES

Section 112 would require the report on the use of all VA contract-care authorities to be due by and to accompany the agency's annual budget submission to the Congress. The report should contain statistics showing the numbers of veterans provided contract treatment and the average cost and duration of that treatment in each State in each category of authorization for such care in title 38, United States Code.

Section 201(b) of Public Law 96-22 requires the submission of an annual report to the Congress on the VA's use of its contract and fee-basis medical services authority. The reports were to have included in detail the number of veterans provided fee-basis and contract health care under each of the statutory eligibility categories and types of medical care, the cost for each of these categories, and the average length of care.

Only one report has been submitted, April 1980, but the need for careful monitoring of the expenditures of contract and fee-basis funds remains. The status and success of the Decentralized Hospital Computer Program [DHCP] has contributed greatly to the growing sophistication of VA's medical information capability. Certainly the ability to record in detail the experience of the VA under Public Law 99-272 should have provided an opportunity to gain experience in designing a monitoring system for contract and fee-basis funds. Therefore, the reporting requirement has been retained in law, but moved to more usefully coincide with the presentation of the agency's budget each fiscal year.

PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS

Section 113 would require the VA, if funds are specifically appropriated for this purpose, in order to evaluate the impact on access to VA health-care services in isolated rural areas at least 100 miles from the nearest VA health-care facility, to conduct a 2-year pilot program using eight vehicles equipped as mobile clinics staffed by VA employees to furnish care in isolated rural areas. The maximum amount which could be expended for this program in any fiscal year is $5 million.

MODIFICATION OF REPORT ON MENTAL ILLNESS DISABILITIES

Section 114 would require the VA to provide information to the extent feasible for fiscal years 1986-88 on the number of veterans being treated by the VA for mental illness disabilities on an inpatient basis and the effects of implementation of the VA's new resources allocation methodology on the numbers of veterans being treated by the VA for mental illness disabilities.

PILOT PROGRAM OF CONTRACT COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL AND OTHER VETERANS

Section 115 would authorize a pilot program of contract community-based residential care—for homeless chronically mentally ill veterans, veterans being furnished hospital or nursing home care by the VA for a chronic mental illess disability, and veterans with service-connected chronic mental illness—in halfway houses, therapeutic communities, pyschiatric residential treatment centers and other community-based treatment facilities for the period ending September 30, 1989. It also authorizes appropriations of $6 million for each of fiscal years 1988 and 1989.

CONFIDENTIALITY OF MEDICAL RECORDS

Section 121 would provide for confidentiality of medical records that identify persons with acquired immune deficiency syndrome [AIDS] except in specifically described circumstances. It permits physicians or professional counselors to disclose information pertaining to AIDS to a spouse or sexual partner should the physician or counselor believe that patient will not provide the information to the spouse or sexual partner and disclosure is necessary to protect the health of the spouse or sexual partner.

NONDISCRIMINATION

Section 122 would provide that there shall be no discrimination in admission to VA medical facilities for treatment of veterans solely because the veteran is infected with the human immunodeficiency virus.

INFORMATION AND TRAINING CONCERNING AIDS PREVENTION

Section 123 would provide for an information and training program for VA employees and beneficiaries relating to AIDS.

RESTRICTION OF TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS [HIV]

Section 124 would prohibit any widespread testing program for presence of HIV unless funds have been specifically appropriated for that purpose. However, voluntary testing for HIV is permitted.

DEFINITION OF VA MEDICAL FACILITIES TO INCLUDE THERAPEUTIC RECREATIONAL ACTIVITIES

Section 131 would modify the definition of "Veterans' Administration facilities" to add to the definition of public or private non-VA facilities at which the Administrator provides recreational activities for patients receiving VA hospital, nursing home, or domiciliary care.

VA ASSISTANCE WITH REHABILITATION FOR DISABLED VETERANS

Section 132 would: (A) allow the VA to authorize the use, for approved purposes, of the VA seal and other official VA symbols and of the name "Veterans' Administration" by any person making significant contributions to the VA for the support of special recreational activities for the rehabilitation of disabled veterans; (B) assist veterans' service organizations in providing recreational activities which would further the rehabilitation of disabled veterans if the activities are available on a national basis and a significant percentage of the participants are veterans eligible for VA rehabilitative services and (C) allow the VA to accept contributions of funds and other assistance from any appropriate source for the support of activities described in (B). Collaborative efforts between the VA and entities in sponsoring recreational activities would still be encouraged. We expect no increase in VA expenditures as a result of this provision.

RULES AND REGULATIONS RELATING TO VETERANS' ADMINISTRATION HEALTH CARE

Section 133 would restrict the Administrator's authority to prescribe limitations on the furnishing of health-care services by the VA so as to permit the exercise of that authority only in times of national or regional emergencies—other than periods of war or armed conflict.

STATE HOME PER DIEM RATE

Section 134 would increase, effective January 1, 1988, the per diem payments made to State homes for the care of eligible veterans, to increase the per diem rates from $7.30 to $8.70 for domiciliary care, from $15.25 to $20.35 for hospital care and from $17.05 to $20.35 for nursing home care.

MEDICAL AND PROSTHETIC RESEARCH

Section 135 would add mental health research as a specific VA research mission.

HEALTH CARE QUALITY ASSURANCE ACTIVITIES

Section 101 directs the Administrator of Veterans' Affairs to take actions to improve the operation of VA health-care quality assurance programs and activities.

HOSPITAL COST COLLECTIONS

Section 202 clarifies the statute of limitations applicable to suits brought by the United States to recover costs of VA health care and expands immunity from personal liability for VA health-care providers.

TORT CLAIMS

Section 203 would remove a statutory limitation on the authority of the Administrator of Veterans' Affairs to settle administrative tort claims under the Federal Tort Claims Act by providing authority to settle claims on the same basis as is currently afforded to U.S. attorneys.

NONPROFIT RESEARCH CORPORATIONS

Section 204 would authorize the establishment of a nonprofit corporation at each VA medical center at which significant medical research is carried out to provide a funding mechanism for moneys received from other than VA appropriations to conduct research projects approved at the medical center. No corporation could be established after September 30, 1991. The VA has an outstanding research program and many VA researchers are able to obtain support for research projects which benefit veteran patients from sources other than appropriations made to the Veterans' Administration. However, the VA has never received explicit authorization to administer research funds from non-VA sources and has no funding mechanism for such funds. Section 204 would establish such mechanism.

NURSING HOME REVOLVING FUND

Section 205 would establish a nursing home revolving fund with moneys realized from the transfer or sale of VA-owned property for the purpose of construction, alteration, and acquisition of nursing home facilities. Expenditures of more than $2 million from the revolving fund would have to be approved in resolutions adopted by the House and Senate Committees on Veterans' Affairs.

STATE HOME GRANTS

Section 206 would change, from July 1 to August 15, the date for establishing a list of approved projects—including projects that have been conditionally approved by the Administrator—in order of priority, for grants to the States for the construction of State veterans homes. It would also require the VA to rescind approval and deobligate funds for conditionally approved projects if all requirements have not been met within the time period set by the Administrator.

ADDITIONAL PAY AUTHORITIES FOR NURSES TO BE AVAILABLE FOR PHARMACISTS AND OCCUPATIONAL THERAPISTS

Section 211 would permit the Administrator, in order to recruit and retain pharmacists and occupational therapists, to pay them under the auspices of title 38, United States Code.

RECRUITMENT AND RETENTION BONUS PAY

Section 212 would authorize the Administrator to enter into incentive bonus agreements with registered nurses—both currently employed by the VA and new hires—at facilities which are determined to have a significant shortage of registered nurses in any clinical service as follows: Up to $2,000 per year for an agreement to work 2 years; up to $3,000 per year for an agreement to work 3 years; and, up to $4,000 per year for 4 years. It would also establish payback requirements for not fulfilling the agreements. The Administrator would also be authorized to enter into incentive bonus agreements with individuals in other health professions whom the Chief Medical Director advises are difficult to recruit and retain.

ON-CALL PAY

Section 213 would provide authority to pay technical medical specialists to be available for duty—on call—in addition to their regular hours of employment, without the requirement that they remain on the facility grounds.

PREMIUM PAY FOR SATURDAY WORK

Section 214 would provide authority for premium pay for duty on Saturday for nurses on the same basis as current law provides for premium pay for duty on Sunday.

HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAMS

Section 216 would authorize the provision of tuition reimbursement, to be paid back through VA employment, to full-time employees seeking a degree with a major in nursing with special emphasis for persons pursuing a course of study which will increase the number of nurses in the VA. It would also authorize the Administrator to provide scholarship assistance to health-care professionals other than physicians and nurses.

DISCIPLINARY MATTERS AS TO CERTAIN APPOINTEES

Section 221 would provide that all matters relative to adverse personnel actions, disciplinary actions, and grievance procedures should be resolved in accordance with title 5, United States Code, if the individuals involved are those whose appointments are made under the joint title 38/title 5 authorities.

PERSONNEL CEILINGS FOR NONCAREER RESEARCH PERSONNEL

Section 222 would provide that temporary workers hired only for duties directly related to the conduct of research projects in the Department of Medicine and Surgery, and who are not paid by funds appropriated to the Veterans' Administration, shall not be considered to be VA employees for purposes of any personnel ceilings which may otherwise be applied to VA employees by the President.

AUTHORITY TO WAIVE LICENSURE AND INTERNSHIP REQUIREMENTS FOR CERTAIN HEALTH-CARE PERSONNEL

Section 223 would allow the VA to waive licensure and internship requirements for certain medical personnel as follows: First, State licensure or registration requirements, as appropriate, for practical or vocational nurses or physical therapists if they are to be employed either in research or academic work and are to have no direct patient-care responsibilities, or if they are to be employed in a country other than the United States if their license is in the country in which they are to work, and second, the requirement for a 1-year internship for psychologists if they are to be employed in research or academic work and are to have no direct patient-care responsibilities.

NURSE REPRESENTATION ON POLICYMAKING COMMITTEES

Section 224 would require that the chief of the nursing service at each VA health-care facility be included in each policymaking committee at that facility.

INTEGRITY OF CONTRACTING OUT PROCESS

Section 401 of the House amendments would require that there be at least two responsible, financially autonomous bidders before medical center support services may be contracted out under OMB Circular A-76. Title 38 United States Code 5010(c) limits the application of Office of Management and Budget Circular A-76 with regard to the VA's Department of Medicine and Surgery to contracts for support services, and reflects the concern of the committee and the Congress regarding the potential harm to the quality of health care delivered in VA hospitals due to poor contractor performance. Testimony received by the committee indicated that if two or more responsible bids were received, then it would be possible to compare the Government cost of the service with the private sector to determine the lowest overall cost.

STANDARDIZATION OF MEDICAL AND PHARMACEUTICAL ITEMS

Section 402 would require the Administrator, not later than October 1, 1989, to develop and fully implement a plan for cost-effective purchase of medical and pharmaceutical items on an agencywide basis. The plan would provide for the procurement of generic pharmaceutical items when such procurement is more economical than procurement of a name-brand pharmaceutical item unless a generic item is not available or the name brand is necessary in the interests of effective patient care. At the present, there is no such agency plan and the savings which would be realized would be substantial.

REQUIREMENTS FOR THE PROCUREMENT OF MEDICAL AND PHARMACEUTICAL ITEMS

Section 403 would outline the requirements for other than agencywide procurement. For example, there are instances where a product is not available on a national basis, a particular product is necessary for the effective furnishing of health care services or the conduct of a research or education program, or in an emergency situation.

MULTIYEAR PROCUREMENT OF CERTAIN MEDICAL ITEMS

Section 404 of the House amendments would authorize the Administrator to enter into multiyear contracts for procurement of supplies or services for VA health-care facilities when it is economically feasible to do so.

SEQUESTRATION RULES APPLICABLE TO VETERANS' PROGRAMS

Section 411 would direct that the Secretary of the Treasury return to the Veterans' Administration special therapeutic and rehabilitation activities fund and the veterans' canteen service revolving fund amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985—Public Law 99-177. It would permanently exempt from sequestration under Public Law 99-177 vocational training benefits for service-connected disabled veterans and educational benefits for dependents and survivors of service-connected disabled veterans.

MANAGEMENT OF VETERANS CANTEEN SERVICE

This section would provide that canteen service revolving funds may be deposited in other interest-bearing accounts in addition to a checking account with the Treasury of the United States and also provides that any balance remaining in the revolving fund at the close of a fiscal year shall no longer be required to revert to the Treasury.

CHILD-CARE SERVICES AT VETERANS' ADMINISTRATION FACILITIES

Section 412 would authorize the veterans canteen service to operate, to the extent that the Administrator determines that such operation is in the best interest of the VA and that it is practicable to do so, child care centers at VA medical centers for the children of VA employees on a fee basis sufficient to cover all costs of the operation other than the cost of services provided by the Administrator. The Administrator would provide space in existing VA facilities for the child care centers as well as custodial services and utilities. During hearings before the committee on the shortages of nurses and certain other health care personnel, child day care was listed by the Nurses Association of the Veterans' Administration as one of the greatest employment incentives for employees in the work force today. The committee believes that this would be a cost-effective incentive for persons to seek employment with the VA. In addition to the benefit to recruitment and retention of personnel, the committee believes that such centers would also contribute to improved morale and work force productivity.

ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS

Section 413 of the bill would expand the Advisory Committee on Native-American Veterans to include Native Hawaiians and extend the duration of the committee for an additional 1-year period. Native Hawaiians were inadvertently omitted from the Advisory Committee when it was established.

LIMITATION ON TRANSFER OF PROPERTY TO OTHER AGENCIES

Section 421 of the bill would prohibit transfer to another Federal agency or to a State of any interest in real property owned by the United States and administered by the Veterans' Administration which has a value estimated at more than $50,000 unless the proposed transfer was described in the budget for that fiscal year submitted to the Congress and the Veterans' Administration receives compensation equal to the fair market value of the property. It has been clear that the Administration has embarked on a policy of selling marketable vacant land owned by the Government, and there has been increasing pressure on the Administrator to declare vacant land excess to VA needs. The committee believes that land under the jurisdiction of the Veterans' Administration should remain available to meet the future needs of the Department of Medicine and Surgery, the Department of Veterans' Benefits, and the Department of Memorial Affairs. Section 421 would also prohibit the Administrator from declaring as excess to the needs of the Veterans' Administration or disposing of land and improvements at the VA medical centers in West Los Angeles and Sepulveda, CA.

CONGRESSIONAL PROCEDURES FOR APPROVAL OF MEDICAL FACILITY ACQUISITION AND CONSTRUCTION

Section 422 would provide that no appropriation for any fiscal year may be made for a major medical facility unless the appropriation measure specifies the amount to be appropriated for that project or lease and the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs or each body of the Congress.

USE OF FORMER MEDICAL CENTER IN MINOT, ND

Section 423 would permit the Secretary of Labor to use 20.6 acres of land and a former VA hospital which the Department of the Air Force was operating under a no-cost use agreement with the Veterans' Administration in Minot, ND. The Secretary would be required to use the land as a site for a Job Corps center, and the property would remain under the jurisdiction of the Veterans' Administration.

NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTER IN SHREVEPORT, LA

Section 424 of the House amendments to H.R. 2616 would name the Veterans' Administration Medical Center in Shreveport, LA, the "Overton Brooks Veterans' Administration Medical Center." This provision was introduced originally as H.R. 587 and was cosponsored by the House Louisiana congressional delegation as required by committee rules. Congressman Overton Brooks was elected to the 75th through the 87th congresses and died in office on September 16, 1961. It would be a fitting tribute to name the Shreveport VA Medical Center for our distinguished colleague and friend of the veterans.

COMPENSATION BENEFITS

In the area of veterans' compensation benefits, the proposed House amendments would increase the amounts of certain allowances payable with regard to service-disabled veterans. Section 301 would increase the specially adapted housing allowance from $35,500 to $38,000; section 302 would increase the automobile allowance from $5,000 to $5,500; and section 303 would increase the service-connected burial allowance from $1,100 to $1,500. These increases are necessary to make sure these important benefits keep up with inflation.

Sections 311 and 312 of the proposed amendments would, respectively, address the needs of former prisoners of war by liberalizing definitional requirements and expanding the list of diseases which may be presumed to be service-connected if suffered by former POW's. These include peripheral neuropathy, irritable bowel syndrome, and peptic ulcer disease. The House attempted to add two of these last year but the other body objected. I am especially pleased that we have agreed to these changes which will benefit a very deserving group of veterans.

Section 313 of the amended bill would add to the list of service-connected chronic diseases a very disabling disease, lupus erythematosus. The House has passed similar legislation at least twice.

Next, section 314 would address the concerns of a group of veterans who have come to be referred to as "atomic veterans," by providing a presumption of service-connection for some 14 cancer-related diseases if the veteran either participated in the occupation of, or was held as a prisoner near, Hiroshima or Nagasaki during World War II, or participated in atmospheric tests of nuclear devices which ended in the early sixties. The diseases included are: First, leukemia, other than chronic lymphocytic leukemia; second, cancer of the thyroid; third, breast cancer; fourth, cancer of the pharynx; fifth, cancer of the esophagus; sixth, cancer of the stomach; seventh, cancer of the small intestine; eighth, cancer of the colon; ninth, cancer of the pancreas; tenth, multiple myeloma; eleventh, non-Hodgkin's lymphoma; twelfth, cancer of the bile ducts; thirteenth, cancer of the gall bladder; and fourteenth, cancer of the liver.

As many of you may know, this particular part of the proposed House amendments has been the subject of a tremendous amount of debate between the two veterans' affairs committees. It involves an area where no one can be certain as to what the consequences of exposure to low levels of radiation may ultimately be. We have attempted to resolve all our differences, but, unfortunately, we are not in agreement on this provision. We hope the Senate will accept our latest proposal. We think it is a reasonable compromise. A distinguished member of our committee, the Honorable J. ROY ROWLAND, who is a medical doctor, has very strong feelings as to what cancers should be included in the bill. His recommendation is good enough for me.

Section 315 of the proposed amendments would restore to a very limited number of beneficiaries Social Security equivalent benefits paid by the VA to certain veterans' survivors who were inadvertently omitted from the restoration of such benefits in 1982.

In the area of insurance benefits, section 331 of the amended bill would permit the Administrator of Veterans' Affairs to increase amounts payable on a monthly basis to certain insurance beneficiaries receiving national service or U.S. Government life insurance policy proceeds under a life annuity. Also, section 332 would exempt from State taxation premiums paid to private insurers under the servicemen's group life insurance program.

Lastly, section 333 of the bill would authorize the direct administration by the VA of the veterans' mortgage protection life insurance program, currently being administered on a contract basis by a private insurance company.

These are the major provisions of the amended bill. We have reviewed the provisions of the proposed House amendments with the Budget Committee and we understand there are no problems with the cost estimate submitted by the Congressional Budget Office.

Mr. Speaker, many hours of hard work have been devoted to perfecting the proposed House amendments and I am grateful for the leadership of many members of our committee: the gentleman from New York [Mr. SOLOMON], the gentleman from Georgia [Mr. ROWLAND], the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the gentleman from Ohio [Mr. APPLEGATE], the gentleman from Ohio [Mr. MCEWEN], the gentleman from Mississippi [Mr. DOWDY], the gentleman from New Jersey [Mr. SMITH], the gentlelady from Ohio [Ms. KAPTUR], and the gentleman from Indiana [Mr. BURTON]. I am also grateful for the cooperation and leadership of the chairman of the committee in the other body, the gentleman from California, Mr. CRANSTON, and the ranking minority member, the gentleman from Alaska, Mr. MURKOWSKI. All members worked extremely hard on this bill.

I also want to thank all members of the House and Senate staffs who have worked extremely hard and long hours on the House and Senate amendments.

The proposed amendments will benefit thousands of deserving veterans, Mr. Speaker, and I urge my colleagues to support H.R. 2616, as amended.

Mr. SOLOMON. Mr. Speaker, continuing under my reservation of objection, the bill before us is a comprehensive one. The other body combined a number of bills that the House had passed on an individual basis. It also added a number of provisions and amendments. By passing H.R. 2616, as now further amended by the House, we send it back to the other body for additional consideration.

Mr. Speaker, a number of the provisions of this bill were requested by the administration. While they are important, they are mostly technical in nature. The rest of the bill has been the subject of a long process of careful study and consideration.

I want to make particular reference to restoration of beneficiary travel allowances for veterans traveling to and from VA medical facilities. The bill before us retains on a slightly modified basis this provision as originally passed by the House. The same is true of a provision granting presumptive service connection and compensation to certain veterans for disabilities that may have been caused by exposure to radiation.

Mr. Speaker, the entire bill and the proposed amendments have been explained by the distinguished chairman of the House Veterans' Affairs Committee and I need not repeat what he has said. Let me say, however, that the bill concerns not just the VA Medical Program, but also the specially adapted housing program for paraplegics and double amputees, the automobile allowance for certain seriously disabled service connected veterans, and the burial allowance for service connected death cases. It also concerns criteria for closing or relocating vet centers for counseling and assisting Vietnam veterans. It is involved with per diem payments to State veterans homes. It concerns VA cemeteries, the administration of the GI education bill, and payments to beneficiaries of GI insurance. I repeat, that it is a very comprehensive bill.

This is good legislation, Mr. Speaker, I urge my colleagues to support the unanimous-consent request of Chairman Sonny Montgomery.

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Mr. ROWLAND of Georgia. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Continuing under my reservation of objection, I yield to the gentleman from Georgia.

Mr. ROWLAND of Georgia. Mr. Speaker, I rise in strong support of H.R. 2616, the Veterans' Benefits and Services Act of 1988. This important legislation continues the commitment our Nation has made to provide health care and other important services to the many men and women who have given so much for the protection of our freedom.

I want to commend the chairman of the full committee, G.V. (Sonny) Montgomery and the ranking minority member, Gerald Solomon, for the excellent job that they have done on this bill. The provisions of this bill resolve some of the differences encountered with the Senate bill and address many of the concerns of our veterans affecting in both the short and long term the availability and quality of veterans benefits. Among other things the bill:

Repeals the mandatory transition of Vietnam veterans readjustment counseling centers;

Clarifies congressional intent with regard to beneficiary travel payments to veterans; and

Provides incentive payments for the purpose of recruiting and retaining nurses at facilities which are experiencing a shortage of nurses.

I am particularly pleased to note that the legislation before us today contains provisions of H.R. 1811, legislation which I introduced to provide service-connected benefits to certain veterans suffering from the effects of radiation-related cancer. These atomic veterans served our Nation in adverse conditions associated with the testing of nuclear weapons conducted between the years 1945 to 1963 and the cleanup of Hiroshima and Nagasaki, Japan, after the atomic bombing of those cities in 1945.

I am proud that with the strong support of the leadership of our committee we are finally addressing the concerns of these brave veterans. Also, I commend the chairman of the Subcommittee on Compensation, Pensions and Insurance, the gentleman from Ohio [Mr. Applegate] and also the gentleman from Ohio [Mr. McEwen]. I urge my colleagues to support H.R. 2616.

Mr. SOLOMON. Mr. Speaker, continuing my reservation, I would just like to say to the gentleman from Georgia [Mr. Rowland], who is a very valued member of our committee, that we are really proud and appreciative of the work he has done on that bill. Without his help we could not have accomplished it.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Mr. Speaker, continuing under my reservation of objection, I yield to the only Congressman from the whole State of Vermont [Mr. Jeffords].

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman for yielding, and I want to commend the gentleman and the chairman for taking care of the interests of the atomic veterans, the Vietnam veterans, and those veterans who need help going back and forth to the VA hospital.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman.

Ms. KAPTUR. Mr. Speaker, the bill H.R. 2616, entitled the Veterans' Benefits and Services Act of 1988, authorizes a number of measures which will improve efficiency in the national cemetery system and the American Battle Monuments Commission. I am pleased that the majority of the provisions of my bill, H.R. 2957, are incorporated in this compromise measure.

I would like to commend the chairman of the full Committee on Veterans' Affairs, G.V. (Sonny) Montgomery, who has given us outstanding leadership on these important issues. I would also like to thank the ranking minority member of the full committee, Gerald B.H. Solomon, and the ranking minority member of the Subcommittee on Housing and Memorial Affairs, Dan Burton, for their excellent support. The individual members of the committee and subcommittee have worked hard together to develop this legislation, and I would like to thank each of them for their excellent contributions.

In order to enhance the effectiveness of national cemetery and American Battle Monuments Commission operations, H.R. 2616 contains the following provisions:

CURRENCY FLUCTUATION ACCOUNT FOR THE AMERICAN BATTLE MONUMENT COMMISSION [ABMC]

In order to mitigate the adverse impact of declining dollar values on ABMC operations abroad, H.R. 2616 establishes a foreign currency fluctuation account, similar to those which have been set up for the State Department and Department of Defense. The bill authorizes an appropriation of $3 million for deposit in the account.

Using this type of account, transactions in foreign countries utilizes the budgeted rate of exchange as the standard for obligations. If the exchange rate at the time of purchase is higher than the budgeted rate, the difference is deposited into the account. If, on the other hand, the exchange rate is lower, the necessary additional funds may be withdrawn from the account.

In response to questions at a hearing held on July 1, 1987, ABMC advised the Subcommittee on Housing and Memorial Affairs that establishing the foreign currency fluctuation account will virtually eliminate the need for supplemental appropriations in the future.

INGRESS AND EGRESS

Mr. Speaker, the bill authorizes the VA to make contributions to local authorities for the construction of traffic controls, road improvements, or other devices, adjacent to national cemeteries if considered essential to ensure safe ingress and egress.

Conditions that exist outside the cemeteries are now beyond the jurisdiction of the Administrator. The need for authorizing legislation is necessary for safety reasons. It has come to the committee's attention on several occasions in the past that dangerous conditions exist near entrances to cemeteries, and the enactment of this bill could alleviate these problems.

GRAVELINERS

The bill authorizes the VA, in accordance with specifications and procedures approved by the Administrator, to provide graveliners for the interment of casketed remains in VA national cemeteries. In addition, the Secretary of the Army would be authorized to provide graveliners for interments at the Arlington National Cemetery, adopting its own specifications.

Graveliners are highly cost effective when used in these types of circumstances: First, to reduce maintenance requirements by preventing the ground from sinking over a collapsing casket; second, to prevent headstones from sinking and tilting; third, to reduce falls and other accidents to employees and visitors when walking over uneven ground; and fourth, to assure that cemetery appearance meets the high standard expected by the public.

Mr. Speaker, enactment of this provision would be in the best interests of long-term efficiency, especially in view of the anticipated increase in burials over the next 20 years.

TECHNICAL AMENDMENT TO STATE CEMETERY GRANT STATUTE

Mr. Speaker, the compromise measure would repeal the requirement that no State receive more than 20 percent of the total funds appropriated for the State Cemetery Grant Program in any one year.

The purpose of the original language was to prevent any one State from receiving a disproportionate share of Federal funds under the VA's cemetery grant program, to the disadvantage of other State(s).

In practice, after nearly 9 years of experience with this program, it has become apparent that this restriction is unnecessary, and may lead to unintended results. There has been no situation to date, and none is anticipated, in which the original concerns leading to the 20-percent limitation could have occurred. This action will enable the VA to deal more efficiently and equitably with carryover funds, and will enhance program flexibility while maintaining program goals.

FLAT GRAVEMARKERS

The bill authorizes the use of flat gravemarkers in lieu of upright markers in the case of cemeteries located on the grounds of or adjacent to a VA medical center and specifically, in national cemeteries at Indiantown Gap, PA; Riverside, CA; Augusta, MI; Bourne, MA, the proposed national cemetery in northern California, and in garden niches used for the interment of cremated remains.

SERVICE-CONNECTED BURIAL BENEFITS

The bill would increase the maximum allowance paid for the funeral and burial expenses of a veteran who dies from a service-connected cause from $1,100 to $1,500.

According to a study by the Federation of Funeral Directors, the average cost of an adult funeral has more than doubled during the last 10 years.

I would like to comment on the provisions in H.R. 2616 which fall under the jurisdiction of my subcommittee.

SPECIALLY ADAPTED HOUSING GRANT PROGRAM

The bill increases the maximum amount of specially adapted housing assistance from $35,500 to $38,000 and the maximum amount payable for special housing adaptations from $6,000 to $6,500.

The assistance furnished under these programs consists of payments to the eligible veteran for housing adaptations made necessary by the nature of the veteran's disability. Mr. Speaker, I believe that increasing the amounts of these benefits will keep them in line with inflation.

Mr. Speaker, I urge favorable consideration of this bill.

Mr. PENNY. Mr. Speaker, I rise in strong support of the veterans' legislation package presented today and want to draw particular attention to one provision of this legislation that relates to the State Veterans' Home Program, which today provides extended care in State homes, hospitals and domiciliaries for well over 20,000 veterans.

For over 100 years, the States and the Federal Government have cooperated in a partnership that has been beneficial to all concerned. As the demand for long-term care for elderly veterans increases, we are at the same time asking our State partners to bear greater responsibility.

Since 1984, the VA per diem reimbursement rates to State facilities have been set at $17.05 for State homes, $15.25 for State hospitals and $7.30 for domiciliaries. When these rates were set in 1984, they reflected a VA cost-share of 25 percent of the cost of operating State home nursing beds. During the past 4 years, the nursing home VA cost-share has dropped to an effective rate of 22.54 percent. Obviously, we cannot continue to ask more of State homes unless we are willing to keep reimbursement rates at a more consistent level.

Last May, the House approved H.R. 1659, a bill I introduced that would increase the per diem reimbursement rates to State veterans' facilities. Unfortunately, the Senate did not act as quickly and the per diem increase has been held up for a number of months as we waited for other issues in the large Senate package to be resolved. The legislation we are considering today would increase the nursing home rate from $17.05 to $20.35, the hospital rate from $15.25 to $20.35, and the domiciliary rate from $7.30 to $8.70. These rate increases would be effective retroactively to January 1, 1988.

Within this reimbursement formula, States are providing quality, cost-effective care to veterans. In these tight budgetary times, it makes good sense to put additional resources into programs that allow us to serve the most veterans at the lowest cost.

I'm a believer in the State Veterans' Home Program and am pleased to have positively contributed to the program in the past and to again participate in enhancing the State Home Program by today increasing the per diem reimbursement. I urge my colleagues to adopt this legislation.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objections.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AGE DISCRIMINATION CLAIMS ASSISTANCE ACT OF 1988

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2117) to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act. The Clerk read as follows:

S. 2117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination Claims Assistance Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Equal Employment Opportunity Commission (hereafter in this Act referred to as the "Commission") has failed to process an undetermined number of charges filed under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621-634) before the running of the statute of limitations applicable to bringing civil actions in the Federal courts under such Act, and

(2) many persons who filed such charges with the Commission have lost the right to bring private civil actions with respect to the unlawful practices alleged in such charges.

SEC. 3. EXTENSION OF STATUTE OF LIMITATIONS.

Notwithstanding section 7(e) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)), a civil action may be brought under section 7 of such Act by the Commission or an aggrieved person, during the 540-day period beginning on the date of enactment of this Act if—

(1) with respect to the alleged unlawful practice on which the claim in such civil action is based, a charge was timely filed under such Act with the Commission after December 31, 1983,

(2) the Commission did not, within the applicable period set forth in section 7(e) either—

(A) eliminate such alleged unlawful practice by informal methods of conciliation, conference, and persuasion, or

(B) notify such persons, in writing, of the disposition of such charge and of the right of such person to bring a civil action on such claim,

(3) the statute of limitations applicable under such section 7(e) to such claim ran before the date of enactment of this Act, and

(4) a civil action on such claim was not brought by the Commission or such person before the running of the statute of limitations.

SEC. 4. NOTICE OF STATUTE OF LIMITATIONS.

(a) NOTICE REGARDING CLAIMS FOR WHICH STATUTE OF LIMITATIONS IS EXTENDED.—Not later than 60 days after the date of enactment of this Act, the Commission shall provide the notice specified in subsection (b) to each person who has filed a charge to which section 3 applies.

(b) CONTENTS OF NOTICE.—The notice required to be provided under subsection (a) to a person shall be in writing and shall include the following information:

(1) The rights and benefits to which such person is entitled under the Age Discrimination in Employment Act of 1967.

(2) The date (which is 540 days after the date of the enactment of this Act) on which the statute of limitations applicable to such person's claim will run.

(3) That such person may bring a civil action on such claims before the date specified in paragraph (2).

SEC. 5. REPORTS.

(a) Contents of Reports.—For each 180-day period in the 540-day period beginning on the date of enactment of this Act, the Commission shall submit a written report that includes all of the following information:

(1) The number of persons who have claims to which section 3 applies and the dates charges based on such claims were filed with the Commission.

(2) The number of persons to whom notice was provided in accordance with section 4(a) and the date the notice was provided.

(3) With respect to alleged unlawful practices on which claims affected by section 3 are based, the number of such alleged unlawful practices that the Commission has attempted to eliminate by informal methods of conciliation, conference, and persuasion in the 180-day period for which the report is submitted.

(4) The number of alleged unlawful practices referred to in paragraph (3) that were so eliminated in such period.

(5) The number of civil actions filed by the Commission on behalf of persons to whom notice was sent under section 4.

(b) Submission of Reports.—Each report required by subsection (a) shall be submitted by the Commission to—

(1) the Committee on Education and Labor, and the Select Committee on Aging, of the House of Representatives, and

(2) the Committee on Labor and Human Resources, and the Special Committee on Aging, of the Senate,

not later than 30 days after the expiration of the 180-day period for which such report is required.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. Martinez] will be recognized for 20 minutes and the gentleman from Vermont [Mr. Jeffords] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Martinez].

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today on behalf of some 1,000 older Americans who have lost the right to sue in court on their claims of discrimination.

As chairman of the Subcommittee on Employment Opportunities with oversight responsibility over the Equal Employment Opportunity Commission, I was appalled to learn early this year that the EEOC had failed to complete investigation or to resolve the age discrimination complaints of over 930 older Americans within a 2-year time limit. As a result, while these aggrieved individuals were waiting for the leading employment enforcement agency of the land to act on their behalf, their statutory right to enter court was carelessly allowed to lapse. As Chairman Thomas himself has admitted, this is "absolutely inexcusable" and "tantamount to a dereliction of duties."

The chairmen of responsible congressional committees that oversee activities of the EEOC, such as Chairman Gus Hawkins, Chairman Edward Roybal, Chairman Claude Pepper, Chairman Tom Lantos, and Senators Melcher and Metzenbaum have all decried this outrage and cosponsored the legislation before us. On March 17, the Senate overwhelmingly passed S. 2117.

As the original cosponsor of the House companion bill H.R. 4107, I urge my colleagues to help relieve the plight of these older discrimination claimants by restoring their right to sue through the bill brought up today.

Mr. WEISS. Mr. Speaker, will the distinguished chairman yield to me for the purpose of entering into a colloquy?

Mr. MARTINEZ. I yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I will ask first, What is the purpose of this legislation?

Mr. MARTINEZ. The bill would provide legal recourse to certain individuals who filed timely charges under the Age Discrimination in Employment Act [ADEA] and whose statute of limitations expired due to an administrative error by the Equal Employment Opportunity Commission [the "EEOC" or the "Commission"].

Mr. WEISS. What exactly does this bill do?

Mr. MARTINEZ. The bill establishes an 18-month extension during which individuals who have filed timely charges with the EEOC can proceed with their cases in court.

Mr. WEISS. Are all individuals who filed ADEA charges covered?

Mr. MARTINEZ. No. The bill extends the statute of limitations only for potential claims based on ADEA charges filed on or after January 1, 1984.

Mr. WEISS. Isn't this bill unfair since it only covered recent Commission foulups?

Mr. MARTINEZ. This bill will cover a signficant percentage of charges mishandled by the Commission. Last December EEOC's Chairman Thomas indicated that the problem of delayed handling of age cases was first noticed by the Commission in 1984. The Commission only began handling ADEA charges in 1979 when the responsibility was transferred from the Department of Labor to the EEOC. The bulk of ADEA charges have been filed with the Commission in the past few years.

Mr. WEISS. What's preventing us from having to pass a similar bill a few years from now, based on the same problem of delay?

Mr. MARTINEZ. The Commission has acknowledged its misconduct due to inadequate management. The Commission is taking steps to correct the problem by disciplining those responsible district directors and by mandating that district offices develop and implement measures to prevent future delays.

Mr. WEISS. The Commission has indicated that management problems have been due in part to an ever-increasing workload and lack of adequate resources. What is the Congress doing to provide more resources to the Commission?

Mr. MARTINEZ. The authorizing committee has endorsed the President's request to increase the EEOC's fiscal year 1989 budget by $15 million and will continue to urge the Appropriations Committee to fund fully this enforcement program.

Mr. WEISS. Shouldn't hearing be held on the bill?

Mr. MARTINEZ. The House Committee on Aging held hearings on this problem on January 28, 1988. The Committee on Education and Labor and the Committee on Government Operations have also been looking into this matter. In fact, the Committee on Government Operations is holding hearings on March 29, 1988, to examine this issue and learn what actions are being taken to ensure that such problems do not occur again.

Mr. WEISS. What types of rights, remedies, and procedures would be available to persons covered by the bill?

Mr. MARTINEZ. The bill simply extends the statute of limitations. It specifically provides that "a civil action may be brought under section 7" of the ADEA by the Commission or an aggrieved person. This language recognizes all existing rights, remedies, procedures, and so forth, available under section 7 of the ADEA. It does not restrict existing remedies, rights, procedures, and so forth, arising under the provisions of the ADEA such as right to jury trial, opt-in provisions, liquidated damages or any other existing legal or equitable rights or remedies in any way. Persons harmed by the Commission's misconduct should not be treated as second-class, just because the Commission erred. The bill simply revives their potential claims for an 18-month period and, during that period, these persons may proceed as they would have before the expiration of their right to sue.

Mr. WEISS. What standard of proof applies for those cases filed under this legislation?

Mr. MARTINEZ. The standard of proof applicable for those bringing claims within the 2-year statute of limitations applies. Under no circumstances would proof of "willfulness" be necessary for a lawsuit to be maintained under section 3 of the bill. All lawsuits brought under section 3 of the bill are to be treated by the courts as if they were brought within the ADEA's 2-year statute of limitations.

Mr. WEISS. What action does the bill require of the Commission?

Mr. MARTINEZ. This bill does not change the Commission's obligations under the ADEA. For example, section 7 of the ADEA requires that the Commission investigate a charge and attempt to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion. Section 4 of this bill creates an additional obligation of notice for these charges affected, and section 5 requires that the Commission provide periodic reports to Congress regarding charges affected by this bill.

Mr. WEISS. It is not true that the Commission is not obligated to act on every claim filed? Don't claimants have an independent right to sue?

Mr. MARTINEZ. Individuals who file charges merely need to notify the Commission before filing suit in Federal court. The Commission, however, is required under the act to promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion.

Mr. WEISS. Mr. Speaker, I thank the distinguished chairman for yielding to me, and I compliment him on this piece of legislation.

Mr. MARTINEZ. Mr. Speaker, I reserve the balance of my time.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2117, the Age Discrimination Claims Assistance Act.

Less than 1 month has passed between introduction of this bill in the Senate, its approval by the full Senate, and, now, its consideration by the House. When we want to, we can operate the legislation by the House. When we want to, we can operate the legislation machinery quickly and efficiently. Such prompt action is especially appropriate in this instance, because this bill is intended to redress an unjust situation which EEOC Chairman Clarence Thomas has called totally inexcusable: the expiration of the statute of limitations in some 900 Age Discrimination in Employment Act [ADEA] cases.

In recent years the number of age discrimination charges has grown exponentially. With an ever-increasing workload, the EEOC has been hard pressed to keep abreast of its inventory of cases. In approximately 938 age discrimination cases, the EEOC failed to take action before expiration of the 2-year statute of limitations under the ADEA.

S. 2117 simply provides for an 18-month extension of the statute of limitations for those persons whose ADEA claims lapsed through no fault of theirs, but rather because of EEOC inaction. It will not allow for the filing of new charges that were not timely filed, but for hundreds of older Americans it will restore the right to pursue the remedies Congress made available when it addressed the problem of age discrimination upon passage of the ADEA in 1967. As an original cosponsor of H.R. 4107, the House counterpart of S. 2117, I urge my colleagues to support this bill.

Mr. MARTINEZ. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of S. 2117, the Age Discrimination Claims Assistance Act of 1988. This legislation is essential if we are to restore the basic employment rights of hundreds of older Americans who, through no fault of their own, have lost the ability to protect themselves from illegal age discrimination. As an original cosponsor of this legislation, I would like to commend my colleagues from California, Mr. MARTINEZ, the chairman of the Subcommittee on Employment Opportunities, and Mr. HAWKINS, the chairman of the Committee on Education and Labor, for their strong leadership in seeking a speedy resolution to this serious matter.

At a January 28 hearing of my Select Committee on Aging, Chairman Clarence Thomas of the Equal Opportunity Commission testified that his agency had allowed some 900 age discrimination cases to expire. The tragic result of this very serious management error is that these older Americans have presently lost all legal recourse for seeking a remedy to their cases. Other EEOC officials indicated that a substantial number of these expired cases were pending in such district offices as Los Angeles, Dallas, Baltimore, and New York. In fact, among the Commission's pending inventory, nearly 5,000 cases are backlogged in the Los Angeles office alone.

S. 2117 would correct this egregious situation by extending the statute of limitations for an additional 18-month period following enactment of the bill. Additionally, it would require the EEOC to notify each individual case that they are now entitled to such treatment, and would require the agency to file a report to the Congress concerning the status of the complaints. I urge my colleagues to support this legislation so that the rights of these older Americans are reinstated as Congress has intended when the ADEA was signed into law. While this bill will not erase the suffering and inconvenience which EEOC's mismanagement has created, it is the only just and fair measure this Congress can now take to reinstate the rights which these individuals lost through no fault of their own.

Additionally, it is important to note that while this legislation will provide much needed short-term relief to a particular group of older Americans who lost their rights under the Federal Age Discrimination in Employment Act, it does not correct the serious structural and management problems which still exist. The effectiveness of the ADEA hinges in large part on the ability of the EEOC to thoroughly and vigorously enforce the rights of victims affected by the statute. I am also greatly concerned that certain recent positions taken by the Commission relating to enforcement have had the impact of undermining the protections afforded individuals under the ADEA.

More specifically, I am concerned that the final regulation which permits an unsupervised waiver of ADEA rights is in direct contravention of the statute and its legislative history. Moreover, the increasing use of so called Early Retirement Incentive Programs [ERIP's] by many employers who are downsizing their workforce, may provide increasing instances of age-based discrimination by employers. ERIP's provide financial incentives for older workers to take early retirement. While these programs may be legal, certain arrangements may violate the ADEA because of their financial arrangement, because they represent a form of coercive forced retirement, or they may otherwise violate the ADEA. It is unclear what steps the EEOC has taken to provide guidance on these programs or to oversee the implementation of these ERIP's.

I am also greatly concerned that the position which the EEOC has taken with respect to pension accrual after age 65 may subject millions of American workers to a loss of millions of dollars in benefits that they should be entitled to under Federal law. The failure of the EEOC to promulgate final regulations requiring accrual after age 65 under a pension plan, in addition to the proposed position of EEOC under provisions of OBRA, indicate that the Commission has taken positions which will disenfranchise the retirement income security of many American workers.

These and other actions by this Commission raise a serious concern. Are older Americans being adequately protected from insidious and illegal age discrimination by their Government and this Commission? We must assure ourselves that the agency which is charged with protecting our older citizens from age discrimination is up to the task, both in spirit and in action. I look forward to continuing to work with my colleagues on both sides of the aisle to ensure that the enforcement protections of the ADEA are adequately implemented, and I am prepared to seek further legislative remedies to make sure that these unforgiveable enforcement failures do not occur in the future.

Mr. CLAY. Mr. Speaker, I want to express my support for S. 2117, the Age Discrimination Claims Assistance Act of 1988. This is a very important piece of legislation, and I commend its sponsors for their work on it.

In a society such as ours, one would think that any aggrieved individual would have the opportunity to pursue his or her case in a court of law. Unfortunately, because of mismanagement on the part of the Equal Employment Opportunity Commission [EEOC], 900 individuals will be denied their chance unless something is done by this Congress.

Under the Age Discrimination in Employment Act [ADEA], workers who have been discriminated against because of age have a 2-year statute of limitations—running from the date of the incident of discrimination—in which to file charges against their employer; this is extended to 3 years for willful violations. By law, individuals who meet this deadline have the right to take their case to court.

However, it has been discovered that the EEOC failed to process over 900 charges in order for these cases to meet the 2 year deadline, meaning that these individuals no longer have the right to a fair trial. Even though a timely charge was filed, 900 people are not being protected by the ADEA, and the only reason for this gap in protection is the pure negligence of the EEOC.

The chairman of the Commission has made a public apology and promised that disciplinary action will be taken against those EEOC officials involved. The EEOC boasts that it has protected older workers throughout this country, but testimony at congressional hearings has proven that the instance at hand is not the only problem aged individuals have had with the EEOC's treatment of their rights under the ADEA.

Recently, the Commission established a rule that would allow unsupervised waivers of an individual's rights under the ADEA. How an agency designed to protect a certain group of people can accept the waiving of any rights is questionable to begin with; to say, as EEOC has, that unsupervised waivers are necessary is mind-boggling. I wonder who exactly this Commission is protecting. And it makes me even more steadfast in my views that it is the Congress' duty to remedy the EEOC's inaction and support the legislation before us.

An EEOC public apology and disciplinary action against the negligent Commission officials in no way solves the problem they created. There are still over 900 Americans out there who conscientiously filed their claims but have no hopes of going to court unless congressional action takes place. S. 2117 extends the statute of limitations by 18 months for those individuals overlooked by the EEOC. It also requires the EEOC to notify those affected by this act no later than 60 days after enactment.

Congress must right an incredible wrong that has been done to a number of American workers. It is our responsibility as elected representatives to not only establish laws to protect the citizens we represent, but also to see that these laws are effectively enforced. That is why it is our duty to restore the rights lost by over 900 individuals at the hands of an inactive Equal Employment Opportunity Commission.

The members of the other body have already passed their version without debate, and I am hoping that we will do the same. S. 2117 is a prompt and effective response to a serious problem, and I urge my colleagues to vote in favor of it.

Mr. LANTOS. Mr. Speaker, I am delighted to see the remarkably rapid progress through both Houses of Congress of this important and humane measure. Along with my colleagues, I was appalled to learn that errors and delays by the Equal Employment Opportunity Commission had deprived many hundreds of persons of their right to pursue in Federal district court their allegations of age discrimination.

This very morning the Employment and Housing Subcommittee, which I chair, held a hearing on this inexcusable situation. At this hearing, we learned from the EEOC that it was not 900 cases, as had been previously believed, but over 1,600 cases which had exceeded the 2-year statute of limitations. Despite support for this bill by the EEOC, I am compelled to say that it boggles the mind that a Federal agency, charged with protecting victims of age discrimination in the workplace, should be responsible for such victims losing their statutory rights. Totalitarian regimes are notorious for committing evil against their citizens, while democracies are guilty of omitting things which are due to their citizens.

The members of the EEOC vowed at today's hearing that this malfeasance will not recur. They have undertaken corrective steps and will stress accountability by their staff so that future charging parties will be adequately informed about the rights and protection provided by Congress in the Age Discrimination in Employment Act.

But for those unfortunate individuals who were caught in the delays of the past 4 years we must enact S. 2117 as a remedy for their plight.

I want to commend my colleagues on the Education and Labor and Aging Committees for this prompt remedial action.

Mr. BIAGGI. Mr. Speaker, since 1967 we have had in this land a law which specifically outlaws discrimination against an individual because of his/her age. The Age Discrimination in Employment Act [ADEA] was, and remains, a vital piece of legislation as it safeguards the rights of workers over the age of 40; people whom for the most part have the greatest amount of expertise and experience in their respective fields.

In 1979, the U.S. Equal Employment Opportunity Commission [EEOC] was the agency tasked with the responsibility for enforcing the provisions of Public Law 90-202, yet we have come to learn that this mandate has not been satisfactorily met. We now know that the Equal Employment Opportunity Commission has failed some 900 individuals with its own inaction. H.R. 4107, the Age Discrimination Claims Assistance Act of 1988, introduced by Chairman AUGUSTUS HAWKINS, would remedy this situation, and for this reason I am very proud to be one of the original cosponsors of this important legislation.

Although the EEOC reviews many cases other than those dealing with age discrimination, we find that the number of such cases reviewed under the guidelines of the Age Discrimination in Employment Act, is definitely on the rise. From 1982 to 1986, the number of ADEA cases brought to the Commission for review increased by close to 60 percent. In 1986 alone, more than 25 percent of the charges considered by the EEOC dealt with some type of age discrimination complaint. The problem for those whose cases will be heard under the provisions of the ADEA, is that there exists a 2-year statute of limitation.

According to a report issued last September, the EEOC, due to internal management problems, failed to act upon approximately 900 ADEA cases within that 2 year timeframe. Thus, through its own inaction, the EEOC has robbed hundreds of older citizens of their right to pursue their cases of age discrimination in the courts. What possible purpose does it serve to outlaw discrimination, when the agency mandated with enforcing the law, and adjudicating the cases, fails to act upon the claims in a timely fashion. This, in my mind, is tantamount to not having any law against age discrimination. We must allow those older employees who have faced discrimination in the workplace to have their cases reviewed, regardless of the workload of the EEOC. This bill, the Age Discrimination Claims Assistance Act of 1988 is the answer. We cannot allow a bureaucratic backlog of paperwork to deny older Americans the right to bring their cases and complaints forward for review. We must extend the already expired statute of limitation for these 900 victims of job-related age discrimination, for a period of at least 18 months and we must work to see that these cases are adjudicated expeditiously. These older Americans have waited long enough.

Mr. HAWKINS. Mr. Speaker, I rise in support of S. 2117, the Age Discrimination Claims Assistance Act of 1988, as passed by the Senate on March 17, 1988, and which we have before us for consideration today. This bill is identical to H.R. 4107, which I and several cosponsors introduced on March 8 of this year.

The need for this legislation arose when we learned that management problems at the Equal Employment Opportunity Commission [EEOC] interfered with the prompt handling of Age Discrimination in Employment Act [ADEA] charges filed with the Commission. As a result of the EEOC's failure to process charges in time to meet the act's 2-year statute of limitatioins, hundreds of individuals lost their rights to pursue their claims in court. EEOC's Chairman, Mr. Clarence Thomas, himself, has characterized the situation as "totally inexcusable" and has indicated that the Commission will take steps to rectify the problem in future cases.

This bill extends the already expired statute of limitations by 18 months for those persons whose claims were affected by EEOC's administrative error. Specifically, the law would revive potential ADEA claims for those persons who filed timely charges with the Commission after December 31, 1983, but did not bring a civil action on such claims and who neither had their claims conciliated by the Commission nor received notification of the disposition of their charge and their right to sue.

It is grossly unfair to allow older workers, who may have a legitimate age discrimination claim, to be denied a fair chance to pursue their claims in court. This bipartisan bill is essentially straightforward in its intent. To protect those individuals unjustly harmed by the Commission's inaction, I urge the Members of the House to vote in favor of the Age Discrimination Claims Assistance Act.

Mr. BONKER. Speaker I am very pleased that the House has acted so quickly on the Age Discrimination Claims Assistance Act, S. 2117. This legislation is extremely important to many older Americans who may have been discriminated against by their employers on the basis of their age and have subsequently been deprived their due process rights as a result of inaction and bad management at the Equal Employment Opportunity Commission [EEOC]. I hope that my colleagues will show their unanimous support for this measure.

I congratulate Mr. HAWKINS, chairman of the Education and Labor Committee, for introducing H.R. 4107, the House companion bill to S. 2117, and for bringing this legislation before the House today. I am proud to be a cosponsor of the chairman's bill. Mr. HAWKINS has been an advocate for strong enforcement of the Age Discrimination in Employment Act [ADEA] for many years. He and Senator MELCHER have developed a fair and effective solution to the problems that the EEOC has created.

Mr. Speaker, as a member of the Select Committee on Aging since it was created in 1974, I have had an excellent opportunity to monitor the effectiveness of the EEOC, which has been charged with the responsibility of enforcing the ADEA since 1979. The ADEA balances the rights of employers to have managerial control and the rights of older workers to have their employment based on ability and performance rather than age. As the number of older Americans increases we will likely see more cases of age discrimination. In fact, we have seen a substantial increase in the number of charges filed under the ADEA in recent years. This has increased the importance of the EEOC in protecting the welfare of older adults.

Unfortunately, the EEOC has not adequately responded. I believe that the need for our action today is a result of this administration's lack of commitment to fighting discrimination in our society. They have shown their contempt for the intent of Congress regarding the ADEA on numerous occasions. A former EEOC official called EEOC's actions:

> Mind-boggling incompetence, wholesale and systematic management failure, and gross insensitivity to the devastating effects of age discrimination upon its victims and our society.

On January 28, 1988, the Aging Committee conducted a hearing to consider the quality of enforcement of the ADEA by the EEOC. We were shocked by the marks that the EEOC received from our witnesses; they failed miserably. For example, the testimony of Mr. Charles E. McKeag III, a former Goodyear Tire & Rubber Co., executive, was a heartwrenching account of the failure of EEOC to uphold his rights and protect his future security by allowing the statute of limitations to run out on his case. Furthermore, we have learned from the EEOC that there are over 900 similar charges that have been allowed to exceed the ADEA's 2-year statute. The Seattle, WA, District Office of the EEOC reports some 50 charges which have slipped past the statute of limitations. These working men and women have lost their day in court unless we in Congress act to correct EEOC's mistakes. The EEOC failed to protect the rights of almost 1,000 persons and failed to process their claims so that they could protect themselves by pursuing civil action.

This bill, S. 2117, will extend the already expired statute of limitations for an 18-month period for persons whose claims were affected by EEOC inaction. This will assist those who filed timely charges with the Commission after December 31, 1983, but did not bring a civil action on their claims, and who neither had their claims conciliated by the EEOC nor were notified of the disposition of their charge and their right to sue. In addition, this legislation requires the EEOC to notify these persons of their rights under the ADEA and that they have been granted an 18-month extension of the statute of limitations. It also includes a requirement that the Commission submit periodic reports to Congress regarding the number of persons with claims, the number of persons notified, and the disposition of their charges. It is my hope that these provisions will assist those that have been denied their rights under the law and prevent future necessity for such corrective action.

Mr. Speaker, we must make no mistake about age discrimination; it is a devastating form of unfair treatment which inflicts economic, psychological, and social hardships on its victims. Recourse is often too late and too little for a person whose career has been shattered with the quick blow of a company trying to reduce its payroll. I believe that those of us who support the goals of the ADEA have been and will continue to be willing to support the necessary funding to allow the EEOC to do its job well. However, it will take more that just money to effectively run the EEOC; it will take a stronger commitment from its Chairman, Mr. Thomas, and the administration. I regret that the legislation that we pass today will not provide those important ingredients to a successful fight against age discrimination. But it will help 1,000 older Americans whose legal rights were brushed aside by neglect and incompetence.

Mr. MARTINEZ. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the Senate bill, S. 2117.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNICATIONS FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
March 29, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 9:30 a.m. on Tuesday, March 29, 1988, the following message from the Secretary of the Senate: That the Senate passed without amendment H.R. 4263.

With great respect, I am,
Sincerely yours,
DONALD K. ANDERSON,
Clerk, House of Representatives.

□ 1510

ABANDONED SHIPWRECK ACT OF 1987

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the unfinished business is the question de novo of suspending the rules and passing the Senate bill, S. 858.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill S. 858.

The question was taken.

Mr. SHUMWAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 139, not voting 30, as follows:

[Roll No. 46]

YEAS—263

Ackerman
Akaka
Anderson
Andrews
Annunzio
Aspin
Atkins
AuCoin
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)

Brown (CO)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Foley
Ford (MI)
Gaydos
Gejdenson
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hertel
Hopkins
Horton
Hoyer
Huckaby
Hughes
Ireland
Jacobs

Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McMillen (MD)
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle

Price (NC)
Pursell
Rahall
Rangel
Ravenel
Regula
Richardson
Rinaldo
Robinson
Rodino
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schroeder
Schuette
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wright
Wyden
Yates
Yatron

NAYS—139

Alexander
Anthony
Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bilirakis
Bliley
Broomfield
Buechner
Bunning

Burton
Callahan
Chandler
Cheney
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Davis (IL)
Davis (MI)
DeLay

DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Florio
Frank
Frenzel
Gallegly

Gallo
Gekas
Gibbons
Gingrich
Goodling
Grant
Green
Gregg
Gunderson
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hochbrueckner
Houghton
Hunter
Hutto
Hyde
Inhofe
Kasich
Kolbe
Konnyu
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (FL)
Lightfoot
Livingston
Lott
Lujan

Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McGrath
McMillan (NC)
Meyers
Molinari
Moorhead
Morrison (WA)
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Quillen
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Saxton
Schaefer
Schulze
Shumway

Shuster
Skeen
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wortley
Young (AK)
Young (FL)

NOT VOTING—30

Biaggi
Boulter
Clinger
Dannemeyer
Daub
DeFazio
Dowdy
Ford (TN)
Frost
Garcia

Gephardt
Hammerschmidt
Hefner
Holloway
Hubbard
Kemp
Lewis (CA)
Lowery (CA)
Martinez
McHugh

Mica
Moody
Murphy
Price (IL)
Ray
Roe
Schneider
Sensenbrenner
Torres
Wylie

☐ 1532

The Clerk announced the following pair:
On this vote:

Mr. Moody and Mr. Price of Illinois for, with Mr. Daub against.

Messrs. CRANE, SAXTON, HUNTER, SMITH of New Jersey, COATS, PARRIS, BURTON of Indiana, LEACH of Iowa, EDWARDS of Oklahoma, GREGG, RHODES, OXLEY, HILER, and BUECHNER changed their votes from "yea" to "nay."

Messrs. CARR, BROWN of Colorado, ROSE, HARRIS, FLIPPO, HALL of Texas, and LEATH of Texas changed their votes from "nay" to "yea."

Mr. WEISS changed his vote from "present" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Miss SCHNEIDER. Mr. Speaker, on rollcall vote No. 46, the Abandoned Shipwreck Act of 1987, S. 858, I was present on the floor and voted.

Inadvertently, however, the Record does not reflect my voting in the affirmative.

I ask unanimous consent that my statement appear in the permanent Record following rollcall No. 46.

The SPEAKER pro tempore. Is their objection to the request of the gentlewoman from Rhode Island?

There was no objection.

ANNUAL REPORT OF THE UNITED STATES-JAPAN COOPERATIVE MEDICAL SCIENCE PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. Gray of Illinois) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Tuesday, March 29, 1988).

RESERVING CERTAIN FEDERAL LANDS WITHIN LINCOLN COUNTY, NEVADA, FOR DEPARTMENT OF THE AIR FORCE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs, and the Committee on Armed Services be discharged from further consideration of the Senate bill (S. 1508), to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, NV, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. Gray of Illinois) Is there objection to the request of the gentleman from Minnesota?

Mrs. VUCANOVICH. Mr. Speaker, reserving the right to object, will the gentleman from Minnesota [Mr. Vento] please explain what is involved in this legislation?

Mr. VENTO. Mr. Speaker, if the gentlewoman will yield, as I indicated earlier, I am seeking to call up the Senate-passed bill that deals with the withdrawal of the Groom Mountain area. If unanimous consent for consideration of the bill is granted, I will offer an amendment in the nature of a substitute that will add to the bill the other provisions that were included in the House-passed bill that dealt with this subject, including the designation of several wilderness areas in Nevada's national forests and the transfer of certain Nevada lands between the Bureau of Land Management and the Forest Service.

The House passed H.R. 2142, the Nevada bill, on December 1 last year. It included the language dealing with the Groom Mountain area that now has been passed by the Senate in S. 1508, as well as the other provisions I have mentioned. At the request of the Air Force, Congress then extended the Air Force's control of the Groom Mountain area from December 31, 1987, until April 1, 1988. It was our belief that would provide time for the Senate to consider and act on the House-passed bill.

Unfortunately, the other body has not addressed any part of the House-passed bill except the Groom Mountain provisions. I am willing to agree to a short-term extension of Air Force authority over the Groom Mountain area—until June 15, 1988—but I continue to support the House's position that we should not legislate in a piecemeal fashion and should deal with all the issues that are addressed in the House-passed bill. My amendment would add the wilderness designations and the BLM-Forest Service adjustments to the Senate's bill, so that we can proceed to a dialog with the other body on the entire group of matters.

□ 1540

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman from Minnesota.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of November 6, 1986 (100 Stat. 3457), is amended by—

(1) striking out the period at the end of section 1(b)(2) of the Act and insert in lieu thereof "and lands comprising approximately 89,600 acres of land in Lincoln County, Nevada, as generally depicted on the map entitled 'Groom Mountain Addition to Nellis Air Force Range', dated September 1984, and filed in accordance with section 2."; and

(2) striking out section 5(b)(2)(B) of the Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. VENTO

Mr. VENTO. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. VENTO: Strike all after the enacting clause and insert the following:

TITLE I—WITHDRAWAL OF GROOM MOUNTAIN AREA

SEC. 101. AMENDMENT.

Section 1(b) of the Military Lands Withdrawal Act of 1986 (100 Stat. 3457) is amended by striking the period at the end of paragraph (2) and by inserting in lieu thereof the following: "and lands comprising approximately 89,600 acres of land in Lincoln County, Nevada, as generally depicted on the map entitled 'Groom Mountain Addition to Nellis Air Force Range' dated September 1984 and filed in accordance with section 2.".

SEC. 102. CONFORMING AMENDMENT.

Section 5(b)(2) of the Military Lands Withdrawal Act of 1986 (100 Stat. 3463) is hereby amended by striking out subparagraph (B) and by striking out "(A)" after "(2)".

TITLE II—WILDERNESS DESIGNATION

SEC. 201. PURPOSES.

The purposes of this title are:

(1) To designate certain National Forest System lands in the State of Nevada as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude and physical and mental challenge.

(2) To ensure that certain other National Forest System lands in the State of Nevada be available for nonwilderness uses.

SEC. 202. ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated wilderness, and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Toiyabe National Forest, which comprise approximately 38,000 acres, are generally depicted on a map entitled "Alta Toquima Wilderness—Proposed", dated April 1987, and which shall be known as the Alta Toquima Wilderness.

(2) Certain lands in the Toiyabe National Forest, which comprise approximately 113,000 acres, as generally depicted on a map entitled "Arc Dome Wilderness—Proposed", dated April 1987, and which shall be known as the Arc Dome Wilderness.

(3) Certain lands in the Inyo National Forest, which comprise approximately 10,000 acres, as generally depicted on a map entitled "Boundary Peak Wilderness—Proposed", dated April 1987, and which shall be known as the Boundary Peak Wilderness.

(4) Certain lands in the Humboldt National Forest, which comprise approximately 32,000 acres, as generally depicted on a map entitled "Currant Mountain Wilderness—Proposed", dated April 1987, and which shall be known as the Currant Mountain Wilderness.

(5) Certain lands in the Humboldt National Forest, which comprise approximately 31,000 acres, as generally depicted on a map entitled "East Humboldt Wilderness—Proposed", dated April 1987, and which shall be known as the East Humboldt Wilderness.

(6) Certain lands in the Humboldt National Forest, which comprise approximately 28,000 acres, as generally depicted on a map entitled "Grant Range Wilderness—Proposed", dated April 1987, and which shall be known as the Grant Range Wilderness.

(7) Certain lands in the Humboldt National Forest, which comprise approximately 48,500 acres, as generally depicted on a map entitled "Jarbidge Wilderness Additions—Proposed", dated April 1987, and which shall be deemed to be a part of the Jarbidge Wilderness as designated by Public Law 88-577.

(8) Certain lands in the Toiyabe National Forest, which comprise approximately 43,000 acres, as generally depicted on a map entitled "Mt. Charleston Wilderness—Proposed", dated April 1987, and which shall be known as the Mount Charleston Wilderness.

(9) Certain lands in the Humboldt National Forest, which comprise approximately 81,500 acres, as generally depicted on a map entitled "Mt. Moriah Wilderness—Proposed", dated April 1987, and which shall be known as the Mount Moriah Wilderness. Any lands depicted on such map as being within the boundaries of the Mount Moriah Wilderness and which are under the jurisdiction of the Secretary of the Interior shall, upon enactment of this Act, be transferred to the administrative jurisdiction of the Secretary of Agriculture to be administered as components of the national forest system and the National Wilderness Preservation System. The national forest boundary shall be adjusted accordingly.

(10) Certain lands in the Humboldt National Forest, which comprise approximately 19,000 acres, as generally depicted on a map entitled "Quinn Canyon Wilderness—Proposed", dated April 1987, and which shall be known as the Quinn Canyon Wilderness.

(11) Certain lands in the Humboldt National Forest, which comprise approximately 77,000 acres, as generally depicted on a map entitled "Ruby Mountains Wilderness—Proposed", dated April 1987, and which shall be known as the Ruby Mountains Wilderness.

(12) Certain lands in the Humboldt National Forest, which comprise approximately 31,000 acres, as generally depicted on a map entitled "Santa Rosa Wilderness—Proposed", dated April 1987, and which shall be known as the Santa Rosa Wilderness.

(13) Certain lands in the Humboldt National Forest, which comprise approximately 83,000 acres, as generally depicted on a map entitled "Schell Peaks Wilderness—Proposed", dated November 1987, and which shall be known as the Schell Peaks Wilderness.

(14) Certain lands in the Toiyabe National Forest, which comprise approximately 96,000 acres, as generally depicted on a map entitled "Table Mountain Wilderness—Proposed", dated April 1987, and which shall be known as the Table Mountain Wilderness.

SEC. 203. MAPS AND DESCRIPTIONS.

As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 204. ADMINISTRATION OF WILDERNESS.

Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

SEC. 205. WILDERNESS REVIEW CONCERNS.

(a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Nevada and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in the State of Nevada; such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Nevada;

(2) with respect to the National Forest System lands in the State of Nevada which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Nevada reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Nevada are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Nevada for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to:

(1) National Forest System roadless lands in the State of Nevada which are less than five thousand acres in size.

(2) Those National Forest System roadless areas, or portions thereof in the State of Nevada, which were identified by unit plans listed at the end of this subparagraph, which are not designated as wilderness by this Act:

National forest	Unit plan
Humboldt	Santa Rosa.
Humboldt	Ruby Mtn./E. Humboldt.
Toiyabe	Mt. Charleston.
Toiyabe	Central Nevada.

SEC. 206. GRAZING IN WILDERNESS AREAS.

(a) Grazing of livestock in wilderness areas established by this Act, where established prior to the enactment of this Act, shall be administered in accordance with section 4(d)(4) of the Wilderness Act and section 108 of Public Law 96-560 (94 Stat. 3265).

(b) The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in national forest wilderness areas in Nevada in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in this Act.

SEC. 207. STATE FISH AND WILDLIFE AUTHORITY.

As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Nevada with respect to wildlife and fish in the national forests in Nevada.

SEC. 208. ADJACENT MANAGEMENT.

Congress does not intend that the designation of wilderness areas in the State of Nevada lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from within any wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 209. MOUNT ROSE NATIONAL RECREATION AREA.

(a) DESIGNATION.—For purposes of conserving and protecting scenic, wildlife, biological, educational, and recreational values, certain lands in the Toiyabe National Forest and the Lake Tahoe Basin Management Unit which comprise approximately 29,000 acres, as generally depicted on a map entitled "Mount Rose National Recreation Area—Proposed," dated November 1987, are hereby designated the Mount Rose National Recreation Area (hereinafter in this section referred to as "the area").

(b) MAP.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall file the map referred to in subsection (a) with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such map shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such map may be made. The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) ADMINISTRATION.—(1) The Secretary shall administer the area so as to achieve the purposes of its designation as a national recreation area in accordance with the laws and regulations applicable to the National Forest System.

(2) Subject to valid existing rights, all federally owned lands within the area are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(3) The area shall be closed to the harvesting of timber, except that the Secretary may take measures to reduce the effects of fire, insects and disease, and to enhance wildlife populations.

(4) The lands within the area designated as "roadless, nonmotorized" on the map referred to in subsection (a) shall remain roadless and be closed to motorized use, except that the Secretary may authorize the use of motorized equipment and transportation for fire suppression, search and rescue operations and other emergencies.

(5) Off road vehicle use on lands in the area not designated as "roadless, nonmotorized" on the map referred to in subsection (a) shall be confined to trails and areas designated by the Secretary, but such trails and areas shall not exceed those for which off road vehicle use was authorized as of the enactment of this Act.

TITLE III—LAND TRANSFERS

SEC. 301. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) The public lands transferred by this title contain valuable natural resources (such as watershed, range, outdoor recreation and wildlife habitat) which will be enhanced by the professional, multiple-use management of the Forest Service; and that certain national forest lands would be enhanced by the professional multiple-use management of the Bureau of Land Management.

(2) The public which uses these natural resources will be benefited by such adjustments in management.

(3) The public lands transferred by this title to the Forest Service are adjacent to existing national forests and, in many cases, are part of the same watersheds and mountain ranges, and placing the management of these lands under the administration of one agency, the Forest Service, will improve efficiency and be cost effective; that similar efficiency and cost effectiveness will result from transfer of certain national forest lands to the Bureau of Land Management.

(4) There is a consensus in Nevada that these lands should be added to the national forests and that some national forest lands should be transferred to the Bureau of Land Management for management.

(b) PURPOSE.—The purpose of this title is to promote the national interest through changes in the management of Federal lands in Nevada, including the addition of certain public lands to the National Forests in Nevada and the transfer of certain lands now managed by the Forest Service to management by the Bureau of Land Management, Department of the Interior.

SEC. 302. DEFINITIONS.

As used in this title—

(1) The term "public lands" means the lands administered by the Bureau of Land Management, United States Department of the Interior, as defined in section 103(3) of

the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701(e)).

(2) The term "National Forest lands" or "National Forest System lands" means the lands administered by the Forest Service, United States Department of Agriculture, as defined in section 11 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

SEC. 303. TRANSFER OF LANDS.

(a) TRANSFER OF PUBLIC LANDS TO THE FOREST SERVICE.—Effective 180 days after enactment of this Act, the approximately 895,000 acres of public lands designated for inclusion in the National Forest System on 3 maps entitled "Sierra Front Additions", "Spring Mountain Additions", and "Hot Creek Additions" and dated November 1987, are hereby transferred to the administrative jurisdiction of the Secretary of Agriculture and shall become part of the Toiyabe National Forest or the Inyo National Forest.

(b) BOUNDARIES OF TOIYABE AND INYO NATIONAL FORESTS.—

(1) The boundaries of the Toiyabe National Forest and the Inyo National Forest are hereby modified to reflect the transfer of lands under subsection (a).

(2) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Toiyabe National Forest and the Inyo National Forest, as modified by this subsection, shall be treated as if they were the boundaries of those National Forests as of January 1, 1965.

(c) TRANSFER OF FOREST SERVICE LANDS TO THE BUREAU OF LAND MANAGEMENT.—Effective 180 days after the enactment of this Act, the approximately 23,000 acres of national forest lands identified for management by the Bureau of Land Management on a map entitled "Sierra Front Additions" and dated November 1987, are hereby transferred to the administrative jurisdiction of the Secretary of the Interior.

(d) MAPS.—The maps referred to in subsection (a) and subsection (c) shall be on file and available for public inspection in the offices of the Chief, Forest Service, Department of Agriculture, and the Director, Bureau of Land Management, Department of the Interior. The Secretaries of Agriculture and the Interior may make changes to the maps to correct technical errors.

(e) PLANS.—Effective 180 days after enactment of this Act, lands transferred by subsection (a) of this section to the jurisdiction of the Secretary of Agriculture shall be subject to the planning requirements of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, and lands transferred by subsection (c) of this section to the jurisdiction of the Secretary of the Interior shall be subject to the requirements of the Federal Land Policy and Management Act of 1976. All transferred lands shall continue to be managed in accordance with plans and designations in effect on the date of enactment of this Act until considered in plans developed under applicable provisions of law. If no plans are in effect on the date of enactment of this Act, the respective transferred lands shall be managed in a manner consistent with other national forest or public lands, as the case may be, in the vicinity until a plan is developed under applicable provisions of law. Nothing in this title shall of itself require the amendment or revision of the existing plans governing public lands or national forests affected by the addition of or deletion of lands transferred by this Act.

SEC. 304. WILDERNESS SUITABILITY.

(a) MANAGEMENT OF WILDERNESS STUDY AREAS.—(1) Any portion of the public lands which as of January 1, 1987, was being managed pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976 and which is made a part of the National Forest System by this title shall be managed by the Secretary of Agriculture pursuant to such section of such Act until Congress determines otherwise.

(2) At any time after the date of enactment of this Act, but no later than 60 days after the date on which the President submits to the Congress recommendations pursuant to section 603 of the Federal Land Policy and Management Act with respect to public lands in the State of Nevada, the Secretary of Agriculture shall submit to the President and to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate recommendations as to whether any of the lands described in paragraph (1) should be designated as wilderness. Upon receipt of such recommendations, the President shall submit recommendations with respect to such areas in the same manner as provided in section 3(d) of the Wilderness Act.

(b) OTHER BUREAU OF LAND MANAGEMENT ROADLESS AREAS.—Any roadless portion of the public lands which as of January 1, 1987, was not being managed pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976 and which is made a part of the National Forest System by this title shall be deemed to have been adequately considered for wilderness for the purposes of the initial land management plans required for such lands by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604). The Secretary of Agriculture shall not be required to manage any such area to preserve wilderness values or to review the wilderness option before any revision of such plans, but the Secretary shall review the wilderness option for such area when such plans are revised.

(c) ROADLESS AREAS RECOMMENDED FOR WILDERNESS.—Any roadless area, or portion thereof, on national forest lands recommended by the Secretary of Agriculture for wilderness which will be transferred to the jurisdiction of the Secretary of the Interior pursuant to section 203(c) of this title, shall be managed by the Secretary of the Interior in accordance with the provisions of section 603(c) of Federal Land Policy and Management Act, or other specific statutory direction.

SEC. 305. MISCELLANEOUS PROVISIONS.

(a) MANAGEMENT OF MINERAL RESOURCES.—Nothing in this title shall be construed to change the laws governing the management of mineral resources.

(b) ADMINISTRATION OF RECEIPTS.—The acreage added to the Toiyabe and Inyo National Forests in the State of Nevada by this title shall not be counted in determining the distribution of the Twenty-Five Percent Fund between the States of California and Nevada under the Act of May 23, 1908 (16 U.S.C. 500), except that the acreage added to these forests shall be counted in the distribution of the Twenty-Five Percent Fund among the affected counties in Nevada.

(c) VALID EXISTING RIGHTS.—Nothing in this title shall abrogate valid existing rights of any person under any authority of law as of the date of enactment of this Act.

(d) EXISTING LAND-USE AUTHORIZATIONS.—Authorizations to use lands transferred by this title which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued, except that such laws and regulations shall be administered by the Secretary to whom jurisdiction over the affected lands has been transferred by this title. However, renewals and extensions shall be subject to the laws and regulations pertaining to the agency which has jurisdiction over the land at the time of renewal or extension. The change of administrative jurisdiction resulting from the enactment of this title shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

(e) ADMINISTRATIVE APPEALS.—With respect to the lands transferred by section 203, any formal administrative appeal, adjudication, or review pending on the date of transfer of jurisdiction under this title shall be completed by the Secretary of the Department in which it was initiated expect that the Secretary of the Department having jurisdiction over the land pursuant to this title may exercise final administrative review.

TITLE IV—GENERAL PROVISIONS

SEC. 401. ACREAGE.

The acreage cited in this Act is approximate and in the event of discrepancies between cited acreage and the lands depicted on reference maps, the maps shall control.

SEC. 402. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purpsoes of this Act.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Minnesota [Mr. VENTO].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

CONTINUED WITHDRAWAL OF CERTAIN PUBLIC LANDS IN NEVADA

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs and the Committee on Armed Services be discharged from further consideration of the joint resolution (H.J. Res. 519) to continue the withdrawal of certain public lands in Nevada, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mrs. VUCANOVICH. Mr. Speaker, reserving the right to object, will the gentleman from Minnesota [Mr. Vento] please explain what is involved in this legislation?

Mr. VENTO. Mr. Speaker, will the gentlewoman yield?

Mrs. VUCANOVICH. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, this deals with the Groom Mountain area, which is a tract of about 89,000 acres of public lands in Nevada adjacent to the Nellis Air Force range. It was withdrawn from the operation of the public land laws, and closed to public entry, in 1985, after the Air Force had moved to block entry into the area, even though they had no legal authority to do so. In authorizing the Air Force to keep the area closed, Congress specified that the closing authority would expire on December 31, 1987, unless legislation were passed to extend that authority.

Subsequently, as part of the Omnibus Military Lands Withdrawal Act of 1986, the Nellis Range itself was withdrawn for military use until November 6, 2001.

Last year, the Air Force requested that the Groom Mountain withdrawal be extended by making that area part of the Nellis Range. It was our judgment that the request had merit, and we included language having that effect in H.R. 2142, which dealt with a number of important matters involving public lands in Nevada, including adjustments of responsibilities of the Bureau of Land Management and the Forest Service and the designation of a number of wilderness areas in Nevada's National Forests. The House passed that bill on December 1, 1987.

Because that was so close to the December 31 deadline, the House and Senate joined in extending the Groom Mountain withdrawal until March 31 of this year. It was our belief that this extension was reasonable because it would give the Senate ample time to act on the House-passed Nevada bill, and to consider long-term closure of the Groom Mountain area in the context of an overall Nevada bill that also provided for proper protection of the wilderness areas designated in the House bill.

Now March 31 is hard upon us, but the Senate has not dealt with the House-passed Nevada bill. Instead, they have sent to us a bill that would address the Air Force's desire for continued closure of the Groom Mountain area but that would not deal with the wilderness designations or the transfer of Nevada lands between BLM and the Forest Service.

Mr. Speaker, I think it would be wrong for us to adopt the piecemeal approach of the other body. I think we should insist that Nevada legislation dealing with long-term withdrawal of the Groom Mountain also deal with the other parts of the House-passed bill. At the same time, I do recognize that the concerns of the Air Force are legitimate and deserve congressional action. Accordingly, I have joined with the distinguished gentleman from California [Mr. Dellums], who chairs the relevant subcommittee of the Armed Services Committee, to introduce this joint resolution. It would extend the withdrawal of the Groom Mountain area until June 15, 1988, so that the Air Force can continue to keep the Groom Mountain area closed to public access until that time. If this is agreed to, I intend to ask unanimous consent to call up the Senate-passed Groom Mountain bill and to amend it so that it will include the other matters that were in the House-passed Nevada bill. In this way, we will be assisting the Air Force and will also be stressing the need for an overall resolution of all the Nevada matters that were dealt with in the House-passed Nevada wilderness bill.

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for his statement.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 519

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, Section 1(b) of the Act of October 17, 1985 entitled "An Act to withdraw certain public lands in Lincoln County, Nevada, and for other purposes," (P.L. 98-485), as amended, is hereby further amended by striking out "March 31, 1988" and by inserting in lieu thereof "June 15, 1988".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AUTHORIZING SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN ENROLLMENT OF S. 854, NEVADA-FLORIDA LAND EXCHANGE AUTHORIZATION ACT OF 1988

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 110) correcting the enrollment of S. 854, the Nevada-Florida Land Exchange Authorization Act of 1988, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mrs. VUCANOVICH. Mr. Speaker, reserving the right to object, I understand this resolution merely corrects two printing errors in the bill. Is that correct?

Mr. VENTO. Mr. Speaker, will the gentlewoman yield?

Mrs. VUCANOVICH. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the gentlewoman is correct. We had earlier corrected one error that was made in the Senate. This corrects additional errors in the enrolling process so finally the legislation can be signed by the President.

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for his answer.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 110

Resolved by the Senate (the House of Representatives concurring) That, in the enrollment of the bill (S. 854) Nevada-Florida Land Exchange Authorization Act of 1988, the Secretary of the Senate shall make the following corrections:

(1) In subsection (c) of section 5, strike "International Power Project" and insert in lieu thereof: "Intermountain Power Project".

(2) In subsection (g)(2) of section 5, after "Secretary under" insert: "any".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3396 AUTHORITY TO REHIRE CERTAIN AIR TRAFFIC CONTROLLERS

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 360 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 360

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3396) to provide for the rehiring of certain former air traffic controllers, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be considered for amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. Gordon] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from Tennessee [Mr. Quillen], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 360 is an open rule providing for consideration of the bill H.R. 3396, to provide for the rehiring of certain air traffic controllers. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service. The bill shall be considered for amendment under the 5-minute rule and is free of any waivers.

Finally, Mr. Speaker, the rule also provides that the conclusion of consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill without any intervening motions except one motion to recommit.

Mr. Speaker, the number of airline passengers has increased from 275 million in 1978 to an estimated 450 million in 1987, with projections of 500 million passengers by 1990. Yet fewer air traffic controllers than in 1981 are handling the heavier volume of air traffic. Flight delays and cancellations are the rule rather than the exception. Airline deregulation has congested the system. Reports of near midair collisions are on the rise due at least in part to operational errors by controllers. The air traffic control system is at the stress point: too much traffic and too few qualified air traffic controllers.

Mr. Speaker, this bill requires the appointment of 500 former full performance level air traffic controllers in each of fiscal year 1988 and fiscal year 1989 to permanent full-time positions. The committee cites the fact that it takes 2 to 3 years of training for a new hire to reach full performance level status, and that most former full level performance air traffic controllers could again reach full performance level status within 6 months. Former air traffic controllers rehired would have to complete a probationary period before their appointments become final. Furthermore, appointments of former air traffic controllers should not affect those controllers presently in training.

Mr. Speaker, there is a shortage of experienced and qualified air traffic controllers. Passage of this bill is a positive step toward making air travel safer for the public, and is a tribute to the leadership of the chairman of the committee, Mr. Ford and his colleagues. I urge the House members to join me in adopting House Resolution 360 making in order this important legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, although I oppose the bill, this is an open rule with no waivers of the rules or of the Budget Act, and I am not aware of any position to the rule.

H.R. 3396 requires the Federal Aviation Administration to hire 1,000 former air traffic controllers who illegally went on strike and abandoned their jobs and their responsibilities in the summer of 1981. The rehiring of these people is set by the bill at a level of 500 in fiscal year 1988 and 500 more in fiscal year 1989.

Members should be aware that the bill faces a veto. The administration continues to oppose taking these ex-strikers back into the civilian air traffic control system, although they are eligible for other employment with the Government.

When the bill was before the Rules Committee, I received a letter from Jim Burnley, the Secretary of Transportation, expressing his strong opposition to rehiring these former air traffic controllers. Secretary Burnley cited "evidence gathered by the General Accounting Office that a majority of working controllers oppose the return of these strikers as a threat to good morale and necessary cohesiveness among staff."

I oppose the bill because these former air traffic controllers walked off their jobs placing the entire flying public at great risk. I bear them no ill will whatever, but I do have doubts about the wisdom of putting them back in the positions of trust they walked away from in 1981.

The rule, however, is open and not subject to objection because of its terms. But the bill should be rejected.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Speaker, I speak out on behalf of the rule and naturally on behalf of the bill. I do not think this House should be herded by the veto threat of the President.

I believe for safety purposes and for economics that the bill is prudent in returning some of these air traffic controllers. It will aid the safety in our skies and it will help to right somewhat of a wrong, and I think the American workers are looking at this vote very carefully here. I think the House should look with favor upon their efforts.

I also see many of the Members who have extended a hand to the air traffic controllers, the gentleman from New York [Mr. Molinari] and the others, and they are to be commended.

So I stand here today to stand up for the rule and for the bill.

Mr. QUILLEN. Mr. Speaker, I yield 10 minutes to the gentleman from New York [Mr. Molinari].

Mr. MOLINARI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is a very important vote we are going to be considering here. I understand some of the Members who are missing today who attended the funeral of our beloved Jim Howard are now back, and there was some talk about delaying a final vote over until tomorrow. It is my understanding that the gentleman from Arkansas [Mr. Hammerschmidt] is back now and is willing to proceed so that we can vote on final passage and on the general bill. Is that correct?

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I am glad to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, the gentleman is correct, if it is all right with those handling the bill. But let me say that I do think I am going to ask for a vote on the rule so that we can notify Members and give them an opportunity.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, I do not think that will be necessary. I am waiting to check, but my inclination is, if the gentleman will yield, and I am informed that Members on both sides were informed to accommodate the gentleman's schedule. We would not have a vote until tomorrow, and I hate to see angry people show up tomorrow and think we changed the game on them. So I would like to suggest at this point, unless the leadership on the other side has objection, that we do what we were going to do, finish the amendments tonight and then have the Speaker put the bill over until tomorrow for a vote so that people who were not expecting to vote today are not inconvenienced.

Mr. HAMMERSCHMIDT. If the gentleman will yield further, I yield to the wisdom of the chairman and the ranking minority member, the gentleman from New York [Mr. HORTON] because they are handling the bill.

Mr. FORD of Michigan. I do this only by way of trying to avoid the impression that we are trying to in any way discombobulate anyone by giving them a bad signal. I did not tell people not to be here to vote. I discovered when I got back from the funeral that this is what was going to happen.

It would be much better if we could go ahead, take up the amendments, dispose of those, and when the Committee rises and reports back to the House ask the Speaker at that time to announce that the vote would be postponed, if demanded, and I assume it will be demanded, would be postponed until tomorrow. That would do everything we had in the original arrangement except that it would save us that 20-minute debate tomorrow.

□ 1555

Mr. HORTON. Mr. Speaker, I think what is being said is that all the membership had been told that there would be no vote until tomorrow and the fact that Mr. HAMMERSCHMIDT is back today will permit him to have his part in the general debate but then just put the vote over until tomorrow to protect those Members who might have relied upon that.

Mr. MOLINARI. May I then ask this gentleman: Can we conclude all debate tonight and just have the vote on final passage tomorrow?

Mr. FORD of Michigan. It is my intention, Mr. Speaker, unless somebody changes the game again on me, to proceed not only with general debate but to read the bill and consider any amendments that are offered. I am not aware of any amendments. So I do not expect that that should take long.

Then when the bill is reported back to the House at that point the Speaker could announce, as I understand it from the Parliamentarian, he could on his own initiative announce that the vote will be postponed until tomorrow pursuant to what he and the minority leader told the Members on both sides.

Mr. HORTON. Then we will not need a vote on the rule here.

Mr. MOLINARI. Mr. Speaker, the bill before us to selectively rehire 1,000 of the former air traffic controllers that were dismissed following the 1981 strike, is strictly a measure to increase the safety of our air traffic control system. I hope we will avoid the trap of debating the 1981 strike today. That is not what this bill is about.

The fact that we are facing an air safety crisis today should be obvious. The indicators are clear and alarming. Near midair collisions have more than doubled since 1983. They reached an all-time high of 1,063 in 1987—a 26.5-percent increase over 1986. Yet, there are fewer experienced controllers today than before the strike, and they are confronting higher levels of air traffic volume.

Mr. Speaker, in drafting this bill I made a deliberate effort to address the questions and concerns Members expressed in the past on how a selective rehire program would be implemented and under what conditions. This is not the same bill that we debated in the past.

Some Members expressed the concern that previous legislation set no criteria for rehiring on a case-by-case basis, that fired controllers rehired would retire as soon as they become eligible, that the FAA was not legally insulated from litigation stemming from controllers not rehired, that rehiring would cause morale problems among current controllers and that we would hire rabble-rousers.

I would like to briefly explain how the bill specifically handles each of these aspects of rehiring.

H.R. 3396 mandates that 1,000 controllers—500 in fiscal year 1988 and 500 in fiscal year 1989—be hired under normal civil service laws—that is, on a competitive-bid basis.

The bill prevents rehirees from returning for a short period just to obtain retirement benefits. The bill mandates that in order to receive retirement benefits, rehirees must work for at least 6 years as air traffic controllers.

I have written specific language to prevent litigation against the Government. No fired controller is guaranteed or entitled to a job by this bill. The American Law Division of CRS, at my request, reviewed the legislation and determined that "the bill confers upon the class of former controllers an interest in reemployment but it gives no individual former controller any entitlement at all."

The bill sets a 6-month probationary period not only to ensure that the rehirees successfully perform their duties as controllers, but to provide a method to remove anyone that causes morale problems. H.R. 3396 also states that rehirees should be placed at facilities where they are most needed. Generally, understaffed facilities are in favor of rehiring. Morale would, in fact, rise dramatically over time with the addition of 1,000 experienced controllers.

Strike troublemakers would not be rehired because criminal activities, or activities that resulted in personal injury or property damage during the strike, can be used to prevent fired controllers from being rehired.

These provisions, along with an expression that rehiring 1,000 controllers be based upon past performance records, that no back pay or seniority be granted for time away from the FAA, and that current controllers training and job opportunities be protected are all included in H.R. 3396.

The precursor to this bill, H.R. 378, which I introduced at the beginning of the 100th Congress, has 177 cosponsors.

When we last debated this issue in 1986, some Members believed FAA's claims that the system was back to normal. We can see now that this is not the case. The system is sorely pressed in many areas. We must do something about it before it is too late. For the sake of safety and the convenience of the flying public, I urge my colleagues to support the rule and the bill.

Mr. QUILLEN. Mr. Speaker, I yield such time he may consume to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the resolution and the bill.

Mr. Speaker, I rise in support of the resolution and H.R. 3396 and would like to thank Mr. MOLINARI for his efforts in bringing this bill before us for a vote.

I think a vote on this bill is long overdue. In the 97th Congress, I introduced a resolution that would have encouraged the President to lift the ban on the rehiring of air traffic controllers who went on strike and would have encouraged the FCC to take expeditious steps to resolve the employee-relations problems that led to the strike.

I am an original cosponsor of H.R. 378, the predecessor to H.R. 3396.

In 1981, as a result of the PATCO strike and the subsequent firings, thousands of dedicated Federal employees lost their jobs. This unfortunate event suddenly and tragically disrupted their own personal and family lives and threw the air traffic control system into disarray.

Many years have passed since then, and many bills to restore these employees to their jobs have fallen by the wayside.

Meanwhile, at a great expense to the Federal Government, we have tried to restore the quality of air traffic control to its pre-1981 level. It is a tribute to the current controllers that air traffic has continued with as little disruption as we have seen.

But, Mr. Speaker, air passenger numbers have grown by about one-half while we have about 32 percent fewer air traffic controllers. Are we safe when in the sky? 1987 saw a new record in near midair collisions—over 1,000.

The job of an air traffic controller is very important and very stressful. we have more planes. We have more passengers. We have a larger controlled airspace. Should we not have more people—qualified people—handling the traffic safety load?

The Government Accounting Office has estimated upwards of 9,000 former controllers under the age of 50 are able and anxious to be reemployed. These people could be recertified in about 6 months. This pool of experienced people represent our best opportunity to bring the quality of air traffic control into line with the growing demands of air traffic.

We have been struggling, since 1981, to restore the quality of air safety that we enjoyed prior to the firing of these Federal employees.

Still, even now, we have an inadequate air traffic control situation.

Mr. Speaker, in 1981, as a result of a series of unfortunate circumstances, 11,400 dedicated air traffic controllers were fired. I believe that those who desire a fair hearing and a fair opportunity to return to their jobs should be allowed that chance.

In the name of air safety and in the name of decency toward these individuals, I urge my colleagues to support H.R. 3396.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3932, PRESIDENTIAL TRANSITIONS EFFECTIVENESS ACT

Mr. GORDON, from the Committee on Rules, submitted a privileged report (Rept. No. 100-538) on the resolution (H. Res. 415) providing for the consideration of the bill (H.R. 3932) to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3933, NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION AMENDMENTS OF 1988

Mr. GORDON, from the Committee on Rules, submitted a privileged report (Rept. No. 100-539) on the resolution (H. Res. 416) providing for the consideration of the bill (H.R. 3933) to amend and extend the authorization for the National Historical Publications and Records Commission, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AUTHORITY TO REHIRE CERTAIN FORMER AIR TRAFFIC CONTROLLERS

The SPEAKER pro tempore. Pursuant to House Resolution 360 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3396.

□ 1604

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3396) to provide for the rehiring of certain former air traffic controllers, with Mr. Durbin in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Michigan [Mr. Ford] will be recognized for 30 minutes and the gentleman from New York [Mr. Horton] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. Ford].

Mr. FORD of Michigan. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this Nation is faced today with a serious shortage of air traffic controllers at a time when there are almost daily near misses at the Nation's busiest airports. The tragedy of this is that the shortage is totally unnecessary. We have access to a pool of highly trained and highly skilled experts who stand ready to serve. Yet, the public and the Government are being deprived of their services because they are banned from employment as air traffic controllers within the Federal Aviation Administration.

On August 3, 1981, after negotiations between the Professional Air Traffic Controllers Organization [PATCO] and the Federal Aviation Administration broke down, 13,000 center and terminal air traffic controllers walked off the job. Eventually, about 11,400 of these controllers were fired.

The firing action was a distinct anomaly and without historic labor/management precedent in our country. Over the history of this Nation, there have been more than 1,000 strikes by Federal employees. Most were settled without consequence. Nobody was fired. America's commerce did not come grinding to a halt. Public safety was not irreparably harmed. Even Richard Nixon was able to weather the storms of labor discontent and put things back together with little strife when he was faced with a strike by air traffic controllers.

In all, the fallout of the strike reduced the controller work force by 62 percent. The fired controllers have paid a high price, the FAA has paid a high price, and the traveling pubic continues to pay a high price for those firings.

While I laud the exemplary efforts of those air traffic controllers who remain on the job today, the fact is that they are being asked to perform their jobs in an increasingly stressful and dangerous atmosphere. Present staffing levels do not afford ample training opportunities to new controllers as more and more work time is required for handling traffic.

The National Transportation Safety Board has suggested that air traffic control facilities lack the staff to carry out the mission of controlling airplanes. In its review of the system, the General Accounting Office found that the system is understaffed in terms of full performance level controllers—that is, journeymen fully qualified in all control positions. A recent field study by the staff of the Committee on Post Office and Civil Service corroborates these findings.

The President's fiscal year 1989 budget calls for increasing the air traffic controller work force by 900 in fiscal year 1989, from 15,900 to 16,800 controllers. Last week, the House passed a bipartisan budget resolution which accommodates the President's hiring initiative.

Reports of near midair collisions continue to rise. Flight delays and cancellations are now the rule rather than the exception. The number of airline passengers increased from 275 million in 1978 to an estimated 450 million last year. The air traffic control system is at the stress point: too much traffic and too few qualified controllers. Staffing levels stand far short of the goals established by Congress in terms of the number of full performance level controllers. Action is needed and needed now to bring the system up to speed.

H.R. 3396 represents Congress' effort to take action now. The bill, introduced by Representative Guy Molinari, removes the existing bar to employment of the former controllers by the Federal Aviation Administration.

The bill requires the FAA to rehire 500 former controllers in each of fiscal years 1988 and 1989.

Strangely enough, there is no bar against former controllers being employed by the Federal Government in agencies other than the FAA. That's correct: the fired controllers may serve as special agents at the FBI, auditors at IRS, transportation analysts at DOT, or, for that matter, in any job outside the FAA.

In December 1981, by the simple stroke of the pen, this President permitted the hiring of the discharged controllers in all agencies other than the FAA. I do not know the motives behind the administration's continued recalcitrance on rehiring former controllers as air traffic controllers, but I do know that the shortsightedness poses a threat to public safety.

Back in 1981, OPM interpreted striking to give rise to a 3-year bar to Federal employment. That interpretation has changed. Recent court decisions have held the bar to be indefinite.

H.R. 3396 is not intended to displace or hurt anyone presently employed by the FAA. The bill would not entitle any particular individual to a job. Simply put, H.R. 3396 would open the door to employment of a pool of talent crucially needed by the FAA and by the traveling public in order to ensure safety in the skies.

Opponents of this bill may argue that rehiring the former controllers would do nothing to enhance the capabilities of the air traffic control system. They may even argue that rehired controllers would be disruptive to the system, undermining the FAA's mission or even driving present controllers out of the work force.

H.R. 3396 responds to those arguments. Among the safeguards in the bill is a requirement that former controllers successfully complete a probationary period of at least 6 months before their new appointments become final. During that time, a former controller who is not working out or serving the system in ways intended by the bill may be released, no questions asked, no right to appeal.

Mr. Chairman, I commend the principal sponsor of the bill, Mr. MOLINARI, for his leadership on this legislation and his dedication to ensuring that America's skies are safer for us all. I urge my colleagues to support H.R. 3396 as not just an issue of labor-management relations but one of public safety which must be addressed now.

□ 1610

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding the time.

Mr. Chairman, next August, it will be several years since the air traffic controllers' strike which resulted in President Reagan's courageous decision to dismiss 11,700 controllers.

It is important to remember that the controllers who struck took an oath that they would not do so, recognizing it is a crime to engage in such a strike.

This important issue has surfaced many times and has been debated for years and the citizens of our Nation have expressed support for the President's consistent policy.

This Congress has decided over and over again that it would be unfair and nonproductive to reverse this course and a clear case for rejecting this proposal before us today can be made on this basis since the right to fire illegal strikers must not be compromised.

It would certainly send the wrong signal to Federal unions in that it would give them leverage in encouraging members to strike again and jeopardize the flying public.

Anyone who has ever visited an air traffic control tower can readily observe that the one thing you do not need is dissension in the ranks.

A team spirit is vital in order to ensure passenger safety under stressful conditions, and it is interesting that a GAO conducted study of working controllers and supervisors reveals that many controllers and supervisors would retire if the fired controllers were rehired.

Not only would the Government experience substantial retirement costs in the short run for the retiring controllers, but the FAA would have to expend substantial sums to train replacements.

The tremendous training effort required to attempt to recertify the controllers pursuant to H.R. 3393 would divert time, money and human resources away from completing the training of the current work force.

A lot has transpired in the many years since the controllers were fired. New equipment has been introduced and procedures have been modified and it is my understanding that it took months to retrain those fired controllers, who the courts ruled were not, in fact, strikers.

The Department of Transportation Under Secretary Elizabeth Dole, and now Under Secretary Burnley have pledged to obtain substantial expansion in the air traffic work force without compromising safety.

Controller staffing is at the highest level since 1981; it has grown to a current level of nearly 15,500 controllers.

More than 8,900 of these well-qualified controllers have already reached the full performance level; and an additional 5,900 are either in supervisory positions, or on their way to the full performance level. Over 1,700 controllers are in the FAA's development pipeline.

The current air traffic control work force has proven capable of handling traffic demands and FAA staffing plans are underway consistent with congressional established targets and vigilant oversight which takes into careful consideration the dramatic traffic increases we have experienced.

Additionally, I remain particularly concerned that enactment of this legislation would cause severe morale problems, if fired strikers were to return to work next to FAA personnel who stayed on the job long hours, and continued to take great pride in their work, despite continued criticism and harassment from their peers who decided to strike, and who are now acting in a supervisory capacity.

Their controller skills were much fresher back when they were rehired. Therefore, it is not feasible to think that experience of that long ago can be readily applied in 1988. Recertification today would be extremely difficult to implement by anyone's standards.

Therefore, it would be much safer to recruit fresh controllers who are being properly trained on the current system and will not retire upon hitting the mandatory ATC retirement age of 56 in the near future.

In many cases the Department of Transportation has stated that the quality of the new recruits they have been hiring is superior to their prestrike predecessors.

I certainly share my colleagues commitment to improve the overall safety of our air traffic system, and have no doubt as to his altruistic motivations, I simply cannot support this bill because I do not think it will improve the safety of our skies.

Mr. Chairman, I was a member of that committee back in 1981. Drew Lewis told the President of that PATCO Union, and the President of the United States told the president of that union, and every member of that committee on both sides of the aisle told them, "You strike, and you're out of a job." They knew what they were doing. They deliberately broke the law. Unless we are going to change the law, we cannot do this today.

Please do what is right, and defeat this piece of legislation.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise in strong support of the bill H.R. 3396 introduced by our colleague from New York [Mr. MOLINARI]. There is a crisis in the skies. We know it, we have talked about it, now we must do something about it.

Despite FAA efforts, our Nation's air traffic control system has not recovered from the blow President Reagan dealt to it when he fired some 13,000 striking air traffic controllers. It makes no sense from a public safety standpoint to continue the existing ban on rehiring fired controllers. They are permitted to work for any Federal agency, except for the one for which they have been trained—with tax dollars.

The number of full performance level controllers employed by the FAA has declined by 32 percent since 1981. This shortgage coincides with a dramatic increase in airline travel resulting from deregulation. Frankly, this equation doesn't add up—not only is it dangerous, it is deadly.

As a result of serious understaffing, controllers are overworked and under stress. The resulting rise in controller errors, runway errors affecting safety, and mid-air near misses is alarming. The GAO study confirms the fact that rehiring former air traffic controllers is the quickest and most efficient way to improve our Nation's struggling air traffic control system and make America's skies safe once again.

Mr. Chairman, as one who like most Members of Congress regularly plays the Russian roulette of the skies which now prevails, I join my colleagues in supporting this important measure and urge its passage.

Mr. HORTON. Mr. Chairman, I yield 4 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member of the Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to this bill because I believe it is not necessary. But more than that, I believe it could be counterproductive to the goal, that we all share, of improving aviation safety.

First, let me explain why I think this bill is unnecessary.

I believe it is unnecessary because controller staffing levels are now almost back up to prestrike levels. We now have 15,450 controllers as compared to 16,375 before the strike. We will be up to 16,800 next year if we give the FAA the additional controllers that the Administration has requested. This will bring the total controller work force above prestrike levels. Furthermore, the FAA has a plan to ensure that many of these new controllers will be experienced controllers. This plan calls for the hiring of 600 former military controllers who will be available under an early release program. They have already received 1,625 applications from military controllers. Some of them have as much as 8 years experience.

Another reason that this bill is unnecessary is because the current group of controllers is doing a good job. Overall accident rates have continued their general downward trend. Actual midair collisions dropped 22 percent last year. Even near misses have begun declining in the past few months.

Finally, the concern that controllers are overworked no longer seems to be valid. Last year, more than 90 percent of our controllers worked less than 4 hours of overtime per week. At our Nation's busiest facilities, controllers averaged only about 1 hour of overtime per week.

However, as I said when I started, there is a more important issue than the necessity of this bill. That is its implications for passenger safety. Some may think that hiring these former strikers will enhance safety. But quite the opposite is true.

Why will rehiring the strikers be bad for safety? The reason is that putting the strikers and their replacements in the same control tower is sure to create animosity between the two factions. The strikers will resent their replacements for the loss of their jobs. The current controllers will resent the potential loss of seniority and promotional possibilities to the rehired veterans.

In a job that depends so much on cooperation, this sort of animosity can only have a negative impact on the safety of the flying public.

The feelings of the current controllers were well documented by a recent GAO survey. It found that 60 percent of them do not want the strikers rehired. It also found that 85 percent of the controller supervisors do not want the strikers rehired. A mere sense of Congress provision in this bill urging protection of their rights is not likely to relieve the legitimate concerns of the current controllers about the threat from the rehired strikers.

Mr. Chairman, the House has considered this issue before and has soundly rejected the proposal. The current controllers are the ones who stood by us when our air transportation system was threatened. I urge my colleagues to stand by them now and oppose H.R. 3396.

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. MCGRATH].

Mr. McGRATH. Mr. Chairman, I welcome this opportunity to voice my support of H.R. 3396, a bill to rehire certain former air traffic controllers.

As all of us are aware, 1987 was one of the worst years in international air safety history. In the United States alone, over 200 people were killed in air carrier operations. The most frightening statistic, however, is that there were hundreds of near midair collisions reported by pilots during that year. These numbers are living proof of the need not only to hire additional air traffic controllers, but to employ those with invaluable experience.

I represent an area that is in close proximity of four major airports. My constituents live directly under the flight paths of two of the four, LaGuardia, and John F. Kennedy. While I often hear complaints about the safety of the flight paths from my constituents, pilots themselves tell me the air traffic control system is not safe. I pray that it will not take a midair collision for the Federal Aviation Administration to realize that the need for experienced controllers still exists.

I laud the gentleman from New York [Mr. MOLINARI] for again taking the initiative to act before a scenario similar to what I just mentioned, takes place. This is not a labor issue, as the administration claims. This bill is truly in the interest of a safer and more efficient air traffic control system. I urge my colleagues to join me and support this much needed legislation.

Mr. HORTON. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. Mr. Chairman, as the sponsor of this bill, let me clearly state that there is only one single motivating factor behind this legislation and that is to provide a much needed strengthening of our country's air traffic control system. I supported the President when he fired the controllers. But this bill is not a referendum on whether the President was right in firing the controllers, nor is it an amnesty bill. This bill is about the safety of our air traffic control system today and whether we want to allow it to stay on its current dangerous course.

Following President Reagan's firing of 11,000 air traffic controllers in 1981, FAA officials predicted that our air traffic control system would be rebuilt in 2½ years—by 1984. Two years ago, when we debated a similar rehire bill we were again told that FAA was meeting its goals and that there was no valid reason for rehiring. Over 20 months have passed since that debate and today it is clearer than ever that the air traffic control system is still severly strained and that FAA's efforts have been woefully inadequate. Let me cite a few examples:

First, shortly before her resignation, Transportation Secretary Dole announced that FAA had to hire an additional 955 controllers and supervisors because it failed to accurately estimate the growth of air traffic.

Second, our new Secretary, Jim Burnley, recently testified that FAA will be unable to meet the congressional mandated level for experienced controllers—and that, in fact FAA is 1,500 experienced controllers short of Congress' requirement.

Third, near midair collisions, a major aviation safety indicator, rose 26.5 percent to 1,063 last year. They are reported by pilots at a pace nearing three a day. Near midairs involving an airliner, those presumed to be under air traffic control direction and protection, increased 41 percent in 1987.

Fourth, last week, Secretary Burnley bluntly stated that on some occasions, "it has been necessary to use the bureaucratic equivalent of a cattle prod to get the FAA to take the necessary safety actions."

I would say to my colleagues, that H.R. 3396 is such a prod to force FAA to take safety actions and improve the system.

Perhaps there is no better group than pilots to tell us the state of the air safety. In an Air Line Pilots Association poll, pilots singled out midair collisions as their greatest concern and ranked increasing controller staffing and rebuilding the air traffic control system as their highest safety priorities. In a poll by the Detroit Free Press, pilots indentifed overworked controllers as the most serious problem they face.

It is obvious that pilots are concerned about the insufficient and inexperienced number of controllers. That is why ALPA, representing over 40,000 commercial pilots, which supported the President's firing of the controllers in 1981, is today one of the strongest advocates of rehiring 1,000 controllers. The priority given to rehiring by pilots, who have no vested interest other than safety, is one of the strongest arguments in favor of this bill.

Pilots have testified that experience is a vital component in the handling of air traffic and can be particularly critical in pressure situations—such as heavy traffic, bad weather, and equipment failures. The new controllers are certainly capable, dedicated professionals and it is a tribute to them that we have avoided many disasters. Yet, to make good decisions consistently under trying conditions takes years of experience and exposure to these situations. We can not expect the current controllers to continue working increasing volumes of traffic, for 6 days a week, with less training and with no relief in sight. This only leads to low morale, burnout, and the potential for costly mistakes.

We can look at Boston Center as an example of the kind of problem that exists in our system today. Even though Congress mandated that 70 percent of the controllers be full performance level, or fully qualified, a recent memorandum from the Boston Center indicates, that its full performance level staffing is now only 41 percent. The Boston manager notified controllers that because of "the critical condition of our qualified work force numbers," no transfers would be approved. He further stated, "there have been issues by some of you ranging from fatigue to your being treated inhumanly because of your 6-day work weeks and the inability to get annual leave. Our staffing posture places a hardship on all of us."

How long can we expect controllers at centers like Boston—or those in Chicago, Cleveland, Indianapolis, Minneapolis, Los Angeles, Oakland, Washington, and others—who are in critical need of additional experienced controllers, to continue under such conditions before tragedies occur?

It is not enough to hire new people and begin training them as controllers. No matter how many new people are hired now, they will not help today's traffic. We will not benefit from new recruits until sometime into the next decade. The true indication of success in rebuilding the system lies in the number of experienced controllers who are on board and their availability at particularly high-density air traffic control facilities.

Rehiring 1,000 controllers will provide quick relief to the current controller force and can be implemented smoothly. A GAO survey revealed that the average fired controller has 12 years experience controlling traffic, and is approximately 41 years old. Ninety-four percent of the fired controllers indicated a willingness to return to their former jobs. There is, therefore, a large group—over 6,000—eligible, experienced controllers who could work for many years before retiring. This bill would hire the best 1,000 of them.

Retraining 1,000 controllers will take only a matter of months as opposed to the many years required for new applicants. The GAO testified that, "FAA managers have estimated that training a rehired controller could take from 4 to 6 months—considerably less time than required to bring a new recruit to the full performance level." Since the strike, more than 760 dismissed controllers have been reinstated through the appeals process, causing no morale problems. GAO noted that the morale issue dissipates over time. That although initially reluctant, current controllers welcome back reinstated controllers.

My legislation provides the necessary framework to rehire. This is not the same bill that we debated in 1986. I have made specific changes to overcome the legitimate concerns some of you raised then. This bill includes provisions that require rehiring controllers on a competitive basis to facilities that are critically understaffed, the completion of a 6-month probationary period and 6 years of work before rehirees can receive retirement benefits for their new service. H.R. 3396 also bars the appointment of fired controllers that were involved in criminal activity or actions that resulted in personal injury or property damage during the strike.

H.R. 378, the precursor to this bill, had 177 cosponsors, including our dear colleague, the gentleman from New Jersey [Mr. Howard], who planned to speak on this bill today.

In conclusion, Mr. Chairman, today we have an opportunity to take a permanent step to improve the safety of our air traffic control system. If we are to prevent the 1,063 near midair collisions in 1987 from becoming actual ones in 1988 and beyond, we must address one of the major sources of the problem—the lack of a sufficient and experienced controller work force. The system has a void of experienced controllers. Congress recognized this fact last year when we set specific levels for experienced controllers that we felt were necessary for air safety. Now Secretary Burnley has admitted that FAA cannot meet our requirement. He proves my point. The FAA has failed after 6½ years to rebuild the air traffic control system, and the system will not be adequately staffed for years to come.

There is only one source that can expeditiously and effectively fill this experience void—the fired air traffic controllers. In a matter of months, 1,000 of these individuals can be reinstated and fully qualified.

The warning signals are loud and clear: Too few experienced controllers, those with experience retiring, and continuously increasing air traffic.

We in Congress have obligations of our own in insuring air safety. It is time to rebuild the air traffic control system by selectively rehiring 1,000 of the fired controllers. The next several years are critical ones for the air traffic control system. The American public can ill-afford the risks imposed by an understaffed, and inexperienced controller work force. I urge my colleagues to support this air safety bill.

□ 1625

Mr. FORD of Michigan. Mr. Chairman, I ask unanimous consent to yield 5 minutes of my remaining time to the gentleman from New York [Mr. HORTON], and further, that the gentleman from New York may control that 5 minutes with authority to yield it in any way the gentleman sees fit.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HORTON. Mr. Chairman, I thank the gentleman.

Mr. FORD of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, the issue before us today embodied in this bill is aviation safety. It is not whether the 1981 controller walkout was justified or not.

At issue today is whether there is adequate safety and adequate levels and margins of safety in the Nation's air traffic control system.

Numbers have already been cited. I will not go over them. The gentleman from New York [Mr. MOLINARI] has already eloquently and forceably and very clearly cited the numbers, as has the chairman of the committee, the gentleman from Michigan [Mr. FORD], in his opening remarks. Suffice it to say that there are fewer controllers today than there were 7 years ago when the walkout occurred. There are fewer full performance level controllers today than there were 7 years ago when the walkout occurred and there is more air traffic, 20 to 30 percentage more traffic, and at some centers and towers around this country substantially greater levels of traffic, putting greater stress on the air traffic control system with fewer air traffic controllers.

We have made much progress in rebuilding levels of safety in the last 7 years.

Yes, the hearings in the Subcommittee on Investigations and Oversight, which I chair, have had hearings on near midair collisions. They are on the rise. They are more than double the number they were 4 years ago.

The number of runway incursions has increased substantially. We have gotten the FAA to define what is a near midair collision, what is a runway incursion, and take some action to restrain and reduce those numbers. We have improved the other indicators of system safety, operational error, pilot deviations. We have got Truth in Reporting in a number of air traffic controllers. The FAA is now defining staffing standards. We have done a number of things in the area of computers, weather radar, emplacements at major airports in this country, a lot of technical developments, but we still do not have the margin of safety that we need in air traffic control because the heart of the air traffic control system is the controller, him or herself. That is the issue.

The hearings of our subcommittee have shown again and again that at major centers and at major towers around this country, controllers are overworked. They are spending too much time at scopes. They do not have adequate leave time. They are spending too much overtime, and the controller workforce again is reaching the point of overstress, overwork and inadequate ability to handle the job with the stress that the air traffic system has put upon them.

This legislation is a modest attempt to rebuild the margin of safety needed in air traffic control and it ought to be passed.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, I rise in opposition to H.R. 3396. I do so somewhat reluctantly. My good friend, the gentleman from New York, who is supporting this bill, and I have traveled some roads together; nonetheless, here we are 6½ years after the strike and after the firing of the air traffic controllers, and I think to pass this legislation now would present us with some insurmountable problems.

First of all, to do so would undermine the morale and the staff cohesiveness of the present 15,000-plus air traffic controllers. They have gone through a lot in this past 6½ years. They have contributed a lot. To now say to them that we are going to go back and rehire those who were fired 6½ years ago because they violated their oath that they signed, I think presents some real problems. It undermines the FAA management procedures and puts us in a situation that I think would not address the safety concerns that were raised here earlier.

□ 1640

Second, a lot has changed since 1981. There is new equipment involved, new methods, new procedures. The extensive retraining and recertification procedures that would have to be undertaken create problems that I think would be difficult to surmount.

Third, who do we hire? Hiring the 1,000 would create a legal nightmare. What about those thousands that were not hired? What about the due process rights of those that were not hired? What kind of procedures does FAA have to go through to set up a system to bring these people back into the process?

Mr. Chairman, I think just the legal problems to be encountered alone speak against this legislation. There were good reasons 6½ years ago for the President to take the action that he did. There are good policy reasons for a Government to prohibit strikes by Federal employees, especially those in public safety and public health areas.

Those who were hired before had pledged and taken an oath not to strike. They chose to strike knowing what the consequences would be and those consequences came about. It disrupted the system. It disrupted a lot of lives, but we have slowly and surely rebuilt that air traffic control system, and I think it would be a mistake now to do this which could possibly undo the work that has been done. To now reopen that issue by rehiring a thousand air traffic controllers who participated in that strike would render the Federal law against strikes virtually worthless, and it makes the oath taken by Federal employees meaningless.

Mr. Chairman, I urge my colleagues to defeat this well-intentioned but impractical bill that is now before us, and I urge opposition to H.R. 3396.

Mr. FORD of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, because of safety concerns about this bill I rise in opposition to it.

Mr. Chairman, I rise in opposition to this bill, not because of labor-management concerns, but because of safety matters.

I do so reluctantly, because I am clearly aware that the current Air Traffic Control System is stretched to its limits, largely because of deregulation of the skies.

But this legislation would not improve air safety; in fact it would jeopardize it.

It would mandate that a breed of previously employed air traffic controllers, fired as a result of the 1981 strike, be infused into the current system of controllers.

This would undermine the morale of the current center and terminal controllers and confuse the movement of air traffic at a time when we need greater simplicity and order in the system. That creates a potential safety hazard of a very high degree of magnitude.

The current terminal and regional FAA center operators are under great stress, and this bill would exacerbate employee discontent and jeopardize the flying public.

I oppose this bill, not because I am unconcerned that employees of the FAA may be and have been treated unfairly at times, but because I fear that it renders the Air Traffic System less safe.

Mr. FORD of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Chairman, I rise because I am a virgin in this matter. I was not here in 1981, so I do not speak with any preconceived prejudices or notions. The issue before us today is not to rearrange the 1981 strike, but rather to consider the safety of our air traffic system in 1988.

Mr. Chairman, I have listened to the arguments that some of the Members opposed to this bill have made and we cannot seem to get there from here because of the legal ramifications. When I was in law school, they taught me that the purpose of the law was to attempt to find a remedy, not to find an inhibition to arriving at a solution to a problem.

It seems to me that if we cut ourselves loose from the emotions of the strike of 1981 and concentrate instead on the safety of 1988, we would be more responsible and more directed to the problem before the Congress today.

The gentleman from Michigan [Mr. FORD], the chairman of the Committee on the Post Office and Civil Service, was just telling me of a strike that occurred in 1836, and I am going to reiterate that story at this time.

Mr. Chairman, little did I know that apparently there were almost 1,000 strikes involving Federal employees over the course of the history of this Government. The particular incident in 1836, was a strike at the Philadelphia Navy Shipyard where ships were being built by Federal employees from sunrise to sunset. The employees at the shipyard struck to reduce their time from 12 hours a day down to 10 hours a day, and to reduce their salaries commensurately.

I understand from the gentleman from Michigan [Mr. FORD] that the Secretary of the Navy summarily fired the employees as being in violation of the law, and then I may say the President of the United States, in accordance with the law, properly fired his Secretary of the Navy.

I guess the most pleasing thing to discover was that, unlike the strike of 1981, the President of the United States that year was the distinguished Democrat Andrew Jackson.

Mr. Chairman, in regard to the 1981 air traffic controller strike, what matters is not who did what for what purpose or who reacted and for what purpose. Instead, what we should care about is what the gentleman from New York [Mr. MOLINARI] has indicated, and that is that last year the number of near midair collisions occurring in the United States rose by 26 percent; that last year 231 Americans died in fatal air crashes; that last year the number of controller operational errors increased; that last year the number of near midair collisions involving commercial aircraft increased. It is interesting and ironic that just this last Sunday the New York Times Magazine featured a story entitled "Trouble in the Cockpit" and it addressed the very same issues concerning safety in our air traffic system that have been raised this afternoon in this debate on this particular bill.

Mr. Chairman, I wish to refer back to a statement, or a concept, that I discussed last year when this bill came before the House: What will be considered in this Chamber when we have that fatal collision as a direct result of the lack of proper air traffic safety?

Who among us will talk to the survivors of the dead and tell them it was a legal problem that could not be remedied by the Congress? I certainly do not propose to be one of them, and I hope personally that I am not one of those who would have to be comforted.

I would hope those of us in Congress and in responsible positions in the Government have a duty today to take action to express ourselves, and the strike be damned, the proper thing should be done. If we cannot hire them in one form, let us put them in the military. Let us pass this bill, and take a step forward in improving air traffic safety in 1988.

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of the bill.

As a member of the Public Works and Transportation Committee, I have spent long hours on the subject of air traffic control but far fewer than the number spent by the sponsor of this legislation, my colleague from New York, Mr. MOLINARI. I congratulate him for his exhaustive study of the problems faced by the Federal Aviation Administration and our air traffic controllers and for his leadership in working for this rational small step toward expanding our controller work force to meet the increasing responsibilities the system faces.

Mr. Chairman, my constituents are very concerned about the state of the air traffic control system. Frequent fliers, travel agents, pilots, and many others corner me regularly to express their concerns about both traffic control and maintenance issues. Despite advances made in recent years with new equipment and new leadership at FAA, some towers and centers are woefully understaffed and rely heavily on overtime, which has become routine and even mandatory at some places. This inevitably leads to an increase in the margin of error and controller burnout. This could have tragic consequences in the short run and seriously compromise thousands of businesses dependent on a strong, reliable air transportation system in the long run.

In 1986 alone, FAA had to rely on over 600,000 hours of overtime to keep the system operating. At the centers, only 53 percent of the controllers on duty are full performance level controllers [FPL's] and many of them are eligible to retire right now. Among supervisors, the retirement figures are staggering: over 50 percent eligible to retire in Cleveland, Chicago, New York, and Newark.

In the face of these significant personnel problems, the volume of air traffic is growing rapidly. Commercial activity alone increased 35.8 percent between 1982 and 1986 and continues on an upward spiral. And yet, our controller work force has not kept pace; we now have 32 percent fewer FPL's to handle this heavier workload. In 1981, over 13,000 FPL's controlled much less traffic than the 8,900 FPL's control today. Will no one acknowledge the obvious strain on the system? Can we not face squarely the seriousness of the problems that are developing as our most experienced controllers reach retirement age? We need experienced people and we need them now.

Artificial procedures like overtime and flow control are only temporary, stopgap measures. Passage of this bill will allow for more lasting remedies, including for example, consideration by the FAA of the hundreds of controllers currently working for the Defense Department or their contractors. Despite assertions to the contrary, former strikers currently work in DOD towers, controlling military jets and, in many cases, working very closely with nearby civilian towers manned by their former FAA colleagues.

Perhaps the huge increase in near midair collisions—a record 1,063 in 1987—will convince the FAA to support this small step toward aviation sanity. I repeat, we need experienced people and we need them in the towers and centers now.

In acknowledgment of this crisis, I am pleased that my colleagues and I on the Budget Committee were able to earmark an additional $500 million in budget authority for the FAA. This money will, among other things, permit the agency to hire the 1,000 new controllers mandated by the legislation before us today. But money is not enough. The FAA needs access to trained people whose skills need only upgrading and whose experience will help fill the gap as the number of retirees grow.

In the name of an aviation safety record in danger of falling to second place, I urge my colleagues to support this bill.

Mr. HORTON. Mr. Chairman, might I inquire of the time remaining?

The CHAIRMAN. The Chair announces that the gentleman from New York [Mr. HORTON] has 9 minutes remaining and the gentleman from Michigan [Mr. FORD] has 12 minutes remaining.

Mr. FORD of Michigan. Mr. Chairman, I ask unanimous consent to yield an additional 4 minutes of my time to the gentleman from New York [Mr. HORTON], with permission for him to control the time and yield it as he sees fit.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HORTON. Mr. Chairman, I thank the gentleman from Michigan [Mr. FORD] for yielding that time.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN], the ranking member on the Subcommittee on Transportation of the Committee on Appropriations.

Mr. COUGHLIN. Mr. Chairman, this bill was a bad idea back in 1986 when it was defeated by this House by a vote of 193 to 226, it is a bad idea today, it is a bad idea for morale in the system, it is a bad idea for efficiency in the system, and it is a bad idea for the safety of the system.

How would any of my colleagues feel if they were an air traffic controller today who was just trained, and came aboard the system and worked in the system and suddenly we bring in some controllers who have been working in the system in the past and who struck and who are now going to be senior to them in the system? How would my colleagues feel about that? Is that going to help the efficiency of the system or the safety of the system or the morale of the system? It is not going to help any of it.

It is not going to help the efficiency of this system to retrain all these controllers once they have been selected from among those who wish to be rehired to get the 1,000 that we are talking about because these are not trained controllers, they are not ready to go into the system. I say to my colleagues, once we get them into the system, they will be ready to retire. Does that make any sense? This does not help the efficiency of the system or prevent disruption of the system.

Finally, in terms of the safety of the system, is it going to help the safety of the system to have bad morale, and disruption in our control towers? I say to my colleague I do not want to fly on aircraft in this system when we have that going on in the control towers, when we have disputes going on there, and when we have people that other people do not want to have there, and we end up with people who cannot work together in our control towers.

This is a bad idea, Mr. Chairman. It is a bad idea and it was a bad idea in 1986. It is a bad idea today, and I urge my colleagues to reject it.

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in opposition to the bill. I rise against a policy that will tell Government employees that it is all right to strike against the Government and put the public safety at risk. I rise against this attempt to undermine the management of the air traffic control system that is so critical to our economy and the safety of those who fly.

Mr. Chairman, the proponents of this bill say it is necessary for the continued safety of our air traffic control system. I say it was the actions of these controllers that led to the shortage of air traffic controllers. When these controllers went on strike, did they care about the needs of the flying public? No! When these controllers went on strike, did they stop to think about the safety of the flying public? No! If we have a problem with air traffic controllers today it is the fault of the very controllers who would be rehired under this legislation. These controllers knew what they were doing. They knew it was illegal. They knew the risk to the flying public.

The message that is sent with this bill is that it is OK to hold the public-good hostage and to sacrifice the safety of the public in order to blackmail the Government into wage and benefit increases.

Mr. Chairman, I reject the notion that we should make a special exception for the thousands who walked off the job when many thousands of others chose to stay and do their job. Why are we doing this?

Mr. Chairman, we are being told that we need this legislation because of some dire need for swarms of additional air traffic controllers at the FAA. Who is telling us this? It is the Post Office and Civil Service Committee. I have nothing but the highest regard for that fine committee, but I cannot see how they can possibly have the expertise to say what kind of staffing is needed by the Federal Aviation Administration.

I would refer the Members to the fiscal year 1988 hearing record of the Transportation Appropriations Subcommittee. Our distinguished chairman, BILL LEHMAN, asked some very hard questions of the FAA Administrator at the time, Admiral Engen, about air traffic controller staffing levels and about flight delays. The Administrator stated that only about 7 percent of flight delays are caused by the air traffic control system. Of those delays, many are a result of a lack of equipment capacity, not controller capacity.

The Administrator testified that since 1981 air traffic controller productivity has increased by 50 percent. That is a huge increase in the output per controller. In the meantime, air traffic has increased just 30 percent. So you may complain that there are less controllers, but the facts prove that we need less controllers than we did in 1981.

I am not saying that the FAA can't do a better job. They can and must do a better job in building up the air traffic control work force to where it needs to be. But to say that there is some kind of crisis in the controller work force that requires the kind of drastic action in this bill is a distortion of the facts. These controllers will have to go through retraining.

We should defeat this bill and get on with the job of taking responsible steps to improve our aviation system.

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, as a member of the Subcommittee on Aviation, I rise in support of a good idea, H.R. 3396, a reasoned approach to strengthening our already strained air traffic control system.

Mr. Chairman, my colleague, Mr. MOLINARI, has accurately described the situation. At a time of an all-time record number of flights, at a time when more people are flying on more planes to more destinations than ever before in our Nation's history, we have fewer air traffic controllers managing the flow in our skylanes than we did as this decade began. That needs to be corrected.

While we should all take pride in the proven fact that our air traffic system is a good one, one that is safe, we must never allow complacency to set in. What is good can be made better. What is safe should be made safer.

This bill has some built-in protection to make certain that troublemakers of the past, those who led the charge in an illegal act, will not be the beneficiaries. That's good. The President was correct in his action of 1981.

But discretion would be given to the administration to use judgment in hiring back less than 10 percent of those who were part of the strike of yesteryear. Literally thousands of young air traffic controllers were "victims" of the PATCO strike. Perhaps they made an error in going along, perhaps the pressure was too much to resist, but I point out that even those found guilty of the most serious crimes in our society are often allowed to put their life back in order or attempt to do so in just a few years. We all know the stories reported every day by the media.

Seven years is a long time. Isn't it time we consider some relief, not just because there is a good case for compassion in our effort to enable people to return order to their lives and disrupted careers, but because all of us are so determined to make a positive contribution to making a good system better, a safe system safer.

Mr. HORTON. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. WORTLEY].

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Mr. WORTLEY. Mr. Chairman, I wish to voice my strong support for rehiring some of the former air traffic controllers.

There is a shocking difference in our air traffic control work force compared to 1981. Although the current workers provide conscientious service and are a credit to the system, there just are not enough of them. Six years have passed since the strike, but we still have not reached the level of staff that we had in 1981. More shocking is the fact that there were less than 10,000 "full performance" controllers—the ones qualified to conduct all air traffic control duties—in the ranks during 1987 compared to over 13,000 in 1981.

This dearth of air traffic controllers takes on added significance when the increasing amount of air traffic is taken into consideration. Since deregulation took hold in the early 1980's, the amount of air traffic has been steadily increasing. The level we have today is around 450,000 passengers per year, which is nearly twice the level we had at the time of the strike. Clearly, this added pressure is an unhealthy source of stress on our air traffic control system.

A good measure of this problem is the amount of overtime that is required of our air traffic control work force. In 1986, the few controllers that we had were required to put in a total of 614,000 hours. This is a greater amount than the much larger prestrike force had to handle.

I, for one, do not think we ought to blame deregulation for this situation. Because of deregulation, the American public now has much greater freedom of choice in air travel. There are more flights, with more competition, which has resulted in lower fares. This—by any measure—is a good thing.

But the increase in air travel should focus our attention on the needs of the air traffic control system. If we are to fully enjoy the benefits of deregulation, we must be sure that we have the means to manage this increase in traffic. We have no business allowing air travel to grow at such a fast pace if we are not willing to take the steps necessary to ensure air safety. This does not have to mean reregulation, but it does mean that we must have enough air traffic controllers to get the job done. Not 3 or 4 years down the line, but this year.

Of course, one of the chief obstacles to solving this problem has been the long training time required for producing air traffic controllers. It still takes 2 years or more for a controller to reach the full performance level. Under these conditions, we will not be able to reach the staff levels of 1981 for many years.

However, if we adopt the measure before us, we can rapidly increase our work force to include all the fully qualified workers necessary to get the job done. Rehiring former controllers would not require the extensive training given to raw recruits, but could be completed in under 6 months by putting them through "refresher courses."

By supporting this measure, I do not by any means support the right to strike against the Federal Government or against the public safety. I view the steps taken by PATCO in 1981 as wrong, and that is why I supported the President at the time. The air traffic controllers should never have gone on strike.

At the same time, we should not oppose this bill merely because we want to punish those who did go on strike in 1981. The President made it clear that a strike would not be tolerated, and those who walked off the job paid a stiff penalty for their actions. They have been denied employment in their chosen field for over 6½ years. This means that they have not been able to advance themselves through the system to more senior positions. And they have paid a tremendous price in lost wages, and in lost self-esteem. The precedent has been clearly set: there is no right to strike against the public good. No further punishment is necessary.

We ought to now allow some of the former controllers to make a contribution to air safety by allowing them back into the Federal system. This step is necessary so that the law will be consistent. Under the directive issued by President Reagan on December 9, 1981, the fired controllers are allowed to seek Federal employment as long as it is unrelated to air traffic control. Since they are clearly eligible for Federal employment, let's not pretend there is a principle which forbids it. Why then, do we continue to bar them from the work for which they are most qualified? Let's clear up this contradiction and put them back to work.

This measure has been pushed aside for too long. The time to enact this law is now. If we have enacted this legislation in the past when we had the chance, the problem would already be cleared up. As it stands now, we can act to impact the system this year. If we act now, the former air traffic controllers can begin to enter the system in under 6 months and help to alleviate the pressure on the workers.

Let's pass this measure so that the FAA has enough controllers to get the job done.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Chairman, I thank the gentleman for yielding me this time.

I thank the gentleman from Michigan [Mr. Ford], the chairman of the full committee, and I thank the gentleman from New York [Mr. Molinari].

In case anyone would think that this is an issue that is just of concern to the Committee on Post Office and Civil Service, I have sat on the Subcommittee on Aviation for 6 years, and I know the gentleman from New York [Mr. Molinari] has, and today we mourned the death of our committee chairman, Jim Howard, who would have been here speaking in favor of this bill.

Mr. Chairman, I rise today in support of H.R. 3396, which provides for the rehiring of some of the air traffic controllers who were unceremoniously released from their positions in the early years of this administration.

My travel-weary colleagues are no doubt aware that America's "friendly skies" have been transformed over the past decade into a hostile obstacle course as planes transit from "hub" to "spoke" to "hub" again. An issue which received scant public attention just a decade ago—airline safety—now reaches America's living rooms daily through banner headlines and newsmagazine covers.

It should be clear that, in many respects, Congress' deregulation of the airline industry in 1978 was a success. Today more Americans and more planes than ever are in the air. Even more importantly, the number of Americans able to afford air travel has skyrocketed.

Yet there are numerous indications that the system as presently constituted is incapable of handling this staggering volume. Mid-air collisions and near-misses continue to increase.

What makes these dangers more acute is that the projected stresses on the world's airways are going to escalate continuously in the future. For example, total world-passenger-airline-miles are expected to double by the year 2000, and triple in the subsequent decade.

Mr. Chairman, these trends make clear to me that we are headed toward numerous disasters in the coming decades if we don't begin the process of shoring-up our airline safety resources today. The dramatic results of airline deregulation make it imperative that all nations that depend upon air travel develop more aircraft, build more airports, and, most importantly develop and train more airline safety specialists and provide them with state-of-the-art monitoring and communications capabilities.

America's airways are currently operating with only about 9,000 fully experienced air traffic controllers, compared to 13,948 in 1981. The President's directive dismissing the experienced controllers made them eligible to serve in any Federal agency other than the FAA.

We are therefore faced with a grim absurdity in the Federal Government—the Office of Personnel Management is prohibited from hiring qualified individuals to fill essential, lifesaving positions, and it must instead squander precious resources on the training of inexperienced personnel. This unfortunate state of affairs represents an abdication of the Federal Government's responsibility to safeguard the lives of all Americans.

Moreover, we arrived at this predicament today in the name of a prerogative that many of us believe was abused in the first place.

The President's firing of striking PATCO workers in 1981 made for personal and family tragedies all across this country, tragedies that were quickly compounded by collisions and accidents. Today we must take the final step to put these specialists back to work, and eliminate the bureaucratic hurdle which stands in the way of fewer airline fatalities, injuries, and aggravations. Let us turn back the clock on the "hazardous skies."

Mr. Chairman, I urge my colleagues to join me in passing H.R. 3396.

Mr. HORTON. Mr. Chairman, I will yield 4 minutes to the gentleman from Georgia [Mr. Gingrich].

Mr. GINGRICH. Mr. Chairman, I thank the gentleman from New York [Mr. Horton] for yielding me this time.

I want to commend my colleague from New York, Mr. Molinari, for his passion and his devotion and his hard work and his commitment to the safety issue.

I disagree with him on this particular solution, but I know how intense and how sincere is his commitment on the question of safety.

It is precisely on the question of safety that I would ask my colleague to look at this bill. If you accept the argument that we have a problem in the FAA with the air traffic control system, this bill on the one hand offers an opportunity to add 500 controllers a year. However, it also offers you the opportunity to so demoralize the current staff, to so upset the current controllers, that in my judgment the bill would weaken the effectiveness of the controllers who are on the job, and the bill would weaken air traffic safety.

There is a report out which was requested by the very distinguished chairman of the committee by the General Accounting Office, "FAA Staffing, the air traffic control work force opposes rehiring fired controllers," a recent report, October 1986. I think the General Accounting Office, a branch of the legislature, part of our arm of the Government, part of this report, page 7, deserves to be quoted:

> Over 60 percent of the developmental and the full performance level controllers, supervisors and staff, and 85 percent of the managers at the largest air traffic control facilities who responded to our survey opposed rehiring any of the fired controllers. Sixty-five percent of the work force at the 20 continental enroute centers, and 57 percent of the 54 largest terminal facilities; 63 percent of those at the 74 largest facilties, and 57 percent at smaller facilities; and 57 percent of those working for the FAA at the time of the strike and 69 percent of those hired since then.

In other words, those hired since the strike opposed to rehiring the fired controllers. They went on to say on page 11:

> We asked the 60 percent of the work force who oppose rehiring fired controllers to select the reasons they hold that opinion from a list in our questionnaire. Over 90 percent believed the following 4 reasons best described why fired controllers should not be rehired: (1) It would hurt morale. (2) There would be bad feelings between strikers and non-strikers. (3) There is no fair way to selectively rehire them. (4) Strikers passed up their opportunity to return to work within the 2-day grace period announced by Presdient Reagan at the beginning of the strike.

Notice these are the opinions in the words of the current controllers who every day are working to make sure that Americans fly safely. I could go on if I had time. I could read more details in, but the central issue is simple.

We have today 15,540 people working to make sure that we can fly safely. This bill would lower their morale, weaken their commitment, over 10 percent of them say they would quit, that is, we would actually lose more people who would take early retirement than we would gain by hiring back the fired controllers, and the net effect, I think, without any question, based on the U.S. General Accounting Office report is simple.

If you care about air traffic safety, if you want to keep up the morale of the current controllers, if you want to ensure that the people who are doing their job every day continue to do their job every day, vote no. If, on the other hand, you want to take the risk of demoralizing the air traffic controllers, you want to take the risk of forcing 10 percent of the current work force to retire early, you want to take the risk of having a great deal of management dissent, and you want to weaken air safety, then vote "yes."

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Chairman, I rise in strong opposition to H.R. 3396.

I think the House should keep some things in mind. Rehiring the strikers will not, and I repeat, will not provide short-term help to the air traffic control system. The fired air traffic controllers have not controlled live air traffic for more than 6 years. Their skills are rusty at best. They are not familiar with the procedural changes in the air traffic control system. The traffic volume has increased significantly since 1981. They would all have to be trained and recertified by the FAA.

The training effort required to attempt to recertify the large number of controllers hired pursuant to H.R. 3396 would divert time, money and human resources away from completing the training of the current work force and would hamper the orderly training of controllers already in progress.

As the previous speaker, the gentleman from Georgia [Mr. GINGRICH], the ranking Republican on the Subcommittee on Aviation, stated, a GAO-conducted study of working controllers and supervisors shows how many controllers and supervisors would retire if the fired controllers were rehired.

Air traffic control system performance would decrease if current controllers and supervisors retired rather than work alongside the former strikers. Many of the system's most experienced controllers, familiar with new procedures, would neither be available to train new controllers nor to handle traffic themselves. Productivity and controller training would suffer.

Last, air traffic control is a profession requiring close team work, coordination, and cooperation. The harmful impact on air traffic operations from introducing an element of discord into that system should not be ignored.

The concerns of the FAA and its working controllers and supervisors about the adverse effect of H.R. 3396 should not be lightly dismissed.

Enactment of this bill would likely cause more harm to the air traffic control system than good.

Many have talked about the safety aspect and the near misses. I would say that many of those are general aviation aircraft, not under the control of controllers.

Also, with the 80-percent increase in passenger boardings under deregulation, with no additional runways, no additional airports, there is going to be a higher risk operation.

I urge my colleagues to vote against H.R. 3396.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, as I was walking in the Chamber today, I heard the gentleman from New York [Mr. MOLINARI] talking about the kinds of problems that we have had in the air control system. He mentioned that there had been large increases in the number of near misses. There have been certainly some accidents. There have been operational errors of all kinds. Certainly that is true not only in other parts of the Nation but it is true as well in Chicago with O'Hare Airport.

Mr. Chairman, I rise in support of H.R. 3396, a bill permitting the hiring of former air traffic controllers.

The Government Activities and Transportation Subcommittee, which I chair, is very familiar with problems in our air traffic control system. Just last week, for example, I met with a group of black controllers from Chicago. Out of 120 controllers employed at O'Hare Airport, only 1 is black. Systematic harassment and delayed promotions for minority controllers appear to be a problem at this FAA facility.

Unquestionably, the bias faced by black controllers in Chicago is rooted in the same bad management which precipitated the 1981 controller's strike. Among those management created problems were excessively long hours, poor morale and low pay.

The problems at O'Hare, however, go beyond racial discrimination. Last year, my subcommittee found that the air traffic control system is under more severe strain than is readily apparent. Reported controller errors at O'Hare Airport rose 65 percent, from 1985 to 1986. Even those figures may be too low because we found that not all controller errors are being reported.

The rise in controller errors at O'Hare is due in large part to increased work, load, poor training and poor motivation all caused by too few controllers, or a combination of these factors. In any case since 1981 there has been a diminished margin of safety for the flying public.

Let me quote the National Transportation Safety Board's testimony before our subcommittee:

> Too few controllers means that less experienced controllers cannot be given the time to upgrade their skills, while the full performance level controllers are found to work excessive periods under overly stressful conditions * * *.

In addition, the NTSB has found serious fault with air traffic controller qualifications and staffing levels, supervision, traffic flow control, as well as requalification and retraining that a controller is required to take after being involved in a near miss or operational error.

I believe we should take these factors into account, in order to assure a greater level of safety for the flying public.

Recognizing both the severe strains on air traffic control and FAA management limitations leads one to appreciate the worthiness of the corrective legislation we are considering today. It is balanced and takes into account public safety.

Chairman Ford is to be commended for shepherding the bill through the committee process and I urge my colleagues to support H.R. 3396.

Mr. FORD of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. Gray].

Mr. GRAY of Illinois. Mr. Chairman, I rise in strong support of H.R. 3396, the pending legislation. I want to thank my friend, Chairman Ford for yielding. Mr. Chairman, time for general debate has been consumed, therefore I hope to be able to take out a special order tonight and bring out several issues that were not discussed in the limited time available for debate today. Thank you.

Mr. DOWNEY of New York. Mr. Chairman, I rise today in strong support of H.R. 3396 to rehire certain air traffic controllers. This amendment would mandate the Department of Transportation to rehire air traffic controllers who were unjustly fired by the President in 1981. It is the best and most sensible step toward achieving safer airways and fulfilling former Secretary of Transportation Dole's plan to hire 1,000 new controllers over the next 2 years.

Anyone who has flown recently or is involved with air transportation knows of the serious problems which plague the air traffic control system. In fact, according to the National Transportation Safety Board, 1985 was the second worst year for fatalities in U.S. commercial aviation history: 564 people died as a result of air accidents that year. By contrast, 1980 was the safest year on record when there was only one accident and one death.

Fatality statistics, however, do not begin to shed enough light on the subject. Evidence presented in October 1985 at hearings before the Aviation Subcommittee of the House Committee on Public Works and Transportation as well as an independent study by the U.S. General Accounting Office published in March 1986 confirmed my long-standing suspicion that the Federal Aviation Administration could not and has not yet recovered from the dismissal of 12,200 air traffic controllers in August 1981. Over three-quarters of those fired—9,200 controllers—were full performance level controllers, fully certified to operate all positions in a defined area. They had achieved a degree of skill and expertise obtainable only through years—the average was more than 5 years on the job—of experience.

By February 1986, the FAA had 8,673 full performance level controllers at work. This number does not approach the prestrike level of 13,205 on July 31, 1981. Moreover, since the strike, the Office of Personnel Management has waived time-in-grade requirements so that controllers can be considered full performance level with only half of the normal 4 to 5 year service requirement. We have a dangerous situation of understaffing and inexperience in our control towers. Predictions of continued manpower shortages extend into the foreseeable future as the GAO expects more seasoned controllers and supervisors to retire than the FAA anticipates.

These shortages pose an incredible burden on the current work force. The New York State Air Traffic Control Center is located in my district in Ronkonkoma, NY and I am acutely aware of the difficulties under which our air traffic controllers work. The vast majority, 91 percent, of current air traffic controllers believe that there are fewer full performance level controllers than needed to maintain safety in the skies.

The same conclusion is being reached by every group that has studied the problem. The Flight Safety Foundation, an international organization dedicated solely to the improvement of flight safety, reported that "the present air traffic control system does not provide the same level of safety as before the strike." The GAO, citing controller stress, staffing shortages, increased traffic, declining morale, lack of supervision and an inexperienced work force, concluded that "controllers at many major facilities are being stretched too thin and over time, the situation could impair their ability to continue to maintain the proper margin of safety." The most chilling analogy was drawn at a hearing of the Aviation Subcommittee of the House Committee on Public Works and Transportation by my colleague from Minnesota, Representative Oberstar:

> The system is akin to a time bomb ticking away. Air traffic is at record levels, but the system designed to handle it remains overworked at critical times in peak periods. The combination of both and the added element of inclement weather is a recipe for disaster.

We can rectify this dangerous situation by supporting Representative Ford's bill ordering the rehiring of 1,000 experienced and qualified controllers to the depleted ranks of the air traffic system. The need for improved safety measures is evident, as is the need for providing relief to the thousands of overworked air traffic controllers. Representative Ford's bill will accomplish these vital goals.

In announcing her opposition to this remedy, former Secretary Dole expressed concern that a morale problem could develop among current controllers. While it is difficult to imagine greater dissatisfaction in the ranks of the controllers than currently exists, this concern is under investigation by the GAO. The findings, I believe, will point in the opposite direction. Rehiring experienced controllers will relieve a great deal of the pressure on current controllers and improve working conditions.

When you fly, you put your life into the hands of a long line of professionals: ground crews, maintenance personnel, pilots, navigators, and air traffic controllers, to name a few. By mandating the rehiring of 1,000 fired controllers, we can strengthen a crucial link in the chain. A clear need exists and an experienced body of personnel stands ready to fill it. The safety of the general public will be best served by this amendment. I strongly urge my colleagues to avail themselves of this opportunity to restore safety to and confidence in air travel by supporting this amendment to H.R. 3396.

Mr. ACKERMAN. Mr. Chairman, I rise in strong support of H.R. 3396, to rehire certain air traffic controllers.

H.R. 3396 addresses one of the fundamental safety problems facing American travelers—there are simply not enough air traffic controllers to handle the increase in air traffic. The number of airline passengers has increased by 64 percent since 1978 while the number of air traffic controllers has declined. These facts coupled with airline deregulation have led to a dramatic increase in the number of near mid-air collisions and runway incursions.

Mr. Chairman, H.R. 3396 requires the FAA to hire at least 500 former controllers this fiscal year and 500 more in fiscal year 1989. The bill also requires rehired controllers to complete a probationary period prior to their appointments becoming final and to complete 6 years of service as an air traffic controller in order to receive retirement credit for their new service.

Rehiring former air traffic controllers is a commonsense approach to the problem of air safety. There is a ready pool of former controllers from which the FAA could draw and it will take less than 6 months to recertify a rehired controller. Ordinarily, it takes 2 to 3 years for a newly hired controller to reach full performance level.

Mr. Chairman, I urge my colleagues to support H.R. 3396 and make flying safe for the traveling public.

Mr. BRENNAN. Mr. Chairman, today I rise in strong support of H.R. 3396, a bill to rehire former air traffic controllers.

I believe that the men and women who participated in the 1981 PATCO strike have suffered long enough for that decision. I am not condoning their decision to strike but I do not believe that punishment for their actions need continue. It is not necessary to impose the career equivalent of the death penalty.

By ending the discrimination against hiring PATCO strikers, we can take a positive step to improve air traveler safety. We can help ensure that experienced air traffic controllers are monitoring the crowded skies around the Nation's airports.

I appreciate the efforts of those who have worked in the control tower since 1981, and I respect their commitment to their job. It is my understanding that this bill will not cause current controllers to lose their jobs or interrupt any training for which they might be scheduled.

This bill is fair and reasonable and I urge my colleagues to support it.

Mr. DORNAN of California. Mr. Chairman, I rise in opposition to H.R. 3396, a bill to rehire certain former air traffic controllers. Although the bill attempts to make our skies safer, implementation of such a measure would be flawed policy—creating serious repercussions for the air traffic control system.

I support the concept of hiring more air traffic controllers. In fact, I have introduced a measure, H.R. 3425, which would hire a sufficient number of controllers up to the prestrike level. The difference is that my bill would hire new controllers, not the controllers who do not have the training to operate our modernized air traffic control system. H.R. 3396 does not address this need.

It has been almost 7 years since the air traffic controller's union engaged in their illegal strike against the U.S. Government. Since that time they have not performed air traffic control responsibilities. As a result they are not familiar with several changes in the air traffic control system and they would require substantial training to bring them up to date.

Furthermore, under this legislation, the most senior air traffic controllers would be the first hired, in essence bringing on board at considerable cost and training those closest to retirement.

While we must undertake various efforts to make our skies safer, H.R. 3396 is not the way. I ask my colleagues to join me in opposing this measure.

Mr. BADHAM. Mr. Chairman, this body has considered rehiring the criminals who struck against this Government before and, wisely, we have rejected this absurd idea. It is disturbing that such a question would even come to the floor again.

These men and women broke the law. They are criminals. They lied to their Government when they took their oath. They made a free decision to take that oath and they do not deserve a break from the U.S. Congress for violating it.

There are dozens of arguments against rehiring the controllers. The only argument in favor is that it might improve air traffic safety. Actually, putting these criminals alongside the honorable men and women who do such an excellent job now would hurt morale and probably endanger safety.

The bottom line is this: Do my colleagues want criminals working for them? I hope not.

Mr. HORTON. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. MOLINARI], the sponsor of the bill.

Mr. FORD of Michigan. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. MOLINARI].

The CHAIRMAN. The gentleman from New York [Mr. MOLINARI] is recognized for 6 minutes.

Mr. MOLINARI. Mr. Chairman, I thank the gentleman from Michigan [Mr. FORD] and the gentleman from New York [Mr. HORTON] for yielding the balance of their time to me.

We have heard the debate, and in many respects the debate sounds an awful lot like what we went through in 1986.

Where really are we today? We heard some opponents of this legislation get up and say the FAA is meeting its goals. What is the goal this year? The goal at the end of this fiscal year is 10,450 full performance level or fully qualified controllers.

At the end of October we had 9,055. This is the FAA's figures. At the end of November we had 8,944. At the end of December, 8,988; at the end of January 8,907.

In 4 months, the first 4 months of this fiscal year, we have had a net loss of 148 controllers. Actually at this point we are 1,543 less than what Congress has mandated for this fiscal year.

□ 1710

This chart would seem to get some people a little upset. Do you remember back in mid-1984 when FAA was saying it is getting safer out there? What they were saying is look at the midair collisions to show that it is safe. Back in 1984 they showed the line going down. Then we found out that we are making some mistakes, maybe intentionally, maybe unintentionally. Then they corrected it. They came up with a new system.

In 1985 you saw the line go up and they said "Well, because we have a new reporting system you are going to see it go up."

Well, take a look at what happened in 1986 and 1987 and 1988, it continues to go up. That is a warning sign that our system is in trouble.

Mr. GRAY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I would be glad to yield to the gentleman from Illinois [Mr. GRAY].

Mr. GRAY of Illinois. I thank the gentleman for yielding.

Mr. Chairman, those are very impressive figures on the near misses. I can tell you as a professional pilot having operated, being a base operator near two airports, there are literally hundreds and hundreds of near misses that are not reported.

So if you put that on there, the sky would be the limit as to where that line would be.

Mr. MOLINARI. The gentleman makes a very good point. Many near midairs are not reported.

Here is an advertisement, in the Spokane, WA, newspaper a couple of weeks ago:

> Government positions. We are the Federal Aviation Administration. We are looking for qualified applicants to train as air traffic control specialists. More than 3,000 openings nationwide.

I could read you the statistics to show you where we are at each facility throughout the country. The enroute centers, our airspace throughout the country, 34 percent of controllers at full performance level at Chicago, 50 percent at Indianapolis, 56 percent at Minneapolis, Cleveland, 56 percent, Boston, 38 percent, Denver, 60 percent, Salt Lake, 61 percent, Seattle, 58 percent, Los Angeles, 50 percent, Oakland, 45 percent, and on, and on, and on.

This is the system that my colleagues would lead you to believe is safe today, is fully staffed and that FAA is doing their job.

A word about the retraining, we have heard so much about that. There is a leter given to Mr. FORD in his committee by a gentleman who was active in the PATCO strike and who got back in through the appeals process. I am going to read a part of that to you:

> I won my case in the court of appeals and was reinstated this past January. The area I worked was transferred to Washington Center. So I had to check into a new area. To my amazement none of the equipment had changed at all. A few enhancements of the computer took all of 10 minutes to master but the hardware was the same. I was completely certified in all sectors in 4 months after I walked in the door and 3 weeks of annual leave notwithstanding.

A little over 3 months, a man has been out 6 years and came back into the system.

He goes on to talk about cost. He says, "Mine is not an isolated case. At New York Center," where he came back, "there were approximately 40 people who returned. The average time to recertify was 4 to 6 weeks." On the question of money "I understand that it takes about $150,000 to train a new controller," and it does, it takes a little bit in excess, about $154,000. He says if that figure is correct then the FAA would be wasting $83 million in retraining money.

And that is about right. You would save about $100 million in retraining if you rehire 1,000 air traffic controllers as opposed to new hires. Forty-two percent are failing at the academy today. Those who graduate, about 35 percent of them are going to the centers where they are needed most—35 percent is failing. So we have a problem on our hands.

The question is are we going to continue to listen to FAA, are we going to continue to say the system is building?

It is 6½ years. Have we not waited long enough? Do we permit those controllers out there that we promised relief to in Boston Center, Chicago Center, Minneapolis Center and all those other centers throughout the country to continue to working 6-day weeks?

Three of them have an investigation going on because of the overtime at those centers.

We have an opportunity today for this Congress to act. I think we should.

In fact, if we do not act in the face of what we know today or what we should know then we are guilty of malfeasance.

I would ask my colleagues out there who might be watching this debate: This is terribly important. They cannot keep going on, the men and women in the system throughout this country, without a breakdown.

When a tragedy occurs like happened with Delta at Dallas with the weather problem we spend all kinds of money after a tragedy occurs and lives are lost. Why do we have to wait until lives are lost?

Mr. CONYERS. Mr. Chairman, will the gentleman yield for a unanimous-consent request?

Mr. MOLINARI. I would be glad to yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. I thank the gentleman.

Mr. MOLINARI. Let me close by begging my colleagues to support me tomorrow when we vote on this very important measure. It is your chance to help the safety of the system.

FEDERAL AVIATION ADMINISTRATION,
December 10, 1987.

MEMORANDUM

Subject: Information: Facility Release Program.

From: Acting Air Traffic Manager, Boston Center, ZBW-1.

To: All Air Traffic Personnel.

We have had a multitude of requests lately for ingrade/downgrade reassignments out of the Facility. Our response has been not to approve such requests due to the critical condition of our qualified workforce numbers. There have been issues raised by some of you ranging from fatigue to your being treated inhumanly because of your six-day work weeks and inability to get annual leave. Our staffing posture places a hardship on all of us. We are well aware of the time we require you to work. We are also under review because of the excessive amount of overtime we spend. We as taxpayers are paying the bill and would like our taxes reduced.

For the above reasons, effective immediately, there will be no further releases of operational controller workforce personnel until our numbers increase to 70% FPLs. We are currently at 41%. Of 307 controller positions, we have 127 FPLs. With upcoming retirements and normal attrition, we have to put more effort into getting more people area-rated. We have a Release Program under development and we will adhere to that program once in place. Promotional transfers will be negotiated. Hardship requests will also be considered in a case-by-case basis.

JERRY A. JOHNSON.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, each section of the bill is considered as having been read for amendment under the 5-minute rule.

The Clerk will designate section 1.

Mr. FORD of Michigan. Mr. Chairman, after consultation with the minority side, we are not informed of any amendments. For that reason, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The text of H.R. 3396 is as follows:

H.R. 3396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

For purposes of this Act—

(1) the terms "air traffic controller", "competitive service", and "employee" each has the meaning given such term in chapter 21 of title 5, United States Code; and

(2) the terms "former air traffic controller" and "former controller" each means any individual whose appointment as an air traffic controller was terminated on account of the strike of air traffic controllers which began on or about August 3, 1981.

SEC. 2. APPOINTMENT OF CERTAIN FORMER AIR TRAFFIC CONTROLLERS.

(a) ELIMINATION OF BAR TO APPOINTMENT.—Notwithstanding any provision of paragraph (3) or (4) of section 7311 of title 5, United States Code, or any rule, regulation, order, or directive, former air traffic controllers shall not, as a class, be considered unsuitable or otherwise ineligible for appointment—

(1) to positions as air traffic controllers in the Federal Aviation Administration or the Department of Defense; or

(2) to positions in the Federal Aviation Administration other than positions under paragraph (1).

(b) APPOINTMENTS REQUIRED IN 1988 AND 1989.—

(1) MINIMUM NUMBER OF APPOINTMENTS REQUIRED.—Subject to subsections (c) and (d), the Secretary of Transportation and the Director of the Office of Personnel Management shall take such action as may be necessary to ensure that, in each of fiscal years 1988 and 1989, at least 500 former controllers are appointed to permanent, full-time positions as air traffic controllers in the Federal Aviation Administration.

(2) WAIVER OF MAXIMUM-AGE LIMITATION.—Nothing in section 3307(b) of title 5, United States Code, or in any rule or regulation issued to carry out such section 3307(b), shall apply with respect to appointments made pursuant to this subsection.

(c) PROCEDURES FOR MAKING APPOINTMENTS.—

(1) COMPETITIVE PROCEDURES GENERALLY APPLICABLE.—Except as provided in paragraph (2), any appointment of a former controller to an air-traffic-controller position shall be made in accordance with provisions of title 5, United States Code, governing appointments in the competitive service.

(2) EXCEPTION.—

(A) DETERMINATION OF NECESSITY AS PREREQUISITE.—If, in fiscal year 1988 or 1989, the Secretary of Transportation determines that compliance with subsection (b) in the then current fiscal year would not otherwise be practicable, the appointment procedures established under subparagraph (B) may be used during the fiscal year involved.

(B) NONCOMPETITIVE PROCEDURES.—The Director of the Office of Personnel Management, in consultation with the Secretary of Transportation, shall prescribe regulations under which a former controller may be appointed noncompetitively to a competitive-service position in the Federal Aviation Administration as an air traffic controller if that former controller meets appropriate qualification requirements, as established under such regulations.

(d) SUITABILITY DETERMINATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), determinations of suitability of former controllers for appointments to air-traffic-controller positions shall be made by the Office of Personnel Management, on a case-by-case basis, in accordance with the provisions of part 731 of title 5 of the Code of Federal Regulations (or corresponding successor provisions).

(2) EXCEPTION.—

(A) ROLE IN 1981 STRIKE MAY NOT BE CONSIDERED.—In making a determination of suitability under paragraph (1) with respect to an individual, neither any conduct by such individual nor any other consideration relating to such individual may be taken into account if, or to the extent that, such conduct or other consideration relates to the strike referred to in section 1(2).

(B) EXCEPTION DOES NOT COVER CRIMINAL OR CERTAIN OTHER TYPES OF MISCONDUCT.—Nothing in subparagraph (A) shall apply with respect to—

(i) any conduct which constituted a criminal act under the laws of the United States (excluding paragraph (3) or (4) of section 1918 of title 18, United States Code), a State, or other unit of government; or

(ii) any conduct which resulted in personal injury or damage to property.

(e) RULE OF CONSTRUCTION.—Nothing in this Act shall be considered to confer on any particular individual an entitlement to be appointed to a position described in paragraph (1) or (2) of section 2(a).

SEC. 3. PROBATIONARY PERIOD; CREDITABILITY OF SERVICE FOR RETIREMENT PURPOSES.

(a) PROBATIONARY PERIOD.—

(1) ESTABLISHMENT.—

(A) CONTROLLER POSITIONS WITHIN THE FAA.—The Secretary of Transportation shall prescribe regulations under which the appointment of a former controller to an air-traffic-controller position within the Federal Aviation Administration shall not become final unless and until that former controller successfully completes—

(i) a 6-month probationary period, if such former controller has, at any previous time, successfully completed a probationary period under section 3321 of title 5, United States Code, as an air traffic controller; or

(ii) a probationary period of not less than 6 months and not more than 12 months, if such former controller has never successfully completed a probationary period under section 3321 of title 5, United States Code, as an air traffic controller.

(B) CONTROLLER POSITIONS WITHIN DOD.—The Secretary of Defense shall prescribe regulations under which the requirements of subparagraph (A) shall be carried out with respect to air-traffic-controller positions within the Department of Defense.

(2) REQUIREMENTS RELATING TO FILLING VACANCIES RESULTING FROM FAILURE TO COMPLETE PROBATIONARY PERIOD.—

(A) IN GENERAL.—In the case of any air-traffic-controller position in the Federal Aviation Administration which is filled in fiscal year 1988 or 1989 by the appointment of a former controller, any vacancy in such position resulting from a failure of the incumbent to successfully complete the probationary period under paragraph (1)(A) shall be filled by the appointment of another former controller.

(B) COUNTING RULE.—An appointment under subparagraph (A) to fill a vacancy described in such subparagraph may not be counted for purposes of determining compliance with section 2(b) if another appointment to the same position has previously been so counted.

(b) CREDITABILITY OF SERVICE FOR RETIREMENT PURPOSES.—

(1) SIX YEARS OF SERVICE REQUIRED.—Except as provided in paragraph (3), service performed by a former controller pursuant to an appointment made pursuant to section 2(a) or 2(b) may not be taken into account for purposes of any provision of law identified in paragraph (2), unless such former controller completes at least 6 years of service as an air traffic controller after the date of the enactment of this Act.

(2) BENEFITS AFFECTED.—The provisions with respect to which this subsection relates are—

(A) sections 8336(e) and 8412(e) of title 5, United States Code, relating to immediate retirement by air traffic controllers; and

(B) sections 8339(e) and 8415(d) of title 5, United States Code, relating to computation of annuities in the case of air traffic controllers.

(3) EXCEPTIONS.—

(A) DISABILITY.—Nothing in this subsection shall apply in the case of any individual who retires under section 8337, or subchapter V of chapter 84, of title 5, United States Code.

(B) DEATH IN SERVICE.—The amount of any survivor annuity which is based on the service of an individual who is an air traffic controller at death shall be computed as if this subsection had not been enacted.

SEC. 4. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) appointments of former air traffic controllers—

(A) should not cause the separation or reduction in grade or pay of any other air traffic controller; and

(B) should not interfere with the training opportunities which would otherwise be afforded to air traffic controllers seeking to become fully qualified;

(2) in selecting former air traffic controllers for appointment under this Act, the appointing authority should consider—

(A) performance appraisals which were received by the individuals under consideration; and

(B) appropriate methods by which individuals may be assigned to facilities or locations where they are most needed; and

(3) any period of time between an individual's separation from service as an air traffic controller (due to the strike referred to in section 1(2)) and such individual's restoration to service as a result of the enactment of this Act should not be taken into account for any purpose relating to seniority or back pay.

The CHAIRMAN. Are there any amendments to any section of the bill?

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like that chart to remain there, if you would please, because I have a question.

Mr. Chairman, I have been sitting listening to this debate and I have a question about this chart. I have not heard anybody say in the course of the debate how many of those numbers there occurred in controlled airspace.

It is my information that a fairly small number of these 1,100 near midair collisions occurred in controlled airspace.

Mr. MOLINARI. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from New York.

Mr. MOLINARI. I thank the gentleman for yielding.

Mr. Chairman, almost 50 percent of those are in controlled airspace.

Mr. WALKER. Almost 50 percent.

Mr. MOLINARI. Right.

Mr. WALKER. So really less than 50 percent, less than half of these have anything at all to do with air traffic controllers. So of this number that we have got this chart showing this big increase here, of the 1,100 here most of them are not in controlled airspace so thay have absolutely nothing to do with the bill that is before us. I am wondering now when we got down here around 500, 400, or 500, how many of those were in controlled airspace.

Mr. MOLINARI. Would the gentleman yield?

Mr. WALKER. Sure, I would be glad to yield to the gentleman or to anybody who knows.

Mr. MOLINARI. Well, the gentleman raises a question that cannot be answered. The reason is that back in mid-1984 we found out that FAA was not correctly recording the numbers of near midair collisions. There was a big investigation.

So that figure likely, 1982, 1983, 1984 was even higher than it is as recorded there.

Mr. WALKER. Now wait a minute, wait a minute. My guess is that that is not the case because my guess is that this figure back in here was a figure of mostly reporting of the accidents that took place in controlled airspace because that is where we had some ability to monitor it, that you were not getting very many reports in uncontrolled airspace.

So now what we have, we have now the reports in the uncontrolled airspace too and the gentleman himself says that more than half of these are that.

So that really what you have got in terms of the number of accidents reported, or I should say near midair collisions reported is in fact about a straight line across here because if you take half of the thousand that is there or the 1,100 you are down to about 500. That is about exactly where we were in 1980 and 1981 when all of these people were working for the Government.

When you got to this low figure in 1982 none of those folks were working for the Government then; they were all out on the streets, they had taken a walk from the Government, they were all out. So that figure does not apply: 1980, 1981, that is when those folks were still working for us.

It sounds to me as though what we have got instead of this huge line going up here that looks like we have got a bad air traffic control system it seems to me as though the real line that should be reported should be an absolutely flat line. We are about 500 or 600 now; we were about 500 or 600 back when we were talking about those people doing their job.

Mr. MOLINARI. If the gentleman would continue to yield.

Mr. WALKER. Sure, be glad to yield to the gentleman because I would like to know where I am confused.

Mr. MOLINARI. I know the gentleman is having a great deal of confusion and I can understand it. We all have confusion when we look at the FAA numbers.

Let me say this to you—do you know what the definition of a "critical near midair collision" is? Let me give you a definition.

Mr. WALKER. I am sure the gentleman has more expertise than I do.

Mr. MOLINARI. A critical near midair collision is one where there is less than a 100-foot separation between the planes and they did not crash, no avoidance action was taken by either plane. Now those figures doubled from 1983 to 1985, doubled. In fact they have gone from 75 to up to over 200 today, the figures are 41 percent for airliners before, an increase in near midair collisions involving airliners, those under control 41 percent 1987 over 1986.

Mr. WALKER. Well, if I may reclaim my time, in coming back to the gentleman's figures. The gentleman told me a few minutes ago that most of these collisions on his chart——

Mr. MOLINARI. I did not say most. Please quote me correctly. I said slightly less than half.

Mr. WALKER. Well, slightly less than half.

Mr. MOLINARI. Is that most? In your definition it is most?

Mr. WALKER. Well, it is more than half.

Mr. MOLINARI. Slightly more than half.

Mr. WALKER. Of the collisions on the gentleman's—more than half of the collisions on the gentleman's chart have absolutely nothing to do with air traffic controllers, that is what he told me. Is that right? That is what I understood the gentleman to say. If I look at the figures and I get away from the nice red line going way up here, if I look at the figures the red line seems to tell me there were a little over 1,000 near midair collisions. I do not know what definition the gentleman used for that but that is what his chart shows. Then he tells me that half of those——

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. The point is that half of 1,000 is 500. So, I mean I am giving the benefit of the doubt. Five hundred matches up to a figure to where they were in 1980 or 1981. The gentleman himself has told me that the problem is that we did not have very good figures back then. So if I have to guess, my guess is that most of those figures at that point represented the controlled airspace because that is where we saw on our scopes that we were in fact experiencing a midair collision.

Mr. MOLINARI. I think there is some confusion here. The gentleman is under the impression that back in 1981 and 1982 it is only air carriers that were being reported in terms of near midair collisions?

Mr. WALKER. All I am doing is I am looking at the gentleman's chart. I have absolutely no idea because I am not an expert in this area.

Mr. MOLINARI. Well I am asking the question, is that what the gentleman is trying to tell us?

Mr. WALKER. Well no. I thought what I heard the gentleman say was that more than half of this number here on his chart is non-air-controlled space.

Mr. MOLINARI. No; under VFR.

Mr. WALKER. Well, is the chart a chart of only those near midair collisions that occurred in areas where there are air traffic controllers controlling the airspace?

Mr. MOLINARI. I am sorry, I missed the question. Would the gentleman please repeat the question?

Mr. WALKER. Is the chart a chart of only those near midair collisions that occurred in controlled airspace?

Mr. MOLINARI. No.

Mr. WALKER. No.

Mr. MOLINARI. No, it is not, clearly.

Mr. WALKER. Then I go back again to what the gentleman told me before. He told me that over half of these are not in controlled airspace. So over half of what is on this chart has absolutely nothing to do with the bill that is before us.

Mr. MOLINARI. If the gentleman would yield, the chart is being used to indicate——

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

Mr. WALKER. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. FORD of Michigan. Mr. Chairman, I will not at this time, but we were trying to get people out of here. I will have to object if he asks for additional time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] is recognized for 2 additional minutes.

Mr. WALKER. Well, I would be sorry if the gentleman would.

Mr. MOLINARI. If the gentleman would please extend 2 minutes to clear up this question.

Mr. FORD of Michigan. The gentleman did not choose to come over while we were debating the bill for an hour. I think I have got to try to keep the commitments I have made to people to get us out of here. So I am not going to object to another 2 minutes at this time, but the gentleman has had one extension and I wish he would wrap it up.

Mr. WALKER. Well excuse me, Mr. Chairman, but I will tell you that I sat here for most of the debate and I think most of the time on our side was utilized by people—in fact the gentleman from Michigan had to yield to the gentleman from New York time so that he could take care of the people on our side. We appreciated the gentleman doing that and so on. I just thought it was more appropriate for me to take some time here because I did have some questions. The reason why I think it is important to reference this chart is because this is the principal piece of evidence that has been brought to the floor here and used very graphically to explain why this is a safety bill and not a labor bill. I contend that this is pure and simple, a labor bill.

The only evidence we seem to have before us on safety is the evidence on this chart and it sounds to me as though this chart is rather flawed in its presentation if half of the near midair collisions that are represented have absolutely nothing to do with the bill before us.

Mr. MOLINARI. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. MOLINARI. I thank the gentleman for yielding.

Mr. Chairman, does that not apply to 1987 or 1988 or 1986? The same theory would apply. But this is one indicator. You could take operational errors, which are up 18 percent last year, those committed by controllers. You could take pilot deviations, they were up. You could take any indicator. This is but one that we used because we had finite numbers that were reported.

Mr. WALKER. But let me say to the gentleman he chose this as his prime exhibit.

He has had it out here so long and as a matter of fact the gentleman from New York [Mr. SOLOMON] was taking it off the floor here a minute ago.

Mr. MOLINARI. If the gentleman would yield I chose that chart because that was the indicator that FAA was using back in 1984 to show that the system was getting safer when the line was going down. Now you can see that the line is going up. And they do not use it anymore. That was why I chose the chart.

Mr. WALKER. But the point is the gentleman has used it to try to make his case that somehow we are considering a safety bill here and half of what is one here has absolutely nothing to do with the bill that is before us.

Mr. MOLINARI. Half of 1988, half of 1987, half of 1986, I do not see the logic whatsoever.

□ 1725

Mr. WALKER. I understand the gentleman is having trouble with my logic on this because under my logic, instead of having a rising chart here, he would have almost a straight line from this point on because, as the gentleman pointed out to me earlier, the 500 represents controlled air space back at that point. This represents uncontrolled air space.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I shall not use all my time, but first let me say that at the very end the gentleman who just spoke said that the only evidence that we have a problem, and that surprises me because it has been his habit in the past to read the committee reports when they come out. I direct his attention to the bottom of page 3 where we point out on May 13, 1987, the National Transportation Safety Board, not any other agency than the President's Board, recommendations to the FAA stating that, and we quote from the National Transportation Safety Board:

> The Nation's ATC system is at times overburdened with traffic, lacks continuously effective terminal and en route traffic control flow programs and at some control facilities lacks the number of qualified controllers necessary to fully staff controlled positions throughout the day.

This is cited from the National Transportation Safety Board safety recommendations A-87 52-55 of May 13, 1987. Hereinafter there's a lengthy exposition in the report referred to as the NTSB safety recommendation, so I call the gentleman's attention and others to page 3 and following in the report that quotes from the officials, not from our committee and not from our staff.

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 3396, a bill to permit the rehiring of former air traffic controllers fired because of their participation in the 1981 PATCO strike.

On March 6, 1987, the General Accounting Office released a report entitled "Aviation Safety: Serious Problems Concerning the Air Traffic Control System." Two of its conclusions were: "The Federal Aviation Administration does not have as many fully qualified, experienced controllers at major air traffic control facilities as managers, supervisors, and controllers believe are needed and as are called for by FAA's standards and goals." Also: "Controllers at major facilities are being stretched too thin and over time, the situation could impair their ability to continue to maintain the proper margin of safety."

I submit that no one questions the skill, dedication, and hard work of the present controller force. In fact, it is a tribute to the present controllers, spread thin as they are, that we have not had more catastrophies. But these reports confirm that we do not have enough controllers, and therefore we must supplement that force with additional talent.

It is logical to assume that the fastest way to place additional skilled controllers on the job would be to hire from among those who were fired in 1981. Many of them have maintained their skills by serving as controllers for the Defense Department or in foreign countries. Over 500 fired controllers have been able to return to positions in the FAA, after successful appeals to the courts and the Merits Systems Protection Board. A group representing the fired controllers tells me that, for those 500, the average time needed to recertify has been 3 months, and that the average wash-out rate has been less than 1 percent.

I commend Congressman MOLINARI for offering Congress the opportunity to help address the dwindling margin of safety in the skies and I urge my colleagues to support H.R. 3396.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. GRAY of Illinois, having assumed the chair, Mr. DURBIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3396) to provide for the rehiring of certain former air traffic controllers, pursuant to House Resolution 360, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on the question of final passage will be postponed until tomorrow.

Mrs. BOXER. Mr. Chairman, in 1986, I rose to speak in favor of a similar bill proposed by my colleague, the gentleman from New York [Mr. MOLINARI]. Today I rise again to support his bill, H.R. 3396, that makes as much—no, even more—sense today.

This bill permits hiring former air traffic controllers who participated in the 1981 PATCO strike. It also directs the Department of Transportation and the Office of Personnel Management to hire at least 500 former controllers in fiscal year 1988 and in fiscal year 1989.

President Reagan's misguided move to fire hundreds of capable air traffic controllers in 1981, in the midst of an unprecedented national air safety crisis, was like using gasoline to drench a raging fire.

Here we are, 7 years down the road, and the fire is still raging worse than ever—near-misses and mid-air collisions have increased, the "friendly skies" are far more congested, the number of trained, experienced controllers is still far below pre-1981 levels, from 13,205 in 1981 to 8,907 in 1988.

Both President Reagan and Transportation Secretary Jim Burnley oppose this bill. They are concerned that rehiring former strikers will compromise their hardball stance against strikers—the strikers who were fired for trying to tell the truth and for advocating fundamental workplace changes necessary to save lives.

Now, by opposing this bill, the President is still trying to punish these controllers, and for what? I say we should be more concerned with saving lives than saving face, and I urge my colleagues to support this important bill.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members, may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 3396, which will be voted on tomorrow without further debate.

The SPEAKER pro tempore. Is there objection to the request from the gentleman from Michigan?

There was no objection.

STOP SMUT WITH TELEPHONE BLOCKAGE OF 976 AND 1-900 NUMBERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today I am introducing the Special Taxation on Pornographic Services and Marketing Using Telephones [STOP SMUT] Act of 1988. The legislation would effectively encourage the regional telephone companies to offer their customers free blockage of their telephones from making any 900 or 976 type calls.

Like every Member of this body, I've wrestled with the question of how we can effectively legislate the practices of "dial-a-porn" operators. There is no question that we all want to find a solution which will restrict the unethical practices of dial-a-porn—the challenge is to pass legislation which will withstand the legal challenges and constitutional interpretations of the court system.

Ironically, if we proceed to enact some of the pending dial-a-porn measures which call for an outright ban and are clearly unconstitutional, we'll simply allow the dial-a-porn industry to survive for several more years by complicated and controversial legal challenges in the U.S. court system. I can just imagine some Supreme Court Justice proclaiming, "I don't know what's obscene, but I know it when I hear it."

Rather than introduce a measure which would, ultimately, be found unconstitutional, let's promote an option just as effective as an outright ban of dial-a-porn: the consumer's option of free blockage of their residential or commercial telephones.

Such blockage would protect those most exploitable and vulnerable—our children—from the temptation of the dial-a-porn services. I firmly believe such a blockage ought to be a one-time complimentary service provided by the regional telephone companies, commonly referred to as the Baby Bells.

Yes, many of the Baby Bells ought to be congratulated and lauded for either offering their customers free blockage or not contracting to dial-a-porn companies. As for blockage, I always questioned the practice of charging any fee to a customer who had a need to keep unwanted dial-a-porn from his or her children. While the fee for blockage may have been a few dollars, it was the principle of the matter—imagine going into a fast food restaurant and ordering a hamburger without onions, only to be told that the cost would be an additional 50 cents!

Several of the Baby Bells will acknowledge that the response to the offering of free blockage has been overwhelming—proof that this clearly is an issue that directly touches the American family. Some of the Baby Bells have finally come around to recognizing the significance of their policies, including the phone company in my State of California, Pacific Bell. Last month, Pacific Bell asked the California Public Utilities Commission for permission to reverse its $2 blockage fee policy and refund the $2 to over 200,000 of its customers. Furthermore, Pacific Bell asked that its blockage fee be reduced to a nominal 1 cent fee. The Commission approved both requests.

Pacific Bell ought to be applauded for its change in policies—it takes a good amount of character, whether you're an individual or a corporation, to admit one's mistakes. This request for a change in policy is good for consumers in California, good for families in California, and bad for dial-a-porn operators in California. I commend both the California Public Utilities Commission and Pacific Bell for their actions.

Still, we ought to have Federal legislation in place which would both encourage free blockage and penalize any blockage fee for residential or commercial telephones. The measure is designed with the consumer in mind—whether a home or a business, the customer should have blockage service made available to them.

While blockage of residential telephones would protect the exploitation of children, a different principle applies to commercial accounts. Businesses, large and small, are incurring continual "surprises" in their phone bill from 976 numbers. Yes, the responsibility of keeping one's employees from making unnecessary and costly 976 calls should rest with the employer. However, to not promote free blockage for commercial accounts would promote additional labor-management conflicts with employers continually monitoring employee phone calls. In a technological age where employee-monitoring methods have reached alarming levels, such a result is not the intention of this bill.

In addition, this one-time, free-blockage philosophy of 976 numbers should also apply to the interstate 1-900 numbers. Blockage of 1-900 numbers ought to be dealt with in the same manner.

The STOP SMUT Act would effectively discourage regional telephone companies, the Baby Bells, from charging their customers any amount to block the making of dial-a-porn calls from his or her residential or commercial telephones.

Should the regional telephone companies choose to implement either a one-time or monthly blockage fee or charge on their residential or commercial customers, the effective tax on profits would be a multiple of three times the amount charged. For example, if a Baby Bell charged a residential customer a one-time blockage fee of $5, the supplemental tax on the telephone company profits would be $15. The message to the Baby Bells ought to be quite clear: offer free blockage, or pay the profits tax.

This is not only a consumer issue, it's a pro-family issue. Some things, like our children, ought to be more important than profits. I strongly encourage my colleagues to join me in this fight against the dial-a-porn industry by saying STOP SMUT.

LEGISLATION TO PROTECT THE CHILDREN OF U.S. MILITARY PERSONNEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MARTINEZ] is recognized for 5 minutes.

Mr. MARTINEZ. Mr. Speaker, I rise today to introduce legislation to protect the children of U.S. military personnel who are stationed outside of America. Legislation which was prompted by the tragic death of an only child.

On February 16, 1987, 5-year-old Jeremy Snyder was killed while getting off a schoolbus. Jeremy had been riding home from a school for children of United States military personnel stationed in Germany. At his stop, the busdriver made Jeremy and two other children exit from the rear bus door. The first two children made it off safely, but as Jeremy was stepping off the bus, the driver prematurely closed the door, catching Jeremy's backpack. The bus drove off, throwing Jeremy to the ground and crushing the 5-year-old's skull between a wheel of the bus and the curb.

Jeremy's tragedy is not an isolated one and it has not caused adequate safety precautions to be taken. As one concerned mother wrote:

> There is a sense of outrage and helplessness among many of the parents whose children ride the bus to school. We know that accidents happen. However, the lack of safety provisions has been noted time and again, and parents' protests have been virtually ignored. I have a stack of documents 3 inches thick chronicling the problem.

Mr. Speaker, allow me to describe the problem more fully. The Department of Defense provides schools for the school-age dependents of U.S. military personnel. The schools are regulated and the teachers are regulated. Unfortunately, the transportation of students to school is not uniformly regulated. Instead each base individually contracts for any schoolbus service it might need.

The buses for which they contract are not the specially designed yellow schoolbuses that we know in America. Instead, these buses tend to be tour buses—buses which are intended to carry adults and not unsupervised groups of children.

These tour buses don't have flashing lights to warn other drivers to exercise increased caution because children are getting off the bus. The schoolbusdrivers are not required to speak English, nor complete a bus safety course, nor even have experience in driving a schoolbus. Moreover, there is no uniform requirement that children board and exit only through the front door. There is no rule requiring that the children be picked up and discharged only at safe places.

Before I discuss the details of my bill, let me make clear that I am not criticising the U.S. military. I know that the Department of Defense Office of Dependent Schools has recognized the problem, is concerned about it, and would like to do something about it.

Likewise, I know that the safety of schoolchildren is a priority for some of the base commanders who negotiate the schoolbus contracts. Finally, I am not trying to tie up the military in unnecessary and unworkable legislation.

My only purpose with this bill is to create adequate, uniform safety regulations for the transportation of the schoolchildren of U.S. military personnel who are stationed outside America. That this legislation does this is reflected in the favorable response it has generated from military associations, including the Association of the U.S. Army, the Fleet Reserve Association, and the Naval Reserve Association.

Let me now touch upon the essentials of the bill I am introducing today. I have worked hard to tailor this bill so that it contains only workable safety regulations. For example, buses used to transport children will have to be equipped with warning lights to indicate when children are boarding or exiting the bus. Drivers will have to understand English and have experience in driving a schoolbus. Children will be picked up and discharged only at safe places, and then only through the front door so that the driver will be sure that the doorway is clear before closing the door and driving away.

These safety rules are realistic and will work. This bill is an effective solution to a dangerous problem. I encourage you to join with me to pass this legislation and prevent any other children from meeting the fate of young Jeremy Snyder.

COMMISSION OF FINE ARTS NOT SO FINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I am concerned about the role of the Commission of Fine Arts in the selection of coin designs. At one time I believed that the Commission had a valuable role to play in advising the Secretary on coin designs. I routinely included a provision in coin legislation calling for the Secretary to consult with the Commission on the designs of commemorative coins. Recent actions and positions taken by the Commission have led me to reevaluate my position.

The Commission has been a vociferous proponent of compensated invited design competitions, in which a number of artists are paid to submit design sketches. All invited artists are paid the same amount, regardless of the quality of the submission. Frankly, the quality of the work submitted has been extremely poor, in many cases worse than drawings that lay persons have sent, unsolicited, to the subcommittee.

The drawings submitted are sometimes so bad that the mint has routinely refused to release the sketches to the public. The mint fears the criticism that would result if the public were fully aware of what it received in return for its payments. The Commission continues to advocate these wasteful and unproductive closed competitions, even though "professional" artists routinely lose open competitions for coin and medal designs, including the design of the Vietnam Veterans National Medal and all three Bicentennial of Independence coins in 1974. I cannot condone this wasteful practice and I question the judgment of the Commission and the mint for continuing to promote it. Taxpayers are certainly not getting their money's worth in this situation.

The Commission also has failed to provide the Secretary with useful criticism of the designs submitted to it for review. The Commission's performance during its review of the Olympic coin designs submitted to it is typical of its recent low quality of review in this area. Perhaps because of its support of compensated invited competitions, the Commission apparently could not bring itself to say anything bad about some of the designs it reviewed, despite the poor quality of many of them. This deprived the Secretary of the Commission's candid comments as the law intended.

A letter to the editor of Numismatic News—March 22, 1988—from coin collector Robert K. Myler expresses some of the concerns which I have heard from coin collectors around the country. Mr. Myler explains that he is concerned not only about the quality of the designs selected for commemorative coins, but also expresses dismay that the Commission of Fine Arts will be a poor influence on design selection if changes are made in our circulating coins.

Mr. Myler writes, "One thing really puzzles me as a collector of modern commemoratives. With the beautiful designs made by Elizabeth Jones, John Mercanti, Matthew Peloso, Edgar Z. Steever IV and Sherl Winter—all employees of the U.S. Mint—why would anyone want to go to outside artists for designs * * *?" He continues, "Another thing that concerns me is the possible change of designs for our circulating coinage. I have been all for it ever since it was first proposed, but I am now worried that if the Commission of Fine Arts gets involved, we may have some strange looking coins."

While I must agree with the philosopher, David Hume, that "beauty in things exists in the mind which contemplates them," I have received many comments from coin collectors whose views echo those of Mr. Myler. Many coin collectors do not view recent commemorative coins as beautiful, and these are the people upon whom we depend to buy the coins. The selection process for coin designs must be reconsidered to ensure that cost efficiency is upheld and that artistic merit is considered. I do not believe that the Commission of Fine Arts has contributed recently to either of these important facets of our coin programs.

THE GIFT THAT GIVES BACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. MORRISON] is recognized for 5 minutes.

Mr. MORRISON of Washington. Mr. Speaker, today I am joined by 22 of my colleagues in introducing legislation that offers our Nation's 1.9 million family and individual farmers an incentive for contributing surplus or damaged food commodities to nonprofit, charitable organizations for distribution to the poor and needy.

This legislation would restore a tax incentive that farmers had until 1969 and one that Congress partially restored for corporate, but not family and individual, farmers in 1976. This bill would correct an inequity in the Tax Code and at the same time help feed the Nation's underprivileged population.

The need for this bill is framed by what I term a simple supply and demand scenario:

One in every seven Americans receives food assistance at some time during the year;

And tons of fruits and vegetables are left to spoil each year in our fields and orchards.

A market glut can leave a farmer with acres of a commodity and no buyers. Another farmer may not be able to harvest fast enough, leaving him with half an orchard too ripe for marketing. These fruits and vegetables may not be attractive enough for grocery stores, but they are nutritious and perfectly edible. In this era of budget constraints, it's only logical that we look for economical, efficient alternatives to meet the nutritional needs of our citizens.

With a little nudging, we can help bring this wasted food into the distribution chain. This bill would amend the Internal Revenue Code of 1986 by providing nonincorporated farmers a tax credit equal to 10 percent of the wholesale market price or most recent sale price of the commodity donated. While the cost would be minimal, the benefit would be great.

I don't pretend to think that this bill will wipe out hunger in the United States. I see it as a small—yet valuable—addition to current hunger eradication efforts.

In my home State of Washington last year, a pair of unique statewide food collection networks distributed more than 2.5 million pounds of produce—valued at about $1.25 million—to the poor and needy. I believe a tax incentive for the preponderance of American farmers—those who are unincorporated—would be a boon to that distribution effort and others around the Nation.

Before 1969, the general rule of thumb was that a taxpayer who contributed crops to charity was able to deduct the fair market value of the property at the time of the gift. In some instances, the deduction resulted in an incentive for taxpayers in high marginal brackets to donate rather than to sell a crop. When this loophole was closed in 1969, charitable donations dropped.

Through a complicated formula, the Tax Reform Act of 1976 allowed for a tax incentive for corporate donors who wished to contribute surplus or damaged crops.

My bill today meets two important criteria: It provides a sufficient incentive to contribute crops rather than abandon them in the fields, and it doesn't make it financially more desirable to do so.

I urge my colleagues to give this bill their careful consideration and active support.

□ 1740

THE PLIGHT OF AMERICAN DEPENDENTS IN PANAMA

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Under a previous order of the House, the gentleman from Louisiana [Mr. TAUZIN] is recognized for 5 minutes.

Mr. TAUZIN. Mr. Speaker, conditions are deteriorating in Panama. At a time when conditions are worsening and General Noriega is strengthening his grip upon the people of Panama, some 50,000 Americans in Panama are becoming increasingly anxious and concerned. Among that group of Americans are a number of American dependents within the Panama Canal and in the Panama Canal Zone. Americans in the Panama Canal Zone are becoming increasingly anxious and concerned because under parts of the terms of transition by which the canal is gradually being ceded over to Panama, American dependents in the Canal Zone are obliged to do their shopping, not at the commissaries or the PX's, within the protection of American security forces, but rather at the general stores in the towns and villages of Panama.

Just last week two Panamanian employees of the Panama Canal Commission were roughed up by General Noriega's forces and charged with sedition. Coincidentally, those two Panamanian employees were buying food, not for themselves, but buying food for relief efforts and churches trying desperately to put together for the starving people of Panama, who had not been paid their paychecks, people without the resources to feed their families. These two Panamanian employees were roughed up, taken into custody by General Noriega's goon squads.

Americans living in the Panama Canal Zone are becoming increasingly anxious for their own safety. Just today my office received a phone call from a lady from my own State of Louisiana living within the Canal Zone, a dependent there. This is a message to my office. Without the ability to shop at the commissary, they are now desperate. They have run out of food and even sanitary supplies. They have nothing.

Last week the Panama Canal Commission had some packages with foodstuffs for them, but the Panama Defense Forces under General Noriega confiscated those packages and denied them to the American dependents for whom the Commission intended them.

Mr. Speaker, as chairman of the Panama Canal Subcommittee of the Merchant Marine and Fisheries Committee, I and my committee have been urging the State Department to bend just a bit and to grant temporary privileges to the American dependents living in the Canal Zone to shop at the commissaries and PX's, not only for their sake, but for the sake of avoiding unnecessary confrontation, for the sake of avoiding unnecessary events that might lead to other unnecessary events, for the sake of ensuring that women trying to do the shopping for necessary foodstuffs and sanitary supplies are not put in the midst of riots and turmoil and water cannons and goon squads led by Noriega as he continues to press his heavy boot of oppression against the people of Panama.

Mr. Speaker, the State Department has not yet yielded. The State Department is not yet permitting American dependents to shop at commissaries and PX's where they can be protected. Instead, American dependents are still obligated to shop in town at the very stores where Panamanians are hard-pressed with short supplies, the very stores where tempers are flaring, at the very stores in many cases where riots and street demonstrations are being crushed by Noriega's forces.

Mr. Speaker, we are appealing to the State Department once again, please, for Heaven's sake, before something awful happens, please allow those American dependents living in the Canal Zone temporary access to commissary and PX privileges.

Our colleagues, the gentlewoman from Colorado [Mrs. SCHROEDER], and my own committee is preparing legislation to bring to the floor of this House to force that issue and to require the administration to bend, but it should not be necessary, Mr. Speaker. Conditions are worsening in Panama. American lives and property are at stake here. Incidents that ought to be avoided can and should be avoided here. American dependents ought to have a right to shop at commissaries and at PX's for the necessary foodstuffs and sanitary supplies for their families.

One last time, we urge the Secretary of State and the State Department, do what you should do voluntarily. Do not make this Congress act. Do what is right for the citizens of country who are living under increasing concern in the Panama Canal Zone. Do what is right for their families and dependents. Ease the minds of their relatives here in America. Give them the right to shop at the commissaries and PX's on this temporary basis until we have helped in every way we can the people of Panama to rid themselves of this awful oppressive force that General Noriega represents.

In time Panamanians will have their peace and freedom, I believe it firmly, but in this period of turmoil, can we not please spare great concerns of citizens here in America with families in the Panama Canal Zone? Can we not provide some small modicum of protection for those familes living in the Canal Zone?

Let them shop at the PX's and commissaries. Do not make us come forward with legislation to do what the State Department ought to do voluntarily.

THE STRUGGLE IN PANAMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. KOSTMAYER] is recognized for 5 minutes.

Mr. KOSTMAYER. Mr. Speaker, last Thursday and Friday, the gentleman from New York [Mr. ACKERMAN] and I traveled to Panama to witness firsthand the turmoil in that country and to meet with the men and women caught up in the Panamanian crisis.

The good news is that despite the chaos that United States economic and financial sanctions have caused, the Panamanian people are grateful for the efforts of the United States to oust Gen. Manuel Noriega. If anything, they would like us to do more.

The bad news we already know. Noriega is still there, brutal and corrupt as ever. As we stand here tonight, Mr. Speaker, three brave men with whom Representative ACKERMAN and I met with in Panama are being held prisoner by General Noriega.

Louis Tasco Arias is head of an opposition political party. Roberto Aleman is a leader in the National Civic Crusade, and Jose Manuel Faundes is head of the Panamanian Human Rights Commission. All three are now being detained; along with others they may have been severely beaten. Mr. Faundes is being held along with his son. These arrests only underscore what we learned much too late, that General Noriega is a curse upon the Panamanian people and upon democracy in Panama. He must go.

The United States has taken strong steps in support of the Panamanian people's efforts to topple Noriega. These steps have been effective, and Noriega is in trouble; but Noriega is still in Panama and that means we must do more.

Mr. Speaker, we cannot fight the war against drugs and the battle against Noriega halfheartedly. This is a fight that all Americans must be willing to wage on every front.

We must work with the OAS to bring maximum diplomatic pressure to bear.

We must revise bank regulations that allow banks to shield the laundering of money made from drug sales.

We must take a hard look at American companies whose operations provide Noriega with cash.

We must look at United States trade with Panama, and consider a full economic embargo.

It is clear that if we are to wage this fight against Noriega and the drug lords effectively, we must have the support of U.S. companies and banks operating in Panama, and the support of foreign banks operating there and in the United States.

American companies have been cooperative. Payments have been put in escrow and into accounts frozen by President Delvalle. But in many respects our policy of financially squeezing Noriega has been like a leaky sieve. United States companies have agreed to pay Noriega a few thousand dollars here and a few thousand dollars there, and the bottom line is that that money is helping Noriega to stay in power today in Panama.

Mr. Speaker, I urge all American companies operating in Panama to end all payments to Noriega immediately. I implore them to adhere to President Delvalle's request that they put all tax payments in a U.S. account controlled by the Delvalle government. I urge U.S. banks to accept tough, perhaps even intrusive, anti money laundering laws that will help American officials to identify and prosecute drug runners throughout our hemisphere.

I need not remind anyone here that chief executive officers, mid-level managers, workers and stockholders, all have an obligation to support American efforts in this war against drugs. It is imperative that we do everything in our power to control and exterminate the international drug trade, and to oust drug kingpins like Manuel Noriega, for the sake of our children.

Finally, Mr. Speaker, I have but one simple message for General Noriega: the United States will not abandon the people of Panama and their desire for democracy. The United States will not abandon those opposition leaders you have thrown in jail. The United States will not tolerate your involvement in the drug trade that threatens our children, and the United States will not stop pushing until you leave Panama and allow it to return to freedom and to the rule of law.

MORE GREEN TEA AND DIRTY TRICKS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, last week I read more of the book, "The Japanese Conspiracy." Today I want to read more of the chapter out of it called "Green Tea and Dirty Tricks," but first I want to call to your attention an article about Clyde Prestowitz, who was Deputy Assistant Secretary of Commerce and Special Counselor on Japan to Secretary Malcolm Baldrige. Mr. Prestowitz who understands Japan thoroughly, has written from firsthand knowledge a critique of the administration's trade policy with Japan. If his book, "Trading Places," is like the rest of his advice, it will be well worth reading and heeding, and particularly before we vote on the trade bill.

The Washington Post article by Stuart Auerbach states about Mr. Prestowitz, and this was in a recent issue of the Washington Post, this week on March 18, Mr. Speaker, and he says:

> A former senior U.S. trade negotiator says that key officials in the Reagan Administration, including the President, were unconcerned about growing trade problems with Japan and other countries until Congress forced action in 1985.

□ 1755

In a book to be published next month, the former negotiator Clyde Prestowitz provides a first insider's look at a crucial period in the United States' economic relations with Japan describing how efforts to deal with a growing American trade deficit were frustrated by indifference and political concerns.

He quotes Secretary Baldrige as saying that, "most of the key administration figures were not engaged. In the eyes of most of the Cabinet, this was a long way from arms control and star wars." Obviously, therefore, not of as much interest.

It goes on to describe Mr. Prestowitz' career and business in the United States and Japan before he joined the administration and that he was one of the few ranking administration officials who spoke and read Japanese and was a key player in negotiations dealing with semiconductors, machine tools, and telecommunications, all of which the Japanese are beating us on, I might say, at this time.

> After 5 years of shuffling between Washington and Tokyo on grueling trade negotiations, Prestowitz quit the government in frustration to become a fellow of the Woodrow Wilson Center of the Smithsonian Institute, and to write his book.
>
> The Prestowitz book, "Trading Places," describes how the administration dealt with one of the most damaging economic reverses in the past-war period, 5 straight years of record trade deficits which reached $171.2 billion last year which transformed the United States from the world's largest creditor nation as recently as 1981 into the country that owes the most to the rest of the world, an estimated $400 billion at the end of 1987.
>
> In the book Prestowitz said that trade negotiations were handcuffed in their efforts to bring down barriers to U.S. products by other agencies of the govenrment including the State Department and Defense Department which would not allow them to use the threat of trade retaliation as a tactic against Japan out of concerns that such a threat might harm the strategic relationship. The consensus was that it was appropriate to request better market access; asking for a specific market share of sales volume would violate free trade doctrine and hence be unacceptable.
>
> He wrote about a series of 1982 negotiations with Japan about its barriers to U.S. high technology products. Prestowitz wrote that the agreement reached in November 1982 was a monument to clever drafting more than anything else. The only concrete result was a system for collecting statistics on chip shipments. Nonetheless, he continued, the agreement was treated enthusiastically by Washington.
>
> Agreements with Japan always are by all administrations. In fact we had been handled.
>
> While we were debating whether to ensure or to seek to ensure increased market access for the United States, Japan's industry continued its economic conquest. Nothing had changed and within 3 months further threats of congressional action along with the possibility of private unfair trade suits drive the U.S. delegation to a second round of negotiations. Even when the administration decided to act on trade, Prestowitz said, the moves often were more cosmetic than real. For instance, he wrote, the highly publicized strike force to deal with other countries' unfair trade practices instituted in September 1985 after intensified congressional pressure for action on the growing trade deficits, was only a speech writer's rhetorical flourish. It was a wholly political move. There had been no prior planning, no one knew what this strike force should do and most officials did not want it. But when a President establishes a strike force with much public fanfare, it must strike, Prestowitz continued. Baldrige, who was considered tougher on trade issues than most members of the Reagan cabinet, was named head of the strike force. He used that position to initiate the Reagan administration's most aggressive attack on Japanese trading practices in the critical area of semiconductors where U.S. companies were being driven out of business by what they called predatory pricing by Japan. This led to an agreement in which Japan pledged to stop dumping semiconductors at less then their fair market value and to purchase more American-made memory chips, and later, due to the first U.S. trade sanctions against Japan since World War II, to punish them for not keeping the pact. And so on goes the article by Stewart Auerbach about Clyde Prestowitz's book.

An example of Mr. Prestowitz' statement is the letter I received from Minnesota recently from D.H. Keller, president and general manager of Lake Center Industries, and I have quoted some parts out of this letter before but in this letter Mr. Keller points out how his company has made a real effort to participate in trade in Japan and how the door has been shut on them and shut on them and shut on them.

He points out that he has 1,850 dedicated quality-conscious employees in Minnesota, Wisconsin, Ohio, and Michigan. He says:

> Our problem is that after 2 years of concerted effort we are unable to generate any interest in our products such as turn signals, head lamps, wiper switches and heater and air conditioning controls to the Japanese car manufacturers located in either the United States or Japan.
>
> Meanwhile, approximately 150 transplanted Japanese auto parts manufacturers are not only exclusively enjoying all of their countrymen's business but an ever-increasing portion of the U.S. auto parts business as well.

Mr. Keller points out:

> Predictions are that by 1990 the Japanese will export 2½ million cars to the U.S. and manufacture another 2½ million in the U.S. Based on a 10 million car per year market, this will most certainly lead to the closing of even more U.S. owned auto plants, further eroding our business.
>
> Over the past 2 years we have attempted to penetrate the Japanese car market both here and in Japan. Our people recently returned from our second extensive trip to Japan and our first to Korea and are even more disillusioned and frustrated than ever before. We have made sales calls on the Japanese auto manufacturers both in the U.S. and in Japan, and we have investigated joint ventures with other Japanese parts suppliers but with no success. U.S. based Japanese car manufacturing people have often treated our people rudely or unprofessionally and were uninterested in what our company could do for them. In Japan our people were treated somewhat better by members of the Japanese Automobile Manufacturers Association, known as JAMA, however they are being protected by such groups as MITI, Ministry of International Trade and Industry, and they—

Meaning MITI—

> were openly arrogant and abrasive and inferred that American companies and products are inferior.
>
> The U.S. Government assistance and representation on our behalf has proven to be inadequate. My suggestion would be to have the U.S. Department of Commerce pick someone with extensive automobile manufacturing knowledge to represent the U.S. in these matters. Our experience to date suggests the people representing us are inadequately informed to deal with their foreign counterparts. We are not asking for protectionism, but we are definitely forced to compete against it abroad and against favoritism shown to Japanese automobile parts suppliers by U.S. based Japanese car manufacturers. It would appear our open-arms foreign investment policy is going to cost us ownership of a major portion of our industry.

Mr. Keller points out that many States are offering free land and extensive tax incentives in order to entice the Japanese supplier base to locate in their States.

> This is happening at an alarming rate, and it is predicted that 200 additional Japanese auto parts manufacturers will locate in the U.S. by 1990. Because of the favoritism shown to Japanese auto parts suppliers by the Japanese car manufacturers, they will thrive in the U.S. and because of size and financial strength they will soon own a major share of the U.S. auto parts supply business.
>
> We realize that our company has little impact on the overall economic well being of the country, but we know we are only one of

several hundred U.S. companies that are being similarly affected. We can ignore the problem or blame U.S. industry, but the ultimate problem will become a loss of size and strength of U.S. industry as we know it.

We would like to know what you as an individual and government in general are doing to address this most serious problem. We want to know if anything is being done on our behalf to ensure the future of American-owned industry and auto parts suppliers in particular.

I receive countless requests from our employees and the local media as to what we are doing to assure our continued success, and I would appreciate a personal response from you to share with them.

That company, Lake Center Industries, is located in four States in the Midwest, and they are very concerned about the possibility that they may have to close some of their plants.

Proving the statements made by Mr. Keller is a recent article on March 17 from the Baltimore Sun about the difficulty of opening the Japanese market to United States construction companies. The article by Steve Nordlinger states that "U.S. retaliation looms, Japan told." The article goes on to discuss the absolute solid wall that Japan had placed against any United States construction companies participating in the $60 billion worth of Japanese public works projects that are going to be under way in that country over the next few years. The biggest project of course is a new airport.

Mr. Speaker, this article was written on March 17, and in that article it points out that in one of its most severe trade actions in some years Congress voted last December to ban Japanese companies from federally financed United States public works projects such as construction of airports and veterans' hospitals until Japan agreed to open its public works projects to foreign companies.

The U.S. ban expires September 30 but could be extended if there is no progress in the now-suspended negotiations. According to this morning's paper there has been some progress in these negotiations but Secretary of Commerce Verity has been very, very hard-nosed on this in the negotiations with Japan.

Mr. Speaker, I submit for inclusion in the Record the article from the Baltimore Sun by Stephen Nordlinger:

[From the Baltimore Sun, Mar. 17, 1988]

U.S. Retaliation Looms, Japan Told

(By Stephen E. Nordlinger)

Washington.—Commerce Secretary C. William Verity Jr. charged yesterday that Japan has stymied longstanding negotiations to open its markets to U.S. construction companies, and he proposed that formal steps be taken that could lead to trade retaliation unless Japan relents.

Japanese Ambassador Nobuo Matsunaga met with Mr. Verity later in the day to present "new information" in an effort to head off a recommendation to President Reagan that he impose trade sanctions.

The Cabinet-level Economic Policy Council considered the issue later yesterday as both sides sought to avoid a showdown that would bring about the most severe trade breach between the countries since the president imposed sanctions against Japanese products a year ago in a dispute that involved semiconductors.

"We're at the point where we have to let the Japanese know this is a serious political problem in this country," Mr. Verity said.

"Congress is anxious to have something happen," he said. "It seems you cannot get the Japanese to move until" formal steps are taken toward trade sanctions.

Both sides want to avoid another deep trade split, especially while Mr. Reagan tries to head off protectionist legislation in Congress.

As a result, administration sources said, it appears unlikely that the president will take action soon.

U.S. and Japanese negotiators broke off talks a week ago on the administration's effort to open Japan to foreign participation in an estimated $60 billion of Japanese public-works projects.

Since then, Mr. Verity has attempted to persuade Japanese negotiators to be more forthcoming, but he said that "they haven't given us any hope recently."

In one of its most severe trade actions in some years, Congress voted in December to ban Japanese companies from federally financed U.S. public-works projects such as construction of airports and veterans' hospitals until Japan agreed to open its public-works projects to foreign companies.

The U.S. ban expires Sept. 30 but could be extended if there is no progress in the now-suspended negotiations.

"Japan is considering the question very seriously and hopes for an early solution," said Toshiyuki Takano, a spokesman for the Japanese Embassy. "The ambassador presented some information [to Mr. Verity yesterday morning] on points raised by both sides."

In January, Prime Minister Noboro Takeshita offered Mr. Reagan some general proposals aimed at settling the issue, and last month Japanese negotiators presented a list of six public-works projects that Japan was willing to open to companies from nations that grant full access to Japanese builders.0

The six projects were designed to give foreign companies basic experience in working in Japan so they could become eligible for larger projects in the future, but the U.S. negotiators said the Japanese offer was too limited.

The United States wants almost full access to airport construction, but Japan considers such major projects as terminal buildings private-sector projects outside government jurisdiction.

"America has built an awful lot of airports around the world," said Mr. Verity, "and should be able to supply very sophisticated equipment to the Japanese."

Before last December's congressional ban, he said, "our market had been open to the Japanese in public works for a long time."

Mr. Verity attributed the reluctance of the Takeshita government to be more flexible to the involvement of the Japanese ruling party in the construction business.

"The construction market is a very sensitive issue in Japan," Mr. Verity said. "They are very cautious about doing things too fast in that particular market."

He also shed some light on the reasons for the U.S. negotiators' determination to win a favorable agreement.

Although the economic impact on the United Strates would be limited even if it got full access to the Japanese market, Mr. Verity said, the issue has become "a symbol" of Japan's overall refusal to open its market.

The issue "is very visible, and it is one that everybody can understand," he said.

As a result of the congressional ban, a Japanese construction company lost a $50 million contract to build part of the Washington subway system.

Mr. Speaker, my next reading out of the book "The Japanese Conspiracy" will be a chapter about the machine tool industry which of course is absolutely vital for our defense and is one of the sorriest stories in the demise of our industrial base. The whole picture of what is happening to our industrial base is so complex that we could be on this floor for weeks and weeks and weeks to discuss it. Part of the complexity is related in a letter I received only today in my office from a drycleaner in the State of Montana. He points out that he had written to me because he had seen one of my readings of "The Japanese Conspiracy" on C-SPAN, and he said:

I had the opportunity to hear your presentation regarding trade and the Japanese, during my noon hour today. It was broadcast on "C" Span. I was quite impressed with the information as I have been concerned for sometime about the number of jobs that we have allowed to leave our country. In some instances, we have actually promoted the facilities in other countries, and have intentionally sacrificed jobs of Americans.

I am in the drycleaning business in a town of about 5,000 population, and have noted a very severe change in where garments we handle originate. Ten or 15 years ago, foreign made garments were a novelty. Today they are the norm. By far the largest number of garments I work on, are from Korea, Hong Kong, and Taiwan, in that order. Several months ago, I started keeping track of the nation of origin of the garments I pressed. I have been checking each label for the place of manufacture and I write down the country if it has not been previously listed. I have a large world wall map on the wall of my office in my home, and check it regularly to locate the countries I have added to the list. It has been quite a geography lesson, trying to find some of them, but thus far, I have been able to do so. Here is the list that I have listed, since mid November.

Rumania, United States, Canada, West Germany, Singapore, Italy, Bulgaria, France, Philippines, Sweden, Switzerland, Argentina, Uraguay, Maldive Islands, Mexico, Costa Rica, Indonesia, Korea, England, El Salvador, Malaysia, Colombia, Macau, Yugoslavia, Mauritius, Ireland, Guam, Spain, Hong Kong, China, Dominican Republic, Sri Lanka, Thailand, India, Israel, Scotland, Jamaica, Bangledesh, South Korea, Holland, Brazil, and Czechoslovakia.

By my count, that is 42 countries. I don't know if Korea is north or south, but one garment designated South Korea and I hope that a mere designation of Korea is also south because I really see a lot of coats, jackets and sweaters with that designation.

In my opinion, shipping of our jobs around the world has been a planned thing. About 1976, I believe it was Lawrence

Rockefeller gave a speech that was quoted in the Billings Gazette in which he stated that it was necessary that we share our wealth with the world, and that the American people wouldn't like it because it would mean a lowering of their standard of living, but we are going to do it nonetheless. Zbigniew Brzezinski, in his book "Between Two Ages" says much the same thing. On page 300 the 2nd paragraph in its entirety.

"In the economic-technological field some international cooperation has already been achieved, but further progress will require *greater American sacrifices* (emphasis added). More intensive efforts to shape a new world monetary structure will have to be undertaken, with some consequent risk to the present relatively favorable American position. Further progress would in all probability require the abandonment of restrictions, imposed by Congress in 1949 and 1954, on the international activities of American corporations and on their foreign subsidiaries and plants. The appearance of a truly international structure of production and financing would have to go hand in hand with the emergence of a "theory of international production," needed to supplement our present theories of international trade. Progress along these lines would also facilitate the creation of a free-trade area, which could be targeted in progressive stages.

The end result of Brzezinski's book was the creation of the Trilateral Commission, which I believe has been the motivating mechanism for the wholesale transfer of jobs from Americans to so many other countries of the world.

In my mind, I don't believe that it would be possible for our country to mobilize on a scale such as was necessary in 1941. I question whether we could produce the metal products, clothing and even food to the scale necessary for a full scale emergency. I don't believe it has come about by accident, but rather plan, and that we are victims of treason, on a scale never before dreamed of in the world. That the events that have placed us in dependency on other nations was accidental is absurd.

I appreciate the efforts you are making—

He goes on to say, and then he says:

Let us continue to fight.

□ 1810

I have one final item today, a recent article in the Wall Street Journal which caught my eye, that our trading partners are possibly not all that eager to see our deficit reduced regardless of their protestations to the contrary.

The story is by Philip Revzin, and I include the article and letters in my presentation:

[From the Wall Street Journal, Mar. 17, 1988]

RUDE AWAKENING AS TRADE GAP CLOSES, PARTNERS OF U.S. FACE END OF THE GRAVY TRAIN

(By Philip Revzin)

The terrible U.S. trade gap has caused pain and disruption at home and abroad.

Now the gap is closing. The outlook: more pain and disruption at home and abroad.

Sure, the trade deficit symbolizes a profligate America, consuming more than it produces and spending more than it has. But it also represents the biggest gravy train ever for U.S. trading partners, who have been selling America all that stuff and lending the money to pay for it.

Suddenly reality is sinking in. If, as many think possible, America's trade books are finally brought into balance over the next five years, the train will stop. Other countries will be forced into a stunning $200 billion trade turnaround. That's how much more they will be buying from America and how much less they will be selling the U.S. or collecting in interest payments.

"After years of shouting for a quick fix, the world is staring the implications of this right in the face," says an international monetary official.

FEELING THE PAIN

Those implications may have been obvious to economists. Still, they aren't going to be welcome. "Every one of our trading partners is going to feel real pain," promises Robert D. Hormats, a director of Goldman Sachs International Corp. in New York. So will the U.S. Affordable imports will disappear, and more production will go for export instead of home use.

There's little doubt that an unwinding of the mammoth trade deficit, the gap between U.S. imports and exports, has begun. The major reason is the low value of the dollar against the currencies of most trading partners; this makes U.S. goods cheaper abroad and foreign goods more expensive in America.

U.S. trade figures for January, to be released today, are expected to show that the one-month trade gap widened a little from the surprisingly small $12.2 billion deficit in December, because of a seasonal drop in U.S. farm sales abroad. The figures aren't adjusted for seasonal factors, inflation, or the changing value of currencies.

AN EXPORT BONANZA

More important, they should show a continuing surge in American manufactured exports. These exports rose 17% by volume in all of last year, and 25% in the fourth quarter. "We have an export bonanza under way," boasts Beryl Sprinkel, the chairman of the President's Council of Economic Advisers. He says exports could rise another 17% this year, or by about $45 billion.

Wiping out last year's record $171 billion trade deficit will mean swift, powerful and notably uneven changes for America's trading partners—bigger, for instance, than the adjustment to the two oil price rises of the 1970s.

The four emerging "tigers" of Asia—South Korea, Taiwan, Hong Kong and Singapore—could face a $20 billion swing in trade with the U.S., slowing their export-led development. Lesser-developed countries may be forced into a $15 billion adjustment and Eastern Europe perhaps a $5 billion change. The remaining $160 billion will be divided between Japan and Western Europe, and many people figure Europe will feel its hit the hardest.

"We have all, in Europe and Japan and Asia, expanded on the shoulders of U.S. consumers during the last five years. Now it's our turn to suffer," says Carlo De Benedetti, chairman of Ing. C. Olivetti & Co.

He figures that the coming overhaul of who sells what to whom "will cost four million jobs around the world." The losses will come as companies—primarily European and Japanese—have to cut back because they are less able to compete with lower-priced U.S. goods in world markets and less able to sell as much to the U.S.

The U.S. deficits "have distorted everybody's economies," explains Richard N. Cooper, Harvard University professor of international economics. "We've squeezed our manufacturing and farm sectors, giving European, Japanese and Asian exporters a boost. Now Europe, Japan and Asia are going to get squeezed as the U.S. manufacturing sector comes back." He adds: "We've got built into today's exchange rates a much faster improvement in the trade deficit than anybody has accounted for."

The U.S. itself won't escape unscathed. Consumers, spoiled by low-priced imports, will now have to pay more for them. Workers may have to work a bit harder for less money so their products can compete on world markets. The downside of more exports is "an inevitable reduction in U.S. living standards," says Mr. Hormats of Goldman Sachs. "We will be sacrificing our living standards for a long time because we are paying off our debts with real goods."

So far, the model for adjustment is Japan, the biggest beneficiary of the U.S. deficit. It has already started reducing exports and increasing imports. Trade surpluses have dropped in each of the past 10 months. It still has a way to go; even after buying 52% more from America in February, its surplus with the U.S. was $3.4 billion.

Nonetheless, "Japan is in good odor," says a U.S. official. It pushes domestic consumption and is refocusing industries in a way Europe either can't or won't. "The Japanese," says J. Paul Horne, European economist for Smith Barney, Harris Upham & Co. in Paris, "seem to have an unlimited capacity for pain."

SELL LESS, BUY MORE

The emerging industrial giants of Asia will have to live with slower sales to the U.S., though they may have to be pushed by American protectionist measures aimed at keeping their products out.

Political and economic pressure may also pursuade South Korea, Taiwan, Hong Kong and Singapore to open their markets to avoid U.S. retaliation, and to let their currencies rise against the dollar as Japan has done. These four countries together last year sold the U.S. $37.7 billion more goods than they bought. Less-developed countries in Latin and South America and Africa aren't such an issue: They might like to buy more from the U.S. but are being restrained by their debt burdens.

That leaves Europe. "Europe is going to have a very bad time this year," predicts David Lomax, chief economist for National Westminster Bank in London.

After failing to create jobs when a strong dollar was fostering America's trade deficit, Europe stands to lose even some of what it had now that the imbalance is unwinding. Worse, it starts from 11% unemployment. "I'm afraid that the most difficult part of their adjustment over the next five years will be an even bigger squeeze on jobs, says Mr. Hormats.

The profits European exporters made selling to the U.S. went mainly into more-efficient machines and higher wages for their employees, not into new factories or services. During the decade before the dollar peaked in 1985, Europe created no new net jobs, while the U.S. created 18 million, according to the Organization for Economic Cooperation and Development in Paris. This trend has continued and will probably accelerate, the OECD says.

CUTBACKS UNDER WAY

The job cutbacks have already begun. Last month, Dutch electronics giant NV Philips said it would slash 20,000 jobs this year and move or close 80 of its 200 European factories during the next five years.

Porsche AG will cut output 39% in the model year ending next July 31 and put out as many as 6,100 of its 8,500 employees on short workweeks. The stock-market crash, in addition to the rising value of the German mark, has hurt U.S. sales of its high-priced sports cars.

To make matters worse, American manufacturers now are selling hard in Europe. One of the most prominent exhibitors at the Geneva Automobile show earlier this month was Chrysler Corp., which hopes to recruit 335 European dealers and sell up to 25,000 cars and Jeeps in Europe in 1988.

The magnitude of the change that is coming, and the political problems posed by something like closing a steel mill that can no longer compete, has thrust Europeans into a paradoxical position. They once decried the strong dollar and the rising U.S. trade deficit. Now some caution America that speed is everything—the slower the better.

"If the U.S. trade deficit collapsed tomorrow, it would be a catastrophe for Europe," says Michel Develle, chief economist for Banque Paribas in Paris. A gradual fall would buy time, yet, they hope, damp pressure for protectionism in Congress and among presidential candidates.

Stretching out the pain could also avoid a U.S. recession. Such a slump would chop the trade deficit by cutting U.S. imports drastically, but it would also mean even worse trouble for foreign companies that sell in the U.S. Some experts warn that if adjustments aren't worked out, a recession could become the automatic remedy for the U.S. trade gap.

TOLERATING A DEFICIT

Fear of a recession nags many Europeans so much that they have stopped calling for higher taxes to cut the U.S. budget deficit. That deficit is regularly blamed for helping fuel America's excessive imports. "The last thing we need is some silly ass coming into the White House, raising taxes by $50 billion and causing a world-wide recession," adds Mr. Lomax.

Reagan administration officials contend that the only way out of the problems they created by running these deficits is more growth in Europe and the U.S.; this would absorb more American goods. U.S. officials now have the unwinding trade deficit at the top of the list of reasons why West Germany should raise demand at home by tax and interest-rate cuts.

"Faster German growth alone won't solve the U.S. trade deficit problem, but it is the key to faster European growth, and that would help a whole lot," says a U.S. official who regularly meets with European policy makers. "The alternatives are an even lower dollar, a deep recession, or both. We are trying to explain this without scaring the heck out of them."

HISTORY AND MATH

Europe's problem is one of history confronting simple mathematics. In order to absorb their "share" of the deficit reversal, proud companies built on exports may have to change tack, fast. "Are they going to do it?" asks Mr. Cooper of Harvard. "My answer is no. I can't see the Germans and the Dutch, whose very psyche is tied up with exporting, tolerating a $75 billion or $80 billion swing in their exports."

But not tolerating such a swing would require a big expansion of Europe's economy, so that exports previously aimed at the U.S. could be redirected within Europe. This isn't likely. Unlike Japan, most of Western Europe already has a highly developed system of roadways, and a large number of European consumers already have as many cars and videocassette recorders as they need.

Even a gradual reduction of $15 billion to $20 billion a year in the U.S. trade deficit will mean big changes in Europe. "To get even this reduction in the deficit, we're probably facing a choice between a U.S. recession and an even lower dollar," says Mr. Develle of Paribas. "Between the two, Europe would take the lower dollar. That means a long, slow painful exit, but it's the only way out."

[From the Washington Post, Mar. 18, 1988]

EX-AIDE HITS U.S. TRADE STANCE—NEGOTIATOR SAYS ADMINISTRATION IGNORED EARLY PROBLEMS

(By Stuart Auerbach)

A former senior U.S. trade negotiator says that key officials in the Reagan administration, including the president, were "unconcerned" about growing trade problems with Japan and other countries until Congress forced action in 1985.

In a book to be published next month, the former negotiator, Clyde V. Prestowitz, provides the first insider's look at a crucial period in the United States's economic relationship with Japan, describing how efforts to deal with a growing American trade deficit were frustrated by indifference and political concerns.

Secretary Malcolm Baldrige. "Most of the key administration figures were not engaged. In the eyes of most of the Cabinet this was a long way from arms control and 'Star Wars'."

Prestowitz joined the administration after a career in business in the United States and Japan. He was one of the few ranking administration officials who spoke and read Japanese, and was a key player in negotiations dealing with semiconductors, machine tools and telecommunications.

After five years of shuttling between Washington and Tokyo on grueling trade negotiations, Prestowitz quit the government in frustration to become a fellow at the Woodrow Wilson Center of the Smithsonian Institution and to write his book.

The Prestowitz book, "Trading Places," describes how the administration dealt with one of most damaging economic reverses in the post-war period: five straight years of record trade deficits, which reached $171.2 billion last year, that transformed the United States from the world's largest creditor nation as recently as 1981 into the country that owes the most to the rest of the world, an estimated $400 billion at the end of 1987.

The book is going on sale at a vital time for the Reagan administration, which is in the midst of delicate negotiations with Congress over a major trade bill. It also is coming out at a time of mounting trade frictions with Japan, as the threat of new sanctions hangs over the United States' closest Pacific ally.

In the book, Prestowitz said that trade negotiators were handcuffed in their efforts to break down barriers to U.S. products by other agencies of the government, including the State and Defense departments, which would not allow them to use the threat of trade retaliation as a tactic against Japan out of concerns that such a threat might harm the strategic relationship.

"The consensus was that, while it was appropriate to request better market access, asking for a specific market share or sales volume would violate free-trade doctrine and hence be unacceptable," he wrote about a series of 1982 negotiations with Japan about its barriers to U.S. high-technology products.

Prestowitz wrote that the agreement, reached in November 1982, "was a monument to clever drafting more than anything else. The only concrete result was the system for collecting statistics on chip shipments."

Nonetheless, he continued, "The agreement was greeted enthusiastically by Washington. Agreements with Japan always are by all administrations. . . . In fact, we had been handled. While we were debating whether to 'ensure' or to 'seek to ensure' [increased market access for the United States], Japan's industry continued its economic conquest. Nothing had changed, and within three months further threats of congressional action along with the possibility of private unfair trade suits drive the U.S. delegations to a second round of negotiations."

Even when the administration decided to act on trade, Prestowitz said the moves often were more cosmetic than real. For instance, he wrote that the highly publicized strike force to deal with other country's unfair trade practices, instituted in September 1985 after intensified congressional pressure for action on the growing trade deficits, "was only a speech writer's rhetorical flourish."

"It was a wholly political move. There had been no prior planning. No one knew what this strike force should do, and most officials didn't want it. But when a president establishes a strike force with much public fanfare, it must strike," Prestowitz continued.

Baldrige, who was considered tougher on trade issues than most members of the Reagan Cabinet, was named head of the strike force. He used that position to initiate the Reagan administration's most aggressive attack on Japanese trading practices in the critical area of semiconductors, where U.S. companies were being driven out of business by what they called "predatory" pricing by Japan.

This led to an agreement in which Japan pledged to stop dumping semiconductors at less than their fair market value and to purchase more American-made memory chips, and later to the first U.S. trade sanctions against Japan since World War II to punish them for not keeping the pact.

But deciding whether to initiate the trade complaints involved intensive negotiations within the administration, Prestowitz said, and warding off the influence of high-priced lobbyists for the Japanese government and industry. He said these lobbyists—former deputy U.S. trade representative William Walker and Republican Party fund raiser Stanton Anderson—got to key White House and National Security Council staff members, some of whom "owed their positions to the political influence of men close to" the lobbyists.

In his unusually frank account of the shaping of Reagan administration trade policies, Prestowitz detailed the positions taken by various agencies of government at a 1985 Cabinet meeting to decide whether to go ahead with the complaints:

The Office of the U.S. Trade Representative, afraid that Commerce was invading its turf as chief trade negotiator, wanted to go slow because of ongoing behind-the-scenes talks that it said could settle the problem. The National Security Council was concerned that any trade actions would undermine Japan's endorsement of the president's Star Wars program (to place defense systems in space) and the State Department said U.S. high technology companies were to blame for their problems.

Some Treasury officials backed Baldrige, but others said "dumping benefits the society that receives" the cheap goods and warned that any action meant an industrial policy—a banned concept in this administration.

Prestowitz is critical of the State Department and the NSC for shielding Japan, a friend and an ally, from unfair trade charges. Japan, he said, "knew they could count on the State Department and NSC to stop any action against them."

"State sees itself as the primary defender of the overall relationship with Japan," said Prestowitz. "It knows nothing of industry and little of economics, and believes these issues are secondary to political and military concerns. . . . The U.S. Embassy in Tokyo is even more supportive of Japanese positions" than the State Department.

He called the Pentagon "schizophrenic" since, he said, it wants "to maintain a harmonious military relationship" with Japan, "but increasingly fears the loss of U.S. technological leadership." The Treasury "tends to take a highly theoretical view of trade relations with Japan," while the Council of Economic Advisors is "totally doctrinaire" and "always wants to negotiate for free trade, but is never prepared to react when it cannot be obtained."

"Never once," Prestowitz wrote, "did I hear an economist or a representative of any economic agency speak in favor of granting relief or of taking action to aid a U.S. industry. They sometimes bowed to political necessity, but never willingly."

I will read the chapter from "The Japanese Conspiracy" tomorrow that I was referring to originally today.

Mr. GRAY of Illinois. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. Mr. Speaker, I am very happy to yield to the distinguished gentleman from Illinois.

Mr. GRAY of Illinois. Mr. Speaker, let me first congratulate the gentlewoman, and, Mr. Speaker, I would like to associate myself with all of her remarks and say that some of us are followers in the imbalance of trade issue.

The gentlewoman is a leader in this field, and I want to congratulate her and, as I said, associate myself with her remarks.

I would ask the gentlewoman if she has been able to elicit from the administration the number of large facilities like office buildings and hotels, motels, that the Japanese are actually buying up with our money.

Last year we had about $57 billion imbalance in just Japan alone.

Recently I stopped over on a fueling stop in Hawaii, and I stayed at a hotel which the Japanese had paid $350 million for, but it only cost $90 million to build.

What they are doing is coming in, taking our money, and then buying up property, and I think that is a real fear of the people we have the honor of representing, our constituents, that if this imbalance of trade does not stop and we open up our markets and do not have a level playing field, a reciprocal and fair trade, some day we may even have a different flag flying, because $50 billion or $100 billion a year could soon buy up the whole State.

Mrs. BENTLEY. Mr. Speaker, I am glad the gentleman brought that point up.

I had discussed the buying of America in one of my previous special orders, and although there were some inferences in it from some of these missives that I had read from, I did not go into detail, but that is of grave concern.

I think at one point I had read that 46 percent of all the commercial property in downtown Los Angeles had been purchased by the Japanese, and I think the figures for Houston and Chicago, as a matter of fact, in your area, are around 31 to 33 percent.

In New York at that time it was around 21 percent, and since then they have paid like $600 million for an office building that could not have cost more than about $75 million when it was built.

Mr. GRAY of Illinois. If the gentlewoman will yield, on that point, that is exactly the point that I was making, that if they decide they want to buy up a whole area of a city, the price does not bother them at all. As I said, the builder in this particular case, and it is the Regency, and they are on Maui in the Hawaiian Islands and the fellow, I believe, spent about $90 million building it, a fellow who lives on Oahu in Honolulu now, and he said that the price was too great; he could not turn it down.

So when they are getting billions of dollars of our money, it is very easy to go in and buy out entire cities, and I appreciate it, and I know the gentlewoman has all the figures. I am glad you spread those on the record, because I think it is very important when you have 30 or 40 percent of a city being bought with our money.

I want to commend the gentlewoman for an excellent presentation.

Mrs. BENTLEY. I am happy the gentleman joined in with me.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Johnson of South Dakota). Under a previous order of the House, the gentleman from Pennsylvania [Mr. Gaydos] is recognized for 60 minutes.

COMMEMORATING 95TH ANNIVERSARY OF BIRTH OF GEN. DRAZA MIHAILOVICH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. Crane] is recognized for 60 minutes.

GENERAL LEAVE

Mr. CRANE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CRANE. Mr. Speaker, I rise this evening to commemorate the 95th birthday of a man who was a great patriot and hero, in fact, one of the greatest certainly to come out of World War II. He was not an American. He was a Serbian, Gen. Draza Mihailovich.

Gen. Draza Mihailovich had the distinction, among other things, of tying up multiple German divisions at a crucial moment in World War II that provided ultimately for the basis of the Soviet defeat in their attack on Russia, and at the same time we began launching air raids against the Ploiesti oil fields, and there were quite a number of casualties. We took substantial losses, and those losses did not always result in the loss of American life.

There were some 600 estimated airmen, Americans, British, other allied airmen who went down in the mountains in Serbia, and there is a very remarkable tale of how General Mihailovich with his loyal Serbian forces was able to rescue those American airmen and to get them to safety with a very exciting rescue operation that took place right under the noses of the Nazis at the time.

In commemorating this great man, I do so with a sense of anguish simultaneously, because those American airmen have unsuccessfully since 1946, with the brutal murder of General Mihailovich by the Communists who took power in Yugoslavia, been unable to get a memorial built in his honor in this town, and unfortunately, our own State Department has been a participant in maintaining what to me as a cover of the real facts, and that is something that requires redressing.

The surviving American airmen are still engaged in the effort at the present time.

Mr. Speaker, I yield to the distinguished gentleman from Florida [Mr. Bilirakis].

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we come here today to honor a man who fought for the very values that we hold sacred in this country. His name is General Draza Mihailovich.

I would say, at this point, that our colleague, Congressman Dan Burton of Indiana, intended to join in these remarks and so I deem my remarks as his also because I know how strongly he feels about the man we honor here today.

I remember as a child during that war when we had bubblegum cards of war scenes and heroes of that war—and General Mihailovich was prominent among them. He was, then, stamped indelibly in my memory as a significant contributor to the freedom which the world was to receive.

During the Second World War, his tenure as the leader of the anti-Nazi and anti-Communist Chetniks afforded him the opportunity to display a great depth of patriotic heroism and unselfish sacrifice. Through his personal dedication, he rescued and cared for over 500 American airmen shot down while on bombing runs.

But because of a bizarre irony, which has taken years to resolve, General Mihailovich and his men were betrayed. During the war, a high-level Communist mole in the British intelligence services was able to malign General Mihailovich and do him damage which eventually cost him his life.

While he was accused of Nazi collaboration and executed by his rival Marshall Tito in 1946, his forces did far more than Marshal Tito's did in advancing the Allied war effort in Yugoslavia. Following the war, a commission of notable Americans, including Members of Congress cleared General Mihailovich of any wrongdoing. However, this finding was not allowed at his show trial, and he was later executed.

Today, Yugoslavia has been Communist for over 40 years and Marshal Tito is dead. The Soviet Union, our allies in World War II, have shown their true colors. They still control Eastern Europe, but they have not been able to extinguish the flame of freedom that Draza Mihailovich so heroically represented.

□ 1825

Mr. CRANE. I thank the gentleman for his remarks.

Mr. Speaker, I yield to my distinguished colleague from the great State of Maryland, the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. I thank the gentleman for yielding, particularly for taking this time to pay tribute to Gen. Draza Mihailovich.

As the only Serbian-American in the Congress of the United States, I rise today as I have in the past to pay tribute to Gen. Draza Mihailovich. This man, and his heroism in helping Americans in the Second World War, are very close to me.

The General and I share the same heritage, for my Serbian parents came to the United States not too long before I was born. To honor a man who has done great credit to the nation of one's origin and to have the special occasion to do that honor because he gave of himself at great risk to help one's American countrymen, is a source of enormous pride.

His freedom-loving spirit lives on in all of us. This week marks the 95th anniversary of the birth of the great Yugoslav patriot Gen. Draza Mihailovich.

General Mihailovich first fought the Nazi invaders from 1941 until his country was overrun by the Soviet Union at the end of the war. He then was captured, tried in a Communist show trial and later executed. This was not because he was a collaborator, but because he stood up and fought for freedom. He not only opposed the Nazis, but he saw the evils of communism as well.

It is quite remarkable that during the war, he received next to nothing from the Allies, yet still remained an ally. During the war years from 1941 through 1945, he distinguished himself by saving the lives of over 500 Allied airmen who had been shot down over enemy territory. Furthermore, Mihailovich and his Chetnik fighters were reportedly responsible for decimating 22 Nazi divisions in the Serb-Greece area.

I would like to conclude today by quoting President Harry S. Truman as he awarded the Legion of Merit to General Mihailovich:

> General Dragoljub Mihailovich distinguished himself in an outstanding manner as Commander-in-Chief of the Yugoslav Army Forces and later as Minister of War by organizing and leading important resistance forces against the enemy which occupied Yugoslavia from December 1941 through December 1944. Through undaunted efforts of his troops many U.S. airmen were rescued safely to friendly control. General Mihailovich and his forces, though lacking adequate supplies and fighting under extreme hardships, contributed materially to the Allied cause, and were instrumental in obtaining final Allied victory.

Once again I want to commend the gentleman from Illinois for taking this special order to pay tribute to this marvelous man.

Mr. CRANE. I thank the gentlewoman for her comments.

Mr. Speaker, the first half of 1941, according to Winston Churchill, was the most difficult period of World War II. Almost all of Europe was conquered by the Axis. On April 17, 1941, Yugoslavia officially capitulated.

The then Col. Draza Mihailovich was the only officer who refused to capitulate. He and a small group of his followers withdrew into the Bosnian Mountains and thence to Serbia proper. On May 8, 1941, Mihailovich arrived at Mount Ravana Gora, in Central Serbia, and started the organization of the first guerrilla resistance against the Axis. The new guerrillas were officially called the Military Chetniks of the Yugoslav Army. According to the Serbian tradition, the people called them simply Chetniks. However, when the Germans succeeded in organizing a group of collaborators under the command of the World War I Chetnik leader, Kosta Pecanac, in order to distinguish his soldiers from the collaborators, General Mihailovich issued a new order forbidding the use of the old term to describe his forces and renamed them the Yugoslav Army in the Fatherland [YAF].

Authorized by the Constitution of the state of Yugoslavia, and legalized by the Government in exile, and acclaimed by the Allies—including Stalin—Army in the Fatherland represented the first organized and armed resistance behind the enemy lines in all of Europe. The YAF fought bravely and gallantly for allied victory throughout the war. In addition to the army, under the command of General Mihailovich, there was an extraordinarily well organized underground movement which performed successful sabotages of the enemy's economy and transportation, and gathered military, political, and economic intelligence of the utmost importance to the Allied cause.

In the meantime, some Serbian groups calling themselves Chetniks operated in remote regions of the Fascist state of Croatia. Because of Ustashas' genocide and the Communist collaboration with the occupiers, they were forced to accommodate themselves. However, these groups did not have contact with Mihailovich, nor were they part of the Yugoslav Army in the Fatherland. They did not belong to Ravna Gora. They did not fight under the Yugoslav flag, nor under the command of General Mihailovich.

In the territory of Serbia proper, along with the Yugoslav Army in the Fatherland whose operations extended throughout all of Yugoslavia, the Ravna Gora Movement developed rapidly. It was named after Mount Ravna Gora. This spontaneous movement represented the freedom loving ideals of the Serbian people. Bleeding in the struggle with the Nazis for an allied victory, and later clashing with the Communists and other quislings, General Mihailovich and the Serbs had little time for politicking. That is why some historians think that General Mihailovich and his Serbs were no match for the Communist's propaganda. And while the Mihailovich forces concentrated on liberating their homeland, the Communist agents on Yugoslav soil concentrated on seizing control of Yugoslavia after the war.

In 1942 and 1943, these agents of Stalin orchestrated two publicity stunts which they called congresses. Both of these bogus propaganda undertakings were masterminded by the Comintern. The Communists called them the Anti-Fascist Council of National Liberation of the People of Yugoslavia.

The absurdity of this label lies in the fact that at that very time the collaboration between the Yugoslav Communist agents and the Nazi occupiers was flourishing. With the postwar political power uppermost in their minds, the so-called delegates selected by the top Communist leaders falsely claimed to represent the desire of all the peoples of Yugoslavia. The Communists proclaimed themselves to be the protectors of the people, and communism to be the people's ultimate happy goal.

There were no delegates from Serbia proper. And through these propaganda sharades the King and the legitimate Yugoslav Government were repudiated. Sergeant Josip Bros Tito was promoted to the rank of marshall and titled Prime Minister and Defense Minister. Worse still, as a result of the unrelenting pressure of Stalin, the British Government recognized this self-proclaimed Red Government of Yugoslavia.

All decisions were in fact made by the four members of the Politburo of the Communist Party of Yugoslavia [CPY]. The Central Committee was subordinated to the Politburo, it in turn was subordinated to Tito, and Tito to Stalin. Neither the people nor their representatives were involved. Nor were these fraudulent congresses committed to national liberation.

These propaganda coups were then broadcast from one of the many Comintern radio stations, "Free Yugoslavia," located first in Tiflis, then at the Comintern building in Moscow. These propaganda broadcasts were designed to give legitimacy to the Communists' conspiracy to fasten their control over Yugoslavia as soon as the Nazis were expelled. Today this armed vaudeville is acclaimed as the "ultimate legacy" of World War II, a Communist dictatorship over the people of Yugoslavia. What is even worse, this "ultimate legacy" constitutes the basis for our State Department support and promotion of the Yugoslav dictatorship.

It is assumed that Fidel Castro was the first to exploit the Western media when he brought the New York Times' Herbert Mattews to the Sierra Maestra in 1957. By doing so, Castro masterfully deceived Americans into believing he represented the hope of the Cuban people for freedom as he prepared to impose his Communist dictatorship.

However, we can credit the first exploiters of the power of the American media not to Castro but to Stalin and his agents such as Tito. And sadly, among the first victims were Gen. Draza Mihailovich, the Yugoslav Army in the Fatherland and the other freedom fighters in Serbia and Slovenia.

On November 6, 1943, a campaign of disinformation was initiated by the Communist mole in British intelligence, Fitzroy MacLean. His report, dispatched from the Politbureau of the Communist Party of Yugoslavia to the British intelligence in Cairo, admitted that before his arrival in Yugoslavia he had no interest in Yugoslavia, and that he knew nothing about the country. However, after spending only 4 weeks in Tito's headquarters, MacLean had become an "expert on Yugoslavia." MacLean, as a matter of fact, transmitted reports invented by the Central Committee of the Communist Party of Yugoslavia for Anglo-American consumption. One of the first reports claimed that the "partisan movement dominates the greatest part of Yugoslavia, and has at its disposal an army of 26 divisions, and possesses an effective political and administrative system * * *. They [the partisans] calculate that their losses do not amount to more than one partisan killed for each five Germans killed."

There was a map that MacLean enclosed but it was also cosmetic. It indicated that by the end of 1943 the Communists controlled vast parts of Yugoslavia, even including Belgrade, the capital of Yugoslavia. It further boasted that within this huge territory the partisans prevented the German forces from exploiting the wealth of the land.

Of course, these claims by the Communists, as reported by MacLean, were total fabrications. German reports prove that the German forces exploited enormous mineral, gasoline and other economic wealth from Fascist Croatia. There Tito and his partisans were permitted by the Germans to operate in accordance with the Von Horstenau-Tito agreement.

The fact is that while Tito had "established the executive power" over Yugoslavia through his bogus congress at Jajce on November 28, 1943, and while the Soviets and the British were pumping him up internationally as an ally of the West, one of Tito's agents, comrade Marijan Stilinovic, negotiated that very same day a deal with General Von Horstenau and other Germans in Zagreb. He promised to the Germans that the Communists would confiscate 2,000 to 2,500 horses from the peasants and deliver them to the German Army.

Of course, the Communist fulfilled their part of the bargain.

The deal with the Germans also included confiscation of construction timber and securing the export of crude chlorine from mines in Bosnia—precious for the German military's pharmaceutical industry.

Pleased with the Communists achievements, German high authorities in Zagreb concluded "that Tito deserves to be included in their new order."

MacLean's intention was to persuade London that the Communist agents on Yugoslav soil were effective British allies and that the Allies would benefit by supporting them in Yugoslavia. The Allies were led to believe that they had friendly Stalinists in Yugoslavia fighting on their side to defeat the Nazis. This disinformation campaign succeeded in duping the allied leadership during World War Two. It contributed directly to the installation of a Communist dictatorship in Yugoslavia by the end of the war.

Proof of this can be found in several facts. The first fact is based on a number of German documents confirming that the Nazis exported vast resources from the territory which was allegedly controlled by the Communists during the war. The second is the evidence that the present Yugoslav ruling clique does not behave differently. During 1986, the export to the Soviet Union, Warsaw Pact countries and the so-called Third World countries—mostly to Libya, Nicaragua, Angola, Cuba, North Korea, and Vietnam—amounted to $4,611,000,000. In January and February alone, of 1987, CIA data reveal that the Yugoslav regime exported machinery, consumer goods, chemicals, ships, and foodstuffs amounting to $681 million.

As the Yugoslav Communists did during the war, the current Communist clique attempts to portray itself as a friend of humanity. In reality, they enable the enemies of the Yugoslav people and of the free world to exploit natural resources, oil, and other economic wealth of the country. The Communists do not speak about this to the people over whom they rule, nor to the representatives of our State Department who are supporting them. At the same time, while the clique is receiving enormous economic assistance from the United States, the people of Yugoslavia live in misery. The present Communist leadership of Yugoslavia simply follows the party line established by Tito during his wartime collaboration with the Nazis.

The Communists in World War II did not exist as a significant military force in occupied Yugoslavia. That is the reason why the reports of the Central Committee CPY had to be invented for Anglo-American consumption. McLean willingly performed this function through the transmission of his cynical "expert" reports to British intelligence.

One such report, in 1943, claimed that the Communist had an army of 26 divisions behind the enemy lines. Was it possible that 26 heroic divisions were unable to destroy 4 German divisions? McLean insisted the Communist troop strength numbered 220,000. To this day, historians have been unable to unearth any documents of the battles of this army. The reason why is this fictitious "army" was a creation of McLean's imagination designed to deceive the Western allies. By contrast, there are abundant German documents that refer to operations against the Army in the Fatherland under General Mihailovich's command.

In his report to British intelligence about "Operation Schwartz" in 1943—an engagement that was targeted to capture Mihailovich dead or alive—McLean transmitted kill ratio figures indicating that the Yugoslav Communists killed 37,455 German troops. However, the documents prove that only 583 German soldiers were killed. More remarkable, McLean's superiors never challenged the accuracy of his report. The only person who raised a question was Brig. Charles Armstrong, attached to General Mihailovich's headquarters, who asked SOE-Cairo if Brigadier McLean and the rest of the British officers with the Central Committee of the Yugoslav Communist Party "were providing eye-witness accounts or merely report what they receive from the Central Committee?"

Another McLean fabrication was that the Communists had in place an effective political and administrative system. While General Mihailovich and his loyal Serbs were perishing in battle after battle, Stalin and his Yugoslav agents were plotting to seize power over postwar Yugoslavia. McLean's misleading claims amounted to a form of conspiratorial terrorism against democrats, patriots, nationalists, and all other honest citizens of the country who were praying and fighting for a free Yugoslavia rather than the substitution of red fascism for black.

In 1941, the CPY started its terrorism in Serbia, on the territory around the towns of Uzice, Kraljevo, and Kragujevac. And the terrorism has continued down to the present time throughout all of Yugoslavia against all freedom-loving people, but most violently in Serbia proper, Kosovo and other Serb lands. Today, for example, around the town of Vrsac, there is no milk for the babies. Instead, in order to survive, the babies are given blood infusions. There are cows in Serbia. Yet, there is no milk for Serbian babies, for the ruling clique consumes it. Understandably, fewer and fewer Serbian couples decide to have children at all.

MacLean's disinformation campaign had a dual purpose from the outset. It succeeded in both of its goals: destroy Mihailovich and the Yugoslav Army in the Fatherland while providing legitimacy and military support to the stalinist Tito. The naivete of the West was probably best summarized by the British Foreign Office Under-Secretary, Sir Orme Sergeant: "But I presumed that communism is one form of democracy."

Apparently, some of the bureaucrats in our State Department today also "presume that communism is one form of democracy." This presumption is the reason that the entire truth about General Mihailovich is still suppressed in the United States.

Prewar Yugoslavia was the richest of all the Balkan countries. It exported its surplus and provided wheat for one-quarter of the European people, and there was relatively little unemployment. Communist Yugoslavia, by contrast, is one of the poorest and the most indebted countries in the world, with high unemployment and skyrocketing inflation. In addition, many Yugoslavs are forced to work in foreign countries to survive. In spite of enormous financial support by the West, Yugoslavia has one of the lowest per capita incomes in all of Europe. The country is in economic shambles, not having enough to live on. The poverty, however, does not prevent the government from supporting Communist controlled worldwide terrorism, while attempting to pose as a "nonaligned" country.

During the Commemoration of the Anniversary of the birth of Draza Mihailovich last year, Congressman Jim Courter called attention to the documented facts that can change our judgment of the role and activities of the Yugoslav ruling clique. Terrorists are trained, supplied with explosives, forged papers and airline tickets—all in Yugoslavia, and all by the one-party dictatorship. This includes involvement in the recent explosion of the South Korean airliner in which 155 innocent passengers lost their lives.

A deadly star of terrorism, North Korean Kim Hyon-hui, during a train ride through Yugoslavia, received a C4 bomb from a North Korean intelligence section chief in a portable Panasonic radio and PLX liquid explosive in a liquor bottle. Later investigation discovered that her notebook contained the phone numbers of North Korean Embassy officials in Vienna and their spy base in Belgrade, Yugoslavia. She confessed and her story was substantiated by the U.S. Government.

The State Department's recent report on terrorism put Yugoslavia together with the Soviet Union and Eastern Europe in its section of the countries in which terrorism is state-supported. This brought complaints from the Yugoslav Government which prompted our State Department instantly to apologize, explaining that the categorization was meant to be a geographical, not political, classification.

However, Reuter claims that at the end of February, 1988, Egypt issued a warrant for the arrest of the late Egyptian President Gamal Abdel Nasser's son, Khaled Abdel Nasser, on terrorist charges. Nasser Junior is charged with financing and arming a group that killed two Israeli diplomats in Egypt and wounded two U.S. officials.

Of course, Nasser Junior is safe—in Yugoslavia.

During the past 2 years, coincidental accidents occurred eight times involving Yugoslavia. French paratroopers in Chad captured one of Colonel Qadhafi's major agents in Chad—he was a Yugoslav. The Yugoslav rulers claim this is yet another accident, not evidence of any pattern of involvement in international terrorism. During February of this year, the Commerce Department and the U.S. Customs Service were investigating how a highly sophisticated American computer which was to be shipped legally to the Zagreb University in Yugoslavia was sent via Belgrade to East Berlin and finally to Moscow. This device has both civilian and military uses. The transaction was blatantly illegal.

At the same time, while our State Department honored Yugoslavia for her peace initiative at the Conference of the Balkan countries, held in Belgrade at the end of February, Yugoslav Communists brought criminal charges against two young Slovenian journalists. One journalist was charged as a criminal for criticizing the Yugoslav Secretary of Defense Adm. Branko Mamula, for selling arms to Ethiopia, instead of shipping food to the starving people. The other journalist was charged as a criminal for accusing the Secretary of Defense for allegedly using conscripts to build his summer house. The crime of the two journalists was classified as an attempt to destabilize the army and an open call for a mutiny. The monstrous violation of human rights of these charges is evidence of a ruthlessness by the Yugoslav Communists comparable to that of Cheausecu's in Romania. Only Romania is not under the protective umbrella of our State Department.

All the liberalizing improvements which today are promoted by Mr. Gorbachev have already been instituted in Yugoslavia—on paper—and as a masquerade for the West. However, the fact of a continuing Yugoslav Communist dictatorship has not changed. Gorbachev's dictatorship will not change with glasnost either. How far will the State Department go in sustaining and promoting this Yugoslav dictatorship?

Perhaps the case of another journalist provides the answer. Jozsef Takacs, a veteran Voice of America journalist and chief of the Hungarian service was forced to change his job because he objected to distorting news broadcasts about Hungary and Yugoslavia. "They're trying to muzzle me. There is an intervention here by the top officials," declared Takacs. "They want to silence him. They are against him because he opened his mouth," claims Thomas Bien, his deputy. Mr. Takacs opened his mouth about Hungary. But he opened his mouth about Yugoslavia, too; and for this he was disciplined.

These are the very same powers who betrayed General Draza Mihailovich and his brave freedom fighters both during and at the end of the war. But the Americans who had the privilege of knowing him testified as forthrightly in his support as the first head of the U.S. military mission, Col. Albert B. Seiz, did in his remarkable book:

> Over the unknown grave of Mihailovich, which therefore rests forever in the hearts of those who loved and honor him, might well be placed, for lasting and compelling remembrance, the synthesis of his martyrdom—"Liberty of Death."

We know about General Mihailovich. We have read about him. We have spoken with his comrades-in-arms. We have visited with the American airmen whom Mihailovich rescued. We know that he was a leader of his gallant warriors. We know that he was revered by his people for his bravery, his generosity, his devotion to freedom, democracy, and human dignity. His contribution to our freedom has been acknowledged by Presidents Truman and Eisenhower. In a mysterious way, we are aware that if today he were alive, his unyielding spirit would take up arms and contribute again in these times when it appears that these values are imperiled.

We know who murdered General Mihailovich. And we know why he was murdered. The second head of the U.S. military mission, Col. Robert H. McDowell, after citing abundant evidence, drew the following conclusion in a statement issued in 1946:

> The real crime for which General Mihailovich is accused is that in the minds of 80 percent of the Yugoslav population be became, and remains, the symbol of the simple, sturdy Yugoslav peasant resistance to tyranny, whether foreign or domestic.

In short, the Communists knew that Mihailovich's commitment to the struggle for democracy against all types of dictatorships put their power grab at risk.

We are talking about one of the greatest spirits of our times—and about one of the most horrible murders of our time. General Mihailovich's noble place in the annals of history is secure. He contributed inspirationally to the never-ending battle between good and evil and will serve eternally as an example to others to maintain the courage and determination to fight for liberty, civil, economic, social, and political rights. General Mihailovich was murdered in his 53d year. And though there persists a conspiracy to black out his name, the truth about him continues to grow. The truth of his courage, his bravery against the Nazis, his willingness to die rather than yield to Red tyrants, and his indomitable spirit.

The Stalinists tortured and literally butchered his physical body, but for all their efforts they cannot destroy the memory of a noble patriot who loved his people and his country. For in the words of the great American poet, Emily Dickinson, "truth is as old as God, his twin identity."

That is why I was fascinated when I came upon the following two cables from General Mihailovich to the Yugoslav Government in London. I tried to place myself in his spiritual frame of mind. When he wrote these cables it must have been clear to him that the Nazis would be defeated, as he had predicted in 1941. It was clear, too, that he and his army in the fatherland, and the Serbian warriors, would be betrayed by the Allies. Yet, in spite of this, neither he nor his people stopped fighting tyranny, nor believing in democracy, nor saving the lives of American airmen. All the way to the bitter end they continued to hold to those ideals. While I was studying those telegrams, it impressed me that I truly knew General Mihailovich. It was as if he were alive. Here. With us all. That is why I have to read to you certain excerpts from these messages:

Cable No. 1341, dated February 9, 1943:

> From the very beginning of this action, The Yugoslav Army in the Fatherland, under my command, is fighting against the spirit of the past and for freedom, for a democratic and completely reborn Yugoslavia. In the ranks of The Yugoslav Army in the Fatherland are assembled healthy national forces. * * * The full conscience of the new spirit of time is injected into the meaning of the struggle, as for national, also for social justice.
>
> I led the national forces taking care that in all instances, to be the most faithful interpreter of their faith, because by my nature all kinds of dictatorships are repugnant to me * * *.

Cable No. 1398, dated March 10, 1943:

> Our national movement represents a movement around which all the Serbian Nation had gathered. After 20 prewar years of wandering and suffering, the nation now has again found the right way, guided by its own genius. Democracy must embrace all our state, political, social and economical life. Democracy is the national life of Yugoslavia and it must be developed and secured only in Federal form. * * *
>
> Around the national movement are assembled sons of the Serbian Nation of the broadest view. * * *
>
> Now, the Serbian Nation is aware of the situation today, but also it is conscious of the past.
>
> It knows that it can achieve its own basic goals only by achieving a just and sound democracy. * * *
>
> The Central National Committee of the Ravna Gora Movement has been working on this issue ever since 1941. The Slovenian Unity, founded in Slovenia on March 27, 1941, is also represented in the Movement with all Slovenian parties, except the communist. We also invited all the honest and truthful Croats who are inspired by the righteous spirit of Yugoslavia to join us.
>
> Democracy in the political life has now for the first time appeared the just solution to all our nations. Its spirit and tradition are clear. The village gave to our people two dynasties. In the army were sons of the peasants. In the political life, almost every leader of the Serbian people derived his roots from the "opanak" [moccasin-like traditional peasant footwear] as our people used to say.
>
> In the Old Serbia's Government administration, in science and other social circles, the sons of the peasants, and from small towns, occupied the highest positions without discrimination on their origin. Skill and talent was what counted. All of this enabled the Serbian people for the greatest undertakings in the Wars of Liberation and Unification, 1912-1918. We have re-embraced these same traditions. These traditions made a small Serbia the Great One.
>
> Democracy in the economic life of the Nation will be achieved in a radical agricultural reform, well-intentioned internal colonization and creating the best possible conditions for the life of the peasants, which constitutes more than 80 percent of our population. In the principle of relations between manpower and capital, the worker will be secured and guaranteed the dignity of man. The worker will be guaranteed pension and security in sickness and disability. The Government workers will be secured against the influence of partisan politics and their economic security will be sound. In that way, they would direct their effort to the people and the State benefit, instead to work for the foreigners or to worry about everyday problems.
>
> It is already two years that well-known experts in the National Committee of the Ravna Gora Movement are working toward the just solutions of all those issues. Serbian people know that foreigners and adventurers, such as Tito, and such "useful fools" as Ivan Ribar, will not and cannot lead them along the new path of national revival and into the new democracy!

And let us conclude with Mihailovich's last letter. This letter was published in New York, July 1946, by the Committee for a Fair Trial for Draza Mihailovich. It is identified as the last authentic letter which was written by Mihailovich as a free man on February 2, 1946. Mihailovich wrote the letter to friends in Switzerland. In it Mihailovich turns down a plea to leave Yugoslavia, stating that he must remain to fight "the Communist terror". This letter he wrote six weeks before his treacherous capture. Tragically, Wednesday after this letter was published Tito murdered Mihailovich:

> Under no conceivable circumstances will I leave my country and my people. "One cannot carry one's country on the soles of shoes", said Danton when he was urged to leave France. I can do no more than repeat those very words today. For I am not Josip Broz Tito, who has nothing in common with this land and these people, so that I should run away at the first sign of danger and seek refuge on some isolated island.
>
> You have with you over there [in Switzerland] enough of my officers and soldiers who have left the country with my permission; and you have a still larger number of former prisoners of war and deportees, who serve today as living witnesses of the injustice which has been inflicted upon our nation. But united in spirit and do not neglect a single opportunity of bringing our plight to the attention of those around you,

> so that the whole civilized world may know of our just and righteous struggle. Precisely because of this, I must repeat that my own place is here, in my country and with my people, so that I may lessen their suffering and encourage their belief in that salvation which cannot be far off * * *
>
> * * * I have always told you that the Allies must someday realize the mistake they had made in delivering Yugoslavia into the hands of Tito and his terroristic Communists * * *
>
> Inside the country the Communist terror grows worse from day to day. My forces consist of practically the entire nation, both those inside and those outside the country. In our free mountains there are today over 100,000 fighting men, divided into groups of from 10 to 100 which are scattered throughout the country. Those groups are merely the foundations on which new brigades and new divisions will be built if we are forced to overthrow the present tyrannical regime of Tito and his bandits. In such small groups it is much easier for us to elude the partisan search parties, and the problem of feeding is also commensurately lessened * * *.
>
> * * * The Communists are bending all their efforts on capturing me. They have mobilized all their most servile followers—the Bulgarian, Albanian, Italian and other Communists—who are engaged in an unceasing endeavor 'to liquidate' me. In this endeavor the Soviet specialists are far from being the most backward.
>
> You know my strategic purpose: to maintain myself at all costs for the great task which lies ahead. It may be that I shall fall in our sacred cause. But you all know well that this would mean that the righteous cause for which our nation is fighting would fall with me. For I am only carrying out the will of the people—that is why I commenced the struggle against occupying forces and later against the Communists.
>
> I do not doubt for one minute that the sunshine of freedom from Ravna Gora will soon brighten our troubled and suffered motherland. * * *

By reading these words I comprehended General Mihailovich's spirit. It is sad, after all his heroic exploits in World War II, that he became one of the first casualties of the Cold War. His grave is unmarked. School children in Yugoslavia have been indoctrinated to hate him.

Worse yet, the State Department considers such a great man so controversial that the erection of a monument to him by the American airmen whose lives he saved, has thus far been thwarted.

The British Ambassador Stevensen, accredited with the Yugoslav Government in exile in Cairo, stated in a cable to Secretary Eden, dated December 26, 1943:

> Even if we approach the issue (of Yugoslavia) jointly with Tito, I do not believe that he (Tito) would change his mind * * * he is determined to kill Mihailovich and his leadership as soon as he puts his hands on them. * * *
>
> The death sentence to General Mihailovich was determined almost three years before its physical execution * * * and we knew it.
>
> This is frightening. * * *

But General Mihailovich's place in history is a glorious chapter. His life fills the proudest and noblest pages of modern history, and that despite indoctrination, disinformation, coverups, lies and powerful Communist propaganda. In the great hope that we will overcome the objections of the bureaucrats of the State Department and be allowed very soon to erect a worthy monument of gratitude to this patriot, please join me in a moment of silent prayer that General Mihailovich's legacy will remain honorable and respected forever—let him sleep in glory.

Rebecca West, in her scholarly opinion, concerning the tragedy of General Mihailovich had called publicly for an investigation "into whether governments themselves have become parties to a foolish and wicked conspiracy." Sadly, Rebecca West was right.

Mr. HYDE. Mr. Speaker, I rise today to join my colleague from Illinois in honoring the memory of Gen. Draza Mihailovich.

It is most fitting and proper that we should honor General Mihailovich at this time, for it was 40 years ago that President Truman awarded the Legion of Merit in the Degree of Chief Commander to General Mihailovich. In awarding one of the highest possible honors to a foreign national, President Truman noted: "Through the undaunted efforts of his troops, many U.S. airmen were rescued and returned safely to friendly control."

We honor General Mihailovich today for the significant place he rightly deserves as a leader in the fight against totalitarianism—both of the right and of the left. While much has been done to hide his contributions and efforts to secure the freedom of both Americans and his fellow countrymen from Nazi rule, I hope that our efforts today will contribute in a small way to a greater understanding and appreciation of his role in history.

Mr. ANNUNZIO. Mr. Speaker, I join with my colleague from the State of Illinois, Congressman PHILIP CRANE, in commemorating the 95th anniversary of the birth of Gen. Draza Mihailovich, who saved the lives of over 500 American servicemen during World War II.

The tradition of fighting for the principles of freedom without regard for all threats to personal safety, was long associated with the Mihailovich family and with the Serbian people of whom General Mihailovich became the leader in 1941.

Preceding World War I the Serbs had fought for centuries against the encroachments of the Turkish empire. In the latter stages of this struggle, fearless Serbian guerrilla warriors, the Chetniks, has risen to prominence, and the Mihailovich family was closely identified with the Chetnik tradition.

When Yugoslavia came into being in the wake of World War I—a merger of Serbia, Croatia, Macedonia, Montenegro, and the South Slav nations—the Mihailovich family supported the arrangement with enthusiasm and Draza Mihailovich prospered as a member of the Yugoslavian officer class, rising to the status of inspector general of fortifications, with the rank of colonel.

In 1941 Yugoslavia was invaded by Nazi Germany and the Yugoslav Government saw fit to surrender quickly. But a segment of the Yugoslav military forces objected to the call for surrender, and of this group the most vocal member was Mihailovich. Rallying supporters in the Dinaric mountains of Herzegovina, he mounted a military assault upon the German occupation force and their Yugoslav collaborators. It was guerrilla warfare of the most devastating kind in the age-old Chetnik tradition.

When the United States entered the war against Germany, the Chetniks established communication with the U.S. Armed Forces and assisted our Air Force in locating the position of German military emplacements. Moreover, when U.S. planes were shot down over Yugoslavia, the Chetniks provided most remarkable service to U.S. airmen, seeing to the rescue of approximately 500 of these American heros who would otherwise have been lost to the cause of the allies and, in many cases, would have lost their lives as well.

Mr. Speaker, for his heroism in his efforts to save these Americans, on March 29, 1948, President Truman awarded General Mihailovich the "Legion of Merit in the Degree of Chief Commander"—one of the highest honors which the U.S. Government can bestow upon a foreign individual. Therefore, on the occasion of the 95th anniversary of General Mihailovich's birth, I join with my colleagues in the House of Representatives in recognition of these dramatic rescues of our U.S. airmen.

Mr. KLECZKA. Mr. Speaker, I am honored to contribute to today's special order recognizing the courage of Gen. Dragoljub Mihailovich.

During World War II, General Mihailovich and his mountain-based Army of Chetniks were famed for their unrelenting opposition to the vicious Nazi occupiers of Yugoslavia. In this moment of terror, the general was an inspiring symbol of resistance to the forces of evil.

In America, General Mihailovich is warmly remembered as the saviour of over 500 allied airmen who crash landed or parachuted into his homeland. Without his efforts, these men surely would have been captured, tortured, and killed.

The general's efforts on behalf of our troops have not been forgotten; the National Association of American Airmen rescued by General Mihailovich have kept his good name and heroics alive before the American people and Congress.

The U.S. Government has recognized General Mihailovich's services to our Nation. In 1948, President Harry S. Truman posthumously awarded the Legion of Merit Chief Commander citation to him.

In this tribute, the President stated that "General Mihailovich and his forces, although lacking adequate supplies and fighting under extreme hardships, contributed materially to the allied cause, and were instrumental in obtaining final allied victory."

It is tragic that the general himself was unable to celebrate the eventual allied victory and liberation of his homeland from nazism due to his execution at the hands of Communist Marshal Tito's rival forces.

To this day, Gen. Dragoljub Mihailovich stands as a symbol of heroism and freedom to Americans, Serbians, and many other peoples who have known oppression and conflict. May his proper place in history forever be remembered!

Mr. BADHAM. Mr. Speaker, as we today honor a man who ultimately gave his life in the quest for freedom, I want to commend him on what would have been his 95th birthday.

Mr. Speaker, Gen. Draza Mihailovich was a hero not only to the freedom loving people of Yugoslavia, but also to over 500 allied airmen whom he saved from falling into the hands of the Nazi occupiers.

General Mihailovich led the campaign which saw the rescue and return of over 500 allied airmen from behind Nazi lines. His Chetnik freedom fighters sheltered and cared for these airmen until they were ultimately rescued.

In 1948, President Harry S. Truman posthumously awarded General Mihailovich with the Legion of Merit in the Degree of Chief Commander. This was done in recognition of his heroism, his sacrifice, and his unwaivering dedication to freedom. As the President said when awarding the decoration, General Mihailovich "distinguished himself in an outstanding manner" and "contributed materially to the allied cause, and was instrumental in obtaining final allied victory."

His actions and ideals represent what our country has stood for, and in tribute on the occasion of his 95th birthday, I salute this man of courage and a genuine freedom fighter.

Mr. KOLBE. Mr. Speaker, I rise today to commemorate a man who dedicated himself to ridding his country of both the Nazis and the Soviets. His dedication and courage was invaluable to Allied forces fighting for freedom in Europe.

A successful Soviet disinformation campaign to discredit General Mihailovich in favor of Marshal Tito led the allies to abandon him. Even though he was no longer supported by allied forces, he was instrumental in securing the freedom of hundreds of allied airmen. I believe that after 40 years, international recognition for this man is long overdue.

As a symbol of his gallantry, President Truman conferred the honor of Legion of Merit in the Degree of Chief Commander posthumously to General Mihailovich—one of the highest honors which our Government can give to a non-American.

Mr. LIPINSKI. Mr. Speaker, I rise to commemorate the birth of a man of great courage and conviction, Gen. Draza Mihailovich.

General Mihailovich, the great Serbian hero, fought the Germans from April 1941 until the end of the war when the Soviet troops entered Yugoslavia from Bulgaria and installed the Communist Dictator Tito. During those years, the general distinguished himself by rescuing nearly 500 American airmen shot down behind enemy lines and sending them back to safety.

One of the remarkable facts about Mihailovich is that he was provided with very little help from the allies, and yet still was able to operate an effective resistance organization. Unlike Tito, who was able to transmit propaganda from the U.S.S.R. and was given large quantities of material aid by the Russians, the general was given next to nothing. Yet, Mihailovich and his Chetniks—guerrillas—were responsible for decimating the 22 German divisions located in the Serb-Greece area—from April 1941 to December 1944 the Germans lost 80,000 killed and 125,000 wounded.

I would like to conclude, Mr. Chairman, with the words President Harry S. Truman spoke as he awarded the Legion of Merit to General Draza:

> General Dragoljub Mahailovich distinguished himself in an outstanding manner as Commander-in-Chief of the Yugoslav Army Forces and later as Minister of War by organizing and leading important resistance forces against the enemy which occupied Yugoslavia, from December 1941 to December 1944. Through undaunted efforts on his troops many United States airmen were rescued safely to friendly control. General Mihailovich and his forces, although lacking adequate supplies, and fighting under extreme hardships, contributed materially to the Allied cause, and were instrumental in obtaining final Allied Victory.

I wish to commend the gentleman from Illinois [Mr. CRANE] for holding this special order to commemorate this unique and brave individual.

Mr. STANGELAND. Mr. Speaker, the Second World War was a time when there was global war in the quest to save individuals from being enslaved by aggressor nations. Though there are many stories of pain and suffering, there were many tales of heroics.

I would like to speak today of one man who would have been 95 years old this week. Gen. Draza Mihailovich rose up and performed his patriotic duty to defend his nation's integrity and personal freedoms. Through his Chetnik freedom fighters, he successfully challenged the Nazi invasion of his country and also fought the Soviets.

For all these efforts, Mihailovich is a true Yugoslav patriot. However, he did much more. In 1944, he successfully contributed to Operation Halyhard. This plan saw the rescue of hundreds of U.S. fighters, even when he had been cut off of allied support.

Today, we simply want to remember a man on the 95th anniversary of his birth. Despite not being American, he made sacrifices to defend the ideals which this country stands for, and showed character we should all aspire to.

Mrs. VUCANOVICH. Mr. Speaker, I am happy to join today in the commemoration of Gen. Draza Mihailovich. He was a genuine national hero in the fight against the German occupiers of his nation.

Unfortunately for the United States, and the people of Yugoslavia, General Mihailovich was abandoned by his allies and received little credit for the ultimate defeat of the Nazis. History has become distorted and Tito and his Communist partisans have received most recognition for the defeat of Hitler. He has never been fully recognized for his great patriotic services.

Still, many of us remember the heroism of General Mihailovich and his freedom fighters. I, in particular, am honored to acknowledge General Mihailovich for his services.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A JOINT RESOLUTION RELATING TO CENTRAL AMERICA

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-540) on the resolution (H. Res. 417) providing for the consideration of a joint resolution relating to Central America, which was referred to the House Calendar and ordered to be printed.

☐ 1840

VACATION OF SPECIAL ORDER

Mr. GRAY of Illinois. Mr. Speaker, out of deference to distinguished chairman of the Rules Committee and my friend from Florida [Mr. BILIRAKIS] I ask unanimous consent that my 1 hour be vacated today and rescheduled for tomorrow.

The SPEAKER pro tempore. Is there objection to the request from the gentleman from Illinois?

There was no objection.

COMMEMORATION OF GREEK INDEPENDENCE DAY

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes.

Mr. BILIRAKIS. Thank you, Mr. Speaker, and I certainly extend my gratitude to the gentleman from Illinois [Mr. GRAY] who has been a good friend in the short time that he has been back up here, and I am sorry to see him leave, but I appreciate his consideration.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that Members may have 5 legislative days in which to revise and extend their remarks to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, last Tuesday I led a special order to commemorate Greek Independence Day, which was celebrated on March 25, and I would like now to supplement my comments of last week with some additional points that I think are significant and should be made, and I would at this point yield to my very distinguished colleague from Florida, Congressman CLAUDE PEPPER.

Mr. PEPPER. Mr. Speaker, I thank my distinguished colleague and friend from Florida for his kindness in yielding to me.

Mr. Speaker, it has been my good fortune for many, many years to have many devoted and distinguished friends of Greek origin in the State of Florida. We have Tallahassee, Tarpin Springs, Miami, Datona Beach, and many, many other places in Florida. They have been some of the dearest friends I have ever had.

Mr. Speaker, from those friends I learned, back when I was in the Senate in 1946, of the distress of so many of our Greek Americans who made such a splendid record as citizens in our country and that the Dodecanese Islands had been taken by force at a previous time by Italy and denied to the country to which they really belonged, Greece.

By the way, let me add, Mr. Speaker, that it used to be one of the cherished privileges that my late wife and I enjoyed of going to religious ceremonies in Tarpin Springs, which is the home of the distinguished gentleman who occupies the floor at the present time, my distinguished friend, Mr. BILIRAKIS.

One of the most impressive men I have ever seen is Archbishop Athenagoras. He was a bishop of North and South America, and he was about 6 feet 6 or 7 inches tall. He wore a long, dark robe with a long cross that hung down from his neck down to his waste. He wore a cap of fitting character upon his head. He had a heavy beard that was then gray. He had a sonorous voice, one of the most impressive I have ever heard, and he used to participate in religious services at Tarpin Springs every year.

One of the incidents of that service was going across in an eddy of a bay, and the young men of Tarpin Springs and other parts of the State would go diving down to the bottom of the lake or the bottom of the bay to reach that cross and bring it up. The young man who was able to find the cross and bring it up of course was the hero of the occasion. My wife and I watched those ceremonies so many times, and also we have the happiest memories of the beautiful church there in which the religious ceremonies were held and of the hospitality of our Greek friends to visitors who were there on that occasion.

Anyway, as I said, in 1946 I learned how distressed the Greek people were in our country as well as in the old country about those Dodecanese Islands which really belong to Greece and had somehow or another been taken into force by the Italians.

So, on July 29, 1946, I, then a Member of the Senate, introduced a resolution that the Dodecanese Islands should be restored to Greece. By the way, the resolution that I introduced was reported out favorably by the Senate Foreign Relations Committee of which I was a member and passed by the Senate. Our representative at the peace conference was Secretary of State Jimmy Byrnes implementing the Senate resolution that came from the Foreign Relations Committee. Mr. Byrnes procured the return of the Dodecanese Islands from the Italians back to the Greeks, to whom it should go.

It has been my honor and privilege to have my name by a grateful Greek nation added at many places in Greece, and I particularly remember that shortly after this resolution was adopted and after this return of the Dodecanese Islands to the Greeks occurred I had the honor to be received by the Prime Minister and the Foreign Minister of Greece in Athens at a lovely reception when they bestowed upon me what I understood was the highest order that the Greek Government could bestow upon a recipient, the Commanders Degree of the Order of Phoenix, a beautiful ribbon, a sash across the body with a lovely cross-like emblem attached to the ribbon. It was a very beautiful, a very colorful, decoration, and I was very proud to be the recipient of that high honor by the Prime Minister and the Foreign Minister of Greece in their famous capital at Athens.

In addition to that, about 2 years ago I was in Athens and with some Members of the Rules Committee, and some others of the House, and some others who were with us and the governor of the Dodecanese, and a lovely lady joined us, and we went on our plane from Athens over to Rhodes, the largest island of the Dodecanese group. There in the city of Rhodes with the presence of the governor of the Dodecanese Islands there, and the members of the city council and the mayor of the city of Rhodes I was made an honorary citizen of that beautiful city by the mayor and the city council in the presence of the governor of the Dodecanese Islands. That was a beautiful and very colorful occasion which will always be indelibly imprinted upon my memory in gratitude to those wonderful people.

In addition to that we drove down by the sea, and there was a highway going around the beach, and we came to the name of the highway, and it was named "Claude Pepper." That was another great inspiration that I experienced while in the beautiful city of Rhodes.

Mr. Speaker, all of us know what Greece has contributed to the world. We need not have our memory refreshed of the glory of ancient Greece perpetuated also in the greatness of the present state and nation of Greece and in Greek citizens who have honored their past in their honorable citizenship of the United States of America.

So, it gives me great pleasure to join my distinguished friend from Florida [Mr. BILIRAKIS] in paying tribute and honor to the Greek nation upon achieving its independence. They know better than anybody what independence means, what democracy means, because they were the first to give it in the form that we know it now to the world, Greek culture, Greek concepts of democracy, Greek philosophy of human freedom. So I commend my distinguished friend for taking this special order in order to extol the virtues of the Greek nation and to pay our compliments and to express our highest esteem to that glorious and wonderful people.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for his usual powerful and eloquent remarks right off the top of his head, if you will, and, sir, the love that Greek Americans and Greeks from all over the world have for you certainly holds no end. The few honors that you have received are certainly inadequate.

I was very privileged to have been at a ceremony just last week here in Washington where the national conference, Dodecanese Conference, was being held. Dodeca is Greek for 12, and Dodecanese means the islands, and it is a group of 12 islands, as the gentleman knows, in the Agean Sea. Many of them are very close to Turkey; I would say all of them are closer to Turkey than mainland Greece, but in any event the celebration revolved around the honors bestowed upon you for your efforts in getting the independence for those islands. I thank the gentleman so very much.

Mr. Speaker, as we help to celebrate Greek independence, and, as we Americans have been celebrating the bicentennial of our Constitution, it's certainly significant that we remember that we have received an important legacy from the Greeks. The most important aspect of that legacy, moreover, serves as the foundation for the responsibilities we pursue as legislators.

Each time we perform our constitutional duty, we are doing so in the legacy of the ancient Greeks, for the U.S. Constitution has a rich classical ancestry.

In the American colonial period, during the formative years of the American experiment, no feature was more prominent than the extent to which Greek and Roman sources were cited by the framers of the Constitution. Indeed, the basis for our Constitution itself, derived from Aristotle, was put into practice in 18th century England and in the early state constitutions, before it was given its embodiment by the Convention of 1787.

The overriding appreciation, of course, was for Aristotle's sense of balance, since the delegates viewed the tyrant and mob as equally dangerous. In fact, both Madison and John Adams emphasized what Aristotle contended in "The Politics," where he wrote, "The more perfect the admixture of the political elements, the more lasting will be the state."

And so, Mr. Speaker, as, these days, we celebrate our Constitution, we also celebrate the example of the ancient Greeks. And on March 25 each year we also celebrate the return of democracy to Greece that we rejoice in on this day of glory for the Greek people.

The spirit of March 25 lives on in defense of the principles for which so many of the free world's citizens have given their lives.

These principles are embodied in the slogan "Eleftheria I' Thanatos"—"Liberty or Death." These principles are not uniquely Greek—rather, they are now a legacy which all democracies cherish and have a responsibility to protect.

□ 1855

Mr. Speaker, I would like to briefly add a few remarks about the Greeks who currently live in the Soviet Union. We may not hear too much about them, but during my trip to Russia in 1985, I learned that there are 500,000 Greeks in the Soviet Union. I was disturbed to hear some facts about their current plight in that political system and would like to share some of these facts with you.

The majority of these Greeks, Mr. Speaker, live in Soviet central Asia—where they were forcibly resettled after World War II.

We do not hear much about them because most of them tend to shun polticial activism for fear of losing their modest stake in the Soviet Union.

However, some 25,000 Greeks are reportedly actively seeking to emigrate. The number receiving exit permission, unfortunately, has dropped sharply from an average of about 140 per month in late 1982 to only one or two families per month currently.

This curb of emigration, according to authorities, seems to stem from a Soviet desire to retain Greeks and other "white" nationalities in central Asia as a balance against the rising Asian-Islamic population.

In addition to being denied exit permission, the Greek minority is subjected to other mistreatments as well. For example, holders of Greek citizenship are subject to discrimination and pressure by the Soviets to give up their claims to Greek citizenship. In fact, it is said that Soviet authorities tell Greek nationals wishing to emigrate that in order to emigrate, they must first surrender their Greek identity certificates or passports. The confiscated documents are then returned to the Greek Embassy with an explanation that the Greek nationals have voluntarily renounced Greek citizenship and the unwitting victims of the ruse are made to accept Soviet documents and citizenship.

More generally, the Soviets have long maintained a policy which prohibits Greek nationals from receiving education beyond the 10th grade. In fact, in order for a Greek national to attend an institution of higher learning, he must first become a Soviet citizen.

Mr. Speaker, it is very sad to see that the Greek people—who have traditionally fought for their freedom are, in this day, subjected to treatment such as this.

I, along with many of my colleagues, have long been a very active supporter of Soviet Jewry, having visited the Soviet Union in their behalf, and so we must include the plight of the Greek minority in the Soviet Union when we hear about Soviet Jewry and other groups who are seeking their human rights. The Greeks of the Soviet Union are seeking their human rights too.

Mr. Speaker, another group of Greeks are being denied their human rights and I would briefly like to talk about their plight as well.

In 1914, Mr. Speaker, due to border changes, some 300,000 Greeks from the northwestern province of Epirus found themselves made Albanians overnight.

Since the Communists seized power in Albania in 1945 and sealed its borders, people have been waiting desperately for the day when easy passage across the frontier would again allow them to see their relatives who have been locked inside the Marxist State.

It was expected that the so-called thaw in relations of the early 1980's would facilitate some movement, but, in fact, very few Greeks have been permitted to go to Albania.

The life of the Greeks in Albania has not improved much. During the 30 years that relations between the two countries were frozen, members of the Greek minority were often separated and forcibly moved from their native villages in the south of Albania to scattered villages in the north in order to undermine Greek claims to northern Epirus.

Thousands were also forced to take new names that did not sound Greek and it was often forbidden to possess Greek books or to sing Greek songs.

Despite the thaw—which has reportedly resulted in some Greek being taught in the schools—however, the Albanian Government—as is the case with their treatment of the Serbians residing therein—continues to persecute the Greek minority. Religious observations, for example, are still strictly forbidden and all churches have been destroyed or turned into museums if they had any historical value. In fact, sources say that the regime has gone so far as to even knock crosses off of tombstones.

Morever, the Albanians show no inclination to loosen their hold or to permit more movement across their borders with Greece because they fear that extensive exposure to Greeks would threaten the hold of the Albanian Government on its people.

In fact, more than 3,000 Greeks with relatives in Albania have asked permission to visit them, but the Albanian Embassy in Athens issues only approximately a dozen such visas each year.

Mr. Speaker, Greece has never abandoned its claims to northern Epirus—southern Albania. Moreover, Greece's claims have been legally estiablished by international conventions and by the international Court of Justice.

The Greek prerogative to defend the basic rights of the minority across its borders has, as I understand it, never been abandoned or negotiated. The current Greek Government believes that it can do more for the minority living in constant persecution through improved relations than it can through any other means.

Mr. Speaker, I hope each of my colleagues will also remember the plight of the Greek minority in Albania and do what he can to help these unfortunate victims.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RAY (at the request of Mr. FOLEY), for today and the balance of the week, on account of illness.

Mr. OBEY (at the request of Mr. FOLEY), for today and tomorrow, on account of a death in the family.

Mr. MCHUGH (at the request of Mr. FOLEY), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes, today, for 60 minutes, on March 30, and for 60 minutes, on March 31.

Mr. PARRIS, for 60 minutes, on March 30, and 60 minutes, on March 31.

Mr. BEREUTER, for 5 minutes, today.

Mrs. BENTLEY, for 60 minutes each, on April 12, 13 and 14, 19, 20, and 21.

Mr. BLILEY, for 60 minutes each, on March 30 and 31.

Mr. MILLER of Washington, for 60 minutes, on March 30.

(The following Members (at the request of Mr. KANJORSKI) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. MARTINEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. KOSTMAYER, for 5 minutes, today.

Mr. TAUZIN, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, on March 30.

Mr. SMITH of Florida, for 60 minutes, on March 30.

Mr. GRAY of Illinois, for 60 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. GRAY of Illinois, for 60 minutes, March 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. LENT.
Mr. FAWELL.
Mr. GREEN.
Mr. MOORHEAD.
Mr. WOLF.
Mr. PACKARD.
Mr. DENNY SMITH.
Mr. QUILLEN.
Mr. SOLOMON in four instances.
Mr. SAXTON.
Mr. MILLER of Washington.
Mr. KOLBE in two instances.
Mr. HYDE.
Mr. LAGOMARSINO.
Mr. FISH.
Mr. COURTER.
Mr. SHAW in three instances.
Mr. RITTER in two instances.
Mr. SKEEN.

(The following Members (at the request of Mr. KANJORSKI) and to include extraneous matter:)

Mr. STARK in three instances.
Mr. MCMILLEN of Maryland.
Mr. FROST.
Mr. FLORIO.
Mr. MANTON.
Mr. MONTGOMERY.
Mr. ATKINS.
Mr. MRAZEK.
Mr. TALLON.
Mr. HAWKINS in two instances.
Mrs. SCHROEDER.
Mr. FASCELL in two instances.
Mr. BONIOR
Mr. APPLEGATE.
Mr. FLIPPO.
Mr. LEVIN of Michigan.
Mr. SCHEUER.
Mr. MATSUI.
Mr. SKELTON.
Mr. TRAFICANT in two instances.
Mr. STOKES.
Mr. DYMALLY.
Mr. LOWRY of Washington.
Mr. LEHMAN of Florida.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 231. Joint resolution to authorize the entry into force of the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes; to the Committees on Foreign Affairs and Interior and Insular Affairs.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4263. An act to designate interstate route I-195 in the State of New Jersey as the "James J. Howard Interstate Highway."

H.J. Res. 470. Joint resolution to designate March 29, 1988, as "Education Day, U.S.A."

ADJOURNMENT

Mr. BILIRAKIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock p.m.) the House adjourned until tomorrow, Wednesday, March 30, 1988, at 2 p.m.)

CONTRACTUAL ACTIONS, CALENDAR YEAR 1987 TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85-804:

NATIONAL AERONAUTICS
AND SPACE ADMINISTRATION,
Washington, DC, March 24, 1988.

Hon. JIM WRIGHT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In accordance with Section 4(a) of Public Law 85-804 (50 U.S.C. 1431-35), I am reporting to the House of Representatives on all calendar year 1987 actions taken by the National Aeronautics and Space Administration under authority of that Act which involve actual or potential cost to the United States in excess of $50,000.

During calendar year 1987, the NASA Contract Adjustment Board granted one request for extraordinary contractual relief under Public Law 85-804. That request was from Taft Broadcasting, Inc., in the amount of $130,797. A copy of the Memorandum of Decision is enclosed.

On January 19, 1983, the Administrator made a decision to provide indemnification to certain NASA Space Transportation System contractors for specified risks arising out of contract performance directly related to NASA space activities. On September 24, 1984, the authority of that decision was extended from September 30, 1984 through September 30, 1989. Copies of those memoranda are enclosed. On June 2, 1987, I approved a request of International Business Machines pursuant to the terms set forth in those memoranda. A copy of the approval is enclosed.

On February 6, 1987, I approved a request of General Dynamics for approval of indemnification on the Atlas/Centaur program. A copy of the memorandum decision and approval is also enclosed.

A summary description of each contract indemnified during calendar year 1987 is enclosed.

Sincerely,

JAMES C. FLETCHER,
Administrator.

Enclosures.

MEMORANDUM OF DECISION

Subject: Extraordinary Contractual Adjustment Under Public Law 85-804; Taft Broadcasting, Inc.

INTRODUCTION

Taft Broadcasting Corporation (Taft) has requested extraordinary contractual relief from the National Aeronautics and Space Administration (NASA) Contract Adjustment Board in connection with NASA Contract No. NAS 9-16250 performed at the Johnson Space Center (JSC). Taft seeks recovery of $130,797 for various overhead and general and administrative expenses incurred from January 1, 1984 to March 31, 1985, in excess of the contractual ceilings and allegedly due to factors beyond the contractor's control. In its request Taft states that it has not sought the same or similar relief in any other forum, nor does it anticipates doing so. The contracting officer recommends recovery of the entire amount requested.

BACKGROUND

In 1980 Taft was awarded a contract for television support services at JSC as the result of a competitive procurement. Performance started January 1, 1981, and, with options, the performance period extended for five years.

The contract and modifications thereto included an article, "Advance Understanding on Cost Categories," which set a ceiling rate of 27 percent on Local Project Overhead (LPO), calculated by dividing total estimated LPO costs by total estimated direct labor costs.

Taft and JSC executed contract modification 31S on December 21, 1983, for continued television support at JSC in 1984. That modification included man-hour costs for three Spacelab missions. NASA, however, subsequently deferred those missions into later years, resulting in a reduction of Taft's direct labor costs but not its LPO costs. Additionally, the contractor incurred an additional $15,105 in unanticipated leasehold expenses during a JSC approved move and improvement to new facilities.

The same modification extending performance in 1984 contained an option for further extension into 1985. This option was not exercised in a timely manner. However, JSC requested that Taft continue performing while negotiations for television support in 1985 continued, and Taft continued work without contractual coverage. The parties executed a modification on January 25, 1985, extending Taft's performance from January 1, 1985, through March 31, 1985. Subsequently, in late March, another modification was executed extending performance through April 30, 1985. Both these extensions maintained the LPO rate at 27 percent. On April 30, 1985, the parties entered into another modification which provided for support through the remainder of 1985. This final agreement did increase the LPO ceiling rate from 27 percent to 32 percent.

The contract for support beginning on January 1, 1986, was competed in the fall of 1985. Taft was not selected and is no longer providing these services to JSC.

Taft has divided its request for relief chronologically. In 1984 the company exceeded the contractual LPO ceiling by $41,719. Taft asserts that had NASA not deferred the three Spacelab missions scheduled that year, its LPO costs would not have exceeded the 27 percent ceiling.

The contracting officer concurs with Taft's treatment of this point. He notes that the overhead costs actually incurred in 1984 (exclusive of the increased lease costs discussed below) were within the amount the contractor had originally proposed. He further notes that these costs would have been fully allowable had the overhead ceiling been expressed contractually as a dollar amount rather than a percentage of direct costs. The increase in LPO costs, then, was solely due to the deferral of the Spacelab missions, which caused a significant reduction in the direct cost base to which the LPO percentages were applied. According to the contracting officer, the increase was not due to any lack of diligence on Taft's part in keeping its indirect costs within the amounts proposed.

Taft also seeks $15,105 for leasehold costs due to unexpected increases in the company's occupation of new facilities after its previous facilities were destroyed by hurricane in August 1983. At that time, Taft sought and received JSC authorization to lease replacement facilities as well as additional space for an anticipated expansion. Taft initially occupied some JSC space while the new quarters were being constructed. While construction was in progress, however, JSC needed the space it had furnished Taft, and Taft was told to move. The company relocated to the new facility on short notice. As it moved in, it discovered certain features necessary to provide support to JSC were not included in the new space. When Taft learned of these omissions and consequent addtional costs of providing these features, it brought the increased charges to the attention of the contracting officer. The contracting officer indicated Taft could bill these costs to the contract.

Taft asserts that because it could not have foreseen these extra construction costs, it did not include them in its LPO ceiling estimate for 1984. Again, Taft also states that when these items were brought to his attention, the contracting officer indicated that these costs could be charged to the contract. Taft urges that these charges were beyond its control and are properly payable in the interests of fairness.

The total LPO adjustment requested for 1984, then, is $56,824. Taft has added a General and Administrative (G&A) adjustment to that figure, making the recovery requested for 1984 $61,228.

As to the 1985 costs, Taft states that it continued to support JSC in early 1985 even though contractual coverage had lapsed. Further, this continued coverage was at increased levels of effort and staffing at JSC's request. During the negotiations in early 1985 extending Taft's performance, the contractor sought to have the LPO ceiling raised to 32.6 percent to reflect the increased LPO costs required for this effort. It was not, however, until the modification extending performance from May 1, 1985, through the end of the year was executed that the LPO ceiling was formally adjusted in the contract to 32 percent.

Taft's LPO costs for the first four months of 1985 were $64,565 above the 27 percent ceiling. With a G&A adjustment, the company is requesting $69,569 for this period. Taft emphasizes that this figure would have fallen within the 32 percent LPO ceiling which was eventually recognized in the contract. Again, the contracting officer recommends that the company recover these additional costs as well.

DECISION

Both Taft and the contracting officer urge that fair and equitable treatment under the circumstances of this case mandate full recovery. Further, Taft asserts that treating contractors fairly, particularly when they have relied upon representations by the government in undertaking performance, facilitates the national defense. Concern for equitable treatment is heightened because Taft is a small business.

The Board acknowledges that actions by JSC have led to Taft's exceeding the contractual overhead ceilings. The Board also believes that it was not contemplated by the parties that three Spacelab missions would be cancelled. Under these circumstances, the Board does not believe it would be fair that Taft bear the costs of exceeding the ceilings, particularly where these increases were not due to any lack of diligence on the company's part.

As to the amounts above the ceiling incurred in 1985, the Board finds that Taft's continued performance into that year in the absence of contractual coverage was encouraged and sought by JSC contracting officials. The Board is satisfied that Taft performed in good faith, that there was at least a tacit understanding that the sought-for increase in LPO ceiling would be recognized by JSC (as it eventually was), and that it would be inequitable to deny recovery here.

Finally, the Board notes that the increased leasehold costs were essentially concurred in by the contracting officer, and that it was in accordance with his instructions that these costs were billed to the contract in 1984.

In accordance with the foregoing discussion, the Board finds that Taft Broadcasting is entitled to an extraordinary contractual adjustment in the amount of $130,797.

George E. Reese,
Chairperson,
Contract Adjustment Board.

This decision has been concurred in by the following members of the Board.

William P. Raney.
Lee B. Holcomb.
Richard J. Wisniewski.
James A. Pesnell.

National Aeronautics and
Space Administration,
Washington, DC.

Memorandum Decision Under Public Law 85-804

Authority for National Aeronautics and Space Administration Contracting Officers to indemnify certain NASA contractors and subcontractors involved in NASA space activities.

1. On July 4, 1982, the Space Transportation System (hereinafter STS) completed its design, development, test and evaluation phase and was declared an operational system of the United States for the transportation of payloads into and out of outer space for governmental and commercial purposes. With the commencement of these space operations, the STS will conduct launch, in orbit and landing activities on a repetitive basis and at an increasing frequency.

2. The initiation of scheduled STS operations at an increasing frequency has dictated a reexamination of the risks in repetitive space activities of the STS and the present availability of adequate insurance at reasonable premiums to manufacturers and operators of the system. While NASA's STS space activities are designed to be safe, and have been proven to be safe, there exists the remote and low statistical probability that a malfunction of either hardware, software or operator error could occur resulting in an accident. This low probability of occurrence, albeit remote, cannot be totally removed. In the event that such a malfunction or operator error led to an accident, the potential liability arising from such an accident could be substantially in excess of the insurance coverage NASA contractors could reasonably be expected to acquire and maintain considering the availability, cost and potential terms and conditions of such insurance at the present time.

3. Pursuant to the authority of Public Law 85-804 and Executive Order 10789, as amended, and notwithstanding any other provisions of the contracts to which this determination may apply, I therefore authorize that certain NASA contractors, as further defined in paragraphs 4 and 5 below, be held harmless and indemnified against certain risks as specifically set forth herein. Accordingly, and subject to the limitations hereinafter stated, cognizant NASA Contracting Officers are authorized to include in prime contracts, described in paragraphs 4 and 5 below, contract provisions for the indemnification of the contractors and their subcontractors at any tier, against claims or losses, as defined in paragraph 1A of E.O. 10789, as amended, arising out of contract performance directly related to NASA's space activities.

4. This authorization is limited to prime contracts, which have an effective date before October 1, 1984, by or for NASA for:

a. provision of Space Transportation System and cargo flight elements or components thereof;

b. provision of Space Transportation System and cargo ground support equipment or components thereof;

c. provision of Space Transportation System and cargo ground control facilities and services for their operation; and

d. repair, modification, overhaul support and services and other support and services directly relating to the Space Transportation System, its cargo and other elements used in NASA's space activities.

5. This authorization is further limited solely to claims or losses resulting from or arising out of the use or performance of the products or services described in paragraph 4 in NASA's space activities. For this purpose, the use of performance of such products or services in NASA's space activities begins solely when such products or services are provided to the U.S. Government at a U.S. Government installation for or in connection with one or more Shuttle launches and are actually used or performed in NASA's space activities.

6. The risks for which indemnification is authorized are the risks arising under the contracts described in paragraphs 4 and 5 causing personal injury or death, or loss of or damage to property, or loss of use of property. These risks are considered unusually hazardous risks solely in the sense that if, in the unlikely event, the Space Transportation System, its cargo or other elements or services used in NASA's space activities malfunctioned causing an accident, the potential liabilities could be in excess of the insurance coverage that a NASA prime contractor would reasonably be expected to purchase and maintain, considering the availability, cost and terms and conditions of such insurance. In no other sense are the Space Transportation System, its cargo or other elements or services used in NASA's space activities unusually hazardous.

7. a. This authorization may be applied prospectively without additional consideration to existing prime contracts and in new prime contracts and subcontracts which otherwise meet the conditions of this memorandum.

b. Indemnification of prime contractors and subcontractors may be provided under this authorization only when the government will receive the benefit of all cost savings, if any, to the prime contractor and its subcontractors at every tier.

8. All contract indemnification clauses shall comply with applicable provisions of NASA PR Part 10. The applicable requirements of NASA PR, Part 17 shall be complied with.

9. This authorization is given upon conditions that each prime contractor is approved by me and that such contractor maintains financial protection of such type and in such amounts as may be determined by me in writing to be appropriate under the circumstances. Each prime contractor shall provide a statement of applicable financial protection through the cognizant NASA contracting officer for my review and determination. In making this determination, I shall take into account such factors as the availability, cost and terms of private insurance, self-insurance and other proof of financial responsibility and workman's compensation insurance.

10. When indemnification provisions are included in a prime contract pursuant to the authority of this decision, the cognizant Contracting Officer shall immediately submit directly to the Contract Adjustment Board a report referencing this decision and containing the following information: (i) name and address of the contractor, (ii) cognizant NASA installation (iii) contract number and date, and (iv) a brief description of the supplies or services under the contract.

11. The actual or potential cost, if any, of the actions hereby authorized is impossible to estimate since it is contingent upon the remote possibility of an occurrence and extent of loss resulting from certain space activities which malfunction. Such an occurrence may never occur; in the event of a major incident, millions of dollars of damage could occur.

12. I find that this action will facilitate the national defense. In the remote event that the Space Transportation System, its cargo or other elements or services used in NASA's space activities malfunctioned causing damage in excess of insurance maintained by contractors and subcontractors, the resulting excess liability could place the contractors and subcontractors continued existence in jeopardy, making those contractors and subcontractors unavailable to continue to support space activities and the Department of Defense. I note that for purposes of the Defense Production Act of 1950, the term national defense is defined as "programs for . . . space, and directly related activity." (50 U.S.C. App. 2152(d)).

JAMES M. BEGGS,
Administrator.

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
Washington, DC.

MEMORANDUM DECISION UNDER PUBLIC LAW 85-804

Authority for National Aeronautics and Space Administration Contracting Officers to indemnify certain NASA contractors and subcontractors involved in NASA space activities.

1. On July 4, 1982, the Space Transportation System (hereinafter STS) completed its design, development, test and evaluation phase and was declared an operational system of the United States for the transportation of payloads into and out of outer space for governmental and commercial purposes. With the commencement of these space operations, the STS has conducted and will continue to conduct launch, in orbit and landing activities on a repetitive basis and at an increasing frequency.

2. Scheduled STS operations at an increasing frequency has dictated a continuing examination of the risks in repetitive space activities of the STS and the present availability of adequate insurance at reasonable premiums to manufacturers and operators of the system. While NASA's STS space activities are designed to be safe, and have been proven to be safe, there exists the remote and low statistical probability that a malfunction of either hardware, software or operator error could occur resulting in an accident. This low probability of occurrence, albeit remote, cannot be totally removed. In the event that such a malfunction or operator error led to an accident, the potential liability arising from such an accident could be substantially in excess of the insurance coverage NASA contractors could reasonably be expected to acquire and maintain considering the availability, cost and potential terms and conditions of such insurance at the present time.

3. Pursuant to the authority of Public Law 85-804 and Executive Order 10789, as amended, and notwithstanding any other provisions of the contracts to which this determination may apply, I therefore authorize that certain NASA contractors, as further defined in paragraphs 4 and 5 below, be held harmless and indemnified against certain risks as specifically set forth herein. Accordingly, and subject to the limitations hereinafter stated, cognizant NASA contracting Officers are authorized to include in prime contracts, described in paragraphs 4 and 5 below, contract provisions for the indemnification of the contractors and their subcontractors at any tier, against claims or losses, as defined in paragraph 1A of E.O. 10789, as amended, arising out of contract performance directly related to NASA's space activities.

4. This authorization is limited to prime contracts which have an effective date before October 1, 1989, by or for NASA for:

a. provision of Space Transportation System and cargo flight elements or components thereof;

b. provision of Space Transportation System and cargo ground support equipment or components thereof;

c. provision of Space Transportation System and cargo ground control facilities and service for their operation; and

d. repair, modification, overhaul support and services and other support and services directly relating to the Space Transportation System, its cargo and other elements used in NASA's space activities.

5. This authorization is further limited solely to claims or losses resulting from or arising out of the use or performance of the products or services described in paragraph 4 in NASA's space activities. For this purpose, the use or performance of such products or services in NASA's space activities begins solely when such products or services are provided to the U.S. Government at a U.S. Government installation for or in connection with one or more Space Transportation System launches and are actually used or performed in NASA's space activities.

6. The risks for which indemnification is authorized are the risks arising under the contracts described in paragraphs 4 and 5 causing personal injury or death, or loss of or damage to property, or loss of use of property. These risks are considered unusually hazardous risks solely in the sense that if, in the unlikely event, the Space Transportation System, its cargo or other elements or services used in the NASA's space activities malfunctioned causing an accident, the potential liability could be in excess of the insurance coverage that a NASA prime contractor would reasonably be expected to purchase and maintain, considering the availability, cost and terms and conditions of such insurance. In no other sense are the Space Transportation System, its cargo or other elements or services used in NASA's space activities unusually hazardous.

7. a. This authorization may be applied prospectively, without additional consideration, to existing prime contracts and subcontracts and in new prime contracts and subcontracts which otherwise meet the conditions of this memorandum.

b. Indemnification of prime contractors and subcontractors may be provided under this authorization only when the Government will receive the benefit of all cost savings, if any, to the prime contractor and its subcontractors at every tier.

8. All contract indemnification clauses shall comply with applicable provisions of Federal Acquisition Regulation 50.4 as modified by the NASA FAR Supplement 18-50.4.

9. This authorization is given upon condition that each prime contractor is approved by me and that such contractor maintains financial protection of such type and in such amounts as may be determined by me in writing to be appropriate under the circumstances. Each prime contractor shall provide a statement of applicable financial protection through the cognizant NASA contracting officer for my review and determination. In making this determination, I shall take into account such factors as the availability, cost and terms of private insurance, self-insurance and other proof of financial responsibility and workman's compensation insurance.

10. When indemnification provisions are included in a prime contract pursuant to the authority of this decision, the cognizant Contracting Officer shall immediately submit directly to the Contract Adjustment Board a report referencing this decision and containing the information required by NASA/FAR Supplement 18-50.403-70—Reporting and records requirements.

11. The actual or potential cost, if any, of the actions hereby authorized is impossible to estimate since it is contingent upon the remote possibility of an occurrence and extent of loss resulting from certain space activities which malfunction. Such an event may never occur; however, should a major incident occur, millions of dollars of damage could result.

12. I find that this action will facilitate the national defense. In the remote event that the Space Transportation System, its cargo or other elements or services used in NASA's space activities malfunctioned causing damage in excess of insurance maintained by contractors and subcontractors, the resulting excess liability could place the contractors and subcontractors continued existence in jeopardy, making those contractors and subcontractors unavailable to continue to support space activities and the Department of Defense. I note that for purposes of the Defense Production Act of 1950, the term national defense is defined as "programs for . . . space, and directly related activity." (50 U.S.C. App. 2152(d)).

JAMES M. BEGGS,
Administrator.

APPROVAL UNDER PUBLIC LAW 85-804

Subject: International Business Machines Corporation—Indemnification Against Certain Risks Arising Out of NASA's Space Activities.

1. Pursuant to Public law 85-804 and Executive Order 10789, as amended, and subject to the provisions of the Administrator's "Memorandum Decision Under Public Law 85-804" dated September 26, 1984, I hereby authorize, by insertion of an appropriate indemnification provision in Contracts NAS9-14350, Schedule VII, and NAS9-17553, International Business Machines Corporation (hereinafter IBM) to be held harmless and indemnified against certain unusually hazardous risks as defined in that Memorandum Decision.

2. I have reviewed the financial protection program to be maintained by IBM. This program was forwarded by Robert J. Moore, Vice President and General Counsel, Federal Systems Division, IBM, on March 23, 1983. Letters from S. E. James, dated June 18, 1985, September 12, 1986, and August 1, 1986, and from Lawrence P. Stich, Assistant Counsel, dated May 4, 1987, certify that the current financial protection program maintained by IBM is identical to the program forwarded on March 23, 1983. Based on my review of the insurance policies, IBM's financial protection program appears to be adequate. IBM's Aircraft Products and Grounding Liability Insurance Policy coverage is $800,000,000 with certain exclusions stated and IBM has other relevant coverage. This approval is granted on condition that IBM maintain its current financial protection program.

3. The authorized agreement to indemnify may be included in the following NASA prime contracts with IBM and, as determined by the cognizant contracting officer, in appropriate subcontracts. These prime contracts meet the criteria identified in the Administrator's Memorandum Decision of September 26, 1984.

CONTRACT NUMBERS

NAS9-14350, Schedule VII.
NAS9-17553.

JAMES C. FLETCHER,
Administrator,
National Aeronautics
and Space Administration.

MEMORANDUM DECISION AND APPROVAL UNDER PUBLIC LAW 85-804

This is the authority and approval for a National Aeronautics and Space Administration contracting officer to indemnify General Dynamics Corporation, Space Systems Division (hereinafter referred to as GDC-SSD) with respect to certain Atlas/Centaur launches associated with NASA's space activities.

1. The Atlas/Centaur is an operational high-energy, expendable launch vehicle system designed to place various payloads into low earth orbits, synchronous transfer orbits, or interplanetary transfer orbits above the earth. The system has been fully operational since the mid-1960's. Atlas/Centaur was designed to be a safe flight vehicle. However, there exists the remote and low statistical probability that a malfunction of either hardware or software or operator error could occur resulting in an accident. This low probability of occurrence, albeit remote, cannot be totally eliminated. In the event that such a malfunction or operator error led to an accident, the potential liability arising from such an accident could be substantially in excess of the insurance coverage GDC-SSD as a NASA prime contractor could reasonably be expected to acquire and maintain considering the presently available cost and terms and conditions of such insurance.

2. The actual or potential cost, if any, resulting from any loss related to the launch of an Atlas/Centaur is impossible to estimate since it is contingent upon the remote possibility of an occurrence and extent of loss resulting from the malfunctioning of the Atlas/Centaur or operator error related to the Atlas/Centaur launch activities. Such an event may never occur; however, should a major incident occur, millions of dollars of damage to persons or property could result.

3. Based on this assessment and pursuant to the authority of Public Law 85-804 and Executive Order 10789, as amended, and notwithstanding any other provision of contract NAS3-23435 with GDC-SSD, I hereby authorize that GDC-SSD, be held harmless and indemnified against unusually hazardous risks as defined in paragraph 4 below, to the extent those risks result in claims or losses above the insurance limits specified in paragraph 6 below. This authority permits the cognizant NASA contracting officer to include in contract NAS3-23435 provisions for the indemnification of GDC-SSD against claims or losses, as defined in paragraph 1A of Executive Order 10789, as amended, arising out of contract performance directly related to NAS3-23435. This authority to hold harmless and indemnify shall apply only to an accident which occurs after the cognizant contracting officer includes in contract NAS3-23435 the applicable provisions described in paragraph 7, below.

4. This authorization to indemnify is limited to claims or losses resulting from unusually hazardous risks. Unusually hazardous risks are risks, beginning on the intentional ignition of the Atlas/Centaur launch vehicle on the launch pad, which result from or in connection with (i) the burning, explosion or detonation of the Atlas/Centaur launch vehicle and (ii) the impact on Earth of the Atlas/Centaur launch vehicle or its components or fragments.

5. The unusually hazardous risks for which indemnification is authorized are the risks arising under contract NAS3-23435 which cause personal injury or death, or loss of or damage to property, or loss of use of property. These risks, as defined in paragraph 4, above, are considered unusually hazardous risks solely in the sense that if in the unlikely event the Atlas/Centaur malfunctioned or an operator error occurred during the period defined in paragraph 4, above, causing an accident, the potential liability could be in excess of the insurance coverage that GDC-SSD would reasonably be expected to purchase and maintain. In no other sense is the Atlas/Centaur or related services provided under contract NAS3-23435 unusually hazardous.

6. I have reviewed the financial protection program to be maintained by GDC-SSD. A current summary and outline of the program was forwarded by Mr. J. H. Edwards, Manager of Contracts, by letter dated October 14, 1986, (Re: 711-11-86-669) with enclosures and as amended by Mr. R. M. Grunewald, Director of Contracts, by letter dated October 20, 1986, (Re: 711-11-86-718) with enclosures and as amended by Mr. J. H. Edwards, Manager of Contracts, by letter dated October 22, 1986, (Re: 711-11-86-722) with no enclosures and as amended by Mr. R. M. Grunewald, Director of Contracts, by letter dated December 23, 1986, (Re: 711-10-86-697). Based on my review of the insurance policies GDC-SSD's financial protection program appears to be adequate. This decision and approval is granted on condition that GDC-SSD maintains this financial protection program for Atlas/Centaur launch services provided pursuant to the performance of contract NAS3-23435 with one exception. Based on the information provided by GDC-SSD, I hereby authorize the indemnification of GDC-SSD from the first dollar of liability that may incur arising out of NASA's space activities under contract NAS 3-23435.

7. Pursuant to this authority, the contracting officer may include in contract NAS3-23435 applicable provisions of the Federal Acquisition Regulation Part 50.4 and NASA FAR Supplement Part 18-50.4 and the definition of unusually hazardous risks from paragraph 4, above.

8. Upon inclusion of the applicable provisions in contract NAS 3-23435, the contracting officer shall immediately submit directly to the Contract Adjustment Board a report referencing this decision and approval and containing the information required by NASA FAR Supplement part 18-50.403-70—Reporting and records requirements.

9. I find that this action will facilitate the national defense. In the remote event that the Atlas/Centaur malfunctioned or should an operator error occur causing damage in excess of insurance maintained by GDC-SSD, the resulting excess liability could place GDC-SSD's continued existence in jeopardy making GDC-SSD unavailable to continue to support NASA's space activities and the programs of the Department of Defense. I note that for purposes of the Defense Production Act of 1950, the term national defense is defined as ". . . programs for . . . space, and directly related activity." (50 U.S.C. App. 2152(d)).

JAMES C. FLETCHER,
Administrator,
National Aeronautics
and Space Administration.

CONTRACTORS INDEMNIFIED DURING CALENDAR YEAR 1987

Name of Contractor: General Dynamics Corporation, Space Systems Division.

Memorandum Decision Date: February 6, 1987.

Contract Financial Protection Plan Requirements:

Contractor Property: $500M.

Third Party Liability: Zero.

Affected NASA Contracts: NAS3-23435

Name of Contractor: International Business Machines.

Memorandum Decision Date: June 2, 1987.

Contract Financial Protection Plan Requirements:

Contractor Property: $500M.

Third Party Liability: $800M.

Affected NASA Contracts: NAS9-14350 and NAS9-17553.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3241. A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 2 years, pursuant to 31 U.S.C. 1110; to the Committee on Agriculture.

3242. A letter from the Comptroller General, the General Accounting Office, transmitting a review of the President's third special impoundment message for fiscal year 1988, pursuant to 2 U.S.C. 685 (H. Doc. No. 100-177); to the Committee on Appropriations and ordered to be printed.

3243. A letter from the Deputy Assistant for Procurement, Office of the Assistant Secretary of Defense, transmitting the annual report of independent research and development and bid and proposal costs, pursuant to 10 U.S.C. 2358 note; to the Committee on Armed Services.

3244. A letter from the Secretary of the Air Force, transmitting notification of the determination that the DSCS III A&B program has exceeded the program acquisition unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

3245. A letter from the General Counsel, Federal Emergency Management Agency, transmitting a draft of proposes legislation to authorize appropriations for fiscal years 1989 and 1990 for civil defense programs, pursuant to 31 U.S.C. 1110; to the Committee on Armed Services.

3246. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal 1989, to amend the National Defense Authorization Act for fiscal years 1988 and 1989 and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Armed Services.

3247. A letter from the Assistant Secretary, Bureau of Indian Affairs, transmitting the Bureau's plan for bringing Indian educational facilities into compliance with health and safety standards, pursuant to 25 U.S.C. 2005(b); to the Committee on Education and Labor.

3248. A letter from the Administrator, Office of Juvenile Justice and Delinquency Prevention, transmitting a copy of the Department's 11th analysis and evaluation of Federal juvenile delinquency programs during fiscal year 1987, pursuant to 42 U.S.C. 5614; to the Committee on Education and Labor.

3249. A letter from the Federal Council on the Arts and the Humanities, transmitting the Council's 12th annual report on the Arts and Artifacts Indemnity Program for fiscal year 1987, pursuant to 20 U.S.C. 977; to the Committee on Education and Labor.

3250. A letter from the Chairman, National Labor Relations Board, transmitting the 49th annual report of the Board, pursuant to 29 U.S.C. 154(c); to the Committee on Education and Labor.

3251. A letter from the Secretary of Energy, transmitting the 1987 annual report of actions taken under the Powerplant and Industrial Fuel Use Act of 1978, pursuant to 42 U.S.C. 8482; to the Committee on Energy and Commerce.

3252. A letter from the Secretary of Health and Human Services, transmitting a report on the implementation of the Health Care Quality Improvement Act of 1986, title IV, pursuant to 21 U.S.C. 824; 42 U.S.C. 1152; to the Committee on Energy and Commerce.

3253. A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to extend the Solid Waste Disposal Act, pursuant to 31 U.S.C. 1110; to the Committee on Energy and Commerce.

3254. A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Clean Air Act, as amended, for 2 years, pursuant to 31 U.S.C. 1110; to the Committee on Energy and Commerce.

3255. A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to extend the Toxic Substances Control Act, as amended, for 2 years, pursuant to 31 U.S.C. 1110; to the Committee on Energy and Commerce.

3256. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of Offer to The Netherlands for defense articles and services estimated to cost $41 million (Transmittal No. 88-11), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3257. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the sale of Stinger missiles to the Government of Japan, pursuant to Public Law 100-202, section 101(e); to the Committee on Foreign Affairs.

3258. A communication from the President of the United States, transmitting notice of his intention to sell Stinger missiles to the Government of Japan, pursuant to Public Law 100-202, section 101(e); to the Committee on Foreign Affairs.

3259. A letter from the Administrator of Veterans' Affairs, transmitting notice of the administration's computer matching program conducted by the Department of Veterans' Benefits, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3260. A letter from the Director, Office of Information, Department of Agriculture, transmitting the Department's annual report of its activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3261. A letter from the Chairman, Federal Trade Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1987, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

3262. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report by the NASA Contract Adjustment Board on the indemnification of certain contractors and subcontractors during calendar year 1987, pursuant to 50 U.S.C. 1434; to the Committee on Government Operations.

3263. A letter from the Cochairman, National Economic Commission, transmitting a copy of the Charter for the National Economic Commission, pursuant to Public Law 100-203, section 2101; to the Committee on Government Operations.

3264. A letter from the Personnel Benefits Section, Naval Military Personnel Command, transmitting the 1986 annual report for the Navy nonappropriated fund retirement plan of employees of civilian morale, welfare and recreation, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3265. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting a copy of the annual report of the Corporation's compliance with the Government in the Sunshine Act for calendar year 1985, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3266. A letter from the Records Officer, U.S. Postal Service, transmitting notice of computer matching guidelines between the Postal Service and the Office of Personnel Management, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3267. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting a copy of the report to the President and the Congress 1987, pursuant to 16 U.S.C. 470(b); to the Committee on Interior and Insular Affairs.

3268. A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to authorize appropriations for environmental research, development, and demonstration for fiscal years 1989 and 1990, pursuant to 31 U.S.C. 1110; to the Committee on Science, Space, and Technology.

3269. A letter from the Executive Secretary, Office of the Secretary of Defense, transmitting the report on Department of Defense procurement from small and other business firms for October 1987 through January 1988, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

3270. A letter from the Secretary of Health and Human Services, transmitting a report on the direct reimbursement of clinical social workers demonstration project, pursuant to 42 U.S.C. 1395ll note; jointly, to the Committees on Energy and Commerce and Ways and Means.

3271. A letter from the Secretary of State, transmitting a report on the Department's activities related to minority recrutiment and equal employment efforts for the period October 1, 1986-September 30, 1987, pursuant to 22 U.S.C. 3905(d)(2); jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

3272. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend title I of the Marine Protection, Research, and Sanctuaries Act, as amended, for 2 years, pursuant to 31 U.S.C. 1110; jointly, to the Committees on

Merchant Marine and Fisheries and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on Eastern Airlines and Orion Air: FAA oversight (Rept. 100-535). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on FAA regulation of security at major U.S. airports (Rept. 100-536). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on poor management is impeding the food-for-peace program (Rept. 100-537). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALL of Ohio: Committee on Rules. House Resolution 415. Resolution providing for the consideration of H.R. 3932, a bill to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President (Rept. 100-538). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. House Resolution 416. Resolution providing for the consideration of H.R. 3933, a bill to amend and extend the authorization for the National Historical Publications and Records Commission, and for other purposes (Rept. 100-539). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 417. Resolution providing for the consideration of a joint resolution relating to Central America (Rept. 100-540). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JOHNSON of South Dakota:

H.R. 4267. A bill to authorize additional appropriations for the WEB Rural Water Development Project; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. MRAZEK (for himself, Mr. Miller of Washington, Mr. Feighan, Mr. Markey, Mr. Frank, Mr. St Germain, Ms. Oakar, Mr. Ackerman, Mr. Yates, Mr. Solarz, Mr. Roe, Mr. Berman, Mr. Fascell, Mr. Mfume, Mr. Beilenson, Mr. Weiss, Mr. Morrison of Connecticut, Mr. Mineta, Mr. Manton, Mr. Studds, Mr. Fuster, Mrs. Boxer, Mr. Owens of New York, Miss Schneider, Mr. Hochbrueckner, Mr. Dellums, Mr. Smith of Florida, Mr. Green, Mr. Frost, Mr. Borski, Mr. Visclosky, Mr. de Lugo, Mr. Fazio, Mr. Porter, Mr. Waxman, Mr. Foglietta, Mr. Cardin, Mr. Scheuer, Mr. Akaka, Mr. Gejdenson, Mrs. Collins, Mr. Lewis of Georgia, Mr. Hawkins, Mr. Garcia, Mr. Levin of Michigan, Mr. Hayes of Illinois, Ms. Kaptur, Mr. Vento, Ms. Pelosi, Mr. Schumer, Mr. Levine of California, Mr. Downey of New York, Mr. Kennedy, and Mr. Fawell):

H.R. 4268. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, assembly, importation, sale, possession, transfer, receipt, shipment, or delivery of firearms not detectable by metal detection and x-ray systems commonly used at airports in the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. ANDREWS (for himself, Mr. Pickle, and Mr. Archer):

H.R. 4269. A bill to suspend temporarily the duty on furniture of unspun fibrous vegetable materials; to the Committee on Ways and Means.

By Mr. ATKINS (for himself, Ms. Snowe, Mr. Levin of Michigan, Mr. Kostmayer, Mr. Solarz, Mr. Beilenson, Mr. Fazio, Mr. Roybal, Mr. Mrazek, Mr. Weiss, Mrs. Boxer, Mr. Leach of Iowa, Mrs. Schroeder, Mr. Porter, Mr. Berman, Mr. Lehman of Florida, Mr. Moody, Mr. Owens of New York, Mr. Green, Mr. Crockett, Mr. Ackerman, Mrs. Johnson of Connecticut, Mr. Gejdenson, Mr. Scheuer, Mr. Udall, Mr. Skaggs, Mrs. Saiki, Mr. Studds, Mr. Florio, Mr. Dymally, Mr. Miller of California, Mr. Morrison of Connecticut, Mr. Wolpe, Mr. Waxman, Mr. AuCoin, Mr. Hoyer, Miss Schneider, Mr. Frenzel, Mrs. Martin of Illinois, Mr. Smith of Florida, Mr. Morrison of Washington, Mr. Matsui, Mr. Durbin, Mr. Stark, Mr. Rangel, Mr. Evans, Mr. Frank, Mrs. Morella, Mr. Wilson, Mr. Levine of California, and Mr. Akaka):

H.R. 4270. A bill to provide that restrictions may be applied to family planning programs that receive United States assistance only to the extent that the same restrictions apply to domestic family planning programs funded under title X of the Public Health Service Act; to the Committee on Foreign Affairs.

By Mr. DELLUMS (for himself and Mr. Martin of New York) (both by request):

H.R. 4271. A bill to authorize certain construction at military installations for fiscal year 1989, and for other purposes; to the Committee on Armed Services.

By Mr. EDWARDS of California (for himself, Mrs. Boxer, Mr. Bosco, Mr. Dellums, Mr. Konnyu, Mr. Lantos, Mr. Miller of California, Mr. Mineta, Ms. Pelosi, and Mr. Stark):

H.R. 4272. A bill to enlarge the San Francisco Bay National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. FORD of Tennessee:

H.R. 4273. A bill to amend titles XVI and II of the Social Security Act to promote the rehabilitation of blind beneficiaries under the SSI and OASDI programs, and to assure that they receive the most appropriate employment and training services which are available, by permitting them to select the agencies to which they will be referred for such services; to the Committee on Ways and Means.

By Mr. GRANT:

H.R. 4274. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the earned income credit; to the Committee on Ways and Means.

By Mr. HATCHER (for himself, Mr. Jenkins, Mr. Whitten, Mr. Combest, Mr. de la Garza, Mr. Ray, Mr. Jontz, Mr. Holloway, Mr. Neal, Mrs. Smith of Nebraska, Mr. Inhofe, Mr. Ortiz, Mr. Jones of North Carolina, Mr. English, Mr. Stallings, Mr. Johnson of South Dakota, Mr. Marlenee, Mr. Morrison of Washington, Mr. Gunderson, Mr. Daub, Mr. Roberts, Mr. Lewis of Florida, Mr. Barnard, Mr. Evans, Mr. Grandy, Mr. Rose, Mr. Tallon, Mr. Penny, Mr. Herger, Mr. Lewis of Georgia, Mr. Rowland of Georgia, Mr. Jones of Tennessee, Mr. Robert F. Smith, Mr. Harris, Mr. Lancaster, Mr. Hefner, Mr. Dreier of California, Mr. Coble, Mr. Hopkins, Mr. Emerson, Mr. Chappell, Mr. Coelho, Mr. Latta, Mr. Price of North Carolina, Mr. Campbell, Mr. Brown of Colorado, Mr. Glickman, Mr. Bereuter, Mr. Olin, Mr. Jeffords, Mr. Nagle, Mr. Bilbray, Mr. Staggers, and Mr. Lott):

H.R. 4275. A bill to amend the Revenue Act of 1987 to delay until October 1, 1988, the imposition of the tax on diesel and aviation fuels at the wholesale level; to the Committee on Ways and Means.

By Mr. HAYES of Louisiana:

H.R. 4276. A bill to designate the U.S. Post Office Building located at 1105 Moss Street in Lafayette, Louisiana, as the "James Domengeaux Post Office Building"; to the Committee on Post Office and Civil Service.

By Mr. LEVINE of California (for himself, Mr. Miller of Washington, Mr. Hall of Ohio, Mr. Gilman, Mr. Jeffords, Mrs. Morella, Mr. Chandler, Mr. Owens of Utah, Mr. Owens of New York, Mr. Dymally, Mr. Berman, and Mr. Feighan):

H.R. 4277. A bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000; to the Committee on Foreign Affairs.

By Mr. MANTON:

H.R. 4278. A bill to amend the Controlled Substances Act to provide for the imposition of the death penalty for the intentional killing of a law enforcement officer and for certain continuing criminal enterprise drug offenses; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. MARTINEZ (for himself, Mr. Dellums, Mr. Foglietta, Mr. Hertel, Mr. Leath of Texas, Mr. McCurdy, Mr. Ortiz, Mr. Ravenel, Mr. Robinson, Mr. Ackerman, Mr. Atkins, Mrs. Bentley, Mrs. Boxer, Mr. Brown of California, Mr. Bustamante, Mr. Campbell, Mr. Crockett, Mr. de Lugo, Mr. Fauntroy, Mr. Fazio, Mr. Garcia, Mr. Jontz, Ms. Kaptur, Mr. Lewis of Georgia, Mr. Owens of New York, Mr. Roe, Mr. Smith of Florida, Mr. Wilson, and Ms. Pelosi):

H.R. 4279. A bill to provide adequate, uniform regulations regarding certain transportation on military installations outside the United States; to the Committee on Armed Services.

By Mr. MORRISON of Washington (for himself, Mr. Stallings, Mr. Leland, Mr. Dicks, Mr. Chandler, Mr. Miller of Washington, Mr. Marlenee, Mr. Madigan, Mr. Gilman, Mr. Upton, Mr. Emerson, Mr. Kolter, Mr. Espy, Mrs. Roukema, Mr. Craig, Mr. Lowry of Washington, Mr. Fazio, Mr. Hall of Ohio, Mr. Bereuter, Mr. Wortley, Mr. Swift, Mr. Mfume, and Mr. AuCoin):

H.R. 4280. A bill to amend the Internal Revenue Code of 1986 to allow a credit against tax for contributions of certain agricultural products to certain tax-exempt organizations; to the Committee on Ways and Means.

By Mr. OLIN (for himself, Mr. Bateman, Mr. Bliley, Mr. Boucher, Mr. Parris, Mr. Pickett, Mr. Sisisky, Mr. Slaughter of Virginia, and Mr. Wolf):

H.R. 4281. A bill to remove a restriction from a parcel of land in Roanoke, VA, in order for that land to be conveyed to the State of Virginia for use as a veterans nursing home; to the Committee on Interior and Insular Affairs.

By Mrs. SCHROEDER:

H.R. 4282. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) to reestablish the doctrine of service-connection in subject-matter jurisdiction of courts-martial as that doctrine existed before a 1987 Supreme Court decision; to the Committee on Armed Services.

By Mr. SKEEN (for himself and Mr. Lujan):

H.R. 4283. A bill to preserve the independence of the scientific evaluation group for the Waste Isolation Pilot Plant in New Mexico; to the Committee on Science, Space, and Technology.

By Mr. SOLOMON:

H.R. 4284. A bill to amend the Military Selective Service Act to provide additional selective service registration procedures; to the Committee on Armed Services.

H.R. 4285. A bill to require monthly reports by the President on the extent to which the Government of Nicaragua has undertaken the reforms necessary to bring about lasting peace, pluralism, and democracy in Nicaragua; to the Committee on Foreign Affairs.

By Mr. STARK:

H.R. 4286. A bill to prohibit the Secretary of Transportation from making airport development grants to the Port of Oakland until the Port of Oakland enters into an agreement with the Secretary relating to air traffic at Oakland International Airport; to the Committee on Public Works and Transportation.

H.R. 4287. A bill to amend the Internal Revenue Code of 1986 to impose on a telephone company an excise tax equal to 300 percent of the amount it charges customers who request that the company block access from their telephones to certain exchanges; to the Committee on Ways and Means.

By Mr. SUNDQUIST:

H.R. 4288. A bill to designate the Federal Office Building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, TN, as the "John J. Duncan Federal Office Building"; to the Committee on Public Works and Transportation.

H.R. 4289. A bill to amend title 18, United States Code, to provide penalties for knowingly engaging in conduct that is likely to transmit the disease commonly called AIDS, and for other purposes; jointly to the Committee on Judiciary and Energy and Commerce.

By Mr. FLORIO (for himself, Mr. McMillen of Maryland, and Mrs. Morella):

H.J. Res. 520. Joint resolution to designate September 15, 1988, as "National RSDS Awareness Day"; to the Committee on Post Office and Civil Service.

By Mr. McGRATH:

H.J. Res. 521. Joint resolution designating April 1988 as "National Child Abuse Prevention Month"; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana:

H.J. Res. 522. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 20, 1988, as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. MOAKLEY:

H. Res. 418. Resolution to make technical amendments in the Rules of the House of Representatives, and for other purposes; to the Committee on Rules.

H. Res. 419. Resolution amending the Rules of the House of Representatives with respect to preservation of, and access to, noncurrent records of the House; to the Committee on Rules.

H. Res. 420. Resolution to amend the Rules of the House of Representatives to provide for the numbering of amendments, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

292. By the SPEAKER: Memorial of the General Assembly of the State of Indiana, relative to the Vietnam Women's Memorial Project; to the Committee on House Administration.

293. Also, memorial of the Second Olbiil Era Kelulau, Republic of Palau, relative to their gratitude to the Honorable Morris K. Udall for his concern and asistance; to the Committee on Interior and Insular Affairs.

294. Also, memorial of the Second Olbiil Era Kelulau, Republic of Palau, relative to expressing appreciation to the U.S. Congress for appropriating the first half of the War Claims awards to Micronesian claimants; to the Committee on Interior and Insular Affairs.

295. Also, memorial of the General Assembly of the State of Indiana, relative to former U.S. Congressman Ray John Madden; to the Committee on Post Office and Civil Service.

296. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to exposure to Agent Orange among Vietnam veterans; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 279: Mr. Bartlett.

H.R. 588: Mr. Stallings, Mr. Denny Smith, Mr. Borski, Mr. Houghton, Mr. McMillen of Maryland, Mr. Konnyu, Mr. Lipinski, Mr. Mfume, Mr. Davis of Illinois, Mr. Madigan, Mr. Boulter, Mr. Frenzel, Ms. Pelosi, Mr. Levin of Michigan, Mr. Bonior of Michigan, Mr. Moorhead, Mr. Dwyer of New Jersey, Mr. Fish, and Mr. Hughes.

H.R. 772: Mrs. Boxer, Mr. Evans, Mr. Foglietta, Mr. Kleczka, Mr. Kolter, and Mr. Hayes of Illinois.

H.R. 1231: Ms. Snowe.

H.R. 1433: Mr. Gregg.

H.R. 1516: Mr. Shays and Mr. Lipinski.

H.R. 1815: Mr. Pepper.

H.R. 1885: Mr. McCloskey.

H.R. 2017: Miss Schneider.

H.R. 2753: Mr. Espy.

H.R. 2854: Mr. Weiss, Mrs. Boxer, Mr. Owens of New York, Mr. Bates, Mr. Hochbrueckner, Mrs. Schroeder, Mr. Levine of California, Mr. Oberstar, Mr. Johnson of South Dakota, and Mr. Lewis of Georgia.

H.R. 2879: Mr. Skaggs.

H.R. 2999: Mr. Morrison of Connecticut and Mr. Jeffords.

H.R. 3026: Mr. Visclosky.

H.R. 3129: Mr. Grant.

H.R. 3250: Mr. Wolf.

H.R. 3312: Mr. Shuette.

H.R. 3314: Mr. Yates, Mr. Hubbard, Mr. Nelson of Florida, Mr. Schumer, Mrs. Saiki, and Mr. Wortley.

H.R. 3340: Mr. Gray of Illinois and Mr. Fazio.

H.R. 3470: Mr. Vander Jagt, Mr. Hastert, Mr. Dornan of California, Mr. Gray of Illinois, Mr. Edwards of Oklahoma, Mr. Williams, and Mr. Coelho.

H.R. 3485: Mr. Jontz.

H.R. 3503: Mr. Solarz and Mrs. Boxer.

H.R. 3553: Mr. Bustamante.

H.R. 3573: Mr. Rangel.

H.R. 3593: Mr. Fuster, Mr. Mrazek, Mr. Clarke, Ms. Oakar, Mr. Lantos, Mr. Lewis of Georgia, Mr. Jontz, and Mr. Kildee.

H.R. 3619: Mr. Fish and Mr. Kostmayer.

H.R. 3696: Mr. Ridge, Mr. Gray of Illinois, Mr. Lantos, Mr. Lewis of Georgia, Mr. Roe, Mrs. Boxer, Mr. Fauntroy, Mr. DeFazio, Mr. Garcia, Mr. Gunderson, and Mr. Evans

H.R. 3721: Mr. Fields.

H.R. 3742: Mr. Lewis of Georgia.

H.R. 3783: Mr. Foglietta.

H.R. 3809: Mr. Dwyer of New Jersey.

H.R. 3858: Mr. Atkins, Mr. Mineta, and Mr. Fazio.

H.R. 3865: Mr. Schaefer, Mr. Johnson of South Dakota, Mr. Hughes, Mr. Gilman, Mr. Craig, Mr. Espy, Mrs. Meyers of Kansas, and Mr. Wyden.

H.R. 3879: Ms. Oakar, and Mr. Lewis of Georgia.

H.R. 3883: Mrs. Johnson of Connecticut, Mr. Stallings, Mr. Kostmayer, Mr. Bennett, and Mr. Martinez.

H.R. 3893: Mr. Wortley and Mr. Inhofe.

H.R. 3907: Mr. Bartlett, Mr. Hall of Texas, Mr. Hunter, Mr. Grant, Mr. Baker, Mr. Thomas of California, Mr. Kolter, and Mr. Rose.

H.R. 3940: Mr. Fazio.

H.R. 3969: Mr. Fish, Mr. Fazio, and Mr. Hughes.

H.R. 4002: Mr. Carper.

H.R. 4011: Mr. Murphy, Mr. Robert F. Smith, Mr. Rose, and Mr. Biaggi.

H.R. 4066: Mr. Chapman, Mr. Walgren, Mr. Weiss, Mr. Fish, and Mr. Martinez.

H.R. 4090: Mr. Leath of Texas, Mr. Grandy, Mr. Upton, Mr. Davis of Illinois, Mr. Barton of Texas, Mr. Rangel, Mr. Thomas of Georgia, Mrs. Bentley, Mr. Tauke, and Mr. de Lugo.

H.R. 4107: Mr. Ackerman, Mr. Berman, Mr. Biaggi, Mr. Clay, Mr. Conte, Mr. DeFazio, Mr. Dixon, Mr. Evans, Mr. Fauntroy, Mr. Fazio, Mr. Frank, Mr. Frost, Mr. Garcia, Ms. Kaptur, Mr. Kolter, Mr. Lewis of Georgia, Mr. Mfume, Mrs. Morella, Ms. Oakar, Mr. Oberstar, Mr. Owens of New York, Mr. Rahall, Mr. Roe, Mr. Sabo, Mr. Smith of Florida, Ms. Snowe, Mr. Studds, Mr. Blaz, Mr. Bustamante, Mr. Fuster, and Mr. Fawell.

H.R. 4125: Mr. LaFalce.

H.R. 4141: Mr. Lujan.

H.R. 4155: Mr. Hansen.

H.R. 4186: Mr. Burton of Indiana.

H.R. 4212: Mr. Owens of New York, Mr. Fauntroy, Mr. Horton, Mr. Garcia, Mr. Weiss, Mr. Flake, Mr. Biaggi, Mr. Fuster, Mr. Lipinski, Mr. Fazio, and Mr. Roe.

H.R. 4218: Mr. Kolbe, Mr. Lujan, Mr. Bates, Mr. Roe, and Mr. Fauntroy.

H.R. 4231: Mrs. Boxer and Mrs. Saiki.

H.J. Res. 138: Mr. Matsui, Mr. Murtha, Mr. Manton, Mr. DioGuardi, Mr. Mack, Mr. Owens of New York, Mr. Campbell, Mr. McCloskey, Mr. Rowland of Georgia, Mr. MacKay, and Mr. Skelton.

H.J. Res. 374: Mr. Shays.

H.J. Res. 403: Mr. Leland.

H.J. Res. 429: Mr. Mack and Mr. Boehlert.

H.J. Res. 440: Mr. Biaggi, Mr. Campbell, Mr. Frost, Mr. Synar, Mr. Borski, Mr. Fish, Mr. Akaka, Mr. Conte, Mr. Dwyer of New Jersey, Mr. Chapman, and Mr. Daub.

H.J. Res. 443: Mr. Bateman, Mr. Bennett, Mr. Coelho, Mr. Daub, Mr. de Lugo, Mr. Dowdy of Mississippi, Mr. Espy, Mr. Foley, Mr. Gordon, Mr. Lancaster, Mr. Leland, Mr. Levin of Michigan, Mrs. Lloyd, Mr. Lowry of Washington, Mr. McDade, Mr. Miller of Washington, Mr. Moakley, Mr. Mrazek, Mr. Pashayan, Mr. Pickle, Mr. Rangel, Mr. Sabo, Mr. Schuette, Mr. Sikorski, Mr. Solarz, Mr. Stokes, Mr. Tallon, Mr. Traxler, and Mr. Yatron.

H.J. Res. 445: Mr. Smith of Florida, Mr. Scheuer, Mr. Darden, Mr. Clarke, Mr. Hayes of Illinois, Mr. Atkins, Mr. Bonior of Michigan, Ms. Kaptur, Mr. Bustamante, and Mr. Frost.

H.J. Res. 452: Mr. Bateman, Mr. Porter, Mr. Weber, and Mr. Emerson.

H.J. Res. 464: Mr. Biaggi, Mr. Rowland of Connecticut, Mr. Robinson, Mr. Fish, Mr. Yates, Mr. Nowak, Mr. Molinari, Mr. Donnelly, Mr. Roberts, Mr. Schumer, Mr. Bosco, Mr. Jones of North Carolina, Mr. Wolf, Mr. Fuster, Mr. Leach of Iowa, Mr. Dowdy of Mississippi, and Mr. Yatron.

H.J. Res. 467: Mr. Frost, Mr. Lagomarsino, Mr. Fazio, Mr. de la Garza, Mr. Ackerman, Mr. Wortley, Mr. Daub, Mr. Horton, Mr. Dyson, Mr. McGrath, Mr. Traxler, Mr. Gray of Pennsylvania, Mr. Dornan of California, Mrs. Collins, and Mr. Coelho.

H.J. Res. 469: Mr. Frenzel, Mr. Coelho, Mr. Gejdenson, Mr. Conyers, Mr. Brown of California, Mr. Regula, Mr. Buechner, Mr. Miller of Washington, Mr. Price of North Carolinia, Mr. Mrazek, Mr. Frost, Mr. Richardson, Mr. Mineta, Mr. Weldon, Mr. Ford of Michigan, Mr. Stark, Ms. Oakar, Mr. de Lugo, Mr. Savage, Mr. Florio, Mr. Saxton, Mr. Dixon, Mrs. Collins, Mr. Dymally, Mr. Lewis of Georgia, Mr. Kildee Mr. Dellums, Mr. Towns, Mr. Conte, Mr. Fazio, Mr. Yatron, Mr. Rangel, Mr. Fish, Mr. Martinez, and Mr. Vento.

H.J. Res. 474: Mr. Konnyu, Mr. Weiss, Mr. Jacobs, Mr. Roe, Mr. Wortley, Mr. Frost, Mr. Inhofe, Mr. Russo, Mr. Neal, Mr. Jontz, and Mr. Dwyer of New Jersey.

H.J. Res. 483: Mr. Horton, Mr. Kasich, Mr. Lagomarsino, Mr. Quillen, Mr. Jones of North Carolina, Mr. Stangeland, Mr. Solomon, Mrs. Martin of Illinois, Mr. Lujan, Mr. Upton, Mr. Henry, Mr. Hastert, Mr. Ballenger, Mr. Roberts, Mr. Gilman, Mr. Smith of New Hampshire, Mr. Rowland of Connecticut, Mr. Sundquist, Mr. Gallo, Mr. Shays, Mr. McCandless, Mr. Grandy, Mr. Whittaker, Mr. Roth, Mr. Tauke, Mr. Broomfield, Mr. Dickinson, Mr. Gunderson, and Mr. Davis of Illinois.

H.J. Res. 489: Mr. Borski, Mr. Yatron, Mr. Wilson, Mr. Lott, Mr. Campbell, Mr. Fish, Mr. Dowdy of Mississippi, Mr. Levin of Michigan, Mrs. Bentley, Mr. Kostmayer, Mr. Tauzin, Mr. Hefner, Mr. Bliley, Mr. Boucher, and Mr. Hammerschmidt.

H.J. Res. 504: Mr. Jontz, Mr. DeFazio, Mr. Fazio, Mr. Horton, Mr. DioGuardi, Mr. Anderson, Mr. Smith of Florida, Mr. Clement, Mr. Biaggi, and Mr. Martin of New York.

H. Con. Res. 126: Mr. Cheney, Mr. Bilirakis, Mr. Espy, Mr. Robert F. Smith, Mr. Lent, Mr. Gunderson, Mr. Bunning, Mr. Boehlert, Mr. Ballenger, Ms. Snowe, Mr. Houghton, Mr. Burton of Indiana, and Mr. Solomon.

H. Con. Res. 169: Mr. Smith of New Jersey.

H. Con. Res. 260: Mr. DeLay, Mr. Gingrich, Mr. Bates, Mr. Duncan, Mr. Watkins, Mr. Chappell, Mr. Pepper, Mr. Owens of New York, Mr. Denny Smith, Mr. de Lugo, Mr. Porter, Mr. Nielson of Utah, Mr. Mfume, Mrs. Roukema, Mr. Boulter, Mr. Wyden, Mr. Martinez, Mr. Synar, Mr. Johnson of South Dakota, Mr. Fazio, Mr. Boland, and Mr. Hughes.

H. Con. Res. 261: Mr. Stump, Mr. Lagomarsino, Mr. Bateman, Mrs. Bentley, Mr. Horton, Mr. Leath of Texas, Mrs. Patterson, Mr. Chapman, Mr. Boehlert, Mr. Watkins, Mr. Sundquist, and Mr. Synar.

H. Res. 286: Mr. Solarz and Mrs. Boxer.

H. Res. 396: Ms. Kaptur, Mr. Hyde, Mr. Smith of New Jersey, Mr. Shumway, Mr. Porter, and Mr. Courter.

PETITIONS, ETC.

Under clause 1 of rule XXII,

142. The SPEAKER presented a petition of the Transportation Committee of the House of Representatives of the State of Minnesota, relative to changes in the taxation of diesel fuel used on farms; which was referred to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

PACIFIC PARLIAMENTARY CAUCUS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. SCHEUER. Mr. Speaker, on January 9–11, six other Congressmen and I participated in the fourth Pacific Parliamentary Caucus, sponsored by the Pacific Forum and the Atlantic Council.

Over the past decade our relationship with nations of the Pacific has assumed increasing economic and political importance. You may have seen the February 22, 1988 Newsweek with the headline, "the Pacific Century". Members of Congress from both sides of the aisle have expressed interest in learning more about the wide variety of issues, problems and opportunities facing our Nation and Asian countries.

In recent years, parliamentary groups such as the North Atlantic Assembly, the United States-Canadian Caucus, the United States-Mexican Caucus, the European Parliament, and the Inter-Parliamentary Union have demonstrated their effectiveness in speeding up programs on important matters being negotiated by chiefs of state and diplomatic personnel. In addition, such groups have enhanced understanding and consensus among parliamentarians. The Pacific Parliamentary Caucus performs an equally important role.

The recent caucus brought together Members of Congress and Parliamentarians from the wide variety of perspectives, enhancing problem-solving between the United States and our partners across the Pacific. Trade, especially improved access to Asian markets, economic and strategic relations were at the forefront of our discussions.

I hope this executive summary will prove to be of interest to my colleagues and provoke additional interest in next year's January conference.

PACIFIC PARLIAMENTARY CAUCUS

A. GENERAL

A Parliamentary Caucus was held in Hawaii on the 9th, 10th and 11th of January, 1988. This was the fourth Caucus in a series that has sometimes included legislators from Europe and other times included only participants from Asia-Pacific.

The purpose of these non-partisan exchanges is to:

Provide an informal forum for parliamentarians at a time when national legislatures are becoming increasingly influential in foreign policymaking;

Provide a regular means for informal interparliamentary consultation and mutual assessment of vital issues of international policy;

Deepen mutual understanding of each others perspectives of the issues;

Contribute fresh insights and ideas on shared problems and opportunities critical to their national decision-making processes.

Participants included 24 parliamentarians from 6 Pacific countries, a special delegation of 12 from the North Atlantic Assembly (NAA), 12 resources specialists and 9 observers.

The following points summarize the exchanges. They reflect differences as well as areas of agreement. Because of the emphasis on candid and open exchange, not all of the facets of a particular topic might have been raised during the course of a particular discussion. The points capture the essence of a parliamentary dialogue; they should not be viewed as consensus conclusions.

B. HIGHLIGHTS OF THE PRESENTATIONS AND EXCHANGES

1. Economic Issues

a. Economic issues will be the dominant factor in international affairs in the mid-term and will significantly influence political and military developments.

b. There was general acceptance that the three main problems facing the world economy today are:

The U.S. Trade and budget deficits;

The trade surpluses of Japan, the FRG, the NICs; and

The burden of developing country debt.

c. The solution to these problems needs to come from the U.S. (meaningful budget cuts, appropriate tax increases, sustained export expansion) and be blended with reduction of trade surpluses by others. The boldness of the changes necessary to restore financial confidence increases signficantly with time.

d. Most U.S. participants thought that the majority of the changes needed to improve economic performance were internal not external. Focusing on domestic issues, however, is not synonymous with a retreat to fortress America.

e. The perception of the debt problem and feasible solutions still varies among specialists, public officials, and parliamentarians. Most favor a pragmatic step-by-step approach because it is more realistic politically than solutions that might destabilize the financial commerical system.

f. A new attitude is needed; one that recognizes that partial solutions do not just involve rolling-over the debt because of a series of mini-crises. Developing country leaders and private sector investors need to be convinced that the process underway will actually reduce the debt burden that is limiting growth.

g. A Southeast Asian leader commented that the developing countries are facing a trilemma:

Making adjustments to meet imposed stabilization programs;

Achieving growth rates that will continue to increase economic well being, and;

The necessity of implementing social programs such as income or land redistribution to further broaden the process of democratization and ensure stability.

h. Developed countries are viewed as not fully understanding these problems from developing countries' perspectives. Moreover, industrialized countries are, in general, viewed as reacting to immediate self-interests rather than formulating and implementing bold policies that would assist developing countries to respond to domestic and international realities.

2. The Soviet Union

a. Even though the Soviet Union has continued to improve its military capabilities in the Pacific, the U.S. and its allies and friends currently have a posture of regional military superiority. This is due to a number of factors, including: capabilities of U.S. forces; access to a network of forward support bases; cooperation of allies and friends, through a variety of security and political agreements, and; certain inadequacies and vulnerabilities of the Soviet force posture. This superiority is expected to continue for the foreseeable future but will be influenced by budget considerations.

b. The total dimension of the Soviet threat, however, should include consideration of non-military aspects of Soviet behavior, such as subversion, political influence of opposition leaders, increased diplomatic activity and misinformation. This is particularly true as it relates to developing countries, including the South Pacific Islands.

c. There is cautious optimism in East/West relations created by a series of reform pronouncements by Gorbachev and other Soviet leaders. The parliamentarians, however, believed that the Soviets' intentions and behavior should be tested over time; attitudes and policies should not be altered based only on declaratory reform statements.

d. The parliamentarians' primary interest in Gorbachev's reform policies was in the impact of their success or failure on West/West as well as East/West relations. What could constitute success or failure of the reforms was not raised during the Caucus discussions.

3. The INF Treaty and Arms Control Negotiations

a. The INF Treaty is universally viewed more in political than military terms. While some find certain flaws in its logic or provisions, it is more comprehensive (especially relating to verification) than the parliamentarians would have predicted several years ago. Its general content is favorably endorsed and its passage without major change by the U.S. Senate is expected.

b. The next steps in negotiations will be undertaken in several areas—strategic missiles, tactical nuclear forces, and conventional forces. At a minimum, these negotiations should be based on a comprehensive view of the interrelationships of all military, political and economic aspects of East/West relations, including human rights.

c. A clear majority of the parliamentarians thought that linkage issues among negotiations should not be employed to inhibit progress on specific agreements. However, the overall progress of the negotiating process must remain satisfactory, and a difficulty encountered in a specific negotiation should not be of such a "unique" nature that it would change the pace or scope of the negotiating process.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

d. Arms control negotiations with the Soviet Union should be conducted from a "global" perspective. For example, the SS-20 elimination was not treated as a "Europe only" issue. The INF experience also illustrates the value of Pacific rim countries conveying directly to Moscow their concerns relating to specific negotiating issues, when appropriate.

e. Military strength and options should be maintained until arms control negotiations achieve acceptable outcomes; force reductions should then follow. Those involved in the negotiations believe the Soviets respect power and this is a major factor in achieving satisfactory results in arms control.

f. As has been the case for sometime, not all agree on the credibility and wisdom of the concept of flexible response in NATO. As negotiations proceed further, the impact of possible arms control outcomes on the flexible response concept needs to be publicly explored in order to develop continuing support for NATO's force employment strategy.

4. Political Issues

a. The factors with the highest potential for destabilizing regional relationships are a significant worsening of U.S. and Japanese trade frictions and/or passage of a highly protectionist U.S. trade bill.

b. European and Pacific rim parliamentarians believe that Japan must play a broader role in economic affairs than previously. Japan should also provide appropriate political leadership when circumstances warrant.

c. The expansion of Japanese military defense oriented capabilities is viewed by some as an action of considerable importance and priority. Others favor a modest expansion of force levels, and that only following a multilateral coordination of security issues.

d. At a minimum, given the current yen-dollar ratio, the financial support for U.S. forces in Japan by the Japanese should be increased.

e. One factor limiting the Japanese from assuming new and expanded roles, is the lack of specific suggestions from Asian countries as to such roles. Moreover, suggestions concerning new roles would need to be sufficiently coordinated so as to have credibility. They should not be so final, however, as to be construed as "demands."

f. Another factor limiting Japan assuming new roles is the lack of an internally generated "vision" of such responsibilities. Perhaps what is needed is a statement like the MITI "Vision of the 1980's" which was successfully used to shape and guide Japan's international industrial activity.

g. Asia-Pacific parliamentarians had little or no support for continued testing of nuclear weapons by the French in the Pacific Islands. Participants, however, of French parliamentarians in the Caucus dialogues is considered important to develop better mutual understanding of a range of other regional issues.

5. Key Factors Influencing Regional Policy Trends

a. The need is evident for in-depth evaluation of the factors that will have major impacts on Asia-Pacific political and economic policies over the next decade. Among the most important are:

A slow but continuing realignment of the relations among Asia-Pacific countries is occurring, particularly as a result of the growth of Japan and the NICs;

The fact that the economic changes have not been accompanied by shifts in military power;

The declining value of military conflict as an element of power, a trend that can be expected to continue;

The evolving leadership of most Pacific nations can be expected to be of a new type—one that is not rooted in the experiences of the 1940s and 1950s. The mood of these new leaders fits well with the external orientation of their economic strategies;

Regional cooperation in the Asia-Pacific region will increase but remain non-governmental in nature, strongly influenced by private sector initiatives and interests.

The tripartite Pacific Economic Cooperation Conferences is one example of such activities.

b. European parliamentarians tended to be more concerned than their Pacific counterparts about gaps and tensions arising from the lack of a more formal multilateral coordination mechanism, than anticipated by those from Asia Pacific.

c. The realignment of power now under way means, in part, that the industrial countries must improve their ability to listen to non-popular perspectives from other countries, especially those from developing countries.

6. European-Pacific Basin Linkages

a. The need to manage Western relations with the Soviet Union and the Eastern Bloc will remain the central link between the Pacific Basin's interests and those of Western Europe. A successful GATT Round would also be an important forum for interregional linkage.

b. But it seems unlikely that a new, comprehensive negotiation will be initiated to move the international financial system beyond "Bretton Woods." Yet, some interregional financial interests will continue to be addressed through the G-7 finance ministers' consultation process, and by the U.S. and Japan on a bilateral basis.

c. The role of Western Europe in Asia Pacific is an economic and political one—helping keep markets open and supporting developing country expansion and broadening of processes of democratization. None of the participants thought that an out-of-area security role should be pursued. However, the deployment of European forces to the Mid-East to protect oil tankers reflects a willingness to project forces in situations of critical importance.

7. Parliamentary Exchanges

a. Parliamentary exchanges within Asia-Pacific and between this region and Western Europe should be expanded for several reasons. Among them is the need to clarify differing perceptions on key issues. Examples noted during the Caucus discussions include: the Philippine situation (the Europeans were much more pessimistic about political stability than their Asia-Pacific counterparts); next steps in regional cooperation (the Europeans tended to want more formal government involvement than did those from Asia-Pacific); and, differing views on the nature and potential dangers of bilateral U.S. and Japan frictions.

b. The need to strengthen parliamentary exchanges within the Pacific Basin and interregionally should be pursued, at first within existing mechanisms. The exchanges should initially stress dialogue more than consensus building.

At the conclusion of the 1988 Caucus it was agreed that the Caucus was of such high value that it should be continued on an annual basis. The format will be expanded so that Asia-Pacific intraregional issues can be fully treated as well as common global problems and those of an interregional nature.

PACIFIC PARLIAMENTARY CAUCUS TOPIC AGENDA

Political Trends and Problems in Asia-Pacific Over the Next Five Years.

International Economic Issues.

Pragmatic Dimensions of the New Global Economic Competition with Focus on the Pacific.

Nuclear Arms Reduction Negotiations and Western Security.

Security Trends in the Pacific.

The Developing Countries in the Politics and Economy of the Pacific Basin.

Atlantic/European and the Pacific—Cooperation for Security and Economic Progress.

PARTICIPANTS

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Doug Bereuter, House of Representatives, Nebraska, Republican.

Ben Blaz, House of Representatives, Guam, Republican.

Stephen L. Neal, House of Representatives, North Carolina, Democrat.

Toby Roth, House of Representatives, Wisconsin, Republican.

Pat Saiki, House of Representatives, Hawaii, Republican.

James H. Scheuer, House of Representatives, New York, Democrat.

Other Participants and Resource Persons

Morton I. Abramowitz, Assistant Secretary, Intelligence and Research Bureau, U.S. Department of State.

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U. Alexis Johnson, Director, The Atlantic Council of the United States.

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George Seignious, II, Lt. Gen., USA (Ret.), President, The Atlantic Council of the United States.

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Rapporteur

M. Mark Earle, Jr., Consultant, Asia-Pacific, The Aspen Institute for Humanistic Studies.

DOUG WILLIAMS: A JOE LOUIS FOR OUR TIMES

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. HAWKINS. Mr. Speaker, I would like to submit an article by Derrick Mims, a member of my Los Angeles district office staff, which was printed in the Los Angeles Herald Examiner. The article is about the type of inspiration and pride that emanated from Doug William's record-setting performance in Super Bowl XXII. Mr. Mims, and other Americans, were greatly impressed by the heroics of Doug Williams. I think you will find the article both interesting and refreshing.

The article follows:

DOUG WILLIAMS: A JOE LOUIS FOR OUR TIMES

(By Derrick Mims)

The outcome of Super Bowl XXII touched me deeply, as it did one of my brothers and a close friend. But it was my friend who best expressed its meaning: "Doug Williams is Joe Louis to me." During my grandfather's time, Louis, the undisputed heavyweight champ, was the pride of blacks. "When Joe Louis fought, they didn't bet on who would win the fight," my grandfather used to tell me with a hearty laugh. "They'd bet on what round he was going to knock the other fella out." (Louis' fists eventually would become the pride of a nation.)

Today, I share a similar pride in Williams, the quarterback who led the Washington Redskins to a lopsided victory over the Denver Broncos Sunday. Williams was the first black football player ever to holler "Hike!" in a Super Bowl game. He is now the first black ever to have quarterbacked a Super Bowl winner. Williams' extraordinary triumph has relieved the frustration and pain felt by so many blacks. A feeling of satisfaction, indeed elation, reigns.

During the early years of the National Football League, a sprinkle of black quarterbacks were on the scene. In 1974, James "Shack" Harris nearly landed in the Super Bowl as a Los Angeles Rams quarterback. That same year, Joe Gilliam preceded Terry Bradshaw as the Pittsburgh Steelers quarterback. He even received a Super Bowl ring. But Gilliam never played a down in Super Bowl IX.

The position of quarterback has always been elusive for black football players, in part because pro coaches prefer to play them as defensive backs or wide receivers. Quarterback is the team leadership position, the thinking position and, to us, the "white" position. When blacks sought to quarterback, they often were told "you don't have the right paint job."

Harris and Williams both played collegiate ball at Grambling University, the predominately black college. Black high-school athletes who wanted to play football at predominately white colleges usually gave up their quarterback dreams. Heisman Trophy winner Marcus Allen, for example, played quarterback in high school and became a running back at USC.

Randall Cunningham, the highly praised quarterback of the Philadelphia Eagles, went to—of all places—the University of Nevada-Las Vegas so he could continue to play quarterback. Had he caved in to the prevailing pressure to switch positions in order to play NFL ball, he might have become one of the best receivers in the NFL. He didn't, and today he's the leading rusher among pro quarterbacks.

Still, for black athletes, speed, agility and leaping ability all too often serve to stigmatize them as candidates for only non-quarterback positions. The same talents that make Denver quarterback John Elway great—a strong arm and an ability to scramble under lineman assault—seem a curse for blacks.

It got to the point where my brother and I would scowl when we watched a black college quarterback run rather than throw the ball. That type of player had little chance of making it as an NFL quarterback. The stay-in-the-pocket philosophy of most NFL coaches doesn't require a quarterback who can also run. Fortunately, Joe Montana of the San Francisco 49ers and Elway have made a mobile quarterback respectable.

This should make the prospects for black quarterbacks brighter. Syracuse's Don McPherson, USC's Rodney Peete and Nebraska's Steve Taylor, to name a few, should benefit. But, sad to say, it was the two white quarterbacks who made the three's chances of quarterbacking in the NFL brighter.

Don't get me wrong. My brother, friend and I are not forever gloomy because there are few black quarterbacks in the NFL. We don't just rely on sports to feed our pride.

But when you're a sports fan and you've faced a drought of black quarterbacks for so long, a stinging pain festers in your heart. You want that wall torn down.

That's what made Sunday so special for us. Before the game, we sat in the living room bragging about Doug Williams and cursing the odds-makers, most of the sports media and anyone else who'd picked Denver. We knew that Williams faced a huge task. We knew we had no right to claim him as our source of race pride. Williams didn't campaign to be the "first" black quarterback to lead a Supper Bowl team. He didn't portray himself in the press as a living American statement.

But Doug Williams will now have to shoulder the weight of race pride. Before the game, he said he was happy just to be playing for the Redskins, let alone in the Super Bowl. Yet he must have realized what it was that made Walter Payton's mother abandon her son's team and root for Williams in the playoff against the Chicago Bears.

So a new role model has emerged and another racial barrier has fallen. As for the three of us, our laughs are hearty and full of pride. In 1988, our Joe Louis is Doug Williams.

CONTINUED REPRESSION OF SIKHS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. LAGOMARSINO. Mr. Speaker, I rise today to bring the plight of innocent Sikhs to the attention of my colleagues. Despite previous congressional actions, such as the Burton amendment to the fiscal year 1988–89 on Sikh Human Rights which I voted for, the freedom and liberty of peaceful Sikhs still remain in jeopardy.

I am very concerned about the situation in the Punjab for a number of reasons. India, often reminding us that it is the world's largest democracy, seems to contradict that statement with its actions in the Punjab. Its extraordinary terrorism laws give the Indian Government powers formerly reserved for only the most repressive of police states. These laws allow the Indian Government to detain hundreds of Sikh political prisoners without charge or trial. There are numerous reports of ill-treatment and torture of detainees. These harsh laws lack any of the legal safeguards or standards required by human rights agreements—agreements to which India has signed and claims to uphold. Just as disturbing are recent reports of Indian Government support for anti-Sikh vigilante groups made up of known murders and robbers—common criminals. The Indian Government has stooped to the low level of using terrorism to enforce its will on the Sikh minority.

This is no way for a real democracy to act. Writing about our fledgling Nation, Thomas Jefferson warned of the tyranny of the majority. The tragic situation facing the Sikhs is a living example of Jefferson's warning.

The Sikhs, like other minorities in India, have endured far too many injustices. While we have heard reports of Sikh violence, I question the credibility of all of these reports. The Indian Government will not allow foreigners—journalists, tourists, even Congressmen—to visit the Punjab. We must rely on Indian Government reports, which, based on my own experiences, are not always truthful. What does India have to hide in the Punjab? Perhaps the truth.

The vast majority of Sikhs, who are by nature a peaceful people, desire a nonviolent, peaceful solution in the Punjab. We should continue to encourage these objectives and urge the Indian Government to use restraint and maturity in resolving the crisis in the Punjab. By using brute force, the Indian Government only encourages the few, radical violent elements and endangers the security, livelihood, and freedom of the peaceful, moderate majority of Sikhs. We cannot condone violence by either side.

It is in our country's best interest to help resolve the situation in the Punjab. As Americans, we do care about the freedom and liberty of others. To put it plainly, human rights are important to us. Second, the tension in the Punjab is causing disturbances between mighty India and its much smaller neighbors. Our interests in this strategic region are vital and the maintenance of peace is an important deterrent to further Soviet expansion in South-West Asia. Please be assured that as a member of the Subcommittee on Asian and Pacific Affairs, I will continue to closely monitor this situation and keep my colleagues informed on the latest developments.

UPGRADE THE VETERANS ADMINISTRATION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. SOLOMON. Mr. Speaker, in my capacity as ranking minority member of the House Veteran's Affairs Committee, I wish to comment on the Washington Post editorials in opposition to upgrading the Veterans' Administration to a cabinet level department.

As the original sponsor of the bill to upgrade the VA I have found one of the more interesting aspects of the measures is The Post's obsession with the issue. What is behind this obsession? What does it tell us about the Washington Post? Certainly, the story is newsworthy, yet what can account for the half dozen editorials in oppostion and several negative articles? And what does the Post have to show for the effort and expense?

The bill to elevate the VA to a cabinet level was approved in the House by a vote of 399-17. It is strongly supported by the President. The Senate bill has 66 cosponsors. And now Chairman Glenn has rejected the Post's killer amendment strategy to link judicial review to the bill. What is the Post's motive?

Could it be the Post can't stomach the notion that maybe, just maybe, people who have fought for and served their country deserve some recognition and deserve to be treated just a little differently than the average citizen? Of course placing the Veterans' Administration under the Department of Health and Human Services (more good counsel from the Washingotn Post) would take care of that notion.

The only question left is why hasn't the Washington Post recommended that we repeal Veterans Day. Or is that currently in the works by their editorial board?

Well, maybe a few more Post editorials will convince the American public that veterans don't deserve recognition for service to their country. Maybe a few more editorials will convince 399 Members of the House and 66 Senators to reverse their position and oppose the bill. And maybe the Washington Post will convince President Reagan to veto the bill! Maybe, but I wouldn't bet on it.

Our veterans have earned the right to be heard at the highest level of the American Government and they will soon have the that right!!!

GLOBAL POVERTY REDUCTION ACT

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. MILLER of Washington. Mr. Speaker, today I join my colleague, Congressman MEL LEVINE in introducing the Global Poverty Reduction Act. Despite the name, this bill is a practical, pragmatic approach to mitigating the seemingly intractable poverty in the developing world.

Mr. Speaker, it is time, past time, to inject some accountability into our foreign economic aid programs. It is time the American taxpayer had some idea what was to be accomplished with their tax dollars. It is time we had some measurable standards of success in achieving these goals.

Mr. Speaker, there is no greater goal, no better use of our development aid dollars than helping to lift the world's children out of the life threatening morass of poverty and illiteracy that engulfs much of the developing world.

This bill would establish standards by which we can measure the effectiveness of our foreign aid programs in achieving these goals. That is good news for the American taxpayer who foots the bill for these programs and good news for the world's poorest people who will benefit from this increased effectiveness.

The bill calls for U.S. foreign development aid to contribute "measurably" to eradicating absolute poverty in the developing world by advancing specific antipoverty goals including:

A morality rate for children under 5 years of age no greater than 70 per 1,000;

A female literacy rate of 80 percent;

Not more than 20 percent of the world's population living below the absolute poverty level.

The legislation asks the administration to consult with host country governments, nongovernmental and international organizations to develop and implement a plan that coordinate U.S. foreign development aid to achieve these and other established antipoverty goals by the year 2000.

This is not impractical, utopian feel good policy. These are attainable goals. For example, according to UNICEF, in 1960, 74 countries had an under 5 morality rate above 170. Today, that figure is down to 33 countries. This will focus our attention on what we are doing right, so we can do more of it.

Mr. Speaker, from the standpoint of economic self-interest, strategic importance and moral leadership, U.S. foreign economic aid (which now accounts for only four-fifths of 1 percent of the Federal budget) can be one of the most effective uses of our tax dollars.

In underdeveloped countries, U.S. economic aid can help strengthen fragil economies, foster self-sufficiency, and encourage the shift away from inefficient centralized economies and toward free enterprise. As these economies develop so do their consumer markets. In the long run, appropriate U.S. aid programs can help nations that were once economic basket cases, wholly dependent on western donors, become instead, our trading partners, providing important markets for American goods and services.

We also enhance our own security by using U.S. foreign aid programs to encourage the emergence of stable, entrepreneurial, economies. Nations with stable economies which share our free market values are also far more likely to share our democratic political values.

The well spring of economic prosperity is individual initiative. This same initiative invariably spurs political self-determination. As we have seen recently in South Korea, the more broadly prosperous a nation becomes, the more adamant will be the demands of its people for genuine democratic institutions—a free press, freedom to associate, to organize and dissent.

And the proliferation of free-market, democratic societies in the world is our greatest defense against the expansionist totalitarianism of Marxist-Leninist nations.

Finally, foreign aid like the child survival programs and famine relief efforts are more than simple charity. By supporting these programs we as a nation say to the world, there is one standard of decency, one standard of compassion for all members of the human community. And no accident of birth should condemn a child to death.

Unfortunately, our foreign economic aid programs have, too often, done little more than line the pockets of "friendly" despots. Or these programs have funded grandiose, inappropriate "development" projects which did little to benefit the world's poorest people. A blanket indictment of all foreign aid, however, throws the baby out with the bath water; precluding thoughtful analysis of the problem and preventing the implementation of effective, cost-effective programs.

Most Members of Congress have heard questions like the one I heard back home. "What I don't understand," said the Bothell resident at one of my Town Meetings, "is why we're so concerned about giving to Third World countries, and not to our own?" The answer is, of course, that the health and well-being of our own citizens has always, and will always, have the first claim on Federal resources.

But this Nation cannot be an island of prosperity in a sea of poverty, for we will inevitably be swept away with the tide. And to enjoy the blessings of liberty, we must exercise the responsibilities of freedom. We neglect these responsibilities at our own peril.

CABLE RATES SINCE DEREGULATION: THE OTHER SIDE OF THE STORY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. RITTER. Mr. Speaker, in 1984, Congress passed the Cable Communications Policy Act. In 1987, in areas where effective over-the-air television competition to cable exists, cable rates were deregulated and cable operators were allowed to retier and repackage programming to better suit the needs of cable customers and better utilize the diversity of programming available to cable operators. As a member of the House Subcommittee on Telecommunications and Finance, I have watched the cable industry with great interest both prior to and since deregulation.

I am aware that subsequent to deregulation some controversy has arisen over changes in cable rates and services. In particular, it came to my attention that the National League of Cities prepared a report entitled "Impact of the Cable Act on Franchising Authorities and Consumers." This report was based on an NLC survey of franchising authorities. As a result of this survey, the NLC claimed that cable basic rates increased by 27.5 percent subsequent to deregulation. This statistic appeared in one of the local newspapers in my district.

I was both intrigued and startled by this figure. In an effort to fully understand and analyze the information that gave rise to this 27.5-percent figure, my staff requested information on the survey from NLC. This request resulted in the NLC sending my office a copy of the Cable Franchising and Regulations manual. Unfortunately, however, this did not help me in evaluating their survey.

Determined to attain a full and fair understanding of the NLC's survey and the methodology used to conduct the survey, I sent the following letter to Mr. Alan Beals, executive director of the NLC.

The NLC sent, in response to my request for information, the following letter, a copy of their survey instrument, and a copy of the report they prepared outlining the survey results. No further information was provided.

The NLC did not provide, as I requested, several items of information I feel are very important in understanding and evaluating their survey. Specifically, I was not provided with information on who the data was tabulated, how the sample was selected and the number of survey forms completed by those respondents who represented multiple cable systems, the number of responses for each survey question—the n value—or the number of responses as a percentage of the total number of surveys received.

I was able to determine, after a thorough examination of the information NLC did provide, that the 27.5-percent figure was calculated only after the NLC did not include 57.7 percent of the responses they received. The NLC, in fact, states quite clearly that this 27.5-percent figure "is not an average increase for all systems surveyed." It represents the average increase for only those systems where there were rate increases without an accompanying increase in the number of channels provided. In other words, the NLC decided not to include in its average basic rate increase calculation system that did not increase their rates. Additionally NLC failed to include in its average basic rate increase calculation systems that raised their rates but also increased services the cable customer received.

An important fact NLC failed to discuss at all is that while many cable systems' basic rates did increase, the rates for premium networks—such as HBO and Showtime—decreased. This seems a crucial factor in determining the total monthly difference in customers' bills—what the customer actually ends up paying each month. The Arthur Andersen & Co. survey, in fact, shows that the average customer's monthly bill increased only 6.7 percent during the first 6 months after deregulation.

This 6.7-percent increase is just slightly greater than the Bureau of Labor Statistics Consumer Price Index which reflects the price changes for all cable television services. The BLS reports that cable service prices for all services grew by 5.3 percent for December 1986 to June 1987, the same time period covered by the Arthur Andersen survey.

In addition, Paul Kagan Associates, Inc., an independent industry analyst, recently conducted a survey of 53 multiple system operators that serve 27.6 million customers—or 61 percent of all cable customers. Kagan's report on that survey entitled "MSO's Show Restraint in Raising Rates," Cable TV Investor, January 27, 1988, indicates that the average monthly cable revenue per customer—which is equivalent to a customer's monthly bill—increased only 5 percent from December 31, 1986, to September 30, 1987. In the letter Mr. Beals sent in response to my request for additional information, he cites data from Paul Kagan Associates to substantiate the NLC 27.5-percent figure for basic rate increases following deregulation. Paul Kagan Associates has not, however, ever produced data that can be compared to the NLC's. In other words, Kagan has not produced data that reflects only cable systems that increased rates but did not increase basic services. As mentioned above, Kagan instead found that, on average, a cable customer's rates increased only 5 percent in the first 9 months after deregulation.

In discussing premium network rates, NLC indicates that there was a decrease in premium rates in only 17.3 percent of their survey responses. Again, however, this figure actually referes to only those respondents that increased basic rates without an accompanying increase in basic service channels.

The NLC also claims that 33.5 percent of the respondents, out of the 44.9 percent of those responding whose franchise agreements were reported to have valied programming requirements, made unilateral changes in programming without approval of the franchising authority. This actually means that only 15 percent—33.5 percent multiplied by 44.9 percent—of the responding franchising authorities found unilateral changes by cable operators in programming requirements, not 33.5 percent as reported by NLC.

The NLC, in its report, states that "in 19.2 percent of the cases, there were significant violations" of franchise requirements by cable systems. A comparison of NLC's survey instrument, however, and their report on this particular part of the survey shows that NLC omitted an important part of their own survey statement.

The NLC survey instrument reads:

PAGE 8—FRANCHISE COMPLIANCE

(48) Select the statement which most accurately reflects your view of the extent to which the operator is in compliance with the franchise:

(a) total compliance.

(b) substantial compliance (violations are primarily technical in nature).

(c) partial compliance (violations are significant, but good faith efforts are being made to improve compliance).

(d) noncompliance (violations are substantial and the operator has not established a plan for remedying the defects).

I am concerned that the NLC in their report omitted all references to the part of their own survey statement in 48(c) which reads "* * * good faith efforts are being made by cable operators to improve compliance." The "good faith" phrase is clearly a pivotal part of this survey question.

NLC further reported that in "26 percent of the cases" the operator was in total compliance, in "47.9 percent of the cases" the franchise violations were "primarily technical in nature and the operator was considered to be in substantial compliance "while in 19.2 percent of the cases, there were significant violations and in 6.8 percent of the cases noncompliance was extensive."

In conclusion, although I hesitate to cite the following figure as a result of my inability to validate the accuracy of the NLC's survey, I must admit it is interesting to me to note that even the NLC reports that 80 percent of their respondents believe that customer satisfaction since deregulation has either stayed the same or increased, and that more franchising authorities believe cable customer satisfaction has increased than decreased since deregulation.

The success of the Cable Act should be judged by the degree to which cable customers find they are being well served, which can be measured by the growth in the cable industry's customer base. It is well documented that there continues to be both an increase in demand for cable basic service, an increase in demand for premium networks, and a declining number of customers who disconnect their cable service. I think as Members of Congress, we have an obligation to let the Cable Act work. All evidence at hand indicates that, on average, rate increases have been reasonable and that cable customers are in fact receiving greater service and more diversity for their dollar. Finally, I believe we should let cable customers be our guide. I believe the cable industry is on track in both its increased focus on customer satisfaction and its goal of increasing the diversity and quality of programming available to cable customers.

The letters follow:

House of Representatives,
Washington, DC, February 19, 1988.

Mr. Alan Beals,
Executive Director, National League of Cities, Washington, DC.

Dear Mr. Beals: As a Member of the House Subcommittee on Telecommunications and Finance, I am very interested in fully understanding and analyzing how cable television rates have changed since deregulation. I appreciate the copy of the Cable Franchising and Regulation manual you sent to my office in response to our request for information on NLC's survey of cable regulators. Although interesting, this manual does not help me understand your survey.

Therefore, let me be more specific in detailing the information I would like to receive. In addition to a copy of the survey instrument you mailed to the sample regulators and a copy of the report on the survey results (which I understand was released in the early Fall), I would appreciate receiving the following information:

1. A full description of the survey methodology, including how the sample was selected, the total number of surveys mailed out, the total number of cable systems represented by the respondents, and the number of survey forms completed by those respondents who represented multiple cable systems.

2. The relevant data used to determine the representatives of the sample. I am specifically interested in understanding how the characteristics of the respondents compare with the universe of cable regulators in terms of cable system size, penetration rates, the prices of the cable services offered prior to deregulation, and the number of off air channels in the franchise areas.

3. A full description of the methods you used for tabulating the survey responses. In addition to identifying whether the survey data was tabulated by NLC staff or an outside firm, please provide for each survey question the number of responses (in n value) and the number of responses as a percentage of the total number of surveys you received back. In particular, what percentage of the respondents provided you with the necessary rate data to compute the 27.5% average basic rate increase figure that has appeared in some press reports on deregulation? Furthermore, what was the average price of basic service, according to your survey, both prior to and after deregulation?

In addition, I would also appreciate receiving anything else you believe will help me to understand your survey results. Because I assume that the information outlined above is readily available to you, I would be grateful to receive the information no later than March 1.

Your timely response will be of great assistance in my evaluation of the changes in cable rates, and I am sure you can appreciate my desire to have as much information as possible to understand this important issue.

Sincerely,

Don Ritter,
Member of Congress.

National League of Cities,
Washington, DC, February 29, 1988.

Hon. Don Ritter,
House of Representatives, Rayburn Office Building, Washington, DC.

Dear Congressman Ritter: I am responding to your recent inquiry concerning the National League of Cities' survey on the impact of the Cable Act on municipalities and consumers. Enclosed are copies of NLC's survey instrument and a report compiled on the basis of the responses received. For the most part, these documents are self-explanatory.

The survey was sent to 450 cable regulators last summer, and we received 233 responses (a 52 percent response rate). The data was compiled and analyzed by NLC staff as is generally the case for NLC surveys (NLC conducts surveys on a wide range of municipal issues and generally does not use outside firms for data tabulation).

The 27.5 percent average you referred to in your February 19 letter is not an average increase for all systems surveyed. Rather, it represents the average increase in rates for the 42.3 percent of the systems where there were rate increases *and* no changes in the make-up of basic service. Another 40.4 percent of the systems experienced rate increases, but the increases were accompanied by increases in the number of services included in basic service (in most cases, the regulator viewed these service improvements as off-setting the rate increase).

We did not gather information on a number of the issues you raise (e.g., number of off-air signals in the area, the actual price of basic service). Our data on rate increases seems to be consistent with data collected by a leading cable industry trade publication. I understand that Paul Kagan Associates reported last September that basic service rate increases averaged 24 percent following rate deregulation.

In closing, I would like to note that this data is now somewhat dated. The surveys were completed by cable regulators in July and early August or roughly six months after the implementation of rate deregulation. (The survey was conducted in anticipation of subcommittee oversight hearings which were supposed to take place in the early fall.) Therefore, none of the many rate increases implemented in the past six months are reflected in our study.

If you have any further questions concerning survey methodology, please contact Cynthia Pols in NLC's Office of Federal Relations at (202) 626-3020.

Sincerely,

Alan Beals,
Executive Director.

AMENDING REVENUE ACT OF 1987

HON. CHARLES HATCHER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. HATCHER. Mr. Speaker, today I am introducing legislation, along with 53 of my colleagues, which delays implementation of a provision in the Omnibus Budget Reconciliation Act of 1987. This provision would change the collection point of the diesel excise tax from the retail level to the wholesale level. The change was designed to increase compliance by those users of diesel fuel who owe the tax. However, in doing this, off-highway consumers of diesel fuel who are exempt from the 15.1-cents-per-gallon tax must begin paying it on April 1. Since these consumers do not use the highways, it is wrong for them to pay an excise tax that goes into the highway trust fund.

On March 3, 1988, the House Small Business Subcommittee on Energy and Agriculture, which I chair, held a hearing in which we discussed the impact this new collection process would have on farmers, ranchers, oilmen, fishermen, and other small business persons who purchase diesel fuel on the wholesale market for off-road use. The consensus of those who testified was that this burdensome new regulation was going to cause serious cash-flow problems in their operations. I feel that we cannot allow a provision which stymies our farmers and other small business persons to go into effect.

April 1, the date this procedure goes into effect, is only 3 days away. Let's not allow this unfair new provision to be implemented. I urge that this bill be acted upon immediately.

Mr. Speaker, I include the text of the bill to be printed in the Record:

H.R. 4275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPOSITION OF TAX ON DIESEL AND AVIATION FUELS AT WHOLESALE LEVEL DELAYED UNTIL OCTOBER 1, 1988.

(a) In General.—Subsection (e) of section 10502 of the Revenue Act of 1987 (relating to effective date) is amended by striking "March 31, 1988" and inserting "September 30, 1988".

(b) Floor Stocks Tax.—Subsection (f) of section 10502 of such Act (relating to floor stocks tax) is amended—

(1) by striking "April 1, 1988" in paragraph (1) and inserting "October 1, 1988", and

(2) by striking "June 16, 1988" in paragraph (3) and inserting "December 16, 1988".

SALUTE TO GREEK INDEPENDENCE

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. MINETA. Mr. Speaker, I rise today to join with my colleagues in saluting the nation of Greece on the 167th anniversary of its independence from the Ottoman empire.

On March 25, 1821, the Greek people declared themselves a free nation, having taken inspiration from the revolution 45 years earlier which created the United States. Indeed, our struggle for independence was indebted to the ancient Greek political ideals, ideals which shaped our own political system.

Twenty-five hundred years ago, the great Greek philosophers spoke out on the need for justice under law. Indeed, the city-State of Athens became the first in the Western World to practice "demokratia"—government of the people, by the people and for the people.

During the same period Aristotle observed that "man is by nature a political animal." He believed that all people, not just a society's so-called elite class, should participate in government.

More than two millennia later this same philosophy was incorporated into our great U.S. Constitution. And today more than 3 million Americans of Greek ancestry continue to build our comparatively new nation.

One such individual is Michael Dukakis, Governor of Massachusetts: a man now seeking the Democratic Party's nomination for the highest office in the land.

Like his forebears, Mike Dukakis works each and every day to make our democracy stronger, to build upon the ideal of equal justice under law.

The story of the Dukakis family is one familiar to Americans of all heritages. Like Americans of every other ancestry, Greek Americans have prospered by hard work, by taking pride in this country and by helping to make it the great nation that it is. At the same time, they have never forgotten or lost pride in their great culture and heritage.

I take special pride in the many and varied accomplishments of the Greek American community in Santa Clara County, CA. Greek American community leaders include doctors, lawyers, teachers, merchants, enterpreneurs, and much more. Greek Americans are also very active in public service to the community, and the county would be much the poorer were it not for their contributions.

Mr. Speaker, on this day we must honor the memory of the Greeks who fought for liberty and justice, who laid down their lives 167 years ago for the principles of their forebears. And so, I am honored to join my fellow colleagues in this Chamber—a chamber founded upon the ideals of the Greek philosophers—and extend congratulations to the Greek nation in celebration of their independence in the modern era.

We take pride in the common democratic heritage of our two nations. I join my fellow colleagues in saying "Efharisto" to the Greek nation for their dedication to the ideals of liberty and democracy, and to Greek Americans for their contributions to this great nation of ours.

LAKE COUNTY EXAMINER EDITORIAL

HON. ROBERT F. (BOB) SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. ROBERT F. SMITH. Mr. Speaker, I rise today to bring to the attention of this House a particularly intuitive editorial comment from the pages of a small, weekly newspaper in my Second Congressional District, the Lake County Examiner.

Despite—or maybe, because of—the weekly paper's never ending battle for space, few weekly papers spend precious news columns addressing Federal legislation. When they do so, you can be certain that the issue is important enough that we ought to pay attention.

For that reason, I applaud the Examiner's comment about H.R. 3660, the Act for Better Child Care Services, sometimes called the ABC act. The editor addresses precisely the point which I have made repeatedly about this legislation: as worthy as it may be, it is not appropriate Federal legislation, especially at its nearly $3 billion price tag.

The Examiner echoes my belief that child care is a State and local responsibility and, to quote the article:

> (It's) too bad an ABC bill isn't pending in the Oregon State legislature. Oregon should be able to take care of this problem without the Federal Government.

Mr. Speaker, at this time, I offer a copy of the editorial for publication in the RECORD, and I urge our colleagues to read it carefully.

[From the Lake County (OR) Examiner, Mar. 17, 1988]

STATE SHOULD HANDLE NEED FOR CHILD CARE

The Lake County Examiner does not normally comment on bills pending in Congress, but one which addresses a local problem has caught our eye.

It is House Bill 3660 and is called the Act for Better Child Care Services (ABC). In sum, the bill would make the federal government an active partner with states and parents in solving the child care crisis. It calls for $2.6 billion in federal investments to help improve the quality, availability, and affordability of child care.

Like many other communities, Lakeview has a child care problem. Ever since World War II, mothers have been entering the work force in increasing numbers. Finding affordable and competent child care is very difficult.

The ABC bill seems to have good bipartisan support in Congress. Its sponsors in both houses of Congress include Democrats and Republicans.

Although the bill addresses a pressing problem, we question whether the Congress is the appropriate place to deal with it. State and local governments are the entities which should be dealing with the problem.

With massive federal deficits straining our economy, another $2.6 billion program is the last thing we need. One of the main reasons the national deficit is so large is costly federal programs like this which interfere in areas which are the responsibility of the state government.

Those who are concerned about the child care problem are encouraged to communicate their concerns with our state representatives. After all, this is an election year and our state representative and senator should be concerned about this growing problem.

Too bad an ABC bill isn't pending in the state legislature. Oregon should be able to take care of this problem without intervention from the federal government.

THE BRYANT AMENDMENT WILL THREATEN BRITISH INVESTMENT IN THE UNITED STATES

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. LENT. Mr. Speaker, today I am inserting in the RECORD a letter which I believe all Members who are concerned about U.S. jobs should read. This letter is from a good friend of the United States: the British Ambassador, Antony Acland. This letter expresses strong opposition to the Bryant amendment and explains how that amendment would threaten British investment in the United States, thereby costing American workers their jobs. The Bryant amendment was included in H.R. 3, the Trade and International Economic Policy Reform Act, as it passed the House.

Ambassador Acland eloquently articulates how the Bryant amendment would unduly discriminate against British investment in the United States by requiring foreign investors to disclose detailed proprietary information which would put them at a real commercial disadvantage. The provision would apply to both British investors who have been good employers in the United States for decades and those who wished to establish plants or invest in business in the United States for the first time. By requiring that foreign investors disclose proprietary information, the Bryant amendment would take away the incentive for them to invest and establish plants in the United States.

Ambassador Acland points out that not only were British holdings in the United States during 1986 over $51 billion, but United States firms' holdings in Britain during 1986 were worth over $34 billion. Britain does not have any mechanism similar to the Bryant reporting requirement that would put United States firms at a commercial disadvantage when they invest in Britain. But, if the Bryant amendment becomes law and the British follow the United States example, United States businesses investing abroad would be required to disclose proprietary information, putting them at a competitive disadvantage abroad.

Mr. Speaker, if the Bryant amendment is retained in the trade bill it would threaten jobs in the United States and could threaten United States businesses abroad. I urge my colleagues to listen to our friends and save U.S. jobs by urging the trade conferees to strike the Bryant amendment from the trade bill.

The letter follows:

BRITISH EMBASSY,
Washington, DC, March 15, 1988.
Hon. NORMAN F. LENT,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN LENT: I understand that conferees will shortly be considering Section 703 of the House Trade Bill, which would lay down registration requirements for foreign investment in the United States.

Britain and the United States are the largest sources of foreign direct investment in each other's markets. In 1986 total British holdings here were worth over $51 billion, while U.S. firms had total holdings in Britain worth more than $34 billion (and accounted for more than twenty per cent of U.K. manufacturing output). Both totals are undoubtedly now very much higher.

Section 703 of the House Trade Bill would oblige foreign-owned companies—defined to include companies in which the foreign share is as low as 25%—to reveal detailed proprietary information in a way which would put them at a real commercial disadvantage. The penalty for failure to register would include fines or imprisonment. The provision would apply both to companies which have been good employers in the United States for decades giving employment to many thousands of U.S. citizens and those which wish to establish plants or invest in businesses here for the first time. It would discourage new investment from Britain.

What troubles the British government particularly is the burdensome and discriminatory nature of the requirements in Section 703. No such obligations are imposed on foreign investors in the United Kingdom. Indeed there is no mechanism at all in Britain for the systematic collection of information on foreign investment even though foreign-owned firms account for a very much higher share of British GNP. On the other hand, in the United States a number of Federal agencies are already specifically charged with monitoring it. It will be more difficult for the British government to resist such requirements in the United Kingdom and in the European Community if the United States—the major source of foreign direct investment in Europe—were to introduce them.

There is another relevant consideration which I should mention. The imposition of special registration requirements for firms with a foreign shareholding would run contrary to the United States' commitment to accord national treatment to foreign investors, and to the OECD Declaration and Decisions on International Investment and Multilateral Enterprises, to which the United States is a signatory. At a time when the United Kingdom and the United States are working together, bilaterally and in the Uruguay Round, to promote and improve protection for foreign direct investment worldwide, it would be particularly damaging if Congress were to adopt this provision. Both Britain and the United States share an interest in discouraging discrimination against their firms in third markets and in upholding international agreements.

For these reasons, I hope therefore that you and your colleagues will decide, on reflection, not to include S703 in the final version of the Trade Bill.

Yours sincerely,

ANTONY ACLAND.

REWRITING KOREAN WAR HISTORY

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. HAWKINS. Mr. Speaker, I have been working for a number of years with Mr. David Carlisle, a Korean war veteran, to correct the official U.S. military history account regarding the contribution of the all-black 24th Infantry Regiment at the battle of Yechon. I would like to submit an article by Col. Harry Summers, Jr., a columnist for the Los Angeles Times syndicate, which details this unfortunate injustice.

KOREA WAR VET AIMS TO CORRECT A BIASED HISTORY

(By Harry G. Summers Jr.)

WASHINGTON.—From his home in Los Angeles, Korean War veteran David Carlisle has set an almost impossible task for himself—to get the Army to admit that, in terms of black soldiers, its official history of the Korean War is wrong. A 1950 West Point graduate, Carlisle, a then-rare black officer, won the Bronze Star Medal for valor with the 77th Engineer Company in Korea. And he saw first-hand the grievous injustice done to black soldiers of the 24th Infantry Regiment to which he was attached.

The greatest barrier he faces is time. In 1948, exactly 40 years ago, President Harry S. Truman ordered racial integration of the armed forces; within five years the segregated Army was no more. Those dates are significant. Last year, Carlisle's West Point classmate, Army Chief of Staff Gen. John Wickham, retired from active duty and, with him, the last of those who served in a racially segregated Army.

Although by no means perfect, integration is so much a part of today's Army that it is almost impossible to conceive what conditions were like then.

"The Army hasn't made any progress in ending discrimination," a student in an army command and General Staff College class told me not so long ago.

I disagreed, telling him about my experience in a white engineer company overseas when Truman's order was announced. The troops were concerned that when they went to the supply room to get sheets they might get those slept on by a black soldier—never mind that the sheets were then washed by a black quartermaster laundry company next door. And they were concerned that when they went to the mess hall they might get plates that also had been used by black soldiers.

The class laughed. But they weren't laughing in 1948; what seems ludicrous now was the prevailing attitude then.

And those were still the attitudes when the Korean War started two years later. The U.S. Army divisions sent from Japan to action in Korea were still strictly segregated; black combat forces were concentrated in the 25th Infantry Division's 24th Infantry Regiment. Unlike other units at the time, the regiment was at full strength but suffered a significant shortcoming. With some exceptions, white senior leadership was abysmal. Given the racial atmosphere then, white officers did everything in their power to avoid serving with black units.

These black soldiers did have one thing in common with their white counterparts; they were ill-armed and ill-equipped to meet the ferocity of the North Korean attack. Rifles and machine guns were World War II-vintage, many so worn they barely functioned. Anti-tank weapons could not stop the North Korean T-34 tanks and antiquated U.S. radios made communications virtually impossible.

The 24th Infantry Regiment landed in Korea on July 13, 1950, where a disaster was in the making. The South Korean Army was falling back in disorder. The U.S. 19th, 21st and 34th Infantry regiments of the 24th Infantry Division that preceded them had been chewed to pieces. There was fear that the North Koreans were unstoppable and that the Americans might not be able to maintain a foothold on the Korean peninsula.

That was the situation on July 21, 1950, when the 3d Battalion of the 24th Infantry Regiment launched a successful counterattack, recapturing the village of Yechon from the enemy and driving off North Korean defenders. Tom Lambert of the Associated Press described it as the "first sizable American ground victory in the Korean War." Like Colin Kelly's suicidal attack on a Japanese warship in the dark days after Pearl Harbor, it may not have been mammoth in the big scheme, but as a young corporal in an adjacent division there at the time, I remember what a boost it gave to our sagging morale.

Yet 10 years later, when the Army's official history of the first months of the war was published, the battle was dismissed as insignificant. Believing, with some cause, that this slight was a matter of racism pure and simple, Carlisle has spent almost 30 years trying to get the Army to revise its official history.

While correcting an official history may seem to be a minor matter, leaving it uncorrected makes that history the accepted wisdom. Proof came last year with the publication of Max Hastings' "The Korean War." A well-known British historian whose earlier accounts of the Falklands War and the D-day invasion won critical acclaim, Hastings took the official history at face value and repeated smears about black soldiers in Korea.

And smears they were. One of the finest soldiers in my rifle squad in Korea was Frank Ivy, a black soldier from St. Louis. His bravery under fire won the respect of all who served with him.

But not all historians limit their research to official records. Times Books has just published what may well prove to be the definitive history of the conflict—Clay Blair's "The Forgotten War: America in Korea 1950–1953." And in its pages Carlisle's vigil for his comrades-in-arms who sacrificed so much at last gains public, if not yet official, recognition. Unlike Hastings' biased and shallow work, Blair presents an objective and detailed analysis of the war. Battlefield leadership is his central theme but one of his major subthemes is an examination of the performance of black units on the battlefield.

Blair's book recreates what has been missing in other accounts of the war—the racial context in which it was fought. All the senior officers were white, all had been commissioned before World War II, Some, like X Corps Commander Lt. Gen. Ned Almond, whom Blair reveals as particularly bigoted, became officers as early as World War I. The racial prejudices among these men were so ingrained they had become second nature. Like other Americans of their time, they were prisoners of their stereotypes. Thus the slight of the 24th Infantry Regiment's performance at Yechon, while still reprehensible, at least becomes understandable.

And becoming understandable, it may at last become correctable. The timing of the publication of Blair's book is fortuitous; as a result of Carlisle's constant efforts, the secretary of the Army recently convened a board in Washington to re-examine the Army's official account of the battle of Yechon.

Perhaps the black soldiers of the 24th Infantry Regiments will at last get the credit they deserve. If they do, they have David Carlisle to thank.

GREEK INDEPENDENCE DAY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. LAGOMARSINO. Mr. Speaker, 4 days ago, March 25, marked the 167th anniversary of Greece's independence from the Ottoman Empire. I join my colleagues in celebrating this historic event and the heroic legacy of the Greek people.

While many Americans many not realize it, Greece is the birthplace of American democracy.

Our Constitution is called a democracy because power is in the hands not of a minority but of the whole people. When it is a question of settling private disputes, everyone is equal before the law; when it is a question of putting one person before another in positions of public responsibility, what counts is not membership of a particular class, but the actual ability which the man posseses.

One might think this statement was made by Thomas Jefferson, James Madison or even by an American living today. But it wasn't. Pericles made these remarks in an address in Greece some 2,000 years ago.

On a more contemporary note, Thomas Jefferson said:

> * * * to the ancient Greeks * * * we are all indebted for the light which led ourselves (American colonists) out of Gothic darkness.

His colleagues, James Madison and Alexander Hamilton wrote in the Federalist Papers:

> Among the confederacies of antiquity the most considerable was that of the Grecian republics * * * from the best accounts transmitted of this celebrated institution it bore a very instructive analogy to the present Confederation of the American States.

The United States, in turn, provided a role model for Greek independence. Our Revolution became one of the ideals of the Greeks as they fought for their independence in the 1820's. Greek intellectuals translated our Declaration of Independence and used it as part of their own declaration. Many volunteers from America sailed to Greece to participate in Greece's war for independence.

Today, the close friendship between Greece and the United States remains strong. Greece is a member of NATO and hosts important American military facilities. The economic, social and cultural ties grow stronger every day. Greek Americans have provided great services to both countries. It is only befitting that Americans join their Greek friends in celebrating this joyous occasion. I look forward to celebrating many more March 25ths.

JUDICIAL REVIEW/JUST SAY NO!

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. SOLOMON. Mr. Speaker, I wish to insert into the CONGRESSIONAL RECORD today an excellent Washington Post, Letter to the Editor by Senator MURKOWSKI, the ranking member of the Senate Veterans' Affairs Committee.

Senator MURKOWSKI points out in the letter that it would be a grave mistake to link judicial review to legislation elevating the Veterans' Administration to a cabinet level department. Senator MURKOWSKI is correct, attaching judicial to the cabinet level bill would doom forever the effort to give America's veterans a voice in the President's Cabinet.

Why are the proponents of judicial review opposed to allowing it to stand or fall on its own merits? Because judicial is clearly not in the best interest of America's veterans. When it comes to judicial review America's veterans are better off to just say no.

Senator MURKOWSKI's leadership in the Senate on legislation to elevate the Veterans' Administration to a cabinet level department is commendable and will certainly not go unnoticed in the veterans community across this country.

[From the Washington Post, Mar. 21, 1988]

ATTORNEYS FOR VETS?

I read with interest The Post's coverage of legislation that would elevate the Veterans' Administration to the President's Cabinet and of proposals to amend that legislation to provide judicial review of VA decisions regarding benefits.

Aside from the fact that such an amendment would spell the doom of the Cabinet-level bill (apparently a desirable outcome in the eyes of The Post), it appears that The Post has determined attorney representation would be an unmixed blessing for veterans. I wish the case were so easily decided.

There is, in fact, considerable evidence that attorney representation is not a panacea. Social Security claimants can use attorneys and take their case to court. A recent audit by the inspector general of the Department of Health and Human Services found that attorneys overcharged their clients by $23 million out of $100 million in billings. A benefit for the attorneys perhaps, but how about the clients?

In contrast, the state of Oregon tried a pilot program of state-funded attorneys to represent veterans with VA claims. The final evaluation of the attorneys who represented veterans was that attorney assistance provided "no tangible results." Again, there was business for lawyers, but no benefit for veterans.

When the Senate considers hard issues, such as judicial review and attorney representation, we have to look beyond the emotional slogans and at all the evidence. When we do that, it becomes obvious why these proposals have not been long ago enacted into law.

FRANK H. MURKOWSKI,
U.S. Senator, Washington

STROH'S LEHIGH VALLEY BREWERY: WINNER OF THE 1987 PLANT OF THE YEAR AWARD, AN EXAMPLE FOR OUR NATION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. RITTER. Mr. Speaker, I would like to bring to the attention of my colleagues and the Nation, the tremendous achievement of the Stroh's Lehigh Valley Brewery in winning the Stroh's Plant of the Year Award for 1987.

While the competition was intense, there were six plants competing for this award, the workers at the Lehigh Valley Brewery made the extra effort necessary to be the best. They made significant improvements in productivity, quality of product and package, the level of customer service, and housekeeping. All 600 plant workers are to be commended for their dedication to excellence.

The United States needs to do all it can to remove trade barriers and expand U.S. markets, yet these efforts alone will not ensure strong U.S. economic performance. U.S. companies, no matter how secure, must continue to promote excellence if our Nation is to prosper.

In light of this need, we have the shining example of the Stroh's Lehigh Valley Brewery. The brewery has committed itself to constant improvement, reducing errors, satisfying customer expectation, and doing it right the first time. Simply put, they are pursuing quality. Imagine the impact nationwide if our businesses, schools, and government pursued these objectives. Our competitiveness worries and trade deficits would be significantly reduced. Yet, the example of the Stroh's Lehigh Valley Brewery is but one of many companies in the Lehigh Valley of Pennsylvania that are committed to excellence, that are committed to quality.

Over 45 Lehigh Valley companies have banded together with local chambers of commerce, educational institutions, and a representative from local government, to establish Quality Valley, USA. With the goal of making Lehigh Valley products and services known worldwide as the standards of excellence, the valley stands to significantly improve its way of life and the local economy. More and more, the best jobs will depend on our being the best workers, making the best products or delivering the best services. The Plant of the Year Award symbolizes these pursuits.

Again, I salute the achievements of the Stroh's Lehigh Valley Brewery, and commend their example to the Nation.

GREEK DESCENDENTS IMPORTANT PART OF BIRMINGHAM MOSAIC

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. ERDREICH. Mr. Speaker, I am pleased to join my colleagues today in recognizing the 167th anniversary of the beginning of the revolution that freed the Greek people from the Ottoman empire.

The influence of Greece and its descendants has been a part of the ethnic mosaic that makes up the city of Birmingham since George Cassimus, Birmingham's first Greek immigrant, left his native land and settled in Birmingham in 1884.

The United States and Greece have long been friends and allies, and each has benefited from and inspired the other. The American revolution became one of the ideals of the Greeks as they fought for their independence in the 1820's. And we are all aware of the influence of Greece on virtually every aspect of American life, including politics, language, sports, arts, architecture, and religion. Ancient Greece was the birthplace of the ideals of democracy upon which our United States Constitution is based. The very word, "democracy," in fact, is derived from the Greek word, "demokratia", which means "government by the people, rule of the majority."

As those of Greek descent throughout the United States, the Greek community in Birmingham has contributed much to our economic and cultural vitality. This commemoration of the 167th anniversary of Greek Independence Day gives us reason to pause and reflect upon our Grecian heritage and all that it has meant and continues to mean to us today.

CELEBRATE GREEK INDEPENDENCE DAY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 22, 1988

Mr. LEVIN of Michigan. Mr. Speaker, I rise today to pay special tribute to all Greek-Americans, including the large and vibrant Greek community in the metropolitan Detroit area.

In this country of so many cultures and such ethnic diversity it seems entirely appropriate that we set aside a day to honor Greek-Americans with a National Day of Celebration of Greek and American Democracy. America today stands as the strongest democracy in the world but as we are taught very early in school, it is Greece that is the oldest democracy in the world.

In cities and communities all over America, we are in some way or other reminded of the contributions of Greeks to our society. Every summer downtown Detroit hosts ethnic festivals celebrating the rich and enriching culture of a host of nationalities. It's believed that these festivals were an outgrowth of the Greek Festival held in the Greektown section of the city and begun many years ago. Over time, the Greektown Festival became so popular that in the 1970's the city decided to hold a festival every weekend celebrating the many cultures of our Nation.

And in this Olympic year, who can forget that it was the Greeks who gave us what has became perhaps the grandest modern sports spectacle of all.

To my Greek-American colleagues and all Americans of Greek heritage in this country I offer my sincerest congratulations on the celebration of Greek Independence Day.

NOISE REDUCTION IN ALAMEDA, CA

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. STARK. Mr. Speaker, today I am introducing a bill to encourage the Port of Oakland to reduce noise in residential areas near the Oakland International Airport.

A simple solution exists to the noise problem that will satisfy residents without impeding airport operations. By diverting night flights to runways with an approach over the bay, the airport can promote peace and quiet in residential neighborhoods while still accommodating air traffic.

H.R. 4286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANT AGREEMENT.

The Secretary of Transportation shall not make a grant under the Airport and Airway Improvement Act of 1982 for an airport development project involving the Oakland International Airport, Oakland, California, until the Port of Oakland enters into an agreement satisfactory to the Secretary which ensures that all aircrafts which land at or take off from such airport between the hours of 10 o'clock post meridiem and 7 o'clock anti meridiem use only runways 9L, 9R, and 29.

SEC. 2. EFFECTIVE PERIOD OF AGREEMENT.

An agreement entered into under section 1 must remain in effect during the longer of—

(A) the period beginning on the date of approval of the grant application under the Airport and Airway Improvement Act of 1982 and ending on the last day of the useful life of the project for which such grant is sought; and

(B) the 20-year period beginning on such date of approval.

CONGRATULATION TO SANTA BARBARA THEATRE GROUP

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. LAGOMARSINO. Mr. Speaker, I ask my colleagues to join me in congratulating the Santa Barbara Theatre Group, and the Santa Barbara City College for winning the American College Theater Festival's [ACTF] national competition, for their production of "Biloxi Blues."

A total of 734 plays, from across the Nation, entered the ACTF competition. Of the 734 entries, only 8 received the ultimate honor: a chance to perform on the stage of the Kennedy Center, in April. The ACTF is presented and produced each year by the Kennedy Center and sponsored by NBC. This is the 20th anniversary of the festival.

City College is the only 2-year college to be honored this year. In the festival's 20-year history, only four 2-year colleges have made it all the way to Washington, DC. The other winners this year are Yale University, Brown University, UCLA and the University of Maryland, Baltimore.

The Santa Barbara Theatre Group and the Santa Barbara Garvin Theater have a long standing tradition of excellence, quality and devotion. Their productions are consistently above what most people would expect of a community college production.

I request that my colleagues join me in congratulating the entire cast and crew of the Santa Barbara Theatre, and play-director, Judy Garey, for their outstanding production of "Biloxi Blues," and for winning the prestigious American College Theater Festival national competition.

FREE THE AFGHANISTAN RESOLUTION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. SOLOMON. Mr. Speaker, the House of Representatives has reached a new level of partisian bickering over American foreign policy. It has reached the point that this body cannot even agree on a nonbinding resolution regarding a policy as clearcut as assisting the freedom fighteres in Afghanistan.

Mr. Speaker, I am referring to the inability of the House Foreign Affairs Committee to report House Resolution 396, which simply expresses the sense of the House that the United States should not suspend assistance to the Afghan resistance until the Soviets have terminated their military occupation of the country. A similar bill was overwhelmingly approved last month by the U.S. Senate.

The Soviet invasion and occupation of the independent nation of Afghanistan is now in its ninth year. Soviet occupation forces have killed over 1.4 million Afghans. Additionally, over 5.5 million people have fled their native land.

The Afghan freedom fighters are on the verge of gaining freedom for their country and their progress must not be jeopardized.

Mr. Speaker, I am inserting into the RECORD a list of cosponsors of House Resolution 396. I know that if we could bring this bill to the floor of the House it would be overwhelmingly approved. I would hope the House Foreign Affairs Committee would free the Afghanistan Resolution.

Cosponsors on House Resolution 396 Regarding U.S. Policy Toward Afghanistan

Congressman Broomfield.
Congressman Leach.
Congressman Lagomarsino.
Congressman McCollum.
Congressman Crane.
Congressman Dreier.
Congressman Gilman.
Congressman Stratton.
Congressman Badham.
Congressman Swindall.
Congressman Wolf.
Congressman Huckaby.
Congressman Oxley.
Congressman Denny Smith.
Congressman Andrews.
Congressman McGrath.
Congressman Charles Wilson.
Congressman Konnyu.
Congressman Emmerson.
Congressman Inhofe.
Congressman Dornan.
Congressman Hiler.
Congressman Matsui.
Congressman Kaptur.
Congressman Hyde.
Congressman Chris Smith.
Congressman Shumway.
Congressman Porter.
Congressman Courter.

GREEK INDEPENDENCE DAY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. HORTON. Mr. Speaker, I rise today to commemorate Greek Independence Day. March 25 marks the anniversary of the re-emergence of the world's original democracy. I ask all Americans to join me in saluting Greece and all of her peoples.

Some may ask, why is the United States House of Representatives concerned with Greek Independence Day? The answer to this question is simple. Because our Nation was founded on the democratic principles first practiced by the ancient Greeks, our nations share a common bond. The Founding Fathers of both countries were driven by the goal of establishing a "government of the people." The members of the Continental Congress looked to the men of Athens for guidance when voting on independence.

In remembering the re-emergence of the independent nation of Greece, we are memorializing our nation's own roots. Greek Independence Day marks the moment when the torch of democracy was returned to its birthplace. March 25 marks the 167th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. This revolt eventually lead to the restoration of the rights which are so dear to all people living in democratic nations. Today, Greece is an important ally and trading partner.

Greek Independence Day can be symbolically recognized as independence day for all democratic nations. My good friend and colleague Mr. BILIRAKIS spoke at length with eloquence to this effect. Mr. Speaker, I ask my colleagues to join the gentleman from Florida, the gentleman from North Carolina, Mr. NEAL, who is the sponsor of the commemorative legislation for this day, and the many other supporters in recognizing this important anniversary.

CONGRATULATIONS TO GEORGE NOYES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. PORTER. Mr. Speaker, because of my nature as a fiscal conservative, I rarely use this space to mention the achievements of a particular constituent. Today, however, I would like to honor an individual—a constituent and a friend—for his outstanding accomplishments and his unwavering commitment to his family and community.

George Edward Noyes recently sold the Pavlik Co. which is located in Kenilworth, IL. The Pavlik Co. was a family business which George had managed for over 20 years. George managed it well. Now that the company is sold, George has the enviable freedom to pursue his other personal goals.

George Noyes was born October 28, 1928, in Evanston, IL. He once told me that he chose this location because he wanted to be close to his mother and that's where she was at that time. He is the son of George Frederick Noyes and Dorothy Hale Noyes and was raised in the east Evanston home where his mother was born and raised.

As a young boy, George was always active in community service. He was known for deeds such as helping neighbors with the trash: for his service he was awarded honors in the Boys Scouts. George and I both graduated from Evanston Township High School, and George continued his studies at Amherst College where he was known as a dedicated student.

After graduating, George worked in Chicago until he was drafted into service with the U.S. Army on Christmas Day, 1950. During his first 2 years of service he worked with computers under Werner Von Braun in Huntsville, AL.

He returned to Evanston in 1953 and soon thereafter met a freckle-faced strawberry blond named Jone Pavlik, whom he married in February 1955. Together they have three daughters, Carol, Nancy, and Mortha, a son-in-law and a grandson, George Edward MacDougall. They have lived in Winnetka, IL, since 1959.

George worked at the Northern Bank Note Co. in Chicago until 1967 when he took the helm as president of the Pavlik Co., a leading distributor of industrial gases and welding products. George's adult years have been characterized by the same interest in his community which he showed as a youth.

He served as a village trustee in Winnetka in the 1970's and as chairman of the village plan commission in the early 1980's. He has been deeply involved in Republican politics, working fervently to ensure the election of qualified Republican candidates on both a local and national level.

Finally, George served as a member of the 1986 White House Conference on Small Business where he spearheaded action on the liability issue. Most recently, George has been appointed as a member of the U.S. Small Business Administration Advisory Council.

The 12 words which perhaps describe Noyes best are those he learned as a Scout: trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent. Congratulations, George, on the sale of your business. I know that numerous, challenging opportunities lie ahead for you.

PHILIPSTOWN CELEBRATES ITS BICENTENNIAL

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. FISH. Mr. Speaker, it is with great pride that I rise on this occasion to speak about the town of Philipstown, Putnam County, in my home district of New York and their plans for a May 1 celebration of their 200th birthday. The history of the town of Philipstown is mingled with part of my family history. My great-grandfather, Hamilton Fish, a Representative, Senator and Secretary of State under President Ulysses S. Grant, made his home there.

A bicentennial committee chaired by Philipstown Historian Donald MacDonald is organizing the day of celebration in the village of Cold Spring, a village incorporated in the town of Philipstown. Cold Spring is an idyllic setting for a spring celebration as it is situated along the banks of the Hudson River in the Hudson Highlands. The U.S. Military Academy at West Point is on the opposite bank to Philipstown.

Besides the splendid scenery, a full day of activities are planned. An open house tour of the many historic homes in the village of Cold Spring will run throughout the day. All those interested will be driven on the tour in a mini-van provided by the Cold Spring Area Chamber of Commerce, which is sponsoring the tour and transportation.

A parade will proceed down Main Street, Cold Spring, concluding at a lovely park green at the river's edge. Parade participants and bystanders will then be treated to the music of the West Point Military Band, a portion of which will cross the Hudson River by boat to give the concert.

A part of the day's festivities will focus on a prominent figure of the town's past Emily Warren Roebling, wife of Washington Roebling, builder of the Brooklyn Bridge. In marking what would have been Emily's Warren Roebling's 145th birthday, townspeople will reenact her wedding at the chapel of Our Lady of Restoration, Cold Spring.

Wrapping up the festivities will be a lawn concert at St. Mary's Church with recorded versions of Glenn Miller for all to enjoy. I am proud to represent a town with the pride and sense of community that exists in Philipstown. The beauty of the area and the quality of the people who live there was greatly appreciated by my great-grandfather and no less by myself today.

A PRODUCT OF THE AMERICAN DREAM

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. LEHMAN of Florida. Mr. Speaker, the March 28 Washington Post article about the Hechinger family business as it enters its third generation is really a comment about the American dream. The stores owned and operated by the Hechinger family are more than a business but rather an extension of the family's values and traditions. Against the conventional wisdom, the family-founded stores in the Greater Washington area where people needed them most, not just where the upscale clientele were. For those who may have missed reading it, I would like to reprint part of this unique American success story.

[From the Washington Post, Mar. 28, 1988]

HECHINGER'S BUILDS ON ITS PAST

(By Caroline E. Mayer)

In the late 1950s, Sidney Hechinger used to tell his family that someday his do-it-yourself, home-center stores would be "another Sears Roebuck."

Today, 30 years after his death, the chain that bills itself as "the world's most unusual lumber yard" still is only a fraction of the size of the nation's largest retailer.

Even so, under the leadership of Hechinger's son, John, and son-in-law, Richard England, 77-year-old Hechinger Co. has grown into one of the most successful chains in the do-it-yourself industry—with an impressive record of 20 consecutive years of increasing sales and profits.

Now it's up to the next generation of Hechingers to carry on that tradition.

"We have a very enviable track record of which we are quite proud. It's our job to continue that," said John Hechinger Jr., 38, who was named president and chief operating officer of the 79-store chain 14 months ago.

The elder John Hechinger and his brother-in-law and neighbor, England, both 68, still remain at the top of the company as co-chairmen. But increasingly, oversight of the day-to-day operations has been passed to "Johnny"—as the younger Hechinger is called around the company.

Joining John Hechinger Jr. is his brother, S. Ross Hechinger, senior vice president for distribution; his cousin, Joan S. England, senior vice president for marketing, and a handful of other young, nonfamily executives who have been carefully groomed by the older generation, including Stephen E. Bachand, executive vice president, and Sally A. Courtney, senior vice president for general merchandise.

The management transition comes at a time of tremendous growth for Hechinger's. The company opened 17 stores last year as part of an expansion that has pushed it far beyond its traditional base in the Washington area in recent years. And it recently moved into the discount "warehouse" segment of the do-it-yourself retailing business.

To maintain the company's success, some industry analysts said it is important that the change in management go off without a hitch.

"They have had a record 13 years without any down quarters," said Robert J. Simonson, an analyst at Alex. Brown & Sons Inc. "That's exemplary in any quarter of the economy, but especially in retailing and building materials. Now the question is, can it be sustained? Will they work as well together as a team and a family without the father figures?"

For their part, the "father figures" said they are confident that the succession will be smooth—and in any case, the senior Hechinger and England said, they plan to keep active in the management team for the foreseeable future.

"We have not decided on a retirement date," John Hechinger Sr. said in a recent interview.

Nonetheless, he added, within the past year, "the entire pattern of reporting and who's responsible has been shifted and will shift more and more. . . . If the question is 'Where does the buck stop?' The answer is, "It moves on to the younger generation'."

GIVE DEMOCRACY A CHANCE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. SOLOMON. Mr. Speaker, in 1940, Franklin D. Roosevelt said:

> The people of other nations have the right to choose their own form of government. But we in this Nation believe that such a choice should be predicated on certain freedoms which we think are essential everywhere.

Today, I am introducing legislation to promote democracy in Nicaragua and help assure that the Sandinista regime provide the people of Nicaragua the freedoms which Franklin Roosevelt felt were essential everywhere.

This legislation requires the President to certify to the Congress the progress Nicaragua is achieving toward genuine democracy.

The legislation offers a straightforward method to assist Congress and the American public in determining, in an accurate and precise manner, whether the Sandinista government is making genuine progress toward democracy. This measure is based on an amendment which passed the House on a vote of 346-58. The guidelines established in the bill are those already agreed to by the Sandinistas and are the fundamental principals on which democracies such as ours are founded:

Free and open Presidential, legislative, and municipal elections;

Due process and fair trials;

Freedom of the press;

Freedom of assembly and movement;

Freedom of religion.

On Friday, March 25, the Washington Post editorial entitled "Cease Fire In Nicaragua" stated:

> And those Americans who have repeatedly urged others to "give peace a chance" now have an obligation to turn their attention and their passion to ensuring democracy a chance as well.

The first step in ensuring democracy a chance is to carefully monitor the actions of the Nicaraguan Sandinista government.

I respectfully request that all of my colleagues in the House to reaffirm their support for democracy in Nicaragua by sponsoring this bipartisan legislation.

CALIFORNIA'S INFANT MORTALITY RATE INCREASES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. MILLER of California. Mr. Speaker, a new study released last week by the Southern California Child Health Network reports that the health of California's mothers and babies is worse off now than it was just 1 year ago. In 1985, California's infant mortality rate increased for the first time since 1965.

The report "Back to Basics 1988: Strategies for Investing in the Health of California's Next Generation," is a follow-up to a study the network released last year, which warned that the health of California's mothers and babies had started to deteriorate because prenatal care services were becoming less available. In 1985, the latest year for which complete data are available, every major indicator of maternal and infant health worsened, and basic health services dwindled, especially for uninsured women and those covered by Medi-Cal.

California's crisis should be a warning to the Nation as well. Improvement in the U.S. infant mortality rate stopped in 1985. Also, 1985 was the first year since at least 1960 that national neonatal mortality failed to decline. The Children's Defense Fund, in a recent survey of the States, found that these distressing national trends were magnified in many States, not just California.

Some of the following findings on California's babies are shocking, and tragically reflect the national trends:

California's rate of infant mortality increased from 9.4 infant deaths per 1,000 live births in 1984 to 9.5 in 1985.

Newborn death rates climbed to 6.0 per 1,000 live births in 1985, from 5.9 in 1984.

The percentage of babies born at dangerously low birthweight rose to 6.0 percent in 1985, from 5.9 percent in 1984.

The percentage of women receiving late or no prenatal care grew to 7.6 percent, from 7.2 percent in 1984.

Additional data from 1986 reveal that progress improving infant health continues to decline:

In 1986, one in every five babies was born at high-risk, a 14-percent increase just since 1984.

The gap between white and black infant death rates was wider in 1986 than at any point in the 17-year period tracked by the State, and the low birth weight rate among black babies was more than twice the State average. Hispanic women were the least likely to receive adequate prenatal care.

"Back to Basics 1988" reaffirms the findings of the Select Committee on Children, Youth, and Families, which documented in recent hearings on the continuing infant mortality crisis that prenatal care is simply becoming less available to greater numbers of women in need.

Half of California's counties now have so few obstetricians who accept MediCal patients that prenatal care is virtually unavailable for the 175,000 MediCal-eligible women of childbearing age who live in those counties—almost 30 percent of all eligible women in California. Waiting lists of 4 weeks or longer are not uncommon. In 1987, an estimated 5,000 pregnant women were turned away from San Diego prenatal care clinics, and almost 2,000 women were turned away in Orange County.

We are paying the cost. Nearly 39,000 California babies were in newborn intensive care units in 1986, a 17-percent increase from the previous year, resulting in MediCal expenditures estimated at $104 million for newborn intensive care, an 80-percent increase in a 3-year period. Program administrators reported that the 10-percent increase in the past year in medical services for handicapped children was due to an increase in infants who were born prematurely or at low birth weight and without adequate prenatal care.

Budget expediency is predominating the policy decisions we are all engaged in. It is especially compelling then that the Southern California Child Health Network reports that by investing $43.2 million to provide health care to the 36,000 pregnant women who go without care each year in California, the State would achieve a savings of $73.4 million—for a net savings of $30.3 million through avoided hospitalization of newborns.

The evidence keeps mounting that the principal cause of infant mortality—low birth weight—can be reduced with earlier and more comprehensive prenatal care, and at significant cost-savings. The most recent research conducted by the Office of Technology Assessment found that for every low birth weight birth averted by earlier prenatal care, the U.S. health care system saves betweeen $14,000 and $30,000 in newborn hospitalization, rehospitalizations in the first year, and long-term health care costs. OTA concluded that expanding Medicaid to pay for prenatal care for all poor pregnant women was a good investment for the Nation.

On March 2, I joined my colleague, Mr. WAXMAN, chairman of the Subcommittee on Health and the Environment, in introducing the Medicaid Infant Mortality Amendments of 1988 to build on previous Medicaid reforms to mandate eligibility for low-income pregnant women and infants in families with incomes up to 100 percent of the Federal poverty level. Half of the States have still not opted to cover this vulnerable population. But as importantly, the bill includes provisions to encourage more physicians to serve Medicaid recipients so that women will not have to wait weeks or months for their first prenatal care visit or be turned away completely.

I urge my colleagues to support this legislation. There is much to be learned from California's experience, and everything to lose by ignoring it.

CONTRACTING OUT GOVERNMENT FUNCTIONS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. SKELTON. Mr. Speaker, I would like to take this opportunity to discuss the issue of the contracting out of government functions considered to be commercial activities, and specifically the current situation at Fort Leonard Wood in my district. I submit for the RECORD my testimony before the Senate Governmental Affairs Subcommittee on Federal Service, Post Office, and Civil Service.

TESTIMONY OF HON. IKE SKELTON

Mr. Chairman, I would like to thank you for giving me the opportunity to testify on the important issue of the contracting out of government functions. The Reagan administration's contracting out policy is just one part of its often reckless push to privatize the federal government. Though the issue has received considerable Congressional scrutiny in the past, I believe these trouble-filled programs require even more examination. I would like to state my strong support for the work of this subcommittee in looking into the issue.

Mr. Chairman, I have learned all about the so-called "commercial activities" program through the trials and tribulations of Fort Leonard Wood, an Army post which is located in my district. Numerous flaws in the Administration's contracting out policy have come to light in the years since contracting out studies began at Fort Leonard Wood, and I would like to tell the committee about the most important ones: the program does not always save money as it is supposed to, and it is unfair to the workers.

No one can disagree with the supposed rationale of the contracting out program—to save money for the federal taxpayer. But the way it is implemented, it often does not work that way. Studies sometimes take so long to complete that by the time they are done, their results are obsolete. Of the two biggest studies at Fort Leonard Wood, one took seven years and the other four years to complete. Another problem is that the studies, at Fort Leonard Wood and elsewhere, often fail to take into account all the work that is done by current employees. And the way the cost comparison is done is biased in favor of the contractors, by leaving out some of their costs for retirement benefits and calculating their wage scales using outdated statistics. The GAO has documented most of these problems on numerous military posts.

With all of these inaccuracies, the result is often studies which mistakenly conclude that contracting out will save money. So a contract is signed. Then the truth comes out about work that was left out or requirements that have changed since the study was done, or about adjusted, higher labor costs, so the contract has to be renegotiated. When the federal contribution to the employee retirement programs—which was left out of the cost study—is added in, the result is often that the government loses money instead of saving it. At Fort Belvoir, the leader among contracting fiascos, the contract was supposed to be for about $5.5 million; it actually cost $12.8 million in its first year and over $16 million the next year.

If the employees try to point out these flaws, as those at Fort Leonard Wood did, they find that the appeals process is biased against them even more than is the study process. First, they are routinely given only 15 days to challenge the cost comparison which took years to develop. I managed to help get some of them an extension, but the next obstacle they hit could not be overcome: most of the problems they found are not considered legitimate grounds for an appeal. The officer in charge of one of the functions contracted out protested that there were some serious problems with the contractor's bid—numbers that just didn't make sense. I have here some memos, which I would like to submit for the record, in which that officer details these obvious errors. The appeal board ruled that the employees could not appeal on these grounds.

The employees also documented how their work load was underestimated, and how some costs were left out. The appeal board, under political pressure from the administration, ruled that these were also invalid—though the GAO has concluded from other cases that such issues need to be considered.

Of course, if the contractor wants to appeal, he can base his appeal on much broader grounds and have the GAO look into the matter. One of the contracts just let at Fort Leonard Wood was originally awarded to the in-house bid—in other words, to the current employees—but was awarded to the contractor on appeal.

But this process is not only biased; it is also almost completely insensitive to the workers. The workers are kept in limbo, uninformed and wondering, for years while studies are done and bids considered. In that one case they thought they had saved their jobs, only to have their hopes cruelly destroyed by the contractor's appeal. The appeal process seems designed to make their appeal fail. And the flaws in the competition process make them come away convinced that the result might not even save the money it is supposed to. They feel that their views and concerns have not been taken into account. Many feel that they have lost their jobs unfairly. Often, they are right.

A final problem is that the whole process can be very destructive to the quality of work. Being insensitive to workers means that their morale drops, and work quality just has to suffer. Meanwhile, the decision to contract out completely ignores the quality of the work of civilian employees. It surely should be worth something that the Fort Leonard Wood employees who are about to be laid off won an award last year for the excellence of their work. But the "commercial activities" program just does not take that into account. It also does not consider that some contractors have been found by the GAO to perform very poor quality work.

It is obvious from all of this that the administration just does not care about the federal workers affected by their drive to privatize the federal government. And so those workers are unfairly suffering from the bad implementation of a policy pushed to its extremes.

Meanwhile the administration is ignoring the clearly stated intent of recent laws. Last year's Nichols Amendment to the Defense Authorization Act directed the military departments to delegate to base commanders the authority to decide which functions should be studied and which ones need not. The problem being addressed, as my distinguished colleague Bill Nichols clearly stated, was that, in his words, "All too often, higher headquarters have dictated the pace and scope of cost comparisons to meet some arbitrary Pentagon deadlines."

So what was the Administration's response? President Reagan released an executive order on November 19, 1987, directing that the contracting out program be speeded up. And in keeping with the executive order, quotas were established: the Army will have to review 8450 jobs for possible contracting, the Navy 8650, the Air Force 6550, and the Defense Logistics Agency 1350. The Army's quota is almost three times the number of jobs it has reviewed in each of the last few years. It is obvious that the Administration is flouting the intent of the law, pushing commanders to do studies they might otherwise prefer not to do.

This is why I believe new legislation is necessary. The bill before this committee, S. 909, can make a valuable contribution. Section 3, in particular, which provides for including the employees in the entire process, will go a long way toward answering the employees' grievance about be kept uninformed. If it is implemented well, it might also work to improve the studies done by helping to ensure that all of the relevant work is included in the studies. These are very positive steps.

I was also asked to comment on a related bill, S. 2188, recently introduced by Senator Pryor. This bill will get to the heart of one of the inequities in the cost comparison process by making sure that government contributions to contractor-run thrift plans are included in the contractor's cost estimates. I believe a bill which has this effect is absolutely necessary. We cannot continue with a cost comparison process that is biased against our federal workers—and often against the United States Treasury, as the GAO and OME agree is the case without such legislation.

Finally, I have been told that this subcommittee is considering legislation which will improve the appeals process so that it is more equitable to the workers. I strongly support efforts in this direction. We must give the workers a fair opportunity to state their case and have all relevant factors considered. Anything less not only perpetuates an inefficient process that often costs the United States money; it represents an indefensible imposition on the rights of the workers.

I would like to thank you again for giving me the opportunity to appear before you. I will now be happy to answer any questions you might have.

DIVIDED SPOUSES: A PAINFUL SEPARATION

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. SHAW. Mr. Speaker, today I would like to share another excerpt from the letters of Pyatras Pakenas to Galina Vileshina, his wife. The excerpts from Pyatras' letters were published recently in the Fort Lauderdale News/Sun Sentinel. Mr. Pakenas lives in Vilnius, Lithuania, and Dr. Vileshina lives in Fort Lauderdale. The Soviet Government has refused to allow Pyatras to leave the Soviet Union to join his wife. They have been separated for 8 years, except for brief visits. Pyatras has a history of heart trouble, which makes his separation from Galina all the more painful. The end of their separation from each other is long overdue.

DECEMBER 20, 1987.

Today is a Sunday, and a little bit not so useful. Tomorrow I have to go to work. I was sick all week. I had very high blood pressure, and I had pain in my heart. That is why I stayed for 10 days home.

We have a very bad winter. It is very cold, minus degree, and a lot of snow. Morning, and I prepare myself to go to the cemetery like every Sunday to visit our parents. Like always, I bought very nice carnations, and I will put them on their grave. Only I don't know how I can get to them, because the snow is as tall as a human.

Some people say that a human changes in the life * * * But my love, I thought that in my body everything was changed. But you told me there's something left. I know that change—my body, my head, my face, my voice, my hair—because this year, it was so difficult for me. The government, they beat me from all the sides. My life was not sweet. And if something is left, that is only because of you.

A STRONGER VOICE FOR VETERANS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. MONTGOMERY. Mr. Speaker, the latest issue of The American Legion magazine contains an article written by former VA Administrator Harry N. Walters in support of making the Veterans' Administration a Cabinet department. Mr. Walters served as Administrator from 1982 to 1986. He is now president of Great Lakes Carbon Corp., with headquarters in New York.

As stated by The American Legion magazine, Mr. Walters offers logical reasons why the VA should be elevated to Cabinet status. He offers some very practical reasons as well. Since the chairman of the Senate Governmental Affairs Committee has announced his plan to report a bill to the Senate shortly, I hope our colleagues in the other body will have an opportunity to read Mr. Walters' remarks prior to voting on the bill.

The article follows:

A STRONGER VOICE FOR VETERANS

(By Harry N. Walters)

Much has been said and written over the years about elevating the Veterans Administration to Cabinet level. I hope that Congress will legislate such a move this year. I support this action fully and have so testified before the U.S. Senate. I believe that this step is necessary for America's veterans, and they should actively support the enactment of such legislation. Also, and perhaps more important, American veterans can help the Veterans Administration accomplish its important mission at a time of enormous deficits and budget tightening.

The Veterans Administration should be elevated to a Cabinet-level department because it has a budget of more than $30 billion; it employs about 250,000 people; it operates the free world's largest medical-care system; it trains the lion's share of America's doctors. It is the second-largest agency, next to the Defense Department, in all of government, and its budget is more than those of five Cabinet-level departments combined.

While these are compelling facts, the best reason is that veterans and their dependents—the people whom the VA is charged to support—represent almost 80 million Americans. Their benefits have been earned through service in the armed forces of the United States. Veterans must be appropriately represented in the highest councils of government at a time when so many groups are clamoring for a portion of the federal budget. If it is not, you can be sure that these benefits will slowly but surely erode.

The truth is that Washington, D.C., is a town where one's position in the hierarchy is critical. The key to selling programs and getting money to implement them is communication. And in order to communicate effectively—whether it be with the President, the director of the Office of Management and Budget, or Congress—one must have access. Access is directly proportionate to one's position. Anyone who says that an administrator has the same access as a Cabinet secretary just doesn't know what he is talking about.

Several recent editorials in major newspapers have recommended that the Veterans Administration be broken into pieces and that its functions be assigned to other agencies, such as the Department of Health and Human Services, and the Labor Department. Quite frankly, confusing entitlements that have been earned through service to our nation with benefits granted solely as a result of citizenship would be like mixing oil and water. The editorial boards of these newspapers have not reflected properly on this issue or, perhaps, they prefer to have veterans' programs hidden so it is not so apparent when they are chipped away. Perhaps they don't want the VA's visibility to be improved. The United States always has exhibited special concern for those citizens who have served to defend and preserve our system of government. Although it is late in coming, the elevation of the VA to Cabinet-level is a logical, needed step in continuing the nation's obligation.

When I was administrator of veterans affairs, the leadership developed the following mission statements:

The mission of the Veterans Administration is to serve America's veterans and their families with dignity and compassion, and to be their principal advocate in ensuring that they receive the care, support and recognition they earned in service to this nation.

To ensure that appropriate benefits are provided to eligible veterans and their beneficiaries.

To ensure that the eligible veterans' memorial affairs are appropriately provided for and conducted in a manner that recognizes the honorable status of veterans.

To serve as the leader within the federal government on all matters directly affecting veterans and their families, and to be their advocate in representing their needs.

To ensure that the people of the Veterans Administration receive quality leadership, adequate compensation, decent working conditions, necessary training and education, equal opportunity and earned recognition.

To provide timely, high-quality health care, benefits and services to veterans and their families as efficiently as possible.

Today the veteran population stands at more than 27 million. Approximately 8 million of these veterans have joined the various veterans' service organizations; almost 3 million are on the rolls of the largest, The American Legion. Veterans' service organization provide service officers to assist veterans who are applying for disability compensation, pensions and other benefits, and represent veterans' interests before the Board of Veterans Appeals. These service officers are there to help you. Members of the service organizations and members of their auxiliaries can volunteer their services in each of the Veterans Administration's 172 hospitals, outpatient clinics and nursing homes, and throughout their communities. This effort undoubtedly is the largest volunteer effort in the United States. The government doesn't fund this program, but it would have to spend millions were volunteers not available. Also, each organization provides continuous, on-site evaluation of benefits delivery and health care at every VA installation. This unfunded monitoring is invaluable not only to the veteran, but also to those who are responsible for managing the VA. It provides another set of eyes that sometimes discover problems before the staff does and, at times, find better ways of doing things. As a result, the VA is more efficient and responsive to our veterans. These efforts must be expanded, especially in view of the aging of our veterans population.

The laws that govern the Veterans Administration's activities are, at best, complex. When the VA executes these laws, sometimes the individual veteran believes that he or she is being mistreated. If we assume that the dignity and compassion mentioned in the VA's mission statement are for the most part being shown, the veteran has misunderstood the situation. This is an area in which service organizations play a vital role. In telling their members about changes in the laws and new laws, or simply re-explaining the old laws, they provide veterans a valuable service, and save the VA time and money. As veterans, you should check with your veterans' service organizations to help you accurately define the VA's program and your entitlements. There still will be challenges to individual benefits, based upon honest differences, when the evidence on a specific case is evaluated. Although VA programs are designed to give the individual veteran the benefit of doubt, this process is not perfect; there will be some veterans who clearly believe that they have been abused.

A check of the VA's mail while I was administrator showed that an overwhelming majority of veterans felt that they were being treated fairly. However, those who believe that they have been wronged shouldn't give up. Work with a veterans' service organization to help get what you are entitled to, to change the laws or to change the process in the Veterans Administration. Be a participant, not a detractor.

It is clear that many non-veteran Americans are proud of the veterans who have served to preserve our freedom. The efforts of these individuals in communities across America in helping veterans and VA programs is enormous. This help, like that of the veterans' service organizations, is mostly voluntary and never shows up in the government's budget.

It is this additional grass-roots support for the VA that gives strength in Washington, DC. The political clout that veterans have in the nation's capital is a direct result of how the population as a whole values our veterans as a national resource. For this, our veterans can be thankful to our non-veteran fellow citizens. Thank them when you see them, and encourage their continued support. We will need their help in the future.

Although the VA will have an even stronger voice when it becomes a Cabinet-level department, it always will be our country's respect for our veterans that allows such an important agency of government to exist. President Ronald Reagan voiced strong support for this legislation on the day before Veterans Day. His approval spoke clearly above the voices of dissent.

He knows—and we should all remember—that America is No. 1 thanks to our veterans.

THE GRAVE SITUATION IN PANAMA

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. LUJAN. Mr. Speaker, it seems the more I learn about the grave situation in Panama, the more concerned I become. While results from the economic steps we are taking against Panama are encouraging, as more facts come to light, I can understand why some are asking us to take more serious steps.

The Panamanian Consul to London, Eduardo Arango, recently met with Members of Congress here in Washington, to share information on the volatile situation in Panama. According to Mr. Arango, General Noriega has turned to Cuba for support in his effort to remain in power in Panama. Accompanied by the Panamanian Ambassador to Washington, Juan Sosa, these gentlemen told us that a show of U.S. military force is necessary now. Cuban arms are being shipped into Panama, and it is unclear who is receiving these weapons. It is not the standing army. The future of Panama and that of the Panama Canal are at risk.

Mr. Speaker, we cannot underestimate the threat to the freedom of Panamanians if these Cuban arms are turned against the citizens of Panama, who are already under siege by their own Government. If General Noriega sets up another army of his own using these weapons, I hate to think of the consequences.

We also must not forget our own citizens who live in Panama, including those who work at the Panama Canal on behalf of us all.

And that is the point I make, Mr. Speaker. We must be ready to address whatever happens in Panama, and we must take heed of the warnings made to us by persons who are knowledgeable of the situation taking place in Panama.

PEOPLE-TO-PEOPLE MISSION TO CHINA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. FASCELL. Mr. Speaker, our former colleague, Bill Gunter, who now serves as the Florida State treasurer and insurance commissioner, recently led a delegation of Florida business and financial leaders on a tour of the People's Republic of China. During this People-to-People Mission, Commissioner Gunter and his group observed distinguished changes from the China we saw 15 years ago, when former President Richard Nixon first visited there. I believe our colleagues will find the summary of this trip to be of interest:

REPORT ON PEOPLE-TO-PEOPLE MISSION TO CHINA, JULY 6-18, 1987

(By Florida State Treasurer and Insurance Commissioner Bill Gunter)

This past summer, I was privileged to lead a delegation of Florida business and financial leaders on a five-city tour of the People's Republic of China to visit with business and financial leaders there and to see how China was working with investors from other nations to modernize its economy.

Each member of the group paid his or her own way, but sought contacts and information they might share with others seeking mutual benefit in U.S.-China trade. The trip was arranged under the aegis of People-to-People International, a private nonprofit organization created in the 1950's by President Eisenhower, dedicated to the pursuit of world peace through better personal understanding between citizens.

As our bus moved through the busy streets of suburban Beijing, we noticed marked differences between what we were seeing today and what we saw on the evening news fifteen years earlier when Richard Nixon first went to China. New highrises were springing up. The streets, then dominated by bicycles, carts and pedestrians, were now nearly choked with trucks, buses and cars. People on the street were fashionably dressed in bright colors, a change from the ubiquitous blues and grays of the 1960's. And it was obvious that little trouble or expense was spared in dressing the children—especially since one-child-per-couple is now the practical rule among all but China's minority nationalities.

Though we felt free to go where we liked, together or individually, with or without a guide, and though we felt the Chinese we met spoke with us freely, it was clear that the traditionalists within Communist Party still hold power. Demonstrations for even more accelerated economic change earlier this year ended with the resignation of Communist Party Secretary Hu Yaobang, protege of Deng Xiaoping, and a renewed campaign against the dangers of burgeoise liberalism.

A meeting was set up between our group and Lei Zuhua, Vice President and one of 15 managing directors of the Bank of China, at the bank's modern headquarters in Beijing. Mr. Lei outlined for our group the development of China's economic reform movement and the role that the Bank of China is playing in its progress.

The Bank of China is a specialized foreign exchange bank under the umbrella of China's central bank, the People's Bank of China, one of 45 "ministerial agencies" of the Chinese government. Other specialized banks have been set up for agricultural, industry and commerce, construction, investment, and communications. Each bank provides loans and financial services in its area of specialization.

The Bank of China operates chiefly in coastal areas, designated "Special Economic Zones" and abroad in Macao, Hongkong, Singapore, Sydney, Luxembourg, Paris, London, New York, and Tokyo. Up until the economic reforms of late 1978, the bank dealt mainly in the settlement of international payments. Today, it also engages in loans and international leasing, floats bonds on the international capital market and issues stocks and corporate bonds on behalf of domestic enterprises.

To enhance its ability to develop business, the Bank of China has been authorized to sign agreements with foreign governments. The bank is involved in managing foreign exchange funds of the state as well as its own; helping to raise foreign funds and develop joint ventures. One publication announced that the Bank of China was issueing, on a trial basis, two charge cards for foreign residents: the "Great Wall Debit Card" in foreign currency, and the "Great Wall Credit Card" in Chinese currency.

Two-way trade between the U.S. and China has tripled since the economic reforms began. The U.S. is now China's number three trading partner after Hong Kong and Japan, and it is second only to Hong Kong in investments.

China's Joint Venture Law, adopted in July 1979, set up the Special Economic Zones, where Chinese and foreign partners in joint ventures have considerable autonomy in the way they do business. They also get preferential tax rates. The corporate income tax rate paid by state-owned businesses in China is 55%. Joint ventures outside the Special Economic Zones pay 30% with a local income tax of 3%. But within the Special Economic Zones, the rate is only 15%—lower than the 18.5% rate offered in Hongkong. Some technology-intensive industries critical to China's development are exempted from the income tax altogether for the first two years, and pay only half of the preferential rate for the next three years. Imports needed for such developmental industry are also tax free.

Chinese priorities for development govern the preferences they give to joint ventures. They are: first, energy, building materials; chemicals and metals industries; second, machine and instrument manufacturing; third, electronics and communications manufacturing; fourth, textiles, food processing, medicine, medical apparatus; fifth, agriculture, animal husbandry, aquaculture; and sixth, tourism and service trades.

Within each area, joint ventures are chosen on the basis of how well they meet China's planning needs. For instance, the Chinese have decided that Beijing can only absorb around two million tourists a year, and that it's impractical to build any new airports in Beijing. Therefore tourism joint ventures will be encouraged more in other areas.

Some of our group were concerned whether U.S. companies can carry on normal banking relations in China. Mr. Lei answered that there are 34 foreign banks doing foreign exchange business in the Special Economic Zones. The Chinese want to review their experiences with the Special Economic Zone before the role of foreign banks is expanded.

Mr. Lei said China is committed to stimulating competition through the Special Economic Zones—even competition with Chinese business. Although joint ventures are encouraged to sell products on the international market, garnering foreign exchange for both China and its foreign partners, if the product is one that would otherwise have to be imported, joint ventures would get preference in the Chinese market.

In seeking imports, China also prefers business and industrial goods to consumer goods. Key Chinese needs are for technology and know-how. As Florida follows its commitment to grow in these areas, there will be increasing opportunities for exchange.

The Chinese were willing to admit that joint venture relationships are not likely to produce quick returns. Monetary policies are extremely conservative and foreign currency reserves are tightly protected. The Chinese currency is not an international currency and can be traded only through official channels. When goods are sold in China for renminbi, western sellers either have to take their profits out of China in the form of export goods, or negotiate to be paid in other currencies. One American partner, the Foxboro Company, took earnings in Chinese currency but needed dollars to buy components form the United States. The Chinese government was willing to convert renmibi to dollars but with a 20% penalty on the official exchange rate—an expensive solution for Foxboro.

China is making it clear that it plans to open its doors wider to the outside world and increase economic and technological cooperation with foreign countries. I think all of us in the Florida Bankers and Financial Leaders People-to-People delegation agree that China is moving forward economically. And if we can find a mutually beneficial way to do so, we feel that Florida could be a part of that progress.

EDUCATION DAY, U.S.A.

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. BRENNAN. Mr. Speaker, March 29 marks the celebration of Education Day, U.S.A. I am a cosponsor and a strong supporter of House Joint Resolution 470 which passed the full House on March 17. By sponsoring this resolution, I would like to call to the attention of the American people the importance of education for our Nation. In this resolution, a great educator and leader of the "Lubavitch Movement" is recognized, Rabbi Menachem Mendel Schneerson, who is celebrating his 86th birthday. The Lubavitch Movement promotes education programs at more than 80 centers in 34 States.

Education is an investment in our quality of life as individuals as well as our competitiveness as a nation. This commemorative gives us the opportunity to reconsider our strong commitment to education. We must evaluate our past successes and failures, and concentrate on implementing new programs to expand and improve the present educational system as well as laying solid groundwork for the future.

I have continually supported legislation to help improve and expand education in the United States. In an interdependent world like ours, we must not limit our aspirations to State boundaries. It is important for us to take our intiatives one step further; to our national borders. We must remain united as a nation on this relevant issue.

With the the cost of higher education on the rise, it is important that we remain committed to helping poor, disadvantaged students finish their formal education. The U.S. Department of Education estimate of the adult illiteracy rate is 13 percent—17 to 21 million persons.

Upcoming legislation for the second session of the 100th Congress demonstrates a trend toward ensuring that education is a top priority for the United States. Last week, the budget resolution for fiscal year 1989 passed the House of Representatives. This bill recognizes the priority of education especially with respect to student aid and basic research. I am confident that we will continue with our efforts in support of improving the quality of education available to our people. We must not forget how important education is to both our society as a whole and for the individuals who comprise it.

SPIN-OFFS FROM THE SUPER COLLIDER

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. FAWELL. Mr. Speaker, I would like to share with my colleagues a letter I recently received from Dr. Steven Errede, a professor of physics at the University of Illinois. Dr. Errede's letter clearly and succinctly explains the importance of the SSC to science and technology. In particular, Dr. Errede points out that the technology that is needed to conduct high energy physics research often has many other practical applications. Superconducting magnets, nuclear magnetic resonance imaging devices, PET scans, and proton beam therapy are only a few of the many new devices that have historical roots in accelerator technology.

I believe my colleagues will find this letter of great interest.

UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN, DEPARTMENT OF PHYSICS,
Urbana, IL, March 15, 1988.

Hon. HARRIS FAWELL,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN FAWELL. I am writing to you to urge your support for the President's fiscal year 1989 budget request for basic science in general and the SSC (Superconducting Super Collider) project in particular. Federal support of basic science, much of which cannot be funded by the private sector, is of critical importance for the national economy, and is also a sound investment in the future of this country. The SSC project of the Department of Energy is among the basic science efforts designated for substantial appropriation of $363M in fiscal year 1989, $283M of which is intended to be used to begin construction of the SSC.

The SSC is crucial for the continued vitality of high energy physics in this country; it is a field of basic research actively pursued by myself and my colleagues, your constituents. We in the U.S. high energy physics community have worked on the design of the SSC for well over six years. It is the logical next step in the international high energy physics research program and is soundly based on small extensions to existing, well-proven superconducting magnet technology developed at the Fermi National

Accelerator Laboratory and at other research laboratories here in the U.S.

History has shown that support of basic science pays for itself many times over. Because of the efforts of the few physicists who struggled to understand the basic principles of electricity and magnetism in the last century, and with the great progress in this century by the efforts of many scientists and engineers, we now have many things that we commonly use in our everyday lives, such as computers, radio, television, satellite communications, lasers, etc. all of which help to make our lives better. Electronic technology is used in all areas of scientific research, in hospitals, businesses and in homes. This is only one example of the impact of basic research on our country. The impact on and benefits to society are both short-term and long-term in nature.

The technological spinoffs from high energy physics to society have been many. The superconducting wire developed at Fermilab for use in the TeVatron magnets made possible the development of large superconducting magnets now in routine, large-scale use at NMR (Nuclear Magnetic Resonance) Imaging facilities in hospitals. Similarly, PET (Position Emission Tomography) Scanning facilities in hospitals are also an outgrowth of high energy physics. The Loma Linda Medical Center in California is currently building a proton therapy facility (based on the neutron therapy facility currently in operation at Fermilab) which was designed by accelerator physicists at Fermilab. The high energy physics community has been a collaborative partner to the computer industry since the early 1960's in developing the fastest, most powerful computers in the world. The Fermilab's ACP (Advanced Computer Project) is an explicit example of this kind of effort. Various kinds of particle accelerator technologies and particle physics technologies are now routinely being used as a means for doing basic research and applied research in many other fields of science, such as biology, chemistry, medicine, geology as well as physics. Recent advances in our understanding of muon-catalyzed fusion may one day provide us all with a virtually unlimited source of safe, clean energy! Here at the University of Illinois, we are engaged in basic research to develop a fundamentally new type of particle detector for use in experiments at the SSC, using semiconducting polymers (conducting plastics). If successful, because such devices are expected to be very inexpensive, it would then be possible to envision their wide-spread use in people's homes to detect unsafe levels of radon gas.

The list of technological spin-offs originating from basic research high energy physics alone is practically endless and is also of great benefit to the citizens of this country! Basic research provides training and education for all types of people: high school, undergraduate and graduate students, post-doctoral research assistants, technicians, engineers, etc. The physics questions we seek answers to from experiments to be done at the SSC will help us to better understand the nature of our universe, and our role in it.

The high energy physics community needs a clear signal from our own government in order to obtain foreign support for the SSC project. From initial contacts made with several countries in Europe, as well as Japan, India and other countries, it appears that it will be possible to obtain financial commitments from these countries for up to 40 percent of the total $5.3B cost of the SSC, thus considerably reducing the burden of the SSC for the American tax-payer. However, no commitments will be forthcoming from these countries until the U.S. makes its own commitment to the SSC project first.

If the SSC project is long delayed, we risk losing the SSC altogether. This (in my opinion) would be a severe blow to our national pride, and would have serious impact for the future well-being of this country. The international field of high energy physics is extremely competitive. At present, the Europeans are hesitating on their plans to build the LHC (Large Hadron Collider). The Russians also have plans for building a new accelerator which will be highly competitive with the U.S.'s own SSC. Both groups are watching what will happen here in the U.S. If we do not go forward with the SSC the Europeans will certainly build the LHC. The foreign countries now willing to help fund the SSC may instead choose to fund the LHC in order to maintain progress in this field.

We therefore look to you for leadership and your support in approval of the SSC project in fiscal year 1989 during the budgetary process in Congress in the upcoming months.

Sincerely,

STEVEN M. ERREDE,
Asst. Prof. Physics.

TRIBUTE TO JIM CASEY

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. LOWRY of Washington. Mr. Speaker, March 29, 1988, will mark the centennial of the birth of James E. Casey, a truly outstanding American. His high ideals, strength of character, foresight, and accomplishments have left a positive and lasting impression on our Nation.

In 1907, at the age of 19, Jim Casey helped found in Seattle, WA, the small local messenger company that was to become United Parcel Service. This teenager's business venture was capitalized at $100. Today, United Parcel Service operates a delivery network that encompasses every address in all 50 States, extends to Puerto Rico, Canada, Japan, and 16 European countries.

The growth and success of United Parcel Service can be traced in part to a philosophy which Jim Casey once expressed, when he told his associates:

> Determined people make conditions, they do not allow themselves to be victims of them. Determined people working together can do anything.

Jim Casey backed his faith in cooperative effort by inaugurating a profit-sharing program for his employees so that he would not have what he called hired hands working around him.

This was one of the first incentive systems adopted by American business, and today the stock of United Parcel Service is owned almost entirely by the managers and supervisors who run the company, or by former managers, their estates or heirs.

Determination was a dominant force in Jim Casey's life. He was born in a small Nevada mining town, the oldest of four children. While still an infant, his family moved to Seattle. There at the age of 11 he had to quit school to take a job and help support the family of 6 because of an ailing father.

As a delivery boy for a department store he earned $2.50 a week. He also worked as a messenger for a telegraph company, and finally, at age 15, he and 2 fellow messengers founded their own service.

Within 2 years, Jim Casey sold his interest in the business and returned to Nevada briefly to prospect for gold. He found none and went back to Seattle where in 1907 he and a companion founded the American Messenger Co.

The new company, which opened for business in a small, dark room under a Seattle sidewalk, was the forerunner of United Parcel Service.

In a struggle to survive against nine competing messenger services in Seattle, Jim Casey posted advertising placards near public telephones. These posters promised "Best Service and Lowest Rates." It was a pledge that became the firm's guiding business philosophy.

Jim Casey once explained:

> Anybody can deliver packages, from the small boy in the neighborhood on up to the most extensive delivery systems in the land. But the one thing we can offer that others will not always have is quality.

The new messenger service stayed open all night and on Sundays, even though there was little business. Jim Casey reasoned that this was the surest way to earn the American Messenger Co. a reputation for dependability.

His messengers used streetcars or walked to their destinations. Eventually, the company acquired bicycles and motorcycles and finally, in 1913, the firm purchased its first package delivery truck.

Within months after its founding, the company began concentrating on package deliveries in addition to its messenger service. With purchase of its first truck, it began a regularly scheduled package delivery service in the Seattle area and contracted with major department stores to distribute their packages.

In 1919, the company changed its name to United Parcel Service and extended operations to Oakland, CA. In 1922, service was instituted in Los Angeles, and, by 1927, brown United Parcel Service vehicles were rolling through the Portland, San Francisco, and San Diego areas.

In 1930, the company began making deliveries for New York department stores, then on to Cincinnati in 1934, Milwaukee in 1938, and Chicago in 1940. As the company's reputation and capability grew, it moved into other metropolitan areas.

After World War II, the American economy underwent explosive changes that unleashed a flood of small packages. United Parcel Service decided to extend its operations over broad areas of the Nation, making its package delivery service available to everybody, not just the department stores and specialty shops which it continued to serve.

The first attempts at this new kind of business were made in the more densely populated Midwestern and eastern seaboard areas where the company already was serving department stores. Gradually, the firm acquired operating authority that permitted it to deliver packages across the Nation.

Jim Casey pioneered in the development of special equipment that brought efficiency to package handling. During the company's formative years, he designed the first package sorting mechanism in Seattle. The basic theory of the device, which provided both storage and movement of packages, has been incorporated into the modern systems now used by package carriers everywhere.

Despite many innovations he brought to the package delivery business, Jim Casey was self-effacing, shunned personal publicity, and constantly credited others with successes the company achieved.

During his lifetime, Jim Casey, who died 5 years ago, quietly engaged in many philanthropic works, including many that focused on child welfare. For these purposes, he and his family established the Casey Family Program for youth and the Annie E. Casey Foundation.

The Casey Family Program has financed a program for the long-term placement of disadvantaged children in foster homes. The project includes payment of monthly service fees to the foster parents to obtain participation of highly qualified foster families.

The Annie E. Casey Foundation, which Jim Casey formed with his brothers and sisters and named after their mother, has recently embarked upon two endeavors in which $100 million will be spent.

After intense study, the foundation has put $50 million into a New Futures Program for children at risk, offering $10 million each to five cities to help teenagers who drop out of school, cannot find a job, or have unwanted pregnancies.

The Annie E. Casey Foundation is also shaping a $50 million program to promote changes in child welfare. A third project will aim to reduce the sentencing of juvenile offenders to training institutions.

Jim Casey's legacy is an important contribution to the Nation's economy through the delivery network he pioneered and an enduring assistance to troubled youth.

I salute Jim Casey for these outstanding endeavors.

THE INTERNATIONAL FAMILY PLANNING PROTECTION ACT

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. ATKINS. Mr. Speaker, today, I am pleased to be introducing, along with Representative SNOWE, Representative LEVIN, and 48 of our colleagues, legislation that will correct a 4-year-old injustice. In 1984, regulations were instituted barring the eligibility for Federal funds by foreign, nongovernmental organizations because they use their own funds to provide information about abortion services. We do not promote the use of Federal funds for abortion. We do oppose penalizing an agency soley on the basis of the scope of the family planning options it offers using private funds. These regulations have resulted in a dangerous and untenable double standard at home and abroad. The policy tacitly assumes that women here in the United States have the ability to make informed decisions and women in poorer countries do not.

These regulations, introduced at the 1984 International Conference on Family Planning in Mexico City, have come to be known as the Mexico City Policy. They are a radical departure from previous American policy, which stressed access to all information on family planning when requested.

We are faced with a terrible overpopulation problem in developing nations. There is a consensus in this country that voluntary family planning in essential to the help control world population. The Mexico City policy has placed additional burdens on agencies operating in extremely primitive conditions, with primarily illiterate clients. It is difficult enough for these agencies to operate, even without the additional paperwork and bureaucratic obstacles imposed by the Mexico City policy.

Family planning organizations that operate overseas provide a vital service. They bring adequate health care and counseling to people who have never had them before. But because they fear losing their AID funding through some violation of the Mexico City policy, doctors and clinics are cutting back on the services they offer, often in more strict ways than the policy intended. Patients are being turned away from clinics because doctors believe that treating them would cost them American aid. It is a terrible stiuation when U.S. policy results in failure to provide adequate health care. Rather than clarifying American intent, the Mexico City policy has served only to muddy the waters. The United States is the only nation that provides family planning aid that has such a policy. It has served to remove the United States from the consensus of family planning nations.

On February 3, regulations identical to the Mexico City policy were announced for family planning agencies that operate here in the United States. It appeared as if women in the United States would be denied information, by the U.S. Government, that would allow them to access to information pertaining to their own health care. Even as these regulations were being promulgated, courts in Boston, Denver, and New York were evaluating their legality. All ruled that these regulations are illegal. The most far-reaching reversal of these regulations was handed down by Judge Skinner only days before they were to take effect.

The Mexico City policy is unfair, restrictive, and regressive. It undermines the central tenet of family planning—informed consent. Voluntary family planning has proved effective in slowing population growth and improving the health of people in the developing world. Any failure to support voluntary family planning initiatives could serve to exacerbate the population crisis. Such a situation is precisely what we should strive to avoid.

The Mexico City policy has created a terrible double standard for women in other nations. It makes an assumption that they do not have the same rights of access to information as women in the United States. The courts have ruled that the principles behind the policy are unlawful and inappropriate in the United States. The International Family Planning Protection Act will extend this protection to women in other nations. The legislation is as follows:

H.R. 4270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) since January 1, 1985, the executive branch has, without statutory authority, implemented a policy with respect to the international population assistance program;

(2) this policy, first announced by the executive branch at the 1984 International Conference on Population in Mexico City, excludes any foreign nongovernmental organization from eligibility for United States family planning assistance if that organization provides any information about or services related to abortion, even with its own funds;

(3) this policy far exceeds the longstanding and uncontested ban on the use of United States Government funds to pay for the performance or promotion of abortion, a prohibition with which all population assistance recipients have been found in compliance;

(4) the effect of this policy, which forces foreign nongovernmental organizations to choose between accepting United States assistance in order to provide desperately needed family planning services and abiding by the laws and ethical medical practices of the countries in which they provide these services, is both widespread and tragic since—

(A) there are 65 countries receiving assistance from the United States whose laws permit abortion and relevant information under conditions broader than the executive branch policy permits, with the most serious problems occurring in India; and

(B) this policy requires the withholding of information about the option of abortion even when the mother's or infant's health could be seriously threatened with the continuation of pregnancy, such as in certain African countries, where nearly 20 percent of pregnant women are found to be carriers of the human immunodeficiency virus;

(5) this policy does not apply to United States family planning assistance to foreign governments, thus establishing a different standard in the case of foreign nongovernmental organizations;

(6) this policy does not apply to federally supported family planning programs in the United States, thus establishing a lower standard of care for women; and

(7) this policy, if implemented in the United States, would be illegal under the laws and Constitution of the United States, and would be unethical under the principles of informed consent established by the American College of Obstetrics and Gynecology and endorsed by the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

SEC. 2. LIMITATION ON APPLICATION OF RESTRICTIONS TO FAMILY PLANNING PROGRAMS RECEIVING FOREIGN ASSISTANCE.

Restrictions may be applied by the executive branch to information, counseling, or services that may be provided by family planning entities abroad that receive assistance under part I of the Foreign Assistance Act of 1961 only to the extent that the same restrictions are applied by the executive branch to information, counseling, and services that may be provided by family planning entities receiving funds under grants and contracts made under title X of the Public Health Service Act (42 U.S.C. 300 and following).

A TRIBUTE TO ROMARE BEARDEN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. STOKES. Mr. Speaker, on March 12, 1988, the world lost one of its great black artists when Romare Bearden passed away in New York at the age of 75. His unique style took the art community by storm and revolutionized the art industry worldwide. Romare Bearden depicted the black American experience through the images he brought to life in his work. No one told the story better.

Romare Bearden's artistic talents made him one of the best loved black artists and earned him the highest honors during his lifetime, including the Guggenheim and National Medal of Arts awards. I would like to share with my colleagues the following article which captures the life of this distinguished artist.

Mr. Speaker, I join the art community in mourning the passing of Romare Bearden. While we are saddened by his death, we are glad that his images of the black and human experience have been documented in his work—and through his art—his spirit lives on.

[From the Washington Post, Mar. 14, 1988]

ROMARE BEARDEN'S BLUES

(By Paul Richard)

There is a glinting and a singing in the art of Romare Bearden. His pieced-together pictures—with their poignant bluesy subjects and their sudden, jagged rhythms—always make one think of melodies and blades, of music wed to sharpness. Bearden, 75, who died Saturday in New York following a stroke, was a kind of carver. He made his pictures with a knife.

He learned to hear with subtlety before he learned to draw. Duke Ellington, a friend, bought one of his first paintings, and when Bearden was a boy, growing up in New York on 131st Street, Harlem's best performers—Billie Holiday, Fats Waller—were frequent visitors to his house. Bearden, in his studio, liked to make his art to music. He said, "I'd take a sheet of paper and make lines while I listened to records—a kind of shorthand to pick up the rhythm and intervals." You can often hear the blues in the titles of his pictures—"Carolina Shout," "New Orleans Farewell." And there is something of the jazz band in the way his snipped-out passages—that fragment of a photograph or that picture of a Benin bronze—seem to step up to the surface to play their discrete solos before returning to submit to the harmony of the whole.

He cut up books and magazines and bits of colored cloth, and glued these things together to tell his touching stories of memories and dreamings, of blackness in America and of his own event-filled life.

While the people in his pictures are very often black, and while the spaces they inhabit tend to summon Harlem or the rural South, something in his fine, never-preachy art suggests the universal. He traveled widely through art history. Many were his teachers. George Grosz, whose acid drawings of street life in Berlin led him to flee Germany, instructed Bearden in drawing at the Art Students League in 1935 and 1936, and, said Bearden later, "made me realize the artistic possibilities of American Negro subject matter." Bearden took as much from the pictures of Picasso as he did from patchwork quilts. (The glowing light bulb from the "Guernica" shows up often in his pictures like a little note of thanks.)

In Paris in the '50s, Bearden became friends with Constantin Brancusi. Returning to New York, he conscientiously immersed himself in the best of Western art. Too shy to paint in public in crowded art museums, Bearden would instead order black-and-white copies of old masters and reproduce them on his own. "I did that with Giotto, Duccio, Veronese, Rembrandt—right up to Monet," he said. "I spend three years copying." He also studied Chinese art with a New York scholar, a certain Mr. Wu, and some oriental spareness, and sense of flowing narrative, seems to hover like an overtone beyond the surface of his art.

"The artist," Bearden said, "has to be something like a whale, swimming with his mouth wide open absorbing everything until he has what he really needs."

Romare Bearden—he pronounced his first name "Rome-ery'—would often smile wryly when scholars described him as a sort of self-taught bluesman who'd learned next to nothing from white masters. "Bearden's background," wrote Albert Murray, "is hardly distinguishable from that of the great majority of the outstanding blues-idiom musicians of his generation." But that's not really true.

"Romie was never a poor kid," said his childhood friend, the black painter Charles Alston. "He was straight out of the middle class, and the urban middle class at that. Jake [Jacob] Lawrence grew up in the middle of real Harlem poverty, and there's always been something very simple and direct about his approach, but Romie's approach to art is more intellectual. He's read a great deal all his life, and he's been intensely curious about many different kinds of art."

Young Romie Bearden's home, at least by Harlem standards, was relatively privileged. The painter's mother Bessye J., writes The New Yorker's Calvin Tomkins, "was New York editor of the Chicago Defender, the widely read Negro weekly; chairman of her local school board (after having been the first woman appointed to a school board in New York City); national treasurer of the Council of Negro Women; a member of the executive board of the New York Urban League . . . Everyone in Harlem knew Bessye J., and Bessye J. knew everyone; Eleanor Roosevelt and Mary Bethune, councilmen and judges, editors and mayors, not to mention all the musicians . . ."

Bearden late in life was a balding round-faced, fleshy man whose complexion was so light that people, on first meeting him, often thought him white. Murray, a black writer, first met Bearden at a café in Paris. "I couldn't tell if he was a Russian or what—people used to say about Romie over there that seeing him first you thought it must be Khrushchev or Jean Genet. But then he put his head back and laughed . . ."

Bearden spent two years at Boston University and then, returning to Manhattan, transferred to New York University where he majored in mathematics. In Boston he had pitched for the Boston Tigers, a black team, and he threw so hard he was told that if he wanted to "pass" for white, he could easily make the big leagues. But Bearden even then had decided upon art.

In 1935, he joined Aaron Douglas, Augusta Savage and other black artists in the Harlem Artists Guild. He took a studio on 125th Street (Jacob Lawrence did his paintings on the floor below), and spent his evenings hanging out at "306"—the nearby studio-school where Charles Alston lived. "You got to know all kinds of people—actors, musicians, underworld characters, intellectuals, society types," remembered Bearden. "I met Garcia Lorca once at a party."

But though he yearned to make good art, something held him back. In 1935, Bearden had a one-man show in Washington, at Caresse Crosby's G Place Gallery. Later he would show—with Adolph Gottlieb and Robert Motherwell—at Samuel Kootz's in Manhattan. But then Bearden somehow stalled. He'd spend hours staring helplessly at a blank sheet of paper. And when he got to Paris, he found he couldn't paint at all.

"Painting is so difficult," he said. "The canvas was always saying no to me."

For a while, in despair, he gave up art completely to try his hand at song writing. (He had moderate success. Singer Billy Eckstine made a record of Bearden's "Seabreeze" in the 1950s.) But then he found his path. The scavenging of what was there, the cutting-up and pasting-down of preexistent images, brought a sudden and amazing freedom to his art.

By the mid-'60s, Bearden was one of the best known and best loved black artists in America. Honors started rolling in. He was elected to the American Academy of Arts and Letters in 1966; he won a Guggenheim in 1970, and a Ford Fellowship three years later. His works began to find their way into the great museums, and when his small collages were offered up at auctions they frequently fetched prices in the $50,000 range.

Last June, President Reagan awarded him the National Medal of Arts.

His special idiosyncratic mix of drawing and cutting, of fractured cubist space and melodic evocations of the black American experience, is unforgettable. Bearden's finest work has a sort of glowing largeness. His themes came from the Bible as well as from the blues. He was as much at home illustrating scenes from "The Iliad" of Homer as he was recalling the tenements of Harlem. His odalisques and witches, his children and musicians, have about them something timeless. The music of his pictures sings all human life.

He made integrated art.

AHERA EXTENSION OPPOSED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. FLORIO. Mr. Speaker, one of the most significant health problems facing our schools and the children and employees in our schools is asbestos.

Asbestos is a known carcinogen, and there is no known safe level of exposure to asbestos. Over 30,000 schools, with 15 million students and over a million employees, have friable asbestos. Because of their age, their metabolism, and their level of physical activity, our school children are particularly at risk. They breathe five times as much air as adults, and inhale five times as many asbestos fibers when asbestos is in the air.

Two years ago Congress passed the Asbestos Hazard Emergency Response Act, after the EPA had failed repeatedly to provide the Nation's schools with any sensible guidance for taking care of asbestos or to provide any mandatory schedule for getting rid of asbestos. EPA had first announced in 1978 that it intended to require action on asbestos and took several interim steps, but nothing was done until Congress acted in 1986.

AHERA required schools to have a plan to clean up asbestos in place by October of this year. Work is not required to begin until July 1989.

Some have suggested that the deadlines be extended. The health of our schoolchildren and school employees will be jeopardized by such an extension.

I urge my colleagues to read the following letter from the PTA, several education groups, and the organizations representing schools employees, which opposes such an extension:

THE NATIONAL PTA,
Chicago, IL, March 11, 1988.

DEAR REPRESENTATIVE: On behalf of children, teachers and other school employees, we the undersigned organizations are writing to express our opposition to H.R. 3893, legislation that extends the deadlines under the Asbestos Hazard Emergency Response Act (AHERA), P.L. 99-519.

The Asbestos Hazard Emergency Response Act of 1986, requires public school districts and private schools to inspect all school buildings for asbestos, develop a management plan that outlines which response action the school district will use to control the release of asbestos fibers, submit this plan to the appropriate state agency by October 12, 1988, and begin implementing the plan by July 9, 1989. Certified inspectors, contractors, and abatement removal workers must be used to conduct the work. Also, the AHERA regulations allow for an exclusion to be granted, either partial or complete, to any school district that has previously inspected and/or has taken appropriate action regarding asbestos in a manner that is consistent with the Act.

For school districts that miss the deadlines, EPA is authorized to impose a fine of up $5000 per day for each day the district is in noncompliance with the law. These funds are returned to the school districts for use in conducting inspections and developing management plans, or, in the case of the July 1989 deadline, implementing the management plans. When assessing the fine, EPA must take into consideration such factors as the ability of the school to pay the fine and still deliver educational services.

The deadlines in AHERA should not be extended. Asbestos has been a known carcinogen since the 1970's; school officials have known since then that action should be taken to protect children and other school building occupants from exposure to asbestos. In 1982, the Environmental Protection Agency promulgated a rule that required school districts to inspect all school buildings for friable asbestos by June 28, 1983. If all school districts had complied with this rule, much of the work required by AHERA would have already been completed. Furthermore, AHERA was signed into law in October 1986. If school district officials had moved immediately to comply with the law, the inspection and plan development stages would nearly be completed now.

On March 10, 1988, EPA announced that as of February 1, 1988, 5,183 inspectors have been accredited. Of that amount, 4,809 have also been certified to develop management plans. The number of EPA accredited training centers for inspectors and management planners is also increasing. In October, when the final AHERA rule was promulgated, there were 9 such training centers; in the February 10, 1988, Federal Register, EPA announced that there were 22 inspector and management planner courses. At the March briefing, EPA announced that there are now 42 courses with five more courses awaiting EPA approval.

Proponents of the legislation claim that there are not enough certified inspectors and management planners to complete the work by October 12, 1988. They assert that information on certified individuals is difficult to obtain. Proponents also claim that school districts do not have funds available from this fiscal year's budget to pay for inspecting schools and developing management plans. We question whether simply extending the deadlines by one year would solve these problems.

We, instead, encourage Congress to explore other means of assisting school districts and private schools in meeting the AHERA deadlines. The October 12, 1988, is still seven months away; during this time, Congress could work with the Environmental Protection Agency to require the Agency to expand the number of inspector and management planner certification courses offered, perhaps giving priority to school district personnel to enroll in the courses. EPA and the EPA Regional Centers could be required to develop a computerized list of accredited persons which would be made available to school district personnel. Finally, Congress could establish a one year loan program where school districts could borrow funds to conduct the inspections and develop the management plans, but would have to pay back the borrowed funds within one year.

In addition, the Asbestos School Hazard Abatement Act Program (ASHAA), which provides loans, and in extreme cases, grants to school districts to assist in the cost of abating asbestos, needs to be funded at its full FY 1989 authorization level of $125 million. EPA has estimated that the total cost of implementing AHERA will be approximately $3 billion. In FY 1988, ASHAA only received $40 million. Further, the President's FY 1989 budget request for ASHAA is only $3.4 million—just enough funds to provide technical assistance. In light of the cost associated with AHERA, the ASHAA funds become an even more vital source of assistance for school districts.

By extending the deadlines, the health of our Nation's school children, teachers, and other school employees is being placed in jeopardy. Further, simply extending the AHERA deadlines does not solve the problems that the proponents of H.R. 3893 contend exist. By passing H.R. 3893, Congress would be sending a message to school districts that it is acceptable to continue to ignore or delay action on this serious health issue. We look forward to working with Congress in exploring other means of assisting school districts in meeting the AHERA deadlines, and ask you to oppose H.R. 3893.

Sincerely,

American Federation of State, County, and Municipal Employees; American Federation of Teachers; National Education Association; National PTA; Service Employees International Union; Sheet Metal Workers' International Association.

VIGIL FOR CONSCIENCE FOR POLITICAL AND RELIGIOUS DISSIDENTS IN THE SOVIET UNION

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. WOLF. Mr. Speaker, all Americans have the unique liberty to speak with the freedoms we possess, travel from country to country with ease, and worship in the manner we desire.

Soviet Jews, Christians, and prisoners of conscience do not have guaranteed rights of speech, movement, or religion and those dissidents who call attention to this void are persecuted, ignored, or imprisoned. In their nonconformity toward the Soviet system they are branded dissidents and are treated with censure.

I am currently involved with two cases of nonconformity to the Soviet system, one concerning a Jewish family who wants to be reunified with their daughter and son-in-law in the United States, and the other concerns a Lithuanian Catholic, Viktor Petkus, who is currently being held in the vast Soviet penal system for his religious beliefs and human rights activities. Each case is diverse in nature and circumstance but both illustrate the point about the lack of guaranteed liberty that Soviet Jewry, Soviet Christianity, and prisoners of conscience and faith have in the Soviet Union.

Lana Blekher lives in my district of northern Virginia. She and her husband were allowed to emigrate to the United States 7 years ago. Since that time she has tried to reunite her father, mother, and sister in the United States. Her family, however, was refused an exit permit because her father, Lakoz Scherbakov, worked in the aerospace industry 10 years ago and is alleged to still possess "state security secrets." While the case of the Scherbakovs is promised under the family reunification tenets of the Helsinki Final Act, Soviet officials have repeatedly refused their emigration applications even though Mr. Scherbakov has not worked in such a position for 10 years.

The Scherbakovs' situation is not an unfamiliar one. The imposition of "state security secrets" in the denial of exit applications of many Soviet Jews has arbitrarily slowed down processing, emigration, and delayed family reunification causing undue hardship and heartbreak to families waiting to be united.

The story of Viktor Petkus, on the other hand, is far removed from the case of the Scherbakovs but underscores an equally serious concern about Soviet attitudes toward religious beliefs. Viktor Petkus was jailed and sentenced three times since 1947. He has spent the greater part of his life in Soviet prisons and labor camps for his participation in religious youth organizations and for his part in setting up a Baltic Helsinki human rights monitoring group. My office has taken Viktor's case under a program some of my colleagues on the Congressional Human Rights Caucus and I have sponsored called the "Christian Adoption Program." In adopting Viktor, we have written him and have circulated and signed letters with other Members of Congress asking General Secretary Gorbachev for Viktor's release. Even with the activity that has begun on behalf of Viktor Petkus, he still remains without his liberty, serving his sentence for his beliefs.

Present Soviet policy, as the stories of both Lana Blekher and Viktor Petkus illustrate, puts pressure on all religious believers and dissidents of conscience despite the Soviet Union's signature on such international affirmations of religious freedom and human rights as the U.N. Charter, the Universal Declaration of Religious Intolerance, and the Helsinki Final Act. In fact, at this very moment we find Soviet Christians and Jews who are persecuted, imprisoned, and not allowed to emigrate. Churches are closed, religious education is severely restricted and Christians and Jews are excluded from the privileges of special jobs and status because of their religious beliefs or wish to emigrate.

It is imperative that Americans take the time to act and speak with the freedoms we possess in solidarity with Soviet Jews, Christians and prisoners of conscience. Our Constitution is 200 years old and has fostered a system which guarantees the rights of speech, religion and movement. It is for this very reason that opportunities to speak out on behalf of Soviet religious and political dissidents are so important. Americans have the unique liberty to influence public and world opinion with our actions and words and, with the implied promises of General Secretary Gorbachev's policy of "glasnost," Members of Congress can have frank and open dialog with Soviet officials at the highest levels on human rights, emigration and religious liberty. We must seize this opportunity for Soviet Jewry, Soviet Christianity and prisoners of conscience.

DR. THOMAS E. EVERHART TO BE INAUGURATED AS PRESIDENT OF CALTECH

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. MOORHEAD. Mr. Speaker, on April 12, Dr. Thomas E. Everhart will be inaugurated as president of the California Institute of Technology.

Inaugurations of presidents at Caltech have been relatively rare. There have only been a handful of chief executive officers at the institute over the past half-century. The inauguration is Caltech's opportunity to declare its abiding faith in the timeless value of higher education and basic scientific research.

It is also a time for the institute to reassert its unyielding yet comfortable commitment to excellence by selecting a man who shares that allegiance in both spirit and practice.

Dr. Everhart is a magna cum laude—with highest honors—graduate of Harvard University, where he received an A.B. degree in physics in 1953. He obtained a master's degree from the University of California at Los Angeles in 1955, and went on to earn a Ph.D. in engineering from Cambridge University, Cambridge, England in 1958.

That same year, Dr. Everhart joined the University of California at Berkeley, where he served in the department of electrical engineering and computer science for more than 20 years. In addition to teaching and research, he also served as chairman of the department during 1972–77.

In January 1979, he became dean of the College of Engineering at Cornell University, Ithaca, NY. In August 1984 he left Cornell to assume the chancellorship at the Urbana-Champaign campus of the University of Illinois where he remained until accepting the presidency at Caltech in September 1987.

Mr. Speaker, Dr. Everhart is a national spokesman on science and technology. He chairs the General Motors Science Advisory Committee, and chaired the Lawrence Berkely Laboratory Scientific and Educational Advisory Committee from 1980 to 1985. He serves as a member of the R.R. Donnelley Technical Advisory Council; the Engineering Research Board, National Research Council, Commission on Engineering and Technical Systems; and the National Academy of Engineering Educational Advisory Board.

His main areas of interest and expertise have been in the research and development of scanning electron microscopes, electron beams as applied to semiconductor analysis and fabrication, and electron beam recording. In 1984, the Institute of Electrical and Electronics Engineers honored him with its Centennial Medal, which recognizes outstanding achievements in electrical and electronics engineering.

Throughout his academic career, Everhart has maintained a close relationship with industry, and has been a consultant to such firms as Ampex Research and Development Laboratories, Bell Laboratories, Hughes Research Laboratories, IBM Research Laboratory, Watkins-Johnson Co., and Westinghouse Research Laboratories.

Dr. Everhart has strong international ties. He was a Marshall scholar at Cambridge University while pursuing his doctorate, and has been a visiting professor at the Instituet fuer Aggewandte Physik, Tuebingen, West Germany, and Waseda University, Tokyo.

He is a member of many scholarly and honorary societies including Phi Beta Kappa, Sigma Xi, American Association for the Advancement of Science, National Academy of Engineering, Boehmische Physikalische Gesellshaft, Institute of Electrical and Electronics Engineers, and Electron Microscopy Society of America. He has held a Guggenheim Fellowship and a National Science Foundation Senior Postdoctoral Fellowship.

Mr. Speaker, it is my distinct pleasure to announce to my colleagues in the U.S. House of Representatives the inauguration of Dr. Thomas E. Everhart as president of the California Institute of Technolgy, and as the Representative of the 22d Congressional District of California, I am delighted to welcome Dr. and Mrs. Everhart and their children to Caltech, to Pasadena, and the State. I have no doubt this new association will be fruitful for all concerned.

A TRIBUTE TO POLICE OFFICER MICHAEL WANG

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. GREEN. Mr. Speaker, I rise to honor a distinguished and outstanding citizen of New York City, Police Officer Michael Wang. This dedicated man will receive the Cop-of-the-Year Award to be presented this evening by the Fifth Precinct Community Council in lower Manhattan, part of which lies within my congressional district.

This marks the ninth time the community council has bestowed this honor. Each month, one police officer is chosen for performing a courageous deed or for displaying remarkable leadership qualities, Officer Wang was so distinguished this past November and in two previous months. At the end of the year, a committee chooses the cop-of-the-year from the pool of candidates.

I commend the fifth precinct for recognizing the achievements of individual members of the precinct and for enhancing the corporate morale of the whole. By this action it has renewed the spirit of solidarity that permeates important multiethnic community, consisting primarily of Chinese, Hispanic, and Jewish residents.

Police Officer Wang joined the force in 1982 and was assigned to the fifth precinct a year later. Born in China, he speaks fluently both Mandarin and Cantonese, the two most widely spoken dialects, ideal for serving a precinct that encompasses most of Chinatown. In 1987, he made 20 felony arrests and received two commendations for excellent policy duty.

Most noteworthy were his actions in the aftermath of a shooting incident that occurred between rival gangs on East Broadway, in which an innocent pedestrian was struck by a bullet. Officer Wang searched the area and recovered a .38 caliber revolver. Through thorough investigation, he arrested a known gang member for attempted murder the very next day.

Wang is among the finer examples of New York's finest. He has helped make the community a stronger, healthier, and safer place to live, both as a keeper of the peace and as a leader of outstanding character whose courage and commitment serve as an inspiration to all of us.

TERRORIST FIREARMS PREVENTION ACT

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. MRAZEK. Mr. Speaker, I rise to introduce a new and refined version of the Terrorist Firearms Prevention Act (H.R. 1002), a bill that addresses the crucial problem of firearms that are not detectable by metal detectors or other security screening devices. This legislation is a crucial component of our continuing fight against international terrorism. I urge my colleagues to consider the imminent threat to our security, should Congress fail to regulate the emerging generation of nondetectable firearms.

I am pleased that more than 50 of my colleagues of both parties have joined me in support of this measure. This bill mirrors a bill introduced by Senators METZENBAUM and THURMOND, S. 2180, that bars the manufacture, importation, sale, possession, transfer, receipt, shipment or delivery of any firearm that does not meet the detectability standards set out in the bill. In order to meet this standard, a firearm must be as detectable as the "minimum security standard exemplar" in a metal detector, and any firearm with a major nonmetallic component must be impregnated with barium sulfate to insure that it is detectable by x ray. The standard was developed by the Bureau of Alcohol, Tobacco and Firearms in conjunction with the Federal Aviation Administration.

Since this debate began, it has been my intention to bar production of only those firearms which are undetectable based on currently available technology. In fact, new metal detectors are now available which are capable of detecting smaller weapons and distinguishing these weapons from small, scattered metal objects such as keys, fountain pens and coins.

This standard also allows continued production of somewhat smaller weapons without creating a security risk. In addition, it is important to note that the latest available technology does not allow production of weapons which do not meet this detectability standard. Firearms which have so little metal that they do not meet this standard are simply undetectable at any setting of a metal detector, or they are detectable only if the detector is calibrated to its maximum sensitivity. At that level of sensitivity, over 90 percent of airport passengers would have to be hand searched.

Organizations supporting this legislation include: the Association of Flight Attendants, the Airport Operators Council International, the law enforcement steering committee which includes: International Association of Chiefs of Police; Federal Law Enforcement Officers Association; Major Cities Administrators; National Organization of Black Law Enforcement Executives; National Troopers Coalition, Police Foundation; Fraternal Order of Police; International Association of Chiefs of Police; National Association of Police Organizations; Police Executive Research Forum; and Police Management Association, and Handgun Control Inc., American Jewish Congress, and the city of New York.

I urge my colleagues to help protect our airports and public buildings by supporting this important legislation. I would like to request that a copy of this new legislation be printed in the conclusion of my remarks.

H.R. 4268

A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, assembly, importation, sale, possession, transfer, receipt, shipment, or delivery of firearms not detectable by metal detection and x-ray systems commonly used at airports in the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO TITLE 18.

(a) BAN ON UNDETECTABLE FIREARMS.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(p)(1) It shall be unlawful for any person to manufacture, assemble, import, sell, possess, transfer, receive, ship, or deliver any firearm which the Secretary determines, after consultation with the Administrator of the Federal Aviation Administration—

"(A) is not, after removal of grips, stocks, and magazines, as detectable as the Minimum Security Standard Exemplar by walk-through metal detectors calibrated and operated in accordance with Federal Aviation Administration standards for use at airports in the United States; or

"(B) is not, in the case of a firearm containing a nonmetallic barrel, frame, receiver, slide, or cylinder, impregnated (in a manner approved by the Federal Aviation Administration to facilitate firearm detectability by cabinet x-ray systems) with barium sulfate or other compound sufficient to make such firearm detectable by cabinet x-ray systems. Provided, no impregnation shall be required if the firearm is detectable as a firearm without impregnation.

"(2) Nothing in this subsection shall be construed to require the Federal Aviation Administration to utilize the Minimum Security Standard Exemplar as a Federal Aviation Administration detection standard.

"(3) Nothing in this subsection shall be construed to require that a firearm be made of any particular material or be of any particular weight so long as the detectability standard is met.

"(4) For purposes of this subsection, the term 'firearm' does not include a firearm described in subsection 921(a)(3)(B) or a firearm manufactured before the date of enactment of this subsection.".

(b) LIMITATION ON SECRETARY'S POWER TO AUTHORIZE IMPORTATION OF CERTAIN FIREARMS.—Section 925(d) of title 18, United States Code, is amended—

(1) by inserting "(1)" immediately after "(d)";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively; and

(3) by adding at the end the following new paragraphs:

"(2) The Secretary shall not authorize the importation or bringing in of any firearm which—

"(A) is not, after removal of grips, stocks, and magazines, as detectable as the Minimum Security Standard Exemplar by walk-through metal detectors calibrated and operated in accordance with Federal Aviation Administration standards for use at airports in the United States; or

"(B) is not, in the case of a firearm containing a nonmetallic barrel, frame, receiver, slide, or cylinder, impregnated (in a manner approved by the Federal Aviation Administration to facilitate firearm detectability by cabinet x-ray systems) with barium sulfate or other compound sufficient to make such firearm detectable by cabinet x-ray systems.

"(3) Nothing in this subsection shall be construed to require the Federal Aviation Administration to utilize the Minimum Security Standard Exemplar as a Federal Aviation Administration detection standard.

"(4) For purposes of paragraph (2), the term 'firearm' does not include a firearm described in section 921(a)(3)(B).".

(c) MINIMUM PENALTY FOR USE OF UNDETECTABLE FIREARM IN CONNECTION WITH CERTAIN CRIMES.—Section 924(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and;

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) Whoever, during and in relation to the commission of a crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm the possession of which is prohibited under section 922(p), shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than five years.".

(d) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(25) The term 'Minimum Security Standard Exemplar' means a firearm substitute used for testing that resembles a revolver, is made of material type 17-4 PH stainless, and weighs 4 ounces.".

SEC. 2. SECURITY EFFECTIVENESS RESEARCH.

(a) AIRPORT SECURITY.—The Administrator of the Federal Aviation Administration shall conduct such research and development as may be necessary to improve the effectiveness of airport security metal detectors and airport security x-ray systems with respect to detection of firearms prohibited by section 922(p) of title 18, United States Code (as added by section 1(a) of this Act).

(b) FEDERAL SECURITY CHECKPOINTS STUDY.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, the Director of the Secret Service, the Director of the United States Marshals Service, and any other agency head responsible for maintaining or regulating security checkpoints shall conduct a study to identify available state-of-the-art equipment capable of detecting the Minimum Security Standard Exemplar (as defined by section 921(a)(25) of title 18, United States Code (as added by section 1(d) of this Act)) while distinguishing innocuous metal objects likely to be carried on one's person sufficient to permit reasonable passage of the public, and submit a report to Congress containing the results of such study to. Such study shall include a schedule providing for the introduction at the earliest practicable time of appropriate equipment at security checkpoints.

SEC. 3. MODIFICATION OF MINIMUM SECURITY STANDARD EXEMPLAR.

When appropriate because of changed technology, the Secretary of the Treasury, after consultation with the Administrator of the Federal Aviation Administration, shall submit to Congress proposed legislation, including technical and conforming provisions, to amend the definition of the term

"Minimum Security Standard Exemplar" contained in section 921(a)(25) of title 18, United States Code (as added by section 1(d) of this Act).

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 30 days after the date of enactment of this Act.

QUESTIONS AND ANSWERS REGARDING S. 2180

1. What firearms are prohibited by S. 2180?

S. 2180 prohibits future production, importation and sale of firearms which are not detectable as a firearm in an X-ray cabinet and which are not as detectable as a 4.0 ounce stainless steel "exemplar." (An exemplar is a testing device in the shape of a firearm). No firearm has to be of any particular shape, weight or composition as long as these detectability standards are met.

2. What firearms now available in the United States are affected?

Only one firearm sold in the U.S. today would not meet this detectability standard. All other firearms are unaffected by the bill since they are out of production, or they have enough metal to meet the standard.

3. What is the effect of the bill on firearms now in circulation?

Any firearm manufactured at the time the bill becomes law would be unaffected. Those who owned these firearms could keep them or transfer them.

5. Does the Secretary of the Treasury have discretion under the bill to ban production of firearms?

No. The Secretary is given authority under the bill only to apply a specific, expressly stated standard. He or she would have no discretion to apply a different standard. The bill requires that non-metallic guns be impregnated with barium sulfate to make them detectable by x-ray. The Secretary would have no discretion to ban metallic firearms on the grounds that they are not detectable by x-ray.

6. Does S. 2180 insure that all firearms would be detectable?

Yes. S. 2180 sets a floor on detectability for any firearm which would be produced or imported in the future. In addition, it mandates the installation of improved metal detectors which are capable of detecting these firearms without causing disruption at airports or other public facilities.

7. Does S. 2180 take account of the best available technology for detecting firearms?

Yes. The detectability standard in S. 2180 is based on the latest available technology. The bill provides that if improved technology becomes available which would allow the detectability standard to be modified, the Secretary of the Treasury is to propose such modifications to Congress.

TERRORIST FIREARMS PREVENTION ACT

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. MILLER of Washington. Mr. Speaker, today I join with my colleague, Congressman MRAZEK in introducing legislation which seeks to prevent our Nation from facing a new source of terror. We are proposing legislation to stop the manufacture or importing or possession of firearms which are not detectable by metal detectors and x-ray systems commonly used at airports.

Mr. Speaker, this bill is similar to a bill introduced by Senators METZENBAUM and THURMOND to address the problem of nondetectable weapons. The Senate bill has won a hearty endorsement from the 12 major law enforcement groups in our Nation. These groups represent almost all of the police officers and sheriffs in our Nation.

The technology now exists to manufacture weapons which can avoid detection by most x-ray machines used at airports around our country. This technology of terrorism is a direct threat to the American public. According to Mr. Richard Lally, assistant vice president for security of the Air Transport Association, in the last 14 years, almost 8 billion people have been screened at U.S. airports. More than 36,000 firearms have been seized resulting in 16,000 related arrests. Most important, at least 117 hijacking or related crimes were avoided.

Mr. Speaker, each hijacking we prevented was a disaster we averted. We have developed a simple procedure which takes a few seconds and guarantees a safe flight. Now, the technology of terror threatens to bring back the tragic consequences of handguns on commercial airplanes.

The solution, Mr. Speaker is in the bill we are introducing today. According to testimony before the Subcommittee on Crime, a Florida gun manufacturer has stated that he possesses the technology to manufacture an all plastic pistol. And, to add to our worry, the U.S. Secret Service told a Senate panel that "the threat posed by nonmetallic handguns is significant and could potentially have a devastating impact on our protective mission." That means these guns threaten the safety of the President. And, Mr. Speaker, if they threaten the security of the President, they certainly can get by other security systems.

There are those, Mr. Speaker, who say that the problem is lax airport security. Yet, the facts tell us that even the best run and maintained airport security systems would not be able to detect handguns with plastic or ceramic substances.

There are those who say that if we fine tune our magnetometers—our metal detectors—we could detect objects as small as a nail file. Yes, this is true, we could detect a nail file, but we probably would miss a handgun produced by the technology of terror. Worse still, if we set the metal detectors at this fine setting, belt buckles and key chains and countless other metal objects would set off alarms but we would still not detect handguns made from plastics and ceramics.

Mr. Speaker, we face a simple choice here. Do we allow the technology of terror to come of age and become the grim reaper of tomorrow or do we act responsibly today.

A TRIBUTE TO YOLANDA I.J. MAPP

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. SAXTON. Mr. Speaker, I rise today to ask my colleagues in the House to join with me in paying tribute to my constituent, Dr. Yolanda I.J. Mapp, who was recently awarded the American Cancer Society's Cancer Courage Award.

Ms. Mapp has had a very successful career which began when she received her medical degree from the Howard University School of Medicine in 1957. Her hard work and dedication have helped her to climb the ladder of success culminating at her present position as the acting director of student health at Temple University.

Yolanda has also been a physically active person. What little free time she keeps to herself she spends playing tennis or bicycling. She is also very accomplished in the self-defense art of Judo. Her years of participation in national competitions have led her to achieving the black-belt status. Last year at the age of 56 she even traveled to Japan to further her study of the art.

In 1974 her livelihood and her life were threatened when she was diagnosed with breast cancer. Yolanda underwent a radical mastectomy to remove the infected area. Her surgery was followed by treatments of radiation therapy and chemotherapy. Since 1974 she has not had a recurrence and has been deemed healthy and rid of the terrible disease.

Blessed with a sense of community and courage, Yolanda Mapp has turned her fight with cancer into a learning experience that in the true spirit of caring she is sharing with others. In 1976 she joined the 2.5 million Americans who are volunteers for the American Cancer Society. As a member of the Philadelphia division she served on the committee that initiated the division's successful "Keys to Living" unit in West Philadelphia.

Presently, she serves as a public education volunteer and makes speeches on cancer prevention in churches and community organizations in the Philadelphia area. It is through these activities that she has been able to share with others her winning fight with cancer and exuberance for life in order to convince others to also fight and win.

Mr. Speaker, I am sure that my colleagues in the House will want to join with me in congratulating Yolanda I.J. Mapp as she receives this award for her courage and perseverance. It is people like her, that act in the true American spirit, that give hope to the sufferers of this killer.

This year the American Cancer Society will celebrate its 75th anniversary. More and more every day, Yolanda I.J. Mapp and the rest of the 2.5 million volunteer members of the American Cancer Society give us hope that we will someday never again have to be concerned with this killer of 500,000 of our fellow Americans each year. Mr. Speaker, let us together salute Dr. Mapp and wish her a long and happy life.

ISLAND OF CYPRUS

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. KOLBE. Mr. Speaker, the island of Cyprus located in the Mediterranean, 40 miles from Turkey, 90 miles from Lebanon, and 843 miles from mainland Greece, holds geopolitical significance for the United States and the southern flank of NATO.

Approximately one-third of the island is controlled by Turkish Cypriots and two-thirds by Greek Cypriots. Over the last 25 years, intercommunal strife and violence have torn apart the island and its people.

In 1974, Turkey interceded with military forces, as one of the coguarantors of the 1960 constitution, to protect the Turkish Cypriots following a Greek-inspired coup that toppled Archbishop Makarios, leader of the Greek Cypriots.

Recently, on February 21, 1988, Greek Cypriot elections were held, and a business consultant, George Vassiliou, was elected president. I am told at the time it appeared Mr. Vassiliou favored reopening discussions with the Turkish Cypriots aimed at reunifying the island.

The Turkish side, even before the February elections I am told, expressed its hope for renewed discussions. Rauf Denktas, President of the Turkish Republic of Northern Cyprus, said in a February 13 statement he was optimistic that the new Greek Cypriot leader would, "adopt a constructive and realistic posture toward a negotiated solution in Cyprus, on the basis of a bi-zonal federation as previously agreed, and as also envisaged by the U.N. Secretary-General's 'Draft Framework Agreement' of March 29, 1986."

On February 16, Mr. Denktas told foreign journalists he would immediately offer to meet with the new leader of the Greek Cypriots after the election on neutral ground for a private, informal talk to begin negotiations.

Upon learning the election results on February 22, Mr. Denktas reiterated his invitation. He said,

> Our Greek Cypriot neighbors in the south have just elected their new leader, to whom I extend my congratulations—I call upon him to meet me—in order to get acquainted and have a social, informal talk with me, not dealing with any specific matters of substance.

Regrettably, Mr. Vassiliou's response was negative to Mr. Denktas' demonstration of good will. The Turkish Cypriot leader responded,

> Political equality is the basis of a Federal settlement (of the Cyprus problem). The existence of two equal peoples in Cyprus is an undeniable fact—we hope that Mr. Vassiliou will adopt a more constructive attitude after his affirmation ceremony.

Turkish Cypriot Foreign Minister Dr. Kanan Atakol was even stronger in his reaction.

> Mr. Vassiliou's declaration that the Turkish Cypriots were his "subjects" was a serious mistake. His statements have disappointed everybody who hoped he would follow a constructive policy on a Cyprus settlement. But the Turkish Cypriot side is willing to give Mr. Vassiliou time to readjust his position.

There are rights and wrongs on both sides of the issue, to be sure, but any resolution of this problem that divides our NATO allies, Greece and Turkey, must begin with discussions and negotiations. I urge both sides to come to the table at the earliest possible date to resume negotiations.

INTRODUCTION OF THE KINGPIN DEATH PENALTY BILL

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. MANTON. Mr. Speaker, I am today introducing legislation to enhance the enforcement of our Nation's antidrug laws. My bill will provide a long-overdue weapon against the vicious illegal drug trade that is killing our youth and destroying our neighborhoods. The need for this legislation was made painfully clear recently with the cold-blooded murder of a young New York City police officer. Officer Eddie Byrne was gunned down execution style while protecting the home of a witness. My legislation will allow judges to impose the death penalty for the killing of a police officer and habitual criminals who are convicted of an intentional killing.

My colleague from New York, Senator D'AMATO, last week introduced a companion measure as part of a new comprehensive antidrug bill. We are taking this step in response to the alarming rise in drug related homicides, which have increasingly involved the killing of our Nation's law enforcement officers.

Mr. Speaker, we are losing the war on drugs and we will not turn this battle around until we take decisive action. The drug dealers responsible for the killing of Officer Byrne sent our society a message of their wanton disregard for human life. We must now send these outlaws an equally clear message that we will not hesitate to deal with them in the most severe manner possible.

Mr. Speaker, my bill will amend the Controlled Substances Act to provide for the death penalty for two types of criminals: (1) the person who murders a policeman, such as Officer Eddie Byrne; and, (2) the drug kingpin who kills, or orders the killing, of any individual.

This legislation has been carefully drafted to meet the concerns that have been raised in the past over the death penalty provision. This bill is aimed solely at the most vicious of killers who profit from the drug trade. These merchants of death have a total disregard for human life, and they will not be deterred in their egregious actions until we institute the death penalty for their crimes.

These drug czars are the sleaziest criminals who prey on our society. Without this forceful measure, they will continue to take the lives of our citizens, either by the poison they sell or through the premeditated murder of Federal, State, and local law enforcement personnel. We must act now to show our society will no longer tolerate drug trafficking. We as a nation must have the resolve to take this necessary action.

THE GLOBAL POVERTY REDUCTION ACT OF 1988

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. LEVINE of California. Mr. Speaker, today I am introducing, along with my distinguished colleagues, Mr. MILLER of Washington, Mr. HALL of Ohio, and Mr. GILMAN of New York, H.R. 4277 the Global Poverty Reduction Act of 1988. This legislation seeks to target U.S. development assistance to eliminate the worst aspects of world poverty.

More than at any time in the past, we now have the potential to reduce the most devastating effects of poverty. The knowledge is now available to prevent a majority of child deaths through the utilization of low-cost and effective antipoverty programs. This legislation seeks to target U.S. development assistance toward implementing these programs.

The Global Poverty Reduction Act directs the next President to consult with the governments of developing countries, nongovernmental organizations, and international organizations to devise a plan to utilize U.S. development assistance more effectively in the fight against poverty and hunger.

My legislation includes three specific performance indicators, and asks the President to identify others to be included in the plan. The social indicators will be used to reflect the depth of poverty and the quality of life, especially for children, in developing countries. By focusing development assistance on improving these indicators, the United States can make measurable progress toward reducing malnutrition, disease, starvation, and poverty by the end of this century.

The performance indicators we have included in this legislation are acknowledged by international experts as among the most reflective of the condition of people living in absolute poverty.

The first performance indicator included in this legislation is the under five mortality rate, also known as the U-five-MR. The U-five-MR reflects how many children, out of 1,000 live births, will die before age 5. In the United States the U-five-MR is approximately 13. In developing countries the U-five-MR can go as high almost 300 deaths of children under 5 years of age for every 1,000 live births.

Reducing the U-five-MR is one of the keys to eliminating malnutrition, disease, and starvation, because, while the U-five-MR itself reflects the rate of death for young children, a reduction in the U-five-MR reflects the quality of life. A lower U-five-MR indicates improved nutrition standards, increased access to necessary medical care, the availability of clean water, and improvement in other key necessities of life for all children. The goal in this legislation is for U.S. development assistance to be used—in countries with a U-five-MR of under 140 deaths per 1,000 live births—to halve that rate, and for countries with a U-five-MR of more than 140 to reduce the rate to 70. This goal is achieveable with current health care knowledge.

Second, this legislation sets as a target the improvement of the female literacy rate to 80 percent by the end of this century. Since women provide almost all of the child care in developing countries, an improvement in female literacy contributes directly to improving child survival by enabling women to read instructions for basic health, sanitation, medical, and nutritional standards. In addition, female literacy contributes to population control; as women become assured that their children will survive to adulthood, fewer births are required to ensure that at least some will grow up. In short, the incentive to have as many children as possible is reduced.

Finally, this legislation targets U.S. development assistance toward the goal of reducing the overall rate of absolute poverty. Absolute poverty is defined as the income level below which a minimum nutritionally adequate diet—plus essential nonfood requirements, such as medical care—are not affordable. U.S. development assistance would be targeted toward helping countries with over 40 percent of the population living in absolute poverty reduce that rate to less than 20 percent, and helping countries with absolute poverty rates of less than 40 percent halve their rates.

This legislation recognizes the importance of environmental problems in the poverty cycle, and emphasizes the importance of development activities which are consistent with maintaining and restoring the renewable natural resource base. Emphasis is placed on small-scale, affordable, resource-conserving, low-risk local projects using appropriate technologies suited to local environmental, resource, and climatic conditions.

The Global Poverty Reduction Act has been endorsed by results, the grassroots hunger lobbying organization, as its primary legislative objective for this session. Additionally, CARE, Helen Keller International, Save the Children, the U.S. Committee for UNICEF, World Vision, and Global Water have endorsed this bill.

Mr. Speaker, as we move into the 1990's and beyond, we may inevitably be faced with a shrinking foreign aid budget. That factor underscores the necessity of using specific and quantifiable goals for our development assistance; such goals increase accountability and, even more importantly, ensure that we will be focusing on those targets most likely to reduce poverty, hunger, death among the world's poorest peoples. As a global superpower, we have a responsibility to do no less.

This legislation sets ambitious goals for U.S. development assistance, but goals that we can achieve, if we commit ourselves to them. With that in mind, I urge my colleagues will consider this legislation carefully. A copy of the bill follows:

H.R. 4277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Global Poverty Reduction Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) all countries of the world, through the World Health Assembly, have set for themselves the common goal of health for all by the year 2000;

(2) President Reagan in 1987 announced an initiative to help end hunger in sub-Saharan Africa by the year 2000;

(3) the President of the World Bank in 1987 stated that, "In the large poor countries of Asia, we wish to support government strategies to eliminate the worst aspects of absolute poverty in Asia by the year 2000";

(4) the heads of state of the South Asian Association for Regional Cooperation committed themselves to the goal of universal immunization by the year 1990 and the goals of universal primary education, adequate maternal and child nutrition, safe drinking water, and adequate shelter for all by the year 2000;

(5) section 101 of the Foreign Assistance Act of 1961 states that "Congress * * * renews its commitment to assist people in developing countries to eliminate hunger, poverty, illness, and ignorance";

(6) the Government of India has established the goal of eliminating absolute poverty in India by the year 2000;

(7) the United Nations General Assembly, among its goals for the Third Development Decade, has agreed on the goal of an infant mortality rate of 50 or below by the year 2000;

(8) the establishment of performance indicators, particularly social indicators such as the under-five-mortality-rate (U5MR), offers the prospect of a much wider understanding of the ultimate objectives of development and assistance and the ability to target development assistance strategically;

(9) the United Nations Children's Fund considers the under-five-mortality-rate as the primary indicator of a less developed country's progress in providing for the health of its children and reflective of the overall health quality of the country;

(10) the literacy of women is universally acknowledged as among the most important factors for improving the health and survival of women and their children; and

(11) the report of the United Nations World Commission on Environment and Development (entitled "Our Common Future") states that, "Poverty is a major cause and effect of global environmental problems" and that "many present development trends leave increasing numbers of people poor and vulnerable, while at the same time degrading the environment".

SEC. 3. UNITED STATES EFFORTS TO ERADICATE WORST ASPECTS OF ABSOLUTE POVERTY.

Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 129. ERADICATING WORST ASPECTS OF ABSOLUTE POVERTY.

"(a) Development of Plan.—The President shall develop a plan to ensure that United States development assistance contributes measurably to eradicating the worst aspects of absolute poverty by the year 2000.

"(b) Consultation.—In developing the plan required by subsection (a), the President shall consult with the host country governments, international organizations, and United States and indigenous nongovernmental organizations which represent the poor in developing countries. To assist in developing this plan, the President shall hold hearings in appropriate locations in the United States, and shall call for hearings in appropriate locations in other countries, especially developing countries, to ascertain the views of experts in the field and other concerned individuals, most particularly the intended beneficiaries of assistance

(c) Specific Measurable Goals.—

"(1) In general.—The plan developed pursuant to subsection (a) shall include specific measurable goals and target dates for reaching them. These goals shall all be goals whose attainment would contribute to direct improvements in the living standards of the poorest 40 percent of the population. These goals shall be poverty-oriented and specifically directed toward increasing opportunities for the poor. These goals shall include the goals specified in paragraph (2) and such other goals based on social, environmental, and economic indicators as the President determines to be crucial to measurably eliminating the worst aspects of absolute poverty by the year 2000.

"(2) Specified goals.—Among the goals included in the plan developed pursuant to subsection (a) shall be the following:

"(A) Under-five-mortality-rate.—For a country whose under-five-mortality-rate was below 140 in 1980, reducing that rate by 50 percent by the year 2000. For a country whose under-five-mortality-rate was 140 or greater in 1980, reducing that rate to 70 by the year 2000 (which is roughly equivalent to the infant mortality goal of 50 set by the United Nations General Assembly.)

"(B) Female literacy rate.—Attaining a female literacy rate of 80 percent by the year 2000.

"(c) Absolute poverty level.—For a country having 40 percent or less of its population below the absolute poverty level in 1985, reducing that percentage by 50 percent by the year 2000. For a country having greater than 40 percent of the population below the absolute poverty level, reducing that percentge to no more than 20 percent by the year 2000.

"(d) Ecological Sustainability.—Development activities carried out under the plan developed pursuant to subsection (a) shall be activities which are consistent with maintaining and restoring renewable natural resource base. Primary emphasis should be on small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation.

"(e) Publication of Plan.—The President shall submit the plan developed pursuant to subsection (a) to the Congress not later than July 1, 1989, or six months after the date of enactment of this section, whichever is later.

"(f) Implementation of Plan.—During the period beginning October 1, 1989, and ending December 31, 2000, all United States development assistance shall have as its purpose the attainment of the goals specified in subsection (c)(2) and any additional goals specified in the plan developed pursuant to subsection (a), notwithstanding any other provision of this chapter or title III of chapter 2.

"(g) Consultation With Intended Beneficiaries.—Development activities carried out under the plan developed pursuant to subsection (a) shall be designed in consultation with the intended beneficiaries.

"(h) Annual Reports.—Not later than February 1 each year, the President shall submit a report to the Congress detailing progress toward achieving the goals established in the plan developed pursuant to subsection (a). The report should specify, for each activity carried out pursuant to the plan, how that activity is expected to help reach one or more of the goals established pursuant to subsection (c).

"(i) GAO Review.—The Comptroller General shall review and comment on each report issued pursuant to subsection (h).

"(j) Definitions.—As used in this section—

"(1) the term 'absolute poverty level' means the income level below which a minimum nutritionally adequate diet, plus essential nonfood requirements, are not affordable;

"(2) the term 'female literacy rate' means the percentage of females aged 15 and over who can read and write;

"(3) the term 'under-five-mortality-rate' means the annual number of deaths of children under 5 years of age per 1,000 live births; and

"(4) the term 'United States development assistance' means any assistance provided under this chapter or under title III of chapter 2.".

SEC. 4. INTERNATIONAL PLAN TO ELIMINATE WORST ASPECTS OF ABSOLUTE POVERTY.

The President shall host an international development conference for heads of governments of development assistance donor and recipient countries, to be convened no later than October 16, 1989 (World Food Day). The conference shall have as its purpose the conclusion of an international agreement on eliminating the worst aspects of absolute poverty by the year 2000. This agreement should specify which indicators and targets would constitute achievement of that goal. In order to develop such an agreement, the conference should be preceded by meetings among representatives of donor and recipient governments, international organizations, and nongovernmental organizations from both industrialized and developing countries which work directly with the poor, and other interested parties.

THE COURT MARTIAL JURISDICTION ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mrs. SCHROEDER. Mr. Speaker, today I am introducing the Court Martial Jurisdiction Act which would reestablish the doctrine of service connection in subject matter jurisdiction of courts-martial. The requirement for service connection was eliminated by the Supreme Court in a 1987 decision.

From 1969 until 1987, the Supreme Court had held that, in peacetime, courts-martial could only try offenses that were service connected. This made sense because trying civilian type offenses by courts-martial deprive the military defendant of important constitutional rights, such as the right to indictment by a grand jury and the right to a jury of peers.

On June 25, 1987, however, the Supreme Court, in Solorio versus United States reached out to decide an issue not presented and overruled nearly 20 years of precedent. There were four dissents on overruling precedent and three on sustaining the conviction. The bill I am introducing responds to the invitation of the Supreme Court dissenters for Congress to clarify the jurisdiction of courts-martial.

The bill is quite straightforward. It says that courts-martial have jurisdiction to try offenses if—

1. The offense was committed in time of war;

2. The offense was committed on a military installation, vessel, or aircraft of the United States;

3. The offense was committed outside the United States and is not punishable under any other law of the United States;

4. The offense is punishable without indictment by grand jury or trial by jury under the law of the United States or any State; or

5. The offense is service connected. It is well settled that drug-related offenses are a priori service connected.

We all recognize that the constitutional rights of members of the miltiary sometimes are not as broad as those of civilians. Nevertheless, we must be careful to limit the incursions on the rights of military personnel to cases where military necessity forces such an incursion. Nonservice-related offenses are clearly not such a case. Permitting the prosecution of these offenses in civilian courts, therefore, is appropriate.

VERY SPECIAL ARTS FESTIVAL

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. MRAZEK. Mr. Speaker, I rise today to bring the attention of my colleagues to a unique event taking place in my district on April 28. ON that day, the Human Resources Center of Albertson, NY, will be hosting a very special arts festival for individuals with disabilities from all over Nassau County, Long Island.

This very special arts festival will consist of arts exhibitions, workshops, demonstrations, and performances by and for people with disabilities. It is all part of New York's Very Special Arts Program, which sponsors arts programs and festivals throughout the year all over the State. The program culminates in a statewide celebration at the Governor's mansion in May.

The very special arts festival will constitute a very busy day at the Human Resources Center. Approximately 1,000 elementary school children from special-education programs will be in attendance. There will be exhibits of art by disabled and nondisabled local artists. In addition, disabled and nondisabled students and adults will perform music, dance, drama and mime. There will also be demonstrations and workshops by professional artists who tend to the special needs of the disabled.

Mr. Speaker, people with disabilities face many obstacles in day-to-day living. Yet this festival proves that those with disabilities do not let their handicaps inhibit their capacity for artistic expression. I know that my colleagues join me in congratulating everyone who will participate in the very special arts festival and commending the Human Resources Center for hosting this wonderful event.

TRIBUTE TO MR. JOHN E. ROSS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to John E. Ross, a very special resident of my 17th Congressional District of Ohio. This outstanding gentleman will retire on April 29, 1988, after having served 34 years in several capacities for the city of Youngstown.

Mr. Ross was appointed assistant food and restaurant inspector for the Youngstown City Health Department in April of 1954. In January of 1966, he was named chief food inspector for the city and continued to serve in the food inspection department for the next 20 years. In 1986, Mr. Ross was appointed sanitarian supervisor of the Environmental Health Division of the Youngstown Health Department. It is from this position that Mr. Ross will retire, much to the dismay of those who have served under him and those whom he has served.

Mr. Ross has not only contributed a great deal to the city of Youngstown, but to the State of Ohio as well. For example, in 1971, Mr. Ross was appointed to the task force for the Governor's Conference on Aging. In all, this unselfish gentleman tirelessly dedicated over 34 years of his life to his community and State. For this, Mr. Speaker, John E. Ross will be greatly missed by his peers and the people of Youngstown. I am honored and privileged to represent such a fine person.

RENAMING THE U.S. POST OFFICE BUILDING IN LAFAYETTE, LA, AS THE JAMES DOMENGEAUX POST OFFICE BUILDING

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. HAYES of Louisiana. Mr. Speaker, today I am pleased to introduce legislation that would designate a post office in my hometown of Lafayette, LA, to be named in honor of one of the area's most revered and respected spokesmen, James Domengeaux.

To list all of his achievements here would prove to be an extensive list, but I would like to touch upon a few of his major contributions to southwestern Louisiana. Mr. Domengeaux was born in Lafayette on January 6, 1907. He attended Mount Carmel Academy and Cathedral High School and then enrolled at Southwestern Louisiana Institute, now the University of Southwestern Louisiana. He attended classes at Tulane and Loyola Law Schools and then continued his studies privately in the firm of Mouton and DeBaillon of Lafayette. He was admitted to the Louisiana bar in 1930.

Mr. Domengeaux practiced law with that firm until 1940 when he began his long career of public service. In that year he was elected to the State legislature and was named chairman of the appropriations committee. After serving the spring session in the legislature he was elected to the U.S. Congress as a member of this body from the third Congressional District. In 1944 he resigned from Congress, becoming one of only three members of Congress since the Civil War to resign in order to volunteer for the armed services. He then served with the forces involved in World War II. He was reelected upon conclusion of the war and served until 1948. After an unsuccessful run for the Senate in that year, Mr. Domengeaux returned to private practice in Lafayette and he is the senior partner in the law firm of Domengeaux & Wright.

Since returning to southwestern Louisiana he has served as an original member of the Tidelands Committee in the State and as secretary of the Louisiana Science Foundation.

In spite of all these accomplishments, maybe his greatest contribution centers on his efforts with Codofil [the Council for the Development of French in Louisiana]. Since 1969 he has served as the originator and chairman of this organization without any financial compensation.

As you may know, I have the honor of representing one of the most unique areas of our Nation, French Acadiana. Mr. Domengeaux's interest with Codofil has always been to forward the importance of our French cultural heritage. As a pioneer in this effort, he realized, long before others did, that one of this Nation's greatest assets is its rich cultural base and that this was slowly fading away within our families and communities. He attempted to reverse this trend by soliciting the support of public officials, State agencies, parish school boards, community leaders and, most importantly, the people, in promoting and encouraging the revival of French heritage and culture indigenous to this area.

In order to ensure the success of this movement, he realized that, without the participation of the younger generations, the language and culture would truly be dead. Therefore, Mr. Domengeaux started to send Louisiana's teenagers to places where they could interact daily within the language; to Quebec, France, Belgium, and other areas. By living with friends in other countries, these students return to Louisiana with a new respect and attachment for their heritage.

Through these successful efforts, people have a new-found sense of pride in their Acadian background. I believe that we cannot applaud such an achievement strongly enough. This country has always prided itself on being the melting pot for the world's cultures. This pride, however, has come from the belief that through the lives of these different people, we truly have a world of experience with which to address the problems that confront us. Consequently, I believe that I speak for all of us who know of the hard work that Mr. Domengeaux has given to this area and I believe that it is only fitting to commend and recognize this effort by naming a public building in Acadiana after one of its most favorite sons.

Mr. Speaker, I, therefore, urge my fellow colleagues to support this legislation in order to appropriately salute a gentleman whose contributions deserve to be recognized.

PRESERVING THE INDEPENDENCE OF THE SCIENTIFIC EVALUATION GROUP FOR THE WASTE ISOLATION PILOT PLANT PROJECT IN NEW MEXICO

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. SKEEN. Mr. Speaker, today I am introducing a bill, along with my colleague Congressman LUJAN, that would ensure the independence, stability and integrity of the Environmental Evaluation Group [EEG]. The EEG is a scientific organization that was created to provide assistance to the State of New Mexico on issues related to the Waste Isolation Pilot Plant [WIPP] project located near Carlsbad, NM.

This legislation clearly explains the purpose and functions of the EEG and what criteria should be followed in hiring staff for the organization. Most importantly, this legislation establishes who will administer the EEG.

The EEG was first established in 1978 to provide the State of New Mexico with an independent oversite group that would closely follow the progress of the WIPP project. WIPP is being built as the first permanent repository for defense generated transuranic waste. Because of the nature of this project, it is imperative the people of New Mexico are provided an independent evaluation of the safety of WIPP. The EEG has been most effective in providing this information, and its mission must continue.

Recently, the EEG has been plagued by resignations of key personnel. With the WIPP project scheduled to open later this year, the need for a viable and stable scientific evaluation group is critical. This legislation should ensure the effectiveness of the EEG and maintain its integrity as the State's WIPP oversite group.

The safety of WIPP has been the primary concern of the people of New Mexico. With that in mind, the EEG must continue to provide the scientific and technical expertise and evaluation that is needed to maintain public confidence in WIPP. This legislation should help ensure EEG continues its independent oversite responsibilities.

ILIFF McMAHAN LEAVES FOR HOME

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. QUILLEN. Mr. Speaker, I would like to bring to the attention of the Members the retirement of Iliff R. McMahan after more than 33 years of service in the Federal Government. Iliff and his beautiful wife, Libby, are returning home to Newport, TN, in the Mountains of Cocke County in my congressional district.

Iliff McMahan is a treasured lifelong friend, as is his lovely wife Libby, and while I will miss seeing them here in Washington, I look forward to having them close at hand back home in Tennessee.

Iliff left his long career in public service as the Associate Director of the Division of Information and Executive Assistant to the Chairman of the National Labor Relations Board. He served in the U.S. Navy in the Pacific during World War II and prior to his position at the NLRB, served as regional information office of the U.S. Department of Labor in Nashville, TN, and as the Associate Director of the WIN Program while a member of President Ford's White House staff.

In addition to his distinguished Federal service, Iliff was a schoolteacher, the editor and publisher of three newspapers and for almost a decade he was the elected circuit court clerk for Cocke County, TN. All who know Iliff McMahan can testify that throughout his working career he produced outstanding results by virtue of his talent, intelligence and diligence. The Federal Government has truly lost a dedicated and effective public servant.

Now, Iliff leaves for home. While he has earned his well-deserved retirement from his long years of service with the Federal Government, he will remain active by resuming his career in journalism as a columnist for the Newport Plain Talk, his hometown's fine newspaper. His readers are in for a treat when they open the page to his column because Iliff is a fine writer and a man of experience and insight who can put together a story like no one else. I know he will be a great success and a prized addition to the staff of The Newport Plain Talk.

So, best of luck in the many years that lie ahead, old friend. To Iliff McMahan I say, "Congratulations and well done." I wish him and Libby all the best in the many years that lie ahead.

THE NATION NOW KNOWS CALVIN L. GRAHAM, THE YOUNGEST HERO OF WORLD WAR II

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. FROST. Mr. Speaker, on Sunday evening, March 27, the CBS television network presented America with the stirring story of Calvin L. Graham, who at age 12 enlisted in the U.S. Navy and valiantly fought during World War II.

During the period of September 17, 1942, and April 5, 1943, 12-year-old Calvin Graham fought gallantly in the South Pacific war theater, won several medals for his dedicated efforts, and maintained a continuing desire to remain in the Navy—even after authorities determined him to be under the proper age for military service.

Twelve-year-old Calvin Graham represented the best of American youth—who, in time of a threat to their Nation, will eagerly volunteer to defend the United States, even to the ultimate of giving their lives.

Mr. Speaker, regrettably, the Veterans' Administration has been reluctant to recognize

Calvin Graham's World War II injuries, received during the Battle of Guadalcanal on November 15, 1942, as "service connected." As a result of their decision, Mr. Graham has lacked the needed medical coverage to take care of medical problems resulting from the injuries sustained during combat in the Pacific.

The Nation is now aware of the love 12-year-old Calvin Graham had for his Nation—no less than the Calvin Graham of 1988. Our Nation must match that dedication by providing Calvin Graham with medical coverage for his war injuries.

I have introduced H.R. 610, a bill for the relief of Calvin L. Graham, and I urge each Member of the House and the Senate to join me in pushing for its passage. The CBS presentation has ended, but the case of Calvin L. Graham has not. Our Nation continues to have an obligation to him, which remains unpaid for reasons only that he was "Too Young the Hero."

WILE RADIO CELEBRATES 40 YEARS OF SERVICE

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. APPLEGATE. Mr. Speaker, on April 9, 1988, WILE radio in Cambridge, OH, will be celebrating their 40th year of broadcasting service to eastern central Ohio. It is with great pleasure that today I pay tribute to their many years of dedicated service.

WILE radio first took to the air on April 9, 1948, with 1270 kilocycles. The station was founded by the Land O'Lakes broadcasting system with Howard A. Donahue as the first general manager. In 1983, the station was purchased by the current owner, W. Grant Hefley of AVC Communications and now operates on top of College Hill, just west of the city of Cambridge.

Since the beginning, WILE radio has been dedicated to serving the public with the latest news, sports, music and weather. The station has, over the years, developed an important relationship in the community as a source of entertainment and information.

Mr. Speaker, on behalf of the citizens of eastern central Ohio, I want to congratulate WILE radio on their 40th anniversary and thank them for their continued commitment to the community.

IN ARMENIA, GLASNOST BRINGS NEW MEANS OF SUPPRESSION

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. COURTER. Mr. Speaker, the unprecedented size of the demonstrations in Soviet Armenia is only indirectly threatening to General Secretary Gorbachev. The protesters are not challenging Moscow's legitimacy—they are recognizing it implicitly by appealing to the Kremlin for a change in internal Soviet political borders. Their goal is to unite an Armenian population in Azerbaijan with the Armenian S.S.R. The solidarity which some 3.3 million people in the Armenian S.S.R. are showing on the issue of unification with the autonomous region of Nagorno-Karabakh has certainly got the Politboro's attention. The authorities are resorting to several insidious methods of political control.

On March 21, the Communist Party paper Pravda ran an article which condemned as antisocialist the Armenian petition drive and other efforts toward a redrawing of the borders. It was ostensibly signed by three Pravda writers. One of them was identifiably Armenian—Yuri Arakelyan. He immediately disavowed the article. "By putting my signature beneath the dishonest materials of the Communist Party, you have insulted me before the whole country," he wrote in an astonishingly brave telegram to his editor. It seems apparent that the party was using his name to try to legitimate an article which was likely to anger Armenians. The courage Yuri Arakelyan displayed in sending such a telegram was accentuated by the fact that he subsequently suffered what appears to have been a heart attack; by the end of last week he was hospitalized in Yerevan, the Armenian capital.

The second low method chosen by the Kremlin to defuse the situation was in parading well-known Armenians before the Soviet public. According to one report, at half-hour intervals on the evening of March 23, prominent Armenian actors and professors appeared on Soviet television to explain why further demonstrations were undesirable.

These are some of the more sophisticated techniques the Soviets have used to contain the situation. Yet they have been insufficient by themselves. Apart from its propaganda, the regime has also had recourse to tanks, to trucks full of soldiers, and to a news blackout.

Mr. Speaker, the mass demonstrations and the independence shown by the regional assembly in Nagorno-Karabakh are a remarkable testament to the strength of national sentiment among Soviet Armenians. The Armenians want a little restructuring—dare they say "perestroika"—of the internal borders; Gobachev does not. Popular disapproval can only go so far in a police state. For all the attention given this new regime and its new policies, what we find, over and over again, is that the government is still bent on the same old thing: total political control, including the suppression of nationalism, in an empire held together by force.

A TRIBUTE TO MR. JOHN M. HENDRY

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. BERMAN. Mr. Speaker, I rise today to recognize and pay tribute to Mr. John M. Hendry, a letter carrier and constituent of mine from North Hollywood. Last November, Mr. Hendry was honored by the Department of Defense for his slogan to increase voter participation in the armed services.

Mr. Hendry's slogan, "your vote—America's counting on it," was chosen to be one of the winners in the Department of Defense 1987 Voting Slogan Contest—a competition that drew over 10,000 applications. Mr. Hendry's winning phrase was judged by Senator WENDELL H. FORD, chairman of the Senate Committee on Rules and Administration; Representative AL SWIFT, chairman of the House Subcommittee on Elections; and Ms. Nancy M. Neuman, president of the League of Women Voters. I am sure that his clever slogan will help bring new voters to the polls.

Mr. Hendry is due our appreciation for his efforts to increase public involvement in Government. It is through concern such as this that the American political system reflects the true spirit of democracy.

A SALUTE TO JOHN STALLWORTH

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. FLIPPO. Mr. Speaker, today I would like to join with my friends in Huntsville and Madison County, AL and at Alabama A & M University in saluting Mr. John Stallworth, former all-conference A & M receiver and Pittsburgh Steeler Most Valuable Player. "John Stallworth Day" will be celebrated on April 1, 1988 in Huntsville. It is with great pride that I join in this tribute to John for his many contributions on and off the football field.

As an undergraduate at Alabama A & M University, John was an exemplary student athlete. While earning a bachelor's degree in Management, he made the Dean's List and was recognized as Who's Who Among Students in Universities and Colleges. He also went on to earn a master's degree in Business Administration. In sports, he was the first A & M player chosen to participate in the Senior Bowl and was honored as Most Outstanding Athlete at the University.

During his 14 year career as a wide receiver with the Pittsburgh Steelers, John set and still holds 9 all-time regular season and 6 all-time post season records, 4 all-time Super Bowl Records, and 4 all-time National Football League records. He was voted Most Valuable Player by his teammates twice and was named to the All-Time Steeler Team in 1982.

While most Americans are probably familiar with John Stallworth's extraordinary athletic ability, many may not be aware of his humanitarian efforts. The list of organizations that John is actively involved in is long and varied, including Big Brothers and Big Sisters, Boys and Girls Clubs, Muscular Dystrophy Association, Multiple Sclerosis Association, United Way, United Negro College Fund and the American Lung Association.

I congratulate John on the distinction of having a day named in his honor. This, however, is not the first occasion that he has been recognized in such a manner. Already a holder of a key to the city of Huntsville and recipient of the Dapper Dan Man of the Year Award in Pittsburgh, it is obvious that no matter where John makes his home, he becomes an active and highly respected member of the community.

Another famous Alabamian, the late Paul "Bear" Bryant, used to say that "If you believe in yourself and have dedication and pride and never quit, you'll be a winner." Surely, John Stallworth epitomizes the definition of winner and I am proud today to join with Huntsville residents, Alabama A & M University alumni and the Steeler organization in recognizing this outstanding individual.

THE BELLE RIVER AND ST. CLAIR RIVER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. BONIOR of Michigan. Mr. Speaker, on behalf of my constituent, Ms. Laurie Langtry from Marine City, MI, I would like to call your attention to two rivers which are very important to the 12th District of Michigan—the St. Clair River and the Belle River.

The St. Clair River, an integral part of the Great Lakes System, connects Lake St. Clair to Lake Huron. It forms the eastern border of my district and part of the international boundary between the United States and Canada. The Belle River originates at Marine City and runs through my district past Imlay City in Lapeer County.

The development of the 12th District and of Michigan was influenced by these rivers. The Belle and St. Clair Rivers served the Indians of the area by providing fish for food, water for drinking and bathing, and fast transportation by canoe. The early Michigan settlers were hunters and trappers who also used the rivers as transportation from their camps to the area which is now the modern-day city of Detroit. Later pioneers settled the region along the rivers taking advantage of the fish and bountiful water just as the Indians had done before them.

If it were not for the St. Clair River, Sieur Antoine de La Mothe Cadillac might have founded Detroit on Lake Huron. However, when he led his band of 100 men from Montreal up to Ottawa and over to Lake Huron, he found the St. Clair River. He traveled down the river to the place where he was to build Fort Ponchartrain and establish the city of Detroit. The St. Clair River soon became busy with the trade between Michigan and Canada.

In my district, we not only have the St. Clair River, but also Lake St. Clair, St. Clair County, and the cities of St. Clair and St. Clair Shores. All earned their name from the man who was the first Governor of the Northwest Territory, Arthur St. Clair. Mr. St. Clair also fought in the Revolutionary War and served in the Continental Congress.

Today the Belle and St. Clair Rivers are not used to ferry traders and Indians. However, my constituents spend many enjoyable hours canoeing on the Belle River and boating on the St. Clair River. In fact, my district has the highest concentration of recreational boats in the Nation. My district is fortunate to have these two rivers. I appreciate this opportunity to recognize the Belle and St. Clair Rivers, and their contribution to the settlement of the region.

A TRIBUTE TO MR. AND MRS. CARL SZUBA

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to two very special members of my community and to express my sincere appreciation for their work and commitment in Anne Arundel County. Mr. and Mrs. Carl Szuba spend more than 500 hours each year unselfishly dedicating their time to the needs of children afflicted with Down's syndrome.

The Szubas' interest began 19 years ago when their son Robert was born with Down's syndrome. Since then they have helped orchestrate endless events aimed at aiding and promoting the well-being of what they call "God's special children." An example of their work is the annual Polka Party Dance to support the efforts of the Association for Retarded Citizens. Just last summer, the Szubas' and their friends, Mr. and Mrs. Tom Kalinowski, were chosen "Outstanding Volunteers in the State of Maryland" by the Maryland State Association for Retarded Citizens. Since an estimated 10,000 mentally retarded people live in Anne Arundel County, the Szubas' efforts are not in vain.

It is with great admiration and pride that I offer my congratulations to Mr. and Mrs. Szuba and extend best wishes for their continued success. I know that my colleagues will be pleased to join with me in this well-deserved tribute.

TRIBUTE TO SUTTER HEALTH SERVICE'S FIRST IMPRESSIONS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a special group of people, the first graduating class of Sutter Health Service's "First Impressions" educational course. It is an honor to be able to salute this truly fine gathering of health professionals.

For the past 65 years, Sutter Health Services has been providing our community with outstanding care and dedicated service. No where is this more evident than in its newest program, "First Impressions," a course designed to improve staff attitudes, job performance, and self-esteem. Recognizing the fact that long-term care has traditionally focused solely on care and treatment, Sutter Health has devoted itself to the service of the patients and family. This service, friendly, prompt, sincere and truly caring clearly distinguishes the professionals of Sutter Health Services as some of the finest in the country. The "First Impressions" course is the first of its kind in the Sacramento area and it displays Sutter's constant commitment to provide the highest quality health care possible.

I hope you will all join me in congratulating the first graduating class of the Sutter Health Service's "First Impressions" course. Their dedication to our community and to the citizens of our city is truly outstanding. We are indeed lucky to have such a devoted group of people who honestly care about the kind of health service they provide. I thank the members of this graduating class for their outstanding contributions to our city and I want to wish them and all those involved with Sutter Health Services the absolute best in all their future undertakings.

U.S. SUGAR PROGRAM

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. EVANS. Mr. Speaker, as representative of a major corn growing area, I think it's important for Congress to recognize how vital the U.S. Sugar Program is to the survival of thousands of corn farmers.

This year, over 540,000,000 bushels of corn will be refined to produce corn sweeteners, including high fructose corn syrup. Studies have shown that the demand for corn to produce corn sweeteners supports the price of corn by as much as $.25 per bushel. That $.25 is of critical importance when farmers are getting only $1.80 per bushel of corn.

While the Sugar Program was designed primarily to defend cane and beet producers from the predatory trading practices and export subsidization common in world markets, it also defends corn sweeteners. Those who say the Sugar Program only helps a few sugar producers are willfully ignoring thousands of corn farmers who would earn a lot less if subsidized sugar destroyed the corn sweetener industry.

Without the Sugar Program, corn farmers would face a second devastating blow. Almost 2 million acres of farmland now planted in sugarcane and sugar beets would be forced out of sugar production. Much of it, instead, would shift to corn production, increasing the corn surplus and depressing the prices even more. At a time when we are paying farmers to take land out of production, it makes no sense to force other farmers to put more land into corn.

Contrary to some misleading articles which have recently appeared, the Sugar Program is of critical importance to this Nation's corn farmers, a fact which we should keep in mind in any consideration of the program's merits.

ANGOLA'S TROUBLED HISTORY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 29, 1988

Mr. DYMALLY. Mr. Speaker, on March 14, I shared with my colleagues a chronology of major political developments in Angola prepared by the Angola Peace Fund. Today, I would like to share with my colleagues an excellent chronology which comes closer to my understanding of the Angolan situation. This chronology was prepared by Dr. Cheri Waters for the Africa Committee, Division of Overseas Ministries of the National Council of Churches. I would like to thank them for providing us with this insightful document which will assist us in understanding the Angolan situation.

APPENDIX ONE: CHRONOLOGY

1953

Party for the United Struggle of the Africans of Angola (PLUA) is founded.

1954

Union of the People of Northern Angola (UPNA) is founded.

1956

Popular Movement for the Liberation of Angola (MPLA) is founded.

1958

UPNA becomes the Union of the Angolan People (UPA).

1960

South West African People's Organization (SWAPO) is founded.

June

Belgian Congo becomes the Democratic Republic of the Congo.

1961

February

Angolan struggle for independence from Portugal begins.

1962

March

National Front for the Liberation of Angola (FNLA) is founded.

FNLA announces the establishment of an Angolan Government in Exile (GRAE).

1963

January

Neto visits the United States to make direct appeals for material support and to present MPLA positions and programs.

June

GRAE is recognized officially by the Adoula government in Congo (Leopoldville).

July

First major split within the MPLA occurs, diminishing MPLA credibility and standing in Africa and elsewhere.

August

Liberation Committee of OAU recognizes GRAE as the only significant liberation force in Angola and accords GRAE official diplomatic recognition.

November

MPLA leaders are expelled from Congo (Leopoldville) and move to neighboring Congo (Brazzaville).

1964

July

Savimbi, Foreign Minister of GRAE, resigns, accusing Roberto of "flagrant tribalism" and of accepting support from "American imperialism."

1965

OAU grants the MPLA official status as an Angolan liberation movement.

November

Mobutu Sese Seko assumes power in Zaire.

1966

MPLA opens a second front in the liberation war in eastern and southern Angola.

March

National Union for the Total Liberation of Angola (UNITA) is founded.

June

United Nations General Assembly votes to end South African mandate over Namibia.

1967

Portuguese communique concedes that nine out of Angola's fifteen districts are involved in the liberation struggle.

1968

June

OAU withdraws recognition from the GRAE, placing the MPLA and FNLA on an equal footing in receiving OAU assistance.

Salazar is incapacitated by a stroke and is succeeded by Marcelo Caetano.

1969

August

United Nations Security Council terminates South African mandate over Namibia.

1970

World Council of Churches (WCC) decides to give financial aid to the humanitarian activities of the African Liberation movements.

1971

June

International Court of Justice holds that continued South African occupation of Namibia is "illegal."

1972

June

A temporary reconciliation is reached between the MPLA and the FNLA. A Supreme Council for the Liberation of Angola is established.

1973

Soviets suspend their military assistance to the MPLA.

December

Visiting Lisbon, Kissinger offers new military equipment to Portugal for use in Africa.

1974

April

Coup d'etat occurs in Portugal and the Caetano dictatorship is overthrown.

Neto declares that fighting will continue until the Portuguese unconditionally recognize Angola's right to independence.

May

Portugal offers a ceasefire to the liberation movements and calls on all nationalist groups to take part in democratic elections.

June

Spinola rejects outright independence for Angola and other African territories.

UNITA signs ceasefire agreement with Portugal.

July

Portugal formally acknowledges the right of overseas territories to self-determination and independence.

August

PAIGC and Portuguese authorities issue a joint statement declaring that Portugal would formally recognize Guinea-Bissau's independence on September 10, 1974.

September

FRELIMO and Portuguese Foreign Minister announce an agreement promising the independence of Mozambique on June 25, 1975 and the immediate formation of a FRELIMO-dominated coalition.

Spinola and Mobutu meet secretly in Cape Verde, reportedly plotting an Angolan coalition excluding the MPLA.

Spinola resigns as Portuguese president and is replaced by Costa Gomes, who reaffirms the decolonization process agreed upon for Angola.

October

FNLA signs ceasefire agreement with Portugal.

November

FNLA, MPLA, and UNITA delegations arrive in Luanda and officially set up offices in the capital.

FNLA and UNITA sign an agreement of political and military cooperation.

OAU agrees to recognize UNITA as a valid liberation movement in the hope that a three-way coalition could be achieved.

1975

January

MPLA, FNLA, and UNITA sign the Alvor accord, agreeing to participate with Portugal in a transitional government and to create a constitution for Angola amenable to all parties.

Kissinger's 40 Committee makes $300,000 grant to the FNLA.

Transitional government, formed by the MPLA, FNLA, and UNITA and headed by a Presidential Council, takes office.

February

FNLA moves forces in Angola and begins attacking the MPLA in Luanda and northern Angola. Zairian troops fight alongside the FNLA.

March

Soviets resume military assistance to the MPLA.

April

FNLA launches an attack on the MPLA.

South African forces become directly involved in clashes with MPLA units inside Angola.

May

Fighting begins between the MPLA and UNITA in southern Angola.

June

Neto, Roberto, and Savimbi sign the Nakuru agreement at a series of meetings hosted by the OAU in Kenya. Reaffirming the Alvor accord, the three signatories pledge their adherence to the transitional government and agree to stop fighting.

Cuba sends 200 advisors to aid the MPLA.

July

Kissinger's 40 Committee allocates an additional $30 million for CIA assistance to FNLA and UNITA, explicitly including arms and adding UNITA to the list of U.S. clients.

MPLA forces drive the FNLA and UNITA from the capital.

August

UNITA and the FNLA withdraw their ministers from the Transitional government, and UNITA declares open war on the MPLA.

South African troops move across Angola's southern border, joining FNLA and UNITA forces.

September

South Africans capture the town of Ngiva in southern Angola and begin to give open assistance to both UNITA and the FNLA.

FNLA captures Caxito in northern Angola and advances on Luanda. Roberto is determined to be in control of the capital on 11 November, the day set for independence.

Cuba sends 700 members of its military aboard the Vietnam Herioca, a Cuban cargo vessel.

October

South Africa begins launching a lightning strike aimed at reaching Luanda before the scheduled independence day.

November

In response to an appeal from the MPLA, Cuba begins an airlift of troops to Angola.

Angolan independence is declared. Neto becomes the first president of the People's Republic of Angola.

UNITA and the FNLA announce the formation of a rival People's Democratic Republic with its capital at Huambo (Nova Lisboa) in south-central Angola.

Ford administration announces that the introduction of Cuban combat troops in Angola ends any possibility of improvement of relations between the United States and Cuba.

1976

January

Congress passes the Clark amendment, prohibiting aid to any rebel groups in Angola.

MPLA smashes the FNLA in northern Angola.

February

Portugal and other Western European governments recognize the MPLA as the legitimate government of Angola.

OAU recognizes the MPLA government and admits Angola as its 47th member.

Ford calls Castro "an international outlaw" and describes the sending of Cuban troops to Angola as a "flagrant act of aggression."

March

South Africans withdraw across the border into Namibia, leaving UNITA to fight a guerrilla war against the MPLA government.

April

Gulf Oil resumes oil production in Cabinda.

1977

February

Angolan Council of Evangelical Churches (CAIE) is formed.

March

Former Katangan gendarmes and members of the Congolese National Liberation Front (FNLC) invade Shaba province in Zaire.

April

United States, Canada, Britain, France, and West Germany form the Contact Group, launching negotiations with South Africa to plan internationally acceptable elections in Namibia.

December

MPLA renames itself the MPLA-Workers' Party (MPLA-PT) at its First Ordinary Congress held in Luanda.

April

Contact Group presents peace plan for Namibia including a ceasefire and UN-supervised elections.

South Africa accepts Contact Group Plan.

May

South African troops destroy the Kassinga SWAPO refugee camp, killing more than seven hundred Namibian refugees.

May-June

Former Katangan gendarmes and members of the Congolese National Liberation Front (FNLC) invade Shaba province in Zaire for a second time.

July

SWAPO accepts Contact Group Plan.

September

South Africa rejects Contact Group Plan and announced its own elections in Namibia.

United Nations Security Council passes Resolution 435, directing South Africa to withdraw its army from Namibia and to agree to externally-monitored elections in Namibia.

October

Neto and Mobutu of Zaire sign an agreement improving relations and ending support for opposition groups from the neighboring state.

December

South Africa holds Namibian elections. United Nations declares those elections illegal.

1979

FNLA activities in northern Angola gradually end following the agreement between Neto and Mobutu.

September

President Neto dies. Jose Eduardo dos Santos is inaugurated the second president of Angola.

1980

Nine southern African states form the Southern African Development Coordinating Council (SADCC).

June

South Africa invades Angola with 4,000 troops.

1981

January

Geneva Conference on the future of Namibia collapses.

South Africa launches an invasion of Cunene Province.

August

South Africa launches a major invasion of Angola, code-named "Operation Protea."

November

Commando raid, claimed by UNITA but probably carried out by the SADF, is launched against the Petrangol oil refinery in Luanda.

South African troops attack what they claim is a SWAPO supply base near Cambeno, Angola, killing 200 people.

1982

February

Angola and Cuba issue a joint statement which sets forth the conditions for the withdrawal of Cuban forces.

June

State Department announces that significant progress has been made in the Namibia negotiations and that there was a basis for optimism that elections could be held in March or April 1983.

South Africa announces that it will not move forward with the implementation of UN Resolution 435 unless *all* Cuban troops are withdrawn from Angola.

August

South Africa launches one of its largest assaults on Angola, pushing more than 175 miles across the border.

December

UN General Assembly rejects U.S. and South African "linkage" of Namibian independence to the withdrawal of Cuban troops from Angola.

1983

August

Angolan government forces begin a major offensive against UNITA.

October

Reportedly a major Soviet arms shipment arrives.

UN Security Council debates the Namibian issue. United States abstains in Resolution 539, condemning "linkage." Other Contact Group nations vote in favor of the resolution.

December

South African forces launch a major offensive from their buffer zone in Cunene.

1984

February

Angola and South Africa sign the Lusaka accord, providing for the disengagement of forces in southern Angola, the evacuation of all occupied territory in Angola by the SADF no later than 31 March 1984, the setting-up of a security commission to monitor the withdrawal, and the prevention of infiltration into Namibia by SWAPO forces in Angola.

Dos Santos announces in a letter to the Secretary General of the United Nations that Angola and Cuba were willing to carry out a phased withdrawal of Cuban troops once South Africa had removed all troops from Angola and UN Resolution 435 was implemented.

April

South African forces remain in Angola in violation of the Lusaka accord.

July

South Africa announces that it has halted the withdrawal of its troops from Angola with troops still in occupation of a twenty-five mile strip of Angolan territory.

September

Savimbi attends South African President P.W. Botha's inauguration.

November

Angola presents a proposal for the removal of Cuban troops as part of the Namibia negotiations.

1985

January

UN Security Council passes Resolution 546 condemning South Africa's "unprovoked attack" on Angola United States and Britain abstain.

March

United States presents a "compromise proposal" to South Africa and Angola.

April

South Africa declares that is has finally withdrawn all of its troops from Angola.

South Africa announces that it is setting up an interim government in Namibia outside of UN Resolution 435.

May

South African commandoes are captured in the Cabinda enclave while on a mission to destroy oil installations.

June

South Africa installs an "interim government" in Namibia without holding elections.

July

Congress repeals the Clerk amendment, making reintroduction of covert and overt aid to UNITA possible.

OAU Annual Summit Meeting declares any U.S. financial, logistical, or military support for UNITA a "hostile act against the Organization for African Unity."

August

FAPLA forces begin an offensive against UNITA to end war.

September

Intervention by South African forces stems the advance of FAPLA forces.

Delegation of South African officials flies to Washington to plead for U.S. intercession to save UNITA.

South African Defense Minister General Magnus Malan admits that South Africa was giving UNITA "humanitarian aid." He says that South Africa would not permit the Angolan government to defeat UNITA.

October

President Reagan includes Angola among the five nations "at war with their own people" in a speech before the UN General Assembly.

November

Inter-agency decision is made to award roughly $15 million in aid to UNITA.

Dear Colleague letter from Congressman McHugh, signed by more than 100 other House members, is sent to President Reagan opposing "direct, indirect, covert, or overt" aid to UNITA and saying aid would "undermine fundamental U.S policy objectives in southern Africa."

1986

January

Dear Colleague letter from the Congressional Black Caucus rejects any official contact with Savimbi during his trip to the United States and rejects any funding from the U.S. "for his cause."

February

Savimbi visits the United States and meets with the president, the secretaries of State and Defense, and the director of the CIA.

Savimbi reiterates his plans to attack U.S. oil companies' facilities in Angola.

A group of conservative congressmen sue the Export-Import Bank to block $96 million in guarantees and loan credit to Angola.

Reagan administration begins disbursing "covert" aid to UNITA, via CIA discretionary funds.

March

South Africa announces it will implement Resolution 435 if Cuban troops leave Angola by 1 August 1986.

Angola rejects South African offer, arguing that South African government necessitates Cuban presence.

SENATE—*Wednesday, March 30, 1988*

The Senate met at 9:15 a.m. and was called to order by the Honorable Bob Graham, a Senator from the State of Florida.

The PRESIDING OFFICER. The Chaplain will deliver the opening prayer. This morning the Chaplain is Rabbi Moshe Feller, director of the upper midwest regional office of the World Lubavitch Movement, St. Paul, MN.

PRAYER

Almighty G-d, Master of the Universe, we convene today on the eve of the 3,300th anniversary of the exodus from Egypt. Thirty-three hundred years ago You broke the bonds and shackles of the enslaved Israelites and led them to freedom. You then brought the Israelites to Sinai where You entered into a sacred covenant with them. To Your loyal servant Moses You also revealed at that time the covenant of the seven universal laws which You made with Adam and Noah at the dawn of civilization.

The basis of Your covenant with Israel and of the seven universal laws for all mankind, known as the seven Noahide laws, is the acceptance of You, O G-d, as the Sovereign Ruler of the Universe.

By revealing Your divine laws to those whom You had just liberated from slavery You taught all mankind that freedom without submission to Your divine authority is meaningless and even self-destructive. "Let my people go so that they may serve me" was Your message to the tyrannical slavemaster Pharaoh 3,300 years ago as it is Your message today to all who hold their fellow man in bondage.

This principle that real freedom is dependent on submission to Your divine authority is the basic creed of this blessed country, the United States of America, as expressed in its Pledge of Allegiance. "One nation under G-d with liberty and justice for all."

May it be Your will, Almighty G-d, that this august body—the U.S. Senate—legislate in accordance with this 3,300 year-old divine principle. May they do so with joy and gladness of heart. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, March 30, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Bob Graham, a Senator from the State of Florida, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized for not to exceed 5 minutes.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

SENATOR DOLE'S WITHDRAWAL

Mr. BYRD. Mr. President, my distinguished colleague Robert Dole has announced the end of his Presidential campaign. He has ended an honorable quest for the highest office in this land. He ended his campaign as he began it—as a fighter, "bloodied but unbowed"; as the "optimist" that he has always been.

Robert Dole returns to the Senate to give his full attention to his duties as the minority leader. I welcome him back. I am confident that all of my colleagues on both sides of the aisle join me in welcoming him back to his Senate duties—to his home in the Senate. In his absence the able Senator from Wyoming, Alan Simpson, has led my colleagues from the other side of the aisle with deftness, humor, and a sure hand.

The Senate is not the White House. But this Chamber, this institution, is not without its own measure of greatness. Here the hard work of political compromise, of give and take, is done. Here in this Senate the future of America is defined in real terms. And it is here in this institution that the American people express their desire for balance, for continuity, for compromise, and, yes, for principle.

In the past, my colleague from Kansas has played an important part in making the Senate reflective of the American people's desire for balance, continuity, and compromise. I am sure he will continue to play such a role in the future. Bob Dole's quest for the Presidency has ended. Our affection for him as an American, a patriot, and a Senator continues. We welcome him back to the Senate.

THE ASSISTANT REPUBLICAN LEADER

Mr. BYRD. Mr. President, let me close again by thanking my friend, Mr. Simpson, for the excellent leadership that he has demonstrated during these trying days and weeks in which he has been thrust into the position of leader on the other side of the aisle. He has been most cooperative and most helpful, which indicates to me his high sense of purpose in serving the people of this country and in serving the Senate.

It also is demonstrative of a recognition on his part of the basic responsibility of a legislator. We are here to legislate. We are here to get our work done. The Senator from Wyoming has proved himself to be a formidable antagonist where he has to be opposed to a measure before the Senate, but he has also shown himself to be a Senator and a leader who recognizes the responsibility that we all share—Republicans and Democrats—in getting on with the work of the Senate, letting the Senate work its will, and remembering that the basic interests that we serve are the interests of the people who send us here.

RABBI MOSHE FELLER

Mr. BYRD. Mr. President, on another matter, I thank the Rabbi for the very timely words of his prayer here at this particular season when it seems that everywhere we look about us all is violence. Sometimes it appears that the world is upside down, so to speak, but prayer and meditation and reflection upon the great old teachings of the Scriptures can give us the strength, the resourcefulness, the courage and the vision to see our way.

I thank the Rabbi.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting Republican leader is recognized for not to exceed 5 minutes.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

RABBI MOSHE FELLER

Mr. SIMPSON. Mr. President, I want to thank the majority leader and also express my thanks to Rabbi Feller. Indeed, in our particular line of chosen work which, if just a steady diet, would be a rather barbaric experience, we need the softening influences of many things. And, of course, the fashioning of those softening influences is simple by a belief in God. And I believe that. I long ago learned where to turn when I did not know where to turn. If we forget that, we lose part of our gyroscope, a part of our centeredness and, of course, that wellspring is only in a belief in God.

Thank you for sharing that with us. That was beautifully said.

THE SENATE'S PRESIDENTIAL CANDIDATES

Mr. SIMPSON. Mr. President, I think it was very typical of the majority leader to pay such a fine tribute to Bob Dole, our leader on our side of the aisle—well deserved, beautifully phrased and sincerely extended.

I commented last night upon the return of our colleague. It is a great pleasure, it is a delight, to see him back. I know all of us feel that way.

As others come back from the fray, they will be closed tightly to the bosom of the Senate. And there will be those returning to us and it is important that we be here to support them and nurture them and succor them, because it is a pretty lonely existence when you have laid yourself on the line with the great hype and the hoorah and the hoopla that goes with the Presidency—I mean, what more?—and then to have the voters reject you.

It is a very intimate type of thing. It is your name on the ballot. It is not somebody else's. And they mark whether they approve you or reject you. So there will be several of our colleagues returning in these next days and weeks from the quest and we should be here to support them and admire them and tell each and every one of them that what they have done is a courageous thing. The rest of us sat it out, but they were willing to walk the walk instead of talk the talk.

So it will be good to have them back. The healing process will be swift in here. This is a remarkable arena. You do not have time to savor victory or anguish in defeat—just move on to the next item of business. That is why it works well.

THE MAJORITY LEADER

Mr. SIMPSON. Mr. President, let me say, with regard to the majority leader, it has been a very great honor to work with him. I do not know what the recorded words of Robert Byrd will be in this Chamber when we go through the history of the Senate that he has provided us, when we go through his remarks of years as a leader and a legislator, but a hunch I would just make without being a computer is that there is a phrase in those remarks that appears time and time again, and I think it would be something about the Senate working its will; that that would be a phrase that I have heard the majority leader use many, many times—that the Senate will work its will. And that, of course, is the charm and essence and maybe the mystery of the place. That also goes along with the prospect of moving the agenda. And that is what the majority leader must do.

We do learn how to compromise an issue without compromising ourselves—that is very important—or to take a crumb when we cannot get a loaf, or to compromise unless we want to cry ourselves to sleep at night, which is the worst prospect.

But it has been a singular treat for me to serve as acting leader of our party. And, as I shared last evening, only a couple of times have we stalled the machinery, and we get over that very well.

He has shared with me his essence of good humor—and he has that, a rich degree of that—his good guidance and his good experience. But what has been most impressive to me, he has shared his counsel and his willingness to even share with me how we might get over a bit of a hump without giving away a bit of his awesome position in the matter.

I remember one day in the past week when I said to him: "Robert, what could you do to us in this situation that I do not know about?" He may remember that. And he smiled and he said: "Several things. I shall itemize them for you."

That was done with very rich geniality. I enjoyed it thoroughly. And there was a time or two when we could have been done in. I will share that with my colleagues on this side of the aisle. Yet that advantage was not taken, that could have been. And that was appreciated. It was in a position where certainly the majority leader would have hoped that it would not have continued as it was and he did not spring the trap; he did not abuse his authority. Whatever we did in these last weeks was based upon good, honest, open confrontation like the legislature should have.

So I share with the majority leader—we are here to legislate. That is our purpose. It is not partisanship or to figure out how to do the other party in. The common theme is legislating. And that is not just a theme of the majority leader, or of mine; that is a belief, that this is a legislature and you legislate. You do not posture. You do not lecture. You debate and then you legislate.

So the particular privilege, and I will conclude, is that it has served to enrich my friendship with the majority leader. That has been the great pleasure. That has been the dividend of the investment of these added hours as acting leader. I shall never expend that dividend; I shall cherish it.

I thank the Chair.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 10 minutes; Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Wisconsin.

COMPLIMENTING THE PRAYER

Mr. PROXMIRE. Mr. President, I would like to add my comments to the leaders' this morning on the inspiring and beautiful prayer of the rabbi. It is a wonderful reminder of the fact of the enormous influence of Judaism on Christianity and the very great similarities between Judaism and Christianity. I think for those of us who are Christians, the prayer of the rabbi strengthens our understanding and our belief and our dedication to our religion.

SENATOR BOB DOLE

Mr. PROXMIRE. Mr. President, I also want to comment briefly on the comments of the leaders on Bob Dole and the fact that he has given up his campaign for the Presidency. He would have made a very good President of the United States. I say that although he is a Republican; after all, nobody is perfect. But Bob Dole is a very strong Senator and he would have made a strong, vigorous, straightforward, honest President of the United States.

ADMINISTRATION NOW CONCEDES SDI SHORTCOMINGS

Mr. PROXMIRE. Mr. President, it now appears that a revolution is taking place in the administration's view of the principal military initiative—SDI or star wars. Here is the big military research program of the 1980's. It has, in just 5 years 1983 through 1988, absorbed a whopping $15 billion in Federal contract commitments strictly for research. We are now told that 10 years from now, in 1998, and after another $40 or $50 billion, or probably far more, research spending, SDI will at long last be ready for its beginning deployment. That deployment will cost another $100 billion, for a total cost of at least $150 billion. Will the deployment start to protect the American population from Soviet nuclear attack? No. If it works, it will, according to a Sunday story in the Washington Post, have the goal of preventing 50 percent of the Soviet's SS-18's warheads, a bare 30 percent of all Soviet nuclear missiles from penetrating through to American targets. Now, keep in mind that SDI will provide this pitifully limited protection only for strictly military operations such as U.S. command and control centers, missile launching sites, submarine pens, and bomber bases. Would SDI provide population protection? Not in this century.

At about the turn of the next century SDI hopes to begin the move toward the directed energy weapons. What would this phase hope to accomplish? It would strive to begin to protect American cities against Soviet nuclear attack. Would it work? In the judgment of this country's best qualified physicists, engineers, and mathematicians—the elite members of those disciplines who belong to the American Academy of Science—it would not work for the foreseeable future. When would it be in place? Twenty years from now—thirty? No one knows. What percent of the vast Soviet offensive arsenal of nuclear weapons would it destroy? We do not know. What would this defense cost? Hundreds of billions? A trillion? Again, no one can speak with real authority. But, everyone concedes the expense would be immense.

If we can, and do, build this vast and immensely expensive defense against Soviet intercontinental ballistic missiles, will it work against nuclear warheads carried by cruise missiles that are fired from Soviet submarines a few miles off our 2,500 miles of coastline, or from U.S.S.R. bombers, or triggered by Soviet terrorists? No. That will take other defenses that will have to come on later in the century. Meanwhile, will the Soviets be able to develop their own SDI? Will they be able to nullify our nuclear deterrent by simply adopting the technology we develop? Again, maybe. Maybe. Maybe not. But on the basis of our experience with every other major military technology breakthrough in the nuclear age, a few years after we break through with our SDI, the Soviet Union will follow with theirs.

So what happens if both countries eventually perfect SDI's that succeed in stopping the other side's nuclear deterrent? What happens is that the deterrent vanishes. There is no deterrent left against conventional war. No longer will the threat of total mutual destruction prevent a superpower war. Such a war becomes thinkable again. So what would happen to our countries in a conventional superpower war? It would involve enormous advances in the technology of fire bombs. Forty-two years ago World War II fire bombs converted Hamburg and Dresden into vast crematoriums. That's not all. Application to offensive purposes of the speed of light lasers and particle beams without nuclear propulsion would make such a conventional war differ from a nuclear holocaust only in the somewhat longer period it would take to convert target countries into burned out cemeteries.

Consider the implications of the concession by the administration's own SDI experts, as reported in the Washington Post, that this SDI technology has fallen far behind its schedule, that in the foreseeable future it will stop only 30 percent of incoming Soviet nuclear missiles, and that even this will cost a massive $150 billion and only protect our military targets—not the American people. Consider that while SDI proponents still cling to the rosy prospect that a bigger and better technology is coming on eventually, their view is flatly contradicted by the country's most competent scientific experts.

And, let us not forget that the entire purpose of SDI is to destroy the very deterrent standoff that has prevented a superpower war for 42 years and gives far and away the best promise of preventing such a war for many decades to come. How ironic that the world has never had a stronger guarantee of peace than the terrible destructive power possessed by both the United States and the Soviet Union in their respective deterrents. And how far more ironic that in the name of national security the administration still proposes to spend hundreds of billions of dollars to destroy that best guarantee of superpower peace.

Mr. President, I suggest the absence of a quorum and I yield the floor.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, has morning business been closed?

The ACTING PRESIDENT pro tempore. Morning business is closed.

URANIUM REVITALIZATION TAILINGS RECLAMATION AND ENRICHMENT ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the unfinished business, S. 2097. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2097) to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly-owned Government corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Johnston modified Amendment No. 1465, to provide for a more viable domestic uranium industry.

(2) Evans Amendment No. 1914 (to modified Amendment No. 1465, of a perfecting nature), to replace the domestic usage requirements with an investigation by the Secretary of Commerce on the impact of imports of uranium on national security under section 232 of the Trade Expansion Act of 1962.

The ACTING PRESIDENT pro tempore. The pending question is on amendment No. 1914 on which there shall be 3 hours debate to be equally divided and controlled.

Who yields time?

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, is there any objection to charging time equally on a quorum call?

The ACTING PRESIDENT pro tempore. Is there objection to equal division of the time of the quorum call? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum with the time to be equally charged.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, The time situation is that there is a 3-hour limitation. Is that equally divided between myself and the sponsor?

The ACTING PRESIDENT pro tempore. There is a 3-hour limitation to be equally divided on amendment No. 1914. The time is controlled by the

Senator from Washington and the Senator from Louisiana.

AMENDMENT NO. 1914

Mr. JOHNSTON. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, at issue in this amendment is not only American jobs, some 21,000 in scope, at least if you go back to the peak employment level of 1979. In 1979, in the uranium mining industry in this country, there were 21,000 people employed. Today there are 2,120, or approximately 10 percent as many as we had in 1979, less than 10 years ago.

So at issue in this amendment is the question of, first, whether there should be a domestic mining industry; is that important for the United States; is uranium an important commodity for national defense or for the national economy?

Second, the question of jobs: Perhaps 21,000 jobs in total.

The question of balance of payments: Is it important for this country to have income or to be a debtor nation?

And, fourth, there is the question of the Canadian Free Trade Agreement.

On the first question, that is, the question of whether uranium is important to this country, I submit to my colleagues that to ask the question provides the answer. Why, of course it is important. It is not only important, it is essential that we have uranium. Uranium fuels about 20 percent of our electric power in this country and all of our nuclear weapons.

Of course, nuclear weapons continue to be the continuing centerpiece of our national defense. Not only do you need uranium, but you need tritium, which can't be made without a reactor which must be replaced every 7 or 8 years in nuclear weapons; in other words, it is a commodity made in a uranium-fueled reactor. Tritium decays and must be replaced.

You cannot say we have enough nuclear weapons, because the nuclear weapons which we have must be continually replaced with tritium. Every nuclear weapon we have has a tritium bottle in it.

So it is vital that we have a domestic uranium supply.

Indeed, our good friends in Canada—and they are our good friends—put a condition on the exportation of uranium to the United States, and that condition is that that uranium not be used in nuclear weapons. So we cannot get uranium from the Canadians to use in nuclear weapons, so where would we get it? Well, I do not know. Maybe we could get it from the Soviet Union—indeed, they are in a position to export uranium—but I hardly think we would want to do that.

So, Mr. President, point No. 1, very clearly, we need a domestic source of uranium not only for our reactors but for our national defense.

Second, on this question of jobs, Mr. President, we wonder, as we look at the annual figures on employment, why it is we lose our good jobs to foreigners and why it is we are replacing good jobs with McDonald's type, service-industry jobs.

Well, there are a combination of reasons. It is not all due to the uranium mining industry, but I can tell you 19,000 of those jobs, good jobs, American jobs, depend on what this Congress does or does not do. If we adopt this amendment, then what we are saying is we do not want those jobs back; we will let those jobs go to Canada or to Australia or elsewhere. We are saying that those 19,000 jobs, producing a domestically vital ingredient, are not important to the United States.

If my colleagues can understand that 19,000 jobs are at issue here, I think the result on this amendment will be very clear.

Now, third, Mr. President, the question of balance of payments. The value of exports to the United States is also of vital concern. It is a little less easy to demonstrate to the American people what a balance of payments means, what being a debtor nation instead of a creditor nation means. But economists tell us that that is really the most alarming trend of all. We have to borrow the money, in effect, to purchase the uranium. We become then a debtor nation all over the world. An interesting book just published pointed out that one of the alarming trends is that American dollars held by others are now coming back, to buy up America. So I hope we do not contribute to that trend by adopting this amendment, by sending more American dollars outside our borders that eventually come back and buy up America so that we will be working in our own land for foreigners. And do not misunderstand. I am going, as part of a Louisiana expedition, to Japan in May to try to get some of those Japanese jobs to come back, dollars we have already exported to the Japanese. And we love the Japanese. We do not realize quite how much we love them until we go over there seeking jobs. I hope they will come back with a modest little plant, just a small little plant; they do not have any in Louisiana now.

It may be a bad trend, but it is even a worse trend when you send the dollars out and you cannot bring the capital back. But what does it say about a nation when all of those American dollars come back as foreigners are buying up your country and you have to depend on them to provide the jobs? You have to go hat in hand—and not to worry, I will be hat in hand when I go to Japan asking for some small little industry, please, to come to America.

Now, if you want to accelerate that trend, adopt this amendment. It is a good way to do it.

Finally, the question of the Canadian Trade Agreement. I think it is clear that this does not violate the Canadian Trade Agreement. What the Canadian Trade Agreement says is this: "The United States of America shall exempt Canada from any restriction on the enrichment of foreign uranium under section 161v of the Atomic Energy Act."

That is all it says. And what do we do in the underlying amendment? We repeal section 161v, and on its face therefore our amendment is entirely consistent with the Canadian Free Trade Agreement. Section 161v, my colleagues will recall, is that provision of present law which says you must have a viable domestic uranium market and that the administration must take such steps as are necessary to protect that market.

The court ruled some time ago that the administration had been in violation of that provision by allowing the domestic uranium market to decline from 21,000 jobs to 2,000 jobs, and therefore it was not viable and a tariff was required. That is the provision we repeal in our amendment. The Bradley amendment, instead of having a provision which would protect the domestic uranium market, simply says goodbye domestic uranium.

Mr. President, as I say, it is entirely consistent on its face. It is consistent with the spirit of that Canadian Free Trade Agreement. But I can tell you, if we are going to have our noses rubbed into it with these restrictive interpretations which say you cannot do anything to protect any of your domestic industries, no matter how important or how little the protection or how quickly phased out that protection is, then I say that the Canadian Free Trade Agreement is going to be in a mite of difficulty on this floor. It need not be. With reasonable interpretation by the administration and reasonable enforcement in the offing, I think we can and should pass the Canadian Free Trade Agreement because it is demonstrably in the interest of both countries to have free and open trade.

But, Mr. President, if we are being told by this second-degree amendment that you cannot pass anything that deals with the subject of uranium mining, no matter whether or not it is consistent with 161v of that act, you just cannot act in that area, then it seems to me the Canadian Free Trade Agreement was either improvidently passed or is being improvidently interpreted.

I suspect it is the latter, and I think the improvidence in the interpretation is due to the second-degree amendment.

Mr. President, it is vital that we preserve some domestic mining industry. Our underlying amendment does it. The second-degree amendment takes that away. It would be a grave mistake to voluntarily surrender the chance to get back our 19,000 jobs, the billions of dollars' worth of economic impact that that embodies. To surrender the sovereignty over our own affairs, which having a domestic uranium industry involves, giving that vital part of our national security to some other country, wherever located, if available, would be a vital mistake. So I urge my colleagues, Mr. President, to reject the second-degree amendment and to pass the original amendment as filed.

The Senator from Wyoming wanted how much time?

Mr. SIMPSON. I think 10 minutes would be adequate.

Mr. JOHNSTON. Mr. President, I yield 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I rise to express my strong, unqualified support for the underlying amendment. I thank the Senator from Louisiana. He has given a marvelous overview of the situation.

I am supporting the underlying amendment offered by the leadership of the committee, and I oppose the Evans second-degree amendment.

I should like to take a few moments to speak on the pending amendment. But before I do that, Mr. President, I ask unanimous consent that I be included as a cosponsor of the Domenici-Johnston amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, what this amendment seeks to do is to add the final piece to a comprehensive legislative proposal to address the very serious problems currently confronting the nuclear fuel cycle and uranium mining industry. This amendment, together with the other provisions already in the bill, will ensure that this country will have a strong and competitive program for supplying the nuclear fuel needs of our civilian nuclear power program and for meeting the critical defense needs of our atomic weapons program. Make no mistake about this. The Domenici-Johnston amendment is the very key to striking the delicate balance necessary for the success of the legislation.

As I indicated in my opening remarks, Mr. President, this bill is the result of an effort of 6 years of work going back to 1982, when the Congress directed the administration to report annually on the viability of the domestic uranium mining industry.

A word about viability. The word "viability" itself is one of the worst words in the dictionary. It ought to be junked. But that is what we have chosen to call it. And it is important that my colleagues understand exactly what the law is today on the issue of viability of the domestic uranium industry, and how this pending amendment would change the current law.

Today we have a statutory provision on the books, a requirement contained in section 161v of the Atomic Energy Act directing the Department of Energy to conduct its enrichment business in a manner that will assure the maintenance of a viable domestic uranium industry. That is the law today. It is clear, unequivocal, and mandatory.

In short, we have a requirement on the books today that requires the Department of Energy, through the conduct of its enrichment business, to maintain a healthy domestic uranium industry.

That is why we directed the Department of Energy in 1982 to submit annual reports to Congress on this very issue. And after the submission of the first annual viability report in 1983, in which DOE found our domestic industry viable, the Department has now found, for 3 consecutive years, that this industry does not meet the statutory requirement of viability.

Moreover, after DOE flatly refused to undertake any action to address this situation, the courts have ruled that the statute imposes a binding, nondiscretionary obligation on DOE to limit the enrichment of foreign uranium—a ruling that DOE, in one last gasp effort, is now seeking to have reversed in the Supreme Court. If that ruling is affirmed by the Supreme Court—and I fully expect that it will be—we will have in place, under the lower court's ruling, a 100-percent prohibition on the enrichment of foreign uranium. That's where we are today.

Against that backdrop, there are a couple of points that I wish to emphasize. First, I think everyone agrees that the remedy provided under the current law—restricting DOE's enrichment of foreign uranium—will unduly hamper the ability of DOE to compete in the world enrichment market. Second, I think everyone agrees that we do, indeed, want a healthy, competitive, domestic uranium industry that is in a position to compete on a "level playing field" with uranium producers in other countries.

The question for the Senate—and the issue that the pending amendment addresses—is how best to provide for the transition from the current situation, in a manner that achieves the objectives that I think we all support. As I say, if we do nothing, and if the Supreme Court affirms the lower court ruling, we will have a 100-percent prohibition on enrichment of foreign uranium.

In view of that situation, the pending amendment proposes a rational, well-balanced approach. The viability provision currently contained in the Atomic Energy Act, section 161(v), is repealed. In its place, the amendment provides for a transition from the current situation, to a point 12 years from now, when all restrictions on imports will be lifted. During that period of time, a schedule of fees would be established for the use of foreign uranium, permitting the use of up to 37.5 percent foreign uranium without any fee and establishing a sliding scale of fees for amounts that are used above this level. Beginning in 1995, there would be no charge on the use of foreign uranium up to 50 percent of a utility's requirements. One final point: Under a grandfather provision in this bill, foreign uranium which was purchased under a contract entered into prior to September 30, 1986, would not be included in the calculation of charges.

Mr. President, one of the toughest arguments presented to us by the others, is that this is a protectionist amendment—that it disrupts the uranium market, through Government intervention, and destroys the level playing field that we currently have in the worldwide uranium market.

Two points here: First, as I indicated, we have this provision on the books that I have described. We cannot ignore the existence of that provision. And in view of that provision, the pending amendment actually moves us in the direction of free trade, more directly and quickly than will likely be the case under current law.

Then, Mr. President, I want to say a few things about the notion of this level playing field. Our domestic uranium producers have probably come the closest to that objective. We are the ones that are playing by the rules of the free market in the uranium business. We do more than any other country in the world. Virtually no Government intervention has taken place since the early 1980's in support of the U.S. industry.

In fact, if anything, the Government involvement has actually hampered our ability to compete through the imposition of often confusing and increasingly restrictive regulatory requirements on the cleanup of uranium mill tailings. We often suffer from that one in my State. With Federal agencies scrapping with one another over turf, we see that all day long in this place as uranium companies have sought some clear, coherent direction in cleanup requirements.

At the same time, producers in other countries have reaped substantial benefits from various forms of direct and indirect Government subsidies.

Benefits have tilted this so-called level playing field in a direction that has virtually run our own producers out of business.

In fact, let me just briefly review for the benefit of my colleagues in summary form the amount of subsidies that have been provided to this country's principal competitor, the Canadian uranium industry.

Mr. SIMPSON. Mr. President, there are some very interesting ones. There is $134 million for a settlement of a loan from UCAN to Eldorado; purchase of equity in Eldorado, $300 million; Eldorado's purchase of Gulf of Uranerz shares—Rabbit Lake joint venture, $214 million; Mobility Incentive Program, $10 million; National Mill Tailings Program; long-term Eldorado debt guaranteed by the Canadian Government, $547 million; Saskatchewan government, equity advances by Sask Fund, $249 million; Province of Saskatchewan notes held by U.S. banks, $583 million; reinvested earnings in various projects, $33 million; long-term contract on the Ontario Hydro, $279 million.

Let me tell you, it is heavy, heavy stuff.

I brought every single one of these subsidies to the attention of the Secretary of Energy, John Herrington, Secretary of the Treasury, Jim Baker, and our U.S. Trade Representative, Clayton Yeutter, and my dear and delightful friend, Allan Gottlieb.

I ask unanimous consent that the letter to the administration on this subject be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, DC, March 14, 1988.

Hon. JOHN S. HERRINGTON,
Secretary, Department of Energy, Forrestal Building.
Hon. JAMES A. BAKER III,
Secretary, Department of Treasury, Washington, DC.
Hon. CLAYTON YEUTTER,
U.S. Trade Representative, Washington, DC.

DEAR SECRETARIES HERRINGTON AND BAKER and AMBASSADOR YEUTTER: Now that the negotiations on the U.S.-Canada Free Trade Agreement have been completed, I have a number of questions related to the treatment of uranium under this Agreement that I would appreciate your views on.

As I understand it, the objective of this Agreement is to foster a greater degree of free trade between the United States and Canada, unfettered by governmental intervention. Specifically, with respect to uranium the Agreement proposes to grant Canada an exemption from any import restrictions imposed by the United States pursuant to section 161v. of the Atomic Energy Act and to eliminate the Canadian Government's policy that all Canadian-origin uranium be processed in Canada before shipment to the U.S. for enrichment.

The exemption of Canadian uranium from the requirements of section 161v. of the Atomic Energy Act would have the effect of eliminating the one mechanism that has been available to, and invoked by, the U.S. Government as a means of ensuring that we have a healthy domestic uranium industry in this country.

The Agreement does not, however, appear to place Canadian uranium producers on the same "level playing field" from the standpoint of governmental involvement in the Canadian uranium industry. Of particular concern in this regard are reports that the Canadian Government has, in the past, been heavily involved in the Canadian uranium industry, providing direct or indirect support to Canadian producers in the form of government ownership, interest free loans, loan guarantees, assistance programs, equity advances, direct subsidies, royalty holidays, and the like. I have attached a detailed list identifying a number of specific instances that have been brought to my attention where the Canadian government, either directly or indirectly, has provided financial support to the Canadian uranium industry.

In view of this, I would appreciate your response to the following questions:

1. Have the practices identified in the attached list actually taken place?

2. What provisions, if any, have been included in the Free Trade Agreement to foreclose these practices in the future?

I appreciate your assistance in this matter and look forward to your responses.

With warm regards,
Most Sincerely,
ALAN K. SIMPSON,
U.S. Senator.

A. FEDERAL GOVERNMENT OF CANADA—ELDORADO NUCLEAR, LTD.

Subsidy programs	Information Re: Value of subsidy
1. Settlement of Loan from UCAN to Eldorado; loan used by Eldorado to fund acquisition of 1/6 interest in Key Lake joint venture.	Forgiveness of Eldorado loan: Principal, $96,900,000; Interest, $37,300,000; Total, $134,200,000.
2. Purchase of equity in Eldorado via transfer of uranium stockpile from UCAN to Eldorado.	Received in exchange for stockpile: Preferred shares, $200,000,000; Common shares, $100,000,000; Total Value, $300,000,000.
3. Eldorado's purchase of Gulf and Uranerz shares (Rabbit Lake joint venture) in exchange for uranium concentrates from transferred Canadian government stockpile.	Book value of uranium concentrates transferred to Gulf Uranerz, $214,227,000 (the uranium concentrates were shipped to the U.S. to settle the Westinghouse antitrust litigation).
4. Mobility Incentive Program and other Federal Government assistance in the "close-out" of Eldorado's Beaverlodge mine, near Uranium City, Saskatchewan.	Cost of employee relocation programs, $10,000,000.
5. Long-term debt from Eldorado to Federal Government was written off during 1983 restructuring.	1982, $15,000,000 (5⅞ percent, 6⅜ percent Notes).
6. National Mill Tailings Program; 5 year Federal research program to develop technology to minimize the harmful effects of uranium tailings.	Program cost to 1985, $9,500,000.
7. Uranium Exploration Program (jointly funded by Federal Government and certain provinces); Uranium Resources Appraisal Group.	Program costs: URP, $18,000,000; URAG, $30,000,000; Total, $48,000,000.
8. Long-term Eldorado debt guaranteed by the Federal Government; refinanced a number of times with loan guarantee extensions each time.	$547,206,000 at end of 1986.
9. Short-term Eldorado borrowing guaranteed by Federal Government; used principally to pay long-term debt.	$82,007,000 at end of 1986.
B. SASKATCHEWAN GOVERNMENT—SASKATCHEWAN MINING DEVELOPMENT CORPORATION	
1. Equity advances by Sask Fund and Crown-Sask to SMDC.	At the end of 1986: Sask Fund, $218,700,000; Crown Sask, $31,141,000; Total, $249,841,000.
2. Long-term debt guaranteed by the Saskatchewan Government.	Loan to which the guarantee relates, $65,000,000.
3. Guarantee by the Province of Saskatchewan of irrevocable letter of credit re: borrowing of uranium concentrates to prevent default from non-delivery to U.S. customers.	Letter of credit to which the guarantee relates, $52,000,000.
4. Province of Saskatchewan notes held by U.S. Banks, proceeds to SMDC.	Proceeds at end of 1986, $583,275,000.
5. Sask Fund expenditures on northern development roads and other projects which directly assist SMDC.	Key Lake Development Road, $7,000,000; Cluff Lake Development Road, $5,000,000; Beauvral-Pinehouse Development Road, $6,500,000; Total, $18,000,000.
6. Reinvested earnings in SMDC	$33,988,000 at end of 1986.
C. ONTARIO GOVERNMENT—ONTARIO HYDRO	
1. Long-term contract between Ontario Hydro and Denison to assist in Denison's expansion and rehabilitation of Can-Met/Stanrock mines.	Ontario Hydro advances to Denison as of March 31, 1984, $279,500,000. Ontario Hydro recoups out of future high priced uranium contracts.
2. Long-term contract between Ontario Hydro and Rio to finance rehabilitation of Stanleigh mine and mill.	Ontario Hydro advances to Rio as at March 31, 1983, $351,458,000. Ontario Hydro recoups out of future high priced uranium contracts.

Mr. SIMPSON. Mr. President, I have no real response to these questions. We are not on a level playing field. The Canadian subsidies are massive and undisputed.

While we are on this point, let me emphasize that the free trade agreement currently pending before Congress will do absolutely nothing about these subsidies.

May I inquire of the floor manager if he might yield an additional 5 minutes. I assure him that I will conclude in that time.

The PRESIDING OFFICER (Mr. SHELBY). The Senator is recognized for an additional 5 minutes.

Mr. SIMPSON. Mr. President, the point is that we are not playing on a "level playing field." The Canadian subsidies are massive and undisputed and unexplained. While we are on this point, let me emphasize that the Free Trade Agreement currently pending would do absolutely nothing about these subsidies. Nothing in the proposed agreement prohibits Canada from continuing these practices. That also must be corrected.

I am not suggesting that we continue subsidies on either side of the border, but I do think it is essential that the Senate, in choosing between a phaseout of the existing law, as provided for in the existing amendment, and an immediate termination of section 161v, recognize what is going on in the world market—and that is the real world.

In concluding, I want to say a few things about the second-degree amendment offered by my fine colleague from Washington, Senator EVANS.

Let us be quite clear about what that amendment does. It expresses the sense of Congress that the administration should initiate another study of the uranium issue.

In all frankness, Mr. President, we have had more than enough studies from the administration, enough to choke a horse. I have a stack of studies here from the administration, and this is going to be not quite as good as the President had in his State of the Union Address. I believe he said he had 14 pounds. This is at least 14 pounds. We have studied this ad nauseum, and surely we are not going to do another one. I think that night, the President said he would never sign another 14-pound bill. A wag behind me said, "would he sign an 11-pound bill?"

I do not think we need another 11 pounds of study about the uranium industry. We have studied this beyond comprehension.

To mention the question of imports again would be a wholly feckless exercise. We know what the administration's answer will be if it is passed. There is a December 26, 1985, letter from Ambassador Yeutter to Energy Secretary Herrington, and our Trade Representative stated bluntly and succinctly:

> We do not believe it would be appropriate to self-initiate a (section 232) investigation at this time.

The response we have obtained is not surprising. This administration has spurned virtually every single proposal to address the legitimate concerns facing the domestic uranium industry. Throughout all of this, the uranium producers—those who have put up their bucks to do the work in the field—have patiently waited for the administration to implement the law. Even though the reports that have been submitted clearly indicate that, absent any action, imports will continue to rise—reaching an alarming level of 60 to 70 percent—absolutely no action has been forthcoming.

Mr. President, the words "ignore" and "ignorance" have the same root, and both portray what this administration has been involved in with regard to the uranium industry.

We have studied the uranium issue to death, and the time has come to act, to quit talking. We have a unique opportunity today to address, in a comprehensive way, the myriad problems facing the nuclear fuel cycle and the uranium mining industry. For that reason, I earnestly urge my colleagues to reject the Evans sense-of-the-Congress second-degree amendment and to support the Domenici-Johnston leadership amendment.

I thank the Senator from Louisiana for his courtesies and the extension of additional time.

I yield the floor.

Mr. EVANS. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, let us state right up front and clearly what this is all about. It is an attempt, and it is an understandable attempt—I might be in the same position, if I represented the States that my good friends and colleagues from Wyoming and New Hampshire represent—to try to protect the domestic industry.

Who is going to pay? If they cannot do it on their own, there will have to be a payment, in essence—a subsidy, if you will, of the domestic industry. Somebody will have to pay it. Who is going to pay? It will be every electrical consumer in the United States who is served, partically or wholly, by nuclear power. That is who will pay.

Later in my statement, I will tell you a little bit of how much that adds up to per year in the States of our Nation.

Mr. President, the attempt to retrieve jobs and a status once held in the uranium mining industry in the United States may be desirable, or at least desirable by those who represent those areas of the country, but a combination of circumstances has brought the industry to its current place.

There is absolutely no question that adoption of the underlying amendment, doing precisely what the Senator from Wyoming and the Senator from New Hampshire would have us do, would not and could not bring the industry back to the number of jobs once held.

Mr. President, an interesting study has been put together by a principal research scientist at the Massachusetts Institute of Technology, on "U.S. Uranium in International Perspective." I will read from it, and then I will ask that the entire report be placed in the RECORD.

Import relief cannot change the competitive position of the U.S. industry. The study points out:

> Import restrictions would do little to alleviate the short run domestic adjustment to overexpansion and United States production, much of which has already occurred. Furthermore, short of closing the U.S. market permanently, import restrictions can do little about the dominant long-run challenge to the domestic industry: a radical change in uranium resource horizons resulting from discoveries of large, high-grade deposits outside the United States.
>
> At present, most of the U.S. industry is based on deposits and reserves that are either small, low in ore grade, or both. New discoveries in Canada and Australia, and perhaps elsewhere, are much richer and larger. The U.S. industry must eventually adjust to this fact of nature and to the consequent change in comparative advantage.

It goes on to talk specifically about the restoration of lost jobs and points out:

> The U.S. uranium industry has declined since 1979 due to a combination of circumstances: a drop in production, yes, but a more than proportional drop in employment due to the elimination of low productivity workers.

I do not care what industry you are in. If we are going to be competitive internationally, that is precisely what we will have to do in every industry.

It goes on to say:

> A shift, even on the part of primary producers, to meeting delivery commitments and new needs through spot market procurements from excess inventories built up over the prior decade; and a relative increase in domestic solution mining and byproduct which generally has higher labor productivity (and thus fewer jobs) and lower costs than traditional open-pit and underground mining.

It goes on:

> Over the next few years, import restrictions would have little effect on this situation. While prices would rise somewhat, the first effect of such increases would most likely be to bring forth extra material from inventories and expanded output from byproduct and in situ solution mining. Increases in production, and therefore employment, at conventional higher-cost underground and open-pit mines would be delayed until prices and unfilled utility needs increased greatly.

Mr. President, many industries and many people in this country have suffered over the course of the last decade, including the domestic uranium mining industry, simply because we overestimated more than a decade ago the needs for electric power and, more particularly, the need for nuclear powerplants to fulfill that requirement.

It is not just the domestic uranium mining industry. Those large producers and contractors who built the nuclear plants are now out of the business. From a high of 40 or 50 plants at the peak year new orders, there has not been a single new order now for a good many years in the United States for a new nuclear plant.

In my own Pacific Northwest, we are suffering the problems and it is a costly suffering of nuclear plants once started but not completed. Five plants begun by the Washington Public Power Supply System, one completed and operating, two abandoned, for whom the bonds have been defaulted and two of them partially completed, one 75 percent complete, one 65 percent complete on which the ratepayers of the Pacific Northwest are paying bonds of over $3 billion without an ounce of electricity produced from that.

So if we wanted to make this a broad bill aimed at providing relief for all of those who have suffered from the errors made 10 years ago in the expectations for the nuclear power industry, let us not stop at uranium miners. Why do we not pay off the bonds of those uncompleted plants all over the country and relieve the ratepayers from that payment? Why do we not go through the whole process from beginning to end and see if we cannot make everyone whole again?

That does not make sense and this does not make sense.

Imports today are from 37 to 40 percent. They have bounced up and down. Expectations are that imports might rise, but there are a lot of other industries in this country who do very well with import levels at the same percentage level.

It has been said by the opponents of this second-degree amendment that we must pass the underlying amendment because it is the only way we can get to the protection of the domestic uranium industry.

Mr. President, there are at least two existing opportunities under current trade laws that could be utilized by this industry to seek relief. They have chosen not to do so.

I would say to my colleagues why in the world should we provide an unusual and costly relief to this industry when they on the other hand have chosen not to use either of the two opportunities open to them today in order to provide relief?

Let me talk a little bit about each one of them. Section 201 of our current trade laws provides for relief for domestic industries that are under duress from foreign imports. This is not any of the talk about unfairness or the kinds of trade laws that we would get into under section 201. This is just an industry that is under duress because of foreign competition.

The industry has chosen not to file any kind of proposal under section 201. It is perfectly open to the industry. But they have chosen not to do so.

In the Pacific Northwest, one person, representing a small association of timber and lumber producers, filed just such a proposal under section 201 for the Northwest shake and shingle industry which was being battered by competition from—guess who—Canada. It only took one person. It was not filed by the Government. It was not aided by Congress. He used the current law and was extraordinarily successful in having a successful section 201 carried forward. Relief was provided. The Northwest shake and shingle industry is again healthy.

I wonder why the uranium industry has chosen not to fight for themselves?

Second, there is a countervailing duty provision. If there is the feeling that the Canadian industry has unfairly subsidized its own people in order to create unfair competition, which has been asserted by some on this floor, then you can file a countervailing duty case.

Again, in the Pacific Northwest, finding precisely that same kind of problem, again with—guess who—Canada, we did file, not through governmental action but through the private initiative of those who represented the industry, a courtervailing duty case for lumber products. Interestingly enough, the penetration of Canadian imports into the United States for that industry was lower than the penetration of the uranium mining industry, and yet that countervailing duty case was extraordinarily successful. The end result has been a quick working toward the elimination of those that we felt were unfair subsidies on the Canadian side and in the meantime the domestic industry once again is healthy.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. EVANS. I will yield for a question.

Mr. JOHNSTON. I well remember that shake and shingle case because I and a large number of colleagues went to the wall in trying to put pressure on our Government as well as the Canadian Government on getting them to change that.

The Senator is not suggesting that one little lowly fellow up in Oregon or Washington files a little case with his hometown lawyer and turns this whole thing around on his own? He is not suggesting that, is he?

Mr. EVANS. I am precisely suggesting that on the shake and shingle case. I am talking about two different cases here. Not the softwood lumber case but the shake and shingle case which was a section 201 filing. The person who filed it and carried it through was a representative of a very small organization or association representing that industry. He was not even a lawyer and he filed it himself and was successful. I am saying precisely that.

Mr. JOHNSTON. Maybe we ought tell Congressman GEPHARDT that he get one of his hometown people to file a case against Hyundai and we would not have to spend all that money on those ads.

Mr. EVANS. If he has a case that is probably true. You see how much good the ads did Representative GEPHARDT. He is now running for Congress again.

Mr. WALLOP. Mr. President, will the Senator yield further for a question on this same topic?

Mr. EVANS. For a question.

Mr. WALLOP. I wonder if the Senator is aware that one of the reasons why 201 and 232 have not been used is because the U.S. Trade Representative in a letter to Secretary Herrington has much as told them no.

Regarding the first question, they told him to use 161v which is the better course because it was designed for them.

> Regarding the first question we would advise against self-initiation of a section 201 investigation at this time for several reasons. Section 232's principal source of imports is Canada, an immediate neighbor and long-term, stable ally. For this and other reasons we do not believe it would be appropriate for self-initiated investigation under 232 at this time.

Here is their Government telling if they do they will not support them. What other reason would there be to go to use 161v which was designed for them?

Mr. EVANS. I would say to the Senator from Wyoming that is precisely the case in the lumber industry as well. They did not want to file it. They did not file it, but it is open to any citizen of the United States to make that filing. You do not have to have Government do it for you.

Mr. WALLOP. I would say to my friend, 161v was precisely devised and was designed for this industry, and they used that course. That is precisely why 201 and 232 were not used.

Mr. BRADLEY. Mr. President, will the Senator yield at that point?

Mr. EVANS. They could certainly use it now today, tomorrow morning, at any time, those two. The countervailing duty and section 201 are open to the industry and if I were an industry in trouble I would use everything I could and they have not.

Yes, I will yield.

Mr. BRADLEY. On the point that the Senator from Wyoming made, it is not the USTR that self-initiates a 201 case. You have to file with the International Trade Commission. And I am not surprised that the USTR might advise: "Do not file." But it is available to people to file without regard to what the USTR or the President of the United States or anyone else says. The process is there to deal with industries that have been hurt by imports. So the process was available and it was not taken.

Mr. WALLOP. The Senator is correct.

If the Senator from Washington will permit me to respond.

Mr. EVANS. I will.

Mr. WALLOP. The Senator is correct. It is available, but so is 161v, which they have used instead of 201 and 232. It is not fair to accuse them of not using a tool when they are using a tool available to them designed for them.

Mr. EVANS. I state to the Senator from Wyoming once again that if you have weapons, you better use them all instead of just going down one road.

Let me continue.

I think it is quite clear that those are two elements which can be used and have been used successfully by other industries and are still open for this industry to use.

National security has been talked about. One of my colleagues mentioned the national security elements of the GATT. Interestingly enough, that section of GATT has never been invoked by any nation and, I think, with good reason. There is a real concern that once you put a little wedge into that provision of GATT, you open up to every nation every conceivable, even remotely connected, industry to the national security of that country. And we would very likely and most probably end up virtually dissolving the protections of GATT into a series of squabbling arguments over what did or did not represent national security.

Mr. President, during the 1970's and the early 1980's, at a time when we were producing uranium to a far greater extent when we were using it, we built up substantial inventory. There has been some concern expressed here by the Senator from Louisiana about national security. Well Mr. President, we have 25,000 metric tons in inventory of natural uranium. There is some squabble going on now about how that should be divided, whether it should be 50-percent owned and utilized by the commercial industry and 50 percent by the military or whether 100 percent should be under the military.

We received reports which indicate that even if it is 50-50 and half of that inventory is for the military, that is enough to last them until the year 2007. And if 100 percent were set aside for national security, that would last until the year 2030, which seems to me hardly a serious and current problem.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. EVANS. Certainly.

Mr. JOHNSTON. If we have this surplus of uranium, then why in 1986 did we import 11.7 million pounds and why do we project—I do not have the figures for 1988, but we have a 1990 figure which is a high case of 17.4 million pounds. In other words, if we are above 11.7 million pounds and heading up and heading up rapidly for such a surplus, why do we continue to import this stuff at great cost?

Mr. EVANS. Well, there is a very simple reason. Twenty-five thousand metric tons is in the Government stockpile. The imports are coming from utilities, private utilities, who need the source of uranium. So they are in two different bins, if you will, and we are not going to give out the governmental stockpiles to the utilities of this Nation. So that is the very simple answer.

Mr. BRADLEY. Will the Senator yield on that point?

Mr. EVANS. Yes.

Mr. BRADLEY. I might say, this concerns uranium imported by utilities who did not lock themselves into long-term contracts for high-priced uranium. So they availed themselves of the market benefit of a lower price for uranium. That is the very simple reason as to why the level of imports has gone up.

Mr. EVANS. Let me proceed.

Mr. President, there is also a concern which has not been brought up to my knowledge in any of the previous arguments. This again comes from the same study I read from earlier. It relates to nonproliferation. There are many in this body, many in this country, who have deep concerns over nonproliferation. The study reads:

> Unhealthy conditions in international nuclear fuel markets would undermine efforts to contain nuclear weapons proliferation. A lack of legitimate market opportunities would tempt some producers to make further clandestine sales of uranium (like that of Niger to Libya in 1981) to nations or groups with no legitimate uses for the material. The existence of "old-fashioned" uranium-based routes to weapons, aggravated by the increasing availability of enrichment technologies, makes this a serious danger. Thus, healthy international commercial markets, with significant U.S. participation, may be one of the best safeguards policies available to the United States.

Now, it has been mentioned that in the United States-Canada trade agreement there is a national security exemption. Well, of course there is. The national security exemption deals, however, with military not civilian users of nuclear energy or uranium.

Article 907 says:

> Neither Party shall maintain or introduce a measure restricting imports of an energy good from, or exports of an energy good to, the other Party under Article XXI of the GATT or under Article 2003 (National Security) of this Agreement, except to the extent necessary to:
>
> (a) supply a military establishment of a Party or enable fulfillment of a critical defense contract of a Party;
>
> (b) respond to a situation of armed conflict involving the Party taking the measure;
>
> (c) implement national policies or international agreements relating to the non-proliferation of nuclear weapons or other nuclear explosive devices; or
>
> (d) respond to direct threats of disruption in the supply of nuclear materials for defense purposes.

None apply under the proposal of the Senator from Louisiana.

It has been suggested that this fully meets the requirements, even leaving aside the national security exemption, fully meets the requirements of United States and Canada. I cannot think of anything, however, that just on the face of it makes less sense.

It is very clear in what is said in Annex 902.5, Import Measures. "The United States of America shall exempt Canada from any restriction on the enrichment for uranium under section 161v of the Atomic Energy Act."

Of course, it has been said that, well, the underlying amendment does just that. It eliminates section 161v. But, of course, it immediately institutes a crushing tariff on anything coming from another nation. Now if that is not a violation of absolutely the most fundamental spirit of the United States-Canada agreement, I do not know what is. If it were the other way around, there would be Members standing up all over this floor condemning Canada for attempting to evade an act they had just signed in that same fashion.

Mr. President, let me get back in more detail to the question of cost to the consumer, for whatever benefits are applied to the domestic industry, it is the consumer who will pay.

I hope many of my colleagues are listening, because let me just run through a few States with the annual impact of a $10 per pound differential or a $20 per pound differential. Clearly, that is the intent of the industry, that the only way things will work is to raise prices on their products so that the industry itself can supposedly compete.

Now raising prices on their products certainly would happen. For a $20 per pound differential, the State of California, $11 million a year; the State of Connecticut, $13 million a year; the State of Illinois, $13 million a year; the State of North Carolina, $13 million a year; the State of New Jersey, $17 million a year; the State of Pennsylvania, almost $11 million a year; the State of South Carolina, $26 million a year; the State of Texas, $14 million a year. It goes on and on. There are many, many other States with somewhat smaller but still significant potential costs to the consumer.

Mr. McCLURE. Will the Senator yield for a question?

Mr. EVANS. Yes.

Mr. McCLURE. The Senator has used a cost figure of $20 per pound; is that correct? Increase?

Mr. EVANS. That is $20 a pound, yes.

Mr. McCLURE. What is the source of that estimate? Because the estimate that we have is from $2.50 to $5 a pound increase in costs.

Mr. EVANS. What the Senator from Idaho is saying is you are going to soak it to the consumer, just not quite as much?

Mr. McCLURE. No, you are using some figures based on $20 a pound——

Mr. EVANS. The source of these figures is the Department of Energy.

Mr. McCLURE. The Department of Energy says it will increase costs $20 a pound?

Mr. EVANS. They were not suggesting that. They were saying at $20 a pound, this is what the cost figures would be.

Mr. McCLURE. Would the Senator yield further? Your example would be much better if you used $100 a pound then; would it not?

Mr. EVANS. No, I think to answer the Senator, between $10 and $20 a pound is a pretty good estimate of what is likely to happen. When you put such an extraordinary burden on imported uranium, the domestic industry has no particular incentive to keep prices down and, in fact, any industry, given that kind of opportunity, is certainly going to raise prices to whatever the market will bear.

Mr. McCLURE. Well, if I am correct, and forgive me if I am not correct, the Senator has no real basis for the $20 a pound? That is an illustrative figure? That if it were $20 a pound, it would have this kind of impact; am I correct?

Mr. EVANS. Well, I think there is more than that. It is the understanding about the current price, the feelings of those in the industry, that they simply cannot compete at all at that price; and once you put on a fee, import fee of the type that is suggested in this bill, there will be virtually no hope of an import industry—or imported uranium even coming close to being competitive.

Mr. McCLURE. I thank the Senator for yielding. I will not take his time but I will at a later time go into the cost estimate with some better information with respect to what the cost impact might be. I thank the Senator for yielding.

Mr. EVANS. I would certainly say to the Senator I am sure that he would agree that whatever the cost is, whether it is $5, $10, $15 or $100, all of that cost will fall on the shoulders of the ratepayers of the United States and those utilities that have operating nuclear plants and the need for nuclear material. No question.

Mr. McCLURE. Would the Senator yield further,

Mr. EVANS. Yes.

Mr. McCLURE. Yes, indeed, it is correct to say if there is increased cost, there is one place the cost will be paid. But I think, to the consumers, it will make a great deal of difference how much that cost increase was. If it is one-tenth what the Senator has suggested, that might make a difference in their judgment as to how severe that impact was.

Mr. EVANS. I see that my colleagues are here. I understand the Senator from Oregon has a conference to return to, which is of some considerable importance.

With that, let me just take a minute or two to end and I may want to reserve comments for some later period.

Mr. President, it is clear, I think, from what has been said, that there is no chance whatsoever, regardless of what act is passed on the floor of this Senate or the Congress, that uranium jobs in the domestic mining industry will return to anything like their previous levels for all the reasons I have mentioned.

Mr. President, the amendment that we have, I think, is quite simple and straightforward. It does provide for a study, but unlike the studies held up by the Senator from Wyoming, this is a study to be reported back to the President by May 15 of this year, in time to fully take into account the consequences of that study and to utilize it even then in drafting the final language of the United States-Canada agreement. That is a different kind of study than the many that gather dust on the shelves of various offices around here.

Mr. President, with that, let me yield the floor. I do understand the Senator from Oregon has stepped out of the trade conference and I would be glad to yield such time as the Senator may desire.

Before yielding, I ask unanimous consent that a presentation by Thomas L. Neff to the Office of U.S. Trade Representative dated November 1985 be printed at this point in the Record.

There being no objection, the presentation was ordered to be printed in the Record, as follows:

U.S. Uranium in International Perspective

(By Thomas A. Neff)

PRINCIPAL CONCLUSIONS

The recent and near-term problems of the U.S. uranium industry originate largely in its own history. The industry began in government weapons procurement and subsidy programs in the 1950s, and was subsequently sustained by government support programs and an import embargo in the 1960s. It then overexpanded in response to the demand panic and excessive price increases of the 1970s. U.S. production between 1973 and 1981 exceeded U.S. reactor needs by more than 50 percent, resulting in large inventories that overhang today's market and depress production more than would be the case otherwise.

The environment in which the industry evolved had serious structural consequences in the 1970s: overexpansion and government involvement were accompanied by major inefficiencies—high marginal costs, low marginal labor productivity, and excessive capitalization. Thus, the condition of the industry today should not be compared to that of the 1970s. The large drop in employment, as well as most of the reported financial losses in the industry, can be traced to the elimination of highly inefficient operations, producing in excess of actual national needs—needs that ultimately turned out to be lower than expected.

Industry aggregate financial data are also affected by this change. Uranium reserves and other assets that will not, under new views of demand, be used for decades, are being quite properly (and advantageously from a tax perspective) written down. While this depresses net income figures, the more important operating income figures are on average positive and are projected to remain so by EIA. In addition, as inventory surpluses decline, U.S. production will increase at new as well as old facilities.

IMPORT RELIEF IS UNNECESSARY

The U.S. Industry Is Successfully Adapting. The U.S. uranium industry has largely adapted to changed circumstances. There will be little further decline in employment or production, but rather a rebound, as surpluses are worked off, of a competitive core that will be sustained over time by lower cost operations. The survival of these relatively efficient U.S. producers is not, and never has been, seriously in doubt.

The transition of the industry will be eased by an existing base of contracts, accounting for 27 to 37 percent (depending on options) of total U.S. utility needs of 400 million pounds over the next decade. These contracts embody prices that, in real terms, are as high as those in the AEC procurement days.

EIA Model Projections of U.S. Output Are Excessively Pessimistic. The EIA model forecast in the Viability Assessment suggests that a total of only 102 million pounds of uranium will be produced domestically over the next decade. Not only is this forecast even less than the amount already under contract for delivery over that period, but it conflicts directly with data developed in a separate EIA industry survey. At the free market prices forecast by the EIA model in the 1984 Viability Assessment, the 1984 EIA industry survey reports that existing producers would be willing to provide an additional 81 million pounds of production by 1994, over and above the firm and optional production already under contract. Because EIA near-term price forecasts appear low, and because it is impossible to survey emerging new industry participants, this prospective expansion of domestic production may in fact be understated.

U.S. Security Is Not Threatened. Uranium is not like oil or natural gas: disruptions of supply take several years, not days or weeks, to be felt. Inventories held by U.S. utilities, the U.S. government, foreign utilities, allied governments, and others are high—amounting to, perhaps five years of forward supply—and both the U.S. and international industries have demonstrated a capability to expand output very rapidly (doubling output in the 1970s in only four years). Moreover, U.S. imports come increasingy from friendly and reliable allies, not from an unstable or hostile region as in the case of oil.

IMPORT RELIEF CANNOT CHANGE THE COMPETITIVE POSITION OF THE U.S. INDUSTRY

Import restrictions would do little to alleviate the short-run domestic adjustment to overexpansion and excess production, much of which has already occurred. Furthermore, short of closing the U.S. market permanently, import restrictions can do little about the dominant long-run challenge to the domestic industry: a radical change in uranium resource horizons resulting from discoveries of large, high-grade deposits outside the United States.

At present, most of the U.S. industry is based on deposits and reserves that are either small, low in ore grade, or both. New discoveries in Canada and Australia, and perhaps elsewhere, are much richer and larger. The U.S. industry must eventually adjust to this fact of nature and to the consequent change in comparative advantage. But the process of adjustment will be a gradual one, with existing producers advantaged by sunk capital costs, existing long-term contracts, and a core of efficient productive capacity. U.S. producers—some of them new—will also be aided by the development of new deposits in the United States, and by new technical approaches to extraction.

To do anything about this shifting comparative advantage through import relief would require essentially permanent barriers to imports. Such barriers would impose tremendously high domestic costs, and cause an increasing disparity between U.S. and world markets. Decades of experience with oil import restrictions, originally imposed to protect domestic producers against cheaper foreign supplies, cautions great care.

IMPORT RELIEF WOULD NOT SIGNIFICANTLY RESTORE LOST JOBS

Employment in the U.S. uranium industry has declined significantly since 1979 due to a combination of circumstances: a drop in production and a more than proportional drop in employment due to the elimination of low productivity workers; a shift, even on the part of primary producers, to meeting delivery commitments and new needs through spot market procurements from excess inventories built up over the prior decade; and a relative increase in domestic solution mining and byproduct production which generally has higher labor productivity (and thus fewer jobs) and lower costs than traditional open-pit and underground mining.

Over the next few years, import restrictions would have little effect on this situation. While prices would rise somewhat, the first effect of such increases would most likely be to bring forth extra material from inventories and expanded output from byproduct and in situ solution mining. Increases in production, and therefore, employment, at conventional higher-cost underground and open-pit mines would be delayed until prices and unfilled utility needs increased greatly. The restoration of significant numbers of jobs in traditional mining districts would most likely come last, perhaps not until the 1990s, and then—as discussed below—only at very high costs.

IMPORT RELIEF WOULD BE VERY COSTLY TO THE U.S. ECONOMY.

While EIA survey data show that the domestic uranium industry can meet a significant fraction of U.S. needs competitively under open market conditions, it is highly unlikely that the industry could meet *all* U.S. needs, except at extremely high cost. As noted, the peak output of the 1970s was accomplished only by exploiting very low-grade material through unwarranted investment and high labor inputs. The industry's own estimates of its marginal supply capability, over and above current contracts, indicate that prices would have to rise well above $60 a pound before increased U.S. production would satisfy more than one-half of unfilled U.S. needs beyond 1989.

Because of large uncovered future needs and the existence of "market price" clauses in many existing contracts, and because market price is set by marginal cost, import restrictions that pushed U.S. output up rapidly rising marginal supply curves would result in very significant price increases for a large volume of U.S. uranium consumption. There would be a massive domestic welfare loss, and windfall gains for domestic producers and importers, ultimately financed by U.S. electricity consumers.

For every $10 a pound increase in average U.S. supply price (in constant dollars) due to import restrictions, the cost to the nation of import restrictions would be about $4 billion (in constant dollars) over the next decade. The actual price increase attributable to import restrictions could well be much greater than $10 a pound.

Such price increases can be translated into costs per job created or, in some cases, per job recreated. For example, if long-term prices went up an additional $20 per pound, U.S. industry employment would probably increase by less that 8,000 person-years, at a cost on the order of a million dollars per job.

IMPORT RELIEF WOULD BE INTERNATIONALLY COUNTERPRODUCTIVE

As noted, U.S. dependence on a significant level of uranium imports poses few security risks. Withdrawal from international markets, however, would significantly reduce national security.

World Nuclear Fuel Security. Just as in the 1960s, U.S. import restrictions would affect the international market in negative ways. Prices, investment, and private sector participation would decline, and governments would intervene. Some suppliers would shut down, increasing market concentration and reducing possibilities for our allies to diversify their supplies. Information and market transparency would decline, and the United States would have reduced information and influence on nuclear fuel trade.

Nonproliferation. Unhealthy conditions in international nuclear fuel markets would undermine efforts to contain nuclear weapons proliferation. A lack of legitimate market opportunities would tempt some producers to make further clandestine sales of uranium (like that of Niger to Libya in 1981) to nations or groups with no legitimate uses for the material. The existence of "old-fashioned" uranium-based routes to weapons, aggravated by the increasing availability of enrichment technologies, makes this a serious danger. Thus, healthy international commercial markets, with significant U.S. participation, may be one of the best safeguards policies available to the United States.

Trade, Commerce and Alliance Relations. Import restrictions on uranium would only add to discord in an alliance already strained by trade friction, and perhaps force tradeoffs of U.S. interests in other areas. Import restrictions would most seriously affect not our enemies but our friends—Canada and Australia. Both are strong U.S. supporters in trade, nonproliferation and other foreign policy areas. Moreover, U.S. import restrictions would adversely affect all markets in which uranium is sold—the potential loss to these foreign suppliers is not just that associated with sales to the United States. Finally, the impact of U.S. withdrawal from world uranium markets might undermine the domestic political consensus in Canada and Australia that allows significant uranium exports. This would threaten not only the security of Japan, the EEC, and the newly industrialized nations, but our own as well.

Mr. PACKWOOD. Mr. President, would the Senator yield me 10 minutes?

Mr. EVANS. I would be glad to yield to the Senator from Oregon 10 minutes.

Mr. PACKWOOD. Mr. President, I come to speak in favor of the amendment offered by the Senator from Washington and the Senator from New Jersey. I very strongly support their amendment and their position for a variety of reasons. One reason we are familiar with is that Clayton Yeutter has sent us a letter indicating that the provisions as proposed would be in violation of the Canadian Free Trade Agreement and the GATT. If we impose charges on foreign uranium, in violation of GATT, we have to pay what is known as compensation.

We will also be subject to retaliation—other countries are entitled to hit exports from our country, imports to their country—with an equivalent amount of money if we impose illegal GATT fees on the import of uranium.

You can be well assured where our trading partners will hit. They will hit agriculture, they will hit high technology. They will hit our best exports—the very exports our trading partners are forever trying to find a way to keep from coming from our country to their countries.

Mr. McCLURE. Will the Senator yield for a question on that point?

Mr. PACKWOOD. Yes.

Mr. McCLURE. I am a little uncertain as to the thrust of that. Is it the contention of the trade representative and the Senator from Oregon that there is no countervailing action to be taken if there is a flat prohibition against importation; but if you substitute a variable tariff for the flat prohibition that is in the statute now, there would be a countervailing action?

Mr. PACKWOOD. I am not sure I understand the Senator's question.

Mr. McCLURE. Under existing current law, there is a flat prohibition against any imports if there is a nonviable industry. As I understand the argument, if we repeal that provision and substitute for it a variable tariff, then they may take action against us. But they could not if we just flatly prohibit the import?

Mr. PACKWOOD. That is correct.

Mr. McCLURE. So, if we want to avoid that countervailing action, we ought not repeal 161v, we ought just to have a flat prohibition.

Mr. PACKWOOD. On any import of any kind, which no one is suggesting.

Mr. McCLURE. Well, it may be out of this discussion we will.

I thank the Senator.

Mr. WALLOP. Would the Senator from Oregon yield for just one further point on the GATT question?

Mr. PACKWOOD. Yes; I do not want to yield too much of the time of my friend from Washington.

Mr. WALLOP. I will try to be brief, but it is not GATT illegal. I would have to refer to title 21 under GATT, which is an exemption for fissionable materials. It is not GATT illegal. To claim otherwise—I know they do—but apparently they have not read all of the General Agreements on Tariffs and Trade because under title 21 fissionable materials are precisely exempted.

Mr. PACKWOOD. Only if you can make a national security argument.

Mr. BRADLEY. Would the Senator yield at this point? This is an argument which you cannot make in this case. We are not allowed to import any fissionable materials for military purposes. So, it cannot fall under section 21.

Mr. WALLOP. I think it does.

Mr. PACKWOOD. Again I will cite the letter of March 22 of this year, from the USTR, in which he says that one change would violate our negotiations with the free trading agreement, and would violate GATT.

Under the GATT, we are going to have to pay compensation and then each of us will holler when the compensation comes out of the favorite products of our State going overseas.

I do not find the national security concerns a valid argument if you look at the projection of reserves from a national security standpoint. The real debate on this is production for reserves of electricity and the question is whether or not the whole plan has been mismanaged over the past years. But you cannot make a national security argument.

If you could, we have for years had section 232. In the trade laws the United States has such in 232. Under section 232 any interested party can bring a national security argument and get relief. But the uranium industry has never brought a case. Anybody has standing to bring it. Any Senator can bring it. Any industry can bring it. The uranium industry has never brought a case and I think the reason they have never brought it is because they cannot win it.

Second, if you cannot win under section 232 in the Expansion Act, you can bring it under section 201. The domestic uranium industry, you are claiming, is injured by imports coming in from overseas. Under 201 a party need not make any argument that the imports are unfair.

All a party has to do is claim injury to your industry. If so, you file a section 201 action. You go to the International Trade Commission, and they make a record as to whether you are injured or not. If they find that you are, they make a recommendation to the President as to the remedy.

This President has been receptive to remedies. Since he has been President, we have had 15,201 actions filed with the International Trade Commission. The ITC found injury in six, and the President has granted relief in four of the six.

So neither the International Trade Commission nor the President has been unreceptive to injuries to domestic industries from fairly traded imports.

The domestic uranium industry has never brought a section 201 action. I think again the reason they have not brought a case is that they fear they cannot prove injury.

The last situation, if the uranium industry feels that Canada and Australia—and they are the principal countries that supply us uranium—are unfairly subsidizing their domestic uranium industries, then the domestic industry can bring a counterveiling duty action.

We recently have done this on lumber, and we were successful in getting a successful conclusion out of it, and finally we got the Canadians to raise the price of their stumpage fees on lumber.

You can bring a countervailing action and you say that a foreign country is unfairly subsidizing their products. If you prove your case, the United States imposes duties, the equivalent of tariffs, on the import of uranium, or we require the foreign country to raise their own prices, whichever they want to do. But whatever the choice, it offsets the subsidy.

The uranium industry has never brought a countervailing duty action alleging foreign subsidies action. They have never brought a section 232 national security action. They have never brought a section 201 action.

What happens, and we see this quite frequently, when an industry thinks it cannot win under what the process of the law is, and many other industries have filed suits and won, then they come to Congress and they basically want Congress to change the law because they cannot win under any of the laws that exist.

I think at a minimum the amendment offered by the Senator from Washington and the Senator from New Jersey, to suggest we go through a section 232 process and let us find out if there is a legitimate national security argument is a valid request.

If what the proponents indicate is that there is a national security problem, this kind of action will resolve it. We will know.

As I recall, the Senator from Washington said May 15 is the deadline we are suggesting for the action; 6 weeks from now. Is that too much to ask from an industry that has never chosen to bring any action on its own before any of the administrative bodies of this Government who in the past have been receptive to these kinds of actions?

I strongly support the amendment offered by the Senator from Washington and the Senator from New Jersey. I think that it is in the national interest because we will get a resolution of the national security concerns. With that out of the way, we can come back to this issue, if we want. I think that is the proper way to go.

I thank my good friend from Washington for the time.

The **PRESIDING OFFICER**. Who yields time?

Mr. **WALLOP**. Mr. President, will the Senator from Louisiana yield 10 minutes to the Senator from Wyoming?

Mr. **JOHNSTON**. Yes. How much time do I have?

The **PRESIDING OFFICER**. Sixty minutes and three seconds.

Mr. **JOHNSTON**. I yield 10 minutes to the distinguished Senator from Wyoming.

Mr. **WALLOP**. Before the Senator from Oregon leaves, it is important we understand one thing about the section 232 study. Typically, those take a year. This is mandated in 30 days. The administration has already gone on record of not believing a case can be made. They have written through Ambassador Yeutter to Secretary Herrington, and other people, that this is not the case. So they are not going to examine it fairly. They have already stated their opinion, and it is clear and it is out.

So they did not use 232. They did not use 201 because Ambassador Yeutter canceled it. They did use 161 which was specifically designed for them and found themselves from day one arguing with their own administration every yard of the way.

It is no wonder we and others who express skepticism about this amendment do not have the slightest interest in a 232 study because it is already prejudiced and gone. They are not going to study it. They have already stated their conclusion.

Mr. **PACKWOOD**. In response to my good friend from Wyoming, let us talk about section 201. You go before the International Trade Commission and you say, "We have been injured by imports." It does not have to be unfair imports. "We have been injured by imports," and the ITC can make a recommendation, and they have made a number of recommendations, on injury.

The administration cannot stop you from doing that and cannot stop the ITC from making a recommendation.

Mr. **WALLOP**. I agree with that. I had this out with the Senator from Washington. The administration has made their position known, counseled them against it, and they used the one tool that was specifically designed for them, 161v. They have used it successfully right up to the point where they are now.

This amendment seeks to moot that case, unless they win. It is not a paranoid industry. It is one which recognizes the forces against it are prejudiced against them and have no interest in its survival.

I have a list of three pages of Canadian subsidies. I have an interesting view of one of the Canadian mines. It is a little place called Elliott Lake, and the Senator from Washington has been talking about all the excess supply. So everybody's market ought to be down if there is this excess supply; right? Elliott Lake has an ore body that is worse than most American mines, worse than Wyoming mines, yet it is never shut down. Guess why? Because the Canadian Government offers them contracting forward worth $9 billion for a uranium price of 160 bucks a pound by the year 2000. Everybody else has been contracting down and rewriting their contracts.

The Senator from New Jersey just made the argument that the marketplace was wisely served by people who did not make long-term contracts. The Canadian Government is not one of those who wisely serves its consumer. The best price estimate of what this would be is $2.50 to $5 a pound. Take the $5 a pound and we add, in the name of national security, to the American consumers' bill some grand total of one coke a year: 50 cents in the name of national security.

The reason why this title XXI is a viable exemption and makes this GATT legal, because without it, you do not have a domestic industry. Now there is a national security issue. Guess what? Australia just stopped sending uranium to France because they do not like their testing program. We have the same arrangement with Australia, and we have the same arrangement with Canada. There is a national security issue here which is dear and true.

Second of all, the $20 figure, of which the Senator from Washington spoke, is not possible under the terms of this bill because there is a cap of $8. It becomes cheaper to pay the penalty than it does to pay the higher price. It could not get higher than $8 no matter what.

If you are going to represent this thing, represent it according to the facts that are in it and not just wave a wand and make terrorizing statements to the people.

The other thing is that it grandfathers contracts existing between ourself and Canada. So from taking care of two-thirds of the market, it takes care of slightly less than half of the market, again in the name of national security.

DOD has come and said they are going to have to make a purchase. There is absolute reason to believe that there is a national security issue here because Canada will not give us uranium for defense purposes and Australia will not give us uranium for defense purposes. South Africa might, but we will not trade with them. There is a whole serious case to be made for this national security issue.

I believe that it is not a case of efficiency. In Canada, I believe it is directly a case of subsidies.

Mr. President, I have three pages of Federal Canadian subsidies of their industry which I ask unanimous consent be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A. FEDERAL GOVERNMENT OF CANADA—ELDORADO NUCLEAR, LTD.

Subsidy programs	Information Re: Value of subsidy
1. Settlement of Loan from UCAN to Eldorado; loan used by Eldorado to fund acquisition of 1/6 interest in Key Lake joint venture.	Forgiveness of Eldorado loan: Principal, $96,900,000; Interest, $37,300,000; Total, $134,200,000.
2. Purchase of equity in Eldorado via transfer of uranium stockpile from UCAN to Eldorado.	Received in exchange for stockpile: Preferred shares, $200,000,000; Common shares, $100,000,000; Total Value, $300,000,000.
3. Eldorado's purchase of Gulf and Uranerz shares (Rabbit Lake joint venture) in exchange for uranium concentrates from transferred Canadian government stockpile.	Book value of uranium concentrates transferred to Gulf Uranerz, $214,227,000 (the uranium concentrates were shipped to the U.S. to settle the Westinghouse antitrust litigation).
4. Mobility Incentive Program and other Federal Government assistance in the "close-out" of Eldorado's Beaverlodge mine, near Uranium City, Saskatchewan.	Cost of employee relocation programs, $10,000,000.
5. Long-term debt from Eldorado to Federal Government was written off during 1983 restructuring.	1982, $15,000,000 (5⅞ percent, 6⅝ percent Notes).
6. National Mill Tailings Program; 5 year Federal research program to develop technology to minimize the harmful effects of uranium tailings.	Program cost to 1985, $9,500,000.
7. Uranium Exploration Program (jointly funded by Federal Government and certain provinces); Uranium Resources Appraisal Group.	Program costs: URP, $18,000,000; URAG, $30,000,000; Total, $48,000,000.
8. Long-term Eldorado debt guaranteed by the Federal Government; refinanced a number of times with loan guarantee extensions each time.	$547,206,000 at end of 1986.
9. Short-term Eldorado borrowing guaranteed by Federal Government; used principally to pay long-term debt.	$82,007,000 at end of 1986.
B. SASKATCHEWAN GOVERNMENT—SASKATCHEWAN MINING DEVELOPMENT CORPORATION	
1. Equity advances by Sask Fund and Crown-Sask to SMDC.	At the end of 1986: Sask Fund, $218,700,000; Crown Sask, $31,141,000; Total, $249,841,000.
2. Long-term debt guaranteed by the Saskatchewan Government.	Loan to which the guarantee relates, $65,000,000.
3. Guarantee by the Province of Saskatchewan of irrevocable letter of credit re: borrowing of uranium concentrates to prevent default from non-delivery to U.S. customers.	Letter of credit to which the guarantee relates, $52,000,000.
4. Province of Saskatchewan notes held by U.S. Banks, proceeds to SMDC.	Proceeds at end of 1986, $583,275,000.
5. Sask Fund expenditures on northern development roads and other projects which directly assist SMDC.	Key Lake Development Road, $7,000,000; Cluff Lake Development Road, $5,000,000; Beauvral-Pinehouse Development Road, $6,500,000; Total, $18,000,000.
6. Reinvested earnings in SMDC..........	$33,988,000 at end of 1986.
C. ONTARIO GOVERNMENT—ONTARIO HYDRO	
1. Long-term contract between Ontario Hydro and Denison to assist in Denison's expansion and rehabilitation of Can-Met/Stanrock mines.	Ontario Hydro advances to Denison as of March 31, 1984, $279,500,000. Ontario Hydro recoups out of future high priced uranium contracts.
2. Long-term contract between Ontario Hydro and Rio to finance rehabilitation of Stanleigh mine and mill.	Ontario Hydro advances to Rio as at March 31, 1983, $351,458,000. Ontario Hydro recoups out of future high priced uranium contracts.

Mr. WALLOP. So there is a new equation that has appeared in our debate on international trade policy. Free trade is equated with fair trade which in turn is defined as protecting American industry from aggressive foreign trade practices. This formula, to which I have never subscribed, is embedded in the so-called Trade Reform Act passed by the Senate last year.

The inclusion of the protectionist language is the major reason why I voted against the trade bill.

With this philosophical background on trade, some may be surprised why I support this legislation, and oppose the Evans-Bradley amendment. Yesterday, I had a statement in the RECORD which explained the importance of the Uranium Revitalization Act, and the reasons for my sponsorship. Today our attention is focused on title I of the act which is described as a protectionist provision by our critics.

There is an old debating technique that when the facts do not support your argument, you try to confuse the issue. That is exactly what has happened with this issue. Title I is not a protectionist provision. It is an attempt to expand trade opportunities. I briefly explained this point yesterday, and I will reiterate it now.

Current law imposes a 100-percent ban on the enrichment of foreign uranium for use in domestic powerplants. Since only 10 percent of the ore used by our utilities is enriched abroad, this ban would effectively eliminate 90 percent of the foreign ore used domestically. What our bill does is repeal this sanction, contained in section 161v of the Atomic Energy Act. We repeal what is viewed as a protectionist measure.

This sanction is triggered by the finding that our uranium mining industry is not viable. We must have an ore-producing industry on the grounds of both national security and national energy policy. In other words, a free trade policy is not conducted in a vacuum. To meet these two objectives, we further provide a 12-year transition period to a free market. The bill requires a fee charge on nuclear utilities which use foreign ore. There again becomes the cap, so these figures of $20 are outrageously distorting the argument. However, rather than applying the fee to all foreign ore in the sense that the 161v sanction bans all enrichment of foreign ore. For the next 6 years, when a utility uses foreign ore in excess of 37½ percent of total ore, a sliding fee schedule would be imposed. After 1994, the utilities could use up to 50 percent foreign ore before the fee would apply. By the year 2000, the fee would terminate, and our domestic uranium mining and milling operations will have to compete in the world market or perish.

As has been mentioned today, there is concern that this act would violate the United States-Canadian Free Trade Agreement. In fact, the Senate Finance Committee recently held a hearing on the agreement. The last question asked of the Special Trade Representative was whether an import fee on foreign uranium would violate the agreement. This question was a reference to the Revitalization Act, though it did not correctly describe the fee charge in title I. The answer from the Special Trade Representative was yes, it violated the agreement.

This is great ammunition for our critics, but the bullet misses the mark. First, the Free Trade Agreement is not law, but a proposal. Our actions should not be guided by proposals, but the law. Second, the STR also admitted that the issue of Canadian subsidies to their industries was not included in the discussions of the Free Trade Agreement. In other words, a major element for protecting an industry was taken off the table. The Finance Committee questioned why this was done. The answer is that the Canadians insisted that if we discussed removing subsidies, we would also have to discuss repealing our countervailing duty and antidumping laws. The Canadians were offering to discuss repealing their protectionist subsidies if we agreed to repeal our laws which are devoted to ensuring free trade. It was an absurd proposal, but our negotiators took it.

The Finance Committee has requested further information on the subsidy issue. We will have a response by April 18, and it appears that this issue of subsidies will be critical to the passage of the Free Trade Agreement. I might add that the Canadians recently increased their protections to their textile industry, at the same time that they were attacking the Uranium Revitalization Act. It is a rather hypocritical position.

I would ask that recent testimony by Robert Luke of the Uranium Producers of America be included in the RECORD at this point. His testimony describes the role of subsidies in the Canadian uranium industry.

My colleagues have offered a second degree amendment which would substitute a study for title I. We have already studied the issue. The industry has been found nonviable, in part because of foreign subsidized competition. Our opponents also argue that the industry can use current trade laws to fight unfair competition. However, the industry has discovered that relying on U.S. law is of little use. The law requires an annual study of viability. It requires the imposition of sanctions. Neither of these actions were taken by the Department of Energy. Only through lawsuits by the industry has the Department responded. And they are still fighting the industry in court. The industry has been correct on every point, but they have been forced to fight for their rights. What use, they wonder, would it be to bring a countervailing duty or antidumping complaint.

Title I is the appropriate response to creating a freely traded market in uranium. It should be approved, and I would urge the rejection of the Evans-Bradley amendment.

Mr. President, I ask unanimous consent that there be printed in the RECORD a summary of the testimony of Mr. Robert P. Luke, president of the Uranium Producers of America, a letter dated September 26, 1985, to Clayton Yeutter from John Herrington, and a letter dated December 26, 1985, to John Herrington from Clayton Yeutter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF TESTIMONY OF ROBERT P. LUKE, PRESIDENT, URANIUM PRODUCERS OF AMERICA BEFORE ENERGY AND POWER SUBCOMMITTEE

1. The proposed trade agreement with Canada would replace the national policy requiring the preservation of a viable domestic industry approved by Congress more than two decades ago. It would repeal wth respect to Canada the statutory requirement that restrictions be imposed on the enrichment of foreign uranium without providing any period of adjustment for the domestic industry or any alternate program to preserve a viable industry, and without the careful Congressional consideration that should preceed such a major policy change.

2. The proposed agreement leaves intact a pervasive system of Canadian government ownership, financing and subsidy of its uranium industry while at the same time retaining restrictions on U.S. investment in Canadian uranium and on U.S. sales of uranium in Canada.

3. The U.S. trade negotiators ignored an important program of uranium and enrichment policy reform and funding for mill tailings reclamation at U.S. mill sites, which has been proposed in legislation supported by the utilities and uranium producers and developed under the aegis of the Senate Energy Committee.

4. The proposed agreement in its present form will place the nation's indigenous uranium supply in jeopardy. If the implementing legislation cannot address the producers' concerns, the agreement should be renegotiated on uranium issues. In the meantime, Congress should proceed with comprehensive legislation establishing new uranium and enrichment policies.

TESTIMONY OF ROBERT P. LUKE, PRESIDENT, URANIUM PRODUCERS OF AMERICA

Mr. Chairman and Members of the Subcommittee. My name is Robert P. Luke. I am a vice-president of Kerr-McGee Corporation and serve as President of the Uranium Producers of America (UPA), a trade association of domestic uranium mining and milling companies.

On behalf of UPA, I want to express our appreciation for this opportunity to testify today about the impact of the proposed trade agreement with Canada on the domestic uranium industry.

Let me summarize our views with respect to the proposed Agreement as it relates to uranium:

First, the proposed Agreement seeks to replace the long-standing national policy requiring the preservation of a viable domestic uranium industry, approved by Congress more than two decades ago, without consideration of the current depressed state of the domestic industry or the impact of the Agreement on that industry.

Second, we believe that legislation implementing the proposed Agreement, when proposed, will seek to repeal with respect to Canada the existing statutory requirement that restrictions be imposed on the enrichment of foreign uranium without providing any period of adjustment for the domestic industry or any alternate program to preserve a viable domestic industry.

Third, the proposed Agreement purports to proclaim a state of free trade in uranium between the U.S. and Canada while leaving intact a pervasive system of Canadian government ownership, financing, subsidies and restrictions on U.S. investment in Canadian uranium and U.S. sales of uranium in Canada. Long term contracts.

Fourth, the U.S. negotiators chose to ignore an important program of uranium and enrichment policy forms which has been developed in legislation supported by the utilities and the uranium producers under the aegis of the Senate Energy Committee.

With respect to uranium, this proposed Agreement with Canada is not free trade and it is not fair trade. In its present form, it would encourage a continued flow of subsidized imports which, combined with unfair government enrichment policies, have already caused domestic uranium production to be reduced by 75 percent over the past five years.

THE IMPORTANCE OF URANIUM

Mr. Chairman, almost one-half of the capital base of the U.S. power industry is invested in 120 uranium-fueled nuclear facilities that will supply 20 percent of U.S. electricity requirements by 1990. These factors alone will burn more than 2 billion pounds of U_3O_8 in their lifetimes. For these plants, there is no fuel-switching capability. A long-term, secure supply of uranium for them is absolutely essential.

In addition, U.S. defense needs must be assured. The U.S. fleet of 150 uranium-fueled submarines and the surface fleet must have sufficient uranium to assure an uninterrupted fuel supply. There have been no government uranium purchases since 1970 and defense requirements are classified. However, we have been advised by DOE that in the DOD "high-case scenario", new U.S. government uranium procurement could be necessary by the early 1990s.

U.S. URANIUM POLICIES

Almost 25 years ago, Congress acknowledged the special significance of uranium for national security when it enacted section 161(v) of the Atomic Energy Act. This statute requires that the Secretary of Energy restrict the enrichment of foreign uranium in order to preserve a viable domestic industry.

For three consecutive years, the Secretary has found the domestic uranium industry to be non-viable. His most recent finding—for the calendar year 1986—was issued on December 30 last year, and conditions in the industry did not change significantly in 1987. Nonetheless, the Department of Energy and the Administration have refused to impose restrictions on the enrichment of foreign uranium. In response to a suit filed by uranium producers, both a Federal District Court and Court of Appeals have ruled that the language of section 161(v) is clear and restrictions must be imposed. DOE continues to argue that it has discretion with respect to imposing restrictions. The Supreme Court will hear oral arguments in the case next month.

Despite its reluctance to comply with the mandate of section 161(v), DOE recognizes the importance of the uranium industry to the nation. Responding to a question posed by this Subcommittee in 1985, DOE said that the "domestic uranium industry implicates the vital interests of our Nation because a significant fraction of the Nation's electricity is generated by nuclear power and our strategic defense has a major nuclear component."

It is worth noting that the state of imbalance and depressed conditions in the domestic uranium industry today are caused to no small extent by government policies over which the industry had no control. It was DOE uranium enrichment policies which played a crucial role in driving up uranium prices, creating artificial demand and huge inventories of uranium in the late 1970s. DOE enrichment contracts required uranium to be delivered no matter what the status of reactor projects. These fixed requirement contracts kept the demand for uranium high while the nation's nuclear power program was being severely curtailed.

DECLINE OF U.S. INDUSTRY

In 1980, the market began to react to the oversupply of uranium. Large inventories of uranium were liquidated by utilities. Market prices plummeted from $43 to $17 per pound as an inventory equal to eight years' world demand developed. Some three to four years worth of this inventory remains, which, in conjunction with Canadian uranium being dumped in the spot market, has kept prices at a depressed $17 per pound level.

Inevitably, lower prices led to a retrenchment among U.S. producers. Production has declined from 43 million pounds in 1979 to about 10 million pounds of U_3O_8 a year. Currently U.S. production equals only about 25 percent of our demand. Since 1980, the industry has sustained hundreds of millions in losses. Many mines have been flooded and mills decommissioned.

In contrast, Canada currently produces about 35 million pounds. The lion's share of Canada's uranium resources has been developed for the export market. Under these circumstances, it is not surprising that the Canadian government has fought hard for the uranium provisions of the proposed trade Agreement. It has invested literally billions of dollars in the development of its uranium industry and wants to see this investment pay off with sales to the U.S. market.

CANADIAN URANIUM POLICIES

Investments made by the federal and provincial governments in support of the Canadian uranium industry exceed two billion dollars. Let me describe briefly two situations which illustrate the nature and extent of this support.

Significant deposits of high-grade, lower cost uranium were developed in the Province of Saskatchewan in the early 1980s. Virtually all this production is controlled by the federal or provincial governments. The premier mine is the Key Lake deposit which produces 12 million pounds of W_3O_8 per year, about 15 percent of world demand. About $750 million was invested to develop Key Lake, using government corporations and government guaranteed loans. When the government corporations have been unable to pay back the loans as scheduled, the loans have been refinanced, the guarantees extended and additional capital invested to pay interest and fund cash shortfalls.

The uranium deposits in the Province of Ontario are—unlike those at Key Lake—low-grade and high cost. Under free market conditions, the uranium mines in Ontario would have long since been targeted for closure. In order to maintain these operations, Ontario Hydro has maintained long-term contracts to buy Ontario uranium at prices far in excess of spot market levels. It should be noted that because of these long-term supply contracts, U.S. producers are foreclosed from the Canadian market. U.S. investors are also limited by stringent restrictions on U.S. investment in Canadian uranium resources.

Mr. Chairman, it should be clear from these examples that the Canadian governments, both federal and provincial, are committed to programs which, directly or indirectly, subsidize and support the Canadian uranium industry. Under the proposed trade Agreement, it appears that these longstanding programs will continue. If Congress approves the proposed Agreement in its present form, it will in effect sanction the Canadian programs.

Congress, of course, need not approve the proposed Agreement in its present form and, at least with respect to uranium, it also has the option of approving a national uranium supply policy which would fulfill the goal of preserving strong domestic uranium industry—the goals set forth in 1964 in section 161(v) of the Atomic Energy Act.

In recent years, Congressional committees and subcommittees—including this Subcommittee—have held hearings and considered legislation to restore the uranium industry to a viable state. Comprehensive uranium legislation was reported to the Senate in the last Congress, but too late for consideration by the Senate and the House.

Last fall, the Senate Energy Committee again approved an omnibus uranium bill which recognizes our continuing reliance on foreign suppliers but seeks to encourage the use of domestic uranium. We hope and expect that comparable legislation will soon be introduced in the House for consideration by this Subcommittee and other committees.

The uranium supply policy approved by the Senate Energy Committee is simple and straightforward. In order to end the controversy and uncertainty created by section 161(v), the bill would repeal the requirement that enrichment of foreign uranium be restricted in order to maintain a viable domestic industry. In place of this restriction, it imposes for an interim period a sliding scale of charges for the use of foreign uranium above specified levels. All restrictions on the use of foreign uranium would end on December 31, 2000.

This short-lived program would provide a critical window of opportunity for domestic producers to regain market share and continue in business while existing surplus uranium inventories are depleted.

By repealing authority to restrict the enrichment of foreign uranium, the bill achieves an important objective of the trade negotiations. It also respects existing contracts for the purchase of foreign uranium. Although imposing limited charges for the excessive use of foreign uranium over the next few years, it allows a substantial share of the U.S. market to be filled from foreign production. In fact, with the preservation of existing contracts, the net effect of the bill is to preserve 50% of the domestic market for foreign uranium until the end of 2000, when all U.S. restrictions are eliminated.

Whether or not this gradual approach to unrestricted trade in uranium can be accommodated in the proposed trade Agreement remains to be seen. The important principle at stake here is whether Congress or trade negotiators should establish national uranium supply policy.

In justifying its decision to legislate on this issue, the Energy Committee's report faces the issue squarely. It notes that "Congress has considered a viable domestic uranium industry as vital to the U.S. national defense and security." And it goes on to state that: "While dependency on other nations for strategic minerals generally, and for uranium in particular, may bring some short-term economic gain, it also involves long-term economic and energy security risks to the Nation's common defense and security."

Mr. Chairman, in conclusion, let me emphasize that the uranium industry has no desire to be forced into opposing the proposed trade Agreement with Canada. Frankly, however, the impact of the Agreement on domestic uranium is intolerable for an industry that has fought hard to stay alive in recent years.

It is not clear at this stage whether legislation implementing the Agreement can fairly and effectively address our concerns. The strict conditions under which the Agreement and implementing legislation must be considered by Congress may not permit substantive changes. If this proves to be the case, then we would urge that the Agreement be renegotiated to reflect the realities of the uranium trade and the need for a strong domestic industry.

In the meantime, we hope that Congress will move forward with comprehensive uranium legislation which not only preserves a viable domestic industry but is also compatible with the free trade objectives of the proposed Agreement with Canada.

URANIUM PRODUCERS OF AMERICA—A RESPONSE TO CANADIAN ARGUMENTS AGAINST LEGISLATION TO MAINTAIN A DOMESTIC URANIUM INDUSTRY

On behalf of Canadian interests, the firm of Arnold & Porter is circulating a document which attacks legislation developed by the Senate Energy Committee in an effort to restore a viable domestic uranium industry, as required by the Atomic Energy Act.

The proposed legislation, S. 2097 and Amendment No. 1465 thereto, would establish a sliding scale of charges for the use of foreign uranium above certain levels in order to encourage the use of domestic uranium resources. This interim program, which expires at the end of 2000, supplants the existing requirements for restrictions on the enrichment of foreign uranium in order to preserve a viable domestic industry.

A summary of the major Canadian arguments against the legislation and responses thereto follows:

1. Canadian argument: the U.S. uranium industry's problems stem chiefly from sharply reduced demand and not from imports.

Response: Although the rate of growth of the nuclear power industry is not as great as projected in the 1970s, it remains the fastest growing sector of the electric generation industry. Annual U.S. demand for uranium is now between 35 and 40 million pounds. Since the U.S. industry produces only 10–12 million pounds annually, demand is not the problem.

2. Canadian argument: Imports are the result, not the cause, of the domestic industry's decline.

Response: Domestic uranium production has dropped 75% over the past five years. The major causes of this decline are the enrichment policies of DOE and subsidized Canadian imports. During the 1970s, DOE's enrichment contract created a high, artifical uranium demand in order to sustain the enrichment business. When DOE was forced to change its enrichment criteria in order to be competitive with European enrichers, huge uranium inventories were liquidated at the expense of U.S. producers.

Increasing imports from Canadian subsidized producers are the principal cause of the U.S. industry's problems. Without the substantial government support received by Canadian government producers, several large uranium mines in Canada would not exist. In pricing their product to penetrate the U.S. market, Canadian producers have been able to ignore past investments (forward pricing). Since government guaranteed loans have not been paid, the Canadian government has been called upon repeatedly for further capital, additional loans and extended loan guarantees in order to maintain the solvency of its uranium companies.

U.S. producers have been forced to shut down mines and mills as a result of the policies and behavior of DOE and Canada. To fulfill their contractual obligations to utility customers, U.S. producers have purchased some uranium from foreign producers, a normal response to declining commodity prices. The Canadian allegation that half the foreign uranium contracted for delivery in the U.S. from 1985 to 1990 has been purchased by domestic uranium producers is false. According to DOE figures, such purchases represent about 15 percent of foreign uranium contracted for in that period.

3. Canadian argument: Import relief is unnecessary.

Response: It is abundantly clear that subsidized imports are a principal cause of the decline in domestic production. Although U.S. producers have become more efficient, it will be impossible to compete as long as Canadian companies can ignore the burden of past investments and continue to draw on government support as needed. The Canadian paper offers no evidence—because none exists—to support its contention that the "U.S. industry has largely adapted to changed circumstances . . ." (and) "There will be little further decline in employment or production." The fact is that U.S. uranium companies, unlike their Canadian counterparts, cannot ignore loan obligations and do not have access to government capital. With no end in sight for the Canadian program of support for its uranium industry, some means of encouraging the use of domestic uranium is essential to restore a viable domestic industry.

4. Canadian argument: National security will not be strengthened by measures to restrict the use of foreign uranium.

Response: The Canadians argue that the "United States continues to produce all the uranium it needs for nuclear weapons." The fact is there is no production at present for defense purposes. DOE has not procured uranium for defense needs for many years, and continues to draw upon the dwindling U.S. stockpile. Since Canada refuses to sell uranium for defense requirements (nuclear powered subs and aircraft carriers), the U.S. will need a domestic industry for defense purposes. However, the national security issue is broader than defense needs since twenty percent of the country's electrical requirements are met by nuclear power.

While Canada is currently viewed as a reliable supplier, the Canadian government was the moving force behind a uranium cartel in the 1970s. DOE has concluded that future market control by Canada is likely. The pending merger of the two largest uranium companies in Canada only increases the potential for future cartel conduct. The resulting company will control 20% of the world supply and a substantially larger percentage of U.S. imports. Thus, a U.S. uranium industry, even half the size it was in the 1970s, is crucial for national security. U.S. utilities recognize this and support legislation to encourage the use of domestic uranium resources.

5. Canadian argument: The pending legislation violates GATT and the proposed trade agreement with Canada.

Response: The legislation does not violate the provisions of GATT because uranium is expressly exempt from GATT on national security grounds. Thus, while import restrictions on uranium were in effect between 1966 and 1983, there were no protests filed against these restrictions under GATT.

Contrary to the Canadians' argument, there is no need for U.S. producers to turn to weak U.S. trade laws which Canada easily and repeatedly circumvents (e.g., lumber, potash, steel, agriculture) when Congress established the requirement in section 161(v) that DOE maintain a viable U.S. industry—a requirement that DOE has totally ignored. Because the enforcement of section 161(v) would be less effective now that DOE no longer has an enrichment monopoly, the proposed legislation achieves the objective of section 161(v) with a different mechanism that is more acceptable to DOE and utility interests.

In arguing that the legislation violates the letter and spirit of the proposed trade agreement, the Canadian paper contends that uranium would not be entitled to a national security exemption under the agreement because of existing U.S. stockpiles and the fact that the U.S. industry will retain 35% to 50% of the market. This is hard to believe since U.S. production is already only 25% of the U.S. market and continues to decline.

In any event, amendment no. 1465 is compatible with the trade agreement by repealing section 161(v), honoring existing contracts and providing for a gradual return to unrestricted uranium trade. It would provide the same period of adjustment for uranium the other commodities receive under the agreement.

6. Canadian argument: Restrictions on the use of foreign uranium will simply force utilities to pay higher prices for uranium.

Response: Every analysis of electricity pricing confirms that the cost of uranium (what the utility pays the producer) makes little or no difference in terms of what price the ratepayer pays for electricity. The Energy Committee heard testimony, for example, that a $10 a lb. increase in the cost of uranium would cost the ratepayer about 1/2 mil.

It should be noted that utilities will also have to pay higher prices for uranium if, in the absence of a viable domestic industry, foreign suppliers are in a position to control supply and dictate prices.

7. Canadian argument: Claims of unfair trade practices aimed at Canada are unsupportable.

Response: Whether it is called an unfair trade practice or subsidy or investment, there exists in Canada a pervasive system of support for the uranium industry. No matter what form the support takes, it is clear that much of the uranium industry in Canada today would not exist without government help.

The Canadian provincial uranium company, Saskatchewan Mining Development Corporation (SMDC), is in existence only because of government support. The initial investment in its large mines was made without first securing contracts from utilities. No private company could have made such an investment without first obtaining government guarantees. SMDC, as a government corporation, had these government guarantees. To keep SMDC from going bankrupt because it could not service its loan obligations, Saskatchewan has invested new capital and extended its loan guarantees.

Investments in Eldorado Nuclear, the federal uranium corporation, were larger and even more commercially questionable. The government corporation was given the federal uranium stockpile to satisfy its obligations. Eldorado also required government guarantees to support the borrowing of uranium in order to meet delivery obligations, and required additional capital and write-offs to avoid loan defaults. The Canadian federal government has repeatedly extended loan guarantees to keep the banks from demanding timely repayment.

With respect to the Arnold & Porter defense of dumping allegations, the Canadian government has orchestrated its support for the high-cost Ontario mines through the creation of long-term, high priced contracts involving the Canadian nuclear utility. Although these high-priced contracts could be renegotiated or terminated, they are maintained as a matter of government policy. If the contract price were reduced to world price levels (less than $20 per pound), the Ontario mines would close, just as U.S. mines have closed. Because the closure of Canadian mines is unacceptable to the Canadian government, the high priced contracts are continued, while lower cost production is sold in the U.S. market.

U.S. TRADE REPRESENTATIVE,
Washington, DC, December 26, 1985.

Hon. JOHN HERRINGTON,
Secretary of Energy,
Washington, DC.

DEAR JOHN: As a follow-up to your request of September 26 for an examination of the situation of the domestic uranium mining and milling industry, we have completed our review of the issue and are now able to provide you with preliminary recommendations.

This is one of the more difficult questions we have studied in recent months. It involves, as many trade issues do, trying to achieve a delicate balance of domestic industry concerns, consumer interests, general economic policy, foreign, and, of course, trade policy concerns. Sometimes a policy option will emerge in the course of analysis wihch arrives at a desired balance that leaves most parties at least relatively satisfied with the outcome. Unfortunately, in this case, that seems impossible.

In reviewing the economic situation of the U.S. uranium industry, we drew on existing expertise within various U.S. Government agencies, including your own Department. Also included in our interagency working group were the Departments of State and Commerce and the Office of Management and Budget. We consulted with interested parties outside the Government on an informal basis, and our preliminary conclusions were reviewed by the Trade Policy Staff Committee, which includes all agencies concerned with international trade. While our review focused on the trade policy aspects of the situation, it included all relevant factors and thus our comments are framed within the broad context of the uranium issue.

Without a doubt, the domestic uranium mining and milling industry has severe economic problems, as you well know from your own review and viability determination. From their peak in the 1970's production and employment have fallen to very low levels. However, it would appear from our review that the principal cause of this decline as the failure of demand to materialize in the early 1980's as a number of nuclear power plants were delayed or canceled. As a result, a huge excess inventory was created that could take up to ten years to work off, with a consequent depressing effect on market prices. On top of this, recent uranium discoveries in Canada indicate a long-term comparative advantage for their producers in terms of ore quality and production cost.

Against this background of the outlook for the next five to ten years, we evaluated the appropriateness and likely effectiveness of existing trade laws to help the U.S. industry and the trade policy implications of initiating action under these laws. The following is a summary of our preliminary assessment.

Section 201 of the Trade Act of 1974 is intended to provide temporary relief to domestic industries seriously injured, or threatened with serious injury, by increased imports. The relief provided (following an extensive investigation by the International Trade Commission and a review and decision by the President) is generally only for up to five years to allow the affected domestic industry time to adjust. There are two principal questions relative to this discussion: (1) Is self-initiation of Section 201 appropriate to the current situation? and (2) Should the special provisions of Section 170B of the Atomic Energy Act regarding self-initiation of a Section 201 investigation be invoked?

Regarding the first question, we would advise against self-initiation of a Section 201 investigation at this time for several reasons. First, it is unlikely that the International Trade Commission would find that the industry's problems are due more to imports than to any other single cause; significantly reduced demand appears to be the major factor. Second, since the industry's problems appear to be long term rather than temporary because of the fundamental comparative advantage of Canadian and Australian producers, we do not believe Section 201 is appropriate. Third, even if Section 201 relief were provided, it appears that its effects, while marginally improving the industry's position, would not be sufficient to make the domestic industry viable, especially in view of its limited duration and the substantial foreign advantage with respect to ore quality and production cost.

Regarding the second question, we would advise against your making a prior determination of the effect of imports on the domestic industry, even if self-initiation of a Section 201 investigation were appropriate, because of the complex legal issues which could result from a pre-investigation injury finding by an agency other than the ITC.

Section 232 of the Trade Expansion Act of 1962 provides relief where imports are found to be threatening our national security. Uranium for military uses is not an issue here, but only uranium for commercial electric generation. The principal source of imports is Canada, an immediate neighbor and a longtime stable ally. For this and other reasons, we do not believe it would be appropriate to self-initiate an investigation at this time.

We also examined the possibility of self-initiation of countervailing duty or antidumping investigations, based on various allegations of subsidies and dumping with regard to Canadian imports. From a preliminary and informal analysis of the available information, we do not believe such actions would be effective or appropriate. Our industry, of course, is free to file petitions of its own if it believes such actions are a cause of material injury. However, we feel the allegations are not such as to merit the exceptional step of self-initiation since, even accepting the allegations at face value, the resulting duties would not be sufficient to offset the cost advantage of Canadian producers.

With regard to the authority to restrict enrichment of foreign uranium under Section 161(v) of the Atomic Energy Act, it appears that a major consequence would be the shift of enrichment activity from U.S. government facilities to foreign facilities, thereby eroding the position of U.S. enrichment enterprises.

In summary, action under the U.S. trade statutes does not appear to be appropriate in regard to both the short and long-term problems facing the domestic uranium mining and milling industry. Moreover, any remedy granted under existing law which might provide the extent of relief requested by the industry would only be short term, while at the same time having an adverse impact on our trade and other relations with important trading partners without resolving the long-term problems of the industry. For example, we have just begun discussions with Canada on bilateral trade liberalization. Short-term actions adversely affecting Canadian trade would therefore be ill-advised, particularly if they did not lead to a permanent restoration of competitiveness for our industry. In addition, for any trade restriction not in response to a verified unfair trade practice, we would also owe compensation to, or face retaliation by, our other trading partners whose imports would be reduced. Thus, other sectors in the U.S. economy would be asked to make sacrifices for any short-term import relief provided for the uranium industry.

For these reasons, I would advise against taking any action at this time to restrict uranium imports under existing law. I hope these comments are responsive to your request. If you have any further questions, please give me a call.

Sincerely,

CLAYTON YEUTTER.

SECRETARY OF ENERGY,
Washington, DC, September 26, 1985.

Hon. CLAYTON YEUTTER,
U.S. Trade Representative,
Washington, DC.

DEAR MR. AMBASSADOR: Section 170B of the Atomic Energy Act of 1954, 42 U.S.C. 2210b, requires the Secretary of Energy for the years 1983 to 1992 to report annually to the Congress and the President a determination of the viability of the domestic uranium mining and milling industry. Based on the criteria specified in the statute and its implementing regulations, I have determined for the year 1984 that the domestic uranium mining and milling industry was not viable.

Section 170B also authorizes me to make a determination that source material (natural uranium) or special nuclear material (enriched uranium) from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Should I make this determination, section 170B requires the U.S. Trade Representative to request that the U.S. International Trade Commission initiate an investigation under section 201 of the Trade Act of 1974.

Imports of uranium in 1984 represented 37.4% of domestic requirements. Current import commitments for future delivery of uranium make up no more than 26 to 32% of total annual U.S. requirements in any year. However, a growing portion of currently-unfilled requirements is likely to be supplied by foreign-origin uranium; the Energy Information Administration projects that imports will meet from 50 to 70% of requirements throughout the 1990's.

Because of its relationship to section 201 of the Trade Act, such a determination of injury or threat thereof under section 170B of the Atomic Energy Act could implicate complex issues of international trade. The facts and implications pertaining to any such determination should be carefully examined by agencies within the Executive Branch whose major responsibilities include formulating and implementing foreign and trade policy.

In view of these considerations, I believe it would be preferable for your office to examine this matter with a view of determining the appropriate available courses of action rather than my making the determination of injury from imports under section 170B at this time. I would appreciate receiving your preliminary recommendations within three months.

The Department will be pleased to provide any assistance it can as your office examines this matter. Please feel free to contact Under Secretary Salgado, or Mr. Edward Hanrahan of his staff, in order to secure this assistance.

Yours truly,

JOHN S. HERRINGTON.

Mr. WALLOP. I thank the Chair, and I thank the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield myself 6 minutes just briefly to reply to these arguments that the administration says, "Trust us, not to worry, everything is OK." They say this thing violates GATT.

Well, Mr. President, I think I can read the English language and GATT says in article XXI that:

> Nothing in this agreement shall be construed to prevent any contracting party from taking any action which it deems necessary for the protection of its essential security interests (1) relating to fissionable materials or materials from which they are derived.

Now, if there was ever language that is clear, these are fissionable materials, uranium, and it is clear, Mr. President, that GATT does not apply. I do not know how it could be more clear. But the administration says, "Trust us, we know how to interpret this agreement."

That is our problem, Mr. President. The administration will take an agreement like this, clear as it can be, and twist it and turn it against the nuclear industry and indeed against American jobs.

Point No. 2. The administration says not to worry, "plenty of remedies are available." We have heard section 201 described as being a wonderful remedy, and yet, Mr. President, when we look at a letter from our Trade Representative, Mr. Yeutter to John Herrington of December 26, 1985, he says, "Section 201 is not appropriate." He goes on at great length, talking about the fundamental imperative advantage of Canadian and Australian producers. So section 201 is not appropriate, but that is what they said. "Do not worry; you have section 201," and our own Trade Representative is saying that is not appropriate.

We have section 232 on national security. Do you know what the administration says is the reason that national security is not involved? Believe it or not, they say the reason national security is not involved is because the Canadians have put an embargo on exports to the United States with regard to military uses of uranium. In other words, the Canadians have said we are a reliable supplier but not for military purposes, so therefore our Trade Representative says, "Aha, that means that national security by definition is not involved."

Why, it means just the opposite. If you are going to have national security protected, you have to have a viable domestic industry because the Canadians will not even give it to you if you ask them for it. If you are willing to buy it from them, they will not give it to you.

Now, you cannot build a viable mining industry based upon only military uses, because admittedly military uses are a small part.

So Mr. President, if we are going to have a viable industry, it has to be based on a total use, domestic, civilian and military.

We are told by the administration not to worry, "countervailing duties are available to you if they have subsidies."

But then you go on to read what they say about subsidies, and they say countervailing duties are not appropriate because the amount of the duties, even if you were successful, would not be sufficient.

So, we are told on the one hand do not worry. We are told, on the other hand, it will not work.

It looks to me, with respect to this trade agreement, we did not do a very good job and we do not have a lot of reason to have faith in our trade negotiators.

Now, does that sound like a deeply partisan thing to be saying, or a terrible thing to be saying? Well, Mr. President, do not take it from me. Take it from the chief Canadian trade representative. The chief Canadian trade representative is a man named Simon Reisman. Do you know what he said about this trade agreement? In the Canadian magazine called MacLeans, of December 1987, here is what he said, quoting the article:

> Reisman strongly defended the accord. He claimed that Canada had bested the Americans in the second round of the negotiations. "The trade covered by the items we eventually agreed to are close to three-to-one in favor of Canada," he said. "Our people were way ahead of them in terms of the analysis, the investigation, the facts, the methods, the procedures, the whole business. You would think that the United States was an underdeveloped country alongside us in terms of the way this negotiation went."

The PRESIDING OFFICER. The Senator's 6 minutes have expired.

Mr. JOHNSTON. Let me repeat that, Mr. President. This is the chief Canadian trade representative who negotiated this agreement. He said, "You would think that the United States was an underdeveloped country alongside us in terms of how this negotiation went."

Mr. BRADLEY. Will the Senator yield on that point for a question?

Mr. JOHNSTON. I yield myself 2 additional minutes and I yield for a question on that point.

Mr. BRADLEY. It might be pointed out that that statement was made just prior to Mr. Reisman almost being fired because the Canadians believed he did not do a good job in negotiating the trade agreement.

Mr. JOHNSTON. I can tell you this article talked about the traditional disagreement that they had had with the Government. But again quoting, and this is from the first page:

> Then Reisman extended his hands to Mulroney and Carney, and for an instant at least, the three of them—often at odds in the past over the deal—were united. For Reisman, the ceremony marked the culmination of his work on the agreement.

Mr. President, I ask unanimous consent that this article be placed into the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CELEBRATIONS FOR THE WIN-WIN DEAL

It was an emotional moment. After 19 months of stop-and-go bargaining with the Americans, Canada's chief trade negotiator, Simon Reisman, last week handed Prime Minister Brian Mulroney three loose-leaf binders containing the final text of a free trade agreement with the United States. Reisman has a legendary temper that often flared during the trade negotiations. But it was not in evidence at the brief ceremony on Dec. 10 in the Prime Minister's Office in Parliament's Centre Block. Instead, Reisman spoke movingly about the "great honor" of working with Mulroney and International Trade Minister Pat Carney. And he noted solemnly that negotiating the pact—2,400 pages weighing about 10 lbs.—had been the "highest point" of his 29-year career in Ottawa. Then Reisman extended his hands to Mulroney and Carney, and for an instant at least, the three of them—often at odds in the past over the deal—were united. For Reisman, the ceremony marked the culmination of his work on the agreement. As he left the Centre Block he said, "It's been a tough couple of years."

Now that the draft agreement reached on Oct. 4 has been translated into legal language, Reisman's work is largely complete. But important political battles remain to be fought. And until the necessary legislation is passed by Congress and by both the Commons and the Senate, the pact is not yet law. At home, Mulroney faces determined opposition from the federal Liberals and New Democrats, as well as at least three premiers. And in the United States, key congressional leaders last week threatened a delay in dealing with the pact that could result in its being scuttled completely. But for Mulroney, whose position was bolstered last week by an increase in his party's popularity in the polls, the release of the final text was a moment to be savored.

Tabling the document in the House of Commons, a smiling Mulroney rose at week's end to acknowledge a standing ovation from Tory MPs. The Prime Minister gave a thumbs-up signal to his chief of staff, Derek Burney, Reisman and other top officials in the Commons visitors' gallery and later called the deal "a major step forward for Canada."

The national debate over free trade reached new intensity in early October when a 35-page draft outline of the accord was released. The pact would eliminate all tariffs between the two countries over 10 years, establish a continental energy market and create new binational panels to resolve trade disputes. Even before all the details were known, industry groups on both sides of the border began to lobby for changes. And in more than one instance, they were successful. As one trade consultant close to the talks said, "Both sides asked for changes that would make it easier to sell."

While the final legal text does not differ substantially from the earlier outline, there were some changes. The most important among them:

Termination: The final text says that either side can cancel the agreement on six months' notice. That is the time generally required to terminate such arrangements under American trade law, but Canada had sought a provision requiring longer notice.

Transport: All references to transportation industries, including shipping and trucking, were removed in response to fierce pressure from the American maritime industry. The industry had feared that the wording in the draft agreement would open the door to increased Canadian competition.

Disputes: Membership on the binational dispute-settlement panels was restricted to those "trained in the law," following the Americans' insistence that only lawyers be appointed. And a new, three-member panel will be created to deal with conflicts of interest or fraud involving members of the binational panels.

Fish: Following a ruling last month by a panel set up under the Geneva, Switzerland-based General Agreement on Tariffs and Trade (GATT), Canada gave up its insistence that fish caught by Canadians off the Pacific coast be processed in Canada before export. But it retained that right for the Atlantic fishery.

Periodicals: A measure that would have forced Canada to drop postal subsidies to Canadian magazines and newspapers was dropped from the final text. As a result, Ottawa may continue to offer the subsidies.

Agriculture: Canada's right to retain marketing boards in agriculture was made more explicit to calm the fears of Canadian farm groups.

Liberal Leader John Turner sharply criticized the text. He challenged Mulroney to call an immediate general election on the issue. Said Turner: "This document represents nothing less than the title deed to this country, a deed that will now be held by the government of the United States."

NDP Leader Ed Broadbent also called for an election.

Reisman strongly defended the accord. He claimed that Canada had bested the Americans in the second round of the negotiations. "The trade covered by the items we eventually agreed to are close to three-to-one in favor of Canada," he said. "Our people were way ahead of them in terms of the analysis, the investigation, the facts, the methods, the procedures, the whole business. You would think that the United States was an underdeveloped country alongside us in terms of the way this negotiation went."

Meanwhile, proponents of free trade drew support from an unexpected source last week: the Liberal government of Ontario Premier David Peterson. A study, commissioned by Peterson's government and released by Ontario Treasurer Robert Nixon, indicated that the elimination of tariffs between the United States and Canada would have a "very small but marginally positive effect" on the Ontario economy. Maclean's has learned that Ontario officials considered keeping the study private, but in the end Nixon decided to release it.

Some of the Prime Minister's aides said privately that Mulroney has given up hope of changing the minds of Peterson, Howard Pawley of Manitoba and Joseph Ghiz of Prince Edward Island—all of whom have spoken out strongly against the deal. But at a luncheon he will host for the premiers this week in Ottawa, Mulroney intended to ask the two undeclared premiers—Frank McKenna of New Brunswick and John Buchanan of Nova Scotia—for their views. Regardless of their answers, the Prime Minister has made it clear that he is prepared to proceed with the accord.

His position was strengthened last week when two new opinion polls showed that his Conservative party has improved its position with voters, at least partly because of public support for the trade pact. A Gallup poll conducted from Dec. 2 to Dec. 5 said that the Tories had climbed four percentage points, to 29 percent, since the organization's previous survey a month earlier. Gallup reported that the Liberals had dropped five points (to 35 percent), while the NDP was at 34 percent (an increase of one point). A survey by Angus Reid Associates Inc. yielded a similar result: it put the Tories at 30 percent, the NDP at 32 and the Liberals at 37 percent.

Still, congressional leaders said last week that Congress will not be able to write enabling legislation for the free trade deal until June 1—six months later than Canada had hoped. The original plan had called for a joint signing by Mulroney and President Ronald Reagan on Jan. 2, with legislation introduced in Congress shortly afterward. But Congress will have 90 working days in which to approve or reject the deal. And because of other pressing legislative business and because 1988 is an American presidential election year, it is uncertain whether the bill will be debated before June 1 or whether there will be time for a vote before Jan. 1, 1989, the day the agreement is to take effect. "We hope that the senators will take it up sooner," said one official in the Prime Minister's Office. "But we can't force them."

As well, the government is unable to force the Canadian Senate to pass any legislation necessary to enact the accord. And some Tories say they are concerned that the liberal-dominated upper house could use its power to delay the Tory initiative. But last week those obstacles seemed far from Mulroney's thoughts as he described the deal as "a win-win arrangement for Canada and the United States."

Mr. JOHNSTON. Mr. President, you know we are not here to debate the Canadian trade deal as such at this point except to point out that with an administration that lets American employment in this area go from 21,000 to 2,000 in a period of less than 10 years, with an administration that lets us go from a situation of exporting a net of 3.2 million pounds of uranium in 1979 to importing almost 12 million pounds by 1986, and projecting 23 million pounds of imports by the year 2000, when you have an administration that does that, Mr. President, and you then read that the chief Canadian trade negotiator says we are like an undeveloped country when it comes to negotiation, it gives you a little ground for sitting back and saying, "Hey, can we really rely upon this administration to keep this industry viable?"

Mr. President, our amendment is consistent with this trade agreement. Any fair interpretation of it is consistent with this trade agreement. It allows for a viable domestic industry. It allows for protecting at least 50 percent of our markets for imports. It phases out all user fees by the year 2001. And it does so consistent with this trade agreement.

I hope we will not intentionally do it to ourselves, or just go ahead and say we do not need any jobs in this country. If we have to give away jobs because of a bad deal we have negotiated, that is one thing. But we do not have to do this, Mr. President. If we do this, we do it because we pass this amendment, because we on our own volition, because we want to, because we do not have to do it. We can save that industry and save those jobs, and I hope we will turn down this amendment.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. EVANS. Mr. President, I yield such time as the Senator from New Jersey requires.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I thank the distinguished Senator from Washington for yielding and for offering this amendment. It is an important amendment.

This is a question that is fundamentally about energy security and economic security. Energy security stems really from a diversity of sources, called nuclear energy, oil, gas, electricity and secure suppliers of all of those sources. Energy security is a matter of insurance, such as having large stockpiles to make up the difference if there is an interruption in the supply.

Economic security is a matter of trying to establish policy that produces noninflationary, balanced growth over time. In the current international economic climate, that means reducing the deficits, avoiding a lurch toward protectionism, and keeping capital flows moving around the world. In particular, economic security implies keeping capital flows coming into the United States at a time when we have such a sizable budget deficit.

Finally, economic security means moving aggressively to open up world trade and expand world trade.

Mr. President, with those two criteria, economic security and energy security, let us look at the underlying amendment in this bill.

This amendment would essentially put a tariff on imported uranium. Now, I know it is called surcharge in the text and it varies once a utility increases their imports above 37 percent. The surcharge goes higher after utility imports rise above 50 percent. But in fact, this surcharge is a tariff. As the distinguished Senator from Washington stated, there is a cost to any tariff.

What is the cost of this particular tariff? Well, the Department of Energy estimates that the cost of this tariff will be to consumers of this country about $1 billion annually. It protects the jobs of 2,000 miners. So for a cost of $1 billion annually, we are protecting the jobs of 2,000 miners. That amounts to about $500,000 per year per miner. It amounts to, over the 12-year period of this amendment, about $6 million per miner per job.

Mr. President, I really question if that is the wisest course for a number of reasons. We have heard the argument made that this is a national security question, that we have to protect 2,000 miners, and a domestic uranium industry that is in danger. Well, let us try to think through how that argument works. What are we concerned about? Well, obviously proponents of the national security argument would have to say, first, we are concerned about blackmail. For example, if we do not produce uranium in this country in sufficient quantities, country X or Y or Z will blackmail us, will interrupt their supply to us, and extract from us things that we do not want to concede to them absent the pressure of such uranium blackmail.

Mr. President, that argument ignores a number of things. It ignores the size of the present stockpile for our military needs. As the Senator from Washington pointed out, our present stockpile will cover our needs for nuclear weapons and military machinery, submarines, et cetera, past the year 2000.

In addition, our commercial utilities, civilian reactors, have 4 to 5 years of stockpile set aside. With this size stockpile, how does that compare to another resource that we debated a lot in this body over the last decade, oil? The size of our present uranium stockpile is the equivalent of having a 20-

billion barrel strategic pertroleum reserve.

So, Mr. President, the argument that somebody is going to blackmail us ignores the fact that we have such a sizable stockpile, and that would make it extremely difficult, if not impossible, for blackmail to work. But then the question is, well, who is going to blackmail us? Is it Iran? Is it Libya? Is it insecure sources of oil in the Persian Gulf, a very volatile area of the world? Is that where our uranium comes from? And the answer, Mr. President, is no. Our uranium comes from Canada and from Australia, primarily.

Is it likely that Canada and Australia are going to blackmail us?

Is it likely that they are not going to supply uranium to the United States? I would argue that it is inconceivable that they would blackmail us. However, if we adopt the underlying amendment that protects the domestic uranium industry, and the Canadian industry starts to make longer term plans and enters into longer term contracts with other countries in the world that have needs, other emerging nuclear powers in the world—and who knows at this time who they might be—if that happens and we need a fallback position and we need uranium, where else can we get uranium if not from Canada and Australia, because they have locked themselves into longer term contracts elsewhere? Well, we could always go to Czechoslovakia; they are a supplier of uranium. Or, we could go to South Africa; they are a supplier of uranium.

Mr. President, I would argue that the blackmail argument does not hold water. I would argue, further, that the danger of making ourselves, in a crisis, dependent not only on insecure sources but also potentially hostile sources in South Africa and Czechoslovakia would be enormously shortsighted.

Mr. President, this debate is really about the state of the U.S. uranium industry. It is true that the U.S. uranium industry has lost jobs. As the distinguished Senator from New Mexcio said, in his State he has seen a dramatic drop in the number of uranium miners. But is the problem of the U.S. uranium industry a problem of unfair competition? I would argue that it is not a problem of unfair competition.

Why has there been this drop in uranium production? First, there has been a reduced demand for uranium due to plant cancellations, due to lower-than-expected growth, due to an industry being generally overbuilt. In other forums and at other times in this body, people either lamented or applauded that fact, and they pointed to high interest rates and the effect of the nuclear industry of high interest rates and onerous regulations.

So, one of the major reasons for the present problem in the uranium industry is the reduced demand for uranium, due to plant cancellations and lower-than-expected growth.

Then there is the other fact, undeniably, of low-grade domestic ore. Finally, there is the fact of the existence of these excess inventories accumulated by the U.S. military and civilian authorities.

So, Mr. President, I would argue that the uranium industry does have problems, but the problem is not a matter of unfair competition but is related to other things.

The interesting point is that the U.S. uranium industry has already adjusted to this current circumstance. Mine production has dropped from 39 million tons per year in 1981 to about 8.6 million tons in 1985. Production is about at that level today.

The charge has been made by opponents of the pending amendment that we will lose the domestic uranium industry. But if you look at the projections by the Edison Electric Institute or the Department of Energy, they say that through the year 2000, the domestic industry will continue to produce 8 million tons a year of uranium.

The fact is that the domestic industry is not going the way of the dinosaur. To the contrary.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BRADLEY. I yield.

Mr. JOHNSTON. On this question of unfair support for the Canadians, it is our position, as the Senator knows, that the Canadians have a pervasive system of support for the uranium industry.

My question is this: Is it not true that the Canadian provincial uranium company, Saskatchewan Mining Development Corporation, has government guarantees to back its loans?

While I am at it, let me ask two other questions of the same tenor.

Is it not true that Eldorado nuclear was given part of the Canadian Federal uranium stockpile to satisfy obligations of the Canadian Federal Government and that they have repeatedly extended loan guarantees? Is it not true that the Canadian Government has supported the high cost Ontario mines through creation of long-term, high-priced contracts with the Canadian nuclear utility? These are contracts that could be renegotiated or terminated, but they are maintained as a matter of Canadian Government policy. Indeed, if the government contract price would drop to the world market price, the Ontario mines would have been closed, just as United States mines would have been closed.

My question is this: Is there, in what I have said, anything that the Senator disagrees with; and if so, what does he disagree with?

Mr. BRADLEY. I would not disagree with the facts the Senator has presented. I would disagree with the interpretation of those facts.

It is true that Eldorado Nuclear, in 1981, received $300 million of Government uranium. The facts that the Senator has stated about Saskatchewan are true. In 1970, Ontario Hydro advanced $309 million to two Canadian uranium producers, repayable in credits against future deliveries. That is true.

My response is that if the U.S. uranium industry felt that these were subsidies that were unfair trade, they could have brought an action, but they never brought an action.

Mr. JOHNSTON. The Senator did not talk about the Ontario mines, which continue to be supported by high-priced contracts with the Canadian nuclear utility industry.

Mr. BRADLEY. I am not familiar with the specifics of the Ontario mines. What is the price of the contract?

Mr. JOHNSTON. I do not have the price, but I understand that if they were lower than the world price, and it could be renegotiated at any time, those mines would go out of business, just as the U.S. mines have gone out of business.

Mr. BRADLEY. Many of the same things are said about other sectors of our economy—if we did not subsidize certain sectors of our economy.

I do not know the specifics of the Ontario mines case, but my guess is, as has been pointed out in this debate, that there have been Canadian utilities and Canadian companies that have entered into long-term contracts at prices that have been relatively high—$43. The price is now about $20. They locked themselves into those contracts. There have been some American utilities that have done the same thing.

I do not dispute the Senator's facts. But if this was viewed as unfair in terms of subsidies that should be disallowed because they provide unfair competition, the case could have been brought under existing trade law.

Mr. JOHNSTON. They used 161v, which is the American law, which they did bring, and it was successful and was upheld by the courts.

If the Senator were advising them, would he not advise them to take a route which he knew was going to be successful through the courts, rather than go a route that takes the cooperation of the administration, when the administration said they are not going to cooperate?

Mr. BRADLEY. If the Senator is asking my personal opinion, my personal opinion is that there is too much trade law clogging the courts of this country; that the only way an international trade system works is if recourse depends on the existing mechanisms to address grievances and problems.

When you try to short circuit these mechanisms by going through a national court system, you accentuate the problem. Obviously, the uranium industry did not feel that the use of existing mechanisms was the route they would like to take, for whatever reason.

Testimony has been offered today as to how they perceive this administration's attitude toward uranium. The fact is that the record is clear as to what alternatives they have. They chose not to avail themselves of the traditional trade alternatives but, rather, decided to avail themselves of section 161v, which is in and of itself an interesting section of the law.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. BRADLEY. There is no petition required under 161v either. That is they decided to take it to court.

Mr. McCLURE. Will the Senator yield?

Mr. BRADLEY. Sure. I am in the middle of my very important presentation but I will be glad to yield for a question.

Mr. McCLURE. I thank the Senator for yielding.

I am a little puzzled by this argument that has been going on here for three different speakers who have indicated that somehow if the uranium industry were really serious about protecting themselves they would have gone through one of these sections under the trade agreements. Assume that they did that. They chose to file under one of the sections. They might after a period of time get some relief of their situation, is that correct, if they were right?

Mr. BRADLEY. That is correct.

As the Senator pointed out, under section 201 under this administration there have been 15 cases brought. Six cases found injury and in four remedies were granted.

Mr. McCLURE. So there is a 25-percent chance of getting some relief then.

Mr. BRADLEY. You can never extrapolate from particular cases.

Mr. McCLURE. Fifteen new cases. So they have a 25-percent chance of getting some relief. We do not know the extent of that.

Mr. BRADLEY. I caution the Senator about extrapolating from particular cases to generic percentages, but I understand the argument, yes.

Mr. McCLURE. There are 15 people who tried to get relief and four that did.

Mr. BRADLEY. That is correct, under section 201, which does not assert unfair trading practices.

Mr. McCLURE. I understand.

Mr. BRADLEY. The subsidies argument would be unfair trading practices.

Mr. McCLURE. Under unfair trading practices, then, they could get a countervailing duty and they might get some marginal relief if they are successful in that.

Mr. BRADLEY. That is correct. Maybe it would not be as marginal as you indicate.

Mr. McCLURE. Under section 161v if they are successful in a finding they are a nonviable industry that bans imports, period, is that correct?

Mr. BRADLEY. I do not know if it bans imports; 161v is supposed to ensure the viability of a domestic uranium industry, and the question there is what production is viable. Is it 17 million, 8 million tons per year—how many Canadian imports?

Mr. McCLURE. So the Senator is giving them the alternative of seeking under the Trade Act to pursue one or two or both of the remedies under the Trade Act to get some relief if they are successful but under section 161v, which according to the Senator they should not rely on, they get total relief, and it is an absolute for the last 3 years there has been a finding that the uranium industry is nonviable and therefore, they are entitled to total relief. If the Senator were there, which way would he go, looking for partial relief under two different circumstances, or total relief under one written for him?

Mr. BRADLEY. I would be so confident in having 161v that I would never come to the Congress with the amendment the Senator has offered to this bill. I would say that I can get my full relief under 161v; I am not going to ask the Congress to pass a piece of protectionist legislation because there is a law on the books that would allow me to get that kind of relief. The Senator asked me. That is what I would do.

Mr. McCLURE. But the Senator would certainly not look for the relief under the trade bill, and that is what he is suggesting they should have done.

Mr. BRADLEY. I am suggesting that.

Mr. McCLURE. The Senator is not suggesting that they should not have done anything. He is suggesting 161v is the appropriate remedy for them, and I agree.

Mr. BRADLEY. I am suggesting that if the industry had availed itself only of 161v and not sought a blanket protection, which is embodied in this amendment, the underlying amendment would not have been necessary.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BRADLEY. Sure.

Mr. McCLURE. That is very serious because as a matter of fact, if we did not offer anything here with respect to 161v and the Senator did not offer anything here under 161v, they would have it. What we are suggesting is that blanket cutoff is something that is going to run into a collision with the free trade agreement with Canada and going to run into a collision with the trade bill, and we are trying to find a modest answer to that confrontation.

The Senator is suggesting, "Oh, no, I do not want to change 161v," when actually his motive is to do away with 161v.

Mr. BRADLEY. My point is that the industry has not proved subsidies. The industry has not proved subsidies.

Mr. JOHNSTON. Will the Senator yield for 1 minute?

Mr. BRADLEY. That is the point here.

Mr. JOHNSTON. The Senator is advising the nuclear mining industry to shoot from midcourt instead of making a slam dunk.

Mr. BRADLEY. No. I am saying they ought to seek advice from higher paid counsel than the Senator can offer as to what would be the better remedy, whether it is 161v or the trade laws or a piece of protectionist legislation that we now have before us. That should be the choice of the interested parties in the uranium industry.

Mr. McCLURE. Mr. President, will the Senator yield further?

Mr. BRADLEY. I will make the point again the industry has not proved subsidies.

Mr. McCLURE. Would the Senator agree that the current law is 161v?

Mr. BRADLEY. Unless this amendment passes. If this amendment passes you repeal 161v.

Mr. McCLURE. All right. Is the underlying amendment more protectionist than 161v?

MR. BRADLEY. It is a matter of degree here. Before I answer the question let us keep in mind the atmosphere in which 161v was enacted. Does the Senator know when it was enacted? In 1954. It was a different world in 1954. There were no jet planes. There were no colored television sets. There were no computers. There was no interstate highway system.

Mr. McCLURE. Senator BRADLEY was not in the Senate.

Mr. BRADLEY. And we asked the Canadians to build a uranium industry.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BRADLEY. Certainly.

Mr. McCLURE. He has described the underlying amendment as a piece of protectionist legislation.

Mr. BRADLEY. That is true.

Mr. McCLURE. Is it more protectionist or less protectionist than the existing law?

Mr. BRADLEY. I find it an unnecessary extension of existing law; 161v applies to uranium imports for enrichment. This would apply across the board to all uranium imports. Therefore, I would argue that it even could be said to extend it.

Mr. McCLURE. All right. I understand the Senator's argument. Let us just do not say that what we have is protectionist legislation without referring to the existing law which he also described as protectionist.

The second point is the Senator said they have not proven injury. Under section 161v they do not have to prove injury, do they?

Mr. BRADLEY. Absolutely not.

Mr. McCLURE. Why should they? Why is the burden on them? Suddenly they have not proven something they do not have to prove under the law.

Mr. BRADLEY. Then they should not be here asking for surcharges added onto imports that come into this country.

Mr. McCLURE. But under current law they do not have to provide any evidence of injury, they can get relief if there is a finding that they are not viable.

Mr. BRADLEY. They can get relief. Whether it is the relief the Senator has designed in this bill is another question.

Mr. EVANS. Mr. President, will the Senator yield?

Mr. BRADLEY. I yield.

Mr. EVANS. He is not yielding for a question but just to suggest since there is extensive use of time by our opponents in the questions and answers, will they now use some of their time and not our time?

Mr. DOMENICI. Mr. President, will the Senator yield for a question on our time? It will take 1 minute.

Mr. BRADLEY. Yes.

Mr. DOMENICI. I would like the Senator to clarify one thing.

Might I say to my friend from New Jersey with reference to when this law was passed, I believe he is in error, and I would just suggest to him that it was not passed in 1954; it was passed in 1964 when we began to privatize the industry. It was not passed as part of the original Atomic Energy Act. I do not know if the Senator would agree with that. But I believe that is an accurate assessment of where the nonviability clause came from.

Mr. BRADLEY. If the Senator will state that without any doubt, I would be pleased to modify my comments and say when it was passed there were colored TV sets.

Mr. DOMENICI. If I could ask the Senator a question with reference to the Senator's amendment, he is talking about 161v, the provision of the 1965 act. Is it not true that his amendment, which will provide for a study, it, too, wipes out the 1964 provision of the law that would require that America maintain a viable uranium industry?

Mr. BRADLEY. The Senator is correct.

Mr. DOMENICI. Is it not possible—I would just ask the Senator this because while I will have some time shortly, I do not want to take time away from the Senator. The Senator is suggesting the mining companies of the United States are in here seeking protection, this 12-year transition that they are asking for, and you are suggesting that they are seeking more than they might have under 161v. Is it not possible that, having been beaten around the head by this administration, who did not even inquire as to how Canada subsidized its industry, is it not possible that they have agreed to compromise and be more realistic in light of the Canadian Free Trade Agreement with this 12-year phaseout? You cannot perceive that they are being accommodating to what might otherwise be a 100-percent prohibition and that some might have talked to them about a transition? Is that not a possibility as to why some of us are on the floor in behalf of a 12-year transition?

Mr. BRADLEY. I would say to my friend from New Mexico, I cannot say why you are on the floor arguing this case. I can only say what I see is a variable tariff that is applied to the import of foreign uranium. I look at that and say that looks like that is a violation of GATT and a violation of international agreements as a part of the trade system, and the industry chose not to avail itself of the normal route to provide subsidies, the result of which a remedy could possibly be some kind of variable tariff or quota.

Mr. DOMENICI. Let me say to my friend, if he will permit me, as a matter of fact, the case for the 100 percent banning is in the Supreme Court. They are going to rule on it shortly. And yet many of us who want a viable uranium industry have talked to that industry about the fact that that might not be a very good long-term policy for this country. We think they are going to win. Nonetheless, we said, "Should we not accommodate to a transition which would be reasonable?" And that is what we have done here.

So I hope that we do not leave the impression that we are trying to give them more protection. What we are really trying to do is protect an investment, provide a transition. The Canadians have had all kinds of opportunity to build their industry while we did not care and so we are here to be accommodating with a realistic 12-year transition.

I will, in the near future, explain why I do not think it has any of the onerous cost implications that have been stated here. I think it is a very modest approach to maintaining an industry when Canada has maintained theirs with all kinds of gimmickry which we would never have approved under our trade laws, especially with this administration which was not the least bit interested.

Mr. BRADLEY. I thank the Senator for his comments. As the Senator knows, I have a great regard for not only his defense of the uranium industry but his overall ability and good will. I appreciate his comments and I look forward to his explanation of why the cost figures the distinguished Senator from Washington and I have used might not be applicable.

Indeed, our source for this is the Department of Energy. And I would make reference to a letter that was written by the Department of Energy outlining the various costs and ask unanimous consent that the letter and response be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, DC, March 25, 1988.

Hon. GORDON J. HUMPHREY,
U.S. Senate,
Washington, DC.

DEAR SENATOR HUMPHREY: This transmits our answers to the questions posed in your March 7, 1988, letter to Secretary Herrington regarding the Department's uranium enrichment program and legislation reported by the Committee on Energy and Natural Resources that addresses the uranium mining and enrichment industries in this country.

Please let me know if we can provide your further information.

Sincerely,

THEODORE J. GARRISH,
Assistant Secretary
for Nuclear Energy.

Enclosures: As stated.

QUESTIONS FROM SENATORS PROXMIRE AND HUMPHREY

Question 8: What is DOE's position with regard to the imposition of charges imposed on foreign uranium included in Title I of S. 1846?

Answer: The Administration is opposed to imposing penalties on the use of foreign uranium in domestic facilities. If import restrictions such as those contained in Title I of S. 1946 are included in legislation, the Administration would veto such legislation.

Question 9: What effect on prices and production does DOE project from an import fee such as that proposed in Title I of S. 1846?

Answer: The Energy Information Administration (EIA) has done a preliminary analysis regarding the impact of imposing charges on foreign uranium as provided for in Title I of S. 1846.

For current market conditions, the EIA projects domestic prices of uranium (in 1987 dollars) to be about $25 per pound of uranium concentrate (U308) in the early 1990's, increasing to over $30 per pound by the late 1990's.

Enactment of Title I of S. 1846 would likely increase the cost of uranium concentrate by $5 to $10 per pound in the early 1990's and over $10 per pound in the late 1990's. This represents added annual costs of between $2 and $4 million to cover the costs of higher-priced uranium used to fuel each reactor. In addition, the fee that a utility pays to purchase foreign uranium could add another $6 million to the cost of annually refueling a reactor. Therefore, we can roughly estimate that the enactment of Title I of S. 1846 could cost a utility an average of $10 million more per reactor each year if it decides to use fuel that contains foreign uranium. With over 100 reactors now in commercial operation, enacting Title I provisions can represent a $1 billion increase in the annual cost of or providing nuclear generated electricity. These costs would have to be passed on to consumers in the form of higher rates.

EIA forecasts domestic uranium production to range from 10 to 20 million pounds per year throughout the 1990's. Enactment of S. 1846 could increase total domestic uranium production about 20 percent during this 10-year period.

Mr. BRADLEY. Mr. President, to return to the line of the argument that I was making prior to the questions, this is a matter of energy security and economic security. This is a tariff that would increase cost dramatically to consumers.

The national security argument is fundamentally based on the fear that we would be blackmailed. It is highly unlikely we could be blackmailed given the size stockpile we have. The military stockpile would go beyond the year 2000 and a 4- to 5-year civilian stockpile. It is extremely unlikely, almost inconceivable, that Canada and Australia would choose to blackmail the United States.

The option is, of course, encouraging by this bill Canada and Australia to supply other countries, not the least of which might be Japan, thereby supplying Japan with low-cost energy while we have our industries paying higher costs for nuclear power. The result is we become less competitive internationally. We do not help our trade deficit, but to the contrary. That is one thing that this provision opens up.

Another is if we ever have a shortfall and we do need some supplies and they are locked in, Australia and Canada, to supplying other countries, we then fall back to such secure suppliers as Czechoslovakia and South Africa, which I would argue is the opposite of everything we have learned about energy security since the oil embargo of 1974.

So, Mr. President, I would argue also that the U.S. uranium industry has had problems, but they are not the result of unfair competition. They are the result of reduced demand, low-grade domestic ore and the excessive inventories that exist.

I would argue further that the U.S. uranium industry is not going to disappear. The Edison Electric Institute and DOE project 8 to 10 million tons annually in production given the price projections for the next decade. So it is going to remain a viable industry. I should say it is going to remain an industry that produces 8 to 10 million tons and the result of that is not going to be for the industry to go the way of the dinosaur.

Mr. President, there are many other arguments to be made, but I think that I will conclude this phase by simply making one other argument.

This bill is composed of three parts. The first part of this bill deals with the issue that we are debating now. The second title of this bill deals with providing mining companies with the ability and the means to clean up uranium mine wastes. The third part of this bill provides absolution, essentially. It forgives electric utilities from repaying $3 to $9 billion in debt for enrichment services.

So there are three quite different constituencies here. Title III has a certain constituency of those Senators who have in their States or are served in their region by utilities which have incurred sizable costs for enrichment services and now want the benefit of this forgiveness, essentially. Title II are those Senators who want uranium mine waste cleanup. Title I, the tariff.

Now, that brings me to a response from DOE on the question:

> What is DOE's position with regard to the imposition of the charges imposed on foreign uranium included in title I of S. 1846?

The answer:

> The administration is opposed to imposing penalties on use of foreign uranium in domestic facilities. If import restrictions such as those contained in title I of S. 1846 are included in legislation, the administration would veto such legislation.

So, Mr. President, if there is a Senator out there who is from a State that is interested in getting forgiveness for the debt incurred in enrichment services or a Senator who is concerned about uranium mine waste cleanup, the surest way not to get any of that is to insist on title I being in this bill, because the administration is then going to veto it.

Mr. President, I would argue that the amendment of the Senator from Washington is an extremely important amendment. It is one that will save consumers dollars, it is one that will enhance our emergency security, and it is one that deserves the support of the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 10 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, first let me indicate that some numbers have been bandied about around here about what these amendments may cost. I think somebody has used $20 a pound as the potential increase.

You know, this whole discussion is taking place in kind of an atmosphere that suggests that this amendment, which has the full support of the utility companies in this country, you understand, they are in favor of it—this discussion is as if they would permit us, with their support, to offer an amendment that would, over the next 12 years, dramatically increase the price of uranium. That is just an impossibility.

If you read the amendment, there is a cap on the price and it is $8. That means that at its worst it is $8. We estimate it will be between $2 and $5. And if that is the case let me make sure everybody understands. At its worst it is about $2 a year divided into 12 months of utility bills. You do the arithmetic. Somebody said it is about the equivalent of a Coke a month—you know, a "Let's have a Coke"? It is about that. We are asking that we do that in order to permit the uranium industry of the United States to have a chance to survive.

Mr. BRADLEY. Will the Senator yield on that point?

Mr. DOMENICI. Let me go for a few minutes since we have only a few and then I will be pleased to answer when my 10 minutes are up. Perhaps I will have to do it on your time.

Mr. President, let me make a couple of other quick points. This amendment provides for a 4-week study in an area that has been studied to death and at the same time very casually wipes out the only protection that the uranium industry has which this administration has absolutely refused to assume exists. It wipes out a section that says we are going to have a viable industry, substitutes a 4-week study that will literally do nothing.

Mr. President and fellow Senators, we sit around here and watch the country of Canada take her natural resources, build up a parade of subsidies and incentives so that they are powerful and strong, and then at a point in time we come along and say: They are capable of delivering plenty of uranium. We do not need an American industry. And some come here and say it is a matter of 2,100 jobs.

Let me tell you what it is a matter of. It is a matter of energy security; of recouping some investments. Let me cite one. There is a $400-million investment in a uranium mine waiting to be opened that has 30 percent of the United States of America's energy reserves. And they are not able to open that mine and begin to perfect that reserve because of the unfair practices of Canada. And our country sits here through its administrative bureaucracy and says: We really do not need this. We are going to rely on Canada.

All we want is an opportunity to see if some of those investments will just have a slight chance of coming into fruition before we welcome full competition with a subsidized Canadian industry.

Mr. President, we have been so foolish for the last 5 years in sitting by and watching them while we have a law on our books that has been ignored that said: Try to keep American industry alive. Now we come before the U.S. Senate with a rare opportunity with the full support of the utility companies, the mining companies, those who work in the industry, to put the entire industry back on its feet with enrichment, cleaning up the mill tailings, and giving this industry 12 years to survive.

Mr. President and fellow Senators, sitting over there at the U.S. Supreme Court is a case that is the absolute essence of the lunacy of the U.S. Department of Defense. They sat by and did nothing while the court said you have to do something. They had no remedy other than to ban imports of uranium, the Federal courts of America. The Supreme Court is going to, in my humble opinion, say that is right. We sit here trying to make a compromise that is realistic and reasonable and we get an amendment that not only says wipe out the underlying law, moot the Supreme Court case, all under the guise that it is a little innocuous amendment that says: Let us study and report with 6 weeks to do the work on the uranium industry that has been absolutely shredded because the American Government refused to follow a law that has been on the books of this country for decades.

Mr. President, I am not so foolish, in response to my good friend from New Jersey, to think that this entire uranium industry is going to come back to life. But, frankly, I believe in the interest of security and diversity that they ought to be given a few years for a transition proposal which will permit the Canadians to continue to gain a larger share of our market than they have today but we will, indeed, be able to prove our competitiveness by the turn of the century.

The Canadian Government has had the cutest and most subtle approach to preserving their industry and our National Government was not even aware of it when we started telling them something was amiss. We would have no problems if we had their power laws. Their power protection laws say that powerplants in their country must have 30-year contracts with Canadian industries in advance of opening up. They sign on the dotted line and that is the underpinning of the uranium industry which we are now saying is competitive so we do not need our own. Well, we would not need theirs if we would have been considerate of a national law that says uranium mining is important; it is in our national security interest. We did not care. No one around did and now we have a compromise that will work and we are being told again the Canadians will not sit still for it.

Well, I tell you, Mr. President, if our Trade Ambassador, when he negotiated that treaty with the Canadians, would have said we have a law on the books that we are supposed to enforce, we would have gotten a Canadian Free Trade Agreement with a 10- or 12-year transition rule like they did for many other industries. But they never cared about the law so they ignored it.

Just listen to an answer they gave me.

"Did you discuss the case in court when you negotiated with the Canadians?"

Answer: "We never discuss court cases when we are engaged in trade negotiations."

"Oh," said I, "You do not? Well, why did you repeal section 161v in your trade agreement? That is the court case. Not only do you not discuss the case on the one hand, on the other hand you wipe it out."

So it seems to me we have a very rare opportunity, with no undue burden on the consumers, to give the industry in this country a chance to survive in our own national security interests.

My last remarks are that the Canadians are much, much smarter than we give them credit for. Within the last 4 weeks they have merged two of their companies—and I misstated it yesterday, I will state it correctly. The merger of those two companies controls 50 percent of the spot market in the world. And your contracts with them are frequently tied to the spot market.

Are we not being foolish? To not provide the competition of American industry that might come into existence and compete while they are sitting up there conniving and planning to raise the price of uranium because of the spot market which dictates the price? And they have just formed, through a new merger of public companies, a way to make sure they are going to control those spot prices?

Mr. President, there is no doubt that all our mines are not competitive and we will not put them all back into operation. But neither is there any doubt that the Canadians, through subsidies, government-controlled uranium mines, have built a fortress which we are never going to compete with and the time will come when we need our own uranium and then they will not sell it to us for security purposes. And I might even predict here today the absolutely ironic situation.

When that time comes, guess what we will be doing in the Energy Committee? We will be giving the Federal Government authority to buy up some mines and mine uranium in the interest of our Federal Government. That is what we will be doing. I yield the floor.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. JOHNSTON. I ask unanimous consent that the unanimous-consent agreement relating to this bill be amended by striking the Metzenbaum amendment relating to the NRC licensing of the Ohio Perry Nuclear Plant.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, a dozen Senators have a very important engagement off the Hill, and I am willing to yield back the remainder——

Mr. McCLURE. Can I have 2 minutes?

Mr. JOHNSTON. Is the Senator from Washington willing to yield back the remainder of his time?

Mr. EVANS. I think the Senator from New Jersey needs a couple minutes, and I can close the argument. I do not know how much time remains.

The PRESIDING OFFICER. The Senator from Louisiana controls 33 minutes and the Senator from Washington controls 15½ minutes.

Mr. JOHNSTON. I yield to the Senator from Idaho such time as he needs.

Mr. McCLURE. Mr. President, I understand the time constraints the Senator from Louisiana is wrestling with. I will not take the time to make all the remarks I was going to make.

Section 112 of the amendment states that "there is a possibility" that national security interest of the United States is being impaired by current levels of imports. * * *" I find the choice of the word "possibility" objectionable and totally misrepresentative of the facts that:

First, recognizing uranium's importance to national security, Congress enacted section 161v of the Atomic Energy Act to protect the domestic uranium industry by restricting DOE's enrichment of foreign uraniun to the extent necessary to maintain a viable domestic uranium industry. Such restrictions were in force from 1966 until 1984. The directive is still in the act, and should remain there unless replaced by an adequate substitute that protects this industry. An investigation by the Secretary of Commerce, as proposed in this amendment, is certainly not an adequate substitute for 161v.

Second, further recognizing the critical importance of this industry, Congress enacted section 170B of the Atomic Energy Act, which requires DOE to conduct an annual study to determine the viability of the domestic uranium industry. The last three reports have determined the industry to be nonviable. But in response to this determination—as provided also in section 170B—the U.S. Trade Representative has refused to initiate any action to reverse the trend. Since the administration has never exhibited the kind of responsiveness we intended under section 170B, I fail to see how it would perform any more satisfactorily under the Bradley-Evans amendment.

All along, we have recognized the national security significance of our uranium industry in the General Agreement on Tariffs and Trade [GATT]. Under article XXI of GATT, uranium is exempted from GATT protests.

> Nothing in this Agreement shall be construed * * * (b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests (i) relating to fissionable materials or the materials from which they were derived; * * *."

How can the Secretary of Commerce report by May 1, 1988, as proposed in this amendment, when:

First, this legislation has yet to go through the House and to conference, let alone be signed into law, and

Second, the magnitude of the study, and the significance of its results, deserves far more than a 1-month brushstroke effort. It requires perhaps a 1-year effort, and meanwhile, we should not forfeit the protections under 161v that have been in force for the last 24 years.

According to DOE, military inventories will be drawn down enough to require additional uranium purchases by the early to mid-1990's. Thus, we do not have the luxury of letting our uranium industry collapse at the very time when new military requirements will be arising. Canada will not supply uranium for our military requirements.

Mr. President, I just want to remind people that there was an experience before that ought to cause us to have a little bit of concern about future supply. That experience was that, as a matter of fact, an international cartel was formed. In the 1970's, we discovered that Canada, France, and Australia had formed a cartel, and it took vigorous action on our part to break that cartel in the face of the statutes that were then on the books and that are still on the books.

I also remind us that there is a national security consideration with respect to the uranium industry in this country, the mining, the enrichment industries which are vital to our security. I know the Senator from Washington has from time to time indicated that we do not need to worry about that; we ought to look for economic efficiency.

Let us look at, first, the costs. Again, I want to underscore that a correct computation of additional costs would be about 16 cents a month to the consumer. I suspect that most consumers in this country are willing to pay 16 cents a month to enhance the security of this country.

And finally, if indeed all we look for is the cheapest source and never bend that rule in order to enhance national security, I say to my friend from Washington, let us close down Bremerton Shipyard and get all of our ship construction and repair done in South Korea. It is cheaper.

I do not support that, and I do not think he supports that because we do have some national security requirements for which we pay a price in the maintenance of industries that are essential to the security of this country. One such industry is the uranium enrichment and uranium mining industries in this country.

Let us not put outselves back into the position that a cartel can control the world. That indeed that cartel, members of it, will not supply our needs for defense needs. Some members of the former cartel have said that recently. That is still their policy.

It would be extremely foolish for us, indeed, to expose ourselves to that kind of weak position.

I thank the Senator for yielding. I hope that the Senator from Louisiana will make a motion to table the Evans-Bradley amendment. I hope that if that motion is made, our colleagues will come in and overwhelmingly and resoundingly vote affirmatively on that motion to table so we can then pass the underlying amendment which does move away from the rigid protectionism that the Senator from New Jersey has quite correctly resisted over the years.

Mr. President, investments made by the Canadian national and Provincial governments in support of the Canadian uranium industry exceed $2 billion.

Significant deposits of high-grade, lower cost uranium were developed in the Province of Saskatchewan in the early 1980's. Virtually all this production is controlled by the Federal or Provincial governments. The premier mine is the Key Lake deposit which produces 12 million pounds of U_3O_8 per year, about 15 percent of world demand. About $750 million was invested to develop Key Lake, using government corporations and government guaranteed loans. When the government corporations have been unable to pay back the loans as scheduled, the loans have been refinanced, the guarantees extended and additional capital invested to pay interest and fund cash shortfalls.

The uranium deposits in the Province of Ontario are—unlike those at Key Lake—low-grade and high cost. Under free market conditions, the uranium mines in Ontario would have long since been targeted for closure. In order to maintain these operations, Ontario Hydro has maintained long-term contracts to buy Ontario uranium at prices far in excess of spot market levels. It should be noted that because of these long-term supply contracts, United States producers are foreclosed from the Canadian market. United States investors are also limited by stringent restrictions on United States investment in Canadian uranium resources.

The pending merger of the two largest uranium companies in Canada increases the potential for future cartel behavior, similar to what occurred in the 1970's. The resulting company will control 20 percent of the world supply, a substantially larger percentage of United States imports, and 50 percent of the world's spot market.

It should be clear from these examples that the Canadian governments, both Federal and Provincial, are committed to programs which, directly or indirectly, subsidize and support the Canadian uranium industry. Under the proposed trade agreement, it appears that these longstanding programs will continue. If Congress approves the proposed agreement in its present form, it will in effect sanction the Canadian programs subsidies.

Further distorting the marketplace are the provisions in the United States-Canada Free Trade Agreement that would surrender previously established rights of the United States to protect its uranium industry for national security and/or energy needs.

First, we would be surrendering our ability to restrict the enrichment of foreign uranium, under section 161v of the Atomic Energy Act, to the extent necessary to maintain a viable domestic uranium industry.

Second, we would be surrendering our ability to impose trade restrictions for national security reasons under article XXI of GATT.

By surrendering these protections, we will in effect have no recourse in the event our national security or energy interests are threatened with respect to uranium. In negotiating this agreement with the Canadians, our negotiators have sold the farm. I find this situation to be totally unacceptable.

Enactment of amendment No. 1465 will send a clear message to the administration that the Congress prefers a more balanced approach, with respect to uranium trade policies, than the FTA would achieve.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I would like to make four points.

The PRESIDING OFFICER. Who yields time?

Mr. EVANS. I yield 2 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, this provision we are trying to eliminate protects 2,000 jobs at a cost of $1 billion. That is $500,000 per job. That is the cost of this amendment.

Second, the U.S. uranium industry is not going to disappear—the industry will carry on at 8 to 10 million tons per year for the next decade and beyond.

Third, the way that we are going to grow is we have to expand trade worldwide.

The way you expand trade worldwide is you resist the kind of protectionist measures embodied in the underlying amendment.

Finally, this is aimed at our closest trading partner. This is aimed at the country with whom we are about to embark on a historic direction of a free trade area. This is a knife in the back of Canada. And make no mistake about that.

Mr. President, I urge us to adopt the amendment of the Senator from Washington and reject the underlying amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Washington.

Mr. EVANS. Give me 2 minutes, and I will be ready to yield back time.

The PRESIDING OFFICER. The Senator from Washington is recognized for 2 minutes.

Mr. EVANS. Mr. President, the amendment we are voting on is simple. Even the proponents will not assert that we should keep 161V. It was designed for an infinite domestic uranium industry. That time has long passed. The Senator from New Jersey has talked about the cost per job in this kind of protectionist measure. That cost per job will be borne by the consumer, and the opponents of this amendment cannot have it both ways. They say, on the one hand, that there is a limit and that limit is only a fraction of a mill, but there is a big difference and a growing difference in the cost of domestic uranium and foreign uranium. If that differential is $10 a pound, and if that differential is larger than the fee penalty, a prudent utility will continue to purchase foreign uranium, and the whole intent of the opponents here is thwarted anyhow.

It seems to me that the potential cost, however, is not really to the consumer. It is to the industries that do compete in this Nation internationally. The inevitable kind of retaliation that comes with a measure like this will fall on our most competitive industry. How are we ever going to get back to zero in terms of our trade deficit by protecting industries that are not competitive internationally and end up by crippling those which are our most competitive industries?

Mr. President, I think this amendment ought to be adopted on behalf of the consumers and competitive industries of this country, and we will not, under any circumstances, kill a domestic uranium industry.

The PRESIDING OFFICER (Mr. REID). The Senator's time is expired. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I yield myself 30 seconds simply to say the Senator from New Jersey [Mr. BRADLEY] says this protects 2,000 jobs at a cost of $1 billion. Preposterous. There are 10 times as many jobs involved. There were 21,951 jobs here until the United States intentionally went on a policy of exporting the uranium mining industry to other countries. That is what is involved, 21,000 jobs, not 2,000.

Second, we are told it is at a cost of $1 billion. The figures simply show that that is wrong by a factor of 10. The probable cost is about $100 million a year.

Mr. President, let us keep American jobs at home, 21,000 of them. Let us reduce our balance of payments. This is consistent, the underlying amendment, with the Canadian Free Trade Agreement, and we can promote the American economy by defeating this amendment.

Mr. President, I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I rise in support of the second degree amendment offered by Senators BRADLEY and EVANS to the Johnston-McClure amendment that imposes a penalty or fee on those utilities using foreign uranium. Many United States utilities, including the New York State Power Authority, use low-cost foreign, especially Canadian, uranium.

In New York alone, the proposed fees could raise the annual costs of uranium to the State Power Authority by as much as 25 percent. Governmental authorities such as the Metropolitan Transit Authority, New York City, the New York City Housing Authority, other public entities and intensive industrial users would be particularly affected by such price increases, which ultimately will be borne by these ratepayers.

In addition to increased costs, the proposed fees certainly run counter to the spirit and perhaps the letter of the United States-Canada Free Trade Agreement. At a time when Congress is debating the free trade agreement, it would be highly injudicious to subject one of Canada's principal exports to a blatantly protectionist fee. And if this action brings down the free trade agreement, the lost U.S. jobs and trade opportunities that result will far exceed any potential benefit to the domestic uranium industry.

This backdoor tariff may also encourage other countries to enact subsidies and to turn away from freer trading arrangements. For example, since the fee is imposed on all foreign uranium, even if free of subsidy, it creates an incentive for those countries not using subsidies to do so in order to offset the fee. This fee could also violate U.S. obligations under the GATT and cost us our right to retaliate against foreign uranium subsidies.

Imposition of these fees will also adversely impact our energy security. If we cut off Canada's access to the United States market, Canada, will find other long-term customers who will benefit from their inexpensive, high-grade ore while insecure suppliers like South Africa and Czechoslovakia will become our fallbacks.

Mr. President, the proposed fee is not good energy policy; it is not good national security policy; it is not good trade policy; and it is not good consumer policy. I urge my colleagues to support the Bradley/Evans amendment, and I ask that the attached editorial on this issue from the March 14, 1988, New York Times be inserted in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 14, 1988]

WHY PROTECT URANIUM?

The American uranium industry has a big problem. Sales are far below figures projected in the 1970's because nuclear power development has stalled. What's more, a growing share of future demand is likely to be filled by lower-cost Canadian and Australian producers.

Now Senator Pete Domenici, Republican of New Mexico, center of U.S. uranium production, has come up with a "solution." In the name of national security, he is asking congress to limit uranium imports to three-eighths of the national market.

Ordinarily, even legislators skeptical of the benefits of free trade might be expected to balk at so flimsy a pretext. But the domestic industry has cleverly co-opted likely opponents by packaging the quota measure with an otherwise cherished bill. The only interest with a strong stake in its defeat is the one with the least clout: the public interest.

The uranium boom ended with the one-two-three punch of Three Mile Island, Chernobyl and $15 oil. A glut of inventory and stiff competition from foreign producers have forced the domestic uranium mining industry to reduce output by almost 70 percent since 1980.

The economic dislocation has been modest; the mines employ only a few thousand workers. Huge inventories of uranium are maintained for the military. And since ore can always be recovered from mothballed domestic mines, an OPEC-like foreign, cartel could never control supply and dictate prices. There is no case for protecting this industry in the national interest.

Senator Domenici, however, has managed to link the import restrictions to a bill creating a separate Government corporation to manufacture uranium fuel for utilities.

The Reagan Administration favors this measure because it would remove the enrichment program from the incompetent hands of the Energy Department. The Tennessee Valley Authority favors the bill because it guarantees a $1.3 billion payment for superfluous electricity generation capacity purchased from the T.V.A. And the utility industry favors the bill because it forgives the uranium program's $8 billion debt to the Treasury—$8 billion that might have come from higher charges for processing fuel in the future.

In parliamentary maneuverings designed to speed consideration by the full Senate, the Energy Committee took the import quota out of the larger industry bailout. The quota will be offered as an amendment to the main bill. That will give senators committed to the new Government corporation one last chance for a separate vote against blatant protectionism—and for the public interest.

Mr. LEVIN. Mr. President, I will vote to table the amendment offered by Senators Evans and Bradley because if that amendment were passed it would eliminate a major portion of the carefully crafted compromise that this legislation represents. Eliminating this portion of the package would disrupt the compromise and make it highly unlikely that this important bill could be approved by the Senate. The bill contains provisions which will lead to the more efficient and more competitive production of enriched uranium, and provisions which will assist in the effort to clean up the debris from uranium mining operations.

Approving the Evans-Bradley amendment would also make it impossible for us to maintain the commitment that we have previously enacted into law to maintain a viable domestic uranium industry. Since 1984, and the Secretary of Energy has found that the domestic uranium industry is not viable, yet nothing was done in response to this finding. In light of this lack of action, and in order to follow through on our commitment to maintain a viable domestic uranium industry, this package as reported out of committee is the most reasonable course of action to pursue.

Therefore, in order to maintain the integrity of this important legislation and ensure its passage, I will vote to table the amendment offered by Senators Evans and Bradley, and for final passage of S. 2097.

The PRESIDING OFFICER. Does the Senator from Washington yield back the remainder of his time?

Mr. EVANS. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I move to table the Evans-Bradley amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table the Evans-Bradley amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], the Senator from Ohio [Mr. Metzenbaum], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

I further announce that, if present and voting, the Senator from Ohio [Mr. Metzenbaum] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Nebraska [Mr. Karnes], the Senator from Arizona [Mr. McCain], and the Senator from South Carolina [Mr. Thurmond] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. McCain] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—47

Armstrong
Baucus
Bingaman
Boren
Breaux
Burdick
Byrd
Cochran
Conrad
D'Amato
Daschle
DeConcini
Dixon
Dole
Domenici
Exon
Ford
Fowler
Garn
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kassebaum
Levin
Matsunaga
McClure
McConnell
Melcher
Murkowski
Nickles
Pressler
Reid
Sasser
Shelby
Simpson
Stennis
Stevens
Symms
Trible
Wallop
Warner
Wirth

NAYS—45

Adams
Bentsen
Bond
Boschwitz
Bradley
Bumpers
Chafee
Chiles
Cohen
Cranston
Danforth
Dodd
Durenberger
Evans
Glenn
Graham
Gramm
Grassley
Harkin
Hatfield
Humphrey
Kasten
Kerry
Lautenberg
Leahy
Lugar
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Specter
Stafford
Weicker
Wilson

NOT VOTING—8

Biden
Gore
Karnes
Kennedy
McCain
Metzenbaum
Simon
Thurmond

So, the motion to lay on the table the amendment (No. 1914) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I was in attendance at the swearing in ceremony at the White House for the new Secretary of the Navy, Mr. William Ball III, a native of South Carolina, and was unable to be at the vote on the Evans-Bradley amendment.

AMENDMENT NO. 1465, AS MODIFIED

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Louisiana [Mr. Johnston].

The amendment (No. 1465), as modified, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment as modified, was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, the domestic nuclear utilities have invested more than $200 billion in the 120 uranium fueled powerplants that will soon provide 20 percent of our Nation's electricity. These reactors alone will use more than 2 billion pounds of uranium in their lifetime. Unless conditions change immediately, the United States will become almost fully dependent on imported uranium for supplying these needs.

In addition, the single most important strategic defense system for the free world continues to be the U.S. fleet of uranium fueled submarines on continuous global patrol. These submarines and our surface fleet must have sufficient uranium to assure an uninterrupted supply. Likewise other national defense needs must be assured.

Uranium is a highly political mineral. This is due to the concern about nonproliferation and other nuclear weapons issues. These concerns overwhelm the importance of uranium as a fuel for electricity. It follows that the world of international uranium trade is, and always will be, dominated by political issues and Government policies—not by uranium producers and traders. "Free trade" in uranium is only a theory. In the real world, governments set uranium policies.

For example, Canada holds a carefully considered uranium policy. Canada supplies its own uranium needs first, 100 percent under required 30-year agreements. It limits foreign investment in Canadian uranium discoveries. The Government finances development, approves export contracts, maintains the right to review prices annually, and requires upgrading of UF^6 prior to export. Canada sells uranium only to countries that subscribe to its nonproliferation principles and is studying plans for enrichment. The Canadian Government as do other uranium producing nations, clearly consider their uranium industry important.

In the United States we are blessed with plentiful uranium resources, a capable and experienced uranium production industry and the largest uranium market in the world. We should have as the Atomic Energy Act mandates a "viable domestic industry."

A viable domestic uranium industry will:

First, enhance the long-term competitiveness of U.S. enrichment;

Second, strengthen the U.S. presence and influence in international nuclear trade, nuclear technology, and nonproliferation policies; and

Third, provide a secure, home-based supply for the strategic uranium requirements of the United States.

This can be accomplished by the adoption of amendment 1465 and the passage of S. 2097 at fully acceptable costs while still accommodating a level of uranium imports equal to or greater than the amount of uranium imported by any other country in the world.

With prompt action to allow resumption of uranium production the billions of dollars that have been invested in exploration, mining facilities, valuable reserves, technology and careers can be saved.

I strongly believe that preserving this investment will be to the long-term economic advantage of the U.S. utilities and consumers of nuclear energy, and to the strategic advantage of the United States.

AMENDMENT NO. 193

Mr. JOHNSTON. Mr. President, I ask unanimous consent that a colloquy between Senator METZENBAUM, myself, and Senator McCLURE, with reference to the Metzenbaum amendment of yesterday be placed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. It is my understanding that the Senator from Louisiana, Senator JOHNSTON, was prepared to accept this amendment yesterday.

Mr. JOHNSTON. That is correct. I understand the Senator from Ohio's concerns about protecting the electricity ratepayers in Ohio.

Mr. METZENBAUM. I thank the Senator from Louisiana for his coopertion. However, the Senator from Idaho was concerned about the precedent which might be set by this amendment, and he agreed to check with the NRC as to whether it has ever approved any license amendment similar to that being sought by Ohio Edison. Could I inquire of my colleague from Idaho as to what he has learned from the NRC?

Mr. McCLURE. The NRC staff has assured me that to the best of its knowledge, there have been no such applications previously approved by the Commission. The NRC also says that an initial staff decision, based on comments filed, may be issued within 3-4 months. At that time, the aggrieved party may request a hearing, which the NRC would allow. I continue to have concerns about the precedent posed by your amendment, and believe that we should allow the normal adjudicatory process to proceed.

Mr. METZENBAUM. In light of that information from the NRC, and the concerns of the minority, I am willing to not offer my amendment at this time. I might point out, however, that this body has often intervened in pending adjudicatory matters. In fact, the uranium enrichment legislation as reported would have affected pending litigation between the Department of Energy and the TVA.

It is unfair to require the ratepayers who are currently served with lower cost electricity to pay for the mistakes of Perry's owners. Therefore, should the Commission approve the license amendment, I am prepared to seek a legislative remedy which will protect the Ohio ratepayers.

I thank the managers of the bill for their cooperation.

Mr. BINGAMAN. Mr. President, I rise today in support of S. 2097 and Senate amendment 1465. The legislation represents a hard-fought compromise between the Nation's nuclear utilities and uranium producers. If passed by the Senate, the bill will revitalize domestic uranium producers who have suffered greatly from detrimental Department of Energy [DOE] policies and subsidized Canadian production, eliminate a potential health hazard in the form of uranium mill tailings produced for Government contracts, and restructure the Nation's enrichment enterprise to hopefully make it operate more efficiently.

FAIR TRADE

This legislation is needed to restore a fair market for our Nation's uranium producers. The industry collapsed in 1980. Almost 25 years ago, with the passage of 161v of the Atomic Energy Act, Congress concluded that a viable domestic uranium industry was important to the security interest of this country. Today, uranium continues to play a critical role in meeting both national defense requirements and the needs of our nuclear power industry. Domestic uranium producers have worked diligently for many years to have DOE comply with national policy requiring the Department to take effective action to maintain the viability of the industry. DOE has refused to take such action, even in the face of its own declarations of the past 3 years that the industry was not viable.

CANADIAN TRADE

There have been many questions raised by opponents of this legislation regarding its relationship to the Canadian Free Trade Agreement. The proposed trade agreement with Canada would replace a national policy requiring the preservation of a viable domestic industry. It would repeal with respect to Canada the statutory requirement that restrictions be imposed on the enrichment of foreign uranium without providing any period of adjustment for the domestic industry or any alternative program to preserve a viable industry. The proposed agreement retains restrictions on United States investment in Canadian uranium and on sales of uranium in Canada while allowing Canadian ownership, financing, and subsidization of the industry. In its present form, the proposed agreement will place our uranium supply and industry in jeopardy.

Because this legislation substitutes for the repeal of 161v in the free trade agreement, I believe is consistent with that agreement. It allows our domestic uranium industry to recover from misguided DOE policies sufficiently to compete with subsidized Canadian uranium production before protections are removed. Similar treatment is given other industries affected by the trade agreement.

Foreign governments have long recognized the importance of uranium and are deeply involved in uranium policy. There exists in Canada our largest foreign supplier, a pervasive system of government ownership, financing, and subsidization of its uranium industry. Favorable action on this bill and amendment only restores the element of fairness demanded by Congress in the passage of the Atomic Energy Act and ignored by the administration.

ECONOMIC IMPORTANCE TO NEW MEXICO

While it is clear that the uranium industry is important to both our energy independence and national security, the industry is more depressed than any other time in its 30-year history. It is probably the most economically depressed of any of our country's extractive industries. The statistics tell the story. The domestic industry is facing approximately 90 percent unemployment and production is down to about one-third of peak levels and U.S. needs. In New Mexico, all licensed uranium mills with the exception of one have been placed on standby status and some will not reopen. Only one mine is currently in operation. The industry in New Mexico is virtually dead. We must find a way to resurrect the industry; this legislation is a step in the right direction.

VIABILITY

Amendment 1465 is critical to the rest of the legislation. The amendment would encourage reliance on domestic sources of uranium in order to restore and maintain the viability of the U.S. uranium industry as required by the Atomic Energy Act. The amendment would accomplish this by imposing a sliding scale of changes for the use of uranium not mined and milled in the United States through the year 2000. However, no charge would be imposed on the first 37.5 percent of foreign uranium used by utilities. The amendment also requires that Federal agencies purchase only domestic uranium in the future and limits the use of Government uranium stockpiles to specified governmental purposes. The system of charges for the use of foreign uranium would take the place of existing law.

MILL TAILINGS

There is one particular provision of S. 2097 which is very important to New Mexico. The provision would establish a system for financing the reclamation of mill tailings at active mill sites. The Uranium Mill Tailings Radiation Control Act of 1978 provided funding and authority to the U.S. Department of Energy [DOE] to dispose of radioactive tailings at inactive uranium mill sites. Remedial action at two inactive sites will be carried out under that 1978 law. However, the responsibility for disposal of tailings at active mill sites remained on the owner or operator of the site. The cleanup would be financed by the Federal Government, utilities, and owners or licensees of the sites. This divides the reclamation costs among those who benefited from uranium produced at the sites.

Currently there are five active or licensed uranium mill sites in New Mexico. The provision in this legislation means these sites will be cleared up properly. This action is long overdue and clearly justified.

CONCLUSION

S. 2097 and Senate amendment 1465 are important because they would preserve and revitalize our domestic uranium industry. I urge my colleagues to support their passage.

SEC. 1505 (a) (1)

Mr. SASSER. Mr. President, I would like to clarify, if I may, one point concerning S. 2097 with the floor manager, the Senator from Louisiana. I am concerned about the interpretation of section 1505(a)(1). I want to clarify that merely because the "facilities, real estate, improvements and equipment related to the Oak Ridge K-25 plant in Oak Ridge, TN" are not being transferred to the new enrichment corporation, but are being retained in the ownership of the Department of Energy, that this in no way prejudices Oak Ridge in its competition for the AVLIS [atomic vapor isotope separation] technology, when and if it becomes available.

Mr. JOHNSTON. That is correct. Nothing in S. 2097 in any way prejudices Oak Ridge in its efforts to secure the AVLIS technology, when and if it is deployed.

Mr. McCONNELL. Mr. President, S. 2097, the Uranium Revitalization, Tailings Reclamation and Enrichment Act, is a realization of the importance of domestic uranium production and enrichment to our national security and energy requirements. Bogged down by Government imposed costs and restrictions, our once held world monopoly in enrichment has now been eroded to the degree that the very existence of a domestic enrichment enterprise has been threatened.

Has our market share eroded because of losses in productivity? No. When the Department was debating the closure of one of our three gaseous diffusion plants, in 1985, Secretary Herrington told me that the Paducah Gaseous Diffusion Plant was "an efficient operation which passed DOE's review with flying colors." In fact, Mr. President, if you look at the record, the "factory costs" for enriching uranium at our plants in Paducah and Portsmouth are well below our competitors' prices. Then why are our plants operating at minimal capacity? Why are our prices 30 percent to 40 percent above the world market? Because the Government still runs these facilities as if we still held a world monopoly in enrichment. And because the Government has imposed an artificial cost on these operations.

By establishing the U.S. Enrichment Corporation, our enrichment plants will be able to be run like a business, not a bureaucracy. Be establishing a realistic amount for the Government's "unrecovered costs", pricing will not have to be artificially raised. The irony of those who insist that the Government must recoup from $3 to $9 billion in "unrecovered costs", is that, by doing so, we will be slaying the goose which lays the golden eggs. We can never hope to increase our market share and make a profit by pricing ourselves out of the marketplace. Not only would we not recover previous costs, we would be relegating our enrichment plants to last place finish, and possible closure.

Not only has the debt issue hampered our ability to regain our foothold in the international enrichment market, but section 161v of the Atomic Energy Act has done so, as well. Section 161v charges the Department of Energy with the responsibility of ensuring a "viable domestic mining industry." To the extent necessary to assure a viable domestic uranium industry, DOE is prohibited from enriching foreign uranium for domestic use. The domestic mining industry is not viable, yet DOE has refused to enforce this provision. While refusing to enrich foreign uranium would benefit uranium miners given a U.S. monopoly in enrichment, the fact is that we do not hold a monopoly anymore. Enforcement of this provision would only encourage domestic utilities to seek enrichment overseas, thereby harming both the domestic mining and enrichment enterprises.

The legislation before us repeals section 161v while at the same time ensures a viable domestic mining industry. Foreign uranium is allowed for domestic consumption up to 37.5 percent. Beyond that point, a sliding scale of fees are imposed. All existing contracts are grandfathered and the provision sunsets in the year 2000.

This title of the bill should ensure the viability of the domestic mining industry and prevent certain harm to our enrichment enterprises from possible court enforcement of section 161v.

Mr. President, S. 2097 is a good bill, a very good bill. Should this bill ultimately become law, and I hope it will, the U.S. enrichment enterprise will become the lowest-cost world producer of enrichment services. We will be able to recapture a large portion of the foreign business we had lost previously. The bill will not only address our national security and energy needs, but should also have a positive impact on our balance of trade.

This legislation is very complex, and I commend the able and hard work of my colleague from Kentucky, Senator FORD, in drafting the legislation and moving it to passage. Once again, he has shown his leadership skills on behalf of the people of Kentucky, and I am pleased to join in supporting this crucial piece of legislation.

UNRECOVERED DEBT IN THE U.S. URANIUM ENRICHMENT ENTERPRISE

Mr. DOMENICI. The critics of the Energy Committee bill's treatment of unrecovered costs differ with the committee in how they do their accounting. This sounds like a trivial point but the consequences are serious. The inappropriate approach suggested by the Office of Management and Budget [OMB] and the General Accounting Office [GAO] will cost electric utility ratepayers a fortune.

The point of the following discussion is to demonstrate that the system of accounting which has been proposed by the OMB and the GAO were in effect previously proposed and rejected by the Congress. The OMB is not only proposing to change the accounting system once again but, they are asking that electric utilities be charge retroactively even though the rules laid down by the Congress have prohibited that to this day.

Some history as to how the electric utilities came to be customers of the Federal Government and just what uranium enrichment is will be of some help in understanding the differences in "accounting."

Before uranium can be used in a nuclear reactor or placed in a nuclear weapon the form—called an isotope—of uranium that holds the energy that makes uranium such a unique element must be increased in its concentration. The Federal Government constructed three major facilities as part of its nuclear weapons program to concentrate this energy rich form of uranium. These are the uranium enrichment plants which are the subject of the debate.

Up until 1964 the only one who could own nuclear materials was the Federal Government. In that year a law was enacted which permitted private ownership of nuclear materials and allowed private individuals to have their uranium enriched at the Government facilities. This enrichment was to be done for a fee. The Atomic Energy Commission was given the responsibility to set the fee for uranium enrichment using a set of criteria which the Congress was to review whenever these criteria were changed. The Congress gave the AEC the guidance that fees should "be on a basis which will provide reasonable compensation to the Government"—section 161v. of the Atomic Energy Act as amended in 1966.

The significant point of departure for the two accounting systems is how the utilities should be charged for the existing enrichment plants once they started to use their services. The Energy Committee position is that the fee properly included a component for depreciation for the enrichment facilities. The Energy Committee did find that some funds had been appropriated by the Congress which had not been repaid through the fees charged. Including interest this comes to $364 million.

The OMB and GAO claim that the electric utilities should have been charged the full value of the facilities at the time they began to buy services. They further claim that because they were not charged this amount, an interest charge should also be assessed, thus the "unrecovered debt" of over $8 billion.

The CRS has said either approach is valid. The question before the Senate is which was intended when the Congress authorized commercial utilities to first use the Federal facilities for uranium enrichment.

The following legislative history demonstrates the OMB position was never the intent of Congress and has been specifically rejected once before. Furthermore, the GAO has previously supported this contention even though their present position might be viewed as a reversal of that position.

In 1970 the AEC sent a proposed modification to the Congress for the criteria used in setting fees for uranium enrichment. The new basis for pricing was:

> In recognition of the commercial nature of the primary market to be served, and of the fact that the existing facilities were constructed primarily for non-commercial markets, AEC's charge for enriching services will be established at the level estimated to be equivalent to the charge for separative work performed in new uranium enrichment facilities designed, constructed, and operated primarily to meet commercial markets, using debt-equity ratios, rates of return on investment, and appropriate allowances for Federal corporate income taxes, State and local taxes and insurance deemed by the Commission to be appropriate for a private industrial enriching enterprise. (June 11, 1970 proposed amendment to the existing criteria)

The Joint Atomic Energy Committee of the Congress reviewed the proposed change and found that treating the already existing facilities as if they were new and built only for the commercial users was "contrary to law because they are clearly inconsistent with the intent of the Congress (as it related to the 1964 amendments)." (House Report No. 91-1470) The GAO concurred. (July 17, 1970 report to the JAEC)

The committee believed that the proposed criteria might result in the Government recovering more than the full cost of the enrichment service. Therefore the committee reported an amendment to section 161v, intended to "affirm with greater clarity the intention of the Congress as correctly discerned by the GAO in its July 17, 1970 report." "Under the clarified version of subsection 161v, the committee intends that the criteria in effect since 1966 will continue to be in effect * * *"

It is worth noting that even today the defense needs for the uranium enrichment complex are great. Approximately $900 million would have to be appropriated each year if the facilities were run solely for defense purposes. Today, because the electric utilities share much of the fixed costs of these facilities the cost for uranium enrichment for defense purposes is only $200 million.

Mr. HUMPHREY. Mr. President, for the past 30 years, the Federal Government has enriched uranium for the Government's own use as well as for use in the nuclear reactors of the Nation's commercial electric utilities.

Under section 161(v) of the Atomic Energy Act of 1954, DOE is required to recover all costs incurred by the Enrichment Program over a reasonable period of time. This decision was made to ensure that the taxpayers would not end up subsidizing the commercial nuclear industry for the cost of its fuel. Nearly everyone admits that DOE has not fully recovered all the costs associated with the program over the years. What people disagree over is how much is owed.

Mr. President, the General Accounting Office—the Government agency charged with keeping track of such things—has estimated that, over the years, the Department of Energy has failed to recover $8.8 billion from its customers. GAO presented those estimates in an October 1987 report which was prepared at the request of Senator PROXMIRE and me. A copy of that report was sent to all Senators.

The Office of Management and Budget has concurred with the method GAO used to calculate the level of unrecovered Government cost. In early 1987, the Director of the Office of Management and Budget, James C. Miller III, submitted responses to the House Subcommittee on Energy Conservation and Power stating:

> The administration decided to adopt the GAO methodology for calculating the total unrecovered government investment * * * this source was selected because it: (1) consistently has recorded the Government's costs and revenues each year, as reviewed by GAO; (2) avoids the complications of the numerous adjustments which occur when historical budget data is used; and (3) consistently has been used as the gauge for meeting the cost recovery requirement of the law which includes the initial Government investment in uranium enrichment starting in 1969.

Although the General Accounting Office says $8.8 billion constitutes the unrecovered costs, and the Office of Management and Budget has agreed with GAO's methodology, the bill reported out of the Energy Committee established this level at just $364 million. Thus, under the original provisions of S. 2097, there was little incentive and certainly no requirement to recover a vast share of the Government's investment in the Uranium enrichment Program.

Mr. President, I believe that amendment 1910, adopted during yesterday's consideration of S. 2097, improves significantly the Energy Committee's bill on the issue of unrecovered Government costs. Under this amendment, over $3 billion worth of capital investment as well as $364 million in debt will be included in establishing the Government's financial interest in the Enrichment Corporation. This is an important change.

The amendment eliminates the need for Federal appropriations to the new Enrichment Corporation and provides for repayment of the new corporation's dividends to the Treasury. These dividends will be paid on stock issued by the Corporation to the Secretary of the Treasury. The value of the Corporation's stock, well over $3 billion, represents a substantial portion of the Government's investment in the Enrichment Program.

If successfully implemented, this capital structure will provide for the recovery of the Government's investment in the Uranium Enrichment Program. In a colloquy yesterday, the chairman of the Energy Committee, Senator JOHNSTON, assured me that the intent of this amendment is to maximize payment of dividends to the Treasury. The greater the return to the Treasury through dividends, the greater the Government's return on its original investment.

It is Congress' responsibility to ensure that the Corporation follows the letter and the spirit of this law and makes good the taxpayers' investment in the uranium enrichment enterprise. I am pleased that Senator JOHNSTON agreed to include a provision requiring that the Corporation report to Congress explaining how its dividends are spent. If a future Congress determines that the Corporation is milking the taxpayers' returns off the top, then Congress will have an obligation to direct the Corporation to pay dividends to the Treasury. To do otherwise, would be to disserve the interests of the stockholders who, in this case, are the American taxpayers.

Mr. President, I believe that the capital structure of the Corporation could be improved further to ensure that the Government's investment will be repaid. I hope that, as this bill proceeds, further modifications are considered. Issues such as the nature of the management structure and the type of stock issued by the Corporation will have a great impact on its success.

I hope that as part of the general injunction to maximize profits, the Corporation will examine a longstanding problem hindering the profitability of the enterprise—the long term, inflexible contracts for the uranium enrichment services. Shorter term, more flexible agreements would likely allow the Corporation to function more effectively. The fixed price ceiling contained in current contracts prohibits the enrichment enterprise from maximizing profits.

Mr. President, there are several objectionable provisions contained in S. 2097. Title II directs that $300 million of Federal funds be used in the cleanup of mill tailings sites when there are clearly identifiable parties to pay for the cleanups. Under current law, the mill operators are responsible for cleaning up these sites. I agree with the Department of Energy's assessment that

> It is not appropriate for the Federal Government to contribute to a fund for the cleanup of active mill tailings sites.

In addition, the imposition of charges on the use of foreign uranium contained in the Johnston-Domenici amendment runs counter to America's efforts to avoid protectionism and to promote free trade. According to Clayton Yeutter, U.S. Trade Representative, this amendment is ill advised. Furthermore, the administration has said it would veto a bill containing such penalties on the use of foreign uranium.

Mr. President, I hope that Senators take the time to examine all the provisions contained in S. 2097. The effects of this bill are far reaching. Taken as a whole, I believe S. 2097 needs more work.

Mr. JOHNSTON. Mr. President, am I not correct that, under the unanimous-consent agreement, we are now ready to go to third reading?

The PRESIDING OFFICER. The bill is open to futher amendment. If there be no further amendment to be proposed, in accordance with the order previously entered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. DIXON], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Ohio [Mr. METZENBUAM] and the Senator from Illinois [Mr. SIMON], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK] and the Senator from Ohio [Mr. METZENBAUM] would each vote "yea."

Mr. SIMPSON. I announce that the Senator from Iowa. [Mr. GRASSLEY], the Senator from Pennsylvania [Mr. HEINZ] and the Senator from Nebraska [Mr. KARNES] are necessarily absent.

I futher announce that, if present and voting, the Senator from Iowa [Mr. GRASSLEY] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 28, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—62

Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Breaux
Bumpers
Chiles
Cochran
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dole
Domenici
Exon
Ford
Fowler
Garn
Glenn
Harkin
Hatch
Hecht
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Levin
Lugar
McCain
McClure
McConnell
Melcher
Mikulski
Murkowski
Nickles
Nunn
Pressler
Pryor
Quayle
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—28

Adams
Boschwitz
Bradley
Byrd
Chafee
Cohen
Danforth
Dodd
Durenberger
Evans
Graham
Gramm
Hatfield
Humphrey
Kerry
Lautenberg
Leahy
Matsunaga
Mitchell
Moynihan
Packwood
Pell
Proxmire
Reid
Riegle
Rockefeller
Roth
Stafford

NOT VOTING—10

Biden
Burdick
Dixon
Gore
Grassley
Heinz
Karnes
Kennedy
Metzenbaum
Simon

So the bill (S. 2097), as amended, passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1987".

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds for purposes of titles I and II of this Act that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mills, more than a 75 per centum drop in production, closure of many mines, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past five years and have resulted in the domestic uranium industry being found "not viable" by the Secretary of Energy under provisions of the Atomic Energy Act of 1954, as amended;

(5) re-establishing a viable domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901–7942):

(A) was enacted to provide for the reclamation and regulation of uranium mill tailings; and

(B) did not provide for a comprehensive method of financing reclamation and remedial action at active uranium and thorium processing sites;

(7) the owners or licensees of active uranium mills, the States in which such active mills are located, the Federal Government, and owners or licensees of civilian nuclear power reactors have each benefited from uranium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial action at the active sites; and

(8)(A) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites; and

(B) financing should be shared on an approximately equal basis by owners or licensees of active uranium mills, the Federal Government, and the owners or licensees of civilian nuclear power reactors, with support from the States in which the active sites are located.

(b) PURPOSE.—It is the purpose of titles I and II of this Act to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and the Nation's nuclear power program;

(2) re-establish a viable domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

DEFINITIONS

SEC. 3. For purposes of titles I and II of this Act—

(1) the terms "active uranium or thorium processing site" and "active site" mean—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after, January 1, 1978; and

(B) any other real property or improvement on such real property that—

(i) is in the vicinity of such site; and

(ii) is determined by the Commission to be contaminated with residual byproduct material.

(2) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(3) the term "byproduct material" has the meaning given such term in section 11(e)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(4) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(5) the term "Commission" means the Nuclear Regulatory Commission;

(6) the term "Department" means the Department of Energy;

(7) the term "domestic uranium" means—

(A) any uranium that has been mined in the United States, unless such uranium is deemed to be foreign uranium under section 117; and

(B) any uranium that is deemed to be domestic uranium under section 117.

Uranium mined in the United States shall include uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in-situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(8) the term "Equivalent Foreign Uranium" means the natural foreign uranium employed to produce the enriched foreign uranium included in a fuel assembly, considering the quantity of enriched uranium and the isotopic enrichment assays and tails assays ordered, and applying the Department's Standard Table of Enriching Services, or its replacement formula, plus the natural foreign uranium included in the assembly;

(9) the term "Equivalent Uranium" means the natural uranium employed to produce the enriched uranium included in a fuel assembly (excluding natural uranium employed through overfeeding), considering the quantity of enriched uranium and the isotopic enrichment assays ordered, and applying the Department's Standard Table of Enriching Services, or its replacement formula, plus the natural uranium included in the assembly;

(10) the term "foreign uranium" means (A) any uranium that has not been mined in the United States, unless such uranium is deemed to be domestic uranium under section 117; and (B) any uranium that is deemed to be foreign uranium under section 117;

(11) the term "overfeeding" means the use of natural uranium from stockpiles or inventories to produce enriched uranium when—

(A) an enrichment services customer supplies less natural uranium than the amount actually used to produce its enriched uranium requirements; and

(B) for purposes of achieving efficient operation of enrichment facilities, natural uranium from stockpiles or inventories is used to satisfy the shortfall in natural uranium supplied by such customer;

(12) the term "pre-production of enriched uranium" means the use at a given point in time of natural uranium from existing stockpiles or inventories to produce enriched uranium in excess of amounts required to satisfy then current obligations to provide enrichment services;

(13) the term "reclamation, decommissioning and other remedial action" includes long- and short-term monitoring, except for the purpose of determining the date when reclamation, decommissioning, and other remedial action is complete for the purpose of making refunds under section 215. Such term shall include mill decommissioning only if the owner or licensee of an active site elects to make the contribution provided for in section 213(b)(1)(C);

(14) the term "Secretary" means the Secretary of Energy;

(15) the terms "source material" and "special nuclear material" have the meanings given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(16) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

TITLE I—URANIUM REVITALIZATION

SEC. 110. DELETION OF SECTION 161v.—Subsection 161v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 111. AMENDMENT TO SECTION 170B.—Section 170B of the Atomic Energy Act of 1954, as amended, is further amended by deleting "1983" and substituting "2000", by deleting "1982" and substituting "2000", and by deleting "1992" and substituting "2011" in both places it appears.

SEC. 112. IN GENERAL.—Any licensee of a civilian nuclear power reactor with fuel assemblies loaded after December 31, 1987, and prior to January 1, 2001, that contain foreign uranium shall be assessed and pay the charges, to be imposed and collected by the Secretary, as provided in section 113, except as provided elsewhere in this title.

SEC. 113. CALCULATION OF CHARGES.—

(a) The charge to be imposed by the Secretary pursuant to section 112 shall be, subject to section 115, calculated upon the percentage of foreign uranium included in the aggregate of new fuel assemblies loaded into all of the civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calender year as follows:

"$0.00/kg	on the kilograms of foreign uranium which comprise the first 37 and one-half per centum of the total weight of the uranium in new fuel assemblies loaded in such year.
"$200/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 37 and one-half per centum, but less than or equal to 55 per centum.
"$250/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 55 per centum but less than or equal to 60 per centum.
"$350/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 60 per centum but less than or equal to 70 per centum.
"$400/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 70 per centum but less than or equal to 80 per centum.
"$500/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 80 per centum.

"(b)(1) For calendar years after December 31, 1994, no charge shall be imposed on the kilograms of foreign uranium which comprise the first 50 per centum of the total weight of the uranium in new fuel assemblies loaded in such year.

"(2) There shall be no charge imposed on foreign uranium excluded from the charge by section 115. The foreign uranium excluded from the charge by section 115, shall be deemed the first foreign uranium contained in the aggregate of new fuel assemblies loaded into all of the civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calendar year for purposes of calculating the charges to be paid under this section."

SEC. 114. CORPORATIONS OWNING MORE THAN ONE LICENSEE AND REACTORS WITH MULTIPLE OWNERS.—If a corporation owns more than one licensee, the percentage of foreign uranium which shall be considered included in new fuel assemblies loaded by each licensee owned by such corporation during a calendar year shall be the percentage of foreign uranium included in the aggregate of all new fuel assemblies loaded during such calendar year into all civilian nuclear power reactors owned by such corporation. Where a civilian nuclear power reactor is owned by more than one utility, an owner may, by mutual agreement with the other owners, elect to aggregate the pro rata share of new fuel assemblies in that plant with the pro rata shares of new fuel assemblies loaded in other civilian nuclear power reactors owned or operated by such owner.

SEC. 115. EXCLUSION FROM CHARGE.—

(a) In making the calculation of charges required in section 113, a charge shall not be assessed on foreign uranium that is included in new fuel assemblies loaded in all civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calendar year if such uranium has been obtained under the terms of a contract for the purchase of uranium entered into prior to September 30, 1986, between the licensee or the corporation owning the licensees of such civilian nuclear power reactors and the supplier, including:

(1) such a contract under which the quantity of uranium to be purchased is fixed but with flexibility as to date of delivery; and

(2) such a contract with a domestic supplier that allows the supplier to select the national origin of the uranium delivered.

(b) Foreign uranium that is included in new fuel assemblies loaded into a civilian nuclear power reactor owned or operated by a licensee or the licensees owned by one corporation during any calendar year shall be subject to the charges assessed on foreign uranium if such uranium was obtained under the terms of contract executed on or after September 30, 1986, or obtained under an option which was exercised on or after September 30, 1986. The increased quantities of foreign uranium obtained under a contract executed before September 30, 1986, but that is modified or extended after that date to increase the quantity of foreign uranium delivered, shall be subject to the charges imposed by section 113.

SEC. 116. DETERMINATION OF PERCENTAGE.—The percentage of foreign uranium that shall be deemed to be contained in the new fuel assemblies loaded in a year shall be determined by dividing the weight of Equivalent Foreign Uranium by the total weight of Equivalent Uranium in such fuel assemblies. For the purpose of this calculation, fuel loadings during refueling outages that begin in one calendar year and are completed in the following year may be counted in either year but not both.

SEC. 117. FLAG SWAPPING.—

(a) For purposes of making the certification required under section 119 and calculating the charges imposed under this title, a characterization of the national origin of a particular lot of uranium shall be recognized as provided in this section.

(b) If the national origin of a particular lot of uranium has not been changed from the nation in which it was mined, the nation in which such uranium was mined shall be used for purposes of making the certification required under section 119 and calculating the charges imposed under this title.

(c) Any transaction in which a party tenders uranium having one national origin in return for receipt of uranium having a different national origin shall not be deemed to have involved a change in the national origins of the lots of uranium involved in the transaction if:

(1) the transaction is accomplished in compliance with all applicable regulatory requirements; and

(2) the lots of uranium involved in the transaction are held at the same location in the custody of a third party such that, in actuality or by reason of the accounting practices of the third party, the lots of uranium involved in the transaction are commingled.

(d) If the national origin of a particular lot of uranium has been changed on or before January 1, 1986, from the nation in which it was mined, and such changed origin is shown on a DOE/NRC form 741 applicable to such uranium as of January 1, 1986, or on the first DOE/NRC form 741 executed after that date and applicable to such uranium, then the national origin of such uranium as shown on the first DOE/NRC form 741 reflecting the last change occurring on or before January 1, 1986, shall be recognized for purposes of making the certification required under section 119 and calculating the charges under this title.

(e) If the national origin of a particular lot of uranium has been changed after January 1, 1986, from the country in which it was mined, from the national origin as shown on a DOE/NRC form 741 applicable to such uranium and recognized under subsection (d), or from a national origin recognized under this subsection prior to the change in question, such change in question shall be recognized for purposes of making the certification required under section 119 and calculating the charges owed under this title if the change was part of an exchange of national origins that:

(1) to the best knowledge of the owner of the particular lot of uranium, involved equal quantities of uranium, calculated on an equivalent natural uranium basis, with no increase in the quantities of uranium designated as foreign and designated as domestic;

(2) to the best knowledge of the owner of the particular lot of uranium, involved no uranium that has been loaded into a reactor, irradiated, contained in enrichment tails material or other by-product material of processing (including materials lost or unaccounted for) or materials owned by the United States Government; and

(3) complied with all applicable regulatory requirements at the time of the exchange, including regulations promulgated under subsection (f).

(f) The Secretary shall promulgate regulations within six months after the date of the enactment of this title that, to the extent reasonable and practicable, ensure that the purposes of this title are realized in the characterization of the national origin of uranium under this section.

(g) For purposes of this section, the term "uranium" shall include natural uranium and natural uranium equivalents.

SEC. 118. DISPOSITION OF CHARGES.—

The charges imposed by this title, and collected by the Secretary, shall be deposited within sixty days after the certification required in section 119 in the general fund of the Treasury of the United States as miscellaneous receipts.

SEC. 119. CERTIFICATION.—

The owner or operator of any civilian nuclear power reactor must certify to the Secretary by March 1 of each year the following information for the previous calendar year—

(a) the total weight of uranium in new fuel assemblies loaded during such year;

(b) the total weight of foreign uranium included in new fuel assemblies loaded during such year;

(c) the total weight of foreign uranium included in new fuel assemblies loaded during such year which is excluded from the charge pursuant to section 115;

(d) the total weight of domestic uranium included in new fuel assemblies loaded during such year;

(e) the isotopic enrichment assays and tails assays employed in ordering enriched uranium used in the respective fuel assemblies during such calendar year; and

(f) the equivalent natural uranium for each quantity of enriched uranium reported.

SEC. 120. GOVERNMENT URANIUM PURCHASES.—(a)(1) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall not enter into contracts or orders for the purchase of uranium other than for domestic uranium: *Provided*, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered before the date of enactment of this Act, or options exercised for fixed amounts prior to the date of enactment of this Act.

(2) The use of natural uranium contained in stockpiles or inventories owned by the United States, including its agencies and instrumentalities, shall be restricted to military purposes and Government research and to overfeeding and pre-production of enriched uranium by the United States Enrichment Corporation. The amount of natural uranium together with the amount of natural uranium equivalent of enriched uranium contained in stockpiles or inventories owned by the United States, including its agencies and instrumentalities, as of the date of enactment of this title shall, to the extent practicable, not be reduced except for military purposes, overfeeding, or Government research purposes.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

TITLE II—TAILINGS RECLAMATION

REMEDIAL ACTION PERFORMED BY THE OWNER OR LICENSEE OF ACTIVE SITES

SEC. 210. IN GENERAL.—(a) The owner or licensee of an active site shall select and perform reclamation, decommissioning, and other remedial action, at active sites.

(b) REMEDIAL ACTION TO BE PERFORMED IN ACCORDANCE WITH APPLICABLE STANDARDS.—Any reclamation, decommissioning, or other remedial action performed under subsection (a) by an owner or licensee shall comply with all applicable requirements established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or, where appropriate, requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021).

(c) COSTS OF REMEDIAL ACTION TO BE PAID FROM TAILINGS FUND.—The costs incurred by the owner or licensee for reclamation, decommissioning and other remedial action, performed by the owner or licensee under this title shall be reimbursed under sections 214, 215, and 216 from the Uranium Mill Tailings Fund established in section 211.

(d)(1) The following active sites qualify for reimbursement from the Uranium Mill Tailings Fund in accordance with the terms of this title:

Site	Estimated tons of mill tailings July 1, 1985
Cotter—Cannon City Mill, Cannon City, CO	2,200,000
UMETCO—Uravan Mill, Uravan, CO	10,300,000
Sohio Western—L-Bar Mill, Seboyeta, NM	2,100,000

United Nuclear—Churchrock Mill, Churchrock, NM	3,500,000
Anaconda—Bluewater Mill, Grants, NM	23,600,000
Quivera Mining—Ambrosia Lake Mill, Grants, NM	33,000,000
Homestake—Grants Mill, Grants, NM	21,800,000
Conoco—Pioneer Nuclear, Conquista Project, Falls City, TX	8,800,000
Chevron Resources—Panna Maria Mill, Hobson, TX	4,600,000
Exxon—Felder Facility, Three Rivers, TX	400,000
Rio Algom—Lisbon Mill, Moab, UT	3,000,000
Atlas—Moab Mill, Moab, UT	10,500,000
Dawn—Ford Mill, Ford, WA	3,000,000
Western Nuclear—Sherwood Mill, Wellpinit, WA	2,900,000
American Nuclear—Gas Hills Mill, Riverton, WY	5,900,000
Pathfinder—Lucky Mc Mill, Riverton, WY	9,500,000
Western Nuclear—Split Rock Mill, Jeffrey City, WY	7,700,000
UMETCO—East Gas Hills Mill, Riverton, WY	9,200,000
Exxon—Highland Mill, Douglas, WY	7,200,000
Rocky Mountain Energy—Bear Creek Mill, Douglas, WY	5,000,000
Pathfinder—Shirley Basin Mill, Shirley Basin, WY	5,800,000
Petrotomics—Shirley Basin Mill, Shirley Basin, WY	6,300,000
Energy Fuels/UMETCO—White Mesa Mill, Blanding, UT	1,900,000
Minerals Exploration—Red Desert, Rawlins, WY	1,000,000
UMETCO—Maybell, Maybell, CO	2,000,000
Tennessee Valley Authority—Edgemont, SD	2,000,000

(2) Within one hundred and eighty days of the date of the enactment of this title, the Secretary shall determine the actual amounts of mill tailings at each of the active sites listed in paragraph (1) on the date of the enactment of this title, and the dry tons of tailings at each active site listed in paragraph (1) the uranium from which was processed for sales to the United States Government, including the Atomic Energy Commission.

(3) No reimbursement for the reclamation, decommissioning and other remedial action performed at a uranium mill tailings site shall be made in accordance with the terms of this title for an active site not listed in paragraph (1) or for reclamation, decommissioning and other remedial action of mill tailings at a listed active site in excess of the actual amount of tailings determined by the Secretary under this paragraph to exist on the date of the enactment of this title.

URANIUM MILL TAILINGS FUND

SEC. 211. (a) ESTABLISHMENT OF URANIUM MILL TAILINGS FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Uranium Mill Tailings Fund (hereinafter referred to as the "Fund"). The Fund shall consist of—

(1) all contributions to the Fund from the States in which active sites are located as provided in section 212(a);

(2) all contributions to the Fund from owners or licensees of active sites as provided in section 212(b);

(3) all contributions made to the Fund by or on behalf of the Federal Government as provided in section 212(c);

(4) all fees received from owners or operators of civilian nuclear power reactors as provided in section 212(d); and

(5) all interest earned on sums in the Fund.

(b) USE OF FUND.—The Secretary may, subject to subsection (c), make expenditures from the Fund only for purposes of compliance with this title.

(c) ADMINISTRATION OF THE FUND.—(1) The Secretary of the Treasury, after consultation with the Secretary, shall annually submit to the Congress a report on the financial condition and operation of the Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Fund to the Office of Management and Budget annually along with the budget of the Department in accordance with chapter 11 of title 31, United States Code. The budget of the Fund shall consist of the estimates made by the Secretary of receipts by and expenditures from the Fund and other relevant financial matters for the succeeding three fiscal years, and shall be included in the Budget of the United States Government.

(3) If the Secretary determines that the Fund contains at any time amounts in excess of current needs, the Secretary shall request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Fund, shall be exempt from annual apportionment under the provisions of subchapter 11 of chapter 15 of title 31, United States Code.

(5) The Secretary may make disbursements from the Fund in amounts provided in advance in appropriations acts, which amounts shall be made available until expended.

CONTRIBUTIONS TO THE FUND

SEC. 212. (a) CONTRIBUTIONS BY STATES CONTAINING ACTIVE SITES.—(1) Each State containing an active site or sites may contribute from non-Federal funds to the Treasury of the United States to be deposited in the Fund the sum of $0.10 for each dry ton of tailings, the uranium from which was processed for commercial sales as established in accordance with section 210(d) at an active site listed in section 210(d)(1) within such State whose owner or licensee has elected to participate in reclamation, decommissioning and other remedial action through the Fund.

(2) Such payment shall be made in five equal annual installments commencing January 1, 1990.

(3) If any State containing an active site or sites, whose owner or licensee has elected to participate in reclamation, decommissioning and other remedial action through the Fund, fails or refuses to make the contributions, or any portion thereof, required by this section, this shall not affect the right of the owner or licensee of an active site in such State to participate in reclamation, decommissioning and other remedial action through the Fund.

(b) CONTRIBUTIONS BY OWNERS OR LICENSEES.—(1) Each owner or licensee of an active site listed in section 210(d)(1) who elects to participate in reclamation, decommissioning, and other remedial action, through the Fund shall contribute to the Treasury of the United States, to be deposited in the Fund—

(A) $2,000,000 per site as to which it is the owner or licensee of which—

(i) $1,000,000 shall be contributed on or before January 31, 1990; and

(ii) $1,000,000 shall be contributed on or before January 31, 1991;

(B) $1 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of the Act of which—

(i) $0.50 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of this Act, shall be contributed on or before January 31, 1992; and

(ii) $0.50 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of this Act, shall be contributed on or before January 31, 1993; and

(C) each owner or licensee of an active site listed in section 211(d)(1) who elects to decommission the mill at such site as a part of the reclamation, decommissioning and other remedial action to be undertaken pursuant to the Fund shall contribute an additional $500,000 on or before January 31, 1994.

(c) CONTRIBUTIONS BY OR ON BEHALF OF THE FEDERAL GOVERNMENT.—(1) There is authorized to be appropriated to the Fund, $300,000,000, to remain available until expended.

(2) Funds to be paid into miscellaneous receipts of the Treasury of the United States under section 1506 of the Atomic Energy Act of 1954, as amended, shall, without need for further appropriation, be paid into the Fund until $300,000,000 has been contributed to the Fund under this subsection. The authorization provided under paragraph (1) shall be reduced to the extent of contributions made under this paragraph.

(d) CONTRIBUTIONS BY LICENSEES OF CIVILIAN NUCLEAR POWER REACTORS.—(1) Licensees for civilian nuclear power reactors shall contribute into the Fund a fee of $22 per kilogram of uranium contained in fuel assemblies initially loaded into each civilian nuclear power reactor during each of the calendar years 1989 through 1993.

(2) The fee shall apply to fuel on its initial loading into the reactor and not to previously loaded fuel being loaded again. In calculating the total annual obligation by a li-

censee, fuel loaded in loadings during refueling outages that begin in a calendar year and are completed in the subsequent year may be deemed to have occurred in either year but not both.

(3) The fee from each user so affected will be due on January 31 the following year with the first such payment due on January 31, 1990.

(4) The contribution of this fee for the years 1989 through 1993 shall constitute the total obligation of licensees of civilian nuclear power reactors for uranium tailings reclamation, except to the extent that a user may be the owner or licensee of a uranium mill or as provided by contract executed prior to the effective date of this Act.

(5) Not later than one hundred and eighty days after the date of enactment of this Act the Secretary shall establish procedures for the collection and payment of the fee established by this title.

ELECTION TO PARTICIPATE

SEC. 213. OWNER OR LICENSEE ELECTION TO PARTICIPATE.—The owner or licensee of an active site listed in section 210(d)(1) may elect to perform reclamation, decommissioning and other remedial action through the Fund and be entitled to receive reimbursement under this title for the cost incurred by such owner or licensee for reclamation, decommissioning and other remedial action performed in connection with the owner's or licensee's active site by notifying the Secretary of such election on or before January 1, 1989. Such reimbursement shall be provided only to such extent and in such amounts as are provided in advance by appropriations Acts. If an owner or licensee makes an election to participate, the notice shall specify whether the owner or licensee elects to have decommissioning undertaken pursuant to the Fund. Such election to participate or not to participate shall be irrevocable.

REIMBURSEMENT OF COSTS INCURRED FOR RECLAMATION, DECOMMISSIONING AND OTHER REMEDIAL ACTION FROM FUND

SEC. 214. (a) IN GENERAL.—The Secretary shall reimburse from the Fund to the owner or licensee of an active site listed in section 210(d)(1) who has elected to participate as provided in section 213, the costs incurred by such owner or licensee for the reclamation, decommissioning and other remedial actions in connection with such site as follows:

(1) From the contributions made on behalf of the Federal Government as provided in section 212(c), such owner of licensee shall be reimbursed an amount equal to the cost of reclamation, decommissioning, and other remedial action at such site multiplied by the percentage which the dry tons of tailings at such site, the uranium from which was processed for sales to the United States Government, including the Atomic Energy Commission, constitutes to the total dry tons of tailings at such active site as determined in section 210(d)(2), but such reimbursement shall not exceed an amount equal to $4.50 multiplied by the dry tons of tailings at such active site, the uranium from which was processed for sales to the United States Government, including the Atomic Energy Commission.

(2) From any contributions made by a State to the Fund for tailings reclamation at such site, such owner or licensee shall be reimbursed an amount equal to the sum of such contributions.

(3)(A) From the contributions made by the owner or licensee of such active site plus the interest earned thereon, such owner or licensee shall be reimbursed one-third of the cost of reclamation, decommissioning and other remedial action at such site.

(B) Notwithstanding subparagraph (A), if the contributions made by the owner or licensee of such active site plus interest earned thereon exceed one-third of the cost of reclamation, decommissioning and other remedial action at such site, such excess shall be refunded to such owner or licensee. The payment of such excess shall be considered a refund and not reimbursement. If the contributions made or to be made by the owner or operator of such active site, plus interest earned thereon, is less than one-third of the cost of reclamation, decommissioning, and other remedial action at such site, then the amount by which one-third of the cost of reclamation, decommissioning, and other remedial action at such site exceeds the amount of contributions made by the owner or licensee of such active site plus interest earned thereon, shall be borne by the owner or licensee thereof.

(4) From the contributions made by licensees of civilian nuclear power reactors as provided in section 212(d) and interest earned thereon, the owner or licensee of such active site shall be reimbursed the amount by which the cost of reclamation, decommissioning, and other remedial action at an active site exceeds the sum of—

(A) the amounts reimbursed to the owner or licensee of such active site as provided in paragraph (1), paragraph (2), paragraph (3); and

(B) the amounts to be borne by the owner or licensee of such active site as provided in subparagraph (3)(B).

(5) Notwithstanding paragraphs (1) through (4), the owner or licensee of an active site shall also bear, and not be reimbursed for, any amount by which the cost of reclamation, decommissioning and other remedial action at such site exceeds a sum equal to $4.50 multiplied by the dry tons of tailings at such site as determined in section 210(d)(2).

(6) The successor to the owner or licensee of an active site (other than the United States or agency thereof or a State as provided by law) shall be entitled to credit for contributions made by its predecessor and interest earned thereon and be entitled to receive any reimbursements or refunds.

(b) OWNER'S OR LICENSEE'S ACCOUNT.—The Secretary shall maintain accounts for each participating owner or licensee to reflect contributions by such owner or licensee, interest deemed earned on such contributions, reimbursements to such owner or licensee from the Fund, and the cost incurred by the owner or licensee for the reclamation, decommissioning or other remedial action in connection with such active site.

(c) ACCOUNTS FOR OTHER CONTRIBUTIONS TO THE FUND.—(1)(A) For the purpose of accounting, two-thirds of the costs incurred by participating owners or licensees at active sites, up to the maximum of $4.50 per dry ton of tailings at such sites as of the effective date of this Act (such two-thirds being $3 per dry ton based upon $4.50 per dry ton of tailings), shall be deemed to have been reimbursed from the Fund out of the portion of the Fund contributed:

(i) by or on behalf of the Federal Government as provided in section 212(c),

(ii) by the States that have contributed as provided in section 212(a), and

(iii) by the licensee of civilian nuclear power reactors as provided in section 212(d); and from interest deemed earned upon such contributions.

(B) The Secretary shall maintain accounts for each such person or entity making contributions to the Fund, reflecting the time and amount of such contributions and the interest deemed earned thereon.

(2) The Secretary shall determine as of January 31, 1996, whether the amount remaining in the Fund, other than the amounts contributed by participating owners or licensees of active sites and interest deemed earned thereon, when considered with the $4.50 per dry ton limit on reimbursement, exceeds the total cost reimbursable to the participating owners or licensees of active sites (other than that deemed reimbursed out of such participating owners' or licensees' contributions and interest deemed earned thereon or to be borne by owners or licensees), where reclamation, decommissioning and other remedial action has not been completed.

(3) If the Secretary determines there is an excess, then the excess shall be refunded as set forth in subsection (d): *Provided, however,* That no amounts contributed to the Fund by the participating owners or licensees of the active sites and interest deemed earned thereon shall be refunded to any person or entity other than the owner or licensee making such contribution, or their successors or assigns.

(d) REFUNDS TO CERTAIN CONTRIBUTORS.—The Secretary shall make a determination annually after January 31, 1996, whether an excess as calculated pursuant to subsection (c) exists in the Fund. If, as of January 31, 1996, and each January 31 thereafter, the Secretary determines that the Fund contains an excess as calculated in subsection (c), then the Secretary shall refund the excess as follows:

(1) first, to the States which have made contributions to the Fund as provided in section 212(a), until such States have been refunded the full amount of their contributions;

(2) the remaining excess, if any, shall be deposited in the Treasury of the United States.

(e) INTEREST DEEMED EARNED.—For the purposes of this title, the contributions made by any person or entity shall be deemed to have earned interest annually on the contribution from the date made. The appropriate interest rate for each year shall be determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations of the United States with one year maturity during the year for which calculation is being made: *Provided, however,* That contributions made by any participating owners or licensees of active sites shall be deemed to bear interest during any such year only to the extent that the contributions made by such owner or licensee exceeds one-third of the costs reimbursed out of the Fund to such owner or licensee up to that time.

LIMITATION OF REIMBURSEMENT

SEC. 215. (a) $4.50 PER TON LIMIT.—The total reimbursement from the Fund to the owner or licensee of an active site shall not exceed an amount equal to $4.50 multiplied by the dry tons of tailings located at the site as of the effective date of this Act, as determined in accordance with the requirements of section 210(d). Costs in excess of $4.50 per ton shall be borne by the owner or licensee of the active site on its own account outside the Fund.

(b) INFLATION ESCALATION INDEX.—The $4.50 per dry ton multiplier provided in subsection (a) shall be increased annually based upon an inflation escalation index. The Secretary shall determine the appropriate index to apply.

TAILINGS GENERATED AFTER THE DATE OF THE ENACTMENT OF THE TITLE

SEC. 216. (a) IN GENERAL.—An owner or licensee of an active site who has elected to participate pursuant to section 213 shall be entitled to reimbursement from the Fund, to the limits provided, for the costs incurred for the reclamation, decommissioning and other remedial action in connection with such active site on the basis of tailings existing at such active site as on the date of the enactment of this title. The participating owner or licensee of an active site shall be responsible on its own account outside the Fund for the costs incurred for the reclamation, decommissioning and other remedial action associated with tailings generated at such active site after the date of the enactment of this title.

(b) ACTIVE SITES CONTAINING TAILINGS GENERATED BEFORE AND AFTER THE DATE OF THE ENACTMENT OF THIS TITLE.—If an active site whose owner or licensee has elected to participate contains tailings generated both before and after the date of the enactment of this title, then it shall be assumed that the costs incurred by the owner or licensee for the reclamation, decommissioning and other remedial action in connection with such site were incurred pro-rata based upon the dry tons of tailings generated before and after such date of enactment as determined on the basis of the Secretary's findings under section 210(d)(2), unless the Secretary determines that the costs incurred in connection with the tailings generated after the date were less than would result from the pro-rata formula, in which event such lower amount shall be used for the purposes thereof.

THORIUM SITES

SEC. 217. IN GENERAL.—(a) The costs of reclamation, decommissioning, and other remedial action at active thorium sites shall be borne by the licensee or owner, subject to reimbursement by the United States for a portion of the costs at any such site if tailings at the site were generated as an incident of sales to the United States, or any of its agencies and instrumentalities. The portion of the costs to be allocated to the United States shall be determined by the ratio of the volume of tailings that were generated as an incident of sales to the United States, or any of its agencies and instrumentalities, to the total volume of tailings at the site. Owners or licensees shall decide by January 1, 1989, whether they have tailings subject to Federal reimbursement and so notify the Secretary. Subject to such notification and confirmation of the existence of tailings eligible for reimbursement as described above, the Secretary shall enter into a cooperative agreement with the owner or licensee of the site providing for the payment by the United States of its portion of the cost of reclamation, decommissioning and other remedial action.

(b) For the purpose of carrying out the provisions of this section, such funds as necessary are hereby authorized to be appropriated.

MAINTENANCE OF FUND BALANCE

SEC. 218. IN GENERAL.—The Secretary shall manage disbursements from the Fund such that it never is in a deficit on a cash basis. Reimbursements to owners or licensees may be delayed until receipts allow disbursements. In such cases, owners or licensees of active sites will be treated pro-rata where only partial reimbursements can be made.

INTEREST ON COSTS INCURRED

SEC. 219. IN GENERAL.—Reimbursement from the Fund for costs incurred shall include interest at the rate provided in section 214(e) on costs incurred by the participating owner or licensee of an active site from the date a statement for reimbursement of such cost is submitted by the owner or licensee to the Secretary until reimbursement for such cost is made from the Fund.

LIMITATION OF FINANCIAL OBLIGATIONS

SEC. 220. LIMITATION ON FINANCIAL OBLIGATION OF ACTIVE SITE OWNERS AND LICENSEES AND LICENSEES USING SOURCE MATERIAL OR SPECIAL NUCLEAR MATERIAL FOR A CIVILIAN NUCLEAR POWER REACTOR TO GENERATE ELECTRICAL ENERGY.—The contributions made and work performed by the owners or licensees of the active sites and the contributions made and fines paid by persons using source material or special nuclear material for a civilian nuclear power reactor to generate electrical energy shall be the sole liability and obligation imposed under Federal laws in connection with the reclamation, decommissioning and other remedial action at active uranium and thorium sites: *Provided, however,* That nothing herein contained shall affect the obligation of every owner or licensee to provide for such long-term care or other reclamation requirements as are provided in the Uranium Mill Tailings Radiation Control Act of 1978, the regulations of the Commission thereunder, and the regulations of the Environmental Protection Agency thereunder.

RECLAMATION ALREADY UNDERTAKEN

SEC. 221. IN GENERAL.—The owner or licensee of a participating active site who has undertaken reclamation, decommissioning and other remedial action at such site prior to the date of the enactment of this title shall be entitled to reimbursement for the cost thereof as if the work was done after such date if such work, including disposal work, was accomplished in order to comply with the standards under section 210(b). The timing of such reimbursement shall be subject to the management of the Fund as specified in section 218. An owner or licensee of an active site which has elected to participate in the Fund and has performed reclamation work prior to the date of the enactment of this title may have any sums to which it is entitled to be reimbursed credited against any sum it is required to contribute. The Commission shall determine whether work performed at a site prior to such date was accomplished in order to comply with the standards under section 210(b) and advise the Secretary accordingly.

SECRETARY'S AUTHORITY TO MAKE REGULATIONS AND REIMBURSEMENTS

SEC. 222. IN GENERAL.—The Secretary shall adopt and issue regulations to accomplish the purposes of this title and shall review statements by participating owners or licensees for reimbursement from the Fund of costs incurred for reclamation, decommissioning and other remedial actions. Any such statement for reimbursement found appropriate shall be approved by the Secretary and reimbursement therefore shall be made from the Fund.

ATOMIC ENERGY ACT OF 1954

SEC. 223. STANDARDS AND INSTRUCTIONS FOR BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS, INCLUDING PERFORMANCE BONDS.—Section 161 x. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201 x.) is amended by inserting after the word "ensure" in the matter preceding paragraph (1) a comma and the following: "for the share of costs for which the licensee is responsible".

TITLE III—UNITED STATES ENRICHMENT CORPORATION

SEC. 310. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. section 2011-2296) is further amended by—

(a) inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY"; and

(b) adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

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"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"(a) The enrichment of uranium is essential to the national security and energy security of the United States.

"(b) A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"(c) A strong United States enrichment enterprise promotes U.S. nonproliferation policies by requiring accountability for U.S. enriched uranium.

"(d) The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"(e) The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of uranium enrichment services.

"(f) The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"(g) Flexibility is essential to adapt business operations to a competitive marketplace.

"(h) The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"(i) The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION, AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"(a) The term 'Secretary' means the Secretary of Energy.

"(b) The term 'Department' means the Department of Energy of the United States.

"(c) The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"(d) The term 'Corporation' means the United States Enrichment Corporation.

"(e) The term 'Advisory Board' means the appointed members of the official advisory panel appointed by the Secretary pursuant to section 1503 of this title.

"(f) The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—(a) There is hereby created a body corporate to be known as the 'United States Enrichment Corporation.'

"(b) The Corporation shall—

"(1) be established as a wholly-owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. section 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes:

"(1) to acquire feed material for uranium enrichment, enriched uranium and the Department's uranium enrichment and related facilities;

"(2) to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"(3) to market and sell enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) qualified domestic and foreign persons;

"(4) to conduct research and development for purposes of identifying, evaluating, improving and testing processes for uranium enrichment;

"(5) to operate, as a continuing, commercial enterprise, on a profitable and efficient basis;

"(6) To establish a corporate structure that is self-financing and would obviate the need for appropriations or other sources of Government financing after enactment of this title;

"(7) to maintain a reliable and economical domestic source of enrichment services;

"(8) to conduct its activities in a manner consistent with the health and safety of the public and the common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"(9) to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"(a) shall perform uranium enrichment or provide for such enrichment to be performed by others at facilities of the Corporation. The Corporation shall continue in effect contracts in existence as of the date of the enactment of this section between the Department and persons currently under contract to perform uranium enrichment at facilities of the Department;

"(b) shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"(c) may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under section 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"(d) may, to the extent consistent with section 120 of the Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1987—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law: *Provided*, That comparable services are made available pursuant to paragraph (1);

"(e) shall sell to the Department as provided in this title, and without regard to the provisions of 31 U.S.C. 1535, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"(f) may grant licenses, both exclusive and nonexclusive, for the use of patents and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporations activities;

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the corporation—

"(a) shall have perpetual succession unless dissolved by Act of Congress;

"(b) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"(c) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"(d) may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"(e) may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"(f)(1) may acquire, purchase, lease, and hold real and personal property, including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and the Administrative Services Act of 1949, as amended;

"(2) purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition: *Provided*, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"(g) with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency or, any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"(h) may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any state, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"(i) may determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly-owned Government corporations;

"(j) notwithstanding any other provision of law, and without need for further appropriation, may use moneys, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code;

"(k) may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"(l) may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"(m) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"(n) may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to 5 U.S.C. 552(b)(3) when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests;

"(o) may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"(p) may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

"(q) may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—(a) Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts and power purchase contracts, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"(b) As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title: *Provided, however*, That Department orders, rules and regulations affecting health, environment and nuclear safety shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded or set aside by the Secretary.

"(c) Except as provided elsewhere in this title, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings, judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. CERTAIN PENDING LITIGATION.—The Corporation may enter into or continue any contract in accordance with the provisions of this title without regard to any judgment in the proceeding pending before the United States Court of Appeals for the Tenth Circuit in Docket No. 85-2428, concerning the procedure followed by the Department in setting the terms of certain enrichment services contracts.

"SEC. 1405. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR.—(a) The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience, is specially qualified to manage the Corporation: *Provided, however*, That upon enactment of this title, the Secretary shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"(b) The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the Secretary, except that compensation shall not exceed Executive Level I, as prescribed in 5 U.S.C. 5312;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least 30 days prior to the effective date of such removal.

"(c)(1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security;

"(B) health, safety and the environment; and

"(C) the need for indemnification with respect to hazardous nuclear activities.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not enumerated under paragraph (1), and, notwithstanding the provisions of 31 U.S.C. 9104(a)(4), including the setting of the appropriate amount of, and paying, any dividend under section 1506(c) and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate, to other officers or employees, powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. ADVISORY BOARD.—There is hereby established an Advisory Board appointed by the Secretary, which shall consist of five members, one of whom shall be designated as chairman. Members of the Advisory Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Advisory Board shall be, or previously have been, employed on a full-time basis in managing an electric utility:

"(a) The specific responsibilities of the Advisory Board shall be to—

"(1) review the Corporation's policies and performance and advise the Secretary and the Administrator on these matters; and

"(2) advise the Secretary or the Administrator on any other such matters concerning the Corporation as either may refer to the Advisory Board.

"(b) Except for initial appointments, members of the Advisory Board shall serve five-year terms. Each member of the Advisory Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"(c) Upon expiration of the initial term, each Advisory Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the Secretary shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"(d) The members of the Advisory Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"(e) The Advisory Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly.

"(f) The Corporation shall compensate members of the Advisory Board at a per diem rate equivalent to Executive Level III, as defined in 5 U.S.C. section 5314, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Advisory Board. Any Advisory Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"(g)(1) The Advisory Board shall report at least annually to the Secretary and to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Secretary or the attention of the Administrator, or both. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"(2) Within 90 days after the receipt of any report under this subsection the Secretary or the Administrator, as the case may be, shall respond in writing to such report and provide an analysis of such recommendation of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a statement of the reasons why that recommendation will not be implemented.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—Officers and employees of the Corporation shall be officers and employees of the United States:

"(a) The Administrator shall appoint all officers, employees, and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of 5 U.S.C. 5301, with compensation levels not to exceed Executive Level II, as defined in 5 U.S.C. 5313. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of 5 U.S.C. 2301(b) relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"(b) Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under 5 U.S.C. 5551, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by that employee for the Department.

"(c) This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"(d) Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"(e) Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation or Congress in accordance with the provisions of this title.

"(f) The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"(a) The Secretary, in consultation with the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following:

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided*, That facilities, real estate, improvements and equipment related to the Oak Ridge K-25 plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this subsection.

"(2) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology.

"(3) the Department's stocks of preproduced enriched uranium;

"(4) the Department's stocks of feed materials for uranium enrichment except for such quantities as are currently allocated to national defense activities of the Department;

"(5) all other facilities, equipment, materials (including depleted uranium and materials in process), processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporations functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

"(b) The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the atomic vapor laser isotope separation, hereinafter referred to as 'AVLIS', technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"(c) The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented), together with the right to use or have used any processes and technical information owned or controlled by the Department.

"(d) The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations, and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"(e) The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION.—(a) Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"(b)(1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States: *Provided,* That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator and the Secretary as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"(c) The Corporation shall pay into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions, including but not limited to research and development, capital investments and establishment of cash reserves.

"(d) The Corporation shall repay within a 20-year period the amount of $364 million into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law, with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on 20-year government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"(e) Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt, shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING.—(a)(1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as 'bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"(b) Bonds issued by the Corporation under the section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided,* That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of 15 U.S.C. 78c(c).

"(c) Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: *Provided,* That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING.—(a) To the extent permitted by prevailing business conditions, the Corporation shall establish prices and charges for its products, materials and services that in the opinion of the Corporation will over the long term: (1) recover the costs of performing and maintaining corporate functions, including but not limited to research and development, depreciation of assets, decontamination and decommissioning, and repayment of the Initial Debt and other obligations of the Corporation; and (2) generate profits consistent with the maintenance of the Corporation as a continuing, commercial enterprise and other purposes of this title: *Provided,* That the Corporation in setting prices and charges for products, materials and services provided to the Department shall recover on a yearly basis its costs of providing such products, materials or services, without regard to prevailing business conditions and without generation of profit. Prices and other contractual terms for the provision of products, materials, or services by the Corporation shall be established without regard to the provisions of the Administrative Procedure Act, as amended.

"(b)(1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its current customers in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning and decontamination of the various property of the Corporation, including property transferred under section 1505(a). Such costs shall be based on the point in time that such decommissioning and decontamination is undertaken and accomplished.

"(2) In order to meet the objective defined in paragraph (1), the Corporation, in consultation with the Secretary, shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) With respect to property that has been used in the production of low-assay separative work,

"(A) the cost of decommissioning and decontamination that shall be recoverable from commercial customers in prices and charges shall be in the same ratio to the total costs of decommissioning and decontaminating the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) all other costs of decommissioning and decontaminating such property shall be recovered in prices and charges to the Department.

"(4) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning and decontamination of such property shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of 31 U.S.C. 9105, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS.—(a) The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"(b) A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than 90 days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION.—(a) The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

"(b) No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403 or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

"(c) The restrictions detailed in subsections b., c., d., e., f., g., and h. of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"(d) The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"(e) Whenever the Corporation submits to the Secretary, the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"(f) The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS.—(a) The term "Commission" shall be deemed to include the Corporation wherever such term appears in sections 152, 153b.(1), and 158 of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153b.(1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"(b) The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"(c) The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153b.(1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153c. of title I subject, except as specified above, to all of the provisions of subsections 153 c., d., e., f., g., and h. of title I.

"(d) With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee of the Department' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"(e) The Corporation shall not be liable directly or indirectly for any damages or financial responsibility with respect to secrecy orders imposed under 35 U.S.C. 181 through 187.

"(f) The Corporation shall not be liable or responsible for any payments made or awards under subsection 157b.(3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"(g) The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING.—Licensing of enrichment production facilities shall be subject to the provisions contained within this section:

"(a) Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of the enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81, 101 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities.

"(b) The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under provisions of title I.

"(c) The Corporation shall be subject to the regulatory jurisdiction of the Nuclear Regulatory Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—(a) In order to render financial assistance to those states and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities and income are expressly exempted from taxation in any manner or form by any state, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate, and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"(b) The Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the state and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however,* That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) In no event shall the payment made to any taxing authority for any period be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management, operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately prior to the enactment of this title.

"(c) Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided,* That no payment shall be made to the extent that the tax would apply to a period prior to the enactment of this title.

"(d) The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"Sec. 1603. Miscellaneous Applicability of the Atomic Energy Act.—(a) Any references to the term "Commission" or to the Department in sections 105b., 110a., 161c., 161k., 161q., 165, 221a., 229, 230, 232 of title I shall be deemed to include the Corporation.

"(b) Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation—

"(1) the term 'Commission' shall be deemed to refer to the Secretary;

"(2) there shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) the Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"Sec. 1604. Cooperation With Other Agencies.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

"Sec. 1605. Applicability of Antitrust Laws.—(a) The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"(b) As used in this subsection, the term 'antitrust laws' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1-7), as amended;

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monoplies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12-27), as amended;

"(3) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(4) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"Sec. 1606. Intent.—It is hereby declared to be the intent of this title to aid the United States Enrichment Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexiblity to obtain necessary funds with which to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"Sec. 1607. Report.—(a) No earlier than January 1, 1993, but no later than December 31, 1998, the Administrator shall submit to the President and to Congress a report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties and assets of the Corporation to private ownership. If the Administrator recommends such transfers, the report shall include a plan for implementation of the transfers.

"(b) Within one hundred and eighty days after receipt of the report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"Sec. 1701. (a) Establishment of Fund.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the "Fund"). In accordance with section 1402(j), such account, and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(B) The Fund shall consist of—

"(i) amounts paid into it by the Corporation in accordance with section 1702; and

"(ii) any interest earned under subsection (b)(2).

"(b) Administration of Fund.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States—

"(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"Sec. 1702. Deposits—Within 60 days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials and services.

"Sec. 1703. Performance and Disbursements.—(a) When the Corporation determines that particular property should be decommissioned or decontaminated, or both, it shall in consultation with the Secretary, enter into a contract for the performance of such decommissioning and decontamination.

"(b) The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund."

"(c) Upon satisfaction of the terms and conditions of the contract entered into pursuant to subsection (a) and full payment of costs pursuant to subsection (b), the Corporation shall transfer to the Secretary all of its rights, title and interest in the particular property that is the subject of such decommissioning and decontamination contract.".

Sec. 311. Nuclear Hazard Indemnification.—The Secretary of Energy shall indemnify under section 170(d) of the Atomic Energy Act of 1954, as amended, the contractors of the Corporation as if such contractors were contractors of the Secretary.

Sec. 312. Miscellaneous Provisions.—(a) Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation."

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended—

(1) by adding before the period at the end of the definition of the term "production facility" in section 11 v. a colon and the following: "*Provided, however,* That as the term is used in Chapters 10 and 16 of this Act, other than with respect to export of a uranium enrichment production facility, it shall not include any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235";

(2) by striking the period at the end of section 161 b. and adding the following: "; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership or possession of any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;";

(3) by striking the phrase "section 103 or 104" in section 41a.(2) and inserting in lieu thereof "this title"; and

(4) in section 236 by striking the word "or" following paragraph (2) and adding after paragraph (3) "or (4) any uranium enrichment facility licensed by the Commission;".

(e) Subsection 905(g)(1) of title II, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

Sec. 313. Authorization of Appropriations.—For fiscal year 1989, total expenditures of the Corporation shall not exceed total receipts.

Sec. 314. Severability.—If any provision of this title, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of competent jursidiction to be invalid, the remainder of this title, or the application of the same shall not be thereby affected.

Sec. 315. Effective Date.—Except as otherwise provided, all provisions of this title shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this title: *Provided, however,* That the Administrator or Acting Administrator may immediately exercise the management responsibilities and powers of subsection 1501(a) of the Atomic Energy Act of 1954 as amended by this Act and previous Acts.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, we have just passed a significant bill, one that a good many people have worked on for 4 years.

I personally thank the chairman of the committee, Senator JOHNSTON, and the hardworking ranking member of the committee, Senator MCCLURE; it means a great deal to all of us. Senator DOMENICI worked very hard. I thank all of them for their hard work.

Now, Mr. President, all of us venture into new situations for the first time, and today we gave one of the staffers on the majority side on the Energy Committee what I would refer to as the baptism by fire. This is Cheryl Moss's first bill. If anybody has any indication or any knowledge of what goes on as staff work to complete a bill, they also understand the extra work that goes into a very complicated piece of legislation such as this. So I compliment Cheryl for her excellent work and look forward to the next bill when she will not worry after the bill passed whether she should cry or clap. I am very pleased that she was part of this.

And Bill Conway also worked very, very hard. He comes to the committee and to this kind of legislation well prepared. Dr. Ben Cooper, the fellow who keeps us steady and keeps us going, is another staffer who I compliment.

So, Mr. President, this is just another step in a long journey which happens here time after time, year after year. Those who have been here longer than I have understand that you just have to keep plugging. This means a great deal to this country and its future. It means a great deal to a lot of people, and I am very pleased that the Senate has taken this action.

I yield the floor.

Mr. McCLURE. Mr. President, I wish to thank the Senator from Kentucky for the kind words and also to assure those who may be listening that the Senator from Kentucky did his work, as well, as did the chairman of the committee. I join with him in complimenting the majority staff.

There are a couple of members in particular of the minority staff that are deserving of our compliments as well. Richard Grundy and Marilyn Meigs have both done yeoman work.

But I think what this really says is this is once again a bipartisan measure forged by people on both sides of the aisle knowledgeable with the issues, concerned about the energy industry and all the facets of it.

I think the vote on the outcome as well as the work that went into it illustrate the value of that kind of cooperation which knows no partisanship and only the good of the country.

I thank the Chair and I thank my colleagues on the other side of the aisle.

Mr. GRASSLEY. Mr. President, I was absent on final passage of S. 2091 because I was at the annual luncheon of the University of Iowa and the Iowa congressional delegation.

If I had been present I would have voted "aye" on rollcall vote No. 81.

Mr. HEINZ. Mr. President, I was absent on rollcall vote 81, on final passage of S. 2097. I voted on rollcall 80, but I did not know that second vote was going to occur so quickly.

Had I been present on rollcall vote 81, I would have voted "aye," and I would like the RECORD to so show.

The PRESIDING OFFICER. The RECORD will so indicate.

Mr. DOMENICI. Mr. President, when the uranium bill was completed, I was not on the floor to extend some of my own personal thanks to some staff members who had done a marvelous job, in fact 6 years long, in trying to get that bill passed.

I would like to thank Paul Gillman, of my staff, and K.P. Lau, who used to be a member of the Energy Committee staff, who really put together the framework for this bill, which passed the Senate today. I thank them and compliment them.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCIAL MODERNIZATION ACT

The PRESIDING OFFICER. Under the previous order the Senate will now proceed to the consideration of Calendar Order No. 595, S. 1886, the Financial Modernization Act of 1988. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1886) to modernize and reform the regulation of financial services, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Modernization Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—SECURITIES AFFILIATES OF BANK HOLDING COMPANIES

Sec. 101. Amendments to the Banking Act of 1933.
Sec. 102. Authorization for bank holding companies to acquire securities affiliates.
Sec. 103. Definition of securities affiliate.
Sec. 104. Ninety-one day rule for securities affiliate applications.
Sec. 105. Effect on State laws prohibiting the affiliation of banks and securities companies.
Sec. 106. Amendment to the Federal Reserve Act.
Sec. 107. Securities affiliations of FDIC-insured banks.
Sec. 108. Authorization for national banks to underwrite municipal revenue bonds, sponsor unit investment trusts, and distribute investment company securities.
Sec. 109. Amendments to the International Banking Act of 1978.
Sec. 110. Diversified financial holding companies.
Sec. 111. Study on harmonizing the regulation of banking and securities organizations.
Sec. 112. Study of the national payments system.
Sec. 113. Congressional vote on whether to permit securities affiliates to underwrite equity securities.

TITLE II—EXPEDITED PROCEDURES

Sec. 201. Expedited procedures for forming a bank holding company.
Sec. 202. Exemption of certain bank holding company formations from registration under the Securities Act of 1933.
Sec. 203. Expedited procedures for bank holding companies to seek approval to engage in nonbanking activities.
Sec. 204. Reduction of post-approval waiting period for bank holding company acquisitions.
Sec. 205. Reduction of post-approval waiting period for bank mergers.
Sec. 206. Amendments to the Depository Institution Management Interlocks Act.
Sec. 207. Bankers' banks.

TITLE III—BROKERS AND DEALERS

Sec. 301. Definition of broker.
Sec. 302. Definition of dealer.
Sec. 303. Power to exempt from the definitions of broker and dealer.
Sec. 304. Requirement that banks falling within the definitions of broker or dealer place their securities activities in a separate corporate entity.

TITLE IV—BANK INVESTMENT COMPANY ACTIVITIES

Sec. 401. Custody of investment company assets by affiliated banks.
Sec. 402. Affiliated transactions.
Sec. 403. Borrowing from an affiliated bank.
Sec. 404. Independent directors.
Sec. 405. Additional SEC disclosure authority.
Sec. 406. Definition of broker.
Sec. 407. Definition of dealer.
Sec. 408. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
Sec. 409. Definition of broker.
Sec. 410. Definition of dealer.
Sec. 411. Notification and consultation.
Sec. 412. Publicity.

TITLE V—STRENGTHENED ENFORCEMENT AUTHORITY
Sec. 501. Short title.
PART A—REGULATION OF BANKS
Sec. 511. Amendments to the Federal Deposit Insurance Act.
Sec. 512. Penalty for violation of "Change in Bank Control Act".
Sec. 513. Reports.
PART B—REGULATION OF SAVINGS AND LOAN ASSOCIATIONS
Sec. 521. Definition of "institution-related party".
Sec. 522. Cease and desist orders.
Sec. 523. Service corporations.
Sec. 524. Temporary orders.
Sec. 525. Removal and suspension.
Sec. 526. Retention of jurisdiction.
Sec. 527. Penalties.
Sec. 528. Civil penalty.
Sec. 529. Definitions.
Sec. 530. Reports of condition.
Sec. 531. Technical amendments.
Sec. 532. Penalty for failure to report.
Sec. 533. Repealer.
PART C—CREDIT UNIONS
Sec. 541. Amendments to section 206.
Sec. 542. Amendments to section 205.
TITLE VI—TRUTH IN SAVINGS AND INVESTMENTS
Sec. 601. Short title.
Sec. 602. Findings and purpose.
Sec. 603. Definitions.
Sec. 604. Disclosure of yields and terms of accounts.
Sec. 605. Account schedule.
Sec. 606. Disclosure requirements for certain accounts.
Sec. 607. Distribution of schedules.
Sec. 608. Payment of interest.
Sec. 609. Regulations.
Sec. 610. Administrative enforcement.
Sec. 611. Civil liability.
Sec. 612. Credit unions.
Sec. 613. Review of disclosure requirements for open-end management investment companies.
Sec. 614. Effect on State law.
TITLE VII—HOME EQUITY LOANS
Sec. 701. Short title.
Sec. 702. Disclosure and advertising requirements for home equity loans.
Sec. 703. Effective date.
TITLE VIII—INSURANCE ACTIVITIES
Sec. 801. Short title.
Sec. 802. Amendments to the Bank Holding Company Act of 1956 relating to insurance activities.
Sec. 803. Amendments to the National Bank Act.
TITLE IX—MISCELLANEOUS
Sec. 901. Study of hostile acquisitions of United States banks.
Sec. 902. Limitations on grandfathered nonbank banks owned by bank holding companies.
Sec. 903. Joint marketing restrictions.
Sec. 904. Industrial banks.
Sec. 905. Status of certain registered investment company.

TITLE I—SECURITIES AFFILIATES OF BANK HOLDING COMPANIES

SEC. 101. AMENDMENTS TO THE BANKING ACT OF 1933.

Section 20 (12 U.S.C. 377) and section 32 (12 U.S.C. 78) of the Banking Act of 1933 are repealed.

SEC. 102. AUTHORIZATION FOR BANK HOLDING COMPANIES TO ACQUIRE SECURITIES AFFILIATES.

Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by adding at the end thereof the following new paragraph:

"(15)(A) SECURITIES AFFILIATES.—Shares of a securities affiliate which may, in accordance with this paragraph, do one or more of the following:

"(i) Engage in underwriting, distributing, or dealing in securities of any type.

"(ii) Engage in securities brokerage, private placement, investment advisory, or other securities activities permitted for brokers or dealers registered under the Securities Exchange Act of 1934 or for investment advisers registered under the Investment Advisers Act of 1940.

"(iii) Engage in, or acquire the shares of a company engaged in, any activity that is not described in clause (i) or (ii) of this subparagraph, if another provision of this section permits a bank holding company or subsidiary thereof to engage in that activity or acquire those shares, and—

"(I) the Board permits the bank holding company to engage in that activity or acquire those shares through the securities affiliate, or

"(II) that provision permits the bank holding company or a subsidiary thereof to engage in that activity or acquire those shares without the Board's approval.

"(B) APPLICATION REQUIREMENTS.—

"(i) Except as provided in subparagraph (D)(ii) of this paragraph, a bank holding company shall not acquire or retain shares of a securities affiliate under this paragraph without complying with this subparagraph.

"(ii) The following provisions shall apply during the 4 years following the date of enactment of the Financial Modernization Act of 1988:

"(I) A bank holding company shall not acquire or retain shares of a securities affiliate pursuant to this paragraph without the Board's prior approval.

"(II) In acting on an application under this paragraph, the Board shall apply the criteria specified in this subparagraph, in subparagraphs (C) and (D)(i) of this paragraph, and in paragraph (8)(B)(iv) of this subsection.

"(III) The Board shall not approve an application under this paragraph unless the Board is satisfied that the bank holding company possesses the managerial resources to conduct the securities activities safely and soundly. In making that determination, the Board shall take into account the experience of management and its record of successfully managing the bank holding company or enterprises engaged in activities that are the same as or similar to those authorized for securities affiliates under this paragraph.

"(iii) Beginning 4 years after the date of enactment of the Financial Modernization Act of 1988, a bank holding company seeking to acquire or retain shares pursuant to this paragraph shall comply with paragraph (8)(B) of this subsection. In making a determination under that paragraph, the Board shall apply the criteria specified in clause (iv) of that paragraph and in subparagraphs (C) and (D)(i) of this paragraph.

"(C) CONCENTRATION OF RESOURCES.—

"(i) The Board shall disapprove any acquisition pursuant to this paragraph that would result in the affiliation of—

"(I) a bank holding company or bank that has, or had on average during any of the 8 calendar quarters preceding the date of the application, total assets of more than $30,000,000,000, with

"(II) an investment banking organization that has, or had on average during any of the 8 calendar quarters preceding the date of the application, total assets of more than $15,000,000,000.

"(ii) The dollar limitations in clause (i) of this subparagraph shall be adjusted annually after December 31, 1988, by the annual percentage increase in the Consumer Price Index as described in paragraph (8)(C) of this subsection.

"(D) INVESTMENT IN A SECURITIES AFFILIATE.—

"(i) A bank holding company shall not acquire control of a securities affiliate pursuant to this paragraph if the acquisition would reduce the bank holding company's capital below the minimum level established by the Board for bank holding companies.

"(ii) A bank holding company that has acquired control of a securities affiliate pursuant to this paragraph shall not directly or indirectly make any additional equity investment in the securities affiliate unless it gives the Board prior written notice of the proposed investment and—

"(I) the Board issues a written statement of its intent not to disapprove the notice; or

"(II) the Board does not disapprove the notice within 30 days after the notice is filed.

"(iii) The Board may disapprove a notice filed under clause (ii) if the Board finds that the investment would reduce the bank holding company's capital below the minimum level established by the Board or would otherwise be unsafe or unsound or inconsistent with the bank holding company's obligation to serve as a source of strength to its subsidiary banks.

"(E) CAPITAL STANDARDS.—(i) In determining whether a bank holding company complies with the capital requirements or guidelines established by the Board for bank holding companies—

"(I) the bank holding company's capital and total assets shall each be reduced by an amount equal to the amount of the bank holding company's equity investment in any securities affiliate, and by an amount equal to the amount of any extensions of credit by the bank holding company to any securities affiliate that are considered capital for purposes of any capital requirement imposed on the securities affiliate pursuant to section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(3)),

"(II) the assets and liabilities of the securities affiliate shall not be consolidated with those of the bank holding company, and

"(III) the bank holding company's total assets and total liabilities shall each be reduced by an amount equal to the amount of the bank holding company's extensions of credit to any securities affiliate, excluding extensions of credit described in subclause (I).

"(ii) Clause (i) of this subparagraph does not apply to the extent that the Board determines by order that an item described in that clause relates to activities that are not described in clause (i) or (ii) of subparagraph (A) of this paragraph.

"(F) LIMITATIONS ON SECURITIES AFFILIATES AND THEIR AFFILIATES.—

"(i) No bank or insured institution affiliated with a securities affiliate shall, directly or indirectly—

"(I) extend credit in any manner to the securities affiliate or a subsidiary thereof,

"(II) purchase for its own account financial assets of the securities affiliate or a subsidiary thereof,

"(III) issue a guarantee, acceptance, or letter of credit, including an endorsement or a standby letter of credit, for the benefit of the securities affiliate or a subsidiary thereof, or

"(IV) extend credit in any manner to any investment company advised by or the shares of which are distributed by the securities affiliate.

"(ii) Clause (i)(I) of this subparagraph does not apply to any extension of credit by a bank or insured institution made to acquire or sell any securities of the United States or its agencies or securities on which the principal and interest are fully guaranteed by the United States or its agencies if—

"(I) the extension of credit is to be repaid on the same calendar day,

"(II) the extension of credit is incidental to the clearing of transactions in those securities through that bank or insured institution, and

"(III) both the principal of and the interest on the extension of credit are fully secured by securities of the United States or its agencies or securities on which the principal and interest are fully guaranteed by the United States or its agencies.

"(iii) No bank or insured institution affiliated with a securities affiliate shall directly or indirectly extend credit, or issue or enter into a standby letter of credit, asset purchase agreement, indemnity, guarantee, insurance, or other facility, for the purpose of enhancing the marketability of a securities issue underwritten or distributed by the securities affiliate.

"(iv) No bank holding company or subsidiary thereof (other than a securities affiliate) shall knowingly extend or arrange for the extension of credit, directly or indirectly, secured by or for the purpose of purchasing any security while, or for 30 days after, that security is the subject of a distribution in which a securities affiliate of that bank holding company participates as an underwriter or a member of a selling group.

"(v) No bank or insured institution affiliated with a securities affiliate shall, directly or indirectly, extend credit to an issuer of securities underwritten by the securities affiliate for the purpose of paying the principal of those securities or interest or dividends on those securities. Nothing in this clause prohibits an extension of credit for a documented purpose (other than paying principal, interest, or dividends) if the timing, maturity, and other terms of the credit, taken as a whole, are substantially different from those of the underwritten securities.

"(vi)(I) No officer or director of a securities affiliate shall serve at the same time as an officer or director of any affiliated bank or insured institution.

"(II) Notwithstanding subclause (I) of this clause, an officer or director of a securities affiliate may serve at the same time as an officer or director of an affiliated bank or insured institution if the securities affiliate and the affiliated bank or insured institution are subsidiaries of a bank holding company that has total banking assets of not more than $500,000,000.

"(III) The dollar limitation in subclause (II) of this clause shall be adjusted annually after December 31, 1988, by the annual percentage increase in the Consumer Price Index as described in paragraph (8)(C) of this section.

"(IV) The Board may, by order or by regulation, grant exemptions from subclause (I) of this clause. In determining whether to grant such exemptions, the Board shall consider the size of the bank holding companies, banks, and securities affiliates involved, any burdens that may be imposed by subclause (I), the safety and soundness of the banks and securities affiliates, and other appropriate factors, including unfair competition in securities activities or the improper exchange of nonpublic customer information.

"(vii) Pursuant to regulations issued by the Securities and Exchange Commission, a securities affiliate shall prominently disclose in writing to each of its customers—

"(I) that the securities affiliate is not a bank or insured institution and is separate from any affiliated bank or insured institution; and

"(II) that securities sold, offered, or recommended by the securities affiliate are not deposits, are not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, are not guaranteed by an affiliated bank or insured institution, and are not otherwise an obligation of such a bank or insured institution.

"(viii) No bank, insured institution, or subsidiary thereof shall express an opinion on the value of, or the advisability of purchasing or selling, securities underwritten, distributed, or dealt in by an affiliated securities affiliate unless the bank, insured institution, or subsidiary discloses to the customer that the securities affiliate is underwriting, distributing, or dealing in the securities.

"(ix) No bank, insured institution, or subsidiary thereof shall disclose to an affiliated securities affiliate, nor shall a securities affiliate disclose to an affiliated bank, insured institution, or subsidiary thereof, any nonpublic customer information (including an evaluation of the creditworthiness of an issuer or other customer of that bank, insured institution, subsidiary, or securities affiliate) without the consent of that customer.

"(x) A securities affiliate shall not underwrite or distribute securities secured by or representing an interest in mortgages or other obligations originated by an affiliated bank, insured institution, or subsidiary thereof unless those securities—

"(I) are rated by an unaffiliated, nationally recognized statistical rating organization;

"(II) are issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association; or

"(III) represent interests in securities described in subclause (II) of this clause;

"(xi) Each appropriate Federal banking agency and the Securities and Exchange Commission shall establish a program for—

"(I) enforcing compliance with this paragraph by banks or insured institutions or securities affiliates under its supervision; and

"(II) responding to any complaints from customers about inappropriate cross-marketing of securities products or inadequate disclosure.

"(xii) Nothing in this paragraph limits—

"(I) any authority of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the Securities and Exchange Commission; or

"(II) any disclosure or registration requirements under the securities laws, as defined in section 21(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(g)).

"(G) SECURITIES AFFILIATES APPROVED UNDER PARAGRAPH (8).—

"(i) No bank holding company may engage in, or retain the shares of any company engaged in, activities of the type described in clause (i) of subparagraph (A) of this paragraph on the basis of the Board's approval of an application under paragraph (8) of this subsection—

"(I) unless the bank holding company obtains the Board's approval to retain the shares of that company pursuant to this paragraph; or

"(II) except to the extent that those activities are specifically authorized by statute for a national bank and involve securities that are expressly described in that statute, or that a regulation promulgated by the Comptroller of the Currency pursuant to that statute before November 18, 1987, expressly describes as being authorized for a national bank to underwrite or deal in.

"(ii) The Board shall, after the date of enactment of this paragraph, disapprove any notice by a bank holding company under paragraph (8) of this subsection to engage in, or acquire the shares of a company engaged in, any activity that is described in clause (i) of subparagraph (A), except to the extent that the activity is described in clause (i)(II) of this subparagraph.

"(H) ACTIVITIES PERMITTED FOR BANK AFFILIATES.—A bank holding company that acquires control of a securities affiliate under this paragraph shall not, after one year from the date of that acquisition, permit a bank or insured institution that it controls or any subsidiary thereof to engage, directly or indirectly, in the United States—

"(i) in activities described in subparagraph (A)(i) (except to the extent that those activities are described in subparagraph (G)(i)(II)); or

"(ii) in underwriting or distributing securities backed by or representing an interest in mortgages or other obligations originated or purchased by the bank or its affiliates.

"(I) COMPLIANCE WITH RISK-BASED CAPITAL STANDARDS.—

"(i) Notwithstanding subparagraph (A) of this paragraph, a securities affiliate shall not commence any of the following activities unless each of its affiliated banks is in compliance with any applicable risk-based capital standards issued by the appropriate Federal banking agency:

"(I) underwriting, distributing, or dealing in unsecured corporate debt securities that at the time of issuance have a maturity of one year or more; or

"(II) underwriting, distributing, or dealing in equity securities other than those issued by an investment company registered under the Investment Company Act of 1940.

"(ii) A bank is in compliance with the capital standards described in clause (i) if that bank is in compliance with a schedule for achieving compliance with those standards prescribed by the appropriate Federal banking agency.

"(J) DEFINITIONS.—For purposes of this paragraph—

"(i) a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank (as the terms 'agency', 'branch', 'commercial lending company', and 'foreign bank' are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101)), shall be considered a bank;

"(ii) each shareholder of or participant in a company that controls a bank described in section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) or in a similar statute of any State, and each subsidiary of such a

shareholder or participant, shall be treated as if it were a subsidiary of that company;

"(iii) the term 'appropriate Federal banking agency' means the agencies referred to in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) with respect to banks referred to in that section and the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) with respect to insured institutions;

"(iv) the terms 'deal in' and 'dealing in' do not include purchasing or selling securities for the account of another person; and

"(v) the term 'securities' does not include insurance and the term 'securities activities' does not include insurance activities.

"(K) PHASE-IN OF OR SEPARATE CONGRESSIONAL VOTE ON CERTAIN SECURITIES ACTIVITIES.—Notwithstanding subparagraph (A) of this paragraph, a securities affiliate shall not—

"(i) engage before 180 days after the date of enactment of the Financial Modernization Act of 1988, in underwriting, distribution, or dealing in—

"(I) unsecured corporate debt securities that at the time of issuance have a maturity of 1 year or more, or

"(II) securities issued by an investment company registered under the Investment Company Act of 1940; or

"(ii) engage in underwriting, distribution, or dealing in equity securities, other than those issued by an investment company registered under the Investment Company Act of 1940, except as authorized pursuant to a joint resolution pursuant to section 113 of the Financial Modernization Act of 1988 as enacted into law.".

SEC. 103. DEFINITION OF SECURITIES AFFILIATE.

Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(n) SECURITIES AFFILIATE.—The term 'securities affiliate' means any company that—

"(1) is engaged in the United States pursuant to section 4(c)(15)(A) of this Act in one or more of the activities described in that section; and

"(2) is registered as a broker or dealer under the Securities Exchange Act of 1934.".

SEC. 104. NINETY-ONE DAY RULE FOR SECURITIES AFFILIATE APPLICATIONS.

(a) NINETY-ONE DAY RULE.—Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by striking out "paragraph (8)" in the penultimate sentence and inserting in lieu thereof "paragraph (15)".

(b) SUNSET PROVISION.—The penultimate sentence of section 4(c) of the Bank Holding Company Act of 1956 (as amended by this Act) is repealed, effective 4 years after the date of enactment of this Act.

SEC. 105. EFFECT ON STATE LAWS PROHIBITING THE AFFILIATION OF BANKS AND SECURITIES COMPANIES.

Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended by inserting before the final period the following: ", except that no State may prohibit the affiliation of a bank or bank holding company with a securities affiliate solely because the securities affiliate is engaged in activities described in clause (i) or (ii) of section 4(c)(15)(A) of this Act.".

SEC. 106. AMENDMENT TO THE FEDERAL RESERVE ACT.

Section 23B(b)(1)(B) of the Federal Reserve Act (12 U.S.C. 371c-1(b)(1)(B)) is amended by inserting "and for 30 days thereafter" after "during the existence of any underwriting or selling syndicate".

SEC. 107. SECURITIES AFFILIATIONS OF FDIC-INSURED BANKS.

(a) SECURITIES AFFILIATIONS.—Section 18(j)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)) is amended to read as follows:

"(3) SECURITIES AFFILIATIONS.—

"(A) GENERAL RULE.—Except as provided in section 4(c)(15) of the Bank Holding Company Act of 1956, an insured bank shall not be an affiliate of any company that directly or indirectly acts in the United States as an underwriter or dealer of any security, other than a security that a national bank is specifically authorized by statute to underwrite or deal in and—

"(i) that is expressly described in that statute; or

"(ii) that a regulation promulgated by the Comptroller of the Currency pursuant to that statute before November 18, 1987, expressly describes as being authorized for a national bank to underwrite or deal in.

"(B) EXCEPTIONS.—This paragraph does not apply to—

"(i) an insured bank that is described in subparagraph (D), (F), (H), or (I) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)); or

"(ii) a foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)), solely because it has an insured branch in the United States.

"(C) GRANDFATHER PROVISION.—This paragraph does not prohibit the continuation of an affiliation that existed on March 5, 1987.

"(D) TRANSITION RULE.—An affiliation that became unlawful as a result of the enactment of the Competitive Equality Amendments of 1987, or that becomes unlawful as a result of the enactment of the Financial Modernization Act of 1988, may continue until August 10, 1989.

"(E) ACTIVITIES CONDUCTED DIRECTLY BY INSURED BANK.—Nothing in this paragraph restricts an activity that is conducted directly by an insured bank and is subject to section 21 of the Banking Act of 1933 (12 U.S.C. 378).

"(F) DEFINITIONS.—As used in this paragraph—

"(i) The term 'affiliate' has the meaning given to that term in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).

"(ii) The term 'company' has the meaning given to that term in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)).

"(iii) The term 'dealer' has the meaning given to that term in section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)).

"(iv)(I) Except as provided in subclause (II) of this clause, the term 'security' has the meaning given to that term in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

"(II) The Board of Governors of the Federal Reserve System may by regulation exempt from the definition of 'security' a banking product that has been traditionally and customarily originated or handled by national banks (such as loan participations, mortgage notes, and certificates of deposit) if the exemption is consistent with the purposes of this paragraph and of section 4(c)(15) of the Bank Holding Company Act of 1956.

"(v) The term 'underwriter' has the meaning given to that term in section 2(11) of the Securities Act of 1933 (15 U.S.C. 77b(11)).".

(b) CONFORMING AMENDMENT.—Clause (i) of section 408(m)(1)(A) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)) is amended by inserting after "clause (iii) of this subparagraph," the following: "and in section 18(j)(3) of the Federal Deposit Insurance Act,".

(c) TECHNICAL AMENDMENT.—Section 18(j)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(4)(A)) is amended by striking "or any provision of section 20 of the Banking Act of 1933" and inserting "or any provision of paragraph (3) of this subsection".

SEC. 108. AUTHORIZATION FOR NATIONAL BANKS TO UNDERWRITE MUNICIPAL REVENUE BONDS, SPONSOR UNIT INVESTMENT TRUSTS, AND DISTRIBUTE INVESTMENT COMPANY SECURITIES.

(a) AUTHORIZATION.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following:

"The limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing for its own account, securities shall not apply to an obligation issued by or on behalf of or guaranteed by a State, territory, or possession of the United States, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing. Notwithstanding the preceding sentence, such limitations and restrictions shall apply to a private activity bond (as defined in section 141 of the Internal Revenue Code of 1986) unless—

"(1) a State, territory, or possession of the United States or political subdivision thereof, or the District of Columbia, pledges its full faith and credit for payment of the entire principal of and interest on such bond; or

"(2) the interest on such bond is excluded from gross income under section 103(a) of the Internal Revenue Code of 1986, and the issuer, or the governmental unit on behalf of which such bond was issued, is the sole owner, for Federal income tax purposes, of the facility to be financed from the proceeds of such bond.

For purposes of the foregoing sentence, any bond described in section 1312(c)(2) of the Tax Reform Act of 1986 to which section 141(a) of the Internal Revenue Code of 1986 does not apply (by reason of section 1311, 1312, or 1313 of that Act), shall not be treated as a private activity bond.

"If the association is not an affiliate of a securities affiliate (as the terms 'affiliate' and 'securities affiliate' are defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)), the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing for its own account, securities shall not apply to—

"(1) the securities of unit investment trusts (as defined in section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-4(2)) holding only securities that the association is specifically authorized by statute to underwrite and that are expressly described in that statute, or expressly described as being authorized for a national bank to underwrite in a regulation promulgated before November 18, 1987, by the Comptroller of the Currency pursuant to that statute, and

"(2) the distribution of securities issued by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) that are not organized, sponsored, managed, or controlled by the association or any affiliate of the association.".

(b) TECHNICAL AMENDMENT.—The sixth sentence of paragraph Seventh of section 5136 of the Revised Statutes of the United States

(12 U.S.C. 24) is amended by striking out "or general obligations of any State or of any political subdivision thereof,".

SEC. 109. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) Restrictions on United States Banking Activities of Large Foreign Banks That Acquire Large Investment Banking Organizations With United States Offices.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by redesignating subsection (e) as subsection (g) and by inserting after subsection (d) the following new subsection:

"(e)(1) No foreign bank described in paragraph (2) of this subsection, and no foreign bank controlled by a foreign company described in paragraph (2), shall—

"(A) acquire or retain control of a bank,

"(B) establish or maintain a branch or agency in a State, or

"(C) acquire or retain control of a commercial lending company organized under State law.

"(2) A foreign bank or foreign company controlling a foreign bank is described in this paragraph for purposes of paragraph (1) if—

"(A) the foreign bank or foreign company became an affiliate of an investment banking organization (as that term is used in section 4(c)(15)(C)(i)(II) of the Bank Holding Company Act of 1956) after the date of enactment of the Financial Modernization Act of 1988;

"(B) section 4(c)(15)(C) of the Bank Holding Company Act of 1956 would have required the Board to disapprove the transaction that resulted in the affiliation if the foreign bank or foreign company had been a bank holding company at the time of the transaction;

"(C) the affiliation has not been terminated; and

"(D) the investment banking organization maintains an office or subsidiary in a State.".

(b) Restrictions on United States Investment Banking Activities of Large Foreign Investment Banking Organizations That Acquire Large Bank Holding Companies or Banks.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by inserting after subsection (e) (as added by subsection (a)) the following:

"(f)(1) No foreign investment banking organization (including any of its subsidiaries or affiliates) described in paragraph (2) shall acquire or retain control of a securities affiliate.

"(2) A foreign investment banking organization (including any of its subsidiaries or affiliates) is described in this paragraph for the purposes of paragraph (1) if—

"(A) the foreign investment banking organization became an affiliate of a bank holding company or bank after the date of enactment of the Financial Modernization Act of 1988;

"(B) section 4(c)(15)(C) of the Bank Holding Company Act of 1956 would have required the Board to disapprove the transaction that resulted in the affiliation if the foreign investment banking organization had been required to file an application or notice under section 4(c)(15); and

"(C) the affiliation has not been terminated.".

(c) Technical Amendment.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting "affiliate," after "(13) the terms" and by inserting "securities affiliate" after "control,".

SEC. 110. DIVERSIFIED FINANCIAL HOLDING COMPANIES.

(a) Definition.—Section 2 of the Bank Holding Company Act (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(o) Diversified Financial Holding Company.—For purposes of this Act, the term 'diversified financial holding company' means a company that directly or indirectly controls any bank and that is described in each of the following paragraphs:

"(1) Engages only in financial activities.—The company engages only in activities that are—

"(A) permissible for bank holding companies under section 4 of this Act (12 U.S.C. 1843); or

"(B) permissible under section 4(i)(4).

"(2) 80-percent test.—On average during the preceding calendar year, the company devoted 80 percent or more of its consolidated assets to activities that are permissible under paragraph (8), (13), (14), or (15) of section 4(c) of this Act, excluding activities conducted by any entity described in subparagraph (A) or (B) of paragraph (3) of this subsection.

"(3) Limit on FDIC-insured banks, FSLIC-insured institutions, and subsidiaries thereof as percentage of assets.—On average during the preceding calendar year, 20 percent or less of the company's consolidated assets consisted of the following entities in aggregate:

"(A) insured banks (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and any subsidiaries thereof; and

"(B) insured institutions and any subsidiaries thereof.

"(4) Global limit on depository institutions and their subsidiaries as percentage of assets.—On average during the preceding calendar year, 40 percent or less of the company's consolidated assets consisted of the following entities in aggregate:

"(A) insured banks and uninsured banks (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and any subsidiaries thereof;

"(B) insured institutions and any subsidiaries thereof, and uninsured institutions (as defined in section 408(a)(1)(B) of the National Housing Act (12 U.S.C. 1730a(a)(1)(B)) and any subsidiaries thereof;

"(C) foreign banks (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)) and any subsidiaries thereof; and

"(D) other depository institutions, whether or not in the United States, and any subsidiaries thereof.

"(5) Election.—The company has filed with the Board a written notice of its intent to be treated as a diversified financial holding company.".

(b) In General.—Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) is amended by adding at the end thereof the following new subsection:

"(i) Diversified Financial Holding Companies.—

"(1) Status.—A diversified financial holding company shall not be considered a bank holding company.

"(2) Applicable law.—Except as provided in paragraph (4) or (6) of this subsection, a diversified financial holding company shall be subject to any provision of the United States Code relating to bank holding companies in the same manner and to the same extent as if it were a bank holding company.

"(3) Intermediate holding companies.—

"(A) A subsidiary of a diversified financial holding company is not a bank holding company because it controls a bank.

"(B) If a subsidiary of a diversified financial holding company controls a bank, that subsidiary shall be subject to any provision of the United States Code relating to bank holding companies in the same manner and to the same extent as if it were a bank holding company, except to the extent that the diversified financial holding company is not subject to that provision.

"(4) Authority to continue to engage in nonconforming financial activities.—Notwithstanding subsection (a) of this section, a diversified financial holding company may engage in, or acquire or retain direct or indirect ownership or control of shares of any company engaged in, any activity described in paragraph (5) of this subsection (other than an activity described in subsection (c)(15)(A)(i) of this section) in which the diversified financial holding company was lawfully engaged in the United States, directly or through a subsidiary, as of February 1, 1988.

"(5) Definition of financial activities.—The following activities are described in this paragraph for purposes of paragraph (4) of this subsection:

"(A) insurance underwriting activities;

"(B) insurance agency activities;

"(C) real estate brokerage activities;

"(D) real estate investment and development activities;

"(E) travel agency activities; and

"(F) any other activities that the Board has determined to be financial.

"(6) Exemption from examination and capital requirements.—

"(A) Except as provided in subparagraph (B) of this paragraph, a diversified financial holding company, and any subsidiary (other than a bank) of that bank holding company, shall not be subject to inspection or examination or to reporting or capital requirements established by the Board under this Act or the International Lending Supervisory Act of 1983.

"(B) The Board may examine or require reports of any company that has filed a notice under section 2(o)(5) of this Act, and any nonbank subsidiary thereof, in order to—

"(i) determine whether that company is a diversified financial holding company;

"(ii) assure compliance by that company or nonbank subsidiary with the provisions of this Act, the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972), and sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c, 371c–1); or

"(iii) assure that the safety and soundness of that company's subsidiary banks are not threatened by the activities or condition of that company or its nonbank subsidiaries whenever the Board determines that emergency conditions exist requiring such assurance.

"(7) Restrictions on joint marketing.—No subsidiary bank of a diversified financial holding company shall—

"(A) offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8) or (c)(15) of this section, or

"(B) permit its products or services to be offered or marketed in connection with products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8) or (c)(15).

"(8) Restrictions on lending to affiliates engaged in nonconforming activities.—If a company engages in any activity pursuant

to paragraph (4) of this subsection, subsection (c)(15)(F)(i) of this section shall apply with respect to that company in the same manner and to the same extent as if the company were a securities affiliate.

"(9) DIVESTITURE OF SUBSIDIARY BANKS.—

"(A) If a company that has filed a notice under section 2(o)(5) of this Act fails to maintain the capital of each of its subsidiary banks at or above the level established for that bank by the appropriate Federal banking agency, the Board shall notify the company of the capital deficiency and provide the company 30 days in which to restore the capital of the bank to the level required by the appropriate Federal banking agency.

"(B) If the Board determines that the company is unable to restore the capital of its subsidiary bank to the required level, the Board may issue an order requiring the company to terminate its ownership or control of the bank within 180 days of the date of the order.".

SEC. 111. STUDY ON HARMONIZING THE REGULATION OF BANKING AND SECURITIES ORGANIZATIONS.

(a) FINDING.—The Congress hereby finds that authorization for banks to be affiliated with securities firms pursuant to section 102 of this Act and the provision of banking-type services by firms affiliated with securities firms calls for steps to be taken toward the promotion of regulatory equity between such firms. Among the most important tasks necessary to achieve this goal are the development and harmonization of capital adequacy and financial condition reporting requirements applicable to such firms. To that end, the Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board"), the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Commodity Futures Trading Commission shall review and coordinate their respective rules applicable to capital adequacy, reporting requirements, and transactions with affiliates on an ongoing basis in order to move in an orderly fashion toward greater compatibility and consistency.

(b) STUDY.—The agencies referred to in subsection (a) shall study the issues set forth below and prepare a joint report to the Congress within one year of the enactment of this Act setting forth the results of their study and any recommendations they may have for implementing their conclusions. The issues to be studied are—

(1) the advisability and effect of requiring the consolidated application of prudential standards and reports of financial condition on companies controlling banks or securities firms;

(2) the appropriate techniques, to the extent necessary, for supervision of financial interrelationships of banks and securities firms with their affiliates;

(3) the direction of efforts to achieve international harmony and convergence of capital adequacy and financial condition reporting standards for banks, securities firms, and companies controlling banks and securities firms;

(4) the effect of the conduct of financial activities across national borders on the provisions of securities services within the United States and on the supervision of such services within the United States;

(5) the advisability of establishing a permanent international framework for developing and implementing global policies to better harmonize financial market regulation, including capital adequacy standards; registration and reporting standards for banks and securities firms (including associated activities in futures markets), and companies controlling banks and securities firms; direct trading, clearing, and funds transfer mechanisms; routine exchange of information to facilitate international market surveillance of capital positions, trading activity, intercompany transfers, and potential abusive practices; exchange of information to facilitate the investigation of individual enforcement cases; dealing with international market emergencies; and approval of new products and services;

(6) the nature and techniques used in the supervision of banks, securities firms, and companies controlling banks and securities firms; and

(7) the impact of financial services competition from firms that are neither banks nor securities firms.

(c) CONSULTATION.—With due regard for the existing agreement and understandings between bank supervisors on an international level regarding capital adequacy of banks, the agencies referred to in subsection (a) on an ongoing basis shall—

(1) each review their respective rules applicable to capital adequacy and reporting of financial condition;

(2) develop proposed revisions to those rules that would move toward the harmonization of such rules;

(3) provide such proposed revisions to the other for comment and discussion; and

(4) discuss detail, in the report required by subsection (d), any proposed revisions on which the two agencies disagree.

(d) REPORTING.—No later than September 30 of each year, the Board and the Commission shall submit a joint annual report to Congress covering their progress toward the goals set forth in subsection (a) and recommending amendments to law, if any, that they believe would be necessary or advisable in order to attain those goals.

SEC. 112. STUDY OF THE NATIONAL PAYMENTS SYSTEM.

(a) FINDING.—It is the finding of Congress that the continued smooth and efficient functioning of the large-dollar payments system of the United States, including systems that provide for the delivery of securities against payment, is essential to the growth and stability of the economy of the United States and other nations and that the recent growth in the volume of payments due to new technology and changes in the financial services industry suggest that consideration of the mechanism by which large-dollar payments in the United States are made is necessary.

(b) STUDY.—The Board of Governors of the Federal Reserve System is hereby directed to study and prepare a report on the steps necessary to ensure the integrity and reliability of large-dollar payments systems in the United States, including the current status of the mechanism by which large-dollar payments are made in the United States and the steps that appear necessary or advisable to strengthen the reliability and safety and soundness of that mechanism over time. Such report shall be presented to Congress within one year of the passage of this Act.

(c) CONSULTATION.—The Board is directed to consult with the providers of large-dollar payment services, the users of such services, the vendors of equipment used in the provisions of such services, and the regulators of all of the above in conducting the study.

SEC. 113. CONGRESSIONAL VOTE ON WHETHER TO PERMIT SECURITIES AFFILIATES TO UNDERWRITE EQUITY SECURITIES.

(a) DEFINITION AND SUBMISSION OF JOINT RESOLUTION.—

(1) JOINT RESOLUTION DEFINED.—For purposes of this section, a joint resolution means a joint resolution introduced pursuant to the procedures described in this section—

(A) the matter after the resolving clause of which is as follows:

"That section 4(c)(15)(K) of the Bank Holding Company Act of 1956 is repealed.";

(B) which does not have a preamble; and

(C) the title of which is "Joint Resolution pursuant to the Financial Modernization Act of 1988".

(2) SUBMISSION TO THE CONGRESS.—On the first day of the first session of the 102d Congress, the Secretary of the Treasury shall submit the joint resolution to the Congress, together with a specific legislative recommendation on whether or not securities affiliates should be permitted to underwrite, distribute, and deal in equity securities. The recommendation shall be prepared by the Secretary of the Treasury in consultation with the Comptroller General of the United States, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, and shall be limited solely to the issue of whether the powers prohibited under section 4(c)(15)(K)(ii) of the Bank Holding Company Act of 1956 shall be authorized.

(b) PROCEDURE FOR HANDLING JOINT RESOLUTION.—

(1) Within 30 days of the date of submission by the Secretary of the Treasury, such joint resolution as defined in subsection (a) of this section shall be introduced (by request) in the House by the Speaker of the House for himself and the minority leader of the House or by Members of the House designated by the Speaker and the minority leader, and shall be introduced (by request) by the majority leader of the Senate for himself and the minority leader of the Senate or by Members of the Senate designated by the majority leader and the minority leader.

(2) Such joint resolution introduced in the House of Representatives shall be referred to the appropriate Committee or Committees, and such joint resolution introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

(3) If the Committee or Committees of either House to which the joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the Committee or Committees shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(4) Not later than 90 calendar days after the first day of session of the 102d Congress, it shall be in order for the chairman or ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate, and the chairman or ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives to move to proceed to the consideration of such joint resolution.

(5)(A) A motion in the House of Representatives to proceed to the consideration of such joint resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on such joint resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to further limit debate shall not be debatable. No amendment to, or motion to recommit, the joint resolution shall be in order. It shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(C) Motions to postpone made in the House of Representatives with respect to the consideration of such joint resolution and motions to proceed to the consideration of other business shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to such joint resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this paragraph consideration of such joint resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other joint resolutions in similar circumstances.

(6)(A) A motion in the Senate to proceed to the consideration of such joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on such joint resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 20 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with such joint resolution shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of such joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of such joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, the joint resolution is in order in the Senate.

(7) In the case of a joint resolution described in subsection (a), if prior to the passage by one House of a joint resolution of that House, that House received the joint resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if the joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

(8) The vote on passage of the joint resolution in each House shall occur on or before April 1, 1991.

TITLE II—EXPEDITED PROCEDURES

SEC. 201. EXPEDITED PROCEDURES FOR FORMING A BANK HOLDING COMPANY.

Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)",

(2) by inserting before the period at the end of the second sentence the following: "; or (C) with 30 days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive, after the reorganization, substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if, immediately following the acquisition, the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company and the holding company does not engage in any activities other than those of banking or managing and controlling banks. In promulgating regulations pursuant to this subsection, the Board shall not require more capital for the subsidiary bank immediately following the reorganization than is required for a similarly sized bank that is not a subsidiary of a bank holding company".

SEC. 202. EXEMPTION OF CERTAIN HOLDING COMPANY FORMATIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933.

Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following new paragraph:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), if the acquisition occurs solely as part of a reorganization in which a person or group of persons exchange their shares of a bank for shares of a newly formed bank holding company and receive, after that reorganization, substantially the same proportional share interests in the bank holding company as they held in the bank, except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law.".

SEC. 203. EXPEDITED PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN NONBANKING ACTIVITIES.

Paragraph (8) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by redesignating clauses (i) and (ii) of subparagraphs (C), (D), and (E) as subclauses (I) and (II), respectively;

(2) by redesignating subparagraphs (A) through (G), and any cross references thereto as clauses (i) through (vii), respectively; and

(3) by striking out all that precedes "purposes of this subsection it is not" and inserting in lieu thereof the following:

"(8)(A) ACTIVITIES CLOSELY RELATED TO BANKING.—In accordance with the limitations and requirements contained in subparagraphs (B) and (C) of this paragraph, shares of any company whose activities the Board has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto, after taking into account technological or other innovations in the provision of banking or banking-related services.

"(B) NOTICE REQUIREMENTS.—

"(i) No bank holding company shall engage in any activity or acquire the shares of a company pursuant to this paragraph, either de novo or by an acquisition in whole or in part of a going concern, unless the Board has been given 60 days prior written notice of that proposal and, within that period, the Board has not issued an order—

"(I) disapproving the proposal, or

"(II) extending the time period in accordance with clause (iii) below.

"(ii)(I) An acquisition may be made prior to the expiration of the disapproval period if the Board issues a written statement of its intent not to disapprove the proposal.

"(II) The Board shall publish in the Federal Register notice of receipt of a notice under this paragraph involving insurance and provide a reasonable period for public comment. The Board shall issue an order involving any such notice.

"(III) No notice under this paragraph is required for a bank holding company to establish de novo an office to engage in any activity previously authorized for that bank holding company under this paragraph or to change the location of an office engaged in that activity.

"(iii) The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice, except that the Board may require only such information as may be relevant to the nature and scope of the proposed activity and to the Board's evaluation of the notice under the criteria specified in clause (iv). If the Board requires additional relevant information beyond that provided in the notice, the Board may by order extend the time period provided in clause (i) of this subparagraph until it has received that information, and the activity that is the subject of the notice may be commenced within 60 days of the date of that receipt unless the Board issues a disapproval order as provided in clause (i). Such an extension order is reviewable under section 9 of this Act.

"(iv) In determining whether to disapprove a notice under this paragraph, the Board shall consider whether the performance of the activity described in the notice by a bank holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. In orders and regulations under this paragraph, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(v) The Board shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(C) INSURANCE ACTIVITIES NOT CLOSELY RELATED TO BANKING.—For".

SEC. 204. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK HOLDING COMPANY ACQUISITIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by adding before the period at the end of the fourth sentence thereof the following: "or if no adverse comment has been received regarding section 4(c)(8)(C) or section 4(j) of this Act, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 5 days".

SEC. 205. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK MERGERS.

Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence thereof the following: "or such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 5 days".

SEC. 206. AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

(a) Affiliation Threshold.—Section 202(3)(B) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)(B)) is amended by striking "50" both places it appears and inserting "25".

(b) Exclusion of Advisory and Honorary Directors.—Section 202(4) of the Depository Institution Management Interlocks Act (12 U.S.C. 3202(4)) is amended by inserting after "(including an advisory or honorary director" the following: ", except in the case of a depository institution with total assets of less than $100,000,000".

(c) Exception for Failed or Failing Institution.—Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end thereof the following:

"(7) A depository institution or a depository holding company that—

"(A) closes or is in danger of closing, as defined by the principal Federal supervisory agency charged by section 207 of this title with the administration and enforcement of this title, and

"(B) is acquired by another depository institution or depository holding company,

for a period of 5 years after the date of acquisition of the institution or company that is closed or is in danger of closing.".

(d) Limited Exception for Diversified Savings and Loan Holding Companies.—

(1) Section 202 of the Depository Institution Management Interlocks Act (12 U.S.C. 3202) is amended by adding at the end the following:

"(6) the term 'primary Federal supervisor' shall mean, with respect to any entity subject to this Act, the agency authorized by section 209 of this Act to issue rules or regulations carrying out this title.".

(2) Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end the following:

"(8) A diversified savings and loan holding company (as defined in section 408 of the National Housing Act (12 U.S.C. 1703a)), with respect to the service of a director of a nonaffiliated depository institution or depository holding company as a director of the diversified savings and loan holding company. The director may begin the dual service allowed by this paragraph upon the expiration of 60 days after notice of the proposed dual service by the diversified savings and loan holding company to its primary Federal supervisor and to the primary Federal supervisor of the nonaffiliated depository institution or depository holding company if prior to the expiration of that 60-day period, neither primary Federal supervisor disapproves the proposed dual service. Either primary Federal supervisor may disapprove the proposed dual service if it finds that (A) the dual service would result in a monopoly or substantial lessening of competition in financial services in any part of the United States; (B) the dual service would lead to substantial conflicts of interest or unsafe and unsound practices; (C) in the primary metropolitan statistical area in which the diversified savings and loan holding company's subsidiary depository institution is located, there is substantial competition between that subsidiary depository institution and the nonaffiliated depository institution or a depository institution subsidiary of the nonaffiliated depository holding company; or (D) the applying company neglects, fails, or refuses to furnish all the information required by either primary Federal supervisor.".

(e) Extension of Grandfather Clause.—Subsections (a) and (b) of section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) are each amended by striking "ten years" and inserting "15 years".

SEC. 207. BANKERS' BANKS.

(a) Bankers' Banks and Bank Holding Companies.—

(1) Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by inserting "or their holding companies" after "is owned exclusively (except to the extent directors qualifying shares are required by law) by depository institutions".

(2) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by inserting—

(A) ", directly or through a holding company," after "which is owned", and

(B) "or their holding companies" after "other depository institutions" each place it appears in paragraph (b)(1).

(b) Technical Amendment on Bankers' Banks and Deposit Insurance.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking "bank described in the last sentence of section 2(c)" and inserting "a bankers' bank as described in section 5169 of the Revised Statutes (12 U.S.C. 27)".

(c) Limit on Loans Secured by Securities.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking "10 percentum" in each place it appears and inserting in lieu thereof "15 percent".

TITLE III—BROKERS AND DEALERS

SEC. 301. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

"(4) 'Broker'.—

"(A) In general.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

"(B) Exclusion of banks.—Such term does not include a bank unless the bank publicly solicits such business or is compensated for such business by the payment of commissions or similar remuneration based on effecting transactions in securities (excluding fees calculated as a percentage of assets under management) in excess of the bank's incremental costs directly attributable to effecting such transactions (hereinafter referred to as 'incentive compensation').

"(C) Bank activities.—A bank shall not be deemed to be a 'broker' because it engages in one or more of the following activities:

"(i) Enters into a contractual or other arrangement with a broker or dealer registered under this title pursuant to which the broker or dealer will offer brokerage services on or off the premises of the bank if—

"(I) such broker or dealer is clearly identified as the person performing the brokerage services;

"(II) bank employees perform only clerical or ministerial functions in connection with brokerage transactions unless such employees are qualified as registered representatives pursuant to the requirements of a self-regulatory organization;

"(III) bank employees do not receive incentive compensation for any brokerage activities unless such employees are qualified as registered representatives pursuant to the requirements of a self-regulatory organization; and

"(IV) such services are provided by the broker or dealer on a basis in which all customers are fully disclosed.

"(ii) Engages in trust activities (including effecting transactions in the course of such trust activities) permissible for national banks under the first section of the Act of September 28, 1962 (12 U.S.C. 92a) or for State banks under relevant State trust statutes or law unless the bank—

"(I) publicly solicits brokerage business other than by advertising, in conjunction with advertising its other trust activities, that it effects transactions in securities, and

"(II) receives incentive compensation.

This clause does not apply to securities safekeeping, self-directed individual retirement accounts, or managed agency or other functionally equivalent accounts of a bank.

"(iii) Effects transactions in exempted securities, other than municipal securities, or in commercial paper, bankers' acceptances, or commercial bills.

"(iv) Effects transactions in municipal securities and does not have a securities affiliate as provided in section 4(c)(15) of the Bank Holding Company Act of 1956.

"(v) Effects transactions as part of any bonus, profit-sharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, stock appreciation, stock option, dividend reinvestment, or similar plan for employees or shareholders of an issuer or its subsidiaries.

"(vi) Effects transactions as part of a program for the investment or reinvestment of bank deposit funds into any no-load open-end investment company registered pursuant to the Investment Company Act of 1940 that attempts to maintain a constant net asset value per share and has an investment policy calling for investment of at least 80 percent of its assets in debt securities maturing in 13 months or less.

"(vii) Effects transactions for the account of any affiliate of the bank, as the term 'affiliate' is defined in section 2 of the Banking Act of 1933 (12 U.S.C. 221a), treating all banks as member banks for purposes of such definition.

"(viii) Effects sales (I) as part of a primary offering of securities by an issuer, not involving a public offering, pursuant to sections 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and (II) exclusively to: a bank as defined in section 3(a)(2) of the Securities Act of 1933 whether acting in its individual or fiduciary capacity; an insurance company as defined in section 2(13) of the Securities Act of 1933; an investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; a Small Business Investment Company licensed by the Small Business Administration; an insured institution, as defined in section 401 of the National Housing Act; a State or political subdivision thereof; an organization described in section 501(c)(3) of the Internal Revenue Code with total assets in excess of $5,000,000; a foreign bank, broker, dealer, insurance company, or government or government agency; or a natural person with a net worth exceeding $5,000,000. The dollar limitations in this clause shall be adjusted annually after De-

cember 31, 1988, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics.

"(ix) Effects fewer than 1,000 transactions per year in securities other than transactions referenced in clauses (i) through (viii) of this subparagraph, if the bank does not have a subsidiary or affiliate registered as a broker or dealer under this title.".

SEC. 302. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

"(5) 'DEALER'.—

"(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for his own account through a broker or otherwise.

"(B) EXCEPTIONS.—Such term does not include—

"(i) any person insofar as that person buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business; or

"(ii) any bank insofar as the bank (I) buys and sells commercial paper, bankers' acceptances, or commercial bills, or exempted securities other than municipal securities; (II) buys and sells municipal securities and does not have a securities affiliate as provided in section 4(c)(15) of the Bank Holding Company Act of 1956; (III) engages in trust or fiduciary activities (including buying and selling securities for investment purposes in the course of such trust or fiduciary activities); or (IV) engages in the issuance or sale through a grantor trust or otherwise of securities backed by or representing an interest in obligations (other than securities of which the bank is not the issuer) originated or purchased by the bank, its affiliates, or its subsidiaries.".

SEC. 303. POWER TO EXEMPT FROM THE DEFINITIONS OF BROKER AND DEALER.

Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following:

"(e) The Commission, by rule, regulation, or order, upon its own motion or upon application, may conditionally or unconditionally exempt any person or class of persons from the definitions of 'broker' or 'dealer', if the Commission finds that such exemption is consistent with the public interest, the protection of investors, or the purposes of this title.".

SEC. 304. REQUIREMENT THAT BANKS FALLING WITHIN THE DEFINITIONS OF BROKER OR DEALER PLACE THEIR SECURITIES ACTIVITIES IN A SEPARATE CORPORATE ENTITY.

Section 15(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended to read as follows:

"(a)(1) It shall be unlawful for any broker or dealer that is either a person other than a natural person or a natural person not associated with a broker or dealer that is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with subsection (b) of this section.

"(2) It shall be unlawful for any bank to act as a broker or dealer, except in the course of an exclusively intrastate business. This section shall not preclude a subsidiary of a bank or an affiliate of a bank holding company, other than a bank, as those terms are defined in the Bank Holding Company Act of 1956, that is registered in accordance with subsection (b) of this section from acting as a broker or dealer to any extent otherwise permissible by law.

"(3) The Commission, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraphs (1) and (2) of this subsection any broker or dealer or class of brokers or dealers specified in such rule or order.".

TITLE IV—BANK INVESTMENT COMPANY ACTIVITIES

SEC. 401. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANKS.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(f)) is amended by striking "trusts" the first place it appears and inserting in lieu thereof "trusts, but, where any such bank or an affiliated person thereof is an affiliated person, promoter, sponsor, or organizer of, or principal underwriter for, such registered company, only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors, after consulting in writing with the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))".

(b) UNIT INVESTMENT TRUSTS.—Section 26(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(a)(1)) is amended by inserting after "bank" the following: "not affiliated with such underwriter or depositor, or where such bank is so affiliated, only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors after consulting in writing with the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))".

SEC. 402. AFFILIATED TRANSACTIONS.

Section 10(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(f)) is amended by—

(1) inserting "(A)" immediately before "a principal underwriter"; and

(2) inserting ", or (B) the proceeds of which will be used to retire an indebtedness owed to a bank where the bank or an affiliated person thereof is an affiliated person, promoter, sponsor, or organizer of, or principal underwriter for, such registered company" after "for the issuer".

SEC. 403. BORROWING FROM AN AFFILIATED BANK.

Section 18(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(f)) is amended by adding at the end thereof the following:

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, it shall be unlawful for any registered open-end company to borrow from any bank if such bank or any affiliated person thereof is an affiliated person, promoter, sponsor, or organizer of, or principal underwriter for, such company, except that the Commission may, by rules and regulations or order, permit such borrowing which the Commission finds to be in the public interest and consistent with the protection of investors.".

SEC. 404. INDEPENDENT DIRECTORS.

(a) INTERESTED PERSON.—Section 2(a)(19)(A)(v) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A)(v)) is amended by striking out "1934 or any affiliated person of such a broker or dealer, and" and inserting in lieu thereof "1934 or any person that, at any time during the preceding 6 months, has acted as custodian or transfer agent or has executed any portfolio transactions for, engaged in any principal transactions with, or loaned money to, the investment company, or any other investment company having the same investment adviser, principal underwriter, sponsor, or promoter, or any affiliated person of such a broker, dealer, or person, and".

(b) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(c)) is amended by striking "bank, except" and inserting in lieu thereof "bank and its subsidiaries or any one bank holding company and its affiliates and subsidiaries, as those terms are defined in the Bank Holding Act of 1956, except".

(c) The provisions of subsection (a) of this section shall become effective after one year following the effective date of this title.

SEC. 405. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-35(a)) is amended to read as follows:

"SEC. 35. (a) It shall be unlawful for any person, in issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company has been guaranteed, sponsored, recommended, or approved by the United States or any agency or officer thereof or has been insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or is guaranteed by or is otherwise an obligation of any bank or insured institution. If a bank holding company, bank, or separately identifiable division or department of a bank, or any affiliate or subsidiary thereof, is an investment adviser, organizer, sponsor, promoter, principal underwriter or an affiliated person of a registered investment company, or a bank or an affiliated person of a bank is offering or selling securities of a registered investment company, or the name of an investment company is that of, or similar to that of, a bank, pursuant to regulations adopted by the Commission, after consultation in writing with the appropriate Federal banking agencies, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), any person in issuing or selling securities of such investment company may be required to disclose prominently that the investment company and any security issued by it is not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is not guaranteed by an affiliated bank or insured institution, and is not otherwise an obligation of such a bank or insured institution.".

SEC. 406. DEFINITION OF BROKER.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(6)) is amended to read as follows:

"(6) 'Broker' has the same meaning as in the Securities Exchange Act of 1934, but does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.".

SEC. 407. DEFINITION OF DEALER.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(11)) is amended to read as follows:

"(11) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does

not include an insurance company or investment company.".

SEC. 408. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)) is amended—

(1) by striking "investment company" and inserting "investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank acts as an investment adviser to a registered investment company unless the bank performs such services through a separately identifiable department or division of the bank, in which case the department or division and not the bank itself shall be deemed to be the 'investment adviser' "; and

(2) by adding at the end thereof the following: "For purposes of this paragraph, a separately identifiable department or division of a bank shall mean a unit that—

"(A) is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

"(B) there are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, all of the records relating to such investment adviser activities and such records are so maintained or otherwise accessible as to permit independent examination thereof and enforcement of the Act and rules and regulations thereunder.".

SEC. 409. DEFINITION OF BROKER.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(3)) is amended to read as follows:

"(3) 'Broker' has the same meaning as in the Securities Exchange Act of 1934.".

SEC. 410. DEFINITION OF DEALER.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(7)) is amended to read as follows:

"(7) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 411. NOTIFICATION AND CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by inserting after section 210 the following new section:

"NOTIFICATION AND CONSULTATION

"SEC. 210A. (a) IN GENERAL.—The Commission, prior to the examination of, the entry of an order of investigation of, or the commencement of any disciplinary or law enforcement proceedings against, any bank holding company, bank, or department or division of a bank that is a registered investment adviser shall give notice to the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), of the identity of such bank holding company, bank, or department or division and the nature of such proposed action and shall consult in writing with such appropriate Federal banking agency concerning any such proposed action, unless the protection of investors requires immediate action by the Commission and prior notice or consultation is not practical under the circumstances, in which case notice shall be given and the appropriate Federal banking agency shall be notified and consulted as promptly as possible thereafter.

"(b) EXAMINATION RESULTS.—The Commission and the appropriate Federal banking agency shall exchange the results of any examination of any bank holding company, bank, or department or division of a bank that is a registered investment adviser.

"(c) EFFECT ON OTHER AUTHORITY.—Nothing herein shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company, bank, or department or division under any provision of law.".

SEC. 412. PUBLICITY.

Section 210(b) of the Investment Advisers Act of 1940 is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding the following paragraphs after paragraph (2):

"(3) in the case of any State or Federal government official or agency or any self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934, for law enforcement or regulatory purposes; or

"(4) in the case of any foreign government official or agency for law enforcement or regulatory purposes.".

TITLE V—STRENGTHENED ENFORCEMENT AUTHORITY

SEC. 501. SHORT TITLE.

This title may be cited as the "Enforcement Powers Improvement Act of 1988".

PART A—REGULATION OF BANKS

SEC. 511. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

(a) AMENDMENTS TO SECTION 8.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank";

(B) "director, officer or other person"; and

(C) "director, officer, employee, agent or other person";

each place they appear and inserting "institution-related party";

(2) at the end of paragraph (1) of subsection (b), by striking the period and inserting: "including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the appropriate Federal banking agency deems appropriate. Such order may place limitations on the activities or functions of the bank or any institution-related party necessary to correct the conditions resulting from any such violation or practice.";

(3) after the first sentence of paragraph (1) of subsection (c), by inserting the following sentence: "Such order may place limitations on the activities or functions of the bank or any institution-related party.";

(4) at the end of subsection (c), by adding the following new paragraph:

"(3) Whenever a notice of charges specifies that an insured bank's books and records are so incomplete or inaccurate that the appropriate Federal banking agency is unable with reasonable effort to determine the financial condition of that bank or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that bank, the agency may issue a temporary order requiring cessation of any activities the agency deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (b) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the agency determines by examination or otherwise that the bank's books and records are accurate and capable of reflecting the financial condition of the bank.";

(5) in subsection (e), by striking paragraph (2) and amending paragraph (1) to read as follows:

"(1) Whenever the appropriate Federal banking agency determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured bank or business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty;

"(B) such insured bank or business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its depositors have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received financial gain by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of such institution-related party or demonstrates willful or continuing disregard for the safety or soundness of such insured bank or business institution,

the agency may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured bank.";

(6) in subsection (e), by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively, and by amending paragraph (3), as redesignated, to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written order to such effect served upon such party, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any bank where the party involved is presently associated.";

(7) after paragraph (5) of subsection (e), as redesignated, by inserting the following new paragraph:

"(6) Any person who is subject to a removal, suspension, or prohibition order pursuant to this subsection or subsection (g) shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(A) any insured institution,

"(B) any bank holding company or subsidiary of a bank holding company,

"(C) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(D) any savings and loan holding company (as those terms are defined in the National Housing Act), and

"(E) any institution chartered under the Farm Credit Act of 1971,

unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue such affiliation or to continue participating in the affairs of such institution.";

(8) in subsection (f), by striking "(e)(4)" in subsection (f) and inserting "(e)(3)", and by striking "(e)(1), (e)(2), or (e)(3)" and inserting "(e)(1) or (e)(2)";

(9) in subsection (i), by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting after "(i)" the following new paragraph:

"(1) The jurisdiction and authority of the appropriate Federal banking agency to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an insured bank.";

(10) in the first sentence of subsection (i)(3)(i), as redesignated, by inserting after "this section" the following: "or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank";

(11) by amending subsection (j) to read as follows:

"(j) PENALTY.—Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (e) or under subsection (g) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency—

"(1) participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution; or

"(2) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof or any other institution described in paragraph (1) of this subsection;

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (e) of this section may prohibit any act that would violate this subsection.";

(12) by amending subsection (k) to read as follows:

"(k) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' means—

"(A) the appropriate Federal banking agency, as provided in subsection (q) of section 3 (12 U.S.C. 1813);

"(B) the Federal Home Loan Bank Board, acting either in its own name or as operating head of the Federal Savings and Loan Insurance Corporation, in the case of a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation, or the subsidiary of such an institution, a Federal savings bank or a subsidiary of such a savings bank, a savings and loan holding company, or a subsidiary of a savings and loan holding company;

"(C) the National Credit Union Administration Board in the case of a depository institution whose accounts are insured by the National Credit Union Share Insurance Fund; and

"(D) the Farm Credit Administration in the case of an institution chartered under the Farm Credit Act of 1971.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the appropriate Federal banking agency (i) with the consent of the bank or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (h) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (iv) under paragraph (1) or (3) of subsection (g) of this section.

"(3) The term 'institution-related party' means a director, officer, employee, agent, or other person participating in the conduct of the affairs of an insured bank or a subsidiary of an insured bank, or any person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under section 7(j).

"(4) The term 'insured institution' means an insured bank or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund.

"(5) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation."; and

(13) by adding at the end thereof the following new subsection:

"(l) EFFECT ON OTHER AUTHORITY.—The authority granted to the Federal banking agencies under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

(b) INCREASED PENALTY FOR PARTICIPATION BY CONVICTED INDIVIDUAL.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended to read as follows:

"PENALTY FOR PARTICIPATION

"SEC. 19. Except with the written consent of the Corporation, no person who has been convicted, or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust shall serve as the director, officer, or employee of an insured bank or shall participate in the conduct of the affairs of such bank. For each knowing violation of this section, the bank or the individual involved shall each be subject to a penalty of not more than \$1,000 for each day such prohibition is violated, which the Corporation may recover for its use.".

SEC. 512. PENALTY FOR VIOLATION OF "CHANGE IN BANK CONTROL ACT".

Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended to read as follows:

"(16)(A) Any person who violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency pursuant thereto, shall forfeit and pay a civil money penalty of not more than \$10,000 per day for each day during which such violation continues. The agency having authority to impose a civil money penalty may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under such authority. The penalty may be assessed and collected by the appropriate Federal banking agency by written notice. As used in this paragraph, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The person assessed shall be afforded an opportunity for agency hearing upon request made within 10 days after receipt of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within 20 days from the date of such order and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be paid into the Treasury of the United States as miscellaneous receipts.".

SEC. 513. REPORTS.

(a) AMENDMENT TO THE BANK PROTECTION ACT OF 1968.—Section 3 of the Bank Protection Act of 1968 (12 U.S.C. 1882) is amended by striking in the first sentence of subsection (b) the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

(b) REPORTS OF CONDITION; FORM; CONTENT; DATE OF MAKING PUBLICATION; PENALTY FOR FAILURE TO MAKE REPORTS; PENALTIES FOR FALSE OR MISLEADING REPORTS.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) by striking, in the fifth sentence of subsection (a), "within ten days after the receipt of a request thereof from him;" and inserting "within the period of time specified by him;";

(2) by striking "; penalties" in the heading of subsection (c); and

(3) by striking the last sentence of subsection (c).

(c) NATIONAL BANKS.—Section 5213 of the Revised Statutes (12 U.S.C. 164) is amended by striking the first sentence and inserting "Every association which fails to make, obtain, transmit or publish any report or information required by the Comptroller under section 5211 of the Revised Statutes (12 U.S.C. 161) or which submits any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such false or misleading information is not corrected.".

(d) STATE NONMEMBER BANKS.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the last sentence and inserting "Every such bank which fails to make or publish any such report within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of not more than $1,000 for each day during which such failure continues or such false or misleading information is not corrected. Such penalty shall be recoverable by the Corporation for its use, and may be collected by the Corporation by suit or otherwise.".

(e) FEDERAL RESERVE MEMBERS.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking the fourth sentence and inserting "Every bank which fails to make such reports within the period of time specified by the Board of Governors of the Federal Reserve System or which submits or publishes any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such false or misleading information is not corrected; such penalty to be assessed and collected in the same manner as prescribed by section 8(i)(3) of the Federal Deposit Insurance Act.".

(f) BANK HOLDING COMPANIES.—Section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)) is amended by inserting after the word "thereto" in the first sentence "or any company which fails to make such reports as are required by this chapter or any regulation or order issued pursuant thereto within the period of time specified by the Board or which submits or publishes any false or misleading report or information,".

PART B—REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

SEC. 521. DEFINITION OF "INSTITUTION-RELATED PARTY".

(a) NATIONAL HOUSING ACT.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such institution";

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution";

(E) "director, or other person";

(F) "director or officer of an insured institution, or other person participating in the conduct of the affairs of such institution";

(G) "director or officer or other person";

(H) "director or officer thereof or other person participating in the conduct of its affairs"; and

(I) "director or officer or other person participating in the conduct of its affairs", and

(2) by inserting in lieu of each such phrase the phrase "institution-related party".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(f)) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such association";

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association";

(E) "director, officer, or other person";

(F) "director or officer of an association, or other person participating in the conduct of the affairs of such association"; and

(G) "director or officer or other person", each place that such phrases appear, and

(2) by inserting in lieu of each such phrase the phrase "association-related party".

SEC. 522. CEASE AND DESIST ORDERS.

(a) NATIONAL HOUSING ACT.—Section 407(e)(1) of the National Housing Act (12 U.S.C. 1730(e)(1)) is amended by striking the period at the end of paragraph (1) and inserting ", including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Corporation deems appropriate. Such order may place limitations on the activities or functions of the institution or any institution-related party necessary to correct the conditions resulting from any such violation or practice. The authority granted to the Corporation under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(2)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(A)) is amended by striking the period at the end of paragraph (2)(A) and inserting ", including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Board deems appropriate. Such order may place limitations on the activities or functions of the association or any association-related party necessary to correct the conditions resulting from any such violation or practice. The authority granted to the Board under this subsection shall be in addition to, and not restricted by, any other authority provided by Federal or State law".

SEC. 523. SERVICE CORPORATIONS.

Section 407(e)(3) of the National Housing Act (12 U.S.C. 1730(e)(3)) and section 5(d)(2)(C) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(C)) both are amended by striking the phrase "affiliate service corporation" and inserting the phrase "service corporation or any subsidiary of a service corporation, whether wholly or partly owned,".

SEC. 524. TEMPORARY ORDERS.

(a) NATIONAL HOUSING ACT.—Section 407(f) of the National Housing Act (12 U.S.C. 1730(f)) is amended—

(1) in the first sentence of paragraph (1), by striking the phrase "or any institution any of the accounts of which are insured" and inserting the phrase "with respect to the served institution";

(2) after the first sentence of paragraph (1) of subsection (f), by inserting the following sentence: "Such order may place limitations on the activities or functions of the institution or any institution-related party.";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

"(3) Whenever a notice of charges specifies that an institution's books and records are so incomplete or inaccurate that the Corporation is unable with reasonable efforts to determine the financial condition of that institution or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that institution, the Corporation may issue a temporary order requiring cessation of any activities the Corporation deems appropriate until completion of proceedings conducted under subsection (e) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Corporation determines by examination or otherwise that the institution's books and records are accurate and capable of reflecting the financial condition of the institution.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(3)) is amended—

(1) by inserting the following sentence after the first sentence of subparagraph (A) of subsection (d)(3): "Such order may place limitations on the activities or functions of the association or any association-related party.".

(2) by redesignating subparagraph (C) as subparagraph (D).

(3) by inserting after subparagraph (B) the following:

"(C) Whenever a notice of charges specifies that an association's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that association or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that association, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under subsection (d)(2) of this section. Such order *shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (B) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the association's books and records are accurate and capable of reflecting the financial condition of the association.".*

SEC. 525. REMOVAL AND SUSPENSION.

(a) National Housing Act.—Section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) is amended—

(1) by striking paragraph (2) and amending paragraph (1) to read as follows:

"(1) Whenever, in the opinion of the Corporation—

"(A) any institution-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a cease-and-desist order, which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured institution or other business institution, or has committed or engaged in any act, omission or practice which constitutes a breach of its fiduciary duty;

"(B) such insured institution or other business institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach or the institution-related party has received financial gain by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of the institution- related party or demonstrates willful or continuing disregard for the safety or soundness of the insured institution or other business institution,

the Corporation may serve on such institution-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any insured institution.";

(2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4) respectively, and by amending paragraph (3) of subsection (g) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party or any other person referred to in paragraph (1) or (2) of this subsection, the Corporation may if it deems it necessary for the protection of the institution or the interest of its savings account holders or of the Corporation, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the institution. Such suspension or prohibition shall become effective upon service of such order upon the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (6) of this subsection, shall remain in effect pending the completion of the administrative proceeding pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Corporation shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon the institution with which the party involved is presently associated."; and

(3) by inserting after paragraph (4) of subsection (g) (as so redesignated) the following:

"(5) Any person who, pursuant to this subsection or subsection (h), is removed, suspended, or prohibited from participation in the conduct of the affairs of an insured institution or a service corporation or a subsidiary of a service corporation of an insured institution, whether wholly or partly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(A) any insured bank (as that term is defined in the Federal Deposit Insurance Act),

"(B) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(C) any organization organized and operated under section 25 of the Federal Reserve Act,

"(D) any insured institution,

"(E) any service corporation or subsidiary of a service corporation of an insured institution, whether wholly or partly owned,

"(F) any savings and loan holding company or subsidiary of a savings and loan holding company,

"(G) any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(H) any institution chartered under the Farm Credit Act of 1971,

without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in the Federal Deposit Insurance Act, to continue participation in the affairs of such institution.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(4) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(4)) is amended—

(1) by striking subparagraph (B) and amending subparagraph (A) to read as follows:

"(4)(A) Whenever, in the opinion of the Board—

"(i) any association-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a case-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any association or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of its fiduciary duty;

"(ii) such association or other business institution has suffered or will probably suffer substantial financial loss or other damage or the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the association-related party has received financial gain by reason of such violation, practice, or breach; and

"(iii) such violation, practice, or breach involves personal dishonesty on the part of the association-related party, or demonstrates willful or continuing disregard for the safety or soundness of the association or other business institution,

the Board may serve upon such association-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any institution.";

(2) by redesignating subparagraphs (C) through (E) as subparagraphs (B) through (D) respectively, and by amending subparagraph (C) (as so redesignated) to read as follows:

"(C) In respect to any association-related party or any other person referred to in subparagraph (A) or (B) of this paragraph, the Board may, if it deems it necessary for the protection of the association or the interests of its savings account holders, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the association. Such suspension or prohibition shall become effective upon service of such order upon the association-related party and, unless stayed by a court in proceedings authorized by subparagraph (F) of this paragraph, shall remain in effect, pending the completion of the administrative proceedings pursuant to the notice served under subparagraph (A) or (B) of this paragraph and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this subparagraph shall also be served upon the association with which the party involved is presently associated."; and

(3) by inserting after subparagraph (D) of subsection (d)(4) (as so redesignated) the following:

"(E) Any person who, pursuant to this subsection or subsection (d)(5), is removed, suspended, or prohibited from participation in the conduct of the affairs of an association or a service corporation or a subsidiary of a service corporation of an association, whether partly or wholly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(i) any insured bank (as that term is defined in the Federal Deposit Insurance Act),

"(ii) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(iii) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(iv) any association or any institution insured by the Federal Savings and Loan Insurance Corporation,

"(v) any service corporation or subsidiary of a service corporation of an association or an institution insured by the Federal Savings and Loan Insurance Corporation,

"(vi) any savings and loan holding company or subsidiary of a savings and loan holding company,

"(vii) any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(viii) any institution chartered under the Farm Credit Act of 1971,

without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in section 8(k) of the Federal Deposit Insurance Act, to continue participation in the affairs of such institution.".

SEC. 526. RETENTION OF JURISDICTION.

(a) National Housing Act.—Section 407(k) of the National Housing Act (12 U.S.C. 1730(k)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting the following after paragraph (1):

"(2) The jurisdiction and authority of the Corporation to proceed under this section against any institution-related party shall

not be affected by the resignation, termination of employment, or other separation of such person from an institution."; and

(2) by inserting after "this section" in the first sentence of paragraph (4)(A) of subsection (k) (as redesignated) the following: "or any of the provisions of this title, or any regulation issued pursuant thereto,".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(8) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)) is amended—

(1) by redesignating subparagraph (A) as subparagraph (B) and subparagraph (B) as subparagraph (C), and by inserting the following at the beginning of subsection (d)(8):

"(A) The jurisdiction and authority of the Board to proceed under this section against any association-related party shall not be affected by resignation, termination of employment, or other separation of such person from an association."; and

(2) by inserting after "this subsection" in the first sentence of the redesignated paragraph (8)(C)(i) of subsection (d) the following: "or any of the provisions of this Act, or any regulation issued pursuant thereto,".

SEC. 527. PENALTIES.

(a) National Housing Act.—Section 407(p) of the National Housing Act (12 U.S.C. 1730(p)) is amended to read as follows:

"(p) Penalties.—(1) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (h) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in section 8(k) of the Federal Deposit Insurance Act—

"(A) participates in any manner in the conduct of the affairs of any insured institution, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any service corporation of an insured institution or subsidiary of a service corporation, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as these terms are defined in the National Housing Act), any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, or any institution chartered under the Farm Credit Act of 1971, from which that person has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations in respect to any voting rights in such institutions; or

"(B) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank or any other institution described in paragraph (i) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.

"(2) Except with the prior written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured institution or shall participate in the conduct of the affairs of such institution who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this prohibition, the institution or the individual involved shall each be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Corporation may recover by suit or otherwise for its own use.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(12) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(d)(12)) is amended by striking paragraphs (A) and (B) and inserting the following:

"(12) Penalties.—(A) Any person against whom there is outstanding and effective any order served upon such person under subparagraph (C) or (D) of paragraph (4) or under (5) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency (as that term is defined in section 8(k) of the Federal Deposit Insurance Act)—

"(i) participates in any manner in the conduct of any association or institution insured by the Federal Savings and Loan Insurance Corporation, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, any association or other institution insured by the Federal Savings and Loan Insurance Corporation, any service corporation of an association or institution insured by the Federal Savings and Loan Insurance Corporation or subsidiary of a service corporation, or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents or authorizations in respect to any voting rights in such institutions; or

"(ii) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank, or any other institution described in subparagraph (A)(i) of this subsection;

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (d)(4) of this section may prohibit any act that would violate this subsection.

"(B) Except with the prior written consent of the Board, no person shall serve as a director, officer, or employee of an association or shall participate in the conduct of the affairs of such association who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this prohibition, the association or the individual involved shall be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Board may recover by suit or otherwise for its own use.".

SEC. 528. CIVIL PENALTY.

Section 407(q)(17) of the National Housing Act (12 U.S.C. 1730(q)(17)) is amended to read as follows:

"(17)(A) Any person who violates any provision of this subsection, or any regulation or order issued by the Corporation pursuant thereto, shall forfeit and pay a civil money penalty of not more than $10,000 per day for each day during which such violation continues. The Corporation may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed. The penalty may be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The Corporation's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within 20 days from the service of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be paid into the Treasury of the United States.".

SEC. 529. DEFINITIONS.

(a) National Housing Act.—Section 407(r) of the National Housing Act (12 U.S.C. 1730(r)) is amended—

(1) by redesignating subparagraphs (B) through (D) of paragraph (1) as subparagraphs (C) through (E), respectively;

(2) by striking subparagraph (A) of paragraph (1) and inserting the following:

"(A) The term 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Corporation (i) with the consent of the institution or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the Corporation has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in subsection (j); or (v) an order issued under subsection (h) of this section.

"(B) The term 'institution-related party' means a director, officer, controlling person, employee, agent, or other person participating in the conduct of the affairs of an insured institution or of any service corporation or any subsidiary of a service corporation or an insured institution, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company as those terms are defined in section 408 of this title; and any person who has filed or is required to file a change-in-control notice with the Corporation under subsection (q) of this section. For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'institution-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity."; and

(3) by striking paragraph (4) and inserting the following:

"(4) As used in subsections (e), (f), (g), (h), and (p) of this section, the term 'insured institution' means any institution the deposits of which are insured by the Corporation, any institution that retains deposits insured by the Corporation notwithstanding termination of its status as an insured institution, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.".

(b) Home Owners' Loan Act of 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended—

(1) by redesignating paragraphs (2) through (4) of paragraph (13)(A) as paragraphs (3) through (5) respectively; and

(2) by striking paragraph (1) of paragraph (13)(A) and inserting the following:

"(1) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board (A) with the consent of the association or the association-related party concerned; (B) with respect to which no petition for review of the action of the Board has been filed and perfected in a court of appeals as specified in paragraph (7)(B) of this subsection; (C) with respect to which the action of the court in which such a petition is filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in paragraph (7)(B); or (D) under paragraph (5) (A) or (C) of this subsection.

"(2) The term 'association-related party' means—

"(A) a director, officer, controlling person, employee, agent, or other person participating in the conduct of affairs of an association or of any service corporation or of any subsidiary of a service corporation of an association, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company, as those terms are defined in section 408 of the National Housing Act, or of any association with respect to which the Federal Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act and the National Housing Act; or

"(B) any person who has filed or is required to file a change-in-control notice with the Federal Savings and Loan Insurance Corporation under subsection (q) of section 407 of the National Housing Act.

For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'association-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity."; and

(3) by striking paragraph (14) and inserting the following:

"(14)(A) As used in paragraphs (2), (3), (4), (5), and (12) of this subsection, the term 'association' includes any former association that retains deposits insured by the Federal Savings and Loan Insurance Corporation notwithstanding termination of its status as an institution insured by such Corporation, and any Federal savings bank whose deposits are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.

"(B) As used in this subsection, the terms 'Federal savings and loan association' and 'association' include any institution with respect to which the Federal Home Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act, and the National Housing Act.

"(C) References in this subsection to savings account holders and to members of associations shall be deemed to be references to holders of withdrawable accounts in institutions over which the Board has any statutory power of examination or supervision as provided in this paragraph, and references therein to boards of directors of associations shall be deemed to be references to boards of directors or other governing boards of such institutions. The Board shall have power by regulation to define, for the purposes of this paragraph, terms used or referred to in the preceding sentence and other terms used in this subsection.".

SEC. 530. REPORTS OF CONDITION.

Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following:

"(u) Reports of Condition; Penalties.—

"(1) Each insured institution or Federal saving bank shall make reports of condition to the Corporation which shall be in such form and shall contain such information as the Corporation may require. The Corporation may require reports of condition to be published in such manner, not inconsistent with any applicable law, as it may direct.

"(2) Any insured institution or Federal saving bank which fails to obtain and furnish any report or information required by the Corporation under this section within the period of time the Corporation specifies or which submits any false or misleading report or information shall be subject to a penalty of $1,000 each day during which such failure continues or is not corrected. Such penalty shall be assessed and collected in the manner as prescribed by section 407(q)(17) of this title.".

SEC. 531. TECHNICAL AMENDMENTS.

(a) National Housing Act.—Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended by striking "(1), (2), (3), or (4)" from the fifth sentence of paragraph (1) and inserting "(1), (2), or (3)".

(b) Home Owners' Loan Act of 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by striking "(A), (B), (C) or (D)" from the fifth sentence of subparagraph (5)(A) and inserting "(A), (B) or (C)".

SEC. 532. PENALTY FOR FAILURE TO REPORT.

Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end of subsection (b)(2) thereof the following: "Every savings and loan holding company which fails to make such reports within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such information is not corrected; such penalty to be assessed and collected in the same manner as prescribed by subsection (j)(4) of this section.".

SEC. 533. REPEALER.

Section 5(d)(15) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(15)) is repealed, and section 5(d)(16) (12 U.S.C. 1464(d)(16)) is redesignated as section 5(d)(15) (12 U.S.C. 1464(d)(15)).

Part C—Credit Unions

SEC. 541. AMENDMENTS TO SECTION 206.

(a) Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) by striking the following phrases:

(A) "director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union";

(B) "director, officer, committee member, employee, agent, or other person";

(C) "director, officer, committee member, or employee";

(D) "director, officer, or committee member";

(E) "director, committee member, or officer";

(F) "director, committee member, officer, or other person";

(G) "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union";

(H) "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union";

(I) "director, committee member, or officer or other person";

(J) "director, committee member, officer, or other person";

(K) "director, officer, committee member, or other person"; and

(L) "director, committee member, or officer of an insured credit union, or other

person participating in the conduct of the affairs of such credit union";

each place they appear and inserting "institution-related party.";

(2) at the end of paragraph (1) of subsection (e), by striking the period and inserting the following: "including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Board deems appropriate. Such order may place limitations on the activities or functions of the credit union or any institution-related party necessary to correct the conditions resulting from any such violation or practice.";

(3) after the first sentence of paragraph (1) of subsection (f), by inserting the following sentence: "Such order may place limitations on the activities or functions of the credit union or any institution-related party.";

(4) in subsection (f), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Whenever a notice of charges specifies that any insured credit union's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that credit union or the details or purpose of any transactions that may have a substantial effect on the financial condition of that credit union, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (e) of this section. Such order shall become effective upon service, and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (3) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the credit union's books and records are accurate and capable of reflecting the financial condition of the credit union.";

(5) by striking paragraph (2) and amending paragraph (1) of subsection (g) to read as follows:

"(1) Whenever the Board determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured credit union or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty, or by conduct or practice has evidenced his personal dishonesty or unfitness to continue as an institution-related party; and

"(B) such insured credit union or other business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its insured members have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received financial gain by reason of such violation, practice, or breach,

the Board may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured credit union.";

(6) in subsection (g), by striking "(A)" and striking subparagraph (B) in paragraph (7), and by redesignating paragraphs (3) through (7) of subsection (g) as paragraphs (2) through (6), respectively, and by amending paragraph (3) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the Board may, if it deems necessary for the protection of the credit union or the interests of its members, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraphs (1) and (2) of this subsection and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any institution where the party involved is presently associated.";

(7) in subsection (g)(6), as redesignated, by striking all that follows "National Housing Act)," and inserting "and any institution chartered under the Farm Credit Act of 1971, unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue such affiliation or to continue participating in the affairs of such institution.";

(8) in subsection (g)(5) (as redesignated), by striking "(4)" and inserting "(3)", and by striking "(1), (2), or (3)" and inserting "(1) or (2)";

(9) by redesignating paragraph (1) of subsection (k) as paragraph (2), by redesignating paragraph (2) of subsection (k) as paragraph (3), and by inserting after "(k)" the following:

"(1) The jurisdiction and authority of the Board to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an insured credit union.";

(10) in the first sentence of paragraph (3)(A) of subsection (k) (as redesignated), by inserting after "this section" the following: "or any condition imposed in writing by the Board in connection with the granting of any application or other request by the credit union", and by striking "subsection (e), (f), or (q)" and inserting "subsection (e), (f), or (p)";

(11) by amending subsection (l) to read as follows:

"(l) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (i) who, directly or indirectly, without the prior written approval of the Board—

"(1) participates in any manner in the conduct of the affairs of—

"(A) any insured institution,

"(B) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(C) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(D) any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), or

"(E) any institution chartered under the Farm Credit Act of 1971,

from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution; or

"(2) votes for a director, or serves or acts as a director, officer, committee member, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof, or any other institution described in paragraph (1) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.";

(12) by striking subsection (m) and redesignating subsections (n), (o), (p) and (q) of this section as subsections (m), (n), (o) and (p) respectively; and

(13) by adding at the end thereof the following:

"(q) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' has the same meaning as in section 8(k) of the Federal Deposit Insurance Act.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board (A) with the consent of the credit union or the institution-related party concerned; (B) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (C) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (D) under paragraphs (1) or (3) of subsection (i) of this section.

"(3) The term 'institution-related party' means a director, officer, or committee member, employee, agent, or other person participating in the conduct of the affairs of an insured credit union.

"(4) The term 'insured institution' means an insured credit union, as defined in section 101, or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

"(5) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(r) EFFECT OF OTHER LAW.—The authority granted to the Board under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

SEC. 542. AMENDMENTS TO SECTION 205.

Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended—

(1) in the first sentence of subsection (d), by inserting after the phrase "insured credit union" "or shall participate in the conduct of the affairs of such insured credit union";

(2) by striking the second sentence of subsection (d) and inserting "For each knowing violation of this subsection, the credit union or the individual involved shall each be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Board may recover for its use."; and

(3) in the first sentence of paragraph (2) of subsection (e), by inserting a period after the word "standards" in the first sentence and striking the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

TITLE VI—TRUTH IN SAVINGS AND INVESTMENTS

SEC. 601. SHORT TITLE.

This title may be cited as the "Truth in Savings and Investments Act".

SEC. 602. FINDINGS AND PURPOSE.

(a) Findings.—The Congress hereby finds that economic stability would be enhanced, competition among depository institutions and investment companies would be improved, and the ability of the consumer to make informed decisions regarding accounts and investments would be strengthened if there was uniformity in the disclosure of terms and conditions on which interest and earnings are paid and fees are assessed.

(b) Purpose.—It is the purpose of this title to require the clear and uniform disclosure of—

(1) the rates of interest and yields which are payable on accounts and investments; and

(2) the fees that are assessable against accounts and investments,

so that consumers can make meaningful comparisons among the competing claims of depository institutions and investment companies.

SEC. 603. DEFINITIONS.

For the purposes of this title—

(1) Depository institution.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(2) Board.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) Account.—The term "account" means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(4) Interest.—The term "interest" includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(5) Multiple rate account.—The term "multiple rate accounts" means any account that has 2 or more annual rates of simple interest which take effect in succeeding periods and which are known at the time of disclosure.

(6) Annual percentage yield.—The term "annual percentage yield" shall be equal to the total amount of interest that would be received on a $100 deposit under the terms described in paragraphs (4) and (5) of section 605(c) over a year, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

SEC. 604. DISCLOSURE OF YIELDS AND TERMS OF ACCOUNTS.

(a) In General.—Except as provided in subsection (b), each advertisement, announcement, or solicitation initiated by any depository institution relating to any account which includes any reference to a specific rate of interest payable on amounts held in such account, or to a specific yield or rate of earnings on amounts so held, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

(1) The annual percentage yield (which shall be noted in greater prominence than any other stated rate).

(2) The period during which such annual percentage yield is in effect.

(3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(5) A statement that regular fees or other conditions could reduce the yield.

(6) A statement of any penalty imposed for early withdrawal.

(b) Broadcast and Electronic Media and Outdoor Advertising Exception.—The Board may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4) or (5) of subsection (a) if the Board finds that any such disclosure would be unnecessarily burdensome.

(c) Misleading Descriptions of Free or No-Cost Accounts Prohibited.—No advertisement, announcement, or solicitation made by any depository institution may refer to or describe an account as a free or no-cost account if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions are limited during such period; or

(2) any regular service or transaction fee is imposed.

(d) Misleading or Inaccurate Advertisements, Etc., Prohibited.—No depository institution shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 605. ACCOUNT SCHEDULE.

(a) In General.—Each depository institution shall maintain a schedule of fees, charges, yields, and other terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The schedule for each class may be in the form of separate schedules or one comprehensive document. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) Information on Fees and Charges.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charges, or penalties (or the method by which such amounts will be calculated), and the conditions under which any such amounts will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) Information on Yields.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) A clear description of the method used to determine the balance on which interest is paid.

(6) The information described in paragraphs (1), (3), and (4) shall be provided for each period during which a different annual rate of simple interest is in effect (or, if applicable, the method for computing such information).

(7) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how such minimum balance is calculated.

(8) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(9) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.

(10) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) Other Information.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) Style and Format.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to give consumers the ability to readily understand the terms of the accounts offered.

SEC. 606. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall by regulation prescribe such modifications in the disclosure requirements under this title relating to annual percentage yields as may be necessary to carry out the purposes of this title in the case of—

(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate; and

(4) multiple rate accounts.

SEC. 607. DISTRIBUTION OF SCHEDULES.

(a) In General.—Any schedule required under section 605 shall be—

(1) mailed to holders of the account not more than 90 days after the effective date of the initial regulations prescribed by the Board under this Act;

(2) made available to any person upon request; and

(3) provided to any potential customer before an account is opened or a service is rendered.

(b) Distribution in Case of Certain Initial Deposits.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 605(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account not later than 10 days after the date of the initial deposit.

(c) Distribution of Notice of Certain Changes.—If—

(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 605(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account, all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(3) This subsection does not apply to changes in annual percentage yields of variable rate accounts.

(d) Distribution in Case of Accounts Established by More Than 1 Individual or by a Group.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

SEC. 608. PAYMENT OF INTEREST.

(a) Determination of Balance on Which Interest Is Calculated.—Except as provided in subsection (b), interest shall be calculated on the principal balance in an interest-bearing account at a depository institution by using the average daily balance method, which is the sum of each day's closing balance divided by the number of days in the period.

(b) Special Rule for Credit Unions.—Subsection (a) shall not apply to an account at a depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act if the depository institution—

(1) calculates the accrual of interest or dividends by a method other than the method described in subsection (a) with respect to all funds, including cash, deposited in such account; and

(2) provides notice of interest payment policy in the manner required by section 605(e) of the Expedited Funds Availability Act.

(c) Calculated on Full Amount of Principal.—The annual percentage yield accruing on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this title.

(d) No Particular Method of Compounding Interest Required.—Subsection (c) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting interest.

SEC. 609. REGULATIONS.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Board, after consultation with each agency referred to in section 610(a) and after providing public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this title. The regulations may contain any classification, differentiation, or other provision, and may provide an exception for any class of accounts which, in the judgment of the Board, may be necessary or proper to carry out the purposes of this title, to prevent circumvention or evasion of the requirements of this title, or to facilitate compliance with the requirements of this title.

(b) Model Forms and Clauses.—

(1) In general.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this title. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) Use of forms and clauses deemed in compliance.—Nothing in this title may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this title if the depository institution—

(A) uses any appropriate model form or clause published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this title; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) Public notice and opportunity for comment.—The Board shall adopt model disclosure forms and clauses after giving appropriate notice and opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 610. ADMINISTRATIVE ENFORCEMENT.

(a) In General.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than member banks of the Federal Reserve System) by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) in the case of depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(3) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of Federal credit unions; and

(4) the Federal Trade Commission Act, by the Federal Trade Commission in the case of State-chartered credit unions.

(b) Additional Enforcement Powers.—

(1) Violation of this title treated as violation of other acts.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) Enforcement authority under other acts.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each agency may exercise, for purposes of enforcing compliance with any requirement imposed under this title, any other authority conferred on such agency by law.

(c) Regulations by Agencies Other Than the Board.—The authority of the Board to issue regulations under this title does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this title.

SEC. 611. CIVIL LIABILITY.

(a) Civil Liability.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this title or any regulation prescribed under this title with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) Class Action Awards.—In determining the total amount of an award in a class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) BONA FIDE ERRORS.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this title if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a depository institution's obligation under this title is not a bona fide error.

(d) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, notwithstanding the fact that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) NOTIFICATION OF AND ADJUSTMENT FOR ERRORS.—A depository institution shall not be liable under this section or section 610 for any failure to comply with any requirement imposed under this title with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder, the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(g) MULTIPLE INTERESTS IN 1 ACCOUNT.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this title shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(h) CONTINUING FAILURE TO DISCLOSE.—

(1) CERTAIN CONTINUING FAILURES TREATED AS 1 VIOLATION.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) SUBSEQUENT FAILURE TO DISCLOSE.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) COORDINATION WITH SECTION 610.—This subsection shall not limit or otherwise affect the enforcement power under section 610 of any agency referred to in subsection (a) of such section.

SEC. 612. CREDIT UNIONS.

(a) IN GENERAL.—No regulation prescribed by the Board under this title shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) REGULATIONS PRESCRIBED BY THE NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this title, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 613. REVIEW OF DISCLOSURE REQUIREMENTS FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES.

The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 66. REVIEW OF DISCLOSURE REQUIREMENTS FOR YIELDS AND TERMS.

"Not later than January 1, 1989, and annually thereafter, the Commission shall consult with the Board of Governors of the Federal Reserve System (and any other agency it deems appropriate) to review the regulations prescribed under this title and the Securities Act of 1933 and the regulations prescribed under the Truth in Savings and Investments Act to determine whether such regulations are providing consumers the ability to effectively compare savings and investments options. If at any time as a result of such review, the Commission finds its regulations are not providing consumers the ability to effectively compare savings and investments options, it shall modify its regulations to insure that consumers have such ability.".

SEC. 614. EFFECT ON STATE LAW.

The provisions of this title shall supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts.

TITLE VII—HOME EQUITY LOANS

SEC. 701. SHORT TITLE.

This title may be cited as the "Home Equity Loan Consumer Protection Act of 1988".

SEC. 702. DISCLOSURE AND ADVERTISING REQUIREMENTS FOR HOME EQUITY LOANS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 127 the following new section:

"SEC. 127A. REQUIREMENTS FOR OPEN END CREDIT PLANS SECURED BY THE CONSUMER'S PRINCIPAL DWELLING.

"(a) INITIAL DISCLOSURES.—

"(1) IN GENERAL.—In the case of an open end consumer credit plan secured by a consumer's principal dwelling, the creditor shall, in addition to the disclosures required by section 127, make the following disclosures:

"(A) A statement that loss of the consumer's home may occur in the event of default.

"(B) A statement of the circumstances under which the consumer or the creditor may terminate the plan, any fees that may be imposed upon termination, and whether the creditor may require payment of the outstanding balance in full at such time.

"(C) The repayment options for the plan (separately stated, if applicable, for the period when advances may be obtained and the period when repayment is made without new advances), including—

"(i) the length of the plan;

"(ii) an explanation of how the minimum monthly or periodic payment will be determined; and

"(iii) an example, based on a $10,000 amount outstanding and a recent interest rate, showing the minimum monthly or periodic payment.

"(D) If the minimum monthly or periodic payment may not or will not reduce the outstanding principal balance, a statement of that fact.

"(E) Any restrictions on the consumer's right to draw funds against the line of credit, and any minimum outstanding balance or minimum advance requirements, stated in dollar amounts.

"(F) A statement that disclosure forms are available for the creditor's other open end programs secured by the consumer's principal dwelling.

"(G) A statement regarding any limitations on the deductibility of interest under Federal and State income tax laws.

"(H) A statement detailing—

"(i) the creditor's right, if any, to require repayment in full of any outstanding balance, or

"(ii) the consumer's obligation to repay any outstanding balance on a non-amortized basis.

"(I) If any terms disclosed pursuant to this paragraph are not guaranteed or are conditionally guaranteed by the creditor, a clear and conspicuous statement of that fact, a clear description of the terms which are not guaranteed, and a clear description of any conditions relating to such guarantees.

"(J) To the extent the Board determines the following information is not duplicative, the creditor shall provide:

"(i) A statement of the annual rate of interest, which includes—

"(I) the annual rate of interest in effect when credit is first extended,

"(II) any conditions that will result in a change in such rate of interest, and

"(III) the annual rate of interest which will be in effect as a result of such change in condition.

"(ii) An itemization of any fees imposed in connection with the availability or use of such plan, including but not limited to, annual fees, application fees, transaction

fees, and closing costs such as points and the time when such fees are payable. Any fee that is not directly assessed by the creditor shall be disclosed as an estimate.

"(2) Variable rate plans.—In the case of any open end consumer credit plan secured by a consumer's principal dwelling which is subject to a variable rate of interest, the creditor shall, in addition to the disclosures required by paragraph (1), make the following disclosures:

"(A) If an initial annual interest rate not based on the index is offered, a statement of such rate and the period of time such initial rate will be in effect.

"(B) The formula used in making adjustments, including identification of the index and margin, if applicable, and a source of information about such index.

"(C) A statement that the consumer should ask about the current index value and interest rate.

"(D) The frequency of interest rate and payment changes.

"(E) Any rules relating to changes in the index, annual rate of interest, payment amount, and outstanding loan balance including, for example, an explanation of interest rate or payment limitations, negative amortization, and interest rate carryover.

"(F) A table showing how the annual rate of interest and payment under each repayment option of the plan would have been affected by changes in the index value during the preceding 15-year period.

"(G) A statement of the maximum annual rate of interest and corresponding payment which may be assessed under the plan, based on a $10,000 advance, and the earliest date such interest rate may be assessed.

"(H) A statement that interest rate information will be provided on or with the first periodic statement after each rate change.

"(I) The maximum amount by which the annual rate of interest may change in any 1-year period. If no limit exists, that fact shall be disclosed.

"(J) The maximum annual rate of interest that may be imposed at any time under the plan.

"(b) Time and Form of Disclosures.—

"(1) Time.—

"(A) General rule.—The creditor shall furnish an initial disclosure statement (containing the disclosures required by subsection (a)), and a brochure (required by paragraph (2)) at the time an application form is provided or not less than 3 business days before the consumer incurs a nonrefundable fee, whichever is earlier.

"(B) Mail and telephone applications.—In the case of a mail or telephone application, an initial disclosure statement shall be provided before the consumer incurs a nonrefundable fee or not later than 3 business days following receipt of the application by the creditor, whichever is earlier.

"(2) Brochure.—The creditor shall provide the consumer with a copy of the home equity line of credit brochure published by the Board, or a suitable substitute. Such brochure shall describe how home equity plans operate, how to determine any tax benefit, define terms the consumer might not be familiar with, and advise the consumer how to compare among home equity plans and between home equity and closed end credit plans.

"(3) Form.—The disclosures required by subsection (a) shall be grouped together, shall be segregated from everything else, and shall not contain any information not directly related to the disclosures required by such subsections. The disclosures required by subparagraphs (A) and (B) of subsection (a)(1) shall precede all other disclosures on the form provided to the consumer.

"(c) Additional Disclosures for Variable Rate Plans After Interest Rate Adjustment.—The creditor shall provide, on or with the first periodic statement after an interest rate adjustment of a variable rate plan, notification of such rate change.

"(d) Restrictions on Contract Terms.—

"(1) No unilateral changes by creditor.—

"(A) In general.—No open end consumer credit plan secured by a consumer's principal dwelling may contain a provision which permits a creditor to change unilaterally the terms of such plan after an agreement has been entered into.

"(B) Changes not effecting interest rates.—Notwithstanding the provisions of subparagraph (A), a creditor may unilaterally change the index applicable to such plan if such change will not result directly or indirectly in an increase in the rate of interest a consumer will be charged under such plan.

"(2) Use of independent index.—A creditor may change the annual rate of interest imposed under an open end consumer credit plan secured by a consumer's principal dwelling only if—

"(A) such change is made on the basis of an index which is not within such creditor's immediate control, and

"(B) such index is readily available to the general public.

"(3) Terms not guaranteed.—If any term or condition required to be disclosed under subsection (a) is not guaranteed or a guarantee is provided only for a limited time, and if, as a result, the consumer elects not to enter into the plan agreement, the creditor shall refund all fees and costs paid by the consumer in connection with the application for such loan.

"(4) Grounds for creditor termination of loan.—A creditor may not unilaterally terminate an open end consumer credit plan secured by a consumer's principal dwelling except in the case of—

"(A) fraud or material misrepresentation on the part of the consumer;

"(B) failure by the consumer to meet the repayment terms of the agreement for any credit outstanding; or

"(C) any other action or failure to act by the consumer which adversely affects the creditor's security for the loan or rights in such security.

"(e) Definitions.—For purposes of this section and section 143(b)—

"(1) Principal dwelling.—The term 'principal dwelling' means a 'qualified residence' as defined under section 163(h)(4)(A) of the Internal Revenue Code of 1986.

"(2) Annual rate of interest.—The term 'annual rate of interest' means the annual percentage rate as defined by section 107, determined by subtracting from the amount financed—

"(A) any charges which are not part of the finance charge and any items excluded from the finance charge pursuant to section 106, and

"(B) any charges which are part of the finance charge but which will be paid by the consumer before or at the time of the consummation of the transaction, or have been withheld from the proceeds of the credit.".

(b) Advertising Requirements.—Section 143 of the Truth in Lending Act (15 U.S.C. 1663) is amended—

(1) by striking "No advertisement" and inserting "(a) In General.—No advertisement", and

(2) by adding at the end the following new subsection:

"(b) Open End Credit Plans Secured by the Consumer's Principal Dwelling.—In addition to the requirements of subsection (a), any advertisement to aid, promote, or assist, directly or indirectly, the extension of consumer credit through an open end credit plan secured by the consumer's principal dwelling that states affirmatively or negatively any specific terms of the plan including, but not limited to, any periodic payment amount shall contain the following information:

"(1) Any minimum or fixed amount which could be imposed including any fees described in section 127A(a)(1)(J)(ii).

"(2) In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as an annual rate of interest as defined in section 127A(e)(2).

"(3) The highest annual rate of interest that may be imposed under the plan.

"(4) Any other information the Board may by regulation require.".

(c) Technical Amendment.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 127 the following new item:

"Sec. 127A. Requirements for open end credit plans secured by the consumer's principal dwelling.".

SEC. 703. EFFECTIVE DATE.

The amendments made by this title shall apply to any open end consumer credit plan secured by a consumer's principal dwelling which is entered into after September 30, 1988.

TITLE VIII—INSURANCE ACTIVITIES

SEC. 801. SHORT TITLE.

This title may be cited as the "Bank Holding Company and National Bank Improvements Act of 1988".

SEC. 802. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956 RELATING TO INSURANCE ACTIVITIES.

(a) Definition.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(o) Insurance Activities.—For the purposes of this Act, the term 'insurance activities' means providing insurance as principal, agent, or broker.

(b) Insurance Activities.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) by adding at the end thereof the following subsection:

"(j) Insurance Activities.—

"(1) In general.—Notwithstanding any other provision of this section or section 3 of this Act (but subject to paragraphs (2) and (3)), a bank holding company or any bank or nonbank subsidiary or affiliate thereof shall not engage in insurance activities in the United States, except that a bank holding company or any bank or nonbank subsidiary or affiliate thereof may provide insurance—

"(A) pursuant to subsection (c)(8) of this section;

"(B) to the extent permissible under clause (i), (ii), (iii), (v), or (vi) of subsection (c)(8)(C) and under State law;

"(C) if—

"(i) the insurance is provided by a State bank subsidiary of a bank holding company, or by a subsidiary of that State bank;

"(ii) that bank or subsidiary thereof is located in the one State where the operations of that bank holding company's banking subsidiaries are principally conducted for purposes of section 3(d) of this Act;

"(iii) the insurance activities engaged in by the bank or subsidiary thereof are authorized by State law; and

"(iv) the insurance is provided only to residents of that State, natural persons employed in that State, or natural persons otherwise present in that State; or

"(D) pursuant to section 5136 or 5136B of the Revised Statutes.

"(2) Exclusions.—Paragraph (1) shall not apply in the case of any company or institution that is subject to section 3(f) or the proviso to subsection (a)(2) of this section.

"(3) Authority to continue certain activities.—Notwithstanding any other provision of this section, a bank holding company may continue to—

"(A) engage in any insurance activity through a State bank or subsidiary thereof if—

"(i) the bank was acquired after December 31, 1984, and before March 2, 1988, pursuant to Board approval under section 3(d) of this Act;

"(ii) the bank provides insurance only to residents of that State, natural persons employed in that State, or natural persons otherwise present in that State; and

"(iii) such insurance insures against the same types of risks as insurance provided by the bank or subsidiary as of the day before its acquisition by the out-of-state bank holding company or as of March 2, 1988, or against functionally equivalent risks; or

"(B) provide title insurance coverage through a State bank or subsidiary thereof if the bank was required to be empowered to provide title insurance as a condition of its initial chartering under State law.

"(4) Definitions.—

"(A) Insurance.—For purposes of this subsection and subsections (c)(8) and (c)(15)(J)(iv) of this section, the term 'insurance' means—

"(i) traditional insurance products and services;

"(ii) variable annuity contracts; and

"(iii) variable life insurance contracts.

"(B) Resident.—For purposes of this subsection, the term 'residents of that State' includes—

"(i) companies incorporated in, or organized under the laws of, the State,

"(ii) companies licensed to do business in the State, and

"(iii) companies having an office in the State."; and

(2) in subsection (c)(8)(C)(iv), by inserting immediately before the semicolon at the end the following: ", except that—

"(I) the authorization to provide insurance pursuant to this clause shall terminate if control of the company providing the insurance is acquired by a bank holding company on or after March 2, 1988, unless such acquiring company is a successor or is and continues to be a bank holding company with total assets of $50,000,000 or less; and

"(II) no company that is an affiliate of a company providing insurance pursuant to this clause shall provide insurance pursuant to this clause on or after March 2, 1988, unless such affiliated company itself meets the requirements of this clause.".

SEC. 803. AMENDMENTS TO THE NATIONAL BANK ACT.

(a) Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended—

(1) by inserting "(a) In General.—" immediately before "Upon duly making and filing"; and

(2) by adding at the end thereof the following new subsection:

"(b) Limitation on Insurance Powers.—

"(1) In general.—Except as provided in paragraph (2), a national bank, or subsidiary (as defined in section 2(d) of the Bank Holding Company Act of 1956) of a national bank, may not engage in insurance activities in the United States except to the extent that the insurance is limited to assuring the repayment of the outstanding balance due on any specific extension of credit by the national bank in the event of the death, disability, or involuntary unemployment of the debtor and except to the extent provided in section 5136B of this title.

"(2) Exception.—Paragraph (1) does not prohibit any company engaged in municipal bond guarantee insurance activities pursuant to authorization by the Comptroller of the Currency on or before May 2, 1985, from continuing to engage in such activities.

"(3) Insurance definition.—The term 'insurance' has the meaning given to that term in section 4(j)(4) of the Bank Holding Company Act of 1956.

"(4) Insurance activities defined.—The term 'insurance activities' means providing insurance as principal, agent, or broker.".

(b) Chapter 1 of title LXII of the Revised Statutes is amended by inserting after section 5136A the following new section:

"SEC. 5136B. LIMITED INSURANCE POWERS FOR NATIONAL BANKS LOCATED IN RURAL AREAS.

"(a) In General.—In addition to the powers vested by law in national banking associations, any such association located in a place that has a population not exceeding 5,000 (as shown by the preceding decennial census) may sell insurance as defined in section 5136(b)(3) so long as such insurance activities are confined to that place, and the insurance is sold only to residents of the State in which the association is located or to natural persons employed in that State. For purposes of this subsection, the term 'residents of that State' includes (1) companies incorporated in, or organized under the laws of, the State, (2) companies licensed to do business in the State, and (3) companies having an office in the State.

"(b) Additional Limitations.—No national banking association described in subsection (a) may—

"(1) assume or guarantee the payment of any premium on insurance policies issued through the agency of the association by the insurance company for which such association is acting as agent pursuant to subsection (a); and

"(2) guarantee the truth of any statement made by an assured in filing such person's application for insurance.".

SEC. 804. EFFECTIVE DATE.

The provisions of this title shall take effect on March 5, 1987.

TITLE IX—MISCELLANEOUS

SEC. 901. STUDY OF HOSTILE ACQUISITIONS OF UNITED STATES BANKS.

(a) Purpose.—It is the purpose of this section to require the Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") to make a study of the effects that hostile acquisitions in the banking industry could have on the safety and soundness of banking in the United States.

(b) Study.—The Board of Governors of the Federal Reserve System, in consultation with the Attorney General, the Comptroller General of the United States, and the Federal Deposit Insurance Corporation, shall prepare a study of the effects that hostile acquisitions in the banking industry could have on the United States banking and financial markets. The study shall pay particular attention to the potential adverse effects on safety, soundness, and stability of banks and the banking industry of hostile acquisitions of United States banking institutions and shall address the following issues:

(1) the effects that hostile acquisitions could have on consolidation within the banking industry, taking into consideration the continuing removal of barriers to interstate banking;

(2) the effects that hostile acquisitions could have on concentration of economic resources generally, and the specific markets for banking and financial services, including securities markets in which banks are eligible to participate;

(3) the effects that hostile acquisitions could have on instability, uncertainty and confidence in banking, and on consumer and small business services;

(4) whether specific regulations are needed to process acquisition applications that proceed on a hostile basis rather than a consensual basis in order to ensure—

(A) the adequacy and quality of capital, particularly with respect to equity capital, and the adverse consequences of the use of debt in hostile acquisitions;

(B) the quality of assets in the surviving institution due to the disposition of assets to meet regulatory capital requirements;

(C) the strength of the surviving institution against unforeseen weaknesses that could have been discovered had adequate due diligence been conducted as is done in a consensual acquisition;

(D) the strength of the target, acquiring, or surviving institutions to withstand the adverse consequences of the use of special defensive and protective steps taken to prevent a hostile acquisition from being consummated;

(5) whether special regulations are needed, once a contested application has been approved, to ensure that the conditions set forth in the approval order are met, and that the consolidation of the two institutions can proceed without undue disruption to either the target or acquiring institution;

(6) whether foreign banks or other potential acquirers of banking resources in the United States should be permitted to make hostile acquisitions of United States banking institutions;

(7) whether the stock market decline and related problems of October 1987 impair the ability of banking institutions to raise capital to conduct or resist hostile acquisitions; and

(8) any other issues which the Board deems necessary and appropriate.

(c) Hearings.—The Board and the other governmental agencies involved in the study shall hold public hearing on hostile acquisitions of banking institutions and solicit opinions and testimony as they deem necessary.

(d) Report.—Not later than 90 days after the date of enactment of this Act, the Board shall transmit a report containing the results of the study, along with its recommendations for legislation, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

SEC. 902. LIMITATIONS ON GRANDFATHERED NONBANK BANKS OWNED BY BANK HOLDING COMPANIES.

Section 4(g)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(g)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by inserting at the end thereof the following new subparagraph:

"(C) accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others, or make commercial loans, unless authorized to do so by the Board as of August 10, 1987.".

SEC. 903. JOINT MARKETING RESTRICTIONS.

Section 4(f)(3)(B)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)(B)(ii)) is amended—

(1) by inserting "or subsection (c)(15)" after "subsection (c)(8)" the first place it appears; and

(2) by striking "by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under subsection (c)(8)" and inserting "in connection with products or services of an affiliate that are not permissible for a bank holding company under subsection (c)(8) or subsection (c)(15)".

SEC. 904. INDUSTRIAL BANKS.

(a) CLERICAL AMENDMENT.—Section 2(c)(2)(H)(i)(I) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)(i)(I)) is amended by inserting "or deposits" after "demand deposits".

(b) ACTIVITIES AUTHORIZED AS OF MARCH 5, 1987.—Section 2(c)(2)(H)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)(ii)) is amended by inserting after "was not lawfully engaged" the words ", or authorized to engage,".

SEC. 905. STATUS OF CERTAIN REGISTERED INVESTMENT COMPANY.

A corporation, incorporated on March 29, 1985, under the laws of the State of Maryland, and duly registered under the Investment Company Act of 1940 on February 21, 1986, all of the present shareholders of which are savings banks, shall be deemed to have been registered under such Act on the date of its incorporation.

Mr. PROXMIRE. Mr. President, today the Senate begins debate on a major restructuring of our financial system.

The Financial Modernization Act of 1988 repeals the provisions of the Glass-Steagall Act that bar affiliations between investment banking and commercial banking firms.

I am delighted to report that the Committee on Banking, Housing, and Urban Affairs has approved this bill by an overwhelming margin of 18-2. That margin of victory is all the more significant in light of the historic importance of this legislation.

The impressive support for the bill reflects not only the fact that it is an evenhanded approach toward financial restructuring, but also the widespread and substantial benefits that it offers this Nation's nonfinancial economy.

Mr. President, the bill is the culmination of many years of bipartisan work to modernize our financial laws. No one has been more steadfast in this effort than Senator JAKE GARN, our distinguished ranking Republican and, for 6 years, the committee's chairman. I want to thank Senator GARN for his help and leadership on this historic legislation. There is no question in my mind that without Senator GARN'S strong support, this bill could never have been reported to the Senate.

I would also like to thank the other members of the committee who have worked so hard to make sure that we reported out a bill. I am grateful to them for their determination and their willingness to compromise on difficult and complicated provisions to create a bill that is fair and which represents significant progress.

The bill promotes greater competition in the provision of financial services. New competition, especially in what has been a highly concentrated industry, will reduce the costs of raising capital for households, State and local governments, and corporations.

For that reason many users of financial services support the bill. According to a survey conducted by our committee, 77 percent, more than three quarters of the chief financial officers of the Fortune 500 corporations favor the repeal of the Glass-Steagall separation between commercial and investment banks. The National Association of Manufacturers supports the bill, as does the National Governors Conference, the National Conference of State and Local Governments, and the National Association of Homebuilders.

Title I of the bill establishes a framework to permit banking activities and securities activities to be combined in one organization using the holding company structure. A holding company controlling a bank may engage in securities activities through a "securities affiliate" that is separate from the bank and insulated from the bank by a substantial array of safeguards.

This new legislation repeals or amends key sections of the Banking Act of 1933, which are commonly referred to as the Glass-Steagall Act.

New legislation is necessary to respond to the myriad of significant innovations in the financial marketplace in recent years. These changes in technology and market practice could not have been foreseen at the time that Glass-Steagall was enacted. In addition, many believe that Glass-Steagall was not, even in the 1930's, a necessary element of the financial reforms enacted in the aftermath of the Great Depression.

A. WAS GLASS-STEAGALL AN APPROPRIATE RESPONSE TO THE FINANCIAL CRISIS OF THE 1930'S?

Econonomic and legislative historians who have examined the genesis of the Glass-Steagall Act raise substantial doubts whether the separation of commercial and investment banking was a necessary or desirable response to the financial calamities of the Great Depression.

I believe that this bill will benefit the American economy and our financial system. The Senate can be the architect of progress. I urge my fellow Senators to join our committee in supporting this fine and fundamental act of legislation.

Mr. President, I would like to submit for the record a more detailed description of the bill's origins, justification, and content.

The homebuilders estimate, in testimony before our committee, that the increased competition in the market for mortgage-backed securities could save the home buyer $1,000 on a $100,000 mortgage.

Reducing the cost of capital will benefit us all indirectly as well. A competitive and efficient credit allocation process will enhance capital formation.

Greater capital investment will accelerate the modernization of American industry and enhance our ability to succeed in foreign competition. Export and import-competing industries will gather strength to reduce our dangerously high trade deficit.

The Financial Modernization Act promotes the competitiveness and efficiency of U.S.-based financial firms as well. It enables them to provide a broader range of financial services and to respond more flexibly to the competitive challenges of foreign financial firms in this increasingly global financial market.

The fact is, the Glass-Steagall Act has outlived its usefulness. Technological change, financial innovation, and regulatory interpretation have already combined to perforate the barrier between commercial banking and investment banking created by the Glass-Steagall Act in 1933, 55 years ago. We need a successor to that legislation—one that reflects modern marketplace realities without compromising the safety of our banking system.

The Financial Modernization Act does just that. It allows more competition within a sound regulatory framework. The bill requires securities activities to be conducted through a securities affiliate of the holding company that is separate from the bank. Direct interaction of the securities affiliate with the bank is limited by substantial interaffiliate restrictions. The bill bars any bank loans to its securities affiliate; and any loan to an underwriting client for the purposes of supporting the securities underwritten; The holding company structure promotes safety and soundness and effectively prevents the conflicts of interest that skeptics suggest could result when securities and banking activities are combined.

The repeal of Glass-Steagall has been endorsed by the very people who are responsible for maintaining the safety and integrity of our financial system: the Federal Reserve, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Securities and Exchange Commission all support the Financial Modernization Act of 1988. Of course the SEC is the regulator and has a fine and well-earned reputation as being a very competent and thorough and careful regulator.

Moreover, the bill includes titles that protect the consumer by increasing disclosure requirements and preventing misleading advertising in connection with savings deposits, mutual fund investments, and home equity loans.

The architects of the legislation appear to have been heavily influenced by the hearings on stock exchange practices conducted by this committee through its chief counsel, Ferdinand Pecora. The Pecora investigation in the Senate provided detailed testimony on the self-dealing and other market abuses engaged in through securities affiliates by some officers of certain large money center banks.

While eliminating these well-documented abuses was a high priority for legislators, the findings of the Pecora hearings did not establish that the complete separation between commercial banks and investment banks was either a necessary or appropriate response to the problems.

First, abuses by commercial banks that were engaged in securities activities were not a substantial cause of the collapse of the financial system in the early 1930's. Moreover these abuses were not different in kind, or in degree, from the abuses that the Pecora hearings found securities firms to have been engaged in over the same period.

Second, complete separation of commercial banks from investment banks was not a necessary or efficient means to eliminate those abuses that were unique to firms which combined both commercial and investment banking. Complete separation was a drastic means to regulate the potential conflicts of interest that may arise from the combination of commercial and investment banking. Furthermore, the decision to compartmentalize the different techniques of financial intermediation did create barriers to entry within each market which have since served to inhibit new competitors from providing financial services efficiently and at a minimum cost to the consumer. Both bank entry into securities activity and entry into banking by securities firms would have lowered the costs to users of financial services.

Third, Congress enacted legislation to address the specific abuses and conflicts of interest involved in the combination of banking and securities activities. This legislation included the Securities Act of 1933, and the Securities and Exchange Act of 1934, and section 23A of the Federal Reserve Act. The Securities Act created affirmative duties to disclose information about a securities offering and prohibited the issuance of misleading prospectuses on a securities issue. The Securities and Exchange Act outlawed stock manipulation. Section 23A restricted transactions between a member bank and its affiliates.

These additions to our financial laws remedied many of the deficient market practices exposed by the Pecora hearings in a more specific manner than did the forcible separation of commercial banking from investment banking, and did so without incurring the anticompetitive costs of a financial structure that is divided into compartments.

Fourth, some proponents of Glass-Steagall have argued that restricting the activities of a banking organization is necessary to maintain depositor confidence in the banking system. Proponents assert that restricting the activities of the bank and the asset composition of the bank's portfolio would reduce the likelihood of bank runs.

This argument is moot since the establishment of the Federal Deposit Insurance Corporation in 1933, as part of the Banking Act of 1933. The FDIC guarantees depositors' funds regardless of the composition of the bank's asset portfolio, and thus prevents runs on banks. It appears to have been that profoundly creative device, and not the Glass-Steagall restrictions on affiliations that significantly stabilized our banking system.

Senator Carter Glass, the primary sponsor of the major banking laws of the day, confirmed his own misgivings about the need for the Glass-Steagall separation just 2 years after the legislation was enacted. In testimony before the committee on July 30, 1987, historian Edwin J. Perkins presented evidence that Senator Glass supported efforts to soften the barriers between investment banks and commercial banks only two years after the enactment of the Glass-Steagall Act, during congressional consideration of the Banking Act of 1935. He withdrew his efforts to revise this legislation in August of 1935 only in deference to the wishes of President Roosevelt.

In retrospect, the more fundamental reforms growing out of the financial crisis of the 1930's, such as the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and strengthening of the Federal Reserve Act each appear to have greatly enhanced the integrity and functioning of our financial system. Each was addressed to a particular problem and has stood the test of time and practice. The Glass-Steagall separation does not appear to have been an essential component of that series of structural reforms designed to restore stability to our credit allocation process. In particular, the Glass-Steagall affiliation restrictions differ from those other reforms in that these restrictions did not appear to address any of the primary causes of the Great Depression. Furthermore, they were a very costly means of regulating conflicts of interest, and the need for such drastic means are questionable, particularly after the enactment of the other financial legislation in 1933 and 1934.

B. THE CURRENT NEED FOR LEGISLATION TO MODERNIZE OUR FINANCIAL STRUCTURE

Whatever the justification for the original Glass-Steagall legislation, the market for financial services has undergone substantial changes over the last 55 years. These changes call into question both the efficacy of the barrier separating commercial and investment banks and the merits of maintaining what is left of that barrier.

Technological change, related innovations in market practice, exploitations of loopholes in the original language, and interpretations of that language by the regulators and the courts blur the distinction between the commercial and investment banking industries.

1. TECHNOLOGICAL CHANGES

Recent developments in computer and telecommunications technology have significantly altered the techniques of financial intermediation. The ability to transmit information quickly and accurately, and to store and analyze that information, have decreased importance of banks as intermediaries and lowered the costs to investors of making a direct evaluation of credit risks. As a result, an ever greater proportion of the transfer of capital from investor to borrower now takes place through direct issuance of securities by borrowers to investors.

One significant example of this new practice is the development of a commercial paper market as an alternative to bank loans as a source of short-term funding. Commercial paper is a short-term negotiable unsecured promissory note issued for a specific amount and maturing on a specific date of not more than 270 days. Most commercial paper issues have a maturity of 30 days or less.

The gains in efficiency and diversification that are afforded by this so-called securitization of credit provide great benefits to both borrowers and lenders. Yet Glass-Steagall, conceived of before the advent of securitization, prohibits commercial banks from entering this market. As a result, large corporations that previously obtained credit from commercial bank lenders have now gone to securities firms to issue commercial paper. In 1965 commercial loans by large banks constituted 85.8 percent of all short-term borrowing by nonfinancial corporations. By 1986, commercial loans had fallen to 54 percent of the total. Over the same period, commercial paper rose from 1.3 percent to 11.8 percent of the same total.

In effect, this traditional customer of banks has jumped over the Glass-Steagall barrier to obtain benefits that commercial bankers are unable to provide because of legal restrictions. This is despite the fact that banks have the expertise to provide this new service competitively. Glass-Steagall restrictions prohibit entry by a class of providers who would broaden competition and lower the costs to the borrower in the market for commercial paper.

Technical and financial innovation have affected the market for underwriting services as well, making the practice less risky. New instruments and portfolio management strategies that were unavailable just a few years ago have reduced the risk exposure of underwriting.

Traditionally, the risk to the members of the underwriting syndicate on most issues has been significantly diminished by the practice of simultaneously setting the price and distributing the issue to a prearranged group of investors after the close of a day's trading but before the opening on the following day.

More recently, the development of derivative instruments such as futures and options permits the underwriter to further diminish his exposure to risk by providing an opportunity to hedge against the risks of changes in the price of instruments being underwritten. As a result, the underwriter can offset the risk associated with any unsold inventory of the new issue that is underwritten on a firm commitment basis.

A careful examination of the practice of securities underwriting reveals that it is a less risky activity than is commonly believed. Recent innovations in risk management techniques diminish underwriting risk even further and strengthen the case for repeal of the restrictions on bank entry into the market for underwriting services.

2. GLASS-STEAGALL RESTRICTIONS IMPAIR THE INTERNATIONAL COMPETITIVENESS OF U.S. FINANCIAL INTERMEDIARIES

The global integration and operation across regulatory boundaries is itself related to the technological and market innovations in recent years. Diversified firms from many countries now offer a wide array of financial services around the globe.

Some characterize the issue of Glass-Steagall repeal as a zero-sum game between banking firms and securities firms. That characterization is inaccurate precisely because of the increasingly integrated nature of world financial markets.

Glass-Steagall restrictions inhibit a U.S. based firm from offering the entire range of financial services to both domestic and foreign customers in the United States. As markets become increasingly integrated, U.S. banks, which have the expertise in securities activities as is evident from their offshore underwriting activity, will be inhibited from exploiting the economies of scale obtainable through the development of worldwide securities operations.

In most countries, there is no forced separation between banking and securities activity. Even in Japan, where the commercial and banking industries are legally separated, the restrictions and separation are much less severe than those created by Glass-Steagall. Japanese law does not inhibit financial regulators from responding flexibly to innovations in financial market practice. Japanese regulators are permitted to evolve and adapt to changes in the techniques of credit allocation. As a result, U.S. firms are constrained to a much greater extent in the United States than are foreign firms in their home markets with the attendant effects on U.S. firms' relative strength.

In addition, as a result of grandfather rights under the International Banking Act of 1978, more than a dozen foreign firms that are permitted to engage in both banking and securities activity in the U.S. market. In essence, these foreign firms are permitted to enjoy an advantage over U.S. firms in our home market.

Overall, Glass-Steagall inhibits our firms from developing a basic source of competitive strength in the world market. Repeal would contribute to the vitality of our financial sector in the competition to provide a full range of financial services worldwide.

3. THE GLASS-STEAGALL BARRIER HAS BEEN PERFORATED IN BOTH DIRECTIONS

Those who would defend the separation of commerical and investment banking must confront the reality that this priniciple has been violated. American banks underwrite securities all over the world, except in America. For years banks have been underwritten securities issued in the Euromarkets through their offshore affiliates. In 1985, for example, 11 American banks underwrote about $16 billion of Eurobonds, which is substantial in comparison with the $105 billion of corporate bonds underwritten in the United States.

That some U.S. banks already undertake sizable underwriting activities is not merely evidence of the breakdown of Glass-Steagall. It also illustrates that the large money-center banks currently have the ability and expertise to perform these services.

Antiquated laws have chased American banks offshore where issuance is, if anything, riskier and the possibilities of conflicts of interest are greater because of the lack of public disclosure requirements and other market regulation. Permitting banks to establish securities affiliates in the United States would bring some of this business back home and contribute to the safety and soundness of our financial system.

Another class of banks that can engage in securities underwriting under current law are State-chartered banks that are not members of the Federal Reserve System. A number of securities firms have affiliated with these FDIC-insured banks. In his testimony before the Banking Committee in December of 1987, Mr. John Heimann of Merrill Lynch said with admirable candor, "We already have a bank."

In fact, most of the top U.S. securities firms are affiliated with banks. Shearson Lehman Hutton is affiliated with four banks including Boston Safe Deposit and Trust Co; Goldman Sachs with Broad Street Bank & Trust. Drexel Burnham Lambert, with both Commercial Trust Co. and Harbor Trust Co; Prudential Bache, with Prudential Bank & Trust; First Boston, with Universal Trust Co; Merrill Lynch, with Merrill Lynch Bank & Trust.

The proliferation of such innovations as cash management accounts by many of the investment firms is still another example of the inroads that the securities industry has made into the traditional banking function of deposit taking.

These combinations are currently exposed to all of the potential conflicts of interest that opponents of Glass-Steagall repeal cite as reasons to maintain the existing legislation. It is illuminating that to date the existing laws, which in this case do not include Glass-Steagall, appear to have been sufficient to deter widespread abuses of conflicts of interest.

Still another violation of the Glass-Steagall separation exists as a result of the combination of thrift institutions and securities firms. Sears Savings Bank in California is one of our largest thrifts and it is affiliated with Dean Witter Reynolds. Both are owned by Sears. Banking firms have also increasingly crossed the Glass-Steagall barrier in the other direction, entering into securities activities. For example, banks and bank holding companies may now offer discount brokerage services.

Banks and bank holding companies may also provide brokerage services together with investment advice to large institutional clients. Banks may also engage in the private placement of commercial paper without violating Glass-Steagall.

Recently, several bank holding companies have received Federal Reserve Board approval to underwrite and deal in municipal revenue bonds, mortgage-backed securities, consumer-receivable-related securities, as well as commercial paper. These also were once considered the strict province of the securities industry.

Still another example of U.S. banks' engaging in securities activities is their role as underwriters and dealers in Treasury securities and general obligation municipal bonds. While neither of these functions violates Glass-Steagall, both illustrate the absence of complete separation between banking and securities activities. The successful presence of banks in these two areas also suggests that they do currently have the expertise to engage in a broader range of securities activity.

The integrity of the functional compartments into which Glass-Steagall placed our financial intermediaries has largely disintegrated. The insulation is gone. All that remains is an array of barriers to entry with little rational basis that merely serve to distort the activities of financial intermediaries and inhibit vigorous competition.

4. THE STRUCTURE OF THE MARKET FOR UNDERWRITING SERVICES AND THE BENEFITS OF GLASS-STEAGALL REPEAL

Repeal of Glass-Steagall would eliminate barriers to entry and reduce the price of underwriting services as new suppliers enter the market.

To estimate the magnitude of the impact of new entry on the price of services paid by consumers in a market one can examine the structure of that industry prior to the new entry. Consumer benefits are more likely to result from new entry into a market that is quite concentrated, that is one which has a small number of suppliers.

A market characterized by a small number of suppliers is likely to exhibit some degree of market power that leads to monopolistic inefficiencies. In such a market, substantial new entry can reduce market power and reduce the likelihood that successful collusion between suppliers could be maintained.

Data on the structure of the investment banking industry obtained from the Investment Dealers' Digest suggest that there is a substantial degree of concentration in the market for underwriting services. In 1987 the top five firms accounted for 68.7 percent of the underwriting of nonconvertible debt issues, 95.7 percent of the underwriting of asset-backed debt, 46.4 percent of common stock issues, 49.3 percent of initial public offerings, and 64.9 percent preferred stock.

In municipal finance, the five largest firms accounted for 42.3 percent of all revenue bond issues in 1987. That can be compared to the market for general obligation municipal issues, where the top five firms accounted for 31.7 percent. In the latter, market banks are eligible to compete even under the restrictions of Glass-Steagall.

Data on the extent of concentration in the U.S. dealer market for commercial paper reveal that as of March 25, 1987, the top five firms account for 95 percent of total outstandings.

Based on this data there appears to be substantial reason to believe that new bank entry would diminish market power and reduce the cost to the customer purchasing underwriting services.

Additional data from Investment Dealers' Digest on average fees as a percentage of the value of an issue reveal that in 1987 the average fee on publicly traded common stock was 5.62 percent and for initial public offerings was 7.86 percent.

The cost of capital to the issuer during an initial public offering is also raised by another factor—underpricing. Underpricing is very expensive to the issuer. It helps the underwriter in two ways. First, it makes it easier to place an issue and minimizes the risk that the underwriter will have to tie up capital and carry a portion of the issue in its inventory. Second, the underwriter can make money for his own trading account by holding the issue and selling only after the price rises. Statistics cited by Thomas Pugel and Lawrence J. White in their study of the economics of securities underwriting show that, on average, the initial public offering of new stock is underpriced by over 18 percent as measured by the price in the offer market.

The evidence on the opinion of the consumers of financial services supports those who believe that new competition resulting from Grass-Steagall repeal would produce benefits. There is a broad body of evidence that is in agreement.

The committee's survey of the chief financial officers of the Fortune 500 corporations shows that 77 percent favor repeal of Glass-Steagall. The National Association of Manufacturers has also endorsed Glass-Steagall repeal. These two groups constitute the major consumers of corporate debt and equity underwriting as well as commercial paper underwriting.

The National Association of Home Builders has suggested in hearings before this committee that a consumer will save nearly $1,000 over the life of a $100,000 mortgage because of increased competition in the market for underwriting mortgage-backed securities.

State and local governments believe that they would benefit as well. The National Governors Association, the National Conference of State Legislators, National League of Cities, National Association of Counties, U.S. Conference of Mayors, and the Government Finance Officers Association all support provisions to permit banks to underwrite and deal in municipal revenue bonds. It is estimated that permitting banks to underwrite municipal revenue bonds could have saved State and local governments as much as $480 million in 1986.

5. SUMMARY

The argument for legislation to modernize our financial structure is strong. A substantive case can be made that at its inception the Glass-Steagall legislation was: First, an unnecessary response to the forces that caused the financial calamities of the 1930's; second, an inefficient and very costly means to control abuses identified by the Pecora hearings; and third, superseded by many of the subsequent legislative reforms of the 1930's.

Furthermore, changes in the technology and practice of financial intermediation have rendered the restrictions of Glass-Steagall ineffective and obsolete. Regulatory innovations and court decisions have responded to the tensions raised by the clash between changed market practices and the 55-year-old law. The barrier separating commercial banks from investment banks has been perforated in both directions. The restrictions of Glass-Steagall that remain constrain U.S.-based firms in their effort to compete in a global market. Perhaps most importantly, the restrictions of Glass-Steagall continue to serve as a barrier to entry which protects a highly concentrated market structure in some segments of the underwriting services industry and inhibits the competitive provision of financial services to the consumer at the least possible cost.

C. COMMITTEE ACTION

The bill has nine titles. The centerpiece is the repeal of sections 20 and 32 of the Glass-Steagall Act and the establishment of a new framework for commercial banks to become affiliated with securities firms.

SECURITIES POWERS

The bill permits a bank's securities affiliate that has Federal Reserve approval and is registered with the SEC to underwrite, distribute, and deal in most types of debt. Corporate debt and mutual fund powers are phased in after enactment. The power to underwrite, distribute, and deal in equity securities is contingent upon an affirmative vote of Congress to be held not later than April 1991.

The affiliate may also engage in other securities activities—such as brokerage, private placement, and investment advising—that are permissible for SEC-registered broker-dealers. The securities affiliate can also engage in nonbanking activities that are allowed to bank holding companies—such as leasing, mortgage banking, financial counseling, and dealing in precious metals.

The bill authorizes national banks to underwrite municipal revenue bonds. National banks not affiliated with a securities firm may sponsor investment trusts that invest only in securities permissible for national banks, and distribute securities of investment companies not affiliated with the bank.

The bill allows securities firms, in "a diversified financial holding company," in certain circumstances, to acquire a bank without becoming subject to bank holding company examination and capital requirements. Such a company, first, engages only in financial activities; second, devotes 80 percent of its consolidated assets to activities permissible to bank holding companies; third, has no more than 20 percent of its consolidated assets in FDIC- or FSLIC-insured institutions; fourth, invests not more than 40 percent of its consolidated assets in depository institutions of any kind in any country; and fifth, refrains from cross-marketing its bank and nonbank products.

THE HOLDING COMPANY STRUCTURE

Affiliation in a holding company structure, together with explicit inter-affiliate restrictions, provide for strong insulation between the bank and its securities affiliates that, first, promotes financial sector stability; second, denies bank securities affiliates unfair funding advantages resulting from affiliation with an insured deposit-taking institution; third, protects bank customers and the financial system from conflicts of interest associated with the combination of banking and securities activities.

The affiliate structure offers less of an incentive to the bank to support an ailing company than the bank subsidiary format where the balance sheets are consolidated. Moreover, the affiliate structure permits strong firewalls to be constructed to protect the bank and its customers from any conflagration in the securities industry.

The "firewalls" prevent a bank from: extending credit to a securities affiliate—the only exception covers the clearing of fully collateralized U.S. Government or agency securities; purchasing any financial asset from its securities affiliate for its own account; issuing a guarantee, acceptance, or letter of credit for the benefit of a securities affiliate; extending credit to any associated investment company; extending credit explicitly or implicitly to enhance the marketability of a product being underwritten by the affiliate; making a loan to purchase a security being underwritten by the affiliate during the underwriting period or for 30 days thereafter; providing credit to an issuer of securities to pay the interest, principal, or dividends on securities underwritten by the affiliate; sharing officers or directors with the affiliate—banks below $500 in assets and others chosen by the Federal Reserve are exempted from this provision; expressing an opinion about an issue being underwritten, distributed, bought or sold, by the affiliate; disclosing nonpublic information about a customer to the affiliate—similarly an affiliate cannot disclose confidential customer information to the bank; underwriting or distributing securitized loans originated in the bank that have not been rated by a nationally recognized agency.

Furthermore, the securities affiliate must disclose in writing that it is separate from the bank and that the securities it handles or recommends are not insured deposits.

Finally the Federal bank regulatory agencies and the SEC must establish a program to ensure that banks and their securities affiliates comply with these provisions and respond to related customer complaints.

CAPITAL STANDARDS

To promote safety and soundness a bank holding company that has a securities affiliate must maintain a capital cushion so the failure of the affiliate would not violate minimum capital requirements. Moreover, a bank holding company cannot "double leverage" with respect to its affiliate's capital.

Under functional regulation, the securities affiliate would be subject to SEC capital and accounting standards that are instituted to ensure that only adequately capitalized firms can operate in the sometimes volatile securities markets.

PREVENTING UNDUE CONCENTRATION

Bank holding companies with assets above $30 billion are not allowed to merge with securities firms with assets above $15 billion. At this time that prohibition applies to roughly the 15 largest U.S. banks and the 15 largest U.S. securities firms as well as any foreign firms who exceed the asset limits. These limits are designed to encourage new entry into the banking and securities businesses either de novo or through the acquisition of smaller firms which would, when built up, provide a new source of competition in the relevant market.

PHASE-IN SCHEDULE

Authority to underwrite, distribute, and deal in investment company securities—which include mutual fund shares—and corporate debt securities is delayed for 180 days after the bill becomes law. The granting of equity powers is contingent on a separate congressional vote to be held no later than April 1991.

The phase-in schedule is intended to provide time for regulators, businesses, and the public to make the organizational and behavioral changes necessary to safely accommodate bank entry into the securities business.

TITLE II: EXPEDITED PROCEDURES

This section sets up an expedited procedure under which qualfied banks can establish bank holding companies.

In addition, the procedure for allowing bank holding companies to engage in eligible nonbanking activities is changed from an application procedure to a notice procedure. In acting on such notices, the Board must consider technological or other innovations in the provision of banking or banking-related services.

Smaller banks may join to form a so-called bankers' bank holding company for the purposes of operating a securities affiliate.

TITLE III: BROKER-DEALER REGULATION

Together with title IV, title III defines the authority of the various bank regulatory agencies and the Securities and Exchange Commission in policing securities activities of banking organizations. Brokers, who make securities transactions for clients, and dealers, who trade for the firm's account, will generally be required to conduct their activities outside of banks in affiliates or subsidiaries subject to SEC regulation. However, banks can themselves offer brokerages services subject to regulation by the banking agencies if they don't publicly solicit this business or pay brokerage employees volume incentives. Special rules apply for securities transactions in trust departments and other traditional banking areas. In addition, banks can themselves act as dealers if they trade as fiduciaries, or when they trade commercial paper and other specific securities.

TITLE IV: INVESTMENT COMPANIES

Investment companies are overseen by the SEC, and their transactions with affiliated banks are restricted. Also, the SEC will register and oversee investment advisers. Before examining or taking action against a bank, the SEC must notify the bank's primary regulator. An investment company may not purchase securities during an underwriting if the proceeds help the seller pay off any obligations to an affiliated bank. Nor may they suggest in any way that their products enjoy any kind of Federal bank insurance.

TITLE V: ENFORCEMENT POWERS

Title V strengthens and clarifies the enforcement authority of the financial institution regulatory agencies. The authority for these agencies to order affirmative actions including reimbursement, indemnification or restitution is made clear. Individuals removed from one federally insured institution will be automatically prohibited from participating in the affairs of all others, without prior approval. Civil money penalties will apply for violations of statutes or regulations, as well as cease-and-desist orders. Certain fines are increased from $100 to $1,000 per day. In addition, various other enforcement areas in which the agencies' powers are now in doubt have been clarified.

TITLE VI: TRUTH-IN-SAVINGS

This title reforms savings account advertising. It requires any advertisement or other notice to list prominently the annual percentage yield; any minimum balance; any minimum initial deposit; a statement of how any fees would reduce the yield; and disclosure of penalties. Interest must be paid based on the average daily balance. Misleading advertising is barred, and agencies may impose fines of up to $1,000 for each individual harmed by a violation.

The SEC is required to consult with the Federal Reserve to ensure that its regulations for mutual funds follow similar guidelines.

TITLE VII: HOME EQUITY LOANS

Under this title, lenders may neither unilaterally change the terms of a home equity loan nor terminate the loan. In explaining the terms, lenders must disclose the monthly payments along with tax implications, and emphasize that the house serves as collateral. For variable rate plans, the index and formula must be disclosed along with an example of how index changes in the past have altered interest payments. The index must be beyond the lender's control.

TITLE VIII: INSURANCE

This title places limits on the ability of bank holding companies to engage in insurance activities across State lines by acquiring State-chartered banks. A bank would be permitted to provide insurance as authorized by State law in its parent holding company's home State. Current interstate insurance activities that do not conform to this requirement are grandfathered.

National banks may continue to engage in insurance agency activities in towns of 5,000 or less, provided sales are confined to the town and its environs. Other national bank insurance activities are limited to credit-related insurance.

TITLE IX: MISCELLANEOUS

Several issues are addressed in this title. For example, the Federal Reserve Board is required to prepare a study of hostile takeovers. The Florida trust company loophole is closed. That loophole had allowed trust companies to convert to nonbank banks with powers that were grandfathered under the Competitive Equality Banking Act [CEBA] of 1987. The bill amends CEBA to clarify the status of industrial banks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, today the Banking Committee brings to the Senate floor truly historic legislation. S. 1886, the Financial Modernization Act of 1988, will produce important and much-needed benefits for the American economy. These benefits are the result of the provisions in the bill that repeal key provisions of the Glass-Steagall Act, which was passed over 55 years ago. Commercial banks will be allowed to have securities affiliates, and securities firms will be allowed to have commercial bank affiliates.

Along with authorizing such affiliations, S. 1886 will build strong firewalls between affiliated commercial banks and securities firms. These firewalls will protect the safety and soundness of the commercial banks and also assure that the securities entities will not derive unfair competitive advantages from their affiliations with commercial banks.

Both the need for Glass-Steagall reform and the appropriateness of the firewalls contained in the bill have the strong support of all the Federal entities with particular expertise in commercial banking and investment banking. These include the Federal Reserve System's Board of Governors, the Securities and Exchange Commission, the Department of the Treasury, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency.

Mr. President, last year both Houses of Congress committed themselves to fashioning legislation early this year to respond to the rapid changes that are transforming financial markets. The full Senate can meet its commitment responsibly by passing this bill today. I hope our action will also encourage the House of Representatives to act in an equally responsible fashion.

One of the benefits coming from S. 1886 will be lower financing costs for all sectors of the U.S. economy. Families will find it easier to purchase homes, cars, and other goods and services that must be financed. Business firms will be aided in their efforts to expand production and enhance the efficiency of their operations. State and local governments will find it cheaper to provide services to their citizens.

S. 1886 will lower these financing costs by strengthening competition. In recent years, financing through the use of instruments like commercial paper and mortgage-backed securities has increasingly proven cheaper than traditional lending by depository institutions. The 55-year-old Glass-Steagall Act has prevented commercial banks from competing in the highly concentrated market for these new instruments. S. 1886 will reform the depression-era law in order to let banks compete. As every elementary student of economics knows, more competition lowers prices.

S. 1886 also will benefit the economy by strengthening our banking system. As was demonstrated in Banking Committee hearings that I had the privilege of chairing during the 99th Congress, the securitization process, where securities replace traditional bank lending, has weakened our banking system by causing banks to lose their most credit-worthy customers. As a result, banks increasingly have been left with only those customers whose credit ratings are not sufficiently good to enable them to tap the securities markets directly.

Faced with the loss of their best customers, banks have sought ways to expand their securities activities without violating the Glass-Steagall Act. By taking advantage of the "section 20-not-principally-engaged" provision and the State nonmember-bank exemption, banks have partially but imperfectly achieved this result. It would be far better for Congress to face up to the fact that the Glass-Steagall Act needs a complete overhaul because it has outlived much of the usefulness it might have once had.

A third benefit that our economy will receive from S. 1886 will be a strengthening of America's competitive position in the international marketplace for financial services. Today only 1 American bank ranks among the world's largest 20, and the world's largest securities firms are all Japanese.

As we also demonstrated in hearing during the 99th Congress, to be a strong competitor in the international marketplace, a financial institution must begin with a strong base at home. The weakening of American banks at home that has resulted from their inability to respond to marketplace changes is now weakening the international competitiveness of American institutions.

Not only is the competitiveness of American institutions being undermined by the Glass-Steagall Act, but the competitiveness of American markets themselves also is being undermined. Financial institutions—both American and foreign—that cannot offer their customers a full array of financial services onshore in the United States are choosing to locate their operations in London or other offshore markets where they can offer both commercial and investment banking services.

Mr. President, the legislation brought to the floor today by the Banking Committee is the product of compromise. There are elements of this compromise that trouble me and other members of the committee. In particular, along with the Comptroller of the Currency and the FDIC I believe that securities activities could be conducted in subsidiaries of commercial banks just as safety and soundly as in holding company affiliates. I would prefer to see an automatic phase-in of corporate equity underwriting in bank securities affiliates without the need for yet another congressional vote. Finally, I believe that S. 1886 is too violative of the right of States to determine whether their own State-chartered banks can sell insurance to their own citizens.

Nevertheless, Mr. President, I strongly support S. 1886 in its present form as a great stride forward toward lowering the cost of financial services to the consumers of those services, toward strengthening our financial system and toward enhancing the international competitiveness of American institutions.

Amendments may be offered to this legislation on the floor, and I don't deny that constructive amendments could improve the bill. But in considering amendments, we must be careful not to undermine an essential objective of this legislation: to strengthen the American financial system.

If the balanced compromise now in S. 1886 is upset by ill-considered amendments, I may be forced to oppose the legislation myself. Sticking with current law—which is letting banks respond in a limited degree to market changes—might turn out to be the preferable alternative.

Still, with that word of caution, I want to close by reiterating my strong support for S. 1886 in its current form.

It did pass the Senate Banking Committee on an 18-to-2 vote, which is a rather remarkable achievement considering the difficulty and controversy with many of these issues. It is a balanced compromise and will help consumers and financial institutions alike.

I also think it is a fitting capstone to the distinguished career of our chairman, BILL PROXMIRE, from Wisconsin.

The Senator from Wisconsin and I have had a rather unique relationship for a long time. He has been here longer than I have, but when I was a new freshman Senator back in 1975, BILL PROXMIRE had just started his first tour as chairman of the Senate Banking Committee and was chairman for 6 years.

During 2 of those years, I had the privilege of being the ranking Republican on the committee. Then for the next 6 years, we reversed roles, and I was chairman of the committee and he was ranking. We have reversed those roles again.

Now, I would have preferred to keep him the ranking Democrat all those years and keep the chairmanship, but that is not the way the American electorate decided. But I emphasize the fact that over the last 14 years, either he or I have been chairman of that committee. Not once in all those years have we ever had a Republican or Democratic issue on that committee. There is nothing Republican or Democratic about Glass-Steagall, about McFadden, about the Douglas amendment, about the Bank Holding Company Act.

So it has been an unusual relationship between him and me being able to work together as chairman and ranking minority members of that committee to try and modernize the banking system and the financial services industry of this country.

I regret that Chairman PROXMIRE is leaving the Senate. It has been not just a working relationship, but in 14 years, there has been no other Senator on either side of the aisle who I have worked more closely with on many difficult issues from Banking Committee legislation to export control, Export Administration Act, housing legislation—a variety of issues. We have even changed on the Appropriations Committee being chairman and ranking minority member of the HUD-Independent Agencies Subcommittee.

There is only one giant mistake and disagreement we have had on that committee. The Senator opposes the space station. I have never been able to understand that. Obviously, I have a great bias toward space, having been there.

But after 14 years, for two Senators from two different States, of two different political parties to have only one major disagreement, that is not a bad record.

So I wish to commend my colleagues and express my regret that he is leaving the Senator after this year, but to commend him, once again, for what I believe is a historic piece of legislation. It has been my pleasure to have the opportunity to work with him on this bill, to bring it to the floor.

I hope our colleagues will pass this bill expeditiously before the day is over. I yield the floor.

Mr. PROXMIRE. Madam President, it is my understanding there is a committee amendment that is drafted into the bill but has not actually been adopted. Is that correct?

The PRESIDING OFFICER (Ms. MIKULSKI). There is a substitute amendment.

Mr. PROXMIRE. That is correct. Madam President, i ask unanimous consent that the committee amendment be adopted and be treated as original text for purposes of further amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PROXMIRE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk wll call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Madam President, the chairman and I have conferred, and our opening statements are over. The bill is ready for amendment. We do know of some amendments that we expect to be offered, and I hope that if the staffs of those Members are listening, they know the reputations of the chairman and me: We move legislation rapidly, normally. We do not spend a lot of time on the floor.

It is 1:20, and I suggest that if those who have amendments to offer are not here by 2 o'clock, we can expect a third reading of the bill. Forty minutes should be sufficient time for anybody who is interested to come to the floor. If not, we may just have this bill passed and on the way to the House of Representatives by 2 o'clock.

Mr. PROXMIRE. Will the Senator yield?

Mr. GARN. I will be happy to yield.

Mr. PROXMIRE. Madam President, I want to support the distinguished Senator from Utah in that sentiment. It is an unusual situation because we have a bill here that was overwhelmingly reported out by committee, 18 to 2. I think under those circumstances, it is reasonable for the managers to feel that if no amendments are offered, no Member is serious about asking that we have a vote on his amendment. So as the Senator from Utah has said, if no one is over here to offer an amendment in the next several minutes, I think we should go to third reading and pass the bill as it is.

I think the bill is awfully good, if not perfect.

Mr. GARN. I would be content to pass it as it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RIEGLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Madam President, I thank the Chair.

I rise this afternoon in support of this banking bill and in doing so I want to make several points.

Let me commend the chairman of the committee, Senator PROXMIRE, and the ranking member, Senator GARN, for their leadership, along with a number of others on the committee who worked very hard over a long period of time to put this bill together.

Back a year ago when we as part of the FSLIC capitalization established the 1-year moratorium period in which we are going to try to develop a legislative package of the type that is before us today a lot of people were skeptical, and wondered if in fact we would follow through with the pledges made at that time to work in an expeditious way to try to address these issues.

I think the record shows that we did exactly what we said we would do. We held a series of hearings over the months. We worked very hard at it. All points of view were heard and considered. We had I might say an extraordinary event happen as we were coming down the homestretch last year; namely, the crash in the stock market. That stock market crash had the effect of setting many things aside. We created the budget summit, and so the remainder of the legislative year in 1987 was essentially given over to the question of putting a revised budget package together, and other issues like the financial deregulation issues before the Banking Committee necessarily had to wait until that was done. Of course we have also spent a lot of time in the Senate Banking Committee just with the aftermath of the market crash itself, on hearings to consider the Brady Commission recommendations and other things.

So given that interruption in the previous legislative year, the fact that we were able to produce this legislation virtually on the date of the expiration of the moratorium on the 1st of March this year I think is a remarkable accomplishment. I think the leadership of the committee deserves to be acknowledged for that piece of work.

I might say that I and others had a chance to play an active part in it, for which we are appreciative. And I think what we have brought to the Senate as a whole represents a blend of views, a consensus reflected by the fact that it was reported out of the committee by a vote of 18 to 2. It is not very often that a bill of such major consequence and sweep comes out of the committee by a vote that is so substantial, a vote of 18 to 2. It clearly reflects not only a bipartisan consensus but a virtual unanimous consensus within the committee that this restructuring is something that ought to happen, ought to happen now along the lines that we have laid out.

I would say to my colleagues there may be amendments that are offered today either by members of the committee or others to alter the strategic balance of this bill. My hope would be that any amendment that is offered of any real consequence not be adopted, and in fact be laid aside either with a tabling vote or by a vote in the negative. I say that because the bill has been crafted in such a way, I think, that the existing balance of the bill is critical to its enactment. I think it has been done with great care and great effort after listening to all of the parties of interest, and I think what we have arrived at is a balance within this bill that has to be maintained as is.

So it would be my hope that the committee would move to table amendments when they are offered because I think if we start down the road of altering the bill with amendments of any material consequence, I think we end up with a very different bill, and I do not know that we would have a bill that would be workable.

There are some other tests that this legislation has to meet further down the line in addition to the one of being able to pass the Senate today, hopefully, or tomorrow. That is that the bill that we pass must go over to the House of Representatives, and in the House we have a different situation than we have here in the Senate. In the House we have two committees that divide the jurisdiction that here is combined in our one Senate Banking Committee.

In the House, the Banking Committee will deal with this legislative matter, and also the House Commerce Committee because of its jurisdiction in the securities area will also be involved. There is a joint referral in the House of Representatives. So in the end it is not just a question of crafting a consensus in one House committee. It is crafting a consensus in two separate House committees, and finally having that be something that is also acceptable to the House of Representatives as a whole.

So that task of crafting a legislative package here that can come through our committee, come through the Senate floor and in turn be able to be passed in the House of Representatives where you have this divided committee jurisdiction I think imposes a special test, and a special need for us to understand the importance of balancing this legislation the way we have.

There is a lot in here that affects all of the different basic parties of interest in the financial services area. There are major changes for banks, major changes for investment banking institutions, major changes for mutual funds, in the insurance area, and there are major changes really across the board, minor changes as it would relate to what we call nonbank banks, but the historic change that is proposed here in the adjustment in modification of the Glass-Steagall law is a very important change. It recognizes and responds to certain changes that have taken place in the financial marketplace.

It tries to establish a measure of competitive equity between financial entities that are out there competing for the same kind of business. And it is an attempt to try to make sure that the public interest is served by both the competitive restructuring of these financial services, as well as preserving the basic safety and soundness of our structure which is of critical concern as it relates to our banking system.

In the banking area alone, the questions of safety and soundness are paramount. We have as we know in the commercial banking system the Federal deposit insurance system where the Government undertakes to actually ensure individuals' deposits that are placed in banks and in turn invested by those banks.

It is very important that that Federal deposit insurance be protected. We are seeing examples now of banks that are in trouble and drawing on the reserves in that FDIC system. We see another kind of an example in the savings and loan area with the FSLIC system. And it should be clear to us that we have to take all of the appropriate measures to safeguard the safety and the soundness of the banking system. We have attempted to do that with this bill.

In addition, the banking system has two other very critical functions that serve this country. One is that it basically is responsible for what we call the payments system, and that is the whole checkwriting system in this country, where literally hundreds of millions of checks are processed, day in and day out, and the banking system is principally responsible for getting that job done for us as a modern society.

The third function for the banks is to act as an arm of the monetary policy of this country through the connection with the Federal Reserve, whereby the levels of credit that are made available through the Federal Reserve System, out into our society, our private economy, are regulated and handled through the commercial banking system.

So those functions—insured deposits, Federal Deposit Insurance, and the safety and soundness of the banks, the payments system, and the important connection to the monetary policy through the Federal Reserve System—are critical functions that make banks special and which have to be carefully protected in this bill. We have tried to write the bill in such a way as to maintain those protections.

Another critical point has to do with the degree to which we phase in new activities for the banks over a period of time. The bill as written would grant some new powers, as they are called, to the banks initially, but then there are other activities that would become available only after a period of time has passed.

For example, in the case of mutual fund origination and corporate debt underwriting, that would not phase in until 6 months after the enactment of this legislation; and it would not be until the early part of 1991 that Congress would vote, on an expedited procedures basis, on the question of whether or not we were prepared to have banks with a securities affiliate be able to engage in the underwriting of corporate equity.

So we have phased this in order a period of time in the future in a fashion that we think strikes the proper balance.

No one is totally satisfied with this bill, I say to my colleague from Alabama and my colleague from Tennessee and others.

In working out this set of issues, to try to achieve the right balance of equity and our ability to bring something forward that can earn the support of the Senate and be enacted into law, there was a lot of give and take. We had long hours, many in the office of the chairman, himself, to thrash out these issues. I think that what we got in the end was a genuine legislative compromise, not entirely satisfactory to any particular single Senator but generally acceptable to most of us, nearly all of us, as reflected by that 18 to 2 vote.

So I hope that the Senate will enact this bill as is, without change. I think that if it starts to change, that takes us down a perilous path.

Finally, this: If Congress should not act as we are proposing we do here, then, clearly, the regulators and the courts will feel as though they have the freedom to take whatever actions they may think are warranted. I must say that I have great uneasiness about that.

I think the changes that are needed in financial services in this country ought to be done by changes in law. They ought to be done by a very careful analysis and a series of votes by Congress. It ought to be done in a way whereby we lay out with some precision what the future is going to look like, so that all the parties in interest can plan and can adjust their strategies accordingly. I think that is the orderly and proper way for us to take and manage this process of fundamental change and transition.

If it does not happen that way, I think it is going to happen in a rather chaotic way, where regulators here or there will feel as though they can, in a sense, inject themselves into the vacuum and make administrative decisions about changes. Different levels of courts will see different issues in different lights. So you will have an odd pattern of decision in the courts—we have seen that already—and further fights on appeal. We will have a situation of great turmoil. We do not need that.

We have international competition coming into financial services by the Japanese and others, and it is important that our domestic financial services industry in this country prepare itself to be able to deal with that competition in the strongest way. So it is much better that we lay out these changes and do it in an orderly fashion, rather than just tossing these questions in the air to whatever may happen, with loophole exploitation, administrative decision, court decision, and overturning of court decisions. That is the worst way to do it, and I hope we will avoid that.

Madam President, I hope that not only will we pass this bill as is, but also, the regulators will understand that this is our job and not theirs; that they would wait for the legislative process to complete itself; that we continue to move in an expedited fashion today and pass this bill in the Senate; that the House have an opportunity to work on it; that before the year is out, we put that legislative proposal on the President's desk for his signature, so the law can be changed in that fashion; and that the regulators not feel that it is their job to leap ahead and, through some sort of ad hoc pattern of decisionmaking, in a sense, try to take that authority away from where it should properly reside, and that is right here, with those of us who are directly elected Senators and House Members—and, of course, the President, as well.

I think we have a good bill here, and I commend it to my colleagues. I hope we can pass it without any change. Let us see if we can get this bill enacted this year and have an orderly process of change in the world of financial services.

Mr. SHELBY. Madam President, I rise in support of S. 1886, The Financial Modernization Act of 1988. This measure is a well-reasoned, balanced solution to a problem that has emerged in the financial services industry.

The past several years have brought about much change in the Banking Industry. Banks have seen their market share erode as blue chip customers have chosen other methods of financing over traditional lending arrangements with banks. If safety and soundness are the two primary criteria by which we evaluate the banking industry, then surely implicit in that standard is the question of profitability.

Profitability has indeed been questionable lately. The FDIC reports that nine of the 10 largest banks reported full-year earnings losses in 1987; 17 of the 25 largest banks lost money. The number of failed banks set another FDIC record in 1987.

Admittedly, these losses are in large part due to the loan-loss provisions set aside to cover third world debt. However, banks have received more and more competition from nonbank banks. For example, General Electric offers financing for virtually every business financing need. Merrill Lynch has approximately $160 billion in assets through their cash management accounts. The Prudential Insurance Co., offers $10,000 lines of credit by mail. The finance companies of automobile manufacturers have displaced banks as the primary financers of cars. In 1980, commercial banks had 52 percent of the auto finance market. They now have 41 percent of the market. Consumers can turn to insurance companies, retailers, and large diversifieds for their financial needs.

Today, business customers in need of new capital are more likely to turn to their investment banker for commercial paper or junk bonds. The American Bankers Association reports that in the 10 years between 1975 and 1985, bank deposits grew by 130 percent. In comparison, Savings & Loan deposits grew by 203 percent, pension funds by 264 percent, mutual funds by almost 500 percent, and money market mutual funds skyrocketed by 5,508 percent. The total liabilities and capital of securities brokers and dealers increased by 1,466 percent.

The Financial Modernization Act will allow banks to better compete with some of their largest competitors. Consumers will benefit as well as banks. With passage of this bill, banks will be allowed to underwrite municipal revenue bonds, thus providing competition in the municipal bond underwriting market. The municipality will benefit from reduced underwriting costs, which are predicted to fall between one-half and 1 percent of total volume. The taxpayers will ultimately benefit.

In addition to lowering underwriting costs, allowing banks to participate in bond underwriting would provide small communities with smaller projects greater access to this method of financing. Big Wall Street firms are seldom interested in small projects. If the local bank or a syndicate of local banks could underwrite the revenue bonds, the fee income could remain at home, and benefit the community through a trickle down effect.

Innovation and technology have made these changes in financial services possible. Our laws should accommodate rather than stifle such progress. S. 1886 dismantles what was erected 55 years ago through the Glass-Steagall provisions of the Banking Act of 1933. With age comes respect; the fight to change the status quo has been a difficult one. But it is time to allow progress. The Senate got to this point in 1984, with a bill more limited in scope. The inclusion of underwriting debt, equity, and mutual funds in this bill does not reflect a new boldness in the banking committee but rather an acknowledgement of the changes occuring in the marketplace.

There is a de facto dismantling of Glass-Steagall currently underway. The limits Glass-Steagall places on banks stop at the border. American banks own full service brokers abroad. For example, Security Pacific controls Hoare Govett in London. Citicorp earned $47 million from equities underwriting and brokerage in 20 countries in 1986. Citicorp also owns a seat on the Tokyo Stock Exchange. Banks have proved that they can safely and profitably perform these activities abroad, thus they should be permitted to expand their activities here in the United States.

S. 1886 allows banks to engage in new activities but not at the expense of safety. Included in this bill are many firewalls that seek to ensure that banks can not exert an unfair advantage over competitors nor expose affiliated banks to undue risk.

This measure was reported out of committee with a resounding vote of 18 to 2. The most difficult issue to resolve was that of insurance activities for banks. The treatment provided in the bill represents a hard won compromise.

I believe this body is familiar with the debate on Glass-Steagall. This body is also familiar with the integrity and leadership of Senator PROXMIRE. He has been an excellent chairman of the Senate Banking Committee and has set a fine example of what it is to be a statesman. An archaic law has caused anomalies and inefficiencies in the marketplace. Under Chairman PROXMIRE's direction, a well-constructed solution has been drafted. This bill has the support of the Federal Reserve Board, the SEC, the Comptroller of the Currency, the FDIC, and the Department of the Treasury. I urge my colleagues in the Senate to join me in supporting Chairman PROXMIRE's landmark legacy.

I oppose divisive amendments that destroy the spirit of the compromise that was reached during the markup process. This bill was voted out of committee with a vote of 18 to 2. Substantive changes to this bill would change that balance of support. I stand firm in supporting the bill as reported out of committee and urge my collegues to refrain from altering this balance.

Madam President, I wish to commend the chairman of the committee, the senior Senator from Wisconsin, for his leadership in bringing this about.

I also want to take a moment to commend the ranking Republican on the committee, Senator GARN, who chaired this committee for a number of years and who was instrumental in helping bring about what we have brought to the floor.

I would be remiss if I did not commend the Senator from Michigan, who has just spoken, because he put a lot in the bill and he put a lot of hours and a lot of work in it.

The senior Senator from Illinois [Mr. DIXON] was very instrumental in the negotiations that went on in bringing about this bill that we have brought to the floor as has been said by an 18-to-2 vote. That ought to tell us something. When you get an 18-to-2 vote coming out of the Senate Banking Committee, you have a bipartisan effort. It is an expression of strong bipartisan support.

I do not want to belabor the Senate today, but a few minutes ago, the Senator from Michigan was talking about whether we are going to do it here or whether we are going to let the regulators do it. What does he mean? It means, are we, the Congress of the United States—specifically here, today, the Senate of the United States—going to make public policy, or are we going to abdicate that public policy to the regulators and the courts?

The Senate Banking Committee has spoken, and it has spoken strongly, that we want to make public policy; and the bill we have before us today is evidence of that.

This bill is a compromise bill but it is one of progress. It is one of progress because we look back at the Glass-Steagall bill that was passed some 50 years ago and part of that was authored by a former deceased colleague from Alabama, Henry Steagall, and the late Carter Glass, the Senator from Virginia. We all know this.

But that was in the 1930's. This is the 1990's, almost. Things have changed. We have in the marketplace a global financial picture to look at. We have different avenues, different things made up every day because the financial structure is not inhibited except by your imagination and some regulations.

So I believe, as the chairman of the committee has so eloquently spoken on it, it is time to move on to the future and this is what the Banking Committee has done, and I support this bill.

I commend it to the Senate and I hope that we will all be able to oppose amendments that will divide us, that would be divisive, that would try to wreck this bill, because we have a chance this early in the 100th Congress, the last year, to pass landmark legislation, and I am going to do everything I can to do that.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Illinois.

Mr. DIXON. Mr. President, as my friend from Alabama has just stated, this is landmark legislation. It represents a fundamental change in the structure of our financial services law. At the same time, however, it is a modest, prudent, and practical bill. It is carefully crafted so that the compromise phases in some of the changes it makes and actually requires a future congressional vote before bank holding companies would get stock underwriting authority.

At the outset, I congratulate, as others have done, the distinguished chairman of the Banking Committee, Senator PROXMIRE, and the distinguished ranking Republican member of the committee, Senator GARN, for their leadership in bringing this bill to the floor. I also congratulate all the other members of the Senate Banking Committee for their efforts in working out the compromise we have before us.

The negotiations leading up to the committee's vote on the compromise amendment were long and sometimes very difficult. Virtually every member of the committee participated in every step of the negotiations, something I think I can say I have never seen before in my time in the Senate. The success of our efforts is demonstrated by the fact that the compromise amendment was adopted late at night by an overwhelming 18 to 2 vote, and that the bill was ordered reported to the Senate by the identical 18-to-2 margin.

I think the Banking Committee produced a bill that the Senate can be genuinely proud of. I am pleased that I was able to help work out the compromise now before us, and I thank my good friend from Alabama for his kind remarks in that regard.

One of the reasons the compromise is such a good one is that it has such a strong factual base. I think very few bills have the extensive legislative history that this bill does have. Since January 1981, believe it or not, the Senate Banking Committee has held 83 days of hearings on banking reform issues. The committee has heard from at least 457 witnesses and has accumulated over 18,000 pages of testimony and exhibits.

This extensive hearing record made it crystal clear that action on reform legislation is long overdue. Much of the structure of our financial services law dates back to the Depression years. The world has fundamentally changed since then, although our laws have not changed to keep pace.

The computer and communications revolutions have made it easier for capital markets to bring users and suppliers of credit together without using a bank. A seemingly never-ending variety of new securities products are displacing traditional bank loans and accounts, and this competition increasingly takes place on a worldwide stage.

The result is that our financial markets avoid, go around, or through our outdated regulatory structure. They have to in order to compete. The neat, compartmentalized financial services system Congress set up so long ago is literally bursting at the seams.

The compromise proposal adopted by the committee does not address all of the outstanding reform issues; there is not yet any consensus on what a comprehensive reform bill should look like. However, it does take a significant first step in an area where there is broad agreement—the Glass-Steagall separation between investment and commercial banking.

The Glass-Steagall Act, passed during the Great Depression, was designed to keep banks out of the securities business. It was based on the assumption that bank securities activities contributed to the 1929 stock market crash and the collapse of the banking system.

That assumption does not hold up any longer. It is now clear that, with the exception of the activities of the bank of the United States—where out and out fraud was involved—there is no record of unique bank abuses of the securities powers they enjoyed during the 1920's.

Glass-Steagall suffers from a disease much more debilitating than faulty assumptions, however. The simple truth is that it no longer works. Banks and bank holding companies already engage in a growing variety of securities activities.

Banks or bank holding companies already can and do underwrite and deal in commercial paper, mortgage bonds, industrial bonds, municipal revenue bonds, and even to a limited degree in corporate equities. They can provide some mutual fund services and can offer their customers discount brokerage services, although they are handicapped in their ability to perform many of these activities in the United States. They can only sell some securities to very limited groups of customers, for example, and some of what they do can only be done in overseas markets. The bottom line, however, is that banks and bank holding companies do participate in the securities markets in a big way. The securities activities of one large bank holding company, for example, accounted for fully one-third of its 1986 profits.

The committee-approved bill recognizes these obvious facts. It sets up a system to permit the securities affiliates of bank holding companies to underwrite and deal in commercial paper, municipal revenue bonds, mortgage-backed securities, other asset-backed securities, and after 6 months, in mutual funds and corporate debt.

Importantly, the bill balances increased competitive opportunities with proper regard for protecting the safety and soundness of our banking system. The bill contains at least 18 different provisions designed to preserve bank capital, protect banks from risks related to the new securities activities, and prevent banks from using anticompetitive practices to gain securities business. To provide additional protection against risk, the bill does not repeal the Glass-Steagall prohibition against banks underwriting common stock. Instead, it calls for a "guaranteed" vote on this issue by April 1991, so that Congress has more time to consider issues related to last October's stock market crash.

According to Robert Litan, a senior fellow at the Brookings Institution and a recognized banking expert, the result will be increased competition and lower prices for government and business securities issuers. In an article in the most recent edition of International Economy, Litan predicts that underwriting spreads on commercial paper will decline from the current 12.5 basis point average to about the level in the eurocommercial paper market—where banks can already compete—about 3 basis points. This would be a decline of about 75 percent. He also predicts that fees for underwriting revenue bonds would decline by about 10 basis points, and that corporate bond underwriting spreads would decline by between 15 and 25 basis points. He believes spreads on asset-backed securities such as mortgage bonds would also decline, which could mean lower interest rates for American home buyers.

Importantly, the bill is designed to ensure that the increased competition is conducted on a level playing field, so that securities firms are not disadvantaged. It is worth remembering that banks and securities firms already compete head-to-head in a number of major markets, such as Treasury bonds, general obligation bonds, and foreign exchange. In each of these markets, securities firms are more than holding their own. In fact, in the foreign exchange market—a market that used to be a bank monopoly—securities firms continue to gain market share.

Glass-Steagall has remained unchanged for 55 years now, but I am sure its author, Senator Carter Glass of Virginia, never intended that the statute be carved into stone. In fact, he offered an amendment to put banks back into the business of underwriting corporate bonds only 2 years after the law bearing his name was enacted.

What made good sense to Senator Glass then, makes even more sense now. The securities provisions of this bill are eminently sound and deserve the Senate's support.

Of course, Mr. President, there is much more to this bill than the securities provisions. The bill has eight separate titles covering a variety of financial services issues. I will not take the time of my colleagues to go into them all here. The committee report describes them in detail, and the statements of the two distinguished managers of this bill have outlined them for the Senate. Instead, before I close, I would like to discuss only two issues: one which is in the bill—insurance—and one—real estate—which is not.

Title VIII contains a number of insurance provisions. Like the securities provisions, the insurance provisions are the product of compromise—Mr. President, you were there; I might even say intense compromise—a compromise that was difficult to reach. Unlike the securities compromise, the insurance compromise does not grant banks or bank holding companies any new insurance powers. However, it preserves the States' authority to give State-chartered banks insurance powers, which could be exercised only within the boundaries of the States granting them, to free standing State-chartered banks and to State-chartered banks owned by a holding company domiciled in the State. It also closes a number of Federal loopholes that were putting national banks into the insurance business, and it grandfathers existing bank insurance activities, including interstate activities.

The insurance provisions may appear to be somewhat based on a somewhat different approach than the securities provisions, but in actuality, the approach is the same. The committee, in both areas, takes the view that Congress should control the policy process and that major policy decisions should not be left to unelected judges and regulators.

While the Senate bill has no real estate provisions at the moment, the House companion bill does, and the conference will be addressing that issue with the same goal in mind—to establish a sound, coherent policy that does not delegate to anyone the decisions on the major policy issues involved. It was not possible to resolve all the real estate issues in time for inclusion in the Senate bill; I look forward to achieving a reasonable and appropriate compromise during the conference.

I want to conclude, Mr. President, by restating what I said at the outset, and what my friend from Alabama said. This is a landmark bill, but it takes a modest, prudent, and practical approach to the changes it makes. It is a compromise, and like all compromises, does not fully satisfy anyone. But it is a compromise that almost everyone is very comfortable with, and it represents the beginning of progress towards the kind of reform of our financial services system that is so long overdue. This bill deserves a substantial majority in the U.S. Senate and I urge its quick adoption.

I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, as a member of the Senate Banking Committee, I rise in strong support of the Financial Modernization Act of 1988. Make no mistake about it, this bill is the product of a hard-fought and carefully crafted compromise among the members of the Banking Committee.

I think it deserves to be ratified by the full Senate, ratified as overwhelmingly as it was by the Banking Committee itself.

I want to agree with the statement made by the distinguished Senator from Michigan, Mr. RIEGLE, in saying that I hope that this legislation before us today will be accepted by our Senate colleagues without amendment. It is a carefully crafted compromise, as I said earlier, and I fear that if we begin to willy-nilly amend this situation that this compromise could come unglued.

The centerpiece of this legislation is the reform of the Glass-Steagall Act. The bill significantly expands the securities powers of commercial banks. But, most importantly, the bill contains many critical provisions designed to maintain the safety and soundness of the banking system.

Indeed, the structure and regulation the bill provides for—the separately capitalized securities affiliate with full oversight by both the Securities and Exchange Commission and the Federal Reserve—is enormously important. This separate structure and regulation will help insulate the banking system from the risk of securities activities. It will also help prevent bank holding companies from using subsidiary banks to gain an unfair competitive advantage in the securities business.

Separateness of commercial banking from investment banking is what the Glass-Steagall Act was all about in the first place. It was a good idea at the beginning of the 1930's. The Glass-Steagall Act helped restore confidence in a banking system that had essentially collapsed following the great crash of 1929.

If we can truly maintain that separation within the bank holding company phase-in the riskier securities activities, and then make sure that the regulators are on top of the situation, this legislation is going to be very successful indeed.

But I would urge the need for caution. There is at this time an enormous amount of fragility in both the banking system and in the economy itself. The Federal Deposit Insurance Funds are under an inordinate strain as the result of bank and thrift insolvencies in the oil producing States. Many of our largest banks not in the oil producing States are carrying huge portfolios of nonperforming loans from the less developed countries. And, moreover, debt loans being carried by businesses in general have reached unprecedented levels, largely as a result of unproductive and dangerous activities following the corporate takeover craze.

During the next economic downturn, these companies holding this enormous debt as a result of this takeover loaning will likely have difficulty in servicing those debts and this could spell further difficulty for the banks that made these loans.

So, I think, in appraising the risks and benefits of this legislation, we need to distinguish between what it does and does not do. First of all, it is a reform, not repeal, of Glass-Steagall. It grants significant new securities powers to banks immediately, phases-in others, and leaves for a vote in 1991 the question of whether banks should underwrite corporate equity.

As for the benefits, there has been much evidence presented to the committee over the years. Clearly, cities, towns, and taxpayers could benefit from empowering banks with revenue bond underwriting authority, homebuyers could be helped by bank underwriting of mortgage-backed securities; businesses might obtain funds more easily with access through banks to the commercial paper market; and consumers would be afforded the convenience of obtaining investment advice, and buying stocks and mutual funds from their local bank.

Indeed, the safety and soundness of the banking system could well be enhanced by these powers because they are natural extensions of lines of business that banks have engaged in for years. By expanding bank powers to products and services where banks already have expertise, bank risk exposure will be spread much more widely, and therefore lessened.

Mr. President, this is in sharp contrast to corporate equity underwriting, and S. 1886 recognizes this. The bill requires Congress to vote in 1991 as to whether or not banks should underwrite corporate stock. Likewise, the bill does not permit banks to underwrite corporate debt or sponsor mutual funds until 6 months after enactment.

You might ask the question: Why not move forward immediately with corporate equity? First, equity underwriting, unlike the other securities powers, is not an extension of an existing line of bank business. The only place that our banks are involved in equity underwriting is Europe, and the GAO reports that the experience of banks there has not been good.

Second, it is doubtful whether the SEC given its severe funding and staff shortage, and its already overwhelming task in addressing the October crash and its enormous insider trading enforcement action, can easily take on full scale bank securities powers.

Third, and most obviously, the stock market has been beset recently by unprecedented volatility, never mind the largest 1-day drop in history. Only 6 months ago, on October 19, 1987, about $500 billion in equity value was wipded out. That our economy was able to survive this event is a credit to, among other things, the Glass-Steagall Act, which helped prevent this cataclysm in the equity markets from spreading into the banking system.

Likewise, the phase-in of mutual fund sponsorship is appropriate. Equity mutual funds may not be risky for banks themselves but they are for banks' typically risk adverse customers. On Black Monday, some mutual funds lost over half of their value. The mutual fund industry is now suffering from a tremendous loss of public confidence. The phase-in of mutual fund sponsorship by banks, as provided for in this bill, will help keep this loss of confidence from being carried over to the banking system.

Mr. President, the compromise the committee reached on the securities issue is both prudent and carefully crafted, and deserving of ratification by the Senate. So is the compromise on insurance. Under this bill, State legislatures will be afforded the opportunity to grant State-chartered banks that are owned by holding companies located in that State the right to engage in the insurance business within the State. Moreover, the bill closes a number of loopholes that had been abused by overzealous regulators and overly aggressive banks.

In fact, S. 1886 contains a much more liberal provision on insurance than that which passed the Senate in 1984. When we last visited this issue, we prohibited State-chartered banks that are owned by bank holding companies from getting into the insurance business under any circumstances.

Precluding out-of-State bank holding companies from selling insurance, as S. 1886 does, will prevent very large banks from combining insurance and banking to the detriment of smaller insurance providers, and small banks. It is this nonlocal competition that is most feared by smaller insurance providers.

S. 1886 lets States decide whether or not to grant insurance powers to their own banks. It thus preserves the States' prerogatives and lets this experiment in combining banking and insurance begin on a local level. But the bill recognizes that the interstate ownership and operation of insurance and banking concerns is an appropriate question for Congress to address, and indeed, to restrict, as the bill does. This determination by the committee should not be altered; to tamper with this provision now could place the entire bill in jeopardy.

Mr. President, bank expansion into real estate is an issue that is unfortunately not addressed by this bill. Presently, the Federal Reserve is considering a regulation that would permit banks to enter the real estate business under certain conditions. There are a number of us on the committee that have reservations about this regulation. It is my hope that some agreement can be reached legilatively, further on in this process, to settle the questions surrounding the involvement of banks in the real estate business. I see no need to involve thrifts in this legislation; their real estate activities are not a source of contention.

In conclusion, Mr. President, I wish to note that the moratorium on the expansion of bank products and services has expired, after having had its intended effect on galvanizing both the Senate and House banking committees into action. That Congress is acting is indeed important. It is increasingly evident that we have accorded the States and the regulators too much discretion in determining powers and activities of financial institutions.

I believe that it is important that Congress, and not regulators and States, make the critical decisions on the structure of the financial services industry. Change should not occur on a piecemeal basis. Rather, it should be a continuing process with Congress in charge. Congress bears the ultimate responsibility for the success or failure of the banking system.

Mr. President, I would be, I think, ungrateful and derelict in my duty if I did not state that our distinguished chairman, Senator PROXMIRE, deserves enormous credit for his perseverance in formulating and advancing this legislation. It is yet another legislative achievement in a career that has spanned countless other significant legislative achievements.

To him today I wish to extend my congratulations for a job well done. I hope that the Senate will follow his leadership here today in ratifying this landmark legislation.

Mr. President, I yield the floor.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I am pleased to rise in support of the Banking Committee bill, S. 1886. This legislation is the result of long hours of hearings and negotiations in the Banking Committee. The 18-to-2 vote to report the bill out of committee is a tribute to the persistence and leadership Chairman PROXMIRE and Senator GARN have shown during the whole process.

S. 1886 is the long overdue first step toward reasserting congressional responsibility for the structure and regulation of the financial system. For years Congress has abdicated its responsibility in this area and has allowed the process to be driven by the loophole lawyers, the courts, the regulators, and the State legislatures. Important decisions involving a vital sector of our economy have been left to unelected officials who do not have the same broad public policy responsibilities that we do.

Decisions about who should own a bank or what products a bank can sell should not be legal decisions based on the imputed meaning of phrases in our banking statutes. These are public policy decisions. The provision of credit and the payments system are vital to the health of our economy. Public policy decisions in this area are quite appropriately the responsibility of this body.

Our banking laws were designed to protect the safety and soundness of a financial system in which there were several discrete types of financial institutions. As these distinctions break down, and the lines between banks and securities firms become blurred, our laws become less relevant and the regulatory structure no longer protects the system as it should.

The Financial Modernization Act is prudent, conservative legislation. We can't roll back the changes in the world economy that have occurred in the 50 years since the Glass-Steagall Act was passed. To attempt to do so would deny consumers and businesses the ability to take advantage of a wider array of financial choices. The responsible choice is for Congress to manage the change and set up an appropriate regulatory scheme to deal with it.

I will not repeat what my colleagues have said about how the firewall restrictions in the bill will work. Suffice it to say that this legislation is a thoughtful, cautious piece of work which answers all of the objections that those opposed to Glass-Steagall repeal have raised. There are protections against conflicts of interest, tieins, and excessive concentration. The regulatory structure set up by S. 1886 is fair and provides that the securities affiliates of banks and stand-alone securities firms have to play by the same rules.

Mr. President, I have some minor quarrels with this bill, such as the lack of a true two-way street between banks and securities firms. Nevertheless, this bill is a fine compromise. It safeguards the financial system, while providing consumers, businesses, and State and local governments the benefits of increased competition in the securities markets. S. 1886 deserves the wholehearted support of the Senate and I urge my colleagues to vote for the bill.

Mr. CRANSTON. Mr. President, today, fundamental changes are occurring in both the domestic and international markets at an ever increasing pace. We are living through a period of revolutionary change in the global business of financial services. The blurring of distinctions between commercial and investment banks—as well as between all financial service businesses—has been apparent since the mid-1970's. The Glass-Steagall maginot line, once impregnable, now appears inadequate as an obstacle for those determined to occupy heretofore forbidden territory. This reality is compounded by the effects of foreign competitors with the exception of the Japanese who are not inhibited by Glass-Steagall type restrictions.

Bank Holding Company Act and Glass-Steagall type restrictions were not designed to anticipate many of the irreversible changes taking effect in the marketplace. The modernization of our financial services regulatory structure is urgently needed. Current laws and regulations governing financial services are inefficient and obsolete. They put the country at a severe disadvantage. We have a regulatory scheme that allows subsidiaries of U.S. banking organizations to underwrite and sell insurance abroad but not at home. They can distribute and deal in debt and equity securities abroad, but the same powers are denied to commercial bank affiliates here in our own country.

And here at home, the evolution in technology and in consumer demand has eclipsed Glass-Steagall and blurred the lines between commercial and investment banking and is fast encroaching on banking and commercial activities. We now have a hodgepodge patchwork banking structure that is anticompetitive and potentially unsound.

For years the financial industry has demonstrated that financial product diversification lends stability to the system. And this premise has served us well. The securities firms, for example, that are experiencing the greatest difficulties in today's volatile market are not the diversified companies that provide the broad range of financial services like American Express, John Hancock, or Dean Witter. Quite the contrary. Those in trouble are the specialist and the undercapitalized firms which serve only a narrow segment. Their situation is analogous to that which led to the recent failures of depository institutions in the agriculture and energy belts. There too, regional firms unable to diversity along product or geographic lines could do little more than decline, having no alternative than to serve an ever-decaying market share. History has shown the more diversified the parent company, the greater the strength of the underlying subsidiaries, and the less likely any one sector of the financial services industry is to suffer a debilitating loss.

Senator D'AMATO and I have introduced a bill, S. 1905, which we think more appropriately addresses the broader range of financial reform issues. The purpose of the bill is to evaluate the level of the debate from "just a few powers for banks" to taking a look at the possibility of putting in place a comprehensive approach that not only recognizes what has already occurred in the marketplace but established a structure that is capable of withstanding future growth and change in the financial system. It is time for this body and for the Congress to move beyond consideration of a bank powers bill, a securities industry bill, an insurance industry bill or a real estate industry bill. S. 1905 is the only bill that has a schematic frame work that rationalizes the financial services industry and works for everyone. S. 1905 provides for a charter alternative that permits the affiliation of banks, securities, financial and commercial firms.

Our bill does not permit banks into other businesses per se but permits banks to affiliate with other businesses under a diversified holding company to take advantage of consolidated earnings. The potential risk to the Federal Insurance Deposit System under our bill is de minimus because of the strict firewalls and functional regulation which make for a more efficient financial system. This separation of nondepository businesses from the bank will properly insulate the bank from self dealing and other potential fraudulent practices. Additionally, no Federal insurance could be used to assist the parent holding company. Increased capital is required to be put into any bank under this concept thereby bringing much needed capital into the financial system. Our approach is not about "deregulation"—it is better and more rational regulation, thicker firewalls, efficient monitoring, better enforcement, and stiffer penalties for violations. And, indeed, some of our provisions have been included in S. 1886.

The Banking Committee, however, has chosen a narrower approach in reporting out S. 1886, a compromise measure, after pledging last year to reconsider the broader issues of financial deregulation. The expiration of the moratorium on the Federal Reserve granting securities powers to banks on March 1, 1988, however, compelled the committee to move forward without fully carrying out its commitment to look at a broader frame work. The short legislative year ahead of us also added to this conundrum. It's clear that if Congress does not enact legislation on powers for banks, this process will proceed by regulatory fiat without Congress having an opportunity to speak to this matter. This is the reason that I am supporting the compromise bill S. 1886 today. This legislation is the first step in this direction that I hope will lead to a broader redefining of our financial system in the coming years.

The issue of the comprehensive restructuring of the financial services industry will not go away until it has been fully addressed, and I will continue to work toward that end. Today, as we consider legislation that falls far short of that mark, I appeal to my colleagues to begin to think in terms of a structural design for our financial industry that works fairly and consistently for every sector of the financial industry. Only then, will we be doing our part to foster an efficient and competitive financial industry which can meet all the challenges that await it at home and abroad, and well into the next century. I want to commend Senators PROXMIRE and GARN for their superior efforts along with all of my colleagues on the committee in reporting out this bill with an 18 to 2 vote. Their overwhelming vote says something positive to this whole body on the need for change in the financial industry.

Mr. D'AMATO. Mr. President and Members of the Senate, as we consider the merits of S. 1886, I find it more compelling than ever to bring your attention to an issue that is of great importance to the Nation and to this country's financial services industry. I find it equally compelling to address the political considerations that are inseparable from this debate and which, so far, have yielded only inadequate legislative responses to the question at hand.

Mr. President, it has been clear for quite some time that comprehensive modernization of our financial services regulatory structure is urgently needed. Those of us who are members of the Senate Banking Committee can remember back to the pledge we made along with our colleagues on the House Banking Committee last year during consideration of the Competitive Equality Banking Act [CEBA]. At that time, we committed ourselves to developing a comprehensive solution to the longstanding turf fight that emerges every time piecemeal attempts to modernize our financial system are made.

In response to that commitment, last November, Senator CRANSTON and I introduced S. 1905, the Depository Institution Affiliation Act [DIAA], which would have fundamentally restructured the present antiquated regulatory system governing the U.S. financial services industry. The bill was placed before the Senate Banking Committee along with legislation sponsored by the committee chairman and banking member, as well as with legislative packages put forward by several other distinguished Members.

The process by which compromise legislation was recently voted out of the Senate Banking Committee demonstrates that, despite our pledge of a year ago, we have indeed lapsed back into yet another turf battle among the all too familiar competing interest groups. And, once again, the committee has reported out a bill that is drafted in terms of banking powers, securities activities, and insurance restrictions.

This contentious environment will be forever with us so long as we are only willing to consider still another way to reslice the same old financial services pie. That approach will forever elicit strongly conflicting protests, as one sector's piece becomes larger only as another sector's piece shrinks.

S. 1905 proposed to break that vicious circle by providing for a truly reciprocal financial structure that placed each of the various sectors of the industry on an equal regulatory footing for the first time since the passage of the Glass-Steagall Act in 1933 and the Bank Holding Company Act of 1956.

Mr. President, it is time for this body and for Congress as a whole to move beyond the consideration of a bank powers bill, a securities industry bill, an insurance industry bill or a real estate industry bill. It is time to adopt instead a positive schematic framework that rationalizes the financial services industry as it exists today and will exist in the future. It is time to adopt a structural approach that provides greater safety and soundness for the entire industry through functional regulation of each financial activity. Such an approach was contained in S. 1905 and it continues to have this to recommend it: It is the only legislative framework that is inherently neutral and that works for everyone.

Historically, as we have considered these issues, it has been almost impossible to withstand the importuning of traditional interest groups. We have heard time and again that, just this one time, we must give special consideration to the situation of a particular sector of the financial services industry. And frankly, we shoud not expect to hear anything else so long as we acquiesce to legislating in piecemeal fashion for one sector's benefit at another's expense. Unfortunately, S. 1886 stands as further acquiescence to the piecemeal approach that ultimately must be overcome.

Mr. President, it is time to put forth the message that comprehensive, structural modernization of the financial services industry does work for all sectors of the industry. By adopting that approach, we could have declared an end to the tug of war that has been conducted by the traditional interest groups throughout this century. And in so doing, we could have confidently and competitively engaged ourselves in the global financial marketplace as it continues to develop throughout the world.

The framework embodied in S. 1905 has received widespread support from several quarters outside the Senate. The comprehensive restructuring approach embodied in the Depository Institution Affiliation Act has been endorsed in concept by the Department of Treasury, may members of the Board of Governors of the Federal Reserve, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Securities and Exchange Commission.

The provisions of the DIAA incorporated many of the suggestions contained in the House Report 100-324, "Modernization of the Financial Services Industry." The DIAA's provisions also closely paralleled the recommendations for the structuring of our Nation's financial system contained in the recently released FDIC study entitled "Mandate for Change."

Under the provisions of the DIAA, any company could have opted into a holding company structure, permitting it to become a depository institution holding company and, thus, be affiliated with a bank or a thrift. A company that chose this alternative regulatory format could have engaged in an expanded range of activities with and through its depository institution and other affiliates, provided they complied with the enhanced regulatory requirements of the bill. Nondepository financial and/or commercial activities would have been conducted through separately capitalized subsidiaries and would have been regulated along functional lines. This separation of nondepository institutions would have properly insulated the depository institutions from self-dealing and other fraudulent practices. Additionally, no Federal insurance funds could have been used to assist the parent holding company or any of its affiliates.

Passage of the DIAA would have accomplished comprehensive reform while providing additional safeguards to insulate the depository institution affiliates more effectively, thereby preventing abuses. Federal regulators would have been given expanded oversight and enforcement authority through a system of functional regulation of the affiliates.

The format contained in S. 1905 would have provided the twin benefits of enhancing the safety and soundness of depository institutions and the system as a whole while also attracting much needed capital into the industry.

The issue of the comprehensive restructuring of the financial services industry will not and should not go away until it has been fully addressed by Congress, and I will continue to work toward that end.

Today, as we consider legislation that falls far short of that mark, I appeal to my distinguished colleagues to begin to shed the traditional interest-group perspectives on these issues and to begin to think in terms of a structural design that works fairly and consistently for every sector of the financial industry. Only then, will we be doing our part to foster an efficient and competitive financial industry which can meet all the challenges that await it at home and abroad, well into the next century.

My objections to the bill before us, S. 1886, the Financial Modernization Act, are part procedural and part substantive.

After meetings and caucuses out of the public eye, sections of the bill were literally cut and pasted together before us with little time for review.

After months, no years, of debate on these issues so important to the safety and soundness of our financial system, especially after October 19, we passed a bill without much discussion or debate. We don't really know what this bill does and what it does to those institutions affected by the bill.

The bill is the worst type of financial reform legislation—it's piecemeal reform. Not the broad structural reform I had hoped for.

Our approach ought to be an amendment to allow for the total repeal of Glass-Steagall so competition would take place on a two-way street.

Instead, in 15 minutes we allowed a one-way repeal of the 55-year-old Glass-Steagall Act, while we spent 2 days arguing about closing new loopholes to last years banking bill and adding new grandfather provisions for existing institutions.

This bill is a stumble rather than a first step forward. This bill is almost certainly full of inadvertent new loopholes to be explored by loophole lawyers and grandfathered institutions which will enjoy competitive advantages over other similar institutions.

Loopholes and grandfathers will be perpetuated until we enact a truly comprehensive structural reform bill—similar to tax reform.

My chief concerns are that we really haven't done anything to infuse capital into the banking system. This need for capital has been noted by all Federal and State regulators.

Capital will not be infused by the grant of a new bank powers that can be utilized by a few big banks. Most banks don't want these powers. They want the power to be affiliated with insurance and real estate companies.

The bill does nothing to encourage the growth of diversified financial services companies. It sets up a framework which no existing institutions could use now or in the future. Consumers of these products lose out.

I remain tremendously concerned that the fashion in which this legislation allows banks to participate in securities activities will result in greater unfair competition and conflicts of interest. For example, does the perception that a banks securities affiliate has some Federal insurance not available to other entities give it a competitive advantage? I believe it does.

I am concerned that this legislation does not provide a viable framework for separate subsidiaries and firewalls necessary for the prudent testing of bank powers.

I am concerned that this legislation does not go far enough in ensuring that congressional prerogatives are protected. It is essential that basic decisions on the framework of our financial services system be made by the people's elected representatives and not in a haphazard fashion resulting from crafty lawyers ferreting out and exploiting loopholes.

Finally, and most importantly of all, I am concerned that passage of this legislation in its present form may have grave implications for the safety and soundness of our entire banking system.

In granting a few new powers to banks we did not impose adequate firewalls to ensure that the Federal deposit insurance funds are not really exposed to the future of a bank's securities subsidiary or to the failure of the bank itself for its securities activities.

We've learned in the past that securities trading is risky business—even when we are discussing so-called safe securities. For example, we experienced the failure of dealers in U.S. Government securities—the safest securities in the world. And the future of those few small firms almost brought the Ohio S&L system down. Therefore, we need adequate firewalls to ensure the safety and soundness of the banks that engage in these activities—especially new activities.

The issue of safety and soundness is something I want to talk about at some length. This fall, you could not pick up a newspaper without reading about the devastating impact of the October market crash. As we prepare to allow federally insured banks into the securities business, we should reflect on the lesson in market volatility which we should have learned in October.

In the fourth quarter of 1987, the securities industry endured pre-tax losses of $2.2 billion. During that period, securities industry assets plummeted 20 percent, from $500 billion in assets to $400 billion in assets.

I am hard pressed to see how securities powers would have helped the banking industry's bottom line. I am sure glad, however, that the Government doesn't have to bail-out brokers in turbulent times.

The securities industry is probably the most volatile industry in the United States with regards to profitability. This has been the case for decades. The events of this fall are just the most emphatic and dramatic rendering of that message.

Of late, the stories on the crash and its aftermath have ceded the front pages to stories of the tremendous problems facing many savings and loans and banks, and their implications for the safety and soundness of our insurance system.

Let me quote one paragraph from a story entitled "Federal Fiasco, Banks and S&L's Face New Wave of Failures as Regulators Goof Up" which appeared on the front page of last Friday's Wall Street Journal:

> Much of the S&L debacle can be traced to the 1982 Garn-St Germain legislation, and subsequent state deregulation, that gave broad and risky new powers to S&Ls. Now, with those problems still unresolved, Congress is contemplating further banking deregulation, the repeal of the Glass-Steagall Act that separates commercial and investment banking. However, the GAO's Mr. Wolf [Frederick D. Wolf, the director of accounting and financial management at the General Accounting Office] worries that some commercial banks would run wild and pile up losses in investment banking—just as some S&Ls did when their lending and investment powers were expanded.

I believe these stories—of the market crash of the recent past and the S&L crisis which awaits us in the near future—should give us pause regarding the legislation before us at present.

I will be offering a number of perfecting amendments which address the issues of unfair competition, conflicts of interest, devising a prudent structure for financial reform, protecting congressional prerogatives during this process of financial reform and finally protecting the taxpayers and the safety and soundness of our insurance system.

I believe these amendments will go a long way toward significantly improving the legislation before us. I urge my colleagues to support these amendments.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

AMENDMENT NO. 1915

Mr. GRAHAM. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Florida [Mr. GRAHAM] for himself and Mr. SANFORD proposes an amendment numbered 1915:
>
> On page 193, line 5, insert the following before the semicolon:
>
> "Or, that bank or subsidiary is located in a State that has entered into a reciprocal or regional banking agreement pursuant to State law permitting interstate banking between the State in which the bank or subsidiary is located and the State where the operations of the bank holding company's subsidiaries are principally conducted for purposes of section 3(d) of this Act, and the State where such bank or subsidiary thereof is located has authorized, by language to that effect and not merely by implication, State banks controlled by State bank holding companies located in a State that has entered into such a reciprocal or regional interstate banking agreement to engage in insurance activities authorized by State law;"

Mr. GRAHAM. Mr. President, first, I commend the chairman of our committee, Senator PROXMIRE, and the ranking member, Senator GARN, for the culmination of what has been many years of effort for major reform of our national banking laws.

This is an issue which for too long has been left to other courses, and the strong leadership of Senator PROXMIRE and Senator GARN has brought us to the point today, Mr. President, in which Congress can reassert its primary responsibility for shaping America's financial institution public policy.

Mr. President, I suggest that there are some fundamental principles that undergird this legislation. Two of those are the following. One is the elimination of ambiguity, that is, the responsibility of Congress to reassert its policy responsibilities in an area which for too long has been taken over by economic entrepreneurs, by State governments, by Federal and State regulators, and others who have filled the void of congressional inaction. I commend the chairman and ranking minority member of the committee for their special sensitivity to the importance of the elimination of ambiguity and the assertion of a clear congressional intent.

The second principle which is not only found in this legislation but throughout the Federal law is, as it relates to insurance, the policy of Congress is that the decision should be made at the State level. That is a decision that has been carried out in our antitrust law, the Federal Trade Commission, and in portions of the legislation that we have before us today. I believe that is a sound policy, because it recognizes the inherent sovereignity of the insurance activity.

It recognizes the diversity of commerical, political, even historic and cultural traditions from State to State and the fact that each State should be allowed to make judgments which best meet its particular circumstance.

In carrying out that principle of allowing the States to decide insurance policy, I believe there are two principal things that we in Congress should be sensitive to. First, we should be sensitive to the unintended extension across State lines of policies relative to insurance which would preempt a State from the ability to make judgments within its boundaries. This legislation, Mr. President, carries with it what is called the South Dakota loophole eliminator. This closes a loophole—one that those who have served on this committee much longer than I, I feel, would suggest was not an intended expansion, nor one which Congress intended, but which was done an acted upon—which had the effect of allowing States to have their ability to control insurance activities within their boundaries preempted. We have closed that loophole.

We have closed another loophole, the so-called controllers' loophole, which would have had the effect of expanding across State lines the authority of banks in smaller communities, again not an expansion which Congress had intended, and a decision which by this legislation is clearly without ambiguity reasserting congressional intent that the States should decide insurance policies within their boundaries.

There is a second aspect in a decision to avoid unintended allowance of external termination within a State for insurance. And that is that Congress itself should be careful about imposing its own will as it relates to what States ought to be doing with insurance. Congress should not inhibit the range of choices available to States.

Mr. President, I stand before you in somewhat of an ironic position. In 1974, while a member of the Florida State Senate, I and the majority of my colleagues voted for a State law which is the policy of Florida today which is that banks are prohibited from engaging in insurance except for credit tight insurance, a very strict prohibition against banks' involvement in insurance. I supported that position. I strongly support the right of the State of Florida to have made that decision. Essentially, the issue is here today whether we are going to be faithful, both to our principle of nonambiguity and our principle that as it relates to States and insurance, that the Congress has made the policy and should be faithful to the policy that the States should decide.

Mr. President, the amendment which I am offering today is quite candidly a very narrow one. The bill provides that States will have the authority to extend insurance powers to most of the banks within a State. However, excepted from that and federally preempted is a class of banks which are part of a bank holding company where the domicile or principal place of business of that bank holding company is located in another State. The amendment which I have offered would alter that provision which is in the bill today by providing that under these limited circumstances, one, a State has entered into a reciprocal arrangement or a regional compact with other States. Under that reciprocal or compact arrangement banks in one State are invited to do business in the other and vice versa.

Second, where a bank holding company which has its principal place of business in a State which has been the subject of such a reciprocal arrangement that should the host State—that is the State in which the banks of that bank holding company are located—decide that it wishes to extend insurance powers to that group of banks it will be allowed to do so.

I underscore the continuation of the policy that the States will decide what happens relative to insurance within their boundaries. This is not an injection of a Federal policy that banks should have insurance policy powers, and it is not an injection of any additional encouragement as to what States should do.

It merely removes what I consider to be an illogical prohibition on States in terms of their ability to treat all of the banks within their States, those that they have chartered, those they have invited to come to do business in their States, to treat all of the family equally if they choose to do so.

Why is this an important issue? This is an important issue, and it has gained importance since the last time Congress looked at this question several years ago because of the development of the regional banking system.

Mr. President, you and I both come from States which are participants in the Southern regional banking system. Other Members who are on the floor today are representatives of States which have other regional groupings. I believe that those regional groupings have served a very valid purpose. The purpose was to allow for the maximum number of options in the financial institution industry in the anticipation that we are moving toward a day in which there will be even fuller cross-State relationships of banks.

The reality is that in some of the regions, including the region that the State of Florida participates in with the State boundary restrictions that existed, there was very little opportunity for our financial institutions to reach a level of size of sophistication, and capacity to serve fully the needs of the expanding commerce within their States, serve fully the needs of the individual family and banking consumer within their States, and to be competitive in increasingly global financial markets.

So the means of helping to achieve that degree of capital intensification in our region has been a series of reciprocal agreements within which States have invited banks to come and do business.

My concern is that with the bill as it is currently written if the Florida Legislature were to decide, and I underscore the fact that in 1974 it decided quite to the contrary not to allow banks to engage in insurance, but if we believe in the principal that it is the State that should make that decision, and should the State decide to readdress it at some date in the future, the State legislature would be faced with the anomalous situation that it could extend insurance powers to freestanding banks located within the State of Florida, it could extend insurance power to banks which were affiliated with a bank holding company that had its principal place of business in Florida, but it could not extend insurance powers to those banks which is has purposefully for its own very legitimate purposes invited to come into the State such as C&S Bank from Georgia, NCNB, First Union, Wachovia from North Carolina and probably other banks as the regional process matures.

It has only been within the last few months that, for instance, Alabama has joined the regional banking system in the South, and we now have banks in our State which are in the situation of being a part of a bank holding company which has its principal place of business in Alabama. Those banks would be prohibited from the decision of the Florida State Legislature as to whether it wished to extend insurance powers to those banks.

Mr. President, there have been some statements made about this amendment which I would like to take a few moments to clarify. There have been comments that this amendment is an "interstate sale of insurance amendment." Nothing could be further from the truth. This amendment is consistent with the policy that States should decide that the Federal Government should not be involved in preempting that decision by interstate intrusion. The amendment clearly states that insurance would not be allowed to be sold on an interstate basis. Insurance would not be allowed to be sold in neighboring States. Insurance would only be permitted to be sold in a State which has authorized the bank to sell insurance within the boundaries of that State.

Mr. President, I beleive that the movement toward regional banking agreements is healthy, is energetic, and should be encouraged, not restricted. The needs and circumstances peculiar to each region are best served by a system sensitive to those difficulties, and the Southeast has moved to do so.

The States are the forum in which a determination should be made as to whether it is in the public interest of the citizens of that State to have various entities sell insurance.

Mr. President, we are seeing the energy of natural financial markets develop now. We in Congress should do nothing to inhibit that development. It is very much in the Nation's interests. Avoiding heavy-handed Federal restriction offers the greatest chance for these positive developments to continue.

Mr. PROXMIRE. Mr. President, will the Senator from California yield?

Mr. GRAHAM. I yield.

Mr. PROXMIRE. First, I congratulate my friend from Florida, and I apologize for saying "California." I cannot think of a worse blunder.

Mr. GRAHAM. There are over 25 million wonderful citizens of the State of California, and if they would like to be Floridians, we would like them to sample the joys of Florida.

Mr. PROXMIRE. Florida has every advantage in terms of climate, and in terms of having both Senators Democrats—especially the last part.

I say to my good friend that this is a very difficult quandry that the Senator from Wisconsin is in, as comanager of the bill, along with Senator GARN, because I would like to oppose amendments. But the Senator, I think, has made an absolutely clear case, completely logical.

He is saying that we have decided that the States will regulate insurance within their borders, and we make that principle about as clear and explicit as we can. That has been respected by Congress for years, it has worked extremely well.

All the Senator is doing in his proposal is saying that principle should apply, if it is an out-of-State bank that wants to sell insurance in the State, if the State legislature says you can sell in Florida or Wisconsin. Is that right?

Mr. GRAHAM. That is right, but it is even more restricted, because it would require an intermediate step—that the State had invited that bank to come into the State. That is, the State of Florida has passed a law which says to the State of North Carolina, " Your banks are invited to come to Florida, on the condition that North Carolina would extend the same invitation for Florida banks to come into North Carolina.

Florida did that, North Carolina did that, Alabama did that, Georgia did that, Tennessee did that, South Carolina did that, and other States in the South, and other groupings elsewhere in the country; because it was in the interest of those regions to develop a larger capital base.

What I am saying is that, once having invited these institutions to do business in the State, now we are about to say that they are going to be the red-headed orphans at the table, should that State decide to extend insurance powers, because the State legislature will, by act of Congress, be prohibited from extending the same authority to those groups of banks, the invited banks, that it has the authority to extent to everybody else who is at the table.

This is not the issue of whether banks should be allowed to engage in insurance. As I have said, my State has clearly answered that question—no. The issue here is who shall make the decision. In my opinion, the decision should be made by the States; and there is especially no logical reason to exclude from the States the authority to decide as to those institutions that the State has invited to come and do business.

Mr. PROXMIRE. I say to my good friend from Florida that he has made an absolutely devastating and logical case, and it is going to be hard for this Senator to decide how to vote on this amendment, but I am very tempted.

Mr. DODD. Mr. President, before the chairman decides on a devastating argument, will he wait a few minutes to hear the devastating argument on the other side of this issue?

Mr. President, I did not take advantage of the opportunity at the outset to join my colleagues in a general observation about this legislation.

As has been noted by others already, this was a product produced through a lot of hard work by a lot of people. Obviously, none of it could occur without the chairmanship being willing to allow for a free flow of ideas and exchanges over a period of days—in fact, weeks.

It started back some time ago. We talked and tried to iron out a very complicated question which divided Members of this body strongly on how we should approach financial institutions in this country. The process really began about a year ago, with adoption of the moratorium legislation, which made it possible for us to get to this moment.

Certainly, Chairman Proxmire deserves a great deal of credit for pushing and moving that process along to the point where we are today, debating one of the most comprehensive pieces of banking legislation, financial institution legislation, in many a year.

I would be remiss if I did not include in my comments reference to the distinguished ranking minority member of this committee, the former chairman of this committee, Senator GARN, who played no small part over the last 6 or 7 years in trying to move the committee and this body into the area, into the direction, where we are generally headed today.

It is difficult around here to get quorums, with all the business people are engaged in, with various committee assignments. But I would like my other colleagues, who are not on the Banking Committee, to know that we had almost 100 percent participation over several days in trying to iron out this bill. That is no easy task to perform. The fact that so many members of this committee stayed actively involved in this debate contributed significantly, I think, to the fact that we were ultimately able to end up with an almost unanimous vote on this piece of legislation.

Mr. President, there are provisions in this bill which do not enjoy the full support of each Member. In fact, I have serious difficulties with a number of provisions. I suppose I could stand up and extol the virtue and wisdom of arguments people might offer. But, frankly, we tried to come out with something that, while it did not please everybody, was a product we could all support, and we would come to the floor and try to defend that product, and not let it become a situation in which people could offer amendments to prove their position a little more.

It was only a few years ago when we debated this issue, and by almost a margin of two to one, the provision included in the committee product was defeated. But we decided to take that defeated product and make it a part of the banking bill, for reasons that are important from a substantive standpoint. That product includes provisions which do not enjoy the support of every member of the committee, but it is the best we could do, and it is a giant step forward in this area. I am proud to be associated with it and part of it.

I intend to oppose all amendments, no matter how appealing they may be, to try to hold this product together.

However, if it does begin to unravel, then that commitment is no longer binding. I assume that amendments of all nature and all kinds would be open for consideration, including the amendment on which I prevailed here 2 years ago, which would do what I think ought to be done if we are going to follow the intent of this institution and Congress over the years, when it comes to the question of banking and insurance.

The Senator from Florida and the Presiding Officer [Mr. SANFORD] come from a region of the country which, in their wisdom—and I applaud them for their wisdom—established a regional compact for banking. We did the same thing in the New England area, and we think they have been tremendously successful.

I worked with the chairman on that concept and offered the amendment on regional banking a couple of years ago which established that spawning ground to the point where we are going to get full interstate banking.

The insurance provisions of this bill, as I mentioned a moment ago, were a hard-fought compromise, one not reached easily. I have long heard, and again this is going to come as no surprise to the members of the committee or the Members of this body as a whole, that State chartered banks that become part of the bank holding companies should be governed by the rules established for bank holding companies. Who established those rules? We did.

If you are going to form a bank holding company, you have just bought into a Federal creature. This is not something the States created. We created the bank holding companies under the Bank Holding Company Act.

When we did that we permitted certain activities and by implication prohibited others. That is what we did. Whether you like it or not that is the Federal law. That is the law. And there is a longstanding policy on that particular question.

In the case of insurance specifically, such activities under the Bank Holding Company Act were very tightly limited, largely to the sale to credit-related insurance and insurance activities for small holding companies in to service small towns, and those provisions are written in it.

The same rationale, Mr. President, that establishes restrictions for the holding company logically must apply to all its parts. You cannot just be selective and decide you are going to take some and reject others. Either it is in the law or not.

Moreover, to permit State-chartered banks to avail themselves of the Federal bank holding company structure and security, I might point out tax and branching advantages, and then turn around and suggest they are State creatures for purposes of getting insurance powers from State legislators is to play both ends against the middle. It just was not intended that way. That is the fact, the substance.

Again, whether or not the Members think the bank holding company should or should not have limited those powers is a legitimate question. You cannot be selective about the parts you like and the parts you do not and try to apply it here.

On the other hand, some argued States should be free to set the rules for all State chartered bank holding within the States whatever they want to do. In the banking bill in 1984, I mentioned a moment ago, my approach was adopted by the Senate. When the House took no action, of course the legislation died at the end of that session.

This time the members of the Banking Committee devised a very hard-fought compromise that I mentioned earlier that will let States set the rules for State-chartered banks that are part of the bank holding companies if the holding company's principal place of banking business is located in that State.

Let me step back for a second. There is nothing nor has there ever been which prohibits a State-chartered bank from selling insurance if the State legislature of that State wants to let those State-chartered institutions engage in those powers or activities. But when that bank goes out and forms a holding company, then they have bought into our process, and under those circumstances the States do not have the right necessarily to decide what a bank holding company can do because we created bank holding companies, not the individual States.

The Federal Government controls bank holding company activities. And to the extent we have allowed States and State banks to engage in those activities has been because the Federal Government has chosen to allow them to do it. That is the only reason at all. It is very important that Members keep that distinction in mind. There is nothing in the law in this bill that says to a State, "If you want to let your State-chartered banks sell insurance or anything else, you have the power to do so and no one is depriving you of that activity." When you engage in bank holding company activities, you just crossed the line. You crossed the line.

And that is a distinction that cannot be blurred or lost in all of this.

But what we did here was go a step further because that was virtually the amendment that was offered by a former colleague from the State of Washington, Senator GORTON, and others, and so this time around we said, "OK; look, if in fact you have a bank holding company, the State-chartered institution, and the State legislature in that State wants to allow them to engage in those activities, OK."

It was not intended to open up the process and allow banks that are chartered or do the principal place of business in one State to come on and acquire that bank and engage in those activities.

I presume everyone knows we are about months away, maybe weeks away, from full interstate banking in this country.

So regional compacts, be they in the Southeast or the Northeast, are going to disappear. It is not going to be just a question of an Atlanta bank doing business in Florida or a Hartford bank doing business in Boston. It is going to be a New York bank doing business in Birmingham. It is going to be a San Francisco bank doing business in Chicago or a Chicago bank doing business in Wisconsin.

So we are going to have full interstate activities and that becomes an important consideration when looking at the question of whether or not you want to allow these out-of-State businesses principally located in those States to come on into another State and engage in those activities.

So, Mr. President, I feel that on the substance we have gone a major step forward. We could have argued that if they form a bank holding company, they are out. That is what we said the last time, that is what this body said the last time it addressed the issue. But we compromised and went a step further. We said, "All right, if you want to form a bank holding company in that State as long as that is where that bank really is, that is fine; we will allow that if the State legislatures want to let them do it." But having opened up the door that far and then have people coming in and saying, "Now, listen, once you have done that, you ought to open up the whole thing and allow banks with a principal place of business in another State to come and take advantage of that as well."

Mr. President, let me make it clear what we are talking about here is also a one-way street. Another point my colleague ought to consider: We are being asked here about what insurance powers States can give the banks. The banks would like those insurance powers. What we are not talking about here today is authorizing the States to give insurers banking powers. As such, the bill and the amendment are really one-sided in this particular case. In the bill what we tried to do in security powers and banking powers was to create a two-way street. We said to the banks, "We let you get involved in some of those securities activities, but we have to tell you some of those securities firms are now also going to be involved in some of those banking activities. You cannot just have it all your own way."

My good friend from Florida offers an amendment that states you ought to let those States decide whether or not banks can have insurance powers. Not included in his amendment is whether or not insurance businesses can also become banks. If you are going to create some equity here it seems to me that has to be addressed and it is not.

Second, Mr. President, we have to recognize that regional compacts, as I mentioned a while ago, are one step and a very major step on the way to interstate banking.

Third, unlike the provisions of S. 1886, the bill before us addresses the needs for firewalls between banks and security affiliates, and we did a great deal of work. Our colleague from Illinois, our colleague from Michigan, our colleague from Tennessee, and our colleague from Maryland fought very hard on the notion of firewalls between these activities. There is nothing in this amendment that creates any kind of a firewall at all. So if a bank gets insurance powers and they go crazy with it locally, you know who is to pay for it. It will not be the State that does. It is the FDIC. It will be us who pays for it.

So there are no firewalls to protect against those kinds of problems. That is exactly what happened with the S&L industry, of course, a few years ago when we allowed the States to go crazy with the S&L business. They got in trouble not because of anything we did. They got in trouble because the States allowed them to do too much. Who pays the bill? We pay the bill.

So by extending the insurance powers without any kind of firewalls, we really run the risk of having the U.S. Government with FDIC pay one healthy price if they decide they are going to go into activities that can jeopardize the soundness and safety of those institutions.

As you can see, Mr. President, this is anything but a simple question of States' rights. It is far more complicated than just what a State can allow a bank located someplace else to do insurance business in the State that the legislatures approve that activity. It involves equity, as well as a distinct Federal interest and assuring that such activities are conducted in a very safe and sound manner so as to protect the Federal deposit insurance system.

Mr. President, for those reasons, with all due respect, because I have chatted with my colleague from Florida and my colleague from North Carolina who also feels very strongly on this issue as well, I would hope this amendment would be rejected.

I want to emphasize to you that the insurance industry in this country has moved. We are not here today arguing the same provision that I could make a case for politically that we prevailed upon only a couple years ago. We have moved forward. My hope would be my colleagues here would accept that movement as a sound step, a fair one. What we have done in this bill makes some sense and we should reject this amendment if it is offered for a vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Illinois.

Mr. DIXON. Mr. President, I rise with some degree of reluctance to discuss this issue, because I really do not have a dog in this fight.

Illinois does belong to a regional compact. There are financial institutions in my State that would support, I think, with enthusiasm the position of my friend from Florida.

On the other hand, I think what we have to recognize here is that what my friend from Connecticut has said is very true. This is, in fact, a very fragile and a very delicately structured compromise that was agreed to by a substantial majority of the Banking Committee, Democrats and Republicans, by an 18-to-2 vote after several days of intense negotiations and very, very hard bargaining. And everybody gave a little in the course of those discussions.

The compromise that was ultimately adopted on the insurance question said that we would address the South Dakota problem by using the Gorton amendment solution; that we would close the Comptroller's loophole and that we would negotiate a grandfathering agreement.

Now the question of negotiating the grandfather agreement took some time because there were a good many people that ultimately had to be considered for grandfathering.

But the important problem that occurred at the end of the discussions, Mr. President, was that my friend from Florida, I think in all fairness to him, had not understood precisely what we were discussing when we talked about the Gorton solution because, quite frankly, that was a compromise that had been agreed to when we passed the 1984 bill. So at the very end of the negotiations, this particular problem that we are dealing with now cropped up again. It was my understanding, and I think the understanding of the members of the committee, that my friend from Connecticut and my friend from Florida would discuss the possibility of finding some kind of a solution to that particular problem at a later date. Obviously, they have not been able to accommodate each other's different and distinct points of view about this subject.

But the fact is that the compromise achieved in the committee, in all fairness to the Senator from Connecticut, is the insurance compromise that we have in the legislation before us now.

Now for the Members who are not on the floor but will come over here later and vote, let me say this: We have been on this question now for years. We passed a bill in 1984 that was not taken up in the House. We passed a kind of simple bill last year for the purpose only of getting to the place we are now to get the substantial legislative result we have at this point in time. And in every one of these processes, you have big banks, little banks, thrifts, insurance agents, real estate agents, and all of the other important economic groups in this country that come into play and into conflict when we deal with this kind of legislation.

Now, notwithstanding all of these groups, many of whom were in complete disagreement, we were able to fashion the piece of legislation, Mr. President, that came out of committee 18 to 2. If we can pass that legislation on the floor of the U.S. Senate by a substantial majority reflecting the substantial majority view of the committee, we can send a vehicle to the House that ultimately will result in a strong piece of legislation, that will be significantly important for advancing the interests of the financial institutions and the financial community in this country.

Now, nobody believes that the bill that we pass here will pass the House in this form. Candor requires me to say that I think every member of the committee would believe that the bill that passes the House will be something less than we have in the bill we have here in the Senate. So I think it is terribly important that we maintain the integrity of the committee position.

The chairman has about 11 amendments on a list at his desk right now. At least one of those amendments, an amendment by my friend from Ohio, has substantial support and has to do with the cashing of Government checks. There are other amendments that have some appeal to many of us. I think if we start to amend this bill, we are going to end up with a bill we are going to have difficulty with.

I think the Senator from Connecticut should be taken at face value when he says if this amendment is adopted, he has other amendments. Now, what kind of other amendments does the Senator from Connecticut have? Well, I am here to tell my colleagues, he has amendments that were adopted here before; amendments that had appeal to a majority of this Chamber before.

When we dealt with the Senator from Connecticut in committee he was dealing not from a position of weakness, but from a position of strength. The Senator had won before.

When we had those meetings in the chairman's office, sometimes every chair was full. We had not only a quorum, but a complete attendance and a unanimity of opinion when we arrived at these agreements.

Now I do not want to open the floodgates again. We have done that work. We have saved our other colleagues, the other 80 of them, the fatiguing problems that we met in committee.

So, we can visit this again, Mr. President. This issue is not done or dead or laid aside forever. The distinguished Senator from Florida can offer a bill. I may vote for it. He can offer an amendment to some subsequent legislation of less importance. But I think on this bill, this will be the first test.

Sadly, maybe the first amendment offered by my dear friend from Florida has the most appeal to some of us. But that is the basic test: Whether, having achieved a compromise and an accommodation of honor that 18 of the 20 members can sign off on, we can stand here on the floor, notwithstanding it may have some appeal to us and vote for a motion to table to retain the integrity of the committee accommodation.

What is the use of wasting all that time? What is the use of dealing with all these issues at the committee level if you cannot bring to the floor something that you want to defend on the floor as a product of quality?

Now I will say in any public place that this is a product of quality. This is a very fine bill. This is a bill that advances the economic interests of the financial marketplaces in America by leaps and bounds. And shall we, over one small question involving a few banks in America held in holding companies under regional compacts, change this whole concept?

We have said here that the State legislature of Illinois is now dealing with this problem, Mr. President. We are saying you can still do that in Illinois. You can do it in Florida. You can do it in Connecticut. You can give that power at the State level, and in the holding company you can, if it is domiciled in your State.

Now that is a pretty advanced concept and a reasonable one which retains the concept of States rights.

So, here is all I say, in conclusion.

The chairman of the committee and the ranking member, who was chairman for many years, have dealt with this problem so long that, you know, I cannot even remember the number of years. I think I said earlier 457 witnesses, 83 days that we have dealt with this; three times in the short 8 years I have been here we were in the middle of this contest between all these different, diverse economic interests in America, every one of which you see when you go back home and speak to Rotary and Exchange and the Kiwanis Club sitting at the same table with you all the time. We finally resolved it and you want to do violence to it in the first vote here? I do not think that makes any sense and again, I say in conclusion, this bill is a good bill and I care about the bill and we ought to save the bill.

For that reason, with reluctance I suggest we have to reject the Senator's amendment if we want to save the bill. Otherwise I have to make a speech in a minute against my friend from Connecticut when he gets up with his amendment and I would rather be saved that fight. He being the only other Member of the Democratic freshman class of 1980, we try to avoid controversy as often as possible.

I thank the Senator.

The **PRESIDING OFFICER**. The Senator from Utah.

Mr. **GARN**. Mr. President, I rise in support of the amendment of the Senator from Florida. Having said that, I will have to vote against it.

I will explain myself. I do not need to explain myself very long. Every member of the Banking Committee has heard my speech, so many years, so many different times about States rights and the opposition to the so-called Dodd amendment.

I proposed closing the South Dakota loophole back in 1984. The Senator from Connecticut and I have gone through this battle. Both of us could give each other's speech having heard them over and over again. We know it so well so there is no point in repeating it here other than to say the Senator from Florida is absolutely right in substance. I agree with what he is trying to accomplish and commend him for bringing this issue up.

However, having said all of that, after nearly 14 years in this body, 6 years as chairman of the committee, when I listened to what amounted to more than 20,000 pages of testimony in hearings over and over again, the distinguished Senator from Pennsylvania said please, Mr. Chairman, quit calling so many hearings on this issue—there is no doubt that everybody knows every facet of this issue.

So, despite the fact that the Senator from Connecticut and I still are completely at opposite poles on this issue, what the Senator from Illinois has just talked about is very important. We have come to an agreement. It has taken a lot of time and a lot of work from a lot of people and even though I would like to change some of the provisions of this bill, including the compromise that was made on insurance, I will not.

The Senator from Connecticut and those who support his side are operating in good faith and indicated that the compromise would hold and they would not offer amendments and those of us on my side of the argument made the same commitment.

Although I agree on substance, I do intend to do everything I can to keep this bill intact. As has been said many times today, an 18-to-2 vote in the Senate Banking Committee is not insignificant. That is a major achievement and our most difficult task is still ahead of us in dealing with the House of Representatives.

Everybody knows what a difficult process that has been, even in 1984 when we passed a bill 89 to 5 in this body, the House would not even go to conference with us. So it is important that we keep this bill intact so I reluctantly must oppose the Senator from Florida, even though he is absolutely right on the issue, and also make a further comment that in order to keep this bill intact I will oppose any amendment that is brought up to this bill today so that we can send it to the House in as strong a negotiating position as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I do have some comments on the pending amendment. But I want to try to put them briefly in context, particularly in context of our bill, S. 1886, because the bill that we have before us does take a very major, indeed I think a giant, first step toward the restructuring of our Nation's financial services industry.

When we, as I hope we will, pass S. 1886, the Financial Modernization Act of 1987, we will update and strengthen the structure of the U.S. financial system—a system inherited from a regulatory framework set up more than half a century ago in the 1930's, in the time of the Depression. So it is not inappropriate to say, as Shakespeare wrote in "Julius Caesar," when Brutus said, "I come to praise Caesar, not to bury him." Contrary to what the deregulation advocates say, we are not burying by repeal the primary law underpinning our banking structure—the Glass-Steagall Act—rather we are improving upon it.

Glass-Steagall, which separated commercial from investment banking, has served this country well. Unfortunately, by the late 1970's and early 1980's, marketplace developments had blurred the lines between banking and commerce. Securities firms engaged in activities that closely resembled banking. Firms from all sectors were being merged into single full service corporate entities. There was an increasingly less meaningful distinction between commerce and banking.

Congress, in part, helped blurred this historic distinction by passing the Depository Institutions Deregulation and Monetary Control Act of 1980 and the Garn-St Germain Depository Institutions Act of 1982. This legislation moved banks beyond the range of financial service activities Congress envisioned for them in the 1930's. Recent marketplace changes and those that Congress helped engender pummeled the framework of Glass-Steagall, riddling it with loopholes to the point where it resembled Swiss cheese.

Mr. President, despite these changes, I want to point out that this bill does not discard the underlying structure of the financial services system. We do not cast aside a concept that has proven valid for 55 years. Although the bill does maintain the separation of banking and commerce, it will provide new structural mechanisms that permit financial institutions to adapt to changing market dynamics. But it does not in any way break down the wall between banking and general commerce. Banks will have an opportunity to regain lost customers and revenues through their ability to offer commercial paper, municipal revenue bonds, asset-backed securities, and after a phase in, mutual funds and corporate debt. Securities firms are afforded access to a two-way street—competitive parity—in their ability to acquire banks. The insurance industry—companies and agents—will have, with certain exceptions, the South Dakota, State-bank and comptroller's loopholes closed. Yet, States rights concerns are protected through the intrastate carveout for bank involvement in insurance that we are debating right now. Last, but not least, the consumers benefit from increased competition, potentially lower costs, and stronger protections of their rights as borrowers.

Mr. President, let me say a word about the pending amendment.

The pending amendment, which is offered by Senator GRAHAM of Florida, would permit bank holding companies located in States that are part of interstate regional compacts to acquire banks in those other States and then engage in activities involving insurance through those bank subsidiaries if the State authorizes it.

Mr. President, that amendment is part of an argument that has taken place here on the Senate floor over many years, as the Senator from Utah has pointed out. There have been other arguments that what we ought to do is for the Senate to decide that only State chartered banks, ones that are not creatures of bank holding companies, should be allowed by their State regulators to engage in any kind of insurance activities.

Mr. President, I would oppose either amendment on this bill because either one, I think, would destroy the balance of this bill.

This bill is the product of compromise, and I do not want to be a party to trying to advantage either those who want to get into the insurance business or those who want to keep others out of the insurance business.

I want to say at the outset that what I am about to say on the Graham amendment is in this context: That is, that I will oppose the amendment to try and get more people into insurance, and I will oppose an amendment that tries to get more people out of the insurance business.

The amendment of the Senator from Florida falls into the former category, but I would oppose one that was in the latter equally.

Having said that, I think we would want to consider, if this amendment were being offered in other circumstances, a very serious question that I do not think we really ever debated very much either during the course of our hearings or in the course of the markup and deliberations on the bill. That question is, if we let banks more broadly into the underwriting and distribution of insurance, does that not mean that we have to let insurance companies broadly into banking?

To my mind, it probably does. Otherwise, the street is a one-way street. The playing field is not level. We will have insurance companies saying, "Well, you let one class of financial institution and maybe other classes of financial institutions on to insurance turf; it is only fair that you let us onto those people's turf, particularly those of insured institutions, which is what a bank, per force, is."

Mr. President, I think we need to think long and hard about the implications of going down that street for this reason: It goes to the question of who should own or control a bank. Because banks are insured institutions, because they are a special creature that we have built up, that we have nourished, that we underwrite not only through insurance but through access to the Fed window, because they are the custodian of the Nation's payment system, because they serve in a very special role as institutions of safety and soundness, that needs to be without question, we should care about who owns a bank.

I might add, and I claim to be no expert, that we have seen in the savings and loan industry quite recently on the front pages of not just the business pages, but the front pages of newspapers all across this country, what happens when people are probably not qualified to be in banking, whether it be in the thrift industry or any other, what they can do to an entire segment, a regional segment as well as a component, of the banking industry. They can just about drive it out of business by taking on loans, by doing things that they should not have done.

If we adopt a policy, wittingly or unwittingly, that allows insurance companies to start owning banks, we ought to realize that anybody could own an insurance company. I would concede that insurance companies are financial service institutions for the most part, but some of them are owned by companies that are in general commerce. It is my concern that once you allow insurance companies that are owned perhaps by entities that are in general commerce to start owning banks, controlling banks, you have destroyed the last separation of banking and general commerce, and that we do not know where that ball, when it stops rolling, will stop, except we have a good indication. It is the indication from the excesses that we have seen in some of the S&L industry in the Southwest being that it will stop at the taxpayers' door, and it will stop and drop in our laps.

What I am saying, Mr. President, is that there are very serious questions that we ought to ask ourselves before we take any step that would allow the separation between banking and general commerce to ultimately be broken down and disappear. In particular, as I have canvassed people in banking, in securities, even in insurance—and I have referred to all three in these remarks—I do not know of any respected members of any of those segments of the financial services industry that really would welcome a total breakdown of the separation between banking and general commerce.

Really, that was the point I was making in my opening remarks, that this legislation, although we allow banks to pursue certain securities activities in certain ways, and vice versa, nonetheless holds very firm as a matter of policy that dividing line between those specific financial services I have just mentioned being on one side and on the other side of a well-defined line general commerce.

The second concern we ought to have, were we to go down the road proposed by the Senator from Florida, is ultimately where it might lead to and what it would mean for that separation.

Mr. President, I will make one last comment. I also want to commend the Senator from Florida for his position because it does give us an opportunity to look at these large issues. In much of what the Banking Committee has been involved with over the last 5 years, and Senator GARN is correct in his statement, a lot has had to do with turf wars, wars, who should get into whose business, who should have to stay out.

As a Member of this body and as a member of the Banking Committee, I know it is tempting to get caught up in nothing but turf wars. But the policy issues raised by the Senator's amendment are proper and serious issues, and by raising the amendment, he has allowed this body, I think, to debate, at least for a period of time, those issues that underly some of the more important concepts in this legislation and the choices this country has made in how it will structure and manage and safeguard our financial system.

Mr. President, I am especially pleased that my concerns regarding new securities powers and the various insurance loopholes were resolved. The compromise amendment provides for a delayed phase-in of mutual fund and corporate debt authorities, as well as the required affirmative vote by Congress on corporate equity underwriting 3 years from now. This is sound policy. It gives the system and the regulators a chance to adjust to the changes without jeopardizing the Federal deposit insurance funds.

The insurance compromise is a fair one. It closes the egregious loopholes yet balances the right of States to determine the extent to which their State-chartered banks—whether standing alone or within holding companies—can engage in insurance activities. Equally as important, the compromise treated in an equitable way those bank holding companies who were already engaged in insurance activities by grandfathering their interstate operations.

Mr. President, it has not been easy to get to where we are today. The Congress has been trying to resolve crises—most notably that of the thrift industy—while attempting to conduct a comprehensive review of our Nation's banking laws. Our job has been made more difficult as we have watched the inexorable changes of the marketplace that have altered banking's traditional role, and to a certain extent, even weakened it. It has also been frustrating to watch substantial changes being made in banking and insurance laws by State legislatures or by clever regulators and lawyers adept at playing loophole law.

Mr. President, last summer the Congress got off the sidelines and stopped this process of haphazard change. We enacted the Competitive Equality Banking Act of 1987—CEBA. This legislation closed certain loopholes and imposed a moratorium on banks' expansion into traditional nonbanking activities until Congress could conduct a comprehensive review of the issues and formulated new national policy.

When Congress passed CEBA almost a year ago, it pledged to the financial services industry that it would pass legislation to restructure Glass-Steagall. Today, we are keeping the Senate's part of that pledge. However, getting here has not been easy.

Since enactment of CEBA last August, the Senate Banking Committee has held a comprehensive series of hearings on the issue of restructuring. We have heard from countless numbers of expert witnesses. We have studied a variety of proposals to restructure our financial services framework. And the committee held a marathon markup session to achieve the compromise bill which enabled S. 1886 to pass by a strong bipartisan vote of 18-2. In my opinion, this legislation will reestablish Congress as the preeminent policymaker in the financial services area.

Mr. President, this legislation is the product of hard fought compromise. To be honest, there are provisions in this bill that concern me, especially the rapidity of the phase-in of some of the new securities powers. However, as part of this compromise, we agreed to a commitment to see the package through the floor—as is—with no substantial changes.

Mr. President, I am prepared to support this legislation—as is. I do not intend to support any amendments that would reimpose a partial or complete moratorium on insurance and real estate activities of banks. Having said this, I would also note that my support for the bill is qualified to the extent that the exact opposite does not occur—that the carefully crafted package is not riddled with amendments, particularly from those who would seek to lift the compromise restrictions on banks' involvement in insurance activities.

I say this with special reference to those of my colleagues who may be swayed by and who will stress the importance of the dual banking system and object to any legislation that would reduce State legislatures' prerogatives in regulating the activities of State-chartered banks. I would caution my colleagues who have not been privy to the endless—in fact, excruciating hours of discussions that the Banking Committee had on this subject.

My colleagues should be well aware that, in offering amendments such as these, they run the risk of triggering counter amendments which are much more onerous than what is now in the bill.

Mr. President, I hope that we can debate the issues in this legislation and then pass this bill and get on with other important issues that face the Banking Committee and other committees on which I serve. I also want to congratulate Chairman PROXMIRE and ranking member Senator GARN on the leadership they have provided to put this bill together. Without them, I doubt that we would have ever overcome the differences within the committee, and this bill would never have made it to the Senate floor.

Mr. President, S. 1886 is not a perfect bill, but it does provide an updated structure which will strengthen our financial service system. Also important, it keeps our word that Congress would address these issues in a timely and responsible fashion. For these reasons, I intend to support S. 1886 and urge my colleagues to do likewise.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise in support of the Graham-Sanford amendment. It is not my intention to foster an unraveling of the compromise, as our dear colleague from Illinois has so ably pointed out. I commend Senator DIXON for doing an outstanding job in negotiating the final version of S. 1886, which is before us today. But it was my very clear understanding at the time that there was a particular problem which was discussed. It was a problem that affected our colleagues from Florida and North Carolina in particular, and it was agreed at that time, to my recollection, that we would revisit it to see if an accommodation could be made.

To me, I think it is a modest proposal totally within the framework established in our negotiation to achieve a goal of permitting States to decide what kinds of activities should be undertaken by financial institutions within their State.

I support the compromises reached on the insurance issue. I support the closure of the South Dakota loophole and the comptrollers' loophole. I think it is quite appropriate for us in Congress to take decisions about national banks and bank holding companies, but it is another thing entirely to be preempting the application of State laws within a State.

The insurance provisions of this bill recognize that State laws should prevail for State banks within that State. But there is a curious requirement that a bank be headquartered in a State in order to have the State law apply.

My friends from Florida and North Carolina have quite properly recognized that State legislatures ought to be able to decide whether to permit out-of-State holding companies, which own State-chartered banks, to exercise insurance powers. Their attempt would simply give the States the option to permit out-of-State holding companies to sell insurance if they own the bank chartered in that State.

There is a lot of misinformation floating around about this amendment, unfortunately. Let us be clear that the amendment does not require States to allow interstate insurance activities. The Graham amendment simply gives State legislatures jurisdiction over all of the State banks in their State with respect to State activities in that State.

I believe the dual banking system has greatly benefited the Nation, and it is important to preserve the State's jurisdiction over their State-chartered banks.

As a former Governor, I support State regulation of the insurance industry and believe that it is only appropriate that State law should govern State-chartered banks as well.

There is no need, in my view, for language in the bill which is a Federal preemption of State law as it applies to out-of-State holding companies.

I congratulate my colleagues from Florida and from North Carolina on their amendment and urge its support.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I reluctantly rise to oppose the Graham amendment. I want to reiterate some things said here about this bill which were brought out in the Banking Committee. We worked long and hard on this banking bill. We have reached what I call a balance of interest. There were many compromises. But if we adopt this amendment, I see this bill as becoming unraveled, and we do not want to do this.

I believe this amendment would be divisive. It would start the division of us. We came out of that committee with a 18 to 2 vote. This is an expression of bipartisan support. A vote of 18-to-2 in the Banking Committee speaks of one thing: That is Democrat-Republican support, deep and broad.

As much as I hate to oppose the amendment of the Senator from Florida, which I believe has some merit, a lot of us have agreed to support the bill without substantive amendments, on the floor. We have an excellent chance to bring about legislation this year, but we have to move it out of the Senate first.

So I oppose the amendment of the Senator from Florida. Let us stay with the bill that was reported out of the committee.

I yield the floor.

Mr. SASSER. Mr. President, as a member of the Banking Committee, I rise in opposition to the amendment of my friend, the Senator from Florida. I do this, however, with a great deal of sympathy for his objective. Indeed, as a Senator from a State in the same region, I recognize and am sensitive to his concerns.

However, Mr. President, I believe that the Banking Committee reached a good, very balanced and responsible compromise on the insurance issue. Indeed, the Graham "Douglasizing" amendment would undo what is the lynchpin of the committee's compromise, not just on insurance, but also on securities. The issue of the degree to which States can permit banks to offer insurance was the most controversial issue we faced in the markup. To tamper with this provision now could place the entire bill at risk.

Some 3½ years ago, the Senate approved legislation that would have prohibited the State from according any insurance powers to any State-chartered bank that was part of a bank holding company. S. 1886 contains a significantly more liberal provision. The bill lets States grant State-chartered banks the power to engage in insurance activities within the State as long as the bank is owned by a company headquartered within the State. Mr. President, it should not be liberalized further.

Although this legislation pays significant deference to States' prerogatives, the bill does recognize that interstate ownership and operation of banking and insurance conglomerates is an appropriate question for the Congress to address, and indeed, to restrict, as the bill does.

Now, it is likely that at some point in the future, Congress will decide that State-chartered banks can be owned interstate and engage in insurance activities; certainly, the insurance issue will be before the Congress for years to come; but the provision contained in the bill is a good starting point.

As I have noted, S. 1886 gives the States the opportunity to experiment with insurance first with their locally owned banks. By doing so, the bill guards against large interstate banks combining both insurance and banking, in competition with small locally owned insurance providers, and smaller banks.

The overwhelming majority of the banks in this country are owned by holding companies located in the same State. Quite rightly the bill gives these banks the chance to engage in insurance. The Graham amendment, however, would permit States to give the minority of banks that are owned by large interstate holding companies the opportunity to be in both banking and insurance. I say let's wait on that. Let's see how it goes with locally owned banks first. The combination of large banking and insurance concerns could create a concentration of financial power, to the detriment of smaller entities. This is not a fear of insurance agents only. It is also a fear of small banks. I note that the Independent Bankers Association also opposes the Graham "Douglasizing" amendment.

The Douglas amendment to the Bank Holding Company Act permits States to determine whether an out-of-State bank holding company can enter that State and engage in Banking. The Douglas amendment has nothing to do with insurance, nor should it.

Mr. President, the provision contained in the bill is neither an attack on States rights nor the dual banking system. Indeed, I am a very strong supporter of the dual banking system. I think that community banks, many of which are State-chartered, have done an excellent job in supporting local endeavors and providing credit in areas that aren't served by larger banks. State-chartered banks have been a laboratory for experimentation and innovation.

Yet, even with such State-chartered institutions, there is a clear role for the Federal Government to play. The Constitution gives Congress sole authority to regulate interstate commerce. Nothing impacts interstate commerce more than banking. In keeping with its authority, Congress asserted jurisdiction over bank holding companies, making them Federal instrumentalities, regulated by the Federal Reserve.

And bank holding companies are not the only Federal interests in banking. State-chartered banks have federally insured deposits. They can be members of the Federal Reserve System. Even if they are not members of the Fed, they are subject to its reserve requirements. And all banks, whether they are National or State, must comport with a multitude of Federal laws and regulations.

In 1982, we decided that insurance activities were not appropriate for bank holding companies. Today we are faced with the question of whether a State-chartered bank itself can conduct a nonbanking activity that is impermissable for bank holding companies, and at the same time be a part of that holding company. That type of logic stands the Bank Holding Company Act on its head.

S. 1886 attempts to draw a logical line: If State-chartered banks are to operate as part of a Federal instrumentality—a bank holding company—they cannot engage in insurance and be owned interstate.

This is indeed a complex legal and public policy question. If we permit all State-chartered banks to enter the insurance business, there would be a disincentive for national banks to retain their national bank charters. We could then see wholesale conversions of national banks to State charters. I daresay that such a trend would undermine, if not destroy, the dual banking system.

Moreover, we need to consider structure, and safety and soundness. Congress has decided that insurance is not an appropriate activity for an affiliate of a bank holding company. Thus, under the amendment of the Senator from Florida, insurance activities would be conducted in a separately capitalized affiliate with restrictions, like those provided for under the securities title of the bill. We are talking here about the combination of insurance and banking, right inside a State-chartered bank, with next to no oversight.

Mr. President, we have gotten into trouble by deregulating banking too fast, by according too much power to States and to the regulators. We here in Congress bear ther ultimate responsibility for the future of the banking system. We should not take this lightly. Weighing that responsibility leads me to oppose the amendment of my good friend from Florida. I urge my colleagues to join in opposing this amendment. I yield the floor.

Mr. HARKIN. Mr. President, I also rise in opposition to the amendment offered by the distinguished Senator from Florida [Mr. GRAHAM]. I echo the words of the Senator from Alabama, and certainly some of the things he talked about earlier in terms of the equity I suppose are there. But I guess when you look at the bill that came out of the committee by an 18-to-2 vote, it is indeed a well-balanced bill. It is a balance that I think is well recognized.

Quite frankly, at least at this time, I believe that this amendment by the Senator from Florida would upset that balance that is in the bill. I think the vote might promote a flood of amendments that would come on the heels of this amendment. Once you upset a balance, like a teeter-totter, you get it going and there is almost no stopping it when it starts going down or up on one side or the other.

We have a balanced bill, and I believe in the best interest of all that we should leave it alone.

I will just go on to say, I think this amendment before us, is in the guise of local autonomy, which in some cases I believe is very good; local jurisdictions, State governments ought to have jurisdictions in some areas. But in this case, I believe this amendment favors big banks over small banks.

I believe this really does threaten the interest of the consumers and some of the small businessmen.

I would like to explain what I mean. First of all, the adoption of the Graham amendment helps big banks over small banks. As reported from the Banking Committee, the insurance provisions could be said to allow small banks to earn extra income in their home States. I do not believe that anyone has an argument against that. However, under this amendment, these biggest regional holding companies would be able to spread their insurance activities across State lines, to the detriment of the smaller, in-State banking competitors, and to insurance agents alike.

Second, I believe it threatens the interest of consumers by encouraging large banks to enter the insurance business without adequate protection against the tie-ins, cross-marketing of products, or misuse of private consumer information. By contrast, the security provisions in the bill contain specific firewall provisions that, for example, bar a bank affiliated with a securities entity, that prohibits an officer or director of a securities affiliate from serving simultaneously as an officer or director of an affiliated bank.

Second, the committee bill prohibits the disclosure by a bank of nonpublic information about a customer without the customer's consent to a securities affiliate or by a securities affiliate to an affiliated bank.

These provisions, as I understand it, are not present in the amendment offered by the Senator from Florida, and I believe that represents a weakness in this amendment. We all like to think banks will not misuse confidential information, but there could be a likelihood of some banks doing that when they sell insurance instead of securities.

Again, some banks will not extend credit, in an effort to influence the purchase of insurance, without very strong legal barriers blocking such activities.

Again, I say, just consider the evidence. Last week, Congressman MORRISON released an economic study that surveyed the likely effects of bank entry into the insurance business. Its conclusion was simple and very straightforward:

> Expanded bank powers would decrease the competitiveness of financial markets, imposing costs on consumers and increasing banking system risks.

The best evidence also comes from the arena in which banks have operated the longest: Credit insurance.

We all know how this can work: The person walks into a bank to get a loan. The bank looks at the application, studies it carefully, dubiously. The bank says the bank maybe will take it under consideration. The person sitting there gets a little nervous. He needs the money—has to send the kids to school, needs a car, has to expand his business, needs a new computer for his business.

The bank looks at the fellow and says: "While we are looking this over, if it's approved, would you like to buy credit insurance?" What do you think happens next? The person sitting there says: "Where's the pen? Give me the pen. I will sign right away." They could not get the pen fast enough into that person's hand. He will do anything to protect the source of credit because the banker implied, however subtly, that buying an insurance policy from the bank would be a smart thing to do.

Quite frankly, Mr. President, the banker does not really have to go that far in many cases. A small business person often has a steady flow of loans with the bank. No hinting is needed. There is an obvious desire. You want to keep your banker happy. We all want to keep our banker happy. You do not have to be brilliant to figure out that by placing all the insurance with the holder of your loans just might make him a little happier with you and your situation.

A 1979 Federal Reserve Board study found that between one and six and one in four retail credit customers have been coerced into buying credit life insurance. In one survey 40 percent of the retail credit customers responding did not know that they had credit insurance even while they were paying for it. Another study found that credit insurance sold by lenders is about 40 percent more expensive than credit insurance sold independently of the lenders by independent agents. So I think it is clear that entry into the general insurance markets really is not going to help the consumers. It certainly might help the banks.

Third, I believe this amendment can cause some real problems to the regulators including the FDIC, the bank's insurance fund. Again, the underlying bill provides for certain limitations against a bank engaging in activities which might undermine its reserves when dealing with the securities end of it, including extending credit in any manner to the securities affiliate or subsidiary of the securities affiliate and extending credit for the purpose of enhancing the marketability of securities that are being underwritten or distributed by the securities affiliate.

But again I would point out that the Graham amendment does not contain these limitations on a bank engaging in such activities with an insurance subsidiary, but these limitations are in the underlying bill and I think they are very important limitations.

There is one more argument I keep hearing all the time. I am sorry I missed some of the debate on the floor. I do not know if it was raised on the floor, but I have heard it repeatedly. It is an argument that is very fashionable today. We are told our banks are falling behind the Japanese, that we once had the very biggest banks, we do not anymore, and we have to catch up because the Japanese are taking over.

Mr. President, I looked into that issue, and I found out that the Japanese banking industry is, indeed, much more concentrated than our own and that Japanese laws do not fully separate banking from commerce. The relationship between the Japanese banks and commercial firms obviously has helped the Japanese banks to grow. But the Japanese banks are not allowed to sell insurance, absolutely not allowed to sell insurance. They engage in a lot of other things, a lot of other commerce, with very close ties with commerce, but they are not allowed to sell insurance.

I do not think anyone feels that by allowing our banks to do this somehow they are going to get a leg up on the Japanese banks, and once again attain the position in the world banking structure they once had if only we would give them the power to sell insurance.

In closing, Mr. President, the Banking Committee made a decision, by an 18-to-2 vote, not to permit banks to engage in nationwide insurance activities. Well, if we are not going to let them in the front door, then I do not think we ought to let them in the back door either by letting the States decide whether Federal policy should govern the Nation as a whole in this area.

You can always say, "Well, should the Federal law preempt State law?" Sometimes yes and sometimes no. I guess on the general side I would say to my friend from Florida that when it comes to an issue of States rights, I would support States rights in most areas. But there are some things that go beyond those State lines, that we have to look at the Nation as a whole rather than looking at the individual States, and I think this is one case where we have to have a national system, where we have to have a balance between the banking industry and the insurance industry. I believe that balance was struck in the bill, and I hope that balance will not be upset.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise in support of this amendment. It is a good amendment. It preserves the States' traditional authority to regulate insurance and it moves the economy in the direction in which I think it should operate, and that is in the direction of free competition. It says a bank subsidiary of an out-of-State bank holding company may sell insurance in its State if the State law says it can. Now we find in the Committee bill that we are preempting State laws and making free competition between banks and insurance impossible in the future. The committee bill goes in the wrong direction on this subject. It provides that a bank subsidiary of an out-of-State bank holding company will not be able to sell insurance in its State even if it is permitted to do so by State law. It provides that a bank holding company could sell insurance only in its home State. Why? Because the insurance lobby wants it that way. The committee bill preempts procompetitive State laws. It will mean less competition in insurance. The Graham-Sanford amendment respects State law and women mean more competition. The Senate should stand for more, not less, competition, particularly in the insurance industry.

If we believe in free competitive forces being given an opportunity to work, then we all ought to stand up and salute the Senator for offering this amendment, because it makes it possible for competition to work in the insurance industry.

We had a recent reminder of just how little competition there is among insurance companies. Major American and foreign insurance firms were sued by nine States for engaging in an illegal global boycott that set off an insurance crisis and cost consumers billions of dollars in increased premiums. Every time there is an effort to provide free competition or a little more competition in the insurance industry, we find Congress going the other way at the behest of the insurance industry.

The attorney general of California, in filing the suit against the insurance companies, said the illegal boycott "was a major contributor to the insurance crisis that forced so many cities and businesses up against the wall. In every instance it was the public and the consumer who paid the price for that collusive exercise in corporate greed."

The attorney general of New York, going all the way across the country, said, "The international conspiracies resulted in policies so shrunken in scope, so reduced in value to the customer, that they can hardly be described as insurance at all."

And the attorney general of Texas, going to the Southwestern part of our country, said the conspiracies were so harmful that they "sucked the blood out of our Nation's economic well-being."

Three of the biggest States in the Union joining in that action—New York, California, Texas, and six other States.

The conspiracies reveal a remarkable arrogance of power, a sense that the normal rules of competition and fairness do not apply to the all-powerful insurance companies. The truth is this industry has been coddled and shielded from tough competition for far too long. We know that Congress enacted the McCarren-Ferguson Act to say that one industry in the entire economy is exempt from the antitrust laws of this country, and what happens? The industry goes to the insurance regulators in each of the 50 States, and some of them are distinguishable, but in too many cases those regulators do not provide adequate protection for competition and consumers in the insurance industry.

In my own State of Ohio, which I think is well intentioned, the reality is that an insurer makes its filing and that is the end of it. There is no effective regulation. There is no real supervision except to see that the liabilities and assets are stated correctly. As far as rate setting is concerned, there is little or no regulation at all at the State level.

The insurance companies like it this way. They prefer the quiet life. They do not want anybody to upset the applecart. They do not want to be in the rough-and-tumble competition that exists in practically all other sectors of American business. That is why the insurance lobby is fighting so hard to defeat this amendment and win Federal preemption of State laws that would let banks compete more in insurance.

This lobbying campaign for Federal preemption would be amusing if the stakes involved were not so great.

On another important issue, the insurance lobby takes exactly the opposite position. It screams that congressional repeal of the insurance industry's antitrust exemption contained in the McCarran-Ferguson Act would preempt State regulation and impose Federal control of insurance.

So you have this instance where they are looking for preemption of State law, but on the question of their antitrust exemption they are saying, keep Congress out of it, we want to go with the State laws. They want it both ways. They want their bread buttered on both sides, and they have it that way. And they are going to get it that way under this bill.

The industry lobby organization calls itself, rather preposterously, the Coalition for the Preservation of State Regulation of Insurance, but after they form such a coalition they come and lobby here against the Graham-Sanford proposal, whose very purpose is to preserve State regulation. If they believe in the preservation of State regulation of insurance, then how can they be opposed to this amendment?

The industry's claimed devotion to State regulation and abhorrence of Federal regulation is nonsense. It's a joke. The truth is that the insurance companies are for any Federal law that limits competition, even if it preempts State law, and against any Federal law that strengthens competition. It is time for us to stand up to the insurance companies and make them play by the normal rules of the game.

Having said that, Mr. President, my guess is we will not have the privilege and the opportunity to vote on this bill. I want to address myself to that subject because although I was not on the floor I am told by other colleagues that my distinguished friend from Illinois said there is an agreement of the Banking Committee that there will be no amendments. What about the rest of us who are not on the Banking Committee? Do we not have anything to say about the banking laws of this country? I think we do.

I remember when the Finance Committee came forward and told us not too long ago on the last tax bill that they had 32 Members who were committed. That is more than the members on the Finance Committee, but they had those not on the committee. They said, "We are committed. There will be no amendments". Why should there be no amendments?

I respect the Banking Committee. There is no Member of the Senate for whom I have greater respect than the chairman of the Banking Committee, and we are going to miss him very much when he leaves this body at the end of this year. But having said that I would certainly say that even he would agree as we all would agree there is nothing sacred about a committee's report, a committee's bill. Each of us in this Senate have a right to offer amendments and the idea that they are all going to be voted down because there is an agreed-upon bill, I just do not buy that.

There are many subjects we ought to be looking at today, subjects such as greenmail, a little bit off the track with respect to the subject, but we have been waiting to act on greenmail. Meanwhile greenmail is still being paid out there in the marketplace and the people who are ordinary common stockholders are getting the short end of the stick.

What about the fact that some people are coming in as raiders, offering two-tier offers where some people, if they are smart enough, get in and they are able to sell their stock, and the others are left high and dry? Why should some of the corporate executives of this country be able to work out for themselves golden parachutes at the expense of their shareholders, and why can't we be dealing with these problems in this bill?

Mr. HARKIN. Will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. HARKIN. I thank the Senator for yielding. I agree with the Senator. Sometimes bills come out and are not amended. And we really do need to strike a balance.

I heard the Senator say one thing. I wanted to clarify it. My good friend from Ohio said something about lobbyists here and the insurance lobby. Again, I want the Senator to know that this Senator has had insurance agents from my State of Iowa in to see me. I am sure the Senator from Ohio is not in any way implying that there is something wrong with my independent agents coming in and telling me how they feel about this bill. I have had independent bankers in also who are not in favor of this specific amendment.

I am sure the Senator from Ohio is not saying there is something wrong with my constituents coming in to tell me how they feel about a certain piece of legislation or an amendment thereto.

Mr. METZENBAUM. There is no Senator in this body who is more independent minded, who has greater conviction, or more courage of his convictions, than the Senator from Iowa. I have no question about that at all. If agents came in or anyone else came in, if the Senator from Iowa thought they were wrong, he would tell them, "You are wrong, and I am not voting with you," because I know that time and time again when he felt the rightness was to go one way and the pressure was to go the other, he did not accommodate those who were putting the pressure on.

I greatly respect the independent insurance agents of America. They are hard-working, entreprenurial men and women who provide an indispensable service to their fellow citizens and who are important members of their communities. And frankly, there is considerable competition among the independent agents. Certainly much more than exists among the big insurance companies in this country. And I certainly respect the fact that the independent agents may come in, that corporate agents may come in, and lobbyists may come in, and not all are professional lobbyists. It is perfectly appropriate.

But my point is that over a period of years the insurance companies have had their way with the Congress of the United States. And that very tax bill which I mentioned before, there was special consideration in that tax bill. We were not able to do anything about it. I do not remember the specifics. But my point is that I believe—and I have said this time and time again—in free competitive forces having an opportunity to work. They do not work in the insurance industry.

I feel in this instance we see an insurance industry that is on both sides of the issue with respect to repealing the antitrust exemption in the McCarran-Ferguson Act. They are saying we do not want the Federal Government sticking its nose in. We are not even saying the Federal Government should stick its nose in. We are just saying we ought to repeal the antitrust exemption.

Mr. HARKIN. Mr. President, I have the highest admiration for the Senator. He know that. I admire his intellect and his honesty. He is honest all the time on the floor. There is no doubt in this Senator's mind or in any Senator's mind regarding that.

Certainly the Senator from Ohio has stood singularly on this floor on behalf of the citizens of this country and the consumers of this country time and time again when the forces of power were aligned on the other side.

So I have a great deal of respect, as the Senator knows, for the distinguished Senator from Ohio. I agree with him on competition. I believe in competition, and I do not believe profit is a dirty word. But sometimes when you get mergers and acquisitions the little guy is snuffed out. They do not let the little guy compete. You might have a small savings for the consumer in the short term. But then, because of the forces of concentration, later on down the road, they snuff out the little people. That is, I guess, what concerns me here.

These big regional banks come in from across State lines and snuff out some of these small ones. I might even accept the argument that for a small amount of time there might be some indication of a savings. But I do not believe there would be any on down the line. Perhaps that is where we have an honest disagreement.

Mr. METZENBAUM. But is it not a fact that what they are saying here is where you have State laws that permit that kind of competition to prevail we are going to snuff out that right, and that actually we are moving in an anticompetitive direction? We are saying, even if the State where the bank is located permits free competition to exist, that this bill is going to permit preemption of that State law and, therefore, that that competition will not be allowed to exist.

Mr. DODD. If the Senator will yield, I will be glad to respond to that question.

Mr. METZENBAUM. Sure.

Mr. DODD. It does nothing of the kind. Every State— and every Senator here has heard the argument—in this country that wants to allow a State-chartered bank to sell insurance can do so. They can form a bank holding company, a bank holding company established by the Federal Government. Under the Bank Holding Company Act we permitted certain activities, and we proscribed certain activities. We had very limited powers to allow banks to get into insurance.

Also, talking about insurance companies, as I listened to the Senator's argument, this bill has to do with agents.

Mr. METZENBAUM. I understand that, although its restrictions also apply to underwriting by the insurnace companies.

Mr. DODD. We are not talking about insurance companies. We are talking about 200,000 agents. If you do not think that is competition, I do not know what is. The question is whether you are going to allow a few banks, with all the consolidation, to tell 200,000 agents in this country they are not going to do business. If that is not anticompetitive, I do not know what is. There is no comparison with insurance companies. There is substantial competition within that industry.

The issue here is agency—whether or not insurance agents are going to be able to protect their business to some degree from banks that would like to get into it.

If you want to talk about competition, about lobbyists, this town has a few of them around, and not just for insurance agents. There are a lot of them here from those wonderful banks as well. Let us keep this on focus. It is on agency questions.

Mr. METZENBAUM. Does the Senator from Connecticut believe that States ought to have the right to regulate the insurance industry? If not, will he join me and at least provide for free competition and repeal the antitrust exemption in the McCarran-Ferguson Act?

Mr. DODD. When it affects State-chartered institutions. But when they get into the bank holding companies, you are talking about something that States do not regulate. That is something the Fedral Government regulates.

Mr. METZENBAUM. Would not the bank operating in the other State, the bank that is owned by the bank holding company, be subject to State regulation?

Mr. DODD. Only as it is in the bank holding company provision. They have moved out of that. That is where they get the tax advantages. Those are tremendous advantages. A decent-sized bank wants to be a holding company because there are substantial tax advantages for them. That is why they become holding companies. We regulate those. They cannot have it both ways. They do not allow the agents to form banks. It is not a two-way street.

Mr. METZENBAUM. I understand that. But why not let the State make a determination?

I recognize that it is the agents as well as the underwriters about whom we are talking. But I would take issue with my friend from Connecticut. Does he think the insurance companies are not involved in connection with this matter?

Mr. DODD. I say to my friend that they are involved, but it is no great secret—I suppose one could argue that allowing banks to also sell insurance is not going to hurt them in terms of having people marketing their product. So, while they expressed opposition to the Graham amendment, this is basically an issue of agency, not underwriting.

Mr. METZENBAUM. I understand that. But it is also a question of competition.

Mr. DODD. I thank my colleague.

Mr. METZENBAUM. Mr. President, having said that, I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Florida.

Mr. GRAHAM. Mr. President, on the assumption that all that is to be said on this matter has been uttered, I would like a few moments to close and then recommend a course of action.

Mr. President, what we are dealing with here is the smallest and, hopefully, relatively pure shaft of rationality and consistency which has been exploded into a virtual nuclear bomb in terms of its alleged impact.

All the arguments that have been made do not deal with the firewall question. We are going to let the big banks overwhelm the little banks. We are going to adversely affect consumers.

In my State of Florida, probably 90 to 95 percent of the banks would be available to the State legislature, should it choose to do so, to have insurance powers under the bill that is before us now. We are talking about a very small sliver of institutions.

The amendment only deals with those bank holding companies which have been invited, by reciprocal laws or regional compacts, to do business in the host State, which have accepted that invitation, and where the State legislature has extended to that group of banks the authority to sell insurance.

If you think there is a firewall problem, there is a firewall problem in 95 percent of the banks that this bill already gives the States the prerogative to extend insurance to. If you think there is a threat to small banks, there is a threat to small banks in the 90 to 95 percent of the banks that this bill already extends authority to.

In my State, the two, three, or four biggest banks would be authorized, if the State legislature chose to do so, to have insurance powers under the bill as it exists today.

So we are not talking about a massive issue here in terms of the number of institutions or the conditions under which those institutions would be available to a State to extend insurance power to. We also are not talking about some breach of faith, at least not a breach of faith on behalf of this Senator or others who share my position, in terms of actions of the Senate Banking Committee.

It has been stated that there was a decision made by 18 of the 20 members of the Banking Committee when they voted this bill out—and I was one of the 18—that that would be the end; that this would be the bill that would be presented; and that it represented this delicate balance, almost an Easter egg of fragility, that we have agreed to submit to the full body.

I would like to read from page 116 of the committee report, which states, under the category "Regional Banking Developments":

> Members of the committee have agreed to reconsider this issue before floor action, to see if it is possible to agree on an amendment to preserve the rights of States to authorize insurance activities within their borders by out-of-state bank holding companies. We encourage these discussions and hope that an agreed-upon amendment can be developed to remove the bill's restrictions on the States in this area.

Who signed that statement? WILLIAM PROXMIRE, TERRY SANFORD, BOB GRAHAM, JACK GARN, CHIC HECHT, KIT BOND, WILLIAM ARMSTRONG. Seven members of the committee stated that it was their hope that we would continue this process of developing a greater degree of rationality as it relates to this aspect of the bill.

Mr. President, this is not a confrontation between insurance companies, big or small; banks, big or small; agents; underwriting. This is not an attempt by this body to be the referee over all these economic competitors. The issue is, who should that referee be? I believe that, as it relates to insurance powers, those authorities should continue as they have been historically, vested at the State level.

I come out of an experience of 20 years in State government. Mr. President, I know that you have had extensive experience in State government. I believe States are responsible democratic institutions which understand the special conditions of their citizenry and are able to make these delicate balances of commerce authority.

I would suggest to my friends who are opposing this that they are setting themselves about a very difficult abrasive and I think potentially destructive course, by trying to argue as some have that the Federal Government should stay out when it is advantageous such as the McCarran-Ferguson prohibition on antitrust laws, but when it is helpful let us bring the power of the Federal Government in to restrict States.

Let me tell you what has happened in my State. It ironically happens to involve a commercial institution from Senator HARKIN's State. We all know there are many financial institutions which are in difficulty. The regulators and the insurers of financial institutions are looking around for deep pocket institutions to take over these failing or failed institutions.

One of those is a savings and loan in my State. The Federal Home Loan Bank Board found a deep pocket. The deep pocket is an Iowan insurance company and they have allowed that Iowa insurance company to take over the failing S&L in Florida.

The general counsel of the Federal Home Loan Bank Board has now issued an opinion which says that as an incident of the authority of that S&L now to buy an Iowa insurance company that S&L can sell insurance in Florida in spite of the fact that since 1974 the Florida State Legislature has prohibited financial institutions from selling insurance but for credit life.

I would suggest that is the real danger that those who are prepared to accept incursions on the principle that States ought to be controlling this area face because once it becomes just a matter of who happens to have the power for the moment and not a matter of principle the States should have this responsibility, and given the number of ailing finanical institutions around the country today and the temptation which the Federal Home Loan Bank Board has already succumbed to in this case and is likely to succumb to in the future, I suggest that we are going to see a major potential breach in the principle of State control of who practices insurance within that State's boundary.

The amendment which I have offered is absolutely consistent with that principle. It does not allow interstate sale of insurance. It does not allow any bank within the State to be available for the sale of insurance. It only allows those banks which the State has specifically invited through an original compact such as the region that the Presiding Officer's State participates in in New England, or the region which my State participates in in the Southeast.

Mr. President, having said that, I have learned some lessons through this process. I hope that the discussion of this issue today has been instructive to others who have chosen to participate, and I respect the positions of all those who have chosen to participate. I hope that it has been instructive to some of the interest groups who have taken a position as to what are the implications of the full extension of the positions they have taken.

Mr. President, I also am a pragmatist and I understand where the votes are likely to be. I am hopeful enough to feel that if people were voting strictly what they thought was the appropriate implementation of public policy in a consistent manner they would vote for my amendment because it is in that spirit that it is presented, but I also understand that there are members of the committee who have worked many years to try to get to a point of a very complicated bill and frankly, on a scale of zero to 10, we are talking about an issue within this bill which is a minor fraction of a one in the overall scope of issues that this bill deals with who feel that by accepting this amendent there might be a process of unraveling which could begin to attack the nine-plus parts of this bill.

I have been there before in other legislative arenas and I can appreciate that.

So, Mr. President, in that spirit I am prepared to ask that this amendment be withdrawn.

Mr. PROXMIRE. Mr. President, will the Senator from Florida yield?

Mr. GRAHAM. I yield.

Mr. PROXMIRE. I thank the Senator and congratulate him on having waged a very, very convincing fight. I said I thought the amendment has a great deal of logic as the Senator from Florida explained it, but I think it is most helpful to the committee. I am deeply grateful to him and thank him.

Mr. GRAHAM. Mr. President, I say to the chairman of the committee, before he extends full accolades, and I appreciate the partial accolades already extended, this is not an issue that is going to go away. I hope this bill is going to pass today or as soon as possible in this Chamber and be adopted in essentially the form that we will submit it to the House and become the law of America before this session of Congress adjourns.

Mr. PROXMIRE. May I say to my friend from Florida, that is exactly why I congratulated him. I hope it passes, too. I am enthusiastic in support of it, not on this bill but I certainly will in the future.

Mr. GRAHAM. My references to the expectations have to do with the bills as we have it before us. But I believe there will be another day as events such as the Iowa insurance events and their implications become better known when we will return to this question of consistency.

I would suggest to the chairman and also to our friend and colleague, Senator GARN, and also I believe Senator DIXON of Illinois is persuaded to this course of action, that in order to advance our understanding of this issue when we come to it again we might have an understanding that we will ask an appropriate entity such as the General Accounting Office to conduct a study with particular focus on the issues that are being raised by the original banking movement and the effect that that is having in terms of Federal Government extension of authorities to banks as well as other issues which surround the broader questions that we have been debating this afternoon.

Mr. PROXMIRE. Mr. President, if the Senator will yield on that, I hope he will include me as one of the Senators who is requesting that study from GAO.

Mr. DIXON. Mr. President, the Senator has my assurance that I will join him.

Mr. GRAHAM. I thank the Senator. I appreciate that.

Mr. President, having stated that I have been an attentive student of this issue in this process as we have considered it over the past few weeks and particularly this afternoon in hopes that this amendment has helped, as Senator HEINZ suggested it had to raise some important issues, and that the course of action which we have just outlined will move us toward greater rationality and consistency at a day when that opportunity is next available to us, I ask to withdraw the amendment.

Mr. GARN. Mr. President, will the Senator yield for a comment?

Mr. GRAHAM. I yield.

Mr. GARN. As I stated in my previous remarks, I agree wholeheartedly with the Senator from Florida on the substance and I understand the circumstances we are in, and I certainly would join the Senator from Florida in requesting the GAO study.

Mr. GRAHAM. I thank the Senator and I appreciate that from my colleagues and particularly from Senator GARN who with Senator PROXMIRE has spent so many years to bring us to the point that we are today.

So, Mr. President, I ask that the amendment be withdrawn.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment and the amendment is withdrawn.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, my distinguished colleague and friend from Illinois, Senator DIXON, is the author of a good, detailed examination of the securities provisions of the Financial Modernization Act of 1988 that were included as additional views in the committee report on the legislation. I commend his essay to the Senate; I think it makes a persuasive case for the steps we are taking. Mr. President, I ask unanimous consent that the additional views be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF SENATORS DIXON, SANFORD, AND GARN

The Glass-Steagall Act was signed into law in 1933. It has remained unchanged since then, but the rest of the world has not. Much of the basic structure of our financial services law was put in place during the Depression. It is now badly out of step with the needs of the 1980's and beyond.

A revolution has occurred in the financial industry since the 1930's. The participants currently operate in a framework which forces them to spend valuable time, effort, and resources figuring out ways to get around outdated and outmoded laws. The neat, compartmentalized financial services system Congress set up is bursting at the seams, as securities firms move into insurance, real estate and banking, and other financial sectors attempt similar actions to broaden the range of products and services they offer.

Three revolutions require explanation to understand the framework within which Congress must act; an information revolution, the securitization revolution and the internationalization of the financial services industry.

First, a fundamental change has occurred in the exchange of information. Banks and other financial intermediaries are basically in the information business. Banks bring together depositors and borrowers because they have the information to judge the risks; their information advantage has made them essential and has helped ensure their profitability.

Because of the communications and computer revolutions, however, the cost of recording, transmitting, and processing information has fallen by over 95 percent since 1964, according to bank sources. Of course, this means banks have lower costs, but it also means it is possible to make information cheaply available to many more people, making it possible for users and providers of credit to get together without using banks.

These changes helped make a second major revolution possible, the "securitization" revolution. "Securitization" refers to two very important trends—the increasing use of securities products instead of bank products to meet customer's financial services needs, and the conversion of loans into securities.

A few figures illustrate the importance of the changes underway. The domestic commercial paper market, for example, has more than doubled to about $350 billion in size in the last 5 years. It grew by roughly 140 percent from 1980 to 1985, while bank commercial and industrial loans were growing by only about 50 percent.

The amount of asset-backed securities outstanding—securities backed by instruments such as mortgages, car loans, and credit card receivables—grew from $25 billion in 1980 to $270 billion in 1986. Mortgage-backed securities accounted for roughly 5 percent of mortgage originations in 1975; they now account for over 25 percent.

"Securitization" has taken place in areas besides lending. Mutual funds have grown by leaps and bounds. By 1983, mutual fund assets roughly equalled the amount in bank checking accounts.

The increasing "securitization" of financial markets in major financial centers around the world leads to the third revolution—the "Internationalization" of financial markets. Even medium-sized U.S. commercial firms increasingly consider the Eurobond, Euro-commercial paper, and Euroequities markets to meet their capital needs. These international markets are growing rapidly. The Eurobond market grew by over 800 percent in the 1980–86 period, for example, and major foreign capital markets continue making their marketplace more competitive with the United States. The "Big Bang" in London and the enactment of comprehensive financial reform legislation in Canada are simply the most recent dramatic examples of this trend.

Moreover, foreign banks and other financial firms play an evergrowing role in our domestic markets. Foreign banks now hold, for example, over 18 percent of the $2.3 trillion in total U.S. bank deposits. They now hold 22 percent of all U.S. commercial and industrial loans, up from less than 8 percent in 1973.

Because of these three revolutions—and many other changes, like the deregulaton of interest rates—the role of the banking system is fundamentally changing, and to be successful, banks must adapt to the changes. At least partially because of regulatory restraints, however, banks have had great difficulty in meeting the new competitive challenges.

Banks had 47 percent of total domestic financial assets in 1953; they now have only about 31 percent. Banks accounted for 87 percent of short- and medium-term credit in the fifties; now their share is less than 55 percent. Since 1978, the banks' share of short-term credit for commerical or industrial companies with over $1 million in assets has dropped in half, from roughly 50 percent to only 25 percent.

Unfortunately, Congress was rather slow to react to the financial services revolutions. Since 1981, the Senate Banking Committee has held 83 days of hearings on banking reform issues. The Committee heard from at least 457 witnesses, and accumulated over 18,000 pages of testimony and exhibits.

Congress debated banking reform, analyzed it, considered it, chewed on it, and thought about it. It did everything it was possible to do with banking reform except the one thing that really mattered—act on legislation that actually addressed the issues.

This bill begins the process of changing that situation. This compromise proposal does not address all of the outstanding reform issues; there is not yet any consensus on what a comprehensive reform bill should look like. However, it does take a significant first step in an area where there is broad agreement in the Senate—the Glass-Steagall separation between investment and commerical banking.

In one sense, this is truly landmark legislation. However, a closer look at the background of Glass-Steagall and at the securities activities banks currently engage in makes it clear that the Committee bill is actually rather moderate.

The Glass-Steagall Act was based on the assumption that commercial banks' securities activities were in no small part of responsible for the stock market crash and the collapse of the banking system. Additionally, Senator Glass believed there were real problems associated with the relationship between commerical banks and their securities affiliates and that banks had been involved in objectionable practices in the marketing of securities.

Senator Glass, however, may have greatly overestimated the problems created by the rise of bank securities activities in the 1920's. While there were almost 2,300 bank failures in 1931 alone, and another 4,000 failures in 1933, these failures were almost all undercapitalized rural banks. They had little or nothing to do with bank securities activities.

As Senator Glass himself said: "Only 37 banks, or four-tenths of 1 percent [of the total bank failures during the Depression] had a capital of as much as $1,000,000 . . . 90 percent [of bank failures] occurred in towns and cities with a population of less than 25,000."

A recent study by the staff of the Federal Deposit Insurance Corporation and a review

undertaken by the President's Council of Economic Advisors confirms this analysis. They did not find any large bank failures attributable to the marketing or underwriting activities of bank securities affiliates, with the exception of the Bank of the United States where the problem was out and out fraud.

This is not to say that there were not problems with bank securities activities. The truth, however, seems to be that any problems were not unique to banks, but were shared by the entire securities industry, and were thus appropriately addressed by the Securities Act of 1933 and the Securities Exchange Act of 1934.

There was a real crisis of confidence in the banking system in the 1930's, but the creation of the Federal Deposit Insurance Corporation had much more to do with restoring confidence then Glass-Steagall did.

Even Senator Glass seemed to question whether complete separation of banking and securities activities was really essential. In 1935, he supported legislation that passed the Senate permitting banks to underwrite corporate debt securities.

The need for a fundamental reexamination of Glass-Steagall is not simply based on a judgment that its underlying assumptions were flawed. It is also required because Glass-Steagall no longer works and because, in reality, Glass-Steagall never fully separated commercial and investment banking. The degree of separation it did impose has been substantially undermined over the years. In one securities area after another, there is evidence of increased bank activity.

Glass-Steagall permitted banks to continue underwriting general obligation municipal bonds. In the 1930's this was the bulk of the municipal market, but that has changed. Revenue bonds now account for over half of the $720 billion in municipal bonds outstanding.

Banks were originally excluded from the revenue bond market altogether, but the law now permits banks to underwrite some kinds of revenue bonds, including housing and university bonds. Further, banks can be involved in revenue bonds backed by bank letters of credit, and they can engage in private placement activities.

Glass-Steagall excludes banks from the commercial paper markets, but there too, the barriers have fallen. Banks privately place commercial paper, they have some powers related to commercial paper backed by a bank letter of credit, and they can underwrite and deal in Euro-commercial paper. The size of the Euro-commercial paper market has grown dramatically since 1984. Euro-commercial paper outstanding rose from $3 billion in 1984 to $50 billion in 1986.

Barriers have also fallen in the mortgage-backed securities market. Even though banks originate many of the mortgages that are packaged into securities, they cannot underwrite or deal in certain of the securities themselves. However, as a practical matter, banks can participate to some extent, but not completely, in the $1.5 trillion mortgage-backed securities market.

Banks currently cannot engage in underwriting and dealing in corporate debt securities in the United States. However, banks do a major business in privately placing corporate debt instruments with institutional customers. This may seem like a narrow activity, but $278 billion worth of debt was placed this way in 1986. Further, banks can and do underwrite corporate bonds overseas. U.S. banks fully participate in the Eurobond market, for example, a market that has grown from $39 billion in 1980 to $225 billion in 1986.

It is important to remember that while the market may be overseas, the issuers are increasingly American firms, and not just our largest corporations. Because of the limits placed on them in the U.S. market, our banks increasingly take their customers abroad to meet their credit needs.

In the mutual fund area, banks can provide back office services, investment advisors, custodial and transfer agent services, and shareholder recordkeeping and other administrative services. Through their trust powers, banks can co-mingle IRA accounts and invest them like mutual funds.

In addition to IRA powers, banks have participated in other investment activities through their trust departments since the enactment of Glass-Steagall. Section 16 of the Glass-Steagall act has always permitted banks through their trust departments or otherwise to act as a broker or agent in arranging for the purchase or sale of all types of securities on behalf of customers. This includes, without limitation, debt and equity securities, interests in mutual funds and mortgage and other receivable-backed securities.

These are only some of the securities activities banks can engage in. In Europe, banks can even engage in underwriting of corporate equities, although limited by regulation K. In this country, banks have been providing discount brokerage services.

While banks have had to struggle to meet their customers needs by expanding their securities activities, the savings and loan industry has had the benefit of explicit statutory authority. In fact, unitary savings and loan holding companies can engage in a much broader range of services than can a comparable bank holding company. Even if two or more savings and loans form a holding company known as a "multiple thrift holding company" their scope of permissible activities still remains broader than that currently granted to a bank holding company. Examples of this include the areas of insurance, full-service stock brokerage and real estate activities. Almost any company, including a securities company, that wants to get into banking without being subject to the kind of restrictive regulations that apply to banks can do so by buying a thrift. That means that insured deposit accounts and securities products can already be linked, even if the company does not own a nonbank bank.

The Glass-Steagall barrier, therefore, is increasingly fractured and even without Congressional action, will likely soon shatter completely. Whether it ever created a real separation between banking and securities activities no longer matters, because banks do participate in a wide and growing variety of securities activities. One major money center bank holding company attributed fully one-third of its 1986 earnings to securities activities.

The Financial Modernization Act recognizes these facts, and creates a more sensible system for banks to operate under, a system that helps reduce risks to the banking system. As the Committee report points out at some length, the heart of the approach taken by the bill is to require that most additional securities activities be exercised only in an affiliate of the bank holding company that is fully separated from the bank. The bill permits banks, in the bank, to underwrite revenue bonds and to sell mutual funds (this is designed to help small banks that can't afford to set up a separate securities affiliate of a holding company). If a bank wants to exercise any other new powers, it must set up a securities affiliate (and the mutual fund activities must be conducted out of that affiliate).

The affiliate will have authority to engage in mortgage-backed securities, commercial paper, and other asset-backed securities, such as bonds secured by credit care receivables or automobile loans. After 6 months, the securities affiliate will be able to underwrite and deal in mutual funds and corporate debt. Underwriting and dealing in equity securities is prohibited unless Congress, in 1991 under expedited procedures, affirmatively votes to provide affiliates with this authority.

This phase-in of securities powers is another demonstration that the Committee has taken a prudent and conservative approach to the Glass-Steagall issue. It proves that the Committee has seriously considered events like the October, 1987, stock market crash, and that all necessary actions to protect banks from undue risks have been taken.

The bill contains a number of new provisions designed to ensure that securities activities conducted by banking organizations are conducted safely, soundly, and in a procompetitive manner. Under the bill, a bank or thrift affiliated with a securities affiliate may not:

(1) Make loans or otherwise extend credit to the securities affiliate;

(2) Purchase for its own account financial assets of the securities affiliate;

(3) Issue a guarantee or letter of credit for the benefit of the securities affiliate;

(4) take actions to enhance the marketability of securities underwritten or distributed by the securities affiliate (say, for example, by loaning the company issuing securities money on congressional terms);

(5) extend credit to an investment company client of the securities affiliate;

(6) extend credit to an issuer of securities for the purpose of repaying principal or interest on securities underwritten or distributed by the securities affiliate;

(7) express an opinion on the value or advisability of purchasing or selling shares underwritten or dealt in by the securities affiliate;

(8) disclose to the securities affiliate nonpublic customer information without the consent of the customer; or

(9) purchase, for its own account or as a fiduciary, securities underwritten by a securities affiliate during the underwriting period and for 30 days thereafter.

These restrictions help ensure that the competition between securities affiliates owned by bank holding companies and other securities firms is fair and equitable, and that the bank is protected from any additional risks attributable to securities activities. However the bill does not stop here:

(10) In addition, neither a bank holding company, its affiliated banks, or any other affiliate may make loans or otherwise extend credit to a customer of a securities affiliate to purchase securities underwritten by that securities affiliate during the underwriting period and for 30 days thereafter;

(11) a securities affiliate may not underwrite or distribute securities backed by assets originated by an affiliated bank or thrift unless those securities are independently rated;

(12) the securities affiliate must prominently disclose that the securities affiliate is not a bank or thrift, and that its customers are not issued by the FDIC or FSLIC; and

(13) a bank or thrift may not have interlocking officers or directors with the securities affiliate unless approved by the Fed, or unless the bank holding company has total banking assets of less than $500 million.

To further protect bank capital from securities risks, the bill:

(14) prohibits any bank holding company with assets of $30 billion or more from affiliating with an investment banking company with assets of $15 billion or more. This essentially prevents any of the top U.S. 15 banks from buying any of the top 15 U.S. securities firms. This also includes foreign banks and foreign investment banking firms if the resulting company will have both a banking and securities operation in the U.S.;

(15) prevents a bank holding company from acquiring a securities affiliate if it would reduce the bank holding company's capital below the minimum required level;

(16) requires, for purposes of determining bank holding company capital, that equity investments the holding company makes in the securities affiliate cannot be counted (so, for example, if a bank holding company starts a securities affiliate and capitalizes it with $100 million, the $100 million in stock of the securities affiliate held by the holding company cannot be counted as holding company capital, even though it is technically an assets);

(17) requires the Federal Reserve Board to approve each bank holding company equity investment in its securities affiliate; and

(18) prohibits a securities affiliate from underwriting corporate debt or equity (if the securities affiliate receives that authority in 1991) if any affiliated bank is below its required risk-based capital level. The Federal Reserve Board has issued new guidelines, which will force banks to increase their capital to 8 percent—of which 4 percent must be common shareholders equity and only 1.25 percent of which can be loan loss reserve—by 1992).

These 18 provisions are in addition to the anti-tying provisions, the capital provisions, and the provisions regulating transactions between a bank and other parts of the holding company that are already part of the Bank Holding Company Act. They are designed to generally replace ad hoc system under which banks and bank holding companies conduct their securities activities. They make it more efficient and cost-effective for banks to conduct these activities, while ensuring a level competitive playing field among all those in the securities business, and while providing a much greater degree of protection for the banking system than the law currently provides.

The bill goes to some lengths to protect banks from any risks due to the affiliate's securities activities, even though securities may not create major additional risks for bank holding companies. As Congress considers the risk issue, it is worth noting that basic banking activities are increasingly risky as the better customers leave the banks for other providers of financial services better able to meet their needs.

Greater risk evidences itself in a variety of ways. One measure is that even though we are in the sixth year of recovery, there could be 200 bank failure this year, the highest number since the Great Depression. Another is that banks had to set aside only about 17 percent of their net operating income in 1979 to cover loan losses, while last year the set aside rose to 49 percent.

While basic bank lending activities seem to becoming more risky, there is evidence that securities risks can be effectively managed. It is worth noting, for example, that the annual after-tax rates of return on equity capital for investment banks between 1979 and 1983, a period that included a major recession, was nearly twice that of the ten largest bank holding companies.

Underwriting and dealing in corporate securities presents risk. However, the risk is the same kind as underwriting and dealing in which banks already engage. Unlike other risks banks engage in, risks in underwriting and dealing in corporate securities are assumed for very short periods of time and the assets involved are highly liquid.

Nonetheless, the bill chooses to err on the side of caution in the degree of insulation it provides between banking and securities activities, in order to ensure that there is no doubt that banks are protected from significant new risks. Importantly, the bill is able to accomplish this objective while still providing the kind of competition-based restructuring that the financial services marketplace has clearly demanded.

The regulators and the courts have taken a number of actions over the years that have tended to erode the Glass-Steagall barrier. They have acted not because they are eager to undermine a 1933 statute, but because changes in the marketplace demand and require action. The Financial Modernization Act is a necessary and long overdue substitute for the kind of loophole creation and exploitation that Congressional inaction has caused. It replaces reform by loophole with clear Congressional policy that is responsive to the changed conditions we are facing today. The bill does not tear down the barrier between investment and commercial banking. Instead, it recognizes that marketplace changes have already eroded the separation and make maintaining it impossible. It does nothing more, and nothing less, than manage the changes that have occurred and which continue to occur in a way that maximizes competitive opportunities and minimizes risks. It is landmark legislation, but, at the same time, it is moderate, prudent legislation. It is long overdue and it should be quickly enacted.

Alan J. Dixon.
Terry Sanford.
Jake Garn.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANFORD. Mr. President, I rise in support of the bill being considered today to update our banking laws to reflect the changes which have taken place in our Nation's financial system during the last 50 years. Clearly, this is a different world from 1933 when the Glass-Steagall Act was enacted prohibiting securities firms from affiliation with commercial banks, and banks from engaging in securities underwriting. By repealing Glass-Steagall, this bill replaces the antiquated chainlink and easily penetrable fence of regulation with a firm and solid structure that will better serve our financial system into the next century.

This bill, and the wide margin by which it was reported out of the Senate Banking Committee, is a testament to the leadership and characteristic determination of committee chairman, Senator William Proxmire. I heartily join in the remarks of my colleagues in expressing our appreciation and admiration for the work of Bill Proxmire. It has certainly been an honor and a pleasure to have served on the Senate Banking Committee while Bill Proxmire was chairman. There is no doubt that Senator Proxmire has become the leading expert in the country on our Nation's banking laws and we on the Senate Banking Committee and in the Nation as a whole will sorely miss his wisdom, knowledge and his fine leadership when he retires at the end of this session.

I thank him for the superb job he has done in bringing this bill out of committee and to the floor and for the excellent work he did in listening to his colleagues and incorporating changes that accommodated the needs of many. He has been a stalwart in fighting for change where change was needed, and provided the guidance and determination required to move this bill along.

The need for this bill can be seen by looking at the crazy-quilt pattern of permissible bank activities that has resulted from the actions by the participants in the financial markets to get around outdated and outmoded laws, and the responses to those actions by our banking regulators and the courts.

For example, banks are currently allowed to underwrite certain debt instruments, such as Treasury bonds and general obligation bonds, but not municipal revenue bonds—even though the two are carry virtually the same amount of risk. While the Glass-Steagalls Act excludes the banks from the commercial paper markets, banks are permitted to privately place commercial paper and can underwrite Euro-commercial paper.

Barriers have also eroded in the mortgage-backed securities markets, with banks now participating in certain segments of that $1.5 trillion market. In addition, through their offshore subsidiaries abroad, banks already underwrite millions of debt offerings every year. In so doing, banks have demonstrated their capacity to engage in a variety of financial services. What we need now are more appropriate measures to supervise these activities and oversee banks as they take advantage of financial opportunities wherever they may be.

The purpose of this bill is to eliminate a great inconsistency in current regulation. Presently, 8 of our Nation's 10 largest securities firms own FDIC insured banks while, at the same time,

FDIC insured banks may not be affiliated with securities firms.

What this bill would not do is allow for sudden unfettered bank participation in securities activities. Instead, this bill constructs a careful structure in which a bank can only engage in security underwriting through a separately capitalized bank holding company. A bank would not be allowed to lend to its security affiliate or extend loans to purchase securities offered by affiliates. Furthermore, the securities affiliate could not sell securities to the bank or its trust account during and 30 days after the underwriting period.

In allowing the expansion of bank affiliations, the bill takes into account the dangers of too much concentration in our Nation's financial system. Under this bill, mergers between bank holding companies with assets over $30 billion and securities firms with over $15 billion are prohibited. As such, mergers are prevented between our 15 largest banks and 15 largest securities firms.

The purpose of this regulatory reconfiguration is to remove what Senator Proxmire has aptly referred to as a 1933 straightjacket, and free banks to diversify and grow. In recent years, this Chamber has addressed the serious problem of American entities falling behind foreign competitors. Regretfully, but not surprisingly, given the regulatory constrictions in which they are bound, American banks have lagged behind international competition.

In this country, banks' traditional domain has been usurped by competing financial services institutions. Securities firms have become the prime source of corporate finance, as commercial paper has replaced commercial loans. Moreover, even personal loans are no longer a solid source of business for banks. To give a vivid example, banks' share of auto financing declined from 60 percent in 1977 to 41 percent in 1986. During this same period, finance companies have more than doubled their share of loans. Moreover, much of the traditional deposit of banks has moved into cash management accounts established by securities firms. While all of these developments have provided consumers with greater choices, that have left banks unfairly restrained from competing.

Increasing bank's diversity and growth will allow banks to regain their stature and, in turn, enhance the safety and soundness of our banking system. In addition to being able to take advantage of the trend toward the use of commercial paper, banks will reduce the risk exposure associated with offering commercial loans.

With this new regulatory structure, banks would be able to participate fully in the munipical revenue bond market, which totaled approximately $140 billion in new issues in 1986. Regional and community banks would then be able to raise needed capital on the local level for our Nation's infracture, so greatly in need of repair and improvement.

Bank participation in underwriting would benefit homebuyers in rural and poor areas by increasing the flow of lower cost mortgage credit.

Bank underwriting would also increase the availability of corporate finance to medium- and small-size companies that now have only limited access to Wall Street capital markets.

Finally, but perhaps most importantly, bank participation in these activities should bring needed competition into a highly concentrated securities industry. This competition should lower the costs of obtaining capital to the broad spectrum of consumers of financial services.

In addition to the selections of the bill addressing affiliations between banks and securities firms, the bill contains two very important titles to protect our consumers. Title VI establishes guidelines for disclosure that will provide consumers with the information needed to compare different savings and investment products in order to make informed decisions about which products best meet their needs. The title requires disclosures at the time solicitations for business are made of basic information about yields and fees.

The one provision that led to some controversy in this title is its application to mutual funds. Because of a regulation recently adopted by the Securities and Exchange Commission [SEC], the committee chose not to apply title VI to mutual funds, but asked the Federal Reserve Board and the SEC to review the regulations to determine whether consumers are being provided adequate information to compare both savings and investment options.

The committee will need to review these products carefully to ensure that the goal of adequate comparative disclosure is being met.

The bill also contains a title calling for disclosure and substantive restrictions on home equity loans. Given the substantial growth in the use of home equity loans and the aggressive manner in which such loans have been advertised, it is essential that consumers receive adequate information about the terms of these loans, most particularly that their home is subject to foreclosure if the loans are not repaid.

I am pleased that the bill reflects some of the work of my colleague from North Carolina, Congressman David Price, who began last year an effort to require greater disclosure and fairer advertising of the terms of home equity loans. My one concern with the title as it stands now is that the substantive limits on lenders may push lenders to extend home equity lines of credit on a shorter term basis, which may result in repeated closing costs being assessed to consumers.

In addition, the bill contains a very important section calling for a study on the effects that hostile acquisitions in the banking industry could have on U.S. banking and financial markets. Until recently, hostile takeovers of banks have been virtually unknown. However, the bid by Bank of New York for Irving Bank raises the possibility that banks will join the ranks of other industries subject to these hostile raids. I believe that prospect raises a number of issues that are worthy of close scrutiny.

The tremendous transfer of equity to debt that has been the hallmark of so many hostile takeovers is perhaps unacceptable where the deposit insurance system stands behind the soundness of our banks. Hostile takeovers have been promoted because of their alleged ability to make a corporation leaner and meaner, but in the banking industry, our prime concerns should be safety and soundness.

We need to think carefully about whether bank managers should be put in the same position as so many other corporate managers of being forced to focus only on the short term, on creating a high return on equity for one quarter, rather than on the long term soundness of the bank.

I am troubled that in the short time since the Banking Committee marked up this bill, two banks have already taken poison pills to fend off prospective hostile bidders, and studies have been released listing banks vulnerable to takeovers. I hope that this study will provide us with needed guidance for responding to the problems that may befall an already volatile and struggling industry should hostile bank takeovers become the new rage.

Mr. President, this bill has been a long time in coming. The committee took seriously its responsibility to use the time created by the moratorium the Congress created as a result of the Competitive Equality Banking Act to study the issues involved and to report out legislation which responds to the changes in our fiancial marketplace. With this bill, we have done just that.

The bill received the strong support of the members of the Banking Committee and it deserves our strong support now. I am particularly pleased that the bill has been renamed to honor our distinguished chairman, Mr. Proxmire, and I urge my colleagues to vote to pass this bill.

I certainly hope that, as we move along, we can keep this bill together; that we can resist amendments, no matter how attractive they might appear, because I think this represents, now, the careful thinking of well over a year, and a careful compromises with all of the various interests involved.

I think that the committee has presented to the Senate a splendid piece of legislation and I hope that it will be adopted.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1917

(Purpose: To provide access to check cashing services)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. Metzenbaum] proposes an amendment numbered 1917.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 198, between lines 21 and 22, insert the following new title and redesignate accordingly:

TITLE IX—ACCESS TO CHECK CASHING

SEC. 901. SHORT TITLE.

This title may be cited as the "Fair Access to Check Cashing Act".

Sec. 902. definitions.

For the purpose of this title—

(1) the term "consumer" means a natural person;

(2) the term "check" means any check, share draft, negotiable order of withdrawal, or other similar means of making payment or transfers to third parties or other;

(3) the term "depository institution" has the meaning given such term in clauses (i), (ii), (iii), (v), and (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(4) the term "Board" means the Board of Governors of the Federal Reserve System;

(5) the term "office" includes the home office of a depository institution and any office approved as a branch of the depository institution by its Federal or State supervisory agency, but excludes free-standing automated teller machines and other electronic terminals; and

(6) the term "credit union" has the meaning given such term in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

SEC. 903. CHECK CASHING.

(a) Check Cashing Required.—A depository institution which, in the ordinary course of business, cashes checks for customers, shall cash any check issued by the United States Government, any State, any unit of local government, or any agency thereof, if the consumer presenting the check—

(1) is the individual to whom the check has been issued; and

(2) is registered with the depository institution pursuant to subsection (b).

(b) Registration.—The Board shall promulgate regulations governing registration under this section. The regulations shall require at least the following:

(1) Every such depository institution shall provide for registration in all of its offices.

(2) Registration shall be by means of an application containing the application date, and the name, address, date of birth, social security number, and handwritten signature of the applicant as well as any other information the Board may deem necessary, or by any other method the Board may approve.

(3) Every depository institution shall have the authority to verify the information required to be submitted by the applicant.

(4) Verification shall be completed within 30 days of receipt of the application.

(5) Upon verification, the applicant shall be considered registered, and shall be provided by the depository institution with an identification card in such form as the Board may approve.

(6) The depository institution may restrict the cashing of any check presented in accordance with subsection (a) only to the office that the application was submitted to, except that all offices of the depository institution must cash any check presented in accordance with subsection (a) if the person presenting the check also presents a reliable piece of identification which includes a photograph.

(7)(A) A depository institution may assess a charge for issuing an identification card, in an amount not in excess of the actual cost incurred in processing the application and issuing the card, as determined to be fair and reasonable by the Board.

(b) No charge may be assessed for cashing checks pursuant to subsection (a).

(c) Credit Unions Check Cashing.—A credit union which, in the ordinary course of business, cashes checks for its members, shall cash any check issued by the United States Government, any State, any unit of local government, or any agency thereof, for any member without charge, if the member presenting the check is the individual to whom the check has been issued.

SEC. 904. POSTING OF NOTICES.

(a) In General.—Every depository institution shall post a conspicuous notice in the appropriate area of each location where deposits are accepted that informs consumers that check cashing services pursuant to section 903 are available. The notice shall clearly explain the material features and limitations of check cashing services so that consumers can reasonably be expected to understand the terms offered.

(b) Posting by Credit Unions.—A credit union can either post a conspicuous notice as described in subsection (a) or notify its membership in any non-separate mailing about its check cashing services pursuant to section 902 of this title. If a mailing is used, every new member must be advised of the credit union's policy of cashing government checks without charge.

SEC. 905. REGULATIONS.

The Board shall prescribe regulations for depository institutions necessary to carry out the provisions of this title not later than 180 days after enactment of this Act. In promulgating such rules and regulations, the Board may obtain upon request the views of any other Federal agency that exercises regulatory or supervisory functions with respect to depository institutions subject to this title.

SEC. 906. ADMINISTRATIVE ENFORCEMENT.

(a) Enforcement by Agencies.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks) by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any Federal credit union or insured credit union.

(b) Effect of Other Law.—(1) For purposes of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(c) Savings Provision.—The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

SEC. 907. CIVIL LIABILITY.

(1) In General.—Any depository institution or credit union that fails to comply with any requirement imposed under this title or any regulation adopted pursuant to this title with respect to any person shall be liable to such person in an amount equal to the sum of—

(a) any actual damage sustained by such person as a result of the failure; and

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such additional amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution.

(b) Amount of Damages.—In determining the amount of award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure to comply was intentional.

(c) OTHER RELIEF.—Upon application by an aggrieved party, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this title.

(d) COSTS AND FEES.—In the case of any successful action under subsection (a) or (c), the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court under such section.

(e) GOOD FAITH RELIANCE.—No provision of this title imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employees of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe thereof, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) JURISDICTION.—Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction. No such action shall be brought later than one year after the date of the occurrence of the violation.

SEC. 908. GENERAL EFFECTIVE DATE.

Except as provided in section 905, the provisions of this title shall become effective 270 days after the date of enactment of this Act.

Mr. METZENBAUM. Mr. President, this amendment is simple and straightforward. It is supported by the AARP, the Consumers Federation and by ACORN, an organization: Association of Community Organizations for Reform Now. I ask unanimous consent that a copy of their supporting statement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. METZENBAUM. It is supported by the Center for Community Change. It is supported by Bank Watch, by Public Citizen, by the U.S. Public Interest Research Group, by the NAACP.

It would require banks and savings and loans to cash Government—issued checks for low income and elderly persons who simply cannot afford bank service charges. These individuals would apply to a financial institution for an identification card. The banks and S&L's could charge a reasonable fee for issuing the ID cards—to be determined by the Federal Reserve—but the checks would be cashed for free. This amendment is desperately needed. Low income and elderly persons who cannot afford bank service charges and rely on Government benefit checks are having an extremely difficult time cashing their checks at banks and savings and loan institutions.

Look at the numbers.

According to a 1987 Consumer Federation survey, 71 percent of the banks and S&L's interviewed would not cash Government checks for noncustomers at any price.

And, according to a 1986 survey by the Association of Community Organizations for Reform Now [ACORN], 88 percent of the financial institutions they talked to would not cash checks for nonaccount holders.

This is a shameful situation.

It is causing a great deal of hardship for the elderly person trying to cash a Social Security check, the low-income person trying to cash a welfare check, and the handicapped veteran who needs to cash a VA benefit check.

It is grossly unfair—and dead wrong—to force a person who cannot afford to maintain a bank account to go from one place to another in a vain attempt to cash a Government-issued check.

A low-income person or an elderly person shouldn't be forced to pay an exorbitant fee at a grocery store, a liquor store or a check cashing outlet when trying to cash a perfectly good Government check.

Yet, Mr. President, that is precisely what is occurring today.

A 1987 Consumer Federation check cashing survey showed that it was not uncommon for check cashing outlets to charge $7.50 to cash a $500 Social Security or Aid to Families With Dependent Children [AFDC] check. One outlet in Los Angeles charged $25 to cash a $500 Government benefit check.

In January, the New Jersey Department of the Public Advocate released some shocking findings about abuses in the check cashing business in that State. New Jersey is one of only a few States that actually regulates what check cashing outfits can charge customers—1 to 1.5 percent of the value of the check.

Let me quote from the New Jersey report:

> One out of every two Government benefit recipients who cashed their checks at State-licensed check cashers were charged check cashing fees which exceeded the limits set by—P.L. 1951—some by as much as 400-500 percent. Survey data revealed that recipients were overcharged at virtually every check casher where interviews were conducted.

Here are some examples:

> A Paterson check casher charged an Hispanic woman who could not speak English $25.00 to cash her $268.00 Social Security check. The check casher should have collected a fee of $4.02. The fee paid, however, was 500 percent more than that allowed by law.
>
> An Irvington check casher charged a recipient $25.00 to cash his $250.00 Social Security check. The check casher should have collected a free of $3.75. The recipient was overcharged by 560 percent.
>
> A Newark check casher charged $7.00 to cash a $121.00 city welfare check. The correct fee is $1.21. This represents a 475 percent overcharge.

The list goes on an on. But the problem doesn't end with check cashing outlets. When community locations are used to cash checks, people are often required to purchase the store's merchandise with a percentage of their check. Levels of 50 percent of the check amount are sometimes being demanded.

We have the opportunity to help correct this grossly unfair situation with the amendment I have offered today. Some of my colleagues will argue that we must wait for the GAO to finish its study on this matter before we adopt my amendment. But we have waited long enough. The facts are already there. Low-income and elderly individuals should be able to cash their Government benefit checks with the convenience and safety of their neighborhood bank or savings and loan.

EXHIBIT 1

ACORN

ACORN, the nation's largest grassroots membership organization of low and moderate income people, urges you to: Vote for the Metzenbaum government check cashing amendment to S. 1886.

On March 26, 1987 the Senate approved a similar amendment offered by Senator Metzenbaum to S. 790. This amendment was lost in conference.

Reaffirm the Senate's commitment to give low income Americans who receive government benefit checks access to a safe and dependable means of cashing those checks—banks!

Passage of this amendment will—

Provide an essential service. In 1987, the Consumer Federation of America found that 71 percent of banks surveyed would not cash a government check for non-account holders at any price. People pay up to 30 percent of the face value of their check, and put themselves in grave danger, to find alternative methods of cashing their checks.

Begin to build a relationship between banks and low income people. Low income people who begin going to banks to cash their government checks might benefit from purchasing a variety of bank products, and banks would make contact with countless new customers.

Create an incentive for banks to offer basic banking services. If banks are required to cash government checks, banks are likely to begin offering affordable checking and savings accounts, with the option of direct deposit. Most people will choose that option. As more and more banks discover that lifeline accounts can be profitable, these accounts will become a standard feature of banks' product lines.

The Metzenbaum government check cashing amendment belongs in the Proxmire-Garn bill.—Vote Yes!

Mr. METZENBAUM. Mr. President, I might point out that this is the same amendment that was adopted in 1987, actually just about a year ago, on March 26. I am pleased to say that at that time it was adopted with the support of the chairman and the ranking member of the committee. I am now aware of the fact that the chairman and the ranking member and all other members of the committee have indicated that there can be no amendments adopted and they wish none to be adopted, but by reason of previous conversations with the chairman, it is my understanding that he would be willing. I will let him speak for himself I will yield to him.

Mr. PROXMIRE. May I say to the Senator I still feel this is a very good amendment. However, on this amendment I do think we need more information. The GAO report will not be in until September. They have had the request since last year. There is no reason why we cannot have them come in with what they have. It would be very useful to the committee. Then the committee will hold a hearing and proceed in May, by the end of May, to some kind of a markup and resolution on the amendment, if that is satisfactory to my good friend from Ohio. I hope we can do that because this has potential value. But we have to know exactly what we are doing. If we require every bank in the country to cash every Government check, the prospect of fraud has perplexed and puzzled many banks. Whether they are in that position, I am not sure. But I think with a hearing and GAO study we can proceed with knowledge. I appreciate very much the Senator's amendment.

Mr. METZENBAUM. Let me say that the Senator from Ohio has attempted to work with the banking industry. I want to be fair with them. I see no reason for them to bear an undue burden. So far they have made clear they do not intend to cooperate. No matter how many messages I have sent out, I have not received anything that resembles an affirmative response.

If I understand, the chairman of the committee has indicated he will press the GAO for its report, that he will go forward notwithstanding whether it is or is not received, that there will be a hearing in May and in the month of June there will be a markup, though not necessarily the only markup, and members of the committee will have the opportunity to vote it up or down.

Mr. PROXMIRE. The Senator is exactly right. I am sure in the course of the next several months we will have occasion to mark up legislation and we will make this part of the markup. We will try to do that by June. The Senator is correct.

Mr. METZENBAUM. But certainly not much beyond June.

Mr. PROXMIRE. No, the Senator has a very good point. This is an election year. We will probably go out in early October.

Mr. METZENBAUM. And for the conventions.

Mr. PROXMIRE. And for the conventions. So we have to act promptly.

Mr. METZENBAUM. If I had that assurance, win or lose concerning the committee action sometime in June, I would be happy.

Mr. PROXMIRE. There is one thing all of us want is more information. We should have a record, a hearing on it. We should get what we can from the GAO. I think we can do all of that.

Mr. METZENBAUM. And then bring it to a conclusion in the committee. Is that correct?

Mr. PROXMIRE. The Senator is correct.

Mr. METZENBAUM. I thank the chairman of the committee. I apologize if I have been difficult or pressing, but I feel so strongly about the issue that I thought I would have no alternative. I do not want to confuse the issues present on the floor today. The committee has been supportive of it in the past. Under those circumstances, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment. The amendment is withdrawn.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

PANAMA

Mr. D'AMATO. Mr. President, while I am not going to speak directly to the banking legislation at this moment, I am going to raise a subject which concerns a nation which has been deeply involved in international banking, a nation that probably could be known as the money laundering capital of the world. That is the nation of Panama.

Mr. President, as we talk, I fear that the nation of Panama is becoming a Cuban state right under our nose. Indeed, the Cubanization of Panama may be underway.

Mr. President, this is no idle fantasy. This is based on fact. It has been reported. Indeed, the American people have a right to know. Mr. President, they do understand the importance of a free democracy in Panama, important to our way of life, important to the United States and our democracy. Indeed, it is an outrage that we have not been able to oust Noriega and set free the people of Panama. The Panamanian people are beginning to have their doubts, Mr. President, about America; about our resolve to help them end the Noriega fiasco.

The Panamanian people are beginning to go back to work, and for a variety of reasons: Fear, intimidation, government seizures, and, yes, anger, anger and frustration, because many feel that they have sacrificed and maybe their sacrifice has been in vain; that the United States, who has aided them and who has declared its recognition of President Delvalle, is giving lip service to the fact that they will indeed support them. The Panamanians have suffered and endured for many weeks now. They have gone without food and without money, the right to get money from their banks.

Yes, I know, Mr. President, from people I have spoken to in Panama, that there is a belief that the United States has all but abandoned them to Noriega. Do you know, Mr. President, just maybe they are right. I hope that is not the case, but, indeed, it may be.

We have reports that supermarkets and other businesses are beginning to open under the threats of government seizure as they seized the flour mills. Where we once had people who looked to the United States for leadership, I fear we will have people who will turn against us in disgust and anger as a result of our capitulation, as a result of our inaction and lack of leadership.

Mr. President, you and I and many in this Congress know that tons of military weapons and ammunition have been sent from Cuba and continue to escalate in being sent from Cuba to Panama right now. We know that at least 90 tons of weapons and ammunition have been sent from Cuba to Panama, at least 35 Cuban advisers sent in various teams, political and military advisers, another team of financial and governmental advisers, another government organizational team. Indeed, Mr. President, they are actually preparing to print their own currency.

I do not have to remind the American people how economically and militarily important Panama is to the United States, Mr. President, and how important it is to the democracies of the Western Hemisphere. However, it seems we have to remind the administration, unfortunately.

The Panamanian people want our help. We started this process. Certainly, we cannot let Fidel Castro, with the help of Noriega, finish it. Action must be taken. It has to be taken before it is too late. Time is running out for the hopes for democracy in Panama.

● Mr. KARNES. Mr. President, I want to join my colleagues on the Senate Banking Committee in supporting the "Financial Modernization Act of 1988" and encouraging my colleagues in the Senate to do likewise. I want to take this opportunity to compliment Senators PROXMIRE and GARN for their persistence in guiding this legislation through the Senate Banking Committee. As several of my colleagues have previously indicated, the legislation was approved by an impressive and overwhelming majority of 18 to 2. The resounding approval occurred after exhaustive hearings and testimony were delivered to our committee over the past several months. The committee heard from the most respected members of this country's financial community including the Chairman of the Federal Reserve, Securities and Exchange Commission, Federal Deposit Insurance Corporation, Comptroller of the Currency, and representatives of the Treasury Department. The committee received testimony from all the major trade associations, consumer groups, and the academic community as well.

This issue arose as a result of the passage of the Comprehensive Equality Banking Act of 1987 otherwise known as CEBA. CEBA was approved because of the urgent need to provide a basis for the recapitalization of the Federal Savings and Loan Insurance Fund. The moratorium on expanded banking powers to March 1, 1988, was included in the legislation to allow the Congress to study the changes that had occurred in the financial services industry and determine what action, if any, was appropriate at the Federal level. Since the passage of CEBA, the Congress has considered the existing conditions, restrictions, and regulation of the financial service industry the separation of commercial banking and investment banking, and the separation of banking and commerce. The separation of banking and commerce was formally introduced into American banking with the passage of new deal legislation in 1933. Specifically, the passage of the Glass-Steagall Act forced the partial separation of commercial and investment banking. This separation was extended by the 1956 Bank Holding Company Act and 1970 amendments including restrictions on bank ownership and the activities of bank affiliates.

The financial community and the Congress have been engaged in debate over the relevance of this separation. Rapid changes have occurred in the industry blurring the lines of separation even more. Nonbank banks have brought both securities firms and nonfinancial firms in to areas once reserved for banks, while banking organizations have sought to engage in other activities outside traditional banking functions. Some participants in this debate have used historical evidence to argue for the maintenance of a strict separation of banking and commerce, based upon the idea that "separation has been a prevailing attitude applied to commercial banks in America since colonial times." Mr. President, the fact of the matter is however that banks have engaged in commerce throughout American history. A direct mixing of banking and commerce has frequently occurred when commercial, nonbanking firms have engaged in banking activities. Consider the direct provision of loans to consumers and corporations by nonbank firms.

The legislation before this body today does not change the separation of banking and commerce. This legislation is designed to address the separation of commercial banking and investing banking. I think it is important to note that the existing Glass-Steagall act currently permits commercial banks to engage in a wide variety of securities activities. These include: Holding corporate securities for their own account, private placement of corporate securities, underwriting and dealing in general obligation municipal securities and certain types of municipal revenue bonds. Consequently when you consider that commercial banks are already significantly engaged in securities activities, this legislation makes a great deal of sense.

Protecting and maintaining the financial stability of the commercial banking system as well as strengthening the public confidence, were the main reasons for passage of the Glass-Steagall Act. Students of the collapse of the commercial banking system have not found that banks failed due to losses on poor-quality securities underwritten by bank affiliates. Banks incurred losses on their securities portfolios because they were illiquid and, in the face of massive withdrawals, were forced to sell their assets at deep discounts. Because the banking problems were due to a loss of public confidence in the banking system, Federal Deposit Insurance and a strong Federal Reserve capable of providing needed liquidity would have helped control bank failures far more effectively than prohibiting commercial banks from underwriting and dealing in securities.

A major issue in the debates over expanded banking powers has been the likely effect expanded powers will have on the overall risk of the bank and ultimately the FDIC. In light of the recent revelations in the banking industry that could significantly impact the FDIC insurance fund, we must exercise our responsibility to ensure that we are reducing the risk to the insurance fund by our actions. I would argue that the risks to the insurance fund is reduced by allowing expanded powers if appropriate diversification rules are followed. If risks can be reduced by means of opportunities to diversify more adequately, banking companies and constituent banks will be stronger and pose a lower risk to the deposit insurance fund.

The role of States in determining appropriate bank activities must also be considered. State banking laws allow State chartered banks to directly participate in a wide variety of activities, many of which are prohibited to nationally chartered banks. Many of the additional power recently granted by the States indicate their willingness to respond to changing market conditions and to help assure that banks remain viable competitors in today's financial markets. I agree that our dual banking system must be preserved and the role of the States must be considered in the process of our discussion on financial industry reform.

The time has come to act. The legislation as a whole represents a balanced approach to the issue and reasserts the congressional influence over the speed and scope of financial reform. Allowing additional competition in the United States capital market will result in lower financing costs and greater capital access. The ultimate beneficiary of this legislation will be the consumer and State and local governments by allowing them additional markets to raise capital and borrow funds.

Mr. President, I applaud my colleagues on the Senate Banking Committee for producing this legislation in a timely and responsible manner and urge its passage at this time.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I would like to ask the chairman of the committee, Senator PROXMIRE, if he would be willing to respond to some questions I would like to pose to him. I see he is on the floor. Will the Senator from Wisconsin consent to engage in a colloquy?

Mr. PROXMIRE. Yes, indeed.

Mr. HEINZ. Mr. President, I thank the Senator from Wisconsin.

First question is: Am I correct that Congress, in passing the amendments to section 2 of the Bank Holding Company Act last summer, intended to prohibit foreign bank holding companies from engaging in financial activities in the United States which would be prohibited for domestic U.S. bank holding companies?

Mr. PROXMIRE. That is correct. The banking laws now only allow subsidiaries of foreign bank holding companies to engage in activities in the United States that are merely incidental to their foreign activities unless these activities are authorized by the Bank Holding Company Act and authorized in the same manner as for U.S. bank holding companies.

A foreign company, by becoming a U.S. registered bank holding company, agrees to give up the ability to engage in financial and certain other activities in this country that are prohibited to domestic bank holding companies.

Mr. HEINZ. I thank my friend from Wisconsin.

If I might inquire further: Am I correct that section 2 of the Bank Holding Company Act would not authorize or permit a foreign bank holding company, directly or through its subsidiaries, from taking an active role in a hostile tender offer for a U.S. industrial company by taking an equity position in the target U.S. company?

Mr. PROXMIRE. Yes, the Senator is correct in his interpretation. This activity in the United States by a foreign bank holding company and its various subsidiaries in a tender offer for a U.S. industry will not be permissible under section 2 of the Bank Holding Act since they are clearly activities of a financial nature.

Mr. HEINZ. I thank my friend and colleague and the distinguished chairman of the committee for his response. Let me inquire about one other item.

Am I further correct that without specific Federal Reserve Board authorization, this activity would not be permissible for any bank holding company under any other provision of the Bank Holding Company Act?

Mr. PROXMIRE. Yes, the Senator is correct. Moreover, I do not believe this type of activity would, in fact, ever be authorized by the Federal Reserve Board under current law. Even if the bank holding company were to make an investment in the target U.S. industrial company of only 4.9 percent of its share—in other words, less than 5 percent—it is my understanding the active involvement of the bank holding company, through its other subsidiaries, could make the investment ineligible under any of the exemptions for limited investment in the Bank Holding Company Act.

Additionally, I believe there are serious questions whether a bank holding company should ever be permitted to couple loans to finance a tender offer with other related services, such as serving as dealer/manager of an equity partner in the offer itself. I would strongly recommend the Federal Reserve Board investigate any such existing arrangement.

Mr. HEINZ. Mr. President, I want to thank the Senator from Wisconsin, the distinguished chairman of the committee and the manager of the bill for his definitive, clear answers. I believe they are fully consistent with the legislative history and interpretation by the Federal Reserve Board.

I believe that, once again, anybody caring to read that legislative history and referring to this colloquy will understand that there are very definite restrictions on the extent to which any bank holding company or its subsidiary may take an equity position in a target company. I think that is absolutely clear. We have made a clear record on that.

Mr. President, I thank again the Senator from Wisconsin.

AMENDMENT NO. 1918

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 1918.

At the appropriate place in the bill, insert the following:

Title . Limitations on Acquisitions By Certain Companies Owning Banks.

SEC. . Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding a new subparagraph (11) as follows:

(11) Notwithstanding any other provision of this Act, no company described in paragraph (1) and which has more than 50% of its consolidated assets devoted to financial services activities and more than 10% of its consolidated assets devoted to insured banks, (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and many subsidiaries thereof may, after March 28, 1988, acquire control, directly or indirectly, except in the capacity indicated in subparagraph (2)(a)(ii), or more than 5% of the shares of common or preferred stock, voting or non-voting, of a company whose shares are registered under the Securities Exchange Act of 1934 unless 50% or more of the consolidated assets of such company are devoted to financial services activities. For the purposes of this section, the term "financial services activities" shall mean:

(a) underwriting, distributing or dealing in securities of any type;

(b) securities brokerage, private placement, investment advisory, or other securities activities permitted for brokers or dealers registered under the Securities Exchange Act of 1934 or for investment advisers registered under the Investment Advisers Act of 1940;

(c) insurance underwriting activities;

(d) insurance agency activities;

(e) real estate brokerage activities;

(f) real estate investment and development activities;

(g) travel agency activities; and

(h) operating insured banks; and

(i) any other activities that the Board had determined to be financial.

Mr. HEINZ. Mr. President, I wanted to have the amendment read, as the clerk has, so that the amendment is clear as to exactly what it is designed to accomplish.

Let me give you the background of what the fundamental legislation that is before us does in just a sentence or two.

What it does is to permit banks to enter into securities activities through an affiliate, namely the subsidiary bank holding company, and it is anticipated that securities firms will avail themselves of these opportunities to affiliate with banks.

As the colloquy with Senator PROXMIRE and I, made very clear a moment ago, the current law, which we passed last year and is untouched by this bill, is that neither a foreign bank nor a domestic bank can make a substantial development in a target company. That is the law. That is not changed by the legislation that is on the floor. There is, however, a change that the legislation on the floor has made to accommodate a very small class of companies which are known as diversified financial holding companies. These companies are given the same kinds of opportunities to engage in financial services under this bill as are bank holding companies, but they are fish of a different kind.

In an attempt to try to have as level a playing field for them as we have created for banks and for securities firms we have, quite properly and with my support, allowed companies like American Express, Sears Roebuck, Merrill Lynch, at least two of whom fit the definition of diversified financial holding companies that we intended, this special carve out so they could compete, and that is perfectly proper policy; it is policy that we agreed to and it is policy I continue to support.

Where I believe the legislation on the floor is imperfect is that we did not appreciate the fact that although bank holding companies cannot invest in target companies, we have created a situation where this new type of company, the diversified financial holding company, could do so. Why can it do so when bank holding companies cannot? The answer is that the Federal Reserve Board, as was made very clear in the colloquy between myself and Senator PROXMIRE, policies through the Bank Holding Company Act the activities of banks and other bank holding company affiliates, and the Federal Reserve Board policy is not to permit subsidiaries of bank holding companies or bank holding companies to make these kinds of investments. Since this new creature that we have created, diversified financial holding companies, is not subject to the Bank Holding Company Act, and therefore not regulated by the Federal Reserve Board, it has achieved a privileged and special status that has an unintended result. Although I am not a lawyer and I do not submit this as a definitive interpretation of the status of current law, it is my strong impression, having reviewed the bill that we have before us, that these diversified financial holding companies can, unless we do something about it, take positions in target companies even if they have substantial banking interests.

I do not have any objection to a diversified financial holding company that has no substantial banking interest doing whatever it wants like any other securities firm, but I have a major objection on two grounds to a diversified financial holding company that has a substantial interest in banking or in a bank directly being allowed to do something that all the other financial services companies that we are creating through these amendments to the Bank Holding Company Act in this bill today cannot do. It is contrary to the spirit, it is contrary to the policy of this bill so far as bank holding companies are concerned.

What my amendment says and what it intends is that a diversified financial holding company cannot have it both ways; that if it has more than 10 percent of its assets in a bank, then that firm must be on a level playing field with bank holding companies or it cannot play. In other words, if it wants to take large positions in target companies, it has to bet out of banking, or at least have less than 10 percent of its assets in banking or it has to not take large equity positions in targets.

I have very carefully crafted this amendment because I do not want to create the precedent or the interpretation that I have any desire to slow down, mitigate, or undercut the creativity of the financial marketplace. I have no objection, as I said earlier, to securities firms being created. I have no objection to them taking risks.

Why? Because securities firms, Mr. President, do not operate with FDIC insured depositors. Securities firms do not have access to the Fed window. They do not get special tax breaks as do insured institutions. They do not have that kind of protected and in a way subsidized position, and the policy in this bill, with the exception of the diversified financial holding company provisions, is absolutely true to that concept.

My amendment, therefore, is aimed at trying to make both sets of institutions, bank holding companies as well as diversified financial holding companies, play on exactly the same, fair, level playing field, and for us to fail to recognize this imperfection in our law is not only inconsistent, and I would submit bad policy, but it undermines the very principle that we say we support, which is not to risk the public purse for private gain.

Mr. President, there may be people who wish to be heard on this amendment, but I hope that my colleagues will adopt it. I hope they will support it. I hope they will speak for it because I believe that the arguments in favor of this amendment are very hard to rebut. I would like someone to come to the floor and argue why insured institutions should be allowed in effect to risk their money participating in takeover deals. It is one thing for a securities firm to take those risks; they are in the business of risk taking, but for a firm that has a major interest in a bank, which is insurred by the Federal Deposit Insurance Corporation or in a nonbank which takes deposits that are insured by the Federal Deposit Insurance Corporation, I want somebody to come to the floor and explain why we should risk the safety and soundness of our banking system in the takeover game.

That, to me, is the height of irresponsibility. And I want to hear one person come to this floor and defend that proposition. If they do, they had better be prepared to amend the rest of this bill.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. HEINZ. Not yet. They had better be prepared to amend the Bank Holding Company Act so that the securities affiliates of banks that we create under this bill can, contrary to the Federal Reserve regulations right now, start investing in takeover targets. I want to see the Members of this body, Mr. President, who do that because there are persons who are willing to gamble everything with the taxpayers' money, or worse, with somebody else's money, and that is not his.

I would be happy to yield to my friend from New York.

Mr. D'AMATO. I want him to yield just for the purpose of a question.

Mr. HEINZ. I will do the best I can for my friend from New York.

Mr. D'AMATO. It ties somewhat indirectly into what my good friend raises, and I think is a legitimate point; that is, the imperil of FDIC-insured depository money and what the Senator feels is inappropriate. It has not been been ruled that the legislation is crafted in such a way to deal with something that is permissible.

Let me put the question another way. Is the Senator aware of any penalty provisions in this legislation that deals with a willful violation of an act so that FDIC money is put at risk in an affiliate or in a securities transaction? Is the Senator aware of any penalty provisions whatsoever, what are they? Maybe the managers of the bill could tell us.

Mr. HEINZ. I would be able to respond to the Senator's question. The penalties are the same that are on the books now. There are no new penalties in this legislation.

Mr. D'AMATO. What are the penalty provisions?

Mr. HEINZ. The penalties are basically those that the Federal Reserve Board can inflict. It has a variety of painful measures. But if the Senator is asking can the Federal Reserve Board pursue willful violations by in fact acting as judge and jury and imposing civil or criminal penalties, fines, or jail terms, so the answer is no. We do not give that authority to the Federal Reserve Board. Whether we should or not is a different question. But that is not part of the law now. That is not part of this bill.

But that is not to say that the Federal Reserve Board does not have considerable power and influence over the underwriting standards of banks that it leases, its ability to withhold approval of applications, its ability to audit. I think people think at least twice and maybe 20 or 30 or 40 times before bank holding companies cross the Federal Reserve Board. That is why the diversified financial holding companies that we have created under this act are rather privileged creatures. They are not subject to the discipline that the Federal Reserve Board indeed has over bank holding companies.

Mr. D'AMATO. I might suggest to my colleague that the very essence of my concern, the point that the Senator raise, goes far beyond the kind of transactions that the Senator has described. It goes to issues like the willful breach of Continental when it shoveled out tens of millions of dollars illegally, in violation of the law, and we had really little, if any, remedy that can be taken against them.

But now that we create greater powers for the banks I find—it seems to me and I wonder if the Senator would comment—there is even a greater need to see to it that there is an enforceable penalty provision that would be adequate that would defer people from willfully undertaking these breaches.

Let me suggest an old adage. We want to keep honest people honest, to make sure that there are sufficient penalties spelled out clearly. And it is a concern that this Senator has. I certainly do not disagree with my colleague who raises some very valid points that may not be supportive of this particular amendment. But I suggest he goes right to the essence of what I perceive to be a gaping loophole where billions of dollars of taxpayers' money could be placed at risk and there is simply no punishment proscribed. And where people willfully violate and cross the line as it relates to the banking and the securities area, there should be a certain minimum punishment proscribed. And the court, the Justice Department, should have the right to pursue that criminally in certain cases.

Mr. HEINZ. Is the Senator suggesting capital punishment for capital crimes?

Mr. D'AMATO. I suggest appropriate punishment for major crimes in dealing with hundreds of millions of dollars of taxpayers' money in such a cavalier manner. It is something that I do not think we should do. I thing it is something that this bill may be inadvertently encouraging. I would like to hear from the managers with respect to what penalty provisions if any they provide for.

We give great license now as it relates to expanded powers and we have not even had the benefit of being able to see those provisions that are in the manager's bill. So when it is suggested that I may be unreasonable as it relates to asking these questions, I want to suggest that may be unreasonable. That is why I am here to raise them, and so be it.

Mr. HEINZ. Mr. President, in answer to the Senator's question, I think he raises a very valid question. I have done my best, although I am not a manager of this bill, but like he, I am a member of the committee. I am sure the managers will want to respond. I am pleased to do the best I can.

Mr. GARN. Would the Senator yield for just a quick comment? The managers would be happy to respond when the Senator from New York brings up his amendment on that subject but not on the time of the Senator from Pennsylvania.

Mr. D'AMATO. I would simply respond if the Senator would yield.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. (Mr. DIXON) The Senator from Pennsylvania has the floor.

Mr. HEINZ. May I regain the floor?

Mr. D'AMATO. It will be a sorry and long day before I bring up that amendment.

Mr. HEINZ. May I gain the floor so I can yield it?

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized. He may yield if he would like.

Mr. HEINZ. I appreciate being recognized so I can yield the floor.

The PRESIDING OFFICER. The Chair is delighted to recognize the Senator from Pennsylvania who does yield the floor.

Mr. KERRY. Mr. President, the amendment offered by the Senator from Pennsylvania represents a sudden, unfair and unwarranted attack on a Boston-based financial institution in retaliation for business activities undertaken by its parent company which are fully and completely lawful.

Senator HEINZ is offering an amendment—without any hearings, or notice, and without providing Senators adequate time to review its content or impact—because he takes exception to an industrial takeover involving a Pennsylvania company. The Senator from Pennsylvania has every right to side with those who believe that the takeover of the Koopers Co. will result in job loss in Pennsylvania. He may be right, or he may not—there is no information before the Senate on that question, and it is not the point.

The point is that such a takeover is completely lawful. The Congress has before it a number of proposals which seek to address the difficult issues raised by takeovers, and the Banking Committee has already reported such a measure, although it is not before us today.

But the Senator from Pennsylvania is attempting to short circuit the legislative process. And in his attempt to suddenly change the law to stop this takeover, he is proposing a change will have a devastating effect on a Massachusetts company which employs 2,700 people and has been in existence for more than a century, and in that time has proven to be not only one of the most prudent and soundly managed institutions, but a superb corporate citizen as well.

The Senator's amendment would suddenly treat the Boston Safe Deposit and Trust Co. as though it were a bank owned by a bank holding company. If the Banking Committee had thought it wise to make changes in the laws governing non-bank bank participation in takeovers—through their nonregulated parent companies—then it should have done so earlier. I object to this attempt to pit the interests of one company against the interest of another—we should be making policy, not trying to influence the outcome of specific takeover battles.

That is not fair, it is not good public policy, and it is not appropriate for the U.S. Senate.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I rise in support of the amendment offered by my friend from Pennsylvania. This amendment would restrict equity investments in nonfinancial firms that are made by a company that owns a grandfathered nonbank bank. The amendment will parallel restrictions on equity investments that are already contained in the Bank Holding Company Act and apply to companies that own traditional commercial banks.

Under existing law, a bank holding company is limited to acquiring no more than 5 percent equity interest in a company that is involved in activities that are not closely related to banking.

The amendment would extend this logic to certain nonbank banks. It would prevent a financials service company that owns a nonbank bank from taking more than a 5-percent equity interest in a company that is not involved in financial services. In other words, what is sauce for the goose ought to be sauce for the gander. If a commercial bank is held to certain restrictions, then a nonbank bank should also be held to certain restrictions with regard to equity investments in nonfinancial companies.

Indeed, the provision that we would apply to owners of grandfathered nonbank banks is significantly more liberal than those that apply to owners of traditional commercial banks.

Mr. President, I think that this provision is vitally necessary. In the Competitive Equality Banking Act we grandfathered about 100 so-called nonbank banks. But it is important to note that simply calling them nonbank banks does not make then any less a bank. They are chartered under State and Federal authorities as banks. They are insured by the Federal Deposit Insurance Corporation. They accept deposits and make loans. But because of a loophle in the Bank Holding Company Act, their owners did not come under the regulations and restrictions of the Federal Reserve, as do the vast majority of banks in this country.

So, in this regard, nonbank banks violate the traditional separation of banking and commerce that has been a basic tenet of banking regulation in this country for a half century or more.

They confer a competitive advantage to nonbank banks over traditional banks because nonbank banks are not subject to the restrictions of the Bank Holding Company Act; and they create an additional risk to the insurance funds because the owners of nonbank banks can engage in widely diversified activities without regulation and examination by the Federal Reserve.

Mr. President, the amendment that is being offered would only apply to one grandfathered owner of a nonbank bank. It applies under the language of the amendment because this company has more than 50 percent of its assets in financial services and 10 percent in domestic banking. Indeed, this particular company owns the 20th largest bank in the country, a bank that has over $15 billion in deposits. It is called a nonbank bank, but is no less a bank.

Mr. President, this is a significant unregulated presence in the banking industry. Indeed, this so-called nonbank bank, which is a bank, is more than three times the size of the largest bank holding company in my State, never mind larger than the largest bank.

Why is this amendment needed? Because this owner of the 20th largest federally insured bank in this country, a so-called nonbank bank, has ventured into the treacherous waters of corporate raiding. It has launched an assault, partly on its own behalf, against a major corporate citizen of the State of Tennessee and the State of Pennsylvania, and an employer of over 12,000 souls nationwide.

If this transaction is consummated, Shearson-Lehman, the owner of the nonbank bank, will own almost 50 percent of the Koppers Co., at the same time it owns the 20th largest bank—all without regulation.

I simply do not think it is appropriate for the owner of a federally insured bank to assume the dual role of conceiving a hostile takeover and acting as an equity participant in the deal. If Shearson-Lehman can do it, then why in the world do we not let Citicorp do it? Nor do I believe that owners of federally insured banks should help to facilitate hostile takeovers.

The hostile takeover trend in this country has cost over 500,000 jobs in the last 2 years. It has destroyed numerous companies and numerous communities. I think that when we peel back the great crash of this past October, we are going to find that the hostile takeover game played a large role in that.

Contrary to popular opinion, or contrary to some opinion, it is not poorly run companies that are the subject of hostile takeovers. It is well-run companies like Koppers. Indeed, I think the primary harm caused by the hostile takeover trend is the short-term focus that it brings to American management. Today, the great American companies leverage themselves to the hilt, buying back their stock, to make themselves less vulnerable to a takeover. In fact, 10 percent of corporate equity in this country, or $400 billion, has been replaced by debt in the last 2 years. This is debt incurred to fight off hostile takeovers—instead of needed investment, instead of these research and development to make American industry more competitive, and never mind the funds going into plants and equipment that would modernize the industrial base of the United States. Moreover, servicing this debt will make our major companies much more vulnerable during the next economic downturn, which will come as surely as night follows day.

The amendment offered by my distinguished friend from Pennsylvania, cosponsored by me, attempts to treat all owners of banks fairly. It attempts to protect federally insured banks from the risk involved when its owner makes significant equity investments.

I commend my friend from Pennsylvania for offering this very worthwhile amendment.

Mr. President, before yielding the floor, I wish to say one word about the amendment No. 1915 offered by the distinguished Senator from Florida [Mr. GRAHAM].

I think the committee reached a very good compromise on the insurance issue. Although I am sympathetic with the position of my friend from Florida—I happen to represent a State in the same region, with some of the same problems—I think that the provisions in the bill give sufficient authority for States to move ahead with insurance powers for locally owned banks first, leaving the question of interstate ownership for later.

So I express my appreciation to the Senator from Florida for withdrawing his amendment. I was not here to speak on it because we were having a markup in the Budget Committee and I could not be here.

Mr. PROXMIRE. Mr. President, I congratulate my good friends from Pennsylvania and Tennessee. Both are members of the Banking Committee, as is the distinguished Presiding Officer [Mr. DIXON]. They are both vigorous, aggressive, intelligent members.

I think the Senator from Pennsylvania has offered an excellent amendment. The difficulty, however, is that, once again, we have not had a hearing on it. We are not acquainted with it. It would be hotly disputed, undoubtedly, by some members of the committee. Because it is highly controversial, I would appreciate it very much if my good friend from Pennsylvania would consider giving us an opportunity to hold a hearing on it, call it up, and act on it in committee as soon as we can.

Mr. HEINZ. Mr. President, I appreciate the offer of the Senator from Wisconsin. Would he consider the following: Would he and the ranking member of the committee, Senator GARN, both of whom have done an excellent job on this legislation, consider taking the amendment, holding the hearing, and if it proved to be contrary to policy, we could come to an appropriate arrangement? Would the Senator consider that?

Mr. PROXMIRE. I think it is difficult to do, as the Senator knows. If we take the amendment subject to later consideration by the committee, I think that puts us in a very difficult position. I do not recall having done that in the past on legislation.

But I am really sincere in telling my good friend from Pennsylvania that if he will permit us to have a hearing on it, we will do it promptly. I can tell him—and, of course, he is a member of the committee and a very active member—as I say, we can be sure that we are going to have action one way or the other on the amendment. I think it has enormous merit. It is right down the line with what I believe in very strongly about hostile takeovers.

I think the committee is entitled to have an opportunity to hold a hearing and get as much information as we can before we act.

Mr. HEINZ. Mr. President, if the Senator will yield, that is indeed a generous offer.

I would like to be clear if it is possible to be clear at this time where he thinks other members of the committee might have some concerns. I understand that both Senator PROXMIRE and Senator GARN are going to oppose amendments to the bill irrespective of the significance or merits of the amendment.

The Senator made his point on that. I understand that situation.

Mr. PROXMIRE. May I say to my friend the committee's sentiment of course is very, very hard to assess, but we did have a 14-to-6 vote in favor of a takeover measure which would be in consonance, it seems to me, with the spirit of the amendment by the Senator from Pennsylvania. So I would think there would be very strong sentiment on the committee in favor of that.

As chairman I can tell the Senator from Pennsylvania I am very much inclined to support this amendment but I do want to have a record first.

Mr. HEINZ. Mr. President, if the Senator will yield further, would it be possible to schedule that hearing expeditiously immediately as we come back?

Mr. PROXMIRE. We will set it as soon as we possibly can when we come back, certainly if possible, but I think we can certainly do it in April.

Mr. HEINZ. Could we do it within the first 2 weeks that we are back? Would that be possible?

Mr. PROXMIRE. Let me check with the chief of staff.

We can do it. We will make a commitment and we will do it in the first 2 weeks after we come back.

Mr. HEINZ. That is an extremely generous commitment of the chairman of the committee, Senator PROXMIRE.

If I may say so, Mr. President, that is about as good a commitment, maybe the best I have ever heard made on the floor of the Senate.

The chairman has expressed a considerable degree of support for the amendment he has offered to schedule hearings extremely promptly within 2 legislative weeks, and it is an offer I will not pass up because it is a very fair offer, indeed.

Therefore, unless there is further debate on this—yes?

Mr. GARN. Mr. President, if the Senator will yield for a comment, I subscribe to what the chairman has done. There may not be a great deal of disagreement.

I think one of our problems, first of all, was the fact that we did want to keep this particular bill clean without amendments. But second, without having hearings, at first blush the amendment may have merit, but I think in the hearing we want to explore the implications to make sure we know exactly what it does and what it will do if passed.

So, I certainly support the chairman in an early hearing and appreciate the willingness of the Senator from Pennsylvania to accept that offer.

Mr. HEINZ. Mr. President, I thank my friend and colleague, the ranking member of the committee, Senator GARN, for his remarks.

I really am most appreciative to both of my colleagues for their interest and for their willingness to hold an expedited hearing.

I withdraw the amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania has the right to withdraw the amendment.

The amendment is withdrawn.

Mr. HEINZ. The amendment has been read. It will be printed in the RECORD, and I see no need at this point to introduce it as a bill, but I reserve that right.

The PRESIDING OFFICER. The Senator has that right.

Who seeks recognition?

Mr. D'AMATO. Mr. President, I would like at this time to engage in a colloquy with the distinguished Senator from Arizona, Senator DECONCINI. I know he has some questions and comments that bear directly on issues of importance to our banking system.

Mr. DECONCINI. Mr. President, if the Senator from New York will yield for a question, I wonder if the Senator can tell me: Does the Financial Modernization Act of 1988 contain any provisions concerning money laundering?

Mr. D'AMATO. I thank the Senator for his question. The banking bill that the Senator has been considering today mainly concerns a number of banks, the money center banks, the powerful banks, but it does not address the issues that affect most Americans. It does not address, for example, the most important issue facing all Americans today, the issue of drug abuse and that which makes it possible. It is a banking bill but it does not address the issue of drug money laundering.

Mr. DECONCINI. Mr. President, I wonder if the Senator from New York will yield to this Senator for a few minutes, and I ask unanimous consent that he do so without losing the right to the floor because I have some comments I want to make not only about money laundering but about the problem of drug abuse. I would like to insert it in this debate here.

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Arizona for that purpose?

Mr. D'AMATO. I am delighted to yield.

Mr. DECONCINI. I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I thank the Senator from New York and I will make some remarks regarding the participation of the Senator from New York here in a moment.

I am going to take a few minutes to talk about the drug problem.

Mr. President, in 1986, the cocaine related deaths of two star athletes, a college basketball all-American and an all-pro football player, focused the attention of Americans on the seriousness of the drug abuse epidemic sweeping this country. For months you could not turn the television on or pick up a newspaper or magazine without discovering a story that mentioned in some way the growing problem or effects of illegal drugs.

In response, Congress worked quickly during the summer of 1986, in a bipartisan effort, to come up with some kind of quick-fix legislation to solve this problem. For those of us who had spent years working on the issue, there was real satisfaction to hear talk of the United States finally ready to mount a "war on drugs". However, when you looked closely at the critical nature of the problem and the efforts that were being put forth by the Federal Government, we see that $3 million a year at that time was being spent on drug education in our schools. We know we needed much more than a quick fix, and we found that out that summer. We desperately needed a long-term commitment. A comprehensive program that focused on drug education, drug treatment and rehabilitation, law enforcement, interdiction, and eradication at the source of these drugs.

In October 1986 Congress passed the $1.7 billion Anti-Drug Abuse Act. Many advertised it as a full-fledged war on drugs that this country had been waiting for for a long, long time. It was not. It was a start, a beginning. When President Reagan signed the drug bill into law he said, "I pledge the total commitment of the American people and their government to fight the evils of drugs." But the commitment was quickly abandoned. In his fiscal year 1988 budget proposal, just 3 months after signing the drug bill, the President slashed over $900 million in antidrug abuse funds. The President eliminated all money for State and local governments for drug enforcement programs and cut by more than half funding for drug education and interdiction. Congress rejected the President's proposals and restored most of the cuts.

In President Reagan's State of the Union Address in February, we were led to believe this country had turned the corner on the fight against illegal drugs. The President spoke of an untold American success story. Obviously the White House is not getting the full story on the drug epidemic. Although the President increased funding for Federal law enforcement efforts and drug education in his fiscal year 1989 budget request, once again we see cuts in all the money for State and local law enforcement grants, including only a small increase for drug treatment and rehabilitation.

The statistics speak for themselves. We are losing, not winning our war on drugs. The Justice Department recently released a study that confirmed what we suspected for a long time: Over half of all serious crimes in America are related to drugs. In New York City, the hometown of my colleague and friend, 8 out of 10 arrested for serious crimes tested positive for drugs.

You can throw out the window the perception that the problem is confined to certain groups of people or areas of the country. The drug problem has no boundaries. According to the district attorney from Portland, OR, 90 percent of the burglaries and robberies in that area are drug-driven and 73 percent of those arrested were found to be under the influence of illegal drugs. An investigation by the Phoenix police Department to determine the availability of drugs near the city's high schools, found an estimated 80 percent of the juveniles who were using narcotics were committing crimes.

A recent GAO study reported a 124-percent increase in the number of cocaine related deaths between 1983 and 1986. And it revealed that the purity level of cocaine being sold on the street is now close to 70 percent. And the price is declining because supplies are increasing.

In 1986 the experts said we better watch out if the form of cocaine known as crack becomes popular. Our worst fears are being realized. Crack has turned our city streets into battlefields. Killing is common among the gangs and organizations who fight to gain control of drug sales. The Jamaican gangs—known as posses—have come to dominate the United States crack trade. These posses have been responsible for as many as 800 murders throughout the country.

Outside this country, international narcotics organizations are growing in strength and numbers. In Colombia, fear and bribery have made that country's criminal justice system a free-fire zone of the drug cartel. Drug violence is king. One of Colombia's cocaine barons, Jorge Ochoa, bribes his way out of jail. It is reported the cartel was willing to spend $20 million for his release. The recent murder of the Colombian attorney general is proof that they are serious and have no regard for human life.

Mexico has become the No. 1 source of marijuana and heroin entering the United States. In addition, about 40 percent of the cocaine coming into the country is transported through Mexico. This past February 7 marked the third anniversary of the kidnaping and torture-murder in Mexcio of DEA agent Enrique Camarena. It took 3 years for indictments to be handed down in the Camarena case. When they came, they came from the United States attorney in Los Angeles not the Mexican Government.

Make no mistake, illegal drugs has our country up against the wall. If we have any chance of reversing the battle and turning the corner, we must make the battle against illegal drugs a national priority. We must mobilize all our resources.

Last week Senator D'AMATO and I introduced the Anti-Drug Abuse Act of 1988. It is a comprehensive bill patterned after the 1986 drug bill that addresses drug education and treatment, Federal, State, and local law enforcement, interdiction, and eradication. Over 60 of our colleagues have already cosponsored the bill. That in itself tells me there is a growing concern in Congress that we are losing the war on drugs and we need to respond.

To fight a war, you have to have the tools. It is as simple as that. Our bill would provide $1.5 billion in assistance to State and local law enforcement over a 3-year period. If a local program is funded in the first year, it would receive the same funding for the following 2 years, provided it does what it is supposed to do. A complaint most of us have heard is that the individual States are taking forever in getting the Federal funds out to the localities. We have included a provision that would allow cities that have a population over 500,000 to receive direct funding if the State fails to get the funding out in a timely manner.

In the area of drug education, S. 2205 authorizes $300 million in the first year, and $350 million in each of the next 2 years. It also includes reporting and accountability requirements to insure that only the best programs are being implemented in our schools. Secretary Bennett offered some constructive suggestions in this area.

For drug treatment and rehabilitation, the bill authorizes $20 million for grants to emphasize community based residential treatment services. It provides $558 million for alcohol and drug abuse treatment and rehabilitation block grants and $600 million for emergency grants to the State and local governments and communities.

The bill provides additional appropriations for Federal drug enforcement agencies like DEA, FBI, Customs, Coast Guard, and the U.S. Border Patrol. Later this week, I will put in a further detailed explanation on that but will not do so at this moment.

To help shut off the drug trafficking lanes into our country, this additional effort is needed.

The bill includes a piece of legislation tht Senator D'AMATO and I introduced last year that attacks the problem of illicit chemical diversioin and trafficking. This section includes tough guidelines and penalties for those who use chemicals to manufacture the drugs that are poisoning or youth.

There is massive overcrowding in jails and prisons across the country. This bill would provide $200 million for Federal prison contruction. In addition, excess money in the asset forfeiture fund would go toward building jails and prisons.

To encourage producing countries to eradicate coca, marijuana, and opium crops, our bill establishes a 3-year economic incentive program. If Bolivia were able to meet specific eradication goals—15 percent of their total coca crop in the first year, 40 percent by the third year—they could dip into a $200 million economic assistance fund that would be administered by AID and monitored by DEA for accountability purposes. This money could be used for alternative crops or new farming methods. The bill also provides U.S. military training and equipment for countries in Latin America to aid them in their efforts against the narcotraffickers.

Finally, the bill authorizes the establishment of a nonlegislative Senate Select Committee on Narcotics. This will give the Senate, for the first time, a full-time oversight committee that will review the drug abuse issue and provide advice and counsel to the Senate.

Mr. President, it is one thing to devise a comprehensive antidrug package that calls for an additional $2.4 billion in new spending next year. But it is quite another to devise a specific plan for how Uncle Sam is going to pay for it. Our bill contains a statutory mechanism for doing exactly that. The Congressional Budget Office has informally costed out S. 2205. They have told us that for fiscal year 1989 the bill would require $2.4 billion in new budget authority and $1.3 billion in outlays. An additional $113 million in budget authority and $27 million in outlays would occur as a result of our removing the cap on the Asset Forfeiture Funds of Justice and Treasury. Therefore, we must come up with approximately $2.5 billion in budget authority and $1.4 billion in outlays.

First, we add an additional $286 million and 6,800 positions to IRS to allow that agency to go after overdue, deliquent taxes owed to the Government, owed to the people of this country. The Commissioner of IRS sat before the Senate Appropriations Committee and said that with the additional $286 million for enforcement, more than $1.1 billion in revenues would come into the Treasury—not new taxes, new revenues from taxes already owed and not paid. The people of this country deserve to have that money collected. These additional revenues would be placed in a special Treasury trust fund that would be specifically used to offset the cost of the drug bill.

Second, we add $4 million to the Bureau of Alcohol, Tobacco, and Firearms and 40 additional positions to increase their enforcement of the Special Occupational Tax collection program. These additional resources, according to BATF, would produce an additional $130 million in new revenues in fiscal 1989. These additional revenues would be placed in the same special fund in Treasury to help offset the cost of the drug bill.

The total of those two revenue initiatives alone would produce $1.25 billion specifically earmarked to offset the cost of S. 2205 for fiscal year 1989, leaving a balance of only $133 million to be found to offset total outlays for the drug bill, and $1.3 billion in BA.

Therefore, the third element of our cost-offset plan calls for the mandatory collection of $2 billion in nontax, nonfarm delinquent debt owed to the Federal Government, and the placement of these resources into the same special Treasury fund to help pay for the drug bill. According to the General Accounting Office there is currently a balance of approximately $29 billion in nontax debt delinquencies on the Federal Government's books. Of this, approximately $10 to $11 billion is farm debt that our bill would not address. That leaves a balance of $17 to $18 billion in nontax debts that are on the books, ready to be collected through the use of credit bureaus; collection agencies; IRS refund offsets; and other proven private sector methods that the Federal Government also has at its disposal.

Even if we only collected 10 percent of the amount we mandate in our bill, we will cover the entire outlay cost of the bill, with money left over. If we collect only half of the amount we mandate in the bill, we will exceed our outlay requirements by over $800 million and be within $250 million of our BA requirements. And if we hit our target—which I believe is achievable—we would have $700 million more than we need in BA and $1.8 billion more than we would need to meet CBO's outlay estimates of the bill.

In short, Mr. President, this bill is not only launching a comprehensive, broad-based attack on the drug problem, it is fiscally responsible; it dos not breach the Economic Budget Summit agreement; and it pays for itself. This bill should be passed promptly.

I would hope that every Senator would join in it.

I want to thank the Senators who are managing this bill for their tolerance in letting me enter this information on this drug bill here. I have been trying to get some time on the floor all day and I realize that they have a bill that they want to pass here.

I thank the Senator for his indulgence and I thank the Senator from New York for his leadership and determination in this effort and for yielding to me without losing the floor for a period of time so I could place this information in the RECORD.

The PRESIDING OFFICER (Mr. BINGAMAN). Under the previous order, the Senator from New York is recognized.

Mr. D'AMATO. Mr. President, let me first convey my deep appreciation for having the opportunity to work with a great citizen of this country and a caring and concerned Senator, Senator DECONCINI, who has not made the issue of the problem of drugs a partisan one but addresses it in the manner in which it should be cogently, persistently addressed because it is a crisis that has developed and persists in the Nation that has not had the kind of attention that it should.

I am glad Senator DECONCINI brought up the subject of drug money laundering, and the drug issue. I am proud to have introduced with my good friend Senator DECONCINI, S. 2205, which does address these issues.

It really is time to put the war on drugs—including an effective international campaign against drug money laundering in countries like Panama—at the top of our foreign policy priorities. We must also remember that the international aspect of this problem cannot be separated from the devastation of America's families, schools, and neighborhoods

The 1988 National Institute of Justice "Drug Use Forecasting" survey indicates that as many as 79 percent of the men arrested for serious crimes in our 12 major cities tested positive for use of drugs. Where do you think those drugs came from?

Whether you look at the coca fields of Bolivia, Peru, and Ecuador, or the processing labs of Colombia, or the transshipment through Panama, Haiti, the Bahamas, Honduras, or Mexico, you must come to the same conclusion. At no point in the process does our foreign policy act as an effective deterrent to the production, processing, or transshipment of drugs. So the crime epidemic we read about every day, that took the life of 22-year-old police officer Eddie Byrne in New York last month, and that victimizes all of us, is the price we pay for a failed foreign policy.

The power of the international drug cartels and their domestic distributors grows stronger by the day, and their narco-terrorism has put America under siege.

In Panama, Haiti and other countries, a clique of tin-horn drug dealing dictators, hiding behind the puppets they install, are turning entire governments into criminal drug enterprises. In Colombia, through the murder of the attorney general, justice minister, and many of its judges, the cartel has brought the Government to its knees.

While I support the administration's efforts to build a strong national defense, I am outraged that a key purpose of our foreign policy and national defense is being neglected. Our Nation is not waging a real war against the drug traffickers. Why aren't we using the military to defend our Nation against the international drug cartel?

One should ask: Are we really committed to winning the war against drugs? Our police departments are overwhelmed. They do not have the ability to interdict the planes and the ships carrying drugs. That is a duty that the Federal Government is not adequately responding to.

Do our leaders understand the torment of Eddie Byrne's parents? Do they have any idea what it is like to bury a 22-year-old son? Do they understand the day-to-day suffering that those who come from lesser economic circumstances must endure, as they try to hold a family together, while crack is being sold in front of their homes, and in the schools?

Why do we tolerate the lack of drug education programs in our schools? Why haven't we committed this Nation to reducing the waiting lists at the treatment centers?

We need a national crusade to give us back the domestic tranquility that is guaranteed by the Constitution of the United States. That is where America has to stand, and that is what the Congress of the United States should stand for.

We must implement the Anti-Drug Abuse Act of 1986, which authorizes cutting off aid, and voting against multilateral development bank loans, to countries like Mexico that do not cooperate with the United States in combating illegal drug production, drug trafficking, and money laundering.

We need to commit our Armed Forces to protect our borders against drug runners. The Posse Comitatus Act, a reconstruction-era law dating back to 1878, prohibits the U.S. Armed Forces from engaging in civilian law enforcement activities. We must change the law so that those charged with defending this country against our foreign enemies can defend us against foreign enemy number one: The drug epidemic that is the most dangerous threat to our national security.

Legislation such as S. 2206, which Senator DECONCINI and I have introduced, shoud be enacted to provide for the death penalty for someone who kills—or orders the killing—of a policeman or other Federal, State or local law enforcement officer as part of a criminal drug enterprise.

Our foreign policy regarding drugs must be linked to a comprehensive program at the domestic level as well. We must pass S. 2205, the Omnibus Anti-Drug Abuse Act of 1988, which commits the Federal Government to help build drug treatment centers, and end the waiting lists for drug rehabilitation.

It increases the Federal commitment to drug education and provides accountability for those programs, so that school districts will start setting goals, evaluate their success and failure, and report on their efforts to correct program weaknesses.

It provides assistance to State and local drug enforcement agencies. And at this point I would like to read the statement of the National District Attorneys Association supporting our bill.

The National District Attorneys Association, which represents elected and appointed district attorneys nationwide, has no higher priority than combating drug abuse and drug-related crime.

Earlier this year in the State of the Union address, the President reminded us that once upon a time the federal government launched a war on poverty. Nearly two decades later, President Reagan affirmed that "poverty won." No one in America today wants the epitaph of the Reagan Administration's "war on drugs" to meet the same assessment when, it the year 2000, the leaders of tomorrow judge our efforts today.

But let's face facts. The reality is that the drug crisis to date has proved to be bigger than all of us. Law enforcement is literally out-gunned and underfinanced when compared to the drug peddlers who today are winning the war. The street gangs, organized crime, the drug pushers and foreign drug lords hold hostage the future of this great nation.

It is local law enforcement personnel who are on the front lines in the war on drugs:

They know that intoxicated teenagers are often better armed than the cop on the street.

They know that the lack of prison space means that thousands of convicted users and sellers only go on probation to continue their criminal activities.

They know that an average of only three percent of state and local resources go to drug law enforcement.

They know that the drug crisis is a local crisis . . . that drug use directly contributes to street crime right here at home . . . that the carnage that is most visible to the American people is not on a mountaintop in Colombia or in a seizure on the high seas, but on the streets and in the schoolyards of our communities.

And they also know that the American people overwhelmingly endorse stronger criminal justice sanctions for drug offenders.

Finally, local prosecutors know and have expressed their view that the President's Fiscal Year '89 budget simply doesn't go far enough. We can't wage the war without the proper weapons. We will not have the proper weapons unless Congress returns more of our tax dollars to local communities.

Therefore, the National District Attorneys Association strongly endorses the "Omnibus Anti-Drug Abuse Act of 1988." We applaud Senators D'Amato and DeConcini for this finely-crafted legislation which, with one bold sweeping stroke, restores, realigns, and greatly increases the funding begun by the 1986 Anti-Drug Act which was drastically cut in the Administration's Fiscal Year 1989 budget.

Of particular significance is the $1.5 billion allocation to state and local law enforcement agencies to attack the drug problem where it is most acute—at the local level.

We commend the provision which would increase local law enforcement's participation in the distribution of seized drug assets. We also support the provision that a portion of these same funds be used for new prison construction.

It will take all of our best efforts to win the war on drugs. It wil take a true partnership between federal, state, and local law enforcement. The National District Attorneys Association has already launched such a partnership with the federal government. Last fall, together with our non-profit research and technical assistance affiliate, the American Prosecutors Research Institute, we established the Center for Local Prosecution of Drug Offenses. The Center, fully funded by the Bureau of Justice Assistance, is the first and only national clearinghouse for local prosecutors on drug abuse and drug-related crime. Our national membership is working together on aggressive and innovative strategies to attack the drug problem in our communities head on. The Omnibus Anti-Drug Abuse Act of 1988 will help local prosecutors to get this job done.

S. 2205 also increases Federal law enforcement budgets, and adds four new prisons to a Federal prison system that is in crisis. The capacity of this system is only 26,473 inmates, but it houses 42,946 inmates, or 162 percent of capacity.

The Senate must pass this legislation to declare a real war on drugs. We must demonstrate to the American people that we are committed to fighting the greatest threat this Nation faces—at all levels. This is where we should lead, because there is no greater battle. It is more than a battle for the economic well-being of this Nation.

Granted, the bill at the desk may talk about economic well-being, but that pales in comparison to what is taking place in our communities. It is a battle for the lives of our children and our families. Indeed, it is a battle for the very dignity of man.

I yield the floor.

Mr. HECHT. Mr. President, will the Senator from Nebraska be willing to engage in a short discussion with me regarding certain real estate activities for banks?

Mr. KARNES. Mr. President, I will be happy to do so.

Mr. HECHT. I thank the Senator.

In 1987 when Congress passed the Competitive Equality Banking Act, it demonstrated our need to address the issue of expanded powers of banks in the areas of real estate, securities, and insurance. I would like to point out that the rationale for the 1987 moratorium was to give the Congress additional time to address these issues. Well, the moratorium has come and gone, and with the passage of S. 1886, we will have addressed the insurance and securities issues, yet the real estate issue remains unresolved.

I believe this issue is of such importance that it should be decided by congressional action, not by the regulatory agencies. This is a basic policy question that Congress needs to examine so as to establish a clear national policy of real estate activities for bank and bank holding companies.

I want to point out that given the current situation in the thrift industry, I feel it is important that we not disrupt those real estate activities long permitted State and federally chartered thrift institutions and commercial banks under State law.

Will the Senator from Nebraska agree that in our final conference agreement with the House that we should strive toward a legislative solution to the question of banking and real estate rather than allowing the Federal regulators to make these decisions?

Mr. KARNES. Mr. President, I would certainly agree with my good friend from Nevada that this issue should be resolved by Congress in the same manner that the securities and insurance questions were addressed. I want to emphasize that I see no reason why this issue should be dealt with any differently. It is the exclusive right and responsibility of the Congress; not an administrative agency or the courts, to decide whether financial institutions should be permitted to engage in real estate activities. If the Congress decides that that activity is permissible, then the next step is determining to what extent that activity should be conducted and with what safeguards.

While I was unable to deliver my statement of support for the Proxmire-Garn bill because of other time commitments, my strong endorsement of the bill has been submitted for the RECORD by my distinguished colleague. I do feel, however, that it is highly appropriate for the Congress to address the real estate issue before the bill is ultimately approved by the Congress and signed by the President.

Thank you, Mr. President, and I thank my distinguished colleague from Nevada.

Mr. HECHT. I thank the distinguished Senator from Nebraska.

REGARDING THE REAL ESTATE POWERS OF BANKS

Mr. GRASSLEY. Mr. President, I too would like to commend my colleagues on the Senate Banking Committee. The legislation before us represents a finely woven compromise between the banking and securities industries. It couldn't have been an easy task for the committee leadership.

The Financial Modernization Act of 1988, S. 1886, addresses the concerns of several major players in the financial services industry. It is our responsibility to fully consider all aspects of the financial industry that may be affected by modernization of banking.

I feel that this body must recognize that real estate firms are included among the affected and concerned players. My purpose today, therefore, is to bring to the attention of this body that "real estate" is never mentioned in the bill.

With the competent guidance of Senator GARN and Senator PROXMIRE, the Banking Committee developed a bill which goes a long way toward fine tuning our financial system. In the committee's deliberation, a great multitude of the issues were addressed. As a veteran of many long nights in committee meetings myself, I understand the limits to which the members are willing to extend themselves.

It is not my intent to advocate any particular position of the real estate industry at this point. I do, however, want to question why real estate was so obviously omitted. The Competitive Equality Banking Act, on which this body debated at great length a year ago, imposed a moratorium on the powers of banks to be involved in three nonbanking activities. These three activities included securities, insurance, and real estate.

Bank's participation in the securities business is thoroughly addressed. The insurance industry would also be protected by this bill. The real estate industry, on the other hand, must continue to rely on the courts and the regulators to act on their concerns.

Many Members of the Senate have spoken today that Congress must act on these issues. Members have asserted that securities and insurance powers ought not be left to regulators and courts. So I ask my Senate colleagues, especially those who serve on the Senate Banking Committee, "Why not real estate powers? Why should the Congress not act on banks' involvement in the real estate industry? Why should Congress act forthrightly on the issues of securities and insurance brokerage, but not real estate brokerage?"

Mr. D'AMATO. Mr. President, one of my concerns, as it relates to this bill, is the question of penalties for those who willfully violate those provisions as it relates to banking and securities activities.

Mr. President, my distinguished friend and colleague, Senator DOMENICI, would like to make a statement. So I yield the floor, with unanimous consent, if I might, for him to make a statement.

Mr. President, I am deeply concerned that we not create a situation that would encourage with the lack of proper penalties the kinds of things that have taken place heretofore particularly as we expand the more traditional role of banking into the securities areas. Let me give you an example of what I am concerned about.

First options is a registered broker and dealer and futures commission merchant. Continental Illinois Bank acquired first options in December 1986 by a grant of approval from the Comptroller of the Currency. Pursuant to that acquisition, Continental Illinois agreed to adhere to the same lending limits with first options that applied to any other Continental affiliate. On October 20, 1987, Continental Illinois made a $90 million advance, Mr. President—$90 million, that is FDIC insured deposits—to keep first options afloat after the market crash on October 19, 1987.

In effect, Continental violated the provisions of the Comptroller's approval of Continental's acquisition of first options. Continental Illinois, already supported by taxpayers' dollars, has been forced to pour more than $90 million into the reserves of first options. As a result, Continental realized a fourth quarter loss because of that $90 million special provision taken by first options.

What penalty did the Comptroller impose upon Continental? A consent order which required Continental Illinois to adhere to the lending limits originally agreed to in Continental's acquisition of first options. Nothing more than a slap on the wrist, simply saying, "You must adhere to that which you agreed to and to that which you have already violated."

Mr. President, I am concerned that no penalty provision is in the bill, none which sufficiently punishes or deters anyone who may be attempting or actually does engage in actions which violate this article. Now, past experiences show that temptation or agreed exceeds the likely punishment, either civil or criminal. No one ever goes to jail, to put it bluntly, and therefore under this bill what are the penalties for violations such as the First Options of Chicago, Continental Illinois situation? We have been talking about serious matters here. It would seem to me there is a need to provide an effective deterrent, an effective penalty to the institution and certainly an effective penalty to the individual or individuals who may carry this out and certainly for those who willfully violate the law, the likelihood that prison is something that they will face as well.

I wonder if the managers of the bill—I know our staffs have been addressing this issue—would comment because the present law and penalty provision I think is certainly inadequate.

Mr. PROXMIRE. The Senator from New York is absolutely correct. The managers of the bill are conscious of that. We are working on a managers' amendment that would sharply increase the penalties. The fines would be increased very sharply and the prison term would be increased to 3 years. The fines would be increased from $1,000 a day to $50,000 a day. That is for the corporation or for the company. And the individual would go from $10,000 to $100,000 total. Of course that is not a day, but that is an enormous increase.

Mr. D'AMATO. And the jail provisions would be increased from a year to 3 years?

Mr. PROXMIRE. To 3 years.

Mr. D'AMATO. I thank the distinguished Senator.

Mr. PROXMIRE. I might say that my good friend from New York was very instrumental in this. He played a very useful part in helping us arrive at a substantial increase.

Mr. D'AMATO. Let me take this opportunity to thank my distinguished colleague from Wisconsin as well as the ranking member, Senator GARN, from Utah, for their efforts in connection with this bill. I may not be supportive of certain aspects—indeed, I have certain reservations—but nonetheless certainly in regard to the integrity of the operation of our financial institutions I believe this is a substantial improvement over the existing law and certainly should deter people from undertaking the kinds of activities we have seen all too often in the financial community, those things which undermine confidence in the system.

I would like to ask my colleagues to bear with me for maybe 5 more minutes.

We have heard much in defense of this bill. We have heard that it is proconsumer. Well, Mr. President, I have here a letter from the consumer's viewpoint. It is a letter that represents over 200 consumer groups.

To put it briefly, Mr. President, these groups have said rather emphatically that they do not support this bill.

I ask unanimous consent that this letter and the accompanying open letter, as well as the list of organizations attendant to it, be submitted and printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 29, 1988.

DEAR SENATOR: We are writing to correct possible misconceptions about our position on the basic issue of expanded securities powers for banks, which is currently being considered by the full Senate as S. 1886.

The Senate Banking Committee report on the bill states, "Allowing bank holding companies to establish securities affiliates . . . is strongly supported by business and consumer organizations . . ." In fact, we emphatically do not support expanded securities powers without adequate consumer and community safeguards to ensure that the banking system meets the needs of low and moderate income citizens.

Expansion of securities powers for banks is part of the continuing process of banking deregulation, which is allowing banks to move away from the provision of basic services and credit to low and moderate communities and consumers. As a result, further deregulation can only worsen these problems of access to credit and services unless strong safeguards are included in expanded powers legislation. We are joined in this position by nearly 200 organizations, who have signed an open letter to the members of the Banking Committee (see attached).

The safeguards necessary to protect the interests of consumers and communities include legislation strengthening implementation of the Community Reinvestment Act; reforming agency structure to ensure adequate community and consumer compliance; requiring basic banking services; requiring public disclosure of commercial loans; establishing state-level financial consumers association to provide information and representation on financial matters; and establishing strong notification for branch closures by bank and thrift institutions. These provisions are embodied in bills introduced in the House of Representatives by Reps. Kennedy, Schumer, Garcia and Fauntroy, and in the committee print introduced by Chairman St Germain.

In short, we believe that provisions addressing expanded powers for banks should include guarantees that consumers and communities will be adequately served by the banking system. The expanded powers in S. 1886 do not include such safeguards; as a result, we do not support it in its current form.

Sincerely,

PEGGY MILLER,
Consumer Federation of America.
ALLEN FISBEIN,
Center for Community Change.
JONATHAN BROWN,
Bank Watch.
MILDRED BROWN,
ACORN.
MICHAEL WALDMAN,
Public Citizen.

OPEN LETTER TO MEMBERS OF THE HOUSE AND SENATE BANKING COMMITTEES

The Committee is currently considering financial services restructuring proposals that would dramatically expand traditional banking powers and alter the manner in which financial services are delivered to the public. Unfortunately, these proposals do not address important consumer and community needs. The credit availability and deposit services problems that the residents of many older urban neighborhoods and slow growth communities and small businesses face do not stem from the inability of banks and other depository institutions to compete with other segments of the financial services industry. Rather, they result from the failure to fulfill their obligations under existing banking laws, such as the Community Reinvestment Act, and the demarketing of low and moderate income communities. Allowing banks to underwrite and deal in securities, insurance or real estate will do nothing to address these problems.

Financial restructuring legislation must include explicit provisions guaranteeing that the authorization of expanded banking powers will be tied to improvements in access to banking services in low and moderate income communities, as well as improvements in the quality and terms of services for all consumers. These provisions should tie restructuring to the provision of basic financial services in underserved communities, expanded public disclosure of the performance of banks and other financial services providers in meeting these essential needs, and special community reinvestment requirements for all banking institutions exercising expanded powers.

The undersigned organizations are writing to urge you to support community reinvestment and consumer requirements as part of any financial restructuring legislation that is adopted by the Committee.

A.C.O.R.N.—Association of Community Organizations for Reform Now.

Action Coalition of Englewood, Chicago, Illinois.

A.M.E. Zion Church, Charlotte, North Carolina.

Ann Arbor Community Development Corporation, Ann Arbor, Michigan.

Affiliated Media Foundation Movement.

Alaska Public Interest Research Group.

American Association of Homes for the Aging.

American Church Financial Service Corporation, Charlotte, N.C.

American Council on Consumer Awareness.

American Indian Economic Development Association.

American Planning Association.

Americans for Democratic Action, Inc.

Arizona Consumers Council.

Association of Massachusetts Consumers.

Atlantans for Progress, Atlanta, Georgia.

Austin Peoples Action Center, Chicago, Illinois.

Bankwatch.

Bethel New Life, Inc. Chicago, Illinois.

Blue Grass Black Business Association, Lexington, Kentucky.

Blue Hills Homes Corporation, Kansas City, Missouri.

Bordeaux CAC, Nashville, Tennessee.

Bucks County Housing Group, Inc., Langhorne, Pennsylvania.

Business Opportunities Systems, Indianapolis, Indiana.

Camden Shelter Coalition, Camden, New Jersey.

Camp Washington Community Board Inc., Cincinati, Ohio.

Center for Community Change.

Center for Community Self-Help, Durham, North Carolina.

Center for Neighborhood Development, Cleveland, Ohio.

Center for Public Interest Research, Lansing, Michigan.

Central Hillside Council, Duluth, Minnesota.

Chicago Jobs Council, Chicago, Illinois.

Chicago Rehab Network, Chicago, Illinois.

Chicago Roseland Coalition for Community Control, Chicago, Illinois.

Churches Center for Theology and Public Policy.

Citizens Housing and Planning Association, Boston, Massachusetts.

Clark-Fulton-Denison United, Cleveland, Ohio.

Clark-Metro Development Corporation, Cleveland, Ohio.

Coalition for Community Reinvestment, Charleston, West Virginia.

Coalition for Neighborhood Economic Development, Milwaukee, Wisconsin.

Coalition on Human Needs.

Columbia Road Tenants Organization, Washington, D.C.

Community Action Agency—Project Now, Rock Island, Illinois.

Community Developmental Legal Assistance Center.

Community Information Exchange.

Community Services Society of New York, New York, New York.

Community Training and Resource Center, New York, New York.

Community TV Network.

Community Ventures Corporation, Lexington, Kentucky.

Concerned Consumers League, Inc., Milwaukee, Wisconsin.

Concerned Citizens of North Camden, Camden, New Jersey.

Congress Watch.

Consumer Action, San Francisco, California.

Consumer Education and Protection of Kansas.

Consumer Federation of America.

Consumer Federation of California.

Detroit Committee for Responsible Banking, Detroit, Michigan.

East Bing Hampton Neighborhood Group, Memphis, Tennesee.

Edgement Neighborhood Coalition, Dayton, Ohio.

Elm Tree Lane Neighborhood Association, Lexington, Kentucky.

Emily's Beauty Shop Inc., Lexington, Kentucky.

Fair Housing Contact Services, Inc., Akron, Ohio.

Farmworker Association of Central Florida, Apopka, Florida.

Fellowship Community Development, Inc., Baltimore, Maryland.

First Baptist Church, Maddoxtown, Lexington, Kentucky.

Florida Legal Services—Community Economic Development Work Group, Miami, Florida.

Friends Committee on National Legislation.

Germantown Meadows Association, Dayton, Ohio.

Gray Panthers.

Greater Duluth COACT, Duluth, Minnesota.

Green Acres Hollow Creek Neighborhood Association, Lexington, Kentucky.

H.A.N.D.S., Inc., Orange, New Jersey.

Harlem Consumer Education Council, Inc., New York, New York.

Harrisburg Fair Housing Council, Inc., Harrisburg, Pennsylvania.

Hasson Park Haven, Kansas City, Missouri.

Hayti Development Corporation, Durham, North Carolina.

Heights Community Congress, Cleveland, Ohio.

Housing Counseling Services, Washington, D.C.

Housing Resource Center, Cleveland, Ohio.

Human Rights Commission, Lexington, Kentucky.

Idaho Consumer Affairs, Inc.

Indiana Association for Community Economic Development.

Inner City Development Corporation, Lexington, Kentucky.

International Chemical Workers Union.

Jackson-Chelsie Community Organization, Memphis, Tennessee.

Jersey City Department of Housing and Economic Development, Jersey City, New Jersey.

Jewish Council on Urban Affairs.

Jobs With Peace.

Julie Community Center, Baltimore, Maryland.

Keller Plaza Apartments Community Organization, Oakland, California.

Leviticus 25:23 Alternative Fund, Inc., Ossining, New York.

Little Rock Community Reinvestment Alliance, Little Rock, Arkansas.

Louisiana Consumers League.

Low Income Housing Fund, San Francisco, California.

Madame Walker Urban Life Center, Indianapolis, Indiana.

Main Street Business Association, Columbus, Ohio.

Manchester Center, Inc., Lexington, Kentucky.

Maryland Alliance for Responsible Investment.

Maryland Citizen Action Coalition.

Maryland Low Income Housing Coalition.

Massachusetts Urban Reinvestment Advisory Group, Boston, Massachusetts.

McAuley Institute.

Mercy Housing, Kansas City, Missouri.

Metro Micro-City Government, Inc., Lexington, Kentucky.

Metro Strategy Group, Cleveland, Ohio.

Metropolitan Milwaukee Fair Housing Council, Milwaukee, Wisconsin.

Metropolitan Washington Planning and Housing Association, Washington, D.C.

Michigan Citizens Lobby.

Michigan Housing Coalition.

Midtown Economic Development and Industrial Corporation, Indianapolis, Indiana.

Minnesota COACT.

Minnesota Housing Project, Minneapolis, Minnesota.

NAACP, Lexington, Kentucky.

NAACP—Baltimore City Branch, Baltimore, Maryland.

National Association of Community Action Agencies.

National Caucus and Center on Black Aged, Inc.

National Center for Urban Ethnic Affairs.

National Congress for Community Economic Development.

National Consumers League.

National Council of La Raza.

National Council of Senior Citizens.

National Low Income Housing Coalition.

National Neighborhood Coalition.

National Neighbors, Inc.

National People's Action.

National Puerto Rican Coalition.

National Rainbow Coalition.

National Urban Coalition.

Neighborhood Economic Development Corporation, Eugene, Oregon.

Neighbors Helping Neighbors, Phoenix, Arizona.

Neighborhood Services, Inc., Birmingham, Alabama.

Neighbors Organized for Action in Housing (NOAH), Inc., Cleveland, Ohio.

New Century Development Corporation, Miami, Florida.

New York Consumer Assembly.

Niagra Frontier Consumers Association, Inc., Williamsville, New York.

North Carolina Consumer Council.

Northside Preservation Commission, St. Louis, Missouri.

Northwest Piedmont Council of Governments, Winston-Salem, North Carolina.

N.U.S. tenant and Neighborhood Coalition, New York, N.Y.

Office of New York State—Senator Frank S. Leiditen.

Ohio AFL-CIO.

Ohio Consumers Association.

Oregon Consumer League.

Park Heights Community Corporation, Baltimore, Maryland.

Pennsylvania Citizens Consumer Council.

People's Law Office for Organized Workers, Apopka, Florida.

Planners Network.

PPEP Housing Development Corporation, Tucson, Arizona.

Practical Political Consulting, East Lansing, Michigan.

Pralltown Neighborhood Association, Inc., Lexington, Kentucky.

Progressive League of College Station, College Station, Arkansas.

Progressive National Baptist Convention.

Public Citizen.

Reach Community Development, Inc., Portland, Oregon.

Rehab Project, Lima, Ohio.

Reynoldstown Community Organization, Atlanta, Georgia.

Richmond Neighborhood Coalition, Oakland, California.

Russel Cave Plaza One Day Cleaners, Inc., Lexington, Kentucky.

Sheldon Heights Church of Christ, Chicago, Illinois.

Shiloh Baptist Church, Lexington, Kentucky.
South Bend Heritage Foundation, South Bend, Indiana.
South East Clevelanders Together, Cleveland, Ohio.
Southeast Development, Inc., Baltimore, Maryland.
Southeast Women's Employment Coalition, Lexington, Kentucky.
South End Seattle Community Organization, Seattle, Washington.
Southern Christian Leadership Conference.
Southern Counties Action Movement, Herrin, Illinois.
SRD—Neighborhood Development—University of Dayton, Dayton, Ohio.
St. Clair Superior Coalition, Cleveland, Ohio.
St. Paul AME Church, Lexington, Kentucky.
The 400 Block Upper North Street Neighborhood Club, Lexington, Kentucky.
The Duluth Reinvestment Coalition, Duluth, Minnesota.
The Institute for Social Justice.
The Neighborhood Institute, Chicago, Illinois.
Tremont West Development Corporation, Cleveland, Ohio.
Unitarian Universalist Association, Washington Office.
United Food and Commercial Workers International Union.
United Methodist Church, Board of Global Ministries, National Division.
United Northwest Area Development Corporation, Indianapolis, Indiana.
United Steelworkers of America.
United Tenants of Albany, Albany, New York.
Uptown Recycling Center, Chicago, Illinois.
Urban League of Lexington, Lexington, Kentucky.
US Public Interest Research Group.
US Student Association.
Victory Neighborhood Services, Inc., Cincinnati, Ohio.
Vine City Community Group, Atlanta, Georgia.
Virginia AFL-CIO.
Virginia Citizens Consumer Council.
Voices of the People in Uptown, Inc., Chicago, Illinois.
Washington Area Community Involvement Fund, Arlington, Virginia.
Washington Urban League, Washington, DC.
West Buckeye Improvement Group, Phoenix, Arizona.
Whitmore Neighborhood, Inc., Kansas City, Kansas.
Wisconsin Consumers League.
Woodstock Institute.
Women and Employment, Charleston, West Virginia.
Women Missionary Society, Kentucky Conference Branch.
Women's Housing Coalition, Inc., Baltimore, Maryland.
YMI Cultural Center, Inc., Ashville, North Carolina.

Mr. D'AMATO. Mr. President, there is one last matter.

I ask the indulgence of my colleagues.

I have never agreed that a piecemeal approach to revision of the Glass-Steagall Act was a good idea. I am even less pursuaded that what our committee has brought forth will allow a safe, secure, and balanced competitive environment to develop in the financial services industry. This bill is too one way, too tilted in favor of bank entry into other's business without a truly complementary balance of opportunities.

I offered—with my colleague from California—S. 1905 in hope that, if anything was to be done, it would be done comprehensively.

I think it will be instructive to discuss the expansion of this bill to include a prospective authority to allow commercial enterprises to offer multiple financial services, including banking services.

The banking industry needs an infusion of capital. The S&L industry needs an infusion of capital. The granting of a few securities powers will not provide the necessary capital infusion. For example, the securities industry lost $2 billion in capital this last year. The grant of securities powers to banks can hardly be expected to produce the billions needed by thrifts, let alone weakened banks.

Further, many witnesses appearing before the committee supported the need to eliminate the wall between banking and commerce erected by the Bank Holding Company Act. After all, if the fire wall works between commercial and investment banking, then the same fire walls should work to keep the functions of commerce and banking.

If we have a 1991 trigger for underwriting of corporate equity after an affirmative vote of the Congress—why not the same treatment for allowing commercial entities the same rights? Why not tap the large capital resurces of corporate American in stabilizing bank solvency?

I believe my amendment will provide the 3 years of discussion and study necessary for a deliberate and comprehensive study of this idea. By its adoption, we at least offer the hope that the circle will be completed in an open and comprehensive way.

However, I am persuaded that this is not the time to offer this amendment and will not do so.

Senator CRANSTON and I offered S. 1905 in the hope that if anything was to be done it would be done comprehensively. I understand that my colleagues share a concern, doubt and trepidation about undertaking that kind of prospective.

Having said that, I think we recognize that what we have done in this bill is to take a teeny weeny baby step and maybe a stumble forward instead of addressing the basic questions of soundness and adequacy of capital in our system. I have held the floor for far too long.

I thank my colleagues for their consideration.

I yield the floor.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, we expect to have the manager's amendment ready to file within the next very few minutes. Then we will have a rollcall on final passage. So all Members know that we expect to have that within the next 10 or 15 minutes at the latest.

Mr. DIXON. Would the manager yield?

Mr. PROXMIRE. I am happy to yield to my good friend from Illinois.

Mr. DIXON. Mr. President, several have asked what time the distinguished managers anticipate a rollcall. I got the impression from my discussions that we might be able to conclude somewhere in the 7:30 timeframe. Does the manager have any suggestion about that?

Mr. PROXMIRE. I would estimate we could have a rollcall as soon as 7. You never know in this body. But my guess is we would start as early as 7 and conclude by 7:15.

Mr. DIXON. I thank my distinguished friend from Wisconsin.

AMENDMENT NO. 1920

(Purpose: To rename the bill the "Proxmire Financial Modernization Act of 1988")

Mr. DIXON. Mr. President, there is one more piece of business that has to be done by the U.S. Senate with respect to this bill before we adopt the managers' amendment, and I would love to have the attention of the chairman of the committee when I make this statement. Before I make my statement and send an amendment to the desk, I would like to make some comments about the ranking member.

This is my eighth year in the U.S. Senate. I have had the pleasure and honor of serving on the Banking Committee throughout my 8 years, 6 of those years under the chairmanship of the distinguished Senator from Utah, who did a splendid job as chairman of the committee.

I am sure that the chairman of the committee and every other member of the Banking Committee will agree with me when I say that a great deal of what is culminating in this legislation that will pass tonight is a direct result of the very hard work done over a long period of time by the distinguished senior Senator from Utah, who has been a great exponent of expanding the powers of the financial institutions in this country for a great many years, and who has brought his immense talent and his intellectual capacity to this legislation throughout our proceedings.

I am sure that every Member on this side on the committee joins me, and I am sure the chairman does as well, in expressing our high regard for the distinguished ranking member, who has made such a great contribution.

Mr. President, having said that, I am also pleased and privileged to offer an amendment on behalf of the distinguished ranking member and the other 18 members of the Senate Banking Committee, including myself, to name this legislation for the distinguished chairman of our committee, Senator WILLIAM PROXMIRE of Wisconsin.

It is only fitting that the Financial Modernization Act of 1988 carry his name. He was its creator, and the guiding force that brought this landmark bill to the Senate floor.

Further, this kind of recognition of the contribution he has made to the Senate and the Nation is long overdue. I looked up BILL's biography in the Congressional Directory for a little background material. What I found was a three-word entry: "WILLIAM PROXMIRE, Wisconsin." This is the kind of modesty that characterizes the Senator from Wisconsin, but the record of his accomplishments in the Senate is anything but modest.

In the banking area, he authored numerous major bills. A small sample includes: The Bank Holding Company Act Amendments of 1970, the Community Reinvestment Act, the Depository Institutions Deregulation and Monetary Control Act of 1980, the Home Mortgage Disclosure Act, the Truth in Lending Act, the Fair Credit Reporting Act, the Equal Credit Opportunity Act, the Electronic Fund Transfer Act, the Foreign Corrupt Practices Act, and the Humphrey-Hawkins amendments.

He was also the Senator who uncovered the cost overruns in the C-5A cargo plane procurement, and he almost single-handedly stopped the SST. His Golden Fleece Award needs no explanation.

For 12 years, he gave a daily floor speech advocating ratification of the Genocide Treaty, and his unique persistence finally paid off with ratification of the treaty by an overwhelming 83 to 11 vote.

His discipline, attention to detail, and his reelection campaigns are legendary. He runs to the office every day. I have seen him. He does not jog; he really runs. He has not missed a rollcall vote on the Senate floor since April 1966, which means he has not missed one of the 9,963 votes since then, a record which I am sure will never be topped. His reelection campaigns are remarkable, not simply because he does not take contributions from political action committees, but because he has managed to buck the trend of increasingly expensive campaigns. His campaign expenditures, in fact, put the rest of the Senate to shame. He spent less than $200 in each of his last two campaigns.

BILL PROXMIRE has been an independent, active voice for his State since he came to the Senate in 1957. I am proud to be able to say that I know him, and I feel lucky to be working with him here in the Senate.

For those of us on the Banking Committee, Mr. President, this amendment is our way of saying to the chairman that we recognize his accomplishments and that we will miss him. Indeed, I think the Senate itself will lose something very special when he retires at the end of his term.

I want to conclude with this comment: BILL, I only wish we could do more.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DIXON. I yield.

Mr. PROXMIRE. May I say to my wonderful friend from Illinois that I have heard a lot of great speeches by the Senator from Illinois, and this was the best. [Laughter.]

It was not long enough, but it was the best. It was delivered exactly as I wrote it. [Laughter.]

I think the best part of that speech—and every word was true—was when he expressed my modesty.

Mr. DIXON. That is right.

Mr. PROXMIRE. It has been a wonderful pleasure working with my good friend from Illinois, who was, as people have said, the glue that held this bill together. We had a rough time in negotiations while this bill was pending. I think all of us agree that the Senator who did the most to make sure we did stick together and came out together was the Senator from Illinois, who was eloquent and has never given a better speech than the one he just gave.

Let me say to my friend from Utah that it is a great pleasure to work with JAKE GARN. He is bright. He is honest. He is blunt and straightforward. I could not have had a better colleague.

He said earlier today that not only are we colleagues on the Banking Committee—we have traded the chairmanship back and forth over 14 years—but also, in the Appropriations Committee, where we serve on the same subcommittee.

JAKE is a wonderful man. He has done a great job here, and I hope he will carry on for many years to come.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself, Mr. GARN, Mr. CRANSTON, Mr. HEINZ, Mr. RIEGLE, Mr. ARMSTRONG, Mr. SARBANES, Mr. D'AMATO, Mr. DODD, Mr. HECHT, Mr. SASSER, Mr. GRAMM, Mr. SANFORD, Mr. BOND, Mr. SHELBY, Mr. CHAFEE, Mr. GRAHAM, Mr. KARNES, Mr. WIRTH, Mr. PACKWOOD, and Mr. BRADLEY, proposes an amendment numbered 1920.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. DIXON. I object to that. I want it read, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. DIXON. It is only one sentence.

The PRESIDING OFFICER. The amendment will be stated.

The clerk read as follows:

Strike out "Financial Modernization Act of 1988" each place it appears and insert "Proxmire Financial Modernization Act of 1988".

Mr. GARN. Mr. President, I will not repeat my opening statement of today, when I talked a great deal about my regard for the Senator from Wisconsin and how I appreciate his friendship and working with him for all these years.

I simply want to add to that and say that it is certainly deserving that this bill be named for him. He was working on financial institution legislation a long time before I came to the U.S. Senate; and with his leaving, it is certainly a fitting tribute to all his years of work, not just for this bill but on many, many pieces of financial legislation, not only in the years I have served with him but also before I came here.

So there is no doubt in mind that the Senate will unanimously and overwhelmingly approve this tribute to a great Senator, whom we are all going to miss.

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE. Mr. President, I should like to join in this tribute to Senator PROXMIRE. He has the distinction of being a Yale graduate. To most people, that is a lifetime achievement.

But Senator PROXMIRE has gone on and achieved far more than that.

"Suaviter in modo, fortiter in re"—gentle in manner, strong in deed. And so rightfully is this bill named after Senator PROXMIRE.

Mr. President, I am happy to add my support to renaming this Glass-Steagall revision bill in honor of Senator PROXMIRE.

In remembering Senator PROXMIRE's many accomplishments, of which this bill is surely one of the brightest, I am mindful of a summation of character, attributed to Claudio Aquaviva—"suaviter in modo, fortiter in re"—gentle in manner, strong is deed.

I have served on the Senate Banking Committee for 3 years and I have been impressed by these qualities in Senator PROXMIRE. For he embodies central strengths of a dedicated public servant—he takes his job seriously, he has the right mixture of gravitas and levity, and he understands that moments of principle can stand beside moments of positive compromise.

Senator PROXMIRE also has the distinction of being a Yale graduate. For most people, that in itself is a lifetime of achievement. But he chose to do much more. His handiwork is before us today. Accordingly, it is only fitting that this bill be renamed for him, a bill that so significantly charts the future course of the banking industry, a matter to which he has essentially dedicated his adult life.

And so I salute him with those words—"suaviter in modo, fortiter in re."

Mr. SASSER. Mr. President, I rise as a member of the Banking Committee and as a cosponsor of this amendment to rename S. 1886 after the distinguished chairman of the committee, Senator WILLIAM PROXMIRE.

I have had the pleasure of working with Senator PROXMIRE for the 6 years that I have been a member of the Banking Committee, and for the 11 years I have served on the Appropriations Committee. During that time I have been impressed with the Senator's integrity, leadership, and energy, particularly on very controversial issues that it would be easier for him to duck.

As the chairman of the Banking Committee, the Senator from Wisconsin has many notable accomplishments. The Truth in Lending Act is a hallmark of consumer legislation. It helps people wade through what is often overwhelming material and data, so that they can have a decent shot at getting credit on a fair and reasonable basis.

Likewise, the Community Reinvestment Act is another Proxmire initiative that has been of critical importance. In the 10 years since it was enacted, CRA is credited with funneling some $5 billion in committed loans to low-income neighborhoods. Even more importantly, it is credited with alleviating the destructive practice of redlining. Considering the burgeoning housing needs of low-income people, we must be ever diligent in seeing that CRA, as part of the legacy of Senator PROXMIRE, is taken seriously in the future.

Even in the past year, since resuming the chairmanship of the Banking Committee, Senator PROXMIRE has not let up and has instead shown great leadership. Indeed, within 2 months of his becoming chairman for the second time, the Senate passed the most significant banking bill in 5 years. The Competitive Equality Banking Act, among other things, closed the nonbank-bank loophole, recapitalized the FSLIC, and set the stage for this landmark Glass-Steagall reform bill we are finishing consideration of today.

In other areas, the committee has made great strides under Chairman PROXMIRE's guidance. Last September, we reported corporate takeover legislation that is designed to help quell the destructive wave of hostile takeovers that has afflicted our economy over the past few years. Mr. President, I look forward to working closely with the chairman on this critically important legislation when we bring it to the floor for consideration in the near future.

In sum, Mr. President, I wholeheartedly support this amendment to rename the Financial Modernization Act after the distinguished Senator from Wisconsin. As far as I am concerned, this enormously important banking bill could not carry a more appropriate name, than that of WILLIAM PROXMIRE, one of the Nation's legislative giants. I yield the floor.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 1920) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1921

(Purpose: To make a series of technical and other amendments)

Mr. PROXMIRE. Mr. President, I send the managers' amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE] proposes an amendment numbered 1921.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(The text of the amendment is printed later in today's RECORD under "Amendments Submitted.")

Mr. PROXMIRE. Mr. President, this amendment clarifies the application of the insurance grandfather provisions of the bill.

It allows credit unions to use a cost of funds index on home equity loans.

It expands the Community Reinvestment Act to cover holding company applications.

It makes federally chartered depository institutions subject to State laws and consumer financial associations.

It strengthens the firewall restriction on municipal bonds underwriting.

It extends the effective date of titles III and IV by 9 months.

It modifies the home equity loan provisions to allow creditors to change contract terms in certain narrowly defined situations.

It requires a study by the Federal Reserve on the separation of banking and commerce.

It increases the criminal penalties for willful violation of the Bank Holding Company Act.

And, finally, it allows bank regulators to restrict foreign bank applications from countries that do not provide national treatment for U.S. institutions.

Mr. President, there has been a lot of talk about members of the committee, and I think the members of the committee, with the exception of the chairman, have done an exceptional job on this. I stress the fact that we have a superb staff on the Banking Committee. I have served on other committees for a long, long time, but I want to say that the staff of our committee, Ken McLean, Rick Carnell, Rob Johnson, Bart Naylor, Pat Mulloy, and Peter Kinzler, and the other members of the committee are the best I have ever worked with by far and they deserve as far as the majority is concerned, certainly as far as this chairman is concerned, at least 90 percent of the credit for the bill.

Mr. GARN. Mr. President, let me just add my congratulations of the majority staff and also mention those who have worked on my staff so diligently, Ray Nattee, John Dugan, Patti Mietla, Nan Freitag, and Lamar Smith for all the work they have done.

I ask unanimous consent that Senator PACKWOOD be added as a cosponsor of the amendment naming the bill after Senator PROXMIRE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ON THE CREDIT UNION AMENDMENT TO THE HOME EQUITY LOAN PROVISIONS

Mr. CHAFEE. Mr. President, I would like to briefly discuss an amendment to S. 1886 which has been accepted by both the managers, Senator PROXMIRE and Senator GARN.

This amendment would allow credit unions to use their individual cost of funds as the index required in S. 1886, as long as such cost of funds do not exceed the prime rate as published by the Federal Reserve. Each credit union offering a home equity loan program, and using its cost of funds as its index, must publish and distribute to its members its cost of funds on at least a quarterly basis.

A credit union's cost of funds is determined by dividing the actual dollar dividend pay-out for a specific period by its average assets for the same period.

Why do I propose this amendment? Very simply, because it is pro-consumer. If it were otherwise, I would not be here today. There are six strong reasons for this amendment.

First, credit unions are formed to be pro-consumer. They are nonprofit, member-owned cooperatives, which rely heavily on unpaid directors and volunteers. There are approximately 16,400 federally and State-chartered credit unions with 57 million members. About 15 percent of these credit unions currently offer their members some form of home equity lending plan. It is hard to believe that they would deliberately try to charge home equity loan rates that were injurious to their members as they are owned by their members. In fact, a nationwide survey by the trade newspaper American Banker in each of the last 4 years, 1984 through 1987, showed that credit union members are the most satisfied customers of financial services.

Second, the basic reason for requiring an outside index is to stop the reported abuse which has occurred when lenders use an index without their control. There has been no evidence of credit union abuse of which I am aware in this area; yet about 20 percent of all credit unions offering home equity loan programs would have to change their way of doing business in order to adopt an external index.

Third, when credit unions use their cost of funds as the base index for variable rate home equity loans, consumers usually benefit from a lower interest rate. Since the beginning of 1984, the credit unions' cost of funds have always been below the prime rate, at least 1 percentage point and in some cases almost 6 percentage points.

Fourth, the cost of funds index is much less volatile than the prime and, therefore, protects the credit unions from interest rate risk. Since the beginning of 1984, the prime has ranged from 7.5 percent to 13 percent, or 5½ percentage points. The credit union cost of funds has only moved within a 5.5 percent to 7.5 percent range, or 2 percentage points.

Fifth, the smaller credit unions are more likely to use the cost of funds, as it allows them to more closely calibrate their income with the dividends they offer on their shares. And half of the credit unions hold less than $2 million in assets; two-thirds less than $5 million.

Sixth, the mganitude in question is not that significant. Let us use $75 billion as the amount of home equity loans outstanding at year-end 1987, a Federal Reserve guesstimate in Federal Reserve Board member Seger's testimony before the Senate Banking Committee on November 18, 1987. Let us assume these were all variable rate. Credit unions at year-end 1987 had approximately $3 billion outstanding. Of these, perhaps 20 percent used a credit union cost of funds approach. (The 1987 breakdown is not yet available; the comparable figure from a 1986 survey was 17 percent.) Therefore, credit union home equity loans using a cost of funds index represented about $600 billion, or less than 1 percent of all home equity loans outstanding.

Finally, Mr. President, this is a matter of great concern to my home state of Rhode Island. A recent letter from Robert Bianchini, President of the Rhode Island Credit Union League, explains his concerns and he summarizes: "The option of using a cost of funds index is in the best interest of Rhode Island's credit unions and the 404,000 members they serve." I would like his full letter to be made part of the CONGRESSIONAL RECORD.

For all these reasons, Mr. President, I feel this amendment is well warranted.

I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 28, 1988.

Hon. JOHN CHAFEE,
Pastore Federal Building, Providence, RI.

DEAR SENATOR CHAFEE: I am writing to express my concern about the provision in Title VII, the "Home Equity Loans" section of S. 1886, the "Financial Modernization Act of 1988."

As currently drafted, Title VII would require all federal and state-chartered credit unions to use a publicly available index for variable rate home equity loans. The Credit Union National Association (CUNA), which represents the Rhode Island League and all other state leagues, encourages credit unions to use their cost of funds as their index when making variable rate home equity loans. As the attached chart shows, the cost of funds method almost always results in a lower interest rate for consumers; it is less violatile than public indices and tends to insulate a credit union against interest rate risk. Public indices such as the Wall Street Prime and T-bill rates do not afford similar protection to credit unions. In addition, the Prime or T-bill rates frequently do not represent a credit union's actual cost of funds.

In summary, the 78 credit unions represented by the Rhode Island League should be given a choice to use either a public index or their cost of funds. The opition of using a cost of funds index is in the best interest of Rhode Island's credit unions and the 404,000 members they serve. Both CUNA and the League support an amendment to S. 1886 which would permit credit unions to use their cost of funds as an index for variable rate home equity loans.

Thank you for your consideration.

Sincerely,

ROBERT BIANCHINI,
President, Rhode Island Credit Union League.

Mr. GARN. Mr. President, I ask unanimous consent to also add Senator BRADLEY and Senator GRAHAM as cosponsors to the Proxmire amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (No. 1921) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, let me first congratulate Senator PROXMIRE and Senator GARN for originally sponsoring the forerunner of this bill, as well as marking up legislation before the moratorium expired on March 1. I commend them both for staying the course.

This bill ushers in a new era, by substantially addressing the quickly evolving world of financial services. It addresses three major areas. First, it allows commercial banks to offer a broader range of securities services to consumers, while protecting the safety and soundness of the financial system. Second, it clarifies insurance powers of certain banks. Third, it improves consumers' advance knowledge of factors affecting savings accounts and home equity loans, and offers further specific protections.

Let us consider each of these three areas in turn.

ADDITIONAL SECURITIES ACTIVITIES FOR COMMERCIAL BANKS

The first area concerns additional securities powers for commercial banks, and there were five significant issues. The first was why should further powers be granted, and especially why now? The Senate Banking Committee performed a lengthy in depth analysis of the appropriateness of closer integration of the commercial banking and securities functions. We on the committee came to the decision that banks should be allowed to do much more than at present for three main reasons. First, because alternate funding instruments, which banks cannot offer, have sharply eroded the earnings capacity of banks without any offsetting gains. Second, because the banks now have to compete in an international arena and capital strength and breadth of service are important. Third, because the consumer can benefit if products are made more widely available, with lower prices and increased choice.

But there was also a broader argument that made trying this step now especially appropriate. These two industries have over the last decade increasingly converged, to the point of a legal dispute as to whether certain financial instruments, such as commercial paper or mutual funds, are securities or not and whether they are incidental to commercial banking or not. Moreover, Federal banking regulators were construing the law, often resulting in litigation that ends up in the U.S. Supreme Court. It is proper and timely for Congress to make the decision on bank securities activities.

It is also timely because the prominence of U.S. banks in the world has declined. While U.S. banks in 1970 accounted for 7 of the top 10 banks in the world in terms of assets, by 1986 there was only 1—Citicorp, the sixth largest. The next was Bank of America, the 24th largest. The problem has only worsened since then.

The second issue concerned safety and soundness. The commercial banks are criticized by some for the increased risk that expanded securities activities are expected to cause them. Yet banks can currently provide many of these services abroad and I am not aware of a record of either poor management performance on an industry-wide scale or an extraordinary infringement of safety and soundness. Furthermore, commercial banks in the United States have performed the limited securities activities currently allowed them without forfeiting the public's respect. Finally, I am not persuaded the risk associated with a 1-hour underwriting exposure is greater than that of a 30-year loan.

Of course there cannot be 100 percent protection against risk, short of limiting commercial banks to being passive recipients of deposits, unable even to make loans. So we on the committee tried to identify the problems that could occur, such as the potential tie-in of borrowings and additional services, understand them, and then legislate sufficient safeguards to reach an acceptable level of comfort. These safeguards include a strong firewall between the bank and its securities affiliate, greater disclosure and supervision by the appropriate regulatory agencies, and stronger penalty and enforcement provisions. All the Federal banking regulators have indicated that these safeguards are sufficient.

And let us intentionally discourage illegal activities in advance through greater awareness of the tougher penalties. For the financial rewards for such activity often seem so much more attractive. This should also help alleviate some of the regulatory banking and security staff time that is consumed in prosecutions that might be averted through prior knowledge of these penalties.

The third issue was consumer benefits. For consumers are the direct or eventual beneficiaries of our efforts—to offer them the widest range of quality services at the most reasonable cost, consistent with preserving the U.S. financial system. I am not aware, Mr. President, of strong evidence that demonstrates that commercial bank entrance into the broad range of securities activities would be financially harmful to the consumer. The only direct worry voiced concerns potential tie-ins of bank services and I feel these have been capably dealt with in the bill.

And let us not forget the positive consumer role that banks play today, on which they will build. Let me mention a few telling statistics for 1986 from my home State of Rhode Island, where the nonpolluting, attractive-wage-scale, commercial banking industry employs over 8,500 people. It made almost $5 billion in business loans, but its nonbusiness efforts toward ensuring Rhode Island's future were equally impressive. Almost $2.2 billion in residential mortgages helped over 68,000 families to buy their own homes. Over $100 million in higher education loans assisted more than 30,000 students to finance their college educations. Over $100 million in loans to cities and towns in the State helped them improve and expand local services. This evidence is proof positive of commercial banks' efforts on behalf of the consumer.

This can only improve, as Rhode Island becomes a major regional banking center. This is doubtless what attracted the Royal Bank of Scotland, the largest bank in Scotland and the sixth largest in the United Kingdom, to choose a Rhode Island bank, Citizens Financial Group, for its first potential acquisition in the United States. The additional securities powers in this bill will enable these banks to be of even more assistance to their communities and Rhode Island as a whole.

The fourth issue was whether to rewrite the Glass-Steagall Act or broadly review the whole financial services industry. Separate bills introduced by Senators CRANSTON, D'AMATO, GRAHAM, and WIRTH would have gone much further in the latter direction. They greatly stimulated debate on the question. Nevertheless, the need to move forward is important, and any step, however small, that moves us in the generally agreed direction should not necessarily be dismissed as insufficient. It is important that this bill not be seen as antithetical to those other bills, but along the same path. The Glass-Steagall rewrite represents progress for those seeking that ultimate vision. New York Federal Reserve Chairman Corrigan, who drafted the ideas on which the Graham-Wirth bill is based, recognized this and signed on to the original Proxmire-Garn bill. Moreover, safety and soundness itself militates in favor of not adopting too broad and sweeping a change.

The fifth issue was the question of balanced legislation. The original Proxmire-Garn bill was criticized for creating a two-way street in name only, in that the benefits for investment banks were negligible compared to those for commercial banks. Improvements were made in the committee print to help redress the matter, by allowing for a diversified financial holding company approach.

I think the committee has dealt properly and fairly with these five issues. The end result in the bill before us is to increase the ability of commercial banks to provide further securities services without negatively affecting their safety and soundness, improving competition, and lowering costs for the users of these services, especially individual consumers.

INSURANCE ACTIVITIES OF COMMERCIAL BANKS

The second major area covered in the bill is the insurance activities that are suitable for commercial banks that are national banks or members of bank holding companies. I think that such commercial banks should not increase their role in offering insurance products and services. In fact, the law should at least be tightened up so that State-chartered, bank holding company banks can offer in their home State all insurance powers that the State legislature allows, but should be limited out-of-State to those powers allowed to bank holding companies. Stand-alone State-chartered banks could of course perform any insurance activities that the State allows.

This issue was a matter of strenuous discussion among committee members. A compromise was reached that does not go as far as some would wish, but goes further than others desire. I wuld have preferred in committee the chance to vote for the Dodd amendment. Nevertheless, I understand the benefits of a bill with strong backing, and an 18-2 vote in favor is very telling.

TRUTH-IN-SAVINGS AND HOME EQUITY LOANS

The third major area involved two direct consumer issues, truth in savings and home equity loans. For both issues, the overriding concern was to at least make available to the consumer sufficient information about the activity for the consumer to make an intelligent choice. The consumer could then decide whether to make use of that activity, and, if so, which of the many offering institutions would most satisfy that consumer's particular needs.

With regard to truth in savings and investments, tighter strictures on advertising and print discussions of the relative merits of savings accounts were established. Calculations to pay interest must now use a daily average balance method.

With regard to home equity loans, consumers are given additional information about the terms, especially that the house used as collateral could be lost through nonperformance. Protection against certain unilateral changes in terms and other concerns were also included. An amendment to the bill has been accepted, to allow credit unions to use their cost of funds as the index off which to base their home equity loans as long as it does not exceed the Federal Reserve published prime rate. This will help credit unions more closely calibrate their revenue with the rates they offer on shares.

SUMMARY

Because this bill presents an intelligent, positive approach to these three major areas, I will support it wholeheartedly today. For it is necessary for Congress to resolve these issues now and not have them mired in the courts. Congress should speak and speak quickly. Accordingly, I urge Members of the House to give these matters their prompt attention.

I would also hope that this bill could be seen as an evolutionary outgrowth of the marketplace's requirements for financial services. Commercial banks have not just opportunities but responsibilities. Additional securities powers, for example, are balanced by attention to safety and soundness. The ability to offer home equity loans comes with the need to make available to consumers sufficient information for them to make a considered choice. For the maintenance of our financial system is more important than the parochial interests of any member or industry.

I believe we now are at a critical point in time. I think this bill has the support of the banking industry, the insurance industry, the consumer groups, and many in the securities industry. That is a very fragile coalition. Let us not lose the momentum that has been generated. I urge my Senate colleagues to vote for this bill.

THE 7% GROWTH CAP

Mr. GARN. Mr. President, I believe the package the Banking Committee has put together represents a balanced compromise among various competing interests in the financial services industry and consequently can make it through the entire legislative process. Although the bill does not address all segments and problems of the industry, Senate approval of this bill today would be a major step toward congressional enactment of a financial services bill this year and toward our ultimate goal of restructuring our financial services laws.

In developing such a significant compromise over such a short period of time, it was essential that we on the committee focused only on the major components of the package. Unfortunately, this meant we had to leave aside for now the resolution of certain issues of competitive equality within the banking industry.

For example, S. 1886 significantly expands the powers of independent banks and bank holding companies while leaving intact CEBA's 7 percent annual asset growth cap on banks owned by diversified firms. As CEBA clearly states, our original intent in imposing restrictions on these banks was to maintain competitive equality within the banking industry until we addressed the issue of bank powers. Now that we are effectively dealing with the issue of bank powers, we should modify CEBA's restrictions to be consistent with CEBA's original intent.

Perhaps the best way to address this concern is to delay for at least 1 year the effective date of the growth cap. CEBA provided for the cap to take effect in August of 1988, in order to give time for diversified firms to work with Congress and the industry on financial services reform. A delay in the cap's effective date would continue to give diversified financial services companies—who we have not allowed to be players in this particular debate—the incentive to work with Congress in the future on financial services restructuring legislation.

Nevertheless, because I think it is important for the Senate to pass the committee's bill essentially as is, I don't raise this issue of competitive equality at this time.

Mr. DOLE. Mr. President, a strong financial network is a prerequisite for a healthy economy. It serves as the primary source of credit for individuals and businesses, and it provides the structure through which Americans can save for the future and invest in their financial security. These investments, in turn, provide the fuel for ecomomic growth.

Reliability and confidence in the system are also essential. This was one of the major goals of the Glass-Steagall Act, which formally separates commercial and investment banking. The Glass-Steagall Act was enacted in 1933 in response to the financial crisis that preceded the Great Depression. But, much has changed since then.

THE MODERN MARKETPLACE

In recent years, the financial marketplace has become a global marketplace. London, Sydney, and Tokyo now compete with New York for the leadership role in the world's financial system. And we have seen a proliferation of new investment vehicles. As a result, the distinction between commercial and investment banking have become increasingly blurred.

A reliable, adaptable financial network is essential if America is to compete on an even footing in the modern marketplace. The time has come for us to reevaluate Glass-Steagall in the context of a global, dynamic financial system.

CONFIDENCE IN THE SYSTEM

Mr. President, it is clear that adapting to changing financial markets should not be our only concern. We must also ensure that the system is reliable. Depositors must have faith that their investments will be protected.

In recent years, we have witnessed an unprecedented wave of bank and business failures, particularly in the States that rely heavily on oil and agriculture—Texas, Oklahoma, Louisiana, and Kansas—have all been affected.

Some of these failures are the result of mismanagement, but most are the result of an unfortunate combination of events. For example, rampant inflation in the late seventies and early eighties forced management to seek higher returns as profit margins eroded. Large loans to developing countries have put a strain on the international banking system. Fluctuating world oil and commodity prices have impacted small, rural, and regional banks, and the stock market plummeted in October. Although the number of failures has been extraordinary, the financial system has not failed. In fact, one could argue that it has passed an important test. Depositor confidence remains high and that is a real tribute to those in management and to those working in our regulatory system.

REGULATION IS A NECESSITY

Mr. President, I expect that most of us would agree that careful regulation and oversight of the financial service sector should continue. The Federal Reserve, the Comptroller of the Currency, the Federal Depository Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Association have each performed admirably.

But, Mr. President, I don't think that we can afford to rest on our past performance. Nor should we try to overregulate the system. Financial institutions should be given enough latitude to adapt to a changing world.

A POSITIVE STEP

The Financial Modernization Act, S. 1886, is a positive step in this direction. It removes some of the restrictions on the Glass-Steagall Act which prohibit affiliations between commercial and investment banks. But, it attempts to do so in a responsible manner.

If enacted, the bill would allow banks to offer security underwriting services—with the exception of corporate stock—through a separately organized affiliate in a bank holding company. In addition to this structural separation of banking and securities activities, firewalls designed to provide added insulation between the bank and the securities affiliate were also included in the bill.

These restrictions are necessary to ensure that the banking and securities affiliates in a bank holding company compete fairly with banks and securities firms which may not be members of a holding company. The regulations are designed to promote impartial credit decisions and stability in the financial system by denying securities affiliates an unfair funding advantage through their association with a bank.

INSURANCE AND REAL ESTATE

Determining the proper role of banks in insurance and real estate has always been a controversial issue, and the insurance and real estate provisions of the bill should be closely examined. It is important all relevant parties—insurers, real estate agents, banks, investment companies, State governments and consumers—are treated fairly.

SMALL BANKS

I am pleased that the bill as reported includes a provision authored by the distinguished Senator from Missouri, Mr. BOND, which will aid small, rural banks.

As a result of the Bond amendment, small banks will be able to pool their resources in what is called a banker's bank holding company so that they can provide investment services to their clients under a structurally separate affiliate as required under the bill. This will give small banks a better chance to take advantage of this legislation. A few States already allow banks to form these entities, but most do not.

CONCLUSION

The time has come for us to modernize the financial system. I believe that the bill reported out of committee represents a compromise. In light of the historical differences of opinion that have surfaced on this issue, it is remarkable that the process has moved this far. I do not support every provision in the bill, but I do feel that this legislation is a step in the right direction, and I hope that my colleagues will join me in supporting this bill.

Mr. KERRY. Mr. President, I would like to commend Chairman PROXMIRE, Senator GARN, and the other members of the Banking Committee, for taking note of and preserving the ability of savings banks in my State and in New York and Connecticut to continue to offer Savings Bank Life Insurance. As you will recall, last year in the Competitive Equality Banking Act, the Congress provided specific protection for Savings Bank Life Insurance ["SBLI"] sales and underwriting by the traditional savings banks of New York, Connecticut and Massachusetts should such banks elect to reorganize in holding company form.

At that time many noted the significant consumer benefits that result from SBLI. SBLI is a low-cost, high-quality product little known in most of the country, but very popular in these three States. Consumer publications have consistently recognized SBLI as among the best life insurance buys available in the three States in which it is offered. In Massachusetts, the State legislature has continually supported SBLI and increased coverage amounts over the years.

This year's legislation provides that a qualified savings bank can avail itself of the CEBA provisions on SBLI if it remains a subsidiary of a savings bank holding company, since, as the Banking Committee report notes, "the restrictions on insurance activities [contained in Title VIII of S. 1886] do not apply" in such circumstances. With respect to insurance activities other than SBLI, such savings bank would be required to comply with the requirements of section 4(j) as added by this bill with respect to such additional activities. This places savings banks and commercial banks which are bank holding company subsidiaries on exactly the same footing so far as insurance products other than SBLI are concerned.

Mr. THURMOND. Mr. President, today I rise in support of the Financial Modernization Act of 1988. This measure represents a step forward in an effort to modernize out-of-date laws which currently govern our banking-financial system. This important legislation was favorably reported out of the Senate Banking Committee by a bipartisan vote of 18 to 2.

Enactment of this legislation would have several benefits such as bringing new capital and new competition to the investment banking industry by reforming the Glass-Steagall Act and amending the Bank Holding Company Act. It will also permit bank holding companies to establish separately capitalized securities affiliates and qualified securities firms to establish bank affiliates to provide a wider range of products and services for consumers, businesses, and State and local governments.

Most importantly, this bill establishes a number of important new safeguards to separate insured banks from their securities affiliates, thus protecting insured depositors from the risks associated with securities dealing without expanding the role of the Federal Government.

This legislation would also give bank and savings and loan regulators new options when dealing with banks troubled by mismanagement or fraud. It would set new disclosure requirements for savings and other interest-bearing deposit accounts and for home-equity loans.

This act represents a workable compromise between the Banking Securities, Insurance, and Real Estate Industries and will lead to more competitively priced services for consumers.

As these industries continue to grow and overlap, this bill affords them the flexibility to better serve the consumer while incorporating certain provisions to protect the consumer from potential monopolistic abuse.

Mr. President, there are over 13,000 banking employees in South Carolina alone. I hope this legislation will better enable them to serve the public.

I urge my colleagues to support this bill.

THE SENATE STEPS INTO THE FUTURE

Mr. GLENN. Mr. President, I rise today to offer my support for S. 1886, the Financial Modernization Act of 1988. This bill would take significant steps in repealing the Depression-era law that prohibits commercial banks and investment banks from affiliating. My vote is not cast without some trepidation, for we are tearing down 50-year-old market barriers that gave many of us a sense of security, albeit a false one. I do not casually repeal a bill that President Roosevelt signed on the last day of the first 100 days of the New Deal.

But, Mr. President, I am very pleased with the bill that Senator PROXMIRE and my colleagues on the Senate Banking Committee have produced. It is sensible legislation that offers banks modest entry into the securities industry. It establishes fair and prudent restrictions on banks which would prevent conflicts of interest and safeguard the integrity of depositors' funds.

Senate bill No. 1886 would allow bank holding companies to offer most securities underwriting services through separately organized affiliates. Upon enactment, the securities affiliate would be permitted to underwrite and sell commercial paper, municipal revenue bonds, asset-backed securities and other financial instruments. Authority to deal in mutual funds and corporate bonds will come 6 months later. And the power to underwrite and issue corporate securities will have to await congressional approval in 1991.

Many Americans with fond memories of the New Deal era may question why Congress is repealing a law that, in their mind, has kept banks out of unsafe securities activities and, in doing so, prevented the reoccurrance of the Great Crash or bank failures. After all, it seems to have worked. For them, this partial repeal may look hasty, perhaps even radical.

Let me first point out that this bill is a product of over 7 years of congressional study and debate. In fact, a 1984 bill granting banks limited securities powers passed this Senate by an overwhelming vote of 89 to 5. And this year, the Senate Banking Committee heard testimony from scores of witnesses—Federal regulators, economists, professors, historians and representatives from the insurance, banking and securities industry—during 14 days of hearings, producing 2,000 bound pages of testimony.

I also insist that the Glass-Steagall Act, upon closer examimation, looks less and less devine. Substantial doubts now exist that the separation of commercial and investment banking was a necessary or desirable response to the financial crises of the Great Depression.

For example, most bank failures, economic historians agree, were caused by agricultural loans that went sour as well as the Federal Reserve's terribly misguided decision to cutoff the flow of funds into the banking system. And the conflicts of interest and abuses that the famous Pecora Hearings of the 1930's uncovered were common to both securities firms and the securities affiliates of commercial banks. Federal laws were put on the books then to address these abuses. Moreover, what has stopped bank runs is not Glass-Steagall but our system of federally guaranteed deposit insurance.

Finally, it was Senator Glass himself who only 2 years after enactment publicly expressed his misgivings about the divorce of commercial from investment banking. Clearly then, repeal should not be so revolutionary an idea given it was seriously proposed only 2 years after Glass-Steagall was enacted.

* * * *

Even if one would prefer to wax nostalgic for the New Deal years, no one can avoid the conclusion that the times have changed. Banks have traditionally been the chief financial intermediary in our economy; however, the advances in computer and telecommunication technologies now let companies that previously obtained credit from commercial banks to go to securities firms to issue commercial paper. In 1965 commercial loans by large banks constituted 85 percent of all short term borrowing; by 1986, commercial loans had fallen to 54 percent. But, under the Glass-Steagall Act, banks may not meet the needs of their customers and issue commercial paper.

During the 50-year life of the Glass-Steagall Act, financial services firms have poked gaping holes in the wall between commercial and investment banking. While American banks may not deal in securities in this country, they do so all over the world. Also, in 1985, 11 American banks underwrote $16 billion worth of Eurobonds.

In this country, American banks can offer discount brokerage services, privately place commercial paper, underwrite and deal in Treasury securities and general obligations bond.

On the other hand, securities firms have made inroads as well. Since some State-chartered banks may engage in securities activities, many securities firms such as Shearson Lehman Hutton, Goldman Sachs, Prudential Bache and Merrill Lynch, have taken advantage of this loophole and affiliated with banks. Affiliation with these banks, which are FDIC-insured, present the potential for the same conflicts of interest that opponents of this bill fear most.

I also support S. 1886 because it will strengthen competition in the financial services industry by eliminating barriers to bank entry into the securities industry. That industry today is highly concentrated and merits an infusion of competitors. In 1987 the top 5 firms counted for 69 percent of the underwriting of corporate debt issues, 96 percent of the underwriting of asset-backed debt, 46 percent of common stock issues, 50 percent of initial public offerings, and 65 percent of preferred stock. Ninety-five percent of all commercial paper was underwritten by the top five firms.

In the municipal finance market, the five largest firms accounted for 42 percent of all revenue bond issues in 1987. Yet, these firms had only 31 percent of the general obligation issue, one market where banks have been allowed to compete.

Increased competition in the underwriting market will bring benefits to the customers of these services, which include America's businesses and State and local governments. This explains why 77 percent of the chief financial officers of the Fortune 500 corporations support repeal, and why nearly every association representing State and local governments supports repeal.

Finally, I support S. 1886 because it would repeal the Glass-Steagall Act without jeopardizing the safety and soundness of our banking system. To the extent rationally possible, it has addressed the risks inherent in financial deregulation through the adoption of a fair and prudent regulatory framework. First, to insure that insured deposits are not at risk, a bank may affiliate with a securities affiliate only through the bank holding company structure. Therefore, if the securities affiliate falters, not one penny of FDIC funds will be paid.

Firewalls are established to insure that banks make impartial credit decisions and that the securities affiliates do not have access to below-market cost capital due to the existence of deposit insurance for the banks. These restrictions guarantee that the securities affiliates are aware that they rise or fall on their own, unassisted by the Federal safety net.

Finally, the bill deserves Senate approval because it contains two very important consumer rights sections. One requires banks to disclose to their customers all of the critical terms and conditions of their savings accounts in a standardized format. The other requires increased disclosure of the terms of home equity loans and prohibits banks from unilaterally changing their terms and conditions.

Mr. GARN. Mr. President, I would like to address a question to Senator PROXMIRE regarding the effect of this legislation on pending litigation regarding the transferability of grandfathered insurance rights. The committee report states at page 109 that title 8 of the bill is not intended to affect any pending litigation regarding Board orders permitting the transfer of grandfather rights under section 4(c)(8)(C)(iv), the so-called D exemption. On page 110 of the bill, it states that it is not the intent of the bill to affect any pending litigation regarding the permissibility of grandfather rights, other than under section 4(c)(8)(C)(iv). Can the Senator explain this discrepancy?

Mr. PROXMIRE. Yes, I am glad that the Senator pointed out that problem. It is not the committee's intent to affect any pending litigation involving the transfer of grandfather rights. Thus, the language on page 109 of the report correctly expresses the view of the committee on this point. The language on page 110 of the report is the result of a typographical error.

Mr. DODD. Mr. President, I agree entirely with the explanation given by Senator PROXMIRE. It is not the intent of this bill to interfere with any pending litigation concerning the transferability of grandfather rights. The phrase "other than under section 4(c)(8)(C)(iv)" was intended to be added to the end of the first sentence of the first paragraph on page 110. Instead, through a typographical error, it was added to the end of the second sentence, leading to the present confusion. However, Senator PROXMIRE's explanation completely clarifies this matter.

CONFORMING AMENDMENT TO THE FEDERAL POWER ACT

Mr. JOHNSTON. Mr. President, Senator MCCLURE and I have recommended a provision included in the Proxmire-Garn manager's amendment. The purpose of this amendment is to prevent a substantial and unintended problem which could arise as the result of enactment of S. 1886, the Financial Modernization Act of 1988. The amendment is a conforming amendment to the Federal Power Act and in no way affects the substantive thrust of the bill you are now considering.

To the extent that S. 1886 authorizes bank affiliates to underwrite or participate in the marketing of corporate securities, it will trigger the provisions of section 305(b) of the Federal Power Act. That section generally prohibits an individual from serving as a director or officer of a utility at the same time as he or she holds such a position with a firm authorized to underwrite or participate in the marketing of securities of a public utility. Persons desiring to hold such interlocking positions may only do so if they apply for and receive authorization from the Federal Energy Regulatory Commission [FERC]. For purposes of applying section 305(b), FERC attributes to a given bank the ability of its subsidiaries, parent, or affiliates to underwrite a market securities.

The utility industry is highly capital intensive, and outside directors with financial expertise are of great value to utility companies and their ratepayers. Accordingly, utility companies actively seek individuals with banking experience to serve on their boards. There are literally hundreds of persons who are now serving on the boards of banks and utilities and rendering valuable services to both types of institutions. The amendment to the Federal Power Act that we are proposing would ensure that the status of these individuals is not changed while still affording the public the protection that section 305(b) was intended to provide.

There is a critical need for the amendment we are proposing because the provisions of section 305(b) become operative when an affiliate of a bank is merely authorized to underwrite or market securities. Up to this point, the Glass-Steagall Act has generally prohibited banks and their affiliates from being involved with corporate securities. As a result, most existing interlocks between banks and utilities have not required FERC approval. However, by authorizing bank affiliates to underwrite and market corporate debt securities, S. 1886 would overnight place many and perhaps all of these interlocks into question.

The result is the short term would be disruption of utility management. In the longer term affected individuals could apply for FERC approval, but this is not a desirable alternative. Application for such approval is burdensome and in some cases has taken more than a year to obtain. The delays could be longer if FERC is faced with hundreds of such applications.

Accordingly some individuals would undoubtedly choose to resign from either the bank or the utility, thereby depriving one of the institutions of the value of their services. In many cases the interlock involves an officer of the bank who serves on the utility board. In those cases, if the individual chose not to seek FERC authorization, the inevitable result would be that he or she would resign from the board of the utility.

This amendment simply permits persons now serving, or who in the future wish to serve, as directors or officers of a bank—including a trust company or banking association—and a utility, to do so without FERC approval, provided that the bank does not underwrite or market the securities of the utility in question. The amendment precludes the possibility of self-dealing by requiring FERC authorization if the utility intends to use the bank to underwrite or market its own securities. This amendment will avoid disruption of utility management, save the time and expense involved in the filing and processing by FERC of hundreds of applications, and make unnecessary the resignations of those individuals who would choose not to apply.

It should be recognized that this amendment does not suggest that FERC should not, upon application, authorize individuals to hold positions on banks and utilities in those instances where approval would be necessary. In the past, FERC has authorized interlocks between utilities and other firms authorized to underwrite and market securities, subject to whatever conditions it has deemed appropriate to protect the public interest. This practice should continue with respect to banks.

The amendment we are proposing is necessary to prevent the disruption and uncertainty that enactment of this legislation would otherwise cause. As chairman and ranking minority member, respectively, of the committee with jurisdiction over the Federal Power Act, we strongly urge adoption of this conforming amendment.

Mr. LEAHY. Mr. President, I rise today in support of S. 1886, the Financial Modernization Act, and I congratulate Senator PROXMIRE, the chairman of the Banking Committee, and all the members of the committee for all the hard work they have done.

The bill before us goes a long way toward increasing competition in the financial services sector. More competition means better service for consumers at a lower price.

Allowing banks to get into the securities business, indirectly and under the strict supervision of the Securities and Exchange Commission, should make it easier for Vermonters and all Americans in rural areas to gain access to sound investment advice and services. And, hopefully, greater competition will lower the costs associated with mutual funds and other financial services.

While S. 1886 goes to great lengths to ensure the continued safety and soundness of our Nation's banks, I believe that Congress must watch closely to make sure that these safeguards work, and work well for the long-term. The Financial Modernization Act uses the bank holding company [BHC] structure to separate the banking and securities functions of the new financial institutions that will emerge if this bill becomes law. The banking and securities operations will have separate books and accounting. The bill creates a series of so-called firewalls to protect the deposits of individual Americans from the risks associated with the securities business. That risk will be borne solely by the securities affiliates of BHC's.

The bottom line is that Congress must protect the deposits of American consumers. Federal deposit insurance is the underpinning of our banking system and consumer confidence in that system.

Mr. President, passing legislation affecting financial services sector is no easy task. There is a tendency against revisiting the difficult issues involved. But, Congress must not shirk its responsibility to protect American consumers. While this bill will have many beneficial effects, Congress must not hesitate to take this matter up again if it appears that the protections afforded to consumer deposits are jeopardized.

Mr. CRANSTON. As this bill contains some amendments to the industrial bank provisions of CEBA, I think it would be useful to place the amendments in the context of the original language of CEBA, and explain how these provisions will work. At the time the Competitive Equality Banking Act was enacted, we provided that an industrial bank or similar organization would be exempt from the definition of a bank as that word was defined in the Bank Holding Company Act [BHCA]. Two parts of the BHCA now specifically deal with this issue. The first one is section 2(c)(2)(H)(i) and the second one is section 2(c)(2)(H)(ii).

Currently, section 2(c)(2)(H)(i) provides that a bank is not a bank for BHCA purposes unless it does all three of the following: First, it offers demand deposits; second, it has total assets of more than $100 million; and third, it is acquired after the enactment of CEBA by another person or entity.

Mr. PROXMIRE. That is correct, except that the bill now being considered would broaden the first element of this section to include not only demand deposits but other deposits which can be written by check or similar means for payment to third parties. This is provided for in section 904(a) of S. 1886.

Mr. CRANSTON. That is correct. Section 2(c)(2)(H)(ii) further provides that an industrial bank does not become a bank under the BHCA as long as it does not engage in any activity in which it was not engaged on March 5, 1987.

Mr. PROXMIRE. The Senator is right. Of course, the Senator's amendment to this bill, in section 904(b), changes this provision to state that the exemption is retained as long as after March 5, 1987, an industrial bank does not engage in any activity in which it was engaged, or in which it was authorized to engage, prior to March 5, 1987.

Mr. CRANSTON. The Senator from Wisconsin clearly describes the amendment I offered in the mark-up. Is it also the Senator's understanding that the exemption is retained unless all of the things described in both section 2(c)(2)(H)(i) and 2(c)(2)(H)(ii) occur? As an example, if an industrial bank offered NOW accounts, it grew to be larger than $100 million in assets, and it was sold to a third party, it would still retain its exemption as long as after March 5, 1987, it did not engage in any activity in which it was not lawfully engaged or in which it was authorized to engage.

Mr. PROXMIRE. That is my understanding of the statute. Also the reverse would be true as well. If, after March 5, 1987, an industrial bank engaged in a new activity in which on March 5, 1987, it was not lawfully engaged or authorized to engage, it would still retain its exemption as long as it did not offer third-party transaction accounts, its size was less than $100 million, or it was not sold to a third party.

Mr. CRANSTON. I agree with you and that is my understanding as well. I very much appreciate your confirming my interpretation of this statute, and I thank the Senator very much.

Mr. LAUTENBERG. Mr. President, last year Congress passed the Competitive Equality Banking Act of 1987. That act established a temporary moratorium on new bank powers in three areas: securities, insurance, and real estate. The purpose of the moratorium was to give Congress time to conduct a comprehensive review of banking and financial laws, and to make decisions about the need for financial restructuring legislation.

Mr. President, we in the Congress made a commitment when we passed the moratorium. A commitment to make the tough decisions about how our system of financial services ought to be structured. That commitment was based on the principle that in a democracy, the people's representatives should make important decisions of policy. Not unelected regulators.

Today, Mr. President, we are considering legislation that goes a long way toward fulfilling that commitment. I want to take this opportunity to commend the chairman of the Banking Committee for his outstanding leadership in making it happen. As a former member of the Banking Committee, I know how hard it is to develop a consensus on the contentious issues surrounding bank powers.

I do have one concern, however, that I want to raise with the chairman. This bill addresses two of the three types of financial services which were subject to the moratorium—securities and insurance. However, it does not mention the third area covered by the moratorium: real estate. In fact, I understand that there was little serious discussion of real estate powers during committee consideration of this bill.

I do not stand here today to define the proper scope of bank powers in the real estate area. But the issue is there. Should banks be restricted from real estate activities? Or should banks be granted additional real estate powers? My only point is that these questions should be decided by Congress, the people who were elected to make national policy.

It is worth mentioning that, according to information I have received, the National Association of Realtors and the American Bankers Association are working together to develop a joint position on the subject of bank powers and real estate.

I wonder if the distinguished chairman of the Banking Committee would be willing to explain his plans for addressing the question of real estate powers.

Mr. PROXMIRE. I would be happy to respond to the Senator from New Jersey.

As he quite correctly points out, this bill does not address the question of real estate powers. This omission, however, should not be interpreted as a decision by the Banking Committee to maintain the status quo in this area. There simply was not enough time to do everything we had hoped.

However, I agree with the Senator from New Jersey that the question of real estate powers is an issue that deserves the attention of Congress. If Congress fails to act, it will largely be up to Federal regulators to set policy in this area. That is not the proper way to set important Federal policy.

I want to assure the Senator from New Jersey that I intend to do what I can to ensure that the question of bank powers and real estate is reviewed before the end of the 100th Congress.

Mr. LAUTENBERG. I want to thank the distinguished chairman of the Banking Committee for his statement and again commend him for his outstanding leadership.

Mr. GARN. I wish to further clarify the interpretation of section 2(c)(2)(H)(ii) of the Bank Holding Company Act as amended by section 904(b). Am I correct in stating that the restriction on an industrial loan company, industrial bank, or similar institution from engaging in activities not lawfully engaged in or authorized to engage in as of March 5, 1987, applies only to the activities that the industrial bank engages in directly, indirectly, or through an affiliate?

Mr. PROXMIRE. The Senator is correct. Section 2(c)(2)(H)(ii) applies only to the activities of an industrial bank and its subsidiaries or those activities that it engages in indirectly through an affiliate and not the activities engaged in by an affiliate independently of the industrial bank.

Mr. GARN. In other words, section 2(c)(2)(H)(ii) as amended by section 904(b) of our bill does not restrict activities of affiliates other than subsidiaries, but only restricts activities of an industrial bank conducted by the industrial bank directly, indirectly, or through an affiliate.

Mr. PROXMIRE. That is correct.

Mr. GARN. I thank the Senator for his clarification.

Mr. WIRTH. Mr. President, the Financial Modernization Act of 1988 is a product of compromise among the 20 members of the Senate Banking Committee. All of us on the committee had different ideas about what we wanted to see in a bill. For example, I argued for a go-slow approach with respect to the repeal of Glass-Steagall. The current fragility in the financial marketplace, as well as the recent October 19, 1987, market crash, convinced me that if banks are to be allowed any further exposure whatsoever to the securities business, then a phased-in approach is the soundest policy. This view is shared by the General Accounting Office as well as many others. I also support tighter firewalls separating the securities affiliate of a bank holding company from the activities of the bank itself and believe that all securities activities of a bank should be placed eventually in a securities affiliate. That affailiate should be a pure securities affilate and I do not believe that other nonbanking activities that are permissible for bank holding companies should be conducted in it—for example, leasing, mortgage banking, management consulting, financial counseling, and dealing in precious metals.

In spite of these reservations, there was a willingness to compromise with respect to the timetable of the actual phase-in in order to ensure passage of legislation. This compromise is justified in order to avoid the dangers of allowing the Federal Reserve Board and the independent bank regulatory agencies to establish public policy on a piece-meal basis regarding bank entry into the securities area. Major public policy decisions in the financial services area should be made by the Congress, not the regulatory agencies. Comprehensive legislation is necessary to provide the essential structure and safeguards controlling bank and bank holding company securities activities as well as other products and services in the future.

The Financial Modernization Act is an outgrowth of the moratorium we established on new bank powers in last year's Competitive Equality Banking Act. As promised, the committee used the moratorium as an opportunity to carefully consider the issues in any restructuring of the financial services industry. The moratorium also served as an incentive for the various financial services industry groups to put forward recommendations regarding industry restructuring. Their recommendations and others were carefully weighed by the committee.

In this regard, it should be stressed that this bill represents a legislative initiative to rationalize financial services law in a significant fashion. As a result, I expect that the regulatory agencies will continue to defer action on any new powers at least until this legislation has been fully considered by the Congress.

Of particular interest and concern to me in the committee's considerations on this bill was the treatment of the Glass-Steagall issue. The bill significantly repeals the 50-year-old Glass-Steagall Act by permitting banks to directly underwrite some types of securities and to affiliate with securities firms engaged in other underwriting activities. Bank holding companies are permitted immediately to underwrite revenue bonds and mortgage-backed securities as well as other asset-backed securities. Additionally, bank holding companies will be authorized to underwrite mutual funds and corporate debt in 6 months following enactment. Corporate equity underwriting may be permitted in 1991 if Congress votes to authorize it at that time pursuant to expedited procedures which mandate a vote on the issue. This approach with respect to equity underwriting will give Congress an opportunity to observe the overall effects of granting the other new securities powers to granting the higher risk equity underwriting authority.

The securities industry is a highly risky business as recent market events have clearly demonstrated. Only 6 months ago, on October 19, 1987, about $500 billion in value was wiped out when the Dow Jones Average plummeted almost 23 percent. Enormous losses and layoffs are the order of the day in the securities industry. A number of people believe that the stability of the banking system in the face of this market crash is a tribute to the vision of the authors of Glass-Steagall. It is clear that the risk concerns underlying the separation of commercial and investment banking have not necessarily disappeared over the years.

A measured approach to any repeal of Glass-Steagall is consistent with recent findings by the General Accounting Office. Only last month, the GAO advised Congress that—

> It is worth recalling the motivation that prompted the passage of the Glass-Steagall Act in 1933: a determination that depositors would never face the risks that stemmed from the near collapse of the U.S. commercial banking system as the Great Depression deepened in the early 1930's. The original intent of the Glass-Steagall laws remains just as valid today as it did then.

The GAO concluded that very serious deficiencies in the existing regulatory structures require a phased approach to any consideration of repeal of Glass-Steagall. They recommend;

> This would involve bank holding companies undertaking only a subset of securities activities or limiting securities activities to a certain percentage of the holding company's total business. In time, as more experience is gained and regulatory resources are put in place, the limits on activities could be relaxed and, if no problems occur, fully phased out.

The approach adopted by the committee in the Financial Modernization Act is generally in keeping with the GAO's recommendations, although it is doubtful that the GAO would have gone quite as far as would a majority of the committee.

I want to particularly highlight the GAO's concern with the adequacy of the existing regulatory structure. Over the past 2 years, the Securities Subcommittee has carefully reviewed the budget authorization of the Securities and Exchange Commission and has concluded that the ability of the Commission to respond to even its current regulatory demands is in question. In the period of 1980-87, during a time of unparalleled growth in the volume and complexity of the securities markets, the SEC was actually required to cut its staff by over 100 staff years. Chief executives of major securities firms appeared before the subcommittee and urged Congress to increase the SEC's budget by as much as 100 percent. Congress eventually approved an increased authorization of about 30 percent without a single dissenting vote in either House. Further, the new Chairman of the SEC made a special request to the committee in late 1987 to intercede in the budget process on behalf of the Commission to avoid any reduction in the SEC's appropriation. As a result, 19 of the 20 members of the Banking Committee signed a letter to the Appropriations conferees urging that the SEC's budget be left intact. It is painfully apparent that the Commission has not been permitted to keep regulatory pace with its existing responsibilities—without even considering the burden of new oversight authority for bank securities affiliates.

In this regulatory environment, it would be irresponsible for Congress to take a step as far reaching as an immediate, unconditional repeal of Glass-Steagall as orginally proposed by Senators PROXMIRE and GARN. As the GAO has noted, it should be established first that the SEC and the other regulatory agencies can fully handle the additional regulatory responsibility for the securities activities of bank affiliates stemming from this change in the law. Any decision to roll back Glass-Steagall restrictions must be premised on confidence that the potential abuses and risks to the financial system can be controlled through regulation. I remain unconvinced that the SEC can carry this burden today due to the resource restrictions placed on the agency over the past several years.

There are other good reasons supporting a cautious approach to new securities activities for bank holding companies. Our financial services industry is currently experiencing some considerable stress. Money center banks have billions of dollars in questionable loans to less-developed countries. Energy, agriculture, and real estate loans are burdening banks throughout the Southwest and Midwest. Bank failures are expected to continue at a record-breaking pace and the plight of the Federal Savings and Loan Insurance Corporation is well known. It may be true that the power to diversify into the securities business could provide at least a partial solution to some of these problems. But we have also seen that new powers did not solve the crisis in the thrift industry. In fact, many have argued that new powers led to new losses for desperate thrift institutions and that the taxpayers may still end up with the bill for a savings and loan system bailout totaling billions of dollars.

All of these factors mandate considerable caution on the part of Congress in authorizing new high-risk underwriting powers to banks. The Financial Modernization Act provides for first granting the less risky securities powers with a reservation of equity underwriting until 1991. At that time some record of the effects of the other new powers can be weighed. This interim period will also allow necessary time to assure that adequate regulatory resources are available.

Under the bill's treatment of Glass-Steagall, a number of safeguards will be put into place on transactions between a bank and its new securities affiliate. These measures are designed to protect the safety and soundness of the bank and to avoid any unfair competitive advantage flowing from the Federal guarantee backing the bank. The extent of this safeguarding insulation, or "firewalls," which may be necessary in order to avoid the practices which led to the enactment of Glass-Steagall in the first place has been the subject of considerable debate. Some, such as former Federal Reserve Board Chairman Paul Volcker, have expressed reservations that a bank can ever be truly shielded from its securities affiliates. However, the committee has determined that the safeguards contained in the Financial Moderinzation Act are adequate to avoid the potential problems without unduly or unfairly restraining the business relationships within a bank holding company. While I generally agree that the bill provides at least the minimum level of necesssary safeguarding limitations, there are some issues in this regard which are still troubling.

Specifically, the bill will allow a bank to engage in newly authorized underwriting activities directly within the bank rather than through a separate securities affiliate. Similarly, a bank holding company will be permitted to engage in certain types of underwriting in affiliates which are not "securities affiliates" under the bill. In both instances, these underwriting activities will not be subjected to the safety and soundness safeguards in the bill limiting transactions between a bank and its securities affiliate. For example, a bank will be newly authorized by the bill to underwrite municipal revenue bonds. Further, these bonds may be underwritten in the bank itself rather than the securities affiliate and the bank may permissibly guarantee these bonds with a letter of credit. But if a securities affiliate underwrote the same revenue bonds, the bill would prohibit the bank from backing the issue in this manner. This is presumably justified as a means to eliminate the danger of compromising bank's credit judgment in backing underwriting activities which will benefit the securities affiliate. It also minimizes the danger that the bank will be able to exploit its Federal guarantee as an unfair competitive advantage in marketing underwriting services.

I fully support these safeguards but I am concerned that if they are justified between a bank and its securities affiliate they are equally justified for the newly authorized underwriting activities conducted in the bank itself—or through other bank affiliates engaged in underwriting but not subject to the safeguards applicable to securities affiliate. In fact, under the bill as it stands, a bank is actually encouraged to move underwriting activities into the bank, increasing the risk to the bank and the potential for abuse, in order to avoid the bill's safeguards on transactions between a bank and its securities affiliate. This result is inconsistent with the bill's othewise evident concern over the historically proven dangers of direct bank involvement in underwriting activities. The bill's own logic should mandate that all newly authorized underwriting activities must either be conducted in a securities affiliate or subjected to the same safeguard provisions as if they were underwritten in such an affiliate. I am hopeful that this issue can still be resolved. Otherwise, I believe that there is a glaring and irresponsible inconsistency in the treatment of securities activities conducted within the bank itself versus in a separate securities affiliate.

I have other reservations about the legislation. But, on balance, I believe that the positive aspects of passing the Financial Modernization Act outweigh the many arguments against it and the dangers stemming from the alternative of doing nothing legislatively.

Finally, I want to pay particular tribute to our Banking Committee chairman, Senator WILLIAM PROXIRE. Once again, as so often throughout his career, he has forged ahead and notwithstanding some considerable pressure, produced an historic piece of legislation. He and former Chairman and current ranking minority member JAKE GARN are to be applauded for their leadership on this issue as well as on so many others throughout the years. Senator WILLIAM PROXMIRE has been an outstanding chairman of the Senate Banking Committee and we will miss him greatly after the end of this session when he retires.

Mr. GARN. Mr. President, with respect to the enforcement provisions of this bill, I understand that to the extent these provisions change the substantive elements for a violations of the banking or thrift institution laws, they will not be applied retroactively. In other words, nothing we do today will make illegal conduct that was lawful when it was engaged in. Is that the understanding of the other Members?

Mr. PROXMIRE. Yes, that is my understanding of these amendments. If the conduct was legally engaged in prior to the enactment of the law, this law cannot retroactively make that conduct illegal.

Mr. GARN. Mr. President, I have one other question regarding the committee report. On pages 88 and 92 of the committee's report it states that the enhanced cease-and-desist authority of the bank and thrift regulatory agencies may be used to order restitution or reimbursement from an institution-related party, but only in cases where the institution-related party had injustly enriched himself at the institution's expense or had acted in reckless disregard of the banking laws or regulations or of prior agency orders. However, on page 30 of the report it states that under the bill an agency may order reimbursement, indemnification or restitution whether or not the party involved was personally enriched by his actions. How can these two statements be reconciled?

Mr. PROXMIRE. It is the committee's intent that the agencies use the affirmative action authority contained in this bill to order restitution or indemnification only in cases where there has been unjust enrichment on the part of the institution-related party, or where the institution-related party has shown reckless disregard of the banking or thrift laws, regulations or prior agency orders. This intent is made clear on page 88 of the committee's report with respect to the bank regulatory agencies, and also on page 92 with respect to the thrift institution regulatory agency. The comment on page 30 simply refers to the fact that unjust enrichment need not be shown, if the institution-related party's action demonstrates reckless disregard for bank or thrift-related laws, regulations, or orders.

Mr. GRAHAM. Mr. Chairman, the Federal Home Loan Bank Board recently approved the acquisition of a Florida savings and loan and three Iowa savings and loans by a life insurance company in Iowa. This emergency acquisition was arranged to assist these four ailing savings and loans under the Savings and Loan Holding Company Act. In authorizing the acquisition the Board waived the cross-marketing restrictions of section 408(p) of the Savings and Loan Holding Company Act as amended by CEBA and relied heavily on section 408(m) of the act to authorize this waiver.

The CEBA conference report commented that if a life insurance company acquired a thrift, that section 408(m) would preempt any State law which would prevent the acquiring company from thereafter engaging in the insurance business because of the acquisition.

Mr. PROXMIRE. Yes, due to the large number and severity of thrift institution problems, Congress agreed to provide emergency legislation to respond to these problems. Therefore under emergency situations unlike institutions could acquire thrifts and override State law as necessary to permit the acquisition. Congress' intent was to permit this kind of acquisition without jeopardizing the acquiring institution's right to continue in its primary business in the face of any state restrictions on the activities of the acquired thrift.

Mr. GRAHAM. Yes, but this does not appear to justify allowing the acquired thrift to engage in the insurance business regardless of State law prohibition. I have no problem assisting the acquisition process but I do not believe we should be overriding State law in the area of insurance products. In my opinion, this is another example of the Federal Government preempting State law. Insurance is regulated on the State level, therefore the State—not the Federal Government—should decide if financial institutions should be able to sell insurance and, if so which institutions.

Mr. Chairman, we will be holding an oversight hearing sometime in May. I would like to request we specifically ask the Federal Home Loan Bank Board to address this question.

Mr. PROXMIRE. To respond to the Senator's first point, I do not believe Congress intended to permit the Federal Home Loan Bank Board to waive any State prohibition upon the activities of the acquired thrift institutions.

As to the Senator's second point, we are planning a May oversight hearing and we should include this issue as part of our FHLBB review.

● Mr. GORE. Mr. President, I join in support of S. 1886, the Proxmire Financial Modernization Act of 1988, and I heartily commend the members of the Banking Committee for their diligent efforts to bring forth this bill. Particularly, I must congratulate Chairman WILLIAM PROXMIRE for producing this landmark measure—a fitting culmination to his prestigious career in Congress. This legislation not only represents the culmination of 7 years of hard work by the Banking Committee but the 18-to-2 margin by which it was reported demonstrates the strong bipartisan consensus that has been crafted in this compromise bill.

The Glass-Steagall Act, enacted in 1933 in the aftermath of the Stock Market Crash of 1929, separates commercial banking and the securities industry. While Glass-Steagall has served this country's financial institutes well for many years, in recent years the measure has not kept pace with the rapid changes in our financial system. Consequently, Glass-Steagall has reduced the ability of banks to compete in a global financial marketplace, while the regulators and courts have allowed the traditional separation between banking and commerce to blur.

The goal of the Proxmire Financial Modernization Act of 1988 is to strengthen competition within the financial services industry under a sound and consistent regulatory framework. This bill achieves this objective by repealing provisions of the Glass-Steagall Act that prohibit affiliations between commercial banks and investment banks. A bank holding company [BHC] would be authorized to operate a securities affiliate under strict regulation by the Federal Reserve Board and the Securities and Exchange Commission. A securities affiliate would be allowed to engage in all aspects of the securities business except stock underwriting. Congress must vote on whether to remove this last barrier by the end of 1991. Likewise, securities firms may own banks through establishing a diversified financial services holding company of which not more than 20 percent of its assets are devoted to insured banks.

Under the Proxmire Financial Modernization Act of 1988, within 6 months the securities affiliate will be permitted to underwrite mutual funds and corporate bonds. In addition, a number of firewalls restrict a bank from compromising its federally insured status. The bill prohibits a bank from extending any credit to its securities affiliate or making loans to enhance the marketability of securities underwritten by its affiliate. To protect against undue concentration, the legislation prohibits Federal Reserve approval of new affiliations between any BHC with more than $30 billion in assets and any securities firm with more than $15 billion in assets. In addition, the bill sets up an expedited procedure under which qualified banks can establish BHC's.

I have consistently expressed my concerns that if Glass-Steagall were to be repealed strong safeguards must be put in place to ensure the safety and soundness of the financial services industry. The Banking Committee has crafted legislation which addresses many of the potential abuses associated with banking and securities combinations. These firewalls promote impartial credit decisions by the bank, clear information for financial decisionmakers, and other important safety measures.

I applaud the Banking Committee's leadership in reasserting congressional responsibility over financial services issues and in halting the delegation of these important matters to the regulators and the courts. Through this historic piece of legislation, the Senate will lead the way toward a more competitive financial services industry in the future. Finally, I want to join my Senate colleagues in congratulating Senate Banking Committee Chairman WILLIAM PROXMIRE on this achievement which appropriately bears his name. We in the Senate will miss his leadership greatly upon his retirement at the end of this year.●

Mr. DODD. Mr. President, I would like to take just a few minutes to explain the home equity loan substitute contained in the managers' amendment.

In general, the substitute reflects largely technical changes that were worked out by staff with both consumer and creditor groups. The basic purposes of the title remain the same: To require lenders to provide consumers with a full and complete disclosure of the basic features of their home equity products with the application form so that consumers can both understand the basic elements of the loan and its risks and so that they can compare a lender's specific terms with other home equity loans and with second mortgages; to prohibit some fundamentally unfair contract terms; and to require disclosure of important cost information in advertisements.

Let me briefly describe the key changes in the managers' amendment. First, with respect to the disclosure provisions, language was added to section 127(a)(1)(B) to require the lender to inform the borrower if there is any time limit as to when the application must be submitted in order to obtain the disclosed terms. This subsection, however, would not prevent a lender from making a change pursuant to a variable rate or other specific variable term of the disclosure. In addition, the requirement that the creditor include a statement that the consumer should make or otherwise retain a copy of this information is not intended to require the creditor to provide the consumer with a copy for his or her records, however, the consumer may make a copy.

Subsection (c) requires a statement of the basic grounds under which the creditor may terminate the plan; a statement that the creditor may freeze or reduce the credit line for certain specifically defined circumstances; a statement, if applicable, that the creditor may change any contract term that is not material to the contract after the agreement is signed; and a statement that the consumer may obtain, upon request, a list of the types of material obligations the borrower will have under the plan and that failure to meet such obligations will allow the lender to freeze or reduce the credit line.

While no major changes were made in section 127A(a)(1)(E), I want to clarify that this section does not require the creditor to disclose the repayment options on separate pages, but the creditor can do so as part of a single disclosure on one or more pages. Moreover, in paragraph (iii), the requirement that a "recent interest rate" be used to show the minimum monthly or periodic payment, means an interest rate that has been in effect under the plan within the 12 months preceding the date the disclosures are provided to the consumer, other than a low promotional introductory rate.

Section 127A(a)(1)(I), which requires the creditor to provide the consumer with an itemization of any fees imposed in connection with the availability or use of such plan and a general estimate within a reasonable range of any third party fees, is intended to require an aggregate range for such fees and a general estimate based on the creditor's experience with such accounts and not necessarily for any specific account.

With respect to the time and form of disclosure provisions contained in subsection (b), I want to point out that the general rule is that the home equity loan disclosures must accompany the lender's application form. Exceptions are provided where that basic rule is practically unachievable. Where there are practical impediments to presenting the disclosure with the application, we've crafted tailor-made exceptions that achieve the basic purpose of giving the consumer the information he or she needs before committing any money. I might just add one technical point. Section 127A(b)(3), which requires certain disclosures to precede others, is intended to exclude extraneous materials from the disclosures.

Let me move to section 127A(d), which addresses restrictions on contract terms. First, the new provision identifies four circumstances under which the lender may change the consumer's credit limit by either freezing the line of credit or reducing the limit. The first circumstance involves situations where there is a significant decline in the original value of the property securing the loan. The situation in Texas shows that it is possible for a lender that has acted responsibly to find that the property has depreciated beyond all expectations. Under such circumstances, the bill permits the lender to cut off the line of credit or reduce the limit commensurately. Of course, if the property securing the loan appreciates again, this exemption would no longer apply.

The second circumstance involves situations where the financial status of the borrower has declined to the point that the creditor has reason to believe the consumer will be unable to repay the loan. For example, such might be the case where the consumer loses his or her job and cannot find another one and so is forced to deplete his or her savings. Under such circumstances, the lender could freeze or reduce the credit line, but only until the consumer became creditworthy again.

The third circumstance is where the consumer has failed to meet his or her material obligations under the plan agreement—other than the circumstances that would permit the lender to terminate the plan. Obviously, the lender should be free to penalize the consumer when the consumer fails to meet these obligations. The bill would allow the lender to penalize the consumer by refusing to make further advances or by lowering the credit limit until such time as the borrower complies with his or her obligation.

As with the other exceptions, this one is narrowly drawn and relates only to the borrower's failure to meet a material obligation, such as one that affects the lender's security. It would not, however, apply where the borrower fails to conform with an obligation to keep the same job or spouse, unless there were a correlation between that obligation and the lender's financial security.

The fourth circumstance is where governmental action prevents the lender from implementing the rate terms of the agreement or adversely affects the lender's lien priority. Such would be the case, for example, if a State lowered the usury ceiling on home equity loan agreements already in existence or passed a law lowering the priority of the lender's security interest under an existing home equity agreement. The lender's right to freeze the line of credit would last only as long as the governmental change adversely affected the lender's expectations under the agreement. In the case of a usury ceiling, the lender could avail itself of this provision only as long as the lowered usury ceiling forced the loan rate below what it otherwise would have been under the agreement.

Finally, the bill permits the lender to make any change that will benefit the consumer. This exception might apply when a lender wishes to modify its home equity plan to make the new product available to both new and older customers. Such a modification could be applied to change the terms of a specific contract only if it would be unequivocably beneficial to the borrower. Similarly, the change would have to be beneficial through the entire term of the agreement and not just for a short time. Such would be the case, for example, if the borrower reduced the margin on a variable rate plan.

In addition, of course, the creditor may make any change in the terms of a plan that are required by regulatory or other Government action or court order.

Finally, in this area, the bill would allow the lender to change a term that is not required to be disclosed under the law if it is not material. I expect that most terms would be considered material. This narrow exception might, for example, apply if the lender changed the address to which the borrower must send his or her periodic payment.

Because termination of an agreement is a harsh remedy, the bill permits the lender to accelerate the outstanding balance under three narrow circumstances: Where there has been fraud or material misrepresentation on the part of the consumer in connection with the plan; failure by the consumer to meet the repayment terms of the agreement for any credit outstanding; or any other action or failure to act by the consumer which adversely affects the creditor's security for the loan or rights in such security.

Finally, the advertising section is designed to make sure the lender provides full information about costs associated with a home equity loan. For example, it requires a lender to advertise the interest rate which is current as of a reasonable time, given the form of media involved; any loan fee imposed as a percentage of the credit line and a general estimate within a reasonable range of the overall amount of other fees for opening an account; the highest interest rate that may be imposed under the plan; and, if the plan includes a balloon payment feature, the lender must state that fact. These disclosures and the others required by this section should give the consumer the cost information necessary to make intelligent comparisons among different home equity products and to contrast them with second mortgages.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy] and the Senator from Illinois [Mr. Simon] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. Gore] would vote "yea."

The PRESIDING OFFICER [Mr. Harkin]. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—94

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—2

D'Amato
Gramm

NOT VOTING—4

Biden
Gore
Kennedy
Simon

So the bill (S. 1886) as amended, was passed as follows:

S. 1886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Proxmire Financial Modernization Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—SECURITIES AFFILIATES OF BANK HOLDING COMPANIES

Sec. 101. Amendments to the Banking Act of 1933.
Sec. 102. Authorization for bank holding companies to acquire securities affiliates.
Sec. 103. Definition of securities affiliate.
Sec. 104. Ninety-one day rule for securities affiliate applications.
Sec. 105. Effect on State laws prohibiting the affiliation of banks and securities companies.
Sec. 106. Amendment to the Federal Reserve Act.
Sec. 107. Securities affiliations of FDIC-insured banks.
Sec. 108. Authorization for national banks to underwrite municipal revenue bonds, sponsor unit investment trusts, and distribute investment company securities.
Sec. 109. Amendments to the International Banking Act of 1978.
Sec. 110. Diversified financial holding companies.
Sec. 111. Study on harmonizing the regulation of banking and securities organizations.
Sec. 112. Study of the national payments system.
Sec. 113. Congressional vote on whether to permit securities affiliates to underwrite equity securities.

TITLE II—EXPEDITED PROCEDURES

Sec. 201. Expedited procedures for forming a bank holding company.
Sec. 202. Exemption of certain bank holding company formations from registration under the Securities Act of 1933.
Sec. 203. Expedited procedures for bank holding companies to seek approval to engage in nonbanking activities.
Sec. 204. Reduction of post-approval waiting period for bank holding company acquisitions.
Sec. 205. Reduction of post-approval waiting period for bank mergers.
Sec. 206. Amendments to the Depository Institution Management Interlocks Act.
Sec. 207. Bankers' banks.

TITLE III—BROKERS AND DEALERS

Sec. 301. Definition of broker.
Sec. 302. Definition of dealer.
Sec. 303. Power to exempt from the definitions of broker and dealer.
Sec. 304. Requirement that banks falling within the definitions of broker or dealer place their securities activities in a separate corporate entity.
Sec. 305. Effective date.

TITLE IV—BANK INVESTMENT COMPANY ACTIVITIES

Sec. 401. Custody of investment company assets by affiliated banks.
Sec. 402. Affiliated transactions.
Sec. 403. Borrowing from an affiliated bank.
Sec. 404. Independent directors.
Sec. 405. Additional SEC disclosure authority.
Sec. 406. Definition of broker.
Sec. 407. Definition of dealer.
Sec. 408. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
Sec. 409. Definition of broker.
Sec. 410. Definition of dealer.
Sec. 411. Notification and consultation.
Sec. 412. Publicity.
Sec. 413. Effective date.

TITLE V—STRENGTHENED ENFORCEMENT AUTHORITY

Sec. 501. Short title.

PART A—REGULATION OF BANKS

Sec. 511. Amendments to the Federal Deposit Insurance Act.
Sec. 512. Penalty for violation of "Change in Bank Control Act".
Sec. 513. Reports.

PART B—REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

Sec. 521. Definition of "institution-related party".
Sec. 522. Cease and desist orders.
Sec. 523. Service corporations.
Sec. 524. Temporary orders.
Sec. 525. Removal and suspension.
Sec. 526. Retention of jurisdiction.
Sec. 527. Penalties.
Sec. 528. Civil penalty.
Sec. 529. Definitions.
Sec. 530. Reports of condition.
Sec. 531. Technical amendments.
Sec. 532. Penalty for failure to report.
Sec. 533. Repealer.

PART C—CREDIT UNIONS

Sec. 541. Amendments to section 206.
Sec. 542. Amendments to section 205.

TITLE VI—TRUTH IN SAVINGS AND INVESTMENTS

Sec. 601. Short title.
Sec. 602. Findings and purpose.
Sec. 603. Definitions.
Sec. 604. Disclosure of yields and terms of accounts.
Sec. 605. Account schedule.
Sec. 606. Disclosure requirements for certain accounts.
Sec. 607. Distribution of schedules.
Sec. 608. Payment of interest.
Sec. 609. Regulations.
Sec. 610. Administrative enforcement.
Sec. 611. Civil liability.
Sec. 612. Credit unions.
Sec. 613. Review of disclosure requirements for open-end management investment companies.
Sec. 614. Effect on State law.

TITLE VII—HOME EQUITY LOANS

Sec. 701. Short title.
Sec. 702. Disclosure and advertising requirements for home equity loans.
Sec. 703. Effective date.

TITLE VIII—INSURANCE ACTIVITIES

Sec. 801. Short title.
Sec. 802. Amendments to the Bank Holding Company Act of 1956 relating to insurance activities.
Sec. 803. Amendments to the National Bank Act.
Sec. 804. Effective date.

TITLE IX—MISCELLANEOUS

Sec. 901. Study of hostile acquisitions of United States banks.
Sec. 902. Limitations on grandfathered nonbank banks owned by bank holding companies.
Sec. 903. Joint marketing restrictions.
Sec. 904. Industrial banks.
Sec. 905. Status of certain registered investment company.
Sec. 906. Amendment to the Federal Power Act.
Sec. 907. Expedited funds availability.
Sec. 908. Payroll tax filing service organizations.
Sec. 909. Effectuating the principle of national treatment of banks.
Sec. 910. Effectuating the principle of national treatment for brokers and dealers.
Sec. 911. Study of merger of commerce and banking.
Sec. 912. Increased penalties under the Bank Holding Company Act.
Sec. 913. Financial consumers associations.
Sec. 914. Community Reinvestment Act.

TITLE I—SECURITIES AFFILIATES OF BANK HOLDING COMPANIES

SEC. 101. AMENDMENTS TO THE BANKING ACT OF 1933.

Section 20 (12 U.S.C. 377) and section 32 (12 U.S.C. 78) of the Banking Act of 1933 are repealed.

SEC. 102. AUTHORIZATION FOR BANK HOLDING COMPANIES TO ACQUIRE SECURITIES AFFILIATES.

Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by adding at the end thereof the following new paragraph:

"(15)(A) SECURITIES AFFILIATES.—Shares of a securities affiliate which may, in accordance with this paragraph, do one or more of the following:

"(i) Engage in underwriting, distributing, or dealing in securities of any type.

"(ii) Engage in securities brokerage, private placement, investment advisory, or other securities activities permitted for brokers or dealers registered under the Securities Exchange Act of 1934 or for investment advisers registered under the Investment Advisers Act of 1940.

"(iii) Engage in, or acquire the shares of a company engaged in, any activity that is not described in clause (i) or (ii) of this subparagraph, if another provision of this section permits a bank holding company or subsidiary thereof to engage in that activity or acquire those shares, and—

"(I) the Board permits the bank holding company to engage in that activity or acquire those shares through the securities affiliate, or

"(II) that provision permits the bank holding company or a subsidiary thereof to engage in that activity or acquire those shares without the Board's approval.

"(B) APPLICATION REQUIREMENTS.—

"(i) Except as provided in subparagraph (D)(ii) of this paragraph, a bank holding company shall not directly or indirectly acquire or retain shares of a securities affiliate under this paragraph without complying with this subparagraph.

"(ii) The following provisions shall apply during the 4 years following the date of enactment of the Proxmire Financial Modernization Act of 1988:

"(I) A bank holding company shall not acquire or retain shares of a securities affiliate pursuant to this paragraph without the Board's prior approval.

"(II) In acting on an application under this paragraph, the Board shall apply the criteria specified in this subparagraph, in subparagraphs (C) and (D)(i) of this paragraph, and in paragraph (8)(B)(iv) of this subsection.

"(III) The Board shall not approve an application under this paragraph unless the Board is satisfied that the bank holding company possesses the managerial resources to conduct the securities activities safely and soundly. In making that determination, the Board shall take into account the experience of management and its record of successfully managing the bank holding company or enterprises engaged in activities that are the same as or similar to those authorized for securities affiliates under this paragraph.

"(iii) Beginning 4 years after the date of enactment of the Proxmire Financial Modernization Act of 1988, a bank holding company seeking to acquire or retain shares pursuant to this paragraph shall comply with paragraph (8)(B) of this subsection. In making a determination under that paragraph, the Board shall apply the criteria specified in clause (iv) of that paragraph and in subparagraphs (C) and (D)(i) of this paragraph.

"(C) Concentration of resources.—

"(i) The Board shall disapprove any acquisition pursuant to this paragraph that would result in the affiliation of—

"(I) a bank holding company or bank that has, or had on average during any of the 8 calendar quarters preceding the date of the application, total assets of more than $30,000,000,000, with

"(II) an investment banking organization that has, or had on average during any of the 8 calendar quarters preceding the date of the application, total assets of more than $15,000,000,000.

"(ii) The dollar limitations in clause (i) of this subparagraph shall be adjusted annually after December 31, 1988, by the annual percentage increase in the Consumer Price Index as described in paragraph (8)(C) of this subsection.

"(D) Investment in a securities affiliate.—

"(i) A bank holding company shall not acquire control of a securities affiliate pursuant to this paragraph if the acquisition would reduce the bank holding company's capital below the minimum level established by the Board for bank holding companies.

"(ii) A bank holding company that has acquired control of a securities affiliate pursuant to this paragraph shall not directly or indirectly make any additional equity investment in the securities affiliate unless it gives the Board prior written notice of the proposed investment and—

"(I) the Board issues a written statement of its intent not to disapprove the notice; or

"(II) the Board does not disapprove the notice within 30 days after the notice is filed.

"(iii) The Board may disapprove a notice filed under clause (ii) if the Board finds that the investment would reduce the bank holding company's capital below the minimum level established by the Board or would otherwise be unsafe or unsound or inconsistent with the bank holding company's obligation to serve as a source of strength to its subsidiary banks.

"(E) Capital standards.—(i) In determining whether a bank holding company complies with the capital requirements or guidelines established by the Board for bank holding companies—

"(I) the bank holding company's capital and total assets shall each be reduced by an amount equal to the amount of the bank holding company's equity investment in any securities affiliate, and by an amount equal to the amount of any extensions of credit by the bank holding company to any securities affiliate that are considered capital for purposes of any capital requirement imposed on the securities affiliate pursuant to section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(3)),

"(II) the assets and liabilities of the securities affiliate shall not be consolidated with those of the bank holding company, and

"(III) the bank holding company's total assets and total liabilities shall each be reduced by an amount equal to the amount of the bank holding company's extensions of credit to any securities affiliate, excluding extensions of credit described in subclause (I).

"(ii) Clause (i) of this subparagraph does not apply to the extent that the Board determines by order that an item described in that clause relates to activities that are not described in clause (i) or (ii) of subparagraph (A) of this paragraph.

"(F) Limitations on securities affiliates and their affiliates.—

"(i) No bank or insured institution affiliated with a securities affiliate shall, directly or indirectly—

"(I) extend credit in any manner to the securities affiliate or a subsidiary thereof,

"(II) purchase for its own account financial assets of the securities affiliate or a subsidiary thereof,

"(III) issue a guarantee, acceptance, or letter of credit, including an endorsement or a standby letter of credit, for the benefit of the securities affiliate or a subsidiary thereof, or

"(IV) extend credit in any manner to any investment company advised by or the shares of which are distributed by the securities affiliate.

"(ii) Clause (i)(I) of this subparagraph does not apply to any extension of credit by a bank or insured institution made to acquire or sell any securities of the United States or its agencies or securities on which the principal and interest are fully guaranteed by the United States or its agencies if—

"(I) the extension of credit is to be repaid on the same calendar day,

"(II) the extension of credit is incidental to the clearing of transactions in those securities through that bank or insured institution, and

"(III) both the principal of and the interest on the extension of credit are fully secured by securities of the United States or its agencies or securities on which the principal and interest are fully guaranteed by the United States or its agencies.

"(iii) No bank or insured institution affiliated with a securities affiliate shall directly or indirectly extend credit, or issue or enter into a standby letter of credit, asset purchase agreement, indemnity, guarantee, insurance, or other facility, for the purpose of enhancing the marketability of a securities issue underwritten or distributed by the securities affiliate.

"(iv) No bank holding company or subsidiary thereof (other than a securities affiliate) shall knowingly extend or arrange for the extension of credit, directly or indirectly, secured by or for the purpose of purchasing any security while, or for 30 days after, that security is the subject of a distribution in which a securities affiliate of that bank holding company participates as an underwriter or a member of a selling group.

"(v) No bank or insured institution affiliated with a securities affiliate shall, directly or indirectly, extend credit to an issuer of securities underwritten by the securities affiliate for the purpose of paying the principal of those securities or interest or dividends on those securities. Nothing in this clause prohibits an extension of credit for a documented purpose (other than paying principal, interest, or dividends) if the timing, maturity, and other terms of the credit, taken as a whole, are substantially different from those of the underwritten securities.

"(vi)(I) No officer or director of a securities affiliate shall serve at the same time as an officer or director of any affiliated bank or insured institution.

"(II) Notwithstanding subclause (I) of this clause, an officer or director of a securities affiliate may serve at the same time as an officer or director of an affiliated bank or insured institution if the securities affiliate and the affiliated bank or insured institution are subsidiaries of a bank holding company that has total banking assets of not more than $500,000,000.

"(III) The dollar limitation in subclause (II) of this clause shall be adjusted annually after December 31, 1988, by the annual percentage increase in the Consumer Price Index as described in paragraph (8)(C) of this section.

"(IV) The Board may, by order or by regulation, grant exemptions from subclause (I) of this clause. In determining whether to grant such exemptions, the Board shall consider the size of the bank holding companies, banks, and securities affiliates involved, any burdens that may be imposed by subclause (I), the safety and soundness of the banks and securities affiliates, and other appropriate factors, including unfair competition in securities activities or the improper exchange of nonpublic customer information.

"(vii) Pursuant to regulations issued by the Securities and Exchange Commission, a securities affiliate shall prominently disclose in writing to each of its customers—

"(I) that the securities affiliate is not a bank or insured institution and is separate from any affiliated bank or insured institution; and

"(II) that securities sold, offered, or recommended by the securities affiliate are not deposits, are not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, are not guaranteed by an affiliated bank or insured institution, and are not otherwise an obligation of such a bank or insured institution.

"(viii) No bank, insured institution, or subsidiary thereof shall express an opinion on the value of, or the advisability of purchasing or selling, securities underwritten, distributed, or dealt in by an affiliated securities affiliate unless the bank, insured institution, or subsidiary discloses to the customer that the securities affiliate is underwriting, distributing, or dealing in the securities.

"(ix) No bank, insured institution, or subsidiary thereof shall disclose to an affiliated securities affiliate, nor shall a securities affiliate disclose to an affiliated bank, insured institution, or subsidiary thereof, any nonpublic customer information (including an evaluation of the creditworthiness of an issuer or other customer of that bank, insured institution, subsidiary, or securities affiliate) without the consent of that customer.

"(x) A securities affiliate shall not underwrite or distribute securities secured by or representing an interest in mortgages or other obligations originated by an affiliated bank, insured institution, or subsidiary thereof unless those securities—

"(I) are rated by an unaffiliated, nationally recognized statistical rating organization;

"(II) are issued or guaranteed by the Federal Home Loan Mortgage Corporation, the

Federal National Mortgage Association, or the Government National Mortgage Association; or

"(III) represent interests in securities described in subclause (II) of this clause;

"(xi) Each appropriate Federal banking agency and the Securities and Exchange Commission shall establish a program for—

"(I) enforcing compliance with this paragraph by banks or insured institutions or securities affiliates under its supervision; and

"(II) responding to any complaints from customers about inappropriate cross-marketing of securities products or inadequate disclosure.

"(xii) Nothing in this paragraph limits—

"(I) any authority of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the Securities and Exchange Commission; or

"(II) any disclosure or registration requirements under the securities laws, as defined in section 21(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(g)).

"(G) SECURITIES AFFILIATES APPROVED UNDER PARAGRAPH (8).—

"(i) Effective after the expiration of 180 days after the date of enactment of this paragraph, no bank holding company may engage in, or retain the shares of any company engaged in, activities of the type described in subparagraph (A)(i) of this paragraph on the basis of the Board's approval of an application under paragraph (8) of this subsection—

"(I) unless the bank holding company obtains the Board's approval to retain the shares of that company pursuant to this paragraph; or

"(II) except to the extent that those activities are specifically authorized by statute for a national bank and involve securities that are expressly described in that statute, or that a regulation promulgated by the Comptroller of the Currency pursuant to that statute before November 18, 1987, expressly describes as being authorized for a national bank to underwrite or deal in.

"(ii) The Board shall, after the date of enactment of this paragraph, disapprove any notice by a bank holding company under paragraph (8) of this subsection to engage in, or acquire the shares of a company engaged in, any activity that is described in subparagraph (A)(i), except to the extent that the activity is described in clause (i)(II) of this subparagraph.

"(H) ACTIVITIES PERMITTED FOR BANK AFFILIATES.—A bank holding company that acquires control of a securities affiliate under this paragraph shall not, after one year from the date of that acquisition, permit a bank or insured institution that it controls or any subsidiary thereof to engage, directly or indirectly, in the United States—

"(i) in activities described in subparagraph (A)(i) (except to the extent that those activities are described in subparagraph (G)(i)(II)); or

"(ii) in underwriting or distributing securities backed by or representing an interest in mortgages or other obligations originated or purchased by the bank or its affiliates.

"(I) COMPLIANCE WITH RISK-BASED CAPITAL STANDARDS.—

"(i) Notwithstanding subparagraph (A) of this paragraph, a securities affiliate shall not commence any of the following activities unless each of its affiliated banks is in compliance with any applicable risk-based capital standards issued by the appropriate Federal banking agency:

"(I) underwriting, distributing, or dealing in unsecured corporate debt securities that at the time of issuance have a maturity of one year or more; or

"(II) underwriting, distributing, or dealing in equity securities other than those issued by an investment company registered under the Investment Company Act of 1940.

"(ii) A bank is in compliance with the capital standards described in clause (i) if that bank is in compliance with a schedule for achieving compliance with those standards prescribed by the appropriate Federal banking agency.

"(J) DEFINITIONS.—For purposes of this paragraph—

"(i) a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank (as the terms 'agency', 'branch', 'commercial lending company', and 'foreign bank' are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101)), shall be considered a bank;

"(ii) each shareholder of or participant in a company that controls a bank described in section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) or in a similar statute of any State, and each subsidiary of such a shareholder or participant, shall be treated as if it were a subsidiary of that company;

"(iii) the term 'appropriate Federal banking agency' means the agencies referred to in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) with respect to banks referred to in that section and the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) with respect to insured institutions;

"(iv) the terms 'deal in' and 'dealing in' do not include purchasing or selling securities for the account of another person; and

"(v) the term 'securities' does not include insurance and the term 'securities activities' does not include insurance activities.

"(K) PHASE-IN OF OR SEPARATE CONGRESSIONAL VOTE ON CERTAIN SECURITIES ACTIVITIES.—Notwithstanding subparagraph (A) of this paragraph, a securities affiliate shall not—

"(i) engage before 180 days after the date of enactment of the Proxmire Financial Modernization Act of 1988, in underwriting, distributing, or dealing in—

"(I) unsecured corporate debt securities that at the time of issuance have a maturity of one year or more, or

"(II) securities issued by an investment company registered under the Investment Company Act of 1940; or

"(ii) engage in underwriting, distributing, or dealing in equity securities, other than those issued by an investment company registered under the Investment Company Act of 1940, except as authorized pursuant to a joint resolution pursuant to section 113 of the Proxmire Financial Modernization Act of 1988.".

SEC. 103. DEFINITION OF SECURITIES AFFILIATE.

Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(n) SECURITIES AFFILIATE.—The term 'securities affiliate' means any company that—

"(1) is engaged in the United States pursuant to section 4(c)(15)(A) of this Act in one or more of the activities described in that section; and

"(2) is registered as a broker or dealer under the Securities Exchange Act of 1934.".

SEC. 104. NINETY-ONE DAY RULE FOR SECURITIES AFFILIATE APPLICATIONS.

(a) NINETY-ONE DAY RULE.—Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by striking out "paragraph (8)" in the penultimate sentence and inserting in lieu thereof "paragraph (15)".

(b) SUNSET PROVISION.—The penultimate sentence of section 4(c) of the Bank Holding Company Act of 1956 (as amended by this Act) is repealed, effective 4 years after the date of enactment of this Act.

SEC. 105. EFFECT ON STATE LAWS PROHIBITING THE AFFILIATION OF BANKS AND SECURITIES COMPANIES.

Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended by inserting before the final period the following: ", except that no State may prohibit the affiliation of a bank or bank holding company with a securities affiliate solely because the securities affiliate is engaged in activities described in clause (i) or (ii) of section 4(c)(15)(A) of this Act.".

SEC. 106. AMENDMENT TO THE FEDERAL RESERVE ACT.

Section 23B(b)(1)(B) of the Federal Reserve Act (12 U.S.C. 371c-1(b)(1)(B)) is amended by inserting "and for 30 days thereafter" after "during the existence of any underwriting or selling syndicate".

SEC. 107. SECURITIES AFFILIATIONS OF FDIC-INSURED BANKS.

(a) SECURITIES AFFILIATIONS.—Section 18(j)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)) is amended to read as follows:

"(3) SECURITIES AFFILIATIONS.—

"(A) GENERAL RULE.—Except as provided in section 4(c)(15) of the Bank Holding Company Act of 1956, an insured bank shall not be an affiliate of any company that directly or indirectly acts in the United States as an underwriter or dealer of any security, other than a security that a national bank is specifically authorized by statute to underwrite or deal in and—

"(i) that is expressly described in that statute; or

"(ii) that a regulation promulgated by the Comptroller of the Currency pursuant to that statute before November 18, 1987, expressly describes as being authorized for a national bank to underwrite or deal in.

"(B) EXCEPTIONS.—This paragraph does not apply to—

"(i) an insured bank that is described in subparagraph (D), (F), (H), or (I) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)); or

"(ii) a foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)), solely because it has an insured branch in the United States.

"(C) GRANDFATHER PROVISION.—This paragraph does not prohibit the continuation of an affiliation that existed on March 5, 1987.

"(D) TRANSITION RULE.—An affiliation that became unlawful as a result of the enactment of the Competitive Equality Amendments of 1987, or that becomes unlawful as a result of the enactment of the Proxmire Financial Modernization Act of 1988, may continue until August 10, 1989.

"(E) ACTIVITIES CONDUCTED DIRECTLY BY INSURED BANK.—Nothing in this paragraph restricts an activity that is conducted directly by an insured bank and is subject to section 21 of the Banking Act of 1933 (12 U.S.C. 378).

"(F) DEFINITIONS.—As used in this paragraph—

"(i) The term 'affiliate' has the meaning given to that term in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).

"(ii) The term 'company' has the meaning given to that term in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)).

"(iii) The term 'dealer' has the meaning given to that term in section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)).

"(iv)(I) Except as provided in subclause (II) of this clause or except in the case of a contract of insurance, the term 'security' has the meaning given to that term in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

"(II) The Board of Governors of the Federal Reserve System may by regulation exempt from the definition of 'security' a banking product that has been traditionally and customarily originated or handled by national banks (such as loan participations, mortgage notes, and certificates of deposit) if the exemption is consistent with the purposes of this paragraph and of section 4(c)(15) of the Bank Holding Company Act of 1956.

"(v) The term 'underwriter' has the meaning given to that term in section 2(11) of the Securities Act of 1933 (15 U.S.C. 77b(11)).".

(b) Conforming Amendment.—Clause (i) of section 408(m)(1)(A) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)) is amended by inserting after "clause (iii) of this subparagraph," the following: "and in section 18(j)(3) of the Federal Deposit Insurance Act,".

(c) Technical Amendment.—Section 18(j)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(4)(A)) is amended by striking "or any provision of section 20 of the Banking Act of 1933" and inserting "or any provision of paragraph (3) or (6) of this subsection".

(d) Limitations on Certain Activities Involving Municipal Revenue Bonds.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding at the end thereof the following new paragraph:

"(6) Limitations on certain activities involving certain municipal securities.—

"(A) Underwriting or distribution by affiliate of insured bank.—No affiliate of an insured bank shall underwrite or distribute securities described in subparagraph (C) of this paragraph unless that insured bank, as well as any affiliated insured institution (as defined in section 408(a)(1) of the National Housing Act), complies with section 4(c)(15)(F)(iii) of the Bank Holding Company Act of 1956 in the same manner and to the same extent as if the insured bank were a bank and the affiliate were a securities affiliate for purposes of section 4(c)(15)(F)(iii).

"(B) Underwriting or distribution by insured bank.— An insured bank that underwrites or distributes securities described in subparagraph (C) of this paragraph shall not take any action with respect to those securities that would violate subparagraph (A) of this paragraph if those securities were underwritten or distributed by an affiliate of the insured bank.

"(C) Certain municipal securities described.—Securities are described in this subparagraph for purposes of this paragraph if—

"(i) a national bank could underwrite those securities only pursuant to the sentence of paragraph (7) of section 5136 of the Revised Statutes (12 U.S.C. 24) that refers to an obligation issued by or on behalf of or guaranteed by a State, territory, or possession of the United States, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing; and

"(ii) no State, territory, or possession of the United States, political subdivision thereof, or the District of Columbia pledges its full faith and credit for payment of the entire principal of and interest on the securities.

"(D) Definition of 'affiliate'.—For purposes of this paragraph, the term 'affiliate' has the meaning given to that term in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).".

SEC. 108. AUTHORIZATION FOR NATIONAL BANKS TO UNDERWRITE MUNICIPAL REVENUE BONDS, SPONSOR UNIT INVESTMENT TRUSTS, AND DISTRIBUTE INVESTMENT COMPANY SECURITIES.

(a) Authorization.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following:

"The limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing for its own account, securities shall not apply to an obligation issued by or on behalf of or guaranteed by a State, territory, or possession of the United States, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing. Notwithstanding the preceding sentence, such limitations and restrictions shall apply to a private activity bond (as defined in section 141 of the Internal Revenue Code of 1986) unless—

"(1) a State, territory, or possession of the United States or political subdivision thereof, or the District of Columbia, pledges its full faith and credit for payment of the entire principal of and interest on such bond; or

"(2) the interest on such bond is excluded from gross income under section 103(a) of the Internal Revenue Code of 1986, and the issuer, or the governmental unit on behalf of which such bond was issued, is the sole owner, for Federal income tax purposes, of the facility to be financed from the proceeds of such bond.

For purposes of the foregoing sentence, any bond described in section 1312(c)(2) of the Tax Reform Act of 1986 to which section 141(a) of the Internal Revenue Code of 1986 does not apply (by reason of section 1311, 1312, or 1313 of that Act), shall not be treated as a private activity bond.

"If the association is not an affiliate of a securities affiliate (as the terms 'affiliate' and 'securities affiliate' are defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)), the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing for its own account, securities shall not apply to—

"(1) the securities of unit investment trusts (as defined in section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-4(2)) holding only securities that the association is specifically authorized by statute to underwrite and that are expressly described in that authorizing statute, or expressly described as being authorized for a national bank to underwrite in a regulation promulgated before November 18, 1987, by the Comptroller of the Currency pursuant to that authorizing statute, and

"(2) the distribution of securities issued by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) that are not sponsored, managed, or controlled by the association or any affiliate of the association.".

(b) Technical Amendment.—The sixth sentence of paragraph Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking out "or general obligations of any State or of any political subdivision thereof,".

SEC. 109. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) Restrictions on United States Banking Activities of Large Foreign Banks That Acquire Large Investment Banking Organizations With United States Offices.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by redesignating subsection (e) as subsection (g) and by inserting after subsection (d) the following new subsection:

"(e)(1) No foreign bank described in paragraph (2) of this subsection, and no foreign bank controlled by a foreign company described in paragraph (2), shall—

"(A) acquire or retain control of a bank,

"(B) establish or maintain a branch or agency in a State, or

"(C) acquire or retain control of a commercial lending company organized under State law.

"(2) A foreign bank or foreign company controlling a foreign bank is described in this paragraph for purposes of paragraph (1) if—

"(A) the foreign bank or foreign company became an affiliate of an investment banking organization (as that term is used in section 4(c)(15)(C)(i)(II) of the Bank Holding Company Act of 1956) after the date of enactment of the Proxmire Financial Modernization Act of 1988;

"(B) section 4(c)(15)(C) of the Bank Holding Company Act of 1956 would have required the Board to disapprove the transaction that resulted in the affiliation if the foreign bank or foreign company had been a bank holding company at the time of the transaction;

"(C) the affiliation has not been terminated; and

(b) Restrictions on United States Investment Banking Activities of Large Foreign Investment Banking Organizations That Acquire Large Bank Holding Companies or Banks.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by inserting after subsection (e) (as added by subsection (a)) the following:

"(f)(1) No foreign investment banking organization (including any of its subsidiaries or affiliates) described in paragraph (2) shall acquire or retain control of a securities affiliate.

"(2) A foreign investment banking organization (including any of its subsidiaries or affiliates) is described in this paragraph for the purposes of paragraph (1) if—

"(A) the foreign investment banking organization became an affiliate of a bank holding company or bank after the date of enactment of the Proxmire Financial Modernization Act of 1988;

"(B) section 4(c)(15)(C) of the Bank Holding Company Act of 1956 would have required the Board to disapprove the transaction that resulted in the affiliation if the foreign investment banking organization had been required to file an application or notice under section 4(c)(15); and

"(C) the affiliation has not been terminated.".

(c) Technical Amendment.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting "affiliate," after "(13) the terms" and by inserting "securities affiliate" after "control,".

SEC. 110. DIVERSIFIED FINANCIAL HOLDING COMPANIES.

(a) Definition.—Section 2 of the Bank Holding Company Act (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(o) Diversified Financial Holding Company.—For purposes of this Act, the term 'diversified financial holding company' means a company that directly or indirectly controls any bank and that is described in each of the following paragraphs:

"(1) Engages only in financial activities.—The company engages only in activities that are—

"(A) permissible for bank holding companies under section 4 of this Act (12 U.S.C. 1843); or

"(B) permissible under section 4(i)(4).

"(2) 80-percent test.—On average during the preceding calendar year, the company devoted 80 percent or more of its consolidated assets to activities that are permissible under paragraph (8), (13), (14), or (15) of section 4(c) of this Act, excluding—

"(A) activities conducted by any entity described in subparagraph (A) or (B) of paragraph (3) of this subsection; and

"(B) insurance activities that are permissible under section 4(c)(13) but not permissible under section 4(j), to the extent that those activities exceed 10 percent of the company's consolidated assets.

"(3) Limit on FDIC-insured banks, FSLIC-insured institutions, and subsidiaries thereof as percentage of assets.—On average during the preceding calendar year, 20 percent or less of the company's consolidated assets consisted of the following entities in aggregate:

"(A) insured banks (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and any subsidiaries thereof; and

"(B) insured institutions and any subsidiaries thereof.

"(4) Global limit on depository institutions and their subsidiaries as percentage of assets.—On average during the preceding calendar year, 40 percent or less of the company's consolidated assets consisted of the following entities in aggregate:

"(A) insured banks and uninsured banks (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and any subsidiaries thereof;

"(B) insured institutions and any subsidiaries thereof, and uninsured institutions (as defined in section 408(a)(1)(B) of the National Housing Act (12 U.S.C. 1730a(a)(1)(B)) and any subsidiaries thereof;

"(C) foreign banks (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)) and any subsidiaries thereof; and

"(D) other depository institutions, whether or not in the United States, and any subsidiaries thereof.

"(5) Election.—The company has filed with the Board a written notice of its intent to be treated as a diversified financial holding company.".

(b) In General.—Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) is amended by adding at the end thereof the following new subsection:

"(i) Diversified Financial Holding Companies.—

"(1) Status.—A diversified financial holding company shall not be considered a bank holding company.

"(2) Applicable law.—Except as provided in paragraph (4) or (6) of this subsection, a diversified financial holding company shall be subject to any provision of the United States Code relating to bank holding companies in the same manner and to the same extent as if it were a bank holding company.

"(3) Intermediate holding companies.—

"(A) A subsidiary of a diversified financial holding company is not a bank holding company because it controls a bank.

"(B) If a subsidiary of a diversified financial holding company controls a bank, that subsidiary shall be subject to any provision of the United States Code relating to bank holding companies in the same manner and to the same extent as if it were a bank holding company, except to the extent that the diversified financial holding company is not subject to that provision.

"(4) Authority to continue to engage in nonconforming financial activities.—Notwithstanding subsection (a) of this section, a diversified financial holding company may engage in, or acquire or retain direct or indirect ownership or control of shares of any company engaged in, any activity described in paragraph (5) of this subsection (other than an activity described in subsection (c)(15)(A)(i) of this section) in which the diversified financial holding company was lawfully engaged in the United States, directly or through a subsidiary, as of February 1, 1988.

"(5) Definition of financial activities.—The following activities are described in this paragraph for purposes of paragraph (4) of this subsection:

"(A) insurance underwriting activities;

"(B) insurance agency activities;

"(C) real estate brokerage activities;

"(D) real estate investment and development activities;

"(E) travel agency activities; and

"(F) any other activities that the Board has determined to be financial.

"(6) Exemption from examination and capital requirements.—

"(A) Except as provided in subparagraph (B) of this paragraph, a diversified financial holding company, and any subsidiary (other than a bank) of that bank holding company, shall not be subject to inspection or examination or to reporting or capital requirements established by the Board under this Act or the International Lending Supervision Act of 1983.

"(B) The Board may examine or require reports of any company that has filed a notice under section 2(o)(5) of this Act, and any nonbank subsidiary thereof, in order to—

"(i) determine whether that company is a diversified financial holding company;

"(ii) assure compliance by that company or nonbank subsidiary with the provisions of this Act, the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972), and sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c, 371c-1); or

"(iii) assure that the safety and soundness of that company's subsidiary banks are not threatened by the activities or condition of that company or its nonbank subsidiaries whenever the Board determines that emergency conditions exist requiring such assurance.

"(7) Restrictions on joint marketing.—No subsidiary bank of a diversified financial holding company shall—

"(A) offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8) or (c)(15) of this section, or

"(B) permit its products or services to be offered or marketed in connection with products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8) or (c)(15).

"(8) Restrictions on lending to affiliates engaged in nonconforming activities.—If a company engages in any activity pursuant to paragraph (4) of this subsection, subsection (c)(15)(F)(i) of this section shall apply with respect to that company in the same manner and to the same extent as if the company were a securities affiliate.

"(9) Divestiture of subsidiary banks.—

"(A) If a company that has filed a notice under section 2(o)(5) of this Act fails to maintain the capital of each of its subsidiary banks at or above the level established for that bank by the appropriate Federal banking agency, the Board shall notify the company of the capital deficiency and provide the company 30 days in which to restore the capital of the bank to the level required by the appropriate Federal banking agency.

"(B) If the Board determines that the company is unable to restore the capital of its subsidiary bank to the required level, the Board may issue an order requiring the company to terminate its ownership or control of the bank within 180 days of the date of the order.".

SEC. 111. STUDY ON HARMONIZING THE REGULATION OF BANKING AND SECURITIES ORGANIZATIONS.

(a) Finding.—The Congress hereby finds that authorization for banks to be affiliated with securities firms pursuant to section 102 of this Act and the provision of banking-type services by firms affiliated with securities firms calls for steps to be taken toward the promotion of regulatory equity between such firms. Among the most important tasks necessary to achieve this goal are the development and harmonization of capital adequacy and financial condition reporting requirements applicable to such firms. To that end, the Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board"), the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Commodity Futures Trading Commission shall review and coordinate their respective rules applicable to capital adequacy, reporting requirements, and transactions with affiliates on an ongoing basis in order to move in an orderly fashion toward greater compatibility and consistency.

(b) Study.—The agencies referred to in subsection (a) shall study the issues set forth below and prepare a joint report to the Congress within one year of the enactment of this Act setting forth the results of their study and any recommendations they may have for implementing their conclusions. The issues to be studied are—

(1) the advisability and effect of requiring the consolidated application of prudential standards and reports of financial condition on companies controlling banks or securities firms;

(2) the appropriate techniques, to the extent necessary, for supervision of financial interrelationships of banks and securities firms with their affiliates;

(3) the direction of efforts to achieve international harmony and convergence of capital adequacy and financial condition re-

porting standards for banks, securities firms, and companies controlling banks and securities firms;

(4) the effect of the conduct of financial activities across national borders on the provision of securities services within the United States and on the supervision of such services within the United States;

(5) the advisability of establishing a permanent international framework for developing and implementing global policies to better harmonize financial market regulation, including capital adequacy standards; registration and reporting standards for banks and securities firms (including associated activities in futures markets), and companies controlling banks and securities firms; direct trading, clearing, and funds transfer mechanisms; routine exchange of information to facilitate international market surveillance of capital positions, trading activity, intercompany transfers, and potential abusive practices; exchange of information to facilitate the investigation of individual enforcement cases; dealing with international market emergencies; and approval of new products and services;

(6) the nature and techniques used in the supervision of banks, securities firms, and companies controlling banks and securities firms; and

(7) the impact of financial services competition from firms that are neither banks nor securities firms.

(c) CONSULTATION.—With due regard for the existing agreement and understandings between bank supervisors on an international level regarding capital adequacy of banks, the agencies referred to in subsection (a) on an ongoing basis shall—

(1) each review their respective rules applicable to capital adequacy and reporting of financial condition;

(2) develop proposed revisions to those rules that would move toward the harmonization of such rules;

(3) provide such proposed revisions to the other for comment and discussion; and

(4) discuss in detail, in the report required by subsection (d), any proposed revisions on which the agencies disagree.

(d) REPORTING.—No later than September 30 of each year, the agencies referred to in subsection (a) shall submit a joint annual report to Congress covering their progress toward the goals set forth in subsection (a) and recommending amendments to law, if any, that they believe would be necessary or advisable in order to attain those goals.

SEC. 112. STUDY OF THE NATIONAL PAYMENTS SYSTEM.

(a) FINDING.—It is the finding of Congress that the continued smooth and efficient functioning of the large-dollar payments system of the United States, including systems that provide for the delivery of securities against payment, is essential to the growth and stability of the economy of the United States and other nations and that the recent growth in the volume of payments due to new technology and changes in the financial services industry suggest that consideration of the mechanism by which large-dollar payments in the United States are made is necessary.

(b) STUDY.—The Board of Governors of the Federal Reserve System is hereby directed to study and prepare a report on the steps necessary to ensure the integrity and reliability of large-dollar payments systems in the United States, including the current status of the mechanism by which large-dollar payments are made in the United States and the steps that appear necessary or advisable to strengthen the reliability and safety and soundness of that mechanism over time. Such report shall be presented to Congress within one year of the passage of this Act.

(c) CONSULTATION.—The Board is directed to consult with the providers of large-dollar payment services, the users of such services, the vendors of equipment used in the provisions of such services, and the regulators of all of the above in conducting the study.

SEC. 113. CONGRESSIONAL VOTE ON WHETHER TO PERMIT SECURITIES AFFILIATES TO UNDERWRITE EQUITY SECURITIES.

(a) DEFINITION AND SUBMISSION OF JOINT RESOLUTION.—

(1) JOINT RESOLUTION DEFINED.—For purposes of this section, a joint resolution means a joint resolution introduced pursuant to the procedures described in this section—

(A) the matter after the resolving clause of which is as follows:

"That section 4(c)(15)(K) of the Bank Holding Company Act of 1956 is repealed.";

(B) which does not have a preamble; and

(C) the title of which is "Joint Resolution pursuant to the Proxmire Financial Modernization Act of 1988".

(2) SUBMISSION TO THE CONGRESS.—On the first day of the first session of the 102d Congress, the Secretary of the Treasury shall submit the joint resolution to the Congress, together with a specific legislative recommendation on whether or not securities affiliates should be permitted to underwrite, distribute, and deal in equity securities. The recommendation shall be prepared by the Secretary of the Treasury in consultation with the Comptroller General of the United States, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, and shall be limited solely to the issue of whether the powers prohibited under section 4(c)(15)(K)(ii) of the Bank Holding Company Act of 1956 shall be authorized.

(b) PROCEDURE FOR HANDLING JOINT RESOLUTION.—

(1) Within 30 days of the date of submission by the Secretary of the Treasury, such joint resolution as defined in subsection (a) of this section shall be introduced (by request) in the House by the Speaker of the House for himself and the minority leader of the House or by Members of the House designated by the Speaker and the minority leader, and shall be introduced (by request) by the majority leader of the Senate for himself and the minority leader of the Senate or by Members of the Senate designated by the majority leader and the minority leader.

(2) Such joint resolution introduced in the House of Representatives shall be referred to the appropriate Committee or Committees, and such joint resolution introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

(3) If any Committee of either House to which the joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the Committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(4) Not later than 90 calendar days after the first day of session of the 102d Congress, it shall be in order to move to proceed to the consideration of such joint resolution.

(5)(A) A motion in the House of Representatives to proceed to the consideration of such joint resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on such joint resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to further limit debate shall not be debatable. No amendment to, or motion to recommit, the joint resolution shall be in order. It shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(C) Motions to postpone made in the House of Representatives with respect to the consideration of such joint resolution and motions to proceed to the consideration of other business shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to such joint resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this paragraph, consideration of such joint resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other joint resolutions in similar circumstances.

(6)(A) A motion in the Senate to proceed to the consideration of such joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on such joint resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 20 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with such joint resolution shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of such joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of such joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, the joint resolution is in order in the Senate.

(7) In the case of a joint resolution described in subsection (a), if prior to the passage by one House of a joint resolution of that House, that House received the joint resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if the joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

(8) The vote on passage of the joint resolution in each House shall occur on or before April 1, 1991.

TITLE II—EXPEDITED PROCEDURES

SEC. 201. EXPEDITED PROCEDURES FOR FORMING A BANK HOLDING COMPANY.

Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)",

(2) by inserting before the period at the end of the second sentence the following: "; or (C) with 30 days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive, after the reorganization, substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if, immediately following the acquisition, the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company and the holding company does not engage in any activities other than those of banking or managing and controlling banks. In promulgating regulations pursuant to this subsection, the Board shall not require more capital for the subsidiary bank immediately following the reorganization than is required for a similarly sized bank that is not a subsidiary of a bank holding company".

SEC. 202. EXEMPTION OF CERTAIN HOLDING COMPANY FORMATIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933.

Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following new paragraph:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), if the acquisition occurs solely as part of a reorganization in which a person or group of persons exchange their shares of a bank for shares of a newly formed bank holding company and receive, after that reorganization, substantially the same proportional share interests in the bank holding company as they held in the bank, except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law.".

SEC. 203. EXPEDITED PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN NONBANKING ACTIVITIES.

Paragraph (8) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by redesignating clauses (i) and (ii) of subparagraphs (C), (D), and (E) as subclauses (I) and (II), respectively;

(2) by redesignating subparagraphs (A) through (G), and any cross references thereto as clauses (i) through (vii), respectively; and

(3) by striking out all that precedes "purposes of this subsection it is not" and inserting in lieu thereof the following:

"(8)(A) ACTIVITIES CLOSELY RELATED TO BANKING.—In accordance with the limitations and requirements contained in subparagraphs (B) and (C) of this paragraph, shares of any company whose activities the Board has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto, after taking into account technological or other innovations in the provision of banking or banking-related services.

"(B) NOTICE REQUIREMENTS.—

"(i) No bank holding company shall engage in any activity or acquire the shares of a company pursuant to this paragraph, either de novo or by an acquisition in whole or in part of a going concern, unless the Board has been given 60 days prior written notice of that proposal and, within that period, the Board has not issued an order—

"(I) disapproving the proposal, or

"(II) extending the time period in accordance with clause (iii) below.

"(ii)(I) An acquisition may be made prior to the expiration of the disapproval period if the Board issues a written statement of its intent not to disapprove the proposal.

"(II) The Board shall publish in the Federal Register notice of receipt of a notice under this paragraph involving insurance and provide a reasonable period for public comment. The Board shall issue an order involving any such notice.

"(III) No notice under this paragraph is required for a bank holding company to establish de novo an office to engage in any activity previously authorized for that bank holding company under this paragraph or to change the location of an office engaged in that activity.

"(iii) The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice, except that the Board may require only such information as may be relevant to the nature and scope of the proposed activity and to the Board's evaluation of the notice under the criteria specified in clause (iv). If the Board requires additional relevant information beyond that provided in the notice, the Board may by order extend the time period provided in clause (i) of this subparagraph until it has received that information, and the activity that is the subject of the notice may be commenced within 60 days of the date of that receipt unless the Board issues a disapproval order as provided in clause (i). Such an extension order is reviewable under section 9 of this Act.

"(iv) In determining whether to disapprove a notice under this paragraph, the Board shall consider whether the performance of the activity described in the notice by a bank holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. In orders and regulations under this paragraph, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(v) The Board shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(C) INSURANCE ACTIVITIES NOT CLOSELY RELATED TO BANKING.—For".

SEC. 204. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK HOLDING COMPANY ACQUISITIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by adding before the period at the end of the fourth sentence thereof the following: "or if no adverse comment has been received regarding section 4(c)(8)(C) or section 4(j) of this Act, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 5 days".

SEC. 205. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK MERGERS.

Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence thereof the following: "or such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 5 days".

SEC. 206. AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

(a) AFFILIATION THRESHOLD.—Section 202(3)(B) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)(B)) is amended by striking "50" both places it appears and inserting "25".

(b) EXCLUSION OF ADVISORY AND HONORARY DIRECTORS.—Section 202(4) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(4)) is amended by inserting after "(including an advisory or honorary director" the following: ", except in the case of a depository institution with total assets of less than $100,000,000".

(c) EXCEPTION FOR FAILED OR FAILING INSTITUTION.—Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end thereof the following:

"(7) A depository institution or a depository holding company that—

"(A) closes or is in danger of closing, as defined by the principal Federal supervisory agency charged by section 207 of this title with the administration and enforcement of this title, and

"(B) is acquired by another depository institution or depository holding company,

for a period of 5 years after the date of acquisition of the institution or company that is closed or is in danger of closing.".

(d) LIMITED EXCEPTION FOR DIVERSIFIED SAVINGS AND LOAN HOLDING COMPANIES.—

(1) Section 202 of the Depository Institution Management Interlocks Act (12 U.S.C. 3202) is amended by adding at the end the following:

"(6) the term 'primary Federal supervisor' shall mean, with respect to any entity subject to this Act, the agency authorized by section 209 of this Act to issue rules or regulations carrying out this title.".

(2) Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end the following:

"(8) A diversified savings and loan holding company (as defined in section 408 of the National Housing Act (12 U.S.C. 1703a)), with respect to the service of a director of a nonaffiliated depository institution or depository holding company (including a savings, and loan holding company) as a director of the diversified savings and loan holding company. The director may begin the dual service allowed by this paragraph upon the expiration of 60 days after notice of the proposed dual service by the diversified savings and loan holding company to its primary Federal supervisor and to the primary Federal supervisor of the nonaffiliated depository institution or depository holding company if prior to the expiration of that

60-day period, neither primary Federal supervisor disapproves the proposed dual service. Either primary Federal supervisor may disapprove the proposed dual service if it finds that (A) the dual service would result in a monopoly or substantial lessening of competition in financial services in any part of the United States; (B) the dual service would lead to substantial conflicts of interest or unsafe and unsound practices; (C) in the primary metropolitan statistical area in which the diversified savings and loan holding company's subsidiary depository institution is located, there is substantial competition between that subsidiary depository institution and the nonaffiliated depository institution or a depository institution subsidiary of the nonaffiliated depository holding company; or (D) the applying company neglects, fails, or refuses to furnish all the information required by either primary Federal supervisor. Either primary Federal supervisor may require that a permitted dual service be terminated if there occurs a change in circumstance that would have provided a basis for disapproving the dual service when it was originally proposed.".

(e) EXTENSION OF GRANDFATHER CLAUSE.—Subsections (a) and (b) of section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) are each amended by striking "ten years" and inserting "15 years".

SEC. 207. BANKERS' BANKS.

(a) BANKERS' BANKS AND BANK HOLDING COMPANIES.—

(1) Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by inserting "or their holding companies" after "is owned exclusively (except to the extent directors qualifying shares are required by law) by depository institutions".

(2) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by inserting—

(A) ", directly or through a holding company," after "which is owned", and

(B) "or their holding companies" after "other depository institutions" each place it appears in paragraph (b)(1).

(b) TECHNICAL AMENDMENT ON BANKERS' BANKS AND DEPOSIT INSURANCE.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking "bank described in the last sentence of section 2(c)" and inserting "a bankers' bank as described in section 5169 of the Revised Statutes (12 U.S.C. 27)".

(c) LIMIT ON LOANS SECURED BY SECURITIES.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking "10 percentum" in each place it appears and inserting in lieu thereof "15 percent".

TITLE III—BROKERS AND DEALERS

SEC. 301. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

"(4) 'BROKER'.—

"(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

"(B) EXCLUSION OF BANKS.—Such term does not include a bank unless the bank publicly solicits such business or is compensated for such business by the payment of commissions or similar remuneration based on effecting transactions in securities (excluding fees calculated as a percentage of assets under management) in excess of the bank's incremental costs directly attributable to effecting such transactions (hereinafter referred to as 'incentive compensation').

"(C) BANK ACTIVITIES.—A bank shall not be deemed to be a 'broker' because it engages in one or more of the following activities:

"(i) Enters into a contractual or other arrangement with a broker or dealer registered under this title pursuant to which the broker or dealer will offer brokerage services on or off the premises of the bank if—

"(I) such broker or dealer is clearly identified as the person performing the brokerage services;

"(II) bank employees perform only clerical or ministerial functions in connection with brokerage transactions unless such employees are qualified as registered representatives pursuant to the requirements of a self-regulatory organization;

"(III) bank employees do not receive incentive compensation for any brokerage activities unless such employees are qualified as registered representatives pursuant to the requirements of a self-regulatory organization; and

"(IV) such services are provided by the broker or dealer on a basis in which all customers are fully disclosed.

"(ii) Engages in trust activities (including effecting transactions in the course of such trust activities) permissible for national banks under the first section of the Act of September 28, 1962 (12 U.S.C. 92a) or for State banks under relevant State trust statutes or law unless the bank—

"(I) publicly solicits brokerage business other than by advertising, in conjunction with advertising its other trust activities, that it effects transactions in securities, and

"(II) receives incentive compensation.

This clause does not apply to securities safekeeping, self-directed individual retirement accounts, or managed agency or other functionally equivalent accounts of a bank.

"(iii) Effects transactions in exempted securities, other than municipal securities, or in commercial paper, bankers' acceptances, or commercial bills.

"(iv) Effects transactions in municipal securities and does not have a securities affiliate as provided in section 4(c)(15) of the Bank Holding Company Act of 1956.

"(v) Effects transactions as part of any bonus, profit-sharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, stock appreciation, stock option, dividend reinvestment, or similar plan for employees or shareholders of an issuer or its subsidiaries.

"(vi) Effects transactions as part of a program for the investment or reinvestment of bank deposit funds into any no-load open-end investment company registered pursuant to the Investment Company Act of 1940 that attempts to maintain a constant net asset value per share and has an investment policy calling for investment of at least 80 percent of its assets in debt securities maturing in 13 months or less.

"(vii) Effects transactions for the account of any affiliate of the bank, as the term 'affiliate' is defined in section 2 of the Banking Act of 1933 (12 U.S.C. 221a), treating all banks as member banks for purposes of such definition.

"(viii) Effects sales (I) as part of a primary offering of securities by an issuer, not involving a public offering, pursuant to sections 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and (II) exclusively to: a bank as defined in section 3(a)(2) of the Securities Act of 1933 whether acting in its individual or fiduciary capacity; an insurance company as defined in section 2(13) of the Securities Act of 1933; an investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; a Small Business Investment Company licensed by the Small Business Administration; an insured institution, as defined in section 401 of the National Housing Act; an employee benefit plan within the meaning of title I of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, that is a bank as defined in section 3(a)(2) of the Securities Act of 1933, an insurance company as defined in section 2(17) of the Investment Company Act of 1940, or an investment adviser registered under the Investment Advisers Act of 1940, or if the employee benefit plan has total assets in excess of $5,000,000; an employee benefit plan as defined in section 3 of the Employee Retirement Income Security Act of 1974, established and maintained by a State, its political subdivisions, or any agency or instrumentality of a State or its political subdivisions exclusively for the benefit of its employees or their beneficiaries that is governed by fiduciary principles comparable to those contained in such Act, if (i) the plan has total assets in excess of $25,000,000, and (ii) investment decisions for the plan are made by a plan fiduciary, as defined in section 3(21) of such Act, that is a bank, as defined in section 3(a)(2) of the Securities Act of 1933, an insurance company as defined in section 2(17) of the Investment Company Act of 1940, or an investment adviser registered under the Investment Advisers Act of 1940; a corporation with total assets in excess of $50,000,000 and net worth in excess of $5,000,000, as reflected on financial statements prepared in accordance with generally accepted accounting principles; an organization described in section 501(c)(3) of the Internal Revenue Code with total assets in excess of $5,000,000; a foreign bank, broker, dealer, insurance company, or government or government agency; or a natural person with a net worth exceeding $5,000,000. The dollar limitations in this clause shall be adjusted annually after December 31, 1988, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics.

"(ix) Effects fewer than 1,000 transactions per year in securities other than transactions referenced in clauses (i) through (viii) of this subparagraph, if the bank does not have a subsidiary or affiliate registered as a broker or dealer under section 15 of this title.".

SEC. 302. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

"(5) 'DEALER'.—

"(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for his own account through a broker or otherwise.

"(B) EXCEPTIONS.—Such term does not include—

"(i) any person insofar as that person buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business; or

"(ii) any bank insofar as the bank (I) buys and sells commercial paper, bankers' acceptances, or commercial bills, or exempted securities other than municipal securities; (II) buys and sells municipal securities and does not have a securities affiliate as provided in section 4(c)(15) of the Bank Holding Company Act of 1956; (III) engages in trust or fiduciary activities (including buying and selling securities for investment purposes in the course of such trust or fiduciary activities); or (IV) engages in the issuance or sale through a grantor trust or otherwise of securities backed by or representing an interest in obligations (other than securities of which the bank is not the issuer) originated or purchased by the bank, its affiliates, or its subsidiaries.".

SEC. 303. POWER TO EXEMPT FROM THE DEFINITIONS OF BROKER AND DEALER.

Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following:

"(e) The Commission, by rule, regulation, or order, upon its own motion or upon application, may conditionally or unconditionally exempt any person or class of persons from the definitions of 'broker' or 'dealer', if the Commission finds that such exemption is consistent with the public interest, the protection of investors, or the purposes of this title.".

SEC. 304. REQUIREMENT THAT BANKS FALLING WITHIN THE DEFINITIONS OF BROKER OR DEALER PLACE THEIR SECURITIES ACTIVITIES IN A SEPARATE CORPORATE ENTITY.

Section 15(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended to read as follows:

"(a)(1) It shall be unlawful for any broker or dealer that is either a person other than a natural person or a natural person not associated with a broker or dealer that is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with subsection (b) of this section.

"(2) It shall be unlawful for any bank to act as a broker or dealer, except in the course of an exclusively intrastate business. This section shall not preclude a subsidiary of a bank or an affiliate of a bank holding company, other than a bank, as those terms are defined in the Bank Holding Company Act of 1956, that is registered in accordance with subsection (b) of this section from acting as a broker or dealer to any extent otherwise permissible by law.

"(3) The Commission, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraphs (1) and (2) of this subsection any broker or dealer or class of brokers or dealers specified in such rule or order.".

SEC. 305. EFFECTIVE DATE.

This title shall take effect upon the expiration of 270 days after the date of its enactment.

TITLE IV—BANK INVESTMENT COMPANY ACTIVITIES

SEC. 401. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANKS.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(f)) is amended by striking "trusts" the first place it appears and inserting in lieu thereof "trusts, but, where any such bank or an affiliated person thereof is an affiliated person, promoter, or sponsor of, or principal underwriter for, such registered company, only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors, after consulting in writing with the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))".

(b) UNIT INVESTMENT TRUSTS.—Section 26(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(a)(1)) is amended by inserting after "bank" the following: "not affiliated with such underwriter or depositor, or where such bank is so affiliated, only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors after consulting in writing with the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))".

SEC. 402. AFFILIATED TRANSACTIONS.

Section 10(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(f)) is amended by—

(1) inserting "(A)" immediately before "a principal underwriter"; and

(2) inserting ", or (B) the proceeds of which will be used to retire an indebtedness owed to a bank where the bank or an affiliated person thereof is an affiliated person, promoter, or sponsor of, or principal underwriter for, such registered company" after "for the issuer".

SEC. 403. BORROWING FROM AN AFFILIATED BANK.

Section 18(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(f)) is amended by adding at the end thereof the following:

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, it shall be unlawful for any registered open-end company to borrow from any bank if such bank or any affiliated person thereof is an affiliated person, promoter, or sponsor of, or principal underwriter for, such company, except that the Commission may, by rules and regulations or order, permit such borrowing which the Commission finds to be in the public interest and consistent with the protection of investors.".

SEC. 404. INDEPENDENT DIRECTORS.

(a) INTERESTED PERSON.—Section 2(a)(19)(A)(v) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A)(v)) is amended by striking out "1934 or any affiliated person of such a broker or dealer, and" and inserting in lieu thereof "1934 or any person that, at any time during the preceding 6 months, has acted as custodian or transfer agent or has executed any portfolio transactions for, engaged in any principal transactions with, or loaned money to, the investment company, or any other investment company having the same investment adviser, principal underwriter, sponsor, or promoter, or any affiliated person of such a broker, dealer, or person, and".

(b) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(c)) is amended by striking "bank, except" and inserting in lieu thereof "bank and its subsidiaries or any one bank holding company and its affiliates and subsidiaries, as those terms are defined in the Bank Holding Company Act of 1956, except".

(c) The provisions of subsection (a) of this section shall become effective after one year following the date of enactment of this title.

SEC. 405. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-35(a)) is amended to read as follows:

"SEC. 35. (a) It shall be unlawful for any person, in issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company has been guaranteed, sponsored, recommended, or approved by the United States or any agency or officer thereof or has been insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or is guaranteed by or is otherwise an obligation of any bank or insured institution. If a bank holding company, bank, or separately identifiable division or department of a bank, or any affiliate or subsidiary thereof, is an investment adviser, organizer, sponsor, promoter, principal underwriter or an affiliated person of a registered investment company, or a bank or an affiliated person of a bank is offering or selling securities of a registered investment company, or the name of an investment company is that of, or similar to that of, a bank, pursuant to regulations adopted by the Commission, after consultation in writing with the appropriate Federal banking agencies, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), any person in issuing or selling securities of such investment company may be required to disclose prominently that the investment company and any security issued by it is not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is not guaranteed by an affiliated bank or insured institution, and is not otherwise an obligation of such a bank or insured institution.".

SEC. 406. DEFINITION OF BROKER.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(6)) is amended to read as follows:

"(6) 'Broker' has the same meaning as in the Securities Exchange Act of 1934, but does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.".

SEC. 407. DEFINITION OF DEALER.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(11)) is amended to read as follows:

"(11) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 408. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)) is amended—

(1) by striking "investment company" and inserting "investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank or bank holding company acts as an investment adviser to a registered investment company unless the bank performs such services through a separately identifiable department or division of the bank, in which case the department or division and not the bank itself shall be deemed to be the 'investment adviser' "; and

(2) by adding at the end thereof the following: "For purposes of this paragraph, a

separately identifiable department or division of a bank shall mean a unit that—

"(A) is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

"(B) there are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, all of the records relating to such investment adviser activities and such records are so maintained or otherwise accessible as to permit independent examination thereof and enforcement of the Act and rules and regulations thereunder.".

SEC. 409. DEFINITION OF BROKER.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(3)) is amended to read as follows:

"(3) 'Broker' has the same meaning as in the Securities Exchange Act of 1934.".

SEC. 410. DEFINITION OF DEALER.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(7)) is amended to read as follows:

"(7) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 411. NOTIFICATION AND CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by inserting after section 210 the following new section:

"NOTIFICATION AND CONSULTATION

"SEC. 210A. (a) IN GENERAL.—The Commission, prior to the examination of, the entry of an order of investigation of, or the commencement of any disciplinary or law enforcement proceedings against, any bank holding company, bank, or department or division of a bank that is a registered investment adviser shall give notice to the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), of the identity of such bank holding company, bank, or department or division and the nature of such proposed action and shall consult in writing with such appropriate Federal banking agency concerning any such proposed action, unless the protection of investors requires immediate action by the Commission and prior notice or consultation is not practical under the circumstances, in which case notice shall be given and the appropriate Federal banking agency shall be notified and consulted as promptly as possible thereafter.

"(b) EXAMINATION RESULTS.—The Commission and the appropriate Federal banking agency shall exchange the results of any examination of any bank holding company, bank, or department or division of a bank that is a registered investment adviser.

"(c) EFFECT ON OTHER AUTHORITY.—Nothing herein shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company, bank, or department or division under any provision of law.".

SEC. 412. PUBLICITY.

Section 210(b) of the Investment Advisers Act of 1940 is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding the following paragraphs after paragraph (2):

"(3) in the case of any State or Federal government official or agency or any self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934, for law enforcement or regulatory purposes; or

"(4) in the case of any foreign government official or agency for law enforcement or regulatory purposes.".

SEC. 413. EFFECTIVE DATE.

This title shall take effect upon the expiration of 270 days after the date of its enactment.

TITLE V—STRENGTHENED ENFORCEMENT AUTHORITY

SEC. 501. SHORT TITLE.

This title may be cited as the "Enforcement Powers Improvement Act of 1988".

PART A—REGULATION OF BANKS

SEC. 511. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

(a) AMENDMENTS TO SECTION 8.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank";

(B) "director, officer or other person"; and

(C) "director, officer, employee, agent or other person";

each place they appear and inserting "institution-related party";

(2) at the end of paragraph (1) of subsection (b), by striking the period and inserting: "including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the appropriate Federal banking agency deems appropriate. Such order may place limitations on the activities or functions of the bank or any institution-related party necessary to correct the conditions resulting from any such violation or practice.";

(3) after the first sentence of paragraph (1) of subsection (c), by inserting the following sentence: "Such order may place limitations on the activities or functions of the bank or any institution-related party.";

(4) at the end of subsection (c), by adding the following new paragraph:

"(3) Whenever a notice of charges specifies that an insured bank's books and records are so incomplete or inaccurate that the appropriate Federal banking agency is unable with reasonable effort to determine the financial condition of that bank or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that bank, the agency may issue a temporary order requiring cessation of any activities the agency deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (b) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the agency determines by examination or otherwise that the bank's books and records are accurate and capable of reflecting the financial condition of the bank.";

(5) in subsection (e), by striking paragraph (2) and amending paragraph (1) to read as follows:

"(1) Whenever the appropriate Federal banking agency determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured bank or business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty;

"(B) such insured bank or business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its depositors have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received financial gain by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of such institution-related party or demonstrates willful or continuing disregard for the safety or soundness of such insured bank or business institution,

the agency may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured bank.";

(6) in subsection (e), by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively, and by amending paragraph (3), as redesignated, to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written order to such effect served upon such party, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any bank where the party involved is presently associated.";

(7) after paragraph (5) of subsection (e), as redesignated, by inserting the following new paragraph:

"(6) Any person who is subject to a removal, suspension, or prohibition order pursuant to this subsection or subsection (g) shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(A) any insured institution,

"(B) any bank holding company or subsidiary of a bank holding company,

"(C) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(D) any savings and loan holding company (as those terms are defined in the National Housing Act), and

"(E) any institution chartered under the Farm Credit Act of 1971,

unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue such affiliation or to continue participating in the affairs of such institution.";

(8) in subsection (f), by striking "(e)(4)" in subsection (f) and inserting "(e)(3)", and by striking "(e)(1), (e)(2), or (e)(3)" and inserting "(e)(1) or (e)(2)";

(9) in subsection (i), by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting after "(i)" the following new paragraph:

"(1) The jurisdiction and authority of the appropriate Federal banking agency to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an insured bank.";

(10) in the first sentence of subsection (i)(3)(i), as redesignated, by inserting after "this section" the following: "or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank";

(11) by amending subsection (j) to read as follows:

"(j) PENALTY.—Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (e) or under subsection (g) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency—

"(1) participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution; or

"(2) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof or any other institution described in paragraph (1) of this subsection;

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (e) of this section may prohibit any act that would violate this subsection.";

(12) by amending subsection (k) to read as follows:

"(k) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' means—

"(A) the appropriate Federal banking agency, as provided in subsection (q) of section 3 (12 U.S.C. 1813);

"(B) the Federal Home Loan Bank Board, acting either in its own name or as operating head of the Federal Savings and Loan Insurance Corporation, in the case of a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation, or the subsidiary of such an institution, a Federal savings bank or a subsidiary of such a savings bank, a savings and loan holding company, or a subsidiary of a savings and loan holding company;

"(C) the National Credit Union Administration Board in the case of a depository institution whose accounts are insured by the National Credit Union Share Insurance Fund; and

"(D) the Farm Credit Administration in the case of an institution chartered under the Farm Credit Act of 1971.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the appropriate Federal banking agency (i) with the consent of the bank or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (h) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (iv) under paragraph (1) or (3) of subsection (g) of this section.

"(3) The term 'institution-related party' means a director, officer, employee, agent, or other person participating in the conduct of the affairs of an insured bank or a subsidiary of an insured bank, or any person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under section 7(j).

"(4) The term 'insured institution' means an insured bank or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund.

"(5) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation."; and

(13) by adding at the end thereof the following new subsection:

"(t) EFFECT ON OTHER AUTHORITY.—The authority granted to the Federal banking agencies under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

(b) INCREASED PENALTY FOR PARTICIPATION BY CONVICTED INDIVIDUAL.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended to read as follows:

"PENALTY FOR PARTICIPATION

"SEC. 19. Except with the written consent of the Corporation, no person who has been convicted, or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust shall serve as the director, officer, or employee of an insured bank or shall participate in the conduct of the affairs of such bank. For each knowing violation of this section, the bank or the individual involved shall each be subject to a penalty of not more than $1,000 for each day such prohibition is violated, which the Corporation may recover for its use.".

SEC. 512. PENALTY FOR VIOLATION OF "CHANGE IN BANK CONTROL ACT".

Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended to read as follows:

"(16)(A) Any person who violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency pursuant thereto, shall forfeit and pay a civil money penalty of not more than $10,000 per day for each day during which such violation continues. The agency having authority to impose a civil money penalty may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under such authority. The penalty may be assessed and collected by the appropriate Federal banking agency by written notice. As used in this paragraph, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The person assessed shall be afforded an opportunity for agency hearing upon request made within 10 days after receipt of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within 20 days from the date of such order and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be paid into the Treasury of the United States as miscellaneous receipts.".

SEC. 513. REPORTS.

(a) AMENDMENT TO THE BANK PROTECTION ACT OF 1968.—Section 3 of the Bank Protection Act of 1968 (12 U.S.C. 1882) is amended by striking in the first sentence of subsection (b) the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

(b) REPORTS OF CONDITION; FORM; CONTENT; DATE OF MAKING PUBLICATION; PENALty for Failure To Make Reports; Penalties for False or Misleading Reports.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) by striking, in the fifth sentence of subsection (a), "within ten days after the receipt of a request thereof from him;" and inserting "within the period of time specified by him;";

(2) by striking "; penalties" in the heading of subsection (c); and

(3) by striking the last sentence of subsection (c).

(c) National Banks.—Section 5213 of the Revised Statutes (12 U.S.C. 164) is amended by striking the first sentence and inserting "Every association which fails to make, obtain, transmit or publish any report or information required by the Comptroller under section 5211 of the Revised Statutes (12 U.S.C. 161) or which submits any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such false or misleading information is not corrected.".

(d) State Nonmember Banks.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the last sentence and inserting "Every such bank which fails to make or publish any such report within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of not more than $1,000 for each day during which such failure continues or such false or misleading information is not corrected. Such penalty shall be recoverable by the Corporation for its use, and may be collected by the Corporation by suit or otherwise.".

(e) Federal Reserve Members.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking the fourth sentence and inserting "Every bank which fails to make such reports within the period of time specified by the Board of Governors of the Federal Reserve System or which submits or publishes any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such false or misleading information is not corrected; such penalty to be assessed and collected in the same manner as prescribed by section 8(i)(3) of the Federal Deposit Insurance Act.".

(f) Bank Holding Companies.—Section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)) is amended by inserting after the word "thereto" in the first sentence "or any company which fails to make such reports as are required by this chapter or any regulation or order issued pursuant thereto within the period of time specified by the Board or which submits or publishes any false or misleading report or information,".

Part B—Regulation of Savings and Loan Associations

SEC. 521. DEFINITION OF "INSTITUTION-RELATED PARTY".

(a) National Housing Act.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such institution";

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution";

(E) "director, or other person";

(F) "director or officer of an insured institution, or other person participating in the conduct of the affairs of such institution";

(G) "director or officer or other person";

(H) "director or officer thereof or other person participating in the conduct of its affairs"; and

(I) "director or officer or other person participating in the conduct of its affairs", and

(2) by inserting in lieu of each such phrase the phrase "institution-related party".

(b) Home Owners' Loan Act of 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(f) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such association";

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association";

(E) "director, officer, or other person";

(F) "director or officer of an association, or other person participating in the conduct of the affairs of such association"; and

(G) "director or officer or other person", each place that such phrases appear, and

(2) by inserting in lieu of each such phrase the phrase "association-related party".

SEC. 522. CEASE AND DESIST ORDERS.

(a) National Housing Act.—Section 407(e)(1) of the National Housing Act (12 U.S.C. 1730(e)(1)) is amended by striking the period at the end of paragraph (1) and inserting ", including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Corporation deems appropriate. Such order may place limitations on the activities or functions of the institution or any institution-related party necessary to correct the conditions resulting from any such violation or practice. The authority granted to the Corporation under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law".

(b) Home Owner's Loan Act of 1933.—Section 5(d)(2)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(A)) is amended by striking the period at the end of paragraph (2)(A) and inserting ", including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Board deems appropriate. Such order may place limitations on the activities or functions of the association or any association-related party necessary to correct the conditions resulting from any such violation or practice. The authority granted to the Board under this subsection shall be in addition to, and not restricted by, any other authority provided by Federal or State law".

SEC. 523. SERVICE CORPORATIONS.

Section 407(e)(3) of the National Housing Act (12 U.S.C. 1730(e)(3)) and section 5(d)(2)(C) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(C)) both are amended by striking the phrase "affiliate service corporation" and inserting the phrase "service corporation or any subsidiary of a service corporation, whether wholly or partly owned,".

SEC. 524. TEMPORARY ORDERS.

(a) National Housing Act.—Section 407(f) of the National Housing Act (12 U.S.C. 1730(f)) is amended—

(1) in the first sentence of paragraph (1), by striking the phrase "or any institution any of the accounts of which are insured" and inserting the phrase "with respect to the served institution";

(2) after the first sentence of paragraph (1) of subsection (f), by inserting the following sentence: "Such order may place limitations on the activities or functions of the institution or any institution-related party.";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

"(3) Whenever a notice of charges specifies that an institution's books and records are so incomplete or inaccurate that the Corporation is unable with reasonable efforts to determine the financial condition of that institution or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that institution, the Corporation may issue a temporary order requiring cessation of any activities the Corporation deems appropriate until completion of proceedings conducted under subsection (e) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Corporation determines by examination or otherwise that the institution's books and records are accurate and capable of reflecting the financial condition of the institution.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(3)) is amended—

(1) by inserting the following sentence after the first sentence of subparagraph (A) of subsection (d)(3): "Such order may place limitations on the activities or functions of the association or any association-related party.".

(2) by redesignating subparagraph (C) as subparagraph (D).

(3) by inserting after subparagraph (B) the following:

"(C) Whenever a notice of charges specifies that an association's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that association or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that association, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under subsection (d)(2) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (B) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the association's books and records are accurate and capable of reflecting the financial condition of the association.".

SEC. 525. REMOVAL AND SUSPENSION.

(a) NATIONAL HOUSING ACT.—Section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) is amended—

(1) by striking paragraph (2) and amending paragraph (1) to read as follows:

"(1) Whenever, in the opinion of the Corporation—

"(A) any institution-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a cease-and-desist order, which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured institution or other business institution, or has committed or engaged in any act, omission or practice which constitutes a breach of its fiduciary duty;

"(B) such insured institution or other business institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach or the institution-related party has received financial gain by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of the institution- related party or demonstrates willful or continuing disregard for the safety or soundness of the insured institution or other business institution,

the Corporation may serve on such institution-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any insured institution.";

(2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4) respectively, and by amending paragraph (3) of subsection (g) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party or any other person referred to in paragraph (1) or (2) of this subsection, the Corporation may if it deems it necessary for the protection of the institution or the interest of its savings account holders or of the Corporation, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the institution. Such suspension or prohibition shall become effective upon service of such order upon the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (6) of this subsection, shall remain in effect pending the completion of the administrative proceeding pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Corporation shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon the institution with which the party involved is presently associated."; and

(3) by inserting after paragraph (4) of subsection (g) (as so redesignated) the following:

"(5) Any person who, pursuant to this subsection or subsection (h), is removed, suspended, or prohibited from participation in the conduct of the affairs of an insured institution or a service corporation or a subsidiary of a service corporation of an insured institution, whether wholly or partly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(A) any insured bank (as that term is defined in the Federal Deposit Insurance Act),

"(B) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(C) any organization organized and operated under section 25 of the Federal Reserve Act,

"(D) any insured institution,

"(E) any service corporation or subsidiary of a service corporation of an insured institution, whether wholly or partly owned,

"(F) any savings and loan holding company or subsidiary of a savings and loan holding company,

"(G) any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(H) any institution chartered under the Farm Credit Act of 1971,

without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in the Federal Deposit Insurance Act, to continue participation in the affairs of such institution.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(4) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(4)) is amended—

(1) by striking subparagraph (B) and amending subparagraph (A) to read as follows:

"(4)(A) Whenever, in the opinion of the Board—

"(i) any association-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any association or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of its fiduciary duty;

"(ii) such association or other business institution has suffered or will probably suffer substantial financial loss or other damage or the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the association-related party has received financial gain by reason of such violation, practice, or breach; and

"(iii) such violation, practice, or breach involves personal dishonesty on the part of the association-related party, or demonstrates willful or continuing disregard for the safety or soundness of the association or other business institution,

the Board may serve upon such association-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any institution.";

(2) by redesignating subparagraphs (C) through (E) as subparagraphs (B) through (D) respectively, and by amending subparagraph (C) (as so redesignated) to read as follows:

"(C) In respect to any association-related party or any other person referred to in subparagraph (A) or (B) of this paragraph, the Board may, if it deems it necessary for the protection of the association or the interests of its savings account holders, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the association. Such suspension or prohibition shall become effective upon service of such order upon the association-related party and, unless stayed by a court in proceedings authorized by subparagraph (F) of this paragraph, shall remain in effect, pending the completion of the administrative proceedings pursuant to the notice served under subparagraph (A) or (B) of this paragraph and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this subparagraph shall also be served upon the association with which the party involved is presently associated."; and

(3) by inserting after subparagraph (D) of subsection (d)(4) (as so redesignated) the following:

"(E) Any person who, pursuant to this subsection or subsection (d)(5), is removed, suspended, or prohibited from participation in the conduct of the affairs of an association or a service corporation or a subsidiary of a service corporation of an association, whether partly or wholly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(i) any insured bank (as that term is defined in the Federal Deposit Insurance Act),

"(ii) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(iii) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(iv) any association or any institution insured by the Federal Savings and Loan Insurance Corporation,

"(v) any service corporation or subsidiary of a service corporation of an association or an institution insured by the Federal Savings and Loan Insurance Corporation,

"(vi) any savings and loan holding company or subsidiary of a savings and loan holding company,

"(vii) any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(viii) any institution chartered under the Farm Credit Act of 1971,

without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in section 8(k) of the Federal Deposit Insurance Act, to continue participation in the affairs of such institution.".

SEC. 526. RETENTION OF JURISDICTION.

(a) NATIONAL HOUSING ACT.—Section 407(k) of the National Housing Act (12 U.S.C. 1730(k)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting the following after paragraph (1):

"(2) The jurisdiction and authority of the Corporation to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an institution."; and

(2) by inserting after "this section" in the first sentence of paragraph (4)(A) of subsection (k) (as redesignated) the following: "or any of the provisions of this title, or any regulation issued pursuant thereto,".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(8) of the Home Owners' Loan

Act of 1933 (12 U.S.C. 1464(d)(8)) is amended—

(1) by redesignating subparagraph (A) as subparagraph (B) and subparagraph (B) as subparagraph (C), and by inserting the following at the beginning of subsection (d)(8):

"(A) The jurisdiction and authority of the Board to proceed under this section against any association-related party shall not be affected by resignation, termination of employment, or other separation of such person from an association."; and

(2) by inserting after "this subsection" in the first sentence of the redesignated paragraph (8)(C)(i) of subsection (d) the following: "or any of the provisions of this Act, or any regulation issued pursuant thereto,".

SEC. 527. PENALTIES.

(a) National Housing Act.—Section 407(p) of the National Housing Act (12 U.S.C. 1730(p)) is amended to read as follows:

"(p) Penalties.—(1) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (h) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in section 8(k) of the Federal Deposit Insurance Act—

"(A) participates in any manner in the conduct of the affairs of any insured institution, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any service corporation of an insured institution or subsidiary of a service corporation, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as these terms are defined in the National Housing Act), any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, or any institution chartered under the Farm Credit Act of 1971, from which that person has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations in respect to any voting rights in such institutions; or

"(B) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank or any other institution described in paragraph (i) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.

"(2) Except with the prior written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured institution or shall participate in the conduct of the affairs of such institution who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this prohibition, the institution or the individual involved shall each be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Corporation may recover by suit or otherwise for its own use.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(12) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(d)(12)) is amended by striking paragraphs (A) and (B) and inserting the following:

"(12) Penalties.—(A) Any person against whom there is outstanding and effective any order served upon such person under subparagraph (C) or (D) of paragraph (4) or under (5) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency (as that term is defined in section 8(k) of the Federal Deposit Insurance Act)—

"(i) participates in any manner in the conduct of any association or institution insured by the Federal Savings and Loan Insurance Corporation, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, any association or other institution insured by the Federal Savings and Loan Insurance Corporation, any service corporation of an association or institution insured by the Federal Savings and Loan Insurance Corporation or subsidiary of a service corporation, or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents or authorizations in respect to any voting rights in such institutions; or

"(ii) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank, or any other institution described in subparagraph (A)(i) of this subsection;

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (d)(4) of this section may prohibit any act that would violate this subsection.

"(B) Except with the prior written consent of the Board, no person shall serve as a director, officer, or employee of an association or shall participate in the conduct of the affairs of such association who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this prohibition, the association or the individual involved shall be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Board may recover by suit or otherwise for its own use.".

SEC. 528. CIVIL PENALTY.

Section 407(q)(17) of the National Housing Act (12 U.S.C. 1730(q)(17)) is amended to read as follows:

"(17)(A) Any person who violates any provision of this subsection, or any regulation or order issued by the Corporation pursuant thereto, shall forfeit and pay a civil money penalty of not more than $10,000 per day for each day during which such violation continues. The Corporation may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed. The penalty may be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The Corporation's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within 20 days from the service of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be paid into the Treasury of the United States.".

SEC. 529. DEFINITIONS.

(a) National Housing Act.—Section 407(r) of the National Housing Act (12 U.S.C. 1730(r)) is amended—

(1) by redesignating subparagraphs (B) through (D) of paragraph (1) as subparagraphs (C) through (E), respectively;

(2) by striking subparagraph (A) of paragraph (1) and inserting the following:

"(A) The term 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Corporation (i) with the consent of the institution or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the Corporation has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in subsection (j); or (v) an order issued under subsection (h) of this section.

"(B) The term 'institution-related party' means a director, officer, controlling person, employee, agent, or other person participating in the conduct of the affairs of an insured institution or of any service corporation or any subsidiary of a service corporation or an insured institution, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company as those terms are defined in section 408 of this title; and any person who has filed or is required to file a change-in-control notice with the Corporation under subsection (q) of this section. For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'institution-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity."; and

(3) by striking paragraph (4) and inserting the following:

"(4) As used in subsections (e), (f), (g), (h), and (p) of this section, the term 'insured institution' means any institution the deposits of which are insured by the Corporation, any institution that retains deposits insured by the Corporation notwithstanding termination of its status as an insured institution, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended—

(1) by redesignating paragraphs (2) through (4) of paragraph (13)(A) as paragraphs (3) through (5) respectively; and

(2) by striking paragraph (1) of paragraph (13)(A) and inserting the following:

"(1) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board (A) with the consent of the association or the association-related party concerned; (B) with respect to which no petition for review of the action of the Board has been filed and perfected in a court of appeals as specified in paragraph (7)(B) of this subsection; (C) with respect to which the action of the court in which such a petition is filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in paragraph (7)(B); or (D) under paragraph (5) (A) or (C) of this subsection.

"(2) The term 'association-related party' means—

"(A) a director, officer, controlling person, employee, agent, or other person participating in the conduct of affairs of an association or of any service corporation or of any subsidiary of a service corporation of an association, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company, as those terms are defined in section 408 of the National Housing Act, or of any association with respect to which the Federal Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act and the National Housing Act; or

"(B) any person who has filed or is required to file a change-in-control notice with the Federal Savings and Loan Insurance Corporation under subsection (q) of section 407 of the National Housing Act.

For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'association-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity."; and

(3) by striking paragraph (14) and inserting the following:

"(14)(A) As used in paragraphs (2), (3), (4), (5), and (12) of this subsection, the term 'association' includes any former association that retains deposits insured by the Federal Savings and Loan Insurance Corporation notwithstanding termination of its status as an institution insured by such Corporation, and any Federal savings bank whose deposits are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.

"(B) As used in this subsection, the terms 'Federal savings and loan association' and 'association' include any institution with respect to which the Federal Home Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act, and the National Housing Act.

"(C) References in this subsection to savings account holders and to members of associations shall be deemed to be references to holders of withdrawable accounts in institutions over which the Board has any statutory power of examination or supervision as provided in this paragraph, and references therein to boards of directors of associations shall be deemed to be references to boards of directors or other governing boards of such institutions. The Board shall have power by regulation to define, for the purposes of this paragraph, terms used or referred to in the preceding sentence and other terms used in this subsection.".

SEC. 530. REPORTS OF CONDITION.

Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following:

"(u) REPORTS OF CONDITION; PENALTIES.—

"(1) Each insured institution or Federal saving bank shall make reports of condition to the Corporation which shall be in such form and shall contain such information as the Corporation may require. The Corporation may require reports of condition to be published in such manner, not inconsistent with any applicable law, as it may direct.

"(2) Any insured institution or Federal saving bank which fails to obtain and furnish any report or information required by the Corporation under this section within the period of time the Corporation specifies or which submits any false or misleading report or information shall be subject to a penalty of $1,000 each day during which such failure continues or is not corrected. Such penalty shall be assessed and collected in the manner as prescribed by section 407(q)(17) of this title.".

SEC. 531. TECHNICAL AMENDMENTS.

(a) NATIONAL HOUSING ACT.—Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended by striking "(1), (2), (3), or (4)" from the fifth sentence of paragraph (1) and inserting "(1), (2), or (3)".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by striking "(A), (B), (C) or (D)" from the fifth sentence of subparagraph (5)(A) and inserting "(A), (B) or (C)".

SEC. 532. PENALTY FOR FAILURE TO REPORT.

Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end of subsection (b)(2) thereof the following: "Every savings and loan holding company which fails to make such reports within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such information is not corrected; such penalty to be assessed and collected in the same manner as prescribed by subsection (j)(4) of this section.".

SEC. 533. REPEALER.

Section 5(d)(15) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(15)) is repealed, and section 5(d)(16) (12 U.S.C. 1464(d)(16)) is redesignated as section 5(d)(15) (12 U.S.C. 1464(d)(15)).

PART C—CREDIT UNIONS

SEC. 541. AMENDMENTS TO SECTION 206.

(a) Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) by striking the following phrases:

(A) "director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union";

(B) "director, officer, committee member, employee, agent, or other person";

(C) "director, officer, committee member, or employee";

(D) "director, officer, or committee member";

(E) "director, committee member, or officer";

(F) "director, committee member, officer, or other person";

(G) "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union";

(H) "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union";

(I) "director, committee member, or officer or other person";

(J) "director, committee member, officer, or other person";

(K) "director, officer, committee member, or other person"; and

(L) "director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union";

each place they appear and inserting "institution-related party.";

(2) at the end of paragraph (1) of subsection (e), by striking the period and inserting the following: "including, without limita-

tion, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Board deems appropriate. Such order may place limitations on the activities or functions of the credit union or any institution-related party necessary to correct the conditions resulting from any such violation or practice.";

(3) after the first sentence of paragraph (1) of subsection (f), by inserting the following sentence: "Such order may place limitations on the activities or functions of the credit union or any institution-related party.";

(4) in subsection (f), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Whenever a notice of charges specifies that any insured credit union's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that credit union or the details or purpose of any transactions that may have a substantial effect on the financial condition of that credit union, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (e) of this section. Such order shall become effective upon service, and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (3) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the credit union's books and records are accurate and capable of reflecting the financial condition of the credit union.";

(5) by striking paragraph (2) and amending paragraph (1) of subsection (g) to read as follows:

"(1) Whenever the Board determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured credit union or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty, or by conduct or practice has evidenced his personal dishonesty or unfitness to continue as an institution-related party; and

"(B) such insured credit union or other business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its insured members have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received financial gain by reason of such violation, practice, or breach,

the Board may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured credit union.";

(6) in subsection (g), by striking "(A)" and striking subparagraph (B) in paragraph (7), and by redesignating paragraphs (3) through (7) of subsection (g) as paragraphs (2) through (6), respectively, and by amending paragraph (3) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the Board may, if it deems necessary for the protection of the credit union or the interests of its members, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraphs (1) and (2) of this subsection and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any institution where the party involved is presently associated.";

(7) in subsection (g)(6), as redesignated, by striking all that follows "National Housing Act)," and inserting "and any institution chartered under the Farm Credit Act of 1971, unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue such affiliation or to continue participating in the affairs of such institution.";

(8) in subsection (g)(5) (as redesignated), by striking "(4)" and inserting "(3)", and by striking "(1), (2), or (3)" and inserting "(1) or (2)";

(9) by redesignating paragraph (1) of subsection (k) as paragraph (2), by redesignating paragraph (2) of subsection (k) as paragraph (3), and by inserting after "(k)" the following:

"(1) The jurisdiction and authority of the Board to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an insured credit union.";

(10) in the first sentence of paragraph (3)(A) of subsection (k) (as redesignated), by inserting after "this section" the following: "or any condition imposed in writing by the Board in connection with the granting of any application or other request by the credit union", and by striking "subsection (e), (f), or (q)" and inserting "subsection (e), (f), or (p)";

(11) by amending subsection (l) to read as follows:

"(l) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (i) who, directly or indirectly, without the prior written approval of the Board—

"(1) participates in any manner in the conduct of the affairs of—

"(A) any insured institution,

"(B) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(C) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(D) any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), or

"(E) any institution chartered under the Farm Credit Act of 1971,

from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution; or

"(2) votes for a director, or serves or acts as a director, officer, committee member, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof, or any other institution described in paragraph (1) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.";

(12) by striking subsection (m) and redesignating subsections (n), (o), (p) and (q) of this section as subsections (m), (n), (o) and (p) respectively; and

(13) by adding at the end thereof the following:

"(q) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' has the same meaning as in section 8(k) of the Federal Deposit Insurance Act.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board (A) with the consent of the credit union or the institution-related party concerned; (B) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (C) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (D) under paragraphs (1) or (3) of subsection (i) of this section.

"(3) The term 'institution-related party' means a director, officer, or committee member, employee, agent, or other person participating in the conduct of the affairs of an insured credit union.

"(4) The term 'insured institution' means an insured credit union, as defined in section 101, or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

"(5) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(r) EFFECT OF OTHER LAW.—The authority granted to the Board under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

SEC. 542. AMENDMENTS TO SECTION 205.

Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended—

(1) in the first sentence of subsection (d), by inserting after the phrase "insured credit union" "or shall participate in the conduct of the affairs of such insured credit union";

(2) by striking the second sentence of subsection (d) and inserting "For each knowing violation of this subsection, the credit union or the individual involved shall each be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Board may recover for its use."; and

(3) in the first sentence of paragraph (2) of subsection (e), by inserting a period after the word "standards" in the first sentence and striking the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

TITLE VI—TRUTH IN SAVINGS AND INVESTMENTS

SEC. 601. SHORT TITLE.

This title may be cited as the "Truth in Savings and Investments Act".

SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that economic stability would be enhanced, competition among depository institutions and investment companies would be improved, and the ability of the consumer to make informed decisions regarding accounts and investments would be strengthened if there was uniformity in the disclosure of terms and conditions on which interest and earnings are paid and fees are assessed.

(b) PURPOSE.—It is the purpose of this title to require the clear and uniform disclosure of—

(1) the rates of interest and yields which are payable on accounts and investments; and

(2) the fees that are assessable against accounts and investments,

so that consumers can make meaningful comparisons among the competing claims of depository institutions and investment companies.

SEC. 603. DEFINITIONS.

For the purposes of this title—

(1) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) ACCOUNT.—The term "account" means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(4) INTEREST.—The term "interest" includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(5) MULTIPLE RATE ACCOUNT.—The term "multiple rate accounts" means any account that has 2 or more annual rates of simple interest which take effect in succeeding periods and which are known at the time of disclosure.

(6) ANNUAL PERCENTAGE YIELD.—The term "annual percentage yield" shall be equal to the total amount of interest that would be received on a $100 deposit under the terms described in paragraphs (3) and (4) of section 605(c) over a year, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

SEC. 604. DISCLOSURE OF YIELDS AND TERMS OF ACCOUNTS.

(a) IN GENERAL.—Except as provided in subsection (b), each advertisement, announcement, or solicitation initiated by any depository institution relating to any account which includes any reference to a specific rate of interest payable on amounts held in such account, or to a specific yield or rate of earnings on amounts so held, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

(1) The annual percentage yield (which shall be noted in greater prominence than any other stated rate).

(2) The period during which such annual percentage yield is in effect.

(3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(5) A statement that regular fees or other conditions could reduce the yield.

(6) A statement of any penalty imposed for early withdrawal.

(b) BROADCAST AND ELECTRONIC MEDIA AND OUTDOOR ADVERTISING EXCEPTION.—The Board may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4) or (5) of subsection (a) if the Board finds that any such disclosure would be unnecessarily burdensome.

(c) MISLEADING DESCRIPTIONS OF FREE OR NO-COST ACCOUNTS PROHIBITED.—No advertisement, announcement, or solicitation made by any depository institution may refer to or describe an account as a free or no-cost account if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions are limited during such period; or

(2) any regular service or transaction fee is imposed.

(d) MISLEADING OR INACCURATE ADVERTISEMENTS, ETC., PROHIBITED.—No depository institution shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 605. ACCOUNT SCHEDULE.

(a) IN GENERAL.—Each depository institution shall maintain a schedule of fees, charges, yields, and other terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The schedule for each class may be in the form of separate schedules or one comprehensive document. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) INFORMATION ON FEES AND CHARGES.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charges, or penalties (or the method by which such amounts will be calculated), and the conditions under which any such amounts will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) INFORMATION ON YIELDS.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) A clear description of the method used to determine the balance on which interest is paid.

(6) The information described in paragraphs (1), (3), and (4) shall be provided for each period during which a different annual rate of simple interest is in effect (or, if applicable, the method for computing such information).

(7) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how such minimum balance is calculated.

(8) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(9) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.

(10) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) OTHER INFORMATION.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) STYLE AND FORMAT.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to give consumers the ability to readily understand the terms of the accounts offered.

SEC. 606. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall by regulation prescribe such modifications in the disclosure requirements under this title relating to annual percentage yields as may be necessary to carry out the purposes of this title in the case of—

(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate; and

(4) multiple rate accounts.

SEC. 607. DISTRIBUTION OF SCHEDULES.

(a) In General.—Any schedule required under section 605 shall be—

(1) mailed to holders of the account not more than 90 days after the effective date of the initial regulations prescribed by the Board under this Act;

(2) made available to any person upon request; and

(3) provided to any potential customer before an account is opened or a service is rendered.

(b) Distribution in Case of Certain Initial Deposits.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 605(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account not later than 10 days after the date of the initial deposit.

(c) Distribution of Notice of Certain Changes.—If—

(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 605(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account, all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(3) This subsection does not apply to changes in annual percentage yields of variable rate accounts.

(d) Distribution in Case of Accounts Established by More Than 1 Individual or by a Group.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

SEC. 608. PAYMENT OF INTEREST.

(a) Determination of Balance on Which Interest is Calculated.—Except as provided in subsection (b), interest shall be calculated on the principal balance in an interest-bearing account at a depository institution by using the average daily balance method, which is the sum of each day's closing balance divided by the number of days in the period.

(b) Special Rule for Credit Unions.—Subsection (a) shall not apply to an account at a depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act if the depository institution—

(1) calculates the accrual of interest or dividends by a method other than the method described in subsection (a) with respect to all funds, including cash, deposited in such account; and

(2) provides notice of interest payment policy in the manner required by section 605(e) of the Expedited Funds Availability Act.

(c) Calculated on Full Amount of Principal.—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this title.

(d) No Particular Method of Compounding Interest Required.—Subsection (c) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting interest.

SEC. 609. REGULATIONS.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Board, after consultation with each agency referred to in section 610(a) and after providing public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this title. The regulations may contain any classification, differentiation, or other provision, and may provide an exception for any class of accounts which, in the judgment of the Board, may be necessary or proper to carry out the purposes of this title, to prevent circumvention or evasion of the requirements of this title, or to facilitate compliance with the requirements of this title.

(b) Model Forms and Clauses.—

(1) In general.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this title. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) Use of forms and clauses deemed in compliance.—Nothing in this title may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this title if the depository institution—

(A) uses any appropriate model form or clause published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this title; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) Public notice and opportunity for comment.—The Board shall adopt model disclosure forms and clauses after giving appropriate notice and opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 610. ADMINISTRATIVE ENFORCEMENT.

(a) In General.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than member banks of the Federal Reserve System) by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) in the case of depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(3) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of Federal credit unions; and

(4) the Federal Trade Commission Act, by the Federal Trade Commission in the case of State-chartered credit unions.

(b) Additional Enforcement Powers.—

(1) Violation of this title treated as violation of other acts.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) Enforcement authority under other acts.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each agency may exercise, for purposes of enforcing compliance with any requirement imposed under this title, any other authority conferred on such agency by law.

(c) Regulations by Agencies Other Than the Board.—The authority of the Board to issue regulations under this title does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this title.

SEC. 611. CIVIL LIABILITY.

(a) Civil Liability.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this title or any regulation prescribed under this title with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) Class Action Awards.—In determining the total amount of an award in a class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) Bona Fide Errors.—

(1) General rule.—A depository institution may not be held liable in any action brought under this section for a violation of this title if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) Examples.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a depository institution's obligation under this title is not a bona fide error.

(d) Jurisdiction.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) Reliance on Board Rulings.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Notification of and Adjustment for Errors.—A depository institution shall not be liable under this section or section 610 for any failure to comply with any requirement imposed under this title with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(g) Multiple Interests in 1 Account.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this title shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(h) Continuing Failure to Disclose.—

(1) Certain continuing failures treated as 1 violation.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) Subsequent failure to disclose.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) Coordination with section 610.—This subsection shall not limit or otherwise affect the enforcement power under section 610 of any agency referred to in subsection (a) of such section.

SEC. 612. CREDIT UNIONS.

(a) In General.—No regulation prescribed by the Board under this title shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) Regulations Prescribed by the NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this title, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 613. REVIEW OF DISCLOSURE REQUIREMENTS FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES.

The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 66. REVIEW OF DISCLOSURE REQUIREMENTS FOR YIELDS AND TERMS.

"Not later than January 1, 1989, and annually thereafter, the Commission shall consult with the Board of Governors of the Federal Reserve System (and any other agency it deems appropriate) to review the regulations prescribed under this title and the Securities Act of 1933 and the regulations prescribed under the Truth in Savings and Investments Act to determine whether such regulations are providing consumers the ability to effectively compare savings and investments options. If at any time as a result of such review, the Commission finds its regulations are not providing consumers the ability to effectively compare savings and investments options, it shall modify its regulations to insure that consumers have such ability.".

SEC. 614. EFFECT ON STATE LAW.

(a) In General.—The provisions of this title shall supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts. The Board is authorized to determine whether such inconsistencies exist.

(b) Balance on Which Interest is Calculated.—The provisions of this title shall supersede any provisions of any State law relating to the determination of the balance on which interest is calculated to the extent such State law specifies the manner for determining the balance on which interest is calculated.

TITLE VII—HOME EQUITY LOANS

SEC. 701. SHORT TITLE.

This title may be cited as the "Home Equity Loan Consumer Protection Act of 1988".

SEC. 702. DISCLOSURE AND ADVERTISING REQUIREMENTS FOR HOME EQUITY LOANS.

(a) In General.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 127 the following new section:

"SEC. 127A. REQUIREMENTS FOR OPEN END CREDIT PLANS SECURED BY THE CONSUMER'S PRINCIPAL DWELLING.

"(a) Application Disclosures.—

"(1) In general.—In the case of an open end consumer credit plan secured by a consumer's principal dwelling, the creditor shall make the following disclosures:

"(A) A statement that loss of the consumer's home may occur in the event of default.

"(B) A clear and conspicuous statement of the time by which an application must be submitted to obtain the terms disclosed or, if applicable, a statement that the terms may change at any time, and a statement that the consumer may elect not to enter into the plan agreement if the terms change, in which case the consumer shall have the right to a refund of all fees and costs paid by the consumer in connection with the application. The creditor shall also include a statement that the consumer should make or otherwise retain a copy of this information.

"(C)(i) A statement that the creditor may terminate the plan and require payment of the outstanding balance in full if the consumer fails to meet the repayment terms, the creditor's security is adversely affected by action or inaction of the consumer, or the consumer has engaged in fraud or made a material misrepresentation.

"(ii) A statement that the creditor may freeze or reduce the credit line if there is a material change in the consumer's financial circumstances affecting the consumer's ability to repay, a decline in the value of the consumer's home, the consumer fails to meet a material obligation under the plan, or the government takes action that prevents the lender from enforcing its rights under the loan agreement.

"(iii) A statement, if applicable, that the creditor may change any contract term that is not material to the contract after the agreement is signed.

"(iv) A statement that the consumer may obtain, upon request, a list of the types of obligations the borrower will have under the plan, and that failure to meet such obligations will allow the lender to freeze or reduce the credit line.

"(D) If applicable, a statement of any additional fees that may be imposed by the creditor upon termination of the account by either the creditor or the consumer.

"(E) The repayment options for the plan (separately stated, if applicable, for the period when advances may be obtained and the period when repayment is made without new advances), including—

"(i) the length of the plan, including, if applicable, both the length of the period when advances may be obtained and the length of the repayment period when advances may not be obtained;

"(ii) an explanation of how the minimum monthly or periodic payment will be determined;

"(iii) an example, based on a $10,000 amount outstanding and a recent interest rate (other than a rate not based on the index), showing the minimum monthly or periodic payment, and the time it would take to repay the entire $10,000 if the consumer paid only the minimum payment and obtained no other advances; and

"(iv) whether the plan includes a balloon payment feature.

"(F) If the minimum monthly or periodic payment will not reduce the outstanding principal balance, a statement of that fact.

"(G) Any monthly or other numerical restrictions on the consumer's right to draw funds against the line of credit, and any minimum outstanding balance or minimum advance requirements, stated in dollar amounts.

"(H) A statement that interest paid may not be deductible, or completely deductible, for all taxpayers.

"(I) An itemization of any fees imposed by the creditor in connection with the availability or use of such plan, including, but not limited to, annual fees, application fees, transaction fees, and closing costs such as points and the time when such fees are payable. Based on its experience with such plans, the creditor shall also provide the consumer with a general estimate within a reasonable range indicating the overall amount of additional fees that may be imposed by third parties (such as governmental authorities, appraisers, and closing attorneys) in connection with opening the plan, and a statement that the consumer may ask the creditor for a good faith estimate of such fees.

"(J) For other than variable rate plans, the creditor shall disclose the corresponding annual percentage rate or rates and a statement that this represents only interest and does not include closing costs.

"(2) Variable rate plans.—In the case of any open end consumer credit plan secured by a consumer's principal dwelling which is subject to a variable rate of interest, the creditor shall, in addition to the disclosures required by paragraph (1), make the following disclosures:

"(A) If an initial corresponding annual percentage rate not based on the index is offered, a statement of such rate and the period of time such initial rate will be in effect, and a statement that this represents only interest and does not include closing costs.

"(B) The formula used in making adjustments, including identification of the index and margin, if applicable, and a source of information about such index.

"(C) A statement that the consumer should ask about the current index value and interest rate.

"(D) The frequency of interest rate and payment changes.

"(E) Any rules relating to changes in the index, corresponding annual percentage rate, payment amount, and outstanding loan balance including, for example, an explanation of interest rate or payment limitations, negative amortization, and interest rate carryover.

"(F) A table, based on a $10,000 advance, showing how the corresponding annual percentage rate and minimum payment under each repayment option of the plan would have been affected by changes in the index value during the preceding 15-year period. The creditor shall consistently select one rate of interest for each year, and the manner of selecting the rate from year to year shall be consistent with the plan.

"(G) A statement of the maximum corresponding annual percentage rate and the minimum corresponding periodic payment which may be assessed under each repayment option of the plan, based on a $10,000 outstanding balance, and the earliest date such interest rate may be assessed.

"(H) A statement that interest rate information will be provided on or with each periodic statement.

"(I) The maximum amount by which the corresponding annual percentage rate may change in any 1-year period. If no limit exists, that fact shall be disclosed.

"(J) The maximum corresponding annual percentage rate that may be imposed at any time under the plan.

"(K) Any other term required by the Board.

"(b) Time and Form of Disclosures.—

"(1) Time.—

"(A) General rule.—The creditor shall furnish the disclosures required by subsection (a) and the brochure required under paragraph (2) on or with the application, and at least 3 business days before the consumer incurs a nonrefundable fee.

"(B) Telephone, publications, and third-party applications.—In the case of telephone applications, applications contained in magazines or other publications, or applications provided by a third party, the disclosures required under subsection (a) shall be provided by the creditor not later than 3 business days following the receipt of the application by the creditor, and the consumer shall have 3 business days from the date of receipt of the disclosure before incurring a nonrefundable fee. For purposes of determining when a nonrefundable fee may be incurred under this subsection, the day of receipt by the consumer is deemed to be 3 business days after the date of mailing by the creditor.

"(C) Third-party applications.—In the case of an application provided by a third party, the third party shall—

"(i) comply with the time requirements set forth in subparagraph (A) or (B) in providing the disclosures regarding the plan of the creditor to which the third party sends an application, or

"(ii) if the third party cannot provide specific terms about the plan because specific information about the plan terms is not available, the third party shall not collect any fee until 3 business days after the disclosures are mailed by the creditor.

"(2) Brochure.—The creditor shall provide the consumer with a copy of the home equity line of credit brochure published by the Board, or a suitable substitute. Such brochure shall describe how home equity plans operate, define terms the consumer might not be familiar with, and advise the consumer how to compare among home equity plans and between home equity and closed end credit plans.

"(3) Form.—The disclosures required by subsection (a) shall be grouped together and shall be segregated in accordance with regulations of the Board. The disclosures required by subparagraphs (A), (B), and (C) of subsection (a)(1) shall precede all of the other required disclosures.

"(c) Relation to Section 127 Disclosures.—The disclosures required by subsection (a) shall be given in addition to and at the same time as the disclosures required by section 127(a), except to the extent the Board determines such disclosures are duplicative.

"(d) Restrictions on Contract Terms.—

"(1) No unilateral changes by creditor.—

"(A) In general.—No open end consumer credit plan secured by a consumer's principal dwelling may contain a provision which permits a creditor to change unilaterally the terms required to be disclosed under subsection (a) or any other material term after an agreement has been entered into.

"(B) Changes not precluded.—Notwithstanding the provisions of subsection (a), a creditor may—

"(i) Change the index and margin applicable to such plan if the index used by the creditor is no longer available and the substitute index and margin would result in a substantially similar interest rate.

"(ii) Freeze or reduce the credit line during the period when there is a decline in the value of the security interest because of a significant decline in the original appraisal value of the property securing the line.

"(iii) Freeze or reduce the credit line during the period when there is a material change in the borrower's financial circumstances such that the creditor has reason to believe that the consumer will be unable to repay.

"(iv) Freeze or reduce the credit line during the period of any other material default under the plan agreement. Upon request and at closing the consumer shall be given a list of the categories of contract obligations which shall be deemed material under the plan.

"(v) Freeze or reduce the credit line during any period after the account is established, if the creditor is precluded by government action from imposing the corresponding annual percentage rate provided for in the plan agreement, or if such government action adversely affects the priority of the creditor's security interest to the extent that the value of the creditor's secured interest in the property is less than 120 percent of the amount of the credit line.

"(vi) Make any change that will benefit the consumer. The Board may, by regulation, determine categories of such change.

"(2) Use of independent index.—

"(A) In general.—A creditor may change the corresponding annual percentage rate imposed under an open end consumer credit plan secured by a consumer's principal dwelling only if—

"(i) such change is made on the basis of an index which is not within such creditor's immediate control, and

"(ii) such index is readily available to the general public.

"(B) Special rule for credit unions.—Notwithstanding the provisions of subparagraph (A), credit unions may use their individual cost of funds as the index if such cost of funds does not exceed the prime rate, as published by the Board of Governors of the Federal Reserve System. Each credit union offering an open end consumer credit plan secured by a consumer's principal dwelling, and using its cost of funds as its index, shall publish and distribute to its members its cost of funds on at least a quarterly basis.

"(3) Terms changed after application.—If any term or condition required to be disclosed under subsection (a) changes (other than a change contemplated by a variable feature of the plan) before opening the account, and if, as a result, the consumer elects not to enter into the plan agreement, the creditor shall refund all fees and costs paid by the consumer in connection with the application for such account.

"(4) Grounds for acceleration of outstanding balance.—A creditor may not unilaterally terminate an open end consumer credit plan secured by a consumer's principal dwelling and require payment of the outstanding balance in full, except in the case of—

"(A) fraud or material misrepresentation on the part of the consumer in connection with the plan;

"(B) failure by the consumer to meet the repayment terms of the agreement for any credit outstanding; or

"(C) any other action or failure to act by the consumer which adversely affects the creditor's security for the loan or rights in such security.

"(e) Definitions.—For purposes of this section and section 143(b)—

"(1) Balloon payment.—The term 'balloon payment' means a repayment feature of an open end credit plan secured by the consumer's principal dwelling that requires the account holder to repay the entire outstanding balance at a specific time after the open end credit agreement is entered into and the minimum payments leading up to that payoff date are not fully amortized on the basis of that time period.

"(2) Corresponding annual percentage rate.—The term 'corresponding annual percentage rate' means 'annual percentage rate' as defined under section 107(a)(2).

"(3) Principal dwelling.—The term 'principal dwelling' means a dwelling which is used in whole or in part as a residence by the consumer, and is either—

"(A) the principal dwelling of the consumer, or

"(B) a second or vacation home of the consumer.".

(b) Advertising Requirements.—Section 143 of the Truth in Lending Act (15 U.S.C. 1663) is amended—

(1) by striking "No advertisement" and inserting "(a) In General.—No Advertisement", and

(2) by adding at the end the following new subsection:

"(b) Open End Credit Plans Secured by the Consumer's Principal Dwelling.—In addition to the requirements of subsection (a), any advertisement to aid, promote, or assist, directly or indirectly, the extension of consumer credit through an open end credit plan secured by the consumer's principal dwelling that states, affirmatively or negatively, any specific terms of the plan including, but not limited to any periodic payment amount, shall contain the following information, in such form and manner as the Board may require:

"(1) Any loan fee which is imposed as a percentage of the credit line and a general estimate within a reasonable range indicating the overall amount of other fees for opening the account, based on the creditor's experience with such plans.

"(2) In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as a corresponding annual percentage rate.

"(3) The highest corresponding annual percentage rate that may be imposed under the plan.

"(4) If the plan includes a balloon payment feature, a statement of that fact.

"(5) Any other information the Board may by regulation require.

If the advertisement states an initial corresponding annual percentage rate for a variable rate plan that is not based on the index for the plan, the advertisement shall also state the current rate with equal prominence. The current rate must be current as of a reasonable time given the media involved.".

(c) Technical Amendment.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 127 the following new item:

"Sec. 127A. Requirements for open end credit plans secured by the consumer's principal dwelling.".

SEC. 703. EFFECTIVE DATE.

(a) In General.—Except as provided in subsections (b) and (c), the amendments made by this title shall apply to any open end consumer credit plan secured by a consumer's principal dwelling which is entered into after October 31, 1989.

(b) Effective Date of Section 127A(d).—The provisions contained in section 127A(d) shall apply to any open end consumer credit plan secured by a consumer's principal dwelling which is entered into after the date which is 90 days after the date of enactment of this title.

(c) Effect of Board Regulations.—Notwithstanding the provisions of subsections (a) and (b), any creditor may comply with the amendments made by this title, in accordance with the regulations prescribed by the Board, prior to the effective date of this title.

TITLE VIII—INSURANCE ACTIVITIES

SEC. 801. SHORT TITLE.

This title may be cited as the "Bank Holding Company and National Bank Improvements Act of 1988".

SEC. 802. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956 RELATING TO INSURANCE ACTIVITIES.

(a) Definition.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(p) Insurance Activities.—For the purposes of this Act, the term 'insurance activities' means providing insurance as principal, agent, or broker.".

(b) Insurance Activities.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) by adding at the end thereof the following subsection:

"(j) Insurance Activities.—

"(1) In general.—Notwithstanding any other provision of this section or section 3 of this Act (but subject to paragraphs (2) and (3)), a bank holding company or any bank or nonbank subsidiary or affiliate thereof shall not engage in insurance activities in the United States, except that a bank holding company or any bank or nonbank subsidiary or affiliate thereof may provide insurance—

"(A) pursuant to subsection (c)(8) of this section;

"(B) through a State bank or subsidiary thereof to the extent permissible under clause (i), (ii), (iii), (v), or (vi) of subsection (c)(8)(C) and under State law;

"(C) if—

"(i) the insurance is provided by a State bank subsidiary of a bank holding company, or by a subsidiary of that State bank;

"(ii) that bank or subsidiary thereof is located in the one State where the operations of that bank holding company's banking subsidiaries are principally conducted for purposes of section 3(d) of this Act;

"(iii) the insurance activities engaged in by the bank or subsidiary thereof are authorized by State law; and

"(iv) the insurance is provided only to residents of that State, natural persons employed in that State, or natural persons otherwise present in that State; or

"(D) pursuant to section 5136 or 5136B of the Revised Statutes.

"(2) Exclusions.—Paragraph (1) shall not apply to insurance activities of any company or institution pursuant to section 3(f) or the proviso to subsection (a)(2) of this section.

"(3) Authority to continue certain activities.—Notwithstanding any other provision of this section, a bank holding company may continue to—

"(A) engage in any insurance activity through a State bank or subsidiary thereof if—

"(i) the bank was acquired after December 31, 1984, and before March 2, 1988, pursuant to Board approval under section 3(d) of this Act;

"(ii) the bank provides insurance only to residents of that State, natural persons employed in that State, or natural persons otherwise present in that State; and

"(iii) such insurance insures against the same types of risks as insurance provided by the bank or subsidiary as of the day before its acquisition by the out-of-state bank holding company or as of March 2, 1988, or against functionally equivalent risks;

"(B) provide title insurance coverage through a State bank or subsidiary thereof if the bank was required to be empowered to provide title insurance as a condition of its initial chartering under State law;

"(C) continue to enage in any insurance activity lawfully engated in prior to the date of enactment of this subsection in the State of Indiana, and in any State contiguous thereto, if the bank holding company or subsidiary thereof it located in the State of Indiana as was acquired on June 30, 1986, pursant to Board approval under section 3(d) of this Act issued on May 28, 1986;

"(D) engage in any insurance activity through a State bank or subsidiary thereof if—

"(i) the bank is described in clauses (i) and (ii) of subparagraph (A); and

"(ii) the insurance activity of the State bank or subsidiary thereof is limited (I) to life, accident, and health insurance activities for which it has been licensed prior to March 2, 1988, pursuant to State law enacted after July 20, 1987, and in effect prior to September 28, 1987, and (II) to the State in which it has been licensed; or

"(E) provide through a State bank, or subsidiary thereof, pursuant to authorization by the appropriate State banking regulator prior to March 2, 1988, financial guaranty insurance. For purposes of this subparagraph, the term 'financial guaranty insurance' means insurance against the risk of default on State and local government debt obligations, corporate debt and other monetary obligations, pass-through securities (other than those secured by mortgages on real property which are insurable by a mortgage guaranty insurer), and installment purchase agreements executed as a condition of sale, but such term does not include life, property, or casualty insurance. This subparagraph does not preclude any interested party from challenging the legality of these described activities under section 4(c)(8) of the Bank Holding Company Act of 1956, as in effect on March 2, 1988.

"(4) Definitions.—

"(A) Insurance.—For purposes of this subsection and subsections (c)(8) and (c)(15)(J)(iv) of this section, the term 'insurance' means—

"(i) traditional insurance products and services;

"(ii) variable annuity contracts; and

"(iii) variable life insurance contracts.

"(B) Resident.—For purposes of this subsection, the term 'residents of that State' includes natural persons who are residents of the State and—

"(i) companies incorporated in, or organized under the laws of, the State,

"(ii) companies licensed to do business in the State, and

"(iii) companies having an office in the State."; and

(2) in subsection (c)(8)(C)(iv), by inserting immediately before the semicolon at the end the following: ", except that—

"(I) the authorization to provide insurance pursuant to this clause shall terminate if control of the company providing the insurance is acquired by a bank holding company—

"(a) on or after October 15, 1982, in a transaction requiring Board approval under section 3(d) if the bank holding company did not obtain board approval to engage in such insurance activities under this section prior to March 2, 1988; or

"(b) on or after March 2, 1988;

unless such acquiring company is a successor or is and continues to be a bank holding company with total assets of $50,000,000 or less;

"(II) no company that is an affiliate of a company providing insurance pursuant to this clause shall provide insurance pursuant to this clause on or after March 2, 1988, unless such affiliated company itself meets the requirements of this clause.".

SEC. 803. AMENDMENTS TO THE NATIONAL BANK ACT.

(a) Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended—

(1) by inserting "(a) In General.—" immediately before "Upon duly making and filing"; and

(2) by adding at the end thereof the following new subsection:

"(b) Limitation on Insurance Powers.—

"(1) In general.—Except as provided in paragraph (2), a national bank, or subsidiary (as defined in section 2(d) of the Bank Holding Company Act of 1956) of a national bank, may not engage in insurance activities in the United States except to the extent that the insurance is limited to assuring the repayment of the outstanding balance due on any specific extension of credit by the national bank in the event of the death, disability, or involuntary unemployment of the debtor and except to the extent provided in section 5136B of this title.

"(2) Exceptions.—Paragraph (1) does not prohibit (A) any company engaged in municipal bond guarantee insurance activities pursuant to authorization by the Comptroller of the Currency on or before May 2, 1985, from continuing to engage in such activities, or (B) any company lawfully engaged in title insurance activities as of March 2, 1988, from continuing to engage in such activities, if such activities are limited to the State in which the bank is located, and if the bank is not acquired after March 2, 1988, by a bank holding company the principal banking operations of which are conducted in another State.

"(3) Insurance definition.—The term 'insurance' has the meaning given to that term in section 4(j)(4) of the Bank Holding Company Act of 1956.

"(4) Insurance activities defined.—The term 'insurance activities' means providing insurance as principal, agent, or broker.".

(b) Chapter 1 of title LXII of the Revised Statutes is amended by inserting after section 5136A the following new section:

"SEC. 5136B. LIMITED INSURANCE POWERS FOR NATIONAL BANKS LOCATED IN RURAL AREAS.

"(a) In General.—In addition to the powers vested by law in national banking associations, any such association located in a place that has a population not exceeding 5,000 (as shown by the preceding decennial census) may sell insurance as defined in section 5136(b)(3) so long as such insurance activities are confined to that place, and the insurance is sold only to residents of the State in which the association is located or to natural persons employed in that State. For purposes of this subsection, the term 'residents of that State' includes (1) companies incorporated in, or organized under the laws of, the State, (2) companies licensed to do business in the State, and (3) companies having an office in the State.

"(b) Additional Limitations.—No national banking association described in subsection (a) may—

"(1) assume or guarantee the payment of any premium on insurance policies issued through the agency of the association by the insurance company for which such association is acting as agent pursuant to subsection (a); and

"(2) guarantee the truth of any statement made by an assured in filing such person's application for insurance.".

(c) Effect on Certain Companies.—This section shall not affect the ability of—

(1) a national bank or a subsidiary thereof, located in Oregon or Washington, to continue to engage in insurance activities lawfully engaged in as of March 2, 1988, within the State in which the main office of such national bank is located;

(2) a national bank chartered in 1882 (or a subsidiary thereof) to continue to engage in insurance activities in which it was lawfully engaged as of March 2, 1988, within 30 miles of such bank's main office if such main office is not within 30 miles of any city that had a population exceeding 150,000 under the 1980 census.

SEC. 804. EFFECTIVE DATE.

The provisions of this title shall take effect on March 5, 1987.

TITLE IX—MISCELLANEOUS

SEC. 901. STUDY OF HOSTILE ACQUISITIONS OF UNITED STATES BANKS.

(a) Purpose.—It is the purpose of this section to require the Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") to make a study of the effects that hostile acquisitions in the banking industry could have on the safety and soundness of banking in the United States.

(b) Study.—The Board of Governors of the Federal Reserve System, in consultation with the Attorney General, the Comptroller General of the United States, and the Federal Deposit Insurance Corporation, shall prepare a study of the effects that hostile acquisitions in the banking industry could have on the United States banking and financial markets. The study shall pay particular attention to the potential adverse effects on safety, soundness, and stability of banks and the banking industry of hostile acquisitions of United States banking institutions and shall address the following issues:

(1) the effects that hostile acquisitions could have on consolidation within the banking industry, taking into consideration the continuing removal of barriers to interstate banking;

(2) the effects that hostile acquisitions could have on concentration of economic resources generally, and the specific markets for banking and financial services, including securities markets in which banks are eligible to participate;

(3) the effects that hostile acquisitions could have on instability, uncertainty and confidence in banking, and on consumer and small business services;

(4) whether specific regulations are needed to process acquisition applications that proceed on a hostile basis rather than a consensual basis in order to ensure—

(A) the adequacy and quality of capital, particularly with respect to equity capital, and the adverse consequences of the use of debt in hostile acquisitions;

(B) the quality of assets in the surviving institution due to the disposition of assets to meet regulatory capital requirements;

(C) the strength of the surviving institution against unforeseen weaknesses that could have been discovered had adequate due diligence been conducted as is done in a consensual acquisition;

(D) the strength of the target, acquiring, or surviving institutions to withstand the adverse consequences of the use of special defensive and protective steps taken to prevent a hostile acquisition from being consummated;

(5) whether special regulations are needed, once a contested application has been approved, to ensure that the conditions set forth in the approval order are met, and that the consolidation of the two institutions can proceed without undue disruption to either the target or acquiring institution;

(6) whether foreign banks or other potential acquirers of banking resources in the United States should be permitted to make hostile acquisitions of United States banking institutions;

(7) whether the stock market decline and related problems of October 1987 impair the ability of banking institutions to raise capital to conduct or resist hostile acquisitions; and

(8) any other issues which the Board deems necessary and appropriate.

(c) Hearings.—The Board and the other governmental agencies involved in the study shall hold public hearing on hostile acquisitions of banking institutions and solicit opinions and testimony as they deem necessary.

(d) Report.—Not later than 90 days after the date of enactment of this Act, the Board shall transmit a report containing the results of the study, along with its recommendations for legislation, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

SEC. 902. LIMITATIONS ON GRANDFATHERED NONBANK BANKS OWNED BY BANK HOLDING COMPANIES.

Section 4(g)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(g)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by inserting at the end thereof the following new subparagraph:

"(C) accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others, or make commercial loans, unless authorized to do so by the Board as of August 10, 1987.".

SEC. 903. JOINT MARKETING RESTRICTIONS.

(a) Bank Holding Companies.—Section 4(f)(3)(B)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)(B)(ii)) is amended—

(1) by inserting "or subsection (c)(15)" after "subsection (c)(8)" the first place it appears; and

(2) by striking "by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under subsection (c)(8)" and inserting "in connection with products or services of an affiliate that are not permissible for a bank holding company to provide under subsection (c)(8) or subsection (c)(15)".

(b) Savings and Loan Holding Companies.—Section 408(p)(2)(A) of the National Housing Act (12 U.S.C. 1730a(p)(2)(A) is amended—

(1) by inserting "or section 4(c)(15)" after "section 4(c)(8)" the first place it appears; and

(2) by striking "by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under section 4(c)" and inserting "in connection with products or services of an affiliate that are not permissible for a bank holding company to provide under section 4(c)(8) or section 4(c)(15)".

SEC. 904. INDUSTRIAL BANKS.

(a) Clerical Amendment.—Section 2(c)(2)(H)(i)(I) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)(i)(I)) is amended by inserting "or deposits" after "demand deposits".

(b) Activities Authorized as of March 5, 1987.—Section 2(c)(2)(H)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)(ii)) is amended by inserting after "was not lawfully engaged" the words ", or authorized to engage,".

SEC. 905. STATUS OF CERTAIN REGISTERED INVESTMENT COMPANY.

A corporation, incorporated on March 29, 1985, under the laws of the State of Maryland, and duly registered under the Investment Company Act of 1940 on February 21, 1986, all of the present shareholders of which are savings banks, shall be deemed to have been registered under such Act on the date of its incorporation.

SEC. 906. AMENDMENT TO THE FEDERAL POWER ACT.

Section 305(b) of the Federal Power Act (16 U.S.C. 825d(b)) is amended by adding the following at the end of the subsection:

"Any person now holding or proposing to hold the position of officer or director of a public utility and officer or director of a bank, trust company, or banking association is authorized to hold such positions without authorization of the Commission, as long as such bank, trust company, or banking association does not underwrite or participate in the marketing of securities (including commercial paper) of the public utility for which the person serves or proposes to serve as an officer or director.".

SEC. 907. EXPEDITED FUNDS AVAILABILITY.

(a) Reasonable Exceptions.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in subsection (b), by inserting "subparagraph (A), (B), (C), or (F) of subsection (a)(2) or" after "limitation established under"; and

(2) in subsection (d), by inserting "(a)(2)," after "subsections".

(b) Disclosure.—Section 604(f) of such Act is amended by adding the following:

"(4) Notice with respect to cashier's, certified, and similar checks.—A depository institution issuing a check described in section 603(a)(2)(F) in excess of $5,000 shall notify the person to whom it issued that funds may be made available later than the time specified in section 603(a).".

SEC. 908. PAYROLL TAX FILING SERVICE ORGANIZATIONS.

Section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)) is amended—

(1) in clause (i), by inserting after "in trust funds" the following: "or in Treasury tax and loan accounts maintained by a payroll tax filing service organization,";

(2) in clause (iii), by inserting after "third parties or others" the following: ", except for deposits of funds by a payroll tax filing service organization in Treasury tax and loan accounts or in trust pending payment of such funds for Federal, State, or local tax obligations,"; and

(3) in clause (iv)(I), by inserting before the semicolon the following: "except in connection with the transfer by a payroll tax filing service organization of funds held in trust pending payment of such funds for Federal, State, or local tax obligations".

SEC. 909. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS.

The International Banking Act of 1978 is amended by adding at the end thereof the following:

"NATIONAL TREATMENT

"Sec. 15. (a) General Rule.—If the President or his designee has made a written determination that a foreign country is described in subsection (b) of this section, has transmitted the determination to a Federal banking agency, and has not revoked the determination, the Federal banking agency may, notwithstanding any other provision of law, deny any application by an entity described in subsection (c) that requires the approval of that agency, or disapprove any notice by such an entity that is subject to disapproval by that agency, if—

"(1) that entity is chartered or incorporated or has its principal place of business in that foreign country; or

"(2) any person that directly or indirectly controls that entity resides, is chartered or incorporated, or has its principal place of business in that foreign country.

"(b) Denial of National Treatment.—A country is described in this subsection for purposes of this section if that country does not accord to United States banks and bank holding companies the same competitive opportunities as it accords to domestic banks and bank holding companies.

"(c) Certain Foreign Entities Described.—The following entities are described in this subsection for purposes of this paragraph:

"(1) a foreign bank; and

"(2) any other company subject to the Bank Holding Company Act of 1956 under section 8(a) of this Act.".

SEC. 910. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BROKERS AND DEALERS.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by inserting at the end thereof the following new paragraph:

"(11)(A) The following provisions shall apply if the President or his designee has published a written determination that a foreign country is described in subparagraph (B) of this paragraph and has not revoked that determination:

"(i) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(I) the Commission has been given notice 45 days in advance of that proposed acquisition, in such form as the Commission shall prescribe by rule; and

"(II) the Commission has not prohibited that acquisition.

"(ii) The Commission may, by order, extend the notice period with respect to any particular acquisition for no more than 60 days.

"(iii) The Commission, consistent with the protection of investors and the maintenance of fair and orderly markets, may—

"(I) deny any application for registration under this subsection filed by a person of that foreign country; and

"(II) prohibit, by order, any person of that foreign country from acquiring control of a registered broker or dealer, irrespective of when the acquisition was initiated.

"(B) A country is described in this subparagraph for purposes of this paragraph if that country does not accord to United States brokers and dealers the same competitive opportunities as it accords to domestic brokers and dealers.

"(C) A person is a 'person of a foreign country' for purposes of this paragraph if that person, or another person that directly or indirectly controls that person, is a resident of a foreign country, is organized under the laws of that country, or has its principal place of business in that country.".

SEC. 911. STUDY OF MERGER OF COMMERCE AND BANKING.

(a) In General.—The Board of Governors shall conduct a study of the need, if any, to continue the separation of full-service banking and commerce in the United States. In carrying out such study, the Board shall consult with all appropriate departments and agencies of the United States and representatives of all segments of the financial services and other industries.

(b) Particular Areas of Study.—In carrying out the study under this section, the Board shall in particular examine—

(1) the economic, regulatory, and consumer issues involved in continuing or eliminating the separation of banking and commerce;

(2) the competitive issues involved in eliminating the separation of banking and commerce, including the adequacy of antitrust and other laws relating to the maintenance of other competition; and

(3) organizational issues, particularly with respect to the appropriate types and structures of organizations that may engage in full-service banking, financial services, and commercial activities.

(c) Report Required.—Not later than one year after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall transmit the report required by this section to the Congress.

SEC. 912. INCREASED PENALTIES UNDER THE BANK HOLDING COMPANY ACT.

(a) Section 8(a) of the Bank Holding Company Act of 1956 is amended by striking "$1,000" and inserting "$50,000", by striking "$10,000" and inserting "$100,000", and by striking "one year" and inserting "three years".

Section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)) is amended by striking "$1,000" and inserting "$5,000".

SEC. 913. FINANCIAL CONSUMERS ASSOCIATIONS.

(a) National Banks.—Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured banks, as defined in section 3 of the Federal Deposit Insurance Act, to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, national banks shall comply with the insert requirements.

(b) Savings and Loan Associations.—Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding the following new subsection:

"(t) Financial Consumers Associations.—Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured institutions as defined in section 401 of the National Housing Act to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, associations, as defined in subsection (d), shall comply with the insert requirement.".

(c) Credit Unions.—Title I of the Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding the following new section:

"FINANCIAL CONSUMERS ASSOCIATIONS

"Sec. 130. Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured credit unions as defined in section 101(7) of this Act to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, Federal credit unions shall comply with the insert requirement.".

SEC. 914. COMMUNITY REINVESTMENT ACT.

Section 803(3)(F) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(3)(F)) is amended by inserting "or section 4" after "section 3".

AMENDMENT NO. 1921, AS MODIFIED

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the managers' amendment be modified to make a technical change. This has been cleared with the minority and, as far as I know, there is no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The modification follows:

On page 198, between lines 17 and 18, insert the following:

(c) Effect on Certain Companies.—This section shall not affect the ability of—

(1) a national bank or a subsidiary thereof, located in Oregon or Washington, to continue to engage in insurance activities lawfully engaged in as of March 2, 1988, within the State in which the main office of such national bank is located;

(2) a national bank chartered in 1882 (or a subsidiary thereof) to continue to engage in insurance activities in which it was lawfully engaged as of March 2, 1988, within 30 miles of such bank's main office if such main office is not within 30 miles of any city that had a population exceeding 150,000 under the 1980 census.

The PRESIDING OFFICER. Without objection, the amendment to the title of the bill is agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, there will be no more rollcall votes tonight.

Mr. President, there will be rollcall votes tomorrow.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond 15 minutes, Senators may speak for not to exceed 5 minutes therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

125TH ANNIVERSARY OF THE UNION LEADER OF NEW HAMPSHIRE

Mr. HUMPHREY. Mr. President, "there is nothing so powerful as truth"—that famous quote by one of New Hampshire's most famous native sons, Daniel Webster, adorns the banner of the Union Leader. Today, the Union Leader celebrates its 125th anniversary.

One hundred and twenty-five years ago today, the Manchester Daily Union—later called the Union Leader—was founded by James Campbell. At that time, our Nation was mired in the depths of the Civil War. It was the same year that the Battle of Gettysburg was fought, the year that President Lincoln issued the Emancipation Proclamation, the year he delivered a brief, eloquent speech dedicating a cemetery for those who fell at Gettysburg—and in so doing, rededicating, as Lincoln put it, "That this Nation, under God, shall have a new birth of freedom, and that government of the people, by the people and for the people shall not perish from the Earth."

Mr. President, that freedom is something worth fighting for—both here and abroad. And no newspaper has been a stronger advocate of freedom than the Union Leader.

Over the years, there have been eight publishers, some of whom enjoyed national prominence. Gordon Woodbury was an assistant Navy Secretary. Frank Knox was a candidate for Vice President. In modern times, William Loeb became a well-known figure in National political circles because of his hard-hitting, straight talking editorials.

Most recently, the paper has been led by William Loeb's wife, Nackey Loeb. Under Mrs. Loeb's leadership, the Union Leader continues to stand for the same values for which the paper has been long known. The Union Leader unabashedly flies the American banner. It is fiercely anti-Communist in foreign policy, vigorous for limited government at home, and principled in the right-to-life cause.

Many political observers ask this Senator, "How has New Hampshire remained a bastion of conservative values, when the rest of New England has become the hotbed of liberalism?" The answer is, the Union Leader.

The Union Leader is the most widely read and influential newspaper in New Hampshire and has a large list of subscribers outside the State's borders.

Mr. President, on this 125th anniversary of its founding, I salute one of America's great newspapers, the Union Leader, and its gallant publisher, Mrs. Nackey Loeb.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DIESEL FUEL TAX

Mr. SHELBY. Mr. President, I rise to discuss an unintended consequence of a provision contained in the Budget Reconciliation Act. The act contains a revenue provision that would change the collection point for the diesel fuel excise tax on Federal highway users from retailers to wholesalers. The procedure, if not remedied, will take effect on Friday, April 1, 1988, only 2 days away.

The unintended effect of this provision will be to force virtually all diesel consumers to pay the tax up front on their fuel and at a later time demonstrate that they did not use the fuel on a federally funded highway to be eligible to apply for a refund from the Internal Revenue Service. Before this act passed, a retailer who was collecting the tax, was presumed to be able to distinguish between sales of fuel to highway and nonhighway users.

I have heard from many of my constituents who have voiced their concern with this particular provision. Many of my constituents are small business owners and operate on a small margin. They cannot afford to lose thousands of dollars for a period of time when those funds are needed for making mortgage and insurance payments, meeting payrolls for employees, and repairing equipment.

In the fishing industry, for example, fuel costs are the most significant cost associated with vessel operations. Fuel purchases account for more than 27 percent of operating costs for vessel operators in the Southeast United States. Additionally, my constituents who work in agriculture, waterway transportation, mining sectors and other areas will suffer irreparable economic injury. Further, without the proposed amendment, State and local governments would be adversely affected.

The unnecessary economic harm of this provision must be remedied. I realize that improved tax enforcement is required to eliminate tax evasion and thereby aid in reducing our budget deficit. I have consistently worked toward reducing our Federal budget deficit and will continue to do so. Moreover, I am in favor of eradicating tax evasion and pledge to work toward that goal.

However, I feel that the provision in question will have detrimental repercussions. Therefore, I support Senator BENTSEN in proposing an amendment to allow affected parties to continue to purchase diesel fuel tax-free at the wholesale level after April 1. I am pleased to add that this amendment ensures revenue neutrality. Overall, I find the amendment to be a fair and equitable solution to an unforeseen consequence of the Budget Reconciliation Act.

I commend the Senate Finance Committee for their fine work in addressing this concern in a most expeditious manner. Also, I encourage my colleagues to cosponsor this amendment so that an inequitable situation can be remedied.

BICENTENNIAL MINUTE

MARCH 8, 1805: THE END OF A HECTIC CONGRESSIONAL SESSION

Mr. DOLE. Mr. President, 183 years ago this month, on March 8, 1805, 37-year-old Senator John Quincy Adams wrote to his father, former President John Adams, to describe the hectic and portentous closing days of the Eighth Congress.

"From ten o'clock in the morning until seven in the evening," he recalled, "the Senate was constantly in session, with the interval of only half an hour each day for a slight collation, which the members took at the Capitol itself; and this, together with a walk of an hour to reach that place, and a walk of an hour to return to it, scarcely left me the hours of the night for repose. The scene has now closed. On Sunday evening last, on March 3, at half past nine o'clock, the two Houses adjourned sine die, and thus terminated a session which it was high time to bring to an end."

The session had concluded with the Senate voting to acquit Supreme Court Justice Samuel Chase of impeachment charges lodged by the House. This bitterly emotional partisan battle had raised a serious threat to the continuing independence of the federal judiciary. Adams reflected on the role of Senate in maintaining that independence. "The trial has exhibited the Senate of the United States fulfilling the most important purpose of its institution by putting a check upon the impetuous violence of the House of Representatives. It has proved, that a sense of justice is yet strong enough to overpower the furies of faction; but it has, at the same time, shown the wisdom and necessity of that provision in the Constitution which requires the concurrence of two-thirds for conviction upon impeachments." He concluded: "The essential characters which *ought* to belong to the Senate are *coolness* and *firmness.* I hope that when the occasion shall call they will be found to possess them; and it would be doing an injustice to the body and its members not to acknowledge that in this memorable instance these qualities have been eminently displayed."

TAKEOVERS ARE DRIVING CORPORATE AMERICA TOWARD BANKRUPTCY

Mr. SANFORD. Mr. President, I rise today to speak about an issue that has been discussed frequently during the Senate Banking Committee's consideration of legislation to reform our tender offer laws, but which was only recently brought home in an excellent article in the Wall Street Journal. That issue is the degree to which corporate takeovers are driving our corporations to the brink of bankruptcy. The article notes that despite the economic rebound that has occurred in the last 5 years, corporate defaults have soared, reaching nearly $9 billion last year.

The article notes that while corporate restructuring may have left corporations leaner in their operations, these corporations are much more heavily in debt. Further, this trend of debt-financed takeovers are leveraged buyouts is once again reaching mania proportions, bringing with it major debt burdens. The Wall Street Journal notes that on one single day in February, more than $12 billion of takeover plans, mostly involving debt, were announced.

One of the economists in the article makes a point we all need to keep in mind as we consider legislation affecting corporate transactions—that if corporations have substantial equity and the economy turns bad, those corporations can cut back on or suspend dividends. However, if our takeover and tax laws force corporations to take a significant debt and the economy takes a downturn, those corporations will go bankrupt because they can't service their debt.

The Wall Street Journal uses Burlington Industries, a corporation headquartered in my home State, as an example of the difficulties that such debt can cause. Following a management-led leveraged buyout to fend off a hostile takeover attempt, Burlington Industries took on enough debt to change its ratio of debt to equity from 0.4 percent to 1 prior to the takeover attempt to 29.8 to 1. As a result, Burlington's own prospectus warns that "given the company's substantial level of indebtedness, adverse developments affecting its business and operations will have a greater impact" than they would have had before the buy-out. The article notes that Burlington must sell assets simply to service its enormous debt burden that carries a quarterly interest expense of over $66 million.

As the Congress considers steps to increase our competitiveness, I hope we will heed the warning of this article that the takeover trend is pushing corporate debt and defaults to worrisome levels. I ask unanimous consent that a copy of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 15, 1988]

TAKEOVER TREND HELPS PUSH CORPORATE DEBT AND DEFAULTS UPWARD

(By Lindley H. Clark Jr. and Alfred L. Malabre Jr.)

Corporate restructuring left many American companies leaner in their operations but more heavily in debt. And now, a wave of stock buy-backs, corporate takeovers and sales of companies to their managements is pushing them even further—perhaps, dangerously—onto hock.

Already, the corporate debt in default is climbing rapidly. The 1981-82 recession raised it, just as you would expect. Annual corporate defaults climbed to more than $840 million from $60 million. But now, despite an economic rebound for more than five years, defaults have, perversely, soared. Last year alone, they reached a towering sum of nearly $9 billion.

To many analysts' surprise, even the Oct. 19 stock-market crash hasn't discouraged companies from increasing their borrowings. Right after the crash, many companies, despite fears of an impending recession, launched extensive programs to borrow funds and buy back their shares to try to shore up stock prices.

And in recent months, the merger and acquisition mania has broken out again; on Feb. 29 alone, more than $12 billion of takeover plans, mostly involving debt, were announced. Companies may be rushing to buy while the Reagan administration still keeps the antitrust watchdogs on a short leash.

WORRIED ECONOMISTS

The borrowing binge has many economists worrying about what may happen in the next recession, which may happen in the next recession, which most analysts, surveyed by Blue Chip Economic Indicators, a newsletter, expect next year.

"Once the economy begins to weaken, as it sooner or later will, the high levels of corporate debt will exacerbate the downturn," warns Mickey D. Levy, the chief economist of First Fidelity Bancorp, in Philadelphia. "A company in trouble can simply cut or suspend dividend payments on stock but will go bankrupt if it can't service its debt."

And companies do have a lot of debt to service. Nonfinancial corporations' debt last year hit $1.8 trillion, triple the $586.2 billion in 1976. Since the mid-1970s, it has grown much faster than their revenues.

The debt buildup worries many corporate executies as well as economists. In a speech in New York City yesterday, Rand Araskog, the chairman of ITT Corp., warned that the recent high volume of low quality debt is helping to finance the resumption of takeover activity, which, in turn is fueling stock-market speculation. He said he had thought that last fall's stock-market crash would end such activity, but now, he said, "I think we're headed for another Oct. 19."

Some corporate chieftains, however, remain unworried about debt levels—at least at their own companies.

"We're very comfortable," says Joseph Neubauer, the chairman of ARA Services Inc., which went private in 1984 in a management-led buy-out that entailed heavy borrowing at rates as high as 16.5%. He takes comfort in ARA's traditionally recession-resistant businesses; the company is a diversified supplier of services ranging from food distributor, to health and family care. He also cites its cash flow—its profit after taxes but before depreciation.

"Whether a company has a highly leveraged balance sheet or not, the real issue is whether it can sustain cash flow in a downturn, and we think we can," Mr. Neubauer declares. "Banks are looking much more at cash flow and, as a result, will underwrite risks they wouldn't have touched 10 years ago."

Some general measures of the debt burden have improved a bit. As corporate profits increased last year, the share of earnings soaked up by interest payments fell to an estimated 49.2% from 56.8% in 1986. But most analysts aren't impressed. As recently as 1984, that ratio was about 40%, and it was far lower before the last recession. Analysts complain that after an economic expansion, the debt load should have eased.

They also cite other statistical forebodings. Corporate debt ran close to 40% of gross national product last year, up from 31.8%, in 1976. And a so-called liquidity ratio—companies' cash-type assets plus receivables as a percentage of debt due within one year—has recently dropped below 83%. That trails even its 1981-82 recession level, when it fell to about 85% from nearly 90%.

From a longer-range perspective, corporate liquidity looks even worse. Long deeply worried about debt levels, T.J. Holt, an investment analyst in Westport, Conn., estimates that "American's corporate giants," including such eminent names as Exxon, General Motors and General Electric, "have less than one-tenth the liquidity of their 1929 counterparts."

Given the liquidity problems, many companies' initial response to the market's crash last Oct. 19—the stock buy-backs—dismays Mr. Levy. He regards the buy-backs as "very untimely since companies are using up cash or going into debt to make the purchases." He says "these corporations are increasing their exposure" if the economy sours.

Although the stock market's subsequent rebound has helped a bit, corporate debt has already become more burdensome.

"The crash was like an increase in the cost of capital and in the cost of equity capital in particular," remarks James Tobin, Yale's Nobel-laureate economist. "You now have to sell more of your firm if you want to raise funds for investment projects. There's also a smaller equity base for bond financing."

Newmont Mining Corp., has felt the pinch. Once a major copper producer whose focus now has turned to gold mining, it borrowed nearly $2 billion last September to pay a special $33-a-share dividend designed to fend off a takeover group led by T. Boone Pickens Jr. Newmont had hoped to pay off much of the debt by selling only nongold assets, but the crash reduced their market value.

By selling 4,150,000 Du Pont shares as well as an 82% interest in Foote Mineral Co., Newmont managed to pare its debt to about $1.6 billion from $2.1 billion, according to Goldman, Sachs & Co. But that reduction was less than anticipated. Now, despite its original plans. Newmont is trying to sell all or part of its interest in Newmont Australia, a gold-mining unit. In December, credit ratings on Newmont's senior debt were lowered. Meanwhile, the Pickens group with a substantial loss on its Newmont stock, is suing for damages.

MACY'S MANEUVERS

And the crash may be deterring some restructured corporations from reducing debt by selling stock. R.H. Macy & Co. was purchased in a highly leveraged deal by its management in 1986. A recent congressional study of buy-outs notes that the big retailer was "generally expected" to "go public again" soon through stock sales. But it hasn't. In fact, Macy's, which is still privately held, has entered a bidding contest for Federated Department Stores, and a victory apparently would force it to borrow billions of dollars more.

Apart from the market crash, so-called leveraged buy-outs account for much of the continuing surge in debt. Typically, a company's management, institutional investors and investment bankers take it private through huge borrowings with the proceeds of the new debt issues being used to retire equity capital.

The leveraged buy-out of Burlington industries Inc. by a group headed by the New York investment banking firm of Morgan Stanley & Co. shows how profoundly a company's balance sheet can suffer. In early October, just after the buy-out (initiated by management to ward off a takeover), the big textile maker's ratio of debt to common shareholder's equity was 29.8 to 1, up from only 0.4 to 1 about a year earlier.

WARNING IN PROSPECTUS.

As a result, a Burlington prospectus issued in early February warns that "given the company's substantial level of indebtedness, adverse developments affecting its business and operations will have a greater impact" than they would have had before the buy-out.

The report notes that Burlington's new indebtedness "bears interest at higher average rates" than before. And it cautions that based on "anticipated levels of operations," the company "does not expect that it would be able to generate sufficient cash flow from operations" to service its debt without selling "certain assets." In the 1987 fourth quarter, Burlington incurred a $25.3 million loss despite increased earnings from operations; it mainly blamed $66.1 million in interest expense.

Such buy-outs aren't the only board-room maneuver that adds debt. Often, debt is ballooned by well-intentioned efforts to reshape a company's business.

Allegheny International Inc., once primarily a steel producer, set out a decade ago to strengthen its consumer-products lines, mainly through acquisitions. Thus, in 1981, it acquired Sunbeam Corp. However, the home-appliance maker's profits haven't been big enough to enable Allegheny to reduce sufficiently the debt stemming from the $543 million acquisition. Strapped for cash, Allegheny recently filed for protection from creditors under the Federal Bankruptcy Code.

MANAGEMENT HANDICAP

Higher debt can hobble a company in many ways. "Equity gives management the maximum freedom of choice in decision-making, while debt entails all sorts of obligations and limits," remarks Henry Kaufman, a managing director of Salomon Brothers who is leaving the firm next month to start his own consulting company. A case in point is Burlington, whose capital spending will be strictly limited under the buy-out agreement. Until 1991, annual outlays can't exceed $75 million, compared with $1.8 billion in a recent 10-year period.

Not surprisingly, far more companies' credit ratings have dropped than risen in recent years (as an accompanying chart shows). More surprising, perhaps, is that many managers seem less bothered by a lowered rating than they once would have been. Mr. Kaufman largely attributes this "liberalization of standards" to the fact that "we haven't had a depression since the 1930s, and the intervening recessions have hurt relatively few firms; so, an attitude has developed where people say, 'Why should we be worried if our credit rating goes from single-A to triple-B?' Nobody's been hurt."

Mr. Kaufman also notes that the tax code still encourages the use of debt. Corporations can deduct interest paid on debt but not dividends. And he suggests that the higher capital-gains tax rate, enacted in 1986, tilts the balance further toward debt because a major reason to buy stocks is the hope of capital gains.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:07 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2117. An act to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 110. A concurrent resolution correcting the enrollment of S. 854, the Nevada-Florida Land Exchange Authorization Act of 1988.

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 519. Joint resolution to continue the withdrawal of certain public lands in Nevada.

At 1:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 2616) to amend title 38, United States Code, to improve health care programs of the Veterans' Administration; with amendments, in which it requests the concurrence of the Senate.

At 3:53 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1508. An act to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, Nevada, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 854. An act entitled the "Nevada-Florida Land Exchange Authorization Act";

S. 2117. An act to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this Act;

H.R. 3981. An act to make section 7351 of title 5, United States Code, inapplicable to leave transfers under certain experimental programs covering Federal employees, except as the Office of Personnel Management may otherwise prescribe; and

H.J. Res. 480. Joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. Stennis].

At 4:52 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4256. An act to provide temporary authority to certain employees of the Panama Canal Commission to purchase food and other goods at any commissary or exchange store located in Panama which is operated by any military department of the United States; and

H.J. Res. 513. Joint resolution to designate April 6, 1988, as "National Student-Athlete Day."

At 6:54 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 206. Joint resolution to designate April 8, 1988, as "Dennis Chavez Day";

S.J. Res. 223. Joint resolution to designate the period commencing on April 10, 1988, and ending on April 16, 1988, as "National Productivity Improvement Week";

S.J. Res. 245. Joint resolution to designate April 21, 1988, as "John Muir Day"; and

S.J. Res. 260. Joint resolution to designate the week beginning April 10, 1988, as "National Child Care Awareness Week."

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 523. Joint resolution to provide assistance and support for peace, democracy and reconciliation in Central America.

At 7:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 272. A concurrent resolution providing for a conditional adjournment of the House and Senate until April 11, 1988.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, March 30, 1988, he had presented to the President of the United States the following enrolled bills:

S. 854. An act entitled the "Nevada-Florida Land Exchange Authorization Act"; and

S. 2117. An act to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this Act.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY from the Committee on Agriculture, Nutrition, and Forestry, without amendment and with a preamble:

S. Res. 377. A resolution to express the sense of the Senate regarding negotiations on a new long-term agreement on agricultural trade with the Soviet Union.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself, Mr. Simon, Mr. Pell, Mr. Matsunaga, Mr. Burdick, Mr. Bradley, and Mr. Durenberger):

S. 2231. A bill to amend the Public Health Service Act to reauthorize nurse education programs established under title VIII of such Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER:

S. 2232. A bill to temporarily suspend the duty on high resolution cathode-ray tubes; to the Committee on Finance.

By Mr. CRANSTON:

S. 2233. A bill to provide for the inclusion of certain lands within the John Muir National Historic Site; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself, Mr. Grassley, and Mr. Heflin):

S. 2234. A bill to provide special rules for health insurance costs of self-employed individuals; to the Committee on Finance.

By Mr. WALLOP:

S. 2235. A bill to provide tax incentives and assistance to low-income working families; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2236. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of firefighting vehicles; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN (for himself, Mr. D'Amato, Mr. Nickles, Mr. Hecht, Ms. Mikulski, Mr. Gramm, Mr. Daschle, Mr. Riegle, Mr. Dixon, Mr. Lugar, Mr. Chafee, Mr. Pressler, Mr. Matsunaga, Mr. Wilson, Mr. Weicker, Mr. Sarbanes, Mr. Adams, Mr. Grassley, Mr. Wirth, Mr. Humphrey, Mr. Inouye, Mr. Boschwitz, Mr. Durenberger, Mr. Cranston, Mr. Pell, Mr. Roth, Mr. Lautenberg, Mr. Sasser, Mr. Simon, Mr. Kennedy, Mr. Hatch, Mr. Specter, Mr. Bradley, Mr. Cohen, and Mr. Chiles):

S.J. Res. 283. A joint resolution to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week"; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself, Mr. Stafford, Mr. Thurmond, Mr. Kerry, Mr. Lugar, Mr. Reid, Mr. Hecht, Mr. Lautenberg, Mr. Cochran, Mr. Pell, Mr. Wilson, Mr. Hollings, Mr. Boschwitz, Mr. Kennedy, Mr. Evans, Mr. Sanford, Mr. Inouye, Mr. Mitchell, Mr. Dodd, Mr. Durenberger, Mr. Moynihan, Mr. Humphrey, and Mr. Dole):

S.J. Res. 284. A joint resolution to designate April 6, 1988, as "National Student-Athlete Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. Dole):

S. Res. 402. A resolution to authorize the release of documents by the Committee on Foreign Relations; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. Hatch, Mr. Simon, Mr. Pell, Mr. Matsunaga, Mr. Burdick, Mr. Bradley, and Mr. Durenberger):

S. 2231. A bill to amend the Public Health Service Act to reauthorize nurse education programs established under title VIII of such act, and for other purposes; to the Committee on Labor and Human Resources.

NURSE EDUCATION REAUTHORIZATION ACT

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues, Senators Hatch, Simon, Pell, Matsunaga, Burdick, Bradley, and Durenberger, in introducing the Nurse Education Reauthorization Act of 1988. Historically, the nurse training authority under title VIII of the Public Health Service Act has provided two principal types of aid—institutional support for nursing schools and financial assistance for nursing students. This support in the past has increased the enrollments and graduates of nursing educational institutions. As a result, title VIII has served the important role of increasing opportunities for nurses to obtain undergraduate degrees and advanced training to become nurse administrators, nurse practitioners, nurse midwives, and clinical nurse specialists. Title VIII programs received $56 million in appropriations for fiscal year 1988. This legislation provides for an increase in authorization to $94 million in fiscal year 1989 to address the critical nursing shortage.

Today, however, the Nation faces a crisis in health care due to a worsening nursing shortage which demands our immediate nursing services at a time of recognized shortage of nurses and rapidly declining enrollments in our schools of nursing.

In Washington, DC, General Hospital has had to close its emergency room on several occasions in the past year because of a lack of adequate nursing staff. Hospitals around the country have been forced to close beds and patient wards due to the nursing shortage. Many intensive care units and surgical units are dangerously close to compromising patient care because far too few nurses are available for duty. And with nurses being asked to work double shifts and care for too many critically ill patients, burnout is causing many to leave the profession.

The implications for the future nursing supply may well be devastating. Preliminary projections from the Sixth Report of the Department of Health and Human Services to the President and to Congress for the year 2000 indicate that 1,743,000 nurses will be needed—38 percent more nurses than were required in 1985. Faced with declining enrollment and a hospital vacancy rate for nurses exceeding 13 percent, support of nursing requires immediate attention.

An article in Time magazine of March 14, 1988, outlines the existing and potential dangers to a continuation of this crisis. Citing the increased nursing responsibility associated with advancing medical technology, the aging population and the amount and complexity of nursing care involved in caring for the growing number of AIDS patients, the article highlights the immediate and future perils to patient care.

Experts have attributed the shortage of nurses in all disciplines and every area of the country to several causes. First, nurses are clearly underpaid. They do not receive initial salaries commensurate with the amount of education required nor with the level of responsibility required to care for patients. The salary premium for over 20 years of nursing experience has been estimated to be only 5 cents an hour. It is easy to understand why so many people who might be interested in nursing turn to other higher paying professions.

Second, nurses do not receive adequate respect as full members of the health care team. Often they are not included in the decisionmaking process. This combination frequently leads to frustration, burnout, and high turnover.

Last, the number of nurses entering and completing undergraduate training programs is shrinking. Student enrollment in undergraduate nurse programs has declined for the third consecutive year and the supply of nurse graduates is expected to decrease well into the next decade. The National League for Nursing reports a 10 percent decline in RN Program enrollments between 1983 and 1985. This represents 25,000 fewer RN students over this 2-year period. An American Hospital Association study cites a further drop in enrollment of nearly 20 percent from July 1985 to July 1986.

Nursing schools have the capacity to educate more nurses, but fewer young people are choosing this career. Significant change is needed in hospital policies and in reimbursements for medical care to improve nursing salaries and provide greater involvement in patient care decisions. More Federal resources are clearly necessary to increase the supply of nurses and the number and quality of nurse specialists.

As a result, the legislation I am introducing provides several important revisions to the existing Nurse Education Act—title VIII of the Public Health Service Act. Federal support of nurse education has been an important method of increasing the supply of nurses, and a new section would be added entitled "Scholarships for Undergraduate Education of Professional Nurses." The purpose of this program is to offer direct financial support to nursing students, with priority for disadvantaged students.

In addition to direct financial support for students, this bill also includes an increase in funding for institutions of nurse education. The special projects section provides for improved geriatric nurse training and support for faculty to retain disadvantaged students in their programs. The bill recommends the establishment of a complete educational career ladder to encourage and support all nurses in obtaining undergraduate and graduate nursing degrees through rapid transition programs which acknowledge their past professional experience. In addition, this program will encourage the development of curricula for the achievement of baccalaureate degrees in nursing by those individuals with baccalaureate degrees in other fields.

In recognition of the important role and increased need of nurses with advanced training, the bill also proposes additional funding for advanced nurse education. Graduate programs in nursing have responded to the need for such education in specialized clinical areas, including organ transplant care, trauma and critical care nursing. The nature of acute illnesses, shortened hospital stays, and advanced technology in health care have heightened the need for postgraduate speciality education of nurses.

In addition to these areas, master and doctoral programs have prepared nurses and made vital contributions to health care in areas such as nursing administrations, health policy, case management, gerontological nursing and nurse education. These programs offer opportunities for nurses to assume an important role in solving the critical problems facing the health care system. Such programs provide for nursing leaders, educators, and clinical nurse specialists.

The Nurse Practitioners and Nurse Midwives Programs funded by this legislation provide needed primary health care to a large portion of the underserved population. After completion of advanced training, nurses are able to manage clients independently within the context of health care consultation system. Because of their autonomous nature, these health providers are able to provide care to the needy in rural areas, inner city and neighborhood health centers, migrant health centers, community health centers, and other public health facilities.

The report of the Graduate Medical Education National Advisory Committee states that "* * * nurse practitioners and nurse midwives can make positive contributions to the health care system, can enhance patient access to services, decrease cost and provide a broadened range of services." As a result of this increasingly important role, increased funding is needed for traineeships. In exchange for traineeship funds to support the cost of their education, nurse practitioners, and nurse-midwives will be required to practice in a public health care facility for underserved populations for a period equal to the length of their traineeships.

To assist students in financing their education, the bill includes language to revise the Loan Provision Program. This change is minor, but it will broaden the range of eligible applicants and encourage participation in this proven program.

This bill also includes specific initiatives from S. 1402, the Nursing Shortage Reduction Act of 1987 which was adopted unanimously by the Senate. Two of the three sections will be included under a special provision—the Nursing Shortage Relief Programs. Long-term care nursing practice demonstration will provide funds to evaluate nurse practice models to improve nursing care in home health care systems and nursing homes. The second program, nurse recruitment centers, provides for the development of regional models of recruitment centers directed toward individuals between the ages of 12 and 14 years of age; toward those enrolled in colleges who have not declared majors; and toward adults who are not in schools but who may desire to enter into nursing. These programs are vital measures to address the complex nature of the nursing recruitment crisis. The need for more nurses to care for the elderly and patient population with ever-increasing complex illnesses is compelling. Congress must respond by providing greater funding for nursing education.

I also want to commend the many nursing associations, specialty nursing groups and nurse educators, as well as the Division of Nursing in the Department of HHS and other interested groups and individuals who have assisted in the preparation of this legislation. I encourage my colleagues to support this bill and join in providing adequate funding for these most important nurse education programs. I look forward to consideration of this legislation by the Committee on Labor and Human Resources in the coming weeks. I ask unanimous consent that the article from Time magazine to which I referred and the text of the bill may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nurse Education Reauthorization Act of 1988".

TITLE I—SPECIAL PROJECTS

SEC. 101. SPECIAL PROJECT GRANTS AND CONTRACTS.

(a) PURPOSES.—Section 820(a) of the Public Health Service Act (42 U.S.C. 296k(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of subparagraph (E);

(B) by inserting "and" after the semicolon at the end of subparagraph (F); and

(C) by adding at the end thereof the following:

"(G) provide faculty development directed at improving the ability of faculty to facilitate retention of such individuals;";

(2) in paragraph (5), by striking out "and the need to promote preventive health care" and inserting in lieu thereof ", the need to promote preventive health care, and the need to promote occupational health care"; and

(3) by striking out paragraph (6) and inserting in lieu thereof the following new paragraph:

"(6) provide training and education—

"(A) to upgrade the skills of licensed vocational or practical nurses, nursing assistants, and other paraprofessional nursing personnel with priority given to rapid transition programs towards achievement of undergraduate nursing degrees; and

"(B) to develop curricula for the achievement of baccalaureate degrees in nursing or masters degrees in nursing by registered nurses or individuals with baccalaureate degrees in other fields;";

(b) AUTHORIZATION.—Section 820(d) of such Act is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For payments under grants and contracts under paragraphs (1) through (6) of subsection (a), there are authorized to be appropriated $15,000,000 for fiscal year 1989, $16,000,000 for fiscal year 1990, and $17,000,000 for fiscal year 1991."; and

(2) in paragraph (2), by striking out the first sentence and inserting in lieu thereof the following new sentence: "For payments under grants and contracts under paragraphs (7), (8), and (9) of subsection (a), there are authorized to be appropriated $4,200,000 in fiscal year 1989, $4,700,000 in fiscal year 1990, and $5,200,000 in fiscal year 1991.".

SEC. 102. ADVANCED EDUCATION.

(a) PURPOSES.—The last sentence of section 821(a) of the Public Health Service Act (42 U.S.C. 2961(a)) is amended—

(1) by striking out "priority in" and inserting in lieu thereof "priority to (A)"; and

(2) by inserting before the period at the end thereof the following: "and (B) programs with innovative curriculum that permit individuals with registered nursing degrees to rapidly achieve advanced degress".

(b) AUTHORIZATION.—Subsection (b) of section 821 of such Act is amended to read as follows:

"(b) For payments under grants and contracts under this section, there are authorized to be approriated $19,500,000 for fiscal year 1989, $20,500,000 for fiscal year 1990, and $21,500,000 for fiscal year 1991.".

SEC. 103. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

(a) TRAINING.—Section 822(a)(2)(B)(ii) of the Public Health Service Act (42 U.S.C. 296m(a)(2)(B)(ii)) is amended by striking out "less than eight" and inserting in lieu thereof "less than six full-time equivalent".

(b) TRAINEESHPS.—Section 822(b)(3) of such Act is amended—

(1) by inserting "Indian Health Service or a Native Hawaiian health center" after "(designated under section 322)"; and

(2) by striking out "or in a public health care facility" and inserting in lieu thereof ", a public health care facility, a migrant health center (as defined in section 329(a)(1)), or a community health center (as defined in section 330(a))".

(c) Guidelines.—Section 822(c) of such Act is amended by inserting "under subsection (a) or (b)" after "a program".

(d) AUTHORIZATION.—Subsection (d) of section 822 if amended to read as follows:

"(d) For payments under grants and contracts under subsections (a) through (c), there are authorized to be appropriated $19,000,000 for fiscal year 1989, $20,000,000 for fiscal year 1990, and $21,000,000 for fiscal year 1991.".

SEC. 104. NURSING SHORTAGE RELIEF PROGRAMS.

Part A of title VIII of the Public Health Service Act (42 U.S.C. 820 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 823. NURSING SHORTAGE RELIEF PROGRAMS.

"(a) LONG-TERM CARE NURSING PRACTICE DEMONSTRATION.—

"(1) IN GENERAL.—The Secretary shall make grants to or enter contracts with public and nonprofit private collegiate schools of nursing for projects to demonstrate and evaluate innovative nursing practice models with respect to the provision of long-term managed health care services and health care services in the home or the provision of health care services in long-term care facilities. Models demonstrated and evaluated with grants and contracts under this subsection shall be designed to increase the recruitment and retention of nurses to provide nursing care for individuals needing long-term care and to improve nursing care in home health care systems and nursing homes.

"(2) AUTHORIZATION.—For grants and contracts under this subsection, there are authorized to be appropriated $2,500,000 for fiscal year 1989, $3,000,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991.

"(b) NURSE RECRUITMENT CENTERS.—

"(1) IN GENERAL.—The Secretary shall make grants to and enter into contracts with public and nonprofit private entities to develop, establish, and operate at least one and not more than five regional model professional nurse recruitment centers for the purpose of recruiting individuals to enter education programs to train professional nurses. In making grants and entering into contracts under this subsection, the Secretary shall ensure that centers developed, established, and operated under this subsection include centers in rural areas.

"(2) DUTIES.—Each center developed, established, or operated with a grant or a contract under this subsection shall—

"(A) conduct nursing recruitment programs directed towards—

"(i) individuals between the ages of 12 and 14 years of age;

"(ii) individuals who are enrolled in high schools;

"(iii) individuals enrolled in colleges and universities who have not declared a major field of study; and

"(iv) adults who are not in school and who may desire to enter nursing;

"(B) develop and compile resource materials concerning professional opportunities in nursing, and disseminate such materials to appropriate individuals and groups, such as commity and professional organizations, hospitals, career and guidance counselors in educational institutions, and the print and broadcast media;

"(C) identify potential applicants for nursing education programs and provide information to such potential applicants on the role of the nurse and nursing education programs; and

"(D) promote collaboration among organizations and assist individuals and organizations to establish mentor relationships between professional nurses and potential applicants for nursing education programs.

"(3) AUTHORIZATION.—For grants and contracts under this subsection, there are authorized to be appropriated $2,500,000 for fiscal year 1989, $3,000,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991.

"(c) APPLICATION REQUIREMENTS.—No grant may be made and no contract may be entered into under this secton unless an application therefor is submitted to the Secretary at such time, in such form, and containing such information as the Secretary may prescribe.".

TITLE II—ASSISTANCE TO NURSING STUDENTS

SEC. 201. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

Subsection (c) of section 830 of the Public Health Service Act (42 U.S.C. 297(c)) is amended to read as follows:

"(c)(1) For the purposes of subsection (a), there are authorized to be appropriated $18,000,000 for fiscal year 1989, $19,000,000 for fiscal year 1990, and $20,000,000 for fiscal year 1991.

"(2) For the purposes of subsection (b), there are authorized to be appropriated $1,100,000 for each of the fiscal years 1989 through 1991.".

SEC. 202. NURSE ANESTHETISTS.

The first sentence of secton 831(c) of the Public Health Service Act (42 U.S.C. 297-1(c)) is amended to read as follows: "For the purpose of making grants under this section, there are authorized to be appropriated $800,000 for each of the fiscal years 1989 through 1991.".

SEC. 203. TRAINEESHIPS FOR UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

Subpart I of part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end theeof the following new section:

"SEC. 832. SCHOLARSHIPS FOR UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

"(a) IN GENERAL.—

(1) GRANTS.—The Secretary may make grants to accredited public or nonprofit private schools of nursing for scholarships to be awarded by the school to full time undergraduate students thereof who are in financial need.

"(2) AMOUNT OF AWARD.—The total amounts of the scholarship award to a student for each year shall not exceed the cost of attendance (tuition and fees) for such year at the educational institution attended by the student (as determined by such educational institution).

"(3) PRIORITY.—Priority in the awarding of scholarships shall be given to individuals from disadvantaged backgrounds.

"(b) PAYMENTS.—Payments to institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for scholarships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees.

"(c) AUTHORIZATION.—For the purpose of making grants under this section, there are authorized to be appropriated $10,000,000 for fiscal year 1989, $11,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.".

SEC. 204. LOAN PROVISIONS.

Section 836(b)(1)(C) of the Public Health Service Act (42 US.C. 297b(b)(1)(C)) is amended by striking out "of exceptional financial" and inserting in lieu thereof "in".

[From Time March 14, 1988]

FED UP, FEARFUL AND FRAZZLED

December 1986, New York City. A patient at Montefiore Medical Center could have died when his tracheal breathing tube fell out. Reason: no one on the understaffed night shift heard the respirator alarm go off.

February 1987, Los Angeles. Six days after being released from the Los Angeles County-University of Southern California Medical Center, a 39-year-old woman dies from complications suffered in a hospital-bed fire. Her family's contention: harried nurses discovered the accident only after she had suffered burns on 40 percent of her body.

January 1988, Louisville. For a time, by astonishing coincidence, none of the city's eleven hospitals can accept critically ill or injured patients. Reason: available beds in intensive-care units cannot be filled because not enough nurses are on duty.

From New York to Los Angeles, the nation's hospitals are locked in the grip of what could become the worst nursing shortage since World War II. Overworked and abysmally paid, growing numbers of America's 2 million registered nurses, 97 percent of whom are women, are trading in their bedpans for law books, ledgers and briefcases. The exodus of the exhausted comes at a time when nursing schools are reporting dramatic declines in enrollment and veteran nurses are loudly objecting to their working conditions. Paradoxically, however, there are more nurses employed now than ever before. Thanks to increasingly complex medical technology, an aging patient population and the worsening AIDS epidemic, the demand for nurses has never been greater.

Alarmed by gathering signs of a health-care disaster, Secretary of Health and Human Services Otis Bowen recently convened a special commission in Washington to find ways to revitalize the nursing profession. Almost simultaneously, retired Admiral James Watkins, the chairman of the presidential AIDS panel, called for federal programs to attract half a million more nurses by 1991 to treat AIDS patients and others who are chronically ill. Nurses on the job bluntly admit that patients entering U.S. hospitals these days may be risking their lives. "You should be worried if you or someone in your family has to check into a hospital," warns Mary Helen Clark, an intensive-care nurse at Einstein-Weiler Hospital in the Bronx. "There is not enough staffing to cover shifts. Patient care is compromised all the time."

In desperation, nurses have taken to the streets to protest. In January, 3,200 nurses staged a 3½ days strike against the Los Angeles County public-hospital system. Hospitals in the New York City area have endured two strikes and four sickouts in the past eight weeks alone. "You have to be deaf, dumb and blind not to know that there's a dangerous situation," says Emergency Room Nurse Renee Gestone, who picketed Brooklyn's Lutheran Medical Center last week. Adds fellow Striker Pat Stewart: "Some of the doctors are saying that we are morally wrong to go on strike, but is it any more morally wrong than if we are stretched out thin, giving bad care?"

"Who wants to go into nursing these days when there are so many better opportunities for women?" asks Adriene Barmann, 27, a cancer nurse at Mount Sinai Medical Center in Miami Beach. For most registered nurses, the average beginning salary is $21,000, yet 30-year veterans regularly earn less than $30,000. Duties range from starting intravenous lines and bathing patients to such menial tasks as fixing TV's and taking out the garbage. Hospitals routinely require 50- and 60-hour workweeks. Little wonder, then, that enrollment in nursing schools has plummeted 20 percent to less than 200,000 student nurses since 1983. During that period, four of the nation's top nursing schools have closed their doors.

At the same time, advances in medical technology have dramatically increased nurses' responsibilities. Consider the neurological intensive-care unit of Chicago's Cook County Hospital. Cocooned in a bewildering array of intravenous lines, tubes and machines, each patient is desperately ill; 30 nurses are required to monitor and care properly for a group of nine patients around the clock. "Things can change rapidly," explains Mary O'Flaherty, the unit's nurse coordinator. "One moment a patient's intracranial pressures, blood pressure and cerebral-profusion pressure can be fine. The next moment you can start hearing bells."

Patients now require more attention outside the intensive-care unit as well. As part of a long overdue campaign to control soaring medical costs, most patients are released from the hospital faster, but the ones who remain are sicker—and usually older. The number of elderly patients has almost doubled in the past two decades. Result: more nurses are needed for fewer patients.

The AIDS epidemic has only made a bad situation worse. In New York City, AIDS patients already take up 9% of all available hospital beds. "Caring for AIDS patients is different from caring for any other sick person, make no mistake," says Donna Stidham, a senior nurse at the 20-bed AIDS unit of Sherman Oaks Community Hospital in Los Angeles. These patients tend to be sicker, their illnesses less predictable and their families more difficult to handle. Experimental treatments require close attention and study. "It's going to make everyone face the nursing shortage," says Jeanne Kalinoski, and AIDS nurse at a major New York City hospital. "If you have a heart attack in the emergency room, you might not get a bed because of the number of AIDS patients."

Officially, of course, the shortage has not really endangered people's lives. "Often the level of T.L.C. that a patient expects—the back rub, the hand holding—doesn't get done in today's intense environment," says Allan Anderson, president of Lenox Hill Hospital in Manhattan. "But I don't think there is any evidence that the quality of hospital care has deteriorated."

Nurses tell more troubling tales. Some are required to "float" into sections of the hospital where they have no experience; others must work beyond the point of exhaustion with no backup. Cook County Hospital's O'Flaherty contends that it is not at all unusual for a nurse to be confronted with two patients requiring emergency attention at the same time. Once on the scene, of course, nurses are legally liable; they cannot refuse to work, however, impossible the situation. The only recourse for many is to fill out a form protesting the assignment. This does not absolve them if something goes wrong, but it proves that the hospital knew about the situation. "Someone in the hospital fills out a form every night," says Einstein-Weiler's Clark.

What is the solution? Trying to attract young nurses by offering higher starting salaries is a first step. But the cost of constantly having to train new nurses drains the resources of virtually every major medical center. The money might be better spent on creating incentives for experienced nurses to stay. "Nurses who are competent and show potential for professional growth ought to be able to double their salaries in ten years and triple them by retirement," argues Judith Ryan, executive director of the American Nurses' Association, based in Kansas City. "That would make us competitive with other professions."

Many health-care experts believe the entire concept of nursing and the traditional role of the nurse must be radically redefined. For too long the medical community has depended on nurses as a source of cheap but versatile labor. "We need to define the professional nature of nurses more precisely and assign other people to positions where a nurse's professional and scientific background is not essential," says Dr. David Skinner, president of New York Hospital. It does not take a nursing degree, for example, to deliver a pill to a patient. Houston's M.D. Anderson Hospital sometimes uses medication technicians, not R.N.s, to dispense drugs to patients after nurses have verified the dose. Says Connie Curran, vice president for health-care management and patient services at the American Hospital Association (AHA) in Chicago: "Hospitals that are using registered nurses to answer telephones and do an incredible amount of paper work should hire a secretary and use nurses to nurse."

Naturally, such a revamped job description means more responsibility—and more respect. Nurses are often the first to spot trouble, make sense of a patient's confusing symptoms or suggest a needed change in treatment. Yet acting on such observations has traditionally been the physician's purview. R.N.s must become full-fledged members of the team and be expected to engage in the medical give-and-take about patients' well-being. That role is never in doubt on the AIDS ward at Sherman Oaks Community Hospital, where doctor and nurses find themselves depending on one another to battle the deadly disease. Beth Israel Hospital in Boston has retained its reputation for first-rate care with an innovative program that gives each nurse primary responsibility for one or two patients.

Even so, nurses are not quite blameless in this crisis. If they want to be taken seriously in an era of high-tech medicine, they are going to have to get serious about educational norms and standardize training programs. Currently, students can choose to take an R.N. exam after completing courses that last from two to five years. And the pressure is on to expand less rigorous programs in order to produce more nurses. Says Paula Castonguay, a nurse recruiter at the University of Texas Medical Branch at Galveston: "It worries me that not only are we not going to have enough nurses, but the ones we get are going to be less qualified."

The medical community can no longer afford to chew up its nurses and spit them out. "The old attitude toward nurses—'work long, work late, work hard'—is just not going to attract people," says Debbie Davenport, a Los Angeles nurse. Agrees the AHA's Curran: "Nurses aren't content to be the housewives of the hospital anymore." Nor should they be.—By Christine Gorman. Report by Barbara Dolan/Chicago and Jeannie Raiston/New York.

● Mr. DURENBERGER. Mr. President, I'm delighted to join my respected colleague from Massachusetts today in cosponsoring the Nurse Education Reauthorization Act of 1988. This bill, with its most recent additions, will go far toward dealing with what has become one of the most serious problems facing our health care system—the nursing crisis. The crisis has many elements. One part is the large gap between the health system's demand for nurses and the supply of nurses, especially in areas with the greatest needs, including hospitals and nursing homes.

The number of nurses educated in schools of nursing has grown dramatically in the past 30 years, but our need for nurses is still increasing rather than decreasing. This problem is not due to any past failure to train or recruit nurses. Rather, the current shortage primarily reflects a greatly increased demand for nurses.

There are several reasons for this expanded demand. Because of changes in medical practice, hospitalized patients are sicker and require higher levels of professional care than they have in the past. Wages and other incentives for nurses have not risen with the speed or magnitude seen in other labor markets. Finally, the specialized abilities of registered nurses are not fully utilized.

Under current management practices, these professionals with increasingly sophisticated education are often required to perform many nonclinical tasks, which inhibit their ability to provide high-quality, cost-effective patient care. In the process, resources are wasted and nurses have low levels of job satisfaction. These problems are well documented in an excellent article published recently in the New England Journal of Medicine.

To solve these problems, I believe that new approaches are needed, approaches that recognize the vastly increased options that women today have to choose other careers. Nursing must come into the 1990's and beyond if it is to continue to attract the top flight women—and men—who now have many other choices. Nursing, which has long been one of the great opportunities for dedicated and talented women, also needs to prepare for the future. The future will be better only if the levels of professionalism and autonomy are high and the practice environment is challenging and rewarding. The world for women has changed and I am proud to have helped accelerate that change by pushing hard for economic and social equity for women in legislation since I first came to the Senate, most recently with S. 1309, the Economic Equity Act of 1987.

For this reason, last year I introduced S. 1833, the Medicare Nursing Practice and Patient Care Improvement Act of 1987. By funding projects to demonstrate and evaluate innovative nursing practice models, this bill will encourage hospitals and nursing homes to increase nurses' opportunities to practice true primary nursing by utilizing them as patient care managers, expand nurses' roles in facility administration, develop career progression opportunities for nurses, and improve working conditions to retain and attract the highest quality staff.

But all of these changes will take a long time to make a difference. The current crisis must be dealt with on an emergency basis. We must aggressively support nursing education. Enrollments in nursing schools are decreasing, reflecting a new threat to patient care. We must reverse this trend.

By funding nursing education at both the basic and the advanced levels, and by funding long-term care nursing practice demonstrations and nurse recruitment centers, this bill will address both the supply and the demand elements of the nursing crisis. We must open up the opportunities for young people to enter the nursing profession. Many bright students with limited means cannot go into nursing without scholarships. This bill will especially help those who would otherwise drop out.

We must also provide incentives for advanced education and practice. This will address the problem I mentioned above—that we have not fully utilized the specialized abilities of registered nurses in our attempts to ensure access to quality care for all. For this reason, I am delighted to see that this bill retains and expands the support for advanced nursing education which has been such an important part of this legislation in the past.

According to Alice Swan, R.N., president of the Minnesota Nurses' Association:

> This bill will also deal with a major health crisis facing Minnesota—the shortage of nurses. The complexity and sophistication of nursing care in health settings demands, now, more than ever, the services of registered nurses. We must find ways to ensure an adequate foundation of nursing education and recuritment. This bill will complement and help facilitate efforts already underway in Minnesota to address these urgent problems.

We in the Congress know from the past that quick fixes to nursing shortages have only served to create long-term problems. Our challenge, then, is to find solutions not only for the present, but also for future generations. I urge my colleagues to join me in working toward enactment of this much needed legislation.●

By Mr. DURENBERGER:

S. 2232. A bill to temporarily suspend the duty on high resolution cathode-ray tubes; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY ON CATHODE-RAY TUBES

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would temporarily suspend the tariff on high resolution cathode-ray tubes [CRT's].

A company in my State manufactures high resolution displays which incorporate high resolution CRT's. These displays are used in military equipment, Earth resource satellites, medical equipment, and in several other industrial applications. Many of their products are sold abroad.

According to the information I have received, there are no domestic manufacturers of high resolution CRT's that meet the detailed specifications necessary for the products manufactured by my constituent. These high resolution CRT's apparently are only available from manufacturers located in South Korea, Taiwan, and Japan.

Beginning next year, products manufactured in Taiwan and South Korea will no longer qualify for duty-free treatment under the Generalized System of Preferences [GSP]. As a result, high resolution CRT's will be subject to a 6-percent tariff.

Mr. President, I have received information which preliminarily indicates that there may be some domestic manufacturers of high resolution CRT's. However, it is unclear whether these companies produce CRT's that conform to the technical specifications necessary for the high resolution displays manufactured in Minnesota. With the introduction of this legislation, I hope that domestic manufacturers of CRT's will come forward and provide information on the specifications of their CRT's in order to determine whether my constituent can find a suitable domestic source of supply. If no such alternative exists, then I believe this temporary tariff suspension should be adopted.●

By Mr. CRANSTON:

S. 2233. A bill to provide for the inclusion of certain lands within the John Muir National Historic Site; to the Committee on Energy and Natural Resources.

INCLUSION OF CERTAIN LANDS IN THE JOHN MUIR NATIONAL HISTORIC SITE

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to expand the John Muir National Historic Site in Martinez, CA. The bill is identical to legislation being introduced in the House today by Congressman GEORGE MILLER.

John Muir is without question one of America's great conservationists. Often called the father of the national park system, Muir helped preserve some of our first national parks, including Yosemite, Sequoia, and Grand Canyon, and championed the preservation of our forest lands. Through his work and writings, Muir inspired others and helped instill a conservation ethic. Because of Muir's vision and the efforts of those who followed him, Americans young and old enjoy millions of acres of national park and forest lands and better understand and appreciate the value of conservation.

The John Muir National Historic Site was established in 1964 to commemorate Muir's contribution to conservation and literature. The 8.9 acre site includes John Muir's home and adjacent Martinez Adobe.

Today we have the opportunity to enlarge the site through the acquisition of some 325 acres. These are wooded lands through which John Muir hiked with his family, undoubtedly enjoying the panoramic view of Carquinez Strait below San Pablo Bay. The inclusion of these lands in the National Historic Site would preserve more of the environment in which Muir worked and lived, providing further insight into Muir himself and his view of man's relationship with nature and the value of protecting our wild lands.

There is strong local support for the expansion of the John Muir National Historic Site. The Contra Costa Board of Supervisors have endorsed the enlargement. The city of Martinez supports it and is prepared to donate about 3 acres to the National Park Service for parking and picnicking use. Further, the East Bay Regional Park District has offered to operate and maintain the trails within the expanded area.

Mr. President, this year marks the 150th anniversary of John Muir's birth. I believe that expansion of the John Muir National Historic Site would be most fitting on this occasion and urge my colleagues to support this legislation authorizing the acquisition.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY CHANGE FOR JOHN MUIR NATIONAL HISTORIC SITE.

(a) MAP; LAND ACQUISITION.—The Secretary of the Interior is authorized to acquire (by donation, purchase with donated or appropriated funds, or exchange) lands and interests in land within the area generally depicted on the map entitled "Boundary Map, John Muir National Historic Site" numbered 80,015 and dated April 1988. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Lands and interests in lands, within the boundaries of such area which are owned by the State of California or any political subdivision thereof, may be acquired only by donation or exchange.

(b) INCLUSION WITHIN HISTORIC SITE.—The lands and interests in lands within the boundaries of area depicted on the map referred to in subsection (a) shall be administered as part of the John Muir National Historic Site established by the Act of August 31, 1964 (78 Stat. 753; 16 U.S.C. 461 note).

(c) AUTHORIZATION OF APPROPRIATIONS.—For purposes of acquiring the lands and interests in lands within the area depicted on the map referred to in subsection (a), there are authorized to be appropriated such sums as may be necessary.

(d) COOPERATIVE AGREEMENT.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized to enter into a cooperative agreement with the East Bay Regional Park District of Oakland, California, for the operation and maintenance by such District of trails on lands within the John Muir National Historic Site.

By Mr. DURENBERGER (for himself, Mr. GRASSLEY, and Mr. HEFLIN):

S. 2234. A bill to provide special rules for health insurance costs of self-employed individuals; to the Committee on Finance.

SPECIAL RULES FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

● Mr. DURENBERGER. Mr. President, I am pleased to introduce today a bill to provide a 100-percent tax deduction for health insurance to self-employed individuals. This bill amends the Tax Code to improve access to health insurance for these individuals.

Mr. President, in trying to make health care available to Americans, as in efforts to contain the cost of health care, we have learned there are no universal approaches—no "magic bullets." We have learned that the marketplace at the community level, guided by consumer choice of private health plans and individual providers, is the best means to promote quality, cost-effective care. But for this to work for all Americans, it is important that as we address the issue of uninsured Americans, that congressional action be consistent with the principle of consumer choice of private health coverage in the local health marketplace.

Insurmountable financial obstacles to health care confront too many Americans. Depending on how it is calculated, we have between 31 and 35 million Americans without health insurance. This is intolerable in a nation with the resources that we possess.

We have made some progress. Last year, Senator BRADLEY and I introduced a bill that would allow States to enroll pregnant women and children in Medicaid up to 185 percent of the Federal poverty level. That legislation was passed by Congress, and will greatly increase the opportunities for decreasing infant mortality and improving health for many pregnant women and children.

However, the time has come for a more comprehensive necessary next phase in this continuing evolution of legislation to decrease infant mortality and expand coverage to poor, uninsured pregnant women and infants. I recently introduced legislation that will go the next step and require that all States, at a minimum, provide Medicaid coverage for prenatal care, delivery, postpartum care, and infant care during the first year of life to low-income women and infants up to the Federal poverty level. I also enthusiastically cosponsored Senator BRADLEY's most recent medicaid expansion bill. But that will not help those of moderate means who, for one reason or another, may not be able to afford the high cost of health insurance.

Many of these individuals are self-employed. As the sole proprietors and partners in many of America's small businesses, these individuals are denied a tax break available to large businesses; that is, a full tax deduction for health insurance. The bill that I am introducing today will correct this blatant inequity and put these workers on the same tax footing as employees of large corporations who enjoy excellent health benefits without any tax liability.

According to recent SBA statistics, 48 percent of all uninsured workers—disregarding the 1.6 million business owners without coverage, usually sole proprietors—are with firms of from 1 to 24 workers. Further, 40 percent of all firms not sponsoring health plans are retail trade firms with fewer than 10 employees. On the other hand, over 90 percent of employers in firms with more than 24 employees offer health benefits to workers. These figures have led some in Congress to propose that businesses be federally required to provide health benefits as a condition of employment. Small businesses have grave concerns about such an approach.

Mr. President, the importance of small business to the economy cannot be overstated. America's smallest businesses, those employing fewer than 20 persons, generated all of the Nation's 1 million net new jobs during our last recession, according to the 1984 report of the President on the state of small business. Yet, only just over one-quarter of the smallest of firms; that is, sole proprietorships, feel they can afford to offer health coverage compared to more than three-quarters of all corporations which do offer such coverage, undoubtedly in no small part due to the tax deduction incorporated businesses enjoy for providing health coverage for employees. This is another vivid demonstration of the motivating power of a tax incentive to promote an important social end.

To provide a closer approximation of equality, at least in this respect for self-employed individuals, Mr. President, I am introducing this legislation today to allow self-employed individuals to deduct 100 percent of their health and accident insurance costs. This is fair and we must correct this long standing inequity.

Mr. President, I ask unanimous consent that the legislation I am introducing today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL RULES FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Section 162(m) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking out "25 percent" in paragraph (1) and inserting in lieu thereof "100 percent".

(b) NONDISCRIMINATION RULES.—Section 89(j) of the Internal Revenue Code of 1986 (relating to nondiscrimination rules for certain statutory employee benefit plans) is amended by adding at the end of paragraph (6) the following new subparagraph:

"(C) COORDINATION WITH HEALTH PLAN FOR SELF-EMPLOYED INDIVIDUAL.—Any health plan for a self-employed individual and his dependents deductible under section 162(m) shall meet the requirements of thissi section as if such plan is a plan of the same type as any qualified health plan provided for other employees of such self-employed individual".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.●

By Mr. WALLOP:

S. 2235. A bill to provide tax incentives and assistance to low-income working families; to the Committee on Finance.

EMPLOYMENT INCENTIVE ACT

● Mr. WALLOP. Mr. President, today I am introducing the Employment Incentive Act of 1988, a bill to increase family income and assistance for low-income working families through reforms in our tax laws. In the near future the Senate Finance Committee will begin drafting legislation to reform our public welfare programs. The committee will seek to expand work incentives and requirements while improving benefits. There is great potential for a costly bill which may once again doom welfare reform legislation. There is one area ignored by our welfare reform activities. This is the issue of reforming tax laws to increase the income available to the low-income working poor. The legislation I am introducing today addresses this oversight.

Of the 34 million families in this country, nearly 4 million families receive public assistance. At the same time, 11.6 million families utilize the Earned Income Tax Credit, and 9.4 million taxpayers use the dependent care deduction. It is obvious that the Tax Code affects many more low-income families than our public welfare programs. If we really want to improve the living standard of low-income families, the only permanent route is through private sector employment.

The Federal Government is not very effective at creating jobs in the private sector. However, Government policies do affect the climate for job creation. For instance, during the Reagan administration, we have instituted fiscal and monetary policies which have contributed to the creation of millions of private sector jobs. We do not need to expand public welfare to help low-income families. A more sensible route is to reform the tax code to increase the after tax income of those working.

Improving the income of the working poor is one objective of my bill, the Employment Incentive Act. I should explain that I cannot claim to have originated every title in this bill. For instance, title I, which expands the Earned Income Tax Credit on the basis of family size, is a proposal developed by Congressman TOM PETRI of Wisconsin. Title II of the bill would improve the child care tax credit, and was developed by Congressman CLYDE HOLLOWAY of Louisiana. Title III of this legislation is a provision I have developed involving a child support tax.

I had previously introduced title II as a free-standing bill, S. 2187 on

March 17, and a statement in the Record explains that bill in greater detail. Title I of the bill, introduced by Congressman Petri as the Job Enhancement For Families Act, expands the EITC as a wage supplement for low-income working families. I would ask that a statement by Congressman Petri on his bill and a Wall Street Journal article on this concept be included in the Record at the end of my remarks.

Title III would expand the income received by female-headed families, our fastest growing and poorest family group. It does this not by increasing the burden on taxpayers, but by establishing a more direct and effective child support collection procedure for the absent father. I would ask that an explanation of this title also be included in the Record. Last, I would ask that the bill be printed in the Record following my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Employment Incentive Act of 1988".

TITLE I—THE FAMILY EARNED INCOME TAX CREDIT

SEC. 101. INCREASE IN EARNED INCOME TAX CREDIT.

(a) Increase in Amount of Credit.—Subsections (a) and (b) of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) are amended to read as follows:

"(a) Allowance of Credit.—

"(1) In general.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the earned income for the taxable year as does not exceed $7,143.

"(2) Limitation.—The amount of the credit allowable to a taxpayer under this subsection for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of $7,143, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $8,000.

"(b) Percentages.—For purposes of subsection (a)—

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
"1 qualifying child	14	10
"2 qualifying children	21	15
"3 qualifying children	28	20
"4 or more qualifying children	35	25."

(b) Inflation Adjustments to Credit Percentage.—Subsection (i) of section 32 of such Code is amended to read as follows:

"(i) Inflation Adjustments to Credit Percentage.—

"(1) In general.—In the case of any taxable year beginning in a calendar year after 1988, each credit percentage contained in subsection (b) shall be increased by the product of—

"(A) such percentage, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins.

"(2) Rounding.—Any increase under paragraph (1) in a credit percentage shall be rounded to the nearest multiple of one-tenth of 1 percent."

(c) Qualifying Child.—Subsection (c) of section 32 of such Code is amended by adding at the end thereof the following new paragraph:

"(3) Qualifying child.—The term 'qualifying child' means any child (within the meaning of section 151(c)(3)) of the eligible individual if—

"(A) such individual is entitled to a deduction under section 151 for such child or would be so entitled but for paragraph (2) or (4) of section 152(e), and

"(B) such child has the same principal place of abode as such individual for more than one-half of the taxable year."

(d) Conforming Amendment.—Paragraph (2) of section 32(f) of such Code is amended by striking out "subsection (b)" each place it appears in subparagraphs (A) and (B) and inserting in lieu thereof "subsection (a)(2)".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

TITLE II CHILD CARE TAX CREDITS

SEC. 201. ALLOWANCE OF CREDIT.

(a) In General.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by inserting after section 34 the following new section:

"SEC. 34A. YOUNG DEPENDENT CREDIT.

"(a) In General.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the applicable amount.

"(b) Applicable Amount Defined.—For purposes of subsection (a), the term 'applicable amount', with respect to a taxable year, means—

"(1) the number of dependents of the taxpayer as of the close of the taxable year, who have not attained the age of compulsory school attendance as prescribed by the law of the State in which the taxpayer resides, multiplied by

"(2) an amount determined in accordance with the following table:

If the adjusted gross income of the taxpayer is—	The amount is—
Not more than $5,326.23.	The amount of tax collected from the taxpayer under section 3102 during the taxable year
More than $5,326.23 but not more than $18,000.	$400
More than $18,000 but not more than $21,000.	$350
More than $21,000 but not more than $24,000.	$300
More than $24,000 but not more than $27,000.	$250
More than $27,000 but not more than $30,000.	$200
More than $30,000	$150."

(b) Termination of Dependent Care Credit with respect to Expenses for Dependents Physically and Mentally Capable of Caring for Themselves.—Section 21 of such Code (allowing credit for dependent care services necessary for gainful employment) is amended by adding at the end the following new subsection:

"(g) Termination of Credit with respect to Expenses for Dependents Physically and Mentally Capable of Caring for Themselves.—The term 'qualifying individual' shall not include any individual described in subsection (b)(1)(A)."

(c) Conforming Amendment.—Paragraph (1) of section 129(e) of such Code (defining dependent care assistance) is amended by inserting "(but for section 21(g))" before "be considered".

(d) Clerical Amendment.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 34 the following new item:

"Sec. 34A. Young dependent credit."

(e) Effective Date.—The amendments made by subsections (a), (b), and (c) shall apply to taxable years beginning after the close of the calendar year in which this Act is enacted.

TITLE III CHILD SUPPORT TAX

Establishment of Tax

SEC. 301. Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by inserting after Chapter 38 the following new chapter:

"CHAPTER 39—CHILD SUPPORT TAX

"Sec. 4701. Imposition of tax.

"Sec. 4702. Definitions and special rules.

"SEC. 4701. IMPOSITION TAX.

"(a) General Rule.—There is hereby imposed for each taxable year a child support tax on every liable absent parent in an amount equal to—

"(1) in the case of parent having support obligations for 1 child, 20 percent of the lesser of—

"(A) such parent's adjusted gross income (as defined in section 62) for such taxable year; or

"(B) the amount of the contribution and benefit base for such taxable year as determined for purposes of title II of the Social Security Act (as determined under section 230 of that Act);

"(2) in the case of a parent having support obligations for 2 children, 30 percent of the lesser of such amounts; and

"(3) in the case of a parent having support obligations for 3 or more children, 40 percent of the lesser of such amounts.

"(b) Monthly Applicability.—The tax imposed under this section shall apply only to adjusted gross income attributable to months during any part of which the taxpayer has been certified as a liable absent parent in accordance with section 464 of the Social Security Act.

"SEC. 4702. DEFINITIONS AND SPECIAL RULES.

"(a) Definitions.—For purposes of this chapter—

"(1) Liable absent parent.—The term 'liable absent parent' means an individual who has been determined under section 464 of the Social Security Act to be the liable absent parent of a child for whom a benefit is being paid under such section 464.

"(2) Support obligation.—The term 'support obligation' means child support payments for which a liable absent parent has been determined to be responsible under section 464 of the Social Security Act.

"(b) Special Rules.—For purposes of this chapter—

"(1) Withholding of tax.—The provisions of chapter 24 (relating to collection of income tax at source of wages) shall apply to the tax imposed under this chapter in the same manner as they apply to the tax on income imposed under subtitle A; except that—

"(A) the Secretary shall prescribe the amount to be withheld based upon the relevant amount applicable to an individual; and

"(B) from the amount withheld by an employer, such employer may retain as reimbursement for administrative expenses an amount equal to 1 percent of the taxes owed by this employees under this chapter and withheld by such employer.

"(2) INFORMATION, RETURNS, ADMINISTRATIVE PROVISIONS, PENALTIES, ETC.—Except as otherwise provided in this chapter, the provisions of subtitle F (relating to procedure and administration) shall apply to the tax imposed by this chapter in the same manner as they apply to the tax on income imposed by subtitle A.".

CHILD SUPPORT PAYMENTS

SEC. 3. (a) Section 451 of the Social Security Act is amended by inserting "paying Federal child support benefits under section 464," after "For the purpose of".

(b) Part D of title IV of such Act is amended by adding at the end thereof the following new section:

"FEDERAL CHILD SUPPORT BENEFITS

"SEC. 464. (a)(1) Any eligible child of a liable absent parent shall be eligible to receive child support benefits under this section at an annual rate determined under paragraph (10 or (2). Such benefits shall be paid by the Secretary on a monthly basis for each month during all of which such child is an eligible child, and shall be paid for use on behalf of such child to the custodial relative (referred to in subsection (b)(1)(B)) of such child or, if the Secretary determines it to be appropriate, to another person (including an appropriate public or private agency) who is interested in the welfare of such child.

"(2) The annual rate for benefits under this section for the calendar year 1989 shall be—

"(A) $2,000 for each eligible child living in a household in which he is the only household member eligible for such a benefit;

"(B) $1,500 for each eligible child living in a household in which there are two household members eligible for such a benefit;

"(C) $1,335 for each eligible child living in a household in which there are three household members eligible for such a benefit;

"(D) $1,250 for each eligible child living in a household in which there are four household members eligible for such a benefit;

"(E) $1,165 for each eligible child living in a household in which there are five household members eligible for such a benefit;

"(F) $1,080 for each eligible child living in a household in which there are six household members eligible for such a benefit;

"(G) $1,000 for each eligible child living in a household in which there are seven household members eligible for such a benefit;

"(H) $915 for each eligible child living in a household in which there are eight household members eligible for such a benefit; and

"(I) $830 for each eligible child living in a household in which there are nine or more household members eligible for such a benefit.

"(3) The annual rate for benefits under this section for the calendar year 1990 and each calendar year thereafter shall be the rate in effect (for each type of household described in paragraph (2)) for the preceding calendar year, increased by a percentage equal to the percentage increase (if any) in the average of the total wages reported to the Secretary of the Treasury for the preceding calendar year (as determined for purposes of section 215(a)(1) of this Act) as compared to the average of the total wages so reported for the second preceding calendar year, rounded to the nearest $5.

"(4) Notwithstanding the provisions of paragraphs (2) and (3), the amount of benefits paid under paragraph (1) in any taxable year to any child or children of a liable absent parent shall not exceed the amount of the child support tax collected from such parent for such taxable year.

"(b)(1) For purposes of this section, an eligible child means an individual—

"(A) who has not attained the age of 18;

"(B) who—

"(i) is living in the home of a relative specified in section 406(a)(1); or

"(ii) was removed from such home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

"(C) one (or both) of whose parents is a liable absent parent with respect to such child; and

"(D) on whose behalf benefits have been applied for under this section.

"(2) For purposes of this section, a liable absent parent means an individual—

"(A) who is absent from the home of one or more of his children on other than a temporary basis;

"(B) has a legal obligation under State law to furnish support for such child or children; and

"(C) whose whereabouts have been established by the State, the Internal Revenue Service, or the Federal Parent Locator Service.

"(3) All determinations of family status for purposes of this section shall be made on the basis of the applicable State law.

"(c)(1) Any amount of any benefit received under this section (or the amount of any such benefit for which a child would be eligible if application were made therefor) shall be considered unearned income of such child for purposes of part A of this title.

"(2) All requirements of this part relating to establishment of paternity, locating of absent parents, and collection of child support (if any) ordered by a court in addition to the tax imposed by section 4701 of the Internal Revenue Code of 1954, shall apply to each State with respect to each child in such State applying for or receiving benefits under this section in the same manner as they are applicable with respect to each child applying for or receiving aid to families with dependent children. Any relative of a child receiving a benefit under this section, or other individual living in the same household as such child, shall be eligible for aid under the State plan approved under part A in the same manner as the relative of a child, or other individual living in the same household as a child, not receiving such benefits.

"(3) The State shall certify to the Secretary of the Treasury each individual who is determined to be a liable absent parent, and the Secretary of the Treasury shall notify such individual and his employer (if any) of such certification and of the imposition of the child support tax under section 4701 of the Internal Revenue Code of 1954.

"(d) The provisions of this section, and the imposition of the child support tax under section 4701 of the Internal Revenue Code of 1954, shall not be construed as a limitation upon the right of any State or any court to order, suspend, or amend any child support obligation under State law.

"(e) Whenever the Secretary finds that more or less than the correct amount of benefits has been paid with respect to any child, proper adjustment or recovery shall be made by appropriate adjustments in future payments to such child or by recovery from or payment to such child. The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits with respect to a child with a view to avoiding penalizing such child who was without fault in connection with the over-payment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this section, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this section.

"(f)(1) The Secretary is directed to make findings of fact and decisions as to the rights of any child applying for benefits under this section. The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible child and is in disagreement with any determination under this section with respect to eligibility of such child for benefits, or the amount of such child's benefits, if such child requests a hearing on the matter in disagreement within 60 days after notice of such determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing affirm, modify, or reverse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this section. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.

"(2) Determination on the basis of such hearing shall be made within 90 days after the child requests the hearing as provided in paragraph (1).

"(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205.

"(g)(1) The provisions of section 207 and subsections (a), (d), and (e) of section 205 shall apply with respect to this section to the same extent as they apply in the case of title II.

"(2) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this section, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme

Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this section, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this section by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

"(h)(1)(A) The Secretary shall, subject to subparagraph (B), prescribe such requirements with respect to the filing of applications, the suspension or termination of assistance, the furnishing of other data and material, and the reporting of events and changes in circumstances, as may be necessary for the effective and efficient administration of this section.

"(B) The requirements prescribed by the Secretary pursuant to subparagraph (A) shall require that eligibility for benefits under this section will not be determined solely on the basis of declarations by the applicant concerning eligibility factors or other relevant facts, and that relevant information will be verified from independent or collateral sources and additional information obtained as necessary in order to assure that such benefits are only provided to eligible children and that the amounts of such benefits are correct.

"(2) In case of the failure by any child (or his custodial relative or guardian) to submit a report of events and changes in circumstances relevant to eligibility for or amount of benefits under this section as required by the Secretary under paragraph (1), or delay by any child, relative, or guardian in submitting a report as so required, the Secretary (in addition to taking any other action he may consider appropriate under paragraph (1)) shall reduce any benefits which may subsequently become payable to such child under this section by—

"(A) $25 in the case of the first such failure or delay,

"(B) $50 in the case of the second such failure or delay, and

"(C) $100 in the case of the third or a subsequent such failure or delay,

except where the child, relative, or guardian was without fault, or where good cause for such failure or delay existed.

"(i) The head of any Federal agency shall provide such information as the Secretary may require for purposes of determining eligibility for or amount of benefits under this section, or verifying other information with respect thereto.

"(j) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit under this section,

"(2) knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit, or (B) the initial or continued right to any such benefit of any child in whose behalf he has applied for or is receiving such benefit, conceals or fails to disclose such event with an intent fraudulently to secure such benefit either in a greater amount or quantity than is due or when no such benefit is authorized, or

"(4) having made application to receive any such benefit for the use and benefit of another and having received it, knowingly and willfully converts such benefit or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(k) The Secretary may make such administrative and other arrangements as may be necessary and appropriate to carry out his functions under this section.

"(l) For purposes of title XIX of this Act, any child, or relative or other person living in the same household as such child, who would be eligible for aid to families with dependent children under the State plan approved under title IV-A but for the fact that such child is eligible (or would be eligible if he applied therefor) for benefits under this section, shall be deemed to be an individual receiving aid to families with dependent children under such State plan.".

(c) Section 402(a)(7) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by adding "and" at the end thereof; and

(3) by adding at the end thereof the following new subparagraph:

"(D) shall include as unearned income the amount of any benefit received under section 464 by any such child, relative, or other individual whose needs are taken into account under subparagraph (A);".

EFFECTIVE DATE

SEC. 4. The amendments made by sections 2 and 3 of this Act shall become effective on January 1, 1991.

DEMONSTRATION PROGRAM

SEC. 5. (a) The Secretary of Health and Human Services (referred to in this section as the "Secretary"), in consultation with the Secretary of the Treasury, shall undertake a demonstration program, which shall be voluntary on the part of any State, under which those States participating in the program shall put into effect—

(1) a State child support tax which the Secretary determines is substantially equivalent (at the State level) to the child support tax established under chapter 39 of the Internal Revenue Code of 1954; and

(2) a State child support payment program which the Secretary determines is substantially equivalent (at the State level) to the child support payment program established under section 464 of the Social Security Act.

(b) The Secretary shall, in the case of any State participating in the demonstration program established under subsection (a), waive any requirement of part A of title IV of the Social Security Act as may be necessary (as determined by the Secretary) to carry out such demonstration program.

(c) The Secretary shall, to the extent feasible, approve demonstration programs under subsection (a) in at least six States, and shall include the widest variety of States possible based upon such characteristics as urban-rural differences, population characteristics, cost-of-living, and standard of living.

(d) The Secretary shall pay to each State participating in the demonstration program under subsection (a) an amount equal to the reasonable administrative expenses incurred by such State (as determined by the Secretary) in carrying out the program, including administrative expenses incurred in collecting the child support tax.

(e) The Secretary, and the Secretary of the Treasury, shall provide technical assistance to States participating in the demonstration program under subsection (a) to assist such States in locating absent parents, collecting the child support tax, and making child support benefit payments.

REPORTS AND EVALUATION

SEC. 6. (a) The Secretary shall submit an annual report to the Congress on the demonstration program under section 5. Such report shall include—

(1) an analysis of any obstacles or potential obstacles to the implementation of the demonstration program or of the nationwide implementation of the child support program established under sections 2 and 3 of this Act;

(2) any recommendations for legislation to ensure the effective implementation of such programs; and

(3) a plan for the implementation of such programs.

(b) The Office of Management and Budget shall submit a report to the Congress on the budgetary ramifications of implementing the nationwide child support program established under sections 2 and 3 of this Act. Such report shall be submitted prior to January 1, 1989.

(c)(1) The Secretary shall provide for independent evaluations which describe and measure the impact of such programs. Such evaluations may be provided by contract or other arrangements and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program participants about the strengths and weaknesses of the program.

(2) The Secretary shall develop and publish standards for evaluation of the effectiveness of the program in achieving the objectives of this Act, and provide for annual evaluation of the program based on a selective sample of States. Such standards shall specify objective criteria which shall be utilized in evaluation of the program and shall outline techniques and methodology for producing data.

(3) The Secretary shall make a report to the Congress concerning the results of evaluations required under this section which shall be comprehensive and detailed and based to the maximum extent possible on objective measurements, together with other related findings and evaluations and his recommendations.

(d) The Secretary is authorized to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed for any fiscal year an amount equal to one-half of 1 percent of the administrative expenses incurred in carrying out such programs.

Descriptive Analysis of the Child Support Tax

PART 1

A tax will be imposed on the adjusted gross income of a liable absent parent at the rate of 20% of income for the first child, an additional 10% for the second, and another 10% for three or more children.

The tax base is the same as that used for the FICA tax, and will increase at the same rate as the FICA wage base.

The liable parent is an individual determined under Section 464 of the Social Security Act to be the liable absent parent of a child seeking support.

The tax shall be withheld in the same manner as the federal income tax is withheld. Up to 1% of the withholding will be applied to employer administrative expenses for the withholding.

PART 2

Eligibility for the child support benefit shall include any family applying for AFDC where there is an absent liable parent. Benefits will be paid monthly by Health and Human Services for a child's support from the Child Support Benefit Fund.

Each child be given a Social Security number and have an account established in the Fund. Their benefits shall be the greater of the absent parent's actual contribution of $2000 minimum for a single child, an additional $1000 for the second through fourth child, and proportionately reduced benefits for each additional child. No family will receive more than $10,000 in minimum benefits.

In the event that a child support account does not collect enough revenue to match the minimum benefit, the child would continue to qualify for the minimum benefit. An alternative would be to continue to cover such children under AFDC. The custodial parent would be eligible for custodial parent benefits under AFDC.

PART 3

The Office of Child Support Enforcement would be responsible for locating parents. The Department of Health and Human Services shall administer distribution of benefits from the Child Support Benefit Fund. The Department of the Treasury shall oversee notification of employers regarding withholding and shall collect the tax.

The program would be effective in 1992. For years 1989 to 1991, a state demonstration project shall be in operation to test the feasibility of the program. At least six states would be eligible to participate (the state of Wisconsin is already working on a program). The states would have to have an effective income tax and collection procedure. The federal government would assist with a 90% federal match for administrative expenses. The bill also requires annual evaluation of the operation of the program.

Petri Announces Legislation for Working Poor

WASHINGTON, February 26, 1988.—Wisconsin Congressman Tom Petri has announced that he plans to introduce major legislation shortly to aid the working poor by revising the earned income tax credit (EITC). The EITC is a wage supplement for workers with children.

"It's time to break the poverty trap—both for America's working poor and for those on welfare who are trying to get off," Petri said in a statement on the floor of the House Thursday.

Petri said that his proposed Job Enhancement For Families Act would increase the current EITC and vary it by family size, providing up to a maximum of $2,500 per year for a family with four or more children. The legislation is designed to help low-skilled people support families by working rather than through welfare. This would be done by supplementing low wages according to need as determined by family size.

"It's better to supplement the wages of low-skilled workers than it is to require these same people to drop out of the work force in order to receive welfare," Petri said. "Accordingly, I believe the Job Enhancement For Families Act will pay for itself by helping people to get off and stay off welfare."

In a letter sent to his congressional colleagues, Petri explained that welfare payments vary by family size, but wages and current. "The current law EITC provides a framework well suited for this task: it's already somewhat related to need since you must have at least one child to qualify, and it is refundable, which means that if you expect to have no tax liability against which to take the credit you can arrange to have 'reverse withholding' amounts added to your regular paychecks."

In addition to Petri, the letter was cosigned by Representatives Austin Murphy, Tim Penny, Jim Jeffords, and Steve Bartlett.

Following are three items: Representative Petri's floor statement of February 25, 1988; Representative Petri's "Dear Colleague" letter; and a summary of the Job Enhancement For Families Act (JEFFA), as enclosed with the "Dear Colleague" letter.

Mr. Speaker, it's time to break the poverty trap—both for America's working poor, and for those on welfare who are trying to get off.

Next week, with the support of Congressmen Murphy, Penny, Jeffords, and Bartlett, I plan to introduce major legislation to improve the economic incentives for those on the lower rungs of America's economic ladder.

My Job Enhancement For Families Act would increase the current income tax credit, and vary it by family size, providing up to a maximum of $2,500 for a family of four or more children.

This legislation is designed to help low-skilled people support families by working rather than through welfare. It would do this by supplementing low wages according to need as determined by family size.

It's better to supplement the wages of low-skilled workers than it is to require these same people to drop out of the work force in order to receive welfare. Accordingly, I believe the Job Enhancement For Families Act will pay for itself by helping people to get off and to stay off welfare.

It's a good bargain for the poor, for the taxpayers, and for the economy.

I intend to make a major effort for the Job Enhancement For Families Act, and I welcome the support of my colleagues in the House.

[From the Wall Street Journal, Mar. 3, 1988]

A Better Alternative to a Higher Minimum Wage

(By J.D. Foster)

One of the first items in the 1988 legislative chute in Washington is "The Minimum Wage Restoration Act of 1988," introduced by Sen. Edward Kennedy (D., Mass.) and Rep. Augustus Hawkins (D., Calif.) to raise the minimum hourly wage to $4.65 from $3.35 by 1990 and to index it to inflation thereafter. Before rushing to pass this bill, Congress ought to consider as an alternative Rep. Thomas Petri's (R., Wis.) "Job Enhancement for Families Act" to expand and to restructure the Earned Income Tax Credit.

Increasing the minimum wage is no way to improve the condition of the poor. The history of the minimum wage shows that it destroys the jobs and job opportunities to poorly trained workers—inner-city teenagers, the semiliterate, those we used, to call economically disadvantaged. It's particularly hard on such workers who must provide the principal support for their families. There are now about five million workers who earn the minimum wage or less. According to several estimates, the Kennedy-Hawkins bill would slam shut the doors of the workplace of 300,000 to 750,000 people by 1990. These job losses would be concentrated on the economically disadvantaged.

One existing means for increasing the after-tax earnings of the poor is the Earned Income Tax Credit. The EITC is a refundable tax credit of 14% of the first $5,714 earned by an eligible person who maintains a home for one or more children. The maximum credit is $800 and it phases out as income rises, falling to zero when the taxpayer's income reaches $17,000.

Rep. Petri's bill would expand and restructure the EITC as an alternative to raising the minimum wage and as part of welfare reform. One benefit of the EITC is that it can be restructured easily to provide greater benefits to households with children. This could play an important role as Congress attempts to reform welfare to better match resources to needs while reducing the anti-work and anti-family side effects of the current welfare program. In comparison, raising the minimum wage is a very blunt instrument; it would benefit a middle-class teen-ager in a summer job just as much as it would a person trying to support a family.

The bill to increase the minimum wage and the Petri plan to expand the EITC would each increase some workers' after-tax income by comparable amounts and, therefore, would increase their work incentive. Increasing the minimum wage, however, would reduce employment because businesses could not afford to hire or keep less productive workers. Expanding the EITC, on the other hand, would raise the worker's after-tax wage without raising the employer's labor costs. To the extent that improved work incentives increase the number of workers willing to work, raising the EITC could lower the pre-tax wages employers would have to pay while raising workers' after-tax wages. Raising the EITC, therefore, could actually increase low-wage employment opportunities.

One of the often-ignored side effects of raising the minimum wage is the loss of tax revenue to the federal government from the loss of jobs and national output. There would also be an increase in government spending as those who lose their jobs file for unemployment insurance, are forced into welfare, expand their use of food stamps, and so on. Combining the tax revenue loss with the increase in government spending, the Kennedy-Hawkins bill would increase the deficit by about $7 billion annually.

According to an informal estimate by the Congressional Budget Office, the EITC would cost about $1.5 billion annually in lost revenue. The job creation made possible by expanding the EITC would offset at least part of that revenue loss and would also result in some budget savings through lower welfare costs. Raising the minimum wage, in other words, would increase the budget deficit about five times as much as would expanding the EITC.

One basis for choosing between raising the minimum wage and increasing the EITC is whether jobs are to be destroyed or created. Another basis is how carefully the benefits is matched to need. Yet another basis is what will happen to government spending and the budget deficit. In each case, the Petri approach to expanding and restructuring the Earned Income Tax Credit is clearly superior to raising the minimum wage: It encourages job creation, it helps those workers most who need the most help, it reduces government spending, and it has a minimal effect on the budget deficit.●

By Mr. MOYNIHAN:

S. 2236. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of firefighting vehicles; to the Committee on Commerce, Science, and Transportation.

EXEMPTION OF FIRE FIGHTERS FROM THE COMMERCIAL MOTOR VEHICLE SAFETY ACT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation that would exempt firefighters from coverage under the Commercial Motor Vehicle Safety Act. My distinguished colleague in the House of Representatives, Louise Slaughter, has already introduced a like measure in that body.

The Department of Transportation has recently proposed that firefighters who drive fire trucks weighing more than 26,000 pounds obtain a classified license. To obtain such a license could cost individual firefighters $400 apiece.

The Commercial Motor Vehicle Safety Act never was intended to cover firefighters. The act was designed to promote safety and to prevent accidents by trucks and buses, a laudable goal which I and every Senator would support. But fire trucks are not a problem.

The act sets national minimum standards for testing and licensing of commercial drivers. However, firefighters receive driver training, and have a first rate safety record. As the International Association of Fire Fighters has noted, current State commercial licensing standards are irrelevant to fire fighting operations. Thus, if these regulations go into effect, fire departments will have to implement an additional and superfluous layer of training. Training programs specific to firefighting already exist, will continue and not be displaced.

There is simply no need to force 94,000 well trained firefighters in the State of New York to obtain additional licenses. It would be government over regulation at its worst, regulation which will not improve safety and will discourage individuals, especially volunteers—150,000 in New York—from becoming firefighters.

Mr. President, this legislation relieves firefighters from costly and unnecessary regulation. If these regulations go into effect later this year, firefighters will be penalized, but safety will not be advanced one wit. I urge my colleagues to support this legislation.●

By Mr. MOYNIHAN (for himself, Mr. D'Amato, Mr. Nickles, Mr. Hecht, Ms. Mikulski, Mr. Gramm, Mr. Daschle, Mr. Riegle, Mr. Dixon, Mr. Lugar, Mr. Chafee, Mr. Pressler, Mr. Matsunaga, Mr. Wilson, Mr. Weicker, Mr. Sarbanes, Mr. Adams, Mr. Grassley, Mr. Wirth, Mr. Humphrey, Mr. Inouye, Mr. Boschwitz, Mr. Durenberger, Mr. Cranston, Mr. Pell, Mr. Roth, Mr. Lautenberg, Mr. Sasser, Mr. Simon, Mr. Kennedy, Mr. Hatch, Mr. Specter, Mr. Bradley, Mr. Cohen, and Mr. Chiles):

S.J. Res. 283. Joint resolution to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week"; to the Committee on the Judiciary.

JEWISH HERITAGE WEEK

● Mr. MOYNIHAN. Mr. President, I rise today with great pleasure to introduce a joint resolution designating April 17-24 "Jewish Heritage Week."

As Americans, we can be proud of the diverse culture we share. The richness of our cultural heritage results from the ideals and values brought to our Nation by people of many races and religions. Among these immigrants, the Jewish community has contributed significantly to the spiritual and cultural growth of our Nation. These individuals have helped to make the United States a stronger and more compassionate nation, grounded in law and dedicated to equal rights and justice. They have excelled in all walks of life and have made vital contributions to our society.

Jewish Heritage Week presents a unique opportunity to foster intergroup understanding, and to provide a greater appreciation of the heritages which have contributed so much to our country. Jewish Heritage Week has been marked in previous years by hundreds of thousands of school children and adults of all faiths and races joining in meaningful educational programs and celebrations.

I am pleased to be able to introduce this measure with such broad bipartisan support. I urge other Senators to lend their support to this effort and help make Jewish Heritage Week 1988 a reality.●

By Mr. BRADLEY (for himself, Mr. Stafford, Mr. Thurmond, Mr. Kerry, Mr. Lugar, Mr. Reid, Mr. Hecht, Mr. Lautenberg, Mr. Cochran, Mr. Pell, Mr. Wilson, Mr. Hollings, Mr. Boschwitz, Mr. Kennedy, Mr. Evans, Mr. Sanford, Mr. Inouye, Mr. Mitchell, Mr. Dodd, Mr. Durenberger, Mr. Moynihan, Mr. Humphrey, and Mr. Dole:

S.J. Res. 284. Joint resolution to designate April 6, 1988, as "National Student-Athlete Day"; to the Committee on the Judiciary.

NATIONAL STUDENT-ATHLETE DAY

● Mr. BRADLEY. Mr. President, I rise today with my distinguished colleague from Vermont, Mr. Stafford, to introduce a joint resolution designating April 6, 1988, as "National Student-Athlete Day."

Mr. President, this day will focus attention upon the positive role that sports can have on the physical and mental development of our young people. Within the proper framework of a school program, sports can foster and enhance the qualities of confidence, cooperation, integrity and maturity. These qualities are necessary for our young men and women as the leaders of our Nation in the 21st century.

In spite of all the positive aspects of sport, overemphasis on sport at the expense of education can cause serious harm to young people, even those who pursue sports professionally. The single-minded devotion to athletics among our Nation's schools and colleges too often leads to exploitation and abuse of the student athlete. Only 1 in 10,000 high school athletes who dream of a career in professional sports ever realize that aspiration, while those who do can expect a professional sports career of less than 4 years. Too many young people sacrifice academic achievement to the dream of professional athletics. And all to frequently schools are willing accomplices—keeping students eligible even when their real academic achievement levels do not warrant it. Schools have to remember that their primary responsibility is education.

To date, some 30 States have proclaimed April 6 as Student-Athlete Day. With the help of a broadened observance of National Student-Athlete Day, educators will be able to promote the role of sports within education to stress the need for a balance between academics and athletics. This effort will direct young people away from the idea that sports can be a substitute for education. The programs planned include professional athletes, who have returned to college to complete their degree, speaking to students about the importance of education. Since athletes are role models for many young people, the day will stress the positive role sports can play in development of personal character. Athletes will also speak frankly about the dangers of alcohol and drug abuse that threaten our society.

Time is of the essence. Because April 6 has been selected as the day to acknowledge the student athlete, this resolution must proceed to a vote at the earliest possible date. In supporting in this important effort we, as Members of the U.S. Senate, will be joining with coaches, parents, and educators throughout the Nation in expressing our highest expectations for academic performance as well as for athletic performance among our student athletes.

On behalf of Senator Stafford and myself I ask unanimous consent that the attached joint resolution be placed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S. J. Res. 284

Whereas, the student-athlete represents a role model worthy of emulation by America's youth;

Whereas, such worthy values and behaviors as perseverance, teamwork, self-discipline and commitment to a goal are fostered and promoted by both academic and athletic pursuits;

Whereas, participation in athletics, together with education, provides opportunities to develop valuable social and leadership skills and to gain an appreciation of ethnic and racial groups different from one's own;

Whereas, in spite of all the positive aspects of sport, overemphasis on sport at the expense of education can cause serious harm to an athlete's future;

Whereas, the pursuit of victory in athletics among our nation's schools and colleges too often leads to exploitation and abuse of the student-athlete;

Whereas, only 1 in 10,000 high school athletes who dream of a career in professional sports ever realize that aspiration, while those who do can expect a professional sports career of less than 4 years;

Whereas, thousands of America's youth sacrifice academic achievement to the dream of professional athletics;

Whereas, the practice of keeping athletes eligible for participation on a team, even at the high school level, must be abandoned for a policy of ensuring a meaningful education and degree;

Whereas, coaches, parents and educators of student-athletes must express high expectations for academic performance as well as for athletic performance; and

Whereas, there is a need in this Nation to reemphasize the "student" in the term "student-athlete": Now, therefore, be it.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That April 6, 1988, is designated as "National Student-Athlete Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate programs, ceremonies, and activities.●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. Moynihan, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 347

At the request of Mr. Sasser, the name of the Senator from Michigan [Mr. Riegle] was added as a cosponsor of S. 347, a bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care provided during peacetime.

S. 473

At the request of Mrs. Kassebaum, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 473, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 556

At the request of Mr. Cranston, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 556, a bill to prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes.

S. 628

At the request of Mr. Grassley, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 628, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans.

S. 675

At the request of Mr. Mitchell, the name of the Senator from Massachusetts [Mr. Kennedy] was added as a cosponsor of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

S. 931

At the request of Mr. Bumpers, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 931, a bill to amend the Internal Revenue Code of 1986 to provide preferential treatment for capital gains on small business stock held for more than 4 years, and for other purposes.

S. 1220

At the request of Mr. Kennedy, the name of the Senator from Montana [Mr. Melcher] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1429

At the request of Mr. Lautenberg, the names of the Senator from Missouri [Mr. Danforth], the Senator from Rhode Island [Mr. Pell], and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of S. 1429, a bill to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes.

S. 1600

At the request of Mr. Ford, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1640

At the request of Mr. Baucus, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 1640, a bill to amend the Internal Revenue Code of 1986 to allow reserve for bad debts to production credit associations and banks for cooperatives.

S. 1727

At the request of Mr. Harkin, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of S. 1727, a bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

S. 1817

At the request of Mr. Kennedy, the name of the Senator from Nevada [Mr. Reid] was added as a cosponsor of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 1942

At the request of Mr. Moynihan, the name of the Senator from Maryland [Mr. Sarbanes] was added as a cosponsor of S. 1942, a bill to amend title 13, United States Code, to remedy the historic undercount of the poor and minorities in the decennial census of population and to otherwise improve the overall accuracy of the population data collected in the decennial census by directing the use of appropriate statistical adjustment procedures, and for other purposes.

At the request of Mr. GRAMM, the name of the Senaor from Maine (Mr. COHEN) was added as a cosponsor of S. 2003, a bill to amend the Internal Revenue Code of 1986 to exempt from tax diesel fuel used for farming purposes.

S. 2013

At the request of Mr. SHELBY, the names of the Senator from Utah [Mr. GARN], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 2013, a bill to prevent distortions in the reapportionment of the House of Representatives caused by the use of census population figures which include illegal aliens.

S. 2021

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2021, a bill to protect children from sexual exploitation.

S. 2060

At the request of Mr. DIXON, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2060, a bill to provide assistance for small communities with ground water contamination, and for other purposes.

S. 2098

At the request of Mr. HOLLINGS, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 2116

At the request of Mr. KARNES, the names of the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 2116, a bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm and firefighting vehicles.

S. 2136

At the request of Mr. GRASSLEY, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2136, a bill to deny discretionary project funds to States that voluntarily reduce the period of availability of interstate highway construction funds for any fiscal year.

S. 2156

At the request of Mr. LUGAR, the names of the Senator from Kentucky [Mr. FORD], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 2156, a bill to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget.

S. 2167

At the request of Mr. METZENBAUM, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Washington [Mr. ADAMS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Tennessee [Mr. GORE], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 2167, a bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts.

S. 2205

At the request of Mr. DECONCINI, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Virginia [Mr. WARNER], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 2205, a bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

S. 2206

At the request of Mr. D'AMATO, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 2206, a bill to amend the Controlled Substances Act to provide for the imposition of the dealth penalty for the intentional killing of a law enforcement officer and for certain continuing criminal enterprise drug offenses.

S. 2217

At the request of Mr. HARKIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2217, a bill to amend the National Labor Relations Act with respect to the right to organize of certain security personnel.

S. 2229

At the request of Mr. KENNEDY, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2229, a bill to amend the Public Health Service Act to reauthorize programs concerning health research and teaching facilities, and training of professional health personnel under title VII of such act, and for other purposes.

SENATE JOINT RESOLUTION 261

At the request of Mr. PRESSLER, the names of the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 261, a joint resolution designating the month of November 1988 as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 266

At the request of Mr. SYMMS, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Mississippi [Mr. STENNIS], the Senator from Arkansas [Mr. PRYOR], and the Senator from New Hampshire [Mr. HUMPHREY] were added as cosponsors of Senate Joint Resolution 266, a joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 275

At the request of Mr. WEICKER, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 275, a joint resolution to designate August 1-8, 1988, as "National Harness Horse Week."

AMENDMENT NO. 1465

At the request of Mr. SIMPSON, his name was added as a cosponsor of amendment No. 1465 proposed to S. 2097, an original bill to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly-owned Government corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes.

AMENDMENT NO. 1908

At the request of Mr. BENTSEN, the names of the Senator from Mississippi [Mr. STENNIS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Vermont [Mr. STAFFORD], the Senator from Ohio [Mr. METZENBAUM], the Senator from Vermont [Mr. LEAHY], the Senator from Illinois [Mr. DIXON], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Illinois [Mr. SIMON], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of amendment No. 1908 intended to be proposed to S. 2223, an original bill to promote and protect taxpayer rights, and for other purposes.

SENATE RESOLUTION 402—AUTHORIZING THE RELEASE OF CERTAIN DOCUMENTS

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 402

Whereas, during the period March 20-August 7, 1987, the Subcommittee on Terrorism, Narcotics, and International Operations of the Committee on Foreign Relations received closed session or deposition testimony of Jack Terrell, Ramon Milian Rodriguez, George Morales, Leandro Sanchez Reisse, Felix Rodriguez, and Wanda Velez Palacios;

Whereas, the Independent Counsel appointed by the court in *In re Oliver L. North, et al.* (D.C. Cir. Div. No. 86-6, Dec. 19, 1986), has requested transcripts of the testimony of these witnesses in furtherance of the Independent Counsel's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice conisistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Foreign Relations, acting jointly, are authorized to provide to the Independent Counsel transcripts of the closed session or deposition testimony of Jack Terrell, Ramon Milian Rodriguez, George Morales, Leandro Sanchez Reisse, Felix Rodriguez, and Wanda Velez Pacacios, subject to the Independent Counsel's agreement to abide by confidentiality and other requirements established by the Committee.

AMENDMENTS SUBMITTED

FINANCIAL MODERNIZATION ACT

GRAHAM (AND SANFORD) AMENDMENT NO. 1915

Mr. GRAHAM (for himself and Mr. Sanford) proposed an amendment to the bill (S. 1886) to modernize and reform the regulation of financial services, and for other purposes; as follows:

On page 193, line 5, insert the following before the semicolon:

"or, that bank or subsidiary is located in a State that has entered into a reciprocal or regional banking agreement pursuant to State law permitting interstate banking between the State in which the bank or subsidiary is located and the State where the operations of the bank holding company's subsidiaries are principally conducted for purposes of section 3(d) of this Act, and the State where such bank or subsidiary thereof is located has authorized, by language to that effect and not merely by implication, State banks controlled by State bank holding companies located in a State that has entered into such a reciprocal or regional interestate banking agreement to engage in insurance activities authorized by State law; "

CONGAREE SWAMP NATIONAL MONUMENT

THURMOND AMENDMENT NO. 1916

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill S. 2018) to expand the boundaries of the Congaree Swamp National Monument, to designate wilderness therein, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congaree Swamp National Monument Expansion and Wilderness Act".

TITLE I—WILDERNESS DESIGNATION

SEC. 101. NATIONAL PARK WILDERNESS.

(a) Designation of Wilderness.—The lands depicted as "wilderness-proposed" within the area described in subsection (c) are hereby designated as wilderness in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)). Such lands shall be known as the Congaree Swamp National Monument Wilderness.

(b) Potential Wilderness Additions.—Any land depicted as "potential wilderness addition" within the area described in subsection (c) shall, upon acquisition of non-Federal interests in land and publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, thereby be designated wilderness and shall be part of the Congaree Swamp National Monument Wilderness. Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wildernsss.

(c) Description of Area.—The area referred to in this section is the area which comprises approximately 21,500 acres within the boundary as generally depicted on the map entitled "Congaree Swamp National Monument Wilderness", numbered , and dated .

SEC. 102. MAP AND DESCRIPTION.

A map and description of the boundaries of the area designated as wilderness under section 101(a), and of each addition designated as wilderness under section 101(b), shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of the Congaree Swamp National Monument. As soon as practicable after the date of enactment of this Act, each such map and description shall be filed with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Each such map and description shall have the same force and effect as if included in this title, except that correction of clerical and typographical errors in such map and description may be made.

SEC. 103. ADMINISTRATION.

Subject to valid existing rights, the areas designated as wilderness under section 101 shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that title as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title, and where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

TITLE II—ADDITIONS TO THE CONGAREE SWAMP NATIONAL MONUMENT

SEC. 201. ADDITIONAL LANDS.

The first section of the Act approved October 18, 1976 (90 Stat. 2517), is amended by—

(1) inserting "(a)" after "That";

(2) striking all after "Federal Register" and inserting in lieu thereof a period; and

(3) adding at the end thereof the following:

"(b) In addition to the lands described in subsection (a), the monument shall consist of the additional area within the boundary as generally depicted on the map entitled 'Citizens Boundary Proposal for Congaree Swamp National Monument', dated November 1987, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The map may be revised as provided in subsection (a). The total acrage of the monument including lands described in subsection (a) and this subsection shall not exceed 22,200 acres.".

SEC. 202. ADDITIONAL FUNDS FOR LAND ACQUISITION.

Section 5(a) of the Act approved October 18, 1976 (90 Stat. 2518), is amended by adding at the end thereof the following: "The Secretary may expend such additional sums as are necessary from the Land and Water Conservation Fund for acquisition of land described in subsection (b) of the first section.".

TITLE III—AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL MONUMENT DEVELOPMENT

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 5 of the Act approved October 18, 1976 (90 Stat. 2518), is amended by adding at the end thereof the following:

"(c) Notwithstanding subsection (a), there are hereby authorized to be appropriated $2,697,750 for construction and development within the monument.".

Mr. THURMOND. Mr. President, in February of this year, Senator Hollings and I introduced a bill, S. 2018, to authorize the addition of certain lands to the Congaree Swamp National Monument and to implement portions of a proposed general management plan prepared in 1987 by the National Park Service. Since introducing this legislation, a companion bill, H.R. 4027, was introduced in the House of Representatives. The House bill contains the substance of the bill I have introduced, along with a few technical changes to better clarify this legislation.

Accordingly, today, I am introducing a substitute amendment which will make these same technical changes in the Senate bill. With these changes, the House and Senate bills will be identical.

Mr. President, my amendment would clarify title I of S. 2018 by specifically designating "proposed wilderness" areas in the existing monument and "potential wilderness additions" in the expanded monument. The amendment more clearly designates these areas by reference to a recently prepared wilderness map.

Mr. President, there are a few other minor, technical changes which do not substantively alter this legislation.

FINANCIAL MODERNIZATION ACT

METZENBAUM AMENDMENT NO. 1917

Mr. METZENBAUM proposed an amendment to the bill S. 1886, supra; as follows:

On page 198, between lines 21 and 22, insert the following new title and redesignate accordingly:

TITLE IX—ACCESS TO CHECK CASHING

SEC. 901. SHORT TITLE.

This title may be cited as the "Fair Access to Check Cashing Act".

SEC. 902. DEFINITIONS.

For the purpose of this title—

(1) the term "consumer" means a natural person;

(2) the term "check" means any check, share draft, negotiable order of withdrawal, or other similar means of making payment or transfers to third parties or other;

(3) the term "depository institution" has the meaning given such term in clauses (i), (ii), (iii), (iv), and (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(4) the term "Board" means the Board of Governors of the Federal Reserve System;

(5) the term "office" includes the home office of a depository institution and any office approved as a branch of the depository institution by its Federal or State supervisory agency, but excludes free-standing automated teller machines and other electronic terminals; and

(6) the term "credit union" has the meaning given such term in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

SEC. 903. CHECK CASHING.

(a) CHECK CASHING REQUIRED.—A depository institution which, in the ordinary course of business, cashes checks for customers, shall cash any check issued by the United States Government, any State, any unit of local government, or any agency thereof, if the consumer presenting the check—

(1) is the individual to whom the check has been issued; and

(2) is registered with the depository institution pursuant to subsection (b).

(b) REGISTRATION.—The Board shall promulgate regulations governing registration under this section. The regulations shall require at least the following:

(1) Every such depository institution shall provide for registration in all of its offices.

(2) Registration shall be by means of an application containing the application date, and the name, address, date of birth, social security number, and handwritten signature of the applicant as well as any other information the Board may deem necessary, or by any other method the Board may approve.

(3) Every depository institution shall have the authority to verify the information required to be submitted by the applicant.

(4) Verification shall be completed within 30 days of receipt of the application.

(5) Upon verification, the applicant shall be considered registered, and shall be provided by the depository institution with an identification card in such form as the Board may approve.

(6) The depository institution may restrict the cashing of any check presented in accordance with subsection (a) only to the office that the application was submitted to, except that all offices of the depository institution must cash any check presented in accordance with subsection (a) if the person presenting the check also presents a reliable piece of identification which includes a photograph.

(7)(A) A depository institution may assess a charge for issuing an identification card, in an amount not in excess of the actual cost incurred in processing the application and issuing the card, as determined to be fair and reasonable by the Board.

(B) No charge may be assessed for cashing checks pursuant to subsection (a).

(c) CREDIT UNIONS CHECK CASHING.—A credit union which, in the ordinary course of business, cashes checks for its members, shall cash any check issued by the United States Government, any State, any unit of local government, or any agency thereof, for any member without charge, if the member presenting the check is the individual to whom the check has been issued.

SEC. 904. POSTING OF NOTICES.

(a) IN GENERAL.—Every depository institution shall post a conspicuous notice in the appropriate area of each location where deposits are accepted that informs consumers that check cashing services pursuant to section 903 are available. The notice shall clearly explain the material features and limitations of check cashing services so that consumers can reasonably be expected to understand the terms offered.

(b) POSTING BY CREDIT UNIONS.—A credit union can either post a conspicuous notice as described in subsection (a) or notify its membership in any non-separate mailing about its check cashing services pursuant to section 902 of this title. If a mailing is used, every new member must be advised of the credit union's policy of cashing government checks without charge.

SEC. 905. REGULATIONS.

The Board shall prescribe regulations for depository institutions necessary to carry out the provisions of this title not later than 180 days after enactment of this Act. In promulgating such rules and regulations, the Board may obtain upon request the views of any other Federal agency that exercises regulatory or supervisory functions with respect to depository institutions subject to this title.

SEC. 906. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY AGENCIES.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks) by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any Federal credit union or insured credit union.

(b) EFFECT OF OTHER LAW.—(1) For purposes of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(c) SAVINGS PROVISION.—The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

SEC. 907. CIVIL LIABILITY.

(a) IN GENERAL.—Any depository institution or credit union that fails to comply with any requirement imposed under this title or any regulation adopted pursuant to this title with respect to any person shall be liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure; and

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such additional amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution.

(b) AMOUNT OF DAMAGES.—In determining the amount of award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure to comply was intentional.

(c) OTHER RELIEF.—Upon application by an aggrieved party, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this title.

(d) COSTS AND FEES.—In the case of any successful action under subsection (a) or (c), the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court under such section.

(e) GOOD FAITH RELIANCE.—No provision of this title imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Jurisdiction.—Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction. No such action shall be brought later than one year after the date of the occurrence of the violation.

SEC. 908. GENERAL EFFECTIVE DATE.

Except as provided in section 905, the provisions of this title shall become effective 270 days after the date of enactment of this Act.

HEINZ AMENDMENT NO. 1918

Mr. HEINZ proposed an amendment to the bill S. 1886, supra; as follows:

At the appropriate place in the bill, insert the following:

TITLE —LIMITATIONS ON ACQUISITIONS BY CERTAIN COMPANIES OWNING BANKS

Sec. . Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding a new subparagraph (11) as follows:

(11) Notwithstanding any other provision of this Act, no company described in paragraph (1) and which has more than 50% of its consolidated assets devoted to financial services activities and more than 10% of its consolidated assets devoted to insured banks, (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and any subsidiaries thereof may, after March 28, 1988, acquire control, directly or indirectly, except in the capacity indicated in subparagraph (2)(a)(ii), of more than 5% of the shares of common or preferred stock, voting or non-voting, of a company whose shares are registered under the Securities Exchange Act of 1934 unless 50% or more of the consolidated assets of such company are devoted to financial services activities. For the purposes of this section, the term "financial services activities" shall mean:

(a) underwriting, distributing or dealing in securities of any type;

(b) securities brokerage, private placement, investment advisory, or other securities activities permitted for brokers or dealers registered under the Securities Exchange Act of 1934 or for investment advisers registered under the Investment Advisers Act of 1940;

(c) insurance underwriting activities;

(d) insurance agency activities;

(e) real estate brokerage activities;

(f) real estate investment and development activities;

(g) travel agency activities; and

(h) operating insured banks; and

(i) any other activities that the Board has determined to be financial.

IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

HECHT AMENDMENT NO. 1919

(Ordered to lie on the table.)

Mr. HECHT submitted an amendment intended to be proposed by him to the bill (S. 1009) to accept the finding and implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians; as follows:

On page 35, line 2, add "and" after the semicolon.

On page 35, line 6, strike out the semicolon and insert in lieu thereof a period.

On page 35, beginning with line 7, strike out all through line 3 on page 36.

On page 37, line 22, strike out all through line 3 on page 38.

On page 38, line 4, strike out "(4)" and insert in lieu thereof "(2)".

On page 38, line 7, strike out "(5)" and insert in lieu thereof "(3)".

On page 39, beginning with line 21, strike out all through the end of the bill.

DIXON (AND OTHERS) AMENDMENT NO. 1920

Mr. DIXON (for himself, Mr. Garn, Mr. Cranston, Mr. Heinz, Mr. Riegle, Mr. Armstrong, Mr. Sarbanes, Mr. D'Amato, Mr. Dodd, Mr. Hecht, Mr. Sasser, Mr. Gramm, Mr. Sanford, Mr. Bond, Mr. Shelby, Mr. Chafee, Mr. Graham, Mr. Karnes, Mr. Wirth, Mr. Packwood, Mr. Bradley, Mr. Kasten, and Mr. DeConcini) proposed an amendment to the bill S. 1886, supra; as follows:

Strike out "Financial Modernization Act of 1988" each place it appears and insert "Proxmire Financial Modernization Act of 1988".

PROXMIRE (AND GARN) AMENDMENT NO. 1921

Mr. PROXMIRE (for himself, Mr. Garn, Mr. Bradley, and Mr. Graham) proposed an amendment, which was subsequently modified, to the bill S. 1886, supra; as follows:

On page 35, line 24, insert "directly or indirectly" before "acquire".

On page 47, line 13, strike "No" and insert "Effective after the expiration of 180 days after the date of enactment of this paragraph, no".

On page 47, lines 15 and 16, strike "clause (i) of subparagraph (A)" and insert "subparagraph (A)(i)".

On page 48, line 12, strike "clause (i) of subparagraph (A)" and insert "subparagraph (A)(i)".

On page 50, line 12, strike "Statute" and insert "Statutes".

On page 51, line 13, strike "distribution" and insert "distributing".

On page 51, line 17, strike "1" and insert "one".

On page 51, line 21, strike "distribution" and insert "distributing".

On page 52, line 2, strike "as enacted into law".

On page 55, line 25, insert the following between "clause" and the comma: "or except in the case of a contract of insurance".

On page 57, line 2, after "paragraph (3)", insert "or (6)".

On page 57, between lines 2 and 3, insert the following:

(d) Limitations on Certain Activities Involving Municipal Revenue Bonds.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding at the end thereof the following new paragraph:

"(6) Limitations on certain activities involving certain municipal securities.—

"(A) Underwriting or distribution by affiliate of insured bank.—No affiliate of an insured bank shall underwrite or distribute securities described in subparagraph (C) of this paragraph unless that insured bank, as well as any affiliated insured institution (as defined in section 408(a)(1) of the National Housing Act), complies with section 4(c)(15)(F)(iii) of the Bank Holding Company Act of 1956 in the same manner and to the same extent as if the insured bank were a bank and the affiliate were a securities affiliate for purposes of section 4(c)(15)(F)(iii).

"(B) Underwriting or distribution by insured bank.— An insured bank that underwrites or distributes securities described in subparagraph (C) of this paragraph shall not take any action with respect to those securities that would violate subparagraph (A) of this paragraph if those securities were underwritten or distributed by an affiliate of the insured bank.

"(C) Certain municipal securities described.—Securities are described in this subparagraph for purposes of this paragraph if—

"(i) a national bank could underwrite those securities only pursuant to the sentence of paragraph (7) of section 5136 of the Revised Statutes (12 U.S.C. 24) that refers to an obligation issued by or on behalf of or guaranteed by a State, territory, or possession of the United States, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing; and

"(ii) no State, territory, or possession of the United States, political subdivision thereof, or the District of Columbia pledges its full faith and credit for payment of the entire principal of and interest on the securities.

"(D) Definition of 'affiliate'.—For purposes of this paragraph, the term 'affiliate' has the meaning given to that term in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).".

On page 58, line 22, insert "authorizing" before "statute".

On page 58, line 25, insert "authorizing" before "statute".

On page 59, line 4, strike "organized,".

On page 62, beginning with the comma on line 20, strike all through line 22 and insert the following: ", excluding—

"(A) activities conducted by any entity described in subparagraph (A) or (B) of paragraph (3) of this subsection; and

"(B) insurance activities that are permissible under section 4(c)(13) but not permissible under section 4(j), to the extent that those activities exceed 10 percent of the company's consolidated assets.

On page 66, line 18, strike "Supervisory" and insert "Supervision".

On page 70, line 14, strike "provisions" and insert "provision".

On page 71, line 23, after "discuss" insert "in".

On page 71, line 24, strike "two".

On page 72, line 2, strike "Board and the Commission" and insert "agencies referred to in subsection (a)".

On page 75, line 10, strike "the Committee or Committees" and insert "any Committee".

On page 75, line 13, strike "or Committees".

On page 75, strike lines 19 through 23 and insert "order to".

On page 77, line 2, after "paragraph" insert a comma.

On page 85, line 11, strike "3202" and insert "3201".

On page 86, line 22, after "holding company" insert "(including a savings and loan holding company)".

On page 87, line 22, after the first period, insert the following: "Either primary Federal supervisor may require that a permitted dual service be terminated if there occurs a change in circumstance that would have provided a basis for disapproving the dual service when it was originally proposed.".

On page 93, lines 5 and 6, strike "a State or political subdivision thereof;" and insert the following: "an employee benefit plan within the meaning of title I of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, that is a bank as defined in section 3(a)(2) of the Securities Act of 1933, an insurance company as defined in section 2(17) of the Investment Company Act of 1940, or an investment adviser registered under the Investment Advisers Act of 1940, or if the employee benefit plan has total assets in excess of $5,000,000; an employee benefit plan as defined in section 3 of the Employee Retirement Income Security Act of 1974, established and maintained by a State, its political subdivisions, or any agency or instrumentality of a State or its political subdivisions exclusively for the benefit of its employees or their beneficiaries that is governed by fiduciary principles comparable to those contained in such Act, if (i) the plan has total assets in excess of $25,000,000, and (ii) investment decisions for the plan are made by a plan fiduciary, as defined in section 3(21) of such Act, that is a bank, as defined in section 3(a)(2) of the Securities Act of 1933, an insurance company as defined in section 2(17) of the Investment Company Act of 1940, or an investment adviser registered under the Investment Advisers Act of 1940; a corporation with total assets in excess of $50,000,000 and net worth in excess of $5,000,000, as reflected on financial statements prepared in accordance with generally accepted accounting principles;".

On page 93, line 23, before "this title" insert "section 15 of".

On page 96, after line 21, insert the following:

SEC. 305. EFFECTIVE DATE.

This title shall take effect upon the expiration of 270 days after the date of its enactment.

On page 97, line 10, strike "sponsor, or organizer" and insert "or sponsor".

On page 98, line 11, strike "sponsor, or organizer" and insert "or sponsor".

On page 98, line 22, strike "sponsor, or organizer" and insert "or sponsor".

On page 99, line 21, after "Holding" insert "Company".

On page 99, line 23, strike "effective date" and insert "date of enactment".

On page 102, line 4, after "bank" insert "or bank holding company".

On page 105, between lines 12 and 13, insert the following:

SEC. 413. EFFECTIVE DATE.

This title shall take effect upon the expiration of 270 days after the date of its enactment.

On page 161, lines 1 and 2, strike "(4) and (5)" and insert "(3) and (4)".

On page 169, line 15, strike "The annual percentage yield accruing" and insert "Interest".

On page 176, strike lines 1 through 8 and insert the following:

(e) Reliance on Board Rulings.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding the fact that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

On page 180, line 9, insert "(a) In General.—" before "The".

On page 180, line 13, after the period insert the following: "The Board is authorized to determine whether such inconsistencies exist.".

On page 180, between lines 13 and 14, insert the following:

(b) Balance on Which Interest Is Calculated.—The provisions of this title shall supersede any provisions of any State law relating to the determination of the balance on which interest is calculated to the extent such State law specifies the manner for determining the balance on which interest is calculated.

Beginning with page 180, line 14, strike all through page 191, line 11, and insert the following:

TITLE VII—HOME EQUITY LOANS

SEC. 701. SHORT TITLE.

This title may be cited as the "Home Equity Loan Consumer Protection Act of 1988".

SEC. 702. DISCLOSURE AND ADVERTISING REQUIREMENTS FOR HOME EQUITY LOANS.

(a) In General.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 127 the following new section:

"SEC. 127A. REQUIREMENTS FOR OPEN END CREDIT PLANS SECURED BY THE CONSUMER'S PRINCIPAL DWELLING.

"(a) Application Disclosures.—

"(1) In general.—In the case of an open end consumer credit plan secured by a consumer's principal dwelling, the creditor shall make the following disclosures:

"(A) A statement that loss of the consumer's home may occur in the event of default.

"(B) A clear and conspicuous statement of the time by which an application must be submitted to obtain the terms disclosed or, if applicable, a statement that the terms may change at any time, and a statement that the consumer may elect not to enter into the plan agreement if the terms change, in which case the consumer shall have the right to a refund of all fees and costs paid by the consumer in connection with the application. The creditor shall also include a statement that the consumer should make or otherwise retain a copy of this information.

"(C)(i) A statement that the creditor may terminate the plan and require payment of the outstanding balance in full if the consumer fails to meet the repayment terms, the creditor's security is adversely affected by action or inaction of the consumer, or the consumer has engaged in fraud or made a material misrepresentation.

"(ii) A statement that the creditor may freeze or reduce the credit line if there is a material change in the consumer's financial circumstances affecting the consumer's ability to repay, a decline in the value of the consumer's home, the consumer fails to meet a material obligation under the plan, or the government takes action that prevents the lender from enforcing its rights under the loan agreement.

"(iii) A statement, if applicable, that the creditor may change any contract term that is not material to the contract after the agreement is signed.

"(iv) A statement that the consumer may obtain, upon request, a list of the types of obligations the borrower will have under the plan, and that failure to meet such obligations will allow the lender to freeze or reduce the credit line.

"(D) If applicable, a statement of any additional fees that may be imposed by the creditor upon termination of the account by either the creditor or the consumer.

"(E) The repayment options for the plan (separately stated, if applicable, for the period when advances may be obtained and the period when repayment is made without new advances), including—

"(i) the length of the plan, including, if applicable, both the length of the period when advances may be obtained and the length of the repayment period when advances may not be obtained;

"(ii) an explanation of how the minimum monthly or periodic payment will be determined;

"(iii) an example, based on a $10,000 amount outstanding and a recent interest rate (other than a rate not based on the index), showing the minimum monthly or periodic payment, and the time it would take to repay the entire $10,000 if the consumer paid only the minimum payment and obtained no other advances; and

"(iv) whether the plan includes a balloon payment feature.

"(F) If the minimum monthly or periodic payment will not reduce the outstanding principal balance, a statement of that fact.

"(G) Any monthly or other numerical restrictions on the consumer's right to draw funds against the line of credit, and any minimum outstanding balance or minimum advance requirements, stated in dollar amounts.

"(H) A statement that interest paid may not be deductible, or completely deductible, for all taxpayers.

"(I) An itemization of any fees imposed by the creditor in connection with the availability or use of such plan, including, but not limited to, annual fees, application fees, transaction fees, and closing costs such as points and the time when such fees are payable. Based on its experience with such plans, the creditor shall also provide the consumer with a general estimate within a reasonable range indicating the overall amount of additional fees that may be imposed by third parties (such as governmental authorities, appraisers, and closing attorneys) in connection with opening the plan, and a statement that the consumer may ask the creditor for a good faith estimate of such fees.

"(J) For other than variable rate plans, the creditor shall disclose the corresponding annual percentage rate or rates and a statement that this represents only interest and does not include closing costs.

"(2) Variable rate plans.—In the case of any open end consumer credit plan secured by a consumer's principal dwelling which is subject to a variable rate of interest, the creditor shall, in addition to the disclosures required by paragraph (1), make the following disclosures:

"(A) If an initial corresponding annual percentage rate not based on the index is offered, a statement of such rate and the period of time such initial rate will be in effect, and a statement that this represents only interest and does not include closing costs.

"(B) The formula used in making adjustments, including identification of the index and margin, if applicable, and a source of information about such index.

"(C) A statement that the consumer should ask about the current index value and interest rate.

"(D) The frequency of interest rate and payment changes.

"(E) Any rules relating to changes in the index, corresponding annual percentage rate, payment amount, and outstanding loan balance including, for example, an explanation of interest rate or payment limitations, negative amortization, and interest rate carryover.

"(F) A table, based on a $10,000 advance, showing how the corresponding annual percentage rate and minimum payment under each repayment option of the plan would have been affected by changes in the index value during the preceding 15-year period. The creditor shall consistently select one rate of interest for each year, and the manner of selecting the rate from year to year shall be consistent with the plan.

"(G) A statement of the maximum corresponding annual percentage rate and the minimum corresponding periodic payment which may be assessed under each repayment option of the plan, based on a $10,000 outstanding balance, and the earliest date such interest rate may be assessed.

"(H) A statement that interest rate information will be provided on or with each periodic statement.

"(I) The maximum amount by which the corresponding annual percentage rate may change in any 1-year period. If no limit exists, that fact shall be disclosed.

"(J) The maximum corresponding annual percentage rate that may be imposed at any time under the plan.

"(K) Any other term required by the Board.

"(b) Time and Form of Disclosures.—

"(1) Time.—

"(A) General rule.—The creditor shall furnish the disclosures required by subsection (a) and the brochure required under paragraph (2) on or with the application, and at least 3 business days before the consumer incurs a nonrefundable fee.

"(B) Telephone, publications, and third-party applications.—In the case of telephone applications, applications contained in magazines or other publications, or applications provided by a third party, the disclosures required under subsection (a) shall be provided by the creditor not later than 3 business days following the receipt of the application by the creditor, and the consumer shall have 3 business days from the date of receipt of the disclosure before incurring a nonrefundable fee. For purposes of determining when a nonrefundable fee may be incurred under this subsection, the day of receipt by the consumer is deemed to be 3 business days after the date of mailing by the creditor.

"(C) Third-party applications.—In the case of an application provided by a third party, the third party shall—

"(i) comply with the time requirements set forth in subparagraph (A) or (B) in providing the disclosures regarding the plan of the creditor to which the third party sends an application, or

"(ii) if the third party cannot provide specific terms about the plan because specific information about the plan terms is not available, the third party shall not collect any fee until 3 business days after the disclosures are mailed by the creditor.

"(2) Brochure.—The creditor shall provide the consumer with a copy of the home equity line of credit brochure published by the Board, or a suitable substitute. Such brochure shall describe how home equity plans operate, define terms the consumer might not be familiar with, and advise the consumer how to compare among home equity plans and between home equity and closed end credit plans.

"(3) Form.—The disclosures required by subsection (a) shall be grouped together and shall be segregated in accordance with regulations of the Board. The disclosures required by subparagraphs (A), (B), and (C) of subsection (a)(1) shall precede all of the other required disclosures.

"(c) Relation to Section 127 Disclosures.—The disclosures required by subsection (a) shall be given in addition to and at the same time as the disclosures required by section 127(a), except to the extent the Board determines such disclosures are duplicative.

"(d) Restrictions on Contract Terms.—

"(1) No unilateral changes by creditor.—

"(A) In general.—No open end consumer credit plan secured by a consumer's principal dwelling may contain a provision which permits a creditor to change unilaterally the terms required to be disclosed under subsection (a) or any other material term after an agreement has been entered into.

"(B) Changes not precluded.—Notwithstanding the provisions of subsection (a), a creditor may—

"(i) Change the index and margin applicable to such plan if the index used by the creditor is no longer available and the substitute index and margin would result in a substantially similar interest rate.

"(ii) Freeze or reduce the credit line during the period when there is a decline in the value of the security interest because of a significant decline in the original appraisal value of the property securing the line.

"(iii) Freeze or reduce the credit line during the period when there is a material change in the borrower's financial circumstances such that the creditor has reason to believe that the consumer will be unable to repay.

"(iv) Freeze or reduce the credit line during the period of any other material default under the plan agreement. Upon request and at closing the consumer shall be given a list of the categories of contract obligations which shall be deemed material under the plan.

"(v) Freeze or reduce the credit line during any period after the account is established, if the creditor is precluded by government action from imposing the corresponding annual percentage rate provided for in the plan agreement, or if such government action adversely affects the priority of the creditor's security interest to the extent that the value of the creditor's secured interest in the property is less than 120 percent of the amount of the credit line.

"(vi) Make any change that will benefit the consumer. The Board may, by regulation, determine categories of such change.

"(2) Use of independent index.—

"(A) In general.—A creditor may change the corresponding annual percentage rate imposed under an open end consumer credit plan secured by a consumer's principal dwelling only if—

"(i) such change is made on the basis of an index which is not within such creditor's immediate control, and

"(ii) such index is readily available to the general public.

"(B) Special rule for credit unions.—Notwithstanding the provisions of subparagraph (A), credit unions may use their individual cost of funds as the index if such cost of funds does not exceed the prime rate, as published by the Board of Governors of the Federal Reserve System. Each credit union offering an open end consumer credit plan secured by a consumer's principal dwelling, and using its cost of funds as its index, shall publish and distribute to its members its cost of funds on at least a quarterly basis.

"(3) Terms changed after application.—If any term or condition required to be disclosed under subsection (a) changes (other than a change contemplated by a variable feature of the plan) before opening the account, and if, as a result, the consumer elects not to enter into the plan agreement, the creditor shall refund all fees and costs paid by the consumer in connection with the application for such account.

"(4) Grounds for acceleration of outstanding balance.—A creditor may not unilaterally terminate an open end consumer credit plan secured by a consumer's principal dwelling and require payment of the outstanding balance in full, except in the case of—

"(A) fraud or material misrepresentation on the part of the consumer in connection with the plan;

"(B) failure by the consumer to meet the repayment terms of the agreement for any credit outstanding; or

"(C) any other action or failure to act by the consumer which adversely affects the creditor's security for the loan or rights in such security.

"(e) Definitions.—For purposes of this section and section 143(b)—

"(1) Balloon payment.—The term 'balloon payment' means a repayment feature of an open end credit plan secured by the consumer's principal dwelling that requires the account holder to repay the entire outstanding balance at a specific time after the open end credit agreement is entered into and the minimum payments leading up to that payoff date are not fully amortized on the basis of that time period.

"(2) Corresponding annual percentage rate.—The term 'corresponding annual percentage rate' means 'annual percentage rate' as defined under section 107(a)(2).

"(3) Principal dwelling.—The term 'principal dwelling' means a dwelling which is used in whole or in part as a residence by the consumer, and is either—

"(A) the principal dwelling of the consumer, or

"(B) a second or vacation home of the consumer.".

(b) Advertising Requirements.—Section 143 of the Truth in Lending Act (15 U.S.C. 1663) is amended—

(1) by striking "No advertisement" and inserting "(a) In General.—No Advertisement", and

(2) by adding at the end the following new subsection:

"(b) Open End Credit Plans Secured by the Consumer's Principal Dwelling.—In addition to the requirements of subsection (a), any advertisement to aid, promote, or assist, directly or indirectly, the extension of consumer credit through an open end credit plan secured by the consumer's principal dwelling that states, affirmatively or negatively, any specific terms of the plan including, but not limited to any periodic payment amount, shall contain the following information, in such form and manner as the Board may require:

"(1) Any loan fee which is imposed as a percentage of the credit line and a general estimate within a reasonable range indicating the overall amount of other fees for opening the account, based on the creditor's experience with such plans.

"(2) In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as a corresponding annual percentage rate.

"(3) The highest corresponding annual percentage rate that may be imposed under the plan.

"(4) If the plan includes a balloon payment feature, a statement of that fact.

"(5) Any other information the Board may by regulation require.

If the advertisement states an initial corresponding annual percentage rate for a variable rate plan that is not based on the index for the plan, the advertisement shall also state the current rate with equal prominence. The current rate must be current as of a reasonable time given the media involved.".

(c) Technical Amendment.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 127 the following new item:

"Sec. 127A. Requirements for open end credit plans secured by the consumer's principal dwelling.".

SEC. 703. EFFECTIVE DATE.

(a) In General.—Except as provided in subsections (b) and (c), the amendments made by this title shall apply to any open end consumer credit plan secured by a consumer's principal dwelling which is entered into after October 31, 1989.

(b) Effective Date of Section 127A(d).—The provisions contained in section 127A(d) shall apply to any open end consumer credit plan secured by a consumer's principal dwelling which is entered into after the date which is 90 days after the date of enactment of this title.

(c) Effect of Board Regulations.—Notwithstanding the provisions of subsections (a) and (b), any creditor may comply with the amendments made by this title, in accordance with the regulations prescribed by the Board, prior to the effective date of this title.

On page 191, line 22, strike "(o)" and insert "(p)".

On page 192, line 17, after "(B)" insert "through a State bank or subsidiary thereof".

On page 193, line 16, strike "in the case" and insert "to insurance activities".

On page 193, lines 16 and 17, strike "that is subject" and insert "pursuant".

On page 194, line 4, strike "or".

On page 194, line 19, strike the period and insert a semicolon.

On page 194, between lines 19 and 20, insert the following:

"(C) continue to engage in any insurance activity lawfully engaged in prior to the date of enactment of this subsection in the State of Indiana, and in any State contiguous thereto, if the bank holding company or subsidiary thereof is located in the State of Indiana and was acquired on June 30, 1986, pursuant to Board approval under section 3(d) of this Act issued on May 28, 1986;

"(D) engage in any insurance activity through a State bank or subsidiary thereof if—

"(i) the bank is described in clauses (i) and (ii) of subparagraph (A); and

"(ii) the insurance activity of the State bank or subsidiary thereof is limited (I) to life, accident, and health insurance activities for which it has been licensed prior to March 2, 1988, pursuant to State law enacted after July 20, 1987, and in effect prior to September 28, 1987, and (II) to the State in which it has been licensed; or

"(E) provide through a State bank, or subsidiary thereof, pursuant to authorization by the appropriate State banking regulator prior to March 2, 1988, financial guaranty insurance. For purposes of this subparagraph, the term 'financial guaranty insurance' means insurance against the risk of default on State and local government debt obligations, corporate debt and other monetary obligations, pass-through securities (other than those secured by mortgages on real property which are insurable by a mortgage guaranty insurer), and installment purchase agreements executed as a condition of sale, but such term does not include life, property, or casualty insurance. This subparagraph does not preclude any interested party from challenging the legality of these described activities under section 4(c)(8) of the Bank Holding Company Act of 1956, as in effect on March 2, 1988.

On page 195, line 7, before the dash insert "natural persons who are residents of the State and".

Beginning with page 195, line 21, strike all through page 196, line 1, and insert the following:

bank holding company—

"(a) on or after October 15, 1982, in a transaction requiring Board approval under section 3(d) if the bank holding company did not obtain board approval to engage in such insurance activities under this section prior to March 2, 1988; or

"(b) on or after March 2, 1988;

unless such acquiring company is a successor or is and continues to be a bank holding company with total assets of $50,000,000 or less;

On page 197, line 4, strike "Exception" and insert "Exceptions".

On page 197, line 5, before "any" insert "(A)".

On page 197, line 8, before the period, insert the following: ", or (B) any company lawfully engaged in title insurance activities as of March 2, 1988, from continuing to engage in such activities, if such activities are limited to the State in which the bank is located, and if the bank is not acquired after March 2, 1988, by a bank holding company the principal banking operations of which are conducted in another State.".

On page 198, between lines 17 and 18, insert the following:

(c) Effect on Certain Companies.—This section shall not affect the ability of—

(1) a national bank or a subsidiary thereof located in Oregon or Washington, to continue to engage in insurance activities lawfully engaged in as of March 2, 1988, within the State in which the main office of such national bank is located; or

(2) a national bank chartered in 1882 (or a subsidiary thereof) to continue to engage in insurance activities in which it was lawfully engaged as of March 2, 1988, within 30 miles of such bank's main office if such main office is not within 30 miles of any city that had a population exceeding 150,000 under the 1980 census.

On page 202, line 17, before "Section" insert "(a) Bank Holding Companies.—"

On page 203, line 1, after "company" insert "to provide".

On page 203, between lines 2 and 3, insert the following:

(b) Savings and Loan Holding Companies.—Section 408(p)(2)(A) of the National Housing Act (12 U.S.C. 1730a(p)(2)(A) is amended—

(1) by inserting "or section 4(c)(15)" after "section 4(c)(8)" the first place it appears; and

(2) by striking "by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under section 4(c)" and inserting "in connection with products or services of an affiliate that are not permissible for a bank holding company to provide under section 4(c)(8) or section 4(c)(15)".

At the end of the bill, add the following:

SEC. 906. AMENDMENT TO THE FEDERAL POWER ACT.

Section 305(b) of the Federal Power Act (16 U.S.C. 825d(b)) is amended by adding the following at the end of the subsection:

"Any person now holding or proposing to hold the position of officer or director of a public utility and officer or director of a bank, trust company, or banking association is authorized to hold such positions without authorization of the Commission, as long as such bank, trust company, or banking association does not underwrite or participate in the marketing of securities (including commercial paper) of the public utility for which the person serves or proposes to serve as an officer or director.".

SEC. 907. EXPEDITED FUNDS AVAILABILITY.

(a) Reasonable Exceptions.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in subsection (b), by inserting "subparagraph (A), (B), (C), or (F) of subsection (a)(2) or" after "limitation established under"; and

(2) in subsection (d), by inserting "(a)(2)," after "subsections".

(b) Disclosure.—Section 604(f) of such Act is amended by adding the following:

"(4) Notice with respect to cashier's, certified, and similar checks.—A depository institution issuing a check described in section 603(a)(2)(F) in excess of $5,000 shall notify the person to whom it issued that funds may be made available later than the time specified in section 603(a).

SEC. 908. PAYROLL TAX FILING SERVICE ORGANIZATIONS.

Section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)) is amended—

(1) in clause (i), by inserting after "in trust funds" the following: "or in Treasury tax and loan accounts maintained by a payroll tax filing service organization,";

(2) in clause (iii), by inserting after "third parties or others" the following: ", except for deposits of funds by a payroll tax filing service organization in Treasury tax and loan accounts or in trust pending payment of such funds for Federal, State, or local tax obligations,"; and

(3) in clause (iv)(I), by inserting before the semicolon the following: "except in connection with the transfer by a payroll tax filing service organization of funds held in trust

pending payment of such funds for Federal, State, or local tax obligations".

SEC. 909. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS.

The International Banking Act of 1978 is amended by adding at the end thereof the following:

"NATIONAL TREATMENT

"Sec. 15. (a) General Rule.—If the President or his designee has made a written determination that a foreign country is described in subsection (b) of this section, has transmitted the determination to a Federal banking agency, and has not revoked the determination, the Federal banking agency may, notwithstanding any other provision of law, deny any application by an entity described in subsection (c) that requires the approval of that agency, or disapprove any notice by such an entity that is subject to disapproval by that agency, if—

"(1) that entity is chartered or incorporated or has its principal place of business in that foreign country; or

"(2) any person that directly or indirectly controls that entity resides, is chartered or incorporated, or has its principal place of business in that foreign country.

"(b) Denial of National Treatment.—A country is described in this subsection for purposes of this section if that country does not accord to United States banks and bank holding companies the same competitive opportunities as it accords to domestic banks and bank holding companies.

"(c) Certain Foreign Entities Described.—The following entities are described in this subsection for purposes of this paragraph:

"(1) a foreign bank; and

"(2) any other company subject to the Bank Holding Company Act of 1956 under section 8(a) of this Act.".

SEC. 910. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BROKERS AND DEALERS.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by inserting at the end thereof the following new paragraph:

"(11)(A) The following provisions shall apply if the President or his designee has published a written determination that a foreign country is described in subparagraph (B) of this paragraph and has not revoked that determination:

"(i) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(I) the Commission has been given notice 45 days in advance of that proposed acquisition, in such form as the Commission shall prescribe by rule; and

"(II) the Commission has not prohibited that acquisition.

"(ii) The Commission may, by order, extend the notice period with respect to any particular acquisition for no more than 60 days.

"(iii) The Commission, consistent with the protection of investors and the maintenance of fair and orderly markets, may—

"(I) deny any application for registration under this subsection filed by a person of that foreign country; and

"(II) prohibit, by order, any person of that foreign country from acquiring control of a registered broker or dealer, irrespective of when the acquisition was initiated.

"(B) A country is described in this subparagraph for purposes of this paragraph if that country does not accord to United States brokers and dealers the same competitive opportunities as it accords to domestic brokers and dealers.

"(C) A person is a 'person of a foreign country' for purposes of this paragraph if that person, or another person that directly or indirectly controls that person, is a resident of a foreign country, is organized under the laws of that country, or has its principal place of business in that country.".

SEC. 911. STUDY OF MERGER OF COMMERCE AND BANKING.

(a) In General.—The Board of Governors shall conduct a study of the need, if any, to continue the separation of full-service banking and commerce in the United States. In carrying out such study, the Board shall consult with all appropriate departments and agencies of the United States and representatives of all segments of the financial services and other industries.

(b) Particular Areas of Study.—In carrying out the study under this section, the Board shall in particular examine—

(1) the economic, regulatory, and consumer issues involved in continuing or eliminating the separation of banking and commerce;

(2) the competitive issues involved in eliminating the separation of banking and commerce, including the adequacy of antitrust and other laws relating to the maintenance of other competition; and

(3) organizational issues, particularly with respect to the appropriate types and structures of organizations that may engage in full-service banking, financial services, and commercial activities.

(c) Report Required.—Not later than one year after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall transmit the report required by this section to the Congress.

SEC. 912. INCREASED PENALTIES UNDER THE BANK HOLDING COMPANY ACT.

(a) Section 8(a) of the Bank Holding Company Act of 1956 is amended by striking "$1,000" and inserting "$50,000", by striking "$10,000" and inserting "$100,000", and by striking "one year" and inserting "three years".

Section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)) is amended by striking "$1,000" and inserting "$5,000".

SEC. 913. FINANCIAL CONSUMERS ASSOCIATIONS.

(a) National Banks.—Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured banks, as defined in section 3 of the Federal Deposit Insurance Act, to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, national banks shall comply with the insert requirements.

(b) Savings and Loan Associations.—Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding the following new subsection:

"(t) Financial Consumers Associations.—Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured institutions as defined in section 401 of the National Housing Act to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, associations, as defined in subsection (d), shall comply with the insert requirement.".

(c) Credit Unions.—Title I of the Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding the following new section:

"FINANCIAL CONSUMERS ASSOCIATIONS

"Sec. 130. Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured credit unions as defined in section 101(7) of this Act to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, Federal credit unions shall comply with the insert requirement.".

SEC. 914. COMMUNITY REINVESTMENT ACT.

Section 803(3)(F) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(3)(F)) is amended by inserting "or section 4" after "section 3".

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

Mr. MELCHER. Mr. President, I would like to announce for the public that the Special Committee on Aging has scheduled a hearing on adult day health care: A vital component of long-term care.

The hearing will take place on Monday, April 18, 1988, at 9:30 a.m. in room 628 of the Dirksen Senate Office Building in Washington, DC.

For further information, please contact Max Richtman, at (202) 224-5364.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development in the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on S. 1480 the "National Laboratory Cooperative Research Initiatives Act" and proposed amendment No. 1627.

The hearing will take place April 18, 1988, at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to submit written testimony for the printed hearing record should send it to the Subcommittee on Energy Research and Development, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information, please contact Teri Curtin or Ben Cooper at (202) 224-7569.

Mr. FORD. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development in the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the Department of Energy's fiscal year 1989 budget request for nuclear reactor research and development.

The hearing will take place on May 17, 1988, at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to submit written testimony for the printed hearing record should send it to the Subcommittee on Energy Research and Development, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information, please contact Teri Curtin or Mary Louise Wagner at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 30, 1988, to hold a business meeting on pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 30, 1988, to hold a hearing to receive testimony on S. 2061, to establish national standards for voter registration for Federal elections, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, March 30, 1988, to consider Senate Resolution 377, S. 1516, S. 1652 and H.R. 2663, and S. 2156.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 30, 1988, in closed session to meet jointly with the House Committee on Armed Services to receive a briefing on unauthorized appropriations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 30, 1988, in open session to receive testimony on DOD policies and international agreements that affect the defense industrial base.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE AND CIVIL SERVICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, Subcommittee on Federal Services, Post Office and Civil Service, be authorized to meet during the session of the Senate on Wednesday, March 30, to hold hearings on S. 909, contracting out.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances and the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on March 30, to conduct a joint hearing on the condition of the stratospheric ozone.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 30, 1988, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CORNELIUS "KIO" GRANAI

● Mr. LEAHY. Mr. President, Cornelius "Kio" Granai was the first Italian-American mayor and State legislator from Vermont. He ran a good race for his party's nomination as Lieutenant Governor more than two decades ago—but complained that anyone whose name ended in a vowel could never be elected to statewide office in Vermont—at least, not as a Republican.

Edwin Granai, Kio's son, followed his footsteps in the legislature and became his party's candidate for Governor in 1978. But Ed accomplished this as a Democrat, and the party responded with overwhelming support for his candidacy.

Mr. Granai has a bachelor of economics degree from Antioch College and a masters of divinity from Yale University. His reputation in Government was a man whose word was his bond.

These attributes have been evident in his extraordinarily successful business career, which has been documented in the March 31, 1988, edition of Business Monday, a supplement of the Burlington [VT] Free Press, the State's largest newspaper.

I request the article be printed in the CONGRESSIONAL RECORD, Mr. President, so that others may read of the accomplishments of a good friend and confidant, Edwin Granai.

The article follows:

MALL KING HAS SEEN AREA RETAILING GROW

(By Lisa Scagliotti)

Over the past 10 years, University Mall General Manager Edwin Granai has seen the Burlington retail scene come of age.

"You can't succeed despite yourself anymore," he said.

A decade ago, the area was "under-retailed," meaning that just about any store had a good chance of success since it lacked stiff competition, he said.

But that has changed.

Today, marketing is vital. Great care must be taken in planning a store's location, merchandise and target customers.

"If you do all those things, there's still a lot of room for growth," he said.

This is just what Granai and Finard and Co., the Burlington, Mass., parent company for which he works, are banking on.

Plans are in the works for the 300,000-square-foot University Mall to grow to 500,000 square feet, allowing for another major department store yet to be determined and 25 to 30 more smaller stores.

The expansion will mark the "complete utilization" of the Dorset Street site. "This is as far as it goes," Granai said.

While the addition is substantial, he said it will benefit the whole area—including, he insists, downtown Burlington.

He said University Mall and the downtown merchants are not the rivals; the two large retail areas are "complementary."

"Downtown is a lot more than shopping," he said. "It's the core area for the region. To patronize one area does not preclude patronizing the other. I think we need each other."

Karen Robinson, executive director of the Vermont Retail Association, is more conservative in her predictions for the expansion.

"It's going to be hard on everybody," she said. "It will be hard on the existing stores in University Mall and on the greater Burlington area."

She said existing merchants will have to adjust to the increase in competition. "They may have to adjust their share of the market," she said.

Penrose Jackson, executive director of the Church Street Marketplace, said the expansion will not hit hard due to the gradual growth of the mall.

"There is a major need to be concerned about it, but University Mall has grown incrementally," she said.

In addition to the South Burlington mall, Granai also manages the other shopping centers in the Finard Vermont group owned by Finard and Co.

They include the 98,000-square-foot Town Plaza at the intersection of Vermont 15 and Susie Wilson Road in Essex Junction and the troubled City Center in Montpelier, housing 74,000 square feet of office and retail space. Planned additions to Town Plaza will bring it up to 155,000 square feet, he said.

Granai came into mall management unexpectedly.

After two terms as a Democratic state representative from Burlington, Granai launched an unsuccessful bid for governor in 1978 against Republican incumbent Richard A. Snelling

Granai next decided to get into the mall business.

"I was retired by the voters," he said. "I needed a job."

The November election results came just four months prior to the opening of University Mall, a time when Finard and Co. was searching for someone to run the show.

Granai said that although he had run his own business, Little Professor Book Centers in Burlington and Essex Junction, this was different. "I had never done this before," he said. "It was on-the-job training."

Regardless of his hesitation, he has grown into the position enough for Robinson to call him "Mr. Shopping Center of Vermont."

She said part of Granai's success rests with his attitude.

"He is a good manager who is sympathetic to the customer," she said. "I think that's the success of University Mall."

Granai attributes the mall's prosperity to the general appeal of the Burlington area and Vermont. Good economic conditions have allowed for significant growth.

"We have all the advantages of an urban area without the disadvantages," he said.

A good tenant mix also makes a successful mall, he said.

Granai said this should include the broadest range of products, with women's fashions leading the way, followed by family clothing, shoes, books and records, cards and restaurants and drug stores.

But the biggest contributing factor to booming business at the University Mall is its prime location, just off Interstate 89. Despite the mall's thriving interchange, Granai said the restrictions of Act 250, the state's land-use law, are essential to protecting the sensitive area along Vermont's main travel artery.

He calls the process "a very important element in planned growth."

"One of the things that makes Vermont an attractive place to live and for business is walking that line and keeping that delicate balance between planning and growth," he said.

He said the consequences of losing that balance are predictable. "The potential for blight and long-term social and economic problems created by sprawl should be pretty obvious," he said.

Since University Mall will reach its capacity next year, Granai said new projects are on the horizon.

The next target area for Finard Vermont lies to the south—Rutland.

Plans are under way for a regional mall there comparable in size with the expanded version of University Mall.

"Rutland has a very good development potential," Granai said. "Demographically, it is under-retailed—a similar position Chittenden County was in 10 years ago."

Granai said he hopes the Rutland project will fare better than City Center in Montpelier.

There, Finard Vermont was "overly ambitious," he said. Of the 32,000 square feet of available retail space, 26,000 are open now since the anchor store, J.W. Campion, left.

"We misjudged the retail capacity of downtown Montpelier," he explained.

But the experience is one to learn from. "Nobody does everything right," he added.

Granai also knows he is just one player in Vermont's shopping mall scene.

Another is Syracuse retail developer, The Pyramid Cos., backers of the proposed 420,000-square-foot Maple Tree Place mall project proposed for Williston.

Granai said the current slow-moving permit process will keep that project on the drawing board for quite a while. "I think the issue with Pyramid is, can they get it built in this century?" he said. "I don't have the time to sit around and wonder what the competition will be by the late '90s."

GRANAI FILE

Name: Edwin Granai.

Age: 56.

Occupation: General manager of Finard Vermont, the local company operating University Mall in South Burlington, City Center in Montpelier and Town Plaza in Essex Junction, all owned by Finard and Co. of Burlington, Mass.

Education: Bachelor's degree in economics from Antioch College in New Haven, Conn., 1954; Master's of divinity from Yale University.

Politics: Vermont state representative 1974-1978; served as House majority whip in second term; launched an unsuccessful bid for governor in 1978 against Richard A. Snelling; chairman of the Vermont State Democratic Committee 1981-1985.

Business: Management positions with Proctor and Gamble Co. from 1957-1969 in New York City, Trenton, N.J., and Cincinnati; owner of Little Professor Book Centers in Burlington and Essex Junction, 1969-1976; returned to business in 1979 as general manager of Finard Vermont; organized the Greater Burlington Council of Shopping Centers several years ago.

Ordained: Presbyterian minister and is an assistant pastor of the Christ Church Presbyterian in Burlington.

Family: Married with three children; father, Cornelius, was a granite union organizer, Barre's first Italian-American mayor and a state legislator.●

U.S. TEXTILE AND APPAREL POLICY

● Mr. HEINZ. Mr. President, the ongoing debate over international trading practices in textiles and apparel is about to heat up again as the Senate moves toward consideration of another version of the textile bill, already passed by the House last year. As Senators know, an earlier version of this bill passed both the House and the Senate in the last Congress, only to be vetoed by the President. The House sustained the veto in August 1986 and the issue did not return to the Senate at that time. As a result, when the revised bill comes before us this year, it will have been nearly 3 years since the Senate considered the issue in any detail.

At that time—in 1985—I concluded that meaningful debate on this issue was exceedingly difficult because so many Senators on both sides of the issue had taken such firm positions for so long that we were talking past each other rather than listening to each other. This year I hope we can avoid that kind of mental paralysis and have a debate that actually addresses the state of this industry in the United States as well as the way the world trading system operates for textiles and apparel under the multifiber arrangement.

Fortunately, we now have a useful new addition to the debate in the form of a substantial and well-researched monograph, entitled "The Reality of World Trade in Textiles and Apparel," by Alan Wolff and his colleagues at Dewey, Ballantine. What Mr. Wolff's research provides us is a fair and objective assessment of American trading interests in textile and apparel markets and a discussion of the major obstacles to improved liberalization of these global markets—foreign protective barriers, subsidies, and production cartels, along with other damaging and unfair export promotion schemes.

The study concludes that Japanese and European markets have not absorbed their commensurate shares of textile and apparel exports from developing countries. Instead, the American market has carried a disproportionate burden, absorbing 58.9 percent of LDC textile and apparel exports, more than double the amount imported by the Europeans and over four times the amount purchased by the Japanese.

The assembly of facts in the study is designed to clarify the status of world textile and apparel markets as well as to provide some possible solutions to the problems Mr. Wolff identifies. As a result, this is must reading for anyone wishing to really understand this complicated topic. "In an international trading environment characterized by mercantilism," Mr. Wolff suggests that either American policies must change or the protectionist policies of others must change. To quote from the study, "The alternative—inaction—means the acceptance of a disproportionate loss of jobs and production in the U.S."

Unfortunately, the entire study contains charts and graphs which cannot be reproduced in the RECORD. I have, however, excerpted some information from it, both as an introduction to the study's contents and as preliminary evidence of the disparities in the global textile and apparel industries. I ask that the excerpts be printed in the RECORD.

The excerpts follow:

The Reality of World Trade in Textiles and Apparel

(By Alan Wm. Wolff, Thomas R. Howell, William A. Noellert, Dewey, Ballantine, Bushby, Palmer & Wood)

(Prepared for the Fiber, Fabric and Apparel Coalition for Trade (FFACT))

SURVEY OF IMPORT RESTRICTIONS IN TEXTILES AND APPAREL

Developed countries	Form of restrictions
European Communities	Bilateral agreements pursuant to Multifiber Arrangement.
Canada	Do.
Sweden	Do.
United States	Do.
Finland	Do.
Austria	Do.
Australia	Global tariff quotas.
New Zealand	Import licensing subject to global quotas maintained "without GATT cover".
Norway	Global quotas pursuant to non-MFA bilaterals with major LDC suppliers.
Japan	Non-MFA voluntary restraint agreements, informal government pressure on distributors.
Eastern Trading Area Countries	Licensing requirements; imports must be conducted through foreign trade organizations (FTOs).
Major Developing Countries:	
Mexico	Licensing requirements; licenses denied for most products.
India	Import ban on most products.
China	Trade regulated by FTO's.
Korea	Licensing requirement for items on "negative list," sometimes amounts to ban.
Taiwan	Periodic import bans, high tariffs.
Nigeria	Imports of all textiles and apparel are banned.
Argentina	Severe restrictions on items "similar" to those produced domestically.
Indonesia	Licensing requirement administered to protect Indonesian producers.
Turkey	Import ban on many products.
Brazil	High (100%+) tariffs; licensing system amounting to a ban on many products.
Egypt	Import ban on some products; licensing requirements.
Colombia	Import ban on many products.
Venezuela	All clothing imports are banned.
Pakistan	Licensing requirements; some items allowed only for barter or if linked to extension of credit.

Export Subsidies and Incentives in Major Textile Exporting Nations

SOUTH KOREA

Tax-Free reserves to the extent of 1 percent of export turnover for export losses.

+1% for the development of foreign markets.

Reserves for 5 percent of export turnover (compensation of price fluctuations).

Tax free allowance at a rate of 30 percent of the depreciation value insofar as export proceeds exceed 50 percent of taxable income.

Preferential loan financing for export transactions.

TAIWAN

No trade tax for exports.

Extension of tax-free expenses for operational expenditures.

Tax-free reserves of 1 percent of export turnover as a compensation for export losses.

Tax-free reserve for 7 percent of acquisition costs of machines in case of foreign exchange losses.

Tax-free allowance of 2 percent of taxable income up to 25 percent of export proceeds.

BRAZIL

Taxable profit reduced in proportion of export turnover/total (1985).

Value added deducted from taxable profits.

Exemption from turnover tax and tax credit.

PHILIPPINES

Credits for export at a rate reduced by 2 percent.

Preferential access to foreign exchange.

Tax free allowances on export proceeds.

Tax free allowances for custom duties and import charges for imported goods.

Doubling of depreciation rates.

Tax free allowance at replacement investments.

Tax free allowance for a rate of 20 percent of export traders proceeds.

Additional deduction as operational costs for exports.

THAILAND

Credits for export (3 years at 6 percent) discount at 7 percent rediscount at 5 percent.

Rediscount for financing of raw materials purchases at a reduced rate (6 percent).

Interest subsidies (14.5 percent).

Tax free allowance for 5 percent of the annual increase of exports.

Exemption from import charges for goods and machines required for exports.

Exemption from export duties and turnover tax.

Excessive reimbursements of taxes.

Investment incentives based on export intensity.

CHINA

Newly generated foreign exchange available to exporters.

Special exchange rates for certain textile export sales.

Income tax reductions and discounted loans to textile exporting enterprises.

Currency retention scheme for textile exporters.

Priority in raw materials, energy and transportation allocation.

PAKISTAN

Duty-free import of plants and machinery equipment.

Takeover by State holding of uncompetitive enterprises.

Price reductions for the purchase of cotton.

Exemption from import charges for goods required.

Deduction of 55 percent of export proceeds from taxable income.

Increase of deductible export operational costs by one-third.

TURKEY

Financing of exports (at short term with an interest reduced by 27 percent).

State-owned enterprises receive compensation for incurred losses.

20 percent of export proceeds deducted from income.

Excessive refunding of prior taxes.●

A CHANGE IN MEDICAID POLICY

● Mr. SASSER. Mr. President, in mid-March, the administration instituted a change in Medicaid policy that will dramatically increase out-of-pocket expenditures for 20 to 50 percent of Medicaid recipients in nursing homes. Coming at a time when Congress is wrestling with the problems of the nursing home community, this policy change is a stinging rebuff to our efforts to protect one of the most troubled segments of our population—the elderly poor.

Presently, Mr. President, each Medicaid recipient pays out of his or her own pocket a certain amount of each month's expenses depending on that individual's income. In setting the amount to pay, the recipient is allowed to deduct items that are categorized as legitimate medical expenses such as hearing aids, eyeglasses, and dentures. The administration is changing that procedure. Medicaid recipients can no longer deduct these medical expenses from their personal income before calculating how much of their income they must pay to Medicaid.

This change will cut deeply into the pocketbooks of the elderly poor. Many Medicaid nursing home recipients had deductions of several hundred dollars a month under the previous regulations that have been in place for approximately 15 years. Now individuals could have to bear that cost on their own.

In many cases, Mr. President, Medicaid patients in nursing homes or their spouses or families are only allowed to keep as little as $150 or less of their personal income for themselves. Out of as little as $150 a month, some Medicaid families must pay all their expenses—food, clothing, lodging, and anything else that they might need. Clearly, these families are fighting to make ends meet on such a paltry sum.

Yet this change in policy will only exacerbate this situation. Medicaid patients in nursing homes will have to spend some or all of their meager monthly allotment on medical expenses. Indeed, this change will force some people to choose between being able to eat and getting glasses or a hearing aid. Any policy that forces such a choice on poor families is abominable.

The administration is trying to pass the responsibility of this change onto States by merely allowing rather than mandating them to institute this change. But given the financial difficulties that many States, particularly southern States, are having with their Medicaid programs, putting States in the position of having to make such a decision is ill-advised and not in the best interests of the elderly on Medicaid.

It is my sincere hope that States do not misconstrue this change in policy as a signal from the Federal Government that we are relinquishing our commitment to dealing with the problem of nursing home financing. I hope that States do not choose to disallow medical expense deductions, but I am not confident that this will be the case.

Mr. President, I support efforts to trim the fat from Federal programs. But I submit there is no fat to trim in this particular case. Medicaid patients in nursing homes are struggling to survive already. Let's not make it even tougher for them.

I am contacting the Health Care Financing Administration to urge them to reconsider this ill-conceived policy. I urge my colleagues in the Senate to do the same. We must send a signal to the President that the elderly poor are not the ones who should carry the burden of the Federal deficits.●

SUCCESSFUL TALKS IN NICARAGUA

● Mr. HARKIN. Mr. President, last week, in Sapoa, Nicaragua, leaders of the Sandinista government and the Nicaraguan resistance agreed to a 60-day cease-fire to begin on April 1.

The agreement, signed by Nicaraguan Defense Minister General Humberto Ortega and Aldolfo Calero, head of the Contra delegation, is historic, marking a major step toward ending the 8-year Reagan-backed war in Nicaragua, and representing a major achievement of the peace plan signed last August 7 by the five Central American Presidents.

President Daniel Ortega said after the agreement was signed, "Today we have buried forever the military conflict, strengthening instead our political conflict."

Calero echoed Ortega's message, stating: "Today, we have taken a first step to achieve the peace that we Nicaraguans need so much."

The accord provides for extension of the current cessation of hostilities until April 1, to be followed by a 60-day halt in offensive military operations nationwide.

On April 6, both parties agreed to meet again in Sapoa to begin broader negotiations "to put an end to the war."

In the first 15 days of the truce, the Contras will locate themselves in special zones inside Nicaragua which will be arranged by a special commission.

The Nicaraguan Government will guarantee freedom of expression, permit the return of exiles, and permit the participation of Contra rebel fighters in civilian politics.

The accord also provides for a gradual general amnesty for an estimated 3,500 political prisoners, including those convicted of supporting the Contras as well as former members of Somoza's national guard.

A commission headed by Cardinal Obando y Bravo and Secretary General of the OAS will oversee compliance with the accord.

Finally, under the accord, the Contras agreed that while in the cease-fire zones, they would accept only "humanitarian" aid—and "exclusively humanitarian aid"—to be administered by neutral organizations.

Mr. President, the signing of this accord represents one of the most important developments in Central America—second only to the signing of the peace accord in Guatemala city 8 months ago. I hope that last week's action will begin the process of reconciliation and peace envisioned by Costa Rican President Oscar Arias when he initiated the peace process a year ago.

I hope that yesterday's accord will put an end to the administration's saber rattling and war mongering so much in evidence when it sent 3,200 troops to Honduras last week.

I hope that this accord will stop the war that has resulted in the killing of more than 40,000 Nicaraguans, that has destroyed the Nicaraguan economy, that has spilled over into neighboring Honduras, and that has divided families, fathers against sons, brothers against sisters.

I hope this accord will calm the political rancor, the division and the red baiting that has characterized debates on Nicaragua in the Chamber and in the House over the past 5 years. Congress can now pass a truly bipartisan and constructive aid package, designed to promote peace, to comply with the Guatemala accords and the Sapoa agreement, and to fulfill our obligations to the contras, a force which we created, which we armed, and which we kept alive for the past 8 years.

We can now begin to fashion an aid package with true humanitarian aid—not logistical aid; a package delivered by a true neutral humanitarian organization—not the CIA; and a package that will promote a negotiated resolution of the war—not an escalation of the conflict.

That package should include assistance for the real victims of the war, the Nicaraguan children who now live on both sides of the border. That package should envision a program of social and economic reconstruction and a lifting of the 3-year trade embargo, if the Sandinistas comply with the Sapoa and Guatemala accords, the war ends, and national reconciliation and internal democraticization succeeds.

That package must not provide for military aid, or military drops, which the Contras themselves have not asked for. And that package cannot mandate an expedited vote triggered by a Presidential request. To paraphrase House Speaker JIM WRIGHT, you don't ask for an expedited procedure for divorce during your marriage ceremony.

Mr. President, the best and the brightest of the Reagan administration failed in their efforts to bring about a military solution in Nicaragua. Their cynical ploy to defeat a House Democratic aid package on March 3 and paint the Democrats as selling the Contras down the river didn't work. The Contras realized that for hardliners in the Reagan administration, their war was a political one, their real target being congressional Democrats not the Sandinistas. Under the administration's scenario, the Contras were expendable—their cause would be sacrificed, if necessary, to win the battle here in Washington.

Calero said as much in a statement to the press: "We have always known that the dead and the wounded were Nicaraguans, and we will make our maximum effort so this plan will eradicate hatred and establish brotherhood among us."

I hope the Reagan administration wakes up to this fact, halts its political war here, and supports attempts of Central Americans to stop the wars that have killed thousands of their countrymen in the past decade.

I hope that Congress fully supports the Sapoa accords, which offer the best, and perhaps the last chance for ending the war and achieving national reconciliation and democracy in Nicaragua.●

THE TREATY INTERPRETATION CONDITION

● Mr. MOYNIHAN. Mr. President, during a Patriot's Day speech on April 19, 1982, I discussed writings by James Madison in the Federalist on the role of the Senate in foreign relations. I noted: "Above all, by its attachment to stability, the Senate would be proof against * * * 'the mischevious effects of a mutable government' * * *" In No. 63 of the Federalist, Publius (probably Madison) pointed out the value of the Senate in its ability to ensure that the United States maintains a consistent face before foreign nations. He said:

> Without a select and stable member of the government, the esteem of foreign powers will not only be forfeited by an unenlightened and variable policy, . . . but the national councils will not possess that sensibility to the opinion of the world which is . . . necessary . . . in order to merit [and] . . . to obtain its respect and confidence.

The observations of Publius could not be more pertinent today. We must preserve the constitutional role of the Senate as we approve this treaty. The Senate struggles to reach an understanding of the meaning of a treaty during the approval process. The executive branch must implement a treaty in good faith according to that understanding if the Senate's participation in treaty ratification is to have any consequence.

The Senate must address its constitutional relationship with the President as it approves the INF Treaty. A serious dispute on the issue of treaty interpretation exists between the legislative and executive branches. Failure to face the question would give credibility to claims of unconstrained executive power to determine the meaning of a treaty, power not limited by any representations that administration witnesses may have made to the Senate. A condition adopted during the approval of the INF Treaty can reaffirm the limited character of the executive power with regard to treaty interpretation.

The interpretation of treaties involves ambiguous and technical rules of national and international law. But these complexities cannot excuse the executive branch from acting consistently with its own representation. And complexities cannot excuse the Senate from living up to its responsibility to protect against "unenlightened and variable" policies. The Senate cannot risk the possibility of a future reinterpretation of the INF Treaty which would obviate its deliberations.

An interpretation condition will reaffirm the role of the Senate in the treaty ratification process.

An appropriate condition would contain two elements:

First, it would state that the executive branch must adopt the meaning that was understood by the Senate to be applicable upon approval of the treaty.

Second, it would state that the Senate's understanding of a treaty is reflected in the authoritative testimony of executive branch witnesses during Senate proceedings on the treaty.

An appropriate condition will show the executive branch that it may not constitutionally adopt an interpretation different from the Senate's understanding of a treaty's meaning.

Adoption of a condition would affirm that the Senate grant's its approval of the INF Treaty only on condition that the President is committed to adopt only those interpretations that are consistent with the Senate's understanding of the treaty's meaning.

At the same time, we can avoid renegotiation of the INF Treaty. A well-drafted condition can also accomplish this goal. This issue is one of American domestic law. It relates to the powers shared by the President and the Senate under our Constitution. No Soviet involvement in such questions could ever be tolerated.

Although some may argue to the contrary, adoption of an interpretation condition has no implications for the on-going ABM dispute. Most of that argument has involved factual questions about the intentions of the parties as reflected in the text of the ABM Treaty, the negotiation record for that treaty, the 1972 ratification proceedings, and the subsequent practices of the parties. The adoption of an interpretation condition in the INF resolution of ratification could have no impact on the outcome of those factual controversies.

But because of that debate, important questions have been raised. Challenges have been issued to long-settled constitutional practices. We must adopt a treaty interpretation in order to enable the Senate to ensure American consistency in the implementation of the INF Treaty.

Let us proceed to adopt that condition.●

SUPPORT OF H.R. 3459, ORPHAN DRUG ACT AMENDMENTS

● Mr. HATCH. Mr. President, I rise in support of H.R. 3459, the Orphan Drug Act Amendments, which will extend the funding authority for research and development of drugs for rare diseases. This is indeed one of the finest programs in our Government, because it provides incentives to commercial sponsors to develop drugs for diseases which would otherwise have little commercial value but are necessary to save lives of patients with rare diseases.

This program, funded through Food and Drug Administration, began in 1983. I was pleased to be an active participant in its creation. Largely as a result of the initiative provided by enactment of the Orphan Drug Act in the 97th Congress, there has been very encouraging progress in bringing to market existing drugs and in developing new drugs to alleviate suffering from a number of so-called orphan diseases. The Orphan Drug Act was a bipartisan effort enacted to encourage the development of drugs for diseases which affect fewer than 200,000 people in the United States or when it can be shown that the drug will not make a profit over a 7-year period. Continued cooperation between the Government and the private sector, spurred by clear congressional interest, provides hope for individuals who suffer from such rare but devastating conditions as tourette syndrome, Huntington's disease, neurofibromatosis, and, despite what my colleagues might think, AIDS. While the number of individuals suffering from any one of these orphan diseases is small, in the aggregate, orphan conditions affect several million Americans. For example, there are 250 Utahns alone who suffer from autism that may benefit from this work on treating rare disorders.

As of October 26, 1987, there have been 165 orphan drugs designated for 128 different uses. As of October 16, 100 firms have used the orphan designation process.

As with other drugs, it must be demonstrated that an orphan drug is safe and effective before they can be marketed. This is a long and deliberate process and too often, extremely costly. Under the Orphan Drug Act, the FDA may provide grants to undertake clinical trials to determine the efficacy of a drug or device. These grants, which have totaled over $10 million, have gone to individual researchers, or academic institutions, or to commercial sponsors to study a product used to treat rare diseases or conditions.

The reauthorization bill I am supporting today extends and expands the grant program for an additional 3 years. The eligibility for grants funds are also made available for promising orphan devices and foods. I am well aware of companies developing such devices and foods—and they may need financial help in getting approval. I am anxious to see if this approach works and intend to monitor it closely.

Mr. President, I want to take this moment to congratulate the Food and Drug Administration, especially the orphan products board and the Office of Orphan Products; the pharmaceutical industry; participating clinical investigators; and voluntary and professional disease organizations for their excellent efforts to help alleviate the suffering of our citizens who just a few years ago despaired of finding an understanding ear and a helping hand.

I think the progress that has been made in finding sponsors for orphan drugs, and in getting these products to market, illustrates well what private sector-Government cooperation can produce. This progress also illustrates the strength of Americans who join together for a cause that has merit; there surely is strength in numbers in America, and the National Organization for Rare Diseases has shown us that there is also tremendous strength in dedication and commitment.

During the time before the next reauthorization, I urge my colleagues to review and evaluate all aspects of this legislation. We should ensure that we are providing adequate incentives for the developments of drugs for orphan diseases. but, today, we must move forward with this reauthorization and ensure its expeditious approval. This law alone stands as hope for many Americans in treating and curing their disease. I urge my colleagues to support passage of H.R. 3459.●

JAPANESE PICKUP TRUCK DUMPING—THE FACTS ARE IN

● Mr. RIEGLE. Mr. President, pickup trucks are currently produced by our U.S. automakers in seven States: Michigan, Ohio, Louisiana, Missouri, Minnesota, Kentucky, and Virginia. This industry provides thousands of American jobs.

Last year, Congressman DINGELL and I circulated a letter among our colleagues, asking then Secretary Baldrige to initiate an informal investigation to determine whether our suspicions about dumping of pickup trucks from Japan were justified and whether a formal dumping case should be initiated.

We received a response from Secretary Baldrige, suggesting further consulation with our American auto industry and that he welcomed the opportunity to establish the facts of the case with industry experts.

The industry representatives met with officials of the Commerce Department, and commissioned a study by Wilmer, Cutler & Pickering [WCP] to document the extent of Japanese dumping of pickup trucks and the harm to U.S. producers and workers caused by the dumped vehicles.

Yesterday, representatives from the Motor Vehicle Manufacturers Association delivered a copy of their white paper entilted "An Analysis of Japanese Producer Dumping of Compact Pickup Trucks and the Effects of the Dumped Imports on U.S. Producers and Workers."

MVMA has requested that the Commerce Department consult with the Government of Japan on a priority basis under the provisions of the GATT antidumping code, with the objective of gaining agreement that the Japanese will cease this practice. If this is achieved, there will be no need for further action by the industry.

I strongly endorse the industry's request of the Commerce Department, and urge Secretary Verity to begin to negotiate immediately to eliminate these predatory practices.

The WCP paper details the extent to which Japanese producers of compact pickup trucks are now and have been exporting their trucks to the United States at prices far below internationally accepted standards of "fair value." This was determined by a deliberately conservative means of calculating the dumping margins by WCP, showing dumping margins between 10.88 to 46.89 percent.

The study states that the pricing practices of Japanese producers reflect the determination of these manufacturers to maintain as large a share of the United States market as possible.

The Japanese industry has responded to these charges in the past by saying that their dumping is harmless. However, 600,000 dumped vehicles with a market value exceeding $4 billion is hardly harmless to either the U.S. automotive industry or those whose jobs depend on a fair trading system.

The market for small pickup trucks is a growing one. However, the U.S. automakers have not been able to fully realize the potential that such a growing market should afford.

The MVMA study is an important one. When the finance ministers of the G-5 nations met in September 1985, the "Plaza Accord" resulted in an announcement of the G-5 countries intent to promote realignment of exchange rates. There was an expectation that this would lead to a reduction in the United States trade deficit and Japan's trade surplus. However, despite the drop in the dollar, the United States deficit with Japan increased in 1987, and automotive products were the chief contributor to that imbalance.

I concur with the white paper findings, the Japanese dumping has not only harmed the United States auto industry, but is also frustrating the basic objectives of United States and Japanese public policy.

I ask that the introduction and summary of the white paper be printed in the RECORD and urge my colleagues to study its findings carefully.

The material follows:

AN ANALYSIS OF JAPANESE PRODUCER DUMPING OF COMPACT PICK UP TRUCKS AND THE EFFECTS OF THE DUMPED IMPORTS ON UNITED STATES PRODUCERS AND WORKERS

(Prepared for the Motor Vehicle Manufacturers Association by Wilmer, Cutler & Pickering)

I. INTRODUCTION AND SUMMARY

Japanese producers of compact pick-up trucks are now, and for the past year or more have been, exporting their trucks to the U.S. market at heavily "dumped" prices (i.e., prices far below internationally accepted standards of "fair value"). While the amount of Japanese producer dumping varies by company, it is in all cases substantial. The dumping calculations contained in this paper, which are deliberately conservative, show margins ranging from a low of 10.88 percent to a high of 46.89 percent ad valorem.

The decision of the Japanese producers to export pick-up trucks to the United States at dumped prices reflects their determination to hold onto as large a share of the U.S. compact pick-up truck market as possible. During the period in which the yen was undervalued in relation to the dollar, the volume of pick-up truck imports from Japan increased rapidly. By 1987, after the yen had appreciated sharply and their exchange rate advantage had disappeared, the Japanese producers found that they could no longer compete in the U.S. market at fair market value prices. Faced with the choice between surrendering the gains in import levels or dumping, they decided to dump.

The response of the Japanese industry to the pick-up truck dumping issue has not been to rebut the charge but rather to assert that the dumping is harmless.[1] The assertion that the importation of over 600,000 dumped vehicles with a market value of over $4 billion does not pose a serious problem for U.S. producers and workers is, on its face, absurd. In fact, the continuing high level of pick-up truck imports from Japan is a substantial cause of "material injury" to the U.S. compact pick-up truck industry within the meaning of the U.S. antidumping statute.

The U.S. market for compact pick-up trucks has been growing over the past three years and U.S. producers' output has increased. However, despite the strength of the market:

The U.S. industry has *not* been able to fully utilize available production capacity, much less increase capacity by converting redundant automobile facilities to compact pick-up truck production.

The industry has *not* been in a position to create the employment opportunities in compact pick-up production needed to cushion the impact on labor of declining output in other sectors of the automobile industry.

U.S. producers' operating results have been very weak in each of the past three years; in 1987, the average industry rate of return on sales of compact pick-up trucks was *less than* one percent.

Given the combination of very high Japanese producer dumping margins and market shares for compact pick-ups that are very sensitive to relative pricing among the various suppliers, there is no doubt that the dumping has had (and continues to have) a major impact on U.S. producer output and sales. Had the Japanese been required to sell at fair value prices, their sales would have been far lower, and the sales of U.S.-made trucks far higher, than actual levels.

Even a relatively modest increase in production rates translates into significant gains for the U.S. industry. Production of an additional 140,000 vehicles in 1987—a level that U.S. producers could have achieved (if the dumping had not driven sales of imported trucks—would have added thousands of jobs in assembly and "upstream" production facilities and would have increased industry wage and benefit payments by over $140 million. At a time when the automobile industry as a whole has entered a difficult period of structural overcapacity, the opportunity for increased employment in those sectors in which demand remains strong has assumed a special significance.

A 140,000 vehicle increase in output would also provide a much needed improvement in U.S. producer operating results. There is a heavy fixed cost component to compact pick-up truck manufacturing. A rise in output will lower per unit truck costs by providing a larger base over which these fixed costs can be spread and, therefore, will have a positive impact on company operations. A 140,000 increase in 1987 production of U.S.-made compacts would have meant an improvement of at least $130 million in the industry's return on sales.

A significant improvement in the industry's operating results is essential for its long-term health. U.S. companies have invested over $1.6 billion in compact pick-up truck production facilities during the last several years, but substantial further investment will be necessary if they are to participate fully in the future growth of the market. At the 1987 average rate of return on sales of U.S.-made compact pick-ups (i.e., less than 1 percent), there is no incentive to commit substantial additional resources to this sector. Indeed, one company has recently cancelled plans to open an additional compact pick-up truck plant. In contrast, U.S. companies have made large recent investments in product lines (e.g., minivans, full size pick-ups) where Japanese producer dumping has not had a major impact on the U.S. market. Unlike the situation in compact pick-ups, investment in production of these other vehicles offers the prospect of an attractive return on investment.

Compact pick-up truck dumping by the Japanese has also been harmful in a broader, but no less important, sense. It has contributed to the large and persistent imbalances in trade flows that pose so serious a threat to the international trading system. When in September 1985 the finance ministers of the United States, Japan, West Germany, France and Great Britain announced their intention to promote a realignment of exchange rates, they did so with the expectation that the exchange rate shifts would lead to a much needed reduction in the U.S.

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[1] Detroit News, Feb. 9, 1988.

merchandise trade deficit and Japan's trade surplus.

Since the September meeting, the dollar, as hoped, has fallen against the yen. Yet despite the dramatic realignment of exchange rates, new records were set in 1987 for both the size of the U.S. trade deficit and the Japanese surplus in trade with the United States. Trade in automotive products was by far the largest single contributor to the imbalance and trade in compact pick-up trucks was a major contributor to the automotive sector deficit. One obvious reason for the failure of the exchange rate realignment to redress the imblances in U.S.-Japan trade as rapidly and effectively as anticipated has been the resort to less-than-fair-value pricing by Japanese producers in order to hold onto much of the increase in export volume gained when the yen was weak. Thus, the Japanese producers' dumping has not only been a direct cause of material injury to a specific sector of the U.S. economy, but it has also frustrated basic objectives of U.S. and Japanese public policy.

This "White Paper" documents both the degree of compact pick-up truck dumping by the various Japanese truck producers and the injury to the U.S. industry that is directly attributable to the dumping. It also examines the broader consequences of the pick-up truck dumping problem.

[In percent]

Company and pickup truck model	Estimated dumping margin
Toyota:	
Base short-bed 2WD pickup; 5 speed manual transmission	33.22
Long-bed, 4WD; 5 speed manual transmission	13.54
Nissan:	
Base short-bed 2WD pickup; 5 speed manual transmission	29.56
Long-bed, 4WD; 5 speed manual transmission	20.71
Isuzu:	
Base short-bed 2WD pickup; 5 speed manual transmission	41.15
Short-bed, 4WD; 5 speed manual transmission	10.88
Mitsubishi:	
Base short-bed 2WD pickup; 5 speed manual transmission	44.26
Mazda:	
Base short-bed 2WD pickup; 5 speed manual transmisson	46.89

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THE NATIONAL LABOR RELATIONS ACT AND THE BALANCE OF ECONOMIC POWER

● Mr. MITCHELL. Mr. President, 1 month ago, I requested that the Senate Labor and Human Resources Committee hold a hearing on the use of permanent replacement workers in labor disputes, and its effect on the relative equality in the balance of economic power between labor and management under the National Labor Relations Act.

As Chairman, Senator KENNEDY has agreed to have the committee hold such a hearing. In the meantime, the Subcommittee on Labor-Management Relations in the House of Representatives also is addressing the issue as part of its own oversight hearings.

Earlier today, I testified before the House subcommittee, about my concerns on the permanent replacement worker issue.

My interest in this issue initially arose in connection with the ongoing strike between the International Paper Co. and the United Paperworkers International Union and the Brotherhood of Firemen & Oilers. However, the issue raises the broader question of what changes, if any, are needed in our national labor relations policy.

Along with labor and management generally, it is my position that political intervention in labor disputes is inappropriate—serving only to undermine the collective-bargaining process. Nothing in my statements should be construed in any way as a desire for congressional intervention in any particular dispute. I will not do so. I do not encourage any other Member of Congress to do so.

Under the National Labor Relations Act, the American system of collective bargaining rests on the assumption of a relative equality in the economic balance of power between labor and management. Some now question whether that relative equality remains, or whether the overall balance has shifted. In Maine, the issue has arisen most dramatically in cases—such as the International Paper strike—involving the use of permanent replacement workers.

On June 16, 1987, the International Paper strike began in Jay, ME. It involves 1,270 union workers from the rural area surrounding a town of 5,000. The company sought concessions on overtime pay, work rules, and holiday work, on the ground that a reduction in labor costs is necessary to strengthen its position against foreign competition. The union offered a simple 2-year extension of its expiring contract.

Prior to commencement of the strike, the company advertised for replacement workers to continue production operations. Initially, approximately 250 temporary replacements were provided by an out-of-State construction and maintenance contracting firm. In the 9 months since the strike began, approximately 900 permanent replacements have been hired—both from within and outside of Maine.

The hiring of permanent replacements, especially so soon after the strike began, quickly eclipsed the original issues in dispute between the company and the unions. It also has deeply divided the town of Jay.

No one knows when—or how—the dispute will end. But even when it is over, deep scars will remain.

No matter what side they're on, most Maine people are saddened by the dispute. They also have concern and compassion for those persons whose lives have been changed by the course of events.

There is compassion for striking workers—many of whose grandfathers and fathers, and other family members, worked in this paper mill.

There also is compassion for those who have crossed picket lines—in need of a job.

And there is confusion. People wonder how it happened.

Under the NLRA, workers have the right to strike. But if they strike, they risk losing their jobs. The hiring of replacement workers is legal, and has been since 1938. In that year the Supreme Court decided the case of Mackay Radio & Telegraph Co. versus NLRB. The Court ruled in favor of striking workers. But in the course of its opinion, the Court upheld the right of employers to replace striking employees with others in an effort to carry on business.

Although the Court's decision has been the subject of controversy, it is well-established under Federal labor law. Congress accepted the doctrine when it amended the NLRA in the 1940's and 1950's, without legislatively repealing the Mackay case.

But the Supreme Court has had to reconcile the Mackay decision's conflict with other provisions of Federal labor law. Thus, the Court has ruled that the hiring of permanent replacements is not permissible if a strike occurs in reaction to an unfair labor practice by an employer. The result is ongoing uncertainty by both labor and management, who may not know until after events have run their course, whether the replacements hired during a strike will have temporary or permanent legal status.

States have also wrestled with the issue. Approximately 30 States have adopted statutes aimed at regulating the use of replacement workers. These statutes generally include one or more of the following kinds of provisions: First, restrictions on employer advertising and recruiting for replacements; second, prohibitions on the use of third-party professional strikebreakers; third, requirements that notice of a labor dispute in progress be given to potential replacements; and fourth, restrictions on recruitment or provision of replacements by government employment agencies.

However, the usefulness of such State statutes is questionable.

For one thing, the broad impact of the National Labor Relations Act greatly limits State action in regulating the use of permanent replacement workers.

Also, although 30 such State statutes are on the books, research suggests that they are rarely enforced.

The use of permanent replacement workers therefore remains largely a Federal issue. Any change in the law would require a change in long-established national labor relations rules. And it would require Congress to balance labor's right to strike against management's right to continue production during a dispute.

Two questions then arise:

Should Congress alter the present balance?

And if so, then how?

I do not know the answers to these questions. I do not recommend any legislation at this time. I do recommend that Congress conduct a careful inquiry to try to find the answers.

As painful as the International Paper strike in Jay, ME, has been, it is not unique. In recent years, Maine has seen other cases involving the use of permanent replacement workers.

They were used in the 1986 Boise Cascade strike in Rumford, ME, which ended after 76 days. Three hundred and forty-two persons were left without jobs when the strike ended.

And although railroads fall under the Federal Railway Labor Act—which is different from the NLRA—replacement workers have been used in ongoing disputes which have occurred on the Guilford railroad system, which includes the Maine Central Railroad.

Replacements also have been used in other disputes around the country—including last fall's strike in the National Football League.

Because of the prominence of such disputes, the practice seems commonplace. However, there seems to be no clear national measurement of how frequently the practice occurs.

This is a question which needs further inquiry. There is at least a perception that management is more willing to resort to permanent replacements of striking workers.

The reason may be a shift of management philosophy and will. Or it may be the availability of a broader, more mobile, more highly-skilled labor market.

No matter what the reason, if there has been increased use of permanent replacement workers, the issue must be judged not just from the perspective of labor and management rights, but also the impact on the broader public interest.

In Maine, labor disputes involving the use of replacement workers have raised questions concerning public health and safety.

In the International Paper situation, three accidents have occurred at the paper mill in which dangerous gases leaked. All occurred within the space of a few weeks. On one occasion, the town needed to be evacuated. Several people were hospitalized.

In the Guilford situation, safety questions were the cause of a November 1987 walkout by United Transportation Union members—which continues today. Questions concerning the qualifications and training of replacement railroad workers have added to tensions. According to the Federal Railroad Administration [FRA], interviews conducted with Guilford replacement workers operating locomotives on the system, soon after the dispute began, revealed that the length of training "varied widely from a few hours to several days. Most of the employees had no prior experience as an engineer."

In such cases, Federal and State agencies have determined that no safety emergency existed which would justify shutting down paper mill production or railroad operations.

As I said, the incidence of permanent replacement workers being hired in labor disputes is undetermined. This may be surprising, given the prominence of the issue. In light of Maine's experience, what is even more surprising is that nationally, strikes have been the exception, rather than the rule, in recent years.

In 1987, the United States marked the fifth year in a row in which there were fewer than 100 strikes or lockouts involving 1,000 or more workers. In 1987, there were only 46, compared to 187 in 1980.

From 1980-84, the number of strikes was lower than in any other 5-year period since World War II.

At the same time, there has been a trend toward concessionary bargaining. Collective bargaining has recently been characterized by one-time lump-sum payments, lower wage increases or actual wage givebacks, two-tiered wage agreements, fewer cost of living adjustments [COLA's], changes in work rules, and negotiations which extend beyond contract expiration dates without strikes.

In many cases, concessions have been demanded by management on the ground of coping with the pressure of deregulation or foreign competition.

When strikes occur, some research suggests that they are lasting longer. Long-established labor standards, and sometimes the very survival of a union or a company, seem to hang in the balance.

In many strike situations, the stakes seem higher than ever before. They are heightened when management begins to hire permanent replacements.

Economic circumstances in the 1980's are fundamentally different than those of the 1930's—when the National Labor Relations Act was written. Both labor and management are faced with the challenges of a global economy.

As a nation, we confront fundamental questions about how to conduct business, including the nature of labor-management relations.

Where concessionary bargaining has occurred in the 1980's, the pattern of most settlements has been to include concessions not just from labor, but also from management. These concessions generally have included addressing questions of job security—as well as joint labor-management cooperation.

In 1985, Maine's largest employer, Bath Iron Works [BIW], suffered a strike which ended in labor concessions—but which has led to management recognition of the need for union cooperation in addressing economic challenges.

A few weeks ago, BIW and its unions agreed to open negotiations on a new contract immediately, in advance of the 1985 contract's expiration. Last week, during the course of negotiations, the company agreed to open its financial books to the union—a gesture of trust and partnership which many hope will lead to a new era of labor-management relations in the State.

In 1935, Congress enacted the NLRA to provide a legal basis for the collective-bargaining process. It was recognized that private collective bargaining could work only if there was relative equality between labor and management in the balance of economic power.

If any changes in law are appropriate, they should be considered from the perspective of helping our society rise to the challenges of new economic circumstances—and of strengthening opportunities for labor-management cooperation.

Fifty years after the Supreme Court approved the hiring of permanent replacements during a labor dispute, that concept also should be reviewed.

The National Labor Relations Act represents a careful balance of labor and management rights which have evolved over 50 years. Well-established balances should not be casually altered or disrupted.

The issue of permanent replacement workers also cannot be examined in isolation from other issues. One area of inquiry often leads to others, and adjustment of rights in one area could lead to the adjustment of other rights. I emphasize that Congress should proceed carefully in any inquiry it undertakes.

There are opportunities for legislative action. There also are risks.

But we owe it to ourselves—and to America's working men and women—to inquire whether the balance of economic power has shifted. And we owe it to both labor and management to look for ways to enhance cooperation in meeting economic challenges in the years ahead.●

WIDMER WINE CELLARS

● Mr. D'AMATO. Mr. President, Widmer's Wine Cellars was founded 100 years ago by Swiss-born immigrant John Jacob Widmer, who, from a small plot of rich lakeside soil, began one of the State's largest, most respected wineries.

The tradition established by this dedicated and innovative grape grower/winemaker was carried on by his family.

Widmer's Wine Cellars has been a symbol of stability and progress in the village of Naples, the region of the Finger Lakes and among the grape growers and winemakers of New York.

Its winery has also been a source of family entertainment and education as hundreds of thousands of visitors have been exposed to the rich culture which has been formed through the sights, sounds, smells, and tastes of New York wine country.

Widmer's is recognized for its leadership role in the industry and its many contributions to the community. It is to be commended for a century of continuous service and encouraged to carry on as it embarks on a second century of industrious leadership in the wine industry.●

DR. RICHARD H. GALLAGHER NAMED PRESIDENT OF CLARKSON UNIVERSITY

● Mr. MOYNIHAN. Mr. President, great congratulations are in order. Clarkson University is to have a new president, its fourteenth, continuing a long and distinct lineage rooted in the waning years of the last century. Dr. Richard Gallagher has justly earned this distinct honor and with it will be charged with maintaining this institution's technical, academic heritage.

A product of the industrial revolution, Clarkson was founded in 1895 as a school "devoted to the advancement of science, the dignifying of labor and the increase of good learning"—it has nurtured this legacy ever since.

Centered in the town of Potsdam, nestled in the foothills of the Adirondacks in the State's largest county, St. Lawrence, it is certainly among the very best of technical colleges and universities.

Recognizing early on the necessity of providing the tools for successful scientific and technical learning, it was the first university in the country to provide entering freshmen with their own personal computers. Dr. Gallagher will continue this tradition bringing his own exceptional qualifications to the job.

I would be remiss if I did not mention Clarkson's skating Knights which have oft been at the top of the national ranks in collegiate hockey—a passion for which north countrymen all share.

Let us welcome him and send to him our very best wishes for a long and successful tenure at Clarkson University.

May I ask that a more detailed outline of Dr. Gallagher and his distinct qualifications be entered into the RECORD as if read.

DR. RICHARD H. GALLAGHER—PRESIDENT OF CLARKSON UNIVERSITY

Dr. Richard H. Gallagher, currently Provost and Vice President, for Academic Affairs at Worcester Polytechnic Institute (WPI), will become the fourteenth president of Clarkson University on July 1, 1988. The announcement was made today by Dr. Bayard Clarkson, Chairman of the Board of Trustees, at the conclusion of a special meeting of the Trustees at the University Club in New York City.

Dr. Clarkson noted: "We are pleased to welcome Dr. Gallagher as the next president of Clarkson University. He brings a strong academic and administrative background to Clarkson as well as extensive engineering experience. We believe Dr. Gallagher will provide the direction necessary for Clarkson to continue its strong tradition of quality undergraduate education and graduate research."

Clarkson added: "I am confident that we have selected the strongest candidate to lead Clarkson University in achieving its goals of expanded research and development. Dr. Gallagher is familiar with Clarkson, not only from a professional point of view, but from a personal perspective as a parent of one of our graduates. His knowledge of the institution's goals, his familiarity with Clarkson, and his past academic and engineering achievements make him an excellent choice for president."

The Board Chairman expressed his gratitude to Acting President R. Thomas Williamson for providing strong leadership for the University while the search for a president was underway. "With the direction set by Tom," Clarkson said, "Dr. Gallagher will find a united university community prepared to move ahead with its educational mission."

Accepting the Trustees' offer, Dr. Gallagher stated: "The presidency of Clarkson represents not only a great honor but also the chance to contribute to the further development of an already outstanding institution. Clarkson has built a national reputation for preparing for practice engineers, scientists, managers and professionals of many stripes. I'm enthusiastic about the prospect of working toward the strengthening of this reputation."

In addition to his position as Vice President of Academic Affairs at WPI, Dr. Gallagher has served as Vice President and Dean of Faculty at that institution, Dean of the College of Engineering at the University of Arizona, Chairman of the Department of Structural Engineering at Cornell University, Professor of Civil and Environmental Engineering and Assistant Chief Engineer for Bell Aerosystems Company located in Buffalo, N.Y.

During his period of service at Bell Aerospace, Dr. Gallagher was engaged in the early development of the "finite element method," a widely applicable procedure that is today virtually a standard in the computer-based design of aircraft, tall buildings, computer components and for the analysis of bio-engineering and fluid flow problems. He has authored over 120 papers on this and other topics as well as three books, one of which has gone through three printings and has been translated into seven languages.

Dr. Gallagher is the recipient of numerous honors and awards. He was elected to the U.S. Academy of Engineering in 1983. The Worcester Reed Warner gold medal of the American Society of Mechanical Engineers was bestowed upon him in 1985. In 1987, he received an Honorary Degree from the Technical University of Vienna, the first American to be so honored since President Herbert Hoover in 1938. Also, in 1987 Dr. Gallagher was made an honorary fellow of the University of Wales, Swansea. He is a fellow of three major engineering societies in fields of Civil, Mechanical and Aerospace Engineering and he is presently serving a term as vice president in the Council on Engineering of the American Society of Mechanical Engineers.

Dr. Gallagher and his wife, Teresa, have five children: Mary Gallagher Rodin, a graduate of Clarkson University in Civil Engineering; Richard, who received his degree in Civil Engineering from Cornell University; William, who received his degree in Materials Science from Cornell; Deniis, a graduate of Ceramics Engineering from Rutgers University and who will receive his doctorate this Spring from the University of Washington; and John, a Materials Science graduate from Cornell.

Clarkson University is an independent, coeducational university located in northern New York, midway between the Adirondack Mountains and the St. Lawrence River. The University has 3,800 graduate and undergraduate students enrolled in programs in its Schools of Engineering, Management, and Science as well as in its Industrial Distribution Program and its Faculty of Liberal Studies.●

CHILD ABUSE PREVENTION, ADOPTION, AND FAMILY SERVICES ACT—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 1900, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1900) to amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such Acts, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. KENNEDY. Mr. President, I urge the Senate to adopt the conference report on the Child Abuse Prevention, Adoption and Family Services Act of 1988.

Between 1985 and 1986, child abuse fatalities in the 34 States increased by 23 percent. Between 1981 and 1986 reports of child abuse increased by over 90 percent. Over three-fifths of the States have cited deteriorating economic conditions faced by American families as a primary reason for the increase.

While poverty contributes to child abuse and neglect, the tragedy does not respect economic boundaries. It claims innocent victims throughout American society. The conference agreement before us takes substantive and effective steps to deal with this crisis. It increases the authorized funds for the prevention and treatment of child abuse and neglect from 43 million in 1988 to 48 million for 1989. The conference report also provides for improved research and dissemination of information on the causes and incidence of child abuse in America.

This reauthorization covers two other important programs, the Adoption Opportunities Act and the Family Violence Prevention and Services Act. The authorization for the Adoption Opportunities Act has been increased substantially—from $5 million to $12 million. The conference report also establishes two new demonstration projects. The first is aimed at improving adoption placement rates for minority children and increasing the recruitment of minority adoptive families. The second new demonstration project concentrates on post-legal adoption services for special needs children. Under the grant priority provision of the act, we have added a provision to improve the placement of foster care children who are available for adoption.

All of these new programs address areas of substantial need and will greatly improve the welfare and future for many young Americans.

The Family Violence Prevention and Services Act is reauthorized at a level of $26 million for 1989. This essential program is designed to reduce the incidence of family violence which plagues the Nation. 1.8 million women are victimized by family violence in their homes each year, and experts estimate that the number is actually much higher, since fear keeps many women from seeking help. Family violence is closely related to child abuse—40 percent of the children of victims of spousal abuse are themselves abused.

Child abuse and family violence represent a dark and tragic side of American society. While it is often difficult to acknowledge and confront such violence, we must not turn away—the lives of millions of children and the very fabric of family life in this country are at stake. This conference report brings needed help in the ongoing battle against domestic violence of all types.

I thank all the members of the conference committee for their cooperation on this report. In particular I want to acknowledge the hard work and commitment of Senators DODD, HATCH, THURMOND, and PELL and Congressmen HAWKINS, JEFFORDS, OWENS, and BARTLETT. Several Senate staff members should also be mentioned for their hard work and long hours—Sarah von der Lippe of my staff, Marsha Renwanz and Ruth Gordner of Senator DODD's staff, Nancy Taylor of Senator HATCH's staff, Kirk Spong of Senator THURMOND's staff, and Lauren Gross of Senator PELL's staff have spent countless hours on this legislation and I commend their commitment and skill.

I urge the adoption of the conference report.

Mr. THURMOND. Mr. President, today we are considering the conference report to H.R. 1900 to reauthorize programs under the Child Abuse Prevention and Treatment Act and the Family Violence Prevention and Services Act.

Mr. President, the growth in reported incidents of child abuse, as well as research suggesting that such abuse may have long-term negative results for both the child and society, have increased concerns regarding the prevention of child abuse, and treatment for abused children.

According to recent statistics, there are now 1.9 million reported cases a year of child mistreatment, of which 39 percent were substantiated upon investigation. National data collected by the American Humane Association indicates an increase of 121 percent in child abuse and neglect cases over the last 10 years. While this increase is due in part to better reporting practices, it nonetheless underscores the seriousness of the problem.

Protecting our children from abuse and neglect is the responsibility of everyone. Government programs alone will not solve this problem. We must involve families, professionals, communities, the private sector, and national and local organizations.

The role of the Federal Government is to provide national leadership and to assist States and local communities in developing, expanding, and improving programs to prevent, identify, and treat child abuse and neglect.

Furthermore, parents have the prime responsibility for protecting their children. The experience of social programs over the last 25 years indicates that services to assist parents in carrying out this responsibility are best planned and provided at the local level.

Mr. President, Federal support in this area has largely been channeled through the Child Abuse Prevention and Treatment Act. This act provides for four programs relating to the prevention and treatment of child abuse.

These programs are: First, State grants for activities related to preventing and treating child abuse and neglect; second, discretionary grants for research and demonstration projects related to preventing and treating child abuse and neglect: third, State grants to implement procedures and programs mandated by the Child Abuse Amendments of 1984 to respond to reports of medical neglect of disabled infants with life threatening conditions; and fourth, demonstration grants related to prevention of family violence.

Many of these programs have been in place for over 13 years and enjoywide congressional support.

Mr. President, within the Child Abuse Prevention and Treatment Act is the Adoption Opportunities Program. Many thousands of children remain in institutions or foster homes solely because of legal or other barriers to their placement in permanent adoptive homes. The purpose of the Adoption Opportunities Program is to facilitate the elimination of unnecessary barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particulary children with special needs.

Mr. President, initiatives supported under this program include the development of model adoption legislation for States which would eliminate jurisdictional obstacles to adoptions, and a national adoption information exchange to bring together children available for adoption and prospective parents.

In addition to these programs already discussed, I am pleased the conference committee accepted two demonstration programs found in the Senate measure to address concerns raised during hearings conducted by the Senate Children's Subcommittee last year.

The first program will encourage adoption of minority children. Forty-five percent of the 36,000 children awaiting adoption today are black or Hispanic, although these groups make up only 14 percent of the total population. Accordingly, this measure would fund a demonstration program to facilitate the adoption of these minority children.

The second program provides assistance to parents who have adopted special needs children. Often, these children are returned to State institutions to be cared for at Government expense. This measure would authorize additional support, after adoption, to assist these parents, so that children with special needs can remain in loving homes.

Mr. President, this conference report also provides for the reauthorization of the Family Violence Prevention and Services Act, which funds programs that shelter and counsel battered spouses and their children. I have heard of many worthy projects in South Carolina being supported by this program. For instance, Minor Mickel Shaw, president of the Junior League of Greenville, SC, has informed me of the shelter they have established with assistance from this program, and how it has provided a safe haven for many women who would have no where else to go to escape abuse by their spouses. Accordingly, I am pleased to support the reauthorization of this program.

Mr. President, at this time I would like to express my appreciation for the leadership of Senator DODD, chairman of the Senate Subcommittee on Children, Family, Drugs and Alcoholism, in focusing attention on the needs of our greatest asset: our children.

As ranking member of the subcommittee, I am also pleased with the excellent cooperation of my other colleagues on the conference committee, Senators KENNEDY, HATCH, FORD, OWENS, WILLIAMS, JEFFORDS and BARTLETT.

Mr. President, I urge my colleagues to adopt this conference report.

REAUTHORIZATION OF THE CHILD ABUSE PREVENTION, ADOPTION AND FAMILY SERVICES ACT OF 1988

Mr. DODD. Mr. President, today the Senate will act on legislation addressing the serious problems presented by child abuse and neglect, family violence, and growing numbers of special needs children without permanent families. By moving to adopt the conference report reauthorizing the Child Abuse Prevention and Treatment Act, the Adoption Opportunities Act, and the Family Violence Prevention and Services Act, the Senate supports a critical effort to strengthen families and to prevent children from growing up at risk in this country.

As chairman of the Subcommittee on Children, Families, Drugs and Alcoholism, I was very pleased to have my distinguished ranking minority member, Senator THURMOND, join me in introducing S. 1663, "The Child Abuse Prevention and Treatment Act Reauthorization of 1987" on August 7, 1987. He played a major role in developing this legislation and has provided invaluable assistance throughout the subcommittee and committee process and during the conference with our distinguished colleagues in the House of Representatives. The other Senate conferees, including the chairman and ranking minority member, Senators KENNEDY and HATCH, and Senator PELL also provided important assistance.

At this point, I would also like to commend the distinguished conferees from the House of Representatives who worked so hard to craft this conference report. They include the chairman of the Subcommittee on Select Education, Representative OWENS, the Chair and ranking minority member of the full committee, Representatives HAWKINS and JEFFORDS, and Representatives FORD, WILLIAMS, and BARTLETT.

The Federal Government has a very strong leadership role to play in combating child abuse and family violence and in encouraging the placement of special needs children with permanent families. Our efforts to support and strengthen that leadership role within the context of reauthorizing the Child Abuse Prevention and Treatment Program, the Adoption Opportunities Program, and the Family Violence Prevention and Services Program are described below.

CHILD ABUSE REAUTHORIZATION

As witnesses testified at the child abuse reauthorization hearing held in the Senate subcommittee on April 1, 1987, even by conservative estimates reports of child deaths from abuse or neglect jumped 23 percent nationwide between 1985 and 1986. The victims are more often than not our youngest citizens, with many failing to reach their first birthdays. Some die as a result of serious physical abuse. Others die from injuries sustained while home alone without any adult supervision. Yet others die because their families fail to secure timely and adequately medical care. Whatever the cause, their deaths diminish our families, our communities, and our country.

Perhaps even more tragically, these deaths do not stand alone. Infant deaths associated with poor maternal and child health care in parts of our cities are as high as those in some of the poorest developing nations, ranking us at the bottom of 20 industrialized nations with respect to infant mortality. The teenage suicide rate which peaked in 1977 has begun to climb again in alarming clusters. And injuries remain the single biggest killer of children after the first year of life. Young people between the ages of 15 and 24 years of age are four times more likely to die from car crashes, drownings, firearms, and fires than from any other cause.

This country already has the dubious distinction of being the only industrialized nation in which children constitute the poorest age group. We also have the highest teenage pregnancy and infant mortality rates in the Western industrialized world. To add high rates of child and youth deaths across the board to this profile of American childhood would be untenable. And given that the numbers of child deaths in this country appear to be climbing, the legislation being acted upon today would mandate in immediate Federal focus on this crisis. Under this legislation, a Presidential commission would report on the causes and possible remedies for child deaths associated with abuse, neglect, poor health care, sudden infant death syndrome, accidental injuries, and suicide.

Given that we lack uniform data on child and youth deaths both within and across States, this legislation would also help establish the uniform collection of such reports. We know more about the number of stolen autos in this country than the number of children whose lives are snuffed out by fires while home alone. Yet without such vital information, we will continue to look at such deaths as isolated incidents, failing to prevent or combat them in any coordinated fashion.

What little we do know about child deaths should give us greater cause for alarm. We know that in as many as 25 percent to 50 percent of all child abuse fatalities last year, the families involved were already known to local child protective service agencies and workers. In at least one State, every child death involved a child previously identified as having been abused or neglected. It therefore makes good sense to examine this rise in child deaths within the context of the reauthorization of the Child Abuse Prevention and Treatment Act.

Child abuse fatalities, however, should not stop us from examining some of the very real progress made as a result of this landmark, albeit relatively modest, program. In many ways, over the past decade this legislation has had great success in encouraging and assisting 48 States to establish special procedures to prevent, identify and treat child abuse and neglect. Perhaps the most eminent and successful peer group working with abusive parents from Connecticut to California, "Parents Anonymous," was started with seed money from this act. And the National Center on Child Abuse and Neglect was founded, to make the prevention and treatment of child maltreatment a foremost priority in this country.

Other real signs of progress are numerous. As I reviewed in two previous hearings of the Senate Children's Caucus I cochair, the surge in reports of child sexual abuse in recent years demonstrates greatly increased public awareness and concern. And overall prevention efforts, augmented by children's trust funds in some 40 States, have made real strides. As the author of the Federal Challenge Grant Program for children's trust funds, I am pleased at the language in the statement of managers instructing the Director of NCCAN to administer this program which is vested in NCCAN but does not appear in the Child Abuse Prevention and Treatment Act.

With respect to the conference report being acted upon today, the crisis presented by child deaths sends us a clear signal that underfunded and overburdened local and State child abuse agencies need immediate assistance. To the detriment of children and families, the Prevention and Treatment Act has never been well funded. In 1981, the authorization levels were cut in half and any separate funding for sexual abuse projects was eliminated. Although an amendment I offered 4 years ago to restore such funding was eventualy enacted, we are only now starting to catch up to where we were 7 years ago with respect to Federal leadership in the area of child abuse.

In the meantime, reports of abuse and neglect have skyrocketed within the past decade. In my State of Connecticut and other States, the increase in reported cases of physical and sexual abuse has been dramatic. Such staggering increases have only exacerbated absenteeism, burnout, and turnover among child protective service workers. In one New York City agency last year, 86 percent of the staff either transferred or quit. Another agency in Florida reported workers struggling with 100 cases or more as a result of staff turnover.

At the same time, cutbacks in Federal funding has forced many States to make hard choices indeed. As the Child Welfare League of America revealed last year in a study of child abuse, workers and agencies all too often must make investigating reports of the neglect and abuse of older children a lower priority, based on the theory that older children can at least run away from abusive homes.

Thus, although we have been able to add a modest increase in the authorization levels for the Child Abuse Prevention and Treatment Act, I wish they were higher. Last year, the National Center on Child Abuse and Neglect [NCCAN] was only able to fund 1 out of every 10 grant applications it received. This is surely an expression of critical need from the field for more funds to address the prevention, identification, and treatment of child abuse and neglect.

In order to strengthen the National Center on Child Abuse and Neglect, this conference report would authorize the appointment of a Director with experience in child abuse and neglect. Professional staff would likewise demonstrate expertise in the field. And, to encourage the participation of outside experts most effectively, this conference report specifies that the public members on the Advisory Board on Child Abuse and Neglect represent law, psychology, social services, medicine, State and local government, organizations providing services to disabled persons, organizations providing services to adolescents, teachers, parent self-help organizations, parents' groups, and voluntary groups. This board would then make recommendations on a wide range of issues to the Director of the National Center.

This bill would require that a majority of the discretionary research and demonstration grants be focused on prevention. It would also place a priority on long-term research, by extending from 3 to 5 years the limitation on research grant awards. It calls for a study on the incidence of child abuse among children with handicaps including children in out-of-home placements, the relationship between child abuse and children's handicapping conditions, and the incidence of children developing handicapping conditions as a result of abuse or neglect. It also calls for a study on the Guardian-Ad-Litem Program, in an effort to improve further the representation of children in the courts. Moreover, it calls for a study on the incidence and relationship between child abuse and familial alcoholism.

By expanding innovative project authority to include home health visitor programs, programs aimed at preventing or treating alcohol related child abuse and neglect, and training for those seeking to curb the abuse of child with handicaps, this bill addresses several serious concerns. Recognizing the importance of parental self-help in combating child abuse, this legislation would also include support for a national, parent self-help program of demonstrated effectiveness. The Secretary would also be encouraged to fund interagency demonstration programs.

Last but not least, this bill would extend temporary waivers for several States who have been acting in good faith to come into compliance with the Act.

Three years ago, I was pleased to join with my colleagues across the aisle to address the very real problems symbolized by the medical neglect of so-called baby Doe infants. We worked very hard to craft compromise language encouraging States to develop special procedures to prevent such tragedies. Under this legislation, we will pay the same painstaking attention to the very real crisis presented by child abuse deaths. To do any less short-changes the future of our families, our communities, and our Nation.

ADOPTION OPPORTUNITIES

I am very pleased that this conference report contains an authorization increase for the Adoption Opportunities Program of $7 million. This increased authorization is aimed primarily at improving State and local efforts to place more foster care children in adoptive families in general, with a particular emphasis on placement of minority children in adoptive families. A smaller portion of the increased authorization is allotted for seed grants in the field of post legal adoption services.

As we heard from the experts testifying at the oversight hearing I held last year before the Subcommittee on Children, Families, Drugs and Alcoholism, even healthy black infants wait 2½ times longer than older handicapped white children for adoptive families. This tragedy cannot be allowed to continue. I am hopeful the new demonstration grant priority and the accompanying $3 million authorization aimed at promoting adoption of minority children in foster care will help avert this tragedy.

I am also very pleased that this conference report breaks new ground at the Federal level in the field of post legal adoption services. Specifically, I am referring the new demonstration grant priority and the accompanying $3 million authorization aimed at expanding and improving post legal adoption services. This is the first time ever Federal seed money has been devoted to this new field of endeavor.

The new post legal adoption services demonstration grant priority is primarily designed to provide counseling and referral services for adoptive families with special needs children. These services are intended to be provided to all family members needing such services, including the adoptive parents of special needs children, the adopted children and siblings.

FAMILY VIOLENCE

I am especially pleased that with strong bipartisan support, this conference report also includes the reauthorization of the Family Violence Prevention and Services Program at a $26 million authorization level. Continuation of this program is critical to State and local agencies establishing or expanding their familiy violence prevention and treatment programs. Since this program's inception in 1984, it has already provided the impetus for many States and localities to establish family violence prevention and treatment services.

I think the need for family violence prevention and treatment services goes without question. As our witnesses testified at the oversight hearing on this program which I chaired last spring, it is estimated that about 1.8 million American women are beaten each year in their own homes. Further, every other woman requesting shelter services still must be turned away because of a lack of space. Equally as tragic, in an estimated 40 percent of domestic violence cases, children are also the victims. I believe in the face of this evidence, it is critical that the Federal Government continue its leadership role in this field.

In closing, Mr. President, I urge my colleagues to support this conference report. It is time to take action to support those children and families in this country who need it most.

The **PRESIDING OFFICER**. The question is on adoption of the conference report.

The conference report was agreed to.

Mr. **BYRD**. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. **WILSON**. Mr. President, I move to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

VETERANS' ADMINISTRATION HEALTH-CARE AMENDMENTS

Mr. BYRD. Mr. President, on behalf of Mr. CRANSTON, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2616.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 2616) to amend title 38, United States Code, to improve health care programs of the Veterans' Administration.

(The amendment of the House is printed in the RECORD of March 29, 1988, beginning at page H 1225.)

Mr. BYRD. Mr. President, I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Mr. CRANSTON, Mr. DECONCINI, Mr. MATSUNAGA, Mr. MURKOWSKI, and Mr. SIMPSON conferees on the part of the Senate.

BILLS INDEFINITELY POSTPONED

Mr. BYRD. Mr. President, I ask unanimous consent that the message at the desk on H.R. 431, and Calendar No. 424, S. 1846, be indefinitely postponed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF DOCUMENTS

Mr. BYRD. Mr. President, I send to the desk on behalf of myself and Mr. DOLE a resolution. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 402) to authorize the release of documents by the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the resolution.

The Senate proceeded to the immediate consideration of the resolution.

Mr. BYRD. Mr. President, last year the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations held a series of closed session hearings and took several depositions in its investigation of drugs, law enforcement, and foreign policy. Independent Counsel Lawrence Walsh has written to the committee requesting copies of the transcripts of the testimony of six subcommittee witnesses at those hearings and depositions for use in his investigation. This resolution would authorize the full committee chairman, the Senator from Rhode Island [Mr. PELL], and its ranking minority member, the Senator from North Carolina [Mr. HELMS], acting jointly, to release those documents to the Independent Counsel after receiving any assurances they deem necessary to protect the interests of the Senate.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 402

Whereas, during the period March 20-August 7, 1987, the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations received closed session or deposition testimony of Jack Terrell, Ramon Milian Rodriguez, George Morales, Leandro Sanchez Reisse, Felix Rodriguez, and Wanda Velez Palacios;

Whereas, the Independent Counsel appointed by the court in *In re Oliver L. North, et al.* (D.C. Cir. Div. No. 86-6, Dec. 19, 1986), has requested transcripts of the testimony of these witnesses in furtherance of the Independent Counsel's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Foreign Relations, acting jointly, are authorized to provide to the Independent Counsel transcripts of the closed session or deposition testimony of Jack Terrell, Ramon Milian Rodriguez, George Morales, Leandro Sanchez Reisse, Felix Rodriguez, and Wanda Velez Palacios, subject to the Independent Counsel's agreement to abide by confidentiality and other requirements established by the Committee.

NATIONAL STUDENT-ATHLETE DAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 513.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (House Joint Resolution 513) to designate April 6, 1988, as "National Student-Athlete Day."

The Senate proceeded to the immediate consideration of the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 513) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR THURSDAY

ADJOURNMENT UNTIL 10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, there be a period for morning business not to exceed 30 minutes, and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CERTAIN ACTION ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over under the rule come over tomorrow and that the call of the calendar be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, there will be rollcall votes tomorrow.

It is the intention of the leadership on tomorrow to take up the House message on Contra aid. That is House Joint Resolution 523, a joint resolution to provide assistance and support for peace, democracy, and reconciliation in Central America.

Mr. President, does the distinguished acting Republican leader have any statement he wishes to make or other business to transact?

Mr. WILSON. Mr. President, I thank the majority leader, but I have not.

Mr. BYRD. I thank my friend.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and at 8:05 p.m. the Senate adjourned until tomorrow, Thursday, March 31, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 30, 1988:

THE JUDICIARY

KARL S. FORESTER, OF KENTUCKY, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF KENTUCKY TO FILL AN ADDITIONAL POSITION CREATED NOVEMBER 30, 1987, PURSUANT TO THE PROVISIONS OF SECTION 372(B) OF TITLE 28 OF THE UNITED STATES CODE.

SIMEON TIMOTHY LAKE III, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS VICE ROSS N. STERLING, JR., DECEASED.

FEDERAL LABOR RELATIONS AUTHORITY

DENNIS M. DEVANEY, OF MARYLAND, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF 5 YEARS, VICE JOHN CARL MILLER, TERM EXPIRED.

HOUSE OF REPRESENTATIVES—*Wednesday, March 30, 1988*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our lives, O God, are filled with ceremonies and all manner of activity; so may we remember to give a sense of realism to our ceremonies and true expression to our actions. As we practice our faith, may we be honest in our assemblies, sincere in our prayers, forthright in our pledges, and so earn a lasting integrity for our lives. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

VETERANS HOME PLANNED FOR SALEM, VA, WOULD HONOR THE LATE HONORABLE DAN DANIEL

Mr. OLIN. Mr. Speaker, yesterday the entire Virginia delegation and I introduced legislation to allow a 16-acre property next to the Veterans' Administration Hospital in Salem, VA, to be used to build a State veterans nursing home. This property was given to the city of Roanoke 8 years ago by the Department of the Interior for use as a park. However, the city never built a park; now veterans would like to use the property for a veterans nursing home. The Roanoke City Council recently passed a resolution supporting the veterans' proposal. The Virginia General Assembly is expected to appropriate its share of the funding of the home.

Virginia does not have a State veterans nursing home. This legislation will give the Commonwealth a rare opportunity to provide a needed service to its many veterans. We expect the home to be named in honor of our former colleague, Dan Daniel.

I urge your support of this legislation.

UNCLAIMED PROPERTY BILL

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, the Federal Government is currently holding millions of dollars in unclaimed property that should be in the hands of U.S. citizens. These assets continue to be held by the Government without any attempt to return them to their rightful owners.

This nontangible property includes uncashed U.S. savings bonds, income tax refund checks, wages collected by the Labor Department, postal money orders, unemployment compensation checks, retirement contributions and pension checks, U.S. court deposits and escrow accounts with the Department of Housing and Urban Development.

Meanwhile, 49 States and the District of Columbia have offices that deal exclusively with unclaimed property. These offices are working to locate the owners of unclaimed property held by State governments.

To bring the Federal Government up to speed with State efforts, I am introducing the Unclaimed Property Act of 1988. My bill directs the Comptroller General to identify unclaimed property, then provides for the turnover of that property to State unclaimed property officials upon their request. State officials would then be free to search for the rightful owners of the property.

It is time for the Federal Government to return what it has no right to keep. I urge my colleagues to join me in helping Americans get what belongs to them.

VOTE NO ON THE AIR TRAFFIC CONTROLLERS LEGISLATION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Chairman, late yesterday we finished debating the air traffic controller bill which would require the U.S. Government to rehire 1,000 strikers who struck against their country. I want you all to know that there are 1,400 brave American citizens presently serving in the U.S. Air Force who are qualified military air traffic controllers.

Those men are volunteering to go and serve their country and to become civilian air traffic controllers.

If you vote for this bill today, you are voting for those illegal strikers who struck against their country and jeopardized the airways of this country and you will be voting against those 1,400 servicemen who would like to have those good jobs.

Remember that when you cast your vote today.

POSTAL SERVICE

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNDQUIST. Mr. Speaker, in a matter of days, the cost of mailing a letter will go up to 25 cents. And I am unhappy about that.

I am unhappy that all these cost increases we have seen have not bought us improved service. It can be argued that they have not even bought the kind of service we used to enjoy.

The letters in this box arrived at a business in my district with not a single stamp canceled. And these are letters collected over a relatively short period of time.

All the money we've invested in state-of-the-art equipment for the Postal Service and we cannot even cancel stamps to prevent their reuse.

I have a hard time accepting higher postal rates for my constituents, without a guarantee that, in return, we can promise them quality service.

The issue boils down to accountability. At the Postal Service it seems that accountability to the public declines even as postal rates increase.

THE CIRCUS IS BACK

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the circus is back. Today we discuss the Contras.

The Contras become the magic word. The only thing missing is Groucho's duck.

To quote one of my favorite Americans, Yogi Berra, he said, "This is like deja vu" all over again.

This time we are being asked to send $50 million to the Contras. You know what really is a surprise? The Sandinistas are not even opposed. They really do not care because you see they really do not fear the Contras because the Contras have yet to even conquer fear let alone control an outhouse or one crossroad.

So the bottom line is let us today stop this Reagan policy which has basically helped Ortega to consolidate a Communist bloc in Nicaragua.

Let us keep the $50 million at home for our people, for our kids, for our seniors and maybe Reagan should be Reagan and tell the Soviets to get out and take the Cubans with them because we are sure not going to stop

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

communism in our hemisphere by funding a group of inept Contra leaders.

PLEASE SUPPORT THE MOLINARI INITIATIVE ON AIR TRAFFIC CONTROLLERS

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to urge my colleagues to support the Molinari initiative which we will vote on shortly. It is a responsible response to a real crisis. There has been, since the strike of 1981, a more than 50-percent increase in the volume of traffic in our skies. There has been a one-third reduction in the number of air traffic controllers managing this traffic in our towers.

Equally concerning, the air traffic control system is facing dramatic retirements; more than 50 percent of the supervisors in some of our busiest towers are scheduled to retire this year. They are eligible right now. They are our best, most experienced men. Their retirement will further strain a greatly stressed system.

This bill is not about the 1987 strike. It is about taking the money to fund those 1,000 new controller positions, which even in a deficit budget we have funded because of the seriousness of the need, and creating the most experienced and able pool of applicants from which to draw those 1,000 controllers. This Nation faces a safety crisis in our skies. It is our responsibility that we not only recognize that crisis by funding the 1,000 controllers but that we do something to assure that a certain number of those controllers come to this system with experience and do not start as recruits in Kansas.

This is truly a safety issue, a safety issue that has resulted from increased volume, reduced staffing, and the imminent retirement of many of our experienced controllers.

Mr. Speaker, I urge your support of the Molinari bill.

POSTAL SERVICE PRIORITIES

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LUGO. Mr. Speaker, we have all read those little news stories that appear every now and then about a letter being delivered by the U.S. Postal Service years after being posted. There are usually some amusing remarks by the recipient, but rarely any explanations by the Postal Service.

A lost letter is one thing, but how about a whole trailerload with over 2,000 packages and an untold amount of second- and third-class mail, that had been lost, if that is the word for it, for 2½ years?

The trailer was destined for my district, the U.S. Virgin Islands. It left Jacksonville, FL, on November 5, 1985, and was discovered just last week sitting in a shipping yard in San Juan, Puerto Rico.

Whether the trailer ever did go to the Virgin Islands, whether all the contents are still there, how the trailer was lost for 2½ years, why it wasn't discovered when claims were filed and paid, are all questions that the U.S. Postal Service has been unable to answer.

Well, I want the Postal Service to know that it is going to have to come up with the answers, and will have to come up with them soon.

I have asked the gentleman from Michigan, the chairman of the Post Office and Civil Service Committee, and my colleagues on the committee for a full-scale investigation, and we will be scheduling these hearings soon.

And here is the kicker, the priority of the Postal Service right now is trying to figure out how to collect the insurance claims that may have been paid on all this missing mail.

It's time the Postal Service got its act together and its priorities straight. The first priority is to find out why the mail was missing for 2½ years.

Give us a break.

NCAA BASKETBALL MATCHUP AND WAGER

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, my subject today is not as heavy as air traffic controllers or Contra aid, but it may provide a moment of levity which is needed here.

Mr. Speaker, for the last 3 weeks, the eyes of the Nation have been focused on the intense competition taking place in arenas around the country as the drama of the NCAA Men's Basketball Championship Tournament has been played out. After 60 separate contests involving 64 separate teams, we are now down to only 4—the finest 4 collegiate basketball teams in the country. Certainly, each team deserves immense credit for their resilience and grit to get this far.

But I am especially proud of the University of Arizona Wildcats—so proud, in fact, that I've offered to my colleague from Norman, OK [Mr. McCURDY], a wager on Saturday's semifinal game. The University of Oklahoma has a superb basketball team with immense talent, but I'm confident that Arizona is the team of destiny this year. In fact, I'm so confident in the Wildcats, that I've offered Representative McCURDY and his staff an authentic Sonoran Mexican meal if my Arizona Wildcats fall short on Saturday. I await from my colleague a counterwager—though I'll have to admit it's been difficult for me to come up with something, anything, that an Arizonan might want from Oklahoma.

Congressman McCURDY, I await your acceptance of this challenge. The "Sooner" Arizona defeats Oklahoma, the better.

McCURDY PICKS SOONERS OVER WILDCATS, WAGERS STEAK DINNER

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, I am happy to accept the ambitious challenge issued by my colleague from Arizona. My response is to offer his staff a steak dinner in the unlikely event that his Arizona Wildcats could topple the mighty Sooners on Saturday.

I can certainly understand his enthusiasm for a team playing in its first final four. However, there can be no substitute for talent and superior coaching ability; not even enthusiastic fan support.

My colleague and his Arizona Wildcats cannot avoid the inevitable. That is an all-Big Eight championship final between Kansas and Oklahoma in the heart of Big Eight country, Kansas City.

Billy Tubbs and his high-flying Sooners are on a collision course with destiny—the National Collegiate Basketball Championship next Monday night.

□ 1415

WHAT MUST BE DONE TO RID NORTH AMERICA OF THE SOVIETS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, if the Contras in Nicaragua have not been more effective, it is because they have been emasculated by the Congress of the United States. Ten years ago Jimmy Carter signed the now-infamous agreement that gave away the Panama Canal, and we see what kind of problems we have today. Ten years ago, without a lot of forethought, we ran Samoza out, or assisted in that endeavor, and we turned that country over to the Communists, and we see what we are facing today. Now today we are capitulating to Soviet Russia's puppet in Nicaragua for a mess of pottage.

We must provide those freedom fighters with humanitarian aid. We cannot let them and their wives and children starve to death. Nevertheless, we are not doing enough. Humanitarian aid only to keep brave men and women who have fought for freedom from starving is laudable, but to deny them the opportunity for freedom is unforgivable. Peace without freedom is not peace; it is slavery.

While we assist in the surrender of the Contras, the Communists are building submarine bases at Corinto and El Bluff, as well as an airport at Punta Huete that already has revetments to accommodate Mig-21 fighters. They plan to bring those in.

Mr. Speaker, what are you going to do and what are we going to do to get the Soviet Union and their puppets, the Communists, out of Nicaragua? They are there, Mr. Speaker, and it is up to you, since you have taken such an initiative to get into this foreign aid or foreign affairs program or problem. It is up to you, Mr. Speaker, to do something about getting the Soviets off the North American Continent.

INTRODUCTION OF LEGISLATION TO ESTABLISH AN ORGAN TRANSPLANT ASSISTANCE FUND

(Mr. KOLTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLTER. Mr. Speaker, I rise today to introduce legislation that will provide financial assistance to individuals who are unable to afford the high cost of organ and tissue transplant, by establishing an Organ Transplant Assistance Fund.

This legislation would amend the Internal Revenue Code of 1986 to permit taxpayers to voluntarily increase their income tax by $1 to be used for grants to reduce the cost of organ and tissue transplants.

Recently, a survey was conducted of 373 directors of kidney dialysis centers and 80 transplantation directors, focusing on such factors as age, prognosis and the patient's ability to pay. Results were published in the American Journal of Public Health and conducted by the Asbury Theological Seminary and the University of Kentucky in Lexington.

Forty-five percent of the directors indicated that they would reject a patient for inability to pay if the supply of healthy organs were in limited supply. Another 4 percent said that they would reject a patient even if the supply were unlimited; simply because they are unable to pay.

Mr. Speaker, the ability to pay shouldn't be the difference between life and death. The average cost of organ transplant can be $100,000 to $200,000. An average cost that many average citizens cannot afford. And, if by chance they manage to auction off most of their personal possessions and mortgage their homes just to pay for the operation, that is no guarantee that the operation will succeed. In some instances more than one transplant may be required which can cost hundreds of thousands of dollars.

Surely there is a better way, Mr. Speaker. The American people, when called upon, have shown great generosity and compassion to these individuals and families. Unfortunately, only those who manage to secure recognition from the President and the press generally receive donations. Clearly, a more organized system of giving and disbursement is in order.

By amending the tax form to allow the average American taxpayer to voluntarily contribute an additional dollar we will be helping all prospective needy transplant patients, and saving lives that would otherwise not be saved.

This would be accomplished by establishing within the Treasury of the United States a trust fund consisting of such amounts as may be appropriated or credited to the Organ Transplant Assistance Fund [OTAF]. Funds accrued in OTAF would be used for making grants to transplant facilities.

The Secretary of Health and Human Services [HHS] would make grants to health care facilities in which organ transplants are performed to assist such facilities in performing organ transplants for individuals financially unable to meet the costs of such transplants.

By creating a trust fund to be dispersed to transplant facilities, these facilities will be able to provide this technology and proper medical care to a large number of individuals who, under other circumstances, would be passed over in favor of a patient who is able to afford organ and tissue transplant.

Mr. Speaker, I urge my colleagues to support the creation of the Organ Transplant Assistance Trust Fund.

NATIONAL CHILD CARE AWARENESS WEEK

(Mr. HOPKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOPKINS. Mr. Speaker, today the House will consider House Joint Resolution 440, designating the week beginning April 10, 1988, as "National Child Care Awareness Week."

The No. 1 concern of today's dual-career families and single parents is finding and affording quality child care.

When Congress votes on this issue, we should each have a full knowledge of the current situation and all alternatives. "Child Care Awareness Week" affords us that opportunity to learn and create public awareness.

On Wednesday, April 13, public broadcasting stations across the country will air a special documentary, "Who Cares for the Children," which I encourage you to watch and alert your district.

I urge my colleagues to look at child care alternatives in their district and focus public attention on this crucial issue during the week of April 10 to 17.

IN OPPOSITION TO FURTHER AID FOR THE CONTRAS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, again today we have one more vote on aid to the Contras. Sometimes we lose a little bit of perspective here in Washington. I hear people say, "Well, that is only $2.7 million a month for the Contras."

Let us put that in perspective. The best neutral estimates are that there are between 4,000 and 5,000 Contras active in the field. Let us say there are 5,000 for the sake of argument. Divide the number of Contras into that amount of money, and it comes out to a $540-a-month subsidy per Contra. Yet at the same time here in the United States the average monthly payment to veterans with service-connected disabilities is $307 a month. The average OASDI payment to a retired worker is $479 a month. SSI payments are $226.

Mr. Speaker, the question is, more money for the Contras or more money for Americans? The answer is clear. Just say "no" for more aid to the Contras.

H.R. 3396—TO REHIRE AIR TRAFFIC CONTROLLERS

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of H.R. 3396, to rehire air traffic controllers who participated in the 1981 Professional Air Traffic Controllers Organization [PATCO] strike in August 1981. I commend my colleague, Mr. MOLINARI, the bill's sponsor, for his perseverance in bringing this bill to the floor for our consideration today.

This bill represents the need to improve air safety and provide for fair procedures whereby former air traffic controllers may be rehired. The legislation would mandate that at least 500 former controllers be rehired in both fiscal years 1988 and 1989.

No one needs to be convinced that the Nation's crowded airspace requires an air traffic control system staffed by trained and professional controllers who, by the nature of their job, must do a flawless job. The airspace over the New York metropolitan area is of particular concern to me because it is among the busiest and most crowded in the world. The threat of near misses in the skies above our communities requires us to have the professional manpower to avert such a catastrophe. While a comprehensive approach to air safety is necessary, we must ensure that we have adequate manpower on line to ensure public safety and to restore the public's confidence in flying. Since deregulation of the airline industry in 1978, the number of airline passengers has nearly doubled. Yet, fewer controllers than in 1981 are handling the increasingly heavy volume.

I would like to point out to my colleagues that this bill is a modification of the Molinari amendment which the House considered in 1986, especially in the area of rehiring procedures. The bill bars the appointment of former controllers who were involved in criminal activity during the August 1981 strike; that is, physical abuse or property damage. The bill maintains a 6-month probationary period that rehirees must complete before their appointments become final. Rehirees would also be required to work at least 6 years in order to receive retirement benefits for their new service. Not only will these provisions encourage a professional and dedicated service of younger, former controllers for a substantial period of time, it addresses the needs of our present controllers and avoids further controversy and does not undermine morale. As ranking Republican on the Labor-Management Subcommittee, I commend this approach. It works for good labor relations.

Mr. Speaker, after studying the facts, it appears obvious that our air traffic control system requires greater experienced manpower, now more than ever. I believe the best place to look is among the ranks of our former controllers. For my colleagues who are concerned that the rehirees are no longer expert, the probationary provision in the bill gives them the necessary time to retrain. The General Accounting Office has said that training a rehired controller would take from 4 to 6 months on new equipment.

Mr. Speaker, our colleague, Mr. MOLINARI, has taken great pains with his proposal. His No. 1 concern has always been air safety and so should ours. Vote "yes" on H.R. 3396.

STEPS SHOULD BE TAKEN TO PROTECT THE OZONE LAYER

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, the facts do not lie. Stratospheric ozone, the layer that protects the Earth from harmful ultraviolet radiation, has depleted by as much as 3 percent since 1969 over the United States, Canada, Europe, the Soviet Union, China, and Japan.

On March 15, the Senate ratified the International Ozone Treaty which calls for a 50-percent reduction in ozone-depleting chemicals over 10 years. To date, only one country, Mexico, has formally ratified the treaty that was signed by 31 nations.

Last week Du Pont declared a total phaseout of chlorofluorocarbons, the chemical that helps deplete ozone. It goes further than my legislation. EPA Administrator Lee Thomas has called for further reductions in the chlorofluorocarbons than in the treaty.

But we need to do more. In light of the recently released study, the protocol does not go far enough. Hearings should begin at once for the purpose of reviewing the study and passing my legislation to protect the ozone layer. Furthermore, I urge all 31 nations who signed the treaty to ratify the agreement. We are running out of time.

CONDEMN IRAQI VIOLATIONS OF TURKISH AIRSPACE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, last week Iraq did not stop with its unconscionable chemical attack on its own citizens in the border town of Halabja. They also tool the liberty of violating Turkish airspace to bomb Peshmerga camps only 1 kilometer from the Turkish border.

While the United States should remain neutral in the Persian Gulf war, there is no doubt where we stand with regard to an attack against Turkey. Under the NATO Charter, an attack against one NATO ally is to be regarded as an attack against us all.

The Iraqis should be forwarned that while they gassed their own citizens with apparent impunity, an attack against a loyal ally such as Turkey will result in the gravest consequences.

Let the "heroes" of the Iraqi Air Force, who carried out the attack against the U.S.S. *Stark* and Halabja, know that they risk antagonizing enemies far greater than the one they face on the Iranian front.

SMALL FARMERS IMPACTED BY CHANGE IN TAX COLLECTION PROCEDURES

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, every school child knows that taxation without representation has always been fundamental to our form of government. And, until recently America's farmers would agree. Then came the 1987 budget reconciliation Act.

Lodged in the recesses of this law is a change in diesel fuel excise tax collection that taxes America's farmers to the tune of $420 million a year.

This change will require wholesalers to collect the diesel fuel excise tax rather than the retailers. Although off-highway users, such as farmers, are exempt from the diesel fuel tax, they will now have to pay it and then apply for a refund.

The result is, our farmers are forced to make an interest-free loan to the Federal Government for as long as a year. The IRS will not pay farmers the millions in interest that might normally be due for such loans.

The small farmer, who could least afford to shoulder such a burden in the first place, is the one who will feel the crunch.

Many Members have joined me in support of legislation to permit tax-free sales of diesel fuel for use on a farm. But time is running out. If we fail to act, these regulations will go into effect on April 1. I urge my colleagues to act now and end unfair farm taxation.

PROPOSED RENEGOTIATION OF PANAMA CANAL TREATIES

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, along with 73 bipartisan cosponsors, I have today introduced a bill asking the President of the United States to renegotiate the Panama Canal treaties, with one purpose, that purpose being to give this Nation defense rights to that canal in perpetuity.

We have now learned through the regime of General Noriega that that canal is in jeopardy, that in fact that canal could be lost to the United States. So what we need to do is to have the canal treaties renegotiated to be sure that after the year 2000 we can keep our troops there and defend that canal.

Mr. Speaker, I invite other Members of the House who may wish to cosponsor the legislation to be in touch with me. I think it is a bill that needs to be taken up very quickly, and also it is a bill that will send a very strong message to General Noriega that his actions with regard to the canal are unacceptable.

CALLING FOR THE RESIGNATION OF ATTORNEY GENERAL MEESE

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, for the past several weeks and months letters have circulated and speeches have been given urging Mr. Meese to resign as Attorney General. I have not participated in those activities, believing as I do that mere allegations do not mean that somebody should resign. Mr. Meese, like everyone else in America, has civil liberties. But with the resignation of the top two people in the Justice Department, the issue has changed.

It is no longer only an issue of civil liberties; it is an issue of the proper function of the Justice Department. If top people are resigning, how can that Department function? If the top people in Justice can no longer trust Mr. Meese, how can the American people?

Mr. Speaker, let me say this: Mr. President, it is about time that Mr. Meese left the Attorney Generalship.

NEW EVIDENCE FROM HONDURAS OF COMMUNIST ACTIVITY

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, 2 weeks ago tonight I had the privilege of sitting in on a leadership meeting. At that meeting you told the Secretary of State—this is not the Speaker pro tem, but our main man from Texas, Mr. WRIGHT—that you probably had better intelligence than he did. You said the pervert priest, the suspended priest, from Nicaragua had called and told you the Sandinista troops had never gone very far into Honduras, if at all, and that they were already pulling back. That was not true. They stayed there for 5 days. I went down to Honduras, and I brought back for you, Mr. WRIGHT, a can of Soviet pork found 7 kilometers inside Honduras. This is made in Moscow, with a cute jolly little Soviet pig on the outside here. We all know about pork here because of our continuing resolution bills.

□ 1430

Here is the evidence. It was the unleashing of the Honduran Air Force that turned the tide and forced the Communist retreat. That and the deployment our troops from the 7th and 82d. On Friday morning in his office President Jose Azcona, the duly elected democratic President of Honduras, rocked back and forth in his chair in anger because the liberal press of the Western World refused to believe that he asked for our help down there. In fact, that help was a day late, considering he wanted them the day before. He also asked for a few United States fighters to sit there at Palmerola so that he could have his air force backed up as it drove the Communist Sandinista forces out of Honduras.

More about this story in our monthly, now it is bimonthly, debate on Contra freedom fighter aid.

SUPPORT H.R. 3396, AUTHORITY TO REHIRE CERTAIN AIR TRAFFIC CONTROLLERS

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, 2 years ago during debate over rehiring air traffic controllers, many of my colleagues urged patience. We were told that our air transportation system would soon return to normal; but normal has meant, Mr. Speaker, more passengers, more air traffic, more delays, and the prospects are for more growth in the future.

Since 1986, quick figuring indicates that I have been extremely patient about 112 times between Washington and New York, 14 occasions between Washington and Westchester Airport in New York, and on about 8 other adventures between Washington, New York, Boston, Los Angeles, and Miami.

Mr. Speaker, why it was only last week on the ground here at National when I was patient again that I began to look forward to voicing my support for the bill of my colleague and voting for H.R. 3396.

My colleagues, for the sake of patience, for safety's sake, I urge you to support this measure.

PROVIDING TEMPORARY PX AND COMMISSARY PRIVILEGES FOR CERTAIN AMERICANS LIVING IN PANAMA

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries and the Committee on Armed Services be discharged from further consideration of the bill (H.R. 4256) to provide temporary authority to certain employees of the Panama Canal Commission to purchase food and other goods at any commissary or exchange store located in Panama which is operated by any military department of the United States, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. FIELDS. Reserving the right to object, and I will not object, Mr. Speaker, as an original cosponsor of H.R. 4256, I rise to express my strong support for the granting of temporary PX and commissary privileges for some 600 American families who live and work as employees of the Panama Canal Commission in the Republic of Panama.

While I support this bill and compliment Chairman WALTER JONES for his leadership in expediting its consideration, frankly I am outraged as are some other members of our committee, that this bill has become necessary because of the Department of State's cavalier attitude and lack of concern for our own American people in the Canal Zone.

Mr. Speaker, members of our committee, including myself, have on several occasions during the past 3 weeks asked the administration to negotiate with the Delvalle government in order to obtain permission for these U.S. citizens to utilize our military PX and commissary facilities on a temporary basis.

While employees of the Panama Canal Commission were once able to buy products at the PX and commissary, regrettably the Panama Canal Treaty of 1977 phased out these benefits as of September 30, 1984. It is, therefore, necessary that we obtain the approval of the Government of Panama in order to restore their ability to shop at those stores.

Mr. Speaker, we all know that the political situation in Panama is extremely tense and dangerous. It is not safe for Americans to travel to Panama City and, even if travel were not a problem, the current unrest has resulted in the closure of nearly 95 percent of all those stores.

As a result, these 600 American families have found it nearly impossible to obtain the necessary foodstuffs, particularly perishable items, which they need to survive on a day-to-day basis.

Mr. Speaker, what is most frustrating about this situation is that Ambassador Juan Sosa, of Panama, was prepared to sign a letter 2 weeks ago allowing our citizens to use these facilities. In fact, the chairman of the Panama Canal Subcommittee, chairman TAUZIN, approached Ambassador Sosa at one of our subcommittee meetings and pressed this point.

Regrettably, I am told high-level bureaucrats within the Department of State convinced Ambassador Sosa to withdraw his letter and one of our own State Department people even suggested that it might be good for Americans in the Canal Zone to suffer along with their Panamanian neighbors—our own State Department.

Mr. Speaker, that is an outrageous statement. Why should Americans have to suffer because of General Noriega and the political insurrection within Panama? And, why is the Department of State so insensitive to the safety and well-being of our own American people?

And, if that weren't bad enough, Members of this body should know that while Americans are denied the use of our PX and commissary facilities, high ranking members of the Panama defense forces continue to have the privilege to shop at these PX facilities.

Mr. Speaker, this is the same PDF whose thugs savagely attacked and beat two American employees of the Panama Canal Commission just a week ago. These two Americans had traveled outside of the Canal Zone for the purpose of buying 100-pound bags of rice for the starving children of Panama.

Mr. Speaker, it is high time that we end this injustice. There is no reason why any American who is living and working in Panama should continue to be denied the use of these facilities.

I urge my colleagues on both sides of the aisle to vote "aye" on H.R. 4256 and to join with me in urging our colleagues in the Senate to immediately enact this bill.

So, of course, Mr. Speaker, I have no objection to moving forward with this legislation. I compliment our chairman and our subcommittee chairman.

Mr. Speaker, I include the following letter to Secretary Shultz:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 23, 1988.

Hon. GEORGE P. SHULTZ,
Secretary, Department of State, Washington, DC.

DEAR MR. SECRETARY: Several weeks ago, we wrote to the President of the United States to express our deep concern over the safety of some 600 American families who live and work as employees of the Panama Canal Commission in the Republic of Panama.

As you are aware, the current political upheaval in that country has made it extremely dangerous for Americans to travel to Panama City and it has caused the closure of most grocery stores. As a result, those Americans have found it very difficult, if not impossible, to obtain the necessary food items they need to survive on a day to day basis.

In our letter, we asked the President to negotiate with the Delvalle government and to obtain permission for these U.S. citizens to utilize our military PX and commissary facilities on a temporary basis.

In fact, it is our understanding that Ambassador Juan Sosa was in agreement with this request and was prepared, as early as last week, to issue a statement allowing the use of these facilities.

Regrettably, it is apparent to us that high level bureaucrats within your Department have convinced Ambassador Sosa to withdraw his letter of agreement and even went as far as to suggest that it might be good for Americans in the Canal Zone to suffer along with their Panamanian neighbors.

Mr. Secretary, we want you to know that we are outraged by your department's insensitivity and apparent total disregard for the safety and well being of these people. We are particularly angry because we were told that at the same time these individuals are denied the use of our PX and commissary facilities, high ranking members of the Panama Defense Forces continue to shop at these stores.

Mr. Secretary, it is high time that we correct the injustice and, therefore, we urge you in the strongest possible terms to contact Ambassador Sosa today in order to seek his approval. There is no reason why any American regardless of whether they live on the Atlantic or Pacific side of the Canal should continue to be denied the use of these facilities.

We would appreciate your immediate attention to this vital matter and look forward to hearing from you.

Sincerely,

BILLY TAUZIN,
Chairman,
Panama Canal/OCS Subcommittee.
JACK FIELDS,
Ranking Member,
Panama Canal/OCS Subcommittee.

Mr. McEWEN. Mr. Speaker, will the gentleman yield.

Mr. FIELDS. I yield to the gentleman from Ohio.

Mr. McEWEN. Mr. Speaker, I thank the gentleman for yielding under his reservation.

Mr. Speaker, I rise in strong support of the legislation and commend the gentleman for use of the term "outrage." Many of us have heard the adage around this city can now agree that the trouble with the State Department is that there is no American desk. It is unfortunate that the State Department does not take as much interest in the welfare of American citizens as it does other parts of the world and that the Congress has to take this action. Outrage is the proper term.

I commend the chairman and the gentleman from Texas [Mr. FIELDS] for their leadership and prompt action on this bill.

Mr. FIELDS. Mr. Speaker, further reserving the right to object, just let me say that I will be glad to yield to the gentleman from Louisiana [Mr. TAUZIN] in just a moment, but first I would like to pay him a compliment because I stood there with the gentleman when he pressed Ambassador Sosa to give consent for these particular privileges.

I think it is because of the leadership of the gentleman and that of the gentleman from North Carolina, Chairman JONES, that we are at this particular point today pressing this important piece of legislation. I want to compliment the gentleman publicly.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr. FIELDS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding and thank the gentleman for his kind words.

Mr. Speaker, what we need right now is strong words. This legislation provides for the State Department to do that.

Just yesterday, I want to inform the gentleman, I received a phone call from one of those American dependents in the Panama Canal Zone informing me that they had run out of food, they had run out of sanitary supplies, that one of the members of that family had medical needs that could not be met in the stores in Panama, and yet we allow Noriega's high level command troops to shop at American PX's and commissaries, and this lady and her family cannot get supplies that she needs.

For all those citizens in America who have families in Panama, for all those citizens who are living there trying to do their job running that canal source properly, I urge all Members of this body to join with us today in this bill.

Those folks ought to have the right to go to the PX's and commissaries under the protection of our own military forces.

I want you to consider something. All we need is an incident. All we need is Americans competing with Panamanians for the short food supplies at stores in Panama, all we need is something like that to happen to wake up the State Department. Maybe this legislation can wake them up before something like that happens.

Mr. Speaker, for the sake of the Americans who work and live there and for their families here in America, I urge you all to please join us and pass this bill.

Just last night several crews that work for the Panama Canal Commission failed to show up. Just today a tugboat crew failed to show up to do their jobs in the Panama Canal. It is getting tense. It is getting very tight and it is getting worse every day, and for citizens of America to have to endure, indeed, in the violence there having to go into town amidst the riots, amidst Noriega's goon troops beating up and intimidating citizens and having to walk those streets to get necessary foodstuffs is intolerable.

The outrage the gentleman suggests is one every Member of this body ought to share. Our State Department ought to wake up and deal honestly with the good citizens of America who are asking for one simple modicum of protection to shop at our own grocery stores, our own commissaries and PX's so that they and their families can be safe.

Mr. Speaker, I join the gentleman in asking all Members to join us in this bill.

Mr. FIELDS. Mr. Speaker, I will be glad to yield further in just a moment to the gentleman from Texas, but I have not had a chance to tell Chairman TAUZIN, I, too, got a call yesterday from a woman in tears down in the Panama Canal Zone who has been subjected to that intimidation, saying that she was fearful to go outside of her home and the protection of her fellow Americans to shop, and she just kept asking why. "Why haven't you done something in the United States Congress?"

She found it hard to believe when I related to her what I was told that a member of our State Department said that she, along with other Americans, needed to suffer with the Panamanians. That is outrageous.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield further?

Mr. FIELDS. I am glad to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, I think it is important also to note that the Panama Canal Commission, which is made up today of a majority of American citizens, has tried to do their best. They even purchased extra food supplies to have them available for our American citizens who have so far been required to suffer. They tried to make those food supplies available to those citizens. That food supply, bought by the Commission for American Citizens, was confiscated by Noriega's troops. That is what is happening to our people, and we are told they should suffer some more. Come on. It is time for the State Department to start caring about Americans as much as about others in this world.

Mr. LEATH of Texas. Mr. Speaker, will the gentleman yield?

Mr. FIELDS. I am glad to yield to the gentleman from Texas.

Mr. LEATH of Texas. Mr. Speaker, as chairman of the Morale, Welfare and Recreation Panel of the Committee on Armed Services, which has direct jurisdiction over PX and commissaries, I rise in strong support of this bill.

Mr. Speaker, as our colleagues have said, the situation in Panama has reached crisis proportions.

United States citizens working for the Panama Canal Commission are being threatened and assaulted. These employees and their familis either go hungry or risk their lives trying to buy the food and other essentials on the Panamanian economy.

Our military commissary and exchange are established to provide goods, services and subsistence to our people serving in defense of their Nation. During this crisis, the employees of the Panama Canal Commission are literally risking their lives to keep the canal in operation and they are making a valuable contribution to our Nation's defense. During this crisis, this group is clearly entitled to use these facilities.

Yesterday, I brought this matter to the attention of the full Committee on Armed Services. The committee unanimously and wholeheartedly supported the use of these stores by our threatened U.S. citizens. We have checked with the Department of Defense and have been informed that these stores have sufficient stock to accommodate the needs of these people without disruption to military shoppers.

I believe that we should move quickly to provide this authority and I urge passage of this bill.

Mr. Speaker, I share with my colleagues the resentment of the Department of State for its insensitivity in this matter.

Mr. FIELDS. Mr. Speaker, I appreciate the statement of the gentleman.

Mr. DYMALLY. Mr. Speaker, will the gentleman yield?

Mr. FIELDS. I am glad to yield to the gentleman from California.

Mr. DYMALLY. Mr. Speaker, I thank the gentleman for yielding.

I did not know that this measure was coming up on the floor, and obviously was not prepared to make any observations, but I could not let this opportunity pass without reflecting on the dual standards that we use in the execution of our foreign policy.

One, we claim that we are opposed to sanctions in South Africa because sanctions hurt the blacks, yet we impose sanctions in Panama on innocent people who are being starved now in order to get rid of one man. If we had a consistent foreign policy, we surely should impose sanctions on South Africa and force Mr. Botha to resign, but we impose them on our Third World nations while we preserve the integrity of a racist nation in South Africa.

I just want to reflect, I intend to vote for this measure because I think our policy of starving Americans or non-Americans is bad policy. If we want to get rid of Noriega, we should have done so many years ago when we had an opportunity to do that. When Noriega was on our payroll, we condoned his drug sales. We condoned his trafficking in arms. Now he has fallen out from us, for whatever reason, and we are starving an entire nation, most of whom are nonwhites, just to get at a man and a whole nation is being starved. I think it is appropriate for us to make an observation of that kind of dual policy that we have overseas.

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Mr. FIELDS. Mr. Speaker, further reserving the right to object, let me just conclude by saying that there is no objection on our part. We on this side of the aisle join with the gentleman from North Carolina [Mr. JONES]; our only objection is to the government of General Noriega.

Under my reservation of objection, Mr. Speaker, I yield to the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, the Panama Canal Treaty of 1977 prohibits the Panama Canal Commission from operating commerical activities, such as grocery stores, department stores, postal services, and so on. As most of you know, before the treaty was signed, the Panama Canal Company used to operate its own commercial stores to provide food and goods to the United States employees of the Panama Canal Commission. After the treaty, the commerical activities ceased, but the employees were allowed to use the U.S. military commissaries and exchanges for 5 years. After that time, the employees would have to use the Panamanian stores.

But, now we have a problem. Due to the political turmoil in Panama, food stores and other basic shops have been closed by the Panamanians who are on strike against General Noriega.

The Panama Canal Commission has had to buy food supplies from the military and distribute the boxes of dry food and spam to the employees. The problem with this system is that the stored food will soon run out, and the Commission is draining its own resources to supply food. Furthermore, General Noriega is trying to turn the Panamanian people against the United States by saying that the Commission is violating the treaty by supplying its own food again, and under the law of General Noriega, this food is deemed contraband.

I am here to tell you that we do not recognize General Noriega as the spokesman for the Government or the people of Panama. It is General Noriega's command over the Panamanian defense forces that has caused the cruel and illegal physical abuse of innocent persons, especially caucasian looking persons, who have merely walked through public places in Panama in order to shop in Panamanian stores.

In fact, last Wednesday, March 23, two United States Commission employees collected money donations to buy food for the needy children in Panama. The two men, Mr. Karl Marohl and Mr. Allen Sheppard drove to several stores in Panama to buy food for the needy Panamanian children.

They were stopped by a policeman who allowed six S-2 plainclothesmen to get into their car.

A .38 revolver was stuck into their heads during the drive.

When the car stopped, they were dragged out of the car and kicked and punched in the back and kidneys. Mr. Marohol's wrist was cut. The kicking and punching continued for 15 minutes. They were shoved into the asphalt ground face first, robbed, called gringos and every other imaginable word. Then their truck was rifled.

Finally, some civilized officers arrived, took the men courteously to jail, and charged them with "attempting against the security of the state."

The bill before us introduced makes a congressional finding that stores are not adequately available to U.S. employees of the Panama Canal Commission. The bill finds that United States citizen employees of the Commission cannot safely shop in public places in

Panama. The bill further finds, that the Commission cannot operate efficiently when its employees are hindered in their ability to find food or subjected to unsafe conditions in public places in Panama.

The best solution to this serious problem is to simply allow the U.S. citizen employees of the Panama Canal Commission the right to shop in the U.S. Government military supply stores.

We find that the thrust of the treaty has always, and above all, guaranteed the efficient operation of the canal.

What could be a more basic requirement for operating the canal than guaranteeing that food is available to your workers?

Frankly, the State Department has been dragging its feet on this issue, and it is necesssary for us to act now. I do not want to expose our Commission employees to any more physical abuse while they shop for food in a Panamanian store.

I feel we need to pass this law today in the House, tomorrow in the Senate, and then on to the President to sign immediately.

Mr. DAVIS of Michigan. Mr. Speaker, as an original cosponsor of H.R. 4256, I rise in support of this legislation which would grant commissary and exchange privileges to those American employees of the Panama Canal Commission and their families who do not currently have these privileges.

The situation in Panama is one of uncertainty. Our military personnel are on alert status, and demonstrations rock the major cities almost daily. The news reports we see in the United States are filled with stories about the difficulties and disturbances. The Panamanian military, under the control of General Noriega, has taken control of most of the governmentally operated businesses, and most grocery stores and businesses across the country are closed to protect his strong-arm tactics. In Washington we read about the hardships of the Panamanian people and their struggle to maintain a democracy in the face of a strong military presence, and of the increased harassment of the business community who support the democratically elected government of President Delvalle.

Through all of this turmoil, the Panama Canal has remained operational and well maintained. Our American citizens who are working in Panama, along with their dedicated Panamanian colleagues, are continuing to operate the Panama Canal under extremely difficult circumstances. During the turbulent and often violent times in Panama, these employees manage to travel to work on both sides of the canal to keep it running. During this time of turmoil and unrest, our American personnel should not be submitted to unnecessary hardships or dangers.

While most American personnel in Panama have access to the military commissaries and exchanges, few American employees of the Panama Canal Commission have this privilege. There is no good reason why these Commission employees should be forced to travel into the cities where the unrest is at its peak to buy food while most other American citizens are safe on military bases with convenient shopping facilities available. It is my understanding that by granting privilege to employees that their dependents also become entitled to use the commissaries and exchanges.

Mr. Speaker, American military personnel have been on increased alert for several weeks and have been told avoid the downtown shopping areas because of the demonstrations and disturbances. If the American military should avoid these areas, it makes sense that all Americans should avoid these areas. Yet we continue to require this small segment of our American personnel in Panama to travel to the downtown market places to put food on the tables for their families.

Mr. Speaker, many of my colleagues have received phone calls and letters from constituents who have family or relatives in Panama. They are concerned about the safety of their loved ones and have received communications from Panama that describe the hardships of traveling in dangerous areas to buy food and clothing. There is legitimate concern for the safety of our American personnel who are forced to travel into the cities to shop. This legislation would give them a temporary solution to ease one of the hardships caused by the civil unrest in that country.

This legislation is not intended to violate the Panama Canal Treaties of 1977, nor is it a move to provoke General Noriega. This is a bill to allow our American personnel from the Panama Canal Commission to use the U.S. commissary and exchange facilities until the political turmoil settles down. This is not an unreasonable request in light of the current events in Panama and I am confident that the government of President Delvalle will understand the limited scope and humanitarian nature of our bill.

Mr. Speaker, I urge my colleagues to join me in supporting this legislation.

Mr. FIELDS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4256

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) due to the harassment of persons by the Panamanian Defense Forces in the public areas of Panama, the security in those areas of employees of the Panama Canal Commission who are United States citizens is seriously threatened and their mobility is severely limited;

(2) the political unrest caused by the illegal acts of General Manuel Noriega has resulted in the closing of shops and businesses in Panama, thereby hindering the ability of these employees to purchase food and other goods;

(3) the operation of the Panama Canal is jeopardized by the inability of these employees to purchase food and other goods safely and adequately; and

(4) in accordance with paragraph 4 of Article I of the Panama Canal Treaty of 1977, which requires the United States and Panama to assure the uninterrupted and efficient operation of the Panama Canal, it is necessary to authorize employees of the Panama Canal Commission who are United States citizens the right temporarily to purchase food and other goods at commissaries and exchanges operated by United States military departments in Panama.

SEC. 2. COMMISSARY AND EXCHANGE PRIVILEGES.

Those employees of the Panama Canal Commission who are United States citizens are authorized to purchase food and any other goods at any commissary or exchange store located in Panama which is operated by any military department of the United States.

SEC. 3. TERMINATION OF AUTHORITY.

(a) CERTIFICATION OF THE PRESIDENT.—If the President finds that—

(1) The Panamanian Defense Forces have ceased the harassment of persons in the public areas of Panama, and

(2) that food and goods are available and accessible safely to employees of the Panama Canal Commission who are United States citizens so that the operation of the Panama Canal is not jeopardized,

the President shall certify this finding to the Congress.

(b) TERMINATION OF AUTHORITY.—The President may terminate the authority described in section 2 after the end of the 30-day period beginning on the date on which a certification to the Congress under subsection (a) has been made.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4256, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL 5 P.M. TUESDAY, APRIL 5, 1988, TO FILE REPORT ON H.R. 4264, DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1989

Mr. LEATH of Texas. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services have until 5 p.m., Tuesday, April 5, 1988, to file a report on the bill, H.R. 4264, the Defense Authorization act for Fiscal Year 1989.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING AMOUNTS FROM THE CONTINGENT FUND FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES BY THE COMMITTEE ON THE JUDICIARY

Mr GAYDOS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the resolution (H. Res. 408) providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on the Judiciary in the second session of the One Hundredth Congress, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BADHAM. Mr. Speaker, reserving the right to object, I will not object, but as you will recall, the House Administration Committee's Accounts Subcommittee was just on the floor March 16 with House Resolution 388, the committee funding resolution. In that package, $350,000 was specifically authorized to be available only for studies and investigations with respect to judicial impeachment. At that time, the Judicial Conference had forwarded only one impeachment certificate to the House of Representatives, that of Alcee Hastings of the Southern District of Florida. We knew to expect another one but we decided to defer authorizing any money for it until the House actually received the certificate. On March 17, the House did receive such a document, certifying that U.S. District Judge Walter L. Nixon, Jr., of the Southern District of Mississippi has engaged in conduct which might constitute one or more grounds for impeachment under article I of the U.S. Constitution. Now that the House has the certificate, we on the House Administration Committee feel duty bound to provide supplemental funds to the Judiciary Committee so it can get on with its charge to investigate the matter. As everyone here knows, I consider "supplemental" to be a cuss word in the House Administration lexicon, but our hands are tied here. I feel we are obligated to provide some money for this, although I am glad the accounts subcommittee was able to reduce the request somewhat. The $375,000 we are approving today will bring the total amount specified for judicial impeachment investigations to $725,000. That should be more than sufficient to cover the expenses. Let's not forget that the Judiciary Committee has a highly qualified legal staff and we are hoping they can be relied upon to help out the consultants should the need arise.

I thank the chairman of the subcommittee, Mr. Gaydos of Pennsylvania, and the other members of the Accounts Subcommittee for the expeditious manner in which they handled this and I support the passing of this measure.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the resolution, as follows:

H.R. 408

Resolved, That for further expenses of investigations and studies by the Committee on the Judiciary (Hereinafter in this resolution referred to as the "committee"), there shall be paid out of the contingent fund of the House not more than $461,320 (to be available only with respect to judicial impeachment), any of which may be used for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946.

Sec. 2. Payments under this resolution shall be made on vouchers authorized by the committee, signed by the chairman of the committee, and approved by the Committee on House Administration.

Sec. 3. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning on the date on which this resolution is agreed to and ending immediately before noon on January 3, 1989.

Sec. 4. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

Sec. 5. The Committee on House Administration shall have authority to make adjustments in amounts for investigations and studies under the first section of this resolution, if necessary to comply with an order of the President issued under section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 or to conform to any reduction in appropriations for the purposes of such section.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GAYDOS

Mr. GAYDOS. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Gaydos: Strike out all after the resolving clause and insert in lieu thereof the following:

That for further expenses of investigations and studies by the Committee on the Judiciary (hereinafter in this resolution referred to as the "committee"), there shall be paid out of the contingent fund of the House not more than $375,000 (to be available only with respect to judicial impeachment), any of which may be used for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946.

Sec. 2. Payments under this resolution shall be made on vouchers authorized by the committee, signed by the chairman of the committee, and approved by the Committee on House Administration.

Sec. 3. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning on the date on which this resolution is agreed to and ending immediately before noon on January 3, 1989.

Sec. 4. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

Sec. 5. The Committee on House Administration shall have authority to make adjustments in amounts for investigations and studies under the first section of this resolution, if necessary to comply with an order of the President issued under section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 or to conform to any reduction in appropriations for the purpose of such section.0

Mr. GAYDOS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. Gaydos] is recognized for 1 hour.

Mr. GAYDOS. Mr. Speaker, I yield the customary 30 minutes to the gentleman from California [Mr. Badham], the ranking minority member of the Subcommittee on Accounts, for purposes of debate only, pending which I yield myself such time as I may consume, with the understanding that any additional time I may yield will be subject to the specific limitation: for debate purposes only.

The amendment in the nature of a substitute to House Resolution 408 authorizes $375,000 to be provided to the Committee on the Judiciary for further expenses of investigations and studies with respect to judicial impeachment for the period beginning on the date on which this resolution is agreed to, and ending immediately before noon on January 3, 1989. By the terms of the amendment, the provided amount will be available to the Committee on the Judiciary only for investigations and studies respecting judicial impeachment. The provided amount should not be used for other purposes.

On March 29, 1988, the Subcommittee on Accounts held a meeting on this resolution and reviewed in detail the justification provided by Chairman Rodino. The resolution as submitted by Chairman Rodino would have authorized additional funds for investigations and studies with respect to judicial impeachment in the amount of $461,320. The pending amendment reduces the requested amount by $86,320.

The subcommittee's determination is both reasonable and fair. Under the best of circumstances, it might have been possible to approve the total amount requested by the distinguished chairman of the Judiciary Committee. However, the subcommittee must determine authorization from very limited available fiscal resources. The subcommittee respects Chairman Ro-

DINO's request and it recognizes his difficult responsibilities regarding the two serious judicial impeachment investigations presently before his committee.

After a very thorough review of the total budget for both judicial impeachment investigations, the additional amount of $375,000 as contained in the pending amendment when added to the $350,000 already authorized by section 5 of House Resolution 388 for investigations and studies relating to judicial impeachment, should be sufficient to allow that committee to discharge all of its judicial impeachment responsibilities in an effective and satisfactory manner. In particular, the additional amount should enable the Judiciary Committee to hire temporary staff and to meet necessary travel, witness, telephone, supply, and equipment expenses arising out of a new impeachment investigation involving Judge Walter L. Nixon, Jr., U.S. district court judge for the southern district of Mississippi.

When the Subcommittee on Accounts held its markup of the omnibus primary expense resolution, the Nixon impeachment matter was not before the Judiciary Committee. Subsequent to the markup, on March 15, 1988, the Judicial Conference of the United States certified to the Speaker of the House that Judge Nixon had engaged in conduct which might constitute one or more grounds for impeachment under article I of the Constitution. On March 16, 1988, the Speaker referred the certification to the Committee on the Judiciary where it has referred to the Subcommittee on Civil and Constitutional Rights. On March 17, 1988, Chairman Rodino introduced House Resolution 407, calling for the impeachment of Judge Nixon. Congressmen EDWARDS, FISH, and SENSENBRENNER cosponsored the resolution.

Regarding the urgency of this investigation, on February 9, 1986, after a jury trial, Judge Nixon was found not guilty on one count of perjury and one count of accepting an illegal gratuity in violation of 18 U.S.C. 201(g) but he was found guilty on two counts of perjury. Accordingly, Judge Nixon was sentenced to 5 years in prison on each count with the sentences running concurrently. Judge Nixon appealed this to the U.S. Court of Appeals for the Fifth Circuit and that appellate court affirmed the trial court's judgment on April 30, 1987. Judge Nixon attempted to further appeal his case to the U.S. Supreme Court. However, his petition for a writ of certiorari was denied by the Supreme Court on January 19, 1988. Furthermore, Chairman RODINO, in his funding request, indicated that "on January 20, 1988, Judge Nixon released a public statement in which he made clear that he would not resign his position." The judge is presently in Federal prison serving his sentences. Therefore, an impeachment investigation is of the utmost urgency and importance.

In support of his request for supplemental funds, Chairman RODINO stated that:

> It will not be possible for the committee to detail regular committee staff to the inquiry for any appreciable amount of time without impairing the heavy agenda of legislative and oversight activities that was outlined in the committee's budget submission.

Furthermore, the chairman has indicated the likelihood of hearings being held on this matter which would involve the testimony of out-of-town witnesses which will include subpoenaed individuals.

It is important to note that impeachment investigations are often very complex, detailed and time consuming. Such investigations by their very nature require the services of outside counsel, particularly experienced litigators. The impeachment inquiry regarding Judge Alcee Hastings, a U.S. district court judge for the southern district of Florida, which has been pending in the Committee on the Judiciary since March 1987, supports this observation. In the Hastings case, the judge had been acquitted by a jury on criminal charges. As a result, the committee counsels had to review and analyze a voluminous record compiled in various prior proceedings. This review included thousands of pages of transcripts of the Hastings trial, the trial of the codefendant in the indictment, and the testimony of over 100 witnesses before the 11th circuit investigative committee. Review was, also, made of 2,900 exhibits compiled by the investigative committee, thousands of pages of FBI files, transcript and exhibits of the grand jury and the investigative committee's 500 page report. Additionally, the Judiciary Committee began its own inquiry independent of the judicial branch. The staff interviewed, and in several instances, took sworn testimony from approximately 50 witnesses and as a result, new allegations surfaced which required further investigation. The committee, also, had to initiate two legal proceedings to obtain certain necessary records. In both matters, Judge Hastings opposed such efforts and appellate review ensued. These examples of the work involved in the Hastings' investigation, are reflective of the difficult and serious responsibilities associated with a fair and proper impeachment inquiry.

Finally, during the past 7 years, the Subcommittee on Accounts has generally not approved requests for supplemental funds. However, it has made an exception for requests from the Committee on the Judiciary regarding impeachment inquiries and the Committee on Standards of Official Conduct, in order that these committees may have sufficient funds to discharge the important institutional responsibilities which are assigned under the Constitution, the House rules and statutory law in an effective manner and on a timely basis. These strong institutional concerns are present in the matter pending before the House today. The Constitution in article I, section 2, provides that the House shall have the sole power of impeachment. In the House, impeachment of a sitting Federal judge is a matter of high privilege. Accordingly, special funds should be provided for impeachment inquiries in order that such inquiry may be conducted thoroughly, responsibly, and with reasonable diligence. The proper discharge of this constitutional duty requires no less.

I urge my colleagues to support the amendment and the resolution.

Mr. BADHAM. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GAYDOS] for yielding me this time, and I commend him for the work he has done on this bill.

I have really made my statement prior to this.

Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

Mr. GAYDOS. Mr. Speaker, I yield myself such time as I may consume. I would like to spread upon the RECORD the input of the gentleman from California [Mr. THOMAS] and the gentleman from Minnesota [Mr. FRENZEL], who worked so diligently on this matter.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania [Mr. GAYDOS].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

NATIONAL CHILD CARE AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 260) to designate the week beginning April 10, 1988, as "National Child Care Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, I yield to the gentleman from Kentucky [Mr. HOPKINS] who is the chief sponsor of House Joint Resolution 440 to designate the week beginning April 10, 1988, as National Child Care Awareness Week.

Mr. HOPKINS. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA] for her interest and leadership in this legislation and I ask my colleagues to join together in the awareness of child care throughout this country.

This is an issue that cuts across party lines and partisanship.

Mr. Speaker, today the House will pass Senate Joint Resolution 260, designating the week of April 10–17, 1988, as "National Child Care Awareness Week."

The No. 1 concern of today's dual-career families and single parents is finding and affording quality child care.

Since the 1950's, the number of women working outside the home who have pre-school-age children has more than quadrupled. Today, more than half of all women with children younger than 6 years of age are now in the work force. By the mid-1990's, two-thirds of all pre-school-age children are expected to have mothers who work outside the home.

Consider one more statistic: 80 percent of women in the United States are of childbearing age.

This dramatic change in the composition of the work force creates a dilemma: how to care for the children, allow for professional development of both parents and maintain the strength of the American family.

All children deserve quality child care, and all parents have a profound obligation to provide a safe and wholesome environment for their children at all times.

Through Child Care Awareness Week, I hope to focus national attention on the quality, availability and feasibility of child care alternatives and stimulate public debate on this important issue.

When Congress votes on this issue later this year, we should each have a full knowledge of the current situation and all alternatives.

Solving the problems of this country's day care system will not, however, be a 1-week project. Each of us must begin our own personal search—build upon that foundation—create better public awareness of the problems, benefits and opportunities which already exist.

Only then can we make an informed and responsible decision.

Child Care Awareness Week affords us that opportunity to learn and create public awareness within our own congressional districts.

During the week, public broadcasting stations across the country offer another opportunity to learn about the child care situation. PBS stations will air a special documentary, "Who Cares for the Children," on Wednesday, April 13, which I encourage you to watch and publicize in your district.

I urge my colleagues to use the week of April 10 through 17 to begin their personal search for a solution to this critical issue.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I would like to commend the gentleman from Kentucky [Mr. HOPKINS] for introducing this legislation. There is no doubt that child care is critically important. The Women's Caucus has child care initiatives before them that are now being judged on innovative measures throughout the country for child care.

There are several pieces of legislation that may well come before this body.

Mr. Speaker, I urge my colleagues also to support this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 260

Whereas the status and composition of the family in the United States is constantly changing;

Whereas women hold 53 percent of all jobs in the United States;

Whereas 80 percent of the women in the United States who are employed are of childbearing age;

Whereas, while child care is no longer considered the sole responsibility of women, the percentage of single-parent families headed by women has increased by more than 51 percent in 12 years;

Whereas it is estimated that 80 percent of the women with children of preschool age will hold jobs by 1990;

Whereas the increasing participation of women in the workforce will continue to increase the demand for child care during the working hours;

Whereas communities across the United States are planning special activities to honor child care providers and to illustrate the importance of quality child care as part of the Child Care America project of the Public Television Outreach Alliance;

Whereas the National Association for the Education of Young Children and the Public Television Outreach Alliance are sponsoring a week of the child, and it is appropriate for the Congress to designate the same week as a period devoted to increasing public awareness of child care issues; and

Whereas all children deserve quality child care, and all parents have a profound obligation to provide a safe and wholesome environment for their children at all times; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 10, 1988, is designated as "National Child Care Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN MUIR DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 245) to designate April 21, 1988, as "John Muir Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation. I would like to point out, of course, that we all know John Muir was the great environmentalist. I urge my colleagues to support it.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise in support of House Joint Resolution 459, which will designate April 21, 1988, as "John Muir Day."

This day marks the 150th anniversary of the birth of John Muir. I am pleased that nearly 200 Members join me in cosponsoring this resolution, which has already passed the Senate.

I also want to thank Chairman BILL FORD, as well as Congressman MERV DYMALLY and Congresswoman CONNIE MORELLA for their assistance and cooperation in bringing this resolution to the floor on a timely basis.

John Muir was one of the truly great conservationists of all time, and he is particularly a legend in California. Through his books and writings, John Muir taught us much about the beauty of this country and the importance of protecting our wild and special areas for future generations. Part of the strong commitment we, as a Nation, have toward conservation can be traced to the inspiration and teachings of the great man we honor by passing this resolution today.

Because of John Muir's vision we are blessed today with a vibrant park and wilderness system. Indeed, John Muir is often referred to as the "father" of our National Park System and he was influential in efforts which led to the creation of the National Forest System. He was largely responsible for the establishment of such great treasures as Yosemite, Sequoia, and Grand Canyon National Parks.

In California, I suspect, there are more sites named for John Muir than for any other single person. We have the John Muir Trail, the John Muir Wilderness, Mount Muir, Muir Grove, to name just a few.

John Muir was also a cofounder and first president of the Sierra Club, whose members have played a very significant role in developing awareness of this resolution, and in generating support for its passage.

Like many Californians, I have special feeling for John Muir. The John Muir National Historic Site, where Mr. Muir lived and raised his family, is located in my hometown, Martinez, CA. His home and land are a beautiful site which we are hopeful of improving upon in the near future, in cooperation with local agencies of government in Contra Costa County.

Designation of April 21, 1988, as "John Muir Day" is but one small act which we can take to express our appreciation for the work of this great American. I request unanimous support for this resolution, and I sincerely hope that the president will issue the proclamation at the earliest time.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 245

Whereas April 21, 1988, marks the one hundred and fiftieth birthday of the great American conservationist John Muir, heralded worldwide for his dedication to the preservation of wilderness in this country;

Whereas generations of Americans have reveled in the wonders of Yosemite, the Grand Canyon, and other parklands set aside by past Presidents and Congresses at the urging of the Scottish-born naturalists;

Whereas a system of natural, cultural, historical, and recreational national parks which John Muir helped pioneer has grown in size to almost eighty million acres symbolizing the stewardship Americans demonstrate for their precious public resources;

Whereas John Muir was the cofounder and first president of the Sierra Club, an organization which contributes in making this Nation a leader in the global environmental movement;

Whereas the John Muir National Historic Site, in Martinez, California, one of three **hundred and thirty-seven units of the** National Park Service, was set aside by Congress in 1964 as a monument to the wild lands crusader and was the site from which Muir wrote books celebrating the natural beauty and wildlife of the United States, books that are still widely read and treasured by people of all ages; and

Whereas the important role of an ecologically sound environment in the quality of life for all people was proselytised by the tireless voice and pen of John Muir: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 21, 1988, is designated as "John Muir Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MINING AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 445) to designate the week beginning April 24, 1988, as "Mining Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 445

Whereas minerals extracted from the earth have been instrumental in progress throughout history and are vital to the continuation of civilization;

Whereas the techniques and technology of modern mining enable safe and efficient mining and reclamation in many settings;

Whereas the mining industry has helped to establish and maintain the solid industrial base of the United States, which benefits many nations around the world;

Whereas the ability of the domestic mining industry to compete and prosper in national and international markets is vital to the economic growth and position of world leadership of the United States; and

Whereas the mining industry has made and will continue to make essential contributions to the standard of living in the United States and to the industrial development, national security, and competitiveness in international markets of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 24, 1988, is designated as "Mining Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed, and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL STUDENT-ATHLETE DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 513) to designate April 6, 1988, as "National Student-Athlete Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation before us.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 513

Whereas, the student-athlete represents a role model worthy of emulation by America's youth;

Whereas, such worthy values and behaviors as perseverance, teamwork, self-discipline and commitment to a goal are fostered and promoted by both academic and athletic pursuits;

Whereas, participation in athletics, together with education, provides opportunities to develop valuable social and leadership skills and to gain an appreciation of ethnic and racial groups different from one's own;

Whereas, in spite of all the positive aspects of sport, overemphasis on sport at the expense of education can cause serious harm to an athlete's future;

Whereas, the pursuit of victory in athletics among our nation's schools and colleges too often leads to exploitation and abuse of the student-athlete;

Whereas, only 1 in 10,000 high school athletes who dream of a career in professional sports ever realize that aspiration, while those who do can expect a professional sports career of less than 4 years;

Whereas, thousands of America's youth sacrifice academic achievement to the dream of professional athletics;

Whereas, the practice of keeping athletes eligible for participation on a team, even at the high school level, must be abandoned for a policy of ensuring a meaningful education and degree;

Whereas, coaches, parents and educators of student-athletes must express high expectations for academic performance as well as for athletic performance; and

Whereas, there is a need in this Nation to reemphasize the "student" in the term "student-athlete": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 6, 1988, is designated as "National Student-Athlete Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL PRODUCTIVITY IMPROVEMENT WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 223) to designate the period commencing on April 10, 1988, and ending on April 16, 1988, as "National Productivity Improvement Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to the legislation before us.

Under my reservation of objection, I yield to the gentleman from California [Mr. DYMALLY], the chairman of our Subcommittee on Census and Population.

Mr. DYMALLY. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA] for yielding me this time.

Mr. Speaker, I wish to note that the statement that I have was written, authored and presented for the RECORD by the gentleman from Georgia [Mr. LEWIS], the chief House sponsor of this resolution, but because it is so eloquent and profound, I want to enter it into the RECORD by reading it myself.

Mr. Speaker, today I rise in support of House Joint Resolution 414, which would designate the week of April 10, 1988, as National Productivity Improvement Week.

This resolution calls the attention of the entire National to recent trends in American productivity. As you may know, productivity is the ratio of output to labor input. While the United States is still the most productive nation in the world, statistics show only slight increases during the last year. This small growth comes at a time when other countries such as Japan, Taiwan, and West Germany continue to make substantial gains in productivity.

What does this trend mean for the future of our country? One of the most direct effects is that as other countries catch up to our level of productivity, American goods and services will become less competitive on a world market. And if increases in economic output fail to keep up with increases in labor costs, inflation will follow. These consequences can only harm our economic wellbeing. The standard of living to which we have become accustomed will not be possible if we fail to match the gains other countries are making in productivity.

But the scenario I have just described is far from inevitable. Historically, our Nation's economy has been driven by dedication, constant innovation, and resourcefulness in both the public and private sectors. I believe we are fully capable of maintaining this tradition. Indeed, some have already realized the need to improve productivity. Recently we have witnessed an increased reinvestment of capital and a renewed sense of pride and commitment among American workers. But much more must be done if we wish to remain the most productive nation in the world.

By introducing this resolution, I hope to recognize the gains we have already made in productivity with substantial input from organized labor. Lastly, we should continue to make people more aware of the need for growth in productivity and to encourage the development of more efficient means of production.

□ 1500

Mr. Speaker, that was the statement by the gentleman from Georgia, Mr. JOHN LEWIS.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I concur with the comments of the gentleman from Georgia [Mr. LEWIS], the prime sponsor, as eloquently stated through the gentleman from California [Mr. DYMALLY].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 223

Whereas the economic stability and growth of this Nation relies largely on the collective industry and endeavor of its working citizens;

Whereas the time-honored tradition of American leadership in work-related ingenuity and know-how has brought about great strides in productivity;

Whereas growth in productivity in turn improves the standard of living for United States citizens;

Whereas public awareness of the economic importance of productivity will promote individual and collective ideas and innovations for productivity improvement; and

Whereas a conscientious effort to improve productivity will foster a better standard of living for all citizens and reduce the level of inflation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of providing for a better understanding of the need for productivity growth and of encouraging the development of methods to improve individual and collective productivity in the public and private sectors, the period commencing on April 10, 1988, and ending on April 16, 1988, is designated as "National Productivity Improvement Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DENNIS CHAVEZ DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 206) to designate April 8, 1988, as "Dennis Chavez Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Under my reservation, Mr. Speaker, I yield to the gentleman from New Mexico [Mr. RICHARDSON], who is the chief sponsor of the House counterpart to this Senate joint resolution.

Mr. RICHARDSON. Mr. Speaker, in honor of the centenary of the late Senator Dennis Chavez of New Mexico, I introduced House Joint Resolution 359, designating April 8, 1988, as "Senator Dennis Chavez Day." Dennis Chavez was a courageous leader who deserves to be recognized as one of the great individualists in our history.

Senator Dennis Chavez was the first U.S.-born Hispanic elected to the U.S. Senate, where he represented New Mexico for 27 years after serving two terms in the House of Representatives. In his role as Senator he served as a policy maker on the Defense Appropriations Subcommittee dedicated to the formulation of military policy and preservation of the national defense.

As chairman of the Committee on Public Works, he played an important role in the funding and building of public works projects including the Los Alamos National Laboratories. He served not only as a leader and policy maker on behalf of the people of New Mexico, but as a great inspiration to the underprivileged and underrepresented across the Nation.

Born in 1888 in a small, poor New Mexico town, Dennis Chavez was elected to the U.S Senate in 1936, even though he had dropped out of school at the age of 11 to help support his family. He never forgot his humble beginnings and as a Senator he worked tirelessly to champion issues which benefited minorities and the poor. Dennis Chavez was a pioneer whose life is a shining example of the opportunity America offers to those who are willing to work to beat the odds. I urge my colleagues to join me in honoring this great Hispanic American.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 206

Whereas the Honorable Dennis Chavez was the first native-born Hispanic elected to the United States Senate;

Whereas Dennis Chavez served the State of New Mexico and his country in a most distinguished manner, serving as a United States Representative for four years and as a United States Senator for twenty-seven years until his death in office;

Whereas Dennis Chavez was the highest ranking Hispanic in the Federal Government for over thirty years;

Whereas Dennis Chavez was too poor to attend high school, but later passed a special entrance exam to attend Georgetown Law School;

Whereas Dennis Chavez provided a source of pride and inspiration to the underprivileged;

Whereas Dennis Chavez served as a spokesman for the poor and oppressed;

Whereas Dennis Chavez exemplifies the true public servant;

Whereas Dennis Chavez provided an everlasting symbol of opportunity found only in America; and

Whereas 1988 marks the centenary of the birth of Dennis Chavez: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 8, 1988 is designated as "Dennis Chavez Day", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *March 28, 1988.*

Hon. JIM WRIGHT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena issued by the Superior Court of the District of Columbia. After consultation with my General Counsel, I will notify you of my determinations as required by the House Rule.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

PROVIDING FOR CONSIDERATION OF H.R. 3933, NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION AMENDMENTS OF 1988

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 416 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 416

Resolved, That at anytime after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3933) to amend and extend the authorization for the National Historical Publications and Records Commission, and for other purposes, and the first reading on fthe bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 416 is an open rule providing for the consideration of H.R. 3933, the National Historical Publications and Records Commission Amendments of 1988. The rule provides for 1 hour of debate to be equally divided and controlled between the chairman and ranking minority member of the Committee on Government Operations and makes in order an amendment in the nature of a substitute which is recommended by the Committee on Government Operations and now printed in the bill. The substitute shall be considered for amendment under the 5-minute rule and each section shall be considered as having been read.

Finally, Mr. Speaker, the rule provides for one motion to recommit, with or without instructions.

In 1934, Congress established the National Historical Publications and Records Commission to promote the collection and publication of "the papers of outstanding citizens of the United States, and other documents as may be important for an understanding and appreciation of the history of the United States." In 1964, the Commission's authority was expanded to approving grants for Federal, State, and local agencies and nonprofit organizations and institutions for collecting, describing, preserving, and publishing significant documentary sources.

H.R. 3933 reauthorizes the National Historical Publications and Records Commission for 5 years. A total of $34 million is authorized for the Commission for fiscal years 1989 to 1993.

Mr. Speaker, H.R. 3933 is important legislation and I urge that we adopt the resolution so that we may proceed to consideration of this measure.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, this is an open rule and I ask for its adoption.

H.R. 3933 authorizes $36 million for the National Historical Publications and Records Commission through fiscal year 1993 and makes several changes in its operation.

Members should be aware the administration opposes the bill because of objections over the Commission's grant program. The administration views this program as not essential, especially in light of the Federal budget deficit.

Under this open rule, amendments may be offered, debated, and voted on any part of the bill, so I ask for a "yes" vote on the rule.

Mr. Speaker, I have no requests for time and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, for over 50 years this Commission has operated meritoriously and without controversy. The amount of money involved is a small amount compared to the tremendous job that the Commission does.

Mr. Speaker, I have no requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 3932, PRESIDENTIAL TRANSITIONS EFFECTIVENESS ACT

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 415 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 415

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3932) to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Government Operations, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, I yield the customary 30 minutes to the distinguished gentleman from Tennessee [Mr. QUILLEN] for the purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 415 is an open rule providing for the consideration of H.R. 3932, the Presidential Transitions Effectiveness Act.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations.

The rule further makes in order the Government Operations Committee amendment in the nature of a substitute now printed in the bill as the original text for the purpose of amendment under the 5-minute rule. Each section of the substitute shall be considered as having been read.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 3932 authorizes appropriations under the Presidential Transition Act of 1963 to fund the transition activities of the incoming and outgoing Presidents and Vice Presidents after the 1988 Presidential election and thereafter. In addition, the bill requires the disclosure of certain information relating to the use of private funding for transition purposes.

Mr. Speaker, I am not aware of any objections to this open rule. I would urge my colleagues to adopt the rule so that the House can move on to the consideration of the bill.

□ 1515

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an open rule. I urge its adoption.

The bill authorizes $3.5 million for the transition expenses of the next President and Vice President. This is an increase of $1.5 million over current law. The bill does not change the current authorization for the outgoing President and Vice President which remains at $1 million. The authorizations would rise with the rate of inflation for the transitions beyond the upcoming one.

H.R. 3932 also sets a number of disclosure requirements for any private money used for transition purposes as well as some new auditing information procedures.

Let us adopt this rule and proceed with the bill.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

INTRODUCTION OF GOVERNMENT ETHICS ENFORCEMENT ACT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, today I am releasing an updated "Index to Clippings of Alleged Ethics Violations by Reagan Administration Appointees," sometimes referred to as the ethics dishonor roll or the sleaze list. The list now contains the names of 242 Reagan administration officials who have come under a cloud for alleged criminal wrongdoing or unethical behavior.

For a President who trumpets pride in America, it should strike a real sour chord.

The list proves that stronger ethics enforcement laws are needed, so today I am introducing the Government Ethics Enforcement Act. The bill will transform the existing Office of Government Ethics, which is basically an ombudsman lacking enforcement power into a strong, independent law enforcement agency. The new Office would have power to investigate allegations and punish those who violate ethics laws. It would also advise employees on what is permissable.

Without a real ethics enforcement office, we are forced to watch as the Attorney General wallows in this ethical troubles while his staff jumps ship because they cannot stomach being associated with him.

We must act to reassure the American people that ethics are being enforced in Washington. The bill I am introducing today would accomplish that.

I ask that a copy of a summary of the bill be printed:

SUMMARY OF GOVERNMENT ETHICS ENFORCEMENT ACT

Section 1 is the title: "Government Ethics Enforcement Act".

Section 2 adds a new chapter 14 to title 5, United States Code:

Section 1401 establishes the Office of Government Ethics as an independent agency.

Section 1402 provides for the appointment of the Director for a five year term. When a vacancy occurs in the office of Director, the President must appoint a 5 member, bipartisan panel of distinguished individuals which recommend 3 individuals who are especially qualified to be Director. The President may ask for additional recommendations but must appoint an individual recommended by the panel. The Director will be paid at Executive Level II.

Section 1403 sets out the responsibilities and duties of the Director. In addition to the powers which the Director has under current law, the Director is made responsible for reviewing the accuracy of financial disclosure statements, for investigating alleged violations of ethics laws, and for bringing disciplinary actions against Executive Branch officials who are found to violate ethics laws. The Director is given subpena authority, power to demand information from agencies, and independent litigation authority.

Section 1404 requires the Director and the Attorney General to jointly establish a formal advisory opinion system under which employees can seek binding opinions concerning contemplated conduct.

Section 1405 provides for Office of Government Ethics investigations. The Director may launch an investigation with or without a complaint. If the Director finds reasonable cause to believe that there has been a violation of law, the Director may, if the violation is minor, afford the employee with an opportunity to take corrective action. If the employee fails to do so, if the violation is serious, the Director may seek disciplinary action.

Section 1406 provides due process procedures for disciplinary actions before the Merit Systems Protection Board. Discipline may include removal, suspension, forfeiture of illegal gains, civil penalty, or debarment from federal employment for a period of time. In the case of a Presidential appointee, the Board recommends disciplinary action to the President.

Sections 1407 and 1408 provide for information transmittal and an annual report.

Section 3 makes the act effective on October 1, 1988.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION AMENDMENTS OF 1988

The SPEAKER pro tempore. Pursuant to House Resolution 416 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3933.

□ 1520

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3933) to amend and extend the authorization for the National Historical Publications and Records Commission, and for other purposes, with Mrs. SCHROEDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 30 minutes and the gentleman from California [Mr. McCANDLESS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, H.R. 3933, the National Historical Publications and Records Commission Amendments of 1988 was reported last week by the Committee on Government Operations without objection. The bill is a 5-year reauthorization for the National Historical Publications and Records Commission, commonly referred to as the NHPRC.

Madam Chairman, the NHPRC was established in 1934 to promote the collection and publication of the papers of outstanding citizens of the United States and other documents of importance to the history of the United States. The NHPRC also undertakes projects relating to the collection and preservation of papers of historical significance.

Since 1951, the NHPRC has supported more than 250 documentary publications projects covering U.S. history from colonial period to the 20th century. A wide range of subjects has been covered including agriculture, art, architecture, Afro-American history, military history, labor, commerce, education, environment, women's history, and law. NHPRC projects have produced over 500 printed volumes and 8,000 rolls of microfilm.

Recent projects completed for the 200th anniversary of the Constitution have included "The Documentary History of the Ratification of the Constitution" and "The Documentary History of the First Federal Elections." Other current projects are publishing the papers of James Madison and the papers of Woodrow Wilson.

H.R. 3933 reauthorizes the NHPRC for 5 years. For fiscal years 1989 and 1990, the authorization level is $5 million. This is the current authorization level. For fiscal 1991 and 1992, the authorization is $8 million, $10 million for fiscal 1993. All of the amounts authorized are less than would be necessary to keep pace with inflation.

H.R. 3933 was approved by the Committee on Government Operations with an amendment in the nature of a substitute. The committee substitute makes a number of minor changes in the law. The most important is a change in the membership of the Commission. Currently, each of four historical and archival groups makes two appointments to the Commission. The bill eliminates the dual appointments and gives two new groups the authority to name members.

The new groups are the Association for Documentary Editing and the National Association of Government Archives and Records Administrators. Both of the organizations have extensive experience and expertise in the historical work supported by the NHPRC. The changes in membership will broaden the base of the Commission, increase its efficiency, and reduce operating expenses.

Madam Chairman, the NHPRC is a small organization, but its work is vital to the preservation of our historical heritage. The bill passed the Committee on Government Operations without dissent. I urge my colleagues to support H.R. 3933.

Mr. McCANDLESS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the gentleman from Oklahoma has spoken on the "nuts and bolts" of H.R. 3933. I'd like to build upon that and talk about what the National Historical Publications and Records Commission does. And where the money goes.

As the Government Information, Justice and Agriculture Subcommittee considered this legislation, I learned of the fragile condition of important historical records all across the country. The Commission's role is that of a catalyst. Its records grants act as seed money to State and local governments.

Why is this recordkeeping important? It's important because we are talking about scientific research records that otherwise might disintegrate and be lost forever. We are talking about county records that document the chain of title in people's homes. The list is endless. In many places, these records are not being properly preserved. In one California county, for example, all sorts of county records were being stored in a jail. With a Commission grant, the county went through these records figured out what to keep and what to throw away. From there, the county, at its own expense, provided suitable storage and budgeted for proper recordkeeping.

One of the most vivid stories about the Commission's work involved the Bronx Zoo. The zoo had these invaluable animal husbandry records dating back to the 19th century and the beginning of the zoo. It had records of animal expeditions to foreign jungles that took place during the early 1900's. The zoo had a very special storage place for these irreplaceable records: the basement of the monkey house.

The zoo asked for the Commission's help and got it. With a Commission grant, the zoo secured an archivist to begin processing all of these records. When the grant money was gone, the zoo—along with the Botanical Gardens across the street—started to budget for appropriate recordkeeping.

And that brings me to another point. As a fiscal conservative, I am glad to see that in most cases, the Commission requires a grant recipient to provide some sort of matching commitment. This matching takes the form of money or an agreement to do certain things in return for the grant.

In addition to this matching requirement, the Commission does not create fiscal money addicts. Only in the most unusual circumstances will a recipient receive more than one grant. Fortunately, this original grant is usually enough to spur that local jurisdiction into budgeting its own funds for adequate recordkeeping.

Madam Chairman, H.R. 3933 has moved through both subcommittee and committee unanimously. The Commission provides a valuable service to the Nation, and I recommend its passage.

I also want to take this opportunity to express my appreciation to Chairman BROOKS, Subcommittee Chairman ENGLISH, and to the committee's ranking Republican, FRANK HORTON. The grant program originated with Chairman BROOKS. And with the success that the Commission has had for over 20 years, it's clear that it has withstood the test of time.

Mr. BROOKS. Madam Chairman, I want to extend my particular gratitude to Congressman McCANDLESS for his help in this legislation.

Madam Chairman, H.R. 3933 provides authorizations for the National Historical Publications and Records Commission and makes some minor changes in the statute that established the NHPRC. The authorizations are set at $5 million for fiscal years 1989 and 1990; $8 million for 1991 and 1992; and $10 million for 1993.

The NHPRC was created at the time the National Archives was established in 1934. It has the important mandate to preserve our Nation's documentary heritage by supporting Government and private bodies in collecting and publishing works of historical importance. The NHPRC has supported record preservation and publication projects at institutions across the Nation. Its work is vital not only to us, but to future generations.

In addition to reauthorizing NHPRC, H.R. 3933 makes a number of changes to the Commission's structure.

Membership on the Commission would be reduced from 17 to 15. This would be done by eliminating some duplicate appointments from some groups and giving two additional groups the authority to make appointments.

The members' terms would be staggered.

The staff of the NHPRC would be appointed by its Chairman, who is the Archivist of the United States.

Several other provisions of H.R. 3933 clarify the NHPRC's authority.

The NHPRC would be authorized to conduct institutes, training and education programs, and sponsor fellowships related to its activities.

It also would be authorized to make grants for Commission activities to States and local agencies, nonprofit entities; and individuals.

I urge an affirmative vote on H.R. 3933.

Mrs. BOGGS. Madam Chairman, I have the honor to serve as the House Member on the National Historical Publications and Records Commission [NHPRC]. The NHPRC administers projects to publish the documentary record of the 200-year development of our Nation. The Commission also supports the basic preservation of important records in all 50 States that otherwise might be lost due to neglect or deterioration.

Among the publications supported by the NHPRC are a four-volume documentary history of the first Federal elections. As you are aware Mr. Speaker, 1988 marks the bicentennial of the first Federal elections held under the provisions of our Constitution. Following on from the elections another important series supported by the NHPRC is the Documentary History of the First Federal Congress. Next year when we celebrate the bicentennial of Congress much of what we will know of the activities of the First Congress will come from the diligent scholarship and painstaking search for documents that has been the hallmark of the First Federal Congress project. The NHPRC also supports the publication of the papers of our Founding Fathers, several other Presidents of the United States, and other leading statesmen including Alexander Hamilton and Benjamin Franklin. The projects include not only book publications, but microfilm series as well.

During our 5-year celebration of the creation of the Constitution and the establishment of all three branches of the Federal Government under the Constitution, it is very important to encourage the work of the NHPRC.

We cannot tell the remarkable story of this Nation's history unless we preserve its records and make them available to its citizens. We have a solemn obligation to preserve our documentary heritage, because the story of this Nation's growth and development will be worth telling for many generations to come.

Madam Chairman, 178 years ago the House of Representatives established a committee to look into the state of the public records of the United States. Even though the country was still in its infancy, the committee reported the papers of Government to be "in a state of great disorder. * * *" They said the papers were "neither safe nor convenient, nor honorable to the Nation." We have made improvements since then, but the care of the memory of our Nation demands constant attention. Much work still needs to be done to insure that our history will not be lost. The NHPRC plays an important role in this fundamental responsibility of government and it deserves the hearty support of this House.

I urge my colleagues to support passage of H.R. 3933.

Mr. McCANDLESS. In view of the fact that I have no requests for additional time, Madam Chairman, I yield back the balance of my time.

Mr. ENGLISH. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill is considered as an original bill for the purpose of amendment and each section is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Historical Publications and Records Commission Amendments of 1988."

The CHAIRMAN. Are there any amendments to section 1?

If not the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. MEMBERSHIPS AND TERMS OF MEMBERS OF COMMISSION.

(a) AMENDMENT.—Section 2501 of title 44, United States Code, is amended to read as follows:

"§ 2501. Creation; composition; appointment and tenure; meetings

"(a) The National Historical Publications and Records Commission shall consist of fifteen members as follows:

"(1) the following ex officio members:

"(A) the Archivist of the United States, who shall be chairman;

"(B) the Librarian of Congress (or an alternate designated by the Librarian);

"(C) one Senator, appointed by the President of the Senate;

"(D) one Representative, appointed by the Speaker of the House of Representatives;

"(E) one member of the judicial branch of the Government, appointed by the Chief Justice of the United States;

"(F) one representative of the Department of State appointed by the Secretary of State; and

"(G) one representative of the Department of Defense appointed by the Secretary of Defense;

"(2) one member from each of the following organizations, appointed by the governing council or board of the respective organization:

"(A) the American Historical Association;

"(B) the Organization of American Historians;

"(C) the Society of American Archivists;

"(D) the American Association for State and Local History;

"(E) the Association for Documentary Editing; and

"(F) the National Association for Government Archives and Records Administrators; and

"(3) two other members, outstanding in the fields of the social or physical sciences, the arts, or archival or library science, appointed by the President of the United States.

"(b)(1) The members appointed under subsection (a) shall be appointed for terms of four years, except that—

"(A) a member appointed under subsection (a)(1)(D) shall be appointed for a term of two years; and

"(B) the Archivist and the Librarian of Congress are permanent ex officio members.

"(2) a member may continue to serve after the expiration of a term until a successor has been appointed, but not to exceed one year.

"(c) The Commission shall meet at least annually and at call of the Chairman.".

(b) EFFECTIVE DATE AND IMPLEMENTATION OF STAGGERING OF TERMS—The amendment made by this section shall be effective on January 1, 1989, and shall apply to the appointment of any member on the expiration of a predecessor's term as follows:

(1) The next two members appointed to such Commission after such date shall be appointed pursuant to section 2501(a)(2) (E) and (F) of title 44, United States Code, as amended by this section.

(2) Notwithstanding section 2501(b)(1), the first members appointed pursuant to sections 2501(a)(2) (B) and (C) after January 1, 1991, shall be appointed for terms of one year.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. EXECUTIVE DIRECTOR; STAFF; TRANSPORTATION EXPENSES.

Section 2503 of title 44, United States Code, is amended to read as follows:

"§ 2503. Executive director; staff; transportation expenses

"(a) The Commission may appoint, without reference to chapter 51 of title 5, an executive director. The Chairman may appoint such other employees as may be necessary to carry out the purposes of this chapter.

"(b) Members of the Commission shall be allowed travel expenses (including per diem allowance in lieu of subsistence) in the same amount and to the same extent as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.".

The CHAIRMAN. Are there any amendments to section 3?

If not, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. DUTIES AND FUNCTIONS.

Section 2504 of title 44, United States Code, is amended to read as follows:

§ 2504. Duties; authorization of grants for historical publications and records programs; authorization for appropriations

"(a) The Commission shall make plans, estimates and recommendations for historical works and collections of sources it considers appropriate for preserving, publishing or otherwise recording at the public expense. The Chairman of the Commission shall transmit to the President and the Congress from time to time, and at least biennially, the plans, estimates, and recommendations developed and approved by the Commission.

"(b) The Commission shall cooperate with and assist and encourage appropriate Federal, State, and local agencies and nongovernmental institutions, societies, and individuals in collecting and preserving and, when the Commission considers it desirable, in editing and publishing papers of outstanding citizens of the United States, and other documents as may be important for an understanding and appreciation of the history of the United States.

"(c) The Commission may conduct institutes, training and educational programs, and sponsors fellowships related to the activities of the Commission may disseminate information about documentary sources through guides, directories, and other technical publications.

"(d) The Commission may recommend the expenditure of appropriated or donated funds for the collecting, describing, preserving, compiling and publishing (including microfilming and other forms of reproduction) of documentary sources significant to the history of the United States and for the activities described in subsection (c).

"(e) The Archivist of the United States may, within the limits of available appropriated and donated funds, make grants to State and local agencies, to nonprofit organizations and institutions, and to individuals for those activities in subsection (d), after considering the advice and recommendations of the Commission.

"(f)(1) For the purposes specified in this section, there is hereby authorized to be appropriated to the National Historical Publications and Records Commission—

"(A) $5,000,000 for each of the fiscal years 1989 and 1990;

"(B) $8,000,000 for each of the fiscal years 1991 and 1992; and

"(C) $10,000,000 for the fiscal year 1993.

"(2) Amounts appropriated under this subsection shall be available until expended when so provided in appropriation Acts.".

The CHAIRMAN. Are there any amendment to section 4?

If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. CONFORMING AMENDMENT.

The table of contents for chapter 25 of title 44, United States Code, is amended to read as follows:

"CHAPTER 25—NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

"Sec.
"2501. Creation; composition; appointment and tenure; meetings.
"2502. Vacancies.
"2503. Executive director; staff; transportation expenses.
"2504. Duties; authorization of grants for historical publications and records programs; authorization for appropriations.
"2505. Special advisory committees; membership; reimbursement.
"2506. Records to be kept by grantees.".

The CHAIRMAN. Are there any amendments to section 5?

If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3933) to amend and extend the authorization for the National Historical Publications and Records Commission, and for other purposes, pursuant to House Resolution 416, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ENGLISH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 370, nays 42, not voting 19, as follows:

[Roll No. 47]

YEAS—370

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Henry
Hertel
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Mack
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)

Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—42

Armey
Badham
Bartlett
Barton
Bilirakis
Brown (CO)
Bunning
Burton
Cheney
Coats
Crane
Davis (IL)
DeLay
DeWine
Dornan (CA)
Dreier
Frenzel
Gallegly
Gregg
Hansen
Herger
Hiler
Holloway
Hunter
Lewis (FL)
Lungren
Marlenee
Moorhead
Nielson
Porter
Ridge
Schaefer
Sensenbrenner
Shumway
Shuster
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stangeland
Stump
Tauke

NOT VOTING—19

Biaggi
Boulter
Dannemeyer
Daub
Emerson
Hefner
Kemp
Lewis (CA)
McHugh
Mica
Mollohan
Murphy
Obey
Packard
Price (IL)
Ray
Rose
Savage
Stark

□ 1550

The Clerk announced the following pair:

On this vote:

Mr. Price of Illinois for, with Mr. Daub against.

Messrs. PORTER, FRENZEL, DeLAY, and HILER changed their votes from "yea" to "nay."

Mr. FRANK and Mrs. VUCANOVICH changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on H.R. 3933, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF A NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 262

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 262.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no ojection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL NOON, FRIDAY, APRIL 8, 1988, TO FILE SUNDRY INVESTIGATIVE REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until noon, Friday, April 8, 1988, to file sundry investigative reports. This request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 390

Mr. BATEMAN. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of House Joint Resolution 390.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

AUTHORITY TO REHIRE CERTAIN AIR TRAFFIC CONTROLLERS

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, the unfinished business is the question of the passage of the bill, H.R. 3396, on which further proceedings were postponed on Tuesday, March 29, 1988.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 234, nay 180, not voting 17, as follows:

[Roll No. 48]

YEAS—234

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Beilenson
Bentley
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Carper
Chandler
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Courter
Coyne
Crockett
Davis (IL)
Davis (MI)
DeFazio
Dellums
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Guarini
Gunderson
Hall (OH)
Hamilton
Hastert
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Hopkins
Horton
Hoyer
Hubbard
Hughes
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Lehman (CA)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McGrath
McMillen (MD)
Mfume
Michel
Miller (CA)
Moakley
Molinari
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pashayan
Pease
Pelosi
Penny
Pepper
Perkins
Pickle
Price (NC)
Pursell
Rahall
Rangel
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rostenkowski
Roukema
Rowland (CT)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
St Germain
Staggers
Stallings
Stokes
Stratton
Studds
Swift
Synar
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Walgren
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Yates
Yatron

NAYS—180

Andrews
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bereuter
Bilirakis
Bliley
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Cardin
Carr
Chapman
Chappell
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Craig
Crane
Darden
Daub

de la Garza
DeLay
Derrick
DeWine
Dickinson
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gibbons
Gingrich
Glickman
Goodling
Gradison
Grandy
Grant
Green
Gregg
Hall (TX)
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Jones (NC)
Jones (TN)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leach (IA)
Leath (TX)
Lehman (FL)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lungren
Mack
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McCurdy
McEwen
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Mineta
Montgomery
Moorhead
Morrison (WA)
Myers
Nelson
Nichols
Nielson
Olin
Oxley
Parris
Patterson
Petri
Pickett
Porter
Quillen
Ravenel
Regula
Rhodes
Roberts
Rogers
Roth
Rowland (GA)
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Spratt
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—17

Biaggi
Boulter
Dannemeyer
Emerson
Hefner
Kemp
Lewis (CA)
McHugh
Mica
Mollohan
Murphy
Obey
Packard
Price (IL)
Ray
Rose
Stark

□ 1610

The Clerk announced the following pairs:

On this vote:

Mr. Mollohan for, with Mr. Emerson against.

Mr. Obey for, with Mr. Boulter against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

STATEMENT IN SUPPORT OF H.R. 3396

Mr. MOODY. Mr. Chairman, I rise today in favor of H.R. 3396 which will authorize the rehiring of former air-traffic controllers.

Every week we hear of another airline mishap or near mishap. We in Congress have a duty to the public to provide the safest an air traffic system possible. We cannot afford to look at this legislation simply in terms of a labor dispute. We must look at it in terms of out Nation's air safety. Today, by passing this bill and allowing the rehiring of former air traffic controllers, we can take a major step toward enhancing our air traffic safety system.

Since airline deregulation, the number of flights each day has increased dramatically. In contrast, the number of air traffic controllers has declined since 1981, when President Reagan fired the PATCO strikers. As a result, we now have a significant reduction in the quality of our air traffic safety system.

But the ramifications go beyond safety. We have all experienced flight delays which are now almost expected. In addition to the aggravation they cause, those delays cost the U.S. business community more than $1.5 billion annually in lost productivity.

President Reagan has issued a directive allowing air traffic controllers to work for any Federal agency other than the Federal Aviation Administration. This makes no sense. The General Accounting Office estimates that it takes up to 3 years to become a full performance level controller. On the other hand, former controllers can be recertified in less than 6 months. It makes far more sense to rehire former air traffic controllers who can become top level controllers in 6 months rather than waiting 3 years to train new ones.

Our air traffic control system is now being pushed to the limits. In the past, the most significant steps to enhance safety have come only after major air disasters. Let's not wait until the next disaster to take the steps necessary to upgrade our air safety system. Let's put the former air traffic controllers back on the job for which they were trained.

PERSONAL EXPLANATION

Mr. PACKARD. Mr. Speaker, because I was detained across town testifying on a space committee, I missed the last two rollcall votes, rollcall No. 47 on the National Historical Publications Records, on which I would have voted "yes"; and on rollcall No. 48 which deals with the rehiring of the traffic controllers I would have voted "no" had I been here.

PERSONAL EXPLANATION

Mr. HOPKINS. Mr. Speaker, on rollcall No. 48, the recorded vote on H.R. 3396 today, I inadvertently voted aye and I intended to vote "no."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1115

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1115.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

PROVIDING ASSISTANCE AND SUPPORT FOR PEACE, DEMOCRACY, AND RECONCILIATION IN CENTRAL AMERICA

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 417 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 417

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House a joint resolution relating to Central America, if offered by Representative Foley of Washington, or his designee. Debate on the joint resolution shall continue not to exceed one hour, equally divided and controlled by the majority and minority leaders. The previous questions shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to commit, with or without instruction, only if offered by Representative Michel of Illinois or his designee.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN] and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 417 provides for the consideration of a House joint resolution relating to Central America. The joint resolution shall be considered in the House if offered by the gentleman from Washington [Mr. FOLEY] or his designee. Therefore, there will be 1 hour of debate, and it will be equally divided and controlled by the minority leader and the majority leader.

The joint resolution may not, and I repeat, may not be amended.

The rule also allows for one motion to recommit with or without instructions only if the motion is offered by the gentleman from Illinois [Mr. MICHEL] or his designee.

Mr. Speaker, this joint resolution is a product of many hours of bipartisan effort, and the rule has been agreed to both by the leadership on this side of the aisle and by the Republican leadership, and I strongly urge its adoption.

Mr. Speaker, I would like to ask your indulgence for a few minutes to talk about the agreement itself since we have such a limited amount of time to debate this issue when we go into the full House.

Last week in Sapoa, Nicaragua, the Nicaraguan Government and the Contras signed a historic agreement to end the long and the bitter war, and to begin the peace process to begin reconciliation and democratization. The bill that we bring to the floor today is designed, and I want to emphasize and repeat this, the bill that we will have before us is designed to support the Sapoa accord and to encourage both parties to continue talks toward a permanent cease-fire and democracy.

□ 1615

The leadership on both sides of the aisle has worked together to provide a package that is fully consistent, fully consistent with the agreement that was reached in Sapoa last Thursday.

The bill provides $17.7 million in assistance to the Contras over a 6-month period. This assistance is strictly limited to food, clothing, shelter, medical services, and medical supplies. Communications equipment will be permitted only to the extent that it is compatible with the Sapoa agreement.

This assistance will be channeled through the Agency for International Development to a neutral organization in a manner consistent with the Sapoa agreement.

Let me read the provision in the agreement so Members will understand we are tracking the agreement that was signed last Thursday in Nicaragua. One of the accords in the agreement says "to guarantee food and basic supplies for the irregular forces. Exclusively humanitarian aid will be solicited and received in accordance with No. 5 of the Esquipulas II accords, and it will be channeled through a neutral organization or organizations." That is part of the agreement that was reached between the Nicaraguan Government and the Contra forces.

The legislation that we have clearly states that it is not the intention that any provision of this legislation go forward if the verification commission finds that it is incompatible with that agreement.

Approximately $2 million will be earmarked for the Miskito Indians. The amount provided for children who have been victims of this war is equal to the amount that we provide the democratic resistance, $17.7 million. These funds will be used for prosthetic devices, immunization, other health care needs that are so badly needed in this war-torn region.

We consider this an important and an integral part in the reconciliation process and the peace process and the effort to move forward toward a more permanent cease-fire and a lasting peace.

Purchase and delivery of any assistance other than that which is specifically authorized by this legislation is strictly prohibited. Since this package is designed to support the peace process and further the accords that were reached last Thursday between the Nicaraguan Government and the Contras, we have appropriated and authorized $10 million for the verification commission. The commission is headed by Cardinal Obando y Bravo and the Secretary General of the OAS, and they will use this money to fulfill the responsibilities of monitoring the talks and assistance under the agreement. They would also be using these funds to verify in the next phase of the agreement the release of approximately 1,500 political prisoners, and, of course, they will use funds that we will appropriate in this bill to monitor, to watch, the Contra forces as they gather in anywhere between 5 and 7 enclaves within Nicaragua itself.

Mr. Speaker, for over 6 years the administration has sought a military solution to the Nicaraguan conflict. It is now time to spend at least 6 months in supporting this peace process.

I and a vast majority of my colleagues on this side of the aisle supported by the majority of the people in this country have opposed this war, but because of the agreement reached last week and the peace agreement signed by the five Presidents last August, we have a way out of the gridlock on this issue.

Costa Rican President Oscar Arias has shown us that the cycle of violence that threatens to engulf Central America can be ended, indeed, can be ended through diplomacy. We can find a way out of war step by step, week by week, month by month, and we can watch the peace process unfold.

We have watched an incredible amount of dramatic progress in the last 7 or 8 months starting with the recognition of the cardinal playing an important role in the reconciliation process of this country, expanding to allow freedom of the press, the printing of La Presna without censorship, the broadcast of radio stations, allowing political parties to gather and to put forward their programs to the people of Nicaragua, allowing a reconciliation commission to be headed by one of the arch-foes of the Government, the cardinal, allowing the state of emergency to be lifted, recognizing the Contras as an entity, a major concession, sitting down face to face with them, and then finally agreeing to bring them to Nicaragua for discussions at the highest level.

When my colleagues think about it, that has been an incredible amount of progress in 7 to 8 months. In addition, last week, we saw the culmination of that when both parties agreed to a 60-day truce, when both parties agreed to allow us to come together and meet today at this hour to put forward a package that will allow the peace process to continue.

Now that the Contras and the Government have reached a cease-fire, it is critically important that we show united bipartisan support for that agreement. If the Contras and the Nicaraguan Government and the Nicaraguan people can come together, there is no reason why Members of this body cannot come together today and agree upon a package.

This demonstration of support will ensure that the peace talks will continue and that our final goal is reached.

Let us hope and let us lend a hand in support of democracy and of peace in Nicaragua by passing this package today.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Michigan [Mr. BONIOR] consumed 10 minutes.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House must pass this nonmilitary aid bill for the Contras by an overwhelming vote today. The Contras have now entered into perilous negotiations with the Communist Government of Nicaragua for the future of their country. They need a strong demonstration of American support to sustain them in their heroic and patriotic struggle for a free and democratic Nicaragua.

There is no need at this time for prolonged debate. Everyone knows the history. I am a supporter of the Contra army and I am proud of it. I would vote today for military aid. We must throw the Communists out of Nicaragua and Central America. I believe we have made a historic mistake with our votes earlier this year.

Despite this, we have an important role to perform in regard to the future of Nicaragua and all of Central America. We must not walk away from our own interests and responsibilities to the people of Nicaragua and to people of other countries of Central America.

Everyone knows that the Soviet Union and their allies and clients continue to provide a huge amount of money and military aid to the Communist Government of Nicaragua. Their goal is a Soviet colony in Central America from which to spread their hateful system of human enslavement.

America has never provided a large amount of money or weapons to the Contra army, and we have now halted all military aid as well. A military cease-fire is now in effect throughout Nicaragua. At this time we must at the least provide these brave soldiers and their families with humanitarian aid so they can go to the negotiating table with some show of American support. Passing this aid package by a large bipartisan majority is the least we can do, and we must at least do this.

Let us do this much to back the Contras as they attempt to negotiate the future of their country with the Communists. I pray that a free and democratic Nicaragua may still be possible and that the complete betrayal of the anti-Somoza revolution will not occur. The Contras are fighting for freedom and democracy in Nicaragua, and they need all the help we can give. They deserve at least this much help from us now. Let us give it to them.

Mr. Speaker, I ask for a "yes" vote on the rule and a big bipartisan "yes" on the aid package.

Mr. Speaker, I yield 8 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, some of us are concerned about this rule, because it is a closed rule and does not allow us to address some concerns that we have about the resolution itself.

The resolution that I have read over refers consistently to the Sapoa agreement and our desire to be consistent with that agreement. This gentleman has no problem with that except that there is absolutely nothing in the Sapoa agreement that I have read which references the Soviet presence in Nicaragua, the Soviet advisers, the Soviet military aid, and the Soviet bases that are both existing there and under construction.

It seems to me as a part of the process that is ongoing here that we need to have some assurance that when the whole process is ended we have not established a permanent Soviet presence in Central America, that it is not in the security interests of this country to have the Soviets with another client state in Central America much as the Cuban client state now exists.

I am concerned that neither the Sapoa agreement nor the language of the bill that we have before us today in any way references that problem. However, in reading through the bill, I did find a couple of lines that I wonder if maybe when the negotiations took place over this there were some things in mind, and I know the gentleman from Illinois [Mr. MICHEL] was a part of the negotiations that led to this language. Let me quote a couple of things to the gentleman and ask the gentleman whether or not if it is at least his interpretation of this agreement that this would reference the Soviet presence.

For example, it says in the general policy statement that it is the policy of the United States to advance peace and democracy in Central America and to preserve and protect security interests in the region.

Would it be that the gentleman's interpretation of that protecting security interests in the region would mean an end to the Soviet presence in Nicaragua ultimately as a part of this process?

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, of course, the gentleman well knows that the gentleman from Illinois' longstanding position is on that, frankly, the Soviet Union has no business in this hemisphere, as the gentleman knows, from Cuba all through Central America and more particularly here now in Nicaragua, because there are hundreds of millions of dollars from the Soviet Union Communist-bloc countries that are coming into the area.

My personal view of that is that that presence ought not to be here.

The gentleman made reference to the long negotiations that took place to come to this bipartisan agreement. On the one hand I guess we found it rather difficult to frame the language acceptable in this resolution to be compatible with, or at least to be on the same status and standing with, what strong feelings the gentleman from Pennsylvania and I might have with respect to withdrawal of Russian troops. This is frankly not the resolution, I guess, to get that done. There are not the mechanics here for the kind of quid pro quo, because we cannot vote it that way.

I must say that if we had a free hand in what the administration in its negotiating posture has by way of some kind of tradeoff, it would be probably outside of what we are dealing with here directly in aid to the Contras.

□ 1630

What I am trying to express to the gentleman is the difficulty that we had in trying to equate the two appropriately. Frankly, the gentleman from Washington [Mr. FOLEY], the distinguished majority leader and I had a particular exchange with respect to the "well, certainly if we are going to make some kind of statement with respect to the danger of the Soviet Union having that kind of presence here it ought to be a pretty doggone strong kind of statement and message," and that frankly may be in a separate resolution of some kind, a consensus or a sense of the Congress feeling would be more appropriate.

I think we also were thinking in terms of what may or may not follow in the other body when, hopefully, this resolution is passed and we run into some kind of difference of opinion over in the other body, and we are limited here to time with the Easter recess approaching and all the rest.

Mr. WALKER. But given those talks, do I understand the gentleman to be saying that it would not be in the security interest of that region to have a continued Soviet presence?

Mr. MICHEL. Oh, absolutely not, absolutely not.

Mr. WALKER. That there is an agreement among the leadership of that particular kind of interpretation, is that right?

Mr. MICHEL. Yes.

Mr. WALKER. Now, when we look over and we say that the resolution, and I am paraphrasing here, but it says "this joint resolution will assist in bringing peace and democracy to Central America in a manner compatible with and consistent with the national security interests of the United States," it says.

That, too, seems to me to be language that would indicate the need to do something about the Soviet presence there ultimately as a part of this process because it certainly is not in the security interest of the United States to have a permanent Soviet base in Nicaragua.

Would that be the gentleman's interpretation?

Mr. MICHEL. That certainly is this gentleman's view. But the gentleman very well knows, of course, that we are parties to the Sapoa agreement and the Contras and the Sandinistas. Now I think the Contras, you, and I would be on the same wavelength with what we would press; that obviously would not be the position of the Sandinistas.

So here again we get into a situation where we cannot call the precise tune but to express it in these terms, my feeling is and has been all along that any kind of Soviet presence in that dimension down there is a threat to the security of the United States.

Mr. WALKER. Well, I thank the gentleman because, of course, what we do in this particular general policy statement, we do reference the Guatemala peace accords, the declaration of the Presidents, the Sapoa agreement and so on.

Then we go on and say that what we are doing here today is consistent with the national security interests of the United States. And I appreciate the gentleman from Illinois, who is a part of the negotiations, helping us understand the point, that the security interests of the United States are not certainly enhanced by a Soviet presence in Nicaragua and we need to understand this.

Mr. STANGELAND. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman makes a very good point and I am not at all certain that in this resolution we can write in the gentleman's concerns. But I think the one point he makes that ought to be a message to the Contras, that in their negotiations for the peace process that they ought to insist on an elimination of the Soviet interference or intervention in their internal affairs and I think the point ought to be made that in their negotiations they ought to hold fast to this.

With this legislative history that I think this Congress—I think the American people believe that if there is to be no American or United States intervention in the internal affairs of Nicaragua, then there ought not to be other outside forces intervening. I think the gentleman makes a great point.

I am not sure, I say to my good friends from Pennsylvania, that it can be written in. I think the leadership here has done a magnanimous job in writing a good resolution, but I think the history ought to show that in that negotiation process unless they eliminate that Soviet intervention, they have our backing for some future action.

I thank the gentleman for his point.

Mr. WALKER. I thank the gentleman. What this gentleman is attempting to do is not to rewrite the language. I think the language does stand. But I mean to indicate that the national security interests of the United States includes the need to move the Soviets out. The gentleman makes an excellent point. If we are moving toward humanitarian aid as our portion of what is going on in Nicaragua, it seems to me that it is antithetical for the process to have the Soviets continue supplying military aid into the process.

So therefore what we need to have is something which is in the security interests of the United States, some kind of assurance that the Soviet military aid is going to back out and that we are going to have the Soviet bases dismantled there and all of these activities and where the Soviets are contributing to the military pressure in that part of the world.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Speaker, I was talking to one of the leaders of the Contra organization, talking to him about the Soviet bases. He made the point that the Contra forces, the freedom fighters, have been dying not only for their cause of freedom but for American security interests. I think the feeling among the democratic resistance now is that the United States is not reliable, they believe, I think, many of their people have died in vain.

We are left with Soviet bases in our hemisphere; the naval base at Corinto on the Pacific side, a first for them; a naval base at El Bluff on the Atlantic side and the Soviet bomber base with Mig revetments already constructed at Punta Huete in Nicaragua. That is the legacy of the liberal policy of this Congress in Nicaragua.

Mr. WALKER. I thank the gentleman from California. I think he makes an excellent point. It is those bases that need to be dismantled, it is the Soviet advisers, the Eastern-bloc advisers, the Cuban advisers that need to be moved out; the Soviet military aid needs to end.

That is not something we can deal with in this resolution. I certainly hope we will support the rule, we will support this resolution and so on as a step toward getting done in Nicaragua what needs to be done. But we cannot lose sight of the fact that ultimately it is in this Nation's interest to make certain that the Soviet presence is removed from that country and I would hope that this is simply one step down that road.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would ge glad to yield to the gentleman from Illinois [Mr. MICHEL], our distinguished leader.

Mr. MICHEL. I thank the gentleman for yielding further.

Mr. Speaker, I compliment the gentleman for making the point because the real irony here is that with all the argument over the few million dollars in times past that we have attempted to get to the Contras, you know, it pales into insignificance when stacked up against the hundreds of millions of dollars in military assistance that is still going to the other side by the Soviet Union.

Mr. WALKER. The gentleman is absolutely right. It is not only hundreds of millions, it is billions.

Mr. Speaker, I thank the gentleman for yielding.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Speaker, this is the 65th time that we will be debating Contra aid and casting a vote. I say to the House here today if we debated jobs in the American workplace, our country would be much safer and better off and probably more free of communism. If we attack drugs with the same vigor we talk about Contra aid, we would be much safer.

Currently in Central America there is a truce. This cease-fire came about because basically we cut off aid last month. We severed the umbilical cord.

Now it is true the Contras want more money. Most critics say they do not really want war, they want the money; they are not after freedom, they are after profits.

I say the Congress has one major question to answer today.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I will not yield until I am completed.

The question I make today and pose to the Congress is: Do the fires that burn for freedom in Central America only burn if they are subsidized by the American taxpayers of this country? Now Robert Owens told us it was like pouring money down a sinkhole. They cannot even be trusted. They are not even caring about the boys in the field.

One of their own Contra commanders said, he actually said that the money that comes there, they do not know where it goes. He believes the leaders are taking it and ripping it off for themselves.

I say if we want to do something about communism, Mr. Speaker, let us look at the Yugo automobile that is flooding our shores. If we are going to do something about protecting the Western Hemisphere with Nicaragua, maybe it is time we told the Soviets and the Cubans to get out because these inept Contra freedom fighters are not going to safeguard our children's future.

And that is the bottom line, $50 million, let us spend it on Americans.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND of Georgia. I thank the gentleman for yielding time to me.

Mr. Speaker, Congress has already wasted far too much time this year in political bickering and back-biting over the issue of Contra aid.

Today, we have an opportunity to put these differences behind us and come together behind a Contra aid package which is supportive of both the Contras and the political process now underway in Central America.

As a mater of fact, this may be the last opportunity we will have to keep the Contras intact and to give the Arias plan a chance to succeed.

It seems evident to me that the Sandinistas would never have cooperated with the political process if the threat of the Contras had not existed. And it is just as evident that the process would soon collapse if the Contras had to prematurely disband.

Both the Contras and the Sandinistas have publicly acknowledged that the current cease-fire would not have been possible if military aid had been approved on February 3. From my own discussions with representatives of the Contras, I know that immediate military aid was not what the Contras needed or necessarily wanted if it jeopardized the whole package.

The more critical needs are food, clothing and medicine, communication batteries and spare parts and the chance for another vote on renewed assistance if the peace talks fall through.

This package contains all of the critical needs.

Although we have been bogged down over Contra aid for nearly 2 months, it's still not too late. If we enact this package today, we will have taken a major bipartisan step toward keeping alive the process which is aimed at bringing representative government to Nicaragua and peace and freedom throughout Central America.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, humanitarian aid to keep brave men and women from starving, who have fought for freedom down there, is a laudable objective. I support that.

But to deny them the opportunity for freedom is unforgivable.

As I said many times, peace without freedom is not peace, it is slavery.

We need to remember that when we talk about peace we need to think about freedom.

There is peace in Hungary, Yugoslavia, Czechoslovakia, a lot of Iron Curtain countries, but there is not freedom.

That is what it is all about down in Central America.

Now we all applaud a cease-fire when there is no bloodshed. But during this cease-fire there is additional Soviet military aid going into that country. They sent 18,000 tons of war materiels in there 2 years ago, year before last they sent 23,000 tons of war materiels in there, last year they sent 33,000 tons of war materiels in there. That is over $2 billion over the last 4 to 5 years. And the beat goes on and on and on.

While we are helping our friends down there, the Contras, to survive, we are certainly not doing much to end the Soviet occupation, if you will, through a surrogate, of a part of the North American Continent. That is a great concern of mine.

If we do not deal with them as their strength grows and their military supplies continue to grow down there, then our kids are going to have to deal with it.

I still believe in my heart of hearts that if we do not deal with this base of operation of the Soviet Union on the North American Continent in the next year or two or three, that our kids are going to be down there fighting and dying unnecessarily.

I talked with President Azcona directly in Tegucigalpa and looked him right in the eye and he said, "If the peace process fails and there is no longer a viable Contra operation," he was going to request up to 50,000 U.S. troops for that one country. He also was going to ask for $250 million in direct military aid assistance. That does not include El Salvador, Guatemala, Costa Rica or what we might have to get involved in in Mexico.

So I guess the bottom line of my statement today is not in any way opposing this humanitarian aid. I think this humanitarian aid is absolutely necessary. We have people down there who are literally starving who have been fighting for freedom, not only their own freedom but ours as well.

But we need to do more, much more.

We need to get the Communist incursions into the North American Hemisphere, our hemisphere, removed because it is a threat to our liberty and to our freedom in the future.

We have been told by Central American Presidents that they are going to request dramatic numbers of military personnel to deal with this threat if the Contras are a thing of the past.

That means we are going to have to reevaluate where we get these people. We will have to probably pull in support, military personnel from Western Europe, Middle East, and elsewhere, to try to protect the 2,000-mile border between us and Mexico.

So I would like to end up by saying this: This threat is not going to go away with this peace process going on right now. That is what we ought to think about. It will not go away until we get the Communists out of Central America. That is what we ought to be doing.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

□ 1645

Mr. HUNTER. Mr. Speaker, I think it is the time somebody answered some of the statements that the gentleman from Ohio, a good friend of mine, Mr. TRAFICANT, makes on a regular basis with regard to the compesinos which make up the ranks of the freedom fighters, the Contras. As I was listening to him depicting them as cowardly, lazy, ruthless, I thought back to my own days during Vietnam when our people or my colleagues in Vietnam were depicted in the same way by American liberals. They were baby killers, they were ruthless, they did not have the well-being of the people of Vietnam at heart. We know that is an absolute untruth, what Mr. TRAFICANT has stated. It is as untrue as the denigration of American fighting men and women in Vietnam. It was that denigration, I think, that made coming back into this society so difficult for so many of our people, not what others said about us and them, but what liberals in the U.S. Congress and other places said about them.

Mr. Speaker, let me just say a few things about the compesinos, who were the Contras, the freedom fighters. It is now admitted by both sides that this is not a bunch of national guardsmen. These are 17- and 18-year-old kids. If they were Samoza's national guardsmen, they were national guardsmen when they were 8 years old. Most of them fight the Sandinistas heavily armed by the Soviets without pay. So, they put rucksacks on their back, and they travel 100 miles into the country to get into the fighting area without pay to face Soviet gunships and to face a military machine that is armed with more dollars by Mr. Qadhafi alone than the United States Congress made in its entire set of payments to the freedom fighters on our side.

To the Soviet military machine that has put $2 billion into this conflict. Mr. TRAFICANT says, "Why do Ohioans care? We don't care. We've got jobs." I have news for you. Sixty percent of the traffic that goes through the Panama Canal a few hundred miles away from Nicaragua carries goods that are made in America or bound for America in trade. Many of the goods made by his steel workers and manufacturers in Ohio go through the canal. At Punta Huete in Nicaragua the Soviet Union and the Cubans are building Mig revetments for Mig fighters that put them within striking distance of the Panama Canal through which 65 percent of the traffic that travels is American traffic and traffic that comes from the gentleman from Ohio's district in many cases.

So we have a direct interest, and that leads me to the final point. We are leaving this set of blunders and this lack of will by the liberals in the U.S. Congress with several things happening. The Contras are headed for slow extinction; we know that. Mr. Arias is leaving with his peace prize; we know that. The United States is leaving the scene with Soviet military presence firmly established in Nicaragua, and for the first time there is a naval base on the Pacific side of our hemisphere at Corinto, another naval base at El Bluff for the Soviet Union on the Atlantic side, and a bomber base and a Mig base at Punta Huete about 100 miles north of Managua. That is our reward for giving in to the Sandinistas.

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I move the previous question, I want my colleagues to note that this is an historic day for us. Last Thursday was a historic day in the peace process. Adolfo Calero, Alfredo Cesar sat across the table from Humberto Ortega and Daniel Ortega, and they reached an agreement. They buried their hatchets, and they buried their machetes and they agreed to try to make peace process. They stood together, and they sang the Nicaraguan national anthem, if they can do that.

If they can together come and ask us for this package, it seems to me that we would be arrogant, inconsistent, and not true to the process that was begun 7 months ago by the Central American Presidents if we fail to pass this bill today.

Mr. Speaker, we have a historic opportunity to move this process forward. To drop the ball, to not pick it up and run with it, and to not be true to that process that has cost 25,000 lives would be most unfortunate.

Mr. Speaker, I urge every one of my colleagues to get in league and get behind those who are trying to put an end to the terrible things that have happened in that part of the world.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, pursuant to the provisions of House Resolution 417, I offer a joint resolution (H.J. Res. 523) to provide assistance and support for peace, democracy, and reconciliation in Central America, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. Murtha). Pursuant to House Resolution 417, the gentleman from Washington [Mr. Foley] will be recognized for 30 minutes and the gentleman from Oklahoma [Mr. Edwards] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. Foley].

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution provides, as the gentleman from Michigan just said, a historic opportunity for the United States to play a significant and important role in bringing the war in Nicaragua, in Central America, to an end, in encouraging the process of peace, democratization and normalization in that region. It provides for humanitarian assistance to the democratic resistance in Central America in accordance with and consistent with the cease-fire agreement they have just concluded with Nicaragua's Sandinista government. It provides for neutral party delivery of that assistance under the general direction of the Agency for International Development, with the understanding that the two parties will agree on that neutral entity. In addition, the resolution spells out the precise character of the humanitarian aid to be rendered, which will include food, medical assistance, clothing, shelter, and medical supplies and payment for such items or services.

Mr. Speaker, within the term "assistance," it provides for up to $1.5 million for communications equipment consistent with the agreement. The assistance shall not exceed $2,900,000 a month, with the stipulation that not less than $400,000 each month shall be available exclusively for medical supplies and medical services, which will be an early and primary responsibility. After 2 months it should not exceed $2.7 million. It obviously excludes any purchase for weapons, weapon systems, ammunition, or any other item or service not permitted under this resolution.

Among its provisions, the resolution also contains special assistance for the Indian resistance known as Yatama.

Mr. Speaker, the legislation before us is the result of a broad bipartisan cooperation. I hope that by approving it by a very substantial vote on both sides of the aisle today the House will send a clear message that both Democrats and Republicans intend to support the peace process, that we intend to see to it that the two parties now coming together in Nicaragua have the assistance necessary to implement and support their agreement, in a way that is totally consistent with its terms. The signal sent by the adoption of this bill, I believe, will be warmly received by the entire United States and throughout the region of Central America, and will finally give rise to a unified bipartisan policy, on an issue that deeply divided us in the past.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. Mr. Speaker, yes, I yield briefly.

Mr. WALKER. Mr. Speaker, a few moments ago I had a colloquy with the gentleman from Illinois [Mr. Michel] and he indicated at that point that it was his belief that, when this whole bill was negotiated by the leadership, that the phrase in it that says that the policy is to be consistent with the national security interests of the United States means that we really do anticipate as a part of this process and end to the Soviet presence in Nicaragua with regard to the Soviet military presence.

Would that be your interpretation, too, of that language, that that is one of the needs that we have to move toward as a part of this process?

Mr. FOLEY. Mr. Speaker, I can assure the gentleman that an end to Soviet assistance to the Government of Nicaragua is something we would all like to see. Yet I will tell him that it is not specified here and, in my judgment is not likely to occur unless there can be a resolution of the conflict and a restoration of the political process in the region. We have an agreement with the Soviet Union and the Nicaraguan Government by which to pursue that end, but I see this agreement and the resolution as a precondition to that.

Mr. WALKER. Mr. Speaker, will the gentleman yield just briefly?

Mr. FOLEY. Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. WALKER. In other words, what we are doing here is setting the stage with this agreement, but our hope is that in consistence with our security arrangements that we would not see a permanent Soviet presence on the American mainland.

Is that what I understand the gentleman to say?

Mr. FOLEY. Mr. Speaker, I have no desire, as the gentleman knows, to see a Soviet presence on the mainland. I see this as a way of creating the circumstances where the people of Central America will not be involved or need to be involved in seeking foreign military assistance.

Mr. WALKER. Mr. Speaker, that is the reason for this policy statement that reads: "consistent with the national security interests of the United States."

Mr. FOLEY. I would say that the gentleman can make the determination as he wishes. We are carrying this out, in our judgment, consistent with the national security interests of the United States. It is our belief that this is absolutely consistent and in accordance with that.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 5 minutes to the gentleman from Wyoming [Mr. Cheney].

Mr. CHENEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today to join with my friend and colleague, the gentleman from Washington, the distinguished majority leader, in urging support for this package. It is a solid package. It is not perfect. If I had my choice, I would be supporting military assistance to the Contras, but that is not an option today, and that is not the issue before us.

□ 1700

The package that we have put together after hours of difficult negotiation involving the leadership on both sides of the aisle reflects that reality in Nicaragua today. It does in fact keep the Contras alive as a force. It will maintain them in the field in a manner consistent with the tentative truce or cease-fire that has been negotiated between the Contras and the Sandinistas. It is supported by the President of the United States. In a meeting yesterday at the White House he made it clear that he would like to have Congress approve this package.

Furthermore, it is desired by the leaders of the democratic resistance, specifically, Adolfo Calero, Cesar, Colonel Bermudez, the leaders of the Contra alliance have made it very clear that they would like very much to have this assistance and that it is crucial to the survival of their forces.

I also think it is extremely important that we focus upon the commitment that the Speaker has made to the Republican leader that in the event of a violation of the cease-fire by the Sandinistas that the President may submit a request for additional assistance and that that request will be given timely consideration in the House; specifically, that it will be referred to the appropriate committees so that the committees will report within 10 days, 10 legislative days, and that the Speaker will then schedule the matter for consideration on the floor under fair procedures.

I think that is a reasonable commitment from the Speaker. I know he is a man of his word. I am certain that in those circumstances that arise that he will fulfill that commitment.

There remain fundamental differences between us over the question of

Central American policy. This measure before us today does not resolve those differences. Many of us are determined to do everything we can to resist the consolidation of the Communist regime in Nicaragua, to do everything we can to limit and reverse the growth and spread of Soviet influence in Central America and to do everything we can to make certain that Nicaragua never again becomes a base for subversion of other democracies in the hemisphere. Those issues will be debated again on this floor on other pieces of legislation. Those struggles will have to be pursued elsewhere.

For now, given the situation in Nicaragua today, given the truce, given the ongoing cease-fire talks, given the status of the democratic resistance, this is the right bill and today is the right day on which to pass it.

Mr. Speaker, I would urge my colleagues on both sides of the aisle to join with the leadership on both sides of the aisle in approving this legislation.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, no foreign policy of this country can ever succeed if it is fraught with confrontation and distrust, deception and partisan infighting. That, unfortunately, is exactly what we have had with regard to our policy in Central America, and particularly with regard to Nicaragua. It has been a sad chapter in our history, but out of this failure perhaps we have the opportunity today to write a new chapter.

I am sure that to some extent the failures of the past may have helped in bringing the various parties together. Nicaraguans had 7 years of haphazard policies: Frustrating war, killing, military aid turned on and off, United States troop deployments, and Soviet aid. Finally the parties themselves, led by President Arias and the other leaders in Central America, said enough is enough.

So the time has come, it seems to all of us, to support their efforts. This war is over, whether some like it or not.

The real question is, Where do we go from here?

We have the opportunity now to exert a positive influence so that the parties can end the fighting, restore freedoms, end outside intervention from all sides and begin to deal with the real problems that afflict Central America: poverty, injustice, economic, political, and social reforms that have to be made.

If we fail to deal with those problems, that will be the real breeding ground for communism. If we succeed in dealing with those problems, then we can truly ensure democracy for that part of the world.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I rise in strong support of the proposal before the House. Just over a year ago, on March 3, 1987, I addressed the House at length on the need for a more coherent policy in Central America. I argued that our policy in regard to the Contra forces, in particular, needed to be formulated with increased attention to matters of: First, achieving bipartisan political support for ensuring the sustainability of our policy; second, firmly commiting ourselves to a multidimensional policy which combined, rather than separated, diplomatic processes and military pressure; and third, conducted itself in such a way as to engender multilateral support from the nations in the region and institutionalized international organizations such as the Organization of American States.

This proposal achieves all three goals of bipartisan support, multidimensional support for diplomacy combined with realistic commitments to guarantee the delivery of promises made at the bargaining table, and multilateral participation and support of international peacekeeping machinery in the region. This will be the first opportunity I shall have had, since coming to the Congress, to vote for a Nicaraguan policy which enjoys the collective support of the Democrat leadership, the Republican leadership, and the administration. This, in and of itself, is a major achievement in finding some sense of political coherence and sustainability which protects our policy in regard to the region from needless politicization as we move toward the national elections. The vote to be taken today may well be the first time in several years in which a majority of Democrats and a majority of Republicans have joined together in support of our policy toward Nicaragua.

The proposal not only enjoys bipartisan support, and not only unites the Congress and the administration, it actively enjoys the support of the Central American community of nations, and is to be monitored by the Organization of American States by way of verification and compliance issues associated with the peace accord reached between the Contra forces and the Nicaraguan Government. And it is not just the question of "peace" which is being verified, but the question of "political pluralism" as well.

The focus of public attention has shifted as well. For now it will be up to the Sandinista government in Nicaragua to demonstrate that the promises made at the bargaining table with the Contra forces are indeed being honored. The question is not peace without pluralism, but of peace and pluralism. And this vote gives us an opportunity to show our support for both goals, in the context of bipartisan domestic political support, joined by the support of the Central American governments and the Organization of American States.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, renewed assistance for the Contras is essential to ensure that the only real voice for democracy in Nicaragua remains intact at the negotiating table. It is imperative that we make the proposed assistance available to the Nicaraguan resistance before their next meeting with the Sandinistas scheduled for April 6.

Some steps have been taken to return Nicaragua to democracy as a result of the negotiations. We must back up the Contras in its insistence that Nicaragua move toward true democracy and not Marxist democracy.

Finally, Mr. Speaker, the key issue before us today is not part of the resolution itself. It is the commitment of Speaker WRIGHT to giving the administration a chance to have a new request for assistance fully and fairly considered in the House if the Sandinistas prove intransigent.

We must not allow partisanship to blind us to the importance of today's action. This resolution can provide the Contras the food and medicine they need to keep alive the struggle for democracy in Nicaragua. I urge support for this bipartisan resolution.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I appreciate this opportunity.

If the Contras had received a thousand dollars every time a Member of the U.S. House of Representatives took the floor to say that our failure to fund the Contras will doom them, they would not need any money today. We have heard that over and over again. In fact, only 2 or 3 weeks ago on this very floor, the debate on the Contra aid issue of the week was whether or not our failure to send any kind of Contra aid would doom Nicaragua and call for the total disbanding of the Contras.

Well, Mr. Speaker, we did not fund Contra aid 3 weeks ago, and what happened I think should be a matter of record in this debate. What happened was the greatest stride forward in the peace process in the history of this embattled country. The Contras came to the bargaining table and agreed with the Sandinistas to a cease-fire. Further, they agreed to take positive steps to bring themselves back into the political process, the very opposite of what was predicted by both sides of the aisle as the result of congressional action. And yet we return today.

If you catch the tenor of the debate you can probably sense that we have some punch-drunk boxers on the floor.

We are a little weary of this fight, Mr. Speaker. We have all heard one another's speeches over and over again. We are anxious to claim victory, but we are very sensitive to the politics of the situation.

The Democrats would like to send some aid to the Contras to hedge against any mischief by the Sandinistas. My Republican colleagues are still a little embarrassed over their miscalculation several weeks ago which resulted in the total cutoff of aid to the Contras; so we are trying to find some happy compromise so we can leave on an Easter vacation.

I will tell you this as I look at the figures in this resolution, there are some serious questions and I hope the gentleman from Michigan will consider responding to a question.

In this resolution we are calling for $17.7 million to be sent to the Contras for 6 months. Most calculate that there are anywhere from 4,000 to 10,000 Contras. The net effect of this is to send an amount to each of these Contras supposedly for food, clothing, and shelter, which is up to 10 times the per capita wage of a Nicaraguan citizen.

Can the gentleman from Michigan justify why these sunshine patriots, the soldiers in respite, should be receiving 10 times the amount of the average wage of a Nicaraguan citizen during this cease-fire period?

Mr. BONIOR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. We have put a formula together that was consistent with previous aid packages which will include money for food, clothing, shelter, medical services, and medical supplies, that comes out roughly to $2.7 million per month.

Now, no one quite frankly knows how many Contra forces we are talking about. The gentleman in the well indicated between 4,000 and 10,000. I suspect that is probably an accurate guesstimate, but the gentleman should also understand that this bill, and I suspect the gentleman is going to vote against this bill, I do not know, but it is my sense, but what the gentleman fails to realize is that we will be providing that same amount, that same proportion of money, to children who have been victimized by this war, $17.7 million; so I think we have to take the totality of the package, the supplies, sustenance for the forces, as well as for the reconciliation of health care for the children.

Mr. DURBIN. Mr. Speaker, we have a record that is replete with profiteering by the Contras. We have defectors from the Contras who have spoken of the profits that have been made by the military forces and those vendors selling to those forces.

We are now going to give the equivalent of 10 times the per capita wage of a Nicaraguan to each of the Contras to rest for 6 months. And then by sheer coincidence the amount of medical need for the children, the real victims of this war, is exactly the same, $17.7 million. That is an unusual coincidence.

I would say that our action today in passing this resolution will have exactly the opposite effect of those who suggest we should vote for it. It will embolden the Contras. It will drive them from the table. We will not see the cease-fire continue. The Contras will know that there is money in the till in the United States for them to return to.

Mr. Speaker, I will be voting against this resolution.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, it is very difficult to respond to all the misrepresentations made by the previous speaker. This, first of all, is a truce and not a cease-fire.

I cannot answer all the allegations the gentleman made regarding the misuse of funds by the freedom fighters, but what I would like to say is that many of us believe strongly that the reason that the Communists came to the conference table was not because of their good will, but because they made the incursion into Honduras and they thought that might have switched some votes in the U.S. Congress, which would lead to additional Contras military support from this body. For that reason alone, they wanted to stop that military assistance from getting there, so they sat down at the conference table and said, "Let's have a truce." That truce is leading to the result that we see here today, humanitarian aid without any military assistance to the Contras. So they are getting in essence what they were after, in my view.

I support this bill today because it is going to give humanitarian aid to starving freedom fighters who have laid their lives on the line. It is going to help their families. So from that standpoint, I support it; however, this vote will not end the conflict in Central America. Until the Communists in Nicaragua are removed from power, there will be conflict, there will be war. It may stop from time to time when they feel threatened by the United States in some way; that is direct military aid to the Contras, or maybe the threat of U.S. military involvement, but the conflict will then continue.

Why? Because they want the revolution to spread into all the countries in Central America and South America. They said this to us. They have told us all this time and again.

We have a cancer there that threatens freedom throughout the region. In fact, it is in all of Latin America. It must be cut out.

They want freedom in Central America, not just peace. In Nicaragua they had peace under Somoza, but they wanted Somoza out because they wanted freedom. They wanted opportunity.

Remember, the Communists there do not give them freedom. They give them peace all right, like they have in Hungary and Yugoslavia and other Communist countries, but they do not have freedom.

Remember this, and we want to say it again and again regarding Central America. Peace without freedom is not peace. It is slavery, and that is what they have down there. They want freedom and we should give it to them.

This war is going to go on and on until we help eliminate the Communist menace down there.

□ 1715

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. PEPPER], the chairman of the Committee on Rules.

Mr. PEPPER. Mr. Speaker, I want to commend you and the minority leader and those who have worked with them so hard, particularly the distinguished gentleman from Michigan [Mr. BONIOR] for having put together this resolution toward achieving peace and democracy in Central America. All of us in the past who voted for military aid are pleased to know that involved in this understanding is assurance by the Speaker that if all peace efforts should fail and the Sandinistas should repudiate all their peace indications and begin again to become aggressive in the policies that they have previously pursued, then consideration could be given to the furnishing of military aid. We hope that necessity will not arise. The resolution is intended to help the Contras, the freedom fighters, keep alive and to maintain their independence and integrity so that they can keep up the fight for the kind of democracy that we are talking about, the kind of democracy that we know.

Mr. Speaker, I am pleased to see that our leadership is indicating very clearly by this resolution that we have never abandoned the Contras, we have never abandoned the freedom fighters. Heretofore we have not all agreed upon the details of the aid we should give but we have never abandoned them. This resolution is an assurance to them we do not intend to abandon them until we can bring about peace and democracy in Latin America. If it can come through the peaceful process, with respect to which there seems to be encouraging signs, all the better. Of course that is the kind of peace that we want. We just hope this resolution will promote the peace efforts that are now in progress and give hope that it will be achieved in this good part of the world, Central America a peace and democracy to which we all aspire.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 mintues to the gentleman from Ohio [Mr. Kasich].

Mr. KASICH. Mr. Speaker, I second the tone of the gentleman from Florida [Mr. Pepper], and the reason I want to say that, I say to my colleagues, is there is no more important time than now for us to start together to develop this bipartisan policy in Central America.

I had a great anger welling up inside of me as I listened to the purely partisan demagoging of a couple speakers ago that I thought was just not proper for this debate today. I want to say, Mr. Speaker, that there is not great joy in the well of the House today with people coming down, the gentleman from Washington [Mr. Foley], the gentleman from Michigan [Mr. Bonior], the gentleman from Illinois [Mr. Michel], the gentleman from Oklahoma [Mr. Edwards], there is not great joy and it is almost kind of sullen today if my colleagues feel the tone.

Mr. Speaker, I ask my colleagues if they know why? I say it is because we are not optimistic, and I will tell my colleagues what it is, it is not a question of optimism, it is a question of broken promises in the past. What we are worried about is the Sandinistas are going to break their word again. If they do not, thank God. Maybe we can have peace in Central America, in Nicaragua, and we know one thing, this may be the first giant step that Republicans and Democrats in the middle of this House can go down a path together, we can recognize what is going on in Central America and we can develop a bipartisan policy in Nicaragua just like we have in El Salvador.

We do not have time for the partisan bickering anymore and please let us stop it. Let us approve this package as Republicans and Democrats and as Americans and as people concerned about Central America. Let us hope the Sandinistas keep their word, but let us keep our eyes open so if they do not, we have the right to have that vote, our insurance policy. Let us hope and pray that peace can spread in Nicaragua and it is important that Republicans and Democrats work together on America's foreign policy rather than divided and weary.

Let us work together.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arkansas [Mr. Alexander].

Mr. ALEXANDER. Mr. Speaker, over the last 7 years I expect that I have had as much to say about this issue as anyone else in this Chamber. I can say that I have learned from the debate over these years, and the thing that I have learned the most about the experience of debating U.S. policy in Central America is that reasonable and sincere people looking at the same object and the same subject and the same debate sincerely disagree on the outcome. I think it is now time, as the gentleman from Ohio [Mr. Kasich] has just said, as has the gentleman from Florida [Mr. Pepper] before him, to lower our voices and join together in an effort to support a bipartisan resolution that will lend some continuity to the present status of circumstances in Central America.

Mr. Speaker, I also want to take this time to thank my leader and my Speaker, the Honorable Jim Wright, for his vision and for his courage that he has demonstrated in providing leadership to my side of the aisle on this issue, and I would say the same thing about the gentleman from Illinois [Mr. Michel].

I am sure it has been a very difficult issue for both of them and patience has worn thin on both sides, but now it is time to join hands and walk together to support this bipartisan resolution.

I would also like to add one note of compliment to my friend, the gentleman from Michigan [Mr. Bonior], who has demonstrated great patience on this issue in listening to all of us who have had a great deal of say but not very much to add.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. Skelton].

Mr. SKELTON. Mr. Speaker, today we as a body and as Representatives of the American people are speaking with a bipartisan voice. It would have been so fine had we been able to do this in months past, but we were not able to do so.

Mr. Speaker, rather than replow old ground today, let us now look forward. Peace is at hand in Nicaragua, but peace by itself, as we all know, is only a small step. We need democracy in Nicaragua.

Peace exists in Eastern Europe but not democracy. Peace exists in Cuba but not democracy.

The true meaning of a cease-fire agreement signed between the two sides was the recognition of the Nicaraguan resistance as a legitimate belligerent political force by the Nicaraguan Sandinista government. Direct face-to-face negotiations by leaders of the two sides included discussion of political issues. These were important concessions made by the Sandinista government of Nicaragua.

Not long ago they were refusing to meet with Contra leaders, refusing to discuss political issues, and refusing to meet in Nicaragua.

Those of us who have supported the resistance should look upon the agreement between the government of Sandinista Nicaraguans and the Nicaraguan resistance positively. Progress has been made. The shooting has stopped. Cardinal Obando y Bravo after celebrating Palm Sunday mass at the beginning of this week, called the release of 100 political prisoners very positive.

Today there exists a temporary truce. Negotiations are taking place to work out details for a 60-day cease-fire. Further high-level negotiations aimed at a more permanent truce are scheduled to take place in Managua on April 6. If we cannot declare a victory, at least we can declare progress.

Mr. Speaker, with the shooting ended we can shift our attention to the issue of promoting democracy.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. Dorgan].

Mr. DORGAN of North Dakota. Mr. Speaker, I appreciate the gentleman from Michigan yielding me this time. Let me say that policy toward Nicaragua has been a bitterly divided issue for a long, long time in this Chamber and now the shooting has stopped and it seems to me it is time for the healing to begin.

The section of this bill that I think all of us can agree on is the child survival program. Children in that region are not Contras or non-Contras or Communists or non-Communists. They are children. The victims in this war, as is the case of virtually every war, too often are the children. If my colleagues would go to refugee camps along the Nicaraguan border, they would see children with pain in their eyes, with anguish in their faces, and they would see children who are victims of this war. Now that the shooting has stopped, we must promote the healing. This children's survival fund does promote that healing. It recognizes that these victims are not part of policies and they are not part of politics. They are just kids.

We say to those kids who have had their limbs blown off, that we want to give them help to get prosthetic devices. We say to the burn victims in those refugee camps, that we want them to get medical treatment. We say to the homeless, and we say to the orphaned that we want to help them. We say to the hungry that we want to provide them with food. That is what the children's survival package is all about. It is a small package but it is important as a part of this legislation. It is the reason I support it here today.

Mr. Speaker, those of us who have been to camps on the borders and have understood firsthand who the real victims are and understand also our obligation to heal the wounds of war.

Mr. Speaker, this is an important section of the bill. I want to especially compliment the gentleman from Michigan [Mr. Bonior] who spent so much time on this legislation and who, along with Speaker JIM WRIGHT, has embraced the children's survival package. This moves us in the right direction to help those very special children who need our help in Central America. It will also reinforce the peace process and begin to reorient our policy on a path worthy of our support.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in support of this package of aid to the Nicaraguan resistance.

It provides purely humanitarian aid but it provides more aid over more time than the March 3 proposal and will assure that the Contras will be at the table to carry through the negotiations now in progress.

These negotiations are absolutely critical to the success of the Arias peace plan. The genius of that plan is that it recognizes that peace and freedom are inextricably linked, that there cannot be peace without democratization in all the countries of Central America.

The next step in the negotiations between the Sandinistas and Contras is an agreement guaranteeing the political rights of the Contras. That is an agreement fulfilling the democratization requirements of the Arias peace plan.

A thumbnail sketch of recent events reveals the importance of this aid package to the success of the negotiations. In February this House voted to suspend all aid "to give peace a chance." In the weeks that followed the Sandinistas intensified not their negotiatory efforts, but their military efforts to deal with the Contras. They, in fact, planned and carried out a major military initiative with the clear intent of eliminating the Contras and so avoiding the need to negotiate.

The Contra's determination, President Ascona's commitment to the territorial integity of his nation and his right to provide to the Contras safe harbor until their political rights were guaranteed as the Arias peace plan requires and last, the President's commitment to President Ascona, assured that the Sandinistas returned to the negotiating table and returned committed to finding a peaceful solution to their differences with the Contras.

The aid provided by this package to the democratic resistance guarantees their presence at the negotiations and bespeaks this Congress commitment to a negotiated agreement that guarantees the political rights required by the Arias peace accord.

If such success is achieved by these negotiations, then we will all have reason to celebrate, though tragically it was Sandinista denial of these very same rights that started the civil war in Nicaragua and has cost so many lives.

Once peace is achieved this House must maintain its commitment to democracy in Central America by working with our neighbors to build new economics and those institutions essential to free societies.

□ 1730

Mr. EDWARDS OF Oklahoma. Mr. Speaker, I yield 1½ minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I rise in support of this resolution. It provides $48 million to assist the Nicaraguan resistence, as well as the peace process.

I also have some serious concerns about this package. It is by no means perfect.

But it provides aid that is needed by the Contras now to insure their survival.

This is the time for us to stand together and support this agreement.

Our policy of aiding the Contras to force the Sandinistas to negotiate is working.

But our task is by no means over with this vote. The Guatemala accords call for simultaneous democratization with an end to hostilities.

There cannot be peace in Central America without democracy, and there cannot be democracy in Nicaragua while the Sandinistas are in control. President Arias has made that quite clear to me.

Last December, this body overwhelmingly passed the Chandler-Byron amendment to the foreign aid authorization bill.

It detailed 33 steps the Sandinistas must take to become a truly free and democratic government.

If we fail to pursue these reforms, we will betray not just the Contras, but all the people in Central America—including those tormented by both the right and left.

At this point, in the RECORD, I include the following:

Amendment offered by Mr. CHANDLER to the amendment offered by Mrs. BYRON: In subsection (a) of the new section proposed to be added by the amendment, strike out the word "and" at the end of paragraph (8); strike out the period at the end of paragraph 9 and insert in lieu thereof a semicolon; and after paragraph 9 insert the following:

"(10) in signing the Central American peace accord on August 7, 1987, entitled 'Procedure for the Establishment of a Strong and Lasting Peace in Central America', the Nicaraguan Government pledged 'to promote an authentic democratic, pluralist and participatory process that includes the promotion of social justice [and] respect for human rights'; and

"(11) under that accord, Nicaragua is specifically required to establish 'complete freedom of press, television and radio' 'for all ideological groups' 'without prior censorship'; to grant political groupings 'broad access to communications media' and full exercise of the rights of association, free speech, and movement; to decree an amnesty guaranteeing 'freedom in all its forms'; and to terminate state of emergency laws while reestablishing 'the full exercise of all constitutional guarantees'."

At the end of subsection (b) of the new proposed section to be added by the amendment, add the following:

"(c) ACTIONS WHICH SHOULD BE UNDERTAKEN BY NICARAGUA.—It is the sense of the Congress that Nicaragua should undertake the following reforms in order to bring about lasting peace, pluralism, and democracy in Nicaragua:

(1) IN GENERAL.—

(A) Ensure freedoms of expression, association, assembly and movement, religion, and education.

(B) Restore rights to security of person and home and freedom from unjustified arrest.

(C) Stop coercive pressure to join Sandinista party groups.

(D) Stop discriminatory and punitive application of military conscription.

(E) Allow all citizens, including refugees and exiles, to return to Nicaragua.

(F) Reinstate due process and fair trials and release those imprisoned without charge, trial, or due process, including campesinos, Creoles, and Indians.

(G) Abolish extraordinary tribunals and the powers of police forces to conduct trials, decide appeals, and sentence individuals to prison terms.

The United States did not sign that agreement. We reserve the flexibility to make our own judgments in light of the facts at the appropriate time. This would set, even though it is the sense * * * of confinement which constitute torture and end the practice of holding prisoners incommunicado.

(2) POLITICAL PROCESS REFORMS.—

(A) Allow political parties and the democratic opposition to meet and march publicly, publicize meetings, and meet with and utilize the media.

(B) End jailing of opposition party activists and the drafting of opposition party activists and their children in reprisal for nonviolent political activity.

(C) Abolish the role of the Committees for the Defense of Sandinismo's (CDS) and other party organizations in dispensing rationing cards and government services.

(D) Conduct free and open presidential, legislative, and municipal elections by December 31, 1990, as specified by current Nicaraguan law.

(E) Repeal the suspension provisions of the Nicaraguan constitution.

(F) Separate the armed forces from any political party.

(3) PRESS AND MEDIA RIGHTS.—

(A) Allow an uncensored, free press.

(B) End newsprint restrictions and allow private newsprint sales.

(C) Allow the full spectrum of private television and radio broadcasting.

(4) LABOR RIGHTS.—

(A) Ensure the right to strike and to publish by independent unions.

(B) Release those imprisoned because of non-violent union activities.

(5) RELIGIOUS FREEDOMS.—

(A) Allow the Catholic church to reopen its social welfare, human rights, and publication offices.

(B) Allow Cardinal Obando Y Bravo to resume his televised Sunday mass.

(C) Allow the return of all expelled Catholic priests.

(D) Allow religion courses to be taught in private schools.

(E) Allow Protestant evangelicals to preach and conduct meetings.

(6) CAMPESINO RIGHTS.—

(A) End preventive detention and forcible resettlement of campesinos and allow those who have been displaced to return.

(B) Cease aerial bombing attacks against civilians and their properties.

(C) Cease the destruction of peasant farmlands.

(D) End pressure to join Sandinista farming cooperatives.

(7) INDIAN AND CREOLE RIGHTS.—

(A) Permit Indian and Creole residents to freely travel, assemble, speak, publish, broadcast, and maintain cultural beliefs and practices.

(B) End forcible detention and relocation of Indian and Creole residents and allow them to return to their home communities.

(C) Cease aerial bombings and attacks on Atlantic Coast civilians and their properties.

(D) Allow Indians and Creoles to engage in traditional farming, fishing, hunting, and necessary subsistence activity.

(d) ACHIEVEMENT OF DEMOCRATIC PRINCIPLES AND PROCESSES IN CENTRAL AMERICA.—It is the sense of the Congress that all countries in Central America should continue to work toward achieving the democratic principles and processes specified in the Central American peace accord of August 7, 1987, entitled "Procedure for the Establishment of a Strong and Lasting Peace in Central America."

FREEDOM AND DEMOCRACY IN NICARAGUA

(A Report on Sandinista Compliance to the Provisions of the Chandler/Byron Amendment to the Foreign Aid Authorization Bill for Fiscal Year 1988)

(Prepared by David M. Dworkin, Legislative Assistant to Congressman Rod Chandler, February 2, 1988)

The following report is the product of 30 interviews in San Jose, Costa Rica and Managua, Nicaragua during the last week of January, 1988. These meetings included Sandinista government officials, Catholic Church leaders, internal opposition figures, the publisher and editor of *La Prensa*, human rights monitors, and the staffs of both U.S. embassies.

Unfortunately, the Sandinistas have made no progress in most of the areas. In those where progress is noted, official efforts have been made to subvert that progress. For instance, the suspension of the State of Emergency, was followed by the arrest of more than a dozen major opposition leaders under the Maintenance of Public Order and Security Law, which makes it a crime to speak against the revolution.

A few days later, a Presidential Decree was issued that allows non-lawyers to be appointed judgeships. This act opens the door to the appointment of State Security magistrates who ruled the State of Emergency tribunals as regular judges. The net result is that almost nothing has changed in the Sandinista legal system, although the appearance of reform is maintained.

About 1,000 prisoners were released in November by the Sandinistas. But according to Alejandro Bendana, Secretary General of the Sandinista Exterior Ministry, "there are no political prisoners. Just about 2,000 Guardia Nacional and 1,800 captured contras."

This differs considerably from the claim of the independent Permanent Commission on Human Rights (CPDH) in Nicaragua, which claims about 8,200 political prisoners remain in prison, (including about 2,000 former National Guardsmen). Most of the 1,000 already released by the Sandinistas were either common criminals or political prisoners whose sentences were completed, but were held anyway.

President Daniel Ortega's most recent amnesty plan, tragically calls for the exile of 3,000 political prisoners to the United States. This is reminiscent of the Cuban boat lift, where political prisoners were expelled from their country. The dignity of the Nicaraguan people makes this offer completely unacceptable.

On December 8, 1987, the House of Representatives overwhelmingly passed the Chandler-Byron amendment to the Foreign Aid Authorization Bill for fiscal year 1988 (346-58). Sponsored by Representative Beverly Byron (D-MD) and Rod Chandler (R-WA), the amendment establishes 33 congressional criteria to measure democratization in Nicaragua. Compliance as of January 31 is analyzed below.

1. GENERAL PRINCIPLES

A. Ensure freedoms of expression, association, assembly and movement, religion and education.

Significant changes have been made by the Sandinistas in this area, and while they are not permanent, and in some cases have little real impact, they remain major concessions nonetheless. These include the suspension of the State of Emergency, the reopening of several radio news programs, and the appearance of numerous opposition rallies. Between August 7, 1987 and January 16, 1988, however, no action was taken by the Sandinista government to reinstate the 202 provisions of the Nicaraguan constitution protecting basic human, civil and political rights that were suspended under the State of Emergency instituted in 1982.

Since the lifting of the State of Emergency during the third week of January, there has been a concurrent increase in extrajudicial repression. On January 22, 1988 a mob of several hundred Sandinista demonstrators broke up a meeting of the Democratic Coordinator, as well as a meeting of the January 22 Movement of the Mothers of Political Prisoners. This "turba divina," or divine mob, was organized by Sandinista Commandante Bayardo Arce. Last October 22, a turba divina broke up a march by the Mothers of the Political Prisoners and several were seriously injured. State Security Police Chief Lenin Cerna was present at the scene of the incident. The turba divinas are supervised by the Territorial Services Division of the State Security Police (DGSE).

B. Restore rights to security of person and home and freedom from unjustified arrest.

No progress has been made in this area. On January 15, six opposition leaders were arrested and held for up to 72 hours. They were taken to El Chipote prison and interrogated before being released. Among those arrested were Mario Rappaciolli (Conservative Party) and Albert Saborio (President of the Nicaraguan Bar Association). Later the next week, on January 19, five more opposition leaders: Carlos Huembes (President of the Democratic Coordinator and Secretary General of the C.T.N. union); Jaime Chamorro (Editor-in-Chief of *La Prensa*); Miriam Arguello (Secretary General of the PCN party); Cairo Lopez (PSC); and Guilberto Cuadro (COSEP) were arrested and held up to 48 hours.

Cuadro was interrogated by Lenin Cerna personally, and his life and the safety of his family were threatened. After being strip-searched, Cuadro was brought to Cerna in a special cell in El Chipote. According to Cuadro, Cerna "told me that unless I stopped making trouble he said 'I am going to kill you and your family.' He told me that in Guatemala and El Salvador they disappear the people they don't like. 'Well,' he said, 'if you like their democracy so much we'll see if you don't disappear." Cuadro was released after just seven hours, but to assure that he got the message, Cerna sent police to Cuadro's closest friends and warned them that unless they stopped his political activity, their children would be called up for military service."

C. Stop coercive pressure to join Sandinista party groups.

No progress has been made in this area. The Committees for the Defense of Sandinismo (CDS) report "counterrevolutionary" or otherwise suspicious activity, enforce some government decrees, and provide officially sanctioned grass roots political organization for the FSLN that is not allowed other parties. Tomas Borge calls the CDS's "the eyes and ears of the revolution." But they also control the distribution of ration cards and are authorized to assign basic rights such as medical care and employment.

Citizens earn these rights by proving their loyalty to the Sandinista party and the CDSs. This is done by informing on one's neighbors and supporting the CDSs and other party organizations. Not only does participation in the opposition subject one to the loss of these rights, but insufficient support of the CDSs is also cause for the denial of privileges. Thus, the CDSs ensure control of Nicaraguan politics by making it nearly impossible for opposition parties to organize their supporters.

Another Sandinista party group, the CATs, control special ration cards for workers needed to buy work clothes and tools. In an effort to break up a new C.U.S. union, workers were offered ration cards to join the Sandinista union instead.

D. Stop discriminatory and punitive application of military conscription.

No measurable progress has been made in this area. During the last week of January, 1988, Dr. Humberta Cerda, 33, was ordered to report for military service on February 4. He is a human rights monitor for the Permanent Commission on Human Rights (CPDH) in San Marcos and has been critical of the government. According to Alvin Guthrie, Secretary General of C.U.S., Nicaragua's largest union, his members and their families are regularly conscripted into his military service in retribution for union organizing. Some of his men, he said, have lost children 12-14 years old due to this practice.

E. Allow all citizens, including refugees and exiles, to return to Nicaragua.

President Ortega's January 17 proposal would allow about half of Nicaragua's 8,000 political prisoners to leave the country for exile in the U.S. and other nations. No genuine amnesty of all prisoners held under State of Emergency and Maintenance of Order laws has been offered. There are already an estimated 300,000 Nicaraguan exiles: 60,000 in the U.S. 150,000 in Honduras, and 100,000 in Costa Rica.

F. Reinstate due process and fair trials and release those imprisoned without charge, trial or due process, including campesinos, Creoles and Indians.

About 1,000 prisoners were released in November by the Sandinistas. Alejandro Bendana, Secretary General of the Sandinista Exterior Ministry, claims that "there are no political prisoners. Just about 2,000 Guardia Nacional and 1,800 captured contras." But according to the CPDH, about 8,200 political prisoners remain in prison, (including about 2,000 former National Guardsmen). Most of the 1,000 already released by the Sandinistas were either common criminals or political prisoners whose sentences were completed, but were held anyway.

In December, three of Nicaragua's Supreme Court justices resigned because their ruling to return an illegally seized farm was ignored by Agriculture Minister Jaime Wheelock. All Supreme Court justices are appointed by Daniel Ortega and, while the three who resigned were not party members, the three who replaced them are Sandinistas.

G. Abolish extraordinary tribunals and the powers of police forces to conduct trials, decide appeals, and sentence individuals to prison terms.

Technically, the Sandinistas are in full compliance with this provision since the suspension of the State of Emergency. However, a major decree announced in *Barricada* the same week that action was taken effectively nullifies the change. Under the new decree, judges no longer need to be lawyers. Thus, the police magistrates, who ruled the special tribunals, may now serve as judges. Furthermore, the same 'kangaroo court' legal schedule remains. Under current law, prisoners have two days to prepare their defense, eight days for their trial and three days before sentencing.

H. Permit independent human rights observers, including the I.C.R.C., to meet and travel freely and to visit prisoners, prisons and tribunals.

Free access to all Sandinista prisons is still forbidden. Only model prisons have been opened to independent human rights monitors.

I. End all forms of torture and conditions of confinement which constitute torture and end the practice of holding prisoners incommunicado.

Reports from recent prisoners at El Chipote indicate that holding cells there have been fitted with ceiling windows. Previously, the 4′ X 5′ X 8′ cells were completely dark. But, according to Lino Hernandez of the CPHD, the Sandinistas "continue arresting all of the people who they consider helping the contra. They continue torturing people, and people continue to disappear after they are arrested." The CPDH has received 104 reports of human rights abuses in January. Sixty percent are people accused of helping the contras who have been tortured, killed or threatened. Fourty percent involve people who are avoiding military service.

2. POLITICAL PROCESS REFORMS

A. Allow political parties and the democratic opposition to meet and march publicly, publicize meetings, and meet with and utilize the media.

Progress in this area has been significant. Rallies are held frequently, but marches virtually ensure violent threats from the turba divinas. While opportunities for media exposure are limited, and non-existent in the official press, they are significant improvements from conditions six months ago.

B. End jailing of opposition party activists and the drafting of opposition party activists and their children in reprisal for nonviolent political activity.

In addition to the above-mentioned arrests, police arrested two youths who were distributing leaflets for the liberal independent party on November 27, 1987. One member of the January 22 Movement of Mothers of Political Prisoners resigned after being warned by state security that her 14-year-old son would be drafted if she continued her work with the organization.

C. Abolish the role of the Committees for the Defense of Sandinismo (CDS) and other party organizations in dispensing rationing cards and government services.

President Ortega proclaimed on October 8, 1987 that the CDSs and other mass organizations (like the FSLN labor federation which controls work permits) would not be disbanded. No Sandinista leaders have yet indicated this policy will be reversed.

D. Conduct free and open presidential, legislative, and municipal elections by December 31, 1990, as specified by current Nicaraguan law.

President Ortega stated on December 13 in a speech to a meeting of Sandinista trade unions that "in the hypothetical case that the FSLN lost an election, it would turn over government, not power." Ortega retains total control of the naming the electoral commission that oversees the elections under the new Nicaraguan constitution.

E. Repeal the suspension provisions of the Nicaraguan constitution.

Opposition attempts to legislatively repeal this provision of the constitution have been blocked by FSLN members.

F. Separate the armed forces from any political party.

Opposition attempts to accomplish this have been blocked by FSLN members of the legislative assembly. The armed forces bear the name of the Sandinista Party, and a Sandinista party political officer is assigned to each unit.

3. PRESS AND MEDIA RIGHTS

A. Allow an uncensored, free press.

Formal censorship has been ended with the State of Emergency, but two laws are still in effect that restrict press freedom. The Maintenance of Order and Public Security Law make it a crime against the state to speak against the revolution, punishable by three to ten years in prison. And the Law of the Means of Communication gives the Ministry of the Interior the right to close down any publication, without warning or due process, without cause. This encourages self censorship.

Should aid to the Nicaraguan Resistance be reinstated by Congress, President Ortega and other Directorate members have promised to shut down La Prensa and end the democratization. In response, La Prensa editor Jaime Chamorro said that "we are finished one way or the other . . . I don't mind if they close me tomorrow, but there is hope for the future. I don't want to stay open for a year, so they can crush us forever."

La Prensa publisher, Violetta Chamorro, said on January 30, that "we are threatened, [and the Sandinistas] persecute the reporters . . . We still have a lot of difficulties even today."

B. End newsprint restrictions and allow private newsprint sales.

La Prensa continues to depend on the Sandinista government for newsprint supplies. These supplies are not guaranteed by any law or regulation and can be cut off at any time. But La Prensa is free to buy newsprint on its own. The economic crisis in Nicaragua, however, has forced La Prensa to depend on the significantly cheaper Soviet paper used by Barricada.

C. Allow the full spectrum of private television and radio broadcasting.

Eight news shows of the 21 canceled since March of 1982 have been allowed to resume broadcasting. No permits have been granted to open any independent television station.

4. LABOR RIGHTS

A. Ensure the rights to strike and to publish by independent unions.

The biggest independent union in Nicaragua is CUS, headed by Alvin Guthrie. Its 35,000 members include five former Sandinista unions which have split from the party because they were not allowed to strike for improved labor conditions or wages. The real wages of the average Nicaraguan worker have depreciated 95% since 1980, according to the U.S. Embassy's economic section. Several strikes are currently being held in Nicaragua. All are illegal. However, under the labor laws of Anastasio Somoza, which the Sandinistas have maintained.

On January 29, the 19th issue of Solidaridad, the CUS newspaper, was published in three years. Guthrie is concerned however, saying that "all the Sandinistas want is some air. They want to destroy the contras but they do not care about the Nicaraguan people. If they cared, then they would just do it." Guthrie is suspicious of the fact that he had to report the names of all the people who would be working for Solidaridad, and give the address of the location it is being published, to obtain permission to print it.

B. Release those imprisoned because of non-violent union activities.

One day following the signing of the Esquipulas Accord in Guatemala, 16 CUS union leaders were arrested by the secret police in Nueva Segovia. Accused of counterrevolutionary activities, they have still not been released. And just last week, on January 29, a CUS leader, Guillermo Paris Lopez, was summoned to appear before the secret police. He was recently quoted in La Prensa in an article about CUS organizing. On January 4, another CUS worker was arrested in Chinondega and held for four days. He was charged with counterrevolutionary activities for reading an old copy of the CUS newspaper, Solidaridad. In October, three other labor leaders were arrested in Leon, but have since been released.

5. RELIGIOUS FREEDOMS

A. Allow the Catholic Church to reopen its social welfare, human rights, and publication offices.

On December 2, 1987, after a two-year delay, the Sandinistas allowed Radio Catolica to broadcast its news program. Only two months earlier, the government allowed the banned station to partially reopen. But the Church's social welfare office, COPROSA, and its human rights office remain closed, as do most of its publications.

B. Allow Cardinal Miguel Obando y Bravo to resume his televised Sunday Mass.

Cardinal Obando's Mass is broadcast on Radio Catolica, but broadcasting the Mass on television is forbidden.

C. Allow the return of all expelled Catholic priests.

One month after the signing of the Esquipulas II Accord, Father Bismark Carballo and Father Benito Petito were allowed to return to Nicaragua. Seventeen priests, however, of the 20 that have been expelled, remain forbidden to return to Nicaragua.

D. Allow religion courses to be taught in private schools.

According to the report prepared by the Puebla Institute, a lay Catholic human rights monitoring group in the U.S, religion courses continue to be prohibited from the curriculum of private schools. In December 1987, the Sandinista Minister of Education made ominous comments about the future of private education in any form, saying it was a major obstacle to the revolution. Public education in Nicaragua is controlled by the Sandinista party and is heavily indoctrinated with Marxist-Leninist ideology. Teachers who do not meet the ideological standards set by the Sandinistas, are summarily fired, based on the judgments of classroom monitors.

E. Allow Protestant evangelicals to preach and conduct meetings.

In numerous first-hand accounts by evangelicals in United Nations refugee camps, the Puebla Institute heard complaints of recent instances of prohibitions on preaching, evangelizing, or attending prayer meetings; detention on the basis of religious affiliation; pressure on prisoners in detention to denounce their religious beliefs; discrimination by the government in rationing of food and medicine; and pressure (including the threat of further detention) to spy on other members of the congregation.

6. CAMPESINO RIGHTS

A. End preventive detention and forcible resettlement of campesinos and allow those who have been displaced to return.

The Sandinistas continue to uproot thousands of peasant villages and remove them from areas that are suspected of aiding the contras, according to Lino Hernandez of the CPDH. No plans have been announced by the Sandinistas to reverse the policy of detention and resettlement.

B. Cease aerial bombing attacks against civilians and their properties.

According to the CPDH, reports continue to come in from Jinotega province of aerial bombardments of villages by the Sandinista armed forces. On Christmas Eve, according to the Nicaraguan Resistance, the government bombed the villages of Santa Marta, Cuatro Weguinas, el Castillal, and Mesa Redonda in Jinotega province. Sandinista troops retaliated against alleged contra supporters in Siuna, Bonanza, and Rosita. On November 17, a rocket launched by an E.P.S. (Sandinista Armed Forces) hit civilian homes near the Costa Rican border. On September 14, two Sandinista helicopters bombed Casa de Tablas.

C. Cease the destruction of peasant farmlands.

Nicaraguan government statistics show that 73% of government-controlled land distributed in 1987 was given to collective farms rather than individuals—a 23% increase over 1986. No reversal of this policy has been entertained by the government.

D. End pressure to join Sandinista farming cooperatives.

The Sandinistas continue to use economic and military pressure on civilians to join cooperatives, many of which are used for military purposes, according to the U.S. Embassy in Managua. Access to farm loans, scarce tools, fertilizer, and seed is completely controlled by the Ministry of Agriculture, which uses this control to pressure individual farmers to join cooperatives. Contrary to popular perception in the U.S., this "land reform," is actually closer to share cropping operations after the Civil War. Farmers do not actually own their own land, they lease it. And in cases where individuals do not cooperate with the system, they are expelled by the land-owner, which in this case is the Sandinista government.

One such case occurred just last week in Massaya, where a small cooperative refused to send half of its men and boys to the army, and is in the process of being confiscated by the government. The farmers came to C.U.S. union headquarters in Managua to seek advice on holding their land, but were not given much hope.

Entire farm families have been, and continue to be relocated by the army from single family farms to these strategically located cooperatives. The Sandinistas have relocated thousands by force, according to the State Department, particularly in Nueva Guinea, Jinotega, Matagalpa, Bocao and Chontales. The total number of Nicaraguan's currently living in relocation camps is 240,000.

On May 26, 1987, a combined force of contra units attacked an agricultural cooperative near Mancotal in Jinotega. The base was occupied by civilian workers and at least 48 Sandinista soldiers, who were armed with 26 AK-47 rifles, one PKM machine gun, 42 RPG-7 grenades, 25,000 PKM rounds, 40 AD magazines, among other supplies.

7. INDIAN AND CREOLE RIGHTS

A. Permit Indian and Creole residents to freely travel, assemble, speak, publish, broadcast, and maintain cultural beliefs and practices.

Numerous Sandinista restrictions on travel, assembly, broadcasting, and cultural activities which are unaffected by the lifting of the State of Emergency are currently being negotiated in talks between the Sandinistas and Indian contra leaders.

Shortly before these negotiations began, however, a government-affiliated Sumo leader was murdered in his home by an officer from the Ministry of the Interior, according to the CPDH. Hans Sebastian Macklin was killed in his home on December 29, 1987 in Siuna. Human rights reports from the Atlantic Coast and Managua said the motive for the government killing was Macklin's overzealous support of Sumo rights.

B. End forcible detention and relocation of Indian and Creole residents and allow them to return to their home communities.

The refugee problem in the Atlantic Coast region is on the agenda of the talks. It is widely assumed that if the political talks are successful, the refugees will come back, and the resettlement camps will be closed. The short-term outlook for the talks is good because if the Sandinistas can reach a settlement with the Indians, they can focus their attention on coping with the larger contra groups on two fronts instead of three.

C. Cease aerial bombings and attacks on Atlantic Coast civilians and their properties.

During the last two weeks of December there were reports received by the U.S. Embassy in Managua that Sandinista troops burned homes and arrested Indian inhabitants in communities between Puerto Cabezas and the Coco River.

D. Allow Indians and Creoles to engage in traditional farming, fishing, hunting and necessary subsistence activity.

These subjects are a focal issue in the autonomy talks with the Sandinista government.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Speaker, I rise in support of the bipartisan humanitarian aid package for the Nicaragua resistance. As one of those Democrats who has consistently supported aid to the Contras, it is a relief to come to this well knowing that leadership on both sides of the aisle are behind this package. Let me say that if the Contras and Sandinistas can sit down and talk, the Democratic and Republican leadership should be able to do the same. We in this House should also declare a temporary cease-fire on this issue and pledge to work together in the future on forging a comprehensive Central American policy. I commend both the Speaker and the minority leader for their diligence in bringing about this package.

I don't believe that there is anyone in this House who wants the civil war to continue in Nicaragua. However, it is incumbent that the Nicaraguan Government make good on its promises to provide permanent democratic reform, so that all Nicaraguans have the ability to shape the destiny of that country. The tentative cease-fire reached between the Nicaraguan Government and the Contras is only beginning of a process toward a more democratic country. It is not the end of our involvement in the affairs of that country. At this time, the administration should provide the Nicaraguan Government the necessary incentives to establish permanent democratic reform. On the other hand, Congress should be ready to vote for lethal assistance expeditiously if the cease-fire falls apart. Once again, I commend our congressional leadership for finally working together on this issue and I hope that this action today sets a precedent for the future. So we may go to Nicaragua in the future and monitor open elections, as six of us did in El Salvador, 10 short days ago. That was their fourth.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1½ minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, this is not the plan that many of us would prefer to support today. There is much too much left to chance including, first, the possibility of disagreement on how this aid will be delivered and, second, the concern about the possibility of a future vote should negotiations break down. We must keep our friends in the democratic resistance alive, that is why we must support this proposal.

There has been a major change in circumstances since we defeated the Democratic plan 3 weeks ago. Then our friends needed military help. There was no cease-fire, and as we now know, the Sandinistas were about to launch a major attack. But now there is a cease-fire.

Our friends need beans more than they need bullets at this time. We must provide what they need, but should the negotiations fail, it will undoubtedly again be necessary to provide the Contras with the lethal aid they will need.

In the meantime, as a show of good faith, it is imperative that the Sandinistas accept no more lethal aid from the Soviets, and all of us, Democrats and Republicans, should insist on that minimum commitment to fair play and the peace process.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I would like to point out to my colleagues something that is very significant in this resolution, and that is the Contras are referred to on 14 separate occasions as the Nicaraguan democratic resistance. This is obviously a bipartisan effort. Democratic resistance—the first letters are in small case, and I think what it shows, despite the rhetoric we have heard over so many debates on this floor, there is a realization in this House that the Contra forces really are the democratic resistance. It is listed 14 times here.

I have a question for my colleague, the gentleman from Michigan [Mr. BONIOR], and it concerns the inequality of the cutoff of American aid versus military assistance versus the cutoff of Soviet military assistance. I wondered if he could comment on that. Where do we go from here? I understand this resolution does not contain any brakes on the Soviets' military assistance; if he could comment on that. Would the gentleman comment on that?

Mr. BONIOR of Michigan. If the gentleman would yield, we obviously cannot legislate what the Soviets would give to other countries.

The SPEAKER. The time of the gentleman from Pennsylvania [Mr. RITTER] has expired.

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself 1 minute to respond to the gentleman from Pennsylvania.

I would say to the gentleman's query that our desire here is to see Central America, to the extent possible, demilitarized. The shining beacon of Central America is Costa Rica, a country without a military, and to the extent that we can cajole and do the things we can to get the Soviets to stop their military presence in Nicaragua, we will do that.

We are spending far too much money, both sides, on countries in Central America for military purposes.

Some of the gentlemen from your side of the aisle got in the well and talked about the billions of dollars that the Soviets have poured into Nicaragua. We have, and I am sure the gentleman is aware of this, poured literally billions of dollars into the region ourselves. In Honduras, we built up an incredible infrastructure, military infrastructure. I want to see all of that—and I think that is what the basic accords at Esquipulas drive to and lead to, and that is the demilitarization of the whole region including Nicaragua itself.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding me this time.

It looks like we are going to a wake, this is so solemn. It is incredible how Members are so subdued, and I am afraid we are sort of going to a wake, Mr. Speaker.

Mr. Speaker, I am going to support this package, but not as a package that would defeat communism in Central America.

I am going to support the package, because I think we owe it to the freedom fighters.

In fact, we cannot call them freedom fighters any longer. We could call them democratic resistance, because they no longer have anything to fight for freedom, especially in this package, but I think we owe it to them to at least feed them while they are surrendering.

How soon we forget. How soon we forget. February 3 we told you that this would happen. We told you that if you did not pass our package with lethal aid in it the Contras would be weakened and they would be going to the negotiating table looking for what they could get out of it, and this is what they have got, and it is tantamount to surrender.

When will the Soviet lethal aid stop? And it is one point billion, not billions, that we have given. Where is the call to remove the Cubans and the Soviets from our back door? When will we call to get the Soviets out of our back yard?

Mr. BONIOR of Michigan. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I support this bipartisan package.

As one of the Members who made the trip to Honduras 2 weeks ago, I recognize the need for humanitarian aid, and I urge my colleagues to support this joint resolution.

Mr. Speaker, I rise in support of this resolution to provide approximately $50 million in humanitarian aid to the Contras for the next 6 months. In all the many debates on this issue that we have had in this body, we have finally reached a bipartisan agreement on this aspect of Central American policy.

Though not everyone will be happy with this bill, it is a sensible package that is capable of being supported by a majority of Democrats and Republicans. The Speaker is to be commended for his pledge to allow consideration of a military aid request from the administration if the cease-fire does not come through. The Contras need military supplies, but at this point we have a commitment to see that they are fed, clothed and offered medical provisions.

At this delicate stage in the negotiations between the Sandinistas and the Contras this proposal represents a balanced, realistic approach to providing assistance while supporting the peace talks. The bill provides $10 million to the Organization of American States for the verification commission established by the cease-fire agreement between the Contras and the Sandinistas. This is a prudent provision as this commission will play a key role in determining the basis for future action.

I recently traveled with the Armed Services Committee to Honduras to observe the deployment of United States troops, and I was impressed by the need to keep the Contras a viable force in the region so further United States deployments are not necessary. This bill provides what the Contras need now: food, clothing, shelter, and medicine.

This agreement represents a breakthrough for Congress and could set the stage for more bipartisan policy efforts in the region. I urge my colleagues on both sides of the aisle to support its passage.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I plan to vote for this resolution.

But do we trust the Sandinistas? We must keep watch. Let me give my two examples.

Radio Catolica, voice of the Catholic Church, has had its power cut since January from 8 a.m. to 1 p.m. at the station, and 12 noon to 4 p.m. at the transmitter.

The power is on now, and I hope the reason is the peace process as well as Holy Week in allowing Cardinal Obando y Bravo to speak out.

La Prensa purchases newsprint from the government, which controls its supply. The government also supplies the Communist newspaper and the newspaper published by the Marxist Sandinista government.

Today, La Prensa is out of business. The reason it is out of business is it does not have any newsprint. The other two newspapers are continuing to publish. Obviously they demanded newsprint and got it, but La Prensa demanded newsprint, but it was not supplied.

Is it not strange that the newsprint supply ended as the cease-fire negotiations are to begin in Managua? Who will honestly tell the Nicaraguan people the truth about the negotiations?

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, you will recall at a prayer breakfast back in August I said I was with the Wright-Reagan plan, and I gave you top billing, because it was initiated in your office, together with our leader, BOB MICHEL.

You will recall I told you I was for you, but that in 60 days if we could not get something together, I was going to have to cut a separate course. After all that it has come down to this.

The resistance who you called our people the other day, now admit to me that they have been taken to the cleaners by the Communists, with respect to the official number of political prisoners. Uno Hernandez who was beaten badly, and is the head of the Nicaraguan Permanent Commission on Human Rights, spent a month in prison in August until he was released to Senator HARKIN. He says there are at least 6,200 political prisoners, and our State Department and intelligence people at both Defense and at the Agency claim there may be upward of 9,000 political prisoners in Nicaragua.

The International Red Cross has disgracefully signed off on an official number of only 1,800 Guardia kids. This is particularly galling when Ortega told me to my face in Jesse Jackson's dining room that there were 2,000 Guardia. He also told me they had 1,000 civilians, and 800 political prisoners. But as a result of these Red Cross sanctioned figures we may be losing 3,000 to 6,000 prisoners. In Sapoa, the resistance only signed off on percentages of political prisoners to be released, 100 on Palm Sunday.

I am, therefore, going to do a 1-hour special order and show brand new declassified pictures as of yesterday of 16 prison camps in Nicaragua in the sharpest detail I have ever seen. They will not be blown up. But I will have those next week. I for one, will not stand by as 6,000 people disappear into oblivion, which has happened in every single Communist conflict, 100 in Laos, 300 in Korea, thousands and thousands into the gulag camps after the Second World War, including Operation Keelhaul where we forcibly took back men to be returned.

I have had prepared a House joint resolution, and I have 10 signatures already on it, and if you want the Soviet Union and its allies to withhold military assistance to the Nicaraguan Communists, then get on my resolution. In this troubled part of the world, the struggle is not over, Mr. Speaker, as you well know.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. GEKAS].

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Mr. GEKAS. Mr. Speaker, Managua, Nicaragua is a wonderful place; that is what the song said back in the forties. It made the Hit Parade here in the United States.

Now today, Managua, Nicaragua, is a wonderful place for Soviet visitors, for Cuban advisers, for the army of Ortega, but it is not a wonderful place for the prisoners and the press and the religious leaders of that country.

Now is the chance for us to have our say to try to return Managua, Nicaragua, to the wonderful place it once was.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. I thank the gentleman for yielding time to me.

Mr. Speaker, today I will reluctantly support the aid package for the Nicaraguan Contras. I say reluctantly, because this proposal is much too little and far too late to ensure peace with freedom in Nicaragua. And I repeat, with emphasis, to ensure peace with freedom in Nicaragua. However, it serves well as refugee aid, which the Contras are obliged to accept in place of the support we promised them in their fight for freedom. As such, this vote will be a bitter pill for me to swallow.

Mr. Speaker, the struggle for peace with freedom in Nicaragua is over, brokered away for peace at any price. Anyone who doesn't believe that should take a close look at the Sapoa accord. It says nothing about ending Soviet military aid to the Sandinistas, nothing about promoting pluralism in Nicaragua, nothing about withdrawing the East-bloc military advisers from that country. It deals only with the surrender of the Contras.

In the days ahead, we must keep a close eye on El Salvador, because it is the Marxist guerrillas opposing democracy there who the Sandinistas fully aid and encourage when the pressure from the Contra is turned off.

Today we serve formal notice that the pressure for peace with freedom is off in Nicaragua.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. I thank the gentleman for yielding time to me.

Mr. Speaker, while it is not in the form I would have preferred, I rise in support of this bipartisan package to offer aid to the democratic resistance in Nicaragua.

This aid package comes at a crucial time in the quest for peace in central America. It is imperative that we signal both the Sandinista regime and the Contras that we are not going to abandon the forces of freedom in Nicaragua.

The truce agreed to by the Sandinistas and the Contras offers hope for a long-term cease fire and democratic reforms in Nicaragua. For that hope to be realized, the Sandinistas must be convinced they cannot simply crush the forces opposing them and avoid making those changes necessary to bring democracy to Nicaragua.

Too often, we have seen the Sandinistas make commitments to promote democracy and respect for human rights only to see those promises broken. Once again, we have promises made by the Sandinistas, and the lives of thousands of Nicaraguans depend on those promises being kept.

Given their trail of broken promises, it would be foolish and unrealistic to rely only on Sandinista assurances of future compliance of the Arias peace plan requirements or those agreements reached with the democratic resistance in Sapoa.

We need this aid package to keep the Contras as a viable force so the Sandinistas understand that if they fail to live up to their part of the bargain, they will once again face an opposition force committed to achieve democracy and freedom for the people of Nicaragua; a force that will have the means to bring pressure on the Sandinistas.

Without the Contras, there can be no democracy in Nicaragua. And as President Arias of Costa Rica says, "without democracy in Nicaragua, there can be no peace in Central America, and there is no democracy in Nicaragua."

With the preliminary agreements between the Sandinistas and the democratic resistance in Nicaragua, we are just at the beginning of a long process of reconciliation and democratic reform. We must now support this ongoing peace process. While we may be skeptical the Sandinistas have any real intention of changing their government or their control over the people of Nicaragua, achieving peace at this point appears easy. Achieving peace with justice and freedom is much more difficult. For that, we must support the forces of opposition to the Communist Sandinistas in Nicaragua and approve this package of humanitarian aid. I urge my colleagues to give their unanimous support to this package.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, Phillip Habib has time and time again said in dealing with the issue of Central America that we should have a two-tiered approach: one is providing military assistance to the democratic resistance and No. 2 is the negotiating process.

We also have heard time and time again that it is very important for us to negotiate from a position of strength.

As my friend from Texas, Mr. DELAY, said in his statement earlier, on February 3 when the debate took place here, we did talk about the necessity of negotiating from a position of strength and we said what would happen if we did not negotiate from that position of strength, and it has happened.

Unfortunately, the Contras in the negotiations last Thursday had to negotiate from a position of weakness. We know full well that what we want is real democracy as we look at what we are trying to achieve there. It is vitally important that we inject the wisdom of the author of the Central American peace accord in this debate today. Speaking on Nicaragua, President Arias has repeatedly stated and I quote,

> Without democracy, as I have said many times, as the heart of the peace plan, a lasting peace cannot be achieved in the region, a lasting peace is not compatible with dictatorship, with totalitarianism. Therefore, a lasting peace requires as a precondition that there be a democratic regime in Central America, regimes in which national presidents can be freely elected.

We know Daniel Ortega said if an election would take place he would give up the government but not give up power.

Let me make sure as we support this plan that we do bring about a balanced, a very balanced approach to this problem.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, the history of the Contras is coming to an end. Mr. Arias is leaving this peace process with his Nobel Peace Prize; the Contras are leaving with the promise of slow extinction. Let us address the question of the Soviet Union, what they are leaving with.

The Soviet Union, by building the naval base at Corinto in Nicaragua and the bomber base at Punta Huete is effectively flanking the Pacific Fleet of the United States. For the Soviet Union to project power off the west coast of the United States they have to pull ships out of Camranh Bay some 7,000 miles away; in Korea if they get permission from the Korean Government to use their ports or out of the Soviet ports some 5,000 miles away. Presently they have to go into a holding pattern if they are going to project power off the west coast of our hemisphere because they have no ports to put into. That situation is changed with the consolidation of Nicaragua by the Soviet Union.

They will be able to operate all classes of warships out of Corinto a few hundred miles from the Panama Canal, within easy reach of the canal and within easy reach of the United States Pacific Fleet.

That is why the Soviet Union has poured over 2 billion dollars' worth of lethal aid to their side, the Sandinistas, while we cut off lethal aid, or military aid, for our side.

So I think it is fair to say that the Democrats can survive this election year having lost Central America but they cannot survive the accountability problem.

Mr. Speaker, you have created with your allies a situation in which the Soviet Union has established permanent bases in Central America and that situation is going to accrue to the detriment of American security from here on out.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, Congress today has an historic opportunity to support the peace process without abandoning the Contras. We should seize this opportunity.

This package keeps the Contras alive in cease-fire zones pending the outcome of the peace process. Beyond this it is compatible with the cease-fire agreements signed by the warring parties on March 29.

Mr. Speaker, I hope that at long last this administration will enter into bilateral negotiations, direct talks with the Nicaraguan Government to address the question of the Soviet bases and the presence of Soviet and other foreign military personnel in Central America. That is the way we deal with that problem. It is regrettable that this administration has not done that.

I have said before, Mr. Speaker, that united we are strong and divided we are weak. Let us as a united Congress send a strong message in support of the cease-fire talks, in support of the peace process and in support of freedom and democracy in Central America.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this is an important day, not because this bill is perfect but because it does two things. First, it sends a clear message to the world and to the Sandinistas that the people of the United States and this Congress support the continued existence of the Contras and the cause of freedom in Central America.

Second, by insuring that the Contras will not only receive food but may receive more ammunition later if it is needed, this bill will allow them to go to the bargaining table this time with enough cards to play to increase the chances of bringing the blessings of democracy to Nicaragua. The Reagan doctrine is working.

It is pressure from the Contras which has forced the Sandinistas to the bargaining table and it is only the potential of further pressure which will force the Sandinistas to comply with agreements they have made repeatedly and which they have ignored repeatedly.

This legislation is important and I urge my colleagues to vote for it.

Mr. JEFFORDS. Mr. Speaker, this is the third time in 8 weeks that Congress has taken up a package of assistance to the Nicaraguan Contras. Some of these proposals have contained military assistance, some have contained nonlethal aid, and some have provided only food, medicine, and clothing. On each occasion, I have argued that this is not the time for debating the larger questions of United States policy toward Nicaragua, when we should, instead, be expressing our strong support for the Arias peace agreement and a negotiated settlement to the war in Nicaragua.

I have consistently opposed all military and military-related aid to the Contras. However, I supported the March 3 proposal that provided food, medicine, and clothing to the Contras and their families primarily because it seemed the defeat of that proposal would be followed by renewed attempts to approve military aid to the Contras.

Luckily, legislation to renew U.S. military support for the Contras was headed off by the actions of the Central Americans themselves. I am pleased that the cease-fire agreement signed by the Sandinistas and the Contras on March 23 removes many of the dilemmas we wrestled with earlier this month. The package before us today includes the best of this earlier proposal—food, medicine, and clothing, and medical help for the children victims of the war on both sides. This aid is acceptable to both the Nicaraguan Government and the Reagan administration and consistent with the terms of the Sandinista-Contra cease-fire agreement.

In view of the troubled state of the Nicaraguan economy, the United States has an obligation to help ease the Contras and their families back into Nicaraguan society. But more importantly, the United States has an obligation to support both the Contras and Sandinistas in the risks that they have accepted by agreeing to pursue negotiations instead of a military settlement. There are still many hurdles to overcome before real peace and democracy are achieved in Nicaragua. United States' support for that process will be critical to the success of those efforts. By providing much-needed food, clothing, and medical help to the Nicaraguans who agree to return to Nicaraguan society and participate openly in the process, we will hopefully be helping the Nicaraguans heal the deep wounds of the past 6 years and begin a new era in their history.

The bipartisan support that this resolution has received is most heartening, and I urge all my colleagues to give it their vote.

Mr. OBERSTAR. Mr. Speaker, for 7 years this country has been providing both overt and covert aid to the rebel forces seeking to overthrow the Government of Nicaragua. I have consistently opposed our involvement in this war, and have opposed all bills on this floor to provide military aid to the Contras.

Now, for the first time in 7 years, there is a genuine chance for a peaceful end to that war. A cease-fire agreement has been reached between the Sandinistas and the Contras, an agreement which has the potential to bring lasting peace, at last, to Nicaragua.

The bill we now debate is consistent with that agreement. It provides $17.7 million in humanitarian aid: food, clothing, shelter, and medical supplies—not guns, grenades, and bullets. This aid will be delivered by a neutral organization with the approval of the cease-fire oversight commission—not by the CIA or its agents.

A comparable amount is provided for medical assistance to children, the innocent victims of war. It will provide these children with medicine, immunizations, prosthetic devices, and rehabilitative therapy. It will also provide treatment for burn victims, help for orphans, and other needed assistance to the children of this war.

If the cease-fire becomes permanent, additional money would be available for resettlement, to allow the Contras and their families to return to their home country and resume a role in Nicaraguan society.

Another $10 million would go to the Organization of American States, to monitor the cease-fire and determine that the aid we send to the Contras is properly used.

My opposition to our proxy war in Central America is a matter of record. However, we now stand on the brink of a peaceful settlement of that war. To deny the Contras these basic needs now would only create a desperate, hopeless, homeless population, likely to continue the fight, or worse yet, become one more refugee nation, encamped in poverty and squalor in neighboring countries.

This legislation is compassionate, it is reasonable, and it contains safeguards against the aid we send being used for military purposes. Most of all, it is consistent with the cease-fire agreement, and necessary for a successful pursuit of the peace process. This bill will allow the cease-fire to take hold, and will give peace a chance in Nicaragua. I urge that we show the same spirit of cooperation and compromise shown by the Sandinistas and Contras who worked out the cease-fire agreement last week. I urge passage of this bill.

Mr. ROYBAL. Mr. Speaker, once again, I rise in opposition to this latest proposal for Contra aid. In fact, in light of the events following our last vote on this matter, I am puzzled as to why we are even considering another request.

A short time ago I, along with a number of my colleagues, were faced with a difficult decision. We are being asked to support a package of humanitarian aid for the Contras that, while much more balanced than the administration's latest request, still would have allowed the war effort to continue, and would have represented a complete reversal in position for us. I could not in good conscience support such a package, but although I voted against final passage, there was no sense of elation when the measure was defeated. The accusations, vilifications, and distortions that followed the vote had been easy enough to anticipate. So was the President's reaction—manufacturing a crisis, as has been done so many times before, and sending more American troops to Honduras in a so-called show of strength.

What was not so easily anticipated, but probably should have been, was the speed at which this denial of further funding sent the Contras in search of a genuine peace agreement with the Sandinistas. In the past few days, we have seen more real progress toward peace and democracy in Nicaragua than we had previously seen in years of funding the Contras. We should be doing everything we can to assist this fragile process. Instead, we are actually considering another aid package that will encourage the Contras to turn away from the table and again take up arms. Just the prospect of replenished coffers has encouraged some Contra leaders to back away from negotiations. This administration has proven that it will do anything to topple the Nicaraguan Government. We are in Congress once again allowing ourselves to be party to these machinations.

For decades, we in our arrogance have been treating Central America as adjunct U.S. terrority. It is about time we recognize our neighbors as independent countries with the right to determine their own destinies. American values cannot be prized if America is continually seen as the champion of oppression, the promoter of war, the destroyer of lives. We have had opportunities to dispel that image which we have continually ignored, yet we continue to wonder why America is viewed in the eyes of much of the world as a "great Satan."

Some say that because we created the Contras as a valid fighting force, we have the obligation to ensure their well-being. I believe that beyond relocation assistance for the rebels, our only obligation is to take whatever steps are necessary to restore to the Nicaraguan people some semblance of normalcy.

Let's get out of these people's lives. Please vote against any further aid to the Contras.

Mr. LIPINSKI. Mr. Speaker, I rise today in support of this package to aid the Nicaraguan democratic resistance. Although I believe the Contras were basically forced to negotiate with the Sandinistas, I am not opposed to the recent cease-fire agreement and general negotiations on the political future of Nicaragua.

I sincerely hope the Sandinistas will live up to what they promised the Nicaraguan resistance at the bargaining table. The Ortega regime still receives large shipments of Soviet military hardware and refuses to separate the state from the army. It still encourages the turbas divinas—the divine mobs—to intimidate and stifle those who would speak out against Sandinista repression. It still forces the young men of Nicaragua into the army. The list of antidemocratic actions seems to go on endlessly.

Nevertheless, the Sandinistas have promised to release all political prisoners, and to allow the Contras and any other opposition elements a true voice in the political future of the country. The next couple months will test whether this in fact will happen. The Ortega regime has had since last August to implement democratic reforms, and, besides some easily reversible actions, must do more to bring change to Nicaragua—change that will guarantee freedom of expression and the holding of free and fair elections.

Mr. Speaker, we must be careful in the near future. While we all hope that the cease-fire will actually bring about fruitful negotiations, we must be on guard if they fail.

Mrs. COLLINS. Mr. Speaker, the latest developments in Central America remind me of the script from a "B" movie—stale, redundant, and of questionable credibility. The alleged "invasion" by Nicaragua into Honduras, for instance, shared more in common with screenwriting than reality. President Reagan told us that 1,500 troops of the Nicaraguan Army entered Honduras to eliminate the Contras' supply bases. Strange, isn't it, that the next "invasion" closely follows the latest vote by Congress to cut off all aid to the Contras. Now, after the negotiation of a cease-fire, we are told that more aid is needed for the peace process to continue. While I can understand the necessity of aiding the children of Nicaragua, whose lives have been tragically shattered, it simply does not make sense to provide aid to a military organization so that they will make peace.

Through all the saber-rattling, it becomes clear that President Reagan has presented Congress with a choice: either pass aid to the Contras or the United States military will become further involved in the Central American quagmire, as the recent deployment in Honduras has demonstrated. Public opinion surveys have shown repeatedly that most Americans oppose United States involvement in Nicaragua. The Reagan administration has been pursuing a policy that runs contrary to the will of the American people.

This contempt for democracy, this twisting of the truth, this neglect of the facts are all indicative of the Reagan administration's policy in Central America. In 1983, when U.S. marines faced disaster in Lebanon, President Reagan chose to shift the focus by sacrificing American lives with the invasion of Grenada. When Congress voted to cut off aid to the Contras in 1986, the administration cried "foul" and labeled another Nicaraguan incursion into Honduras an "invasion." And now, when aid to the Contras appears doomed, and the criminals of the Iran-Contra affair have been placed under indictment, Ronald Reagan has yet again attempted to change the script by sending our troops to counter an invasion that simply does not exist.

It seems to me that the facts have been selectively presented to manipulate the vote of Congress on the Contra aid issue, and to encourage "war fever" among the American people. The facts are, Mr. Speaker, that incursions by the Nicaraguan Army into Honduras are fairly common. The facts are that the cancellation of aid is what got the peace process going. The facts are that President Reagan, that outspoken champion of freedom and democracy, has nothing to say about this giant step for peace, and the most important fact of all is that the American people oppose aid to the Contras. There is a war going on, killing thousands, and its conclusion is long overdue.

This behavior, a mere symptom of a morally diseased Presidency, was the inspiration for the cancer of the Iran-Contra affair and, despite the removal of that sickness, the disease still remains. It is long past time for President Reagan to face up to reality. The situation in Central America is not a screenplay, and will not be altered by the transparent representations of a desperate policy. I urge my colleagues to vote against this measure, and to oppose all further aid for the Contras in the future.

Mr. HALL of Ohio. Mr. Speaker, I rise in opposition to this legislation to provide Nicaraguan cease-fire assistance in response to the signing of a cease-fire between the Contras and the Sandinistas on March 23, 1988.

I have consistently opposed military aid to the Contras. I have always questioned the merit of arming the Contras as a means to apply pressure on the Sandinista government of Nicaragua. In keeping with my position, I was among those who voted against the President's request for military aid to the Contras on February 3, 1988.

On March 3, 1988, I voted to substitute the Democratic "humanitarian" aid package for the Republican version. While I had reservations about both proposals, I thought that the Democratic plan was better. The Republican proposal did not mandate that the child survival component of the funding was to be distributed through nonpolitical private voluntary organizations. In addition, the Republican aid package—unlike the Democratic plan—provided for delivery of the nonlethal assistance through the Central Intelligence Agency. Moreover, the Republican version permitted the shipment of military-related equipment such as jeeps, helicopters, and spare parts to allow the war effort to continue. Finally, the Republican version gave the administration a virtually automatic congressional vote on renewed military aid, while the Democratic version left the scheduling of such a vote up to the Democratic leadership.

After considerable reflection, I also voted for final passage of the Democratic package. I did so when it became clear to me, as the vote was occurring on the House floor, that the vote was being interpreted as a choice between ending the Contra war or holding open the prospect for additional Contra aid, including military aid. I did not want to contribute to opening up the possibility of more military aid to the Contras and handing a defeat to those working for peace for the Nicaraguan people.

So at that time, the choice appeared to be one of either phasing out the war and helping injured Nicaraguan children or keeping alive the chances of providing more military aid to the Contras. Today, I believe the options are different. The cease-fire agreement signed on March 23, 1988, prohibits the Contras from soliciting further military aid. Moreover, at this time, while the cease-fire holds, the prospects are unlikely that Congress will approve any more military aid to the Contras. Therefore, this current aid package can be judged upon its own merits, rather than upon how it might compare to another unknown package that would contain military aid to the Contras.

I am not opposed to funding designed to phase out the Contra war, to help the suffering children of Nicaragua, and to implement a peace accord. However, in my opinion, the package before us today is premature.

The agreement signed on March 23, 1988, only provides for 60-day cease-fire which begins on April 1, 1988. It is not a final peace accord; instead, it is the first positive step toward such an accord. We must keep in mind that the negotiations for a permanent cease-fire do not begin until April 6, 1988.

However encouraging the events of March 23, 1988, are, there is still a long way to go before a genuine and lasting peace is realized in Nicaragua. I would ask my colleagues, "Why must we rush to provide funding today?" Although the complete information is classified, certain amounts of funding are said to remain available to the Contras. Surely, the humanitarian Contra aid in this legislation, plus the other aid components, can wait until the situation in Nicaragua is clarified.

In my view, the aid contemplated in this package should not be sent until a more certain and lasting peace agreement is signed. An aid package like this of around $50 million should not be voted hastily or casually. There are some good elements in this package, but I believe it is too early to approve them at this stage of the negotiations between the Contras and the Sandinistas. United States aid to help end the war and to facilitate reconciliation in Nicaragua has merit, but I am concerned that this package is not coming at the right time for such assistance to have the most beneficial and lasting impact.

While I commend the intentions of my colleagues who have drafted this proposal, I would urge the defeat at this time of this legislation.

Mr. ATKINS. Mr. Speaker, I rise in support of assistance for the Central American peace process. I have always opposed aid to the Contras in the past. Indeed, I voted against the continuing budget resolution because it contained Contra aid provisions. Nevertheless, over the past month, I have found myself, on two occasions, favoring an humanitarian aid package.

We have finally reached a point where United States aid to the Contras can actually help to achieve a lasting peace in Nicaragua rather than prolonging the war. Last week, the Contra leadership and the Sandinista government agreed to a cease-fire that may eventually lead to a permanent cessation of hostilities.

We are all aware of the suffering that has consumed the people of Nicaragua over the past 7 years. It is tragic to think that a good deal of this suffering has been sponsored by the United States. The funds provided by the aid package we are considering today will go toward food, shelter, and medicine. Almost half of these funds will be used solely to aid children.

The legislation before us today may well serve to further the peace process. There are no provisions for military aid, and no binding language that will enjoin the House to consider military aid in the future. It is agreed by both the Contras and the Sandinistas that cessation of America military aid was pivotal in the signing of the cease-fire. In the week since the cease-fire was proclaimed, we have seen liberty granted to political prisoners and progress made toward a permanent laying down of arms.

This measure calls for aid to be administered, not by the CIA, not by the Defense Department, but by a neutral organization funded through the Agency for International Development. The aid would be guaranteed for a 2-month period, and then reviewed every month following. In addition, the Organization of American States would be permitted to inspect any shipments in order to ensure that no military equipment is included. Any delivery not authorized by this legislation is expressly prohibited.

I encourage my colleagues to see this legislation for what it is—a well reasoned vehicle by which the United States can aid the reconciliation of the people of Nicaragua. I have always opposed American funding of the way in Nicaragua. This package provides us with some hope that we may soon have peace in Central America.

Mr. MARKEY. Mr. Speaker, I would like to commend you and the Democratic leadership of the House of Representatives for your outstanding leadership in support of peace in Central America.

I think it is clear that we would not be where we are today in Central America if it were not for the work of the Speaker. I support his efforts to bring peace, democracy, and reform to our hemisphere.

However, I cannot vote for the package before us today. It contains some very positive elements, particularly the aid for children victims of the war in Nicaragua. Furthermore, I recognize the short timeframe in which this package was drawn up, and the tremendous difficulties inherent in trying to craft a proposal that can satisfy the concerns of all Members of the House on the very contentious issue of Contra aid. Nonetheless, there are provisions in this legislation which I believe leave it open to exploitation in ways which might undermine the peace process. Some issues relating to aid to the Contras are irreducible. However, with the advent of the cease-fire, I hope and believe that we can move beyond them. I would like to lay some of the specific concerns I have with the legislation before us, in the hope that they might be addressed, if not tonight, then at some time in the legislative process.

Section 4(d) authorizes the detailing of CIA personnel to AID to help administer the humanitarian aid program. This opens the door to authorizing the same people who heretofore have been running the Contra war to now run the humanitarian aid program. It is an opening to mischief that I think is unwise. More important, it raises a substantial risk of tainting the laudable humanitarian activities of the Agency for International Development with covert operations which are the province of the CIA. Many in Latin America and elsewhere are too ready to suspect that legitimate humanitarian activities of the United States Government are covers for or tied in with CIA covert operations. We have tried long and hard to combat that suspicion by keeping AID's work away from intelligence operations. I fear allowing CIA personnel involved in the Contra program to work within an AID program may be a step in the wrong direction.

Also, there is no explicit provision in the bill for ending assistance to the Contras if the cease-fire breaks down. While the Verification Commission can act affirmatively to end it, this easily could be blocked. Also, the legislation is vague as to delivery of the aid. It requires that aid to the Contras be consistent with the Sapoa agreement, but does not explicitly stipulate the conditions to be met by the delivering organization, nor does it stipulate a humanitarian international organization, as it might.

Also, the bill delegates to the President the authority to interpret what is consistent with the peace process or what the Verification Commission has determined. The Verification Commission is composed of the Secretary-General of the OAS and Cardinal Obando, who might be subject to outside pressure; presumably, one member could effectively block any action by the Commission.

Finally, I must say that I am uncomfortable with the idea of giving the President the assurance of expeditious consideration of a proposal for lethal Contra aid. I believe it unnecessary. The House leadership has been more than fair to the President and the minority on the issue of Contra aid in the past, and can be expected to continue this fairness in the future. In the current situation, Republican demands for assurances of this kind raise serious questions about the sincerity of their support for the cease-fire process. In short, the bill before this house tonight is not one that I can vote for. Nonetheless, I look forward to working with the leadership and Members on both sides of the aisle to support the peace process in Nicaragua and all of Central America. There has been no more hopeful development in that region in this decade, and we should not lose this opportunity for peace and reform.

Mr. McCURDY. Mr. Speaker, I rise in support of the humanitarian aid package for the Nicaraguan resistance we are considering today. This resolution provides us with yet another opportunity to rise above the partisan denunciations which have characterized the debate on this issue and allow us to form a bipartisan consensus in the Congress toward Nicaragua.

I commend the leadership on both sides of the aisle for recognizing the need to pull together and demonstrate support for recent developments in Nicaragua. The 60-day cease-fire recently signed in Sapoa does not represent an abandonment of the democratic resistance. Rather, it is a positive step that will lead to further discussions between the resistance and the Sandinistas. This humanitarian aid package is an expression of our support for this process.

Ironically, the aid package we have before us today does not differ significantly from the Democratic alternative rejected by the House earlier this month. It is a solid package which answers the current needs of the Contras as they prepare to continue their negotiations with the Sandinistas. This package has the support of the resistance leadership as well as the adminstration. It is a means to allow the democratic resistance to determine their own destiny.

For too long this body has been consumed by the debate which surrounds this important issue. Nicaragua should not be the only focus of United States policy in Central America. I call on the administration and the leadership in Congress, in the spirit of bipartisan cooperation, to consider the broader problems in Latin America. I urge my colleagues to lend their support to this humanitarian aid package.

Mr. BRENNAN. Mr. Speaker, I rise today to lend my support to the bill currently before the House, House Joint Resolution 523.

This bipartisan aid package has been endorsed by all parties involved in the current conflict in Nicaragua as a means to implement the peace process underway in that troubled country. This aid will reinforce the Central American peace process by supporting negotiations hopefully leading to a permanent negotiated cease-fire agreement, and will be administered in a manner consistent with the Sapoa agreement crafted last week between the Sandinistas and the Contras.

Peace may finally be at hand in this part of Central America. After 7 years of warfare, which has claimed the lives of an estimated 40,000 people, the killing may end.

And, I am especially pleased to say, it sets aside $17.7 million to assist the most helpless victims of the war—the children on both sides of the conflict. The bill also provides money to establish the infrastructure of the Verification Commission set up under the Sapoa agreement.

More than anything, this bill follows closely the best traditions of the American humanitarian spirit. The Contras are human beings, men and boys who need sustenance to survive. House Joint Resolution 523 will help integrate the Contras back into civilian society, and move the struggle in Nicaragua from a military solution to a political one.

In approving this package, we in the Congress vote not as members of different parties, but rather as compassionate Americans committed to the highest values our country stands for.

Too many people have died. Peace, with guarantees for democracy and freedom for the Nicaraguan people, may be at hand. Let us unite behind this package and finally leave this issue behind us.

Mr. ANDREWS. Mr. Speaker, I rise in strong support of House Joint Resolution 523, Nicaraguan cease-fire assistance.

The cease-fire agreement reached between the Contras and the Sandinistas on March 23, is an important step in the peace process. This aid package demonstrates Congress' support for the peace plan of Costa Rican President Oscar Arias.

Bipartisan support for this aid package will further the cause of peace and democracy in Central America. The cease-fire agreement includes five democratic goals for Nicaragua and offers a timeframe to test the commitment of both sides to the agreement.

First, the Nicaraguan Government will guarantee freedom of expression. Those who wish to speak against the Sandinistas shall be free to do so without fear of repercussion.

Second, once the cease-fire zones are established, the Contras will be free to participate in a national dialog. The forced military service in the Sandinista armed services will be among the topics discussed.

Third, all refugees who have left the country for political or any other reasons will be free to return to Nicaragua. They will not be prosecuted or persecuted for any political or military activities in which they might have engaged.

Fourth, all political prisoners will be released. The first group of 100 prisoners was released on Palm Sunday. The remaining groups will be released once the cease-fire zones are established and once a permanent cease-fire is reached. Former National Guardsmen who are presently jailed will also be released pending a review of each case by the Human Rights Commission of the Organization of American States.

Fifth, all Contras, refugees, and political prisoners will have the right to participate in all elections once they have rejoined normal civilian life in Nicaragua.

House Joint Resolution 523 supports these agreements. It offers 6 months of humanitarian assistance to the Contras providing the cease-fire remains in place. It also provides medical assistance to children injured in the war to be administered by the U.S. Agency for International Development. To ensure that the children receive this medical aid, the bill explicitly prohibits any funds from going through the Nicaraguan Government.

In a letter to President Reagan, House of Representatives Speaker JIM WRIGHT has agreed to provide their fair and orderly consideration of an alternative aid package proposed by the President in the event of a complete breakdown of the cease-fire agreement. Legislative committees would be given 10 legislative days to conduct hearings to determine the reasons for a breakdown. Then the full House will consider additional assistance.

This cease-fire agreement will not transform Nicaragua into a democracy, but it offers a firm foundation for basic, democratic freedoms. The internal opposition must be strengthened and allowed to challenge the Sandinistas in elections for the popular support of Nicaraguans. Only the test of time will prove whether the cease-fire has brought these freedoms to Nicaragua.

In the meantime, I believe the time is ripe for the United States to negotiate a settlement of our security interests in Nicaragua. President Reagan has offered to send the Secretary of State to negotiate directly with Nicaragua. Now is the time for him to follow through on his proposal. The President should act in a concerted effort to prevent a Cuban or Soviet military threat from developing in Nicaragua.

In a broader scope, we must also more clearly define to Cuba and the Soviet Union our vital security interests in all of Central America. We must be prepared to enforce these limits with American strength. We cannot wait for a military threat to define our policy. We must take this initiative before a crisis occurs.

The Contras and the Sandinistas have taken an important step toward resolving their problems. Now is the time for Congress and the President to take affirmative action toward peace, democracy, and security in Central America. I urge passage of this resolution.

Mr. MILLER of Washington. Mr. Speaker, today we vote on yet another aid package for the democratic resistance in Nicaragua. The road to peace and democracy is a long one. In February 1987, I was in Central America when President Arias of Costa Rica first proposed his regional plan for peace and democracy. Impressed by his deep commitment to a peace which would bring freedom and liberty to all the people of Central America, I came back from this trip and worked hard for congressional and administration support for the Arias initiatiave. I believe strongly in this policy which uses a range of pressure and incentives to press for democracy in Nicaragua.

Since last February there has been considerable progress toward peace and democracy. The resistance and Sandinista leaders have met directly on Nicaraguan soil to negotiate a ceasefire. The newspaper La Prensa has been allowed to reopen, and some of the thousands of political prisoners held inside

Nicaragua have been freed. What accounts for this progress? A combination of factors: President Arias' brilliant diplomatic initiative, the Soviet's weariness at pouring millions into its client state, insistent pressure from the political opposition and, yes, the effective military opposition of the democratic resistance. These are all crucial factors in the complex effort to bring democratic reform to Nicaragua and peace to Central America.

One thing we must remember at this crucial juncture is the simultaneity called for in the Arias initiative. This means that democratization and cessation of hostilities is to take place simultaneously. The Sandinistas have taken small steps toward democratization. A newspaper and radio station were allowed to reopen, some political prisoners have been released. However, last week, one of the major components of the peace and democratization plan was fulfilled, a negotiation of a ceasefire between the resistance and the Sandinistas. Thus, we now have a full cessation of hostilities, yet we do not have full democratization in Nicaragua. The Sandinistas continue to harass the internal opposition and others who try to exercise free speech, a truly open and free press is not yet a reality, and municiple elections have not occurred nor have they been scheduled. In light of the negotiated ceasefire, it is fair to ask the question, how much longer must we wait for democratization in Nicaragua?

Today, we vote on a package which will provide humanitarian aid to the resistance. This package will also provide funds for the verification commission to monitor compliance with the ceasefire by both the resistance and the Sandinistas. I support this package. By helping to sustain resistence it shows that we are keeping our options open in the event the Sandinistas fail to democratize. By providing funding for the verification commission, it shows that we will watch closely the progress of both democracy and peace in Nicaragua.

As we debate this package today and reflect on the events in Central America, I think it is also wise to reflect on our—the U.S. Government's—participation in those events. We have not been a model of consistency. Constantly changing congressional votes, administration concealment and lack of leadership, and bitter partisanship on both sides of the aisle created nonpolicy that confused both our allies and adversaries. In the last 2 months alone, we have had three votes on aid to the resistance. In each vote, there were legislative ploys, partisan fighting, and political maneuvering. Too many times the decisions by the Members seemed to be based more on these partisan, parochial concerns and less on the legitimacy of the policy itself. Last month I voted on final passage for the Democratic alternative based on the merits of the bill and the alternatives open to me. We must always remember that despite the prominence this issue has achieved as a domestic political football, we are talking about real people. People who are hungry, people who are dying, people who want and deserve a chance for freedom and liberty, and a chance for a better way of life. The Nicaraguan teenagers who are the bulk of the resistance army gain nothing from our strident, parochial battles. The people of Nicaragua gain nothing from noble statements for peace without a policy which supports democracy and freedom.

As we debate today, I hope that we finally achieve a truly bipartisan consensus based on the merits of the policy and not the politics.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield the remainder of our time to the Republican leader, the gentleman from Illinois [Mr. MICHEL].

The SPEAKER. The distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], is recognized for 4 minutes.

Mr. MICHEL. Mr. Speaker, I rise in support of this bipartisan effort to pass yet another Contra aid package.

I would like to direct my brief remarks primarily to those who, like me, have been long-time supporters of the democratic resistance in Nicaragua.

We have been waging a continuing struggle of our own in the Congress to show we prefer to see a government in Nicaragua that is truly democratic rather than Communist.

We have never apologized for our view that freedom and democratic ideals in this troubled world must often be fought for with arms.

For those of us who have experienced it, war is hell—people die and there is suffering all around. But the fact remains that differences in ideologies are sometimes so profound that there is no way to resolve them but through armed conflict.

In Nicaragua the established government is supported with hundreds and hundreds of millions of dollars worth of arms by the Soviet Union and Communist bloc countries.

We have never been able here in Congress to muster the votes to militarily match these forces let alone overcome them. All we could ever expect was limited support for a countervailing force to bring about change from a dictatorial government to one that would embrace the concept of true democracy with all its attendant free institutions.

For whatever reason it is quite abvious a majority in the last two Congresses have been less and less inclined to support the resistance effort with military assistance.

We have for all practical purposes expected the brave fighters of the Nicaraguan resistance to perform miracles with a modicum of help. I have made no secret of my utter dismay that we have not been able to garner sufficient support for those who, like our forefathers, are willing to fight and die for their cherished freedoms.

These are not sunshine patriots. The characterization revolts me. They are men and boys like you and me who love freedom.

Today my heart goes out to them. How badly we have let them down. But now they really do need our support, nominal as it is in this resolution. I am not laboring under any grand illusions that passage of this resolution will get what I think is best for the Nicaraguan people. It is not the magic key to facilitate a cease-fire in place or fruitful negotiations and all the rest. But for the moment it is the only thing we have to give.

You know the real tragedy here is that as the democratic resistance goes into these serious negotiations with their adversaries, we have taken away their military support and left them with no meaningful leverage. This very resolution negotiated between our two sides in this House came about because even we lowly numbered Republicans had some leverage, not much, but some.

Let us face it. We lost on February 3 by the narrowest of margins.

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So often in history the distance between triumph and tragedy is just such a very narrow margin.

The late Everett Dirksen made the point time and time again of how important that margin was out there, but things are as they are.

History will judge which view best serves the cause of freedom in Central America. For now I say we have no alternative but to support this resolution that has been crafted over many contentious hours of wrangling and haggling between the leadership on both sides of the aisle.

So, Mr. Speaker, I would hope that, as we wrap this up before our Easter break, that we will all join hands in a bipartisan way and support this resolution, and, yes, while we are gone for the 10 days, hopefully most of us attending church services of our choice will make a little extra prayer for those on both sides, that they come to those negotiations with a real purposeful intent, serious intent, to come to agreement and bring about those democratic institutions which all of us revere.

Mr. BONIOR of Michigan. Mr. Speaker, I yield the balance of the time to the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman from Michigan for yielding and his tremendous leadership for peace in Nicaragua.

Mr. Speaker, we have a cease-fire in Nicaragua today and the best chance for peace in a long time in Nicaragua today because of your leadership that ended the military aid to the Contras on February 3 and upheld the ending of that military aid to the Contras March 3. That is why we are going to have peace. I want to congratulate you and those who worked on that.

Mr. Speaker, I also would like to ask the distinguished majority leader from our State, who has also given such tremendous leadership for peace, some questions relative to the legislation before us.

Mr. Speaker, I would like to ask the distinguished majority leader: In this legislation what happens to aid if the cease-fire ended and the fighting resumes?

Mr. FOLEY. Will the gentleman yield to me?

Mr. LOWRY of Washington. I yield to the gentleman.

Mr. FOLEY. Mr. Speaker, the assistance and support provided by the joint resolution must be consistent with the Sapoa agreement. The verification commission is responsible for determining what is and is not compatible with the agreement. If there was a disruption of the cease-fire, additional aid could not flow consistent with the agreement because it would not be in support of the agreement as undertaken by the party.

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman for that answer.

How will the neutral delivery agent in this bill be selected?

Mr. FOLEY. Mr. Speaker, it is our understanding that the democratic resistance will nominate a neutral organization to implement the delivery and transportation required under the resolution. If there is an agreement between the two parties with the nomination by the democratic resistance, then that will be the agency selected. If there is a disagreement, the disagreement will be reported to the verification commission, and the verification commission will make the determination.

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman for that answer.

Will there be inspections of the aid?

Mr. FOLEY. The verification commission created under the agreement, the Sapoa agreement, is specifically charged with the verifying compliance of the agreement. The Secretary General of the Organization of American States has a particular responsibility to provide technical assistance to insure that the agreement is upheld. The legislation provides $10 million, the amount requested by the Secretary General, to the verification commission for just this kind of monitoring activity.

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman for that answer.

Mr. FOLEY. I want to say in addition, if the gentleman will yield further?

Mr. LOWRY of Washington. Yes, I do.

Mr. FOLEY. I want to say that the joint resolution requires continued compliance with the oversight and accountability standards and the controls that have been developed by the participation of the General Accounting Office and the Intelligence Committees for assistance to the democratic resistance.

Furthermore, it is anticipated that not only the Intelligence Committee, but the Committee on Appropriations, will provide general oversight for the carrying out of the joint resolution. I am confident that this will be done properly.

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman.

Will the communications equipment be consistent with the peace agreement?

Mr. FOLEY. Mr. Speaker, we will hear again the resolution provides that the communication equipment can be provided only insofar as it is consistent with the cease-fire agreement. The verification commission is charged with determining compliance, as I said before.

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman again.

And now for the final question and why we are here. Is passage of this legislative package important to the continued progress of the Nicaraguan peace process?

Mr. FOLEY. Mr. Speaker, I think that is the central question of this whole joint resolution, and that is how to support the peace process that has been going forward in Central America and has most recently been marked by the agreement of the two parties in Sapoa. This resolution is intended to support that effort, and indeed beyond that I think that it is critical to the success of that effort. The two parties have agreed that it would be possible for neutral organizations to deliver the humanitarian aid, as spelled out in this agreement, and the ability of the two parties to further implement those cease-fires in detailed ways, as is anticipated in the coming weeks, is in my judgment dependent upon the successful package of this legislation, not only to encourage both parties to continue with their undertakings, but to authorize the verification commission to have resources to carry out the responsibility, to give support to the verification process and the Secretary General's efforts as well as the cardinal's efforts in that regard. It would be in my judgment an extraordinary signal of disapproval of the positive actions that have been taken by the parties and the peace process itself if this legislation for any reason should be rejected.

On the other hand, its acceptance and its strong support on both sides of the aisle is a signal to all parties that the United States now intends in this Congress to come together in a bipartisan way to support the peace that has been worked out in Central America, and is continuing to be worked out and to see to it that a long period of conflict, and war, and death can move now toward a peace of reconciliation, democracy, and political establishment of mechanisms which will allow the voice and will of the Nicaraguan people and the other countries of Central America to be heard.

Mr. LOWRY of Washington. Mr. Speaker, I thank the distinguished majority leader for that answer.

It is clear that opposition to this package would be opposition to the peace process. Support of this package is support of the Nicaraguan people's right to their own self-determination. I want to compliment the leadership of the job they did on working this package.

The SPEAKER. All time has expired.

The text of House Joint Resolution 523 is as follows:

H.J. Res. 523

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled.

Section 1. General Policy.—It is the policy of the United States to advance peace and democracy in Central America, and to preserve and protect security interests in the region. Pursuant to that policy, it is the purpose of this joint resolution to assist in bringing peace and democracy to Central America, in a manner compatible with the Guatemala Peace Accord of August 7, 1987, the Declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988, the Agreement Between the Government of Nicaragua and the Nicaraguan Resistance signed March 23, 1988 at Sapoa, Nicaragua (hereinafter referred to as the "Sapoa Agreement") and consistent with the national security interests of the United States.

Sec. 2. Consistency With Sapoa Agreement.—The assistance and support for which this joint resolution provides shall be administered consistent with the Sapoa Agreement. No authority contained in this joint resolution is intended to be exercised in any manner that might be determined by the Verification Commission established by the Sapoa Agreement to be inconsistent with that Agreement or any subsequent agreement between the Government of Nicaragua and the Nicaragua democratic resistance.

Sec. 3. Purpose of Additional Assistance for the Nicaraguan Democratic Resistance.—(a) Congressional Intent.—It is the intention of Congress in providing additional assistance to the Nicaraguan democratic resistance to reinforce the Central American peace process by supporting negotiations leading to a permanent negotiated ceasefire agreement. Such an agreement is seen by the Congress as an essential step towards the establishment of peace and democracy in Nicaragua. The Congress provides assistance under this section with the understanding and strong expectation that the Government of Nicaragua and the Nicaraguan democratic resistance will cease permanently offensive military activities against each other and engage in good faith negotiations towards a permanent ceasefire.

(b) Transfer and Use.—(1) The President is authorized to transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide assistance for the Nicaraguan democratic resistance in accordance with this joint resolution. Funds so transferred shall remain available through September 30, 1988.

(2) The amount which is authorized to be transferred under paragraph (1) shall be reduced by the cost to the United States Government of any items or services described in subsection (c)(1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e).

(c) Description of Assistance Allowed.—(1) As used in this section, "assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items or services.

(2) The term "assistance" under this section also includes, to the extent consistent with the Sapoa Agreement, the use of not to exceed $1,500,000 of the funds made available under subsection (b) for the purchase of communications equipment.

(d) Limitations.—The amount of funds transferred under subsection (b) which is obligated each month for purchasing items and services described in subsection (c)(1)—

(1) for April and May 1988, shall not exceed $2,900,000, of which not less than $400,000 each month shall be available only for medical supplies and medical services; and

(2) for any month thereafter, shall not exceed $2,700,000,

except that each such amount for any month shall be reduced by the cost to the United States Government of the items and services described in subsection (c)(1) (medical supplies and medical services in the case of the second amount specified in paragraph (1)) which were previously, specifically authorized by law for the Nicaraguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e) during that month.

(e) Transportation.—(1) The President shall transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified in section 6, such funds as may be necessary to provide, to the extent consistent with the Sapoa Agreement, transportation for the assistance authorized by subsection (b), including rental and indemnification of aircraft, trucks or other vehicles, and transportation for the items and services described in paragraph (3) of this subsection.

(2) Transportation provided under this subsection may not be used to deliver any assistance for the Nicaraguan democratic resistance other than the assistance authorized by subsection (b) and the items and services described in paragraph (3) of this subsection.

(3) Transportation may be provided under this subsection for items and services described in subsection (c)(1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance.

(f) Prohibitions.—(1) Funds transferred by subsection (b) or (e) may not be obligated or expended to purchase aircraft or weapons, weapons systems, or ammunition or any other item or service not permitted under subsection (c) or to provide any transportation other than transportation permitted under subsection (e).

(2) Except for items delivered under subsection (e)(3), no item authorized by "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) or section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) may be provided to the Nicaragua democratic resistance.

(g) Assistance for Yatama.—(1) In order to support all elements of the Nicaraguan democratic resistance, assistance authorized by subsection (b) (including the cost of the United States Government of items and services delivered under subsection (e)(3)) in the amount of $2,190,000 shall be provided only to the Indian resistance force known as Yatama.

(2) The Agency for International Development shall ensure that assistance under this subsection for Yatama is provided consistent with the Preliminary Accord signed by Yatama and the Government of Nicaragua on February 2, 1988, and any subsequent agreement based on that Accord.

Sec. 4. Direction, Management and Delivery.—(a) Delivery of Assistance.—(1) The Agency for International Development shall direct, manage and provide for the delivery of assistance and support to the Nicaraguan democratic resistance through neutral organizations consistent with the Sapoa Agreement and as authorized by this joint resolution.

(2) The President shall transfer not to exceed $2,500,000 from the unobligated funds in the appropriations accounts specified in section 6 for "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out the purposes of this joint resolution.

(b) Inapplicability of Certain Prohibitions.—Prohibitions on the furnishing of foreign assistance to Nicaragua shall not be construed to apply to the provision within Nicaragua of the assistance authorized by this joint resolution.

(c) Accountability Standards, Procedures, and Controls.—In implementing this joint resolution, the Agency for International Development shall adopt standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan democratic resistance provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202).

(d) Interagency Cooperation.—All Government agencies shall cooperate with the Agency for International Development to ensure the orderly, effective direction, management, and delivery by the Agency of assistance for the Nicaraguan democratic resistance. Such cooperation shall include detailing to the Agency, on a reimbursable basis, such personnel as the Agency, with the approval of the President, may request.

(e) Supplemental Authorities.—In addition to the authorities otherwise available by law to the Agency for International Development, in carrying out this joint resolution, the Agency for International Development may exercise the same authorities, including relating to procurement and expenditure of Government funds other than confidential funds, as the agency admininstering the assistance provided pursuant to section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) could exercise with respect to provision of that assistance.

Sec. 5. General Authorities and Limitations.—(a) Requirements Deemed Satisfied.—The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use, consistent with the provisions of this joint resolution, of the funds made available by this joint resolution.

(b) Continuation of Limitations.—Sections 203(e), 204(b), 207, 209(b), 209(c) and 216 in "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591), shall apply with respect to funds made available by this joint resolution, except that section 216 shall not apply with respect to personnel of the Agency for International Development or the Department of State.

Sec. 6. Defense Appropriations Accounts.—The appropriations accounts to which this resolution refers are the following accounts in the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190):

(1) Missile Procurement, Army;
(2) Other Procurement, Army;
(3) Other Procurement, Navy;
(4) Missile Procurement, Air Force;
(5) Aircraft Procurement, Air Force; and
(6) Weapons Procurement, Navy;

except that section 1351 of the National Defense Authorization Act for fiscal year 1987 (Public Law 99-661) shall apply.

Sec. 7. Aduit of Funds.—The Comptroller General shall conduct an independent audit of funds expended in the provision of assistance and support under this joint resolution.

Sec. 8. Children's Survival Assistance.—(a) Authorization.—The President shall transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide medical care and other relief for children who are victims of the Nicaraguan civil strife. Such assistance shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help children who have been orphaned, and otherwise provide assistance for children who have been physically injured or displaced by the Nicaraguan civil strife. Priority shall be given to those children with the greatest needs for assistance. Funds transferred pursuant to this subsection shall remain available until expended.

(b) Use of PVO's and International Relief Organizations.—Assistance pursuant to this section shall be provided only through nonpolitical private and voluntary organizations and international relief organizations. Preference in the distribution of such assistance shall be given to organizations presently providing similar services such as the Catholic Relief Services, International Committee of the Red Cross, CARE, United Nations Children's Fund, United Nations High Commissioner for Refugees, Partners of the Americas, and the Pan-American Health Organization.

(c) Children in Nicaragua.—At least one-half of the assistance provided under this section shall be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua. None of this assistance may be provided to or through the Government of Nicaragua.

SEC. 9. VERIFICATION COMMISSION.—The President shall transfer to the Agency for International Development $10,000,000 of unobligated funds from the appropriations accounts specified in section 6 for periodic payments to support the activities of the Verification Commission established by the Sapoa Agreement. Funds transferred pursuant to this section shall remain available until expended.

Pursuant to the rule, the previous question is ordered on the joint resolution.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 345, nays 70, not voting 16, as follows:

[Roll No. 49]

YEAS—345

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Borski
Brennan
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Dwyer
Dyson
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Foley
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kemp
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Mack
MacKay
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Nowak
Oberstar
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Penny
Pepper
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Sawyer
Saxton
Schaefer
Schneider
Schuette
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—70

Applegate
AuCoin
Bates
Bonker
Bosco
Boucher
Boxer
Brooks
Collins
Conte
Conyers
Crockett
DeFazio
Dellums
Donnelly
Durbin
Dymally
Early
Evans
Flake
Florio
Foglietta
Ford (MI)
Frank
Gephardt
Gonzalez
Green
Hall (OH)
Hayes (IL)
Jacobs
Johnson (SD)
Jones (NC)
Jontz
Kastenmeier
Kennedy
Kennelly
Kolter
Leach (IA)
Levine (CA)
Lukens, Donald
Markey
Martinez
Mineta
Moody
Nagle
Neal
Oakar
Olin
Owens (NY)
Pelosi
Perkins
Rangel
Rostenkowski
Roybal
Savage
Scheuer
Schroeder
Schulze
Schumer
Sikorski
Slaughter (NY)
Smith (IA)
Studds
Towns
Traficant
Waxman
Weiss
Wheat
Wyden
Yates

NOT VOTING—16

Biaggi
Boulter
Dannemeyer
Duncan
Emerson
Hefner
Lewis (GA)
Livingston
McHugh
Murphy
Obey
Price (IL)
Ray
Rose
Stark
Weldon

□ 1827

The Clerk announced the following pair:

On this vote:

Mr. Hefner for, with Mr. Lewis of Georgia against.

Messrs. BROOKS, MARTINEZ, FLORIO, and SCHUMER changed their votes from "yea" to "nay."

Mrs. ROUKEMA, Mr. TAUKE, and Mr. GARCIA changed their votes from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1830

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this 1 minute for the purpose of inquiring of the distinguished majority leader the program.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I wish to announce the program for the remainder of the week.

Mr. Speaker, we have concluded the legislative business for today, but there will be called up very shortly the adjournment resolution for the Easter recess. It is my understanding that the distinguished gentleman from New York [Mr. OWENS] will be asking unanimous consent for the filing of a conference report on H.R. 1900, the Child Abuse, Prevention, Adoption and Family Services Act of 1987. It would be our intention if permission is granted, to call that up tomorrow together with H.R. 3932, the Presidential Transitions Effectiveness Act, with an open rule, and with 1 hour of debate. The rule has already been adopted.

At the time we would adjourn tomorrow we would adjourn, of course, until Monday, April 11, 1988, at noon.

Mr. MICHEL. Mr. Speaker, I guess it is probably impossible for the distinguished gentleman from Washington to determine whether or not there would be a rollcall vote on those two rather minuscule bills tomorrow?

Mr. FOLEY. If the gentleman will yield, we are expecting votes, I say to the gentleman from Illinois. I think the presumption should be that there will be rollcall votes tomorrow.

Mr. MICHEL. That is the question I am sure that others wanted me to ask and it is on the record now, and I cannot think of anything else I would ask the gentleman from Washington at this appropriate hour.

Mr. FOLEY. If the gentleman will continue to yield, the House will meet at 11 o'clock tomorrow, and adjourn when the legislative business is concluded. I would assume it would be a fairly early adjournment unless there was some requirement that requires us to stay in session pending consideration of the legislation we have just considered.

Mr. MICHEL. Mr. Speaker, reclaiming my time, if I might ask one further question of the distinguished majority leader, coming back on Monday, April 11, is it to be presumed that there would be legislation on that day, or votes on that day?

Mr. FOLEY. If the gentleman will yield, yes, I would say to the gentleman from Illinois that he would have to assume there would be legislative business on that day. We have not announced a program yet or other information on the schedule for that day, but it will be provided to the Members' offices during the recess, or tomorrow. I think most likely it will be made available during the recess period, but the assumption should be that we will be taking up business and there could be votes on that day.

Mr. TAUKE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Speaker, as the leaders know, I do not normally comment on scheduling matters. It seems to me, however, that it really does not serve the body well or give much consideration to the families of Members during a season of important religious holidays to schedule these kinds of noncontroversial measures on a late Thursday. For those of us who have trouble making plane reservations because there are a lot of people flying this time of year, and if one does not have a lot of flights going into his or her district, it makes it difficult when these kinds of things are done at the last minute. I just do not understand why the leadership schedules these kinds of bills, for example on tomorrow, which would prevent Members from getting to their districts in time to participate in the appropriate religious ceremonies and celebrations that are part of this season.

Mr. Speaker, I, just as one Member, and I think I speak for a lot of Members, I just do not understand when we have had so little legislative business this week why we have got to schedule these things tomorrow. I might just ask the gentleman from Washington [Mr. FOLEY] that if, for example, we did not take up the conference report on child abuse tomorrow is there any compelling problem that would arise if that were held over until after the Easter break?

Mr. FOLEY. Mr. Speaker, will the gentleman from Illinois yield to me?

Mr. MICHEL. I yield to the gentleman from Washington.

Mr. FOLEY. I will say to the gentleman from Iowa that we announced last week that we would be concluding business today and immediately thereafter corrected that and announced very clearly and repeatedly that the House would be in session until the program was finished on Thursday. So I would tell the gentleman from Iowa that there has never been in the last 7 days anything but the assumption that we would have business tomorrow.

In addition to the program which I have announced, the Senate will be considering the legislation that we have just acted upon in the House today. They will be acting on it tonight, I am informed. We have the possibility that, and I hope it does not occur, but it is a possbility that there may be some action in the other body which could require our presence here tomorrow in order to get the legislation sent to the President prior to the scheduled Easter recess. I understand that Members would like to have an additional day in any week and could use it usefully, but this is not a surprise announcement. The adjournment resolution, the past week's entire program, all of that has been based on an adjournment night, not tonight.

I know there are from time to time rumors that sweep across the floor that we are suddenly going to adjourn the House in the middle of the week, but the fact of the matter is the schedule has been planned for tomorrow and Members have been on notice for that, and if there has been a mistake about that, I do not know how we could have made it more clear.

I will say to the gentleman from Iowa that I think Members have had more notice of meetings this past year or two than they have had before, and we have tended to give Members pretty good assurance of when they could be home to meet other arrangements, and so on.

Mr. TAUKE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Yes, I am happy to yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Speaker, I appreciate what the gentleman from Washington [Mr. FOLEY] is saying and I think the gentleman has made a strong effort to try to allow Members to be able to get advance notice of what is going on and that we all appreciate that. What I do not think that the leadership has shown much sensitivity to is there are holiday seasons where the Members prefer to take their families home with them. When we have to take families home with us, that means that we need to make reservations far in advance for two reasons: one, because plane flights are filled; and, second, because of the added expense of waiting. So as a result, Members try to plan 2 weeks or 30 days ahead of time when it comes to plane reservations. It would seem that when we have had such little legislative business that it would be fairly appropriate for the leadership under those circumstances to allow Members' families to be home in order to participate in the religious services that are connected with this season. That is the point that I make.

Mr. FOLEY. Mr. Speaker, if the gentleman will continue to yield, we have tried, and I thank the gentleman from Iowa for recognizing that we have tried, to inform Members on when the recesses would be. Since January of this year, for the past 3 months in other words, it has been determined that there would be the beginning of the Easter recess at the conclusion of business tomorrow, not tonight. Both parties have informed Members, and it is printed on calendars that Members carry around that the beginning of the Easter recess is Thursday night, the 31st of March. The gentleman from Iowa could have made the appropriate reservations with certainty following the publication of the recess schedule in early January.

I appreciate the fact that changes would be disconcerting and difficult and inconvenient, but we have tried to stick to the recess exactly as printed. That again, I remind my colleagues, is scheduled to begin tomorrow night.

Mr. TAUKE. If the gentleman will yield, I thank the gentleman from Washington and I think he understands my point as well.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman from Illinois yield?

Mr. MICHEL. Yes, I am happy to yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, if I might say to the majority leader, he makes a very good legalistic argument. His argument legalistically is correct but I would say to the gentleman from Washington that it is very important to a lot of Members of the House to go home for reasons that the gentleman from Iowa [Mr. TAUKE] has already stated.

What we have coming up on the floor tomorrow are items of no great importance and certainly of no great urgency, and I would say that while the gentleman from Washington is on good grounds legalistically, he and the Speaker might want to consider whether this time they might say, "Guys, we will change our minds."

Mr. FOLEY. Mr. Speaker, will the gentleman from Illinois yield?

Mr. MICHEL. I am happy to yield to the majority leader.

Mr. FOLEY. We try to give Members assurances. I think the point is well taken that Members need to make plans in advance. If Members make plans not on the basis of the announced schedule months in advance but on the basis of some hope that we will have an interruption in the schedule and an early recess, I think that is the problem. I do understand the point of the gentleman from Iowa. Unfortunately in this case we cannot accommodate him.

Mr. MICHEL. Mr. Speaker, I yield back the balance of my time.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM THURSDAY, MARCH 31, 1988, TO MONDAY, APRIL 11, 1988, AND ADJOURNMENT OR RECESS OF THE SENATE FROM THURSDAY, MARCH 31, 1988, TO MONDAY APRIL 11, 1988

Mr. FOLEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 272) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 272

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, March 31, 1988, it stand adjourned until 12 o'clock meridian on Monday, April 11, 1988, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first, and that when the Senate adjourns or recesses, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, on Thursday, March 21, 1988, it stand in recess or stand adjourned until 11 o'clock ante meridiem on Monday, April 11, 1988, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House and the minority leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

☐ 1845

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 858, ABANDONED SHIPWRECK ACT OF 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-544) on the resolution (H. Res. 421) providing for the consideration of the bill (S. 858) to establish the title of States in certain abandoned shipwrecks, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 1900, CHILD ABUSE PREVENTION, ADOPTION, AND FAMILY SERVICES ACT OF 1987

Mr. OWENS of New York submitted the following conference report and statement on the bill (H.R. 1900) to amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such acts:

CONFERENCE REPORT (H. REPT. 100-543)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1900), to amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such Acts, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Child Abuse Prevention, Adoption, and Family Services Act of 1988".

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 101. AMENDMENT TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Child Abuse Prevention and Treatment Act'.

"(b) TABLE OF CONTENTS.—The table of contents is as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title and table of contents.
"Sec. 2. National Center on Child Abuse and Neglect.
"Sec. 3. Advisory Board on Child Abuse and Neglect.
"Sec. 4. Inter-agency Task Force on Child Abuse and Neglect.
"Sec. 5. National clearinghouse for information relating to child abuse.
"Sec. 6. Research and assistance activities of the National Center on Child Abuse and Neglect.
"Sec. 7. Grants to public agencies and nonprofit private organizations for demonstration or service programs and projects.
"Sec. 8. Grants to States for child abuse and neglect prevention and treatment programs.
"Sec. 9. Technical assistance to States for child abuse prevention and treatment programs.
"Sec. 10. Grants to States for programs relating to the investigation and prosecution of child abuse cases.
"Sec. 11. Miscellaneous requirements relating to assistance.
"Sec. 12. Coordination of child abuse and neglect programs.
"Sec. 13. Reports.
"Sec. 14. Definitions.
"Sec. 15. Authorization of appropriations.

"SEC. 2. NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish an office to be known as the National Center on Child Abuse and Neglect.

"(b) APPOINTMENT OF DIRECTOR.—

"(1) APPOINTMENT.—The Secretary shall appoint a Director of the Center. Except as otherwise provided in this Act, the Director shall be responsible only for administration and operation of the Center and for carrying out the functions of the Center under this Act. The Director shall have experience in the field of child abuse and neglect.

"(2) COMPENSATION.—The Director shall be compensated at the annual rate provided for a level GS-15 employee under section 5332 of title 5, United States Code.

"(c) OTHER STAFF AND RESOURCES.—The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively as functions under this Act. The Secretary shall require that professional staff have experience relating to child abuse and neglect. The Secretary is required to justify, based on the priorities and needs of the Center, the hiring of any professional staff member who does not have experience relating to child abuse and neglect.

"SEC. 3. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

"(a) APPOINTMENT.—The Secretary shall appoint an advisory board to be known as the Advisory Board on Child Abuse and Neglect.

"(b) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointments required by subsection (a).

"(c) COMPOSITION OF BOARD.—

"(1) NUMBER OF MEMBERS.—The board shall consist of 15 members, each of which shall be a person who is recognized for expertise in an aspect of the area of child abuse, of which—

"(A) 2 shall be members of the task force established under section 4; and

"(B) 13 shall be members of the general public and may not be Federal employees.

"(2) REPRESENTATION.—The Secretary shall appoint members from the general public under paragraph (1)(B) who are individuals knowledgeable in child abuse and neglect prevention, iontervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

"(A) law (including the judiciary);

"(B) psychology (including child development);

"(C) social services (including child protective services);

"(D) medicine (including pediatrics);

"(E) State and local government;

"(F) organizations providing services to disabled persons;

"(G) organizations providing services to adolescents;

"(H) teachers;

"(I) parent self-help organizations;

"(J) parents' groups; and

"(K) voluntary groups.

"(3) TERMS OF OFFICE.—(A) Except as otherwise provided in this subsection, members shall be appointed for terms of office of 4 years.

"(B) Of the members of the board from the general public first appointed under subsection (a)—

"(i) 4 shall be appointed for terms of office of 2 years;

"(ii) 4 shall be appointed for terms of office of 3 years; and

"(iii) 5 shall be appointed for terms of office of 4 years,

as determined by the members from the general public during the first meeting of the board.

"(C) No member of the board appointed under subsection (a) shall be eligible to serve in excess of two consecutive terms, but may continue to serve until such member's successor is appointed.

"(4) VACANCIES.—Any member of the board appointed under subsection (a) to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the board appointed under subsection (a), a replacement shall be appointed in the same manner in which the original appointment was made.

"(5) REMOVAL.—No member of the board may be removed during the term of office of such member except for just and sufficient cause.

"(d) ELECTION OF OFFICERS.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members from the general public.

"(e) MEETINGS.—The board shall meet not less than twice a year at the call of the chairperson. The chairperson, to the maximum extent practicable, shall coordinate meetings of the board with receipt of reports from the task force under section 4(f).

"(f) DUTIES.—The board shall—

"(1) annually submit to the Secretary and the appropriate committees of Congress a report containing—

"(A) recommendations on coordinating Federal child abuse and neglect activities to prevent duplication and ensure efficient allocations of resources and program effectiveness; and

"(B) recommendations as to carrying out the purposes of this Act.

"(2) annually submit to the Secretary and the Director a report containing long-term and short-term recommendations on—

"(A) programs;

"(B) research;

"(C) grant and contract needs;

"(D) areas of unmet needs; and

"(E) areas to which the Secretary should provide grant and contract priorities under sections 6 and 7; and

"(3) annually review the budget of the Center and submit to the Director a report concerning such review.

"(g) COMPENSATION.—

"(1) IN GENERAL.—Except as provided in paragraph (3), members of the board, other than those regularly employed by the Federal Government, while serving on business of the board, may receive compensation at a rate not in excess of the daily equivalent payable to a GS-18 employee under section 5332 of title 5, United States Code, including traveltime.

"(2) TRAVEL.—Except as provided in paragraph (3), members of the board, while serving on business of the board away from their homes or regular places of business, may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(3) RESTRICTION.—The Director may not compensate a member of the board under this section if the member is receiving compensation or travel expenses from another source while serving on business of the board.

"SEC. 4. INTER-AGENCY TASK FORCE ON CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT.—The Secretary shall establish a task force to be known as the Inter-Agency Task Force on Child Abuse and Neglect.

"(b) COMPOSITION.—The Secretary shall request representation for the task force from Federal agencies with responsibility for programs and activities related to child abuse and neglect.

"(c) CHAIRPERSON.—The task force shall be chaired by the Director.

"(d) DUTIES.—The task force shall—

"(1) coordinate Federal efforts with respect to child abuse prevention and treatment programs;

"(2) encourage the development by other Federal agencies of activities relating to child abuse prevention and treatment;

"(3) coordinate the use of grants received under this Act with the use of grants received under other programs;

"(4) prepare a comprehensive plan for coordinating the goals, objectives, and activities of all Federal agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than 12 months after the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988; and

"(5) coordinate adoption related activities, develop Federal standards with respect to adoption activities under this Act, and prevent duplication with respect to the allocation of resources to adoption activities.

"(e) MEETINGS.—The task force shall meet not later than three times annually at the call of the chairperson.

"(f) REPORTS.—The task force shall report not less than twice annually to the Center and the Board.

"SEC. 5. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

"(a) ESTABLISHMENT.—Before the end of the 2-year period beginning on the date of the enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988, the Secretary shall through the Center, or by contract of no less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.

"(b) FUNCTIONS.—The Director shall, through the clearinghouse established by subsection (a)—

"(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, identification, and treatment of child abuse and neglect, including the information provided by the National Center for Child Abuse and Neglect under section 6(b); and

"(2) maintain and disseminate information relating to—

"(A) the incidence of cases of child abuse and neglect in the general population;

"(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1);

"(C) the incidence of any such cases related to alcohol or drug abuse; and

"(D) State and local recordkeeping with respect to such cases.

"(c) COORDINATION WITH AVAILABLE RESOURCES.—In establishing a national clearinghouse as required by subsection (a), the Director shall—

"(1) consult with other Federal agencies that operate similar clearinghouses;

"(2) consult with the head of each agency that is represented on the task force on the development of the components for information collection and management of such clearinghouse;

"(3) develop a Federal data system involving the elements under subsection (b) which, to the extent practicable, coordinates exisiting State, regional, and local data systems; and

"(4) solicit public comment on the components of such clearinghouse.

"SEC. 6. RESEARCH AND ASSISTANCE ACTIVITIES OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.

"(a) RESEARCH.—

"(1) TOPICS.—The Secretary shall, through the Center, conduct research on—

"(A) the causes, prevention, identification, and treatment of child abuse and neglect;

"(B) appropriate and effective investigative, administrative, and judicial procedures with respect to cases of child abuse; and

"(C) the national incidence of child abuse and neglect, including—

"(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;

"(ii) the relationship of child abuse and neglect to non-payment of child support, handicaps, and various other factors; and

"(iii) the incidence of substantiated reported child abuse cases that result in civil child protection proceedings or criminal proceedings, including the number of such cases with respect to which the court makes a finding that abuse or neglect exists and the disposition of such cases.

"(2) PRIORITIES.—(A) The Secretary shall establish research and demonstration priorities for making grants or contracts for purposes of carrying out paragraph (1)(A) and activities under section 7.

"(B) In establishing research and demonstration priorities as required by subparagraph (A), the Secretary shall—

"(i) publish proposed priorities in the Federal Register for public comment; and

"(ii) allow not less than 60 days for public comment on such proposed priorities.

"(b) PUBLICATION AND DISSEMINATION OF INFORMATION.—The Secretary shall, through the Center—

"(1) as a part of research activities establish a national data collection and analysis program, which, to the extent practical, coordinates existing State child abuse and neglect reports and which shall include—

"(A) standardized data on false, unfounded, or unsubstantiated reports; and

"(B) information on the number of deaths due to child abuse and neglect:

"(2) annually compile and analyze research on child abuse and neglect and publish a summary of such research;

"(3) compile, evaluate, publish, and disseminate to the States and to the clearinghouse, established under section 5, materials

and information designed to assist the States in developing, establishing, and operating the programs described in section 10, including an evaluation of—

"(A) various methods and procedures for the investigation and prosecution of child physical and sexual abuse cases; and

"(B) resultant psychological trauma to the child victim;

"(4) compile, publish, and disseminate training materials—

"(A) for persons who are engaged in or intend to engage in the prevention, identification, and treatment of child abuse and neglect; and

"(B) to appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse; and

"(5) establish model information collection systems, in consultation with appropriate State and local agencies and professionals.

"(c) Provision of Technical Assistance.—The Secretary shall, through the Center, provide technical assistance to public and nonprofit private agencies and organizations, including disability organizations and persons who work with children with handicaps, to assist such agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

"(d) Authority To Make Grants or Enter Into Contracts.—

"(1) In general.—The functions of the Secretary under this section may be carried out either directly or through grant or contract.

"(2) Duration.—Grants under this section shall be made for periods of not more than 5 years. The Secretary shall review each such grant at least annually, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant.

"(3) Preference for long-term studies.—In making grants for purposes of conducting research under subsection (a), the Secretary shall give special consideration to applications for long-term projects.

"(e) Peer Review for Grants.—

"(1) Establishment of peer review process.—(A) The Secretary shall establish a formal peer review process for purposes of evaluating applications for grants and contracts under this section and determining the relative merits of the projects for which such assistance is requested.

"(B) Members of peer review panels shall be appointed by the Secretary from among individuals who are not officers or employees of the Office of Human Development Services. In making appointments to such panels, the Secretary shall include only experts in the field of child abuse and neglect.

"(2) Review of applications for assistance.—Each peer review panel established under paragraph (1)(A) that reviews any application for a grant, contract, or other financial assistance shall—

"(A) determine the merit of each project described in such application; and

"(B) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested.

"(3) Notice of approval.—(A) At the end of each application process, the Secretary shall make available upon request, no later than 14 days after the request, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate the list which identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2) and a list of all applications funded.

"(B) In the instance in which the Secretary approves an application for a program without having approved all applications ranked above such application (as determined under subsection (e)(2)(B)), the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit, as indicated on the list under subsection (e)(2)(B).

"SEC. 7. GRANTS TO PUBLIC AGENCIES AND NONPROFIT PRIVATE ORGANIZATIONS FOR DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS.

"(a) General Authority.—The Secretary, through the Center, shall in accordance with subsections (b) and (c), make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations of such agencies or organizations) for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect.

"(b) Grants for Resource Centers.—The Secretary shall, directly or through grants or contracts with public or private nonprofit organizations under this section, provide for the establishment of resource centers—

"(1) serving defined geographic areas;

"(2) staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect; and

"(3) providing advice and consultation to individuals, agencies, and organizations which request such services.

"(c) Discretionary Grants.—In addition to grants or contracts made under subsection (b), grants or contracts under this section may be used for the following:

"(1) Training programs—

"(A) for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect; or

"(B) to provide instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with handicaps.

"(2) Such other innovative programs and projects as the Secretary may approve, including programs and projects for parent self-help, for prevention and treatment of alcohol and drug-related child abuse and neglect, and for home health visitor programs designed to reach parents of children in populations in which risk is high, that show promise of successfully preventing and treating cases of child abuse and neglect, and for a parent self-help program of demonstrated effectiveness which is national in scope.

"(3) Projects which provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.

"(4) Respite and crisis nursery programs provided by community-based organizations under the direction and supervision of hospitals.

"(5) Respite and crisis nursery programs provided by community-based organizations.

"(6)(A) Providing hospital-based information and referral services to—

"(i) parents of children with handicaps; and

"(ii) children who have been neglected or abused and their parents.

"(B) Except as provided in subparagraph (C)(iii), services provided under a grant received under this paragraph shall be provided at the hospital involved—

"(i) upon the birth or admission of a handicapped child; and

"(ii) upon the treatment of a child for abuse or neglect.

"(C) Services, as determined as appropriate by the grantee, provided under a grant received under this paragraph shall be hospital-based and shall consist of—

"(i) the provision of notice to parents that information relating to community services is available;

"(ii) the provision of appropriate information to parents of a child with handicaps regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child;

"(iii) the provision of appropriate information to parents of a child who has been neglected or abused regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child and reduce the possibility of abuse or neglect;

"(iv) the provision of appropriate follow-up services to parents of a child described in subparagraph (B) after the child has left the hospital; and

"(v) where necessary, assistance in coordination of community services available to parents of children described in subparagraph (B).

The grantee shall assure that parental involvement described in this subparagraph is voluntary.

"(D) For purposes of this paragraph, a qualified grantee is a non-profit acute care hospital that—

"(i) is in a combination with—

"(I) a health-care provider organization;

"(II) a child welfare organization;

"(III) a disability organization; and

"(IV) a State child protection agency;

"(ii) submits an application for a grant under this paragraph that is approved by the Secretary;

"(iii) maintains an office in the hospital involved for purposes of providing services under such grant;

"(iv) provides assurances to the Secretary that in the conduct of the project the confidentiality of medical, social, and personal information concerning any person described in subparagraph (A) or (B) shall be maintained, and shall be disclosed only to qualified persons providing required services described in subparagraph (C) for purposes relating to conduct of the project; and

"(v) assumes legal responsibility for carrying out the terms and conditions of the grant.

"(E) In awarding grants under this paragraph, the Secretary shall—

"(i) give priority under this section for two grants under this paragraph, provided that one grant shall be made to provide services in an urban setting and one grant shall be made to provide services in rural setting; and

"(ii) encourage qualified grantees to combine the amounts received under the grant with other funds available to such grantees.

"(7) Such other innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect as the Secretary may approve.

"SEC. 8. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

"(a) Development and Operation Grants.—The Secretary, through the Center, is authorized to make grants to the States for purposes of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

"(b) Eligibility Requirements.—In order for a State to qualify for a grant under subsection (a), such State shall—

"(1) have in effect a State law relating to child abuse and neglect, including—

"(A) provisions for the reporting of known and suspected instances of child abuse and neglect; and

"(B) provisions for immunity from prosecution under State and local laws for persons who report instances of child abuse or neglect for circumstances arising from such reporting;

"(2) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child and of any other child under the same care who may be in danger of abuse or neglect;

"(3) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such—

"(A) administrative procedures;

"(B) personnel trained in child abuse and neglect prevention and treatment;

"(C) training procedures;

"(D) institutional and other facilities (public and private); and

"(E) such related multidisciplinary programs and services,

as may be necessasry or appropriate to ensure that the State will deal effectively with child abuse and neglect cases in the State;

"(4) provide for methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians;

"(5) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

"(6) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

"(7) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to ensure that Federal funds made available under this Act for fiscal year shall be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

"(8) provide for dissemination of information, including efforts to encourage more accurate reporting, to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect;

"(9) to the extent feasible, ensure that parental organizations combating child abuse and neglect receive preferential treatment; and

"(10) have in place for the purpose of responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

"(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

"(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(C) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

"(c) Waivers—

"(1) General rule.—Subject to paragraph (3) of this subsection, any State which does not qualify for assistance under this subsection may be granted a waiver of any requirement under paragraph (2) of this subsection—

"(A) for a period of not more than one year, if the Secretary makes a finding that such State is making a good faith effort to comply with any such requirement, and for a second one-year period if the Secretary makes a finding that such State is making substantial progress to achieve such compliance; or

"(B) for a nonrenewable period of not more than two years in the case of a State the legislature of which meets only biennially, if the Secretary makes a finding that such State is making a good faith effort to comply with such requirement.

"(2) Extension.—(A) Subject to paragraph (3) of this subsection, any State whose waiver under paragraph (1) expired as of the end of fiscal year 1986 may be granted an extension of such waiver, if the Secretary makes a finding that such State is making a good faith effort to comply with the requirements under subsection (b) of this section—

"(i) through the end of fiscal year 1988; or

"(ii) in the case of a State the legislature of which meets biennially, through the end of the fiscal year 1989 or the end of the next regularly scheduled session of such legislature, whichever is earlier.

"(B) This provision shall be effective retroactively to October 1, 1986.

"(3) Requirements under subsection (b)(10).—No waiver under paragraph (1) or (2) may apply to any requirement under subsection (b)(10) of this section.

"(d) Reduction of Funds in Case of Failure To Obligate.—If a State fails to obligate funds awarded under subsection (a) before the expiration of the 18-month period beginning on the date of such award, the next award made to such State under this section after the expiration of such period shall be reduced by an amount equal of the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

"(e) Restrictions Relating to Child Welfare Services.—Programs or projects relating to child abuse and neglect assisted under part B of title IV of the Social Security Act shall comply with the requirements set forth in paragraphs (1)(A), (2), (4), (5), and (10) of subsection (b).

"(f) Compliance and Education Grants.—The Secretary is authorized to make grants to the States for purposes of developing, implementing, or operating—

"(1) the procedures or programs required under subsection (b)(10);

"(2) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

"(A) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

"(B) the parents of such infants; and

"(3) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions including—

"(A) existing social and health services;

"(B) financial assistance; and

"(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption.

"SEC. 9. TECHNICAL ASSISTANCE TO STATES FOR CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS.

"(a) Training and Technical Assistance.—The Secretary shall provide, directly or through grants or contracts with public or private nonprofit organizations, for—

"(1) training and technical assistance programs to assist States in developing, implementing, or operating programs and procedures meeting the requirements of section 8(b)(10); and

"(2) the establishment and operation of national and regional information and resource clearinghouses for the purpose of providing the most current and complete information regarding medical treatment procedures and resources and community resources for the provision of services and treatment to disabled infants with life-threatening conditions, including—

"(A) compiling, maintaining, updating, and disseminating regional directories of community services and resources (including the names and phone numbers of State and local medical organizations) to assist parents, families, and physicians; and

"(B) attempting to coordinate the availability of appropriate regional education resources for health-care personnel.

"(b) Limitation on Funding.—Not more than $1,000,000 of the funds appropriated for any fiscal year for purposes of carrying out this Act may be used to carry out this section.

"SEC. 10. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES.

"(a) Grants to States.—The Secretary, acting through the Center and in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

"(1) the handling of child abuse cases, particularly cases of child sexual abuse, in a

manner which limits additional trauma to the child victim; and

"(2) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for assistance under this section, such State shall—

"(1) fulfill the requirements of sections 8(b) and 8(e) or receive a waiver under section 8(c);

"(2) establish a task force as provided in subsection (c);

"(3) fulfill the requirements of subsection (d); and

"(4) submit an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

"(A) make such reports to the Secretary as may reasonably be required; and

"(B) maintain and provide access to records relating to activities under subsections (a) and (b).

"(c) STATE TASK FORCE.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate a State multidisciplinary task force on children's justice (hereinafter referred to as 'State task force') composed of professionals with knowledge and experience relating to the criminal justice system and issues of child abuse. The State task force shall include—

"(A) individuals representing the law enforcement community;

"(B) judicial and legal officers (including individuals involved with the defense as well as the prosecution of such cases);

"(C) child advocates;

"(D) health and mental professionals;

"(E) individuals representing child protective service agencies;

"(F) individuals experienced in working with children with handicaps;

"(G) parents; and

"(H) representatives of parents' groups.

"(2) EXISTING TASK FORCE.—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

"(d) STATE TASK FORCE STUDY.—Before a State receives assistance under this section, the State task force shall—

"(1) receive and evaluate State investigative, administrative and judicial handling of cases of child abuse, particularly child sexual abuse; and

"(2) make recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

"(e) ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.—

"(1) GENERAL RULE.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

"(A) investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse cases, in a manner which reduces the additional trauma to the child victim and which also ensures procedural fairness to the accused;

"(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases, and which also ensure procedural fairness to the accused; and

"(C) reform of State laws, ordinances, regulations and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse, while ensuring fairness to all affected persons.

"(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

"(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

"(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

"(f) FUNDS AVAILABLE.—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.

"SEC. 11. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE.

"(a) CONSTRUCTION OF FACILITIES.—

"(1) RESTRICTION ON USE OF FUNDS.—Assistance provided under this Act may not be used for construction of facilities.

"(2) LEASE, RENTAL, OR REPAIR.—The Secretary may authorize the use of funds received under this Act—

"(A) where adequate facilities are not otherwise available, for the lease or rental of facilities; or

"(B) for the repair or minor remodeling or alteration of existing facilities.

"(b) GEOGRAPHICAL DISTRIBUTION.—The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this Act among the States, among geographic areas of the Nation, and among rural and urban areas of the Nation. To the extent possible, the Secretary shall ensure that the citizens of each State receive assistance from at least one project under this Act.

"(c) PREVENTION ACTIVITIES.—The Secretary, in consultation with the task force and the board, shall ensure that a majority share of assistance under this Act is available for discretionary research and demonstration grants.

"(d) LIMITATION.—No funds appropriated for any grant or contract pursuant to authorizations made in its Act may be used for any purpose other than that for which such funds were authorized to be appropriated.

"SEC. 12. COORDINATION OF CHILD ABUSE AND NEGLECT PROGRAMS.

"The Secretary shall prescribe regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination among programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds.

"SEC. 13. REPORTS.

"(a) COORDINATION EFFORTS.—Not later than March 1 of the second year following the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report on efforts during the 2-year period preceding the date of the report to coordinate the objectives and activities of agencies and organizations which are responsible for programs and activities related to child abuse and neglect.

"(b) EFFECTIVENESS OF STATE PROGRAMS AND TECHNICAL ASSISTANCE.—Not later than two years after the first fiscal year for which funds are obligated under section 1404A of the Victims of Crime Act of 1984, the Secretary shall submit to the appropriate committees of Congress a report evaluating the effectiveness of—

"(1) assisted programs in achieving the objectives of section 10; and

"(2) the technical assistance provided under section 9.

"SEC. 14. DEFINITIONS.

"For purposes of this Act—

"(1) the term 'board' means the Advisory Board on Child Abuse and Neglect established under section 3;

"(2) the term 'Center' means the National Center on Child Abuse and Neglect established under section 2;

"(3) the term 'child' means a person who has not attained the less of—

"(A) the age of 18; or

"(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

"(4) the term 'child abuse and neglect' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by a person who is responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary;

"(5) the term 'person who is responsible for the child's welfare' includes—

"(A) any employee of a residential facility; and

"(B) any staff person providing out-of-home care;

"(6) the term 'Secretary' means the Secretary of Health and Human Services;

"(7) the term 'sexual abuse' includes—

"(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

"(B) the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(9) the term 'task force' means the Inter-Agency Task Force on Child Abuse and Neglect established under section 4; and

"(10) the term 'withholding of medically indicated treatment' means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—

"(A) the infant is chronically and irreversibly comatose;

"(B) the provision of such treatment would—

"(i) merely prolong dying;

"(ii) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

"(iii) otherwise be futile in terms of the survival of the infant; or

"(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

"SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated for purposes of carrying out this Act $48,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991. Of the funds appropriated for any fiscal year under this section, execpt as provided in the succeeding sentence (1)(A) $11,000,000 shall be available for activities under sections 5, 6, and 7, and (B), $9,000,000 shall be available in each fiscal year for activities under section 8(a) and 9 of this Act, giving special consideration to continued funding of child abuse and neglect programs or projects (previously funded by the Department of Health and Human Services) of national or regional scope and demonstrated effectiveness, (2) $5,000,000 shall be available in each such year for grants and contracts under section 7(a) of this Act, for indentification, treatment, and prevention of sexual abuse, and (3) $5,000,000 shall be available in each such year for the purpose of making additional grants to the States to carry out the provisions of section 8(f) of this Act. With respect to any fiscal year in which the total amount appropriated under this section is less than $30,000,000, no less than $20,000,000 of the funds appropriated in such fiscal year shall be available as provided in clause (1) in the preceding sentence and of the remainder, one-half shall be available as provided for in clause (2) and one-half as provided for in clause (3) in the preceding sentence.

"(b) AVAILABILITY OF FUNDS WITHOUT FISCAL YEAR LIMITATION.—The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.".

SEC. 102. CHILD ABUSE AND DISABILITY.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of—

(1) the incidence of child abuse among children with handicaps, including children in out-of-home placements, and the relationship between child abuse and children's handicapping conditions; and

(2) the incidence of children who have developed handicapping conditions as a result of child abuse or neglect.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to prevent abuse of disabled children.

SEC. 103. CHILD ABUSE AND ALCOHOLIC FAMILIES.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of the incidence of child abuse in alcoholic families and the relationship between child abuse and familial alcoholism.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to prevent child abuse in alcoholic families

SEC. 104. STUDY OF GUARDIAN-AD-LITEM.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of—

(1) how individual legal representation of children in cases of child abuse or neglect has been provided in each State; and

(2) the effectiveness of legal representation of children in cases of abuse or neglect through the use of guardian-ad-litem and court appointed special advocates.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to improve legal representation of children in cases of abuse or neglect.

SEC. 105. HIGH RISK STUDY.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study—

(1) to identify groups which have been historically underserved or unserved by programs relating to child abuse and neglect; and

(2) to report the incidence of child abuse and neglect among children who are members of such groups.

(b) REPORT.—Not later than 2 year after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to better meet the needs of underserved or unserved groups.

SEC. 106. PRESIDENTIAL COMMISSION ON CHILD AND YOUTH DEATHS.

(a) FINDINGS.—The Congress finds that—

(1) even by conservative estimates, during 1985 and 1986, child abuse fatalities in this country increased by 23 percent;

(2) the average age of children who die from abuse and neglect is two years old;

(3) child abuse fatalities are not inherently predictable but many are preventable;

(4) many accidental childhood injuries are likewise preventable;

(5) accidental childhood injuries remain the biggest killer and disabler of children between the ages of 1 and 14;

(6) in the face of stagnating infant mortality indicators, the United States is now tied for last place among 20 industrialized nations with respect to infant mortality;

(7) the teen suicide rate is starting to climb again, with deaths totaling over 5,000 in 1986; and

(8) homicide is the second leading cause of death in youths aged fourteen to twenty-four years.

(b) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Child and Youth Deaths (hereafter in this section referred to as the "Commission"). The Commission shall be composed of fifteen members as follows:

(1) Two members of the Senate, one to be selected by the Majority Leader of the Senate, the other to be selected by the Minority Leader of the Senate.

(2) Two members of the House, one to be selected by the Speaker of the House of Representatives, the other to be selected by the Minority Leader of the House.

(3) Four representatives of State government shall be selected by the President;

(A) The chief executive officer of a State.

(B) A chief State official responsible for administering child health and mental health programs.

(C) A chief State official responsible for administering children's social services programs.

(D) A chief State official responsible for administering law enforcement programs.

(4) The Secretary of Health and Human Services.

(5) Six at large members, including representatives of community-based organizations with demonstrated expertise in the prevention and identification of child and youth deaths due to child abuse and neglect, infant mortality (including sudden infant death syndrome), suicide, homicide, and unintentional injuries, to be jointly selected by the Majority Leader of the Senate and Speaker of the House of Representatives.

(c) STUDY AND EVALUATION BY THE COMMISSION.—The Commission shall study and evaluate comprehensively Federal, State, and local public and private resources which affect child and youth deaths and shall—

(1) evaluate the adequacy and effectiveness of programs designed to prevent or identify child and youth deaths which are intentionally caused or which occur due to negligence, neglect, or a failure to exercise proper care, including child health and mental health services, child protective services, child welfare services, education, juvenile justice services, and law enforcement activities;

(2) evaluate the effectiveness of current Federal, State, and local policies and systems aimed at appropriately identifying and collecting accurate, uniform data on child and youth deaths in a coordinated fashion;

(3) evaluate the adequacy of current Federal, State, and local efforts to enable an appropriate distribution of properly trained child health, mental health, social services, protective services, education, juvenile justice, and law enforcement personnel to prevent and identify child and youth deaths; and

(4) identify current resource limitations on and intergovernmental and Federal agency barriers to the care needed to prevent high child and youth death rates.

In order to conduct the study and evaluation required by this subsection, the Commission shall hold hearings in areas of the United States with high child and youth death rates.

(d) RECOMMENDATIONS AND REPORT OF THE COMMISSION.—(1) The Commission shall make recommendations with respect to—

(A) a national policy designed to reduce and prevent child and youth deaths, including recommendations for more accurate reporting systems and recommendations concerning appropriate roles for the Federal

Government, States, and local governments and the private sector;

(B) specific changes needed in Federal laws and Federal programs to achieve an effective Federal role in preventing child and youth deaths, including the programs specified in subparagraph (A); and

(C) specific changes needed to improve national data collection with respect to child and youth deaths.

In making its recommendations, the Commission shall review recommendations made in recent regional and national conferences and reports on child and youth deaths.

(2) Within 12 months after the appointment of the Commission, the Commission shall prepare and transmit to the President and the appropriate committees of the Congress a report describing the activities of the Commission and containing information gathered and evaluations required by subsection (c) and recommendations required by paragraph (1) of this subsection.

(e) ADMINISTRATION PROVISIONS.—(1) A vacancy in the Commission shall be filed in the same manner as the original appointment was made. A vacancy in the Commission shall not affect its powers.

(2) Members shall be appointed for the life of the Commission.

(3) The members of the Commission shall elect a Chairman from among the members of the Commission.

(4) Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) The Commission shall hold its first meeting on a date specified by the President which is not later than 90 days after October 1, 1988. Thereafter, the Commission shall meet at the call of the Chriaman or a majority of its members, but shall meet at least three times during the life of the Commission.

(f) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(2) While away from their homes or regular place of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) EXECUTIVE DIRECTOR OF COMMISSION.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) The Executive Director and the additional personnel of the Commission referred to in paragraph (2) may be appointed without regard to the provisions of chapter 51 and subchapter III of Chapter 53 of such title relating to classification and General Schedule pay rates.

(4) Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

(5) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

(h) POWERS OF COMMISSION.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this section. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(i) AUTHORIZATION OF APPROPRIATIONS.—For fiscal years beginning after September 30, 1987, there are authorized to be appropriated such sums as may be necessary to carry out this section.

(j) TERMINATION.—The Commission shall terminate 90 days after the date on which the Commission transmits the report required under subsection (d)(2) to the President and the appropriate committees of Congress.

TITLE II—CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978

SEC. 201. AUTHORIZATION FOR CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978.

Section 205 of the Child Abuse Prevention and Treatment and Adoptions Reform Act of 1978 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 205. (a) There are hereby authorized to be appropriated $6,000,000 for the fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 to carry out programs and activities under this Act except for programs and activities authorized under sections 203(b)(8) and 203(c)(1).

"(b) For any fiscal year in which apropriations under subsection (a) exceeds $5,000,000, there are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991 for the purpose of carrying out section 203(b)(8), and there are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991 for the purpose of carrying out section 203(c)(1).

"(c) The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.".

SEC. 202. AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978 RELATING TO ADOPTION ASSISTANCE AND SERVICES.

(a) MINORITY CHILDREN PLACEMENTS.—Section 203(b) of title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 is amended by—

(1) striking the "and" at the end of paragraph (6);

(2) striking the period at the end of paragraph (7) and inserting "; and"; and

(3) adding the following new paragraph:

"(8) provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience in working with minority populations) for the provision of programs aimed at increasing the number of minority children (who are in foster care and have the goal of adoption) placed in adoptive families, with a special emphasis on recruitment of minority families—

"(A) which may include such activities as—

"(i) outreach, public education, or media campaigns to inform the public of the needs and numbers of such children;

"(ii) recruitment of prospective adoptive families for such children;

"(iii) expediting, where appropriate, the legal availability of such children;

"(iv) expediting, where appropriate, the agency assessment of prospective adoptive families identified for such children;

"(v) formation of prospective adoptive family support groups;

"(vi) training of personnel of—

"(I) public agencies;

"(II) private nonprofit child welfare and adoption agencies that are licensed by the State; and

"(III) adoptive parents organizations and community-based organizations with experience in working with minority populations;

"(vii) use of volunteers and adoptive parent groups; and

"(viii) any other activities determined by the Secretary to further the purpose of this Act; and

"(B) shall be subject to the condition that such grants or contracts may be renewed if documentation is provided to the Secretary demonstrating that appropriate and sufficient placements of such children have occurred during the previous funding period.".

(b) POST LEGAL ADOPTION SERVICES.—Section 203 is amended by adding the following new subsection:

"(c)(1) The Secretary shall provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups) for the provision of post legal adoption services for families who have adopted special needs children.

"(2) Services provided under grants made under this subsection shall supplement, not supplant, services from any other funds available for the same general purposes, including—

"(A) individual counseling;

"(B) group counseling;

"(C) family counseling;

"(D) case management;

"(E) training public agency adoption personnel, personnel of private, nonprofit child *welfare and adoption agencies licensed by the State to provide adoption services, mental health services professionals, and other support personnel to provide services under this subsection;*

"(F) assistance to adoptive parent organizations; and

"(G) assistance to support groups for adoptive parents, adopted children, and siblings of adopted children.

(c) Placement of Foster Care Children.—Section 203, as amended by subsection (b), is amended by adding the following new subsection:

"(d)(1) The Secretary shall make grants for improving State efforts to increase the placement of foster care children legally free for adoption, according to a pre-established plan and goals for improvement. Grants funded by this section must include a strong evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption, and the successes and failures of the initiative. The evaluations will be submitted to the Secretary who will compile the results of projects funded by this section and submit a report to the appropriate committee of Congress. The emphasis of this program must focus on the improvement of the placement rate—not the aggregate number of special needs children placed in permanent homes. The Secretary, when reviewing grant applications shall give priority to grantees who propose improvements designed to continue in the absence of Federal funds.

"(2) Each State entering into an agreement under this subsection shall submit an application to the Secretary for each fiscal year in a form and manner determined to be appropriate by the Secretary. Each application shall include verification of the placements described in paragraph (1).

"(3)(A) Payments under this subsection shall begin during fiscal year 1989. Payments under this section during any fiscal year shall not exceed $1,000,000. No payment may be made under this subsection unless an amount in excess of $5,000,000 is appropriated for such fiscal year under section 205(a).

"(B) Any payment made to a State under this subsection which is not used by such State for the purpose provided in paragraph (1) during the fiscal year payment is made shall revert to the Secretary on October 1st of the next fiscal year and shall be used to carry out the purposes of this Act.".

TITLE III—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

SEC. 301. AUTHORIZATION FOR FAMILY VIOLENCE PREVENTION AND SERVICES ACT

(a) Authorization.—Section 310(a) of the Family Violence Prevention and Services Act is amended by—

(1) striking "and" the first place it appears and inserting a comma; and

(2) by striking out the period at the end and inserting in lieu thereof the following: ", $26,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991.".

(b) Limitation on Funds Available.—Section 310 of such Act is amended by adding at the end thereof the following:

"(c) The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.".

SEC. 302. REMOVAL OF THREE-YEAR LIMIT ON GRANTS FOR SHELTERS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by striking out the second sentence.

SEC. 303. AMENDMENTS TO FAMILY VIOLENCE PREVENTION AND SERVICES ACT.

(a) Technical Amendment.—The Family Violence Prevention and Services Act is amended by striking out section 312 the first time such section appears in such Act (Public Law 98-457; 42 U.S.C. 10411).

(b) Information and Training Grants.—Section 311(b) of the Family Violence Prevention and Services Act is amended by inserting at the end thereof the following:

"(2)(A) The Secretary shall award grants or contracts to local law enforcement agencies, acting in coordination with domestic violence shelters, social service agencies and hospitals, for the purposes of—

"(i) the development of materials, to be provided to each abused family member at the time such spouse is identified by law enforcement officers, hospital personnel, social services personnel, education counseling personnel, and other appropriate personnel involved in the identification of family violence cases that include—

"(I) an explanation in basic terms of—

"(aa) the rights of the abused family member under the laws of the jurisdiction involved; and

"(bb) the services available to the abused family member, including intervention, treatment, and support services; and

"(II) phone numbers and addresses for the services described in subparagraph (A)(ii);

"(ii) the development of procedures whereby domestic violence shelter, hospital, social service, or law enforcement personnel provide to an abused family member a written report, relating to each incidence of physical abuse reported by the family member, that includes a description of physical injuries to the family member observed by such personnel; and

"(iii) the development of systems whereby domestic violence shelter or local social service personnel, with the consent of the abused family member involved, may obtain from local law enforcement personnel information relating to abuse of such family member, including a report describing the initial contact of such family member and the law enforcement agency.

"(B) The Secretary shall provide assurances that procedures will be developed under this paragraph to guarantee the confidentiality of the records maintained.".

(c) Family Violence Prevention Project.—The Family Violence Prevention and Services Act is amended by adding at the end the following new section:

"FAMILY MEMBER ABUSE INFORMATION AND DOCUMENTATION PROJECT

"Sec. 313. The Secretary shall, directly or by grant or contract—

"(1) develop data on the individual characteristics relating to family violence;

"(2) provide for the objective documentation of data on the victims of family violence and their dependents based on injuries that are brought to the attention of domestic violence shelter, hospital, social service, or law enforcement personnel, whether or not formal civil or criminal action is taken; and

"(3) provide assurances that procedures will be developed to guarantee the confidentiality of records pertaining to any individual for whom data are compiled through this subsection.".

TITLE IV—ADMINISTRATIVE PROVISIONS

SEC. 401. REGULATIONS.

(a) For any rule or regulation needed to implement this Act, the Secretary of Health and Human Services shall—

(1) publish proposed regulations for purposes of implementing the amendments made by this Act before the expiration of the 90-day period beginning on the date of the enactment of this Act;

(2) allow not less than 45 days for public comment on such proposed regulations; and

(3) publish final regulations for purposes of implementing the amendments made by this Act before the end of the 195-day period beginning on the date of the enactment of this Act.

And the Senate agree to the same.

Gus Hawkins,
William D. Ford,
Major R. Owens,
Pat Williams,
Jim Jeffords,
Steve Bartlett,
Managers on the Part of the House.
Christopher J. Dodd,
Edward M. Kennedy,
Claiborne Pell,
Strom Thurmond,
Orrin Hatch,
Managers on the Part of the Senate.

STATEMENT OF MANAGERS, H.R. 1900

Title

1. Minor language differences between House and Senate.

The Senate recedes.

2. The House bill, but not the Senate amendment, makes minor changes from existing law in short title and table of contents.

The Senate recedes.

National Center on Child Abuse and Neglect

3. The House bill, but not the Senate amendment, limits Director's responsibilities to Center-related functions and specifies compensation level.

Senate recedes. The Conferees do not intend Section 2(b)(1) to prevent the Director of the National Center on Child Abuse and Neglect or the National Center on Child Abuse and Neglect from administering other activities in programs directly related to the field of child abuse and neglect which are vested in the National Center on Child Abuse and Neglect under authorities other than the Child Abuse and Neglect Prevention and Treatment Act or from participation in discretionary grant reviews and conferences organized in cooperation with other Federal agencies.

4. The Senate amendment, but not the House bill, requires Director to have experience in child abuse and neglect.

The House recedes with an amendment, adding "in the field of" to the requirement for experience in child abuse.

5. The Senate amendment, but not the House bill, specifies Secretary to require professional staff to have experience relating to child abuse and neglect.

The House recedes with amendment stipulating that when the Secretary makes an exception to the professional experience requirement, the Secretary shall have a justification which can be reduced to writing and can be justified based upon needs of the National Center.

6. The House bill, but not the Senate amendment, requires Secretary to solicit nominations for Advisory Board in the Federal Register.

The Senate recedes.

Advisory Board on Child Abuse and Neglect

7. The House bill revises existing law to specify 15-member Board, each with expertise in child abuse; 2 to be take force members and 13 not to be Federal employees. Specifies appointees to represent certain professions, State and local governments, and relevant organizations as follows: ethnic or racial minorities; diverse geographic areas; legal practitioners; psychological disciplines; child protection organizations; social work organizations; pediatricians; State and local governments; handicapped persons; parents' groups; and teachers.

The Senate amendment does not specify total number of Board members, but retains existing law requiring representatives from Federal agencies with child abuse responsibilities and modifies existing law to require 15 or more members, to comprise a majority, to be from general public knowledgeable in child abuse, including social services, law (including judiciary), and medicine, or who represent adolescents, parent self-help or voluntary organizations.

The Senate recedes with an amendment in the nature of a substitute revising the makeup of the Board.

8. The House bill specifies 6-year appointments, except non-Federal members to receive staggered appointments determined by them at first Board meeting: 4 for 2 years, 4 for 4 years, and 5 for 6 years.

The Senate amendment does not specify length of terms.

The Senate recedes with an amendment setting the terms at four years, with initial staggered terms of 2, 3, and 4 years.

9. The House bill, but not the Senate amendment, prohibits Board members from serving more than two consecutive terms.

The Senate recedes.

10. The House bill, but not the Senate amendment, provides that in-term vacancies are to be filled in same way original appointments are made.

The Senate recedes.

11. The House bill, but not the Senate amendment, provides members may be removed only for just and sufficient cause.

The Senate recedes.

12. The House bill provides Board to elect chair and vice-chair from non-Federal members at first meeting.

The Senate amendment does not specify officers.

The Senate recedes.

13. The House bill, but not the Senate amendment, provides Board to meet twice yearly, at the call of the chair, and that, when practical, meetings are to coordinate with the receipt of task force reports.

The Senate recedes.

14. The House bill requires the Board to report annually to Congress and the Secretary with recommendations for carrying out the Act;' and to the Secretary and Director with recommendations on programs, grants and contracts, unmet needs, and research priorities. Also requires Board to annually review the Center's budget and report to Director.

The Senate amendment retains existing law requiring Board to assist Secretary coordinate child abuse and neglect activities to prevent duplication and ensure efficient allocation of resources and program effectiveness; develop federal standards; and at Secretary's request assist in coordinating adoption-related activities. Also expands this to require Board to advise and consult with the Director on proposed research and long-range planning.

The Senate recedes with an amendment adding the responsibility to make recommendations on demonstration grant priorities.

15. The House bill, but not the Senate amendment, specifies compensation or travel not to be provided if Board member is receiving compensation from another source while on Board business.

The Senate recedes.

Inter-Agency Task Force

16. The House bill, but not the Senate amendment, establishes a task force to coordinate Federal child abuse activities and programs.

The Senate recedes with an amendment stating that the Secretary would request representation from other appropriate Federal entities.

National Clearinghouse for Information

17. The House bill, but not the Senate amendment, requires Secretary to establish within 2 years a clearinghouse on child abuse through the Center or by competitive contract of at least 3 years.

The Senate recedes with a clarifying amendment relating to the duration of the contract.

18. The House bill, but not the Senate amendment, requires clearinghouse to maintain, coordinate and disseminate information on programs showing promise of success; and to maintain and disseminate information on child abuse and neglect in general and "special risk" populations, the relationship to alcohol or drug abuse, State and local recordkeeping in such cases, court-related activities, and case specific data.

The Senate recedes with an amendment deleting court-related activities, case-specific data, and changing the provision on "special risk".

19. The Senate amendment, but not the House bill, amends law to expand responsibilities of the Center to include data collection and analysis of State child abuse and neglect reports to include standardized data on false, unfounded or unsubstantiated reports and deaths. Requires Director to report annually on data to Congress.

The House recedes with an amendment which states that the Director is also to establish a national data collection and analysis program, which to the extent practicable coordinates existing State child abuse and neglect reports. This activity shall include the development of model information collection systems. The Conferees intend that the term "unsubstantiated" not be interpreted to mean "unfounded" or "false". The term includes cases which are indicated but not proved and would refer to a determination made by an appropriate agency that sufficient facts did not exist on a received complaint to warrant formal action.

20. The Senate amendment, but not the House bill, requires Center Director to conduct studies and report to Congress within 2 years of enactment on child abuse among children with handicaps.

The House recedes with an amendment which moves the studies to sections 102 et seq. (see also notes 20(a), 22, 24, and 48). The Conferees wish to clarify that groups covered by the term "historically underserved or unserved" in section 105 will vary from State to State. The term refers to groups who, taken on a State basis, have been proportionately under-represented or unrepresented within the overall groups for whom child abuse prevention and treatment services have been provided. Such groups may include physically and/or mentally handicapped, ethnic or racial minorities, as well as those in isolated or rural areas.

20a. The Senate amendment, but not the House bill, requires Center Director to conduct study and report to Congress within 2 years of enactment on child abuse in alcoholic families.

The House recedes with an amendment (see note 20).

21. The House bill, but not the Senate amendment, provides, in establishing clearinghouse, for creation of model information collection systems and coordination of available resources.

The House recedes (see note 19).

Research and assistance activities of NCCAN

22. The House bill, but not the Senate amendment, makes changes to existing law and adds requirement for research on cases resulting in proceedings and outcomes of such cases.

The Senate recedes with an amendment clarifying that the information to be studied deals with the incidence of substantiated child abuse. The term "subtantiated" refers to those cases where a determination has been made by proper authority that there has been an incident of child abuse or neglect.

23. The House bill expands existing law to include establishing research priorities for variety of topics.

The Senate amendment expands existing law to include demonstration priorities.

House recedes/Senate recedes.

24. The House bill, but not the Senate amendment, requires Secretary to report on "high risk" populations, to include handicapped and children of drug abusers or alcoholics; and requires dissemination of this information through the Center.

The House recedes (see note 20).

25. The House bill, but not the Senate amendment, specifies "evaluate" rather than "analyze", as is in current law, and specifies consultation with Advisory Board.

The House recedes.

26. The House bill, but not the Senate amendment, makes minor changes to existing law to reflect role of the clearinghouse in House bill.

The Senate recedes.

27. The House bill, but not the Senate amendment, expands existing law to require training materials for parents of and those who work with handicapped.

The House recedes (see note 31).

28. The House bill, but not the Senate amendment, expands existing law to require assistance for disability organizations and those who work with children with handicaps.

The Senate recedes.

28(a) The House bill, but not the Senate amendment, deletes the participation of peer review in the annual evaluation process.

The House recedes.

29. The House bill, but not the Senate amendment, specifies preference for longitudial studies with strong evaluation.

The Senate recedes with an amendment which states that applications for long-term projects will receive special consideration.

30. The House bill, but not the Senate amendment, specifies procedures for review and approval of grant applications.

The Senate recedes with an amendment which deletes (e)(2)(C) and clarifies that the list of rankings is to be made available after the application review process.

Grants to public agencies and nonprofit private organizations

31. The House bill expands existing law to specify training for those who work with handicapped children.

The Senate amendment modifies existing law to include interagency demonstrations and to specify training for those who work or intend to work in treating or preventing abuse of children with handicaps.

The House recedes with an amendment which includes parents of children with handicaps as eligible for training. The Conferees stress that in reviewing applications under this provision, the Secretary shall give due consideration to applications from both rural and urban settings.

32. The Senate amendment, but not the House bill, eliminates discretionary funding for Centers and establishes mandatory grant program for resource centers (eliminating satellite centers and attention homes in existing law) of up to $1 million annually.

The House recedes.

33. The Senate amendment, but not the House bill, eliminates grants for teams of professionals and specifies other grants for innovative programs "as the Secretary may approve" to include alcohol-related abuse and neglect, home health visitor programs, and a national parent self-help program of demonstrated effectiveness.

The House recedes with an amendment on programs to reach parents (see note 36).

34. The House bill, but not the Senate amendment, specifies grants may be for prevention services for children with their families, projects conducted in cooperation with schools, and respite and crisis nurseries.

The Senate recedes with an amendment striking prevention services for children with their families, and adding respite and crisis nurseries based in community based organizations.

35. The Senate amendment, but not the House bill, specifies that the majority of assistance to be for discretionary research and demonstration related to prevention in consultation with Board.

House recedes/Senate recedes with an amendment.

36. The House bill includes language to provide grants for parent self-help programs that "stress control and parenting techniques" and are designed to reach parents in high risk populations.

The Senate amendment includes language for national parent self-help program for demonstrated effectiveness, as the Secretary may approve, under sec. 114 (see comment #33).

The House recedes (see note 33).

37. The House bill includes language to provide grants for prevention and treatment of alcohol and drug-related child abuse and neglect.

The Senate amendment includes language for similar program, as the Secretary may approve, under sec. 114 (see comment #33).

38. The House bill, but not the Senate amendment, expands existing law to provide for grants for at-risk or abused children and families at involved hospitals and specifies provider eligibility, services, and grant priorities.

The Senate recedes with an amendment clarifying the children and parents to benefit from the program. It is the intent of the Conferees that the parents who participate in this program be shielded in every way from the presumption of engaging in child abuse or neglect. The Committee intends that the Secretary ensure that the grantee conducting this demonstration projects will under no circumstances stigmatize the participating parent as a prospective child abuser. The Secretary shall also ensure that the participation of parents and hospital personnel, such as the attending physician is voluntary, and in no way invades the privacy of the prospective participants in the program. The Secretary shall ensure that information provided be appropriate to the needs and circumstances of the child and family. Information may include, but not be limited to, community resources, parent support groups, advocacy groups, health and financial, educational and social services information.

39. The House bill, but not the Senate amendment, provides priority for two grants to train personnel to identify and address needs of disabled, abused children.

The House recedes.

40. The Senate amendment, but not the House bill, requires Secretary to assure assistance is available to national child abuse and neglect resource centers.

The Senate recedes.

Grants to States

41. The House bill, but not the Senate amendment, amends existing law to eliminate grants for developing programs.

The House recedes.

42. The House bill, but not the Senate amendment, requires States to demonstrate efforts to encourage more accurate reporting of child abuse and neglect.

The House recedes with an amendment which requires States to include within their program of public information information on efforts to encourage more accurate reporting.

43. Technical differences.

The Senate recedes.

States grants relating to child abuse cases

44. The House bill eligibility requirements incorporate by reference changes in State grant eligibility under sec. 8(b) (see comments § 41 and § 42).

The Senate amendment eligibility requirements incorporate by reference changes in State grant eligibility under sec. 113.

The Senate recedes.

45. The House bill, but not the Senate amendment, modifies existing law to specify "State" task force.

The Senate recedes.

46. The House bill, but not the Senate amendment, modifies existing law to specify representatives of parents' groups rather than parents' groups.

The Senate recedes.

47. The House bill, but not the Senate amendment, modifies existing law to specify "State" commission or task force.

The Senate recedes.

48. The Senate amendment, but not the House bill, requires a study and report to Congress within 2 years by Center on State legal represention of children and effectiveness of guardian-ad-litem and court appointed special advocates.

The House recedes.

49. The House bill, but not the Senate amendment, modifies existing law to require States to adopt "the" recommendations in the categories rather than one recommendation per category.

The House recedes.

Miscellaneous requirements

50. The House bill, but not the Senate amendment, broadens existing law to include consultation with newly created task force.

The Senate recedes.

Coordination

51. The House bill, but not the Senate amendment, modifies existing law which requires annual reports on previous 2-year period to be prepared by Center in consultation with the Board.

The Senate recedes with an amendment making the report biennial for preceding unreported period.

Definitions

52. The House bill, but not the Senate amendment, expands definition of child to include age specified by State. Note: Existing law includes this in child abuse definition.

The Senate recedes.

53. The House bill, but not the Senate amendment, modifies definition of child abuse and neglect to exclude specification of "under age 18" or age specified by State. Note: These are included in House definition of child (see comment #52).

The Senate recedes.

54. The House bill, but not the Senate amendment, modifies definition of child abuse and neglect to exclude specification of certain employees as being responsible for child's welfare; this is included in House definition of person responsible for welfare (see comment #56).

The Senate recedes.

55. The House bill, but not the Senate amendment, adds definition of children with handicaps.

The Senate recedes.

56. The House bill, but not the Senate amendment, provides separate definition for person responsible for child's welfare that is included in current law under definition of child abuse (see comment #54).

The Senate recedes.

57. The House bill, but not the Senate amendment, defines sexual abuse to include both subparagraphs (A) and (B) rather than "or" in existing law and deletes phrase in current law that the abuse occurs under circumstances which indicate harm to child's health or welfare.

The House recedes. The House Conferees wish to clarify that the use of the conjunctive "and" in the House bill was a drafting error and did not represent any intention to change the current definition.

58. The House bill, but not the Senate amendment, adds Northern Mariana Islands.

The Senate recedes.

Child abuse authorization

59. The House bill authorizes $48 million for FY8 and such as necessary (SSAN) for FY89-92. Specifies equal amounts to be for national clearinghouse, research and assistance, and demonstration grants as for State development and operation grants and technical assistance, with special consideration given to previously funded projects of national or regional scope and demonstrated effectiveness. If appropriations less than $30 million, at least $21 million to go for these grants. Specifies $5 million annually for sexual abuse identification, treatment and prevention under sec. 7(a); and $5 million annually for implementing and operating programs for responding to reports of medical neglect. If appropriations less than $30 million, remainder after funding specified for about grants to be divided equally between sexual abuse and medical neglect grants. Note: There is no section 7(a) in the House version of the Act.

The Senate amendment authorizes $48 million for FY88, $55 million for FY89, $60 million for FY90, and $66.5 million for FY91. Of funds appropriated for any FY, not less than $11 million for research and demonstration; not less than $9 million for State grants; and $5 million each for sexual abuse prevention and treatment and grants for responding to reports of medical neglect. If total appropriation below $30 million in a FY, $9 million for State grants, $11 million for discretionary; and remainder equally divided between sexual abuse and medical neglect grants.

The Senate recedes with an amendment deleting the House priority on new funds.

60. The House bill, but not the Senate amendment, provides priority for identification and prevention activities when appropriations exceed FY87 level.

The House recedes.

60(a) The House bill, but not the Senate amendment, provides that funds will remain available until expended.

The Senate recedes with an amendment clarifying that the funds will remain available to the Secretary until expended.

61. The House bill, but not the Senate amendment, specifies deadline for grants.

The House recedes.

62. The House bill, but not the Senate amendment, specifies deadline for establishing clearinghouse.

The House recedes.

Presidential Commission on Child and Youth Deaths

63. The Senate amendment, but not the House bill, authorizes a Presidential Commission on Child and Youth Deaths and specifies composition, duties, procedures, and compensation. Such sums as necessary (SSAN) for FY87 and succeeding years are authorized.

The House recedes with an amendment specifying the types of deaths to be studied.

ADOPTION OPPORTUNITIES

Authorization

64. The House bill authorizes $5 million for FY88 and such sums as necessary (SSAN) for each of FY89-92. Provides for an additional authorization of $7 million for new demonstration grants for adoption of historically underserved children under sec. 203(b)(8) and for providing services to families with adopted children under sec. 203(d) of House bill for any FY that appropriations exceed $5 million in FY87 dollars.

The Senate amendment authorizes $7 million for FY88 and such sums as necessary (SSAN) for each of FY89-91. Note: Funding for new programs to increase permanent placements under sec. 205 would be included in this authorization. See comment #73. Authorizes in addition $1 million each for FY88 and such sums as necessary (SSAN) for FY89-91 for new State grant program to increase adoption of minority of children under secs. 203(b)(5) and post-adoption services under sec. 203(b)(6) of Senate bill.

The Senate recedes with an amendment accepting the House figures but maintaining two separate and equal authorizations for the new Minority Adoption Opportunities and Post Legal Adoption programs.

65. The House bill, but not the Senate amendment, stipulates funding to be available until expended.

The Senate recedes with an amendment (see note 60(a)).

66. The House bill, but not the Senate amendment, stipulates deadline for grants.

The House recedes.

Minority Placement

67. The House bill establishes State demonstration grants, based on need, for programs to facilitate adoption of historically underserved with permanency planning goal of adoption.

The Senate amendment requires Secretary to provide for programs to increase adoption of minority children with goal of adoption, with special emphasis on recruiting minority families.

The House recedes.

68. The House bill requires States to provide services directly or through grant or purchase service agreements with one or more government entities, private nonprofit child welfare or adoption agency licensed by the State, an adoptive parent organization, or community-based organization with experience with historically underserved.

The Senate amendment requires that Secretary will provide for programs by grants or contract with public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience working with minorities.

The House recedes with an amendment including States as eligible to compete.

69. The House bill, but not the Senate amendment, specifies programs may include specific activities.

The Senate recedes.

70. The Senate amendment, but not the House bill, allows grants or contracts to be renewed with documentation and provides that grants or contracts are to include provisions for training others to replicate.

The House recedes.

71. The House bill, but not the Senate amendment, requires State plan for applicants.

The house recedes.

72. The House bill, but not the Senate amendment, requires recipient States to report relevant data on historically underserved.

The House recedes.

Program to increase permanent placements

73. The Senate amendment, but not the House bill, authorizes Secretary to provide for bonus payments to States that increased permanent placements of children free for adoption.

The House recedes with an amendment which specifies that grants shall be made to States for improving adoption placement programs. Such programs shall have pre-established plans and goals and must include a strong evaluation component.

Post-legal adoption

74. The House bill authorizes State demonstration grants for services to families with adopted children under age 18.

The Senate amendment authorizes Secretary to provide for post-adoption services for families who adopted special needs children. The Conferees intend that the term "special needs children" means children who are or have been in more than one foster placement or disrupted adoption or have faced an undue delay in adoptive placement because of one or more of the following conditions—

(a) physical or mental disability;

(b) serious emotional maladjustment;

(c) high risk of physical or mental disability (such high risk applies to children for whom such risk presents a barrier to timely adoption and to adopted children for whom risks due to genetic predisposition are uncovered when disabilities develop later in life); and

(d) age, racial, or ethnic factors which present barriers to adoption.

The House recedes.

75. The House bill provides services may be provided directly by States or through one or more of the following: case management by public agency adoption personnel, or grants, contracts, or purchase of service agreements with private, nonprofit, licensed child welfare or adoptive parent organizations, or in a manner approved by the Secretary.

The Senate amendment provides services to be provided directly or by grant or contract with public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups if documentation is provided on effectiveness during the previous funding period and the grants or contracts include provisions for training others to replicate.

The House recedes, the Senate recedes with language combining the two provisions and qualifying States to compete for grants or contracts.

76. The House bill specifies services to supplement, not supplant, and may include individual counseling; group counseling; family counseling; case management; training of specified personnel; assistance to adoptive parent organizations; and assistance for support groups.

The Senate amendment specifies services to include services for adoptive parents, adopted children and siblings of adopted children, which may include individual, group, and family counseling and case management.

The Senate recedes.

77. The House bill, but not the Senate amendment, requires applicant States to submit plan for services and to report on services provided and recipients.

The House recedes.

78. The House bill, but not the Senate amendment, requires State matching, increasing from second through fourth year of grants.

The House recedes.

FAMILY VIOLENCE PREVENTION AND SERVICES ACT

Authorization

79. The House bill authorizes $15 million for FY88 and such sums as necessary (SSAN) for each of FY89-92.

The Senate amendment authorizes $26 million for FY88 and such sums as necessary (SSAN) for each of FY 89-91.

The House recedes.

80. The House bill, but not the Senate amendment, provides funds to remain available until expended.

The Senate recedes with an amendment (see note 60(a)).

81. The House bill, but not the Senate amendment, requires grants to be made within specified time period.

The House recedes.

82. The House bill, but not the Senate amendment, makes technical amendments.

The Senate recedes.

Information and documentation project

83. The House bill, but not the Senate amendment, authorizes the Secretary to provide for development and documentation of data on family violence.

The Senate recedes with an amendment requiring the Secretary to take action to maintain confidentiality.

Information and training grants

84. The House bill, but not the Senate amendment, authorizes demonstration grants to local law enforcement agencies in coordination with social services agencies and hospitals for training, technical assist-

ance, and development of materials, procedures, and systems in the area of family violence.

The Senate recedes with an amendment making this an eligible activity under a current program.

Repeal of limit

85. The Senate amendment, but not the House bill, modifies existing law to remove 3-year limit to family violence demonstration grants.

The House recedes.

ADMINISTRATIVE PROVISIONS

Regulations

86. The House bill, but not the Senate amendment, specifies time limit for publication of regulations.

The Senate recedes.

GUS HAWKINS,
WILLIAM D. FORD,
MAJOR R. OWENS,
PAT WILLIAMS,
JIM JEFFORDS,
STEVE BARTLETT,
Managers on the Part of the House.
CHRISTOPHER J. DODD,
EDWARD M. KENNEDY,
CLAIBORNE PELL,
STROM THURMOND,
ORRIN HATCH,
Managers on the Part of the Senate.

REQUEST TO MAKE IN ORDER CONSIDERATION ON TOMORROW OF CONFERENCE REPORT ON H.R. 1900, CHILD ABUSE PREVENTION, ADOPTION, AND FAMILY SERVICES ACT OF 1987

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that it be in order tomorrow to consider the conference report on H.R. 1900, and that the conference report be considered as read when called up for consideration.

The SPEAKER pro tempore (Mr. LEHMAN of California). Is there objection to the request of the gentleman from New York?

Mr. TAUKE. Mr. Speaker, reserving the right to object, could the gentleman from New York tell us why we should waive the normal rules in order to bring this bill to the floor tomorrow?

Mr. OWENS of New York. Mr. Speaker, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from New York.

Mr. OWENS of New York. Mr. Speaker, it normally would have to lay over for 3 days if it were not brought up tomorrow.

Mr. TAUKE. Is there any reason why it should not lay over for 3 days under the normal rules?

Mr. OWENS of New York. I have no reason. The leadership has said it could be brought up tomorrow, and we requested it for that reason.

Mr. TAUKE. But there is no particular reason for waiving the rules as far as the gentleman knows?

Mr. OWENS of New York. As far as I know, there is no urgency. The Senate is expected to pass the bill tonight, and we will act on it tomorrow as a result.

Mr. TAUKE. Is there any time sensitivity to this particular report?

Mr. OWENS of New York. Mr. Speaker, I want the gentleman from Iowa to know that I wholeheartedly agree with the remarks and associate myself with the remarks he made before. This is not of my choosing. It is in accordance with the schedule the leadership has set, and I am following that schedule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. EDWARDS of Oklahoma. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

NATIONAL SCANDAL OF ABORTION ON DEMAND MUST END

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, in the not too distant future, I truly believe that historians will regard America's present day unseemly abortion culture with an odd mix of curiosity, sorrow, incredulity, and contempt.

They will wonder how a society that paid so much attention to civil rights at home and human rights abroad could have allowed—even promoted—the violent destruction of over 22 million children under the guise of "women's rights" and preserving the "right to privacy."

They will weigh the fashionable cliches, slogans, and euphemisms of our day proffered by the abortion crowd against the brutal reality of abortion and wonder how an ostensibly sane, compassionate society could have been so thoroughly fooled.

I believe moral equivalencies and comparisons to the institution of slavery are inevitable.

Perhaps most annoying, however, will be the memory of the legion of talented leaders in the fields of medicine, religion, law, academics and especially in politics, who should have known better, but who blinked when it counted most preferring instead the luxury of "personal opposition" without public duty or responsibility.

I believe, Mr. Speaker, it's time this national scandal of abortion on demand came to an end.

Americans and their leaders must come to realize that court-imposed abortion policy in our country is ethically cheap, it is illogical and it's inhumane. It represents a sellout of human rights of monumental proportions and a legal accommodation with violence. It substitutes demonstrable fact with folly, it deceives women as to the reality and splendor of the children they bear and it has turned what was formerly a 9-month period of sanctuary into a stage of life fraught with tremendous physical danger. Behind the mask of the "right to privacy" the Court has, in essence, legalized child abuse in its most sickening form—child abuse that results in death.

I truly believe that the 1973 Supreme Court abortion decisions will not stand the test of time nor of scrutiny because they are based on the fiction that the unborn are something other than human and alive—a contention that was in 1973 and is today, scientifically and intellectually indefensible.

It seems so ironic to me, that at a time when we know more about the magnificent world of an unborn child than ever before in history, the High Court has nevertheless chosen to force upon us a policy that treats the unborn child as chattel. As junk. As garbage.

At a time when the child in the womb can get a blood transfusion or procure life saving microsurgery, the law of our land treats the unborn child with less respect than the eagle, baby seals and the snail darter. It would seem that our priorities are more than a bit confused.

Mr. Speaker, surely those of us who have seen the mangled bodies of aborted babies and who know the truth about this obscene but legal practice have a profound moral duty that is not so easily satisfied to speak out—to speak out with all the courage we have to muster.

Americans must come to grips with the awful truth of abortion—of millions of children being dismembered by hideous suction machines or crushed with forceps or poisoned with highly concentrated salt water. They must see the terrible emotional pain and suffering of the mothers.

Congress can no longer feign ignorance or incompetence—as the Supreme Court did in 1973—in establishing that the unborn are human persons and in need of legal safeguards. The infamous Roe versus Wade opinion by Justice Blackmun said "We need not resolve the difficult question of when human life begins." Shame on them.

I join millions of Americans who are proud of President Reagan for having the moral courage to take a bold, consistent stand in defense of human life and for having issued on January 14 a Presidential Proclamation recognizing the personhood of the unborn. Like a modern day Lincoln, the President declared:

> I * * * do hereby proclaim and declare the unalienable personhood of every American, from the moment of conception until natural death, and I do proclaim, ordain and declare that I will take care that the Constitution and the laws of the United States are

faithfully executed for the protection of America's unborn children. * * *

I am further encouraged that GEORGE BUSH our Vice President—and almost surely the Republican nominee for President, has strongly embraced the cause of protecting unborn children. Mr. BUSH has said that the millions of abortions performed since 1973 "is a tragedy of shattering proportions," and "brings a renewed sense of urgency to adoption of a constitutional amendment to overturn Roe versus Wade and the effort for a human life amendment."

Mr. Speaker, I ask you personally and other leaders in the House and Senate, to do all that is within your power to usher in the day when the most vulnerable minority in America—unborn children—regain the respect and protection in the Constitution they so desperately deserve.

KOREA'S PROTECTIONIST AGRICULTURAL TRADE PRACTICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, a feed grain buying mission led by the Korea Feed Association President Park Chan-Yung has very recently been visiting various cities in the United States to announce purchases of several million bushels of United States grain. Last Tuesday, the delegation visited Lincoln, NE, as it visited other American cities, and yesterday it was in Washington, DC.

As a Member of Congress who represents a large and important agricultural constituency, I certainly appreciate their purchase of American grain. However, as this Korean buying mission tours the United States and with great fanfare announcing purchases of grain, I wish they would also explain why they have such a terrible, protectionist policy affecting many other United States agricultural commodities and processed food products—for example, their barriers against the import of beef.

While I try not be cynical about the Korean purchases, I can only conclude that one reason for the high profile given these grain purchases is an attempt to hide their protectionist import policies toward a variety of agricultural and food products. The worst example is their virtually total ban on high-quality U.S. beef which has been in effect since May 1985.

In light of the Korean trade surplus with the United States of $7.3 billion in 1986—a 72 percent increase in 1 year over 1985—we deserve better treatment and more access to Korean markets. Open United States markets and the international trading system have worked well for Korea, and Koreans have benefited enormously. Korea is now the 10th largest trading nation in the world, and its 1987 exports of $47 billion exceeded the total GNP of many other countries in the world.

Currently, the United States is by far its largest trading partner, and Korea is the seventh largest trading partner of the United States. In recent years, Korean exports to the United States rose dramatically, increasing at an average 20-percent annual rate. Today, approximately 40 percent of all Korean exports go to the United States—that's right, an incredible 40 percent of their total export market is found in our country.

Korea's recent feed grain buying spree in the United States is surely designed in significant part to mute criticism of the fact that the United States share of the Korean agricultural market had fallen to its lowest point in almost 20 years. In regard to agricultural trade, Korea exported more than $41 million worth of processed foods and beverages to the United States, this represents a doubling of sales over the past 5 years. In contrast, United States food and beverage sales to Korea slipped from $19 million in 1982 to $18 million in 1986 in response to trade policy measures designed to keep high-value agricultural product imports to a minimum while promoting their exports. There are small amounts of trade in the international interest, but the trends are, unfortunately, significant. We know, however, that a market exists in Korea for United States food products by the fact that so much of it is being illegally sold out of a United States military post and base exchanges.

Most of the discussion regarding United States beef exports has been focused on the expiration of the United States-Japanese agreement on their beef quotas. However, Korea's outright ban on imported beef should be the initial focus of American policymakers and American people. Is it fair? Absolutely not, and every American will recognize that when they know about the ban. It's outrageous.

In January 1987 we reached an understanding with the Korean Government that the United States would not file a GATT case against Korea on beef in exchange for the Korean Government's commitment to improve access for other agricultural products and a resumption of beef imports by the end of 1987.

The Government of Korea has reneged; they've broken their promise to the country that is the destination of 40 percent of their total exports. They've broken their promise to the Nation that ensures their security against North Korea aggression.

The 1987 deadline has now passed, and the market remains closed—slammed shut. This issue has been the subject of intense and protracted negotiations. So far, little progress has been made with no results.

The outcome of these discussions on removing the ban and the quota on beef will be a test of Korea's commitment to open its markets. Resolving the agricultural trade issues will reassure skeptics in the American public and Congress that the administration can ensure and the Korean Government will at long last really provide fair market access for American goods and services. It is a test of whether the Government of Korea will keep its commitments.

If the administration can't demonstrate convincingly that market access can be achieved in countries which have very large trade surpluses with the United States, the concerns of many Americans about unfair trade practices among our international trading partners will grow, and there will be that much less likelihood of removing the more extreme protectionist trade provisions from the omnibus trade bill which is currently in conference.

At this time, a quite appropriate section 301 case regarding Korea's treatment of the United States beef has been filed with the office of the United States Special Trade Representative. Independently, the USTR raised the issue at a GATT dispute panel last week in Geneva, Switzerland.

While the United States was assured, or placated, last year that some liberalization would occur once the Korean presidential elections were concluded, nothing substantive has been forthcoming from the Koreans. We are now being told that no action may be taken prior to the upcoming parliamentary elections in Korea because United States beef exports would be a sensitive political issue.

Quite frankly, a total ban on United States beef is a sensitive issue here, too. I would remind the Korean Government that we have been patient too long. What will be the next excuse for inaction that is offered?

It is time to set these political excuses aside; U.S. cattle producers have had enough. The time for stonewalling and excuses is over. I would encourage the USTR to accept the 301 case which it has pending and to proceed full speed in prosecuting the case.

Korea is no longer an impoverished country. It now has a responsibility to play fairly in the world trading environment which has enabled it to prosper. In light of our huge trade deficit with Korea, it is not unreasonable to have open access to the Korean market. The elimination of Korea's restrictions on United States beef would be an excellent start.

If protecting Korean beef producers is politically sensitive, they can do the same thing that the Japanese should do—directly subsidize their beef producers. they can pay them and permit the Korean and Japanese consumers to reap the advantages of more high-quality beef at much, much lower prices.

Again, thank you Korea for purchasing our grain, but please be fair and live up to your promises to remove the beef ban as the first step in an immediate action to begin a speedy phase-out of beef quotas. We appreciate your grain and soybean business, but given your huge trade surplus with us, we can, and do, expect to be your supplier of quality grain and soybeans at competitive prices—plus beef and a whole range of food products—which your consumers would readily buy if given a chance.

TRIBUTE TO LAURINE WELLS LOVETT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. HUBBARD] is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, I want to pay tribute to an outstanding Kentuckian, Laurine Wells Lovett, a member of the first board of regents at Murray State University at Murray, KY.

Laurine Wells Lovett, one of the all-time great ladies of Kentucky, died January 30, 2 months ago today at age 88.

Her father, the late Dr. Rainey T. Wells, was the first president of Murray State University. Lovett Auditorium, the school's main auditorium, was named for her in the 1960's during the presidency of Dr. Harry Sparks.

Her mother, Tennie Daniel Wells, preceded her in death.

Mrs. Lovett was society editor of the Murray Ledger and Times when her husband, the late Joe T. Lovett, was editor and publisher of that daily newspaper.

A graduate of the University of Kentucky, Mrs. Lovett also taught high school in Ashland and Murray.

Mrs. Lovett was past president of the Murray Woman's Club and was a member of Settle Memorial United Methodist Church in Owensboro and the Daughters of the American Revolution. She was past governor for the first District of the Kentucky Federation of Woman's Clubs.

Laurine Wells Lovett is survived by two outstanding sons, attorney Wells T. Lovett of Owensboro, and Dr. John D. Lovett, an Ownesboro physician. Mrs. Lovett also survived by six grandchildren of which she was very proud.

My wife Carol and I extend to Wells T. Lovett and Dr. John D. Lovett our sympathy and fond regards.

□ 1900

IMPROVING MEDICARE'S MENTAL HEALTH BENEFIT

The SPEAKER pro tempore (Mr. LEHMAN of California). Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, today I am introducing a bill which I believe will address the mounting problem of untreated mental illness among our Nation's elderly. Access by the elderly to mental health services has been severely restricted by Medicare's outdated, and up until recently, largely ineffective mental health benefit. The legislation I am introducing today, along with several of my colleagues will improve this situation by providing direct reimbursement for psychologists under Medicare.

As you may know, last year's budget reconciliation legislation recognized the inadequacy of the Medicare outpatient mental health services. Under OBRA 87, Congress increased the $250 annual cap on Medicare mental health services to $450 in 1989, and $1,100 per year starting in 1990. Through the efforts of Senator ROCKEFELLER, pyschologists also received partial recognition as direct providers in rural health clinics and community mental health centers. On the House side, I worked with my colleagues TOM DOWNEY and SANDER LEVIN to achieve these improvements as part of the catastrophic package. On the Senate side, the long-standing efforts of Senator INOUYE on behalf of psychologists, and the efforts of Senate Finance members ROCKEFELLER, DURENBERGER, DASCHLE, MOYNIHAN, MATSUNAGA, RIEGLE, MITCHELL, BAUCUS, and HEINZ have made these much-needed improvements a reality.

This was the first time since the inception of the Medicare program that the mental health benefit has been increased. The original outpatient limit established by Medicare covered only $500 of services, at an effective coinsurance rate of 50 percent, for a maximum annual reimbursement of $250. The 1965 250 dollars' worth of coverage would now have a purchasing power of only $57; since 1966, prices in the overall economy have quadrupled. I must emphasize, however, that while Congress has recognized the need for a long overdue improvement in Medicare's mental health benefit, by increasing the cap to $1,100 in 1990 we have taken only a modest step in the right direction. If Congress had chosen to adjust the cap for inflation, it is estimated that the benefit would now be worth over $2,000.

Furthermore, while we have increased the monetary value of Medicare's mental health benefit, major deficiencies in the benefit continue to inhibit beneficiaries' access to adequate mental health services. Foremost among the problems hindering access is the continued exclusion of psychologists as direct providers. Except for the modest improvements discussed above, Medicare beneficiaries still cannot seek the services of a psychologist unless a physician authorizes Medicare reimbursement. Moreover, the law continues to require a 50-percent beneficiary copayment, as opposed to the 20-percent copayment required on most other Medicare outpatient services.

My legislation builds on the OBRA 87 improvements to ensure full recognition of psychologists as direct providers under Medicare. There is widespread support in the Congress for measures to update and strengthen Medicare's mental health benefit. Over 19 Senators, many from the Senate Finance Committee, have cosponsored Senator INOUYE's bill, S. 123, providing for direct reimbursement for psychologists. My bill is similar to S. 123, but contains some refinements based in part on OBRA 87's changes to Medicare's mental health benefit. In particular, this bill retains the current payment methodology for all part B services received at a rural health clinic, but removes the fee schedule imposed on psychologists' services at a community mental health center. Finally, in a move to make mental health services even more accessible to Medicare patients, this legislation requires psychologists to accept mandatory assignment.

I believe it is in the best public interest for psychologists to be available to all Medicare beneficiaries. We have increased the amount Medicare will pay for mental health services, yet beneficiaries' access to these services remains severely limited. This is especially important to those of us representing States with areas lacking sufficient numbers of psychiatrists, making it impossible for beneficiaries to obtain adequate Medicare-covered mental health services.

I suggest the following specific reasons for including psychologists as direct providers:

1. ACCESS

In many areas of the Nation, particularly rural areas, Medicare beneficiaries do not have access to physician mental health providers currently eligible for Medicare reimbursement. Data demonstrates that psychologists are more evenly distributed geographically throughout the country. Even with the recent addition of community mental health centers and rural health clinics, this maldistribution remains a crucial problem for beneficiaries residing in rural America and for many in inner urban areas. In Pennsylvania alone, there are nine counties that have psychologists and no psychiatrists. These 9 counties contain nearly one-third of 1 million people of whom 13 percent are over 65, and 80 percent are rural residents. Psychiatrists—Medicare's only authorized mental health providers—are not found in 21 percent of Pennsylvania's counties. Changing the Medicare law to recognize psychologists would alleviate this shortage by bringing mental health services to Medicare recipients in these 29 counties, and increasing the number of eligible practitioners by 220 percent. Imagine, then, the benefit this change would have on the many States that are more rural than Pennsylvania.

2. COSTS.

As this bill will increase access, thereby meeting currently unmet mental health needs of the elderly, there will be some costs attached to it. At the same time, much of the cost will be offset by the bill's cost-saving features which are discussed below. The effective date for this bill is January 1, 1989. Preliminary estimates by the Congressional Budget Office indicate that startup costs in 1989 will be $5 million. Based on CBO projections of fiscal year 1989 Medicare part B outlays, this means that the expanded mental health benefit would cost only 0.013 percent—approximately 1 hundredth of one-percent—of total part B expenditures in 1989.

Further preliminary estimates by CBO show that the benefit would cost: $10 million in fiscal year 1990, which is 0.02 percent of CBO projected part B outlays; $15 million in fiscal year 1991, which is 0.03 percent of CBO projected part B outlays; $20 million in fiscal year 1992, which is 0.04 percent of CBO projected part B outlays; and $20 million in fiscal year 1993, which is 0.03 percent of CBO projected part B outlays.

Thus, in total, CBO's preliminary estimates show that adding direct reimbursement of psychologists to the Medicare Program would cost approximately $70 million over the following 5 years, 1989 through 1993. This translates to an average of 0.03 percent per year of total part B expenditures. Can we really deny such an important benefit when it is likely to cost less than one-tenth of 1 percent of yearly part B expenditures?

3. COST SAVINGS

While improving access entails an increase in program costs, much of the cost will be offset by cost-effective features of including psychologists as Medicare eligible providers. Psychologists can reduce program costs because they charge less on average than the current eligible physician mental health provider. Evidence indicates that a significant number of patients will choose to be treated by psychologists rather than psychiatrists. Studies performed on health plans which cover psycholgists have shown up to 12 percent reductions in area psychiatric fees. Competition means that the cost of Medicare's mental health benefit should decrease both for psychiatrists' and psychologists' services.

Increased access to mental health services will also generate indirect cost savings by reducing medical utilization in the nongovernmental health care system. Many elderly now turn to medical doctors to treat psychosomatic symptoms caused by such mental illnesses as stress, depression, fear of death, and loneliness; often these illnesses can be treated more effectively by psychologists who are trained in both neuropsychological and psychological testing. In fact, many of the mental disorders that beset the elderly cannot be treated with psychoactive drugs because the side effects are too dangerous for older persons, who are weaker, or who may be taking other medications. In these cases, only psychotherapies can be used, such as biofeedback, and cognitive therapy.

4. FREEDOM OF CHOICE

Claims data from other Federal health plans and private plans show that a greater proportion of patients select psychologists rather than psychiatrists as their mental health care provider. The profession of psychology requires of its practitioners a high degree of education and training in mental health, including specialized training in geriatric mental health care. Doctoral-level psychologists are licensed by all States for independent practice of pyschotherapy and other psychological services. This explains why mental health patients are permitted to select care from a psychologist in every other Federal health program, including CHAMPUS and FEHBP, as well as in most private health insurance plans, including Blue Cross/Blue Shield. In fact, laws in 42 States require that State-regulated insurance programs give patients the freedom to select a psychologist rather than a physician for mental health care treatment.

In closing, I wish to emphasize that the practice of medicine, particularly in the area of mental health, has dramatically changed since the inception of Medicare 20 years ago. Doctoral-level psychologists now play a major and recognized role in providing quality mental health care services. While I am aware of the fiscal constraints besetting the Federal budget, I believe that direct reimbursement for psychologists is a modest expansion in an area that has literally been ignored since the beginning of the Medicare Program. The Medicare mental health benefit has been ignored both because of the massive cuts Medicare has had to absorb in recent years, and because of the unfair stigma to mental health services.

Yet the effect of untreated mental problems among the elderly can be seen all around us. There are severely depressed elderly people who only wait to die; disoriented homeless mentally ill; anxious elderly whose worsening physical conditions often require expensive hospitializations, and treatments; and confused elderly who may injure themselves and require expensive nursing home care. I therefore urge my colleagues to support this modest increase in outpatient mental health services. By including psychologists as Medicare eligible providers, we will increase access to mental health services so that our Nation's elderly can continue to live healthy and productive lives.

NICARAGUAN CEASE-FIRE ASSISTANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. BOLAND] is recognized for 5 minutes.

Mr. BOLAND. Mr. Speaker, 4 weeks ago this body voted down a humanitarian aid package to the Nicaraguan Contras.

Many of my colleagues voted against that proposal because it contained no provision for military assistance, which they claimed was essential to the furtherance of peace. That argument is, in retrospect, invalid, but the argument for humanitarian assistance to the Contras at this juncture is as compelling now as it was then.

Like it or not, we do have a responsibility to the Contras. No matter how one feels about the Contras as a fighting unit, they are a force in being which we have supported directly and indirectly. Part of our support of the peace process must include facing the realities of the medical, food and health needs of the people who have suffered from the war.

That responsibility must be discharged in a way that addresses the needs of the people and the directives of the agreement reached in Sapoa on March 23. The bill before us today does both.

Mr. Speaker, the agreement reached in Sapoa is an encouraging sign. Hopefully it is the beginning of a permanent cessation to the internal strife which has plagued the country and, more importantly, the people of Nicaragua over the last 7 years. For now, however, it is only a temporary arrangement, and until there is a permanent settlement reached, there are humanitarian needs which must be addressed. This bill speaks to those needs in a way which is consistent with the cease-fire agreement and I urge my colleagues to support it.

IF IT AIN'T BROKE, DON'T FIX IT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I do not see any need for changing the designs of our circulating coinage. Further, I do not see any need for widespread complaining about the current designs. Why should we spend the time, effort, and money to fix something that is not broken?

There are proposals before Congress which would mandate design changes in our coins. Such a requirement would circumvent the current authority of the Secretary of the Treasury to determine whether to change the design of the cent, five cent, dime and quarter. In 1990, the Secretary will have the authority to change the design of the half dollar as well.

Congress provided the Secretary with this authority with the idea that the Secretary is the official in the best position to determine the best timing for a change, and to consider the technical aspects that design changes entail. I see no need to bypass the Secretary with regard to this issue. Further, Congress has recently displayed poor judgment in the area of coin design. During congressional consideration of the smaller dollar coin in 1978, the debate revolved around what design should be used on the coin rather than the merits of a new dollar coin or the size, shape, and composition of such a coin. The result was the issuance of a coin that was too easy to confuse with the quarter and was soundly rejected by the American public.

Announcements from the Treasury have indicated that the Department has taken the issue of coin design changes under advisement. I do not see any reason at this time for Congress to force changes in our coinage.

Whether it is the Treasury or the Congress who decides this issue, however, I do not feel that a decision to change our currency is wise from an economic standpoint. There is no great pressure from the American public to make changes, with the exception of coin collectors who would naturally benefit from such action. While I consider myself an avid supporter of the needs of numismatists in this country, I cannot in good conscience support an unnecessary and costly coin change.

Design changes are likely to generate more conflict than consensus. The American public is largely indifferent to the designs of our coins. The small amount of mail that the subcommittee has received on this topic has come from coin collectors. That mail shows no agreement on what design would be an appropriate new design for our coins. The lack of consensus virtually assures that there will be more dissatisfaction than satisfaction with any new design than with the current designs.

I do believe that the commemorative coin program is a valuable contribution to numismatics, and I will continue to support the production of commemorative coins which I feel will sell well and prove to be profitable. In selecting occasions for commemoration in the commemorative coin program, I have always been careful to assure that the event being commemorated is one of significant national interest and coincides with the actual anniversary of the event being commemorated. It is for that reason that I sponsored legislation which led to the issuance of coins commemorating the bicentennial of the Constitution last year.

On proposal to change the designs on our currency also requires that one of the changes include commemoration for the bicentennial of the Constitution. Even under the most optimistic schedule, the first redesigned coin under this legislation would not be released until 1990, 3 years after the bicentennial of the Constitution. I believe that the celebration of significant events should be marked by the issuance of special commemorative coins, not the use of our circulating coinage.

Some supporters of coin design changes have made claims that a change would generate billions of dollars in seigniorage, the profit that the Government makes by producing coins at a cost which is lower than their face value. I addressed the House on that subject on December 1, 1987, page H 1077, warning that such estimates are wildly unrealistic. Additional research has reinforced that conclusion. I am concerned that as the Congress seeks ways to cut the deficit, some Members may accept the seigniorage estimates unquestioningly and consider these illusory profits as genuine revenue, supporting design changes for that reason rather than on the merits of change itself.

The estimates of increased seigniorage which have been projected are certainly not based on historical fact. A review of the six coin design changes which have occurred over the past 45 years reveals erratic figures for coin production. In order for seigniorage to increase, the number of coins minted must increase. The six changes do not display the dramatic increases which have been projected for the design change. Further, no clear pattern emerges with regard to the mintages. In one case, the mintage of the last year of the old design outnumbered the first year of the new design. In another instance, the opposite was true. With this unsteady history in mind, I find the optimistic claims for dramatic increases in seigniorage to be unsubstantiated.

Thus, while a few people may want to change the designs on our circulating coins for the benefit of numismatists or just for the sake of variety, I do not support such action. It is not necessary and will likely cause more controversy over which designs are chosen than any difference of opinion which currently exists. Further, I feel that this would be an unwise and unprofitable use of taxpayers dollars.

DISCUSSION OF THE RULES OF THE HOUSE AND A POSTMORTEM ON THE CONTRA VOTE TODAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, at the beginning of my special order tonight, which will be generally a postmortem on the amazing vote that we just had to supply humanitarian aid to the democratic resistance, these so-called Contras, as the Communist spokesman for the Communist government of Nicaragua, Alejandro Bendana, Executive Director of the Communist Foreign Ministry of Nicaragua likes to say, the Contras, Mr. Koppel.

Before I do that I would like to discuss something about the rules of the House and to discuss what a privilege it is for us to be able to reach so many millions of people, particularly Americans, around the world and to discuss the rules of the House while we address the Chair, which is a tradition approaching 200 years in this distinguished deliberative body.

Mr. Speaker, I called up C-SPAN to find out just where we have come over the last few months and how many people can avail themselves of watching us talk to you and to one another.

I was kind of thrilled back in 1979 when on my birthday, April 3, we began to go to the outside world after months and months and months of experimentation. We had settled on six cameras, all automatically controlled by people selected by your office, Mr. Speaker. And for the first few years when there were special orders at the end of the day the cameras did not pan the Chamber to show that most Members had gone home, although many Members we know have available the recorded proceedings of this Chamber in their offices as are now available through C-SPAN, the people we contracted with and which the Senate finally contracted with last year to spread our message and our deliberations to literally the world because there are some hotels around the world that carry this.

Mr. Speaker, in 1987 the University of Maryland did a survey and they found out that 103 million households of our fellow Americans, Mr. Speaker, that is millions of people, avail themselves of the debate on this Chamber for more than 20 hours a month. Now C-SPAN tells me they have not tried to assess accurately how many households are watching since 1985. But in 1985, 3 years ago, there were 7.6 million homes that had some contact, not wired, but that watched our proceedings, 7.6 million homes at least at some point during the week. And they feel that that was about 21 million subscribers.

Now they estimate, and they say this is probably low, but they estimate at C-SPAN in 1988, 34 million subscribers, and it is increasing exponentially. We cannot even keep track, Mr. Speaker, of how many houses are being tracked, wired, how many homes are being wired for cable, how many apartments are being wired for cable television with C-SPAN available. All of the cable companies put their money into a pool to support C-SPAN so that they can carry the proceedings of this Chamber and now, recently, the U.S. Senate.

They think that that 34-million-figure availability picks up when there is a hot debate on the House floor as we had today, Mr. Speaker, on the final granting of some humanitarian aid to the freedom fighters in Nicaragua.

They say that special orders such as this, they find are watched with about the same frequency as people follow the proceedings of the House floor with the exception of those hot debate periods.

When I visited with you with my postmortem after the February 3 vote which denied humanitarian and a piddling $3 million of military aid to the Contras, I had never had more people come up to me on any debate on this House floor and say they had followed as closely as they followed my postmortem special order that night.

Then again I did another special order, you will recall, Mr. Speaker, on March 3. Here we are voting twice a month on Contra aid. It is unbelievable.

On that special order I received almost as many comments, I mean in 19 different States that I was traveling through for our great Vice President GEORGE BUSH. At every single meeting for the first 6 weeks following that February 3 special order, people were coming up and saying "We saw you. We follow the debate on the House floor that closely."

So I would like to make these figures available so that people who watch the proceedings do not feel, as some put it to me, foolish that they were watching a Member talk to an empty House.

It was the prior Speaker, the distinguished Mr. O'Neill of Massachusetts who decided maybe it would be good during special orders to show that there were not many Members in the Chamber. He thought it would have an effect to make Members not avail themselves of this special order period.

Well, the reason I am giving these statistics, Mr. Speaker, is so that those people who said they felt a little funny watching me or anybody addressing an empty House, would know there are anywhere from 400,000 people to up to an availability of 34 million who are watching these proceedings and that they should not feel silly, that they should feel that they are in a lot of good company because I think we all would agree, Mr. Speaker, that people who avail themselves of the proceedings of this House because of the magic of this electronic coverage who are unable to buy an airline ticket, come to Washington, DC, ask their Senator or their House Representative to get them a ticket so they can sit in the gallery and watch these historic proceedings, that they should feel very lucky and fortunate that they are able to do that since no Americans have been able to do that without traveling to this city prior to April 3, 1979.

Mr. Speaker, here goes the postmortem.

I cannot tell you how frustrating it is to work this issue, work it, work it. I have been down there, as I said, 16 times. Sixteen times to Central America. That is a record for the Senate or for the House. I am proud of all the effort I have put into it and the education that I have gotten on that land bridge between Mexico and the Panama Canal with the area of the country and the zone being torn apart right now by this filthy drug runner, the head of the military down there, Noriega, who has his duly elected President in hiding.

Now our vote—I will put all these things in the RECORD—was 345 to 70. We only lost in my party—and one of them is angry because he thinks that this is a sell-out and too weak, Mr. LUKENS of Ohio, whom I admire greatly—we only lost, really, four Republicans plus Mr. LUKENS, that is five. Five Republicans out of that 70; 65 hardcore liberals in the majority party who refuse—who would like the Contras to starve to death as they straggle out of Nicaragua into Honduras or Costa Rica, kind of a Bataan Death March, that they figure they all deserve because many of these Members have gotten up on the floor and said that these are rapists, thugs, murderers, the kind of people who would bayonet pregnant women. I am sure most of them are sincere. I cannot believe all 65 Democrats believe that, but I know some do and I feel sorry for them.

Now, how was this package different from the package of March 3 that the Communist thug and ruler of the Communist junta in Managua—not much different from the thug two countries further south in Panama—how is this different that Mr. Daniel Ortega would compliment JIM WRIGHT, the Sandinistas and finally he gags on the word resistance or Contras, he says that it is those three groups, their own Communist Sandinistas, the democratic resistance, the freedom fighters, and WRIGHT that we should thank for the peace process.

Having just come back from Honduras last week, having met with one of the democratic presidents down there, President Jose Azcona of Honduras, and having talked to our military people and had four or five intelligence briefings, had gone out to some of the hospitals and recovery farms of the freedom fighters, I can tell you what brought everybody to that table at Sapoa was the blood of the young lads and girls who have died for freedom in Nicaragua, our North American freedom, over the last 7 years. And it was the 82nd Airborne and the 7th Light Infantry out of California—the 82d Airborne is out of Fort Bragg, NC—going down there because we have a President who is bold enough and decisive enough to make that kind of decision with no help from this Chamber or the leadership of this Chamber, to make that bold decision which turned loose a courageous president, Jose Azcona, to send his air force into Nicaragua to destroy the immediate command posts, the tactical command posts that were violating his sovereign soil in Honduras with over 2,000 BLI's—battalion light infantry—and BLC's battalion light cazador—hunter. The BLI's are the battalion light infantry of the Communist government of Nicaragua, run by the Communist Sandinista party, not owned by the country anymore, owned and run by the leadership of the Communist party.

The BLC's are the battalion light cazador, the light hunter battalions, 2,000 of them inside the sovereign country of Honduras.

Because Azcona had the guts to send his air force after he was sure we were not going to leave him to twist in the wind like we betrayed so many countries around this world in my lifetime, after President Reagan made the commitment of troops down there—and they are all on their way home this minute as we speak—that is what brought the Communists to the table at Sapoa; not you, Mr. Speaker, and not all of the beating that we have given to the Contras, the freedom fighters, with our vacillating on again off again unpredicatable policy of whether or not we were going to give them a fighting chance for freedom in Managua.

Here are some of the major differences between March 3 and March 30, today. The amount of funding goes up to 6 months instead of 4 months. That is what this aid package that we just voted for 345 to 79.

The amount of funding per month goes up from $1.8 million to $2.7 million for the Nicaraguan resistance. That is a nice increase of almost $1 million a month for food and medical supplies.

The current package boosts the amount for communications equipment from $1 to $1.5 million which is needed very badly to replace a lot of the damaged supplies.

Now in the March 3 package the amount of $16 million for 4 months to provide only food, clothing, shelter, medical services, medical supplies, and payment of the transportation for the aforesaid services.

Only 25 percent of the total funds for communications, $1 million could be released prior to a total cease-fire.

Here is the difference with today's finally passed package. Today's package boosts the assistance level up to $17.7 million with payment made to AID, that is our Agency for International Development, to provide the assistance needed by the resistance.

It does not include transportation which is taken care of in the front way.

Today's package is front-loaded, meaning that for April and May the aid level, starting in 2 days, each month will be $2.9 million instead of the $2.7 million which is the average.

Significantly, the funding level for communications equipment is boosted, as I said earlier, from $1 million to $1.5 million. This does not hold back a percentage of the funds as did the package, your package, Mr. Speaker, that was your solely crafted package that was defeated March 3. It is worth noting that all this money is badly needed by the Contras since over 60 percent of their communications equipment is in poor condition.

Now delivery, that disgusting March 3 package, the Department of Defense was going to be dragged into this against their will, responsible for the direction, management, and delivery of the assistance authorized by the package.

□ 1915

As many Republicans as Democrats pointed out that this was a dangerous first step toward getting our Defense Department involved in running this operation in Central America that we all recall started out as covert years and years ago. Remember that we whipped Adolf Hitler in 3 years, 5 months, and 1 day. From wooden guns in Louisiana war games in 1940, it was still only about 5½ years or 6 years to defeat Adolf Hitler, and then 3 months after that we had defeated the warlords of Tojo, and Mussolini had caved in and Italy had actually switched sides months before that. Only 3 years, 5 months, and 1 day was all it took to whip the tyrant, Adolf Hitler, and here we have this program going on for 7 years, and we are still dribbling little bits and pieces to get rid of these nine Communist thugs down there in Managua. It boggles the mind.

Now, today, package states that AID—that is Agency for International Development, not the Defense Department—"shall direct, manage, and provide for the delivery of assistance and support to the Nicaraguan democratic resistance through neutral organizations consistent with the Sapoa agreement * * *"—Sapoa being that little border checkpoint on the western coast of Nicaragua, on the Costa Rican border on the south.

In addition, once AID delivers the aid to the staging area, a neutral organization, which is picked by the Democratic resistance, the freedom fighters, the Contras, and by Cardinal Obando y Bravo, my good friend. Then they deliver the airdrops. This is airdrops, folks. That was not in the March 3 package, Mr. Speaker, you will recall. You crafted it. This is an important and significant condition that the Contras, the freedom fighters, insisted on during the Sapoa negotiations of last week. Only by having a say in who delivers their aid, which is their survival pipeline, could the freedom fighters be sure that it would quickly and safely reach them.

Also this package passed today allows for "such sums as may be necessary" to provide for the transportation of the humanitarian assistance and communications equipment including rental and indemnification of aircraft, trucks, and other vehicles.

But here is the best part that was not in your March 3 package, Mr. Speaker. It was in the defeated February 3 package: expedited procedure. Here is the bad package, March 3. It said that no provision is made to insure that further freedom fighter aid would be brought forward in a speedy fashion no matter what the Communists in Managua did, no matter what atrocities that they committed, no matter if they put their BLIS and their 100 battalions into Costa Rica, into Honduras weekly, no expedited procedure. Nor did it allow for fair consideration of any legislation that would be brought forward. There would, therefore, be the chance that no amendments could be offered on any future freedom fighter aid package, if these Communists, as is their habit for 70½ years, gets out of hand, gets out of hand.

The March 30 package passed today by a vote of 345 to 70. Although not providing for expedited consideration in the very language of the legislation, you, House Speaker, Mr. JIM WRIGHT, pledged in a March 30 letter today to Republican leader BOB MICHEL, and I respect your word on this, that you would not block consideration of a future aid request in the event that a permanent cease-fire is not agreed to. You provided, Mr. Speaker, that one, out of three, one: there will be a definitive role for President Reagan who carried 49 States when I last looked in the first week of November of 1984, that President Reagan would play a definitive role in determining whether the Government of Nicaragua is acting in violation of the terms of the March 23 Sapoa agreement.

Two: The President's finding would be promptly assigned to the appropriate committees, and after 10 legislative days following that referral, the Speaker, you, would schedule the consideration of the legislation.

Three of three: Consideration of the legislation would be under a fair and orderly procedure which would allow amendments to be offered finally and ensure a vote on President Reagan's request.

Now let us come to two more items to cover here, the verification, which as President Reagan kept saying to Mr. General Secretary Gorbachev, "Trust, but verify; trust, but verify." Gorbachev got sick of hearing that, and I think the President got sick of saying it, but, when you are dealing with Communists, who by their very nature lie, and the greatest killer in all history, Vladimir Ilich Ulyanov Lenin, said "Treaties are so much piecrust made to crumble," and said, "If you lie for the revolution, it is not a lie," and they are all atheists any way, and they do not have to pay the price on judgment day. There is no judgment day for them.

Verification is most important, but, before that, children's survival-assistance funds versus AID.

Mr. Speaker, I see I have been joined by one of my colleagues, so I want to go through this quickly.

March 3 package: The disgusting package 27 days ago, problems with funds: One of the more controversial parts of that disgusting March 3 package provided for over $14,560,000 of unobligated funds coming from other accounts that we already agreed around here should be dispersed of our taxpayers' hard-earned funds said:

> At least one-half of the funds transferred under this section shall be provided through the nonpolitical private and voluntary organizations and international relief organization, operating inside Communist Nicaragua.

Come on. They are all intimidated. That means they get their hands on those dollars inside Nicaragua, and it probably goes to those bank accounts like 58946, the exact number the Paris Bank in Geneva where the head of the military down there, Daniel Ortega's brother, Humberto, has $1,496,000 of stolen money from the Nicaraguan people stashed in that bank account, and some of his money would have undoubtedly, as we pointed out on March 3, made its way into that account.

The intent was that these funds were to "be made available to provide medical care and other relief for noncombatant children who are victims of the Nicaraguan civil strife, civil war." There was, however, a major concern expressed by many of us that specifically under Nicaraguan law all foreign funds coming into Nicaragua must go to the Government, which was the problem of whether or not these funds would ever be used for the intended help of the children, victims of the war on either side.

What did we do today with the March 30 package? Here are the benefits of the assistance today:

The current package corrects this prior ridiculous thing of turning over money to the Communists by making sure that we are sending assistance, not funds, to nonpolitical, private, and voluntary organizations and relief organizations operating inside Nicaragua. This point is underscored by the language in the legislation that says: "None of this assistance may be provided to or through the Government of Nicargua." The total amount to be provided is $17.7 million. It will probably reach the children, so that is just fine that it has gone up a little bit from the $14,560,000.

And there is the final point, and then I will yield to my distinguished colleague who has worked so hard in this Central American issue and on this issue, Mr. DREIER of California.

Verification: Trust, but verify.

March 30 package: The current package states that the President, Ronald Reagan, shall transfer to AID, Agency for International Development, $10 million of unobligated funds for periodic payments to support the activities of the verification commission established by the Sapoa agreement. And, lo and behold, who do we have as head of that commission, and I truly love this: Cardinal Obando y Bravo the brave, the peasant priest, a full-blooded campesino peasant, who years ago on a little mule, like Jesus, served nine parishes and has risen to be the most respected man in the country, and I believe he is the most respected Catholic cleric in all of North and South America. And I believe other religions, people of conscience who have not adopted the atheistic philosophy of liberation theology or to think there is something all right to have a homosexual priest as a foreign minister after he has been suspended by the Vatican. Except for those flakes and flipouts in various churches around the world, anybody who truly walks in the footsteps of Jesus Christ knows that this is the outstanding prelate of this hemisphere. He will head this commission.

The March 3 package, the disgusting one, was of course no monitoring commission. Therefore, no funds provided to monitor the provisions. In fact, at the time of the package, the very morning that we rejected that disgusting package, March 3, that morning Cardinal Obando y Bravo had just been fired by Communist Daniel Ortega and his fellow eight thugs of the Communist junta.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. Mr. Speaker, I gladly yield to Mr. DREIER of California.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding, and I would like to congratulate him for taking out this special order.

Mr. Speaker, I would have to say at the beginning of that special order I was one in that long line of viewers of the cable satellite public affairs network and I will tell you it has increased by one since I left my office and walked over here to participate in the debate, but I will say that there are a number of very interesting questions which have been raised and I think really should be brought out again.

As my friend from California knows, he has been there 16 times. I have been with him on 3 of those 16 trips, the first one back on March 14, 1986. That was my first trip to the region. The second one was July 16 of last year. The third one was on November 7 of last year. It was a real eye-opening experience for me, and I will say that on my first meeting I had the opportunity to meet with Cardinal Obando y Bravo the brave and found that the gentleman is absolutely right. He is the most respected human being throughout Nicaragua, and I was very pleased that the Speaker in one of the talk shows this past Sunday referred to the Cardinal again as the most respected human being in Nicaragua.

And the gentleman is absolutely right. It was really tragic that on March 3 that Daniel Ortega would fire the one most respected person who was the respected mediator in this great dispute which has gone on.

Mr. DORNAN of California. May I ask you a question?

Mr. Speaker, will you excuse me and Mr. DREIER of California if we engage in a colloquy here and go back and forth with one another, which is allowed?

What do you think brought the Communists to Sapoa in so few days after their self-acknowledged attempt to deliver a killer blow in Honduras to the freedom fighter movement, where they put 2,000 troops into a neighboring country to try to capture almost a fifth of the supplies that had been predelivered to the freedom fighters?

Mr. DREIER of California. If my friend will yield, I would be happy to respond.

Mr. DORNAN of California. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, there is no doubt whatsoever that the seriousness with which the United States of America, and, when, I say the United States of America, I am talking about Ronald Reagan and this administration, dealt with the issue is the only thing that led them in there. Many people were stunned at the fact that the 82d Airborne would take that opportunity to be deployed to that part of the world, and, frankly, it is very clear that that is what led them to that point.

Now, the gentleman, of course, remembers full well what I have said probably 10 times at least from that well, and that is the fact that the four democratically elected Central American presidents, Cerezo in Guatemala, Azcona in Honduras, Arias in Costa Rica and Duarte in El Salvador do not share the same interests which the United States of America shares, the United States of America has. What is that? To ensure that we never have to send a single U.S. combat troop to the region, and we know that President Arias has said time and time again that, if the negotiating process fails, what does he want as the solution? Send in the U.S. Marines.

Well, what we are trying to do is implement a package which will make sure that we will never have to send a single combat troop to the region, and the Communists went to Sapoa because of the threat of those 3,200 brave Americans who were at Palmerola. It is very clear to me that that played an integral role.

Mr. DORNAN of California. That is precisely correct. The Communist Sandinista junta, the nine of them, figured that after March 3, 27 days ago, Ronald Reagan was whipped, that he was a lameduck President, and that the liberal and sometimes radical leadership of this House had boxed him in a corner, and that they could freely ravage across the countryside in Honduras and try to capture 22 to 25 percent of their supplies, kill 1,000 of more Contras, and that it would be a deadly blow to the freedom fighters' movement and they could exercise their will. They were shocked after the perverted ex-priest put in a call to you, Mr. Speaker, to JIM WRIGHT, and they said that if there were any troops in there, "We will get them out." And then you will recall, Mr. Speaker, at the leadership meeting on March 16 you said to our Secretary of State, "Mr. Secretary, Miguel D'Escoto has just called me and said that the troops are leaving, so maybe we don't have an emergency."

Then the majority whip, the gentleman from California Mr. COELHO, said, "Mr. Secretary"—although not quite that firmly, with his finger in the air—"We don't trust you. We trust you on Panama, we trust you on the Middle East, but we don't trust you on Central America, so we are going to go on the suspended priest's word that the troops are out."

Well, of course, they stayed in there for 5 days, but it was a one-two punch, I say to the gentleman from California [Mr. DREIER]. Not only did George Shultz look at our Republican leader and look at our excellent National Security Advisor, the three-star general, Colin Powell, he looked around and in his laconic style said, "Well, we can't even agree there is an emergency, so how can we discuss a package?"

He looked at our leader, the gentleman from Illinois [Mr. MICHEL] and he looked at the gentleman from Wyoming [Mr. CHENEY] and said, "That's it. You have been told. Goodbye."

I turned to BOB MCEWEN, who was kind of like a fly on the wall in back of me, and I said, "BOB, they are going back to the Situation Room, and I trust our guys are going to make a definitive decision." Well, they went back and had the call; they were waiting for President Azcona, the courageous one-term, 4-year President, who has less then 2 years to go now, and they said, "Here is the request. President Azcona wants our troops down there, and even some air," which they never sent; they did not have to.

□ 1930

The minute those troops started arriving the next morning, they were on their way that night, he said, the second punch to his fighter pilots at La Sabe, "Go get them. Blast them off Honduran soil and see if you can shoot down some Soviet supplied Hind helicopters while you are at it."

Here is what I want to tell the gentleman, and I have told nobody this, and for all of our colleagues, and you, Mr. Speaker, you will be hearing it for the first time. Listen to this lie. I only wish I had time to get a big graphic blowup of the basic platoon leader's map, the platoon sergeant's map, with little squares, kilometer squares, that is how big the scale is here. Each one is called a click to mud soldiers.

Here is a map of the whole Bocay fighting area from a few days ago.

Here is the border between Honduras and Nicaragua, Nicaragua being more to the west than it is to the north.

Here is the border which is more than two-thirds of the border between these two countries. Remember that El Salvador is separated by the Gulf of Fonseca.

Please look at your globes, Mr. Speaker, and others who are interested, and see that the only land border between Honduras and Nicaragua is this border, and most of it is the Rio Coco River.

Here comes the Rio Coco River.

Here is the Bocay River, a river totally inside Nicaragua. It leaves at a 90-degree angle to the east and then breaks due south and courses through these hills under triple canopy cover in some areas; looks for all the world like a tiny Amazon, and goes due south until it hits, creating almost a photographic image of the confluence right here of the Rio Coco, the border river, and the Bocay. The Bocay splits into the Amaka and the Bocay.

The Communist liars in Managua took about 30 international press, most of them, I am sorry to say, tragically enamored by the Communist revolution, the betrayed revolution in Managua. They brought them up on Soviet manufactured helicopters, maybe with Cuban pilots, for all we know, because they interchange the Cuban pilots with the Nicaraguan Mig pilots who were trained in Mig's in Cuba and retrained into these vicious Soviet helicopter gunships. They fly the press to a little hillock at the confluence of the Bocay and the Amaka and lie to them and tell them that they are up here exactly 1, 2, 3, 4, 5, 6½ kilometers or clicks, in military language, north. They tell them they are at the confluence of the Bocay and the border with Honduras.

They tell them to look across the river. They tell them it is the Rio Coco. They are really looking across the Bocay, and they say, "You see, there is no fighting in there."

What they could not have known when they left Managua is that President Reagan's decisive gutty decision to send the 82d Airborne and the 7th Light Infantry down to Palmerola and then to spread them out to bases going beyond the so-called Mrazek line—the only good thing about the expiration of aid on February 29 was that it cancelled the Mrazek line where our military could not help Honduras and go within 20—not kilometers, 20 miles, that is almost 30 kilometers against this border, but they came all the way up to Jomastrung, about 17 of these little clicks from the border.

That emboldened, as I said, the great President Azcona of Honduras, and while the press was on this hill being lied to, looking up at the Amaka and at the Bocay River, thinking they were looking into Honduras where there was no activity, because the Communists had their CP, their command post there, here come four screaming super Mystere jets given in 1972 by Israel to the Government of Honduras. Flying top cover are two F-5's supplied after a tough fight over in the Foreign Affairs Committee, where we beat with a tie vote an attempt by two liberals over here who love the Sandinistas, to stop us from sending F-5 Tiger aircraft down there, our two F-5's, the only two in the first two delivered, we are going to try to expedite the full delivery of 12 airplanes now to Honduras, they flew top cover just in case Cuba managed to send a Mig over into this part of the world, and the 4 super Mysteres made in France, the very material, the very airplanes that flew and turned the air battle in the lightening war of 1967, 5 years later given to Honduras, aging old airplanes that we have had to do a job on for aluminum rot, super-Mysteres come down into this command post inside Nicaragua with their jet engines ricocheting that incredible jet sound up and down the Bocay River, and they start bombing the command post with the press, the liberal international press on scene. It must have been a sight to behold.

One person told me, one press guy who is not a liberal, said that they started screaming and they were running into the woods.

They said, "Oh, don't do that. It's mine."

And then one of the press screamed, "Well, in that case, blankety blank, cursed, blasphemy, vulgarity, get us the—holy vulgarity, blasphemy, back to Managua."

So they loaded them onto a Soviet ship helicopter. They did not know that the four Mysteres could not go back to LaSabe because of the weather, recovered at Palmerola, rearmed with air-to-air missiles.

As this is going on, one of our great Democrats, SONNY MONTGOMERY, four members in his party and three Republicans, our friends DUNCAN HUNTER, of California, BOB MCEWEN, of Ohio, and J.P. HAMMERSCHMIDT, of Arkansas, were all sitting there at Palmerola getting a briefing while this airstrike goes on. They recovered back to Palmerola, armed with air-to-air missiles and go Hind and Hip hunting. Those are the NATO names for the Soviet killer gunships and the big troop carriers that they have also put racks on and loaded with rockets and Gatling guns. They are also like killer tanks in the air, and the Hip got away with the press back to Managua, and I am glad they did.

As angry as I am at liberals selling out Western civilization to Soviet threats all around the world, as angry at liberal press people who think we should cut off the Mujahidin groups in Afghanistan, cut off Jonas Savimbi and the freedom fighters in Angola, let these poor freedom fighters in Nicaragua starve to death and straggle out like the Bataan death march, as angry as I am, as James Burner wrote, over the suicide of the West through radical and liberal leftist press people around the world, I would not want them to have their flesh ripped apart, as one of these Hind helicopters went crashing into the ground because the super Mysteres of Honduras had a right to shoot down these planes that were violating their territory.

That is a little known story about the Bocay battle.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield on that point?

Mr. DORNAN of California. I am happy to yield to the gentleman from California.

Mr. DREIER of California. I just happen to have in my pocket once again, as I so often do, and as the gentleman from California knows full well, the President of the United States held onto this as we sat with him in the Oval Office.

What I said to him then was, "Mr. President, this is what the Soviet Union is doing in Afghanistan."

Mr. Speaker, this is part of a cluster bomb which comes off the MI-24 Hind-D attack helicopter, and the MI-24 is the domestic version which they use in Afghanistan. The MI-25 is the version used in Nicaragua, and while we have no evidence at all that these are being utilized in Nicaragua, the fact that there are over 2 million of these on the ground in Afghanistan is clear evidence that the MI-24 or 25 will certainly have the ability in Nicaragua to shoot these up.

I want to explain, Mr. Speaker, as I have said many times down here before, this is part of a cluster. These are laid 200 end to end in a cluster, shot off the Hind helicopter and they float slowly to the ground, just enough explosives are placed in here so that when a child picks up this little butterfly bomb, as it is often referred to, it blows up a hand and we hear in this package which was passed today and the package that was brought up to us on March 3, tremendous tension and focus on the plight of the children. Children in Afghanistan are the targets, and my fear, Mr. Speaker, is that we will see children become not just the victims, as they are today in Nicaragua, but as they have been in Afghanistan, the targets.

Now, the gentleman raised a very important point when he talked about the necessity for all of us to look at our globes when we refer to the Gulf of Fonseca.

Now, I have had the opportunity to fly over the Gulf of Fonseca sitting on the patio with President Jose Napoleon Duarte and listening to him talk about the whole issue of what he refers to as his triad.

The gentleman will remember the President of El Salvador's reference to the triad, the sea, land and air based operations which block or at least mitigate the flow of terrorist activity by the FMLN into El Salvador. The Gulf of Fonseca is one of those important keys because late at night through the Gulf of Fonseca arms are, and if I am not correct, I hope the gentleman will correct me, shipped through the Gulf of Fonseca into El Salvador.

Mr. DORNAN of California. Well, sometimes they come around through Hulaton, which is kind of like a micro-version of the Delta in Vietnam, and they come in at night, all these little myriad of waterways, and unfortunately we have never captured a smoking gun, although lots of campesinos in that area say, yes, they saw Communists unloading weapons and material there at night.

Mr. DREIER of California. But the Gulf of Fonseca is the key route there.

Mr. DORNAN of California. Well, it used to be until we began—well, I do not want to divulge a great operation. It works. You never talk about successes. They started to go back over land after we had helped the Salvadoran navy put a stop to all that night traffic, but it still goes on a little bit.

Mr. DREIER of California. But that triad which President Duarte referred to had as one of its very important three legs the democratic resistance in Nicaragua.

Mr. DORNAN of California. That is right.

Mr. DREIER of California. We talked about the sea, land, and air-based operations. And what are the land based operations which have helped to stop the flow of FMLN terrorist activities in El Salvador? The Contras. The democratic resistance.

Mr. DORNAN of California. Let me bring up a new issue that the gentleman has worked very hard on with me.

Before we do that, on that Bocay battle, there was a lot of dialog in this House, 1-minute speeches at the beginning of the day, you will remember, Mr. Speaker, that there was a lot of controversy over whether or not the troops were really inside Honduras, whether it was an incursion or an invasion, just a piddly little trip in there in hot pursuit and all that, and we have done nothing today about cutting off Soviet war materials, over $2 billion just stuffed into Nicaragua, jammed and stuffed in there over the last 8 years, while we delivered 270 million dollars' worth.

Mr. DREIER of California. Did the gentleman say $2 million?

Mr. DORNAN of California. It was $2 billion, I said.

Mr. DREIER of California. I think the important point that really needs to be made is that while on February 3 we were debating whether or not we would provide $3.25 million——

Mr. DORNAN of California. That is right.

Mr. DREIER of California. Three and a quarter million dollars in lethal aid, simply replenishing the arms which were already there, no new arms.

Mr. DORNAN of California. And the military aid we have given through the Contras, with all the fickle, vacillating and on-again off-again unpredictability, about $200 million, so it is 10 to 1.

Mr. DREIER of California. And we know that since January 1 of this year, well after the Esquipulas II agreement had gone into place and we passed all those hurdles on September 30 of the Reagan-Wright plan and we passed the hurdle of November 5, which was the 90 days following the August 7 agreement signed at Esquipulas, fully after all this went into effect we found that from January 1, 1988 to today that right around a quarter of a billion dollars, $250 million in lethal aid has flowed from the Soviet Union into Nicaragua, and the gentleman from California, as I recall, on the cable satellite public affairs network announced for the first time that information, that it had been declassified the night before the gentleman was on cable.

Mr. DORNAN of California. Not from the House, but from a studio in the Washington, DC, area.

Mr. DREIER of California. Right, but I think the gentleman made that statement. I think when you looked into it, it was $80 million went in in January, $100 million and so far in the month of March it was approaching that $100 million figure, too, so putting it over the quarter of a billion dollar level, when we were debating whether or not we would provide $3.25 million in assistance, and in fact rejected that package.

Let me just ask one important question. The gentleman was referring to the fact that this was very, very questionable on the part of many of us as to whether or not the Sandinistas had encroached with their 2,500, 2,000, or 2,500 troops across the Rio Coco River into Honduras.

I will never forget on St. Patrick's Day, and the gentleman had the opportunity after one of his very famous raging 1-minutes, to be invited by the Speaker to go to lunch with the President, I guess it was downstairs in the Speaker's Dining Room, as I remember.

Mr. DORNAN of California. I have an imagery of that dinner. I have national technical means, photographic images, that prove I was there.

Mr. DREIER of California. Wonderful. Well, I was sitting right here during that raging 1-minute, and I will tell the gentleman that I then later on that day happened to have a group of students from my alma mater, Principia Upper School in St. Louis, MO. They were walking in with me, and one of the nice people who worked downstairs let me come by, even though the President just happened to be crossing going into the Speaker's Dining Room. Our friend, Andrea Mitchell, who is a White House correspondent with NBC News, cried out to the President, "Did you twist his arm, Mr. President?"

Mr. DORNAN of California. Meaning who?

Mr. DREIER of California. He was referring to the argument which had been made many times by our colleagues on the other side of the aisle and many in the media that the United States of America had done everything it could to coerce President Azcona into making that request that 3,200 American troops be sent to Palmerola.

Mr. DORNAN of California. As they supposedly did to him last year, December 1986, yes.

Mr. DREIER of California. And to me, and it seemed so then, the President, of course, said "no." That was his response as they were downstairs yelling out from that press corps which often fires rude questions to him; but what happened was that the gentleman from California gave a very interesting report to me which I would like to have the gentleman share with our colleagues on the gentleman's meeting with President Azcona. When I put to the gentleman that question, as I am sure the gentleman did to him, "Were you, President Azcona, coerced by the President asking for U.S. troops to be sent to the Bocay region?"

□ 1945

Mr. DORNAN of California. President Azcona so trusts this President of ours, our great President, Mr. Reagan, so trusts our superb Ambassador down there who the gentleman from California [Mr. Dreier] has met many times, Ambassador Briggs, that he met with me on Friday morning, this is Wednesday, so it was just a few days ago now, 11 o'clock in the morning Honduran time, and that is a Central Time Zone, the same as Chicago, and just an hour earlier than us, so that would have been noon, Washington, DC, time last Friday. He met with me for 1 hour. We broke off the meeting, Ambassador Briggs and I broke off the meeting. He rocked back and forth in his chair in frustration when he says, "How do I get across to the U.S. press and the European press that I asked for that assistance, that I couldn't wait for it to get down here, that I wish it had gotten here a day earlier?"

I said, would you like to have some F-16's to come from MacDill Air Force Base in Florida, from Hill Air Force Base in Utah where they would have to refuel midair from Utah or maybe stage out of Ellington Air Force Base, TX. The ones from Tampa can come nonstop. But I asked if he would like to have four F-16 fighting falcons from each of those places one day and help the peace process along, and he says, "Nonstop from Florida, from Miami?"

I said, "No, from Tampa and on the west coast. They can come from Homestead Air Force Base, Miami."

And he went, "Oh, Mr. Ortega would take due note of that, would he not?"

I said, "I will ask our President. I will ask Frank Carlucci, our Secretary of Defense, because I think you ought to have these visits as I used to do as a peacetime fighter pilot coming in for a little visit."

Could not you just see 18 F-16 fighting falcons lined up at Palmerola?

He said, "We would love to show that to the press."

This man feels put upon by an army of almost 100,000 regulars, another 100,000 reserve, and they fantasize that they would like to put 500,000, one out of every five Nicaraguans, in the military. With that large an army the only edge that President Azcona has is his air force, and he wants to feel he is backed up by U.S. fighter planes at his request coming occasionally. He will be replaced as a one-term President probably by the opposition party that is equally as conservative and afraid of the Communists to the south.

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield, a very important item comes to my mind about our first meeting on February 14, 1986, in that meeting. The gentleman from California [Mr. DORNAN] just said that President Azcona will be a one-term President. All of the surrounding Presidents from Mexico south are one-term Presidents.

Mr. DORNAN of California. At least Mexico has 6 years. Guatemala has 5 years. Azcona of Honduras has 4 years.

Mr. DREIER of California. The key I am trying to underscore is that they are one-term Presidencies and that just brought to mind the question that we brought up with Mr. Ramirez, the Vice President, and we asked him when his term would expire, and he said it expires in 1988.

Mr. DORNAN of California. And he had it wrong.

Mr. DREIER of California. And a staff member turned to him to give him the correction, and I often think about that. Anyone who has to truly face an election certainly knows when that term expires and we know that, just like Cuba, that term in Nicaragua will be certainly renewable and, as I said right down there during the debate today, it was on December 13 last year that Ortega said when talking about the prospects of democratic reforms, if there were to be an election in Nicaragua and if by chance the Sandinistas were to lose power or were to lose the election, that he would give up the government but he would never give up power.

Mr. DORNAN of California. That is correct.

Mr. DREIER of California. I could not help but think of that.

Mr. DORNAN of California. Mr. Speaker, might I inquire how much time I have remaining?

The SPEAKER pro tempore (Mr. LEHMAN of California). The gentleman from California has 10 minutes remaining.

Mr. DORNAN of California. Then I better get to the prison situation, and this is the worst part. I brought this up in my piddling 2 minutes of debate today. There just was not enough time.

The democratic resistance are conceding to me that a tragedy may have befell them at Sapoa because they felt so deserted, so put upon by the defeat of February 3, and what they called the surrender become refugees package of March 3 that they went in, not like an American team at Paris in January 1973 where we got taken to the cleaners by Communists on our POW list, and that is why we have agonized in this Chamber at least some of us over missing Americans, all of that over a 15-year period including probably 100 men left to die unless some of them are still alive, which I feel they have to be because of the toughness of American fighter pilots and some of these ground people we used in Laos. Some of our heroes may still be clinging to life in a rotten Communist gulag in Laos because we took the Communist list instead of our own list.

Mr. DREIER of California. That is why we may have what may end up being prisoners of war and maybe 6,000 prisoners of war still being unaccounted for in Nicaragua.

Mr. DORNAN of California. Exactly.

Mr. DREIER of California. If the gentleman will continue to yield, these are all at the different prisons that we know about.

Mr. DORNAN of California. Here is how it happened, and I will take a special order next week with blowups of the photographs that I am about to show at this time.

First I have two housekeeping matters.

The gentleman from California [Mr. DREIER] joined me on a House Concurrent Resolution No. 275, together with nine other Members who submitted a concurrent resolution which was referred to the Committee on Foreign Affairs. This concurrent resolution calls on the Soviet Union and its allies to withhold military assistance to the Government of Nicaragua.

Mr. Speaker, I submit for inclusion in the RECORD, House Concurrent Resolution 275.

H. CON. RES. 275

Concurrent resolution calling on the Soviet Union and its allies to withhold military assistance to the Government of Nicaragua

Whereas the Soviet Union and its allies have provided a cumulative total of over $2,000,000,000 in direct military assistance, and between $350,000,000 and $500,000,000 in assistance for military infrastructure development, to the Government of Nicaragua since 1979;

Whereas military assistance to the Government of Nicaragua from the Soviet Union and its allies exceeds $410,000,000 since the signing of the Esquipulas II Accords on August 7, 1987, which are designed to foster regional peace and national reconciliation in Nicaragua;

Whereas all authority for the United States Government to provide or deliver any assistance to the Nicaraguan Resistance expired on February 29, 1988;

Whereas military assistance from the Soviet Union and its allies to the Government of Nicaragua in the first 2 months of 1988 involved 10 shipments of military hardware whose value exceeds $100,000,000;

Whereas this military assistance included at least 120 light and medium tanks, 200 armored vehicles, 175 howitzers, heavy mortars and antitank weapons, 24 122mm multiple rocket launchers, 700 SA-7 surface-to-air missiles (SAMs), 200 air-defense guns, between 12 and 15 Mi-24 Hind D helicopter gunships, between 25 and 30 Mi-8 and Mi-17 medium-lift helicopters and An-22 transports, as well as sophisticated radars and communications equipment;

Whereas the Government of Nicaragua now has the largest and most sophisticated armed force in Central American history;

Whereas the military forces of the Government of Nicaragua are the armed element of a partisan political party known as the Sandinista National Liberation Front or the FSLN;

Whereas the military equipment provided by the Soviet Union and its allies enables the Government of Nicaragua to maintain an overwhelming military advantage over all of its neighbors; and

Whereas military assistance provided to the Government of Nicaragua by the Soviet Union and its allies is inconsistent with the goals of the Esquipulas II Accords and with ongoing ceasefire negotiations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That in the interest of regional peace and stability, the Congress—

(1) calls on the Soviet Union, other Warsaw Pact nations, and other Soviet allies, including Cuba, Vietnam, Libya, and Algeria, to withhold further military assistance to the Government of Nicaragua;

(2) calls on the Government of Nicaragua to reverse significantly the growth of its armed forces, in both manpower and material;

(3) calls on the Government of Nicaragua to work toward a stabilization of the regional military balance and to prevent the introduction of advanced weapon systems that would qualitatively upgrade current capabilities;

(4) calls on the between 2,500 and 3,000 Cuban, Soviet, and East European military advisors and support personnel for the internal security apparatus in Nicaragua to return immediately to their countries of origin; and

(5) calls on the Government of Nicaragua to separate the armed forces from the Sandinista political party, the Sandinista National Liberation Front.

Nowhere in this vote today, not even much in the discussion, was anybody talking about while our military aid is cut off, what about the $2 billion stuffed into that tiny country of Nicaragua?

Mr. DREIER of California. If the gentleman will yield, a number of our colleagues on our side of the aisle did a very effective job during the debate on the rule.

Mr. DORNAN of California. Yes, during the rule.

Mr. DREIER of California. During the rule and even during the debate, as I recall the gentleman from Pennsylvania because he had an exchange with the majority leader.

Mr. DORNAN of California. The gentleman from Pennsylvania [Mr. WALKER] had that exchange, yes.

Mr. DREIER of California. And it was specifically on that issue.

Mr. DORNAN of California. I thank the gentleman from California for correcting me. I was down testifying to the Republican platform committee.

Mr. Speaker, I submit a statement concerning the 1988 Republican platform committee meeting that I was in:

Statement to the 1988 Republican Platform Committee: U.S. Policy Options in Central America and the Caribbean Given by Hon. Robert K. Dornan, March 30, 1988, Washington, DC

Mr. Chairman, Madam Chairman and Ladies and Gentlemen of the Platform Committee, it is a privilege to be here today to testify about the Republican party's policy options in Central America. In recent years Americans have been bombarded with information about the crucial land-bridge connecting North and South America through which passes fully two-thirds of our foreign trade and 55% of U.S. crude oil imports. Central America and the Caribbean until the late 70's had been considered a relatively stable backwater for the United States. Our policy was largely guided by a commitment to restrict the influence of foreign powers from the Western Hemisphere. Slowly, however, the consensus of support for the famous and revered Monroe Doctrine has been eroded.

A confluence of events from 1978-1982 conspired to spark new interest in Central America. The Panama Canal debate in 1978, and later the fall of the Somoza dynasty in 1979, followed by an intensification of the civil war in El Salvador in the early 80's, inspired a reassessment of U.S.-Central American policy. Although there has been a renewed appreciation under the Reagan presidency for the vital importance of an area which the Soviets recognize as the "strategic rear" of the United States, there has been a corresponding decrease in domestic bipartisan support for any consistent policy. Today, the Executive and Legislative Branches are gridlocked over control of the direction of that policy. The result has been a confused, fickle, and unpredictable approach which has left our democratic allies in the region wondering about the ability of the United States to sustain any commitment, be it economic or security related in the area.

Recent news is dominated by the incursion of Cuban trained Sandinista communist troops into sovereign Honduran territory as they tried to wipe out the Nicaraguan Democratic Resistance. As if that were not enough, we find ourselves struggling to keep up with second, third and fourth tier peace plans. Matters are even more complicated when we consider the ramifications of the Civic Crusade's efforts in Panama to oust Panamanian strongman and narcotrafficker, Manuel Antonio Noriega. Nothing less than the future of the Panama Canal and the U.S. SOUTHCOM operations are at stake in that struggle.

Central American instability which began some 8-10 years ago continues to be a key strategic weakness of the United States. Although I am hopeful, Mr. Chairman, I do not envision during the next Republican Administration any dramatic reduction in level of regional instability. We must be prepared to commit vast amounts of U.S. intelligence and defense assets through 1992 to Central America. The era of cheap defense to our south is clearly behind us. We can expect the Soviets, Cubans and a consolidated Nicaraguan communist state to continue to exploit economic inequities and foster "anti-imperialist" revolutions. The Soviet Union has made it clear that Central America provides them an excellent opportunity to preoccupy the United States while simultaneously turning up the fires of revolution elsewhere in the Third World.

Unfortunately American awareness of Central American issues has been spurred primarily out of concern about regional subversion, terrorism, communist expansion, narcotics trafficking and systematic human rights violations. The legacy of the Reagan Administration's successful assistance to emerging democracies in Honduras, El Salvador, and Guatemala has been drowned out by media hype, political posturing and purposeful disinformation emanating from communists in Cuba and Nicaragua. Our newest communist enemy comes cloaked in pin stripe suits, wearing designer glasses and retains slick Wall Street lawyers as public relations coaches. These new wave communists have recruited the naive of our society and incorporate religious "useful idiots" to create confusion domestically. The Nicaraguan communists have molded a constituency in this country over eight years through a network of "solidarity" organizations whose sole objective is to manipulate domestic opinion through our powerful mass media.

As I travel throughout the United States I see the results of this onslaught in the faces of confused Americans who question U.S. regional priorities and policy objectives. A chorus of Yoko Ono slogans like "Give peace a chance," hit Repubicans in their home districts like a cold bucket of water in the face. It is time to fight back, Mr. Chairman. It is time to take the offensive in this ideological battle. I sincerely believe that if we work hard during this year's Presidential elections, we can use the Republican Party Platform as an effective tool of counterattack.

In line with such an effort, Mr. Chairman, I would like to consolidate my suggestions for U.S. policy in Central America and the Caribbean to four basic objectives which President Reagan articulated in 1983. For simplicity sake, he called them the four "D's". They are: "Defense," "Democracy," "Development," and "Diplomacy." I will start with the first "D"—Defense.

DEFENSE

U.S. national security in the near term will continue to be dominated by the twin problems of Nicaragua and Panama. Large scale economic programs will have little impact as long as the region remains inherently unstable due to Sandinista-inspired subversion and narcotrafficking in Panama.

NICARAGUA/CUBA/REGIONAL SUBVERSION

Nowhere in the world has the Reagan Doctrine of supporting democratic insurgents fighting Soviet colonialism received more attention than in Nicaragua. The Nicaraguan Democratic Resistance or the so-called "Contras" have successfully turned the tables on the communist Sandinista regime and have been a major obstacle to Sandinista-Cuban sponsored subversion in Central America. As a party I believe that we cannot overstate the importance of the need to predictably and consistently support the Nicaraguan Resistance. The outcome of the Nicaraguan civil war will set a global precedent for freedom fighter movements elsewhere and is the key to protecting the viability of the Reagan Doctrine in the next administration. We even know the importance communists place on the future of the Contras. The Salvadoran Marxist guerrillas, known as the FLMN, expressed it best in one of their captured General Command Documents in which they recognized that: "The defeat of the Contras, would be a grave strategic defeat for the United States, especially if we take into account the impact of the failure in Vietnam and the geopolitical postion of Central America. The failure of the Contras and the acceptance of the Nicaraguan revolution can be a total global strategic change."

PLATFORM SUGGESTIONS

First, at present, I believe that the Republican party platform must be supportive of the Arias peace plan and ongoing cease-fire talks to avoid being trapped by the Democrats who want to foster the mistaken impression that we only seek a military solution. A clear caveat must be however, that we seek peace with democracy not peace at any price as do the Democrats. We have to draw a stark distinction between the Republican approach to negotiations and that of the Democrats. Republicans do not consider a containment approach of this communist cancer to be a viable option. The United States has been unable to contain communist expansion emanating from the island nation of Cuba. Castro has out-lived or outlasted seven U.S. presidents. How can we expect to contain a consolidated Marxist-Leninist state on the North American mainland?

Second, of equal importance, Mr. Chairman is the need to expose the fact that the Democrats have no alternative to committing American troops into the region in the event that the Contras are wiped out or cease to be a viable option. Theirs is the policy of eventually spilling American blood. We must consistently force the Democrats into a position in which they must publicly advocate invasion, air strikes, and naval blockades in the event the peace plan fails. Republicans, on the other hand should be consistently making the point that we can either send guns now, or our sons later.

Third, Mr. Chairman, I think that it would be very helpful to make it clear in the party platform that a victory for the Nicaraguan Resistance is a fully verifiable implementation of the Arias Peace Plan and/or a restoration of the original goals of the 1979 revolution. In other words, a military victory is only one avenue of success for the Contras. The resistance has the ability to delegitimize the Sandinista regime and isolate the Sandinistas from western aid donors and undermine their legitimacy in the international community. Given the tools, the resistance is the only credible deterrent to Sandinista non-compliance at the bargaining table. We should not allow the Democrats to determine the criteria of success of the Contras.

Fourth, additionally, the Republican party platform must point out that the Soviet Union is outspending us in Central America and the Caribbean Basin by a factor of 10 to 1. For all the hype that surrounds aid to the Contras, there exists the common misconception that there has been an equal amount of aid given to the resistance as the Soviets have provided to the Sandinista communists. The facts show that the resistance has received a cumulative total of only $270 million in humanitarian and military aid, while Managua has received over $2 billion in direct Soviet-bloc weaponry. There has been no symmetry to this military buildup and there continues not to be. Even as we speak, the Contras are cut off from U.S. assistance while the level of Soviet military aid is reaching new highs in tonnage, sophistication and dollar value. It is essential for the Republican party platform to call on the Soviet Union to stop all military aid to Nicaragua. We must go further and advocate a return of the Nicaraguan military, now by far the largest in Central American history, to pre-1979 troops levels of manpower and material. The Nicaraguan military must not be allowed to maintain its offensive capability.

Fifth, finally, Mr. Chairman, we must serve notice in the party platform that the Democrats will be held accountable for loosing Nicaragua to communism especially in this critical election year. This message must be clear and unambiguous. Congressional liberals who consistently vote against the resistance have become the indispensable arm of communist expansion in the Western Hemisphere. The Democratic party has been the willing accomplice to the murder of democracy in Nicaragua.

THE SECOND "D" IS DEMOCRACY

PLATFORM SUGGESTIONS

First, the centerpiece of the party platform for Central America and the Caribbean should be democracy. The platform must say that democracy is not a product of the United States but is instead basic to the human condition. Democratic governments that are responsive to the will of its citizens do not commit human rights violations as a matter of policy and are much less susceptible to communist exploitation. Nicaragua and Panama are grossly out of step with the region.

Second, the legacy of the Reagan Administration's ability to foster successful transitions from authoritarian governments to representative democracies is also the legacy of the Republican Party. Ours is the party with a track-record of success. This is a theme we need to capitalize on and expand. We have allowed foreign policy mistakes to overshadow all the progress made in the last 8 years.

The year 1988 began on an optimistic note for U.S. foreign policy in Latin America and the Caribbean. A democratic revolution has been sweeping through the region, displacing "traditional" military dictatorships and oligarchies. But who ever heard about it? Since 1980, elected civilian presidents have replaced military rulers in nine countries: Argentina, Bolivia, Brazil, Ecuador, El Salvador, Guatemala, Honduras, Peru and Uruguay. In contrast, only eight years ago two-thirds of our Latin neighbors lived under military-dominated governments. That is success, Mr. Chairman which Republicans can point to with pride.

Third, additionally, we must make the point Mr. Chairman, that democracy will always be under siege as long as Nicaragua is allowed to export revolution. Cuban and Nicaraguan support for insurgents in the fragile democracies of Guatemala, El Salvador, and Costa Rica is the greatest challenge our policy faces in the region. Newly consolidated democracies quickly turn into falling dominos with elaborate clandestine subversion orchestrated in Managua and Havana.

The Arias Peace Plan which still considered a viable option for a regional settlement, calls on all insurgent movements to lay down their weapons and negotiate. Yet, the FMLN in El Salvador has not "given peace a chance." Similar insurgent movements threaten democracy in Guatemala and Honduras. The party platform should point out this glaring discrepancy.

Fourth, finally, I would suggest, Mr. Chairman, an aggressive "Campaign for Democracy" which can be applied globally but grows out of Latin American policy successes. Campaign for Democracy would use several tactics to foster the "objective conditions" which promote democracy under authoritarian regimes. Panama and Haiti would be two prime targets. The transition from authoritarian rule to representative democracy has serious ripple effects. Governments which remain staunchly authoritarian or communist quickly become the glaring exception to a regional trend. An important point underlying this concept is the fact that authoritarian governments have the ability to change whereas communist governments are permanent and self-perpetuating.

Policy tools for the Campaign for Democracy include; 1) a stepped up ideological battle against communism via USIA, VOA, Radio Marti, which can even include "T.V. Marti." The ideological battle must be fought with a clear articulation of democratic values. 2) Economic tools include running U.S. aid programs on the basis of rewarding our friends—i.e., reward those nations which achieve the policy objectives which we are espousing. Policy goals include representative democracy, respect for human rights, cooperation with regional security goals, and foster free market economies. I think that the U.S. gets suckered into underwriting Marxist governments and enemies of this country through our aid programs, all justified as efforts to "wean" them away from the east-bloc. Consequently, many of our friends get neglected. Guatemala is a good example of a country which has achieved virtually all of our policy goals but receives a miniscule amount of our regional foreign aid.

THE THIRD "D" IS DEVELOPMENT

PLATFORM SUGGESTIONS

First, unfortunately the consolidation of a representative democracy is a fragile process and frequently requires massive infusion of U.S. assistance. The role of the United States in this process should be to provide adequate development assistance on a predictable basis which can buy the necessary time to allow a fledgling democracy to consolidate. We should not be in the business of creating dependent democracies. El Salvador is becoming such a case.

Second, we should not allow the mass media in this country to perpetuate the overemphasis on military aid to the region. The perception is that the United States is sending a much higher percentage of military aid to Central America and the Caribbean than in fact is the case. Our economic aid to the region is about 75 percent economic to 25 percent military. Most Americans would guess just the reverse.

Third, I propose that the Republican platform emphasize that it can be both anticommunist and humane at the same time. We need to emphasize job creation for a region whose population is quickly outgrowing its capacity to support itself. Republicans should be advocating support for self-sustaining economies. We need to "teach them to fish, instead of just giving the the fish."

To get this whole program started I recommend a massive infusion of economic aid to the countries of Central America and the Caribbean as a weapon to defeat communism. The platform should include a provision for giving the Central American countries and the Caribbean a new designation called "Most Favored Region Status." This approach is an obvious follow-on to the Most Favored Nation status which provides for substantially lower tariffs and increases trade flows. This approach may breath new life into the stymied Caribbean Basin Initiative which was good conceptually but lacks any real teeth.

THE FOURTH AND FINAL "D" IS DIPLOMACY

PLATFORM SUGGESTIONS

First, Republicans must highlight the fact that Democrats have always maintained that diplomacy and negotitions should be divorced from military pressure. Yet it was Ronald Reagan's policy of supporting the Afghan Freedom Fighters which raised the cost of Soviet occupation so high that they finally appear to be serious about withdrawing. Again, it was Ronald Reagan's policy of deploying intermediate range missiles in Europe which precipitated the INF Treaty. Furthermore, the proposed deployment of SDI has also played an important part in bringing the Soviets to the bargaining table to discuss the reduction in strategic nuclear missiles. In Central America we must point out that it was sufficient military support for the Nicaraguan Resistance in 1986 which has brought the Sandinistas into direct negotiations with the Contras in 1988. Obviously, credible pressure pays offs.

Second, Domestic diplomacy is as important as foreign diplomacy. The man in the mid-west for example, does not feel any direct security threat by a Communist beachhead in Central America. However, he is probably the first to support sanctions against South Africa out of concern for human rights. The case is ours to make.

U.S. policy objectives, Mr. Chairman, have been presented to the American public on a national security basis only. Little emphasis has been given to the moral argument for supporting the fight against extreme human rights violations. Not enough Americans know for example that the Sandinista Communists have a gulag system which has multiplied about 15 fold since 1979. The Managua communists now retain the largest number of political prisoners per capita in the world!

Republicans have a tailor made opportunity to take the initative on human rights away from the Democrats. Communist governments systematically violate human rights. More importantly, many of our European friends may reconsider their relationship with the barbaric Sandinista regime given the full story about human rights violations. It is popular to boycott South Africa; why not Nicaragua?

Fourth, President Reagan instilled renewed pride into the U.S. diplomatic corps because he made it clear that America was going to assume an unapologetic leadership role around the world. I too, think the party platform should reflect this approach. We cannot expect the leaders of Latin American countries to give full support to democracy and resist the short-sighted attractions of violent revolution when our own commitment to those fighting for freedom is faltering and inconsistent. The United States is most effective diplomatically when we take the offensive politically and economically rather than allowing ourselves to be frozen into inaction by psychological obstacles like the "Vietnam syndrome or psychosis." The fact is, an assertive U.S. foreign policy will never be popular everywhere. Respect, though, will always exist for the United States of America when we follow through on principle and consistently support our allies.

CONCLUSION

In conclusion, Mr. Chairman, Madam Chairman and distinguished members of the Platform Committee, I hope that my suggestions have been helpful and stimulate constructive thinking. I strongly believe that the reality of the Central American dilemma speaks for itself. Facts are on our side. Truth is on our side. The real job of the Republican Party is to communicate and educate. We cannot allow our positive accomplishments to become victims of distortion and our policies to be undermined by vicious disinformation. The Republican party platform skillfully written can go a long way toward overcoming these formidable obstacles. Thank you, Mr. Chairman, Madam Chairman and members of this historic committee.

Mr. Speaker, on House Concurrent Resolution 275 I want to see if we can get Members over the next few weeks to sign on with us and get it up to 218 so we can force it out onto the floor for a vote.

Mr. Speaker, it is my hope that the Republican Party platform in New Orleans this coming August will accept and make part of the platform my suggestion in my statement for the Presidential debate because when Mr. Bush and Mr. Jackson go at it, given Mr. Jackson's proclivity to love the killer Castro, I think all Americans will want to know why we did not cut off this aid.

Mr. DREIER of California. Mr. Speaker, if the gentleman will continue to yield, that should be a fascinating debate and we all look forward to that.

Mr. DORNAN of California. A lot will depend on the Vice President on the ticket. A Bush-Bennett ticket, meaning not my chief of staff but our great Secretary of Education, Bill Bennett, versus maybe a Jackson-Schroeder ticket to get a good balance there, and a little twist on the liberal viewpoint, but without kidding, I just want to show off that battlefield.

I say to the Speaker, he said to our Secretary of State in that leadership meeting on March 16 in the office downstairs, in the Speaker's dining room, that maybe D'Escoto was correct that the troops were leaving. Maybe they had not gone in too far.

Mr. Speaker, 7 kilometers inside Hondorus I found this empty can of Russian pork. I would like to have brought back some of those Czech mines, but I would not want to be accused of being a bomber, so I just brought back this little can that I had showed during the 1-minute speeches this morning. There is a Russian piggy on there, and they translate it into Spanish, Texan, and Russian Cyrillic lettering saying here is stewed pork, canned stewed pork, open and eat. It was opened and eaten 7 kilometers inside Honduras by the BLC's and the Cazador Hunter battalions that were violating Honduran territory trying to deliver that killer punch.

Mr. DREIER of California. As nasty as that looks, it is still not as lethal as my butterfly bomb here.

Mr. DORNAN of California. If I had brought that butterfly bomb in, they would have accused me of endangering their lives.

Mr. MT4cT1EWEN. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Ohio [Mr. McEwen] who was at Palmerola the second day, St. Joseph's Day, on March 19 during those great Honduran air strikes against the Communists.

Mr. McEWEN. Mr. Speaker, I thank the gentleman from California for yielding me this time. The idea of the gentleman from California [Mr. Dornan] bringing that canister with him raises a very important point in my mind. As the gentleman from California has pointed out, at the very moment of the invasion, at the very time that the Sandinistas were violating international law and were moving into neighboring territories and were engaging in the battle to the death as Mr. Ortega referred to it, at the moment that was happening and our intelligence sources were aware of it and were bringing it to the attention of the leadership of the House, they engaged as they always do in a very sophisticated course of disinformation. In order to effectuate that disinformation, the foreign minister called who? He called the Speaker of the House of Representatives and explained to him that there may have been an accidental crossing.

Mr. Speaker, reminding ourselves that the border between these two countries is a river, it is as though one accidentally crossed, for example, the Rio Grande, and they just happened to be strolling along and found themselves in neighboring territory.

The Speaker of the House explained that Mr. D'Escoto had communicated to him that there may have been an inadvertent crossing that had been recalled by the leadership in Nicaragua and that there was no such invasion. That then was repeated not only to our Secretary of State in the leadership meeting to which reference has been made, but then in the House Gallery on an international television hookup which appeared on that evening on all of the network news stations. I think it is important, and it is only fair, it is only proper that at this time when the truth is known and the gentleman from California comes back and brings the evidence of their deliberate and intentional invasion of a soverign neighbor that at the time the intelligence services and the leadership of this administration was trying to communicate that fact to the leader of the House, that given the two options of whom we believe and whom we would side with, the record is clear. I think it is highly appropriate that we take this moment to do one or two "I told you so's." Apparently being a liberal means never having to say you are sorry. They can make mistakes year after year, they can be wrong in Cambodia, they can be wrong in Southeast Asia, they can be wrong in Laos, they can be wrong with the Shah of Iran, they can be wrong in South Yemen, they can be wrong in Rhodesia, and they can be wrong in Zimbabwe, and they can be wrong in Mozambique, and they can be wrong in the Sudan, and then go on and be wrong in Nicaragua and go on time after time as though one has the moral imperative of perfection.

Mr. DORNAN of California. Including Chad, Libya, Bay of Pigs, Czechoslovakia, China, they are always wrong, never having to apologize.

Mr. McEWEN. If the gentleman will continue to yield, let us get it abundantly clear in this 10-day frame as to who was right, where the truth lay, who was misled, who may have been deliberately misled, where the Soviet disinformation propaganda services were perpetrated and what the truth is now.

Mr. DORNAN of California. I would ask the gentleman from California [Mr. Dreier] or the gentleman from Ohio [Mr. McEwen] if they might ask for a special order in their own right so that I might show these prison pictures, because my time is running short.

REQUEST FOR SPECIAL ORDER

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent that I be permitted to proceed for 30 minutes under my own special order which would allow my friend the gentleman from California [Mr. Dornan] the opportunity to show our colleagues these very important revelations which have just come out within the last several hours of new prisons which have been spotted in Nicaragua.

The SPEAKER pro tempore (Mr. Lehman of California). Is there objection to the request of the gentleman from California?

Mr. SMITH of Florida. Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. Lehman of California). Objection is heard.

Mr. DORNAN of California. Mr. Speaker, I see the gentleman from Florida [Mr. Smith] is here and I will not request a special order because I would not want the Speaker to be alone here on Easter week.

I will do a special order a week from next Wednesday night, and we will have blowups to show 16 highly developed, very precisely clear pictures of prisons at Grenada, Matagalpa, Matagalpa again, Tipitapa, and just look at the size of this prison they are telling us has only 200 people in it. What do they have, duplex apartments with three rooms per prisoner?

Here is one showing Esteli, Esteli again, and these are new facilities. That is brand new. Then Grenada, the Ministry of Interior prison facility, the MINT facility. It is brand new. Then Leon, which is brand new. They may be a year old, but they were never released to us before. Here is El Chipote, the only one that Somoza tortured people in. The Sandinistas torture people in all of these prisons. Then Puerto Cabezas on the Atlantic coast. Then Asuncion, Juigalpa which I visited a few times, then the Zona Franca where they released 100 prisoners on Palm Sunday, Palo Alto, which is outside Managua, then Chinadega, La Barranca, and these are all new pictures.

Mr. DREIER of California. Mr. Speaker, if the gentleman will continue to yield, I would simply like to thank the gentleman for doing this special order this evening. Time is running out and I would like to end my contribution to this special order by simply saying that today we made an attempt, every one of us in this House except for I guess 70-some-odd who voted against the resolution, to continue to hold out that little degree of optimism that is left and we have gone through our great frustration here as we have dealt with this issue. I still am optimistic, having supported the Arias peace plan, the Reagan-Wright or Wright-Reagan peace plan, and I am hopeful that we can see for the first time in history a Communist totalitarian regime negotiate itself out of existence.

Mr. DORNAN of California. Yes, for the first time negotiate itself out of existence.

Mr. DREIER of California. And negotiate it into a democratic form of government. I would like to go on record at this point having been so critical of this regime by saying that I still am optimistic and hopeful.

□ 2000

Our colleague from California, Mr. Panetta, got up and said the war is over. I disagree, because as long as the cancer of communism is in Nicaragua, 6,000 people have disappeared, then we will be talking about MIA's in Nicaragua. Mr. Panetta said, whether some like it or not, as though some of us wanted to see the war continue.

I had 100 young freedom fighters line up for me down at Casa Grande, some with arms and legs gone, 2 blinded, 2 with Russian bullets still in their heads fired by the Sandinista Communists, and I do not want to see one kid dragooned into service by that Communist government into those battalions and on Honduran soil killing fellow Nicaraguans. I do not want to see that.

There was one 11-year-old who had been in combat for 4 years, and I do not want one more person to die down there. I want a free election, as I want for every country around the world.

I want the 6,400 prisoners, according to Hernandez, released.

Mr. DREIER of California. All we want is what was promised in July of 1987, free and fair elections, nonaligned, political pluralism.

Mr. DORNAN of California. We want the Soviet equipment out of Nicaragua, and want the Ortega brothers to submit themselves to a free election. If they win, who knows, they might like being elected in a free election, and if they lose, they are going to have to give up the power even though they claim they will not.

I will be back in 2 weeks, and I hope you will help me, Mr. McEwen, Mr. Burton, Mr. Hunter, and I will have large blowups of these 16 prison camps, because a nightmare may have happened at Sapoa on the Costa Rican-Nicaraguan border.

Mr. DREIER of California. Let us hope that in the ensuing 2 weeks we can see success as we move along.

Mr. DORNAN of California. We want peace for our neighbors on the land bridge between us and on the Panama Canal.

Mr. Speaker, the gentleman from Florida [Mr. Smith] is here, and he has always voted for aid to the Nicaraguan resistance.

INTERNATIONAL NARCOTICS CONTROL SITUATION

The SPEAKER pro tempore (Mr. Lehman of California). Under a previous order of the House, the gentleman from Florida [Mr. Smith] is recognized for 60 minutes.

Mr. SMITH of Florida. Mr. Speaker, I have asked for this special order to discuss the international narcotics control situation generally, and the resolutions of disapproval I have introduced on the Bahamas, Bolivia, Mexico, Paraguay, and Peru specifically.

Over the past 4 years, since the task force was created, it has examined in minute—sometimes excrutiating—detail the nature of our antinarcotics efforts overseas. During 1986 and 1987, we held more than two dozen hearings on issues ranging from the role of the U.S. military and U.S. intelligence community in our narcotics efforts, to the need for updated extradition treaties and mutual legal assistance treaties [MLAT's], to country-by-country reviews. Summaries of those hearings were widely distributed. We have met with innumerable foreign officials and U.S. executive branch officials in private sessions. Staff study missions have visited virtually every major producing and trafficking country. In 1988, we have had seven hearings already, six of which related to the certification process and covered every country from Micronesia to Morocco, from Peru to Pakistan. We have reviewed the GAO reports which we mandated in the 1986 omnibus antidrug bill, and we have reviewed annually the State Department's own international narcotics strategy report, known as the INCSR. I have here on the table copies of all of those hearings and reports; as you can see, we have compiled a considerable repository of knowledge.

You can see, therefore, that these resolutions of disapproval were not introduced lightly or frivolously. I take no pleasure in their introduction. They represent a failure—first, by the countries in question to cooperate with us, and second, by our own Government in not being honest about the nature of the problems we face overseas. Neither are these resolutions the result of partisan politics, as you can see from the initial list of cosponsors. Nor are they intended to cut off aid to poor countries. The resolutions are intended, rather, to ensure that the laws which we enact have meaning.

Under the law Congress passed on a bipartisan basis in 1986, the President must certify on March 1 of each year that major drug producing and transit countries have "fully cooperated" with the United States in addressing narcotics problems in their territory. The nature of "full cooperation" is clearly defined. One, if they are producing countries, the President must give foremost consideration to whether they have reduced production to the maximum degree possible. Two, they must have adequate antinarcotics laws, and those laws must be implemented. Implementation is evidenced by seizures of drugs and illicit laboratories, and by arrest and prosecution of violators. Three, they must have taken steps to address money-laundering, as evidenced by enactment and enforcement of relevant laws, and a willingness to enter into treaties with us. Finally, they must prevent and punish corruption by government officials and have taken the legal steps necessary to eliminate such corruption to the maximum extent possible.

Should the President find that a country has not fully cooperated, he has two choices. He may either decertify them, at which point certain sanctions take effect, or he may find that other "national interests" merit certification despite a failure to comply with the standards set in the law.

In drafting this law, we recognized that the Congress might not agree with the President's certifications. In those cases, the law provides that Congress may enact a resolution of disapproval, in essence formally disagreeing with the President. The President may then sign the resolution, veto it, or submit a new certification.

Mr. Speaker, this is the law. It is precisely because I believe that our laws should have meaning that I have introduced these resolutions. It is quite clear, from the hearings we have held and from the State Department's own report, that the countries in question have not fully cooperated with us, and that it is incumbent upon us in the Congress to recognize this fact. In four of the five countries, the President could have certified on national interest grounds. That, I could have accepted. We all understand that narcotics is not the only issue in our bilateral relations, even though it is an extremely important one. Had the President said, "Mexico has not fully cooperated with us, but other interests require its certification," I would not be here today. Unfortunately, the State Department, or the President, apparently did not read their own report before making the certifications.

A second reason for enactment of these resolutions is that experience has shown us the salutary effects of applying pressure to drug producing countries. In 1986, it was congressionally imposed sanctions which led the Bolivians to undertake Operation Blast Furnace. In 1987, sanctions led to the first eradication program in Bolivia's history. In 1988, we have seen the effect of long-overdue sanctions on Panama.

Third, while little direct aid would ultimately be affected by these resolutions in several of these countries, decertification does have an impact. No nation enjoys being labeled as a drug-trafficking haven, and the reaction of foreign leaders to these resolutions already has demonstrated their significant political impact.

Fourth, enactment of these resolutions would finally enunciate that the United States will not tolerate lipservice responses to drug trafficking and that we will not have a duplicitous policy. For the first time, we would be saying that whether you get aid from us or not, if you will not cooperate on drugs or if your government is corrupted by drugs, and your army and your law enforcement agencies are corrupt or involved in corruption, and your country is being used as a money laundering center, and production is rampant, and drug trafficking is rampant, then we will point it out to the rest of the world for whatever effect it may have. We demean the certification process, our own laws, and our own antidrug efforts by certifying proven noncooperators like Paraguay.

Fifth, I think for the first time we would at least give the people in these countries—the people who really are concerned about the influence of drug traffickers in their governments, the impact of drug abuse on their own children, the people who are tired of drug-related corruption, the people who would like to work with us but who are frustrated by their own systems—the idea that we stand with them, that we are willing to draw a line and not conveniently hide behind the excuses that seem to pass for "full cooperation" these days. It is like chicken soup—it may not help them, but it would not hurt them. The United States is supposed to stand for more than perpetuating narcocracies.

Let me now turn to the countries in question, and explain to you briefly why we have chosen these five. As I said earlier, they were not chosen out of a hat. We have carefully examined the countries on the certification list, and a number of countries which are not. I would be glad to explain to you later why we did not include Colombia, or Laos, or some of the other countries. But the five countries in question have demonstrated virtually across-the-board lack of full cooperation, in each of the areas specified by the law.

THE BAHAMAS

The Bahamas is not a producer nation, but is a major transit point for at least half of the cocaine and marijuana entering the United States, according to DEA. It also has strict bank secrecy laws which encourage drug money laundering. While the Bahamians have cooperated with us in interdiction efforts by allowing the United States "hot pursuit" rights, and have increased the number of drug seizures in 1987, massive corruption in the Government has negated meaningful antinarcotics efforts. According to a State Department report submitted in January 1988, there is "an absence of a serious commitment by the Bahamian Government to fight corruption. A police unit to investigate allegations of corruption among law enforcement officers was formed but reportedly has done nothing. There have been reports in the Bahamian news media that the Senior Deputy Commissioner of Police, who would normally succeed the outgoing Commissioner, is being forced to retire because he is honest * * * the poor performance of the Bahamian judicial system in dealing with drug offenders provides a low-risk environment for drug smugglers. The Bahamian Government's complacency over corruption continues to undermine the optimal effectivess of joint interdiction efforts."

The March 1 State Department report accompanying the President's certification contains the following assessments:

> PLP (the ruling party) leaders last year re-nominated George Smith and Kendal Nottage for parliamentary seats. Both won their seats and both were identified in the 1984 Commission of Inquiry Report—Nottage for fronting for an organized crime figure/drug smuggler and Smith for narcotics-related corruption. In August 1987, Nottage was appointed by the GCOB as Chairman of the Bahamas Broadcasting Corporation. * * *
>
> To date, the GCOB has not vigorously enforced the new narcotics legislation enacted in January 1987. No court proceedings to seize or forfeit assets gained through narcotics trafficking have been undertaken during 1987 * * * the lack of meaningful enforcement of current statutes raises questions about actual impact of any new laws. The government has yet to demonstrate the necessary will to go after assets of those known to owe their wealth to drugs. * * * Extradition proceedings against major trafficker Nigel Bowe are progressing slowly (NOTE: Bowe, a personal friend of the Prime Minister, was indicted in Florida in 1985 on drug charges.)

Information supplied to the task force by the Government of the Bahamas also indicates a poor record on prosecutions of major smugglers. Here are just a few examples:

January 26, 1987: Four smugglers caught with 3,237 pounds of marijuana: on March 10, 1987 were fined $50,000 or 4 years in prison.

March 9, 1987: Four smugglers caught with 12,650 pounds of marijuana: bail granted at $50,000 each (two jumped bail).

April 1, 1987: Two Colombians caught with 1,158 pounds of cocaine: acquitted for insufficient evidence.

April 8, 1987: Two smugglers caught with 448 pounds cocaine: deported.

April 17, 1987: At least two of five smugglers caught with 891 pounds of cocaine granted bail of $300.

May 3, 1987: Two smugglers with 702 pounds of marijuana acquitted (although boat was kept by Government).

July 11, 1987: Two smugglers with 732 pounds of cocaine fined $10,000 and 3 years in prison.

It is true that drug seizures were up substantially in the Bahamas in 1987. However, so was trafficking. In 1984, DEA estimated that 20 to 30 percent of the cocaine entering the United States transited the Bahamas. This year, they estimate approximately 50 to 60 percent transits the Bahamas. And while we appreciate these seizures, if those involved in trafficking these drugs are not prosecuted, and can merely return to their business, what impact has been made?

MEXICO

Mexico is the No. 1 source of heroin and marijuana to the United States, and at least one-third of the cocaine entering the United States transits Mexico.

In the opinion of the U.S. Customs Service:

> The single most important factor which undermines effective and meaningful narcotics cooperation with Mexico is the level of official corruption within the Mexican government. Documented violations by Mexican law enforcement officials are becoming more prevalent * * * Information gathered to date indicates significant levels of narcotics corruption on the part of Mexican officials.

Although United States antinarcotics funds to Mexico doubled between fiscal year 1984 and fiscal year 1987, opium production increased by at least 30 percent and eradication decreased by one-third, and marijuana production and eradication levels remain at 1984 levels. Of more than 75 tons of opium produced in 1987, Mexican authorities managed to seize no opium, and less than 100 kilos of heroin, and to find only four heroin labs. The United States-funded air fleet operated only 65 percent of the time, and specialized, more efficient planes had to be withdrawn because the Mexicans refused to use them. Mexico has also refused to grant the United States hot pursuit rights, or to allow joint crews on surveillance missions which would overfly both countries.

The GAO has faulted the Mexicans for providing unreliable and inadequate information on the narcotics crop cultivation base, and found that the United States-funded program suffers from poor management, a shortage of personnel, and a lack of agreement on basic goals and standards. It also noted the Mexicans' refusal to use United States-provided aircraft effectively, to permit United States personnel to participate in crucial decisions on use of the air fleet, to permit meaningful verification efforts, or to rewrite the maintenance contract for the fleet to permit effective control over resources.

As for money laundering, according to the State Department's own report, "money laundering of narcotics profits through investment in legitimate businesses is extensive." However, no data is available on the extent of money laundering because "Mexican banks, all but two of which are nationalized, do not provide information to the United States on their activities."

Hundreds of drug traffickers who are fugitives from United States indictments live in Mexico, which refuses to either extradite them to the United States or prosecute them domestically. Although a number of major violators were arrested during 1987, none have been convicted—the last major trafficker convicted was more than a decade ago. The United States Commissioner of Customs has stated that "powerful Mexican officials are providing safe havens to drug traffickers and making it possible for narcotics to be smuggled into and out of Mexico with impunity." At the task force's March 10 hearing, Assistant Secretaries of State Elliott Abrams and Ann Wrobleski agreed with this bleak assessment, as did DEA Deputy Assistant Administrator Tom Byrne.

Perhaps most frustrating is that more than 3 years after the torture-murder of DEA special agent Camarena, and almost 2 years after the torture of DEA special agent Victor Cortez—both at the hands of Mexican law enforcement officials—there have been no convictions in either case.

President Reagan himself clearly had misgivings about providing a "full cooperation" certification for Mexico, since he found it necessary to attach a special "justification" for fully certifying Mexico. In that justification, he noted that "Mexico has the capability for far greater achievement in narcotics control. Mexico's effort has not kept pace with the increased flow of drugs, and is below the level of efficiency and effect of which it is capable."

BOLIVIA

Bolivia is the second largest producer of coca leaf in the world, with more than 40,000 hectares—100,000 acres—of coca under production. Despite much talk of Bolivia's courageous stand in allowing the presence of United States military forces during "Operation Blast Furnace" in 1986, the fact remains that it is not even illegal to grow coca in Bolivia. Despite repeated promises by successive governments to outlaw nontraditional coca growing—80 percent of the crop—the necessary laws have never been enacted. This means that Bolivia is in violation of its international treaty obligations as a signatory to the 1961 Single Convention on Narcotic Drugs, which requires legal control mechanisms for illicit coca.

A voluntary program of eradication, which the United States is funding, eradicated 1,000 hectares of coca in 1987—an improvement over the 200 hectares eradicated in 1986, but still only 1.5 percent of total production, since coca production between 1985 and 1987 increased by 15 percent. Nor does it meet the 2,000 hectares a year target we were promised by Bolivia in 1983, never achieved. Meanwhile, U.S. aid has almost doubled—in fiscal year 1985 it was $44 million, while in fiscal year 1987 it was $80 million.

Seizures of coca paste, a primitive form of cocaine, were likewise unimpressive. Although the State Department estimates that 200 metric tons of coca paste was produced for export by Bolivia, Bolivian authorities managed to seize only 5 metric tons of coca products; of that, only 148 kilos was cocaine. Only 22 cocaine laboratories were destroyed.

As for prosecutions, according to the State Department, Bolivian narcotics control programs are hampered by an unwillingness or inability to enforce narcotics laws. According to the GAO, the Bolivian Government has failed to capture and imprison known major traffickers; to the best of our knowledge, no major trafficker has ever been successfully prosecuted in Bolivia. Like many other Latin American nations, Bolivia also refuses to extradite its citizens to the United States for prosecution. Corruption is endemic; according to a former United States military adviser to the Bolivian antinarcotics unit, it completely undermined United States efforts to stop illicit drug production and trafficking.

Sanctions have proven effective in the past in spurring Bolivia to greater action: in 1986, when congressionally imposed sanctions were looming on Bolivia, authorities there permitted "Operation Blast Furnace," which at least temporarily drove coca prices down. In 1987, when congressionally imposed sanctions were again on the horizon, Bolivia began its first serious eradication campaign. Humanitarian funds, food assistance, antinarcotics aid, and child survival funds are exempted from the sanctions imposed by this resolution of disapproval.

PERU

Peru is the world's largest producer of coca leaf, with more than 110,000 hectares, 250,000 acres, under production by the State Department's conservative estimate. This is almost double the amount estimated to have been produced in 1984 of 60,000 hectgares. Meanwhile, Peru's eradication effort—the first and initially one of the most successful—has dropped from 4,830 hectares eradicated in 1985 to virtually no eradication—only 355 hectares in 1987.

Seizures likewise were negligible—400 metric tons of coca leaf out of almost 110,000 metric tons produced, and only 0.03 tons of cocaine out of 15 metric tons produced.

No major traffickers have been successfully prosecuted in Peru, despite this massive industry.

State Department witnesses acknowledged, at the task force's March 22 hearing, that Peru's record in 1987 was miserable on eradication, seizures, and prosecutions.

Concerned Members of Congress have long been sympathetic to Peru, first because of its impressive efforts in the mid-1980's, and then because of the fierce insurgency campaign it has been battling from the Sendero Luminoso and the Tupac Amaru. However, the virtual halt of meaningful antinarcotics actions, combined with persistent corruption, has led to questions about the commitment of the Government to effectively address coca production and trafficking through Peru.

Peru is scheduled to receive some $42 million in fiscal year 1988; of this amount, food aid, humanitarian assistance, child survival funds, and antinarcotics aid would be unaffected.

PARAGUAY

Paraguay is now both a major marijuana producer, 3,000 metric tons per year, and a major transit point for cocaine, according to the State Department, more than a ton of cocaine passes through Paraguay each year. In addition, State believes that Paraguay is a "significant money-laundering location for narcotics traffickers due to lax Government controls." Foreign narcotics money reportedly is being used to purchase land and property in Paraguay. Further, Paraguayan laws do not permit asset seizure, conspiracy, control of precursor chemicals, undercover operations, electronic surveillance, and plea bargaining, while Paraguayan sentences for drug trafficking are among the most lenient in the world. Enforcement of the law—such as it is—is impossible for Paraguayan police in the Chaco region, where cocaine laboratories are strongly suspected, since Paraguayan military authorities control that area.

Most significant, however, is involvement by Paraguayan officials in narcotics trafficking activities. For detailed information, Members are urged to consult the classified transcript of the committee's hearing on Paraguay in October 1987. However, the State Department's own report suggests a link betwen recent cocaine seizures in other countries and Paraguayan officials.

The State Department recognized the weak basis for certifying Paraguay on full cooperation grounds, and instead granted Paraguay a national interest certification. The vital national interest cited is, ironically, the narcotics issue itself. The waiver was granted to determine more precisely the scope of the problem and the willingness of Paraguay's officials to cooperate with DEA on drug investigations. It is noted that Paraguay has given drug intelligence to United States officials, according to the certification.

Experience suggests that other officials—most notably, General Noriega—have also been willing to cooperate with DEA and have given us drug intelligence while playing us for suckers. Sufficient evidence exists of Paraguayan complicity in the drug trade to merit full decertification. Paraguay receives vitually no direct aid from the United States other than a recent $200,000 antinarcotics grant.

You will hear much from the executive branch about the marvelous cooperation we have received. The record clearly shows that there has not been full cooperation as required by the law from these countries. The GAO reports show it; the task force hearings show it; the State Department's own report shows it. These countries have proven to us by their actions that they are not entitled to full cooperation certifications. We owe it to the people in those countries, and to our own citizens, to tell them the truth.

You will hear that the allegations of corruption cannot be confirmed. I would remind you that this Congress was told repeatedly, for almost two decades, and as recently as 6 months ago, that we could not confirm General Noriega's involvement in drug trafficking. We know that the corruption in these countries is massive and endemic. The State Department's own report concedes this.

You also will hear, no doubt, about the dire consequences of decertification. I personally do not believe that there will be much of a down side from these governments. I do not know what more they can do to us. Can Peru grow more drugs? Probably, but they have been doing that each year despite our aid—production has doubled in the past 4 years. Will the Government of Bolivia fall if we force the President to tell the truth? We were told that it would when we imposed sanctions in 1986 and 1987, but the Government survived. Can the Mexicans grow and ship more drugs to us? Probably, but they too have been efficient already on that score. I do not know what more a country can do than torturing and murdering our DEA agents. Can more Bahamians turn their backs on the drug shipments flowing through their country? Perhaps, but cocaine transhipments through the Bahamas have already increased from 20 to 30 percent to 50 to 60 percent in the past 4 years.

I hope that the pronouncements of the U.S. Congress would finally force other countries into believing that they can in fact join with us because we are not going to be hypocrites any longer, and that when we say something, we mean what we say. And if we say we have a drug policy and we are going to prevent growth in trafficking, we then do not lie down with the dogs and come up with the fleas, which everyone can see and which therefore they use as a basis saying, they do not mean it anyway. They are all bark and no bite. As a parent, I learned, I learned a long time ago that you cannot mixed messages to your children. I do not think worldwide you can send mixed messages either. If we want to rave at these countries, and then let them carry out business as usual, and accept their full cooperation, certifications, what kind of message do we send?

Mr. Speaker, I know of no issue which threatens our country and the countries of this hemisphere more immediately and more severely than the drug trade. I take a back seat to no one in my concern over Marxist governments and Marxist-supported insurgencies, but their threat to this hemisphere pales in comparison to the clear and present danger that the region's drug lords pose to infant to mature democracies. These men have no ideology—but receive safe haven in Stroessner's anti-Communist regime as easily as Mexico's leftwing Government.

It is time for the U.S. Congress to stand up and take the political lead. We cannot rely on the President solely to make these determinations. If we continue to permit the Noriegas of the world to run our foreign policy because the executive branch is too timid to take them on, then we share the blame. We are then accomplices to those who are poisoning our children in the streets. The President retains the right to veto some or all these resolutions, or to resubmit national interest certifications. But we owe it to ourselves to be honest and to approve these five decertifications.

Mr. Speaker, I would like to submit for the RECORD a summary of the oversight activities carried out by the task force during the past 2 years.

□ 2030

Mr. Speaker, I submit for the RECORD a summary of the oversight activities carried out by the task force during these past 2 years, as follows:

TASK FORCE OVERSIGHT OF COUNTRIES PROPOSED FOR DECERTIFICATION

1988

January 27: Recent developments in Colombia.

March 3: Worldwide narcotics review/review of the 1988 International Narcotics Control Strategy Report.

March 9: Review of certifications for the Caribbean.

March 10: Review of certifications for Central America.

March 15: Review of certifications in Asia, the Middle East, and Africa.

March 17: Review of certifications for South America.

March 22: Continued review of certifications for South America.

1987

March 5: World-wide review of narcotics control programs.

March 18: Review of Latin American narcotics control developments.

May 12: Narcotics efforts in the Bahamas and the Caribbean.

July 15/July 21: Bolivia (executive sessions).

July 29: GAO review of U.S. narcotics control programs.

October 7: Review of State Department's mid-year update.

October 29: Review of extradition treaties and Mutual Legal Assistance Treaties.

November 4: Paraguay (classified).

GAO REVIEWS REQUESTED BY THE COMMITTEE

"U.S.-Mexico Opium Poppy and Marijuana Aerial Eradication Program" January, 1988.

"River Patrol Craft for the Government of Bolivia" February 1988.

"U.S. International Narcotics Control Activities" March 1988.

STAFF STUDY MISSIONS

"U.S. Narcotics Control Efforts in the Caribbean" December 1987.

"U.S. Narcotics Control Efforts Overseas—A Continuing Assessment" 1986.

"U.S. Narcotics Control Efforts Overseas—An Assessment" 1985.

Finally, Mr. Speaker, there has been a great hue and cry and concern about what foreign aid would be lost if these five countries were decertified. Let me just assure my colleagues that most of the aid to these countries—and I am one of the first to admit that we do not give enough to these countries in the way of aid—that much of the economic woes in these countries is due in large part to the fact that the United States has really left them alone for too long in terms of viable economic development and in terms of having people have jobs so they do not have to turn to drugs, but let me assure the Members that the Bahamas have no direct bilateral aid which would be lost.

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The IMET is not affected. The Bahamas banks received $10 million from the World Bank, which might or might not be affected next year, and they have no sugar quota.

In Bolivia, aid would be lost and 15 million dollars' worth in nonexempt development aid.

Banks, while we only have a veto power over our own vote, we do not have power to disconnect them from lending institutions, and they have a 5,770-ton quota of sugar.

Mexico, whatever remains of their 5,770-ton quota of sugar, banks again in connection with the World Bank and others, we would vote no.

Peru, Paraguay, practically no assistance would be in fact affected.

Mr. Speaker, I cannot stress enough the reality of the drug problem. Many of our colleagues in this Chamber over the years have stood at this well and talked about how we have to do something about the drug problem, and we have tried. We have tried in so many ways. We have tried internationally. We have tried domestically. We have tried in international fora. We have tried regionally. We have tried with task forces. We have tried with bilateral agreements. We have tried with multilateral agreements. We try every year with the International Bureau of Narcotics Matters at the State Department. We try with the DEA. We put agents all over the world, and yet more and more drugs are coming into the United States than ever before.

But we have to realize that we started late. We started well after the traffickers had established their pattern, had begun to collect and amass huge amounts of money, had gotten all the equipment that they needed, had put into effect their trade routes and systems, their administrative bureaucracies, their people. All of that was before we really started to make a valiant effort.

Last year we began to make a dent. We caught more than ever coming into this country. We eradicated more than ever in a lot of places. The difference is, more is being grown, more is being packaged, more is being sent.

You know, it is interesting, it is not just the United States any longer that is a market. Western Europe is up to its eyeballs in cocaine. They have never seen so much, because cocaine not only flows north, it flows south from Brazil to Paraguay, to Argentina and out through Spain into Western Europe.

Oh, there is a big market out there for drugs and we in this country have, it seems, an insatiable appetite.

While we need to eradicate and we need to interdict on the high seas and we need to have better law enforcement capability, and we are building all of that, we also need to have once and for all a domestic education program which really makes people believe that drugs do kill, crack, speed, coke, heroin, methamphetamines, even marijuana. They take a good life and they break it, and in many cases they kill it. We cannot stand much more of it. We do not have the time to wait around for the glamour of drugs to wear off, maybe by the next generation. We owe it to our kids to do something about it. We owe it to the next generation and succeeding generations to fight this scourge because we have the capability. We can fight it so many ways that we have not really begun yet.

We can fight it with the military, who have yet to take a major role in the problem. We can apply the money where it needs to be applied, which we really have not done. The budget of the IMN is only $100 million a year. Two good shipments of cocaine into the United States would produce more in profits than the whole budget of the Bureau of International Narcotics for the whole year to cover all these countries, South America, Central America, the Caribbean, Southeast Asia, Southwest Asia, and Europe.

Most of all, we owe to the people of this country honesty. Most of all, we have to tell them that we will stand up around the world and we will say one thing here and we will say the same thing overseas. We will not lie down with the dogs. We will not certify Panamas, Paraguays or Mexicos or Bolivias or Perus if they do not cooperate. They will not get aid from us if they insist on sending poison to the United States. That is all it is.

It makes you feel good, but it kills you. There is no doubt any more. There are no statistics that do not bare the truth. Drugs kill. And when our administration refuses to tell the truth to the American people, when our administration does not take Mexico on in real terms, when our President goes to Mexico and does not come back and say, "I told the President of Mexico to straighten up, or else," then he is not doing what the people of the United States require the leader of this country to do.

Tell the truth, be honest. There is no more important group of people to us than the people of the United States.

And you know, Mr. Speaker, we have not talked about something that is overlooked by a lot of people. Drugs, you see, not only are consumed in the United States, but as these countries are now finding out, they also are consumed in their own countries. Just a few years ago it was America's problem and Mexico and the Mexican Ambassador, and we gave a luncheon at the U.N. for all those ambassadors and Members of this Congress to acquaint them with the problem, and the Mexican Ambassador stood up and said, "If it wasn't for the United States, there wouldn't be any drug problem."

Guess what—big drug problem in Mexico, big drug problem in Peru, big drug problem in Bolivia, huge drug problem in the Bahamas, the same drugs that they said were only our problem are now their problem.

Not only do the people of the United States deserve better, the people of those countries deserve better. The people of those countries are entitled to live in a decent society without worry or fear that if they stand up and speak out against drugs, like in Colombia where the attorney general was just recently assassinated, three justice ministers were assassinated, 21 judges have been killed, the supreme court laid siege, newspaper editor after newspaper editor and reporters and writers have been killed because they stood up and spoke out against drugs and against the drug lords in their own country. They should not be afraid, but they are.

We have let it go too far. We have let it go too long. The people in those countries, the people of this country, deserve better. They deserve our full support for their efforts.

I think that by telling the truth, Mr. Speaker, we can give it to them.

Finally, Mr. Speaker, I hate to say it, but no matter what we do, we will not be successful in this country until we once and for all come to grips with the problem of drugs right in our own families. It is going to take the American people absolutely, positively, standing up against drugs once and for all, each and every person in this country, before we are going to make the problem small enough so that it is hardly a blip. It will never go away. We will never totally, not in this society, not in this society which has drugs prescribed, legal drugs, at the level we have, it will never go away; but we can make it a small, very small minimal problem, but not until the American people get tired of all this poison being shipped here by a few hundred of the worst kinds of people in the world who traffic off human misery, because that is all it is.

You want to reduce crime? You want to reduce the tax burden? You want to reduce the misery, lost productivity, broken families, broken hearts, deaths, murders, overdoses, do you want to reduce it? Once and for all get mad about drugs. Start working in your own communities. Start caring enough to care about other people's kids, because those other people's kids are your kids, too. They are your friends' children. They are your children's friends, and in many cases, they are your own children.

It is time we started caring about our own and it is time we started believing that we can win this fight, because we can, but we have to believe it and we have to say so.

Mr. Speaker, if we do that, if we tell the truth overseas, tell the truth at home, have a consistent policy, put the money where it belongs, not be afraid to spend it, and it is going to take a while to win, have a consistent policy, we will win this war, but it has to start somewhere, and I am hoping, my colleagues, it starts right here in this Chamber.

Mr. LEWIS of Florida. Mr. Speaker, thank you for allowing me the opportunity to address a matter of utmost importance to every man, woman, and child in this country.

This week I enthusiastically cosponsored legislation introduced by my Florida colleague and friend, Congressman LARRY SMITH, disapproving the certification of the Bahamas, Bolivia, Mexico, Peru, and Paraguay as fully cooperating with the United States' antinarcotics efforts.

The President has certified that these major drug-producing nations have cooperated with the United States in drug enforcement. That is far from the truth of the matter, though.

The facts and evidence are clear that these drug-producing nations have not kept their word to the United States in controlling the flow of illicit narcotics within and across their borders.

Obviously, this measure could have severe repercussions on the economic and political affairs of the countries mentioned. There comes a time, though, when the United States must come first. The time is long past that the continuing tragedy of drug abuse in this country be given top priority.

As national leaders it is our duty to keep our commitment to the American people and put an end to the emotional and physical wreckage caused by the drugs produced or trafficked from Mexico, Peru, Bolivia, Paraguay, and the Bahamas. It is purely and simply a lie to say these countries are fully cooperating in our war on drugs.

Mr. Speaker, if we continue to stand by and allow those drug-producing nations to receive U.S. foreign aid, we are telling a bald-faced lie to the people of our country. We ask our educators, our policemen on the street, our parents, our doctors, and our children, to "just say no." It takes a lot of courage for our children to stand up to their peers and "just say no." It is about time we as national leaders exercise courage and "just say no" to providing aid to countries that send killer drugs to our streets.

Just this week the local police in our State of Florida, more than 17 months after we passed the 1986 antidrug bill, finally got word about their share of local law enforcement grant funds.

The local police and sheriff are out there on the frontline in this war every day and every night. That's why we wanted to provide them with this Federal assistance.

It wasn't much and there are some who still are awaiting their fair share but all the money in the world won't help the policemen on America's streets if drug producing countries can operate on both sides of the street. What good is it to help our police when the drug producers believe we're only going to bark and never bite?

Mr. Speaker, I have worked closely for many years with local, State, and national leaders in the war against drugs. I will continue to give it all my energy. But we made a promise to the people of this country and it is our obligation to keep that promise. I urge my colleagues to support the decertification of these nations and protect American lives.

Mr. HOCHBRUECKNER. Mr. Speaker, as the American public is increasingly aware, drugs are having devastating effects on our children and on the safety of our streets. I advocate attacking the drug problem using a two-pronged strategy. No. 1, we must strengthen our border drug interdiction system by promoting the use of early warning radar aircraft, such as the E2C Hawkeye, to help enforcement officers locate and stop drug smugglers using boats and aircraft before they enter the United States. If the U.S. Coast Guard had six to eight E2C's (the agency currently has two), I believe it might well shut down drug smuggling on the east coast.

The second part of a sensible strategy for rearming the war on drugs is to impose sanctions on nations which export drugs to the United States. We can accomplish this by acting to reduce the annual aid sent by the U.S. State Department to drug producing and trafficking nations, and by imposing trade sanctions against those nations.

Ronald Reagan has failed to use the authority he was provided by Congress in the Anti-Drug Abuse Act of 1986 to take action against foreign nations involved in the drug trade. This act authorizes the President of the United States to reduce foreign aid to countries which are not cooperating fully in the international war on drugs. On December 10, 1987, I wrote to President Reagan to urge that he personally review statistics on drug smuggling before deciding which countries may receive U.S. aid during the 1988 funding cycle. The President, responding to mounting international concerns about Panamanian General Manuel Noriega, has since declared Panama to be noncooperative with the war on drugs. As a result, the United States is withholding aid and imposing other sanctions against that country. The Congress should support this action.

However on March 1, 1988, President Reagan certified as fully cooperative five nations—the Bahamas, Mexico, Bolivia, Peru, and Paraguay—which are in fact failing to cooperate with United States efforts to stop illegal drugs. As experts will attest, these countries should not be certified by the President as cooperative. Each is intimately involved in the international drug trade.

Under the terms of the 1986 Anti-Drug Abuse Act, Congress has 45 days after March 1 in which it may "decertify" any nation it believes, contrary to the President's finding, is not fully cooperating in the war on drugs. I have joined with four other Members of the House from both political parties in sponsoring five bills which would decertify each of the five aforementioned countries. This legislation would require President Reagan to reduce 1988 foreign aid to these nations by half and impose trade sanctions. Decertification, if enacted, would not affect food aid, military training assistance, or law enforcement support. Furthermore, Congress should consider allocating any recaptured foreign aid money to the U.S. Coast Guard to restore their lost funding and enhance that agency's drug interdiction capabilities.

In principle, we certainly should not be rewarding nations which send drugs to our streets by giving them U.S. taxpayer dollars. I strongly believe we should use our foreign aid as leverage to discourage foreign drugs production and encourage Third World farmers to grow food crops rather than drug crops. Decertification legislation sends a strong message from Congress to foreign drug producers, smugglers, money launderers, and others involved in the ugly business of drug trafficking. It signals that we will not stand by while foreign drug producers destroy American children's lives, cause murder on our streets, and contribute to the overcrowding of our Nation's jails. The legislation also sends an important message to the White House that Members of Congress continue to be truly serious about the war on drugs.

GENERAL LEAVE

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. EMERSON (at the request of Mr. MICHEL) for 30 days on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RHODES) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

Mr. ARMEY, for 60 minutes, on April 13.

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. HUBBARD, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mr. BOLAND, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today, and 5 minutes, on March 31.

Mr. ROSTENKOWSKI, for 5 minutes, on March 31.

Mr. EDWARDS of California, for 60 minutes, on April 12.

Mr. GONZALEZ, for 60 minutes, on March 31.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROOKS, immediately preceding vote on H.R. 3933, in the House, today.

Mr. MOODY, immediately following the vote on H.R. 3396, in the House, today.

Mr. HOPKINS, after the vote on H.R. 3396, today.

(The following Members (at the request of Mr. RHODES) and to include extraneous matter:)

Mr. HEFLEY in two instances.

Mr. CRANE.

Mr. GALLO.

Mr. LATTA in two instances.

Mr. CHENEY.

Mr. SUNDQUIST.

Mr. JEFFORDS.

Mr. MADIGAN.

Mr. SHAW.

Mr. LENT.

Mr. RITTER.

Mr. MOORHEAD.

Mr. DORNAN of California.

Mr. CLINGER in two instances.

Mr. DREIER of California.

Mr. BARTLETT in two instances.

Mr. DONALD E. LUKENS.

Mr. MCEWEN.

Mr. DAUB.

Mr. LAGOMARSINO.

Mr. TAUKE.

Mr. DUNCAN.

Mr. GOODLING.

Mr. ROTH.

Mr. GINGRICH.

(The following Members (at the request of Mr. HOYER) and to include extraneous matter:)

Mr. MILLER of California in two instances.

Mr. KOLTER.

Mr. FASCELL in two instances.

Mr. HOYER in two instances.

Mr. ROYBAL.

Mr. CLEMENT in two instances.

Mr. JACOBS.

Mr. TALLON.

Mr. FORD of Michigan.

Mr. WYDEN in two instances.

Mr. WAXMAN.

Mr. FRANK.

Mr. LEVINE of California.

Mr. RAHALL.

Mr. DORGAN of North Dakota.

Mr. SOLARZ.

Mr. MAVROULES.

Mr. KLECZKA.

Mr. HAWKINS.

Mr. FUSTER.

Mr. COLEMAN of Texas in two instances.

Mr. KOSTMAYER.

Mr. ATKINS.

Mr. MOAKLEY.

Mr. YATRON.

Mrs. BOGGS.

Mr. VENTO in two instances.

Mr. MAZZOLI.

Mr. CROCKETT.

Mr. HAMILTON.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3981. An act to make section 7351 of title 5, United States Code, inapplicable to leave transfers under certain experimental programs covering Federal employees, except as the Office of Personnel Management may otherwise prescribe; and

H.J. Res. 480. Joint Resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following title:

S. 854. An act entitled the "Nevada-Florida Land Exchange Authorization Act of 1988"; and

S. 2117. An act to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act.

ADJOURNMENT

Mr. SMITH of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 58 minutes p.m.) the House adjourned until tomorrow, Thursday, March 31, 1988, at 11 a.m.)

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3273. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize the acquisition, upgrade and disposal of Stockpile materials; to the Committee on Armed Services.

3274. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to establish an aviator continuation pay system for members of the military departments; to the Committee on Armed Services.

3275. A letter from the Acting General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to provide for participation by the United States in a capital increase of the International Bank for Reconstruction and Development and a replenishment of the African Development Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

3276. A letter from the Chairman, Federal Trade Commission, transmitting the 10th annual report of the Commission on the administration of the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. 1692m; to the Committee on Banking, Finance and Urban Affairs.

3277. A letter from the Assistant Secretary, Policy, Budget and Administration, Department of the Interior, transmitting a special report on the condition of facilities of Tribally Controlled Community Colleges, pursuant to Public Law 99-428; to the Committee on Education and Labor.

3278. A letter from the Chief Counsel, Foreign Claims Settlement Commission, Department of Justice, transmitting the annual report of its activities for calendar year 1987, including the final report on the Ethiopian Claims Program, pursuant to 50 U.S.C. app. 2008; 22 U.S.C. 1622a; to the Committee on Foreign Affairs.

3279. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a report discussing the number of personnel of Soviet state trading enterprises in the United States, pursuant to Public Law 100-204, section 154 (101 Stat. 1353); to the Committee on Foreign Affairs.

3280. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3281. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3282. A letter from the Chairman, Gorgas Memorial Institute of Tropical and Preventive Medicine Inc., transmitting the 59th annual report of the work and operations of the Gorgas Memorial Laboratory for the fiscal year ending September 30, 1987, including a report on the audit of the Institute, pursuant to 22 U.S.C. 278a; jointly, to the Committees on Foreign Affairs and Energy and Commerce.

3283. A letter from the Comptroller General, transmitting a report on an estimate of the fair market value of the main post office in Denver, Colorado (GAO/GGD-88-51; March 1988), pursuant to Public Law 100-202. Jointly, to the Committees on Government Operations, Post Office and Civil Service, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. A report from back wards to back streets: The failure of the Federal Government in providing services for the mentally ill (Rept. 100-541). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. A report on here's the beef: Underreporting of injuries, OSHA's policy of exempting companies from programmed inspections based on injury records, and unsafe conditions in the meatpacking industry (Rept. 100-542). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee of conference. Conference report on H.R. 1900 (Rept. 100-543). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 421. A resolution providing for the consideration of S. 858, an act to establish the title of States in certain abandoned shipwrecks, and for other purposes (Rept. 100-544). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DREIER of California (for himself and Mr. Hawkins):

H.R. 4290. A bill to amend the Solid Waste Disposal Act to establish waste reduction, reuse and recycling as the primary method of solid waste management at both the Federal and State level; to the Committee on Energy and Commerce.

By Mr. BEREUTER:

H.R. 4291. A bill to amend the authority of the Corps of Engineers with respect to bank stabilization and shoreline erosion along the Missouri River; to the Committee on Public Works and Transportation.

By Mr. GONZALEZ:

H.R. 4292. A bill to require the Secretary of Housing and Urban Development to provide emergency mortgage assistance to homeowners; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BRYANT:

H.R. 4293. A bill to amend the copyright laws to provide compulsory licenses only to those cable service providers who provide adequate carriage of local broadcast signals, and for other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. BUECHNER:

H.R. 4294. A bill to suspend until January 1, 1991, the duty on N-(2-hydroxyethyl)-2,4,6-triiodo-5-[2(2,4,6-triiodo-3-(N-methylacetamido)-5-(methylcarbamoyl) benzamido acetamido]-isophthalamic acid; to the Committee on Ways and Means.

By Mr. CLINGER:

H.R. 4295. A bill to suspend temporarily the duty on 3-ethyl-8-hydroxylquinoline; to the Committee on Ways and Means.

H.R. 4296. A bill to suspend temporarily the duty on naphthalic acid anhydride; to the Committee on Ways and Means.

By Mr. COYNE (for himself, Mr. Levin of Michigan, Mr. Downey of New York, Mr. Matsui, Mr. Dorgan of North Dakota, and Mr. Richardson):

H.R. 4297. A bill to amend title XVIII of the Social Security Act with respect to coverage of, and payment for, services of psychologists under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. CRAIG:

H.R. 4298. A bill to provide for the disposition of unclaimed property in the custody of the United States; to the Committee on Government Operations.

By Mr. DAUB:

H.R. 4299. A bill to extend the duty arrangement on certain unwrought lead for a period of 4 years; to the Committee on Ways and Means.

By Mr. DORGAN of North Dakota (for himself, Mr. Bonior of Michigan, Mr. Jeffords, Mr. Leach of Iowa, Mr. Penny, and Mr. Leland):

H.R. 4300. A bill to provide children's survival assistance for children who are victims of the Nicaraguan civil strife; jointly, to the Committees on Foreign Affairs and Appropriations.

By Mr. FLORIO:

H.R. 4301. A bill to authorize the United States Army Corps of Engineers to carry out a navigation project in Camden, NJ; to the Committee on Public Works and Transportation.

By Mr. GALLEGLY:

H.R. 4302. A bill to provide the penalty of death for certain killings of Federal law enforcement officers; to the Committee on the Judiciary.

By Mr. GOODLING:

H.R. 4303. A bill regarding the rates of duty on bone chinaware; to the Committee on Ways and Means.

By Mr. GUARINI (for himself, Mr. Gibbons, Mr. Frenzel, and Mr. Rangel):

H.R. 4304. A bill to authorize the U.S. Customs Service to implement a pilot preclearance program for purposes of assessing the extent to which the availability of preclearance operations can assist in the development of tourism in the Caribbean Basin; to the Committee on Ways and Means.

By Mr. HAWKINS:

H.R. 4305. A bill to strengthen the protections available to private employees against reprisal actions for disclosing information, to protect the public health and safety, and for other purposes; to the Committee on Education and Labor.

By Mr. HAWKINS (for himself and Mr. Goodling):

H.R. 4306. A bill to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget; to the Committee on Education and Labor.

By Mr. HOYER:

H.R. 4307. A bill concerning the transfer of certain real property located in Prince George's County, MD; to the Committee on the District of Columbia.

By Mr. HUNTER (for himself, Mr. Robinson, Mrs. Bentley, Mr. Davis of Illinois, Mr. Walker, Mr. Wortley, Mr. Gingrich, and Mr. Smith of New Hampshire):

H.R. 4308. A bill to require the use of the Armed Forces for interdiction of narcotics at United States borders; jointly, to the Committees on Armed Services and the Judiciary.

By Mr. JEFFORDS:

H.R. 4309. A bill to make surviving spouses of judicial officials who died before October 1, 1986, eligible for increased annuities which are effective as of that date; to the Committee on the Judiciary.

By Mr. KASTENMEIER (for himself, Mr. Moorhead, Mr. Fish, Mr. Edwards of California, Mr. Synar, Mrs. Schroeder, Mr. Morrison of Connecticut, Mr. Berman, Mr. Boucher, Mr. Bryant, Mr. Lungren, Mr. DeWine, and Mr. Coble):

H.R. 4310. A bill to extend for an additional 5-year period certain provisions of title 17, United States Code, relating to the rental of sound recordings; to the Committee on the Judiciary.

By Mr. KOLTER:

H.R. 4311. A bill to amend the Internal Revenue Code of 1986 to permit taxpayers to increase their income tax by one dollar to be used for grants to reduce the costs of organ transplants, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. LEACH of Iowa (for himself, Miss Schneider, and Mr. St Germain):

H.R. 4312. A bill to authorize the provisions of trauma care for victims of the Nicaraguan civil war; to the Committee on Foreign Affairs.

By Mr. McEWEN:

H.R. 4313. A bill to amend the Appendix to the Tariff Schedules of the United States to suspend the duties on certain bicycle parts; to the Committee on Ways and Means.

By Mr. MADIGAN (for himself and Mr. de la Garza):

H.R. 4314. A bill to establish a National Agricultural Product Technology Institute and to authorize the Institute to implement and carry out a program for applied research and development of new product uses for agricultural commodities, for the development of new production and processing methods and new industrial products using agricultural commodities, and for other purposes; to the Committee on Agriculture.

By Mr. MILLER of California:

H.R. 4315. A bill to provide for the inclusion of certain lands within the John Muir National Historic Site; to the Committee on Interior and Insular Affairs.

By Mr. NAGLE:

H.R. 4316. A bill to suspend until the close of December 31, 1990, the duty on sulfachloropyridazine (technical); to the Committee on Ways and Means.

By Mr. RITTER (for himself, Mr. Lagomarsino, Mr. Davis of Illinois, Mr. Wortley, and Mr. Boehlert):

H.R. 4317. A bill to promote greater predictability in professional liability actions by establishing certain standards for liability and providing for other reforms; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mrs. SCHROEDER:

H.R. 4318. A bill to improve the administration of the personnel systems of the General Accounting Office; jointly, to the Committees on Post Office and Civil Service and Government Operations.

By Mrs. SCHROEDER:

H.R. 4319. A bill to amend title 5, United States Code, to establish the Office of Government Ethics as an independent agency within the executive branch; and for other purposes; jointly, to the Committees on Post Office and Civil Service and the Judiciary.

By Mr. STARK:

H.R. 4320. A bill to protect the Earth's ozone layer by requiring that products which contain, are produced with, or are produced from chlorofluorocarbons be labeled; to the Committee on Energy and Commerce.

By Mr. THOMAS of California:

H.R. 4321. A bill to suspend reviews of antidumping and countervailing duty orders and other determinations under title VII of the Tariff Act of 1930 regarding any product of a country during the period when an embargo is in effect with respect to that product; to the Committee on Ways and Means.

H.R. 4322. A bill relating to the administration of antidumping and countervailing duty orders applicable to pistachio nuts; to the Committee on Ways and Means.

H.R. 4323. A bill to suspend reviews of antidumping and countervailing duty orders and other determinations under title VII of the Tariff Act of 1930 regarding pistachio nuts during the period when an embargo is in effect with respect to that product; to the Committee on Ways and Means.

By Mr. WYDEN:

H.R. 4324. A bill prohibiting certain pooling agreements among rail carriers for the acquisition of assets, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WYDEN (for himself, Mr. Dingell, Mr. Waxman, and Mr. Madigan):

H.R. 4325. A bill to amend the authority under the Public Health Service Act for the regulation of clinical laboratories to require licensed laboratories to qualify under proficiency testing programs and for other purposes; to the Committee on Energy and Commerce.

By Mr. FOLEY:

H.J. Res. 523. Joint resolution to provide assistance and support for peace, democracy, and reconciliation in Central America; considered and passed.

By Mrs. BYRON (for herself and Mr. Miller of Ohio):

H.J. Res. 524. Joint resolution to designate January 31, 1989, as "Zane Grey Day"; to the Committee on Post Office and Civil Service.

By Mr. GRADISON (for himself and Mr. Panetta):

H.J. Res. 525. Joint resolution to designate the month of November 1988 as "National Hospice Month"; to the Committee on Post Office and Civil Service.

By Mr. GREGG:

H.J. Res. 526. Joint resolution designating November 27 through December 3, 1988, as "National Sir Winston Churchill Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. SCHEUER (for himself, Mr. Sikorski, Mrs. Lloyd, Mr. Solarz, Mr. Manton, Mr. Berman, Mr. Fuster, Mr. Gilman, Mr. Wolf, Mr. Porter, Mr. Hochbueckner, Mr. Miller of Washington, Mr. Lent, Mr. Towns, Mr. Florio, Mr. Matsui, Mr. LaFalce, Mr. Weiss, Mr. Cardin, Mr. Inhofe, Mr. Wortley, Mr. Bates, Mr. Gejdenson, Mr. Kostmayer, Mr. Courter, Mr. Dymally, Mr. Traficant, Mr. Molinari, Mr. Dixon, Mr. Thomas of Georgia, Mr. Fascell, Mr. de Lugo, Mr. Garcia, Mr. Owens of New York, Mr. Jones of North Carolina, Mr. Sisisky, Mr. Annunzio, Mr. Lehman of Florida, Mrs. Boxer, Mr. Ackerman, Mr. Frank, Mr. Frost, Mr. Mavroules, Mr. Dyson, Mr. Mazzoli, Mr. Fauntroy, Mr. Bevill, Mr. Lewis of Florida, Mr. Schumer, Mr. Green, Mr. Lantos, Mr. Smith of Florida, Mr. Clarke, Mr. DioGuardi, Mr. Coyne, Mr. Traxler, Mr. Lagomarsino, Mr. Biaggi, Mr. Nowak, Mr. Levin of Michigan, Mr. Horton, Mr. Waxman, Mr. Feighan, Mr. McGrath, Ms. Kaptur, Mr. Stokes, and Mr. Mfume):

H.J. Res. 527. Joint resolution to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week"; to the Committee on Post Office and Civil Service.

By Mr. STUDDS (for himself, Mr. Lowry of Washington, Mr. Jones of North Carolina, Mr. Davis of Michigan, and Mr. Young of Alaska):

H.J. Res. 528. Joint resolution to designate the period of September 17 through October 10, 1988, as "Coastweeks '88"; to the Committee on Post Office and Civil Service.

By Mr. FOLEY:

H. Con. Res. 272. Concurrent resolution providing for a conditional adjournment of the House and Senate until April 11, 1988; considered and agreed to.

By Mr. RAHALL:

H. Con. Res. 273. Concurrent resolution in support of the Palestinian people's right to self-determination and statehood in the West Bank and Gaza; to the Committee on Foreign Affairs.

By Mr. SOLARZ (for himself and Mr. Yatron):

H. Con. Res. 274. Concurrent resolution commending Prime Minister Ozal of Turkey and Prime Minister Papandreou of Greece for their statesmanship in initiating their current dialog; to the Committee on Foreign Affairs.

By Mr. DORNAN of California (for himself, Mr. Dreier of California, Mr. Gekas, Mr. DeLay, Mr. Hyde, Mr. Kyl, Mr. Walker, Mr. Ritter, Mr. Lagomarsino, Mr. Swindall, and Mr. Buechner):

H. Con. Res. 275. Concurrent resolution calling on the Soviet Union and its allies to withhold military assistance to the Government of Nicaragua; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself, Mr. Broomfield, Mr. Foley, Mr. Hamilton, Mr. Yatron, Mr. Solarz, Mr. Bonker, Mr. Studds, Mr. Mica, Mr. Wolpe, Mr. Crockett, Mr. Gejdenson, Mr. Dymally, Mr. Lantos, Mr. Kostmayer, Mr. Torricelli, Mr. Smith of Florida, Mr. Berman, Mr. Levine of California, Mr. Feighan, Mr. Weiss, Mr. Ackerman, Mr. Udall, Mr. Atkins, Mr. Clarke, Mr. Fuster, Mr. Bilbray, Mr. Owens of Utah, Mr. Sunia, Mr. Gilman, Mr. Lagomarsino, Mr. Leach of Iowa, Ms. Snowe, Mr. Hyde, Mr. Solomon, Mr. Smith of New Jersey, Mrs. Meyers of Kansas, Mr. Miller of Washington, Mr. Blaz, Mr. Dickinson, Mr. Edwards of Oklahoma, Mr. Kasich, Mr. Buechner, Mr. Downey of New York, Mr. Dicks, Mr. Moody, Mr. Torres, Mr. Mavroules, Mr. AuCoin, Mr. Carr, and Mrs. Martin of Illinois):

H. Res. 422. Resolution to support the INF Treaty and to provide for the continued security of NATO; to the Committee on Foreign Affairs.

By Mr. WALKER (for himself, Mr. Weber, Mr. Hunter, Mr. Donald E. Lukens, Mr. Boulter, Mr. Bliley, Mr. Sundquist, Mr. Stangeland, Mr. Roth, Mr. Slaughter of Virginia, Mr. Quillen, Mr. Dornan of California, Mr. Rhodes, Mr. Moorhead, Mr. Taylor, Mr. Herger, Mr. Gray of Illinois, Mr. Traficant, Mr. Montgomery, Mr. Rowland of Georgia, Mr. Horton, Mr. Robinson, Mr. Gaydos, Mr. Murtha, Mr. Shumway, Mr. Young of Florida, Mr. Schaefer, Mr. Coughlin, Mr. Lott, Mr. Gekas, Mr. Hansen, Mr. Hastert, Mr. Bunning, Mr. Hiler, Mr. Sweeney, Mr. Coble, Mr. Armey, Mr. Smith of New Hampshire, Mr. Cheney, Mr. Parris, Mrs. Vucanovich, Mr. Combest, Mr. Mack, Mr. Gregg, Mr. McCollum, Mr. Livingston, Mr. Nielson of Utah, Mr. Leath of Texas, Mr. Stenholm, Mr. Hall of Texas, Mr. Emerson, Mr. Coats, Mr. Hefley, Mr. Wilson, Mr. Burton of Indiana, Mr. McCandless, Mr. Lungren, Mr. DeLay, Mr. Gingrich, Mr. Shaw, Mr. Konnyu, Mr. Wortley, Mr. Edwards of Oklahoma, Mr. Craig, Mr. Smith of New Jersey, Mr. Skeen, Mrs. Bentley, Mr. Marlenee, Mr. Kyl, Mr. Ballenger, Mr. Denny Smith, Mr. Davis of Illinois, and Mr. Solomon):

H. Res. 423. Resolution expressing the concern of the House of Representatives regarding the future security of the Panama Canal; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BOSCO:

H.R. 4326. A bill for the relief of Marie K. Madison; to the Committee on the Judiciary.

By Mr. KANJORSKI:

H.R. 4327. A bill for the relief of Lucille White, Gerald J. White, Gary White, and Sara White; to the Committee on the Judiciary.

By Mr. McDADE:

H.R. 4328. A bill for the relief of Lucille White, Gerald J. White, Gary White, and Sara White; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 155: Mr. Mazzoli.

H.R. 190: Mr. Inhofe.

H.R. 578: Mr. YATRON and Mr. HAYES of Illinois.

H.R. 772: Mr. GRAY of Illinois, Mr. TRAFICANT, Mr. DELLUMS, and Mr. STARK.

H.R. 778: Mr. STOKES.

H.R. 975: Mr. FAWELL.

H.R. 1036: Mr. SCHUETTE.

H.R. 1052: Mr. MILLER of Washington.

H.R. 1201: Mrs. SCHROEDER.

H.R. 1213: Mr. RANGEL and Mr. DeFAZIO.

H.R. 1231: Mrs. MEYERS of Kansas.

H.R. 1587: Mr. SWIFT, Mr. AuCOIN, Mr. BONKER, and Mr. CHANDLER.

H.R. 1834: Mr. SIKORSKI and Mr. FEIGHAN.

H.R. 1940: Mr. WOLF.

H.R. 1957: Mr. JACOBS, Mr. MYERS of Indiana, Mr. PERKINS, Mr. WISE, Mr. McDADE, Mr. NIELSON of Utah, and Mr. HAYES of Illinois.

H.R. 1973: Mr. JOHNSON of South Dakota.

H.R. 2537: Mrs. PATTERSON, Mr. JACOBS, and Mr. PORTER.

H.R. 2580: Mr. MOORHEAD, Mr. WORTLEY, and Mr. HENRY.

H.R. 2641: Mr. SYNAR.

H.R. 2647: Mr. WALGREN, Mr. BIAGGI, Mr. GILMAN, Mr. SPRATT, Mr. SLATTERY, Mr. BRYANT, Mr. WILSON, and Mrs. SCHROEDER.

H.R. 2750: Mr. GARCIA, Mr. AKAKA, Mr. HAYES of Illinois, Mr. GORDON, and Mr. RANGEL.

H.R. 2854: Mr. CROCKETT and Mr. PEPPER.

H.R. 2988: Mr. MATSUI and Mr. FAZIO.

H.R. 3146: Mr. GRANT.

H.R. 3225: Mr. WEISS and Ms. SLAUGHTER of New York.

H.R. 3250: Mr. KOLTER and Mr. SAXTON.

H.R. 3334: Mr. TALLON and Mr. SKAGGS.

H.R. 3410: Mr. RAHALL.

H.R. 3454: Mr. BEVILL, Mr. DAVIS of Illinois, Mr. de la GARZA, Mr. ERDREICH, Mr. FORD of Tennessee, Mrs. LLOYD, Mr. DONALD E. LUKENS, Ms. PELOSI, Mr. SMITH of Iowa, Mr. TRAXLER, Mr. WOLF, and Mr. YATRON.

H.R. 3455: Mr. SHAYS, Mr. FAZIO, Mr. TORRICELLI, Mrs. KENNELLY, Mr. MARTINEZ, and Mr. LELAND.

H.R. 3521: Mr. FEIGHAN.

H.R. 3553: Mr. LAGOMARSINO.

H.R. 3565: Mr. DICKS, Mr. STANGELAND, Mr. THOMAS of California, Mr. EMERSON, and Mr. LUJAN.

H.R. 3658: Mr. ACKERMAN, Mr. WHITTAKER, Ms. KAPTUR, Mrs. BOXER, Mr. LEVINE of California, Mr. GARCIA, Mr. EVANS, Ms. PELOSI, Mr. TORRICELLI, Mr. CONYERS, and Mr. CAMPBELL.

H.R. 3719: Mr. STAGGERS, Mr. SUNDQUIST, Mr. GUARINI, Mr. ESPY, Mr. MORRISON of Connecticut, Mr. DYMALLY, Mr. SWIFT, Mr. FAUNTROY, Mrs. BENTLEY, Mr. WISE, Mr. MINETA, Mr. RODINO, Mrs. BYRON, Mr. EVANS, and Mr. OWENS of Utah.

H.R. 3754: Mr. WOLF.

H.R. 3775: Mr. GALLEGLY.

H.R. 3791: Mr. ORTIZ, Mr. BARTON of Texas, Miss SCHNEIDER, Mr. de LUGO, Mr. BEVILL, and Mr. DeLAY.

H.R. 3805: Mr. Evans, Mr. BORSKI, Mr. ECKART, Mr. BUSTAMANTE, Ms. PELOSI, and Mr. DeFAZIO.

H.R. 3806: Mr. MATSUI, Mr. RODINO, Mr. NIELSON of Utah, Mr. WEISS, Mr. DIXON, Mr. LEVIN of Michigan, and Mr. SAVAGE.

H.R. 3830: Mr. HERGER.

H.R. 3840: Mr. GRANT, Mr. FLORIO, Mr. TORRES, and Mr. BRUCE.

H.R. 3850: Mrs. MORELLA, Mr. FRANK, and Mr. CLEMENT.

H.R. 3874: Mr. RANGEL.

H.R. 3881: Mr. MORRISON of Washington, Mr. JOHNSON of South Dakota, and Mr. CRAIG.

H.R. 3892: Mr. PRICE of North Carolina, Mr. SHAYS, Mr. LANCASTER, Mr. HUGHES, Mr. SKAGGS, Mr. HORTON, and Mr. HEFLEY.

H.R. 3900: Mr. DAVIS of Illinois.

H.R. 3907: Mr. GALLEGLY and Mr. ESPY.

H.R. 3944: Mr. INHOFE, Mr. HEFLEY, Mr. HUNTER, Mr. KEMP, and Mr. GINGRICH

H.R. 3988: Mr. DORNAN of California.

H.R. 4007: Mr. MADIGAN, Mr. TRAXLER, Mr. GUNDERSON, Mr. JEFFORDS, Mr. HENRY, Mr. KILDEE, Mr. VANDER JAGT, Mr. HUCKABY, Mr. MORRISON of Washington, Mr. PENNY, Mr. LANCASTER, Mr. WOLPE, and Mr. LEWIS of Florida.

H.R. 4008: Mr. MADIGAN, Mr. TRAXLER, Mr. GUNDERSON, Mr. JEFFORDS, Mr. MORRISON of Washington, Mr. PENNY, Mr. TALLON, Mr. RAVENEL, Mr. LANCASTER, and Mr. WOLPE.

H.R. 4009: Mr. MADIGAN, Mr. TRAXLER, Mr. GUNDERSON, Mr. JEFFORDS, Mr. PENNY, Mr. LANCASTER, and Mr. LEWIS of Florida.

H.R. 4014: Mr. de la GARZA, Mr. HEFNER, Mr. SHUMWAY, Mr. SAXTON, Mr. ARMEY, Mr. HUBBARD, Mr. EDWARDS of Oklahoma, Mr. TAYLOR, Mr. QUILLEN, Mr. GRANT, and Mr. RITTER.

H.R. 4015: Mr. HOUGHTON, Mr. BUNNING, Mr. WOLF, Mr. JONTZ, Mr. CRANE, and Mr. COMBEST.

H.R. 4018: Mr. DeFAZIO and Mr. OBERSTAR.

H.R. 4035: Mr. FLORIO and Mr. WYDEN.

H.R. 4048: Mr. MAZZOLI, Mr. DOWNEY of New York, Mr. ST GERMAIN, Mr. BORSKI, Mr. FRANK, Mr. GEJDENSON, Mr. LEWIS of Georgia, Mr. FAZIO, Mr. GRAY of Pennsylvania, Mr. SHAYS, Mrs. JOHNSON of Connecticut, Mrs. BYRON, Mr. RICHARDSON, Mr. DICKS, and Mr. ROWLAND of Connecticut.

H.R. 4061: Mr. FAUNTROY, Mr. ACKERMAN, Mr. HAYES of Illinois, Mr. ECKART, Mr. LEATH of Texas, Mr. GRAY of Illinois, and Mr. FOGLIETTA.

H.R. 4074: Mr. BARNARD.

H.R. 4088: Mr. FOGLIETTA.

H.R. 4111: Mr. WHEAT, Mr. CONTE, and Mr. DeFAZIO.

H.R. 4115: Mr. SMITH of Florida, Mr. MARTINEZ, and Mr. RANGEL.

H.R. 4131: Mr. FAZIO, Mr. ACKERMAN, Mr. DeFAZIO, Mr. GONZALEZ, Mr. KLECZKA, Mr. PEPPER, and Ms. PELOSI.

H.R. 4150: Mr. DORGAN of North Dakota, Mr. TALLON, Ms. KAPTUR, Mr. WEBER, Mr. MARKEY, Mr. BOEHLERT, Mr. MAVROULES, Mr. EVANS, Mr. BRUCE, Mr. KOSTMAYER, Mr. KOLTER, Mr. ANNUNZIO, Mr. JONES of North Carolina, Mr. DYSON, Mr. LEATH of Texas, Mr. KENNEDY, Mrs. SMITH of Nebraska, Mr. McGRATH, Mr. HAMMERSCHMIDT, Mr. FLORIO, Mr. ROSE, Mr. SAWYER, Mr. JACOBS, Mr. KLECZKA, and Mr. McEWEN.

H.R. 4153: Mr. SUNDQUIST and Mr. VISCLOSKY.

H.R. 4155: Mr. SPENCE.

H.R. 4158: Mr. SYNAR, Miss SCHNEIDER, Mr. BROWN of California, Mr. HALL of Texas, Mr. BRUCE, Mr. JONTZ, Mr. SWIFT, Mr. DWYER of New Jersey, and Mr. HOCHBRUECKNER.

H.R. 4170: Mrs. BENTLEY, Mr. BOULTER, Mr. BRUCE, Mr. BUNNING, Mr. CHAPPELL, Mr. DORNAN of California, Mr. FIELDS, Mr. GRANT, Mr. HORTON, Mr. HUNTER, Mr. KONNYU, Mr. LAGOMARSINO, Mr. LIPINSKI, Mr. LUNGREN, Mr. MURTHA, Mr. ORTIZ, Mr. RANGEL, Mr. RITTER, Mr. SKELTON, Mr. SMITH of New Hampshire, Mr. SMITH of New Jersey, Mr. STUMP, Mr. SWINDALL, Mr. UPTON, Mr. WHITTAKER, and Mr. YOUNG of Florida.

H.R. 4189: Mr. GARCIA, Mr. KASTENMEIER, Mr. BIAGGI, Ms. PELOSI, Mr. JONTZ, Mr. EDWARDS of California, Mr. WEISS, Mr. MAVROULES, Mr. KONNYU, Mr. RODINO, Mr. HORTON, Mr. LAGOMARSINO, and Mr. LOWRY of Washington.

H.R. 4190: Mr. MADIGAN, Mr. HERTEL, Mr. OWENS of New York, Mr. DeFAZIO, Mr. LAGOMARSINO, Mr. PEPPER, Mr. RICHARDSON, Mr. SMITH of Florida, Mr. PORTER, Mr. DAVIS of Michigan, Mr. DWYER of New Jersey, Mr. COUGHLIN, Mrs. MORELLA, and Miss SCHNEIDER.

H.R. 4192: Mr. GARCIA, Mr. BROOKS, Mr. DORNAN of California, Mr. HAYES of Louisiana, Mr. VANDER JAGT, Mr. FRANK, Mr. RAY, Mr. ERDREICH, Mr. WOLPE, Mr. DICKS, Mr. LIVINGSTON, Mr. FOGLIETTA, Mr. KONNYU, Mr. HOCHBRUECKNER, Mr. BOEHLERT, Mr. BUSTAMANTE, Mr. LEWIS of Florida, Mr. WHITTEN, Mr. FAZIO, Mr. JONTZ, and Mr. BOULTER.

H.R. 4205: Mr. BRYANT, Mr. ATKINS, and Mr. LEWIS of Florida.

H.R. 4221: Mr. McGRATH.

H.R. 4243: Mr. LEVINE of California and Mr. CARDIN.

H.R. 4268: Mr. LEHMAN of Florida, Mr. CROCKETT, and Mr. FLAKE.

H.J. Res. 8: Mr. QUILLEN and Mrs. BENTLEY.

H.J. Res. 152: Mr. GREGG, Mrs. MORELLA, Mr. HASTERT, Mr. PANETTA, and Ms. PELOSI.

H.J. Res. 333: Mr. FAZIO, Mr. LELAND, and Ms. PELOSI.

H.J. Res. 339: Mr. GARCIA and Mr. RANGEL.

H.J. Res. 358: Mr. STARK, Mr. CAMPBELL, Mrs. BOXER, and Mr. BATES.

H.J. Res. 396: Mr. DeFAZIO, Mrs. MEYERS of Kansas, Mr. SKEEN, Mr. MFUME, Mr. DORNAN of California, Mr. RAHALL, Ms. KAPTUR, and Mr. LEVIN of Michigan.

H.J. Res. 420: Mr. ANDREWS, Mr. BERMAN, Mr. STUMP, Mr. DARDEN, Mr. PRICE of Illinois, Mr. RAVENEL, Mr. DeWINE, Mr. MARTIN of New York, Mr. MOORHEAD, Ms. KAPTUR, Mr. NATCHER, Mr. HAYES of Louisiana, Mr. KASICH, Mr. DAVIS of Illinois, Mr. FLIPPO, Mr. LANTOS, Mr. McGRATH, Mr. CHAPMAN, and Mr. CONYERS.

H.J. Res. 459: Mr. ANTHONY, Mr. JEFFORDS, Mr. HAYES of Louisiana, Mr. PICKETT, Mr. LEACH of Iowa, Mr. McGRATH, Mr. HAMILTON, Mr. LEWIS of Georgia, and Mr. TORRES.

H.J. Res. 476: Mr. MATSUI, Mr. de LUGO, Mr. HENRY, Mr. HAYES of Illinois, Mr. SMITH of New Jersey, Mr. ESPY, Mr. ANDERSON, Mr. YOUNG of Alaska, Mr. KOSTMAYER, Mr. MRAZEK, Mr. HYDE, Mr. FAUNTROY, Mr. WOLF, Mr. SCHUETTE, Mr. CHAPMAN, Mr. LAGOMARSINO, and Mr. HORTON.

H.J. Res. 483: Mr. LANCASTER, Mr. DIOGUARDI, Mr. CRAIG, Mr. BROWN of Colorado, Mr. SHUMWAY, Mr. COATS, Mr. GREGG, Mrs. SAIKI, Mr. SLAUGHTER of Virginia, and Mr. COBLE.

H.J. Res. 490: Mr. BERMAN, Mr. BIAGGI, Mr. BROWN of California, Mr. CLARKE, Mr. COELHO, Mrs. COLLINS, Mr. CONYERS, Mr. DELLUMS, Mr. DOWNEY of New York, Mr. GONZALEZ, Mr. HAYES of Illinois, Mr. KOSTMAYER, Mr. LEVIN of Michigan, Mr. LEVINE of California, Ms. PELOSI, Mr. SWIFT, Mr. WILSON, and Mr. WYDEN.

H.J. Res. 505: Mr. BORSKI, Mr. FAUNTROY, Mr. HORTON, Mr. HYDE, Mr. JEFFORDS, Mr. LEWIS of Georgia, Mr. MRAZEK, and Ms. KAPTUR.

H.J. Res. 508. Mr. FROST, Mr. MURTHA, Mr. CONYERS, Mr. BOUCHER, Mr. CARDIN, Mr. FEIGHAN, Mr. BLAZ, Mr. ROYBAL, Mr. PURSELL, Mr. WISE, Mr. LIVINGSTON, Mr. KASICH, Mr. WEBER, Mr. FRENZEL, Mrs. ROUKEMA, Mr. HAYES of Illinois, Mr. SCHUETTE, Mr. SKELTON, Mr. RAHALL, Mr. ANDERSON, Mr. BONKER, Mr. McEWEN, Mr. SISISKY, Mr. DOWDY of Mississippi, Mr. BILIRAKIS, Mr. BENNETT, Mr. HATCHER, Mr. BROWN of California, Mr. STOKES, Mr. TAYLOR, Mr. MARTIN of New York, Mr. WYLIE, Mrs. KENNELLY, Mr. HOPKINS, Mr. HEFNER, Mr. HUGHES, Mr. DICKINSON, Mr. PASHAYAN, Mr. KONNYU, Mr. CARPER, Mr. HUTTO, Mr. PEPPER, Mr. CHANDLER, Ms. SNOWE, Mr. ROGERS, Mr. COBLE, Mr. FISH, Mr. CRAIG, Mr. SCHULZE, and Mr. GREEN.

H. Con. Res. 19: Mr. RUSSO, Mr. DE LUGO, Mr. FISH, and Mr. PEPPER.

H. Con. Res. 194: Mr. GILMAN, Mr. PENNY, and Mr. ROE.

H. Con. Res. 223: Mrs. BENTLEY, Mr. BROOMFIELD, Mrs. COLLINS, Mr. EVANS, Mr. FAZIO, Mr. FLIPPO, Mr. FORD of Tennessee, Mr. GALLEGLY, Mr. HUBBARD, Mr. KOSTMAYER, Mr. LEWIS of Georgia, Mr. MFUME, Mr. PEPPER, Mr. RAHALL, Mr. SOLARZ, Mr. TALLON, and Mr. VANDER JAGT.

H. Con. Res. 232: Mr. SMITH of Florida and Mr. LOWRY of Washington.

H. Con. Res. 261: Mr. BAKER and Mr. MCCURDY.

H. Con. Res. 264: Mr. AUCOIN, Mr. FAWELL, Mr. BEVILL, Mr. FRENZEL, Mr. ACKERMAN, and Mr. SCHUETTE.

H. Con. Res. 266: Mr. GRANT, Mr. DAVIS of Michigan, Mr. LEWIS of California, Mr. BIAGGI, Mr. GREEN, Miss SCHNEIDER, Mr. FAWELL, Mr. BUSTAMANTE, Ms. KAPTUR, Mr. MADIGAN, and Mr. MFUME.

H. Res. 404: Mrs. PATTERSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1115: Ms. OAKAR.

H.J. Res. 390: Mr. BATEMAN.

H. Con. Res. 262: Mr. SHUSTER.

EXTENSIONS OF REMARKS

REPRESENTATIVE MILLER ADDRESSES EDUCATORS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. MILLER of California. Mr. Speaker, last week I had the honor of addressing the National Association of State Boards of Education and the Council of Chief State School Officers during their joint legislative conference in Washington. These two organizations have made significant strides in addressing the needs of children at-risk. I would like to take this opportunity to share my remarks at the NASBE/CCSSO meeting with my colleagues in the House of Representatives.

REMARKS OF HON. GEORGE MILLER BEFORE THE NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION AND THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS, MARCH 22, 1988

It is a pleasure to be here this morning in the company of so many committed to educating America's children. I want to thank you for your leadership in the education arena over the years, and commend you for sticking with us through so many battles over budgets and programs. We education advocates in the Congress couldn't have come nearly as far as we have without you.

Amidst all the stir about the problems with our educational system and the subsequent rush to implement education reform packages, it has been you, our state leaders, who have taken the most significant steps to improve educational opportunities for success for all students. I am grateful for your efforts in the current process to reauthorize and improve elementary and secondary education programs. I am especially pleased with the forward vision that has characterized your initiatives to assure school success for students at risk.

This morning, I would like to share with you my thoughts on the very critical juncture we have reached in public policy. Last fall, in the aftermath of the stock market crash, the White House and congressional leaders held a budget summit. As a result of the deal they struck at that summit, the budget outlook for children and their families is very grim. In fact, domestic programs that help families and children will barely keep up with current services. It does without saying that there will be precious little money to improve those programs or to help the growing numbers of children and families in need.

Who are these children and who will they be in the next two decades? Consider these facts:

In 1986, one out of every five children lives in poverty—a 35 percent increase over 1970.

Among four and five years olds, one in four is poor, one in five is at risk of becoming a teen parent, one in six lives in a family where neither parent has a job, and one in seven is at risk of dropping out of school.

Three years ago I visited two welfare hotels in New York City—the Jamaica Arms and the Hotel Martinique. I was told that the problem of homelessness was temporary. Just a few weeks ago, the Select Committee heard testimony from a mother and her teenage son who have been living at the Martinique for twenty-seven months. The fourteen year old told us that he has to take two trains and two buses to school. He leaves at 6:00 in the morning to get there at 8:30. He told us how hard it is to find private space and a quiet time to study. Tragically, he is one of the lucky ones. Many homeless children don't go to school at all.

We have also learned that homelessness is not a problem of lazy, shiftless bums: one-third of the homeless are families with children. In some cities (Providence and New York), two-thirds of the homeless are families with children.

Under these tragic circumstances, the challenges in education are growing tougher by the day.

Fewer than 75 percent of all 18 and 19 year olds have finished high school.

One-third of all high school students are one year behind grade level. Another five percent are at least two years behind.

Students held back a grade are up to four times more likely to drop out than those who are not.

Hearings on youth and violence held by the Select Committee just two weeks further documented that, by not attending to these problems, we are creating candidates who become victims and perpetrators of violence. This is the tragic legacy of the last decade.

These terrible circumstances are the result of eight years under Ronald Reagan, eight years of following policies built on myths about families and children in need, myths which the U.S. Congress bought lock, stock and barrel. The time has come to debunk the myths.

Myth No. 1: We were told at the outset of this Administration that the reason we had to cut monies was because federal dollars were crowding out the charities, the nonprofits, the foundations, the universities. That if the federal government just got out of the way, the private sector would flood this area and make the safety net hold together. The state and local government would contribute even more.

Fact No. 1: The charities and the nonprofits are doing all they can but they can't begin to match the amount of support the federal government withdrew. And they cannot keep up with the increased caseload that the federal government created. Myth #2: The government has been measuring the poor all wrong. The poor aren't really poor. If you count up all their benefits—food stamps, school lunches, subsidized housing, Medicaid—you find out that the poor are really rich.

Fact No. 2: The facts are clear. Even if you throw in food stamps and Medicaid, school lunch, WIC and maternal and child health, the poor are still poor. They are still below the poverty line and, in fact, the vast majority of them aren't up the 75th percentile among the poor.

Myth No. 3: All we have to do is get rid of the waste, fraud and abuse. We could take care of the poor if we were just more efficient, more careful about the money we're spending already.

Fact No. 3: That argument trivializes the despair and the suffering that poor families in America are experiencing today. Sure, we could make improvements in these programs but the truth is if we spent all of the money better:

80 percent of the children eligible for Head Start still would not be served.

Half of the children eligible for Chapter I would not be able to participate.

Hundreds of thousands of children still would not be able to receive Title XX services.

25 percent of poor women in this country would still deliver babies without receiving early prenatal care.

Myth No. 4: We should write off the kids who are labeled troublemakers in school and the kids who use drugs.

Fact No. 4: We simply can't afford to let these kids to slip through the cracks. With a declining youth population and a shrinking labor pool, these children represent our future. The ability of this nation to compete in world markets, the future of the American economy depends upon our responding to their needs, and responding well.

What are the consequences of our acceptance of these myths over the past eight years? In short, we have been grinding more and more folks into poverty, most of them children.

We have seen a complete reversal of the progress made over the past twenty-five years, years in which, as a result of government intervention, we moved children and families from malnutrition to properly fed, from sickness to health, from poor to getting by.

So today, in 1988, we have a choice. We can either continue to accept these myths or we can make a clean break. I believe the choice is clear.

We can't fool ourselves. We have a lot of catching up to do before we can see forward progress. Although the President's budget proposed a small increase, funding for Chapter 1 compensatory education has dropped in real terms since fiscal year 1980 by more than 13 percent. The budget resolution before the House this week includes a $383 million increase.

The Administration proposed no increase for Head Start which reaches fewer than one out of every five children eligible for the program. The budget resolution includes a $126 million increase for this critical program.

The bottom line is that leadership and investment in addressing these issues must be serious. It must be massive and made over the long-term. This task will not be politically easy and it will not be cheap.

A decade ago, we were blaming educators for many of these problems. The truth, however, is that over the past years, teachers and school administrators have been creative and taken the initiative.

Eight years ago, the federal government walked out on education. A few dedicated

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

souls, teachers committed to their students, principals committed to their communities, superintendents committed to maintaining and improving the quality of education in their cities, counties and states, kept us from falling too far into the hole. For that, we owe them a great debt.

If we fail to address these problems, we do so not only at the peril of children, but our own and that of American society as well.

CONGRATULATIONS TO THE SPEAKER FOR HIS ROLE IN CENTRAL AMERICA

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. CROCKETT. Mr. Speaker, the cease-fire agreement that was reached last week in Nicaragua confirms how richly President Oscar Arias of Costa Rica deserve the Noble Peace Prize that he won for setting the Central American peace process in motion. He and the other Central American leaders must get full credit for the cease-fire peace that they appear to have made.

But if there were a Nobel Prize for assists, you, Mr. Speaker, would receive it. The cutoff of Contra aid for which you and our other colleagues in the leadership—Mr. Foley, Mr. Coelho, and Mr. Bonior—worked so tirelessly and so effectively was, as the Washington Post headlined, "a key" to the accord. All the parties in Central America recognize that you and the House's consistent support for the peace process has been crucial to its success. Because of your leadership, all of us can be proud of our constructive role.

As you know better than anyone, Mr. Speaker, the battle for democracy in Nicaragua is only beginning. An end to the war will not create democracy, but only an essential condition for democracy. We must now return to the policy—which the Reagan administration unwisely abandoned 7 years ago, of supporting Nicaragua's democrats inside Nicaragua. That will require a great deal of skill and finessse. It will be as easy to do too much as it will be to do too little. We look forward to your continuing leadership as we confront that task.

I wish to include the Washington Post article at this point:

Aid Cutoff Cited as a Key to Accord—Managua and Contras, Achieving Truce, Concur of Role of Congress

(By Julian Preston)

Managua, Nicaragua, March 24—The decision of the U.S. Congress not to provide more military aid to the Nicaraguan contra rebels was a key factor leading to a 60-day crease-fire agreement signed last night by governmental and guerrilla leaders, negotiators for both sides said today.

"We saw that in the United States there was no political will to continue supporting the war," said Alfredo Cesar, one of the three top directors of the Nicaraguan Resistance, the contra alliance, who attended the meeting.

"We weren't going to win in that situation. So we saw an opportunity to avoid further killing, give our troops a rest and test the good faith of the Sandinista government," Cesar said in a telephone interview from San Jose, Costa Rica.

Paul Reichler, an American lawyer who was part of the leftist government's delegation, called the cutoff of military funds the "sine qua non" of the agreement. In the accord, the contras agreed only to accept "humanitarian" aid—mainly food, uniforms and medicine. That guarantee allowed Sandinista leaders to be more flexible on points concerning political freedoms in Nicaragua, Sandinista and contra representatives said.

Reichler called on the U.S. Congress to approve funds to help a commission headed by the secretary general of the Organization of American States, Joao Baena Soares, and Nicaragua's Roman Catholic leader, Cardinal Miguel Obando y Bravo. The commission is to monitor compliance.

The nine-point accord was signed after three days of discussions in Sapoa, a customs station on the Nicaraguan side of the border with Costa Rica. The cease-fire will begin formally April 1, but meanwhile a truce that both sides declared on the first day of the meetings remains in effect. Contra leaders are to travel to Managua April 6 to begin broad political talks on a definitive cease-fire.

The contras' representatives to those talks will be making a return to civilian politics in their homeland after six years of war, Cesar pointed out.

Under the pact, which calls for gradual release of all political prisoners, the Nicaraguan Resistance is to choose the first 100 to be freed—on March 27, Palm Sunday. In the first two weeks of April, contra fighters will gather in cease-fire zones to be set up in technical talks scheduled for Monday in Sapoa.

The contras also won the right to send up to eight representatives to the national dialogue between the government and the legal opposition political parties. The government agreed to reconsider, in that forum, its military draft law. After a slow start, all but a group of breakaway factions had agreed by today to resume that dialogue, which collapsed in December.

The pact also allows exiles to return freely. They, and any contras who choose to lay down their weapons can participate in elections for representatives to a Central American Parliament and elections for other national offices scheduled over the next three years.

"What I saw was two sides who came to the table with a real desire to negotiate and reach a result," said Soares of the OAS, who was an observer in the Sapoa sessions.

In speeches during the ceremony last night, both Cesar and President Daniel Ortega thanked House Speaker Jim Wright (D-Texas) for helping with the accord. The House of Representatives voted Feb. 3 not to renew military contra aid, and a March 3 vote left the contras with no assistance.

Cesar said he is "100 percent sure" that the Congress will approve some humanitarian contra aid in coming days to help the contras through the truce.

Both contras and Sandinistas also thanked Costa Rican President Oscar Arias, the main author of the seven-month-old regional peace plan that gave rise to the cease-fire negotiations. As a press conference today in San Jose, Arias said he called Ortega late last night to express his satisfaction.

"Sapoa shows you can expect miracles when there is dialogue, Arias said.

According to participants, the Sandinistas made significant concessions. They originally said they wanted to stay at Sapoa as long as necessary to reach a final cease-fire accord, negotiating all the contras political concerns before the fighting was suspended. The Sandinistas hoped to limit the political agenda that the contras could raise.

In the agreement, however, the government accepted the contras proposal for a temporary truce and open-ended negotiations to take place in Managua.

"We will discuss all the problems that started this war in the first place," said Walter Calderon, known as Comandante Tono, a contra field commander who participated in the Sapoa round. He said the contra representatives may press the government for 17 constitutional reforms that have been espoused by the opposition parties—designed to separate the military and the state from the Sandinista party.

The Sandinistas also came away from the talks with no written assurance that the contras are willing to disarm. "Our rifles are our only guarantee. No democracy, no disarmament," Calderon said, speaking by phone from Costa Rica. "This is a test for the government. We put the burden on the Sandinistas to take measures to comply with the accord. If they don't act with good will, we can end the truce. It wouldn't surprise me if they say we've agreed to begin to disarm, but that's not the reality."

"The schedule under which the contras will lay down their arms has to be negotiated," acknowledged Reichler, the Washington-based attorney. "But there is no reason to doubt that the final incorporation of the contras into the civilian political life of Nicaragua will not happen."

Leaders on both sides admitted that they now face a difficult process of explaining the unexpected agreement to their troops and followers. Hatred remains strong between Sandinista party followers and contra fighters.

But Calderon dismissed reports that the four contra commanders who sat in on the discussion disagreed with it. "We have adequate protections for the fighters we represent," he said.

"The people should be happy with what was accomplished. We tried to get as much in the proposal as we could. It's viable. It should be complied with," said conservative contra leader Adolfo Calero.

[In Guatemala City, Reuter reported, Central American foreign ministers meeting to discuss the progress of regional peace efforts hailed Nicaragua's accord. "This agreement is influencing this meeting decisively, despite the pessimists. I believe that the peace process is on the move," Guatemalan President Vinicio Cerezo told reporters after meeting the foreign ministers.]

DISPELLING THE MYTH SURROUNDING H.R. 1433, THE ANTI-LIVE ANIMAL LURE ACT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. DORNAN of California. Mr. Speaker, I have received a number of calls concerning the interpretation of my legislation, H.R. 1433, the Anti-Live Animal Lure Act. Apparently, there has been an article written arguing that this legislation would prevent the training of hunting dogs for sport. This is simply false. In fact, it couldn't be farther from the truth. This is not my intent, nor is it in my legislation.

I have not met any hunters or sportsmen who condone cruelty to animals or killing without a purpose. The Anti-Live Animal Lure Act is directed at the coursing of racing dogs using small animals as live lures. It would also ban the use of racing dogs trained with live lures.

Coursing is a cruel, barbaric practice which accomplishes nothing. There is no need for the use of live animals in training racing dogs. Dogs will chase by instinct. There is empirical evidence, based on independent tests, that dogs trained with the same mechanical devices used in actual racing conditions are as effective as the use of live lures. Such an abuse of animals has been rejected outright in other nations where dog racing is legal—Ireland, Great Britain, and Australia—nations with strongly established hunting traditions.

My bill would amend the existing Animal Welfare Act, which already states that "the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon or fox hunting" are specifically excluded. The final section of my bill includes the term coursing in this exemption. Had the author taken the time to read the legislation with the existing law at his side, he would not have arrived at this incorrect conclusion.

When I drafted the legislation, I also had the interests of the sportman in mind. The bill was drafted with only one purpose in mind: to ban the slaughter of rabbits, guinea pigs, and other small animals used for training racing dogs. Under no circumstance will it ban or infringe upon the right to train hunting dogs.

TRIBUTE TO THE RETIRED SENIOR VOLUNTEER PROGRAM

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. BARTLETT. Mr. Speaker, in our communities, there always seems to be a vast number of important services that no one has the time or money to provide. Companionship for the sick or elderly, for example, or counseling for the troubled. Thanks to programs like the Retired Senior Volunteer Program [RSVP], however, these important needs can be met. RSVP was founded in 1971, and consists of 365,000 members of at least 60 years of age from all socioeconomic levels and educational backgrounds who are willing and able to perform services on a regular basis. The RSVP program is important not only to the community, which benefits from the volunteers' invaluable time and services, but also to the volunteers themselves, who are brought more fully into community life. Last year, this valuable organization of dedicated and experienced volunteers celebrated its 15th birthday.

Over the holidays, Hank Anderson, a Dallas poet and RSVP volunteer, wrote the following poem for the RSVP to send out as a Christmas letter. I want to share this poem with my colleagues in recognition of the importance of the RSVP program.

Now comes again, this time of Holidays
When in our traditional American Ways,
We pause at this Season of the year,
To give Thanks and send Greetings of Good Cheer.
But how to begin or even start,
To thank all those, who out of the goodness of their heart,
Do all sorts of tasks from A to Z
And play such vital roles in our community.
For these are the special, the sharing, the considerate, the kind,
Their many commendable titles come to mind,
But the ones for them we hold most dear,
Is: "Our Friendly RSVP Volunteer."
Just what makes them "tick and run,"
No one knows until they've become One.
How can we say "Thanks" to those whose only pay,
Is the friends they have made along the way?
How can we just say "Thank You,"
When nothing short of "LOVE" will do?

—"HANK" ANDERSON.

A TRIBUTE TO MR. JIMMY MARTIN AND MR. ROB KOLL

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. CLINGER. Mr. Speaker, I rise today to pay tribute to two outstanding athletes, Jimmy Martin of Penn State University and Rob Koll from North Carolina. Both young men won gold medals in the 58th annual NCAA wrestling championship.

Jimmy Martin, whose lifetime record is 112–8–1, is one of the finest wrestlers in Penn State history and it is only fitting that on March 19, he defeated Brad Penrith of Iowa to take first place in the 126-pound weight class. Even though he was bothered by sore ribs, an injured neck, and a sore knee, his determination was evident and he won the gold medal.

Rob Koll is another fine example of an athlete performing at his all-time best. He hails from State College, PA, where he excelled as a top wrestler for State College High School. Now in his senior year at North Carolina University, Rob ended his career in outstanding fashion, by winning the gold medal in the 158-pound class.

Central Pennsylvania is a hotbed for both scholastic and collegiate wrestling, and on behalf of myself and all their fans, I wish both sincere congratulations.

THE FAIRNESS IN RAIL CAR PURCHASING ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. WYDEN. Mr. Speaker, today I am introducing legislation, the Fairness in Rail Car Purchasing Act, to eliminate the Interstate Commerce Commission's power to grant antitrust immunity to the railroads for the joint acquisition of rail cars. This legislation will close a serious antitrust loophole that allows the major railroads to exert monopolistic power in purchasing freight cars.

Mr. Speaker, it has recently come to my attention that Trailer Train Co., a consortium of 16 of the Nation's largest railroads, has antitrust immunity from the ICC for the purchase of railroad flat cars. I am concerned that this immunity allows the railroads to use their combined purchasing power to set the prices at which they acquire newly constructed flat cars, and to regulate entry into the flat car market.

Classic economic theory warns of the dangers of concentrated purchasing power. In the long run, such concentration will limit supply, increase prices and stifle innovation. Only free and open competition, subject to the antitrust laws, will ensure that our shippers have the flat cars they need at prices they can afford.

The railroads were first granted antitrust immunity for the purchase and pooling of flat cars in 1974, to help alleviate a serious freight car shortage. However, that freight car shortage no longer exists. What's more, while Trailer Train was originally intended to supplement the car fleets of individual railroads, it is increasingly acquiring cars in the place of purchases that would otherwise be made by the railroads.

According to a recent survey of the railroad industry, Trailer Train purchased 74 percent of the new flat cars delivered in 1987. The company now controls 65 percent of the Nation's flat car fleet and 81 percent of the intermodal fleet, and the trend in new car purchases suggests these percentage will go even higher.

These statistics suggest that Trailer Train has become a monopsonistic purchaser of flat cars—that is, a purchaser which buys such a large percentage of domestically produced flat cars that it can exert undue influence over both price and supply. Allowing the railroads to exert monopsonistic purchasing power results in an uncompetitive situation that is bad for rail car manufacturers, shippers, and consumers alike.

In light of these concerns, I believe that Trailer Train's antitrust immunity for purchasing flat cars is no longer needed or warranted. First, there appears to be no valid reason why Trailer Train cannot continue to operate a pool of flat cars for its member railroads—without antitrust immunity for purchasing cars. There are examples of other rail car pooling arrangements which operate effectively without purchasing immunity.

Second, the antitrust laws should take on increasing importance in a deregulated industry. One of the purposes of deregulation was to replace economic regulation by the Government with competition subject to the antitrust laws. Exemptions to the antitrust laws should be narrow when they exist at all. The railroads can and should compete subject to the same rules of antitrust law which apply to virtually every other business in America.

Third, the railroad's antitrust immunity for purchasing rail cars presents a serious threat to the domestic rail car manufacturing industry, which already faces hard times. In 1979, 20 domestic rail car builders had some piece of the general freight car market. Today, only six active general freight car builders—including four general flat car builders—remain.

One of those remaining manufacturers, Gunderson Inc., is located in my hometown of Portland, OR. The company is a local economic success story, employing hundreds of workers at family-wage jobs. But Gunderson is clearly concerned about its ability to survive in an industry in which one purchaser so clearly dominates the market.

In summary, Mr. Speaker, this is an issue of economic fairness. The railroads may claim they need antitrust immunity for purchasing rail cars. But that is an advantage which most other businesses—including most transportation businesses after deregulation—do not share. The airlines do not have antitrust immunity to join together to acquire airplanes. The truckers do not have antitrust immunity to buy trucks, even though they compete directly with the railroads. And the manufacturers of rail cars do not have antirust immunity to join together to acquire raw materials, to restrict their output of cars, or to fix the price at which they sell cars to the railroads.

My bill will allow the continued pooling of railroad cars, while eliminating a special, unnecessary and unwise advantage for the Nation's railroads when they purchase rail cars. That immunity for purchasing may have been appropriate in 1974, when the Nation faced a serious shortage of rail cars. But it is clearly not appropriate today.

JOE COOKSEY DIES—END OF AN ERA

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. RUSSO. Mr. Speaker, America has been made great through the hard work of countless people in communities all over the country. Today I rise to remember one such person, who lived and worked in my hometown in Chicago and who made a real difference there. Joe Cooksey, founder and publisher of the Downtown and Lake Shore News, passed away on March 1 and his loss is already deeply felt.

It was the privilege of my community to have such a caring, concerned person as Joe Cooksey. He was truly a man who exemplified the essence of Chicago. Joe unearthed the good in all men and never had a bad word for anyone. He won the respect of everyone that he knew through his gentle actions and kind words. From Joe's beginnings, he was very active in many charities, and up until his final days, was working to improve the lot of all people in Chicago.

Jim Feeley of the Downtown and Lake Shore News has written an article paying tribute to this man of rare dedication which I would like to bring to describe Joe Cooksey's rare devotion, are well suited for all of us who serve the public.

The article follows:

JOE COOKSEY DIES—END OF AN ERA

(By Jim Feeley)

The life of one of Chicago's special breed of individuals ended last week with the sudden March 1st death of The Downtown/Lake Shore News newspaper's founder Joseph M. Cooksey. He was a mild mannered man who earned the respect of everyone through his supportive nature to fellow human beings and many life long friendships in all walks of life.

Born in Sikeston, Missouri on June 9, 1910 he was one of six childen, four sisters and one brother.

His father, Guy Cooksey, was in the newspaper publishing business and son, Joe, successfully followed his footsteps learning the skills of printing, publishing, and advertising.

He married Kate Jucius on June 10, 1939 in Chicago. Their long and happy marriage produced three children: daughters Pamela (Mrs. Jerry Walczuk) and Linda (Mrs. Steve Pratico) and son Joseph Jr. who died in a 1963 auto accident.

An ambitious, self-made man, he founded "The Downtown News" newspaper in 1968. It was distributed free every week in office buildings, high rises, and other high traffic areas. The paper was soon expanded to include a "Lake Shore News" edition and later combined into one weekly publication with even greater distribution and circulation. The paper has prospered through the years serving Chicago and the lakefront communities as an advertising outlet and a source of local and community news for its many readers.

Mr. Cooksey was also noted as a devote Catholic who attended mass daily in appreciation of his life which he so enjoyed before starting his long and busy day.

Through the years this giant of a man was active in many charities that ranged from those of the Catholic Church to the Red Cross, the March of Dimes, the Lambs Farm in Libertyville, and past president of the Kiwanis Club, and a host of others too numerous to mention. His community activities included the State Street Council, the Greater Michigan Avenue Association, the Better Business Bureau and Convention Tourist Bureau which often left one to wonder how he found so much time to devote himself to others!

He was always known as a man with a soft spot in his heart for children—the smaller they were, the softer the spot. He was often overheard saying how blessed he was to have been gifted with his own children plus four grandchildren, all receiving his love, affection.

Most people slow down as they get older, but Joe Cooksey's daily schedule increased with each new day. He was active daily building the newspaper with advertising and reading content—plus his endless list of involvements. His death at age 77 was attributed to a sudden heart attack after encountering flu. * * *

Joe, our dear friend, knowing you has enriched all of our lives. A person's time is said to be their greatest asset, and we are thankful for the time you shared with us. However, your passing has now left an empty hole in our lives. Your newspaper, loving family and friends will all continue as living memorials in tribute to you. You will be dearly missed by everyone!

LINING OF THE ALL-AMERICAN AND COACHELLA CANALS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. LEVINE of California. Mr. Speaker, I would like to bring to the attention of my colleagues two editorials highlighting the importance of H.R. 3988, my legislation which would authorize the lining of portions of the all-American and Coachella Canals. This important legislation would allow southern California to save up to 100,000 acre/feet of water per year. This water is currently lost in transport from the Colorado River due to a lack of lining in the canals.

I am pleased that the San Francisco Chronicle and the Los Angeles Times recognize the significance of this legislation. H.R. 3988 is not only good for Los Angeles, but also good for all of California, because it conserves our most precious commodity—water.

I insert both editorials in the RECORD:

[From the San Francisco Chronicle, Mar. 12, 1988]

WELCOME NEWS FROM THE SOUTH

Congressman George Miller, the Martinez Democrat, and a leading expert on California water problems is a co-sponsor of some legislation sought by the Metropolitan Water District of Southern California which deserves support of all California Congressmen.

HR. 3988 would provide federal approval for the locally-financed modernization and improvement of some 68 miles of earth canals which carry waters of the Colorado River to the agricultural users of the Imperial and the Coachella Valleys in the arid deserts of Southeastern California.

The canals, which date back to the construction of Hoover (Boulder) Dam, were built in the days when water agencies believed that the water supply of the West was an inexhaustable and cheap resource. They are big sieves leaking water where it is not useful.

Under this proposal, the dirt and sand irrigation ditches would be lined to reduce this loss which is unacceptable today. The saving, says Myron Holburt, assistant general manager of the Metropolitan Water District, would be about 100,000 acre feet of water annually. This is a difficult amount to comprehend, about 33 billion gallons or enough water for all of the requirements each year for just under one million people.

The Federal Bureau of Reclamation has estimated that this huge undertaking will cost from $150 to $200 million. Under the federal legislation, the Metropolitan Water District will finance the work in exchange for the right to divert the saved water to its own Southern California residential and business customers.

To its credit, the Imperial-Coachella project has been on Metropolitan Water District's priority agenda for some time. But it has been unable to come to terms with the irrigation districts over finances and pricing of the water which will be saved. "The projects contained in this legislation reflect new ideas about meeting future water needs in California," said Carl Boronsky, Metropolitan's general manager. Metropolitan provides drinking water to 14 million residents of six of the most populous counties in Southern California. It has enormous political clout south of the Tehachapis. Saving water to the south means less pressure to export water from the north; we cheer the effort.

[From the Los Angeles Times, Mar. 1, 1988]

WHAT A WASTE

Congress has an opportunity to ease considerably the potential for future water shortages in Southern California, and at no cost to the federal government.

The Metropolitan Water District of Southern California has offered to pay the full cost of lining 68 miles of the All-American and Coachella canals in Imperial and Riverside counties in exchange for the water that would be conserved—an estimated 100,000 acre-feet a year, enough to supply the residential needs of 800,000 people. The project would be authorized by legislation introduced by Rep. Mel Levine (D-Santa Monica). Levine's bill deserves speedy passage.

The 68 miles of canals currently consist of earth ditches; much water is lost through seepage. The All-American Canal takes Colorado River water to the Imperial Irrigation District, and the Coachella branch serves the Coachella Valley Water District south and east of Palm Springs.

The idea is such a good one that it is surprising that there is any opposition. But the Imperial Irrigation District is against the project, arguing that Metropolitan's proposal constitutes "a reprehensible intrusion" into the affairs of Imperial County. The district would like to have its own canal-lining project sometime in the future and sell the conserved water for profit. But Metropolitan contends that any water saved goes to other Colorado users, and under the "Law of the River" cannot be sold elsewhere.

This is the same argument that has in part prevented Imperial and Metropolitan from reaching agreement on Metropolitan's financing of conservation facilities within Imperial in exchange for the water saved. Imperial's price is too high for Metropolitan, and is compounded by Imperial's demand for an annual cost-of-living escalator on the cost of the conservation facilities. In the canal-lining project, Metropolitan would get the water in perpetuity in exchange for the one-time outlay of $150 million to $200 million.

Congress should ignore Imperial's argument. Imperial does not own the All-American Canal. The federal government does. All California users of Colorado water have a stake in its efficient operation. Imperial should be more concerned about impending state action against the district for the failure to stop the loss of hundreds of thousands of acre-feet of precious Colorado water leaking through its inefficient distribution system—the system that Metropolitan has offered to fix.

PROTECT SURVIVING SPOUSES OF FEDERAL JUDGES

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. JEFFORDS. Mr. Speaker, in the final hours of the 99th Congress, I introduced legislation, H.R. 5734, that sought to make retroactive the survivor annuity program improvements in Public Law 99-336, the Judicial Improvements Act of 1985. Today, I am reintroducing this legislation.

By establishing a realistic floor for judicial survivors benefits, Public Law 99-336 went a long way toward providing adequate support for the surviving spouses and dependents of current members of the Federal bench and other judicial branch officers.

Unfortunately, the new law does not address the needs of widows and widowers of Federal judges who qualified before October 1, 1986. These persons must continue to live on the very limited income provided under the old system. I think that in the second session of the 100th Congress we should turn our attention to solving this remaining problem.

In order to establish a fair and equitable judicial survivors annuity system, surviving spouses of Federal judges who qualified before the fall of 1986 ought to be included as beneficiaries of equal stature to those who qualified after the arbitrary date set in Public Law 99-336.

These officials shared the same responsibilities and duties of the judges who qualify under the new law. Federal judges who served both before and after the passage of Public Law 99-336 made equal sacrifices. Many of these talented individuals passed up lucrative careers in the private sector in order to devote themselves to public service. Therefore, their surviving spouses ought to be equally compensated.

While the number of affected persons is small, the problems they face in making ends meet are often quite large. In spite of strained resources, they work hard to maintain their dignity. I do not think this should be such a struggle.

Importantly, since the reform will ostensibly affect a proportionately small number of people, my bill will provide substantial assistance to the surviving spouses of federal judges at very little cost to the public. I hope that this bill will be favorably received in the Congress. It is time that we acted to fully rectify the inequities in the judicial survivors annuity program.

The text of the bill follows:

H.R. 4309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(b) of the Judicial Improvements Act of 1985 (28 U.S.C. 376 note) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "The benefits" and inserting "(1) Except as provided in paragraph (2), the benefits"; and

(3) by adding at the end of the subsection the following:

"(2) Any individual who—

"(A) is a widow or widower of a judicial official who died before the effective date of this section; and

"(B) was eligible for an annuity under section 376 of title 28, United States Code, before such effective date,

shall receive an annuity under section 376 of such title, as amended by this section, notwithstanding contributions or deposits made in accordance with applicable law at lower rates. For purposes of this paragraph, the terms 'widow', 'widower', and 'judicial official' have the meanings given those terms in section 376(a) of title 28, United States Code.".

MAYOR WILLIAM MORRIS SAYS "FREE THE CHILDREN" OF SHELBY COUNTY, TN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. MILLER of California. Mr. Speaker, the statistics on the number of American children living in poverty are grim. In 1986, there were almost 13 million American children in poverty, an increase of nearly 3 million since 1978. And while children living in single parent families are at the greatest risk of being poor, the greatest relative increase in child poverty has been among children living in two parent families.

Despite the Federal Government's inattention to the needs of these children, it is heartening to find that State and local officials are taking strong positive steps on their behalf. Earlier this month, I had the pleasure of sharing the dais at the Children's Defense Fund's annual conference with William N. Morris, Jr., mayor of Shelby County (Memphis), TN. Mayor Morris spoke in compelling terms about child poverty in Shelby County, about its implications for the county's economic future and about "Free the Children," an exciting program developed by community leaders to address this critical issue. It is especially noteworthy that the Shelby County Board of Commissioners unanimously approved a $200 million bond issue last winter to support the program. The text of his speech follows:

MAYOR WILLIAM MORRIS: CHILDREN'S DEFENSE FUND COMMENTS

It is an extraordinary pleasure for me to be with you this morning as you begin your first full day of this conference. Those of us who understand the real issues facing this Nation and the courage needed to face them admire you for your unswerving commitment to the future of our children, and through them, to the future of our country.

Through your presence here, you are sending a clear message . . . your work will not stop until every leader feels the hurt and the pain found in the lives of millions of children living in poverty in every part of this land . . . including 65,000 children in my own city.

Today, a child born in Memphis is more likely to die in the first year of life than a child born in Jamaica or Cuba or Iran. Today, of those children who have survived the first year of life in Memphis to reach school age, three in four live in poverty.

One in three has no health insurance coverage.

One in two was born out of wedlock.

One in three lives in a family with no working parent.

One in six will become a teenage parent.

One in seven will drop out of school.

And one in three will be on welfare before adulthood.

These are the compelling facts that will determine the quality of commerce, the quality of Government, and the quality of life in 21st century Memphis. We might prefer to ignore them . . . but we do so at our own peril.

Because of the demographic trends of my city, a decision on these issues came to me early, and as I considered my options as mayor, I faced two choices, both of which were mined with risks. To take action would create a risk to a personal political future. To take no action would create a risk to the future of my community itself.

In this light, the choice for me became an easy one . . . and before this century closes, there will come a day when every local elected official in the United States will face a similar decision. And I am confident with your leadership and your muscle, they will step forward to accept the risks which put their reputations and their personal futures on the line.

To tell you the truth, it would be much simpler for me and others like me to just deal with the safe issues, like building new roads, opening new parks, hanging stop lights, answering fire calls, jailing criminals, and lowering taxes. No one would get upset, no one would circulate protest petitions, but in the long run, no one would get the leadership that is necessary.

It also would be a denial of our special article of faith as Americans. It is that we have a responsibility to each other and a responsibility to leave this country better than we found it.

We cannot ask more of ourselves. We cannot afford to ask less. If we mean what we say, our options are closed . . . we have no choice but to act. And if along the way, we lose some support, lose some friends, or lose an election, let it be because we tried to address the critical issues that will shape our country's future . . . issues affecting children of this and future generations.

That was why I laid my political future on the line to join with community leadership to create "free the children," an ambitious program which focuses on children to attack poverty in my city and county.

We focused on children because the most pressing issues of our time are those that affect the youngest among us.

We focused on children because their presence in poverty is the most disturbing failure of the American dream.

We focused on children because poverty robs them of their most basic right as citizens of this Nation . . . hope and opportunity for the future.

We focused on children because the cruel conditions of their lives teach them cruel lessons . . . that they are less human, that they are unwanted, and that they are unwelcome in their own city.

We focused on children because when we deal with them, we cut off poverty at its roots.

From where I sit, I agree with those in Washington who conclude that national security is our top priority. However, I believe that our national security will be determined in large measure by how well we protect the future of our children, not just by how well we protect our borders. If we are serious about the national security, we will get more serious about ending the poverty that holds one out of every five children in America captive.

John Kennedy said in his inaugural address that if a free society cannot help the many who are poor, it cannot save the few who are rich. The proposition before us is simple . . . but no less stark. If we cannot help the children trapped by poverty, we cannot save those children freed by affluence.

This leaves us with a fundamental choice at the local level. We can pay today to fight poverty or pay tomorrow for the consquences of the children trapped by it. But while the price today is substantial, the cost tomorrow will be staggering, taking the form of more police, more jail cells, more remedial education, more social services, higher health care costs, and more literacy programs.

And because the buck always stops in your community and mine, that is where we must begin to look for answers. That is exactly what we did.

Let me admit something to you. My call for communitywide mobilization could have been made in the noblest terms, terms such as morality, religion, or patriotism. But, I did not talk in those terms. Instead, I explained that unless we took action, the entire economy of our city will ultimately collapse under the weight of the deepening poverty of thousands of our fellow citizens. So, I asked our citizens to support this program for the most basic reason of all . . . it was in their own community and individual self-interest.

It is a simple lesson of American history. Each time we broaden our base of prosperity, giving people better chances to consume and more opportunities to purchase, we create new jobs, a better standard of living, increased earnings, more profits, and better income for us all.

To begin this process to attack poverty in Memphis, I appointed a think tank of 35 of our brightest minds and best experts to look at this issue. There were business leaders and welfare mothers, ministers and social workers, educators and labor leaders.

They all had two things in common. They had been in the trenches and knew the problems of poverty firsthand. And, most of all, they had the ability to take a totally new look at this old problem.

When they began, I made them three promises . . . one, the complete freedom to pursue any innovative approach; two, the absence of any political interference or governmental agendas; and three, the full weight and resources of my office.

To give you an idea of my commitment to a "pure" process, when the report of the think tank was mailed to 3,000 Memphians for their comments, I received mine in the mail just like every one else.

I admit to you this morning that this could have been a tremendous risk, but to produce a report of substance and credibility, it was a risk that I was willing to take, because it was the key to the commitment and the courage that the think tank brought to their work.

I was not disappointed. A year after beginning, the think tank issued 70 recommendations which formed the boldest plan ever presented to a local community.

The conclusions of our work can be summed up in 10 points.

Point 1: Poverty is more than a social issue for the cities of America. It is our most fundamental economic development issue and attacking it is in our own self-interest.

Point 2: Most cities do not have a human capital investment plan, and our abilities to prepare one will determine our future.

Point 3: The problems of poverty are interrelated and interwined, and must be addressed as a whole, including both physical environment and human resources. Only with a holistic approach can communities move past the symptoms of poverty and attack their root causes.

Point 4: There are no easy answers to poverty, no quick fixes, or magic cures. What is needed is a long-range strategic plan to focus local government/business/non-profit efforts and resources for the remainder of this century.

Point 5: A new philosophy for welfare is overdue, and its cornerstone must be development, rather than the maintenance found in the present system.

Point 6: A new approach to anti-poverty programs is essential, an approach which recognizes the family as the client and as responsible for its own future.

Point 7: The Federal Government has a significant role to play, but local communities are in the best position to attack causes, while the Federal Government is best positioned to deal with symptoms.

Point 8: Programs aimed at producing real results against poverty and dependency must aim at children.

Point 9: Schools alone cannot solve the problem of poverty. The lessons of the day cannot compete with the despair and cruelty of the night . . . and it is too easy to lay blame at the feet of teachers, who are called on to be police officers, nurses, social workers, and financial counselors.

Point 10 is the good news: Business and civic leaders care about children in poverty and are eager to help if given a meaningful role.

These are the Ten Commandments that gave substance to the birth of our "Free the Children" program.

Put simply, the difference between traditional poverty programs and our program can be summed up in the difference between two words . . . monolithic and holistic.

The present system is monolithic, forcing poor people to fit into its programs. Its criteria and its cycle of dependency.

These programs have failed. We know we are failing when teenagers in some neighborhoods almost in the shadow of the capitol dome use the phrase, "getting paid," as slang for mugging somebody.

We know we are failing when poverty has become a birthright for millions of children, and when steady work for their parents is found in a ditch or in a kitchen.

Not only are existing programs not solving the problems, they are institutionalizing a whole new set of problems for us to deal with locally. Welfare may be called a system, but in reality, instead of forming a unified network, programs are fragmented, sometimes conflicting and usually baffling.

"Free the Children" is not a new welfare program.

It is not a new housing program.

It is not a new job training program or a new health care program.

It is all of these things, merged into a single philosophy driving a single approach to a single goal . . . to lift families from chronic dependency to lasting self-sufficiency.

In other words, it turns the traditional approach on its end. It is built on an individualized approach of creating a comprehensive, tailor-made program which answers the specific needs of a family. Under our Free the Children Program. A family's needs and problems are analyzed and a specific plan of action is prepared to promote independence. All services are coordinated by a case manager through a formal contract between the family and the agencies serving it.

This contract forms the foundation of the program. It defines the new relationship between the family and social service agencies: it specifies what each family gets, but also, what each family must give; it documents each family's needs for self-sufficiency; and in turn, it is the guide for monitoring the family's progress.

In order to test the program's principles, our first year will center on 1,200 members of 200 families in a demonstration project in a target area. At the same time, on a parallel track. We will reinvent through our partners delivery systems for services like health, education and housing to make them more neighborhood-based, available and effective.

One final note: "Free the Children" is an ambitious project. As we begin, we admit on the front end that we do not know all the answers. The truth is that we do not even know all the questions.

My good friend, syndicated columnist Neal Peirce has written about the considerable challenges we have imposed upon ourselves. And in a recent speech to the annual conference of the National Civic League. He recounted the ambitious goals of our "Free the Children" Program, and he said: "As a reporter, I have to be heavily skeptical that all can be accomplished. But as an American, I have to be extraordinarily impressed that any community would even dare to set such goals and dream such dreams."

Indeed, our ultimate test is whether we can succeed where America has failed, and that is a tall order. But what can be gained if we ask less of oursleves? What can be lost if we try?

Our goal is the same as yours—to free every child gripped by poverty. And our success will be assured when the first of those lost children is given cause to hope and the resources to find his way.

This is our vision in my hometown . . . Memphis, Tennessee. We hope it is also yours for all America.

BEYOND THE SALVADORAN VOTE

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. CROCKETT. Mr. Speaker, the results of El Salvador's elections leave United States policy in shambles. Our consistent resistance to a negotiated settlement of the Salvadoran civil war, and our insistence that President Duarte pursue an economic policy that hurts his political base, have led directly to the right-wing victory in the recent elections.

As the Christian Science Monitor points out in a recent editorial, now more than ever the United States must "throw its weight behind a negotiated settlement of the war." I insert the editorial for the information of my colleagues and hope that they will all give it careful consideration.

[From the Christian Science Monitor, Mar. 23, 1988]

BEYOND THE SALVADORAN VOTE

It would be easy to misread the victory for the right in this week's legislative and mayoral elections in El Salvador.

Salvadoran voters turned out in impressive numbers despite strong efforts by left-wing guerrillas to disrupt the voting. That voters chose the rightist Arena (Nationalist Republican Alliance) over the US-backed, center-right Christian Democratic Party of President José Napoleón Duarte, however, says more about the limited choice before them than about any clear political preference. Arena, whose hopes for victory in the 1989 presidential election are now improved, should not conclude that it has been given a mandate for continued death-squad activity and repression of all political opinion to its left.

Salvadorans have become very used to two things in the '80s: civil war and elections. There have been five sets of elections since 1982; Salvadorans have noticed few changes from any of them. Hopes were particularly high in 1984, when Mr. Duarte became the first democratically elected civilian President in 50 years. He promised to end the war and repair the faltering economy, but has been unable to do either.

The war is in its eighth year. Inflation and unemployment are both in the 40 percent range. Duarte has been trying to raise taxes to support the war effort. His party has been tainted by persistent charges of corruption. Various members, including a close friend of Duarte's son, have been accused of misusing US aid and international earthquake relief funds; Duarte's response has been to shuffle those accused into other jobs rather than to confront the issue.

Through all this, El Salvador's powerful armed forces, which tolerate Duarte as a convenient channel through which US aid can flow, have remained in firm control. Many of Duarte's plans, including negotiating with the guerrillas, have been thwarted. Some of the most blatant right-wing death-squad activity has been curbed, but arrests and repression of labor and peasant leaders and others to the left of the Christian Democrats have continued.

If the growing forces of the center-left and far left had been free to organize politically, they might have drawn as much as one-fourth of the votes cast in the March 20 elections. Arena's strong showing reflects in part Salvadoran frustration with Duarte's record and the corruption many see as permeating his party.

A military solution is no more the answer in El Salvador than it is in Nicaragua. The well-armed Salvadoran guerrillas may never be able to win themselves, but they have shown for eight years that they can keep the war in a stalemate. Technically the Arias peace plan for Central America calls only for political talks with unarmed opposition; it was one point on which Nicaragua's Sandinistas and El Salvador's Christian Democrats strongly agreed. But like the contras, El Salvador's guerrillas understandably want to talk about more than a cease-fire. Some kind of political role for El Salvador's political left is necessary.

The United States, which has funneled close to $3 billion into El Salvador during the '80s, should throw its weight behind a negotiated settlement of the war. If holding back on US aid would help convince the Salvadoran military of that need, Washington should consider doing so.

SUBCONFERENCE ON PLANT CLOSINGS

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. BARTLETT. Mr. Speaker, yesterday afternoon a small group of House and Senate conferees may have sealed the fate of the trade bill. The subconference on plant closings met yesterday, for the first and last time, and adopted a package of amendments which make this section of the bill even more onerous than the original Senate provisions. While many reports in the morning papers characterized the provisions adopted yesterday as "watered down," it is important to note that no fundamental changes were made, and some of the amendments adopted will further exacerbate the negative impact advance notice requirements will have on American business. The trade bill which is being crafted by 17 subconferences this week is designed to reduce our trade deficit, encourage international trade, and provide a competitive edge for American business. The plant closings provisions, if enacted into law, will have the opposite effect, and would mitigate any positive results which might be achieved by trade-related provisions in the bill.

Our trade deficit would increase, if we enact the plant closings provisions in the trade bill, because they encourage American business to move offshore.

International trade would be affected because the job climate in America would become stagnant, as it has in Europe, as a result of advance notice laws. Thousands of jobs would be lost, and no new jobs would be created.

That competitive edge which American efficiency and know-how has created for so long would be lost because employers would no longer be able to adjust rapidly to changing market conditions. Instead of reacting quickly to the demands of the marketplace by changing product lines and restructuring existing facilities, businesses would be caught up in a bureaucratic nightmare of notice requirements, penalty payments, and court challenges.

Fortunately, the administration recognizes the devastating impact of the plant closings provisions, and advised the conferees that if the trade bill reaches the President's desk with plant closings intact, the trade bill will be vetoed.

Because everyone who has an interest in passing a trade bill this year should be aware of the administration's position, I ask that the letter be printed in the RECORD at this point:

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, March 24, 1988.

Hon. STEVE BARTLETT,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BARTLETT: During consideration of the Omnibus Trade bill, the Senate adopted provisions that would require businesses to provide advance notice of closings and layoffs.

The Administration strongly opposes these provisions now contained in the Trade bill or any language that imposes such mandatory requirements. Inclusion of such language would make it impossible for the President's senior advisers to recommend approval of a trade bill.

The objections we have stated in previous letters remain and cannot be satisfactorily corrected in any mandatory Plant Closing and Layoff language. In short, mandatory Plant Closing and Layoff notice provisions would: Cause the loss of jobs, not save jobs; bring management decisions to a stand-still; even the discontinuation of a product line or an internal reorganization would be subject to question and legal challenge; and make U.S. companies less competitive and less able to adapt to changing economic conditions.

Much has been made of the fact that the authors of the original Plant Closing and Layoff notice bill had eliminated many of the more onerous parts of that legislation and that what is contained in the Senate Trade bill is nothing more than a "modest" proposal. This is a major misconception because any mandatory Federal requirement of this kind imposed upon private companies carries with it serious costs and anti-competitive ramifications—whether the mandatory notice for a closing or a layoff is 60 days, 90 days or 6 months.

Mandatory requirements would foreclose businesses from pursuing alternatives to closing because as soon as the required advance notice is given, potential sources of support, such as creditors and customers, will withdraw. Proponents suggest that the bill provides exemptions for businesses that would be harmed by advance notice. However, those exemptions would be ineffective because they, like many of the bill's notice provisions, contain vague and uncertain standards which invite litigation and pose a significant risk of liability to employers who attempt to rely on them.

Painful as they are, layoffs and plant closures are an economic fact of life. We should be focusing our efforts on ways to help make worker readjustment more effective. That can only be accomplished with the cooperation and partnership of businesses. Such voluntary cooperation to seek assistance from government entities could be jeopardized by such mandatory rules that carry with them stiff penalties.

Any mandatory Plant Closing and Layoff provisions are as protectionist as a tariff or a quota. They are misguided attempts to hold onto the past at the expense of preparing our workers and our businesses for the future. Make no mistake, these provisions will be used to prevent necessary economic adjustments, which may include layoffs, plant closings, reorganizations, discontinuation of obsolete products, and similar business decisions—not to facilitate readjustment.

The Administration's Worker Readjustment Assistance Program (WRAP) provides the best and most responsible way to promote adjustment and ensure an effective early intervention system. This program would encourage employers to voluntarily provide advance notice whenever possible. The danger of trying to legislate a blanket national rule requiring such notice is clear. It cannot be done without doing great harm to our workers' future, our ability to compete and the further rejuvenation of our economy, which has created over 15 million jobs over the last six years.

Much has also been said about the "success" of the Canadian notice program. The real basis for the success of Canada's program is the cooperation of business, labor and provincial governments in voluntary committees, not advance notice requirements. It should be noted that under Canadian law, federal jurisdiction in labor matters is limited. Canada has a federal law requiring advance notice that applies to only about 6 percent of the workforce, primarily certain industries which are specifically subject to federal jurisdiction, such as banking, and those businesses which contract directly with the Canadian government. All other employers are subject to provincial jurisdiction. Several provinces do require advance notice, and others do not. The Canadian adjustment program was singled out among all foreign programs by the Labor Department's Task Force on Economic Adjustment and Worker Relocation, not because of mandatory advance notice requirements (which are far more prevalent in Europe), but because of its unique voluntary labor-management committee approach.

The State of Massachusetts also operates an effective readjustment program which is based on voluntary rather than mandatory notice.

Requiring private business—grocery stores, restaurant chains, small manufacturing operations—to provide a notice is not without serious costs—costs that affect any business' ability to compete. According to a study on additional benefits legislation by Robert R. Nathan Associates, Inc., the estimated cost of this legislation is between $1.0 to $2.0 billion per year.

The Administration is working with the Congress to draft responsible trade legislation that resolves the serious concerns we have identified in the present bills. However, if the final product retains provisions which will be counterproductive to our objectives of enhancing the competitiveness of U.S. business and expanding global trade opportunities, the President's senior advisers will not be able to recommend that he sign the bill.

We urge all conferees to the trade bill to call for the deletion of any mandatory Plant Closing and Layoff notice requirements. Inclusion of Plant Closing and Layoff language would run counter to the goals of the trade bill and will cause us to recommend Presidential disapproval.

Sincerely,

ANN MCLAUGHLIN,
Secretary of Labor.
JAMES A. BAKER III,
Secretary of the Treasury.
C. WILLIAM VERITY,
Secretary of Commerce.
JAMES C. MILLER III,
Director, Office of Management and Budget.
CLAYTON YEUTTER,
U.S. Trade Representative.
JAMES ABDNOR,
Administrator, Small Business Administration.

A TRIBUTE TO DAVID FEHLMAN

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. CLINGER. Mr. Speaker, I rise today to pay tribute to David Fehlman, an outstanding young man and athlete from Youngsville, Warren County, a small town in the northwest section of my district. David is the winner of the Class AA 119-pound Pennsylvania Interscholastic Athletic Association State wrestling championship, held March 19 at the Hershey Park Arena.

In a very exciting and tense match, David battled Bob Simpson, of Warrior Run, PA, for an 11 to 9 victory. Few gave David much chance of winning and many predicated his opponent to be an easy winner in the 119-pound division. Though not considered to be among the top contenders, David beat the odds and became the first wrestling champ from Warren County.

With great pleasure, I congratulate David Fehlman on his outstanding achievement. As a senior, soon to graduate from Youngsville High School, the victory caps David's outstanding career. It is a career that will long be remembered by his family, friends, and community.

THE MEDICAL TESTING IMPROVEMENT ACT OF 1988

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. WYDEN. Mr. Speaker, in the past 6 months, Congress has heard one horror story after another about the devastating effects of poor quality lab work. We have learned that grading systems currently used to assess the quality of lab tests virtually assure that 95 percent of all labs pass. Despite those favorable odds, labs consistently fail to perform routine tests adequately.

Today, I am introducing what I believe is long-overdue legislation to vastly expand regulation of clinical laboratories. My bill will require all laboratories to be licensed and inspected each year and to participate in quarterly proficiency testing to assess their performance. Furthermore, it will make results of that testing public and require the Secretary of Health and Human Services to maintain a staff to provide training and technical assistance to labs around the country.

Why is a Federal approach necessary? We've learned that State regulation is often little more than a paper process. Thirteen States don't regulate independent labs at all. Thirty-six States do not regulate physician office labs. Many States only regulate a handful of tests.

Finally, we've learned that the Federal regulatory system has shut down in the last 7 years. In 1981, the Health Care Financing Administration cut its budget for inspectors by 30 percent. In 1986, the Centers for Disease Control eliminated its proficiency testing lab. On March 4, 1988, HCFA had three fulltime equivalents working on laboratory regulation.

Mr. Speaker, my bill offers three straightforward approaches to shore up laboratory testing: annual inspections, mandatory licensing and mandatory proficiency testing for all labs, including those in doctors' offices. Furthermore, my legislation requires that proficiency testing use state-of-the-art targets to assess labs' performance. It requires the Secretary of Health and Human Services to maintain a staff to provide training and technical assistance to labs that request such assistance or that consistently fail to perform adequately. And, it provides grants to States to help pay for costs incurred to license and inspect labs each year.

Mr. Speaker, I do think it is important to recognize that there are significant differences in the regulations needed to assure quality in large commercial laboratories and in small physicians' office labs. I am working with professional organizations to develop distinct standards for assuring quality in physician office labs. These standards will recognize the differences in types of testing, technology and personnel necessary for the majority of the lab work done in smaller physician office labs.

Mr. Speaker, Americans spend over $100 billion on medical testing each year. Consumers depend on Federal and State regulation to safeguard the quality of that testing. Congress needs to act quickly so that medical testing quality can be improved.

I am honored to have the leaders of the Energy and Commerce Committee, Chairman DINGELL, Health and Environment Subcommittee Chairman WAXMAN and the ranking minority member of the subcommittee, Mr. MADIGAN, join me in sponsoring this legislation. I urge our other House colleagues to join us also.

H.R. 4325

A bill to amend the authority under the Public Health Service Act for the regulation of clinical laboratories to require licensed laboratories to qualify under proficiency testing programs and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Medical Testing Improvements Act of 1988".

(b) REFERENCE.—Whenever in section 2 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. REGULATION OF CLINICAL LABORATORIES.

(a) SCOPE.—

(1) Section 353(a) (42 U.S.C. 263a(a)) is amended by striking out the dash after "section" and inserting in lieu thereof a comma, by striking out "(1)", by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period, by striking out paragraph (2), and by running in the text of paragraph (1) after "section,".

(2) Section 353(b)(1) (42 U.S.C. 263a(b)(1)) is amended by striking out "in interstate commerce, directly or indirectly,".

(3) Subsection (i) of section 353 (42 U.S.C. 263a) is repealed.

(b) ANNUAL INSPECTIONS.—The second sentence of section 353(d)(1) (42 U.S.C. 263a(d)(1)) is amended by inserting after "and services," the following: "shall require an annual inspection to assure compliance with such standards, and".

(c) PROFICIENCY TESTING PROGRAMS.—

(1) Section 353(d)(1) (42 U.S.C. 263a(d)(1)) is amended by striking out clause (iv) and inserting in lieu thereof the following:

"(iv) qualification under a quarterly proficiency testing program established by the Secretary.

The proficiency testing program established by the Secretary shall require that a laboratory be tested quarterly for each category of test which it is authorized to perform under its license. A laboratory shall not be considered to have qualified under the proficiency testing program unless it is determined under the program to have performed the tests in each category correctly. A laboratory shall not be determined to have performed a test correctly unless the results of the laboratory under such test fall within the predetermined criteria for acceptable performance for the methodologies in use which shall be established for such test by the National Bureau of Standards, in consultation with such agencies as the Secretary may designate. The Secretary shall make available under section 552 of title 5, United States Code, the results of the proficiency testing program. The Secretary shall maintain a technical and staff capacity to provide training and technical assistance to laboratories requesting such service and to laboratories which do not qualify under the proficiency testing program.".

(2) Section 353(j) (42 U.S.C. 263a(j)) is amended by adding at the end the following: "The proficiency testing program established by the Secretary under subsection (d) may include authority to have the testing performed by a private entity only if the entity meets minimum standards established by the Centers for Disease Control. The Secretary shall maintain the capacity to conduct such testing.".

(d) LICENSE TERM.—Section 353(d)(2) (42 U.S.C. 263a(d)(2)) is amended by striking out "three years" and inserting in lieu thereof "one year".

(e) FEES.—Section 353(d)(3) (42 U.S.C. 263a(d)(3)) is amended by striking out all after "licenses" and inserting in lieu thereof a period.

(f) ASSISTANCE TO STATES.—Section 353(1) (42 U.S.C. 263a(1)) is amended by adding at the end the following: "The Secretary shall make grants to such a State to assist the State in implementing such laws.".

(g) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall take effect January 1, 1990.

(2) The amendment made by subsection (a)(3) shall take effect January 1, 1992.

THE MEDICAL TESTING IMPROVEMENT ACT, CONGRESSMAN RON WYDEN, BILL SUMMARY, MARCH 30, 1988

SUMMARY

The Medical Testing Improvement Act of 1988 expands the scope of the Clinical Laboratory Improvement Act of 1967 (CLIA) to include all laboratories. It requires laboratories regulated by CLIA to be licensed, undergo annual inspection and participate in quarterly proficiency testing.

It requires the Centers for Disease Control to establish and maintain a proficiency testing program and it requires the Secretary of HHS to maintain a technical staff to assist laboratories in maintaining good quality operations.

The bill authorizes grants to states for implementing the requirements of the legislation and establishes two effective dates—1/1/90 for hospital, independent and intrastate labs and 1/1/92 for physicians' office labs.

Section 1. Short Title

Designates the title as the Medical Testing Improvement Act of 1988.

Section 2. Regulation of Clinical Laboratories

(a) Scope

This subsection expands the scope of the Clinical Laboratory Improvement Act of 1967 to cover all laboratories.

The subsection requires all laboratories, including those located in physicians' offices, to meet the minimum standards for laboratory operation spelled out in CLIA: maintenance of trained personnel, participation in mandatory proficiency testing, and maintenance of adequate records, equipment, facilities and a quality control program.

(b) Annual Inspections

This subsection requires labs to undergo annual inspections.

(c) Proficiency Testing Programs

(1) This subparagraph clarifies the level of lab performance required and the type of proficiency testing considered acceptable under CLIA.

The subparagraph requires all labs to undergo quarterly proficiency testing in each category of testing for which a lab holds a license. If a laboratory fails to get proficiency test results that fall within a pre-determined range of acceptability established by the National Bureau of Standards and the Secretary's designee, the lab will lose its license for testing in that category. The laboratory will be able to renew its license after successfully completing proficiency testing in that category.

This subparagraph requires that the Secretary provide training and technical assistance to labs. It also gives the public access to information about labs' performance in the proficiency testing program under the Freedom of Information Act.

(2) This subparagraph allows labs to participate in private proficiency testing programs that the Secretary determines meet minimum standards for assessing lab performance. It requires CDC to maintain the capacity to do proficiency testing.

(d) License Term

This subsection makes CLIA licenses valid for one year, rather than three years.

(e) Fees

This subsection strikes the $125 annual limitation on user fees currently in CLIA.

(f) Assistance to States

This subsection authorizes grants to states to assist in implementing the new requirements of CLIA.

(g) Effective Date

This subsection requires the Secretary to institute the changes in regulation of hospital, independent and intrastate labs effective January 1, 1990 and changes for physician office labs effective January 1, 1992.

Questions or comments about the Medical Testing Improvement Act of 1988 can be directed to Meredith Manning at 202-225-4811.

A NEW MOSCOW, BUT NOT THAT NEW

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. HOYER. Mr. Speaker, I would like to commend to my colleagues an op-ed article in the New York Times of March 26 by Mr. Robert Bernstein and Ms. Jeri Laber, chairman and executive director, respectively, of Helsinki Watch. They were part of a 10-country delegation from the International Helsinki Federation who earlier this year spent 1 week in Moscow at the invitation of Soviet officials. In my opinion, Mr. Speaker, their reflections strike a needed balance between the official

Soviet human rights statements and actual practice toward human rights activists.

In these times of change in the Soviet Union, I hope my colleagues will note the positive, as well as the negative, trends as we continue to assess the human rights situation there.

The article follows:

A New Moscow, But Not That New

(By Robert L. Bernstein and Jeri Laber)

Often during a recent visit to Moscow we found ourselves looking around in wonder. For years, we had been denied visas and castigated in the press for criticisms of human rights practices. Now we were privileged guests, invited by the Government to discuss our concerns.

Our delegation, representing the International Helsinki Federation for Human Rights, consisted of 21 human rights activists from 10 Western countries. We spent one astonishing week in Moscow meeting face to face for the first time with many of the authorities who bear ultimate responsibility for the human rights abuses we have consistently deplored.

We saw the Minister of Justice, the Deputy Ministers of Internal and Foreign Affairs, the chairman of the State Council for Religious Affairs and the director of the Serbsky Psychiatric Institute, to name a few. We raised hard questions about political prisoners, psychiatric abuse, religious persecution, emigration and other pressing rights problems. Their answers, always cordial, were circumspect and at times evasive. Despite many changes under General Secretary Mikhail S. Gorbachev, much remains the same.

We were surprised at first by the candor with which officials admitted past mistakes and spoke of the need for time for restructuring. "We lived through a period of stagnation," Leonid G. Sizev, the First Deputy Minister of the Interior, told us, referring to the Brezhnev era. "We can't solve all our problems at one time."

Our hosts spoke of major legal changes in the offing—100 articles of the criminal code and 1,200 other regulations and laws are reportedly being revised, including articles that have made it possible to sentence outspoken citizens to years in labor camps and exile. Just how those laws are being changed, however, remains an unanswered question; nor did we receive assurances that the gap between the letter of the law and illegal practices would be closed.

We felt uneasy about the officials we met: Most were around in the Brezhnev days, speaking a very different line. There is a disturbing uniformity in their present posture as well. "We really have our hands full," we were told, in exactly those words, several times. "Cooperation, not confrontation" was a phrase that cropped up in many meetings. We sensed we were given a new party line—a more promising one, indeed, but a party line nonetheless.

We met with private citizens—members of independent citizens' groups and ordinary people who sought us out to tell us about their problems, some coming from cities far from Moscow with the hope of meeting us. We were astounded by the number of new, independent groups that have sprung up; officials acknowledge the existence of some 30,000 of them. We were greatly impressed by a new sense of freedom in the behavior of those we met.

Yet the risks soon became apparent. One private meeting was interrupted by phoned threats from the police; another, also in a private home, was raided by police officers who checked the documents of everyone present, including the Western observers, and briefly detained a few young participants.

There was a moment of high drama when three former political prisoners, members of an unofficial human rights organization, the Press Club Glasnost, accompanied us to a seminar run by the new, officially sanctioned Public Commission on Human Rights. Officials at first refused to allow the three to be seated at the conference table but, under the glare of Soviet and Western television lights, backed down. Lev Timofeyev, head of the Press Club Glasnost, addressed the seminar and presented the chairman with a list of political prisoners.

The Government has taken the initiative in reaching out to foreign groups like ours and engaging in open human rights discussions. But at least 360 political prisoners are known to remain in camps or in exile, and the Government's tolerance toward human rights monitoring in general is very limited.

If the Kremlin is intent on improving its human rights image, it should demonstrate its good faith not merely by inviting foreign groups to discuss its human rights problems but by listening to its own citizens as well.

THE CONSTITUTION: RATIFICATION AND IMPLEMENTATION

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mrs. BOGGS. Mr. Speaker, the Department of the Army has one of the finest programs to commemorate the 200th anniversary of the U.S. Constitution and the Federal Government. Under the leadership of our former colleague, Secretary Jack Marsh, a diverse program has been implemented that ranges from special events, to educational activities and publications, to ceremonies.

Last week, Dr. Joan Challinor of the Smithsonian's National Museum of American History addressed the Army's quarterly meeting of its Bicentennial Coordinating Group. She chose as her topic the unfinished agenda of the 1787 Federal Convention that was the subject of debate during the ratification process. This debate led to the recommendation by the First Congress of the first amendments to the Constitution, known as the Bill of Rights. Dr. Challinor discussed the role of civic responsibility and virtue in the ongoing process of understanding the Constitution.

I would like to share her discussion with my colleagues and I include the text in the RECORD:

Not Finished Yet

(By Dr. Joan Challinor)

On September 17, 1987, we celebrated with much style and verve the signing of the U.S. Constitution. A number of historical observances, many of the most memorable sponsored by Secretary Marsh, led up to September 17th, and for many people the bicentennial celebration ended on that date.

This state of affairs, ending the observance of the Bicentennial of the Constitution on the date of its signing, is to my mind a grave error. On September 17th, 1787, we had a document ready to be presented to the people of the United States, but this document merely outlined a new form of government—the words carried no force of law, no new government functioned, not a single department had been put into operation. The Constitution was only a theoretical blueprint. When the Constitutional Convention adjourned, the delegates had spoken, but not the people.

The importance of the subsequent ratification process (during which the people's voice was heard) cannot be overstated. It produced the longest and most searching political discussions in the history of this country, or perhaps of any country, and we can learn much today by studying the arguments on both sides, being careful not to slight those who opposed the Constitution.

The Anti-Federalists were not mere naysayers, they were not men whose cowardice led them to prefer state government to strong central government. They had valid reasons for their preferences. If we choose to characterize them as "men of little faith," then we must also fault President Reagan because during the recent governors conference he stated, "The best government of, by and for the people is not national government but state government."

Why is the Anti-Federalist position so important in 1988? Because their arguments reveal a deep concern about the morals of Americans. For instance, the Anti-Federalists believed that citizens learned respect for the law by serving on a jury, and they feared that a federal court system would weaken this most important jury system. Further, they thought that only through constant interaction with their state governments could people act as responsible citizens. They feared that in a large republic, representatives unfamiliar with and unresponsive to the people they served would cause citizens to lose touch with their government, and once having lost touch, civic virtue would be lost. It is difficult for us at this distance to imagine how central to both Federalist and Anti-Federalist thinking was the matter of civic virtue.

Let us define Republican civic virtue in the words of Montesqueiu and as the Founders understood it: "The virtue required in a republican government is the love of laws and of our country. It requires constant preference of public to private interest and to inspire this love should be the end of all education." One reason that we often fall short in civic virtue is that we fail to touch the well-springs of our founding. Our founding is that from which we draw our strength—if we do not periodically return to study our beginnings to see what was done right, we are likely to lose heart and to let slip that civic virtue without which no republic can survive.

For all the Founders, civic virtue was the great desideratum, but the Anti-Federalists genuinely believed that a small republic was the only way to achieve this goal. They have been proven wrong, but by reviewing their arguments and seeing how many of their fears are still reasonable today, we not only increase our respect for opposition, but we enrich our comprehension of and appreciation for arguments advanced on behalf of the Constitution.

Further, without the demands of the Anti-Federalists, we would not have a Bill of Rights. They refused to vote for ratification in several key states until they received assurances that, like so many of the State Constitutions, there would be a national Bill of Rights. If we end our Bicentennial observance in 1987, what importance do we place on the Bill of Rights?

In addition to studying the ratification debates today, we should also study in great detail the construction of our new government. In 1789, after ratification of the Constitution, we had a document which outlined a new form of government, but that new government had not been set in motion; much was left unclear, unsaid, and unwritten. The first Congress was charged with putting flesh on bare bones.

By the fall of 1789, the House of Representatives had elaborated the structure of the federal government, creating the foundations on which the execution of national authority rested thereafter. The first governmental agencies and departments were formed. Congress also devised an economic policy designed to raise revenue and to establish its role in external trade relations.

We take the foregoing for granted, yet the smooth establishment of our government is something to marvel at. Consider the history of the French Revolution and it collapse into terror, anarchy, and wholesale bloodletting. We would do well to ask ourselves, "What allowed us to begin anew, to commence the engine of government almost as if the self-starter had already been invented?" The answer to this question should be very instructive to us today, when we are faced with many grave governmental problems.

Yes, the Constitution was a work of genius, but it took men or organizational skills and an enormous amount of civic virtue to make it function. If we praise only the 55 delegates who met in Philadephia, we slight others who worked so hard on behalf of our Constitution: the men who struggled to get the document ratified; the members of the First Congress who began the machinery of government; the first Supreme Court Justices who, unlike our Justices today, rode a very arduous circuit; and the heads of the first executive departments, who administered the agencies without the help of any precedents. These men deserve our attention and our thanks as well. Many countries have written constitutions which were conceptually sound but which failed in their implementation. The French Revolution highlights this point, as well as the history of many other countries which were inspired by the peaceful creation of America's government. We did not fail in the implementation of our Constitution—we did it right.

Let us now ask: What is the most important reason for us to observe the Bicentennial of the entire Constitutional process and not stop with the celebration of its framing? I offer this answer: because civic virtue, that attribute so beloved by both Federalists and Anti-Federalists, is enhanced, enlarged and brought to the fore by studying all parts of our founding. Civic virtue is always in short supply. If we end our bicentennial observance in 1987, the people who participated in the ratification process will be overlooked, the geniuses who constructed a new government out of a blueprint will be forgotten. In both of these lost aspects of our founding, we find examples of civic virtue which can inspire us today.

It is a fact that ony 50% of our citizens vote in general elections today, a figure below that of many third world countries. I have often thought that Americans' lack of historical knowledge may be partly responsible for this low electoral participation. Why should we expect more from our citizens when so many of them cannot place George Washington in the correct century, or the Civil War in its proper time, or identify giants such as James Madison, John Jay, and others? How many citizens know the whole story of our founding? If citizens have no sense of history and continuity, they have no sense of being part of their country; their vote then becomes a present act without roots in the past. The bonds between them and their country become loosened, a most serious state of affairs.

We need to feel more firmly bound to the country we inhabit—civic virtue cannot flower in vague and uninformed feelings. It can grow only when we know *all* about our country's founding: how the Constitution was written and ratified and how our government was created. Only then can the knowledge of and love for our country fully inform our decisions today and only then can we expect full citizen participation. No republic can exist with half-educated citizens. I am reminded of Benjamin Franklin's answer when asked what kind of a government the Convention had created: "A republic," Franklin replied, "if you can keep it." In order to "keep it," we must learn the entire story of our founding and make sure during this four-year bicentennial era (not bicentennial year) that we pay due homage to our founders and increase the sine qua non of a republican government: civic virtue. The stakes are, I think, high enough for all of us to work hard to achieve this goal.

We should be careful when we celebrate our historical observances because we are making both implicit and explicit statements. The explicit statement is, of course, that we celebrate the event, but the implicit statement is that the observance is an act of affirmation. We ally ourselves with what was done two hundred years ago; in a sense we assent to what others did for us—framed the Constitution, ratified it, and created the governmental machinery to set the Constitution into motion. In short, we take part in our founding.

It is important for us to participate, no matter how symbolically, in our founding. The community needs to recognize its common faith, and these observances can furnish an opportunity for U.S. citizens, of every race, religion, and ancestry, to know themselves as singularly "American," and to experience a direct relationship to America's founders and their actions. Most Americans' ancestors did not take part in our founding because they came to the United States long after the Constitution was written. We are, after all, a nation of immigrants, and we must look other than to family history for "the ties that bind." Therefore, assenting to what was done for us is particularly important. Our observances should help mold us into a unified nation.

My last point is, I hope, appropriate in this setting—it is a call to arms. No other country in the world lives under a 200-year old written Constitution; no political document has been more admired. It is durable yet resilient, energetic yet restrained. We hope, in these troubled times, that its observance, its full observance, will be celebrated in a manner which will give a sense of "continuity with generations gone before," a sense of reliance upon the present value of the document, and faith that our Constitution will be flexible enough for the future. We must do it right in 1988 under the leadership of Secretary Marsh; the next chance to do it better, should we miss the mark, will not come again until 2088.

CABLE SUBSCRIBERS PROTECTION ACT OF 1988

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. BRYANT. Mr. Speaker, the state of the cable television industry is under intense scrutiny by my colleagues in Congress. For some time I have been a vocal opponent of some of the ways in which the cable industry has used its monopoly power to control 45 million cable subscriber's access to over-the-air broadcasts.

Today, in order to rectify this situation, I am pleased to announce that I am introducing the Cable Subscribers Protection Act of 1988. This legislation is urgently needed to assure our Nation's cable viewers access to all the local, over-the-air broadcast signals which have been licensed by the Federal Government to serve these subscribers as well as folks who only have access to direct broadcast signals.

Due to several court decisions and to negligence on the part of the Federal Communications Commission, America's cable subscribers no longer have the basic protection of a reasonable "must carry" rule, to assure them access to all local broadcast signals. Since it is unlikely that cable subscribers in any market will soon have the choice of two or more cable operators, it is necessary to protect consumers from the potential abuse of the monopoly power of the cable operator.

The legislation I am introducing today will formally link cable's compulsory license with local station "must carry" rules. As my colleagues well know, the compulsory license enables cable to take and transmit—without permission and without compensation—the signals of any television station it chooses. The cable operator may then sell the retransmission of these local broadcast signals to cable service subscribers, along with other program packages.

The cable compulsory license is an extraordinary privilege constituting an enormous subsidy to the cable industry—all courtesy of the U.S. Government. In my view, cable does not have a first amendment claim to the compulsory license.

Therefore, the legislation I propose will amend both the Communications Act and the Copyright Act so that only cable systems abiding by reasonable "must carry" requirements would be eligible for the compulsory license for local signals.

Cable operators who are not willing to treat local stations fairly by carrying them on their systems will not be required to do so, but these operators will also not be able to utilize the compulsory license to carry any local station over-the-air broadcasts.

The "must carry" requirement a cable operator has to meet is simply the most recent set of rules adopted by the FCC—those which were based on the compromise achieved by cable and broadcast industry negotiators, but overruled by the courts.

In addition, my proposal will end the practice of channel shifting which many cable operators have used to put local stations at a disadvantage with respect to pay for service programming. Local stations will have a preferential voice in cable channel positioning.

One final note—the legislation I propose today will condition compulsory license for carriage on local signals only. I have intentionally excluded distant signals for the simple reason that the time to eliminate compulsory license coverage of distant signals has come.

As many of my colleagues know, the FCC's "must carry" rules were struck down in July 1985. Those rules, which had existed for more than 20 years, merely guaranteed that cable subscribers had access to their local television broadcast stations.

While it seems to me that this FCC welcomed the court decision on "must carry", Congress put relentless pressure on the Commission to draw up new rules. In fact, some industry representatives suggest that legislation I introduced in 1985 moved the various industry participants to achieve a compromise solution, which the FCC adopted in 1986.

From my perspective, it was unfortunate in the extreme that several large cable companies ignored the compromise which was agreed to by their association representatives and challenged the new rules in court. Again, the court found that the revised rules violated the first amendment rights of cable operators.

We are once again in a position where cable operators control the fate of many local broadcasters—especailly public and independent stations. We cannot allow this situation to continue.

It serves no purpose here to criticize the court decisions, although I view them as granting first amendment rights to monopoly public utilities. It also is not my intent to cast aspersions on the FCC for using an unsustainable rationale for the last version of the carriage rules.

What I want to do is fix this situation once and for all—before it gets worse and in a manner in which neither the courts nor the FCC can overrule a solution which is clearly in the public interest.

It is not my intent to debate the need for carriage rules—that has been done at great length already. I simply want to reemphasize my continued concern for the fate of local broadcasters and consumers in an arena now totally controlled by cable operators who directly compete with the over-the-air broadcaster for their share of the audience.

While I am one of free television's most vocal critics when it comes to issues like children's programming, I still strongly believe in the promise and responsibility of local broadcasters to serve their communities. Local broadcasts—both radio and television—are the most democratic of all means of mass communications. These broadcast stations provide every American—in every community—with vast amounts of information and entertainment programming every day at absolutely no charge.

Local over-the-air broadcast is truly a universal service available to virtually everyone with very little regard for income and no regard for social status.

Cable service—even if it does provide some very worthwhile additional programming—clearly is not a universal service. With average prices in the range of $20 per month, millions of lower income Americans do not now—and will not in the foreseeable future—have access to cable television.

Therefore, it is very important that free TV continue to be a dynamic communications force in this country. Since over 45 million Americans today depend on cable for their television reception, we as communications policymakers simply cannot allow the local cable operator—who controls this reception pipeline—to determine which local free TV stations reach those subscribers and which stations do not.

Cable now reaches 50 percent of all U.S. homes. It is obvious that few local stations which do not have cable channel positions will long survive. The demise of local stations because they are not carried on cable would constitute a loss not only to cable subscribers, but to the over-the-air television audience for whom local stations are their only source of television news, information and entertainment.

While cable systems once happily carried every local station this situation has changed as cable has emerged as a direct competitor of broadcast television. Today, a typical cable system has sales people on the street selling advertising time on cable programs directly opposite local station programming.

Competition, as a rule, is beneficial to consumers. Competition which is beneficial must also be fair, because, in the competition which pits over-the-air television stations against cable operators, it is not cable subscribers alone who are impacted by an operator's programming decisions, but nonsubscribers as well.

When cable systems may drop local stations—be they public, network affiliates, or independent stations—in order to increase the audience share for paid cable services, then something must be done to protect the public interest and the consumers—for whom we are the ultimate guardians.

The legislation I am introducing will rectify the current untenable situation. I welcome my colleagues' support for this proposal.

GUYANA'S PROPOSED SOLUTION TO PROBLEM OF SOLID WASTE DISPOSAL

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. YATRON. Mr. Speaker, the Subcommittee on Human Rights and International Oganizations, which I chair, has primary responsibility over international environmental issues. Solid waste disposal is increasingly becoming a major international environmental problem, as illustrated by the 1987 "Caribbean cruise" of the ill-fated barge which could not find a country willing to accept its refuse.

I want to make available to my colleagues an article by Jacqueline Samuda, research associate with the Council on Hemispheric Affairs, which appeared in the Council's February 3, 1988, biweekly publication, "Washington Report on the Hemisphere." The article discusses the issues surrounding the Government of Guyana's plans to establish an industrial waste processing center on its territory.

I believe the article is most interesting and poses some important questions relating to the growing problem of solid waste disposal.

WILL HOYTE BACK OFF PROPOSAL TO PROCESS U.S. WASTE?

(By Jacqueline Samuda)

Guyana's Prime Minister Desmond Hoyte is being credited in international circles for having turned around the country's economy and galvanizing foreign interest in the country as a safe haven for foreign investment. Locally, however, Hoyte's ruling People's National Congress (PNC) party is being hotly criticized for its involvement in plans for building a processing plant in Guyana to recycle toxic chemical industrial waste coming from the United States.

The governmental Guyana Natural Resource Agency (GNRA), along with two Californian investment companies, Pott Industries Corporation Inc. and Teixeira Farms International Inc. formed the Guyana Resource Corporation (GRC) on Oct. 20, 1987. The government had hoped to combat the high cost as well as inadequate and often erratic supply of electrical power with the formation of GRC. The new business concern would collect and ship unwanted U.S. industrial by-products to Guyana, where the industrial waste would be burnt in kilns to generate electricity which would be sold to the Guyana Electrical Corporation (GEC) at low prices. At the cheaper rate, output could be increased at the state-owned power facility, better meeting the country's current electrical needs, and allowing for an expansion of manufacturing capacity as a result of the surplus energy that would become available.

The opposition Working People Alliance (WPA) leader and its lone parliamentary member, Eusi Kwayana, raised concerns about the environmental implications of Hoyte's waste recycling plans last November. Primarily because of the efforts of the Patriotic Coalition for Democracy, a five-party opposition grouping, which counts the WPA among its members, Hoyte now appears to be backing away from the project which, along with the country's present serious water pollution problem, has become a high-profile scandal in Georgetown. On Jan. 22, a Guyana embassy official stated that while initially the government was convinced that the waste recycling plant met environment safety standards, it was now "rethinking its position."

The controversy started when Deputy Prime Minister of Planning Haslin Parris attempted to deny that the PNC had signed any agreements to dispose of foreign industrial waste or a company had been formed to that end. Later it was revealed that the PNC had indeed signed the accord and a waste disposal company had been registered. Since then both Parris and Hoyte have attempted to push the project, which had been previously rejected by the Central American country of Belize, as a boon for Guyana. Government officials contended that by establishing safe state-of-the-art facilities, the country would be provided with a "window of opportunity" and pain a technological lead of five to 10 years in the field, particularly because the technology of five major and over 70 minor U.S. recycling facilities would be surpassed.

Admitting that heavy U.S. environmental pressures on the domestic disposal industry had forced them to venture into the Caribbean, the American investors in December responded to charges that Guyana was being used as a dumping ground for hazardous industrial waste by stating that the recycling of overseas by-products would involve "no permanent storage, no land-filling and, therefore, no dumping." Those associated with the project insisted that the rules governing the plant were as rigid as those laid down by the Environmental Protection Agency for U.S. operations and no hazardous material—such as radioactive liquids, biological warfare substances or insecticides—would be permitted to enter the country.

But Pat Costner, coordinator of the National Toxics Campaign at the environmental organization Greenpeace, has noted that if the government's plan to build incinerators is carried through, "no doubt there will be an impact of the environment and public health." Used lubricating oils and paint solvents would be burned as fuel in high temperature kilns. Lubricating oils, Costner said, contain high levels of toxic metals which are not destroyed in incineration, and ash and smoke laden with toxic metals would eventually settle on populated areas.

EXPANSION OF THE JOHN MUIR HISTORIC SITE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. MILLER of California. Mr. Speaker, I am introducing legislation today to expand the existing John Muir Historic Site located in Martinez, CA. The bill would authorize the National Park Service to acquire some 325 acres of wooded lands adjacent to the present site.

John Muir, America's pre eminent conservationist of the 19th century, used to walk to the top of the property in the evenings with his daughters, undoubtedly to enjoy the spectacular views and watch the wildlife. This area is important because it provides insights into John Muir himself. As you roam the property, you are taken back in time to John Muir's day and you understand why this man was so committed to preserving and conserving our natural resources.

Adding these lands to the present site not only preserves a piece of John Muir and therefore has historic significance in and of itself. It has an important educational component as well. Just being able to experience this land as it once was helps us all—but perhaps most especially young people—better understand our own heritage and roots.

It is fitting that Congress should take up this legislation this year—the 150th anniversary of John Muir's birthday. I note that the Senate has already passed a resolution commemorating April 21, 1988, as the 150th anniversary of Muir's birthday. I have introduced the same resolution which I hope the House will enact soon. But, even more important would be the enactment of legislation adding this property—this piece of John Muir's legacy—to the historic site.

There is strong local support for this acquisition. The Contra Costa Board of Supervisors has endorsed it. Local citizens in the area support it. The East Bay Regional Park District supports it and, in fact, is prepared to enter into an agreement with the National Park Service to maintain the trails. The city of Martinez is prepared to deed about 3 acres of land to the Park Service to serve as overflow parking and picnicking. There is, therefore, not only local support but there is already a substantial local commitment to expanding the site.

I urge the Congress to move quickly to enact this legislation and provide the Park Service with the necessary authority to proceed with acquisition. It would be an appropriate and timely present for John Muir's birthday and for this Nation.

H.R. 4315

A bill to provide for the inclusion of certain lands within the John Muir National Historic Site

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY CHANGE FOR JOHN MUIR NATIONAL HISTORIC SITE.

(a) MAP; LAND ACQUISITION.—The Secretary of the Interior is authorized to acquire (by donation, purchase with donated or appropriated funds, or exchange) lands and interests in land within the area generally depicted on the map entitled "Boundary Map, John Muir National Historic Site" numbered ——— and dated ———. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Lands and interests in lands, within the boundaries of such area which are owned by the State of California or any political subdivision thereof, may be acquired only by donation or exchange.

(b) INCLUSION WITHIN HISTORIC SITE.—The lands and interests in lands within the boundaries of an area depicted on the map referred to in subsection (a) shall be administered as part of the John Muir National Historic Site established by the Act of August 31, 1964 (78 Stat. 753; 16 U.S.C. 461 note).

(c) AUTHORIZATION OF APPROPRIATIONS.—For purposes of acquiring the lands and interests in lands within the area depicted on the map referred to in subsection (a), there are authorized to be appropriated such such sums as may be necessary.

(d) COOPERATIVE AGREEMENT.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized to enter into a cooperative agreement with the East Bay Regional Park District of Oakland, California, for the operation and maintenance by such District of trails on lands within the John Muir National Historic Site.

BIOTECH INDUSTRY FACES STAGGERING BACKLOG AT THE U.S. PATENT OFFICE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. WYDEN. Mr. Speaker, the U.S. biotechnology industry is fast becoming one of the emerging giants of our high-tech business, with $650 million in total domestic sales predicted this year, and a forecast of sales reaching $13 billion annually over the next decade. This is a new technology which already is playing a vital role in the development of lifesaving drugs and medical procedures, and which will soon touch many other facets of our everyday lives.

But as the Subcommittee on Regulation and Business Opportunities, which I chair, heard yesterday, a primary bridge toward the development of those products—the U.S. Patent and Trademark Office—is turning into a bureaucratic roadblock. Applications for biotech patents, many of them from small companies that need fast action to maintain product and corporate development, have languished for years waiting for approval, stuck in a regulatory never-never land.

The numbers, Mr. Speaker, are truly staggering. Rene Tegtmeyer, a deputy commissioner of the Patent Office, reports that some 11,500 cases are pending final action. It will take 5 to 6 years just to plow through those applications, and meanwhile the office reports that new cases will increase at a rate of 12 percent per year, well into the 1990's.

My subcommittee staff found that it takes 27 months just to open a biotech application file, and reach a first action, and another 25 months, on the average, to finally award—or deny—a patent. This 52-month period compares none-too-favorably with the 19.4-month pendency average, overall, the office expects to acheive for all patent applications this year.

And in some key biotech examining units, supervisors say they are losing experienced examiners more quickly than they can be replaced—perhaps the most disquieting disclosure of all.

You may ask, Mr. Speaker, what kind of real-world problems are implicit in the disorganization of a bureaucratic backwater? Witnesses told our committee that the slow and inaccurate processing of these applications has discouraged investment in the industry, has benefited bigger companies to the detriment of smaller concerns, and has encouraged transfer of U.S.-developed technology to foreign countries, eroding our national competitiveness in a crucially important field.

I'd like to share with you some of their comments:

Linda Miller, a financial analyst with Paine Webber, noted that this black hole in the Patent Office was cited as the most discouraging factor in biotech investment, after concerns about competition, in 93 percent of the four dozen corporate prospectuses she has reviewed.

Ms. Miller added that this was one of the factors driving smaller U.S. biotech firms to seek financing overseas, at the price of giving up some of their technology rights. U.S. investors are less willing to face the risks reflected in the biotech applications logjam.

Harold C. Wegner, a former Patent Office examiner and now a respected patent attorney in private practice, said part of the patent work done by this agency was "junk," and referred to the process as the "Monte Hall, let's make a deal" school of patent prosecution. Mr. Wegner complained that amendments to claims encourged by the Office through massive continuations force multiple refilings of old applications. Inefficiencies are compounded, and the quality of issued patents declines.

Dr. Phillip Carter of North Carolina State University and Dr. William Hostetler of Oregon State University, both patent and licensing experts, said the current system tends to reward large companies which have the lawyers, the cash and the time to wait out the lengthy pendency periods inherent in broad, umbrella-like applications encouraged by the office. Smaller companies and universities are disadvantaged in the extreme.

Mr. Speaker, there are several hundred U.S. biotech companies trying to operate in a worldwide market where literally every day counts in their effort to create new technologies and products. Their U.S. patent is virtually the life-blood of the enterprise. Frankly, I have very serious questions about our U.S. Patent Office's ability to meet their needs; and it begins at the beginning. Subcommittee staff provided a spine-chilling description of the agency's mail and distribution rooms: applications for patents—some with checks still attached, some of them many months old—stacked to overflowing in shopping carts and waiting for distribution to examiners.

Patent Office officials, who seem to be attacking 21st-century problems with quill-pen remedies, told the subcommittee they expect to make substantive progress on solutions by 1992 or 1994. That's too late. Congress has an obligation to see that this agency is properly funded to complete its mission. But I hope that the subcommittee's work in this area also serves notice that this body will continue to scrutinize management and policy at the U.S. Patent and Trademark Office, especially as it affects this vital new industry.

CIVIL RIGHTS RESTORATION ACT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. MAZZOLI. Mr. Speaker, I joined the majority of my colleagues in voting to override the President's veto and approve S. 557, the civil rights restoration bill.

I respect the views of the President and the many people and organizations who contacted me to express their concerns about this bill. However, S. 557 makes a clear point with which I fully agree: Congress, in its various civil rights enactments, intended that discrimination on the basis of sex, race, age, or handicap is to be broadly outlawed in all federally funded programs. S. 557 reverses a 1984 Supreme Court decision in Grove City versus Bell, which applies antidiscrimination language quite narrowly.

The addition to S. 557 of language allowing universities and hospitals, which receive Federal funds, to refuse to pay for or perform abortions was crucial to achieve my support and the support of many of my colleagues.

Mr. Speaker, at this point I would like to insert a response by the sponsors of this legislation to the many thoughtful and sensitive concerns raised by some of my constituents who contacted me on this important vote.

COVERAGE OF RELIGIOUS ORGANIZATIONS

Question: Are all the operations of churches, synagogues or other religious institutions covered by the civil rights laws if one of their facilities receives federal financial assistance?

Answer: No. A limited purpose grant, (e.g. for refugee assistance) to a church would not be considered assistance to the church as a whole. Nor would a Catholic diocese be covered in its entirety where, for example, three geographically separate parishes receive federal financial assistance. Only the three parishes which receive federal financial assistance would be covered by the anti-discrimination statutes. The U.S. Catholic Conference has indicated its satisfaction with the bill's provision regarding coverage of church institutions as have the other churches as listed on the last page of this document.

HOMOSEXUALS

Question: Does this bill require a recipient of Federal funds to provide a homosexual the protections provided women by Title IX or the protections as provided under any of the other statutes amended by this bill?

Answer: Neither Title IX nor any of the other statutes amended by S. 557 has ever been interpreted by the courts to provide protection on the basis of sexual preference; none of the regulations have ever so provided; and nothing in the bill creates any such protection. Homosexual groups recognize this lack of protection in seeking new legislation specifically prohibiting discrimination on the basis of a person's sexual preference.

Question: Does this bill create rights for homosexuals under section 504 of the Rehabilitation Act of 1973?

Answer: No. This bill does not preclude an entity from discriminating against an individual solely on the basis of the fact that the individual is homosexual. Thus, if an entity's religious practices require it to take disciplinary action against any individual who is homosexual and it takes such action solely because of that person's homosexuality, nothing in section 504 would offer protection to such an individual.

ALCOHOLICS AND DRUG ADDICTS

Question: Does this bill require an employer to hire or retain in employment all alcoholics and drug addicts?

Answer: No. A person who is a current alcoholic or drug addict can be excluded or fired from a particular job if it is determined that he or she poses a direct threat to the health or safety of others or cannot perform the essential functions of the job and no reasonable accommodation can remove the safety threat or enable the person to perform the essential functions of the job.

Question: Does this bill change the current underlying substantive law of section 504 of the Rehabilitation Act of 1973 in any way?

Answer: No. Since 1973, section 504 of the Rehabilitation Act (the civil rights statute for handicapped persons) has been interpreted to enable employers to refuse to hire or fire alcoholics and drug addicts under these circumstances. To allay the fears of some employers about the nature of their responsibilities to such persons, this policy was expressly inserted into the statute in 1978 (see section 7(8)(B) of the Rehabilitation Act).

Question: Has this current substantive law created untenable positions for recipients regarding the hiring or retention of alcoholics and drug addicts?

Answer: No. The 1978 amendments allayed the fears of employers. They now understand that they don't have to hire or retain all alcoholics and drug addicts. Courts have upheld the right of employers to fire employees who cannot perform or who pose health and safety risks.

Question: Do the standards governing the exclusion of alcoholics and drug addicts in the employment context apply in other situations, such as exclusion from participation in a program receiving federal assistance?

Answer: Yes. As in the employment context, a person must, with reasonable accommodation, meet the essential qualifications for participation.

PERSONS WITH CONTAGIOUS DISEASES

Question: Does this bill require an employer to hire or retain in employment all persons with contagious diseases?

Answer: No. An employer is free to refuse to hire or fire any employee who poses a direct threat to the health or safety of others or who cannot perform the essential functions of the job if no reasonable accommodation can remove the threat to the safety of others or enable the person to perform the essential functions of the job. This determination must be made on an individualized basis and be based on facts and sound medical judgment.

Question: What guidelines exist for determining what is meant by a "reasonable accommodation?"

Answer: Federal agencies such as the Centers for Disease Control, the Department of Labor, and professional organizations such as the American Academy of Pediatrics and the American Hospital Association have issued guidelines for ensuring safety in the workplace. These guidelines can be relied on for determining reasonable accommodations.

Question: Does this bill change this situation in any way?

Answer: No. This has been the law of the land since 1973, when Congress passed section 504 of the Rehabilitation Act. The circumstances under which a person with a contagious disease can be excluded was recently reaffirmed by the Supreme Court in the *Arline* decision. The bill includes language which is consistent with this decision. The language in the bill is modeled after the language added to the Rehabilitation Act in 1978 with respect to alcoholics and drug addicts.

Question: Who supported the inclusion of this language in the bill?

Answer: On the Senate side, it passed without dissent as a Harkin/Humphrey Amendment. On the House side it was not only included in the bill that passed the House; but the exact same language was also included in the Sensenbrenner Substitute, which was endorsed by the Administration through a letter from Secretary Bennett.

Question: What standards apply in non-employment contexts such as schools?

Answer: The same standards.

Question: Will the fact that section 504 covers contagious diseases mean that recipients will not be able to take normal good faith public health precautions to prevent the spread of contagious diseases?

Answer: No. Public health measures designed to prevent the spread of infectious diseases or infections such as AIDS would not be undermined by covering persons with contagious diseases or infections under section 504. In fact the American Public Health Association has argued that "promotion of public health is aided not impeded, by an individualized determination of whether a person with a communicable condition is qualified to work." In addition, to the APHS, the American Medical Association and the American Nurses Association support the inclusion of contagious diseases under section 504.

Question: Has the Administrative Board of the Catholic Conference taken a position on discrimination against persons with AIDS?

Answer: Yes. In a publication entitled, "The Many Faces of AIDS—A Gospel Response" the Administrative Board of the U.S. Catholic Conference (November 1987) stated: "Discrimination directed against persons with AIDS is unjust and immoral." The Administrative Board also stated: "Because there is presently no positive or sound medical justification for the indiscriminate quarantining of persons infected with AIDS, we oppose the enactment of quarantine legislation or other laws that are not supported by medical data or informed by the expertise of those in the health-care or public health professions."

Finally, as we have stated repeatedly, S. 557 addresses only the scope of coverage under Title VI, Title IX, section 504, and the Age Discrimination Act of recipients of federal financial assistance. The bill does not change in any way who is a "recipient" of federal financial assistance; what is defined as "federal financial assistance"; nor does the bill alter in any way the substantive definition of what constitutes discrimination under these statutes nor the protections they have afforded for the last 15 years.

It is important to note that the major Catholic, Protestant, and Jewish organizations are supporting the Restoration Act. Supporters include:

U.S. Catholic Conference of Bishops.
National Council of Churches.
American Jewish Congress.
American Baptist Churches.
Evangelical Lutheran Church of America.
Union of American Hebrew Congregations.
Anti-Defamation League of B'nai B'rith.
American Jewish Committee.
Church of the Brethren.
Presbyterian Church USA.
Church Women United.
Network-National Catholic.
Justice Lobby.
United Methodist Church.
Episcopal Church.

MR. MICHEL'S REMARKS AT HOUSTON CONFERENCE

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. CHENEY. Mr. Speaker, on March 26–28, House Republicans gathered in Houston for a conference to discuss Republican policies for the future. On the evening of March 26, we met in a large hangar containing a mockup of the *Challenger* shuttle. In that impressive setting, our leader, BOB MICHEL, delivered an inspiring speech that set the tone for the entire conference. Mr. Speaker, I enter his remarks in the RECORD and urge my colleagues to give them careful consideration.

CHANGE, POLITICS AND THE FUTURE—A CHALLENGE TO REPUBLICANS

(By House Republican Leader Bob Michel)

One year ago we met in Federal Hall in New York City to honor the spirit of the American past. Tonight we meet in Houston to plot the course of the American future.

This meeting, of course, has more than mere social significance to us.

Nothing better concentrates the mind of someone in Congress than the knowledge that he or she is to face re-election in a few months.

So it is our goal in Houston to come away from here refreshed with a better understanding of who we are and how we face the challenges of the fall and the months and years that follow.

I can think of no more fitting site for our meeting than this hangar in NASA.

These space shuttle models remind us that we came here because Houston is an outpost of tomorrow. In Houston, a community vibrant with the promise of the American future, our imagination must be willing to take risks, to take flight, to soar, and, as a great writer once said, to "survey the surging immensity of life."

I'd like to take a few minutes this evening, as we begin our session, to talk about the future, especially in its special political sense.

The first thing that must be said is that, in the words of one skeptic, "There are two classes of people who tell what is going to happen in the future—those who don't know, and those who don't know they don't know."

In the 1920's, a famous American journalist visited Lenin's Soviet Union. When he came back, he was asked what he saw. And he said:

"I have been over into the future, and it works."

He was wrong on both counts.

That story warns us against the all-too-human weakness of believing that what we want to see happen is synonymous with what actually occurs.

So let's remember we have come here not to predict, but to learn; not to prophesy, but to understand; not to see the future, but to open our minds and maybe even our hearts to it.

Which brings to mind a more basic question—just what is the future?

Contrary to what Little Orphan Annie sings, tomorrow is not "just a day away". Not, at least, in politics. Those of us in politics just can't see that far.

In politics, "tomorrow" is an indefinite period of time extending just beyond the farthest point we can see at the moment. That is what makes politics so fascinating and so tricky and sometimes so terminal.

The only thing those of us in politics can do to prepare for the future is to be aware of and to provide leadership for change. We can't predict the future—but we can deal with change.

The first thing we have to understand is that every change in politics is first preceded by a change in values, technology and basic concepts.

The drug culture eating away at the very heart of our society is proof that a radical change in values can have devastating social and political consequences.

From the Bronze Age to the Iron age, from the hunting society to the agriculture society, from the Age of Steel to the Age of Information, technological change has always been a harbinger of political change.

Our country—one might say humanity itself—is in the midst of profound transition. The organization of human affairs is being altered, horizons of understanding vastly widened, control of nature extended, perceptions of reality transformed.

Yet both political parties seem helpless to guide this transformation; they cannot even articulate its nature to an anxiety-prone electorate.

Let me give you just a few specific examples of the disorienting, dynamic era of change in which we live:

Johns Hopkins University has developed something called a neural-network computer which, left alone overnight, can teach itself the language skills of a 6-year-old.

A symphony orchestra played a concert in Japan, in which a large steel and plastic robot performed as guest organist. The robot, which sight-reads music, played Bach, using its feet on the pedals as well as its ten fingers on the keys.

Experts at Carnegie-Mellon University predict that within 20 years, robots will possess the same awareness of their own existence of human beings, have as much intelligence or more, and exercise our kind of common sense—which may or may not be seen as progress!

Last year, a woman in Africa had implanted inside her womb the fertilized ova of her own daughter. Thus, when she gave birth to the child (in this case, it happened to be triplets), she became a mother and a grandmother at the same time.

But as important as these changes are, it is conceptual change that, in my view, is the driving force behind political change.

A recent headline in the New York Times, about the Armenian unrest in the Soviet Union said:

"For Gorbachev, a Major Test of Change".

The "glasnost" concept has changed expectations, and the recent disturbance resulted.

The American Revolution didn't begin with the "shot heard 'round the world", but in a gradual change in the perception of the relationship between Great Britain and her colonies.

The Nazi death camps and the Communist Gulag didn't begin when the first strand of barbed wire was laid down—they began with the totalitarian claim to have the right of absolute domination, a basic change in concepts of government.

The Congress of Tomorrow is already being shaped by the changing concepts of today.

So the first thing we have to do is find out where conceptual change is taking place and then seek to guide it in politically constructive ways.

Take the very basic concept of "family".

This is indeed a family gathering. We're so glad to have so many of our children here with us because our "future" will be their "present", and they will be the ones to suffer or be blessed by decisions we make now.

But the concept of family is changing rapidly.

Twenty years ago it meant a Norman Rockwell painting: Dad at work, Mom at home baking a cake, little Mary Jane with her doll and Junior playing with the family puppy.

These days, Mom is at her job as a truck driver, Dad is in the kitchen learning to work the microwave, little Mary Jane is in college on a basketball scholarship and

Junior, a punk-rocker, is undergoing sensitivity training.

And that's only in those traditional families that have a Mom, a Dad and kids in one place.

Working mothers, yuppies, single-parent households, 1960's-type communes, nuclear families—can anyone say with certainty today where the concept begins or ends?

From child care centers to welfare reform, from creating jobs to building better education, from the problems of the homeless to the need for affordable health care, so much of what we do has to reflect the new realities of family life and the increasing importance of family stability to the American future.

I might pause here to remind you that the Democrats have rediscovered the concept of "family" and are doing everything they can to convince voters they care.

They have even brought in experts to tell them how to get maximum political mileage out of concern over children.

Aside from noting the exploitative nature of such an undertaking, I can only point out that since 1984, the Democrats first tried raising taxes—and that didn't work.

They next tried protectionism—and Dick Gephardt's candidacy is so far down they'll need a Caterpillar bulldozer to uncover it. So that didn't work.

And now they're trying to gain votes through family and children.

All I can say is that if the Democrats do for kids what they've done for the House of Representatives, our kids will have no schedule, no direction and no hope for the future, because they'll never pass anything.

That is why we are here. We can do better.

That is why we uprooted ourselves from Washington, in the middle of an election year, in the middle of a legislative session to spend this time in Houston, Texas.

We can do better for America.

But we face the cold, empty reality that we are in a minority and have been for one half of my entire life.

We must be more. We must be a majority, for our good, yes, but more to the point, for the public good.

Attaining majority status demands that we work harder, be more creative, more aggressive, more daring and more innovative.

We must reach for the stars.

We must free ourselves from the clutches of motions to recommit, concurrent resolutions, and previous questions. We must discipline ourselves to think beyond day-to-day responsibilities, which may be the essence of our role as legislators, but are often irrelevant to our role as leaders, policymakers, and more importantly, representatives of the people.

To me, a majority is not just to legislate. It is to lead. It is to act, but it is also to think, and to learn. To stay in touch with people in Houston or Peoria. To see what they see and feel what they feel. To experience change and master it. That is not legislating, but it is leadership.

We have to master a level of politics with which we are unfamiliar—the level of the unspoken anxieties, hopes and fears of the people.

President Reagan's greatest gift, in my view, is his instinctive understanding of these fundamental forces. What a gift this man has for intuitively understanding public moods and anxieties, responding to them, and directing them!

There is nothing more important—or more rare—in politics than the courage to go beneath the surface, to leave the comfortable platitudes of political and social discourse and to risk going deep, diving down to find out what people are really feeling, not just what they are saying.

Let me give one Congressman's view of what lies at the heart of the deeply-rooted hopes and fears of the American people today.

I believe there is a universal and almost desperate longing for a sense of community in America today, a feeling that individuals are not isolated, that we are indeed a nation of communities, not just a mass of rootless individuals, a "lonely crowd."

In an era of rapid change, Americans don't want to be left behind, they don't want to be left on the side-lines. They want to direct change with their family and neighbors by values they cherish.

And the only way that can happen is if Americans defend shared values in various communities in the face of enormous pressure from those who want to aggrandize the government's role in our lives.

Don't misunderstand me—I am not saying that government has no role in this nation of communities.

To the contrary—we Republicans have to rid ourselves of the cliches and platitudes of yesteryear and realize that most Americans don't believe government is the enemy—most Americans believe bad government is the enemy.

Government can work to enhance, defend and cooperate with communities all across America. Republicans should make this our battle-cry.

You won't find the word "community" on the ballot in November—but you can bet that the idea will be with us in November and for the rest of this century and beyond. The party that defines that basic concept will transform our nation.

As I said, this is one Congressman's idea. You may have a different one. But I thought I'd give you an example of what I mean by "hidden hopes and fears".

Let me say I realize there is a certain irony in what you are seeing at this moment.

Here we have World War II veteran Bob Michel, whose first childhood political activity was to support Alf Landon in 1936, who came to the House in the age of Eisenhower, standing in front of a space shuttle, a symbol of tomorrow and tomorrow and tomorrow.

But it is precisely because I've been around for so long that I know the vital importance of our party being in front of change, not behind it, of understanding the fears and hopes of Americans before, not after, they've shaped political reality.

And so, in a way, tonight, standing where I am, I represent the party's heritage, because I go back many more years than, I guess, almost anyone here.

But I am glad to stand here in front of the symbol of the future, because that is where our party has to be.

We have to remember our party's proud heritage, but at the same time move out to grasp the future, to change it, to shape it, to listen to the hopes and fears hidden in the hearts of the people and to transform what they so deeply feel into public policy.

I came across a sentence the other day that says to me a great deal about what our attitude should be during our meeting. It said:

"The future enters into us, in order to transform itself in us, long before it happens."

I like that idea, the idea of the future actually coming into our hearts and minds before it happens, waiting for us to make it come alive.

That is why we are here—to let the future come into us, to live with it for a few brief hours—and then, fresh and inspired with what we have learned, to move forward to become the majority in the Congress of Tomorrow.

Let me conclude by referring to something that everyone by now has seen.

I refer to the logo, the photograph of the planet Earth, which is the official symbol of our meeting.

We chose that particular picture for two reasons.

The first is a purely aesthetic one. When the first photos of our planet began to appear after the first space flights, we were stunned by the tranquil, blue and green and brown and white loveliness of Mother Earth. Who would have thought she would look so lovely from so far?

The sheer beauty of the Earth's serenity, as if seen from God's own vantage point, without a hint of the troubles and the sorrow of the human condition—it is always a joy to see it. What better symbol could we have for our purpose here?

But there is another reason we have chosen this view of the Earth.

It is to remind us that we are able to enjoy this view because of the courage, ingenuity and persistence of Americans who long ago let the future enter their hearts and transformed it.

The photo was taken by Astronaut Gene Cernan during Apollo XVII's return mission from the moon in 1972.

We have former astronauts with us and we also have astronauts of tomorrow.

I'd like to ask all of these American heros to rise so we can show our appreciation and admiration.

It is a wonderful paradox that by going into outer space, we learned not only about space, but about our home, the Earth.

By the same token, by going into inner space for these few days, we will learn not only about ourselves but about our nation and its future.

If we Republicans can let that future into our hearts in Houston, we can, I am certain, become leaders in the Congress of Tomorrow!

And, now, on with the ceremony!

JEWISH HERITAGE WEEK

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. SCHEUER. Mr. Speaker, today Senator MOYNIHAN and I are introducing a joint resolution designating the week of April 17 through April 24, 1988, as Jewish Heritage Week.

Jewish Heritage Week presents a unique opportunity to foster renewed appreciation and recognition of the culture, traditions, and history of the Jewish people and the contributions of the Jewish community to our country and society.

The months of March, April, and May contain events of major significance in the Jewish calendar such as Passover, the anniversary of the Warsaw Ghetto Uprising, Solidarity Sunday for Soviet Jewry, and Jerusalem Day.

April 21, 1988, will mark the 40th anniversary of the founding of the State of Israel and commence celebrations to commemorate this occasion.

An understanding of the culture of all American ethnic groups contributes to both unity and tolerance in the United States.

In previous years, hundreds of thousands of schoolchildren and adults of all faiths and races joined in the meaningful educational programs and celebrations. These cooperative ventures are the hallmark of Jewish Heritage Week.

I urge my colleagues to cosponsor this resolution.

TAKEOVERS IN TRADE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. FLORIO. Mr. Speaker, as the subconferences on the trade bill proceed with resolving their differences, there is agreement that our Nation's economic resources are at risk in the foreign takeover battle.

Those resources at risk are companies whose independence and continued viability are integral to the national security of the United States. To protect those companies whose products are essential to the Nation because of their importance to national security and without which the United States would be placed in a compromised position, I have sponsored an amendment to the trade bill currently in conference between the House and the Senate.

This amendment would give the President the authority to determine if a takeover of a company in the United States by a foreign company poses a threat to the national security. Additionally, this provision would give the authority to act upon the determination that a foreign takeover of a domestic company could damage the security of the United States.

This provision is a crucial component of the trade bill in dealing with the much larger problems of foreign trade. As the trade imbalance continues to grow and foreign investment plays an increasing role in our national economic fabric, it is necessary to ensure that the fabric of this Nation is not torn apart.

The national security provision dealing with foreign takeovers will help maintain stability in our Nation's resources and ensure that our national needs will be kept safe and secure from disruption. Additionally, the provision will ensure that the economy is not disrupted by the over-reaching acquisition of domestic industries from abroad. Should a foreign acquisition of a critical company pose a risk to the country, that acquisition could be forestalled. The provision would, consequently, not impede trade, but would preserve the viability of the most critical components of our economy.

The fact of foreign investment easily becomes a specter when the production of essential materials for our Nation's security is disrupted by a foreign acquisition.

For example, last year, Fairchild Semiconductor Corp. was the target of a takeover attempt by a foreign company. The substantial catch is the fact that this company has extensive contracts with the United States military, including designing advanced silicon chips. Had the supply of these chips been disrupted because of a foreign takeover, military projects and preparedness could have been jeopardized, thus denting the defenses of the United States.

In the following, exceptional article, reporter Martin Tolchin of the New York Times succintly explains both the history and the hoped-for future of this provision as the trade bill conferees approach agreement. In the past, Mr. Tolchin has examined various facets of the U.S. economy. The article is an excellent, shorthand analysis of the threat posed by foreign takeovers of companies essential to our national security as well as the reaction that the 100th Congress has had to this risk.

The article follows:

[From the New York Times, Mar. 26, 1988]

BILL WOULD CURB FOREIGN COMPANIES IN U.S. TAKEOVERS

(By Martin Tolchin)

WASHINGTON, March 25.—A measure that authorizes the President to block foreign takeovers of American companies if the deals are believed to endanger national security was approved Thursday evening by Administration officials and House and Senate negotiators.

The measure, an amendment to the omnibus trade bill, would define national security in a broad sense that might, for example, include oil, machine tools or even tires, its sponsor said. The President would have the discretion to decide whether a proposed foreign takeover imperiled the nation.

A full meeting of House and Senate conferees on the trade bill will consider the amendment on Tuesday. Congress is expected to vote on the bill shortly.

The wave of foreign investment has stirred increased concern among some legislators and wide swatches of the population. Foreign investment has been accelerating rapidly in recent years as the decline in the dollar's value against other major currencies has made it less expensive for foreigners to buy into American businesses.

HOLDINGS PUT AT $1.5 TRILLION

Foreigners hold investments of $200 billion to $300 billion in American manufacturing companies. They also account for 20 percent of the $2 trillion national debt and 21 percent of American banking assets. In total, foreigners are estimated to have invested $1.5 trillion in the United States, with almost all of that coming in since 1974.

The Administration's reluctant approval of the anti-takeover measure was seen as an effort to fend off another measure that it regards as far more onerous, a proposal that would require disclosure of foreign investments in the United States.

THREAT OF A VETO

"This might be a way of loosening the logjam and getting this whole bill moving," said Senator J. James Exon, Democrat of Nebraska, the sponsor of the version of the amendment that was approved by the Senate.

Administration officials have warned that the President will veto the trade bill if it includes the disclosure measure, which is sponsored by Representative John Bryant, a Texas Democrat. Some legislators said today that in accepting the anti-takeover measure, the Administration might have dampened Congressional enthusiasm for the disclosure measure. That would make more likely the emergence of a trade bill that the President would sign.

Without the anti-takeover amendment, "there would be greater pressure to pass the Bryant amendment," said Representative James J. Florio, a New Jersey Democrat who sponsored the version of the takeover proposal approved by the House.

The disclosure measure has brought loud and frequent objections from the Administration and from Wall Street. Critics say its passage could dry up foreign investment and lead to higher interest rates, inflation and other economic problems. They also say it could invite retaliation by other nations.

WALL STREET'S VIEW

The Capitol Hill discussions of the disclosure proposal were noted by some on Wall Street as a possible cause of the dollar's sharp decline on Thursday, which was followed by a drop in stock and bond prices.

Different versions of the national security measure had been passed by the House and the Senate. The Senate version authorized the President to block takeovers affecting national security. The House version, sponsored by Representative Florio, also covered takeovers that imperiled "essential commerce and economic welfare."

The compromise amendment was worked out in negotiations Thursday night between Senator Exon and Treasury Department officials, and in telephone conversations with other conferees. The conferees, who are meeting in 17 subconferences, hope to wrap up negotiations on the entire bill shortly.

The anti-takeover measure was prompted in part by an attempted takeover in 1986 of the Goodyear Tire and Rubber Company by Sir James Goldsmith, a British-French financier, and by the attempt early last year of a Japanese company, Fojitsu Ltd., to take over the Fairchild Semiconductor Corporation. Both Goodyear and Fairchild are military contractors.

"When I called this to the attention of the Administration," Senator Exon recalled, "I was told: 'We can't do anything because they're not violations of the antitrust laws. The only way we can do anything is to declare a national emergency, and we think that would be overreacting.'"

REACTION IN CONGRESS

Under current law, the President has the power to halt a foreign takeover only under the Emergency Economic Powers Act.

Senator Exon added, "We can't have a viable national defense if we end up with foreign ownership and control of key defense-related production industries and technologies."

Mr. Florio said that the measure will mean that "the President or his designee now will clearly have the authority to investigate and act in a situation in which a potential foreign takeover will adversely impact upon national security, including critical commercial aspects of national security."

"In this day and age," he added, "a strong economic base is as essential to national security as are weapons."

The Bryant disclosure provision remains the most contentious issue that the conferees are considering.

Senator Ernest F. Hollings, a South Carolina Democrat who is chairman of the Commerce Committee, said Thursday that disclosure requirements in all the other industrial nations were far more onerous than those the plan would require.

"Where in the world has disclosure deterred foreign investments?" Mr. Hollings asked Commerce Department officials at a hearing.

House-Senate negotiators also appeared close to an agreement on another measure, one that would relax the Foreign Corrupt Practices Act. The 1977 law prohibits American corporate officials from bribing foreign governments and corporations to obtain business.

"Business is complaining that the F.C.P.A. is a problem," said Representative Matthew J. Rinaldo, Republican of New Jersey. American businesses have long contended that the rules put them at a competitive disadvantage against foreign companies that use bribery to obtain business.

Under a proposed revision, American companies could make payments that were legal in a foreign country and made to expedite routine government action. The revision also limits an American business executive's liability to situations in which it was demonstrated that he or she had knowledge of the bribery. Currently, executives are culpable if they had reason to know of the bribery.

Senator William Proxmire, Democrat of Wisconsin, is the major dissenter. He has gained a week's delay in action on the measure, contending that the new language would create "loopholes for bribery."

SCHLESINGER OFFERS SOUND THINKING ON NICARAGUA

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. MILLER of California. Mr. Speaker, from time to time, as we in this body and this city debate American foreign policy in Central America, it is worthwhile to take 5 minutes to read the reasoned thought of an eminent scholar who knows what he is talking about.

Arthur Schlesinger, Jr., the professor of history at the City University of New York, Pulitzer Prize winner, and former advisor to President Kennedy, has provided us with yet another thoughtful analysis of recent policy toward Nicaragua.

During the recent debate on the issue of aid to the Contras, I urged my colleagues to recall the March of Folly recounted by another Pulitzer Prize winning historian. Barbara Tuchmann recalled for us that throughout history, political leaders have not only stumbled into ill-conceived policies, but have continued to pursue those policies notwithstanding incontrovertible evidence, and wise advice, to desist.

Professor Schlesinger provides all of us with a thoughtful consideration of many of the favorite flawed rationales of the Reagan administration in promoting war, and discouraging peace, in Nicaragua.

Invasion of Honduras? Soviet base in the Western Hemisphere? Fragile democracies jeopardized? Brutal violations of human rights? Surely, these are serious charges, and if true, serious problems. But in each case, Professor Schlesinger urges us to look beyond the administration's rhetorical accusations, and demand thorough and factual evidence of the accusations before we again fire up the engines of war in Central America.

I would hope that before we are called upon to cast another vote, Members will take the time to read Professor Schlesinger's commentary from the Wall Street Journal of March 25, 1988.

The article follows:

[From the Wall Street Journal, Mar. 25, 1988]

REAGAN IS CRYING WOLF ON NICARAGUA

(By Arthur Schlesinger, Jr.)

The agreement apparently struck in Nicaragua between the Sandinistas and the Contras considerably discredits the alarms set off a few days ago by the Reagan administration over the Nicaraguan "invasion" of Honduras. Indeed, the cynicism of the Reagan administration in conducting its Central American policy is surpassed only by the gullibility of those who continue to believe what our government tells them about Central America.

Why in the face of so much evidence to the contrary do we continue to suppose that official statements bear more than coincidental resemblance to the facts? On the very day that the administration set off its alarms, some of President Reagan's most famed appointments were indicted for deceiving Congress and the American people—a development that should enjoin caution before believing this crowd again.

No one has less credibility than the man directly in charge of Central American policy, Assistant Secretary of State for Inter-American Affairs Elliott Abrams. Some congressional committees refuse to hear him at all; others will listen only if he testifies under oath. Only that week the Senate Foreign Affairs Committee threw him out of a closed briefing on the alleged invasion. Why anyone should take seriously anything Mr. Abrams says about Central America defies comprehension.

INVASION VS. INCURSION

Of course there was no Nicaraguan invasion of Honduras in the sense of an effort by the Nicaraguan government to annex Honduran territory or to overthrow the government of Honduras. There was, as there has been before, counterattack against an enemy that constantly crosses the border itself in hit-and-run raids against Nicaragua. This was not the first occasion when Sandinistas have pursued Contras across an ill-defined frontier and sought to destroy the Contra bases.

Nor is "hot pursuit" exactly an unknown doctrine. President Nixon invoked it with unction 18 years ago when he sent American troops into Cambodia to "clean out major enemy sanctuaries" and formulated the celebrated distinction between an "invasion" and an "incursion."

Now that the incursion is a thing of the past, and the Sandinistas and Contras have come together on their own, this may be a good time to take a fresh look at President Reagan's Central American policy that, in the president's words, the government of Nicaragua posed "an unusual and extraordinary threat to the national security and foreign policy of the United States." How flattered Daniel Ortega and his associates must have been to receive this remarkable tribute from the president of the most powerful nation in the world! And how shaming it was for our president to proclaim himself to a wondering planet as so mortally scared of Nicaragua, a desperately poor country with a population of less than three million people, about 1/80th the size of the U.S.!

The administration never made it clear exactly what President Reagan was so scared of. Was he afraid that Nicaragua will become a Soviet base? Obviously, the Soviet Union will do all it can to keep the Central American pot boiling on a low-cost, low-risk basis. But Mr. Gorbachev knows that he cannot put nuclear weapons in Nicaragua in 1988 any more than Khrushchev could put them in Cuba in 1962. Moreover, foreign aid is about as popular in Moscow as it is in Washington, and Mr. Gorbachev's clear priority is the transfer of his resources to the modernization of the Soviet economy. The Soviet Union has already reduced its oil shipments to Nicaragua and rejected other Nicaragua requests.

The Soviet bridgehead in Cuba is far more military secure than any bridgehead Moscow could possibly obtain in Nicaragua, and current indications are that Moscow is even cutting back on its aid to Cuba. Mr. Gorbachev will not make a major investment in Nicaragua. As the Latin American proverb has it, only a fool would feed a goat in the jaws of a tiger.

If not a Soviet base in Central America, what was President Reagan so scared of? An armed Nicaragua running amok in Central America? Nicaragua has a larger army than its neighbors, which is hardly surprising when it is under siege by the most powerful country on earth (though the 600,000-man army the administration tried to frighten us about a few weeks back turns out to be a proposed citizen miltia—and also a demonstration of confidence by the Sandinistas, who would hardly distribute arms to people likely to turn them against the regime). But any effort to use that army against other states, rather than against Nicaragua guerrillas launching attacks from other states, would trigger the Rio Treaty and invite multilateral intervention.

Our strategists are still hypnotized by the "falling-domino" model. This model contends that weaker states will ineluctably fall under the sway of an aggressive state. It was the model that led to our intervention in Vietnam. But, as it has turned out, the dominoes in Southeast Asia have not fallen against us; they have fallen against North Vietnam. Far from dominating Southeast Asia, as the falling-domino model predicted, Vietnam is a rather beleaguered state surrounded by hostility—the result the classical "balance-of-power" model would have predicted. The balance-of-power model contends that weaker states will combine to check the ambitions of an aggressive state. This is what has happened in Southeast Asia, and it's what is most likely to happen in Central America.

But maybe it was the infection of Marxist "totalitarianism" metastasizing out of Nicaragua that frightened our president. Now Nicaragua has a repressive regime, but it is plainly not a totalitarian state. By the distinction the Reaganites used to make so much of, it is authoritarian rather than totalitarian; and, judging by the bursts of comment and criticism in Managua, it is not very authoritarian at that—not in a class with Chile or Paraguay or Cuba.

And is it even all that Marxist? The Nicaraguan Communist Party is vehemently anti-Sandinista and part of the opposition front. "If they are Marxists," a Communist deputy has said of the Sandinistas, "then I quit Marxism."

Of course, our president has alleged great concern over the fate of human rights in Nicaragua. But he expressed no such concern when the Somozas were trampling on human rights. Quite the contrary: He denounced the Carter administration in 1980 for insisting that Nicaragua respect human rights and thereby causing, he claimed, the overthrow of our great friends the Somozas. What a faker the old fellow is.

The irony is that the Reagan policy, designed in theory to stop the spread of Marxism in Central America, was in practice having quite the opposite result. Mr. Reagan's military remedies promoted, not impeded, the spread of Marxism. Radical ideas thrive in a culture of hatred, violence, bloodshed and destruction. That is why most Latin American leaders oppose aid to the Contras and seek a political rather than a military solution as the best security against communism. Why do we suppose we know better than they do where their interests lie? They want the demilitarization of Central America under effective safeguards, and that is what we should want, too.

Instead of more cries of wolf, and more half-baked schemes for keeping the Contras going, and more sabotage and more resistance, and deeper U.S. commitment to the overthrow of the Sandinistas, let us stand back for a moment and ask ourselves whether pathetic little Nicaragua really presents this "unusual and extraordinary threat" to the safety and survival of the U.S.

REAL AND FAKE THREATS

I note a tendency to define the issue in Central America as a test of readiness to use force in defense of U.S. interests abroad. It is a test rather of ability to distinguish between real and fake threats to those interests. A real threat, such as a Soviet attempt to introduce nuclear missiles into the hemisphere, would justify the use of force, if no other means availed to get the missiles out. But the use of force against a fake threat is a failure of statesmanship.

If we conclude that Nicaragua doesn't pose the "unusual and extraordinary threat" that haunts our president's sleep, how about letting the contending parties and their Latin American neighbors work out a settlement with Managua that protects democratic interests and then concentrating our own minds and energies on serious problems?

(Mr. Schlesinger is Albert Schweitzer professor of the humanities at the City University of New York and a winner of Pulitzer Prizes in history and biography.)

PAUL VOLCKER ROLE MODEL IN PUBLIC SERVICE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. FORD of Michigan. Mr. Speaker, I think we can all agree, whatever our political persuasion or economic views, that Paul Volcker has had a noteworthy career in public service. He has brought to his work, spanning nearly 30 years, the highest standards of integrity and professionalism.

When he stepped down from chairmanship of the Federal Reserve Board, Paul Volcker's dedication to public service became further evident when he agreed to chair a National Commission on the Public Service. This commission is dedicated to building support for the concept of public service generally, with a specific focus on strengthening the effectiveness of the career services of the Federal Government in carrying out the Nation's agenda.

Chairman Volcker gave eloquent expression to that objective in a major address on December 2, 1987, when he accepted the annual Boyer Award of the American Enterprise Institute here in Washington. I include excerpts of this address in the RECORD and, in that way, to bring this commendable public service initiative to the attention of my colleagues and the American public.

EXCERPTS FROM THE FRANCIS BOYER LECTURE

(Delivered by Paul A. Volcker upon receipt of the American Enterprise Institute's annual Francis Boyer Award, December 2, 1987, Washington, DC)

PUBLIC SERVICE: THE QUIET CRISIS

In signally honoring me today, the American Enterprise Institute has provided an ideal platform to preach about something other than the budget and the dangers of inflation.

That something is what was termed at a conference jointly sponsored by AEI and Brookings last year a "quiet crisis." The reference is to the state of the public service in the United States, and especially to the state of the Federal government bureaucracy down through the ranks.

What those attending the conference last year concluded was becoming a crisis was the unmistakable evidence that is accumulating that government in general, and the Federal government in particular, is increasingly unable to attract, retain, and motivate the kinds of people it will need to do the essential work of the Republic in the years and decades ahead.

It is a quiet crisis because not many people know about it—or care very much about it. That has been true for some years of many political candidates, even though the plain danger is that any Administration or Congress will be handicapped in carrying out its policies and programs by a weak civil service. But the situation is just too amorphous, too complicated, too distant for many to get excited about it—that is, until something happens.

The fact is that in recent years there has not just been indifference toward public service, there has been a distinctly anti-Washington theme in much of our recent political rhetoric, including that of the last two successful presidential candidates. Anti-Washington equates in a lot of minds to antigovernment—and it's very easy to slip from an attitude that what the government is doing is wrong as a matter of policy to an attitude that those who work to implement the policies of their political masters must be wrong-headed and probably incompetent, too.

It's no wonder our best and our brightest in undergraduate and graduate schools haven't exactly been excited by the challenge of public service, and especially the Federal service. One recent study of 365 seniors at Yale found only one that expressed an interest in a civil service career. If I raise the stakes by looking to one of my alma maters—what is now the Kennedy School of Government at Harvard—only 16 percent of those who completed the two year masters' program in public policy over the past 10 years are in a Federal career service. Only another three percent work on Capitol Hill. If that's the pattern at a graduate professional school which has as its very raison d'etre training for the public service, we shouldn't expect much enthusiasm to be evident in schools and colleges across the country. And it's not.

I don't want to be misunderstood. My impression is that there is still in key agencies a remarkably high level of competence, experience, and dedication at senior levels. That personal observation has been supported by most of the responses to a systematic inquiry that the National Commission on the Public Service made of present Cabinet officers and some agency heads.

But there is also little doubt that talent is thinning, and thinning rather rapidly. The generation entering the Federal service in the flush of post-World War II enthusiasm—that is in the 1950s and early 1960s—is eligible for retirement. Many have taken that option early. The best of the next generation, much too frequently, are leaving even before they reach the top levels—often, not so coincidentally, when their children near college age.

The situation seems to many thoughtful observers to demand that something be done about it. My fond hope is that we can achieve a broad consensus, first on that point, and later on a concrete action program. There is room for skepticism that such a consensus will arise from spontaneous combustion. That is why a small group of Washingtonians—Elmer Staats, Bob Schaetzel, Elliot Richardson, Leonard Marks, and Norman Ornstein from the AEI staff itself—decided about a year ago to create, and seek private funding for, a National Commission on the Public Service.

More than thirty distinguished Americans, knowledgeable and concerned about the problem, have been willing to join the Commission. People like Gerald Ford and Walter Mondale, Ed Muskie and John Tower, even ex-Cabinet officers, business and labor leaders, Presidents of the Ivy League, the Urban League, and the League of Women Voters all readily responded to our invitation to work together. I think that confirms the sense that the crisis is real, that something ought to be done about it, and that something can be done about it.

What joins us together is a simple conviction that, whatever the particular policies of an Administration and whatever programs are enacted by the Congress, the American public is entitled to have those policies and programs administered as effectively and as efficiently as possible. And that cannot be done without steadily attracting into government a corps of talented administrators and professionals. We need men and women who can work with, and on behalf of, those with political responsibility, but who can also bring relevant experience to bear, provide both expertise and a sense of continuity, and be a source of ideas themselves.

I know there is a contrasting cynical view that some early members of the present Administration once propounded: that a weak and ineffective bureaucracy, but its sheer inefficiency, protects our liberties and particularly our economic freedom. The assumption seems to be that relatively incompetent administration of the law will somehow lead to a smaller and less intrusive government.

The plain fact is that the Federal Government today does so many things in total, and so many things that require a high level of professional skill and understanding, that the idea that we can settle for mediocrity in our public services would, in time, become and invitation to mediocrity as a nation.

Even so seemingly a routine process as sending out social security and medicare payments is an enormous administrative challenge—or nightmare—these days; it involves some 63 million items a month that have to get to the right place on the right day. No private corporation operates on that scale.

Businessmen by their nature will never like regulation. But when they do have to cope with regulations and regulatory problems, I have no doubt that they want to deal with highly competent government professionals that can understand and respond to their problems.

We would all, I presume, cringe at the thought we might be satisfied to be represented by second-raters overseas or that the Secretary of State and others concerned with national security should not have the best "in house" advice.

I don't think we are going to stop doing and sponsoring medical research, and we surely don't want that done in a slipshod way—not when we are spending hundreds of millions on cancer research and need to mount an effective attack on AIDS.

There has been, it seems to me, a more serious political and psychological barrier to achieving more constructive and consistent policies toward the civil service. My observation has been that many new political appointees are suspicious of, if not outright hostile to, the permanent bureaucracy, questioning its ability, its energy, and its purposes.

There have been examples of a self-defeating process when political appointees wall themselves off from career executives—or vice versa. Both sides suffer and with it effective programs.

But my own direct experience and observation—admittedly mostly at what are considered elite agencies at the center of the government process—has been essentially different. Part of the job of a senior civil servant is to remember; to warn his boss where the potholes lie; to help define what is possible and what is not; to report the facts, good or bad. And the typical professional civil servant also wants to be responsive to strong and clear leadership from an Administration of either party. I suspect that responsiveness rests on more than an intellectual appreciation of the fact that the President and his appointees are politically responsible: there is a strong psychological satisfaction in playing on a team that has new ideas and a public mandate, that seems to know where it's going—and is willing to look to the career staff for help.

Like a good many other government responsibilities, transitions can be a nasty job. But in ordinary circumstances, it helps to have somebody do it right, and a new Administration that doesn't elicit the best from the civil servants isn't doing itself justice.

The survey of Cabinet officers and some agency heads that I referred to earlier provides strong support for that thesis. The group surveyed is, of course, almost entirely a group of conservative Republicans. They are also now experienced in the Federal government in getting things done.

Whatever they anticipated upon taking office, they are close to uniform in expressing respect for the capability, energy, and the cooperativeness of senior staff—even if, at the same time, they are worried about losing too many of the best.

Nonetheless, the fact remains that the strong tendency of Democratic and Republican administrations alike to increase the number of political appointees has by now raised their total to over 3,000, and roughly half of those are in jobs that might otherwise be filled by senior career personnel.

The contrast to other mature democracies is startling. West Germany has a grand total of between 50 and 60 "political" appointees—they are political in the sense the jobs are vulnerable to a change in government, but in fact about half of the incumbents in those positions have been promoted from the civil services. The United Kingdom has about 150 "political" jobs, and France about 400, again with about half of the latter drawn from the civil service.

Obviously, American civil service traditions are different—arguably more democratic (with a small "d") and certainly more open to an influx of new ideas and fresh leadership. But there are clearly costs to so deep a layer of political appointees as well. Quite apart from the loss of experience and continuity in particular jobs, the inexorable effect is that the career paths of permanent civil servants are truncated at lower levels of authority and responsibility. And there is no doubt that able young people in our colleges and professional schools know it. How often have I heard the refrain—"sure, I'm interested in government, but if I really want to make a difference, I will have to wait until I'm older and get a political appointment."

My guess is that, as middle age approaches, with growing families, rising incomes, and blossoming careers, few of the best of those men and women will in fact be willing to pull up stakes and take a political appointment at the Deputy Assistant or Assistant Secretary level. The risk we run is that we will end up with the worst of all worlds—mediocre civil servants and mediocre subordinate political appointees as well.

Moreover, a lot of able young people interested in government seek a job on Capitol Hill where, in their view, they can more quickly be closer to the "action." The relative roles of the Congress and the Executive in the development and administration of both foreign and domestic policy happens to be a hot issue these days, and I don't want to enter into all that debate here.

The sensitive area of career-political relationships is bound to be one important subject of inquiry for the commission. Task forces of the Commission are also looking into the important practical problems in the areas of recruitment, retention and retirement—matters to which the present administration, with the able leadership of Constance Horner, is already devating attention.

To discuss intelligently the effectiveness and morale of public servants without considering the question of pay and overall compensation would, of course, be impossible. While it is not the only issue—and not necessarily the most important—the Commission inevitably has that subject high on its agenda.

I confess a strong personal bias. In the private sector, those carrying large responsibilities, willing to take the initiative and bear the consequent risks, are and should be well paid. No civil servant expects the same level of monetary reward. But when brand new lawyers and business school graduates from the best universities can claim first-year salaries and bonuses in the range of assistant secretaries and under secretaries, something is out of kilter.

Looked at another way, to my mind a senior civil servant, in full maturity and at the top of his profession, should be able to send a child to one of our best private colleges without feeling compelled to run into debt or draw heavily upon his slim assets. But as things now stand he is squeezed in two directions: for almost a decade, salary increases have fallen 40 percent below the inflation rate, while the average tuition at the best private colleges has more than doubled, rising more than twice as fast as inflation.

It's hard in this country to think of a vigorous body of people professionally committed to a career in government without a supporting system of professional education. For years, the best way to train for the public service has been a matter of dispute, and there has been considerable experimentation in some of our leading universities. But I suppose the main overall impression is one of neglect. There are, it is true, over 200 degree programs in public administration around the country. But with a few notable exceptions, they are underfunded, small appendages to business schools or political science departments. With four university presidents on board, this, too, is an area where I hope the Commission can shed some useful light.

Finally, the public's perception of the public service—and the morale of the public servants themselves—must in the end rest on demonstrated performance up and down the line. Constructive political leadership, at the top, crucial as it is, can only go so far; public trust and confidence will have to be earned by competence and integrity, day-by-day.

Dwight Eisenhower, a superb example of what a public career service can produce, once put the point with characteristic bluntness: "No (civil service) system should be a haven for the few who are incompetent, dishonest, or disloyal. I intend to see the government rid of all such persons . . . There is no other way to win for the vast majority of competent and devoted public servants the public honor that is due them."

The administrations of the founding fathers—Washington and Adams, Jefferson and Madison, brought the best and the brightest of their day to this capitol. They instinctively recognized, as Alexander Hamilton put it in the Federalist Papers, that "A government ill executed, whatever might be the theory, is in practice poor government." A note Thomas Jefferson once sent to a friend took him to task for not being willing to take on a larger role in national affairs: "There is a debt of service," he wrote, "due from every man to his country, proportioned to the bounties which nature and fortune have measured to him."

Perhaps that sense of noblesse oblige is too elitist to fit entirely comfortably in the American tradition. Jacksonian populism reacted against an aristocratic view. Then, through the subsequent decades, the democratic idea of government by the people degenerated into a crude spoils system. It took the assassination of President Garfield by a disappointed office seeker to give birth to a fledgling civil service system. And it was not until the early part of this century, under the leadership of Teddy Roosevelt and Woodrow Wilson, that the idea of public service as a responsibility and a privilege took hold.

The trends of enormous national challenge—depression, war, post-war reconstruction and pre-eminent international leadership—made Washington an exciting place to be. I know from personal experience that a lot of young people then looked upon government as a place where they would combine a sense of challenge and service with a sense of personal satisfaction. As late as the beginning of the 1960's, President Kennedy captured that spirit when he told a group of summer interns that "It is my judgment that there is no career that could possibly be open to you in the 1960's that will offer you as much satisfaction, as much stimulus, as little compensation perhaps financially, as being a servant of the U.S. government."

Well, the point on compensation remains wholly valid. But the countervailing zest for public service reflected in his comment sadly sounds dated. Maybe it's partly a sense that government has gotten too big to make an impact, too "messy" to permit a personal sense of accomplishment, too vulnerable to criticism and attack to offer much in the way of prestige. So our best young people are tempted to follow the "action," financial and otherwise, on Wall Street or to use their ingenuity to represent and defend private clients instead of the public interest.

I can't reconcile that view with a pertinent recent comment by Elliot Richardson. He pointed out that he has "many friends who once held responsible but not necessarily prominent roles in government and who now occupy prestigious and well-paid positions in the private sector—some of them very prestigious and very well paid. Not one finds his present occupation as rewarding as his government service. If they feel this way, so must a lot of others. . ."

Amid all the complexities and complications of the late 20th century, the wishful thinkers are those that think we can make do with the mediocre. There is less room for error in our foreign relations, not more. Technology demands faster responses, not slower, to problems as widely removed as air safety and financial regulation. National security demands that we know how to build military equipment that works and that we can afford. Our very survival may literally depend on how we respond to complex threats to our environment and to our health.

I have no doubt that public service, now as in the past, can for many provide a strong sense of personal satisfaction.

It can, and it will, make a crucial difference in our performance as a nation.

No small Commission can itself go far toward doing the things necessary to make that potential a reality.

We can sound the alarm, show the flag, and suggest some answers. We mean to do all that.

Somewhere it is written: "The Best shall serve the State." I don't care whether that sentiment ever gets chiseled in stone. But I do think we all should care that it should be part of the American ethic—and that we make it possible for the sentiment to be a reality.

The nation deserves no less.

SECRET AID TO CONTRA KIN ENDS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. JACOBS. Mr. Speaker, when was the last time you heard this administration propose $1,000 per month for a poor American family?

[From the Indianapolis Star, Mar. 30, 1988]

SECRET AID TO CONTRA KIN ENDS

(By Brian Barger)

WASHINGTON.—Families of Nicaraguan Contra fighters have gotten secret U.S. payments for years, but the subsidies are due to end Friday and some administration officials fear the cutoff will lead to the collapse of the rebel army.

These officials are hoping Congress will restore the funds, possibly by week's end, to avert a mass exodus from the already dwindling U.S.-backed Contra forces that have fought Nicaragua's Sandinista government since 1981.

While the mostly poor Contra troops do not receive direct salaries, their families in Miami, Honduras and Costa Rica have for years received CIA support payments ranging from $200 to more than $1,000 per month, rebel officials told United Press International. Administration sources said the payments total several million dollars annually.

One State Department official involved in Contra policy said the so-called family assistance program is the rebels most pressing need—more so than food, medicine or weapons.

Another U.S. official said the possible end of family subsidies "has created a serious morale problem for the troops," whose leaders agreed last week to a 60-day truce with the Sandinistas.

Although family subsidies for the fighters stop at the end of March under previous legislation, salaries for dozens of rebel political officials in Maimi and Washington—which range from $22,000 to more than $70,000 per year—will continue under a separate classified intelligence authorization bill, U.S. officials said.

State Department officials said they fear that continuing the hefty salaries of Contra political leaders who reside comfortably in Miami while subsidies to the fighters "who give their sweat and blood" in the war effort are cut off will only deepen brewing resentment many rebels feel toward their political leaders.

Some of the rebel fighters have complained the Contras' political leadership is unrepresentative and was hand-picked by the CIA.

Nicaragua's Marxist-led government has for years labeled the rebels as "mercenaries paid by the CIA," a characterization vehemently rejected by U.S. and Contra officials.

U.S. officials said the family assistance for the Contras is not a form of salary, but rather a means to meet basic family needs while the rebels have fought in the hills of Nicaragua.

One senior rebel official in Miami said the family subsidies provide indirect salaries to Contra fighters based on their rank and the size and location of the families. While families in neighboring Honduras may earn as little as $200 per month, those in Miami "earn $1,000 minimum" per month as part of the program, the official said.

Several former rebels, including former Contra director Edgar Chamorro, believe financial assistance provided by the CIA offers the rebels a better standard of living than they could otherwise achieve.

"Do you think they could have those salaries in Nicaragua? No way," Chamorro said in a recent interview.

Rebel sources in Miami said concern over the continued subsidies, as well as the uncertainties generated by the peace process, already has caused substantial numbers of fighters to abandon the war effort.

One senior Contra political official said the recent defections have left rebel troop strength at "perhaps 2,000 to 3,000," while U.S. officials put the figure between 3,000 and 6,000.

This new weakness in Contra ground strength became a significant factor in the Contras' decision to sign the truce agreement last week, U.S. and rebel officials said.

Rebel leaders said they believed they had no option but to sign the truce agreement, both to sway Congress to approve further aid and to give demoralized troops a break from the fighting.

JENNINGS RANDOLPH

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. RAHALL. Mr. Speaker, recently, West Virginia, and the entire country, observed the 86th birthday of one of the great political figures of our time—former Senator Jennings Randolph. All of us in the West Virginia congressional delegation still look upon Senator Randolph as our spiritual leader, a truly motivational individual who embodies the true "Mountaineer Spirit" of which all West Virginians are so proud.

To list the accomplishments of Senator Randolph would probably fill the entire RECORD today, so I will not go into them individually. Suffice it to say, Senator Randolph has been a patriotic and devoted citizen of this country, and the love and service he has given to his country is a shining example for all to follow.

On the day of Senator Randolph's birthday—March 8—the following editorial appeared in my hometown newspaper, the Register-Herald at Beckley, WV. I would like to bring it to the attention of my colleagues, as we all wish our former colleague, Jennings Randolph, a happy 86th birthday.

[From the Beckley (WV) Register-Herald, Mar. 8, 1988]

Here's wishing a happy birthday to Jennings Randolph, retired U.S. Senator from West Virginia, who is 86 today.

Randolph was first elected to the U.S. House of Representatives in 1932 and to the Senate first in 1958. He retired in 1984.

Randolph's accomplishments cover several pages, included honorary doctorate degrees in laws, letters, aeronautical sciences, humanities and public service. He is a former newspaper and magazine editor, former college professor and university dean, former airline executive and transportation officer and a member and director of organizations so numerous space prohibits even a partial listing, Randolph's attention to West Virginia while a member of Congress is ample throughout the state. Now, as Citizen Randolph he still devotes time to various causes.

Again, happy birthday, Jennings Randolph.

PUBLIC NEEDS TRAINED AIR TRAFFIC CONTROLLERS

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. NEAL. Mr. Speaker, for a long time I have had mixed feelings about whether the

Government should rehire the air traffic controllers who were fired for striking illegally in 1981.

Ours is a government of laws, and I don't believe we should reward people who break laws, as the air traffic controllers clearly did. Anyone who consciously breaks a law, even if that act is based on a deeply held principle, must be willing to accept the penalty.

President Reagan upheld the law when he issued a directive forbidding the rehiring of the controllers. More recently, of course, the President has set a bad example for the rule of law by praising some of his former assistants who are charged with criminal acts and characterizing them as heroes. But that is another issue.

In any case, even though the controllers broke the law, we have to recognize that this infraction occurred a long time ago and that the Government already has punished them severely by denying them their jobs all these years. One of the great absurdities of this situation is that a fired controller now may be hired for any Federal job—except the one he or she is best qualified to hold.

It's also important to recognize, at this point, that our Nation badly needs the skills and experience of these air traffic controllers.

Mr. Speaker, I finally made up my mind on this issue today after reading an excellent column in the Washington Post by our colleague, GUY MOLINARI. Mr. MOLINARI describes how the Federal Aviation Administration has fudged its air safety statistics in an effort to cover up an extremely dangerous trend. For example, the FAA emphasized in its public statements that the number of midair collisions dropped from 27 in 1986 to 21 in 1987. What the FAA didn't say is that the number of near collisions in midair—near misses, in other words—was 1,056, an increase of 26 percent over 1986. Near misses classified as critical, in which the planes came within 100 feet of each other, occurred on average more than three times each week.

We are indebted to Mr. MOLINARI for bringing this information to light. Because his own party's administration is in charge of the FAA, it was courageous and highly responsible of him to come forward with his findings.

As Mr. MOLINARI makes clear, air travel is not as safe today as the FAA would like us to believe. The most obvious step we can take to ease the danger is to improve our air traffic control system. We can do that most efficiently by hiring experienced controllers who are already trained. It's estimated that former controllers can be brought back to full efficiency on the job in 6 months or less, while it takes 3 years to train a newly hired person.

So, Mr. Speaker, after a period of reflection, I have decided to come down on the side of safety, and in that interest I will vote to rehire some of the fired air traffic controllers. The article from today's Washington Post by Congressman MOLINARI follows:

[From the Washington Post, Mar. 30, 1988]

THE FAA'S STATISTICS WON'T FLY

(By Representative GUY V. MOLINARI)

The Federal Aviation Administration is continuing its attempt to deceive the American people about the state of aviation safety. In a pattern repeated regularly for more than four years now, FAA officials have stressed a new set of statistics as the indicator of air safety, discarding their previously selected indicators because the numbers are not going their way.

The FAA refuses to accept standard and consistent statistical indicators of safety—near midair collision reports, runway incursions, operational errors—because it knows the numbers will eventually go against it. It switches to whatever statistics looks favorable at the time.

Most people would consider the number of midair collisions to be a good measure of the safety of our air traffic control system. Indeed, the National Transportation Safety Board considers near midair collisions a "prime safety indicator." Until a few years ago, the FAA did as well.

In 1983 and 1984, the FAA relied almost exclusively on near midair collisions to show that air safety was improving. For example, when then-FAA administrator Donald Engen was asked on "Meet the Press" in December 1984 whether the safety of the system was slipping, he replied: "The near midair collisions have decreased by 50 percent over the last 4½, 5 years. That's graphic." In Senate testimony earlier that year, Engen cited near midair collision trends alone as proof of improving safety.

But congressional and media investigations soon revealed that hundreds of near midair collision reports filed by pilots were not being included. When all reports were included, the number of near collisions was not decreasing at all; it was increasing, dramatically. The FAA figure for 1984 was revised from 297 to 592.

The FAA then reorganized its near midair collision reporting system. In 1985, the number of reports rose to 758. The FAA's response: the rise is due to the better reporting system and reflects little on safety.

In 1986 the number jumped again, to 840. The prior year's excuse wouldn't work, so the FAA began to deny that near midair collision statistics indicated anything about safety. Engen termed a near midair collision "a non-event." He stated: "I can't deal with somebody claiming that the margin of safety has decreased. I deal with real facts, the accidents in hundreds of thousands of hours flown. These rates are continuing to go down."

The word was out in the agency: emphasize accident rates. For a year, the agency did just that.

When the NTSB announced at the beginning of this year that the airline accident rate rose 38 percent in 1987, the FAA's strategy had to change.

So when the FAA released its 1987 figures, new Administrator T. Allan McArtor, apparently convinced by the FAA's top management to continue the agency's past tactics, decided that the statistic to emphasize this year was "in-flight collisions." The FAA's press release announcing last year's figures put this statistical category in the spotlight. In 1986, when the number of in-flight collisions *increased*, the FAA, of course, gave it no such attention.

Continuing the steep climb that has seen them more than double since 1983, near midair collisions increased by 26 percent in 1987, to 1,056. Those involving air carriers rose 40 percent over 1986. Incidents classified as "critical," where by definition planes come within 100 feet of each other and only chance prevents a collision, occurred on average more than three times each week. Yet, the FAA wants everyone to think that there are no major problems because actual collisions dropped from 27 to 21.

In the ultimate attempt to escape accountability, the FAA also declared that none of the statistics can really tell us anything about safety. "The lack of any apparent correlation between various data bases makes it difficult to define and measure the overall safety of the nation's airspace," asserted McArtor. He thus promoted a program to develop new "safety indicators."

So the FAA has now given itself three years of not having to answer for safety declines. It will take until the end of this year to develop the new statistical system. Then we will have to wait until early 1991 to have two years of data to compare.

Such tactics severely affect the credibility of the FAA and further erode the public's confidence in air safety.

TAX CHANGES ARE UNFAIR TO FAMILY FARMER

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. ROTH. Mr. Speaker, in the past 2 months, I have held several town meetings in northeast Wisconsin and also a meeting with my Agriculture Advisory Board. The No. 1 issue of concern to farmers is the burdensome and unfair changes to the Tax Code. Specifically, the farmers in my district expressed their strong disapproval of two requirements: to capitalize livestock preproduction expenses and to prepay the diesel fuel excise tax.

As the April 15 tax filing deadline approaches, it is clear that the honest family farmer has been dealt a bad hand. In passing the 1986 Tax Reform Act, Congress intended to simplify tax filing and also curb tax shelter abusers. Unfortunately, some of the tax changes resulted in a nightmare of paperwork and increased operating costs for farmers.

PREPRODUCTION EXPENSES

As the Tax Code stands, farmers raising dairy cows, beef, or horses are faced with an unenviable choice. They must either capitalize their expenditures for livestock with a preproductive period of more than 2 years or risk a significant penalty for electing to use the cash accounting method. Either way, the farmer loses.

Earlier this year, I introduced H.R. 3903, the Family Farm Tax Accounting Relief Act of 1988. This legislation is designed to restore simplicity and fairness in recordkeeping for our Nation's family farmers.

My legislation has two parts. First, it would repeal the capitalization requirement of preproduction expenses. Second, H.R. 3903 would bar the use of cash accounting to farming businesses with annual sales of more than $5 million. This would offset the revenue cost of repealing section 263A for animals, estimated at no more than $550 million over the next 3 years by the Joint Committee on Taxation. Approximately $1.2 billion in new revenue would be generated over the next 4 years by allowing only the small family farmer to use cash accounting.

In the past, dairy farmers, cattlemen, and horsebreeders were allowed to deduct expenses as they were incurred. To abide by the capitalization requirement, they now must keep detailed records on the feed, housing, utilities, and medical treatment allocated for each individual animal.

Expense for failed inseminations, deaths, and the sale of young male calves will have to be meticulously separated out. This requirement is so complex that some dairy farmers in northwest Wisconsin are having difficulty finding tax professionals who are willing to take their business.

The option of using cash accounting is available, but at a high cost. If the farmer deducts expenses for young livestock during the year incurred, then he is required by law to use straightline depreciation for all the assets of the farm, not just those for replacement livestock. In some instances, tax benefits from first-year depreciation could be reduced by as much as 50 percent.

Cash accounting was originally designed to ease the burden of recordkeeping for small farmers and businessmen by exempting them from calculating any changes in the value of their inventory or nonproductive livestock. It makes little sense to further handicap the dairy farmer and rancher, whose tax liability is already increased with the repeal of the investment tax credit and capital gains exclusion, by requiring the use of a complicated and time-consuming method of accounting.

DIESEL FUEL EXCISE TAX

For the past few years, many farmers in Wisconsin and throughout the Nation have had a tough time paying their bills and showing a positive cash flow. Now they are being asked to accept the added burden of prepaying an excise tax on diesel fuel from which they have been traditionally exempt.

A little known provision in the 1987 budget reconciliation bill mandated that wholesalers rather than retailers collect the diesel fuel excise tax. Unfortunately, farmers and other off-highway users exempt from the tax bill now have to prepay the fuel excise tax and then file for a refund. Application for a refund can only be made at the end of the year or after more than $1,000 has been prepaid.

If we do not act by April 1, farmers will have to pay the fuel tax when they purchase diesel fuel for tractors and other farm machinery. The Department of Agriculture estimates that this unwieldy requirement could tie up as much as $420 million in farm income and exacerbate cash flow problems for some farmers. It also adds another paperwork burden that farmers can well do without.

Not only are farmers being asked to pay a tax they don't even owe, they are essentially providing the Department of Treasury with an interest-free loan. The 15-cent diesel fuel tax translates directly into a loss of $150 in operating costs every time a Wisconsin farmer fills his 1,000 gallon tank.

Both the diesel fuel collection and preproduction capitalization requirements were enacted with the best of intentions—to eliminate abuses; however, it is unfair to penalize the honest family farmer. Repeal of these two tax requirements makes good sense.

Mr. Speaker, farmers and ranchers support repeal of the so-called heifer tax and diesel fuel tax requirement. With the farm economy starting to rebound, I'm sure you'll agree that now is not the time to place excessive burdens on our Nation's family farmers. I strongly urge my colleagues to support these responsible changes to the Tax Code.

H.R. 4307

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 30, 1988

Mr. HOYER. Mr. Speaker, today I am introducing H.R. 4307, a bill to transfer title to the District of Columbia to property known as the Glenn Dale Hospital site. The site is located in my district, the Fifth Congressional District of Maryland.

In 1929 Congress authorized the District to purchase a site for a tuberculosis sanitarium. In 1930 the District purchased the Glenn Dale property with title being held by the United States. The District constructed the hospital buildings, and operated the facility as a hospital until 1981, although the last person with tuberculosis left the facility in 1972.

Two Federal courts have ruled that the District has the right to control the property but that legal title remains with the United States. Due in part to the confusion over ownership rights, the property has been allowed to deteriorate. From time to time, the District has allowed various law enforcement organizations to use the area as a training facility. For many years, the residents of Glenn Dale have been very concerned about the current and future use of the property. Adding to their concern are the potential hazards they see from the presence of more than 15 abandoned hospital buildings.

The current situation is no good for anyone. The Federal Government can't sell the property, the District does not have the ability to sell the property outright and my home county can't determine its disposition. This was an unacceptable position so I decided to bring the parties together to work cooperatively to resolve the problem.

The legislation I am introducing today will help to resolve this situation. Upon the enactment of this legislation, a cooperative agreement that has been signed by the District and Prince Georges will provide for the disposition of the property. The agreement was worked out after several months of negotiation. I can honestly say that all the parties are satisfied with the result. Mayor Barry, County Executive Parris Glendening, the citizens of Prince Georges County and I look forward to the day that this bill becomes law.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 31, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 1

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for March.
SD-628

APRIL 4

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To resume hearings to review international drug control programs, focusing on the drug cartels of Haiti and Central America.
SH-216

APRIL 5

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings to review international drug control programs, focusing on the drug cartels of Haiti and Central America.
SH-216

APRIL 6

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings to review international drug control programs, focusing on the drug cartels of Haiti and Central America.
SH-216

APRIL 7

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings to review international drug control programs, focusing on the drug cartels of Haiti and Central America.
SH-216

APRIL 8

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings to review international drug control programs, focusing

on the drug cartels of Haiti and Central America.

SH-216

APRIL 11

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Forest Service.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency.

SD-124

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

APRIL 12

9:30 a.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on the Super-conducting Super Collider and the basic science budget.

SD-366

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.

SD-342

Small Business

To hold hearings on the proposed Preferred Surety Bond Guarantee Program Act of 1988.

SR-428A

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for multilateral economic assistance programs.

S-126, Capitol

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency, and the Council on Environmental Quality.

SD-124

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy conservation and emergency preparedness programs.

SD-116

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-138

Finance

To resume hearings on the United States-Canada Free Trade Agreement signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the United States and Canada.

SD-215

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-138

2:30 p.m.

Select on Indian Affairs

To resume hearings on S. 1236, to authorize funds for fiscal year 1988 for housing relocation under the Navajo-Hopi Relocation Program.

SR-485

APRIL 13

9:00 a.m.

Governmental Affairs

Federal Services, Post Office, and Civil Service Subcommittee

To hold joint hearings with the Committee on Rules and Administration on provisions of S. 1947, to provide for the acquisition of the Old City Post Office building in the District of Columbia by the Architect of the Capitol for use as a Senate and House of Representatives office facility (pending on Senate Calendar).

SR-301

Rules and Administration

To hold joint hearings with the Committee on Governmental Affairs' Subcommittee on Federal Services, Post Office, and Civil Service on provisions of S. 1947, to provide for the acquisition of the Old City Post Office building in the District of Columbia by the Architect of the Capitol for use as a Senate and House of Representatives office facility (pending on Senate Calendar).

SR-301

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Labor.

SD-124

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Oversight of Government Management Subcommittee

To continue hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.

SD-342

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs on the legislative priorities of AMVETS, Vietnam Veterans of America, and the Jewish War Veterans.

SD-106

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Farmers Home Administration, Federal Crop Insurance Corporation, and the Farm Credit System Assistance Board.

SD-138

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for reserve components' military construction and defense agencies' military construction and family housing programs.

SD-116

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

Commerce, Science, and Transportation

To hold oversight hearings in conjunction with the National Ocean Policy Study on the implementation of the Marine Mammal Protection Act.

SR-253

Finance

To continue hearings on the U.S.-Canada Free Trade Agreement signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the U.S. and Canada.

SD-215

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

Select on Indian Affairs

Business meeting, to mark up S. 1722, to establish the National Museum of the American Indian, Heye Foundation, within the Smithsonian Institution, and to establish a memorial to the American Indian, S. 1723, to establish certain regional exhibition facilities as part of the National Museum of the American Indian, S. 1236, to authorize funds for fiscal year 1988 for housing relocation under the Navajo-Hopi Relocation Program, and S. 802, to transfer ownership of certain lands held in trust for the Blackfeet Tribe.

SR-428

2:30 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for ACTION, Corporation for Public Broadcasting, Railroad Retirement Board, Federal Mediation and Conciliation Service, National Mediation

Board, National Labor Relations Board, and the Occupational Safety and Health Review Commission.

SD-124

APRIL 14

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1632, authorizing funds for fiscal years 1988-1992 for the National Science Foundation.

SR-253

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for multilateral economic assistance programs.

S-126, Capitol

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Gallery of Art, Commission on Fine Arts, FDR Memorial Commission, and the Advisory Council on Historic Preservation.

SD-138

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transit Administration, and the Washington Metropolitan Transit Authority.

SD-124

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for energy and water development programs.

SD-192

APRIL 15

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Prospective Payment Assessment Commission, Physician Payment Review Commission, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on the Handicapped, Soldiers' and Airmen's Home, and the U.S. Institute of Peace.

SD-192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the General Services Administration and the Executive Office of the President (with the exception of OMB).

SD-116

10:00 a.m.

Finance

To resume hearings on the U.S.-Canada Free Trade Agreement signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the U.S. and Canada.

SD-215

APRIL 18

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for fossil energy research and development, and clean coal technology programs.

SD-116

9:30 a.m.

Special on Aging

To hold hearings on long-term health care for the elderly.

SD-628

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

1:00 p.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Postal Service, Office of the Secretary of the Treasury, and the National Treasury Employees Union.

SD-116

APRIL 19

10:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-138

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

2:00 p.m.

Select on Indian Affairs

To hold oversight hearings on the management of Columbia River Indian fisheries.

SD-485

APRIL 20

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1987, to establish a separate program to provide housing assistance for Indian and Alaska Natives.

SD-485

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Army military construction and family housing programs.

SD-124

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for drug enforcement and coordination programs.

SD-146, Capitol

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings to review environmental conditions and trends in marine and near shore-coastal waters.

SD-406

1:30 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Territorial Affairs, and territorial governments.

SD-138

2:30 p.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.

SD-192

APRIL 21

9:00 a.m.

Veterans' Affairs

To hold hearings on S. 11, Veterans' Administration Adjudication Procedure and Judicial Review Act, and to hold oversight hearings on activities of the Board of Veterans' Appeals.

SR-418

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.

SD-116

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on truck access.

SR-253

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the Department of Health and Human Services.
SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Transportation, and the General Accounting Office.
SD-124

Finance
To resume hearings on the United States-Canada Free Trade Agreement signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the United States and Canada.
SD-215

APRIL 22

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.
SD-192

10:00 a.m.
Judiciary
Courts and Administrative Practice Subcommittee
To resume hearings on S. 1482, to make certain improvements with respect to the Federal judiciary.
SD-226

APRIL 25

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.
SD-124

APRIL 26

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-124

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-128, Capitol

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, and the Navajo-Hopi Indian Relocation Commission.
SD-116

APRIL 27

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.
SD-124

APRIL 28

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-116

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for diplomatic security programs.
S-146, Capitol

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.
SD-124

10:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 2068, to protect marine and near-shore coastal waters through establishment of regional marine research centers.
SD-406

1:30 p.m.
Energy and Natural Resources
Research and Development Subcommittee
To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on fossil energy research and development and the clean coal technology programs.
SD-366

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management.
SD-116

2:30 p.m.
Select on Indian Affairs
Business meeting, to mark up S. 1735, to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, and to transfer title to trust lands, S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and S. 2153, to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona.
SR-485

APRIL 29

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.
SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.
SD-192

MAY 9

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.
SD-124

MAY 10

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.
SD-124

MAY 11

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.
SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.
SD-124

MAY 12

9:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation relating to agent orange and related issues.
SR-418

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for trade activities of the Department of Commerce and the U.S. Trade Representatives.
S-146, Capitol

MAY 17

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

MAY 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

2:00 p.m.
Energy and Natural Resources
Research and Development Subcommittee
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on renewable energy and energy conservation programs.
SD-366

MAY 19

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

MAY 24

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 25

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

MAY 26

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-138

JUNE 7

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1988 for export financing programs.
S-126, Capitol

JUNE 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Department of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 9

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Department of Labor,

Health and Human Services, and Education, and related agencies.

SD-192

JUNE 10

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for defense security assistance programs.

S-126, Capitol

JUNE 14

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.

S-126, Capitol

JUNE 16

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.

SD-192

CANCELLATIONS

MARCH 31

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on the uranium enrichment program, and the need for restructuring of the enrichment enterprise.

SD-366